

**TOWN OF HERNDON, VIRGINIA
PUBLIC HEARING AGENDA
HERNDON COUNCIL CHAMBERS BUILDING
765 LYNN STREET
January 11, 2022
7:00 PM**

CALL TO ORDER

1. Pledge of Allegiance to the Flag of the United States of America
2. Roll Call & Determination of Quorum

APPROVAL OF MINUTES

September 14, 2021 Town Council Public Hearing Draft Minutes

COMMENTS

3. Comments from the Town Manager
4. Comments from the Town Council
5. Comments from the Audience

PUBLIC HEARINGS

6. Ordinance 22-O-01, to approve and authorize the Mayor to sign a Sixth Lease Amendment with T-Mobile Northeast LLC, successor-in-interest to Omnipoint Communications CAP Operations, LLC, to revise the premises description, approved equipment list, drawings, and monthly rent at the Town's 3rd Street Water Tower
7. Ordinance 22-O-02, to amend and reenact Chapter 42 (MOTOR VEHICLES AND TRAFFIC), of the Code of Herndon, Article IV (Stopping, Standing, Parking), Division 4 (Residential Permit Parking), Section 42-223 (Designated Residential Parking Zones), to designate a new residential parking zone to be known as the "Madison Street Zone"

CONSENT

8. Resolution 22-G-01, to ratify an Extension of License pursuant to Ordinance 20-O-23 Continuity of Governmental Operations, as amended, between Vivacity Networks, LLC and the Town of Herndon, Virginia in order to extend the expiration date to June 30, 2022
9. Resolution 22-G-02, to award Contract #B-22-05, Herndon Parkway Water Main Replacement Project

Future Town Council Meetings

January 18, 2022	Town Council Work Session	7:00 PM
January 25, 2022	Town Council Public Hearing	7:00 PM
February 1, 2022	Town Council Work Session	7:00 PM
February 8, 2022	Town Council Public Hearing	7:00 PM

TOWN OF HERNDON, VIRGINIA

ORDINANCE

JANUARY 11, 2022

Ordinance - To approve and authorize the Mayor to sign a Sixth Lease Amendment with T-Mobile Northeast LLC, successor-in-interest to Omnipoint Communications CAP Operations, LLC, to revise the premises description, approved equipment list, drawings, and monthly rent at the Town's 3rd Street Water Tower.

BE IT ORDAINED by the Town Council of the Town of Herndon, Virginia, that:

1. The Town Council approves this Sixth Amendment to Deed of Lease Agreement dated January 11, 2022. This instrument amends the original deed of lease dated September 1, 1994, as amended by the Revival and Extension of the Deed of Lease Agreement dated November 18, 1999, as amended by the Second Revival and Extension of the Deed of Lease Agreement dated March 15, 2005, as amended by the Third Revival and Extension of Deed of Lease Agreement dated July 28, 2014, as amended by the Fourth Amendment to Deed of Lease dated May 12, 2015, and as amended by the Fifth Amendment to Deed of Lease dated January 26, 2021.
2. This instrument updates the premises description, approved equipment list, drawings, and monthly rent.
3. This instrument approves revising the equipment list to the following: 4 Equipment Cabinets, up to 63" H x 34" W x 26" D, 1 Generator 103"L x 35"W x 90"H, 1 Generator Enclosure 13' x 13' x 3', 12 Antennas up to 96.5"H x 24"W x 9"D, 8 RRUs (Remote Radio Units) up to 17"H x 14"W x 11"D, 8 Coax and/or Fiber Hybrid Cables up to 1 5/8"D, 1 T-Mobile Meter up to 38"H x 13"W x 4.84"D, 1 T-Mobile Disconnect up to 45.5"H x 23"W x 7.5"D, 1 T-Mobile SPD up to 4.5"H x 7"W x 7.35"D, and 1 T-Mobile Panel Board up to 30"H x 21"W x 7"D.
4. Monthly rent shall be increased by \$400.00 to \$6,070.29 per month and shall escalate each year as provided in paragraph 2(a) of the Deed of Lease.
5. In all other respects the original lease remains in effect.
6. The Mayor is authorized to sign and deliver the lease amendment and any ancillary instruments necessary to evidence or effectuate the lease amendment, provided they are consistent with this ordinance and on such form approved by the Town Attorney.
7. This ordinance shall be in effect on and after the date of its adoption.

SIXTH AMENDMENT TO DEED OF LEASE AGREEMENT

This Sixth Amendment to Deed of Lease Agreement ("Sixth Amendment") is dated this 11th day of January 2022, made by and between **Town of Herndon** ("Lessor") and **T-Mobile Northeast LLC**, a Delaware limited liability company, successor-in-interest to **Omnipoint Communications CAP Operations, LLC** ("Lessee").

WHEREAS, Lessor and Lessee entered into that certain Deed of Lease Agreement dated September 1, 1994, as amended by the Revival and Extension of Deed of Lease Agreement dated November 18, 1999, as amended by the Second Revival and Extension of Deed of Lease Agreement dated March 15, 2005, as amended by the Third Revival and Extension of Deed of Lease Agreement dated July 28, 2014, as amended by the Fourth Amendment to Deed of Lease Agreement dated May 12, 2015, as amended by the Fifth Amendment to Deed of Lease dated January 26, 2021 (collectively referred to herein as the "Lease"), whereby Lessor leased to Lessee a portion of the property and on the Water Tank located on the 3rd Street Water Tower located at 806 3rd Street, Herndon, Virginia 20170; and

WHEREAS, Town and Lessee hereby affirm that, as of the date hereof: (i) no breach or default by Town or Lessee has occurred; and (ii) the Lease, and all the terms, covenants, conditions, provisions and agreements thereof, except as expressly modified by this Sixth Amendment are in full force and effect, with no defenses or offsets thereto; and

WHEREAS, Town and Lessee desire to amend the Lease as follows; and

NOW THEREFORE, in consideration of the mutual covenants contained in the Lease and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Town and Lessee hereby agree as follows:

1. All capitalized terms shall have the meaning ascribed to them in the Lease unless otherwise defined in this Sixth Amendment.
2. "Exhibit A dated November 17, 2020" is hereby deleted in its entirety and replaced with "Exhibit A dated January 11, 2022", "Exhibit B dated November 17, 2020" is hereby deleted in its entirety and replaced with "Exhibit B dated January 11, 2022", "Exhibit C, Pages 1-4, dated November 17, 2020" is hereby deleted in its entirety and replaced with "Exhibit C, Pages 1-4, dated January 11, 2022", all of which are attached hereto and incorporated herein.
3. Lessee shall have the right to modify its Equipment as described in "Exhibit C, Pages 1-4 dated January 11, 2022", attached hereto and incorporated herein. In consideration of the modification of the Equipment as shown in Exhibit C, Lessee shall pay the Town an additional Four Hundred Dollars (\$400.00) per month ("Additional Rent"). The new monthly rent shall be Six Thousand Seventy and 29/100 Dollars (\$6,070.29), commencing on the first day of the month following the date of this agreement, and shall escalate each year as provided in paragraph 2(a) of the Deed of Lease.
4. Except as specifically amended herein, the remaining terms of the Lease shall remain in full force and effect. To the extent any provision contained in this Sixth Amendment conflicts with the terms of the Lease, the terms and provisions of this Sixth Amendment shall prevail.

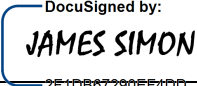
LESSOR

LESSEE

TOWN OF HERNDON

T-Mobile Northeast LLC

By: _____

By:  _____
2F1DB67290EF4DD...

Name: _____

Name: JAMES SIMON _____

Title: _____

Title: Director _____

ATTEST

APPROVED AS TO FORM

TMO Signatory Level : L06

By: _____

By: _____

Name: _____

Name: Lesa J. Yeatts _____

Title: _____

Title: Town Attorney _____



Exhibit A
January 11, 2022

The property lies in the Town of Herndon, Virginia and is described as follows:

1. 806 3rd Street Herndon, VA 20170
2. Fairfax County Tax Map Number 10-4-2-45A

The geodetic coordinates of the Property are as follows:

North Latitude: 38° 58' 50"

West Longitude 77° 22' 59"

Exhibit B
January 11, 2022

The premises shall consist of the following:

1. Ground Space, consisting of approximately 441 square feet for placement of equipment cabinets, a back-up generator and associated concrete pad.
2. Space on the Tower sufficient to accommodate the placement, installation, operation and maintenance of the equipment (listed on Exhibit "C").
3. The Access easement.
4. The Utility Easements.
5. The premises are depicted on the attached drawings.

Nothing in this legal description shall convey to Lessee any rights in the Property other than what are specifically described in this Deed of Lease as to the Premises.

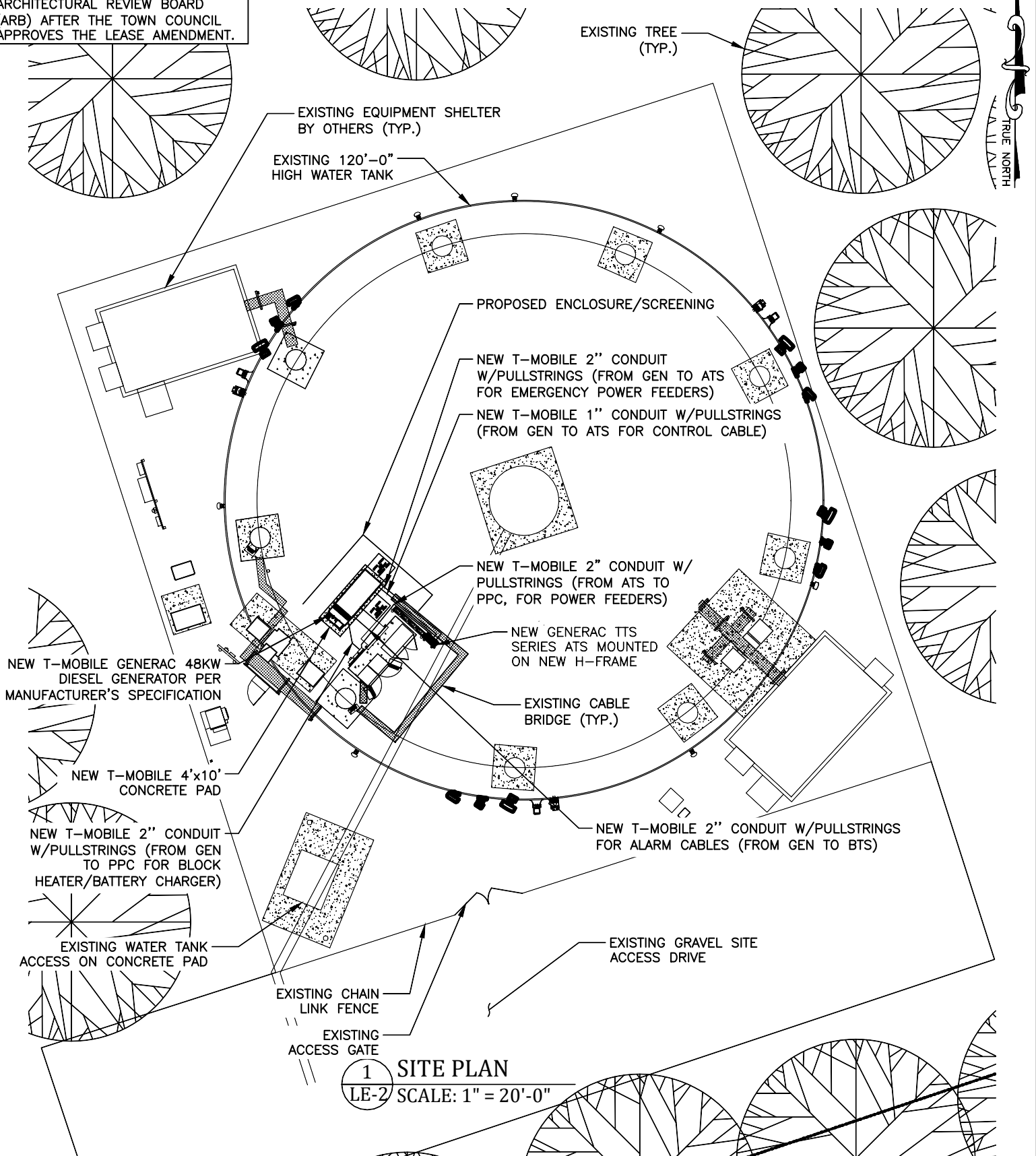
Exhibit C
Page 1 of 4
January 11, 2022

The following equipment together with any associated wires, cables, pipes, conduits and supporting structures associated with the equipment shall be located on the Third Street Water Tank or ground space as generally shown on the attached drawings.

<u>Quantity</u>	<u>Type</u>	<u>Approximate Size</u>
4	Equipment Cabinets	up to 63" H x 34" W x 26" D
1	Generator	103"L x 35"W x 90"H
1	Generator Enclosure	13' x 13' x 3'
12	Antennas	up to 96.5" H x 24" W x 9"
8	Remote Radio Units (RRU's)	up to 17" H x 14" W x 11" D
8	Coax and/or Fiber Hybrid Cables	up to 1-5/8" in Diameter
1	T-Mobile Meter	up to 38" H x 13" W x 4.84" D
1	T-Mobile Disconnect	up to 45.5" H x 23" W x 7.5" D
1	T-Mobile SPD	up to 4.5" H x 7" W x 7.35" D
1	T-Mobile Panel Board	up to 30" H x 21" W x 7" D

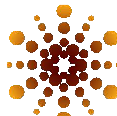
AROUND THE PROPOSED GENERATOR
IS TO BE DETERMINED BY THE
ARCHITECTURAL REVIEW BOARD
(ARB) AFTER THE TOWN COUNCIL
APPROVES THE LEASE AMENDMENT.

January 11, 2022



T-Mobile

T-MOBILE NORTHEAST LLC
12050 BALTIMORE AVENUE
BELTSVILLE, MD 20705



Trylon

1825 W. WALNUT HILL LANE, SUITE 120
IRVING, TEXAS 75038
1-855-669-5421

LEASE EXHIBIT

REV	DATE	DESCRIPTION
A	04/23/2021	PRELIMINARY
B	07/02/2021	CLIENT COMMENTS
C	09/16/2021	CLIENT COMMENTS
D	09/24/2021	CLIENT COMMENTS
E	10/11/2021	CLIENT COMMENTS

DRAFTER: MKJ

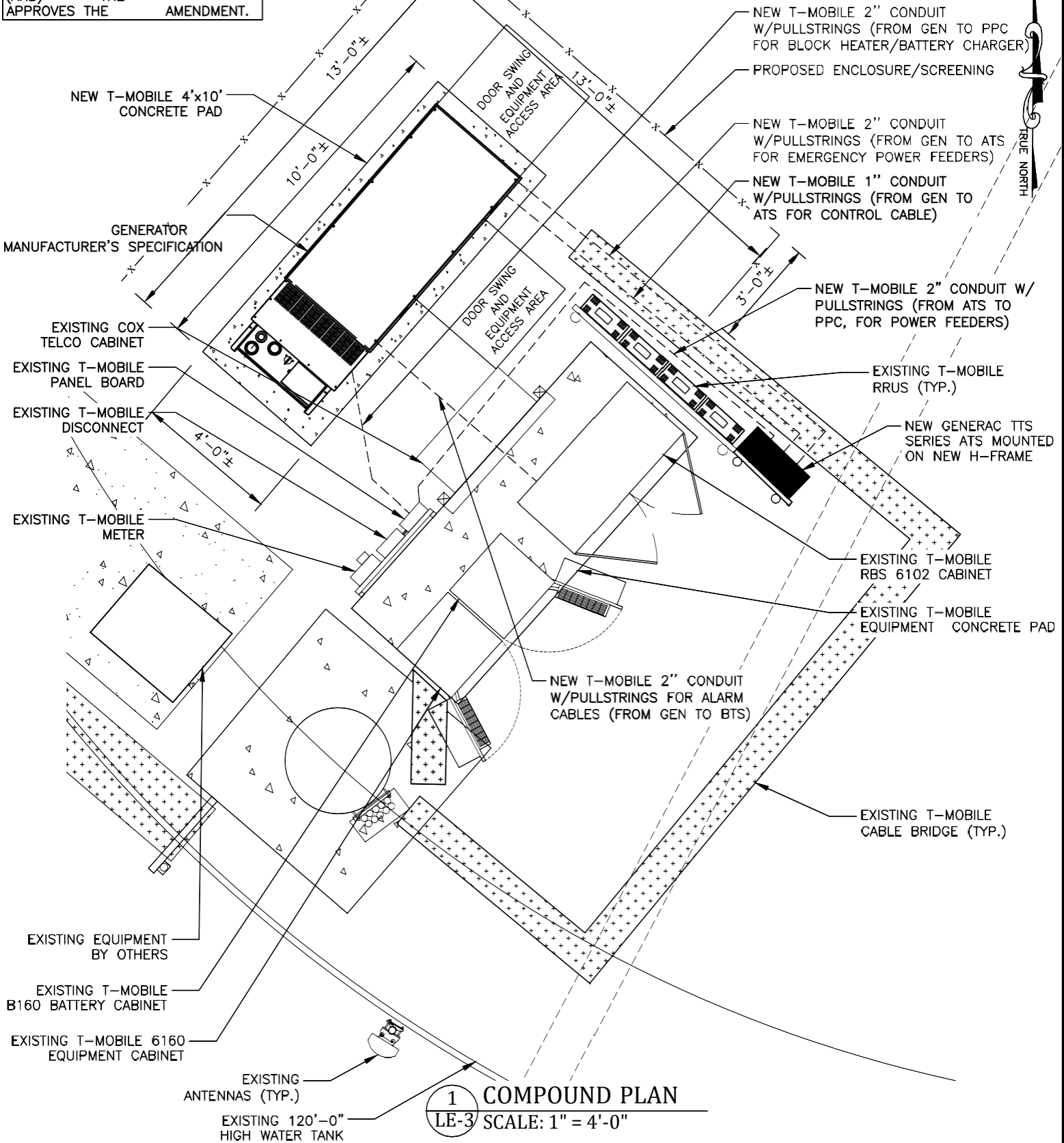
LEASE EXHIBIT
SITE NAME

TOWN OF HERNDON - HERNDON
7WAC057A

806 3RD STREET
HERNDON, VIRGINIA 20170

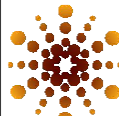
IS THE DETERMINED THE
ARCHITECTURAL THE
(ARB) THE
APPROVES THE AMENDMENT.

EXHIBIT C PAGE 3 OF 4
January 11, 2022



T-Mobile

T-MOBILE NORTHEAST LLC
12050 BALTIMORE AVENUE
BELTSVILLE, MD 20705



Trylon

1825 W. WALNUT HILL LANE, SUITE 120
IRVING, TEXAS 75038
1-855-669-5421

LEASE EXHIBIT

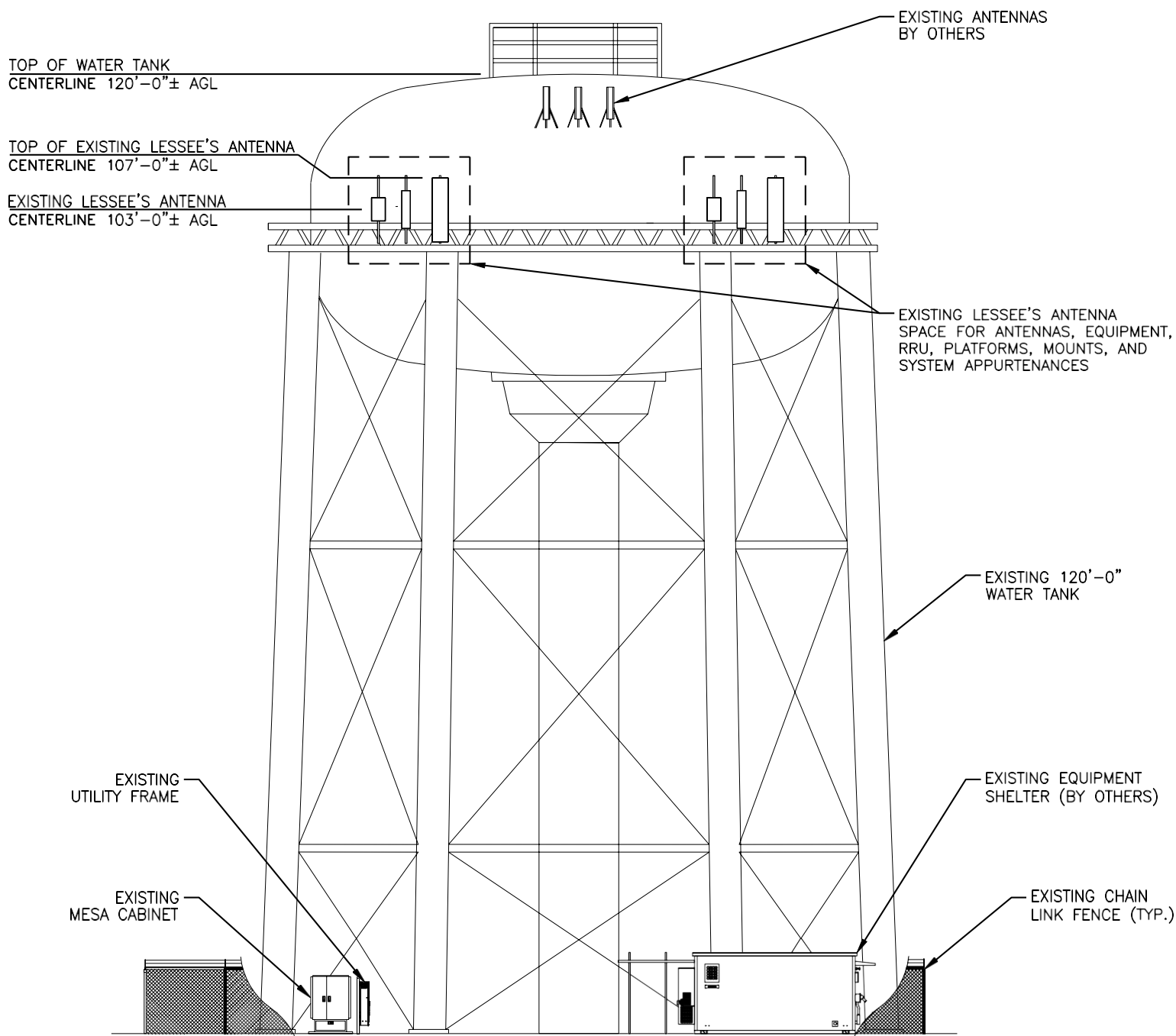
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TOWN OF HERNDON - HERNDON
7WAC057A

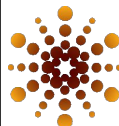
806 3RD STREET
HERNDON, VIRGINIA 20170



1 ELEVATION VIEW
 LE-4 SCALE: 1" = 20'-0"



T-MOBILE NORTHEAST LLC
 12050 BALTIMORE AVENUE
 BELTSVILLE, MD 20705



Trylon

1825 W. WALNUT HILL LANE, SUITE 120
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E	10/11/2021	CLIENT COMMENTS

DRAFTER: MKJ

LEASE EXHIBIT
 SITE NAME

TOWN OF HERNDON - HERNDON
 7WAC057A

806 3RD STREET
 HERNDON, VIRGINIA 20170

TOWN OF HERNDON, VIRGINIA

ORDINANCE

JANUARY 4, 2022

Ordinance - to amend and reenact Chapter 42 (MOTOR VEHICLES AND TRAFFIC), of the Code of Herndon, Article IV (Stopping, Standing, Parking), Division 4 (Residential Permit Parking), Section 42-223 (Designated Residential Parking Zones), to designate a new residential parking zone to be known as the “Madison Street Zone”.

BE IT ORDAINED by the Town Council of the Town of Herndon, Virginia, that:

1. Chapter 42, Motor Vehicles and Traffic, Article IV, Stopping, Standing, Parking, Division 4, Residential Permit Parking of the Herndon Town Code (2000), as amended, is amended and re-ordained as follows:

Section 42-223. Designated Residential Permit Parking Zones

Madison Street Zone. Parking by permit only 12:00 a.m. to 7:00 a.m. Madison Street from its intersection with Madison Forest Drive and continuing eastward to cul-de-sac where Madison Street ends.

Old Dranesville Hunt Club Zone. Parking by permit only 8:00 a.m. to 3:30 p.m. Monday through Friday on Huntsman Place from its intersection with Old Hunt Way to 715 Huntsman Place and Old Hunt Way from 735 Old Hunt Way to 669 Old Hunt Way and Crest Drive from its intersection with Old Hunt Way to Herndon Parkway.

2. This ordinance shall be effective on and after the date of its adoption.

TOWN OF HERNDON, VIRGINIA

RESOLUTION

JANUARY 11, 2022

Resolution - to ratify an Extension of License pursuant to Ordinance 20-O-23 Continuity of Governmental Operations, as amended, between Vivacity Networks, LLC and the Town of Herndon, Virginia in order to extend the expiration date to June 30, 2022.

WHEREAS, the parties entered into a License Agreement dated June 30, 2019, as amended by the First Amendment dated December 10, 2019, for the use of designated public property and public right-of-way; and

WHEREAS, the License Agreement would have expired on December 31, 2021; and

WHEREAS, Town and Vivacity desired to extend the term of the Agreement to expire on June 30, 2022; and

WHEREAS, the Extension of License was signed by the Town Manager pursuant to Ordinance 20-O-23 Continuity of Governmental Operations, as amended.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia hereby ratifies the Extension of License dated December 15, 2021 signed by the Town Manager between Vivacity Networks, LLC and the Town of Herndon, Virginia in order to extend the license expiration date to June 30, 2022.

**Extension of License Pursuant to Ordinance 20-O-23 Continuity of
Governmental Operations**

Pursuant to the powers conferred upon the Town Manager by Ordinance 20-O-23, as amended, this Extension of License dated December 15, 2021, hereby extends the December 31, 2021 termination date of the existing License between the Town of Herndon, a Virginia municipal corporation (Town) and Vivacity Networks, LLC, a Delaware limited liability company, the successor to Vivacity DC, Inc. ("Vivacity") a Delaware corporation, dated June 30, 2019, as amended by the First Amendment dated December 10, 2019 for equipment and facilities (the License) for a period of 6 months (the Extension).

THEREFORE, for the consideration stated in the License and herein, the parties agree as follows:

1. The License is incorporated by reference.
2. Unless otherwise agreed in writing by the parties Vivacity shall remove all its equipment and facilities at the termination of this license.
3. The License shall terminate on **June 30, 2022**.
4. In all other respects, the License is confirmed.

VIVACITY NETWORKS, LLC

By: *Sarah Z. Murphy*
Authorized Representative

Name: *Sarah L. Murphy*

Title: *Chief Financial Officer*

TOWN OF HERNDON, VIRGINIA

William H. Ashton II

William H. Ashton II
Town Manager

APPROVED AS TO FORM:

Lesa J. Yeatts

Lesa J. Yeatts
Town Attorney

TOWN OF HERNDON, VIRGINIA

RESOLUTION

JANUARY 11, 2022

Resolution- to award Contract #B-22-05, Herndon Parkway Water Main Replacement Project.

WHEREAS, the Herndon Parkway Water Main Replacement Project is in the Capital Improvement Program; and

WHEREAS, Contract #B-22-05, Herndon Parkway Water Main Replacement Project, was advertised on October 28, 2021; and

WHEREAS, the following bids were received and opened on November 23, 2021:

<u>Contractor</u>	<u>Bid</u>
Franco's Liberty Bridge, Inc.	\$298,945.00
A&M Concrete Corporation	\$467,825.00
Anchor Construction	\$520,560.00
Sagres Construction Corporation	\$743,000.00
Fort Meyer Construction Corporation	\$874,500.00
Old Line Construction, Inc.	\$1,461,520.00
RP Group LLC	\$1,840,000.00; and

WHEREAS, Franco's Liberty Bridge, Inc. submitted the lowest bid which was found to be responsive and responsible; and

WHEREAS, staff recommends in addition to the contract that a contingency of \$29,895, which is approximately 10 percent of the bid, be authorized; and

WHEREAS, funds to support this contract are available in the Capital Projects Account 002-08-88-000-480020; and

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia, hereby awards Contract #B-22-05, Herndon Parkway Water Main Replacement Project, to Franco's Liberty Bridge, Inc., in the amount of \$298,945.

BE IT FURTHER RESOLVED that the Town Council of the Town of Herndon, Virginia hereby authorizes a contingency of \$29,895.

BE IT FURTHER RESOLVED that the Town Council of the Town of Herndon, Virginia, hereby authorizes the Town Manager's designee to approve contract modifications (change orders) that increase project scope and costs, utilizing the project contingency.