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GLOUCESTER CITY COUNCIL
Planning & Development Committee
Wednesday, January 20, 2016 – 5:30 p.m.
1st Fl. Council Committee Room – City Hall
(Items May be taken out of order at the discretion of the Committee)

1. ***CC2015-007 Request informal review under GZO 1.11.3 with City Staff for informal review of Sections 5.13 Personal Wireless Service Facility and to retain expert legal counsel in order to amend & update the Zoning Ordinance and that the P&D Committee or its designated member work together with city Planning Director and General Counsel with outside expert legal counsel to recommend to the City Council amendments to Sec. 5.13 of the Zoning Ordinance so that it is compliance with current applicable federal laws & regulations (Cont'd from 12/09/15)***
2. ***Request from National Grid for approval of electric easement for an Underground Electric Distribution System re: Stage Fort Park***

COMMITTEE
Chair, Councilor Paul Lundberg
Vice Chair, Councilor Melissa Cox
Councilor Valerie Gilman

CC: Mayor Theken
Jim Destino
Linda T. Lowe
Chip Payson
Gregg Cademartori
Mike Hale

The listing of matters is those reasonably anticipated by the Chair which may be discussed at the meeting. Not all items listed may in fact be discussed and other items not listed may also be brought up for discussion to the extent permitted by law.

OUTLINE OF DRAFT WIRELESS ORDINANCE – version 11/5/2015

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- 5.13.8.6 Final Decision

rec 5/10/15 @ P&D

DRAFT VERSION OF A NEW WIRELESS ORDINANCE – TO FACILITATE PRELIMINARY DISCUSSIONS.

NOTE: Key section headings are highlighted to enable a quick scan of the ordinance structure.

5.13 WIRELESS COMMUNICATIONS FACILITIES

5.13.1 Purposes

- 5.13.1.1 To appropriately promote Wireless Communications Facilities in accordance with federal law, including the Federal Telecommunications Act of 1996, while also regulating Wireless Communications Facilities in a manner that protects the character of the City and its scenic, historic, and natural resources.
- 5.13.1.2 To establish requirements for approval of Wireless Communications Facilities and standards for their design, placement, safety, monitoring, modification and removal.

5.13.2 Applicability

This section applies to all new Wireless Communications Facilities and modifications to existing or previously-approved Wireless Communications Facilities.

5.13.3 Definitions

Antenna

A transmitter device designed to transmit and/or receive radio frequency signals.

Base Station

A structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a Tower as defined herein or any equipment associated with a Tower. Base Station includes, without limitation:

- i. Equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.
- ii. Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including DAS and small-cell networks).
- iii. Any structure other than a Tower that, at the time the relevant application is filed under this section, supports or houses equipment described in paragraphs (i)-

(ii) of this definition that has previously been reviewed and approved under the applicable zoning or siting process, even if the structure was not built for the sole or primary purpose of providing that support.

The term Base Station does not include any structure that, at the time the relevant application is filed under this section, does not support or house equipment described in (i) - (ii) of this definition.

Collocation

The mounting or installation of transmission equipment on an Eligible Support Structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.

Distributed Antenna System (DAS)

A multiple antenna system including antennas and control boxes typically installed on utility poles interconnected via cable or fibers belonging to the access point/base station dispersed across a coverage area.

FCC

The Federal Communications Commission.

Host Structure

Any building or structure other than a Tower, but including utility poles and signs, on or within which a new Wireless Communications Facility or modification thereof is proposed, including, without limitation, any newly constructed building or structure or any addition to any existing building or structure on or within which installation of a Wireless Communications Facility is simultaneously proposed.

Monopole

A single self-supporting Tower, tubular in design, enclosing cables within the tubular structure and designed so it does not require braces or guy wires for support and stability.

Significant Gap

A Coverage Gap in a carrier's wireless service network within a specific geographic area shall be considered to be a "Significant Gap" if such specific identified geographic area is so large in physical size and/or affects or is predicted to affect such a large number of remote users of Compatible User Service Devices as to fairly and reasonably be considered "significant" as opposed to merely being a small "dead spot". In determining whether or not a particular Carrier's Coverage Gap is significant, a relatively small or modest geographic area may be considered a "Significant Gap" if such geographic area is densely populated or is frequently used by a large number of persons for active recreational or similar purposes who are, or are predicted to be, remote users of Compatible User Service Devices, and/or such geographic area straddles one or more public highways or commuter rail lines regularly traveled, or predicted to be traveled, by remote users of Compatible User Service Devices, while a larger geographic area may be considered not to be a "Significant Gap" if such geographic area does not straddle any

public highways or rail lines and/or is sparsely populated. Whether or not a Significant Gap exists is to be determined separately for each Carrier's Personal Wireless Services network.

Site

For Towers other than Towers in the public rights-of-way, the boundaries of the leased or owned property surrounding the Tower and any access or utility easements currently related to the site, and, for other Eligible Support Structures, further restricted to that area in proximity to the structure and to other Transmission Equipment already deployed on the ground.

Transmission Equipment

Equipment that facilitates transmission for any FCC-licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply.

Wireless Communications Facility (or Facility)

A facility for the transmission of any FCC-licensed or authorized wireless communication signals. A Wireless Communication Facility shall include the Transmission Equipment and associated equipment, any Tower or other structure designed or used primarily to support or elevate such equipment, and any accessory structure, building or fenced compound used to shelter the equipment. In context, Facility may refer individually to one provider's installation or collectively to the aggregate of all installations of all providers providing wireless communications services at a common Site.

Wireless Communication Tower (or Tower)

Any structure greater than 15 feet in height mounted on the ground or on another structure built for the sole or primary purpose of supporting any FCC-licensed or authorized Transmission Equipment.

5.13.4 Required Review and Approvals

5.13.4.1 **Facilities Allowed by Right:** Wireless Communications Facilities meeting the following criteria shall be allowed by right, subject to issuance of a Building Permit and the applicant's filing with the building permit application a certification by a qualified engineer or professional that the Facility will comply with all applicable requirements and standards of the FCC and Massachusetts Department of Public Health ("DPH") related to radiofrequency electromagnetic fields and will not exceed the maximum permissible exposure ("MPE") levels deemed safe by the FCC:

- (a) **Concealed Facilities in All Zoning Districts:** A "Concealed Facility" is a Wireless Communications Facility that is entirely contained within architectural features of a building or structure that is occupied or used primarily for other purposes, such that no part of the Facility is visible from

the exterior of the structure. New architectural features, such as a cupola or other appurtenance, may be added to a building or structure to conceal a Wireless Communications Facility so long as such new architectural feature would otherwise be allowed under this Ordinance. Antennas and other components of a Facility situated on or within a Tower shall not be deemed concealed.

- (b) Camouflaged Facilities in the General Industrial, Business Park and Marine Industrial Zoning Districts: A Camouflaged Facility is a Wireless Communications Facility that is disguised, shielded, hidden, or made to appear as an architectural component of an existing or proposed building or structure the use of which is otherwise permitted under this Ordinance. A Wireless Communications Facility attached to an existing building or structure shall not be deemed camouflaged if (a) it extends vertically more than 10 feet above the height of the building or structure or horizontally more than 6 feet beyond the face of any exterior side wall or the exterior of any surface of a structure with no side walls, or (2) any visible Antennas exceed 3' in diameter or 12' in height. Antennas and other components of a Facility situated on or within a Tower shall not be deemed camouflaged.
- (c) Facilities mounted on existing buildings (including roof- and side- mounted) or on other existing Host Structures in the General Industrial and Business Park Zoning Districts – provided the Facility does not project vertically more than 15 feet above the height of the existing Building or Host Structure or project horizontally more than 6 feet beyond the face of any exterior side or the exterior surface of a structure with no side walls and any visible Antennas any do not exceed 3' in diameter or 15' in height.
- (d) Eligible Facilities Requests: Modifications to existing Towers or Base Stations that qualify as “Eligible Facilities Requests,” as determined in writing by the Inspector of Buildings pursuant to Section 5.13.8, below.
- (e) Amateur radio antenna licensed by the FCC – provided such antenna is not used for any commercial purpose and does not exceed 35 feet in height.
- (f) Home television or internet access antenna.
- (g) Medical Facilities for transmittal of clinical medical information.
- (h) Public Safety Facilities – Being Towers, Antennas and related equipment installed and used by a federal, state or City agency or entity for emergency preparedness and public safety purposes, such as police, fire and ambulance services.

5.13.4.2 **Facilities and Modifications Allowed by Planning Board Special Permit**

The following Facilities shall be allowed by Special Permit from the Planning Board:

- (a) Facilities Mounted on Buildings or Host Structures that do not qualify as Facilities allowed by right under Section 5.13.4.1.
- (b) DAS or similar small-cell antenna systems.
- (c) Collocations or modifications to Facilities or Base Stations other than Towers. However, a collocation or modification shall not require a special permit hereunder if (1) it is already expressly authorized by a previously-issued special permit for the existing Facility or Base Station, or (2) it qualifies as an “Eligible Facilities Request,” as determined in writing by the Inspector of Buildings pursuant to Section 5.13.8, below.

5.13.4.3 **Facilities or Modifications Allowed by City Council Special Permit (CCS)**

The following Facilities shall be allowed only by Special Permit from the City Council:

- (a) New Towers.
- (b) Collocations or modifications to existing Towers or Towers previously approved by a City Council special permit. However, a collocation or modification shall not require a special permit hereunder if (1) it is already expressly authorized by a previously-issued special permit for the existing Tower, or (2) it qualifies as an “Eligible Facilities Request,” as determined in writing by the Inspector of Buildings pursuant to Section 5.13.8, below.
- (c) Any other Wireless Communications Facility for which a different review process is not specified within this Section 5.13.

5.13.4.4 **Eligible Facilities Requests Allowed by Administrative Review**

An “Eligible Facilities Request” for collocation or other modification of an existing Tower or Base Station shall be reviewed and approved pursuant to the review procedures set forth in Section 5.13.8, below.

5.13.5 **Planning Board Special Permit Review**

5.13.5.1 **Application Requirements**

- 5.13.5.1.1. In General: All applications to the Planning Board for a special permit for a Wireless Communications Facility shall be submitted and reviewed in

accordance with Section 1.5, as applicable to a PB special permit, and the requirements of this Section 5.13.5.

5.13.5.1.2. Application Materials: Each application shall include the following information:

- (a) Application Form.
- (b) Application Fee. An application fee as set by the City Council and amended from time to time, as set forth in Appendix B, Schedule of Fees under the City of Gloucester Zoning Ordinance.
- (c) Narrative: A narrative description of the proposed Facility or modification, along with photographs, brochures or other graphic illustrations reasonably depicting the physical appearance of the proposed components.
- (d) Plans: Plans as required for a Planning Board special permit under Section 1.5 and including the following additional details:
 - the location and dimensions of all components of the proposed Facility;
 - color of those portions of the Facility that will be visible to the public; and
 - [OTHER BASIC PLAN DETAILS?]
- (e) Visual Aids. Visual aids to facilitate the Board's and public's understanding of the visual impact of the proposed Facility or modification, including, to the extent relevant to the proposed Facility or modification, photographs of existing conditions and visual depictions or simulations of the proposed Facility.
- (f) RF Report: A report describing in geographical and radio frequency terms the coverage need to be addressed by the proposed Facility and how the proposed Facility addresses that need.
- (g) MPE Certification: Certification by a qualified engineer or professional that the Facility will comply with all applicable requirements and standards of the FCC and Massachusetts Department of Public Health related to environmental radiofrequency electromagnetic fields and will not exceed the MPE levels deemed safe by the FCC.
- (h) Other Relevant Materials: Plans and other information pertaining to the installation or construction of the Facility adequate to show compliance with the provisions of this Ordinance and to support the Mandatory Findings identified below.

- (i) Section 6409(a) Analysis: Analyses and documentation of potential future maximum height, width and other additions of any potential new Facility that may qualify for approval under Section _____.
- (j) Additional Requested Information: Such additional information as the Planning Board may require.

5.13.5.1.3. Waivers: The Planning Board may waive any of the above application requirements if it determines the information is not relevant or important to its review of the particular proposal.

5.13.5.2 Independent Peer Review

The Planning Board may at any time assess fees against the applicant for the purpose of employing an independent consultant to evaluate any aspect of the proposed facility, including current service coverage.

5.13.5.3 Design Guidelines

- 5.13.5.3.1. Wireless Communications Facilities mounted on buildings or other Host Structures shall be designed in a manner that is sensitive to abutting properties and the surrounding area.
- 5.13.5.3.2. Antennas mounted on the façade of a building shall not extend above the façade of any wall or exterior surface of the building.
- 5.13.5.3.3. Antennas mounted on the roof of a building or on another Host Structure should not project vertically more than 15 feet above the height of the building or project horizontally more than 6 feet beyond the face of any exterior side or the exterior surface of a structure with no side walls, and any visible Antennas should not exceed 3' in diameter or 15' in height – unless the Planning Board determines that deviation from these guidelines is in the public interest and will not result in a substantially greater impact to abutters.
- 5.13.5.3.4. Antennas installed on utility poles as part of a DAS should not exceed ten feet in height beyond the highest point of such utility pole or sign – unless the Planning Board determines that deviation from this guideline is in the public interest and will not result in a substantially greater impact to abutters.
- 5.13.5.3.5. Any Facility located on or within an historic building or structure shall not alter the character-defining features, distinctive construction methods, or original historic materials of the building or structure.
- 5.13.5.3.6. All Facilities and their equipment shelters shall comply with the principal building setback provisions of the zoning district in which the Facility is

located, unless the Planning Board determines that a lesser setback is in the public interest and will not result in a substantially greater impact to abutters.

5.13.5.3.7. A Facility shall not generate noise in excess of 50 decibels at the Site boundary as measured at ground level.

5.13.5.4 **Mandatory Findings**

The Planning Board shall not issue a special permit under this section unless it finds that the proposed Facility:

- (a) meets the special permit granting standard of Section 1.8.3, “that the proposed use will be in harmony with the general purpose and intent of this ordinance, and that it will not adversely affect the neighborhood, the zoning district or the city to such an extent as to outweigh the beneficial effects of said use”;
- (b) is designed in the most community-compatible method practicable and is either necessary to provide service to a Significant Gap or otherwise desirable and in the public interest to provide improved wireless communications services in the City;
- (c) is sited and designed to be suitably screened;
- (d) is colored so that it will, as much as possible, blend with or be compatible with its surroundings; and
- (e) complies with all applicable requirements of this Ordinance.

5.13.5.5 **Special Permit Conditions**

The Planning Board may impose such conditions in any special permit issued hereunder that it determines to be appropriate or necessary to protect the safety and welfare of the City and to mitigate the visual impact of any proposed Facility. Such conditions may relate to, but shall not be limited to, the following:

- (a) Appearance, including color, style and materials,
- (b) The type and dimensions of any fencing surrounding all or part of the Facility;
- (c) Landscaping or other screening requirements at and around the Facility;
- (d) Contents and dimensions of any permitted signs;

- (e) Noise controls or limitations to ensure compliance with noise standards and to otherwise prevent unreasonably noise disturbance to residents surrounding the Facility;
- (f) Limits as to the permissible height of any component of the Facility;
- (g) Provisions to assure adequate lighting and lighting that is not intrusive to neighbors;
- (h) Safety provisions to guard against damage to persons or property in the event of a collapse or structure failure of any component of the Facility;
- (i) Provisions for the removal of the Facility upon abandonment or expiration of the special permit, including without limitation a bond or other surety. Such bond or other surety shall be maintained throughout the period of construction, location, operation and use of the subject Facility; the Building inspector shall receive 30 days prior written notice of any cancellation, non-renewal or material amendment of such bond or other surety; and
- (j) Whether any colocations or potential future modifications are being pre-approved, and if so, the terms and conditions of any such co-location pre-approval.

5.13.6 City Council Special Permit Review

5.13.6.1 Application Requirements

- 5.13.6.1.1. **In General:** All applications to the City Council for a special permit for a Wireless Communications Facility or modification to a Wireless Communications Facility shall be submitted and reviewed in accordance with Section 1.5, as applicable to CCS special permits, and the requirements of this Section 5.13.6.
- 5.13.6.1.2. **Application Materials:** Each application shall include the following information:
 - (a) **Application Form.**
 - (b) **Application Fee.** An application fee as set by the City Council and amended from time to time, as set forth in Appendix B, Schedule of Fees under the City of Gloucester Zoning Ordinance.
 - (c) **Plans:** Plans as required for a City Council special permit under Section 1.5 and including the following additional details:

- the location and dimensions of all components of the proposed Facility;
 - color of those portions of the Facility that will be visible to the public; and
 - for proposed new Towers, the fall-zone boundaries for 100% and 150% of the proposed Tower height.
- (d) Narrative, Visual Aids, RF Report and MPE Certification – as specified in connection with Planning Board Special Permit proceedings in Section 5.13.5.1.2(c), (e), (f) and (g), above.
- (e) Existing Facilities Map: For any proposed collocation or new Facility, a map showing all other existing and proposed Wireless Service Facilities in the City and outside the City within one mile of its corporate limits.
- (f) NEPA/NHPA Documents: A statement as to whether an Environmental Assessment (EA), a Draft Environmental Impact Statement (DEIS) or Environmental Impact Statement (EIS) is or will be required under the National Environmental Protection Act or the National Historic Preservation Act, and if so, a copy of any such EA, DEIS, or EIS (if available).
- (g) Alternatives Analysis: For any proposed new Tower, a statement describing all alternatives considered by the applicant to address the Significant Gap, including use of existing Facilities or structures and any alternative technologies (for example, DAS or other small cell technologies), and the reason(s) such alternatives are not being proposed.
- (h) Other Relevant Materials: Plans and other information pertaining to the installation or construction of the Facility adequate to show compliance with the provisions of this Ordinance and to support the Mandatory Findings identified below.
- (i) Section 6409(a) Analysis: Analyses and documentation of potential future maximum height, width and other additions of any potential new Facility that may qualify for approval under Section ____.
- (j) Additional Requested Information: Such additional information as the City Council may require.

5.13.6.1.3. Waivers: The City Council may waive any of the above application requirements if it determines the information is not relevant or important to its review of the particular proposal.

5.13.6.2 Independent Peer Review

The City Council may at any time assess fees against the applicant for the purpose of employing an independent consultant to evaluate any aspect of the proposed Facility, including current service coverage.

5.13.6.3 Balloon or Crane Tests

If requested by the City Council, the applicant shall conduct a balloon or crane test, or such other reasonable equivalent, of the height of the proposed free standing facility. The applicant shall provide at least 48 hours written notice of said test to the City Council and to all abutters and persons required by state law to be notified of a public hearing. The applicant shall also submit to the City Council a photographic representation from a suitable number of locations, as directed by the City Council, so as to depict the visual impact of the proposed facility on the surrounding area.

5.13.6.4 City Council's Waiver Authority to Avoid Violation of Federal Law

The City Council, under its special permit granting authority and pursuant to federal law, may waive one or more requirements of this Section 5.13 and its subsections, including dimensional requirements, where the City Council finds that the relief is necessary to avoid a violation of federal law (for example, to avoid a prohibition of Personal Wireless Services in the City or avoid unreasonable discrimination among providers of functionally equivalent services).

5.13.6.5 Location and Design Standards

- 5.13.6.5.1. New lattice style Towers and similar tower structures requiring more than one leg or guy wires for support are prohibited.
- 5.13.6.5.2. Any Facility located on or within an historic building or structure shall not alter the character-defining features, distinctive construction methods, or original historic materials of the building or structure.
- 5.13.6.5.3. Setback Requirements:
 - (a) All Facilities and their equipment shelters shall comply with the principal building setback provisions of the zoning district in which the facility is located, unless the City Council finds that allowing a lesser setback would be in the public interest.
 - (b) All Towers shall be set back at least 50' from the boundary lines of the Site and at least 150% of the Tower height from any existing daycare centers and any dwelling units, except dwelling units located on the subject Site.

5.13.6.5.4. A Tower shall not exceed 175 feet in height above ground level or a height that requires illumination at night under Federal Aviation Administration or Massachusetts Aeronautics Commission regulations, whichever is less.

5.13.6.5.5. A Facility shall not generate noise in excess of 50 decibels at the Site boundary as measured at ground level.

5.13.6.6 **Mandatory Findings**

The City Council shall not issue a special permit under this section unless it makes the “Mandatory Findings” as specified for Planning Board Special Permits under Section 5.13.5.4 and additionally, for any Facilities proposed to be located on a new Tower, that the proposed Facility:

(a) cannot for technical or physical reasons be located on an existing Tower, building or Host Structure that would be expected to provide comparable service coverage; such alternative existing location or locations need not provide full service to the entire Significant Gap if, in the determination of the City Council, the remaining Gap to have been served by the proposed Facility is not Significant and/or if remaining portions of the Significant Gap can be served by new Facilities preferred by the City Council; and

(b) cannot be located at any other practicably available site that is less objectionable to the general public due to technical requirements, topography, or other unique circumstances; the applicant shall have the burden of showing what alternative sites and technologies it considered and why such sites and technologies are not practicably available.

5.13.6.7 **Special Permit Conditions**

5.13.6.7.1. The City Council may impose such conditions in any special permit issued hereunder that it determines to be appropriate or necessary to protect the safety and welfare of the City and to mitigate the visual impact of any proposed Facility. Such conditions may include, but shall not be limited to, conditions as authorized for Planning Board Special Permits under Section 5.13.5.5, above.

5.13.7 General Requirements Applicable to All Facilities

5.13.7.1 **Removal After Cessation:** All structures, equipment, utilities and other improvements associated with a Wireless Communications Facilities shall be removed within one year after cessation of use.

5.13.7.2 **Term of Special Permit:** Unless the Special Permit provides a different term, a Special Permit issued by the Planning Board or City Council under this Section 5.13 shall be valid for 25 years.

5.13.7.3 Indemnity: [placeholder]

5.13.7.4 Compliance with Laws: [placeholder]

5.13.8 Eligible Facilities Request – Administrative Review and Determination

5.13.8.1 **Purpose:** This section implements Section 6409(a) of the Spectrum Act (codified at 47 U.S.C. 1455) and the related rules of the FCC. Pursuant to Section 6409(a), the City “may not deny, and shall approve, any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station.”

5.13.8.2 Definitions:

Eligible Facilities Request

Any request for modification of an “Eligible Support Structure” that does not result in a “Substantial Change” to the physical dimensions of such Eligible Support Structure, involving:

- i. Collocation of new Transmission Equipment;
- ii. Removal of Transmission Equipment; or
- iii. Replacement of Transmission equipment.

Eligible Support Structure (or “Existing Tower or Base Station”)

Any Tower or Base Station that, at the time an application is filed under this section, has been reviewed and approved by the City under the applicable zoning process or constitutes a lawfully pre-existing structure under Section

Substantial Change

A modification substantially changes the physical dimensions of an Eligible Support Structure if it meets any of the following criteria:

- i. For Towers other than Towers in the public rights-of-way, it increases the height of the Tower by more than **10%** or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed **20 feet**, whichever is greater;
- ii. For other Eligible Support Structures, it increases the height of the structure by more than **10%** or more than **10 feet**, whichever is greater;
- iii. For Towers other than Towers in the public rights-of-way, it involves adding an appurtenance to the body of the Tower that would protrude from the edge of the Tower more than 20 feet, or more than the width of

the Tower structure at the level of the appurtenance, whichever is greater;

- iv. For other Eligible Support Structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than 6 feet;
- v. For any Eligible Support Structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets;
- vi. For Towers in the public rights-of-way and Base Stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than 10% larger in height or overall volume than any other ground cabinets associated with the structure;
- vii. It entails any excavation or deployment outside the current site;
- viii. It would defeat the concealment elements of the Eligible Support Structure; or
- ix. It does not comply with conditions associated with the siting approval of the construction or modification of the Eligible Support Structure or base station equipment, provided, however, that this limitation does not apply to any modification that is non-compliant only in a manner that would not exceed the thresholds identified in paragraphs (i) - (vi) of this subsection.

[PLACEHOLDER TO CLARIFY THAT THE “SUBSTANTIAL MODIFICATION” DETERMINATION IS BASED ON CUMULATIVE IMPACTS]

5.13.8.3 **Application Contents**

- 5.13.8.3.1. **Required Materials:** All Eligible Facilities Request applications must include the following items:
 - (a) **Application Form.**
 - (b) **Application Fee.** An application fee as set by the City Council and amended from time to time, as set forth in Appendix B, **Schedule of Fees under the City of Gloucester Zoning Ordinance.**
 - (c) **Plans.** Plans as required for a City Council special permit under Section 5.13 and including, among other details, the location, details

and relevant dimensions of the existing Facility and proposed modified Facility.

- (d) Visual Aids. Visual aids that include, to the extent relevant to the proposed modification, photographs of the existing Facility, visual simulations showing before-and-after construction conditions, including any proposed screening, and other visual aids representing proposed visual changes to the existing conditions.
- (e) Narrative Statement. A written statement (i) describing the proposed modification and related construction work, (ii) identifying any previous modifications to the Facility implemented pursuant to this section or Section 6409(a), and (3) explaining how the Tower or Base Station qualifies as an Eligible Support Structure and how the proposed modification otherwise qualifies as an Eligible Facilities Request.
- (f) Prior Permits/Approvals. Copies of all previously-issued local permits and approvals for the existing Facility.
- (g) MPE Compliance Certification: Certification by a qualified engineer or professional that the Facility will comply with all applicable requirements and standards of the FCC and Massachusetts Department of Public Health related to environmental radiofrequency electromagnetic fields and will not exceed the MPE levels deemed safe by the FCC.
- (h) Noise Study: If the collocation or modification involves any new noise-generating components within 50' of any occupied buildings, except those on the subject Site, a noise study, prepared, signed, and sealed by a qualified engineer, confirming that the proposed modification(s) will not result in violations of the applicable noise standards.
- (i) Other Information. Such other information as the Inspector of Buildings may require.

5.13.8.3.2. Waivers: The Inspector of Buildings may waive one or more of the above filing requirements if he determines the information is not necessary or relevant to his review and determination under this section.

5.13.8.4 Review Process – Inspector of Buildings

5.13.8.4.1. An application for review of an Eligible Facilities Request shall be submitted to and reviewed by the Inspector of Buildings, who shall make the final determination under this section after consultation with the City's Planning Director.

5.13.8.4.2. An approval under this section must be obtained prior to filing of a building permit application for the proposed modification.

5.13.8.4.3. At the time of application hereunder, the applicant shall also submit copies of the application to (1) the City’s Planning Director, (2) the City’s Department of Public Works, and (3) any board, council or commission that issued any prior permit or approval for the Tower or Base Station that is the subject of the application.

5.13.8.5 **Timeframe for Review**

5.13.8.5.1. **60-Day Review Period:** The application under this section shall be approved or disapproved by the Inspector of Buildings within 60 days of its filing.

5.13.8.5.2. **Tolling of Review Period:** The 60-day review period begins to run when the application is filed and may be tolled only by mutual agreement by the Inspector of Buildings and the applicant or in cases where the Inspector of Buildings determines that the application is incomplete.

- (a) To toll the timeframe for incompleteness, the Inspector of Buildings must provide written notice to the applicant within 30 days of receipt of the application, specifically delineating all missing documents or information required in the application.
- (b) The timeframe for review begins running again when the applicant makes a supplemental submission in response to the Inspector of Buildings’s notice of incompleteness.
- (c) Following a supplemental submission, the Inspector of Buildings will notify the applicant within 10 days that the supplemental submission did not provide the information identified in the original notice delineating missing information. The timeframe is further tolled in the case of second or subsequent notices pursuant to the above procedures.

5.13.8.6 **Final Decision**

5.13.8.6.1. **Approvals:** The Inspector of Buildings must approve an application if he/she determines that the application qualifies as an Eligible Facilities Request – that is, that the proposal involves the proposed collocation, removal or replacement of Transmission Equipment on an Eligible Support Structure and that the proposed modification will not result in a “Substantial Change” to the physical dimensions of the Eligible Support Structure (as those terms are defined above).

5.13.8.6.2. **Conditions of Approval:** In addition to any other conditions of approval that the Inspector of Buildings may determine to be necessary or

appropriate and consistent with federal and state law and this Ordinance, all approvals issued under this section shall be subject to the following conditions:

- a. No Automatic Renewal. The grant or approval of a wireless facility minor modification permit shall not renew or extend the underlying permit term.
- b. Compliance with Previous Approvals. The applicant shall be subject to the conditions of all previously-issued permits and approvals for the subject Tower or Base Station, except as may be preempted by Section 6409, subdivision (a).
- c. As-Built Plans. The applicant shall submit to the Inspector of Buildings an as-built set of plans and photographs depicting the entire Facility, as modified, including all Transmission Equipment and all utilities, within ninety (90) days after the completion of construction.
- d. Indemnification. To the fullest extent permitted by law, the applicant and any successors and assigns, shall defend, indemnify and hold harmless city, its employees, agents and officials, from and against any liability, claims, suits, actions, regulatory proceedings, losses, expenses or costs of any kind, including, but not limited to, actual attorney fees and litigation expenses, incurred in relation to or arising out of, in whole or in part, the Facility, as modified.
- e. Compliance with Applicable Laws. The applicant shall comply with all applicable provisions of this Ordinance, any permit or approval issued under this Ordinance, and all other applicable federal, state, and local laws.
- f. Compliance with Approved Plans. The approved Facility shall be built in compliance with the approved plans.

5.13.8.6.3. **Disapprovals:** If the Inspector of Buildings disapproves the application, the Inspector of Buildings shall state the reasons for the disapproval.

nationalgrid

CITY CLERK
GLOUCESTER, MA
15 DEC 17 PM 1:46

December 17, 2015

The Honorable Members of the Gloucester City Council
City of Gloucester
9 Dale Avenue
Gloucester, MA 01930

RE: STAGE FORT PARK GLOUCESTER, MA

Dear Honorable Members of the Gloucester City Council:

Please accept and approve the easement between the City of Gloucester and Massachusetts Electric Company. This will allow Massachusetts Electric Company to perform the work requested.

You will find attached an electric easement for an Underground Electric Distribution System. The easement grants Massachusetts Electric Company the right to own, operate and properly maintain the equipment on your property to provide service.

Please have the easement agreement signed notarized and returned to me at your earliest convenience. Once returned, I can release the easement requirement in the work order for scheduling.

If you have any questions, or concerns, please do not hesitate to contact me directly at 781-907-3666.

Sincerely,
Michael Sheehan

Michael Sheehan
Real Estate Representative - NE North
Real Estate Services
National Grid
40 Sylvan Road
Waltham, MA 02451
781-907-3666
Michael.sheehan@nationalgrid.com

Encl: (1) easement agreement with sketch

nationalgrid

CITY CLERK
GLOUCESTER, MA

15 DEC 17 PM 12: 59

September 18, 2015

**Michael Hale DPW Director
City of Gloucester
9 Dale Avenue
Gloucester MA 01930**

RE: Stage Fort Park Gloucester, MA

Dear Mr. Hale:

Enclosed please find an electric easement for an Underground Electric Distribution System. The easement grants Massachusetts Electric Company the right to own, operate and properly maintain the equipment on city property to provide service.

Please have the easement signed and notarized by the Mayor. Please return to me at your earliest convenience to the address below. Once returned, I can release the easement requirement in the work order for scheduling.

If you have any questions, or concerns, please do not hesitate to contact me directly at 781-907-3666.

**Sincerely,
*Michael Sheehan***

**Michael Sheehan
Real Estate Representative - NE North
Real Estate Services E1-655
National Grid
40 Sylvan Road
Waltham, MA 02451
781-907-3666
Michael.sheehan@nationalgrid.com**

Encl: (1) easement agreement with sketch

Property Address: 24 Hough Avenue, Gloucester MA (Essex South)

GRANT OF EASEMENT

CITY OF GLOUCESTER, a municipal corporation having an address of 9 Dale Avenue, Gloucester, Massachusetts 01930 (hereinafter referred to as the Grantor), for consideration of One (\$1.00) Dollar, grants to MASSACHUSETTS ELECTRIC COMPANY, a Massachusetts corporation with its usual place of business at 40 Sylvan Road, Waltham, Massachusetts 02451 (hereinafter referred to as the Grantee) with quitclaim covenants, the perpetual right and easement to install, construct, reconstruct, repair, replace, add to, maintain and operate for the transmission of high and low voltage electric current and for the transmission of intelligence, an "UNDERGROUND ELECTRIC DISTRIBUTION SYSTEM" (hereinafter referred to as the "UNDERGROUND SYSTEM") located in Gloucester, Essex County, Massachusetts, consisting of lines of buried wires and cables and lines of wires and cables installed in underground conduits, together with all equipment and appurtenances thereto for the transmission of intelligence and the furnishing of electric service to the herein described premises and to service others, and without limiting the generality of the foregoing, but specifically including the following equipment; namely: manholes, manhole openings, bollards, handholes, junction boxes, transformers, transformer vaults, padmounts, padmount transformers and all housings, connectors, switches, conduits, cables and wires all located within the easement area of the hereinafter described property.

Said "UNDERGROUND SYSTEM" is located in, through, under, over, across and upon a parcel of land situated on the southerly side of Western Avenue, being more particularly shown on a Plan of Land dated February 5, 1898 by Winslow L. Webster, City Engineer recorded with the Essex South District Registry of Deeds.

WR#18176220

Address of Grantee:
Mass EL - 40 Sylvan Road, Waltham, Massachusetts 02451

After recording return to:
David J. Aho
National Grid
Service Company, Inc.
40 Sylvan Road
Waltham, MA 02451

05 GLOUMA GEN

And further, said "UNDERGROUND SYSTEM" (locations of the electrical equipment and other facilities on the hereinbefore referred to premises of the Grantor) is approximately shown on a sketch entitled: "nationalgrid WR#18176220," a reduced copy of said sketch is attached hereto as "Exhibit A", copies of which are in the possession of the Grantor and Grantee herein, but the final definitive locations of said "UNDERGROUND SYSTEM" shall become established by and upon the installation and erection thereof by the Grantee.

Also with the further perpetual right and easement from time to time to pass and repass over, across and upon said land of the Grantor as is reasonable and necessary in order to renew, replace, repair, remove, add to, maintain, operate, patrol and otherwise change said "UNDERGROUND SYSTEM" and each and every part thereof and to make such other excavation or excavations as may be reasonably necessary in the opinion and judgment of the Grantee, its successors and assigns, and to clear and keep cleared the portions and areas of the premises wherein the "UNDERGROUND SYSTEM" is located as shown on the sketch herein referred to, of such trees, shrubs, bushes, above ground and below ground structures, objects and surfaces, as may in the opinion and judgment of the Grantee interfere with the safe and efficient operation and maintenance of the "UNDERGROUND SYSTEM" and other related electrical equipment. However, said Grantee, its successors and assigns, will properly backfill said excavation or excavations and restore the surface of the land to as reasonably good condition as said surface was in immediately prior to the excavation or excavations thereof.

If said herein referred to locations as approximately shown on the sketch herein also referred to are unsuitable for the purposes of the Grantee, its successors and assigns, then said locations may be changed to areas mutually satisfactory to both the Grantor and the Grantee herein; and further, said newly agreed to locations shall be indicated and shown on the sketch above referred to by proper amendment or amendments thereto. The Grantor, for itself, its successors and assigns, covenant and agrees with the Grantee, for itself, its successors and assigns, that this Grant of Easement and the location of the Underground System may not be changed or modified without the written consent of the Grantee, its successors and assigns, which consent may be withheld by the Grantee in its sole discretion.

It is the intention of the Grantor to grant to the Grantee, its successors and assigns, all the rights and easements aforesaid and any and all additional and/or incidental rights needed to install, erect, maintain and operate within the Grantor's land an "UNDERGROUND SYSTEM" for the transmission of intelligence and for supplying electric service for the building, buildings or proposed buildings shown on the last herein referred to sketch or amended sketch and the right to service others from said "UNDERGROUND SYSTEM".

It is agreed that said "UNDERGROUND SYSTEM" and all necessary appurtenances thereto, shall remain the property of the Grantee, its successors and assigns, and that the Grantee, its successors and assigns, shall pay all taxes assessed thereon.

For Grantor's title, see deed from Elizabeth Hough dated August 13, 1898, recorded with the Essex South District Registry of Deeds in Book 1583, Page 527.

IN WITNESS WHEREOF, CITY OF GLOUCESTER has caused its corporate seal to be hereto affixed and these presents to be signed in its name and behalf by Sefatia Romeo Theken, its Mayor, being thereto duly authorized this ____ day of _____, 2015.

CITY OF GLOUCESTER,

By: Sefatia Romeo Theken
Its: Mayor

WR#18176220

The provisions of Massachusetts
General Laws, Chapter 183
Section 6B, are not applicable.

Commonwealth of Massachusetts

County of _____ } ss.

On this the _____ day of _____, 2015, before me,

Name of Notary Public

personally appeared Sefatia Romeo Theken,

proved to me through satisfactory evidence of identity, which was/were

Description of Evidence of Identity

to be the persons whose names are signed on the preceding Grant of Easement, and
acknowledged to me that she signed it voluntarily for its stated purpose.

As Mayor for

CITY OF GLOUCESTER, a municipal
corporation

Signature of Notary Public

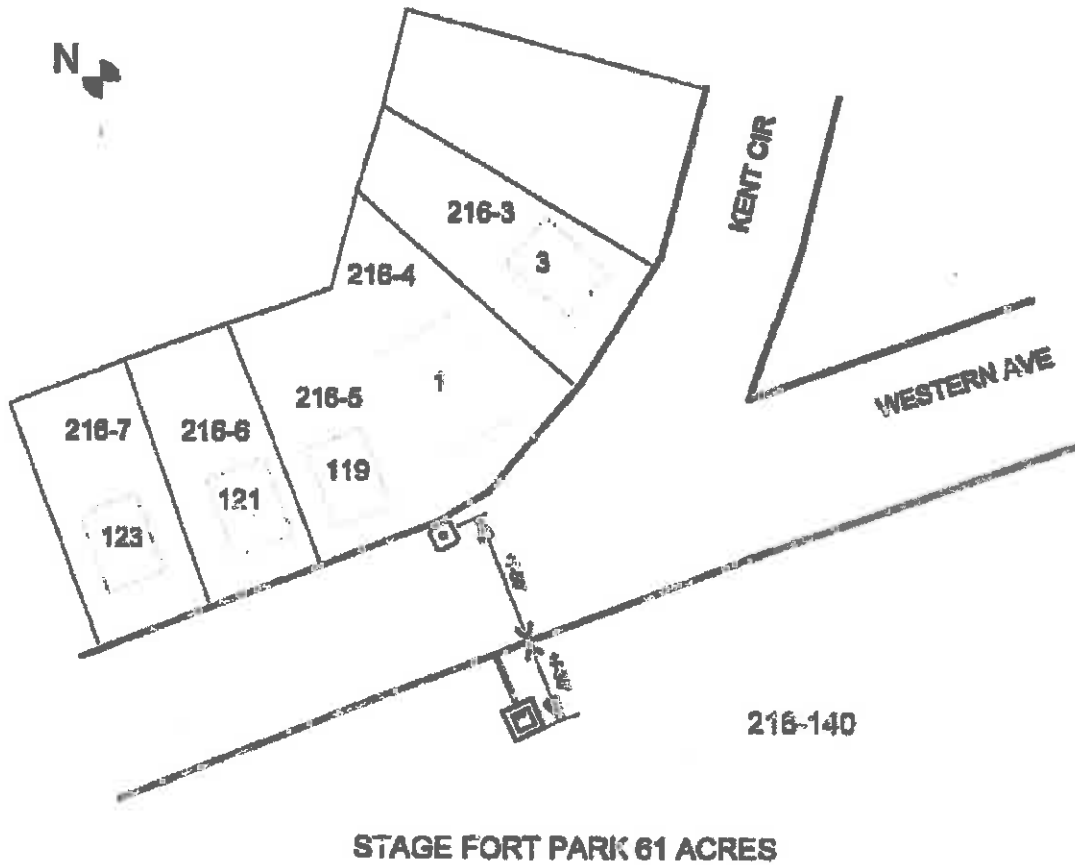
Printed Name of Notary

My Commission Expires _____

Place Notary Seal and/or Any Stamp Above

Exhibit A – Not to Scale

The exact location of said Facilities to be established by and upon the installation and erection of the Facilities thereof.



ELECTRIC DISTRIBUTION CONSTRUCTION EASEMENT

LEGEND



PROPOSED PADMOUNT TRANSFORMER



PROPOSED CABLE ON CONDUIT

nationalgrid

**Owner(s): STAGE FORT
PARK, CITY OF
GLOUCESTER**

**Address: 19 DALE AVE,
GLOUCESTER MA 0130**

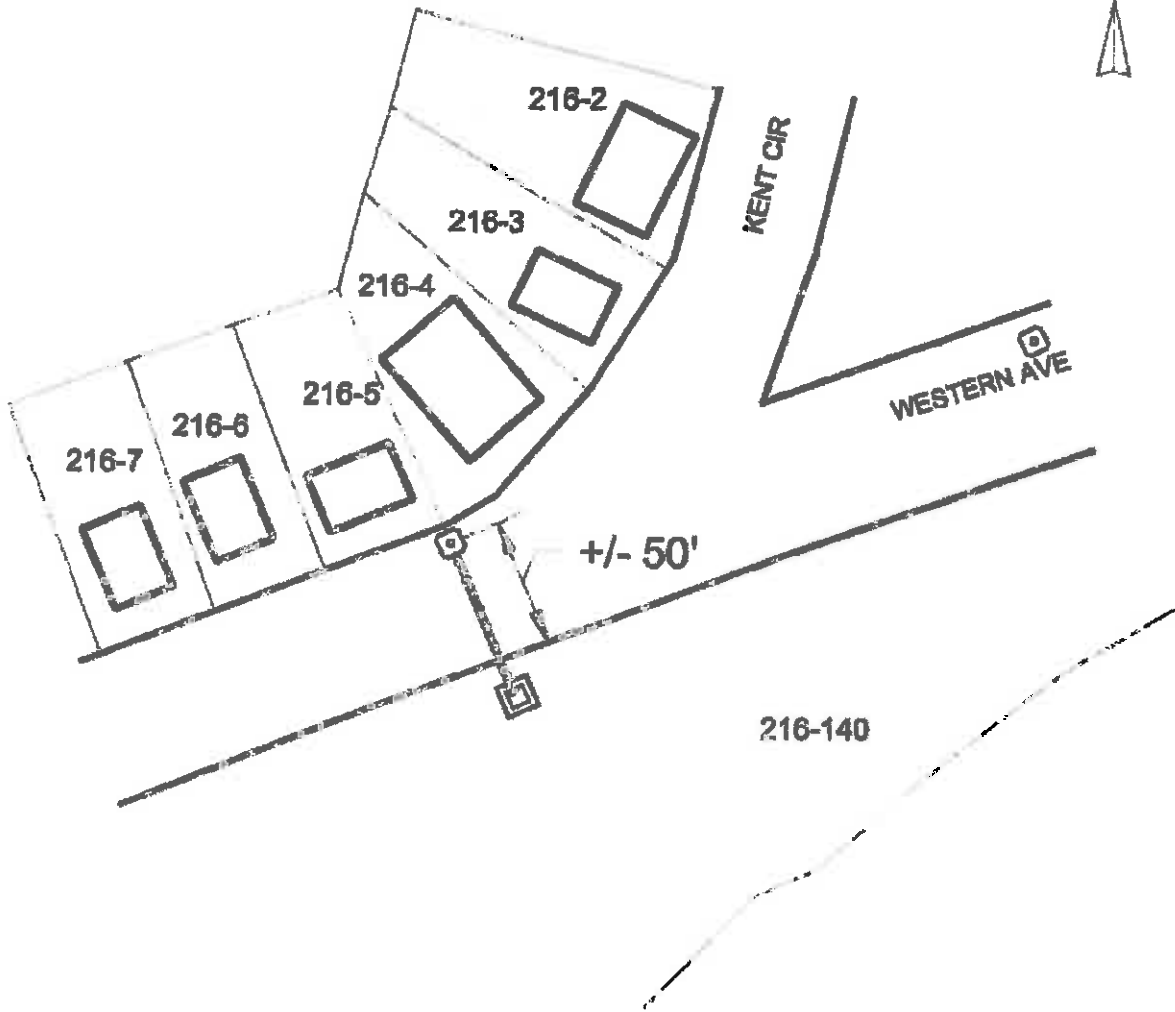
Sketch to Accompany Easement for: The
Installation of 30'± cable in conduit and a
padmount transformer on property at Stage Fort
Park, Western Ave, Gloucester MA 01938

Date: 08/25/2015

Drawn By: M E MURPHY

DRAWING NOT TO SCALE. DISTANCES ARE APPROXIMATE.

WR# 18176220



UNDERGROUND PETITION

EXISTING MANHOLE PROPOSED CONDUIT 2-3"

PROPOSED TRANSFORMER ON CITY OWNED PROPERTY

SKETCH TO ACCOMPANY A PETITION FOR THE
INSTALLATION OF 50 FEET OF 2-3" CONDUIT
FROM MH 123-1 NEAR 119 WESTERN AVE TO
STAGE FORT PARK

DISTANCES ARE APPROXIMATE

nationalgrid

Date: 07/13/2015

WORK REQUEST: 18176220

To The: City Of GLOUCESTER

For Proposed: CONDUIT Location: WESTERN AVE

Drawn By: M E MURPHY