CITY OF OCEANSIDE LCP AMENDMENT #2-10 WIRELESS COMMUNICATION FACILITIES SUGGESTED MODIFICATIONS ADOPTED BY COASTAL COMMISSION (ON JULY 11, 2012)

1. Modify Section 3901 – Purpose and Intent as follows:

3901 Purpose and Intent

This Article is intended to promote and provide for the following:

- A. Establish development standards for Wireless Communications Facilities, Satellite Dish Antennas and all other forms of antennas and accessory wireless equipment consistent with federal and state law and the City's certified LCP, taking into account the general welfare of City residents and visual compatibility with the existing surroundings while effectively serving the communication needs of the community.
- B. Require all Wireless Communications Facilities to be as unobtrusive as possible, minimizing the number of freestanding and non-camouflaged Communications Facility and establishing standards and policies to ensure that Wireless Communications Facilityies development within the City are developed in harmony is visually compatible with the character of with the surrounding environment through regulation of location and design.
- C. The provisions of this Article are not intended and shall not be interpreted to prohibit or to have the effect of prohibiting wireless communications services, nor shall this Article be applied in such a manner as to unreasonably discriminate among providers of functionally equivalent wireless communications services.
- 2. Modify Section 3902 Definitions (Antenna Height) as follows:

Antenna Height. For ground mounted antenna, the vertical distance measured from the adjacent existing ground surface adjacent to the base of the antenna support structure to the tip of the highest point of the proposed antenna support structure or antenna, whichever is higher. For building mounted antenna, the vertical distance measured from the adjacent building material upon which the base of the antenna support structure is mounted to the tip of the highest point of the proposed antenna support structure or antenna, whichever is higher.

3. Modify Section 3903 – Applicability, by adding a new sub-section "E", as follows:

[...]

E. Notwithstanding the aforementioned exemptions in this section, if the provisions of this section conflict with the provisions in the City's certified LCP governing exemptions or any other LCP provisions, the City's certified LCP provisions shall control.

4. Modify Section 3904 – Conditional Use Permit Required, as follows:

3904 Conditional Use Permit Required

- A. A Wireless Communications Facility that is not exempt pursuant to Section 3903, or other provision of this Article, shall be required to obtain one or more Conditional Use Permits pursuant to Article 41, a Coastal Development Permit pursuant to the City's certified LCP, if applicable, and in accordance with this Article as follows...
- 5. Modify Section 3906 Application Submittal Requirements, subsection "G" as follows:
 - G. Proof of any existing <u>significant</u> gap(s) in <u>the carrier's own service</u> coverage, and the radius of area from which an antenna may be located to eliminate the <u>significant</u> gap(s).
- 6. Modify Section 3907- Findings For Approval, Subsection "A," as follows:
 - A. In addition to any general findings otherwise required by this Article or any other provision of the Zoning Ordinance and the City's certified Local Coastal Program, the following findings must be made prior to the approval of a Conditional Use Permit or Administrative Conditional Use Permit for Wireless Communications Facilities (except for Amateur Radio Antennas):
 - 1. The placement, construction, or modification of a Wireless Communications
 Facility in the proposed location is necessary for the provision of wireless services
 to City residents, businesses, and their owners, customers, guests or other persons
 traveling in or about the City;
 - 2. The proposal demonstrates a reasonable attempt to minimize stand-alone facilities, is designed to protect the visual quality of the City, and will not have an undue adverse impact on historic resources, scenic views, or other natural or man-made resources;
 - 3. Where an applicant claims a significant gap in its coverage, that gap must be geographically defined and the gap proved by clear and convincing evidence. The burden of objectively proving a significant gap in its coverage rests solely with the applicant. Where a significant gap in the applicant's coverage is so proven, the applicant must also prove by clear and convincing evidence that the facility proposed is the least intrusive means of closing the significant gap in coverage;
 - 4. That at least one of the following is true:
 - a. All applicable requirements and standards of this Article have been met;
 - b. A variance has been granted from any requirement or standard of this Article which has not been met;
 - c. Strict compliance with the requirements and standards of this Article would prevent a Telecom Operator from closing a proven significant gap in its service, and no other alternative and less intrusive design of the facility that would meet the development standards is feasible; or
 - d. Strict compliance with the requirements and standards of this Article would prohibit or have the effect of prohibiting the provision of personal wireless

services or would unreasonably discriminate among providers of functionally equivalent wireless communications services.

- 7. Modify Section 3909 Operation and Maintenance Standards, Subsection "E," as follows:
 - E. A Wireless Communication Facility shall be operated to minimize noise impacts to surrounding residents and persons using nearby facilities and recreation areas. All equipment that may emit noise in excess of the levels permitted by Article 38 of the City Municipal Code (noise ordinance) shall be enclosed to attain compliance with Article 38 or any other decibel level necessary to comply with the City's certified LCP provisions. Backup generators shall only be used during periods of power outages or for testing.
- 8. Modify Section 3911 Wireless Communication Facility Standards, as follows:

The following development and design standards shall be used to review any application for a Conditional Use Permit or Administrative Conditional Use Permit for a Wireless Communication Facility pursuant to this Article and Article 41. Additionally, if any facility is proposed to be sited in the Coastal Zone, as defined by the City's certified Local Coastal Program (LCP), such facility must also comply with all applicable provisions of the City's certified LCP. Should there be any conflict between the provisions in this Article and any provision in the City's certified LCP, the City's certified LCP shall be controlling. All Wireless Communication Facilities (except amateur radio antennas) shall be planned, designed, located, erected, operated, and maintained in accordance with the following standards:...