Prepared by, after recording Return to: M. CATER FIDELITY NATIONAL TITLE 7130 GLEN FOREST DRIVE #300 RICHMOND, VA 23226

12630001 10/04/2017 11:30 AM \$38.00 Book - 10605 Pa - 6281-6295 ADAM GARDINER RECORDER, SALT LAKE COUNTY, UTAH FIDELITY NATIONAL TITLE 7130 GLEN FOREST SR #300 RICHMOND VA 23226-9902 BY: CBA, DEFUTY - MA 15 P.

Grantor:

WJG 9071 Office Condominium Owners Association, Inc. and West

Jordan Gateway, LLC

Grantee:

Landmark Infrastructure Holding Company LLC

Legal Description:

Official legal description attached as Exhibit 1

Tax Serial No.:

27-02-302-006 and 27-02-302-003

State: Utah County: Salt Lake

### **EASEMENT AND ASSIGNMENT OF LEASE AGREEMENT**

This Easement and Assignment of Lease Agreement dated <u>Sept 19</u>, 20<u>17</u> (this "<u>Agreement</u>") is by and between WJG 9071 Office Condominium Owners Association, Inc., a Utah non-profit corporation, who erroneously acquired title as WJG 9071 Office Condominium Association, a Utah non-profit corporation, and West Jordan Gateway, LLC, a Utah limited liability company, with principal offices at West Jordan Gateway, LLC, 9067 South 1300 W., Suite 105, West Jordan, UT 84088 ("Grantor") and Landmark Infrastructure Holding Company LLC, a Delaware limited liability company ("Grantee") with principal offices at P.O. Box 3429, 2141 Rosecrans Avenue, Suite 2100, El Segundo, CA 90245; and

WHEREAS Grantor owns certain real property located at: 9071 South 1300 West, West Jordan, UT 84088 ("Property"); and more particularly described in Exhibit "A" attached hereto; and

WHEREAS Grantor intends to grant to Grantee an exclusive easement (the "Easement") in, to, under and over a certain portion of the Property described as "Exclusive Area" in Exhibit "B" attached hereto (the "Easement Area") for telecommunications purposes; and

WHEREAS Grantor intends to sell, assign, set over, convey and transfer the existing telecommunications lease(s) or license(s) ("Lease(s)") more particularly described in Exhibit C to Grantee; and

WHEREAS Grantor intends to allow Grantee to use the Easement in order that Grantee may lease space to Tenants in the telecommunications business; and

NOW THEREFORE, In consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. GRANT OF EASEMENT. Grantor hereby grants to Grantee an exclusive easement over the Easement Area for the purpose of leasing space on the Property to telecommunications tenant(s) and uses associated with the exercise rights of telecommunications tenants under such leases.

2. TERM. Commencing on Becember 1, 2017 (the "Effective Date"), and terminating on November 30, 2056, (the "Termination Date"), the term of this Agreement shall be for a period of forty (40) years (the "Term").

3. TERMINATION. Grantor may not terminate this Agreement; provided however, that in the event that Grantee voluntarily ceases to use the Easement for a continuous period of five (5) years, the Easement shall be deemed abandoned and this Agreement shall automatically terminate.

RECORDING ORDER 23234018

- 4. ASSIGNMENT OF LEASE(S). As part of the consideration provided for this Agreement, as of the Effective Date, Grantor assigns and conveys all of its right, title and interest in and to the Lease(s), more particularly described in Exhibit C and as amended from time to time, including the right to amend the Lease(s) as lessor, provided no such amendment shall increase the scope or nature of Grantor's liabilities or duties under the existing Lease(s) as they may be extended, renewed or replaced from time to time. Grantor shall retain and continue to faithfully perform and discharge any and all of Grantor's obligations as lessor under the Lease(s) and Grantee assumes no obligations thereunder.
- <u>5. NON-EXCLUSIVE ACCESS EASEMENT.</u> As part of the consideration for this Agreement, Grantor hereby grants to Grantee a non-exclusive easement in, to, under and across the Property adequate to allow ingress and egress to the Easement Area, which is described as the "Non-Exclusive Area" in Exhibit "B".
- <u>6. REPRESENTATIONS AND COVENANTS OF GRANTOR.</u> Grantor represents and warrants to Grantee, as of the date hereof, that:
- a. This Agreement and any other documents executed by Grantor in connection with it constitute the legal, valid and binding obligation of Grantor, enforceable against Grantor in accordance with their terms.
- b. The execution, delivery and performance by Grantor of this Agreement does not and will not violate or conflict with any provision of Grantor's organizational documents (if Grantor is an organization) or of any agreement to which Grantor is a party including mortgages and deeds of trust, or by which Grantor or the Property is bound and will not violate or conflict with any law, rule, regulation, judgment, order or decree to which Grantor is subject.
- c. There is no pending or threatened action, suit or proceeding that, if determined against Grantor, would adversely affect Grantor's ability to grant this easement or such other documents or to perform its obligations hereunder or thereunder.
- d. Grantor owns one hundred percent (100%) of the fee title to the Property and the lessor's interest in and to the Lease(s).
- e. Grantor has not previously deeded, granted, assigned, mortgaged, pledged, hypothecated, alienated or otherwise transferred any of its right, title and interest in and to the Lease(s), to any other person.
- f. Grantor shall comply with all applicable laws which may affect the Property.
- g. Grantor shall not, nor shall Grantor permit its lessees, licensees, employees, invitees or agents to use any portion of the Property, or the Easement in a way which interferes with the operations of tenants under the Leases, or any other of Grantee's future lessees or licensees, or to interfere with the Non-Exclusive Access Easements. Such interference shall be deemed a material breach by Grantor.
- 7. SUCCESSORS AND ASSIGNS. This Agreement shall be binding upon and inure to the benefit of the parties hereto and the successors and assigns of the parties to this Agreement. This Agreement shall run with the land upon which the Easement is located.

#### 8. ENVIRONMENTAL REPRESENTATIONS.

- a. Grantor Environmental Representation. Grantor represents that it has no knowledge of any substance, chemical or waste (collectively "Hazardous Substance") on the Property that is identified as hazardous, toxic or dangerous in any applicable federal, state or local law or regulation. Grantor shall not introduce or use (or permit the use of) any Hazardous Substance on the Property in violation of any applicable federal, state or local environmental laws. Grantor shall be responsible for (and shall promptly conduct any investigation and remediation as required by any applicable environmental laws) all spills or other releases of any Hazardous Substance not caused solely by Grantee, that have occurred or which may occur on the Property.
- b. Grantee Environmental Representations. Grantee shall not introduce or use any Hazardous Substance (hereinafter defined) on the Property or the Easement in violation of any applicable federal, state or local

environmental laws. Notwithstanding the foregoing, Grantee shall not be responsible for any Hazardous Substances arising or present on or before the Effective Date. Liability of Grantee for any claims with respect to any Hazardous Substances at the Property or the Easement shall be limited to contamination which is shown by clear evidence to have been solely caused by a release of a Hazardous Substance by Grantee after the Effective Date, and in violation of any applicable federal, state or local environmental laws.

- c. Mutual Indemnification. Each party agrees to defend, indemnify, and hold harmless the other from and against any and all administrative and judicial actions and rulings, claims, causes of action, demands and liability including, but not limited to damages, costs, expenses, assessments, penalties, fines, cleanup, remedial, removal or restoration work required by any governmental authority, losses, judgments and reasonable attorneys' fees that the indemnified party may suffer or incur due to the existence or discovery of any Hazardous Substance on the Property caused by the other party. This indemnification shall also apply to the migration of any Hazardous Substance to other properties, and the release of any Hazardous Substance into the environment that relate to or arise from the indemnitor's activities on the Property. Grantor agrees to defend, indemnify, protect and hold Grantee harmless from claims resulting from actions on the Property not caused by Grantee prior to, and during the Term of, this Agreement. This indemnification shall survive the termination or expiration of this Agreement.
- <u>9. NOTICES.</u> All notices, requests, demands and other communications hereunder shall be delivered by Certified Mail Return Receipt Requested, and/or a nationally recognized Overnight courier. Notice shall be deemed accepted upon proof of delivery. Notices shall be delivered:

As to Grantor: WJG 9071 Office Condominium Owners Association, Inc.

and West Jordan Gateway, LLC c/o West Jordan Gateway LLC 9067 South 1300 W., Suite 105 West Jordan, UT 84088

As to Grantee: Landmark Infrastructure Holding Company LLC

P.O. Box 3429

2141 Rosecrans Avenue, Suite 2100

El Segundo, CA 90245 Attn: Legal Dept.

10. DEFAULT. It shall be an "Event of Default" if either Grantor or Grantee fails to observe or perform any of the terms, conditions or its respective obligations set forth in this Agreement. Upon receiving written notice of such a default or breach of this Agreement, the defaulting party shall have sixty (60) days to cure such default. In the event that the defaulting party fails to cure such default within the cure period, the non-defaulting party shall be entitled to exercise any rights permitted by applicable law.

#### 11. GOVERNING LAW; CERTAIN WAIVERS.

- (a) THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS IN WHICH THE PROPERTY IS LOCATED, WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAWS THEREOF.
- (b) TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, EACH PARTY WAIVES ANY RIGHT TO A JURY TRIAL IN ANY ACTION OR PROCEEDING TO ENFORCE OR INTERPRET THIS AGREEMENT.
- (c) EACH PARTY SUBMITS TO THE NON-EXCLUSIVE JURISDICTION OF THE SUPERIOR COURT OF SALT LAKE COUNTY, STATE OF UTAH.

[NO MORE TEXT ON THIS PAGE - SIGNATURES TO FOLLOW ON NEXT PAGE]

IN WITNESS WHEREOF, the undersigned, intending to be legally bound, have caused this Agreement to be duly executed as of the date first written above.

## **GRANTOR:**

WJG 9071 Office Condominium Owners Association, Inc., a Utah non-profit corporation

Name: Wayne L. Niederhauser

Title: President

Date: 11-11-2016

STATE OF UTAH
)
COUNTY OF <u>Salt lake</u>
)

The foregoing instrument was acknowledged before me this // day of / low by Wayne L. Niederhauser, the President of WJG 9071 Office Condominium Owners Association, Inc.

Notary Seal

KENDRA WILDE

Notary Public

State of Utah

Comm. No. 685422

My Comm. Expires Oct 5, 2019

(Signature of Notary)

My Commission Expires: October 5, 3018

## **GRANTOR:**

West Jordan Gateway, LLC, a Utah limited liability company

By: CW Management Corp.

Its: Manager

Name: Wayne L. Niederhauser

Title: Vice President

Date: 11-11-2016

STATE OF UTAH

COUNTY OF <u>Salt Lake</u>

The foregoing instrument was acknowledged before me this // day of // day of // 2016, by Wayne L. Niederhauser, the Vice President of CW Management Corp..

)ss.

Notary Seal

KENDRA WILDE
Notary Public
State of Utah
Comm. No. 685422
My Coram. Expires Oct 5, 2019

Signature of Notary)

My Commission Expires: October 5, 3019

### **GRANTEE:**

Landmark Infrastructure Holding Company LLC, a Delaware limited liability company

Title: Authorized Signatory

9/19/201

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

before me, KAMIAH &

(Seal)

Varsons personally appeared who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) (s) are subscribed to the within instrument and acknowledged to me that he she/they executed the same in he/her/their authorized capacity(ies), and that by higher/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal

Signature

Prepared by:

LANDMARK INFRASTRUCTURE HOLDING COMPANY LLC 2141 ROSECRANS AVENUE **SUITE 2100** EL SEGUNDO, CA 90245 ATTN: LEGAL DEPT.

KAMILAH EDWARDS Commission # 2132073 Notary Public - California Los Angeles County My Comm. Expires Oct 29, 2019

#### **EXHIBIT A**

# LEGAL DESCRIPTION OF THE PROPERTY

#### PARCEL 1:

All Common Area located within Building 1, of WEST JORDAN GATEWAY OFFICE CONDOMINIUM PHASE 1, AMENDED according to the Record of Survey Plat recorded in Book 98-6P at Page 158, in the office of the Salt Lake County Recorder and in the Declaration for Condominium and Covenants, Conditions and Restrictions for West Jordan Gateway Office Condominiums, a commercial condominium development, recorded April 30, 1999 as Entry No. 7338875 in Book 8272 at Page 8945 and amended in that Second Amendment to the Declaration of Condominium as recorded March 26, 2002 as Entry No. 8186081 in Book 8580 at Page 4421 and in the Amendment to Declaration of Condominium recorded December 11, 2009 as Entry No. 10857836 in Book 9787 at Page 8875 and in the Declaration of Condominium including Declarations of Covenants, Conditions and Restrictions from Building No. 1 West Jordan Gateway Office Condominium Phase 1, Amended recorded December 23, 2011 as Entry No. 11302250 in Book 9976 at Page 8704 of official records.

#### PARCEL 2:

Unit 100, Building 1, of WEST JORDAN GATEWAY OFFICE CONDOMINIUM PHASE 1, AMENDED according to the Record of Survey Plat recorded in Book 98-6P at Page 158, in the office of the Salt Lake County Recorder and in the Declaration for Condominium and Covenants, Conditions and Restrictions for West Jordan Gateway Office Condominiums, a commercial condominium development, recorded April 30, 1999 as Entry No. 7338875 in Book 8272 at Page 8945 and amended in that Second Amendment to the Declaration of Condominium as recorded March 26, 2002 as Entry No. 8186081 in Book 8580 at Page 4421 and in the Amendment to Declaration of Condominium recorded December 11, 2009 as Entry No. 10857836 in Book 9787 at Page 8875 and in the Declaration of Condominium including Declarations of Covenants, Conditions and Restrictions from Building No. 1 West Jordan Gateway Office Condominium Phase 1, Amended recorded December 23, 2011 as Entry No. 11302250 in Book 9976 at Page 8704 of official records.

## EXHIBIT B

## **EASEMENT AREA DESCRIPTION**

(7 pages)

## **EXCLUSIVE AREA:**

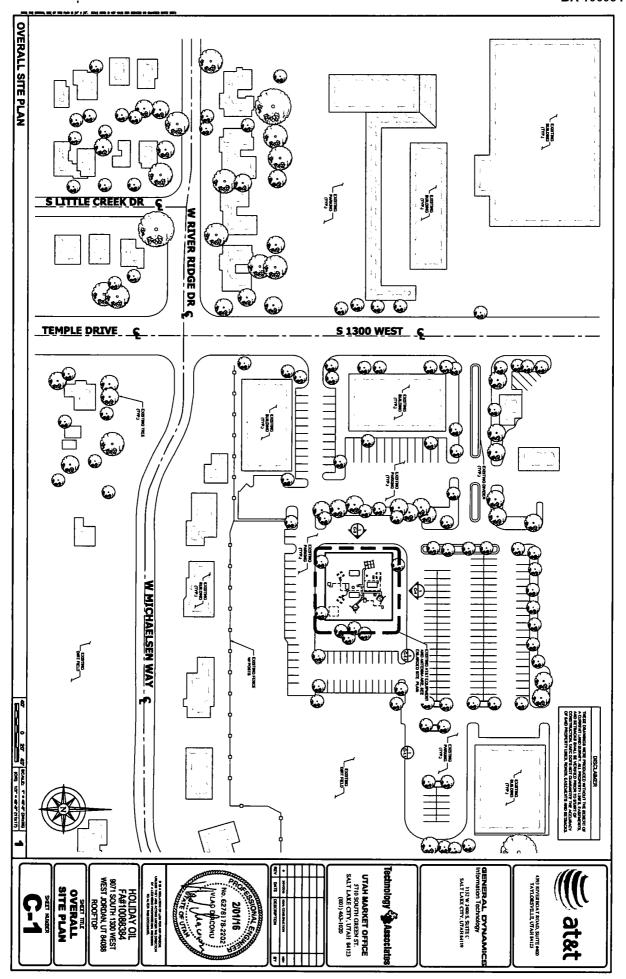
Room/cabinet space measuring approximately 156 square feet as substantially described and depicted as follows:

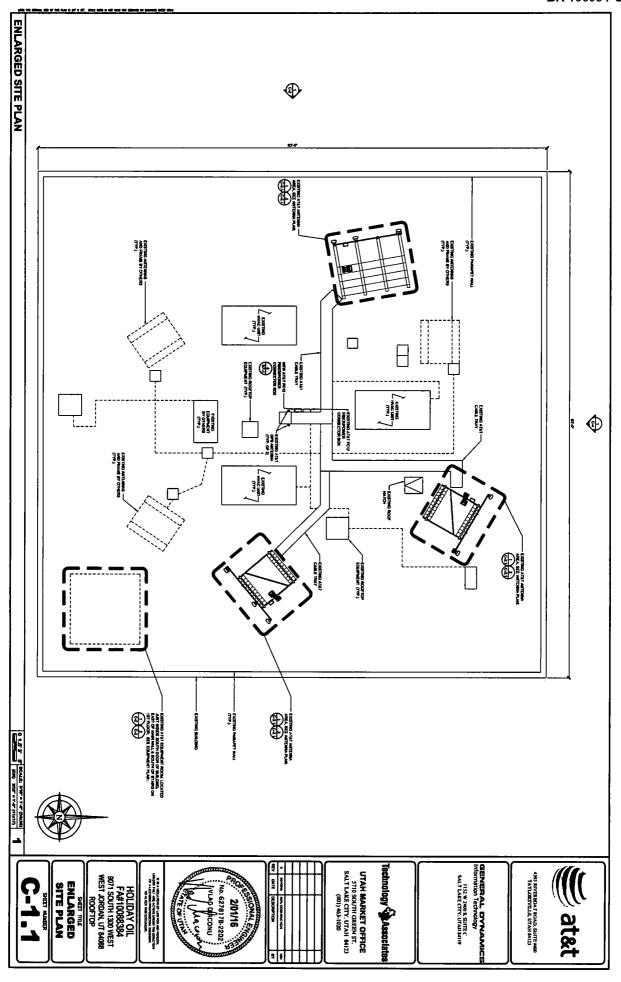
See attached drawings consisting of six (6) pages.

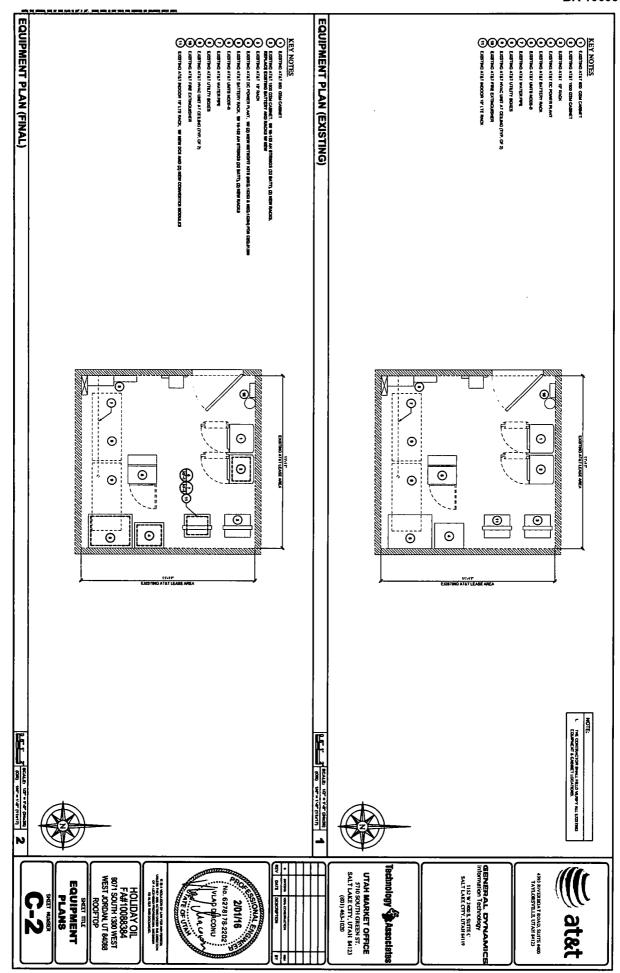
## NON-EXCLUSIVE AREA:

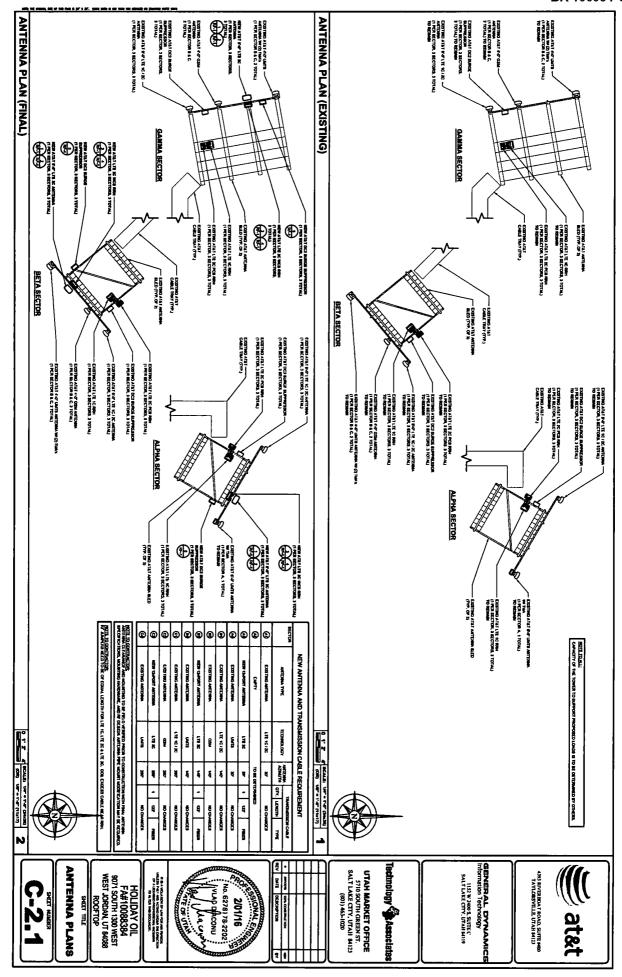
Access and Public Utilities Description: Access ways from the nearest public roadway to the Premises in a manner sufficient to allow reasonable access. Such easement for access and utilities substantially described and depicted as follows:

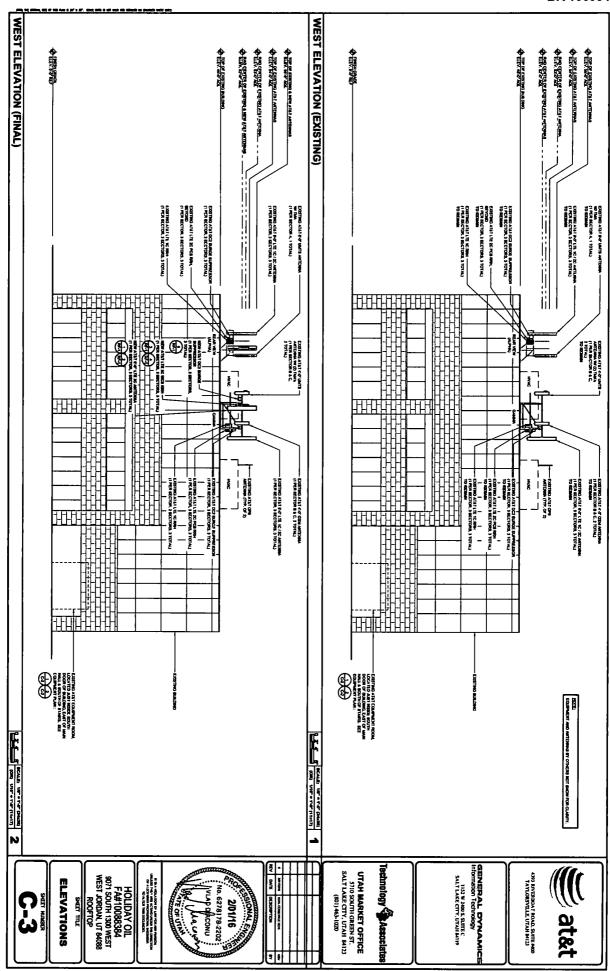
See attached drawings consisting of six (6) pages.

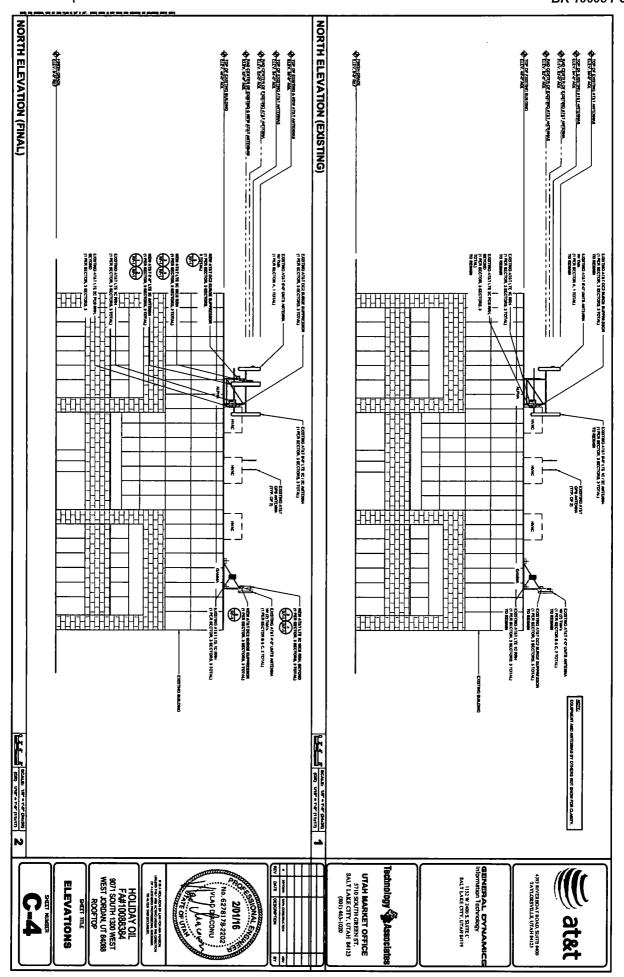












#### **EXHIBIT C**

## **LEASE DESCRIPTION**

That certain Option and Lease Agreement dated May 7, 1999, by and between West Jordan Gateway LLC, a Utah limited liability company, predecessor in interest to WJG 9071 Office Condominium Owners Association, Inc., a Utah non-profit corporation, who erroneously acquired title as WJG 9071 Office Condominium Association, a Utah non-profit corporation, and West Jordan Gateway, LLC, a Utah limited liability company ("Landlord"), whose address is c/o West Jordan Gateway, LLC, 9067 South 1300 W., Suite 105, West Jordan, UT 84088, and New Cingular Wireless Services of Utah, LLC, which was the successor by merger to AT&T Wireless Services of Utah, Inc., a Nevada corporation, predecessor in interest to New Cingular Wireless PCS, LLC, a Delaware limited liability company ("Tenant"), whose address is of 575 Morosgo Drive NE, Suite 13F, West Tower, Atlanta, GA 30324, as amended by Lease Amendment dated December 9, 2003, and as further amended by Second Amendment to Option and Lease Agreement dated April 28, 2017, for the property located at 9071 South 1300 West, West Jordan, UT 84088, for which a Memorandum of Agreement, is duly recorded on June 22, 2017, in Book 10570, at Pages 2278-2284.