

## PURCHASE AGREEMENT

### TRACT 1

This Purchase Agreement is made on December 12, 2018, by and between Daniel B. Miller, as Trustee of the Daniel B. Miller Revocable Living Trust UTA dated December 17, 2012, ("Seller"), and \_\_\_\_\_, ("Buyer"),

☐ Check if joint tenancy.

1. **Offer/Acceptance.** Buyer offers to purchase and Seller agrees to sell real property legally described as:

See attached Exhibit A.

2. **Purchase Price.** Seller agrees to sell and Buyer agrees to purchase, pursuant to the terms of this agreement, the above-described real property and any personal property and fixtures located thereon, for the sum of \$\_\_\_\_\_. Earnest money of \$\_\_\_\_\_, to be paid by cash or check made payable to "Gehling Auction Trust Account," which shall amount to \_\_\_\_\_% of the stated Purchase Price and receipt of which is hereby acknowledged. Earnest money shall be non-refundable and shall be deposited and held in the Gehling Auction trust account pending closing or cancellation of this contract.
3. **Closing.** Closing shall occur on or before \_\_\_\_\_, at a mutually agreeable place.
4. **Deed/Marketable Title.** Upon performance by Buyer, Seller shall execute and deliver a Trustee's Deed conveying marketable title of record, subject to easements of record, building and zoning laws, ordinances, and state and federal regulations.
5. **Possession and Condition of Real Property.** Buyer shall take possession of the real property no later than the day of closing. The real property is sold in AS IS condition. To the best of Seller's knowledge, no methamphetamine production has occurred on the property. Seller certifies that there no wells on the property.
6. **Real Estate Taxes and Special Assessments.** Real estate taxes due and payable in the year of closing shall be paid by Buyer. Any special assessments which are assessed,



certified, deferred, or pending shall be paid by Seller.

7. **Examination of Title.** Seller shall provide, at his cost and discretion, either an updated Abstract of Title or a Commitment for Title Insurance. Buyer shall, at his or her own cost, be responsible for any further title work Buyer deems necessary and for any title insurance premiums due.
8. **Closing Costs.** Each party shall be responsible for its own closing costs and attorney fees. Seller shall be responsible for State Deed Tax and recording the survey for the parcel.
9. **Verizon Contract.** Seller discloses that he has negotiated and signed a lease agreement to allow Verizon Wireless to install a communications tower on the subject property for a period of five to twenty-five or more years. As of the date of this contract, Seller has no knowledge that Verizon Wireless has executed or recorded the contract. Buyer should be aware that such a contract may yet be recorded against the property and Buyer would be subject to the terms of the contract, but Seller provides no guarantee that the contract will proceed. Copies of the lease agreement are attached.
10. **Irrigation Equipment and Well Easement.** Seller shall transfer to Buyer the following items of personal property: 2015 Reinke Electrogator 6 5/8" pivots, North Pivot 1400', South Pivot 750', Liquid Fertilizer Pump, Polytank, and miscellaneous hoses and fitting. The real property will be subject to the attached well easement agreement.
11. **Binding Effect.** All of the terms and provisions of this Agreement shall be binding upon and inure to the benefit and be enforceable by the legal representatives, heirs, successors and assigns of the parties hereto.
12. **Default.** In the event that any party of this Agreement makes a material default in their performance set forth in the Agreement and such party fails to correct that default within a reasonable time, the other party or parties to this Agreement may cancel, in writing, this Agreement which shall thereafter be null and void.

In the alternative, any party to this Agreement may enforce performance by the defaulting party with respect to this Agreement by a District Court Action. If such action is required to enforce performance of this Agreement, the prevailing party shall be entitled to recover from the defaulting party his reasonable attorney's fees and costs to enforce the same.



In the event of a cancellation for any reason other than Seller default, Seller shall retain the earnest money.

13. **Miscellaneous Terms.**

- a. This contract shall be construed, interpreted and enforced in accordance with the laws of the State of Minnesota.
- b. The invalidation of any one or more of the provisions herein shall not affect the validity of the remaining provisions.
- c. The time of payment shall be an essential part of subsequent default and shall be an essential part of performance of this contract.

**SELLER:**

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**Daniel B. Miller**  
**Trustee of the Daniel B. Miller Revocable Living Trust**  
**UTA dated December 17, 2012**

**BUYER:**

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EXHIBIT A  
SURVEY AND LEGAL DESCRIPTION



# CERTIFICATE OF SURVEY

PART OF THE S1/2 NW1/4 & PART OF THE SW1/4  
OF SEC. 20, T102N, R13W, FILLMORE CO., MN

SURVEY REQUESTED  
BY  
DAN MILLER  
SPRING VALLEY, MN

NW COR. NW1/4  
SEC. 20, T102N,  
R13W, FILLMORE  
CO., MN  
FD. NAIL

NE COR. NW1/4  
SEC. 20, T102N,  
R13W, FILLMORE  
CO., MN  
FD. C.I.M.

WEST LINE  
S1/2 NW1/4  
CENTERLINE  
C.S.A.H. NO. 1

NORTH LINE  
S1/2 NW1/4

NORTH LINE  
S1/2 NW1/4

NE COR. S1/2  
NW1/4 20-102-13

EAST LINE  
S1/2 NW1/4

S1/2 NW1/4  
20-102-13

## 208.60 ACRES

TOTAL AREA SOLD AT AUCTION

NOTE:  
SEE ATTACHED  
LEGAL DESCRIPTIONS  
OF RECORD

3.50 ACRES

BUILDING SITE  
PARCEL OF RECORD

SOUTH LINE  
S1/2 NW1/4

CENTER  
IRRIGATION  
PIVOT

NOTE: ALL BEARINGS ARE  
BASED ON FILLMORE CO.  
NAD 83 HARN (1996 ADJ.)

NW COR. NW1/4  
SW1/4 =  
SW COR. S1/2  
NW1/4 20-102-13  
FD. C.I.M.

41.20'  
N 00°08'55" W

WEST LINE  
SW1/4

S 89°16'30" E  
386.25'

S 89°07'54" W

NW COR. E1/2  
W1/2 SW1/4

N 89°16'30" W  
634.74' (D)  
S 89°16'30" E  
635.24' (M)

N 89°16'30" W  
1352.35' (M & D)

NORTH LINE  
SW1/4

NW COR. E1/2  
SW1/4 =  
NE COR. W1/2  
SW1/4 20-102-13

NE COR. SW1/4  
= SE COR. S1/2  
NW1/4 20-102-13  
(CENTER SEC.)

NE COR. SE1/4  
SEC. 20, T102N,  
R13W, FILLMORE  
CO., MN  
FD. C.I.M.

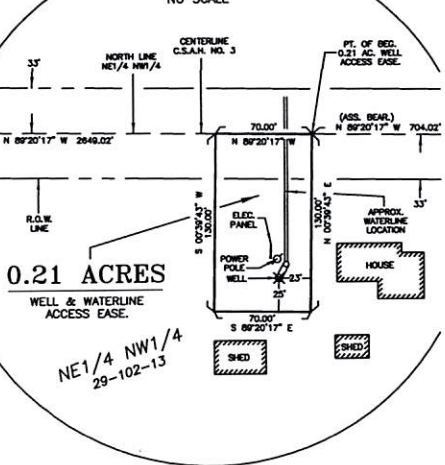
S 89°16'30" E  
2643.58'



SCALE: 1" = 200'

- DENOTES 1/2" CAPPED  
IRON PIPE SET
- DENOTES IRON FOUND
- × DENOTES FENCE POST SET
- (D) DENOTES DESCRIBED DIST.
- (M) DENOTES MEASURED DIST.

DETAIL "A"  
NO SCALE



0.21 ACRES

WELL & WATERLINE  
ACCESS EASE.

NE1/4 NW1/4  
29-102-13

SW COR. SW1/4  
SEC. 20, T102N,  
R13W, FILLMORE  
CO., MN  
FD. IRON PIPE IN 2011  
NOW REMOVED FOR  
CONSTRUCTION

ABAND. CHICAGO & GREAT  
WESTERN RAILROAD R.D.V.

S 89°18'23" E  
662.42' (M)

S 89°18'23" E  
398.31' (M)

S 89°18'23" E  
398.24' (D)

EAST LINE  
W1/2 NW1/4  
SW1/4

S 89°18'23" E  
1324.79'

SOUTH LINE  
W1/2 NW1/4 SW1/4

N 89°20'17" W  
594.15' (D)  
S 89°20'17" E  
594.13' (M)

WEST LINE  
W1/2 SW1/4

N 89°20'17" W  
660.00'

ORIGINAL  
TOWN  
PLAT  
OSTRANDER, MN

WEST LINE  
SW1/4

N 89°20'17" W  
660.00'

S 89°20'17" E  
1004.26'

SOUTH LINE  
SW1/4

N 89°20'17" W  
660.00'

S 89°20'17" E  
292.54'

WEST LINE  
SW1/4

N 89°20'17" W  
660.00'

S 89°20'17" E  
998.22'

SOUTH LINE  
SW1/4

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WEST LINE  
SW1/4

N 89°20



LEGAL DESCRIPTION - 80.00 Acres

That part of the East One-Half of the Southwest Quarter (E 1/2 SW 1/4) and that part of the East One-Half of the West One-Half of the Southwest Quarter (E 1/2 W 1/2 SW 1/4), both in Section 20, Township 102 North, Range 13 West, Fillmore County, Minnesota, described as follows: Commencing at the Southeast Corner of said E 1/2 SW 1/4; thence North 00 degrees 02 minutes 39 seconds East (assumed bearing) along the East line of said E 1/2 SW 1/4, 271.50 feet to the point of beginning of the tract of land to be herein described; thence continuing North 00 degrees 02 minutes 39 seconds East along said East line, 2376.13 feet to the Northeast Corner of said E 1/2 SW 1/4; thence North 89 degrees 05 minutes 29 seconds West along the North line of said E 1/2 SW 1/4 and along the North line of said E 1/2 W 1/2 SW 1/4, 1352.35 feet; thence South 00 degrees 02 minutes 31 seconds West, 2649.20 feet to the South line of said E 1/2 W 1/2 SW 1/4; thence South 89 degrees 09 minutes 28 seconds East along said South line and along the South line of said E 1/2 SW 1/4, 998.22 feet; thence North 00 degrees 02 minutes 39 seconds East, 271.50 feet; thence South 89 degrees 09 minutes 28 seconds East, 354.00 feet to the point of beginning and containing 80.00 acres, more or less. Subject to easement for C.S.A.H. No. 3 across the Southerly line thereof. Subject to any other easements of record.

33.0140.020



LEGAL DESCRIPTION - 35.08 Acres

33.0140.040  
34.0069.010

That part of the West One-Half of the West One-Half of the Southwest Quarter (W 1/2 W 1/2 SW 1/4), that part of the East One-Half of the West One-Half of the Southwest Quarter (E 1/2 W 1/2 SW 1/4), that part of Block 1, and that part of Winona Street (not vacated) and that part of the alley in said Block 1 (not vacated), Original Town Plat to the City of Ostrander, all in Section 20, Township 102 North, Range 13 West, Fillmore County, Minnesota, described as follows: Commencing at the Southwest Corner of said Southwest Quarter (SW 1/4); thence South 89 degrees 09 minutes 28 seconds East (assumed bearing) along the South line of said SW 1/4, 1004.26 feet to the point of beginning of the tract of land to be herein described; thence continuing South 89 degrees 09 minutes 28 seconds East along said South line, 292.72 feet; thence North 00 degrees 02 minutes 31 seconds East, 2649.20 feet to the North line of said E 1/2 W 1/2 SW 1/4; thence North 89 degrees 05 minutes 29 seconds West along said North line, 634.74 feet to the Northwest Corner of said E 1/2 W 1/2 SW 1/4; thence South 00 degrees 02 minutes 26 seconds West along the West line of said E 1/2 W 1/2 SW 1/4, 1956.94 feet to the North line of said Original Town Plat and the North line of Winona Street; thence North 89 degrees 09 minutes 28 seconds West along said North line, 2.32 feet; thence South 00 degrees 02 minutes 22 seconds West parallel with the West line of said SW 1/4 and parallel with and 33.00 feet Westerly of the East line of said Block 1 (when measured at right-angles to said East line), 218.60 feet; thence South 87 degrees 32 minutes 00 seconds East, 302.53 feet; thence South 07 degrees 54 minutes 22 seconds East, 283.59 feet; thence South 00 degrees 48 minutes 47 seconds East, 185.56 feet to the point of beginning and containing 35.08 acres, more or less. Subject to easement for C.S.A.H. No. 3 across the Southerly line thereof. Subject to any other easements of record.



"Exhibit A"  
Legal Description

33. 0139.010  
34. 0002.000  
34. 0004.000

The S½ NW¼ and the W½ NW¼ SW¼ Section 20-102-13, EXCEPT THE FOLLOWING DESCRIBED TRACTS:

(A) That part of the NW¼ SW¼ of Sec. 20-102-13, Fillmore Co., MN, described as follows: Beginning at the SW. Corner of said NW¼ SW¼, th. N. 00°02'22" East (assumed bearing) along the West line of said NW¼ SW¼, 242.50 ft.; th. South 89°07'29" East parallel with the South line of said NW¼ SW¼ 264.11 feet to the Easterly line of the now abandoned Chicago & Great Western Railroad Co. Right of way; thence South 12°42'10" West along said R.O.W. line, 247.73 feet to said South line of said NW¼ SW¼; thence North 89°07'29" West along said South line, 209.79 feet to the point of beginning.

A  
W/RR

(B) That part of the NW¼ SW¼ of Section 20-102-13, Fillmore Co., MN, included in the following description: Commencing at the SW. corner of the NW¼ SW¼, th. North 00°02'22" East (assumed bearing) along the West line of said NW¼ SW¼ 242.50 feet; thence South 89°07'29" East parallel the South line of said NW¼ SW¼, 264.11 ft. to the Easterly line of the now abandoned Chicago & Great Western Railroad Company right of way and to the point of beg. of the tract of land to be herein described; thence continuing South 89°07'29" East parallel with said South line, 398.24 ft. to the East line of said W½ W½ SW¼; thence South 00°02'27" West along said East line, 874.47 feet; thence North 89°09'28" West, 594.15 ft. to said Easterly R.O.W. of said abandoned Railroad; thence North 12°42'10" East along said R.O.W. line, 893.69 feet to the point of beg.

B

(C) That part of the SW¼ NW¼ and that part of the NW¼ SW¼ of Sec. 20-102-13, Fillmore Co., MN, described as follows: Beg. at the SW. corner of said SW¼ NW¼; th. N. 00°09'29" W. (assumed bearing) along the W. line of said SW¼ NW¼, 359.25 feet; thence South 89°16'30" East, 386.26 ft.; th. S. 00°09'29" E. parallel with said W. line of said SW¼ NW¼, 389.70 ft; th. S. 89°07'54" W., 386.25 ft. to the W. line of said NW¼ SW¼; th. N. 00°08'55" W. along said W. line 41.20 ft. to the point of beginning.

3.50 AC  
Bldg.  
Site



EXHIBIT B  
VERIZON CONTRACTS



SITE NAME: Ostrander  
SITE NUMBER: MN11  
ATTY/DATE Hesslan & McKasy, P.A.; 8/6/18

## LAND LEASE AGREEMENT

This Land Lease Agreement (the "Agreement") made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, between Daniel B. Miller, Trustee of the Daniel B. Miller Revocable Living Trust dated December 17, 2012, with its principal offices located at 23717 151<sup>st</sup> Avenue, Spring Valley, Minnesota 55975, hereinafter designated "LESSOR," and Alltel Communications, LLC d/b/a Verizon Wireless with its principal offices at One Verizon Way, Mail Stop 4AW100, Basking Ridge, New Jersey 07920, hereinafter designated "LESSEE." LESSOR and LESSEE are at times collectively referred to hereinafter as the "Parties" or individually as the "Party."

### WITNESSETH

In consideration of the mutual covenants contained herein and intending to be legally bound hereby, the Parties hereto agree as follows:

1. GRANT. In accordance with this Agreement, LESSOR hereby grants to LESSEE the right to install, maintain and operate communications equipment ("Use") upon the Premises (as hereinafter defined), which are a part of that real property owned, leased or controlled by LESSOR at XXXX County Road 1, Ostrander, Minnesota 55961 (the "Property"). The Property is legally described on Exhibit "A" attached hereto and made a part hereof. The Premises are a portion of the Property and are approximately 10,000 square feet, and are shown in detail on Exhibit "B" attached hereto and made a part hereof. LESSEE may survey the Premises. Upon completion, the survey shall replace Exhibit "B" in its entirety.

2. INITIAL TERM. This Agreement shall be effective as of the date of execution by both Parties ("Effective Date"). The initial term of the Agreement shall be for 5 years beginning on the Commencement Date (as hereinafter defined). The "Commencement Date" shall be the first day of the month after LESSEE begins installation of LESSEE's communications equipment. The parties agree to acknowledge the Commencement Date in writing.

3. EXTENSIONS. This Agreement shall automatically be extended for 4 additional 5 year terms unless LESSEE terminates it at the end of the then current term by giving LESSOR written notice of the intent to terminate at least 3 months prior to the end of the then current term. The initial term and all extensions shall be collectively referred to herein as the "Term".

4. RENTAL.

(a). Rental payments shall begin on the Commencement Date and be due at a total annual rental of \$6,000.00, to be paid annually on or before the anniversary of the Commencement Date, to LESSOR at 23717 151<sup>st</sup> Avenue, Spring Valley, Minnesota 55975 or to such other person, firm, or place as LESSOR may, from time to time, designate in writing at least 30 days in advance of any rental payment date by notice given in accordance with Paragraph 20 below. LESSOR and LESSEE acknowledge and agree that the initial rental payment may not be



delivered by LESSEE until at least 90 days after the Commencement Date. Upon agreement of the Parties, LESSEE may pay rent by electronic funds transfer and in such event, LESSOR agrees to provide to LESSEE bank routing information for such purpose upon request of LESSEE. After completion of the initial five (5) year term, the annual rental for each subsequent five (5) year extension term shall be equal to one hundred and ten percent (110%) of the annual rental payable with respect to the immediately preceding five (5) year term.

(b). For any party to whom rental payments are to be made, LESSOR or any successor in interest of LESSOR hereby agrees to provide to LESSEE (i) a completed, current version of Internal Revenue Service Form W-9, or equivalent; (ii) complete and fully executed state and local withholding forms if required; and (iii) other documentation to verify LESSOR's or such other party's right to receive rental as is reasonably requested by LESSEE. Rental shall accrue in accordance with this Agreement, but LESSEE may not deliver rental payments for up to 90 days after the requested documentation has been received by LESSEE.

(c). As additional consideration for this Agreement, LESSEE shall pay LESSOR a one-time, non-refundable, lump-sum signing bonus of \$2,000.00 which shall be considered additional rent for the Premises for the period from the Effective Date until the Commencement Date. The signing bonus shall be paid by LESSEE to LESSOR within 90 days of the Effective Date. LESSOR agrees the payment to be made by LESSEE under this Paragraph 4(c) is fair and adequate payment in exchange for LESSEE delaying installation of LESSEE's communications equipment, and LESSOR recognizes that Paragraph 2 of this Agreement governs the Commencement Date. This Paragraph 4(c) does not impact whether or not LESSEE chooses to install LESSEE's communications equipment and commence the Term.

5. ACCESS. LESSEE shall have the non-exclusive right of ingress and egress from a public right-of-way, 7 days a week, 24 hours a day, over the Property to and from the Premises for the purpose of installation, operation and maintenance of LESSEE's communications equipment over or along a 20-foot-wide right-of-way ("Easement"), which shall be depicted on Exhibit "B". LESSEE may use the Easement for the installation, operation and maintenance of wires, cables, conduits and pipes for all necessary electrical, telephone, fiber and other similar support services. In the event it is necessary, LESSOR agrees to grant LESSEE or the provider the right to install such services on, through, over and/or under the Property, provided the location of such services shall be reasonably approved by LESSOR. Notwithstanding anything to the contrary, the Premises shall include such additional space sufficient for LESSEE's radio frequency signage and/or barricades as are necessary to ensure LESSEE's compliance with Laws (as defined in Paragraph 27).

6. CONDITION OF PROPERTY. LESSOR shall deliver the Premises to LESSEE in a condition ready for LESSEE's Use and clean and free of debris. LESSOR represents and warrants to LESSEE that as of the Effective Date, the Premises is (a) in compliance with all Laws; and (b) in compliance with all EH&S Laws (as defined in Paragraph 24).

7. IMPROVEMENTS. The communications equipment including, without limitation, the tower structure, antennas, conduits, fencing and other screening, and other improvements shall be at LESSEE's expense and installation shall be at the discretion and option of LESSEE. LESSEE shall have the right to replace, repair, add or otherwise modify its communications equipment, tower structure, antennas, conduits, fencing and other screening, or other improvements or any portion thereof and the



frequencies over which the communications equipment operates, whether or not any of the communications equipment, antennas, conduits or other improvements are listed on any exhibit.

8. **GOVERNMENT APPROVALS.** LESSEE's Use is contingent upon LESSEE obtaining all of the certificates, permits and other approvals (collectively the "Government Approvals") that may be required by any Federal, State or Local authorities (collectively, the "Government Entities") as well as a satisfactory soil boring test, environmental studies, or any other due diligence LESSEE chooses that will permit LESSEE's Use. LESSOR shall cooperate with LESSEE in its effort to obtain such approvals and shall take no action which would adversely affect the status of the Property with respect to LESSEE's Use.

9. **TERMINATION.** LESSEE may, unless otherwise stated, immediately terminate this Agreement upon written notice to LESSOR in the event that (i) any applications for such Government Approvals should be finally rejected; (ii) any Government Approval issued to LESSEE is canceled, expires, lapses or is otherwise withdrawn or terminated by any Government Entity; (iii) LESSEE determines that such Government Approvals may not be obtained in a timely manner; (iv) LESSEE determines any structural analysis is unsatisfactory; (v) LESSEE, in its sole discretion, determines the Use of the Premises is obsolete or unnecessary; (vi) with 3 months prior notice to LESSOR, upon the annual anniversary of the Commencement Date; or (vii) at any time before the Commencement Date for any reason or no reason in LESSEE's sole discretion.

10. **INDEMNIFICATION.** Subject to Paragraph 11, each Party and/or any successor and/or assignees thereof, shall indemnify and hold harmless the other Party, and/or any successors and/or assignees thereof, against (i) any and all claims of liability or loss from personal injury or property damage resulting from or arising out of the negligence or willful misconduct of the indemnifying Party, its employees, contractors or agents, except to the extent such claims or damages may be due to or caused by the negligence or willful misconduct of the other Party, or its employees, contractors or agents, and (ii) reasonable attorney's fees, expense, and defense costs incurred by the indemnified Party. Where a claim is the result of the concurrent acts of the Parties, each Party shall be liable under this Paragraph 10 to the extent of its fault or liability therefor. The indemnified Party will provide the indemnifying Party with prompt, written notice of any claim that is subject to the indemnification obligations in Paragraph 10. The indemnified Party will cooperate appropriately with the indemnifying Party in connection with the indemnifying Party's defense of such claim. The indemnifying Party shall defend any indemnified Party, at the indemnified Party's request, against any claim with counsel reasonably satisfactory to the indemnified Party. The indemnifying Party shall not settle or compromise any such claim or consent to the entry of any judgment without the prior written consent of each indemnified Party and without an unconditional release of all claims by each claimant or plaintiff in favor of each indemnified Party. All indemnification obligations shall survive the termination or expiration of this Agreement.

11. **INSURANCE.** The Parties agree that at their own cost and expense, each will maintain commercial general liability insurance with limits of \$2,000,000 for bodily injury (including death) and property damage each occurrence. The Parties agree to include the other Party as an additional insured as their interests may appear under this Agreement. The Parties hereby waive and release any and all rights of action for negligence against the other which may hereafter arise on account of damage to the Premises or the Property, resulting from any fire, or other casualty which is insurable under "Causes of Loss – Special Form" property damage insurance or for the kind covered by standard fire insurance policies with extended coverage, regardless of whether or not, or in what amounts, such insurance is



now or hereafter carried by the Parties, even if any such fire or other casualty shall have been caused by the fault or negligence of the other Party. These waivers and releases shall apply between the Parties and they shall also apply to any claims under or through either Party as a result of any asserted right of subrogation. All such policies of insurance obtained by either Party concerning the Premises or the Property shall waive the insurer's right of subrogation against the other Party.

12. LIMITATION OF LIABILITY. Except for indemnification pursuant to Paragraphs 10 and 24, a violation of Paragraph 29, or a violation of law, neither Party shall be liable to the other, or any of their respective agents, representatives, or employees for any lost revenue, lost profits, diminution in value of business, loss of technology, rights or services, loss of data, or interruption or loss of use of service, incidental, punitive, indirect, special, trebled, enhanced or consequential damages, even if advised of the possibility of such damages, whether such damages are claimed for breach of contract, tort (including negligence), strict liability or otherwise, unless applicable law forbids a waiver of such damages.

13. INTERFERENCE.

(a). LESSEE agrees that LESSEE will not cause interference that is measurable in accordance with industry standards to LESSOR's equipment. LESSOR agrees that LESSOR and other occupants of the Property will not cause interference that is measurable in accordance with industry standards to the then existing equipment of LESSEE.

(b). Without limiting any other rights or remedies, if interference occurs and continues for a period in excess of 48 hours following notice to the interfering party via telephone to LESSEE'S Network Operations Center (at (800) 621-2622) or to LESSOR at (507-346-2261), the interfering party shall or shall require any other user to reduce power or cease operations of the interfering equipment until the interference is cured.

(c). The Parties acknowledge that there will not be an adequate remedy at law for noncompliance with the provisions of this Paragraph and therefore the Parties shall have the right to equitable remedies such as, without limitation, injunctive relief and specific performance.

14. REMOVAL AT END OF TERM. Upon expiration or within 90 days of earlier termination, LESSEE shall remove LESSEE's Communications Equipment (except footings) and restore the Premises to its original condition, reasonable wear and tear and casualty damage excepted. LESSOR agrees and acknowledges that the communications equipment shall remain the personal property of LESSEE and LESSEE shall have the right to remove the same at any time during the Term, whether or not said items are considered fixtures and attachments to real property under applicable laws. If such time for removal causes LESSEE to remain on the Premises after termination of the Agreement, LESSEE shall pay rent in accordance with Paragraph 15.

15. HOLDOVER. If LESSEE holds over after the expiration or earlier termination of the Term, then this Agreement shall continue on a month to month basis at the then existing monthly rental rate or the existing monthly pro-rata basis if based upon a longer payment term, until the removal of the communications equipment is completed.



16. RIGHT OF FIRST REFUSAL. If at any time after the Effective Date, LESSOR receives an offer or letter of Intent from any person or entity that is in the business of owning, managing or operating communications facilities or is in the business of acquiring landlord interests in agreements relating to communications facilities, to purchase fee title, an easement, a lease, a license, or any other interest in the Premises or any portion thereof or to acquire any interest in this Agreement, or an option for any of the foregoing, LESSOR shall provide written notice to LESSEE of said offer ("LESSOR's Notice"). LESSOR's Notice shall include the prospective buyer's name, the purchase price being offered, any other consideration being offered, the other terms and conditions of the offer, a description of the portion of and interest in the Premises and/or this Agreement which will be conveyed in the proposed transaction, and a copy of any letters of intent or form agreements presented to LESSOR by the third party offeror. LESSEE shall have the right of first refusal to meet any bona fide offer of sale or transfer on the terms and conditions of such offer or by effectuating a transaction with substantially equivalent financial terms. If LESSEE fails to provide written notice to LESSOR that LESSEE intends to meet such bona fide offer within 60 days after receipt of LESSOR's Notice, LESSOR may proceed with the proposed transaction in accordance with the terms and conditions of such third party offer, in which event this Agreement shall continue in full force and effect and the right of first refusal described in this Paragraph shall survive any such conveyance to a third party. If LESSEE provides LESSOR with notice of LESSEE's intention to meet the third party offer within 60 days after receipt of LESSOR's Notice, then if LESSOR's Notice describes a transaction involving greater space than the Premises, LESSEE may elect to proceed with a transaction covering only the Premises and the purchase price shall be pro-rated on a square footage basis. Further, LESSOR acknowledges and agrees that if LESSEE exercises this right of first refusal, LESSEE may require a reasonable period of time to conduct due diligence and effectuate the closing of a transaction on substantially equivalent financial terms of the third party offer. LESSEE may elect to amend this Agreement to effectuate the proposed financial terms of the third party offer rather than acquiring fee simple title or an easement interest in the Premises. For purposes of this Paragraph, any transfer, bequest or devise of LESSOR's interest in the Property as a result of the death of LESSOR, whether by will or intestate succession, or any conveyance to LESSOR's family members by direct conveyance or by conveyance to a trust for the benefit of family members shall not be considered a sale for which LESSEE has any right of first refusal.

17. RIGHTS UPON SALE. Should LESSOR, at any time during the Term, decide (i) to sell or otherwise transfer all or any part of the Property, or (ii) to grant to a third party by easement or other legal instrument an interest in and to any portion of the Premises, such sale, transfer, or grant of an easement or interest therein shall be under and subject to this Agreement and any such purchaser or transferee shall recognize LESSEE's rights hereunder. In the event that LESSOR completes any such sale, transfer, or grant described in this Paragraph without executing an assignment of the Agreement whereby the third party agrees in writing to assume all obligations of LESSOR under this Agreement, then LESSOR shall not be released from its obligations to LESSEE under this Agreement, and LESSEE shall have the right to look to LESSOR and the third party for the full performance of the Agreement.

18. LESSOR'S TITLE. LESSOR covenants that LESSEE, on paying the rent and performing the covenants herein, shall peaceably and quietly have, hold and enjoy the Premises. LESSOR represents and warrants to LESSEE as of the Effective Date and covenants during the Term that LESSOR has full authority to enter into and execute this Agreement and that there are no liens, judgments, covenants, easement, restrictions or other impediments of title that will adversely affect LESSEE's Use.



19. **ASSIGNMENT.** Without any approval or consent of the other Party, this Agreement may be sold, assigned or transferred by either Party to (i) any entity in which the Party directly or indirectly holds an equity or similar interest; (ii) any entity which directly or indirectly holds an equity or similar interest in the Party; or (iii) any entity directly or indirectly under common control with the Party. LESSEE may assign this Agreement to any entity which acquires all or substantially all of LESSEE's assets in the market defined by the FCC in which the Property is located by reason of a merger, acquisition or other business reorganization without approval or consent of LESSOR. As to other parties, this Agreement may not be sold, assigned or transferred without the written consent of the other Party, which such consent will not be unreasonably withheld, delayed or conditioned. No change of stock ownership, partnership interest or control of LESSEE or transfer upon partnership or corporate dissolution of either Party shall constitute an assignment hereunder. LESSEE may sublet the Premises in LESSEE's sole discretion.

20. **NOTICES.** Except for notices permitted via telephone in accordance with Paragraph 13, all notices hereunder must be in writing and shall be deemed validly given if sent by certified mail, return receipt requested or by commercial courier, provided the courier's regular business is delivery service and provided further that it guarantees delivery to the addressee by the end of the next business day following the courier's receipt from the sender, addressed as follows (or any other address that the Party to be notified may have designated to the sender by like notice):

LESSOR: Daniel B. Miller, Trustee of the Daniel B. Miller  
Revocable Living Trust dated December 17, 2012  
2317 151<sup>st</sup> Avenue  
Spring Valley, Minnesota 55975

LESSEE: Alltel Communications, LLC  
d/b/a Verizon Wireless  
180 Washington Valley Road  
Bedminster, New Jersey 07921  
Attention: Network Real Estate

Notice shall be effective upon actual receipt or refusal as shown on the receipt obtained pursuant to the foregoing.

21. **SUBORDINATION AND NON-DISTURBANCE.** Within 15 days of the Effective Date, LESSOR shall obtain a Non-Disturbance Agreement (as defined below) from existing mortgagee(s), ground lessors and master lessors, if any, of the Property. At LESSOR's option, this Agreement shall be subordinate to any future master lease, ground lease, mortgage, deed of trust or other security interest (a "Mortgage") by LESSOR which from time to time may encumber all or part of the Property; provided, however, as a condition precedent to LESSEE being required to subordinate its interest in this Agreement to any future Mortgage covering the Property, LESSOR shall obtain for LESSEE's benefit a non-disturbance and attornment agreement for LESSEE's benefit in the form reasonably satisfactory to LESSEE, and containing the terms described below (the "Non-Disturbance Agreement"), and shall recognize LESSEE's rights under this Agreement. The Non-Disturbance Agreement shall include the encumbering party's ("Lender's") agreement that, if Lender or its successor-in-interest or any purchaser of Lender's or its successor's interest (a "Purchaser") acquires an ownership interest in the Property, Lender or such successor-in-interest or Purchaser will honor all of the terms of the Agreement. Such Non-Disturbance Agreement must be binding on all of Lender's participants in the subject loan (if any)



and on all successors and assigns of Lender and/or its participants and on all Purchasers. In return for such Non-Disturbance Agreement, LESSEE will execute an agreement for Lender's benefit in which LESSEE (1) confirms that the Agreement is subordinate to the Mortgage or other real property interest in favor of Lender, (2) agrees to attorn to Lender if Lender becomes the owner of the Property and (3) agrees to accept a cure by Lender of any of LESSOR's defaults, provided such cure is completed within the deadline applicable to LESSOR. In the event LESSOR defaults in the payment and/or other performance of any mortgage or other real property interest encumbering the Property, LESSEE, may, at its sole option and without obligation, cure or correct LESSOR's default and upon doing so, LESSEE shall be subrogated to any and all rights, titles, liens and equities of the holders of such mortgage or other real property interest and LESSEE shall be entitled to deduct and setoff against all rents that may otherwise become due under this Agreement the sums paid by LESSEE to cure or correct such defaults.

22. **DEFAULT.** It is a "Default" if (i) either Party fails to comply with this Agreement and does not remedy the failure within 30 days after written notice by the other Party or, if the failure cannot reasonably be remedied in such time, if the failing Party does not commence a remedy within the allotted 30 days and diligently pursue the cure to completion within 90 days after the initial written notice, or (ii) LESSOR fails to comply with this Agreement and the failure interferes with LESSEE's Use and LESSOR does not remedy the failure within 5 days after written notice from LESSEE or, if the failure cannot reasonably be remedied in such time, if LESSOR does not commence a remedy within the allotted 5 days and diligently pursue the cure to completion within 15 days after the initial written notice. The cure periods set forth in this Paragraph 22 do not extend the period of time in which either Party has to cure interference pursuant to Paragraph 13 of this Agreement.

23. **REMEDIES.** In the event of a Default, without limiting the non-defaulting Party in the exercise of any right or remedy which the non-defaulting Party may have by reason of such default, the non-defaulting Party may terminate this Agreement and/or pursue any remedy now or hereafter available to the non-defaulting Party under the Laws or judicial decisions of the state in which the Property is located. Further, upon a Default, the non-defaulting Party may at its option (but without obligation to do so), perform the defaulting Party's duty or obligation. The costs and expenses of any such performance by the non-defaulting Party shall be due and payable by the defaulting Party upon invoice therefor. If LESSEE undertakes any such performance on LESSOR's behalf and LESSOR does not pay LESSEE the full amount within 30 days of its receipt of an invoice setting forth the amount due, LESSEE may offset the full amount due against all fees due and owing to LESSOR under this Agreement until the full amount is fully reimbursed to LESSEE.

24. **ENVIRONMENTAL.** LESSEE shall conduct its business in compliance with all applicable laws governing the protection of the environment or employee health and safety ("EH&S Laws"). LESSEE shall indemnify and hold harmless the LESSOR from claims to the extent resulting from LESSEE's violation of any applicable EH&S Laws or to the extent that LESSEE causes a release of any regulated substance to the environment. LESSOR shall indemnify and hold harmless LESSEE from all claims resulting from the violation of any applicable EH&S Laws or a release of any regulated substance to the environment except to the extent resulting from the activities of LESSEE. The Parties recognize that LESSEE is only leasing a small portion of the Property and that LESSEE shall not be responsible for any environmental condition or issue except to the extent resulting from LESSEE's specific activities and responsibilities. In the event that LESSEE encounters any hazardous substances that do not result from its activities, LESSEE may relocate its facilities to avoid such hazardous substances to a mutually agreeable location or, if LESSEE desires to remove at its own cost all or some the hazardous substances



or materials (such as soil) containing those hazardous substances, LESSOR agrees to sign any necessary waste manifest associated with the removal, transportation and/or disposal of such substances.

25. CASUALTY. If a fire or other casualty damages the Property or the Premises and impairs LESSEE's Use, rent shall abate until LESSEE'S Use is restored. If LESSEE's Use is not restored within 45 days, LESSEE may terminate this Agreement.

26. CONDEMNATION. If a condemnation of any portion of the Property or Premises impairs LESSEE's Use, LESSEE may terminate this Agreement. LESSEE may on its own behalf make a claim in any condemnation proceeding involving the Premises for losses related to LESSEE's communications equipment, relocation costs and, specifically excluding loss of LESSEE's leasehold interest, any other damages LESSEE may incur as a result of any such condemnation.

27. APPLICABLE LAWS. During the Term, LESSOR shall maintain the Property in compliance with all applicable laws, EH&S Laws, rules, regulations, ordinances, directives, covenants, easements, consent decrees, zoning and land use regulations, and restrictions of record, permits, building codes, and the requirements of any applicable fire insurance underwriter or rating bureau, now in effect or which may hereafter come into effect (including, without limitation, the Americans with Disabilities Act and laws regulating hazardous substances) (collectively "Laws"). LESSEE shall, in respect to the condition of the Premises and at LESSEE's sole cost and expense, comply with (i) all Laws relating solely to LESSEE's specific and unique nature of use of the Premises; and (ii) all building codes requiring modifications to the Premises due to the improvements being made by LESSEE in the Premises. It shall be LESSOR's obligation to comply with all Laws relating to the Property, without regard to specific use (including, without limitation, modifications required to enable LESSEE to obtain all necessary building permits).

28. TAXES.

(a). LESSOR shall invoice and LESSEE shall pay any applicable transaction tax (including sales, use, gross receipts, or excise tax) imposed on the LESSEE and required to be collected by the LESSOR based on any service, rental space, or equipment provided by the LESSOR to the LESSEE. LESSEE shall pay all personal property taxes, fees, assessments, or other taxes and charges imposed by any Government Entity that are imposed on the LESSEE and required to be paid by the LESSEE that are directly attributable to the LESSEE's equipment or LESSEE's use and occupancy of the Premises. Payment shall be made by LESSEE within 60 days after presentation of a receipted bill and/or assessment notice which is the basis for such taxes or charges. LESSOR shall pay all ad valorem, personal property, real estate, sales and use taxes, fees, assessments or other taxes or charges that are attributable to LESSOR's Property or any portion thereof imposed by any Government Entity.

(b). LESSEE shall have the right, at its sole option and at its sole cost and expense, to appeal, challenge or seek modification of any tax assessment or billing for which LESSEE is wholly or partly responsible for payment. LESSOR shall reasonably cooperate with LESSEE at LESSEE's expense in filing, prosecuting and perfecting any appeal or challenge to taxes as set forth in the preceding sentence, including but not limited to, executing any consent, appeal or other similar document. In the event that as a result of any appeal or challenge by LESSEE, there is a reduction, credit or repayment received by the LESSOR for any taxes previously paid by LESSEE, LESSOR agrees to promptly reimburse to LESSEE the amount of said reduction, credit or



repayment. In the event that LESSEE does not have the standing rights to pursue a good faith and reasonable dispute of any taxes under this paragraph, LESSOR will pursue such dispute at LESSEE's sole cost and expense upon written request of LESSEE.

29. NON-DISCLOSURE. The Parties agree this Agreement and any information exchanged between the Parties regarding the Agreement are confidential. The Parties agree not to provide copies of this Agreement or any other confidential information to any third party without the prior written consent of the other or as required by law. If a disclosure is required by law, prior to disclosure, the Party shall notify the other Party and cooperate to take lawful steps to resist, narrow, or eliminate the need for that disclosure.

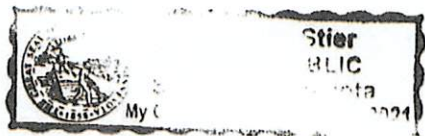
30. SIMILAR TERMS AND CONDITIONS. LESSOR represents and warrants that the rent, benefits and terms and conditions granted to LESSEE by LESSOR hereunder are now and shall be, during the Term, no less favorable than the rent, benefits and terms and conditions for substantially the same or similar tenancies or licenses granted by LESSOR to other parties. If at any time during the Term LESSOR shall offer more favorable rent, benefits or terms and conditions for substantially the same or similar tenancies or licenses as those granted hereunder, then LESSOR shall, within 30 days after the effective date of such offering, notify LESSEE of such fact and offer LESSEE the more favorable offering. If LESSEE chooses, the parties shall then enter into an amendment that shall be effective retroactively to the effective date of the more favorable offering, and shall provide the same rent, benefits or terms and conditions to LESSEE. LESSEE shall have the right to decline to accept the offering. LESSOR's compliance with this requirement shall be subject, at LESSEE's option, to independent verification.

31. MISCELLANEOUS. This Agreement contains all agreements, promises and understandings between the LESSOR and the LESSEE regarding this transaction, and no oral agreement, promises or understandings shall be binding upon either the LESSOR or the LESSEE in any dispute, controversy or proceeding. This Agreement may not be amended or varied except in a writing signed by all Parties. This Agreement shall extend to and bind the heirs, personal representatives, successors and assigns hereto. The failure of either party to insist upon strict performance of any of the terms or conditions of this Agreement or to exercise any of its rights hereunder shall not waive such rights and such party shall have the right to enforce such rights at any time. The performance of this Agreement shall be governed, interpreted, construed and regulated by the laws of the state in which the Premises is located without reference to its choice of law rules. Except as expressly set forth in this Agreement, nothing in this Agreement shall grant, suggest or imply any authority for one Party to use the name, trademarks, service marks or trade names of the other for any purpose whatsoever. LESSOR agrees to execute a Memorandum of this Agreement, which LESSEE may record with the appropriate recording officer. The provisions of the Agreement relating to indemnification from one Party to the other Party shall survive any termination or expiration of this Agreement.

[Signature page follows. The remainder of this page is intentionally blank.]



IN WITNESS WHEREOF, the Parties hereto have set their hands and affixed their respective seals the day and year first above written.



WITNESS

*[Handwritten signature]*

LESSOR:

Daniel B. Miller, Trustee of the  
Daniel B. Miller Revocable Living Trust  
dated December 17, 2012

*[Handwritten signature: Daniel B. Miller]*

Daniel B. Miller

Date: 10-15-18

LESSEE:

Alltel Communications, LLC,  
d/b/a Verizon Wireless

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

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

Its: \_\_\_\_\_

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

WITNESS

\_\_\_\_\_



**EXHIBIT "A"**

**DESCRIPTION OF PROPERTY**

The South  $\frac{1}{2}$  of the Northwest Quarter, Section 20, Township 102, Range 13, Fillmore County, Minnesota, except:

That part of the SW $\frac{1}{4}$  NW $\frac{1}{4}$  and that part of the NW $\frac{1}{4}$  SW $\frac{1}{4}$  of Sec. 20-102-13, Fillmore Co., MN, described as follows: Beginning at the SW corner of said SW $\frac{1}{4}$  NW $\frac{1}{4}$ ; th. N. 00°09'29" W. (assumed bearing) along the W. line of said SW $\frac{1}{4}$  NW $\frac{1}{4}$ , 359.25 feet; thence South 89°16'30" East, 386.26 ft.; th. S. 00°09'29" E. parallel with said W. line of said SW $\frac{1}{4}$  NW $\frac{1}{4}$ , 389.70 ft.; th. S. 89°07'54" W., 386.25 ft. to the W. line of said NW $\frac{1}{4}$  SW $\frac{1}{4}$ ; th. N. 00°08'55" W. along said W. line 41.20 ft. to the point of beginning.



**EXHIBIT "B"**  
**SITE PLAN OF THE PREMISES**

*See Survey next page*







DRAFTED BY  
AND RETURN TO:  
Hessian & McKasy, P.A.  
3700 RBC Plaza  
60 South Sixth Street  
Minneapolis, MN 55402  
Site Name: MN11 Ostrander

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(Space above this line for Recorder's use.)

### MEMORANDUM OF LAND LEASE AGREEMENT

THIS MEMORANDUM OF LAND LEASE AGREEMENT is made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, between Daniel B. Miller, trustee of the Daniel B. Miller Revocable Living Trust dated December 17, 2012, with an address of 23717 151<sup>st</sup> Avenue, Spring Valley, Minnesota 55975, hereinafter referred to as "LESSOR", and Alltel Communications, LLC d/b/a Verizon Wireless, with its address for notice located at 180 Washington Valley Road, Bedminster, New Jersey 07921, hereinafter referred to as "LESSEE". LESSOR and LESSEE are at times collectively referred to hereinafter as the "Parties" or individually as the "Party".

1. LESSOR and LESSEE entered into a Land Lease Agreement (the "Agreement") on \_\_\_\_\_, 20\_\_\_\_, for an initial term of 5 years, beginning on the first day of the month following the Commencement Date. The "Commencement Date" is the first day of the month after LESSEE begins installation of LESSEE's communications equipment. The Agreement will automatically be extended for 4 additional 5 year terms unless LESSEE terminates it at the end of the then current term by giving LESSOR written notice of the intent to terminate at least 3 months prior to the end of the then current term.
2. Pursuant to the Agreement, LESSOR leased to LESSEE a portion (hereinafter referred to as the "Premises") of that certain parcel of property located off of County Road 1, City of Ostrander, County of Fillmore, State of Minnesota, and being legally described on Exhibit "A" attached hereto (the "Property"), together with the non-exclusive right of ingress and egress from a public right-of-way, 7 days a week, 24 hours a day, over the Property to and from the Premises for the purpose of installation, operation and maintenance of LESSEE's communications equipment. LESSEE may also install, operate, and maintain wire, cables, conduits and pipes for all necessary electrical, telephone, fiber and other similar support services along a designated right-of-way. In the event it is necessary,



LESSOR agrees to grant LESSEE or the provider the right to install such services on, through, over and/or under the Property, provided the location of such services shall be reasonably approved by LESSOR.

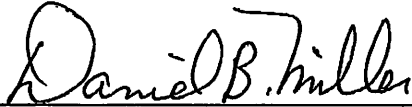
2. LESSEE has the right of first refusal to meet any offer of sale or transfer of the Property during the initial term and all renewal terms of the Agreement if LESSOR receives an offer or letter of intent from any person or entity that is in the business of owning, managing or operating communications facilities or is in the business of acquiring landlord interests in agreements relating to communications facilities, to purchase fee title, an easement, a lease, a license, or any other interest in the Premises or any portion thereof or to acquire any interest in the Agreement, or an option for any of the foregoing.
3. The terms, covenants and provisions of the Agreement, the terms of which are hereby incorporated by reference into this Memorandum, shall extend to and be binding upon the heirs, personal representative, successors and assigns of LESSOR and LESSEE.

*Signatures Next Page*



IN WITNESS WHEREOF, hereunto and to a duplicate hereof, LESSOR and LESSEE have caused this Memorandum to be duly executed on the date written herein below.

LESSOR:



Daniel B. Miller, trustee of the Daniel B. Miller Revocable Living Trust dated December 17, 2012

Date: 10-15-18

LESSEE:

Alltel Communications, LLC d/b/a Verizon Wireless

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

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

Its: \_\_\_\_\_

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

Acknowledgments on following page

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ACKNOWLEDGMENTS

LESSOR ACKNOWLEDGMENT

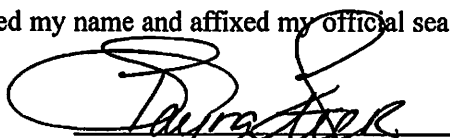
STATE OF MINNESOTA )  
 ) ss.  
COUNTY OF Mower )

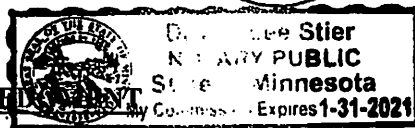
BE IT REMEMBERED, that on this 15 day of October, 2018, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Daniel B. Miller, to me known to be the Trustee of the Daniel B. Miller Revocable Living Trust Dated December 17, 2012, who executed the foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of the Daniel B. Miller Revocable Living Trust Dated December 17, 2012 for the uses and purposes therein mentioned.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal the day and year last above written.

My Appointment Expires

1-31-2021

  
Notary Public



~~LESSEE ACKNOWLEDGMENT~~

~~STATE OF Minnesota )  
 ) ss.  
COUNTY OF Mower )~~



~~On this 15<sup>th</sup> day of October, 2018, before me, the undersigned, a Notary Public in and for the State of Minnesota, duly commissioned and sworn, personally appeared Daniel Miller, to me known to be the \_\_\_\_\_ of Alltel Communications, LLC d/b/a Verizon Wireless, that executed the foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of Alltel Communications, LLC d/b/a Verizon Wireless, for the uses and purposes therein mentioned.~~

~~IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.~~



~~MNIT Ostrander  
Memorandum of Land Lease Agreement~~

~~Print or Type Name: Dayna Stier  
Notary Public in and for the State of MINN  
My appointment expires: 1-31-2021~~



**LESSOR ACKNOWLEDGMENT**

STATE OF MINNESOTA )  
 ) ss.  
COUNTY OF )

~~IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal the day and year last above written.~~

~~Notary Public~~

STATE OF \_\_\_\_\_ )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

Print or Type Name: \_\_\_\_\_  
Notary Public in and for the State of \_\_\_\_\_  
My appointment expires: \_\_\_\_\_



**Exhibit "A"**

**(Legal Description)**

**Page 1 of 1**

The South  $\frac{1}{2}$  of the Northwest Quarter, Section 20, Township 102, Range 13, Fillmore County, Minnesota, except:

That part of the SW $\frac{1}{4}$  NW $\frac{1}{4}$  and that part of the NW $\frac{1}{4}$  SW $\frac{1}{4}$  of Sec. 20-102-13, Fillmore Co., MN, described as follows: Beginning at the SW corner of said SW $\frac{1}{4}$  NW $\frac{1}{4}$ ; th. N. 00°09'29" W. (assumed bearing) along the W. line of said SW $\frac{1}{4}$  NW $\frac{1}{4}$ , 359.25 feet; thence South 89°16'30" East, 386.26 ft.; th. S. 00°09'29" E. parallel with said W. line of said SW $\frac{1}{4}$  NW $\frac{1}{4}$ , 389.70 ft.; th. S. 89°07'54" W., 386.25 ft. to the W. line of said NW $\frac{1}{4}$  SW $\frac{1}{4}$ ; th. N. 00°08'55" W. along said W. line 41.20 ft. to the point of beginning.



RECORDING REQUESTED BY  
AND WHEN RECORDED RETURN TO:

Hessian & McKasy, P.A.  
3700 RBC Plaza  
60 South Sixth Street  
Minneapolis, MN 55402  
(Re: MN11 Ostrander)

---

(Space above this line for recorder's use)

**SUBORDINATION, CONSENT, NON-DISTURBANCE, AND  
ATTORNMENMENT AGREEMENT**

This SUBORDINATION, CONSENT, NON-DISTURBANCE, AND ATTORNMENMENT AGREEMENT ("Agreement") is made as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, among First Farmers & Merchants State Bank, organized and existing under the laws of Minnesota with an address of 105 North Main Street, Grand Meadow, MN 55936 ("Lender"), Daniel B. Miller, trustee of the Daniel B. Miller Revocable Living Trust dated December 17, 2012, with an address located at 23717 151<sup>st</sup> Avenue, Spring Valley, Minnesota 55975 ("Landlord"), and Alltel Communications, LLC d/b/a Verizon Wireless, with its principal office located at One Verizon Way, Mail Stop 4AW100, Basking Ridge, New Jersey 07920 ("Tenant").

**RECITALS**

A. Tenant is the lessee pursuant to a Land Lease Agreement ("Lease") dated \_\_\_\_\_, between Landlord and Tenant, of premises located off of County Road 1, City of Ostrander, County of Fillmore, State of Minnesota, as being further described in Exhibit "A" attached hereto and made a part hereof ("Landlord's Property").

B. Lender made a loan to Landlord that is secured by a mortgage recorded against the Landlord's Property dated June 5, 2014 and recorded on June 10, 2014 as Document No. 399573, which was thereafter amended pursuant to an Amended and Restated Combination Mortgage, Security Agreement, Assignment of Rents and Fixture Financing Statement dated July 27, 2016 and recorded on August 3, 2016 as Document No. 409131 (collectively the "Mortgage").



C. In the Lease, Tenant has agreed to attorn to the beneficiary of any mortgage or deed of trust given by Landlord that may encumber the Landlord's Property as Tenant's landlord under the Lease in the event of a foreclosure of Landlord's interest, provided that Tenant receives from every such mortgage or deed of trust beneficiary a nondisturbance agreement that recognizes the validity of the Lease in the event of a foreclosure of Landlord's interest and also Tenant's right to remain in occupancy of the portion of the Landlord's Property leased by the Tenant ("Leased Premises"), pursuant to the terms of the Lease, as long as the Tenant is not in default of the Lease.

NOW, THEREFORE, in consideration of the mutual covenants in this Agreement, the parties hereby agree as follows:

1. Subordination. Notwithstanding anything to the contrary set forth in the Lease and the leasehold estate created thereby, all of Tenant's rights thereunder shall be and shall at all times remain subject, subordinate, and inferior to the Mortgage and any subsequent amendments, assignments or modifications thereto, and the lien thereof, and all rights of Lender thereunder.

2. Consent. Lender consents to the Lease and to the Tenant's use and occupancy of the Leased Premises under the Lease.

3. Non-Disturbance. So long as the Tenant is not in default (after the expiration of any applicable cure period) in the payment of rent or in the performance of any of the other covenants of the Lease that Tenant is to perform, the Tenant's possession of the Leased Premises and the Tenant's other rights under the Lease, or any extensions or renewals thereof, shall not be diminished or interfered with by Lender. In addition, Lender shall not join Tenant as a party defendant in any action or proceeding for the purpose of terminating the Tenant's interest under the Lease or otherwise.

4. Nondisturbance, Foreclosure and Attornment.

a. If Lender, or any other purchaser at a foreclosure sale or sale under private power contained in the Mortgage, becomes the owner of Landlord's Property, by reason of any foreclosure of the Mortgage, the acceptance by Lender of a deed in lieu of foreclosure, or by any other manner, Lender or such other purchaser shall not terminate the Lease, and the Lease shall continue in full force and effect as a direct lease between Tenant and Lender, or such other purchaser, under all of the terms, covenant and conditions of the Lease for the remainder of the term thereof and any extensions or renewals thereof, with the same force and effect as if Lender or such other purchaser were the landlord under the Lease.

b. Immediately upon the succession of Lender or such other purchaser to the interest of the Landlord under the Lease, Tenant does hereby agree to attorn to Lender or such other purchaser as Tenant's landlord. The parties agree that such attornment shall be effective and self-operative without the execution of any further documents. Such attornment shall be subject to all terms, provisions and conditions of the Lease and all amendments and modifications thereof. So long as Tenant is not in default (after the expiration of any applicable cure periods) in the payment of rent and otherwise has not been determined by a court of competent jurisdiction to be in default under any of the material terms and conditions of the



Lease, Lender or such other purchaser shall not disturb Tenant in Tenant's possession of the Leased Premises during the term of the Lease and any extensions or renewals thereof, or in the enjoyment of Tenant's rights under the Lease. Nothing in this Agreement shall be construed to limit Tenant's rights against Landlord for any breach of a Lease obligation that occurred prior to the date of takeover, or any claims arising out of such takeover. Tenant shall, from and after Lender's or such other purchaser's succession to the interest of Landlord under the Lease, have the same remedies against such party that Tenant might have had under the Lease against Landlord.

5. Modifications. This Agreement may be modified only by an agreement in writing signed by the parties hereto or their respective successors in interest. Nothing in this Agreement shall be construed as to require the consent of Lender to any amendments, modifications, renewals, or extensions of the Lease.

6. Binding Effect. This Agreement shall run with the land and shall be binding upon and inure to the benefit of the respective heirs, administrators, executors, legal representatives, successors and assigns of the parties hereto.

7. Attorneys' Fees. If any of the parties hereto institutes any action or proceeding in court to enforce any of the provisions hereof, or any action for damages by reason of any alleged breach of any of the provisions hereof, then the prevailing parties in any such action or proceeding shall be entitled to receive from the losing parties such amount as the court may adjudge to be reasonable attorneys' fees for the services rendered to the prevailing parties, together with the prevailing parties' other reasonable litigation costs and expenses.

8. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the state in which Landlord's Property is located without giving effect to the choice of law rules thereof.

**LENDER:**

First Farmers & Merchants State Bank

By: 

Name: Dave Fidderssen

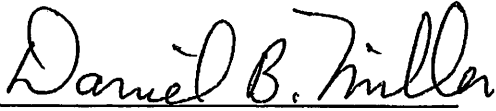
Its: President / CEO

Date: 10/24/2018

[SIGNATURES CONTINUE ON FOLLOWING PAGE]



**LANDLORD:**



Daniel B. Miller, trustee of the Daniel B. Miller  
Revocable Living Trust dated December 17, 2012

Date: 15<sup>th</sup> of October 2018

**TENANT:**

Alltel Communications, LLC  
d/b/a Verizon Wireless

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

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

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

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



ACKNOWLEDGMENTS

LENDER ACKNOWLEDGMENT

STATE OF MINNESOTA                    )  
  ) ss.  
COUNTY OF Olmsted                )

BE IT REMEMBERED, That on this 24<sup>th</sup> day of October, 2018, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came David Fedderson who is/are personally known to me to be the President and CEO of First Farmers & Merchants State Bank, that executed the foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of First Farmers & Merchants State Bank, for the uses and purposes therein mentioned.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal the day and year last above written.

My Appointment Expires

1-31-2022

Kayla Stockdale  
Notary Public

*Landlord Acknowledgments Next Page*





**LANDLORD ACKNOWLEDGMENT**

STATE OF MINNESOTA                    )  
  ) ss.  
COUNTY OF Marshall                    )

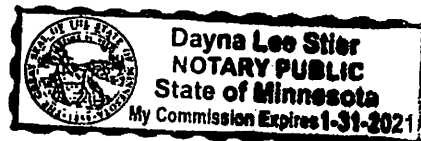
BE IT REMEMBERED, that on this 15 day of October, 2018 before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Daniel B. Miller, to me known to be the Trustee of the Daniel B. Miller Revocable Living Trust Dated December 17, 2012, who executed the foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of the Daniel B. Miller Revocable Living Trust Dated December 17, 2012 for the uses and purposes therein mentioned.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal the day and year last above written.

My Appointment Expires

1-31-2021

  
Notary Public



**TENANT ACKNOWLEDGMENT**

STATE OF \_\_\_\_\_ )  
  ) ss.  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, the undersigned, a Notary Public in and for the State of \_\_\_\_\_, duly commissioned and sworn, personally appeared \_\_\_\_\_, to me known to be the \_\_\_\_\_ of Alltel Communications, LLC d/b/a Verizon Wireless, that executed the foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of Alltel Communications, LLC d/b/a Verizon Wireless, for the uses and purposes therein mentioned.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

\_\_\_\_\_  
Print or Type Name: \_\_\_\_\_  
Notary Public in and for the State of \_\_\_\_\_  
My appointment expires: \_\_\_\_\_



**Exhibit "A"**

**Legal Description**

**Page 1 of 1**

The South  $\frac{1}{2}$  of the Northwest Quarter, Section 20, Township 102, Range 13, Fillmore County, Minnesota, except:

That part of the SW $\frac{1}{4}$  NW $\frac{1}{4}$  and that part of the NW $\frac{1}{4}$  SW $\frac{1}{4}$  of Sec. 20-102-13, Fillmore Co., MN, described as follows: Beginning at the SW corner of said SW $\frac{1}{4}$  NW $\frac{1}{4}$ ; th. N. 00°09'29" W. (assumed bearing) along the W. line of said SW $\frac{1}{4}$  NW $\frac{1}{4}$ , 359.25 feet; thence South 89°16'30" East, 386.26 ft.; th. S. 00°09'29" E. parallel with said W. line of said SW $\frac{1}{4}$  NW $\frac{1}{4}$ , 389.70 ft.; th. S. 89°07'54" W., 386.25 ft. to the W. line of said NW $\frac{1}{4}$  SW $\frac{1}{4}$ ; th. N. 00°08'55" W. along said W. line 41.20 ft. to the point of beginning.



EXHIBIT C  
WELL EASEMENT AGREEMENTS



---

### Mutual Well Easement and Agreement

This Agreement is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2019, by and between Daniel B. Miller, as Trustee of the Daniel B. Miller Revocable Living Trust UTA dated December 17, 2012 (hereinafter referred to as "First Party"), and

\_\_\_\_\_,  
\_\_\_\_\_ (marital status) (hereinafter referred to as "Second Party").

WHEREAS, First Party is the fee owner of the real property located in Fillmore County, as legally described on the attached Exhibit A, which shall be incorporated by reference; and

AND WHEREAS, Second Party is the fee owner of the real property located in Fillmore County, as legally described on the attached Exhibit B, which shall be incorporated by reference; and

AND WHEREAS, there is a well, pump, pressure system, and related equipment situated on additional land owned by First Party described on the attached Exhibit C ("Easement Area");

AND WHEREAS, it is the intent and desire of the parties hereto to enter into an agreement providing for the shared use of said well and pumping system together with a sharing of maintenance and operating costs of the same.

NOW THEREFORE, in consideration of the mutual covenants contained in this Agreement, and for other good and valuable consideration, the parties do hereby covenant and agree as follows:

1. **Incorporation of Recitals.** The above recitals shall be incorporated into this Agreement by reference.



2. **Grant of Easement.** First Party does hereby grant, bargain and convey unto Second Party a perpetual easement for the mutual use of the well and related pumping system situated on the Easement Area, in conjunction with the mutual use thereof by First Party, together with an easement to enter upon the lands of First Party for the purpose of constructing, maintaining, and/or replacing water lines extending from said well to the lands of sECOND Party subject to and upon terms and conditions as hereinafter set forth. Further, First Party shall provide Second Party access to the well for repair, maintenance, inspection, or other reasonable purposes related to the use of the well.
3. **Reservation of Rights.** First Party reserves unto himself and his successors in interest the right to use the well and the easement area for agricultural purposes, including to water up to 250 head of cattle or to connect to and irrigate any lands owned by First Party or his successors in interest, whether or not they are specifically described in this agreement.
4. **Construction, Repair, Maintenance of Water Lines.** Any underground water lines caused to be constructed or installed beneath the surface of the lands of either party shall be constructed or located so as to not interfere with improvements situated on the Easement Area. Second Party shall pay for the total cost of construction, maintenance, and/or replacement of underground pipes from said well extending to the lands of Second Party, and Second Party agrees to hold harmless and indemnify First Party from any liability on account thereof. Further, the Easement Area shall be returned to its original condition after any construction, maintenance or repair is completed thereon by Second Party.
5. **Connection by First Party.** In the event First Party or his successors in interest determines to connect any lands owned by First Party of his successors in interest to the mutual well, First Party shall pay for all costs of such connection. First Party shall further be responsible for paying for and installing water meters that can accurately measure the usage of each party connected to the well.
6. **Repair and Maintenance of the Well.** From and after the date of this Agreement, upon mutual agreement of the parties that repairs or maintenance are required, each of the parties hereto (and their successors in interest) shall pay the costs of any repair or maintenance needed for the upkeep of said well and related pumping systems in proportion to the total number of cubic feet or gallons of water used by each party in the preceding 12 month period. The party who did not pay for the repair shall pay the prorated share to the party who paid for the repair immediately upon demand being made for the same.
7. **Reimbursement of Electrical Expenses.** Second Party shall reimburse First Party for his proportionate share of any electrical expense needed or incurred by First Party for the operation of said well and related pumping system.
8. **Use of the Well.** Second Party may continue to use the well until such time that it becomes no longer usable. "Usable" shall be defined as said well has not gone dry. In the event the well goes dry, this agreement shall terminate, which shall be evidenced by an affidavit of either party.



9. **Perpetual Easement.** All the rights, title, and interest described herein, together with obligations ensuing therefrom, shall be perpetual and shall run with the lands above described and shall be binding upon the owners thereof, their heirs, personal representatives, successors, and assigns. The right to connect to the well, as described in paragraph 3, shall run with the lands now owned or hereafter owned by First Party.

IN WITNESS WHEREOF, First Party has hereunto set his hand the day and year first above written.

\_\_\_\_\_  
Daniel B. Miller, as Trustee of the Daniel B. Miller Revocable Living Trust UTA dated December 17, 2012

State of Minnesota, County of \_\_\_\_\_

This instrument was acknowledged before me on \_\_\_\_\_, by Daniel B. Miller, as Trustee of the Daniel B. Miller Revocable Living Trust UTA dated December 17, 2012.

(Stamp)

\_\_\_\_\_  
*(signature of notarial officer)*

Title (and Rank): \_\_\_\_\_

My commission expires: \_\_\_\_\_



IN WITNESS WHEREOF, Second Party has hereunto set his hand the day and year first above written.

\_\_\_\_\_

State of Minnesota, County of \_\_\_\_\_

This instrument was acknowledged before me on \_\_\_\_\_, by  
\_\_\_\_\_.

(Stamp)

\_\_\_\_\_  
*(signature of notarial officer)*

Title (and Rank): \_\_\_\_\_

My commission expires: \_\_\_\_\_

THIS INSTRUMENT WAS DRAFTED BY:

Shawn Vogt Sween  
Law Office of Shawn Vogt Sween, LLC  
104 Main St S  
Grand Meadow, MN 55936  
507-754-4555



**EXHIBIT A**

**FIRST PARTY LAND (NOT COMPREHENSIVE)**

The East Half of the Northwest Quarter, Section 29, Township 102 North, Range 13 West, Fillmore County, Minnesota



**EXHIBIT B**

**SECOND PARTY LAND SERVED BY IRRIGATION WELL**



LEGAL DESCRIPTION - 80.00 Acres

That part of the East One-Half of the Southwest Quarter (E 1/2 SW 1/4) and that part of the East One-Half of the West One-Half of the Southwest Quarter (E 1/2 W 1/2 SW 1/4), both in Section 20, Township 102 North, Range 13 West, Fillmore County, Minnesota, described as follows: Commencing at the Southeast Corner of said E 1/2 SW 1/4; thence North 00 degrees 02 minutes 39 seconds East (assumed bearing) along the East line of said E 1/2 SW 1/4, 271.50 feet to the point of beginning of the tract of land to be herein described; thence continuing North 00 degrees 02 minutes 39 seconds East along said East line, 2376.13 feet to the Northeast Corner of said E 1/2 SW 1/4; thence North 89 degrees 05 minutes 29 seconds West along the North line of said E 1/2 SW 1/4 and along the North line of said E 1/2 W 1/2 SW 1/4, 1352.35 feet; thence South 00 degrees 02 minutes 31 seconds West, 2649.20 feet to the South line of said E 1/2 W 1/2 SW 1/4; thence South 89 degrees 09 minutes 28 seconds East along said South line and along the South line of said E 1/2 SW 1/4, 998.22 feet; thence North 00 degrees 02 minutes 39 seconds East, 271.50 feet; thence South 89 degrees 09 minutes 28 seconds East, 354.00 feet to the point of beginning and containing 80.00 acres, more or less. Subject to easement for C.S.A.H. No. 3 across the Southerly line thereof. Subject to any other easements of record.

33.0140.020



LEGAL DESCRIPTION - 35.08 Acres

33.0140.040  
34.0069.010

That part of the West One-Half of the West One-Half of the Southwest Quarter (W 1/2 W 1/2 SW 1/4), that part of the East One-Half of the West One-Half of the Southwest Quarter (E 1/2 W 1/2 SW 1/4), that part of Block 1, and that part of Winona Street (not vacated) and that part of the alley in said Block 1 (not vacated), Original Town Plat to the City of Ostrander, all in Section 20, Township 102 North, Range 13 West, Fillmore County, Minnesota, described as follows: Commencing at the Southwest Corner of said Southwest Quarter (SW 1/4); thence South 89 degrees 09 minutes 28 seconds East (assumed bearing) along the South line of said SW 1/4, 1004.26 feet to the point of beginning of the tract of land to be herein described; thence continuing South 89 degrees 09 minutes 28 seconds East along said South line, 292.72 feet; thence North 00 degrees 02 minutes 31 seconds East, 2649.20 feet to the North line of said E 1/2 W 1/2 SW 1/4; thence North 89 degrees 05 minutes 29 seconds West along said North line, 634.74 feet to the Northwest Corner of said E 1/2 W 1/2 SW 1/4; thence South 00 degrees 02 minutes 26 seconds West along the West line of said E 1/2 W 1/2 SW 1/4, 1956.94 feet to the North line of said Original Town Plat and the North line of Winona Street; thence North 89 degrees 09 minutes 28 seconds West along said North line, 2.32 feet; thence South 00 degrees 02 minutes 22 seconds West parallel with the West line of said SW 1/4 and parallel with and 33.00 feet Westerly of the East line of said Block 1 (when measured at right-angles to said East line), 218.60 feet; thence South 87 degrees 32 minutes 00 seconds East, 302.53 feet; thence South 07 degrees 54 minutes 22 seconds East, 283.59 feet; thence South 00 degrees 48 minutes 47 seconds East, 185.56 feet to the point of beginning and containing 35.08 acres, more or less. Subject to easement for C.S.A.H. No. 3 across the Southerly line thereof. Subject to any other easements of record.



"Exhibit A"  
Legal Description

33. 0139.010  
34. 0002.000  
34. 0004.000

The S½ NW¼ and the W½ NW¼ SW¼ Section 20-102-13, EXCEPT THE FOLLOWING DESCRIBED TRACTS:

(A) That part of the NW¼ SW¼ of Sec. 20-102-13, Fillmore Co., MN, described as follows: Beginning at the SW. Corner of said NW¼ SW¼, th. N. 00°02'22" East (assumed bearing) along the West line of said NW¼ SW¼, 242.50 ft.; th. South 89°07'29" East parallel with the South line of said NW¼ SW¼ 264.11 feet to the Easterly line of the now abandoned Chicago & Great Western Railroad Co. Right of way; thence South 12°42'10" West along said R.O.W. line, 247.73 feet to said South line of said NW¼ SW¼; thence North 89°07'29" West along said South line, 209.79 feet to the point of beginning.

A  
W/RR

(B) That part of the NW¼ SW¼ of Section 20-102-13, Fillmore Co., MN, included in the following description: Commencing at the SW. corner of the NW¼ SW¼, th. North 00°02'22" East (assumed bearing) along the West line of said NW¼ SW¼ 242.50 feet; thence South 89°07'29" East parallel the South line of said NW¼ SW¼, 264.11 ft. to the Easterly line of the now abandoned Chicago & Great Western Railroad Company right of way and to the point of beg. of the tract of land to be herein described; thence continuing South 89°07'29" East parallel with said South line, 398.24 ft. to the East line of said W½ W½ SW¼; thence South 00°02'27" West along said East line, 874.47 feet; thence North 89°09'28" West, 594.15 ft. to said Easterly R.O.W. of said abandoned Railroad; thence North 12°42'10" East along said R.O.W. line, 893.69 feet to the point of beg.

B

(C) That part of the SW¼ NW¼ and that part of the NW¼ SW¼ of Sec. 20-102-13, Fillmore Co., MN, described as follows: Beg. at the SW. corner of said SW¼ NW¼; th. N. 00°09'29" W. (assumed bearing) along the W. line of said SW¼ NW¼, 359.25 feet; thence South 89°16'30" East, 386.26 ft.; th. S. 00°09'29" E. parallel with said W. line of said SW¼ NW¼, 389.70 ft; th. S. 89°07'54" W., 386.25 ft. to the W. line of said NW¼ SW¼; th. N. 00°08'55" W. along said W. line 41.20 ft. to the point of beginning.

3.50 AC  
Bldg.  
Site



## EXHIBIT C

### EASEMENT DESCRIPTION - Well and Waterline Ease.

An easement for the repair and maintenance of an above and below ground well, waterline and electric service over and across that part of the Northeast Quarter of the Northwest Quarter (NE 1/4 NW 1/4) of Section 29, Township 102 North, Range 13 West, Fillmore County, Minnesota, described as follows: Commencing at the Northeast Corner of said NE 1/4 NW 1/4; thence North 89 degrees 20 minutes 17 seconds West (assumed bearing) along the North line of said NE 1/2 NW 1/4, 704.02 feet to the point of beginning of the tract of land to be herein described; thence continuing North 89 degrees 20 minutes 17 seconds West along said North line, 70.00 feet; thence South 00 degrees 39 degrees 43 seconds West at right-angles to said North line, 130.00 feet; thence South 89 degrees 20 minutes 17 seconds East parallel with said North line, 70.00 feet; thence North 00 degrees 39 minutes 43 seconds East at right-angles to said North line, 130.00 feet to the point of beginning and containing 0.21 acres, more or less.