

EMERGENCY COMMUNICATION SITE LEASE AGREEMENT (MULVANE)
(for Cassidian P-25 Digital Radio 911 Communication System)

THIS EMERGENCY COMMUNICATION SITE LEASE AGREEMENT ("Agreement") dated and made effective as of the ___ day of _____, 2012, is between Westar Energy Inc., a Kansas Corporation ("Lessor" or "Westar Energy"), and Sedgwick County, Kansas as ("Lessee" or "County").

For good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Premises. Lessor owns or has rights to a parcel of land ("**Land**"), existing structures ("**Buildings**") and an existing communications tower ("**Tower**") known as the commonly as the Mulvane Radio Site (FCC FRN 0002340404), with a commonly known address of 10140 South 127th Street East Mulvane, Kansas 67110. The Tower, the Buildings and the Land are collectively referred to herein as the "**Property**." The Land is more particularly described in the attached Exhibit A. Subject to the provisions of Paragraph 2 below ("Effective Date/Due Diligence Period"), Westar Energy hereby licenses to Lessee, Sedgwick County and Lessee Sedgwick County licenses from lessor Westar Energy a ground lease for approximately 450 square feet of ground space for the installation of a communication shelter, generator and LPG storage tank along with leased space on the existing communication tower for Lessee' antennas and equipment (collectively, "**Lessee Facilities**"), and all other access and utility easements necessary or desirable therefore (collectively, "**Premises**") as may be described generally in the attached Exhibit B.

2. Effective Date/Due Diligence Period. This Agreement shall be effective on the date of full execution hereof ("**Effective Date**"). Beginning on the Effective Date and continuing until the Term Commencement Date as defined in Paragraph 4 below ("**Due Diligence Period**"), County and its authorized agents/contractors shall be permitted to enter the Property for the limited purpose of making appropriate engineering and boundary surveys, inspections, and other reasonably necessary investigations and signal, topographical, geotechnical, structural and environmental tests (collectively, "**Investigations and Tests**") that County may deem necessary or desirable to determine the physical condition, feasibility and suitability of the Premises. If County determines, during the Due Diligence Period, that the Premises is not appropriate for County's intended use, or if for any other reason, or no reason, County decides not to commence its tenancy of the Premises, then County shall have the right to terminate this Agreement without penalty upon written notice to Lessor at any time during the Due Diligence Period and prior to the Term Commencement Date. Lessor and County expressly acknowledge and agree that County's access to the Property during this Due Diligence Period shall be solely for the limited purpose of performing the Investigations and Tests, and that County shall not be considered an owner, operator or lessee of any portion of the Property, and shall have no ownership or control of any portion of the Property (except as expressly provided in this Paragraph 2), prior to the Term Commencement Date.

3. Use. The Premises may be used by Lessee only in connection with the providing emergency wireless communications services, including without limitation, the transmission and the reception of microwave and radio communication signals, and the construction, maintenance and operation of related communications facilities. At least 30 days prior to the expiration of the Due Diligence Period, Lessee shall submit to Lessor for review and approval detailed plans, specifications, and drawings describing in detail the proposed Lessee's Facilities to be installed by Lessee. Upon Lessee's submittal and request, Lessor shall, within 15 days, approve the proposed Lessee's Facilities or provide Lessee with its objections whereupon Lessee may either revise its plans, specifications, and drawings or, if unwilling to do so, terminate, this Agreement without further obligation. The current plans, specifications and drawings of Lessee's Facilities are attached as Exhibit __ and may be subject to modification prior to the completion of installation. Following the initial installation of Lessee's Facilities, Lessee shall not install any additional equipment upon the Premises without the consent of Lessor, which consent shall not be unreasonably withheld or delayed. Lessor's consent shall not be required for ordinary and routine maintenance and repair of the Lessee's Facilities or like kind replacement of equipment. Lessor agrees, at no expense to Lessor, to cooperate with Lessee in making application for and obtaining all licenses, permits and any and all other necessary approvals that may be required for Lessee's intended use of the Premises.

4. Term. The term of this Agreement shall commence upon the date Lessee begins construction of the Lessee Facilities (as defined in Paragraph 6 below) or eighteen (18) months following the Effective Date, whichever first occurs ("**Term Commencement Date**") and shall terminate on the 5th anniversary of the Term Commencement Date ("**Term**") unless otherwise terminated as provided herein. Unless Lessor gives Lessee at least

120 days' notice of its intention to terminate this Agreement prior to the expiration of the Term, or any "Renewal Term" (as defined herein), Lessee shall have the right to extend the Term for successive five (5), five (5) year periods ("**Renewal Terms**") on the same terms and conditions as set forth herein. Subject to Lessor's right of termination, as allowed under the provisions of Section 10.1 of this Agreement, or by Lessor's written notice 120 days in advance of the expiration of the Term or any Renewal Term this Agreement shall automatically be extended for each successive Renewal Term unless Lessee notifies Lessor of its intention not to renew at least sixty (60) days prior to commencement of the succeeding Renewal Term. It is expressly understood and agreed by the parties hereto that all rights granted to Lessee under this Agreement are irrevocable until this Agreement expires or sooner terminates as herein provided.

5. Rental Fee. Lessee shall pay Lessor a one-time payment of Five Hundred Dollars (\$500.00) within thirty (30) business days of the execution of this Agreement. Within fifteen (15) business days following the Term Commencement Date and on the first day of each month thereafter, Lessee shall pay to Lessor as a Rental Fee of Two Thousand Five Hundred Forty One Dollars (\$2,541.00) per month ("**Rental Fee**") for the first term. Thereafter, the Rental Fee shall increase by 3% on each Term Renewal. The Rental Fee for any fractional month at the beginning or at the end of the Term or Renewal Term shall be prorated. Rental Fees shall be payable to Lessor at (insert address). All of Lessee's monetary obligations set forth in this Agreement are conditioned upon Lessee's receipt of an accurate and executed W-9 Form from Lessor.

6. Improvements. Lessee has the right to construct, maintain, install, repair secure, replace, remove and operate the Lessee's Facilities on the Premises. In connection therewith, Lessee has the right to do all work necessary to prepare, add, maintain and alter the Premises for Lessee's emergency communications operations and to install utility lines and transmission lines connecting antennas to transmitters and receivers. Lessee shall provide 48 hours advanced notice to Lessor prior to performing and tower work at the site, with the exception of emergency situations which required immediate action in which case Lessor shall be notified on the next business day. An emergency situation is defined as the inability of the Lessee to transmit or received from the site. All of Lessee's construction and installation work shall be performed at Lessee's sole cost and expense, in a good and workmanlike manner, and in accordance with the plans, specifications, and drawings submitted to and approved by Lessor. Title to the Lessee Facilities and any equipment placed on the Premises by Lessee shall be held by Lessee or its lenders or assigns and are not fixtures. Lessee shall remove the Lessee Facilities at its sole expense on or before the expiration or earlier termination of this Agreement, and Lessee shall reasonably repair any damage to the Premises caused by such removal, normal wear and tear excepted.

7. Access and Utilities.

7.1 Lessor shall provide Lessee, Lessee's employees, agents, contractors, subcontractors and assigns with controlled access to the Premises twenty-four (24) hours a day, seven (7) days a week, at no charge to Lessee. Lessor grants to Lessee, and Lessee's agents, employees and contractors, a non-exclusive right and easement for pedestrian and vehicular ingress and egress across the Property, and such right and easement may be described generally in Exhibit B.

7.2 Lessor shall maintain access from the nearest public roadway to the Premises in a manner sufficient to allow pedestrian and vehicular access at all times under normal weather conditions. Lessor shall be responsible for maintaining such access, at its sole expense, except for any damage caused by Lessee's use of such access.

7.3 In consideration of the Rental Fee, Lessee shall have installed a new 200 amp service independently metered and paid for by the Lessee.

8. Interference. Lessee shall operate the Lessee Facilities in compliance with all Federal Communications Commission ("FCC") requirements. Lessee shall operate its Lessee Facilities without interference to communications facilities of Lessor or other leases or lessees of the Property, provided that the installation and operation of any such facilities predate the installation of the Lessee Facilities. Subsequent to the installation of the Lessee Facilities, Lessor will not permit its current lessees or new lessees, to install new equipment on or make any alterations to the Property or property contiguous thereto owned or controlled by Lessor, if such new equipment or modifications are likely to cause interference with Lessee's operations. Lessor acknowledges that Lessee's use of the premises shall be for emergency communication purposes and that the continued uninterrupted use and availability of Lessee's Facilities shall be given a first right superior to any other leases or lessees use or operation on the land, property or premises. If interference or degradation occurs from any

such lease, lessee and/or as a result of additions or modifications, Lessor agrees to use best efforts to immediately eliminate such interference or degradation. Lessor's failure to comply with this paragraph shall be a material breach of this Agreement. The parties acknowledge and agree that Lessee is a public entity and that the Premises is currently used by Lessee for emergency communications facilities for itself and other first responders and that this use shall continue for the term and any renewal of this Agreement. Lessee will make a good-faith effort to avoid causing interference with Lessor's or any other lessee's communications signals; however, Lessor waives any claim for damages or for breach of this Agreement if Lessee's use of the Premises for emergency communications purposes nonetheless causes interference with Lessor's or any other lessee's operations and signals.

9. Taxes. The parties acknowledge that Lessee is a tax exempt public entity. However, to the extent any taxes are due and assessable against Lessee; Lessee shall pay the personal property taxes assessed against the Lessee Facilities. Lessor shall pay when due, all real property taxes and all other taxes, fees and assessments attributable to the Premises or this Agreement.

10. Termination.

10.1 This Agreement may be terminated on thirty (30) days prior written notice as follows by either party upon a default of any covenant or term hereof by the other party, which default is not cured within thirty (30) days of receipt of written notice of default, except that this Agreement shall not be terminated if the default cannot reasonably be cured within such thirty (30) day period and the defaulting party has commenced to cure the default within such thirty (30) day period and diligently pursues the cure to completion; provided that the grace period for any monetary default is twenty (20) days from receipt of written notice.

10.2 This Agreement may also be terminated by Lessee without further liability on thirty (30) days prior written notice (i) if Lessee is unable to reasonably obtain or maintain any certificate, license, permit, authority or approval from any governmental authority, thus restricting Lessee from installing, removing, replacing, maintaining or operating the Lessee Facilities or using the Premises in the manner intended by Lessee; (ii) if Lessee determines that the Premises are not appropriate for its operations for economic, environmental or technological reasons, including without limitation, signal strength, coverage or interference, or (iii) or Lessee otherwise determines, within its sole discretion, that it will be unable to use the Premises for Lessee's intended purpose.

10.3 It shall not be a default under this Agreement, and Lessee shall have no claim for damages against Lessor, if Lessor determines to demolish or rebuild the Lessor's Building and Lessor determines that the Lessee's Facilities are required to be removed as a result. Upon such determination, Lessor shall notify Lessee at least one hundred eighty (180) days in advance, in writing, and this Agreement shall terminate without further obligation of either party.

10.4 Except as otherwise expressly provided herein, in addition to the remedies provided above the non-defaulting party shall have all legal and equitable remedies available to such party in the event of a default.

11. Destruction or Condemnation. If the Premises or Lessee Facilities are damaged, destroyed, condemned or transferred in lieu of condemnation, Lessee may elect to terminate this Agreement as of the date of the damage, destruction, condemnation or transfer in lieu of condemnation by giving notice to Lessor no more than forty-five (45) days following the date of such damage, destruction, condemnation or transfer in lieu of condemnation. If Lessee chooses not to terminate this Agreement, the Rental Fee shall be reduced or abated in proportion to the actual reduction or abatement of use of the Premises.

12. Insurance; Subrogation; and Indemnity.

12.1 Lessee is a self-insured government entity and shall determine that all contractors and sub-contractors maintain in effect Commercial General Liability, including Contractual Liability, relating to Lessee's construction of the "Premises" defined herein in an amount of not less than \$500,000.00 per occurrence.

12.2 Lessor, at its sole cost and expense, shall procure and maintain Commercial General Liability insurance covering bodily injury and property damage with a combined single limit of at least five hundred thousand dollars (\$500,000.00) per occurrence.

12.3 Lessor and Lessee shall each indemnify, defend and hold the other harmless from and against all claims, losses, liabilities, damages, costs, and expenses (including reasonable attorneys' and consultants' fees, costs and expenses) (collectively "Losses") arising from the indemnifying party's breach of any term or condition of this Agreement or from the negligence or willful misconduct of the indemnifying party or its agents, employees or contractors in or about the Property. The duties described in this Paragraph 12.3 shall apply as of the Effective Date of this Agreement and survive the termination of this Agreement. Nothing in this Section 12 shall be deemed as a waiver of any protection or limit of liability afforded to Lessee under the Kansas Tort Claims Act.

13. Assignment. Either party may assign this Agreement at any time upon 30 days' prior written notice to the other party.

14. Title and Quiet Enjoyment. Lessor represents and warrants that (i) it has full right, power, and authority to execute this Agreement, (ii) Lessee may peacefully and quietly enjoy the Premises and such access thereto, provided that Lessee is not in default hereunder after notice and expiration of all cure periods, (iii) it has obtained all necessary approvals and consents, and has taken all necessary action to enable Lessor to enter into this Agreement and allow Lessee to install and operate the Facility on the Premises, including without limitation, approvals and consents as may be necessary from other lessees, and occupants of Lessor's Property, and (iv) the Property and access rights are free and clear of all liens, encumbrances and restrictions except those of record as of the Effective Date.

15. Environmental. As of the Effective Date of this Agreement: (1) Lessee hereby represents and warrants that it shall not use, generate, handle, store or dispose of any Hazardous Material in, on, under, upon or affecting the Property in violation of any applicable law or regulation, and (2) Lessor hereby represents and warrants that (i) it has no knowledge of the presence of any Hazardous Material located in, on, under, upon or affecting the Property in violation of any applicable law or regulation; (ii) no notice has been received by or on behalf of Lessor from any governmental entity or any person or entity claiming any violation of any applicable environmental law or regulation in, on, under, upon or affecting the Property; and (iii) it will not permit itself or any third party to use, generate, handle, store or dispose of any Hazardous Material in, on, under, upon, or affecting the Property in violation of any applicable law or regulation. Without limiting Paragraph 12.3, Lessor and Lessee shall each indemnify, defend and hold the other harmless from and against all Losses (specifically including, without limitation, attorneys', engineers', consultants' and experts' fees, costs and expenses) arising from (i) any breach of any representation or warranty made in this Paragraph 15 by such party; and/or (ii) environmental conditions or noncompliance with any applicable law or regulation that result, in the case of Lessee, from operations in or about the Property by Lessee or Lessee's agents, employees or contractors, and in the case of Lessor, from the ownership or control of, or operations in or about, the Property by Lessor or Lessor's predecessors in interest, and their respective agents, employees, contractors, Lessees, guests or other parties. The provisions of this Paragraph 15 shall apply as of the Effective Date of this Agreement and survive termination of this Agreement. "**Hazardous Material**" means any solid, gaseous or liquid wastes (including hazardous wastes), regulated substances, pollutants or contaminants or terms of similar import, as such terms are defined in any applicable environmental law or regulation, and shall include, without limitation, any petroleum or petroleum products or by-products, flammable explosives, radioactive materials, asbestos in any form, polychlorinated biphenyls and any other substance or material which constitutes a threat to health, safety, property or the environment or which has been or is in the future determined by any governmental entity to be prohibited, limited or regulated by any applicable environmental law or regulation.

16. Waiver of Lessor's Lien. Lessor hereby waives any and all lien rights it may have, statutory or otherwise concerning the Lessee Facilities or any portion thereof which shall be deemed personal property for the purposes of this Agreement, whether or not the same is deemed real or personal property under applicable laws, and Lessor gives Lessee the right to remove all or any portion of the same from time to time, whether before or after a default under this Agreement, in Lessee's sole discretion and without Lessor's consent.

17. Notices. All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed given if personally delivered or mailed, certified mail, return receipt requested, or sent by for next-business-day delivery by a nationally recognized overnight carrier to the following addresses:

If to Lessee, to:	If to Lessor, to:	With copy to:
<i>Bill H. Raymond</i> , Assistant County Counselor 525 N. Main, Ste. 359 Wichita, KS 67002-3790 Phone: 316-660-9340 Fax: 316-383-7007 E-Mail: braymond@sedgwick.gov	Westar Energy Inc. 122 SW 2 nd Topeka, KS 66603 Attention: Doug Young	Westar Energy, Inc. 818 S. Kansas Ave. Topeka, KS 66612 Attention: General Counsel

Lessor or Lessee may from time to time designate any other address for this purpose by written notice to the other party. All notices hereunder shall be deemed received by a party (i) upon actual receipt or refusal to accept delivery or (2) one business day after deposit with a nationally recognized overnight carrier for overnight delivery addressed to such party as specified in this Section 17.

18. Miscellaneous.

18.1 If Lessee is to pay the Rental Fee to a payee other than the Lessor, Lessor shall notify Lessee in advance in writing of the payee's name and address.

18.2 If any provision of the Agreement is invalid or unenforceable with respect to any party, the remainder of this Agreement or the application of such provision to persons other than those as to whom it is held invalid or unenforceable, shall not be affected and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

18.3 The rights and obligations contained in Sections 10.4, 12.3 and 15 shall survive the termination, cancellation or expiration of this Agreement.

18.4 This Agreement shall be governed under law of the State in which the Premises are located, and be binding on and inure to the benefit of the successors and permitted assignees of the respective parties.

18.5 A Memorandum of Agreement in the form attached hereto as Exhibit C may be recorded by Lessee confirming the (i) effectiveness of this agreement, (ii) expiration date of the Term, (iii) the duration of any Renewal Terms, and/or other reasonable terms consistent with this Agreement.

18.6 All Exhibits referred herein are incorporated herein for all purposes.

18.7 This Agreement constitutes the entire Agreement between the parties, and supersedes all understandings, offers, negotiations and other leases concerning the subject matter contained herein. There are no representations or understandings of any kind not set forth herein. Any amendments, modifications or waivers of any of the terms and conditions of this Agreement must be in writing and executed by both parties.

18.9 In the event Lessor during the existence of this Agreement, files for bankruptcy protection or files a petition under the Bankruptcy Abuse Prevention and Consumer Act of 2005 (BAPCPA), as amended, the parties agree and stipulate that this Agreement shall be interpreted as a safe harbor contract (regardless of being defined as a forward contract, forward agreement, master netting agreement, etc.) and that the Lessee shall be entitled to exercise all rights and remedies, including but not limited to, setoff, liquidation, netting, termination, acceleration, or close out and that Lessor's rights shall not be stayed, avoided or otherwise limited by operation of any provision of BAPCPA, or by any other order of the court or administrative agency in any proceeding therein.

IN WITNESS WHEREOF, the parties have entered into this Agreement effective as of the date first above written.

LESSEE:

Board of County Commissioners of Sedgwick County

By: _____

Name: Tim R. Norton

Title: Chairman of the Board of Commissioners

Date: _____

Attest:

Kelly Arnold, County Clerk

Approved to form:



Bill H. Raymond, Assistant County Counselor

LESSOR:

Westar Energy, Inc. a Kansas Corporation

By:  _____

Name: Mike Brook

Title: Director Telecom

Date: 8-31-12

Tax ID: _____

EXHIBIT A

DESCRIPTION OF LAND

Description of Land to the Agreement dated _____ 2011, by and between Sedgwick County, as Lessee, and Westar Energy, Inc., a Kansas corporation, as Lessor.

The Land is described and/or depicted as follows (metes and bounds description):

A tract of land in the northeast quarter of Section 22, Township 29S, Range 2E, of the 6th P.M., Sedgwick County, Kansas, being more particularly described as follows:

**Commencing at the northeast corner of said NE¹/₄,
thence S00°00'00"E on an assumed bearing along the east line of said NE¹/₄ for a distance of 660.00 feet;
thence N90°00'00"W for a distance of 25.00 feet to the west right of way line of 127th Road East and the true
point of beginning;**

**thence continuing N90°00'00"W for a distance of 660.00 feet; thence S00°00'00"E for a distance of 660.00
feet; thence S90°00'00"E for a distance of 660.00 feet to said west right of way line;
thence N00°00'00"E along said west right of way line for a distance of 660.00 feet to the true point of
beginning.**

EXHIBIT B

DESCRIPTION OF PREMISES

Description of Premises to the Agreement dated _____, 2011, by and between the Sedgwick County, as Lessee, and Westar Energy Inc, a Kansas corporation, as Lessor.

The Premises are described as follows:

The proposed equipment shelter is a pre-fabricated concrete enclosure with dimensions of 21' x 11' x 9' (L x W x H) with a aggregate finish. The generator will include a residential exhaust system to reduce noise during the operation and will be powered by liquefied petroleum gas 1000 gallon tank. Shelter, generator and tank will be placed on concrete slabs.

Notes:

1. The parties may mutually replace this Exhibit with a survey of the Premises once available.
2. The Premises shall be setback from the Property's boundaries as required by the applicable governmental authorities.
3. The access road's width will be the width required by the applicable governmental authorities, including police and fire departments.
4. The type, number, mounting positions and locations of antennas and transmission lines are illustrative only. The actual types, numbers, mounting positions and locations may vary from what is shown above.
5. The locations of any utility easements are illustrative only. The actual locations will be determined by the servicing utility company in compliance with all local laws and regulations.

EXHIBIT C

DEPICTION OF PREMISES

The Premises are depicted as follows:

[A DRAWING/DIAGRAM OF THE PREMISES ARE ATTACHED HERETO]

Site Notes:

VERIFIED SITE DATA

GPS Decimal	37.508194N 97.188611W
LAT/LON	37°30'29.50"N 97°1'19.00"W
Address	10140 S. 127th St. E. Mulvane, KS 67110
Site elev:	1290' MSL
Tower elev:	300' AGL
ASR:	1267704
Owner	Westar Energy
Contact	Steve Ingersoll (785) 575-6560

Cassidian Communications - PROPRIETARY DRAWING



AN EADS NORTH AMERICA COMPANY
6801 GAYLORD PARKWAY, SUITE 306, FRISCO, TX 75034 USA

Project

Sedgwick County P25

Title

Mulvane Tower

Size	Scale	Drawn by M. Gibson	Checked by (TBD)	Date 15 Jan 12
		Approved by		

Drawing Number

SED/SYS/3011

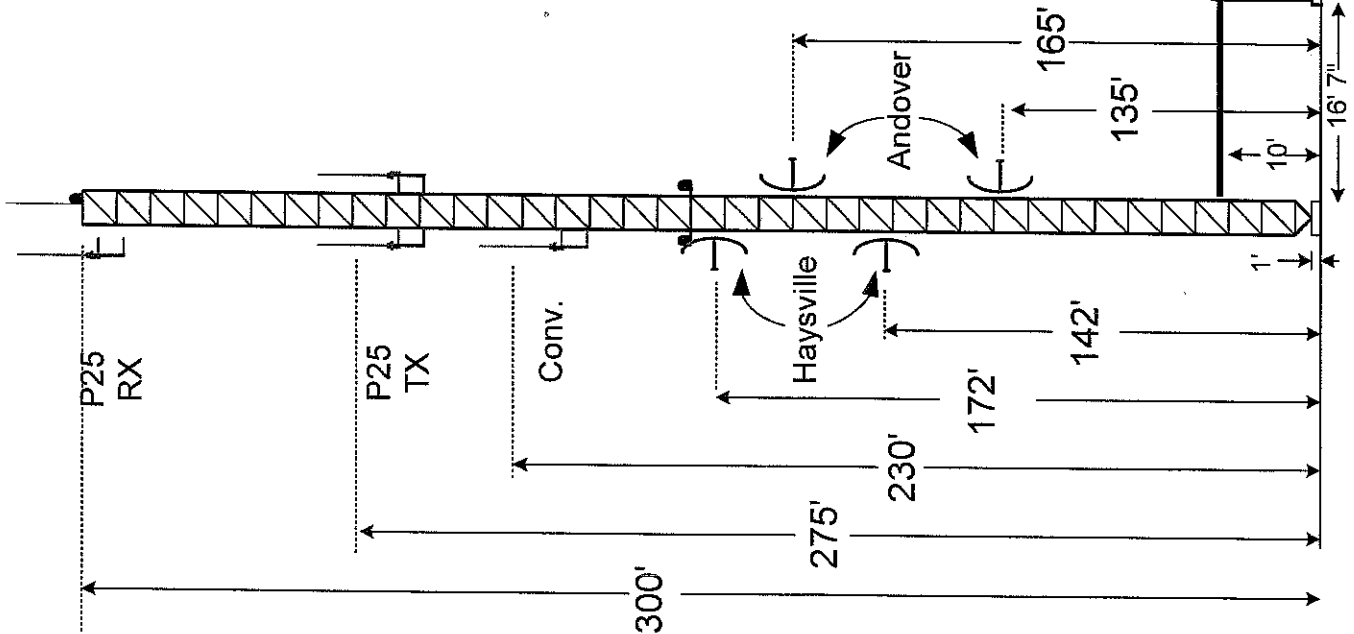
Issue

v2

Sheet

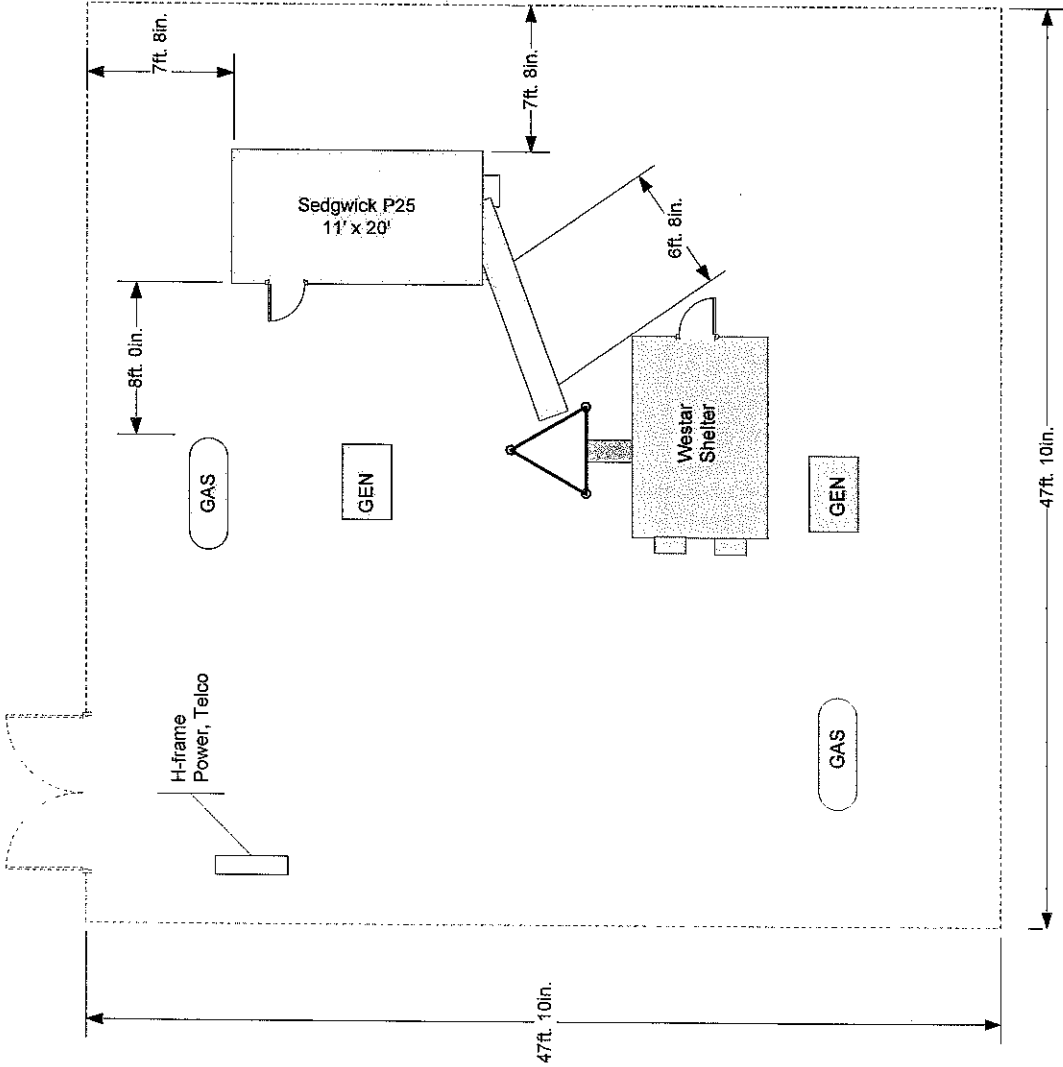
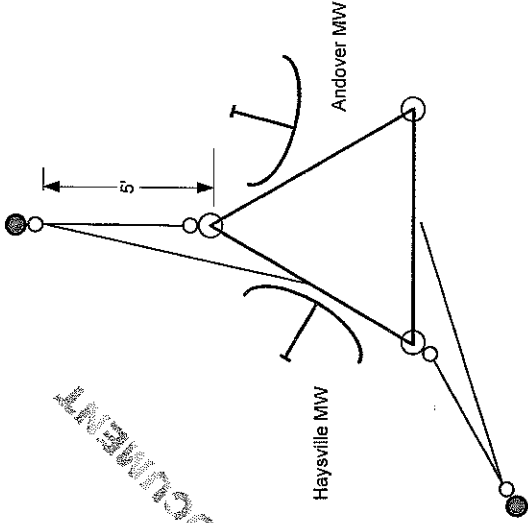
1 of 2

PRELIMINARY DOCUMENT





PRELIMINARY DOCUMENT



6801 GAYLORD PARKWAY, SUITE 305, FRISCO, TX 76034 USA	
Project Sedgwick County P25	
Title Multivane Site Plan	
Size	Scale
Drawn by M. Gibson	Checked by (TBD)
Approved by	
Date: 25 Nov 2011	
Drawing Number SED/SYS/3011	
Issue v2	Sheet 2 of 2