

Return Address:

Independent Towers
Holdings, LLC
11 Herbert Drive
Latham, NY 12110



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PAGE-001 OF 043
02/21/2012 14:05
KING COUNTY, WA

Please print or type information: **WASHINGTON STATE RECORDER'S Cover Sheet** (RCW 65.04)

Document Title(s) (or transactions contained therein): (all areas applicable to your document **must** be filled in)

- 1. Lease Agreement
- 2. _____
- 3. _____
- 4. _____

Reference Number(s) of Documents assigned or released:

Additional reference #'s on page 28 of document

Grantor(s) Exactly as name(s) appear on document

- 1. City of Medina, a municipal corporation under
- 2. the laws of the State of Washington

Additional names on page _____ of document.

Grantee(s) Exactly as name(s) appear on document

- 1. Independent Towers Holdings, LLC
- 2. _____

Additional names on page N/A of document.

Legal description (abbreviated: i.e. lot, block, plat or section, township, range)

Section 24, Township 25 North, Range 4 East, W.M.

Additional legal is on page 28 of document.

Assessor's Property Tax Parcel/Account Number
assigned

Assessor Tax # not yet

The Auditor/Recorder will rely on the information provided on this form. The staff will not read the document to verify the accuracy or completeness of the indexing information provided herein.

"I am signing below and paying an additional \$50 recording fee (as provided in RCW 36.18.010 and referred to as an emergency nonstandard document), because this document does not meet margin and formatting requirements. Furthermore, I hereby understand that the recording process may cover up or otherwise obscure some part of the text of the original document as a result of this request."

Signature of Requesting Party

Note to submitter: Do not sign above nor pay additional \$50 fee if the document meets margin/formatting requirements

Please Record and Return to:
INDEPENDENT TOWERS HOLDINGS, LLC

THE RIGHT CONNECTIONS

11 Herbert Drive
Latham, NY 12110

**LEASE AGREEMENT
BETWEEN THE CITY OF MEDINA
AND INDEPENDENT TOWERS HOLDINGS CORPORATION**

THIS LEASE AGREEMENT (the “Lease”), made on the Effective Date by and between the **City of Medina**, a municipal corporation operating under the laws of the state of Washington as a “code city” (hereinafter called the “City”), and **Independent Towers Holdings, LLC**, (hereinafter called “Independent Towers” or “Lessee”), collectively the “Parties.”

WITNESSETH:

WHEREAS Independent Towers desires to construct, install, operate, maintain, repair, remove, or replace on a portion of the property managed, maintained, and controlled by the City, a Structure, and Base Station and related Facilities described in Exhibit C;

WHEREAS the purpose of the Structure, Base Station and related Facilities is to, among other things, provide a suitable Structure for the collocation of wireless communication antennas and related facilities to provide personal wireless communications services; and

WHEREAS the City and the Independent Towers desire to enter into a lease agreement setting forth the terms and conditions under which the Structure, Base Station and related Facilities may be constructed, installed, operated, maintained, repaired, removed, or replaced on the property owned by the City.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the City and the Independent Towers hereby agree as follows:

ARTICLE 1. DEFINITIONS:

For purposes of this Lease and the Exhibits attached hereto, the following terms, phrases, words and their derivations shall have the meanings given herein or in the Consent to Sublease (Exhibit “D”) when capitalized. Words not defined herein shall have the meaning given pursuant to such federal statutes, rules, or regulations that apply to and regulate the services provided by Independent Towers. Words not defined herein, or in such federal statutes, rules, or regulations that apply to and regulate the services provided by Independent Towers, shall be given their common and ordinary meaning.

- “Affiliate” means another person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or common control with Independent Towers, or an Independent Towers principal partners, shareholders, or owners of some other ownership interest.

- “Antenna” means any exterior apparatus, structure, or device designed to collect or radiate

electromagnetic waves, including but not limited to: telephonic, radio or television communications. Types of antenna elements include, but are not limited to: omnidirectional (whip) antennas, sectorized (panel) antennas, multi- or single-bay (FM and TV), yagi, or parabolic (dish).

- "Attached Antenna" means an antenna or antenna array, including RF-to-lightwave converter equipment, that is secured to an existing building, structure (not including an antenna support structure), utility pole, cross country electrical distribution Towers, with or without any accompanying new pole or device which attaches it to the building or structure, together with feed lines, and base station, which may be located either on the roof, inside or outside of the building or structure.
- "Antenna array" means a single or group of antenna elements and associated mounting hardware, feed lines, or other appurtenances which share a common attachment device such as a mounting frame or mounting support structure for the sole purpose of transmitting or receiving electromagnetic waves.
- "Base station" means the Lessee's, and its Subtenant's, specific electronic equipment used to transmit and receive radio signals located within and including cabinets, shelters, pedestals or other similar enclosures generally used to contain electronic equipment for said purpose and generally as located in Exhibit "B" (Site Plan) and as described in Exhibit "C".
- "Collocation" means installing and operating equipment for wireless carriers, service providers, and/or radio common carrier licensees on the Structure using different and separate Antenna, Feed lines and radio frequency generating equipment.
- "Effective Date" means the earlier of: (i) 210 days from the date of acceptance as evidenced by the date set forth upon the "Acceptance of Agreement" below; or (ii) the date the City notifies Independent Towers that the construction permits are ready for issuance for the improvements identified in Exhibits B and C. A one-time extension of 120 days may be added by the City to the 210 days provided Independent Towers requests the extension in writing prior to the expiration of the 210 days and pays a fee to the City of \$2,500.00.
- "Emergency" shall mean and refer to a sudden, generally unexpected occurrence, condition or set of circumstances that (a) significantly disrupts or interrupts the operation of the Facilities and Independent Towers's ability to continue to provide services if immediate action is not taken, or (b) presents an imminent threat of harm to persons or property if immediate action is not taken.
- "Environmental Law" means any federal, state or local statute, regulation, code, rule, ordinance, order, judgment, decree, injunction or common law pertaining in any way to

the protection of human health or the environment, including without limitation, the Resource Conservation and Recovery Act, the Comprehensive Environmental Response, Compensation and Liability Act, the Toxic Substances Control Act, and any similar or comparable state or local law.

- **“Facilities”** means the Base Station, Feed Lines, and any and all other equipment, attachments, devices, cables, wiring, conduit, panels, cabinets, or property of any kind constructed, installed, located, or placed on or within the Structure and Premise (defined below) by or on behalf of Independent Towers, its Subtenants.
- **“Feed Lines”** are cables used as the interconnecting media between the transmission/receiving base station and the antenna located in the public right-of-way.
- **“Gross Rental Revenues”** shall mean any and all revenue due and owing to Lessee under the terms and conditions of a Sublease.
- **“Hazardous Substance”** means any hazardous, toxic, radioactive or infectious substance, material or waste as defined, listed or regulated under any Environmental Law, and any element, compound, mixture, solution, particle, or substance, which presents danger or potential danger for damage or injury to health, welfare, or to the environment, including, but not limited to: those substances which are inherently or potentially radioactive, explosive, ignitable, corrosive, reactive, carcinogenic, or toxic; those substances which have been recognized as dangerous or potentially dangerous to health, welfare, or to the environment by any federal, municipal, state, City, or other governmental or quasi-governmental authority, and/or any department or agency thereof; those substances which use, or have as a component thereof or therein, asbestos or lead based paint; and petroleum oil and any of its fractions.
- **“Premises”** means the area as depicted on the site plan set forth in Exhibit B.
- **“Person”** means and includes any individual, corporation, partnership, association, joint-stock-company, Limited Liability Company, political subdivision, public corporation, taxing districts, trust, or any other legal entity, but not Independent Towers or its officials (elected or appointed), officers, employees, agents or contractors.
- **“Property”** means the real property at 2994 Evergreen Point Road, Medina, Washington and legally described in attached Exhibit A, together with all appurtenance and improvements located in, on, under or over the Property.
- **“Radio frequency emissions”** or **“RFE”** means any electromagnetic radiation or other communications signal emitted from an antenna or antenna-related equipment on the ground, antenna support structure, building, or other vertical projection.

- “Remedy”, “Remediate” and “Remedial Action” mean and refer to those terms as they are defined under the Model Toxics Control Act (Chapter 70.105D RCW) and its implementing regulations at Chapter 173-340 WAC.
- “Structure” shall mean and refer to that certain wireless communication support structure located on the Property and commonly referred to as the “wireless communication support structure” to be installed, owned and operated by Lessee.

ARTICLE 2. LEASE, LICENSE, PROPERTY.

a. Lease and License. City agrees to lease to Independent Towers and Independent Towers agrees to lease from the City the area on the Property depicted in Exhibit B (hereafter the “Premises”) for use by the Independent Towers for construction, installation, maintenance, repair, and operation of the Structure, a Base Station and related Facilities and for the collocation of antennas and related Facilities of personal wireless services operators to include temporary and permanent Facilities. Together with such lease, the City grants to the Independent Towers and the Independent Towers accepts from the City, the non-exclusive right of Independent Towers to connect the Base Station to utility service, including sources of electric and telephone facilities, all upon the terms and conditions set forth herein and in accordance with the approved Design Documents as shown on Exhibit C.

b. Acceptance. Independent Towers does hereby accept such Lease and license from the City, and the right to use the Premises (collectively referred to as the “Premises”) as approved by the City, as shown in Exhibit B and in accordance with the terms and conditions of this Lease. Independent Towers shall, on or before the Effective Date, provide to the City proof of its compliance with the insurance and financial guarantee requirements of Articles 17 (Insurance) and 18 (Performance and Payment Bond) of this Lease.

c. Design Review/Approval; Construction/Installation. In the event that on the Effective Date of this Lease the Structure and Facilities are not already constructed or installed upon the Premises, Independent Towers shall submit its design documents to the City for review and approval. Approval of the design documents shall be a condition precedent to commencement of any Independent Towers’s work upon the Premises or Property. City approvals and inspections as provided herein, are not intended for the purpose of regulating the services provided by Independent Towers or its subtenants, and are for the sole purpose of and are limited to protecting the City’s rights as the owner and/or manager of the Property so as to ensure that the Facilities do not cause damage to or harm the Property, do not interfere with the City’s use of or activities in and upon the Property, and are compatible with the Property and surrounding property. City shall not unreasonably condition, delay or withhold its approval. Additional requirements applicable to installation, construction, maintenance, and repair are found at Article 11 of this Lease.

d. Inspection. The City shall have the right to inspect the Structure and Facilities during construction and installation and at reasonable times thereafter to the extent reasonably

necessary to ensure compliance with this Lease. Entry by the City upon the Premises after completion of construction or installation shall require a minimum of 48 hours notice in advance to Independent Towers and Independent Towers shall have the right, but not the obligation to accompany the City during the City's inspection.

e. Approvals. Independent Towers's obligations hereunder are expressly conditioned upon Independent Towers's ability to obtain, maintain, renew and reinstate all of the certificates, permits, licenses, zoning, variances and other approvals which may be required from any federal, state or local authority to construct, operate, maintain, modify, repair and/or replace its Structure and Facilities. The City shall reasonably cooperate with Independent Towers, at no expense to the City, in Independent Towers's attempt to obtain approvals. Nothing in this Agreement shall impose a duty upon the City to approve any permits, licenses, zoning variances or other approvals not consistent with Article 3.

f. Increase in Antennas/Collocation. Independent Towers shall be entitled to Collocate Antennas, provided Independent Towers complies with the requirements of section 9.b (Subletting) of this Lease and performs an analysis of the structure to ensure it is able to support the increase in equipment. Such analysis shall be at Independent Towers' or the subtenant's cost and expense and must be performed by a licensed engineer in the State of Washington. Additional antennas shall comply with the City's regulations including the requirement to obtain a special use permit, unless the antenna has been previously approved under a special use permit for the Facility. Independent Towers shall also ensure that any additional Antennas or their frequencies will not interfere with existing Antennas.

g. Lighting. Independent Towers and the City agree that proposed lighting set forth in Exhibit "C" is inadequate to illuminate the surrounding park Property. As additional consideration for the grant of this lease, Independent Towers agrees to fund up to \$15,000 of the costs to the City to plan, design and install a lighting system within the park Property. In furtherance of this obligation, Independent Towers shall deposit \$15,000 with the City on or before the 30th day following the Effective Date of this Lease. The City may expend and encumber these funds only for the above described purposes. Any funds remaining on deposit with the City three (3) years after the date of deposit, and not otherwise encumbered for the purposes described herein, shall be remitted to Independent Towers. Upon request, the City shall, within thirty (30) days thereafter, provide Independent Towers with a detailed accounting of the expenditure of the funds on deposit.

ARTICLE 3. PURPOSE; COMPLIANCE WITH LAW; RULES AND REGULATIONS.

a. Purpose. Independent Towers and its Subtenants shall use the Premises for the installation, operation, maintenance, modification, repair, replacement and/or disconnection of the Structure and Facilities consistent with Exhibits B and C. Independent Towers shall not use the Premises for any other purpose without prior written consent from the City. The City will

not unreasonably withhold its consent for any use that is consistent with the use of the Premises as authorized herein and complies with the terms of this Lease.

b. Use Non-Exclusive. This use of the Premises shall be non-exclusive, and the City specifically reserves the right to make additions, deletions, or modifications to the Property; provided that, the use of the Premises shall be exclusive to Independent Towers and its Subtenants, and the City shall not allow any additions, deletions, uses or modifications to the Premises that would interfere with use of the Premises or exercise of the license rights by Independent Towers, and its Subtenants.

c. Compliance. Independent Towers shall fully and promptly comply, at the Independent Towers's sole cost and expense, with all lawful statutes, ordinances, rules, regulations, and governmental or quasi-governmental orders now or hereafter in effect and pertaining to the Property and/or the use or occupancy thereof by the Independent Towers and/or its assigns, subcontractors, invitees, officers, agents, or employees.

c. Use and Occupancy Rules. Independent Towers shall comply with all use and occupancy rules and regulations of the City as now or hereafter amended or established.

d. Utility Improvements. Independent Towers shall have the right to install, maintain and repair utilities at Independent Towers's expense and to improve the present utilities on the Property, if any. Installation of emergency power generators must be approved in advance, in writing, by the City and shall not interfere with the use of the Property. Independent Towers shall be responsible for obtaining permission for connection and access to any utilities. The cost of electric energy consumed and any other utilities shall be at the Independent Towers's sole cost and expense.

e. Access to Property. As partial consideration for this Lease, City grants permission to Independent Towers to enter into and upon the Property for the purpose of ingress and egress to and from the Premises to construct, install, maintain, repair, replace, remove, and operate all or part of its Structure and Facilities. Except in the event of an Emergency, such access shall be limited to the business hours of the Property (if applicable); provided, Independent Towers shall not use the Property and Premises in any way that interferes with the use of the Property by City, its agents, employees, contractors, invitees, or licensees. City acknowledges that use of the Premises as contemplated by this Lease shall not interfere with use of the Property by City. Further, City shall be required to comply with the rules and regulations of the City that have been implemented to maintain secure access to the Property and/or Structure or that otherwise are necessary to protect the public, health, safety and welfare.

f. Interference with Use. Independent Towers agrees that its activities on the Property and its Structure and Facilities shall not interfere with or impair the use of the Property by the City, its employees, agents, contractors or subcontractors and shall not cause interference with any public safety communication system existing now or to be constructed and operating

within the City. In the event that such impairment or interference occurs, Independent Towers shall immediately cure the impairment or interference upon verbal or other actual notice by City and shall otherwise cease using the Facilities or cease other actions creating the impairment or interference until the impairment or interference is eliminated or reduced to a standard acceptable to the City. Interference with the City use of the Property shall be considered a material breach of this Lease. Similarly, City shall not knowingly permit uses of the Property by parties without rights prior in time to Independent Towers that cause interference with Independent Towers Facilities and use of the Premises. In the event any such interference does not cease promptly, the Parties acknowledge that continuing interference may cause irreparable injury and, therefore, each Party shall have the right, in addition to any other rights it may have at law or equity or pursuant to this Lease, to bring a court action to enjoin such interference or to terminate this Lease immediately upon written notice.

g. RFE Interference Studies. Upon installation of Independent Towers's Structure and Facilities, or the antenna of a Subtenant, or anytime thereafter, the City may conduct, at Independent Towers's expense, an interference study indicating whether Independent Towers's or its Subtenant's use of the Premises does or will interfere with City's use or proposed use of its Property. If the study finds that there is a potential for interference that cannot be reasonably remedied, City may terminate this Lease immediately and refund the initial rental to Independent Towers or may require Independent Towers, at Independent Towers's expense, to relocate its Facilities so as to minimize or eliminate the interference to the extent the City deems necessary.

h. Interference - New Occupants. Independent Towers agrees that it will not grant a future use on any portion of the Premises to any Subtenant, if such Subtenant's use is reasonably anticipated to interfere with the City's use of the Property. Independent Towers shall immediately cure the impairment or interference upon verbal or other actual notice by the City and shall otherwise cease using the Facilities or cease other actions creating the impairment or interference until the impairment or interference is eliminated or reduced to a standard acceptable to the City. Independent Towers agrees that it will require any subsequent occupants of the Premises to provide these same assurances against interference. Independent Towers shall have the obligation to eliminate any interference with the operations caused by such subsequent occupants. Similarly, the City shall not knowingly permit uses of the Property by parties without rights prior in time to Independent Towers that cause interference with Independent Towers's Facilities and use of the Premises. In the event any such interference does not cease promptly, the Parties acknowledge that continuing interference may cause irreparable injury and, therefore, each Party shall have the right, in addition to any other rights it may have at law or equity or pursuant to this Lease, to bring a court action to enjoin such interference or to terminate this Lease immediately upon written notice.

ARTICLE 4. TERM/RENEWAL.

a. Initial Term. This Lease shall be for an initial term of ten (10) years, commencing as of 12:01 a.m. on the Effective Date.

b. Renewal. The Lease shall automatically renew upon the same terms and conditions for two additional five year renewal terms; provided that, Independent Towers is not in default at the time of renewal, and neither Party has given notice of non-renewal. Notice of non-renewal must be given in writing and given no more than 180 days and no less than 90 days prior to the end of the initial or renewal term. Each renewal term shall commence, absent proper notice given of non-renewal, at midnight on the day following expiration of the term.

ARTICLE 5. FEES.

a. Lease Fee. Beginning upon the Effective Date, Independent Towers covenants and agrees to pay the City, as consideration for its use of the Premises, an annual based rental of \$30,000.00 subject to adjustments as provided in Article 6 section b of this Lease, ("Lease Fee"), plus the lease fee for Subtenants any and all applicable state and local taxes, including, but not limited to, a leasehold excise tax for which there is no applicable exemption, payable in advance on or before the 30th day following the Effective Date. Payment shall be made payable to "City Treasurer." No offset, reduction or credit toward the Lease Fee shall be allowed unless mutually agreed upon by the Parties. Thereafter, the adjusted Lease Fee, plus any and all applicable state and local taxes, shall be paid in advance no later than the 30th day following each annual anniversary date of the Effective Date of this Lease.

b. Lease Fee for Subtenants. Pursuant to Article 9 Section b of this Lease, Independent Towers may sublease the use of the Premises to a Subtenant. Gross Rental Revenues derived by Independent Towers from Subtenants shall be subject to a Subtenant Lease Fee as described herein; provided that, Gross Rental Revenues derived from the initial Subtenant shall not be subject to the Subtenant Lease Fee.

Commencing upon execution of the Consent to Sublease for the second Sublease entered into by and between Independent Towers and Subtenant, and for each subsequent Sublease thereafter, the base Lease Fee in this Section 5(a) shall be increased by an amount equal to the greater amount of an annual rental of \$3,600.00 or fifteen (15) percent of the sum of the number of antennas (including, but not limited to panel, dish, whip, yaggi or GPS) plus the number of coaxial cables together multiplied by \$960.00 for each Sublease (the "Subtenant Lease Fee"). The Subtenant Lease Fee shall be due and payable within the later of thirty (30) days following issuance of final permits to Subtenant necessary for installation of Subtenant related Facilities on the Premises, and shall be pro-rated based upon the number of days remaining in the term in which the Subtenant Lease Fee becomes due and payable to the City. Thereafter, the Subtenant Lease Fee shall be due and payable in advance in the same manner as the Base Lease Fee utilizing the execution of Consent as the anniversary date when payment is due for that Sublease.

The Subtenant Lease Fee shall be adjusted on an annual basis by the greater of the percentage of the annual adjustment set forth in Section 6(b) of this Lease or the percentage of

the inflationary or equivalent adjustment set forth in the Sublease.

c. Overdue Payments. Any Lease Fee, additional charges, additional consideration, or any other sums payable by Independent Towers to the City under this Agreement which shall not be paid within ten (10) days of the due date thereof, shall bear interest at a rate equal to twelve percent (12%) per annum, but not in excess of the highest lawful rate permitted under applicable laws, calculated from the original due date thereof to the date of payment. Further, any Lease Fee which shall not be paid within ten (10) days of the due date thereof shall be additionally subject to a late payment penalty equal to three percent (3%) of the amount, not including interest.

6. FEES/INSURANCE ADJUSTMENTS.

a. Insurance. The City may review and amend this Lease not more often than once every five years as it deems reasonably necessary for the purpose of imposing reasonable increases in the liability insurance coverage amounts in order to be consistent with coverage for other comparable properties and considering the City's loss exposure and inflation. Prior to imposing such additional coverage or adjusting existing required coverage or limits, the City shall provide reasonable notice, no less than ninety (90) days, to the Independent Towers and an opportunity to provide comments, and the City shall review and consider such comments that are timely made, prior to imposition of any increase.

b. Annual Adjustments. The Lease Fee amount specified in Section 5(a) shall be subject to automatic annual adjustments as follows: beginning the second year of the initial term, and each year thereafter during this initial term and any subsequent renewal term, the annual Lease Fee shall be increased by three percent over the annual Lease Fee for the prior year.

ARTICLE 7. TAXES.

The Lease Fee set forth in this Lease is exclusive of any sales, business, occupation, applicable leasehold excise, or other taxes based on fees, and should any such taxes apply, or be enacted during the life of this Lease, the Lease Fee shall be increased by such amount. Independent Towers shall be responsible for the payment of such taxes and taxes shall be paid in the same manner and for the same period of time as the fees being paid to the City. Independent Towers understands that the tax is specified by state and local governments and may be subject to change.

ARTICLE 8. OWNERSHIP.

a. Use is Subordinate. The permission granted herein is subordinate and subject to any restrictive uses, covenants, easements, or other property rights existing in the Property at the time of execution of the Lease. The City does not warrant that the restrictive uses of the Property authorize or allow City to Lease the property for the uses described herein, and

Independent Towers understands and accepts such risk, and holds the City harmless from and against any damage, loss, expenses, or liability resulting from a failure of City's authority to authorize the uses as provided herein. Independent Towers shall be entitled to terminate this Lease immediately if Independent Towers discovers any restrictive covenants, easements, or other interests prevent the use of the Premises by Independent Towers for the purposes intended by this Lease.

b. Personal Property. The Facilities shall not become fixtures and shall remain the personal property of the owner and shall not be or become the property of the City.

ARTICLE 9. ASSIGNMENT.

a. Assignment. Independent Towers shall not assign this Lease without the prior written approval of the City, which approval may not be unreasonably withheld, conditioned or delayed. Provided that, Independent Towers may assign this Lease to any Affiliate upon 30 days prior written notice and unconditional acceptance in writing by the Affiliate of all terms and conditions of this Lease together with its address for purposes of notice pursuant to Article 26 herein.

b. Subletting. Independent Towers may, at its option, sublet, license, sublicense, sublease, or otherwise consent to or authorize (hereinafter collectively referred to as "sublet") use or occupancy of the Structure, Premises or Facilities to those licensees, sublicensees and/or subtenants for the collocation, maintenance and operation of Antenna and related equipment by Person's providing personal wireless communication services. No other Subletting is authorized. Independent Towers may not Sublet any portion of the Structure, Premises or Facilities unless and until a fully executed and binding Consent to Sublease Agreement, in the form of Exhibit "D" attached hereto, has been delivered to the City. No rights granted by Independent Towers to a Subtenant shall be any greater than the rights granted to Independent Towers pursuant to the terms and conditions of this Agreement.

c. Request in Writing. Each request for approval of an assignment must be in writing and the Parties, including the assignee, must enter into an agreement acceptable to the City, wherein the assignee will assume all rights, duties, and obligations that City has under the Lease, will guarantee and be responsible for full compliance with the Lease, will meet or exceed all applicable and lawful federal, state, and local requirements. The City may deny approval of an assignment if Independent Towers is in default under the lease. Further, as a condition of assignment, the assignee shall comply with the insurance and other financial requirements under this lease as set forth at Articles 17 and 18 herein.

d. Consent to Assignment. The City hereby consents to the assignment by Independent Towers of its rights under this Agreement as collateral to any Person providing financing for the purchase of the Structure and Facilities to be installed at the Premises.

ARTICLE 10. ACCESS BY CITY/ENCLOSURE.

The City shall be entitled to enter upon the Premises, upon reasonable notice as set forth in Article 2, paragraph d, to inspect the Structure and Facilities for compliance with this lease. Independent Towers may enclose the Premises with fencing or other screening to protect and screen its facilities from view; provided such fencing or screening must be approved in advance by the City. Installation of fencing or screening shall not operate to expand or alter the Premises.

ARTICLE 11. CONSTRUCTION, INSTALLATION AND OPERATION OF FACILITIES.

a. Notice. As required by any City permits, prior to commencing the construction of the Structure and initial installation of the Structure and Facilities, Independent Towers shall give a minimum of 72 hours notice to the City of its intent to commence such construction and installation.

b. Compliance; No Interference. Independent Towers shall construct, install, operate, repair, replace, remove, and maintain the Structure and Facilities lien free and in accordance with the approved design documents and all lawful and applicable laws, use and occupancy rules and regulations, other regulations, and building, construction, and other codes and so as not to cause interference with any other radio, computer, telephone, or telephone transmitting or receiving equipment, or other transmitting or receiving equipment regardless of whether such are located on the Property or elsewhere. Any damage done to the Premises or Property including the Structure during construction or installation or during operations shall be repaired at Independent Towers's expense within 30 days after notification of damage.

c. Record Drawings. Upon completion of construction and installation by Independent Towers or its subcontractor, Independent Towers shall provide record drawings of the Facilities and the site plan and a description of all Facilities installed that shows the actual location of all Facilities consistent with the plans approved by City. Such record drawings shall be accompanied by a complete and detailed inventory of all equipment, personal property, and Facilities. The record drawings and equipment description shall be incorporated herein as though fully set forth as addendum 1 to Exhibit C.

d. Compliance with Laws/Regulations. All of the work (the "**Independent Towers's Work**") undertaken by the Independent Towers, its agents, employees, contractors, and subcontractor's as authorized herein (whether such Independent Towers's Work is the initial construction or installation of Facilities, or alterations, improvements or updates to Facilities) shall be undertaken and completed at the Independent Towers's sole cost and expense, in a good and workmanlike manner in accordance with good engineering practices and without liens and fully in conformance with all lawful applicable statutes, laws, ordinances, rules, and regulations, pursuant to valid governmental permits and authorizations

with respect thereto, and pursuant to plans and specifications which have been reviewed and approved by the City. Notwithstanding anything herein to the contrary, any cabling installed shall meet the minimum requirements of all applicable codes, statutes, and/or ordinances.

e. No Liability to City. Except as may be otherwise provided herein, the City shall not be liable to the Independent Towers, its agents, employees, contractors, invitees, and/or subcontractors for any injury, damage, or otherwise which may arise or occur should the operation of the Facilities be interrupted or prevented by fire, accident, strike, riot, act of God, or the making of necessary repairs or improvements to the Structure and Property, by the City, its employees, agents, or contractors.

f. Equipment. No equipment other than that which is consistent with the purpose of this Agreement shall be installed by Independent Towers, or its agents, employees, contractors, licensees, sublicensees, subtenants, invitees, and/or subcontractors without the City's consent. Upon request from the City, Independent Towers will provide detailed information to the City regarding the Facilities to the extent such information is required by emergency responders to plan for or respond to an Emergency at the Premises.

g. City Not Responsible. The City is not responsible for the care, maintenance, or security of the Premises, Structure or Facilities.

ARTICLE 12. PERMITS.

Independent Towers shall obtain and pay all costs of building, electrical, or other construction or land use permitting as required by any governmental authorities having jurisdiction over the Work. Independent Towers shall provide any drawings or documentation required by such governmental authorities for review of permit applications and related inspections.

ARTICLE 13. OPERATION, MAINTENANCE, ALTERATIONS OR IMPROVEMENTS.

a. Operation. Independent Towers shall have the right, at its sole cost and expense, to operate and maintain the Structure and Facilities on the Premises in accordance with good engineering practices, with all applicable FCC rules and regulations.

b. Maintenance. Independent Towers, through its employees and contractors, shall be solely responsible for the maintenance and care of the Structure and Facilities and shall maintain the Facilities and the Premises in a clean, sanitary, and safe condition, in good repair, at least equal to the standard of maintenance of the City's facilities on or adjacent to the Structure, and free of any defects and in accordance with accepted industry standards of technology and equipment at all times during the term of this Lease. Independent Towers shall keep the Premises free of graffiti, debris, and anything of a dangerous or toxic nature or which would create an unsafe or unsanitary condition or undue vibration, heat, noise, or interference.

c. Replacements. Before Independent Towers may update or replace the Structure or Facilities, Independent Towers must notify and provide a detailed proposal to City. Independent Towers shall submit to City a detailed proposal for any such replacement facilities and any other information reasonably requested by City of such requested update or replacement, including but not limited to a technical study, carried out at Independent Towers's expense. City may not unreasonably withhold approval. Independent Towers shall, upon completion of alterations, improvements, or replacement of Facilities, provide an updated record drawing in the manner provided in Section 11(b) herein.

d. Independent Towers's Expense. All construction, installation, alterations, additions, and improvements shall be at the sole cost and expense of the Independent Towers, and the Independent Towers agrees that the City shall not be liable for any damage, loss, or injury arising from any such alterations, additions, or improvements, except to the extent that any damage, loss, or injury is due to the negligent or intentional acts or omissions of City, its employees, agents, or contractors.

e. Emergency Facilities. In the event of a natural or man-made disaster or a civil disturbance, in order to protect the health, welfare, and safety of the community, Subtenants may utilize mobile wireless communications facilities on a temporary basis on the Premises to assure continuation of service. Such temporary operation shall not exceed 90 days unless Independent Towers obtains written approval from the City and shall not impair, damage, or interfere with the use of the Property and Structure by the City. Written approval may include a temporary use permit or other form of written approval as deemed necessary by the City to ensure operations may continue during the emergency.

ARTICLE 14. DAMAGE OR DESTRUCTION.

In the event the Structure is destroyed or damaged by earthquake, or other casualty, to such an extent as to render the same unsuitable for the intended use in whole or in substantial part thereof, it shall be an option of Independent Towers to repair or rebuild the same. This Lease shall terminate effective as of the date of such damage or casualty unless the Independent Towers, within 90 days after the happening of any such damage or casualty, shall give the City written notice of its election to restore said Premises.

ARTICLE 15. TERMINATION/REMOVAL OF FACILITIES.

a. Termination Without Cause by Independent Towers. Subject to the early cancellation fee, Independent Towers shall have the right, at its sole cost and expense and without liens, and upon not less than 30 days' prior written notice to the City, which written notice shall be accompanied by the "early cancellation fee" described below, to terminate this lease without cause and remove the Facilities, in whole, and restore the Property.

b. Early Cancellation Fee. If Independent Towers terminates this Lease pursuant to Article 15(a) above, Independent Towers shall pay to the City, as liquidated damages for

early termination, an early cancellation fee that is the equivalent of 50 percent of the annual rent for the year in which Independent Towers terminates this lease. Independent Towers's early termination of this Lease shall not relieve Independent Towers of any liability or obligation arising or pertaining to a period prior to the termination date.

c. Independent Towers Default. Except as may be otherwise provided, Independent Towers shall be in default in the performance of any material obligation required to be performed by Independent Towers under the Lease, if Independent Towers has failed to perform such obligation (including, but not limited to, the payment of the Lease Fee) within fifteen (15) days after the receipt of notice from the City specifying in reasonable detail, Independent Towers's failure to perform; provided, however, if the nature of Independent Towers's obligation (other than the payment of any monetary sum) is such that more than fifteen (15) calendar days are required for its performance, then Independent Towers shall not be deemed in default if Independent Towers commences such performance within fifteen (15) days of receipt of such notice, and, thereafter, in good faith diligently pursues the same to completion. Upon any such default by Independent Towers, the City may exercise any of its rights, provided in contract, law or at equity.

d. City Default. The City shall be in default in the performance of any material obligation required to be performed by the City under the Lease if the City has failed to perform such obligation within thirty (30) days after the receipt of notice from the Independent Towers specifying in reasonable detail the City's obligation to perform; provided, however, if the nature of the City's obligation is such that more than thirty (30) calendar days are required for its performance, then the City shall not be deemed in default if it shall commence such performance within 30 days and, thereafter, in good faith diligently pursues the same to completion. Upon any such default by the City, Independent Towers may exercise any of its rights provided in contract, law or at equity, and shall have the right, but not the obligation, to cure any such event of default and to deduct the reasonable and actual costs incurred by Independent Towers to cure such default, including reasonable legal fees and expenses, from the amounts next due and owing under the Lease.

e. Events of Termination. Except as otherwise provided herein, this Lease may be terminated upon sixty (60) days written notice to the other party as follows:

i. by either party upon a default of any covenant or term hereof by the other party, which default is not cured within sixty (60) days of receipt of written notice of default to the other party (without, however, limiting any other rights of the parties pursuant to any other provisions hereof);

ii. by Independent Towers for cause if it is unable to obtain or maintain any license, permit or other governmental approval necessary for the construction and/or operation of the Facilities or Independent Towers's business

iii. by Independent Towers for cause if the leased Premises is or becomes unacceptable for technological reasons including without limitation shadowing or interference under Independent Towers's Antenna Facilities, design or engineering specifications or the communications systems to which the Antenna Facilities belong;

iv. by the City, upon a one year prior written notice to Independent Towers if the City Council decides, for any reason, to redevelop the Premises in a manner inconsistent with continued use of the Premises by Independent Towers

v. by the City, if it determines that Independent Towers has failed to comply with applicable ordinances, or state or federal law, or any conditions attached to government approvals granted there under, after a public hearing before the City's Council and an opportunity to cure consistent with this Article;

vi. by the City if the Independent Towers becomes either insolvent or files a proceeding in bankruptcy, or if a receiver is appointed; or

vii. by the City, in the event of an assignment of the Lease in violation of Article 9. The requirements of Article 9 are deemed to be material conditions of this Lease and no opportunity to cure is required as a pre-condition to termination by City.

f. Removal of Facilities. Upon termination or expiration of this Lease, Independent Towers shall have no more than ninety (90) days thereafter to remove its Facilities and repair, at its sole cost and expense, any damage caused to the Property and Structure by removal of all or any of the Facilities, and further, upon removal, shall restore the Property and any area damaged by its installation or removal to its original or better condition, normal wear and tear excepted, or as may be otherwise approved by the City.

g. Failure to Remove. If Independent Towers shall fail to remove any Facilities of any nature whatsoever from the Property within ninety (90) days following termination or expiration of this Lease, or when sooner required under this Lease Agreement, the City may remove and store said Facilities without liability for loss thereof or damage thereto, such storage to be for the account and at the expense of Independent Towers. If Independent Towers has not retrieved the property and paid the cost of storing any such property after it has been stored for a period of thirty (30) days or more, the City may, at its option, sell or permit to be sold, any or all such property at public or private sale, in such manner and at such times and places as the City in its sole discretion may deem proper, without notice to Independent Towers, unless notice is required under applicable statutes, and shall apply the proceeds of such sale: first, to the cost and expense of such sale, including reasonable attorneys' fees actually incurred; second, to the payment of the costs or charges for storing any such property; third, to the payment of any other sums of money which may then be or thereafter become due the City from Independent Towers under any of the terms hereof; and fourth, the balance, if any, to Independent Towers. Independent Towers shall, upon demand in writing by the City, provide a performance and payment bond to the City within thirty (30)

days of receipt of such demand, for the purpose of securing Independent Towers's obligations pursuant to this Section 15(g). Such performance and payment bond shall conform to the requirements of Exhibit E.

h. Abandonment. Notwithstanding Article 15(f) of this Lease, if Independent Towers or its successors in interest provide the City with notice of intent to abandon the Facilities, all such Facilities may remain on the Property if the City elects, in its sole discretion, for the Facilities to remain on the Property after the termination or expiration Date. In the event the City elects, in writing, for the Facilities to remain on the Property, such Facilities shall become the property of City without payment by the City, and Independent Towers shall provide whatever documents or authorization is necessary to transfer title. To the extent that Facilities include items of personal property that may be removed from the Property without harming the Property, or diminishing the value of the Property or the Facilities, the City asserts no ownership interest in these Facilities unless the parties agree otherwise in writing upon termination of this Lease. Independent Towers shall notify the City at least 180 days before the termination or expiration date if it intends to leave the Facilities on the Property. The City shall then have ninety (90) days in which to notify Independent Towers that it wishes to have the Facilities removed or elects to have them remain. Failure to notify Independent Towers shall be deemed an election by the City that the Facilities shall be removed from the Property. If the Facilities remain on the Property after the termination or expiration date without City's written consent, they still will become the property of the City, if it chooses to own them, but the City may remove them and Independent Towers shall pay the costs of removal and disposal upon the City's demand.

ARTICLE 16. INDEMNIFICATION.

Except for any injury to persons or damage to property that is caused by or results from the gross negligence or intentional act of the City, its employees, contractors, licensees, invitees or its agents, and subject to the other provisions of this Agreement, Independent Towers shall indemnify, defend, and hold the City and the City's employees and agents harmless from and against any and all demands, causes of action, fines, penalties, damages, liabilities, judgments, and expenses (including, without limitation, reasonable attorneys' fees) incurred in connection with or arising from:

a. The use or occupancy of the Property by Independent Towers, its agents, employees, contractors, subcontractors, subtenants, invitees, licensees, or sublicensees or any person legally claiming a right under Independent Towers.

b. Any activity, work, or thing done or permitted by Independent Towers, its agents, employees, contractors, subcontractors, subtenants, invitees, licensees, or sublicensees, or any person legally claiming under Independent Towers arising under the Agreement in or about the Property.

c. Any breach by Independent Towers or its employees, agents, contractors, subcontractors, licensees, or invitees of any provision or term of this Agreement.

d. Any injury or damage to the person, property, or business of Independent Towers, its employees, agents, contractors, subcontractors, subtenants, licensees, sub-licensees or invitees entering upon the Property under the express invitation of Independent Towers.

e. Any violation by Independent Towers, its agents, employees, contractors, subcontractors, invitees, or licensees, or any person claiming under Independent Towers of the Americans With Disabilities Act and/or any other law, rule, code, or regulation.

If any action or proceeding is brought against an Indemnified Party by reason of the foregoing, Independent Towers, upon the written notice from such Indemnified Party, shall defend the same at Independent Towers's expense with counsel reasonably satisfactory to the City. In addition to the foregoing, Independent Towers, as a material part or the consideration to the City for this Agreement, hereby waives and releases all claims against the City and the City's employees and agents with respect to all matters for which the City has disclaimed liability pursuant to Article 10(e) and Article 19(c) and 19(e) of this Agreement.

In indemnifying and holding City harmless as to Independent Towers's employees, Independent Towers waives immunity under industrial insurance law, Title 51 RCW. Independent Towers specifically assumes potential liability for actions brought by Independent Towers's own employees against the City and, solely for the purpose of this indemnification and defense, Independent Towers specifically waives any immunity under the state industrial insurance law, Title 51 RCW. INDEPENDENT TOWERS RECOGNIZES THAT THIS WAIVER WAS SPECIFICALLY ENTERED INTO PURSUANT TO THE PROVISIONS OF RCW 4.24.115 AND WAS THE SUBJECT OF MUTUAL NEGOTIATION.

The terms and conditions of this Article 15, and any other indemnities or releases provided in this Agreement, shall be applicable during the term of the Agreement and shall survive termination of this Agreement with respect to acts or events occurring prior thereto.

ARTICLE 17. INSURANCE.

a. Independent Towers shall at all times that Independent Towers's Facilities are located on the Property, at its sole cost and expense, keep in full force the following insurance:

(i) Commercial General Liability insurance insuring Independent Towers against any liability arising by reason of this Lease and/or arising out of the use or occupancy of the Property and all areas appurtenant thereto. Such insurance shall be in the amount of at least \$2,000,000 per occurrence, \$2,000,000 personal and advertising injury, \$4,000,000 general aggregate, and \$4,000,000 products and completed operations aggregate, and shall

include, but not be limited to, bodily injury, property damage -- broad form, and personal injury, for the hazards of Premises/Operation, broad form contractual, independent contractors, blanket contractual coverage, including coverage for written contracts and specific coverage for the indemnity provisions set forth in this Lease, and completed operations and products liability coverage; provided that, there shall not be an exclusion for liability not contracted for.

Independent Towers will maintain Completed Operations coverage for a minimum of two years after the construction is completed.

(ii) Workers' Compensation and Employer's Liability insurance as required by state law.

(iii) Automobile Liability. Independent Towers must carry Automobile Liability coverage. Coverage shall afford total liability limits for Bodily Injury Liability and Property Damage Liability in the amount of \$2,000,000 per accident. The liability limits may be afforded under the Commercial Policy, or in combination with an Umbrella or Excess Liability Policy provided coverage of ridges afforded by the Umbrella Excess Policy are no less than the underlying Commercial Auto Liability coverage.

Coverage shall be provided for Bodily Injury and Property Damage for the ownership, use, maintenance or operation of all owned, non-owned and hired automobiles.

The Commercial Automobile Policy shall include at least statutory personal injury protection, uninsured motorists and underinsured motorists' coverage.

(iv) Independent Towers's Property Insurance. Independent Towers must keep in force during the term and any renewals of the Lease a policy covering damages to its property at the Premises. The amount of coverage shall be sufficient to replace the damaged property, loss of use and comply with any ordinance or law requirements.

b. All policies shall, as allowed by law, include the City as an additional insured, without limitation, and shall be written in a form and with a financially sound insurance company who may lawfully do business in the State of Washington with a financial strength rating at all times during coverage of no less than an "A" and in a financial size category of no less than "X", in the latest edition of "Best's Rating Guide" published by A.M. Best Company or equivalent rating guide approved by the City.

c. In the event that at any time during coverage, the insurer does not meet the foregoing standards, Independent Towers shall give prompt notice to the City and shall seek coverage from an insurer that meets the foregoing standards. Prior to or at the time that Independent Towers takes possession of the Premises, Independent Towers shall deliver to the City copies of policies or certificates evidencing the existence of the amounts and forms of coverage satisfactory to the City.

c. All policies maintained by the Independent Towers will provide that they may not be terminated nor may coverage be reduced except after thirty (30) days' prior written notice to the City. The Independent Towers shall, within thirty (30) days prior to the expiration of such policies, furnish the City with renewals or "binders" thereof.

d. All Commercial General Liability and Independent Towers property policies maintained by the Independent Towers shall be written as primary policies, not contributing with and not supplemental to the coverage that City may carry.

e. The City, its agent, and employees make no representation that the limits of liability specified to be carried by the Independent Towers are adequate to protect the Independent Towers. If Independent Towers believes that any of such insurance coverage is inadequate, the Independent Towers will obtain such additional insurance coverage, as the Independent Towers deems adequate, at the Independent Towers' sole expense.

f. Independent Towers acknowledges that the City is not responsible for insuring against the loss of Independent Towers's Facilities.

ARTICLE 18. UNLAWFUL USE.

Independent Towers will not do, or permit to be done, in or about the Property anything which is illegal or unlawful, or which will be dangerous to life or limb, or will increase any insurance rate upon said Property.

ARTICLE 19. SUCCESSORS.

All the covenants, agreements, terms, and conditions contained in this Lease shall apply to and be binding upon the City and Independent Towers and their respective heirs, executors, administrators, successors, and assigns.

ARTICLE 20. LIENS AND INSOLVENCY.

Independent Towers shall not allow any mechanics', materialmen's, suppliers', or laborers' lien arising by reason of Independent Towers's or subcontractor's Work to attach or exist against the Property. In the event of Independent Towers's failure to fully remove any such liens within thirty (30) days after its filing and/or recordation, the City shall have the right to pay all sums claimed by reason of said lien, and Independent Towers shall promptly pay the City the amount of such payment, together with all other costs and expenses (including attorneys' fees) incurred by the City. The provisions of this section shall survive the termination of this Lease.

ARTICLE 21. HAZARDOUS SUBSTANCES.

a. Prohibited Use. Except as provided herein, Independent Towers shall not use, sell, manufacture, store, treat, generate, or dispose of, or otherwise allow the release of any Hazardous Substance, as defined below, in, on, or under the Property, or any adjacent property, or in any improvements placed on the Property. Independent Towers represents and warrants to the City that Independent Towers's intended use of the Property does not involve the use, production, disposal, release, sale, manufacture, treatment, or bringing on to the Property of any Hazardous Substance. Notwithstanding the foregoing, Independent Towers is permitted to use and store Hazardous Substances that are commonly used in wireless communication facilities including, but not limited to, ordinary cleaning products, battery acid and petroleum based fuel products; all of which Independent Towers shall use in compliance with Environmental Laws; provided that, Independent Towers shall provide the City written notice of all Hazardous Substances that are stored, used or maintained on the Premises. Further, the City acknowledges that Independent Towers may, pursuant to Article 3.d, be authorized to install, use, and operator a generator on the Premises to provide emergency power to the Facilities. In such event, Independent Towers may store and use Hazardous Substances on the Premises that are necessary for the operation of the generator during such Emergency, provided that Independent Towers first submits to and then implements a plan to the City that meets industry standards for the safe and lawful storage of such Hazardous Substances on the Premises.

b. Condition of Property. The City makes no representations or warranties as to the prior use of the Property and Independent Towers accepts the Property AS IS and WHERE IS, WITH ALL FAULTS. Independent Towers has had an opportunity prior to the Effective Date of this Agreement to diligently investigate and examine to Independent Towers's full satisfaction the physical condition of the Property, including, but not limited to, the zoning status; presence and location of existing utilities; operating history; compliance with Environmental Laws or other Laws and other requirements applicable to the Property; the presence of any Hazardous Substances or wetlands, asbestos, or other environmental conditions in, on, under, or in proximity to the Premises; the condition or existence of any of the above ground or underground structures or improvements, including tanks and transformers in, on or under the Premises; the condition of title to the Premises, and the leases, easements, orders, licenses, or other agreements, affecting the Premises; City's disclosure (if any), and all other matters that in Independent Towers's judgment affect Independent Towers's use of the Property and Independent Towers's willingness to enter into this Agreement (collectively referred to as the "**Condition of the Premises**").

Independent Towers has not relied and will not rely on, and the City is not liable for or bound by, any express or implied warranties, guaranties, statements, representations, or information pertaining to the Property, its use, compliance with law or otherwise relating thereto made or furnished by the City or any agent representing the City, to whomever made or given, directly or indirectly, verbally, or in writing, except the representations and warranties of the City as specifically set forth in this Agreement.

c. Indemnification. Independent Towers assumes the risk that Hazardous Substances or other adverse matters may affect the Premises and Excavated Areas (defined below) that were not revealed by Independent Towers's inspection and indemnifies, holds harmless and hereby waives, releases and discharges forever the City and City's officials (elected or appointed), officers, employees and agents (collectively, "**Indemnitees**") from any and all present or future claims or demands, and any and all damages, losses, injuries, liabilities, causes of actions (including, without limitation, causes of action in tort) costs and expenses (including, without limitation fines, penalties and judgments, and attorneys' fees) of any and every kind or character, known or unknown, which Independent Towers might have asserted or alleged against Indemnitees arising from or in any way related to the Condition of the Premises or alleged presence, use, storage, generation, manufacture, transport, release, leak, spill, disposal or other handling of any Hazardous Substances in, on or under the Premises ("**Independent Towers Losses**"). Independent Towers Losses shall include without limitation: (a) the cost of any investigation, removal, or Remedial Action (defined below) that is required by any Environmental Law, that is required by judicial order or by order of or agreement with any governmental authority; (b) losses for injury or death of any person caused by the Condition of the Premises; and (c) losses arising under any Environmental Law enacted after the date hereof. Except as may be limited below, Independent Towers Losses specifically include losses sustained by Independent Towers as a result of any obligation of Independent Towers to remove, close, Remediate, reimburse or take other actions requested or required by any governmental agency concerning any Hazardous Substances on the Premises. Notwithstanding the above, Independent Towers Losses waived, released, and discharged hereunder by Independent Towers shall not include losses as a result of releases or contamination caused by the acts of the City or its agents, employees, contractors or subcontractors after the date hereof.

d. Discovery Within Premises. In the event that the activities of Independent Towers upon the Premises result in the discovery of the presence of Hazardous Substances ("**Discovered Matters**") in, on or upon the areas excavated or otherwise opened or exposed by Independent Towers within the Premises (the "**Excavated Areas**"), Independent Towers shall immediately notify the City and take whatever other reporting action is required by applicable Environmental Law as it relates to the Discovered Matters in the Excavated Areas. In the event that, as a result of such discovery, an agency with jurisdiction to address Hazardous Substances (defined below) on the Premises ("**Environmental Authority**") orders, obtains a judgment or court order requiring, or otherwise exercises its authority to require Remedial Actions to be taken by the City or Independent Towers, or Independent Towers decides to undertake Remedial Actions independently or enter into a consent order or consent decree with an Environmental Authority, then in such event, Independent Towers agrees to indemnify, defend, and hold the Indemnitees harmless from and against the cost of all Remedial Actions which are required by the Environmental Authority within the Excavated Areas under the applicable Environmental Laws with respect to the Discovered Matters; provided, however, the City, subject to the provisions of Article 19(e) below, shall be solely responsible for all necessary Remedial Actions which are required by the

Environmental Authority within other portions of the Premises (outside the Excavated Areas) under the applicable Environmental Laws with respect to the Discovered Matters.

e. Release by Independent Towers. In the event Independent Towers's activity on the Premises within the Excavated Areas results in a release (as determined under applicable Environmental Laws) of Hazardous Substances which were, before such activities, confined to areas within the Excavated Areas, but which after such activities by Independent Towers are released beyond the Excavated Areas, and if the release is caused in whole or in part by Independent Towers, then Independent Towers shall indemnify, defend and hold the City harmless from the costs of all necessary Remedial Actions which are required under the applicable Environmental Laws, to the extent of Independent Towers's share of the liability for the release. Independent Towers's liability for the release may, inter alia, be determined by Independent Towers's admission of the same, or as determined by a final non-appealable decision by a court of competent jurisdiction, or as provided in a final non-appealable administrative order issued by the Environmental Authority, or by a consent decree entered by Independent Towers and the Environmental Authority.

ARTICLE 22. COSTS AND ATTORNEYS' FEES.

If, by reason of any default or breach hereunder by the City or by Independent Towers, it becomes necessary to institute suit, the prevailing party in such suit shall be entitled to recover, as part of any judgment, such amount as the court shall determine reasonable as attorneys' fees for the prevailing party in such suit, together with taxable costs.

ARTICLE 23. NONWAIVER OF BREACH.

The failure of a party to this Lease to insist upon strict performance of any of the covenants and agreements of this Lease, or to exercise any option herein conferred in any one or more instances, shall not be construed to be a waiver or relinquishment of any such option, or any other covenants or agreements, but the same shall be and remain in full force and effect.

ARTICLE 24. HOLDOVER.

If Independent Towers shall hold over after the expiration of the term of this Lease, such continued possession shall be strictly at the sufferance of the City and may be terminated by City within the City's sole discretion upon not less than ten (10) days' written notice to Independent Towers and by Independent Towers upon not less than ten (10) days' written notice to the City. During each month, or part thereof, of such continued possession, Independent Towers agrees to pay to the City, two times the Lease Fee payable in the last month of the Lease term before the holdover tenancy commenced, unless a different rate is agreed upon, and to be bound by all of the terms, covenants, and conditions as herein specified, so far as applicable.

ARTICLE 25. NOTICES.

All notices under this Lease shall be in writing and delivered in person or sent by registered or certified mail, postage prepaid or by a nationally recognized overnight carrier, to the City and to Independent Towers at the notice addresses, or such other addresses as may from time to time be designated by any such Party in writing. Notices mailed as aforesaid shall be deemed given on the date of such.

City:	City of Medina Attn: City Manager (Donna Hanson) 501 Evergreen Point Road Medina, WA 98039
Independent Towers:	Independent Towers Holdings, LLC 11 Herbert Drive Latham, NY 12110 Attn: John Stevens

ARTICLE 26. GENERAL.

a. Headings. Titles to sections of this Lease are not a part of this Lease and shall have no effect upon the construction or interpretation of any part hereof.

b. Entire Agreement. This Lease contains all covenants and agreements between the City and the Independent Towers relating in any manner to the leasing, use, and occupancy of the Property and other matters set forth in this Lease. No prior agreements or understanding pertaining to the same shall be valid or of any force or effect and the covenants and agreement of this Lease shall not be altered, modified, or added to except in writing signed by the City and the Independent Towers. All exhibits herein referred to are and shall be incorporated by reference as though fully set forth herein.

c. Severability. Any provision of this Lease which shall prove to be invalid, void, or illegal shall in no way affect, impair, or invalidate any other provision hereof and the remaining provisions hereof shall nevertheless remain in full force and effect.

d. No Warranty of Quiet Enjoyment. Unless due to the negligence or willful misconduct of the City, its employees, agents, or contractors, the City shall not be liable to Independent Towers, if for any reason whatsoever, Independent Towers's use or occupation of the Premises, or the exercise of the rights granted hereunder, shall be hindered, disturbed, or terminated.

e. Specific Performance: No Consequential Damages. In the event of a breach or default, or threatened breach or default, by the City or the Independent Towers (the "Defaulting Party") under this Lease, the other Party (the "Non-Defaulting Party") shall have

the right, in addition to all other rights under law or in equity, to obtain an injunction and enforce specific performance against the Defaulting Party. Neither Party shall claim or be awarded any incidental, punitive, or consequential damages by reason of the default of or breach by the other.

f. Time. Time is of the essence under this Lease.

g. Entire Understanding. The Parties hereto hereby agree that the City has not made any representations, statements, warranties, or agreements to Independent Towers or others with respect to any condition or thing other than as specifically set forth herein. This Lease embodies the entire understanding of the Parties hereto, and there are no further or other agreements or understandings, written or oral, in effect between the Parties, relating to the subject matter hereof. This Lease may be amended or modified only by an instrument signed by both the City and Independent Towers.

h. Recitals. The Parties agree that the recitals are true and accurate and are hereby incorporated as though fully set forth herein.

i. Condemnation. If all of the Property is taken for any public or quasi-public use under government law, ordinance, or regulation, or by right of eminent domain or private purchase in lieu thereof (collectively, "Taking"), this Agreement shall terminate when the physical Taking of the Premises occurs. If any part of the Premises is subject to a Taking, this Agreement shall continue in full force and effect without abatement of any of Independent Towers's obligations hereunder. The City shall receive the entire award for any Taking of the Property; provided that Independent Towers may pursue a separate award for Independent Towers's leasehold interest so long as such pursuit or award thereto does not diminish the award to the City.

j. Signs. No advertising shall be permitted on the Property, except as required by law or regulation. Independent Towers may post its name, address, and an emergency telephone number on a painted sign; provided, the design, size, and location is approved in writing and in advance by City.

k. No Joint Venture. It is not intended by this Lease to, and nothing contained in this Lease shall, create any partnership, joint venture, or principal-agent relationship or other arrangement between City and the Independent Towers. Neither Party is authorized to, nor shall either Party act toward third Persons or the public in any manner which would indicate any such relationship with the other. The Parties intend that the rights, obligations, and covenants in this Lease and the collateral instruments shall be exclusively enforceable by the City and Independent Towers, their successors, and assigns. No term or provision of this Lease, including but not limited to the notice requirements under Article 25, is intended to be, or shall be, for the benefit of any person not a party hereto, and no such person shall have any right or cause of action hereunder, except as may be otherwise provided herein.

1. Memorandum. Upon request by either party, the parties agree to promptly execute and deliver a recordable Memorandum of this Lease in a form acceptable to both parties which may be recorded by the party requesting the Memorandum of Lease.

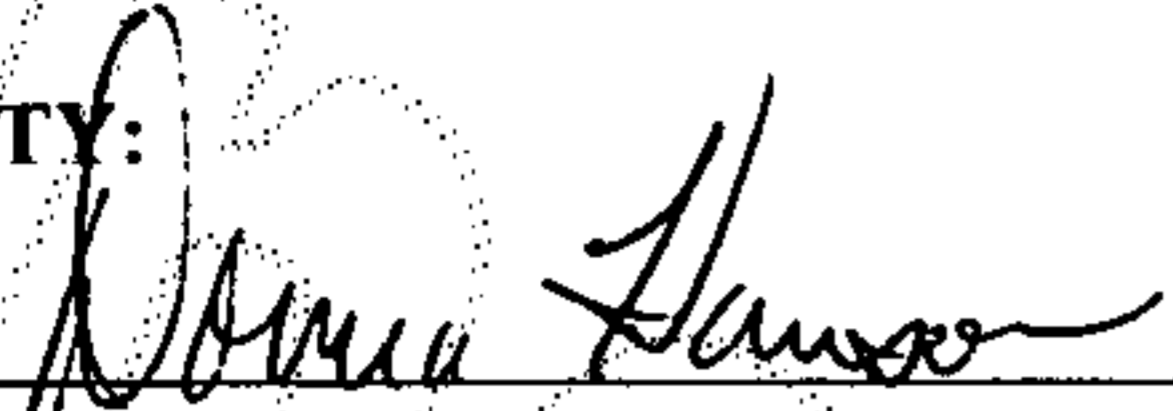
ARTICLE 27. INTERPRETATION/CHOICE OF LAW/VENUE.

The Parties hereto specifically acknowledge and agree that the terms of this Lease have been mutually negotiated and the Parties hereby specifically waive the rule or principle of contract construction which provides that any ambiguity in any term or provision of a contract will be interpreted or resolved against the Party which drafted such term or provision. This Agreement shall be governed and construed in accordance with the laws of the State of Washington. If any dispute arises between the Parties under any of the provisions of this Lease, the venue for resolution of that dispute shall be available only in King County, Washington.

(Remainder of Page left Intentionally Blank)

IN WITNESS WHEREOF the Parties hereto have executed this document as of the day and year first above written.

CITY:



Donna Hanson
City Manager

Approved as to form:



Bruce Disend
Attorney for City

(Remainder of Page left Intentionally Blank)

ACCEPTANCE OF LEASE AGREEMENT

I, John S. Stevens am the President of Independent Towers Holdings LLC and am the authorized representative to accept the above referenced Lease Agreement on behalf of Independent Towers Holdings LLC.

I certify that this Lease Agreement, and all terms and conditions thereof, are accepted by Independent Towers Holdings LLC without qualification or reservation.

DATED this 8th day of December, 2011.

**

By [Signature]
(Its John S. Stevens)

STATE OF ** New York)
County of ** Albany) ss.

I certify that I know or have satisfactory evidence that John S. Stevens signed this instrument, on oath stated that (~~he/she/they~~) (~~was/were~~) authorized to execute the instrument and acknowledged it as the President of Independent Towers Holdings LLC to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: 12/8/2011

Signature of Notary Public [Signature]

Notary (print name) Lisa D. Isabella

Residing at: 326 Cde Rd, Delanson NY 12053

My appointment expires: 12/15/2012

LISA D. ISABELLA
Notary Public, State of New York
No. 011S6198265
Qualified in Schenectady County
Commission Expires Dec. 15, 2012

EXHIBIT A

Legal Description of Property

All that portion of the hereinafter described Parcel "A" lying within the following described tract:

Beginning at a point opposite Highway Engineer's Station (hereinafter referred to as HES) 305+67.57 on the SR 520 line survey of SR 520 Evergreen Point Bridge to SR 405 Vicinity and 174.95 feet northeasterly therefrom; thence southeasterly to a point opposite HES 306+46.79 on said line survey and 159 feet northeasterly therefrom; thence southeasterly to a point opposite HES 309+68.25 on said line survey and 150 feet northeasterly therefrom; thence northwesterly, parallel with said line survey, to a point opposite HES 305+72.99 thereon; thence northerly to the point of beginning:

PARCEL "A":

The north 325 feet of the south 975 feet of the northwest quarter of the southeast quarter of Section 24, Township 25 North, Range 4 East, W.M., in King County, Washington; EXCEPT that portion conveyed for road by Recording Numbers 529873, 529874, 1271851 and 567521;

TOGETHER WITH all that portion of the west 670 feet of the north 330 feet of the northwest quarter of the southeast quarter of Section 24, Township 25 North, Range 4 East, W.M., in King County, Washington, lying south of County Road No. 1219 (Boddy-Hindle Road now known as Northeast 32nd Street);

TOGETHER WITH that portion of the north 330.00 feet of the northwest quarter of the southeast quarter of Section 24, Township 25 North, Range 4 East, W.M., in King County, Washington, lying south of Boddy-Hindle Road now known as Northeast 32nd Street and east of a line drawn parallel with the west line of said subdivision and 670 feet east of said west line:

EXCEPT the east 30 feet deeded to City of Medina for street by instrument recorded under Recording Number 4861206;

EXCPT that portion dedicated to the public by City of Medina Ordinance No. 394, recorded under Recording Number 8407020722.

PARCEL "B":

A tract of land in the northwest quarter of the southeast quarter of Section 24, Township 25 North, Range 4 East, W.M., in King County, Washington;

EXCEPT the south 975 feet thereof;
AND EXCEPT the north 330 feet thereof;

AND EXCEPT the west 30 feet thereof;

AND EXCEPT that portion lying in County Road No. 1219 (Boddy-Hindle Road now known as Northeast 32nd Street);

AND EXCEPT that portion now lying within 80th Avenue N.E. originally included in deed for Boddy-Hindle Road and recorded under Recording Number 1427541.

The lands herein described contain an area of 2,718 square feet, more or less, the specific details concerning all of which are to be found on sheet 2 of that certain plan entitled SR 520 Evergreen Point Bridge To SR 405 Vicinity, now of record and on file in the office of the Secretary of Transportation at Olympia, and bearing date of approval June 29, 2005, revised June 16, 2011.

EXHIBIT B

Legal Description and Site Plan Depicting Lease Area

COMMUNICATION LEASE AREA

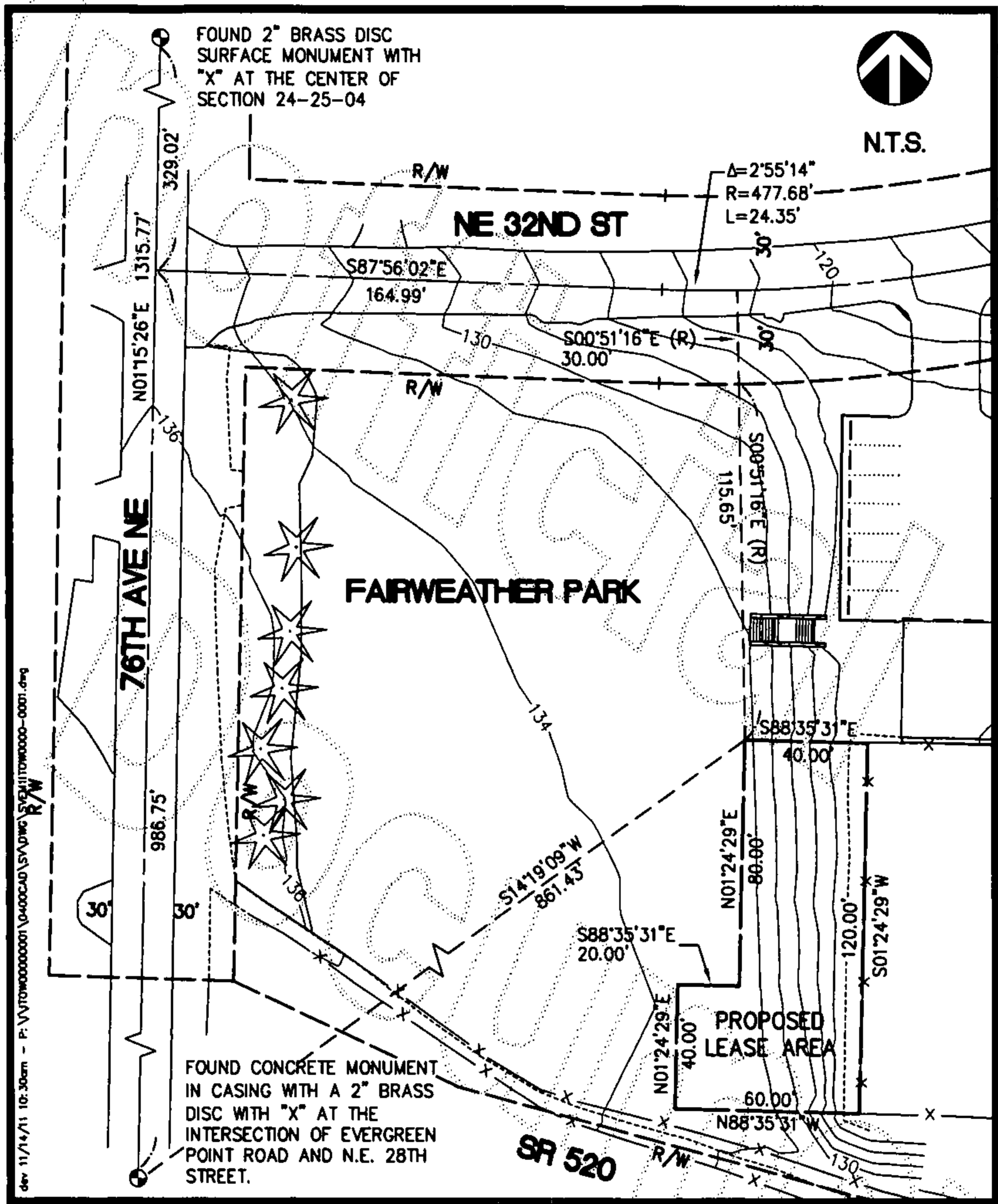
That portion of the northwest quarter of the southeast quarter of Section 24, Township 25 North, Range 4 East W.M., King County, State of Washington, described as follows:

Commencing at a concrete monument in casing with a 2 inch brass disc with "X" located at the intersection of Evergreen Point Road and N.E. 28th Street, from which a 2 inch brass surface disc with "X" located at the centerline of 76th Avenue N.E. bears north 01° 15' 26" East 1,315.77 feet distance; thence north 01° 15' 26" east along the centerline of 76th Avenue N.E. a distance of 986.75 feet to the centerline of N.E. 32nd Street; thence south 87° 56' 02" east along the centerline of N.E. 32nd Street a distance of 164.99 feet to the beginning of a curve concave to the north having a radius of 477.68 feet; thence along the arc of said curve and centerline through a central angle of 02° 55' 14" a distance of 24.35 feet; thence south 00° 51' 16" east along a radial line of the previously defined curve a distance of 30.00 feet to the southerly right of way margin of N.E. 32nd Street. Thence continuing south 00° 51' 16" east a distance of 115.65 feet to the point of beginning.

Thence south 88° 35' 31" east a distance of 40.00 feet; thence south 01° 24' 29" west a distance of 120.00 feet; thence north 88° 35' 31" west a distance of 60.00 feet; thence a north 01° 24' 29" east a distance of 40.00 feet; thence south 88° 35' 31" east a distance of 20.00 feet; north 01° 24' 29" east a distance of 80.00 feet to the point of beginning from which said monument in casing with a 2 inch brass disc with "X" located at the intersection of Evergreen Point Road and N.E. 28th Street bears south 14° 19' 09" west 861.43 feet distant.

Containing 5,600 square feet or 0.13 acres more or less.

Exhibit B



dev 11/14/11 10:30am - P:\V\1100000001\04000000\SV\DWG\51611100000-0001.dwg
 R/W

EASEMENT EXHIBIT
COMMUNICATION SITE LEASE AREA
 A PORTION OF SECTION 24
 T.25N., R.04E., W.M. CITY OF MEDINA,
 KING COUNTY, WASHINGTON



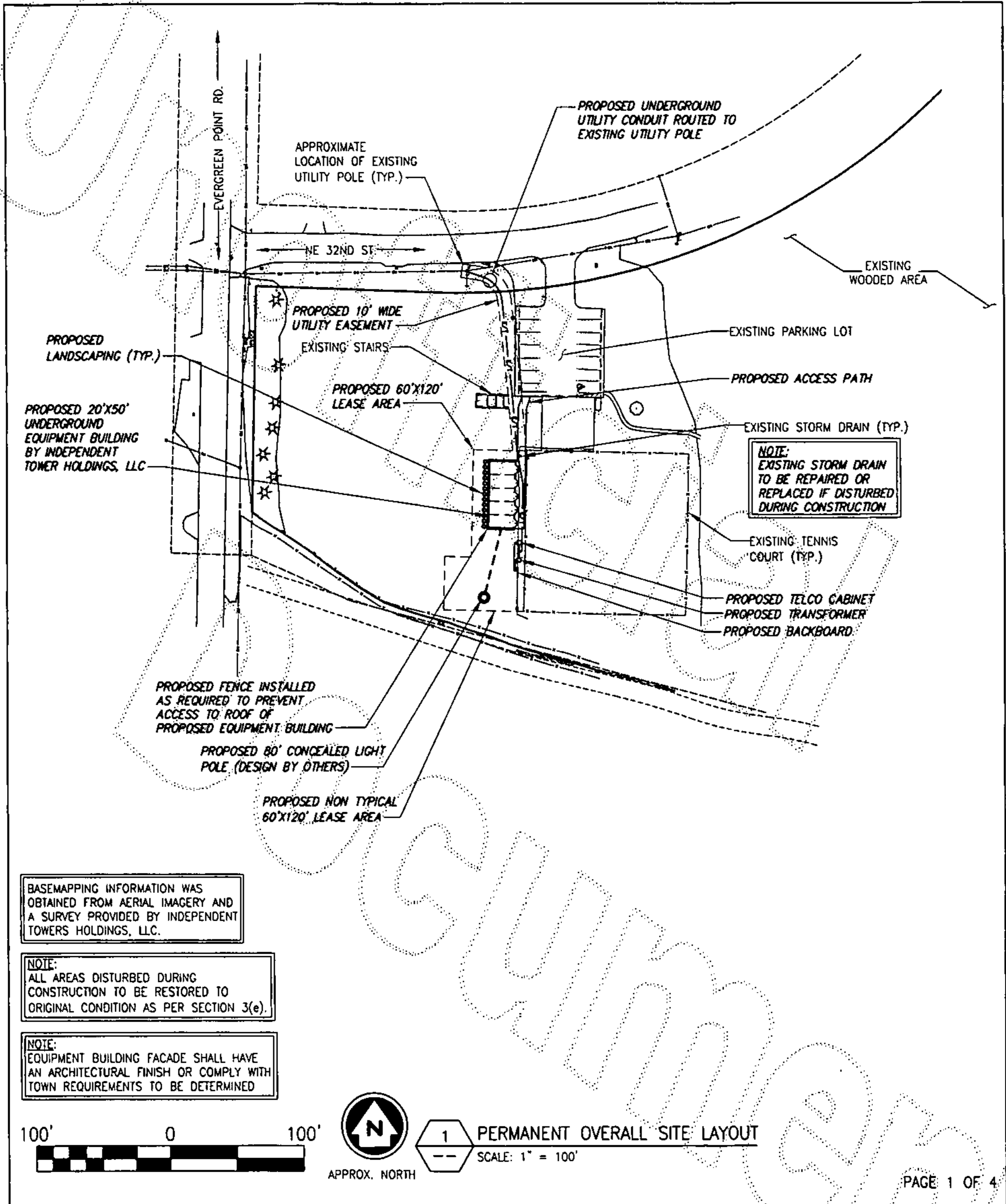
DAVID EVANS
AND ASSOCIATES, INC.
 415 - 118th Avenue SE
 Bellevue, Washington 98005-3518
 Phone: 425.519.6500

EXHIBIT C

Approved Design Documents and Equipment List

Unofficial Document

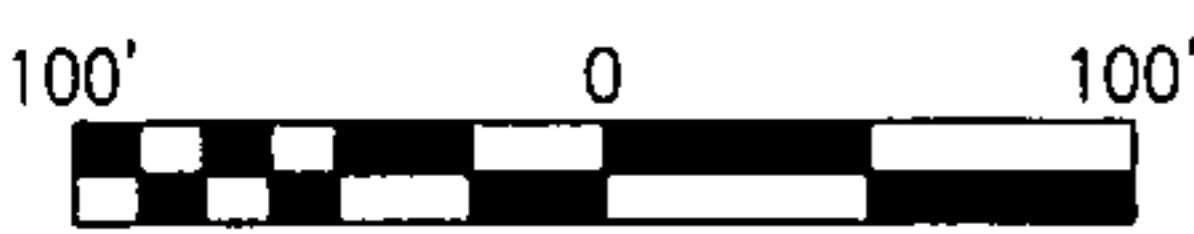
Exhibit C



BASEMAPPING INFORMATION WAS OBTAINED FROM AERIAL IMAGERY AND A SURVEY PROVIDED BY INDEPENDENT TOWERS HOLDINGS, LLC.

NOTE: ALL AREAS DISTURBED DURING CONSTRUCTION TO BE RESTORED TO ORIGINAL CONDITION AS PER SECTION 3(e).

NOTE: EQUIPMENT BUILDING FACADE SHALL HAVE AN ARCHITECTURAL FINISH OR COMPLY WITH TOWN REQUIREMENTS TO BE DETERMINED

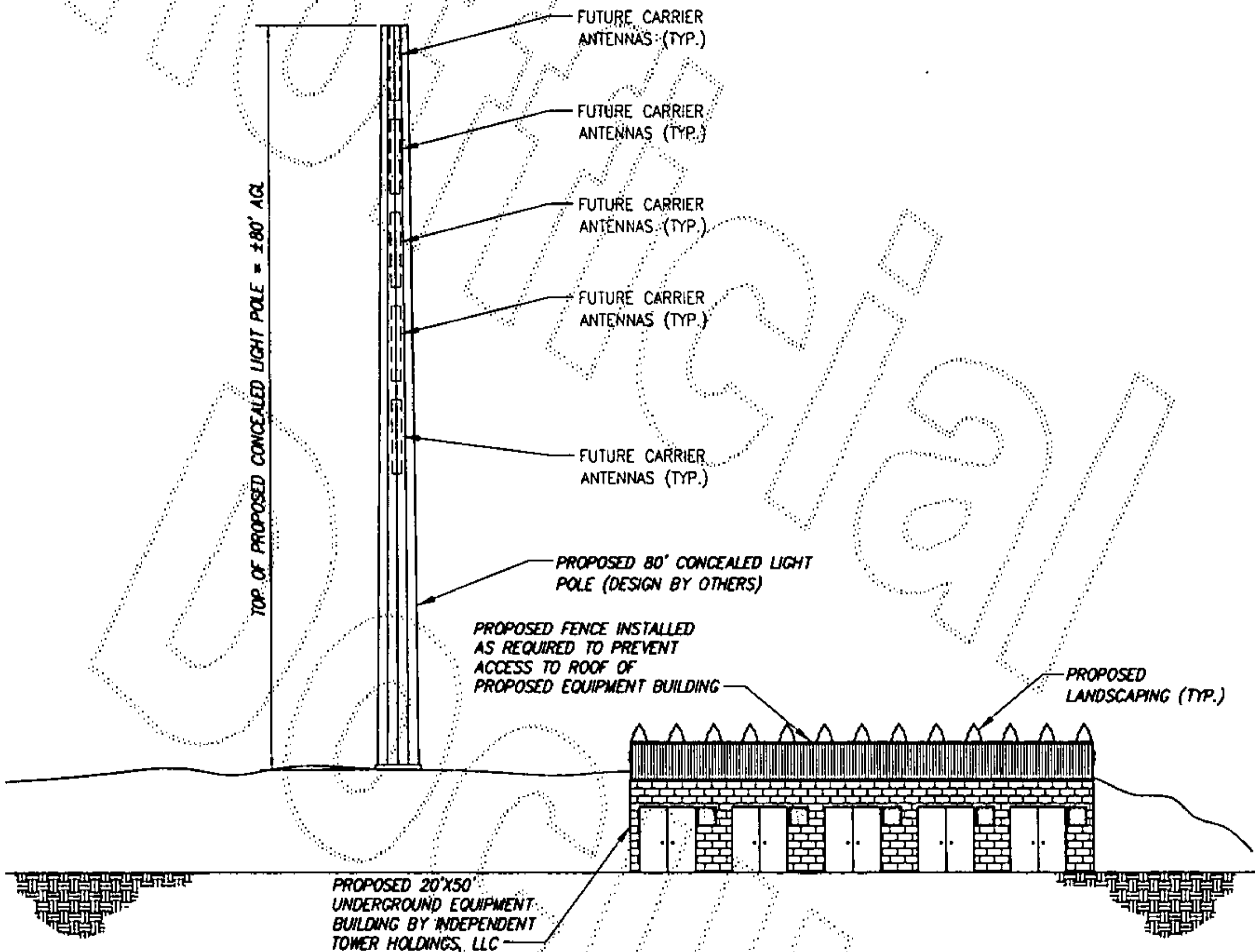


1 PERMANENT OVERALL SITE LAYOUT
SCALE: 1" = 100'

<p>INDEPENDENT TOWERS HOLDINGS LLC THE TOWER CONNECTION NORTHEAST OFFICE 11 HERBERT DRIVE LATHAM, NY 12110 CONTACT: KORY P. FRETTO C: 518.369.5833 P: 518.608.4806 F: 518.690.0793</p>	<p>infinigy engineering 11 Herbert Drive Latham, NY 12110 OFFICE: (518) 690-0790 FAX: (518) 690-0793 INFINGY PROJECT # 168-153</p>	<p>LEASE EXHIBIT -- MEDINA FAIRWEATHER PARK</p> <p>SITE I.D./SITE NAME: MEDINA FAIRWEATHER PARK TAX I.D.: TBD PROPERTY OWNER: CITY OF MEDINA SITE ADDRESS: NE 32ND ST. MEDINA, WA 98039</p> <p>DRAWING SCALE: AS NOTED DATE: 11/2/11 REV: 8</p>
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Exhibit C

NOTE:
LESSEE TO PROVIDE A ONE TIME PAYMENT OF \$15,000 FOR FIELD LIGHTING. PLACEMENT AND DESIGN BY LESSOR.



NOTE:
EQUIPMENT BUILDING FACADE SHALL HAVE AN ARCHITECTURAL FINISH OR COMPLY WITH TOWN REQUIREMENTS TO BE DETERMINED

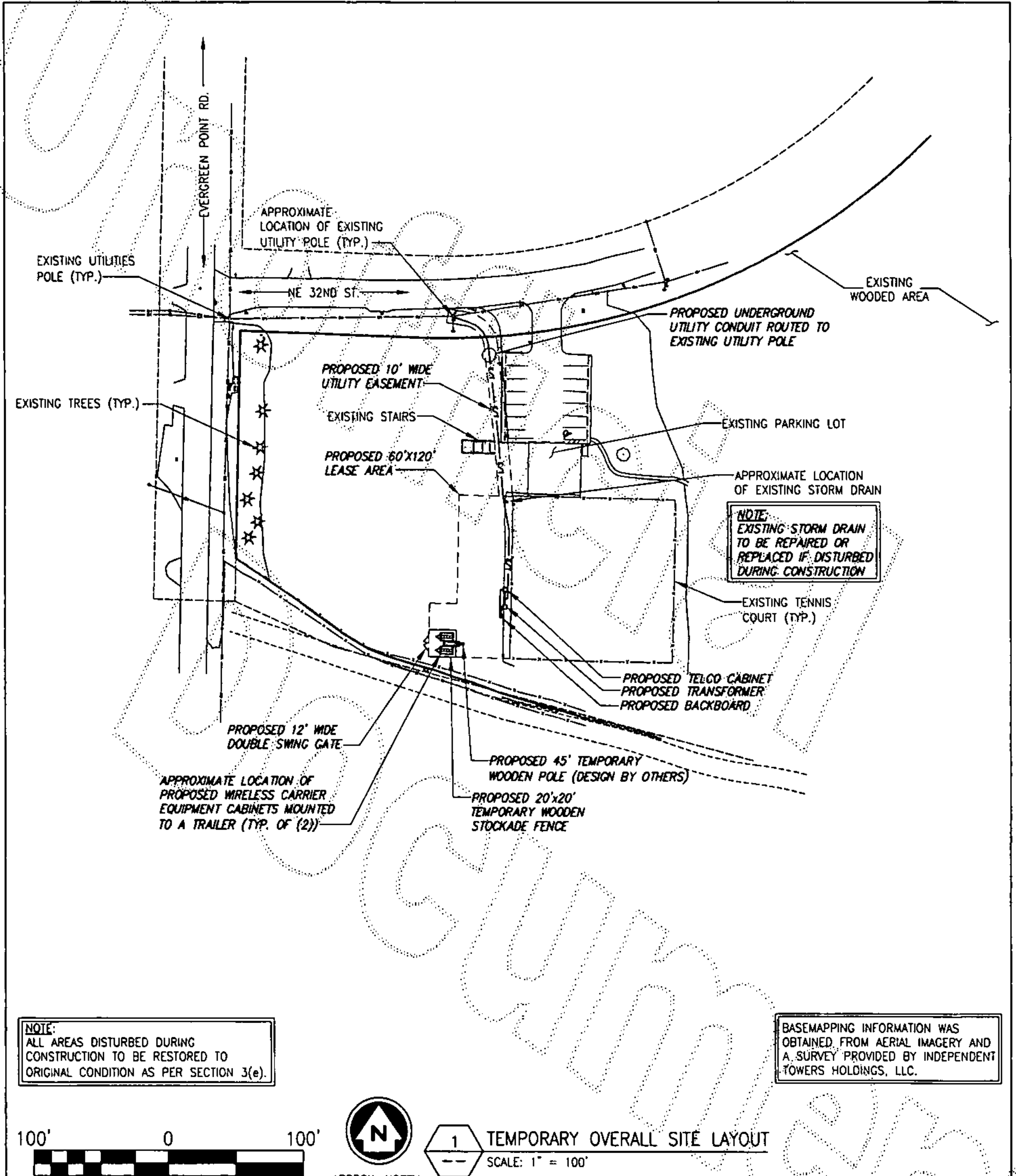
1 LIGHT POLE ELEVATION
--- NOT TO SCALE

INDEPENDENT TOWERS HOLDINGS LLC
NORTHEAST OFFICE
11 HERBERT DRIVE
LATHAM, NY 12110
CONTACT: KORY P. FRETTO
C: 518.369.5633
P: 518.608.4806
F: 518.690.0793

infinigy
engineering
11 Herbert Drive
Latham, NY 12110
OFFICE: (518) 690-0790
FAX: (518) 690-0793
INFINIGY PROJECT # 168-153

LEASE EXHIBIT - MEDINA FAIRWEATHER PARK
SITE I.D./SITE NAME: MEDINA FAIRWEATHER PARK
TAX I.D.: TBD
PROPERTY OWNER: CITY OF MEDINA
SITE ADDRESS: NE 32ND ST.
MEDINA, WA 98039
DRAWING SCALE: AS NOTED
DATE: 11/2/11
REV: 8

Exhibit C



NOTE:
ALL AREAS DISTURBED DURING CONSTRUCTION TO BE RESTORED TO ORIGINAL CONDITION AS PER SECTION 3(e).

BASEMAPPING INFORMATION WAS OBTAINED FROM AERIAL IMAGERY AND A SURVEY PROVIDED BY INDEPENDENT TOWERS HOLDINGS, LLC.



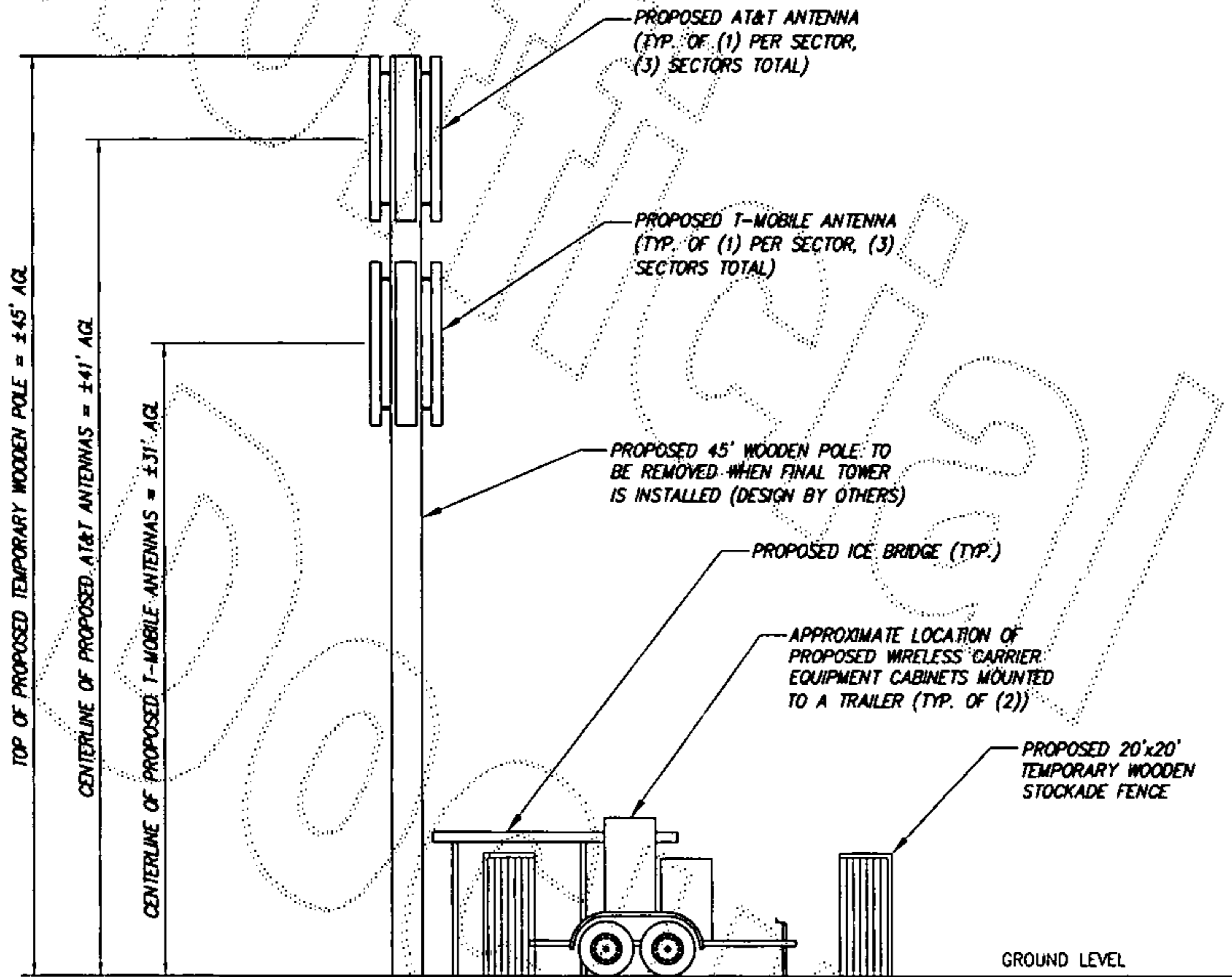
APPROX. NORTH



TEMPORARY OVERALL SITE LAYOUT
SCALE: 1" = 100'

<p>INDEPENDENT TOWERS HOLDINGS LLC NORTHEAST OFFICE 11 HERBERT DRIVE LATHAM, NY 12110 CONTACT: KORY P. FRETTO C: 518.369.5833 P: 518.608.4806 F: 518.690.0793</p>	<p>infinigy engineering 11 Herbert Drive Latham, NY 12110 OFFICE: (518) 690-0790 FAX: (518) 690-0793 INFINIGY PROJECT # 158-155</p>	<p>LEASE EXHIBIT – MEDINA FAIRWEATHER PARK SITE I.D./SITE NAME: MEDINA FAIRWEATHER PARK TAX I.D.: TBD PROPERTY OWNER: CITY OF MEDINA SITE ADDRESS: NE 32ND ST. MEDINA, WA 98039 DRAWING SCALE: AS NOTED DATE: 11/2/11 REV: 8</p>
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Exhibit C



1 TEMPORARY WOODEN POLE ELEVATION
 -- NOT TO SCALE

INDEPENDENT TOWERS HOLDINGS LLC

NORTHEAST OFFICE
 11 HERBERT DRIVE
 LATHAM, NY 12110

CONTACT: KORY P. FRETTO
 C: 518.369.5833
 P: 518.608.4806
 F: 518.690.0793

infinigy
 engineering

11 Herbert Drive
 Latham, NY 12110
 OFFICE: (518) 690-0790
 FAX: (518) 690-0793

INFINIGY PROJECT #: 168-153

LEASE EXHIBIT - MEDINA FAIRWEATHER PARK

SITE I.D./SITE NAME: MEDINA FAIRWEATHER PARK
 TAX I.D.: TBD
 PROPERTY OWNER: CITY OF MEDINA
 SITE ADDRESS: NE 32ND ST.
 MEDINA, WA 98039

DRAWING SCALE: AS NOTED

DATE: 11/2/11

REV: 8

ADDENDUM 1 TO EXHIBIT C

Record Drawings, Final Site Plan, and Final Equipment List

(To be inserted)

Unofficial Document

EXHIBIT D

(Form of Consent to Sublease)

Unofficial Document

**CONSENT TO SUBLEASE
COLLOCATION**

This Consent to Sublease is given by the City of Medina, a Washington Municipal Corporation ("Lessor") as of the ____ day of _____, 20____.

Recitals

A. Sublessor (as defined below) has executed or intends to execute a Sublease (as defined below) with Subtenant, for a portion of the Premises described in the Lease (as defined below).

B. The terms of the Lease require Sublessor to obtain the consent of Lessor for a sublease of all or any portion of the Premises, and Sublessor has requested such consent from Lessor.

C. Lessor is willing to consent to the Sublease on the terms and conditions set forth below.

THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Lessor, Sublessor and Subtenant hereby agree as follows:

Agreement

1. **Definitions.** In this Consent to Sublease, the following terms have the meaning given to them:

a. **Sublessor:** Independent Towers Holdings, LLC.

b. **Subtenant:** _____

c. **Lease:** That certain land lease with an Effective Date of _____, between City Lessor and Independent Towers as Lessee.

d. **Premises:** The portion of the real property legally described in the Lease that is being subleased to Subtenant as set forth in the Sublease.

e. **Sublease:** That certain site lease, license agreement, permit, or other agreement by and between Sublessor and Subtenant authorizing Subtenant to locate and operate mobile communications equipment in and upon the Structure and Facilities described in the Lease.

2. **Consent to Sublease.** Lessor hereby consents to the Sublease on the terms and conditions set forth herein.

3. **Conditions of Consent.** Lessor's consent to the Sublease is specifically conditioned upon the following:

a. It is understood and agreed by Sublessor and Subtenant that (i) the Sublease shall in all respects be construed as a sublease and or collocation of the Premises, derivative of and dependent upon the Lease, and not as an assignment of the Lease, (ii) no privity of contract exists or is established between Lessor and Subtenant under or by virtue of the Sublease or the execution and delivery of this Consent by Lessor, (iii) Sublessor may grant to Subtenant, and Subtenant shall have or acquire, no rights under the Lease any greater than the rights of the Sublessor under the Lease, and (iv) Lessor has made no representation or warranty to Subtenant with respect to the condition or suitability of the Premises. In the event of any conflicts between the terms and provisions of the Lease and the terms and provisions of the Sublease, including, but not limited to, those conflicts specifically identified in subparagraph (g) below, the terms and provisions of the Lease shall supersede and control.

b. Sublessor will remain liable for the performance of each and every one of its obligations under the Lease.

c. This consent will not be deemed consent to any subsequent sublease; rather, any subsequent sublease will require the consent of the undersigned pursuant to the Lease.

d. Sublessor and Subtenant will deliver a fully executed copy of the Sublease to Lessor within thirty (30) days following execution of the same.

e. Notwithstanding anything contained in the Sublease to the contrary, Lessor shall have no obligation to deliver any notices or copies of notices to Subtenant, and no obligation to accept, consider, or respond to any request, inquiry, demand or other communication from Subtenant, whether of a type described in the Sublease or otherwise.

f. Sublessor agrees that, for purposes of Article 16 (Indemnity), Article 17 (Insurance), and Article 21 (Hazardous Substances of the Lease, Subtenant and its agents, employees, licensees and invites shall be considered to be an agent of the Lessor. The foregoing list is not intended to be exclusive.

g. Sublessor agrees that Subtenant shall not be authorized access to the Property or Premises for purpose of installation and operation of its Antenna and related facilities unless and until Subtenant has complied with all applicable requirements of MMC Ch. 17.90, as now or may hereinafter be amended.

h. Sublessor and Subtenant agree that this consent shall expire 180 days after execution by the City, and shall thereafter be null and void and of no effect, in the event that Subtenant has not substantially completed installation of its Facilities.

Lessor has executed this Consent to Sublease as of the date first written above.

LESSOR:
CITY OF MEDINA

By _____

Name _____

Title _____

Approved as to form: _____
City Attorney

SUBLESSOR

By _____

Name _____

Title _____

Approved as to form: _____

ACKNOWLEDGMENT BY SUBTENANT

I, _____, the _____ of _____, the Subtenant under the Sublease, hereby acknowledge Subtenant's receipt of, and Subtenant's agreement to, the terms, conditions and restrictions to the Lessor's consent to the Sublease set forth in the Consent to Sublease.

SUBTENANT

By _____

Name _____

Title _____

Approved as to form: _____

EXHIBIT E

(Performance and Payment Bond)

Bond Requirements.

1. Lessee shall provide to the City a faithful performance and payment bond in an amount equal to 125% of the estimated cost to ensure the full and faithful performance of all of Lessor's responsibilities under Section 15(g) of the Lease.
2. The performance and payment bond shall be in a form with terms and conditions acceptable to the City and reviewed and approved by the City Attorney.
3. The performance and payment bond shall be with a surety with a rating no less than "A X" in the latest edition of "Bests Rating Guide," published by A.M. Best Company.
4. The Lessee shall pay all premiums or costs associated with maintaining the performance and payment bond, and shall keep the same in full force and effect at all times. If Lessee fails to provide or maintain the Bond, then the City, in its sole discretion, may require Lessee to substitute an equivalent cash deposit in lieu of the Bond.
5. Lessee's maintenance of the bond(s) shall not be construed to excuse unfaithful performance by Lessee, or limit the liability of Lessee to the amount of the bond(s), or otherwise limit the City's recourse to any other remedy available at law or in equity.
6. The amount of the bond may be adjusted by the City to take into account cumulative inflation.

Please Record and Return to:
INDEPENDENT TOWERS HOLDINGS, LLC

THE RIGHT CONNECTIONS

11 Herbert Drive
Latham, NY 12110