



WASHOE COUNTY

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CM/ACM VS
Finance ✓
DA DWV
Risk Mgmt DE
HR N/A
Comptroller CH

STAFF REPORT

BOARD MEETING DATE: November 15, 2016

DATE: October 3, 2016
TO: Board of County Commissioners
FROM: Dave Solaro, Arch., P.E., Director
Community Services Department, 328-3600, dsolaro@washoecounty.us
THROUGH: Kevin Schiller, Assistant County Manager
SUBJECT: Approve the First Amendment to License Agreement between American Tower LLC and Washoe County to correctively amend the site information commonly known as East Red Peak Tower 3 (site number 8743) and to modify the equipment at the Tower Site [\$4800 annual increase] in support of the County's 800 MHz Regional Radio System. (All Commission Districts.)

SUMMARY

Washoe County and American Tower LLC have an existing License Agreement that was approved by the Board of County Commissioners (Board) in December 2000 to provide a tower site for the County's 800 MHz Regional Radio System equipment.

The First Amendment to License Agreement corrects the site information and the location coordinates referenced in the original License Agreement (from East Red Peak Tower 1 to East Red Peak Tower 3) and increases the monthly license fee by \$400 per month (\$4800 annually). The increase in license fee is due to equipment modifications resulting in an increase in vertical space leased on the tower. Per American Tower's fee schedule, modification of equipment calls for a \$1500 structural inspection fee; however, American Tower has agreed to waive that fee for this project.

The 800 MHz Communication Systems Joint Operating Committee has approved the First Amendment to License Agreement and associated fee increase.

Strategic Objective supported by this item: Safe Secure and Healthy Communities.

PREVIOUS ACTION

On December 19, 2000, the Board approved an Agreement with American Tower Corporation for lease of tower space and adjacent land on Red Peak to construct a communications shelter for the County's 800 MHz Regional Radio System for an initial term of five years, renewing automatically for four additional five-year terms with a five percent per year annual escalator.

On July 15, 2016, Washoe County Regional 800 MHz Communication System Joint Operating Committee approved the First Amendment to License Agreement, the

AGENDA ITEM # 10.C.1

associated \$4800 annual increase, and the \$1500 structural inspection fee that has since been waived by American Tower.

BACKGROUND

Washoe County operates an 800 MHz Regional Radio System with equipment that is located on a tower owned by American Tower LLC, under license agreement since January 2001. Modification of the equipment has resulted in the need for an Amendment to the License Agreement.

FISCAL IMPACT

Sufficient budget authority for the monthly license fee and the \$4800 annual increase exists in cost center 210010, account 710610.

RECOMMENDATION

It is recommended that the Board of County Commissioners approve the First Amendment to License Agreement between American Tower LLC and Washoe County to correctively amend the site information commonly known as East Red Peak Tower 3 (site number 8743) and to modify the equipment at the Tower Site [\$4800 annual increase] in support of the County's 800 MHz Regional Radio System.

POSSIBLE MOTION

Should the Board agree with staff's recommendation, a possible motion would be, "Move to approve the First Amendment to License Agreement between American Tower LLC and Washoe County to correctively amend the site information commonly known as East Red Peak Tower 3 (site number 8743) and to modify the equipment at the Tower Site [\$4800 annual increase] in support of the County's 800 MHz Regional Radio System."

Licensor Site Name/Number: EAST RED PEAK, T3 / 8743

Licensor Contract Number: 873229

Licensee Site Name/Number: Red Peak / N/A

FIRST AMENDMENT TO LICENSE AGREEMENT

This First Amendment (the "First Amendment") to that certain License Agreement dated January 3, 2001 by and between ATC Operating Inc. and Washoe County, (collectively, the "Agreement") is made and entered into as of the latter signature date hereof, by and between American Towers LLC, a Delaware limited liability company, as successor-in-interest to ATC Operating Inc. (the "Licensor") and Washoe County, a Political Subdivision of the State of Nevada (the "Licensee") (collectively, the "Parties").

RECITALS

WHEREAS, Licensor and Licensee entered into the Agreement for the use of a certain portion of a communications tower owned by Licensor and parcel of land leased by Licensor; and

WHEREAS, Licensor and Licensee now desire to correctively amend the site information as referenced in the Agreement; and

WHEREAS, Licensor owns a certain communications tower and leases a certain parcel of land located at 2030 West 1st Ave., Sun Valley, NV 89433-7967 more commonly known to Licensor as the EAST RED PEAK, T3 tower site (the "Tower Site"); and

WHEREAS, Licensee desires to modify its equipment at the Tower Site ("Modified Equipment"); and

WHEREAS, the Parties agree that as consideration for Licensee's Modified Equipment, the current License Fee payable under the Agreement shall be increased as set forth herein.

NOW THEREFORE, in consideration of the foregoing promises and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereto agree as follows:

1) Licensor and Licensee agree and acknowledge that the header in the Agreement listed as

- "ATC SITE NAME & NUMBER East Red Peak#1 #8732
CUSTOMER SITE NAME & NUMBER Red Peak."

shall be deleted and replaced with:

- "Licensor Site Name/Number: EAST RED PEAK, T3 / 8743
Licensor Contract Number: 873229
Licensee Site Name/Number: Red Peak / N/A"

Licensor Site Name/Number: EAST RED PEAK, T3 / 8743

Licensor Contract Number: 873229

Licensee Site Name/Number: Red Peak / N/A

- 2) Licensor and Licensee agree and acknowledge that the Location of tower site and Coordinates on Page 1 of the Agreement listed as

- "Location of tower site (Tower Site)": East Red Peak #1
Coordinates: Lat. 39° 35' 2" Long. 119° 47' 55"

shall be deleted and replaced with:

TOWER SITE INFORMATION:

Site Name: EAST RED PEAK, T3

Site Number: 8743

Address and/or location of Tower Site: 2030 West 1st Ave., Sun Valley, NV, 89433-7967

Tower Site Coordinates: Lat. 39-35-1.299984 N Long. 119-47-56.100012 W

- 3) Licensor and Licensee agree and acknowledge that any and all references to the East Red Peak #1 Tower Site with Licensor Site Number 8732, shall hereinafter refer to the East Red Peak, T3 Tower Site with Licensor Site Number 8743.
- 4) Licensor and Licensee agree and acknowledge that Licensee shall modify its equipment for a final installed configuration pursuant to Exhibit A-1.
- 5) Licensor and Licensee agree and acknowledge that Exhibit A to the Agreement is hereby deleted in its entirety as of the date this First Amendment is fully executed and shall be replaced with Exhibit A-1 attached hereto and incorporated by this reference. In the event of inconsistency or discrepancy between the Exhibit A-1 and Licensee's equipment information set forth in the Agreement, the Exhibit A-1 shall control.
- 6) Licensor and Licensee agree and acknowledge that Exhibit B to the Agreement is hereby deleted in its entirety as of the date this First Amendment is fully executed and shall be replaced with Exhibit B-1 attached hereto and incorporated by this reference. In the event of inconsistency or discrepancy between the Exhibit B-1 and Licensee's site sketch set forth in the Agreement, the Exhibit B-1 shall control.
- 7) Effective upon the earlier to occur of: i) commencement of installation of the Modified Equipment; or ii) November 1, 2016 ("Commencement Date"), the License Fee shall be increased by Four Hundred and 00/100 Dollars (\$400.00) per month ("Increased Fee"). The Increased Fee for any fractional month at the beginning or end of the period shall be appropriately prorated.
- 8) Notwithstanding anything to the contrary in the Agreement, the offer to Licensee expressed in this First Amendment shall automatically become null and void with no further obligation by either party hereto if a structural analysis of the Tower

Licensor Site Name/Number: EAST RED PEAK, T3 / 8743

Licensor Contract Number: 873229

Licensee Site Name/Number: Red Peak / N/A

Site completed after the execution of this First Amendment by Licensor but before the Commencement Date of the installation of Licensee's Modified Equipment indicates that the Tower Site is not suitable for Licensee's Modified Equipment unless Licensor and Licensee mutually agree that structural modifications or repairs shall be made to the Tower Site on mutually agreeable terms.

- 9) Licensor and Licensee agree and acknowledge that all future payments of the License Fee shall be made to the Licensor at the following remittance address:

American Tower Corporation
Lockbox 7501
PO Box 7247
Philadelphia, PA 19170-7501

- 10) Capitalized terms contained herein, unless otherwise defined, are intended to have the same meaning and effect as that set forth in the Agreement.

- 11) All other terms and provisions of the Agreement remain in full force and effect.

[SIGNATURES APPEAR ON THE NEXT PAGE]

[REMAINDER OF PAGE LEFT BLANK INTENTIONALLY]

Licensor Site Name/Number: EAST RED PEAK, T3 / 8743

Licensor Contract Number: 873229

Licensee Site Name/Number: Red Peak / N/A

IN WITNESS WHEREOF, the Parties hereto have set their hands to this First Amendment to that certain License Agreement as of the day and year written below:

LICENSEE:

Washoe County, a Political
Subdivision of the State of Nevada

LICENSOR:

American Towers LLC, a Delaware
limited liability company

By: _____
Name: Kitty K. Jung
Title: Chair, Washoe County Commission
Date: _____

By: _____
Name: _____
Title: _____
Date: _____

Licensor Site Name/Number: EAST RED PEAK, T3 / 8743

Licensor Contract Number: 873229

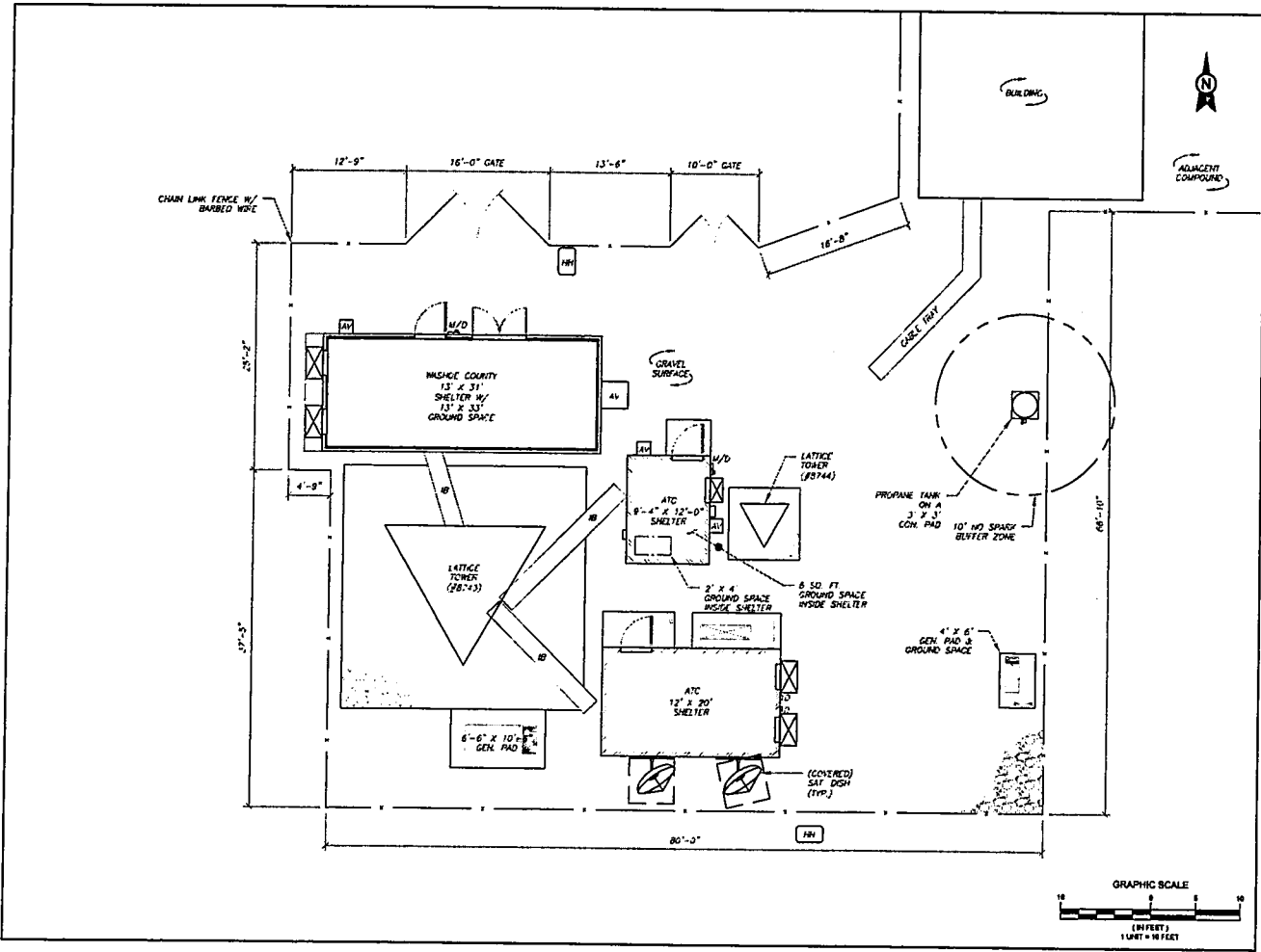
Licensee Site Name/Number: Red Peak / N/A


Exhibit A-1

Exhibit A-1						
Customer Name: WASHOE COUNTY		ATC Asset Name: EAST RED PEAK, T3			ATC Asset #: 8743	
Customer Site Name: N/A				Customer Site #: N/A		
GROUND SPACE REQUIREMENTS						
<u>Total Lease Area</u>	Sq. Ft: 429.00'	<u>Primary Contiguous Lease Area</u>		L:13.00'	W:33.00'	H: Sq. Ft: 429.00
Generator AREA				N/A	N/A	N/A 0.0
Customer Building				13.00'	33.00'	N/A 429.00
<u>Outside Primary Lease Area</u>				N/A	N/A	N/A Sq. Ft: N/A
BACKUP POWER REQUIREMENTS						
Generator: Stand Alone		Fuel Tank Size(gal): 200.0		Fuel Type: Diesel		Fuel Tank Setback(radius): N/A
UTILITY REQUIREMENTS						
Power Provided By: Utility Company Direct						
Telco/Interconnect: N/A						
TRANSMITTER & RECEIVER SPECIFICATIONS						
Type: N/A	Quantity: N/A		TX Power(watts): N/A		ERP(watts): N/A	
ANTENNA EQUIPMENT SPECIFICATIONS						
Type	OMNI	OMNI	OMNI	OMNI	DISH-STANDARD	N/A
Manufacturer	Amphenol Antel	Andrew	Andrew	Amphenol Antel	Generic	N/A
Model #	BCD-7009-EDIN-X	DB806-A	ASP 680	BCD-7006-EDIN-X-25	5' Std. Dish	N/A
Dimensions HxWxD	154" x 4" x 4"	62" x 2" x 2"	140" x 0.7" x 0.7"	79.2" x 4.3" x 4.3"	5.00' x 5.00' x 2.50'	N/A
Weight(lbs.)	33.1	16.0	4.0	14.2	14.0	N/A
Location	Tower	Tower	Tower	Tower	Tower	N/A
RAD Center AGL	137.0'	133.0'	95.0'	45.0'	22.0'	N/A
Antenna Tip Height	143.4'	135.6'	100.8'	48.3'	24.5'	N/A
Antenna Base Height	130.6'	130.4'	89.2'	41.7'	19.5'	N/A
Mount Type	N/A	N/A	N/A	N/A	N/A	N/A
Quantity	1	3	1	1	1	N/A
Azimuths/Dir. of Radiation	280	360	280	360	180	N/A
Quant. Per Azimuth/Sector	1	3	1	1	1	N/A
TX/RX Frequency Units	MHz	MHz	MHz	MHz	GHz	N/A
TX Frequency	851-862	851-862	154.99	769-775	11	N/A
RX Frequency	851-862	799-817	154.99	769-775	11	N/A
Using Unlicensed Frequencies?	No	No	No	No	No	N/A
Antenna Gain	8.5/ 9.0	6	3	5.4/ 5.8	.1	N/A
Total # of Lines	1	1	1	1	1	N/A
Line Quant. Per Azimuth/Sector	1	1	1	1	1	N/A
Line Type	Coax	Coax	Coax	Coax	Elliptical	N/A
Line Diameter Size	7/8" Coax	7/8" Coax	7/8" Coax	1 1/4" Coax	EW90	N/A
Line Configuration	N/A	N/A	N/A	N/A	N/A	N/A

Licensors Site Name/Number: EAST RED PEAK, T3 / 8743
Licensors Contract Number: 873229
Licensee Site Name/Number: Red Peak / N/A

Exhibit B-1





AMERICAN TOWER®
A.T. ENGINEERING SERVICE, PLLC
3500 REGENCY PARKWAY
SUITE 100
CARY, NC 27518
PHONE: (919) 466-0112

THESE DRAWINGS SHOW THE ACCOMPANYING SPECIFICATIONS AS INSTRUMENTS OF SERVICE, AND THE EXCLUSIVE PROPERTY OF LESSEES/OWNER. THESE USE AND PURSUE TO BE LIMITED TO THE ORIGINAL SITE FOR WHICH THEY ARE PREPARED. REUSE, REPRODUCTION OR PUBLICATION BY ANY METHOD, IN WHOLE OR IN PART, IS PROHIBITED EXCEPT BY WRITTEN PERMISSION FROM LESSEES/OWNER. TITLE TO THESE PLANS AND/OR SPECIFICATIONS SHALL REMAIN WITH LESSEES/OWNER WITHOUT LIABILITY AND WRITING CONTACT WITH THEM SHALL CONSTITUTE FINAL ACCEPTANCE OF THESE RESTRICTIONS.

ALL MEASUREMENTS AND LOCATIONS USED IN THIS SITE DESIGN AND APPROXIMATE. LESSEES/OWNER WAIVES ALL REPRESENTATIONS OR WARRANTIES AS TO UNDERGROUND UTILITIES, INCLUDING BUT NOT LIMITED TO UTILITIES, ROCK FORMATION, ETC. THE SITE DESIGN SHALL NOT BE USED FOR CONSTRUCTION PURPOSES AND LESSEES SHOULD CONTACT AND UTILIZE UTILITY LOCATOR SERVICES PRIOR TO COMMENCING CONSTRUCTION TO AVOID SERVICE DISRUPTION TO OTHER USERS AND PUBLIC OR SOILS.

ATC SITE NUMBER:
8743 & 8744

ATC SITE NAME:
**EAST RED PEAK, T3
EAST RED PEAK, T4
NEVADA**

LEGEND

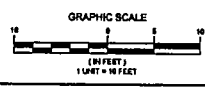
- ⊙ GROUNDING TEST WELL
- AC AIR CONDITIONING UNIT
- AV AV
- ATS AIR VENT
- B BOLLARD
- C CABINET
- CS COAX SHROUD
- CSC FIBER OPTIC CABINET
- D DISCONNECT
- E ELECTRICAL
- F FIBER
- GEN GENERATOR
- G GENERATOR RECEPTACLE
- H HANDHOLE
- I ICE BRIDGE
- K KENTON BOX
- LC LIGHTING CONTROL
- LPG LIQUID PROPANE GAS
- M METER
- OHV OVERHEAD WIRE
- P POWER
- PB PULL BOX
- PP POWER POLE
- T TELCO
- TRN TRANSFORMER
- W WATER VALVE
- BUFFER
- GROUND SPACE (LEASE AREA)
- EASEMENT

DRAWN BY:	H. DEGRDOUT
DATE DRAWN:	04/18/2016
CUSTOMER:	WASHOE COUNTY
COLLOCATION NO.:	82856

SITE PLAN LAYOUT

SPU

SHEET NUMBER:	AUDITED BY:
SITE-1	ON



ORIGINAL

ATC SITE NAME & NUMBER East Red Peak#1 #8732
CUSTOMER SITE NAME & NUMBER Red Peak

LICENSE AGREEMENT

ATC Contract No: 873229

LICENSE AGREEMENT ("Agreement") made this 22nd day of November, 2000, by and between ATC Operating Inc., a Delaware corporation with a place of business at 501 Canal Boulevard, Suite E, Point Richmond, CA 94804 ("Licensor") and Washoe County, a political subdivision of the State of Nevada with a mailing address of PO Box 11130, Reno NV 89520 and with a place of business at 3031 Longley Lane, Reno, NV 89520 ("Licensee"). Either Licensor or Licensee may be referred to herein as a "Party" and both Licensor and Licensee together may be referred to herein as the "Parties". The attached Terms and Conditions are incorporated herein by this reference.

Location of tower site ("Tower Site"): East Red Peak #1
Coordinates: Lat. 39° 35' 2" Long. 119° 47' 55"

Transmitting frequencies and call signs: 806-824 MHz, 855-869 MHz, 154-155MHz, 155.37, 155.52, and 6 GHz; NA+A46, KRC653, and KNBB763

Receiving frequencies and call signs: 806-835 MHz, 835.4375MHz, 1.54.995, 155.370, 155.520, 156.21 MHz and 6GHz
Antenna height on tower: 20', 45', 95', 132.5' and 152.5 ft. AGL (See Exhibit A for specific locations)

The "Monthly License Fee" shall be \$1,500.00, adjusted annually beginning upon the first day of the second year of the Initial Term and on each anniversary thereafter (including during any Renewal Terms) by the "Annual Escalator". The Annual Escalator shall be the greater of: (i) five percent (5%) per year.

The "Site Inspection Fee" shall be: \$ 2,500.00, as adjusted annually by an amount equal to the Annual Escalator.

Initial Term: The "Initial Term" of this Agreement shall be for a period of five (5) years beginning on the "Effective Date," which shall be the earlier of: (i) the commencement of installation of Licensee's Approved Equipment; or (ii) sixty (60) days following the date first above-written.

Renewal Terms: The "Renewal Terms" of this Agreement shall be four (4) additional periods of five (5) years each.

Is electric power available at the Tower Site (check one): YES NO. If yes, electricity for operation of Approved Equipment is to be provided by (check one): Licensor OR Licensee

Attached exhibits:


- Exhibit A: List of Approved Equipment and location of the Licensed Premises
- Exhibit B: Drawing of location of ground space for Licensee's equipment shelter or space in Licensor's building (as applicable)
- Exhibit C: Location of Non-Exclusive Access and Utility Easement
- Exhibit D: Site drawings/structurals

Other provisions: (check one): None As listed below

- Section 6: Waiver Of Initial Site Inspection Fee
- Section 13: Self Insured
- Section 27: Site Application Fee
- Section 28: Bureau of Land Management Fee

IN WITNESS WHEREOF, the parties, each in consideration of the mutual covenants contained herein, and for other good and valuable consideration, intending to be legally bound, have caused this Agreement to be executed by their duly authorized representatives as of the date first above-written; *provided, however*, that this Agreement shall not become effective as to either party until executed by both parties.

LICENSOR
ATC Operating Inc.

By: 

Its: Vice President 1/3/01

Print Name: William C. Maguire

LICENSEE
Washoe County

By: 

Its: CHAIRMAN 12/19/00

Print Name: TED SHORT

TERMS AND CONDITIONS

1. **GRANT OF LICENSE.** Licensor hereby agrees to license to Licensee space for housing and operating the communications equipment specifically described in Exhibit A attached hereto ("Approved Equipment") at the locations also described in Exhibits A and B ("Licensed Premises"). All Approved Equipment shall be and remain Licensee's personal property. Upon the completion of the installation of the Approved Equipment, Licensee shall provide Licensor with drawings of the Approved Equipment as installed ("As-Built drawings"), which shall be attached hereto as Exhibit D. Licensee shall have the unrestricted right of access to the Licensed Premises 24 hours per day, 7 days per week, to the extent permitted under the Ground Lease. Licensee shall also have a non-exclusive easement and right to: (i) install and maintain wires, cables, conduits and pipes either within, over, under or along the Tower Site; and (ii) to use any specific right of way for access to the Tower Site as described in Exhibit C attached hereto. In the event any public utility is unable to use the rights-of-way or easements, Licensor agrees to grant an additional right-of-way either to Licensee or to the public utility at no cost to Licensee to the extent permitted under the Ground Lease. Licensor shall maintain the communication facility located on the Tower Site in good condition and in a manner which will not disturb Licensee's reasonable use of the Licensed Premises. In the event that Licensee's representative requires entrance to the Licensed Premises and does not have Licensee's lock codes or keys, Licensor shall endeavor to provide access to Licensee's authorized personnel by prearrangement with Licensor.
2. **LICENSE FEE.** The Monthly License Fee, as adjusted by the applicable Annual Escalator, shall be payable in advance on the first day of each calendar month beginning upon the Effective Date. If the Effective Date is not the first day of a calendar month, the Monthly License Fee for the first partial month shall be prorated on a daily basis. The Monthly License Fee for any last partial month in the term of this Agreement shall also be prorated on a daily basis. Licensee shall be solely responsible for all utility charges directly attributable to the Approved Equipment, except as otherwise provided on page 1 of this Agreement. Licensor shall be responsible for the payment of any applicable taxes or governmental assessments against the Tower Site or personal property and improvements thereon owned and maintained by Licensor. Licensee agrees to pay or reimburse Licensor for all substantiated taxes, fees, and governmental assessments levied against Licensor or Licensee due to the presence of the Approved Equipment, personal property or improvements owned and maintained by Licensee on or about the Tower Site.
3. **TERM.** The Initial Term of this Agreement shall be as specified at page 1. This Agreement shall automatically be renewed for the Renewal Terms, if any, also stated at page 1 unless either Party gives to the other ninety (90) days written notice of termination prior to the expiration of the then-current term. Upon expiration, cancellation or termination of this Agreement for any reason, Licensee shall: (i) remove the Approved Equipment and any other property of Licensee from the Licensed Premises at Licensee's sole risk, cost, and expense; (ii) deliver the Licensed Premises in substantially the same and in as good a condition as received (ordinary wear and tear excepted); and (iii) repair any damage caused by the removal of the Approved Equipment within 30 days of termination or expiration, subject to provisions of section 24. License fee due until the repair is complete.
4. **COMMON EXPENSES.** Licensee shall reimburse Licensor for Licensee's pro-rata share of costs and expenses incurred by Licensor for the repair and replacement of common facilities at the Tower Site including, damage to fences, gates, access roads, from unknown causes. In no event, however, shall Licensee be required to pay a pro-rata share of costs or expenses incurred to replace the tower structure. In the event that Licensee also licenses space within a building or shelter owned by the Licensor on the Tower Site, Licensee shall also reimburse Licensor for its pro-rata share of all common expenses incurred for the operation, maintenance, repair and replacement associated with such building or shelter, including, without limitation, the physical structure of the building, HVAC system, and common utility expenses. For the purposes of this section, a "pro-rata share" of costs and expenses shall be determined based on the number of licensees using the Tower Site. Licensee shall reimburse Licensor for common expenses within thirty (30) days following receipt of an invoice from Licensor.
5. **INSTALLATION BY LICENSOR - RIGHT TO BID** Licensee shall submit all information and necessary and desirable construction bid documentation to Licensor, concurrently with such identical or similar submissions to other construction contractors for the installation of Licensee's equipment on the tower structure at the Tower Site (or subsequent approved modifications thereto). Notwithstanding the foregoing, Licensee reserves its right to solicit offers and to contract with other persons or entities to perform such installation services provided that Licensor is given an opportunity to submit a bid,

6. **SITE INSPECTION.** Not less than ten (10) days prior to the initial installation by Licensee of the Approved Equipment or before the date of any subsequent modifications to or installation of additional Approved Equipment, Licensee shall pay Licensor the Site Inspection Fee. In the event that Licensor installs Licensee's Approved Equipment pursuant to the provisions of Section 5 of this Agreement, Licensor shall waive the Site Inspection Fee with respect to such installation. The Site Inspection Fee shall be waived for the initial installation of Approved Equipment only.
7. **LABELING.** Licensee shall identify its equipment and equipment cabinets (unless such cabinet is located in a building owned by Licensee) with labels permanently affixed thereto and stating Licensee's name and contact phone number. Licensee's coaxial cables shall be labeled at both the top and bottom of the tower structure. Should Licensee fails to label its equipment as required by this section, Licensor may label Licensee's equipment and assess against Licensee a penalty charge of one thousand five hundred dollars (\$1,500.00), as adjusted annually by an amount equal to the Annual Escalator, which shall be immediately due and payable.
8. **ALTERATIONS.** Licensee agrees that it will not make any alterations or additions to the Approved Equipment without the prior written consent of Licensor in each case obtained. An amendment to Exhibit A to this Agreement shall be prepared to reflect each addition or modification to Licensee's equipment from time to time to which Licensor has given its written consent. At its sole election, Licensor may, in its sole but reasonable judgment, perform or cause to be performed a structural analysis to determine the availability of capacity at the Tower Site for the installation or modification of any additional equipment at the Licensed Premises by Licensee. Nothing herein shall prevent Licensee from performing such analysis for its own account; *provided, however*, that Licensee shall provide a complete copy of any structural analysis that it performs to Licensor at no cost to Licensor promptly upon completion of that analysis. If Licensor performs such an analysis or causes one to be performed as a result of modifications requested or made by Licensee, Licensee agrees promptly to reimburse Licensor for all reasonable costs and expenses incurred by Licensor or Licensor's vendor in the performance of such structural analysis within thirty (30) days following receipt of an invoice from Licensor. All approved work at the Tower Site shall be performed by licensed contractors, subject to the reasonable approval of Licensor. Such contractors shall have valid and current worker's compensation and general liability insurance certificates on file with Licensor which name Licensor as an additional insured and which otherwise satisfy the insurance coverage requirements described in Section 13 of this Agreement. Licensor reserves the right, in its sole discretion, to refuse to permit any person or company to climb any tower structure at the Tower Site. Licensee shall indemnify, defend and hold harmless Licensor from and against any and all costs, claims, causes of action and liabilities of every nature and kind arising out of the acts and omissions of Licensee or Licensee's contractors or subcontractors.
9. **RF INTERFERENCE.** Licensee agrees to install and operate only equipment which does not cause interference to other then-current licensees operating authorized equipment at the Tower Site. In the event that the Approved Equipment causes such interference or any permitted subsequent modification or addition causes such interference, Licensee shall take all steps necessary to correct and eliminate the interference. If such interference is not eliminated within seventy-two (72) hours after Licensee's receipt of notice of such interference from Licensor or other licensee, Licensee shall cease operations until the interference is eliminated if so requested by Licensor. If Licensee does not cease all interfering operation within such seventy-two (72) hour period, Licensor shall have the right to disconnect Licensee's equipment. Licensor agrees that Licensor and/or any other licensees who install, operate or subsequently modify equipment at the Tower Site will be permitted to operate only such equipment which does not cause interference to Licensee's then-pre-existing Approved Equipment. In the event that Licensee is subject to any such interference, Licensor shall (or shall cause other licensees to) take all steps necessary to correct and eliminate the interference. If such interference is not eliminated within seventy-two (72) hours after Licensor's receipt of notice of such interference from Licensee, Licensor shall (or shall cause such other licensees) to cease operations if requested by Licensee until the interference is eliminated. Nothing in this section shall be deemed or interpreted to authorize Licensee to illegally transmit on any frequencies or to provide any protection to Licensee from interference from any other person in the event that Licensee is operating on any unlicensed frequency spectrum.
10. **SITE RULES AND REGULATIONS.** Licensee agrees to comply with the reasonable rules and regulations established from time to time at the Tower Site by Licensor in its discretion. Such rules and regulations will not unreasonably interfere with Licensee's normal business operations.
11. **CASUALTY; CONDEMNATION.** If the Licensed Premises or the Tower Site is destroyed or condemned, in whole or part, whether by eminent domain or otherwise, then: (i) in the event that the Licensed Premises or the Tower Site is wholly destroyed or condemned, this Agreement shall terminate without further liability to either Party except for payment of the Monthly License Fees due up to the time of such destruction or condemnation; or (ii) if the Licensed Premises are usable by Licensee for its purposes, then Licensor shall, within one hundred and twenty (120) days (which shall be extended for any delays directly caused by governmental action or inaction), repair the Licensed Premises or the Tower Site with a reasonable reduction of the Monthly License Fee

to Licensee during the period of repair. If, however, any such partial destruction or condemnation occurs within six (6) months prior to termination of this Agreement, either Party may terminate this Agreement without further liability except for payment of the Monthly License Fees up to the time of such destruction or condemnation. Any Monthly License Fees prepaid by Licensee shall be returned to it as part of the operation of this section.

12. **COMPLIANCE WITH LAWS.** Licensors is responsible for ensuring that the tower structure at the Tower Site is operated in compliance with all governmental lighting and marking requirements. Licensors shall indemnify and defend Licensee from and against any loss, cost, or expense sustained or incurred by Licensee as a result of Licensors failure to comply with duly issued governmental regulations relating to tower lighting and marking. Each Party shall at all times comply with all applicable laws and ordinances and all rules and regulations of municipal, state and federal governmental authorities relating to the installation, maintenance, location, use, operation, and removal of a communications facility or of the Approved Equipment and other alterations or improvements authorized pursuant to the provisions of this Agreement, all as applicable to each Party's responsibilities at the Tower Site.
13. **INDEMNIFICATION; INSURANCE.** Each Party shall, to the fullest extent permitted by law, indemnify, defend and hold harmless the other Party, its respective Affiliates, and their respective directors, officers, shareholders, successors and assigns against all claims, losses, costs, expenses, damages, and liabilities (except as otherwise provided in Section 14 of this Agreement) arising from: (i) the negligence, willful misconduct or strict liability of such Party, or its agents, employees, representatives, contractors; or (ii) any material breach by such Party of any provision of this Agreement. Neither Party shall be responsible or liable to the other for any damage arising from any claim to the extent attributable to any acts or omissions of other licensees at the Tower Site. Without limiting the foregoing in any way, both Parties, each at their sole cost and expense, agree to maintain comprehensive general liability and casualty insurance (including without limitation, an umbrella policy of no less than five million (\$5,000,000.00 dollars) in amounts reasonably satisfactory to the other Party with respect to its respective property and obligations hereunder. Such insurance policies shall contain a provision that such policy shall not be canceled or amended without thirty (30) days' notice to the other Party and each Party shall deliver a copy of a certificate evidencing such insurance coverage upon written request. Licensors shall be named as an additional insured on Licensee's policy with respect to the Tower Site. If insurance coverage is provided by self-insurance program, Licensee will provide a statement of insurance and identify the programs covered under the self-insurance program. This statement of self insurance will also identify self-insurance program limits and any applicable deductibles of self-insurance retention.
14. **WAIVER OF CERTAIN DAMAGES. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, EACH PARTY HEREBY WAIVES THE RIGHT TO RECOVER INCIDENTAL, SPECIAL, CONSEQUENTIAL (INCLUDING LOST PROFITS), PUNITIVE, EXEMPLARY AND SIMILAR DAMAGES AND THE MULTIPLIED PORTION OF ANY DAMAGES.**
15. **NOTICES.** Any required or permitted notice or demand shall be made by certified mail, postage prepaid, addressed to the other Party at the address set forth at page 1. Either Party may modify, add, or delete notice addresses from time to time by notice given in accordance with this section. Any notice or demand shall be deemed to have been given or made at the time it is deposited in a United States Post Office or with a private overnight courier service.
16. **ASSIGNMENT; SUBLEASING.** Licensee may assign this Agreement as a whole with Licensors prior written consent; *provided, however,* that Licensors consent will not be required for an assignment to any person or entity which is controlled by, controlling or under common control with Licensee ("Affiliates"). For these purposes, "control" means ownership, directly or indirectly, of 50% or more of the voting stock, equity or beneficial interest or a general partner of any partnership. In no event may Licensee sublet, sublease, or permit any other similar use of the Tower Site or Licensed Premises by any party other than an entity which is (and continues to be) an Affiliate of Licensee. In no event may Licensee diplex signals, grant any shared use rights, or utilize digital or analog interconnect facilities for any user other than Washoe County Department and Agencies and authorized users of the Washoe County Regional Radio System. No permitted assignment or sublease shall relieve Licensee of any of its obligations, express or implied, under this Agreement. Any permitted assignee or sub-lessee shall expressly assume, and become bound by, all of Licensee's obligations under this Agreement. Licensors may freely assign, transfer, or sublease this Agreement. Licensors shall be relieved of all of its obligations under this Agreement from and after the date of such assignment, transfer, or sublease. This Agreement shall be binding upon the successors and permitted assigns of both parties. Licensee shall pay Licensors an administrative fee of \$500.00 (which fee shall increase annually by an amount equal to the Annual Escalator) in each instance in which Licensee requests Licensors consent to any assignment of this Agreement or in which Licensee seeks an estoppel certificate, nondisturbance agreement, subordination agreement or other similar agreement.
17. **QUIET ENJOYMENT.** Licensors covenants and agrees that, upon Licensee's paying the Monthly License Fee and observing and performing all of the terms, covenants and conditions to be observed and performed by Licensee under this Agreement, Licensee shall be entitled to quiet enjoyment of the Licensed Premises during the term of this Agreement.

18. **SUBORDINATION TO GROUND LEASE.** The Parties acknowledge and agree that: (i) in the event Licensor's rights in the Licensed Premises and/or any part of the Tower Site is derived in whole or part pursuant to an underlying lease, sublease, easement or other right of use agreement ("Ground Lease"); and (ii) In the event that the lessor under an applicable Ground Lease has the right to approve of this Agreement, this Agreement shall not become effective until Licensor obtains such approval. Further, all terms, conditions and covenants contained in this Agreement shall be specifically subject to and subordinate to the terms and conditions of an applicable Ground Lease. In the event that any of the provisions of the Ground Lease are in conflict with any of the provisions of this Agreement (other than those provisions relating to the length of term, termination rights or financial consideration), the terms of the Ground Lease shall control. Further, Licensee agrees to be bound by such Ground Lease as applicable to the access and occupancy of the Licensed Premises. In the event that the Ground Lease expires or terminates prior to the expiration of the Initial Term or applicable Renewal Terms, this Agreement shall automatically terminate upon termination of Licensor's right to possession of the Tower Site. Licensor agrees not to take any action with respect to the Ground Lease as then in effect which will cause the Ground Lease to be prematurely terminated during the term of this Agreement. Licensor hereby warrants and agrees that it shall exercise any renewal option available to it pursuant to the Ground Lease through the end of the term of this Agreement. Upon Licensee's written request, Licensor shall provide Licensee with a copy of any applicable Ground Lease with the economic terms redacted.
19. **DEFAULT.** Either Party shall have fifteen (15) days after receipt of written notice from the other Party to cure any monetary default and, except as otherwise provided with respect to RF interference, thirty (30) days after receipt of written notice from the other Party to cure any non-monetary default. Except with respect to RF interference, if any default cannot be cured timely, then so long as the Party charged with the default diligently pursues a cure during the prescribed time period, that Party shall be given additional time to cure the default. If subsequent to the foregoing requisite periods of time, there continues to be an event of default, the non-defaulting Party may terminate this Agreement upon thirty (30) days written notice to the defaulting Party and may institute any other available proceedings at law or in equity to recover damages from the defaulting Party.
20. **COLLECTIONS.** Should Licensee fail timely to pay the Monthly License Fee or any other fee or charge established by this Agreement, Licensor may take any collections actions it deems necessary without further notice to Licensee, including, without limitation, the disconnection or removal and storage of the Approved Equipment. Licensee shall pay all reasonable attorney's fees, court costs, removal and storage fees (including any damage caused thereby), and other items of cost or expense reasonably incurred by Licensor in recovering the Monthly License Fee or other fee or charge. No endorsement or statement on any check or letter accompanying a check for payment of any monies due and payable under the terms of this Agreement shall be deemed an accord and satisfaction, and Licensor may accept such check or payment without prejudice to its right to recover the balance of such monies or to pursue any other remedy provided by law or in this Agreement. Licensor shall accept any such partial payment for the account of Licensee. Past due amounts under this Agreement will bear interest from the date upon which the past due amount was due until the date paid at a rate equal to the lesser of: (i) twelve percent (12%) per annum; or (ii) the maximum rate of interest allowed by law in the state in which this Agreement is to be performed. In addition, Licensee shall be assessed a late payment fee equal to ten percent (10%) of the Monthly License Fee for any Monthly License Fee payment which is overdue by ten (10) days or more and for each thirty (30) day period that such amount remains unpaid thereafter.
21. **GOVERNMENTAL APPROVALS; PERMITS.** In the event that any governmental permit, approval or authorization required for Licensor's use of, operation of, or right to license space to Licensee at the Tower Site is challenged, terminated or withdrawn by any governmental authority or third party as part of any governmental, regulatory, or legal proceeding, Licensor may terminate this Agreement or Licensee may elect to install or continue to operate its equipment at its sole cost and risk. Licensee understands and agrees that, in the event of a governmental or legal order requiring the removal of Licensee's equipment from the tower or removal of the tower structure or any structural modification required to accommodate Licensee's Approved Equipment, Licensee shall do so promptly at its sole cost and expense and this Agreement shall terminate if such removal or modification is due to no act or occurrence by Licensee.
22. **REPLACEMENT OF TOWER.** Licensor reserves the right, in its sole discretion, to replace or rebuild the tower structure or the top of the tower. In such event, Licensor shall provide Licensee with space at the Tower Site suitable to allow Licensee to continue to operate the Approved Equipment in a substantially similar manner during the construction period. Licensor shall be solely responsible for the costs associated with removing and re-installing the Approved Equipment. Licensor also expressly reserves the right to erect one or more towers on the Tower Site, subject to Licensor's obligations to Licensee under this Agreement. Licensee shall also have the right to establish a temporary facility on the Tower Site to provide such services as Licensee deems necessary during any such reconstruction by Licensor so long as adequate space is then available. The location of such temporary facilities shall be subject to Licensor's approval, which shall not be unreasonably delayed, conditioned or withheld.
23. **GOVERNING LAW.** This Agreement shall be governed by the laws of the state in which the Tower Site is located. If any provision of this Agreement is found invalid or unenforceable under judicial decree or decision, the remaining provisions of this Agreement shall remain in full force and effect. Any approval, consent, decision,

or election to be made or given by a Party may be made or given in such Party's sole judgment and discretion, unless a different standard (such as reasonableness or good faith) is provided for explicitly.

24. **FORCE MAJEURE.** If either Party is unable due to causes beyond its reasonable control to carry out its obligations under this Agreement in whole or in part and if such Party gives written notice and full details of the *force majeure* event to the other as soon as practicable after the occurrence of the event, then during the pendency of such *force majeure* event, but for no longer period, the obligations of the affected Party will be suspended to the extent required. The affected Party shall remedy the *force majeure* with all reasonable dispatch. *Force majeure* means an event that is not within the reasonable control of the affected Party, including, without limitation, war, riots, civil insurrection or acts of a common enemy, fire, flood, strikes or other labor difficulty, acts of civil or military authority, including governmental laws, orders, actions, inactions or regulations, embargo, or other causes beyond the reasonable control of that Party.
25. **RESOLUTION OF DISPUTES.** The Parties agree to endeavor to resolve disputes arising out of this Agreement without litigation. Accordingly, except for action seeking a temporary restraining order or injunction, or suit to compel compliance with this dispute resolution process, the Parties agree to use the following dispute resolution procedure with respect to any controversy or claim arising out of or relating to this Agreement or its breach. At the written request of either Party, each Party will appoint an authorized representative to meet and negotiate in good faith to resolve any dispute arising under this Agreement. The Parties intend that these negotiations be conducted without legal representation by business representatives. The location, format, frequency, duration and conclusion of these discussions shall be left to the discretion of the representatives. Upon agreement, the representatives may utilize other alternative dispute resolution procedures – such as mediation – to assist in the negotiations. Discussion and correspondence among the representatives for purposes of these negotiations shall be treated as confidential information exchanged for purposes of settlement, exempt from discovery and production, which shall not be admissible in any lawsuit without concurrence of both Parties. Documents identified in or provided with such communications, which are not prepared for purposes of the negotiations, are not so exempted and may, if otherwise admissible, be admitted in evidence in a lawsuit. If the negotiations do not resolve the dispute within forty-five (45) calendar days of the initial written request, either Party may pursue any remedies to which it is entitled, at law or in equity, including without limitation, litigation. The forty-five (45) days specified in this section may be extended upon mutual agreement of the Parties.
26. **MISCELLANEOUS.** Time is of the essence of this Agreement. The offer of license expressed in this Agreement shall automatically expire and become void if not accepted by Licensee and such acceptance received by Licensor within thirty (30) days from the date first above-written. The only means by which Licensee may accept this offer of license is by timely returning one copy of this Agreement, executed on behalf of Licensee, to Licensor. This Agreement constitutes the entire agreement of the Parties hereto concerning the subject matter hereof and shall supersede all prior offers, negotiations and agreements, whether written or oral. No revision of the Agreement shall be valid unless made in writing and signed by authorized representatives of both Parties. No waiver of any of the provisions of this Agreement shall constitute a waiver of any other provision hereof (whether or not similar), nor shall such waiver constitute a continuing waiver unless expressly agreed to in writing by the affected Party.
27. **SITE APPLICATION FEE:** Within thirty (30) days of the Effective Date of this Agreement a Site Application Fee in the amount of \$1,000.00 is due and payable by Licensee.
28. **BUREAU LAND MANAGEMENT FEE:** In the event that a particular License is associated with a Tower Site located on real property which is owned by the Bureau of Land Management, the United States Forest Service or other Governmental Authority, Licensee shall pay any and all base fees or assessments paid by Licensor or the underlying lessor under the Ground Lease by such Governmental Authority, as well as, any fees or assessments and/or increases in such fees or assessments invoiced by such Governmental Authority that are directly attributable to and/or are the result of the use or presence of Licensee's Equipment at the Tower Site.

(This Section Left Intentionally Blank)

EXHIBIT A

GROUND SPACE
LOCATION OF EQUIPMENT: INDOOR CABINETS [] OUTDOOR SHELTER or BTS [x]
of EQUIPMENT SHELTERS/BTS CABINETS: 1
EQUIPMENT SHELTER/CABINET/BTS DIMENSIONS (HxWxD) (ft): 10'x13'x33'

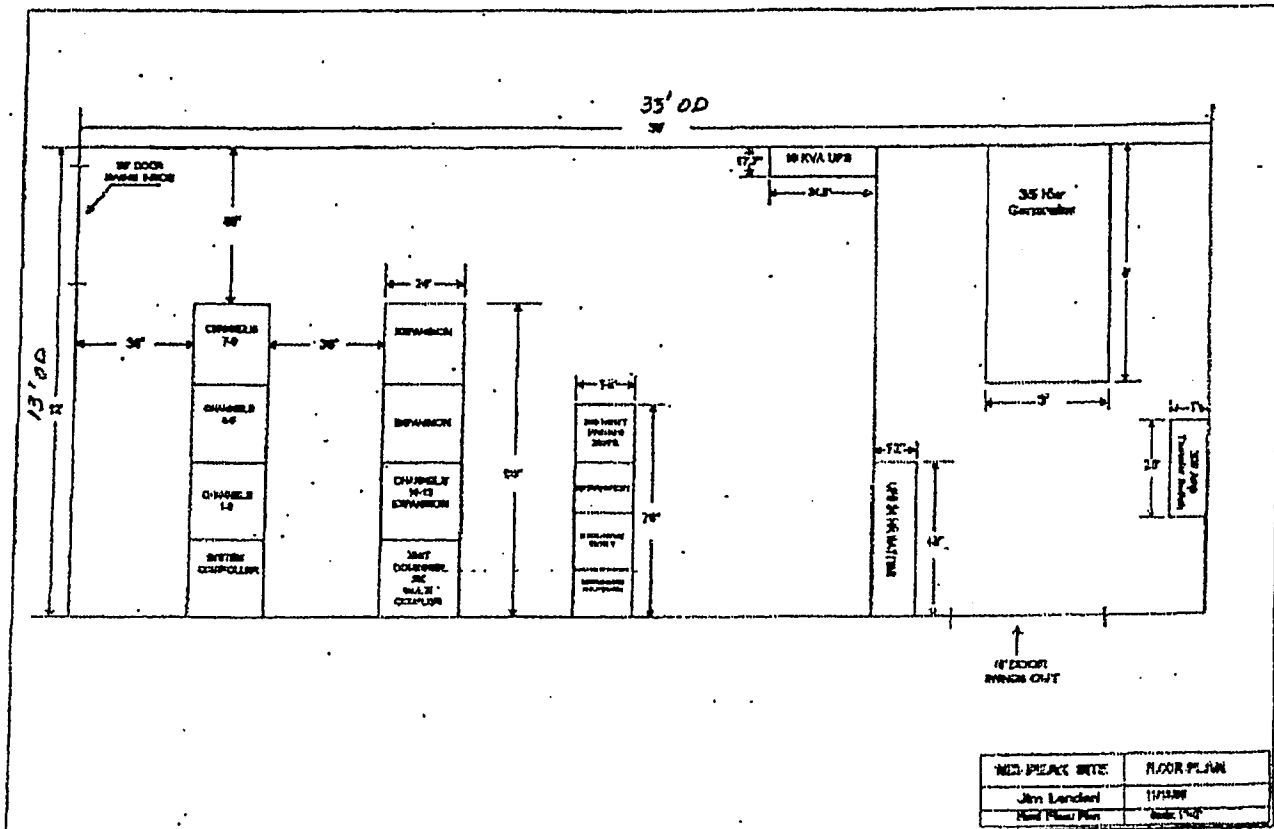
ANTENNA SPACE AND EQUIPMENT
Table with columns: TYPES OF ANTENNAS, ANTENNA #1, ANTENNA #2, ANTENNA #3, ANTENNA #4, ANTENNA #5
Rows include: ANTENNA QUANTITY, RECEIVE OR TRANSMIT?, MANUFACTURER, TYPES OF ANTENNAS, MODEL #, ANTENNA WEIGHT, ANTENNA DIMENSIONS (HxWxD), ANTENNA MOUNT HEIGHT, RAD CENTER AGL, MOUNT TYPE, TOWER LEG, DIRECTION of RADIATION, TX FREQUENCY, RX FREQUENCY, RECEIVE BAND OF FREQUENCIES, TRANSMIT BAND OF FREQUENCIES, ANTENNA GAIN, # of LINES PER ANTENNA, LINE TYPE, LINE DIAMETER.

BUILDING/SHELTER SPACE AND EQUIPMENT
LICENSEE'S BUILDING? [] LICENSEE'S SHELTER? [x]
of CABINETS: N/A # of TRANSMITTERS PER CABINET: 4 TOTAL
Table with columns: TRANSMITTER #1, TRANSMITTER #2, TRANSMITTER #3, TRANSMITTER #4
Rows include: MANUFACTURER, TYPE & MODEL, TYPE of SERVICE, RACK/CABINET/BTS DIMENSIONS, CALL SIGN, TX FREQUENCY, TX POWER OUTPUT, RX FREQUENCY, ERP, ACTUAL POWER CONSUMPTION, ELECTRIC SERVICE REQUIRED (Amps/Volts), # of OUTLETS, COMBINER/# of PORTS, CABINET ALSO CONTAINS.

If there are more than four transmitters located at the site, please refer to attachment. Is there an attachment (CHECK ONE) YES [] NO [x]

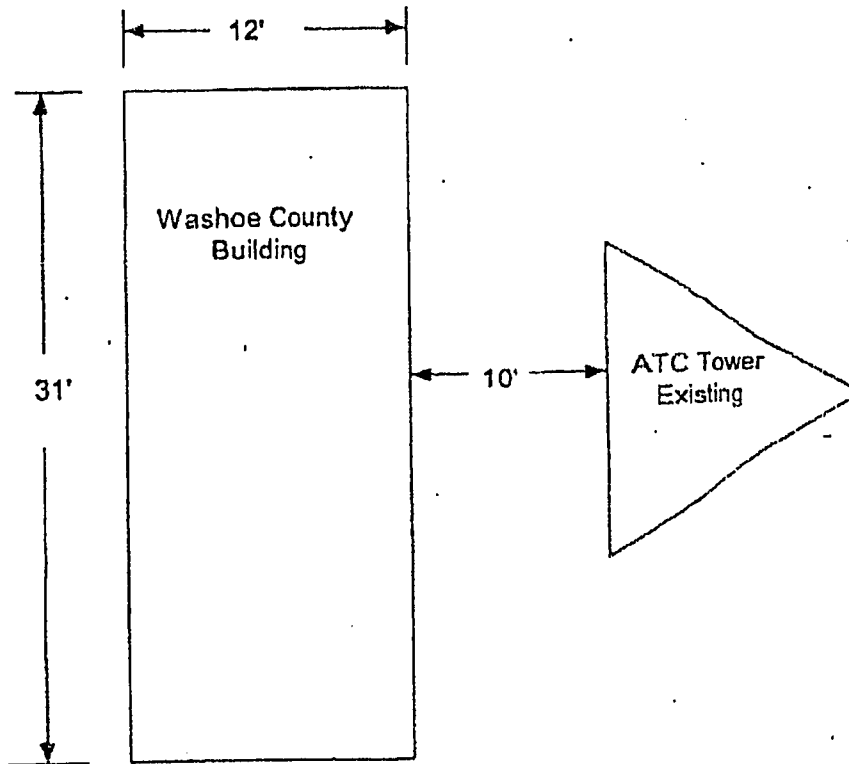
TS Initials: [Signature]

Exhibit B
Drawing of location of ground space for Licensee's equipment shelter or space in
Licensors's building
 (page one of two)



Initials: TS
2

Exhibit B
Drawing of location of ground space for Licensee's equipment shelter or space in
Licensor's building
(page two of two)



ATC SITE NAME & NUMBER East Red Peak#1 #8732
CUSTOMER SITE NAME & NUMBER Red Peak #N/A

Exhibit C
Drawing of Access and Utility Easements

(To be provided by Locustm when available)

Initials: TS
2

ATC SITE NAME & NUMBER East Red Peak#1 #8732
CUSTOMER SITE NAME & NUMBER Red Peak

Exhibit D
As Built Drawings and Structural

To be attached hereto after installation of Licensee's Approved Equipment.

Initials: 