County of Santa Cruz

0549

COUNTY ADMINISTRATIVE OFFICE

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SUSAN MAURIELLO, J.D., COUNTY ADMINISTRATIVE OFFICER

January 15, 2014 Agenda: January 28, 2014

BOARD OF SUPERVISORS
County of Santa Cruz
701 Ocean Street
Santa Cruz, CA 95060

UPDATE ON IMPLEMENTING RECOMMENDED ACTIONS TO EXPAND BROADBAND IN SANTA CRUZ COUNTY

Dear Members of the Board,

On November 5, 2013, your Board directed staff to return on today's agenda with an update on implementing recommended actions to expand broadband in Santa Cruz County. Staff in the Information Services, Planning and Public Works Departments continue to work on administrative and planning initiatives that could lead to greater investment in broadband infrastructure in the County. This letter and the attached report provided an update on their efforts.

Information Services staff has worked with Public Works staff to draft conduit specifications, a template Master Lease Agreement and a "dig once" ordinance to facilitate the deployment of broadband infrastructure. Example specifications, agreements and ordinances from other jurisdictions were used as guides in determining the best approach for the County of Santa Cruz. Information Services and County Counsel were also consulted and provided their input. The attached report further discusses these items and provides drafts and a proposed ordinance for your Board's consideration.

In addition, Planning is working on proposed changes to County regulations to remove any requirement for broadband infrastructure within the public right of way to obtain a discretionary land use permit and to streamline the application process and comply with the 2006 Digital Infrastructure and Video Competition Act. Proposed amendments to the Santa Cruz County Code will require CEQA review and a Planning Commission public hearing and recommendation before they are brought to the Board. Planning intends to provide more information on these amendments in March 2014. At that time, Planning will also report on the status of establishing a Broadband Master Plan and the outcome of meetings with broadband providers to discuss economic vitality and development opportunities in the County.

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It is therefore RECOMMENDED that your Board take the following actions:

1. Accept and file this update on implementation of the broadband recommendations.

2. Direct Public Works to finalize and implement the attached conduit specifications for future construction projects in the County of Santa Cruz.

3. Direct Public Works to finalize the attached Master Lease Agreement allowing the installation of telecommunications equipment on County assets and develop a rate structure and Facilities Lease Agreement to use in the implementation of specific installations.

4. Adopt in concept the attached ordinance adding Chapter 12.25 to the Santa Cruz County Code to facilitate the installation and upgrades of telecommunications infrastructure in or adjacent to County rights of way, and direct the Clerk of the Board to place the ordinance on the next available agenda for final consideration.

5. Direct Planning to report on the status of amendments to land use regulations and efforts to establish a Broadband Master Plan, as well as the outcome of meetings with broadband providers, on or before March 18, 2014.

Very truly yours,

SUSAN A. MAURIELLO
County Administrative Officer

Attachments

cc: Information Services Director
Planning Director
Public Works Director

COUNTY OF SANTA CRUZ

Update on Implementing Recommended Actions to Expand Broadband

Prepared for the Board of Supervisors

1/15/2014

Prior Reports:
September 10, 2013
November 5, 2013

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Section 1: Information Services

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Summary: **While providers have done extensive build outs of the County's fiber backbone, there is still room for improvement. Many areas of the County are limited to a single provider. To address this issue, the County could make it easier for the Internet Service Providers to work through the regulatory and permitting process, as discussed by Planning.**

Rec. 1: **Finalize conduit specifications in collaboration with Public Works and broadband providers.**

The Information Services Department has worked with the Department of Public Works to develop conduit specifications for future construction projects in the County of Santa Cruz. After review of proposed specifications from other public and private entities, staff determined the best approach is to develop a written specification appropriate for vehicle impacts over the lifetime of the conduit.

In early October, Public Work Directors from the cities of Capitola, Santa Cruz, Scotts Valley and Watsonville and the County met and discussed the topic of conduit specifications and construction with a focus on the need to have a consistent countywide approach. Draft specifications (see Attachment A) were presented and reviewed by the Department of Public Works and Information Services Department. In December 2013, the regional group of Public Works Directors held a follow-up meeting to further this effort.

Rec. 2: **Work with County Counsel and Public Works to establish master lease agreements that allow the installation of broadband infrastructure on utility poles, light standards and County assets.**

The County currently lacks a template Master Lease Agreement and Facilities Lease Agreement for the installation of broadband infrastructure on utility poles, light standards or property. The Department of Public Works, which includes the County's Real Property Division, took the lead and drafted a Master Lease that addresses appropriate fee structures, agreement duration and renewal terms, access and responsibilities of the County and broadband providers, co-location rights and the legal language to protect County-owned infrastructure (see Attachment B). Several public entities, including the City of San Jose, have developed similar agreements, and they were reviewed as examples. The draft Master Lease has been reviewed by Information Services and County Counsel. Upon approval of the Master Lease by your Board, a rate structure and Facilities Lease to use in the implementation of specific installations will be developed and returned to your Board for approval. The County may find it useful to contract with a consultant as part of this process because it is a specialized area.

Section 2: Planning

Summary: **Efforts to expand broadband would benefit businesses, residents and students in Santa Cruz County. To assist providers in deploying new and improved infrastructure, the County could support a number of changes to its regulatory and permitting processes.**

Rec. 3: **Allow the installation of equipment within public right of ways, subject only to "time, place and manner" of access, through the County's encroachment permit process.**

The Department of Public Works already evaluates projects within the public right of way in this manner through the revocable encroachment permit process. Existing land use regulations require a land use permit for certain broadband facilities (i.e., boxes, cabinets, wireless facilities) within public rights of way, as well as on private property. The Planning Department is working on proposed amendments to the Zoning Ordinance in order to remove any requirement for a discretionary land use permit for facilities within public rights of way. These changes will take into account the Board's interest in maintaining a public process. In addition, fees for any building permits that are required will remain in place. The Planning Department will provide more information on these amendments in March 2014, and the proposed ordinance, after CEQA review and a Planning Commission public hearing and recommendation, will be ready for Board consideration in June 2014.

Rec. 4: **Streamline the application process and ensure permit fees are based on actual costs.**

The Planning Department reviewed its fees, as part of the County Unified Fee Schedule update in December 2013, and determined that discretionary planning permits for broadband activity are already charged at cost. This practice will continue per your Board's direction.

The Planning Department is working on proposed amendments to land use regulations in order to streamline the application process, include new definitions as needed, and reflect compliance with the 2006 Digital Infrastructure and Video Competition Act (DIVCA). The Planning Department will provide more information on these amendments in March 2014, and the proposed ordinance, after CEQA review and a Planning Commission public hearing and recommendation, will be ready for Board consideration in June 2014.

Rec. 5: **Draft amendments to County regulations that facilitate the deployment of broadband technology.**

The Planning Department is working on proposed amendments to land use regulations in order to remove any requirement for broadband infrastructure within the public right of way to obtain a discretionary land use permit. The proposed amendments to regulations will also streamline the application process, include new definitions as needed, and reflect compliance with DIVCA. The Planning Department will provide more information on these amendments in March 2014, and the proposed ordinance, after CEQA review and a Planning Commission public hearing and recommendation, will be ready for Board consideration in June 2014.

The Planning Department continues to support efforts of the Department of Public Works and the Information Services Department to present new specifications for broadband deployment, including methods and conduit requirements. The Planning Department will also be present, as requested, at quarterly meetings that the Department of Public Works holds with service providers, and will assist Public Works as needed with its efforts to create a yearly coordination letter to all utility companies and service providers.

Rec. 6: **Work with broadband providers on economic development opportunities.**

The Planning Department's Economic Development division will coordinate meetings three times a year with all service providers to provide education and information regarding new projects and planning efforts that are being undertaken to support economic vitality and development projects. The first meetings are scheduled to take place in February 2014.

The Planning Department will ensure that the proposed Economic Vitality Strategy includes goals, policies and actions supportive of the broad deployment and public access to broadband technology. In addition, areas identified as opportunities in the County's Economic Vitality Strategy planning process will be incorporated into a Broadband Master Plan per your Board's direction. The Planning Department will work with the Information Services Department on establishing this plan and reporting back to the Board in March 2014.

Section 3: Public Works

Summary: **Broadband infrastructure could be added to a number of utility improvement projects in the County based on available funding. A coordinated approach to installing a County-wide communication network could be accomplished by establishing a "dig once" ordinance similar to proposed legislation in the City and County of San Francisco.**

Rec. 7: **Work with utility companies on their financing and installation of conduit as part of County projects.**

The Department of Public Works has had a number of meetings with local utility companies on these issues, and progress is being made. We will continue these efforts and keep the Board informed of all developments.

Rec. 8: **Draft an ordinance based on the San Francisco "dig once" model for the County of Santa Cruz.**

The Department of Public Works carefully reviewed San Francisco's proposed ordinance in addition to a number of others, both within and outside California. We adapted the best of these to meet the County's unique needs and used flexible language to allow our standards to be updated over time without the need for a new ordinance. The Department of Public Works prepared an ordinance to implement your Board's direction to facilitate installation and upgrades of telecommunications infrastructure in or adjacent to County rights of way (see Attachment C).

Attachment A

Draft Conduit Specifications

INSTALLATION REQUIREMENTS - CONDUIT FOR FIBER OPTIC CABLE

Fiber Optic Cable Conduit: Cables shall be run in conduit, except overhead and temporary installations, and where cables are run inside poles. Conduit and conduit fittings shall be Underwriter's Laboratory Inc. (UL) or Electrical Testing Laboratory (ETL) listed, and shall be UV-rated where located aboveground. Conduit shall be used to protect the cable from the top of the conduit riser to the span messenger where the cable is to be lashed. Ensure that the conduit fill ratio (outer cable diameter to inner conduit/duct diameter) does not exceed 50%. Install the conduit system so the fiber optic cable maintains a minimum bend radius of 20 times the cable diameter.

Conduit shall be laid to a depth of not less than 18 inches below grade in concrete sidewalk areas and not less than 30 inches below finished grade in all other areas. Excavation and backfill within the roadway shall conform to Figure EP-1 of the Design Criteria. New conduit shall not pass through foundations for standards. Existing substructure may require fiber placement in roadway.

Installation of conduit shall be as shown in the plans and in conformance with the National Electric Code (NEC). Provide all fittings and incidental materials necessary to construct a complete installation. Use approved methods for connecting inner duct or conduit within or between plowed portions, trenched portions, and bored portions.

Fiber Optic Cable Locate Wire: Locate wire shall be installed in the trench or bore with all underground conduits. Locate wire shall be installed above the conduit but not more than 3 inches. Do not install locate wire within a conduit containing fiber optic cable.

Terminate locate wires at the first and last pull boxes in the conduit run. Ensure that wire termination occurs only at the top of a pull box. Core-drill the access point wall at the conduit diameter and at the location indicated in the plans. After placement, apply a non-shrink grout or other acceptable material around the conduit/locate wire to seal the hole.

Make locate wire splices in a flush grade-level pull box. Ensure that locate wire splices at the pull box meet NEC requirements. Ensure that locate wire splices include a mechanical crimp connection with a butt sleeve, an oxide-preventing aerosol lacquer, mastic electrical splicing tape, and standard electrical tape using methods and materials approved by the Engineer. Perform continuity tests and insulation resistance tests on all locate wires. At the completion of the installation, provide the Engineer with as-built drawings that document all conduit and splice locations.

Payment and Measurement
Payment for conduit placed in the ground or used on bridge decks will be based on the horizontal path of the installed conduit as measured in a straight line between the centers of pull boxes, cabinets, poles, etc. No allowance will be made for sweeps or vertical distances above or below the ground or the bridge deck.

The contract price paid per foot for furnishing and placing Conduit shall include full compensation for furnishing all labor, materials, tools, equipment and incidentals, and for doing all the work involved in furnishing and constructing the fiber optic cable conduit complete in place to the dimensions shown, including hardware, locate wire, testing, trenching, backfilling, and restoration as shown on the plans, as specified in the Standard Specifications, these special provisions, and as directed by the Engineer, and no additional compensation will be allowed therefor.

Attachment B

Draft Master Lease Agreement

DRAFT

TELECOMMUNICATIONS EQUIPMENT

MASTER LEASE AGREEMENT

between

COUNTY OF SANTA CRUZ

and

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MASTER LEASE AGREEMENT

TELECOMMUNICATIONS EQUIPMENT

THIS MASTER LEASE AGREEMENT ("Master Lease") is entered into this _____ day of _____, 20____ ("Commencement Date"), between THE COUNTY OF SANTA CRUZ, a political subdivision of the State of California ("County"), and

_____
("Lessee").

In consideration of the mutual covenants contained in this Master Lease and other good and valuable consideration, the receipt of which is hereby acknowledged, County and Lessee hereby agree as follows:

1. Master Lease

This Master Lease sets forth the general terms and conditions upon which County shall lease to Lessee a portion of certain towers, poles, conduit, buildings, rights of way and related facilities, equipment and structures ("County Facilities") owned by County for the installation, operation and maintenance of Lessee's Telecommunications Equipment, as defined in Section 3. This Master Lease does not provide for the use of any County Facility. The terms and conditions for use of specific County Facilities shall be set forth in a separate Facilities Lease Agreement. This Master Lease is not and shall not be deemed to be an exclusive agreement for the use of the County Facilities.

2. Facilities Lease

Upon the parties' mutual agreement for the use of specific County Facilities, the parties will execute a Facilities Lease Agreement ("Facilities Lease"), which shall be attached to this Master Lease and be deemed a part hereof. The Facilities Lease shall describe: a) the County Facilities and its location; b) the Lessee's Telecommunications Equipment, as defined in Section 3, and the method of installation on the County Facilities, c) the term and rent for use of the County Facilities, and d) other terms and conditions as the parties shall agree. In the event of a discrepancy or inconsistency between the terms and conditions of this Master Lease and the terms and conditions of the Facilities Lease, the terms and conditions of the Facilities Lease shall govern and control. Entering into this Master Lease does not obligate County or Lessee to enter into any Facilities Lease.

3. Use, Permits, Zoning and Access

3.1 Permitted Use

Lessee's use of the County Facilities shall be limited to the installation, operation and maintenance of antennas, cables, utility lines, computer equipment, batteries and emergency

backup generators, equipment cabinets and related equipment ("Telecommunications Equipment") owned by the Lessee for the transmission and reception of telecommunications. Lessee's use shall be lawful and in compliance with all federal, state and local laws, rules, regulations, orders or other governmental requirements applicable to the installation and use of Lessee's Telecommunications Equipment.

3.2 Permits; Zoning

Lessee, at Lessee's expense, shall obtain all necessary licenses, construction permits, encroachment permits, zoning and land use approvals, or similar approvals ("Governmental Approvals") for the installation and operation of the Telecommunications Equipment on the County Facilities. Lessee's use of County Facilities under this Master Lease is entirely at Lessee's own risk. County does not warrant, represent, or guaranty the issuance of any Governmental Approvals. County agrees to reasonably cooperate with Lessee in obtaining such Governmental Approvals. Lessee shall provide to County copies of such licenses, permits, easements, zoning, land use or similar approvals needed for Lessee's installation, operation and maintenance of the Telecommunications Equipment on the County Facilities.

3.3 Access

Where the County may legally convey such rights and for the term of a Facilities Lease, County hereby grants to Lessee a non-exclusive right of entry to access the the County Facilities ("Right of Entry"). The Right of Entry will be adequate to service the County Facilities and the Telecommunications Equipment applicable to any Facilities Lease. County agrees to reasonably cooperate with Lessee's efforts, at Lessee's expense, to obtain such easements and/or rights of entry as are needed for County Facilities where the County may not legally convey such rights.

Lessee shall be entitled access to the County Facilities between the hours of 6:00 a.m. and 6:00 p.m., seven (7) days per week. If an emergency repair is necessary, Lessee may be allowed reasonable access to the County Facilities between the hours of 6:00 p.m. and 6:00 a.m., provided that Lessee obtains the County Public Workers Director's or designee's permission prior to entry. The County shall provide Lessee with the phone number of the County's emergency contact ("Emergency Contact"), which number shall permit contact with the Emergency Contact, or his/her designate, twenty-four (24) hours per day.

Where the public has limited or no access to the County Facilities, Lessee agrees to give County reasonable notice prior to access to such County Facilities. Lessee will be responsible for notifying nearby property owners, users and residents in writing one week advance of any work which might be disruptive. Where the County Facilities are near or adjacent to residential property, Lessee will make reasonable accommodations to minimize disturbance to residents.

To the extent County has knowledge of any limitation or planned limitation on access to the County Facilities, County agrees to provide Lessee with written notice (in advance of such limitation to the extent possible) of any limitation on access, provided that in an emergency County shall not be obligated to provide such notice. County and Lessee agree to reasonably

cooperate with one another and with the other service providers to minimize any restricted access to the County Facilities.

4. Interference

4.1. Interference by Lessee

Lessee and its licensees, employees, invitees, contractors or agents shall not engage in any activity that interferes with access to and use of the County Facilities by County or County's other lessees ("Existing Tenants"). County agrees to notify Lessee of any Existing Tenants who has not yet installed, configured or operated Telecommunications Equipment prior to the date that the Facilities Lease is executed by Lessee. Lessee agrees that even if the Existing Tenant installs facilities to the County Facilities pursuant to its reserved rights under its Facilities Lease, and this occurs after Lessee's installation and interference results, then it is Lessee's responsibility to eliminate the interference in accordance with this Section.

4.2 Interference by County

Except as provided in paragraph 4.3 of this Section, County and its lessees, licensees, employees, invitees, contractors or agents shall not engage in any activity or use the County Facilities in any way that interferes with Lessee's authorized use of and access to the County Facilities.

4.3 Resolving Interference

Lessee agrees that if Lessee's use of the County Facilities causes interference with County's or Existing Tenant's use of the County Facilities, Lessee shall, at its expense, immediately discontinue use of the Telecommunications Equipment and County Facilities, or cease such activities causing such interference, or otherwise take action necessary to eliminate such interference. Lessee shall undertake such modification or other action immediately upon notice of the interference in the case of "Physical Interference" (i.e., materially preventing, hindering or impeding access and/or work by County or Existing Tenants) with County's use of the County Facilities, or within 60 days of notice in the case of any other interference (i.e., signal interference, such as RF or grounding interference) with County's or an Existing Tenant's use of the County Facilities. County shall attempt to notify Lessee of such interference in advance of the need to discontinue use or modify Lessee's activities if reasonably possible and if Lessee clearly identifies its Telecommunications Equipment and other equipment with its name and a telephone number of the appropriate contact person. County shall cooperate with Lessee in a reasonable manner and for a reasonable period of time to resolve such interference, provided such cooperation shall not include any obligation that materially interferes with County's use of the County Facilities. If Lessee is unable to eliminate such interference in a reasonable period of time to the satisfaction of County or such Existing Tenant, County may terminate the applicable Facilities Lease in accordance with Section 11.a herein. Lessee agrees that in the event of any interference with Lessee's use of the County Facilities caused by County or an Existing Tenant, Lessee shall cooperate with County or such Existing Tenant in a reasonable manner and for a reasonable period of time to mutually resolve such interference, provided such cooperation shall

not include any obligation which materially interferes with Lessee's reception and transmission of telecommunications. In the event that such interference cannot be mutually resolved within a reasonable period of time, Lessee may terminate the applicable Facilities Lease as provided in Section 11.a. herein. In the case of an emergency, County shall not be obligated to provide Lessee with any notice of work to be performed. Lessee shall be required to wait until all County's restoration activities have been completed prior to conducting any maintenance, repair, adjustment, or replacement work; such work to be performed in accordance with Section 10 herein.

5. Term

5.1 Initial Term

The term of this Master Lease shall commence on the Commencement Date set forth above, and shall continue for five (5) years, expiring at 11:59 p.m. on the fifth anniversary of said Commencement Date ("Expiration Date"), unless earlier terminated pursuant to the terms of this Master Lease.

5.2 Option to Extend

Lessee shall have the option to extend the term of this Master Lease beyond the initial term described herein for one additional (5) year term on the same terms, convenants and conditions that are contained in this Master Lease; County shall increase the Rent during the option period in the manner provided in Section 6.2 below. Lessee shall exercise its option to extend this Master Lease, if at all, by providing County with written notice that Lessee intends to exercise its option no later than one hundred and eighty (180) days prior to the Expiration Date.

5.3 Holdover

If Lessee shall remain in possession of the County Facilities at the Expiration Date, expiration of any option period, or any renewal term of a Facilities Lease, such possession shall be deemed a month-to-month tenancy under the same terms and conditions as this Master Lease and any Facilities Leases pertaining to such County Facilities, except that the Rent shall be increased as provided in Section 6 herein.

6. Rent

6.1 Payment of Rent

From and after the commencement of the term of each Facilities Lease, Lessee shall pay County, as rent, the agreed amount payable as rent for the County Facilities under such Facilities Lease ("Rent"). Exhibit "A" provides a schedule of Facility Lease Rates. Unless otherwise provided in the Facilities Lease, Rent shall be payable on the first day of each calendar year in advance at County's address specified in paragraph 6.3 of this Section. If the term of a Facilities Lease commences on other than the first day of a year, Rent shall be prorated, on a monthly basis, for

that first year for the number of full and partial months from the date of commencement of the Facilities Lease to the end of the year and such Rent shall be due within 30 days of the commencement date of the Facilities Lease. If a Facilities Lease is terminated on a day other than on the last day of a year, no Rent shall be refunded unless the termination is in accordance with Section 11.a, in which case the Rent shall be prorated as of the date of removal of the interfering Telecommunications Equipment from the County Facilities and the prepaid Rents shall be refunded to Lessee.

6.2 Adjustment of Rent

Rent under a Facilities Lease shall automatically increase by four percent (4%) per year on the first day of each calendar year or as specified in the Facilities Lease.

6.3 Delivery of Rent Payments

Lessee shall make one combined Rent payment for all Rent due under any Facilities Lease. Lessee shall include a schedule of Facilities Leases for which Rent is being paid with each combined Rent payment. Rent shall be made payable to the County of Santa Cruz, and shall be considered paid when delivered to:

COUNTY OF SANTA CRUZ
Department of Public Works
Attn: Real Property
701 Ocean Street, Room 410
Santa Cruz, CA 95060

County may, at any time, by written notice to Lessee, designate a different address to which Lessee shall deliver the Rent payments. Lessee is solely responsible for timely payment of Rent and County will not send rent invoices to Lessee.

6.4 Failure to Pay Rent; Late Charge

a) If Lessee fails to pay rent due hereunder at the time it is due and payable, such unpaid amounts shall bear interest at the rate of ten percent (10%) per year from the date due to the date of payment, computed on the basis of monthly compounding with actual days elapsed compared to a 360-day year. In addition to such interest, the late payment by Lessee of any rent due hereunder will cause County to incur certain costs and expenses not contemplated under this Lease, the exact amount of which costs being extremely difficult or impracticable to fix. Such costs and expenses will include, without limitation, administrative and collection costs, and processing and accounting expenses. Therefore, if any such rent is not received by County within ten (10) business days following the due date, Lessee shall immediately pay to County a late charge equal to five percent (5%) of such overdue amount. This late charge represents a reasonable estimate of such costs and expenses and is fair compensation to County for its loss caused by Lessee's nonpayment. Should Lessee pay said late charge but fail to pay contemporaneously therewith all

unpaid amounts of rent due hereunder, County's acceptance of this late charge shall not constitute a waiver of Lessee's default with respect to such nonpayment by Lessee nor prevent County from exercising all other rights and remedies available to County under this Lease or under law.

b) In the event of a dispute between the parties as to the correct amount of rent owed by Lessee, County may accept any sum tendered by Lessee in payment thereof, without prejudice to County's claim as to the proper amount of rent owing. If it is later determined that Lessee has not paid the full amount of rent owing, the late charge specified herein shall apply only to that portion of the rent still due and payable from Lessee. Notwithstanding any provision of this Section to the contrary, however, County's Lease Administrator may waive any delinquency payment or late charge upon written application of Lessee.

7. Telecommunications Equipment

7.1 Installation and Material Alteration

Lessee shall have the right, at its cost and expense, to install, construct, operate and maintain the Telecommunications Equipment on the County Facilities. Lessee shall have the right to modify, supplement, replace or upgrade the Telecommunications Equipment as reasonably necessary at any time during the term of a Facilities Lease; provided, however, that Lessee shall not relocate the Telecommunications Equipment or any portion thereof anywhere on the County Facilities without prior written permission from County. Lessee shall ensure that such work does not adversely affect the structural integrity, maintenance, operations or use of the County Facilities or access thereto.

Prior to commencing any installation or material alteration of the County Facilities, Lessee shall provide County with Lessee's plans for installation or alteration for County's review and approval. Such approval shall be in writing and shall indicate County's determination that the proposed installation will meet County of Santa Cruz Design Criteria, and that the reliability, safety and structural integrity of the County Facilities has not been compromised. Lessee shall obtain all necessary permits or other legal authorization for all installations or material alterations.

Lessee's changing-out equipment with equipment of the same size, weight, frequency, and power, in the course of repairs or upgrading of the Telecommunications Equipment, shall not be a material alteration. Material alterations are defined as anything other than changing out equipment with equipment of the same size, weight, frequency, and power, in the course of repairs or upgrading of the Telecommunications Equipment including the co-location of equipment on the County Facilities.

Approval by a licensed engineer of any structural work to facilitate installation of the Lessee's Telecommunications Equipment shall be the responsibility and at the sole cost of the Lessee. All of Lessee's work shall be performed at Lessee's sole cost and expense, in a good and

workmanlike manner, and in accordance with applicable laws and ordinances and Section 10 herein.

For alterations that are deemed not a material alteration, in the event the County does not furnish the Lessee with written response within sixty (60) days of County's receipt of the plans, County will be deemed to have approved them. After completion of any installation or alteration work, Lessee will provide County with as-built drawings of the County Facilities if there has been any change from the plans previously reviewed by County.

7.2 Liens

Lessee is not authorized to contract for or on behalf of County for work on, or the furnishing of materials to, any County Facilities, and Lessee shall keep any County Facilities free from any liens arising from any work performed, materials furnished or obligations incurred by or at the request of Lessee, and Lessee shall discharge of record by payment, bond or otherwise, within ten (10) days subsequent to the date of its receipt of notice thereof from County, any mechanic's, laborer's or similar lien filed against any County Facilities for work or materials claimed to have been furnished to Lessee. If any lien is filed against any County Facilities as a result of the acts or omissions of Lessee, or Lessee's employees, agents, or contractors and Lessee fails to discharge or bond any lien within such period, then, in addition to any other right or remedy, County may, at its election, discharge the lien by either paying the amount claimed to be due or obtaining the discharge by deposit with a court or a title company or by bonding. Lessee shall pay on demand any amount paid by County for the discharge or satisfaction of any lien, and all reasonable attorneys' fees and other legal expenses County incurred in defending any such action or in obtaining the discharge of such lien, together with all necessary disbursements in connection therewith.

7.3 Removal of Property

The Telecommunications Equipment shall remain the exclusive property of Lessee, and Lessee shall have the right to remove all or any portion of the Telecommunications Equipment at any time during the term of this Master Lease or the term of the relevant Facilities Lease and following any termination of the Facilities Lease or of this Master Lease. Upon expiration or termination of each Facilities Lease, Lessee shall remove the Telecommunications Equipment and all property of Lessee from the County Facilities and shall return the County Facilities in good condition, reasonable wear and tear excepted. Lessee's failure to remove the Telecommunications Equipment and other property of Lessee within thirty (30) days after the expiration or earlier termination of the Facilities Lease pertaining to such property shall be considered an abandonment of such property and County may remove or dispose of the Telecommunications Equipment and other property of Lessee at Lessee's sole cost and expense in any lawful manner without liability to County.

8. Acceptance of County Facilities

Taking possession of the County Facilities by Lessee is conclusive evidence that Lessee: (a) accepts the County Facilities as suitable for the purposes for which they are leased, (b) accepts the County Facilities and every part and appurtenance thereof as is, with all faults, except for latent defects, and (c) waives any claims against County in respect to defects in the County Facilities, or their suitability for any particular purposes. Lessee is deemed to take possession of the County Facilities upon commencement of the term of each Facilities Lease.

9. Electric Service

Where electric service is necessary, Lessee shall bear responsibility for arranging with power provider for service. Lessee shall be responsible to provide the necessary connection to electric service and shall pay directly to power provider all charges for electricity provided to Lessee at the County Facilities. If power needs may be met by photovoltaic or other freestanding renewable power source, nothing in this Master Lease shall be construed to prohibit such use so long as all work is done in accordance with current codes and other legal requirements, including any applicable building codes and permit requirements, and is completed in a safe and workmanlike manner.

10. Safety Requirements Pertaining to Telecommunications Equipment

Telecommunications Equipment shall be installed, maintained, repaired, adjusted, and upgraded in accordance with the then-current provisions of the National Electric Safety Code ("NESC") and County of Santa Cruz Pole Attachment Specifications. Upon receiving written notice from County of noncompliance with said requirements ("Noncompliance Notice"), Lessee shall, at its sole expense, within 30 days of the date of the Noncompliance Notice, either bring the Telecommunications Equipment into compliance with said requirements or submit a plan of correction. If Lessee submits such a plan of correction then Lessee shall bring the Telecommunications Equipment into compliance within an additional 30 days, or within such time limits upon which County and Lessee mutually agree. If Lessee fails to bring the Telecommunications Equipment into compliance within the said time limits, Lessee agrees to pay a sanction amount equal to the Rent specified in the Facilities Lease. This sanction amount shall be in addition to the Rent and shall be retroactive from the date of the Noncompliance Notice and shall continue until the Telecommunications Equipment are brought into compliance, as determined by the County. After 60 days from the date of the Noncompliance Notice, County shall have the right, at its sole discretion, to rearrange the Telecommunications Equipment at Lessee's sole expense or to terminate Lessee's Facilities Lease for the applicable Telecommunications Equipment and remove the Telecommunications Equipment.

11. Termination

Except as provided in Section 12 and Section 23 herein, this Master Lease and each Facilities Lease may be terminated only as follows:

a) By County upon ten (10) days prior written notice from County to Lessee if physical interference has not been remedied to County's satisfaction or if any equipment placed on the County Facilities by Lessee interferes with County's or any Existing Tenant's use of their respective Facilities and Lessee does not cure such interference or its interfering activities have not ceased in accordance with Section 4.3;

b) By County upon ten (10) days prior written notice if Lessee fails to pay any Rent in accordance with Section 6, provided County has provided Lessee with ten (10) days prior written notice of the failure to pay rent and Lessee has the opportunity to cure;

c) By County upon sixty (60) days prior written notice if Lessee fails to bring the Telecommunications Equipment into compliance with the safety requirements set forth in Section 10.

d) By Lessee upon thirty (30) days prior written notice if it is unable to obtain or maintain after reasonable efforts to do so any license, permit or Governmental Approvals necessary for installation, operation and maintenance of the Telecommunications Equipment;

e) By Lessee upon ninety (90) days prior written notice if Lessee determines, in its reasonable discretion exercised in good faith, that the County Facilities are or have become unacceptable under Lessee's design or engineering specifications for its Telecommunications Equipment, provided that this determination was not and reasonably could not have been made by Lessee prior to Lessee's occupation of the County Facilities, as set forth in Section 8;

f) By Lessee if a particular restriction contained in a ground lease and not set forth in this Master Lease or the applicable Facilities Lease prevents Lessee from the construction, operation or maintenance of or access to the Telecommunications Equipment;

g) In the event of termination of a Facilities Lease under this Section 11, no prepaid Rent applicable thereto shall be reimbursed by County to Lessee, except that such prepaid Rent shall be apportioned based on the termination date and refunded to Lessee in the event of termination pursuant to this Section. Upon termination and return of any such Rent, neither County nor Lessee shall have any further obligation or liability with regard to the County Facilities covered by the applicable Facilities Lease, except as otherwise provided herein or in such Facilities Lease.

12. Condemnation and Casualty

If at any time during the term of any Facilities Lease all or "substantially all" (meaning the remaining portion thereof shall not be of sufficient size or condition to permit the continuation of Lessee's use in a commercially reasonable manner) of the County Facilities applicable to such Facilities Lease shall be taken in the exercise of the power of eminent domain by any governmental or other authority, or by deed in lieu of condemnation, or shall be damaged or destroyed, then such Facilities Lease shall terminate, which termination shall be effective as of the date of the vesting of title in such taking or such damage or destruction. With respect to condemnation, County and Lessee shall each be entitled to pursue their own separate awards with respect to such taking. In the event of any damage, destruction or taking of less than all or substantially all of the County Facilities, such Facilities Lease shall continue and County and Lessee shall be entitled to pursue their own separate awards with respect to any such taking.

13. Taxes and Fees

13.1 Payment of Taxes and Fees

Lessee shall pay any fees, licenses or taxes, including but not limited to any possessory interest tax or property taxes assessed on, or any portion thereof attributable to, the Telecommunications Equipment and Lessee's construction, operation and maintenance thereof.

13.2 Creation of Possessory Interest

Pursuant to the provisions of Revenue and Taxation Code Section 107.6, Lessee is hereby advised that the terms of this Lease may result in the creation of a possessory interest. If such a possessory interest is vested in Lessee, Lessee may be subjected to the payment of real property taxes levied on such interest. Lessee shall be solely responsible for the payment of any such real property taxes. Lessee shall pay all such taxes when due, and shall not allow any such taxes, assessments or fees to become a lien against the County Facilities or any improvement thereon; provided, however, that nothing herein shall be deemed to prevent or prohibit Lessee from contesting the validity of any such tax, assessment or fee in a manner authorized by law.

14. Indemnity and Insurance

14.1 Lessee's Indemnity

County shall not be liable for, and Lessee shall defend and indemnify County and the employees and agents of County (collectively "County Parties"), against any and all claims, demands, liability, judgments, awards, fines, mechanics' liens or other liens, labor disputes, losses, damages, expenses, charges or costs of any kind or character, including attorneys' fees and court costs (hereinafter collectively referred to as "Claims"), related to this Lease and arising either directly or indirectly from any act, error, omission or negligence of Lessee or its contractors, licensees, agents, volunteers, servants or employees, including, without limitation, Claims caused by the concurrent negligent act, error or omission, whether active or passive, of County Parties.

Lessee shall have no obligation, however, to defend or indemnify County Parties from a Claim if it is determined by a court of competent jurisdiction that such Claim was caused by the sole negligence or willful misconduct of County Parties.

14.2 County's Indemnity

County shall defend and indemnify Lessee and hold it harmless from and against any Claims related to this Master Lease that arise solely from any act, omission or negligence of County Parties.

14.3 Lessee's Insurance Obligations

Without limiting Lessee's indemnification obligations to County under this Master Lease, Lessee shall provide and maintain, during the term and for such other period as may be required herein, at its sole expense, insurance in the amounts and form specified in Exhibit "B", attached hereto.

14.4 County's Insurance Obligations

County maintains a policy of All-Risk Insurance covering the County's personal property in the County Facilities, including any fixtures or equipment in the County Facilities owned by County. The County utilizes a program of self-funding with regard to any liability it may incur for personal injury or property damage arising out of its use or occupancy of the County Facilities.

15. Limitation of Liability

In no event shall County be liable to Lessee for any lost or prospective profits or any other special, punitive, exemplary, consequential, incidental or indirect losses or damages (in tort, contract or otherwise) under or in respect of this Master Lease or for any failure of performance related hereto howsoever caused, whether or not arising from County's sole, joint or concurrent negligence. To the extent any payment required to be made under this Master Lease is agreed by the parties to constitute liquidated damages, the parties acknowledge that the damages are difficult or impossible to determine and that such payment constitutes a reasonable approximation of such damages, and not a penalty.

16. Notices

All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed given if personally delivered or mailed to the following addresses:

If to County, to:
COUNTY OF SANTA CRUZ
Department of Public Works
Attn: Real Property
701 Ocean St, Room 410
Santa Cruz, CA 95060

If to Lessee, to:

_____

_____

_____

_____

With a copy to:

_____

_____

_____

_____

17. Quiet Enjoyment, Title and Authority

17.1 County's Authority

County covenants and warrants to Lessee that (i) it has full right, power and authority to execute this Master Lease and each Facilities Lease and has the power to grant all rights hereunder, (ii) its execution and performance of this Master Lease and each Facilities Lease will not violate any laws, ordinances or covenants, or the provisions of any mortgage, lease or other agreement binding on County, and (iii) Lessee shall have the quiet enjoyment of the County Facilities, and Lessee shall not be disturbed as long as Lessee is not in default beyond any applicable grace or cure period.

17.2 Lessee's Authority

Lessee covenants and warrants to County that Lessee has full right, power and authority to execute this Master Lease and each Facilities Lease and that the execution and performance thereof will not violate any laws, ordinances or covenants, or the provisions of any agreement binding on Lessee. Lessee acknowledges and agrees that this Master Lease and each Facilities Lease is subject and subordinate at all times to (i) the lien of all mortgages and deeds of trust securing any amount or amounts whatsoever which may now exist or hereafter be placed on or against any County Facilities, or on or against County 's interest or estate therein, and (ii) any underlying ground lease, all without the necessity of having further instruments executed by Lessee to effect such subordination, but, only upon the condition that any such mortgagee, beneficiary or trustee expressly agrees not to disturb the rights of Lessee under this Master Lease and each Facilities Lease.

17.3 Ground Lease

This Master Lease and each Facilities Lease is subject to any restrictions or other terms or conditions contained in any underlying ground lease, and Lessee acknowledges and agrees to commit no act or omission which would constitute a default under any ground lease that County has provided a copy to Lessee prior to the execution of the applicable Facilities Lease. County covenants and warrants to Lessee that County has acquired any consent required under any

ground lease to be obtained from the landlord thereunder in order for Lessee to construct, operate, maintain or access the Telecommunications Equipment, except as expressly set forth in this Master Lease or the applicable Facilities Lease, and that the terms of this Master Lease and the applicable Facilities Lease do not conflict with or are not prohibited by any ground leases. If a particular restriction contained in a ground lease and not set forth in this Master Lease or the applicable Facilities Lease prevents Lessee from the construction, operation or maintenance of or access to the Telecommunications Equipment, Lessee may terminate the applicable Facilities Lease, as provided in Section 11.f.

18. Assignment and Subleasing

18.1 Assignment

Lessee shall not assign this Master Lease, any Facilities Lease, any County Facilities or any of its rights with respect thereto, or relinquish possession of the County Facilities or any part thereof, or permit any other person to use the County Facilities or any part thereof, except Lessee may assign this Master Lease and any Facilities Lease and its rights hereunder and thereunder to any entity which is a parent, subsidiary or affiliate of Lessee; is merged or consolidated with Lessee; or purchases a majority or controlling interest in the ownership or assets of Lessee; provided that such entity is properly licensed to operate a telecommunications business and shall, in a writing satisfactory to County, assume without limitation this Master Lease and each applicable Facilities Lease.

18.2 Notices

County may assign this Master Lease, any Facilities Lease, any County Facilities or any of its rights with respect thereto with notice to, but not approval or consent of Lessee upon proper notice as specified herein.

19. Waiver of Landlord's Lien

County hereby waives any and all lien rights it may have, statutory or otherwise, concerning any Telecommunications Equipment or any portion thereof. The Telecommunications Equipment shall be deemed personal property for purposes of this Master Lease and each Facilities Lease, regardless of whether any portion thereof is deemed real or personal property under applicable law, and except as otherwise provided in this Master Lease or in any Facilities Lease, County hereby consents to Lessee's right to remove all or any portion of any Telecommunications Equipment from time to time in Lessee's sole discretion.

20. Default and Remedies

20.1 Event of Default

The occurrence of any one or more of the following events constitutes an "Event of Default" by Lessee:

i. Lessee fails to pay Rent or any amounts due under this Master Lease or any Facilities Lease within ten (10) days after written notice of such failure from County;
ii. Lessee deserts, abandons, or vacates any County Facilities;
iii. A petition is filed by or against Lessee under the Federal Bankruptcy Code or any similar law or statute of the United States or any state (and with respect to any petition filed against Lessee, such petition is not dismissed within sixty (60) days after the filing thereof) or Lessee is adjudged a bankrupt or insolvent, or a receiver, custodian or trustee is appointed for Lessee or for any of the assets of Lessee which appointment is not vacated within thirty (30) days of the date of the appointment, or Lessee becomes insolvent, is unable to pay its debts and they become due, or makes a transfer in fraud of creditors; and
iv. Lessee fails to perform or observe any other term or condition of this Master Lease or a Facilities Lease and such failure continues beyond the notice periods specified in Section 11, if any of these are applicable, or for thirty (30) days after written notice from County if such Sections are not applicable; provided, however, that if such failure is capable of being cured, but not within such 30-day period, such period shall be extended so long as Lessee commences appropriate curative action within such 30-day period and thereafter diligently prosecutes such cure to completion as promptly as possible.

20.2 Remedies

A default under Section 23.1i, with respect to payments due under the Master Lease, or Section 23.1.iii shall be a default under this Master Lease. A default under Section 23.1.i, with respect to payments due under any Facilities Lease, or any other clause of Section 23.1 shall be a default under the applicable Facilities Lease. If an Event of Default with respect to a Facilities Lease has occurred and is continuing, County may, without notice or demand except as expressly required above, in addition to any other remedy it may have under applicable law, terminate the applicable Facilities Lease. In either event Lessee shall immediately surrender the applicable County Facilities. If at any time during this Master Lease an Event of Default has occurred and is continuing beyond the applicable cure periods provided with respect to 50% or more of the Facilities Leases, County, in its sole discretion, may at any time upon thirty (30) days' notice to Lessee terminate this Master Lease and all Facilities Leases, in which event Lessee shall immediately surrender all of the County Facilities.

21. Waiver of Relocation Assistance Benefits

21.1 Relocation Assistance Benefits

Lessee is hereby informed and acknowledges the following:

a) By entering into this Lease and becoming a tenant of County, Lessee may become entitled to receipt of "relocation assistance benefits" ("Relocation Benefits") pursuant to the Federal Uniform Relocation Assistance Act (42 U.S.C. □ 4601 et seq.) and/or the California Relocation Assistance Law (Cal. Gov. Code □ 7270 et seq.) (collectively, the "Relocation Statutes"), should County at some time make use of the Premises in such a way as to "displace" Lessee from the Premises. Pursuant to the Relocation Statutes, County may then become obligated to make such payments to Lessee even where such displacement of Lessee does not otherwise constitute a breach or default by County of its obligations pursuant to this Lease.

b) Under the Relocation Statutes in effect as of the Date of Commencement of this Lease, Relocation Benefits may include payment to such a "displaced person" of (i) the actual and reasonable expense of moving himself or herself and a family, business, or farm operation, including personal property, (ii) the actual direct loss of reestablishing a business or farm operation, but not to exceed Ten Thousand Dollars ($10,000), or (iii) payment in lieu of moving expenses of not less than One Thousand Dollars ($1,000) or more than Twenty Thousand Dollars ($20,000).

21.2 Lessee's Waiver and Release of Relocation Benefits

In consideration of County's agreement to enter into this Lease, Lessee hereby waives any and all rights it may now have, or may hereafter obtain, to Relocation Benefits arising out of the County's assertion or exercise of its contractual rights to terminate this Lease pursuant to its terms, whether or not such rights are contested by Lessee or any other entity, and releases County from any liability for payment of such Relocation Benefits; provided, however, that Lessee does not waive its rights to Relocation Benefits to the extent that Lessee's entitlement thereto may arise out of any condemnation or pre-condemnation actions taken by the County or any other public agency with respect to the Premises. Lessee shall in the future execute any further documentation of the release and waiver provided hereby as County may reasonably require.

22. General Provisions

22.1 Entire Agreement

This Master Lease and each Facilities Lease shall constitute the entire agreement and understanding of the parties with respect to the County Facilities that are the subject matters of the Facilities Lease and supersedes all offers, negotiations and other agreements with respect thereto. Each Facilities Lease shall be a related agreement and, except as otherwise provided

herein the occurrence of any default under one Facilities Lease shall not be deemed to constitute a default under any other Facilities Lease. There are no representations or understandings of any kind not set forth in this Master Lease or in the Facilities Leases, nor shall they create any right in the Lessee except as provided herein. Any amendment or modification to this Master Lease or any Facilities Lease must be in writing and executed by both parties.

22.2 Rights

No use of County Facilities under this Master Lease or otherwise shall create any right in the Lessee except as provided herein.

22.3 Brokers

Either party hereto that is represented in this transaction by a broker, agent or commission salesperson (a "Representative") shall be fully and exclusively responsible for the payment of any fee, commission or other compensation owing to such Representative, and shall indemnify and hold the other party harmless from and against any claim to a Fee, commission or other compensation asserted by such Representative.

22.4 Execution

Each party agrees to cooperate with the other in executing any documents (including a Memorandum of Lease) necessary to protect its rights under this Master Lease and any Facilities Lease. Neither party shall record this Master Lease or any Facilities Lease pertaining thereto, but may record, in lieu thereof, the aforementioned Memorandum of Lease.

22.5 Force Majeure

If a party is delayed or hindered in, or prevented from the performance required under this Master Lease or any Facilities Lease, other than the payment of money, by reason of strikes, lockouts, labor troubles, failure of power, riots, insurrection, war, acts of God or other reason of like nature not the fault of the party ("Force Majeure Event") delayed in performing work or doing acts, such party is excused from such performance for the period of delay, providing that the party claiming Force Majeure has notified the other party of the delay as soon as is reasonably possible. In such event, the period for the performance shall be extended for the period of such delay, provided that the party that has suffered the Force Majeure Event takes all reasonable action necessary to overcome or mitigate the effects of the Force Majeure Event.

22.6 Governing Law

This Master Lease and any Facilities Lease shall be construed in accordance with the laws of the State of California. With respect to any suit, action or proceedings relating to this Master Lease and any Facilities Lease (the "Proceedings'), each party irrevocably consents to the exclusive jurisdiction of the courts of the State of California and the United States District Court for the Northern District of California, and irrevocably waives any objection which it may have at any

time to the laying of venue of any Proceedings brought in any such court, waives any claim that such Proceedings have been brought in an inconvenient forum and further waives the right to object, with respect to such Proceedings, that such court does not have jurisdiction over such party. Nothing in this Master Lease precludes either party from enforcing in any jurisdiction any judgment, order or award obtained in any such court.

22.7 Lease Administration

This Lease shall be administered on behalf of County by the Department of Public Works – Real Property, County of Santa Cruz, or by such person's duly-authorized designee (referred to collectively herein as "County's Lease Administrator"), and on behalf of Lessee by: [ADD LESSEES ADMINISTRATOR HERE] or by such other person as may be designated in writing by Lessee (referred to collectively herein as "Lessee's Lease Administrator").

22.8 Lessee's Lease Administration

Lessee confirms that Lessee's Lease Administrator has been given full operational responsibility for compliance with the terms of this Lease. Lessee shall provide County with a written schedule of its normal hours of business operation, and Lessee's Lease Administrator or a representative designated thereby shall be (i) available to County on a twenty-four (24) hour a day, seven (7) days a week, basis, and (ii) present at the Lessee's place of business during Lessee's normal business hours, to resolve problems or answer question pertaining to this Lease and Lessee's operations of the Telecommunications Facilities.

22.9 Partial Invalidity

If any term of this Master Lease or any Facilities Lease is found to be void or invalid, such invalidity shall not affect the remaining terms of this Master Lease or such Facilities Lease, which shall continue in full force and effect.

22.10 Successors and Assigns

This Master Lease shall run with the County Facilities and shall be binding upon and inure to the benefit of the parties, their respective successors, personal representatives and, to the extent assignable, their assigns.

22.11 Waiver

Any waiver by any party of its rights with respect to a default under this Master Lease or any Facilities Lease shall not be deemed a waiver with respect to any subsequent default or other matter.

22.12 Benefit of the Parties

This Master Lease and any Facilities Lease is intended solely for the benefit of the parties hereto and nothing in this Master Lease or Facilities Lease is intended to create any benefit for any other person.

22.13 Counterparts

This Master Lease and any Facilities Lease may be executed in counterparts, each of which shall be an original and which together shall constitute but one and the same instrument.

[Signature page follows.]

In WITNESS WHEREOF,

Lessor has executed this Agreement as of the ____day of _____, 20____.

Lessee has executed this Agreement as of the ____day of _____, 20____.

LESSEE	**COUNTY OF SANTA CRUZ**
	John Presleigh, Director Department of Public Works
Date	Date
	APPROVED AS TO FORM:
Date	Office of County Counsel Date
	APPROVED AS TO INSURANCE:
	Risk Management Date
	RECOMMENDED FOR APPROVAL:
	Real Property Date

EXHIBIT A

FACILITY LEASE RATES

EXHIBIT B

INSURANCE

B.1 Minimum Scope of Insurance

Coverage shall be at least as broad as:

a) Insurance Services Office Commercial General Liability coverage.

   1. Personal injury

   2. Contractual liability

b) Insurance Services Office covering Automobile Liability, code 1 "any auto".

c) Worker's Compensation insurance as required by the Labor Code of the State of California and Employers Liability insurance.

d) Such other insurance coverage and limits as may be required by the COUNTY.

B.2 Minimum Limits of Insurance

Lessee shall maintain limits no less than:

a) General Liability: $1,000,000 each occurrence for bodily injury and property damage; $1,000,000 for personal and advertising injury; $2,000,000 products and completed operations aggregate, and $2,000,000 general aggregate. If Commercial General Liability insurance or other form with a general aggregate liability is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

b) Automobile Liability: $1,000,000 per accident for bodily injury and property damage.

c) Workers' Compensation: Workers' compensation limits as required by the Labor Code of the State of California.

d) Employer's Liability: $1,000,000 each accident for bodily injury.

   $1,000,000 disease each employee.

   $1,000,000 disease policy limit.

e) Pollution Legal Liability: $1,000,000 per claim/occurrence and $2,000,000 aggregate for bodily injury, property damage, and remediation of contaminated County Facilities.

B.3 Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by the County. At the option of the County, either: the insurer shall reduce or eliminate such deductibles or self-

insured retentions as respects the County, its officials and employees; or the Lessee shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

B.4 County as Additional Insured

The policies are to contain, or be endorsed to contain, the following provisions:

a) General Liability and Automobile Liability Coverage

1. The County, its officers, officials, employees, agents and volunteers are to be covered as additional insureds as respects: liability arising out of activities performed by or on behalf of the Lessee; products and completed operations of the Lessee; County Facilities owned, leased or used by the Lessee; or automobiles owned, leased, hired or borrowed by the Lessee. The coverage shall contain no special limitations on the scope of protection afforded to the County, its officials, employees, or volunteers. The automobile liability is endorsed to contain MCA-90 coverage.

2. Lessee's insurance coverage shall be primary insurance as respects the County, its officials, employees, and volunteers. Any insurance or self-insurance maintained by the County, its officials, employees, or volunteers shall be excess of the Lessee's insurance and shall not contribute with it.

3. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the County, its officials, employees, or volunteers.

4. Coverage shall state that the Lessee's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

b) Workers' Compensation and Employers Liability Coverage. The insurer shall agree to waive all rights of subrogation against the County, its officers, employees, and volunteers for losses arising from work performed by the Lessee for the County.

c) All Coverage. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after 30 calendar days' prior written notice by certified mail, return receipt requested, has been given to the County.

B.5 Acceptability of Insurers

The insurance policies required by this Exhibit shall be issued by an insurance company or companies authorized to do business in the State of California and with a rating in the most recent edition of Best's Insurance Reports of size category VII or larger and a rating classification of A or better.

B.6 Verification of Coverage

Lessee shall furnish Lessee's insurance agent a copy of these specifications, and direct the agent to provide the County with certificates of insurance and with original endorsements affecting coverage required by this clause. Issuance of documentation indicates the Lessee's insurance complies with these provisions. The certificates and endorsements for each insurance policy are to be signed by a Person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be received and approved by the County before work commences. The County may require complete, certified copies of all required insurance policies, at any time.

B.7 Required Endorsements

a) The Workers' Compensation policy shall contain an endorsement in substantially the following form:

"Thirty calendar days' prior written notice shall be given to the County of Santa Cruz in the event of cancellation, reduction in coverage, or non-renewal of this policy."

Director of Public Works
County of Santa Cruz
701 Ocean Street
Santa Cruz, CA 95060

b) The Commercial General Liability, Business and Automobile Liability, and Pollution Legal Liability policies shall contain endorsements in substantially the following form:

1. "Thirty calendar days' prior written notice shall be given to the County of Santa Cruz in the event of cancellation, reduction in coverage, or non-renewal of this policy."

   Director of Public Works
   County of Santa Cruz
   701 Ocean Street
   Santa Cruz, CA 95060

2. "The County of Santa Cruz, its officers, employees, and agents are additional insureds on this policy."

3. "This policy shall be considered primary insurance as respects any other valid and collectible insurance maintained by the County of Santa Cruz, including any self-insured retention or program of self-insurance, and any other such insurance shall be considered excess insurance only."

4. "Inclusion of the County of Santa Cruz as an insured shall not affect the County's rights as respects any claim, demand, suit or judgment brought or recovered against the Lessee. This policy shall protect Lessee and the County in the same manner as though a separate policy had been issued to each, but this shall not operate to increase

the Lessee's liability as set forth in the policy beyond the amount shown or to which the Lessee would have been liable if only one party had been named as an insured."

B.8 Delivery of Proof of Coverage

Simultaneously with the execution of this Master Lease, Lessee shall furnish the County certificates of each policy of insurance required hereunder, in form and substance satisfactory to County. Such certificates shall show the type and amount of coverage, effective dates and dates of expiration of policies and shall have all required endorsements. If the County requests, copies of each policy, together with all endorsements, shall also be promptly delivered to County.

Renewal certificates will be furnished annually to County to demonstrate maintenance of the required coverage throughout the Term.

B.9 Other Insurance Requirements

a) If any services are delegated to a Subcontractor, the Lessee shall require such Subcontractor to provide statutory Workers' Compensation insurance and employer's liability insurance for all of the Subcontractor's employees engaged in the work in accordance with Sections B.2.c and B.2.d and B.4.b. The liability insurance required by Section B.2.a shall cover all Subcontractors or the Subcontractor must furnish evidence of insurance provided by it meeting all of the requirements of this Exhibit.

b) If at any time during the life of the Master Lease or any extension, Lessee or any of its subcontractors fail to maintain any required insurance in full force and effect, Lessee shall be in breach of the Master Lease until notice is received by County that the required insurance has been restored to full force and effect and that the premiums therefore have been paid for a period satisfactory to County. Any failure to maintain the required insurance shall be sufficient cause for County to terminate this Master Lease. No action taken by County pursuant to this Exhibit shall in any way relieve Lessee of its responsibilities under this Master Lease.

c) The Lessee shall comply with all requirements of the insurers issuing policies. The carrying of insurance shall not relieve Lessee from any obligation under this Master Lease. If any claim exceeding the amount of any deductibles or self-insured reserves is made by any third person against the Lessee or any Subcontractor because of any occurrence related to this Master Lease, the Lessee shall promptly report the facts in writing to the insurance carrier and to the County.

d) The Commercial General Liability and Automobile Liability insurance policies shall be written on an "occurrence," rather than a "claims made" basis.

    1. The "Retro Date" must be shown, and must be before the effective date of the Master Lease or the commencement of work by Lessee.

    2. The policy shall be endorsed to provide not less than a five (5) year discovery period. This requirement shall survive expiration or termination of the Master Lease.

3. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a "Retro Date" prior to the effective date of the Master Lease, Lessee must purchase "extended reporting" coverage for a minimum of five (5) years following the expiration or termination of the Master Lease.

4. A copy of the claims reporting requirements must be submitted to County for review.

5. These requirements shall survive expiration or termination of this Master Lease.

Attachment C

Proposed Telecommunications Infrastructure Ordinance

ORDINANCE NO. _____ 0589

ORDINANCE ADDING CHAPTER 12.25 TO SANTA CRUZ COUNTY CODE RELATING TO TELECOMMUNICATIONS INFRASTRUCTURE IMPROVEMENTS

The Board of Supervisors of the County of Santa Cruz ordains as follows:

SECTION I

Chapter 12.25 of the Santa Cruz County Code is enacted to read as follows:

TELECOMMUNICATIONS INFRASTRUCTURE IMPROVEMENT ORDINANCE

Sections:

12.25.010 Purpose and Findings.
12.25.015 Definitions.
12.25.020 Telecommunications Infrastructure Improvement.
12.25.025 Implementation.
12.25.030 Exemptions.
12.25.035 Enforcement.
12.25.040 Violations.
12.25.045 Severability.
12.25.050 Effective Date.
12.25.055 No Conflict with Federal or State Law.
12.25.060 Preemption.

12.25.010 Findings and intent.

A. It is the intent of the County of Santa Cruz, in enacting Chapter 12.25, to streamline and simplify the process of installing and upgrading telecommunications equipment throughout the County, and to encourage improvement and modernization of telecommunications infrastructure.

B. Access to modern telecommunications infrastructure is vital for communication, education and economic development.

C. It is the desire of the County to foster a fair and level playing field for all market competitors that does not disadvantage or advantage one service provider or technology over another.

D. The County seeks to promote widespread access to the most technologically advanced telecommunications services for all County residents and businesses in a nondiscriminatory manner regardless of socioeconomic status.

E. It is the responsibility of the County to protect and control access to public rights-of-way.

F. The County has a duty to ensure that all service providers utilizing County property, facilities or rights-of-way comply with all applicable state and local health, safety and other laws.

G. It is consistent with the County's goals and values to encourage investment in telecommunications infrastructure to help close the digital divide. 0590

H. It is necessary to update County policies and practices to recognize the authority of the California Public Utilities Commission as established in state and federal statutes.

I. It is the desire of the County to assess fees sufficient to recover the actual costs of providing services but not to discourage improvement of necessary infrastructure.

12.25.015 Definitions.

A. For the purposes of this Chapter, the following definitions apply:

1. "Telecommunications" refers to data, voice, video or other information provided by wire, fiber optic cable or other technology.

2. "Facilities" and "Infrastructure" refers to wires, cables, conduit, switches, transmission equipment or other equipment for use in transmitting or processing telecommunications services or for providing support or connection to such equipment.

3. "Rights-of-way" refers to the area upon or adjacent to any County-owned road, highway or rail line or along or across any of the waters or lands owned or controlled by the County.

4. "Service providers" refers to any person, company, corporation or other entity providing data, voice, cable, video or other information services by wire, fiber optic cable or other technology.

5. "Excavation" refers to any process which removes material from the ground through digging, drilling, boring or other activity for the purpose of installing utilities, infrastructure or other structures or equipment.

6. "Conduit" refers to a tube, duct or other device or structure designed for enclosing telecommunication wires or cables.

7. "Reconstruction" refers to any project which repairs or replaces fifty percent or more of an existing road, highway or rail line.

12.25.020 Telecommunications Infrastructure Improvement

In recognition of the need to provide local residents and businesses within the community with the infrastructure required to meet their telecommunications needs, all construction, reconstruction or repaving of a County right-of-way will include provisions for the installation of telecommunications cable, conduit and other related equipment wherever practical and feasible. Where appropriate, telecommunications infrastructure shall be installed in or adjacent to County rights-of-way in conformance with current County standards. County staff will work with contractors to identify most cost-effective approach consistent with County requirements. If a project includes excavation in or adjacent to a County right-of-way, installation of or upgrades to telecommunications cable, conduit or other infrastructure will be included as needed. All installations shall conform to the size, shape, location and other specifications as determined by the Director of Public Works.

12.25.025 Implementation.
No less than 60 days before this ordinance takes effect, the County of Santa Cruz shall e-0591 mail, fax, mail or deliver a copy of it to all telecommunications service providers and other affected entities doing business within the unincorporated County of Santa Cruz.

12.25.030 Exemptions.
A. The Director of Public Works, or the director's designee, may exempt projects from the requirements of this chapter where compliance is found to be not practical or feasible. Requests for an exemption shall be in writing, and the Director's or the director's designee's decision shall be final.
B. An exemption application shall include all information necessary for the Director of Public Works or the director's designee to make a decision, including but not limited to documentation showing factual support for the requested exemption.
C. The Director of Public Works or director's designee may approve the exemption application in whole or in part, with or without conditions.

12.25.035 Enforcement.
Enforcement of this ordinance shall be as follows:
A. The Director of Public Works, or designee, shall have primary responsibility for enforcement of this ordinance and shall have authority to issue citations for violation of this chapter. The Director, or designee, is authorized to establish regulations or administrative procedures to ensure compliance with this chapter.

B. A person or entity violating or failing to comply with any of the requirements of this chapter shall be guilty of an infraction.

C. The County of Santa Cruz may seek legal, injunctive, or any other relief to enforce the provisions of this chapter and any regulation or administrative procedure authorized by it.

D. The remedies and penalties provided in this chapter are cumulative and not exclusive of one another.

E. The Director of Public Works or designee may inspect the premises of any construction, reconstruction, repaving or excavation project to verify compliance with this ordinance.

12.25.040 Violations.
Violations of this ordinance shall be enforced as follows:
Violation of this chapter is hereby declared to be a public nuisance. Any violation described in the preceding paragraph shall be subject to abatement by the County of Santa Cruz, as well as any other remedies that may be permitted by law for public nuisances, and may be enforced by injunction, upon a showing of violation.

12.25.045 Severability.
If any word, phrase, sentence, part, section, subsection, or other portion of this chapter, or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the proscribed application thereof, shall be severable, and the remaining provisions of this chapter, and all applications thereof, not having been declared void, unconstitutional or invalid, shall remain in full force and effect. The County of Santa

Cruz hereby declares that it would have passed this title, and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases had been declared invalid or unconstitutional. 0592

12.25.050 Effective Date.
This ordinance shall become effective three (3) months after the date of final passage by the County of Santa Cruz Board of Supervisors.

12.25.055 No Conflict with Federal or State Law.
Nothing in this ordinance shall be interpreted or applied so as to create any requirement, power, or duty in conflict with any Federal or State law.

12.25.060 Preemption.
The provisions of this chapter shall be null and void if State or Federal legislation, or administrative regulation, takes effect with the same or substantially similar provisions as contained in this chapter. The Board of Supervisors shall determine whether or not identical or substantially similar statewide legislation has been enacted or regulations issued.

SECTION II

This ordinance shall take effect and be in force six months from the date of adoption.

PASSED AND ADOPTED this _____ of _____ 20___, by the Board of Supervisors of the County of Santa Cruz by the following vote:

AYES: SUPERVISORS
NOES: SUPERVISORS
ABSENT: SUPERVISORS
ABSTAIN: SUPERVISORS

_____
Chairperson of the Board of Supervisors

Attest: _____
Clerk of the Board

APPROVED AS TO FORM:

_____
Office of County Counsel

Telecommunications Ordinance.doc

Alicia Murillo

From: cbdbosmail@co.santa-cruz.ca.us
Sent: Saturday, January 25, 2014 9:32 AM
To: CBD BOSMAIL
Subject: Agenda Comments

Meeting Date : 1/28/2014

Item Number : 59

Name : Nicholas Meltzer

Email : ana8lucila@gmail.com

Address : 158 McKay Road
Aptos, CA 95003

Phone : 831-684-0846

Comments :
As a business person, I fully support additional cell and broadband coverage in the Day Valley area. Presently, I often have to drive away from my home in order to conduct business on my phone. This is a deterrent to business development in this area.
Thank you.

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Terry Dorsey

From: Zach Friend
Sent: Sunday, January 26, 2014 11:09 AM
To: Terry Dorsey
Subject: FW: Broadband policy in Santa Cruz County

Item 59 correspondence for the Board

From: Bud Colligan [bud@colligans.com]
Sent: Saturday, January 25, 2014 7:34 PM
To: Zach Friend
Subject: Broadband policy in Santa Cruz County

Dear Zach,

I am writing to you in support of the proposal before the Council this week regarding the expansion of broadband in Santa Cruz County. Please count me as a strong proponent of the policies being recommended by the County Administrator.

Larry Samuels and I spent many months investigating broadband availability in Santa Cruz County during 2013. The conclusions from our work are summarized in two papers we wrote (found here: http://www.tellusventure.com/blog/partnership-of-public-and-private-interests-floated-for-comprehensive-fiber-plan-on-californais-central-coast/).

The broadband policy recommendations being considered by the County are exactly the sort of policy we are supporting. As a community, if we hope to develop the long-term high wage jobs the people want, higher speed bandwidth is one of the critical missing elements.

Sincerely,

Bud Colligan
Founder and CEO
South Swell Ventures

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Terry Dorsey

From: Zach Friend
Sent: Saturday, January 25, 2014 3:03 PM
To: Terry Dorsey
Subject: Fwd: Santa Cruz County Broadband

Item 59

Begin forwarded message:

From: "larry@samuelsassociates.com" <larry@samuelsassociates.com>
Date: January 25, 2014 at 2:59:22 PM PST
To: Zach Friend <Zach.Friend@santacruzcounty.us>
Subject: Santa Cruz County Broadband

Supervisor Friend,

I would appreciate it if you would forward the following email to your fellow supervisors and/or make sure that it gets into the public record.

The support of the Santa Cruz County Board of Supervisors for implementing the broadband oriented recommendations of Supervisor Friend and the SC County IT staff (see Jan. 28th Board Agenda) is critical to the citizenry of Santa Cruz County. Creating the conditions for the competitive deployment of 21st century infrastructure is an important step in creating environmentally friendly, high wage employment that will increase the local tax base, reduce commuting based traffic and pollution, and stop the retail leakage that has caused countless Santa Cruz County merchants to close their doors. The CPUC and countless other counties are watching this vote. Please support the full set of broadband recommendations made by Zach Friend and the Santa Cruz County IT staff.

Larry Samuels

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