



CITY of NOVI CITY COUNCIL

Agenda Item K
March 14, 2016

SUBJECT: Approval for Ground Lease Agreement between the City of Novi and PI Tower Development, LLC for construction, use and operation of a commercial communication tower to be located at 49375 West Ten Mile Road.

SUBMITTING DEPARTMENT: City Manager's Office

CITY MANAGER APPROVAL: *PA*

BACKGROUND INFORMATION:

A ground lease agreement with a 5 year initial term and 5 – 5year renewal terms is being proposed for City Council approval with PI Tower Development, LLC, to place a commercial communication tower no more than 150 feet high and capable of supporting at least 3 providers of wireless telecommunications services. The tower will be located on a 2,500 square feet leased portion of land, located at 49375 West Ten Mile Road, Novi, MI 48374, formally the Somoco property. The lease also includes a 30 foot wide easement for ingress, egress, underground utilities, and other ordinance required purposes. Due to location in a Residential Zoning District, The City of Novi's Zoning Ordinance requires the tower be of a "stealth design."

PI Tower is allowed up to 3 years from the lease being signed to begin construction of the tower, provided a non-refundable due diligence fee of \$3,000.00 is paid in advance for each of those years, with the first payment due within 30 days of the lease being signed. The obligation to pay rent is the earlier of commencement of tower construction or 6 months after all City approvals and permits for that construction. The annual rent that is payable in advance is \$24,000 for the initial 5 year term and will increase by 10% 5 years after the lease commencement, and each subsequent 5 years thereafter. This revenue rate is similar to that of other surrounding communities.

If the due diligence fees are not received by the City within the allotted 30 day period the lease automatically terminates. PI Telecom has a period of 12 months after the lease date to survey the property and the easement, obtain insurance, and satisfy all legal requirements. If construction has not started within 3 years of the lease date then the contract automatically terminates. If all conditions are met, PI Telecom has the right to extend the lease for 5 additional 5 year terms under the same conditions. Renewal shall occur automatically unless PI Telecom expresses intent not to renew at least 60 days prior to expiration.

After approval from City Council site plan approval would be required from the Planning Commission.

RECOMMENDED ACTION: Approval for Ground Lease Agreement between the City of Novi and PI Telecom Infrastructure V, LLC for construction, use and operation of a commercial communication tower to be located at 49375 West Ten Mile Road

	1	2	Y	N
Mayor Gatt				
Mayor Pro Tem Staudt				
Council Member Burke				
Council Member Casey				

	1	2	Y	N
Council Member Markham				
Council Member Mutch				
Council Member Wrobel				

Site Name: MI-Novi-City

Site Number: PIMI010

GROUND LEASE AGREEMENT

THIS GROUND LEASE AGREEMENT (the "Lease") is made as of the date of the last signature on _____, 2016 (the "Commencement Date"), by and between the City of Novi, a Michigan municipal corporation ("Lessor"), and PI Tower Development, LLC, a Delaware limited liability company ("Lessee").

1. Leased Premises. Lessor hereby leases to Lessee and Lessee hereby leases from Lessor under the terms and conditions set forth in this Lease a 50 feet by 50 feet, 2,500 square feet portion of that certain parcel of real property, located at 49375 West Ten Mile Road, Novi, MI 48374 ("Site"), as more particularly described on **Exhibit "A"** and shown on the **Exhibit "A-1"** survey or site plan attached hereto and made a part hereof ("Leased Premises"), together with a thirty foot (30') wide easement for ingress, egress, underground utilities, and any other purposes for which easements are required by City of Novi Ordinances, for the duration of this Lease which is more particularly described and shown on **Exhibit "B"** attached hereto and made a part hereof ("Easement"). The right to use the Easement for the same ingress, egress, underground utilities, and other purposes may be granted by Lessee to its licensee(s) and sublessee(s) and their respective agents, employees, and contractors, so long as Lessee has provided Lessor with written notice of the licensee(s) and sublessee(s) that have been granted such rights pursuant to Paragraph 24 of this Lease. The descriptions and locations of the Leased Premises and/or Easement may be amended by Lessor and Lessee based on the survey Lessee may obtain under Paragraph 3(b). Lessor represents and warrants that Lessor has good and marketable title to the Leased Premises and the Easement(s) free and clear of all liens and encumbrances, other than those liens and encumbrances shown on **Exhibit "C"** attached hereto and made a part hereof.

2. Lessor's Representations and Warranties. Lessor represents and warrants that (i) the execution of this Lease by Lessor will not cause a breach or an event of default of any other agreement to which Lessor is a party, (ii) there are no pending or threatened administrative actions, including bankruptcy or insolvency proceedings under the state or federal law, suits, claims or causes of action against Lessor or which may otherwise affect the Leased Premises and the Easement(s), and (iii) the Leased Premises and the Easement(s) are not presently subject to an option, lease or other contract which may adversely affect Lessor's ability to fulfill its obligations under this Lease, and (iv) during the Due Diligence Period as defined herein it will not grant an option to lease or license or enter any contract with any third party regarding use of the Site that would materially interfere with Lessee's use of the Leased Premises or Easement. After the Due Diligence Period, the right of first refusal under Paragraph 29 shall apply to any such options or contracts.

3. Lessee's Due Diligence Fee and Period.

(a) Within 30 days following the Commencement Date, Lessee shall pay to Lessor the amount of Three Thousand and 00/100 Dollars (\$3,000.00) (the "Due Diligence Fee"), which Due Diligence Fee (or Additional Due Diligence Fees as set forth below) shall be nonrefundable to Lessee except in the event that this Lease is terminated by Lessee prior to the Rent Commencement Date (as herein defined) due to a default by Lessor. Unless waived in writing by Lessor, this Lease shall automatically terminate if the Due Diligence Fee or Additional Due Diligence Fees are not received by Lessor within the time required. During the Initial Due Diligence Period or Additional Due Diligence

Periods as defined below and provided that construction of the Tower Facilities (as hereinafter defined) has not commenced, it is understood that Lessee shall have the right to terminate this Lease for any reason or no reason at all, without any further liability or obligation to Lessor except those obligations which specifically survive the expiration or termination of this Lease, by delivery of written notice of termination to Lessor.

(b) Lessee shall have a period of 12 months from the Commencement Date (“Initial Due Diligence Period”) to do any of the following, all at its cost and expense: (i) have the Leased Premises and the Easement surveyed, (ii) obtain a title report or commitment for a leasehold title policy covering the Leased Premises and the Easement from the title insurance company of its choice, (iii) satisfy itself that Lessee’s Intended Use (as hereinafter defined) of the Leased Premises is not prohibited by any covenants, restrictions, reciprocal easements, servitudes, subdivision rules or regulations, and (iv) with prior written notice to and approval by Lessor, to conduct any other testing or investigation it determines necessary, subject to an obligation to restore the Site to its condition prior to such testing or investigative activities. Lessee may extend the Initial Due Diligence Period for two (2) additional 12 month periods (each an “Additional Due Diligence Period”) upon expiration of the Initial Due Diligence Period provided Lessee shall pay Lessor an additional Due Diligence Fee of Three Thousand and 00/100 Dollars (\$3,000.00) prior to the end of the preceding Due Diligence Period (“Additional Due Diligence Fees”). Prior to the Rent Commencement Date, Lessor shall remove any survey or title defects which will adversely affect Lessee’s leasehold title or its ability to mortgage its leasehold interest that are contrary to Lessor’s representations and warranties in Paragraph 2 and that Lessee provided written notice of during the Initial Due Diligence Period. In the event Lessor shall fail to cure any such defects, Lessee shall have the right to terminate this Lease upon written notice to Lessor.

(c) In the event of a termination of the Lease pursuant to subparagraph 3(a) or 3(b) above or Paragraph 8 below, Lessee shall, or Lessor may, at Lessee’s cost and expense, file a release or other appropriate instrument with the local recording office to remove or discharge any Memorandum of this Lease from the title record.

4. Cooperation. [GGI]Lessor agrees to cooperate with Lessee in obtaining, at Lessee’s expense, all licenses and permits required for Lessee’s use of the Leased Premises (the “Governmental Approval”).

5. Use. The Leased Premises may be used by Lessee for the construction, use, and operation of a commercial communication tower (of a “stealth design” as required by the Lessor’s Zoning Ordinance in a Residential Zoning District, unless such requirement is waived or varied by the City Council during the regulatory approval process) with a height of no more than 150 feet capable of supporting at least three (3) providers of wireless telecommunication services, antennas, and related buildings, equipment, and facilities that comply with all City of Novi Ordinance and approval requirements and conditions) for the transmission and receipt of wireless communication signals by those providers of wireless telecommunication services on frequencies such providers are licensed to use, which shall at all times be in conformity with the City of Novi Zoning and other applicable ordinances (“Intended Use”). Lessee may construct additional improvements, demolish and reconstruct improvements, or restore, replace and reconfigure improvements at any time during the Term (as herein defined) of this Lease without Lessor’s prior consent, so long as such improvements are done solely within the Leased Premises. Notwithstanding anything contained herein, Lessor does not waive any City of Novi Zoning or other Ordinance approvals required for such improvements and shall not be construed as representing any determination on Lessee’s entitlement to such approvals.

6. Initial Term. Subject to Lessee’s timely payment of the Due Diligence Fee or Additional Due Diligence Fee, if applicable, under Paragraph 3, the initial term of this Lease shall be **five**

(5) years commencing on the Commencement Date and terminating the day before the fifth (5th) anniversary of the Commencement Date (“Initial Term”). The parties agree that a memorandum of lease in the form attached hereto as **Exhibit “D”**, evidencing the Commencement Date and the existence of this Lease, shall be executed and may be recorded by Lessee after Lessee’s timely payment of the Due Diligence Fee under Section 3.

7. Renewal Terms. Provided it is not in default, Lessee shall have the right to extension of the Initial Term of this Lease for five (5) additional five (5) year terms (“Renewal Terms”) as provided in this Paragraph. Each Renewal Term shall be on the same terms and conditions as set forth in this Lease. Unless Lessor has notified Lessee of a default at least 60 days before the expiration of the Initial or a Renewal Term and the default has not been cured before said expiration, this Lease shall automatically be renewed for each successive Renewal Term unless Lessee notifies Lessor of Lessee’s intention not to renew the Lease at least 60 days prior to the expiration of the Initial Term or the Renewal Term which is then in effect. The Initial Term and each Renewal Term shall collectively be referred to herein as the “Term”.

8. Rent.

(a) Commencing on the Rent Commencement Date, during the Initial Term of this Lease, Lessee shall pay to Lessor an annual rental amount of Twenty-Four Thousand and 00/100 Dollars (\$24,000.00) (“Rent”). Rent shall be payable in advance, with the first payment to be prorated to cover the period from the Rent Commencement Date to the next anniversary of the Commencement Date, with subsequent payments to be made on or before each anniversary of the Commencement Date thereafter. Payments shall be remitted to the address shown for Lessor in this Lease, or such other address as Lessor may direct by written notice to Lessee.

(b) The “Rent Commencement Date” shall mean the date the Lessee commences construction of the Tower Facilities or six (6) months after Lessee receives all necessary governmental approvals and permits from the City of Novi to construct the Tower Facilities, whichever first occurs. In the event that Lessee has not commenced construction of the Tower Facilities within three (3) years following the Commencement Date, this Lease shall automatically terminate and the parties shall be released from further liability or obligation hereunder except those obligations which specifically survive the expiration or termination of this Lease.

(c) Rent shall increase by ten percent (10%) on the fifth anniversary of the Commencement Date and each 5th year thereafter.

(d) A payment of Rent received by Lessor more than 15 days after it is due shall include an administrative late charge equal to five (5%) of the required payment.

9. Conditions Subsequent. In the event that Lessee’s Intended Use of the Leased Premises is legally prohibited through no fault of Lessee, then upon the expiration of 60 days from Lessee’s written notice to Lessor of that prohibition and documentation of same, this Lease shall terminate and be of no further force or effect, with Lessor entitled to retain any deposits or Rent paid in advance to Lessor.

10. Interference. Lessor shall not use, nor shall Lessor permit its lessees, licensees, invitees or agents to use, any portion of the Site in any way which results in material broadcast or electronic interference with the quality of Lessee’s wireless communications that are allowed by this Lease. Such interference, if documented in writing by Lessee, agreed to by Lessor under Subparagraph (i) or determined to exist under Subparagraph (ii), and not corrected by Lessor as provided in this Paragraph 10, shall be deemed a material breach of this Lease by Lessor. Upon receipt of written notice by Lessee of

claimed interference, Lessor shall have ten (10) business days to review the claim and notify Lessee in writing that: (i) Lessor agrees that interference prohibited by this Paragraph exists and the steps Lessor is or will be taking to eliminate the interference, which shall be within 30 days of receiving Lessee's notice, or (ii) Lessor disagrees that interference prohibited by this Paragraph exists and the reasons for that position. Disputes regarding the existence of prohibited interference shall be resolved, when necessary, by analysis and opinion of an independent expert, selected at random, from names submitted by Lessee and Lessor, with the cost of the independent expert to be paid by Lessee, subject to reimbursement by Lessor if the expert determines interference prohibited by this Paragraph exists. Any determination of such interference and any recommendations for correction of it by the independent expert shall be binding upon Lessee and Lessor and be implemented by Lessor at its cost within 30 days. If interference prohibited by this Paragraph is agreed or found to exist, Lessor shall be responsible for all costs to eliminate it and to take such steps as are necessary to require the interfering user of the Site to discontinue its use or equipment causing such interference (except for intermittent testing of equipment which shall be allowed by such party for an additional period of ten (10) days). Lessor acknowledges that continuing interference will cause irreparable injury to Lessee, and Lessee shall have the right, in addition to any other rights that it may have at law or in equity, to bring action to enjoin such interference or to terminate this Lease immediately upon notice to Lessor.

11. Improvements; Utilities, Access and Other Easements.

(a) Lessee shall have the right at Lessee's sole cost and expense, to erect and maintain on the Leased Premises improvements, personal property and facilities, including without limitation, a communications tower, a structural tower base, radio transmitting and receiving antennas, communications equipment, equipment cabinet and/or shelters, and related facilities consistent with the use allowed by Paragraph 5 and the Site Plan that is approved under the City of Novi Zoning Ordinance and regulatory approval process (collectively the "Tower Facilities"). The Tower Facilities shall remain the exclusive property of the Lessee throughout the Term and upon termination of this Lease. All or any portion of the Tower Facilities may be removed by the Lessee from the Leased Premises at any time during the Term. Lessee shall, upon expiration of the Term, or within 90 days after any earlier termination of the Lease or the use of the Tower Facilities ceasing, remove all Tower Facilities, including footings, and all above and below ground (up to 5' below grade) equipment, conduits, fixtures, improvements and all personal property placed in or on the Leased Premises or Easement and restore the Leased Premises, Easement, and Site to the original, pre- Rent Commencement Date condition. Lessor may waive the removal requirement for one or more installations or parts thereof by written notice to Lessee. Subject to Lessee complying with all applicable City of Novi Ordinances and approvals as required by Paragraph 5, on the Leased Premises, Lessor grants Lessee the right to clear all trees, undergrowth, or other obstructions necessary to erection of the Tower Facilities, and to trim, cut, and keep trimmed and cut all tree limbs which will interfere with or fall upon the Tower Facilities or Easement. At Lessor's option, any property of the Lessee that remains on the Leased Premises or Easement after 90 days following the expiration or earlier termination of this Lease, may be deemed abandoned by the Lessee and shall thereafter be owned by the Lessor without further consent of the Lessee.

(b) Lessee shall have the right to install utilities, at Lessee's expense, and to improve present utilities on the Leased Premises (including but not limited to the installation of emergency power generators). Lessee shall have the right to place utilities on (or to bring utilities across or under) the Easement to service the Leased Premises and the Tower Facilities and shall do so in a manner that will not interfere with or prevent the installation of utilities necessary to serve the equipment of Lessee's licensee(s) or sublessee(s). In the event that utilities necessary to serve the equipment of Lessee or the equipment of Lessee's licensee(s) or sublessee(s) cannot be located within the Easement for reasons not attributable to Lessee, Lessor agrees to cooperate with Lessee and to act reasonably in amending the Easement or agreeing to a second easement for those utilities in a location designated by Lessor, in which

case no additional compensation shall be required, or in a mutually agreeable location in which case Lessor may require additional reasonable compensation. Lessor shall, upon Lessee's request, execute a separate written easement to the utility company providing the service for Lessee in a form which may be filed of record evidencing this right.

(c) Lessor represents and warrants to Lessee that Lessee shall, at all times during this Lease, enjoy ingress, egress, and access from the Leased Premises to an open and improved public road which presently exists, and which Easement(s) Lessee shall have the right to improve so as to be adequate to service the Leased Premises and the Tower Facilities. Lessee shall have access to the Leased Premises twenty-four (24) hours per day, seven (7) days per week.

12. Termination. Except as otherwise provided herein, this Lease may be terminated upon written notice as follows:

(a) By either party upon a default of any covenant or term hereof by the other party, which default is not cured within 60 days of receipt of written notice of default (without however, limiting any other rights available to the parties pursuant to any other provisions hereof); provided, that if the defaulting party commences efforts to cure the default within such period and diligently pursues curing of the default to completion within a reasonable time period agreed to by the non-defaulting party, the non-defaulting party shall no longer be entitled to terminate this Lease based on that default. No written notice of default shall be required and no right to cure shall apply to Lessee's payment of the Due Diligence Fee, or Additional Due Diligence Fee, if applicable, under Paragraph 3; or

(b) Upon 60 days' written notice by Lessee to Lessor, if Lessee is unable to obtain or maintain through no fault of Lessee, any license, permit or other Governmental Approval necessary for the construction and operation of the Tower Facilities; or

(c) By Lessee for any reason upon one (1) year's advance written notice from Lessee to Lessor and payment of liquidated damages by Lessee to Lessor in the amount of the next annual Rent payment; or

(d) By Lessee pursuant to Paragraph 3 of this Lease.

13. Sublessee's Improvements. Subject to and conditioned on applying for, obtaining, and complying with all City of Novi Zoning and other Ordinance approvals and permits, Lessee's licensee(s) and sublessee(s) shall be entitled to modify the Tower Facilities and to erect additional improvements on the Leased Premises, including, but not limited to antennas, dishes, cabling, additional storage buildings or equipment shelters as are reasonably required for the operation and maintenance of the communications equipment, together with rights of ingress and egress to the Leased Premises and the right to install utilities to and on the Leased Premises and Easement(s) as if said licensee or sublessee were the Lessee under this Lease. Improvements added by a wireless telecommunication service provider sublessee or licensee of Lessee shall not require consent of the Lessor under Paragraph 5 so long as such permits and approvals required by the City of Novi are secured by such sublessee and licensee for such improvements and the improvements are entirely within the Leased Premises and Easement. Improvements by a sublessee or licensee of Lessee that is not a wireless telecommunication service provider shall require consent of the Lessor under Paragraph 5.

14. Taxes. Lessee shall pay any personal property taxes assessed on, or any portion of such taxes attributable to, the Tower Facilities. Lessee shall also be responsible for paying its portion of all real estate taxes, special assessments, or similar taxes attributable to the Leased Premises, including Lessee's improvements to and use of same and taking the actions necessary to request and have billings

and payments for those items be directly to and by Lessee. Nothing in this Section shall be construed as limiting Lessee's right to contest, appeal or challenge such taxes or assessments. Lessor hereby represents and warrants that Lessor's property on which the Leased Premises and Easement(s) are located is not subject to any "Conservation Use Covenant", "Greenbelt Covenant", agricultural or timberland covenant, or any other conservation use program which restricts or limits development of Lessor's property. Lessor agrees to be solely responsible for payment of any penalties, roll-back or additional taxes, special assessments or other monetary amounts now or hereafter payable to any county, city, state or other party as a result of the breach of any conservation use tax program affecting the property on which the Leased Premises and Easement(s) are located or resulting from the change in the nature or character of the use of the property from its present use to a communications tower facility.

15. Destruction of Premises. If the Leased Premises or the Tower Facilities are destroyed or damaged through no fault of Lessee, for example destruction or damage caused by a Force Majeure Event, so as to prevent the Intended Use, Lessee may elect to terminate this Lease by at least 30 days written notice to Lessor, [GG2] in which event the termination shall be effective as of the date of the damage or destruction. In such event, except for the obligation to remove the Tower Facilities and restore the Leased Premises, Easement, and Site under Paragraph 11 and other obligations that survive the expiration or earlier termination of this Lease, all rights and obligations of Lessee to Lessor shall cease as of the date of the damage or destruction, with Lessor entitled to retain any deposits or Rent paid in advance by the Lessee.

16. Condemnation. If a condemning authority takes all of the Leased Premises or Easement, or a portion sufficient to prevent the Intended Use, this Lease shall terminate as of the date the title vests in the condemning authority. Lessee shall be entitled to file its own claims against the condemning authority for the value of its Tower Facilities, moving expenses, prepaid rent and business dislocation expenses. A sale of all or part of the Leased Premises and/or Easement(s) to a purchaser with the power of eminent domain, in the face of the exercise of eminent domain power, shall be treated as taking by condemnation for the purpose of this paragraph.

17. Insurance. Lessee shall purchase and maintain in full force and effect throughout the Term, commercial general liability insurance with limits of liability of at least Two Million Dollars (\$2,000,000.00) in respect of bodily injury, including death, arising from any one occurrence and Two Million Dollars (\$2,000,000.00) in respect to damage to property arising from any one occurrence. Lessee shall provide a blanket additional insured endorsement to Lessor. Lessor, including its elected and appointed officers, employees and agents, shall be covered as an additional insured. Lessor is entitled to prior written notice of any cancellation of insurance coverage. Lessee shall furnish to Lessor certificates of insurance, confirming the coverage required throughout the term of this Lease and identifying Lessor, including its elected and appointed officers, employees and agents, as an additional insured.

18. Lessee's Environmental Covenants and Indemnity. As used in this Lease, the term "Hazardous Materials" shall mean any hazardous or toxic substance, material or waste which is, or becomes designated as such in the future or is regulated by any agency of the United States Government or by any local governmental authority having jurisdiction, including, without limitation, any substance, material or waste that is defined or designated as a hazardous substance pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, the Resource Conservation and Recovery Act or the Clean Water Act. During the Term of this Lease, Lessee shall cause the presence, use, storage and/or disposal of any Hazardous Material, on or under the Leased Premises by Lessee, its agents, employees, business invitees, contractors or sublessees to be in compliance with all applicable laws, rules, regulations and orders. Lessee shall not install or permit the installation of any underground storage tanks on the Leased Premises. Lessee shall defend, indemnify, protect and hold Lessor harmless from and

against all claims, costs, fines, judgments and liabilities, including, without limitation, reasonable attorney's fees and costs, arising out of or in connection with the presence, storage, use or disposal of Hazardous Materials on or under the Leased Premises to the extent caused by the acts, omissions or negligence of Lessee, its employees, business invitees, contractors or sublessees. The foregoing indemnity shall survive the expiration or earlier termination of this Lease.

19. Lessor's Environmental Representation and Indemnity. Except as related to the prior oil and/or gas well usage of the Site, Lessor represents and warrants that no Hazardous Materials have been generated, stored, disposed of or are present on or under the Leased Premises and the Easement prior to the Commencement Date of this Lease. Lessor shall defend, protect and hold Lessee harmless from and against any and all claims, costs, fines, judgments, liability, actions, causes of action, liens and expenses, including, without limitation, penalties and reasonable attorneys' fees, incurred or suffered by or asserted against Lessee, to the extent arising out of or in any way relating to a breach of this warranty and representation. Lessor acknowledges and agrees that Lessee shall have no obligation to indemnify, defend, protect or hold Lessor harmless for any claims, costs, fines, judgments and liabilities to the extent arising from or in connection with the presence of any existing or future Hazardous Materials found on or under the Leased Premises which were not caused by the acts, omissions or negligence of Lessee, its employees, business invitees, contractors, licensees, or sublessees (collectively referred to as "Claims Caused by Others"). Lessor shall release and hold Lessee harmless from such Claims Caused by Others. The foregoing representations and indemnities shall survive the expiration or earlier termination of this Lease.

20. Defense and Indemnification. Lessor shall defend and hold harmless Lessee from and against any and all claims, liabilities, loss or damage, penalties or judgments to the extent arising from injury to person or property sustained by anyone in and about the Leased Premises and Easement(s) caused solely by act(s) or omissions(s) of Lessor, or Lessor's officers, agents, servants, employees, contractors, or sublessees, except as may result from the acts described in the following paragraph. This defense and hold harmless obligation shall survive the expiration or earlier termination of the Lease.

Lessee shall indemnify and hold harmless Lessor from and against any and all claims, liabilities, loss or damage, penalties or judgments to the extent arising from injury to person or property sustained by anyone in and about the Leased Premises and Easement(s) resulting from any act(s) or omissions(s) of Lessee, or Lessee's officers, agents, servants, employees, contractors, or sublessees. Further, Lessee shall, at its own cost and expense, defend any and all suits or actions (just or unjust) which may be brought against Lessor or in which Lessor may be impleaded with others upon any such matter, claim or claims, except as may result from the acts described in the preceding paragraph. This indemnification obligation shall survive the expiration or earlier termination of the Lease.

21. Notices. All notices required or permitted under this Agreement shall be in writing and shall be deemed received or effective upon personal delivery, or three (3) days after being deposited in the U.S. Mail, registered or certified, and postage prepaid, or one (1) day after being deposited with a recognized overnight delivery service. Such notices shall be addressed to the applicable party at its address shown below, or at such other address or addresses as either party shall designate to the other in writing in accordance with this paragraph:

As to Lessor: City of Novi
 Attn: City Manager
 45175 West Ten Mile Road
 Novi, Michigan 48375-3024

With a copy to: City of Novi
Attn: City Clerk
45175 West Ten Mile Road
Novi, Michigan 48375-3024

As to Lessee: PI Telecom Infrastructure V, LLC
7411 Fullerton Street, Suite 110

Jacksonville, Florida 32256
Attention: Contracts Administrator

With a copy to: PI Telecom Infrastructure V, LLC
2855 LeJeune Road
4th Floor
Miami, Florida 33134
Attention: Legal Department

22. Title and Quiet Enjoyment. Lessor warrants and represents that (i) it has the full right, power, and authority to execute this Lease; (ii) it has good and marketable fee simple title to the Leased Premises and the Easement(s); and (iii) the Leased Premises constitute a legal lot that may be leased without the need for any subdivision or platting approval. Subject to the referendum procedure provided for in the City of Novi Charter for leases for periods of more than three (3) years, Lessor covenants that Lessee shall have the quiet enjoyment of the Leased Premises during the Term of the Lease. Lessor shall defend and hold harmless Lessee from and against any loss, cost, expense or damage, including attorney's fees associated with a breach of the foregoing covenant of quiet enjoyment.

23. Subordination and Non-Disturbance. This Lease shall be subject to and subordinate to any mortgage or deed to secure debt (collectively referred to as a "Mortgage") made by Lessor which may now or hereafter encumber the Leased Premises and Easement(s), provided that no such subordination shall be effective unless the holder of every such Mortgage shall in a separate agreement with Lessee agree that in the event of a foreclosure, or conveyance in lieu of foreclosure of Lessor's interest in the Leased Premises and Easement(s), such holder shall recognize and confirm the validity and existence of this Lease and that Lessee shall have the right to continue its use and occupancy of the Leased Premises and Easement(s) in accordance with the provisions of this Lease as long as Lessee is not in default of this Lease beyond applicable notice and cure periods. Lessee shall execute in timely fashion such instruments as may reasonably be requested to evidence the provisions of this paragraph. In the event the Leased Premises and/or Easement(s) are encumbered by a Mortgage on the Commencement Date, Lessor, no later than ten (10) days after the Commencement Date, shall obtain and furnish Lessee with a non-disturbance agreement in recordable form from the holder of each Mortgage.

24. Assignments and Subleases.

(a) Lessee may, upon notice to Lessor, mortgage or grant a security interest in Lessee's leasehold estate and the Tower Facilities, and may make a conditional assignment of this Lease and the Tower Facilities to any such mortgagees or holders of security interests, including their successors and assigns (hereinafter, collectively referred to as "Secured Parties"). In such event, Lessor shall execute such consent to leasehold financing as may reasonably be required by any Secured Party. Lessor agrees to notify Lessee and Lessee's Secured Parties simultaneously of any default by Lessee, and to give to the

Secured Parties the same right to cure any default as Lessee except that the cure period for any Secured Party shall not be less than ten (10) days after the receipt of the default notice. If a termination, disaffirmation or rejection of the Lease, pursuant to any laws (including any bankruptcy or insolvency laws), by Lessee shall occur, or if Lessor shall terminate this Lease for any reason as provided for in Paragraph 12, herein, Lessor will give the Secured Parties prompt notice thereof and Lessor will give each Secured Party the right to enter upon the Leased Premises during a 30 day period commencing upon such Secured Party's receipt of such notice for the purpose of removing any Tower Facilities. Lessor acknowledges that the Secured Parties shall be third-party beneficiaries of this Lease.

(b) Lessee shall have the right to license, sublease or assign its rights under this Lease, without the consent of Lessor, upon any of the following conditions:

- i. any conditional assignment of this Lease to a Secured Party as described in subparagraph (a) above;
- ii. any license or sublease of a portion of the Tower Facilities in the ordinary course of Lessee's business so long as notice of the license or sublease is sent to Lessor ;
- iii. an assignment or sublease to an affiliate entity of Lessee; or
- iv. an assignment to an entity in the business of developing or owning telecommunication towers, provided that any such assignee shall have a net worth equal to or greater than Lessee's.

Any license, sublease or assignment by Lessee of its rights under this Lease which is not set forth in (i) – (iv) above shall require the consent of the Lessor, which shall not be unreasonably withheld, delayed and/or conditioned. Any license, sublease or assignment pursuant to this subparagraph (b) shall be subject to all terms and conditions of this Lease. Upon assignment of all of its rights pursuant to this Lease to a single assignee, the execution of a written assumption of all of the terms and conditions of the Lease by that assignee, and Lessor's written acceptance of that assumption which shall not be unreasonably withheld, delayed, or conditioned, Lessee shall be released from any further liability under this Lease.

25. Successors and Assigns. This Lease shall run with the Leased Premises described on **Exhibit "A-1"** and shall be binding upon and inure to the benefit of the parties, their respective heirs, successors, personal representatives and assigns.

26. Waiver of Lessor's Lien. Lessor hereby waives any and all lien rights it may have, statutory or otherwise, in and to the Tower Facilities or any portion thereof, regardless of whether or not same is deemed real or personal property under applicable laws.

27. Waiver of Incidental and Consequential Damages. Neither party will assert any claim whatsoever against the other party for loss of anticipatory profits or any other indirect, special, incidental or consequential damages incurred as a result of the construction, maintenance, operation or use of the Leased Premises or Easement by Lessee or otherwise arising under this Lease.

28. Lessee's Exclusivity. Provided the Lessee is in compliance with the collocation requirements of the City of Novi Zoning Ordinance, and until the Leased Premises and Tower Facilities permitted under this Lease will not accommodate and fulfill the facilities and needs of any additional providers of wireless telecommunication services, unless done for governmental use, Lessor agrees not to lease any of Lessor's property within a radius of five (5) miles from the Leased Premises for construction of a communication tower for wireless telecommunication services.

29. Right of First Refusal. In the event that the Lessor receives and desires to accept a bona fide offer to sell and convey the Leased Premises to a third party not related to the Lessor, then the Lessor shall first provide the Lessee with a written offer to sell and convey the Leased Premises to Lessee upon the same terms and conditions as the offer made by the third party. The notice to Lessee shall include a copy of the third party's offer. If the third party offer is to purchase assets in addition to the Leased Premises, the right of first refusal hereunder shall apply only to the Leased Premises and the Lessor shall provide to Lessee only the terms of the third party's offer which are applicable thereto. Lessee shall have 30 days from the receipt of the Lessor's notice to accept Lessor's offer to sell the Leased Premises. If Lessee desires to accept the offer, it shall notify the Lessor in writing within the said 30-day period and closing thereon shall occur within 90 days of the date of Lessee's written acceptance of the offer. Transfer of title shall be by Warranty Deed and a Bill of Sale that warrants title to the Leased Premises without exceptions or encumbrances other than those that existed on the Commencement Date or that are attributable to Lessee's actions or omissions under this Lease. If Lessee does not elect to accept the offer to sell the Leased Premises, then the Lessor may accept the third party offer and proceed with selling the Leased Premises to the third party upon the same terms and conditions offered to Lessee, which sale shall be made subject to the terms of this Lease. Should the third party not complete the purchase transaction, then this Right of First Refusal shall continue in effect for any future offers received by the Lessor.

30. Certifications. Either party may request, in writing, that the other party certify information to a prospective mortgagee or purchaser. Such certification shall be transmitted within 30 days after receipt of written request and may be relied upon by the party who requested it, and the contents of the certificate shall be binding upon the party executing it. The certificate may include (i) the validity, force and effect of this Lease; (ii) the extent to which this Lease has been supplemented or amended; (iii) the existence of any default; (iv) the existence of any offsets, counter-claims or defenses on the part of the other party; (v) the commencement and expiration dates of the Term, (vi) the amount of any Rent that has been or its to be paid; and (vii) any other matter as may reasonably be requested.

31. Self Help. Without limiting the right to terminate this Lease pursuant to Paragraph 12 hereof, in case of a breach of any covenant or term hereof by either party, the other party may, in its sole discretion, elect to remedy the breach, which remedy shall not operate or be construed as a waiver of the rights herein to recover the cost of such remedy from the defaulting party by setoff or otherwise, and the defaulting party shall be responsible for any and all costs, expenses, reasonable attorney fees and litigation expenses as may be incurred by the non-defaulting party in performing the defaulting party's obligations hereunder.

32. Miscellaneous.

(a) The substantially prevailing party in any litigation arising hereunder shall be entitled to its reasonable attorney's fees and court costs, including appeals and post-judgment proceedings, if any.

(b) Each party agrees to furnish to the other, within 30 days after request, such truthful estoppel information as the other may reasonably request.

(c) This Lease constitutes the entire agreement and understanding of Lessor and Lessee with respect to the subject matter of this Lease, and supersedes all offers, negotiations and other agreements. There are no representations or understandings of any kind not set forth herein. Any amendments to this Lease must be in writing and executed by Lessor and Lessee.

(d) If either Lessor or Lessee is represented by a broker in this transaction, that party

shall be fully responsible for any fees due such broker and shall hold the other party harmless from any claims for commission by such broker.

(e) This Lease shall be construed in accordance with the laws of the state in which the Leased Premises is situated.

(f) If any term of this Lease is found to be void or invalid, such invalidity shall not affect the remaining terms of this Lease, which shall continue in full force and effect.

(g) Lessor shall cooperate with Lessee in executing any documents necessary to protect Lessee's rights under this Lease or Lessee's use of the Leased Premises and the Easement, and in taking such action as Lessee may reasonably require to effect the terms and conditions of this Lease.

(h) This Lease may be executed in two or more counterparts, all of which shall be considered one and the same agreement and shall become effective when one or more counterparts have been signed by each of the parties, it being understood that all parties need not sign the same counterpart. The parties agree that a scanned or electronically reproduced copy or image of this Lease shall be deemed an original.

IN WITNESS WHEREOF, the parties hereto have executed this Lease as of the date first written above.

LESSOR, CITY OF NOVI

WITNESS:

Print Name

Print Name

By: _____

Print Name: _____

Title: _____

Date: _____

LESSEE, PI TOWER DEVELOPMENT, LLC,

WITNESS:

Print Name

Print Name

By: _____

Print Name: _____

Title: _____

Date: _____

EXHIBIT “A”

Description of Site (Parent Tract)

Tax Parcel I.D. # of Site/parent tract: 50-22-29-101-001

Physical Address of Site/parent tract: 49375 West Ten Mile Road
Novi, MI 48374

Description of Leased Premises

A **50’ by 50’** parcel of land for the tower compound being located around the base of the tower, all being a portion of the Site. The legal description of the Leased Premises shall be determined by survey, which shall be included on an Amended Exhibit A to replace this **Exhibit “A”**.

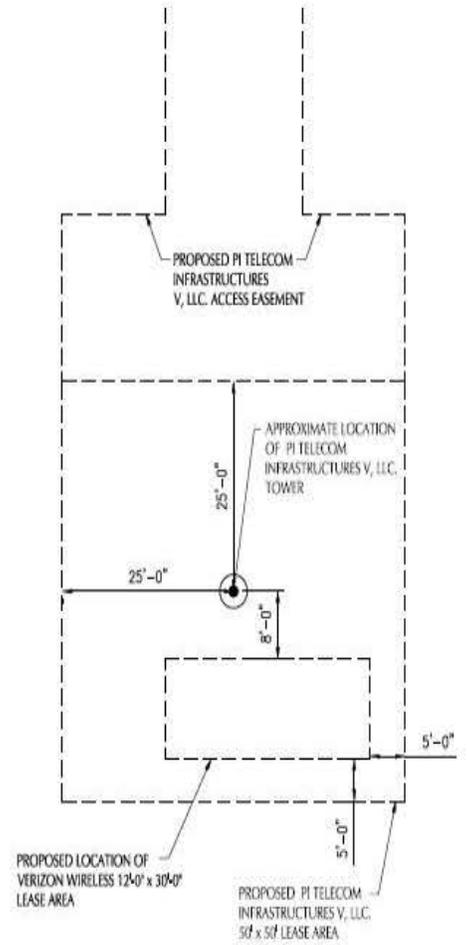
EXHIBIT "A-1"

Survey or Site Plan

Location of the Leased Premises shall be determined by survey, and upon completion shall be included on an Amended Exhibit A-1 to replace this **Exhibit "A-1"**.



OVERALL SITE LAYOUT
NOT DRAWN TO SCALE



ENLARGED SITE LAYOUT

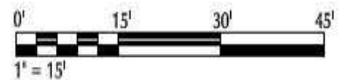


EXHIBIT “B”

Easement(s)

(i) A 30 feet wide easement from the Leased Premises to an open and improved public road to allow for ingress to and egress from the Leased Premises by vehicle and to provide utilities to the Leased Premises from the utility providers’ preferred connection point;

(ii) If required by governmental authorities, an easement for a “Fall Zone” centered on the location of the Lessee’s tower and extending outward in a circle for the number of feet as may be required by local zoning authorities (typically equal to the height of the Lessee’s tower but could be more); and

(iii) If required by governmental authorities, an easement for a landscape buffer zone or any such additional easement(s) as may be required by local zoning authorities.

The legal descriptions of the Easement(s) shall be determined by survey, and upon completion of survey, shall be included on an Amended Exhibit B to replace this **Exhibit “B”**.

EXHIBIT "C"

Liens and Encumbrances

Holder of 1st Mortgage: _____

Address: _____

Contact Name: _____

Phone Number: _____

Loan Number: _____

Holder of 2nd Mortgage: _____

Address: _____

Contact Name: _____

Phone Number: _____

Loan Number: _____

Other Liens/Encumbrances

(Please Describe): _____

If No Mortgage(s), Liens or Encumbrances, check here: _____

EXHIBIT "D"

MEMORANDUM OF GROUND LEASE AGREEMENT

This Memorandum of Ground Lease Agreement is made as of the date of the last signature by and between the City of Novi, a Michigan Municipal corporation, as Lessor, whose mailing address is 45175 West Ten Mile Road, Novi, Michigan 48375-3024 and, PI Tower Development, LLC, a Delaware limited liability company, as Lessee, whose address is 7411 Fullerton Street, Suite 110, Jacksonville, Florida 32256.

1. Lessor and Lessee are parties to a Ground Lease Agreement with a Commencement Date of _____, 2016, (the "Lease "). The premises covered by the Lease is located in the City of Novi, Oakland County, Michigan, as more fully described in the legal description attached hereto as **Exhibit "A"** ("Leased Premises").

2. Pursuant to the Lease, the Lessor has granted to the Lessee-easements for ingress, egress, utilities, and other purposes for which easements are required by the City of Novi for the duration of the Lease as more particularly described on **Exhibit "A"** hereto. The easement rights granted include the right of Lessee to grant its allowed licensees or sublessees the right to use the easements.

3. The Lease provides for an initial term of five (5) years (the "Initial Term") beginning on the Commencement Date. The Lease also provides for five (5) additional five (5) year renewal terms (each, a "Renewal Term"). If Lessee is not in default, the Lease shall automatically renew for each such Renewal Term unless Lessee delivers written notice of intent not to renew to Lessor at least 60 days prior to the expiration of the Initial Term, or the Renewal Term then in effect.

IN WITNESS WHEREOF, the parties hereto have executed this Memorandum of Lease on the dates indicated.

LESSOR: CITY OF NOVI

By: _____

Print Name: _____

Title: _____

STATE OF MICHIGAN
COUNTY OF OAKLAND

Acknowledgement

On _____, 201____, _____, the _____ of the City of Novi, signed this Memorandum of Ground Lease Agreement, for and on behalf of the City of Novi.

Subscribed and sworn to before me this

Notary Public,
Acting in Oakland County, Michigan
My Commission Expires: _____

LESSEE:

PI TOWER DEVELOPMENT, LLC,
a Delaware limited liability company

Witness:

Print Name: _____

By: _____

Print Name: _____

Title: _____

Print Name: _____

STATE OF FLORIDA

COUNTY OF _____

Acknowledgement

I, _____ the undersigned Notary Public for said County and State, do hereby certify that _____, as _____ of PI Tower Development, LLC, a Delaware limited liability company, personally appeared before me this day, and acknowledged the due execution of the foregoing instrument on behalf of said company. He/She is personally known to me or produced _____ as identification.

WITNESS my hand and notarial seal, this ____ day of _____, 201__.

Notary Public: _____

Print Name: _____

{affix notary stamp/seal}

My Commission Expires: _____

EXHIBIT "A"

LEASED PREMISES AND EASEMENTS

A 50' x 50' Leased Premises and Easements are located within the land legally described as follows:

Part of the NW 1/4 of Section 29, T.1N., R.8E., City of Novi, Oakland County, Michigan, described as beginning at the NW corner of said Section 29; thence N86°34'01"E 648.48 feet along the north line of said section; thence S03°25'59"E 76.19 feet; thence S04°06'34"W 139.77 feet; thence S18°55'26"W 138.82 feet; thence S33°26'52"W 105.43 feet; thence S03°25'59"E 340.64 feet; thence N86°34'01"E 261.81 feet; thence N09°29'00"E 268.42 feet; thence N03°25'59"W 309.49 feet; thence N86°34'01"E 104.91 feet; thence N03°25'59"W 197.00 feet to a point on the north line of Section 29; thence N86°34'01"E 395.74 feet along said north line; thence S02°45'11"E 1320.52 feet along the north-south 1/8 line; thence S86°38'41"W 164.98 feet; thence S02°45'11"E 1320.28 feet to the east-west 1/4 line of section; thence S86°43'23"W 1164.12 feet along said 1/4 line to said 1/4 corner section; thence N02°54'49"W 2637.33 feet along the West line of said section to the point of beginning. Containing 70.656 acres and is subject to easements, restrictions and right-of-way of record. BEARINGS BASED ON GRID BEARING -NAD 83 SPC MI. SOUTH ZONE

Tax Parcel No. ~~50~~-22-29-101-001

Site of Proposed Cell Tower with PI Tower Development, LLC



MAP INTERPRETATION NOTICE

Map information depicted is not intended to replace or substitute for any official or primary source. This map was intended to meet National Map Accuracy Standards and use the most recent, accurate sources available to the people of the City of Novi. Boundary measurements and area calculations are approximate and should not be construed as survey measurements performed by a licensed Michigan Surveyor as defined in Michigan Public Act 132 of 1970 as amended. Please contact the City GIS Manager to confirm source and accuracy information related to this map.



1 inch = 376 feet



Map Print Date:
3/10/2016



City of Novi
Department of Public Services
26300 Lee BeGole Drive
Novi, MI 48375
cityofnovi.org