



TO: Kent Studebaker, Mayor
Members of the City Council

FROM: Leslie Taylor, Communications Manager
Police Department

SUBJECT: Cooks Butte Lease Agreement for Clackamas County Emergency Radio
Communications System

DATE: November 22, 2017 **MEETING DATE:** December 5, 2017

ACTION

Adopt Resolution 17-69, authorizing the City Manager to execute a Lease Agreement between the City of Lake Oswego and Clackamas 800 Radio Group for property located in Cooks Butte Park.

INTRODUCTION/BACKGROUND

The City of Lake Oswego is a partner in the Clackamas 800 Radio Group (C800). C800 was formed in the late 1990s to replace a patchwork of dated and non-compatible radio systems serving the public safety agencies in the county. The City of Lake Oswego joined the group by intergovernmental agreement in 2001. C800 currently serves all public safety agencies in Clackamas County. The current emergency communications radio system is at its end of life, is prone to failure and needs to be replaced with modern standards based digital technology. In May of 2016 Clackamas County voters approved a general obligation bond in the amount of \$58,704,000 to replace the current county wide emergency communications system with a digital system.

DISCUSSION

The C800 emergency communications system is upgrading from an 800 MHz trunked analog to a digital standards based system. A digital system provides many additional capabilities for service but the radio signal performance is less than the existing analog system. In addition C800 intends to improve coverage inside building/structures within the City and adjacent areas surrounding the City. The system is used locally by the City of Lake Oswego Police Department,

Fire Department, Public Works and the dispatch center (LOCOM-Lake Oswego Communications), along with Lake Corporation and the Willamette Shore Trolley.

The current analog system relies on tower locations in Tigard, Pete's Mountain, and View Acres in the Milwaukie area to provide adequate analog radio coverage for the City of Lake Oswego. C800 is proposing to inter-set new facilities between its existing facilities to accommodate for the needs of the new digital system. For the Lake Oswego area to attain adequate and improved coverage on the digital system, C800 will need additional communications tower site(s) in the immediate Lake Oswego area.

The C800 design engineers identified two potential sites in the Lake Oswego area that fit the overall system need: the Cooks Butte Park site, and a potential site near the intersection of Bergis Road and Upper Cherry Lane, identified as the Skylands site. Each site has advantages and disadvantages. The Cooks Butte site offers better coverage for first responders specifically in the City of Lake Oswego. The Cooks Butte site offers better screening for adjoining properties since it would be situated in a heavy forest canopy, uphill from most property owners and valley views.

The Skylands site offers improved coverage for some areas inside and outside the City of Lake Oswego, north to the City of Milwaukie and parts of the Willamette River. However, the site offers reduced coverage on the west side of Lake Oswego due to the shadow created by Cooks Butte. The Skyland site offers less screening for adjoining properties since it is situated in a smaller clump of trees, and is downhill from several property owners and in the valley view of other property owners.

Staff believes the Cooks Butte site offers more advantages than the Skylands site including better coverage in the City of Lake Oswego, better screening, and City oversight of design and planning.

Approving the lease is the first step in the process. The C800 Group will need to apply for and obtain a Conditional Use Permit for the facility, which requires a public hearing before the Development Review Commission.

FISCAL IMPACT

The City as a member of C800, who was the recipient of the general obligation bond approved in May of 2016 by Clackamas County voters, will not expend any additional funds for the construction of the site. As a member of the C800 radio group the City will charge a nominal lease amount to insure oversight and long term control over the property.

RECOMMENDATION

To approve the City Manager signing a lease with C800 for the Cooks Butte site allowing C800 to proceed with a land use application.

ATTACHMENTS

Attachment 1: Resolution 17-69, with Exhibit 1, Lease Agreement

Attachment 2: C800 Photos from Cooks Butte site

Attachment 3: Photo Sim_Cooks Butte

RESOLUTION 17-69

A RESOLUTION OF THE LAKE OSWEGO CITY COUNCIL AUTHORIZING LEASING LAND AT COOKS BUTTE PARK TO THE CLACKAMAS 800 RADIO GROUP FOR A PUBLIC SAFETY EMERGENCY COMMUNICATIONS RADIO TOWER

WHEREAS the current public safety radio system is obsolete and must be upgraded to a digital system; and

WHEREAS there are no communications tower sites within the City of Lake Oswego that provide adequate coverage with the new system; and

WHEREAS the voters in Clackamas County approved bond funding for building a new system; and

WHEREAS it is necessary to lease land to the Clackamas 800 Radio Group (C800) to construct and maintain a public safety emergency communications site to support emergency services in and around the City of Lake Oswego.

IT IS RESOLVED by the Lake Oswego City Council that:

Section 1. The City Manager is authorized to sign the lease with Clackamas 800 Radio Group, substantially in the form attached as Exhibit 1, for a radio communications site.

Section 2. This Resolution shall be effective immediately upon its adoption by the City Council.

Adopted at the meeting of the Lake Oswego City Council held on the 5th day of December, 2017.

AYES:

NOES:

EXCUSED:

ABSTAIN:

Kent Studebaker, Mayor

ATTEST:

Anne-Marie Simpson, City Recorder

APPROVED AS TO FORM:

David Powell
City Attorney

EXHIBIT 1



**COMMUNICATIONS FACILITY SITE LEASE
GROUND SPACE**

THIS Lease agreement ("Lease") is entered into this _____ day of 2017, by and between City of Lake Oswego, an Oregon municipal corporation (Lessor), and Clackamas 800 Radio Group ("C800"), an intergovernmental entity formed pursuant to ORS chapter 190, Milwaukie, Oregon (Lessee) [collectively, "the Parties"].

WHEREAS, Lessor is the owner of certain real property located in Clackamas County, State of Oregon, described on attached Exhibit A and known as Cook's Butte Park ("the Property"); and

WHEREAS, Lessee desires to Lease an approximate Two Thousand Five Hundred (2500) square-foot portion of the Property ("Ground Space") for placement of the Lessee's equipment shelter, generator, propane tank, and communications tower, and the Ground Space, which is more particularly shown and described on Exhibit "B" attached hereto, will be leased for the purpose of erecting, constructing, installing and operating thereon: an equipment shelter; communications tower for antennas and microwave dish(es); an emergency power generator and propane tank; fencing; and certain associated equipment and facilities (collectively, "the Site" or "the Communication Facility"); and

WHEREAS, Lessee has agreed that Lessor may place certain communications devices on Lessee's Communications Facility without charge; and

WHEREAS, Lessor desires to Lease the Ground Space to Lessee upon the terms and conditions hereinafter set forth;

NOW, THEREFORE, in consideration of the mutual promises contained herein, the Parties agree as follows:

1. Leased Rights: Lessor does hereby Lease to Lessee the Ground Space, including the air space above the Ground Space, together with a nonexclusive easement for the right-of-way of ingress and egress to and from the Ground Space (the Easement). The nonexclusive easement for the right-of-way of ingress and egress to and from the Ground space has not been defined or located at this time. Lessor and Lessee shall both review and mutually agree in writing to the location of said nonexclusive easement prior to its use, construction, location or otherwise.
2. Authority: Lessor covenants and warrants that Lessor has title to the Property and that Lessor has the right and authority to enter into this Lease.
3. Land and Water Conservation Funds: Lessee has investigated and confirmed to its satisfaction that the Ground Space and the anticipated access easement area are outside the portion of the Property acquired by Lessor with funds from a Land and Water Conservation Fund federal grant administered through the State of Oregon, and that the Ground Space and easement area are not subject to regulations, requirements or restrictions associated with that grant. Lessee is not

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relying upon any representations or warranties from Lessor relating to the applicability of the grant or related regulations, requirements or restrictions, and Lessor shall not be responsible to Lessee for the consequences of any such applicability.

4. Permitted Use: Lessee may use the Ground Space for the transmission and reception of governmental public safety communications signals only and the installation, construction, maintenance, operation, repair, replacement and upgrade of its governmental public safety communications fixtures and related equipment, cables, accessories and improvements described on –Exhibit B (collectively, the “Communication Facility”), as well as the right to test, survey and review title on the Property, as it relates to the Ground Space, at Lessee’s sole cost and expense. There shall be no modifications, changes, or additions to the Communications Facility without the advance written approval of Lessor, in Lessor’s sole discretion.
5. Approvals: Lessor agrees that Lessee's ability to use the Site is contingent upon the suitability of the Site for Lessee’s Permitted Use, and Lessee’s ability to obtain and maintain all governmental licenses, permits, approvals or other relief required of or deemed necessary or appropriate by Lessee, and at Lessee’s sole expense, for its use of the Ground Space, including without limitation applications for zoning variances, zoning ordinances, amendments, special use permits, and construction permits (collectively, the "Government Approvals"). Lessor authorizes Lessee, at Lessee’s sole cost and expense, to prepare, execute and file all required applications to obtain Governmental Approvals for Lessee’s permitted use under this Lease. Nothing in this Lease shall be construed as binding the City of Lake Oswego in its regulatory capacity to issue or approve any Governmental Approvals. In addition, Lessee, at Lessee’s sole cost and expense, shall have the right to initiate the ordering and/or scheduling of necessary utilities.
 - 5.1 Lessee, at Lessee’s sole cost and expense, has the right to obtain a title report or commitment for a leasehold title policy from a title insurance company of its choice and to have the Property surveyed by a surveyor of Lessee's choice. In the event Lessee determines, in its sole discretion, due to the title report results or survey results, that the condition of the Ground Space is unsatisfactory, Lessee will have the right to terminate this Agreement upon notice to Lessor.
 - 5.2 Upon obtaining Lessor’s advance approval, Lessee may also perform and obtain, at Lessee’s sole cost and expense, soil borings, percolation tests, engineering procedures, environmental investigation or other tests or reports on, over, and under the Ground Space, necessary to determine if the Lessee's use of the Ground Space will be compatible with Lessee’s engineering specifications, system, design, operations or Governmental Approvals.
6. Interference: Lessee shall not have priority over or interfere with existing uses on the Property. Lessor shall have no obligation to guarantee, warrant or in any other way prevent interference with Lessee's proposed use of the Site from the use(s) existing on the Property, including without limitation members of the public using Cooks Butte Park. Lessee’s use of the Ground Space shall not in any way interfere with any other use or uses of the Property.
 - 6.1 Where there are existing radio frequency user(s) on the Property, the Lessor will provide

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Lessee with a list of all existing radio frequency user(s) on the Property to allow Lessee to evaluate the potential for interference. Lessee warrants that its use of the Ground Space will not interfere with existing radio frequency user(s) on the Property so disclosed by Lessor, as long as the existing radio frequency user(s) operate and continue to operate within their respective frequencies and in accordance with all applicable laws and regulations.

- 6.2 Lessor will not grant, after the date of this Agreement, a lease, license or any other right to any third party for the use of the Property other than park or outdoor recreation use, if such use may in any way adversely affect or interfere with the Communication Facility, the operations of Lessee or the rights of Lessee under this Agreement without Lessee's prior written approval, which approval shall not be unreasonably denied. Lessor will notify Lessee in writing prior to granting any third party the right to install and operate communications equipment on the Property.
- 6.3 Lessor will not use, nor will Lessor permit its employees, Lessees, licensees, invitees or agents to use, any portion of the Property in any way which interferes with the Communication Facility, the operations of Lessee or the rights of Lessee under this Agreement. Lessor will cause such interference to cease within twenty-four (24) hours after receipt of notice of interference from Lessee. In the event any such interference does not cease within the aforementioned cure period then the parties acknowledge that Lessee will suffer irreparable injury, and therefore, Lessee will have the right, in addition to any other rights that it may have at law or in equity, for Lessor's breach of this Agreement, to elect to enjoin such interference or to terminate this Agreement upon notice to Lessor. Notwithstanding the foregoing, the Lessor shall not be responsible for the acts of members of the public using Cooks Butte Park.
7. Lease Term: The primary term of this Lease shall commence on the date Lessee executes this Lease and, unless earlier terminated according to the terms herein, shall terminate on the tenth (10th) anniversary of such date, provided that extensions to the term of the Lease may be granted as hereinafter set forth.
8. Termination: Lessee may terminate the lease, or any renewal thereof, at any time following ninety (90) days' written notice to Lessor. Upon termination by Lessee, Lessee shall not be entitled to any refund of fees previously paid. Lessor may terminate the Lease after providing ninety (90) days' written notice to Lessee prior to the expiration of the initial ten-year term or subsequent five-year terms, as applicable.
9. Lease Renewal: By mutual agreement, the Parties may renew the Lease for four (4) additional five (5) year terms. Each additional five-year term will automatically commence at the expiration of the current term unless one party gives the other sixty (60) days' written notice of its intention not to renew. Lease terms may be re-negotiated by the Parties at any time prior to the 60-day notice period.
10. Consideration:
 - 10.1 Lease Fees: For the initial ten-year term, Lessee shall pay Lessor one dollar (\$1.00 per year, in advance, commencing on the date the required permit(s) for the Lessee's

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proposed facilities are issued, prorated to January 1st of the following year. The anniversary date thereafter for all fee payments shall be January 1st of each year.

- 10.2 Adjusted Fees: The Lease Fee shall not be increased over the term of this agreement.
 - 10.3 Damages to the Land: Lessee shall repair or pay to Lessor the cost of repair for any damage done to the land and improvements of Lessor by Lessee or by another as a result of Lessee's use, construction, repair, or maintenance activities.
 - 10.4 Late Payments: If Lessee fails to make any payment due under this section 9 when due, the Lessee shall be in default. If such event of default remains uncured for thirty (30) days, Lessor may revoke this Lease pursuant to paragraph 7 of this Agreement. The amount in default shall bear interest at the rate of five percent (5%) per annum until paid.
11. Use, Access, Utilities, and Access:
- 11.1 Use: Lessee shall use and occupy the Ground Space only for the construction and operation of the Communications Facility described in this Lease, and activities incidental thereto, including, without limitation, maintenance, repair or removal of and additions or alterations to the Communications Facility, subject to the limitations set forth in this Lease. Lessee shall not use these facilities for any purpose other than governmental public safety communications.
 - 11.2 Utilities: Lessee is responsible for all utility costs associated with, or to the degree increased by, use of the Site. If new electrical power is needed for operation of the Communication Facility, Lessor will fully cooperate with any utility company requesting access to, or an easement over, under and across, the Property, in order to provide service to the Lessee, however said access shall be subject to the review, consent and prior written agreement of the Lessor
 - 11.3 Access: At all times throughout the Lease Term, and at no additional charge to Lessee, Lessee and its employees, agents, and subcontractors, shall have pedestrian and vehicular access to and over the Ground Space to the Site, for the installation, maintenance and operation of the Communication Facility and any utilities serving the Site.
12. Ownership of Communications Facility: The Communications Facility and any alterations or additions thereto which may be constructed by Lessee on the Site shall be owned by Lessee and shall be removed by Lessee upon termination of this Lease. If Lessee fails to remove the Communications Facility within thirty (30) days after the termination of this Lease, Lessor shall give Lessee thirty (30) days written notice to remove the Communications Facility. At the end of the thirty (30) day notice period, if Lessee has still failed to remove the Communications Facility and any buildings, improvements, and appurtenances thereto, the Lessor may remove the same Lessee shall be liable to Lessor for all costs of removal, including any and all legal costs and fees incurred by Lessor in effecting such removal.
13. Repair and Maintenance: During the term of this Lease, Lessee shall, at its own cost and expense, keep and maintain the Site, Ground Space, and Communications Facility, along with any improvements which may be erected on the Ground Space or Site and all appurtenances thereto, in good order and repair and shall allow no nuisances to exist or be maintained. Lessor shall not be obligated to make any repairs, replacements, or renewals of any kind, nature or

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description whatsoever to the Ground Space or Site of the Communications Facility or any appurtenances thereto.

14. Lessor's Use of the Communication Facility: Lessee hereby agrees to permit Lessor to install, operate and maintain certain equipment on Lessee's Communication Facility and within the Ground Space, as long as Lessor's proposed equipment installation does not interfere or conflict with Lessee's use of the Communication Facility and the Ground Space at the time of Lessor's desired installation. Such equipment installation shall be subject to Lessee's approval, which approval shall not be unreasonably withheld, conditioned, or delayed. Said equipment shall be up to, but no larger than, twelve (12) feet of vertical space on the tower structure; and up to, but no larger than, thirty (30) square feet of space on the ground within the Ground Space. Lessee agrees to reserve a minimum of twelve (12) feet of tower space at least one hundred (100) feet above ground level for Lessor's use. Lessor agrees that if and when Lessor determines it would like to use the Communication Facility as per this paragraph, it will be required to submit a no cost site application to Lessee, and will cooperate with, and/or pay for, any required Government imposed collocation fees, testing, analysis and/or reviews. If modification work is required for the tower to support the Lessor's additional tower equipment, or if any other engineering or Governmental Approval is required (including, but not limited to, FAA approval of increased height), Lessor will be responsible for any such costs. Lessor shall also be solely responsible for all other costs associated with the installation, operation, maintenance and repair of Lessor's equipment installation on the Communication Facility and within the Ground Space, including, without limitation, utility service charges. Lessor will not be required to pay Lessee rent with respect to Lessor's equipment installation.

15. Notices: All notices, requests, demands or other communications provided for or permitted or required by this Lease shall be deemed given and received upon the earlier of actual delivery in writing to the following address or three (3) days after such shall be deposited in the United States Mail, postage paid by registered or certified mail, return receipt requested, addressed as follows:

LESSOR: City of Lake Oswego
Attn: City Manager
P.O. Box 369
Lake Oswego, OR 97034

LESSEE: Clackamas 800 Radio Group
11300 SE Fuller Rd
Milwaukie, Oregon 97022
Attn: Manager

16. Damage and Destruction: If the whole of the Site or the Communications Facility or such portion thereof as will make the Site or the Communications Facility unsuitable for Lessee's business is damaged or destroyed by events not caused by Lessee, this Lease shall terminate at the option of the Lessee, or, if the Lease is not terminated, the fees of the remaining portion of the Ground Space shall be equitably reduced by mutual agreement of the Parties.

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17. Condemnation: If the whole of the Ground Space or Site or such portion thereof as will make the Ground Space or Site unsuitable for Lessee's business is condemned for any public use or purpose by any legally constituted authority, at Lessee's option this Lease shall terminate as of the time when possession is taken by such public authority, and the fees of the Ground Space shall be abated; or, if the Lease is not terminated, then the fees on the remaining portion of the Ground Space shall be equitably reduced by mutual agreement of the parties hereto. Lessor shall be entitled to all compensation paid for condemnation of all or any part of the Ground Space excluding the compensation paid for all or any portion of the Communications Facility.
18. Lessee's Right to Cure: Lessor's Remedies: If Lessee defaults on any of Lessee's obligations under this Lease, Lessor shall, before exercising any right or remedy provided herein or by law, give Lessee thirty (30) days' written notice of the claimed default. If the claimed default relates to a matter other than payment, Lessee may request from Lessor a reasonable period of time to cure the default, which, due to its nature, cannot reasonably be cured within thirty (30) days. Provided Lessee is diligently working to cure the default, Lessor shall grant Lessee's reasonable request. If, at the expiration of the applicable period, a cure has not been effected, Lessor may exercise any available right or remedy, including termination of this Lease.
19. Lessor's Right to Cure: Lessee's Remedies: If Lessor defaults on any of Lessor's obligations under this Lease, Lessee shall, before exercising any right or remedy provided herein or by law, give Lessor thirty (30) days' written notice of the default. Lessor may request from Lessee a reasonable period of time to cure the default, which, due to its nature, cannot reasonably be cured within thirty (30) days. Provided Lessor is diligently working to cure the default, Lessee shall grant Lessor's reasonable request. If, at the expiration of the applicable period, a cure has not been effected, Lessee may accomplish the performance with respect to which Lessor is in default, and recover from Lessor all sums, costs and expenses reasonably incurred by Lessee in connection therewith.
20. Restrictive Covenants: During the term of the Lease, Lessor shall not use the Property in any manner that would adversely affect the operation of the Communications Facility, or use the Ground Space or erect or place thereon any structure, vegetation or other condition that would obstruct the transmission of radio frequencies to or from the Communications Facility or otherwise interfere with operation of the Communications Facility or use of the Site. Nothing contained in this paragraph shall relieve Lessee of its obligations in paragraph 5 above, nor impose any additional obligation upon Lessor. Lessee shall have the right to enjoin any other use of the Site, other than public use of Cook's Butte Park, that interferes with the operation of the Communications Facility or use of the Site. Lessor agrees that Lessee may, at its own expense, control or remove natural vegetative growth on the Site except that Lessee may not remove timber except with written consent of Lessor. Lessee shall be liable for all damages, whether to the land or improvements of Lessor or any other, which may be caused by erosion created by the removal of any vegetation. Lessor and Lessee agree that as long as Lessor's use of the Property does not interfere with Lessee's permitted use of the Ground Space, there are no further restrictions on Lessor's use of the Property.
21. Condition of the Property; Environmental Liability: Lessee acknowledges that Lessee has investigated, or has had the opportunity to investigate, the condition and all other material aspects of the Property, and, except as specifically stated in this Lease, Lessee is not relying on,

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nor has Lessee been influenced by, any statement or representation of Lessor or any agent or representative of Lessor regarding the Property. Lessee acknowledges that it is leasing the Ground Space "AS IS, WHERE IS" in its current condition, without any representation or warranty of any kind or nature by Lessor, except as may be expressly stated in this Lease.

Lessor and Lessee agree that each will be responsible for compliance with any and all environmental and industrial hygiene laws, including any regulations, guidelines, standards, or policies of any governmental authorities regulating or imposing standards of liability or standards of conduct with regard to any environmental or industrial hygiene condition or other matters as may now or at any time hereafter be in effect, that are now or were related to that party's activity conducted in or on the Property.

21.1 Lessor and Lessee agree to hold harmless and indemnify the other from, and to assume all duties, responsibilities and liabilities at the sole cost and expense of the indemnifying party for, payment of penalties, sanctions, forfeitures, losses, costs or damages, and for responding to any action, notice, claim, order, summons, citation, directive, litigation, investigation or proceeding which is related to (i) the indemnifying party's failure to comply with any environmental or industrial hygiene law, including without limitation any regulations, guidelines, standards or policies of any governmental authorities regulating or imposing standards of liability or standards of conduct with regard to any environmental or industrial hygiene conditions or matters as may now or hereafter be in effect, or (ii) any environmental or industrial hygiene conditions that arise out of or are in any way related to the condition of the Property and activities conducted by the party thereon, unless the environmental conditions are caused by the other party.

21.2 The indemnifications of this Section 19 specifically include reasonable costs, expenses and fees incurred in connection with any investigation of Property conditions or any clean-up, remediation, removal or restoration work required by any governmental authority. The provisions of this Section 19 will survive the expiration or termination of this Agreement.

21.3 In the event Lessee becomes aware of any hazardous materials on the Ground Space, or any environmental or industrial hygiene condition or matter relating to the Ground Space that, in Lessee's sole determination, renders the condition of the Ground Space unsuitable for Lessee's use, or if Lessee believes that the leasing or continued leasing of the Ground Space would expose Lessee to undue risks of government action, intervention or third-party liability, Lessee will have the right, in addition to any other rights it may have at law or in equity, to terminate the Agreement upon notice to Lessor. Lessee will be entitled to reimbursement for any prepaid Rent on a prorate basis.

22. Hazardous Materials: Lessor acknowledges and hereby agrees that Lessee may conduct the business of operating a communications site, and thus will use batteries as power backup, diesel or propane fuel to power its generator, and equipment which may contain or be considered to be a hazardous material. Lessee shall not cause or permit any hazardous material to be brought upon, kept or used in or about the Site or the Property by Lessee, its agents, employees, contractors or invitees without the prior written consent of Lessor, which consent shall not be unreasonably withheld as long as Lessee demonstrates to Lessor's reasonable satisfaction that

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such hazardous material is necessary or useful to the Lessee's conducting governmental public safety communications and will be used kept, and stored in a manner that complies with all laws regulating any such hazardous material. As used in this paragraph, the term "hazardous material" means any hazardous or toxic substance, material, or waste, including but not limited to, those substances, materials, and wastes listed in the United States Department of Transportation Hazardous Materials Table (49 CFR 172.101) or by the United States Environmental Protection Agency as a hazardous substance (40 CFR Part 302) and amendments thereto, petroleum products, or such other substances, materials, and wastes that are or become regulated under applicable local, state or federal law.

23. Liens: Each party hereto shall keep the Ground Space free from liens arising out of the work performed, common materials furnished or obligations incurred by such parties, and shall indemnify, hold harmless and defend the other party from any liens and encumbrances arising out of work performed or materials furnished by or at the direction of the party requesting the same.
24. Indemnity: Within the applicable limitations of the Oregon Tort Claims Act, Lessee shall indemnify and hold harmless Lessor, its officers, directors, employees, agents, affiliates and subsidiaries, from and against any and all claims arising from Lessee's use of the Ground Space, Site, the Communications Facility, the easement, the Property, or the conduct of its business or from any activity, work or thing done, permitted or suffered by Lessee in or about the Ground Space, Site or the Property, and shall further indemnify and hold harmless Lessor from and against any and all claims arising from any breach or default by Lessee in the performance of its obligations hereunder and from and against any and all costs and expenses and liabilities, including, but not limited to, attorney's fees and litigation costs, incurred in connection with such claim.

With the exception of claims arising from the acts or omissions of members of the public in Cooks Butte Park, within the applicable limitations of the Oregon Tort Claims Act Lessor shall indemnify and hold harmless Lessee, its officers, directors, employees, agents, affiliates and subsidiaries from and against any and all claims arising from Lessor's use of the Property or the conduct of its business or from any activity, work, or thing done, permitted or suffered by Lessor in or about the Property and shall further indemnify and hold Lessee harmless from and against any and all claims arising from any breach or default by Lessor in the performance of its obligations hereunder and from and against any and all costs, expenses and liabilities, including, but not limited to, attorney fees and litigation costs, incurred in connection with such claim.

25. Assignments and Subletting: Lessee may not assign or sub-lease this agreement. Lessor shall have the right to assign this Lease and all of its respective rights and duties hereunder without restriction. Notice of such assignment by Lessor shall be given in writing to Lessee.
26. Holding Over: If Lessee remains in possession of all or any part of the Site after the expiration of the term hereof with the express consent of the Lessor, such tenancy shall be from month to month only, and not a renewal hereof or an extension for any further term. In such case, any fee or other monetary sums due hereunder shall be paid on the fifth (5th) of each month in an amount of one twelfth (1/12) of the fee described in Section 9 of this Lease Agreement, and such month-to-month tenancy shall be subject to every other term, covenant and agreement

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contained herein.

27. Insurance: Lessee shall provide and maintain liability and property damage coverage with minimum coverage amounts of \$2 million for injury to one person, and \$3 million in the aggregate pre-occurrence; and \$1 million in the aggregate for damage to property. Such coverage shall cover all risks arising directly or indirectly out of Lessee's activities on or any condition of the Ground Space, Site and Communication Facility, and shall provide for Lessor to be named as an additional insured. Lessee shall provide the Lessor with a Certificate of Insurance.

The parties agree that insurance requirements shall be reviewed periodically and maintained at levels acceptable to Lessor.

In connection with the above, Lessee shall maintain in force during the performance of this Lease agreement, at its expense, Workers Compensation Insurance as required by Oregon law.

28. Taxes and Assessments: Lessor shall be responsible for payment of all ad valorem taxes levied upon the lands, improvements and other property of Lessor. Lessee shall be responsible for and timely pay all taxes levied upon Lessee's leasehold improvements (including Lessee's equipment and tower) on the Ground Space. Lessor shall provide Lessee with copies of all assessment notices on or including the Ground Space immediately upon receipt, but in no event later than thirty (30) days after receipt by Lessor. If Lessor fails to provide such notice within such time frame, Lessor shall be responsible for all increases in taxes for the year covered by the assessment. Lessee shall have the right to contest, in good faith, the validity or the amount of any tax or assessment levied against the Ground Space by such appellate or other proceedings as may be appropriate in the jurisdiction, and may defer payment of such obligations, pay same under protest, or take such other steps as Lessee may deem appropriate. This right shall include the ability to institute any legal, regulatory or informal action in the name of Lessor, Lessee, or both, with respect to the valuation of the Ground Space. Lessor shall cooperate in the institution and prosecution of any such proceedings and will execute any documents required therefore. The expense of any such proceedings, including but not limited to attorney fees, shall be borne by Lessee and any refunds or rebates secured as a result of Lessee's action shall belong to Lessee.

29. Entire Agreement: This Lease constitutes the entire agreement between the parties hereto and cannot be varied except by the written agreement of the parties hereto.

30. Time: Time is of the essence of this Lease.

31. Governing Law: This Lease and all rights and liabilities of the parties hereunder shall be construed and governed by the laws of the State of Oregon. Venue shall be in the Circuit Court of Clackamas County.

32. Successors in Interest. This Lease shall be binding upon and shall inure to the benefit of the successors and assigns of the parties hereto.

[Signatures on Following Page]

EXHIBIT 1

IN WITNESS WHEREOF, the parties hereto have executed this Lease as of the date of execution by the last party to sign this Lease.

LESSOR:

City of Lake Oswego, an Oregon municipal
corporation
PO Box 369
Lake Oswego, Oregon 97034

By: _____
Scott Lazenby, City Manager

Date: _____

LESSEE:

Clackamas 800 Radio Group
11300 SE Fuller Rd
Milwaukie, OR 97222

By: _____

Name:

Title:

Date:

EXHIBIT 1

EXHIBIT "A"

DESCRIPTION OF PROPERTY

Parcel I – Property Description

A tract of land situated in Section 16, Township 2 South, Range 1 East, of the Willamette Meridian, and being more particularly described as follows:

Beginning at the Southwest corner of said Section 16 and running thence North 294.36 feet along the westerly line of said Section 16 to an iron pipe, said iron pipe being the true point of beginning; thence continuing North along said section line, 1670.95 feet to an iron pipe; thence leaving said section line South 89°53'15" East, 1220.00 feet to an iron pipe; thence South 12°33' East, 576.39 feet to an iron pipe; thence South 13°15' West, 239.00 feet to iron rod; thence North 86°24' East, 191.07 feet to an iron rod; thence South 13°15' West, 242.01 feet to an iron pipe; thence South 13°16' West, 461.54 feet to an iron pipe; thence South 81°25'30" West, 156.23 feet to an iron pipe; thence South 81°07'30" West, 1182.69 feet to the true point of beginning, all in Clackamas County, Oregon. Distances and bearings based on survey by Andrew J. Paris, dated December 11, 1974.

EXCEPTING THEREFROM that portion described as Parcel II below.

FURTHER EXCEPTING THERFROM an easement area for ingress and egress to and from the property described as Parcel II below; and for installing, maintaining and repairing underground utility service to serve Parcel II, said easement area described as:

Beginning at the Southwest corner of said Section 16 and running thence northerly on the westerly section line of said Section 16, 1965.31 feet to an iron pipe; thence leaving said section line South 89°53'15" East, 732.31 feet to an iron rod and the true point of beginning; thence South 89°53'15" East, 52.10 feet to an iron rod, said rod being a point on a curve to the left, said curve having a radius of 275 feet and being on the easterly right of way line of Palisades Crest Drive; thence Southerly along said curve a distance of 20.76 feet to an iron rod, the long chord of which bears South 20°28'38" West 20.75 feet; thence South 71°18'30" East, 171.48 feet; thence South 26°45'30" East, 171.52 feet; thence South 19°32'30" East, 249.40 feet; thence North 67°53'35" West, 33.46 feet; thence South 1°00'00" West, 71.25 feet; thence North 19°32'30" West, 293.59 feet; thence North 26°45'30" West, 147.88 feet; thence North 71°18'30" West, 193.16 feet to a point on a curve to the right, said curve having a radius of 325 feet; thence Northerly along said curve a distance of 54.86 feet to the true point of beginning along chord of which bears North 10°53'45" East 132.30 feet. All in Clackamas County, Oregon. Distances and bearings based on survey by Andrew J. Paris, dated December 11, 1974.

Parcel II – Reserved Land

A tract of land situated in Section 16, Township 2 South, Range 1 East, of the Willamette Meridian, and being more particularly described as follows:

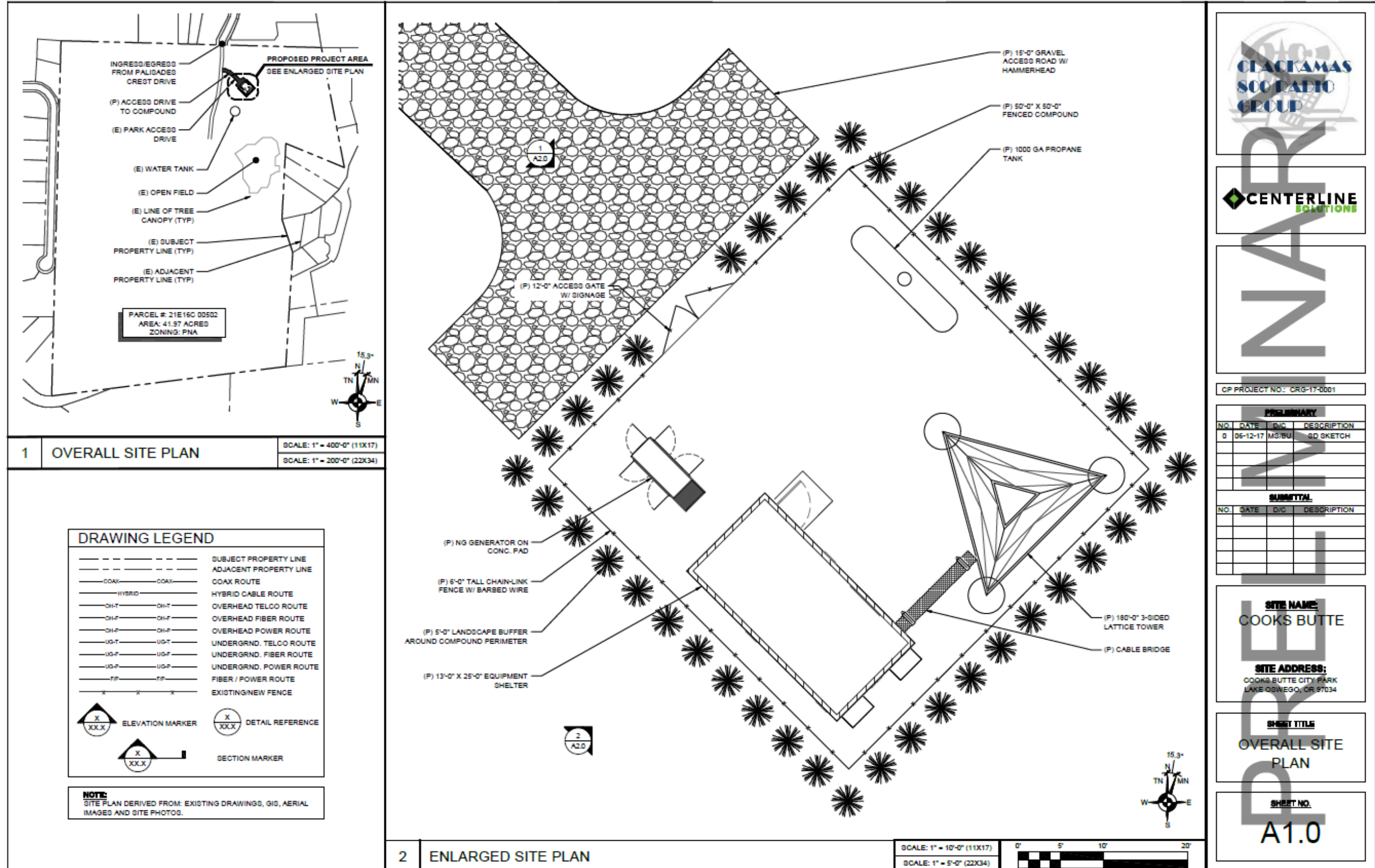
EXHIBIT 1

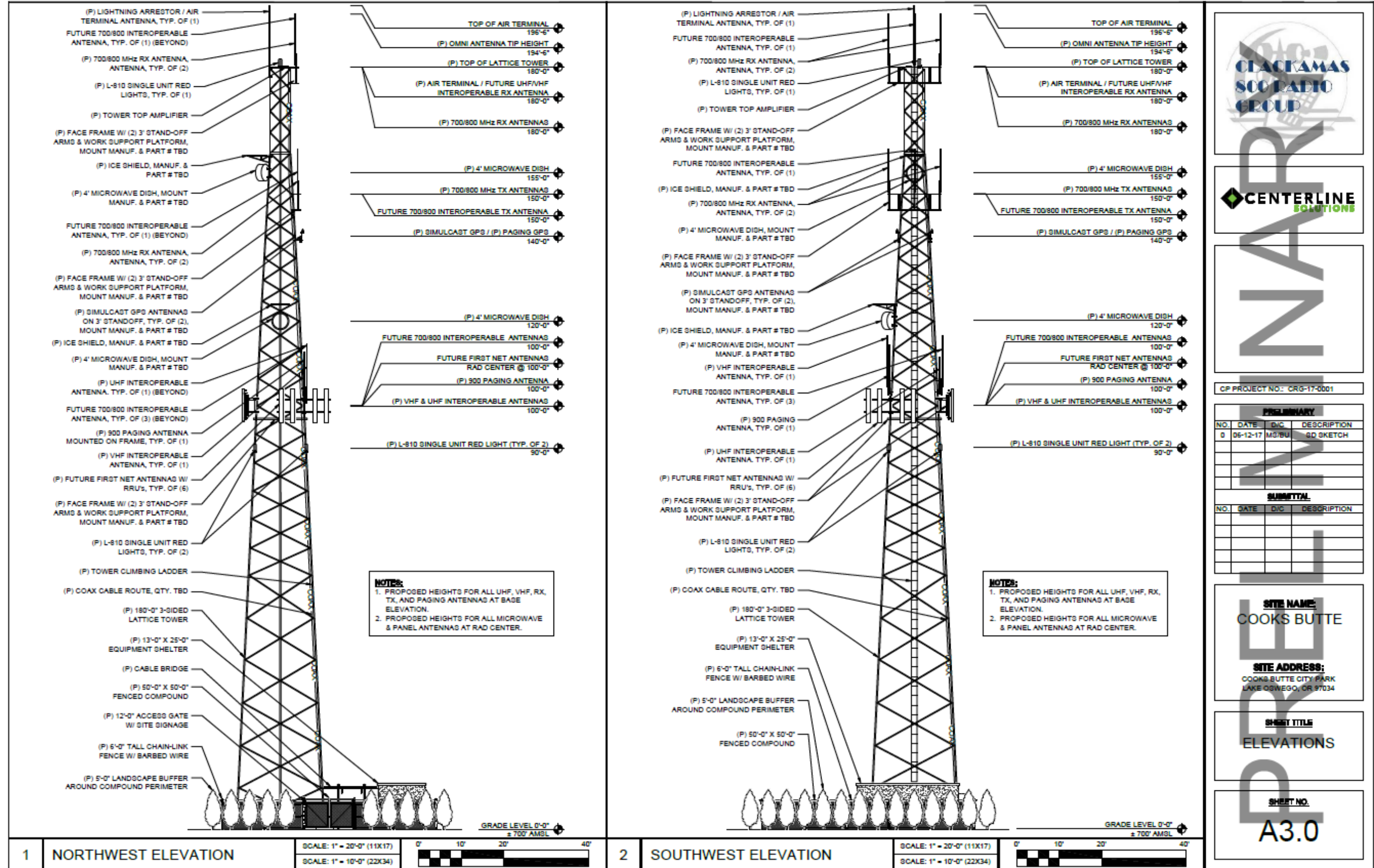
Beginning at the Southwest corner of said Section 16 and running thence Northerly along the westerly line of said Section 16, 294.36 feet to an iron pipe; thence North $81^{\circ}07'30''$ East, 1112.08 feet to an iron pin, said iron pin being the true point of beginning; running thence North $01^{\circ}47'$ East 538.67 feet; thence North $19^{\circ}40'$ West, 155.75 feet; thence North $01^{\circ}00'$ East, 367.89 feet; thence South $67^{\circ}53'35''$ East, 301.03 feet; thence South $13^{\circ}15'$ West, 239.00 feet; thence North $86^{\circ}24'$ East, 191.07 feet; thence South $13^{\circ}15'$ West, 242.01 feet; thence South $13^{\circ}16'$ West, 461.54 feet; thence South $81^{\circ}25'30''$ West, 156.23 feet; thence South $81^{\circ}07'30''$ West, 70.61 feet to the true point of beginning. All in Clackamas County, Oregon. Distances and bearings based on survey by Andrew J. Paris, dated December 11, 1974.

EXHIBIT 1

EXHIBIT "B"

DESCRIPTION OF GROUND SPACE





CP PROJECT NO.: CRG-17-0001

PRELIMINARY			
NO.	DATE	D/C	DESCRIPTION
0	06-12-17	MS/BU	GD SKETCH
SUBMITTAL			
NO.	DATE	D/C	DESCRIPTION

SITE NAME:
 COOKS BUTTE

SITE ADDRESS:
 COOKS BUTTE CITY PARK
 LAKE OSWEGO, OR 97034

SHEET TITLE:
 ELEVATIONS

SHEET NO.:
 A3.0

EXHIBIT 1

EXHIBIT "C"

PROPOSED COMMUNICATIONS FACILITY

To be provided at a later date

ELEVATED
IMAGES
 Sean Murray - 503.686.3050 - sean@elevatedimages-llc.com

cushing
 Civil Engineers
 DON CUSHING ASSOCIATES
 107 SE Washington Street, Suite 265
 Portland, OR 97214
 Phone: 503-987-5331



Field 100 yards South of Site

360 degree View from Tower Vicinity at 100 ft AGL

West

North

East

South



Field 100 yards South of Site

360 degree View from Tower Vicinity at 125 ft AGL

North

East

South

West



Lakeridge High School

Skyland Site

Oswego Lake

360 degree View from Tower Vicinity at 150 ft AGL

North

East

South

West



Lakeridge High School

Skyland Site

I-5

Oswego Lake

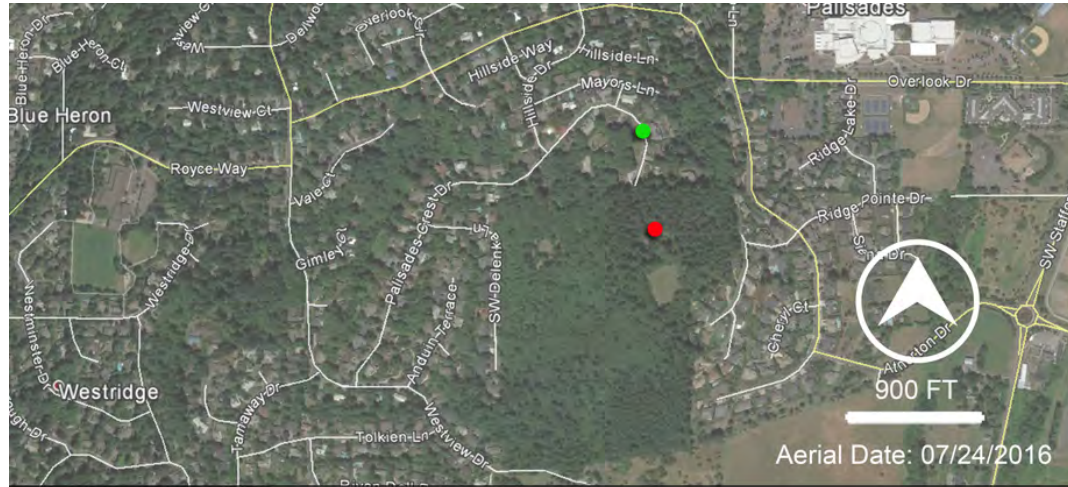
360 degree View from Tower Vicinity at 175 ft AGL

North

East

South

West



AERIAL OF SUBJECT AREA

- APPROX. PHOTO LOCATION
- APPROX. PROPOSED TOWER LOCATION



Cooks Butte

Looking South



Existing

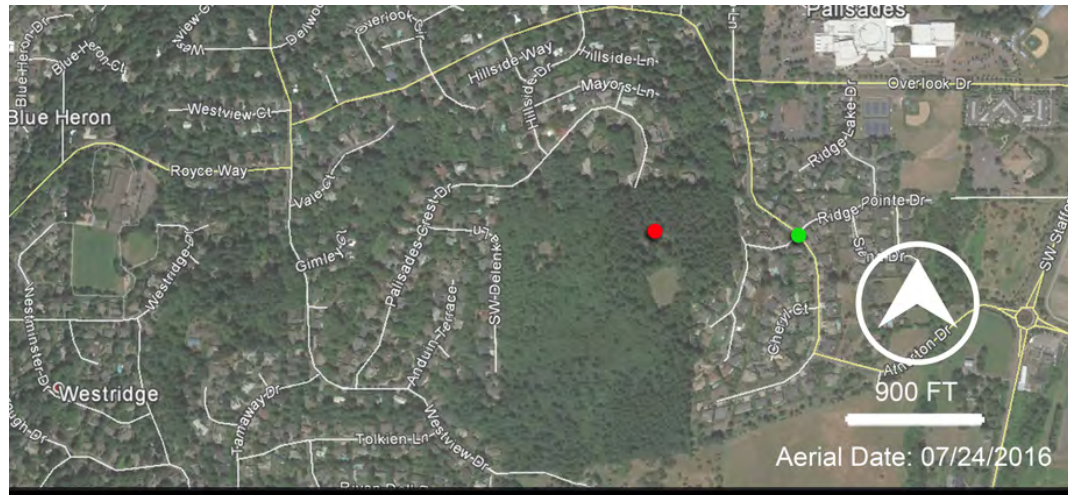


Proposed

CS Project# CRG-17-0001



- NOTES:**
1. PM/GC TO VERIFY PAINTING REQUIREMENTS WITH JURISDICTION PRIOR TO ORDERING SUPPORT STRUCTURES, ATTACHMENTS, ANTENNAS, AND OTHER APPURTENANCES.
 2. VISUAL IMPACTS WILL BE AFFECTED BY LOCATION AND VISIBILITY OF OBSERVER. THIS DOCUMENT IS FOR PLANNING AND INFORMATION PURPOSES ONLY AND IS CONCEPTUAL. THIS IS SOLELY THE PHOTOGRAPHER'S INTERPRETATION OF THE PROPOSED DEVELOPMENT.



AERIAL OF SUBJECT AREA

- APPROX. PHOTO LOCATION
- APPROX. PROPOSED TOWER LOCATION



Cooks Butte

Looking West



Existing

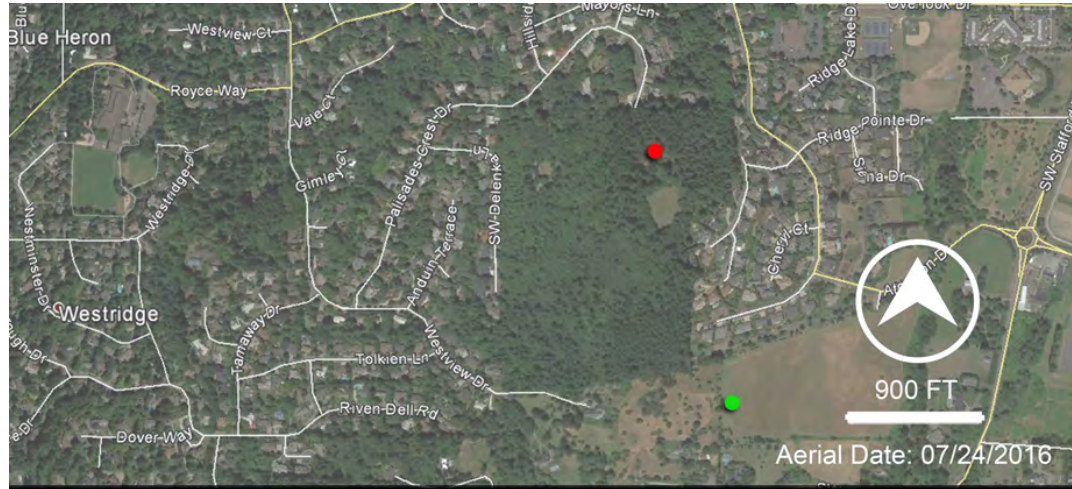


Proposed

CS Project# CRG-17-0001



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AERIAL OF SUBJECT AREA

- APPROX. PHOTO LOCATION
- APPROX. PROPOSED TOWER LOCATION



Cooks Butte

Looking Northwest



06.11.2017 13:47

Existing



PROPOSED 180' AGL
 3 SIDED LATTICE TOWER WITH
 PROPOSED ANTENNAS &
 FAA LIGHTING
NOT VISIBLE FROM THIS LOCATION
 - SEE NOTES BELOW

06.11.2017 13:47

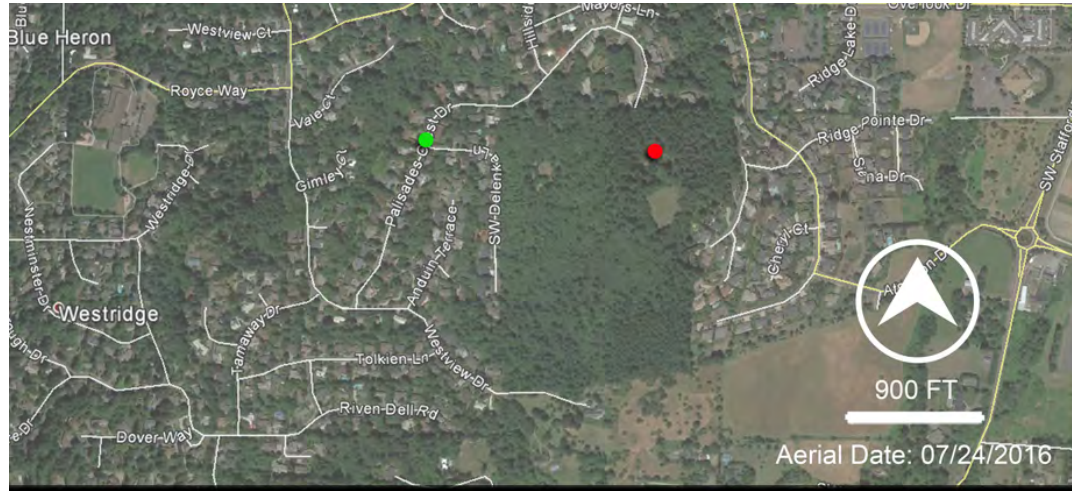
Proposed

CS Project# CRG-17-0001



NOTES:

1. PM/GC TO VERIFY PAINTING REQUIREMENTS WITH JURISDICTION PRIOR TO ORDERING SUPPORT STRUCTURES, ATTACHMENTS, ANTENNAS, AND OTHER APPURTENANCES.
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AERIAL OF SUBJECT AREA

- APPROX. PHOTO LOCATION
- APPROX. PROPOSED TOWER LOCATION



Cooks Butte

Looking East



Existing



PROPOSED 180' AGL
3 SIDED LATTICE TOWER WITH
PROPOSED ANTENNAS &
FAA LIGHTING
- SEE NOTES BELOW

Proposed

CS Project# CRG-17-0001



NOTES:

1. PM/GC TO VERIFY PAINTING REQUIREMENTS WITH JURISDICTION PRIOR TO ORDERING SUPPORT STRUCTURES, ATTACHMENTS, ANTENNAS, AND OTHER APPURTENANCES.
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