

**Board of Supervisors**

Gary F. Snellings, Chairman  
Mark Dudenhefer, Vice Chairman  
Meg Bohmke  
Jack R. Cavalier  
Thomas C. Coen  
Wendy E. Maurer  
Cindy C. Shelton

Thomas C. Foley  
County Administrator

## Community & Economic Development Committee Meeting AGENDA

February 5, 2019 – 12:00 Noon  
Conference Room A/B/C, Second Floor

**Committee Members:** Wendy Maurer, Cindy Shelton and Gary Snellings

Agenda Item	
1.	Consider a request from Milestone Communication to amend the current tower site agreement to include school site locations
2.	Discussion regarding the Jeff Rouse Center Water Aerobics and Swim Lessons
3.	Discuss Proposed Aquia Harbour Dredging Application
4.	Discuss the HCOD regulations related to screening of Bay doors
5.	Consider the addition of rental and repair of modular offices and classrooms in the M1 & M2 zoning districts
6.	Consider proposed zoning ordinance amendments recommended by the Planning Commission for uses in the A1 district
	Next CEDC meeting is scheduled for March 5, 2019

CEDCAgenda/02052019



Project Name: A request from Milestone Communication to amend the current tower site agreement to include school site locations. Date Presented to the CEDC: February 5, 2019

### **Current Situation**

- Milestone entered into a Master Telecommunications Marketing Agreement with Stafford County in 2015 to market County-owned properties for the placement of telecommunications towers.
- Milestone Communications Management III, Inc. markets selected sites on County-owned properties to telecommunications carriers in exchange for a portion of the lease fees paid by the telecommunication companies. The towers are constructed and owned by Milestone, with the site leased to them by the County.
- At its October 21, 2014, meeting, the Board directed staff to remove the school properties from the list of potential tower sites.

### **Proposed End State**

- School sites would be added to the list of County-owned properties available for Milestone to market.

### **Request for the CEDC Committee/Board of Supervisors**

- Amend the marketing agreement to allow Milestone to market County-owned School properties for placement of telecommunications towers.
- Request the School Board to include school properties owned by them to the marketing agreement.

### **Benefits to the County**

- More towers would increase cell coverage in the county as well as improve access to wireless for citizens.
- According to Milestone, the demand for these towers will only be greater once 5G is deployed.
- The Schools would benefit from the lease fees as Stafford County has over the last three years with three towers at approximately \$1,200 a month each or \$36,000 a year, and four water tanks at around \$32,400 less fees to Milestone each year.

## SCHOOL PARTNERSHIPS – VIRGINIA & MARYLAND

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### ***VIRGINIA***

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Fairfax County School Board

- 27 towers developed
- 2 towers in pipeline
- 9 towers managed
- \$1.8M revenue generated annually

Prince William County School Board

- 2 towers developed

School Board of Albemarle County

- 1 tower developed
- 1 tower in pipeline

Augusta County School Board

- 1 tower developed

Charles City County School Board

- 1 tower in pipeline

Lynchburg City Schools

- 1 tower developed



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### ***MARYLAND***

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Board of Education of Anne Arundel County

- 7 towers developed
- 1 tower in pipeline
- \$120k revenue generated annually

Board of Education of Prince George's County

- 7 towers developed
- \$125k revenue generated annually

Frederick County School Board

- 5 towers developed
- 1 tower in pipeline
- \$160k revenue generated annually

Wicomico County Board of Education

- 3 towers developed

Board of Education of Dorchester County

- 1 tower developed

Board of Education of Washington County Public Schools

- 1 tower in pipeline







## **Milestone's Core Business**



**Economic Benefits**



**Community Outreach**



**Tower Solutions**



## About Milestone

**17** years public partnerships

**30** public school partners

**20** municipal partners

**2,300+** sites

**150** towers

# Company History



Celebrating 17 years



Municipal, School & Utility Partners



100+ Towers Constructed



2,000+ Potential Tower Locations



\$100 MM+ in Equity/Debt in 4 LP's

## Executed Master Lease Contracts



### North Carolina Municipalities

New Hanover County



### South Carolina Municipalities

Berkeley School District  
Charleston County  
Greenville School District  
Greenville County  
Pickens School District  
Richland School District Two



### Florida Municipalities

Charlotte County Public Schools



### Maryland Municipalities

Anne Arundel County Public Schools  
Caroline County Public Schools  
Cecil County  
Dorchester County Public Schools  
Frederick County  
Frederick County Public Schools  
Queen Anne's County Public Schools  
Talbot County Public Schools  
Town of Myersville  
Wicomico County Public Schools



### Delaware Municipalities

Delmar School District  
Laurel School District  
Milford School District  
Red Clay School District  
Woodbridge School District



### Virginia Municipalities

Albemarle County Public Schools  
Amherst County Public Schools  
Central Virginia Electric Cooperative  
Colonial Beach School District  
Cumberland County Public Schools  
Fairfax City Schools  
Fairfax County Public Schools  
Falls Church City Schools  
Fauquier County Public Schools  
Halifax County Public Schools  
Hampton Roads Sanitation District  
Isle of Wight County Schools  
Loudoun County  
Lynchburg City  
Lynchburg City Schools  
Manassas City  
Manassas Park City Schools  
Northern Neck Electric Cooperative  
Nottoway County Public Schools  
Northern Virginia Electric Cooperative  
Prince William County  
Prince William County Parks  
Rappahannock Electric Cooperative  
Rivanna Sewer and Water Authority  
Roanoke County Public Schools  
Smyth County Public Schools  
Stafford County  
Washington County Service Authority





**Milestone's Core Business**



**Economic Benefits**



**Community Outreach**



**Tower Solutions**

- **40% Revenue Share**
- **\$20K Construction Fee**
- **\$5K Per Carrier Fee**
- **Free Space on Tower**

	One-Time Payment	Annual Revenue
Tower Build	\$20,000	N/A
1 <sup>st</sup> Carrier	\$5,000	\$12,000
2 <sup>nd</sup> Carrier	\$5,000	\$12,000
3 <sup>rd</sup> Carrier	<u>\$5,000</u>	<u>\$12,000</u>
TOTAL	\$35,000	\$36,000

# Master Marketing Agreement

Executed 3/02/2015

Total projected Stafford County revenue generated as of 12/31/18 = \$331,353

## **3 TOWERS CONSTRUCTED**

### Stafford Landfill (VzW)

- In service 11/23/16
- VzW lease start 02/01/17
- In negotiations with Omnipoint  
Broadband

### Mountain View (VzW, SPR)

- In service 02/21/17
- VzW lease start 03/01/17
- Sprint lease start 04/01/19

### McDuff Park (VzW)

- In service 11/14/17
- VzW lease start 12/01/17

## **4 WATER TANKS - MANAGEMENT**

### Embrey Mill (VzW)

- VzW lease start 04/01/16

### Moncure (TMO)

- TMO lease start 08/01/17
- In negotiations with Sprint

### Ferry Road (TMO)

- TMO lease start 12/01/17

### Stone River

- In negotiations with TMO



**Milestone's Core Business**



**Economic Benefits**



**Community Outreach**



**Tower Solutions**





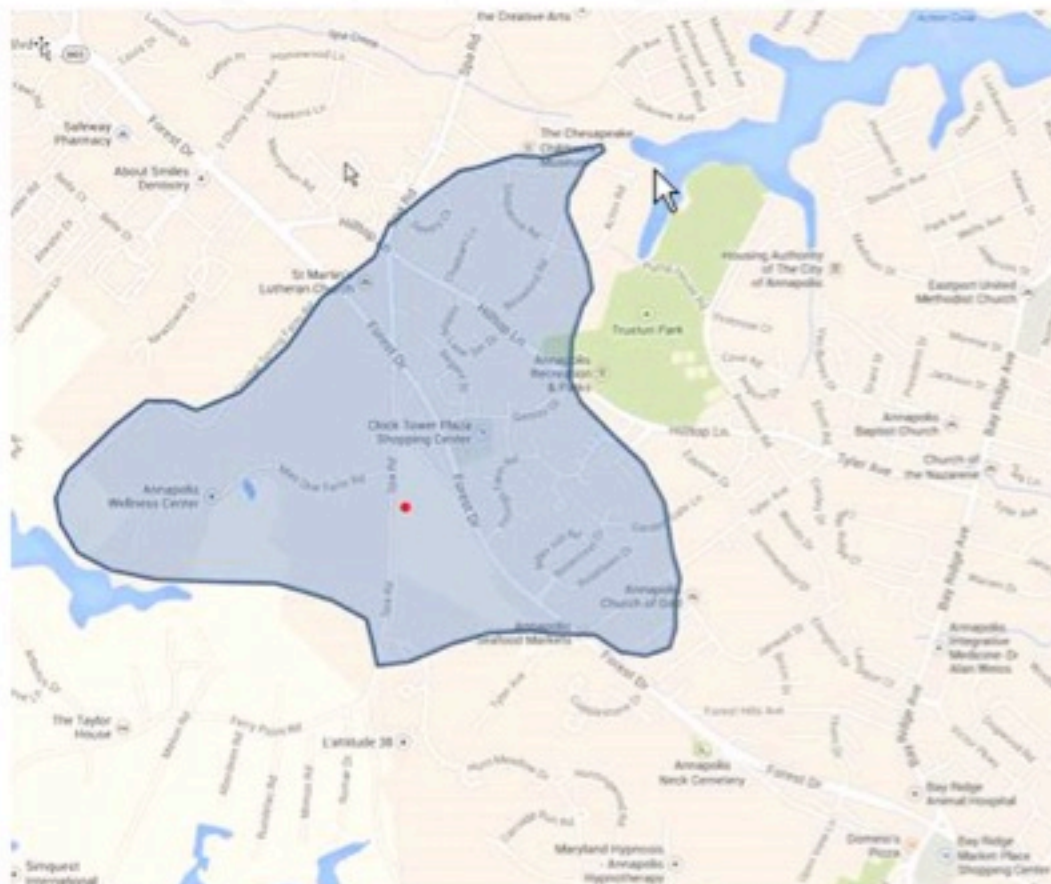
# Photo Simulations





# Identify Coverage Objective

The shaded area below shows the approximate coverage improvement area with the proposed wireless pole. The purpose of the pole is to strengthen and expand cellular coverage in and around the area of the site including along Forest Drive. The tower will also strengthen connectivity, especially inside homes and buildings.



# Notify Stakeholders



## Proposed Telecommunications Facility

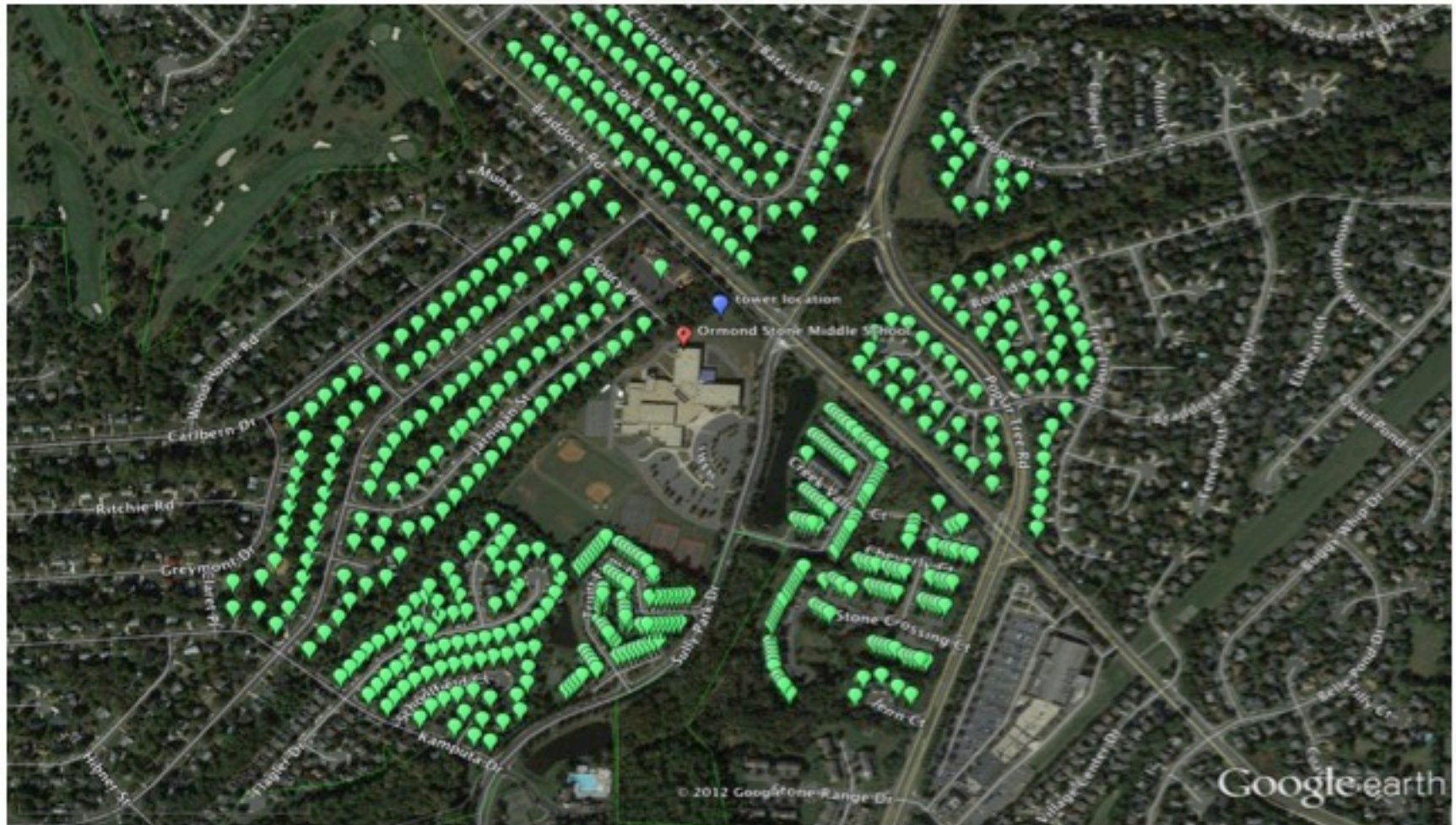
[www.corkranmiddlewireless.com](http://www.corkranmiddlewireless.com)

Verizon Wireless (VZW) has identified a gap in wireless coverage and capacity in your community. VZW and Milestone Communications will file a Building Permit application for a 105' marquee tower at Corkran Middle School, located at 7600 Quarterfield Rd, Glen Burnie, MD 21061. The ground equipment required to operate the pole will be located at the foot of the pole in a fenced and locked compound. A community meeting has been scheduled for March 25, 2015 at the Glen Burnie Regional Library (1010 Eastway, Glen Burnie, MD) at 7 p.m. To learn more about the proposal and for community meeting updates, please visit: [www.corkranmiddlewireless.com](http://www.corkranmiddlewireless.com). If you do not have access to the Internet or have additional questions please contact Kristen Stelzer at [kristen@milestonecorp.com](mailto:kristen@milestonecorp.com), or call us at 703-364-5608.

Verizon Wireless (VZW) ha identificado la necesidad para mejor servicio y capacidad celular en su comunidad. VZW y Milestone Communications han presentado una solicitud para una torre de telecomunicaciones ubicada en Corkran Middle School, 7600 Quarterfield Rd, Glen Burnie, MD 21061. La propuesta consiste de una torre de 105 pies con antenas de telecomunicaciones. Una reunión para discutir la propuestas tomara lugar el 25 de Marzo en el Glen Burnie Regional Library (1010 Eastway, Glen Burnie, MD) alas 7 p.m. Para obtener más información acerca de la y el proceso de revisión publico del Condado visite: [www.corkranmiddlewireless.com](http://www.corkranmiddlewireless.com) Si usted no tiene acceso al Internet, por favor póngase en contacto con Cris Hernandez, 703-364-5604.



# Identify Stakeholders



# Web Site Analytics

Google Analytics Dashboard

One Year

Sessions



Sessions

470

Users

320

Page Views

2,230

Bounce Rate

4.47%

Organic Search

2

Pages/Session

4.74



**Milestone's Core Business**



**Economic Benefits**



**Community Outreach**



**Tower Solutions**





















CHINN  
PARK





















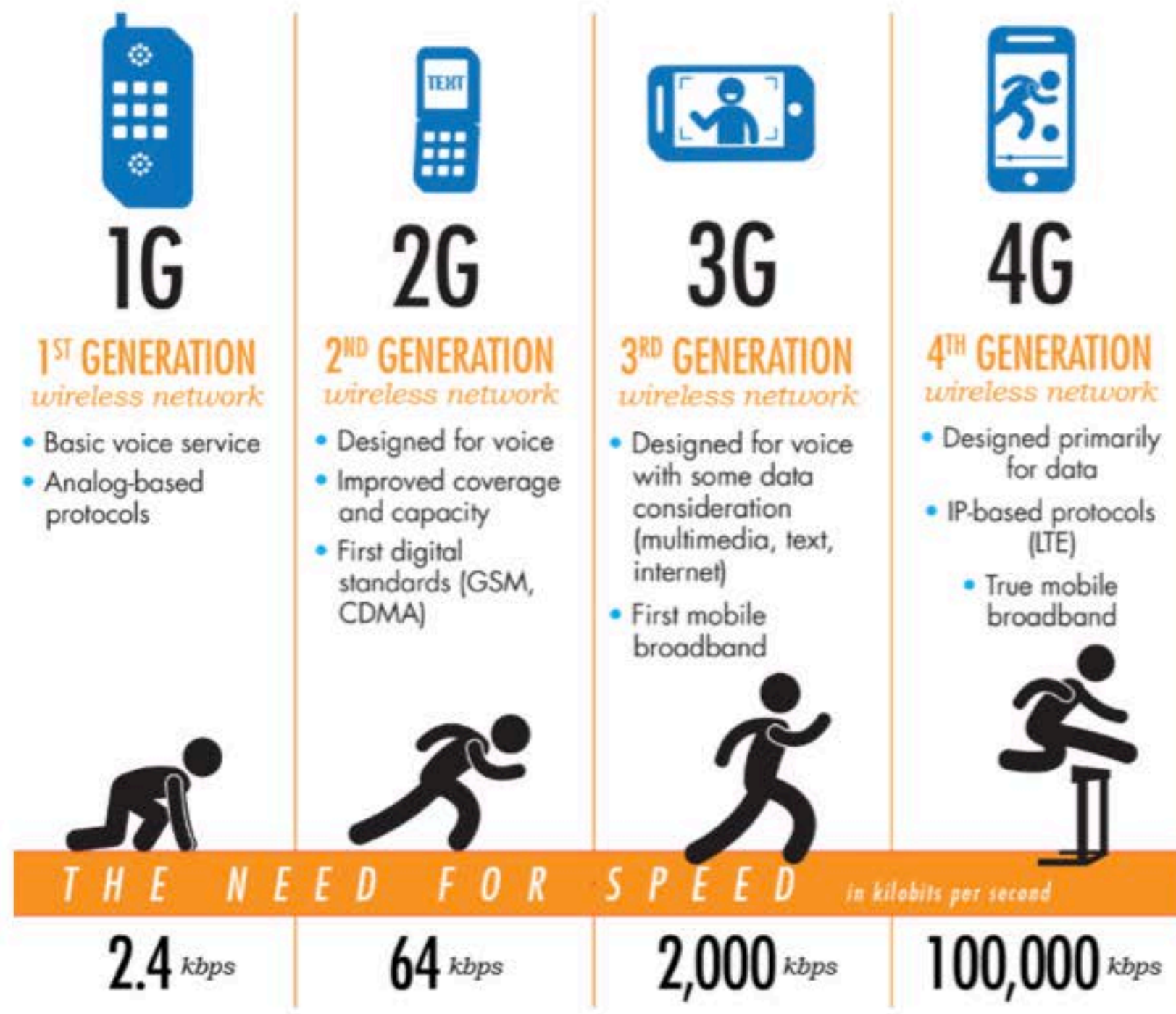
What is **5G** ?

When is it **Coming** ?

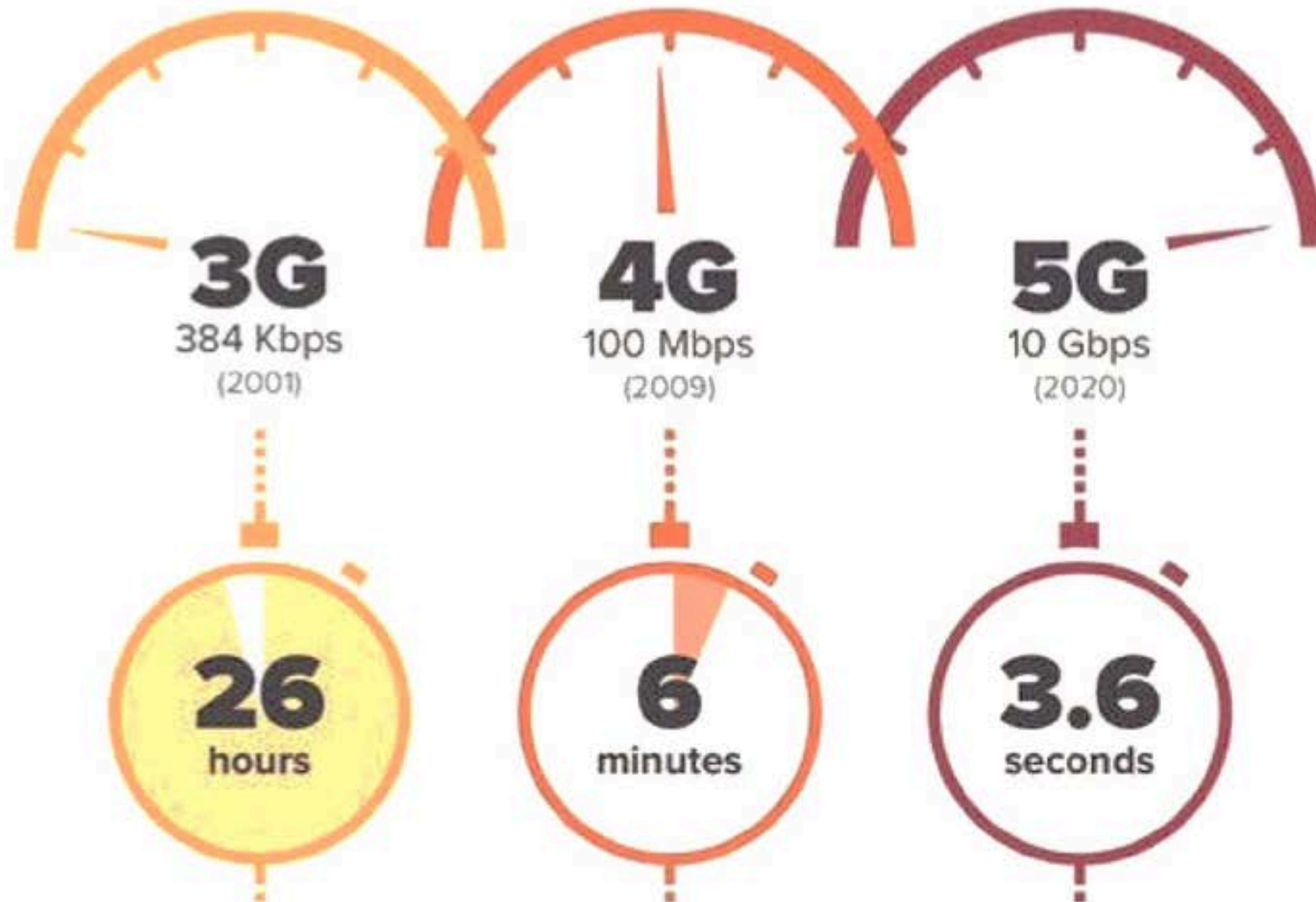
What does it **Mean** for Stafford?

Questions

# Evolution of Wireless Networks



# Download speeds for a 2 hour movie







# Milestone Communications

## Presentation to the Stafford County Telecommunications Committee

September 13, 2018





## TELECOMMUNICATIONS MARKETING MASTER AGREEMENT

**THIS TELECOMMUNICATIONS MARKETING MASTER AGREEMENT** (this "Agreement") is dated this 2<sup>ND</sup> day of MARCH, 2015, by and between STAFFORD COUNTY, VIRGINIA, a political subdivision of the Commonwealth of Virginia, hereinafter, ("County") ("Owner") and **MILESTONE COMMUNICATIONS MANAGEMENT III, INC.**, a Delaware corporation ("Milestone"), with reference to the following:

A. Owner owns certain real property located in the County of Stafford, Virginia.

B. Owner and Milestone wish to enter into an Agreement by which Owner shall provide Milestone with the exclusive right to market the Owner-owned properties listed on Exhibit A, attached hereto and made a part hereof, for the purpose of Milestone's construction of one or more telecommunications monopolies thereon, and leasing space on the monopole(s) and ground to telecommunication service providers, and the right to market selected Owner-owned water towers as listed on Exhibit A ("Water Tower Sites"). Any such construction and leasing are contingent, however, on the County granting a Lease (as defined in § 21.9 hereof) to occupy the Owner-owned property and all necessary zoning approval (currently a Conditional Use Permit). Both the granting of a Lease on public property and the approval of a Conditional Use Permit are legislative acts, which the County cannot commit in advance to take.

C. Nothing in this Agreement shall confer or create any exclusive relationship between the Parties as it pertains to construction of telecommunication monopolies and leasing of space thereon, with the exception of those limitations and/or conditions set forth in paragraph 5.9 of the Agreement.

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

1. Agreement to Market. Based on Recitals A. through C. above (subject to the terms and conditions set forth below and subject to the terms and conditions of site-specific Leases with respect to each Approved Site (as defined in § 21.3 hereof), if any), Milestone may market the Owner-owned Sites listed on Exhibit A to Approved Carriers (as defined in § 21.2 hereof) for attachment of such Approved Carriers' equipment. Such marketing may occur before or after the applicable Owner grants a site-specific Lease, but any marketing of a Site before Final Approval of that Site's Lease shall be expressly contingent upon Final Approval of that Lease. The Owner and Milestone agree that Milestone shall render its services, including but not limited to, identifying, contacting and screening wireless communication companies or business entities whose operations would benefit from utilizing one or more Sites for the installation, utilization, operation and/or maintenance of radio, wireless, and/or satellite communications transmission and receiving antennas, towers and/or equipment in order to use said Site or Sites for radio, wireless and/or satellite communications transmitting and/or receiving location. The Owner hereby grants Milestone the exclusive right and authority to act for the purpose of marketing each Site to procure Approved Carriers to enter into leasing agreements with Milestone for Sites covered or to be covered by Leases.

## 2. Term of Agreement.

2.1. The term of this Agreement shall be five (5) years with up to three (3) five (5) year extension options, commencing on the date of this Agreement, subject to any earlier termination as set forth herein (the "Term"). If either party wishes to so extend the Agreement past the initial five (5) years or subsequent extension, it shall provide written notice to the other party thereof in the final year of the initial or extension term and no later than six months before the expiration thereof, and each other party shall respond in writing within fourteen (14) days whether it elects to so extend the Term or allow the Agreement to terminate. Failure to respond shall be an election to allow the Agreement to expire. In the event that the parties agree to extend the term of this Agreement, an amendment to this Agreement confirming the extension of the Term shall be executed and delivered. Notwithstanding the foregoing, Owner may terminate this Agreement at any time by delivering at least thirty (30) days prior written notice to Milestone.

2.2. If at the end of the Term, Milestone has received Final Approval and filed a Zoning and Permitting Application with respect to an Approved Site, then Milestone shall have up to an additional twelve (12) months to obtain all Governmental Approvals for the Approved Site; provided, however, that Milestone at all times shall diligently pursue such Governmental Approvals. If Milestone obtains the Governmental Approvals within such twelve (12) month period, Owner shall grant a Lease with regard to such Approved Site notwithstanding that the Term hereof has expired. Not later than thirty (30) days after the end of the Term, Milestone shall present to Owner a list of Sites subject to potential granting of Leases under this Section 2.2, and shall keep the Director of Planning and Zoning apprised at least monthly in writing of the status of such Governmental Approvals.

2.3. Owner and Milestone acknowledge and agree that the expiration of the Term hereof shall in no way affect, reduce or terminate the term of any Lease then (or thereafter in accordance with Section 2.2 above) in existence or Milestone's rights thereunder.

## 3. Duration of Leases; Terms.

3.1. The term of each Lease shall be set by the County in that Lease, commencing on that date such Lease is executed; provided that the term of each Lease shall be a minimum of a ten (10) year initial term, with up to four (4) 5-year extension terms, which extension terms shall automatically commence as of the expiration of the then current term unless Milestone provides thirty (30) days' advance written notice of its intent not to so renew the term thereof. Each Lease shall be substantially in the form attached hereto as **Exhibit C** (the "Real Property Lease Agreement") and each Lease shall control over any contrary provision of this Agreement. However, the County Board of Supervisors may deny any Lease or may condition the approval of any Lease for any reason without liability to Milestone or any party claiming under it.

3.2. Notwithstanding the foregoing, if after the execution of any Lease, at least one Monopole is not constructed within twelve (12) months after the date of the Lease, and one (1) Carrier Sublease executed and paying full rent, such Lease may be terminated by the Owner with thirty (30) days' written notice to Milestone. Further, in the event that at any time

after the initial construction of a Monopole on a Site, and the occupancy thereof pursuant to a Carrier Sublease, such Monopole remains vacant (i.e., with no Carrier Sublease applicable thereto) and no Carrier is paying rent therefor for a period in excess of six (6) consecutive months, such Lease may be terminated by Owner with thirty (30) days' written notice to Milestone. In the event that Owner elects to terminate a Lease due to the conditions described in the previous two sentences, then during the sixty (60) day period after receipt of Owner's termination notice, Milestone shall be permitted to elect to pay the Owner the amount that would have been due if one (1) Carrier Sublease was executed and paying full rent and, if Milestone begins the payment of such amount prior to the date that is sixty (60) days after receipt of Owner's termination notice, then Owner's termination notice shall be deemed null and void and the Lease shall continue in full force and effect.

3.3. Milestone may terminate any Lease with sixty (60) days' prior notice to the Owner if (a) Milestone is unable to obtain or maintain in force all necessary Governmental Approvals, (b) a material change in government regulations makes it impractical, impossible, unlawful or uneconomic for Milestone to continue to operate the Facilities under such Lease, (c) interference by or to Milestone's operation cannot, despite good faith negotiations between Milestone and Owner in accordance with the terms hereof, be resolved, or (d) the Site or the Facilities are destroyed or damaged or taken in whole or in part (by condemnation or otherwise) sufficient to adversely affect Milestone's use of the Facilities.

3.4. Each Lease for an Approved Site shall be in the form of the Lease, attached to this Agreement as **Exhibit C**, with such modifications as shall be reasonably required to reflect the particular conditions on the Site.

#### 4. Duration of Carrier Subleases; Terms.

4.1. Each Carrier Sublease shall be for a term no longer than the remaining term of the Lease for the applicable Site.

4.2. Milestone shall be entitled to sublease space on a Monopole or in an Equipment Facility (as defined in § 21.6 hereof) without Owner's prior approval provided that (a) the Carrier Sublease have a rider attached in the form of **Exhibit B** attached hereto (and attached to the Lease as Exhibit D), (b) the sublessee is an Approved Carrier as defined in Section 21.2 of this Agreement, (c) no Event of Default exists hereunder, (d) the term of the Carrier Sublease does not exceed the remaining term of the applicable Lease, and (e) Milestone furnishes Owner with a copy of such sublease within thirty (30) days after execution thereof. Otherwise, any lease, sublease, license or other occupancy agreement with respect to any Site shall be in form and substance approved by Owner in its discretion, which may be withheld but shall not be unreasonably delayed.

#### 5. Site Assessments; Approved Sites; Development.

5.1. Within a commercially reasonable period after the date hereof, Milestone shall, at its sole cost and expense, prepare and deliver to Owner a Site Assessment with regard to each Site. The Owner hereby grants a non-transferable non-exclusive license, revocable at will, to Milestone to enter each Site to conduct a Site Assessment under the terms

provided in this Section 5.1, the insurance requirements of Section 13 of this Agreement, and the indemnification provided in Section 14.1 of this Agreement. Should Milestone wish to perform any on-site tests or studies with respect to any Site, Milestone shall first contact Owner to arrange a mutually acceptable time for such tests and studies to be conducted. Owner may elect to have Owner personnel accompany the person or persons performing such tests and studies. Following any such tests and studies, Milestone shall immediately restore the Site to its previous condition. Milestone shall perform any such tests and studies in a manner so as to minimize any impact on any Owner uses on the Site. Owner shall have the right to withhold its consent to any tests or studies which, in the sole and absolute determination of Owner, may materially alter any Site or interfere with Owner's use of the Site. At Owner's request, Milestone shall also furnish proof that Milestone and its contractors have the insurance coverage required under Section 13 hereof.

5.2. At any time during the Term, Milestone may submit to the Director of Planning and Zoning a Request for Approval with respect to one or more Sites. Upon Milestone's Request for Approval of a Site for Development, the following shall occur:

(a) The Director of Planning and Zoning shall contact the manager of the Site (if any) for the purpose of scheduling a meeting to solicit the parties' input into and concerning Development of the Site, and thereafter obtaining Preliminary Approval.

(b) At such time as Preliminary Approval has been obtained for a Site, Milestone shall cause to be prepared and deliver to the Director of a Site Plan for the Site, consistent with the Preliminary Approval.

(c) At such time as the Site Plan is approved by the Director of Planning and Zoning, the Director of Planning and Zoning shall propose to the County Board of Supervisors or that it advertise and hold the appropriate proceedings/public hearings necessary for the lawful execution of the Lease.

(d) Upon execution of the Lease for the applicable Site, Milestone shall promptly file all necessary Zoning and Permitting Applications, including but not limited to a Condition Use Permit, with respect to the Site, and shall thereafter diligently seek all other Governmental Approvals. Milestone shall keep the Director of Planning and Zoning apprised of its progress with regards to all permits.

5.3. The Owner has no liability to Milestone or any party claiming under Milestone as a result of the denial or conditioning of any Governmental Approval.

5.4. Upon securing all Governmental Approvals and upon the execution of a Lease, Milestone shall promptly commence and diligently pursue the Development of the Approved Site.

5.5. Prior to initiation of site development, Milestone shall post the security for facility removal as required by the County's Securities Policy. The security shall be in the form of cash deposited into escrow with the Owner, or irrevocable letter of credit from an institution meeting the requirements of the Securities Policy.



5.6. Except as noted below for telecommunication installation on existing water towers, within ten (10) days after the earlier to occur of that date on which (i) Milestone receives all Governmental Approvals for a particular Site or (ii) Milestone commences construction-related work on such Site, Milestone shall pay the Owner a Site Fee of either (a) Forty Thousand and No/100 Dollars (\$40,000.00) or (b) Twenty-five Thousand and No/100 Dollars (\$25,000.00). In the event Owner elects option (b) in the preceding sentence, then Milestone shall pay Owner an additional five thousand and No/100 Dollars (\$5,000.00) collocation fee for each Approved Carrier after the first one on each Site, making such payment within ten (10) days of the earlier to occur of (i) the collocation occurring or (ii) Milestone's receipt of its first payment from the Approved Carrier for collocation. In the event Owner elects option (a) in the first sentence of this Section 5.6, then no collocation fee(s) will be due from Milestone to Owner at any time during the term of this Agreement or any Lease. In the event Milestone fails to timely pay any Site Fee or collocation fee due hereunder, Milestone shall, in addition to owing Owner such Site Fee or collocation fee, pay to Owner interest on the amount thereof from the date due through the date of payment of such Site Fee and/or collocation fee to Owner, in an amount equal to the Prime Rate of interest as published from time to time by The Wall Street Journal plus four percent (4%). Simultaneously with the execution hereof, Milestone has paid to County an advance payment in the aggregate amount of Two Hundred Thousand and No/100 Dollars (\$200,000.00) (the "Advance Payment"). The Owner shall utilize the Advance Payment to offset the Site Fee applicable to and otherwise payable with respect to either (1) the initial five (5) Sites for which Leases are executed by Milestone and Owner pursuant hereto if Owner elected option (a) in the first sentence of this Section 5.6 or (2) the initial eight (8) Sites for which Leases are executed by Milestone and Owner pursuant hereto if Owner elected option (b) in the first sentence of this Section 5.6. Notwithstanding anything to the contrary contained herein, in the event this Agreement expires or is terminated prior to the full execution of at least five (5) Leases or eight (8) Leases (as the case may be), then the unapplied portion of the Advance Payment shall be returned to Milestone immediately upon such expiration or earlier termination, provided that no default exists under this Agreement or any executed Lease. As an example, if Owner elected option (a) in the first sentence of this Section 5.6 and this Agreement expires or is terminated and the Owner and Milestone had only fully executed three (3) Leases prior to such expiration or earlier termination, then Owner shall immediately return the remaining \$80,000 of the Advance Payment to Milestone (assuming no defaults then exist).

5.7 Both parties agree that Milestone shall market the eleven (11) Owner-owned Water Towers Sites for the installation of telecommunication facilities. The Owner shall receive no Site Fee or colocation fee as described above for the Water Tower Sites, nor shall the Water Tower Sites be included against the \$200,000 down payment. Leases for space on the Water Tower Sites shall be directly between the County and Carriers, and all lease fees and rentals for the Water Tower Sites shall be paid directly from Carriers to the County. As compensation for Milestone's marketing and other services described herein, Milestone shall receive an amount equal to twenty-five percent (25%) of all lease fees or rentals paid to, and received by, Owner from any Carriers that have entered into leases with Owner for space on the Water Tower Sites (the "Marketing Fee"). Owner shall be allowed to retain seventy-five percent (75%) of such lease fees or rentals received for the Water Tower Sites. It is mutually understood that Water Tower Sites telecommunication installations will consist of the Carrier installing structural assemblies with antennas on existing water towers, without monopoles constructed by Milestone. Provisions herein pertaining to monopole construction are not applicable to Water

Tower Sites, nor do the provisions pertaining to the twenty percent (20%) reserve capacity for use by the County. The costs of any governmental approvals, permits or other consents for a Carrier's use of a Water Tower Site shall be at such Carrier's sole cost and expense. Notwithstanding the foregoing, Owner and Milestone shall cooperate with each other in furnishing information, documentation and assistance as reasonably required to facilitate the governmental approvals, permits or consents required in the negotiation and execution of any leases with Carriers for the Water Tower Sites. The Marketing Fee shall be paid by Owner to Milestone within thirty (30) days after the end of the month in which such lease fees and rentals are received by Owner from each such Carrier.

5.8. The parties may agree by written amendment to this Agreement to provide for management of existing telecommunications facilities.

5.9. The Owner agrees that it shall not during the Term, lease, license or grant any interest in any portion of any Site (for which a Lease has been executed) to any other wireless service provider, or to any party constructing monopoles for lease to wireless service providers, other than Milestone, except as may be permitted in accordance with Section 10 hereof. Notwithstanding the foregoing, each Lease shall give Owner the option of using up to twenty percent (20%) of the structural capacity of the applicable approved Monopole for a broadband internet service provider, Owner or other governmental uses at no cost to Owner and at a height mutually acceptable to Owner and Milestone (which height shall be based in part on the then available heights on such Monopole) and including a ground location for Owner to construct a facility to install its ground based facilities appurtenant thereto, provided that the transmissions do not interfere with those of any Approved Carrier on the Site (or under a letter of intent) at the time such license is granted, and further, Owner shall be entitled to license space within a Site to any broadband internet service provider, or other governmental agency for construction of a monopole for its own use (but not for commercial resale), in accordance with Section 10 hereof. Notwithstanding anything to the contrary contained in this Section 5.9, the term "broadband internet service provider" shall mean any entity that is not also a telecommunications service provider licensed by the Federal Communication Commission ("FCC") to include AT&T, Verizon, T-Mobile, Sprint or any of their successors or assignees or a comparable national wireless provider with a net worth over \$1 Billion and that will utilize the Monopole to provide broadband internet service and for no other purpose.

## 6. Duties of Milestone; Compensation.

6.1. Milestone shall exercise commercially reasonable efforts to market and lease Sites to maximize revenue to the parties.

6.2. Except as noted below, as its sole compensation for performing any of the duties hereunder and for performing the obligations of the sublandlord under any Carrier Sublease, Milestone shall be entitled to retain sixty percent (60%) of the Monthly Gross Rental Revenues derived from the use, leasing or occupancy of any Monopole, Equipment Facility or Site pursuant to this Agreement and the applicable Lease.

6.3 As sole compensation for marketing the Water Tower Sites, assisting Carriers in securing approvals and permits for the installation and managing the installation, and lease requirements, Milestone shall receive the Marketing Fee.

7. Duties of Owner and Milestone; Compensation.

7.1. Other than the consideration expressly provided in this Agreement, the Owner shall receive no other consideration from Milestone for entering into this Agreement.

7.2. In consideration of the leasing of any particular Site under and pursuant to a Lease, not later than the tenth day of each calendar month during the term thereof, Milestone shall pay to County an amount equal to forty percent (40%) of the Monthly Gross Rental Revenues derived from the use, leasing or occupancy of any Monopole, Equipment Facility or Site pursuant to the Lease for the preceding calendar month. As of the date of this Agreement, the monthly base rent charged to each Carrier by Milestone is \$2,500 and in no event will Milestone's payment to the County under this provision be less than one thousand dollars (\$1000.00) per Site, i.e., forty percent (40%) of two thousand five hundred dollars (\$2,500). All expenses related to the Facilities shall be borne by Milestone; provided however that in the event any real estate related ad valorem or other taxes are assessed against the Facilities (as opposed to personal property or the income derived from the Facilities) and paid by Milestone (as opposed to paid by Carriers) the same shall be deducted from Monthly Gross Rental Revenues for purposes of the calculation of compensation payable to Owner hereunder. The following reimbursable expenses paid by Carriers to Milestone are one-time payments and shall be excluded from the calculation of Monthly Gross Rental Revenues (provided that such reimbursable expenses are not in lieu of or in substitution for any rent under the Carrier Sublease): (a) expenses incurred to extend power, telecommunication lines/equipment and any other utilities to the Facilities, (b) any extraordinary expenses incurred to clear, grade and construct the vehicular access from the nearest road to the Facilities and (c) any expenses incurred to purchase and install a stealth monopole (i.e. tree, clock tower or any other nonstandard monopole) above and beyond the expenses for a standard monopole. The expenses described in the preceding sentence shall include, but not be limited to, reasonable engineering, construction administration, application and legal fees and expenses, to the extent related to (a), (b) or (c) above, as demonstrated to Owner's reasonable satisfaction. The compensation hereunder to the County shall be accompanied by a statement, signed by an officer of Milestone, verifying the calculation of the compensation for the applicable month.

7.3. In addition to the foregoing, any sum not paid by Milestone when due shall (a) be subject to a late charge of five percent (5%) of the amount due and (b) bear interest from the date due at a rate of fifteen percent (15%) per annum.

7.4. County's Director of Planning and Zoning shall perform County's review function hereunder. The Director of Planning and Zoning shall have the authority to review and approve those submissions to be made by Milestone hereunder for the County, and to attend meetings and represent the Owner thereat.

7.5. No acceptance of any payment by the Owner shall be construed as an accord and satisfaction that the amount paid is in fact the correct amount, nor shall such



acceptance of any payment be construed as a release of any claim that the Owner may have for further or additional sums payable under the provisions of this Agreement.

8. Ownership of Site Improvements; Removal. Ownership of the Facilities located on an Approved Site shall remain with Milestone until the term of the Lease for the Approved Site expires or otherwise terminates. Within sixty (60) days after the end of such term, Owner shall notify Milestone of its election to (a) have Milestone remove any or all of the Facilities from the Approved Site or (b) have the Facilities remain on the Approved Site. If Owner fails to make such an election within the sixty (60) day period, Milestone shall inform Owner in writing, and Owner shall have an additional thirty (30) days to make the election. If Owner fails to make an election, it shall be deemed to have elected option (a). If Owner elects or is deemed to elect option (a), Milestone shall promptly (and in any event within one hundred twenty (120) days) remove the designated Facilities from the Approved Site, at Milestone's sole cost and expense; provided, however, that Milestone may leave in place any improvements which are two (2) feet or more below grade. Notwithstanding the foregoing, Milestone will remove underground cabling two (2) feet or more below grade unless Milestone obtains prior written approval from County. If Milestone fails to remove the Designated Facilities within a reasonable period as solely determined by the Owner, the Owner has the option to draw upon the securities provided by Milestone for this purpose and complete the Facilities removal under the Owner's direction. If the Owner elects option (b), upon termination or expiration of the applicable Lease, title to those Facilities designated by the Owner shall vest in the Owner, without the need for additional action by the Owner or Milestone, and Owner agrees to assume all responsibility and liability for the Facilities and any damages or claims related thereto arising from and after the date of title vesting in the Owner. Notwithstanding the foregoing, if so requested by any party, Milestone shall execute and deliver such further assurances thereof as requested by the other party.

9. Assignment; Financing.

9.1. This Agreement may be assigned in whole or in part, without the prior consent of Owner, to any corporation, partnership or other entity which (i) is controlled by, controlling or under common control with Milestone; (ii) shall merge or consolidate with or into Milestone; or (iii) in which Milestone Communications Management III, Inc. or a wholly owned affiliate of Milestone Communications Management III, Inc. is at all times the general partner. In connection with any such assignment, (1) the assignee shall agree to be bound by all terms and conditions of this Agreement as a condition to such assignment, and (2) thirty (30) days' prior notice of the assignment must be given to Owner, in writing.

9.2. Individual Leases and Carrier Subleases may be collaterally assigned by Milestone to a Lender as security for Milestone's financing, subject to the terms and conditions set forth therein.

10. Right of First Offer. During the Term (and any extension of the Term) and thereafter during the first five (5) years of the term of each Lease, Owner shall not grant a Lease on any Site (for which a Lease has been executed) to a person or entity competing with Milestone in the business of constructing towers or Monopoles to lease or license to third parties. If Owner is contacted by any telecommunications carrier or service provider with regard to a Site (for which a Lease has been executed), Owner shall direct such Carrier to discuss with Milestone

the possibility of locating on one of Milestone's Monopoles. If after not less than sixty (60) days negotiation, the Carrier informs Owner that it was unable to reach an agreement with Milestone, Owner shall be entitled to enter into an agreement with that Carrier permitting the Carrier to construct a Monopole, tower or similar structure and operate thereon, or otherwise operate on the Site, provided that such operation does not cause signal interference with any Carrier operating on a Monopole at that time. Such agreement shall be on terms and conditions satisfactory to Owner in its sole discretion. If Owner breaches this Section, Milestone shall have the right to pursue specific performance of this Section 10.

11. Condition of Property. Except as specifically provided in this Agreement, Milestone acknowledges and agrees that each Approved Site will be leased to Milestone in an "AS IS, WHERE IS," condition, without warranty of any kind, express or implied, including without limitation warranty of merchantability or fitness for a particular purpose, subject to all defects, latent or patent, known and unknown, apparent or hidden, including environmental conditions and matters, which currently exist or may in the future arise. Milestone hereby waives all rights, remedies and causes of action against Owner resulting from or relating to the condition of the Site. By executing a Lease, Milestone acknowledges that it has had the opportunity to inspect the Site, and is relying solely on that inspection, and not on any representation or warranty of Owner in leasing the Site, including the presence of any hazardous materials or other conditions that might render the site unfit for its intended use. Notwithstanding the foregoing, the Owner represents and warrants that, to the best of its knowledge and belief, but without any duty of investigation, there are no hazardous materials on, in or under each Approved Site. Owner covenants not to store, deposit, or dump on any Approved Site any hazardous materials in such a manner that would require remediation under applicable laws.

12. Subject to Owner Uses. Notwithstanding any other provision of this Agreement, Milestone's rights under this Agreement and all Lease(s) are subject and subordinate to Owner's use and operation of the Site. Accordingly, in exercising its rights under this Agreement, Milestone shall use commercially reasonable efforts to avoid any adverse construction, operation or other impacts on the Site and Owner's use and operation thereof, whether such impacts arise from activities conducted on or off of the Site. Prior to any entry upon any Site, Milestone shall provide reasonable advance notice to Owner of such entry and of any work or activities to be conducted on the Site. Notice may be given by Milestone to security personnel designated by Owner. Such entry, work and other activities shall occur only at such times, and shall occur in such manner, as may be required by Owner to avoid any adverse impacts. In case of emergencies threatening life or safety, Milestone may enter a Site without prior notice to Owner, provided Milestone notifies Owner of same as soon as practicable and takes all reasonable actions available at such time to minimize any adverse impact to Owner.

### 13. Insurance.

13.1. All property of Milestone, its employees, agents, business invitees, licensees, customers, clients, subtenants, guests or trespassers, in and on any Site shall be and remain at the sole risk of Milestone, its employees, agents or business invitees, and the Owner shall not be liable to them for any damage to, or loss of such personal property arising from any act of God or any persons, nor from any other reason, nor shall Owner be liable for the interruption or loss to Milestone's business arising from any of the above described acts or



causes. The Owner shall not be liable for any personal injury to Milestone, its employees, agents, business invitees, licensees, customers, clients, subtenants, guests or trespassers arising from the use, occupancy and condition of any Site.

13.2.

(a) Milestone shall maintain a policy of insurance and provide the Owner with proof of insurance evidencing the following coverage. The Owner may reasonably increase the minimum liability amounts at any time by notice to Milestone giving the new minimum liability amounts required.

(i) A comprehensive general public liability policy (or rider or any current policy) with a minimum liability of **Two Million Dollars (\$2,000,000)** per personal injury or death or per claim for any property damage and **Two Million Dollars (\$2,000,000)** for personal injury or death of two or more persons in any one occurrence. Such insurance shall name the County as an additional insured.

(i) Property damage insurance (or rider or any current policy) with a minimum liability of **Two Million Dollars (\$2,000,000)** for property damage to the property of any one person and **Two Million Dollars (\$2,000,000)** for property damage to the property of two or more persons in any one occurrence. Such insurance shall name the County as an additional insured.

(b) The policies required by this Agreement shall require thirty (30) calendar days' written notice of any cancellation to the Owner and Milestone and/or the Carrier Sublease holder. In the event of such cancellation notice, Milestone and/or the Carrier Sublease holder shall obtain, pay all premiums for and provide the Owner with proof of insurance evidencing Milestone's renewal or replacement of any insurance within ten (10) calendar days following receipt by the Owner and/or Milestone and/or the Carrier Sublease holder of any notice of cancellation. In no event shall Milestone allow any policy required by this Agreement or any Lease to expire or be cancelled without a replacement in effect.

(c) Milestone agrees, prior to the Commencement Date of this Agreement, to deliver to the Owner a policy evidencing compliance with this Section. Such policy shall be delivered to the addresses provided in Section 19 of this Agreement.

13.3. Upon execution of any Lease, Milestone will maintain a policy or policies of commercial general liability insurance insuring the applicable Owner and Milestone against liability arising out of the use, operation or maintenance of the applicable Site and the installation, repair, maintenance, operation, replacement and removal of the Facilities. Such insurance shall be as set forth in the Lease but in no case less than the amounts set out in this Section 13 of this Agreement.

13.4. Insurance carried by Milestone will be with companies reasonably acceptable to Owner. Milestone will deliver to Owner satisfactory evidence of the existence and amounts of the insurance. No policy shall be cancelable or subject to reduction of coverage or other modification except after thirty (30) days' prior written notice to Owner. Milestone shall,

at least sixty (60) days prior to the expiration of the policies, furnish Owner with renewals or "binders" for the policies.

13.5. Milestone will not knowingly do anything or permit anything to be done by Milestone's tenants, users, business invitees or agents that create any hazardous condition ("Increased Risk") which shall invalidate or cause the cancellation of the insurance policies carried by Owner or Milestone. If Milestone does or permits any Increased Risk which causes an increase in the cost of insurance policies, then Milestone shall reimburse Owner for additional premiums directly attributable to any act, omission or operation of Milestone causing the increase in the premiums. Payment of additional premiums will not excuse Milestone from terminating or removing the Increased Risk unless Owner agrees in writing. Absent agreement, Milestone shall promptly terminate or remove the Increased Risk.

13.6. Owner shall be named as an "additional insured" on Milestone's liability policies and it shall be stated on all required policies that this coverage "is primary to all other coverage Owner may possess."

13.7. All insurance required by this Section 13 shall be written by insurers, in such forms, and shall contain such terms, as Owner may reasonably require.

#### 14. Indemnity; Waiver.

14.1. Milestone shall defend, with counsel acceptable to the Owner, and indemnify and hold harmless, the Owner from all losses, costs, claims, causes of actions, demands and liabilities arising from (a) any action by any Carrier under or pursuant to a Carrier Sublease, or with which Milestone has had negotiations concerning any Site and (b) Milestone's entry onto any of the Sites in connection with its investigations there or in connection with construction and operation of the Facilities on any Site. Milestone shall also provide Owner with those specific Site indemnifications as are set forth in the Lease. Such indemnifications shall include the cost of investigation, all expenses of litigation, and the cost of appeals, including, without limitation, attorney's fees and court costs. In addition to the County, the County's Board of Supervisors, and all staff, officers, agents, servants, employees, and volunteers of Owner shall be beneficiaries of Milestone's indemnification. Milestone's indemnification shall not be applicable to the extent of any gross negligence or willful misconduct of the County.

14.2. Milestone hereby waives any right of recovery against Owner and its officers, directors, employees, volunteers and contractors for any claim, loss, liability, injury or damage that is covered by any policy of property insurance maintained by Milestone (or would have been insured against if Milestone had complied with its obligations under this Agreement) with respect to this Agreement or the Sites. Milestone will cause its insurers to issue appropriate waiver of subrogation rights endorsements to all policies of insurance carried in connection with each Site.

#### 15. Default; Remedies.

15.1. Each of the following shall be an Event of Default:



(a) Failure to cure, within ten (10) business days after written notice by the Owner to Milestone, any default in the payment when due of any amount required to be paid by Milestone under this Agreement or any Lease; or

(b) Failure to cure, within thirty (30) days after written notice by the Owner to Milestone, any default by Milestone in the performance or observance of, or compliance with, any covenant, agreement, term or condition contained in any Lease or this Agreement; or

(c) An "Event of Default" as defined in any Lease; or

(d) The liquidation, termination or dissolution of Milestone; or

(e) An Event of Bankruptcy;

(f) If any final judgment or judgments in an aggregate amount (including interest and costs) of more than \$500,000.00 is entered against Milestone, and any such judgment or judgments shall not have been paid or otherwise discharged within sixty (60) days after all applicable appeal periods have terminated; or

(g) The failure of Milestone or any Carrier to maintain the insurance required by this Agreement or any Lease.

15.2. Upon the occurrence of an Event of Default hereunder, Owner shall, in addition to any other remedy that may be available to it at law or in equity, have the following remedies:

(a) To terminate this Agreement with written notice to Milestone; or

(b) To seek specific performance of this Agreement.

Provided that Milestone fully complies with its post-default obligations under Section 15.3 and all applicable Leases, Owner shall in no event have any right to obtain a judgment against Milestone in the nature of consequential or punitive damages arising out of this Agreement.

15.3. Upon the termination of this Agreement, Milestone shall promptly and in no event later than thirty (30) days following the date of termination, deliver to Owner, or such other person or persons designated by Owner, at Milestone's sole cost and expense, copies of all books and records regarding the Sites desired by Owner, and all funds in the possession of Milestone belonging to Owner. To the extent the Event of Default is also a default allowing Owner to terminate any Lease, Milestone shall assign to Owner all Carrier Subleases and any other agreements related to such Lease as requested by Owner. Milestone shall be entitled to retain originals or copies of all such books and records for its files.

The termination of this Agreement shall not, of itself, cause the termination of any Lease which has been executed by Milestone and Owner.

16. [reserved]

## 17. Representations, Obligations, and Warranties.

17.1. Milestone is a corporation duly organized under the laws of the State of Delaware, has qualified to do business in the Commonwealth of Virginia and has all corporate power and authority necessary to perform its obligations hereunder.

17.2. Milestone is in the business of and has substantial expertise in locating, permitting, leasing and constructing Facilities. The Owner is relying upon that expertise in entering into this Agreement.

17.3. Milestone shall exercise commercially reasonable efforts to obtain entitlements, approvals, permits and Carrier Subleases for as many of the Sites as practicable in an effort to maximize revenue and benefit to the Owner and Milestone.

17.4. [reserved]

17.5. Milestone shall obtain and at all times during the term of this Agreement keep in good standing any and all licenses and other permits legally required in the conduct of Milestone's business and that of its principals, employees and agents and other parties from time to time authorized to act for Milestone.

17.6. Milestone shall, upon reasonable request, attend and participate in any meetings with Owner regarding this Agreement or any Site.

17.7. Milestone shall not knowingly violate any federal, state, municipal or other governmental law, ordinance, rule or regulation in performing its services under this Agreement and Milestone shall use reasonable diligence to comply with any and all such laws, ordinances, rules and regulations affecting the Sites.

17.8. If Milestone shall be apprised of any claim, demand, suit or other legal proceeding made or instituted or threatened against Owner on account of any matter connected with the Sites, Milestone shall promptly give Owner all information in its possession in respect thereof, and shall timely assist and cooperate with Owner in all reasonable respects in the defense of any such suit or other legal proceedings. For the avoidance of doubt, Milestone's duty to indemnify set forth in Section 14 shall govern and control over any ambiguous or inconsistent provision in this Agreement.

17.9. Milestone shall at all times comply with the terms of all Leases, and shall cause Carriers under Carrier Subleases to comply with the terms of such Carrier Subleases.

## 18. Monthly Reports; Access to Records.

18.1 On or before the tenth (10<sup>th</sup>) day of each calendar month (or such other date as the Director of Planning and Zoning may agree to in writing), Milestone shall provide County with a written report setting forth in reasonable detail (a) the Monthly Gross Rental Revenues for the previous month, on a Site-by-Site and Carrier Sublease-by-Carrier Sublease basis, (b) any new Carrier Subleases entered into by Milestone, (c) the status of Milestone's progress on all Sites which have received Preliminary or Final Approval, (d) any

Sites which Milestone intends to submit a Request for Approval within the next ninety (90) days, and (e) any issues which have arisen or which Milestone anticipates may arise which could materially affect Owner's activities on any Site.

18.2 Milestone shall keep full and correct records and books of account in accordance with generally accepted accounting principles, consistently applied, showing in detail all income and expenses relating to the Sites and this Agreement, and shall permit Owner or their representatives to examine such books and records upon its request and to make copies or extracts thereof.

18.3 In the event that any audit of Milestone's books and records reveals a discrepancy between the amounts due to Owner hereunder and the actual amount paid by Milestone of greater than three percent (3%), in addition to the late charges and penalties due hereunder, Milestone shall pay all costs of Owner's audit.

19. Notices. All notices, Advanced Payment, other payments not pursuant to a Site Lease, demands, and requests hereunder shall be in writing and shall be deemed to have been properly given three (3) days after the date when mailed by United States First Class, Registered or Certified Mail, postage prepaid, or upon receipt when delivered by reliable overnight courier or hand delivery, and addressed as follows:

If to County:

Physical Address:

County of Stafford  
1300 Courthouse Road  
Stafford, VA 22554  
Attn: County Administrator

U.S.P.S. Mailing Address:

County of Stafford  
P.O. Box 339  
Stafford, VA 22555  
Attn: County Administrator

with a copy to:

Physical Address:

County of Stafford  
1300 Courthouse Road  
Stafford, VA 22554  
Attn: County Attorney

U.S.P.S. Mailing Address:

County of Stafford  
P.O. Box 339  
Stafford, VA 22555  
Attn: County Attorney

And if to Milestone:

Milestone Communications  
12110 Sunset Hills Road, Suite 100  
Reston, Virginia 20190  
Attn: Leonard Forkas, Jr.

with a copy to:

Cooley LLP  
11951 Freedom Drive  
Reston, Virginia 20190  
Attn: John G. Lavoie, Esquire

or to such other addresses either party may designate from time to time by giving written notice as herein required.



20. Miscellaneous.

20.1. Nothing in this Agreement shall confer on Milestone any property right or right in and to any Site until the execution of a Lease.

20.2. In performing its duties under this Agreement, Milestone shall at all times be an independent contractor, and not an employee, agent, partner or joint venturer of Owner. Milestone shall have no right or authority, expressed or implied, to commit or otherwise obligate Owner in any manner.

20.3. Except as expressly provided in this Agreement, the rights and remedies herein provided shall be cumulative and not exclusive of any rights or remedies provided by law.

20.4. Waiver of any of the terms or provisions hereof may only be in writing and shall be operative only for the time and to the extent therein stated. No waiver of any default or breach of any of the terms or provisions hereof by either party hereto shall be implied from the failure by either party to take action on account of such default or breach. No waiver shall affect any default other than the default specified in the waiver. No waiver of any term or provision contained herein by either party shall be construed as a waiver of any subsequent breach of the same term or provision. The consent or approval by either party to, or of, any act by the other party requiring further consent or approval shall not be deemed to waive or render unnecessary their consent or approval to, or of, any subsequent similar acts.

20.5. Any provision of this Agreement may be amended if, but only if, such amendment is in writing and is signed by the County and Milestone. County approval of any amendment shall require an affirmative vote of the Stafford County Board of Supervisors.

20.6. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

20.7. This Agreement shall be deemed to be a contract made under seal and shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia, without reference to conflicts of laws principles.

20.8. This Agreement may be signed in any number of counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument. This Agreement shall become effective when each Owner shall have received counterparts hereof signed by all parties.

20.9. Any legal action or proceeding with respect to this Agreement or any document related hereto or thereto shall be brought in the courts of the Commonwealth of Virginia in Stafford County and in no other courts, and by execution and delivery of this Agreement, Milestone hereby accepts for itself and in respect of its property, general and unconditionally, the jurisdiction of the aforesaid courts. Milestone consents to the service of process in any such action or proceeding by the mailing of copies of such process to it by certified mail at the address indicated in Section 19. Nothing in this section shall affect Owner's

right to serve process in any other manner permitted by law or to bring proceeding against Milestone in any other court having jurisdiction.

20.10. This Agreement sets forth the entire agreement of the parties with respect to the subject matter hereof and thereof and supersedes all previous understandings, written or oral, in respect thereof.

20.11. All rights, remedies and powers provided in this Agreement may be exercised only to the extent that the exercise thereof does not violate any applicable provision of law, and all the provisions of this Agreement are intended to be subject to all applicable mandatory provisions of law which may be controlling and be limited to the extent necessary so that they will not render this Agreement invalid or unenforceable in whole or in part. If any provision hereof is or becomes invalid and unenforceable, then, to the fullest extent permitted by law, the other provisions hereof shall remain in full force and effect in such jurisdiction and shall be strictly construed in order to carry out the intentions of the parties hereto as nearly as may be possible.

20.12. The headings of the various sections of this Agreement are inserted only for convenience of reference and are not intended, nor shall they be construed, to modify, define, limit, or expand the intent of the parties as expressed in this Agreement. Any pronoun used herein shall be deemed to refer to any gender, and singular pronouns shall be deemed to include the plural and vice versa. The use in this Agreement of the word "including" when following any general statement, term or matter, shall not be construed to limit that statement, term or matter to the specific items or matters, whether or not non-limiting language (such as "without limitation", or "but not limited to" or words of similar import) is used with reference thereto, but rather shall be deemed to refer to all other items or matters that could reasonably fall within the broadest possible scope of that general statement, term or matter. This Agreement shall not be construed as if it had been prepared by one of the parties, but rather as if all parties had prepared the same with the assistance of counsel.

20.13. Neither Milestone nor Owner intends by any provision of this Agreement to confer any right, remedy or benefit upon any third party.

20.14. Time is strictly of the essence of each and every provision of this Agreement.

20.15. Each Owner and the person executing and delivering this Agreement on Owner's behalf each represents and warrants that such person is duly authorized to so act and has the power and authority to enter into this Agreement; and that all action required to authorize Owner and such person to enter into this Agreement has been duly taken, as evidenced by attached Resolution R15-27, approved by the Stafford County Board of Supervisors on January 20, 2015.

20.16 Milestone and the person executing and delivering this Agreement on Milestone's behalf each represents and warrants that such person is duly authorized to so act and has the power and authority to enter into this Agreement; and that all action required to authorize Milestone and such person to enter into this Agreement has been duly taken.

## 21. Definitions.

21.1. Zoning and Permitting Application. A request or application for site plan approval, zoning certificate and/or building permit filed with the Stafford County Department of Planning and Zoning and such other department(s) of the County having jurisdiction over the Site.

21.2. Approved Carrier. A telecommunications service provider licensed by the Federal Communication Commission ("FCC") and any other governmental agencies for which approval is needed to conduct such company's business.

21.3. Approved Site. A Site that has received Final Approval for Development.

21.4. Carrier Sublease. A sublease, license or similar occupancy agreement with an Approved Carrier for space on a Monopole or in an Equipment Facility.

21.5. Development. The construction of up to two (2) Monopoles and an Equipment Facility on a Site, and the subleasing of space on the Monopoles and within the Equipment Facility to Approved Carriers.

21.6. Equipment Facility. A building shelter, structure, or other facility, determined by Milestone on a Site by Site basis subject to the reasonable approval of Owner, in which ground-based equipment necessary for the use of the Monopole(s) shall be located.

21.7. Event of Bankruptcy. Shall mean the occurrence of any one or more of the following:

(a) If a court of competent jurisdiction shall enter a decree or order or relief in respect of Milestone in any involuntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or appointing a receiver, liquidator, assignee, custodian, trustee, sequestrator (or similar official) of Milestone or of any substantial part of its property, or ordering the winding up of its affairs or liquidation of its property, and such decree or order shall continue un-stayed and in effect for a period of thirty (30) days; or

(b) If Milestone shall commence a voluntary case under any applicable bankruptcy, insolvency or similar law now or hereafter in effect, shall consent to the entry or an order for relief in an involuntary case under any such law, or shall consent to the appointment of a receiver, liquidator, assignee, custodian, trustee, sequestrator (or other similar official) of Milestone or of any substantial part of its property, or shall make any general assignment for the benefit of creditors or shall take any action in furtherance of any of the foregoing.

21.8. Facilities. (a) Up to two (2) Monopoles, (b) an Equipment Facility, (c) Milestone's antennas and those of its tenants, lessees and licensees, equipment, ancillary and related structures, cables, accessories and improvements, and (d) all other equipment on any Site, other than equipment owned by Owner, located on the Site pursuant to the Lease or any Carrier Sublease, together with any additions approved by Owner.



21.9. Lease. A right to use and occupy County property in a manner not permitted to the general public, governed by Title 15.2, Code of Virginia (1950), as amended, or their successor provisions, and as provided in the Form Lease attached hereto as **Exhibit C**.

21.10. Final Approval. The final approval of a Lease granted by the Stafford County Board of Supervisors, as applicable. Final Approval may be given or withheld in Owner's sole and absolute discretion.

21.11. Governmental Approvals. All permits, approvals and permissions required by any governmental or quasi-governmental agency for the construction, use, leasing and operation of the Facilities.

21.12. Monthly Gross Rental Revenues. All monthly rental income or revenue derived from the Approved Carriers on any Monopole owned by Milestone on any Site. As of the date of this Agreement, the monthly base rent charged to each Approved Carrier by Milestone is \$2,500 and in no event will Milestone's payment to the Owner under this provision be less than one thousand dollars (\$1000.00) per Site, i.e., forty percent (40%) of two thousand five hundred dollars (\$2,500). Monthly Gross Rental Revenues shall exclude any real estate-related ad valorem taxes (which term specifically excludes personal property taxes and taxes on income derived from the Facilities) payable for such period (or the pro rata share thereof applicable to such period) by Milestone and paid by Milestone and not Approved Carriers on the Sites or the Facilities. The following reimbursable expenses paid by Approved Carriers to Milestone are one-time payments and shall be excluded from the calculation of Monthly Gross Rental Revenues (provided that such reimbursable expenses are not in lieu of or in substitution for any rent under the Carrier Sublease): (a) expenses incurred to extend power, telecommunication lines/equipment and any other utilities to the Facilities, (b) any extraordinary expenses incurred to clear, grade and construct the vehicular access from the nearest road to the Facilities and (c) any expenses incurred to purchase and install a stealth monopole (i.e. tree, clock tower or any other nonstandard monopole) above and beyond the expenses for a standard monopole. The reasonable expenses described in the preceding sentence shall include, but not be limited to, engineering, construction administration, application and legal fees and expenses to the extent related to (a), (b) or (c) above, which shall be substantiated to Owner's reasonable satisfaction.

21.13. Lender. A bona fide reputable banking or financial institution with net assets of at least \$100,000,000. There shall not be more than one Lender with respect to any Site.

21.14. Milestone. The Milestone named in the initial paragraph hereof, together with its permitted successors and assigns, and, following the termination of this Agreement, the lessee under any Lease, with respect to such Site.

21.15. Monopole. A monopole or flagpole tower not exceeding 150 feet in height. Each Monopole shall be designed to accommodate no less than 3 and no more than 8 telecommunications providers. The height of a Monopole may exceed the height set forth herein with the prior written approval of Owner in conjunction with approval of all applicable Zoning

and Permitting Applications necessary for the increased height, which may be given or withheld in its sole and absolute discretion.

21.16. Preliminary Approval. The conceptual approval by the Director of Planning and Zoning of Milestone's conceptual development plan for a Site, following Owner's receipt of a Request for Approval. Preliminary Approval may be given or withheld in Owner's sole and absolute discretion.

21.17. Request for Approval. A written request by Milestone that a Site be considered for Development, in accordance with the process set forth in Section 5.2 hereof.

21.18. Director of Planning and Zoning. County's then appointed Director of Planning and Zoning, who is the designated representative for purposes of administering the functions on behalf of the County hereunder. The County's designated representative may be changed from time to time by County, at County's sole and absolute discretion, upon notification thereof to Milestone.

21.19. Site. Each parcel of real property within the limits of Stafford County, Virginia which is solely owned by the County and identified as acceptable for consideration as a site for a telecommunication facility; provided, however, that any such Site shall cease to be a Site available for further Development if it is sold or conveyed by Owner.

21.20. Site Assessment. A report on the viability of a Site for telecommunications purposes.

21.21. Site Plan. A plan showing in reasonable detail the proposed Development on any Site, including, without limitation the location of the Facilities, proposed ingress-egress routes and all requested easements.

21.22. Securities Policy. The County's policy and procedural requirements, as the same may be modified or changed from time to time, for security posted with the County to assure completion of an approved project, such as construction of a Facility, with the ability to utilize the funds provided as security in the event of default or failure to finish the work.

21.23. Third Party. A party other than Owner or Milestone.

[Remainder of page intentionally left blank.]

**IN WITNESS WHEREOF**, the parties hereto execute this Telecommunications Marketing Master Agreement in two parts on the dates indicated.

**COUNTY:**  
STAFFORD COUNTY, VIRGINIA

By: 

Name: Anthony J. Romanello

Title: Stafford County Administrator

Date: 3.2.15

Approved as to Form



Stafford County Attorney's Office

Print Name: **Rysheda M. McClendon**

**Deputy County Attorney**

**MANAGER:**  
MILESTONE COMMUNICATIONS  
MANAGEMENT III, INC., a Delaware corporation

By: 

Name: Leonard Forkas, Jr.

Its: President

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



## **EXHIBIT A**

List of Properties Approved for Marketing

[attached]

41 100 100 100

# EXHIBIT A - PROPERTIES APPROVED FOR MARKETING

302	75	James Ashby Lane	PRCF	Duff McDuff Green Park	5835A	58.6487	A1- AG MIN 3AC
309	638	Kings Hwy	PRCF	Little Falls Proposed Park	58C26	125.2100	A1- AG MIN 3AC
<b>MAPKEY1</b>	<b>STNO</b>	<b>STREET NAME</b>	<b>DEPT</b>	<b>SITENAME</b>	<b>PARCEL ID</b>	<b>ACREAGE</b>	<b>ZONING</b>
23		Doc Stone Road	Utilities	Smith Lake Reservoir	215B	8.7342	A1- AG MIN 3AC
		Doc Stone Road	Utilities	Smith Lake Water Tank	218A	74.7500	
	77	Staffordboro Blvd	Utilities	Moncure Water Tank	2165J	0.5140	
26	370	Doc Stone Road	PRCF	Smith Lake Park	218A	74.7500	A1- AG MIN 3AC
38	25	Rectory Lane (really Chop	PRCF	Patawomeck Park	2218	179.2438	A1- AG MIN 3AC
<b>MAPKEY1</b>	<b>STNO</b>	<b>STREET NAME</b>	<b>DEPT</b>	<b>SITENAME</b>	<b>PARCEL ID</b>	<b>ACREAGE</b>	<b>ZONING</b>
4	21	Willomere Pond Road	PRCF	Willowmere Park	1758F	55.5689	A1- AG MIN 3AC
41		No road frontage	PRCF	Curtis Park	2624A	11.7500	A1- AG MIN 3AC
42		No road frontage	PRCF	Curtis Park	2624B	86.1910	A1- AG MIN 3AC
43	58	Jessie Curtis Lane	PRCF	Curtis Park	2627	183.5170	A1- AG MIN 3AC
92	399T	Poplar Road	PRCF	Glendie Tower	3595	33.0000	M2- HEAVY INDUST
	5	Enon Road	Utilities	Abel Lake Ground Storage Tank	45127B	2.7020	
93		Hulls Chapel Road	Utilities	Abel Lake Reservoir and WTF	3711	6.1600	A1- AG MIN 3AC
93		Hulls Chapel Road	Utilities	Abel Lake Reservoir and WTF	3711	6.1600	A1- AG MIN 3AC
101		Wyche Road	Utilities	Future Utilities Complex site	3886A	37.5992	B3- OFFICE
103	1739	Jefferson Davis Highway	PRCF	Rower Complex	3894	8.1600	A1- AG MIN 3AC
121		No road frontage Old Banks	Utilities	Rocky Pen Reservoir	4326B	7.8200	A1- AG MIN 3AC
122		No road frontage Old Banks	Utilities	Rocky Pen Reservoir	4327	18.5270	A1- AG MIN 3AC
122		No road frontage Old Banks	Utilities	Rocky Pen Reservoir	4327	18.5270	A1- AG MIN 3AC
123		No road frontage Old Banks	Utilities	Rocky Pen Reservoir	4327A	8.7700	A1- AG MIN 3AC
124		No road frontage Old Banks	Utilities	Rocky Pen Reservoir	4328	18.6022	A1- AG MIN 3AC
187		No road frontage	Utilities	Rocky Pen Reservoir	437625	10.8041	A1- AG MIN 3AC
188	56	Brookview Lane	Utilities	Rocky Pen Reservoir	437626	5.0111	A1- AG MIN 3AC
231	230	Stafford Lakes Parkway	PRCF	Future Fire Station	4449C	5.0000	M1- LIGHT INDUST
235		No road frontage	Utilities	Rocky Pen Reservoir	448	8.3333	A1- AG MIN 3AC
261	750	Truslow Road	PRCF	Musselman Park	45127G	28.7612	A1- AG MIN 3AC
262	750	Truslow Road	PRCF	Musselman Park	45127K	12.0583	A1- AG MIN 3AC
274	440	Greenbank Road	Utilities	Rocky Pen Run Reservoir	511	100.0000	A1- AG MIN 3AC
275	500	Greenbank Road	Utilities	Rocky Pen Run Reservoir	512	59.3900	A1- AG MIN 3AC
<b>MAPKEY1</b>	<b>STNO</b>	<b>STREET NAME</b>	<b>DEPT</b>	<b>SITENAME</b>	<b>PARCEL ID</b>	<b>ACREAGE</b>	<b>ZONING</b>
		Walpole Street	Utilities	Amyclae Water Tank	28116E	0.5000	
		Mountain View Rd	Utilities	Vista Woods	1864A	3.2605	

# EXHIBIT A - PROPERTIES APPROVED FOR MARKETING

MAPKEY1	STNO	STREET NAME	DEPT	SITENAME	PARCEL ID	ACREAGE	ZONING
56	75	Coal Landing Road	Utilities	Aquia Wastewater Treatment Plant	303B	37.7396	M1- LIGHT INDUST
57		Coal Landing Road	Utilities	Aquia WWTF to Rt. 1 - includes Au	303E	17.3650	B2- URBAN COMM
58		No road frontage	PRCF	Government Center	3029B	20.5360	B2- URBAN COMM
59	1300	Courthouse Road	PRCF	Government Center	3029C	20.5360	B2- URBAN COMM
60	2147	Jefferson Davis Highway	PRCF	Government Center/Judicial	3029D	20.5360	B2- URBAN COMM
61	1225	Courthouse Road	PRCF	Public Safety Building	3029G	11.6157	B2- URBAN COMM
62	1300	Courthouse Road	PRCF	Government Center	3033A	20.5360	B2- URBAN COMM
105		No road frontage	Rboard	Regional Landfill	3922	129.4660	A1- AG MIN 3AC
106	1800	Jefferson Davis Highway	Rboard	Accokeek	3917B	44.8700	A1- AG MIN 3AC
106	1800	Jefferson Davis Highway	Rboard	Accokeek	3917B	44.8700	A1- AG MIN 3AC
108		No road frontage	Rboard	Future site of Civil War Park	3923	87.0400	A1- AG MIN 3AC
109		No road frontage	Rboard	Regional Landfill	3924	11.2700	A1- AG MIN 3AC
110		Eskimo Hill Road	Rboard	Green Ridge TR	3926	305.8000	A1- AG MIN 3AC
111	489	Eskimo Hill Road	PRCF	Animal Shelter	3926A	28.0648	M2- HEAVY INDUST
112		Eskimo Hill Road	Rboard	Regional Landfill	3926B	71.3390	A1- AG MIN 3AC
113	481	Eskimo Hill Road	Rboard	Regional Landfill	3926C	75.0000	A1- AG MIN 3AC
114		Eskimo Hill Road	Rboard	Regional Landfill	3926D	32.0000	M2- HEAVY INDUST
116	2846	Brooke Road	PRCF	Aquia Landing	416	32.2120	A1- AG MIN 3AC
MAPKEY1	STNO	STREET NAME	DEPT	SITENAME	PARCEL ID	ACREAGE	ZONING
256	806	Lyons Boulevard/Plantation	PRCF	England Run Library	4514F	6.1805	B2- URBAN COMM
		Stafford Indians Lane	Utilities	Cranes Corner Water Tank	45227C	0.2000	
		Grafton Elementary School	Utilities	Grafton Water Tank	54132B	0.5165	
263	75	Stafford Indians Lane	PRCF	Chichester Park	45220K	38.7254	A1- AG MIN 3AC
MAPKEY1	STNO	STREET NAME	DEPT	SITENAME	PARCEL ID	ACREAGE	ZONING
49	900	Eustace Road	PRCF	Autumn Ridge Park	2949L	12.8800	R1- SUBURB RES
		Shields Road	Utilities	Embrey Mill Water Tank	29GBB	0.4699	
		Shelton Shop Road	Utilities	Shelton Shop Water Tank	1974A	1.4449	
52		Mine Road	PRCF	Austin Ridge Park	29C1D	22.7327	PD1- PLANNED DEVELOP
54		Future Mine Road Extended	PRCF	Future park site	29GK	10.7712	PD2 - Planned Develop
MAPKEY1	STNO	STREET NAME	DEPT	SITENAME	PARCEL ID	ACREAGE	ZONING
276	401	River Road	PRCF	Historic Port of Falmouth (former	53113	12.6924	R1- SUBURB RES
278	120	River Road	PRCF	John Lee Pratt Memorial Park	53116	65.8445	R1- SUBURB RES
	39	RV Parkway	Utilities	Bandy Water Tank	4551C	0.2296	
		Ferry Road	Utilities	Ferry Road Water Tank	5560A	0.3500	
279	80	Butler Road	PRCF	St. Clair Brooks Park,. Grizzle C	53119	99.9199	R1- SUBURB RES
302	75	James Ashby Lane	PRCF	Duff McDuff Green Park	5835A	58.6487	A1- AG MIN 3AC



**EXHIBIT B**

Form Carrier Rider

[attached]

**EXHIBIT B**  
**Carrier Sublease Rider**

**LEASE RIDER**

THIS LEASE RIDER ("Rider") is executed simultaneously with and constitutes a substantive part of that certain Lease Agreement by and between MILESTONE COMMUNICATIONS MANAGEMENT III, INC., a Delaware corporation having an office at 1890 Preston White Drive, Suite 103, Reston, VA 20191 ("Lessor") and [ ] ("Lessee").

**RECITALS**

R-1 Lessor and Lessee are simultaneously entering into a Lease Agreement (including this Rider, the "Lease") whereby Lessee shall lease from Lessor certain rights to place, on Lessor's Monopole, Lessee's telecommunications equipment, and to locate on the Site on which Lessor's Monopole is constructed (or is to be constructed after the date hereof) Lessee's ground based equipment incident thereto, all in accordance with the terms of the Lease.

R-2 Lessor has disclosed to Lessee and Lessee acknowledges that the site on which the Monopole and equipment facility is located, or is to be located (the "Site"), is not owned in fee simple by Lessor, but rather is owned by Stafford County, Virginia ("Stafford County"), and is under lease to Lessor pursuant to a Real Property Deed of Lease Agreement dated as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_ (the "Site Lease") or will hereafter be under lease to Lessor under the form of the site lease previously agreed upon between Lessor and Stafford County. Capitalized terms used herein and not defined shall have the meaning give to such terms in the Site Lease.

R-3 Stafford County has required, as a condition precedent to Lessor and Lessee entering in to the Lease, and as a condition to the effectiveness thereof, that Lessor and Lessee simultaneously enter into this Rider as a substantive and material part of the Lease.

NOW THEREFORE, in consideration of the foregoing, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound hereby, Lessor and Lessee agree as follows:

1. The foregoing Recitals are true and correct and are incorporated herein as a substantive part of this Rider and of the Lease.
2. All capitalized terms used herein and not otherwise defined herein shall have the meanings given them in the Site Lease.
3. Lessee has been provided, and hereby acknowledges that it has received, a copy of the Site Lease (or, in the event that the Site Lease for the Site is not, as of the date hereof, executed, Lessee has received and reviewed the form site lease previously agreed upon between Lessor and Stafford County). Lessee has had an opportunity to review and understand the Site Lease, and acknowledges the absolute primacy of the terms and conditions of the Site Lease over the terms and conditions of the Lease. Notwithstanding any other provision of the Lease, Lessee

acknowledges the absolute primacy of Stafford County's use of the Site as a \_\_\_\_\_, and that Lessee's rights under the Lease are subject and subordinate to Stafford County's use and operation of the Site. Prior to any entry upon the Leased Premises, Lessee shall provide not less than two (2) business days' prior notice to Lessor and Stafford County, which notice shall specify the type of work or other activities that are to be performed or undertaken on the Leased Premises or which may impact the Site. In exercising their rights under the Lease and this Rider, Lessee will avoid any adverse construction, operational or other such impact on the Site or Stafford County's use and operation thereof, whether such impacts arise from work or activities being performed or undertaken on or off of the Site (utility outages arising from off-site utility relocation, for example), and, notwithstanding any other provision of the Lease, Lessee will cause such entry, work or activities to be performed or undertaken at such times, and to occur in such manner, as Stafford County may require, in its sole discretion, to avoid any adverse impacts to the Site or Stafford County's use thereof. In case of emergencies threatening life or safety or Lessee's equipment, Lessee may enter the Leased Premises without prior notice to Lessor or Stafford County, provided Lessee notifies Lessor and Stafford County of such entry, and the nature of the work performed or undertaken as a result of such emergency, as soon as practicable after Lessee's entry. Notwithstanding the foregoing, Lessee shall have the right to make customary and routine inspections of the Leased Premises upon two (2) business days' prior notice, provided that (i) such entry is only for the purpose of inspecting the Leased Premises, conducting routine maintenance and repairs (provided such maintenance and/or repairs do not require alteration of the structural elements to the Base Station or the Monopole or the addition or substitution of any electrical cabinet or equipment shelter) and (ii) the worker or workers who make such inspections check-in with the appropriate personnel at the Site prior to accessing the Leased Premises and, in all cases, follow all procedures required by Site personnel.

4. Lessee shall defend, with counsel acceptable to Stafford County, and indemnify and hold harmless, Stafford County from all losses, costs, claims, causes of actions, demands and liabilities arising from (a) any breach by Lessee of any covenant of the Lease; (b) any misrepresentation by Lessee contained in the Lease and/or any breach of any warranty contained in the Lease; and (c) any occurrence, of any kind or nature, arising from (i) Lessee's construction, installation, maintenance, repair, operation, replacement or removal of Lessee's equipment in the Base Station, on the Leased Premises or on the Site, or any other activities of Lessee in the Base Station, on the Leased Premises or on the Site of any kind or nature, (ii) the condition of Lessee's equipment, the Base Station or the Leased Premises and (iii) any personal injury, death, or accident in any way related to Lessee's use, operation or maintenance of the Base Station, the Site, the Leased Premises and/or any of Lessee's equipment or antennas contained therein or on the Monopole, of any kind or nature, whether foreseeable or not. Such indemnification shall include the cost of investigation, all expenses of litigation, and the cost of appeals, including, without limitation, attorneys' fees and court costs, and shall be applicable to Lessee's activities on the Site whether prior to the Commencement Date or after the termination of the Lease. In addition to Stafford County; Stafford County's Board of Supervisors and Stafford County's staff, officers, agents, servants, employees, volunteers, business invitees, customers, family members and guests shall be beneficiaries of Lessee's indemnification.

5. The term of the Lease shall not extend beyond the term of the Site Lease and any termination of the Site Lease shall automatically effectuate a termination of the Lease, without any further action from Stafford County.



6. During the term of the Lease, Lessee shall maintain a policy of commercial general liability insurance insuring Lessor and Stafford County against liability arising out of the use, operation or maintenance of the Leased Premises. The insurance will be maintained for personal injury and property damage liability adequate to protect Lessor and Stafford County against liability for injury or death of any person in connection with the use, operation and condition of the Leased Premises, and to insure the performance of Lessee's indemnity set forth in Section 4 of this Rider, in an amount not less than \$2,000,000 per occurrence/aggregate. During the term of the Lease, Lessee shall also maintain workers' compensation and employers' liability insurance, and such other insurance relating to the installation, repair, maintenance, operation, replacement and removal of Lessee's equipment and the use of the Leased Premises. The limits of the insurance will not limit the liability of the Lessee. All insurance required to be carried by Lessee shall name, in addition to Lessor, Stafford County as an additional insured. Certificates of such insurance shall be delivered to Lessor and Stafford County, and it shall be stated on the insurance certificate that this coverage "is primary to all commercial liability coverage the Lessor or Stafford County may possess."

7. Lessee shall not cause or permit any hazardous or toxic wastes, substances or materials (collectively, "Hazardous Materials") to be used, generated, stored or disposed of on, under or about, or transported to or from the Leased Premises (collectively, "Hazardous Materials Activities") without first receiving written consent from Lessor, which Lessee acknowledges is contingent upon Lessee's receipt of written consent from Stafford County, which may be withheld by Stafford County for any reason whatsoever and which may be revoked by Stafford County at any time, and then only in compliance (which shall be at Lessee's sole cost and expense) with all applicable legal requirements and using all necessary and appropriate precautions. Lessor and Stafford County shall have the right at all reasonable times, and from time to time, to conduct environmental audits of the Leased Premises and Lessee shall cooperate in the conduct of those audits. The term "Hazardous Materials" shall have the same meaning ascribed to it in the Site Lease.

8. Prior to commencing any activities on the Site, Lessee shall provide Lessor, and Lessor shall provide Stafford County, with evidence satisfactory to Lessor and Stafford County that Lessee and its contractors and agents who will be working on the Site are covered by insurance as required by Section 6 hereof. All of Lessee's work and facilities shall be installed free of mechanics', materialmen's and other liens and claims of any person. Lessee shall bond off or discharge any such liens or other claims within thirty (30) days after notice from Lessor or Stafford County. In the event that Lessee damages any grassed area as a result of its activities on the Site, Lessee shall re-sod the disturbed areas, and as soon as reasonably practicable, return them to the condition existing immediately prior to the activity.

9. Lessee shall operate the Base Station in strict compliance with all applicable statutes, codes, rules, regulations, standards and requirements of all federal, state and local governmental boards, authorities and agencies including, without limitation, OSHA (including, without limitation, OSHA regulations pertaining to RF radiation), the FCC and the FAA, and with such reasonable rules and regulations governing the use of the Site as Stafford County may adopt from time to time. In the event that the operation of the Base Station violates any of such statutes, codes, rules, regulations, standards, ordinance, or requirements, Lessee agrees to suspend operation of the Base Station within twenty-four (24) hours after notice of such violation

and not to resume operation of the Base Station until such operation is in strict compliance with all of the requirements of the Lease.

10. Lessor and Stafford County may enter the Leased Premises or any part thereof at any reasonable time and in a manner so as not to interfere more than reasonably necessary with Lessee's use of the Base Station, for the purpose of inspecting the Leased Premises.

11. Lessee acknowledges that Stafford County has the right, under the terms and conditions of the Site Lease, to cause Lessor to enforce all of the provisions, rights and remedies hereunder, and that Stafford County shall not, as a result be deemed to incur any liability therefor.

12. Any notice required to be given to Lessor under the terms and conditions of this Lease shall simultaneously be delivered to Stafford County at the address set forth in the Site Lease, or such other notice as Stafford County shall specify from time to time.

13. Under no circumstances shall Stafford County have any liability whatsoever to Lessee pursuant to the Lease, and Lessee hereby specifically and fully disclaims any and all right to pursue any claim or cause of action arising from this transaction against Stafford County, whether at law, in equity or otherwise.

14. Notwithstanding anything contained herein to the contrary, Lessee represents and warrants that it has read, understands and will comply with Section 12 of the Site Lease, and each such other provision thereof, relating to interference.

15. Lessee agrees (i) to repair any damage to the Site or the Leased Premises caused by Lessee, its employees, agents, or contractors, including, but not limited to, any damage to utility lines, drains, waterways, pipes, grass fields or paved surfaces, occurring as a result of Lessee's operations at the Leased Premises or on the Site, including but not limited to construction, installation, maintenance, repair, operation, replacement or removal of Lessee's equipment on the Leased Premises or the Site, and Lessee shall restore the Leased Premises and/or the Site to the condition existing immediately prior to such damage; (ii) that any repair work undertaken on the Site or the Leased Premises shall be completed as soon as possible after notice thereof; (iii) that if Lessee's activities on the Site or the Leased Premises result in the need to restore or replace any grass areas, such areas shall be sodded, rather than seeded; and (iv) that it shall be responsible for the full and timely payment of any costs incurred in connection with the repairs described in clauses (i) through (iii) of this sentence. Upon expiration of all applicable notice and cure provisions provided in the Lease, Lessor and Stafford County shall have the right, but not the obligation, to make, or cause to be made, any repairs to the Site or the Leased Premises which Lessee has failed to make pursuant to the terms of the Lease, and Lessee shall, immediately upon demand therefor, reimburse Lessor or Stafford County for the costs incurred in connection with such repairs.

16. This Rider shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia, without application of conflicts of law principles. Any suits or actions brought pursuant to this Rider or Lease, shall only be brought in a court of competent jurisdiction in Stafford County, Virginia.

17. This Rider may be executed in counterparts, all of which when taken together shall constitute one original. In the event of any conflict between this Rider and the Lease, the terms of this Rider shall control.

**LESSOR:**

MILESTONE COMMUNICATIONS  
MANAGEMENT III, INC., a Delaware corporation

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

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

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

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

**LESSEE:**

NAME OF LESSEE COMPANY

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

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

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

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

## **EXHIBIT C**

### **Form Lease**

#### **REAL PROPERTY DEED OF LEASE AGREEMENT**

**SITE:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

THIS REAL PROPERTY DEED OF LEASE AGREEMENT (this "Lease"), made and entered into this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between Stafford County, Virginia, a political subdivision of the Commonwealth of Virginia, with an address of 1300 Courthouse Rd., Stafford, Virginia 22554, herein referred to as "Lessor," and MILESTONE COMMUNICATIONS MANAGEMENT III, INC., a Delaware corporation, with an address of 12110 Sunset Hills Road, Suite 100, Reston, VA 20190, herein referred to as "Lessee," recites and provides as follows:

#### **RECITALS**

1. Lessor is the owner of the parcel of improved real estate located in Stafford County, Virginia known as Stafford County Tax Map Parcel No. \_\_\_\_\_ and described in Exhibit A, attached hereto and incorporated herein by reference (the "Site"). The Site is presently operated by Lessor as a \_\_\_\_\_.

2. Lessee intends to construct a free-standing monopole satisfying the requirements of this Lease and all applicable laws (the "Monopole"), and to lease from Lessor land on which Lessee intends to construct an equipment compound of approximately \_\_\_\_ thousand \_\_\_\_\_ hundred and \_\_\_\_\_ (\_\_\_\_\_) square feet for the installation of equipment operated by Lessee or the Carriers (as defined below) on the Site (the "Compound"). Lessee intends to lease space on the Monopole and in the Compound to telecommunications or other wireless communications providers (the "Carriers" and each individually, a "Carrier") in compliance with the terms hereof. Such Carriers may install antennas on the Monopole and construct equipment platforms (each, an "Equipment Platform") to support their communications equipment within the Compound (the Monopole, the Compound, each Equipment Platform and all antennas, dishes, lines, cables and other equipment or items shall collectively be referred to herein as the "Base Station").

3. The parties now desire to set forth the terms pursuant to which Lessor shall lease a portion of the Site to Lessee for the purposes just described.



## **DEED OF LEASE**

NOW, THEREFORE, for and in consideration of the mutual agreements set forth below and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows.

### **1. LEASE OF LEASED PREMISES:**

a. Subject to and in accordance with the provisions of this Lease, Lessor hereby leases to Lessee and Lessee hereby leases from Lessor that space within the Site comprising \_\_\_\_ thousand \_\_\_\_ hundred and \_\_\_\_ (\_\_\_\_) square foot parcel of ground and designated on Exhibit A-1 as the "Smartpole Lease Area" (the "Lease Area") all as shown and described in Exhibit A-1 attached hereto, which, together with the Appurtenant Easements (defined in Section 2), shall be referred to collectively as the "Leased Premises."

b. Lessee acknowledges that with the exception of the air space over the land actually occupied by the Monopole, the Leased Premises shall include the air rights over the land only to a height which is the lesser of ten (10) feet above the ground elevation or the bottom of the bleachers or other structure that is situated above the Leased Premises. Lessor and Lessee acknowledge that the exact location of the Leased Premises is, as of the date of the execution hereof, the parties current intent with respect thereto, however the final location may be subject to modification (in both parties' sole and absolute discretion) based upon the Lessee's governmental approval process. Lessee and Lessor therefore each covenant and agree, subject to each party's approval as required in the immediately preceding sentence, to execute an addendum hereto at such time as the final location of the Leased Premises is determined in the event that such location differs from that as set forth on Exhibit A-1. Lessee has inspected the Leased Premises and accepts the same "AS IS" and in its present condition without any representation or warranty of Lessor except any that may be expressly set forth in this Lease. If the Compound or any other component of the Base Station is to be constructed under the bleachers in the stadium at the Site, Lessor's use and operation of the stadium shall continue and Lessee's rights under this Lease are subject to Lessor's continuing use and operation of the stadium. If Lessee is replacing an existing light standard, Lessee shall construct the Monopole such that the Monopole can support the equipment currently on the Lessor's lighting fixture (the Monopole shall replace Lessor's existing light standard), as well as the equipment to be added to the Monopole by Lessee and/or the Carriers.

c. Notwithstanding the foregoing, Lessee acknowledges and agrees that it is solely responsible for performing all necessary due diligence regarding the Site and the Leased Premises, including confirming by way of a title report and examination that Lessor holds legal title to the Site and that no matters affecting title to the Site prohibit, impair or require third party consent to the leasing of the Leased Premises to Lessee, the construction of the improvements contemplated hereunder or any other matter relating or pertaining to this Lease (the "Due Diligence Matters"). In no event shall Lessor have any responsibility for or liability with respect to the Due Diligence Matters, all of which are hereby waived by Lessee. Lessee agrees to strictly comply, at its sole cost and expense, with all recorded documents, instruments and agreements affecting title to the Site, and indemnify and hold harmless Lessor against any cost,

expense, claim, demand, obligation, cause of action or liability with respect to any violation thereof by Lessee or its agents or sublessees.

d. Until the termination or expiration hereof, title to the Monopole and the portions of the Base Station owned by Lessee shall remain with Lessee. After the termination or expiration of this Lease, title to the Monopole and/or those portions of the Base Station owned by Lessee that Lessor has required to remain on the Leased Premises shall, at the option of Lessor, vest in Lessor, and Lessee agrees to promptly execute such further assurances thereof as shall be requested by Lessor.

e. It is the intention of Lessor and Lessee that this Lease constitutes an exclusive relationship as it pertains to the construction of telecommunications monopoles and the leasing of space thereon to telecommunications service providers on the Site. Lessor agrees that it shall not, during the term, lease, license or grant any interest in any portion of the Site to any telecommunications or other wireless service provider, or to any party constructing monopoles for lease to telecommunications or wireless service providers, other than Lessee, except as may be permitted in accordance with Section 1(f) below. Notwithstanding the foregoing, Lessor shall be permitted to license, without the requirement for payment of any compensation to Lessee, one (1) platform on the Monopole to a governmental entity (which license shall include a ground location for Lessor to construct a facility to install its ground based facilities appurtenant thereto), provided that the transmissions do not interfere with those of any Carrier on the Site (or under a letter of intent) at the time such license is granted, and further, Lessor shall be entitled to license space within the Site to any governmental agency for construction of a monopole for its own use (but not for commercial resale), in accordance with Section 1(f) below.

f. Subject to Section 1(e) hereof, during the term of this Lease and any extension of the term, Lessor shall not lease any portion of this Site to a person or entity competing with Lessee in the business of constructing towers or Monopoles to lease or license to third parties. If Lessor is contacted by any telecommunications carrier or service provider with regard to the Leased Premises, Lessor shall direct such carrier to discuss with Lessee the possibility of locating or collocating on one of Lessee's Monopoles on the Leased Premises. If after not less than sixty (60) days negotiation, the carrier informs Lessor that it was unable to reach an agreement with Lessee, Lessor shall be entitled to enter into an agreement with that carrier permitting the carrier to construct a Monopole, tower or similar structure and operate thereon, or otherwise operate on the Site, provided that such operation does not cause signal interference with any Carrier operating on a Monopole at that time. Such agreement shall be on terms and conditions satisfactory to Lessor in its sole discretion. If Lessor breaches this Section, Lessee shall have the right to pursue any and all remedies available to Lessee under the Master Agreement, this Site Lease or applicable law including, without limitation, injunctive relief.

## **2. EASEMENTS SERVING LEASED PREMISES:**

a. Lessor hereby grants to Lessee the easements described below in this Section 2 (such easements collectively, the "Appurtenant Easements") as easements appurtenant to the leasehold granted to Lessee in this Lease. With the exception of Lessee's grant of use of the Appurtenant Easements to Carriers, the Appurtenant Easements may not be assigned or

otherwise transferred in whole or in part separately from the leasehold granted under this Lease, and any such attempted assignment or transfer shall be void.

i. Lessor grants Lessee a nonexclusive, temporary construction easement of varying dimensions over, on, and through adjoining and adjacent portions of the Site, as shown on Exhibit B (Temporary Construction Easement) and identified as the "Smartpole Temporary Construction Easement," for construction and installation of the Base Station upon the Leased Premises. Such temporary construction easement shall terminate upon the completion of Lessee's construction described in Section 7 provided that such term shall be extended for such period of time as Lessee may be prevented from constructing the Base Station by reason of force majeure, and may be extended for such further period as Lessor in its discretion may agree.

ii. Lessee shall be permitted the non-exclusive use of a right-of-way ten feet (10') in width, the description of which is shown on Exhibit B (Utility Easement) hereof and described as the "Smartpole 10'-0" Wide Power and Telco Easement," or such other right-of-way of similar dimensions as Lessor may designate during the term of this Lease, to construct, erect, install, operate and maintain underground communication cables from the Leased Premises, over, across and through that portion of the Site designated on Exhibit B (Utility Easement).

iii. Lessor hereby agrees to grant to the local utility and telephone companies, on terms acceptable to Lessor in its reasonable discretion, the non-exclusive easements and rights-of-way up to ten feet (10') in width to construct, maintain, operate and repair communication and electric power lines, conduits and systems over those portions of the Site designated on Exhibit B (Utility Easement) hereof and described as the "Smartpole 10'-0" Wide Power and Telco Easement," or such other right-of-way of similar dimensions as Lessor may designate during the term of this Lease, and the right-of-way of Lessee provided for in Subsection 2 a(ii) during the term of this Lease for purposes of installation and provision of telephone and electric service to the Base Station.

iv. Lessor hereby grants Lessee a non-exclusive easement and right-of-way twenty feet (20') in width for ingress to and egress from the Leased Premises by Lessee and the Carriers, for vehicular traffic for constructing, installing, maintaining, operating and repairing the Base Station, over that portion of the Site designated on Exhibit B (Access Easement) hereof and described as the "Smartpole 20'-0" Wide Access Easement," or such other right-of-way of similar width as may be designated by Lessor to provide such access to the Leased Premises and the Base Station. In the event that Lessee damages any grassed area with its service and/or construction vehicular traffic, the Lessee will promptly re-sod the disturbed areas, ensuring restoration to its condition existing immediately prior to the damaging activity.

b. Lessor shall have the right to relocate any of the Appurtenant Easements granted herein (provided that there shall be no termination thereof, and no interruption of service or access as a result thereof other than such short term interruption as is necessary to effectuate the physical relocation, provided that Lessor and Lessee shall attempt to ensure that the replacement Appurtenant Easement is in place prior to such relocation such that any such interruption shall be as minimal as reasonably practicable). If such relocation occurs after the installation of utilities or facilities therein, such relocation shall be at Lessor's expense.

c. With the exception of the temporary construction easement provided for in Section 2 a(i), which may expire sooner as provided in such section, and any utility easements to third-party utility or power companies, which shall expire in accordance with their terms, the term of all Appurtenant Easements shall automatically expire upon termination of this Lease without the need for further act of any party. Notwithstanding the foregoing, if requested by Lessor, Lessee shall execute and deliver to Lessor, in recordable form, such documents as Lessor may request to evidence of record the termination of all Appurtenant Easements as just provided.

### 3. USE OF LEASED PREMISES:

a. Lessee shall use the Leased Premises solely for construction, operation and leasing of the Base Station as provided herein, and shall use the Appurtenant Easements solely for the applicable purposes described in Section 2. Lessor makes no representation or warranty whether such use is permitted by any laws or regulations applicable to the Leased Premises, and Lessee is solely responsible for determining whether such use is permitted, and for securing all necessary licenses, permits and approvals therefor.

b. Notwithstanding any other provision of this Lease, Lessee acknowledges the Lessor's use of the Site as a \_\_\_\_\_, and that Lessee's rights under this Lease (and, accordingly, any Carrier rights under a Carrier Sublease (as defined below)) are subject and subordinate to Lessor's use and operation of the Site. Accordingly, in exercising their rights under this Lease, Lessee shall use its best efforts to avoid any adverse construction, operational or other such impact on the Site or Lessor's use and operation thereof, whether such impacts arise from work or activities being performed or undertaken on or off of the Site (utility outages arising from off-site utility relocation, for example), and, notwithstanding any other provision of this Lease, Lessee will use its best efforts to cause such entry, work or activities to be performed or undertaken at such times, and to occur in such manner, as Lessor may require, in its reasonable discretion, to avoid any adverse impacts to the Site or Lessor's use thereof. Further, Lessee agrees that it will cause each Carrier to comply with the provisions of this Section 3. Pursuant to the provisions of Section 8b, Lessee shall be responsible for repairing all damage to the Base Station, the Leased Premises or the Site caused by Lessee or any of Lessee's employees, contractors or agents. In case of emergencies threatening life or safety or any component of the Base Station, Lessee may enter the Leased Premises without prior notice to Lessor, provided Lessee notifies Lessor of such entry, and the nature of the work performed or undertaken as a result of such emergency, as soon as practicable after Lessee's entry. Notwithstanding the foregoing, Lessee shall have the right to make customary and routine inspections of the Leased Premises upon two (2) business day prior notice, provided that (i) such entry is only for the purpose of inspecting the Leased Premises, conducting routine maintenance and repairs (provided such maintenance and/or repairs do not require alteration of the structural elements to the Base Station or the Monopole or the addition or substitution of any electrical cabinet or equipment shelter) and (ii) the worker or workers who make such inspections check-in with the appropriate personnel at the Site prior to accessing the Leased Premises and, in all cases, follow all procedures required by Site personnel.

### 4. TERM:



a. The term hereof shall be for an initial term of ten (10) years, with up to four (4) 5-year extension terms, commencing on the date of the final execution and delivery hereof (the "Commencement Date"). The extension terms hereof shall automatically commence as of the expiration of the then current term unless Lessee provides thirty (30) days' advance written notice of its intent not to so renew the term hereof. Notwithstanding the foregoing, if the Monopole is not constructed within eighteen (18) months after the date Lessee obtains all required governmental approvals and permits, and one (1) Carrier Sublease is not executed and paying full rent, this Lease may be terminated by Lessor with thirty (30) days' written notice to Lessee. Further, in the event that at any time after the initial construction of the Monopole on the Site, the Monopole remains vacant (i.e., with no Carrier Sublease applicable thereto) or no Carrier is paying rent therefore for a period in excess of twelve (12) consecutive months, this Lease may be terminated by Lessor with thirty (30) days' written notice to Lessee. In addition, Lessee may terminate this Lease with sixty (60) days' prior notice to Lessor if (i) Lessee is unable to obtain or maintain in force all necessary governmental approvals, (ii) a material change in government regulations makes it impractical or uneconomic for Lessee to continue to operate the Facilities under this Lease, (iii) interference by or to Lessee's operation cannot, despite good faith negotiations between Lessee and Lessor in accordance with the terms hereof, be resolved, or (iv) the Site or the Facilities are destroyed or damaged or taken in whole or in part (by condemnation or otherwise) sufficient in Lessee's reasonable judgment, adversely to affect Lessee's use of the Site. If this Lease is renewed, then all covenants, conditions and terms will remain the same.

b. At the end of the term (including any applicable extension terms) of this Lease, whether by the passage of time or the exercise by any party of any right of termination, Lessee shall surrender the Leased Premises to Lessor in the condition specified in this Section 4b. Within sixty (60) days after the end of the term of this Lease, Lessor shall notify Lessee of its election to (i) have Lessee dismantle and remove the Base Station, or any component thereof, including, but not limited to, any or all of Lessee's facilities from the Leased Premises and the Site; or (ii) have the Monopole and/or Base Station (other than those portions of the Base Station owned by the Carriers) remain on the Leased Premises. If Lessor fails to make such an election within the sixty (60) day period, Lessee shall inform Lessor in writing, and Lessor shall have an additional thirty (30) days to make the election. If Lessor fails to make an election, it shall be deemed to have elected option (i). If Lessor elects or is deemed to have elected option (i), Lessee shall promptly (and in any event within ninety (90) days) remove the designated facilities from the Site, at Lessee's sole cost and expense; provided, however, that Lessee may leave in place any improvements which are two (2) feet or more below grade. Notwithstanding the foregoing, Lessee will remove underground cabling two (2) feet or more below grade unless Lessee obtains prior written approval from Lessor. If Lessor elects option (ii), title to the facilities designated by Lessor shall immediately vest in Lessor, without the necessity of further action by Lessor or Lessee. Notwithstanding the foregoing, if so requested by Lessor, Lessee shall execute such further assurances thereof as shall be requested by Lessor. Further, nothing herein contained shall be deemed to prohibit or restrict any Carrier from removing its equipment to the extent permitted to do so under any Carrier Sublease.

c. Subject to Section 4b, the Base Station, including the Monopole, and other equipment, shall during the term of this Lease be deemed the personal property of Lessee and/or the Carriers, as applicable.

**5. RENT & ACCESS FEE:**

a. Beginning on the Commencement Date, and thereafter on the tenth day of each calendar month during the term and any extension term of this Lease, Lessee shall pay to the Lessor, in legal tender of the United States of America without demand, setoff or deduction whatsoever, as monthly rent for the Leased Premises, an amount equal to forty percent (40%) of the Gross Revenues (as defined below) derived from the use, leasing or occupancy of any portion of the Monopole or Base Station for the preceding calendar month. The term "Gross Revenues" shall mean all revenue actually collected by Lessee from Carriers with respect to the Site (other than any reimbursement being made to Lessee by a Carrier in connection with construction of the Base Station, connection to any utilities, or reimbursement for any site access fee provided that such reimbursement is not in lieu of or in substitution of any rent thereunder), less any real estate ad valorem taxes (which term specifically excludes personal property taxes and taxes on income derived from the Base Station) payable for such period (or the pro rata share thereof applicable to such period) by Lessee on the Leased Premises or the Base Station and less all expenses related to the Facilities, which shall be borne by Milestone. All rental payments shall be made by check payable to Lessor at Stafford County, Virginia; P.O. Box 339; Stafford, VA 22554, Attention: Chief Financial Officer, Department of Finance, or such other address and/or addressee as the Lessor may from time to time provide.

b. In addition to the rent described in the preceding paragraph, any other amounts payable under this Lease to Lessor, however denominated, shall be deemed additional rent, and Lessor shall have all rights and remedies in respect of payment and collection thereof as are applicable to rent. Any amounts payable hereunder by Lessee that are not paid when due shall bear interest at the rate of ten percent (10%) per annum.

c. On the date Lessee begins construction on or in the Leased Premises pursuant to Section 7, Lessee shall pay Lessor a Site Fee, which is equal to Twenty-Five Thousand and No/100 Dollars (\$25,000.00). In the event Lessee fails to timely pay the Site Fee, Lessee shall, in addition to owing Lessor such fee, pay to Lessor interest on the amount thereof from the date due through the date of payment of such fee to Lessor, in an amount equal to the Prime Rate of interest as published from time to time by The Wall Street Journal plus four percent (4%). If the Site Fee plus interest is not paid within sixty (60) days after written notice from Lessor that such amount is past due, as due in this Section 5c, Lessor may elect to terminate this Lease, by giving written notice to Lessee; and Lessee shall return the Site to the state it was in before Lessee began any construction or work that may have commenced on the Site.

**6. REAL ESTATE TAXES, UTILITIES, MAINTENANCE:**

a. Lessee shall be solely responsible for all costs and expenses relating to the connection, disconnection, consumption and use of any utilities and/or services in connection with Lessee's construction, installation, operation and maintenance of the Base Station on the Leased Premises including, without limitation, any electric consumption by its equipment, and Lessee agrees to pay all costs for service and installation of an electric meter directly to the local utility company.

b. Lessee shall be responsible for the declaration and payment of any applicable taxes or assessments against the Base Station or other equipment owned or used by Lessee or allocable (on a pro rata basis) to the Leased Premises, including but not limited to any sales and property taxes, as well as any taxes based on the rent payable hereunder, including gross receipts taxes. During the term, Lessee shall be responsible for the timely payment of all taxes levied upon the leasehold improvements on the Leased Premises.

c. Lessee shall at all times during the term of this Lease, at its own expense, maintain the Base Station and the Leased Premises in proper operating condition and maintain same in reasonably good condition, and will repair any damage except that caused by Lessor, its agents or servants. Lessee shall keep the Leased Premises and the Base Station free of debris at all times. Lessee agrees that it will inspect the Leased Premises and the Base Station no less frequently than once every three months.

d. Lessee shall maintain the Leased Premises at all times in compliance with Lessor's rules and regulations and all governmental rules, regulations and statutes including, without limitation, those relating to the lighting and painting of the Base Station, and requirements of the Federal Communications Commission (the "FCC"), the Federal Aviation Administration (the "FAA"), and other federal, state or local government authorities having jurisdiction over the Base Station.

e. Lessee shall be solely responsible, at its sole cost and expense, for keeping the Monopole at all times in reasonably good order, condition and repair, and in compliance with all applicable laws, ordinances and rules. Lessee shall cause the Monopole to be regularly inspected and preventative maintenance to be performed in accordance with the standards of the industry, but in no event less frequently than once every three (3) years. Lessee shall provide Lessor with a written report setting forth in reasonable detail the condition of the Monopole, any issues noted during the inspection and any preventative maintenance undertaken. In no event shall Lessor be required to maintain or repair the Monopole, or pay or reimburse Lessee for any costs associated therewith.

f. If applicable, Lessor shall be responsible for the maintenance and repair of any lighting fixtures installed by Lessor (or by Lessee on behalf of Lessor) on the Monopole.

## 7. CONSTRUCTION BY LESSEE:

a. Lessee shall use good faith and commercially reasonable efforts to obtain all necessary approvals, including, without limitation, those required by the FAA and the FCC, for construction and operation of the Base Station. After obtaining the necessary permits and approvals therefor, Lessee, at its sole cost and expense, shall perform or cause to be performed all of the following work:

i. If applicable, replacing the existing light standard with a Monopole with a height up to \_\_\_\_\_ feet (\_\_\_\_\_) above ground level. Lessee will remove the discarded light standard from the Site and deliver it where directed by Lessor. Lessee shall

rehang on the Monopole all equipment installed on the light standard, at the same height or such other height as Lessor and Lessee shall mutually agree.

ii. Installing the utility and equipment compound with dimensions of 8' high x \_\_\_' \_\_\_" wide x \_\_\_' \_\_\_" deep.

iii. At the request of Lessor at the commencement of the term of this Lease, installing a chain link or wood fence or natural screening on each side and on top of the Compound or any other portion of the Base Station.

iv. Subject to Lessor's approval thereof as provided in Section 7d hereof, performing or causing to be performed all other improvements and work associated with the work described above that may lawfully be required by Stafford County or any other governmental body or official having jurisdiction, as part of or in connection with the work described above.

b. Lessee's agreement to perform or cause to be performed at its expense all of the work described above, all at Lessee's cost and expense, shall be construed broadly to provide for all costs and liabilities of such work, whether or not such costs are anticipated and without regard to Lessee's present estimates for the cost of same, so that all of such work is fully and properly performed and paid for by Lessee, and upon completion of same the Site, as altered by such work, is as fully functional and suitable for continued use by Lessor as it was prior to the start of Lessee's work. Accordingly, the phrase "all work" shall include, without limitation, all of the following work, and Lessee's promise to pay for such work shall include, without limitation, all of the costs and liabilities associated with the following all labor and materials; design work; legal and professional fees of Lessee's consultants; permit drawings and materials; construction costs; construction equipment and materials; utilities extension or relocation; provision of protective fencing and other safety measures; maintenance; removal of construction related debris from the Site; liability, property and workers' compensation insurance premiums; bond fees; development and construction permits; inspections and approvals; re-sodding of all disturbed areas not covered with impervious surface; replacement or relocation of landscaping; re-paving or re-striping of any damaged or disturbed paved areas whether for traffic control, parking or otherwise; relocation, replacement or provision of new safety and traffic/directional signage; connection of new sidewalks, drives, parking areas and other facilities to Lessor's existing facilities; and the repair and restoration of any item, place or thing required as a result of any damage to the Site caused in the prosecution of the work contemplated by this Lease.

c. Lessee shall cause construction of the Base Station (other than components which may be constructed by any future Carrier) to be commenced as soon as practicable after receipt of all necessary permits and approvals and to be completed within a reasonable time thereafter, not to exceed one (1) year from the date Lessee obtains all required governmental approvals, certificates and permits, excepting periods of delay caused by *force majeure*. Once its work on the Base Station is initiated, Lessee shall diligently and continuously pursue such work to final completion (including obtaining all required inspections and approvals) in a timely manner in accordance with a schedule to be agreed upon in advance by Lessor and Lessee (the "Initial Construction Schedule"). Such schedule shall limit construction activities to such days and times as Lessor may reasonably require to avoid any material and adverse impacts on the use and



operation of the Site. Lessee shall keep Lessor fully apprised of any events that might impact the Initial Construction Schedule. If Lessee fails to perform its work in accordance with the Initial Construction Schedule approved by Lessor, including any Lessor-approved revisions thereto, and if such failure threatens the safe, proper and timely conduct of operations or uses of the Site, then Lessor shall have the right to take all measures as it may deem necessary to avoid or abate any interference with such safe, proper and timely conduct of such classes or other operations or uses. Such measures may include, without limitation, engaging additional construction personnel, stopping any construction activities occurring on the Site, removing interfering construction equipment, materials or facilities, and providing alternate or additional drives, sidewalks, parking areas or other facilities. All such measures shall be at the sole cost, expense and liability of Lessee, and any reasonable costs expended by Lessor in connection therewith including, without limitation, reasonable attorneys' fees, shall be reimbursed by Lessee to Lessor promptly after demand. Lessor shall give Lessee prior notice before commencing any such measures and to coordinate with Lessee in determining the measures that may be necessary. Lessee shall permit Lessor's designated inspector full access to all of Lessee's construction areas and shall provide such inspector access to all construction plans, drawings and other information reasonably requested.

d. The Base Station, and each component thereof constructed by Lessee, shall be constructed by Lessee in a good and workmanlike manner and in accordance with the plans, drawings and specifications prepared and provided by Lessee for Lessor's prior review and written approval, which approval shall not be unreasonably withheld, conditioned or delayed. Construction and installation of the Base Station by Lessee shall be in compliance with all applicable rules and regulations including, without limitation, the customary specifications and requirements of Lessor and those of the Occupational Safety and Health Administration ("OSHA"), the FCC, the FAA, and regulations of any governmental agency (town, county, state or federal) including, but not limited to the applicable requirements of the local planning and zoning and building, electrical, communications and safety codes of Stafford County, Virginia and the Commonwealth of Virginia. Lessee, at its sole cost and expense, shall secure all necessary permits and approvals required to permit the construction and operation of the Base Station. Lessor agrees to cooperate reasonably with Lessee in any necessary applications or submissions required to permit construction and operation of Lessee's Base Station as described herein, provided that Lessor shall be reimbursed for all reasonable and actual expenses incurred in providing such cooperation within thirty (30) days of delivery of an invoice to Lessee, and provided further that obtaining Lessee's permits and approvals shall not result in the imposition of any material restrictions or limitations or adverse impacts on the Site or Lessor's use, operation improvement or redevelopment thereof. All of Lessee's work and facilities shall be installed free of mechanics', materialmen's and other liens, and claims of any person. Lessee agrees to defend, with counsel approved by Lessor, and to indemnify and save Lessor harmless, from all loss, cost, damage or expense including, without limitation, reasonable attorneys' fees, occasioned by or arising in any connection with the work contemplated by this Lease, and shall bond off or discharge any such liens or other claims within thirty (30) days after written notice from Lessor.

e. Prior to commencing any activities on the Site pursuant to this Lease, Lessee shall provide Lessor with evidence satisfactory to Lessor that Lessee and its contractors and agents who will be working on the Site are covered by insurance as required by Section 14 hereof.

f. Lessee shall, upon Lessor's request, fence and buffer the Base Station and/or the Leased Premises or any portion thereof.

g. Lessee shall restore in compliance with the Federal Americans with Disabilities Act (and any state or local law counterpart or implementation thereof) any of Lessor's facilities physically altered by Lessee's work.

h. Lessee shall be allowed to make further additions and improvements to the Base Station and Monopole within the Leased Premises, without Lessor's prior consent, as long as such additions and improvements are within the scope of the provisions of this Lease and all exhibits hereto.

#### 8. OPERATION OF BASE STATION:

a. Lessee and the Carriers shall operate the Base Station in strict compliance with all applicable statutes, codes, rules, regulations, standards and requirements of all federal, state and local governmental boards, authorities and agencies including, without limitation, OSHA (including, without limitation, OSHA regulations pertaining to RF radiation), the FCC and the FAA, as well as such reasonable rules and regulations which Lessor may publish for the site from time to time. Lessee has the responsibility of carrying out the terms of its FCC license in all respects, including, without limitation, those relating to supporting structures, lighting requirements and notification to FAA. Lessee, prior to constructing the Base Station, shall have, and shall deliver to Lessee, copies of all required permits, licenses and consents to construct and operate the Base Station. In the event that the operation of the Base Station violates any of the terms or conditions of this Lease, Lessee agrees to suspend operation of the Base Station within twenty-four (24) hours after notice of such violation and not to resume operation of the Base Station until such operation is in strict compliance with all of the requirements of this Lease. Lessee shall be responsible for ensuring that each Carrier complies with the terms of this Section 8.

b. Other than with respect to entries established pursuant to the Initial Construction Schedule and emergencies threatening life or safety or any component of the Base Station pursuant to Section 3b, and prior to any entry upon the Leased Premises, Lessee shall provide not less than two (2) business days prior notice to Lessor which notice shall specify the type of work or other activities that are to be performed or undertaken on the Leased Premises or which may impact the Site. Lessor shall have two (2) business days after receipt of the notice to advise Lessee that the proposed work would conflict with Lessor's use of the Site and such notice shall include dates and times that the proposed work may be rescheduled. Lessee further agrees and covenants that the Base Station, transmission lines and appurtenances thereto, and the construction, installation, maintenance, operation and removal thereof, will in no way damage Lessor's property or materially interfere with the use of the Site by Lessor, its successors and assigns. Notwithstanding the foregoing, Lessee agrees (i) to repair any damage caused to the Site or the Leased Premises, including, but not limited to, any damage to utility lines, drains, waterways, pipes, grass fields or paved surfaces by such installation, construction, maintenance, operation or removal to the condition the Site or the Leased Premises was in immediately prior to such damage, (ii) that any repair work undertaken on the Site or the Leased Premises shall be completed as soon as possible after the occurrence of such damage, (iii) that if Lessee's activities

on the Site or the Leased Premises result in the need to restore or replace any grass areas, such areas shall be sodded, rather than seeded, and (iv) that it shall be responsible for the full and timely payment of any costs incurred in connection with the repairs described in clauses (i) through (iii) of this sentence.

c. Lessee may terminate this Lease with sixty (60) days' prior notice to Lessor if (i) Lessee is unable to obtain or maintain in force all necessary governmental approvals for the construction and/or use of the Base Station and/or Monopole; (ii) a material change in government regulations makes it impractical or uneconomic for Lessee to continue to operate under the Lease; (iii) interference by or to Lessee's operation cannot, despite good faith negotiations between Lessee and Lessor in accordance with the terms hereof, be resolved; (iv) Lessee is unable to lease space within the Base Station to Carriers for a period of twelve (12) months after the date Lessee obtains all required governmental approvals and permits; or (v) the Site or the Monopole or Base Station is/are destroyed or damaged or taken in whole or in part (by condemnation or otherwise) sufficient in Lessee's reasonable judgment, adversely to affect Lessee's use of the Site. If, after the execution of this Lease, Lessee is unable to operate the Base Station due to the action of the FCC or by reason of any law, physical calamity, governmental prohibition or other reasons beyond Lessee's control, this Lease may be terminated by Lessee by giving Lessor thirty (30) days' prior notice of termination, subject to Lessee's restoration obligations under Section 4b hereof.

## **9. PERMITS AND SITE SPECIFICATIONS:**

It is understood and agreed by the parties that Lessee's ability to use the Leased Premises is contingent upon its obtaining after execution of this Lease, all of the certificates, permits and other approvals that may be required by federal, state or local authorities for Lessee's use of the Leased Premises as set forth in this Lease. Lessee shall use all reasonable efforts promptly to obtain such certificates, permits and approvals, at Lessee's sole expense. Lessor will cooperate reasonably with Lessee at Lessee's sole cost and expense, in its effort to obtain such approvals. In the event any such applications should be finally rejected or any certificate, permit, license or approval issued to Lessee is canceled, expires or lapses, or is otherwise withdrawn or terminated by governmental authority, or soil boring tests are found to be unsatisfactory so that Lessee will be unable to use the Leased Premises for the purposes set forth herein, Lessee shall have the right to terminate this Lease by giving Lessor thirty (30) days' prior notification of termination within sixty (60) days after the date of the event which is the basis of termination. Upon such termination, the parties shall have no further obligations for charges and liabilities which accrue after the effective date of termination, including the payment of monies, to each other except as otherwise provided herein, but Lessee shall be liable to restore the Leased Premises in accordance with Section 4b.

## **10. INDEMNIFICATION:**

Except as caused by the gross negligence or willful misconduct of the Lessor, Lessee shall defend, with counsel acceptable to Lessor, and indemnify and hold harmless, Lessor from all losses, costs, claims, causes of actions, demands and liabilities arising from (a) any breach by Lessee of any covenant of this Lease; (b) any misrepresentation by Lessee contained in this

Lease and/or any breach of any warranty contained in this Lease; and (c) any occurrence, of any kind or nature, arising from (i) Lessee's or any Carrier's construction, installation, maintenance, repair, operation, replacement or removal of the Base Station or any other equipment, or any other activities of Lessee or any Carrier on the Site or the Leased Premises of any kind or nature, (ii) the condition of the Base Station or the Leased Premises and (iii) any personal injury, death, or accident in any way related to Lessee's or any Carrier's use, operation or maintenance of the Leased Premises, the Site, the Base Station, or any equipment or antennas contained therein or on the Monopole or the Leased Premises. Such indemnification shall include the actual, reasonable and documented cost of investigation, all expenses of litigation, and the cost of appeals, including, without limitation, reasonable attorneys' fees and court costs, and shall be applicable to Lessee's and each Carrier's activities on the Site and the Leased Premises whether prior to the Commencement Date or after the termination of this Lease. In addition to the Lessor, Lessor's board members, staff, officers, agents, servants, employees, volunteers, business invitees, customers, and guests shall be beneficiaries of Lessee's indemnification.

#### **11. FEASIBILITY:**

Prior to the Commencement Date of this Lease, Lessee shall have access to the Leased Premises with no less than two (2) business days' prior notice to Lessor and at such times as Lessor agrees for the purposes of undertaking necessary tests, studies, and inspections relating to Lessee's proposed use of the Leased Premises. In the event such tests studies, and inspections indicate that Lessee is unable to utilize the Leased Premises for the purpose stated herein, then Lessee may terminate this Lease by giving Lessor ten (10) days' prior notice of termination, in which case Lessee shall restore the Leased Premises and any other portions of the Site that have been damaged, modified or altered by or on behalf of Lessee to their original condition.

#### **12. INTERFERENCE:**

Lessee agrees to install (and shall cause each Carrier to install) equipment of a type and frequency which will not cause frequency interference with other forms of radio frequency communications existing on Lessor's property as of the date of this Lease or as may be in existence in the future (so long as reasonably prevalent). All such equipment shall fully comply with all FCC, FAA, OSHA and other governmental (whether federal, state, or county) rules and regulations. In the event Lessee's or any Carrier's equipment causes such interference, Lessee agrees it will take all steps necessary, or shall cause all such steps to be made, to correct and eliminate the interference consistent with all government rules and regulations upon receipt of written notification of the interference. Lessee shall be obligated, and shall cause each Carrier, to correct the problem of interference within forty-eight (48) hours of receipt of written notice from Lessor. If the interference is not corrected within such forty-eight (48) hour period, Lessor shall have the right, or shall have the right to cause Lessee, to disconnect or terminate power to any interfering equipment or turn such equipment off (other than for short tests to determine the nature of the interference, provided that Lessor reasonably approves of such tests in advance). Thereafter, such interfering Carrier may attempt to correct such interference, which may include reactivating the equipment or restoring power thereto, provided that Lessor reasonably approves of such reactivation or restoration in advance, for a period of one hundred twenty (120) days. If



such interference cannot be cured within such one hundred twenty (120) day period, Lessor shall have the right, or shall have the right to cause Lessee to, immediately remove the interfering equipment from the Monopole. Notwithstanding the foregoing, and to the extent any Lessor approved test requires the facilitation or cooperation of Lessor, Lessor agrees, subject to the other provisions hereof, to act reasonably with such facilitation or cooperation.

**13. DEFAULT:**

a. Each of the following shall be an event of default by Lessee under this Lease:

i. If the rent or any installment thereof shall remain unpaid after it becomes due and payable, and is not paid within ten (10) days after Lessor gives written notice of non-payment (notwithstanding the foregoing, however, if Lessee fails to pay rent when due three (3) times during any twelve-month period after the first year of the Lease term, then Lessee shall not be entitled to any notice or cure period);

ii. If Lessee or its assigns shall fail or neglect to keep and perform any one of the terms of this Lease and such failure or neglect continues for more than thirty (30) days (or such longer period as may be reasonable, provided Lessee is attempting a cure with all due diligence, not to exceed one hundred twenty (120) days plus any period of where cure is prevented by *force majeure*) after Lessor gives written notice specifying the default;

iii. If Lessee abandons the Leased Premises for a minimum of twelve (12) continuous months; and

iv. If Lessee files a petition in bankruptcy or insolvency or for reorganization or arrangement under the bankruptcy laws of the United States or under any insolvency act of any state, or is dissolved or makes an assignment for the benefit of creditors, or if involuntary proceedings under any bankruptcy laws or insolvency act or for the dissolution of Lessee are instituted against Lessee, or a receiver or trustee is appointed for all or substantially all of Lessee's property, and the proceeding is not dismissed or the receivership or trusteeship is not vacated within sixty (60) days after institution or appointment.

b. In the case of any event of default, Lessor shall have the right to terminate this Lease upon thirty (30) days' notice and shall have any additional rights and remedies that may be available at law or in equity.

c. The foregoing notwithstanding, in the event of any such default by Lessee hereunder, such shall not provide Lessor the right to attach, utilize, distrain upon or otherwise take possession of any equipment located on the Monopole or within a Base Station owned by any Carrier, and such shall at all times be free from any claim by Lessor hereunder.

**14. INSURANCE REQUIREMENTS:**

a. All property of the Lessee, its employees, agents, business invitees, licensees, customers, clients, guests or trespassers, including, without limitation, the Carriers, in and on the

Leased Premises shall be and remain at the sole risk of such party, and Lessor shall not be liable to them for any damage to, or loss of such personal property arising from any act of God or any persons, nor from any other reason, nor shall the Lessor be liable for the interruption or loss to Lessee's business arising from any of the above described acts or causes. The Lessor shall not be liable for any personal injury to the Lessee, its employees, agents, business invitees, licensees, customers, clients, students, family members, guests or trespassers, including, without limitation, the Carriers, arising from the use, occupancy and condition of the Leased Premises unless such injury is caused by the gross negligence or willful act or failure to act on the part of the Lessor or its employees.

b. During the term, Lessee will maintain a policy of commercial general liability insurance insuring the Lessor and Lessee against liability arising out of the use, operation or maintenance of the Leased Premises and the installation, repair, maintenance, operation, replacement and removal of the Base Station. The insurance will be maintained for personal injury and property damage liability, adequate to protect Lessor against liability for injury or death of any person in connection with the use, operation and condition of the Leased Premises, and to insure the performance of Lessee's indemnity set forth in Section 10, in an amount not less than TWO MILLION DOLLARS (\$2,000,000.00) per occurrence/aggregate. During the term, Lessee shall also maintain workers' compensation and employers' liability insurance, and such other insurance relating to the installation, repair, maintenance, operation, replacement and removal of the Base Station, and the ownership, use, occupancy or maintenance of the Leased Premises as Lessor may reasonably require. The limits of the insurance will not limit the liability of Lessee. If the Lessee fails to maintain the required insurance the Lessor may, but does not have to, maintain the insurance at Lessee's expense. The policy shall expressly provide that it is not subject to invalidation of the Lessor's interest by reason of any act or omission on the part of Lessee.

c. Insurance carried by Lessee will be with companies acceptable to the Lessor. The Lessee will deliver to the Lessor certificate evidencing the existence and amounts of the insurance. No policy shall be cancelable or subject to reduction of coverage or other modification except after sixty (60) days' prior written notice to the Lessor. Lessee shall, at least sixty (60) days' prior to the expiration of the policies, furnish Lessor with renewals or "binders" for the policies, or Lessor may order the required insurance and charge the cost to Lessee.

d. Lessee will not knowingly do anything or permit anything to be done or any hazardous condition to exist ("Increased Risk") which shall invalidate or cause the cancellation of the insurance policies carried by Lessor or Lessee. If Lessee does or permits any Increased Risk which directly causes an increase in the cost of insurance policies, then Lessee shall reimburse Lessor for additional premiums directly attributable to any act, omission or operation of Lessee causing the increase in the premiums. Payment of additional premiums will not excuse Lessee from termination or removing the Increased Risk unless Lessor agrees in writing. Absent agreement, Lessee shall promptly terminate or remove the Increased Risk.

e. The Lessor shall be named as an "additional insured" on Lessee's liability policies and it shall be stated on the Insurance Certificate that this coverage "is primary to all other coverage the Lessor may possess."

f. Notwithstanding any provisions herein to the contrary, Lessee waives all rights to recover against Lessor for any loss or damage arising from any cause covered by any insurance required to be carried by Lessee pursuant to this Section 14, or any other insurance actually carried by Lessee. Lessee will request its insurers to issue appropriate waiver of subrogation rights endorsements to all policies of insurance carried in connection with the Leased Premises.

g. If an "ACCORD" Insurance Certificate form is used by the Lessee's insurance agent, the words, "endeavor to" and "...but failure to mail such notice shall impose no obligation or liability of any kind upon the company" in the "Cancellation" paragraph of the form shall be deleted or crossed out.

h. All insurance required by this Section 14 shall be written by insurers, in such forms, and shall contain such terms, as Lessor may reasonably require.

## 15. HAZARDOUS MATERIALS:

a. Neither Lessee nor any Carrier shall cause or permit any hazardous or toxic wastes, substances or materials (collectively, "Hazardous Materials") to be used, generated, stored or disposed of on, under or about, or transported to or from, the Leased Premises (collectively "Hazardous Materials Activities") without first receiving Lessor's written consent, which may be withheld for any reason whatsoever and which may be revoked at any time, and then only in compliance (which shall be at Lessee's sole cost and expense) with all applicable legal requirements and using all necessary and appropriate precautions. Lessee shall indemnify, defend with counsel acceptable to Lessor and hold Lessor harmless from and against any claims, damages, costs and liabilities, including court costs and legal fees, arising out of Lessee's or Carrier's Hazardous Materials Activities on, under or about the Leased Premises, regardless of whether or not Lessor has approved Lessee's Hazardous Materials Activities. For the purposes of this Lease, Hazardous Materials shall include but not be limited to oil, radioactive materials, PCBs, and substances defined as "hazardous substances" or "toxic substances" in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Sec. 9601 et seq.; Hazardous Materials Transportation Act, 49 U.S.C. Sec. 1801 et seq.; and Resources Conservation and Recovery Act, 42 U.S.C. Sec. 6901 et seq., and those substances defined as "hazardous wastes" in the regulations adopted and publications promulgated pursuant to said laws. Subject to the foregoing provisions of this Section, Lessee shall, prior to the Commencement Date, submit to Lessor for Lessor's review and approval, a list of Hazardous Materials Activities, including types and quantities, which list to the extent approved by Lessor shall be attached hereto as Exhibit C. Prior to conducting any other Hazardous Materials Activities, Lessor shall update such list as necessary for continued accuracy. Lessor shall also provide Lessee with a copy of any Hazardous Materials inventory statement required by any applicable legal requirements. If Lessee's activities violate or create a risk of violation of any legal requirements shall cease such activities immediately upon notice from Lessor. Lessor, Lessor's representatives, agents, and employees may enter the Leased Premises at any time during the term to inspect Lessee's compliance herewith, and may disclose any violation of legal requirements to any governmental agency with jurisdiction. The provisions of this Section 15 shall survive termination or expiration of the term of this Lease.

b. Lessor acknowledges that Lessee's equipment cabinets shall contain batteries for back-up power and that, provided Lessee's use of same is in compliance with this provision, the presence of such batteries does not violate this provision if such batteries comply with all laws, regulations and ordinances relating to Hazardous Materials.

c. Lessee will immediately notify Lessor and provide copies upon receipt of all written complaints, claims, citations, demands, inquiries, reports, or notices relating to the condition of the Leased Premises or compliance with environmental laws. Lessee shall promptly cure and have dismissed with prejudice any of those actions and proceedings to the satisfaction of Lessor. Lessee will keep the Leased Premises free of any lien imposed pursuant to any environmental laws.

d. Lessor shall have the right at all reasonable times and from time to time to conduct environmental audits of the Leased Premises, and Lessee shall cooperate in the conduct of those audits. The audits may be conducted by Lessor or a consultant of Lessor's choosing, and if any Hazardous Materials generated, stored, transported or released by Lessee are detected or if a violation of any of the representations or covenants in this Section 15 is discovered, the fees and expenses of such consultant will be borne by Lessee.

e. If Lessee fails to comply with any of the foregoing representations and covenants, Lessor may cause the removal (or other cleanup acceptable to Lessor) of any Hazardous Materials from the Leased Premises. The costs of removing Hazardous Materials and any other cleanup (including transportation and storage costs) shall be reimbursed by Lessee promptly after Lessor's demand and will be additional rent under this Lease. Lessee will give Lessor access to the Leased Premises to remove or otherwise clean up any Hazardous Materials. Lessor, however, has no affirmative obligation to remove or otherwise clean-up any Hazardous Materials, and this Lease will not be construed as creating any such obligation.

f. Notwithstanding the foregoing, Lessor represents and warrants that to the best of its knowledge and belief there are no Hazardous Materials on, in or under the Site. Lessor covenants not to bring onto the Site any Hazardous Materials. Lessor shall indemnify Lessee and hold it harmless against any claims, damages, losses or liabilities (including reasonable attorney's fees) incurred by Lessee and arising from any breach of the foregoing representation and warranty and from the presence or removal of Hazardous Materials.

#### **16. NO PARTNERSHIP:**

Nothing contained in this Lease shall be deemed or construed to create a partnership or joint venture of or between Lessor and Lessee, or to create any other relationship between the parties hereto other than that of lessor and lessee.

#### **17. NOTICES:**

All notices, demands and requests hereunder shall be in writing and shall be deemed to have been properly given when mailed by the United States Postal Service by First Class, Registered or Certified Mail, postage prepaid, or by nationally recognized overnight courier, and addressed to the Lessor as follows:



if to Lessor:

Physical Address:

County of Stafford  
1300 Courthouse Road  
Stafford, VA 22554  
Attn: County Administrator

U.S.P.S. Mailing Address:

County of Stafford  
P.O. Box 339  
Stafford, VA 22555  
Attn: County Administrator

with a copy, which will not constitute notice to:

Physical Address:

County of Stafford  
1300 Courthouse Road  
Stafford, VA 22554  
Attn: County Attorney

U.S.P.S. Mailing Address:

County of Stafford  
P.O. Box 339  
Stafford, VA 22555  
Attn: County Attorney

and if to Lessee:

Milestone Communications  
12110 Sunset Hills Road, Suite 100  
Reston, Virginia 20190  
Attn: Leonard Forkas, Jr.

with a copy, which will not constitute notice to:

Cooley LLP  
11951 Freedom Drive  
Reston, Virginia 20190  
Attn: John G. Lavoie, Esquire

or to such other addresses as either of the parties may designate from time to time by giving written notice as herein required.

#### **18. ASSIGNMENT OR SUBLETTING; FINANCING:**

a. Lessee may assign this Lease, without Lessor's consent, to any corporation, partnership or other entity which (i) is controlled by, controlling or under common control with Lessee; (ii) shall merge or consolidate with or into Lessee; (iii) shall succeed to all or substantially all the assets, property and business of Lessee; (iv) in which Milestone Communications Management III, Inc. or a wholly owned affiliate of Milestone Communications Management III, Inc. is at all times the general partner; or (v) has an adjusted net worth (determined in accordance with generally accepted accounting principles consistently applied) of at least \$100,000,000. In the event of such an assignment or sublease, Lessee shall provide to Lessor at least thirty (30) days before the proposed transfer (a) the name and address of the assignee; (b) a document executed by the assignee by which it acknowledges the assignment and assumption of all of Lessee's obligations hereunder; and (c) such other information regarding the proposed assignee as shall be requested by Lessor. Lessee may also, without Lessor's consent, sublease or license portions of space on the Monopole and within the Base Station to Carriers in accordance with and subject to the terms and conditions of Section 18c hereof. No such assignment shall relieve Lessee of liability hereunder, and Lessee and such assignee shall each be fully and primarily liable for the obligations of the "Lessee" hereunder.

b. Lessee may, without Lessor's prior consent, sublease or license space on the Monopole or within the Compound to Carriers under and subject to the terms of this Section 18. Specifically, Lessee shall be entitled to sublease or license space on the Monopole or in the

Compound without Lessor's prior approval provided that (a) the Carrier Sublease shall be in a form utilized by Lessee in the ordinary course of Lessee's business, but with a rider attached thereto in the form of Exhibit D attached hereto ("Carrier Sublease Rider") which may not be altered, modified, revised, amended or otherwise changed without Lessor's prior written approval which may be withheld in Lessor's sole discretion; (b) the sublessee is an Approved Carrier (as defined below); (c) no event of default exists hereunder; (d) the term of the Carrier Sublease does not exceed the term of this Lease; (e) Lessee furnishes Lessor and its counsel with a copy of such sublease within thirty (30) days after execution thereof; and (f) Lessee submits an engineering report to Lessor definitively showing that the Monopole is capable of supporting the proposed Carrier. Otherwise, any lease, sublease, license or other occupancy agreement with respect to any Site shall be in form approved by Lessor, which approval may be given or withheld in Lessor's sole and absolute discretion. As used herein, the term "Approved Carrier" shall mean a telecommunications service provider licensed by the FCC and any other governmental agencies for which approval is needed to conduct such company's business.

c. The termination of this Lease shall automatically terminate all Carrier Subleases; provided, however, that Lessor agrees that, provided that Lessee has complied with the provisions of Section 18 hereof, upon a termination hereof as a result of Lessee's default hereunder, and the failure by any Mortgagee (as defined in Exhibit E attached hereto) to either succeed to Lessee's interest hereunder or to enter into a new lease with Lessor in accordance with the terms of such Exhibit E, Lessor shall provide such Carrier the opportunity to continue such Carrier's occupancy of the Monopole for the unexpired term of the Carrier Sublease (including any renewals) at the same rental rate contained in its Carrier Sublease under terms and conditions required by Lessor in its sole and absolute discretion including, but not limited to, that (i) Carrier is not in default under the Carrier Sublease; (ii) upon request by Lessor, Carrier will provide to Lessor a certified true and correct copy of the Carrier Sublease; (iii) Carrier agrees, in writing, that Lessor shall not be liable for any act or omission of Lessee under the Carrier Sublease; (iv) Carrier executes within thirty days of receipt from Lessor, Lessor's then standard form of license or lease agreement; (v) upon execution of such license or lease agreement, Carrier posts with Lessor a security deposit in the amount of two (2) months' rent under the Carrier Sublease; (vi) Lessor obtains ownership of the Monopole; and (vii) Carrier has and maintains an insurance policy in an amount at least equal to that required of Lessee under Section 14 of this Lease, in which the Lessor is named an additional insured.

d. Lessee shall cause the Carrier to comply with, and not violate, the terms and conditions of this Lease. Lessee shall enforce all of the terms and provisions of any Carrier subleases, licenses or other similar documents (each, a "Carrier Sublease"). Without limiting the generality of the foregoing, Lessee shall exercise any or all of its rights and remedies under the Carrier Sublease immediately if requested to do so by Lessor. Lessee shall, at its sole cost and expense, perform all obligations of the landlord under the Carrier Sublease. Lessor shall have no liability whatsoever under the Carrier Sublease.

e. Lessee shall have the right to finance the Monopole and Base Station on the terms and conditions as are set forth on Exhibit E attached hereto.

## **19. ACCESS AND INSPECTIONS:**

Lessor shall have full access to the Leased Premises and the Base Station for operating, repairing, removing, installing and otherwise working with communications equipment owned by Lessor or any third party permitted to use the Base Station pursuant to this Lease. Lessor may enter the Leased Premises or any part thereof at any reasonable time and in a manner so as not to interfere more than reasonably necessary with Lessee's use of the Base Station, for the purpose of inspecting the Leased Premises. Lessee shall at all times provide the Lessor copies of all keys needed to unlock all of the gates and locks to the fences to the Compound or in the Leased Premises.

## **20. QUIET ENJOYMENT:**

Lessee shall be entitled to use and occupy the Leased Premises during the term hereof for the purposes herein permitted and subject to the terms and conditions herein contained, without interference by Lessor.

## **21. DAMAGE AND DESTRUCTION:**

a. If the Leased Premises or the Base Station are damaged or destroyed by reason of fire or any other cause, or if damage to the Leased Premises or the Base Station causes damage to portions of the Site or other property of Lessor, Lessee will immediately notify Lessor and will promptly repair or rebuild the Base Station, incidental improvements, and other damage to Lessor's property to its condition immediately prior to such damage, at Lessee's expense.

b. Monthly rent and additional rent will not abate pending the repairs or rebuilding except to the extent to which Lessor receives a net sum as proceeds of any rental insurance, or continues to receive income from Carrier Subleases.

c. If at any time the Leased Premises or Base Station are so damaged by fire or otherwise that the cost of restoration exceeds fifty percent (50%) of the replacement value of the Base Station immediately prior to the damage, Lessee may, within thirty (30) days after such damage, give notice of its election to terminate this Lease and, subject to the further provisions of this Section 21, this Lease will cease on the tenth (10th) day after the delivery of that notice. Monthly rent will be apportioned and paid to the time of termination. If this Lease is so terminated, Lessee will have no obligation to repair or rebuild. Notwithstanding the foregoing, if Lessee elects to terminate this Lease, Lessee shall be required to comply with the provisions of Section 4b with respect removing and dismantling each component of the Base Station and returning the Leased Premises to the condition stated in such section.

## **22. CONDEMNATION:**

If all or any part of the Leased Premises is taken by eminent domain or sale in lieu thereof, and if said taking or sale renders the Leased Premises unusable for its intended purpose hereunder, then, at Lessor's or Lessee's option, this Lease may be terminated upon sixty (60) days' prior written notice to the other party and there will be no further payment of rents except that which may have been due and payable at the time of said taking or sale. In the event of a

partial taking or sale and Lessee, subject to mutual agreement with Lessor, wishes to maintain its operation, Lessee may continue to use and occupy the Compound and Leased Premises under the terms and conditions hereunder, provided Lessor's and Lessee's obligations under this Lease are not otherwise altered, and provided Lessee, at its sole cost, restores so much of the Base Station and Leased Premises as remains to a condition substantially suitable for the purposes for which it was used immediately before the taking. Upon the completion of restoration, Lessor shall pay Lessee the lesser of the net award made to Lessor on account of the taking (after deducting from the total award attorneys', appraisers', and other costs incurred in connection with obtaining the award), or Lessee's actual out-of-pocket cost of restoring the Leased Premises, and Lessor shall keep the balance of the net award. In connection with any taking subject to this Section, Lessee may prosecute its own claim, by separate proceedings against the condemning authority for damages legally due to it (such as the loss of fixtures which Lessee was entitled to remove and moving expenses) only so long as Lessee's award does not diminish or otherwise adversely affect Lessor's award.

**23. SALE OF SITE:**

Any sale by Lessor of all or part of the Leased Premises to a purchaser other than Lessee shall be under and subject to this Lease and Lessee's right hereunder. Lessor shall be released from its obligations under this Lease in the event of a sale and the new owner of the Leased Premises, or part thereof, assumes Lessor's obligations hereunder (including the recognition of Lessee's rights hereunder).

**24. GOVERNING LAW; FORUM SELECTION:**

The execution, performance and enforcement of this Lease shall be governed by the laws of the Commonwealth of Virginia without application of conflicts of law principles. Any suits or actions pursuant to this Lease shall be brought only in a court of competent jurisdiction in Stafford County, Virginia.

**25. MISCELLANEOUS:**

This Lease plus the Exhibits hereto contain the entire agreement between the parties and may not be amended, altered or otherwise changed except by a subsequent writing signed by the parties to this Lease. The invalidation of any one of the terms or provisions of this Lease by judgment or court order shall in no way affect any of the other terms of this Lease which shall remain in full force and effect. Lessor and Lessee agree to execute any additional documents necessary to further implement the purposes and intent of this Lease. Time is of the essence with respect to each provision of this Lease.

**26. BINDING EFFECT:**

This Lease shall bind and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

**27. LESSOR'S RIGHT TO PERFORM:**



If Lessee fails to perform any obligations under this Lease, Lessor shall be entitled, but shall not be obligated, to perform any or all of such obligations and any cost of performing same shall be payable by Lessee to Lessor upon written demand as additional rent hereunder. Any amounts so incurred by Lessor and not repaid by Lessee within ten days after demand shall bear interest at a rate of ten percent (10%) per annum.

**28. HOLDING OVER:**

If Lessee remains in possession of the Leased Premises after the end of this Lease, Lessee will occupy the Leased Premises as a lessee from month to month, subject to all conditions, provisions, and obligations of this Lease in effect on the last day of the term.

**29. ESTOPPEL CERTIFICATES:**

Within no more than two weeks after written request by either party, the other will execute, acknowledge, and deliver a certificate stating:

- a. that the Lease is unmodified and in full force and effect, or, if this Lease is modified, the way in which it is modified accompanied by a copy of the modification agreement;
- b. the date to which rental and other sums payable under this Lease have been paid;
- c. that no notice has been received of any default which has not been cured, or, if the default has not been cured, what such party intends to do in order to effect the cure, and when it will do so;
- d. (if from Lessee) that Lessee has accepted and occupied the Leased Premises;
- e. (if from Lessee) that Lessee has no claim or offset against Lessor, or, if it does, stating the date of the assignment and assignee (if known to Lessee); and
- f. other factual matters as may be reasonably requested.

Any certificate may be relied upon by any prospective purchaser, lender or other person with a bona fide interest in the Leased Premises.

**30. NO WAIVER:**

No waiver of any condition or agreement in this Lease by either Lessor or Lessee will imply or constitute a further waiver by such party of the same or any other condition or agreement. No act or thing done by Lessor during the term of this Lease will be deemed an acceptance of surrender of the Leased Premises, and no agreement to accept the surrender will be valid unless in writing signed by Lessor. The delivery of Lessee's keys to Lessor will not constitute a termination of this Lease unless Lessor has entered into a written agreement to that effect. No payment by Lessee, or receipt from Lessor, of a lesser amount than the rent or other charges stipulated in this Lease will be deemed to be anything other than a payment on account of the earliest stipulated rent. No endorsement or statement on any check or any letter accompanying any check or payment as rent will be deemed an accord and satisfaction. Lessor

will accept the check for payment without prejudice to Lessor's right to recover the balance of the rent or to pursue any other remedy available to Lessor.

**31. AUTHORITY:**

Each of the persons executing this Lease on behalf of Lessee warrants to Lessor that Lessee is a duly organized and existing corporation under Delaware law, that Lessee is authorized to do business in the Commonwealth of Virginia, that Lessee has full right and authority to enter into this Lease, and that each and every person signing on behalf of Lessee is authorized to do so. Upon Lessor's request, Lessee will provide evidence satisfactory to Lessor confirming these representations.

Lessor and the person executing and delivering this Lease on Lessor's behalf each represents and warrants to Lessee that such person is duly authorized to so act and has the power and authority to enter into this Lease, as evidenced by Resolution R\_\_-\_\_, adopted by the Stafford County, Virginia Board of Supervisors on \_\_\_\_\_, 20\_\_.

**32. LIMITED LIABILITY:**

Lessee's sole recourse against Lessor, and any successor to the interest of Lessor in the Leased Premises, is to the interest of Lessor, and any successor, in the Leased Premises. Lessee will not have any right to satisfy any judgment which it may have against Lessor, or any successor, from any other assets of Lessor, or any successor, or from any of Lessor's board members, staff, officers, agents, servants, employees, volunteers, business invitees, customers, or guests. In no event shall Lessor be liable for consequential or punitive damages, economic losses or losses derived from future expected revenues. The provisions of this Section 32 are not intended to limit Lessee's right to seek injunctive relief or specific performance.

**33. RECORDATION:**

Lessee may record, at Lessee's expense, a memorandum or short form hereof in the form attached hereto as Exhibit F; provided, however, that Lessee agrees to execute and deliver to Lessor an original release thereof upon the expiration or termination of this Lease, which Lessee shall record, at Lessee's expense, when this Lease expires or is terminated.

**34. CONFLICTS:**

In the event of any conflict between the terms and provisions of this Lease and any other prior agreement between the parties, this Lease shall control.

[Signatures contained on following page.]

**IN WITNESS WHEREOF**, the parties hereto executed this Lease in two parts on the dates indicated.

**LESSOR:**

STAFFORD COUNTY, VIRGINIA, a political  
subdivision of the Commonwealth of Virginia

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

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

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

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

Approved as to Form

\_\_\_\_\_  
County Attorney

**LESSEE:**

MILESTONE COMMUNICATIONS  
MANAGEMENT III, INC., a Delaware corporation

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

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

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

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

**EXHIBIT A**  
**Description of Site**

**EXHIBIT A-1**

**Monopole Location; Description of Leased Premises**



**EXHIBIT B**  
**Easements**

**EXHIBIT C**  
**Hazardous Materials**

**EXHIBIT D**  
**Carrier Sublease Rider**

**LEASE RIDER**

THIS LEASE RIDER ("Rider") is executed simultaneously with and constitutes a substantive part of that certain Lease Agreement by and between MILESTONE COMMUNICATIONS MANAGEMENT III, INC., a Delaware corporation having an office at 1890 Preston White Drive, Suite 103, Reston, VA 20191 ("Lessor") and [ ] ("Lessee").

**RECITALS**

R-1 Lessor and Lessee are simultaneously entering into a Lease Agreement (including this Rider, the "Lease") whereby Lessee shall lease from Lessor certain rights to place, on Lessor's Monopole, Lessee's telecommunications equipment, and to locate on the Site on which Lessor's Monopole is constructed (or is to be constructed after the date hereof) Lessee's ground based equipment incident thereto, all in accordance with the terms of the Lease.

R-2 Lessor has disclosed to Lessee and Lessee acknowledges that the site on which the Monopole and equipment facility is located, or is to be located (the "Site"), is not owned in fee simple by Lessor, but rather is owned by Stafford County, Virginia ("Stafford County"), and is under lease to Lessor pursuant to a Real Property Deed of Lease Agreement dated as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_ (the "Site Lease") or will hereafter be under lease to Lessor under the form of the site lease previously agreed upon between Lessor and Stafford County. Capitalized terms used herein and not defined shall have the meaning give to such terms in the Site Lease.

R-3 Stafford County has required, as a condition precedent to Lessor and Lessee entering in to the Lease, and as a condition to the effectiveness thereof, that Lessor and Lessee simultaneously enter into this Rider as a substantive and material part of the Lease.

NOW THEREFORE, in consideration of the foregoing, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound hereby, Lessor and Lessee agree as follows:

1. The foregoing Recitals are true and correct and are incorporated herein as a substantive part of this Rider and of the Lease.
2. All capitalized terms used herein and not otherwise defined herein shall have the meanings given them in the Site Lease.
3. Lessee has been provided, and hereby acknowledges that it has received, a copy of the Site Lease (or, in the event that the Site Lease for the Site is not, as of the date hereof, executed, Lessee has received and reviewed the form site lease previously agreed upon between Lessor and Stafford County). Lessee has had an opportunity to review and understand the Site Lease, and acknowledges the absolute primacy of the terms and conditions of the Site Lease over

the terms and conditions of the Lease. Notwithstanding any other provision of the Lease, Lessee acknowledges the absolute primacy of Stafford County's use of the Site as a \_\_\_\_\_, and that Lessee's rights under the Lease are subject and subordinate to Stafford County's use and operation of the Site. Prior to any entry upon the Leased Premises, Lessee shall provide not less than two (2) business days' prior notice to Lessor and Stafford County, which notice shall specify the type of work or other activities that are to be performed or undertaken on the Leased Premises or which may impact the Site. In exercising their rights under the Lease and this Rider, Lessee will avoid any adverse construction, operational or other such impact on the Site or Stafford County's use and operation thereof, whether such impacts arise from work or activities being performed or undertaken on or off of the Site (utility outages arising from off-site utility relocation, for example), and, notwithstanding any other provision of the Lease, Lessee will cause such entry, work or activities to be performed or undertaken at such times, and to occur in such manner, as Stafford County may require, in its sole discretion, to avoid any adverse impacts to the Site or Stafford County's use thereof. In case of emergencies threatening life or safety or Lessee's equipment, Lessee may enter the Leased Premises without prior notice to Lessor or Stafford County, provided Lessee notifies Lessor and Stafford County of such entry, and the nature of the work performed or undertaken as a result of such emergency, as soon as practicable after Lessee's entry. Notwithstanding the foregoing, Lessee shall have the right to make customary and routine inspections of the Leased Premises upon two (2) business days' prior notice, provided that (i) such entry is only for the purpose of inspecting the Leased Premises, conducting routine maintenance and repairs (provided such maintenance and/or repairs do not require alteration of the structural elements to the Base Station or the Monopole or the addition or substitution of any electrical cabinet or equipment shelter) and (ii) the worker or workers who make such inspections check-in with the appropriate personnel at the Site prior to accessing the Leased Premises and, in all cases, follow all procedures required by Site personnel.

4. Lessee shall defend, with counsel acceptable to Stafford County, and indemnify and hold harmless, Stafford County from all losses, costs, claims, causes of actions, demands and liabilities arising from (a) any breach by Lessee of any covenant of the Lease; (b) any misrepresentation by Lessee contained in the Lease and/or any breach of any warranty contained in the Lease; and (c) any occurrence, of any kind or nature, arising from (i) Lessee's construction, installation, maintenance, repair, operation, replacement or removal of Lessee's equipment in the Base Station, on the Leased Premises or on the Site, or any other activities of Lessee in the Base Station, on the Leased Premises or on the Site of any kind or nature, (ii) the condition of Lessee's equipment, the Base Station or the Leased Premises and (iii) any personal injury, death, or accident in any way related to Lessee's use, operation or maintenance of the Base Station, the Site, the Leased Premises and/or any of Lessee's equipment or antennas contained therein or on the Monopole, of any kind or nature, whether foreseeable or not. Such indemnification shall include the cost of investigation, all expenses of litigation, and the cost of appeals, including, without limitation, attorneys' fees and court costs, and shall be applicable to Lessee's activities on the Site whether prior to the Commencement Date or after the termination of the Lease. In addition to Stafford County; Stafford County's Board of Supervisors and Stafford County's staff, officers, agents, servants, employees, volunteers, business invitees, customers, family members and guests shall be beneficiaries of Lessee's indemnification.

5. The term of the Lease shall not extend beyond the term of the Site Lease and any termination of the Site Lease shall automatically effectuate a termination of the Lease, without any further action from Stafford County.

6. During the term of the Lease, Lessee shall maintain a policy of commercial general liability insurance insuring Lessor and Stafford County against liability arising out of the use, operation or maintenance of the Leased Premises. The insurance will be maintained for personal injury and property damage liability adequate to protect Lessor and Stafford County against liability for injury or death of any person in connection with the use, operation and condition of the Leased Premises, and to insure the performance of Lessee's indemnity set forth in Section 4 of this Rider, in an amount not less than \$2,000,000 per occurrence/aggregate. During the term of the Lease, Lessee shall also maintain workers' compensation and employers' liability insurance, and such other insurance relating to the installation, repair, maintenance, operation, replacement and removal of Lessee's equipment and the use of the Leased Premises. The limits of the insurance will not limit the liability of the Lessee. All insurance required to be carried by Lessee shall name, in addition to Lessor, Stafford County as an additional insured. Certificates of such insurance shall be delivered to Lessor and Stafford County, and it shall be stated on the insurance certificate that this coverage "is primary to all commercial liability coverage the Lessor or Stafford County may possess."

7. Lessee shall not cause or permit any hazardous or toxic wastes, substances or materials (collectively, "Hazardous Materials") to be used, generated, stored or disposed of on, under or about, or transported to or from the Leased Premises (collectively, "Hazardous Materials Activities") without first receiving written consent from Lessor, which Lessee acknowledges is contingent upon Lessee's receipt of written consent from Stafford County, which may be withheld by Stafford County for any reason whatsoever and which may be revoked by Stafford County at any time, and then only in compliance (which shall be at Lessee's sole cost and expense) with all applicable legal requirements and using all necessary and appropriate precautions. Lessor and Stafford County shall have the right at all reasonable times, and from time to time, to conduct environmental audits of the Leased Premises and Lessee shall cooperate in the conduct of those audits. The term "Hazardous Materials" shall have the same meaning ascribed to it in the Site Lease.

8. Prior to commencing any activities on the Site, Lessee shall provide Lessor, and Lessor shall provide Stafford County, with evidence satisfactory to Lessor and Stafford County that Lessee and its contractors and agents who will be working on the Site are covered by insurance as required by Section 6 hereof. All of Lessee's work and facilities shall be installed free of mechanics', materialmen's and other liens and claims of any person. Lessee shall bond off or discharge any such liens or other claims within thirty (30) days after notice from Lessor or Stafford County. In the event that Lessee damages any grassed area as a result of its activities on the Site, Lessee shall re-sod the disturbed areas, and as soon as reasonably practicable, return them to the condition existing immediately prior to the activity.

9. Lessee shall operate the Base Station in strict compliance with all applicable statutes, codes, rules, regulations, standards and requirements of all federal, state and local governmental boards, authorities and agencies including, without limitation, OSHA (including, without limitation, OSHA regulations pertaining to RF radiation), the FCC and the FAA, and



with such reasonable rules and regulations governing the use of the Site as Stafford County may adopt from time to time. In the event that the operation of the Base Station violates any of such statutes, codes, rules, regulations, standards, ordinance, or requirements, Lessee agrees to suspend operation of the Base Station within twenty-four (24) hours after notice of such violation and not to resume operation of the Base Station until such operation is in strict compliance with all of the requirements of the Lease.

10. Lessor and Stafford County may enter the Leased Premises or any part thereof at any reasonable time and in a manner so as not to interfere more than reasonably necessary with Lessee's use of the Base Station, for the purpose of inspecting the Leased Premises.

11. Lessee acknowledges that Stafford County has the right, under the terms and conditions of the Site Lease, to cause Lessor to enforce all of the provisions, rights and remedies hereunder, and that Stafford County shall not, as a result be deemed to incur any liability therefor.

12. Any notice required to be given to Lessor under the terms and conditions of this Lease shall simultaneously be delivered to Stafford County at the address set forth in the Site Lease, or such other notice as Stafford County shall specify from time to time.

13. Under no circumstances shall Stafford County have any liability whatsoever to Lessee pursuant to the Lease, and Lessee hereby specifically and fully disclaims any and all right to pursue any claim or cause of action arising from this transaction against Stafford County, whether at law, in equity or otherwise.

14. Notwithstanding anything contained herein to the contrary, Lessee represents and warrants that it has read, understands and will comply with Section 12 of the Site Lease, and each such other provision thereof, relating to interference.

15. Lessee agrees (i) to repair any damage to the Site or the Leased Premises caused by Lessee, its employees, agents, or contractors, including, but not limited to, any damage to utility lines, drains, waterways, pipes, grass fields or paved surfaces, occurring as a result of Lessee's operations at the Leased Premises or on the Site, including but not limited to construction, installation, maintenance, repair, operation, replacement or removal of Lessee's equipment on the Leased Premises or the Site, and Lessee shall restore the Leased Premises and/or the Site to the condition existing immediately prior to such damage; (ii) that any repair work undertaken on the Site or the Leased Premises shall be completed as soon as possible after notice thereof; (iii) that if Lessee's activities on the Site or the Leased Premises result in the need to restore or replace any grass areas, such areas shall be sodded, rather than seeded; and (iv) that it shall be responsible for the full and timely payment of any costs incurred in connection with the repairs described in clauses (i) through (iii) of this sentence. Upon expiration of all applicable notice and cure provisions provided in the Lease, Lessor and Stafford County shall have the right, but not the obligation, to make, or cause to be made, any repairs to the Site or the Leased Premises which Lessee has failed to make pursuant to the terms of the Lease, and Lessee shall, immediately upon demand therefor, reimburse Lessor or Stafford County for the costs incurred in connection with such repairs.

16. This Rider shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia, without application of conflicts of law principles. Any suits or actions brought pursuant to this Rider or Lease, shall only be brought in a court of competent jurisdiction in Stafford County, Virginia.

17. This Rider may be executed in counterparts, all of which when taken together shall constitute one original. In the event of any conflict between this Rider and the Lease, the terms of this Rider shall control.

LESSOR:

MILESTONE COMMUNICATIONS  
MANAGEMENT III, INC., a Delaware corporation

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

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

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

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

LESSEE:

NAME OF LESSEE COMPANY

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

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

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

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

**EXHIBIT E**  
**Mortgagee Provisions**

Equipment Financing.

Lessor acknowledges that Lessee may in the future enter into a financing arrangement including promissory notes and financial and security agreements for the financing of the Monopole and Base Station and that Lessee's tenants, lessees or licensees may have entered into (or may in the future enter into) such financing arrangements for the financing of their equipment installed as part of the Base Station (collectively, the "Collateral"). In connection therewith, Lessor (i) consents to the installation of the Collateral (subject to the terms and provisions of the Lease); and (ii) disclaims any interest in the Collateral, as fixtures or otherwise, for the duration of the Lease and at the end of the term of the Lease if option (i) is selected or deemed to be selected by Lessor pursuant to Section 4b of the Lease.

Leasehold Financing.

Notwithstanding anything to the contrary contained in this Lease, at any time and from time to time Lessee may mortgage, pledge and encumber its interests in this Lease and in any subleases, and assign this Lease and any subleases, licenses and other occupancy and use agreements as collateral security for such mortgage(s). The making of a leasehold mortgage (or any other such assignment, pledge or encumbrance) shall not be deemed to constitute a prohibited assignment of this Lease, or of the leasehold estate hereby created, nor cause the holder of the leasehold mortgage (a "Mortgagee") to be deemed an assignee of this Lease. Such Mortgagee (or its nominee) shall be deemed an assignee of this Lease only at such time it succeeds to the Lessee's interest in this Lease by foreclosure of any leasehold mortgage, or assignment in lieu of the foreclosure, or if it exercises or attempts to exercise any rights or privileges of Lessee under the Lease. Upon such succession such Mortgagee (or nominee) shall be bound by the terms of this Lease only with respect to obligations first arising after such succession and shall be released and relieved of all further liabilities and obligations under this Lease once it assigns its interest in this Lease. Notwithstanding the foregoing, Mortgagee or such successors shall be liable for all rent due under the Lease, and for curing any breaches or defaults which continue after the Mortgagee or such successor acquire Lessee's interest in this Lease. Notwithstanding anything to the contrary contained in this Lease, any Mortgagee (or other person or entity) that succeeds to Lessee's interest in this Lease by way of foreclosure, assignment in lieu of foreclosure or the exercise of any other remedies relating to the enforcement of any leasehold mortgage may assign this Lease to any telecommunications company with assets in excess of One Hundred Million Dollars (\$100,000,000), which telecommunications company must demonstrate prior to assignment of this Lease that it meets or can with reasonable certainty acquire and maintain insurance coverage as provided in Section 14 of this Lease, and upon such assignment, such assignee shall be released from all further liability under this Lease; provided, however, that the provisions hereof shall become null and void upon such assignment. When used in this Lease, "mortgage" shall include whatever security instruments are used in the locality of the Premises, such as, without limitation, mortgages, deeds of trust, security deeds, and conditional deeds, as well as financing statements, security agreements, and other documentation required pursuant to the Uniform Commercial Code or successor or similar legislation.

If a Mortgagee shall send to Lessor and its counsel a true copy of the leasehold mortgage, together with written notice specifying the name and address of the Mortgagee and the pertinent recording data with respect to such leasehold mortgage, Lessor agrees that the following provisions shall apply to such mortgage so long as the leasehold mortgage has not been released by the Mortgagee:

No Merger.

If the leasehold interest under this Lease shall ever be held by the same person or party who then holds the reversionary interest under this Lease, no merger shall result therefrom and both the leasehold and reversionary interests shall continue.

Notice/Cure.

After Lessor provides Lessee with any notice of default or other notice provided in this Lease, the Mortgagee shall have the same period, as provided to Lessee in this Lease, to elect (in its sole discretion) to remedy or cause to be remedied the defaults complained of, and Lessor shall accept such performance as if the same had been done by Lessee.

Application of Certain Proceeds.

The Mortgagee may reserve the right to apply to the mortgage debt all or any part of Lessee's share of the proceeds from any insurance policies or arising from a condemnation.

## EXHIBIT F

Prepared by:  
Company/Firm Name  
Person's Name; Virginia State Bar # (if applicable)  
Street  
City, State Zip

Consideration: \$0

Tax Map No.:  
Description:

### MEMORANDUM OF LEASE

**THIS MEMORANDUM OF LEASE** is entered into as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between **MILESTONE COMMUNICATION MANAGEMENT III, INC.**, a Delaware corporation ("Lessee"), to be indexed as Grantee, and **STAFFORD COUNTY, VIRGINIA**, a political subdivision of the Commonwealth of Virginia ("Lessor"), to be indexed as Grantor.

#### RECITALS:

A. Lessor and Lessee are parties to a Site Lease Agreement, dated \_\_\_\_\_, 20\_\_ (the "Lease"), pursuant to which Lessor has leased to Lessee certain real property in Stafford County, Virginia described in Exhibit "A" attached hereto and to be recorded herewith.

B. Lessor and Lessee wish to enter into this Memorandum of Lease ("Memorandum"), which shall only memorialize and not supersede the Lease; and if any terms of this Memorandum conflict with the Lease, the Lease term shall prevail and control.

**NOW, THEREFORE**, in consideration of the premises, the sum of Five Dollars (\$5.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Lessor and Lessee hereby agree as follows, incorporating the above recitals herein by reference:

1. The name of the lessor under the Lease is Stafford County, Virginia.
2. The name of the lessee under the Lease is Milestone Communications Management III, Inc..
3. The address of Lessor, as stated in the Lease, is Stafford County, Virginia, 1300 Courthouse Road, Stafford, Virginia 22554. The address of Lessee, as stated in the Lease, is Milestone Communications, 12110 Sunset Hills Road, Suite 100, Reston, Virginia 20190.
4. The leased premises, as described in the Lease, consists of a portion of the property owned by the Lessor located at \_\_\_\_\_, \_\_\_\_\_, and known as \_\_\_\_\_, and as more particularly described on the attached Exhibit A.



5. The initial term of the Lease is ten (10) years. The date of commencement of the term of the Lease was \_\_\_\_\_, 20 \_\_, and the date of termination of the initial term of the Lease is ten (10) years thereafter, subject to any applicable renewal period.

6. Provided Lessee is not in default under the Lease beyond any applicable cure period, Lessee may renew the Lease for four (4) five-year renewal periods, to commence at the end of the initial term of the Lease. Accordingly, the latest date to which the term of the Lease may be extended is \_\_\_\_\_.

7. Pursuant to the Lease, as defined therein and as depicted in the attached Exhibit "B," Lessor has granted Lessee easements appurtenant to the leasehold ("Appurtenant Easements"). With the exception of Lessee's grant of use of the Appurtenant Easements to Carriers, the Appurtenant Easements may not be assigned or otherwise transferred in whole or in part separately from the leasehold granted under the Lease.

**IN WITNESS WHEREOF**, the undersigned LESSEE has duly executed this Memorandum of Lease under seal as of the first date stated above.

**MILESTONE COMMUNICATIONS  
MANAGEMENT III, INC.**, a Delaware  
corporation doing business as Milestone  
Communications

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

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ ) **TO WIT:**

I hereby certify that on this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_, before me, a Notary Public for the state and county aforesaid, personally appeared \_\_\_\_\_, known to me or satisfactorily proven to be the person whose name is subscribed to the foregoing instrument, and acknowledged that he executed the foregoing instrument, acting in his capacity as \_\_\_\_\_ of MILESTONE COMMUNICATIONS MANAGEMENT III, INC. for the purposes therein set forth.

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

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

*(Signatures continue on the next page.)*

The forgoing lease and appurtenant easements are hereby granted by Stafford County, Virginia, pursuant to the Lease and as further evidenced by the signature of the undersigned, who is authorized to sign on behalf of the County, as evidenced by Resolution R\_\_\_\_ - \_\_\_\_\_, adopted by the Stafford County Board of Supervisors on \_\_\_\_\_, 20\_\_.

**IN WITNESS WHEREOF**, the undersigned LESSOR has duly executed this Memorandum of Lease under seal as of the first date stated above.

**STAFFORD COUNTY, VIRGINIA**, a political  
subdivision of the Commonwealth of Virginia

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

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ ) **TO WIT:**

I hereby certify that on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, a Notary Public for the state and county aforesaid, personally appeared \_\_\_\_\_, known to me or satisfactorily proven to be the person whose name is subscribed to the foregoing instrument, and acknowledged that he executed the foregoing instrument, acting in his capacity as \_\_\_\_\_ of \_\_\_\_\_, for the purposes therein set forth.

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

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

APPROVED AS TO FORM:  
Virginia Code § 15.2-1803

\_\_\_\_\_  
Stafford County Attorney's Office  
Printed Name:  
Title:

**Exhibit A to  
Memorandum of Lease**

(Legal Description)

**Exhibit B to  
Memorandum of Lease**

**(Easements)**

55534920 v15

ACORD<sub>TM</sub>

## CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

2/24/2015

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> <b>BB&amp;T-Atlantic Risk Management</b> <b>5850 Waterloo Road, Suite 240</b> <b>Columbia, MD 21045</b> <b>410 480-4400</b>		<b>CONTACT NAME:</b> Michelle Roark <b>PHONE (A/C, No, Ext):</b> 410-480-4447 <b>FAX (A/C, No):</b> 866-549-3345 <b>E-MAIL ADDRESS:</b> MRoark@bbandt.com	
		<b>INSURER(S) AFFORDING COVERAGE</b> <b>INSURER A:</b> Hanover Insurance Company	<b>NAIC #</b> <b>22292</b>
<b>INSURED</b> <b>Milestone Communications</b> <b>Management III Inc</b> <b>12110 Sunset Hills Road Suite 100</b> <b>Reston, VA 20190</b>		<b>INSURER B:</b> <b>INSURER C:</b> <b>INSURER D:</b> <b>INSURER E:</b> <b>INSURER F:</b>	

## COVERAGES

## CERTIFICATE NUMBER:

## REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<b>GENERAL LIABILITY</b> <input checked="" type="checkbox"/> <b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> <b>CLAIMS-MADE</b> <input checked="" type="checkbox"/> <b>OCCUR</b> GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> <b>POLICY</b> <input type="checkbox"/> <b>PROJECT</b> <input checked="" type="checkbox"/> <b>LOC</b>		ZHQ665536105	10/08/2014	10/08/2015	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$500,000 MED EXP (Any one person) \$10,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000 \$
A	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> <b>ANY AUTO</b> <input type="checkbox"/> <b>ALL OWNED AUTOS</b> <input checked="" type="checkbox"/> <b>HIRED AUTOS</b> <input checked="" type="checkbox"/> <b>SCHEDULED AUTOS NON-OWNED AUTOS</b>		AHQ665604805	10/08/2014	10/08/2015	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	<input checked="" type="checkbox"/> <b>UMBRELLA LIAB</b> <input checked="" type="checkbox"/> <b>OCCUR</b> <input type="checkbox"/> <b>EXCESS LIAB</b> <input type="checkbox"/> <b>CLAIMS-MADE</b> <input type="checkbox"/> <b>DED</b> <input checked="" type="checkbox"/> <b>RETENTION \$0</b>		UHQ665551905	10/08/2014	10/08/2015	EACH OCCURRENCE \$5,000,000 AGGREGATE \$5,000,000 \$
A	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <input type="checkbox"/> Y <input checked="" type="checkbox"/> N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N/A	WHQ680098105	12/12/2014	12/12/2015	<input checked="" type="checkbox"/> <b>WC STATUTORY LIMITS</b> <input type="checkbox"/> <b>OTHER</b> E.L. EACH ACCIDENT \$500,000 E.L. DISEASE - EA EMPLOYEE \$500,000 E.L. DISEASE - POLICY LIMIT \$500,000
A	<b>Professional Liab</b>		LHQ948599903	10/08/2014	10/08/2015	Per Claim: \$1,000,000 Aggregate: \$2,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

If required by written contract, Stafford County Virginia is additional insured on a primary basis on the General Liability policy, subject to policy provisions. A waiver of subrogation applies in favor of the certificate holder on the General Liability policy, subject to policy provisions. A thirty day notice of cancellation will be provided to the certificate holder in the event the General Liability policy shall cancel.

## CERTIFICATE HOLDER

## CANCELLATION

Stafford County Virginia  
 1300 Courthouse Road  
 P.O. Box 339  
 Stafford, VA 22555-0339

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

*David F. Saul*



BOARD OF SUPERVISORS  
COUNTY OF STAFFORD  
STAFFORD, VIRGINIA

RESOLUTION

At a regular meeting of the Stafford County Board of Supervisors (the Board) held in the Board Chambers, George L. Gordon, Jr., Government Center, Stafford, Virginia, on the 20<sup>th</sup> day of January, 2015:

<u>MEMBERS:</u>	<u>VOTE:</u>
Gary F. Snellings, Chairman	Yes
Laura A. Sellers, Vice Chairman	Yes
Meg Bohmke	Yes
Jack R. Cavalier	Yes
Paul V. Milde III	Yes
Cord A. Sterling	Yes
Robert "Bob" Thomas, Jr.	Yes

On motion of Mr. Thomas, seconded by Mr. Milde, which carried by a vote of 7 to 0, the following was adopted:

A RESOLUTION AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE A TELECOMMUNICATIONS MARKETING MASTER AGREEMENT WITH MILESTONE COMMUNICATIONS MANAGEMENT III, INC., TO MARKET COUNTY-OWNED PROPERTY FOR THE PLACEMENT OF TELECOMMUNICATIONS TOWERS

WHEREAS, Milestone Communications Management III, Inc. (Milestone), proposed marketing select County-owned properties to telecommunications carriers, building telecommunications facilities on approved sites, and sharing a portion of the lease fees paid by the telecommunications companies with the County; and

WHEREAS, the Telecommunications Commission (TCC) considered Milestone's proposal at its October 25, 2012 and December 18, 2014 meetings, and endorsed the agreement; and

WHEREAS, Milestone was the successful responsive bidder to a request for proposal (RFP), issued by the City of Manassas, which was awarded on March 25, 2013; and

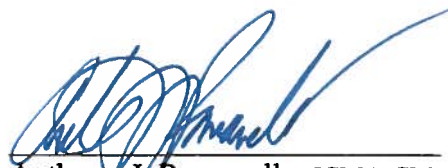
WHEREAS, the County may enter into an agreement with Milestone pursuant to the cooperative procurement provision in the City of Manassas' RFP; and

WHEREAS, after carefully considering the recommendations of the TCC and staff, the Board desires to enter into a telecommunications marketing master agreement with Milestone;

NOW, THEREFORE, BE IT RESOLVED by the Stafford County Board of Supervisors on this the 20<sup>th</sup> day of January, 2015, that it be and hereby does authorize the County Administrator to execute a telecommunications marketing master agreement with Milestone Communications Management III, Inc., to market County-owned properties for the placement of telecommunication facilities; and

BE IT FURTHER RESOLVED that the eleven water towers in the County be added to the list of marketable telecommunication facility placement.

A Copy, teste:

  
\_\_\_\_\_  
Anthony J. Romanello, ICMA-CM  
County Administrator

AJR:kcd

### **Current Situation**

- In May 2016 the Jeff Rouse Swim and Sport Center opened for business, managed by Eastern Sports Management through a lease agreement with Stafford County.
- At the same time the Woodlands Indoor Pool was closed. To provide continuity for these two programs for our citizens, PRCF continued to manage these programs at the Jeff Rouse Center under our agreement.
- Over the past two and one-half years Stafford County Parks and Recreation has continued to coordinate the Water Aerobics and Swim Lessons at the Jeff Rouse Center.

### **Considerations**

- No changes are needed in the agreement. Stafford has the right to run classes, but is not required.
- Logistics – better accommodate the customer
  - There is confusion about who runs each program
  - Duplication – Flexibility/Efficiency
  - Registration
- Financial – this will reduce County revenue, however, expenditures will drop more
  - Approximately \$30 - \$50 K savings per year

### **Request for the CEDC Committee/Board of Supervisors**

- Staff would like to transition the management and oversight of these classes to the Jeff Rouse Center.
- The Jeff Rouse Center has agreed to maintain and make no changes to the current dates/times or costs of the programs.
- They will also seek to hire the part-time instructors used by the County.
- In essence no changes to the program other than where the participant would register.

### **Benefits to the County**

- Reduces Confusion
- Increases efficiency at Rouse Center
- Improves Financial Performance

### **Current Situation**

- Aquia Harbour Property Owners Association has conducted dredging work in various portions of Aquia Creek since 1992. Most recent work in 2016-2017 (20,000 cubic yards removed from 6 areas at \$537,122 for dredging and \$120,000 for spoils removal).
- An Engineering Services Contract is necessary for next planned cycle of Maintenance Dredging - \$80,000.
- VA Port Authority financial assistance is available to localities applying by 03/01/19.

### **Proposed End State**

- Submit Grant Application on behalf of Aquia Harbour Property Owners' Association. Aquia Harbour will manage its contract with GKY and Associates to update previous engineering services work to renew, extend or otherwise apply for all necessary local, state and federal permits for next planned cycle of Maintenance Dredging.
- Future VPA Application in 2020 or 2021 for financial assistance to perform action dredging work.
- There is no cost to the County other than staff time in coordination

### **Request for the CEDC Committee/Board of Supervisors**

- Authorize County Administrator or Designee to submit grant application to VA Port Authority by 03/01/19. Subsequent MOU between County, VPA and Aquia Harbour POA will be presented to BOS for similar authorization if VPA funding award received.

### **Benefits to the County**

- Aquia Creek (6± portions similar to 2016-2017 Dredging) water depths will be improved to 5-8' depths. Significant benefits to recreational and fishing watercraft in area and other boaters coming upstream and downstream of dredged area.
- Aquia Harbour Marina (92 Slips + Boat Ramp), all property owners adjacent to dredged areas and upstream and downstream users of this portion of Aquia Creek will benefit from improved channel depths.

**Aquia Harbour Dredging  
VA Port Authority Application (DRAFT)  
01/30/19**

**Project Name:** Aquia Harbour Dredging – Engineering Services

**Project Address:** Aquia Harbour Marina

**Project Locations:** Aquia Creek – 1) Aquia Bridge, 2) John Paul Jones, 3) Crown Manor, 4) Foresail Cove, 5) Channel Cove, 6) Austin Run

**Contact Information:**

Patricia S. Harman, CMCA  
General Manager  
Aquia Harbour POA  
1221 Washington Drive  
Stafford, VA 22554  
540-659-3050  
[gm@aquiaharbour.org](mailto:gm@aquiaharbour.org)

Trenton L. Funkhouser, AICP  
Assistant Director for Code Review and Inspections  
Stafford County Public Works Department  
P.O. Box 339  
Stafford, VA 22555  
540-273-1892  
[tfunkhouser@staffordcountyva.gov](mailto:tfunkhouser@staffordcountyva.gov)

**Project Summary:**

The Aquia Harbour Property Owners' Association (AHPOA) is preparing for its next cycle of maintenance dredging in six locations along Aquia Creek. Current VPA Funding assistance request for Engineering Services. VPA Funding Assistance Request planned for 2020 for dredging costs.

**Need and Urgency:**

The AHPOA Marina has 92 slips and boat ramp serving the 2,344 homes and 9,000 people of the community. Upstream development activities, poorly maintained or non-existent shoreline protection structures and natural erosion all contribute to siltation and sedimentation of various portions of Aquia Creek west of the Potomac River. Many portions of the AHPOA Marina and reaches of Aquia Creek have far less than the desired 5-8 feet depths necessary for motorized watercraft. Aquia Creek is used by many people other than the residents of the Aquia Harbour community and adequate navigable depths are critical to the continued vitality of the creek for recreational and fishing purposes.

**Feasibility:**

AHPOA has planned, designed, funded and executed similar dredging activities since 1992. The proposed work is consistent with historical work and will follow up on 2016-2017 activities that removed 20,000 cubic yards of material in six locations of Aquia Creek.



## **Permit Status and Project Management:**

The AHPOA has re-engaged a professional engineering firm responsible for renewing or applying for all necessary local, state and federal permits. Such renewal or application will be based on most recent permits obtained for the 2016-17 dredging activities performed by the AHPOA. Both the consultant and AHPOA have extensive experience in working with regulatory agencies and anticipate no significant difficulties in obtaining the necessary permits for dredging activities, spoils dewatering and spoils disposal.

**VPA Funding Request:** \$80,000

## **Project Schedule:**

03/01/19	VPA Grant Application and Receipt of Consultant Scope of Work and Fee Proposal
04/01/19 – 05/01/19	VPA Notice of Awards and Approval of VPA/Applicant MOU
05/01/19 – 12/01/19	Consultant completion of portion of Scope of Services necessary to submit Applications for new or extension of existing local, state and federal permits



**AQUIA HARBOUR  
PROPERTY OWNERS ASSOCIATION, INC.**

To: Stafford County Board of Supervisors, Stafford County Administrator Thomas Foley,  
Stafford County Deputy Administrator Fred Presley, Stafford County Deputy  
Administrator Michael Smith, Delegate Bob Thomas and Senator Richard Stuart

From: Aquia Harbour Property Owners Association, Board of Directors

Subject: Request for Financial Assistance Dredging Aquia Creek

Date: November 12, 2018

RECEIVED

NOV 19 2018

On behalf of the Residents of Aquia Harbour the AHPOA Board of Directors formally seeks the assistance of Stafford County and our elected representatives in Richmond.

We have an impending issue, which will soon become a financial crisis in our community. Maintaining the waterways of Aquia Creek has been our financial responsibility, it is one we take seriously, plan for, save for, and expend significant resources on. However, a task that we used to do every 10 years, then every 5 years will soon be a task required virtually every year easily costing our community \$600,000 each time we must dredge. Dredging Aquia Creek is not simply a nice thing we do for the boaters in our community; but is vitally necessary as it maintains the flood plain not just in Aquia Harbour but in much of the surrounding county. Many other Stafford residents and marinas front historical Aquia Creek. For us all this is a matter of life and property.

It is our position that significant changes in Stafford County, such as the torrential rains this past year, significant construction of housing and expanding VDOT EzPass lane construction removes natural barriers to erosion control and fill our creek with sediment and eliminate our channels. Our experts have estimated that 90%-95% of the sediment that fills our channels originates outside of the Aquia Harbour community. We seek your financial assistance in this matter and believe doing so supports the Stafford County Shoreline Management Plan and the Chesapeake Bay TMDL Action Plan.

A new Virginia grant exists, that could assist with the urgent dredging issue in Aquia Creek. It was established by the General Assembly this year and is available to local governments. We are in dire need of this assistance but are not eligible to apply. Only local governments can apply. The following was pulled directly from the Port of Virginia PDF that outlines the grant:

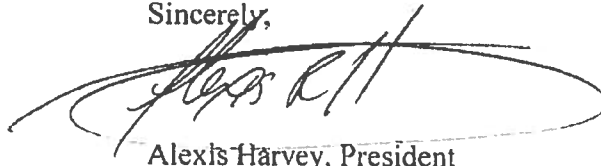
**VIRGINIA PORT AUTHORITY POLICY ON GRANTS TO LOCAL GOVERNMENTS FOR FINANCIAL  
ASSISTANCE FOR DREDGING ACTIVITIES**

*PREFACE: In May 2018, the Virginia General Assembly established the Virginia Waterway Maintenance Fund for the purpose of supporting shallow-draft dredging projects throughout the Commonwealth. The source of the grant funds shall be the Virginia Waterway Maintenance Grant Fund. The Virginia Port Authority finds it necessary and in the public body interest, and pursuant to its statutory responsibility, to establish the Virginia Waterway Maintenance Grant Program Guidelines.*

We urge your immediate action regarding this grant for Aquia Creek from Aquia Harbour to the Potomac River. Without this assistance from the County and State Aquia Creek is in danger of suffering the same fate as Neabsco Creek in Prince William County<sup>2</sup>. Additionally, we request that the County pursue more aggressive mitigation action to further prevent sediment from ending up in Aquia Creek. It is our understanding that Mr. Cavalier has already asked that this grant be researched and we are most grateful for his immediate response to our informal request via email. We are prepared to support the County's efforts in any way we can.

Your assistance is both needed and appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "Alex Harvey", is written over a horizontal line.

Alexis Harvey, President  
AHPOA Board of Directors

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1) [http://www.portofvirginia.com/pdfs/stewardship/VA\\_Waterway\\_Maintenance\\_Fund\\_Guidelines.pdf](http://www.portofvirginia.com/pdfs/stewardship/VA_Waterway_Maintenance_Fund_Guidelines.pdf)

2) [https://www.washingtonpost.com/news/dr-gridlock/wp/2018/05/02/marine-survey-confirms-neabsco-creek-water-level-is-too-low/?utm\\_term=.50f98250ecff](https://www.washingtonpost.com/news/dr-gridlock/wp/2018/05/02/marine-survey-confirms-neabsco-creek-water-level-is-too-low/?utm_term=.50f98250ecff)



April 29, 2014

Mr. Ken Laenger, General Manager  
Aquia Harbour Property Owners Association  
1221 Washington Drive  
Stafford, VA 22554

**RE: Proposal for Aquia Harbour Dredging Services**

Dear Mr. Laenger:

Based on our correspondence with Aquia Harbour Property Owners Association (AHPOA) and our visit to the proposed dredge areas on April 22, 2014, GKY & Associates, Inc. (GKY) is pleased to present the following proposal for the Aquia Harbour Dredging Services. In preparation of this proposal, GKY reviewed the following reference materials:

- A. Virginia Marine Resources Commission (VMRC) Permit #06-0209, valid until December 18, 2017
- B. VMRC Permit #11-V0051
- C. Virginia Water Protection (VWP) Individual Permit #06-0209, valid until July 22, 2022
- D. Email correspondence between AHPOA and regulatory agencies
- E. Virginia Institute of Marine Science (VIMS) interactive map of Submerged Aquatic Vegetation (SAV), see Attachment 2
- F. "Supplemental Materials, Aquia Harbour General Dredging Permit, Submission to Satisfy Requests Made April 26, 2006", prepared by GKY, dated October 2, 2006
- G. "Aquia Harbour Maintenance Dredging Plan", prepared by GKY, dated March 23, 2007

For this cycle of maintenance dredging, AHPOA has identified six (6) proposed dredge locations. They are shown in Attachment 1 and outlined below.

- (1) Aquia Bridge – the northern portion of this area is outside the limits of the existing VMRC permit #06-0209. The VIMS interactive map shows no submerged aquatic vegetation in this area.
- (2) John Paul Jones – this area is entirely outside the limits of the existing VMRC permit #06-0209. The VIMS interactive map shows no submerged aquatic vegetation in this area.
- (3) Crown Manor – the eastern portion of this area is outside the limits of the existing VMRC permit #06-0209. The VIMS interactive map identifies submerged aquatic vegetation in close proximity to this dredge area.
- (4) Foresail Cove – this area is entirely outside of the limits of the existing VMRC permit #06-0209. This area was previously permitted separately under VMRC permit #11-V0051. The VIMS interactive map identifies submerged aquatic vegetation in close proximity to this dredge area.

- (5) Channel Cove – this area is entirely outside the limits of the existing VMRC permit #06-0209. The VIMS interactive map identifies submerged aquatic vegetation in close proximity to this dredge area.
- (6) Austin Run – this area is entirely within the limits of the existing VMRC permit #06-0209. The VIMS interactive map shows no submerged aquatic vegetation in this area.

It is our understanding that AHPOA would like GKY to:

- I. Perform "Before Dredge" bathymetric surveys at each dredge location to support the acquisition of bids from dredging contractors.
- II. Obtain the necessary permits for the dredging activities. Specifically, AHPOA would like to amend their existing VMRC Permit #06-0209 to expand the permit limits to cover all potential dredging areas, including the six (6) proposed locations to be dredged in this cycle of dredging.
- III. Provide the necessary engineering design plans and necessary permits for the disposal of dredge materials.
- IV. Perform "After Dredge" bathymetric surveys at each dredge location to verify the amount of sediment removed by the dredging contractor.

Following is a detailed work description for these tasks.

### **Task 1. Survey Benchmarks**

Up to six (6) survey benchmarks, having known horizontal coordinates and vertical elevation (accurate to the hundredth of a foot), will be installed by a survey crew under the direct supervision of a licensed Land Surveyor in the Commonwealth of Virginia. The benchmarks are required so that the bathymetric survey can be accurately referenced to a known vertical datum in tidal conditions. If feasible, one benchmark will be installed along the shoreline adjacent to each of the proposed dredge areas. The benchmarks will be referenced and located off of a stationary GPS unit, and will consist of an iron rod or similar permanent monument.

### **Task 2. Before Dredge Bathymetric Survey**

The Aquia Harbour marina area and adjacent waterways encompasses approximately 125 acres of surface water in Stafford County. AHPOA has identified six (6) dredge areas which total approximately three (3) acres of surface water that will be the target dredge areas. GKY will mobilize the necessary boat and equipment to Aquia Harbour for the bathymetric survey portion of this project. It is assumed that AHPOA will provide access to the marina boat dock to allow loading/unloading of the boat from the trailer. It is also assumed that AHPOA will provide space to temporarily store the boat and trailer overnight during the time it takes to complete the multi-day survey.



GKY will perform the bathymetric survey of the proposed dredge areas using our Differential Global Positioning System (DGPS) unit for horizontal control and depth soundings will be made using an Odom HT100 echo sounding unit (0.1-ft precision) where conditions permit. Data will be collected, stored and processed within the Hypack software platform using a laptop. Hypack is a standard software used in bathymetric field work and is accepted by the U.S. Army Corps of Engineers, among others, for underwater surveying and dredging activities.

The bathymetric survey points will generally be collected following a predetermined grid system. The grid will be created in the Hypack software. DGPS positioning of the boat will be overlaid onto the pre-determined grid within the Hypack software in real time, and the boat will be guided along each line of the grid (with reasonable deviations). The grid will have a maximum spacing of twenty (20) feet apart within the dredge areas shown in Attachment 1. Survey points will be recorded every second during the boat's travel. If necessary, for shallow areas, GKY will supplement the Hypack data with grade rod measurements. The proposed grid spacing for this survey is acceptable per US Army Corps of Engineers Engineering and Design Manual for Hydrographic Surveying (EM1110-2-1003).

### ***Task 3. Volume Analysis and Dredging Plans***

Using the Hypack data and supplemental manual data (as necessary) GKY will develop the dredge areas' bottom surface (top of sediment). The bathymetric survey points will be validated and prepared for further analysis using the Hypack software data processing algorithms. These points will then be imported into AutoCAD and the top of sediment surface will be created using a triangular irregular network (TIN). Contours with one foot intervals will be generated from the TIN.

GKY will utilize the GKY Maintenance Dredging Plans and Supplemental Materials, dated March 23, 2007 and October 6, 2006, to develop a proposed dredge extents and depths surface (i.e., Proposed Conditions Surface), where applicable. The Proposed Conditions Surface will be created as a TIN in AutoCAD. For areas that are outside of the channel (i.e., Maintenance Dredging Plan), GKY will assume a maximum 6-ft depth below mean low water.

The dredge volume estimate will be determined by comparing the top of sediment with the proposed depth at each location. GKY will utilize tools in AutoCAD to compare relevant surfaces and determine the volume of material to be dredged at each of the proposed dredge locations.

The deliverable for this task will be dredging plans displaying the results of the bathymetric survey and the estimated volume of material to be removed at each proposed dredge location. GKY will also include information in the dredging plans that will assist AHPOA in acquiring accurate bids from dredging contractors. The anticipated 24"x36" dredging plan set, for submission to Dredging Contractors, will include:

- Cover Sheet and Project Vicinity Map
- Project Details and Narrative
- Overall Existing Conditions Plan (Before Dredge Survey from Task 1)
- Dredging Plan (showing the dredge areas, volumes to be dredged, disposal area, and haul route)
- Erosion & Sediment Control Plan (for barge unloading area)
- Dredge Cross Sections

## ***Task 4. Dredging Permitting***

### **Joint Permit Application**

A Joint Permit Application (JPA) to amend the existing permit #06-0209 will be prepared for review by Virginia Marine Resources Commission (VMRC), Virginia Department of Environmental Quality (DEQ), Stafford Wetlands Board (SWB), and the United States Army Corps of Engineers (COE) for authorization to impact jurisdictional wetlands and waters within the Aquia Harbour limits. The JPA will be prepared in accordance with existing requirements and will define the scope of impacts resulting from proposed dredging and disposal operations at the project site. This task includes preparation of written support documentation to accompany the JPA, including but not limited to project description and purpose, statement of need, avoidance and minimization practices, estimation of mitigation requirements, surface water impact plans, and other documents deemed necessary for a complete application. The amended JPA will be submitted to AHPOA for signature prior to submission to the appropriate review agencies.

### **JPA Processing and Regulatory Support**

Acting as the agent for AHPOA, GKY will coordinate preparation and submission of responses to DEQ, SWB, COE, and/or VRMC as appropriate, in order to clarify any questions or concerns expressed by those agencies. This will include one (1) set of written responses to the regulatory reviewers, one (1) office meeting, and one (1) site visit to allow field review and discussion of the proposed impacts by agency personnel. Coordination with SWB, as needed, will include one (1) site visit with County staff, one (1) mandatory public hearing, and one (1) site visit during or after the dredging operation.

### **Database Review**

Searches of the appropriate databases will be conducted to obtain preliminary information regarding the presence of threatened/endangered species and archeological/historical resources which may be located in or near the proposed permit areas. The results of these searches will be transmitted to AHPOA with a brief outline of the issues that may affect the permitting and/or construction phases of the project. The outline will include suggestions and/or requirements to resolve any discovered issues. This task does not include any studies which may be necessary to determine habitat availability or the presence of indicated species. Nor does this task include any studies to identify above or below ground archeological and historic resources. Should these surveys or studies be required by the review agencies, then a separate scope of work will be submitted to AHPOA for consideration.

## **Task 5. SAV Surveys (if required)**

If required by the Stafford Wetlands Board, Submerged Aquatic Vegetation (SAV) surveys will be conducted. The specific areas to be surveyed may be identified by regulatory agencies during processing of the JPA for dredging. These surveys will be conducted either by boat or from land as necessary to gather appropriate data and to address agency comments. SAV, if encountered, will be collected and taken back to the lab for positive identification. A narrative report will be prepared and will include photographs of the specimens collected.

## ***Task 6. Disposal Permitting and Plans***

### *Stafford County Land Disturbance Permit*

Any land disturbance exceeding 2,500 square feet in Stafford County requires a land disturbance permit. The disposal of the dredge spoils into the existing dewatering basin will classify as land disturbance and will exceed 2,500 square feet. Therefore, a land disturbance permit from Stafford County is required for this project. GKY will complete the land disturbance permit application and will submit it to Stafford County in conjunction with the Erosion & Sediment Control Plans.

### *Erosion & Sediment Control Plans*

As part of the land disturbance permit application package, GKY will prepare an Erosion & Sediment (E&S) Control Plan for submission to Stafford County. GKY will process the plan through approval and issuance of the land disturbance permit. The 24"x36" E&S plan set will include:

- Cover Sheet and Project Vicinity Map
- E&S Plans (E&S controls, E&S details, and narrative)
- Disposal Plan (showing haul route and disposal area)

### *VSMP Permit Application & SWPPP*

A Virginia Stormwater Management Program (VSMP) Permit for Construction Activities is required by DEQ for all construction projects proposing to disturb one or more acres of land or for disturbance of land between 2,500 square feet and one (1) acre in a Chesapeake Bay Preservation locality (which includes Stafford County). Under this task, an application for a VSMP General Permit VAR10 for Discharges of Stormwater from Construction Activities will be prepared and submitted to DEQ. A Stormwater Pollution Prevention Plan (SWPPP) for the project will be prepared as required by the VSMP General Permit. The SWPPP will be developed based on the E&S plans and general requirements outlined in the Permit's Conditions. Please note that this task includes any required coordination with DEQ to process the Permit request, but does not include the actual inspections and reporting required under the SWPPP. Those are typically performed by the Contractor. It is assumed that the VSMP permit application fee will be covered by the AHPOA.

## ***Task 7. Disposal Area Topographic Survey***

It is assumed that all dredge spoils will be disposed of at the existing dewatering basin which is located on the east side of Aquia Drive, across from the horse stables. The existing VMRC permit has a limit of how much sediment the dewatering basin can accommodate. It is our understanding that the old dredge spoils were recently removed and hauled away from the dewatering basin. Therefore, a topographic survey of the dewatering basin existing conditions is required to verify that there is ample storage capacity in the basin to receive the dredge spoils from this dredge cycle. The dewatering basin will be field surveyed to produce two (2) foot contours of the entire dewatering basin and associated berm. GKY will utilize this survey data as the existing conditions base map for the E&S plans.

### ***Task 8. After Dredge Bathymetric Survey***

Upon notification from AHPOA that the dredging activities are complete, GKY will complete a bathymetric survey of the areas that were dredged. The purpose of this survey will be to verify the actual amount of accumulated sediment that the dredging contractor removed. Additionally, AHPOA can utilize this survey as the baseline survey for future dredging projects. GKY will utilize the same bathymetric survey techniques outlined in Task 1.

GKY will be responsible for no more than one (1) bathymetric surveying site visit for this task. If the removal volumes have not been satisfied by the dredging contractor, GKY will inform AHPOA and will prepare a separate scope of work and cost estimate for client approval prior to proceeding with additional site visits and work.

### ***Task 9. After Dredge Analysis and Technical Memo***

The surveyed data from the After Dredge Bathymetric Survey will be imported into AutoCAD and the after dredge top of sediment surface will be created using a TIN. Contours with one foot intervals will be generated from the TIN.

The After Dredge Bathymetric Survey surface will be compared to the Before Dredge Survey and Proposed Conditions Surface to evaluate how much material the dredging contractor removed from each sub-area. If the required volume has not been satisfied, GKY will communicate to AHPOA the volume left to be removed. Once the volume removal is satisfied, GKY will prepare a technical memorandum that includes a discussion of the survey results and the final volumes that were removed by the contractor.

#### **ASSUMPTIONS:**

For the purposes of developing this proposed scope of work and the associated pricing, GKY has made the following assumptions:

- Data from Stafford County's Geographic Information System (GIS) will be sufficient to develop base mapping for the bathymetric survey, dredging plans, and disposal plans.
- AHPOA shall be responsible for providing GKY access to the marina and boat ramp for the Before and After Dredge bathymetric surveys.
- AHPOA shall be responsible for providing access to private properties for: installation of the survey benchmarks and surveying the dewatering basin.
- The Dredging Plans will be produced for solicitation of bids from dredging contractors.
- The contractor shall be responsible for staking out the proposed dredge locations prior to the pre-dredge conference.
- The contractor shall transport all dredge spoils to the disposal area, and it will not be hauled offsite.
- The permitting included in this proposal is presumed to be sufficient for revision of the existing dredging permits. However, due to there being multiple regulatory agencies involved, it is possible additional information beyond the scope of work may be required.

Services that are outside the scope of this proposal include the following:

- Application and/or review fees
- Habitat or species surveys
- Wetland delineation and COE Jurisdictional Determination
- VDOT permitting
- Archeological and historical resource studies
- Stakeout of the dredge areas prior to dredging
- Major changes necessitated by review agency comments
- All other services not explicitly stated in this scope of services

**COST:**

The total fixed fee price for the services outlined in this proposal is \$52,910.00. Refer to the table below for the price breakdown by task.

AQUIA HARBOUR DREDGING SERVICES		
TASK #	TASK DESCRIPTION	FEE
1	Survey Benchmarks	\$2,700
2	Before Dredge Bathymetric Survey	\$7,600
3	Volume Analysis and Dredging Plans	\$8,420
4	Dredging Permitting	\$10,580
5	SAV Surveys (if required)	\$2,600
6	Disposal Permitting and Plans	\$8,840
7	Disposal Area Topographic Survey	\$4,140
8	After Dredge Bathymetric Survey	\$5,020
9	After Dredge Volume Analysis and Technical Memo	\$2,950
TOTAL:		\$52,910

If this scope of services meets your approval, please sign below to indicate acceptance and return the original that will serve as our notice to proceed. Invoices for GKY's services are submitted monthly. The portion of the lump sum amount billed is based on the estimated portion of the total services completed during the billing period. Invoices are due and payable within 30 days after the date on the invoice. Past due balances are subject to a finance charge of 1.5% per month or 18% annually. In the event that GKY must resort to collection actions to recover any sums due pursuant to this agreement, GKY shall be entitled to collect, in addition to outstanding payments, all costs of collection including but not limited to attorneys' fees.

We look forward to being of service to you on this project. If you have any questions, please do not hesitate to contact us.

Sincerely,  
**GKY & Associates, Inc.**



Brett L. Martin, P.E.  
Vice President



Brice R. Kutch, P.E., LEED BD+C  
Senior Design Engineer

Approved by:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

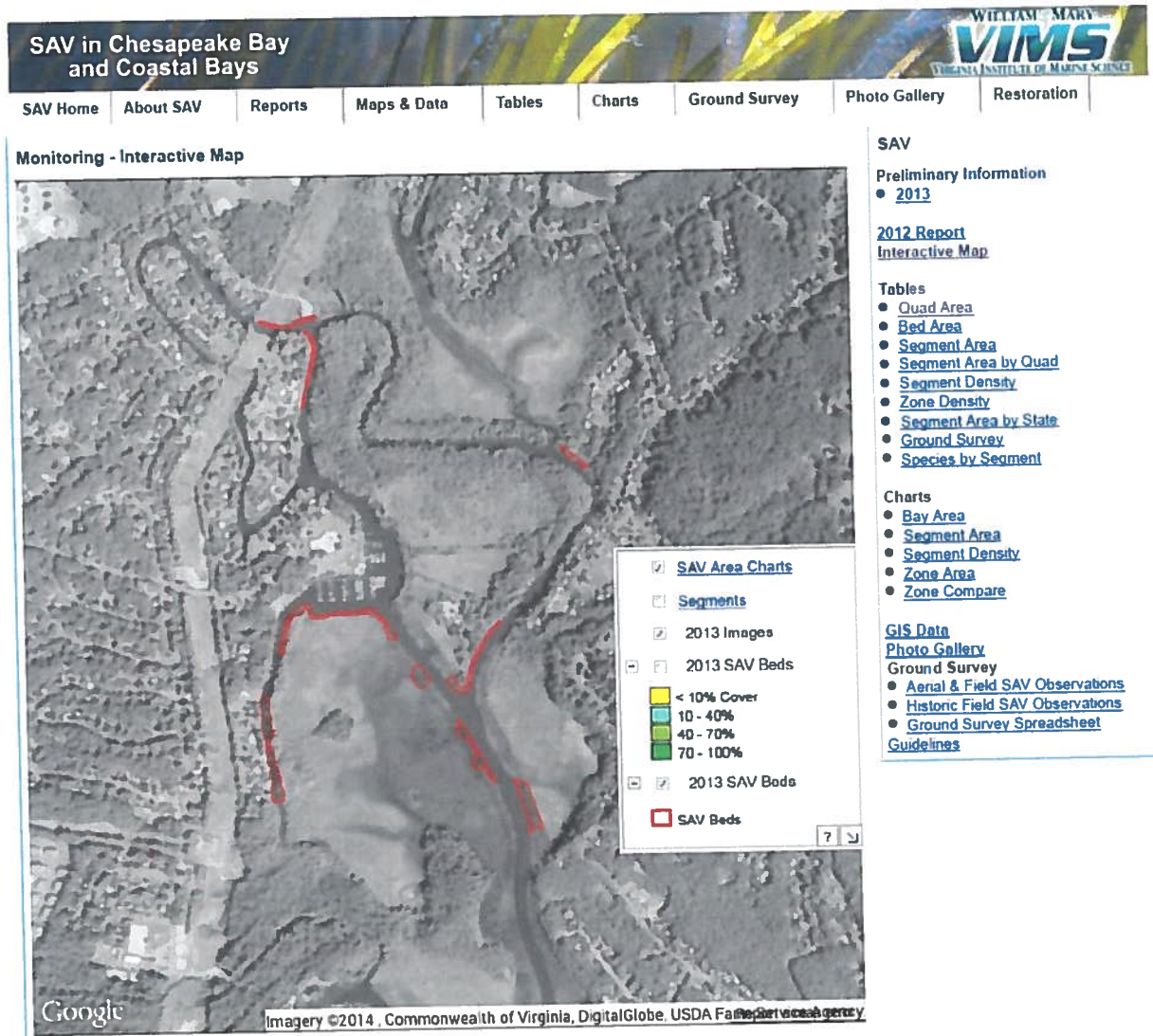
\_\_\_\_\_  
Organization



### Attachment 1. Aquia Harbour Dredge Locations



## Attachment 2. VIMS Submerged Aquatic Vegetation Map



Subj: **White construction markings.**  
Date: 5/7/2014 7:56:46 P.M. Eastern Daylight Time  
From: [carolinakist@aol.com](mailto:carolinakist@aol.com)  
To: [AHPOA@aol.com](mailto:AHPOA@aol.com)

Hello,

Upon arriving home from work I noticed that someone has marked off Aquia Drive with white paint in front of my home, 2126 Aquia Drive, to include marking my driveway which would indicate there may be an intention to dig up my driveway. I of course would have great concern over having my driveway dug up. Could you tell me who placed the markings and what the intention is regarding Aquia Drive at this location.

Thank you,  
Kenneth Lewis

Aquia Harbour  
Historical Dredging Time Line  
Based on available records  
P. S. Harman, AHGM  
January 2019

- 1969    Community founded  
          Manmade channels  
          Spoils from manmade channels created Marina Island
  
- 1992    First dredge of record  
          Supported by Chester Environmental Engineers (1994 Memo)  
          Included the wake section of Aquia Creek to the Railroad bridge (1994 Memo)  
          Permission granted from USCG provided AH maintain all day markers  
          Dredging related costs **\$14,732**
  
- 1993    Stafford Improvement Permit – Soccer field using spoils
  
- 1994    Memo from Herb Ing to GM Herb White referencing 1992 dredging  
          Dredging tied to “specific channel cross section, not to specific quantity of dredging material  
          Referenced Thanksgiving rainfall of 7.8” / 100 year flood  
          Sand bar behind Crown Manor grew 14-18”  
          Spoils used to create Dewey Dr. Soccer field  
          Dredging related costs **\$590,275**
  
- 1995    Dredging related costs **\$27,835**
  
- 1999    Memo from Donald Rhamy to AHPOA ref depth measurement study  
          Dredging Projections for 2002, 2007-2011  
          Dredging related costs **\$1,940**
  
- 2000    Waterway Engineering Survey **\$3,550**
  
- 2001    12/4/01 VMRC Dredging Permit application.  
          Permit good 5/20/01 – 11/30/04 to remove 10k CY  
          Wetlands application Stafford County - determined no wetlands permit required  
          DEQ Waived VWP Permit 16k CY referenced  
          Army Corp of Engineers State Regional Dredging Permit – 16k CY approved  
          Marina bulkhead replacement  
          Dredging related expense **\$9,491**
  
- 2002    Dredging related costs **\$46,166**
  
- 2003    3/31/03 Dredging related cost recorded at **\$158,494.00**  
          \$80,000 Received from Stafford County
  
- 2005    Dredging related cost **\$10,459**
  
- 2006    GYK Cross Section measurements / bathometric study stamped by VMRC
  
- 2007    Army Corps of Engineers Maintenance Dredging Permit, citing Sect 10 of Rivers and Harbors Act 1899



DEQ VWP Permit 2007 – 2022  
GKY Maintenance Dredging Plan Map  
VMRC Maintenance Dredging Permit 2007 – 2010  
Certificate of Compliance – ACoE, Hal Wiggins  
Stafford County – No wetlands permit required

- 2008 Lake Services after dredging report. Total CY 18, 714  
Dredging related cost **\$444,607**  
VMRC Maintenance Dredging Permit for up to 20KCY  
Additional work authorized to Lake Services Catch Basin and Pump Station Austin Run & Nautical Cove  
Proposal indicates that Dredging spoils will be trucked to County Landfill by Lake Services
- 2010 Spot dredging application to Stafford County  
Stafford County authorization for fishing pier – email from Amber Forestier, Environmental Planner
- 2011 Depth study at 321 Forsail Cove by Dominion Engineering  
Corp of Engineers dredging permit  
VMRC extension of to 2012
- 2012 VMRC email says permits have a maximum life of 10 years  
Dredging buffers article  
Welford Engineering report on Aquia Drive bridge  
Welford Engineering Erosion and Sediment Control Plan  
VMRC permit authorizing up to 20,620K CY through December 2017  
ACoE Hal Wiggins email on maintenance dredging permit conditions  
Marina Committee dredging recommendations for \$16KCY
- 2014 Extensive pictures of Crown Manor  
Preapplication Consultation Request ACoE, Hal Wiggins  
Stafford Wetlands permit approval email  
Forsail Cove Dredging - Looks like a joint operation with AHPOA & a resident Todd Rogers  
VMRC Permit to Todd Rogers 221 Forsail Cove to remove 10KCY
- 2015 GYK bathometric drawings  
Passage Creek Environmental/VMRC Letter authorizing 8 dredging locations in Aquia Creek through Dec 2017  
Aerial dredging maps  
VMRC request to terminate DEQ Permit saying Aquia Creek is out of their scope of jurisdiction  
Dredging related charges from DKY **\$44,924**
- 2016 -2019

**Current Situation**

- Sec. 28-59(7) of the zoning ordinance (Attachment 1) requires loading areas, service entrances and service bays to be oriented and/or screened so as to not be visible from the corridor highway.
- Further regulated by Sec. 28-88(7) which requires screening as established in the Section 130 of the DCSL (Attachment 2).
- Several businesses have complained that complying with this regulation, specifically the “not to be visible” portion is very difficult to achieve without hiding the entire business, particularly if the business is located on the road frontage

**Proposed End State**

- Provide screening regulations that create the visual impact along the corridor highways that is desired by the community

**Request for the CEDC Committee/Board of Supervisors**

- Consider whether ordinance amendments are necessary regarding the screening of the service bay doors
- If warranted by committee, send to Planning Commission for review and recommendations

**Benefits to the County**

- A visual impact along the corridor highways that represents the culture and attitude of the community
- Clear and Concise regulations that can be implemented and enforced



Sec. 28-59. - Highway Corridor Overlay District (HC).

- (a) *Purpose of the HC.* In furtherance of the purposes set forth in Code of Virginia, §§ 15.2-2280, 15.2-2283, 15.2-2284 and 15.2-2285, and in general to protect the health, safety and general welfare of the public by the prevention or reduction of traffic congestion, and distracting visual clutter which may result in danger on the public and private streets, a limitation is hereby placed on certain automobile-oriented, fast service, quick turnover uses and related signage, which generate traffic in such amount and in such manner as to present the possibility of increased danger to the motoring public and other impediments to safe travel. This district is created in recognition of the need to provide suitable and sufficient road systems in the county and the need to protect existing and future highways from unsafe use.
- (b) *Establishment of districts.* The Highway Corridor Overlay District (HC) shall be designated by the board of supervisors by separate ordinance and will overlay all other zoning districts where it is applied so that any parcel of land lying in a HC shall also lie within one or more other land use districts provided for by this chapter. The regulations and requirements of both the underlying district(s) and the HC shall apply; provided, however, that when the regulations applicable to the HC conflict with the regulations of the underlying district, the more restrictive regulations shall apply.
- (c) *District boundaries.*
  - (1) HC boundaries shall be designated on the official zoning map as ordained by Ordinances O95-57, O96-23 and amended by O98-27, O96-24, O98-30, O01-29, and O01-37 establishing the boundaries of the overlay district, pursuant to article XII, Amendments to Zoning Maps.
  - (2) The district boundaries will be described as follows:
    - a. Length of the district shall be established by fixing points of beginning and end in the centerline of a street.
    - b. Width will be established by designation of the distance on one or both sides from the centerline to which the overlay district shall extend; or, by a description of coterminous property boundaries of lots along such street, or highway; or, by using visible geographic features.

The HC zoning district shall be established and overlay all other zoning districts, except HI districts, on all parcels of land within the below described area:

Beginning at a point at the centerline of Cambridge Street, extending five hundred (500) feet east from the centerline of Cambridge Street at the intersection with the centerline of Truslow Road; thence continuing in a northerly direction parallel to the centerline of Cambridge Street to a point where Cambridge Street becomes Jefferson Davis Highway; thence along Jefferson Davis Highway continuing in a northerly direction parallel to the centerline of Jefferson Davis Highway to a point at the centerline of Courthouse Road; thence continuing in a westerly direction along the centerline of Courthouse Road to five hundred (500) feet west of the centerline of Jefferson Davis Highway; thence continuing in a southerly direction from the centerline of Courthouse Road, parallel to the centerline of Jefferson Davis Highway to a point where Jefferson Davis Highway becomes Cambridge

Street; thence continuing in a southerly direction along Cambridge Street to the centerline of Truslow Road; thence, extending along the centerline of Truslow Road to the point of beginning; encompassing all or part of the parcels listed on Attachment A, attached hereto, as shown on the map entitled "Proposed Route 1 Highway Corridor Overlay District" dated December, 2001, made by the Stafford County Department of Planning and Community Development, a copy of which shall be added to and become part of the Official Zoning Map of Stafford County.

- (d) *Uses permitted by right.* All uses permitted by right in the underlying land use district(s), shall be permitted by right in the HC unless otherwise specifically made a conditional use by this section.
- (e) *Conditional uses.* In addition to the listed uses requiring a conditional use permit (as listed in Table 3.1) in the underlying district, the following uses shall require a conditional use permit when proposed to be established in a HC:
  - (1) Car washes, self-service and automated.
  - (2) Funeral chapel, funeral home, or mortuary.
  - (3) Convenience stores.
  - (4) Theaters, arenas, or auditoriums.
  - (5) Recreational enterprise.
  - (6) Hotels or motels.
  - (7) Hospitals.
  - (8) Motor vehicle fuel sales.
  - (9) Automobile repair.
  - (10) Any uses which include drive-through facilities.
- (f) *Development standards.* All nonresidential uses shall be subject to the use limitations and development standards set forth in the underlying land use district(s) and, in addition, shall be subject to the following HC limitations:
  - (1) Access and internal circulation shall be designed so as not to impede traffic on a public street. To such end, access via the following means will be approved:
    - a. By provisions of shared entrances, interparcel connection and travelways, or on-site service drives connecting adjacent properties.
    - b. By access from a secondary public street as opposed to the corridor highway.
    - c. By the internal streets of a commercial, office, or industrial complex.

Developers of all parcels or lots within the HC shall submit an access and internal circulation plan to the county for approval which addresses access for the project and the surrounding area.

The access plan shall demonstrate the ability to provide adequate access to surrounding properties via cross-easement agreement(s), shared entrances, interparcel connections

and travelways, on-site service drives connecting adjacent properties, and/or access by secondary public streets.

- (2) Pedestrian circulation shall be provided for and coordinated with that generated from or using adjacent properties.
  - a. The requirement for the provision of pedestrian circulation for the development of any parcels abutted on both sides along its road frontage to undeveloped parcels may, at the option of the county administrator, be satisfied by the execution and recordation of a sidewalk security agreement between the owner of the property and the county administrator to be prepared by the director of planning. The agreement shall provide for payment of one hundred twenty-five (125) percent of the amount of an engineer's certified cost estimate of the construction of the required sidewalk(s) at the time of permits or by monthly installments during a term not to exceed thirty-six (36) months and shall contain appropriate provisions for acceleration upon the sale or transfer of the property or upon a breach of the terms of the agreement. Payments made pursuant to this section shall also include an administrative fee of one hundred dollars (\$100.00) which shall be payable at the time of the execution of the sidewalk security agreement.
  - b. The requirement for the provision of pedestrian circulation for the development of any parcels abutted on both sides along its road frontage to undeveloped parcels may, at the option of the planning director (agent) or his designee, be satisfied by a payment in lieu of constructing the required pedestrian circulation. The payment shall be in the amount of an engineer's certified cost estimate of the construction of the required sidewalk(s) that is deemed to be acceptable by the agent. Such payment shall be made at the time of permits. The payment shall be deposited in an account designated for pedestrian circulation improvements along the corridor highway that serves the property.
- (3) Outdoor storage of goods shall be completely screened from view of the corridor highway. Outdoor storage shall include the parking of company owned and operated vehicles, with the exception of passenger vehicles. Outdoor display areas shall not encroach into any required front yard, with the exception that outdoor display areas may extend fifteen (15) feet from the building front; however, in no case shall outdoor display areas be permitted less than fifteen (15) feet from the street right-of-way.
- (4) Parking areas and driveways shall be paved with concrete, bituminous concrete, or other similar material except for low-impact development sites in accordance with the provisions of chapter 21.5 of this Code where pervious paving blocks and other similar materials may be allowed as approved by the agent. Surface treated parking areas and drives shall be prohibited. Concrete curb and gutter shall be installed around the perimeter of all driveways and parking areas, except that concrete curb without a gutter may be permitted where drainage is designed to flow away from the curb, and asphalt curb may be permitted where the property adjacent to a travel lane is undeveloped. Drainage shall be designed so as to not interfere with pedestrian traffic.
- (5) Where parking is designed to be located in the front yard setback of the corridor highway, a berm shall be utilized within a designated street buffer. Where no berm is

proposed within a designated street buffer, whenever possible, parking areas shall be located to the rear or side of the structure(s) or building(s) they are intended to serve.

- (6) Utility lines such as electric, telephone, cable television, or similar lines shall be installed underground. This requirement shall apply to lines serving individual sites as well as to utility lines necessary within the project. All junction and access boxes shall be screened. All utility pad fixtures and meters shall be shown on the site plan. The necessity for utility connections, meter boxes, etc., should be recognized and integrated with the architectural elements of the site plan.
- (7) Loading areas, service entrances, and service bays shall be oriented and/or screened so as to not be visible from the corridor highway.
- (8) Dumpster and other waste disposal or storage areas shall be completely screened from the public view by means of a board-on-board fence and/or landscaping, or similar opaque material approved by the zoning administrator.
- (9) Architectural treatment shall be designed so that all building facades of the same building (whether front, side or rear) will consist of similar architectural treatment in terms of materials, quality, appearance, and detail pursuant to the neighborhood design standards plan element of the comprehensive plan. No facade portion of a building constructed of unadorned cinderblock, corrugated metal or sheet metal shall be visible from the corridor highway. Mechanical equipment shall be shielded and screened from public view and designed to be perceived as an integral part of the building.
- (10) Area and bulk regulations in the HC shall be the same as for the underlying land use district(s), except that: The height of buildings or structures within seventy-five (75) feet of the corridor highway shall not exceed two (2) stories or thirty (30) feet, whichever is less; and where parking areas are provided in a manner such that the structure or building is located between the parking area and the corridor highway, the applicable setback requirement may, at the option of the applicant, be reduced to fifty (50) percent of that otherwise required for the underlying district.
- (11) A landscaping and planting plan shall be submitted in conjunction with site plan submittal. Such landscaping and planting plan shall be drawn to scale, including dimensions and distances, and clearly delineate all existing and proposed parking spaces or other vehicle areas, access aisles, driveways, and the location, size, and description of all landscaping materials and areas. Landscaping and planting plans shall be prepared by persons practicing in their area of competence.

All plant materials shall be living and in a healthy condition. Plant materials used in conformance with the provisions of these specifications shall conform to the standards of the most recent edition of the "American Standard for Nursery Stock," published by the American Association of Nurserymen.

Preservation of existing trees is encouraged to provide continuity, improved buffering ability; pleasing scale and image along the corridor. Any healthy, existing tree on-site may be included for credit towards the requirements of this section.

The owner, or his designee, shall be responsible for the maintenance, repair, and replacement of all landscaping materials as may be required or approved within the scope of these provisions.

- (12) Redevelopment or expansion of structures or uses that were in existence prior to the adoption of the HC district and where the square footage of any addition to a structure shall not be more than the square footage of the primary structure shall be exempt from the provisions of subsections 28-59(f)(5), (6) and (9); provided that such redevelopment shall not result in an increase of outside storage area or display on the undeveloped site.

(g) *Reserved.*

(Ord. No. 094-29, § 28-409, 8-9-94; Ord. No. 095-11, 3-7-95; Ord. No. 095-21, 3-21-95; Ord. No. 095-22, 3-21-95; Ord. No. 095-58, 9-5-95; Ord. No. 096-23, 7-23-96; Ord. No. 096-24, 7-23-96; Ord. No. 096-51, 10-15-96; Ord. No. 098-27, 4-21-98; Ord. No. 098-30, 5-5-98; Ord. No. 098-42, 6-2-98; Ord. No. 099-32, 6-15-99; Ord. No. 000-19, 2-15-00; Ord. No. 000-25, 5-16-00; Ord. No. 001-29, 6-5-01; Ord. No. 001-37, 12-11-01; Ord. No. 003-26, 6-17-03; Ord. No. 008-02, 5-6-08; Ord. No. O13-23, 6-4-13)

Sec. 28-88. - Screening standards for appurtenances.

The following uses shall be screened from all public streets and adjacent property, unless the adjacent property contains the same use, by means established in section 100 of the DCSL.

- (1) Waste disposal receptacles.
- (2) Telecommunication facilities.
- (3) Automobile graveyards and junkyards.
- (4) Auto salvage facilities.
- (5) Recycling facilities.
- (6) Outdoor storage of vehicles for sales and/or service.
- (7) Subsection 28-59(f)(7) of this chapter.
- (8) Mechanical systems for nonresidential uses.
- (9) Pump stations.

(Ord. No. 097-12, 1-21-97; Ord. No. 097-43, 6-17-97; Ord. No. 001-18, 8-16-01; Ord. No. 005-33, 12-13-05)

Section 130. - Screening

The uses listed in Section 28-88 of the Zoning Ordinance shall be screened from any public street or adjacent properties by one (1) means of screening described below.

If the use to be screened is not the primary business or use on the property and is leased from the property owner then the provisions being provided to screen the use shall be within the lease area and under the responsibility of the lessee not the property owner.

- (1) Evergreen screen, 15 foot wide strip providing 2 staggered rows of evergreen trees at least 6 feet tall when planted and separated a minimum of 8 feet.
- (2) 8' high solid wall
- (3) 8' high board-on-board/sight-tight fence
- (4) 5' high berm with 20 evergreen trees and 50 shrubs for every 100 lineal feet of street frontage.



### **Current Situation**

- The rental, repair and maintenance of modular units used for temporary offices and classrooms is not a listed use in the zoning ordinance
- The rental and service of motor vehicles is permitted in the zoning ordinance as a permitted use in the M-1, Light Industrial and M-2, Heavy Industrial districts

### **Proposed End State**

- Provide for the use of rental, repair and maintenance of modular units used for temporary offices and classrooms in Chapter 28 of the County Code

### **Request for the CEDC Committee/Board of Supervisors**

- Consider whether or not to provide for the rental, repair and maintenance of modular units as a specific zoning district in Chapter 28 of the County Code
- Consider whether or not to provide for such uses as a permitted by-right in the M-1, Light Industrial and M-2, Heavy Industrial districts (note that uses permitted in the M-1 district are also permitted in the M-2 district by reference)

### **Benefits to the County**

- Allow for a use in the M-1, Light industrial zoning district and M-2, heavy industrial zoning district that is compatible with other uses in the district.
- Expand the possible business opportunities in the county

R19-36

PROPOSED

BOARD OF SUPERVISORS  
COUNTY OF STAFFORD  
STAFFORD, VIRGINIA

RESOLUTION

At a regular meeting of the Stafford County Board of Supervisors (the Board) held in the Board Chambers, George L. Gordon, Jr., Government Center, Stafford, Virginia, on the 5<sup>th</sup> day of February, 2019:

MEMBERS:

Gary F. Snellings, Chairman  
L. Mark Dudenhefer, Vice Chairman  
Meg Bohmke,  
Jack R. Cavalier  
Thomas C. Coen  
Wendy E. Maurer  
Cindy C. Shelton

VOTE:

On motion of , seconded by , which carried by a vote of , the following was adopted:

A RESOLUTION TO REFER TO THE PLANNING COMMISSION AN ORDINANCE TO AMEND AND REORDAIN STAFFORD COUNTY CODE SEC. 28-25,"DEFINITIONS OF SPECIFIC TERMS," AND SEC. 28-35, TABLE 3.1, "TABLE OF USES AND STANDARDS," TO CREATE DEFINITIONS FOR MODULAR OFFICE AND CLASSROOM UNITS AND AMEND THE INDUSTRIAL ZONING DISTRICTS TO PROVIDE FOR SUCH A USE

WHEREAS, a request has been made to allow for the maintenance, rental and repair of modular units used as temporary offices and classrooms to be a permitted use in the zoning ordinance; and

WHEREAS, currently the zoning ordinance allows for the rental, repair and maintenance of motor vehicles in the industrial zoning districts as a by right; and

WHEREAS, the maintenance, rental, and repair of modular units for temporary offices and classrooms is a comparable use to the maintenance, rental, and repair of motor vehicles; and

WHEREAS, Board finds the proposed amendment is consistent with good planning practices; and

R19-36

WHEREAS, the Board desires to forward this proposed text amendment to the Planning Commission for its consideration and recommendation;

NOW, THEREFORE, BE IT RESOLVED by the Stafford County Board of Supervisors on this the 5th day of February, 2019, that the proposed amendment to Sec. 28-35, Table 3.1 “Table of uses and standards” pursuant to proposed Ordinance O19-20, be and hereby is referred to the Planning Commission for its review, to hold a public hearing, and provide its recommendations to the Board.

TCF:JAH:sb

O19-20

PROPOSED

BOARD OF SUPERVISORS  
COUNTY OF STAFFORD  
STAFFORD, VIRGINIA

ORDINANCE

At a regular meeting of the Stafford County Board of Supervisors (the Board) held in the Board Chambers, George L. Gordon, Jr., Government Center, Stafford, Virginia, on the day of , 2019:

MEMBERS:

Gary F. Snellings, Chairman  
L. Mark Dudenhefer, Vice Chairman  
Meg Bohmke  
Jack R. Cavalier  
Thomas C. Coen  
Wendy E. Maurer  
Cindy C. Shelton

VOTE:

On motion of , seconded by , which carried by a vote of , the following was adopted:

AN ORDINANCE TO AMEND AND REORDAIN STAFFORD COUNTY CODE SEC. 28-25,"DEFINITIONS OF SPECIFIC TERMS," AND SEC. 28-35, TABLE 3.1, "TABLE OF USES AND STANDARDS," TO CREATE DEFINITIONS FOR MODULAR OFFICE AND CLASSROOM UNITS AND AMEND THE INDUSTRIAL ZONING DISTRICTS TO PROVIDE FOR SUCH A USE

WHEREAS, a request has been made to allow for the maintenance, rental and repair of modular units used as temporary offices and classrooms to be a permitted use in the zoning ordinance; and

WHEREAS, currently the zoning ordinance allows for the rental, repair and maintenance of motor vehicles in the industrial zoning districts as a by right; and

WHEREAS, the maintenance, rental, and repair of modular units for temporary offices and classrooms is a comparable use to the maintenance, rental, and repair of motor vehicles; and

WHEREAS, Board finds the proposed amendment is consistent with good planning practices; and

WHEREAS, the Board carefully considered the recommendations of the Planning Commission and staff, and the testimony, if any, received at the public hearing; and

WHEREAS, THE Board finds that public necessity, convenience, general welfare, and good zoning practices require adoption of such an ordinance;

NOW, THEREFORE, BE IT RESOLVED by the Stafford County Board of Supervisors on this the day of , 2019, that Stafford County Code Sec. 28-25, "Definitions of specific terms," and Sec. 28-35, Table 3.1 "District Uses and Standards" be and they are amended and reordained as follows, all other portions remaining unchanged

Sec. 28-25. Definitions of specific terms.

Modular units designed for temporary office and/or classrooms. unit(s) designed for temporary office or classroom use, shall not be designed or used as a dwelling and the placement, use and occupancy of the unit shall comply with the appropriate regulations of the county code, state and federal codes.

**Table 3.1. "District Uses and Standards"**

*M-1 Industrial Light.*

The purpose of the M-1 district is to establish areas of the county to provide for certain types of business and industrial uses characterized by light manufacturing, fabrication, warehousing and wholesale distribution, which are relatively free from offensive activities and which, with proper performance standards, will not detract from residential desirability of adjacent properties. It is intended that the M-1 district encourage the development of parks for the location of these uses. These [This] district should be located only where all necessary public utilities are available and where transportation systems are adequate.

*(a) Uses permitted by right:*

Maintenance, rental, and repair of modular units designed for temporary office and/or classrooms

TCF:JAH:sb

**Current Situation**

- Requested Planning Commission to review uses permitted in the A-1, Agricultural zoning district for compatibility.
- Planning Commission established a Committee, including an A-1 landowner and a member of the PDR/Agricultural Committee.
- The Committee met, discussed and drafted revised ordinance for uses allowed in the A-1 zoning district.
- Presented draft ordinance to full Planning Commission November 14, 2018.
- Planning Commission voted to forward to CEDC for referral to full Board.

**Proposed End State**

- Develop an ordinance that would reduce conflicts between agricultural and residential activities and uses.

**Request for the CEDC Committee/Board of Supervisors**

- Refer the draft ordinance to the Board for their review and referral to the Planning Commission

**Benefits to the County**

- An ordinance that protects residential property values as well as agricultural related operations and businesses.



R19-39

PROPOSED

BOARD OF SUPERVISORS  
COUNTY OF STAFFORD  
STAFFORD, VIRGINIA

RESOLUTION

At a regular meeting of the Stafford County Board of Supervisors (the Board) held in the Board Chambers, George L. Gordon, Jr., Government Center, Stafford, Virginia, on the day of , 2019:

MEMBERS:

Gary F. Snellings, Chairman  
L. Mark Dudenhefer, Vice Chairman  
Meg Bohmke  
Jack R. Cavalier  
Thomas C. Coen  
Wendy E. Maurer  
Cindy C. Shelton

VOTE:

On motion of , seconded by , which carried by a vote of , the following was adopted:

A RESOLUTION TO REFER TO THE PLANNING COMMISSION AN ORDINANCE TO AMEND AND REORDAIN STAFFORD COUNTY CODE SEC. 28-25,"DEFINITIONS OF SPECIFIC TERMS," AND SEC. 28-35, TABLE 3.1, "TABLE OF USES AND STANDARDS," TO CREATE DEFINITIONS OF USES WITHIN THE A-1, AGRICULTURAL ZONING DISTRICT AND AMEND THE USES AND HOW THEY ARE PERMITTED

WHEREAS, the A-1, Agricultural Zoning District allows for a variety of uses;  
and

WHEREAS, questions concerning the compatibility of the permitted uses in the A-1, Agricultural Zoning District with traditional agricultural activities have been made by the Board of Zoning Appeals and supported by the Comprehensive Plan, which encourages compatibility of uses and discourages growth in the rural area; and

WHEREAS, the Board requested the Planning Commission draft a proposed ordinance amendment to address uses and their compatibility in the A-1, Agricultural Zoning District; and

WHEREAS, the Planning Commission formed a committee to review the uses permitted in the A-1, Agricultural Zoning District and drafted the proposed ordinance creating new definitions and amending the uses and how the uses are permitted; and

WHEREAS, the Board requested that the proposed ordinance be submitted to the Board for review prior to the Planning Commission conducting a public hearing; and

WHEREAS, the Board desires to consider the changes made to the uses in the A-1, Agricultural zoning district;

NOW, THEREFORE, BE IT RESOLVED by the Stafford County Board of Supervisors on this the      day of      , 2019, that the proposed amendment to Stafford County Code Sec. 28-25, "Definitions of specific terms," and Sec. 28-35, Table 3.1 "District Uses and Standards" pursuant to proposed Ordinance O19-21, be and it hereby is referred to the Planning Commission for it review, to hold a public hearing and provide its recommendations to the Board.

TCF:JAH:swb

O19-21

PROPOSED

BOARD OF SUPERVISORS  
COUNTY OF STAFFORD  
STAFFORD, VIRGINIA  
ORDINANCE

At a regular meeting of the Stafford County Board of Supervisors (the Board) held in the Board Chambers, George L. Gordon, Jr., Government Center, Stafford, Virginia, on the day of , 2019:

MEMBERS:

Gary F. Snellings, Chairman  
L. Mark Dudenhefer, Vice Chairman  
Meg Bohmke  
Jack R. Cavalier  
Thomas C. Coen  
Wendy E. Maurer  
Cindy C. Shelton

VOTE:

On motion of , seconded by , which carried by a vote of , the following was adopted:

AN ORDINANCE TO AMEND AND REORDAIN STAFFORD COUNTY CODE SEC. 28-25,"DEFINITIONS OF SPECIFIC TERMS," AND SEC. 28-35, TABLE 3.1, "TABLE OF USES AND STANDARDS," TO CREATE DEFINITIONS OF USES WITHIN THE A-1, AGRICULTURAL ZONING DISTRICT AND AMEND THE USES AND HOW THEY ARE PERMITTED

WHEREAS, the A-1, Agricultural Zoning District allows for a variety of uses;  
and

WHEREAS, questions concerning the compatibility of the permitted uses in the A-1, Agricultural Zoning District with traditional agricultural activities have been made by the Board of Zoning Appeals and supported by the Comprehensive Plan which encourages compatibility of uses and discourages growth in the rural area; and

WHEREAS, the Board requested the Planning Commission draft a proposed ordinance amendment to address uses and their compatibility in the A-1, Agricultural Zoning District; and

O19-21

Page 2

WHEREAS, the Planning Commission formed a committee to review the uses permitted in the A-1, Agricultural Zoning District and drafted the proposed ordinance creating new definitions and amending the uses and how the uses are permitted; and

WHEREAS, the Board carefully considered the recommendations of the Planning Commission and staff, and the testimony, if any, received at the public hearing; and

WHEREAS, the Board finds that public necessity, convenience, general welfare, and good zoning practices require adoption of such an ordinance;

NOW, THEREFORE, BE IT ORDAINED by the Stafford County Board of Supervisors on this the    day of   , 2019, that Stafford County Code Sec. 28-25, “Definitions of specific terms,” and Sec. 28-35, Table 3.1 “District Uses and Standards” be and they are amended and reordained as follows, all other portions remaining unchanged

Sec. 28-25. Definitions of specific terms.

*Agri-tourism activity.* Any activity carried out on a farm or ranch that allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy rural activities, including farming, wineries, ranching, historical, cultural, harvest-your-own activities, or natural activities and attractions. An activity is an agri-tourism activity whether or not the participant paid to participate in the activity.

*Event venue:* a facility located on a minimum of 5 acres of land that is operated by the owner of the property who resides on the property. The events may include but not limited to weddings, birthdays, anniversaries, etc. In addition, the facility may contain a kitchen to conduct catering for onsite events only.

*Farm winery.* An establishment engaged in the growing of grapes, honey, or other fruits for the production and resale of wine or other fermented beverages in accordance with Code of Virginia, § 4.1-207. Farm wineries may also include limited retail sale of related products, and on-site special events, as an accessory use. ~~An establishment located on a farm on land zoned agricultural with a producing vineyard, orchard, or similar growing area and with facilities for fermenting and bottling wine on the premises in accordance with the regulations as set forth by the VA State Code for a Class A farm winery.~~

*Class A farm winery license.* At least 51 percent of the fruits or agricultural products used by the owner or lessee to manufacture the wine shall be grown or produced on such farm and no more than 25 percent of the fruits, fruit juices or other agricultural products shall be grown or produced outside the Commonwealth.

Home-based rescue means an animal welfare organization that takes custody of companion animals for the purpose of facilitating adoption and houses such companion animals in a foster home or a system of foster homes

Kennel, commercial, ~~Any place where six (6) or more animals more than six (6) months of age are kept, boarded, groomed, bred or trained for pecuniary gain on a regular basis in which five (5) or more canines, felines, or hybrids of either are kept for the purpose of breeding, hunting, training, renting, buying, boarding, selling, or showing. This includes home-based rescue organizations.~~

Kennel, noncommercial ~~A place where six (6) or more animals means any establishment in which five (5) or more canines, felines, or hybrids more than six (6) months of age are kept and maintained by the resident of the property as an accessory use. All kennels shall comply with the accessory structure/use regulations for the district.~~

### Table 3.1. District Uses and Standards

#### A-1 Agricultural.

The purpose of the A-1 district is to reserve areas for traditional agricultural activities and to provide for their continuation as well as preservation of areas of rural character.

(a) *Uses permitted by right:*

Accessory dwelling.

~~Agricultural service establishment on lots greater than or equal to five (5) acres.~~

Agriculture. Agricultural operation, if on property less than 5 acres must provide a conservation farm plan approved by the Stafford Soil and Water Conservation District (SWCD) and the Virginia Cooperative Extension Service (VCES)

Agri-tourism

Aquaculture.

Aqua tourism

Automobile avocation.

~~Bed and breakfast inn.~~

~~Boat sales.~~

Campground on ten (10) acre minimum parcel.

Cemetery. (See Section 28-39(o)).

~~Club/lodge/fraternal organization.~~

~~Community use.~~

Equestrian use and bridle path.

Farm Winery

Farmers market (in accordance with subsection 28-39(v)).

~~Feed lot.~~

Forestry - 20 acre minimum with plan approved by Department of Forestry

~~Golf course.~~

Group family day care home (in accordance with subsection 28-39(g)).

Home business I

Home occupation.

Manufactured home qualifying as a single-family home under Virginia Code.

Noncommercial kennel – minimum 5 acres for 5 dogs, 1 acre for each additional dog (see revised kennel definition that reflects that in chapter 5)

Park and playground.

~~Parking and storage of commercial vehicles.~~

Place of worship.

Plant and tree nursery/greenhouse – a 5 acre minimum

Public facilities/utilities but not including generating facilities, substations, switching stations, and wastewater treatment facilities which are permitted as a conditional use permit, and not including propane and heating fuel distribution facilities.

Public works excluding wastewater treatment facilities.

~~Recreational enterprise.~~

~~Recreational facility.~~

Sawmill and ancillary products – a 5 acre minimum

Secondary dwelling fifty (50) or more years in age upon referral of the Stafford County Historic Commission.

Single-family dwelling.

Slaughter and animal processing incidental to agricultural intensive use – 10 acre minimum inspected by Virginia Department of Agriculture (VDA).

Small family day care.



Veterinary clinic without boarding facilities.

Wayside stand.

Wetland mitigation bank.

(b) *Conditional use permit:*

Airport, private.

Child care center.

~~Commercial kennel.~~

Commercial tree stump grinding and mulch sale.

Communication facility.

Golf course.

Horseracing.

Hotel/motel.

Indoor flea market.

Marina with or without accessory boat sales

Nursing home.

Outdoor flea market.

Public facilities/utilities for generating facilities, substations, switching stations and wastewater treatment facilities (except for the expansion or modification to a wastewater treatment facilities existing prior to October 17, 2006).

School.

Test lane facility.

Travel trailer/RV park.

~~Turkey shoot.~~

(c) *Special exception:*

Agricultural service establishment on lots ~~less~~ greater than five (5) acres.

Bed and Breakfast Inn

Club/lodge/fraternal organization

Commercial kennel – minimum 5 acres for 5 dogs, 1 acre for each additional dog (see revised kennel definition that reflects chapter 5).

Community Use

Event venue on lots greater than 5 acres

Feed lot - 900-foot setback from a perennial stream

Home-based rescue

~~Parking and storage of commercial vehicles on lot(s) less than three (3) acres in size.~~

Rural home business

Slaughter and animal processing incidental to agricultural intensive use if inspected by USDA and 10 acres minimum

Turkey shoot

Veterinary clinic with boarding of facilities

TCF:JAH:swb