

MATANUSKA-SUSITNA BOROUGH INFORMATION MEMORANDUM IM No. 19-002

SUBJECT: ASSEMBLY AUTHORIZING THE MANAGER TO AMEND THE COMMUNICATION SITE LEASE BETWEEN THE MATANUSKA-SUSITNA BOROUGH AND INSITE TOWERS DEVELOPMENT, LLC, TO ALIGN THE RENTS WITH CURRENT BOROUGH LEASE RATES AND STANDARD LEASE PRACTICES (MSB007261).

AGENDA OF: December 18, 2018

ASSEMBLY ACTION:

Adopted without objection 1-15-19

MANAGER RECOMMENDATION: Introduce and set for public hearing.

APPROVED *Doc* ~~BY~~ JOHN MOOSEY, BOROUGH MANAGER: *George W. Hayes*

| Route To: | Department/Individual | Initials | Remarks |
|-----------|--------------------------------|------------|-----------------|
| | Originator | <i>HKM</i> | |
| | Community Development Director | <i>EP</i> | |
| | Finance Director | <i>QJ</i> | |
| | Borough Attorney | <i>NS</i> | |
| | Borough Clerk | <i>JMM</i> | <i>12/10/18</i> |

ATTACHMENT(S): Fiscal Note: YES X NO _____
Site Map (1 pp)
Communication Site Lease, Amendment No. 1 (3 pp)
Ordinance Serial No. 19-002 (3 pp)

SUMMARY STATEMENT:

September 2017 the assembly authorized the manager to enter into a lease of borough owned real property with InSite Towers Development, LLC (Lessee) to construct a tower site, install utilities, and driveway access. The lease agreement was executed by both parties with an effective date of October 16, 2017. The lease base rent was \$450 a month during construction and upon completion of construction the monthly base rent would increase to \$875.55.

After the lease was in effect, and upon start of construction for the road, the costs for the access road from the Parks Highway, within the 50' section line easement, increased dramatically when swampy, wet soils were encountered that required removal of the muck and import of fill. The additional costs reported by the Lessee is approximately \$39,500.

Furthermore, the original site plan for the utilities adjoined the access road, but changes occurred during construction to relocate the utilities along west boundary of the property. This increased the lease site area from 29,185.2 SQ/FT to approximately 37,000 SQ/FT.

The development of the section line easement as a right of way (approximately 250 lineal feet) is a borough and public benefit for approved driveway access to borough and private parcels.

Due to the significant cost to construct the access road to borough standards within the 50-foot section line easement and to the tower site, the Lessee requested a dedication of the access road for a public right of way from the section line easement to the tower site to reduce the lease base rate. This is not a desirable solution since there is a potential risk of disconnecting the tower site (100'x100' area) from public access if the public right of way was ever vacated in the future.

Staff also encountered errors in the lease that did not meet the borough's standard lease practices. The lease was negotiated using full market value of the land based on the market/assessed value of \$1,299.83 per acre (\$0.03 SQ/FT) for .67 acre or 29,185.2 SQ/FT. The borough's standard practice for leases rates are 8 percent-10 percent of the market/assessed value of the land. Additionally, acreage was used to calculate the lease rate when the industry standard is square footage for calculating commercial lease rates.

Therefore, with the errors noted above, the Land and Resource Management Division recommends, contingent upon assembly approval, a minimum base rent of \$450 per month (\$0.012 SQ/FT - equal to 40 percent of market/assessed value) for approximately 37,800 SQ/FT. If the square footage increases upon completion of recording the Record of Survey, the area will be adjusted at \$0.012 SQ/FT and will not be less than the base rent of \$450 per month. Starting January 16, 2019, and each year thereafter, the base rent and any collocation of additional communication company or wireless carriers will increase 3 percent annually.

RECOMMENDATION OF ADMINISTRATION:

The Land and Resource Management Division recommends the assembly authorize the manager to sign the Communication Site Lease, Amendment No. 1 and adjust the lease amount on final approval and recording of the Record of Survey, if required.

MATANUSKA-SUSITNA BOROUGH
FISCAL NOTE

Agenda Date: December 4, 2018

SUBJECT: AN ORDINANCE OF THE MATANUSKA-SUSITNA BOROUGH ASSEMBLY AUTHORIZING THE MANAGER TO AMEND THE COMMUNICATION SITE LEASE BETWEEN THE MATANUSKA-SUSITNA BOROUGH AND INSITE TOWERS DEVELOPMENT, LLC, TO ALIGN THE RENTS WITH CURRENT BOROUGH LEASE RATES AND STANDARD LEASE PRACTICES (MSB007261).

ORIGINATOR:

| | |
|---|---|
| FISCAL ACTION (TO BE COMPLETED BY FINANCE) | FISCAL IMPACT <input checked="" type="radio"/> YES <input type="radio"/> NO |
| AMOUNT REQUESTED <i>*Base Lease \$450/month</i> | FUNDING SOURCE <i>Lessee rent payments</i> |
| FROM ACCOUNT # | PROJECT # |
| TO ACCOUNT: <i>303.000.000.341.830</i> | PROJECT # |
| VERIFIED BY: <i>Barbara Brumger</i> | CERTIFIED BY: |
| DATE: <i>11/15/18</i> | DATE: |

EXPENDITURES/REVENUES:

(Thousands of Dollars)

| OPERATING | FY2018 | FY2019 | FY2020 | FY2021 | FY2022 | FY2023 |
|--------------------|--------|--------|--------|--------|--------|--------|
| Personnel Services | | | | | | |
| Travel | | | | | | |
| Contractual | | | | | | |
| Supplies | | | | | | |
| Equipment | | | | | | |
| Land/Structures | | | | | | |
| Grants, Claims | | | | | | |
| Miscellaneous | | | | | | |
| TOTAL OPERATING | | | | | | |

| | | | | | | |
|---------|--|--|--|--|--|--|
| CAPITAL | | | | | | |
|---------|--|--|--|--|--|--|

| | | | | | | |
|---------|--|---|--|--|--|--|
| REVENUE | | * | | | | |
|---------|--|---|--|--|--|--|

FUNDING:

(Thousands of Dollars)

| | | | | | | |
|---------------------|--|---|--|--|--|--|
| General Fund | | | | | | |
| State/Federal Funds | | | | | | |
| Other | | * | | | | |
| TOTAL | | * | | | | |

POSITIONS:

| | | | | | | |
|-----------|--|--|--|--|--|--|
| Full-Time | | | | | | |
| Part-Time | | | | | | |
| Temporary | | | | | | |

ANALYSIS: (Attach a separate page if necessary) *Rental income is based on square footage. Base Lease is \$450/mo*

PREPARED BY:

PHONE:

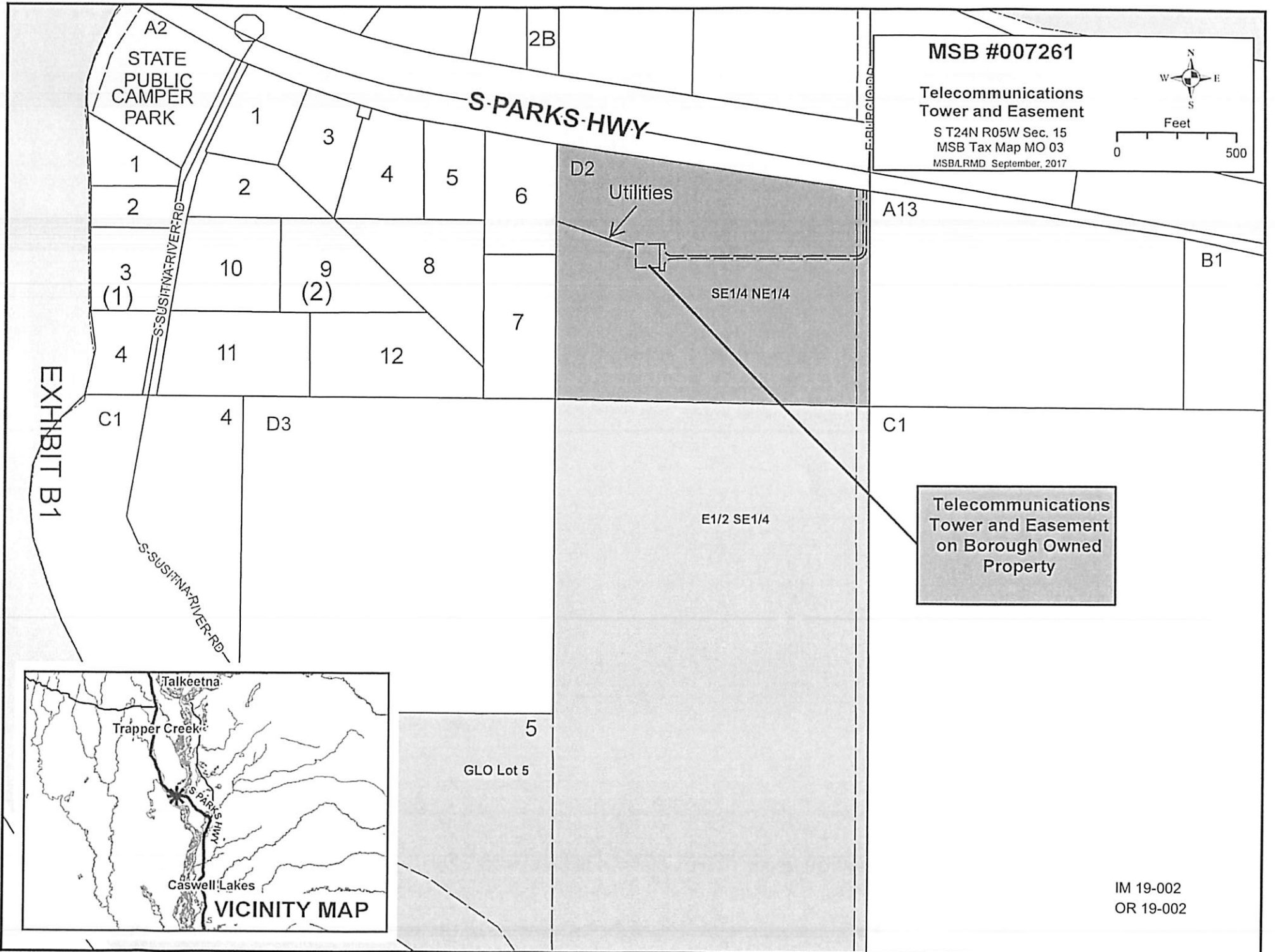
DEPARTMENT:

DATE:

APPROVED BY:

DATE:

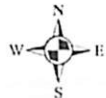
Chesime Hunt



MSB #007261

Telecommunications
Tower and Easement

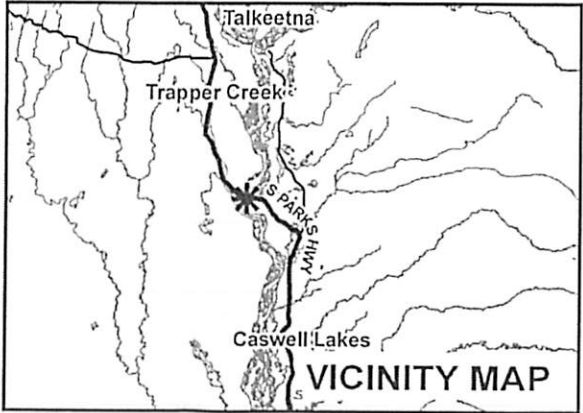
S T24N R05W Sec. 15
MSB Tax Map MO 03
MSB/LRMD September, 2017



Feet
0 500

EXHIBIT B1

Telecommunications
Tower and Easement
on Borough Owned
Property



VICINITY MAP

IM 19-002
OR 19-002

MATANUSKA-SUSITNA BOROUGH
COMMUNICATION SITE LEASE
LEASE AMENDMENT NO. 1

This Amendment of Lease ("Amendment") is made as of the _____ day of _____, 2018 (the "Amendment Effective Date") by and between MATANUSKA-SUSITNA BOROUGH ("Lessor"), a municipal corporation formed under the laws of the State of Alaska, whose mailing address is 350 E. Dahlia Avenue, Palmer, Alaska 99645, and InSite Towers Development 2, LLC, being now known as InSite Towers Development, LLC, a Delaware Limited Liability Company, ("Lessee"), whose mailing address is Attn: Veronica Scozia, 1199 North Fairfax Street, Suite 700, Alexandria, Virginia 22314.

WHEREAS, Lessor and Lessee are parties to that certain Communication Site Lease ("Lease") dated October 2, 2017 and recorded as Serial No. 2017-001583-0 on October 16, 2017, in the Talkeetna Recording District, State of Alaska, covering real property (the "Leased Premises"); and

WHEREAS, Lessor and Lessee desire to amend the Lease only with respect to the specific terms stated below, with all other terms and conditions in the Lease to remain unchanged;

NOW, THEREFORE, in consideration of the mutual covenants contained herein, Lessor and Lessee agree as follows:

Section 4. Rent.

Rent for the Lease Premises, using \$0.012 per square foot per month for the tower site, utilities, and driveway access (area outside the 50' section line easement), totaling 37,791 square feet for a base lease rate of \$450 per month for InSite Towers, Development 2, LLC and Matanuska Telephone Associate. For each additional communication company or wireless carrier located on the tower, an additional \$200 per month for rent is required.

4.1 No changes.

Monthly invoices for this lease will be sent to: InSite Wireless Group, LLC., 1199 N. Fairfax Street, Suite 700, Alexandria, VA 22314, Attention: Lease Administration Department; or, email: leaseadministration@insitewireless.com. For any change, the Lessor will be notified in writing.

- 4.1.1 Land Rent. Based on the site plan and square footage, Lessee shall pay in advance the land rent of \$450.00 per month during the construction phase. The construction phase includes the tower site, utilities, and the access driveway.

4.1.1.1 Each year the lease rent will be increased by 3% on January 16th.

- 4.1.2 Upon conclusion of the communication tower site and improvements, Lessee will obtain and record, at Lessee's cost, a Record of Survey for the tower site, utilities, and the access driveway with separate square footage shown for each improvement.

4.1.2.1. If the square footage increases, the lease rate will be adjusted at using \$0.012 per square foot. At no time will the base lease rate be less than \$450 per month.

IN WITNESS WHEREOF, Lessor and Lessee have duly executed and acknowledged this Lease Amendment No. 1 for Communication Site Lease on the dates indicated.

By: JOHN MOOSEY
Its: MANAGER

Notary Public in and for Alaska
My Commission Expires: _____

**Signed, sealed and delivered in the presence
of:**

Printed Name: _____

Print Title: _____

Signature: _____
 Print Name: _____
 My Commission Expires: _____
 Commission No.: _____