

DRAFT – Agenda
Tuscola County Board of Commissioners
Finance Committee – Thursday, March 15, 2012
HH Purdy Building – 8:30 A.M.
125 W. Lincoln, Caro, MI

Finance

Committee Leaders-Commissioner Peterson and Allen

Primary Finance Items

1. **2012 General Fund Implemented Expenditure Reductions (See A and B)**
2. **Suggested 2012 Budget/Board Action Adjustments (See C and D)**
3. **Other 2012 Budget Amendments (See E)**
4. **Potential Additional Jail Bed Space (See F)**
5. **Wind Energy Taxation and 2013 Revenue Update**
6. **Review and Approval of Caro DDA/TIFA Agreement**
7. **2012/2013 State Revenue Sharing Reductions Proposed in Governor Budget (See G)**
8. **Communication Tower Lease Agreement (See H)**
9. **Court Reorganization Proposal**
10. **Court Collections Plan (Child Care Fund and General Fund)**
11. **County Equalization Department Assessing Proposal to Akron Township**

Secondary/On-Going Finance Items

1. Monitor State Finance Changes that Impact the County: state revenue sharing, PILT, personal property tax
2. County Hiring Freeze – Reducing Cost Through Attrition
3. LUG Fiscal Indicators
4. Stabilize Funding for the Tuscola County Economic Development Corporation
5. County Cash Flow Analysis
6. Tax Foreclosure Fund
7. Evaluate Consolidation of Central Service Functions
8. Explore Grant Opportunities that would be Beneficial to the County
9. Review Methods of Reducing Utility Costs

Personnel

Committee Leader-Commissioners Peterson and Allen

Primary Personnel Items

Secondary/On-Going Personnel Items

1. Prepare Labor Negotiations Strategy
2. County Hiring Freeze – Reducing Cost Through Attrition
3. Monitor the Status of Lawsuits Filed Against the County

4. Review County Compliance with Act 152 Requirements
5. New Hire Wage/Fringe Benefits
6. Schedule Employee Training Sessions Regarding Conduct in the Workplace, Minimum Insurance Claims, etc.

Correspondence/Other Business as Necessary

Public Comment Period

Closed Session – If Necessary

Other Business as Necessary

Notes:

Except for the Statutory Finance Committee, committee meetings of the whole are advisory only. Any decision made at an advisory committee is only a recommendation and must be approved by a formal meeting of the Board of Commissioners.

If you need accommodations to attend this meeting please notify the Tuscola County Controller/Administrator's Office (989-672-3700) two days in advance of the meeting.

This is a draft agenda and subject to change. Items may be added the day of the meeting or covered under other business at the meeting.



Implemented 2012 General Fund Expenditure Reductions

	Original 2012		1/26/2012		Total	Comments
	Cost Reduction	Amount	Cost Reduction	Amount		
Staffing Reduction						
Controller - Reduce FT position to PT	\$27,000	\$0	\$27,000	\$0	\$27,000	FT position reduced in 2010
Sheriff - Reduce FT position to PT	\$35,000	\$0	\$35,000	\$0	\$35,000	
Treasurer - Eliminated PT position & increase use of foreclosure fund	\$22,000	\$0	\$22,000	\$0	\$22,000	
Veterans Counselor - Reduce FT position to PT	\$27,000	\$0	\$27,000	\$0	\$27,000	
Recycling Coordinator - 40% share charge to recycling fund	\$0	\$33,000	\$0	\$33,000	\$33,000	Letter of explanation
Total Staffing Reduction	\$111,000	\$33,000	\$111,000	\$33,000	\$144,000	
Reduction in General Fund Appropriation						
Economic Development	\$11,575	\$5,000	\$11,575	\$5,000	\$16,575	
Vanderbilt Park	\$2,500	\$0	\$2,500	\$0	\$2,500	
Health Department	\$23,727	\$25,000	\$23,727	\$25,000	\$48,727	Uses fund balance
Equipment Fund	\$60,363	\$0	\$60,363	\$0	\$60,363	Uses fund balance
Human Services Child Care Fund	\$22,000	\$0	\$22,000	\$0	\$22,000	
Soldiers and Sailors Relief Fund	\$21,000	\$0	\$21,000	\$0	\$21,000	
Capital Improvement	\$75,000	\$0	\$75,000	\$0	\$75,000	Uses fund balance
Employee Sick Vacation Payout	\$20,000	\$10,132	\$20,000	\$10,132	\$30,132	
MSU-Extension	\$9,381	\$19,869	\$9,381	\$19,869	\$29,250	
Total Appropriation Reduction	\$245,546	\$60,001	\$245,546	\$60,001	\$305,547	
Full Indirect Cost Charge						
Recycling	\$0	\$10,713	\$0	\$10,713	\$10,713	Letter of explanation
Total Indirect Cost Charges	\$0	\$10,713	\$0	\$10,713	\$10,713	
Attorney Bar Membership Dues Discontinued						
Bars Dues Membership	\$0	\$4,300	\$0	\$4,300	\$4,300	Being disputed
Total Attorney Bar Dues Cost	\$0	\$4,300	\$0	\$4,300	\$4,300	
Training Budget Reductions						
Training Budget Reductions	\$5,000	\$12,000	\$5,000	\$12,000	\$17,000	
Total Training Budget Reductions	\$5,000	\$12,000	\$5,000	\$12,000	\$17,000	



NOT Implemented 2012 General Fund Expenditure Reductions

	Original 2012		Total	Comments
	Cost Reduction	1/26/2012 Cost Reduction		
<u>2012 NOT Implemented Reduction</u>	<u>Amount</u>	<u>Amount</u>		
Staffing Reduction				
Equalization - Reduce FT position to PT	\$0	\$12,000	\$12,000	Order to change not signed
Clerk - Reduce FT position to PT	\$0	\$10,000	\$10,000	Order to change not signed
Prosecutor - Reduce FT position to PT	\$0	\$22,000	\$22,000	Order to change not signed
Emergency Services - Reduce FT to PT	\$0	\$36,000	\$36,000	Sheriff sec. off-set?
Total Staffing Reduction	\$0	\$80,000	\$80,000	
Fee Charge Adjustments				
Fee Charge Adjustments	\$0	\$30,000	\$30,000	Potential may not exist
Total Fee Charge Adjustment	\$0	\$30,000	\$30,000	

Other Comments

1. Furlough days was removed from consent agenda on February 29, 2012
2. 10% elected official wage reduction but if implemented will not impact until 2013
3. Other departmental staffing reductions identified for 2013 but will not impact if implemented until 2013
4. Appears to be no further interest in putting drain-at-large on the tax roll at this time

2012 General Fund Expenditure Reductions

Original estimated 2012 revenue/expenditure gap	\$691,000
Minus reductions implemented as part of 2012 budgeting process (details available)	<u>(\$361,000)</u>
Remaining 2012 revenue/expenditure gap	\$330,000
Minus reductions implemented by 1/26/12 board action (details available)	<u>(\$120,000)</u>
Remaining 2012 revenue/expenditure gap	\$210,000
Minus updated <u>favorable</u> 2012 equalization director property tax revenue projection	<u>(\$108,000)</u>
Remaining 2012 revenue/expenditure gap	\$112,000
Minus insurance reimbursement	<u>(\$48,000)</u>
Remaining 2012 revenue/expenditure gap	\$64,000
Minus court restructuring plan - Elimination of MGT of America Contract (\$48,000 annual)	<u>??</u>

Potential Actions to Make Board Decisions and Budget Consistent

Previous Board Actions Recommended for Adjustment

1. MSU-e Reduction of \$19,869 – 1/26/12 Action

On 1/26/12 the Board made a decision to reduce the MSU-e appropriation by \$19,869. The attached 3/2/12 information from Joe Bixler explains that in order to honor the 120 day termination clause in the Memorandum of Agreement \$1,425 of the cut needs to be restored to transition an employee from full-time to part-time status.

Recommended Adjustment: Move that the MSU-e 2012 general fund appropriation be increased from \$87,750 to \$89,175 in order to honor the Memorandum of Agreement. Also, the revised Exhibit A Annual Work Program be revised per the March 2., 2012 correspondence from the District 10 Coordinator and appropriate signatures are authorized.

2. Increase General Fund Fees by \$30,000 – 1/26/12 Action

Board action of 1/26/12 intended to increase 2012 general fund fees for service by \$30,000. Based on input from departments it does not appear this increase can be achieved in 2012.

Recommended Adjustment: Move that fee increases for 2012 of \$30,000 no longer be pursued based on department input showing it is unlikely this amount of revenue can be generated.

3. Staffing Changes from Full-time to Part-Time – 1/26/12 Action

The 1/26/12 action by the Board reduced three positions from full-time to part-time status for a net budget reduction of \$37,308. The documents to make these changes were not signed and implemented.

Recommended Adjustment: Move that previous Board action on 1/26/12 to change full-time positions in the clerk, prosecutor and equalization offices to part-time be rescinded and budgets be re-established with these positions remaining as full-time.

4. Emergency Services Full-Time to Part-Time Status Change – 1/26/12 Action

The action by the Board of Commissioners on 1/26/12 stated that if the millage funding request failed the Emergency Services Director would be reduced from full-time to part-time status. Instead of changing status from full-time to part-time other line item reductions in the emergency services budget have been recommended for reduction. These changes will still reduce the emergency services costs but will minimize the loss of federal program reimbursement.

Recommended Adjustment: Move that per correspondence from the Sheriff 2012 line-item reductions be made to the emergency services budget instead of changing the emergency services director position from full-time to part-time.

Other 1/26/12 Changes to Remain in Effect at this Time

1. Bar membership dues
2. 2013 elected officials wage changes
3. Appropriation reductions
4. Training reductions
5. Recycling wage/fringe cost distribution
6. Recycling indirect costs

New Potential Budget Amendments

5. MMRMA Net Asset Distribution

The county insurance company sent correspondence explaining that the county will be reimbursed \$48,158 for the 2011 net asset distribution. The use of these funds to replenish the county stop loss fund should enable a reduction in the general fund insurance expenditure budget.

Recommended Adjustment: Move that 2012 general fund insurance budget be reduced by \$48,158 because of the availability of the 2011 net asset distribution to replenish the county stop loss fund instead of having to use general fund monies.

Court reorganization plan

Mike Hoagland

From: Bixler, Joseph [bixlerj@anr.msu.edu]
Sent: Friday, March 02, 2012 8:40 AM
To: mhoagland@tuscolacounty.org
Cc: Thom Bardwell (tbardwell@hillsanddales.com)
Subject: MSUE MOA REVISED - Exhibit A Annual Plan of Work
Attachments: Tucola MOA Exhibit A Annual Work Plan.docx

Mike:

We have finalized our documentation and staff adjustments to the Memorandum of Agreement (MOA). The adjustments that you required as a result of the additional reduction that the BOC took action on in late January can be found in the "Exhibit A - Annual Work Plan" that I have attached. This exhibit is part of the overall MOA and is the only portion that is altered as result of the BOC budget action.

For your review, per the conversation that you, Thom Bardwell and I had after the BOC took this action was to honor the 120 termination clause in the original MOA. The reduction of \$19,869 brought our new GF appropriation to \$87,750. If you recall, our discussion focused on the termination agreement and what that would cost the county in addition to the newly reduced amount (\$87,750). That amount would be \$1,425.00 or a total 2012 GF appropriation of \$89,175.00. The \$89,175.00 amount is found the attached exhibit, which would need to be signed by the BOC Chair. Please note that the \$1,425.00 figure will be included in the 1st quarter billing and then reduced for the remainder of quarters in 2012 as to not exceed the amount of our GF appropriation of \$89,175.00.

This action requires the MSUE office to reduce our office hours due to the reduction of funds provided in support of a clerical support position. The office will be closing on Fridays for the remainder of 2012 to accommodate this reduction. As always, I will be happy to come before the BOC to address the matter of our MOA if need be. Again, all that is required from the County is the Board Chairs signature on the "Exhibit A - Annual Plan of Work" document.

Joe Bixler, District 10 Coordinator
Serving Lapeer, St. Clair, Huron, Tuscola and Sanilac Counties
200 Grand River, Suite 102
Port Huron, Michigan 48060
Office (Direct) 810-989-6309
Fax 810-985-3557

3/8/2012

EXHIBIT A: Annual Work Plan

A. Specific Contributions by MSUE:

1. At least 1.0 FTE extension educator whose primary office of operation will be the county Extension office included in assessment.
2. 0 additional extension educators at \$87,000 (FTE * rate).
3. 1.5 FTE 4-H program coordinator(s) included in assessment whose primary office of operation will be the county Extension office.
1. 0 additional 4-H program coordinators/other paraprofessional/ (FTE * rate).
2. Clerical Support position at \$ 41,556.00
3. Administrative oversight included in annual assessment.
4. Access to extension educators with expertise in each of the MSUE Institutes included in annual assessment.
5. Supervision of University provided academic and paraprofessional staff. Supervision of county clerical staff and/or county staff upon request. Supervision is included in the annual assessment.
6. Annual reporting of services provided, audiences served, and impact of programs in the county.

B. Specific Contributions by the County:

1. Office space for a County Extension office. The office will include space for at least one Extension educator, one 4-H program coordinator and one clerical staff person, access to space for delivering Extension programs, and utilities, including telephone. Office space will be available for additional MSUE and/or county staff as mutually agreed. The office must have access to high-speed internet sufficient to meet the needs of MSUE Personnel. Minimum standards for internet access can be found in appendix A. The office space must be at least comparable to the average office space used by County employees.
2. Clerical staff for the Extension office that will perform clerical functions, including assisting County residents in accessing MSUE resources by office visit, telephone, email, internet and media. The clerical staff position in Tuscola County is an MSUE employee and the funding for this position is provided by Tuscola County. The County pays a portion of the total salary and fringe for this position which is \$41,556.00.
3. Operating expenses for the office and Personnel of \$-0-.
4. The Assessment Fee of \$47,619.00 and \$41,556.00 for a clerical support position, as described above in Section B item 2.

C. Assessment to County:

For the period January 1, 2012 to December 31, 2012, the County shall pay to MSUE \$47,619.00 plus \$41,556 (additional personnel) for a total of \$89,175.00. The additional personnel costs for the clerical support position in Tuscola County is apportioned \$41,556.00 (Jan-March - \$11,457.75; remaining three quarters shall be \$10,032.75/quarter). Payment will be made the first month of each quarter of the county fiscal year. Payments should be sent to CANR Budget and Finance, 210 Ag Hall, Michigan State University, East Lansing, MI 48824.

MICHIGAN STATE UNIVERSITY

Tuscola COUNTY

By: _____

By: _____

Daniel T. Evon, Director,
Contract & Grant Administration

Its: _____

Its: _____

Date: _____

Date: _____



Tuscola County Sheriff's Office

420 Court Street • Caro, MI 48723

Lee Teschendorf, Sheriff

Glen Skrent, Undersheriff

Phone (989) 673-8161

Fax (989) 673-8164

03/14/2012

Tuscola County Board of Commissioners

Mr. Michael Hoagland, County Controller

Due to the failure of the uniform division/emergency management millage proposal and the continuing need to support a full-time emergency management director I would propose that my secretary continue as a part-time employee and the savings in cost be applied to help offset the expense of this position for fiscal year 2012.

Director Finn has made some additional cuts, please review the attached revisions to his line item budget, for this year in a further attempt to control his costs.

I realize this is a temporary solution and hopefully a permanent funding source can be found for future years but ask you consider my proposal for the short term and maintain the position on a full-time basis for 2012.

Sincerely,

Leland Teschendorf, Sheriff

Tuscola County Office of Emergency Management
Budget Reductions 2012 Proposed 3/8/2012

	2011	2012 Proposed Budget	TCBC Cuts	Further Redcuations	Balance
Salaries	45231.76	45402		0	45402
Shift Prem	0	20,00		0	20
Disability Plan	0	0		0	0
P/T Wages	0	0		0	0
Overtime	5495.73	5500		550	4950
Health Dental	9638.14	13,200		0	13,200
Disability Ins	137.46	145		0	145
FICA	3940	3896		0	3896
Life Ins	69.6	70		0	70
Retirement	6496.93	5719		0	5719
Unempl Ins	3940	5122		5122	0
Post & Supplies	667.88	750		100	650
LEPC Supplies	349.51	200		0	200
Other Supplies	391.84	200		0	200
Uniforms & Accs.	242.63	300		0	300
Laundry	0	0		0	0

Gasoline	485.84	750	250	0	750
Membership	120	200	50	150	
Telephone	621.34	750	50	700	
Cell Phone	201.8	250	0	250	
Travel	213.49	200	50	150	
Veh Ins	629.25	630	270	0	630
Equip Repair Maint	553.39	200	300	0	200
Veh Repair & Main	381.3	200	350	0	200
Office Equip	353.11	207	193	0	207
Emply Training	810.07	500	250	100	400

NOTE I was reimbursed back to my gasoline budget over \$600.00 in 2011 from Regional Meeting & training - mileage reimbursement

Over line item budget 2011

Board Cuts from 2011 to 2012

TCCEM Further cuts to keep position for 2012

2011 Under budget \$3,351.87

Board Cuts TCCEM Additional Cuts
2012
\$2,113.00 \$6,022.00

Total cuts 2012 \$8,135.00

BUDGET AMENDMENTS FOR MARCH 2012
03-12-12

General Fund

- **Transfer out Purdy Debt** – Reduce budget by \$3,392 due to balance from 2011 to assist with 2012 debt. Offset with an increase to Contingency

Special Revenue Funds

- **374 Fund – Purdy Debt**
Reduce transfer in from General Fund by \$3,392 use of Fund
- **257 Fund – HDC Stop Grant**
Establish budget for balance of grant from 2011 of \$17,331
- **254 Fund – Violence Against Women Grant**
Amend 2012 budget by \$6,234 use of Fund balance and close this contract on Grant. New contract application going in to extend this grant we will have to establish new budget if/when we are granted this additional funds.
- **676 Fund – Motor Pool Fund**
Establish budget of \$6,000



STATE OF MICHIGAN
DEPARTMENT OF CORRECTIONS
LANSING

Rick Snyder
GOVERNOR

Daniel H. Hoyns
DIRECTOR

March 5, 2012

Sheriff Leland Teschendorf
Tuscola County Sheriff's Office
420 Court Street
Caro, MI 48723

Re: Increased bed space

Dear Sheriff Teschendorf:

In response to Undersheriff Skrents email request from February 8, 2012, to increase bed space in the Tuscola County Jail. Pursuant to the provisions of Act 211, PA 211, we have determined that 3 additional beds can be added to Cells C-1 and C-2. This addition would bring the rated capacity of these housing units from 12 beds to 15 beds.

If an additional shower is installed in each cell than 6 beds could be added to Cell C-1 and 5 beds could be added to Cell C-2. This would increase the number of beds in Cell C-1 to 18 and Cell C-2 to 17.

With either of these increases in the number of beds, the minimum staffing would need to stay with the number of officers that are scheduled as of this date.

Lastly, regarding your Classification Plan, we believe it adequately accommodates the additional inmates that may be housed at the facility.

Furthermore, please advise us which option you will be using so we can update your rated design capacity.

If you have any questions, please feel free to call me at (517) 373-4483 or Wayne Schaudt at (517) 241-7686.

Sincerely,

Thomas A. Vogel
Environmental Health, Fire Safety, and County Jail Services Manager
Physical Plant Division

cc: Undersheriff Glen Skrent
Lt. Penny Turner, Jail Administrator

Adding Additional beds to C wing

Gross savings = 6 inmates x \$30 per day x 365 = \$65,700
=11 inmates x \$30 per day x 365 = \$120,450

Additional costs that offset savings

Increased health care cost contract with Correction Care Company of \$7,428.00 which increases jail nurse hours to 30 hours a week.

(We had already seen the need for this prior to adding the beds due to a large number of inmates on meds). The Correction Care spokesperson thinks they could do 11 more inmates for the same additional cost .

Inmate Meals - only a small additional cost as Canteen gives us a discount for serving over 80 meals. Under 80 its \$1.95 a meal over 80 its \$1.91. So the additional cost is approximately \$11.46 per meal for 6 inmates or \$21.01 for 11 inmates.. I have checked with Canteen and they can add 6 more meals with only buying 6 more trays. I would have to double check with them on 11 inmates food needs.

I requested a bid from Bob Barker Company and from Mid Michigan Lock Company to purchase 6 beds. A bid came in from Mid Michigan for \$2640 plus \$100 for installation. I have not heard back from Bob Barker Company. We would prefer anyway to go with Mid Michigan as they built and installed the beds that we currently have in those cells. This appears to be the only modification necessary to add the 6 beds. However going to 11 inmates you must install one shower in each cell. The first step would be to hire an architect to draw up plans then get bids from contractors. The cost of this could be around \$40,000 and up.

Per the Dept of Corrections who did a staff study they show no additional personnel are needed by adding 6 or 11 beds.

Gross Savings =	\$65,700.00
Health care =	\$ 7,428.00 (which it appeared we were heading towards going to without even adding the beds)
Meals =	\$ 6,274.00

Net savings= \$51,998/yr for 6 additional inmates

11 Inmates Gross	\$120,450
Health Care	\$ 7,428
Meals	\$ 23,005

Net Savings = \$90,017 for 11 additional inmates

There is also savings in the way of transport costs to move 6 or 11 inmates to other facilities.



**County Incentive Program
Projected Payment Amounts
Fiscal Years 2013**

Governor's Budget Recommendation

<u>County</u>	<u>Category 1 Accountability & Transparency</u>	<u>Category 2 Consolidation of Services</u>	<u>Category 3 Employee Compensation</u>	<u>Total Projected Payment</u>
Alger	\$47,739	\$47,739	\$47,740	\$143,218
Allegan	559,907	559,907	559,910	\$1,679,724
Alpena	181,736	181,736	181,737	\$545,209
Arenac	83,808	83,808	83,808	\$251,424
Barry	285,156	285,156	285,159	\$855,471
Bay	645,312	645,312	645,314	\$1,935,938
Berrien	904,904	904,904	904,906	\$2,714,714
Branch	241,553	241,553	241,554	\$724,660
Calhoun	748,428	748,428	748,430	\$2,245,286
Cass	259,241	259,241	259,244	\$777,726
Chippewa	178,000	178,000	178,000	\$534,000
Clare	161,156	161,156	161,157	\$483,469
Delta	200,244	200,244	200,245	\$600,733
Dickinson	86,624	86,624	86,625	\$259,873
Eaton	551,971	551,971	551,972	\$1,655,914
Genesee	2,468,069	2,468,069	2,468,069	\$7,404,207
Gladwin	127,198	127,198	127,199	\$381,595
Gogebic	84,332	84,332	84,334	\$252,998
Gratiot	214,438	214,438	214,441	\$643,317
Hillsdale	234,447	234,447	234,448	\$703,342
Houghton	170,425	170,425	170,427	\$511,277
Huron	198,235	198,235	198,236	\$594,706
Ingham	1,514,883	1,514,883	1,514,883	\$4,544,649
Ionia	294,091	294,091	294,093	\$882,275
Iosco	132,623	132,623	132,625	\$397,871
Iron	23,853	23,853	23,856	\$71,562
Isabella	310,548	310,548	310,551	\$931,647
Jackson	842,314	842,314	842,317	\$2,526,945
Kalamazoo	1,294,726	1,294,726	1,294,726	\$3,884,178
Kent	3,009,655	3,009,655	3,009,657	\$9,028,967
Lapeer	417,449	417,449	417,451	\$1,252,349
Lenawee	506,474	506,474	506,476	\$1,519,424
Livingston	544,272	544,272	544,272	\$1,632,816
Luce	32,052	32,052	32,053	\$96,157
Macomb	4,093,392	4,093,392	4,093,393	\$12,280,177
Manistee	35,327	35,327	35,329	\$105,983
Marquette	318,181	318,181	318,184	\$954,546
Mecosta	211,520	211,520	211,520	\$634,560
Menominee	131,924	131,924	131,926	\$395,774
Midland	98,941	98,941	98,943	\$296,825
Missaukee	70,557	70,557	70,559	\$211,673
Monroe	231,811	231,811	231,812	\$695,434
Montcalm	310,299	310,299	310,302	\$930,900
Muskegon	899,326	899,326	899,328	\$2,697,980
Newaygo	238,277	238,277	238,277	\$714,831
Oceana	114,279	114,279	114,280	\$342,838
Ontonagon	43,174	43,174	43,176	\$129,524

**County Incentive Program
Projected Payment Amounts
Fiscal Years 2013**

Governor's Budget Recommendation

<u>County</u>	<u>Category 1 Accountability & Tranparency</u>	<u>Category 2 Consolidation of Services</u>	<u>Category 3 Employee Compensation</u>	<u>Total Projected Payment</u>
Osceola	140,846	140,846	140,846	\$422,538
Ottawa	1,170,704	1,170,704	1,170,704	\$3,512,112
Roscommon	48,165	48,165	48,165	\$144,495
Saginaw	1,140,398	1,140,398	1,140,401	\$3,421,197
Sanilac	228,804	228,804	228,806	\$686,414
Schoolcraft	45,842	45,842	45,842	\$137,526
Shiawassee	359,960	359,960	359,961	\$1,079,881
St Clair	410,110	410,110	410,112	\$1,230,332
St Joseph	343,015	343,015	343,016	\$1,029,046
Tuscola	274,059	274,059	274,061	\$822,179
Van Buren	384,127	384,127	384,129	\$1,152,383
Washtenaw	392,533	392,533	392,535	\$1,177,601
Wayne	12,489,906	12,489,906	12,489,908	\$37,469,720
Wexford	85,296	85,296	85,298	\$255,890
Total	<u><u>\$41,866,636</u></u>	<u><u>\$41,866,636</u></u>	<u><u>\$41,866,728</u></u>	<u><u>\$125,600,000</u></u>

Prepared By: Office of Revenue and Tax Analysis, Michigan Department of Treasury

Filename: S:\ortalexshare\County\FY13 CIP Proj Gov Rec 02 09 12.xls]FY 13 CIP Proj by Cat
 Updated: 2/8/12 1:26 PM
 Printed: 2/8/12 3:20 PM

**Mike Hoagland**

From: Paul Picklo [paulpick@avci.net]
Sent: Wednesday, March 14, 2012 3:09 PM
To: mhoagland@tuscolacounty.org
Cc: 'Mike Miller (Mike Miller)'; 'Glen Skrent'; 'Pat Finn (Pat Finn)'; 'Patrick Kaltenbach'; 'Jerry Peterson'; 'Roger Allen'; tbardwell@hillsanddales.com; 'Tom Kern'; Bob Reynolds; Barb Main
Subject: RE: Lease with Thumb Cellular
Importance: High
Attachments: Caro Mini Lease - RDR REDLINE 3-9-12.doc; Caro New tower Exhibit B and C, 3-14-12.pdf; Caro Mini Exhibit C3, tower, 3-13-12.pdf; Caro Mini-EXHIBIT C1, 3-13-12.docx; Caro Mini-EXHIBIT C2, 3-13-12.docx; Caro mini, reply to Cty atty_s memo, 3-14-12.doc

Mike,

Per our call yesterday, please find attached our latest red-line of the agreement and answers to the items brought to our attention by your attorney. In addition, I have attached the various exhibits for the agreement. Several legal descriptions are yet to be prepared for Exhibit A and B, which should be prepared by the county attorney. If there is anything further you need, please let me know. TX.

Paul Picklo
General Manager
989-453-4330 (O)
989-550-0046 (M)

From: Mike Hoagland [mailto:mhoagland@tuscolacounty.org]
Sent: Friday, March 02, 2012 7:33 AM
To: Picklo Paul
Cc: Mike Miller (Mike Miller); Glen Skrent; Pat Finn (Pat Finn); Patrick Kaltenbach; Jerry Peterson; Roger Allen; tbardwell@hillsanddales.com; Tom Kern
Subject: Lease with Thumb Cellular

Paul

As a follow-up to our previous meetings, on February 9, 2012 you sent me a draft lease and other related information regarding the potential use of county property to construct a new Thumb Cellular Communications Tower. The new tower would replace the current tower in the same location. I forwarded the draft lease and related information to the county attorney for review. Attached is a copy of the comments from the county attorney. Please review these comments and let me know if the proposed changes are acceptable.

Also, it is my understanding our building and grounds director has remained in contact with company representatives to work out details such as specific tower site location information. It is also my understanding that county information technology officials have been in contact with company representative to assure continued tower use for county communication needs.

Your offer to partially finance the air cards for county police vehicles as part of this overall proposal is greatly appreciated.

We would like to propose that the annual lease payment be increased from \$250 per

3/14/2012

month in your current draft lease proposal to \$500 per month.

The county appreciates our public/private relationship. We are glad to be able to establish a lease for the tower in this important location so your company can continue to provide quality telephone coverage. Please let me know the next steps in the process.

Thank you.

Mike

Michael R. Hoagland
Tuscola County/Controller Administrator
125 W. Lincoln
Caro, MI. 48723
989-672-3700
mhoagland@tuscolacounty.org

MEMORANDUM

TO: MICHAEL HOAGLAND
FROM: PAT KALTENBACH
DATE: FEBRUARY 13, 2012
SUBJECT: COMMUNICATION LEASE REVIEW

<u>Paragraph</u>	<u>Comment</u>
1	<p>The breadth of the easement granted could be appropriately limited by adding the phrase “related to the use described within Paragraph 2 hereof” at the end of the third sentence of the first paragraph.</p> <p>There appears to be a typographical error within the fourth sentence of this paragraph, where “at” should instead be “as”.</p>
5	<p>It should be clarified within the fourth sentence of this paragraph that the thirteen air cards will be available to the County at the \$325 monthly rate throughout the initial Term and any Renewal Term.</p> <p>It may also be worthwhile to explore further whether a more favorable monthly rental amount could be negotiated.</p>
7(b)	<p>The restriction against construction on contiguous parcels appears to be overly broad and could be made more appropriate by limiting the applicability of the sub-paragraph to the area within a specified distance of the boundary with the Leased Premises.</p>
10	<p>Although paragraph 4 states that the Term is 5 years, paragraph 10 effectively makes the Lease month-to-month. The County may wish to consider restricting the Lessee’s ability to terminate beyond the 30 day notice requirement provided in this paragraph.</p>
13	<p>The County may wish to consider eliminating the waiver of subrogation provided within this paragraph. Obtaining such a waiver from the insurer may not be possible without additional cost to the County, and may not be in the best interest of the County. By way of example, if the tower collapsed and the County’s insurer paid claims to injured individuals, the current language prohibits the County’s insurer from seeking reimbursement from Lessee or Lessee’s insurer.</p>
14	<p>To make clear that the Lessee may not add additional users of the tower without the County’s written permission, the word “sublease,” should be added before the word “assign” in the first sentence of paragraph 14.</p>

18 A typographical error appears to exist within the last sentence of this paragraph, where "19" should instead be "18".

19(d) The address for the recipient of a courtesy copy of any notice to the County should be changed to:

Braun Kendrick Finkbeiner
Attn: C. Patrick Kaltenbach
4301 Fashion Square Boulevard
Saginaw, MI 48603

Exhibits It appears that Exhibits A and B are yet forthcoming, but should be reviewed prior to execution of the Agreement.

COMMUNICATION SITE LEASE AGREEMENT (GROUND)

This Communication Ground Lease Agreement ("Agreement") is entered into this ___ day of February 2012, between Thumb Cellular, LLC, a Michigan limited liability company, of 82 South Main Street, P.O. Box 650, Pigeon, Michigan 48755-0650 ("Lessee") and the Tuscola County, a Michigan municipal corporation, of 440 N. State Street, Caro, Michigan 48723 ("Lessor").

For good and valuable consideration the sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. **Land.** Lessor is the owner of a parcel of land ("Land") located in the County of Tuscola, State of Michigan, at 420 Court Street. The Land is more particularly described in **Exhibit A** annexed hereto. Lessor hereby leases to Lessee and Lessee leases from Lessor, a 30' x 30' parcel of approximately 900 square feet of the Land and all access and utility easements, if any. Collectively, the leased part of the Land is referred to here as the "Leased Premises." The precise area of the Leased Premises is set out on **Exhibit B**. The lease of the Leased Premises contemplated by this Agreement shall exclude all oil, gas and other mineral rights related to the Land.

Comment [RDR1]: Need to finalize Exhibits.

Deleted: t

Comment [RDR2]: Ditto.

2. **Use.** During the term of this Agreement, Lessee may use the Land for any activity in connection with the provision of communications services to the extent permitted by Lessee's communications licenses issued by the Federal Communications Commission (the "FCC"). To provide such serves, Lessee during the term of this Agreement may erect a 120' self support tower (the "Tower") with all necessary supporting footings for the Tower, and may construct and use an equipment building (the "Building") on the Land. The location and specifications of the Tower, Building, and all supporting routings (collectively, the "Lessee's Facilities") shall be as described in **Exhibit C** annexed hereto. Lessee will move all of Lessee's antennae and cabling from the tower that Lessor owns and which Lessee has equipment and facilities on as of this Agreement's Effective Date, to Lessee's new Tower and attach the equipment and facilities at existing heights at no cost to Lessor. Prior to use, Lessor shall have the right to require Lessee to test its antennae to insure that they will not interfere with Lessor's operations or create maximum permissible radiation exposure ("MPE") compliance issues.

Comment [RDR3]: Ditto.

3. **Tests and Construction.** Lessee, at its sole expense, shall have the right at any time following the full execution of this Agreement to enter upon the Land for the purpose of making appropriate engineering and boundary surveys, inspections, soil test borings, other reasonable necessary tests and constructing the Lessee Facilities. Lessee shall conduct such matters in a reasonable manner and shall repair any damage to the Land resulting from any such matters. Lessee shall indemnify and hold Lessor harmless from the cost of any such matters and from any injury or damage to any person or property resulting from such matters unless due to the negligence or misconduct of Lessor. Upon Lessee's request, Lessor agrees to provide promptly to Lessee copies of all plans, specifications, and surveys for the Land in Lessor's possession. Upon Lessor's request, Lessee shall promptly provide to Lessor all information requested by Lessor regarding the

Building. Lessor shall treat as confidential all proprietary information of Lessee disclosed to Lessor.

4. **Term.** The term of this Agreement shall be five (5) years commencing on 1/1/2012 ("Commencement Date") and terminating on the fifth (5th) anniversary of the Commencement Date (the "Term") unless otherwise terminated as provided in Paragraph 10. Lessee shall have the right to extend the Term for five (5) successive five (5) year periods (each a "Renewal Term"), with the Term and all of the Renewal Terms consisting of a total of thirty (30) years, on the same terms and conditions as set forth herein except as otherwise provided by this Agreement. This Agreement shall automatically be extended for each successive Renewal Term unless Lessee notifies Lessor of its intention not to renew at least sixty (60) days prior to commencement of the succeeding Renewal Term.

Comment [RD84]: Commencement date to be filled on upon signing

Deleted: February

5. **Rent.** The parties recognize that Lessee will be erecting a 120' self support Tower at the beginning of the Lease. Within 15 days of the Commencement Date and on the first day of each month thereafter, Lessee shall pay to Lessor a monthly rental for the use of the Land during that month. During the first year of the Term, the rent shall be Two Hundred Fifty Dollars (\$250.00) per month throughout the Initial Term and any Renewal Term of this Agreement. In addition, Lessee will reduce the monthly payment for thirteen aircards to Three Hundred Twenty-Five Dollars (\$325.00), a savings of \$130.00 per month. Rent for any fractional quarter at the beginning or at the end of the Term or any Renewal Term shall be prorated. Rent shall be payable to Lessor at 440 N. State Street, Caro, Michigan 48723, Attention: Controller. For each year of this Agreement following the first year of the Term, whether during the Term or a Renewal Term, the Rent shall automatically increase by three percent (3%) from the Rent for the immediately prior year.

6. **Facilities; Utilities; Access.**

(a) Lessee, at its expense, has the right to erect, maintain and operate Lessee's Facilities, including without limitation, the Tower, Building, utility lines, transmission lines, air conditioned equipment shelters, electronic equipment, all as indicated in **Exhibit C**. In connection therewith, Lessee, at its expense, has the right to do all work necessary to prepare, maintain, repair, and alter the Lessee's Facilities for Lessee's business operations in connection with the Lessee's Facilities, but all significant replacements, alterations, relocations, or additions to the Lessee's Facilities in addition to those indicated on **Exhibit C** shall require Lessor's prior written consent. All of Lessee's construction and installation work shall be performed at Lessee's sole cost and expense and in a good, workmanlike manner. After installing and constructing the Lessee Facilities, Lessee shall promptly repair all damage to the Land caused by such activities and shall restore the Land to its condition prior to such installation and construction, reasonable wear and tear excepted. Title to the Lessee Facilities shall be held by Lessee. All of the Lessee's Facilities shall remain Lessee's personal property and are not fixtures. Lessee has the right to remove all Lessee Facilities at its sole expense on or before the expiration or earlier termination of this Agreement provided that Lessee promptly repairs any damage to the Land caused by such removal. During the term of this Agreement, Lessee, at its expense, shall maintain the Lessee's Facilities in a safe manner, in good condition and repair, and in accordance with

sound engineering standards and all applicable federal, state, and local laws, rules, regulations, and ordinances, including, but not limited to, the FCC requirements on MPE. If at any time Lessor reasonably determines that the Lessee's Facilities pose a substantial health risk, Lessee shall have twenty-four (24) hours from receiving notification of such situation to send its appropriate personnel to the Facilities to examine such matter. Lessee's failure to do so shall constitute a material breach of this Agreement.

(b) Lessee shall pay for all utilities which Lessee uses in its operations in connection with the Lessee's Facilities at the rates charged by the servicing utility company. Lessee shall have the right to draw utilities from the existing utilities on the Land or obtain separate utility service from any utility company that will provide service to the Land (including a standby power generator for Lessee's exclusive use). Lessor agrees to sign such documents or easements as may be reasonably required by said utility companies to provide such service to the Facilities, including the grant to Lessee or to the servicing utility company, at no cost to Lessee, of an easement in, over, across or through the Land as required by such servicing utility company to provide utility services as provided herein. Lessee, at its expense, shall obtain separate meters for all utilities used by Lessee in connection with the Premises.

(c) Lessee and Lessee's employees, agents, subcontractors, lenders and invitees shall have access to the Facilities without notice to Lessor twenty-four (24) hours a day, seven (7) days a week, at no charge. Lessor grants to Lessee, and its agents, employees, contractors, guests and invitees, a nonexclusive right and easement for pedestrian and vehicular ingress and egress across the Leased Premises portion of the Land described in **Exhibit B**.

7. **Interference.**

(a) Lessee shall not cause interference to Lessor. All operations of the Lessee's Facilities by Lessee shall be in compliance with all FCC requirements.

(b) Subsequent to the installation of the Lessee Facilities, Lessor shall not permit its Lessees or licensees to install new equipment on the Land or property contiguous thereto owned or controlled by Lessor if such equipment causes interference with Lessee's operations. If such interference occurs, Lessor agrees to take all action reasonably necessary to eliminate such interference within a reasonable time period. If Lessor fails to comply with this Paragraph, Lessor shall have materially breached this Agreement, and Lessee may terminate this Agreement and pursue any other remedies available under this Agreement, at law or equity, except as otherwise provided by Paragraph 19 of this Agreement.

(c) Nothing contained in this Agreement shall be construed to prohibit Lessor from permitting additional Lessees or Licensees from erecting, constructing, or operating any equipment on the Land in addition to the Lessee Facilities provided that such additional equipment does not result in a breach of Paragraph 7(b) of this Agreement.

8. **Taxes.** Lessee acknowledges that the Land is currently exempt from both real and personal property taxes and that the addition of the Lessee Facilities may result in the assessment of either or both ad valorem real property taxes and personal property taxes. During the term of this Agreement, Lessee on a current basis shall promptly reimburse Lessor for the full amount of any such taxes paid by Lessor which are directly attributable to the Lessee Facilities. Without limiting the preceding obligations of Lessee, Lessor shall request all taxing authorities to assess separately the Lessee Facilities and to send subsequent tax bills directly to Lessee, and Lessee shall pay such taxes when due before the imposition of any penalties for late payment. Lessee, at its expense, may in good faith contest any such tax assessment. If Lessee fails to pay any amount required by this Paragraph when due, Lessor, in addition to all other remedies available to Lessor, may pay such amount when due and then add such amount, along with any assessed interest or penalties, to the Rent.

9. **Waiver of Lessor's Lien.**

(a) Lessor waives any lien rights it may have concerning the Lessee Facilities which are deemed Lessee's personal property and not fixtures, and Lessee has the right to remove the same at any time without Lessor's consent, provided Lessee promptly repairs any damage to the Land caused by such removal.

(b) Lessor acknowledges that Lessee has entered into a financing arrangement including promissory notes and financial and security agreements for the financing of the Lessee Facilities (the "Collateral") with a third party financing entity (and may in the future enter into additional financing arrangements with other financing entities). In connection therewith, Lessor (i) consents to the installation of the Collateral; (ii) disclaims any interest in the Collateral, as fixtures or otherwise; and (iii) agrees that the Collateral shall be exempt from execution, foreclosure, sale, levy, attachment, or distress for any Rent due or to become due and that such Collateral may be removed at any time without recourse to legal proceedings.

10. **Termination.** This Agreement may be terminated without further liability by either party upon giving the other 30 days prior written notice.

Notwithstanding the above, it is expressly understood that should the Lessee's Facilities impair the operability of the Lessor's public safety radio system, the Lessee shall immediately shut down the Lessee's operation until such time as repairs or modifications to the Lessee's offending equipment can be made. If the Lessee fails to correct the interference after 30 days, the Lessor without further notice may terminate this Lease. Upon any termination or expiration of this Agreement, Lessee shall surrender the Leased Premises to Lessor.

11. **Destruction or Condemnation.** If the Leased Premises or the Lessee's Facilities are damaged, destroyed, condemned or transferred in lieu of condemnation, Lessee may elect to terminate this Agreement as of the date of the damage, destruction, condemnation or transfer in lieu of condemnation by giving notice to Lessor no more than

forty-five (45) days following the date of such damage, destruction, condemnation or transfer in lieu of condemnation. If Lessee chooses not to terminate this Agreement, Rent shall be reduced or abated in proportion to the actual reduction or abatement of Lessee's use of the Facilities.

12. **Insurance.** Lessee, during the term of this Agreement and at Lessee's sole cost and expense, shall procure and maintain on the Lessee Facilities bodily injury and property damage insurance with a combined single limit of at least One Million Dollars (\$1,000,000.00) per occurrence. Such insurance shall insure, on an occurrence basis, against liability of Lessee, its employees and agents arising out of or in connection with Lessee's operation of the Lessee Facilities, all as provided for herein. Lessor, during the term of this Agreement and at Lessor's sole cost and expense, shall continue to maintain with respect to the Land that insurance, if any, maintained by Lessor as of the date of this Agreement. Each party shall be named as an additional insured on the other's policy described in this paragraph, provided that Lessee shall be named as an additional insured on Lessor's policy only to the extent of One Million Dollars (\$1,000,000.00) per occurrence with respect to the Land. Each party shall provide to the other a certificate of insurance evidencing the coverage required by this Paragraph within thirty (30) days of the Commencement Date and subsequently as requested by the other party.

13. **Waiver of Subrogation.** Lessor and Lessee release each other and their respective principals, employees, representatives and agents from any claims for damage to any person or to the Lessee Facilities thereon caused by, or that result from, risks insured against under any insurance policies carried by the parties and in force at the time of any such damage to the extent such claims are covered by proceeds from any such insurance policies and such proceeds are used to pay such claims. Lessor and Lessee shall cause each insurance policy obtained by them to provide that the insurance company waives all right of recovery by way of subrogation against the other in connection with any damage covered by any policy. Neither Lessor nor Lessee shall be liable to the other for any damage caused by fire or any of the risks insured against under any insurance policy required by Paragraph 13 to the extent such damage is covered by proceeds from any such insurance policy and such proceeds are used to remedy such damage.

14. **Assignment and Subletting.** Lessee may not assign or otherwise transfer all or any part of its interest in this Agreement without Lessor's prior written consent; provided, however, that Lessee may assign its interest to its parent company, any subsidiary or affiliate of it or its parent company or to any successor-in-interest or entity acquiring fifty-one percent (51%) or more of its stock or assets, subject to any financing entity's interest, if any, in this Agreement as set forth in Paragraph 9 above. No such assignment will release Lessee from any of its obligations under this Agreement unless Lessor agrees to such release in writing. As a condition to any such assignment, Lessee's assignee shall agree in writing to assume all of Lessee's obligations under this Agreement and to be bound by all terms of this Agreement; provided, however, that Lessee's failure to obtain such written assumption shall not be deemed a default of this Agreement as long as neither Lessee nor any of its assignees permitted by this Paragraph are otherwise in default of any provision of this Agreement. Lessor may assign this Agreement upon written notice

to Lessee, subject to the assignee assuming all of Lessor's obligations herein, including but not limited to, those set forth in Paragraph 9 above. Notwithstanding anything to the contrary contained in this Agreement, Lessee may assign, mortgage, pledge, hypothecate or otherwise transfer without consent its interest in this Agreement to any financing entity, or agent on behalf of any financing entity to whom Lessee (i) has obligations for borrowed money or in respect of guaranties thereof, (ii) has obligations evidenced by bonds, debentures, notes or similar instruments, or (iii) has obligations under or with respect to letters of credit, bankers acceptances and similar facilities or in respect of guaranties thereof.

15. **Warranty of Title and Quiet Enjoyment.** Lessor warrants that: (i) Lessor owns the Land in fee simple and has rights of access thereto and the Land is free and clear of all liens, encumbrances and restrictions; (ii) Lessor has full right to make and perform this Agreement; and (iii) Lessor covenants and agrees with Lessee that upon Lessee paying the Rent and observing and performing all the terms, covenants and conditions on Lessee's part to be observed and performed, Lessee may peacefully and quietly enjoy the Facilities. Lessor agrees to indemnify and hold harmless Lessee from any and all claims on Lessee's leasehold interests arising from the breach or misrepresentation of any of Lessor's warranties contained in this Paragraph.

16. **Repairs.** Lessee shall not be required to make any repairs to the Land unless such repairs (a) shall be necessitated by reason of the default, neglect, or intentional actions of Lessee or its employees, agents, contractors, guests, or invitees or (b) shall be otherwise required by this Agreement. Upon expiration or termination hereof, Lessee shall have sixty (60) days to (a) remove all of the Lessee's Facilities from the Premises, (b) promptly repair any damage to the Land caused by such removal, and (c) restore the Land to the condition in which it existed upon execution hereof, reasonable wear and tear and loss by causes beyond Lessee's control excepted, which obligations shall survive any expiration or termination of this Agreement. If Lessee fails to undertake any of its obligations required by this Paragraph, Lessor, at Lessee's expense, may perform such obligations and Lessee shall promptly reimburse Lessor for all costs incurred by Lessor in connection with such actions. In addition, upon any removal of the Lessee Facilities by Lessor pursuant to this Paragraph, Lessee waives all claims against Lessor for damage to the Lessee Facilities caused by such removal. Any of the Lessee Facilities remaining on the Leased Premises after 60 days from any expiration or termination of this Agreement shall, at Lessor's option, become the property of Lessor.

17. **Hazardous Substances.** Lessee agrees that it will not use, generate, store or dispose of any Hazardous Material on, under, about or within the Land in violation of any law or regulation. Lessor represents, warrants and agrees (i) that neither Lessor nor, to Lessor's knowledge, any third party has used, generated, stored or disposed of, or permitted the use, generation, storage or disposal of, any Hazardous Material on, under, about or within the Land in violation of any law or regulation, and (ii) that Lessor will not, and will not knowingly permit any third party, to use, generate, store or dispose of any Hazardous Material on, under, about or within the Land in violation of any law or regulation. Lessor and Lessee each agree to defend, indemnify, and hold harmless the

other and the other's partners, affiliates, agents and employees against any and all losses, liabilities, claims and/or costs (including reasonable attorneys' fees and costs) arising from any breach by it of any representation, warranty or agreement contained in this Paragraph. As used in this paragraph, "Hazardous Material" shall mean petroleum or any petroleum product, asbestos, any substance known by the state in which the Land is located to cause cancer and/or reproductive toxicity, and/or any substance, chemical or waste that is identified as hazardous, toxic or dangerous in any applicable federal, state or local law or regulation. This Paragraph shall survive the termination of this Agreement.

18. **Liability and Indemnity.** Lessee shall indemnify and hold Lessor harmless from all claims (including attorneys' fees, costs and expenses of defending against such claims) arising from the negligence or willful misconduct of Lessee or Lessee's agents, employees, contractors, guests, invitees, or assigns in or about the Leased Premises or relating to the Lessee Facilities. Lessor shall indemnify and hold Lessee harmless from all claims (including attorneys' fees, costs and expenses of defending against such claims) arising from the negligence or willful misconduct of Lessor or Lessor's agents, employees, contractors, guests, invitees, or assigns in or about the Leased Premises or relating to the Lessee Facilities. Notwithstanding anything to the contrary contained in this Agreement, neither party shall have any obligation to compensate the other for the other's business loss, business interruption, or other consequential damages, regardless of the cause of such damages. The duties described in this Paragraph 18, shall survive termination of this Agreement.

Deleted: 9

19. **Miscellaneous.**

(a) This Agreement constitutes the entire agreement and understanding between the parties, and supersedes all offers, negotiations and other agreements concerning the subject matter contained herein. Any amendments to this Agreement must be in writing and executed by both parties.

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

(c) This Agreement shall be binding on and inure to the benefit of the successors and permitted assignees of the respective parties.

(d) Any notice or demand required to be given herein shall be made by certified or registered mail, return receipt requested, or reliable overnight courier to the address of the respective parties set forth below:

Lessor Tuscola County Controller Lessee Thumb Cellular

440 N. State Street
Caro, Michigan 48723
Attention: 911 Director

82 South Main Street
P.O. Box 650
Pigeon, Michigan 48723

With a Braun Kendrick Finkbeiner,
copy to: Attn: C. Patrick Kaltenbach
4301 Fashion Square Blvd
Saginaw, MI 48603

With a Foster, Swift, P.C.
copy to: Attn: Ron Richards Jr.
313 S. Washington Square
Lansing, MI 48933

Deleted: Silver & Van Essen, P.C.

Deleted: copy to:

Deleted: 116 Ottawa N.W.

Deleted: . copy to:¶

Deleted: Grand Rapids, Michigan
49503

Lessor or Lessee may from time to time designate any other address for this purpose by written notice to the other party. All notices hereunder shall be deemed received upon actual receipt.

(e) This Agreement shall be governed by the laws of the State of Michigan.

(f) Lessor acknowledges that a Memorandum of Agreement in the form annexed hereto as **Exhibit D** will be recorded by Lessee in the official records of the County where the Land is located. In the event the Land is encumbered by a mortgage or deed of trust, Lessor agrees to obtain and furnish to Lessee a non-disturbance and attornment instrument for each such mortgage or deed of trust.

Comment [RDR5]: Need to finalize Exhibit D.

(g) Lessee may obtain title insurance on its interest in the Premises. Lessor shall cooperate by executing reasonable documentation required by the title insurance company.

(h) In any case where the approval or consent of one party hereto is required, requested or otherwise to be given under this Agreement, such party shall not unreasonably delay or withhold its approval or consent.

(i) All Riders and Exhibits annexed hereto form material parts of this Agreement.

(j) This Agreement may be executed in duplicate counterparts, each of which shall be deemed an original.

(k) The waiver by either party of any provision or the breach of any provision of this Agreement shall not operate or be construed as a subsequent waiver. No waiver shall be valid unless in writing and signed by the party giving the waiver.

20. **Lighting.** If required by the Federal Aviation Administration (FAA), Lessee will provide obstruction lighting on the Tower that is approved by the FAA and as may be changed and approved by the FAA. Lessee further agrees to maintain the Tower and the Tower's aviation obstruction marking and lighting equipment in accordance with the obstruction lighting and marking requirements designated by the FCC on the Lessee's radio license, and that compliance with such requirement shall be in the manner prescribed by the FCC rules and policies.

21. **Landscaping.** As soon as possible after Tower erection, Lessee at its expense shall have the area around the Tower and the Building landscaped in a manner reasonably acceptable to Lessor. Lessee, at its expense, shall maintain such landscaping in a good and neat condition during the Term and all Renewal Terms of this Agreement, including but not limited to, replacing any plants in connection with such landscaping as necessary, provided, however, that Lessee shall not have any obligation to water such landscaping and provided that Lessee shall not be obligated to replace any plants in connection with such landscaping which require replacement through any actions of Lessor or any of its agents, employees, guests, invitees, or Lessees.

22. **Construction Liens.** Lessee, within 30 days from receiving notice of filing, shall discharge all construction or mechanics' liens filed against the Land because of any work done or claimed to have been done on behalf of Lessee or for any materials furnished to or claimed to have been furnished to Lessee. The bonding off of such a lien by a reputable casualty or insurance company reasonably satisfactory to Lessor shall be deemed to be the equivalent of the discharge of any such lien. Lessee shall indemnify and hold Lessor harmless from any costs incurred by Lessor, including court costs and reasonable attorney fees, in connection with any lien described in this Paragraph.

23. **Fencing.** Lessee shall install fencing around the newly-erected Tower to preclude non-authorized access to the Tower.

24. **Removal of Existing Tower.** Lessee shall disassemble and remove the existing tower that is located on the Land by September 1, 2012. The land upon which the existing Tower resides will be restored to the condition of existing contiguous land.

LESSOR

LESSEE

Tuscola County, a Michigan municipal Corporation

Thumb Cellular Limited Partnership

By _____

By _____

Title: _____

Title: _____

Date: _____

Date: _____

Formatted: Centered

EXHIBIT A

Formatted: Font: Bold

THE LAND DESCRIPTION

Formatted: Font: Bold

EXHIBIT B

THE LEASED PREMISES DESCRIPTION

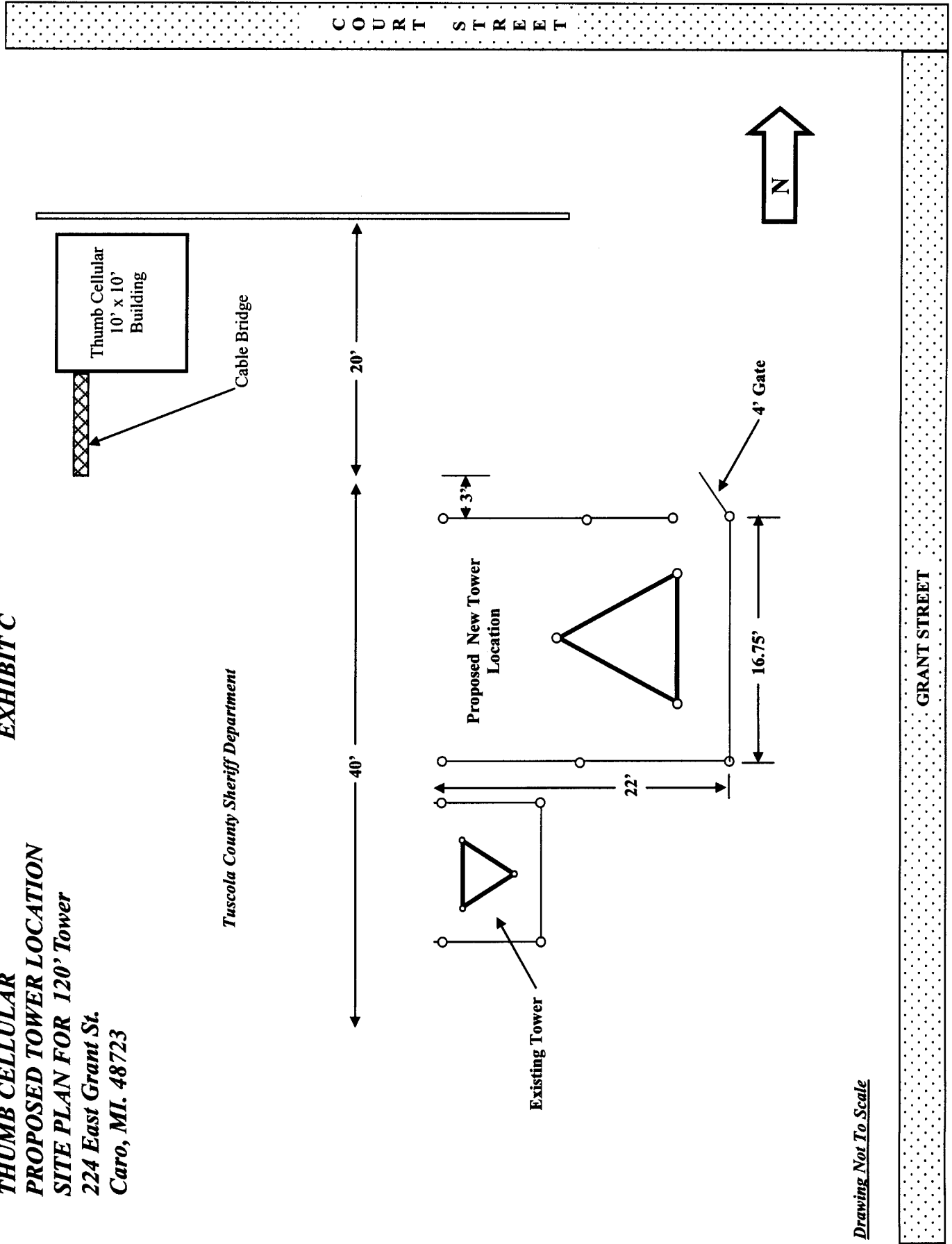
EXHIBIT C

LESSEE'S FACILITIES

EXHIBIT D
MEMORANDUM OF AGREEMENT FORM

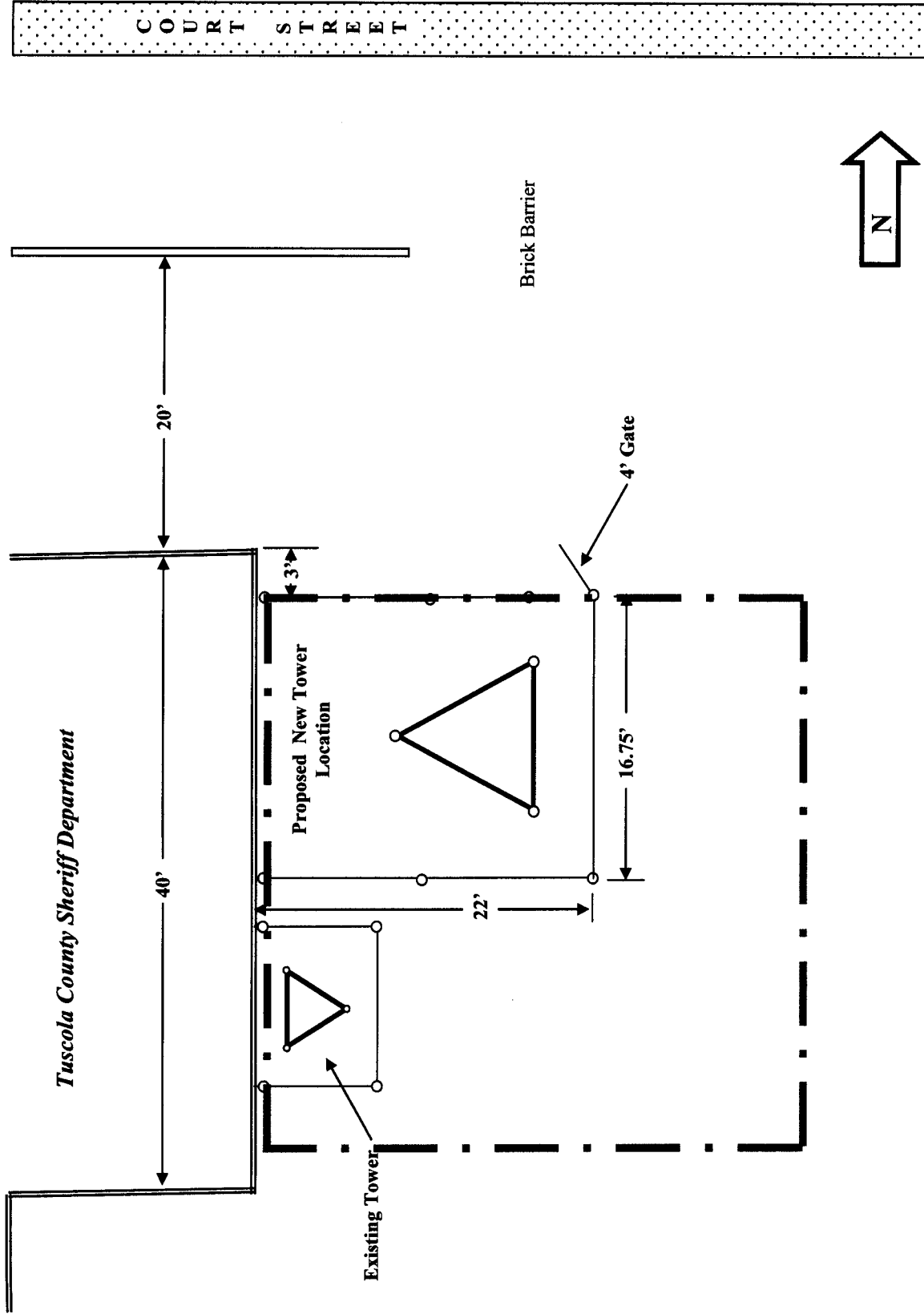
**THUMB CELLULAR
PROPOSED TOWER LOCATION
SITE PLAN FOR 120' Tower
224 East Grant St.
Caro, MI. 48723**

EXHIBIT C



Drawing Not To Scale

EXHIBIT B



Tuscola County Sheriff Department

C O U R T S T R E E T

Brick Barrier

Proposed New Tower Location

Existing Tower

4' Gate

N

GRANT STREET

Drawing Not To Scale

DESIGNED APPURTENANCE LOADING

TYPE	ELEVATION	TYPE	ELEVATION
up to 10' lightning rod	125	(2) Powerwave XU-800-65-15I-6-D	100
Beacon Lighting	121.5	(2) Powerwave XU-800-65-15I-6-D	100
typical 10' whips (7/8" Coax)	120	(2) Kathrein 800-10734 ((6) 7/8" Coax)	100
1' sidearm	120	(2) Kathrein 800-10734	100
Dish Mount	118	(2) Kathrein 800-10734	100
4' grid dish (RG-8)	118	(3) 13' gate mounts	100
Dish Mount	106	VLF Long Wire Antenna (RG-8)	76
4' grid dish (RG-8)	106	yagi ant. (medium) (RG-11)	60
(2) Powerwave XU-800-65-15I-6-D ((6) 7/8" Coax)	100	typical 20' whips (1/2" Coax)	56
		3' sidearms	46

MATERIAL STRENGTH

GRADE	Fy	Fu	GRADE	Fy	Fu
A572-50	50 ksi	65 ksi	A36	36 ksi	58 ksi

TOWER DESIGN NOTES

1. Tower is located in Tuscola County, Michigan.
2. Tower designed for Exposure C to the TIA-222-G Standard.
3. Tower designed for a 90 mph basic wind in accordance with the TIA-222-G Standard.
4. Tower is also designed for a 40 mph basic wind with 0.75 in ice. Ice is considered to increase in thickness with height.
5. Deflections are based upon a 60 mph wind.
6. Tower Structure Class II.
7. Topographic Category 1 with Crest Height of 0.00 ft
8. Tower designed for step bolts.
9. Tower designed for feedline to be mounted on Clip-On Waveguide ladders per feedline distribution.
10. All bolted legs and/or weld together tower sections have flange connections.
11. Structural connections use galvanized A325 bolts and/or equivalent with nuts and/or nut locking devices. Installation per TIA/EIA-222 and AISC Specifications.
12. Tower members are "hot dipped" galvanized in accordance with ASTM A123 and ASTM A153 Standards.
13. All structural steel welding will be in compliance with AWS D1.1 latest revision and fabricated with ER-70S-6 electrodes.
14. Final design may incorporate structural changes to improve performance, efficiency, and keep pace with changing industry standards, provided any such changes will not adversely affect the ability to use the product as intended.
15. Tower structure to be fabricated in accordance with ***Tower Innovations Quality Policy Manual***
16. TOWER RATING: 89.5%

ALL REACTIONS ARE FACTORED

MAX. CORNER REACTIONS AT BASE:

DOWN: 97 K
 UPLIFT: -87 K
 SHEAR: 7 K

AXIAL
 34 K

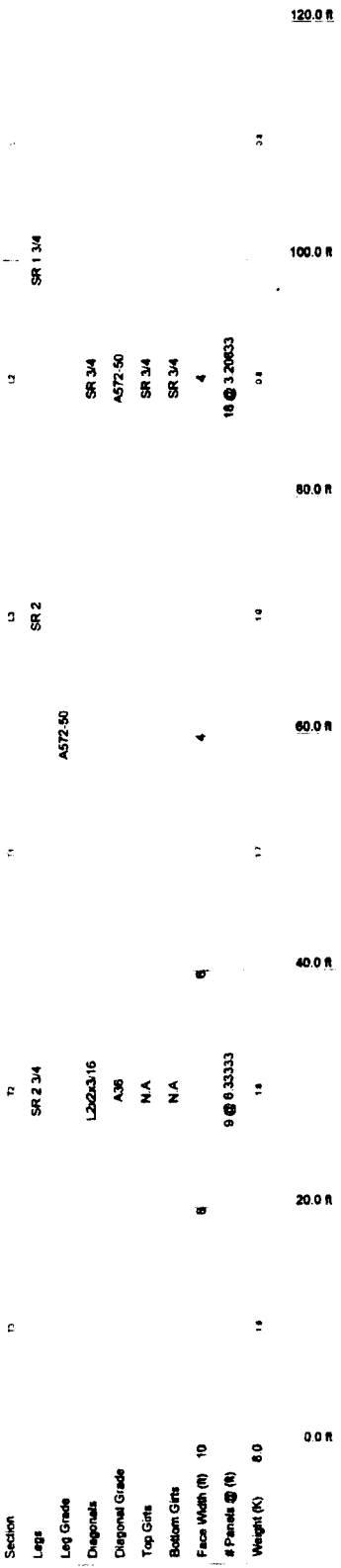
SHEAR 3 K MOMENT 240 kip-ft

TORQUE 0 kip-ft
 40 mph WIND - 0.7500 in ICE

AXIAL
 14 K

SHEAR 12 K MOMENT 803 kip-ft

TORQUE 2 kip-ft
 REACTIONS - 90 mph WIND




 www.towerinnovations.net	Tower Innovations 2855 Highway 261 Newburgh, IN 47630 Phone: (812) 863-0595 FAX: (812) 583-6652	Job: 111031-03ar0 - 120' Self Supporting Tower Project: Caro, MI Client: As Req'd Code: TIA-222-G Path: H:\V-Engineering\2011\Design\111031-03ar0_120SS_MM.dwg	Drawn by: Eng. Dept. Date: 11/01/11 Scale: NTS App'd: _____ Dwg No: E-1
---	--	---	---

EXHIBIT C1

Shelter: 10 x 10 Enviro Building (north parking lot, 207 E. Grant St.)

Tower Structure: 120' Self supporting tower

Foundation Dimensions: 16' pad width

Pad thickness 1.5'

Depth below grade 6'

Depth of backfill 4.5'

Pier Diameter 2'

EXHIBIT C2

Quantity of Antennas (60)	3	3
Type:	4' Panel	4' Panel
Manufacturer:	Powerwave	Kathrein
Model:	7263.04	840-21210
Mounting RAD center:	100'	100'
Coaxial Lines total (12)	(6) 7/8"	(6) 7/8"

MEMORANDUM

TO: MICHAEL HOAGLAND
FROM: PAT KALTENBACH
DATE: FEBRUARY 13, 2012
SUBJECT: COMMUNICATION LEASE REVIEW

<u>Paragraph</u>	<u>Comment</u>
1	<p>The breadth of the easement granted could be appropriately limited by adding the phrase "related to the use described within Paragraph 2 hereof" at the end of the third sentence of the first paragraph.</p> <p><u>CHANGE NOT MADE. THE EASEMENT IS BROADER THAN JUST THE USES LISTED IN PARAGRAPH 2. THE EASEMENT ALSO INCLUDES RIGHTS TO ACCESS THE LEASED PREMISES TO REPAIR AND MAINTAIN THE APPROVED EQUIPMENT, AND TO INGRESS AND EGRESS FOR THOSE PURPOSES AND TO USES LISTED IN PARAGRAPH 2. SO THIS PROPOSED RESTRICTION IS NOT APPROPRIATE.</u></p> <p>There appears to be a typographical error within the fourth sentence of this paragraph, where "at" should instead be "as". <u>OK. CHANGE MADE.</u></p>
5	<p>It should be clarified within the fourth sentence of this paragraph that the thirteen air cards will be available to the County at the \$325 monthly rate throughout the initial Term and any Renewal Term. <u>OK. CHANGE MADE.</u></p> <p>It may also be worthwhile to explore further whether a more favorable monthly rental amount could be negotiated.</p> <p><u>CHANGE NOT MADE. THUMB CELLULAR BELIEVES THE TERMS IN THE LEASE, INCLUDING RENT, ARE APPROPRIATE AS PRESENTED.</u></p>
7(b)	<p>The restriction against construction on contiguous parcels appears to be overly broad and could be made more appropriate by limiting the applicability of the sub-paragraph to the area within a specified distance of the boundary with the Leased Premises.</p> <p><u>CHANGE NOT MADE. DISTANCE IS NOT A SUITABLE QUALIFIER SINCE IT IS FREQUENCY – NOT DISTANCE – OF THE OTHER EQUIPMENT THAT CREATES INTERFERENCE. PLUS, THE CONCERN IN THIS COMMENT APPEARS ADDRESSED IN SECTION 7(c).</u></p>

10 Although paragraph 4 states that the Term is 5 years, paragraph 10 effectively makes the Lease month-to-month. The County may wish to consider restricting the Lessee's ability to terminate beyond the 30 day notice requirement provided in this paragraph.
CHANGE NOT MADE. LEASE TERM IS 5 YEARS.

13 The County may wish to consider eliminating the waiver of subrogation provided within this paragraph. Obtaining such a waiver from the insurer may not be possible without additional cost to the County, and may not be in the best interest of the County. By way of example, if the tower collapsed and the County's insurer paid claims to injured individuals, the current language prohibits the County's insurer from seeking reimbursement from Lessee or Lessee's insurer.
CHANGE NOT MADE. WAIVER OF SUBROGATION REMAINS AND IS DEEMED PROPER IN THESE CIRCUMSTANCES.

14 To make clear that the Lessee may not add additional users of the tower without the County's written permission, the word "sublease," should be added before the word "assign" in the first sentence of paragraph 14.
CHANGE NOT MADE. THIS IS THUMB CELLULAR'S TOWER, SO WE ARE NOT INCLINED TO AGREE TO ASK THE COUNTY FOR PERMISSION TO ADD ADDITIONAL TOWERS.

18 A typographical error appears to exist within the last sentence of this paragraph, where "19" should instead be "18".
OK. CHANGE MADE.

19(d) The address for the recipient of a courtesy copy of any notice to the County should be changed to:

Braun Kendrick Finkbeiner
Attn: C. Patrick Kaltenbach
4301 Fashion Square Boulevard
Saginaw, MI 48603

OK. CHANGE MADE.

Formatted: German (Germany)

Exhibits It appears that Exhibits A and B are yet forthcoming, but should be reviewed prior to execution of the Agreement.
EXHIBITS WILL BE DISCUSSED AND DRAFTS SUBMITTED SHORTLY FOR THE COUNTY'S REVIEW.