



**SPECIAL CITY COUNCIL MEETING  
OF THE CITY OF CEDAR HILLS  
Tuesday, April 14, 2015 6:00 p.m.**

Notice is hereby given that the City Council of the City of Cedar Hills, Utah, will hold a **Special City Council Meeting on Tuesday, April 14, 2015, beginning at 6:00 p.m.** at the Community Recreation Center, 10640 N Clubhouse Drive, Cedar Hills, Utah. This is a public meeting and anyone is invited to attend.

**COUNCIL MEETING**

1. Call to Order, Invocation given by C. Crawley and Pledge led by C. Geddes
2. Approval of Meeting's Agenda
3. Public Comment: Time has been set aside for the public to express their ideas, concerns and comments (comments limited to 3 minutes per person with a total of 30 minutes for this item)

**SCHEDULED ITEMS**

4. Discussion/Review of Request for Qualifications (RFQ) for Professional Services – Building Inspector & Plan Review Services, Engineering Services, and Financial Audit Services
5. Review/Action on Authorizing the Mayor to sign a contract for Building Inspector & Plan Review Services
6. Review/Action on Authorizing the Mayor to sign a contract for Engineering Services
7. Review/Action on Authorizing the Mayor to sign a contract for Financial Audit Services
8. Review/Action on Authorizing a Structure Lease Agreement with Vivint Wireless, Inc. to include providing Internet Services

**ADJOURNMENT**

9. Adjourn

Posted this 10th day of April, 2015

/s/ Colleen A. Mulvey, City Recorder

- Supporting documentation for this agenda is posted on the city's website at [www.cedarhills.org](http://www.cedarhills.org).
- In accordance with the Americans with Disabilities Act, the City of Cedar Hills will make reasonable accommodations to participate in the meeting. Requests for assistance can be made by contacting the City Recorder at 801-785-9668 at least 48 hours in advance of the meeting.
- An Executive Session may be called to order pursuant to Utah State Code 54-4-204 & 54-4-205.
- The order of agenda items may change to accommodate the needs of the City Council, the staff, and the public.
- This meeting may be held electronically via telephone to permit one or more of the council members to participate.



# CITY OF CEDAR HILLS

<b>TO:</b>	Mayor and City Council
<b>FROM:</b>	David Bunker, City Manager
<b>DATE:</b>	4/14/2015

## City Council Agenda Item

<b>SUBJECT:</b>	Award of Professional Services Contract for Building Inspection and Plan Review Services
<b>APPLICANT PRESENTATION:</b>	N/A
<b>STAFF PRESENTATION:</b>	David Bunker, City Manager
<b>BACKGROUND AND FINDINGS:</b>	<p>As directed by the City Council, staff has prepared, advertised, and received Requests For Qualifications from qualified firms for building inspection and plan review services. All RFQ submittals have been submitted to the Council for review. Following the interviews of the selected firms, the City Council may take action to award a professional services contract for building inspection and plan review services.</p>
<b>PREVIOUS LEGISLATIVE ACTION:</b>	N/A.
<b>FISCAL IMPACT:</b>	TBD
<b>SUPPORTING DOCUMENTS:</b>	Submittals for all Requests for Qualifications have been submitted for consideration.
<b>RECOMMENDATION:</b>	Staff recommends the City Council review and approve an appropriate building inspection and plan review services contract to a qualified firm.
<b>MOTION:</b>	Review/Action to award a professional services contract for Building Inspection and Plan Review Services to _____ firm, and authorize the Mayor to execute said contract.



# CITY OF CEDAR HILLS

<b>TO:</b>	Mayor and City Council
<b>FROM:</b>	David Bunker, City Manager
<b>DATE:</b>	4/14/2015

## City Council Agenda Item

<b>SUBJECT:</b>	Award of Professional Services Contract for General Engineering Services
<b>APPLICANT PRESENTATION:</b>	N/A
<b>STAFF PRESENTATION:</b>	David Bunker, City Manager
<b>BACKGROUND AND FINDINGS:</b> As directed by the City Council, staff has prepared, advertised, and received Requests For Qualifications from qualified firms for general engineering services. All RFQ submittals have been submitted to the Council for review. Following the interviews of the selected firms, the City Council may take action to award a professional services contract for general engineering services.	
<b>PREVIOUS LEGISLATIVE ACTION:</b> N/A.	
<b>FISCAL IMPACT:</b> TBD	
<b>SUPPORTING DOCUMENTS:</b> Submittals for all Requests for Qualifications have been submitted for consideration.	
<b>RECOMMENDATION:</b> Staff recommends the City Council review and approve a general engineering services contract to a qualified firm.	
<b>MOTION:</b> Review/Action to award a professional services contract for General Engineering Services to _____ firm, and authorize the Mayor to execute said contract.	



# CITY OF CEDAR HILLS

<b>TO:</b>	Mayor and City Council
<b>FROM:</b>	David Bunker, City Manager
<b>DATE:</b>	4/14/2015

## City Council Agenda Item

<b>SUBJECT:</b>	Award of Professional Services Contract for Financial Auditing Services
<b>APPLICANT PRESENTATION:</b>	N/A
<b>STAFF PRESENTATION:</b>	David Bunker, City Manager
<b>BACKGROUND AND FINDINGS:</b> As directed by the City Council, staff has prepared, advertised, and received Requests For Qualifications from qualified firms for financial auditing services. All RFQ submittals have been submitted to the Council for review. Following the interviews of the selected firms, the City Council may take action to award a professional services contract for financial auditing services.	
<b>PREVIOUS LEGISLATIVE ACTION:</b> N/A.	
<b>FISCAL IMPACT:</b> TBD	
<b>SUPPORTING DOCUMENTS:</b> Submittals for all Requests for Qualifications have been submitted for consideration.	
<b>RECOMMENDATION:</b> Staff recommends the City Council review and approve an appropriate financial auditing services contract to a qualified firm.	
<b>MOTION:</b> Review/Action to award a professional services contract for Financial Auditing Services to _____ firm, and authorize the Mayor to execute said contract.	



# CITY OF CEDAR HILLS

<b>TO:</b>	Mayor and City Council
<b>FROM:</b>	David Bunker, City Manager
<b>DATE:</b>	4/14/2015

## City Council Agenda Item

<b>SUBJECT:</b>	Structure Lease Agreement – Vivint Wireless
<b>APPLICANT PRESENTATION:</b>	N/A
<b>STAFF PRESENTATION:</b>	Chandler Goodwin, Asst. City Manager
<b>BACKGROUND AND FINDINGS:</b> Vivint Wireless Inc. has proposed a structure lease agreement with the city which would allow Vivint to install wireless Internet facilities at the recreation center. The components of the Vivint structures would be installed on the south west roof area, and include eight 1' dishes and two 2' dishes, mounted on poles (for equipment detail, see attachment). The council should review the hardware attachment schematic. Recreation staff is concerned with the placement of any roof top hardware as it may affect the aesthetics of the roofline. Vivint has proposed to offer the City internet access at the city offices and recreation as part of compensation, as well as cover the cost of providing power to their location. The projected internet speeds are proposed to be significantly higher than our typical speeds from our current service provider. The city has charged \$250 per site to other service providers in addition to the no-cost wireless.	
<b>PREVIOUS LEGISLATIVE ACTION:</b> The City engaged in a contract with RapidWave. The contract was assumed by Digis. The current contract is expired and is being re-negotiated.	
<b>FISCAL IMPACT:</b> TBD.	
<b>SUPPORTING DOCUMENTS:</b> Vivint structure lease agreement, Equipment detail, site drawings	
<b>RECOMMENDATION:</b> Staff recommends the City Council review the proposed structure lease agreement and the following terms of agreement and authorize the execution of said contract.	
<b>MOTION:</b> To approve/not approve the proposed structure lease agreement with Vivint Wireless Internet.	

Market: North Utah County  
Site Name: Cedar Hills

## STRUCTURE LEASE AGREEMENT

THIS STRUCTURE LEASE AGREEMENT ("**Agreement**"), dated as of the latter of the signature dates below (the "**Effective Date**"), is entered into by the City of Cedar Hills, a municipality, having a mailing address of 10246 North Canyon Road, Cedar Hills, Utah 84062 ("**Landlord**") and Vivint Wireless, Inc., a corporation, having a mailing address 4931 North 300 West, Provo, Utah 84604 ("**Tenant**").

### BACKGROUND

Landlord owns or controls that certain plot, parcel or tract of land, improved with a structure (the "**Structure**"), together with all rights and privileges arising in connection therewith, located at 10640 North Clubhouse Drive, in the County of Utah, State of Utah (collectively, the "**Property**"). Tenant desires to use a portion of the Property in connection with its federally licensed wireless communications business. Landlord desires to grant to Tenant the right to use a portion of the Property in accordance with this Agreement.

The parties agree as follows:

1. **LEASE OF PREMISES.** Landlord hereby leases to Tenant:

(i) approximately 200 square feet including the air space above such rooftop/basement/ground space for the placement of Tenant's Wireless Communication Facility as described on attached **Exhibit 1**;

(ii) space for any structural steel or other improvements to support Tenant's equipment (collectively, the space referenced in (i) and (ii) is the "**Equipment Space**");

(iii) that certain space on the building's rooftop and/or facades, as general depicted on attached Exhibit 1, where Tenant shall have right to install its antennas and other equipment (collectively, the "**Antenna Space**"); and

(iv) those certain areas where Tenant's conduits, wires, cables, cable trays and other necessary connections are located between the Equipment Space and the Antenna Space, and between the Equipment Space and the electric power sources for the Property (hereinafter collectively referred to as the "**Connection Space**"). Landlord agrees that Tenant shall have the right to install connections between Tenant's equipment in the Equipment Space and Antenna Space; and between Tenant's equipment in the Equipment Space and the electric power sources for the Property, and any other improvements. Landlord further agrees that Tenant shall have the right to install, replace and maintain utility lines, wires, poles, cables, conduits, pipes and other necessary connections over or along any right-of-way extending from the nearest public right-of-way to the Premises. Notwithstanding the foregoing, Tenant, to the extent feasible, shall locate all lines, wires, conduits and cables on existing poles extending from the roadway into Landlord's Property. The Equipment Space, Antenna Space, Connection Space are hereinafter collectively referred to as the "**Premises.**"

2. **PERMITTED USE.** Tenant may use the Premises for the transmission and reception of wireless communications signals and the installation, construction, maintenance, operation, repair, replacement and upgrade of its wireless communications fixtures and related equipment, cables, accessories and improvements, which may include a suitable support structure, associated antennas, and any other items necessary to the successful and secure use of the Premises (collectively, the "**Wireless Communication Facility**"), as well as the right to test, survey and review title on the Property; Tenant further has the right but not the obligation to add, modify and/or replace equipment in order to be in compliance with any current or future federal, state or local mandated application at no additional cost to Tenant or Landlord (collectively, the "**Permitted Use**"). Landlord and Tenant agree that any portion of the Wireless Communication Facility that may be conceptually described on **Exhibit 1** will not be deemed to limit Tenant's Permitted Use. If **Exhibit 1** includes drawings of the initial installation of the Communication Facility, Landlord's execution of this Agreement will signify Landlord's approval of **Exhibit 1**. Tenant agrees to comply with all applicable governmental laws, rules, statutes and regulations relating to its use of the Wireless Communication Facility on the Property. Tenant has the right to modify, supplement, replace, upgrade, expand the equipment, increase the number of antennas or relocate the Wireless Communication Facility within the Premises at any time during the term of this Agreement. Tenant will be allowed to make such alterations to the structure in order to accomplish Tenant's Changes or to insure that Tenant's Wireless Communication Facility complies with all applicable federal, state or local laws, rules or regulations.

3. **TERM.**

(a) The initial lease term will be four (4) years ("**Initial Term**"), commencing on the Effective Date. The Initial Term will terminate on the fifth (5<sup>th</sup>) anniversary of the Effective Date.

(b) This Agreement will automatically renew for five (5) additional four (4) year term(s) (each four (4) year term shall be defined as an "**Extension Term**"), upon the same terms and conditions unless Tenant notifies Landlord in writing of Tenant's intention not to renew this Agreement at least sixty (60) days prior to the expiration of the existing Term.

(c) If, at least sixty (60) days prior to the end of the final Extension Term, either Landlord or Tenant has not given the other written notice of its desire that the term of this Agreement end at the expiration of the final Extension Term, then upon the final Extension Term this Agreement shall continue in force upon the same covenants, terms and conditions for a further term of one (1) year, and for annual terms thereafter ("**Annual Term**") until terminated by either party by giving to the other written notice of its intention to so terminate at least six (6) months prior to the end of any such Annual Term. Monthly rental during such annual terms shall be equal to the rent paid for the last month of the final Extension Term. If Tenant remains in possession of the Premises after the termination of this Agreement, then Tenant will be deemed to be occupying the Premises on a month-to-month basis (the "**Holdover Term**"), subject to the terms and conditions of this Agreement.

(d) The Initial Term, any Extension Terms, any Annual Terms and any Holdover Term are collectively referred to as the Term ("**Term**").

4. **RENT.** As soon as installation of the Wireless Communication Facility is completed by Tenant (the "**Rent Commencement Date**"), Tenant will provide to Landlord, as consideration and in lieu of monthly payments, internet services to the premises located at 10640 North Clubhouse Drive, Cedar Hills, UT and to the City building located at 10246 North Canyon Road, Cedar Hills, UT (the "**Rent**"). Tenant will pay Landlord for power usage in the amount of twenty five and No/100 Dollars (\$25.00) per month made in annual payments of three hundred and No/100 Dollars (\$300.00) due on the first day of the month following the Rent Commencement Date and paid every year after on the same date.

5. **TERMINATION.** This Agreement may be terminated, without penalty or further liability, as follows:

(a) by either party on thirty (30) days' prior written notice, if the other party remains in default under Section 12 of this Agreement after the applicable cure periods;

(b) by Tenant upon written notice to Landlord, if Tenant is unable to obtain, or maintain, any required approval(s) or the issuance of a license or permit by any agency, board, court or other governmental authority necessary for the installation or operation of the Communication Facility as now or hereafter intended by Tenant; or if Tenant determines, in its sole discretion, that the cost of obtaining or retaining the same is commercially unreasonable;

(c) by Tenant, upon written notice to Landlord, if Tenant determines, in its sole discretion, that the condition of the Premises is unsatisfactory for its intended uses;

(d) by Tenant upon written notice to Landlord for any reason or no reason, at any time prior to commencement of construction by Tenant.

6. **INSURANCE.** During the Term, Tenant will carry, at its own cost and expense, the following insurance: (i) "All Risk" property insurance for its property's replacement cost; (ii) Workers' Compensation Insurance as required by law; and (iii) commercial general liability (CGL) insurance with respect to its activities on the Property, such insurance to afford minimum protection of Three Million Dollars (\$3,000,000) combined single limit, per occurrence and in the aggregate, providing coverage for bodily injury and property damage. Tenant's CGL insurance shall contain a provision including Landlord as an additional insured to the extent of the indemnity provided by Tenant under this Agreement. Notwithstanding the foregoing, Tenant shall have the right to self-insure against the risks for which Tenant is required to insure against in this Section. In the event Tenant elects to self-insure its obligation to include Landlord as an additional insured as permitted by the previous sentence, the following provisions shall apply: (1) Landlord shall promptly and no later than seven (7) days after notice thereof provide Tenant with written notice of any claim, demand, lawsuit or the like for which it seeks coverage pursuant to this Section and provide Tenant with copies of any demands, notices, summonses, or legal papers received in connection with such claim, demand, lawsuit or the like; (2) Landlord shall not settle any such claim, demand, lawsuit or the like without the prior written consent of Tenant; (3) Landlord shall fully cooperate with Tenant in the defense of the claim, demand, lawsuit or the like; (4) Tenant's self-insurance obligation for Landlord shall not extend to claims for punitive damages, exemplary damages, or gross negligence; and (5) such obligation shall not apply when the claim or liability arises from the negligent or intentional act or omission of Landlord, its employees, agents, or independent contractors.

7. **INTERFERENCE.**

(a) Where there are existing radio frequency user(s) on the Property, Landlord will provide Tenant, upon execution of this Agreement, with a list of all existing radio frequency user(s) on the Property to allow Tenant to evaluate the potential for interference. Tenant warrants that its use of the Premises will not interfere with existing radio frequency user(s) on the Property so disclosed by Landlord, as long as the existing radio frequency user(s) operate and continue to operate within their respective frequencies and in accordance with all applicable laws and regulations.

(b) Landlord will not grant, after the date of this Agreement, a lease, license or any other right to any third party for the use of the Property, if such use may in any way adversely affect or interfere with the Wireless Communication Facility, the operations of Tenant or the rights of Tenant under this Agreement. Landlord will notify Tenant in writing prior to granting any third party the right to install and operate communications equipment on the Property.

(c) Landlord will not use, nor will Landlord permit its employees, tenants, licensees, invitees, agents or independent contractors to use, any portion of the Property in any way which interferes with the Wireless Communication Facility, the operations of Tenant or the rights of Tenant under this Agreement. Landlord will cause such interference to cease within twenty-four (24) hours after receipt of notice of interference from Tenant. In the event any such interference does not cease within the aforementioned cure period, Landlord shall cease all operations which are suspected of causing interference (except for intermittent testing to determine the cause of such interference) until the interference has been corrected.

(d) For the purposes of this Agreement, "interference" may include, but is not limited to, any use on the Property or Surrounding Property that causes electronic or physical obstruction with, or degradation of, the communications signals from the Wireless Communication Facility.

#### **8. INDEMNIFICATION.**

(a) Tenant agrees to indemnify, defend and hold Landlord harmless from and against any and all injury, loss, damage or liability (or any claims in respect of the foregoing), costs or expenses (including reasonable attorneys' fees and court costs) arising directly from the installation, use, maintenance, repair or removal of the Wireless Communication Facility or Tenant's breach of any provision of this Agreement, except to the extent attributable to the negligent or intentional act or omission of Landlord, its employees, agents or independent contractors.

(b) Landlord agrees to indemnify, defend and hold Tenant harmless from and against any and all injury, loss, damage or liability (or any claims in respect of the foregoing), costs or expenses (including reasonable attorneys' fees and court costs) arising directly from the actions or failure to act of Landlord, its employees or agents, or Landlord's breach of any provision of this Agreement, except to the extent attributable to the negligent or intentional act or omission of Tenant, its employees, agents or independent contractors.

#### **9. WARRANTIES.**

(a) Tenant and Landlord each acknowledge and represent that it is duly organized, validly existing and in good standing and has the right, power and authority to enter into this Agreement and bind itself hereto through the party set forth as signatory for the party below.

(b) Landlord represents, warrants and agrees that: (i) Landlord solely owns the Property as a legal lot in fee simple, or controls the Property by lease or license and solely owns the structure; (ii) the Property is not and will not be encumbered by any liens, restrictions, mortgages, covenants, conditions, easements, leases, or any other agreements of record or not of record, which would adversely affect Tenant's Permitted Use and enjoyment of the Premises under this Agreement; (iii) as long as Tenant is not in default then Landlord grants to Tenant sole, actual, quiet and peaceful use, enjoyment and possession of the Premises; (iv) Landlord's execution and performance of this Agreement will not violate any laws, ordinances, covenants or the provisions of any mortgage, lease or other agreement binding on Landlord; and (v) if the Property is or becomes encumbered by a deed to secure a debt, mortgage or other security interest, Landlord will provide promptly to Tenant a mutually agreeable subordination, non-disturbance and attornment agreement.

**10. ACCESS.** At all times throughout the Term of this Agreement, and at no additional charge to Tenant, Tenant and its employees, agents, and subcontractors, will have twenty-four (24) hour per day, seven (7) day per week rooftop and exterior access ("Access") to and over the Property, from an open and improved public road to the Premises, for the installation, maintenance and operation of the Communication Facility and any utilities serving the Premises. If Tenant requires access to the interior of the structure after business hours, Tenant will pay Landlord's agent time and a half for escorting Tenant into the structure. Payment will be made to Landlord after receiving an invoice for such hours required.

**11. REMOVAL/RESTORATION.** All portions of the Wireless Communication Facility brought onto the Property by Tenant will be and remains Tenant's personal property and, at Tenant's option, may be removed by Tenant at any time during the Term. Landlord covenants and agrees that no part of the Wireless Communication Facility constructed, erected or placed on the Premises by Tenant will become, or be considered as being affixed to or a part of, the Property, it being the specific intention of Landlord that all improvements of every kind and nature constructed, erected or placed by Tenant on the Premises will be and remain the property of Tenant and may be removed by Tenant at any time during the Term. Upon termination of this Agreement, Tenant will remove all of Tenant's above-ground improvements and Tenant will, to the extent reasonable, restore the Premises to its condition at the commencement of this Agreement, reasonable wear and tear and loss by casualty or other causes beyond Tenant's control excepted.

**12. DEFAULT AND RIGHT TO CURE.**

(a) The following will be deemed a default by Tenant and a breach of this Agreement: (i) non-payment of Rent if such Rent remains unpaid for more than thirty (30) days after receipt of written notice from Landlord of such failure to pay; or (ii) Tenant's failure to perform any other term or condition under this Agreement within forty-five (45) days after receipt of written notice from Landlord specifying the failure. No such failure, however, will be deemed to exist if Tenant has commenced to cure such default within such period and provided that such efforts are prosecuted to completion with reasonable diligence. Delay in curing a default will be excused if due to causes beyond the reasonable control of Tenant. If Tenant remains in default beyond any applicable cure period, Landlord will have the right to exercise any and all rights and remedies available to it under law and equity.

(b) The following will be deemed a default by Landlord and a breach of this Agreement: (i) failure to provide access to the Premises or to cure an interference problem within twenty-four (24) hours after receipt of written notice of such default; or (ii) Landlord's failure to perform any term, condition or breach of any warranty or covenant under this Agreement within forty-five (45) days after receipt of written notice from Tenant specifying the failure. No such failure, however, will be deemed to exist if Landlord has commenced to cure the default within such period and provided such efforts are prosecuted to completion with reasonable diligence. Delay in curing a default will be excused if due to causes beyond the reasonable control of Landlord. If Landlord remains in default beyond any applicable cure period, Tenant will have: (i) the right to cure Landlord's default and to deduct the costs of such cure from any monies due to Landlord from Tenant, and (ii) any and all other rights available to it under law and equity.

**13. ASSIGNMENT.** Tenant will have the right to assign this Agreement the Premises and its rights herein, in whole or in part, with Landlord's consent which shall not be unreasonably withheld or denied. In the event that such assignment is made, Landlord will be allowed to renegotiate the terms of this Agreement with new tenant ("**Assignee**") and Tenant will be relieved of all future performance, liabilities and obligations under this Agreement to the extent of such assignment.

**14. NOTICES.**

(a) All notices, requests, demands and communications hereunder will be given by first class certified or registered mail, return receipt requested, or by a nationally recognized overnight courier, postage prepaid, to be effective when properly sent and received, refused or returned undelivered. Notices will be addressed to the parties as follows:

If to LANDLORD: City Manager  
City of Cedar Hills  
10246 N Canyon Road  
Cedar Hills, Utah 84062  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If to TENANT: Vivint Wireless, Inc.  
4931 North 300 West  
Provo, UT 84604

(b) In the event of a change in ownership, transfer or sale of the Property, within ten (10) days of such transfer, Landlord or its successor will send the documents listed below in this subsection (b) to Tenant. Until Tenant receives all such documents, Tenant shall not be responsible for any failure to make payments under this Agreement and reserves the right to hold payments due under this Agreement.

- i. Bill of Sale or Transfer
- ii. New IRS Form W-9
- iii. Full contact information for new Landlord including all phone number(s)

**15. CONDEMNATION.** In the event Landlord receives notification of any condemnation proceedings affecting the Property, Landlord will provide notice of the proceeding to Tenant within forty-eight (48) hours. If a condemning authority takes all of the Property, or a portion sufficient, in Tenant's sole determination, to render the Premises unsuitable for Tenant, this Agreement will terminate as of the date the title vests in the condemning authority. The parties will each be entitled to pursue their own separate awards in the condemnation proceeds, which for Tenant will include, where applicable, the value of its Communication Facility, moving expenses, prepaid Rent, and business dislocation expenses. Tenant will be entitled to reimbursement for any prepaid Rent on a prorata basis.

**16. CASUALTY.** Landlord will provide notice to Tenant of any casualty or other harm affecting the Property within forty-eight (48) hours of the casualty or other harm. If any part of the Communication Facility or Property is damaged by

casualty or other harm as to render the Premises unsuitable, in Tenant's sole determination, then Tenant may terminate this Agreement by providing written notice to Landlord, which termination will be effective as of the date of such casualty or other harm. Upon such termination, Tenant will be entitled to collect all insurance proceeds payable to Tenant on account thereof and to be reimbursed for any prepaid Rent on a prorata basis. Landlord agrees to permit Tenant to place temporary transmission and reception facilities on the Property, but only until such time as Tenant is able to activate a replacement transmission facility at another location; notwithstanding the termination of this Agreement, such temporary facilities will be governed by all of the terms and conditions of this Agreement, including Rent. If Landlord or Tenant undertakes to rebuild or restore the Premises and/or the Communication Facility, as applicable, Landlord agrees to permit Tenant to place temporary transmission and reception facilities on the Property at no additional Rent until the reconstruction of the Premises and/or the Communication Facility is completed. If Landlord determines not to rebuild or restore the Premises, Landlord will notify Tenant of such determination within thirty (30) days after the casualty or other harm. If Landlord does not so notify Tenant, then Landlord will promptly rebuild or restore the Premises to substantially the same condition as existed before the casualty or other harm. Landlord agrees that the Rent shall be abated until the Premises are rebuilt or restored, unless Tenant places temporary transmission and reception facilities on the Property.

**17. WAIVER OF LANDLORD'S LIENS.** Landlord waives any and all lien rights it may have, statutory or otherwise, concerning the Communication Facility or any portion thereof. The Communication Facility shall be deemed personal property for purposes of this Agreement, regardless of whether any portion is deemed real or personal property under applicable law; Landlord consents to Tenant's right to remove all or any portion of the Communication Facility from time to time in Tenant's sole discretion and without Landlord's consent.

**18. MISCELLANEOUS.**

(a) **Amendment/Waiver.** This Agreement cannot be amended, modified or revised unless done in writing and signed by Landlord and Tenant. No provision may be waived except in a writing signed by both parties. The failure by a party to enforce any provision of this Agreement or to require performance by the other party will not be construed to be a waiver, or in any way affect the right of either party to enforce such provision thereafter.

(b) **Memorandum/Short Form Lease.** Contemporaneously with the execution of this Agreement, the parties will execute a recordable Memorandum or Short Form of Lease. Either party may record this Memorandum or Short Form of Lease at any time during the Term, in its absolute discretion. Thereafter during the Term of this Agreement, either party will, at any time upon fifteen (15) business days' prior written notice from the other, execute, acknowledge and deliver to the other a recordable Memorandum or Short Form of Lease.

(c) **Limitation of Liability.** Except for the indemnity obligations set forth in this Agreement, and otherwise notwithstanding anything to the contrary in this Agreement, Tenant and Landlord each waives any claims that each may have against the other with respect to consequential, incidental or special damages, however caused, based on any theory of liability.

(d) **Bind and Benefit.** The terms and conditions contained in this Agreement will run with the Property and bind and inure to the benefit of the parties, their respective heirs, executors, administrators, successors and assigns.

(e) **Entire Agreement.** This Agreement and the exhibits attached hereto, all being a part hereof, constitute the entire agreement of the parties hereto and will supersede all prior offers, negotiations and agreements with respect to the subject matter of this Agreement. Exhibits are numbered to correspond to the Section wherein they are first referenced.

(f) **Governing Law.** This Agreement will be governed by the laws of the state in which the Premises are located, without regard to conflicts of law.

(g) **Interpretation.** Unless otherwise specified, the following rules of construction and interpretation apply: (i) captions are for convenience and reference only and in no way define or limit the construction of the terms and conditions hereof; (ii) use of the term "including" will be interpreted to mean "including but not limited to"; (iii) whenever a party's consent is required under this Agreement, except as otherwise stated in the Agreement or as same may be duplicative, such consent will not be unreasonably withheld, conditioned or delayed; (iv) exhibits are an integral part of this Agreement and are incorporated by reference into this Agreement; (v) use of the terms "termination" or "expiration" are interchangeable; (vi) reference to a default will take into consideration any applicable notice, grace and cure periods; (vii) to the extent there is any issue with respect to any alleged, perceived or actual ambiguity in this Agreement, the ambiguity shall not be resolved on the basis of who drafted the Agreement; and (viii) the singular use of words includes the plural where appropriate.

(h) **Affiliates.** All references to "Tenant" shall be deemed to include any Affiliate of Vivint, Inc. using the Premises for any Permitted Use or otherwise exercising the rights of Tenant pursuant to this Agreement. "Affiliate" means with respect to a party to this Agreement, any person or entity that (directly or indirectly) controls, is controlled by, or under common control with, that party. "Control" of a person or entity means the power (directly or indirectly) to direct the management or policies of that person or entity, whether through the ownership of voting securities, by contract, by agency or otherwise.

(i) **Survival.** Any provisions of this Agreement relating to indemnification shall survive the termination or expiration hereof. In addition, any terms and conditions contained in this Agreement that by their sense and context are intended to survive the termination or expiration of this Agreement shall so survive.

(j) **W-9.** Landlord agrees to provide Tenant with a completed IRS Form W-9, or its equivalent, upon execution of this Agreement and at such other times as may be reasonably requested by Tenant.

(k) **No Electronic Signatures/No Option.** The submission of this Agreement to any party for examination or consideration does not constitute an offer, reservation of or option for the Premises based on the terms set forth herein. This Agreement will become effective as a binding Agreement only upon the handwritten legal execution, acknowledgment and delivery hereof by Landlord and Tenant.

(l) **Severability.** If any provision of this Agreement is held invalid, illegal or unenforceable by a court or agency of competent jurisdiction, (a) the validity, legality and enforceability of the remaining provisions of this Agreement are not affected or impaired in any way if the overall purpose of the Agreement is not rendered impossible and the original purpose, intent or consideration is not materially impaired; and (b) the parties shall negotiate in good faith in an attempt to agree to another provision (instead of the provision held to be invalid, illegal or unenforceable) that is valid, legal and enforceable and carries out the parties' intentions to the greatest lawful extent. If any such action or determination renders the overall performance of this Agreement impossible or materially impairs the original purpose, intent or consideration of this Agreement, and the parties are, despite the good faith efforts of each, unable to amend this Agreement to retain the original purpose, intent and consideration in compliance with that court or agency determination, either party may terminate this Agreement upon sixty (60) days' prior written notice to the other party.

(m) **Counterparts.** This Agreement may be executed in two (2) or more counterparts, all of which shall be considered on and the same agreement and shall become effective when one or more counterparts have been signed by each of the parties. All parties need not sign the same counterpart.

(n) **WAIVER OF JURY TRIAL.** EACH PARTY, TO THE EXTENT PERMITTED BY LAW, KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ITS RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING UNDER ANY THEORY OF LIABILITY ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS AGREEMENT OR THE TRANSACTIONS IT CONTEMPLATES.

**IN WITNESS WHEREOF,** the parties have caused this Agreement to be effective as of the last date written below.

**LANDLORD:**

**TENANT:**

Vivint Wireless, Inc.,

By: Stephen Bos

Its: Director of Business Development

By: \_\_\_\_\_

Print Name:

Its:

Date:

By: \_\_\_\_\_

Print Name:

Its:

Date:

**EXHIBIT 1**

**DESCRIPTION OF PREMISES**

Page 1 of 1

to the Option and Structure Lease Agreement dated \_\_\_\_\_, 2015, by and between the City of Cedar Hills, as Landlord, and Vivint Wireless, Inc., as Tenant.

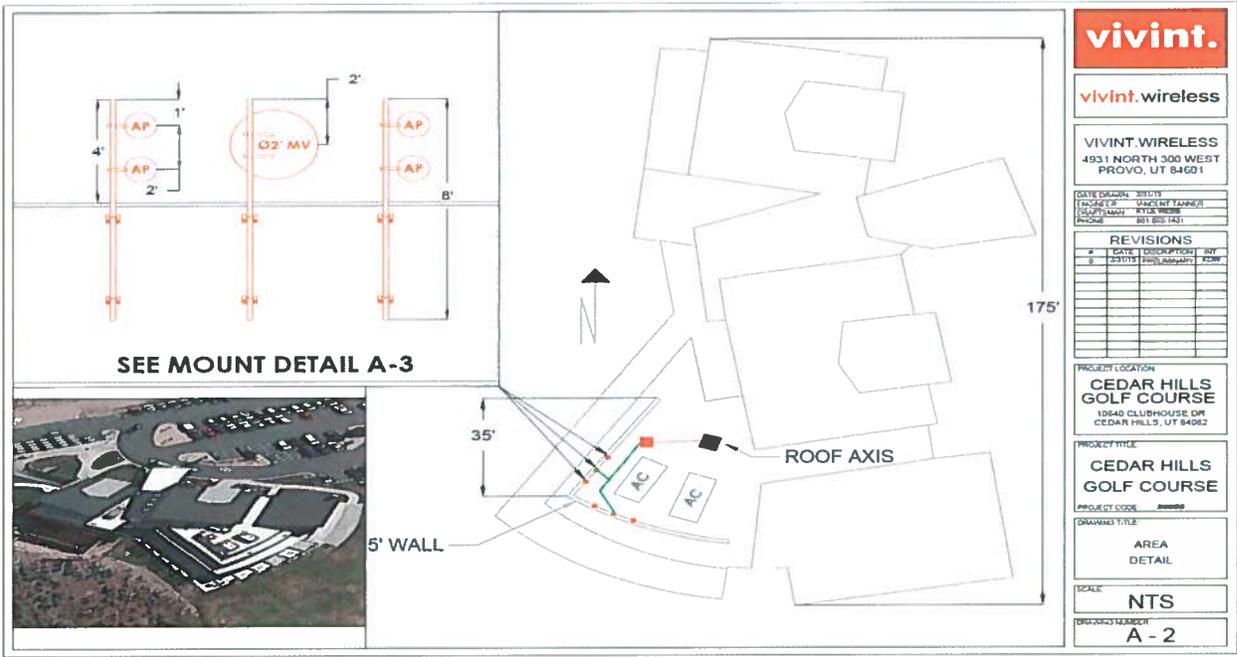
The Premises are described and/or depicted as follows:

Property Legal Description:

Parcel Number: 36:903:0143

PART LOT 104, GOLF COURSE, PLAT B, THE CEDARS AT CEDAR HILLS PRD SUB DESCRIBED AS FOLLOWS:; COM N 1365.3 FT & W 1678.29 FT FR SE COR. SEC. 31, T4S, R2E, SLB&M.; N 57 DEG 52' 30" E 189.25 FT; S 48 DEG 33' 0" E 808.89 FT; S 69 DEG 59' 33" E 189.36 FT; ALONG A CURVE TO R (CHORD BEARS: S 12 DEG 13' 16" W 122.44 FT, RADIUS = 786 FT); S 16 DEG 41' 20" W 25.11 FT; ALONG A CURVE TO R (CHORD BEARS: S 48 DEG 46' 20" W 26.56 FT, RADIUS = 25 FT); ALONG A CURVE TO L (CHORD BEARS: S 64 DEG 28' 22" W 70.52 FT, RADIUS = 125 FT); W 210.76 FT; N 31.62 FT; N 0 DEG 20' 38" E 60 FT; N 89 DEG 38' 56" W 60 FT; S 0 DEG 20' 38" W 60 FT; S 89 DEG 39' 13" E 59.9 FT; S 31.62 FT; W 322.39 FT; W 30.36 FT; W 512.54 FT; W 67.96 FT; W 173.26 FT; N 0 DEG 55' 45" W 81.38 FT; N 19 DEG 44' 50" E 207.98 FT; N 0 DEG 0' 34" E 207.87 FT; N 5 DEG 53' 25" E 141.55 FT; N 78 DEG 28' 7" E 279.86 FT; N 85 DEG 53' 16" E 132.23 FT TO BEG. AREA 17.395 AC.

Lease Area Sketch or Survey:



**UTAH LANDLORD REPRESENTATIVE ACKNOWLEDGEMENT**

STATE OF UTAH )  
 )ss.  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_ day of \_\_\_\_\_ 201\_\_, before me, the subscriber, a Notary Public in and for said State and County, personally appeared \_\_\_\_\_, the \_\_\_\_\_ of \_\_\_\_\_, known or identified to me to be the person whose name is subscribed to the within instrument, and in due form of law acknowledged that he/she is authorized on behalf of said company to execute all documents pertaining hereto and acknowledged to me that he/she executed the same as his/her voluntary act and deed on behalf of said company. Witness my hand and official seal.

Notary Seal

\_\_\_\_\_  
(Signature of Notary)

**VIVINT ACKNOWLEDGEMENT**

STATE OF UTAH )  
 )ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_ 201\_\_, by \_\_\_\_\_, the \_\_\_\_\_ of Vivint, Inc.

Notary Seal

\_\_\_\_\_  
(Signature of Notary)

My Commission Expires: \_\_\_\_\_

**PROPRIETY INFORMATION:**  
 THE INFORMATION CONTAINED IN THIS SET OF DRAWINGS IS PROPRIETARY BY NATURE. ANY USE OR DISCLOSURE OTHER THAN WHICH RELATES TO VIVINT WIRELESS SERVICES IS STRICTLY PROHIBITED.

# vivint. wireless

**DISCLOSURE:**  
 CONTRACTOR TO VERIFY MATERIALS AND DESIGN PRIOR TO INSTALL.

## SCOPE OF WORK

VIVINT WIRELESS IS PROPOSING TO INSTALL NEW ANTENNA MOUNTS AND ANTENNAS, TO INCLUDE CABLE ROUTING, ONTO AN EXISTING BUILDING SITE AT THE CEDAR HILLS COUNTRY CLUB GOLF COURSE, COMPOUND LOCATED IN CEDAR HILLS UTAH.

## PROJECT DISCRPTION

THE PROJECT ENTAILS:  
 NEW (1) ONE MICROWAVE ANTENNA PER SECTOR WITH (4) FOUR SECTORS (TOTAL OF 4 ANTENNAS), 6 WALL MOUNTS HOLDING ANTENNAS, INSTALL NEW CABINET WITH SUPPORTING MATERIALS, SHARE POWER WITH OPEN CIRCUIT IN POWER ROOM.

## GENERAL LOCATION MAP



## VICINITY MAP



## APPROVALS

APPROVED BY:	PRINT NAME:	INITIALS:	DATE:
PROJECT MANAGER			
RF ENGINEER			
OPS MANAGER			
CONSTRUCTION			
LANDLORD			

## CONTACT INFORMATION

**PROPERTY OWNER**  
 GREG GOARSON  
 801-785-9688  
 EXT:501

**SITE ACQUISITION FIRM**  
 VIVINT WIRELESS  
 4931 N 300 W PROVO, UT 84601  
 TREVOR MILLER  
 O: 801-228-7857 C: 801-618-8140  
 trevor.miller@vivintwireless.com

## DRAWING INDEX

SHEET NO.	TITLE	SHEET TITLE	DATE DRAWN
T - 1	ENGINEERING NOTES		3/31/15
A - 1	AREA DETAIL		3/31/15
A - 2	WALL MOUNT DETAIL		3/31/15
A - 3	CABINET DETAIL		3/31/15
A - 4	POWER DETAIL		3/31/15
A - 5			

**vivint.**

vivint. wireless

VIVINT WIRELESS  
 4931 NORTH 300 WEST  
 PROVO, UT 84601

DATE DRAWN: 3/31/15  
 ENGINEER: VINCENT TANNER  
 DRAFTSMAN: KYLE WEBB  
 PHONE: 801-592-1401

#	DATE	DESCRIPTION	INT
0	3/31/15	PRELIMINARY	KDW

**PROJECT LOCATION:**  
 CEDAR HILLS  
 GOLF COURSE  
 10640 CLUBHOUSE DR  
 CEDAR HILLS, UT 84062

**PROJECT TITLE:**  
 CEDAR HILLS  
 GOLF COURSE

**DRAWING CODE:** #####  
**DRAWING TITLE:**  
 TITLE SHEET

**COORDINATES:**  
 LATITUDE: 40°23'30.04"N  
 LONGITUDE: 111°45'41.74"W

**DRAWING NUMBER:**  
 T - 1

PROPRIETY INFORMATION:  
 THE INFORMATION CONTAINED IN THIS SET OF DRAWINGS IS PROPRIETARY BY NATURE. ANY USE OR DISCLOSURE OTHER THAN WHICH RELATES TO VIVINT WIRELESS SERVICES IS STRICTLY PROHIBITED.

# vivint. wireless

## ENGINEERING NOTES

DISCLOSURE:  
 CONTRACTOR TO VERIFY MATERIALS AND DESIGN PRIOR TO INSTALL.



vivint. wireless

VIVINT WIRELESS  
 4931 NORTH 300 WEST  
 PROVO, UT 84601

DATE DRAWN: 3/31/15  
 ENGINEER: VINCENT TANNER  
 DRAFTSMAN: KYLE WEBB  
 PHONE: 801-582-1481

#	DATE	DESCRIPTION	INT
0	3/31/15	PRELIMINARY	KDW

PROJECT LOCATION:  
**CEDAR HILLS GOLF COURSE**  
 10840 CLUBHOUSE DR  
 CEDAR HILLS, UT 84052

PROJECT TITLE:  
**CEDAR HILLS GOLF COURSE**

PROJECT CODE: #####  
 DRAWING TITLE:  
**ENGINEERING NOTES**

SCALE:  
**NTS**

DRAWING NUMBER:  
**A - 1**

### FIBER COMPANY:

NO FIBER ON SITE

### POWER:

POWER SHARE OFF OPEN CIRCUIT

### CONTACT INFORMATION:

NAME: GREG GORDON  
 POSITION:  
 PHONE NUMBER: 801-785-9668 EXT. 601

### ACCESS:

TYPE:  
 COMBO:

### LATITUDE:

40°25'30.04"N

### LONGITUDE:

111°45'41.74"W

### BUILDING HEIGHT:

25'

### BILL OF MATERIALS

Qty	Part Number	Description	Manufacturer	Notes
1	02250EFG	5-HW-02250EFG	Huawei	
1	24021143	5-HW-24021143	Huawei	
1	445634	5-1S-455534	tesco	
1	09S501	5-DOB-09S501	Interstate	
1	192420 FT	192420 FT	Interstate	
1	45978	45978	Interstate	
1	5-TWR-BX-ASSM	5-TWR-BX-ASSM	OOD	
1	500DXC-B1	500DXC-B1	OOD	
1	300DXC-B1	300DXC-B1	OOD	
1	5-BX-TWR	5-BX-TWR	OOD	
1	5-BX-TWR BATT	5-BX-TWR BATT	OOD	
1	5-BX-TWR AC	5-BX-TWR AC	OOD	
1	300DXC-B1	300DXC-B1	tesco	
1	5-MMR-SENTINEL	5-MMR-SENTINEL	Wyncom	
1	ICT1805	ICT1805-12BRC	Wyncom	
1	12BRC	12BRC	Interstate	
4	5-BATT-12V/70AH	5-BATT-12V/70AH	Interstate	
1	657407	657407	Ingram Micro	
1	5-TWR-POE-RAC	5-TWR-POE-RAC	W9 Manufacturer	
8	5-TWR-POE-SRG	5-TWR-POE-SRG	W9 Manufacturer	
1	5-ALL-SW-7210T	5-ALL-SW-7210T	Alcatel-Lucent	
1	5-APM-XQVR-FBI	5-APM-XQVR-FBI	KFP-QAC-F1M	
1	5-APM-XQVR-CP	5-APM-XQVR-CP	AMC	
10	5-APM-XQVR-CP	5-APM-XQVR-CP	Approved Memory	

#### Cabinet

Huawei Micro Box  
 7th Battery for Huawei Micro Box  
 77" x 10" Heavy Duty Open Rack, Black  
 19" Old Door Enclosure  
 12V 20Ah Battery  
 Pre-assembled 30" Outdoor Enclosure  
 50" Outdoor Enclosure  
 30" Outdoor Enclosure  
 Bat Box  
 2400 BTU AC UNIT  
 Battery Backup System Sentinel 48V  
 1500  
 DC Remote Power Control ICT1805-12BRC (+40V)  
 70ah Battery  
 Rack for Surge Protectors APC Modular  
 Surge Arrester GEF Rack Mounted  
 Routing and Switching  
 Fiber Terminus Switch (more than 1 Gbps)  
 XFP Cable  
 Fiber Optical Transceiver (SFP)  
 Ethernet Transceiver (SFP)





vivint. wireless

VIVINT WIRELESS  
4931 NORTH 300 WEST  
PROVO, UT 84601

DATE DRAWN: 3/31/15  
ENGINEER: VINCENT TANNER  
DRAFTSMAN: KYLE WEBB  
PHONE: 801-592-1401

REVISIONS		
#	DATE	DESCRIPTION
0	3/31/15	PRELIMINARY

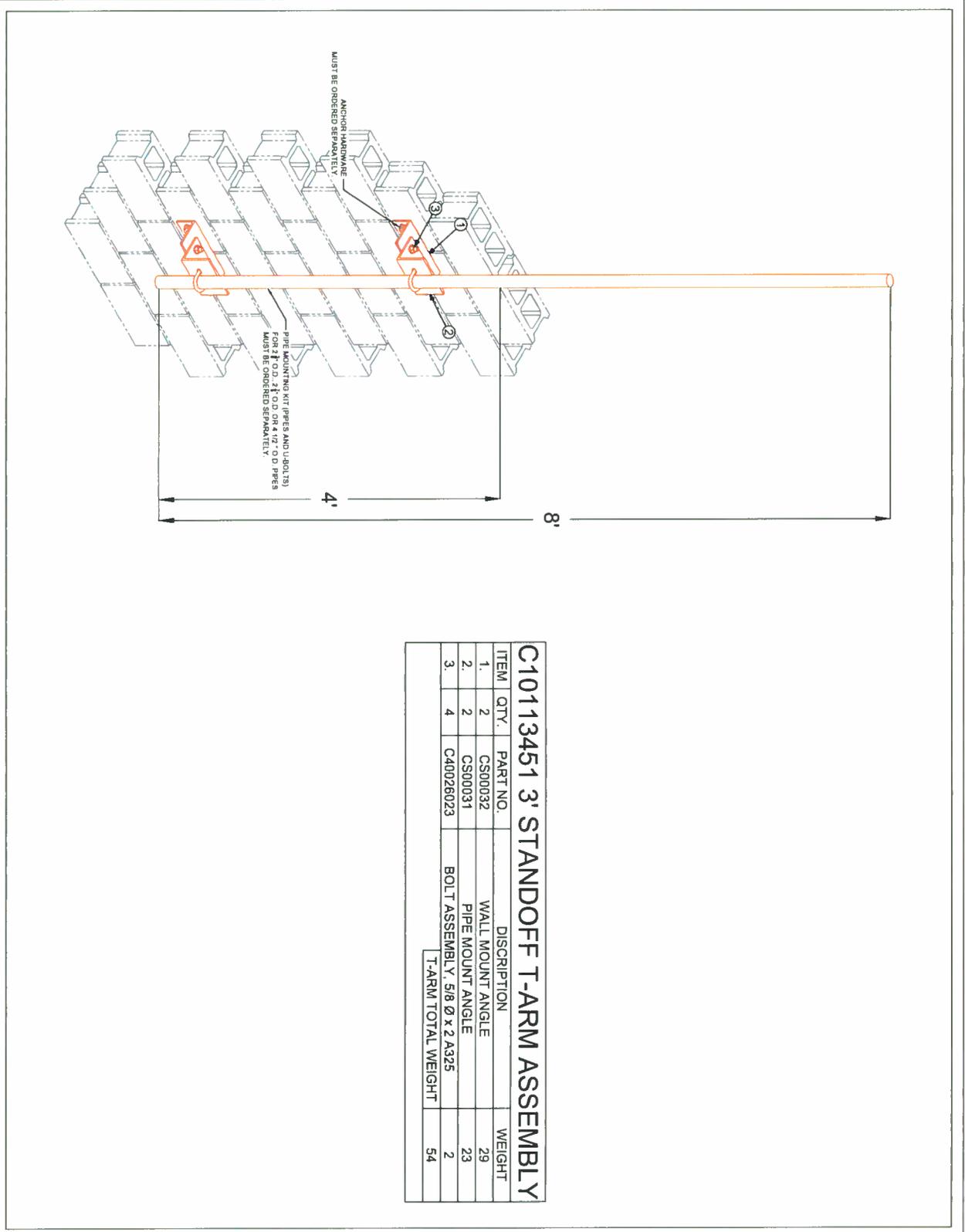
PROJECT LOCATION:  
CEDAR HILLS  
GOLF COURSE  
10640 CLUBHOUSE DR  
CEDAR HILLS, UT 84062

PROJECT TITLE:  
CEDAR HILLS  
GOLF COURSE  
PROJECT CODE: #####

DRAWING TITLE:  
WALL MOUNT  
DETAIL

SCALE:  
NTS

DRAWING NUMBER:  
A - 3



ITEM	QTY.	PART NO.	DESCRIPTION	WEIGHT
1.	2	CS00032	WALL MOUNT ANGLE	29
2.	2	CS00031	PIPE MOUNT ANGLE	23
3.	4	C40026023	BOLT ASSEMBLY, 5/8" Ø x 2 A325	2
T-ARM TOTAL WEIGHT				54



