

DRAWN BY: JoAnne L. Carlyle, City Attorney
RETURN TO: City Attorney, P.O. Box 230, High Point, NC 27261

NORTH CAROLINA

GUILFORD COUNTY

**RIGHT OF WAY
ENCROACHMENT AGREEMENT**

THIS AGREEMENT (Agreement) made this day of , 2017, between **THE CITY OF HIGH POINT**, a municipal corporation, located at 211 South Hamilton Street, High Point, North Carolina, 27260, existing under the laws of the State of North Carolina (the "City") and **MOBILITIE, LLC.**, a foreign Limited Liability Company located at 660 Newport Center Dr., Suite 200, Newport Beach, CA 92660, hereinafter known as the "Company"

W I T N E S S E T H

WHEREAS, the City owns the public right of way that includes South Hamilton Street and South Wrenn Street; and

WHEREAS, the Company desires, for its interest and convenience, to construct, maintain and put in place a structure(s) as shown on Exhibit A ("Structure") in said right-of-way; and

WHEREAS, the City under the terms and conditions herein set forth, is willing to allow the above described improvements to be made, and allow the Company to encroach upon the above-referenced City-owned right of way; and

WHEREAS, the Company has paid to the City the sum of \$150.00, which partially defrays the administrative costs of the City.

NOW, THEREFORE, in consideration of the premises and \$150.00 in hand paid receipt of which is hereby acknowledged and other consideration, the Company hereby covenants and agrees that:

1. The Company is responsible for any and all expenditure of labor or materials required in the installation, erection, repair, maintenance or location of the above-referenced Structure.

2. The Company is responsible for any and all labor or expense which results from any and all future maintenance and repair of such Structure, and the removal or dismantling of the Structure if and when the Structure is removed.

3. The Company is to be fully responsible for any and all property damage or injury to or death of any person which results from any and all negligence, omission, defect in design, maintenance or workmanship created by the Company, its agents, employees, contractors or subcontractors in connection with the Encroachment, or any cause of action arising out of the installation, maintenance, or location of said Structure or any other cause of action arising out of the planting, installation, maintenance, or location of said Structure (collectively, "Claims and Causes of Action").

4. The Company agrees:

- (a) to hold the City, its officers, agents and employees harmless from any and all liability arising out of any such Claims and Causes of Action, and
- (b) to defend the City, its officers, councilors and employees and pay all attorney fees in any and all actions brought as a result of such Claims and Causes of Action; and
- (c) indemnify the City, its officers, agents and employees against any and all loss sustained by reason of such Claims and Causes of Action.

5. The Company, during the life of this agreement, agrees to procure or cause to be procured from a responsible insurance carrier or carriers, authorized under the laws of the State of North Carolina, insurance in the minimum amounts of One Million Dollars (\$1,000,000.00) per occurrence and in the aggregate, combined single limit for personal injury, property damage, or wrongful death caused by construction, maintenance, location, repair or visual obstruction of said encroachment with the City of High Point being included as additional insured as respects work under this Agreement. Company shall furnish the City upon the City's request, but no more than once in any 12 month period, a certification from the insurance carrier or carriers with whom the insurance herein mentioned is carried, stating that such compensation is covered by such carrier or carriers and showing such insurance to be in full force and effect (or proof of self-insurance as referenced below). Company shall give the City at least 30 days advanced written notice of any cancellation of any required coverage that is not replaced. Should Company fail to pay premiums upon said insurance, or should Company fail to obtain said insurance, or to perform any of the

agreements, terms, or conditions herein contained; the City at its option, by written notice may declare this agreement cancelled and terminated and all rights acquired hereunder by Company shall thereupon terminate, except Owner shall still be responsible for removing the Equipment from the right of way. In lieu of the foregoing, Company may self insure for any or all of the coverages set forth above.

6. The Company, upon completion of the installation of the Structure, shall submit to the City revised drawings in the form of an AutoCad (.dwg) file for retention by the City if the actual installation differs significantly from the installation shown on the Exhibit A (Site Plan) (in such event, the Company shall secure approval of the City prior to the differing installation).

7. The Company agrees to abide by all lawful statutes and ordinances governing construction of the Structure as contemplated herein.

8. This Agreement shall not divest the City of any rights or interest in said right of way.

9. The Company shall contact "NC One Call Center" prior to excavation where and in the manner required by the NC One Call law.

11. This Agreement shall be binding upon and ensure to the benefit of all of the parties hereto and their heirs, personal representatives, grantees, successors, and assigns.

12. All matters relating to this Agreement shall be governed by laws of the State of North Carolina without regard to its choice of law provisions, and venue for any action related to the Agreement shall be Guilford County Superior Court or the United States District Court for the Middle District of North Carolina.

13. All notices required herein shall be deemed given by depositing such in the United States Mail, first class, and addressed as follows:

If to City:

City of High Point
Planning & Development Department
P.O. Box 230
High Point, NC 27261
ATTN: Planning Director

If to Company:

Mobilitie, LLC
660 Newport Center Dr., Ste. 200
Newport Beach, CA 92660
ATTN: Legal Department

IN WITNESS WHEREOF, the City of High Point has caused this instrument to be signed by its City Manager and attested by its Clerk and its seal to be affixed by the duly-granted authority of its City Council, the day and year first above written.

Mobilitie, LLC

By: _____

Print Name: _____

Title: _____

STATE OF Georgia
Fulton COUNTY

I, Erin E. Scott, a Notary Public of the County and State, do hereby certify that Dana Tardelli, personally came before me this day and acknowledged that he/she is Dana Tardelli, and that he/she, as EVP being authorized to do so, executed the foregoing on behalf of the company.

Witness my hand and official stamp or seal, this 18th day of August, 2017.

My commission Expires: 5/12/18

Erin E. Scott
Notary Public

CITY OF HIGH POINT

By: _____

Bill Bencini, Mayor



ATTEST: -

Lisa B. Vierling
Lisa B. Vierling, City Clerk



NORTH CAROLINA

GUILFORD COUNTY

I, Cynthia C. Duncan-Smith, a Notary Public of said county and state do hereby certify that Lisa B. Vierling is known to me as City Clerk of the City of High Point; that she personally appeared before me this date; and, that by authority duly given, and as the act of the said City of High Point, the foregoing instrument was signed in its name by its City Manager, sealed with its corporate seal, and attested by herself as its clerk.

Witness my hand and official stamp or seal, this the 31 day of August, 2017.

My commission Expires: 11/18/2020

Cynthia C. Duncan-Smith
Notary Public

CYNTHIA C. DUNCAN-SMITH
NOTARY PUBLIC
GUILFORD COUNTY, NC

EXHIBIT A
SITE PLANS

Page 2..... Exhibit A-1 GB90XS487A

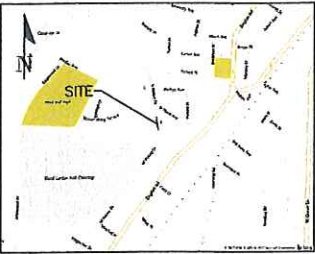
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Page 3..... Exhibit A-2 GB90XS528B

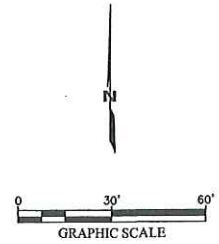
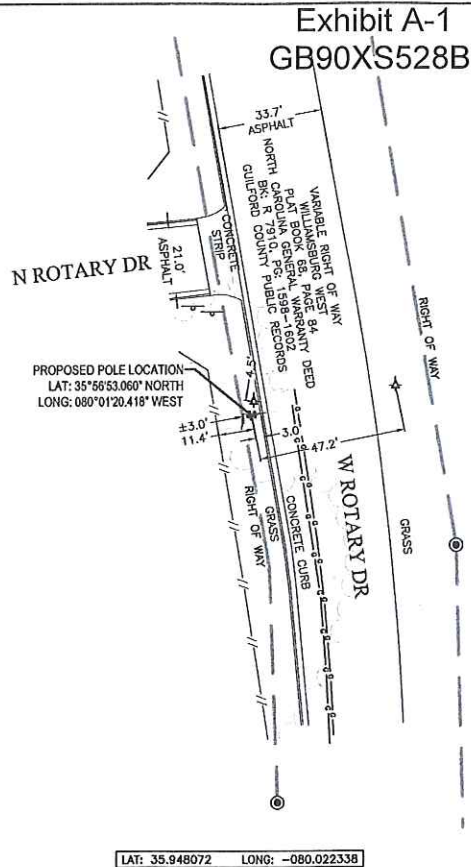
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Page 4..... Exhibit A-3 GB90XS517B

Latitude: 36.039188 Longitude: -079.953924



VICINITY MAP
(NOT TO SCALE)



LEGEND

- IRON PIPE FOUND
- SIGN
- 800 NAIL SET
- TREE LINE
- GAS UTILITY
- WOOD FENCE
- RIGHT OF WAY

NOTES:

THE PURPOSE OF THIS TOPOGRAPHIC MAP IS TO DOCUMENT THE HORIZONTAL AND VERTICAL POSITIONS OF THE PERMANENT FEATURES VISIBLE ON THE GROUND IN THE MAPPED AREA AS FOUND ON THE DATE OF SURVEY, AUGUST 4, 2017.

THE RIGHT OF WAY SHOWN HEREON WAS DERIVED FROM EVIDENCE LOCATED IN THE FIELD, DEED, PLAT AND RIGHT OF WAY RECORDS SHOWN HEREON. THIS IS NOT A BOUNDARY SURVEY.

UNDERGROUND UTILITIES: SURFACE EVIDENCE OF UNDERGROUND UTILITIES WAS LOCATED BY SURVEYING AND MAPPING, LLC. (SAM, LLC) WHEN MARKED IMMEDIATELY PRIOR TO FIELD WORK. IT IS REQUIRED THAT THE POSITIONS OF UNDERGROUND UTILITIES BE VERIFIED PRIOR TO CONSTRUCTION. NO UTILITIES WERE DESIGNATED EXCEPT AS SHOWN HEREON.

THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A TITLE COMMITMENT. NO ABSTRACT EXAMINATION IS IMPLIED. INFORMATION SHOWN HEREON MAY BE SUBJECT TO EASEMENTS, RESTRICTIONS AND RESERVATIONS OF RECORD.

AT THE TIME OF SURVEY, THE PROPOSED POLE LOCATION APPEARS TO BE LOCATED WITHIN FLOOD HAZARD AREA ZONE X AS DESIGNATED AND DELINEATED ON FEMA FLOOD INSURANCE RATE MAP COMMUNITY PANEL 3710688000K (CULFORD COUNTY, NORTH CAROLINA), WITH RETIREMENT DATE OF MARCH 10, 2009.

THOMAS A. TAYLOR
PROFESSIONAL LAND SURVEYOR
STATE OF NORTH CAROLINA



LAT: 35.948072 LONG: -080.022338

UTILITY LOCATE TICKET #C172122205
FOR UTILITY QUESTIONS: CONTACT NC811 AT 800-632-4949

SO-DEEP | SAM NC

SO-DEEP | SAM NC, Inc.
a SAM Company
2008-154 Summer Boulevard, Raleigh, NC 27618 Tel 919-878-7448

So-Deep, Inc. | SAM NC
2800-154 Summer Blvd.
Raleigh, NC 27618
Ofc: 919.878.7448
Fax: 919.790.1704
email: info@sam.nc
NC (COA): F-1351

CANDIDATE ID: GB90XS487A

SITE ID: 9NCB002080

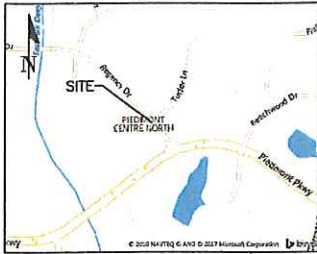
ADDRESS: 207-215 N ROTARY DR, HIGH POINT, NC

TOPOGRAPHIC SURVEY TO SUPPORT LOCATION OF A TELECOMMUNICATION STRUCTURE

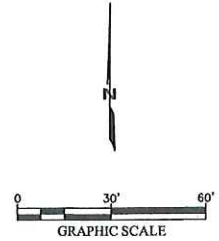
PROJECT: MOBILE
1916038723

SHEET 1
OF 1

Exhibit A-2 GB90XS528B



VICINITY MAP
(NOT TO SCALE)



LEGEND

- 800 NAIL SET
- LIGHT POLE
- FIBER OPTIC VAULT
- SIGN
- HYDRANT
- WATER VALVE
- MANHOLE DRAINAGE
- IRON PIPE FOUND
- TREE LINE
- FOC UNDERGROUND FIBER OPTIC
- EUG UNDERGROUND ELECTRIC
- WATER UTILITY
- RIGHT OF WAY

PROPOSED POLE LOCATION
LAT: 36°03'26.386" NORTH
LONG: 079°57'00.535" WEST

LAT: 36.057330 LONG: -079.950149

UTILITY LOCATE TICKET #C17212224
FOR UTILITY QUESTIONS: CONTACT NC811 AT 800-632-4949

SO-DEEP | SAM NC

SO-DEEP | SAM NC, Inc.
2800-154 Summer Blvd., Raleigh, NC 27616
Tel: 919.878.7488 Fax: 919.780.1704
email: info@so-deep.biz NC (COA): F-1361

So-Deep, Inc. | SAM NC
2800-154 Summer Blvd., Raleigh, NC 27616
Tel: 919.878.7488 Fax: 919.780.1704
email: info@so-deep.biz NC (COA): F-1361

CANDIDATE ID: GB90XS528B

SITE ID: 9NCB002121

ADDRESS: 4227-4299 REGENCY DR, GREENSBORO, NC

TOPOGRAPHIC SURVEY TO SUPPORT LOCATION OF A TELECOMMUNICATION STRUCTURE

PROJECT: MOBILE
1016038723

SHEET 1
OF 1

NOTES:

THE PURPOSE OF THIS TOPOGRAPHIC MAP IS TO DOCUMENT THE HORIZONTAL AND VERTICAL POSITIONS OF THE PERMANENT FEATURES VISIBLE ON THE GROUND IN THE MAPPED AREA AS FOUND ON THE DATE OF SURVEY, AUGUST 8, 2017.

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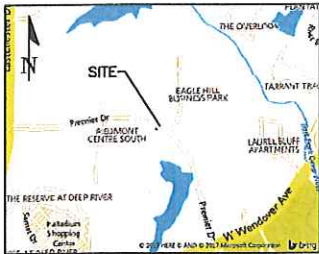
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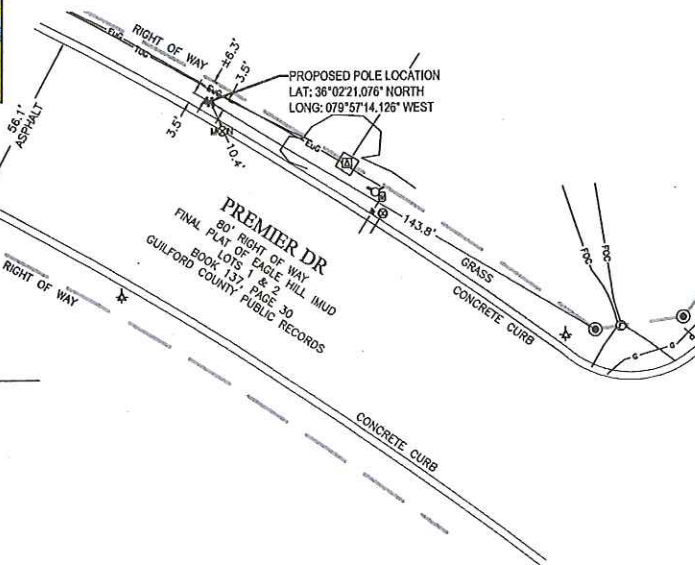
AT THE TIME OF SURVEY, THE PROPOSED POLE LOCATION APPEARS TO BE LOCATED WITHIN FLOOD HAZARD AREA ZONE X AS DESIGNATED AND DELINEATED ON FEMA FLOOD INSURANCE RATE MAP COMMUNITY PANEL 3710781400J (GUILFORD COUNTY, NORTH CAROLINA), WITH EFFECTIVE DATE OF JUNE 18, 2007.



Exhibit A-3 GB90XS517B



VICINITY MAP
(NOT TO SCALE)



LEGEND

MON	MAG NAIL SET
+	800 NAIL SET
W	WATER VALVE
Y	HYDRANT
S	SIGN
⊙	CLEANOUT DRAINAGE
⊙	FIBER OPTIC VAULT
⊙	IRON PIPE FOUND
⊙	ELECTRIC TRANSFORMER
—TUG—	UNDERGROUND TELEPHONE
—EUG—	UNDERGROUND ELECTRIC
—W—W—W—	WATER UTILITY
—G—G—G—G—	GAS UTILITY
—FOC—	UNDERGROUND FIBER OPTIC
—	RIGHT OF WAY

LAT: 36.039188 LONG: -079.953924

UTILITY LOCATE TICKET #A171841630
FOR UTILITY QUESTIONS: CONTACT NC811 AT 800-632-4949

SO-DEEP | SAM NC
SO-DEEP | SAM NC, Inc.
2808-154 Summer Blvd., Raleigh, NC 27618
Tel: 919-878-7468 Fax: 919-790-1704
email: info@so-deep.com

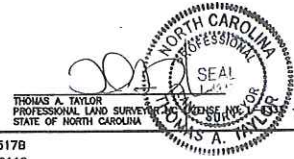
So-Deep, Inc. | SAM NC
2808-154 Summer Blvd.
Raleigh, NC 27618
Tel: 919-878-7468
Fax: 919-790-1704
email: info@so-deep.com
NC (COA): F-1361

CANDIDATE ID: GB90XS517B
SITE ID: 9NCB002110
ADDRESS: 4152 PREMIER DR, HIGH POINT, NC

TOPOGRAPHIC SURVEY TO SUPPORT LOCATION OF A TELECOMMUNICATION STRUCTURE

PROJECT: MOBILE
1016036723

SHEET 1
OF 1



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