

CONDITIONS OF APPROVAL

**Conditional Use Permit Revision CUP-R22-0028/Pony Express Trail Cell Tower Extension
Planning Commission/March 23, 2023**

Planning Services

- 1. This Conditional Use Permit Revision is based upon and limited to compliance with the project description, the following project exhibits, and Conditions of Approval set forth below:

- Exhibit ESite Plan
- Exhibit F.....Generator Hazardous Materials Statement and
Noise Study
- Exhibit G.....Radio Frequency (RF) Report
- Exhibit H.....Photosimulations

A Conditional Use Permit Revision to allow the construction and operation of a 20-foot-tall extension on an existing 119-foot-tall monopine along with nine (9) antennas, three (3) surge protectors, and 15 Remote Radio Units (RRUs) along with a backup diesel generator and equipment shelter. The telecommunications facility would be housed within the existing 1,500-square-foot lease area as well as within a proposed additional 345-square-foot lease area located adjacent to the currently existing lease area.

The project would include a new Oldcastle CWIC cabinet. The proposed cabinet would include one (1) AT&T power panel and an automatic transfer switch, one (1) service light, and two (2) AT&T GPS antennas. The cabinet would be positioned within the proposed lease area. Cables running between the cabinet and the monopine would be concealed from the elements within a proposed AT&T ice bridge.

Any deviations from the project description, exhibits, or conditions must be reviewed and approved by the County for conformity with this approval. Deviations may require approved changes to the permit and/or further environmental review. Deviations without the above-described approval will constitute a violation of permit approval.

The grading, development, use, and maintenance of the property, the size, shape, arrangement, and location of structures, parking areas and landscape areas, and the protection and preservation of resources shall conform to the project description above and the hearing exhibits and Conditions of Approval below. The property and any portions thereof shall be sold, leased or financed in compliance with this project description and the approved hearing exhibits and Conditions of Approval hereto. All plans must be submitted for review and approval and shall be implemented as approved by the County.

- 2. **Expiration:** Pursuant to Zoning Ordinance Section 130.54.060.A, implementation of the project shall occur within 24-months of approval of this permit, otherwise the permit

becomes null and void. It is the responsibility of the applicant to monitor the time limit and make diligent progress toward implementation of the project and compliance with Conditions of Approval.

3. **Responsibility for Interference:** The applicant shall assume full responsibility for resolving television reception interference or other electrical interference caused by the operation of this facility. The applicant shall take corrective action within 30-days of the receipt of any written complaint.
4. **Facility Maintenance:** All improvements associated with the communication facility, including equipment shelters, antennae, fencing, and the access driveway shall be properly maintained at all times. Colors of the panels, equipment enclosure, and other improvements visible to the public shall be maintained to ensure the appearance remains consistent.
5. **Conditions Compliance:** Prior to issuance of any grading or building permit or commencement of any use authorized by this permit, the applicant shall provide a written description, together with appropriate documentation, showing conformance of the project with each condition imposed as part of the project approval. The applicant shall also schedule an inspection by Planning Services prior to Building Permit final for any building permit for verification of compliance with applicable Conditions of Approval.
6. **Obsolete Equipment:** All obsolete or unused communication facilities shall be removed within six (6) months after the use of that facility has ceased or the facility has been abandoned. The applicant shall notify Planning Services at the time of abandonment and all disturbance related to the communication facility shall be restored to pre-project conditions.
7. **Compliance Responsibility:** The operator (lessee) and property owner (lessor) are responsible for complying with all Conditions of Approval contained in this Conditional Use Permit Revision. Any violations concerning the installation, operation, and/or abandonment of the facility are the responsibility of the owner and the operator.

Overall project site shall also continue to comply with Conditions of Approval associated with the original Special [Conditional] Use Permit S05-0018 and/or subsequent revisions.

8. **Payment of Processing Fees-Planning and Building Services:** The applicant shall make the actual and full payment of Planning and Building Services processing fees for the Conditional Use Permit Revision and building permit prior to issuance of any grading or building permit.
9. **Hold Harmless Agreement:** In the event of any legal action instituted by a third party challenging the validity of any provision of this approval, the developer and landowner agree to be responsible for the costs of defending such suit and shall hold County harmless from any legal fees or costs County may incur as a result of such action.

The developer and landowner shall defend, indemnify, and hold harmless El Dorado County and its agents, officers, and employees from any claim, action, or proceeding against El Dorado County or its agents, officers, or employees to attack, set aside, void, or annul an approval of El Dorado County concerning a Conditional Use Permit.

The County shall notify the applicant of any claim, action, or proceeding, and the County shall cooperate fully in the defense.

10. **Five Year Review:** Due to the ever-changing technology of wireless communication systems, this Conditional Use Permit Revision shall be reviewed by Planning Services every five (5) years. At each five-year review, the permit holder shall provide Planning Services with a status report on the then current use of the subject site and related equipment to include dated photos of the tower and equipment, and an RF Report demonstrating compliance with current FCC emission regulations. Planning Services shall review the status report and, based on an assessment of the information provided, current wireless communications technology, and possible local or cumulative impacts, determine whether to:
 - A. Allow the facility to continue to operate under all applicable conditions; or
 - B. Hold a public hearing to determine whether to modify the Conditions of Approval in order to reduce identified adverse impacts; or initiate proceedings to revoke the Conditional Use Permit, requiring the facility's removal if it is no longer an integral part of the wireless communications system.

By operation of this condition, it is the intent of the County to reserve the right to modify existing or add new conditions, consistent with the language specified above. The failure of the County to conduct or complete a five-year review in a timely fashion shall not invalidate the Conditional Use Permit. The applicant shall pay a fee as determined by the Planning and Building Department to cover the cost of processing a five-year review.

11. **Generator Maintenance:** Any routine maintenance that requires running the generators or automatic recycling of the generator shall be performed between the hours of 9:00 a.m. to 5:00 p.m. Monday through Friday.
12. **Archaeological Resources:** In the event of future development, the following language will be incorporated on any grading or building permit plans: In the event that archaeological resources are discovered during grading and construction activities, the applicant shall ensure that all such activities cease within 50 feet of the discovery until an archaeologist can examine the find in place. If the find is determined to be a "unique archaeological resource", contingency funding, and a time allotment sufficient to allow recovering an archaeological sample or to employ one of the avoidance measures may be required under the provisions set forth in Section 21083.2 of the Public Resources Code. Construction work could continue on other parts of the project site while archaeological mitigation takes place.

13. **Human Remains:** In the event of the discovery of human remains, all work shall cease, and the County coroner shall be immediately notified pursuant to subdivision(c) of Section 7050.5 of the Health and Safety Code and Section 5097.98 of the Public Resources Code. The coroner shall make his or her determination within two (2) working days from the time the person responsible for the excavation, or in his or her authorized representative, notifies the coroner of the discovery or recognition of the human remains. If the coroner determines that the remains are not subject to his or her authority and if the coroner recognizes the human remains to be those of a Native American, he or she shall contact, by telephone within 24-hours, the Native American Heritage Commission. The Native American Heritage Commission will immediately notify the person it believes to be the most likely descendant of the deceased Native American.

Upon the discovery of the Native American remains, the landowner shall ensure that the immediate vicinity, according to generally accepted cultural or archaeological standards or practices, where the Native American human remains are located, is not damaged or disturbed by further development activity until the landowner has discussed and conferred, as prescribed in Section 5097.98 of the Public Resources Code, with the most likely descendants regarding their recommendations. The descendants shall complete their inspection and make their recommendation within 48-hours of their notification by the Native American Heritage Commission. The recommendation may include the scientific removal and nondestructive analysis of human remains and items associated with Native American burials or other proper method(s) for handling the remains in accordance with Section 5097.98(b-h). Any additional costs as a result of complying with this section shall be borne by the project applicant. Grading and construction activities may resume after appropriate measures are taken.