AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY

THIS AGREEMENT made this 14, day of May 2012 by and between County of Buncombe, North Carolina ("Buyer"), and Kathy Lee Hamilton. ("Seller").
FOR AND IN CONSIDERATION OF THE MUTUAL PROMISES SET FORTH HEREIN OTHER GOOD AND VALUABLE CONSIDERATION, THE RECEIPT AND SUFFICIENCY OF WHICH ARE HERE BY ACKNOWLEDGED, THE PARTIES HERETO AGREE AS FOLLOWS:
Section 1. Terms and Definitions: The terms listed below shall have the respective meaning given them as set forth adjacent to each term.
(a) "Property" Address) A 2.0 acre parcel identified as "Lot 1" as depicted on a survey for Buncombe County titled "Survey for County of Buncombe" made by Danny R. Tolar and Associates, P.A. revised on April 18, 2012. Said survey is attached as Exhibit A to this Contract. Seller also shall convey to Buyer a permanent easement for ingress, egress and utilities long the existing roadway from the end of the State maintained road "Arrowood Drive" to Lot 1. Seller will retain an easement for ingress and egress on the designated right of way Buyer's parcel as shown in Exhibit A with the caveat that said right of way cannot be closer than 10 feet to the Tower's foundation.
X If this box is checked, "Property" shall mean that property described on Exhibit A attached hereto and incorporated herewith by reference as if fully set forth herein, together with all buildings and improvements thereon and all fixtures and appurtenances thereto and all personal property, if any, itemized on Exhibit A.
(b) "Purchase Price" shall mean the sum of \$125,000, one hundred twenty-five thousand dollars and no/100 payable on the following terms: Funds to be paid at closing.
(i) <u>"Earnest Money"</u> shall mean <u>N/A</u> , or terms as follows:
Upon acceptance of this contract, the Earnest Money shall be promptly deposited in escrow with n/a (name of person/entity with whom deposited), to be applied as part payment of the Purchase Price of the Property at Closing, or disbursed as agreed upon under the provisions of Section 9 herein.
ANY EARNEST MONEY DEPOSITED BY BUYER IN A TRUST ACCOUNT MAY BE PLACED IN AN INTEREST BEARING TRUST ACCOUNT. ANY INTERST EARNED THEREON SHALL BELONG TO THE ACCOUNT HOLDER IN CONSIDERATION OF THE EXPENSES INCURRED BY MAINTAINING SUCH ACCOUNT AND RECORDS ASSOCIATED THEREWITH.
\$ N/A (ii) Proceeds of a new loan in the amount of N/A Dollars for a term of N/A years, at an interest rate not to exceed N/A % per annum with mortgage loan discount points not to exceed N/A % of the loan amount' buyer shall pay all costs associated with any such loan.
(iii) <u>Delivery of a promissory note</u> secured by a deed of trust, said promissory note in the amount of <u>N/A</u> Dollars being payable over <u>N/A</u> months in equal monthly installments principal, together with accrued interest on the outstanding principal balance at the rate of <u>N/A</u> percent (<u>N/A</u> %) per annum, with the first principal payment beginning on the first day of the month next succeeding the date of Closing. At any time, the promissory note may be prepaid in whole or in part without penalty and without further interest on the amounts prepaid from the date of such prepayment. A partial prepayment will be credited against the next installment of principal due. In the event of Buyer's
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subsequent default upon a promissory note and deed of trust given hereunder, Seller's remedies will be limited to foreclosure of the Property.

- \$ N/A (iv) Assumption of that unpaid obligation of Seller secured by a deed of trust on the Property, such
 - Obligation having an outstanding principal balance of $\frac{N}{A}$ and evidenced by a note bearing interest at the rate of $\frac{N}{A}$ percent $\frac{N}{A}$ per annum, or $\frac{N}{A}$.
 - (v) Cash, balance of Purchase Price at Closing in the amount of \$125,000.
 - (c) "Closing" shall mean the date and time of recording of the deed. Closing shall occur on or before the Thirtieth (30th) day following the end of the Examination Period.
 - (d) "Contract Date" means the date this Agreement has been fully executed by both Buyer and Seller.
 - (e) <u>"Examination period"</u> shall mean the period beginning on the Contract Date and extending through December 31, 2012. Sucy 27, 2012
 - (f) "Broker(s)" shall mean:

Mark Morris ("Seller")		
Acting as D Buyer's Agent;	X Seller's (Sub) Agent;	☐ Dual Agent

- (g) "Intended Use" shall mean the use of the Property for the following purpose: for the operation of a public safety communications tower.
- (h) <u>"Seller's Notice Address"</u> shall be as follows: Ms. Kathy Lee Hamilton, 57 Arrowood Road, Asheville, NC 28806. Except as same may be changed pursuant to Section 11.
- (i) "Buyer's Notice Address" shall be as follows: Bryan Dillingham, Buncombe County Network and Communications Manager, 59 Woodfin Place, Suite 200, Asheville NC 28801 except as same may be changed pursuant to Section 11.
- X (j) If this block is marked additional terms of this Agreement are set forth on Exhibit B attached hereto and incorporated herein by reference.

Section 2. Proration of Expenses and Payment of Coats: Seller and Buyer agree that all property taxes (on a calendar year basis), leases, rents, mortgage payments and utilities or my other assumed liabilities as detailed on attached Exhibit B, if any, shall be prorated as of the date of Closing. Seller shall pay for preparation of a deed and all other documents necessary to perform Seller's obligations under this Agreement, excise tax (revenue stamps), and other conveyance fees or taxes required by law, and the following: Not Applicable
Buyer shall pay recording costs, costs of any title search, title insurance, survey and tire following: Not Applicable

Each party shall pay its own attorney fees. Seller is responsible for the Deed Stamps.

Section 3. Sale of Property and Payment of Purchase Price: Seller agrees to sell and Buyer agrees to buy the Property and all fixtures contained on the Property for the Purchase Price.

Section 4. Deliveries: Seller shall deliver to Buyer as soon as reasonably possible after the Contract Date copies of all title information in possession of or available to Seller, including but not limited to: title insurance policies, attorney's opini ons on title, surveys, covenants, deeds, notes and deeds of trust and easements relating to the Property. Seller authorizes (1) any attorney presently or previously representing Seller to release and disclose any title insurance policy in such attorney's file to Buyer and both Buyer's and Seller's agents and attorneys; and (2) the Property's title insurer or its agent

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to release and disclose all materials in the Property's title insurer's (or title insurer's agent's) file to Buyer and both Buyer's and Seller's agents and attorneys. Seller shall also deliver to Buyer as soon as reasonably possible after the Contract Date copies of all presently effective warranties or non-terminable service contracts related to the Property. If Buyer does not consummate the Closing for any reason other than Seller default, then Buyer shall return to Seller all materials delivered by Seller to Buyer pursuant to this Section 4, if any, and shall, upon Seller's request, assign and transfer to Seller all of its right, title, and interest in and to any and all studies, reports, surveys and other information, data and/or documents relating to the Property prepared by or at the request of Buyer, its employees and agents, and shall deliver to Seller, upon the release of the Earnest Money, copies of all of the foregoing without any warranty or representation by Buyer as to the contents, accuracy or correctness thereof.

Section 5. Evidence of Title: Seller agrees to convey fee simple marketable and insurable title to the Property by general warranty deed, subject only to the exceptions hereinafter described. Seller represents and warrants that Seller is the fee simple owner of the Property, and at Closing, Seller shall deliver to Buyer fee simple marketable and insurable title to the Property, free and clear of all liens, encumbrances and defects of title other than zoning ordinances affecting the Property, utility easements of record serving the Property, taxes not yet due and payable, road rights-of-way of record and those other encumbrances, reservations, restrictions and casements and other exceptions set forth on Exhibit C attached hereto ("Permitted Exceptions").

Seller further warrants that Buyer has sufficient right of ways for ingress, egress and utilities to the Property.

Section 6. Conditions: This Agreement and the rights and obligations of the parties under this Agreement are hereby made expressly conditioned upon fulfillment (or waiver by Buyer, whether explicit or implied) of the following conditions:

- (a) New Loan: The Buyer must be able to obtain the loan, if any, referenced in Section 1(bXii). Buyer must be able to obtain a firm commitment for this loan on or before N/A, effective through the date of Closing. Buyer agrees to use its best efforts to secure such commitment and to advise Seller immediately upon receipt of lender's decision. On or before the above date, Buyer has the right to terminate this Agreement for failure of the new loan condition by delivering to Seller written notice of termination by the above date, time being of the essence. If Buyer delivers such notice, this Agreement shall be null and void and Earnest Money shall be refunded to Buyer. If Buyer fails to deliver such notice, then Buyer will be deemed to have waived the loan condition Notwithstanding the foregoing, after the above date, Seller may request in writing from Buyer a copy of the commitment letter. If Buyer fails to provide Seller a copy of the commitment letter within five (5) days of receipt of Seller's request, then Seller may terminate this Agreement by written notice to Buyer at any time thereafter, provided Seller has not then received a copy of the commitment letter, and Buyer shall receive a return of Earnest money.
- (b) <u>Qualification for Financing</u>: If Buyer is to assume any indebtedness in connection with payment of the Purchase Price, Buyer agrees to use its best efforts to qualify for the assumption. Should Buyer fail to qualify, Buyer shall notify Seller in writing immediately upon lender's decision, whereupon this Agreement shall terminate, and Buyer shall receive a return of Earnest Money.
- (c) <u>Title Examination</u>: After the Contract Date, Buyer shall, at Buyer's expense, cause a title examination to be made of the Property before the end of the Examination Period. In the event that such title examination shall show that Seller's title is not fee simple marketable and insurable, subject only to Permitted Exceptions, then Buyer shall immediately notify Seller in writing of all such title defects and exceptions, as of the date Buyer learns of the title defects, and Seller shall have thirty (30) days to cure said noticed defects. If Seller does not cure the defects or objections within thirty (30) days of notice thereof, the Buyer may terminate this Agreement and receive a return of Earnest Money (notwithstanding that the Examination Period may have expired). If Buyer is to purchase title insurance, the insuring company must be licensed to do business in the state in which the Property is located, Title to the Property must be insurable at regular rates, subject only to standard exceptions and Permitted Exceptions.
- (d) Intended Use: If Buyer determines, prior to the date of Closing, that use of the Property for its Intended Use will violate any private restrictions or governmental regulations, then Buyer may terminate this Agreement by

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written notice and receive a return of the Earnest Money, and neither party shall then have my further obligations in connection with this Agreement. Furthermore the proper must pass a soil test to determine if the proper in question is suitable for a radio tower, if the property does not pass the soil test then the Buyer can cancel this agreement with Seller

(e) <u>Same Condition</u>: If the Property is not in substantially the same condition at Closing as of the date of the offer, reasonable wear and tear excepted, then the Buyer may terminate this Agreement and receive a return of the Earnest Money.

(f) Inspections: Buyer, its agents or representatives, at Buyer's expense and at reasonable times during normal business hours, shall have the right to enter upon the Property for the purpose of inspecting, examining, performing soil boring and other testing, conducting timber cruises, and surveying the Property. Buyer shall also have a right to review and inspect all leases, contracts or other agreements affecting or related directly to the Property and shall be entitled to review such books and records of Seller as relate directly to the operation and maintenance of the Property. Buyer assumes all responsibility for the acts of itself, its agents or representatives in exercising its rights under this Section 6(f) and agrees to indemnify and hold Seller harmless from any damages resulting therefrom. Except as provided in Section 6(c) above, Buyer shall have from the Contract Date through the end of the Examination Period to perform the above inspections, examinations and testing. If, prior to the expiration of the Examination Period, Buyer chooses not to purchase the Property, for any reason or no reason, and provides written notice to Seller thereof, then this Agreement shall terminate.

Section 7. Environmental: Seller represents and warrants that it has no actual or constructive knowledge of the presence or disposal within the buildings or an the Property of hazardous or toxic waste or substances, which are defined as those substances, materials, and wastes, including, but not limited to, those substances, materials and wastes listed in the United States Department of Transportation Hazardous Materials Table (49 CFR Part 172.101) or by the Environmental Protection Agency as hazardous substances (40 CFR Part 302.4) and amendments thereto, or such substances, materials and wastes, which are or become regulated under my applicable local, stare or federal law, including, without limitation, any material, waste or substance which is (i) petrole, (ii) asbestos, (iii) polychlorinated biphenyls (iv) designated as a Hazardous Substance pursuant to Section 311 of the Clean Water Act of 1977 (33 U.S.C. §1321) or listed pursuant to Section 307 of the Clean Water Act of 1977 (33 U.S.C. §1317), (v) defined as a hazardous waste pursuant to Section 1004 of the Resource Conservation and Recovery Act of 1976 (42 U.S.C. §6903) or (vi) defined as a hazardous substance pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. §9601). Seller further states that it has no actual knowledge of any contamination of the Property from such substances as may have been disposed of or stored on neighboring tracts, and it has no reason to suspect that such use or disposal has occurred, either during or prior to its ownership of the Property.

Section 8. Risk of Loss/Damage/Repair: Until Closing, the risk of loss or damage to the Property, except as otherwise provided herein, shall be borne by Seller. In the event the Property is damaged so that the Property cannot be conveyed in substantially the same condition as it was on the date of the offer, Buyer may terminate this Agreement and the Earnest Money shall be returned to the Buyer. Except as to maintaining the Property in its same condition, Seller shall have no responsibility for the repair of the Property, including my improvements, unless the parties hereto agree in writing.

Section 9. Earnest Money Disbursement: In the event this offer is not accepted, or in the event that any of the conditions hereto are not satisfied, or in the event of a breach of this Agreement by Seller, then the Earnest Money shall be returned to Buyer, but such return shall not affect any other remedies available to Buyer for such breach. In the event this offer is accepted and Buyer breaches this Agreement, then the Earnest Money shall be forfeited, but such forfeiture shall not affect any other remedies available to Seiler for such breech. NOTE: In the event of a dispute between Seller and Buyer over the return or forfeiture of Earnest Money held in escrow by a licensed real estate broker, the broker is required by state law to retain said Earnest Money in its trust or escrow account until it has obtained a written release from the parties consenting to its disposition or until disbursement is ordered by a court of competent jurisdiction.

Section 10. Closing: At Closing, Seller shall deliver to Buyer a General Warranty Deed and other documents customarily executed by a seller in similar transactions, including without limitation, a bill of sale for any personality listed an Exhibit

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A, an owner's affidavit, lien waiver forms and a non-foreign status affidavit (pursuant to the Foreign Investment in Real Property Tax Act), and Buyer shall pay to Seller the Purchase Price. At Closing, the Earnest Money shall be applied as part of the Purchase Price. The Closing shall be hold at the office of Buyer's attorney or such other places, as the parties hereto may mutually agree. Possession shall be delivered at Closing, unless otherwise agreed herein.

Section 11. Notices: Unless otherwise provided herein, all notices and other communications which may be or are required to be given or made by any party to the other in connection herewith shall be in writing and shall be deemed to have been properly given and received on the date delivered in person or deposited in the United States mail, registered or certified, return receipt requested, to the addresses set out in Section 1(h) as to Selfer and in Section 1(i) as to Buyer, at such other addresses as specified by written notice delivered in accordance herewith.

Section 12. Entire Agreement: This Agreement constitutes the sole and entire agreement among the parties hereto and no modification of this Agreement shall be binding unless in writing and signed by all parties hereto.

Section 13. Enforceability: This Agreement shall become an enforceable contract when a fully executed copy bas been communicated to both parties. This Agreement shall be binding upon and inure to the benefit of the parties, their heirs, successors and assigns and their personal representatives.

Section 14. Adverse Information and Compliance with Laws:

(a) <u>Seller Knowledge</u> : Seller has no knowledge of (i) condemnation(s) affecting or contemplated with
respect to the Property; (ii) actions, suits or proceedings pending or threatened against the Property; (iii) changes
contemplated in any applicable laws, ordinances or restrictions affecting the Property; (iv) private restrictions or
governmental regulations that would prohibit the Intended Use or (v) governmental special assessments, either
pending or confirmed, for sidewalk, paving, water, sewer, or other improvements on or adjoining the Property,
and no pending or confirmed owners' association special assessments, except as follows:
(Insert "None" or the identification of such assessments, if any). Seller shall pay all owners' association assessments and all governmental assessments
assessments, if any). Seller shall pay all owners' association assessments and all governmental assessments
confirmed as of the time of Closing, if any, and Buyer shall take title subject to all pending assessments, if any,
unless otherwise agreed as follows:
Seller represents that the regular owners' association dues, if any, are \$ N/A per N/A.

(b) <u>Compliance</u>: To the best of Seller's knowledge and belief, (i) Seller has complied with all applicable laws, ordinances, regulations, statutes rules and restrictions pertaining to or affecting the Property; (H) performance of the Agreement will not result in the breach of, constitute any default under or result in the imposition of any lien or encumbrance upon the Property under any agreement or other instrument to which Seller is a party or by which Seller or the Property is bound; and (iii) there are no legal actions, suits or other legal or administrative proceedings pending or threatened against the Property, and Seller is not aware of my facts which might result in my such action, suit or other proceeding.

Section 15. Survival of Representations and Warranties: All representations, warranties, covenants and agreements made by the parties hereto shall survive the Closing and delivery of the deed. Seller shall, in or within six (6) months after the Closing, and without further consideration, execute, acknowledge and deliver to Buyer such other documents and instruments, and take such other action as Buyer may reasonably request or as may be necessary to more effectively transfer to Buyer the Property described herein in accordance with this Agreement.

Section 16. Applicable Law: This Agreement shall be construed under the laws of the state in which the Property is located.

Section 17. Tax-Deferred Exchange: In the event Buyer or Seller desires to effect a tax-deferred exchange in connection with the conveyance of the Property, Buyer and Seller agree to cooperate in effecting such exchange; provided, however, that the exchanging party shall be responsible for all additional costs associated with such exchange, and provided further, that a non-exchanging party shall not assume any additional liability with respect to such tax-deferred exchange.

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Seller and Buyer shall execute such additional documents, at no cost to the non-exchanging party, as shall be required to give effect to this provision.

Section 18. Memorandum of Contract: Upon request by either party, the parties hereto shall execute a memorandum of contract in recordable form setting forth such provisions hereof (other than the Purchase Price and other sums due) as either party may wish to incorporate. Such memorandum of contract shall contain a statement that it automatically terminates and the Property is released from any effect thereby as of a specific date to be stated in the memorandum (which specific date shall be no later than the date of Closing). The cost of recording such memorandum of contract shall be borne by the party requesting execution of same.

Section 19. Authority: Each signatory to this Agreement represents and warrants that he or she has full authority to sign this Agreement and such instruments as may be necessary to effectuate any transaction contemplated by this Agreement on behalf of the party for whom he or she signs and that his or her signature binds such parry.

IF YOU DO NOT UNDERSTAND THIS FORM OR FEEL THAT IT DOES NOT PROVIDE FOR YOUR LEGAL NEEDS, YOU SHOULD CONSULT A NORTH CAROLINA REAL ESTATE ATTORNEY BEFORE YOU SIGN IT.

BUYER:	SELLER:		
Individual O		Individual	
Wanda > Trease	SEAL)	Lothy Lee Hamilton	(SEAL)
Date: 5.16-2012	.	Kathy Lee Hamilton Date: 5 - ((o-	
(S	SEAL)		_(SEAL)
Date:		Date: 5-16-12	-
Business Entity		Business Entity	
BUNCOMBE COUNTY			
(Name of Entity)	reall.	(Name of Entity)	(0041)
(8	SEAL)		_(SEAL)
Date:		Date:	<u></u>
(S	SEAL)		_(SEAL)
Date:		Date:	_
The undersigned hereby acknowledges recei	pt of the Earne	st Money set forth herein and agrees to h	old said Earnest
Money in accordance with the terms hereof,			
NA			
(Name of Firm)			
Date:		Ву:	.

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EXHIBIT A

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EXHIBIT B

Buyer and Seller shall execute a separate contract containing the following terms:

Definitions

Property - all of Lot 1 as described in Exhibit A of this sales contract.

Right of Way – is the existing gravel road starting at end of the State maintained road "Arrowood Drive" and goes through Seller's property to Lot 1 and through Lot 1 as shown on Exhibit A.

- The Seller shall not be responsible for paying a proportional share to maintain the Right of Way except as set forth in Section 9. The Buyer and any future Third Parties using Right of Way will be responsible for maintaining the Right of Way on a pro rata basis.
- 2. Seller shall be responsible for damage made to the Right of Way by seller or her employees, agents or guests.
- Seller retains the right to move the Right of Way within the remaining 130 acres at Seller's expense with the
 condition that the Seller replaces the existing Right of Way with a new right of way that complies with the
 existing State Fire Prevention Code.
- 4. If the Seller develops the remaining property or allows other persons to use the Right of Way, any future third party shall be required to enter into a road maintenance agreement with the Buyer to pay a pro rata share of the costs in maintaining the Right of Way.
- 5. The Buyers cannot assign or grant permission to use the right of way to any third party without written permission from the Seller. This does not prohibit the Buyer from allowing third parties to access the Property by using the Right of Way for business purposes related to the use of the Property.
- 6. Progress Energy has permission from the Seller to use the Right of Way and Buyer may enter into a road maintenance agreement with Progress Energy for maintaining the Right of Way.
- 7. The Seller shall receive ten (10) percent of any gross revenue that Buyer earns from renting/leasing space on its Tower located on the Property.
- 8. Buyer is responsible for installing a gate at the top of Hi-Top Mountain to prevent third parties from accessing the Right of Way from the top of the mountain.
- This Agreement is only applicable to the Seller and cannot be assigned to any third party. This Agreement ends upon the sale of 30% of the Sellers' remaining property as set forth in Deed Book 1889, Page 168 recording the in the Buncombe County Registry or the death of Seller whichever occurs first.
- 10. Buyer agrees to repave the existing paved portion along Seller's residence (i.e. Hamilton Drive) within 180 days after the construction of the Tower has been completed.

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EXHIBIT A-

