

RESOLUTION 2021 741

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF BENTON COUNTY ENTERING INTO A LEASE AGREEMENT WITH THE CITY OF RICHLAND ON BEHALF OF BENTON COUNTY EMERGENCY SERVICES TO PERMIT BENTON COUNTY TO LOCATE AND OPERATE RADIO COMMUNICATION EQUIPMENT AT THE SITE KNOWN AS GOLGOTHA, LOCATED IN A PORTION OF THE NE 1/4 OF THE SE 1/4 OF SECTION 3, TOWNSHIP 4 NORTH, RANGE 23 EAST, W.M., KLICKITAT COUNTY, WASHINGTON

WHEREAS, Benton County Emergency Services (BCES) leases property from McBride Hereford Ranches, located in Klickitat County, known as Golgotha, for the purpose of operating a radio communication antenna facility. BCES has the right to sublease the property to other agencies to allow them to locate and operate radio communication equipment. Benton County has the desire to lease a portion of the Golgotha site; and

WHEREAS, a Lease Agreement has been prepared by and between the City of Richland on behalf of Benton County Emergency Services, and Benton County to allow Benton County to locate and operate radio communication equipment at the site known as Golgotha, located in a portion of the NE 1/4 of the SE 1/4 of Section 3, Township 4 North, Range 23 East, W.M., Klickitat County, Washington; and

WHEREAS, the Agreement has been approved as to form by our departmental Deputy Prosecuting Attorney; and

WHEREAS, the Director of Operations and Capital Programs recommends the Lease Agreement be approved, it being in the best public interest; NOW, THEREFORE,

BE IT RESOLVED that the Board of Benton County Commissioners, Benton County, Washington hereby concurs with the recommendation that the Lease Agreement by and between the City of Richland on behalf of Benton County Emergency Services and Benton County to locate and operate radio communication equipment at the site known as Golgotha, located in a portion of the NE 1/4 of the SE 1/4 of Section 3, Township 4 North, Range 23 East, W.M., Klickitat County, Washington, is hereby approved and the Chairman of the Board is authorized to sign said lease agreement; and

BE IT FURTHER RESOLVED Benton County will pay \$1,850.83 per year for the Agreement term, which shall be adjusted annually based on the site 3 Year Expense Average; and

BE IT FURTHER RESOLVED the term of the Agreement shall commence on this date and be governed by the underlying lease between Benton County Emergency Services and McBride Hereford Ranches, Inc. which expires January 1, 2028 which may be renewed in writing with similar terms and a rental fee adjustment.

Dated this 12th day of October 2021.

JEROME DELVIN - ABSENT

Chairman of the Board.



Chairman Pro Tem.



Member.

Attest:

Clerk of the Board



Constituting the Board of County Commissioners of Benton County, Washington.

CO-LOCATION LEASE AGREEMENT

Re: Golgotha

12 THIS CO-LOCATION LEASE AGREEMENT (the "Agreement") is effective this Oct. day of _____, 2021, (the "Effective Date") and entered into by and between the **City of Richland**, a Washington municipal corporation, on behalf of Benton County Emergency Services, an administrative agency created through interlocal agreement pursuant to Ch. 39.34 RCW ("**Lessor**"), and **Benton County Public Works**, a Washington municipal corporation ("**Lessee**"). References in this Agreement to City of Richland include the Benton County Emergency Services Executive Board and the Tri-Cities' regional designated public safety communications management entity, BCES, managed by the City of Richland. Lessee and Lessor are referred to individually herein as a "Party" and collectively as the "Parties."

I. RECITALS

WHEREAS, Lessor leases the real property located in Klickitat County, State of Washington, as described and depicted in the maps shown as Exhibit A-Golgotha Site, McBride Ranch Drawings sheets 2-5 affixed to **Attachment A** to this Agreement (the "Property"); and

WHEREAS, Lessor has the right to sublease the Property to Lessee with consent of the Landlord, McBride Hereford Ranches, Inc; and

WHEREAS, Lessee operates a Transmitter system that serves the area in which the Property is located, and desires to construct upon a portion of the Property a radio communication antenna facility, including but not limited to communication equipment and utilities as described in **Attachment B** in this Agreement (the "Facility"); and

WHEREAS, Lessor and Lessee desire to enter this Agreement for the purpose of permitting Lessee to construct, operate, and maintain the Facility, and for conducting any other lawful activities on that portion of the Property which is subject to this Agreement; and

WHEREAS, the Parties may review additional opportunities to co-locate radio facilities in the future, with additional agreements being executed on a case-by-case basis.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, the Parties hereby agree as follows:

II. AGREEMENT

1. LEASE ACCESS.

1.1 Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, on the terms and conditions of this Agreement that portion of the Property which is occupied by Lessee to include a location on the Property to install, maintain and replace the Facilities.

1.2 Lessor hereby grants to Lessee during the term of this Agreement, including any

renewals of this Agreement, an access license over the Property for use by Lessee for motor vehicle access to the Property for the purposes of installing, operating, maintaining and repairing the Facilities.

1.3 Lessee shall have, as appurtenant to the Premises, right to use the common areas relating to the Premises (“Common Areas”) throughout the Initial Term or any Extended Term. The uses to be made of the Common Areas shall, unless otherwise agreed by the Parties, conform to the uses made of such Common Areas prior to the commencement of the Agreement Term. Lessee agrees not to utilize Common Areas as storage facilities or an overnight parking area.

2. TERM, COMMENCEMENT AND EXPIRATION.

This Agreement shall commence on the Effective Date first identified above, and the term of this Agreement shall be governed by the underlying lease between Lessor and McBride Hereford Ranches, Inc which expires January 1, 2028 (the “Lease Term”). So long as authorized by the underlying lease, this Agreement may be renewed in writing with similar terms and a rental fee adjustment. Any extension or modifications to the underlying lease may be executed at the sole option of the Lessor. Except as provided by Section 14 Default, this Agreement may be terminated without cause by either Party with twelve (12) months’ written notice; provided, however, that Lessor shall give immediate notice to Lessee in the event Lessor’s underlying lease with Landlord is terminated, whereupon both Lessor and Lessee shall vacate the premises as required by the underlying lease.

3. RENT.

3.1 In consideration of Lessee’s rent, Lessee shall be entitled to the use of the Property at Golgotha. Lessee’s rent shall be \$ **1,850.83** per year for the Agreement term, which shall be adjusted annually based on the site 3 Year Expense Average. Rent shall be paid in full on an annual basis, with the annual rent payment for the first year of this Lease coming due thirty (30) calendar days from the effective date (“Rent Payment Date”). Thereafter, annual rent shall be due on the anniversary of the Rent Payment Date for the term of this Agreement.

3.2 In the event that a substantial change in either Party’s antennae design, operating frequencies or power output occurs, a computer analysis by an engineering consultant may be necessary. The Party proposing the antennae design change is solely responsible for commissioning the analysis and paying all related expenses.

3.3 Lessor will provide Lessee with sufficient space on the Tower and on the Transmitter Site to install necessary base station radio cabinet(s) and to accommodate microwave equipment used by Lessee in the operation of its radio equipment.

4. POSSESSION.

If Lessor is unable to deliver possession of the Property at the commencement of this Agreement, Lessee shall not be liable for any rent until possession is delivered. Lessee may immediately

terminate this Agreement if possession is not delivered within ninety (90) days of the Effective Date hereof.

5. CLEAN-UP.

Lessee shall maintain the Property it occupies in a clean and neat condition.

6. LESSOR'S RIGHT OF ENTRY.

Lessor agrees to permit Lessee and Lessee's agents and representatives to enter upon the Property at reasonable times for the purpose of inspecting the same.

7. USES.

7.1 The Property is to be used only in connection with operation of Lessee's communications equipment and for no other business or purpose without the prior written consent of Lessor. Lessee agrees not to occupy or use, or permit any portion of the Property to be used, for any purpose which is unlawful or deemed to be hazardous.

7.2 Lessee shall install and operate transmission equipment (the "Transmission Equipment") as described in **Attachment B**. Lessee shall update **Attachment B** as and when there are changes in transmission equipment installation configuration. Updated **Attachment B** lists shall be mailed to Lessor.

7.3 Lessee agrees to comply with the Public Safety Communications Site Standards provided in **Attachment C**.

7.3 The Parties mutually agree to comply with all laws, ordinances, orders, rules and regulations (municipal, county, state, and federal) relating to the use, condition or occupancy of the Property.

8. ENVIRONMENTAL MATTERS.

8.1 Lessor represents that it is not aware of any release of Hazardous Substances (as defined below) on the Property. Lessor will indemnify, protect, defend and hold harmless Lessee from and against all claims, suits, actions, causes of action, assessments, losses, penalties, costs, including clean-up costs, damages and expenses, including, without limitation, reasonable attorney's fees, sustained or incurred by Lessee pursuant to any federal, state or local laws, implementing regulations, common law or otherwise, relating to the release by Lessor or its agents, employees or contractors of any hazardous substances, toxic substances and/or contamination of any type whatsoever (collectively, Hazardous Substances) in, upon or beneath the Property.

8.2 With the exception of Hazardous Substances that are legally used in the normal course of its business, neither Lessor nor Lessee will bring to, transport across or dispose of any Hazardous Substances on the Property without the other's prior written approval, which approval will not be unreasonably withheld, except Lessee may keep on the Property substances used in

back-up power units (such as batteries and diesel generators) commonly used in the wireless communications industry. Lessees' use of any approved substances constituting Hazardous Substances must comply with all applicable laws, ordinances and regulations governing such use.

9. INSURANCE; INDEMNIFICATION.

Lessee agrees to provide and maintain general liability and property damage coverage, which shall include motor vehicle liability and property damage coverage, with limits of not less than \$2,000,000 per occurrence. Lessee shall provide a certificate of insurance and required endorsements identifying City of Richland and BCES as an additional insureds. In the event Lessee is a governmental entity that is self-insured or belongs to a risk pool, a letter evidencing the required coverage will satisfy this insurance requirement. Said coverage shall not be discontinued or reduced without thirty (30) days prior written notice to Lessor. Lessee is obligated to defend, indemnify and hold Lessor harmless from all liabilities resulting from its use of the Property and work performed by Lessee or persons performing under Lessee's direction and authority at this Property.

10. ASSIGNMENT AND SUBLETTING.

Lessee may not assign this Agreement without prior written consent of Lessor. Lessee will not sublease any portion of the Property.

11. SURRENDER OF PREMISES.

Within ninety (90) days of expiration or termination of this Agreement, Lessee shall, at its expense: (i) remove its Facilities located at the Property; and (ii) quit and deliver up the Property to Lessor peaceably and quietly in as good order and condition as the same was on the date hereof, ordinary wear and tear excepted. Lessee shall repair any damage to the Site resulting from the removal of Lessee's property.

12. QUIET ENJOYMENT.

Lessor covenants that Lessee shall, and may peacefully have, hold and enjoy the Property, subject to the provisions of this Agreement, provided Lessee pays the Rent herein recited and performs all of Lessee's covenants and agreements herein contained.

13. COSTS AND ATTORNEYS FEES.

If by reason of any default on the part of Lessee it becomes necessary for Lessor to employ an attorney, or in case Lessor shall bring suit to recover any Rent due hereunder, or for breach of any provision of this Agreement or to recover possession of the Property, or if Lessee shall bring any action for any relief against Lessor, declaratory or otherwise, arising out of this Agreement, then the non-prevailing Party in such action shall pay the other Party's reasonable attorney's fees and all reasonable costs incurred by it in connection with such default or action.

14. DEFAULT.

During the term of this Agreement, either Party may terminate this Agreement for cause. Cause shall mean a default on any of the material obligations under this Agreement, including but not limited to the following:

- a. Failure to pay rent; or
- b. Failure to abide by the rules for site access or for location of equipment within the site; or
- c. Failure of either Party to perform any obligation under the sublease; or
- d. Lack of funding available to either Party to carry on the activity; or
- e. Loss of underlying lease to the site.

Termination for cause shall be preceded by a Notice to Correct given to the breaching party sixty (60) days' prior to the effective date of termination. If the basis for termination is cured by the notified Party within the (60) sixty day notice period, termination will not be implemented. If the breaching Party demonstrates substantial efforts to cure the basis for the termination, an additional sixty (60) days will be granted to correct. If the breaching party fails to take sufficient action to cure the breach, termination shall be effective on the sixty-first (61st) day from the date the Notice to Correct was given.

15. INTERFERENCE.

15.1 Lessee shall not cause, by its transmission or activities at the Property, interference of any kind whatsoever to the activities or facilities of Lessor or others who have entered into an Agreement with Lessor prior to the execution of this Agreement (unless the other party has modified its transmission or activities after Lessee has executed the Agreement). If such interference occurs and cannot be reduced to levels reasonably acceptable to Lessor, Lessee must immediately cease such transmissions from the Property upon notice from Lessor until such interference is eliminated. If such interference cannot be eliminated within a reasonable time as shall be reasonably established by Lessor's consulting engineer, which shall not be less than ten (10) business days, then Lessor may elect to terminate this Agreement by giving ten (10) days prior written notice to Lessee. As used in this Agreement, "interference" means a condition existing which causes degradation of a transmission signal or otherwise constitutes interference within the meaning of the provisions of the recommended practices of the Electronics Industries Association and the rules and regulations of the FCC then in effect.

15.2 Lessee shall be afforded, and Lessor shall provide, the same interference protection described in 15.1 from any party that becomes a Lessee after execution of this Lease.

16. NOTICES.

Except as otherwise specifically set forth herein, any demand, request or notice which either Party hereto desires, or may be required to make or deliver to the other, shall be in writing and shall be deemed given when personally delivered, or when delivered by private courier service that customarily delivers on the next business day and issues receipts (such as Federal Express), or three (3) days after being deposited in the United States mail, in registered or certified form, return receipt requested, addressed as follows:

To Lessor:
Benton County Emergency Services
Attn: Executive Board
651 Truman Avenue
Richland, WA 99352

To Lessee:
Benton County Public Works
PO Box 1001
Prosser, WA 99350
robert.blain@co.benton.wa.us

And to:
City Manager
City of Richland
625 Swift Boulevard
Richland, WA 99352

or to such other address, and/or person as either Party may communicate to the other by like written notice.

17. MISCELLANEOUS.

17.1 Binding Effect. This Agreement shall be binding upon and inure to the benefit of Lessor, its successors and assigns, and shall be binding upon and inure to the benefit of Lessee, its successors and assigns.

17.2 Severability. Lessor and Lessee intend for this Agreement to comply with FCC rules, regulations and policies, the applicable state and local laws and regulations, and any covenants or restrictions of record. If any term of this Agreement is found to be void or invalid, such invalidity shall not affect the remaining terms of this Agreement, which shall continue in full force and effect. The Parties agree that if any provisions are deemed unenforceable, they shall be deemed modified to the extent necessary to make them enforceable.

17.3 Authorized Signatories. The persons who have executed this Agreement represent and warrant that they are duly authorized to execute this Agreement in their individual or representative capacity as indicated.

17.4 Law and Venue. The terms hereof shall be construed according to the laws of Washington State. Venue shall be Benton County County.

17.5 Captions. The captions in the Agreement are for convenience only and are not part of this Agreement.

17.6 Authority. Each person executing this Agreement on behalf of another person, corporation, partnership, company, or other organization or entity represents and warrants that he or she is fully authorized to so execute and deliver this Agreement on behalf of the entity or party for which he or she is signing. The parties hereby warrant to each other that each has full power and authority to enter into this agreement and to undertake the actions contemplated herein, and that this agreement is enforceable in accordance with its terms.

17.7 Counterpart Originals. Execution of this Agreement and any amendment or other document related to this Agreement may be by electronic signature and in any number of counterpart originals, each of which shall be deemed to constitute an original agreement, and all of which shall constitute one whole agreement.

18. COMPLETE AGREEMENT.

This Agreement represents the entire agreement between Lessor and Lessee with respect to the subject matter addressed herein. No representations have been made by either Party that are not fully contained herein.

[Signature page to follow]

**ATTACHMENT A
DESCRIPTION OF PROPERTY**

RADIO SITE LEASE AGREEMENT

THIS LEASE made this 12 day of December, 2008 by and between BENTON COUNTY EMERGENCY SERVICES (BCES) 651 Truman Av. Richland Washington (hereinafter called LESSEE), and McBride Hereford Ranches, Inc. 1350 Hale Rd. Mabton Washington, (hereinafter called LESSOR):

WHEREAS, LESSOR is a private citizen and land owner in Klickitat County, State of Washington; and

WHEREAS, LESSEE is an Interlocal governmental agency organized and operating under Chapter 39.94, et seq. of the Revised Code of Washington State;

WHEREAS, LESSEE has as its purpose the provision of public safety communications to its constituency of government entities providing law enforcement, fire protection, emergency medical, disaster mitigation and recovery, and other services of benefit to the health, safety and welfare of the community;

WHEREAS, LESSOR is the owner of certain real property as more particularly described in Exhibit A attached hereto and made a part hereof by reference ("Property"); and

WHEREAS, LESSEE desires to Lease the Property for public safety communications purposes including without limitation, communication towers, buildings, and all items reasonably relating thereto; and

WHEREAS, the parties desire to enter in to a Lease agreement defining the rights, duties and liabilities relating to the Property;

WITNESSETH:

For and in consideration of the mutual covenants, agreements, and stipulations contained herein, the parties agree as follows:

1. **PROPERTY:** LESSOR does hereby Lease to LESSEE, and the LESSEE Leases from the LESSOR, for the term, rental and upon all conditions hereinafter set forth, that certain Property particularly described in Exhibit A.
2. **TERM:** This Lease shall be for the term of twenty years ("Lease Term") from the execution date of this agreement.
3. **OPTION TO RENEW:** This Lease may be renewed at the end of the first twenty year term. The terms of the next Lease period shall be re-negotiated at that time. The re-negotiation period shall be ninety days, and shall be the ninety days immediately preceding the last ninety days of the initial twenty year Lease period. LESSEE shall have the right to waive the option to renew by giving ninety days advance written notice to LESSOR prior to the expiration of the current term. If LESSEE gives such notice, this Lease shall terminate upon expiration of the then current term. LESSOR shall have the right to waive the option to renew by giving one hundred eighty days advance written notice to the LESSEE prior to the expiration of the current term. If LESSOR gives such notice, this Lease shall terminate upon the expiration of the then current term.



4. **RENT:** LESSEE hereby covenants and agrees to pay LESSOR rent, at LESSOR'S address: 1350 Hale Rd. Mabton, WA 98935.
- a. The annual rent payable during the terms of this Lease shall be Nine Thousand Six Hundred dollars, which shall be paid in the month of January of each calendar year. In addition, LESSEE agrees to pay Twenty Five percent of the gross revenues received by the LESSEE, or any assignee or sub LESSEE, from rentals, licenses and/or permits of equipment and/or space on or in structures at the site, excepting any revenue received in return for the fulfillment of LESSEE'S public safety communications commitments to its constituent agencies. LESSEE shall provide LESSOR with an accounting of gross revenues from rentals, licenses and/or permits of equipment and/or space on or in structures at the site each year and shall remit to LESSOR a portion of Twenty Five percent of the gross revenues received by LESSEE less amount of revenues received in return for the fulfillment of Lessee's public safety communications commitments to its constituent agencies within thirty days of the end of each calendar year during the term of this Lease or any renewal.
 - b. LESSEE shall pay LESSOR twelve percent interest per annum on any rent not paid within thirty days of the due date, which interest shall accrue from the due date.
 - c. Rent rate for the following year shall be calculated in October of each year by taking the mean average of the Consumer Price Index for All Urban Consumers (CPI-U): U.S. City Average as published by the United States Bureau of Labor Statistics for the first six months of the current year and the last six months of the previous year and applying the percentage change to the current rent rate; provided, the rental rate shall not be decreased as a result of this adjustment;
 - d. For periods of use less than a full calendar years, rent shall be calculated on a pro rata basis representing the number of days LESSEE has use of and access to the Property. The rate used shall be the rate in effect on the last day of LESSEE's use and access. Payment for partial periods is due within thirty days of the last day of LESSEE's use and access. Late payment is subject to the penalty provision of this Lease.
5. **PERMITTED USE:** The location on LESSOR's Property which LESSEE is occupying and installing its facilities is and shall be referred to as the "Site," which is more particularly described in Exhibit B attached hereto and made a part hereof by this reference.
- a. LESSEE shall have the right, at its own expense, to install, construct, reconstruct and maintain on the Site communications facilities including, without limitation, radio and other communication transmitting and receiving antennas, support mounts, cables, equipment, equipment storage structures, above and/or underground propane fuel storage tanks, aviation hazard lights, security fences and other improvements relating thereto (collectively the "Communications Facilities") for the provision of wireless communications services. LESSEE shall have the right to modify, supplement, replace, upgrade or relocate the Communication Facilities on the Property at any time during the term of the Lease so long as said relocation, replacement or upgrade is made for the purpose of improving the operation of its Communication Facilities, subject to the provisions of this Lease as detailed below;



- b. LESSEE shall have the right, and LESSOR shall grant, easements across and over adjoining Property owned by LESSOR for microwave paths, including the right to remove vegetation and prevent construction of other structures that could block a microwave path including wind generators and antenna support structures;
 - c. LESSEE, assigns and sub-LESSEES shall be entitled to reasonable access to the Site twenty four hours a day, seven days per week, and shall have all additional rights of ingress and egress to and from the Site; provided, except in the case of an emergency, LESSEE shall notify LESSOR in advance of LESSEE'S proposed construction to be performed on the Site in order to coordinate said activity with LESSOR's operations;
 - d. LESSEE has the right, in case of an emergency, to construct or modify Communications Facilities required for restoration and/or commencement of service without notifying LESSOR; provided, however, that such notification is made by LESSEE to LESSOR as soon as possible;
 - e. LESSOR grants to LESSEE the non-exclusive right of access for utility purposes across and over adjoining Property owned by LESSOR upon existing roadways now used to service the Property;
 - f. LESSEE shall have the right, at its expense, to install or improve utilities within or on the Property to service this Site, said utilities including but not limited to electricity, telephone, and water.
6. CO-LOCATION:
- a. LESSEE has the right to solicit, sublet, and allow construction and operation of additional wireless communications facilities on the Property in return for revenue; provided, that LESSOR is entitled to Twenty Five percent of all gross revenue received by LESSEE from such activities less amount of revenues received in return for the fulfillment of Lessee's public safety communications commitments to its constituent agencies; provided further, LESSOR may prohibit, on a case by case basis, any proposed construction exceeding twenty feet above ground level. LESSEE agrees to notify LESSOR of any new structure at least thirty days prior to the beginning of construction; provided, LESSOR may waive such right to notification. Such notification is expressly waived by LESSOR in the case of temporary emergency construction.
7. INTERFERENCE:
- a. LESSEE agrees to participate in the coordination of use of the Property so as not to interfere with the existing use by LESSOR or tenants or licensees of LESSOR holding rights to use of property owned by LESSOR within reasonable distance of the Leased Property. LESSOR agrees to coordinate determination of interference among its own facilities and those of its tenants and licensees.
 - b. LESSOR warrants to LESSEE the use and quiet enjoyment of the Property. LESSOR agrees that it shall not use, nor shall it permit its tenants, LESSEES, employees, invitees or agents to use any portion of the Property in any way which would interfere with the operation of LESSEE, provided that continued use by LESSOR or existing tenants in the same manner as existed at the time the Lease was executed shall not constitute interference with LESSEE'S operations.



8. TAXES: LESSOR shall pay on or before the last day on which payment may be made without penalty or interest, all taxes, assessments, or other governmental charges that shall or may be imposed on the Property or any part thereof.
9. HOLD HARMLESS: The LESSEE hereby agrees to indemnify, defend and hold harmless the LESSOR from any and all liability from damages to persons or property arising from LESSEE'S activities on the property. LESSOR shall likewise indemnify, defend and hold harmless the LESSEE from liability arising from LESSOR'S activities on the property.
10. INSURANCE: LESSEE shall maintain liability insurance on the Communications Facilities with a minimum coverage of two million dollars (\$2,000,000.00).
11. TERMINATION: This Lease may be terminated as follows:
 - a. By LESSOR if LESSEE fails to cure a default for payment of amounts due hereunder within thirty days after LESSEE'S receipt of written notice of default from LESSOR;
 - b. By the non-defaulting party if the other party defaults (other than a default as described in section 11(a) above) and fails to cure such default within sixty days after written notice of default is received by the defaulting party from the non-defaulting party; provided that if such default is capable of being cured, the Lease may not be terminated so long as the defaulting party commences appropriate curative action within such sixty day period and thereafter diligently prosecutes such cure to completion as promptly as possible;
 - c. By LESSEE upon ninety days prior written notice, in which case LESSEE shall restore Property as close to its original state as possible; provided, LESSOR may waive said restoration;
 - d. By LESSEE upon thirty days written notice if it is unable to obtain local building or zoning permits or licenses required to operate the Communications Facilities;
 - e. If the Property is or becomes unacceptable to Lessee under Lessee's design or engineering specification for its Communications Facilities or if Lessee elects to terminate this agreement due to interference.
12. CONDEMNATION: Rights and duties in the event of condemnation are as follows:
 - a. If the whole of the Property shall be taken or condemned by any competent authority for any public or quasi-public use or purpose, this Lease shall cease and terminate as of the date on which title shall vest thereby in that authority, and the rent reserved hereunder shall be apportioned and paid up to that date.
 - b. If only a portion of the Property shall be taken or condemned, then this Lease and the term hereof shall terminate at the option of LESSEE. If LESSEE does not so elect, the rent



payable after the date on which LESSEE shall be required to surrender possession of such portion shall be reduced in proportion to the decreased use suffered by LESSEE as the parties may agree or as shall be determined by arbitration.

- c. In case of any governmental action not resulting in the taking or condemnation of any portion of the Property but creating a right to compensation therefore, or if less than a fee title to all or any portion of the Property shall be taken or condemned by any governmental authority for temporary use or occupancy, this Lease shall continue in full force and effect without reduction or abatement of rent, and the rights of the parties shall be unaffected by the other provisions of this section, but shall be governed by applicable law.
13. ENTIRE AGREEMENT: This Lease constitutes the entire agreement of the parties, and supersedes all prior agreements, contracts and understandings, written or oral. This Lease cannot be terminated, amended or modified except by a written instrument executed by LESSOR and LESSEE, except as set forth herein.
14. BINDING ON HEIRS, SUCCESSORS AND ASSIGNS: The covenants and agreements of this Lease shall be binding upon the legal representatives, heirs, executors, administrators, successors and assigns of both parties hereto, except as herein above provided.
15. NOTICE: Any notice required to be given by either party to the other shall be deposited in the United States mail, postage prepaid, addressed to LESSOR at: 1350 Hale Rd. Mabton Washington 98935, or to LESSEE, at 651 Truman Ave., Richland Washington 99352. Either party hereto may, from time to time, by notice to the other, designate a different address which shall be substituted for the addresses specified above.
16. APPLICABLE LAW: This agreement shall be governed by and construed in accordance with the laws of the State of Washington.
17. INVALIDITY: Any provision of this Lease which shall prove to be invalid, void or illegal shall in no way affect, impair or invalidate any of the other provisions hereof and such other provisions shall remain in full force and effect despite such invalidity or illegality.
18. RECORDING: This lease shall be recorded at Lessor's direction and cost within 10 days from the date of execution as set forth above.



IN WITNESS WHEREOF, the parties hereto have hereunto set their hands the date first above written.

By: Lessor

Name: Gary Hess



Title: Landowner / MHR Inc.

Date: 12/12/08

By: Benton County Emergency Services

Name: Max Benitz



Title: Chair of BCES Executive Board

Date: 12-19-08

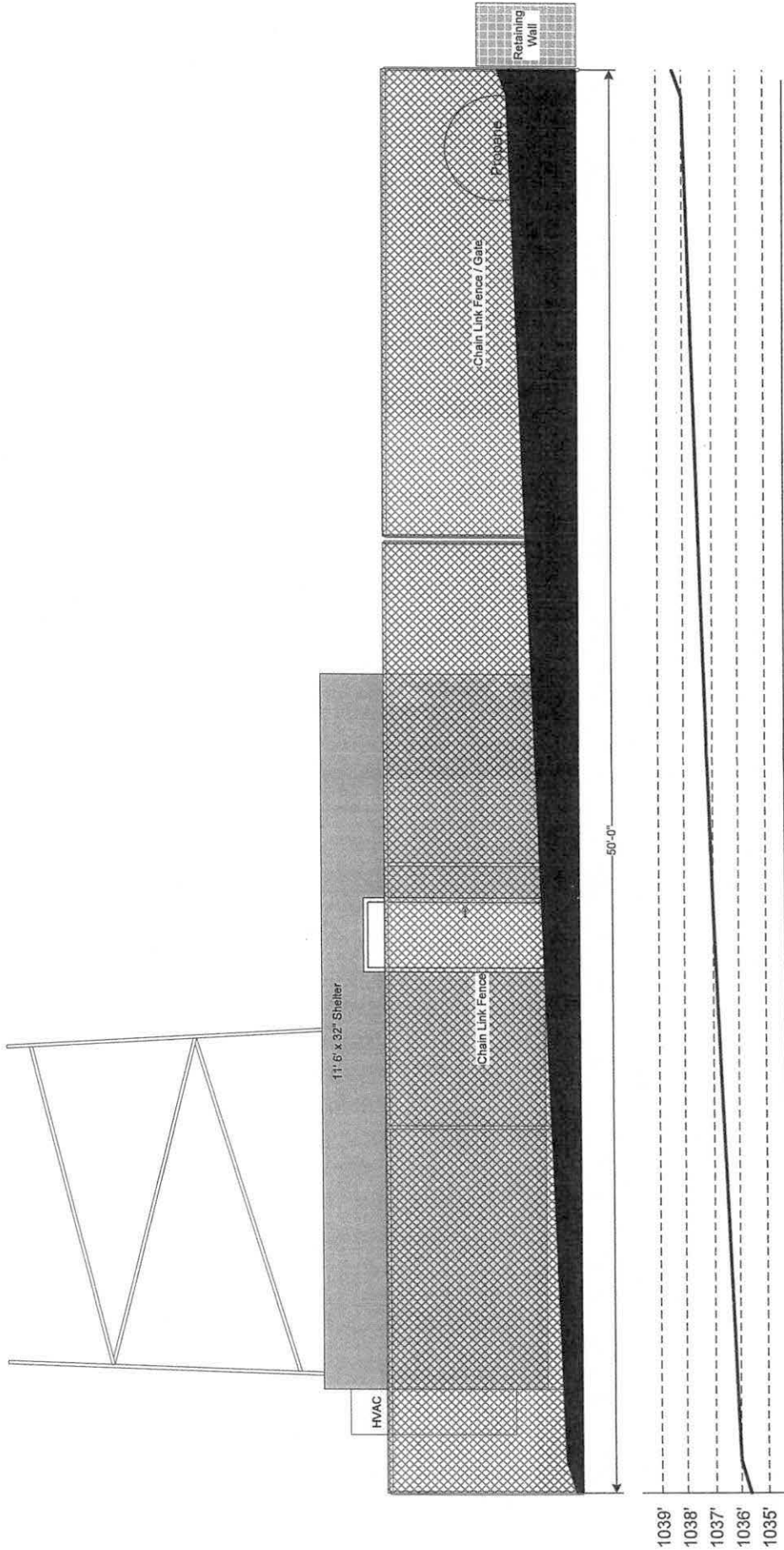


Exhibit A

Golgotha Site, McBride Ranch Drawings

BCES P25 RADIO UPGRADE
GOLGOTHA BUTTE – PROPOSE LAND USAGE
EAST ELEVATION VIEW WITH GROUND CUT AWAY - FACING WEST

180' Freestanding Tower



Existing Ground Elevation at Eastern Boundary



ADCOMM ENGINEERING COMPANY
 SPECIALISTS IN PUBLIC SAFETY COMMUNICATIONS ENGINEERING
 3529 184TH PLACE SE
 BURTON, WA 98148
 VOICE: 425.821.8827
 FAX: 425.488.3952
 www.adcommeng.com

DATE: 11 - 14 - 08
 DWG#: PN0544
 PREPARED BY: PETER C. ABRAHAM
 SCALE: NONE

BCES P25 UPGRADE PROJECT

GOLGOTHA BUTTE
LAND USAGE PERMITTING

SHEET 2 OF 5

SIZE Draft

REV -

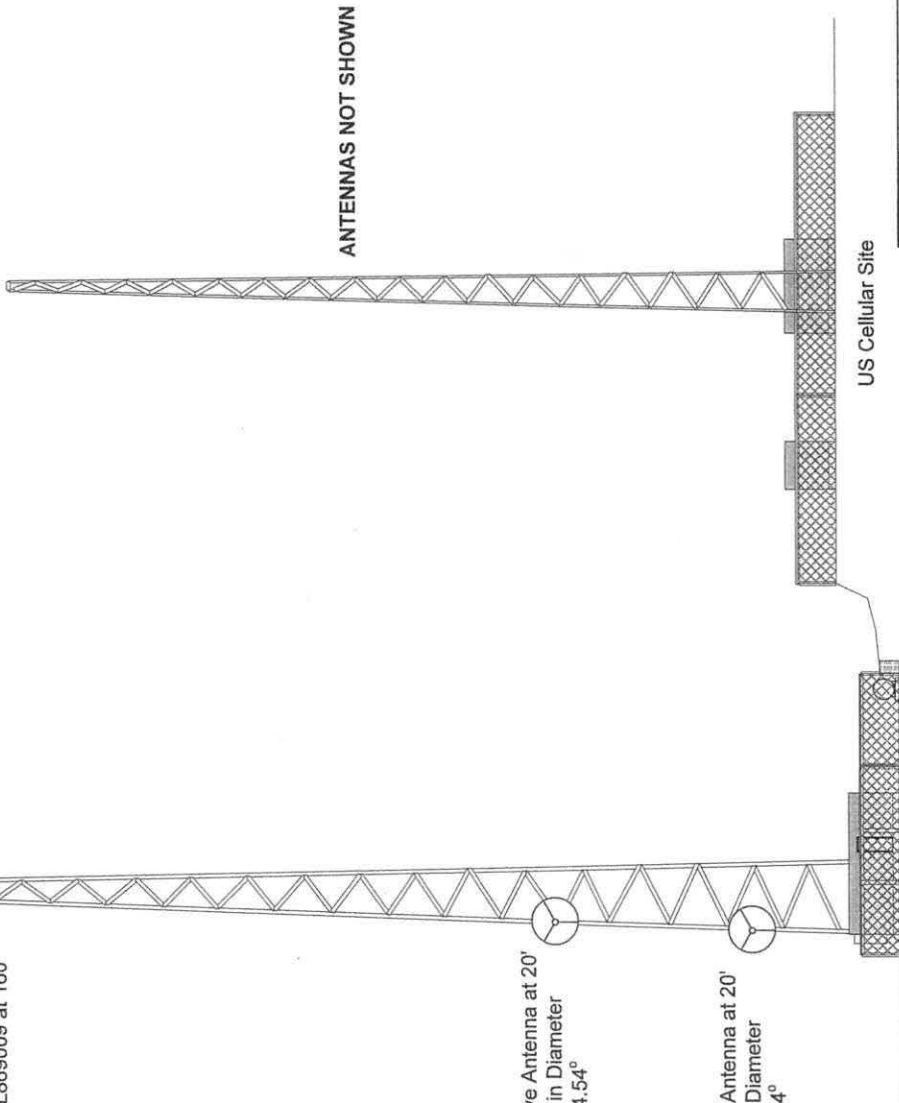
**BCES P25 RADIO UPGRADE
GOLGOTHA BUTTE – PROPOSE LAND USAGE
EAST ELEVATION VIEW - FACING WEST**


800 MHz Receive Only Antenna
RFS APL869009 at 180'

800 MHz Transmit Antenna
RFS APL869009 at 160'

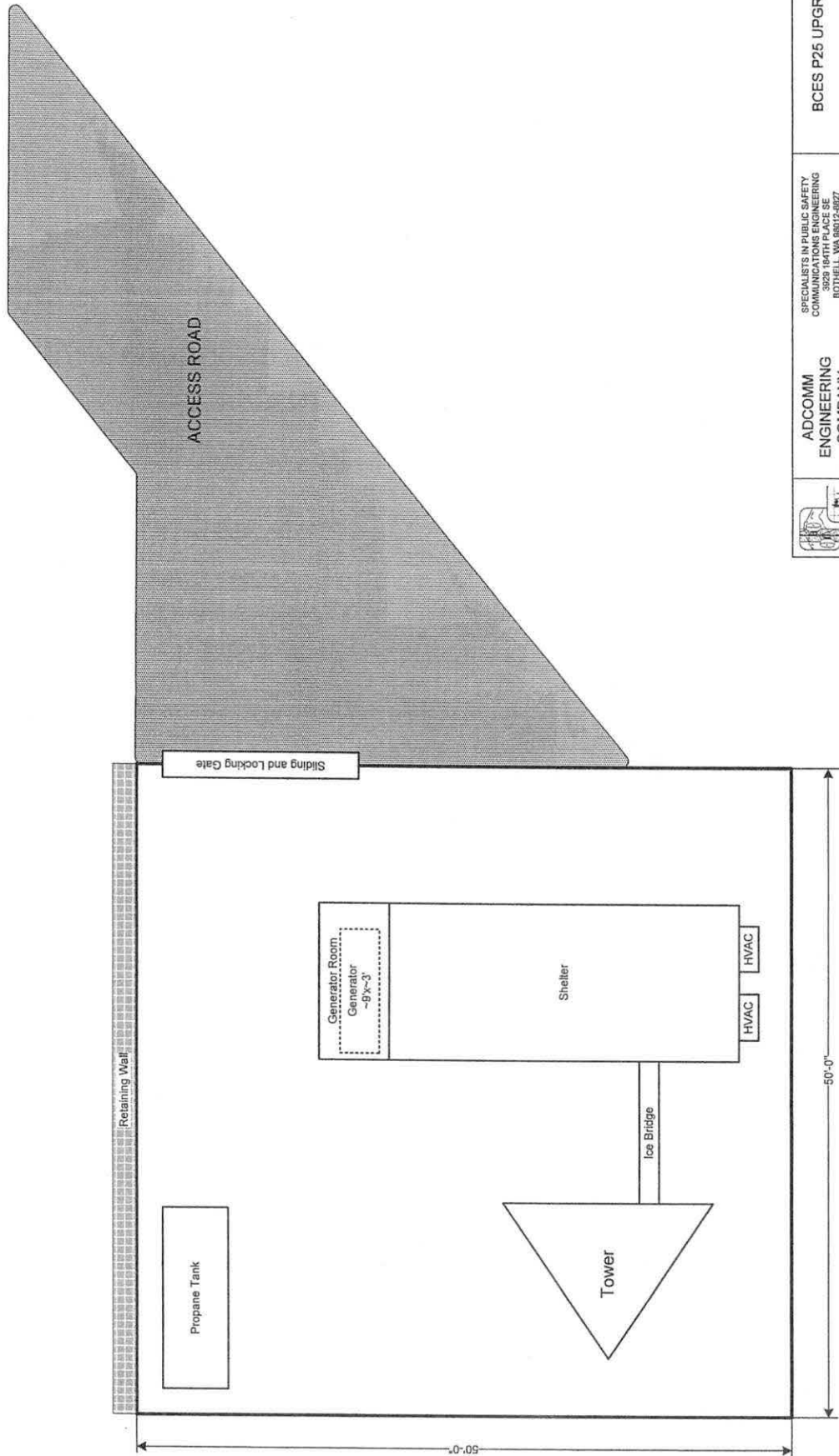
6 GHz Primary Microwave Antenna at 20'
No Greater Than 8' in Diameter
Azimuth = 74.54°


6 GHz Diversity Microwave Antenna at 20'
No Greater Than 8' in Diameter
Azimuth = 74.54°



	ADCOMM ENGINEERING COMPANY <small>www.adcommeng.com</small>	SPECIALISTS IN PUBLIC SAFETY COMMUNICATIONS ENGINEERING 3239 184TH PLACE SE BOYD, WA 98021 PHONE: 425.821.6827 FAX: 425.489.3952	BCES P25 UPGRADE PROJECT
	DATE: 11 - 14 - 08 DWG#: P100544 PREPARED BY: PETER C. ABRAHAM SCALE: NONE	GOLGOTHA BUTTE LAND USAGE PERMITTING	SHEET: 3 OF 5 SIZE: Draft REV: -

BCES P25 RADIO UPGRADE GOLGOTHA BUTTE – PROPOSE LAND USAGE SITE PLAN



	ADCOMM ENGINEERING COMPANY <small>www.adcommeng.com</small>	<small>SPECIALISTS IN PUBLIC SAFETY COMMUNICATIONS ENGINEERING</small> 3828 184TH PLACE SE BOTHELL, WA 98012-8927 USA TEL: 425-882-1827 FAX: 425-882-1892	BCES P25 UPGRADE PROJECT
	DATE: 11 - 14 - 08 PREPARED BY: PETER C. ABRAHAM	DWG# PN0544 SCALE: NONE	SHEET: 4 OF 5 SIZE: Draft REV: -

**ATTACHMENT B
LESSEE'S SITE EQUIPMENT**

BENTON COUNTY'S GOLGOTHA SITE EQUIPMENT

Repeater:

GE-Ericsson Mastr III

Model: SXHM01

Serial: 1621437

Base Station Power Supply:

GE-Ericson

Model: 19A149978P1

Serial: N/A

Repeater Frequencies:

Repeater TX – 153.4700 MHz

Repeater RX – 153.7550 MHz

Call Sign:

WRJD584

Licensed TX power:

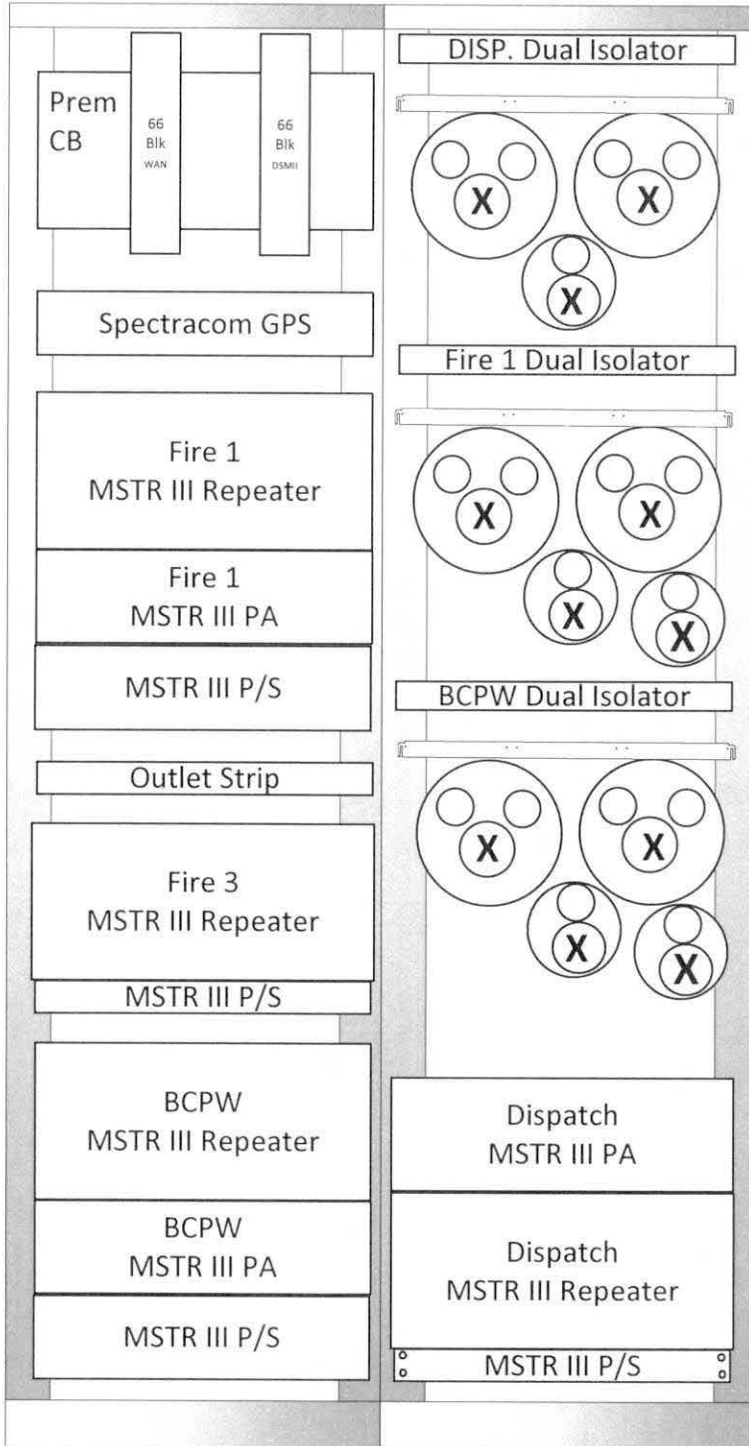
110 Watts

ERP:

100 Watts

49 U

49 U



ATTACHMENT C
PUBLIC SAFETY COMMUNICATIONS SITE STANDARDS (IEEE & R-56)

ATTACHMENT C
PUBLIC SAFETY COMMUNICATIONS SITE STANDARDS (IEEE & R-56)

1. Lessor retains the right to inspect user's equipment at any reasonable time to ensure compliance with site standards presently in effect or as may be amended. This clause shall not be construed as a duty to inspect. At the time equipment installation Lessor will provide an installation inspection for site standards and provide written signature of approval that the installed equipment meets the requirements of the agreement.
2. Each transmitter at the site will be identified with a copy of the Federal Communications Commission (FCC) License, Lessor document number, name of person or service agency responsible for repairs, their telephone number, equipment receive frequency, and equipment transmit/receive tone frequencies. Only FCC type accepted transmitters will be allowed on Lessor's sites.
3. All communications fixed transmitter installations shall employ isolators or alternative techniques meeting the same criteria, to minimize spurious radiation and intermodulation products. Additional filtering required according to frequency and interconnect devices are listed below:
 - a. Transmitters in the 25 to 54MHz range shall have isolation of at least 20dB followed by a low pass filter, then a band pass filter or cavity providing a minimum of 30dB attenuation removed 1.0MHz from the operating frequency.
 - b. Transmitters in the 66 to 88MHz range shall have at least 25dB isolation followed by a band pass cavity providing at least 20dB of attenuation 1.0MHz from the operating frequency.
 - c. Transmitters in the 88 to 108MHz range operating at a power level of 350 watts or less shall have at least 25dB of isolation followed by a band pass cavity providing at least 25dB of attenuation 1.0MHz from the operating frequency.
 - d. Transmitters in the 88 to 108MHz range operating at a power level greater than 350 watts shall have a band pass cavity providing at least 25dB of attenuation 1.0MHz from the operating frequency.
 - e. Transmitters in the 130 to 225MHz range shall have at least 50dB of isolation followed by a low pass filter and band pass cavity with a minimum of 25dB attenuation 1.0MHz removed from the operating frequency.
 - f. Transmitters in the 400 to 470MHz range shall have at least 50dB of isolation followed by a low pass filter and band pass cavity with a minimum of 15dB of attenuation 1.0MHz removed from the operating frequency.
 - g. Transmitters in the 806 to 960MHz range shall have at least 50dB of isolation followed

by a low pass filter and band pass cavity with a minimum of 15dB attenuation 2.0MHz removed from the operating frequency.

- h. All notch type duplexers must be preceded by a Band Pass Device (BPD) as listed above.
- i. Additional filters, BPD's, isolators and other protection will be required to solve any specific interference problems caused by the TENANT's equipment.

4. General Engineering Standards shall be observed as follows:

- a. A band pass cavity or crystal filter is recommended at the input of all receivers. Its purpose is to protect against RF energy "off frequency" from mixing in a non-linear device such as the first RF amplifier in a receiver, which can re-radiate causing interference.
- b. Every effort should be made to use combiners where possible to eliminate multiple antennas that are operating in the same frequency spectrum. This will help with interference as well as help to mitigate tower over loading at the sites.
- c. The band reject duplexer (cross notch duplexer) may not be used without a cavity/isolator outlined in the above section.
- d. Single braid coax cable is not to be used. Double shielded cable must have over 98.5% shield coverage.
- e. Jacketed coaxial cable is required, unjacketed transmission line of any type is prohibited.
- f. Use of "N" or "TNC" connectors is preferred over other non-constant impedance types. Every effort should be made to prevent the use of coax adapters.
- g. All equipment is to be grounded and shielded. Grounding is to be done with copper stranded 6/0 AWG or better ground wire to the common grounding point at each site. Bare ground wire will not be utilized. The common grounding point is located under the wave guide entry point at each site. Under no circumstances will ground wires be connected to the interior halo ground system. The green wire of the AC power plug is not an acceptable grounding point. All grounding will be inspected upon completion of initial site installation and each quarter thereafter. If the grounding is found to be incorrectly installed, it will be the responsibility of Lessee to reimburse Lessor for any additional expenses that Lessor incurs in order to resolve the issue.
- h. Transmitting systems must be checked periodically, which includes the isolator, VSWR on the load port of the isolator and overall system insertion loss. This system check will be performed no less than one time each year to ensure proper operation.

- i. Bare metallic ties are prohibited for securing transmission lines to towers. In the case of large lines, use of stainless steel or galvanized hangers is permitted. Hardware capable of rusting and dissimilar metals is prohibited. Transmission lines are to be insulated from metallic structures/objects. Installation personnel are responsible for preventing “diode junctions” from occurring.
- j. All loose wire or metal objects are to be removed from the tower and site. Metal fencing should be plastic coated.
- k. All equipment shall be licensed and operated in full accordance with all applicable rules and regulations of the regulating agency (FCC, NTIA). No modifications are allowed which violate “FCC Type Acceptance.”
- l. All equipment must be labeled with the owner’s name and a current 24/7 telephone contact number for equipment malfunctions to be reported at any time (service providers are acceptable).
- m. Every effort should be made to protect the equipment from lightning damage. Feed-through lightning protectors will be used on all coaxial cable connections to equipment enclosures. Gas, gap and MOM protectors will be used on control, audio, telephone and power connections.

5. Interference Policy Statement.

- a. In the event radio interference (RI) occurs, all users of the site are required to participate in solving the problem by providing technical personnel and test equipment to locate the source of the specific problem. If the above standards are complied with, additional isolators, filters, cavities, etc. may be required. All equipment must be maintained in good working order and meet original manufacturers and FCC specification for reduction of transmitter spurious radiation.
- b. If necessary, Lessor maintains the right to require the use of “Combiners” at sites where mitigation of interference issues can be lessened or resolved through the use of this equipment.
- c. Involved systems, not in full compliance with the standards, will be asked to comply immediately by written notice. Following notice of 48 hours and upon non-compliance, Lessor reserves the right to turn off and disconnect Lessee’s equipment from primary power until compliance is met. If Lessor installs new equipment that results in interference to Lessee’s equipment, Lessor will resolve interference problems following written notice from Lessee within 48 hours, or turn off offending equipment until interference issue is resolved. In the event of conflict between this section of Attachment C and the Lease Agreement, the more specific and restrictive provision shall control.
- d. The standards listed are minimums found to be good engineering practice in the

operation and maintenance of electronic sites.

6. Electrical Standards in Lessor Facilities.

- a. Only assigned electrical outlets shall be used.
- b. Additions or modifications shall not be made to any electrical distribution system within the building without first securing Lessor's written permission.
- c. Access to the panel board is provided for the circuit breaker to the user's assigned outlets.
- d. Radio equipment shall have internal fusing to protect the supply circuit.
- e. Cord connections for radio equipment shall have a ground wire and the attachment plugs shall have a "U" slot ground to provide a continuous ground from equipment to distribution panel.
- f. Radio equipment shall have its own surge protection.