

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date: July 16, 2013 **Consent** **Regular**
 Ordinance **Public Hearing**

Department: Facilities Development & Operations

I. EXECUTIVE BRIEF

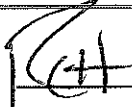
Motion and Title: Staff recommends motion to approve: an Eleventh Amendment to Tower Site Lease and Joint Use Agreement with New Cingular Wireless PCS, LLC (Cingular) and the City of Boynton Beach (City) (R99-311-D) for a tower site located in Boynton Beach.

Summary: County, Cingular and City entered into a Tower Site Lease and Joint Use Agreement to jointly use Cingular's tower located east of I-95, south of Gateway Boulevard, in Boynton Beach. The parties desire to replace existing and add new antennas to improve signal coverage and add frequencies to propagate Cingular's 4G services and County and City future expansions. Each party will obtain all necessary permits and governmental approvals associated with its modifications, and all equipment installations will be made at each party's sole cost. This Eleventh Amendment updates Exhibit "G" Antenna Tower Schematics of the Tower Site Lease and updates various standard provisions. There will be no cost to the County nor service interruptions to the County's system. All other terms of the Agreement remain unchanged. (PREM) District 7 (HJF)

Background and Justification: The Board approved a Fifth Amendment to the Tower Site Lease and Joint Use Agreement on February 23, 1999 (R99-311-D) with Cingular and the City of Boynton Beach, which provided for Cingular's use of a County owned tower site located at 20 Mile Bend (R99-312D) in exchange for the County's use of this Boynton Beach tower. The Board has previously approved various amendments to this Agreement for modifications to equipment at this location. This Eleventh Amendment updates Exhibit "G" and the notice provisions, provides for disclosure of County Ordinance No. R92-13 establishing the non-discrimination of individuals, and for disclosure of the Office of the Inspector General. The replacement of antennas and additional frequencies will allow each party to take advantage of current and future technologies. The Electronic Services and Security Division has reviewed and approved the proposed modifications. Cingular is an entity registered with the Federal Securities Exchange Commission whose interest is for sale to the general public. Florida Statutes does not require that a Disclosure of Beneficial Interests be obtained.

Attachments:

- 1. Location Map
- 2. Eleventh Amendment

Recommended By:  Amy Wolf 6/26/13
Department Director Date

Approved By:  County Administrator 7/16/13
County Administrator Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2013	2014	2015	2016	2017
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included in Current Budget: Yes _____ No _____

Budget Account No: Fund _____ Dept _____ Unit _____ Object _____
 Program _____

B. Recommended Sources of Funds/Summary of Fiscal Impact:

No Fiscal Impact.

W 6/17/13

C. Departmental Fiscal Review: _____

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development Comments:

[Signature]
 OFMB *6/11/13*

[Signature]
 Contract Development and Control
 6-26-13 *[Signature]*

B. Legal Sufficiency:

[Signature] 7/1/13
 Assistant County Attorney

C. Other Department Review:

 Department Director

This summary is not to be used as a basis for payment.

TWP 45

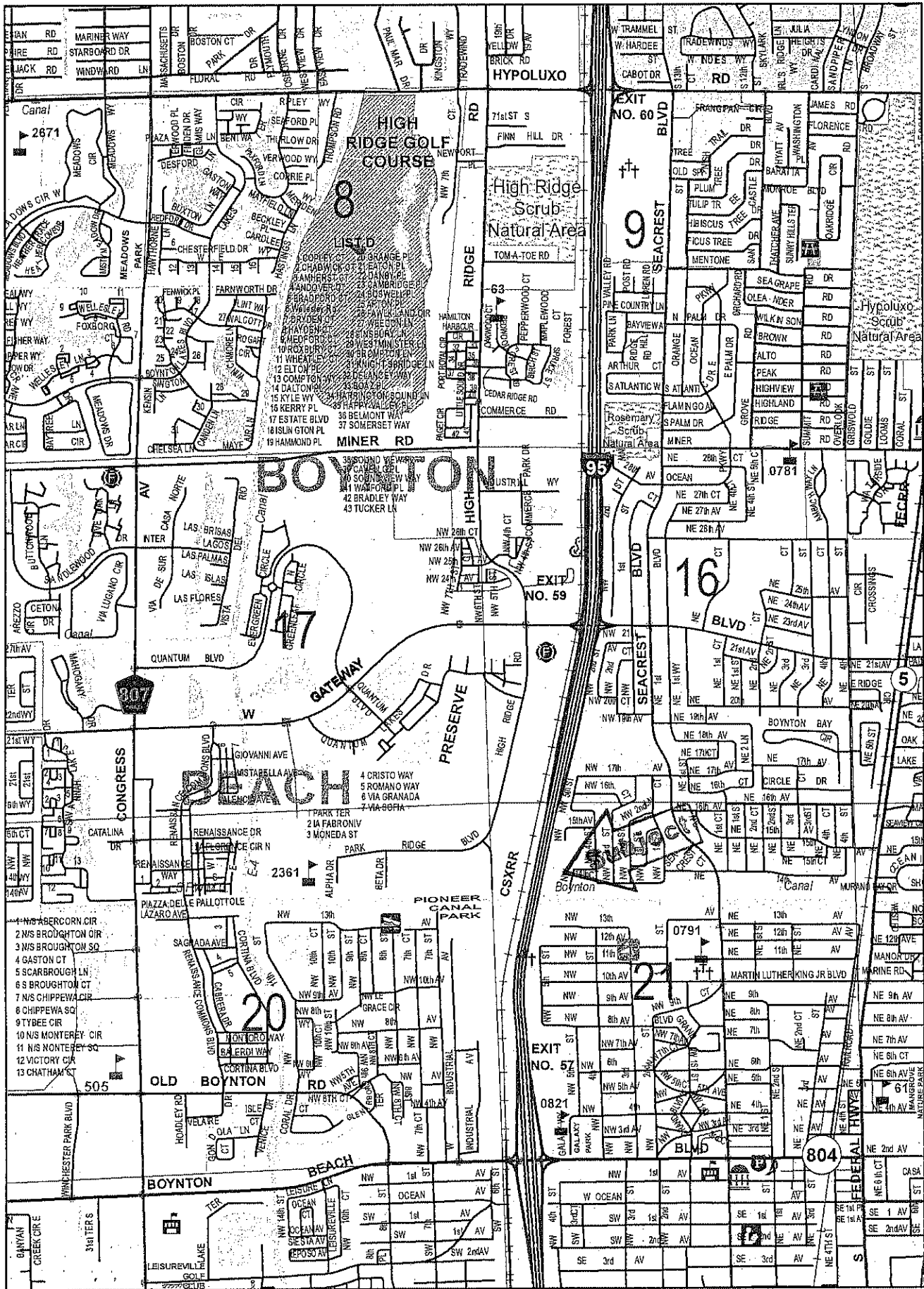
TWP 45

TWP 45

28

29

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**ELEVENTH AMENDMENT TO TOWER SITE LEASE
AND JOINT USE AGREEMENT**

between

CITY OF BOYNTON BEACH, FLORIDA

and

NEW CINGULAR WIRELESS PCS, LLC, a Delaware limited liability company

F/K/A

AT&T WIRELESS PCS, LLC

and

PALM BEACH COUNTY, FLORIDA

Boynton Beach Tower

Exhibits:

Exhibit "G" - Antenna Tower Schematics

**ELEVENTH AMENDMENT TO TOWER SITE LEASE
AND JOINT USE AGREEMENT**

THIS ELEVENTH AMENDMENT TO TOWER SITE LEASE AND JOINT USE AGREEMENT(R-99-311-D), is made and entered into this ___ day of _____, 2013, by and between The City of Boynton Beach, Florida, a municipal corporation ("CITY"), NEW CINGULAR WIRELESS PCS, LLC, a Delaware limited liability company ("CINGULAR") f/k/a AT&T Wireless PCS, LLC ("AT&T"), and Palm Beach County, a political subdivision of the State of Florida, hereinafter referred to as ("COUNTY").

WITNESSETH:

WHEREAS, CITY and West Palm Beach Cellular Telephone Company entered into that certain Tower Site Lease and Joint Use Agreement dated November 18, 1986 (the "Original Lease") for the construction of a 320-foot self-supporting communications tower upon the Premises; and

WHEREAS, CITY and Palm Beach County Cellular Telephone Company, as the successor in interest to West Palm Beach Cellular Telephone Company, entered into that certain Amendment to Tower Site Lease and Joint Use Agreement, dated June 21, 1988 (the "First Amendment"); and

WHEREAS, CITY and Palm Beach Cellular Telephone Company, as successor in interest to Palm Beach County Cellular Telephone Company, entered into that certain Amendment Number Two to Tower Site Lease and Joint Use Agreement dated June 20, 1989 (the "Second Amendment"); and

WHEREAS, CITY, Palm Beach Cellular Telephone Company, and Richard P. Wille as Sheriff of Palm Beach County, entered into that certain Joint Use Agreement dated August 22, 1989 (the "Third Amendment"); and

WHEREAS, CITY and AT&T, as the successor in interest to Palm Beach Cellular Telephone Company, entered into that certain Fourth Amendment to Tower Site Lease and Joint Use Agreement in 1998 (the "Fourth Amendment"); and

WHEREAS, CITY, AT&T and COUNTY entered into a Fifth Amendment to Tower Site Lease and Joint Use Agreement dated February 23, 1999 (the "Fifth Amendment"); and

WHEREAS, CITY, AT&T and COUNTY entered into a Sixth Amendment to Tower Site Lease and Joint Use Agreement dated June 5, 2001 (R2001-0867) (the "Sixth Amendment") in order to modify the legal description and authorize the County to install a generator with fuel tanks; and

WHEREAS, CITY, AT&T and COUNTY entered into a Seventh Amendment to Tower Site Lease and Joint Use Agreement dated May 21, 2002 (R2002-0766) (the "Seventh Amendment") to allow AT&T to install new antenna and transmission lines to accommodate new third generation Global System Mobil technology; and

WHEREAS, CITY, AT&T and COUNTY entered into an Eighth Amendment to Tower Site Lease and Joint Use Agreement dated January 13, 2004 (R2004-0098) (the "Eighth Amendment") to allow the CITY to relocate their antennae; and

WHEREAS, CITY, AT&T and COUNTY entered into a Ninth Amendment to Tower Site Lease and Joint Use Agreement dated November 16, 2004 (R2004-2366) (the "Ninth Amendment") to allow the CITY to replace an existing antenna and add two new antennas; and

WHEREAS, CITY, AT&T and COUNTY entered into a Tenth Amendment to Tower Site Lease and Joint Use Agreement dated May 16, 2006 (R2006-0857) to allow COUNTY to install communication equipment for the purpose of deploying a countywide paging system and added equipment to upgrade CINGULAR's regional network. The Original Lease, as amended by the First Amendment, the Second Amendment, the Third Amendment, the Fourth Amendment, the Fifth

Amendment, the Sixth Amendment, the Seventh Amendment, the Eighth Amendment, the Ninth Amendment, and the Tenth Amendment is hereinafter referred to as the "Tower Site Lease"; and

WHEREAS, West Palm Beach Cellular Telephone Company of Florida, Inc., through a succession of mergers, merged into CINGULAR, and CINGULAR has agreed to be bound by all of the terms and conditions of the Tower Site Lease and Joint Use Agreement (R99-311-D), as amended; and

WHEREAS, COUNTY and CITY desire to make modifications to the tower to support future use; and

WHEREAS, CINGULAR has requested approval for the addition of equipment and frequencies to the tower to upgrade their regional network; and

WHEREAS, in order to accommodate the COUNTY's, CITY's and CINGULAR's request, it is necessary to modify the Antenna Tower Schematics exhibit of the Tower Site Lease; and

WHEREAS, CITY, CINGULAR and COUNTY acknowledge and agree that the antenna changes contemplated herein will not adversely affect the structural capacity of the Tower or interfere with the frequencies of users on the Tower.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth, and various other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. All defined terms as used herein shall have the same meaning and effect as in the Tower Site Lease.
2. Exhibit "G" (Antenna Tower Schematics) attached to the Tenth Amendment to the Tower Site Lease shall be replaced with a new Exhibit "G" (Antenna Tower Schematics) attached hereto and incorporated herein by reference.
3. Section 10.02, Notices, is amended so that Notices shall be sent as follows:

As to the County:

Property and Real Estate Management Division
Attention: Director
2633 Vista Parkway
West Palm Beach, FL 33411

With a copy to:

Palm Beach County Attorney's Office
Attention: Real Estate
301 North Olive Avenue, Suite 601
West Palm Beach, FL 33401

As to the City:

Communication Division
100 East Boynton Beach Blvd.
Boynton Beach, FL 33435

As to AT&T:

New Cingular Wireless PCS, LLC
By: AT&T Mobility Corporation
Attn.: Network Real Estate Administration
RE: Cell Site Name: Boynton Beach #WP-05
FA No.: 10070002

12555 Cingular Way, Suite 1300
Alpharetta, GA 30004

With a copy to:

New Cingular Wireless PCS, LLC
Attn.: Legal Department
RE: Cell Site Name: Boynton Beach #WP-05
FA No.: 10070002
1025 Lenox Park Blvd. 5th Floor
Atlanta, GA 30319

4. The Tower Site Lease is hereby modified to add the following:

Section 18. Non-Discrimination. Tenant shall assure and certify that it will comply with the Title VI of the Civil Rights Act of 1964, as amended, and Palm Beach County Resolution No. R92-13, and shall not discriminate against any individual on the basis of their race, color, national origin, religion, ancestry, sex, age, marital status, familial status, sexual orientation, gender identity or expression, or disability with respect to any activity occurring on the Premises or conducted pursuant to this Lease. Tenant warrants that in the event the facilities constructed or operated upon the Premises are public facilities the same shall be open to and benefit all residents of Palm Beach County and shall be available thereto on the same cost and availability basis as to residents of the municipality in which the Premises are located.

Section 19. Office of the Inspector General. Palm Beach County has established the Office of the Inspector General. The Inspector General's authority includes but is not limited to the power to review past, present and proposed County contracts, transactions, accounts and records, to require the production of records, and audit, investigate, monitor, and inspect the activities of the parties or entities with which the County enters into agreements, their officers, agents, employees, and lobbyists in order to ensure compliance with contract specifications and detect corruption and fraud. All parties or entities doing business with the County or receiving County funds shall fully cooperate with the Inspector General including granting the Inspector General access to records relating to the agreement and transaction.

5. Except as modified by this Eleventh Amendment, the Tower Site Lease remains unmodified and in full force and effect in accordance with the terms thereof.

(REMAINDER OF PAGE INTENTIONALLY LEFT BLANK)

IN WITNESS WHEREOF, COUNTY, CINGULAR, and CITY have executed this Agreement, or have caused the same to be executed by their duly authorized representatives, as of the day and year first above written.

WITNESS:

NEW CINGULAR WIRELESS PCS, LLC,
a Delaware limited liability company

By: AT&T Mobility Corporation

Its: Manager

HORST M. KRISSEL

Print Name

By:

Mike Castillo
Mike Castillo, Director
Construction & Engineering Florida

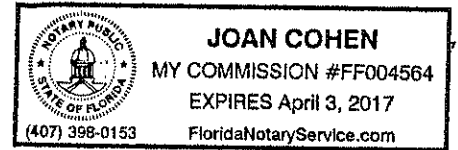
Debbie Lewis

Print Name

ATTEST:

Joan Cohen Notary
Print Name and Title

(SEAL)



ATTEST:

Janet M. Prainito
City Clerk

THE CITY OF BOYNTON BEACH,
FLORIDA, a municipal corporation
of the State of Florida

By: Lon LaVerriere
Lon LaVerriere
Print Name and Title
City Manager

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

[Signature]
City Attorney

ATTEST:

SHARON R. BOCK
CLERK & COMPTROLLER

PALM BEACH COUNTY, a political
subdivision of the State of Florida

By: _____
Deputy Clerk

By: _____
Steven L. Abrams, Mayor

Signed and delivered
in the presence of:

Witness Signature

Print Witness Name

Witness Signature

Print Witness Name

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

APPROVED AS TO TERMS
AND CONDITIONS

By: 
Assistant County Attorney

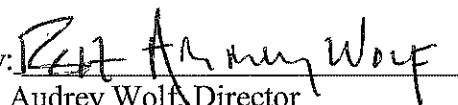
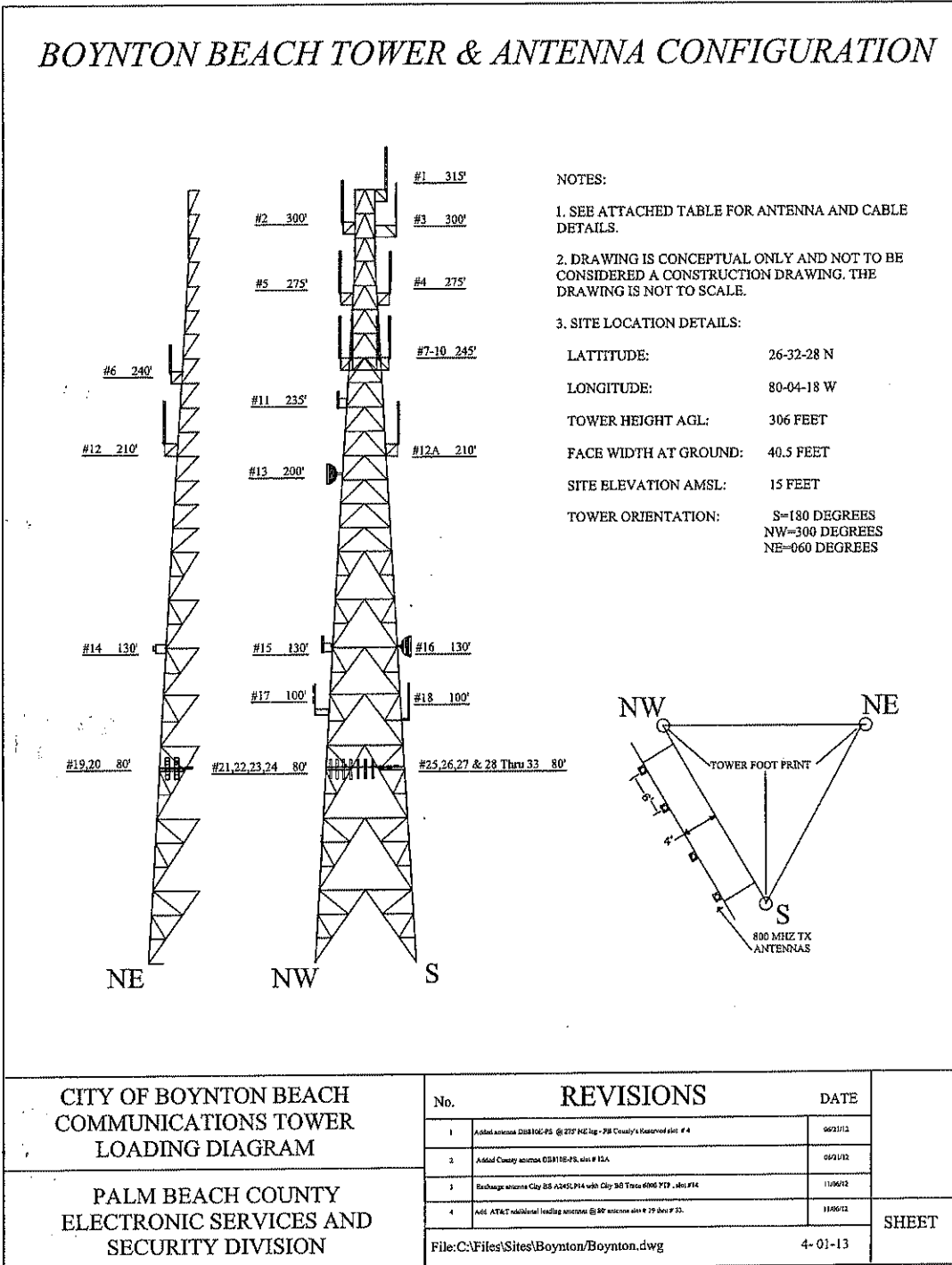
By: 
Audrey Wolf, Director
Facilities Development & Operations

EXHIBIT "G"
Antenna Tower Schematics

Page 1 of 4



MTC

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Boynton Beach Tower Site Antenna Schedule

ANT #	ANTENNA TYPE	MFR	USE	MOUNT	MFR	MOUNTING HEIGHT	STAND OFF	AZIMUTH	LEG	CABLE	TX FREQ
1	DB810	DECIBEL	CITY OF BOYNTON BEACH 800 MHZ SYSTEM	SA3XXLP	ROHN	315'	3'	000/270	S	LDF5-50	856.2875 - 860.2875
2	DB810	DECIBEL	CITY OF BOYNTON BEACH 800 MHZ SYSTEM	SA3XXLP	ROHN	300'	3'	000/270	NW	LDF5-50	856.2875 - 860.2875
3	BMR12-O	DECIBEL	CITY OF BOYNTON BEACH 800 MHZ SYSTEM	SA3XXLP	ROHN	300'	3'	000/270	S	LDF5-50	RX ONLY
4	DB810E-PS *	CELWAVE	COUNTY 700/800 MHZ RX	CUSTOM	CUSTOM	275'	3'	270	S	LDF5-50	See Table 1
5	BMR12-O	CELWAVE	COUNTY 800 MHZ RX	CUSTOM	CUSTOM	275'	3'	270	NW	LDF5-50	RX ONLY
6	DB636	DECIBEL	PBCFR Paging System	B3116	Valmount	240'	6'	OMNI	NE	LDF5-50	453.150 MHz
7	BMR12-O	CELWAVE	COUNTY 800 MHZ TX	CUSTOM	CUSTOM	245'	3'	270	NW	LDF5-50	851-866 MHZ
8	BMR12-O	CELWAVE	COUNTY 800 MHZ TX	CUSTOM	CUSTOM	245'	3'	270	NW	LDF5-50	851-866 MHZ
9	BMR12-O	CELWAVE	COUNTY 800 MHZ TX	CUSTOM	CUSTOM	245'	3'	270	S	LDF5-50	851-866 MHZ
10	BMR12-O	CELWAVE	COUNTY 800 MHZ TX	CUSTOM	CUSTOM	245'	3'	270	S	LDF5-50	851-866 MHZ
11	A2408	YDI	BBFD 2.4 GHz	SA3XXLP	ROHN	235'	3'	OMNI	NW	LDF6-50	2.4 GHz DSSS
12	DB264	DECIBEL	FBI VHF RX	SA3XXLP	ROHN	210'	3'	OMNI	NE	LDF5-50	RX ONLY
12A	DB810E-PS *	ANDREW	COUNTY 700/800Mhz	CUSTOM	CUSTOM	210'	6'	OMNI	S	LDF6-50	See Table 1
13	PAR8-59A	ANDREW	COUNTY MICROWAVE TO EOC	4.5' PIPE	CUSTOM	200'	N/A	345	NW	EW-63	6162.63 MHZ
14	TRACE 6000 ***	ADTRAN	CITY OF BB 5.8 GHZ PTP	CUSTOM	ADTRAN	130'	N/A	90	NE	LDF4-50	5.8 GHz
15	A2.45LP14	YDI	BBFD 2.4 GHz	LP14	YDI	130'	N/A	270	NW	LMR-1200	2.4 GHz DSSS
16	PAR6-65A	ANDREW	COUNTY MICROWAVE TO SEMS	4.5' PIPE	N/A	130'	N/A	191	S	EW-63	6565.00 MHZ
17	DB222	DECIBEL	COUNTY MOSCAD	SA3XXLP	ROHN	100'	6'	OMNI	NW	LDF4-50	159.150
18	PD465	PHELPS DODGE	CITY OF BOYNTON BEACH MOBILE DATA SYSTEM	SA3XXLP	ROHN	100'	6'	OMNI	S	LDF5-50	460.225
19	742-264	Kathrein	AT & T Wireless PCS / Cellular Antenna	CUSTOM	CUSTOM	80'	6'	110	Face B	(2) 1-5/8"	1940-1950 MHz & 869-894 MHz

EXHIBIT "G"
Antenna Tower Schematics

Boynton Beach Tower Site Antenna Schedule

ANT #	ANTENNA TYPE	MFGR	USE	MOUNT	MFR	MOUNTING HEIGHT	STAND OFF	AZIMUT H	LEG	CABLE	TX FREQ
20	742-264	Kathrein	AT &T Wireless PCS / Cellular Antenna	CUSTOM	CUSTOM	80'	6'	110	Face B	(2) 1-5/8"	1940-1950 MHz & 869-894 MHz
21	742-266	Kathrein	AT &T Wireless PCS / Cellular Antenna	CUSTOM	CUSTOM	80'	6'	350	Face A	(2) 1-5/8"	1940-1950 MHz & 869-894 MHz
22	742-266	Kathrein	AT &T Wireless PCS / Cellular Antenna	CUSTOM	CUSTOM	80'	6'	350	Face A	(2) 1-5/8"	1940-1950 MHz & 869-894 MHz
23	742-266	Kathrein	AT &T Wireless PCS / Cellular Antenna	CUSTOM	CUSTOM	80'	6'	230	Face C	(2) 1-5/8"	1940-1950 MHz & 869-894 MHz
24	742-266	Kathrein	AT &T Wireless PCS / Cellular Antenna	CUSTOM	CUSTOM	80'	6'	230	Face C	(2) 1-5/8"	1940-1950 MHz & 869-894 MHz
25	800-10766K ****	Kathrein	AT &T Wireless PCS / Cellular Antenna	CUSTOM	CUSTOM	80'	6'	350	Face A	(2) 1-5/8"	740-746MHz & 2130-2135MHz
26	800-10766K ****	Kathrein	AT &T Wireless PCS / Cellular Antenna	CUSTOM	CUSTOM	80'	6'	230	Face C	(2) 1-5/8"	740-746MHz & 2130-2135MHz
27	800-10766K ****	Kathrein	AT &T Wireless PCS / Cellular Antenna	CUSTOM	CUSTOM	80'	6'	110	Face B	(2) 1-5/8"	740-746MHz & 2130-2135MHz
28	RRUS-11***	Ericsson	AT &T Wireless	CUSTOM	CUSTOM	80'	6'	350	Face A	RET Cable 3/8"	740-746MHz & 2130-2135MHz
29	RRUS-11***	Ericsson	AT &T Wireless	CUSTOM	CUSTOM	80'	6'	350	Face A	(1) Fiber 3/8"	740-746MHz & 2130-2135MHz
30	RRUS-11***	Ericsson	AT &T Wireless	CUSTOM	CUSTOM	80'	6'	230	Face C	RET Cable 3/8"	740-746MHz & 2130-2135MHz
31	RRUS-11***	Ericsson	AT &T Wireless	CUSTOM	CUSTOM	80'	6'	230	Face C	(1) DC pwr cable 7/8"	740-746MHz & 2130-2135MHz
32	RRUS-11***	Ericsson	AT &T Wireless	CUSTOM	CUSTOM	80'	6'	110	Face B	RET Cable 3/8"	740-746MHz & 2130-2135MHz
33	RRUS-11***	Ericsson	AT &T Wireless	CUSTOM	CUSTOM	80'	6'	110	Face B	(1) DC pwr cable 7/8"	740-746MHz & 2130-2135MHz

* Future antenna

*** in place of existing City BB 2.4 GHz equipment

*** AT&T Proposed additional loading

EXHIBIT "G"
Antenna Tower Schematics

Boynton Beach Tower Site Antenna Schedule

ANT #	ANTENNA TYPE	MFR	USE	MOUNT	MFR	MOUNTING HEIGHT	STAND OFF	AZIMUT H	LEG	CABLE	TX FREQ
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Regional IO project		700 Mutual Aid		700 Broad Band	
TX	RX	TX	RX	TX	RX
770.7625	800.763	769.2438	799.244	758-763 788-793	
772.2875	802.288	769.7438	799.744		
773.3875	803.388	770.2438	800.244		
773.9375	803.938	770.9938	800.994		
774.7375	804.738	773.2563	803.256		
		773.7563	803.756		
		774.2563	804.256		
		774.8563	804.856		