#### LEASE AGREEMENT

### CAO DOC 208293

This Lease Agreement ("Lease"), is made as of this \_\_\_\_\_ day of \_\_\_\_\_, 2015 (the "Effective Date"), and is by and between the CITY OF MILWAUKEE, a Wisconsin municipal corporation, hereinafter referred to as "City," as the LANDLORD, and MILWAUKEE COUNTY, also a Wisconsin municipal corporation, hereinafter referred to as "County," as the TENANT. Herein after City and County, together shall be referred to as "Party" or "Parties".

### **RECITALS**

- A. City owns certain real estate and improvements located at 8463 North Granville Road, in Milwaukee, Wisconsin, ("Property") more particularly described on <a href="Exhibit A">Exhibit A</a>. City currently operates Milwaukee Fire Department Engine 38 from a fire station located on the Property.
- B. There is currently a 180 foot high City-owned tower on the Property on which County has installed systems for its Public Safety Radio System ("Existing Tower"). County currently houses the equipment for the Public Safety Radio System inside the portion of the Property in which City operates its fire station.
- C. County wishes to construct a new tower on the Property and an equipment shelter on the Property.

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, City as Landlord, County as Tenant, hereby agree as follows.

1. <u>Lease of Part of the Property.</u> City hereby leases to County, and County leases from City: (a) so much of the Property to build a two hundred fifty foot (250') radio tower (the "New Tower") for the County's Public Safety Radio System; (b) that portion of the Property depicted on <u>Exhibit B</u> hereto (the "Map") that County will use to build a Radio Equipment Shelter (the "New Shelter") in which to house radio

communications system equipment. The portion of the Property used for the New Tower and the New Shelter is herein called the "County Ground Area."

- 2. <u>Term.</u> The term of the Lease (the "Term") shall be for twenty-five (25) years. County may, at its option, extend the Lease for an additional term of five (5) years upon mutual written agreement by both Parties sixty (60) days prior to the expiration of the original term. All provisions of this Lease applicable to the original term thereof shall apply with equal force to the extended term.
- 3. Rent. Rent hereunder shall be one (\$1.00) dollar per year, and shall be prepaid as follows. For the first year, rent shall be paid upon execution of the Lease, at the rate of one (\$1.00) dollar for the number of days remaining from the Effective Date of this Lease to December 31 of that same year. For each year thereafter, annual rent of one (\$1.00) dollar per year shall be paid on or before January 31 for the particular year at issue. The parties deem the \$1.00 per year rent payment as adequate consideration for this agreement. Rent shall be tendered to the City's Office of the City Treasurer and shall be in the form of a County check made payable to the City of Milwaukee.
- 4. County to Construct and Install; Compliance with all Laws. The County shall, at its sole expense, and according to plans that have first been approved by the City, build, own, and maintain a twelve (12) foot by twenty-four (24) foot New Shelter to house all necessary radio communication equipment, network equipment, and related primary and secondary electrical, gas, heating, ventilation and air conditioning to service the Milwaukee County Public Safety Radio System. County shall, at its sole expense, and according to plans that have first been approved by the City, build, own, and maintain a 250' Tower for County's Public Safety Radio System. Construction and installation will be performed in a professional and good manner, and in accordance with all federal, state, and local laws. County shall, at its sole expense and according to plans that have first been approved by the City, construct, own, and maintain the approach (also referred to as "access road" or "drive") required to gain access to the County Ground Area from the nearest City-owned road, in accordance

with all laws, rules and regulations, federal, state, and local. County shall construct, own, and maintain at the Property a separate fully enclosed fence system with a lockable gate (the "County-Related Fencing"), such that County personnel can access the County Ground Area. Upon completion of the New Tower, New Shelter, and migration of Milwaukee County Public Safety Radio System equipment from the Existing Tower to the New Tower, City, at its sole expense, shall be responsible for the removal of the Existing Tower. County shall be responsible for obtaining all necessary governmental licenses, permits, and approvals for such. Further, County shall comply with all laws, rules and regulations, federal, state, and local regarding County's use and operation of County's equipment at the Property – including, but not limited to, any FCC or FAA regulation and any Homeland Security rule or order, regarding the operation of radio transmitting and receiving equipment, and County's other equipment at the County Ground Area. Upon completion of the installation, County shall provide City with a copy of the as-built drawings.

# 5. **Reservation of City Rights.** City reserves for itself the following express rights:

- A. The right to install, at its sole expense, City public safety communication systems and related components, devices, and antennae at the County Ground Area in the New Shelter and on the New Tower as City deems necessary for City public safety communication systems and according to plans that have first been mutually agreed upon by both the City and the County.
- B. The right of entry by City Radio personnel, registered/approved vendors, City of Milwaukee Information Technology Management Division personnel, and City of Milwaukee Department of Public Works personnel for maintenance described herein Section 9 to the County Ground Area and the New Shelter. Any and all other City personnel are restricted.
- 6. Reservation of County Rights. County reserves for itself the following express rights:

- A. The continuing right to, from time to time, promulgate reasonable rules concerning the County Ground Area, New Tower, New Shelter, and the City's use and occupancy of same, including, but not limited to, added security measures.
- B. The right to install, at its sole expense, County public safety communication systems and related components, devices, and antennae at the County Ground Area in the New Shelter and on the New Tower as County deems necessary for County public safety communication systems and according to plans that have first been mutually agreed upon by both the City and the County.
- C. The right to enter the County Ground Area in accordance with this Lease at such times as County desires.

#### 7. Placement of Equipment.

- A. Placement of County's equipment in County's New Shelter shall be within the County's discretion, taking into account certain engineering and environmental concerns including, but not limited to, spacing intervals and transmission frequencies. Notwithstanding the above, City and County understand that the New Shelter is designed to accommodate a total of twelve (12) 19" racks and that the parties shall allocate the occupancy of racks as follows:
  - i. Space for 8 racks shall be allocated to the County.
  - ii. Space for 4 racks shall be allocated to the City.
  - iii. The City may place equipment in unused County rack positions if the City first receives the County's prior written consent however the County reserves the right to utilize all 8 rack positions in the future if it so desires.
  - iv. The County may place equipment in unused City rack positions if the County first receives the City's prior written consent however the City reserves the right to utilize all 4 rack positions in the future if it so desires.
  - v. The County and City will, at all times, work together in good faith to accommodate each other's equipment/rack space needs and shall, if necessary and agreeable to all parties, collocate County and City equipment together in the same rack.

- B. The City agrees to allow the County to continue to operate its existing analog radio system equipment in its current location in the basement of the Engine 38 facility until the latter of the following two conditions: i) the County decommissions the entire analog radio system or ii) June 30, 2018. The antennas for the analog radio system equipment shall be moved to the New Tower as described elsewhere in this Agreement.
  - i. Should the transmissions lines that interconnect from the analog radio system equipment to the antennas that are located on the New Tower be installed underground, the County shall at its sole expense install underground conduit, pending approval by the City of the installation plan for such conduit.
  - ii. Alternately, should the transmissions lines that interconnect from the analog radio system equipment to the antennas that are located on the New Tower be installed above ground, the County shall at its sole expense install a protective ice bridge, pending approval by the City of the installation plan for such ice bridge. Should such an ice bridge be constructed, at the time that the County decommissions the entire analog radio system, the County shall, at the discretion of the City, i) at the sole expense of the County remove the ice bridge or ii) transfer ownership of the same to the City for the cost of \$1,
- C. Both parties have already planned for and agreed to future installations on the tower, details of equipment to be placed on the tower during the initial install phase is found under **Exhibit D.** The City and the County understand that placement of the equipment listed in Exhibit D shall be as follows:
  - The items listed in Exhibit D that are to be placed at elevations between 154 feet and 140 feet shall belong to and shall be the responsibility of the County.
  - ii. The items listed in Exhibit D that are to be placed at elevations between 80 feet and 120 feet are expected to be for future contracts with government, private, non-profit, commercial or cellular communication system providers as described below in Section 7.F.

- iii. The items listed in Exhibit D that are to be placed at all other elevations shall belong to and shall be the responsibilities of the City.
- D. The County, at its sole expense, shall install and connect all County-owned equipment on the New Tower. The City, at its sole expense, shall install and connect all City-owned equipment on the New Tower.
- E. Both parties agree to coordinate mutual permission for any additions, removals, and/or changes to equipment on the Tower in excess of what is described in <a href="Exhibit D">Exhibit D</a>. Both parties agree to coordinate mutual permission for any changes that adjust the current planned structural load of the New Tower, cited in <a href="Exhibit D">Exhibit</a>
  D.
- F. The New Tower and related County Ground Area are currently designated for City and County public safety communications. Future contracts with government, private, non-profit, commercial or cellular communication system providers must be mutually agreed to, in writing, by both Parties.
- G. The City will coordinate with the County on all scheduled maintenance and operations required for the City's equipment on the New Tower. The City will make every effort to notify the County of any maintenance, both scheduled and unscheduled, in a timely manner.
- 8. <u>County Maintenance.</u> County shall, at all times during the Term, be solely responsible, at County's expense, for the maintenance and upkeep of the County's equipment including, but not limited to, antennae, radio communication equipment, and New Tower. County shall, at all times during the Term, be solely responsible, at County's own expense, for expenses associated with the maintenance and upkeep of the County-Related Fencing and the access road to the Property. County shall, at no time during the Term, bear any responsibility for expenses associated with the maintenance or upkeep of City-owned equipment.
- 9. <u>City Maintenance.</u> City shall be solely responsible, at City's expense, for all expenses associated with the maintenance and upkeep of the City-owned radio communication equipment. City shall, at no time during the Term, bear any

responsibility for expenses associated with the maintenance or upkeep of County-owned equipment. City shall, at all times during the Term, be solely responsible, at City's own expense, for expenses associated lawn care including, but not limited to mowing and weeding of the lawn on the Property at regular intervals, and in compliance with local ordinances for such.

10. <u>Utilities.</u> City shall, at all times during the Term, be solely responsible, at City's expense, for all utility expenses, including gas and electric expenses associated with the radio communication equipment owned by City, with the radio communications equipment owned by County, including any gas or electrical lines, wires, cables, or hook-ups needed for same, and with the ongoing electrical service provided to the New Shelter. The County shall, at its sole expense connect a new, distinct 300A service utility line to the New Shelter. The County at its sole expense shall install and connect a new 70KVA generator (the "New Generator") in the new County Ground Area to provide backup power to the New Tower and the New Shelter. The City shall be responsible for any wiring, interconnection, or configuration changes made to the existing 100KW generator (the "Existing Generator") which is currently located along the exterior of the western wall of the Engine 38 building and which is currently interconnected to the electrical panels within the Engine 38 building.

#### 11. Hold Harmless and Indemnification.

A. City agrees to defend, indemnify, and hold harmless County, County's employees, officers, agents, contractors, and volunteers from and against any and all claims, demands, action and causes of actions and resulting liability, loss, damages, costs and expenses, including attorneys' fees arising out of or in any way related to or associated with or arising from the activities covered by this Lease including but not limited to any wrongful, intentional, or negligent act or omission of City its employees, officers, agents, contractors, and volunteers who participate in the activities covered by this Lease including but not limited to violations of Section 25.

- B. County agrees to defend, indemnify, and hold harmless City, City's employees, officers, agents, contractors, and volunteers from and against any and all claims, demands, action and causes of actions and resulting liability, loss, damages, costs and expenses, including attorneys' fees arising out of or in any way related to or associated with or arising from the activities covered by this Lease including but not limited to any wrongful, intentional, or negligent act or omission of County its employees, officers, agents, contractors, and volunteers who participate in the activities covered by this Lease including but not limited to violations of Section 25.
- C. In the event that City's antennae damage the New Tower, or any County-owned equipment, then City agrees to repair or replace the New Tower or equipment, and to indemnify County and to pay for such direct or consequential damage.
- D. In the event that the County's antennae damage the fire station, fire equipment or any City owned equipment, then the County agrees to repair or replace said City property and to indemnify City and to pay for such direct or consequential damage.
- 12. <u>Installations at End of Term.</u> Neither County's nor City's ownership rights to previously owned equipment installed at the Property shall be affected by the termination of this Lease. At the end of the term of the Lease whether due to expiration of the Term or due to termination, City and County shall negotiate the transfer of the assets (the New Tower, the New Shelter, the County-Related Fencing, the Existing Generator, and the New Generator) between Parties, for continued used for the City's and County's Public Safety Radio System. In the event either Party purchases the other Party's assets, the value of both County's and City's investment in the assets should be analyzed and negotiations must occur in a good faith manner between Parties. Should the City and County not reach a mutually agreed to transfer of the assets, then the County will be responsible for the removal of the New Tower, the New Shelter, the County-Related Fencing, and the New Generator and any remediation that is necessary to return the site to its original condition. In the event

that both parties agree to abandon the assets, both parties agree to equally share the burden of removal and remediation.

13. Interference. Each Party agrees that it will promptly eliminate any electromagnetic or other signal interference problems caused by that Party's use of or tenancy at the Property upon notice of same from the other Party. If the interference cannot be eliminated by the interfering Party within thirty (30) days of notice, the interfering Party shall, upon the other Party's request, remove the equipment causing said interference from the Property, and restore any damage to the Property caused thereby.

### 14. Certain Express Termination Rights.

- A. County reserves the right to terminate this Lease after ninety (90) days' advance written notice: (a) if County is unable to secure, despite good faith and diligent efforts, requisite governmental licenses, permits and/or approvals to maintain and operate its equipment at the Property; (b) if the FCC or FAA or other governmental body or agency issues regulations that make County's continued operation or maintenance of its equipment at the Property imprudent and unfeasible, such as, but not limited to, a take-back of bandwidth or channels that makes County's equipment unusable for its intended purpose; and/or (c) if County reasonably determines that the Property is not suitable for County's operation of its communications system due to technical reasons, including, but not limited to, unreasonable signal interference or inadequate signal strength.
- 15. Force Majeure. Parties shall not be liable to the other Party for any loss or damage to said Party's equipment, use or equipment due to fire, other casualty, act of God, the state of repair of the New Shelter, the bursting or leakage of any water, gas, sewer or steam pipes, or theft or any other act of neglect of any third party unless such loss or damage was caused by the sole negligent act or omission of either Party, its agents, servants, employees, contractors, licensees or invitees.

16. Successors and Assigns. This Lease binds and insures to the benefit of the Parties

hereto and their successors and assigns. Notwithstanding the foregoing, however,

County may assign, convey, sublease, license, or transfer any right, title, or interest

hereunder or in the County Ground Area with express written agreement from the

City.

17. Entire Agreement. This Lease constitutes the entire agreement between the Parties'

and all prior statements, written or oral, are terminated and of no effect. This Lease

may only be amended by a written agreement signed by all the Parties hereto.

18. Severable. The terms and provisions of this Lease are deemed separable and

severable such that the invalidity or unenforceability of any term or provision shall

not affect or impair the validity of enforceability of the remaining terms and

provisions.

19. Authority to Sign. County and City each represent that their respective signatories

have authority to sign this Lease.

20. Notices. All notices permitted or required hereunder shall be considered given (i)

upon receipt if hand-delivered by commercial courier or otherwise personally

delivered. (ii) if sent by electronic mail, then the notice must be sent during business

hours (i.e. 8:30 A.M. to 4:30 P.M., Monday through Friday) so long as the notice is

successfully sent (i.e. the sender does not receive any error or "account disabled" or

"inability to send" notification), and (iii) within two business days of depositing same

in the U.S. mail, postage-paid, addressed by name and address to the party intended

as follows:

A. If to City:

City of Milwaukee Information Technology Management Division

Nancy Olson, CIO

809 East Broadway Avenue, 4th Floor

Milwaukee, Wisconsin 53202

Phone: 414-286-8710

With a Copy to:
Milwaukee Fire Department
Attn. Chief Engineer
711 E. Wells Street
Milwaukee, WI 53233
Phone: 414-286-8948

With a further copy to:
Office of the City Attorney
800 City Hall
200 East Wells Street
Milwaukee, Wisconsin 53202

Fax: 414-286-8550 Phone: 414-286-2620

## B. If to County:

Milwaukee County

Attn: Christine Westrich, Director, Office of Emergency Management (OEM)

901 North 9th Street, Room 308 Milwaukee, Wisconsin 53233

Phone: 414-278-4079

#### With a further copy to:

Milwaukee County Corporation Counsel

Attn: Attorney Paul Bargren 901 North 9<sup>th</sup> Street, Room 303 Milwaukee, Wisconsin 53233

Fax: 414-223-1249 Phone: 414-278-4300

The parties hereto may, from time to time, as needed, change the recipient and address information above by providing notice of new/replacement information by notice as required hereunder.

21. <u>County's Emergency Contact Person.</u> County shall provide to City, the name, work phone, home phone, and cell phone of an emergency contact person for the County who City may contact, on a 24- hour-per-day, 7- day-per-week, 365-day-per-year basis regarding the New Tower, the Property, or County's equipment at the Property,

and attached hereto as <u>Exhibit C</u>. County shall ensure that such emergency contact data is kept current and up-to-date.

- 22. <u>Headings</u>. The headings used herein are for convenience only.
- 23. **County Insurance.** The County is self-insured.
- 24. Open Records Law. County and City are each subject to Wisconsin's open records law, and each understands that this Lease and certain documents and records relating thereto or required hereunder may be subject to disclosure under such law. Each agrees to cooperate with the other concerning open records requests that may be made against either.
- 25. Environmental. With the exception of natural gas hook-up for Parties back-up power generator and standard over-the-counter cleaners that Parties shall use in a careful and reasonable manner as part of its maintenance duties, County and City shall not introduce environmental hazards, solvents, or pollutants to the Property. And, in any event, Parties shall not release environmental hazards, solvents, or pollutants that could subject the Property or its owner to any state or federal clean-up or remediation order, or in any manner that adversely affects health, safety, or welfare, or that pollutes or contaminates soils or groundwater at the Property.
- 26. Occupational/Controlled Exposure. Parties shall independently obtain information as may be necessary to enable personnel who may be required to be or work at the Property, any published guidelines establishing maximum permissible exposure limits for occupational/controlled exposure to radio frequency electromagnetic fields (as referenced in Part 1 of the FCC's Rules and Regulations, including 47 CFR § 1.1310).

## [Signature page to follow]

**IN WITNESS WHEREOF**, the parties caused this Lease to be entered into and executed as of the Effective Date first written above.

LANDLORD:	TENANT:				
CITY OF MILWAUKEE	MILWAUKEE COUNTY				
Ву:	Ву:				
Tom Barrett, Mayor	Chris Abele, County Executive				
City of Milwaukee	Milwaukee County				
And By:	And By:				
And By:  James Owczarski, City Clerk	And By:Amy Pechacek, Director				
••••••••••••••••••••••••••••••••••••••	DAS- Risk Management				
COUNTERSIGNED:					
By:	And By:				
Martin Matson, City Comptroller	Scott Manske, County Comptroller				
CHEST APPROPRIEST A DDD OVAL	COLDITY ADDOMAL FOR				
CITY ATTORNEY APPROVAL	COUNTY APPROVAL FOR				
(Ord. § 304-21)	EXECUTION .				
Jeremy McKenzie	Colleen Foley				
Assistant City Attorney	Deputy Corporation Counsel				

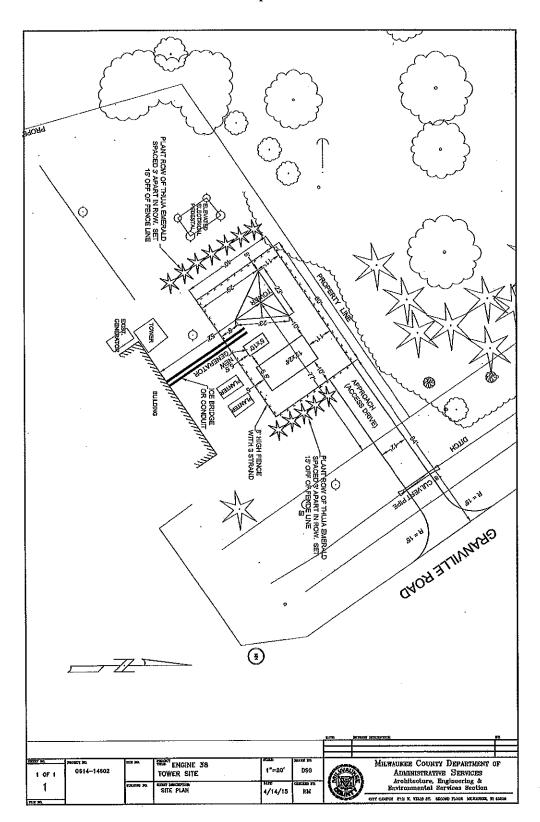
### **EXHIBIT A**

# **Legal Description of Property**

LANDS IN NW ¼ Sec 8-8-21 COMW LI of N Granville Rd & NLV LI of W Donna Drive of SD ¼ Sec-Th NWLY ALG SD W LI SD RD 262' – TH SWLY 172.95' –TH SELY 171.49' – TH E 191.87'-TH NELY 66.50' TO BEG

TK# 040997710

**EXHIBIT B - Map of Leased Premises** 



#### EXHIBIT C

### COUNTY'S EMERGENCY CONTACT LIST

# Clyde Gestl

Motorola Service Technician
Milwaukee County
414-278-5142 office
24-Hour: 414-234-1121 work cell
Clyde.Gestl@milwaukeecountywi.gov
Clyde.Gestl@motorolasolutions.com

# Milwaukee County 911 Communications Dispatch Center

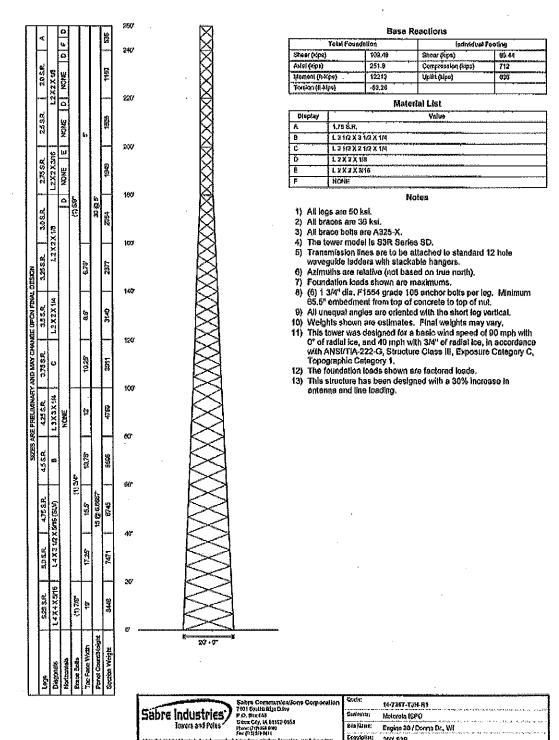
24-Hour: 414-278-4788

Baycom

24-Hour: 414-546-2011

#### EXHIBIT D

### **Equipment List and Load**



Capacity

Motorola (GPO

260' \$3R 1/23/2015

Engine 28 / Donna Dr., Wil

Sia jūjųe:

Ecostolisu

#### **Designed Appurtenance Loading**

Etev	Description	Tx-Line
256.5	(3) BMR10-As	
255	(1) Extendible Lightning Rod	
250	(3) 6ft Sidearms	
250		(3) 1 5/8"
250	(2) TTA 18" x 6" x 6" s	(2) 1/2"
236,5	(3) BMR10-As	
230	Flush Mount	
230	(3) 6ft Sidearms	
230	(1) 15" x 16" x 6" TMA	(1) Cat 5
230		(3) 15/8°
207.25	(3) DB810KE-XGs	
200,85	(1) 884-70	
200	6ft Sideam)	
200	(3) 6ft Sidearms	
200		(1) 1 5/8"
200		(3) 1 5/8"
187,25	(3) DB610KE-XCs	
180,85	(1) 884-70	
180	6(t Sidoarm	"
180	(3) 6ft 6jdosrma	
180		(1) 1 5/8"
180		(3) 1 5/8 <sup>th</sup>
175	Leg Dish Mount	
176	(2) Leg Dish Mount	
176	(1) 3' H.P. Dish	(1) EW63
176	(2) G H.P. Dishes	(2) EW83

Elov	Description	Tx-Line
154	(4) BMR8-As	
150	(4) 8ft Sidearms	
150		(5) 11/4"
150	(1) TTA (24in x 30in 12in)	(1) 1/2"
146	(1) BMR8-A	
145	Leg Dish Mount	
145	(1) 2' H.P. Dísh	(2) EW52
140	Leg Disk Mount	
140	(1) 4' H.P. Dish	(1) EW52
120	3T-Boom(R) - 12(t Face - 3ft Stendoff	
120	(12) 8' X 1' X 6INs	(12) 1 5/6 <sup>4</sup>
110	3T-Boom(R) - 12ft Face - 3ft Standoff	
110	(12) 8' X 1' X 61Ns	(12) 1 5/6"
100	3T-Beem(R) - 12ft Face - 3ft Standoff	
100	(12) 8' X 1' X 6 Na	(12) 1 5/6"
90	3T-Boom(R) - 12ft Face - 3ft Standoff	
90	(12) 8' X 1' X 61Ns	(12) 1 5/8"
80	3T-Boom(R) - 12ft Face - 3ft Standoff	
80	(12) 8' X 1' X 6INs	(12) 1 5/8"
65	Flush Mount	
65	Flush Mount	
65	(1) 5' Yagi	(1) LMR-4GC
65	(1) 5' Yagi	(1) LMR-400
60	(2) Flush Mount	
60	(2) Camera System (12" x 12" x 24")s	(2) Cat 5

Sabre Indust	Polas Polas Pharet	re Communications Corporation Southering Drive Box 656 Cdir, M. 61 (422-0058) Cdi 202-800 13 (228-804)	Customer; Silo Namo: Description;	14-7367-TJH- Motorola ISPC Engine 38 / Da 250' S3R	) 	
Internation contained from it the east proceedy all bather Chemicalcolling Comparison, constitute a find- neural sea difficult by here Code Ch. (50) and said into the convolvent, capital or used in whole we get fire say cumpose relations in which the prior relien, concern of Subra Communications Comparison.		Cale;	1/23/2016	gà: 7A	Page; 2	

