

RED File No: COP # 30379
OWNER: Sunrise Recreation & Park District
APN: 220-0450-026 & 057 (Portions)
Project: SRPD-AT&T Easement Cabana Park

EASEMENT CONVEYANCE AGREEMENT

This Sales and Purchase Agreement, (hereinafter referred to as “**Agreement**”), dated for convenience as of the ___ day of _____, 20___, (hereinafter referred to as “**Agreement Date**”), is made by and between the **SUNRISE RECREATION AND PARK DISTRICT**, a park district existing under authority of Public Resources Code § 5780 et seq. (hereinafter referred to as “**SRPD**”), and the **PACIFIC BELL TELEPHONE COMPANY**, a California corporation, doing business as AT&T CALIFORNIA, (hereinafter referred to as “**AT&T**”), in consideration of the mutual covenants and agreements herein contained, and is subject to the conditions set forth below, and is made with reference to the following facts:

RECITALS

- A. SRPD is the owner of fee title to that certain real property commonly known as Cabana Park located at 6251 Fremont Circle, Sacramento, California 95841, also known as Assessor’s Parcel Numbers (APN’s) 220-0450-026 & 057 consisting of approximately 0.54 acres of land, together with all improvements, fixtures and personal property thereon, and all rights, hereditaments, easements, appurtenances thereto belonging or otherwise appertaining (hereinafter referred to as the “**Property**”); and
- B. AT&T desires to acquire from SRPD and SRPD desires to convey to AT&T, pursuant to the provisions of this Agreement, an **Easement for Aerial and Underground Communication Facilities** on a portion of the Property, consisting of approximately 1,112 square feet, which is more particularly described and depicted in **Exhibits “A” and “B”** attached hereto and incorporated herein by reference, (hereinafter referred to as the “**Easement**”); and
- C. The Easement is necessary for AT&T’s relocation and construction of communication facilities as a consequence of SRPD’s development of Cabana Park, thereby not disrupting service to adjacent properties.
- D. The Parties have mutually agreed that SRPD will contract for the construction work related to the relocation of AT&T’s communication facilities within the proposed Easement area and AT&T shall reimburse SRPD for those construction costs as described in Section 3.b. herein.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants contained herein, the parties hereto agree as follows:

1. INCORPORATION OF RECITALS.

The foregoing recitals are true and correct and are hereby incorporated by reference.

2. ACQUIRE AND CONVEY.

SRPD hereby agrees to convey, and AT&T hereby agrees to accept, for the Easement costs, described in Section 3 below, and upon the terms and conditions herein stated, the Easement described above.

3. EASEMENT COSTS.

- a. **Administrative Charges.** The parties acknowledge that AT&T has paid to the County of Sacramento (hereinafter referred to as "COUNTY"), and the COUNTY has deposited, Check No. 3324703249 in the amount of SEVEN THOUSAND FIVE HUNDRED DOLLARS AND NO CENTS (\$7,500.00), as a non-refundable administrative cost for COUNTY staff time to facilitate this real estate transaction on behalf of the SRPD.
- b. **SRPD Reimbursement Costs.** The parties acknowledge that AT&T has paid to the SRPD, and the SRPD has deposited, Check No. 3322824532 in the amount of EIGHT THOUSAND SEVEN HUNDRED FIFTEEN DOLLARS AND NO CENTS (\$8,715.00), as reimbursement payment for construction costs in connection with relocating AT&T's communication facilities on the Property.

4. EASEMENT DEED.

SRPD shall execute and record the Easement deed in the form set forth in **Exhibit "C"**, attached hereto and incorporated herein by reference, conveying title to the Easement to AT&T.

5. TITLE AND ENCUMBRANCES.

SRPD is the fee owner of the Property. AT&T shall take title to the Easement subject to any and all encumbrances.

6. AS-IS TRANSFER.

AT&T acknowledges that, except as expressly contained in this Agreement, neither SRPD nor anyone acting for or on behalf of the SRPD has made any representation, warranty or promise to AT&T concerning the physical aspects or condition of the Easement area; the feasibility or desirability of the Easement area for any particular use; the conditions of soils, sub-soils, groundwater and surface waters; or the presence or absence of any other physical aspect of the Easement area; and that in entering into the Agreement, AT&T has not relied on any representation, statement or warranty of SRPD or anyone acting for or on behalf of SRPD, other than as may be expressly contained in this Agreement, and that all matters concerning the Easement area shall be independently verified by AT&T and that AT&T shall purchase the Easement on AT&T's own examination thereof; and that if AT&T elects to acquire the Easement, is purchasing the Easement in its "as-is" condition and its "as-is" state of repair.

7. INDEMNIFICATION.

To the fullest extent allowed by law, AT&T shall indemnify, defend, and hold harmless SRPD, its governing Board, officers, directors, officials, employees, and authorized volunteers and agents, (collectively "Indemnified Parties") from and against any and all claims, demands, actions, losses, liabilities, damages, and all expenses and costs incidental thereto (collectively "Claims"),

including cost of defense, settlement, arbitration, and reasonable attorney's fees, resulting from injuries to or death of persons, including but not limited to employees of either Party hereto, and damage to or destruction of property or loss of use thereof, including but not limited to the property of either Party hereto, arising out of, pertaining to, or resulting from the acts or omissions of the AT&T, its officers, agents, employees, or contractors, or the acts or omissions of anyone else directly or indirectly acting on behalf of the AT&T, or for which the AT&T is legally liable under law regardless of whether caused in part by an Indemnified Party. AT&T shall not be liable for any Claims arising from the sole negligence or willful misconduct of an Indemnified Party where such indemnification would be invalid under Section 2782 of the Civil Code.

This indemnity shall not be limited by the types and amounts of insurance or self-insurance maintained by the AT&T or the AT&T's contractors.

Nothing in this Indemnity shall be construed to create any duty to, any standard of care with reference to, or any liability or obligation, contractual or otherwise, to any third party.

This Indemnity shall survive the recordation of the Easement and shall not merge with title.

8. INSURANCE.

- a. Requirement.** AT&T shall, at its sole cost and expense, maintain required insurance in the kinds and amounts as set forth in **Exhibit "D."** AT&T shall furnish SRPD with evidence of coverage as provided in **Exhibit "D"** prior to commencement of any of AT&T's activities on the Premises as permitted under the terms of this Agreement.
- b. Survival Clause.** This Insurance provision shall survive the recordation of the Easement and shall not merge with title.

9. POSSESSION.

It is agreed and confirmed between the Parties notwithstanding other provisions in this Agreement, the right of possession and use of the Easement area by AT&T shall commence on the date of recordation of the Easement.

10. CONTINGENCY.

It is understood and agreed between the Parties that the completion of this transaction is contingent upon the specific approval and authorization by the SRPD's Advisory Board of this Agreement and the Easement deed and approval of the Agreement and the Easement deed by AT&T's Board of Directors.

11. NOTICE.

All notices or other communications required or permitted hereunder shall be in writing, and shall be personally delivered or sent by registered or certified mail, postage prepaid, return receipt requested, or sent by electronic facsimile and shall be deemed received upon the earlier of (i) if personally delivered, the date of delivery to the address of the person to receive such notice, (ii) if mailed, on the date of posting by the United States Post Office, or (iii) if given by electronic facsimile, when received by the other party.

TO SRPD: Sunrise Recreation & Park District
7801 Auburn Blvd
Citrus Heights, CA 95610
Telephone: 916-725-1585
Fax: 916-725-7321

with a copy to:
County of Sacramento
Real Estate Division
Attn: Asset Management Section
3711 Branch Center Road
Sacramento, CA 95827
Telephone: 916-876-6200

TO AT&T: AT&T-C&E North
Attn: Right-of-Way Manager
2700 Watt Ave. Rm 3473
Sacramento, CA 95821
Telephone: 916-484-2420

Notice of change of address shall be given by written notice in the manner described in this Paragraph.

12. MISCELLANEOUS.

- c. **Partial Invalidity.** If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, or is found to be prohibited by law, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable or prohibited, shall not be affected thereby, and each such term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.
- d. **Waivers.** No waiver of any breach of any covenant or provision hereof shall be deemed a waiver of any preceding or succeeding breach hereof, or of any other covenant or provision herein contained. No extension of time for performance of any obligation or act shall be deemed an extension of the time for performance of any other obligation or act except those of the waiving Party, which shall be extended by a period of time equal to the period of delay.
- e. **Entire Agreement.** This Agreement (including all exhibits attached hereto) is the final expression of, and contains the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior understanding with respect thereto. This Agreement may not be modified, changed, supplemented, superseded, canceled or terminated, nor may any obligations hereunder be waived, except by written instrument signed by the Party to be charged or by its agent duly authorized in writing or as otherwise expressly permitted herein. The Parties do not intend to confer any benefit hereunder on any person, firm or corporation other than the Parties hereto and lawful assignees.
- f. **Authority of Signatories.** Each Party to this Agreement warrants to the other that it is duly organized and existing and each signatory hereto represents to the other Party that it

has full right and authority to enter into and consummate this Agreement and all related documents.

- g. **Survival of Representations.** Notwithstanding any provisions of this Agreement, the covenants, representations, warranties, hold harmless and indemnification obligations made by each Party herein shall survive (1) the recordation of the Easement and shall not merge with title, and (2) the termination and/or cancellation of this Agreement.
- h. **Commission.** There is no real estate, finders or other commission due or payable by reason of this transaction. Each Party shall indemnify the other for any actions which may cause the other Party to be liable for a real estate brokerage or sales commission arising here from.
- i. **Governing Law.** This Agreement shall be governed by the laws of the State of California.
- j. **Successors and Assigns.** This Agreement shall be binding upon and shall inure to the benefit of the permitted successors and assigns of the Parties hereto.
- k. **Time of Essence.** SRPD and AT&T hereby acknowledge and agree that time is strictly of the essence with respect to each and every term, condition, obligation and provision hereof and that failure to timely perform any of the terms, conditions, obligations or provisions hereof by either party shall constitute a material breach of and a non-curable (but waivable) default under this Agreement by the Party so failing to perform.
- l. **Relationship of Parties.** Nothing contained in this Agreement shall be deemed or construed by the Parties to create the relationship of principal and agent, a partnership, joint venture or any other association between SRPD and AT&T.
- m. **Construction of Agreement.** Headings at the beginning of each paragraph and subparagraph are solely for the convenience of the Parties and are not a part of the Agreement. Whenever required by the context of this Agreement, the singular shall include the plural and the masculine shall include the feminine and vice versa. It is agreed and acknowledged by the Parties hereto that the provisions of this Agreement have been arrived at through negotiation, and that each of the Parties has had a full and fair opportunity to revise the provisions of this Agreement and to have such provisions reviewed by legal counsel. Therefore, the normal rule of construction that any ambiguities are to be resolved against the drafting Party shall not apply in construing or interpreting this Agreement. All exhibits referred to in this Agreement are attached and incorporated by this reference.
- n. **Duplicate Counterparts.** This Agreement may be executed in several counterparts, and shall be deemed one and the same agreement. Electronic and scanned signatures shall be deemed original signatures for all purposes, including proof of terms herein, and shall be binding on each party.

Remainder of Page Intentionally Left Blank

IN WITNESS WHEREOF, the parties have executed the Agreement the day and year first above written as follows:

AT&T:

Pacific Bell Telephone Company, a California corporation, doing business at AT&T California

Date: _____

By: _____

SRPD:

Sunrise Recreation and Park District, a park district existing under authority of the Public Resources Code § 5780 et seq.

Date: _____

By: _____
Dave Mitchell
District Administrator
Sunrise Recreation & Park District
BOD Resolution No.: 2017-0010
Dated: January 10, 2017;
Advisory Board Resolution No.: _____
Dated: _____

**REVIEWED AND APPROVED BY
DISTRICT COUNSEL:**

By: _____
Deon C. Merene
Counsel for SRPD

EXHIBIT "A" to Agreement

Legal Description

EXHIBIT "A" LEGAL DESCRIPTION AT&T EASEMENT

A STRIP OF LAND 5 FEET IN WIDTH, SITUATED IN THE COUNTY OF SACRAMENTO, STATE OF CALIFORNIA, BEING A PORTION OF SECTION 51 OF RANCHO DEL PASO, ALSO BEING A PORTION OF SUNRISE RECREATION & PARK DISTRICT PARCELS AS DESCRIBED IN THAT CERTAIN "TAX DEED TO PURCHASER OF TAX-DEFAULTED PROPERTY" DOCUMENTS RECORDED IN BOOK 20140313 AT PAGE 0351 AND DOCUMENT NO. 201903150862, OFFICIAL RECORDS OF SACRAMENTO COUNTY, THE CENTERLINE OF SAID STRIP OF LAND IS MORE PARTICULARLY DESCRIBED AS FOLLOW:

COMMENCING AT THE NORTHEAST CORNER OF LOT 6 AS SHOWN ON THE PLAT OF "FOOTHILL FARMS UNIT NO. 1A", FILED IN BOOK 45 OF MAPS AT PAGE 34, SACRAMENTO COUNTY RECORDS, THENCE ALONG THE NORTHEASTERLY LINE OF SAID LOT 6, SAID NORTHEASTERLY LINE ALSO BEING THE SOUTHWESTERLY OF SAID SUNRISE RECREATION & PARK DISTRICT PARCEL, NORTH 51°15'30" WEST 2.33 FEET TO THE TO THE **POINT OF BEGINNING**; THENCE LEAVING SAID NORTHEASTERLY LINE NORTH 35°45'52" EAST 13.89 FEET TO THE BEGINNING OF A TANGENT CURVE; THENCE ALONG THE ARC OF SAID TANGENT CURVE TO THE LEFT, HAVING A RADIUS OF 3.00 FEET, THROUGH A CENTRAL ANGLE OF 95°21'38" FOR AN ARC LENGTH OF 4.99 FEET; THENCE NORTH 59°35'46" WEST 11.20 FEET; THENCE NORTH 54°21'30" WEST 86.60 FEET; THENCE NORTH 62°07'57" WEST 41.61 FEET; THENCE ALONG A LINE THAT IS PARALLEL WITH AND 2.50 FEET NORTHEASTERLY OF THE SOUTHWESTERLY LINE OF SAID SUNRISE RECREATION & PARK DISTRICT PARCELS, MEASURED AT RIGHT ANGLES, NORTH 51°15'30" WEST 64.19 FEET, MORE OR LESS, TO THE SOUTHEASTERLY LINE OF INTERSTATE 80.

THE SIDELINES OF SAID STRIP OF LAND SHALL TERMINATE AT THE BOUNDARY LINES OF SAID SUNRISE RECREATION & PARK DISTRICT PARCELS, AND TO MEET AT ALL ANGLE POINTS.

CONTAINING 1,112 SQUARE FEET, MORE OR LESS.

THE ATTACHED PLAT ENTITLED "EXHIBIT B" IS MADE PART OF THIS LEGAL DESCRIPTION.

END OF DESCRIPTION

THIS DESCRIPTION WAS PREPARED BY ME OR UNDER MY DIRECTION PURSUANT TO THE REQUIREMENTS OF THE PROFESSIONAL LAND SURVEYOR'S ACT.



PREPARED BY: JIM C. KOO, L.S. 7829
DATE PREPARED: JULY 11, 2019



EXHIBIT "B" to Agreement

Plat Map

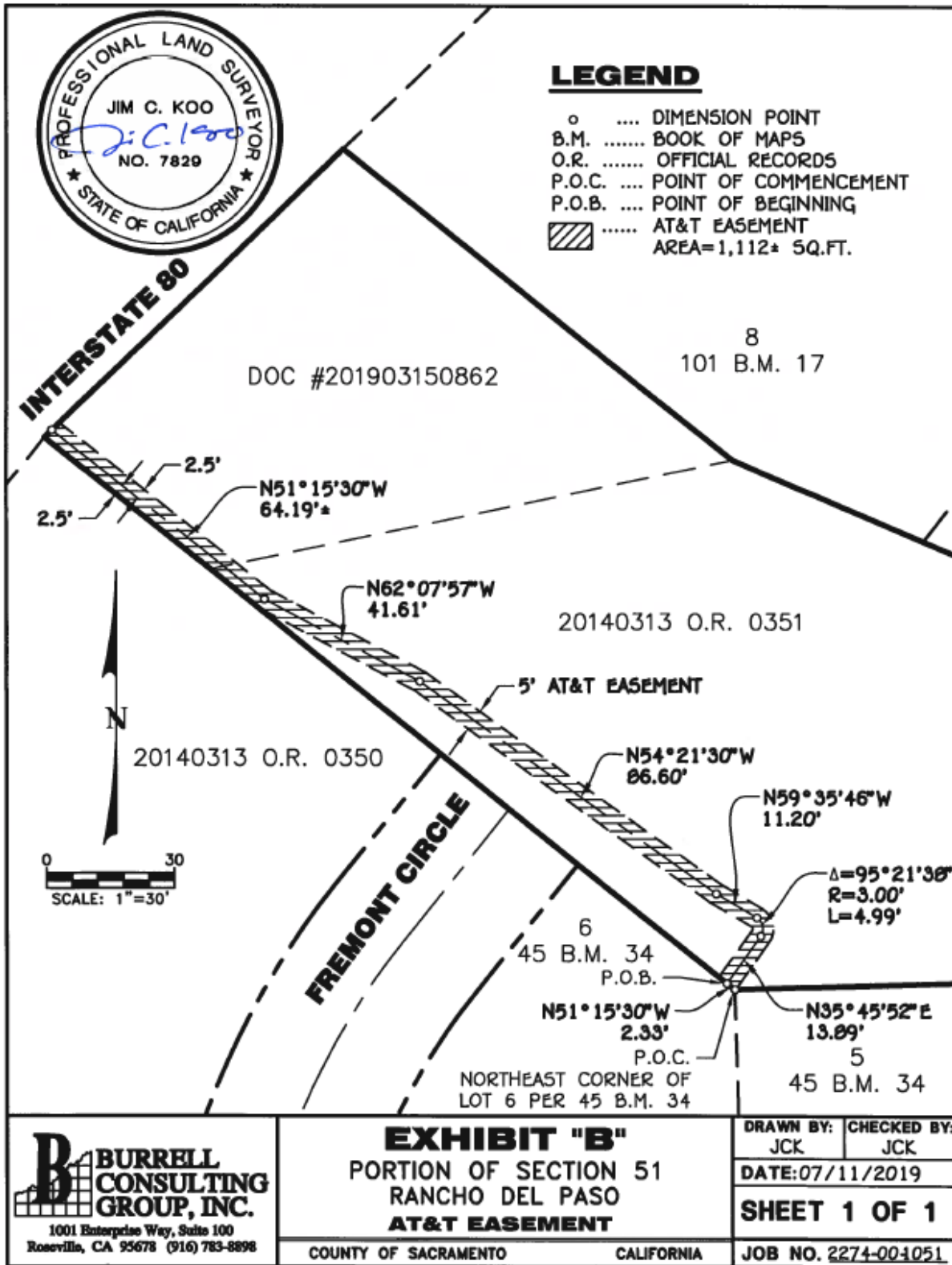


EXHIBIT "C" to Agreement
Page 1 of 2
Easement Deed

CF0057F AERIAL & UNDERGROUND
AFTER RECORDING, RETURN TO:



PACIFIC BELL TELEPHONE COMPANY

Right of Way Department
2700 Watt Avenue, Room 3012
Sacramento, CA 95821

Location: Unincorporated area, County of Sacramento, State of California

Document Transfer Tax \$

- Computed on Full Value of Property Conveyed, or
- Computed on Full Value Less liens & Encumbrances
- Remaining at Time of Sale

X Consideration of Value Less Than \$100.00

Signature of declarant or agent determining tax:
_____ Agent

A01LE92 UB11 NHLDCA11
A.P. No.: 220-0450-057 and 220-0450-026 (Portions)
R/W File No.: 62927-01

POR. SRC.'S 48 & 51, RANCHO DEL PASO

EASEMENT FOR AERIAL AND UNDERGROUND COMMUNICATION FACILITIES

SUNRISE RECREATION AND PARK DISTRICT, a park district existing under authority of Public Resources Code § 5780 et seq. (herein referred to as "Grantor"), does hereby grant to **PACIFIC BELL TELEPHONE COMPANY**, a California corporation, doing business as **AT&T CALIFORNIA** ("AT&T"), its successors, assigns, lessees and agents (herein referred to as "Grantee"), an easement to construct, reconstruct and maintain (place, operate, inspect, repair and remove) such aerial and underground communication facilities as Grantee may from time to time require (including ingress thereto and egress therefrom) consisting of poles, anchors, guys, cables, wires, crossarms, braces, conduits, manholes, markers, pedestals, terminal equipment cabinets, handholes, service boxes, associated electrical conductors and necessary fixtures and appurtenances in, over, under and upon that certain real property in the unincorporated area of the County Of Sacramento, State of California, described on **EXHIBIT "A"** attached hereto and made a part hereof and as shown and delineated on survey drawing marked **EXHIBIT "B"** also attached hreto and made a part hereof.

This legal description was prepared pursuant to Section 8730c of the Business and Professions code.

Grantor also grants to Grantee the right to trim such tree foliage and to cut such limbs and roots on said property as may be necessary for the protection of said facilities.

Grantor shall not erect or construct any building or other structure or drill or operate any well within said easement.

Grantee shall be responsible for damage caused intentionally or by its negligence or willful misconduct while exercising the rights granted herein.

EXHIBIT "C" to Agreement
Page 2 of 2
Easement Deed

The provisions hereof shall inure to the benefit of and bind the successors and assigns of the respective parties hereto.

The person or persons signing below represent that he/she/they are the only party/parties with an interest in the property described herein.

Executed this _____ day of _____, 200__.

SUNRISE RECREATION AND PARK DISTRICT,
a park district existing under authority
of Public Resources Code § 5780 et seq.

By: _____
Dave Mitchell
District Administrator
Sunrise Recreation & Park District
BOD Resolution No.: 2017-0010
Dated: January 10, 2017;
Advisory Board Resolution No.: _____
Dated: _____

EXHIBIT D—REQUIRED INSURANCE

SUNRISE RECREATION AND PARK DISTRICT

For

PACIFIC BELL TELEPHONE COMPANY, A CALIFORNIA CORPORATION “AT&T”

Insurance Requirements

Without limiting the requisite AT&T indemnification, AT&T shall maintain for the duration of the Permit, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Permit by AT&T, its associated officers, agents, representatives, employees, and contractors. SRPD shall retain the right annually to review the coverage, form, and amount of the insurance required hereby. If in the opinion of the SRPD Risk Manager, insurance provisions in these requirements do not provide adequate protection for SRPD and for members of the public, SRPD may require AT&T to obtain insurance sufficient in coverage, form, and amount to provide adequate protection but no more than once per term. SRPD’s requirements shall be reasonable but shall be imposed to assure protection from and against the kind and extent of risk that exist at the time a change in insurance is required.

Verification of Coverage

AT&T shall furnish the SRPD with certificates evidencing coverage required below. Copies of required endorsements must be attached to provided certificates. In the event AT&T elects to self-insure any of the insurance required by the Exhibit C, AT&T agrees to (i) provide SRPD Risk Manager with advance notice of its intent to self-insure; (ii) self-insure under the same terms as are required by Exhibit C; and (iii) provide a certificate of self-insurance.

All certificates, evidences of self-insurance, and evidence of additional insured status of the SRPD are to be received and approved by the SRPD before performance commences. The SRPD reserves the right to require that AT&T provide, per ACORD Form 25, evidence confirming coverage and limits as required hereunder.

Scope of Insurance

Coverage shall be at least as broad as:

1. **GENERAL LIABILITY:** Insurance Services Office’s Commercial General Liability occurrence coverage form CG0001, or an equivalent form providing coverage as broad as CG0001. Coverage shall include Premises/Operations, Products/Completed Operations, Contractual, Personal & Advertising Injury, and independent contractors.
2. **AUTOMOBILE LIABILITY:** Insurance Services Office’s Commercial Automobile Liability Coverage form CA 0001, or an equivalent form providing coverage as broad as CA0001, shall be maintained if commercially owned vehicles are to be used in the performance of the contract (permit). Coverage shall include all owned, non-owned, hired, and leased vehicles. If individually owned vehicles are to be used in the

performance of the contract, personal lines automobile insurance shall apply with limits at least the minimum limits required by the state in which the vehicle is registered. .

3. WORKERS' COMPENSATION: Statutory requirements of the State of California and Employer's Liability insurance.

Limits of Insurance

AT&T shall maintain limits of:

- 1, General Liability shall be on an Occurrence basis (as opposed to Claims Made basis). Limits and structure shall be:

General Aggregate:	\$4,000,000
Products Comp/Op Aggregate:	\$4,000,000
Personal & Adv. Injury:	\$1,000,000
Each Occurrence:	\$2,000,000
Fire Damage:	\$ 100,000
2. Automobile Liability:
 - a. Commercial Automobile Liability for Corporate/business owned vehicles including non-owned and hired, \$1,000,000 Combined Single Limit
3. Workers' Compensation: Statutory
4. Employer's Liability: \$1,000,000 per accident/per disease, per employee/per disease, policy limit.

Deductibles and Self-Insured Retention

Any deductibles or self-insured retentions shall be the responsibility of AT&T as defined by AT&T'S own insurance or self-insurance program.

Other Insurance Provisions

The insurance policies required in this Permit are to contain, or be endorsed to contain, as applicable, the following provisions:

All Policies:

1. ACCEPTABILITY OF INSURERS: Insurance is to be placed with insurers with a current A.M. Best's rating of no less than **A-VII**.
2. MAINTENANCE OF INSURANCE COVERAGE: AT&T shall maintain all insurance coverages in place at all times and provide the SRPD with certificates of insurance as evidence of each policy's renewal with policy expiration.

Commercial General Liability and/or Commercial Automobile Liability:

1. ADDITIONAL INSURED STATUS: The SRPD, its officers, directors, officials, employees, and volunteers are to be included as additional insureds under the AT&T's required Commercial General Liability policy.
2. PRIMARY INSURANCE: For claims related to this Permit, the required insurance coverage shall be endorsed to be primary insurance as respects the SRPD, its officers, directors, officials, employees, and volunteers. Any insurance or self-insurance maintained by the SRPD shall be excess of AT&T's insurance or self-insurance and shall not contribute with it.
3. SEVERABILITY OF INTEREST: AT&T's insurance shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the limits of the insurer's liability.
4. SUBCONTRACTORS: AT&T shall be responsible for the acts and omissions of all its subcontractors and shall require all its subcontractors to maintain adequate insurance as required in this agreement.

Property & Inland Marine Waiver of Subrogation:

Any Property and Inland Marine insurance policies, if any, maintained by AT&T in the performance of the Permit shall be endorsed to state that the insurer shall waive all rights of subrogation against the SRPD.

Workers' Compensation:

WORKERS' COMPENSATION WAIVER OF SUBROGATION: To the extent allowed by law, the workers' compensation policy required hereunder shall be endorsed to state that the workers' compensation carriers waives its right of subrogation against the SRPD and the County of Sacramento, their officers, directors, officials, employees, agents, or volunteers, which might arise by reason of payment under such policy in connection with performance under this Permit by AT&T.

Notification of Claim:

If any claim for damages is filed by AT&T or if any lawsuit is instituted against AT&T that arises out of or in any way connected with the performance of this Permit and that in any way, directly or indirectly, contingently or otherwise, affect or might reasonably affect SRPD, by AT&T, shall give prompt and timely notice thereof to SRPD. Notice shall be deemed prompt and timely if given with in thirty (30) days following the date of service of process of a lawsuit.

Remainder of page intentionally left blank