

**HIGHLINE WATER DISTRICT  
KING COUNTY, WASHINGTON**

**RESOLUTION 17-10-18B**

**RESOLUTION AUTHORIZING COMMUNICATIONS SITE USE AND  
LICENSE AGREEMENT WITH SPRINT SPECTRUM L.P. AT THE DISTRICT'S  
NORTH HILL TANK SITE – 505 S 208TH ST, DES MOINES, WA**

**Whereas**, a revocable license dated 12/1/05 ("License") was previously entered into by Highline Water District ("the District") and Clearwire LLC ("Licensee") granting Clearwire LLC the right to install and maintain certain telecommunications equipment within the Leased Premises. Lessee represents that Sprint Spectrum L.P. is the successor in interest to Clearwire LLC rights, duties and obligations under the License.

**Whereas**, the District (Lessor) and Sprint Spectrum L.P. (Lessee) now desire to terminate the License and to replace the License with the lease as provided in this Agreement upon the Effective Date of this Agreement.

**Whereas**, RCW 57.08.120 contains the requirements the District must follow to lease real property which owns or has an interest in, property the District has a future need, and which is not immediately necessary for its purposes. A public hearing was held October 18, 2017. Public notices were published in the Westside Weekly on September 29 and October 6, 2017.

**Whereas**, the general terms of the agreement are for a 5-year initial term with four subsequent 5-year renewals for a maximum of twenty-five years. The initial term is \$30,000 with a 3.5% inflationary factor annually.

**NOW THEREFORE, BE IT RESOLVED:**

1. The Board of Commissioners authorizes the General Manager or designee to enter into a Communications Site Use and License Agreement as outlined in Attachment-1 (incorporated herein by this reference) with Sprint Spectrum L.P.

**ADOPTED BY THE BOARD OF COMMISSIONERS** of Highline Water District, King County, Washington, at an open public meeting held this **18th** day **October 2017**.

**BOARD OF COMMISSIONERS**

  
\_\_\_\_\_  
Todd Fultz, President

  
\_\_\_\_\_  
Vince Koester, Commissioner

  
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Kathleen Quong-Vermeire, Commissioner

  
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Daniel Johnson, Secretary

  
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George Landon, Commissioner

**COMMUNICATIONS SITE USE AND  
LICENSE AGREEMENT**

THIS COMMUNICATIONS SITE USE AND LICENSE AGREEMENT (“Agreement”) effective April 1, 2016 (the “Effective Date”), is by and between HIGHLINE WATER DISTRICT, a Washington municipal corporation, having its principal place of business at 23828 – 30<sup>th</sup> Ave. S, Kent, Washington 98032 (herein “District” or “Licensor”) and SPRINT SPECTRUM L.P., a Delaware limited partnership, having its principal place of business at 6391 Sprint Parkway, Overland Park, KS 66251-2650 (herein “Licensee”) (individually a “Party” and collectively the “Parties”).

**RECITALS:**

A. The District owns certain real property located at 505 S 208<sup>th</sup> Street, Des Moines, King County, Washington, 98198 and legally described on **Exhibit A** hereto (the “Property”), on which Property it operates a water reservoir and other structures commonly known as the North Hill Tank (“Reservoir”).

B. The District, as Owner, and Licensee, through its predecessor-in-interest Majorco LP, a Delaware limited partnership (“MLP”), entered into that certain PCS Site Agreement dated March 25, 1996 (the “Prior Site Agreement”), pursuant to which MLP installed certain antennae, cables, and other fixtures and equipment on that portion of the Reservoir sides and/or top, and on a portion of the “footprint” or reasonable perimeter thereof (therein the “Existing Equipment”).

C. The initial period of the Prior Site Agreement was five (5) years, commencing on June 4, 1996 and terminating June 3, 2001, and thereafter renewing automatically for four (4) additional terms of five (5) years each, unless earlier terminated pursuant to the terms thereof.

D. In addition to the Prior Site Agreement, the District, as Lessor, and Licensee, through its predecessor-in-interest Clearwire LLC, a Nevada limited liability company, as Lessee, entered into that certain Site Lease Agreement dated December 1, 2005, as amended by First Amendment to Lease Agreement dated October 26, 2006, between Licensor and Clearwire US LLC (f/k/a Clearwire LLC), a Nevada corporation (as amended, the “North Hill Lease”), pursuant to which Licensee also placed certain telecommunications equipment, including three microwave dishes, on the Reservoir.

E. The term of the North Hill Lease was approximately five (5) years, commencing on December 1, 2005, and terminating on November 30, 2010, and thereafter renewing automatically for four (4) additional terms of five (5) years each, unless earlier terminated pursuant to the terms thereof.

F. Pursuant to Section 1 of the North Hill Lease, Licensee terminated the North Hill Lease effective November 30, 2015.

G. Despite termination of the North Hill Lease, Licensee, with the approval of the District, has left in place three microwave dishes on the Reservoir, and accordingly, pursuant to Section 32 of the North Hill Lease, is a month-to-month lessee of the premises leased thereunder.

D. Licensee desires to increase the number of renewal terms available to Licensee under the Prior Site Agreement and to leave in place, throughout the term of the Prior Site Agreement, the three microwave dishes located on the Reservoir pursuant to the North Hill Lease.

E. District is willing to increase the number of renewal terms available to Licensee and to permit the three microwave dishes located on the Reservoir pursuant to the North Hill Lease to remain on and to be added to Licensee's Equipment pursuant to the Prior Site Agreement, provided that the Prior Site Agreement be replaced and superseded in its entirety by this Communications Site Use Agreement.

Now, therefore, in consideration of the terms and conditions set forth herein, the Parties agree as follows:

1. Use Agreement and License.

a. Premises. District hereby authorizes Licensee to use, for the duration of this Agreement, approximately 15' x 8' portion of the Property, totaling approximately one-hundred twenty (120) square feet, as depicted on **Exhibit B** hereto, (the "Premises") for the installation of Licensee's ground based communication equipment and cabling to Licensee's Equipment on the License Area, as defined below.

b. License for Reservoir. District hereby grants to Licensee for the duration of this Agreement, a non-exclusive license to install, maintain, operate and repair on the top surface of the Reservoir, as depicted on **Exhibit C** hereto (the "License Area") not more than three antenna skids with existing cellular equipment on the Reservoir, together with associated cables and equipment, as depicted, configured and inventoried on **Exhibit D** hereto (Licensee's "Equipment").

c. License for Access. District hereby grants to Licensee for the duration of this Agreement, a non-exclusive license for access to and from the Premises and access to the License Area in and over the access road shown **Exhibit B** hereto. The access rights granted to Licensee herein are for the purpose of installing, constructing, maintaining, restoring, replacing, and operating Licensee's Equipment on the License Area and Licensee's cabling and ground based communications equipment within the Premises, including the right to install a fuel-powered electrical generator in the case of an emergency. When accessing the Premises, Licensee shall drive only on the designated gravel, sand or dirt roadways, and walk only on the designated paths. Subject to the right of District to restrict access to the License Area for such temporary periods as may reasonably be required for maintenance, repair or painting of the reservoir, such rights shall include the right of ingress and egress, twenty-four (24) hours per day, seven (7) days per week, for access to and from the Premises and the License Area. Except in cases of emergency, District shall give Licensee reasonable prior notice before restricting such access, and shall use reasonable efforts to coordinate the same with Licensee's Contact

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Person, as set forth in Section 26, so as to minimize interference with Licensee's operations on the Property.

Other than for emergency activities, Licensee shall notify District at least four (4) hours before accessing the Premises or License Area. Licensee has been assigned a key and shall provide its own labeled lockbox for access. Licensee shall monitor ingress and egress, and shall ensure that the Communications Site, as hereafter defined, is at all times secured. Licensee shall comply with all security regulations, policies and procedures currently or hereafter established by District and delivered to Licensee in writing, including the obligation of keeping fence gates closed and locked.

d. Use of the Premises and License Area. Licensee shall use the Premises and the License Area as a "Communications Site" for Licensee's system for providing wireless telecommunications services to the public, personal communication services, short messaging, wireless data, and, subject to District's prior written approval (which approval shall not be unreasonably withheld, conditioned, or delayed) and the terms of this Agreement, any other service which Licensee is legally authorized during the term of this Agreement to provide to the public.

For purposes hereof, a "Communications Site" is a site at which telephone, radio, and other communications equipment is installed and used to send and receive signals to and from wireless telephones and other mobile devices and to connect those signals to telephone or other communications facilities either directly, by means of cables, or indirectly, by means of transmitting and receiving facilities (including microwave and/or other antennas) located at the Communications Site. Licensee shall not use the Premises or the License Area for any other purposes without the prior written consent of District. Licensee shall at all times maintain the Premises and the License Area in a safe and sanitary condition.

e. Coordination with Other Users or Licenses. Licensee acknowledges that District has or may enter into additional communications site use agreements for the Property. Licensee agrees to coordinate and cooperate with such other users in the design, installation, operation, and maintenance of such other users' equipment on the Property; provided, however that such coordination and cooperation shall be at the expense of the user who use has commenced or will commence later in time.

f. Improvements. Following the Commencement Date, as defined in Section 3, below, Licensee, at its sole expense, shall have the right to maintain, and operate the Premises and the License Area as a Communications Site and, to the extent any of Licensee's Equipment as shown, configured and inventoried on Exhibit D hereto is not located on the Premises or License Area as of the Commencement Date, to improve the Premises and License Area with the installation of Licensee's Equipment, along with related appurtenances, as shown, configured and inventoried on Exhibit D hereto, according to plans approved by District. Licensee shall submit plans and specifications for the initial installation of any of Licensee's Equipment not currently located on the Premises or License Area for District's review and approval, which approval shall not be unreasonably withheld, conditioned or delayed, provided that all conduits, cabling and other connection to the Premises or License Area, other than Licensee's Equipment

installed on the Reservoir itself, shall be underground; that asphalt shall be saw cut and re- asphalted; trenches shall be backfilled with controlled density fill to within two inches (2") of finished grade and then asphalted, or to within twelve inches (12") of finished grade in landscaped areas and then compacted with top soil; that no structures, temporary or permanent, except as shown, configured and inventoried on **Exhibit D** hereto, shall be constructed on the Premises or the License Area; and that a trailer shall not be placed on the Premises. Licensee's plans and specifications shall be deemed final and approved when signed on each page by an authorized agent or employee of the District. Licensee shall maintain the Communication Site and the facilities thereon and their appearance in a condition satisfactory to District. Licensee acknowledges that particular care shall be taken to maintain points of connection to the Reservoir.

g. Construction Procedure. All work, including work undertaken after the initial installation of Licensee's equipment, shall be subject to full-time inspection at Licensee's expense by District, at District's then current hourly labor and equipment rate. Licensee shall pay such expense within thirty (30) days following the effective date (as determined pursuant to Section 19, below) of Landlord's invoice therefor, together with reasonable supporting documentation evidencing such expense. No welding shall be permitted on the Reservoir, and any damage to District property, including but not limited to, painted surfaces, landscaping, fences, reservoir, and mains, shall be primed and repainted or repaired and restored to District's satisfaction. Prior to the commencement of any work on the Communications Site, a preconstruction conference shall be held at the Property which shall be attended by representatives of District and Licensee. The matters to be discussed and resolved at the preconstruction conference shall include the work completion schedule, communication procedures between the Parties, construction permit requirements, procedures and posting, access, inspection staff and their duties and other administrative and general matters as needed. Licensee, at its sole expense, shall obtain all necessary governmental approvals and permits prior to commencing construction and shall provide District with at least five (5) business days' notice prior to the start of construction. All Licensee contractors and subcontractors shall be duly licensed and registered in the State of Washington. Licensee shall be solely and completely responsible for safety conditions and safety of Licensee's agents, employees, contractors, subcontractors, and any and all other persons and property under its control, in connection with the installation and subsequent maintenance, remodeling and removal of Licensee's Equipment. Licensee shall keep the Premises and the License Areas free from any liens arising out of any work performed by Licensee, any materials furnished or obligations incurred by Licensee and agrees to defend, indemnify and hold harmless District against the same.

h. Alterations. Other than the Equipment along with related appurtenances as shown, configured and inventoried on **Exhibit D** hereto, Licensee shall not make any alterations, additions or improvements to the Premises and the License Area ("Alterations") without the District's prior written consent, which consent District may withhold in its sole and absolute discretion; *provided, however*, that Licensee may, without District's prior written consent, but upon not less than fifteen (15) days' prior written notice to District, perform like-kind replacements of Licensee's ground-based equipment within the interior of any shelters on the Premises. In addition, and provided

that Licensee shall have delivered to District plans and specifications therefor, and, if requested by District, evidence reasonably satisfactory to District that said replacements are of a like-kind, the District's consent to any like-kind replacements of antennas on the Reservoir shall not be unreasonably withheld. Any approval by District of any increase in the number, type or size of arrays or antennae, the addition to or relocation of cables or other Equipment, or increase in the portion of the Property used shall be conditioned by District on an increase in Base Rent in an amount determined by District. Licensee shall complete all approved Alterations at Licensee's expense in compliance with all applicable laws and in accordance with plans and specifications approved in advance in writing by the District, using contractors who are bonded, insured, licensed in the state of Washington and approved in advance in writing by District, in a manner so as to not unreasonably interfere with other tenants, and in conformance with the requirements of this Agreement. Licensee shall not commence installation of any Alterations until five (5) days after giving District notice stating the date of installation, so that the District may post and record an appropriate notice of nonresponsibility. The Licensee shall own and be responsible for all Alterations. The Licensee shall remove all Alterations at the end of the Lease Term unless the District requires the Licensee to leave specified Alterations at the Premises, in which case the Licensee shall not remove such Alterations, and the District shall notify the Licensee in writing of the required Alterations to remain as soon as reasonably possible after the notice of termination. Licensee shall immediately repair any damage to the Premises caused by removal of Alterations.

i. Identification. Licensee shall affix permanent labels or tags on each piece of equipment and at each end of each cable or conduit located on the Property clearly identifying the Licensee as the owner. Any equipment, cabling or other items located on the Property without such identifying label or tag may be removed and disposed of by the District.

j. Relocation. The District may, at its option, without cost to the District, to accommodate the District's need to utilize the Premises or the License Area, and upon at least three hundred sixty-five (365) days' prior notice, require Licensee to relocate, replace or remove Licensee's Equipment, consistent with a capital improvement project approved by the District. The District shall review proposals from the Licensee for a mutually acceptable new location on the Property or a nearby reservoir site under the District's control to which the Licensee may, within 365 days following District's relocation notice, relocate its Equipment, at Licensee's sole cost and expense, under the same terms and conditions of this Agreement. Thereafter, all references to the Premises and the License Area in this Agreement shall be deemed to be references to the relocated site. During any relocation, District shall use reasonable efforts to accommodate operation by Licensee of a temporary mobile communications facility on the Property until the earlier of (a) Licensee's commencement of commercial operation on the relocated site, or (b) the date that is 365 days following the District's relocation notice to Licensee. If a mutually acceptable location cannot be found and confirmed in writing between the parties within one hundred eighty (180) days of District's relocation notice, this Agreement shall terminate effective 365 days following District's relocation notice, and Licensee shall have the same responsibilities and obligations to remove its

Equipment and restore the Premises and the License Area as if the term of this Agreement had expired.

k. Signs. Licensee shall not install any signs on the Premises, the License or anywhere else on the Property, other than radio frequency warning signs required by the FCC or other applicable law or government regulation, without District's prior written consent, which may be withheld in the District's sole and absolute discretion. Licensee shall install any approved signage at Licensee's sole expense and in compliance with all applicable laws. Licensee shall not damage or deface the Premises or the License Area in installing or removing signage and shall repair any injury or damage to the Premises or the License Area caused by such installation or removal.

2. Rent.

a. Base Rent Payment. Licensee covenants and agrees to pay to District, without notice, offset, or deduction of any kind, Base Rent ("Base Rent") in an amount determined pursuant to Section 3.b. Base Rent for any partial year during the Term shall be prorated.

b. Base Rent Amount. The amount of Base Rent for the period commencing April 1, 2016 through March 31, 2017 shall be Thirty Thousand Dollars (\$30,000.00) per year, and shall be payable to District within thirty (30) days following the Parties' mutual execution of this Agreement.

Commencing April 1, 2017, and thereafter on April 1 of each year during the Term (the "Adjustment Date"), Base Rent shall be increased by an amount equal to Three and One-Half Percent (3.5%) of the Base Rent payable immediately prior to the Adjustment Date. Base Rent shall be due and payable on or before the first day of April of each year during the Term of this Agreement. The Base Rent for each year of any Renewal Term shall be determined in the same manner that annual adjustments are determined herein.

c. Utility Charge. When permitted by the applicable utility provider, Licensee shall be responsible directly to the serving utilities for payment of all utilities required by Licensee's use of the Premises or the License Area, and Licensee shall install or cause to be installed separate utility meters at the Property. If a utility provider will not permit Licensee to pay it directly, Licensee shall install a submeter in a location reasonably approved by District, and shall pay to District, no later than ten (10) days following District's billing therefor to Licensee, all cost of that utility service provided to the Property (the "Utility Charge").

d. Additional Payments. Upon execution of this Agreement, Licensee shall pay to District a onetime sum of Five Thousand Dollars (\$5,000.00) as payment for (i) attorney's fees incurred by District for drafting and negotiating this Agreement; and (ii) engineering costs incurred by District for reviewing plans for Licensee's facilities,

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repairs, and upgrades of those facilities, and for inspection costs related to construction, repair, or upgrade of those facilities.

e. Site Entry Fees and Other Charges. Licensee shall reimburse the District's expenses, at its established rates for labor, equipment and materials, whenever a District staff member must be present to admit the Licensee, its employees, contractors or agents to the Site. The amount of the fee varies depending on whether the admission is during normal District working hours (7:00 a.m. to 3:30 p.m. Monday through Friday) or not during normal District working hours. In addition to site entry fees, Licensee shall also pay and reimburse to the District for all actual labor incurred relative to the site entry, standby, or other related personnel costs set forth herein. Such payment shall be made within thirty (30) days following District's invoice therefor, together with reasonable supporting documentation evidencing such fees and costs.

When the District provides services not identified above to the Licensee, such as the review of insurance certificates, scheduling of work on the Site, coordinating maintenance activities, engineering and legal questions and issues, approving and providing services to Licensee's vendors, review of changes in Equipment, and any other services rendered with respect to Licensee, all such services shall be invoiced to and paid by Licensee to the District within thirty (30) days of the date of the invoice, together with reasonable supporting documentation evidencing such costs. Where such services include the services of outside consultants, the outside consultant's charges shall be billed at cost plus ten (10) percent to Licensee. Services provided by District staff shall be billed at the adopted hourly rates for labor and equipment charges at the time the service is provided. Where such services are provided to more than one licensee with regard to a particular activity of transaction, the District shall make an allocation of the costs to each licensee involved.

f. Taxes. Licensee shall pay directly to the Department of Revenue before delinquency (and shall send simultaneously send to District evidence of payment) the leasehold tax arising from or out of this Agreement, including those applicable to the Base Rent and all other fees and charges payable under this Agreement that are due under RCW Ch. 82.29A, and applicable rules of the Washington State Department of Revenue. Licensee shall pay all other taxes, assessments, levies, fees, and all other governmental charges of every character, general or special, ordinary or extraordinary, which are payable during any portion of the Term and are levied upon or assessed as a result of the Agreement, any sublease, or against Licensee's Equipment or improvements located on the Premises or the License Area, any part thereof, any improvements constructed by Licensee located thereon and any of Licensee's personal property or fixtures located thereon (collectively, "Taxes"). Licensee's liability for taxes pursuant to this paragraph shall survive the termination of the Agreement.

g. Fines and Penalties. Licensee shall pay all fines and penalties levied against it by a third party governmental agency or entity and arising out of the installation, maintenance and operation of its equipment on the Property.



h. Adjustment of Base Rent in Event of Alterations. In the event of an increase in Base Rent in connection with District's approval, in accordance with Section 1.h, above, of any Alterations that would cause an increase in the number, type or size of arrays or antennae, the addition to or relocation of cables, or an increase in the portion of the Property used, Base Rent shall not thereafter be decreased if Licensee subsequently reduces the quantity of any of said Equipment on the Property during the remaining Term of this Agreement. Any increase in Base Rent will become effective upon the earlier of (a) sixty (60) days following the date that District shall have approved such Alterations, in accordance with Section 1.h, above, or (b) the date that Licensee shall have commenced installation of such Alterations, and shall be prorated to the next annual Adjustment Date.

3. Term of Agreement.

The Parties hereby agree that, notwithstanding any other term or provision in the Prior Site Agreement or North Hill Lease, the Prior Site Agreement and Licensee's holdover tenancy under the North Hill Lease shall be deemed terminated effective as of 11:59 p.m. on March 31, 2016 (the "Prior Agreement Termination Date"), as if such date were originally set forth as the termination date in the Prior Site Agreement and the termination date of the North Hill Lease holdover tenancy. Licensee shall remain liable for all rent and any other charges payable under the Prior Site Agreement and North Hill Lease for the period up to and including the Prior Agreement Termination Date, even if such sums are billed subsequent to the Prior Agreement Termination Date. The termination of the Prior Site Agreement and holdover tenancy under the North Hill Lease shall be effective without further documentation.

The initial term of this Agreement shall be for five (5) years, commencing on April 1, 2016 (the "Commencement Date"), and terminating on March 31, 2021 (the "Initial Term"). This Agreement shall automatically be renewed thereafter for four (4) additional periods of five (5) years each (each a "Renewal Term" and collectively the "Renewal Terms"), unless either Party shall provide the other Party with written notice of its intention not to renew at least six (6) months prior to the commencement date of the succeeding Renewal Term. The maximum term of this Agreement shall therefore be twenty-five (25) years, plus any partial year commencing on the Effective Date and terminating on March 31, 2041.

4. Security Deposit.

Licensee shall deposit with District on or before the Effective Date the sum of Thirty Thousand Dollars (\$30,000.00) (the "Security Deposit") to be held by District as security for the faithful performance by Licensee of all terms, covenants, and conditions of this Agreement during the Agreement Term. If Licensee defaults (beyond the expiration of any applicable notice and cure period) with respect to any provision of this Agreement, District may use, apply or retain all or any part of this Security Deposit for the payment of any sum in default, or for the payment of any amount which District may spend or become obligated to spend by reason of Licensee's default, or to compensate District for any other loss or damage which District may suffer by reason of Licensee's default. Except for any use, application or retention of any portion of the Security Deposit following a default by Licensee in payment of Base Rent or any other monetary amounts payable by Licensee hereunder, District shall provide Licensee

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written notice of its intention to use, apply any portion of the Security Deposit and a description of the loss, damage or expense for which Lessor will compensate itself from the Security Deposit. If any portion of the deposit is so used, Licensee shall, within thirty (30) days after written demand therefor, deposit with District cash in an amount sufficient to restore the Security Deposit to its original amount, and Licensee's failure to do so shall be a material default under this Agreement. District shall not be required to keep this Security Deposit separate from its general funds, and Licensee shall not be entitled to interest on such deposit. If Licensee shall fully perform every provision of this Agreement, the Security Deposit or any balance thereof shall be returned to Licensee within sixty (60) days after Licensee has vacated the Premises and the License Area at the expiration of the Agreement Term or termination of the Agreement. If District's interest in this Agreement is terminated, assigned or transferred, District shall transfer the deposit to District's successor in interest, and thereafter shall have no further liability to Licensee with respect to the Security Deposit.

5. Interference.

a. Licensee acknowledges the District may elect to enter into agreements with other wireless telecommunications operators, and that Licensee may be required to share certain common facilities with those operators. It is the District's intent to consolidate and coordinate all such wireless telecommunications facilities at the Property to maximize use of space and minimize the negative effects (visual and otherwise) of wireless telecommunications equipment and antennas at and on the Property. Licensee acknowledges it has no exclusive rights for operating a wireless telecommunications facility on the Property and that the District as the right to enter into leases, easements, licenses, permits, and agreements with other telecommunications operators. Licensee agrees to reasonably cooperate with the other wireless telecommunications operators and the District to coordinate efficient collocation of equipment and antennas and to promptly resolve any interference issues that may arise on account of the presence of multiple operators

b. Licensee acknowledges that District may lease or license other portions of the Property in the future and grant non-exclusive licenses for use of the top surface of the Reservoir (other than the Licensed Area). District is not in any way responsible or liable for any interference with Licensee's use of the Premises which may be caused by the use or operation of future facilities or equipment of a subsequent licensee or lessee of whose operations Licensee shall have approved or be deemed to have approved, in accordance with Subsection 5.d, below (an "Approved Future User"). If, however, the equipment of any other licensee or lessee other an Approved Future User materially and adversely interferes with Licensee's use of the Premises or the License Area, and if Licensee is unable to resolve this interference with the other licensee or lessee, whether by agreement, dispute resolution or litigation, then Licensee may, upon thirty (30) days' notice to District, terminate this Agreement and restore the Property to its original condition, reasonable wear and tear excepted, which shall be Licensee's sole remedy against District. Nothing contained herein shall be deemed to preclude Licensee from seeking equitable remedies against the interfering party at Licensee's sole cost and expense. Regardless of whether caused or experienced by Licensee, an Approved Future User, or any other user, Licensee shall cooperate with all other licensees or lessees to identify the causes, and work toward the resolution, of any electronic interference problem.

c. Licensee's operations on the Property shall comply with Western Washington Cooperative Interference Committee's Emergency Standard #6 Rev. C (02-97) for radio transmitting and receiving devices and FM Broadcast, as presently adopted or as amended in the future, and all Federal Communications Commission and any other regulations and requirements applicable to such operations. In addition, Licensee agrees to eliminate, at Licensee's own expense, any radio, television or other electronic interference caused by any of Licensee's equipment or operations affecting surrounding residences as of the Effective Date; provided that as to any electronic interference with equipment other than radios or televisions, such equipment is operating within the terms of its license and/or intended manufacturer purpose and customary use. Licensee further agrees to accept such interference as may be received from District operated telecommunications or other facilities presently or in the future located upon and/or communicating with District's facilities located on the Property.

d. After the Effective Date of this Agreement, District will not grant a lease or license for use by a third party of any top portion of the Reservoir, if such use will materially and adversely interfere with Licensee's use of the License Area, as permitted herein, as a Communications Site, and if Licensee does not approve of such use, or is not deemed to have approved of such use, pursuant to the terms hereof. In the event any such third party shall request a right to install and maintain any type of additional antennae or communications equipment on the Reservoir, District shall give Licensee prior written notice of such request. In the event that Licensee, within twenty (20) days following receipt of such notice, provides written notice to District reasonably requesting technical specifications for review as to interference, District shall submit or cause the same to be submitted to Licensee reasonably promptly thereafter; provided, however, that District shall not be required to provide Licensee with any specifications or information reasonably claimed by the third party to be of a proprietary nature. Licensee shall have twenty (20) days following receipt of such proposal to make any objections thereto, and failure to make any objection within such twenty (20) day period shall be deemed approval by Licensee to the installation of the antennae or communications facilities pursuant to such third party proposal. If Licensee gives notice of objection due to material, adverse interference during such twenty (20) day period, and Licensee's objections are verified by District to be valid, then District shall not proceed with such proposal unless it modifies the proposal in a manner reasonably determined by Licensee to eliminate the material, adverse interference, in which event District may proceed with the proposal. District does not represent or warrant subsequent noninterference with Licensee's communications operations by any Approved Future User, and shall have no liability to Licensee arising therefrom.

#### 6. Condemnation.

If all or part of the Premises is taken by condemnation such that the Premises or License Area are no longer usable for reconstruction of a Communications Site, this Agreement shall terminate unless Licensee's equipment and improvements can be relocated to another position at the Property acceptable to Licensee and District. Licensee shall be entitled only to that portion of the proceeds of condemnation which is directly attributable to the value of Licensee's equipment and improvements and relocation costs.

7. Damage or Destruction.

In the event that Licensee's Equipment is damaged by fire, earthquake, act of war, or other extraordinarily casualty (any of the foregoing referred to herein as a "Casualty Event"), District shall not be obligated to repair or rebuild any portion of the Reservoir or Licensee's Equipment or the functionality thereof, or to compensate Licensee for any loss resulting therefrom. Within forty-five (45) days following the date of any such Casualty Event, District agrees to notify Licensee in writing as to whether District will restore all or any portion of the Reservoir Site (District's "Election Notice"), which decision shall be based solely on District's need therefor. If District elects to restore the Reservoir Site, District shall include with its Election Notice District's reasonable estimate of the time required to complete such restoration. If the estimated time to complete such restoration shall exceed one hundred eighty (180) days from the date of the Casualty Event and if, as a result of the Casualty Event, Licensee's Equipment shall have been rendered unusable in whole or substantial part, Licensee may, upon written notice given to District no later than thirty (30) days following receipt of the Election Notice, elect to terminate this Agreement. In the event that District elects not to restore the Reservoir Site, either party may terminate this Agreement upon thirty (30) days' prior written notice to the other, in which event this Agreement shall terminate on the thirtieth (30<sup>th</sup>) day following the terminating party's notice, as if such date were originally set forth as the termination date herein. Termination pursuant to this Section shall not relieve Licensee from the obligation to surrender the Premises and License Area as required pursuant to Section 16, below. In the event neither party so elects to terminate this Agreement, this Agreement shall continue in full force and effect. From and after the date of any Casualty Event until the earlier of the effective date of any termination pursuant to the terms hereof or the date the Reservoir is rebuilt or restored, Licensee's obligation for Base Rent shall be abated in proportion to Licensee's inability to use the Reservoir as a Communications Site.

8. Default by District; Termination by Licensee.

District shall be deemed to be in default hereunder if District fails to comply with any material term, condition, or covenant of this Agreement and does not cure such failure within the following time periods following receipt of written notice thereof from Licensee: (a) one (1) business day, in the case of failure to provide access, subject to and in accordance with the provisions of Section 1.c, (b) the time periods set forth in Section 5.b, with respect to interference with Licensee's operations, or (c) thirty (30) days, in all other cases; provided, however, that in the event of a cure which requires in excess of thirty (30) days to complete, District shall be deemed in default hereunder if District has not commenced such cure within thirty (30) days of such notice and is not diligently prosecuting said cure to completion. Licensee may terminate this Agreement upon the giving of thirty (30) days' written notice to District in the event of any such default, or if either of the following events occur: (a) Licensee fails, despite reasonable efforts to do so, to obtain or loses any necessary permits, approvals or orders and is thereby unable to use the Premises or License Area as a Communications Site; or (b) the FAA, FCC, or other governmental agency requires any conditions as a result of this Agreement that are unacceptable to Licensee or refuses to approve the use of the Property for a Communications Site.

9. Default by Licensee; Termination by District; Remedies. The occurrence of any of the following shall constitute a default and material breach of this Agreement by Licensee:

(a) failure by Licensee to pay any Base Rent, Utility Charge, or other amount required hereunder when due if such failure shall continue for more than ten (10) business days after delivery of written notice to Licensee of such failure to make timely payment; or

(b) failure by Licensee to comply with any material term, condition, or covenant of this Agreement, other than the payment of the obligations set forth in subparagraph (a), above, if such failure is not cured within thirty (30) days after delivery of written notice to Licensee, or, in the event of a cure that requires in excess of thirty (30) days to complete, if Licensee has not commenced such cure within thirty (30) days of such notice and is not diligently prosecuting said cure to completion; or

(c) if Licensee becomes insolvent, makes a transfer in fraud of creditors, makes an assignment for the benefit of creditors, or files a petition under any section or chapter of the Federal Bankruptcy Code, or is adjudged bankrupt or insolvent in proceedings filed against Licensee thereunder, or if a receiver or trustee is appointed for all or substantially all of the assets of Licensee due to Licensee's insolvency.

In the event of any default by Licensee as aforesaid, District may, in addition to any remedies available to District at law or in equity, terminate this Agreement or Licensee's rights hereunder upon thirty (30) days' written notice to Licensee. In the event of any such termination, Licensee shall immediately remove all of Licensee's Equipment and any other improvements from the Property and restore the same in accordance with Section 16, below, and, upon District's demand therefor, pay to District a sum of money equal to (i) the amount of unpaid Base Rent and other charges payable hereunder as of the date of termination; (ii) the amount by which the Base Rent and other charges payable hereunder for the balance of the then current term exceeds the amount of such rental loss that Licensee proves District could reasonably have avoided; and (iii) any other amount necessary to compensate District for all damages caused by Licensee's failure to perform its obligations under this Agreement.

In addition, District may terminate this Agreement if the District determines that the tank and/or Property is no longer needed for its operations and deems it as surplus. In such event, District shall endeavor to give Licensee at least one (1) year's prior written notice of termination, or if one year's notice is not feasible, as much prior written notice as may be feasible and practicable under the circumstances.

10. Interest; Late Charges.

If Licensee fails to pay, when due and payable, any sum due under the Agreement, that unpaid amount shall bear interest at the lesser of twelve percent (12%) or the maximum amount permitted by law per annum until paid. In addition, Licensee acknowledges that the late payment by Licensee of any sums due to District from Licensee hereunder will cause District to incur certain costs and expenses not contemplated under this Agreement, the exact amount of such costs being extremely difficult and impractical to ascertain. Therefore, if any sum due to

District from Licensee hereunder is not received by District or District's designee within ten (10) days after written notice that such payment is past due, Licensee shall immediately pay to District a late charge equal to five percent (5%) of such payment.

11. Warranties and Covenants of District.

District represents and warrants that the District has legal right to possession of the Premises and the power and the right to enter into this Agreement. District covenants and agrees that (a) Licensee, subject to the remaining terms and provisions hereof, upon the faithful performance of all of the terms, conditions, and obligations of Licensee contained in this Agreement, shall peaceably and quietly hold and enjoy the Premises and the License Area upon the terms, covenants, and conditions set forth in this Agreement throughout the Agreement Term against any adverse claim of District or any party claiming under District; and (b) District shall deliver the Premises to Licensee on the Commencement Date. Licensee acknowledges that it is in possession of the License Area and the Premises as of the Effective Date.

12. Warranties and Covenants of Licensee.

Licensee represents and warrants to District that: (a) Licensee has the power and the right to enter into this Agreement; and (b) Licensee's operation of the Communications Site shall not interfere in any way with the District's operation, maintenance, repair or replacement of District's Reservoir and related appurtenances and facilities. Licensee and each person executing this Agreement on behalf of Licensee further represent and warrant to District that the execution and delivery of this Agreement by Licensee is authorized by appropriate corporate action, that each person so executing this Agreement is authorized to execute and deliver the same on behalf of Licensee, and that the person(s) executing and delivering this Agreement is/are the only one(s) whose signature is required to cause this Agreement to be binding upon Licensee. Licensee covenants and agrees that the installation, operation, and removal of Licensee's Equipment shall not cause any damage whatsoever to the Property or any improvements located upon the Property, whether owned by District or others; and Licensee shall pay all taxes due and owing at the times required as provided in Section 2.f herein. Licensee shall at all times comply with all laws, ordinances, rules and regulations (collectively, "Regulations") of local, county, state, and federal governmental authorities relating to the installation, maintenance, height, location, use, operation, and removal of improvements authorized herein.

In addition, Licensee's operation and use of the Premises, the License Area, and its equipment shall comply with all applicable local, county, state and federal laws and regulations governing noise levels ("Noise Regulations"). Licensee shall install soundproofing if and as required by the District in order to comply with such Noise Regulations.

13. Liability and Indemnification.

Licensee hereby agrees to and shall indemnify and hold District, its elected or appointed officers, officials, employees, agents and volunteers harmless from and against any and all demands, claims, suits, risks, liabilities and obligations of any nature and any and all costs or expenses of any nature including, but not limited to, all losses, damages, judgments and

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attorney's fees arising from injury to or death of any and all persons and/or all property damage of any kind, whether tangible or intangible, including loss of use, in connection with or related to the installation, operation, maintenance, replacement and/or removal of Licensee's Equipment upon the Premises or License Area and/or the presence of Licensee, its employees, agents, contractors, or their property upon or in proximity to the Property, except only those losses resulting solely from the negligence or willful misconduct of District, its elected or appointed officers, employees, volunteers and agents. Licensee's obligation hereunder shall include, without limitation, the duty to indemnify, hold harmless and defend District from and against any and all claims for damages by third parties against District arising out of, related to or caused by any activities undertaken by or on behalf of Licensee, its agents, contractors, representatives, or sublessee in connection with the installation, operation, maintenance or removal of any structure, equipment or facility on the Property, the License Area, or the Premises. Licensee's obligation hereunder is without prejudice to Licensee's rights to assert all defenses Licensee may have against any claimant and the right to seek contribution from any other person or entity which may be responsible for all or any portion of the alleged claim. District shall notify Licensee of any claim as to which Licensee has the obligation to indemnify District under this Agreement and Licensee shall, at its sole cost and expense, defend District against such claim. Licensee's defense shall include, but not be limited to, appearing and defending against any lawsuit and paying any amounts required to be paid pursuant to any judgment or settlement. Licensee hereby further indemnifies and holds District, its elected or appointed officers, officials, employees, agents and volunteers from and against any and all demands, claims, suits, risks, liabilities, and obligations of any nature and any and all costs or expenses of any nature, including but not limited to, all losses, damages, judgments and attorney's fees arising from any breach or default in the performance of any obligation to be performed by Licensee, or any subtenant of Licensee under the terms of this Agreement.

Notwithstanding the above, if a court determines that this Agreement is subject to the terms of RCW 4.24.115, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of Licensee and District, its commissioners, officers, employees or agents, Licensee's liability under this Section shall be limited to the extent of Licensee's negligence and that of its agents, employees, contractors, assignees and sublessees, including their proportional share of costs, attorney's fees, and expenses incurred in connection with any claim, action, or proceeding brought with respect to such injury or damage. District and Licensee specifically agree that the provisions of this Section also apply to any claim of injury or damage to the persons or property of Licensee's employees. Licensee acknowledges and agrees that, as to such claims, Licensee, with respect to District, hereby waives any right of immunity which Licensee may have under industrial insurance (Title 51 RCW as amended and under any substitute or replacement statute). This waiver was specifically negotiated by District and Licensee, is solely for the benefit of District and Licensee and their successors and assigns, and is not intended as a waiver of Licensee's right of immunity under said industrial insurance for any other purpose.

14. Insurance.

Licensee shall obtain and maintain in force throughout the Agreement Term, a commercial general liability insurance policy (or policies) insuring against claims for personal

injury or death and property damage arising out of the actions of Licensee, its contractors, employees, and agents on or around the Property. The insurance policy(ies) shall be with one or more insurance companies that have an A.M. Best's rating of A VII or better and that are approved by the Insurance Commissioner of the State of Washington pursuant to Title 48 RCW. The limits and coverages of said insurance shall be as set forth on **Exhibit E**, attached hereto and incorporated by reference herein. The insurance policy(ies) shall not have deductibles or self-insurance retentions in excess of an aggregate of \$50,000.00 unless approved in writing in advance by District. Providing coverages in the amounts set forth in **Exhibit E** shall not be construed as relieving Licensee from liability in excess of such limits. The insurance policy(ies) shall specifically include District, its elected or appointed officers, officials, employees, agents, and volunteers as additional insured (ISO CG 20 26 endorsement or equivalent acceptable to the District) with regard to damages and defense of claims arising from: (a) activities performed by or on behalf of Licensee; and (b) products and completed operations of Licensee or premises used by Licensee. District's additional insured status shall not extend, however, to (x) claims for punitive or exemplary damages arising out of the acts or omissions of District, its agents, employees or independent contractors, (y) to any claims where such coverage is prohibited by law, or (z) to any claims arising out of the sole negligence of District, its agents, employees, or independent contractors. To the extent of the insurer's policy limits the policy(ies) shall protect each insured in the same manner as though a separate policy had been issued to each, except as to claims caused solely by the additional insured. The inclusion of more than one insured shall not affect the rights of any insured with respect to any claim, suit, or judgment made or brought by or for any other insured or any employee of any other insured, subject to the policy limits. The coverages provided by the required policy(ies) shall be primary to, not in excess of, and shall not contribute with, any insurance maintained by District, except with respect to losses attributable to the sole negligence or intentional misconduct of District, its elected or appointed officers, officials, employees, agents or volunteers. The policy(ies) shall contain a provision providing that District has no obligation to report events which might give rise to a claim until a claim has been filed with District's Board of Commissioners. District shall be given thirty (30) days' prior written notice (in accordance with Section 19 hereinbelow) of cancellation or any nonrenewal of coverage required hereunder that is not replaced. Licensee shall maintain workers' compensation insurance for all of its employees engaged in work on the Property. If such work is contracted, Licensee shall require that all contractors provide workers' compensation insurance for all of their employees engaged in work on the Property. Licensee's, or its contractors, Washington Department of Labor and Industries account number shall be noted on such policies of insurance. If any class of employees engaged in work on the Property is not covered under workers' compensation insurance, Licensee shall maintain, and cause each contractor to maintain, employer's liability insurance for limits of \$2,000,000.00 for each employee for disease or accident, and shall furnish District with satisfactory evidence of such insurance. Licensee shall file with District, for District's approval, a Certificate of Insurance (with endorsements attached) of all insurance policies as are necessary to comply with the requirements of this Section. At least ten (10) days before the expiration of any policy required by this Section, Licensee shall deliver to District evidence that such insurance has been continued.



15. Releases.

Licensee releases District from any and all claims it might have against District arising from or related to (a) Licensee's equipment being unusable for communications purposes or for any delay in restoring the Reservoir to a condition in which Licensee's equipment could be rendered usable for communications purposes, except for any such claims arising from the District's sole negligence or willful misconduct; and (b) any damage to person or property incurred as a result of the acts or omissions of any contractor District hires to perform repairs or maintenance on or about the Property or to make any improvement thereto.

16. Title to and Removal of Licensee's Equipment.

Licensee's Equipment and all improvements installed at and affixed to the Premises or the Property by Licensee shall be and shall remain the property of Licensee. Licensee shall, within ten (10) days after the expiration or earlier termination of this Agreement, remove all of Licensee's improvements, equipment, fixtures, and all of Licensee's personal property from the Premises and the License Area and/or restore at Licensee's sole expense the Premises, License Area and the Property as close as is practicable to the condition it was in when Licensee entered into possession and/or use, reasonable wear and tear and casualty beyond Licensee's reasonable control excepted. Upon such removal, District shall inspect the Property to review and approve the work performed. District shall have the right to require Licensee to perform additional work necessary to restore the Property to the condition required by this Section. In the event that Licensee shall have failed to remove all of said equipment and restore the Premises, License Area and the Property as aforesaid within thirty (30) days following the expiration or earlier termination of this Agreement, then without limitation of any other remedies available to District hereunder or at law or in equity, (a) the holdover provisions of Section 17, below, shall apply for the period beginning on the first day following the expiration or termination date of this Agreement until all of said improvements, equipment, fixtures and personal property shall have been removed, and (b) District may, but shall not be required to, at any time following the expiration of such 30-day period remove, store and dispose of all of such improvements, equipment, fixtures, and personal property and perform Licensee's obligations to restore the Premises, License Area and Property at Licensee's sole cost and expense and without liability to Licensee.

17. Holding Over.

If Licensee holds over after this Agreement has been terminated, the tenancy shall be month-to-month, subject to the provisions of this Agreement, which tenancy may be terminated as provided by law. During said tenancy, the Minimum Rent payable to District by Licensee shall be one hundred twenty-five percent (125%) of the monthly Base Rent last payable pursuant to Section 2.b, above, unless a different rate is agreed upon, and upon all of the other terms, covenants and conditions set forth in this Agreement so far as the same are applicable. If Licensee shall fail to surrender the Premises as required under Section 16, above, upon the termination of this Agreement, in addition to any other liabilities to District arising therefrom, Licensee shall and does hereby agree to indemnify and hold District harmless from loss and liability resulting from such failure.

18. Assignment and Subletting.

Licensee shall not assign, sublease, otherwise transfer or encumber all or any part of Licensee's interest in this Agreement without District's prior written consent, which shall not be unreasonably withheld, conditioned or delayed. District shall consent to a transfer of Licensee's rights hereunder to (a) an Affiliate (as hereafter defined) of Licensee, (b) an entity whose net worth is at least One Hundred Million Dollars (\$100,000,000.00), or (c) an entity that acquires all or substantially all of Licensee's assets in the Seattle-Tacoma FCC market, *provided* that Licensee, not less than thirty (30) days prior to the effective date of the assignment or transfer, shall have delivered written notice to District setting forth the name of the transferee and its place of incorporation or formation; its address and full contact information, including phone numbers; the basis for the transfer (*e.g.*, a transfer to a purchaser of all or substantially all of Licensee's assets, a transfer to an Affiliate, as hereafter defined); if a transfer to an Affiliate, a description of the transferee's affiliation with Licensee; and, if applicable, the transferee's net worth, including reasonable evidence thereof. Each assignee or transferee shall assume and be deemed to have assumed this Agreement and shall be and remain liable jointly and severally with Licensee for the payment of all amounts due hereunder, and for the due performance of all the covenants and conditions herein set forth herein to be performed by Licensee. No assignment or transfer shall be effective or binding on District unless the assignee or transferee shall, concurrently, deliver to District a recordable instrument which contains a covenant of assumption by said assignee or transferee; provided that a failure or refusal to so execute said instrument shall not release or discharge the assignee or transferee from its liability aforesaid. As used in this Agreement, an "Affiliate" of a person or entity shall mean a person or entity controlling, controlled by or under common control with that person or entity. "Control" shall mean the power directly or indirectly, by contract, ownership of voting securities, or otherwise, to direct the management and policies of the person or entity.

Should District sell, lease, transfer or otherwise convey all or any part of the Property to any transferee other than Licensee, then such transfer shall be subject to this Agreement and all of Licensee's rights hereunder. Until Licensee receives the following documents, Licensee shall not be responsible for any failure to make payments under this Agreement to such transferee:

- i. Copy of deed, bill of sale, or other agreement evidencing transfer of the Property or District's rights hereunder; and
- ii. Full contact information for the new licensor, including phone number(s), and
- iii. An IRS approved W-9 form setting forth the tax identification number of the new licensor.

19. Notices and Other Communications.

All notices hereunder must be in writing and shall be delivered by hand, by nationally recognized overnight courier service, or by U.S. registered or certified mail, return receipt requested, postage prepaid, to the addressees set forth below:

Licensee: SPRINT SPECTRUM L.P.  
c/o Sprint Property Services  
Mailstop KSOPHT0101-Z2650  
6391 Sprint Parkway  
Overland Park, KS 66251-2650

With a copy to: Sprint Law Department  
Attn: Real Estate Attorney  
Mailstop KSOPHT0101-Z2020  
6391 Sprint Parkway  
Overland Park, KS 66251-2020

District: Highline Water District  
Attn: General Manager  
23828 – 30<sup>th</sup> Ave. S.  
Kent, WA 98032

Any notice or other communication shall be deemed effectively given (a) on the date of delivery, if delivered by hand, (b) on the date of delivery, if delivered by nationally recognized overnight courier service, or (c) on the third business day following deposit in the U.S. Mail, if delivered by U.S. Mail. Either Party may change its address for notices upon thirty (30) days' prior written notice to the other as provided herein.

20. Hazardous Substances.

Licensee agrees that it will not use, generate, store or dispose of any Hazardous Substances on, under, about or within the Property in violation of any law or regulation. Notwithstanding any provision of this Agreement to the contrary, Licensee agrees to take any required remedial action and to defend, indemnify, and hold harmless District and its elected and appointed officials, employees and agents against any and all losses, liabilities, claims, and/or costs (including reasonable attorney's fees and costs) arising from any breach by Licensee of any representation, warranty, or agreement contained in this Section. As used in this Section, the term "Hazardous Substance" shall mean any pollutant, contaminant, hazardous, toxic, or dangerous waste, chemical substance or material or any other substance or material regulated pursuant to environmental laws or regulations (either local, state or federal, including but not limited to CERCLA, RCRA, the Washington Model Toxic Control Act and the Washington Hazardous Waste Management Act) including, without limitation, asbestos, petroleum or petroleum byproducts, natural gas, natural gas liquids, liquefied natural gas, synthetic gas, PCBs or any other substance defined under law as a "hazardous waste," "dangerous waste," "extremely hazardous waste," "hazardous material," "toxic substance," or "toxic chemical." Licensee agrees that it will be responsible for compliance with any and all applicable governmental laws, rules, statutes, regulations, codes, ordinances, or principles of common law regulating or imposing standards of liability or standards of conduct with regard to protection of the environment or worker health and safety, as may now or at any time hereafter be in effect, to the extent the same apply to Licensee's activity conducted in or on the Property.

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District represents, to its actual knowledge, that (a) the Property, as of the date of this Agreement, is free of hazardous substances, including asbestos-containing materials and lead paint, in reportable quantities, and (b) the Property has never been subject to any contamination or hazardous materials conditions resulting in any environmental investigation, inquiry or remediation. As used herein, "actual knowledge" means the actual current knowledge of District's general manager, Matt Everett. District shall not use, generate, store or dispose of any Hazardous Substance on, under, or about the Property in violation of any law or regulation governing such Hazardous Substance. District shall be responsible for any remedial action required as a result of a release by the District of Hazardous Substances on, under or about the Property in violation of any applicable law or regulation . Notwithstanding any provision of this Agreement to the contrary, District agrees to defend, indemnify and hold Licensee harmless from and against any and all losses, liabilities, claims, and or/costs (including reasonable attorney's fees and costs) arising from any breach by District of its representations and obligations set forth in this subparagraph.

21. Engineering Study.

Licensee shall pay for an engineering study to be performed by District's consulting engineer to determine whether the design parameters for weight, wind loads, etc. on the Reservoir will be exceeded by Licensee's placement of any additional equipment on the Reservoir following the Effective Date of this Agreement. Licensee shall pay for any reinforcement of the Reservoir required by placing any such additional equipment on the Reservoir. If in District's sole discretion, reasonably exercised and based upon the study, a determination is made that the Reservoir cannot be reinforced to support Licensee's equipment, then Licensee shall not be allowed to install any such additional equipment on the Reservoir.

22. Non-Waiver.

A waiver of any right under this Agreement must be in writing and signed by the waiving party. The waiver by District of the breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of the breach of any other term, covenant, or condition or any subsequent breach of the same term, covenant, or condition. The acceptance of any sum due hereunder by District shall not be deemed to be a waiver of any preceding default by Licensee of any term, covenant, or condition of this Agreement, other than the failure of Licensee to pay the particular sum so accepted, regardless of District's knowledge of such preceding default at the time of the acceptance of such sum.

23. Written Agreement to Govern. This Agreement is the entire understanding between the Parties relating to the subjects it covers.

24. Governing Law, Venue and Attorney's Fees.

This Agreement shall be governed by, and interpreted in accordance with, the laws of the State of Washington. Any action or proceeding arising out of the interpretation or enforcement of any terms, conditions or obligations of this Agreement shall be brought in the King County, Washington Superior Court. The prevailing party in any action or proceeding brought to enforce this Agreement shall be entitled to recover its reasonable attorney's fees, costs, and expenses in connection with such action or proceeding from the other party.

25. Further Assurances. In addition to the actions specifically mentioned in this Agreement, the Parties shall each do whatever may be reasonably necessary to accomplish the transactions contemplated in this Agreement including, without limitation, execution of all applications, permits, and approvals required of District for work on the Communications Site.

26. Licensee Contact. Throughout the term hereof, Licensee shall maintain, on a 24-hour basis, a working telephone number so as to enable District to reach the team responsible for communications regarding Licensee's maintenance and construction matters on the Reservoir Site (the "Contact Person"). The communication matters for which such Contact Person(s) shall be responsible include, without limitation, those relating to maintenance and other work to be performed on the Site, whether by Licensee or its vendors, contractors or agents. The current 24-hour telephone number is 866-304-7876, Licensee's "Sprint NOC". Licensee agrees to provide District with reasonable prior notice of any change in such 24-hour telephone number.

27. Survival. Licensee's obligations and warranties under the terms of this Agreement shall survive the transfer or sale of the Property and the expiration or sooner termination of this Agreement.

28. Severability. Any provision of this Agreement which shall prove to be invalid, void, or illegal shall in no way affect, impair, or invalidate any other provision hereof, and such other provision shall remain in full force and effect.

29. Interpretation. Unless otherwise specified, the following rules of construction and interpretation apply: (i) captions are for convenience and reference only and in no way define or limit the construction of the terms and conditions hereof; (ii) the use of the term "including" will be interpreted to mean "including but not limited to," (iii) exhibits are an integral part of this Agreement and are incorporated by reference into this Agreement; (iv) use of the terms "termination" or "expiration" are interchangeable; (v) reference to a default will take into consideration any applicable notice, grace and cure periods; and (vi) the singular use of words shall include the plural, where appropriate.

30. Recording. This Agreement shall not be recorded. At the request of either Party, and at the expense of the requesting Party, the Parties shall execute and record a short form memorandum of agreement in recordable form that identifies the Parties, the commencement and expiration dates of the Agreement, the legal description of the Property, and such other matters as the Parties may agree.

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31. No Light, Air or View Easement. Licensee has not been granted an easement or other right for light, air or view to or from the Premises, the License Area or the Property. Any diminution or obstruction of light, air or view by any structure which may be erected on or adjacent to the Reservoir, the Premises or the Property shall not affect this Agreement, the Licensee's obligations hereunder or impose any liability on the District.

32. Captions. The captions of this Agreement are provided for convenience only and shall not be used in construing its meaning.

33. Time of the Essence. Time is of the essence in the performance of all terms, covenants and conditions in this Agreement.

34. Authority. If Licensee is a corporation, partnership or limited liability company, each individual executing this Agreement on Licensee's behalf represents and warrants that he or she is duly authorized to execute and deliver this Agreement on Licensee's and that this Agreement is binding upon Licensee according to its terms. If Licensee is a corporation, each individual executing this Agreement on Licensee's behalf represents and warrants that his or her authorization to execute and deliver this Agreement was in accordance with a duly adopted resolution of Licensee's Board of Directors and Licensee's Bylaws. If Licensee is a limited liability company, each individual executing this Agreement on Licensee's represents and warrants that his or her authorization to execute and deliver this Agreement was in accordance with a duly adopted resolution of Licensee's Members and Operating Agreement. Concurrently with execution of this Agreement, Licensee shall deliver to the District such evidence of authorization as the District may require.

35. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, and all of the same, when taken together, shall constitute one and the same instrument.

SIGNATURE NEXT PAGE

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

**“DISTRICT”:**

HIGHLINE WATER DISTRICT,  
a Washington municipal corporation

By: \_\_\_\_\_  
Its General Manager

**“LICENSEE”:**

SPRINT SPECTRUM L.P.  
a Delaware limited partnership

By: Silvia J. Lin  
Print Name: Silvia J. Lin  
Its: Manager, Real Estate

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 signed this instrument, on oath stated that he was authorized to execute this instrument and acknowledged it as the General Manager of HIGHLINE WATER DISTRICT, a Washington special purpose municipal corporation, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

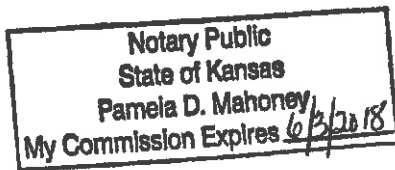
DATED: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
(Print name)  
NOTARY PUBLIC in and for the  
State of Washington, residing at  
\_\_\_\_\_  
My appointment expires: \_\_\_\_\_

STATE OF Kansas )  
 )ss.  
COUNTY OF Johnson )

I CERTIFY that I know or have satisfactory evidence that Silvia J. Lin is the person who appeared before me, and said person acknowledged that s/he signed this instrument, on oath stated that s/he was authorized to execute this instrument and acknowledged it as the Managu, Real Estate, of SPRINT SPECTRUM L.P., a Delaware corporation, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED: October 13, 2017



Pamela D. Mahoney  
(Print name)  
NOTARY PUBLIC in and for the  
State of Kansas, residing at  
Overland Park, Kansas  
My appointment expires: 6/3/2018



**EXHIBIT A**

**LEGAL DESCRIPTION OF REAL PROPERTY**

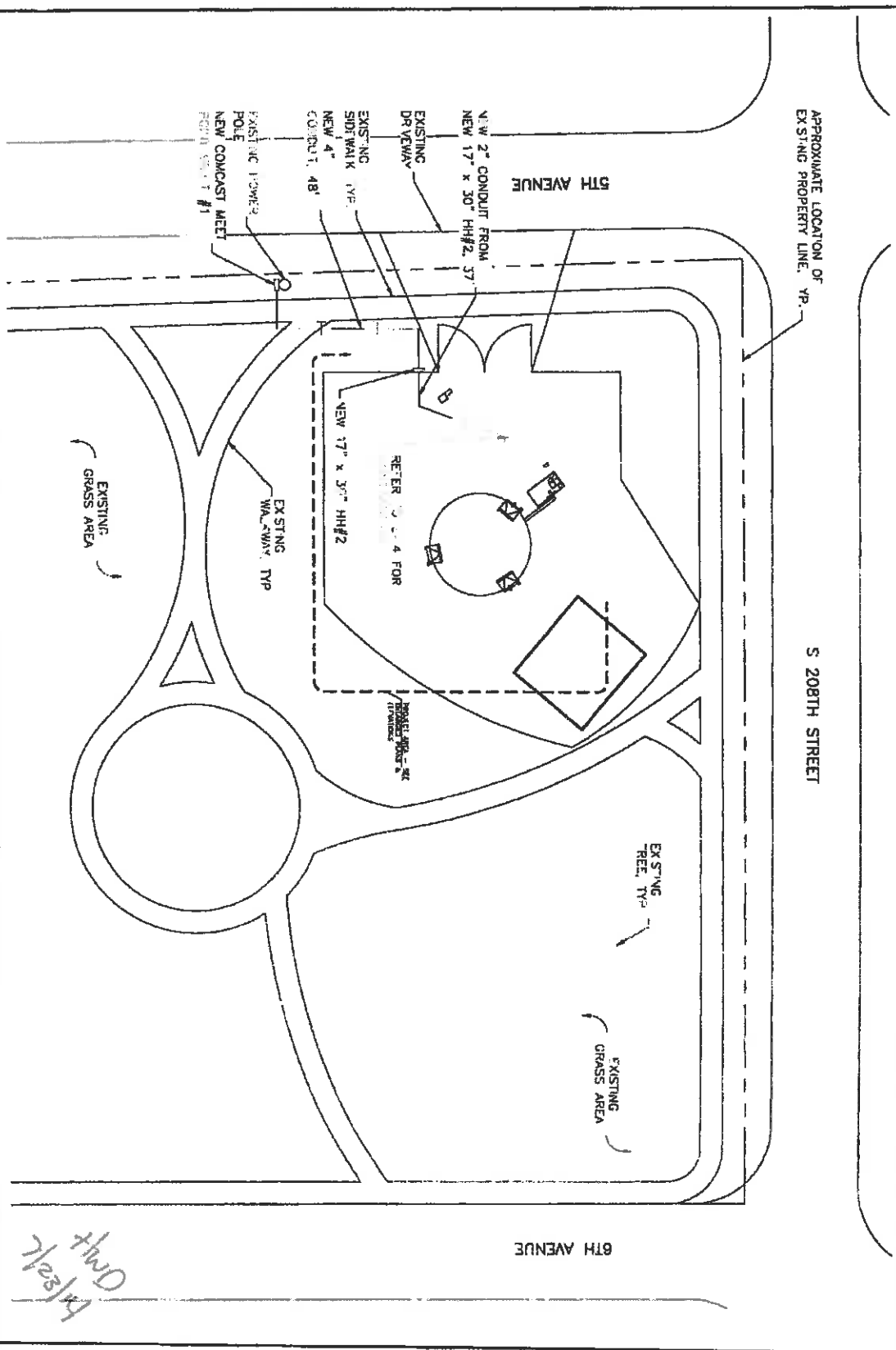
Lots 1 through 8, inclusive, Block 93, and Lots 1 through 8, inclusive, Block 94, all in Southern Pacific Land Company's Second Addition to Des Moines, according to the plat thereof recorded in Volume 4 of Plats, page 49, records of King County, Washington.

GN

**EXHIBIT B**  
**SITE PLAN – DEPICTION OF PREMISES**

*en*

**GENERAL NOTES**  
 1. SEE ALL NOTES ON ALL SHEETS.  
 2. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE CITY OF RICHMOND, VA AND THE STATE OF VIRGINIA.  
 3. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE CITY OF RICHMOND, VA AND THE STATE OF VIRGINIA.



OVERALL SITE PLAN 1 | ENLARGE SITE PLAN 2



**Select Site Acquisition, LLC**  
 P.O. Box 1292, Maple Valley, VA 20801  
 Office 206-790-4655

**PROJECT INFORMATION:**  
**NORMANDY PARK**  
 SEO3X403

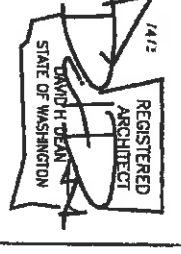
301 SOUTH 208TH STREET  
 025 RICHMOND, VA 23248  
 RICHMOND COUNTY

ISSUED DATE: 02-19-14  
 SCHEDULED FOR BUILDING PERMIT: 02-19-14

REVISED DOWNS

NO.	DATE	DESCRIPTION	BY
A	02-18-14	CD H&L M	MMO
B	02-19-14	CD H&L M	MMO
C			
D			

NOT FOR CONSTRUCTION. UNLESS LABELLED AS SUCH, THIS PLAN IS FOR INFORMATION ONLY.

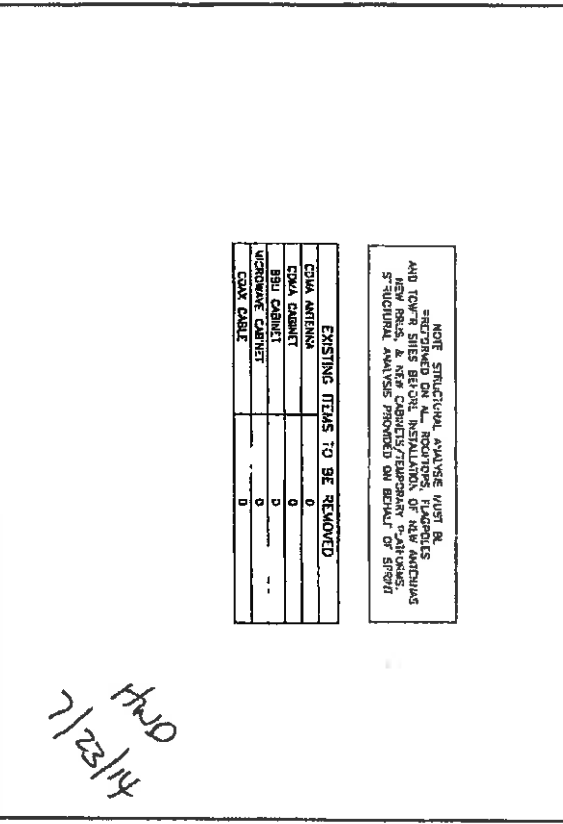
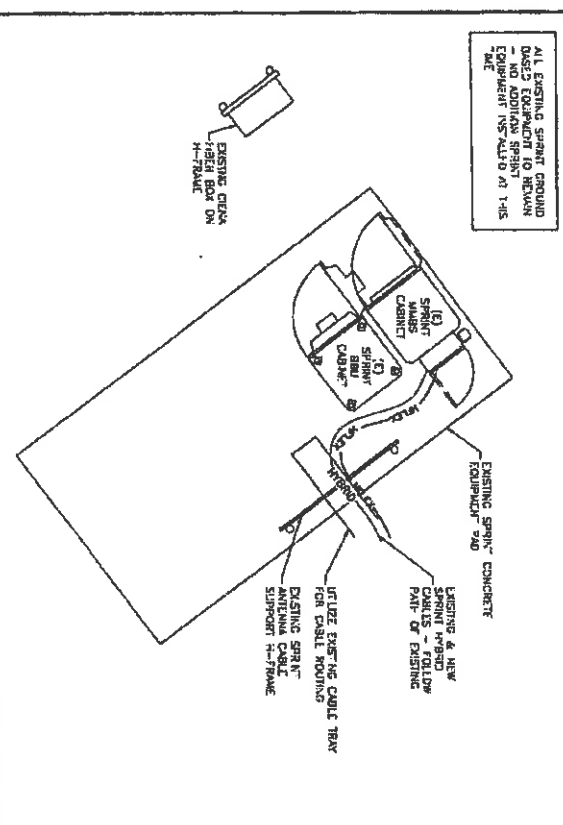
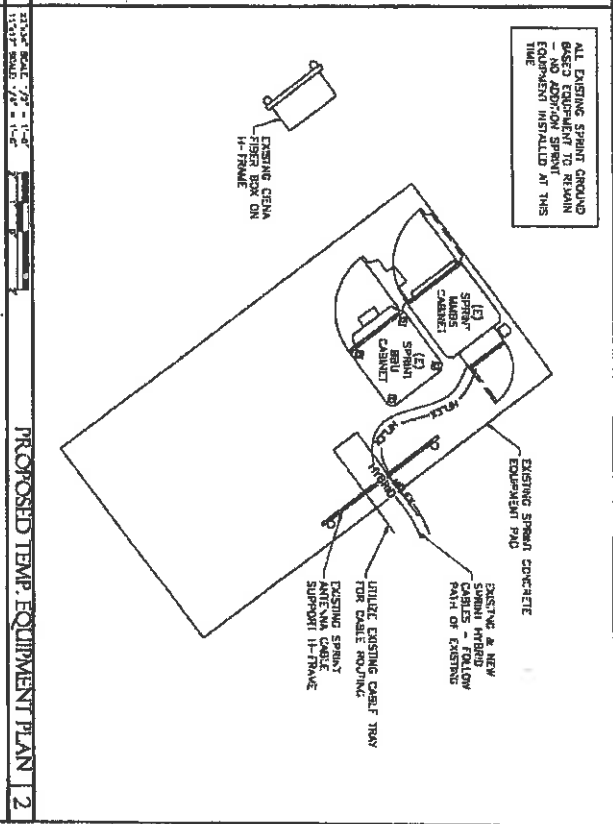
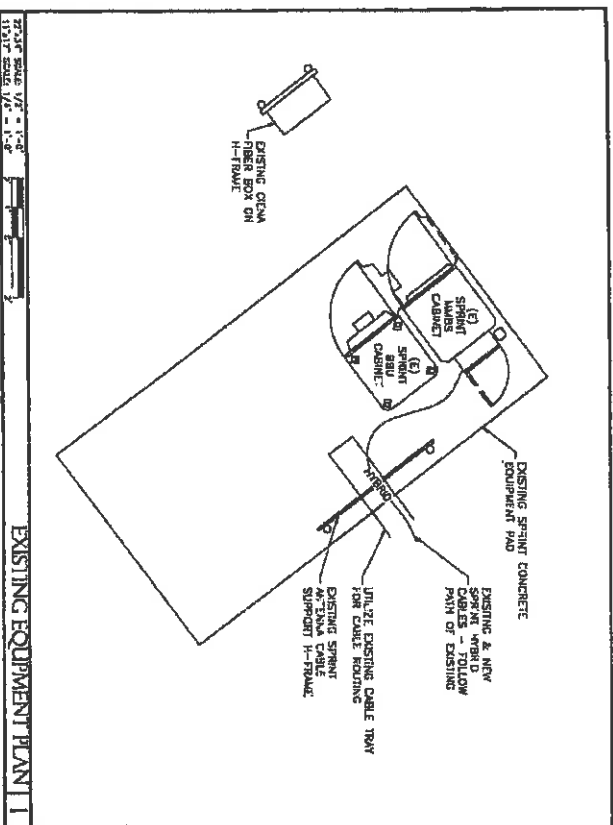


SHEET TITLE: OVERALL SITE  
 SHEET NUMBER: A-1  
 REVISION: 3  
 DATE: 02/19/14

EXHIBIT B 1/3

42





PROPOSED EQUIPMENT PLAN 3

NOTES / REMOVED ITEMS 4

**Select Site Acquisition, LLC**  
P.O. Box 1392, Maple Valley, VA 59038  
Office 206-790-6555

**PROJECT INFORMATION:**  
**NORMANDY PARK**  
SE03X403  
501 SOUTH 208th STREET  
DES MOINES, IA 50318  
KING COUNTY

ISSUED DATE: 02-19-11  
ISSUED FOR: BUILDING PERMIT

REVISIONS

REV.	DATE	DESCRIPTION	BY
A	02-18-11	CD PRELIM	DHD
B	02-18-11	CD FINAL	DHD
C			
D			

NOT FOR CONSTRUCTION UNLESS LABELED AS CONSTRUCTION SET

REGISTERED ARCHITECT  
DAVID H. DEAN  
STATE OF WASHINGTON

SHEET TITLE: ENLARGED EQUIPMENT PLANS

SHEET NUMBER: A-3

REVISION: B

**EXHIBIT C**

**TOP OF TANK - DEPICTION OF LICENSE AREA**

CA



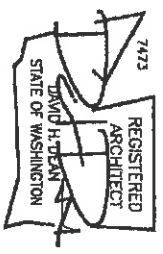
Select Site  
**Acquisition, LLC**  
 P.O. Box 1282, Maple Valley,  
 WA 98043  
 Office 206-790-4633

PROJECT INFORMATION:  
**NORMANDY PARK**  
 SE03X403  
 501 SOUTH 208TH STREET  
 DES MOINES, WA 98148  
 KING COUNTY

ISSUED DATE:  
 02-19-14  
 ISSUED FOR:  
 BUILDING PERMIT  
 REVISIONS

NO.	DATE	DESCRIPTION	BY
A	02-18-14	CD PRE-LM	DND
B	02-18-14	CD FINAL	DND
C			
D			

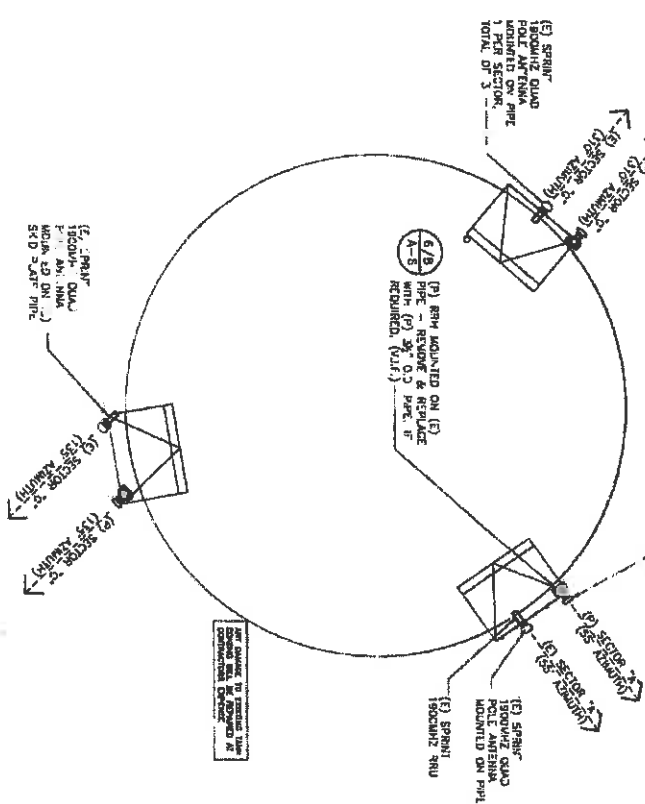
NOT FOR CONSTRUCTION LINES (ART 10.15)  
 CONSTRUCTION SET



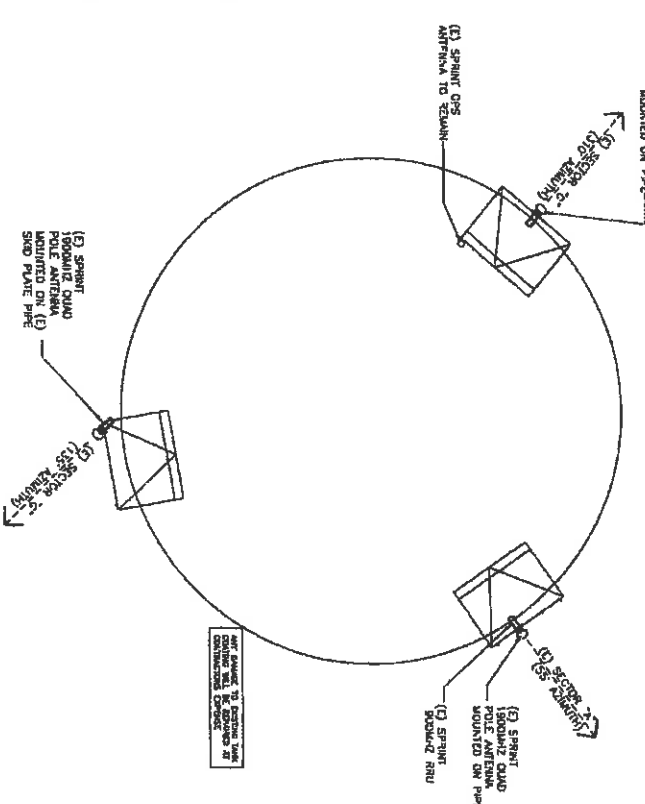
REGISTERED ARCHITECT  
 DAVID H. DEAN  
 STATE OF WASHINGTON

SHEET TITLE:  
**ANTENNA PLANS SCHEDULES**  
 SHEET NUMBER:  
**A-4**

1-3 5/8" (P) SPRINT 2.5KHZ PANEL ANTENNA MOUNTED ON (E) POLE - REMOVE & REPLACE W/ (P) 35" OLD POLE SECTION, 1044 OF 3



PROPOSED ANTENNA PLAN 2



EXISTING ANTENNA PLAN 1

**NOTES:**  
 1. ALL ANTENNAS MUST BE PERMITTED BY THE REGIONAL, DISTRICT AND STATE BEFORE INSTALLATION OF NEW ANTENNA. SEE NOTE 1 AND CONCEPT/STANDARD ANTENNA SCHEDULES FOR PERMITTED ANTENNA TYPES.  
 2. EXISTING ANTENNAS ARE TO BE REMOVED AND REPLACED WITH NEW ANTENNAS AS SHOWN ON THIS PLAN.  
 3. ALL ANTENNAS ARE TO BE DESIGNED TO WITHSTAND WIND LOADS OF 150 PSF.  
 4. ALL ANTENNAS ARE TO BE DESIGNED TO WITHSTAND SEISMIC LOADS OF 0.25g.  
 5. ALL ANTENNAS ARE TO BE DESIGNED TO WITHSTAND VIBRATION LOADS OF 0.1g.  
 6. ALL ANTENNAS ARE TO BE DESIGNED TO WITHSTAND TEMPERATURE FLUCTUATIONS OF 100°F.  
 7. ALL ANTENNAS ARE TO BE DESIGNED TO WITHSTAND CORROSION FROM THE AIR.  
 8. ALL ANTENNAS ARE TO BE DESIGNED TO WITHSTAND UV RADIATION FROM THE SUN.  
 9. ALL ANTENNAS ARE TO BE DESIGNED TO WITHSTAND HAIL STORMS.  
 10. ALL ANTENNAS ARE TO BE DESIGNED TO WITHSTAND LIGHTNING STRIKES.  
 11. ALL ANTENNAS ARE TO BE DESIGNED TO WITHSTAND OTHER ENVIRONMENTAL CONDITIONS AS APPLICABLE.  
 12. ALL ANTENNAS ARE TO BE DESIGNED TO WITHSTAND OTHER ENVIRONMENTAL CONDITIONS AS APPLICABLE.  
 13. ALL ANTENNAS ARE TO BE DESIGNED TO WITHSTAND OTHER ENVIRONMENTAL CONDITIONS AS APPLICABLE.  
 14. ALL ANTENNAS ARE TO BE DESIGNED TO WITHSTAND OTHER ENVIRONMENTAL CONDITIONS AS APPLICABLE.  
 15. ALL ANTENNAS ARE TO BE DESIGNED TO WITHSTAND OTHER ENVIRONMENTAL CONDITIONS AS APPLICABLE.

2.3. SIZE EQUIVALENT - ONLY

SECTION	ANTENNA TYPE	ANTENNA MODEL	ANTENNA QUANTITY	ANTENNA SECTION	ANTENNA SECTION QUANTITY	ANTENNA SECTION HEIGHT	ANTENNA SECTION WIDTH	ANTENNA SECTION DEPTH	ANTENNA SECTION WEIGHT	ANTENNA SECTION CENTER OF GRAVITY	ANTENNA SECTION MOMENT OF INERTIA
SECTION 1	SPRINT 2.5KHZ PANEL ANTENNA	1044	3	35"	3	1044"	35"	35"	1044"	1044"	1044"
SECTION 2	SPRINT 2.5KHZ PANEL ANTENNA	1044	3	35"	3	1044"	35"	35"	1044"	1044"	1044"
SECTION 3	SPRINT 2.5KHZ PANEL ANTENNA	1044	3	35"	3	1044"	35"	35"	1044"	1044"	1044"

PROPOSED ANTENNA PLAN 3

NOTES/ANTENNA SCHEDULE 4

Handwritten note: HWD 7/23/14



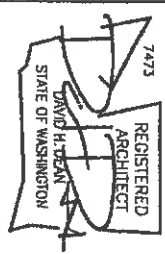
Select Site  
**Acquisition, LLC**  
 P.O. Box 1594, Maple Valley,  
 WA 98038  
 Office: 206-790-4655

PROJECT INFORMATION:  
**NORMANDY PARK**  
 SE03X403  
 501 SOUTH 28TH STREET  
 OLS WORKS, WA 98148  
 KING COUNTY

ISSUED DATE:  
 02-18-14  
 ISSUED FOR:  
 BUILDING PERMIT

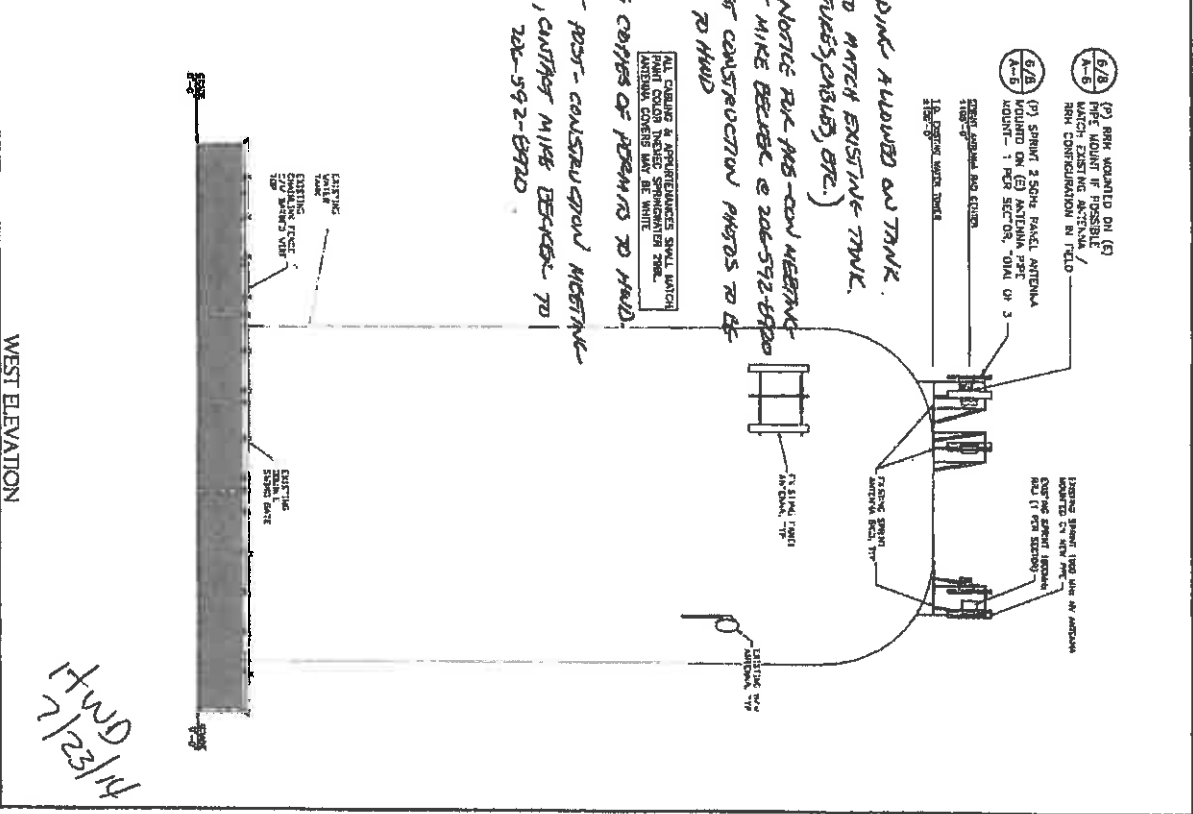
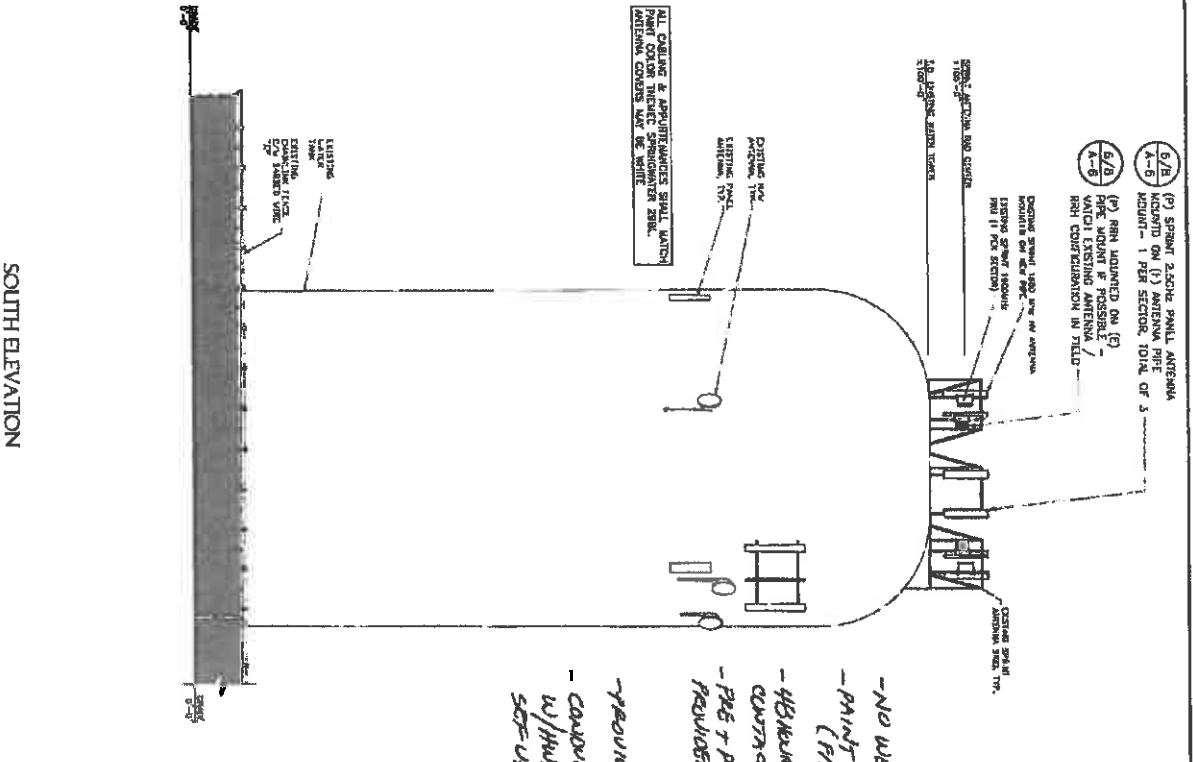
REV#	DATE	REVISIONS	INITIALS
A	02-18-14	CD PRELIM	DHD
B	02-18-14	CD FINAL	DHD
C			
D			

NOT FOR CONSTRUCTION UNLESS LABELED AS  
 CONSTRUCTION SET



SHEET TITLE:  
**EXTERIOR ELEVATIONS**

SHEET NUMBER:  
**A-5**  
 REVISION:  
**B**



23'00\"/>

23'00\"/>

EXHIBIT C 2/2

a



## **EXHIBIT D**

### **LICENSEE'S EQUIPMENT - IMPROVEMENTS**

The improvements authorized under this lease shall be the existing Sprint equipment located on the site on the effective date of 03/31/2016, including three (3) existing microwave antennas (previously owned by Clearwire), as depicted in the Drawings in Exhibits B and C. No additional equipment or modifications are authorized unless approved in accordance with Section 1h of this Agreement.

**EXHIBIT E**  
**INSURANCE COVERAGE LIMITS**

**Types and Limits of Insurance Required:**

**Commercial General Liability**

- \$3,000,000 per occurrence bodily injury and property injury\*  
[\* Such coverage amounts may be met by a combination of underlying and umbrella policies so long as in combination, the limits equal or exceed those stated.]
- \$6,000,000 annual aggregate
- Employees and volunteers as additional insureds
- Premises and operations
- Broad form property damage including underground, explosion and collapse hazard (XCU)
- Products completed operations
- Blanket contractual
- Subcontractors
- Personal injury with employee exclusion deleted
- Employers liability (Stop gap)

**Automobile Liability**

- \$2,000,000 per accident bodily injury and property damage liability, including any owned automobile
- Hired automobiles
- Non-owned automobile

**Workers' Compensation**

- Statutory requirements

Agenda Item No.: 5.2  
 Agenda Date: 10/18/17  
 Reviewed By: [Signature] / m.e.

Re: Authorize Communications Site Use and License Agreement – Sprint Spectrum L.P.  
North Hill Tank Site – 505 S 208th St, Des Moines, WA

CATEGORY	
<i>Executive</i>	<input type="checkbox"/>
<i>Administrative</i>	<input type="checkbox"/>
<i>Engineering/Operations</i>	<input checked="" type="checkbox"/>

FINANCIAL			
<i>Expenditures?</i>	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>
<i>Budgeted?</i>	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>
Amount: \$ _____			

**ATTACHMENTS:**

1. Resolution 17-10-18B
2. Attachment – 1: Communications Site Use and License Agreement

**COMMENTS:**

A revocable license dated 12/1/05 ("License") was previously entered into by Highline Water District ("the District") and Clearwire LLC ("Licensee") granting Clearwire LLC the right to install and maintain certain telecommunications equipment within the Leased Premises. Lessee represents that Sprint Spectrum L.P. is the successor in interest to Clearwire LLC rights, duties and obligations under the License.

The District (Lessor) and Sprint Spectrum L.P. (Lessee) now desire to terminate the License and to replace the License with the lease as provided in this Agreement upon the Effective Date of this Agreement.

The general terms of the agreement are for a 5-year initial term with four subsequent 5-year renewals for a maximum of twenty-five years. The initial term is \$30,000 with a 3.5% inflationary factor annually.

Staff recommends approval of this resolution.