



Document 2013 898

Book 2013 Page 898 Type 06 017 Pages 18  
Date 3/28/2013 Time 10:12 AM  
Rec Amt \$92.00

INDX ✓  
ANNO ✓  
SCAN  
CHEK

LISA SMITH, COUNTY RECORDER  
MADISON COUNTY IOWA

This document was prepared by:  
Matthew S. Raczkowski, Esq.  
Dykema Gossett PLLC  
10 South Wacker Drive, Suite 2300  
Chicago, Illinois 60606  
(312) 627-2594

✓ After recording return to:  
WHEN RECORDED RETURN TO:  
~~OLD REPUBLIC TITLE~~  
ATTN: POST CLOSING  
530 SOUTH MAIN STREET I  
SUITE 1031  
AKRON, OH 44311  
01-13006776-03R

RECORD 1ST

**GRANT OF EASEMENT AND ASSIGNMENT OF LEASE**

Facilities: BUN 810849/ IA036585  
Street Address: 3390 PERU ROAD  
City: TRURO  
County: MADISON  
State: IOWA

between

Global Signal Acquisitions IV LLC,  
a Delaware limited liability company ("Grantee")

and

Thomas F. Kivell and Tamara J. Kivell, husband and wife as joint tenants with full rights of survivorship and not as tenants in common (collectively, the "Grantor")

BUN 810849  
IA036585  
CHICAGO3768651.6  
IDMSR - 101460\1322

**GRANT OF EASEMENT AND ASSIGNMENT OF LEASE**

**THIS GRANT OF EASEMENT AND ASSIGNMENT OF LEASE** (the "Easement") is made effective this 18<sup>th</sup> day of March, 2013, by and between Thomas F. Kivell and Tamara J. Kivell, husband and wife as joint tenants with full rights of survivorship and not as tenants in common (collectively, the "Grantor") and Global Signal Acquisitions IV LLC, a Delaware limited liability company ("Grantee").

**1. Description of Grantor's Property.** Grantor is the owner of that certain land and premises in County of Madison, State of Iowa, by grant or conveyance described in the Public Records of Madison County, Iowa at Document Number 001070 (Book 2003, Page 1070), the description of said property is attached hereto as Exhibit "A" (hereinafter "Grantor's Property").

**2. Description of Easement.** For good and valuable consideration, the actual consideration paid or to be paid in connection with this Easement being One Hundred Ninety Thousand Dollars (\$190,000.00), the receipt and sufficiency of which the parties hereby acknowledge, Grantor grants and conveys unto Grantee, its successors and assigns, an exclusive easement for the use of a portion of Grantor's Property, that portion being shown in the Site Plan attached hereto as Exhibit "B" and described by metes and bounds in Exhibit "C" attached hereto (the "Easement Area"). The Easement Area shall also include (a) a right-of-way for ingress and egress, seven (7) days per week, twenty-four (24) hours per day, on foot or motor vehicle, including trucks, along a right-of-way together with the right to install, replace and maintain above and below ground utility wires, poles, cables, fiber, conduit and pipes as more fully shown on Exhibit "B" and described on Exhibit "C"; and (b) any portion of Grantor's Property on which communications facilities exist on the date of this Easement (even if not described in the Lease Agreement as that term is defined in Section 3 of this Easement). In the event Grantee or any public utility is unable or unwilling to use the easement described in subsection (a) above, Grantor hereby agrees to grant an additional right-of-way, in form satisfactory to Grantee, to Grantee or at Grantee's request, directly to a public utility, at no cost and in a location acceptable to Grantee.

**3. Assignment of Lease Agreement.** The parties hereby acknowledge that certain Site Lease with Option dated September 24, 1996, currently by and between T-Mobile USA, Inc., a Delaware corporation, successor in interest to Western PCS I Corporation, a Delaware corporation, as lessee ("Lessee"), and Grantor, as the successor in title to Scotty W. Rogers, a single man, as lessor (the "Lease Agreement"), as evidenced by that certain Memorandum of Lease recorded on November 20, 1996 as Document Number 1400 (Book 43, Page 716) in the real property records of Madison County, Iowa ("Memorandum of Lease"), which Lease Agreement and recordation of Memorandum of Lease are incorporated herein by reference and made a part of this Easement for all purposes. As used herein, the term "Lease Agreement" shall include any amendments or addendums to said agreement. Grantor warrants that, to the best of Grantor's knowledge, Grantor has delivered to Grantee true and correct copies of the Lease Agreement. To Grantor's best knowledge, no party to the Lease Agreement has breached or is in default of their respective obligations under the Lease Agreement and no party has requested or discussed a modification of the Lease Agreement (including a reduction in rent) or termination

now or in the future. Grantor hereby assigns to Grantee Grantor's right, title and interest in the Lease Agreement, including but not limited to: (a) all rents, security deposits and other monies due or to become due to Grantor pursuant to the Lease Agreement; (b) the right to amend any and all terms of the Lease Agreement; (c) the right to extend the length of the term of the Lease Agreement; and (d) the right to increase the size of the area subject to the Lease Agreement so long as any such expansion is within the Easement Area. Grantee assumes the obligations and liabilities of Grantor, as lessor under the Lease Agreement accruing after the date of this Easement, but only to the extent that such obligations and liabilities are not the responsibility of Grantor pursuant to the terms of this Easement.

**4. Grantor's Obligations with Respect to the Lease Agreement.** From and after the date hereof and continuing until this Easement is terminated, Grantor shall not, other than to the extent required herein or requested in writing by Grantee, exercise or enjoy any of the rights or remedies of the lessor under the Lease Agreement. Grantor shall notify Grantee in writing within five (5) calendar days of Grantor's receipt of any payment in respect of rent, income, charges, interest, penalties, fees and other revenue payable by the Lessee, and Grantor shall forward such payment to Grantee within said five (5) day period. In the event that Grantor fails to forward to Grantee any payment as provided hereunder, Grantee shall have the right to collect such payment from Grantor together with interest on such payment at the greater of (i) the rate provided by statute where the Easement is located or (ii) 12% per annum (calculated from the date five (5) days after Grantor receives such payment until Grantor pays such sums due to Grantee) and shall have a lien against Grantor's Property with respect thereto. Grantor shall, however, continue to pay, perform, and otherwise discharge all obligations and liabilities of the lessor under the Lease Agreement with respect to Grantor's Property, whether arising prior to, on, or after the date hereof. Without limiting the generality of the foregoing, Grantor shall: (a) fully, faithfully and timely perform all covenants to be performed by the Grantor under the Lease Agreement; (b) promptly pay all mortgages, loans, liens, judgments and all real estate, personal income and other taxes that may become due with respect to Grantor's Property; (c) promptly execute, without any additional consideration, all letters of authorizations, permits, applications or other documents required for Grantee to fully enjoy the Easement or the Lease Agreement; (d) not suffer or allow any breach, default or event of default by the Grantor to occur under the Lease Agreement; and (e) not take any action for the purpose of, or with the effect of, inducing or causing the Lessee not to exercise a right to renew or extend the Lease Agreement. Failure to comply, in whole or in part with this Section shall constitute a default by Grantor of the terms hereof and entitle Grantee to the remedies provided in Section 14 of this Easement.

**5. Permitted Uses.** The Easement Area shall be used for constructing, maintaining and operating communications facilities and energy generation facilities for energy to be used on and off the Easement Area, including without limitation, tower structures, antenna support structures, cabinets, meter boards, buildings, antennas, cables, equipment and uses incidental thereto including those necessary for Grantee's compliance with its obligations under the Lease Agreement (the "Permitted Use"). No facilities or structures installed or constructed on the Easement Area by Grantee shall constitute a fixture, but shall remain the personal property of Grantee. Grantor acknowledges that Grantor has no right to object to or approve any improvements to be constructed on the Easement Area. If requested by Grantee, Grantor will execute, at Grantee's sole cost and expense, all documents required by any governmental

authority in connection with any development of, or construction on, the Easement Area, including documents necessary to petition the appropriate public bodies for certificates, permits, licenses and other approvals deemed necessary by Grantee in Grantee's absolute discretion to utilize the Easement Area for the Permitted Use. Grantor agrees to be named applicant if requested by Grantee. In furtherance of the foregoing, Grantor hereby appoints Grantee as Grantor's attorney-in-fact to execute all land use applications, permits, licenses and other approvals on Grantor's behalf. Grantor shall be entitled to no further consideration with respect to any of the foregoing matters. Grantor shall take no action that would adversely affect the status of the Easement Area with respect to the Permitted Use.

**6. Term of Easement.** The term of the Easement granted herein (the "Term") shall be for a period of one hundred (100) years commencing on the date hereof and terminating on the one hundredth (100<sup>th</sup>) anniversary hereof, unless Grantee earlier terminates this Easement as provided in Section 7 hereof.

**7. Grantee's Right to Terminate.** Grantee shall have the unilateral right, but not the obligation, to terminate this Easement for any reason. Upon termination of this Easement, (i) if the Lease Agreement is then in effect, the rights and obligations as lessor under the Lease Agreement shall revert to Grantor and (ii) the parties shall have no further obligations to each other; provided, however, that if Grantee installed any buildings, structures or equipment upon the Easement Area, Grantee shall, within a reasonable time, remove all of its building(s), tower and above ground property and restore the surface of the Easement Area to its original condition prior to any such installment, reasonable wear and tear excepted. Any buildings, structures or equipment installed or constructed upon the Easement Area by Lessee, or those holding by, through and under Lessee, shall be subject to the terms and conditions of the Lease Agreement. Said termination shall be effective upon Grantee providing written notice of termination to Grantor.

**8. Hazardous Materials.**

- (a) For purposes of this Easement, the term "Hazardous Materials" means any substance which is (i) designated, defined, classified or regulated as a hazardous substance, hazardous material, hazardous waste, pollutant or contaminant under any Environmental Law, as currently in effect or as hereafter amended or enacted, (ii) a petroleum hydrocarbon, including crude oil or any fraction thereof and all petroleum products, (iii) PCBs, (iv) lead, (v) asbestos, (vi) flammable explosives, (vii) infectious materials, or (viii) radioactive materials. "Environmental Law(s)" means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. Sections 9601, et seq., the Resource Conservation and Recovery Act of 1976, 42 U.S.C. Sections 6901, et seq., the Toxic Substances Control Act, 15 U.S.C. Sections 2601, et seq., the Hazardous Materials Transportation Act, 49 U.S.C. 5101, et seq., and the Clean Water Act, 33 U.S.C. Sections 1251, et seq., as said laws have been supplemented or amended to date, the regulations promulgated pursuant to said laws and any other federal, state or local law, statute, rule, regulation or ordinance which regulates or proscribes the use, storage, disposal, presence, clean-up, transportation or release or threatened release into the environment of Hazardous Materials.

- (b) Grantee shall not (either with or without negligence) cause or permit the use, storage, generation, escape, disposal or release of any Hazardous Materials in any manner not sanctioned by law. In all events, Grantee shall indemnify and hold Grantor harmless from any and all claims, damages, fines, judgments, penalties, costs, liabilities or losses (including, without limitation, any and all sums paid for settlement of claims, attorneys' fees, and consultants' and experts' fees) arising from the presence or release of any Hazardous Materials on the Easement Area if caused by Grantee or persons acting under Grantee.
- (c) Grantor shall not (either with or without negligence) cause or permit the use, storage, generation, escape, disposal or release of any Hazardous Materials in any manner not sanctioned by law. In all events, Grantor shall indemnify and hold Grantee harmless from any and all claims, damages, fines, judgments, penalties, costs, liabilities or losses (including, without limitation, any and all sums paid for settlement of claims, attorneys' fees, and consultants' and experts' fees) arising from the presence or release of any Hazardous Materials on Grantor's Property unless caused by Grantee or persons acting under Grantee. Grantor shall execute such affidavits, representations and the like from time to time as Grantee may reasonably request concerning Grantor's best knowledge and belief as to the presence of Hazardous Materials on Grantor's Property.
- (d) To Grantor's knowledge, neither the Easement Area nor Grantor's Property is in violation of or subject to any existing, pending, or threatened investigation or inquiry by any governmental authority or subject to any remedial obligations under any applicable laws pertaining to Hazardous Materials.

9. **Insurance.** At all times, Grantee, at its sole expense, shall obtain and keep in force insurance which may be required by any federal, state or local statute or ordinance of any governmental body having jurisdiction in connection with the operation of Grantee's business upon the Easement Area.

10. **Maintenance.** Grantor shall maintain the Grantor's Property in a good and safe condition except to the extent maintenance is the obligation of the Lessee under the Lease Agreement.

11. **Removal of Obstructions.** Grantee has the right to remove obstructions, including but not limited to vegetation, which may encroach upon, interfere with or present a hazard to Grantee's or Lessee's use of the Easement Area. Grantee shall be responsible for disposing of any materials related to the removal of obstructions.

12. **Taxes.** Grantor acknowledges and agrees that a portion of the Purchase Price is for and in consideration of the continuing obligation of Grantor to pay, on or before the due date all present and future real property taxes, transfer taxes, penalties, interest, roll-back or additional taxes, sales and use taxes and all other fees and assessments, regardless of the taxing methods that are attributable to Grantor's Property. Grantee agrees to reimburse Grantor the real property taxes attributable to the Easement Area, provided they are not already paid pursuant to the Lease Agreement. Grantor shall provide a copy of all tax bills and proof of payment of said tax bills to

Grantee. In the event that Grantor fails to pay all taxes on Grantor's Property prior to such taxes becoming delinquent, Grantee may, at its option, pay such taxes (the "Delinquent Taxes") and Grantee shall have the right to collect the Delinquent Taxes from Grantor together with interest on the Delinquent Taxes at the greater of (i) the rate provided by statute where the Easement is located or (ii) 12% per annum (calculated from the date Grantee pays the Delinquent Taxes until Grantor repays such sums due to Grantee) and shall have a lien against Grantor's Property with respect thereto. Failure of Grantor to comply, in whole or in part with this Section shall constitute a default by Grantor of the terms hereof and entitle Grantee to the remedies provided in Section 14 of this Easement.

**13. Waiver of Subrogation.** The parties hereby waive any and all rights of action for negligence against the other which may hereafter arise on account of damage to the Easement Area or any other portion of Grantor's Property, including improvements and personal property located thereon, resulting from any fire or other casualty of the kind covered by property insurance policies with extended coverage regardless of whether or not, or in what amount, such insurance is now or hereafter carried by the parties.

**14. Default.** The following shall constitute events of default by Grantor: (a) Grantor's failure to comply with any portion of this Easement; (b) failure by Grantor to forward to Grantee any payment as required in Section 4; (c) failure by Grantor to pay taxes as required in Section 12 of this Easement; (d) failure to timely pay any mortgages, loans, liens or judgments on the Grantor's Property; (e) a default of the Lease Agreement, the cure of which is solely or partially within the control of Grantor; and/or (f) any agreement, act or omission of Grantor resulting in, or likely to result in, the termination or expiration of the Lease Agreement or any other lease over the Easement Area or any portion thereof (each a "Default"). Grantee shall give Grantor written notice of a Default. After receipt of such written notice, Grantor shall have ten (10) days in which to cure any monetary Default and fifteen (15) days in which to cure any non-monetary Default. Grantor shall have a reasonable extended period as may be required beyond the fifteen (15) day cure period to cure any non-monetary Default if the nature of the cure is such that it requires additional time to cure, and Grantor commences the cure within the fifteen (15) day period and thereafter continuously and diligently pursues the cure to completion. In the event that Grantor is in default beyond the applicable period set forth above, Grantee may, at its option (i) terminate this Easement and be relieved from all further obligations under this Easement; (ii) perform the obligation(s) of Grantor in which case any expenditures made by Grantee in so doing shall be deemed paid for the account of Grantor and Grantor agrees to reimburse Grantee for said expenditures upon demand; (iii) take any actions that are consistent with Grantee's rights; (iv) sue for injunctive relief, specific performance, and damages; or (v) set-off such amounts expended against any amounts due to Grantor. In the event that any sums expended by Grantee pursuant to this Easement are not reimbursed by Grantor within thirty (30) days of demand as provided hereunder, Grantee shall have the right to collect such amounts from Grantor together with interest on such amounts at the greater of (i) the rate provided by statute where the Easement is located or (ii) 12% per annum (calculated from date such amounts are expended until Grantor pays such sums due to Grantee) and shall have a lien against Grantor's Property with respect thereto. Grantor grants Grantee a lien against Grantor's Property to secure its obligations to repay Grantee for any sums expended by Grantee pursuant to this Section 14.

15. **Limitation on Damages.** In no event shall Grantee be liable to Grantor for consequential, indirect, speculative or punitive damages in connection with or arising from this Easement, the Permitted Use or the Easement Area.

16. **Recording.** Grantor acknowledges that Grantee intends to record this Easement, or a memorandum of this Easement, with the appropriate recording officer upon execution of this Easement. Grantor acknowledges that Grantee may record a subsequent memorandum of this Easement within two years of the date of this Easement if, in Grantee's sole discretion, Grantee desires to record a more accurate description of the Easement Area. Grantor agrees to fully cooperate in any subsequent recordings without additional consideration.

17. **Hold Harmless.** Grantor hereby indemnifies, holds harmless, and agrees to defend Grantee against all damages asserted against or incurred by Grantee by reason of, or resulting from: (a) the breach by Grantor of, any representation, warranty, or covenant of Grantor contained herein or (b) any negligent act or omission of Grantor, excepting however such damages as may be due to or caused by the acts of Grantee or its agents. Grantee hereby indemnifies, holds harmless, and agrees to defend Grantor against all damages asserted against or incurred by Grantor by reason of, or resulting from: (a) the breach by Grantee of any representation, warranty, or covenant of Grantee contained herein or (b) any negligent act or omission of Grantee, excepting however such damages as may be due to or caused by the acts of Grantor or its agents.

18. **Grantor's Covenant of Title.** Grantor covenants: (a) Grantor is seized of fee simple title to the Grantor's Property of which the Easement Area is a part and has the right and authority to grant this Easement; (b) that this Easement is and shall be free and clear of all liens, claims, encumbrances and rights of third parties of any kind whatsoever; (c) subject to the terms and conditions of this Easement, Grantee shall have quiet possession, use and enjoyment of the Easement Area; (d) there are no aspects of title that might interfere with or be adverse to Grantee's interests in and intended use of the Easement Area; and (e) that Grantor shall execute such further assurances thereof as may be required.

19. **Non-Interference.** From and after the date hereof and continuing until this Easement is terminated (if ever), Grantor shall not permit (a) the construction, installation or operation of any communications facilities that emit radio frequencies on Grantor's Property other than communications facilities constructed, installed and/or operated on the Easement Area pursuant to this Easement or the Lease Agreement or (b) any condition on Grantor's Property which interferes with the Permitted Use. Each of the covenants made by Grantor in this Section 19 is a covenant running with the land for the benefit of the Easement Area and shall be binding upon Grantor and each successive owner of any portion of Grantor's Property and upon each person having any interest therein derived through any owner thereof.

20. **Eminent Domain.** If the whole or any part of the Easement Area shall be taken by right of eminent domain or any similar authority of law, the entire award for the value of the Easement Area and improvements so taken shall belong to Grantee.

21. **Grantor's Property.** Grantor shall not do or permit anything that will interfere with or negate any special use permit or approval pertaining to the Easement Area or cause any

communications or energy facilities on the Easement Area to be in nonconformance with applicable local, state, or federal laws. Grantor covenants and agrees that it shall not subdivide the Grantor's Property if any such subdivision will adversely affect the Easement Area's compliance (including any improvements located thereon) with applicable laws, rules, ordinances and/or zoning, or otherwise adversely affects Grantee's ability to utilize Grantor's Property for the Permitted Use. Grantor may initiate or consent to changes in the zoning of Grantor's Property so long as said zoning changes do not prevent or limit Grantee from using the Easement Area for the Permitted Use.

**22. Entire Agreement.** Grantor and Grantee agree that this Easement contains all of the agreements, promises and understandings between Grantor and Grantee. No verbal or oral agreements, promises or understandings shall be binding upon either Grantor or Grantee in any dispute, controversy or proceeding at law. Any addition, variation or modification to this Easement shall be void and ineffective unless made in writing and signed by the parties hereto.

**23. Construction of Document.** Grantor and Grantee acknowledge that this document shall not be construed in favor of or against the drafter and that this document shall not be construed as an offer until such time as it is executed by one of the parties and then tendered to the other party.

**24. Applicable Law.** This Easement and the performance thereof shall be governed, interpreted, construed and regulated by the laws of the State where the Easement is located. The parties agree that the venue for any litigation regarding this Easement shall be the county in which the Easement Area is located.

**25. Notices.** All notices hereunder shall be in writing and shall be given by (a) established express delivery service which maintains delivery records, (b) hand delivery, or (c) certified or registered mail, postage prepaid, return receipt requested. Notices may also be given by facsimile transmission, provided that the notice is concurrently given by one of the above methods. Notices are effective upon receipt, or upon attempted delivery if delivery is refused or if delivery is impossible because of failure to provide reasonable means for accomplishing delivery. The notices shall be sent to the parties at the following addresses:

If to Grantor:

Thomas F. Kivell and Tamara J. Kivell  
3388 Peru Road  
Truro, IA 50257

If to Grantee:

Global Signal Acquisitions IV LLC  
E. Blake Hawk, General Counsel  
Attn: Legal - Real Estate Dept.  
2000 Corporate Drive  
Canonsburg, PA 15317



26. **Assignment.** The parties hereto expressly intend that the easements granted herein shall be easements in gross, and as such, are transferable, assignable, inheritable, divisible and apportionable. Grantee has the right, within its sole discretion, to sell, assign, lease, convey, license or encumber any of its interest in the Easement Area without consent. In addition, Grantee has the right, within its sole discretion, to grant sub-easements over any portion of the Easement Area without consent. In connection with the foregoing, Grantor irrevocably constitutes and appoints Grantee as its true and lawful attorney-in-fact, with full power of substitution and resubstitution to negotiate and consummate subleases, licenses, sublicense or any other agreements for the use or occupancy of the Easement Area. Grantor ratifies and acknowledges the right of Grantee to enter into such agreements and Grantor will be bound by such agreements throughout and after any termination of this Easement and acknowledges that all such agreements entered into by Grantee shall survive any termination of this Easement. Any such sale, assignment, lease, license, conveyance, sub-easement or encumbrance shall be binding upon the successors, assigns, heirs and legal representatives of the respective parties hereto. An assignment of this Easement shall be effective upon Grantee sending written notice thereof to Grantor at Grantor's mailing address stated above and shall relieve Grantee from any further liability or obligation accruing hereunder on or after the date of the assignment.

27. **Partial Invalidity.** If any term of this Easement is found to be void or invalid, then such invalidity shall not affect the remaining terms of this Easement, which shall continue in full force and effect.

28. **Mortgages.** This Easement shall be subordinate to any mortgage given by Grantor which currently encumbers Grantor's Property including the Easement Area, provided that any mortgagee holding such a mortgage shall recognize the validity of this Easement in the event of foreclosure of Grantor's interest and Grantee's rights under this Easement. In the event that the Easement Area is or shall be encumbered by such a mortgage, Grantor shall obtain and furnish to Grantee a non-disturbance agreement for each such mortgage, in recordable form.

29. **Successors and Assigns.** The terms of this Easement shall constitute a covenant running with the Grantor's Property for the benefit of Grantee and its successors and assigns and shall extend to and bind the heirs, personal representatives, successors and assigns of the parties hereto and upon each person having any interest therein derived through any owner thereof. Any sale, mortgage, lease or other conveyance of Grantor's Property shall be under and subject to this Easement and Grantee's rights hereunder.

30. **Construction of Easement.** The captions preceding the Sections of this Easement are intended only for convenience of reference and in no way define, limit or describe the scope of this Easement or the intent of any provision hereof. Whenever the singular is used, the same shall include the plural and vice versa and words of any gender shall include the other gender. As used herein, "including" shall mean "including, without limitation." This document may be executed in multiple counterparts, each of which shall be deemed a fully executed original.

31. **Non-Interference with Lease Agreement.** Grantor and Grantee hereby acknowledge and agree that: (a) the terms of this Easement are not intended to cause the lessor under the Lease Agreement to be in breach thereof, and (b) Grantee's right to utilize the Easement Area for the Permitted Use is subject to all rights of Lessee as provided in the Lease Agreement

while the Lease Agreement remains in full force and effect, including without limitation, Lessee's rights, if any, to the exclusive use of the Easement Area. In the event the execution of this Easement or the terms hereof shall cause the lessor under the Lease Agreement to be in breach thereof, this Easement shall be automatically amended to the extent necessary to keep the lessor from being in breach of the Lease Agreement. In addition, in the event Grantor's assignment to Grantee of the lessor's interest in the Lease Agreement and/or the execution of this Easement would cause the lessor to be in breach of the Lease Agreement or would otherwise be prohibited under the terms of the Lease Agreement, then Grantor and Grantee agree that, at Grantee's election, any one or more of the following may occur: (1) Grantee will be Grantor's manager and operator of the Lease Agreement instead of the lessor under the Lease Agreement until such time that such assigning or granting or failing to assign or grant any right, title or interest can be effective without causing the lessor to be in breach of the Lease Agreement; (2) Grantee will receive and will be entitled to all of the revenue that Grantee would have been entitled to as lessor under the Lease Agreement and Grantor will direct, in writing, all payors of amounts due to pay such amounts to Grantee; (3) Grantor will grant Grantee a power of attorney, and will appoint Grantee as its agent and attorney to review, negotiate and execute on behalf of Grantor, in Grantee's sole discretion, all documents and instruments relating to the Lease Agreement; including but not limited to, amendments to amend any and all terms of the Lease Agreement, amendments to remove any conflicts between the Lease Agreement and this Easement, amendments to extend the length of the term of the Lease Agreement, amendments to terminate the Lease Agreement or otherwise take action or inaction that will result in the Lease Agreement expiring or terminating, and amendments to increase the size of the area subject to the Lease Agreement so long as any such expansion is within the Easement Area; and to otherwise act on behalf of Grantor in dealing with the Lease Agreement until such time that such assigning or granting or failing to assign or grant any right, title or interest can be effective without causing the lessor to be in breach of the Lease Agreement.

**[Signatures appear on the following page]**

IN WITNESS WHEREOF, Grantor and Grantee, having read the foregoing and intending to be legally bound hereby, have executed this Grant of Easement and Assignment of Lease as of the day and year first written above.

**Grantor:**

Thomas F. Kivell and Tamara J. Kivell, husband and wife as joint tenants with full rights of survivorship and not as tenants in common

By: Thomas F Kivell

Name: Thomas F. Kivell

Date: 3/14/2013

By: Tamara J Kivell

Name: Tamara J. Kivell

Date: 3/14-13

**ACKNOWLEDGEMENT**

STATE OF IOWA )  
 ) SS  
COUNTY OF POIK )

On this, the 14 day of March, 2013, before me JERRI DAHLMAN Notary Public, the undersigned officer, personally appeared Thomas F. Kivell, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within Grant of Easement and Assignment of Lease, and acknowledged that he executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

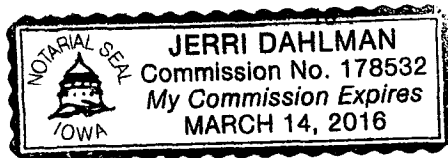
JERRI DAHLMAN

Notary Public, State of Iowa, County of POIK

My Commission Expires: 3/14/16

[SEAL REQUIRED]

BUN 810849  
IA036585  
CHICAGO\3768651.6  
IDMSR - 101460\1322







**EXHIBIT A**

**GRANTOR'S PROPERTY**

SITUATE IN THE COUNTY OF MADISON, STATE OF IOWA:

THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER, LESS AND EXCEPT  
PARCEL B, OF PLAT OF SURVEY RECORDED IN BOOK 2 PAGE 574 OF MAPS,  
MADISON COUNTY RECORDS.

Parent Parcel Tax I.D. Number: 770161282012000

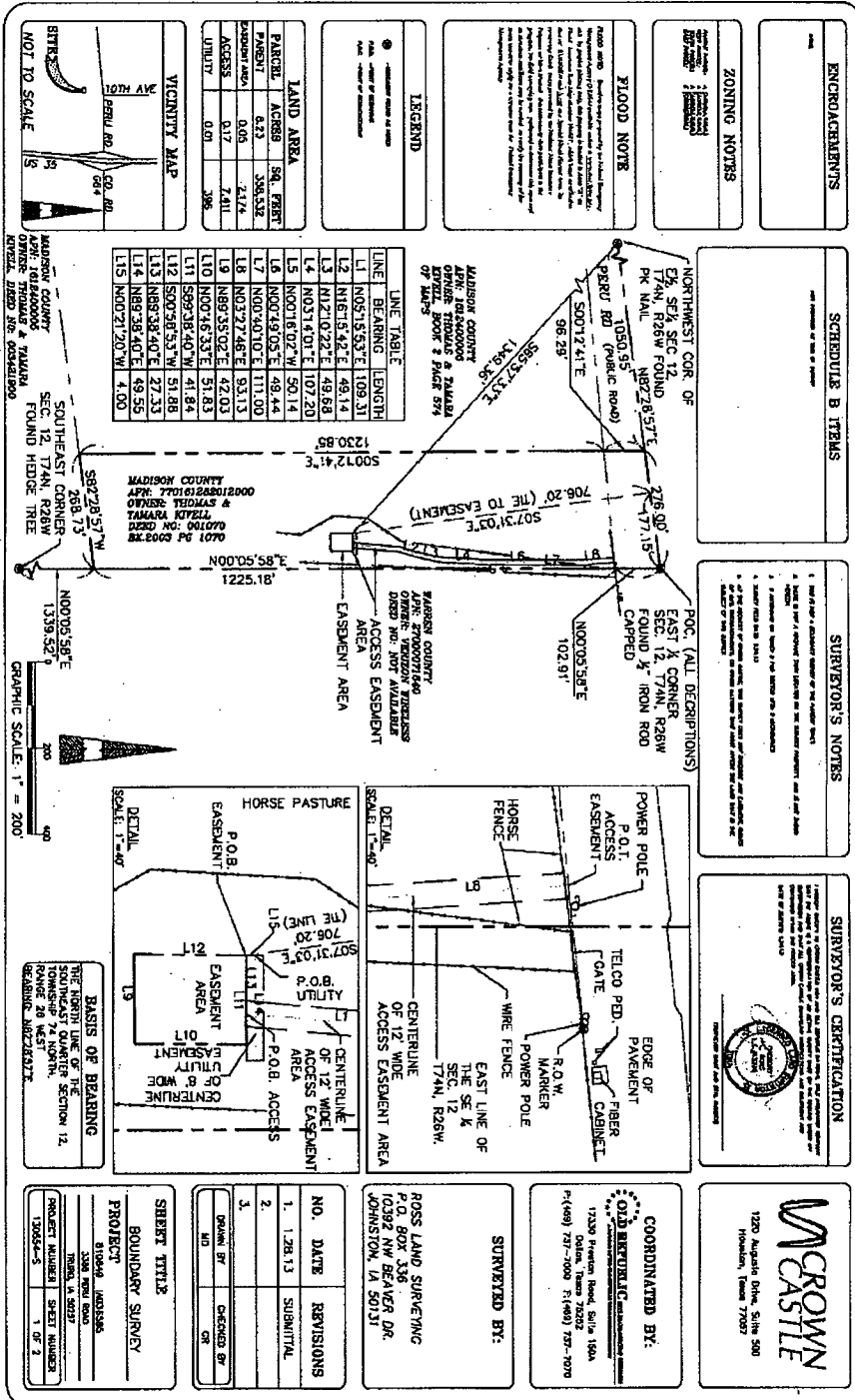
Owner: Thomas F. Kivell and Tamara J. Kivell, husband and wife as joint tenants with full  
rights of survivorship and not as tenants in common

Legal: Document Number 001070 (Book 2003, Page 1070)

Common Address: 3390 Peru Road, Truro, Iowa 50257

# EXHIBIT B

## SITE PLAN



**EXHIBIT C**

**EASEMENT AREA AND ACCESS EASEMENT**

The Easement Area shall include any portion of Grantor's Property on which communications facilities exist on the date of this Easement together with the portion of the Grantor's Property leased by Grantor pursuant to the Lease Agreement and the portion of the Property described as follows:

**EASEMENT AREA:**

A PORTION OF THE EAST HALF OF THE SOUTHEAST QUARTER OF SECTION 12, TOWNSHIP 74 NORTH, RANGE 26 WEST OF THE 5TH P.M. MADISON COUNTY, IOWA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE EAST QUARTER CORNER OF SAID SECTION 12, THENCE SOUTH 82 DEGREES 28 MINUTES 57 SECONDS WEST ALONG THE NORTH LINE OF SAID SOUTHEAST QUARTER, A DISTANCE OF 177.15 FEET; THENCE DEPARTING SAID NORTH LINE, SOUTH 07 DEGREES 31 MINUTES 03 SECONDS EAST, A DISTANCE OF 706.20 FEET TO THE POINT OF BEGINNING;

THENCE NORTH 89 DEGREES 38 MINUTES 40 SECONDS EAST, A DISTANCE OF 41.84 FEET;

THENCE SOUTH 00 DEGREES 46 MINUTES 33 SECONDS WEST, A DISTANCE OF 51.83 FEET;

THENCE SOUTH 89 DEGREES 35 MINUTES 02 SECONDS WEST, A DISTANCE OF 42.03 FEET;

THENCE NORTH 00 DEGREES 58 MINUTES 53 SECONDS EAST, A DISTANCE OF 51.88 FEET TO THE POINT OF BEGINNING.

CONTAINING 2,174 SQUARE FEET OR 0.05 ACRES, MORE OR LESS

AND

A PORTION OF THE EAST HALF OF THE SOUTHEAST QUARTER OF SECTION 12, TOWNSHIP 74 NORTH, RANGE 26 WEST OF THE 5TH P.M. MADISON COUNTY, IOWA, BEING A 12.00 FEET WIDE ACCESS EASEMENT LYING 6.00 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

COMMENCING AT THE EAST QUARTER CORNER OF SAID SECTION 12, THENCE SOUTH 82 DEGREES 28 MINUTES 57 SECONDS WEST ALONG THE NORTH LINE OF SAID SOUTHEAST QUARTER, A DISTANCE OF 177.15 FEET; THENCE DEPARTING



SAID NORTH LINE, SOUTH 07 DEGREES 31 MINUTES 03 SECONDS EAST, A DISTANCE OF 706.20 FEET;

THENCE NORTH 89 DEGREES 38 MINUTES 40 SECONDS EAST, A DISTANCE OF 27.33 FEET TO THE POINT OF BEGINNING;

THENCE NORTH 05 DEGREES 15 MINUTES 53 SECONDS EAST, A DISTANCE OF 109.31 FEET;

THENCE NORTH 16 DEGREES 15 MINUTES 42 SECONDS EAST, A DISTANCE OF 49.14 FEET;

THENCE NORTH 12 DEGREES 10 MINUTES 22 SECONDS EAST, A DISTANCE OF 49.68 FEET;

THENCE NORTH 03 DEGREES 14 MINUTES 01 SECONDS EAST, A DISTANCE OF 107.20 FEET;

THENCE NORTH 00 DEGREES 16 MINUTES 02 SECONDS WEST, A DISTANCE OF 50.14 FEET;

THENCE NORTH 00 DEGREES 49 MINUTES 05 SECONDS EAST, A DISTANCE OF 49.44 FEET;

THENCE NORTH 00 DEGREES 40 MINUTES 10 SECONDS EAST, A DISTANCE OF 111.00 FEET;

THENCE NORTH 03 DEGREES 27 MINUTES 46 SECONDS EAST, A DISTANCE OF 93.13 FEET MORE OR LESS TO THE SOUTH RIGHT OF WAY LINE OF COUNTY ROAD G64 AND ALSO BEING THE POINT OF TERMINUS.

CONTAINING 7,411 SQUARE FEET OR 0.17 ACRES, MORE OR LESS

AND

A PORTION OF THE EAST HALF OF THE SOUTHEAST QUARTER OF SECTION 12, TOWNSHIP 74 NORTH, RANGE 26 WEST OF THE 5TH P.M. MADISON COUNTY, IOWA, BEING A 8.00 FEET WIDE UTILITY EASEMENT LYING 4.00 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

COMMENCING AT THE EAST QUARTER CORNER OF SAID SECTION 12, THENCE SOUTH 82 DEGREES 28 MINUTES 57 SECONDS WEST ALONG THE NORTH LINE OF SAID SOUTHEAST QUARTER, A DISTANCE OF 177.15 FEET; THENCE DEPARTING SAID NORTH LINE, SOUTH 07 DEGREES 31 MINUTES 03 SECONDS EAST, A DISTANCE OF 706.20 FEET;

THENCE NORTH 00 DEGREES 21 MINUTES 20 SECONDS WEST, A DISTANCE OF 4.00 FEET TO THE POINT OF BEGINNING;

THENCE NORTH 89 DEGREES 38 MINUTES 40 SECONDS EAST, A DISTANCE OF 49.55 FEET TO THE POINT OF TERMINUS.

CONTAINING 396 SQUARE FEET OR 0.009 ACRES, MORE OR LESS

Parent Parcel Tax I.D. Number: 770161282012000

Owner: Thomas F. Kivell and Tamara J. Kivell, husband and wife as joint tenants with full rights of survivorship and not as tenants in common

Legal: Document Number 001070 (Book 2003, Page 1070)

Common Address: 3390 Peru Road, Truro, Iowa 50257

C-3

BUN 810849  
IA036585  
CHICAGO\3768651.6  
IDMSR - 101460\1322