

Please email completed document to:

Chris.Adams@cbre.com and Troy.MacDonald@cbre.com

Non-Disclosure Agreement

Between

a _____,

And

Pacific Bell Telephone Company, a California corporation

NON-DISCLOSURE AGREEMENT – 5555 E. Olive Ave. & 5520 E. Hedges Ave., Fresno, CA

THIS AGREEMENT (“Agreement”), effective on the last date signed by a Party (the “Effective Date”), is between Pacific Bell Telephone Company, a California corporation, on behalf of itself, its parents and their Affiliates (collectively “AT&T”), and _____, a _____ (“Receiving Party”). Each Party may be referred to in the singular as "Party" or in the plural as "the Parties" to this Agreement.

The Parties agree as follows:

1. In connection with discussions or negotiations for the purpose of negotiating a potential sale of **5555 E. Olive Ave. & 5520 E. Hedges Ave., Fresno, CA** by AT&T to the Receiving Party (the “Project”), AT&T may find it beneficial to disclose to the Receiving Party certain information, including confidential, proprietary or trade secret information. “Information”, with respect to AT&T, means all confidential, proprietary or trade secret information, including discoveries, ideas, concepts, know-how, techniques, processes, procedures, designs, specifications, strategic information, proposals, requests for proposals, proposed products, drawings, blueprints, tracings, diagrams, models, samples, flow charts, data, computer programs, marketing plans, Customer Information (as defined in Section 4 below), authentication credentials, and other technical, financial or business information provided by or on behalf of AT&T, its Affiliates, or any of their third party suppliers whether disclosed in writing, visually, or orally, in tangible or intangible form, including in electronic mail or by other electronic communications. Information provided by AT&T prior to the Effective Date of this Agreement and in connection with the Project is also subject to the terms of this Agreement. Neither Party shall disclose Information under this Agreement that includes, in any form, any of the following: customer or employee personal information, credit card and credit related information, health or financial information, and/or authentication credentials.
2. The Receiving Party understands that, except as otherwise agreed in writing, the Information which it may receive concerning AT&T’s future plans with respect to the Project is tentative and is not intended to represent decision or commitment by AT&T concerning the implementation of such plans. Information provided by AT&T does not represent a commitment to purchase or otherwise acquire any products or services from the Receiving Party or to enter into any transaction or business relationship, or to induce the Receiving Party to spend funds or utilize resources. If AT&T desires to purchase or otherwise acquire any products or services from the Receiving Party, the Parties will execute a separate written agreement to govern such transactions. No development, enhancements, or modifications shall be requested, performed or paid for under this Agreement. Any development, enhancement and modification activities shall be negotiated and performed under a separate written agreement between the Parties.
3. The Receiving Party shall:

Proprietary and Confidential

This Agreement and information contained therein is not for use or disclosure outside of AT&T, its Affiliates, and third party representatives, and Receiving Party except under written agreement by the contracting parties.

- a. hold all Information in confidence with the same degree of care with which the Receiving Party protects its own confidential or proprietary Information, but no less than reasonably prudent care;
 - b. restrict disclosure of the Information solely to its employees, contractors and agents with a need to know such Information, advise such persons of their confidentiality obligations hereunder with respect thereto, and ensure that such persons are bound by obligations of confidentiality no less than those imposed in this Agreement;
 - c. use the Information only as needed for purposes of the Project;
 - d. except for purposes of the Project, not copy, distribute, or otherwise use such Information or knowingly allow anyone else to copy, distribute, or otherwise use such Information, and ensure that any and all copies shall bear the same notices or legends, if any, as the originals;
 - e. upon AT&T's request, promptly return or destroy all or any requested portion of the Information, including, but not limited to, tangible and electronic copies, notes, summaries, extracts, mail or other communications, and the Receiving Party shall provide written certification within five (5) business days to AT&T that all such Information has been returned or destroyed; and
 - f. not identify AT&T, its Affiliates or any other owner of Information in any advertising, sales material, press release, public disclosure or publicity without prior written authorization of AT&T.
4. "Customer Information" includes, but is not limited to, customer name, address, phone number, information concerning a customer's calling patterns, unlisted customer numbers, any other information associated with a customer or with persons in the household of a customer, and any information available to AT&T and/or its suppliers by virtue of AT&T's relationship with its customers as a provider of telecommunications, Internet, information or other services, including, but not limited to, the quantity, technical configuration, location, type, destination, amount of use of telecommunications or other services subscribed to, and information contained on the telephone bills of AT&T's customers pertaining to telephone exchange service, telephone toll service or other services received by a customer of AT&T. In the event that the Receiving Party receives Customer Information under this Agreement or any other Information that AT&T designates as requiring special protection, Receiving Party agrees to comply with the following provisions with respect to such Information or Customer Information:
- a. for such AT&T Information in paper form:
 - 1) keep in the direct supervision of Receiving Party's authorized personnel or physically secured (e.g., locked desk or file cabinet, or other securable storage) at all times;
 - 2) when traveling, not check baggage containing this Information, nor put this Information in public holding facility/baggage storage);
 - 3) not view or keep such Information in areas where it can be read by unauthorized persons;

Proprietary and Confidential

This Agreement and information contained therein is not for use or disclosure outside of AT&T, its Affiliates, and third party representatives, and Receiving Party except under written agreement by the contracting parties.

- 4) assure that any and all copies shall bear the same proprietary marking notices or legends as the originals;
 - 5) when returning or destroying such Information, in addition to the requirements of Section (3.e.), use cross shredding for Information to be destroyed, as specified by AT&T.
- b. for such AT&T Information in electronic form:
- 1) keep in the direct supervision of Receiving Party's authorized personnel or secured (e.g., by requiring the use of a log-in password to access the Information and keeping the hardware stored in a locked office, desk or filing cabinet) at all times;
 - 2) when traveling, not check baggage containing devices with this Information, nor put devices containing this Information in public holding facility/baggage storage);
 - 3) not view Information where it can be read or accessed by unauthorized persons;
 - 4) when transmitting such Information, encrypt, where practicable, using the strongest commercially available encryption, but no less than 256-bit;
 - 5) when it is no longer needed, in addition to the requirements of Section (3.e.), either destroy by rendering irretrievable or securely store using a method approved by AT&T.
- c. notify AT&T immediately if any Information is lost, stolen, or otherwise disclosed to any person not authorized to have access to such Information under this Agreement.
5. Except for Customer Information, the Receiving Party shall have no obligation to AT&T with respect to Information which:
- a. at the time of disclosure was already known to the Receiving Party free of any obligation to keep it confidential (as evidenced by the Receiving Party's written records prepared prior to such disclosure);
 - b. is or becomes publicly known through no wrongful act of the Receiving Party;
 - c. is lawfully received from a third party, free of any obligation to keep it confidential; or
 - d. is independently developed by the Receiving Party or by a third party, as evidenced by the Receiving Party's written records without any direct or indirect use or access to the Information received from AT&T;
 - e. is approved for release by written authorization from AT&T.
6. If the Receiving Party is required to provide Information to any court or government agency pursuant to a written court order, subpoena, regulatory demand or process of law, the Receiving Party must first provide AT&T with prompt written notice of such requirement and reasonable cooperation to AT&T should it seek reasonable protective arrangements for the production of such Information. The Receiving Party will (i) take reasonable steps to limit any such provision of Information to the specific Information required by such court or agency, and (ii) continue to otherwise protect all Information disclosed in response to such order, subpoena, regulation or

Proprietary and Confidential

This Agreement and information contained therein is not for use or disclosure outside of AT&T, its Affiliates, and third party representatives, and Receiving Party except under written agreement by the contracting parties.

process of law. Except for such required disclosure, the Information shall remain subject to the terms of this Agreement and may only be disclosed as set forth in Section 5 hereof.

7. The term of this Agreement is two (2) years from the Effective Date. Thereafter, the Receiving Party's obligations with respect to AT&T's Information shall remain in effect, including after the expiration or termination of this Agreement, until such time as it qualifies under one of the exceptions set forth in Section 5 above. Notwithstanding anything to the contrary herein, Customer Information shall remain confidential indefinitely and shall never be disclosed or used without the prior written approval of an authorized representative of AT&T.
8. Information remains at all times the property of AT&T, who shall retain exclusive rights to such Information. Nothing contained in this Agreement shall be construed as granting or conferring any patent, copyright, trademark, trade secret or other proprietary rights by license or otherwise in any Information to the Receiving Party, except for the sole right to use such Information in accordance with this Agreement.
9. This Agreement shall benefit and be binding upon the Parties hereto and their respective Affiliates, successors and assigns. For the purposes of this Agreement, the term "Affiliate" means (1) a company, whether incorporated or not, which owns, directly or indirectly, a majority interest in a Party (a "parent company"), and (2) a company, whether incorporated or not, in which a fifty percent (50%) or greater interest is owned, either directly or indirectly, by (i) a Party or (ii) a parent company.
10. NOTWITHSTANDING ANYTHING IN THIS AGREEMENT TO THE CONTRARY, AT&T MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY NATURE WHATSOEVER WITH RESPECT TO ANY INFORMATION FURNISHED HEREUNDER, INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.
11. The Receiving Party acknowledges and agrees that any disclosure, dissemination, or release of any Information received from AT&T, except as provided in Section 5 or Section 6, shall be deemed a material breach of this Agreement. In the event of such breach, AT&T may demand prompt return of all Information previously provided to the Receiving Party and terminate this Agreement. The provisions of this Section are in addition to any other legal rights or remedies AT&T may have in law or in equity.
12. This Agreement may only be changed or supplemented by a written amendment signed by authorized representatives of both Parties. No forbearance, failure or delay by AT&T in exercising any right, power or privilege is a waiver thereof, nor does any single or partial exercise thereof preclude any other or future exercise thereof, or the exercise of any other right, power or privilege.
13. If and to the extent any provision of this Agreement is held invalid or unenforceable at law, such provision will be deemed stricken from the Agreement and the remainder of the Agreement will continue in effect and be valid and enforceable to the fullest extent permitted by law.

Proprietary and Confidential

This Agreement and information contained therein is not for use or disclosure outside of AT&T, its Affiliates, and third party representatives, and Receiving Party except under written agreement by the contracting parties.

14. This Agreement shall be governed by and construed in accordance with the laws of the State of California, irrespective of its choice of law principles. Each Party agrees to comply with all laws. The Receiving Party shall not use, transfer, transmit, export, directly or indirectly, any product or any Information of AT&T except in compliance with the export control laws and regulations of the United States or the laws of any other country governing the aforesaid activities. In the event the Receiving Party violates the foregoing, the Receiving Party shall defend, indemnify, and hold harmless AT&T from and against any claim, loss, liability, expense or damage including fines or legal fees, incurred by AT&T with respect to the export activities contrary to the foregoing. Notwithstanding any other provision of this Agreement or any Supplement attached hereto, this Section shall survive any termination or expiration of this Agreement.
15. Original signatures transmitted and received via facsimile or other electronic transmission of a scanned document, (e.g., .pdf or similar format) are true and valid signatures for all purposes hereunder and shall bind the Parties to the same extent as that of an original signature. This Agreement may be executed in multiple counterparts, each of which shall be deemed to constitute an original but all of which together shall constitute only one document.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed, which may be in duplicate counterparts, each of which will be deemed to be an original instrument.

_____		Pacific Bell Telephone Company , a California corporation	
By:	_____ (Authorized Signature)	By:	_____ (Authorized Signature)
Name:	_____ (Print or Type)	Name:	_____ (Print or Type)
Title:	_____ (Print or Type)	Title:	_____ (Print or Type)
Email:	_____	Email:	_____
Date:	_____	Date:	_____

Please email completed document to:
Chris.Adams@cbre.com and Troy.MacDonald@cbre.com

Proprietary and Confidential

This Agreement and information contained therein is not for use or disclosure outside of AT&T, its Affiliates, and third party representatives, and Receiving Party except under written agreement by the contracting parties.