

**ENROLLED MINUTES OF THE  
HIGHLAND WATER WORKS BOARD OF DIRECTORS  
THURSDAY, FEBRUARY 24, 2022**

**Study Session:** The Highland Water Works Board of Directors convened in study session immediately before the Regular Plenary Meeting at 6:34 p.m. on Thursday, February 24, 2022 via an on-line Zoom Meeting due to the Covid-19 Pandemic, in order to discuss the final agenda of the regular meeting.

**ROLL CALL:** Present on roll call were Directors George A. Smith, Jason Tharp, Rick Volbrecht, Curt Schroeder, and Larry Kondrat. A quorum was present. Also present were Mark Knesek, Public Works Director; Derek Snyder, NIES Engineering; Robert F. Tweedle, Board Attorney; Tom Black, Town Council; and Tim Gembala, Operations Director.

1. Mark Knesek, Public Works Director, discussed with the Board a minor water leak that occurred in the Lakeside neighborhood. A tree required removal before digging could begin to repair the leak.

Mr. Knesek also asked the Board for direction regarding the bulk water filling station and AMI data collectors for on-demand meter reading, which were both discussed at last month's meeting. The Board indicated a desire to move forward with specifications and obtaining quotes for the Board to consider as early as the March meeting.

Mr. Knesek also discussed with the Board the need to purchase a new pickup truck to replace the vehicle currently used by Facilities Supervisor Mike Pipta. Mr. Knesek is moving forward with obtaining quotes. The cost of this vehicle would be split between the Water Works District and the Sanitary District.

2. Robert Tweedle, Board Attorney, discussed with the Board the finalized license agreement with MTA to install telecom equipment on the Indy Blvd elevated water tank.
3. Director Volbrecht discussed two items that he would like the Directors to consider adding to the Agenda template. Following "Comments from the Public or Visitors (Limited to Matters on the Agenda)", Director Volbrecht would like to have "Comments from the Directors on Agenda Items" as a separate line item. Following "Business from the Floor", Director Volbrecht would like to have "Comments from the Directors on any Item of Interest to the Directors" as a separate line item.

**Regular Meeting:** The Highland Water Works Board of Directors met in its Regular Plenary Session on Thursday, February 24, 2022 via an on-line Zoom Meeting due to the Covid-19 Pandemic directly following the study session. President Smith opened the meeting at 7:14 p.m. The meeting was opened with the Pledge of Allegiance. The minutes were recorded by Mark Knesek, Acting Recording Secretary.

**ROLL CALL:** Present on roll call were Directors George A. Smith, Jason Tharp, Rick Volbrecht, Curt Schroeder, and Larry Kondrat. A quorum was present. Also present were Mark Knesek, Public Works Director; Derek Snyder, NIES Engineering; Robert F. Tweedle, Board Attorney; Tom Black, Town Council; and Tim Gembala, Operations Director.

**MINUTES:** President Smith asked if there were any corrections to the Minutes of the Regular Meeting of January 27, 2022 as prepared and posted. Director Tharp moved to approve the Minutes of the January 27, 2022 meeting. Director Volbrecht seconded. Upon a roll call vote, there were (5) affirmations and no negatives. The motion passed.

**Special Orders:** None.

**Communications:** None.

**Unfinished Business and General Orders:**

1. Water Works District of Highland  
Board of Directors  
Resolution No. 2022-06

A Resolution authorizing and approving a communications site license agreement between Midwest Telecom of America, Inc. and the Water Works District of Highland to install telecommunications and related antennae equipment on the Indianapolis Boulevard Elevated Water Tank. Director Volbrecht moved to approve the Resolution 2022-06 pending modification of Section 4 to delete the phrase “during the original Five (5) year term” to eliminate ambiguity as to the 3% annual increase. Director Tharp seconded. Upon a roll call vote, there were (5) affirmations and no negatives. The motion passed.

**WATER WORKS DISTRICT OF HIGHLAND  
BOARD OF WATER WORKS DIRECTORS  
RESOLUTION NO. 2022-06**

**A RESOLUTION AUTHORIZING AND APPROVING A COMMUNICATIONS SITE LICENSE AGREEMENT BETWEEN MIDWEST TELECOM OF AMERICA INC AND THE WATER WORKS DISTRICT OF HIGHLAND TO INSTALL TELECOMMUNICATIONS AND RELATED ANTENNAE EQUIPMENT ON THE INDIANAPOLIS BOULEVARD ELEVATED WATER TANK**

**Whereas**, the Water Works District of Highland (District) is governed by its Board of Water Works Directors, pursuant to the provisions of IC 8-1.5-4 et seq.; and

**Whereas**, IC 8-1.5-4-4 specifically provides that the Board of Directors shall manage and control all works of the water works and may purchase, acquire, construct, reconstruct, operate, repair and maintain all water works; and

**Whereas**, the District owns and operates an elevated water storage tank located at 10000 Indianapolis Boulevard; and

**Whereas**, the MIDWEST TELECOM OF AMERICA, INC, with its principal office located at 1567 E. 93<sup>rd</sup> Avenue, Merrillville, IN 46410, desires to install, maintain, and operate telecommunications equipment, antennas, and appurtenances on the Indianapolis Boulevard Elevated Water Tank; and

**Whereas**, MIDWEST TELECOM OF AMERICA, INC and the Board of Directors have negotiated and prepared a license agreement (License Agreement) between the District and MIDWEST TELECOM OF AMERICA, INC, attached hereto and made part of this Resolution, that details the terms and conditions for the installation and operation of the telecommunications equipment; and

**Whereas**, the Water Works Board of Directors of Highland believes that the License Agreement is fair and just.

**Now, Therefore Be it Resolved** by the Board of Directors of the Highland Water Works, Lake County, Indiana, as follows:

1. That the License Agreement between the Water Works District and MIDWEST TELECOM OF AMERICA, INC for telecommunications equipment, antennas, and appurtenances at the Indianapolis Boulevard Elevated Water Tank is hereby authorized and approved in each and every respect;
2. That this action ratifies and memorializes the action of the Board of Water Works Directors taken at its meeting of Thursday, January 27, 2022, pursuant to IC 36-1-4-16;
3. That the proper officials, agents and employees of the Town of Highland and the District are hereby authorized and directed to take such further action as they may deem necessary or appropriate to perform all obligations and commitments of the Town in accordance with the provisions of the License Agreement.

**Duly Adopted, Resolved and Ordered** by the Waterworks Board of Directors of Highland, Lake County, Indiana, this 24<sup>th</sup> day of February, 2022. Having been passed by a vote of 5 in favor and 0 opposed.

**HIGHLAND WATER WORKS  
BY ITS BOARD OF DIRECTORS:**

/s/George A. Smith, President

Attest:

/s/Richard Volbrecht, Secretary

**EXHIBIT**

LICENSE AGREEMENT WITH MIDWEST TELECOM OF AMERICA, INC.

## LICENSE AGREEMENT

This License Agreement (the "License") is made and entered into this 18 day of February, 2022 by and between the TOWN OF HIGHLAND WATERWORKS BOARD OF DIRECTORS, whose mailing address is 3333 Ridge Road Highland, IN 46322 hereinafter referred to as "Licensor", and Midwest Telecom of America, Inc. an Indiana based Company/Corporation whose mailing address is 1567 E. 93<sup>rd</sup> Ave. Merrillville, Indiana 46410, hereinafter referred to as "Licensee".

### BACKGROUND

1. Licensor owns that certain parcel of real property, which includes an elevated steel water tower along with other improvements located at 10000 Indianapolis Blvd. Highland, IN 46322 hereinafter referred to as "Site."
2. Licensor has entered into a water tower maintenance agreement, hereinafter referred to as "Maintenance Agreement" with Utility Service Co., Inc, its successors and/or assigns hereinafter referred to as "Maintenance Contractor".
3. Licensee desires to install, operate and maintain, housing and communications equipment at the Site.

**IT IS HEREBY AGREED** as follows:

1. **Licensed Premises.** Licensor hereby licenses to Licensee a portion of the Site to install, operate and maintain the Communications Equipment as defined herein, which will be referred to herein as the "Licensed Premises" which is indicated and depicted on Exhibit A attached hereto and further described as follows:

- A. Exterior top or sides of the water tower for the installation and maintenance of Licensee's transmitters, associated antennas, mounts and GPS systems (Licensee's equipment).
- B. Sufficient square feet of exterior space for housing Licensee's transmitter/receiver base station(s), Managed Ethernet Switches and UPS(s).
- C. The space to run electrical cable from the main electrical feed point of Utility Company to Licensee's transmitter/receiver base station(s), together with access to Licensor's electrical wiring infrastructure so that Licensee can install the electrical circuit(s) if not already present.
- D. The space for phone lines, with the necessary telephone blocks and the space to route these telephone lines from their demarcation point to Licensee's transmitter/receiver base stations(s); and
- E. The space to run cable, including but not limited to phone lines, electrical cable, and coaxial cable, from the cable's source point to Licensee's

transmitter / receiver base station(s), its antenna systems and GPS. Licensor agrees to grant to Licensee or to the utility companies as Licensee may designate, a utilities path necessary to serve the Communications Equipment, as defined herein.

- F. Licensee agrees to be responsible for all cost associated with routing its own cable from its power source or data source located inside of Licensee's ground level communications equipment cabinet to the Communications Equipment including any necessary installation and maintenance of cable innerduct/conduit.
- G. Notwithstanding anything provided in this License, Exhibit A and Exhibit B, the exact final location or relocation of the Communications Equipment and all appurtenances thereto, as well as any installation/mounting system is subject to final approval of Licensor and Maintenance Contractor. Licensee shall pay any fees charged by Maintenance Contractor to review and approve Licensee's plans and drawings prior to installation of any Communications Equipment. Any additional equipment to be subsequently installed shall also require prior review and approval by Licensor and Maintenance Contractor.

2. **Communications Equipment.** Licensee will use the Licensed Premises to install, construct, house, operate, maintain, and repair Licensee's equipment. Licensee's equipment may include, but not be limited to transmitter base stations, antenna or antenna systems, GPS systems, satellite dish(es), fiber optic cable, coaxial cable, helix cable, electric cable, telephone lines, HVAC climate control, back-up power, electric meter or sub meter and equipment shelter which are described on the attached Exhibit B and which will hereinafter be referred to as the "Communications Equipment". Licensee will have the right to add, remove or substitute equipment should the need arise which shall be consistent with and not materially alter Licensee's current use of the Licensed Premises. Licensee will retain title to all its Communications Equipment.

3. **Term.** This License will continue for an original term of Five (5) Years commencing on May 1st, 2022 with existing building(s) and improvements, located at 10000 Indianapolis Blvd. Highland, IN 46322, hereinafter referred to as the "Commencement Date". This License will automatically renew for (5) Five consecutive terms of (1) One Year each unless Licensee notifies Licensor in writing of its desire not to renew the License at least 90 days in advance of the end of the then existing term.

4. **License Fee.** Commencing on the Commencement Date, Licensee will pay a license fee to Licensor in the monthly amount of (\$1,000.00) One Thousand Dollars for Three (3) standoff pole or clamp mounts or non-penetrating mounts with no more than Three (3) transmitters and associated antennas attached to each said mounts. Any additional transmitters and associated antennas beyond the original Three (3) allowed per mount will be at a cost of \$50.00/transmitter and associated antennas/month. Additionally, any

future pole mounts or clamp mounts or non-penetrating mounts beyond the original Three (3) standoff pole mounts or clamp mounts or non-penetrating mounts will be at a cost of \$150.00/mount/month and any transmitters placed on these new pole mounts, clamp mounts or non-penetrating mounts will be at a cost of \$50/transmitter and associated antennas/month. All License payments will be made the first day of each calendar month and prorated for partial months. In the event Licensee removes a standoff pole mount, clamp mount or non-penetrating mount or transmitter and associated antennas, said license fee will be reduced accordingly, but never below base rent of \$1,000.00/month. Monthly License payments during the term of this License will be increased by 3% annually beginning on the first anniversary of the Commencement Date of this License and calculated as follows.  $(\$1,000.00 + \text{additional monthly cost for any additional standoff pole mounts or clamp mounts or non-penetrating mounts or transmitters and associated antennas beyond the original allowed amounts described above}) \times 1.03 = (\text{new annual monthly rent})$ .

5. **Access to the Licensed Premises.** Beginning on the date that all parties hereto have executed this License and contingent upon Licensee providing Licensor with proof of insurance in accordance with the provisions of Section 13, Licensee will have the right of access to the Site and Licensed Premises, twenty-four (24) hours a day, seven (7) days a week as may be required on an emergency basis to conduct after hours maintenance, repair, replacement, protection, network upgrades or secure the Communications Equipment and otherwise exercise the rights granted herein via special access keys or entry codes supplied by Licensor. Licensee agrees to return such special access codes and keys to the possession of the Licensor in the event that this License is terminated or is not renewed under the terms and conditions of this License. Licensee will notify Licensor whenever possible that it will be entering the facility to conduct after hours maintenance, repair, replacement, protection, network upgrades or secure the Communications Equipment and otherwise exercise the rights granted herein. Licensor will at all times during the term of this License provide Licensee with the proper name, telephone number and e-mail address of the person responsible for being notified when Licensee is entering the facility after hours. Licensor will at all times during the term of this License provide Licensee with the proper name, telephone number and e-mail address of the person responsible for giving Licensee access to the Site after hours or supplying any keys, pass codes or key cards necessary to enter the licensed premise as needed on Licensee's own schedule. Licensee will also be granted normal access during the operational hours of 7:00 AM to 5:00 PM Monday through Saturday for the purpose to access, install construct, house, operate, maintain, repair, replace, upgrade, protect or secure the Communications Equipment and otherwise exercise the rights granted herein. Licensor will at all times during the term of this Site License provide Licensee with the proper name, telephone number and e-mail address of the person responsible for giving Licensee access to the site during normal operational hours.

6. **Utilities.** Licensee will be solely responsible for and will promptly pay all charges associated with powering its equipment at the Licensed Premises. Licensee will be solely responsible for and will promptly pay all charges for the installation and use of its telephone/data/Internet service at the Licensed Premises.

7. **RF Compliance.** Licensee will maintain its equipment in compliance with the FCC guidelines. The Licensor agrees to restrict access to the premises and allow the posting of warning signs as specified in any routine evaluation that may be performed by Licensee, if required by the FCC. Licensor shall require all parties located at the site, including newly located Licensees, to notify Licensor of the installation of or change or modification to equipment located on the Site so that Licensor can continue to maintain the Site in compliance with such applicable laws, rules and regulations.

8. **Radio Frequency and/or Electrical Interference.** (a) Licensee will not cause radio frequency and/or electrical interference to the existing equipment of Licensor or to any other tenant/licensee who is using the Site upon the earlier of the Commencement Date or at the time Licensee installs its Communications Equipment, provided that the equipment used by Licensor or other Licensee is operating within the technical parameters specified by its manufacturer and/or as defined by the FCC. Upon written notice from Licensor to Licensee of such interference, Licensee will take all reasonable steps to correct such interference in a timely manner. If such interference cannot be reasonably corrected within five (5) business days from receipt of Licensor's notice, Licensee will cease using its Communications Equipment, except for testing, until such time as Licensee corrects the interference. In the event Licensee cannot correct the interference, Licensee will have the option to terminate this License without further liability hereunder, upon thirty (30) days written notice to Licensor.

(b) After the date of this License, Licensor will not grant use to any other party for use of the Site or modify an existing license for the use of the Site, or change its use of the Site or permit an existing licensee to make any changes to its use of the Site, if such use would in any way adversely affect or interfere with the operation of Licensee's Communications Equipment. If Licensor or its agents, employees or other licensees of Licensor's Site causes uncorrected radio frequency and/or electrical interference with Licensee's Communications Equipment, Licensor will use its best efforts to correct the interference or require its licensee to do so. If the interference cannot be corrected within five (5) business days from receipt of Licensee's notice, Licensor will use its best efforts to cause the party creating the interference to cease using its equipment, except for testing, until the interference has been corrected. If Licensor is unable to correct the interference or cause the interference to be corrected, Licensee will have the option to terminate this License without further liability hereunder, upon thirty (30) days written notice to Licensor

(c) Licensor will include non-interference terms similar to section (a) above in all future agreements for use of the Site.

9. **Notice.** Any notice or demand required or permitted to be given hereunder will be sufficiently given if made by regular, registered, certified mail, postage prepaid, or return receipt requested, overnight courier, or hand delivery addressed to the other party at the address set forth herein. Any such notice or demand will be deemed to have been made three (3) business days after it is postmarked in the United States Postal Service, if by

mail, the next business day if by overnight courier, and upon receipt if by hand delivery. Either party may from time to time designate any other address for this purpose by giving written notice thereof to the other party.

If to Licensor:

Town of Highland, IN  
Waterworks Board of Directors  
3333 Ridge Rd.  
Highland, IN 46322

Attn: Mark Knesek, Public Works Director

Phone: 219-972-5069

Fax: \_\_\_\_\_

E-mail Address: [mknesek@highland.in.gov](mailto:mknesek@highland.in.gov)

If to Licensee:

Midwest Telecom of America, Inc.  
1567 East 93<sup>rd</sup> Ave.  
Merrillville, IN 46410

Attn: Cary W. Smith / President

Phone: 219-750-1803

Fax: 219-650-5545

E-mail Address: [csmith@pickmta.com](mailto:csmith@pickmta.com)

10. **Liability and Indemnity.** (a) Unless otherwise set forth herein, Licensor shall not, at any time, be liable for injury or damage occurring to any person or property caused by Licensee's construction, installation, maintenance, repair, use, operation, condition or dismantling of the Communications Equipment or any appurtenance thereto and Licensee expressly assumes all such risk.

(b) Licensee agrees to indemnify and hold Licensor and Licensor's officers, employees, agents, members, contractors and invitees harmless from any and all liability, damages or claims, (including without limitation, reasonable fees and expenses of attorneys, expert witness and consultants for physical injury, loss, damage or liability, costs or expenses) to the extent caused by the construction, installation, maintenance, repair, use, operation, condition or dismantling of the Communications Equipment or any appurtenance thereto by Licensee or its employees, contractors or agents on the Site and Leased Premises and from Licensee's breach of any representation or warranty as set forth herein.

(c) Licensor agrees to indemnify and hold Licensee and Licensee's officers, employees, agents members, contractors and invitees harmless from any and all liability, damages or claims, (including without limitation, reasonable fees and expenses of attorneys, expert witness and consultants for physical injury, loss, damage or liability, costs or expenses) for physical injury, loss, damage or liability costs or expenses to the extent caused by the negligence of Licensor or its employees, contractors or agents on the Site and Leased Premises and from Licensor's breach of any representation or warranty as set forth herein.



11. **Defaults and Remedies.** Failure by either party to perform any obligation under this License will not constitute default unless the non-defaulting party gives the defaulting party prior written notice of such failure, and the defaulting party fails to correct such failure within thirty (30) days of that notice; provided, however, that if any such default cannot reasonably be cured within thirty (30) days, there will be no default if the defaulting party commences to cure such default within the thirty (30) day period and thereafter diligently pursues such cure to completion within sixty (60) days after such notice.

In the event of a default as provided above, the non-defaulting party, in addition to any other rights it may have at law or in equity, will have the right to terminate this License upon ten (10) days prior written notice.

12. **Taxes.** Licensor will be responsible for the declaration and payment of any real estate taxes assessed against the Site. Licensee will pay any taxes which are assessed against Licensee or its Communications Equipment or its other personal property located at the Site, provided Licensor gives Licensee timely prior written notification of any such taxes so that Licensee will have an opportunity to appear before the taxing authority to contest such taxes.

13. **Insurance.** Licensee will carry, during the term of this License and at its own expense, the following insurance: (a) comprehensive general liability insurance with a "broad form" comprehensive general liability endorsement having a minimum limit of liability of one million dollars (\$1,000,000) for injury or death arising out of one occurrence and one million dollars (\$1,000,000) for damage to property from any one occurrence. The policy must be endorsed to include the Town of Highland as an additional insured including products and completed operations on a primary and non-contributory basis; (b) Following form excess/umbrella coverage of two million dollars (\$2,000,000). Licensor will be named as an additional insured including products and completed operations on Licensee's policy and be issued an insurance certificate within 30 days; and (c) Statutory Workers Compensation coverage with employers liability coverage with a limit of five hundred thousand dollars (\$500,000) shall be included. The certificate shall contain standard language providing for 30 days' written notice to Licensor from the insurer of termination or cancellation of the policy. Each party shall be solely responsible for maintaining all risk casualty insurance coverage for its own improvements and personal property located on or near the Site and Licensed Premises. Each party hereby waives its right of recovery against the other for any loss or damage covered by any insurance policy required to be maintained by such party pursuant to this provision. Each party shall cause each insurance policy maintained by it to provide that the insurance company waives all rights of recovery against the other party in connection with any damage covered by such policy.

14. **Environmental Indemnification.** (a) Licensor will defend, indemnify and hold harmless Licensee from and against any and all losses, claims, liabilities, damages, demands, fines, costs and expenses (including reasonable legal expenses) of whatever

kind and nature that Licensee may incur as a result of the presence on, in, or under the Site of any hazardous materials, hazardous substances, hazardous wastes, pollutants, asbestos, PCBs, petroleum or other fuels (including crude oil or any extraction or derivative thereof) of USTs.

(b) Licensee will defend, indemnify and hold harmless Licensor from and against any and all losses, claims, liabilities, damages, demands, fines, costs and expenses (including reasonable legal expense) of whatever kind and nature that Licensor may incur as a result of the release by Licensee on, in, or under the Site of any hazardous materials, hazardous substances, hazardous wastes, pollutants, asbestos, PCBs, petroleum or other fuels (including crude oil or any extraction or derivative thereof) or USTs.

15. **Condition of Licensed Premises.** Licensor will furnish the Site, including the Licensed Premises, to Licensee in good condition and repair and will maintain the Site in good condition and repair during the term of this License in accordance with the Maintenance Agreement. During the term of the License, Licensee shall observe all reasonable precautions to protect the water tower, including the paint system. These precautions include, but are not limited to the following:

- (a) All attachments to the water tower required to support the Communications Equipment shall be made in a manner which protects the integrity of the water tower and the water tower's paint. Metal bans or clamps will be electrically insulated from the water tower steel to prevent galvanic corrosion, particularly when metal clamps or brackets other than steel are used. All components will be independently grounded and no electric component will be in direct contact with the water tower.
- (b) No drilling or tapping of steel water tower components will be allowed. Drilling or tapping on the legs of the water tower will be allowed only if such action does not compromise the integrity of the water tower.
- (c) All nicks, scrapes, or scratches in the water tower painting system resulting from installation, removal or reinstallation of the Communications Equipment will be repaired by Licensor or Maintenance Contractor at Licensee's expense.

Upon expiration, cancellation, or termination of this License, Licensee will remove its Communications Equipment from the Licensed Premises at no cost to Licensor and will surrender the Licensed Premises in substantially the same condition as received, ordinary wear and tear excepted.

16. **Assignment.** Upon Licensor's written consent, which will not be unreasonably withheld, Licensee will have the right at any time to assign this License with the exception that Licensee may, without Licensor's written consent, assign this License to any corporation which is a parent, subsidiary or affiliate of Licensee or which is acquiring fifty one Percent (51%) or more of all the assets or stock of Licensee. For the purposes of this Provision, a "parent" will mean a corporation which owns not less than

fifty-one percent (51%) of the outstanding stock of Licensee, a “subsidiary” will mean any corporation not less than fifty-one percent (51%) of whose outstanding stock will be owned by Licensee, and an “affiliate” will mean any corporation not less than fifty-one percent (51%) of whose outstanding stock will be owned by Licensee’s parent. Upon such assignment, the assignee will succeed to all obligations, rights and options (including renewal options) of Licensee.

Licensor agrees that in the event Licensor sells all of or a majority of its ownership interest in the Site and/or Licensed Premises and/or no longer controls the Site/Licensed Premises this License will be automatically assigned to the new majority owner and/or new controlling party of the Site and/or Licensed Premises, if the new majority owner and/or new controlling party of the Site and/or Leased Premises agrees to be bound by all of Licensor’s obligations under this License. In the event the new majority owner and/or new controlling party of the Site and/or Leased Premises does not agree to be bound by all of Licensor’s obligations under this License Licensor shall have the option to terminate this License without further liability hereunder, upon one hundred eighty (180) days written notice to Licensee.

17. **Governmental Approvals.** Licensor represents that the Site, and any improvements thereon, comply with all applicable laws, ordinances, rules and regulations of any municipal, state or federal government having jurisdiction over the Site, including but not limited to zoning and building codes. Licensor further represents that there are no outstanding or pending notices of violation issued against the Site as of the date of this License that would prevent, or otherwise interfere with, Licensee’s intended use of the Site.

Licensee will at all times comply with all laws, ordinances, rules and regulations of municipal, state, and federal governmental authorities relating to the installation, maintenance, height, location, use, operation, and removal of its Communications Equipment, and other alterations or improvements authorized herein. Licensee, at its expense, will be responsible for obtaining and maintaining all permits or approvals required by governmental or regulatory agencies arising out of Licensee’s intended use of the Site. Licensor agrees, at no cost or expense to Licensor, to fully cooperate with Licensee in obtaining such permits and approvals and, without limiting the generality of the foregoing, to execute any applications, maps, certificates or other documents that may be required in connection with the permits and approvals, with all expenses to be paid by Licensee.

18. **Relocation of Communications Equipment.** The water tower requires painting and maintenance in accordance with the Maintenance Agreement. Licensee, at Licensee’s expense, shall remove or relocate and/or protect its Communications Equipment as necessary to allow Licensor or Maintenance Contractor to perform painting and/or maintenance. Licensor shall give Licensee reasonable notice of the timing and duration of the required painting and/or maintenance to allow Licensee remove or relocate and/or protect the Communications Equipment. In the event that Licensee must remove the Communications Equipment from the water tower to accommodate any required painting

and/or maintenance, Licensee shall be entitled to install temporary facilities on or near the Site or the Licensed Premises and Licensee shall be entitled to conduct its operations without interruption during such painting and/or maintenance.

19. **Marking and Lighting Requirements.** If applicable, Licensor will provide Licensee with the FCC/FAA Structure Registration Number and a copy of the registration certificate. Licensor acknowledges that it will be responsible at Licensor's sole cost and expense, for compliance with all building marking and lighting requirements that the Federal Aviation Administration ("FAA") may require regardless of Licensee's intended use of the Site. Licensor will indemnify and hold harmless Licensee from any fines or other liabilities caused by Licensor's failure to comply with such requirements. Further, should the FAA cite Licensee or in the event any claims are brought against Licensee because the Site is not in compliance, Licensor will indemnify Licensee for all costs, liabilities, damages and expenses, including reasonable attorney's fees. Further, if Licensor does not cure the conditions of noncompliance within the time period allowed by the citing agency, Licensee, in addition to all of its other remedies, may terminate this License immediately without any further liability hereunder upon written notice to Licensor.

20. **Representations and Warranties.** Licensor represents and warrants (a) that it is the owner of the Site in fee simple, unencumbered by any lien, agreement, mortgage, condition or covenant, other than existing license agreements and the Maintenance Agreement, that would adversely affect Licensee's use of the Licensed Premises pursuant to this License; and (b) that it is duly organized, validly existing and in good standing and has all the rights, powers and authority to make this License and bind itself through the party set forth below as signatory of Licensor.

Licensee represents and warrants that it is duly organized, validly existing and in good standing and has all the rights, powers and authority to make this License and bind itself through the party set forth below as signatory of Licensee.

21. **Destruction or Condemnation of Site.** If the Site, in whole or in part, is damaged by fire or other casualty so as to prevent Licensee's use of the Licensed Premises and Licensor cannot repair the Site within thirty (30) days after the date of damage Licensee will have the option to terminate this License, without any further liability hereunder, upon written notice to Licensor. In the event of partial destruction of the Site, Licensee will be entitled to rent abatement until Licensor completes and repairs and Licensee is able to resume use of the Licensed Premises.

If a proceeding is instituted by any governmental authority pursuant to which the Site, in whole or in part, is proposed to be taken or condemned, Licensee will have the option to terminate this License at any time thereafter during the pendency of such proceeding without further liability hereunder, upon thirty (30) days written notice to Licensor. Licensee may, at its own expense, make a claim in any condemnation proceeding involving the Site for losses related to Licensee's Communications Equipment and relocation costs.

22. **Consent.** Whenever under the License, the consent or approval of either party is required or a determination must be made by either party, no such consent or approval will be unreasonably withheld or delayed, and all such determinations will be made on a reasonable basis and in a reasonable manner.

23. **Entire Agreement and Binding Effect.** This License, Exhibit A and Exhibit B constitute the entire agreement between Licensor and Licensee and shall supersede all prior offers, negotiations and agreements; no prior written or contemporaneous oral promises or representations will be binding. The undersigned have full power and authority to bind their principals to this License. This License will not be amended, or changed except by written instrument signed by both parties hereto. If any clause or provision of this License is found to be invalid and unenforceable with respect to any party, the remainder of this License will not be affected and will remain valid and enforceable. Paragraph captions herein are for convenience only, and neither limits nor amplify the provisions of this License.

The provisions of this License will be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors, transferees, and permitted assignees.

24. **Choice of Law.** The License will be governed and construed by the laws of the State of Indiana.

25. **Confidentiality.** All information contained within this License and "Exhibit B" is considered confidential and may not be shared by Licensor, for any reason whatsoever, with any party, without the express written permission to do so from Licensee. Licensee reserves the right to terminate this License upon obtaining any information that Licensor violated said confidentiality of any information contained in Exhibit B with or without notice to the Licensor, in which case Licensor agrees to hold Licensee harmless and no longer responsible for fulfillment of any obligation regarding this License agreement.

26. **Existing Water Tower Maintenance Agreement.** Licensee acknowledges that the Site and the water tower are subject to the existing water tower Maintenance Agreement with Maintenance Contractor. Licensee agrees to abide by all terms, conditions and requirements of the Maintenance Agreement. If Licensee violates the provisions of the Maintenance Agreement or causes Licensor to be in violation of the Maintenance Agreement, Licensor shall have the option to terminate the License without further liability hereunder, upon thirty (30) days written notice to Licensee.

**LICENSOR: Town of Highland**

BY: George A. Smith

NAME: George A. Smith

TITLE: President

DATE: Feb 13, 2022

**LICENSEE: Midwest Telecom of America, Inc.**

BY: \_\_\_\_\_

NAME: Cary W. Smith

TITLE: President

DATE: \_\_\_\_\_

**LICENSOR: Town of Highland**

BY: \_\_\_\_\_

NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

**LICENSEE: Midwest Telecom of America, Inc.**

BY:  \_\_\_\_\_

NAME: Cary W. Smith

TITLE: President

DATE: 02/18/2022

EXHIBIT A  
EQUIPMENT LAYOUT

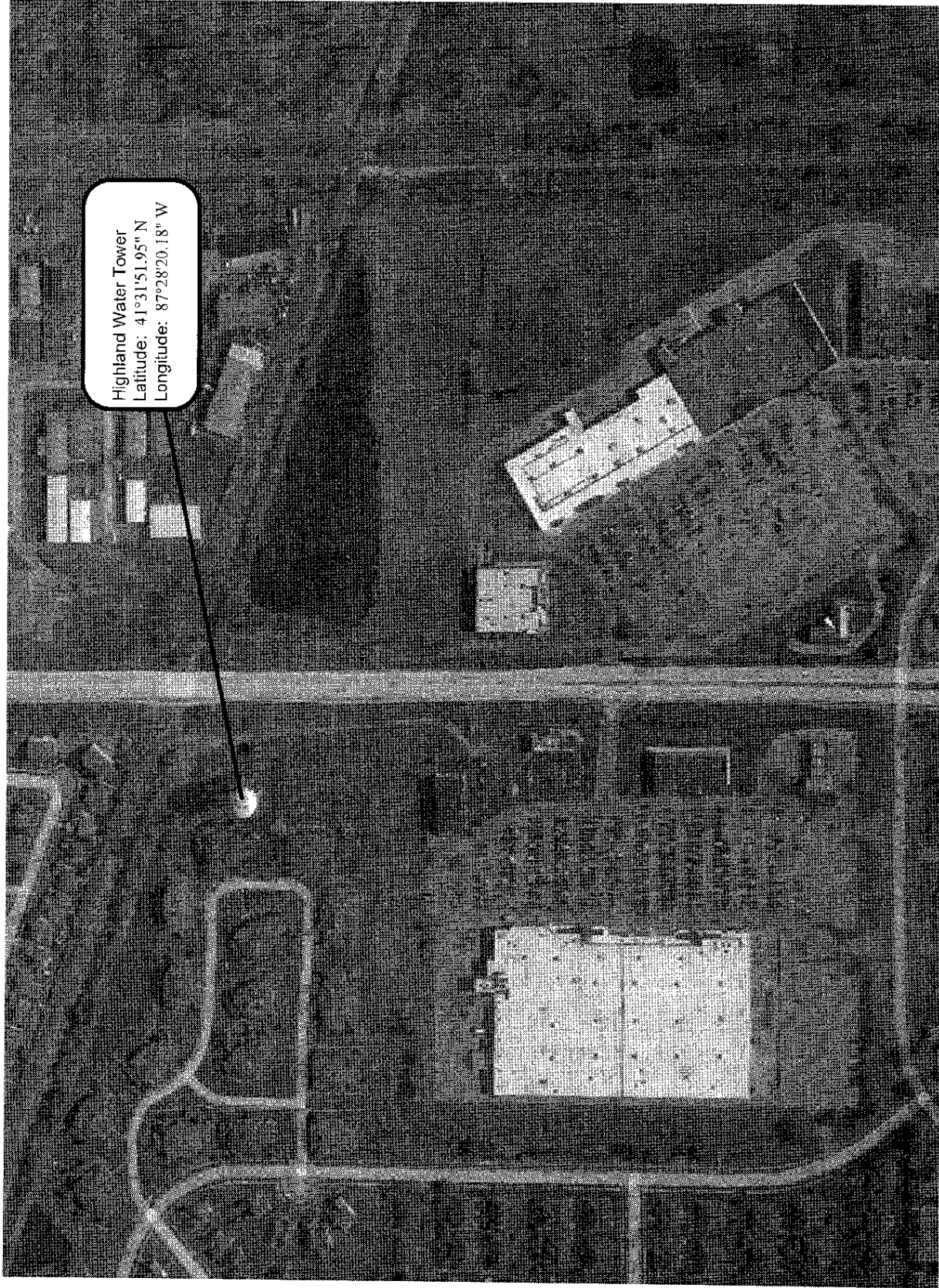


# Midwest Telecom of America, Inc

Highland Water Tower

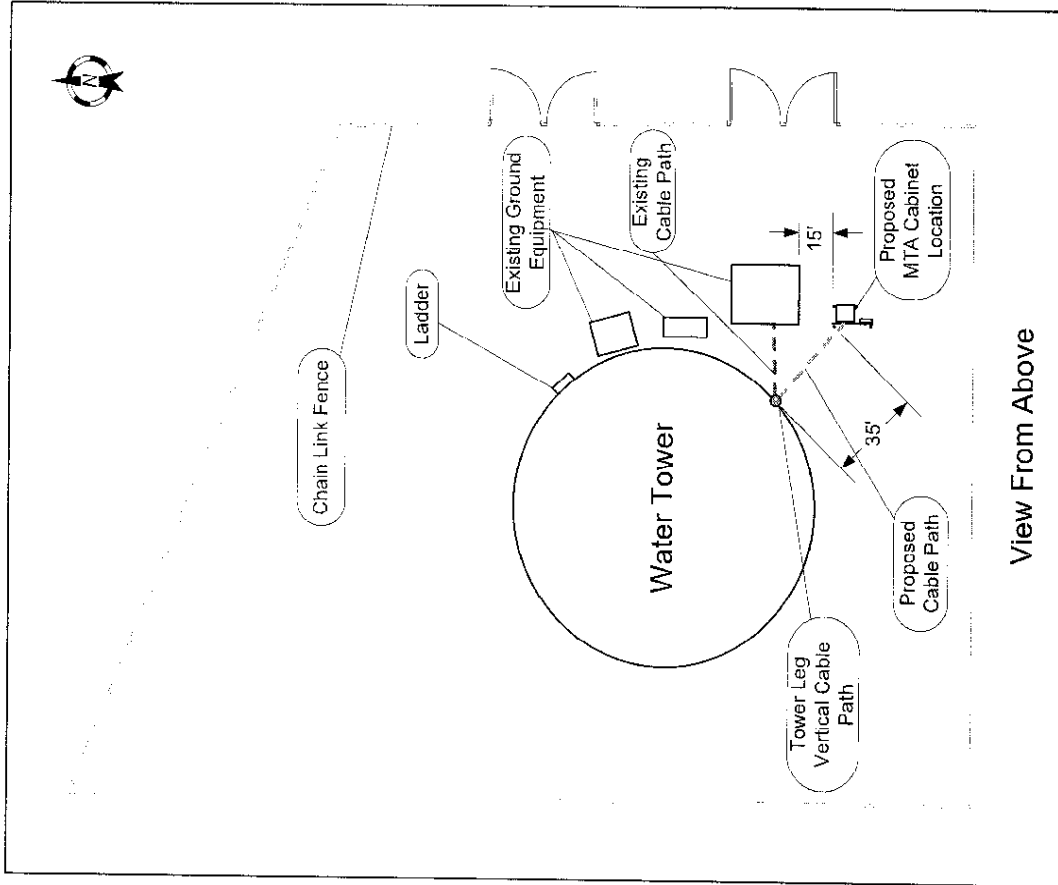
1/26/2022

Site Layout  
Page 1

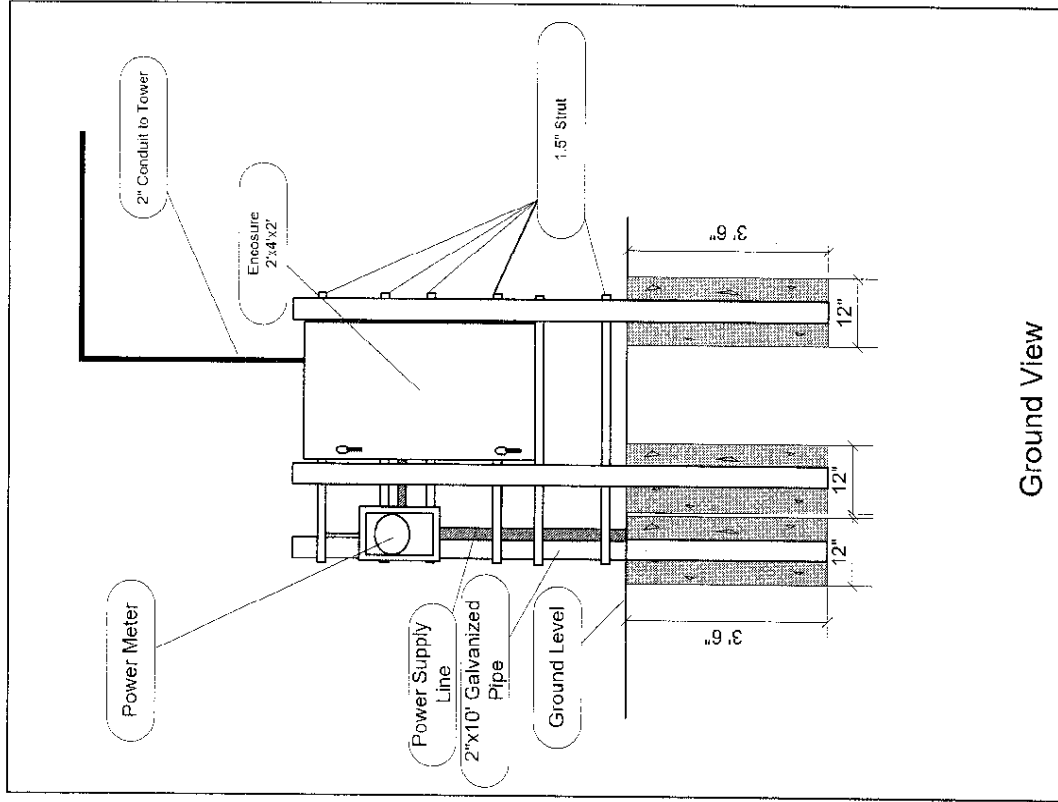


Highland Water Tower  
Latitude: 41°31'51.95" N  
Longitude: 87°28'20.18" W

Ground Equipment Layout (Not To Scale)



View From Above



Ground View

# Midwest Telecom of America, Inc

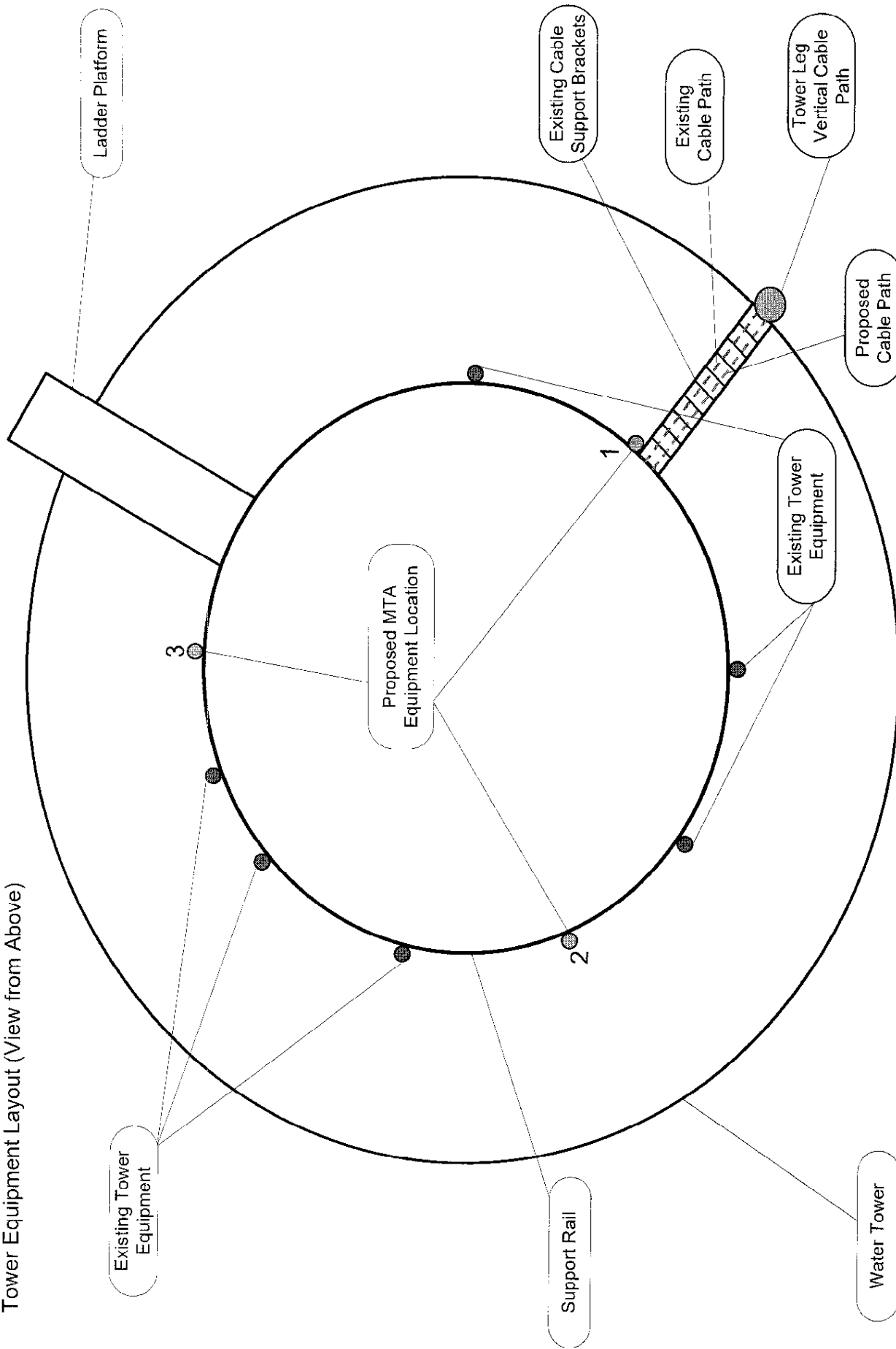
Highland Water Tower

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Site Layout  
Page 3



Tower Equipment Layout (View from Above)



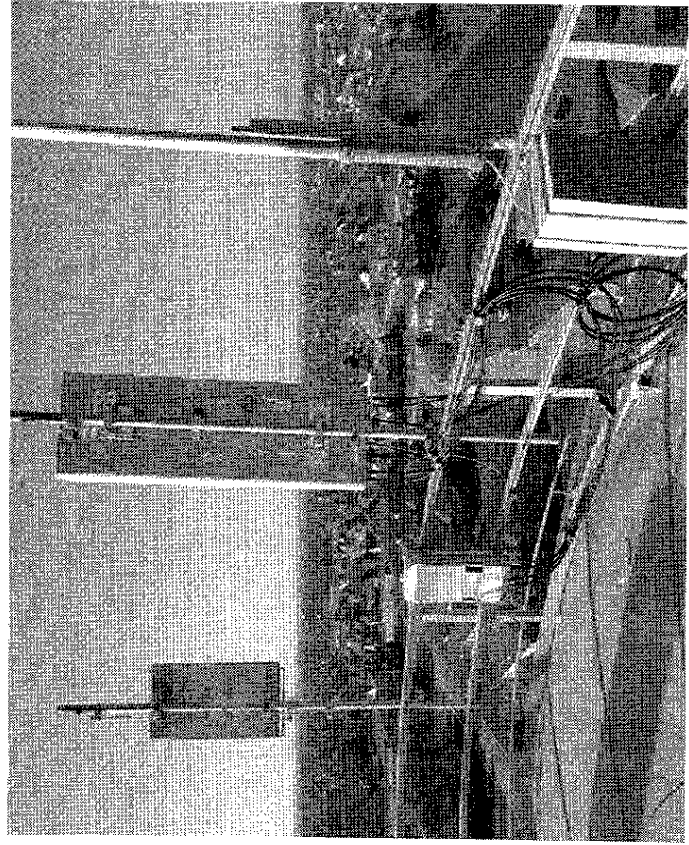
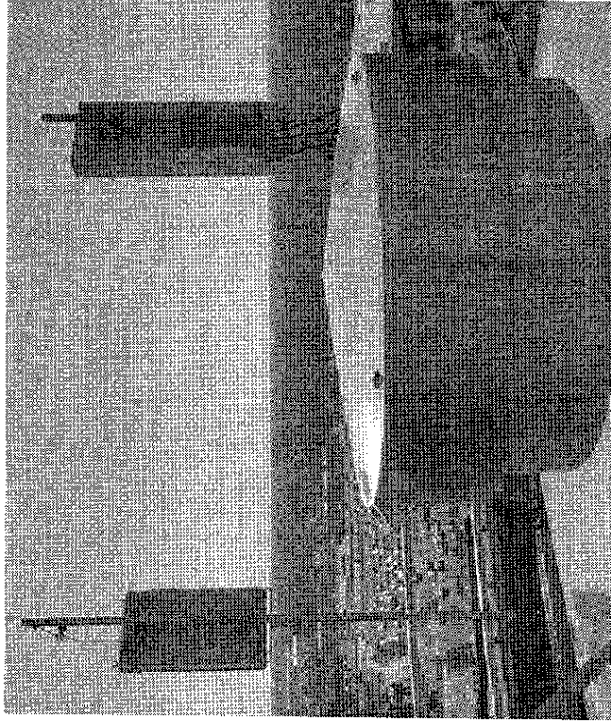
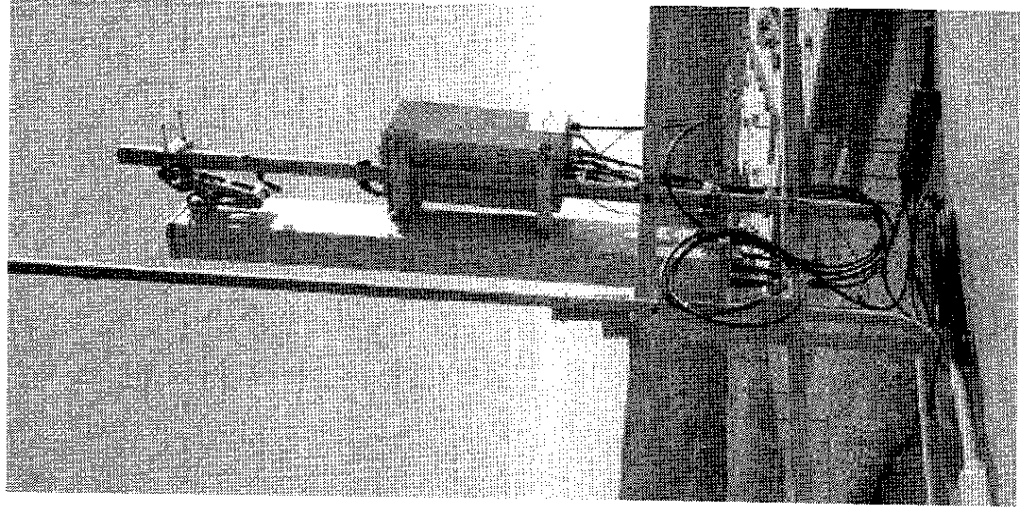
**Midwest Telecom of America, Inc**

Highland Water  
Tower

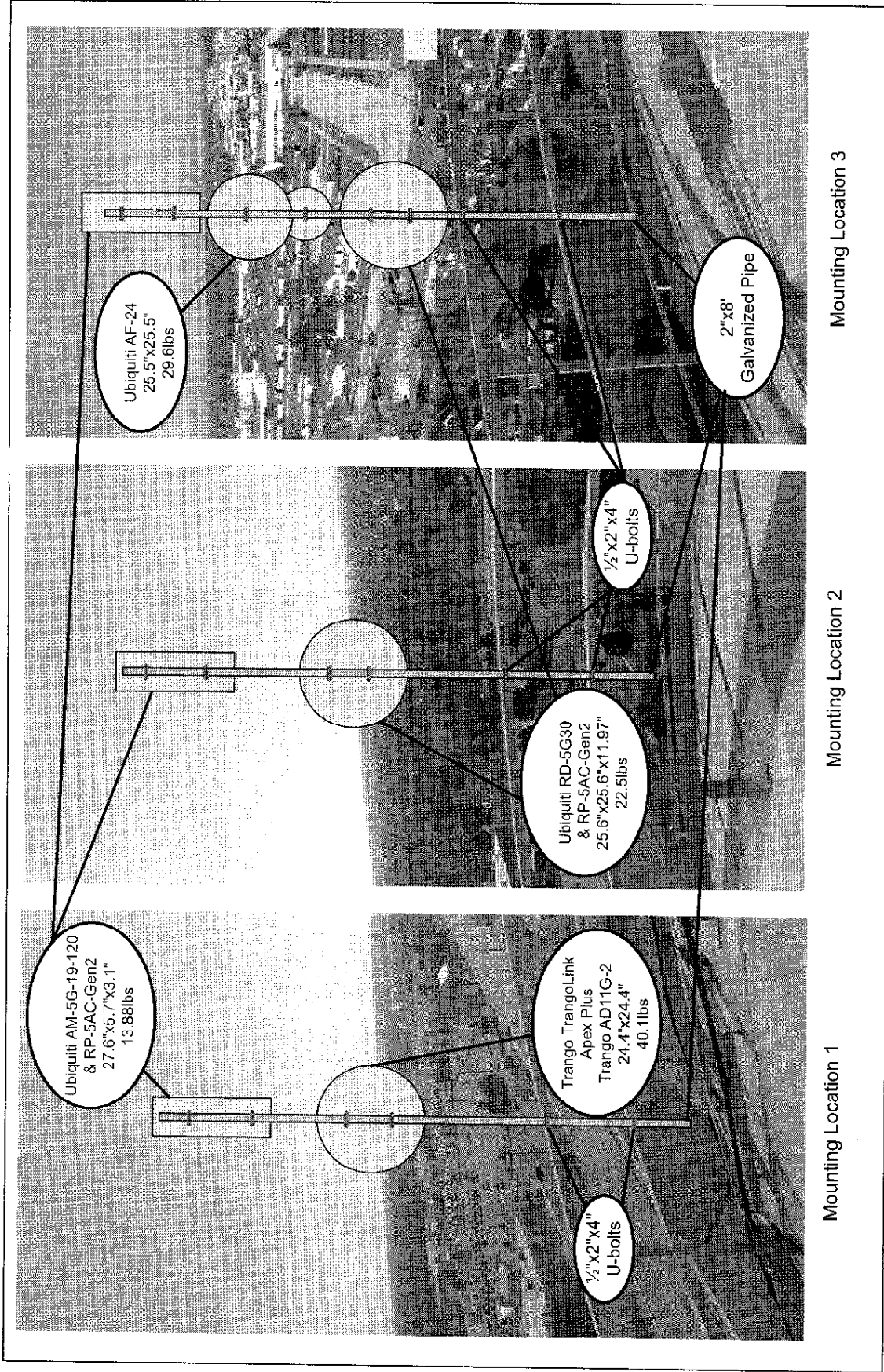
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Site Layout  
Page 4

Existing Tower Equipment



Proposed Tower Equipment Layout



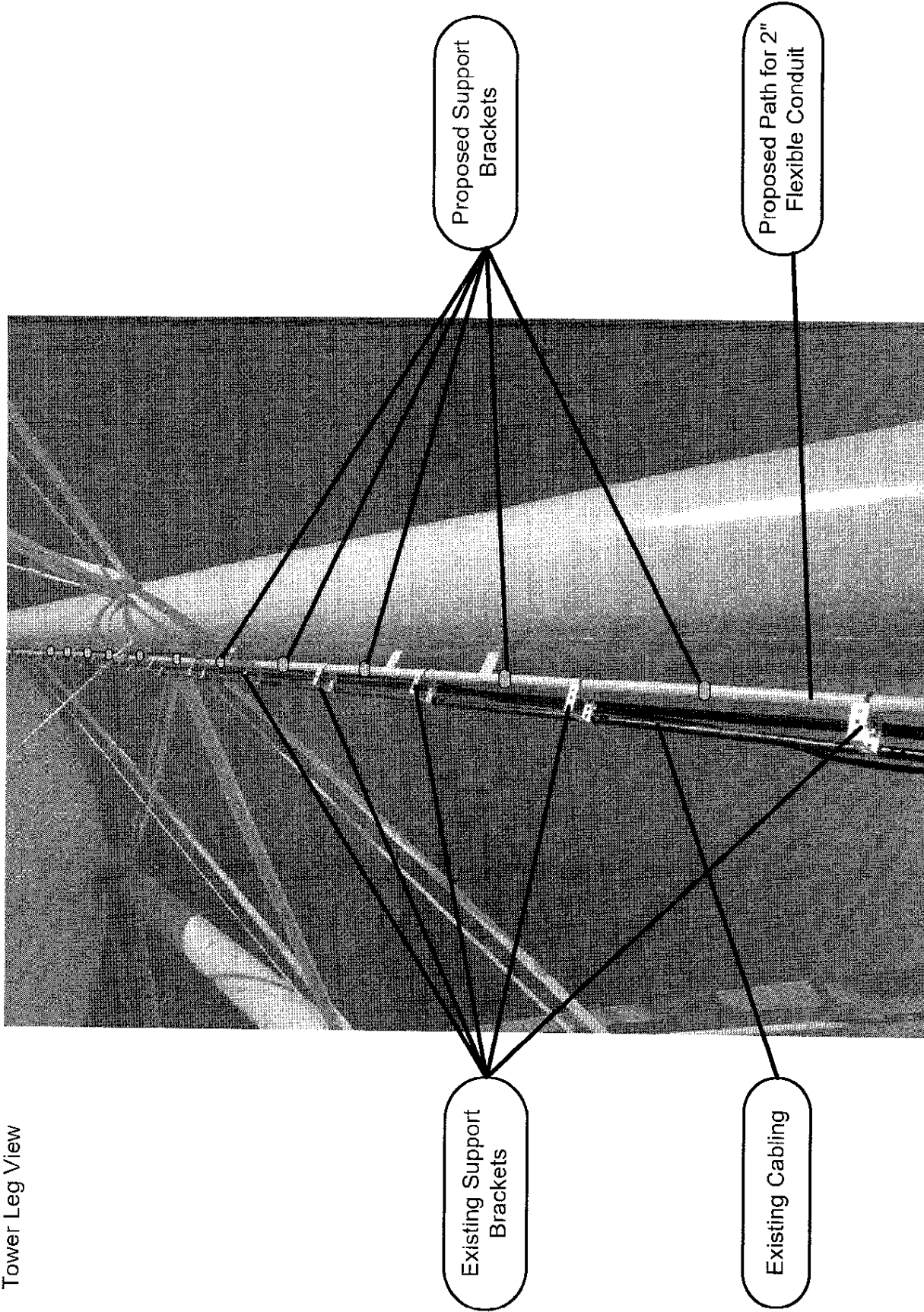
**Midwest Telecom of America, Inc**

Highland Water Tower

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Site Layout  
Page 6

Tower Leg View



## **EXHIBIT B**

**SITE: 9960 Indianapolis Blvd. Highland, IN 46322**

**LICENSOR: Town of Highland, IN**

### **ANTENNA SYSTEMS**

Antenna Make: Trango, Ubiquity and other various antenna makes as determined by Licensee.

Antenna Model: Variable depending on radio manufacturer used and Licensee's purposes for radio transmission.

Height or AGL (Above Ground Length) of Communications Equipment located or mounted on the roof top or sides of the building: Approximately 115 -120 ft. AGL.

Type of Mount: Clamp or Bracket Standoff Pole Mounts for the sides of the Water Tower and/or non-penetrating pole mount other specialized mounting system as required for proper mounting and securing of radio transmitters and associated antennas and any other necessary Communications equipment as determined by Licensee.

Cable Size/Type/Length: Ethernet cable (Cat 5 or 7), RG 11, RG 6, LMR 400 or fiber optic cable or any other cable required to properly connect radio transmitters, associated antenna systems or other Communications Equipment to power and allow such communication equipment to communicate with other Communications Equipment as needed. Length of cable will vary, but typically should not exceed the height of any radio transmitters, associated antennas, associated GPS systems or any other necessary Communications Equipment mounted to the communications tower and connected to Communications Equipment located at the base of inside of the Communications Equipment enclosure.

### **TRANSMITTERS**

Manufacturer: Trango, Ubiquity, and other various manufacturers as determined necessary by Licensee.

Models: Trango APEX, Trango APEX Plus, Trango APEX Orion, Ubiquity Nano Station, Ubiquity M5 Rocket, Ubiquity Nano-Beam, Ubiquity AIR FIBER 24 and 5, Ubiquity M5 AC Rocket and other various transmitter models as determined necessary by Licensee.

Operating Frequency(s): 5.725-5.875 GHz Range, 2.4 GHz Range, 900 MHz Range, 5.250-5.350 GHz Range, 3.65 GHz Range, 11 GHz Range, 18 GHz Range, 6 GHz Range & all other potential Licensed and unlicensed Frequencies in the future.

Power Source: Most radio equipment is PoE/24VDC, or POE 48 VDC. Other radio power source descriptions are available upon request.

Output Power: Will vary based upon manufacturer and Model. Output power descriptions of any radio transmitters used by Licensee are available upon request.

### **EQUIPMENT CABINETS**

Size: Is typically an exterior or interior metal enclosure no bigger than 4 ft. x 4 ft. x 4 ft.

### **GPS RECEIVER**

Antenna: Often integrated into the radio transmitter units. Other radio manufacturers have optional external GPS systems. Licensee typically does not use external GPS systems with its radio systems. If a GPS system is used by Licensee, then Licensee will make a full description of the GPS system being used by Licensee available to Licensor upon request, but at no time will GPS systems be considered an additional radio transmitter and associated antenna for rental payment calculations as GPS systems are associated systems with many radio transmitters and antenna systems and are also necessary for proper radio transmitter and associated antenna functionality.



**New Business:** Director Volbrecht moved to add a new line item to the Agenda template titled “Comments from the Directors on any Item of Interest to the Directors”, which would be inserted directly following “Business from the Floor”. Director Tharp seconded. Upon a roll call vote, there were (4) affirmations and (1) negative by President Smith. The motion passed.

**Reports:**

1. Water Works Superintendent – none.
2. Water Works Attorney – none.
3. Water Works Engineer – none.
4. Fire Department – none.

**Business from the Floor:** None.

**Claims:**

Per the docket in the amount of:

061	Water Works District	\$69,724.19
062	Consumer Deposits	\$53.75
064	Water Works Operating	\$270,019.68
066	Water Improvements	\$4,451.00
068	Water Capital	\$0.00
<hr/>		
Total		\$344,248.62

Director Tharp moved to approve the claims per the February 24, 2022 docket in the amount of \$344,248.62. Director Volbrecht seconded. Upon a roll call vote, there were (5) affirmations and no negatives.

**Next Meeting:**

The next Plenary Meeting will be held in-person at Town Hall on Thursday, March 24, 2022 at 6:30 p.m.

**ADJOURNMENT:** With no other business to come before the Board of Water Works Directors, the Directors discussed protocol for adjournment of the meeting and President Smith closed the meeting.

Meeting Adjourned at 7:28 p.m.

Respectfully Submitted,

Mark Knesek, Acting Recording Secretary