

ORDINANCE

2020-09-03-0608

**APPROVING A SEVEN (7) YEAR INTERLOCAL AGREEMENT GRANTING VIA METROPOLITAN TRANSIT CONTINUED ACCESS TO THE CITY-OWNED LATTICE TOWER LOCATED WITHIN SOUTHSIDE LIONS PARK AT 150 ARRID ROAD TO CONSTRUCT, OPERATE, CONTROL, AND MAINTAIN AN AUTOMATED VEHICLE LOCATION SYSTEM.**

\* \* \* \* \*

**WHEREAS**, VIA Metropolitan Transit ("VIA") has maintained an automated vehicle location system ("AVLS") on the City-owned lattice tower located within Southside Lions Park at 150 Arrid Road since 1999 pursuant to the Interlocal Cooperation Act; and

**WHEREAS**, City Council approved the original interlocal agreement in Ordinance 89205, and the term of the interlocal agreement was extended in Ordinance 2006-05-04-0541; and

**WHEREAS**, the AVLS allows VIA to continually monitor the movement and location of VIA's fleet vehicle using Global Positioning Satellite technology; and

**WHEREAS**, allowing VIA continued use of the tower is in line with the City's goal to minimize the proliferation of telecommunications towers and antennae by promoting the co-locations of multiple users on a single tower; and

**WHEREAS**, VIA's use of the tower does not interfere with City uses; and

**WHEREAS**, the Information Technology Services Department has reviewed the proposed Interlocal Agreement and, based on that review, staff recommends approval; **NOW THEREFORE:**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:**

**SECTION 1.** The Interlocal Agreement granting VIA Metropolitan Transit ("VIA") continued access to the City-owned lattice tower located within Southside Lyons Park at 150 Arrid Road hereby approved. A copy of the Interlocal Agreement is attached hereto and incorporated herein as **Exhibit A**.

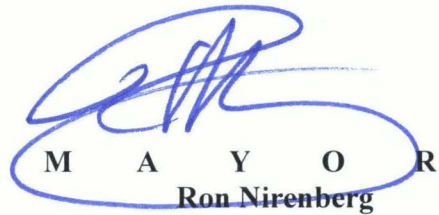
**SECTION 2.** The City Manager or designee is hereby authorized to execute the Interlocal Agreement and any other documents necessary to fulfill the purpose and intent of this Ordinance.

**SECTION 3.** The revenue collected from this Interlocal Lease Agreement shall be deposited into the Information Technology Services Fund.

RP  
09/03/2020  
Item No. 19


**SECTION 4.** This Ordinance shall be effective immediately upon its passage by eight (8) votes or the 10<sup>th</sup> day after its passage by less than eight (8) affirmative votes.

**PASSED AND APPROVED this 3<sup>rd</sup> day of September 2020.**




M A Y O R  
Ron Nirenberg

**ATTEST:**

  
\_\_\_\_\_  
Tina J. Flores, City Clerk

**APPROVED AS TO FORM:**

For   
\_\_\_\_\_  
Andrew Segovia, City Attorney



## City of San Antonio

City Council  
September 3, 2020

Item: 19

Enactment Number:  
2020-09-03-0608

NAME	MOTION	SECOND	ABSTAIN	AYE	NAY	ABSENT
Roberto Treviño Council District 1				✓		
Jada Andrews-Sullivan Council District 2				✓		
Rebecca Viagran Council District 3				✓		
Adriana Rocha Garcia Council District 4				✓		
Shirley Gonzales Council District 5				✓		
Melissa Cabello Havrda Council District 6				✓		
Ana Sandoval Council District 7				✓		
Manny Pelaez Council District 8		✓		✓		
John Courage Council District 9	✓			✓		
Clayton Perry Council District 10				✓		
Ron Nirenberg Mayor				✓		

Comments:

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*Office of the City Clerk*

RP  
09/03/2020  
Item No. 19

# Exhibit A



## INTERLOCAL LEASE AGREEMENT

This Interlocal Lease Agreement is made and entered into by and between the **CITY OF SAN ANTONIO**, a Texas Municipal Corporation (hereinafter referred to as "**LANDLORD**"), acting herein through its City Manager and **VIA Metropolitan Transit Authority**, a political subdivision of the State of Texas, acting by and through its authorized representative (hereinafter referred to as the **TENANT**), pursuant to Ordinance No. \_\_\_\_\_, dated \_\_\_\_\_, 2020 and pursuant to the Interlocal Cooperation Act, V.T.C.A., Government Code Section 791.001 et. seq. hereinafter **LANDLORD** and **TENANT** may sometimes be referred to as "Party" or "Parties".

### WITNESSETH:

**WHEREAS**, the **CITY** and **TENANT**, pursuant to the Constitution and laws of the State of Texas, desire to enter into a contract to allow **TENANT** to utilize **CITY** property to enhance **TENANT'S** Automated Vehicle Location System (AVLS); and

**WHEREAS**, the Parties entered into an Interlocal Lease Agreement in 1999, approved by the City Council in Ordinance 89205, for the same **PREMISES**, as described further below, that is the subject of this current lease and that allowed **TENANT** to construct, operate, control and maintain an AVLS at that location; and

**WHEREAS**, in 2006 **TENANT** exercised its option to extend the 1999 Interlocal Lease Agreement, which was approved by the City Council in Ordinance 2006-05-04-0541; and

**WHEREAS**, the term of the lease approved in Ordinance 2006-05-04-054 has expired, and **TENANT** wishes to retain facilities at the **PREMISES**; and

**WHEREAS**, the **CITY** and **TENANT** agree that the previous contract and continued use of the **PREMISES** has served a public use and such lease agreement was satisfactorily completed through the commencement date of this Interlocal Lease Agreement with any and all discrepancies related to implementation and administration of such lease agreement being hereby waived by and between the Parties; and

**WHEREAS**, the **CITY** and **TENANT** agree that the continued lease of this property under this Interlocal Lease Agreement is in their best interests and the best interests of their residents and results in the avoidance of duplication of facilities; and

**WHEREAS**, it is the **CITY'S** goal to minimize the proliferation of telecommunications towers and antennae throughout the **CITY** by promoting the co-location of multiple users on a single tower; and

**WHEREAS**, a uniform rate structure is incorporated into this Lease in order to promote co-location and insure that all users are treated indiscriminately;

**NOW THEREFORE**, the City, acting through its authorized City Manager; and VIA,

acting through its duly authorized President/CEO, **DO HEREBY COVENANT AND AGREE AS FOLLOWS:**

### **I. DEMISE, DESCRIPTION AND USE**

1.1 The **CITY** is the owner of the following described real property and lattice tower lying and being situated in the County of Bexar, and State of Texas, situated in the City of San Antonio, located within Southside Lions Park (also known as HiLions Park), as illustrated by survey on Exhibit "A" attached hereto and made a part hereof for all purposes (hereinafter referred to as the **PREMISES**).

1.2 As described in Exhibit "A," an approximate 10ft. by 14 ft. portion of the **PREMISES** shall be reserved for the **TENANT'S** exclusive use, subject to **CITY'S** right of entry as described hereinafter, as a shelter. All other areas of the **PREMISES** shall be common areas to which **TENANT** and other co-tenants may have access in the future.

1.3 The **CITY** hereby leases to the **TENANT** the **PREMISES** necessary for the **TENANT** to construct, operate, control and maintain an AVLS (e.g. antenna, shed and related appurtenances) as illustrated on of Exhibit "A". **TENANT'S** proposes to use the northwest leg of the **CITY'S** lattice tower by mounting a transmit antenna at a height of approximately 350 feet from the base of the tower. The **CITY** reserves the top 50 feet of tower space for **CITY** use.

### **II. ACCEPTANCE AND CONDITION OF PREMISES**

2.1 **TENANT** has had full opportunity to examine the **PREMISES**, and acknowledges that there is in and about them nothing dangerous to life, limb, or health and hereby waives any claim for damages that may arise from defects of that character after occupancy. However, such waiver of claims for damages is limited to damages resulting from an inherent danger or condition which the **TENANT** knew or should have known of by virtue of the inspection of the **PREMISES**. The **TENANT'S** taking possession of the **PREMISES** shall be conclusive evidence of the **TENANT'S** acceptance thereof in good order and satisfactory condition, and the **TENANT** hereby accepts the **PREMISES** in its present **AS IS, WHERE IS, WITH ALL FAULTS CONDITION**, as suitable for the commercial purpose for which leased.

2.2 **TENANT** agrees that no representations, respecting the condition of the **PREMISES**, and no promises to decorate, alter, repair, or improve the **PREMISES**, either before or after the execution hereof, have been made by the **CITY** or its agents to the **TENANT** unless the same are contained herein or made a part hereof by specific reference herein.

### **III. ACCESS**

3.1 **TENANT** shall use the **PREMISES** and any **CITY** facilities to which it is given access under this Agreement with the same degree of care as it accords to its own properties, and insure that its equipment and use thereof shall not alter, damage or otherwise impair the usefulness of any such property, excepting for normal wear and tear, and shall in no way interfere with the operations of **CITY'S** property.



3.2 **TENANT** shall have access at all times 24 hours per day, 7 days per week, to the **PREMISES** during the term of this Lease. The **CITY** shall make available to **TENANT** at all times the necessary arrangements required to gain access. Additionally, upon authorization by **TENANT**, its engineers, employees, contractors, or agents of **TENANT**, Federal Communications Commission representatives or person under their supervision shall be permitted to enter the **PREMISES** at reasonable times for purposes of servicing equipment or other business related matters, with signing-in required of such parties.

3.3 At the discretion of the **CITY**, an escort may be required and a reasonable fee may be charged by the **CITY** for such escort.

3.4 Except when escorted by a designated **CITY** representative, the **TENANT'S** personnel are required to notify the party in charge, if designated; of the **CITY** facility prior to or immediately upon entering any secured **CITY** facility.

3.5 Except for subcontractors which the **CITY** has approved, subcontractors used by the **TENANT** shall at all times be escorted by a **TENANT** representative when on a secured **CITY** facility. Keys, lock combinations, magnetic access cards or other access control devices to the **CITY** properties that are issued to the **TENANT** shall not be loaned to subcontractor personnel.

3.6 While on the **CITY** premises, **TENANT'S** personnel must wear a suitable photo ID badge, to be provided by the **TENANT**, that includes a nominal 1.5" square personal photo, unique logo and labeling that identifies the **TENANT** and the employee by name, and a telephone number where confirmation of employment may be readily confirmed.

3.7 **TENANT** shall at all times assure that the **CITY** has a current list of all of its personnel who are authorized to be on the **PREMISES** on its behalf. The **CITY** shall be notified to immediately remove the name of any employee subject to disciplinary probation or termination, and shall be notified of additional personnel to be added to this list. **CITY** shall have the right to exclude any employee, agent or representative of the **TENANT** from **CITY** property, for reasonable cause, if deemed by the **CITY** to be necessary for the proper security of its facilities or the safety of its employees.

3.8 **PREMISES** shall have adequate space to park the **TENANT'S** maintenance truck(s).

3.9 **TENANT** shall have exclusive right to access and control its shelter (as described in 6.04 of this Lease). However, all other areas are common to all providers/co-tenants. The **CITY** shall have the right to enter and inspect the **PREMISES**, and upon notifying the **TENANT**, the right to inspect the **TENANT'S** shelter.

3.10 **TENANT COVENANTS NOT TO UNREASONABLY INTERFERE WITH ANOTHER PROVIDER'S, CO-TENANT'S OR CITY'S ACCESS TO SAID PREMISES.**

#### **IV. TERM AND OPTION TO RENEW OR EXTEND**

4.1 The **CITY** hereby leases to the **TENANT** and the **TENANT** hereby leases from the **CITY** the **PREMISES** for use as a wireless telecommunications facility, and uses normally

incident thereto, for a term of seven (7) years, commencing on the date of execution and ending seven (7) years thereafter.

4.2 **TENANT** is hereby granted and shall, if not at that time in default of this Lease, have, for good and valuable consideration given, an option to extend the term of this Lease for two (2) additional consecutive periods of five (5) years after the termination date hereof, on the same terms, covenants, and conditions, and subject to the same exceptions and reservations herein contained, yearly rental excepted. However, each five (5) year extension of this Lease must be approved by City Council.

4.3 **Exercising Option to Renew.** Each extension shall be exercised by **TENANT'S** delivering to the **CITY** in person or by the United States mail, at any time on or before ninety (90) days prior to the expiration date of the initial term of this Lease or the expiration date of the first five (5) year renewal option period, if the term is so renewed and extended, written notice of its election to extend the term of this Lease as herein provided, which approval shall not be unreasonably withheld.

4.4 **Holding Over.** In the event the **TENANT** does not extend the term of this Lease as provided herein, and holds over beyond the expiration of the term hereof, and the first five (5) year renewal option period, if said term is renewed and extended, such holding over shall be deemed a month-to-month tenancy only, at a fair market value rental per month, payable on the first day of each and every month thereafter, until the tenancy is terminated in the manner provided by this Agreement or by law.

4.5 The right is expressly reserved to the **CITY** to temporarily suspend this Lease in case of an emergency, however, in the event of an emergency, including, but not limited to a serious safety hazard, **CITY** shall make all reasonable efforts to preserve **TENANT'S** operations under this Lease.

4.6 Further, in accordance with the current San Antonio City Charter provisions, the Council may terminate this Lease in the event the use of the **PREMISES** shall have been found to be a nuisance. In the event of termination by City Council, the **CITY** shall give the **TENANT** notice in writing at least ninety (180) days prior to the termination date, except in cases of emergency.

4.7 **TENANT** may cancel this Lease by giving one hundred eighty (180) days written notice to the **CITY**.

4.8 Upon termination of this Lease by either the **CITY** or the **TENANT**, or by operation of law, the **TENANT** agrees to restore the **PREMISES** to its condition prior to the commencement of this Lease, except for reasonable wear and tear. **TENANT** also agrees to remove any improvements, including, but not limited to any buildings or antennas installed by the **TENANT**, at the request of the **CITY**.

4.9 **CITY'S** reserves the right to relocate **TENANT** to another tower if **CITY** abandons use of the **PREMISES**, however, all reasonable costs associated with such relocation shall be borne by **CITY**, subject to appropriations by City Council.

## V. LEASE RATE STRUCTURE



5.1 **TENANT** agrees to pay the **CITY** Three Thousand Dollars (\$3,000.00) per month for the first year of the Initial Term of this Lease, and each year thereafter, the total annual amount, Thirty Six Thousand Dollars (\$36,000.00) in the initial term, will be increased and compounding by three percent (3%) per year (collectively "Rent"). The effective date of the Lease shall be the date on which both Parties execute the Lease following approval of the Lease by the City Council (the "Effective Date").

5.2 In consideration for the use of said **PREMISES**, the **TENANT** shall tender to the **CITY** at the office shown in Section 21.1 on the rates set out in Section 5.1 above, each month on or before the tenth (10th) day of month following the Effective Date, and every month thereafter during the term of this Lease Agreement.

5.3 **Effect of Default** If the **TENANT** defaults in the payment of any installment of rent hereunder, such installment shall bear interest at the highest rate allowed by Texas law at the time of default, from the date it is due until actually paid. In like manner, all other obligations, benefits, and moneys which may become due to the **CITY** from the **TENANT** under the terms hereof, or which are paid by the **CITY** because of **TENANT'S** default hereunder, shall bear interest at the highest rate allowed by Texas law, from the date due until paid, or in the case of sums paid by the **CITY**, because of the **TENANT'S** default hereunder, from the date such payments are made by the **CITY** until the date the **CITY** is reimbursed by **TENANT** therefor. **CITY**, in its sole discretion, may waive any interest.

## **VI. CO-LOCATION AND SHARED TOWER COSTS**

6.1 **TENANT** shall abide by the requirements set by the **CITY** related to the erection of towers through all applicable City Ordinances, including Zoning rules and regulations, Unified Development Code rules, Building Code rules and regulations, and all other rules and policies set by the **CITY**, including, but not limited to, those described in Section VIII. of this Lease Agreement.

6.2 **TENANT** will be responsible for the construction of its own shelter, provided, however, that each shelter be constructed uniformly so that another provider may adjoin a separate shelter. **TENANT** agrees to construct a twelve (12) foot width module (industry standard) which will accommodate similar add-ons, if the **PREMISES** will accommodate such modules.

6.04 In the event that an additional user desires to co-locate on the **PREMISES** then **TENANT** shall be given priority over any user who wishes to subsequently co-locate on that tower. Any provider which subsequently wishes to co-locate on an existing, occupied tower, must select its height position subject to the positioning of the other provider(s).

## **VII. INTERFERENCE**

7.1 **TENANT** agrees that its equipment on the **PREMISES** and the operation thereof will not cause any harmful interference, electromagnetic or otherwise, to the useful



operation of the **CITY'S** fire, police and emergency services equipment and/or any communications equipment.

7.2 Should the **CITY** determine that the **TENANT'S** operation is causing such harmful interference, it shall notify the **TENANT**, and after receipt of such notice, **TENANT** will be given a reasonable period of time, at least thirty (30) days, to correct such harmful interference or remove the equipment which is causing such interference. However, if such interference creates an emergency situation, as determined by the **CITY**, then the thirty (30) day period does not apply, and the provider shall rectify the problem immediately, or cease operations on that tower until the problem is rectified. Costs of reducing such interference shall be borne by the **TENANT**.

### **XIII. UTILITIES**

8.01 **TENANT** shall maintain separate utility meters or sub-meters on the **PREMISES**. **TENANT** shall, during the term hereof, pay all charges for telephone, gas, electricity, water, or any other power or utilities used by it for or on the **PREMISES** before they shall become delinquent and shall hold the **CITY** harmless from any liability therefor.

### **IX. INSURANCE**

9.1 **TENANT** agrees to secure, prior to commencing any activities under this Lease Agreement, and to maintain, with respect to the **PREMISES** from the execution date of this Lease Agreement and for the duration of this Lease Agreement and any extensions thereof, evidence of self-insurance, and any contractor and each consultant shall provide and maintain insurance (which shall include indemnifying the **TENANT** and **CITY**) with companies admitted to do business in the State of Texas in the following types and amounts: to cover the indemnity provision as described in Article IX of this agreement:

Type	Amount
A Workers' Compensation and Employer's Liability	Statutory - \$500,000.00 each occurrence
B. Commercial General Liability to include coverage for the following where the exposure exists:	Combined Single Limit for Bodily Injury and Property Damage: \$1,000,000.00 per occurrence (or its equivalent)
(1) Premises/Operations	
(2) Independent Contractors	
(3) Products/Completed Operations	
(4) Personal Injury	
(5) Contractual Liability	

- C. As applicable, if requested by  
City's Risk Manager:  
Business Automobile Liability Insurance - to include coverage for:  
Combined Single Limit for Bodily Injury and Property Damage -  
\$500,000.00 or its equivalent
  - (1) Owned/Leased Automobiles
  - (2) Non-owned Automobiles
  - (3) Hired Automobiles
- D. Property Insurance - for physical Coverage for a minimum of one damage to the property of **TENANT**, hundred percent (100%) of the including improvements and replacement cost of **TENANT'S** betterments to the **PREMISES** improvements

**(The above limits shall not be construed as limiting, waiving or modifying, in any way, TENANT'S or CITY'S right to assert its protections provided pursuant to Texas Tort Claims Act)**

9.2 **TENANT** further agrees that with respect to the above required insurance's, the CITY shall:

- A. Be named as an additional insured on General Liability coverage.
- B. Be provided with a Waiver of Subrogation, but only as it pertains to Workers' Compensation and Employers' Liability.
- C. Be provided with thirty (30) days' advance notice, in writing, of cancellation or material change.
- D. Be provided with Certificates of Insurance evidencing the above required insurance, prior to the commencement of this Lease and thereafter, with certificates evidencing renewals or replacements of said policies of insurance at least fifteen (15) days prior to the expiration or cancellation of such policy. Said notices and Certificates of insurance shall be provided to:
  - (1) City Clerk of the **CITY OF SAN ANTONIO**, and
  - (2) City's Director of Risk Management, and
  - (3) City's Director of Asset Management.

9.3 Any alternate plan for Employer's Liability must be approved in advance by the **City's Risk Manager**.

9.4 The **City's Risk Manager** is hereby authorized to reduce or increase the

requirements set forth above in the event he or she determines that such reduction or increase is in the City's best interest.

9.5 **TENANT** further agrees that with respect to the above required insurance, each insurance policy required by this Lease shall contain the following clauses:

"This insurance shall not be canceled, limited in scope or coverage, or non-renewed until after thirty (30) days' written notice has been given to:

City of San Antonio  
City Clerk,  
City Hall/Military Plaza  
P.O. Box 8399661 2nd Floor  
San Antonio, Texas 78283-3966 Attention:  
Risk Manager

**and**

- a) City of San Antonio City  
Information Technology Services  
Department  
P.O. Box 839966  
San Antonio, Texas 78283-3966

"It is agreed that the insurance provided by **TENANT** is primary to any insurance or self-insurance maintained by the City of San Antonio."

9.6 The terms and conditions of this Article IX notwithstanding, the Parties agree and understand that **TENANT** is a self-insured governmental agency and **TENANT** may self-insure in the amounts and types of insurance herein required.

## **X. INDEMNITY**

10.1 **TENANT** and **CITY** acknowledge they are political subdivisions of the State of Texas and are subject to, and comply with, the applicable provisions of the Texas Tort Claims Act, as set out in Civil Practices and Remedies Code, Section 101.001 *et. seq.* and the remedies authorized therein regarding claims or causes of action that may be asserted by third parties for accident, injury or death.

10.2 This Interlocal Lease Agreement will be interpreted according to the Constitution and laws of the State of Texas. Venue of any court action brought directly or indirectly by reason of this Interlocal Lease Agreement shall be in Bexar County, Texas. This Interlocal Lease Agreement is made and is to be performed in Bexar County, Texas, and is governed by the laws of the State of Texas.

## **XI. MAINTENANCE AND SAFETY**

11.1 **TENANT** shall not commit, or suffer to be committed, any waste on the **PREMISES**, nor shall it maintain, commit, or permit the maintenance or commission of any



nuisance on the **PREMISES** or use the **PREMISES** for any unlawful purpose and, **TENANT** shall, at all times, keep the **PREMISES** neat, clean, and clear of any potential safety hazards and unused equipment.

11.2 **TENANT** shall prominently post easily readable signs on the **PREMISES** advising of any hazard(s) which may be common, known, or that the provider should be aware of through the exercise of ordinary diligence, to the operation of the equipment located on said **PREMISES**.

11.3 **TENANT** shall immediately, not to exceed seven (7) days after **CITY** mails notice to the **TENANT**, to correct any safety hazard that exists on the **PREMISES** after receipt of notice from any appropriate **CITY** official. Failure to comply with this provision may result in termination of this Lease, however, the **CITY** will grant an additional seven (7) days if good faith efforts are being made by the **TENANT**, to the **CITY'S** satisfaction, to correct said hazard. This provision does not limit the **CITY'S** right suspend operations for emergency purposes as specified in section 4.05 above.

11.4 **TENANT** will make all arrangements for installation of any control lines, or other equipment, as may be required for the operation of its radio equipment. If, under the terms of this Lease, power is not specifically included in the rental, **TENANT** shall arrange for and bear the cost of the installation and use of power facilities using space provided by the **CITY** for the power meter.

11.5 **TENANT** will, at the termination of this Lease, return the **PREMISES** to the **CITY** in as good condition as at the commencement of the term hereof, usual wear and tear, acts of God, or unavoidable accident only excepted.

11.6 **TENANT** agrees that the **CITY** shall not be liable for any theft, damages, or destruction of signs, goods, and/or other property of the **TENANT** both during the initial term and any extended terms of this Lease and as so left on the **PREMISES** after the **TENANT** vacates the **PREMISES**. If said signs, goods, and/or other property placed by the **TENANT** upon the **PREMISES** are not removed by it within thirty (30) days after the **PREMISES** are vacated, then the **CITY** may remove and sale at public sale the same without further notice or liability therefor to the **TENANT**.

## **XII. ABATEMENTS**

12.01 It is understood and agreed that the **CITY** is not an insurer, and that the rental herein provided is based solely on the value of the **PREMISES** provided in this Agreement. If the **TENANT'S** use of the **PREMISES** is interrupted due to acts of God, the rent for the period during which use is interrupted shall abate, and the **CITY** shall have no other liability beyond the rental payment abatement.

## **XIII. ASSIGNMENT AND SUBLET**

13.1 **TENANT** shall not transfer or assign this Lease Agreement or the **TENANT'S** interest in or to the Lease Premises or any part thereof without having first obtained the prior written consent of the **CITY** which may be given only by or pursuant to an ordinance enacted by the City Council of San Antonio, Texas.

13.2 **TENANT** shall not sublet the **PREMISES** herein leased or any part thereof

without having first obtained the written consent of the **City's** Asset Management Director. In the event the **TENANT** requests permission to sublease, the request shall be submitted to the Asset Management Director at least thirty (30) days prior to the effective date of the sublease requested and shall be accompanied by a copy of the proposed sublease agreements and of all agreements collateral thereto. The identity of the sublessee, the area or space to be subleased, the rental to be charged, the type of business to be conducted, reasonable financial history and all other information requested by said Director shall be specified. **TENANT** shall not sublease a total of more than 50% of the **PREMISES**. If such limit is exceeded, the **CITY** shall have the right, upon 30 days written notice, to recapture the space described in the sublease, and terminate the entire Lease Agreement on the expiration of such 30 day period. In the event of any recapture, **TENANT'S** rental payments shall be adjusted on a prorated basis provided, however, that all options of the **CITY** contained in Provision XIV shall be available to Lessor.

133 In the event of a sublease where the rental value established in the sublease exceeds the rental value established in the Lease Agreement, **TENANT** shall pay to the **CITY** as additional rent the excess of the rental received from the sublessee over that specified to be paid by the **TENANT** herein, provided that the **TENANT** may charge a reasonable fee for administrative costs in addition to the sublease rental not to exceed 15% of the specified sublease rental. Such 15% shall not be considered as excess rental. Nothing herein shall prevent the **TENANT** from charging a reasonable fee to others for the use of capital equipment and facilities on the subleased premises and charging for use of utilities and other services being paid for by the **TENANT**. The provisions of this paragraph will apply if the rental received for the proportionate area of the Leased Premises by the **TENANT** exceeds the rental paid to the **CITY** for said proportionate area of the Leased Premises.

134 Each transfer, assignment or subletting to which there has been consent shall be by the instrument in writing, in form satisfactory to the **CITY**, and shall be executed by the transferee, assignee or sublessee who shall agree in writing for the benefit of the **CITY** to be bound by and to perform the terms, covenants and conditions of this Lease Agreement. Four (4) executed copies of such written instrument shall be delivered to the **CITY**. Failure to first obtain in writing the **CITY'S** consent, or failure to comply with the provisions herein contained shall operate to prevent any such transfer, assignment or subletting from becoming effective.

135 Should there be an assignment of this Lease Agreement pursuant to the terms of Section 13.1 of this Interlocal Lease Agreement, and to the extent that such assignee assumes the **TENANT'S** obligations hereunder, **TENANT** shall by virtue of such assignment be released from such obligation. Should the subletting of the Leased Premises be approved by the **CITY**, however **TENANT** agrees and acknowledges that **TENANT** shall remain fully and primarily liable under this Lease Agreement, notwithstanding any such sublease and that any such sublessee shall be required to attorn to the **CITY** under the terms of this Lease.

136 The receipt by the **CITY** of rent from an assignee, subtenant or occupant of the Leased Premises shall not be deemed a waiver of the covenant in this Lease Agreement against assignment and subletting or an acceptance of the assignee, subtenant or occupant as a tenant or a release of the **TENANT** from further observance or performance by the **TENANT** of the covenants contained in this Lease Agreement. No provision of this Lease Agreement shall be deemed to have been waived by the **CITY** unless such waiver be in writing, signed by the **City's** Asset Management Director.



#### **XIV. IMPROVEMENTS AND REPAIRS**

14.1 **TENANT** shall not construct any material improvements or structures on the **PREMISES** not otherwise allowed under the terms of this Interlocal Lease Agreement, nor shall **TENANT** make any material alterations to said **PREMISES**, other than repairs in the ordinary course of business without the prior written approval of the **CITY** as evidenced by the passage of an ordinance, if necessary, and any and all other necessary departments and agencies of the **CITY**, including the **CITY'S** Planning Commission and Historical Design and Review Commission, which approval shall not be unreasonably withheld.

14.2 **TENANT** covenants that it shall not bind, or attempt to bind, the **CITY** for the payment of any money in connection with the construction, repair, alteration, addition, or reconstruction in, on, or about the **PREMISES**. Further, the **TENANT** agrees to remove, within thirty (30) days after filing, by payment or provisions for bonding, any mechanic's or material man's liens filed against the **PREMISES** by any contractor or subcontractor of Tenant.

#### **XV. PERMITS, TAXES, AND LICENSES**

15.01 **TENANT** shall pay, on or before their respective due dates, to the appropriate collecting authority, all Federal, State, and local taxes and fees which are now or may hereafter be levied upon the **PREMISES**, or upon **TENANT**, or upon the business conducted on the **PREMISES**, or upon any of the **TENANT'S** property used in connection therewith; and shall maintain in current status all Federal, State, and local licenses and permits required for the operation of the business conducted by the **TENANT**. Failure to comply with the foregoing provision shall constitute grounds for termination of this Lease by the **CITY**; however, the **TENANT** reserves the right to contest the tax. If such contest occurs, **TENANT** agrees to post a bond in **City's** favor in the amount of said taxes contested, including the amount of all penalties and interest due or to be due during the period of such contest.

#### **XVI. DEFAULT AND REMEDIES**

16.1 The following events shall be deemed to be events of default by the **TENANT** under this Lease:

**A. TENANT** shall fail to pay installment of rent as provided for in this Lease and such failure shall continue for a period of ten (10) days following receipt of written notice of failure to pay any installment of rent when due and owing.

**B.** Except for the correction of safety hazards as provided in Section 12.03 and of interference as provided in Section 8.02 herein before, **TENANT** shall fail to comply with any material term, as reasonably determined by the **CITY**, provision or covenant of this Lease, other than the payment of rent, and shall not cure such failure within thirty (30) days after written notice thereof to the **TENANT**.

**C.** The taking by a court of competent jurisdiction of the **TENANT** and its assets pursuant to proceedings under the provisions of any Federal or State reorganization code or act, insofar as the following enumerated remedies for default are provided for or permitted in such code or act.

16.2 Upon the occurrence of an event of default as heretofore provided, **CITY** may,

as its option, declare this Lease, and all rights and interest created by it, terminated. Upon **CITY** electing to terminate, this Lease shall cease and come to an end as if that were the day originally fixed herein for the expiration of the term hereof; or the **CITY**, its employees, representatives, agents, or attorney may, at its option, resume possession of the **PREMISES** and relet the same for the remainder of the term, whether initial or an extended term, for the best rent the **CITY**, its, employees, representatives, agents, or attorney may obtain for the account of the **TENANT** without relieving the **TENANT** of any liability hereunder as to rent still due and owing in this Lease, or any extension thereof, as applicable. **TENANT** shall make good any deficiency.

16.3 Any termination of this Lease as herein provided, except under Article IV, Section 4.06, shall not relieve the **TENANT** from the payment of such sum or sums that shall then be due and payable or become due and payable to the **CITY** hereunder, or any claim for damages then or theretofore accruing against the **TENANT** hereunder, and any such sum or sums or claim for damages by any remedy provided for by law, or from recovering damages from the **TENANT** for any default hereunder. All rights, options, and remedies of the **CITY** contained in this Lease shall be cumulative of the other, and **CITY** shall have the right to pursue any one or all of such remedies or any other remedy or relief available at law or in equity, whether or not stated in this Lease. No waiver by the **CITY** of a breach of any of the covenants, conditions, or restrictions of this Lease shall be construed or held to be a waiver of any succeeding or preceding breach of the same or any covenant, condition, or restriction herein contained.

16.4 Upon any such expiration or termination of this Lease, **TENANT** shall quit and peacefully surrender the **PREMISES** to the **CITY** within a reasonable period of time, and **CITY**, upon or at any reasonable time after such expiration or termination may, without further notice, enter upon and re-enter the **PREMISES** and possess and repossess itself thereof, by force, summary proceedings, ejectment, or otherwise, any may dispossess **TENANT** and remove the **TENANT** and all other persons and property, including all signs, furniture, trade fixtures, and other property which may be disputed as to its status as fixtures, from the **PREMISES**, and such action by the **CITY** shall not constitute the **City's** acceptance of abandonment and surrender of the **PREMISES** by **TENANT** or prevent the **CITY** from pursuing all legal remedies available to it.

16.5 Bankruptcy on the part of the **TENANT**, or of any of its assignees or sublessees, shall be deemed an act of default and a breach of this Lease.

## **XVII. QUIET ENJOYMENT**

17.01 **CITY** covenants and agrees, subject to the provisions of this Lease, that the **TENANT**, on paying the rent and all other charges in this Lease provided for and observing and performing the covenants, agreements, and conditions of this Lease on its part to be observed and performed, shall lawfully and quietly hold, occupy, and enjoy the **PREMISES** during the term without hindrance or molestation of any kind whatsoever.

## **XVIII. CONFLICT OF INTEREST**

18.01 **TENANT** acknowledges that it is informed that Texas law prohibits contracts between the **CITY** and any local public official, such as a **CITY** officer or employee, and that the prohibition extends to an officer and employee of **CITY** agencies, such as **CITY**-owned



utilities and certain **CITY** boards and commissions, and to contracts involving a business entity in which the official has a substantial interest, as defined by Texas law, if it is reasonably foreseeable that an action on the matter would confer an economic benefit on the business entity. **TENANT** certifies (and this Lease Agreement is made in reliance thereon) that neither it, its individual officers, employees, or agents, nor any person having a substantial interest in this Lease Agreement, is an officer or employee of the **CITY** or any of its agencies. The **TENANT** further certifies that it has complies with the **City's** ethics ordinance.

### **XIX. ENTIRE AGREEMENT/AMENDMENT**

19.1 This Interlocal Lease Agreement, together with its attached exhibit(s) and the authorizing ordinance, in writing, constitutes the entire agreement between the parties, any other written or parol agreement with the **CITY** being expressly waived by the **TENANT**.

19.2 No amendment, modification, or alteration of the terms of this Lease shall be binding unless the same be in writing, dated subsequent to the date hereof, duly executed by the parties hereto and approved by the **CITY** Council, as evidenced by the passage of an ordinance.

19.3 It is understood that the Charter of the **CITY** requires that contracts with the **CITY** be in writing and adopted by Ordinance. All amendments also need approval evidenced by Ordinance. However, pursuant to the **CITY** Ordinance referenced on page 1 hereof, which adopted this written Standard Tower Lease Agreement, the City has adopted a procedure and policy through which this Standard Tower Lease Agreement may be executed by the City Manager's Office. Any substantial change to this Lease must be in writing, approved by City Council and adopted by Ordinance.

19.4 The statements set forth in the recitals of this Interlocal Lease Agreement are true and correct and the same are incorporate and made part of this Interlocal Lease Agreement.

### **XX. SEPARABILITY**

20.01 If any clause or provision of this Lease is illegal, invalid, or unenforceable under present or future laws effective during the term of this Lease, then and in that event it is the intention of the parties hereto that the remainder of this Lease shall not be affected thereby, and it is also the intention of the parties to this Lease that in lieu of each clause or provision of this Lease that is illegal, invalid, or unenforceable, there be added as part of this Lease a clause or provision as similar in terms to such illegal, invalid, or unenforceable clause or provision as may be possible and be legal, valid, and enforceable.

### **XXI. NOTICES**

21.1 Any notice or demand given under this Lease shall be in writing and shall be effectively delivered when deposited in the United States Mail, in Certified or Registered form, postage prepaid, addressed as follows:

**If to the CITY:**

**Director, Information Technology Services Department**

**CITY OF SAN ANTONIO**  
**P.O. Box 839966**  
**San Antonio, Texas 78283-3966**  
**With copy to:**

**CITY Clerk's Office**  
**CITY OF SAN ANTONIO**  
**Post Office 839966/Second Floor/City Hall**  
**San Antonio, Texas 78283-3966**

**If to TENANT:**

**VIA Metropolitan Transit**  
  
**Strategic Planning and**  
**Development**  
  
**123 N. Medina**  
**San Antonio, Texas 78207**

21.2 Notice given in any other manner shall be effective only when actually received. Either party may change the address herein specified from time to time giving five days written notice of same.

21.3 This Contract is to be construed under the laws of the State of Texas and is performable in Bexar County, Texas.

## **XXII. PARTIES BOUND**

22.01 The covenants and agreements herein contained shall inure to the benefit of and be binding upon the parties hereto, their respective legal representatives, successors, and assigns, and if there shall be more than one party designated as the **TENANT** in this Lease, they shall each be bound jointly and severally hereunder.

## **XXIII. LAW TO APPLY**

**23.01 THIS INTERLOCAL LEASE AGREEMENT SHALL BE CONSTRUED UNDER AND IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, AND ALL OBLIGATIONS OF THE PARTIES CREATED HEREUNDER ARE PERFORMABLE IN BEXAR COUNTY, TEXAS.**

## **XXIV. GENDER**

24.01 Words of any gender used in this Lease shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires.

## **XXV. CAPTIONS**

25.01 The captions contained in this Lease are for convenience of reference only and in no way limit or enlarge the terms and conditions of this Lease.

#### **XXVI. WARRANTIES OF AUTHORITY**

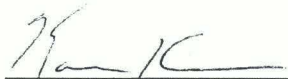
26.1 The parties hereto warrant, that they have the authority to enter into this Agreement by and through their respective duly authorized agent (signatures below), that any approvals required have been obtained and are valid for the full term(s) of this Agreement, that this Agreement is authorized by the governing body of **CITY** and **TENANT**, that **TENANT** is paying for performance out of current revenues available to VIA, and that the parties agree that the contractual payment specified herein is in an amount that fairly compensates CITY for the rights provided hereunder.

**WITNESS WHEREOF**, we have affixed our signatures this \_\_\_\_ day of \_\_\_\_\_ 2020.

**CITY OF SAN ANTONIO**  
A Texas Home-rule Municipal Corporation

**VIA METROPOLITAN TRANSIT**

\_\_\_\_\_  
Erik Walsh  
City Manager

\_\_\_\_\_  
  
Kammy Horne, AICP  
Senior Vice President Development

**Attest:**

\_\_\_\_\_  
Leticia M. Vacek, City Clerk

**Approved as to Form:**

\_\_\_\_\_  
City Attorney





# Rockwell

TransitMaster Documentation

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## VIA Metropolitan Transit HY-LYONS Radio Site

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Package 98:SA0892 Prepared 16 November 1998 by:

**DAILEY-WELLS**

Communications

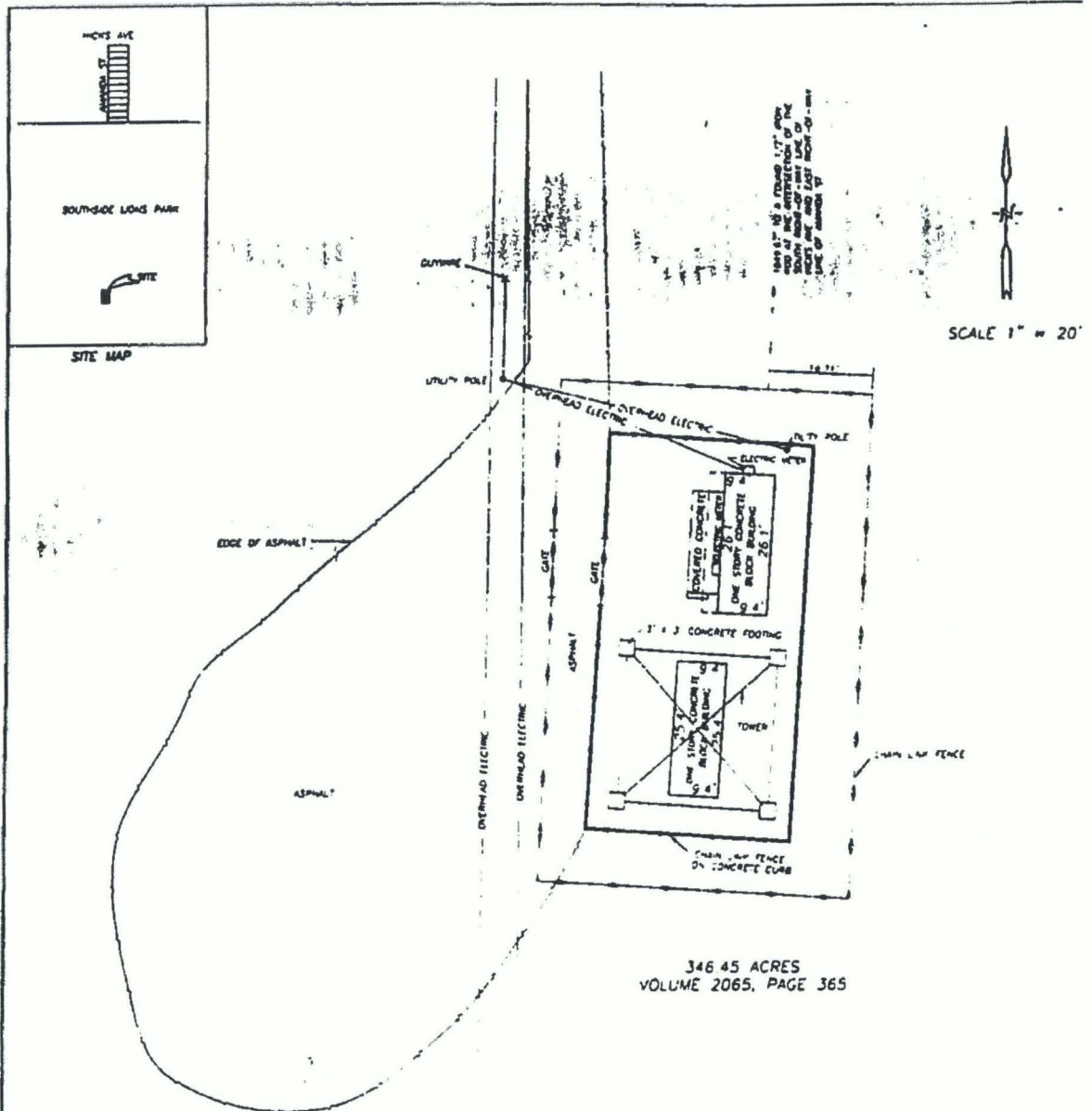
### Drawing List

M98-0605.....	Site Survey
98SA:9232.....	Proposed Site Layout
98SA:9202.....	Internal Cabinet View
98SA:9200.....	Quoted 10x12 Shelter
98SA:9201.....	Optional 10x14 Shelter
98SA:9204.....	Hy-Lyons Antenna System

**EXHIBIT**

A

**Preliminary Drawing Package**



346.45 ACRES  
VOLUME 2065, PAGE 365

A SURVEY OF  
A 0.128 ACRE TRACT OF LAND OUT OF A 346.45 ACRE TRACT RECORDED IN VOLUME 2065,  
PAGE 365, DEED RECORDS OF BEXAR COUNTY, TEXAS, AND BEING PART OF THE MONT AVENUE  
ALANIS SURVEY, NUMBER 20, 485TH PACE, NUMBER 22, NEAR 17TH BLOCK 10833, SAN ANTONIO,  
BEXAR COUNTY, TEXAS.

ADDRESS 2040 AMANDA ST

FLOOD NOTE: ACCORDING TO FLOOD INSURANCE RATE MAP PANEL NUMBER 4802900480 E THIS PROPERTY  
IS "NO" IN FLOOD ZONE "A".

REFERENCES VOL. 2065 PAGE 365 VOL. PAGE  
VOL. PAGE VOL. PAGE



**NORTHSTAR LAND  
SURVEYING**  
8301 BROADWAY, SUITE 420  
SAN ANTONIO, TEXAS 78209  
(210) 826-8228

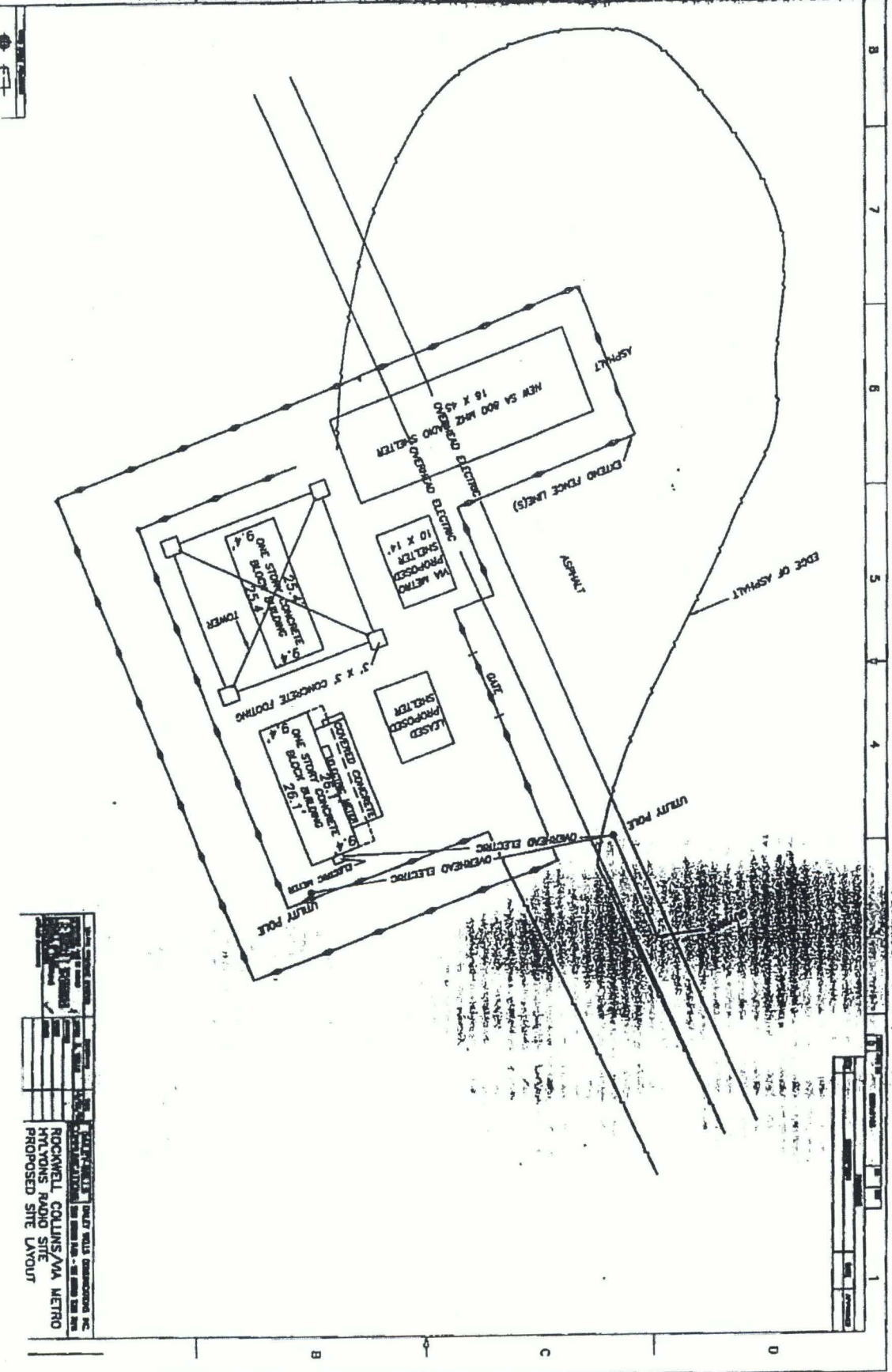
STATE OF TEXAS  
COUNTY OF BEXAR

I HEREBY CERTIFY THAT THE ABOVE PLAT WAS PREPARED BY  
FROM AN ACTUAL SURVEY MADE ON THE GROUND UNDER MY  
SUPERVISION AND THAT ALL BUILDINGS ARE WHOLLY LOCATED  
ON THIS PROPERTY AND THAT THERE ARE NO VIOLABLE EN-  
CUMBRANCES OR ENCROACHMENTS EXCEPT AS SHOWN

THIS 13th DAY OF OCTOBER 1998 A.D.

*Thomas C. Haber*  
THOMAS C. HABER





ROCKWELL COLLINS/VNA METRO  
 FILTRONS ROAD SITE  
 PROPOSED SITE LAYOUT



DATE	9/85	BY	WJ
TIME	10:00	BY	WJ
LOCATION	RADIO ROOM		
DESCRIPTION	INTERNAL CABINET VIEW		

DATE	9/85	BY	WJ
TIME	10:00	BY	WJ
LOCATION	RADIO ROOM		
DESCRIPTION	INTERNAL CABINET VIEW		

DATE	9/85	BY	WJ
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DESCRIPTION	INTERNAL CABINET VIEW		

DATE	9/85	BY	WJ
TIME	10:00	BY	WJ
LOCATION	RADIO ROOM		
DESCRIPTION	INTERNAL CABINET VIEW		

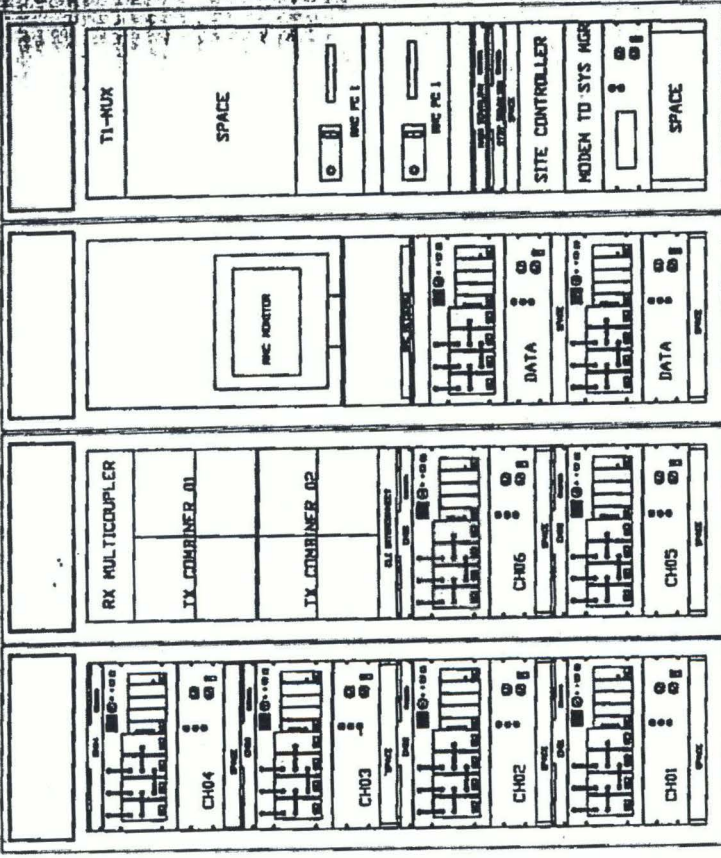
DATE	9/85	BY	WJ
TIME	10:00	BY	WJ
LOCATION	RADIO ROOM		
DESCRIPTION	INTERNAL CABINET VIEW		

DATE	9/85	BY	WJ
TIME	10:00	BY	WJ
LOCATION	RADIO ROOM		
DESCRIPTION	INTERNAL CABINET VIEW		

DATE	9/85	BY	WJ
TIME	10:00	BY	WJ
LOCATION	RADIO ROOM		
DESCRIPTION	INTERNAL CABINET VIEW		

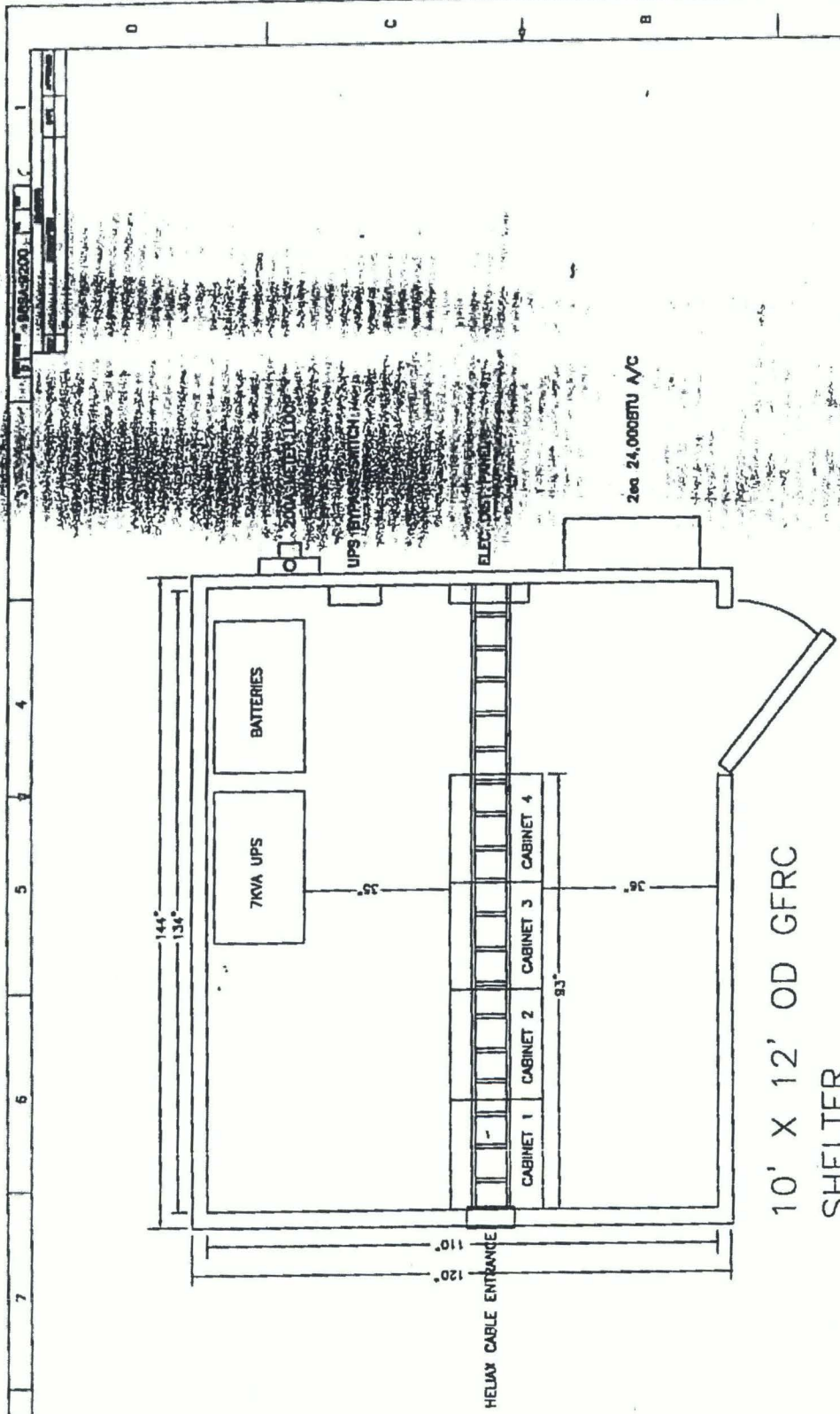
23.125"

83"



DATE: 9/85  
TIME: 10:00  
LOCATION: RADIO ROOM  
DESCRIPTION: INTERNAL CABINET VIEW

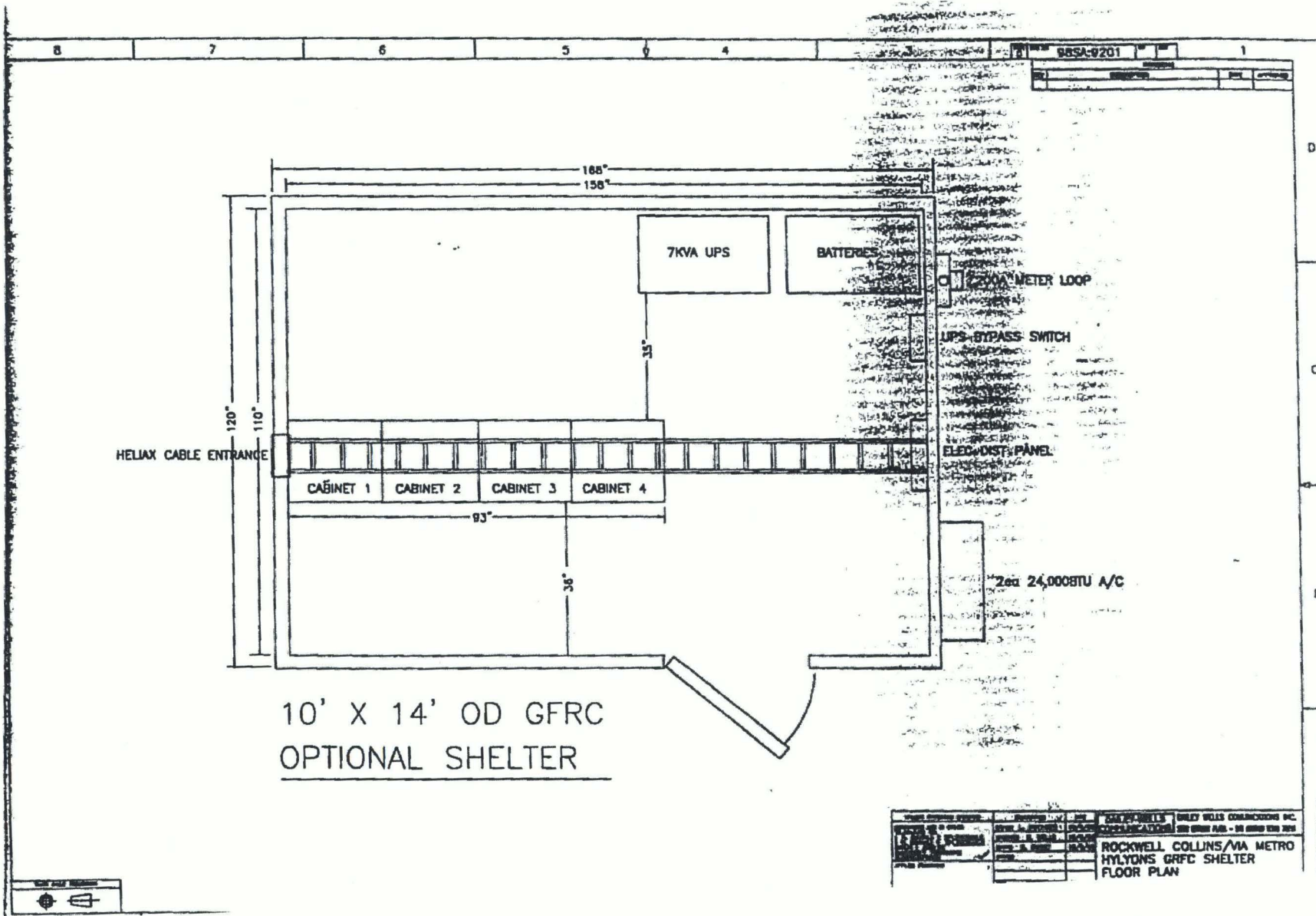


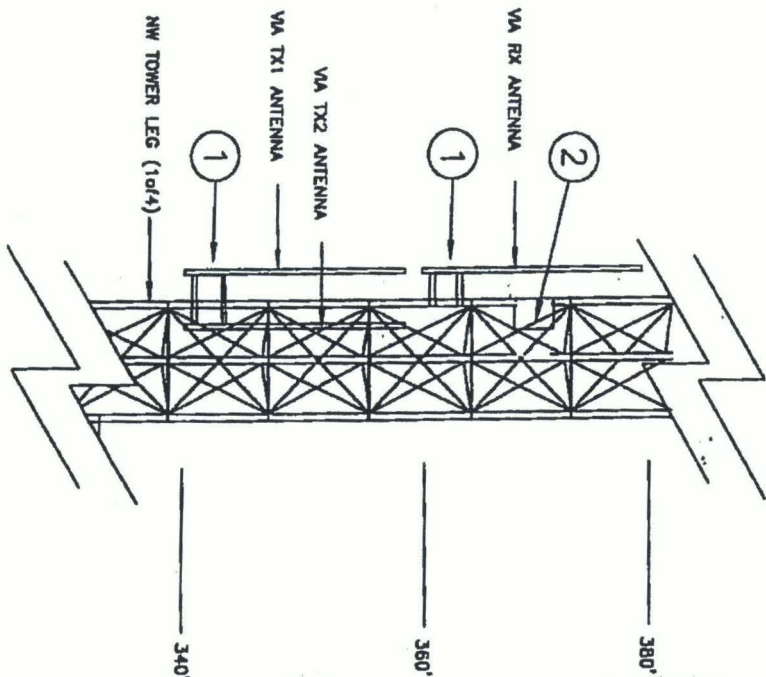


10' X 12' OD GFRC  
SHELTER

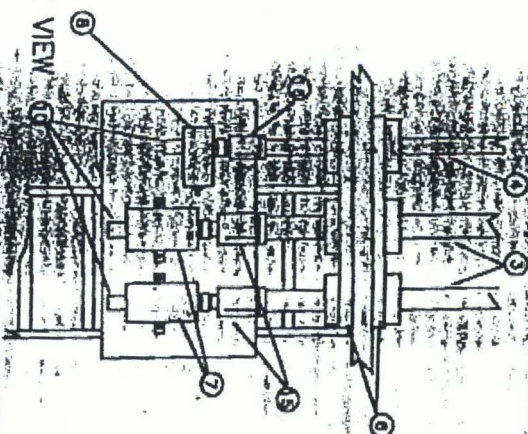
PROJECT NO.	98SA-9200
DATE	10/1/98
BY	W. J. COLLINS
CHECKED BY	W. J. COLLINS
APPROVED BY	W. J. COLLINS
PROJECT NAME	ROCKWELL COLLINS/VA METRO
PROJECT LOCATION	HYATONS GFRC SHELTER
PROJECT DESCRIPTION	FLOOR PLAN
PROJECT NUMBER	98SA-9200
PROJECT DATE	10/1/98
PROJECT BY	W. J. COLLINS
PROJECT CHECKED BY	W. J. COLLINS
PROJECT APPROVED BY	W. J. COLLINS







INSIDE VIEW



ITEM NO.	DESCRIPTION	QTY	UNIT	PRICE	TOTAL
1	ANTENNA	1	EA	100.00	100.00
2	ANTENNA	1	EA	100.00	100.00
3	ANTENNA	1	EA	100.00	100.00
4	ANTENNA	1	EA	100.00	100.00
5	ANTENNA	1	EA	100.00	100.00
6	ANTENNA	1	EA	100.00	100.00
7	ANTENNA	1	EA	100.00	100.00
8	ANTENNA	1	EA	100.00	100.00
9	ANTENNA	1	EA	100.00	100.00
10	ANTENNA	1	EA	100.00	100.00
11	ANTENNA	1	EA	100.00	100.00
12	ANTENNA	1	EA	100.00	100.00
13	ANTENNA	1	EA	100.00	100.00
14	ANTENNA	1	EA	100.00	100.00
15	ANTENNA	1	EA	100.00	100.00
16	ANTENNA	1	EA	100.00	100.00
17	ANTENNA	1	EA	100.00	100.00
18	ANTENNA	1	EA	100.00	100.00
19	ANTENNA	1	EA	100.00	100.00
20	ANTENNA	1	EA	100.00	100.00
21	ANTENNA	1	EA	100.00	100.00
22	ANTENNA	1	EA	100.00	100.00
23	ANTENNA	1	EA	100.00	100.00
24	ANTENNA	1	EA	100.00	100.00
25	ANTENNA	1	EA	100.00	100.00
26	ANTENNA	1	EA	100.00	100.00
27	ANTENNA	1	EA	100.00	100.00
28	ANTENNA	1	EA	100.00	100.00
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30	ANTENNA	1	EA	100.00	100.00
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45	ANTENNA	1	EA	100.00	100.00
46	ANTENNA	1	EA	100.00	100.00
47	ANTENNA	1	EA	100.00	100.00
48	ANTENNA	1	EA	100.00	100.00
49	ANTENNA	1	EA	100.00	100.00
50	ANTENNA	1	EA	100.00	100.00

DMC, INC.  
 1000 N. 10TH AVE.  
 SUITE 100  
 DENVER, CO 80202  
 (303) 733-1111  
 FAX (303) 733-1112  
 WWW.DMC-INC.COM

ROCKWELL COLLINS/VIA METRO  
 HY-LYONS ANTENNA SYSTEM  
 TOWER DETAIL

985A-8204