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Sponsor: Upthegrove

Proposed No.: 2016-0337.2

1 **AMENDMENT TO PROPOSED ORDINANCE 2016-0337, VERSION 2**

2 Delete Attachment A, Lease Agreement, dated September 14, 2016, and insert

3 Attachment A, Lease Agreement, dated October 24, 2016.

4 **EFFECT: The amendment adds language that obligates the city of Bothell to**  
5 **relocate the existing communication equipment owned by the city of the Bothell and**  
6 **its tenants to the new radio tower once constructed by King County. In addition, the**  
7 **city of Bothell would be responsible for removing and decommissioning its existing**  
8 **radio tower from the site. King County would reimburse the city of Bothell for the**  
9 **reasonable costs associated with completing this work.**

Dated October 24, 2016

**ATTACHMENT A:**

**LEASE AGREEMENT**

[Faint, illegible text, likely the beginning of the lease agreement]

[Faint, illegible text, likely the middle section of the lease agreement]

[Faint, illegible text, likely the end of the lease agreement]

## FACILITIES LEASE FOR COMMUNICATIONS FACILITIES

THIS LEASE (“**Lease**”) is entered into by and between the **City of Bothell**, a Washington municipal corporation (“**Lessor**”), and **King County**, a political subdivision of the State of Washington (“**Lessee**”), for the mutual benefits to be derived. The parties hereby agree as follows:

Section 1. Premises. Lessor agrees to lease to Lessee and Lessee agrees to lease from Lessor, upon the following terms and conditions, space and real property located in King County, Washington, comprising, as of the Commencement Date of this Lease, as defined in **Section 11** (Term), approximately fifty feet (50’) by fifty feet (50’) of ground space on the real property for an equipment building to house communications and related equipment, and a fuel tank and generator, and space on Lessor’s New Tower, as defined in **Section 9** (Construction of New Tower), for Lessee’s antennas, coax cables and related equipment, along with non-exclusive easements for access and utilities, all as generally described and depicted on the site plans, attached to this Lease as **Exhibit A**. The Lessee’s shelter, ground and tower based communications equipment, conduits, coax, utilities and related equipment shall be collectively referred to herein as the “**Facilities**,” and all such space the Facilities occupy shall be referred to hereinafter as the “**Premises**,” which are located within and on that certain real property owned by Lessor and referred to as the City of Bothell’s Norway Hill Communication Site (“**Site**”), located at 16206 104<sup>th</sup> Avenue NE, Bothell, WA 98011, and legally described in **Exhibit A** attached hereto. In the event Lessee desires to modify the Facilities in a manner that requires additional space and such space is feasible for Lessee’s use, Lessor agrees to lease to Lessee the additional space (“**Additional Premises**”) upon the same terms and conditions herein.

Section 2. Authority Granted. Lessee is authorized to install, construct, operate, maintain, repair, replace, upgrade, update and remove all of its Facilities, subject to Lessee obtaining required governmental development permits and authorizations. Subject to minor, non-substantive changes resulting from the governmental development review process, the Facilities shall be substantially in compliance with the descriptions contained in this Lease and as illustrated in **Exhibit A**. Lessee shall make no alterations, as defined in Section 14 (Alterations) of this Lease, without first having received prior authorization from Lessor, which authorization will not be unreasonably denied, delayed or withheld; provided, however, that Lessee may not use the Premises to provide the public cable television, cable internet or wireline telephone services or any use that interferes with Lessor’s emergency fire and police communications as set forth in **Section 22** (Interference).

Section 3. Rights Granted. Nothing contained within this Lease shall infringe upon the Lessor’s right to use the remainder of the Site for any purposes the City shall so desire, provided that the City’s use shall not unreasonably interfere with the rights granted to Lessee by this Lease. Further, nothing contained herein shall convey any right, privilege, title, or interest in the Site, other than as described herein.

Section 4. Installation and Removal of Property. During the term of the Lease or upon termination, Lessee shall have the right to remove all of its personal property, trade fixtures, and equipment, whether or not attached to the Premises, provided that such may be removed without serious damage to the Site. Lessee's Facilities remaining on the Premises shall be deemed abandoned and become the property of Lessor upon expiration or earlier termination of the Lease, unless Lessee removes the Facilities within forty-five (45) days after the expiration or earlier termination of the Lease, which removal shall be at Lessee's sole cost and expense. If any of the Lessee's Facilities remain on the Premises after the forty-five (45) day removal period, Lessee shall execute any documents to further confirm conveyance of title if so requested by Lessor. Upon the expiration or early termination of this Lease, Lessee shall restore the Premises to the condition that existed prior to Lessee's occupancy, reasonable wear and tear excepted, excluding the replacement of the New Tower, or trees or other landscaping that was removed during the construction process. During installation and removal of its Facilities, Lessee shall comply with all noise suppression requirements of Lessor, recognizing that the Facilities may be adjacent to a residential area.

Section 5. Access. Lessee shall have, at all times, the right of ingress to and egress from the Premises, over and across the Lessor's Site to a public right-of-way, provided, however, that such right will not unreasonably interfere with Lessor's use of the Site or adjacent property, and this right of ingress and egress shall terminate concurrently with the termination or expiration of this Lease. Lessee will provide Lessor with forty-eight (48) hours advance notice prior to conducting any routine maintenance and repair work on the Tower, provided that in the event of an emergency, Lessee will provide Lessor with as much advance notice as is practicable. Lessor will provide Lessee with phone number(s) and other information to be used for providing the notices described herein.

Section 6. Emergencies. In the event of any emergency in which any of Lessee's Facilities are damaged, or if Lessee creates a condition as to immediately endanger the property, life, health, or safety of any individual, Lessee shall immediately take the proper emergency measures to repair its Facilities, to cure or remedy such dangerous condition for the protection of property, life, health, or safety of individuals without first applying for and obtaining any permit or other authorization as required by this Lease. However, this shall not relieve Lessee from the requirement of notifying Lessor of the emergency work and obtaining any permits necessary for this purpose after the emergency work. Lessee shall notify Lessor by telephone immediately upon learning of the emergency and shall apply for all required permits not later than the second (2<sup>nd</sup>) succeeding day during which the Bothell City Hall is open for business.

Section 7. Rent. In consideration of Lessee constructing and providing a New Tower to Lessor as provided in Section 9, and other public benefits and valuable consideration, Lessee shall pay to Lessor a "Rent" of ZERO DOLLARS (\$0) for Lessee's tenancy, occupancy and use of the Premises.

Section 8. Licenses, Fees, and Taxes. Lessor shall pay all real property taxes, assessments, or levies assessed against the Site and its communications facilities located thereon, including but not limited to the Tower (as defined in Section 9 below), except the Facilities owned by Lessee. Lessee shall pay all taxes, assessments or levies that shall be assessed on, or with respect to, the Facilities on the Premises owned by Lessee.

Section 9. Construction of New Tower. Lessor and Lessee acknowledge and agree that the existing tower ("**Existing Tower**") on the Site is insufficient to support Lessee's tower based Facilities. Lessor hereby permits and Lessee agrees to construct, at Lessee's sole cost and expense and as partial consideration for this Lease, a new one hundred thirty foot (130') replacement tower on the Site ("**New Tower**"), at a location mutually acceptable to both parties, in order to support Lessee's tower based communications facilities and all of the communications facilities located on the Existing Tower as of the full execution of this Lease, including attendant wiring, coaxial cables and associated facilities (collectively, the "**Existing Communications**"). Upon completion of construction of the New Tower, Lessor shall take ownership thereof by way of a Bill of Sale substantially in the form attached hereto as **Exhibit B**, whereby Lessor shall assume ownership of the New Tower "as is" with no representations and warranties other than those provided by the tower manufacturer. Once Lessor takes ownership of the New Tower, Lessor shall be solely responsible, for (i) relocation of all of the Existing Communications, including those of Lessor and all of Lessor's tenants, licensee and permittees, from the Existing Tower to the New Tower; (ii) removal and decommissioning of the Existing Tower from the Site; and (iii) all operations, maintenance, repair and replacement work and expenses for such New Tower, and for compliance with all laws and regulations regarding the use and operation of such New Tower. The Lessee shall reimburse the Lessor for the reasonable costs it incurs: in managing the relocation of all of the Existing Communications, including those of Lessor and all of Lessor's tenants, licensee and permittees, from the Existing Tower to the New Tower; and in removing and decommissioning the Existing Tower from the Site, within thirty (30) days after the receipt of Lessor's invoice contingent upon documentation reasonably acceptable to Lessee evidencing such costs. The Lessor agrees to use and abide by applicable procurement rules in contracting for removing and decommissioning the Existing Tower from the Site. The Lessor also agrees to use and abide by applicable procurement rules if the Lessor contracts out management of the relocation of the Existing Communications. Lessor shall select ~~the most advantageous bidder in its sole and independent discretion as with any other City procurement.~~ The Lessor agrees to provide Lessee with a courtesy notice of the bids it receives for this (these) procurement(s), before entering into a contract for the work. If the Lessor uses its own staff to manage the relocation of the Existing Communications, the Project shall be invoiced for the time of the employees doing this work at their fully burdened rate plus any necessary out of pocket material expenses. From and after the date Lessor takes ownership of the New Tower, all references in this Lease to the "**Tower**" shall refer to the New Tower. In the event that this Lease is terminated prior to the date Lessee commences construction of the New Tower all of Lessee's obligations set forth in this Section 9 shall be deemed null and void, and Lessee shall have no obligation to construct the New Tower for Lessor.

Section 10. Utilities.

A. Lessee shall obtain its own utility services, either by agreement between Lessee and any existing user, or by obtaining a separate meter for electricity or other utilities to be placed in Lessee's name. In the event Lessee cannot secure its own metered electrical supply, Lessee may submeter from Lessor in which event Lessee will read the submeter on an annual basis and will reimburse Lessor on every February 1st for the electricity used by Lessee during the prior calendar year.

B. Lessor agrees to grant Lessee or the servicing utility company a utility easement on the

Site to serve Lessee's Facilities, if such an easement is necessary, at no cost to Lessee. However, the location of any such utility easement shall require Lessor's prior written approval, which shall not be unreasonably withheld, conditioned, delayed or denied.

Section 11. Term. The "**Initial Term**" of this Lease shall be twenty-five (25) years, unless terminated sooner as provided herein. The "**Commencement Date**" of the Initial Term shall be the date Lessee commences installation of its Facilities on the Premises, after the New Tower is constructed and ownership thereof transfers to Lessor.

Section 12. Extension.

A. This Lease will be automatically extended for an additional three (3) five (5) year terms, each an "**Extension Term**," unless Lessee declines to extend the term, as provided in Subsection (B), by giving Lessor such written notice at least ninety (90) days prior to the end of the Initial Term or then current Extension Term.

B. This Lease may not be extended if there has been an uncured breach of the Lease by Lessee during the Initial Term, or then current Extension Term, of this Lease and until any ongoing violations or defaults in Lessee's performance of this Lease or any other lawful applicable regulations have been cured or a plan detailing the corrective action to be taken by Lessee has been reasonably approved by Lessor.

Section 13. Permitted Use. Lessee shall use the Premises for the installation, construction, operation, maintenance, repair, replacement, upgrade, update, removal and/or disconnection of its Facilities ("**Permitted Use**"). Lessee shall not use the Premises for any other purpose without the prior written consent of Lessor, which consent shall not be unreasonably withheld, delayed or conditioned. Lessee may also perform and obtain, at Lessee's sole cost and expense, a title report or commitment for a leasehold title policy, surveys of the Site, soil borings, percolation tests, engineering procedures, environmental investigation or other tests or reports on, over, and under the Site, necessary to determine if Lessee's use of the Premises will be compatible with Lessee's engineering specifications, system, design, operations or Government Approvals, as defined in **Section 16** (Compliance with All Applicable Laws).

Section 14. Alterations. Lessee shall not increase the size of its ground based Premises, or make any alterations, additions, relocations, modifications or improvements to its communications facility located on the Tower that would increase the wind or weight load on the Tower (collectively referred to as "alterations") without the prior written consent of Lessor, which consent shall not be unreasonably withheld, delayed or denied. Lessee shall submit to Lessor a written request for any such change and shall provide to Lessor any supplemental materials as may be requested by Lessor for Lessor's evaluation and approval. Lessor shall have thirty (30) days after receipt of all requested materials in which to respond to such request and, unless Lessor so notifies Lessee to the contrary, such approvals shall be deemed granted.

Section 15. Lights, Signs and Symbols. All lights, signs or symbols placed on the Site by Lessee, if not required by applicable law, shall be subject to the prior approval of Lessor, which approval shall not be unreasonably withheld, delayed or conditioned. In the event Lessee shall

place discretionary lights, signs or symbols on the Site where they are visible from the street and not acceptable to Lessor, Lessor may demand the immediate removal of such lights, signs or symbols, and the refusal of Lessee to comply with such demand within a period of ten (10) business days will constitute a breach of this Lease, thereby entitling Lessor to exercise any available legal remedy. Any lights, signs or symbols placed on the Site shall be so placed upon the understanding and agreement that Lessee will remove the same at the termination of this Lease and repair any resulting damage or injury to the Site. If such lights, signs or symbols are not removed upon termination by Lessee in compliance with the terms of **Section 4** (Installation and Removal of Property), Lessor may have the same removed at Lessee's expense in compliance with the terms of **Section 28** (Lessor's Removal of Lessee's Facilities).

Section 16. Compliance with All Applicable Laws. Lessee agrees to comply with all present and future federal, state and local laws, ordinances, rules and regulations (“**Government Approvals**”) in connection with its construction on the Site and its use of the Premises and in performing any and all work upon its Facilities. Lessor hereby authorizes Lessee to make and sign as Lessor’s agent any and all applications and/or submissions necessary to obtain all Government Approvals from all applicable governmental and/or regulatory entities required for the Permitted Use of the Facilities within the Premises; provided that Lessor shall have twenty-four (24) hours to review all applications and submissions prior to Lessee’s submittal thereof to the applicable governmental or regulatory entity. Lessor agrees to reasonably assist Lessee with such applications and with obtaining and maintaining the Government Approvals. Lessor agrees to comply with all present and future federal, state and local laws, ordinances, rules and regulations in connection with its use of and operations on the Site, and its use of the Tower, and in performing any and all work upon its personal property and fixtures located on the Site.

Section 17. Maintenance. Lessee shall, at its own expense, maintain the Premises and its Facilities in a safe condition, in good repair and in accordance with accepted industry standards of technology and equipment. Additionally, Lessee shall keep the Facilities and Premises free of debris and anything of a dangerous, noxious or offensive nature or which would create a hazard or undue vibration, heat, noise or any interference with Lessor’s services. Lessee shall have sole responsibility for the maintenance, repair and security of its Facilities. Except as expressly set forth in this Lease, Lessor shall not maintain, repair or otherwise touch or interfere with Lessee’s Facilities without Lessee’s prior consent; provided that, in the event of an emergency posing an imminent threat of bodily injury or property damage, Lessor may take action necessary to abate the threat and shall immediately notify Lessee of such action. Lessor shall maintain the Site (except for the Premises), including all access roads located thereon and the Tower, in good repair and tenantable condition during the term of this Lease.

Section 18. Liens. Lessee shall keep the Premises free from any claims or liens for labor or materials as a result of Lessee’s use and shall keep the Site, building and Tower free of any liens for any providers of work, labor, material or services claiming by, through or under Lessee. Lessee shall cause all such liens to be fully discharged and released at the time any obligation secured by any such lien matures and/or becomes due. Provided that if Lessee in good faith disputes the claim or lien the Lessee may pursue such dispute in any lawful manner, provided that it bonds against such lien to the Lessor’s reasonable satisfaction. Lessor hereby waives any and all lien rights it may have, statutory or otherwise, concerning the Facilities or any portion thereof.

Section 19. Permits and Licenses. This Lease is contingent upon Lessee's obtaining all required Government Approvals to locate and operate its Facilities on the Premises. Lessee shall not commence construction of its Facilities until issuance of all necessary governmental permits, licenses and approvals. If Lessee is unable to obtain, or maintain during the entire term of this Lease, such permits, approvals and licenses, Lessee may terminate this Lease by giving thirty (30) days' prior written notice to Lessor.

Section 20. As Is Condition. Lessee accepts the Premises and the Site in the condition existing as of the Commencement Date. Except for those contained in **Section 40** (Hazardous Substances) and **Section 43** (Representations and Warranties), Lessor makes no representation or warranty with respect to the condition of the Site or the Premises, and Lessor shall not be liable for any latent or patent defect in the Site or the Premises.

Section 21. Early Termination. This Section is in addition to any other provision of this Lease authorizing or otherwise relating to early termination of said Lease.

A. In the event that Lessee determines that the Premises are unsuitable or unnecessary for the intended purpose based upon initial or future engineering, technological, environmental, economic or title reasons, Lessee may terminate this Lease upon thirty (30) days' prior written notice to Lessor.

B. Lessee's obligations to Lessor, if any, that extend beyond the current calendar year are contingent upon approval of this Lease by the King County Council or appropriation by King County of sufficient funds to pay such obligations. Should such approval or appropriation not occur, this Lease and all of Lessee's obligations hereunder will terminate at the end of the calendar year in which such approval or appropriation expires.

C. Lessor may terminate this Lease upon thirty (30) days' prior written notice to Lessee if Lessee fails to pay any monies due to Lessor pursuant to the terms of this Lease on or prior to the due date and such failure continues for thirty (30) days after Lessee receives written notice that such amount is delinquent.

D. Lessor may terminate this Lease if Lessee breaches or fails to perform or observe any of the terms and/or conditions of this Lease, other than payment of money, and fails to cure such breach or default within sixty (60) days after written notice from Lessor or such longer period, up to ninety (90) days, as may be reasonably required, within Lessor's sole discretion, to diligently complete a cure commenced within that sixty (60) day period and being diligently and continuously pursued by Lessee.

E. Lessee may terminate this Lease if Lessor breaches or fails to perform or observe any of the terms and/or conditions of this Lease and fails to cure such breach or default within sixty (60) days after written notice from Lessee or such longer period, up to ninety (90) days, as may be reasonably required, within Lessee's sole discretion, to diligently complete a cure commenced within that sixty (60) day period and being diligently and continuously pursued by Lessor.

F. Lessee may terminate this Lease at any time, for any or no reason, upon sixty (60) days



prior written notice thereof to Lessor.

G. No termination, default, forfeiture, or cancellation of this Lease shall release Lessee from any liability or obligation with respect to any matter occurring prior to such termination, default, forfeiture or cancellation, nor shall termination, default, forfeiture or cancellation release Lessee from its obligation and liability as described in **Section 4** (Installation and Removal of Property).

Section 22. Interference.

A. As of the date this Lease is fully executed by both parties, Lessor has previously entered into leases with other lessees ("**Senior Lessees**") for their equipment and antenna facilities. Lessee acknowledges that Lessor is leasing the Site for the purposes of transmitting and receiving communication signals to and from the Site. Lessor shall disclose to Lessee all frequencies in use by the Senior Lessees and Lessee will not disturb such Senior Lessees' operations on the Site, provided they are operating and continue to operate within their respective Federal Communications Commission ("FCC") licensed frequencies and in accordance with all applicable laws, regulations, licenses and manufacturers' specifications. Lessor and all users whose operations on the Site commence after the date this Lease is fully executed shall not interfere with Lessee's use; Lessor shall include non-interference requirements in all future leases. All future installations shall be required to test/study equipment prior to operating, and Lessee shall be given adequate prior notice prior thereto if such installations could affect Lessee's operation of its Facilities or access to the Site.

B. In the event of any interference between Senior Lessee's activities and Lessee's use of the Premises, the Senior Lessee and Lessee shall make all reasonable efforts, in good faith, to expeditiously resolve the interference problem. If Lessee and the Senior Lessee cannot resolve the interference problem within a reasonable period of time, Lessor shall have the right to require the interfering party to cease using its facilities or cease other actions creating the interference until the interference is eliminated or reduced to an acceptable standard. Notwithstanding anything in this Lease to the contrary, in the event of interference between a Senior Lessee's activities and Lessee's operations, if the Senior Lessee is a private communication carrier, Lessor shall only require the Senior Lessee to cease using its facilities or cease other actions that may be creating the interference until the interference is eliminated, and Lessee shall be permitted to continue its use and operations at all times while the parties work to determine the cause and cure the interference. If Lessee cannot reasonably use its Facilities because of interference, Lessee may, upon thirty (30) days' notice to Lessor, terminate this Lease and restore the Premises to its original condition, reasonable wear and tear excepted, excluding replacement of the New Tower, trees or other landscaping that was removed during the construction process.

C. Lessee shall cooperate, in good faith, with all other users to identify the causes of and work towards the resolution of any electronic interference problem. In addition, Lessee agrees to eliminate any interference caused by Lessee to Lessor's facilities operating on the Site as of the date this Lease is fully executed by both parties. Lessee's installation, operation, maintenance, repair and/or disconnection of its Facilities shall be in accordance with any site rules and standards, as specified by Lessor, including, but not limited to, the Western Washington Cooperative Interference Committee Engineering Standard #6.

D. Lessor has the right to grant rights for use of other communications facilities on the Site, subject to the provisions herein, and Lessor agrees that it will use reasonable efforts to protect Lessee from interference from subsequent users of the Site and that it will include this same or substantially similar Interference term in other leases.

Section 23. Relocation of Facilities. Lessor reserves the right to require Lessee to temporarily relocate its Facilities, or any portion thereof, to another location on the Site, which will provide a substantially equivalent level of service. Within one hundred twenty (120) days following written notice from Lessor, Lessee shall, at Lessor's expense, temporarily remove, relocate, change or alter the position of its Facilities upon the Site whenever Lessor shall have determined that such removal, relocation, change or alteration is reasonably necessary for construction, alteration, repair, maintenance, installation, or improvement of a new tower or other facilities on a portion of the Site (excluding the Premises) used for communication purposes. In such case, Lessee shall be allowed to install and operate a temporary cell site in a mutually acceptable location on the Site during such work, at Lessor's expense, in order to minimize any disruption or interference with Lessee's continuous operations from the Site.

Section 24. Insurance.

A. Lessee maintains a fully funded Self-Insurance program for the protection and handling of the Lessee's liabilities including injuries to persons and damage to property.

B. Lessor acknowledges, agrees and understands that Lessee is self-funded for all of its liability exposures. Lessee agrees, at its own expense, to maintain, through its fully funded Self-Insurance program, coverage for all of its liability exposures for this Lease. Lessee agrees to provide Lessor with at least thirty (30) days prior written notice of any material change in Lessee's self-funded insurance program and will provide Lessor with a letter of self-insurance as adequate proof of coverage. Lessor further acknowledges, agrees and understands that Lessee does not purchase Commercial General Liability insurance and is a self-insured governmental entity; therefore Lessee does not have the ability to name Lessor as an additional insured.

C. If at any time during the term of this Lease, Lessor is not a governmental agency which maintains a fully funded Self-Insurance program in accordance with applicable law, Lessor will maintain Commercial General Liability insurance in the amount of One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) general aggregate, based on ISO Form CG 00 01 or equivalent, and will include Lessee as an additional insured with respect to claims arising out of or related to this Lease.

D. Lessor shall carry "All Risk" property insurance in an amount equal to the full replacement value of its improvements on the Site, including but not limited to the Tower.

E. Lessee shall maintain "All Risk" property insurance in an amount equal to the full replacement value of all its improvements and personal property located on the Premises or shall self-insure improvements and personal property on the Premises.

F. Notwithstanding any language to the contrary contained in this Lease, Lessor and Lessee

agree that they shall not make a claim against or seek recovery from the other for any loss or damage to their property, or the property of others, resulting from fire or other hazards covered by fire insurance or required to be covered under this Lease and each hereby releases the other from any such claim or liability regardless of the cause of such loss.

Section 25. Indemnification, Waiver and Hold Harmless.

A. Lessee agrees to indemnify and hold Lessor harmless as provided herein to the maximum extent possible under law. Accordingly, Lessee agrees for itself, its successors, and assigns, to defend, indemnify, and hold harmless Lessor, its appointed and elected officials, employees, agents, engineers, consultants, volunteers and representatives (“**Lessor Indemnitees**”) from and against liability for all claims, demands, suits, causes of action, judgments, damages, costs, attorney fees, government orders, penalties, or other requirements (hereafter “**Claims**”), including costs of defense thereof for injury to persons, death, or property damage which is caused by or arises out of Lessee's exercise of rights and privileges granted by this Lease, except to the extent of the Lessor Indemnitees' negligence.

B. Lessor agrees to indemnify and hold Lessee harmless as provided herein to the maximum extent possible under law. Accordingly, the Lessor agrees for itself, its successors, and assigns, to defend, indemnify, and hold harmless Lessee, its appointed and elected officials, employees, agents, engineers, consultants, volunteers and representatives (“**Lessee Indemnitees**”) from and against liability for all Claims, including costs of defense thereof for injury to persons, death, or property damage which is caused by or arises out of Lessor's exercise of rights and privileges granted by this Lease, except to the extent of the Lessee Indemnitees' negligence.

C. Where such Claims result from the concurrent negligence of the parties, the provisions provided in this Section shall be valid and enforceable only to the extent of each party's negligence.

D. Each of the Parties agrees that its obligations under this Section extend to any Claim brought by, or on behalf of, any of its employees or agents. For this purpose, each of the parties, by mutual negotiation, hereby waives, with respect to the other party only, any immunity that would otherwise be available against such Claims under the industrial insurance provisions of Title 51 RCW.

E. In the event that any of the parties incurs any judgment, award, and/or cost arising therefrom, including attorney fees, expenses, and costs shall be recoverable from the responsible party to the extent of that party's negligence.

F. The provisions of this Section do not apply to Claims that are subject to **Section 40** (Hazardous Substances).

G. Notwithstanding anything to the contrary in this Lease, Lessor and Lessee each waive any claims against the other with respect to consequential, incidental and special damages, however caused, based on any theory of liability. The provisions of this Section shall survive the expiration, revocation, or termination of this Lease.

Section 26. Holdover. At such time as this Lease expires, or is revoked or terminated for any cause, Lessee shall immediately remove its Facilities and personal property from the Premises in accordance with the terms of **Section 4** (Installation and Removal of Property). If Lessee shall holdover after the expiration of this Lease, the holdover tenancy shall be on a month-to-month basis, which tenancy may be terminated by the provision of sixty (60) days' advance written notice by either party. During such tenancy, Lessee agrees to be bound by all of the terms, covenants, agreements and conditions as herein specified, so far as applicable.

Section 27. Specific Performance. In the event of a breach the terms of this Lease beyond any applicable cure period, the non-breaching party may elect, in lieu of termination under **Section 21** (Early Termination) and without any prejudice to any of its other legal rights and remedies, to obtain an order from the superior court having jurisdiction compelling the breaching party to comply with the provisions of this Lease and to recover damages, attorney and collection fees, court costs, and other costs and expenses incurred by the non-breaching party by reason of the breaching party's failure to comply.

Section 28. Lessor's Removal of Lessee's Facilities. In the event that this Lease is revoked, forfeited, or otherwise terminated and Lessee fails to remove its Facilities from the Premises in compliance with **Section 4** (Installation and Removal of Property) herein above, in lieu of deeming such Facilities abandoned Lessor shall have the right, but not the obligation, after giving sixty (60) days notice to Lessee, to remove there from all of Lessee's Facilities, and may store the same in any place selected by Lessor including, but not limited to, a public warehouse at the expense and risk of Lessee. If Lessor removes Lessee's property as provided under this Section, it shall immediately provide Lessee written notice of such removal, and notice of Lessee's right to redeem the property after payment of any sums due Lessor, including Lessor's costs of removal and storage. If, within thirty (30) days of such written notice, Lessee does not redeem the Facilities, Lessor shall have the right to sell such Facilities. If the Facilities are sold as provided herein, the proceeds of such sale shall be applied first (1<sup>st</sup>) to the cost of the sale, second (2<sup>nd</sup>) to the payment of the charges for storage, if any, and third (3<sup>rd</sup>) to the payment of any other sums of money which may then be due from Lessee to Lessor under any terms hereof. The balance, if any, shall be paid to Lessee.

Section 29. Fire and Other Casualty. In the event the Premises are destroyed or damaged by fire, earthquake or other casualty to such an extent as to render the same untenable by Lessee in whole or in a substantial part, Lessee shall have the option to terminate the Lease immediately. Lessor shall have no obligation to repair any damage to any portion of the Premises. If the Lessee believes it is feasible to relocate the Facilities to a different location on the Site or on real property owned by Lessor adjacent to the Site, the parties agree that the Premises will be relocated. Lessor will provide an interim site for Lessee to locate temporary, mobile Communication Facilities and equipment as necessary to continue service during repair or relocation of the Premises or Facilities.

Section 30. Condemnation. In the event of the taking of the Premises or Site by condemnation or otherwise by any governmental, state or local authority, this Lease shall be deemed cancelled as of the time of taking possession by said authority. Lessee shall have no claim to nor shall it be entitled to any portion of any condemnation or other award for damages to the Site. However, Lessee shall have the right to pursue its own separate award from the condemning

authority, including, but not limited to, an award for depreciation to and cost of removal or relocation of structures or equipment on the Site. Notwithstanding the forgoing, if it's feasible to relocate the Facilities to a different location on the Site or on real property owned by Lessor adjacent to the Site, the parties agree that this Lease shall not terminate and the Premises will be relocated to a mutually acceptable location.

Section 31. Modification, Waiver. No waiver, alteration, amendment or modification of any of the provisions of this Lease shall be binding unless in writing and signed by duly authorized representatives of both parties. Notwithstanding anything herein to the contrary, it is agreed that amendments to this Lease may be approved and executed by the Mayor or his or her designee on behalf of Lessor.

Section 32. Assignment. This Lease shall run with the property and shall be binding on and inure to the benefit of the parties, their respective successors, personal representatives and permitted assigns. Lessee will not assign or transfer this Lease or sublet all or any portion of the leased Premises without the prior written consent from Lessor, which consent will not be unreasonably withheld, delayed, or conditioned, provided, however, Lessee may assign or transfer in whole or in part its interest in this Lease and in the Premises without Lessor's consent to any emergency communications management entity or to any other governmental entity or any entity that controls, is controlled by, or is under common control with a governmental entity. Where Lessor's approval is required herein, Lessor may inquire into the qualifications and financial stability of a potential assignee or sublessee and reasonably request any information related to such inquiry and may also condition such approval upon the financial, legal and technical expertise of a proposed assignee or sublessee and upon the resolution of any compliance obligation under the Lease. In the event of an assignment, the assignee shall assume all liability of the assignor and Lessee will be relieved of all future performance, liabilities and obligations under this Lease to the extent of such assignment. In the event of a sublease, Lessor shall be entitled to fifty percent (50%) of any revenue received by Lessee from any sublessee, which shall be payable to Lessor within ten (10) days of receipt thereof by the Lessee.

Section 33. Non-Waiver of Breach. The failure of either Lessee or Lessor 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 covenant, agreement or option, or any other covenant, agreement or option.

Section 34. Cancellation of Prior Leases and Agreements. This Lease supersedes all previous leases and agreements between the parties for use of the Premises and any such agreements are hereby cancelled.

Section 35. Notice. Any notice or information required or permitted to be given to the parties under this Lease may be sent to the following addresses unless otherwise specified;

If to Lessor: City of Bothell  
Attn: City Attorney  
CC: Director of Public Works  
18415 101<sup>ST</sup> Ave NE  
Bothell, WA 98011

If to Lessee: King County Facilities Management Division  
Real Estate Services  
Attention: Leasing Supervisor  
Re: Norway Hill PSERN Lease  
500 Fourth Avenue, Suite 830  
Seattle, WA 98104

With a copy to: King County Facilities Management Division  
Director's Office  
Attention: Gail Houser  
RE: Norway Hill PSERN Lease  
500 Fourth Avenue, Suite 800  
Seattle, WA 98104

And with a copy to: King County Department of Information Technology  
Puget Sound Emergency Radio Network  
Attention: Marlin Blizinsky  
RE: Norway Hill PSERN Lease  
401 Fifth Avenue, Suite 600  
Seattle, WA 98104

Section 36. Attorneys' Fees. If a suit or other action is instituted in connection with any controversy arising out of this Lease, the prevailing party shall be entitled to recover all of its costs and expenses, including such sum as the court may judge reasonable for attorneys' fees, costs, and expenses.

Section 37. Restoration of Property. Lessee shall, after installation, construction, relocation, maintenance, removal, or repair of its Facilities restore any other public and private property improvements, fixtures, structures, facilities, rights-of-way and other of Lessor's property which may be disturbed or damaged by the work, to at least the same condition immediately prior to any such installation, construction, relocation, maintenance, removal or repair, reasonable wear and tear excepted. The Public Works Director shall have final approval of the condition of such property after restoration. All survey monuments which are to be disturbed or displaced by such work shall be referenced, replaced and restored, as per WAC 332-120, as the same now exists or may hereafter be amended, and per all pertinent federal, state and local standards and specifications including, but not limited to, the City of Bothell Benchmark System's second order, first class specifications. The provisions of this Section shall survive the expiration, revocation, or termination by other means of this Lease. All work by Lessee pursuant to this Section shall be performed in accord with City of Bothell Public Works Construction standards and warranted for a

period of one (1) year.

Section 38. Non-Severability. If any section, sentence, clause or phrase of this Lease should be held to be invalid or unconstitutional by a court of competent jurisdiction, the validity of the remaining portions or provisions shall not be affected and the rights and obligations of the parties shall not be affected in regard to the remainder of this Lease.

Section 39. Merger. Except for the terms and conditions of applicable and future laws, ordinances, rules, regulations and other of Lessor's land use approvals, authorizations or permits or related communications, this Lease constitutes the entire understanding and agreement between the parties as to the subject matter herein and no other agreements or understandings, written or otherwise, shall be binding upon the parties upon execution of this Lease.

Section 40. Hazardous Substances.

A. Lessor represents and warrants that it has no actual knowledge of any substance, chemical, or waste (collectively, "**Hazardous Substances**") on the Site that is identified as hazardous, toxic, or dangerous in any federal, state, or local environmental or safety law or regulation. Neither Lessor nor Lessee shall introduce or use any such substance on the Site in violation of any applicable law or regulation, nor shall either party allow any of its agents, contractors or any other person under its control to do the same.

B. Lessee will be solely responsible for and will defend, indemnify, and hold Lessor, its agents, and employees, harmless from and against any and all direct claims, costs, and liabilities including reasonable attorneys' fees and costs, arising out of or in connection with the cleanup or restoration of the Premises associated with Lessee's use, storage, or disposal of Hazardous Substances or the use, storage, or disposal of such substances by Lessee's agents, contractors, or other persons acting under Lessee's control.

C. Lessor will be solely responsible for and will defend, indemnify, and hold Lessee, its agents, and employees harmless from and against any and all direct claims, costs, and liabilities, including reasonable attorneys' fees and costs arising out of or in connection with the removal, cleanup, or restoration of the Site associated with Lessor's use, storage, or disposal of Hazardous Substances or the use, storage, or disposal of such substances by Lessor's agents, contractors, or other persons acting under Lessor's control.

Section 41. Miscellaneous.

A. Lessor and Lessee respectively represent that their signatories are duly authorized and have full right, power and authority to execute this Lease.

B. This Lease shall be construed in accordance with the laws of the State of Washington.

C. Section captions and headings are intended solely to facilitate the reading thereof. Such captions and headings shall not affect the meaning or interpretation of the text herein.

D. Where the context so requires, the singular shall include the plural and the plural shall include the singular.

E. Lessor agrees to sign a short form Memorandum of Lease substantially in the form attached hereto as Exhibit C, which Lessee may record at Lessee's expense.

F. Lessee shall be responsible for obtaining all other necessary approvals, authorizations and agreements from any party or entity necessary for Lessee's use of the Premises and installation and operation of its Facilities thereon, and it is acknowledged and agreed that Lessor is making no representation, warranty or covenant whether any of the foregoing approvals, authorizations or agreements are required or have been obtained by Lessee from any person or entity.

G. This Lease may be enforced at both law and equity.

H. This Lease may be executed in duplicate counterparts, each of which shall be deemed an original.

I. Lessee acknowledges that it, and not Lessor, shall be responsible for the Facilities' compliance with all marking and lighting requirements of the FAA and the FCC. Lessor acknowledges that it, and not Lessee, shall be responsible for the Site and the Tower's compliance with all marking and lighting requirements of the FAA and the FCC. Each party shall indemnify and hold the other harmless from any fines or other liabilities caused by said party's failure to comply with such requirements.

Section 42. Non-Discrimination. Lessee and Lessor, for themselves, their successors, and assigns as a part of the consideration hereof, do hereby covenant and agree to comply with all civil rights and anti-discrimination requirements of federal, state or local laws applicable to the Property, including, without limitation, Chapter 49.60 RCW. Lessee and Lessor shall not discriminate on the basis of race, color, marital status, national origin, religious affiliation, disability, sexual orientation, gender identity or expression or age except by minimum age and retirement provisions, unless based upon a bona fide occupational qualification, in the employment or application for employment or in the administration or delivery of services or any other benefits under King County Code Ch. 12.16.125. Lessee shall comply fully with all applicable federal, state and local laws, ordinances, executive orders and regulations that prohibit such discrimination. These laws include, but are not limited to, chapter 49.60 RCW, and Titles VI and VII of the Civil Rights Act of 1964. Any violation of this provision shall be considered a default of this Lease and shall be grounds for cancellation, termination, or suspension, in whole or in part, of the Lease and may result in ineligibility for further agreements between the parties.

Section 43. Representations and Warranties. Lessor represents, warrants and agrees that: (i) Lessor solely owns the Site as a legal lot in fee simple, and owns and operates the Tower located thereon, and has the full right, power and authority to grant this Lease to Lessee; (ii) the Site is not and will not be encumbered by any liens, restrictions, mortgages, covenants, conditions, easements, leases, or any other agreements of record or not of record, which would adversely affect Lessee's rights under this Lease; (iii) as long as Lessee is not in default beyond any applicable cure period Lessor grants to Lessee sole, actual, quiet and peaceful use, enjoyment



King County Lease #: \_\_\_\_\_  
King County Site Name: Norway Hill

and possession of the Premises; and (iv) Lessor's execution and performance of this Lease will not violate any laws, ordinances, covenants or the provisions of any mortgage, lease or other agreement binding on Lessor.

**[SIGNATURES APPEAR ON THE NEXT PAGE]**

IN WITNESS WHEREOF, the Lessor and Lessee have executed this Lease on the dates specified below.

**LESSOR:**  
**CITY OF BOTHELL**

**LESSEE:**  
**KING COUNTY**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
\_\_\_\_\_  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
\_\_\_\_\_  
Date: \_\_\_\_\_

**ATTEST/AUTHENTICATED:**  
\_\_\_\_\_  
City Clerk Laura Hathaway

**APPROVED AS TO FORM:**  
\_\_\_\_\_  
Bothell City Attorney  
Date: \_\_\_\_\_

**APPROVED AS TO FORM ONLY:**  
By: \_\_\_\_\_  
Busch Law Firm PLLC  
Date: \_\_\_\_\_

**[ACKNOWLEDGMENTS APPEAR ON THE NEXT PAGE]**

STATE OF WASHINGTON        )  
  ) ss.  
COUNTY OF KING            )

I certify that I know or have satisfactory evidence that \_\_\_\_\_  
is the person who appeared before me, and that he acknowledged that (he/she) signed this  
instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged  
it as the \_\_\_\_\_ of the City of Bothell to be the free  
and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_\_\_\_.

Notary Signature: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Notary Public for the State of Washington  
Residing In: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

STATE OF WASHINGTON )  
  ) ss  
COUNTY OF KING        )

I certify that I know or have satisfactory evidence that \_\_\_\_\_  
is the person who appeared before me, and said person acknowledged that (he/she) signed this  
instrument, on oath stated that (he/she) was authorized to execute the instrument and  
acknowledged it as the \_\_\_\_\_ of \_\_\_\_\_  
to be the free and voluntary act of such party for the uses and purposes mentioned in the  
instrument.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_\_\_\_.

Notary Signature: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Notary Public for the State of Washington  
Residing In: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

**Exhibit A**

Site & Premises  
Page 1 of 3

Legal Description of Site:

The land in the County of King, State of Washington, described as follows:

THAT PORTION OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 17, TOWNSHIP 26 NORTH, RANGE 5 EAST, W.M., IN KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT WHICH IS 331.84 FEET SOUTH AND 2.6 FEET EAST OF THE STONE MONUMENT AT THE NORTHWEST CORNER OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER;  
THENCE NORTH 89°19'40" EAST 550 FEET;  
THENCE SOUTH 00°27'00" EAST 331.48 FEET;  
THENCE SOUTH 89°17'10" WEST 550 FEET TO THE WEST LINE OF SAID NORTHEAST QUARTER OF THE NORTHWEST QUARTER;  
THENCE ALONG SAME, NORTH 0°27'00" WEST 331.85 FEET TO THE PLACE OF BEGINNING;

EXCEPT THE WEST 30 FEET THEREOF FOR COUNTY ROAD BY DEED RECORDED UNDER KING COUNTY RECORDING NUMBER 2265368;

AND EXCEPT THE EASTERLY 240 FEET THEREOF;

AND EXCEPT THAT PORTION THEREOF CONDEMNED BY THE CITY OF SEATTLE FOR THE TOLT RIVER PIPELINE BY KING COUNTY SUPERIOR COURT CAUSE NUMBER 514489.

(ALSO BEING KNOWN AS A PORTION OF PARCEL A OF CITY OF BOTHELL SHORT PLAT NUMBER D-88-58, RECORDED UNDER KING COUNTY RECORDING NUMBER 8804261037).

(ALSO BEING KNOWN AS A PORTION OF LOTS 1, 2, 3 AND 4, BLOCK 2, MOTOR CREST VILLA TRACTS, ACCORDING TO THE UNRECORDED PLAT THEREOF AND PORTION OF ADJOINING STREETS, BEING IN KING COUNTY, WASHINGTON).

Parcel No. 5690500065

The Site Plans depicting the Premises are attached hereto.



PARCEL: 5690500235  
ZONING: R 40000  
LAND USE: RESIDENTIAL

PARCEL: 5690500126  
ZONING: R 40000  
LAND USE: RESIDENTIAL

PARCEL: 5690500127  
ZONING: R 40000  
LAND USE: RESIDENTIAL

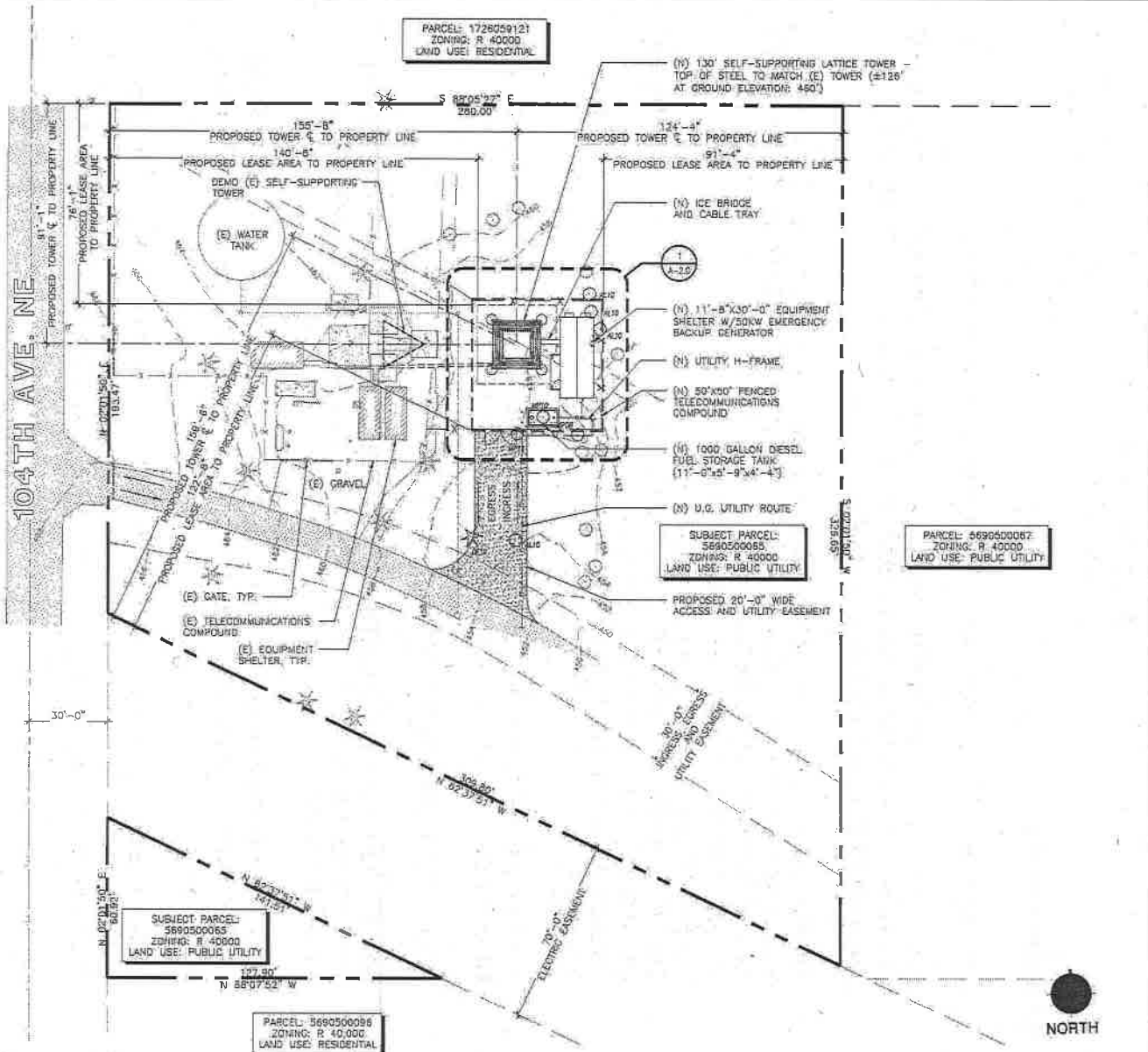
PARCEL: 1728059121  
ZONING: R 40000  
LAND USE: RESIDENTIAL

SUBJECT PARCEL:  
5690500065  
ZONING: R 40000  
LAND USE: PUBLIC UTILITY

PARCEL: 5690500067  
ZONING: R 40000  
LAND USE: PUBLIC UTILITY

SUBJECT PARCEL:  
5690500065  
ZONING: R 40000  
LAND USE: PUBLIC UTILITY

PARCEL: 5690500086  
ZONING: R 40000  
LAND USE: RESIDENTIAL



**King County**

**RCERN**

DUCT SOUND EMERGENCY  
RADIO NETWORK

Image: Facebook - Local 17.5 - 60000000

**NORWAY HILL**

(NEW BUILD)

1800 104TH AVE. NE  
BOTHELL, WA 98011

**Cable One**

3200 8TH AVE. S. SUITE 200  
SEATTLE, WA 98108  
PHONE: 206-465-0200  
WWW.CABLEONE.COM

**CAMP4**

1801 40TH AVE. W. SUITE 300  
LYNNWOOD, WA 98036  
PHONE: 425-746-6888  
FAX: 425-746-6888  
WWW.CAMP4BROADCAST.COM

PROJECT MANAGER: EC

PREPARED BY: LM

APPROVED BY: PN

06/18/16 ISSUED FOR PRELIM. POINT  
07/25/16 ISSUED FOR PRELIM. POINT  
09/14/16 ISSUED FOR PRELIM. POINT  
11/27/16 ISSUED FOR PRELIM. REVIEW

PLAN REVIEWERS SIGNATURE

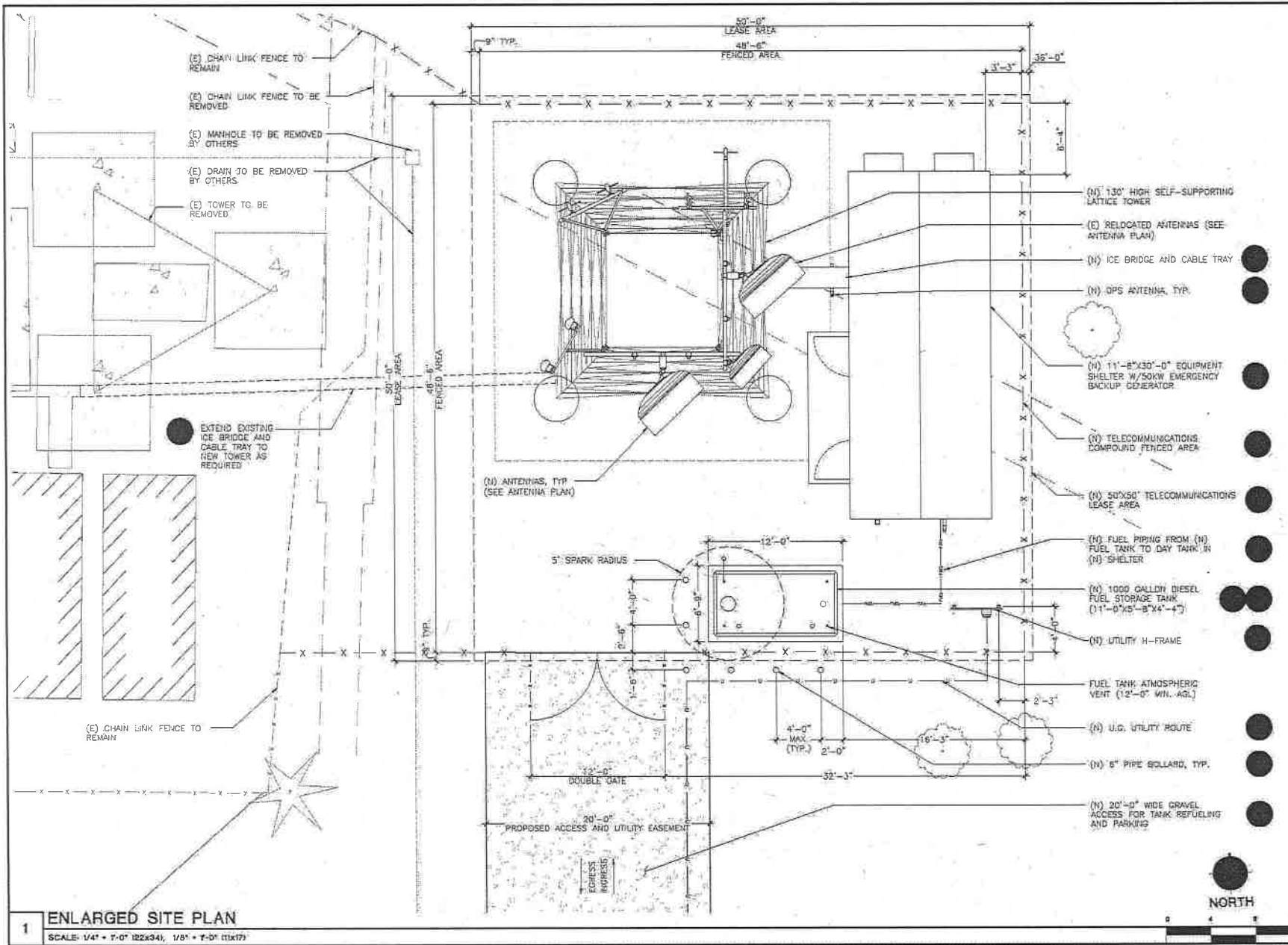
ARCHITECTS' STAMP

SHEET NAME  
**OVERALL PROPOSED SITE PLAN**

SHEET NUMBER  
**A-1**

**OVERALL PROPOSED SITE PLAN**

SCALE: 1" = 20'-0" (22x34), 1" = 40'-0" (31x17)



**NORWAY HILL**  
(NEW BUILD)  
9200 104TH AVE. NE  
BOTHELL, WA 98011

**OSCON** PACIFIC CORPORATION  
800 4TH AVE. S. SUITE 402  
SEATTLE, WA 98108  
PHONE: (206) 462-8282  
WWW.OSCON.COM

**CAMP+** ASSOCIATES  
1845 4TH AVE. N. SUITE 204  
LYNNWOOD, WA 98037  
PHONE: (206) 740-8882  
FAX: (206) 740-8882  
WWW.CAMPASSOC.COM

PROJECT MANAGER: EIC

PREPARED BY: LM

APPROVED BY: PH

06/10/11	ISSUED FOR PRELIM. PERMIT
07/15/11	ISSUED FOR PRELIM. PERMIT
08/09/11	ISSUED FOR PRELIM. PERMIT
10/27/11	ISSUED FOR PRELIM. REVIEW

PLAN REVIEWERS SIGNATURE

ARCHITECTS STAMP

SHEET NAME  
**ENLARGED SITE PLAN**

SHEET NUMBER  
**A-2.0**

**1 ENLARGED SITE PLAN**  
SCALE: 1/4" = 1'-0" (22x34), 1/8" = 1'-0" (11x17)



**Exhibit B**

**BILL OF SALE**

THIS BILL OF SALE ("**Bill of Sale**") is made effective as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, (the "**Effective Date**") by King County, a political subdivision of the State of Washington ("**Lessee**"), in favor of the City of Bothell, a Washington municipal corporation ("**Lessor**").

NOW, THEREFORE, in consideration of Lessee's tenancy, occupancy and use of space on Lessor's real property pursuant to that certain Facilities Lease For Communications Facilities, King County Lease # \_\_\_\_\_, entered into the \_\_\_\_\_ day of \_\_\_\_\_, 2016, and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, and intending to be legally bound and subject to the terms of this Bill of Sale, Lessee does hereby absolutely and unconditionally sell, assign and transfer to Lessor all of Lessee's right, title and interest in and to the one hundred twenty foot (120') high tower and foundation attached and appurtenant to that certain real property located at 16206 104<sup>th</sup> Avenue NE, Bothell, Washington 98011, and known as the City of Bothell's Norway Hill Site ("**Tower**").

Lessor acknowledges and agrees that Lessee does not make and specifically disclaims any representations, warranties and guaranties whatsoever, whether express or implied, oral or written, concerning: (i) the value, quality or condition of the Tower; (ii) the suitability of the Tower for any and all activities and uses that Lessor may conduct in connection therewith; (iii) the compliance of the Tower with any laws, rules, ordinances or regulations of any applicable governmental authority; (iv) the merchantability, marketability or fitness for a particular purpose of the Tower, and (v) compliance with any environmental protection, pollution, or land use, zoning, development or regional impact laws, rules, regulations, orders or requirements with respect to the Tower or the installation or operation of the Tower.

Lessor agrees to accept the Tower in its condition as of the Effective Date of this Bill of Sale, and waives all objections or claims against Lessee arising from or related to the Tower. Lessor acknowledges and agrees that to the maximum extent permitted by law, the transfer of the Tower is made on an "AS IS, WHERE IS" condition and basis.

IN WITNESS WHEREOF, Lessee has executed this Bill of Sale as of the Effective Date indicated above.

**King County**, a political subdivision of the State of Washington

**City of Bothell**, a Washington municipal corporation

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

[ACKNOWLEDGMENTS APPEAR ON THE NEXT PAGE]

STATE OF WASHINGTON        )  
  ) ss.  
COUNTY OF KING            )

I certify that I know or have satisfactory evidence that \_\_\_\_\_  
is the person who appeared before me, and that he acknowledged that (he/she) signed this  
instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged  
it as the \_\_\_\_\_ of the City of Bothell to be the free  
and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_\_\_\_.

Notary Signature: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Notary Public for the State of Washington  
Residing In: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

STATE OF WASHINGTON        )  
  ) ss  
COUNTY OF KING            )

I certify that I know or have satisfactory evidence that \_\_\_\_\_  
is the person who appeared before me, and said person acknowledged that (he/she) signed this  
instrument, on oath stated that (he/she) was authorized to execute the instrument and  
acknowledged it as the \_\_\_\_\_ of \_\_\_\_\_  
to be the free and voluntary act of such party for the uses and purposes mentioned in the  
instrument.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_\_\_\_.

Notary Signature: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Notary Public for the State of Washington  
Residing In: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_



**Exhibit C**

**Return to:**

King County Facilities Management Division  
Real Estate Services  
Attention: Leasing Supervisor  
Re: Norway Hill PSERN Lease  
500 Fourth Avenue, Suite 830  
Seattle, WA 98104

**MEMORANDUM  
OF  
LEASE**

Lessor Name: **City of Bothell**, a Washington municipal corporation  
Lessee Name: **King County**, a political subdivision of the State of Washington  
Abbreviated Legal Description: PTN PARCEL A CITY OF BOTHELL SHORT PLAT NO. D-88-58  
REC #8804261037  
Official legal description attached as Exhibit 1  
Assessor's Tax Parcel ID #: 569050 0065  
Recording Numbers of Prior Recorded Documents: Does not apply  
State: Washington County: King

This Memorandum of Lease is entered into on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between **City of Bothell**, a Washington municipal corporation, having a mailing address of 18415 101<sup>st</sup> Ave. NE, Bothell, WA 98011 (hereinafter referred to as "**Lessor**") and **King County**, a political subdivision of the State of Washington, having a mailing address of 500 Fourth Avenue, Suite 830, Seattle, Washington 98104 (hereinafter referred to as "**Lessee**").

1. Lessor and Lessee entered into a certain Facilities Lease for Communications Facilities ("**Lease**") on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, for the purpose of installing, operating and maintaining a communications facility and other improvements. All of the foregoing is set forth in the Lease.
2. The initial lease term will be twenty-five (25) years commencing on the date Lessee commences installation of its Facilities on the Premises (as those capitalized terms are defined in the Lease), with three (3) successive five (5) year options to extend.
3. The portion of the land being leased to Lessee and associated easements are described in **Exhibit 1** annexed hereto.

4. This Memorandum of Lease is not intended to amend or modify, and shall not be deemed or construed as amending or modifying, any of the terms, conditions or provisions of the Lease, all of which are hereby ratified and affirmed. In the event of a conflict between the provisions of this Memorandum of Lease and the provisions of the Lease, the provisions of the Lease shall control. The Lease shall be binding upon and inure to the benefit of the parties and their respective heirs, successors, and assigns, subject to the provisions of the Lease.

**IN WITNESS WHEREOF**, the parties have executed this Memorandum of Lease as of the day and year first above written.

**"LESSOR"**

**City of Bothell**, a Washington municipal corporation

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Its: \_\_\_\_\_  
Date: \_\_\_\_\_

**"LESSEE"**

**King County**, a political subdivision of the State of Washington

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Its: \_\_\_\_\_  
Date: \_\_\_\_\_

**[ACKNOWLEDGMENTS APPEAR ON THE NEXT PAGE]**

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF KING )

I certify that I know or have satisfactory evidence that \_\_\_\_\_  
is the person who appeared before me, and that he acknowledged that (he/she) signed this  
instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged  
it as the \_\_\_\_\_ of the City of Bothell to be the free  
and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_\_\_\_.

Notary Signature: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Notary Public for the State of Washington  
Residing In: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

STATE OF WASHINGTON )  
 ) ss  
COUNTY OF KING )

I certify that I know or have satisfactory evidence that \_\_\_\_\_  
is the person who appeared before me, and said person acknowledged that (he/she) signed this  
instrument, on oath stated that (he/she) was authorized to execute the instrument and  
acknowledged it as the \_\_\_\_\_ of \_\_\_\_\_  
to be the free and voluntary act of such party for the uses and purposes mentioned in the  
instrument.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_\_\_\_.

Notary Signature: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Notary Public for the State of Washington  
Residing In: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

**EXHIBIT 1**

Page 1 of 2

to the Memorandum of Lease dated \_\_\_\_\_, 20\_\_, by and between **City of Bothell**, a Washington municipal corporation, as Lessor, and **King County**, a political subdivision of the State of Washington, as Lessee.

The real property on which the Premises is located is legally described as follows:

The land in the County of King, State of Washington, described as follows:

THAT PORTION OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 17, TOWNSHIP 26 NORTH, RANGE 5 EAST, W.M., IN KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT WHICH IS 331.84 FEET SOUTH AND 2.6 FEET EAST OF THE STONE MONUMENT AT THE NORTHWEST CORNER OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER;

THENCE NORTH 89°19'40" EAST 550 FEET;

THENCE SOUTH 00°27'00" EAST 331.48 FEET;

THENCE SOUTH 89°17'10" WEST 550 FEET TO THE WEST LINE OF SAID NORTHEAST QUARTER OF THE NORTHWEST QUARTER;

THENCE ALONG SAME, NORTH 0°27'00" WEST 331.85 FEET TO THE PLACE OF BEGINNING;

EXCEPT THE WEST 30 FEET THEREOF FOR COUNTY ROAD BY DEED RECORDED UNDER KING COUNTY RECORDING NUMBER 2265368;

AND EXCEPT THE EASTERLY 240 FEET THEREOF;

AND EXCEPT THAT PORTION THEREOF CONDEMNED BY THE CITY OF SEATTLE FOR THE TOLT RIVER PIPELINE BY KING COUNTY SUPERIOR COURT CAUSE NUMBER 514489.

(ALSO BEING KNOWN AS A PORTION OF PARCEL A OF CITY OF BOTHELL SHORT PLAT NUMBER D-88-58, RECORDED UNDER KING COUNTY RECORDING NUMBER 8804261037).

(ALSO BEING KNOWN AS A PORTION OF LOTS 1, 2, 3 AND 4, BLOCK 2, MOTOR CREST VILLA TRACTS, ACCORDING TO THE UNRECORDED PLAT THEREOF AND PORTION OF ADJOINING STREETS, BEING IN KING COUNTY, WASHINGTON).

Parcel No. 5690500065

The Premises are described and/or depicted as follows:

