
MEMORANDUM

TO: GREGORY J. ORAVEC, CITY MANAGER
THRU: ROGER G. ORR, CITY ATTORNEY *RGO*
FROM: STEFANIE BESKOVOYNE, ASSISTANT CITY ATTORNEY *SB*
DATE: JUNE 15, 2012
SUBJECT: CELL TOWER SITE LEASE AGREEMENT / DYNAMIC TOWERS, INC
PRINEVILLE – OGDEN PLANT

Attached please find correspondence between Kevin Aycok of Dynamic Towers, Inc., and the City of Port St. Lucie, regarding Dynamic Towers' request to lease space from the City for a cell tower at the Prineville Water Treatment Facility. A proposed draft of the Lease Agreement between the City of Port St. Lucie and Dynamic Towers, Inc. is attached. This item is being placed on the City Council's agenda for consideration in moving forward with leasing this site. If the City Council is in agreement with this project, an ordinance will be brought back with a copy of the lease for final approval by the Council. Should you have any questions or need additional information, please contact me at 873-6332.

SB/liw

RECEIVED

JUN 19 2012

City Manager's Office



CITY OF PORT ST. LUCIE

.....
"A CITY FOR ALL AGES"

April 19, 2012

RECEIVED
APR 20 2012
PLANNING DEPARTMENT
CITY OF PORT ST. LUCIE

Mr. Kevin T. Aycock, President
Dynamic Towers, Inc.
575 NW Mercantile Place, Suite 104
Port St. Lucie, Florida 34986

Re: Placement of a Wireless Stealth Communications Tower at the Prineville Utility Plant
Special Exception Use (Letter of Authorization for Planning & Zoning)

Dear Mr. Aycock:

I am in receipt of your letter to this office dated April 10, 2012 regarding the above-mentioned site. Authorization is hereby granted to proceed with the special exception use and site plan paperwork to the Planning & Zoning Department.

Sincerely,

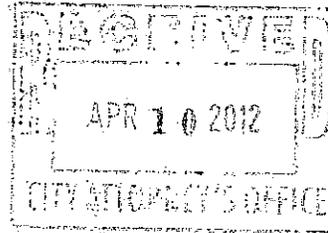
Gregory J. Oravec
City Manager

CC: Mayor & City Council
Daniel Holbrook, Director, Planning & Zoning
Jesus Merejo, Director, Utility Systems
Pam Booker, Senior Assistant City Attorney

DTI

April 10, 2012

Mr. Greg J. Oravec
City Manager
City of Port St Lucie
121 SW Port St. Lucie Blvd.
Port St. Lucie, FL 34984



Dear Mr. Oravec,

DTI would like to request an authorization letter to proceed with our Special Exception Use application and lease of ground space for the placement of a wireless stealth communications tower on the Prineville Utility Plant property located at 800 SE Prineville Street. The Planning & Zoning Department requires this letter from the property owner allowing us to proceed on behalf of the City of Port St. Lucie as owner.

Last year we were approved to move forward with this application and have received a SPRC approval. There was an unforeseen delay in the application process due to the staff uncovering an omission in the code requiring a text amendment that is now complete. We are currently scheduled to go before the P&Z Board on May 1st, 2012.

Furthermore, the underlying ground lease for the tower, between DTI and the City, as well as the site plan, have been reviewed and approved by Jesus Merejo and Brad Macek from the Utility Department. The template for the lease was originally negotiated and agreed to between DTI and the City Legal Department. In synopsis, the lease is for 25 years [10yr initial + (3) 5yr renewals] and provides the City with an initial monthly rental income of \$1,500.00 per month. The rent escalates 3% each year. Additionally, the City receives a 25% share of the co-location revenue we receive from subleasing the tower.

Please feel free to contact me if you have any questions. I appreciate your assistance in this matter.

Sincerely,

Kevin T. Aycock
President
772-370-9819 Mobile



SE Proctor Ln

SE O'Donnell Ln

SE Ogden Ln

SE Gullport Terrace

Tower

SE Pineville St

SE Lakehurst Dr

SE Sandia Dr

© 2012 Google

27°18'32.05\"

Prepared by and return to:
City of Port St. Lucie Legal Dept.
121 SW Port St. Lucie Blvd.
Port St. Lucie, FL 34984

CELL TOWER SITE LEASE AGREEMENT

THIS SITE LEASE AGREEMENT ("Lease") made on this _____ day of _____, 2012, between the CITY OF PORT ST. LUCIE, a Florida municipal corporation (hereinafter referred to as "CITY"), and DYNAMIC TOWERS, INC., a Florida corporation, (hereinafter referred to as "DTI").

WITNESSETH

That CITY, for and in consideration of the restrictions and covenants herein contained, hereby leases to DTI and DTI hereby agrees to lease from CITY certain ground space located within the Prineville-Ogden Plat, according to Plat Book 63 Pages 14-15, which consists of City utility property known as "Prineville Water Treatment Facility" in the City of Port St Lucie. The leased premises, is more particularly described as follows:

A PORTION OF PRINEVILLE-OGDEN PLAT, AS RECORDED IN PLAT BOOK 63, PAGES 14-15 OF THE PUBLIC RECORDS OF ST. LUCIE COUNTY, FLORIDA, SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF SAID PRINEVILLE-OGDEN PLAT;

THENCE ON A PLAT BEARING OF N01°01'51"W ALONG THE WEST LINE OF SAID PRINEVILLE-OGDEN PLAT, A DISTANCE OF 654.80 FEET;

THENCE N00°18'30"W CONTINUING ALONG SAID WEST LINE, A DISTANCE OF 368.00 FEET;

THENCE N89°41'30"E A DISTANCE OF 61.00 FEET TO THE POINT OF BEGINNING;

THENCE N00°18'30"W A DISTANCE OF 100.00 FEET;

THENCE N89°41'30"E A DISTANCE OF 30.00 FEET;

THENCE S00°18'30"E A DISTANCE OF 100.00 FEET;

THENCE S89°41'30"W A DISTANCE OF 30.00 FEET TO THE POINT OF BEGINNING;

SAID PARCEL OF LAND SITUATE WITHIN THE CITY OF PORT ST. LUCIE, ST. LUCIE COUNTY, FLORIDA, CONTAINING 3,000.00 SQUARE FEET, MORE OR LESS.

IT IS FURTHER MUTUALLY UNDERSTOOD AND AGREED:

1. Leased Premises and Permitted Uses

CITY hereby leases to DTI the Ground Space, a portion of the Prineville Water Treatment Facility Lease Premises (the entirety of CITY's property is hereinafter referred to as the "Land"), which is more specifically described above, together with a non-exclusive easement (the "Easement") over, under and across the Land for (i) reasonable access to the Ground Space extending from the nearest public right-of-way and located in public right of way (not inside the compound) utility easements (the Ground Space and Easement are hereinafter collectively referred to as the "Lease Premises") The Lease Premises will be used by DTI for the purpose of installing, removing, replacing, maintaining and operating, at its sole expense, a wireless communications facility (the "Facility"), composed of a 150' stealth tower structure, and uses incidental thereto. DTI will use the Lease Premises in a manner that will not unreasonably disturb the quiet use and enjoyment of the City's Utility Systems Department and neighboring community. If DTI breaches this covenant, DTI is subject to Section 13 of this Lease.

DTI, at its expense, shall survey said Lease Premises which is legally described on said survey on Exhibit A, attached hereto and made a part hereof, and shall control in the event of discrepancies between it and the above legal description. However, DTI shall provide at least a forty-eight (48) hour advance, by written notice or e-mail transmission to the CITY'S Utility Systems Department for coordination and approval in the CITY'S sole discretion of any proposed use or disturbance of the non-leased adjoining and adjacent lands.

2. Initial Term

The initial term of this Lease shall commence on the Rent Start Date (defined in Section 4) and shall continue for a period of ten (10) years. The City has the option to cancel the lease at any time by first providing DTI with One Hundred Twenty (120) days advance written notice of cancellation.

3. Renewal Terms

This Lease shall automatically renew for three (3) five-year terms (each being a "Renewal Term"), unless either party provides written notice, by certified mail, at least ninety (90) days prior to the expiration of the Initial Term or any Renewal Term, of its intention not to renew this Lease.

4. Rent

The first year's annual rent shall be EIGHTEEN THOUSAND DOLLARS AND NO CENTS (\$18,000.00) and payable in advance in equally monthly installments (\$1,500.00 /month), beginning on the Rent Start Date and due and payable on the first day of each month thereafter. The "Rent Start Date" shall be the date this Lease is fully executed. Lease must be fully executed within sixty (60) days of Council approval. Rent payments shall be sent to:

City of Port St. Lucie
Attn: Finance Department
121 S.W. Port St. Lucie Boulevard
Port St. Lucie, Florida, 34984

or at such other place and to such other person as the CITY may from time to time designate in writing.

During the Initial Term and each Renewal Term, annual rent shall be increased on each anniversary by an amount equal to four percent (4%) of the annual rent for the previous year.

5. Title and Quiet Possession

CITY represents and agrees that (i) it is the owner of the Leased Premises; (ii) it has the right to enter into this Lease; (iii) the person signing this Lease has the authority to sign on behalf of the CITY; (iv) DTI is entitled to access the Lease Premises at all times and to the quiet possession of the Lease Premises throughout the Initial Term and each Renewal Term so long as DTI is not in default beyond the expiration of any cure period; (v) DTI will maintain the Lease Premises, in good condition, reasonable wear and tear excepted; and (vi) there are no other liens, judgments or impediments of title on the Lease Premises or affecting CITY's title to the same and that there are no covenants, easements, restrictions, or agreements binding on CITY or the Lease Premises which prevent DTI's permitted use of the Lease Premises. DTI's access to the Lease Premises "at all times" means that DTI's access shall be seven (7) days a week, twenty-four (24) hours a day, three hundred sixty-five (365) days a year.

6. Assignment and Subleasing

DTI will not assign or transfer this Lease without the prior written consent of CITY. However, DTI may assign this Lease (with CITY's prior written consent) to DTI's principal(s), affiliates, or any subsidiary of DTI, its principal(s) or affiliates, to any entity that acquires all or substantially all of DTI's assets in the market defined by the Federal Communications Commission by reason of a merger, acquisition or other business reorganization.

7. Notices

All notices must be in writing and are effective when deposited in the U.S. Mail, certified (return receipt requested) and postage prepaid, or when sent via overnight delivery, to the address set forth below, or as otherwise provided by law.

CITY: City of Port St. Lucie
121 SW Port St. Lucie Boulevard
Port St. Lucie, FL 34984-5099
Attn: City Manager

With copy to: City of Port St. Lucie
121 SW Port St. Lucie Boulevard
Port St. Lucie, FL 34984-5099
Attn: City Attorney

With copy to: Utility Systems Department
City of Port St. Lucie
900 SE Ogden Lane
Port St. Lucie, FL 34983
Attn: Utility Systems Director

DTI: Dynamic Towers Inc.
575 NW Mercantile Place #104
Port St. Lucie, FL 34986
Attn: Michael F. Haggerty, Director

8. Improvements

DTI shall, at DTI's expense, make such improvements on the Lease Premises as it deems necessary from time to time for the operation of the Facility, including the right to replace, repair, add or otherwise modify its equipment or any portion thereof, whether the equipment is specified or not on any exhibit attached hereto, during the term of this Lease. A security fence consisting of chain link construction or similar but comparable construction will be placed around the perimeter of the Lease Premises at the expense of DTI. DTI will also provide and install public awareness signage concerning the Lease Premises usage and contact information. Such signage content will be provided to the CITY'S Utility Systems Department for review and approval, and shall be in compliance with any and all applicable federal, state and local requirements. CITY agrees to cooperate with DTI with respect to obtaining any required zoning approvals and other governmental permits for the cell tower site and such improvements.

Within ninety (90) days after termination or expiration of this Lease, DTI will remove its

equipment and improvements (excluding footings, landscaping or plant life) and will restore the Lease Premises to the condition existing on the commencement of this Lease, except for ordinary wear and tear and improvements made at the City's request. CITY agrees and acknowledges that all of the equipment, fixtures and personal property of DTI shall remain the personal property of DTI and DTI shall have the right to remove the same, whether or not said items are considered fixtures and attachments to real property under applicable law. If such time for removal causes DTI to remain on the Lease Premises after termination of this Lease, DTI shall pay rent at the then existing monthly rate or on the existing monthly pro-rata basis if based upon a longer payment term, until such time as the removal of its equipment and improvements and all personal property is completed.

DTI acknowledges that it may be necessary to remove and replace the landscape and fencing on the Ground Space in the future due to the existing ground conditions. DTI agrees to pay for the cost of any removal and replacement of the landscape and fencing on the Ground Space at the sole discretion of the CITY.

9. Compliance with Laws

DTI will comply with all applicable laws relating to its possession and use of the Lease Premises, including, without limitation, posting requirements of the Federal Communications Commission.

10. Removal of Obsolete and Unused Towers

Any obsolete or unused tower shall be removed after twelve (12) months of non-use. A removal bond irrevocable letter of credit equal to the following shall be required prior to obtaining final site development permits

1. Towers up to 150 feet in height = \$15,000
2. Towers 151 to 200 feet in height = \$20,000

11. Interference

DTI will cure technical interference problems with other equipment located on the Lease Premises prior to the effective date of this Lease or any equipment that becomes attached to the Land at any future date when DTI desires to add additional equipment to equipment. CITY and DTI acknowledge that there will not be an adequate remedy at law for non-compliance with the provisions of this paragraph and therefore, DTI shall have the right to specifically enforce the provisions of this paragraph in a court of competent jurisdiction.

12. Termination

DTI must terminate this Lease to CITY without further liability only if DTI does not obtain

all permits or other approvals (collectively "approval") required from any governmental authority or any easements required from any third party to operate the Facility, or if any such approval subsequently is canceled or is withdrawn or terminated, or if CITY fails to have proper ownership, or appropriate clear title to the Lease Premises or authority to enter into this Lease. Upon termination, CITY shall retain all prepaid rent. The City shall cancel the Lease without further obligation or liability if the tower unreasonably interferes with the City's ability to provide service to its customers or there exists a safety concern or by breach of any other provision of this Lease.

13. Default

If either party is in default under this Lease for a period of (i) twenty (20) days following receipt of written notice from the non-defaulting party with respect to a default which may be cured solely by the payment of money or (ii) thirty (30) days following receipt of written notice from the non-defaulting party with respect to a default which may not be cured solely by the payment of money, then, the non-defaulting party may pursue any remedies available to it against the defaulting party under applicable law, including, but not limited to, the right to terminate this Lease. If the non-monetary default may not reasonably be cured within a thirty (30) day period, this Lease may not be terminated if the defaulting party commences action to cure the default within such thirty (30) day period and proceeds with due diligence to fully cure the default.

Notwithstanding anything in this Lease to the contrary, in the event of a default by CITY which results in DTI being unable to operate the Facility for a period of time exceeding CITY's initial thirty (30) day cure period, the rent shall abate for the period of time after expiration of the initial thirty (30) day cure period until the earlier of such date as CITY has cured the non-monetary default or DTI is able to continue operating the Facility; provided, further, that if DTI is unable to operate the Facility for more than ninety (90) days, DTI shall have the right to immediately terminate this Lease. Any such notice of termination shall cause this Lease to expire with the same force and effect as though the date set forth in such notice were the date originally set as the expiration date of this Lease and the parties shall make an appropriate adjustment, as of such termination date, with respect to payments due to the other under this Lease.

14. Hazardous Substances

DTI shall not introduce or use any such substance on the Lease Premises in violation of any applicable law.

15. Insurance

DTI will maintain comprehensive general liability and Lease Premises liability insurance with minimum liability limits of not less than ONE MILLION DOLLARS AND NO CENTS (\$1,000,000.00) for injury to or death of one or more persons in any one occurrence and not less than ONE MILLION DOLLARS AND NO CENTS (\$1,000,000.00) for damage or destruction of property in any one occurrence, with not less than THREE MILLION DOLLARS AND NO CENTS (\$3,000,000.00) general aggregate insurance coverage. All such insurance policies shall be issued by companies approved by the CITY and licensed to do business in the State of Florida and all such policies shall contain a provision whereby the same cannot be canceled or modified unless the CITY is given at least thirty (30) days prior written notice of such cancellation or modification. DTI shall provide the CITY certificates showing such insurance to be in place and showing the CITY as an additional named insured under the policies.

DTI shall be responsible for assuring that the insurance certificates required in conjunction with this section remain in full force for the duration of this Lease Agreement and any extension or renewal thereof. If insurance certificates are scheduled to expire during the term of this Lease Agreement, DTI shall be responsible for submitting new or renewed insurance certificates to the CITY at a minimum of thirty (30) days in advance of such expiration. If the insurance policies are not kept in full force during the entire term of this Lease Agreement or any extension thereof, the CITY may procure the necessary insurance policies and DTI shall repay to CITY the full amount of the premium(s) paid by the CITY for such insurance policy procurement. Said repayment shall be provided to the CITY as an additional rent installment for the year following the date on which the premiums were paid by the CITY.

16. Indemnification and Hold Harmless

DTI shall indemnify and hold harmless the CITY and its officers, employees, agents and instrumentalities from any and all liability, losses, or damages, including attorney fees and costs of defense, which the CITY or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of this Lease Agreement by DTI or its employees, agents, servants, partners, principals, subcontractors, guests, invitees, licensees, or assignees. DTI shall pay all claims and losses in connection therewith, and shall investigate and defend all claims, suits, or actions of any kind or nature in the name of the CITY, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may issue thereon. The indemnities provided by DTI under this Lease Agreement

will not extend or apply to any claims, damages, suits or actions caused by or resulting from the sole negligence or willful misconduct of the CITY, or its officers, employees, agents, contractors, or instrumentalities. DTI expressly understands and agrees that any insurance protection required by this Lease Agreement or otherwise provided by DTI shall in no way limit the responsibility to indemnify, keep and save harmless and defend the CITY or its officers, employees, agents and instrumentalities as herein provided.

17. Taxes

DTI shall be responsible for making any necessary tax returns for and paying any and all Lease Premises taxes separately levied or assessed against its improvements on the Ground Space. DTI shall reimburse the CITY, as additional rent, any documented increases in real estate taxes levied against the Lease Premises which are directly attributable to the improvements constructed by DTI and are not separately levied or assessed against DTI's improvements by the taxing authority. CITY shall provide to DTI a copy of any notice, assessment or billing relating to real estate taxes for which DTI is responsible under this Lease within thirty (30) days of receipt of the same by CITY. DTI shall have no obligation to make payment of any real estate taxes until DTI has received the notice, assessment or billing relating to such payment as set forth in the preceding sentence. DTI shall have the right, at its sole option and at its sole cost and expense, to appeal, challenge or seek modification of any real estate tax assessment or billing for which DTI is wholly or partly responsible for payment under this Lease. CITY shall reasonably cooperate with DTI in filing, prosecuting and perfecting any appeal or challenge to real estate taxes as set forth in the preceding sentence, including but not limited to, executing any consent to appeal or other similar document.

18. Recording

CITY and DTI agree that this Lease Agreement will be recorded in the appropriate office of St. Lucie County. DTI shall be responsible for the recording costs.

19. Title Insurance

DTI, at DTI's option and expense, may obtain title insurance on the Lease Premises. CITY shall cooperate with DTI's efforts to obtain a title insurance policy by executing documents, or at DTI's expense, obtain requested documentation as required by the title insurance company. At DTI's option, should the CITY fail to provide requested documentation within thirty (30) days of CITY's receipt of DTI's written request, or fail to provide the Non-Disturbance instrument(s), DTI may withhold and accrue the monthly rental until such time as the requested document(s) are received, or if title is found to be defective and CITY has failed to

cure the defects within a reasonable period, DTI may cancel this Lease. Any such notice of termination shall cause this Lease Agreement to expire with the same force and effect as though the date set forth in such notice were the date originally set as the expiration date of this Lease and the parties shall make an appropriate adjustment, as of such termination date, with respect to payments due to the other under this Lease.

20. Co-Location

DTI shall design the 150' stealth tower structure and facility to allow for at least three (3) other telecommunications providers. The availability of the tower shall be subject to the structural limitations as may be imposed by current or future regulations. DTI shall pay to City twenty-five percent (25%) of all rental revenues received from any co-locator. DTI shall provide copies of all co-locate agreements to the City of Port St. Lucie for verification of co-locate revenue share due to the City. Said agreements shall be provided prior to pulling a building permit for the additional provider. Failure to provide said documentation at any time during the lease term shall constitute a default. DTI shall be entitled to recoup from any co-locator, a pro rata share of the capital cost of construction of the tower. The City shall not share this capital contribution. City acknowledges and agrees that the continuity of DTI's services is of paramount importance. City at all times shall exercise the greatest care and judgment to prevent damage to DTI's services. City agrees that DTI may cause its engineers to verify by frequency search that the proposed additional provider will not interfere with the radiating or receiving facilities of DTI.

21. Sale of Land

If CITY should, at any time during the term of this Lease Agreement, decide to sell all of its Land, which includes the Lease Premises, to a purchaser other than DTI, such sale shall be under and subject to this Lease and DTI's rights hereunder, unless both parties agree to terminate the Lease.

22. Casualty

If DTI's Facility or improvements are damaged or destroyed by fire or other casualty, DTI shall not be required to repair or replace the Facility or any of DTI's improvements made by DTI. DTI shall not be required to expend funds for repairs that are more than fifty-percent (50%) of the replacement value of the Facility or any improvements.

Additionally, if completion of the repairs is not possible within forty-five (45) days following the date of the damage or destruction, DTI may terminate this Lease by giving thirty (30) days written notice to CITY. Termination shall be effective at expiration of 30 days period

after such notice is given. Upon such termination, this Lease shall become null and void and CITY and DTI shall have no other further obligations to each other, other than DTI's obligation to remove DTI's property as hereinafter provided.

23. Inspections

CITY shall permit DTI or DTI's employees, agents and contractors access to the Lease Premises to conduct inspections on the Ground Space (including Phase I and Phase II audits), radio frequency tests and such other tests, investigations and similar activities as DTI may deem necessary, at the sole cost of DTI.

The scope, sequence and timing of the inspections shall be at the sole discretion of DTI. DTI shall provide a minimum of 48 hours written notification to CITY and Utility Systems Director, or his designee. The inspections may be commenced during normal business hours, for the duration of the Lease. DTI and its employees, agents and contractors shall have the right to bring the necessary vehicles and equipment onto the Lease Premises for any investigations and similar activities.

DTI shall indemnify and hold CITY harmless against any loss of damage for personal injury or physical damage to the Lease Premises, CITY's surrounding property or the property of third parties. DTI shall furnish to CITY copies of the environmental findings.

DTI at its expense shall restore the Land to its original condition for any changes caused by said testing excluding normal wear and tear.

24. Enforcement

DTI is responsible for any damage to the Utility, its facility, equipment and personnel, and all rights and remedies of the CITY under this Lease Agreement shall be cumulative and shall not be exclusive of any other rights and remedies provided to CITY under applicable law.

25. Holdover

If DTI, with the consent of the CITY, remains in possession of the demised premises after the expiration of the term of this Lease Agreement or any Renewal Terms and if the CITY and DTI have not executed an express written agreement as to such holding over, then such occupancy shall be a tenancy from month to month at a monthly rental fee of the current rent, and such payments shall be made as herein provided. In the event of such holding over, all of the terms of this Lease Agreement including the payment of all charges owing hereunder other than rent shall remain in full force and effect on said month to month basis.

26. Governing Law

This Lease Agreement, including any exhibits or amendments, if any, and all matters

relating thereto (whether in contract, statute, tort or otherwise) shall be governed by and construed in accordance with the laws of the State of Florida and venue of any proceedings hereunder shall be in a court of proper jurisdiction in St. Lucie County, Florida.

27. Additional Provisions

(a) Successors in Interest

This Lease applies to and binds the heirs, successors, executors, administrators and assigns of the parties to this Lease.

(b) Mechanic's, Material men's and Other Liens

DTI agrees that it will not permit any mechanic's, material men's, or other liens to stand against the City premises for work or materials furnished to DTI. DTI shall immediately pay any judgment or decree rendered against DTI, with all proper costs and charges, and shall cause any such lien to be released off record without cost to the CITY.

(c) Permits, Regulations & Special Assessments

DTI covenants and agrees that during the term of this Lease Agreement DTI will obtain any and all necessary permits and approvals and that all uses of the City premises will be in conformance with all applicable laws, including all applicable zoning regulations.

DTI shall pay any and all charges, taxes, or assessments levied against the demised premises and failure to do so will constitute a breach of this Lease Agreement.

(d) Force Majeure

DTI and the CITY shall be excused for the period of any delay due to an "Act of God" and shall not be deemed in default with respect to the performance of any of the non-monetary terms, covenants and conditions of this Lease Agreement when prevented from so doing by cause or causes beyond DTI's or the CITY's control, excluding filing of bankruptcy, which shall include, but not limited to, all labor disputes, governmental regulations or controls, fire, hurricane or other casualty, acts of God, or any other cause:

(e) If any provision of this Lease is held invalid or unenforceable with respect to any party, the remainder of this Lease or the application of such provision to persons other than those as to when it is held invalid or unenforceable, will not be affected and each provision of this Lease shall be valid and enforceable to the fullest extent permitted by law.

(f) The failure of either party to insist upon strict performance of any of the terms or conditions of this Lease or to exercise any of its rights under the Lease shall not waive such rights and such party shall have the right to enforce such rights at any time and take such action as may be lawful and authorized under this Lease, either in law or in equity.

28. Equipment on Lease Premises

DTI may stack equipment within the lease premises; however, in no case may any equipment exceed the height of the masonry wall which surrounds the plant.

29. Miscellaneous

One hundred feet (100') of the existing concrete wall is to be moved out Thirty (30') to the west of its existing location. No currently secured property should be exposed to the public due to lack of wall sections, because of the move (there may be a need for DTI to purchase additional sections to close off the area). The entrance gate to the towers leased area is to match the existing bronze gates design on Prineville. The entire 30 foot by 100 foot area designated for the tower site will be isolated from the remaining Utility site, with a six (6') foot chain link fence on the eastern and southern side of the site. The only access to the tower area will be from the newly installed gate on Prineville. Additionally, at no cost to the City, DTI must remove the existing seventy-five feet radio communication tower, and move all necessary microwave radio antennas within ninety (90) days of final inspection of the new tower. DTI will be paying for any and all necessary permits

30. Written Agreement

This Site Lease Agreement contains the entire agreement between the parties, and it may be amended or modified only by ordinance adopted by the City Council.

**[REMAINDER OF PAGE LEFT BLANK INTENTIONALLY;
SIGNATURE PAGES BEGIN ON FOLLOWING PAGE]**

IN WITNESS WHEREOF, the CITY and DTI have caused this Lease Agreement to be executed by their respective and duly authorized officers the day and year first above written.

Signed, sealed and delivered
in the presence of:

**CITY OF PORT ST. LUCIE, a Florida
municipal corporation**

By: _____
Gregory J. Oravec, City Manager

Witness

Print Name

Witness

Print Name

STATE OF FLORIDA)
) ss
COUNTY OF ST. LUCIE)

The foregoing instrument was acknowledged before me this ___ day of _____, 2012 by Gregory J. Oravec, as **City Manager of the City of Port St. Lucie, a Florida municipal corporation**, on behalf of the City of Port St. Lucie. He is personally known to me.

Notary Public

(Print Name of Notary)

NOTARY SEAL/STAMP

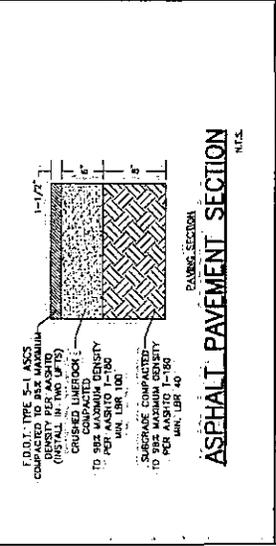
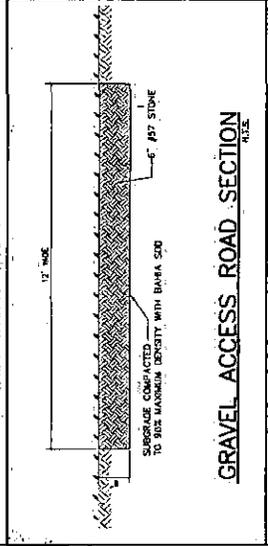
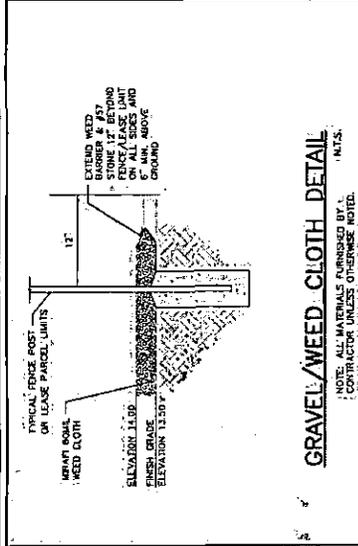
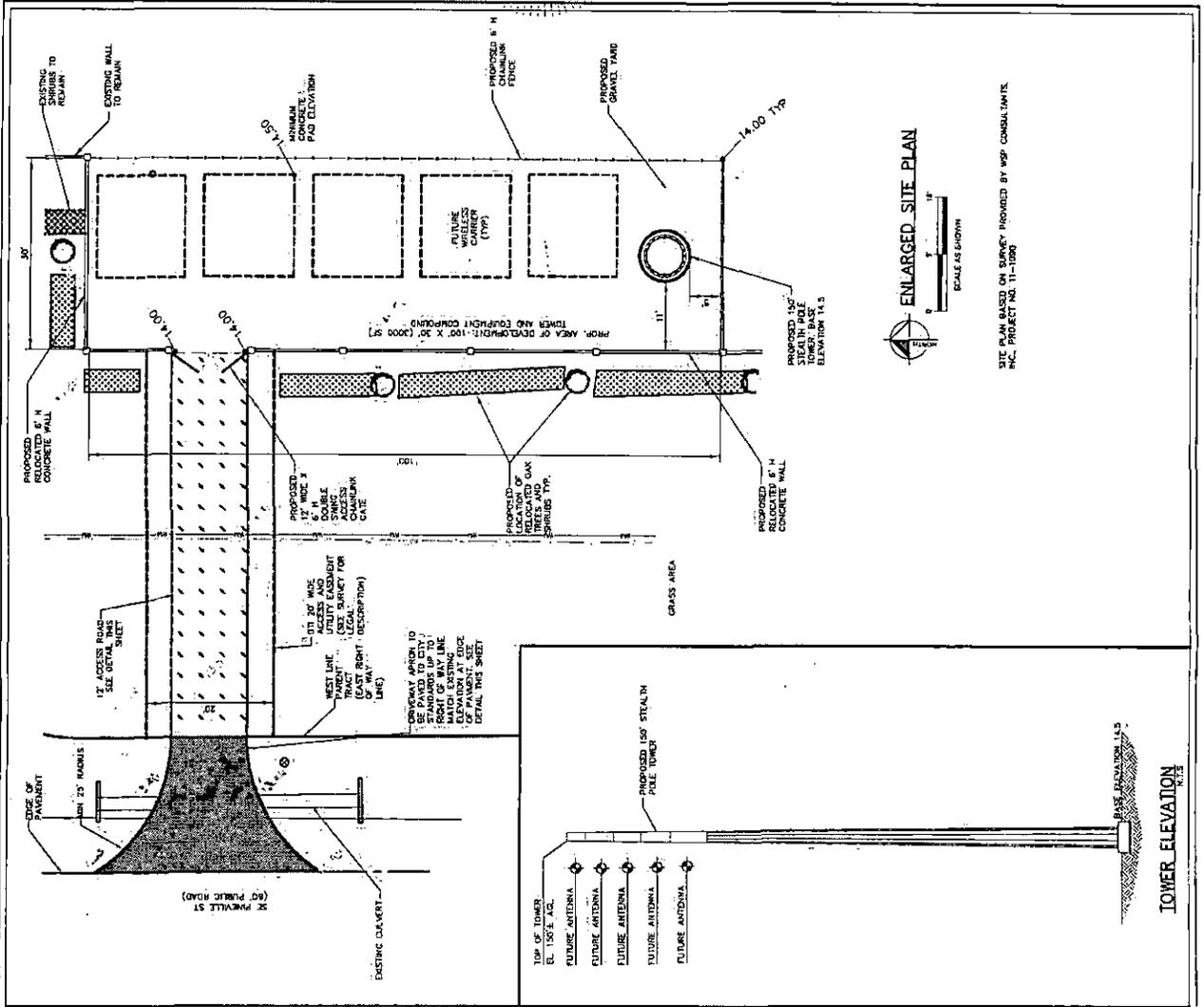
Notary Public, State of

My Commission expires

APPROVED AS TO FORM
AND CORRECTNESS

Pam E. Booker
Senior Assistant City Attorney

DYNAMIC TOWERS INC. 575 NW MERCANTILE PLACE SUITE 104 PORT SAINT LUCIE, FL 34986		PROJECT INFORMATION: PRINVILLE STEALTH POLE TOWER 500 SE PRINVILLE STREET PORT ST. LUCIE, FL 34983 ST. LUCIE COUNTY		CURRENT ISSUE DATE: 16 MAY 2012		ISSUED FOR: CONCEPTUAL PLAN		PREVIOUS DATE / DESCRIPTION:		SEAL: NO. 72397 STATE OF FLORIDA PROFESSIONAL ENGINEER		PLANS PREPARED BY: Kinley-Horn Ltd Associates, Inc. 1920 METIVA WAY WEST PALM BEACH, FLORIDA 33417 (561) 942-0585		PROVIDER: DYNAMIC TOWER INC 575 NW MERCANTILE PLACE SUITE 104 PORT ST. LUCIE, FL 34986		DRAWN BY: JRM ARS: LF UF		LICENSE:		NEW: M. SCHWAB PE 72397 AMERICAN INSTITUTE OF PROFESSIONAL ENGINEERS FL 00000		SHEET TITLE: SITE PLAN P11-071 SPECIAL EXCEPTION USE-P11-070		SHEET NUMBER: REVISION: 2		FMA Job #: 14412100X	
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TOWER ELEVATION

BASE ELEVATION 14.5

TOP OF TOWER: 61.10 FT. A.C.L.

FUTURE ANTENNA

FUTURE ANTENNA

FUTURE ANTENNA

FUTURE ANTENNA

FUTURE ANTENNA

TRANSVERSE 1/2\"/>

ENLARGED SITE PLAN

SCALE AS SHOWN

1" = 10'

SITE PLAN BASED ON SURVEY PROVIDED BY WSP CONSULTANTS, INC., PROJECT NO. 11-1000

NOTE: CHEMICAL SHALL BE USED ON THE SITE OR WITHIN THE WELLED PROTECTION ZONE, SUCH AS FOR WEED CONTROL.

BE PROPOSED IRRIGATION IS TO BE LOCATED AT THIS SITE, IT WILL BE REQUIRED TO BE APPROVED BY THE CITY.

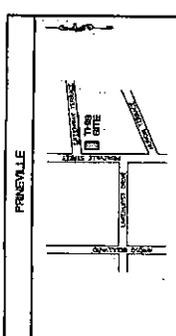
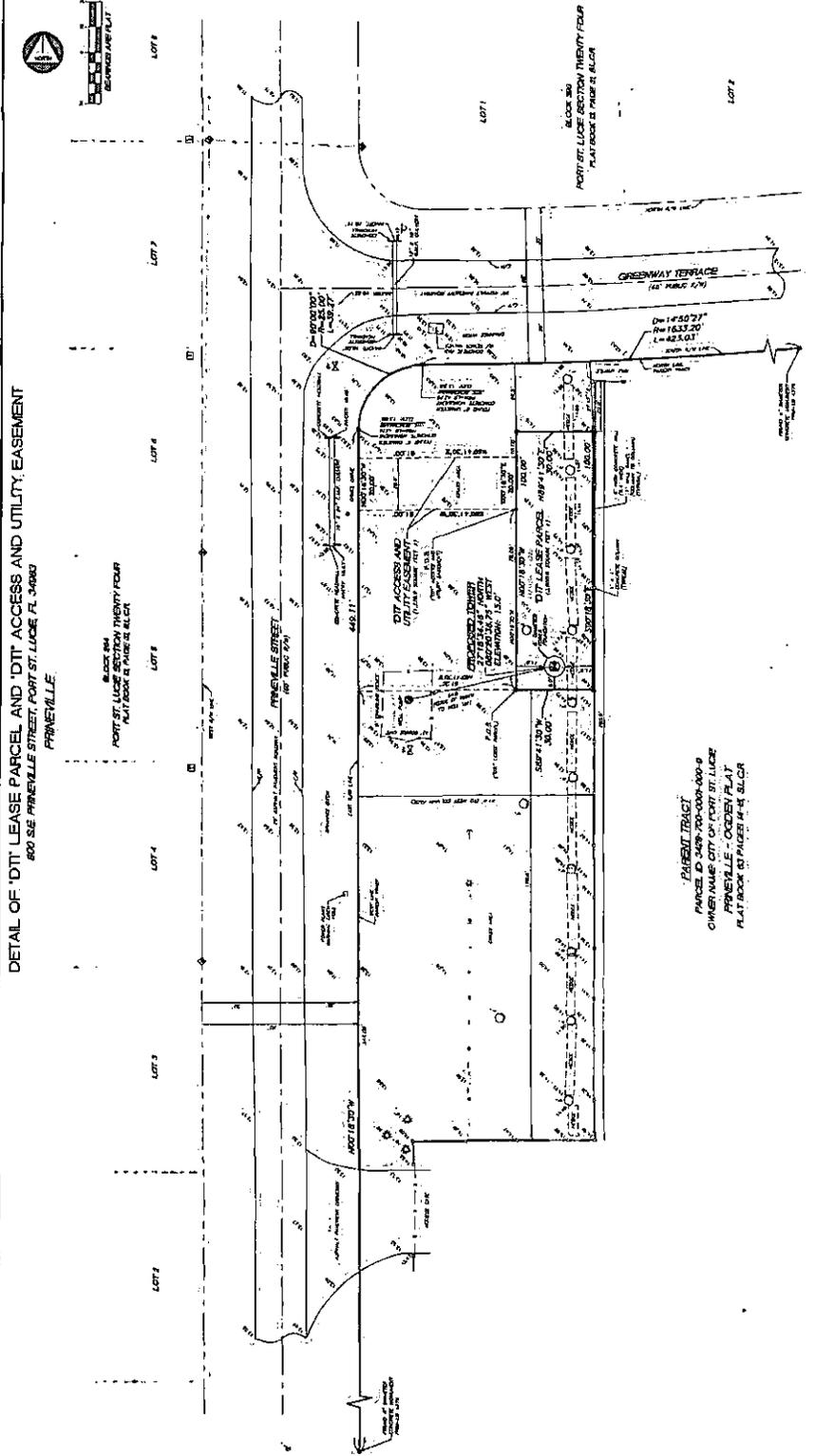
3. THE EXISTING IRRIGATION SYSTEM MUST BE MODIFIED BY THE APPLICANT AT HIS OWN COST TO THE CITY AND APPROVED BY THE CITY.

4. THE SITE PLAN MUST MATCH EXISTING AND BE APPROVED BY THE UTILITY DEPARTMENT.

5. THE WELLED PROTECTION ZONE MUST MATCH EXISTING AND BE APPROVED BY THE UTILITY DEPARTMENT.

6. ALL GRADES ARE NAVD 83.

DETAIL OF 'DTI' LEASE PARCEL AND 'DTI' ACCESS AND UTILITY EASEMENT
 800 S.E. PRINVILLE STREET, PORT ST. LUCIE, FL 34983
 PRINVILLE



LEGEND

1	EXISTING CONCRETE	10	EXISTING CONC. DRIVE
2	EXISTING ASPHALT DRIVE	11	EXISTING CONC. DRIVE
3	EXISTING ASPHALT DRIVE	12	EXISTING CONC. DRIVE
4	EXISTING ASPHALT DRIVE	13	EXISTING CONC. DRIVE
5	EXISTING ASPHALT DRIVE	14	EXISTING CONC. DRIVE
6	EXISTING ASPHALT DRIVE	15	EXISTING CONC. DRIVE
7	EXISTING ASPHALT DRIVE	16	EXISTING CONC. DRIVE
8	EXISTING ASPHALT DRIVE	17	EXISTING CONC. DRIVE
9	EXISTING ASPHALT DRIVE	18	EXISTING CONC. DRIVE
10	EXISTING ASPHALT DRIVE	19	EXISTING CONC. DRIVE
11	EXISTING ASPHALT DRIVE	20	EXISTING CONC. DRIVE
12	EXISTING ASPHALT DRIVE	21	EXISTING CONC. DRIVE
13	EXISTING ASPHALT DRIVE	22	EXISTING CONC. DRIVE
14	EXISTING ASPHALT DRIVE	23	EXISTING CONC. DRIVE
15	EXISTING ASPHALT DRIVE	24	EXISTING CONC. DRIVE
16	EXISTING ASPHALT DRIVE	25	EXISTING CONC. DRIVE
17	EXISTING ASPHALT DRIVE	26	EXISTING CONC. DRIVE
18	EXISTING ASPHALT DRIVE	27	EXISTING CONC. DRIVE
19	EXISTING ASPHALT DRIVE	28	EXISTING CONC. DRIVE
20	EXISTING ASPHALT DRIVE	29	EXISTING CONC. DRIVE
21	EXISTING ASPHALT DRIVE	30	EXISTING CONC. DRIVE
22	EXISTING ASPHALT DRIVE	31	EXISTING CONC. DRIVE
23	EXISTING ASPHALT DRIVE	32	EXISTING CONC. DRIVE
24	EXISTING ASPHALT DRIVE	33	EXISTING CONC. DRIVE
25	EXISTING ASPHALT DRIVE	34	EXISTING CONC. DRIVE
26	EXISTING ASPHALT DRIVE	35	EXISTING CONC. DRIVE
27	EXISTING ASPHALT DRIVE	36	EXISTING CONC. DRIVE
28	EXISTING ASPHALT DRIVE	37	EXISTING CONC. DRIVE
29	EXISTING ASPHALT DRIVE	38	EXISTING CONC. DRIVE
30	EXISTING ASPHALT DRIVE	39	EXISTING CONC. DRIVE
31	EXISTING ASPHALT DRIVE	40	EXISTING CONC. DRIVE
32	EXISTING ASPHALT DRIVE	41	EXISTING CONC. DRIVE
33	EXISTING ASPHALT DRIVE	42	EXISTING CONC. DRIVE
34	EXISTING ASPHALT DRIVE	43	EXISTING CONC. DRIVE
35	EXISTING ASPHALT DRIVE	44	EXISTING CONC. DRIVE
36	EXISTING ASPHALT DRIVE	45	EXISTING CONC. DRIVE
37	EXISTING ASPHALT DRIVE	46	EXISTING CONC. DRIVE
38	EXISTING ASPHALT DRIVE	47	EXISTING CONC. DRIVE
39	EXISTING ASPHALT DRIVE	48	EXISTING CONC. DRIVE
40	EXISTING ASPHALT DRIVE	49	EXISTING CONC. DRIVE
41	EXISTING ASPHALT DRIVE	50	EXISTING CONC. DRIVE
42	EXISTING ASPHALT DRIVE	51	EXISTING CONC. DRIVE
43	EXISTING ASPHALT DRIVE	52	EXISTING CONC. DRIVE
44	EXISTING ASPHALT DRIVE	53	EXISTING CONC. DRIVE
45	EXISTING ASPHALT DRIVE	54	EXISTING CONC. DRIVE
46	EXISTING ASPHALT DRIVE	55	EXISTING CONC. DRIVE
47	EXISTING ASPHALT DRIVE	56	EXISTING CONC. DRIVE
48	EXISTING ASPHALT DRIVE	57	EXISTING CONC. DRIVE
49	EXISTING ASPHALT DRIVE	58	EXISTING CONC. DRIVE
50	EXISTING ASPHALT DRIVE	59	EXISTING CONC. DRIVE
51	EXISTING ASPHALT DRIVE	60	EXISTING CONC. DRIVE
52	EXISTING ASPHALT DRIVE	61	EXISTING CONC. DRIVE
53	EXISTING ASPHALT DRIVE	62	EXISTING CONC. DRIVE
54	EXISTING ASPHALT DRIVE	63	EXISTING CONC. DRIVE
55	EXISTING ASPHALT DRIVE	64	EXISTING CONC. DRIVE
56	EXISTING ASPHALT DRIVE	65	EXISTING CONC. DRIVE
57	EXISTING ASPHALT DRIVE	66	EXISTING CONC. DRIVE
58	EXISTING ASPHALT DRIVE	67	EXISTING CONC. DRIVE
59	EXISTING ASPHALT DRIVE	68	EXISTING CONC. DRIVE
60	EXISTING ASPHALT DRIVE	69	EXISTING CONC. DRIVE
61	EXISTING ASPHALT DRIVE	70	EXISTING CONC. DRIVE
62	EXISTING ASPHALT DRIVE	71	EXISTING CONC. DRIVE
63	EXISTING ASPHALT DRIVE	72	EXISTING CONC. DRIVE
64	EXISTING ASPHALT DRIVE	73	EXISTING CONC. DRIVE
65	EXISTING ASPHALT DRIVE	74	EXISTING CONC. DRIVE
66	EXISTING ASPHALT DRIVE	75	EXISTING CONC. DRIVE
67	EXISTING ASPHALT DRIVE	76	EXISTING CONC. DRIVE
68	EXISTING ASPHALT DRIVE	77	EXISTING CONC. DRIVE
69	EXISTING ASPHALT DRIVE	78	EXISTING CONC. DRIVE
70	EXISTING ASPHALT DRIVE	79	EXISTING CONC. DRIVE
71	EXISTING ASPHALT DRIVE	80	EXISTING CONC. DRIVE
72	EXISTING ASPHALT DRIVE	81	EXISTING CONC. DRIVE
73	EXISTING ASPHALT DRIVE	82	EXISTING CONC. DRIVE
74	EXISTING ASPHALT DRIVE	83	EXISTING CONC. DRIVE
75	EXISTING ASPHALT DRIVE	84	EXISTING CONC. DRIVE
76	EXISTING ASPHALT DRIVE	85	EXISTING CONC. DRIVE
77	EXISTING ASPHALT DRIVE	86	EXISTING CONC. DRIVE
78	EXISTING ASPHALT DRIVE	87	EXISTING CONC. DRIVE
79	EXISTING ASPHALT DRIVE	88	EXISTING CONC. DRIVE
80	EXISTING ASPHALT DRIVE	89	EXISTING CONC. DRIVE
81	EXISTING ASPHALT DRIVE	90	EXISTING CONC. DRIVE
82	EXISTING ASPHALT DRIVE	91	EXISTING CONC. DRIVE
83	EXISTING ASPHALT DRIVE	92	EXISTING CONC. DRIVE
84	EXISTING ASPHALT DRIVE	93	EXISTING CONC. DRIVE
85	EXISTING ASPHALT DRIVE	94	EXISTING CONC. DRIVE
86	EXISTING ASPHALT DRIVE	95	EXISTING CONC. DRIVE
87	EXISTING ASPHALT DRIVE	96	EXISTING CONC. DRIVE
88	EXISTING ASPHALT DRIVE	97	EXISTING CONC. DRIVE
89	EXISTING ASPHALT DRIVE	98	EXISTING CONC. DRIVE
90	EXISTING ASPHALT DRIVE	99	EXISTING CONC. DRIVE
91	EXISTING ASPHALT DRIVE	100	EXISTING CONC. DRIVE

PROPOSED TOWER INFORMATION

PROPOSED TOWER #1
 LOCATION: LOT 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100

DESCRIPTION OF PARENT TRACT

AS SHOWN ON PLAT BOOK 83 PAGES 14-15 S.L.C.R.
 NORTH AND SOUTH ALIEN BOUNDARIES OF 188 (P. 14-15)

DESCRIPTION OF DYNAMIC TOWERS, INC. ACCESS AND UTILITY EASEMENT

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 NORTH AND SOUTH ALIEN BOUNDARIES OF 188 (P. 14-15)

SEE SHEET 1 OF 2 FOR DETAIL AND DESCRIPTION OF PARENT TRACT		SHEET DATE: 03/17/11		PROJECT NO: 11-1800	
FLOOD ZONE INFORMATION		DRAWN BY: [Name]		SHEET NOS: 2 OF 2	
PARCEL NO: 0090	DATE OF PLAN: 06/11/11	DATE OF FILING: 11-18-10	SCALE: AS SHOWN	MAP OF BOUNDARY AND TOPOGRAPHIC SURVEY	
OWNER: DYNAMIC TOWERS, INC.	PREPARED BY: [Name]	DATE OF SURVEY: 06/11/11	DATE OF FILING: 11-18-10	PRINVILLE	
PROJECT: 11-1800	DATE OF SURVEY: 06/11/11	DATE OF FILING: 11-18-10	SCALE: AS SHOWN	DYNAMIC TOWERS, INC.	
PROJECT: 11-1800	DATE OF SURVEY: 06/11/11	DATE OF FILING: 11-18-10	SCALE: AS SHOWN	800 S.E. PRINVILLE STREET, PORT ST. LUCIE, FL 34983	
PROJECT: 11-1800	DATE OF SURVEY: 06/11/11	DATE OF FILING: 11-18-10	SCALE: AS SHOWN	FLAT BOOK 83 PAGES 14-15 S.L.C.R.	
PROJECT: 11-1800	DATE OF SURVEY: 06/11/11	DATE OF FILING: 11-18-10	SCALE: AS SHOWN	PREVIOUS SURVEYS IN OTHER EASEMENTS OF ADJACENT LOTS IN THIS STATE OF FLORIDA	