



**Tibbetts Valley Park Cell Tower Lease Agreement**

**Proposed Council Action:  
Authorize**

**DEPARTMENT OF  
OTHER COUNCIL MEETINGS  
COMP PLAN POLICY NOS.  
OTHER POLICIES  
EXHIBITS**

Executive Department Andrea Snyder  
Feb. 18, 2020 (AB 7908); March 15, 2021 (AB 8150)  
n/a  
n/a  
A. Vertical Bridge/Tibbetts Valley Park Telecommunications Lease  
B. Telecommunications Tower Concept  
C. Telecommunications Tower Conceptual Design  
D. Survey for Tower site  
E. Stream and Wetland Delineation Study  
F. Presentation (**Updated 12/5/22**)

**SUMMARY STATEMENT**

**Introduction**

The Administration seeks City Council authorization to a lease of a portion of Tibbetts Valley Park to Vertical Bridge for a telecommunications tower in support of the Transit Oriented Development and Opportunity Center (TOD OC). There is a telecommunications tower currently on the property that has been identified for the transit oriented development project. In order for that project to proceed, and for the City to receive the subsequent public benefits from that project such as affordable housing, the tower must be relocated.

**Background**

In 2017, the City issued a request for proposals to identify development partners for a mixed-income, mixed-use project adjacent to the Issaquah Transit Center on the valley floor. The City selected Spectrum Development Solutions and King County Housing Authority (KCHA), though Spectrum dropped out of the project this year. For the sake of brevity, please refer to the following meetings for additional background as desired:

- [February 18, 2020](#): Presentation includes complete picture of project and the City's financial commitments and anticipated benefits.
- [March 15, 2021](#): Update on the project and Memorandum of Understanding with the development partners

Since the last City Council update, the Administration has continued to assist and support the negotiations between Lumen (the current property owner) and the development team for the purchase of the future TOD OC site. The biggest challenge has been the telecommunications tower located on the future TOD OC site. The tower cannot remain in place if the property is to be redeveloped. Lumen requires a secure future location for the cell tower before they sell the property. The owner and operator of the tower, Vertical Bridge, does not want to move off the current site as they have very favorable lease terms with Lumen. Vertical Bridge is cooperating with the relocation, but due to the generous lease terms they have with Lumen, they have a significant advantage in negotiating a new lease with the City.

**Potential Future Location of the Telecommunications Tower and Equipment**

The development partners and the City worked with the owner and operator of the tower (Vertical Bridge) in examining potential locations including but not limited to:

- On top of one of the future TOD buildings;
- Another location on the TOD property, but adjacent to a building;
- The Issaquah Transit Center;
- Private properties to the north, east, and west;
- Nearby reservoirs and water towers;
- City-owned parcel 2924069125 on Newport Way; and
- Fire Station 72.

Considerations used to evaluate these locations included coverage requirements of Vertical Bridge and the cellular service providers who attach their antennae to the tower, proximity of antennae to residential units, maintenance access

to the tower, and the City municipal code. Unfortunately, none of these locations met all the necessary criteria. Tibbetts Valley Park was the only location that met all the relocation criteria and considerations.

### **Proposal**

The Administration seeks City Council authorization to a lease of a portion of Tibbetts Valley Park to Vertical Bridge for a telecommunications tower in support of the Transit Oriented Development and Opportunity Center (TOD OC).

The future TOD OC site is highlighted in yellow below. Tibbetts Valley Park lies immediately to the south. The approximate re-location site in Tibbetts Valley Park for the tower and associated equipment is marked with a red "X" and is located immediately adjacent on the southern side of the western parking lot (please see Exhibits C-D). A monopole would be constructed per code (the height limit per City code is 85 feet), along with a small structure to house equipment supporting tower functions. This location is outside of the critical areas and their associated buffers of the park (see Exhibit E for the stream and wetland delineation study, see Exhibit C for the buffers map). This potential relocation site is also isolated from the active uses of the park, and less likely to be redeveloped with the park's forthcoming Master Plan.



### **Lease Terms**

The draft lease is attached (Exhibit A) and there are many terms within the lease. A few of the terms with the most community impact are summarized below.

**Rent:** Vertical Bridge has been insistent that the only way they will agree to a lease at Tibbetts Valley Park is if they remain in the same favorable position they are in now. The current rental model with Lumen includes a revenue share of 20% (minus pass-through fees) and this is the maximum rent they would pay the City as well. The Administration estimates this monthly revenue to be about \$720. All other City leases involving telecommunication towers include a per square foot charge, so this revenue structure would be unique for the City.

In addition to the rent paid to the City as compensation for the land, the City is also receiving public benefits from the TOD project. This lease is unique to other City leases in that if not for the TOD project, the City would not be considering a lease for a telecommunications tower at Tibbetts Valley Park. The purpose of the lease is to support the TOD OC project. Therefore, the Administration also considers the public benefits the TOD project provides as part of compensation. These public benefits are outlined in more detail in the interlocal agreement with King County Housing Authority (KCHA), which is included as a separate item in the packet materials for this evening under AB 8494. The benefits include affordable housing (estimated value is \$41 million over the lifetime of the project) – and the commercial condominium (referred to as the Opportunity Center or OC) to be gifted to the City, among others.

**Term:** The length of the lease is five years, with five automatic renewals, for a total of 30 years. At the end of the term, unless the lease is extended or renewed, Vertical Bridge would be required to remove their structures and equipment and restore the site to its original state.

**Access & Maintenance:** Vertical Bridge would have access to the tower and support structure through the western parking lot. The City currently has an agreement with King County Metro Transit for the parking lot to be used as a park and ride during the week. The Administration has been coordinating with Metro Transit and no conflicts with that use agreement have been identified. The draft lease agreement recognizes the primary use of the City property is a City park with recreational uses and Vertical Bridge agrees their maintenance of the tower would not conflict with the recreational use. Vertical Bridge, per the draft lease agreement, would be responsible for all maintenance in and around their structures and would ensure security of their own equipment.

**Permitting:** The draft lease does not supplant any permitting requirements; Vertical Bridge would still need to apply for all applicable permits. Design of their facilities is not yet complete but see Exhibit B for a concept drawing. The draft lease requires the City's approval (as landlord) of the structure design in advance of applying for the required permits to ensure the structures complement the park aesthetic as much as possible.

### Council Committee Review

The Safety, Services, & Parks Committee discussed the draft lease on [November 15, 2022](#). The Committee unanimously recommended the lease to advance to the City Council Regular meeting for the consideration of full Council. They also asked for the following information:

**Question:** What previous public engagement efforts has the City used for proposed cell towers in City Parks? (There was an example of previous public engagement for a proposed cell tower at Confluence Park.)

**Response:** The Administration could find no information on public engagement conducted for a proposed cell tower at Confluence Park, but is continuing to search for this information. There is no such structure currently at Confluence Park.

**Question:** How does the citing of the cell tower at Tibbetts Valley Park follow other precedents for public engagement?

**Response:** The City typically conducts a public engagement process for amenities and changes to amenities at a city park. Some city parks, like Tibbetts Valley Park, have master plans that were informed by public engagement and approved by the Park Board and City Council. The telecommunications facility would be considered a minor amendment to the master site plan and therefore does not require board or commission approval. The Administration has not conducted specific public outreach around the siting of the cell tower at Tibbetts Valley Park for the following reasons:

- The cell tower is not considered a park amenity in the way a dog park, skate park, play ground, or other feature which impacts recreational use of the park. The City would not consider a telecommunications structure at Tibbetts Valley Park if not for the TOD project.
- To the best of the Administration's knowledge, the City has never conducted specific public outreach regarding the other telecommunication leases the City has beyond what may have been required during the permitting process.

**Question:** How does the revenue anticipated in this lease agreement compare to the typical city lease agreement for a telecommunications tower?

**Response:** Regarding a revenue comparison, in other recently negotiated telecommunications leases, the City charges \$30 per square foot per year, 50% revenue share from its subleases, and a signing bonus of \$70,000 to cover legal expenses. If this were applied to the Vertical Bridge lease, the Administration estimates it would receive \$5,636,323 over the lifetime of the lease. The Administration estimates the Vertical Bridge lease as proposed would provide \$1,027,629 from Vertical Bridge over the lifetime of the lease. (Note: These are informed, but still rough estimates with many assumptions on revenue share and 3% escalators annually. It is likely that Vertical Bridge will



add tenants to this pole and therefore increase the income the City receives from revenue share.) In addition to the rental income from Vertical Bridge, the City is to receive \$41 million in public benefits valued over the lifetime of the TOD project as part of the compensation for the land lease.

### **Options/Alternatives**

As mentioned previously, alternative sites were explored for the relocation of the cell tower. No viable options for alternative sites have been identified. Alternative sites were also explored for the TOD OC project that were not encumbered by cell tower leases. No viable sites have been identified.

The options for Council's consideration this evening include:

#### **1) Authorize the Administration to enter in to the lease with Vertical Bridge for a portion of Tibbetts Valley Park.**

Impact: While a small portion of Tibbetts Valley Park would be encumbered for the next 30 years, in return the City would be facilitating redevelopment of an under-used property into much needed housing, including affordable housing. The project would also help implement the Central Issaquah Plan, with new housing and services adjacent to the transit center. The project is also expected to facilitate the construction of a new city street that would help complete the City's transportation grid within the southern side of the Central Issaquah area.

#### **2) Direct the Administration to continue to negotiate with Vertical Bridge on terms of Council's choosing and return to Council with revised lease terms.**

Impact: Vertical Bridge is in a very strong negotiating position. If negotiations are prolonged or if Vertical Bridge disagrees, Lumen has stated they would sell the property for a higher rate to a private entity that does not need to relocate the cell tower. The TOD OC project and associated public benefits would not get built if the property is sold to a private party.

#### **3) Do not enter into a lease with Vertical Bridge.**

Impact: The Administration and its partners have searched exhaustively for an alternative site and are not able to identify an alternative site that would be suitable. Lumen has set a deadline for these negotiations at the end of 2022. If negotiations fail to produce a lease, they have made it clear they will sell the property to a private entity for more money. The City and its partners would not be able to identify an alternative relocation site in time, if at all and the TOD OC project would not be built. The City would have to identify other partners and other property if it wishes to facilitate the construction of more affordable housing and a space for human services.

### **Public Engagement**

While there have been many public meetings on the TOD OC project since 2017 (see City website for a [timeline](#)), the only public meeting to discuss the potential for a cell tower at the Tibbetts Valley Park was at the November 15, 2022 Safety, Services, and Parks Council Committee meeting.

### **Next Steps**

Pending Council authorization of the lease, Lumen and KCHA will finalize the sale of the future TOD OC site. Without a lease and relocation site, Lumen will not transfer ownership of the site to KCHA. Instead, Lumen has indicated they would sell the property at market rate to another buyer who has stated they do not need to move the cell tower.

Pending authorization of the lease, Vertical Bridge would then finalize their design of the tower and apply for permits. Construction is anticipated to begin in 2022. Once the tower is relocated to Tibbetts Valley Park, construction on the TOD OC site would be able to begin. The City would manage this telecommunications lease similar to how it manages other leases for telecommunications facilities on city land. No further Council touchpoints are anticipated regarding this lease.

### **Financial Information**

The City currently receives no revenue from Vertical Bridge for the cell tower they operate in Issaquah. If the lease is approved, the Administration estimates a rental income of \$1,800 per month for the first year of the lease.

If the Tibbetts Valley Park is redeveloped, and the City chooses to condemn the cell tower to accommodate future park redevelopment, the City would need to fairly compensate Vertical Bridge per condemnation procedures. The Administration estimates the costs of condemnation in present day to be over \$1 million, plus legal fees.

### **Administration's Recommendation**

The Administration recommends City Council authorize the Mayor to enter into and execute the cell tower lease with Vertical Bridge Towers IV, LLC for a portion of Tibbetts Valley Park in support of the TOD OC project in substantive form; and authorize the City Attorney to make subsequent non-substantive technical and legal edits.

### **Update**

n/a

### **Alternative(s)**

1) Authorize the Administration to enter in to the lease with Vertical Bridge for a portion of Tibbetts Valley Park.

**Impact:** While a small portion of Tibbetts Valley Park would be encumbered for the next 30 years, in return the City would be facilitating redevelopment of an under-used property into much needed housing, including affordable housing. The project would also help implement the Central Issaquah Plan, with new housing and services adjacent to the transit center. The project is also expected to facilitate the construction of a new city street that would help complete the City's transportation grid within the southern side of the Central Issaquah area.

2) Direct the Administration to continue to negotiate with Vertical Bridge on terms of Council's choosing and return to Council with revised lease terms.

**Impact:** Vertical Bridge is in a very strong negotiating position. If negotiations are prolonged or if Vertical Bridge disagrees, Lumen has stated they would sell the property for a higher rate to a private entity that does not need to relocate the cell tower. The TOD OC project and associated public benefits would not get built if the property is sold to a private party.

3) Do not enter into a lease with Vertical Bridge.

**Impact:** The Administration and its partners have searched exhaustively for an alternative site and are not able to identify an alternative site that would be suitable. Lumen has set a deadline for these negotiations at the end of 2022. If negotiations fail to produce a lease, they have made it clear they will sell the property to a private entity for more money. The City and its partners would not be able to identify an alternative relocation site in time, if at all and the TOD OC project would not be built. The City would have to identify other partners and other property if it wishes to facilitate the construction of more affordable housing and a space for human services.

## **RECOMMENDATION**

*Administration / Executive Department:*

MOVE TO: Authorize the Mayor to enter into and execute a cell tower lease with Vertical Bridge Towers IV, LLC for a portion of Tibbetts Valley Park in support of the TOD OC project in substantive form; and authorize the City Attorney to make subsequent non-substantive technical and legal edits.

**Landlord:**  
City of Issaquah  
130 E. Sunset Way  
Issaquah, WA 98027

**Tenant:**  
Vertical Bridge Towers IV, LLC  
750 Park of Commerce Drive, Suite 200  
Boca Raton, Florida 33487  
Site #: US-WA-9003  
Site Name: Issaquah 2

## OPTION AND LEASE AGREEMENT

**THIS OPTION AND LEASE AGREEMENT** (this “**Agreement**”) is made this \_\_\_\_\_ day of December, 2022 (the “**Effective Date**”), by and between **City of Issaquah**, a Washington municipal corporation (“**Landlord**” or “**City**”), whose address is 130 E. Sunset Way, Issaquah, WA 98027, and **Vertical Bridge Towers IV, LLC**, a Delaware limited liability company (“**Tenant**”), whose address is 750 Park of Commerce Drive, Suite 200, Boca Raton, Florida 33487.

**WHEREAS**, Landlord owns certain real property located in the County of King, in the State of Washington, that is more particularly described and/or depicted in **Exhibit 1** attached hereto (the “**Property**”), and said Property is owned and maintained by the City as a public park; and,

**WHEREAS**, Tenant desires to lease from Landlord a certain portion of the Property measuring approximately 30’ x 70’ (approximately 2,100 square feet) and to obtain easements for guy wires, guy anchors, utilities and access, as applicable (collectively, the “**Premises**”), which Premises is more particularly described and/or depicted in **Exhibit 2** attached hereto (subject to modification in accordance with Section 5(c) of this Agreement), for the placement of Tenant’s Communications Facilities (defined below); and

**WHEREAS**, Tenant currently leases from Qwest Corporation, an affiliate of Lumen Technologies, Inc. (“**Lumen**”), the property owner of King County Tax Parcel No. 2924069002, space in which Tenant operates and maintains an approximately one hundred ten foot (110’) tower, which Tenant subleases to wireless telecommunications providers for siting of antennas and related communications equipment; and

**WHEREAS**, on November 21, 2016, the City issued its Issaquah Transit-Oriented Development (“**TOD Project**”) Opportunity Site RFP. The City’s objective in issuing the RFP was to encourage the development of a mixed-use, transit-oriented project that would serve as the cornerstone project for advancing the vision of the City’s Central Issaquah Plan. Key elements identified in the RFP for the TOD Project were (i) a strong community focus, (ii) a mix of uses, including non-residential space, (iii) assuring long-term affordability for components of the residential portion of the TOD Project, and (iv) demonstrable public benefits; and

**WHEREAS**, on the basis of its December 19, 2016 response to the RFP, the development team that included King County Housing Authority (“**KCHA**”) was selected by the City as the preferred respondent to the RFP; and

**WHEREAS**, the TOD Project is to consist of a mix of affordable and workforce market rate housing, in a vertical, mixed-use development that will also include the development of space for a City owned opportunity center (a commercial space to provide services such as behavioral health and other services at low to no cost to the recipients of such services) and which may further include other public

benefits, which constitute partial consideration to the City for entering into this Agreement, as outlined more fully in a separate ILA between KCHA and the City;

**WHEREAS**, KCHA has negotiated with Lumen to purchase King County Tax Parcel No. 2924069002 for the purposes of constructing the TOD Project, which will require the removal of Tenant's current tower within King County Tax Parcel No. 2924069002; and

**WHEREAS**, as a prerequisite to KCHA closing on the sale of King County Parcel No. 2924069002 from Lumen (and consequently, as a prerequisite to construction of the TOD Project), it is necessary for Tenant to enter into this Agreement to permit Tenant to construct a new tower on the Property, as a replacement for Tenant's current tower within King County Tax Parcel No. 2924069002.

**NOW THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree:

**1. OPTION TO LEASE AND CONTINGENCY.**

(a) As of the Effective Date, Landlord grants to Tenant the exclusive option to lease the Premises (the "**Option**") during the Option Period (defined below). At any time during the Option Period and Term (defined below) and without Material Interference to the primary use of the Property as a public park as described in Section 5(b), Tenant and its agents, engineers, surveyors and other representatives will have the right to enter upon the Property to inspect, examine, conduct soil borings, drainage testing, material sampling, and other geological or engineering tests or studies of the Property (collectively, the "**Tests**"), to apply for and obtain licenses, permits, approvals, or other relief required of or deemed necessary or appropriate at Tenant's sole discretion for its use of the Premises including, without limitation, applications for zoning variances, zoning ordinances, amendments, special use permits, and construction permits (collectively, the "**Government Approvals**"), initiate the ordering and/or scheduling of necessary utilities, obtain a title report with respect to the Property, and otherwise to do those things on or off the Property that, in the opinion of Tenant, are necessary in Tenant's sole discretion to determine the physical condition of the Property, the environmental history of the Property, and the feasibility or suitability of the Property for Tenant's permitted use under this Agreement, all at Tenant's expense. Tenant shall be authorized to apply for Government Approvals on behalf of Landlord and Landlord agrees to reasonably cooperate with such applications. Tenant will not be liable to Landlord or any third party on account of any pre-existing defect or condition on or with respect to the Property, whether or not such defect or condition is disclosed by Tenant's inspection. Tenant will restore the above ground portion of the Property to its condition as it existed at the commencement of the Option Period or better, reasonable wear and tear and casualty not caused by Tenant excepted and shall protect any underground utilities affected by the Tests. In addition, Tenant shall indemnify, defend, and hold Landlord harmless from and against any and all injury, loss, damage, or claims arising in any way out of Tenant's Tests or any other activity of Tenant during the Option Period. This duty of indemnification shall survive the termination, or expiration of this Agreement. For purposes of this Agreement, "**Material Interference**" and "**Materially Interfere**" is defined as any interference with parking lot access, parking, or circulation, and pedestrian access or circulation, and any other park activities (scheduled activities or maintenance activities) that prevents visitors from using the Property as a public park during normal park hours for two (2) hours or greater per day, except in cases of emergency or in connection with Tenant's initial construction activities relating to the Communications Facilities (or any subsequent replacement thereof).

(b) In full consideration due from Tenant in exchange for Landlord granting Tenant the Option, Tenant agrees to pay Landlord the sum of One Dollar (\$1.00), which Landlord acknowledges has been

received by Landlord from Tenant on or before the Effective Date. The Option Period will be for an initial term of twelve (12) months from the Effective Date (the “**Initial Option Period**”) and may be renewed by Tenant for twelve (12) additional months (the “**Renewal Option**”) upon written notification to Landlord and the payment of an additional One Dollar (\$1.00) prior to the expiration date of the Initial Option Period. Unless utilized independently, the Initial Option Period and any Renewal Option Period shall be referred to collectively as the “**Option Period**.”

(c) Tenant may exercise the Option at any time during the Option Period by delivery of written notice to Landlord (the “**Notice of Exercise of Option**”). The Notice of Exercise of Option shall set forth the commencement date (the “**Commencement Date**”) of the Initial Term (defined below). If Tenant does not provide a Notice of Exercise of Option during the Option Period, this Agreement will terminate and the parties will have no further liability to each other. Tenant’s Notice of Exercise of Option to be issued under this Section 1(c) shall be provided to all Landlord notice parties set forth in Section 29 below via both email and regular mail.

(d) This Agreement is contingent upon and shall only be effective upon the successful execution of a Purchase and Sale Agreement between Lumen and KCHA, for the sale to KCHA of King County tax parcel number 2924069002 and the closing of that real estate transaction, including the execution and recording within the King County real property records of a deed from Lumen transferring the Property to KCHA. This Agreement is further contingent upon the successful execution of an Easement Agreement and Restrictive Covenants by and between KCHA and Vertical Bridge (and/or an affiliate of Vertical Bridge). If any of these conditions fail to occur, this Agreement shall be null and void and of no further force and effect.

## **2. TERM.**

(a) Effective as of the Commencement Date, Landlord leases the Premises to Tenant subject to the terms and conditions of this Agreement for an initial term of five (5) years (the “**Initial Term**”).

(b) Tenant shall have the option to extend the Initial Term for five (5) successive terms of five (5) years each (each a “**Renewal Term**”). Each Renewal Term shall commence automatically, unless Tenant delivers notice to Landlord, not less than sixty (60) days prior to the end of the then-current Term, of Tenant’s intent not to renew. For purposes of this Agreement, “**Term**” shall mean the Initial Term and any applicable Renewal Term(s).

## **3. RENT.**

(a) During the Term, Tenant agrees to pay Landlord twenty percent (20%) of each sublessee’s monthly sublease or license fee (“**Rent**”) as Rent, subject to the following terms and conditions. The Rent payments to Landlord shall commence on the first (1<sup>st</sup>) day of the month following the date that the applicable sublessee commences payments to Tenant of such sublessee’s rent under its respective sublease(s), and shall include a prorated amount based upon the sublessee’s occupation of the Premises for the month the applicable sublessee commences payments to Tenant. Notwithstanding anything to the contrary contained herein, the Rent shall only be due and payable by Tenant to Landlord hereunder during the term of such sublessees’ sublease agreements for so long as such sublessees are actually paying to Tenant the requisite Sublease Fee (as defined below) set forth therein. For purposes of this Agreement, “**Sublease Fee**” shall be all rent actually collected from any sublease that Tenant enters into with any sublessee including amendments and renewals thereof, but excluding: (i) any reimbursements or pass-throughs from such subleases or licenses to Tenant for charges including, but not limited to, utility charges,



taxes, or other pass-through expenses, and (ii) any fees from sublessees to Tenant for services performed on behalf of such sublessees including, but not limited to, site acquisition, due diligence, design and engineering work, construction, site inspections, radio frequency monitoring and testing, repairs, and zoning and permitting. The Rent shall be full compensation owed by Tenant to Landlord for the Term of this Agreement. Tenant will provide to Landlord the Site Lease Agreement(s) entered into between Tenant and any sublessees for or in any way in relation to the Premises within thirty (30) calendar days of the execution of such Site Lease Agreement, so that Landlord may audit, confirm, and/or verify the accuracy of Rent made to Landlord under this Agreement. Notwithstanding anything herein to the contrary, Tenant shall have no obligation to provide to Landlord the Master Lease Agreement by and between Tenant and any applicable sublessee.

(b) Tenant acknowledges that late payment by Tenant of Rent or other sums due under this Agreement shall cause City to incur costs not contemplated by this Agreement, the exact amount of which would be extremely difficult and impractical to ascertain. Therefore, in the event Tenant shall fail to pay any installment of Rent or other sums due within thirty (30) days after such sum is due, Tenant shall pay to City a late charge equal five percent (5%) of the sum due. All delinquent sums payable by Tenant to Landlord and not paid within thirty (30) days after their due date shall, at Landlord's option, bear interest at the rate of twelve percent (12%) per annum, or the highest rate of interest allowable by law, whichever is less. Interest on all delinquent amounts shall be calculated from the expiration of the thirty (30) day cure period set forth above to the date of payment. A Fifty Dollar (\$50.00) charge will be paid by Tenant to the Landlord for each check returned "NSF" or otherwise rejected by the City's depositing institution for insufficient funds.

(c) As further consideration, at no rent due from Landlord to Tenant nor any reduction in the Rent, Landlord shall be allowed, at Landlord's sole expense, to attach its emergency service network equipment to Tenant's telecommunications tower pursuant to this Section 3(c) provided that (i) Landlord first executes Tenant's standard form of Site License Agreement or its equivalent, and (ii) subject to Tenant's telecommunications tower having available space and structural capacity at the time of Landlord's request to attach its emergency service network equipment to Tenant's telecommunications tower. Pursuant to the foregoing, Tenant agrees to allow Landlord to use a five foot (5') vertical envelope at a RAD center height of thirty feet (30') above on Tenant's tower at the Premises in the event Tenant builds a tower on the Premises ("**Landlord's Tower Space**"); provided, however, that Tenant shall have the right to change the height of the centerline of Landlord's Tower Space to a lower elevation, as is necessary or desirable in Tenant's reasonable discretion. Any equipment installed on Landlord's Tower Space shall not exceed One Thousand (1,000) square inches of wind loading capacity. Tenant's approval for said attachments shall be contingent upon determining whether Tenant's tower is properly engineered to accommodate Landlord's antenna system and such transmission shall not result in any impairment or diminution in the quality of Tenant's or its other sublessees' service. Further, said approval shall be given only after Tenant has reviewed and approved Landlord's engineering plans for said antenna attachments. Upon written approval by Tenant, said attachments shall be installed, at Landlord's sole expense, by qualified contractors and in accordance with Tenant's directives for the method of installation. In addition to Landlord being responsible for its own installation, Landlord shall also be responsible for its own utilities and operations and agrees that any ground space required for Landlord's Tower Space shall be outside the Premises. Landlord acknowledges and agrees that Tenant reserves the right to relocate Landlord's antennas at any time(s) to accommodate modifications required for Tenant's and its other sublessees' future communication facilities.

#### 4. TAXES.

(a) Prior to Tenant's initial installation of the Communications Facilities on the Premises, Tenant shall obtain a business license from the City, if it does not already possess such business license. Further, Tenant shall pay promptly and before they become delinquent personal property taxes assessed on, or any portion of such personal property taxes attributable to, the Communications Facilities located on the Premises. In addition, Tenant shall also pay for all public utility charges related to the conduct of Tenant's business on the Premises as well as all fees with respect to permits, licenses, and zoning and/or land use approvals relating to the conduct of business on the Premises by Tenant. To the extent applicable, Landlord shall pay when due all real property taxes and all other fees and assessments attributable to the Property and the Premises.

(b) Tenant shall pay annually in advance to the City the then current applicable State of Washington leasehold excise tax. Should Landlord collect from Tenant and pay the Department of Revenue leasehold excise tax which is subsequently determined to be a duplicative payment or over-payment of tax by Tenant, Tenant shall not have any claim against Landlord, but shall look directly to the Department of Revenue for reimbursement. Landlord shall reasonably cooperate, at no expense or liability to the City, to the extent the Department of Revenue requires any information or action from the City to resolve Tenant's claim for reimbursement.

#### 5. USE.

(a) The Premises are being leased for the purpose of erecting, installing, operating, and maintaining, repairing, and replacing radio or communications towers, transmitting and receiving equipment, antennas, dishes, mounting structures, equipment shelters and other supporting structures, and related equipment, and to alter, supplement and/or modify same (collectively, the "**Communications Facilities**"). Tenant may, subject to the foregoing, make any improvement, alteration or modification to the Premises as are deemed appropriate by Tenant for the permitted use herein, subject to first obtaining the appropriate Governmental Approvals (which shall include, but not be limited to, permits, licenses, or any other approval as required by the City, the State of Washington, the United States Government, or any other governmental entity with jurisdiction). Tenant shall have the right to clear the Premises of any trees, vegetation, or undergrowth which interferes with Tenant's use of the Premises for the intended purposes, subject to first obtaining the appropriate Governmental Approvals. Tenant shall have the exclusive right to install and operate upon the Premises communications towers, buildings, equipment, antennas, dishes, fencing, and other accessories related thereto, and to alter, supplement, and/or modify same as may be necessary, subject to first obtaining the appropriate Governmental Approvals.

(b) Tenant acknowledges that the Property is a public park. Tenant's construction, maintenance, and/or any other use of the Premises shall not Materially Interfere with traditional park uses, such as, but not limited to: baseball/softball, tennis, and pickleball games and tournaments, normal use of the skate park, summer recreational programs, playground and the City/rental facility. Access to the Property is through the "Park-and-Ride"/parking lot facilities at the Property, which is subject to that certain Interlocal Cooperation Agreement Between King County and the City of Issaquah for Construction of Park-And-Ride Facility, dated September 15, 1997, by and between Landlord and King County, a home rule charter County of the State of Washington, acting through its Department of Transportation (the "**Parking Agreement**"), a copy of which has been provided to Vertical Bridge. The parties acknowledge that parking at the Property is subject to the Parking Agreement and the normal activities conducted at the Property listed above.

(c) Prior to Tenant constructing the initial radio and/or communications tower (the “**Initial Tower**”) on the Premises, Tenant shall provide Landlord with plans depicting the location and design of the Initial Tower and related improvements (the “**Initial Plans**”). The parties acknowledge that the current location of the Premises might not be suitable for Tenant’s use because of, among other things, proximity of the Premises to the waterline of the nearby creek, and agree that Tenant shall have the right to modify the location of the Premises and include the new location of the Premises with the Initial Plans, which new location shall replace **Exhibit 2** of this Agreement. Landlord shall have thirty (30) days after receiving the Initial Plans (the “**Notification Deadline**”) to provide Tenant with written notice (the “**Notification**”) of Landlord’s approval or disapproval of the Initial Plans, which approval shall not be unreasonably conditioned. If Landlord approves of the Initial Plans or fails to deliver the Notification to Tenant prior to the Notification Deadline (in which case Landlord shall be deemed to have approved the Initial Plans), Tenant may proceed with its construction activities. If Landlord disapproves of the Initial Plans and delivers the Notification to Tenant (along with a detailed explanation of Landlord’s reasonable objection(s) to the Initial Plans) prior to the Notification Deadline, Tenant will revise the Initial Plans and resubmit the revisions for Landlord’s approval or disapproval in accordance with the deadlines and other provisions of this Section 5(c). Landlord and Tenant shall use good faith efforts to resolve Landlord’s reasonable objections, if any, with respect to the Initial Plans. Notwithstanding anything in this Agreement to the contrary, this Section 5(c) shall apply only with respect to the Initial Tower, and not to the installation of subsequent Communications Facilities. Further, notwithstanding anything in this Section 5(c) to the contrary, this Section 5(c) shall not be read to supplant, circumvent, or replace any requirement under law or regulations, including, but not limited to, the Issaquah Municipal Code (the “**Code**”), for Tenant to apply for and obtain the necessary Government Approvals.

## **6. ACCESS AND UTILITIES.**

(a) During the Term, Tenant, and its agents, lessees, sublessees, and assigns shall have the unrestricted, exclusive right to use, and shall have free and unfettered access to, the Premises seven (7) days a week, twenty-four (24) hours a day. Landlord for itself, its successors and assigns, hereby grants and conveys unto Tenant, its employees, agents, invitees, sublessees, licensees, successors, and assigns a non-exclusive twenty foot (20’) easement throughout the Term to a public right of way as set forth in **Exhibit 2**: (a) for ingress and egress, and (b) for the construction, installation, operation, maintenance, repair and replacement of overhead and underground electric and other utility facilities (including, without limitation, fiber, backhaul, wires, poles, guys, cables, conduits and appurtenant equipment), with the right to re-construct, improve, add to, enlarge, change and remove such facilities, over, across and through said twenty foot (20’) easement for the benefit of and access to the Premises.

(b) Tenant shall pay for any necessary electricity to the Premises, as well as any other utilities it consumes in its operations at the rate charged by the servicing utility company, which shall be separately metered (or sub-metered) from any utility service to the Landlord on the Property. Tenant shall have the right to draw electricity and other utilities from any utility company that will provide service to the Premises. If there are utilities already existing on the Property which serve the Premises, Tenant may utilize such utilities and services, subject to Tenant’s payment obligations set forth above in this Section 6(b). The rights granted to Tenant herein shall also include the right to partially assign its rights hereunder to any public or private utility company or authority to facilitate the uses contemplated herein, and all other rights and privileges reasonably necessary for Tenant’s safe and efficient use and enjoyment of the easements for the purposes described above. Upon Tenant’s request, Landlord shall execute and deliver to Tenant requisite recordable documents evidencing the easements contemplated hereunder within fifteen (15) days

of Tenant's request, and Landlord shall obtain the consent and joinder of Landlord's mortgagee to any such grant, if applicable.

(c) Tenant shall be responsible for paying stormwater utility fees and charges, if any, as required pursuant to the Code in connection with additional impervious surface within the Premises created by Tenant's improvements.

(d) Tenant shall keep the Premises clean, including, but not limited to, free of graffiti, and free of debris at all times other than as normal and customary for the construction and operation of the Communication Facilities as contemplated under this Agreement.

**7. EQUIPMENT, FIXTURES, AND REMOVAL.** The Communications Facilities shall at all times be the personal property of Tenant and/or its sublessees, as applicable. Subject to first obtaining the requisite Governmental Approvals, Tenant or its sublessees shall have the right to erect, install, maintain, repair, replace and operate on the Premises such equipment, structures, fixtures, signs, and personal property as Tenant may deem necessary or appropriate. Within ninety (90) days after the expiration or earlier termination of this Agreement (the "**Removal Period**"), Tenant shall remove or cause to be removed, all improvements and personal property and restore the Premises to a depth of two (2) feet below grade, in a condition at least as good or better than prior to Tenant's first use or occupation of the Premises; provided, however, reasonable wear and tear and casualty not caused by Tenant, its agents, or its sublessees shall be excluded from Tenant's restoration obligations hereunder. Tenant shall also perform all obligations under this Agreement during the Removal Period, including without limitation, the payment of Rent at the rate in effect upon the expiration or termination of this Agreement.

#### **8. ASSIGNMENT AND SUBLEASE.**

(a) **Assignment.** Tenant may assign this Agreement to Tenant's Lender (defined below), principals, affiliates, subsidiaries, subsidiaries of its principal, or to any entity which acquires all of or substantially all of Tenant's assets or ownership interests by reasons of merger, acquisition, or other business reorganization (a "**Pre-Approved Assignment**"), at any time without the prior written consent of Landlord. As to transfers or assignments which do not constitute a Pre-Approved Assignment, Tenant is required to obtain Landlord's written consent prior to effecting such transfer or assignment, which consent shall not be unreasonably withheld, conditioned, or delayed, but which Tenant acknowledges must be granted by the Issaquah City Council. Upon such assignment, Tenant will be relieved and released of all obligations and liabilities hereunder, except for its indemnification obligations for Losses arising out of this Agreement and attributable to periods prior to such assignment, which shall survive any such assignment. Landlord may assign this Agreement only in its entirety and only to any person or entity who or which acquires fee title to the Property.

(b) **Sublease.** Tenant shall have the exclusive right to sublease or grant licenses without Landlord's consent to use all or part of the Premises and/or the Communications Facilities for the purposes of providing telecommunications services and other communications uses, but no such sublease or license shall relieve or release Tenant from its obligations under this Agreement. However, Tenant shall notify the

City to the parties listed in Section 29 below of each sublease or license within thirty (30) calendar days of entering into each such sublease or license.

(c) **Subdivision.** Landlord may not subdivide the Property without Tenant's prior written consent, which shall not be unreasonably withheld, conditioned or delayed. Tenant agrees to respond within ten (10) business days to Landlord's written notice containing Landlord's request to subdivide.

## **9. COVENANTS, WARRANTIES, AND REPRESENTATIONS.**

(a) Landlord warrants and represents that it is the owner in fee simple of the Property, free and clear of all liens and encumbrances, except as to those which may appear of record in that certain Subdivision Guarantee (Guarantee No. 5003353-3979943), dated August 2, 2022, issued by First American Title Insurance Company (the "**Title Report**"), and any other matters of record as of the Effective Date, whether or not shown on the Title Report, and also except for the Parking Agreement, and that it alone has full right to lease the Premises for the Term.

(b) Landlord shall pay promptly, when due, any other amounts or sums due and owing with respect to its ownership and operation of the Property, including, without limitation, judgments, taxes (if applicable), liens, mortgage payments and other similar encumbrances, if applicable.

(c) Landlord shall not do or knowingly permit anything that will interfere with or negate any special use permit or approval pertaining to the Premises or cause Tenant's use of the Premises to be in non-conformance with applicable local, state, or federal laws. Landlord shall cooperate with Tenant in any effort by Tenant to obtain certificates, permits, licenses and other approvals that may be required by any governmental authorities. Landlord agrees to execute any necessary applications, consents or other documents as may be reasonably necessary for Tenant to apply for and obtain the proper land use and/or zoning approvals required to use and maintain the Premises and the Communications Facilities and such consents, applications, or other documents may be signed by the Mayor without further action by the Issaquah City Council.

(d) To the best of Landlord's knowledge, Landlord has complied with and shall comply with all laws with respect to the Property including, without limitation, laws relating to Hazardous Material. "**Hazardous Material**" means: "hazardous waste" as defined by the Resource Conservation and Recovery Act of 1976, as amended from time to time and regulations promulgated thereunder, any "hazardous substance" as defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended from time to time and regulations promulgated thereunder, any "hazardous substance" as defined by the Washington Model Toxics Control Act, as amended from time to time and regulations promulgated thereunder, or any substances, material, waste or emission that has been found to be "hazardous," "toxic," "radioactive," "pollutant," or "contaminant" under applicable law related to the regulation of pollution of human health or the environment. Tenant agrees that it will not, and will not permit any third party to use, generate, store, release, or dispose of any Hazardous Material in, on, under, about, or within the Premises in violation of any law or regulation. Tenant shall defend, indemnify, protect, and hold harmless Landlord and its officers, officials, employees, and agents against any and all losses, liabilities, damages, penalties, fines, claims, and/or costs (including attorneys' fees and consultants' fees and costs) of every type and nature arising out of or in connection with the generation, storage, release, or disposal of any Hazardous Materials in violation of law by Tenant and/or its sublessee or sublicensee in, on, under, about, or within the Premises, except to the extent caused by Landlord or any party by or through Landlord. The provisions of this Section 9(d) shall survive the expiration or termination of this Agreement.



(e) Tenant and its sublessees, affiliates, agents, employees, contractors, directors, successors, or assigns shall store and handle all equipment and materials in a good and workmanlike manner while on the Premises. Tenant and/or its sublessees shall promptly remove from the Premises and remediate in compliance with the law any discharge, leak, emission, or release of Hazardous Material from Tenant's or sublessee's activities, Tenant's property improvements, or any other equipment brought onto the Property by Tenant or sublessee(s). All costs and expenses associated in any way with a discharge, leak, emission, or release of Hazardous Material from Tenant's or sublessee's activities, the Communications Facilities, or equipment brought onto the Property by Tenant shall be at the sole cost and expense of the Tenant or sublessee. The provisions of this Section 9(e) shall survive the expiration, termination or assignment of this Agreement.

(f) Landlord warrants and represents that, other than those matters appearing of record in the Title Report and other than the Parking Agreement, there (i) currently exist no licenses, sublicenses, or other agreements, written or oral, granting to any party or parties the right of use or occupancy of any portion of the Property; (ii) are no outstanding options or rights of first refusal to purchase the Property or any portion thereof or interest therein, or any equity or interest in Landlord if Landlord is an entity; and (iii) are no parties (other than Landlord) in possession of the Property.

#### **10. EMERGENCY WORK; DANGEROUS CONDITIONS.**

(a) In the event of any emergency in which any of Tenant's or sublessees' Communications Facilities breaks, are damaged, or if Tenant's or sublessees' construction area is otherwise in such a condition as to immediately endanger the property, life, health, or safety of any individual, Tenant shall immediately take or cause to be taken only such proper emergency measures necessary to repair such Communications Facilities, to cure or remedy the dangerous conditions for the protection of property, life, health, or safety of individuals without having to first apply for and obtain a permit or other authorization even if otherwise required by this Agreement. However, Tenant shall notify the Landlord of the work as soon as reasonably practical and shall further obtain any Governmental Approvals necessary for this purpose within a commercially reasonable time period given the circumstances after the commencement of the emergency work.

(b) Whenever construction, installation, or excavation of the Communications Facilities authorized by this Agreement has caused or contributed to a condition that endangers the public, street utilities, or Landlord-owned property (including, but not limited to, the lateral support of the Property), Landlord, through the Public Works Director of the City, shall provide Tenant with written notice of such dangerous condition along with a reasonable opportunity for Tenant to commence reasonable corrective action to mitigate such dangerous condition, at Tenant's sole expense, but only to the extent that Tenant's actions caused the dangerous condition.

(c) In the event Tenant fails to commence taking the actions required by Section 10(b) of this Agreement within thirty (30) days of Tenant's receipt of Landlord's written notice, or if emergency conditions exist which require immediate action, Landlord may enter upon the Premises and take reasonable actions as are necessary to protect the public, street utilities, or Landlord-owned property, and Tenant shall be liable to Landlord for the reasonable costs actually incurred by Landlord in connection therewith. The provision of this Section 10(c) shall survive the expiration or termination of this Agreement.

**11. HOLD OVER TENANCY.** Should Tenant or any assignee of Tenant hold over the Premises or any part thereof after the expiration of this Agreement, such holdover shall constitute and be construed as a tenancy from month-to-month only, but otherwise upon the same terms and conditions.

## 12. INDEMNITIES.

(a) Tenant agrees to indemnify, defend and hold harmless Landlord, its successors, assigns, officers, directors, agents, and employees (individually, an **"Indemnified Landlord Person"**, and, collectively, **"Indemnified Landlord Persons"**) from and against all third-party claims, actions, judgments, damages, liabilities, losses, expenses and costs (including without limitation reasonable attorneys' fees and court costs) (collectively, **"Losses"**) caused by or arising out of this Agreement; provided, however, in no event shall Tenant indemnify Landlord for any such Losses to the extent arising from the alleged negligence, alleged gross negligence or alleged willful misconduct of the Landlord. However, in the event of an Indemnified Landlord Person's contributory negligence or other fault, the Indemnified Landlord Persons shall not be indemnified hereunder to the extent that the Indemnified Landlord Person's negligence or other fault caused such Losses. Tenant will further indemnify Landlord from and against any mechanic's liens or liens of contractors and subcontractors engaged by or through Tenant. Inspection or acceptance by the Landlord of any work performed by the Tenant at the time of completion of construction shall not be grounds for avoidance by Tenant of any of its obligations under this Section 12, Indemnities.

(b) Landlord agrees to indemnify, defend, and hold harmless Tenant, its parent company, subsidiaries, and other affiliates, successors, assigns, officers, directors, shareholders, managers, members, agents, and employees (individually, an **"Indemnified Tenant Person"**, and, collectively, **"Indemnified Tenant Persons"**) from and against all Losses caused by or arising out of the alleged negligence, alleged gross negligence or alleged willful misconduct of Landlord. However, in the event of an Indemnified Tenant Person's contributory negligence or other fault, the Indemnified Tenant Persons shall not be indemnified hereunder to the extent that the Indemnified Tenant Person's negligence or other fault caused such Losses.

(c) The party seeking indemnification (the **"Indemnatee"**) shall promptly notify the party to provide indemnification (the **"Indemnitor"**) in writing of any claim or suit for which Indemnitor has an indemnification obligation pursuant to Section 12(a) above and request indemnification in writing. The Indemnitor may choose counsel to defend the Indemnatee pursuant to this Section 12, Indemnity. However, the Indemnatee's failure to so notify and request indemnification shall not relieve the Indemnitor of any liability that the Indemnitor might have, except to the extent that such failure prejudices the Indemnitor's ability to defend such claim or suit. In the event that the Indemnitor refuses the tender of defense in any suit or any claim, as required pursuant to the indemnification provisions within this Agreement, and said refusal is subsequently determined by a court having jurisdiction (or such other tribunal the parties shall agree to decide the matter), to have been a wrongful refusal on the part of the Indemnitor, the Indemnitor shall pay all of the Indemnatee's reasonable costs for defense of the action, including, but not limited to, all expert witness fees, costs, attorneys fees, and costs and fees incurred in recovering under this Section 12, Indemnities. If separate representation to fully protect the interests of both parties is necessary as a result of a conflict of interest between the Indemnatee and the counsel selected by the Indemnitor to represent the Indemnatee, then upon the prior written approval and consent of the Indemnitor, which shall not be unreasonably withheld, the Indemnatee shall have the right to employ separate counsel in any action or proceeding and to participate in the investigation and defense thereof, and the Indemnitor shall pay the reasonable fees and expenses of separate counsel on behalf of the Indemnatee for the Indemnatee to bring or pursue any counterclaims or interpleader action, equitable relief, restraining order, or injunction. The Indemnatee's fees and expenses shall include all out-of-pocket expenses, such as consultants and expert witness fees, and shall also include the reasonable value of any services rendered by the counsel retained by the Indemnatee and shall not include outside attorneys' fees for services that are unnecessarily duplicative of services provided to the Indemnatee by the Indemnitor. Each Party agrees to cooperate and to cause its employees and agents to cooperate with the other party in the defense of any such claim.

(d) To the extent the provisions of RCW 4.24.115 are applicable, the parties agree that the indemnity provisions hereunder shall be deemed amended to conform to such statute and liability shall be allocated as provided herein. It is further specifically and expressly understood that the indemnification provided constitutes Tenant's waiver of immunity under Title 51 RCW, solely for the purposes of this indemnification, relating solely to indemnity claims made by the City directly against the Tenant for claims made against the Landlord by Tenant's employees. This waiver has been mutually negotiated by the parties.

(e) The provisions of this Section 12, Indemnities, shall survive the expiration or termination of this Agreement.

**13. WAIVERS.** In no event, shall either party be liable to the other party for indirect, special, incidental, consequential, exemplary, or punitive damages. Each party hereby releases and waives any and all such claims against the other party, its officers, agents, employees, volunteers, elected or appointed officials, or contractors. Landlord hereby waives any and all lien rights it may have, statutory or otherwise, in and to the Communications Facilities or any portion thereof, regardless of whether or not such is deemed real or personal property under applicable law. The provisions of this Section 13, Waivers, shall survive the termination or expiration of this Agreement.

**14. INSURANCE.**

(a) Tenant shall procure and maintain for so long as Tenant has its Communications Facilities on the Premises, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the acts or omissions of Tenant or any of Tenant's sublessees or invitees. Tenant shall procure insurance from insurers with a current A.M. Best rating of not less than A-:VII. Tenant shall provide a copy of a certificate of insurance and blanket additional insured endorsement to Landlord for its inspection at the time of execution of this Agreement, and such insurance certificates shall evidence a policy of insurance that includes:

- i. Commercial General Liability insurance with limits not less than \$5,000,000 per occurrence for bodily injury and damage or destruction to property and \$5,000,000 general aggregate.
- ii. Commercial Auto Liability insurance on all owned, non-owned Commercial Auto Liability insurance on all owned, non-owned, and hired automobiles with a combined single limit of not less than \$1,000,000 each accident.
- iii. Workers' Compensation insurance, applicable to work performed in Washington State, providing the statutory benefits and Employers Liability with a limit of \$1,000,000 each accident/disease/policy limit.
- iv. Umbrella liability policy with limits of \$5,000,000 per occurrence and in the aggregate.

(b) Payment of deductibles or self-insured retention shall be the sole responsibility of the Tenant. Tenant may utilize primary and umbrella liability insurance policies to satisfy the insurance policy limits required in this Section. Tenant's umbrella liability policy shall provide "follow form" coverage over its primary liability insurance policies.

(c) The required insurance policies, with the exception of Workers' Compensation and Employer's Liability obtained by Tenant shall include the Landlord, its officers, officials, employees, agents, and volunteers ("**Additional Insureds**"), as an additional insured with coverage at least as broad as

Additional Insured Managers Lessors of Premises ISO form CG 20 11 or equivalent. The coverage shall contain no special limitations on the scope of protection afforded to the Additional Insureds. In addition, the insurance policy shall contain a clause stating that coverage shall apply separately to each Additional Insured against whom a claim is made, or suit is brought, except with respect to the limits of the insurer's liability. Tenant shall provide to the Landlord upon mutual execution of this Agreement, a certificate of insurance and blanket additional insured endorsement. Receipt by the Landlord of any certificate showing less coverage than required under this Agreement is not a waiver of Tenant's obligations to fulfill the requirements under this Section. Tenant's required general and auto liability insurance shall be primary insurance with respect to the Landlord. Any insurance, self-insurance, or insurance pool covered maintained by the Landlord shall be in excess of Tenant's required insurance and shall not contribute with it.

(d) Upon receipt of written notice from its insurer(s), Tenant shall provide the Landlord with thirty (30) days' prior written notice of any cancellation of any insurance policy, required pursuant to this Section 14. Tenant shall, prior to the effective date of such cancellation, obtain replacement insurance policies meeting the requirements of this Section 14. Failure to maintain insurance as required by this Section 14, after Tenant receives written notice of such breach and a ten (10) day opportunity to cure such default, shall be a material breach of this Agreement.

(e) Tenant's maintenance of insurance as required by this Section 14 shall not be construed to limit the liability of Tenant to only the coverage provided by such insurance, or otherwise limit the Landlord's recourse to any remedy available at law or equity. Further, Tenant's maintenance of insurance policies required by this Agreement shall not be construed to excuse unfaithful performance under this Agreement by Tenant.

(f) Tenant shall require of all sublessees that own, use, maintain, or otherwise permit the siting or use of a backup generator on the Premises to maintain Pollution Liability insurance covering losses caused by pollution conditions that arise from the operations of the sublessee. Coverage must be maintained in a minimum amount of \$2,000,000 per loss, with an annual aggregate of at least \$2,000,000. Such Pollution Liability insurance shall cover bodily injury, property damage, cleanup costs and defense, including costs and expenses incurred in the investigation, defense or settlement of claims. Pollution Liability insurance policies required pursuant to this subsection are to contain, or be endorsed to contain, that they shall be primary insurance as respect to the Landlord. Any insurance, self-insurance, or self-insured pool coverage maintained by the Landlord shall be excess of the sublessee's insurance and shall not contribute with it. Such insurance shall be maintained for the entire period that a sublessee owns, uses, maintains, or otherwise permits the siting or use of a backup generator on the Premises.

**15. INTERFERENCE.** Tenant shall operate Tenant's Communications Facilities in a manner that will not cause interference to Landlord and other lessees or licensees of the Property which are currently on the Property as of the Effective Date, provided further that the then-current installation of equipment of such parties predate that of Tenant's Communications Facilities. Further, all operations by Tenant shall be in compliance with all Federal Communications Commission ("FCC") and Federal Aviation Administration ("FAA") requirements.

To the extent permitted by law, neither Landlord nor any third party acting under Landlord will grant any leasehold, license, easement, fee simple or other interest in the Premises to a Third Party Competitor (as defined below) during the Option Period and the Term. For purposes of this Agreement, the term "**Third Party Competitor**" shall mean any person or entity directly or indirectly engaged in the business of owning, acquiring, operating, managing, investing in or leasing communications infrastructure or any

person or entity directly or indirectly engaged in the business of owning, acquiring, or investing in real property leases or easements underlying communications infrastructure.

**16. SECURITY.** Tenant shall ensure that the Communications Facilities remain secure at all times. Tenant may elect, at its expense, to construct such enclosures and/or fences as Tenant reasonably determines to be necessary to secure the Communications Facilities (including, without limitation, if applicable guy anchors), subject to receiving all necessary governmental permits, approvals, or authorizations required for such enclosures and/or fences and also subject to advance approval by Landlord as to design of such enclosures/fences, which shall not be unreasonably withheld, conditioned, or delayed; provided, however, Tenant shall only be obligated to comply with Landlord's requested design requirements with respect to such enclosures/fences if Landlord (i) cooperates with Tenant and any third parties who may be reimbursing Tenant for its relocation expenses with respect to the Landlord's request as to the design of such enclosures/fences, and (ii) provides its proposed design of such enclosures/fences to Tenant within sixty (60) days of the Effective Date. Tenant may also undertake any other appropriate means to restrict access to the Communications Facilities including, without limitation, if applicable, guy anchors, installing security systems, locks and posting signs for security purposes and as may otherwise be required by law and as permitted by law including local regulation. For any disrepair, vandalization, or any emergencies or other situations regarding the Premises and/or Tenant's Communications Facilities, Landlord may call +1 (877) 589-6411, which Tenant agrees shall be staffed twenty-four (24) hours per day, seven (7) days per week, three hundred sixty-five (365) days per year.

**17. FORCE MAJEURE.** The time for performance by Landlord or Tenant of any term, provision, or covenant of this Agreement shall be deemed extended by time lost due to delays resulting from acts of God, strikes, civil riots, floods, pandemics, material or labor restrictions by governmental authority, government shutdowns, quarantines, and/or other disease control measures and any other cause not within the control of Landlord or Tenant and not reasonably foreseeable, as the case may be.

**18. CONDEMNATION.** Notwithstanding any provision of this Agreement to the contrary, in the event of condemnation of all or any part of the Premises, Landlord and Tenant shall be entitled to separate awards with respect to the Premises, in the amount determined by the court conducting such condemnation proceedings based upon Landlord's and Tenant's respective interests in the Premises. If a separate condemnation award is not determined by such court, Landlord shall permit Tenant to participate in the allocation and distribution of the award. In the event of a joint condemnation award, in no event shall the ultimate condemnation award to Landlord include the value of the Communications Facilities and other improvements at the Premises, or other severance damages that would be appropriately awarded to Tenant (including, without limitation, by virtue of Tenant's loss of use of the Premises or impairment of its use of the Premises, which loss or impairment results from damage to or displacement of any of Tenant's Communications Facilities and/or other improvements at the Premises, loss or impairment of access to the Premises as required under Section 6(a), damage to or displacement of any utility connections serving the Premises, loss or impairment of any utility service to the Premises, or otherwise). In no event shall this Agreement be terminated or modified (other than an abatement of Rent) due to a casualty or condemnation without the prior written notice to Lender.

**19. DEFAULT.** The failure of Tenant or Landlord to perform any of the covenants of this Agreement shall constitute a default. The non-defaulting party shall give the other written notice of such default, and the defaulting party shall cure such default within thirty (30) days after receipt of such notice. In the event any such default cannot reasonably be cured within such thirty (30) day period, if the defaulting party shall proceed promptly after the receipt of such notice to cure such default, and shall pursue curing such default with due diligence, the time for curing shall be extended for such period of time as may be necessary to complete such curing, however, in no event shall this extension of time be in excess of sixty (60) days, unless agreed upon by the non-defaulting party.



**20. REMEDIES.** Should the defaulting party fail to cure a default under this Agreement, the other party shall have all remedies available either at law or in equity, and the right to terminate this Agreement.

**21. ATTORNEYS' FEES.** If there is any legal proceeding between Landlord and Tenant arising from or based on this Agreement, the unsuccessful party to such action or proceeding shall pay to the prevailing party all costs and expenses, including reasonable attorneys' fees and disbursements, incurred by such prevailing party in such action or proceeding and in any appeal in connection therewith. If such prevailing party recovers a judgment in any such action, proceeding or appeal, such costs, expenses and attorneys' fees and disbursements shall be included in and as a part of such judgment.

**22. ADDITIONAL TERMINATION RIGHT.** If at any time during the Term, Tenant determines, in Tenant's sole and absolute discretion, with or without cause, that the Premises is no longer suitable or desirable for Tenant's intended use and/or purposes, Tenant shall have the right to terminate this Agreement upon sixty (60) days prior written notice to Landlord. In such event, no refund of any pre-paid Rent will be made to Tenant.

**23. PRIOR AGREEMENTS.** The parties hereby covenant, recognize, and agree that the terms and provisions of this Agreement shall constitute the sole embodiment of the arrangement between the parties with regard to the Premises, and that all other written or unwritten agreements, contracts, or leases by and between the parties with regard to the Premises are hereby terminated, superseded and replaced by the terms hereof.

**24. SUBORDINATION, NON-DISTURBANCE AND ATTORNMENMENT.** In the event the Property is encumbered by a mortgage or deed of trust or other security instrument of any kind (a "**Landlord Mortgage**"), Landlord, within fifteen (15) days following Tenant's request or immediately prior to the creation of any encumbrance created after the date this Agreement is fully executed, will obtain from the holder of each such Landlord Mortgage a fully-executed subordination, non-disturbance and attornment agreement (an "**SNDA**") in recordable form, which shall be prepared or approved by Tenant. The holder of every such Landlord Mortgage shall, in the SNDA, agree that in the event of a foreclosure, or conveyance in lieu of foreclosure of Landlord's interest in the Premises, such Landlord Mortgage holder shall recognize and confirm the validity and existence of this Agreement, not disturb the tenancy of Tenant and Tenant shall have the right to continue its use and occupancy of the Premises in accordance with the provisions of this Agreement, provided Tenant is not in default of this Agreement beyond applicable notice and cure periods.

**25. LENDER'S RIGHTS.**

(a) Landlord consents to the granting by Tenant of a lien and security interest in Tenant's interest in this Agreement and/or leasehold estate of the Premises and all of Tenant's personal property and fixtures attached to the real property described herein, and furthermore consents to the exercise by Lender of its rights of foreclosure with respect to its lien and security interest. Landlord agrees to recognize Lender as Tenant hereunder upon any such exercise by Lender of its rights of foreclosure.

(b) Landlord hereby agrees to give Lender written notice of any breach or default of Tenant of the terms of this Agreement within fifteen (15) days after the occurrence thereof at the address set forth in Section 29. Landlord further agrees that no default under this Agreement by Tenant shall be deemed to have occurred unless such notice to Lender is also given and that, in the event of any such breach or default under the terms of this Agreement, Lender shall have the right, to the same extent, for the same period and with the same effect, as Tenant, plus an additional thirty (30) days after any applicable grace period to cure or correct any such default.

(c) Landlord acknowledges that nothing contained herein shall be deemed or construed to obligate Lender to take any action hereunder, or to perform or discharge any obligation, duty, or liability of Tenant under this Agreement. Lender shall not become liable under the provisions of this Agreement or any lease executed pursuant to Section 26 hereof unless and until such time as it becomes, and then only for as long as it remains, the owner of the leasehold estate created hereby or thereby.

(d) Tenant shall have the right from time to time to mortgage or otherwise encumber Tenant's interest in this Agreement and/or leasehold estate in the Premises; provided, however, in no event shall there be more than one such mortgage or encumbrance outstanding at any one time. If Tenant shall so mortgage (each a "**Tenant Mortgage**") Tenant's interest in this Agreement and/or leasehold interest in the Premises to Lender, Tenant or Lender shall give Landlord prompt notice of such Tenant Mortgage and furnish Landlord with a complete and correct copy of such Tenant Mortgage, certified as such by Tenant or Lender, together with the name and address of Lender if it is different from the information set forth in Section 29 hereof. The term "**Lender**" as used in this Agreement shall mean the lender identified in Section 29 hereof and its successors, assigns, designees or nominees.

(e) In the event that Lender shall become the owner of such leasehold estate, Lender shall not be bound by any modification or amendment of this Agreement made subsequent to the date of a Tenant Mortgage unless Lender shall have consented to such modification or amendment at the time it was made.

## **26. ADDITIONAL PROVISIONS.**

(a) The provisions of Section 25 hereof shall survive the termination, rejection or disaffirmance of this Agreement and shall continue in full force and effect thereafter to the same extent as if such Sections were a separate and independent contract made by Landlord, Tenant and Lender and, from the effective date of such termination, rejection or disaffirmance of this Agreement to the date of execution and delivery of such new lease, Lender may use and enjoy the leasehold estate created by this Agreement without hindrance by Landlord.

(b) Except as set forth in Section 3(a) above, Landlord shall have no right, and expressly waives any right arising under applicable law, in and to the rentals or other fees payable to Tenant, if any, under any sublease or license of the Premises by Tenant, which rentals or fees may be assigned by Tenant to Lender.

(c) If a Tenant Mortgage is in effect, this Agreement shall not be modified or amended by the parties hereto, or terminated or surrendered by Tenant, nor shall Landlord accept any such termination or surrender of this Agreement by Tenant, without the prior written consent of Lender.

(d) The provisions of Section 25 hereof are for the benefit of Lender and may be relied upon and shall be enforceable by Lender as if Lender were a party to this Agreement.

(e) Landlord shall, within ten (10) days of the request of Tenant or any Lender or prospective Lender, provide an estoppel certificate as to any matters reasonably requested by Tenant or Lender.

(f) The right to extend or renew this Agreement may be exercisable by the holder of a Tenant Mortgage and, before the expiration of any periods to exercise such a right, Landlord must provide to Lender at least thirty (30) days prior written notice before the expiration of the right to so extend or renew in order to extinguish Lender's right to so extend, renew or purchase.

(g) Under no circumstances shall the fee estate of Landlord and the leasehold estate created hereby merge, even though owned by the same party, without the written consent of the holder of a Tenant Mortgage.

**27. QUIET ENJOYMENT.** So long as Tenant is not in default under this Agreement beyond the applicable notice and cure period, Landlord covenants and agrees that Tenant shall peaceably and quietly hold and enjoy the Premises throughout the Term, without any hindrance, molestation or ejection by Landlord, its successors or assigns or by those claiming by, through or under them.

**28. NOTICES.** All notices, requests, claims, demands, and other communications hereunder shall be in writing and may be hand delivered (provided the deliverer provides proof of delivery) or sent by nationally established overnight courier that provides proof of delivery, or certified or registered mail (postage prepaid, return receipt requested). Notice shall be deemed received on the date of delivery as demonstrated by the receipt of delivery. Notices shall be delivered to a party at the party's respective address below, or to such other address that a party below may provide from time to time:

**If to Landlord:**

City of Issaquah  
130 E. Sunset Way  
Issaquah, WA 98027  
Attn: Mayor

With copies to:  
City Administrator  
Parks Director  
City Attorney

**If to Tenant:**

Vertical Bridge Towers IV, LLC  
750 Park of Commerce Drive,  
Suite 200  
Boca Raton, Florida 33487

Ref: US-WA-9003  
Attn: VP Asset Management

With a copy to: General Counsel

With a copy to (not constituting  
notice to Tenant):

Fox Rothschild LLP  
747 Constitution Drive, Suite 100  
Exton, PA 19341  
Attn: Levin V. Czubaroff, Esq.

**If to Lender:**

Toronto Dominion (Texas) LLC  
31 West 52nd Street  
New York, NY 10019  
Attn: Admin Agent  
Fax No. 416-982-5535

**29. MISCELLANEOUS.**

(a) Each party hereto warrants and represents that it has the necessary power and authority to enter into and perform its respective obligations under this Agreement.

(b) 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.

(c) All attached exhibits are hereby incorporated by this reference as if fully set forth herein.

(d) Failure of party to insist on strict performance of any of the conditions or provisions of this Agreement, or failure to exercise any of a party's rights hereunder, shall not waive such rights.

(e) This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. Venue for any dispute arising out of this Agreement shall lie exclusively in King County Superior Court.

(f) This Agreement constitutes the entire agreement and understanding of the parties and supersedes all offers, negotiations, other leases and/or agreements with regard to the Premises. There are no representations or understandings of any kind not set forth herein. Any amendment to this Agreement must be in writing and executed by both parties.

(g) This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors, and assigns.

(h) A short-form Memorandum of Option to Lease (and a short-form Memorandum of Lease in the event Tenant exercises its option to lease the Premises) may be recorded at Landlord or Tenant's option in the form as depicted in **Exhibit 3** and **Exhibit 4**, respectively, attached hereto.

(i) Tenant understands that Landlord is a governmental entity, subject to the Washington Public Records Act, RCW Ch. 42.56 and that this Agreement is deemed to be a public record subject to disclosure. In the event this Agreement is the subject of a public records request, Landlord will provide Tenant written notice of the request in advance of the intended release date. Should legal action thereafter be taken by Tenant to enjoin or otherwise prevent the release of this Agreement, all Landlord and Tenant's expenses of any such litigation shall be borne solely by Tenant, including, but not limited to any damages, attorneys' fees, penalties, and/or other costs. Landlord shall not be liable for any release where written notice was provided and Tenant took no action to oppose release of this Agreement. Furthermore, Landlord shall not be liable for disclosure of this Agreement if Landlord reasonably determines that such disclosure is required by law and Landlord provided Tenant with written notice of the request for disclosure in advance of the intended release date as set forth above in this Section 29(i).

(j) For purposes of this Agreement, all references to "sublessees" of Tenant shall mean to include any sublessees, licensees, or other occupants claiming rights by, through, or under Tenant.

**SIGNATURES BEGIN ON NEXT PAGE**

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date (date last signed by a party hereto).

**WITNESSES:**

**LANDLORD:**

**City of Issaquah**

a Washington municipal corporation

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

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

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

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

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

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

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 was authorized to execute this instrument, and acknowledged it as the \_\_\_\_\_ of the City of Issaquah, a Washington municipal corporation, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED: \_\_\_\_\_.

(Seal or stamp)

\_\_\_\_\_  
Notary Signature

\_\_\_\_\_  
Print/Type Name  
Notary Public in and for the State of Washington, residing  
at \_\_\_\_\_  
My appointment expires \_\_\_\_\_



(Tenant signature page to Option and Lease Agreement)

**WITNESSES:**

**TENANT:**

**Vertical Bridge Towers IV, LLC**  
a Delaware limited liability company

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

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

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

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

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

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

STATE OF FLORIDA

COUNTY OF PALM BEACH

This instrument was acknowledged before me on \_\_\_\_\_, 2022 by \_\_\_\_\_  
\_\_\_\_\_ (name of signatory), \_\_\_\_\_ (title of  
signatory) of Vertical Bridge Towers IV, LLC, a Delaware limited liability company, on behalf of the  
company.

\_\_\_\_\_  
Notary Public

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

My Commission Expires: \_\_\_\_\_

## EXHIBIT 1

### Legal Description of the Property (Parent Parcel)

(may be updated by Tenant upon receipt of final legal description from title)

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

#### PARCEL A:

THAT PORTION OF THE SOUTH HALF OF THE NORTHEAST QUARTER OF SECTION 29, TOWNSHIP 24 NORTH, RANGE 6 EAST, W.M., IN KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE SOUTH LINE OF STATE ROAD NO. 2 WITH THE WEST LINE OF THE EAST 665 FEET OF SAID SUBDIVISION;  
THENCE ALONG SAID HIGHWAY LINE SOUTH 89°41'00" WEST 382 FEET TO THE TRUE POINT OF BEGINNING;

THENCE SOUTH 5°50'00" EAST 383.23 FEET;  
THENCE SOUTH 85°07'00" WEST 385.33 FEET TO THE EASTERLY MARGIN OF STATE ROAD NO. 2;  
THENCE NORTHEASTERLY ALONG THE CURVE OF SAID HIGHWAY MARGIN AS NOW ESTABLISHED 591.5 FEET, MORE OR LESS, TO THE TRUE POINT OF BEGINNING.

EXCEPT THAT PORTION CONVEYED TO STATE OF WASHINGTON, DEPARTMENT OF TRANSPORTATION FOR RIGHT OF WAY PURPOSES AS RECORDED IN DEED UNDER RECORDING NO. 20070628000422.

#### PARCEL B:

A PORTION OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 29, TOWNSHIP 24 NORTH, RANGE 6 EAST, W.M., IN KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE EAST LINE OF SECTION 29, 47 FEET NORTH FROM THE EAST QUARTER CORNER;  
THENCE WEST 665 FEET;  
THENCE NORTH PARALLEL WITH SECTION LINE 1243 FEET TO THE SOUTH LINE OF SUNSET HIGHWAY;  
THENCE EAST 665 FEET ALONG THE SOUTH LINE OF SUNSET HIGHWAY TO EAST LINE OF SAID SECTION 29;  
THENCE SOUTH ON SECTION LINE 1243 FEET TO POINT OF BEGINNING;

EXCEPT THAT PORTION ON THE EAST CONVEYED TO THE CITY OF ISSAQUAH, A MUNICIPAL CORPORATION, BY QUIT CLAIM DEED RECORDED SEPTEMBER 30, 1969, UNDER RECORDING NUMBER 6570967;

AND ALSO THE NORTH 24 FEET OF THE SOUTH 71 FEET OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 29, TOWNSHIP 24 NORTH, RANGE 6 EAST, W.M., IN KING COUNTY, WASHINGTON, LYING EAST OF TIBBITS CREEK;

EXCEPT THE EAST 665 FEET THEREOF.

EXCEPT THAT PORTION CONVEYED TO STATE OF WASHINGTON, DEPARTMENT OF TRANSPORTATION FOR RIGHT OF WAY PURPOSES AS RECORDED IN DEED UNDER RECORDING NO. 20070628000422.

PARCEL C:

THAT PORTION OF THE SOUTH HALF OF THE NORTHEAST QUARTER OF SECTION 29, TOWNSHIP 24 NORTH, RANGE 6 EAST, W.M., IN KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE SOUTHERLY LINE OF SUNSET HIGHWAY WITH THE WESTERLY LINE OF THE EASTERLY 665 FEET OF SAID SUBDIVISION;  
THENCE ALONG SAID HIGHWAY LINE SOUTH 89°41'00" WEST 382 FEET;  
THENCE SOUTH 5°50'00" EAST 383.23 FEET;  
THENCE SOUTH 85°07'00" WEST 385.33 FEET TO THE EASTERLY LINE OF SUNSET HIGHWAY AS NOW ESTABLISHED;  
THENCE SOUTH 6°17'00" EAST ALONG SAID HIGHWAY LINE 440 FEET, MORE OR LESS, TO THE NORTHERLY LINE OF THE SOUTH 446 FEET OF SAID SUBDIVISION;  
THENCE EASTERLY ALONG SAID NORTHERLY LINE TO THE WESTERLY LINE OF THE EASTERLY 665 FEET OF SAID SUBDIVISION;  
THENCE NORTHERLY ALONG SAID WESTERLY LINE TO THE TRUE POINT OF BEGINNING.

EXCEPT THAT PORTION CONVEYED TO STATE OF WASHINGTON, DEPARTMENT OF TRANSPORTATION FOR RIGHT OF WAY PURPOSES AS RECORDED IN DEED UNDER RECORDING NO. 20070628000422.

PARCEL D:

THAT PORTION OF THE SOUTH HALF OF THE NORTHEAST QUARTER OF SECTION 29, TOWNSHIP 24 NORTH, RANGE 6 EAST, W.M., IN KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT WHICH IS 665 FEET WEST AND 246 FEET NORTH OF THE EAST QUARTER CORNER OF SAID SECTION;  
THENCE NORTH 200 FEET;  
THENCE WEST 600 FEET, MORE OR LESS, TO THE EASTERLY LINE OF SUNSET HIGHWAY U.S. ALTERNATE NO. 10;  
THENCE ALONG SAID HIGHWAY LINE SOUTH 6°17'00" EAST 203 FEET, MORE OR LESS, TO A POINT WEST OF BEGINNING;  
THENCE EAST 640 FEET, MORE OR LESS, TO BEGINNING.

EXCEPT THAT PORTION CONVEYED TO STATE OF WASHINGTON, DEPARTMENT OF TRANSPORTATION FOR RIGHT OF WAY PURPOSES AS RECORDED IN DEED UNDER RECORDING NO. 20070628000422.

PARCEL E:

THE SOUTH 246 FEET OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 29, TOWNSHIP 24 NORTH, RANGE 6 EAST, W.M., IN KING COUNTY, WASHINGTON;

EXCEPT THE EAST 665 FEET THEREOF;

EXCEPT THE PORTION THEREOF LYING WEST OF THE EAST LINE OF THE RENTON-ISSAQUAH ROAD;

EXCEPT THE SOUTH 41 FEET OF THE PORTION LYING WEST OF TIBBIT'S CREEK;

AND EXCEPT THE SOUTH 71 FEET OF THE PORTION LYING EAST OF TIBBIT'S CREEK.

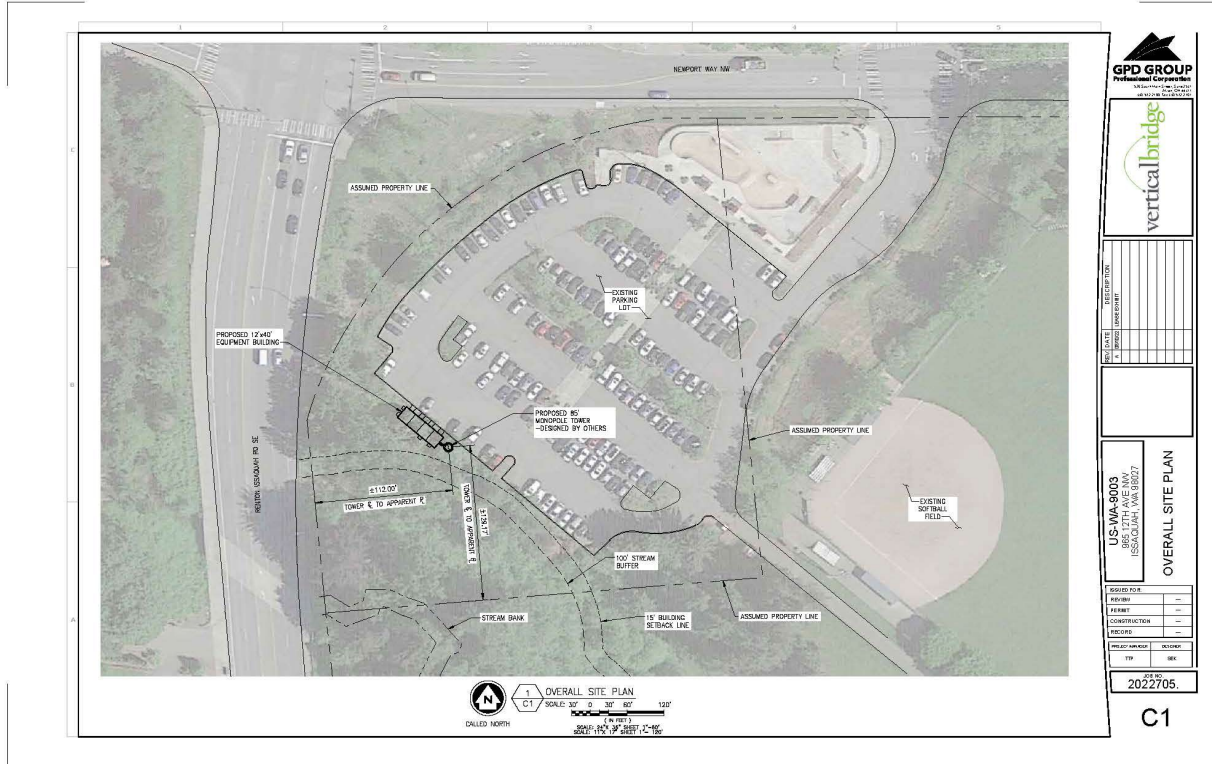
EXCEPT THAT PORTION CONVEYED TO STATE OF WASHINGTON, DEPARTMENT OF TRANSPORTATION FOR RIGHT OF WAY PURPOSES AS RECORDED IN DEED UNDER RECORDING NO. 20070628000422.

Tax Parcel ID No. 292406906605 and 292406905607 and 292406905706 and 292406906001 and 292406906605 and 292406906605

## EXHIBIT 2

### Premises

(below may be replaced by Tenant with a final survey and legal description of the Premises)  
(subject to modification in accordance with Section 5(c) of this Agreement)







**EXHIBIT 3**  
**Memorandum of Option to Lease**  
(Attached)

(Above 3" Space for Recorder's Use Only)

**Upon Recording Return to:**

Vertical Bridge Towers IV, LLC  
750 Park of Commerce Drive, Suite 200  
Boca Raton, Florida 33487  
Attn: Daniel Marinberg

**Site Name: Issaquah 2**  
**Site Number: US-WA-9003**  
**Commitment #:** \_\_\_\_\_

**MEMORANDUM OF OPTION TO LEASE**

This Memorandum of Option to Lease ("**Memorandum**") evidences an Option and Lease Agreement (the "**Lease**") between the **City of Issaquah**, a Washington municipal corporation ("**Landlord**"), whose address is 130 E. Sunset Way, Issaquah, WA 98027, and **Vertical Bridge Towers IV, LLC**, a Delaware limited liability company, whose mailing address is 750 Park of Commerce Drive, Suite 200, Boca Raton, Florida 33487 ("**Tenant**"), dated December \_\_, 2022 (the "**Effective Date**"), for a portion (the "**Premises**") of the real property (the "**Property**") described in Exhibit A attached hereto.

Pursuant to the Lease, Landlord has granted Tenant an exclusive option to lease the Premises (the "**Option**"). The Option commenced as of the Effective Date and shall continue in effect for a period of twelve (12) months from the Effective Date and may be renewed by Tenant for an additional twelve (12) month period.

Landlord ratifies, restates and confirms the Lease and, upon exercise of the Option, shall lease to Tenant the Premises, subject to the terms and conditions of the Lease. The Lease provides for the lease by Landlord to Tenant of the Premises for an initial term of five (5) years with five (5) renewal option(s) of an additional five (5) years each, and further provides that:

1. Landlord may assign the Lease only in its entirety and only to a purchaser of the fee interest of the Property; and
2. Landlord may not subdivide the Property without Tenant's prior written consent as set forth in Section 8(c) of the Lease.

This Memorandum 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. In the event of a conflict between the provisions of this Memorandum 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 Landlord and Tenant and shall inure to the benefit of their respective heirs, successors, and assigns, subject to the provisions of the Lease.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK, SIGNATURES  
BEGIN ON NEXT PAGE

IN WITNESS WHEREOF, the parties hereto have executed this MEMORANDUM OF OPTION TO LEASE effective as of the date last signed by a party hereto.

**WITNESSES:**

**LANDLORD:**

**City of Issaquah**

a Washington municipal corporation

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

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

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

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

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

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

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 was authorized to execute this instrument, and acknowledged it as the \_\_\_\_\_ of the City of Issaquah, a Washington municipal corporation, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED: \_\_\_\_\_.

(Seal or stamp)

\_\_\_\_\_  
Notary Signature

\_\_\_\_\_  
Print/Type Name

Notary Public in and for the State of Washington, residing  
at \_\_\_\_\_

My appointment expires \_\_\_\_\_

(Tenant's Signature Page to Memorandum of Option to Lease)

**WITNESSES:**

**TENANT:**

**Vertical Bridge Towers IV, LLC**  
a Delaware limited liability company

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

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

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

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

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

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

STATE OF FLORIDA

COUNTY OF PALM BEACH

This instrument was acknowledged before me on \_\_\_\_\_, 2022 by \_\_\_\_\_  
\_\_\_\_\_ (name of signatory), \_\_\_\_\_ (title of  
signatory) of Vertical Bridge Towers IV, LLC, a Delaware limited liability company, on behalf of the  
company.

\_\_\_\_\_  
Notary Public

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

My Commission Expires: \_\_\_\_\_

**EXHIBIT A**  
(TO MEMORANDUM OF OPTION TO LEASE)

The Property

(may be updated by Tenant upon receipt of final legal description from title)

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

THAT PORTION OF THE SOUTH HALF OF THE NORTHEAST QUARTER OF SECTION 29, TOWNSHIP 24 NORTH, RANGE 6 EAST, W.M., IN KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE SOUTH LINE OF STATE ROAD NO. 2 WITH THE WEST LINE OF THE EAST 665 FEET OF SAID SUBDIVISION;  
THENCE ALONG SAID HIGHWAY LINE SOUTH 89°41'00" WEST 382 FEET TO THE TRUE POINT OF BEGINNING;

THENCE SOUTH 5°50'00" EAST 383.23 FEET;  
THENCE SOUTH 85°07'00" WEST 385.33 FEET TO THE EASTERLY MARGIN OF STATE ROAD NO. 2;  
THENCE NORTHEASTERLY ALONG THE CURVE OF SAID HIGHWAY MARGIN AS NOW ESTABLISHED 591.5 FEET, MORE OR LESS, TO THE TRUE POINT OF BEGINNING.

EXCEPT THAT PORTION CONVEYED TO STATE OF WASHINGTON, DEPARTMENT OF TRANSPORTATION FOR RIGHT OF WAY PURPOSES AS RECORDED IN DEED UNDER RECORDING NO. 20070628000422.

PARCEL B:

A PORTION OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 29, TOWNSHIP 24 NORTH, RANGE 6 EAST, W.M., IN KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE EAST LINE OF SECTION 29, 47 FEET NORTH FROM THE EAST QUARTER CORNER;  
THENCE WEST 665 FEET;  
THENCE NORTH PARALLEL WITH SECTION LINE 1243 FEET TO THE SOUTH LINE OF SUNSET HIGHWAY;  
THENCE EAST 665 FEET ALONG THE SOUTH LINE OF SUNSET HIGHWAY TO EAST LINE OF SAID SECTION 29;  
THENCE SOUTH ON SECTION LINE 1243 FEET TO POINT OF BEGINNING;

EXCEPT THAT PORTION ON THE EAST CONVEYED TO THE CITY OF ISSAQUAH, A MUNICIPAL CORPORATION, BY QUIT CLAIM DEED RECORDED SEPTEMBER 30, 1969, UNDER RECORDING NUMBER 6570967;

AND ALSO THE NORTH 24 FEET OF THE SOUTH 71 FEET OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 29, TOWNSHIP 24 NORTH, RANGE 6 EAST, W.M., IN KING COUNTY, WASHINGTON, LYING EAST OF TIBBITS CREEK;

EXCEPT THE EAST 665 FEET THEREOF.

EXCEPT THAT PORTION CONVEYED TO STATE OF WASHINGTON, DEPARTMENT OF TRANSPORTATION FOR RIGHT OF WAY PURPOSES AS RECORDED IN DEED UNDER RECORDING NO. 20070628000422.

PARCEL C:

THAT PORTION OF THE SOUTH HALF OF THE NORTHEAST QUARTER OF SECTION 29, TOWNSHIP 24 NORTH, RANGE 6 EAST, W.M., IN KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE SOUTHERLY LINE OF SUNSET HIGHWAY WITH THE WESTERLY LINE OF THE EASTERLY 665 FEET OF SAID SUBDIVISION;  
THENCE ALONG SAID HIGHWAY LINE SOUTH 89°41'00" WEST 382 FEET;  
THENCE SOUTH 5°50'00" EAST 383.23 FEET;  
THENCE SOUTH 85°07'00" WEST 385.33 FEET TO THE EASTERLY LINE OF SUNSET HIGHWAY AS NOW ESTABLISHED;  
THENCE SOUTH 6°17'00" EAST ALONG SAID HIGHWAY LINE 440 FEET, MORE OR LESS, TO THE NORTHERLY LINE OF THE SOUTH 446 FEET OF SAID SUBDIVISION;  
THENCE EASTERLY ALONG SAID NORTHERLY LINE TO THE WESTERLY LINE OF THE EASTERLY 665 FEET OF SAID SUBDIVISION;  
THENCE NORTHERLY ALONG SAID WESTERLY LINE TO THE TRUE POINT OF BEGINNING.

EXCEPT THAT PORTION CONVEYED TO STATE OF WASHINGTON, DEPARTMENT OF TRANSPORTATION FOR RIGHT OF WAY PURPOSES AS RECORDED IN DEED UNDER RECORDING NO. 20070628000422.

PARCEL D:

THAT PORTION OF THE SOUTH HALF OF THE NORTHEAST QUARTER OF SECTION 29, TOWNSHIP 24 NORTH, RANGE 6 EAST, W.M., IN KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:



BEGINNING AT A POINT WHICH IS 665 FEET WEST AND 246 FEET NORTH OF THE EAST QUARTER CORNER OF SAID SECTION;  
THENCE NORTH 200 FEET;  
THENCE WEST 600 FEET, MORE OR LESS, TO THE EASTERLY LINE OF SUNSET HIGHWAY U.S. ALTERNATE NO. 10;  
THENCE ALONG SAID HIGHWAY LINE SOUTH 6°17'00" EAST 203 FEET, MORE OR LESS, TO A POINT WEST OF BEGINNING;  
THENCE EAST 640 FEET, MORE OR LESS, TO BEGINNING.

EXCEPT THAT PORTION CONVEYED TO STATE OF WASHINGTON, DEPARTMENT OF TRANSPORTATION FOR RIGHT OF WAY PURPOSES AS RECORDED IN DEED UNDER RECORDING NO. 20070628000422.

PARCEL E:

THE SOUTH 246 FEET OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 29, TOWNSHIP 24 NORTH, RANGE 6 EAST, W.M., IN KING COUNTY, WASHINGTON;

EXCEPT THE EAST 665 FEET THEREOF;

EXCEPT THE PORTION THEREOF LYING WEST OF THE EAST LINE OF THE RENTON-ISSAQUAH ROAD;

EXCEPT THE SOUTH 41 FEET OF THE PORTION LYING WEST OF TIBBIT'S CREEK;

AND EXCEPT THE SOUTH 71 FEET OF THE PORTION LYING EAST OF TIBBIT'S CREEK.

EXCEPT THAT PORTION CONVEYED TO STATE OF WASHINGTON, DEPARTMENT OF TRANSPORTATION FOR RIGHT OF WAY PURPOSES AS RECORDED IN DEED UNDER RECORDING NO. 20070628000422.

Tax Parcel ID No. 292406906605 and 292406905607 and 292406905706 and 292406906001 and 292406906605 and 292406906605

**EXHIBIT 4**

Memorandum of Lease

(Attached)

---

(Above 3" Space for Recorder's Use Only)

**Upon Recording Return to:**

Vertical Bridge Towers IV, LLC  
750 Park of Commerce Drive, Suite 200  
Boca Raton, Florida 33487  
Attn: Daniel Marinberg

**Site Name: Issaquah 2**

**Site Number: US-WA-9003**

**Commitment #:** \_\_\_\_\_

**MEMORANDUM OF LEASE**

This Memorandum of Lease ("**Memorandum**") evidences a Lease Agreement (the "**Lease**") between **City of Issaquah**, a Washington municipal corporation ("**Landlord**"), whose address is 130 E. Sunset Way, Issaquah, WA 98027, and **Vertical Bridge Towers IV, LLC**, a Delaware limited liability company, whose mailing address is 750 Park of Commerce Drive, Suite 200, Boca Raton, Florida 33487 ("**Tenant**"), dated the \_\_\_\_\_ day of December, 2022 (the "**Effective Date**"), for a portion (the "**Premises**") of the real property (the "**Property**") described in Exhibit A attached hereto.

Landlord hereby ratifies, restates and confirms the Lease and leases to Tenant the Premises, subject to the terms and conditions of the Lease. The Commencement Date of the Lease is \_\_\_\_\_. The Lease provides for the lease by Landlord to Tenant of the Premises for an initial term of five (5) years with five (5) renewal option(s) of an additional five (5) years each, and further provides:

1. Landlord may assign the Lease only in its entirety and only to a purchaser of the fee interest of the Property; and
2. Landlord may not subdivide the Property without Tenant's prior written consent as set forth in Section 8(c) of the Lease.

This Memorandum 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. In the event of a conflict between the provisions of this Memorandum 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 Landlord and Tenant and shall inure to the benefit of their respective heirs, successors, and assigns, subject to the provisions of the Lease.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK, SIGNATURES  
BEGIN ON NEXT PAGE

IN WITNESS WHEREOF, the parties hereto have executed this MEMORANDUM OF LEASE  
as of the date last signed by a party hereto.

**WITNESSES:**

**LANDLORD:**

**City of Issaquah**

a Washington municipal corporation

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

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

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

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

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

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

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 was authorized to execute this instrument,  
and acknowledged it as the \_\_\_\_\_ of the City of Issaquah, a Washington municipal  
corporation, to be the free and voluntary act of such party for the uses and purposes mentioned in the  
instrument.

DATED: \_\_\_\_\_.

(Seal or stamp)

\_\_\_\_\_  
Notary Signature

\_\_\_\_\_  
Print/Type Name

Notary Public in and for the State of Washington, residing  
at \_\_\_\_\_

My appointment expires \_\_\_\_\_

(Tenant's Signature Page to Memorandum of Lease)

**WITNESSES:**

**TENANT:**

**Vertical Bridge Towers IV, LLC**  
a Delaware limited liability company

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

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

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

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

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

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

STATE OF FLORIDA

COUNTY OF PALM BEACH

This instrument was acknowledged before me on \_\_\_\_\_, 2022 by \_\_\_\_\_  
\_\_\_\_\_ (name of signatory), \_\_\_\_\_ (title of  
signatory) of Vertical Bridge Towers IV, LLC, a Delaware limited liability company, on behalf of the  
company.

\_\_\_\_\_  
Notary Public

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

My Commission Expires: \_\_\_\_\_

**EXHIBIT A**  
(TO MEMORANDUM OF LEASE)

The Property

(may be updated by Tenant upon receipt of final legal description from title)

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

THAT PORTION OF THE SOUTH HALF OF THE NORTHEAST QUARTER OF SECTION 29, TOWNSHIP 24 NORTH, RANGE 6 EAST, W.M., IN KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE SOUTH LINE OF STATE ROAD NO. 2 WITH THE WEST LINE OF THE EAST 665 FEET OF SAID SUBDIVISION;  
THENCE ALONG SAID HIGHWAY LINE SOUTH 89°41'00" WEST 382 FEET TO THE TRUE POINT OF BEGINNING;

THENCE SOUTH 5°50'00" EAST 383.23 FEET;  
THENCE SOUTH 85°07'00" WEST 385.33 FEET TO THE EASTERLY MARGIN OF STATE ROAD NO. 2;  
THENCE NORTHEASTERLY ALONG THE CURVE OF SAID HIGHWAY MARGIN AS NOW ESTABLISHED 591.5 FEET, MORE OR LESS, TO THE TRUE POINT OF BEGINNING.

EXCEPT THAT PORTION CONVEYED TO STATE OF WASHINGTON, DEPARTMENT OF TRANSPORTATION FOR RIGHT OF WAY PURPOSES AS RECORDED IN DEED UNDER RECORDING NO. 20070628000422.

PARCEL B:

A PORTION OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 29, TOWNSHIP 24 NORTH, RANGE 6 EAST, W.M., IN KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE EAST LINE OF SECTION 29, 47 FEET NORTH FROM THE EAST QUARTER CORNER;  
THENCE WEST 665 FEET;  
THENCE NORTH PARALLEL WITH SECTION LINE 1243 FEET TO THE SOUTH LINE OF SUNSET HIGHWAY;  
THENCE EAST 665 FEET ALONG THE SOUTH LINE OF SUNSET HIGHWAY TO EAST LINE OF SAID SECTION 29;  
THENCE SOUTH ON SECTION LINE 1243 FEET TO POINT OF BEGINNING;

EXCEPT THAT PORTION ON THE EAST CONVEYED TO THE CITY OF ISSAQUAH, A MUNICIPAL CORPORATION, BY QUIT CLAIM DEED RECORDED SEPTEMBER 30, 1969, UNDER RECORDING NUMBER 6570967;

AND ALSO THE NORTH 24 FEET OF THE SOUTH 71 FEET OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 29, TOWNSHIP 24 NORTH, RANGE 6 EAST, W.M., IN KING COUNTY, WASHINGTON, LYING EAST OF TIBBITS CREEK;

EXCEPT THE EAST 665 FEET THEREOF.

EXCEPT THAT PORTION CONVEYED TO STATE OF WASHINGTON, DEPARTMENT OF TRANSPORTATION FOR RIGHT OF WAY PURPOSES AS RECORDED IN DEED UNDER RECORDING NO. 20070628000422.

PARCEL C:

THAT PORTION OF THE SOUTH HALF OF THE NORTHEAST QUARTER OF SECTION 29, TOWNSHIP 24 NORTH, RANGE 6 EAST, W.M., IN KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE SOUTHERLY LINE OF SUNSET HIGHWAY WITH THE WESTERLY LINE OF THE EASTERLY 665 FEET OF SAID SUBDIVISION;  
THENCE ALONG SAID HIGHWAY LINE SOUTH 89°41'00" WEST 382 FEET;  
THENCE SOUTH 5°50'00" EAST 383.23 FEET;  
THENCE SOUTH 85°07'00" WEST 385.33 FEET TO THE EASTERLY LINE OF SUNSET HIGHWAY AS NOW ESTABLISHED;  
THENCE SOUTH 6°17'00" EAST ALONG SAID HIGHWAY LINE 440 FEET, MORE OR LESS, TO THE NORTHERLY LINE OF THE SOUTH 446 FEET OF SAID SUBDIVISION;  
THENCE EASTERLY ALONG SAID NORTHERLY LINE TO THE WESTERLY LINE OF THE EASTERLY 665 FEET OF SAID SUBDIVISION;  
THENCE NORTHERLY ALONG SAID WESTERLY LINE TO THE TRUE POINT OF BEGINNING.

EXCEPT THAT PORTION CONVEYED TO STATE OF WASHINGTON, DEPARTMENT OF TRANSPORTATION FOR RIGHT OF WAY PURPOSES AS RECORDED IN DEED UNDER RECORDING NO. 20070628000422.

PARCEL D:

THAT PORTION OF THE SOUTH HALF OF THE NORTHEAST QUARTER OF SECTION 29, TOWNSHIP 24 NORTH, RANGE 6 EAST, W.M., IN KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:



BEGINNING AT A POINT WHICH IS 665 FEET WEST AND 246 FEET NORTH OF THE EAST QUARTER CORNER OF SAID SECTION;  
THENCE NORTH 200 FEET;  
THENCE WEST 600 FEET, MORE OR LESS, TO THE EASTERLY LINE OF SUNSET HIGHWAY U.S. ALTERNATE NO. 10;  
THENCE ALONG SAID HIGHWAY LINE SOUTH 6°17'00" EAST 203 FEET, MORE OR LESS, TO A POINT WEST OF BEGINNING;  
THENCE EAST 640 FEET, MORE OR LESS, TO BEGINNING.

EXCEPT THAT PORTION CONVEYED TO STATE OF WASHINGTON, DEPARTMENT OF TRANSPORTATION FOR RIGHT OF WAY PURPOSES AS RECORDED IN DEED UNDER RECORDING NO. 20070628000422.

PARCEL E:

THE SOUTH 246 FEET OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 29, TOWNSHIP 24 NORTH, RANGE 6 EAST, W.M., IN KING COUNTY, WASHINGTON;

EXCEPT THE EAST 665 FEET THEREOF;

EXCEPT THE PORTION THEREOF LYING WEST OF THE EAST LINE OF THE RENTON-ISSAQUAH ROAD;

EXCEPT THE SOUTH 41 FEET OF THE PORTION LYING WEST OF TIBBIT'S CREEK;

AND EXCEPT THE SOUTH 71 FEET OF THE PORTION LYING EAST OF TIBBIT'S CREEK.

EXCEPT THAT PORTION CONVEYED TO STATE OF WASHINGTON, DEPARTMENT OF TRANSPORTATION FOR RIGHT OF WAY PURPOSES AS RECORDED IN DEED UNDER RECORDING NO. 20070628000422.

Tax Parcel ID No. 292406906605 and 292406905607 and 292406905706 and 292406906001 and 292406906605 and 292406906605

Existing View



verticalbridge

**US-WA-9003**

1600 Newport Way NW, Issaquah, WA

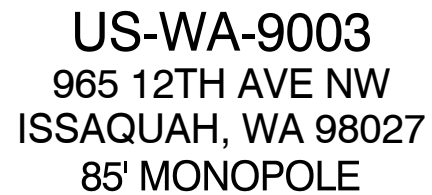
**85ft. MONOPOLE  
SIMULATION**

View from northwest of site

CONSTRUCTION OF TELECOMMUNICATIONS AND PUBLIC UTILITY FACILITY, CONSISTING OF A MONOPOLE TOWER AND EQUIPMENT BUILDING. NO WATER OR SEWER IS REQUIRED. THIS WILL BE AN UNMANNED FACILITY.

ALL WORK AND MATERIALS SHALL BE PERFORMED AND INSTALLED IN ACCORDANCE WITH THE CURRENT EDITIONS OF THE FOLLOWING CODES AS ADOPTED BY THE LOCAL GOVERNING AUTHORITIES. NOTHING IN THESE PLANS IS TO BE CONSTRUED TO PERMIT WORK NOT CONFORMING TO THE LATEST EDITIONS OF THE FOLLOWING:

1. 2018 INTERNATIONAL BUILDING CODE
2. 2018 NATIONAL ELECTRIC CODE
3. 2018 NFPA101 LIFE SAFETY CODE
4. 2018 IFC
5. AMERICAN CONCRETE INSTITUTE
6. AMERICAN INSTITUTE OF STEEL CONSTRUCTION
7. MANUAL OF STEEL CONSTRUCTION, 13TH EDITION
8. ANSI/TIA/EIA-222-G
9. TIA 607
10. INSTITUTE FOR ELECTRICAL & ELECTRONICS ENGINEER 81
11. IEEE C2 NATIONAL ELECTRIC SAFETY CODE, LATEST EDITION
12. TELECORDIA GR-1275
13. ANSI/T 311
14. UNIFORM MECHANICAL CODE
15. UNIFORM PLUMBING CODE
16. LOCAL BUILDING CODE
17. CITY/COUNTY ORDINANCES
18. STATE BUILDING CODE



PROJECT INFORMATION	
SITE NAME:	-
SITE NUMBER:	US-WA-9003
SITE ADDRESS:	965 12TH AVE ISSAQUAH, WA 98027
PARCEL #:	292406-9069
DEED REFERENCE:	TBD
ZONING CLASSIFICATION:	CF-R
ZONING JURISDICTION:	CITY OF ISSAQUAH
GROUND ELEVATION:	±85'
STRUCTURE TYPE:	MONOPOLE TOWER
STRUCTURE HEIGHT:	85'
CONSTRUCTION AREA:	530 S.F.
LATITUDE (NAD 83):	47° 32' 25.31" N
LONGITUDE:	122° 03' 45.66" W

DIG ALERT:  
CALL FOR UNDERGROUND UTILITIES PRIOR TO DIGGING:  
811

EMERGENCY:  
CALL 911

PROJECT DIRECTORY	
PROPERTY OWNER:	VERTICAL BRIDGE TOWERS, LLC
APPLICANT:	VERTICAL BRIDGE CC FM, LLC 750 PARK OF COMMERCE DRIVE, SUITE 200 BOCA RATON, FL 33487
CONTACT:	- -
ENGINEER:	GPD GROUP PROFESSIONAL CORPORATION 520 S MAIN ST, SUITE 2531 AKRON, OH 44311
CONTACT:	TRACI PREBLE 317-295-3164
POWER COMPANY:	-
TELCO COMPANY:	-

[illegible][illegible]

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US-WA-9003  
965 12TH AVE NW  
SSAQUAH, WA 98027

TITLE SHEET

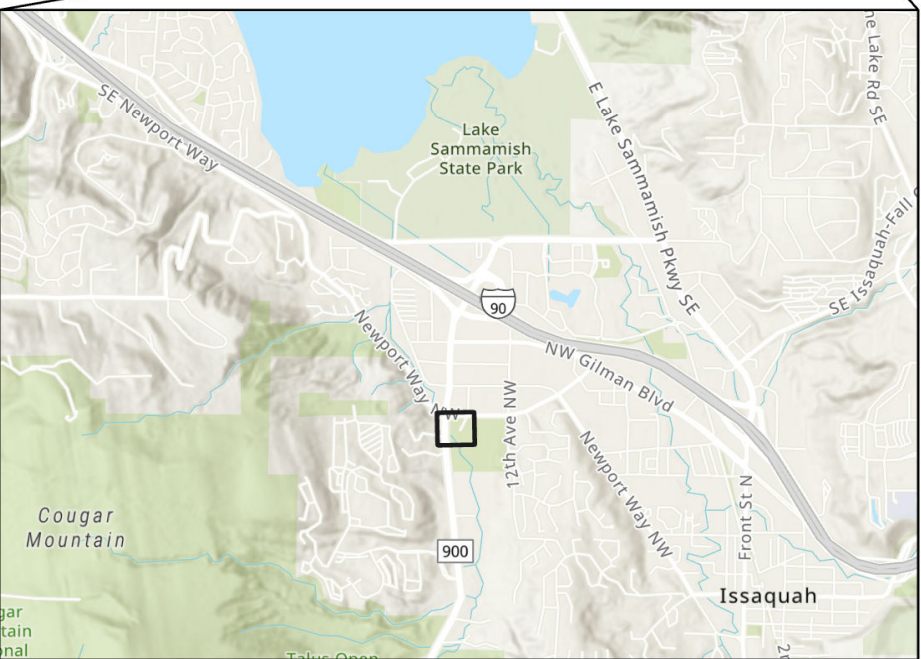
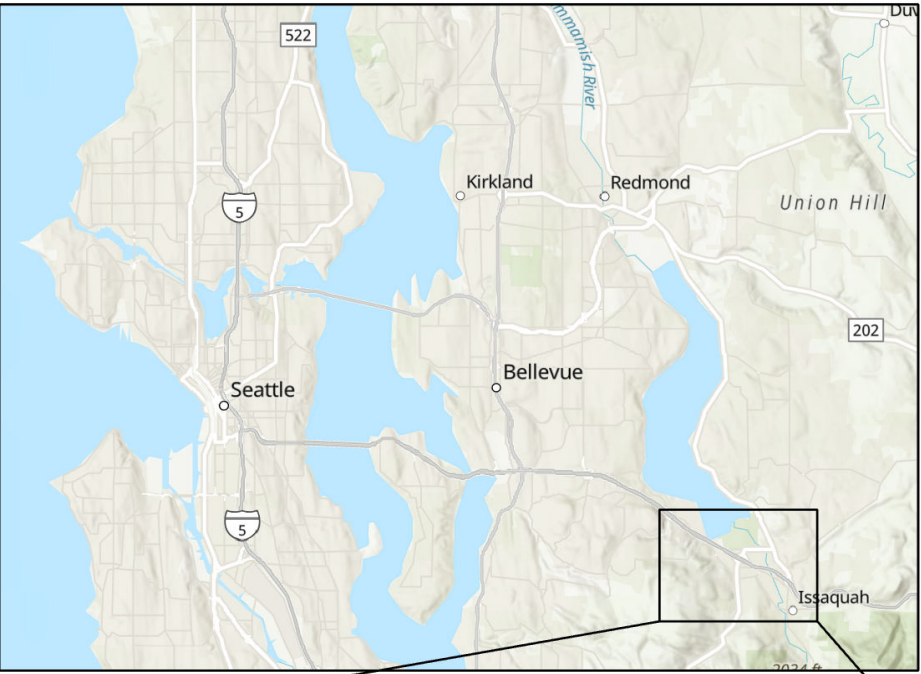
ISSUED FOR:	
REVIEW	---
PERMIT	---
CONSTRUCTION	---
RECORD	---

PROJECT MANAGER	DESIGNER
TTP	SEK

JOB NO.  
2022705.

# T1





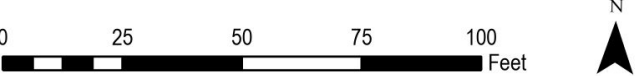
VICINITY MAPS

LEGEND

- STREAM RIGHT BANK OHWM - DELINEATED
- STREAM LEFT BANK - NOT DELINEATED
- STREAM BUFFER (100 FEET)
- ..... BUILDING SETBACK (15 FEET)
- TOPOGRAPHY (5-FOOT CONTOURS)
- NON-JURISDICTIONAL WETLANDS
- STUDY AREA
- KING COUNTY PARCELS

NOTES

- CRITICAL AREAS DELINEATED BY THE WATERSHED COMPANY ON JULY 13, 2022.
- DELINEATION FLAGS OF STREAM AND DATA POINTS LOCATED WITH GPS. GPS DATA DISPLAYED ON THIS MAP WAS COLLECTED IN THE FIELD USING A TRIMBLE GEOXH HAND HELD UNIT. THE DATA WAS DIFFERENTIALLY CORRECTED USING TRIMBLE PATHFINDER OFFICE SOFTWARE TO FURTHER INCREASE POSITION ACCURACY. GPS DATA IS BELIEVED RELIABLE FOR GENERAL PLANNING AND MOST REGULATORY PURPOSES. HOWEVER, ACCURACY IS VARIABLE AND SHOULD NOT BE CONSIDERED EQUIVALENT TO A PROFESSIONAL LAND SURVEY. NO WARRANTY IS EXPRESSED OR IMPLIED.



750 6TH STREET SOUTH  
KIRKLAND WA 98033  
425.822.5242  
WWW.WATERSHEDCO.COM

**TIBBETTS VALLEY PARK**

985 12TH AVENUE NW  
ISSAQUAH, WA 98027

PROJECT:

PRINCIPLE: HM  
PM: SP  
DRAWN BY: SP

REVIEWED BY: HM  
JOB NO.: 190320.20  
DATE: 7/20/2022

NO.	DESCRIPTION	DATE
1	FEASIBILITY	7/20/2022

NOT FOR CONSTRUCTION

7/20/2022

**EXISTING CONDITIONS**

1 OF 1











SITE INFORMATION

SITE NAME - TO BE DETERMINED  
SITE NUMBER - US-WA-9003  
SITE ADDRESS - 965 12TH AVE NW,  
ISSAQUAH, WA 98027  
FLOOD ZONE DESIGNATION - X  
PARCEL LAND OWNER - ISSAQUAH CITY OF  
PARCEL ZONING - COMMUNITY  
FACILITIES-RECREATION (CF-R)  
PARCEL NUMBER - 292406-9069  
PARCEL DEED RECORDED - 9101220385

SECTION CORNER  
FOUND 1/2" REBAR  
IN MON CASE

20  
21  
29  
28

658.60

3.98

655.53

16.63

N81°58'06"E

2634.32

N01°39'29"E

1316.21

FOUND 1.5" BRASS  
DISK IN MON CASE  
S89°11'25"E 0.80' FROM  
CALCULATED POSITION

1316.21

N01°39'29"E

2634.32

N01°39'29"E

2634.32

N01°39'29"E

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2634.32

N01°39'29"E

2634.32

RAW LAND SURVEY

IN THE NE 1/4 OF SECTION 29,  
TOWNSHIP 24 NORTH, RANGE 6 EAST

FOR: GDP GROUP

SITE NAME: TO BE DETERMINED  
SITE NUMBER: US-WA-9003  
ADDRESS: 965 12TH AVE NW  
ISSAQUAH, WA 98027  
KING COUNTY

GDP GROUP

NATIONAL SURVEY SERVICES COORDINATION BY:

GEOLINE  
SURVEYING, INC.

13430 NW 104TH TERRACE, SUITE A, ALACHUA, FL 32615  
OFFICE: (386) 418-0500 FAX: (386) 462-9986  
WWW.GEOLINEINC.COM

SURVEY WORK PERFORMED BY:

7600 MINERAL DRIVE  
SUITE 900  
COEUR D'ALENE, ID 83815  
WWW.H2SURVEY.COM  
PHONE: (208) 772-6600



DRAWN BY: RMH | CHECKED BY: JAB | JOB #: 2022-366

SURVEYOR'S NOTES

1. BASIS OF BEARING, A BEARING OF N01°39'29"E ALONG THE EAST LINE OF THE NORTHEAST QUARTER OF SECTION 29, AS SHOWN HEREON.
2. NO SUBSURFACE INVESTIGATION WAS PERFORMED TO LOCATE UNDERGROUND UTILITIES. UTILITIES SHOWN HEREON ARE LIMITED TO AND ARE PER OBSERVED EVIDENCE ONLY.
3. ALL VISIBLE TOWER EQUIPMENT AND IMPROVEMENTS ARE CONTAINED WITHIN THE DESCRIBED AREA, UNLESS OTHERWISE SHOWN HEREON.
4. NOT ALL SYMBOLS ARE DEPICTED TO SCALE.
5. THIS SURVEY DOES NOT REPRESENT A BOUNDARY SURVEY OF THE PARENT PARCEL.

SURVEYOR'S CERTIFICATION

TO BE DETERMINED.

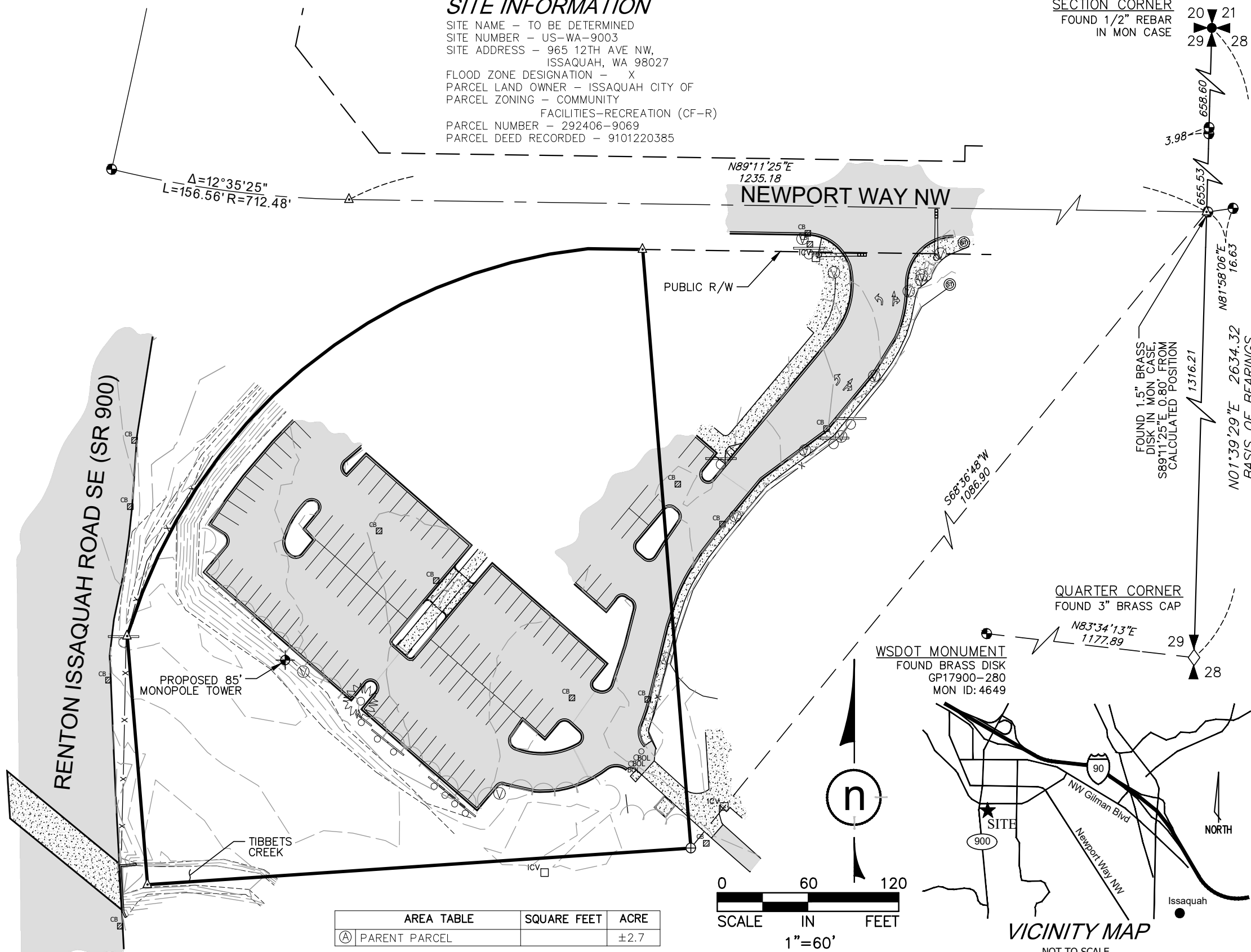


h2 SURVEYING

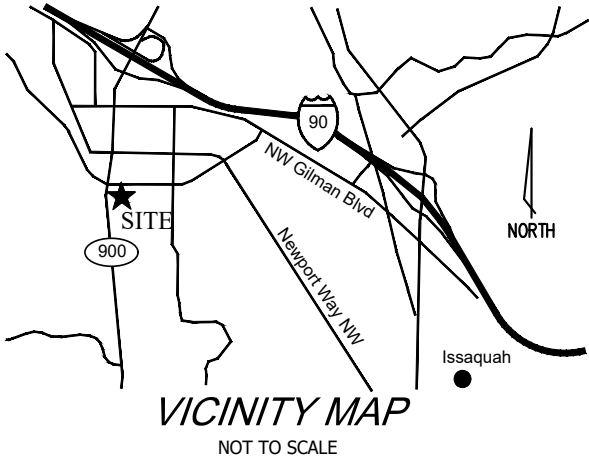
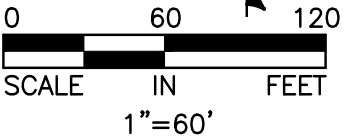
JOSHUA A BAGLEY  
LAND SURVEYOR - WASHINGTON 42105

DATE OF SURVEY: 10/2022  
DATE OF LAST REVISION:

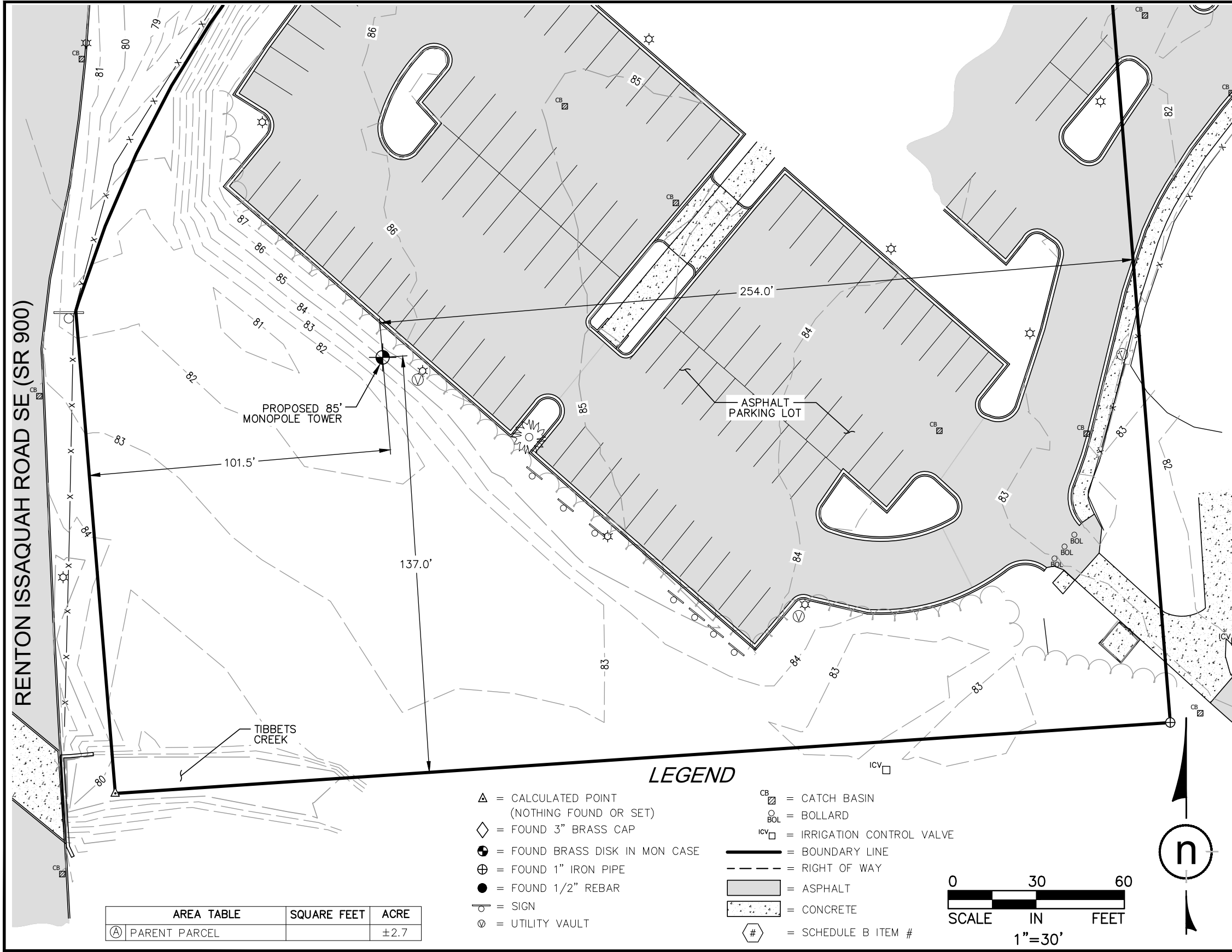
SHEET 1 OF X



AREA TABLE	SQUARE FEET	ACRE
(A) PARENT PARCEL		±2.7



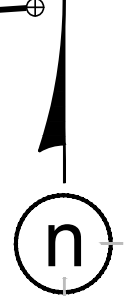
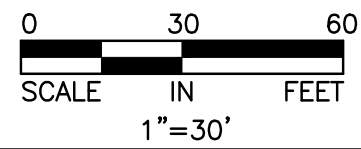




RENTON ISSAQUAH ROAD SE (SR 900)

LEGEND

- △ = CALCULATED POINT (NOTHING FOUND OR SET)
- ◇ = FOUND 3" BRASS CAP
- = FOUND BRASS DISK IN MON CASE
- ⊕ = FOUND 1" IRON PIPE
- = FOUND 1 1/2" REBAR
- ⊙ = SIGN
- ⊙ = UTILITY VAULT
- CB = CATCH BASIN
- BOL = BOLLARD
- ICV = IRRIGATION CONTROL VALVE
- = BOUNDARY LINE
- - - = RIGHT OF WAY
- ASPHALT
- CONCRETE
- # = SCHEDULE B ITEM #



AREA TABLE	SQUARE FEET	ACRE
Ⓐ PARENT PARCEL		±2.7

# RAW LAND SURVEY

IN THE NE 1/4 OF SECTION 29,  
TOWNSHIP 24 NORTH, RANGE 6 EAST

FOR: GDP GROUP

SITE NAME: TO BE DETERMINED  
SITE NUMBER: US-WA-9003  
ADDRESS: 965 12TH AVE NW  
ISSAQUAH, WA 98027  
KING COUNTY

## GDP GROUP

NATIONAL SURVEY SERVICES COORDINATION BY:

### GEOLINE SURVEYING, INC.

13430 NW 104TH TERRACE, SUITE A, ALACHUA, FL 32615  
OFFICE: (386) 418-0500 FAX: (386) 462-9986  
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SURVEY WORK PERFORMED BY:

7600 MINERAL DRIVE  
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COEUR D'ALENE, ID 83815  
WWW.H2SURVEY.COM  
PHONE: (208) 772-6600

DRAWN BY: RMH | CHECKED BY: JAB | JOB #: 2022-366

#### SURVEYOR'S NOTES

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4. NOT ALL SYMBOLS ARE DEPICTED TO SCALE.
5. THIS SURVEY DOES NOT REPRESENT A BOUNDARY SURVEY OF THE PARENT PARCEL.

#### SURVEYOR'S CERTIFICATION

TO BE DETERMINED.

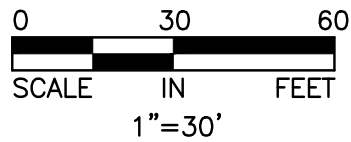
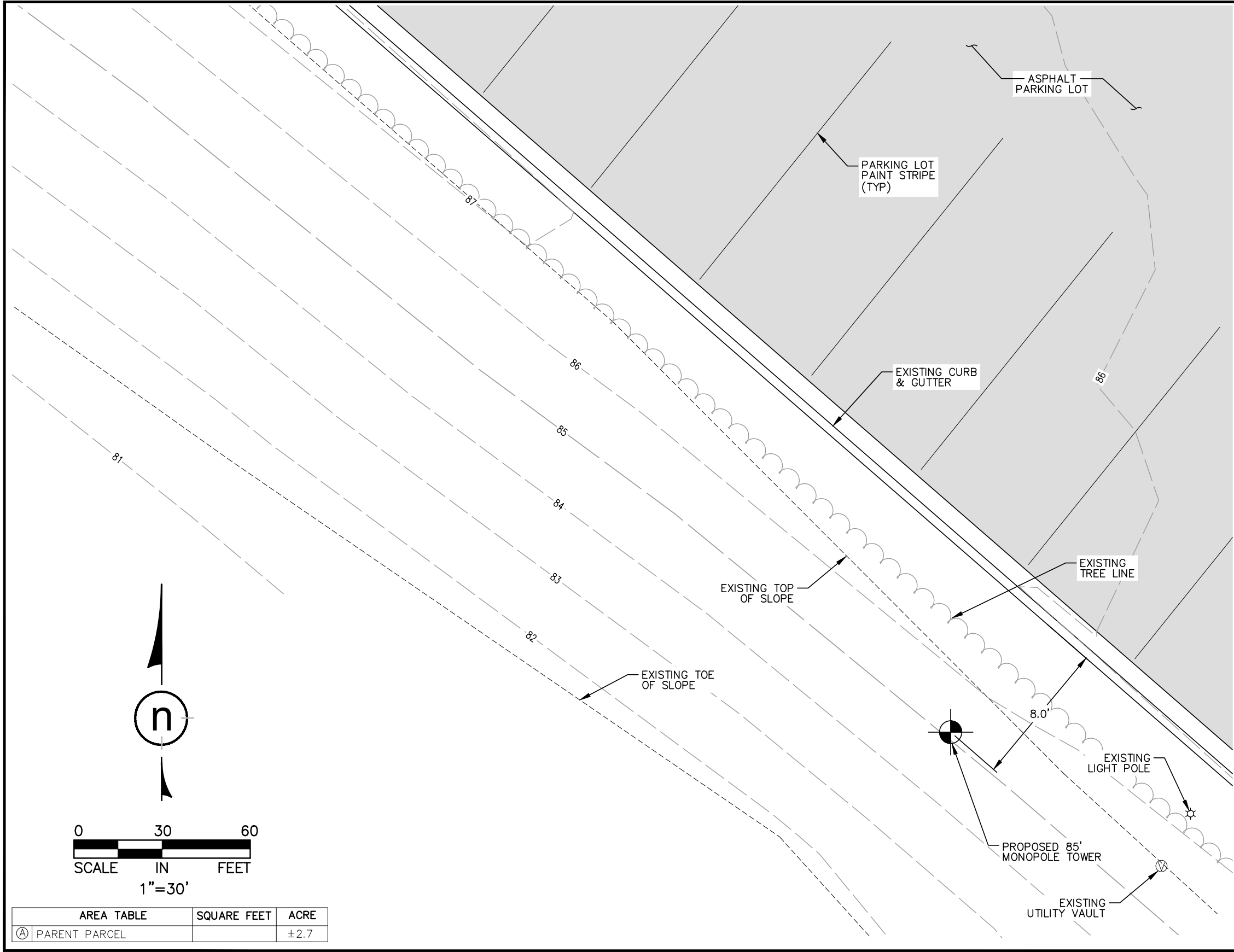
For Review Only

h2 SURVEYING

JOSHUA A BAGLEY  
LAND SURVEYOR - WASHINGTON 42105

DATE OF SURVEY: 10/2022  
DATE OF LAST REVISION:

SHEET 2 OF X



AREA TABLE		SQUARE FEET	ACRE
(A)	PARENT PARCEL		±2.7

# RAW LAND SURVEY

IN THE NE 1/4 OF SECTION 29,  
TOWNSHIP 24 NORTH, RANGE 6 EAST

FOR: GDP GROUP

SITE NAME: TO BE DETERMINED  
SITE NUMBER: US-WA-9003  
ADDRESS: 965 12TH AVE NW  
ISSAQUAH, WA 98027  
KING COUNTY

## GDP GROUP

NATIONAL SURVEY SERVICES COORDINATION BY:

## GEOLINE SURVEYING, INC.

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OFFICE: (386) 418-0500 FAX: (386) 462-9986  
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WWW.H2SURVEY.COM  
PHONE: (208) 772-6600



DRAWN BY: RMH | CHECKED BY: JAB | JOB #: 2022-366

### SURVEYOR'S NOTES

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### SURVEYOR'S CERTIFICATION

TO BE DETERMINED.



h2 SURVEYING

JOSHUA A BAGLEY  
LAND SURVEYOR - WASHINGTON 42105

DATE OF SURVEY: 10/2022  
DATE OF LAST REVISION:

SHEET 3 OF X

## TECHNICAL MEMORANDUM

---



Date: July 20, 2022  
To: Gene Paul, City of Issaquah  
From: Sam Payne, PWS  
Project Name: Tibbetts Valley Park Cellular Tower  
Project Number: 190320.20

### Subject: Stream and Wetland Delineation Summary

This memo is provided to present a summary of findings for the wetland and stream critical area delineation study located at Tibbetts Valley Park in association with a project to develop a new cellular antenna tower. This study area encompassed all lands within approximately 225 feet of the proposed project location. A delineation figure is attached which depicts GPS-located critical areas.

Tibbetts Creek is a Class II stream with documented salmonid use. Streams with this classification have standard buffer of 100 feet. Building setback areas extend 15 feet from the edge of critical area buffers.

No jurisdictional wetlands were identified within the study area. Much of the site contains hydric soils which are believed to be relicts from historic conditions.

There is a linear ditch-wetland on the northwest side of the parking lot that originates as a roadside ditch along Renton Issaquah Road SE. No outlet was observed although it is possible that a constructed outlet is obscured by sediment and not visible from the surface. Sustained hydrology in the summer dry period suggests possible intersection with a groundwater table. Stormwater runoff from adjacent roadways is another source of hydrology as evidenced by connection to a roadside ditch.

Two stormwater ponds are present on the east side of the parking lot which appear to meet the three-parameter wetland criteria. Similar to the ditch, groundwater may also contribute to the hydrology of the features in addition to capturing stormwater as designed from the parking lot and other nearby impervious surfaces.

The ditch-wetland and stormwater ponds are believed to be non-jurisdictional based on the definitions in the Issaquah Municipal Code (IMC) 18.10.390 because they are intentionally created from sites that were non-wetland. A review of aerial photographs show that the

stormwater ponds were constructed between 1998 and 2000 and that there is no indication of ponded water, aquatic vegetation, or changes in vegetation indicative of historic wetland conditions evident in the photo record prior to this time. The ditch is not evident in aerial photography until a period between 2007-2009. It is also deeply channelized and linearly oriented along a right-of-way boundary and is not consistent with the structure of naturally occurring landforms. These features are also surrounded entirely by non-wetland conditions. No inventoried wetlands are present on the reviewed public databases for either location.

The area where the cell tower was initially proposed appears to be partially within stream buffer and building setback. However, there is some land unencumbered by critical area buffers which may be suitable for development.



# Tibbetts Valley Park Lease

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DEC 5, 2022 | CITY COUNCIL REGULAR MEETING  
ANDREA SNYDER, DEPUTY CITY ADMINISTRATOR

# Purpose

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Update City Council on the Transit Oriented Development Project and Opportunity Center (TOD OC).

Seek Council feedback and potential approval for a lease of Tibbetts Valley Park for a cell tower to be relocated from the future TOD OC site.



# Background

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- City released an RFP, looking for partners to develop a mixed use, mixed income project (TOD OC) next to the Issaquah Transit Center.
- The City selected KCHA & Spectrum Development. (Spectrum is no longer a partner in this project.)
- The property owner (Lumen) of the future TOD OC site requires a cell tower on the property to have their relocation site secured before they will transfer ownership to KCHA.





# Project Overview

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2 Buildings: 355+ Residential Units adjacent to Issaquah Transit Center & Tibbetts Valley Park

175+ affordable units @ 40-80% AMI

34,000 sf commercial space, including Opportunity Center

¼ acre public plaza



# Background

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- 2017: Non-binding MOU outlining the roles, responsibilities, expectations of the project partners. (Spectrum no longer a partner.)
- Development Agreement no longer required.
- City is considering lease of Tibbetts Valley Park for cell tower.
- City considers public benefits of TOD OC as partial compensation for city land lease.

# TOD OC & Cell Tower sites

After  
exhaustive  
search only  
TVP has been  
identified as  
suitable for the  
cell tower.



# Alternative Sites Explored

Location	Coverage Requirements of Providers	Lack of proximity of antennae to residential units	Maintenance access	Municipal Code
On top of future TOD building	No, because of conflicts with proximity, maintenance access, and IMC	No	No	Yes
Another location on the TOD property, but adjacent to a building	No	No	Yes	Yes
The Issaquah Transit Center	No	Yes	No	Yes
Private properties to the north, east, and west	No	Yes	Depends on location	Yes
Issaquah city streetlights on Newport Way	No	Yes	No	Yes
Nearby reservoirs and water towers on Squak and Talus	No	Yes	Yes	Yes
City-owned parcel 2924069125 on Newport Way	No	Yes	Yes	No, given critical area code and location of PSE easement on property
Fire Station 72	No	Yes	Yes	Yes



# Proposal

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Lease a portion of the Tibbetts Valley Park as the relocation site for the cell tower and supporting equipment.

## Proposal

Rent would be 20% revenue share  
(approximately \$1800/month)

Additional compensation via public  
benefits from TOD OC project

Length of term: 30 years

Tower would be 85 feet tall,  
per code.

Administration to approve final  
design before permit applications

Updates:

Not included  
in lease

Attornment—ability for City to assume their subleases and operate the tower in case Vertical Bridge dissolves and is unable to sell the city lease to another provider.

New Lease for Lender—the City to renegotiate a new lease and provide the same lease terms to their lender should the lender take over the lease.

# Updates– Questions from SSP

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How does the revenue anticipated in this lease agreement compare to the typical city lease agreement for a telecommunications tower?

Applying the City's most recent lease rent structure: \$5,636,323 over the lifetime of the lease.

Proposed Vertical Bridge lease: \$1,027,629 , *plus \$41M in public benefits.*

# Updates- Questions from SSP

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How does the citing of the cell tower at Tibbetts Valley Park follow other precedents for public engagement?

Telecommunications facility differs from dog park or other recreational amenity.

City has not typically in the past provided public outreach when negotiating telecommunications leases on public property beyond permit requirements.





## Public Notification

Permit Process provides the following:

- Written notification of any proposed aboveground installation to all owners of property within 300 feet of the proposed location as part of the permit submittal.
- SEPA & NEPA process include public comment periods.

## Options

Authorize the Administration to enter into the lease with Vertical Bridge for a portion of Tibbetts Valley Park.

Direct the Administration to continue to negotiate with Vertical Bridge on terms of Council's choosing and return to Council with revised lease terms.

Do not move forward with the lease negotiations at Tibbetts Valley Park.

# Recommendation

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Authorize the Administration to enter into the lease with Vertical Bridge for a portion of Tibbetts Valley Park.

This is the best option to support the TOD OC project.



# Timing & Next Steps

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Pending Council authorization of the lease, Lumen and KCHA will finalize the sale of the future TOD OC site.



Vertical Bridge to finalize their design of the tower and apply for permits. Construction to begin in 2022.



After tower relocates, construction on the TOD OC site begins.

