

Borough of Seaside Park
 1701 N. Ocean Avenue
 Seaside Park, NJ 08752

BIDDING DOCUMENTS CHECKLIST

FOR THE CONTRACT ENTITLED:

COMMUNICATIONS LEASE AGREEMENT: Lease for antenna attachment on a municipal water tower and ground space for ancillary support equipment and structures with simultaneous leasing and co-location of additional carriers at the same site, on the property known as Block 5, Lot 17, Barnegat Water Tower, Seaside Park, New Jersey 08752.

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NOTICE TO BIDDERS

May 20, 2024

PLEASE TAKE NOTICE that sealed bids will be received by Borough of Seaside Park, Seaside Park County, New Jersey on or before June 27, 2024, at 10:00 a.m., prevailing time, at Borough of Seaside Park Municipal Clerk's office, 1701 N. Ocean Avenue, Seaside Park, NJ 08752. Borough of Seaside Park is seeking proposals for:

Lease for antenna attachment on a municipal water tower and ground space for ancillary support equipment and structures with simultaneous leasing and co-location of additional carriers at the same site, on the property known as Block 5, Lot 17, Barnegat Water Tower, Seaside Park, New Jersey 08752.

A bid package consisting of this Notice to Bidders, Instructions to Bidders, Specifications, Proposal Sheet and required Affidavits may be obtained at the Clerk's Office of Borough of Seaside Park between the hours of 8:30 A.M. and 4:00 P.M. Monday through Friday. Bids are located on the Borough website: www.seasideparknj.org Inquiries regarding the project can be directed to the Borough of Seaside Park Clerk.

Proposals must be submitted on forms provided by the Borough and placed in a sealed envelope bearing the name of the bidder, and clearly marked, "BID for Lease for a Communications Facility at Barnegat Water Tower ENCLOSED -- DO NOT OPEN" in the lower left corner, or they will not be considered. All proposals must be returned on or before June 27, 2024 @ 10:00 am, prevailing time.

Proposals can be delivered or mailed to:

Borough of Seaside Park
1701 N. Ocean Avenue
Seaside Park, New Jersey 08752
Attn: Karen Kroon, Borough Administrator

The Borough assumes no responsibility for bids returned by mail. The Borough reserves the right to reject any and all bids or to waive any minor informalities or irregularities in the Proposal received and to accept the bid which is in the best interest of the Borough.

The Borough requires a minimum rental bid of \$65,000.00 per year with 2.75% annual increases over the course of the contract. Required bidder information can be found in the bid documents. Bidders are required to comply the laws of the State of New Jersey, including the New Jersey Prevailing Wage Act, N.J.S.A. 34:56-27 and the New Jersey Local Lands and Buildings Law, N.J.S.A. 40A:12-1 et seq.

Jenna Jankowski, RMC CMR
Municipal Clerk

EXHIBIT A

**MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE
N.J.S.A. 10:5-31 et seq. (P.L. 1975, C. 127)
N.J.A.C. 17:27**

GOODS, PROFESSIONAL SERVICE AND GENERAL SERVICE CONTRACTS

During the performance of this contract, the contractor agrees as follows:

The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Except with respect to affectional or sexual orientation and gender identity or expression, the contractor will take affirmative action to ensure that such applicants are recruited and employed, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause.

The contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex.

The contractor or subcontractor, where applicable, will send to each labor union or representative or workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer advising the labor union or workers' representative of the contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time and the Americans with Disabilities Act.

The contractor or subcontractor agrees to make good faith efforts to employ minority and women workers consistent with the applicable county employment goals established in accordance with N.J.A.C. 17:27-5.2, or a binding determination of the applicable county employment goals determined by the Division, pursuant to N.J.A.C. 17:27-5.2.

The contractor or subcontractor agrees to inform in writing its appropriate recruitment agencies including, but not limited to, employment agencies, placement bureaus, colleges, universities, labor unions, that it does not discriminate on the basis of age, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.

The contractor or subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job-related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable Federal law and applicable Federal court decisions.

In conforming with the applicable employment goals, the contractor or subcontractor agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions.

The contractor shall submit to the public agency, after notification of award but prior to execution of a goods and services contract, one of the following three documents:

Letter of Federal Affirmative Action Plan Approval

Certificate of Employee Information Report

Employee Information Report Form AA302

The contractor and its subcontractors shall furnish such reports or other documents to the Div. of Contract Compliance & EEO as may be requested by the office from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Div. of Contract Compliance & EEO for conducting a compliance investigation pursuant to **Subchapter 10 of the Administrative Code at N.J.A.C. 17:27.**

Bidder's Signature

Americans with Disabilities Act Mandatory Language

Equal Opportunity for Individuals with Disabilities

The contractor and the Borough of Seaside Park (hereinafter the “Borough”) do hereby agree that the provisions of Title II of the Americans with Disabilities Act of 1990 (the “Act”), 42 U.S.C. §12101 et seq., which prohibits discrimination on the basis of disability by public entities in all services, programs, and activities provided or made available by public entities and the rules and regulations promulgated pursuant thereto, are made a part of this contract. In providing any aid, benefit, or service on behalf of the Borough pursuant to this contract, the contractor agrees that the performance shall be in strict compliance with the Act. In the event that the contractor, its agents, servants, employees or subcontractors violate or are alleged to have violated the Act during the performance of this contract, the contractor shall defend the Borough in any action or administrative proceeding commenced pursuant to this Act. The contractor shall indemnify, protect, and save harmless the Borough, its agents, servants, and employees from and against any and all suits, claims, losses, demands or damages of whatever kind or nature arising out of or claimed to arise out of the alleged violation. The contractor shall, at its own expense, appear, defend and pay any and all charges for legal services and any and all costs and other expenses arising from such action or administrative proceeding or incurred in connection therewith. In any and all complaints brought pursuant to the Borough’s grievance procedure, the contractor agrees to abide by any decision of the Borough which is rendered pursuant to said grievance procedure. If any action or administrative proceeding results in an award of damages against the Borough or if the Borough incurs any expense to cure a violation of the ADA which has been brought pursuant to its grievance procedure, the contractor shall satisfy and discharge the same at its own expense.

The Borough shall, as soon as practicable after a claim has been made against it, give written notice thereof to the contractor along with full and complete particulars of the claim. If any action or administrative proceeding is brought against the Borough or any of its agents, servants and employees, the Borough shall expeditiously forward or have forwarded to the contractor every demand, complaint, notice, summons, pleading, or other process received by the Borough or its representatives.

It is expressly agreed and understood that any approval by the Borough of the services provided by the contractor pursuant to this contract will not relieve the contractor of the obligation to comply with the Act and to defend, indemnify, protect, and save harmless the Borough pursuant to this paragraph.

It is further agreed and understood that the Borough assumes no obligation to indemnify or save harmless the contractor, its agents, servants, employees and subcontractors for any claim which may arise out of their performance of this Agreement. Furthermore, the contractor expressly understands and agrees that the provisions of this indemnification clause shall in no way limit the contractor’s obligations assumed in this agreement, nor shall they be construed to relieve the contractor from any liability, nor preclude the Borough from taking any other actions available to it under any other provisions of this agreement or otherwise at law.

INSTRUCTIONS TO BIDDERS

1. **SUBMISSION OF BIDS**

Borough of Seaside Park (MUA), Seaside Park County, New Jersey, invites sealed bids pursuant to the Notice to Bidders.

- A. Sealed bids will be received by the designated representative at the time and place stated in the Notice to Bidders, and at such time and place will be publicly opened and read aloud.
- B. The bid proposal form shall be submitted, (1) in a sealed envelope; (2) addressed to Seaside Park Borough, Attn: Clerk, 1701 N. Ocean Avenue, Seaside Park, New Jersey, 08752; (3) bearing the name and address of the bidder written on the face of the envelope, and (4) clearly marked "BID for Lease for a Communications Facility at Barnegat Water Tower ENCLOSED -- DO NOT OPEN". All proposals must be returned on or before June 27, 2024, at 10:00 AM, prevailing time.
- C. It is the bidder's responsibility to see that bids are presented to the Borough on the hour and at the place designated. Bids may be hand delivered or mailed; however, the Borough disclaims any responsibility for bids forwarded by regular or overnight mail. Bids received after the designated time and date will be returned unopened.
- D. Sealed bids forwarded to the Borough before the time of opening of bids may be withdrawn upon written application of the bidder who shall be required to produce evidence showing that the individual is or represents the principal or principals involved in the bid.
- E. All prices and amounts must be written in ink or preferably typewritten. Bids containing any conditions, omissions, unexplained erasures or alterations, items not called for in the bid proposal form, attachment of additive information not required by the specifications, or irregularities of any kind, may be rejected by the Borough. Any changes, white-outs, strikeouts, etc. on the proposal page must be initialed in ink by the person responsible for signing the bid.
- F. Each bid proposal form must give the full business address of the bidder and be signed by an authorized representative. Bids by partnerships must be signed in the partnership name by one of the members of the partnership or by an authorized representative, followed by the signature and designation of the person signing. Bids by corporations must be signed in the legal name of the corporation, followed by the name of the State in which incorporated and must contain the signature and designation of the president, secretary or other person authorized to bind the corporation in the matter. When

requested, satisfactory evidence of the authority of the officer signing shall be furnished.

3. BID SECURITY.

Accompanying each bid shall be a bid security payment in the amount equal to rent for the first month of the initial year bid amount, but not in excess of \$20,000. Checks shall be made payable to Borough of Seaside Park.

When submitting a Bid Bond, it shall contain Power of Attorney for full amount of Bid Bond from a surety company authorized to do business in the State of New Jersey and acceptable to the Borough. The check or bond of the unsuccessful bidder(s) shall be returned as prescribed by law. The check or bond of the bidder to whom the contract is awarded shall be retained until a contract is executed and the required performance bond or other security is submitted. The check or bond of the successful bidder shall be forfeited if the bidder fails to enter into a contract.

3. BID DOCUMENTS.

The bid must be returned in its entirety in order to be considered for an award. Each bid must be accompanied by the items requested below in the form(s) attached.

Failure to provide these items and the entire bid package may cause for rejecting this proposal.

1. Proposal form
2. Affirmative Action Form
3. List of names and addresses of all stockholders in the corporation or partnership who own 10% or more of its stock - "Ownership Disclosure".
4. Non-collusion Affidavit
5. Addenda Acknowledgment
6. Consent of Surety
7. Iran Disclosure Form
8. Russia & Belarus Disclosure Form
9. New Jersey State Business Registration Certificate.
10. Bid Security

4. INTERPRETATION AND ADDENDA.

A. No oral interpretation shall be made to any bidder as to the meaning of any of the contract documents or be effective to modify any of the provisions of the specifications and contract documents.

B. Any supplemental instructions or requirements will be in the form of a written Addendum which will be forwarded to all prospective bidders on record by Fax and/or email not later than five (5) working days prior to the date fixed for the opening of bids. Failure of any bidder to receive addenda shall not relieve the bidder from any obligation under its bid.

- C. All Addenda issued prior to bid receipt date must also be signed and returned with the bid.
- D. All Addenda issued prior to date of receipt of bids shall become part of the contract documents and included in bid prices.

5. FAILURE TO EXECUTE A LEASE.

Should the successful bidder fail to execute and deliver the Lease within sixty (60) days after receipt of written notification by the Borough that the Lease is ready for execution the bidder forfeits to the Borough as liquidated damages the bid security deposited with its bid.

6. RIGHT TO REJECT BIDS.

The Borough reserves the right to reject any and all bids or parts thereof and to waive any informality if deemed in the best interests of the Borough.

7. AWARD OF BIDS.

Successful bidder(s) will be awarded a Lease of real property for the construction, operation and maintenance, as per generally accepted industry standards, of a communications facility and antennas. Bid awards shall be given, as space on the communications tower allows, in the order of bid amount, with the highest bids being given preference.

8. AWARD OF CONTRACT.

Award of the lease(s) will be made on or before the second regular meeting of the Borough following bid due date.

9. TERMINATION.

- A. If through any cause the successful bidder shall fail to fulfill in a timely and proper manner obligations under this contract or if the successful bidder shall violate any of the requirements of this contract, the Borough shall thereupon have the right to terminate this contract by giving written notice to the successful bidder should the successful bidder fail to rectify the situation after reasonable notice.
- B. The successful bidder agrees to indemnify and hold the Borough harmless from any liability to subcontractors/suppliers for payment for work performed or goods supplied arising out of the lawful termination of the contract by the Borough under this provision.

10. HOLD HARMLESS.

Any bidder awarded a lease under these specifications shall indemnify and hold harmless Borough of Seaside Park, its officers, employees, agents and servants from and against any and all claims,

demands, suits, actions, recoveries, judgments, costs and expenses including attorney's fees incurred or suffered on account of property damage or loss and/or personal injury, including loss of life, of any person, agency, corporation or governmental entity which shall arise out of the course of or in consequence to any acts or omissions of the bidder, its employees, agents, servants or subcontractors in the performance of the work pursuant to these specifications or the failure of the bidder, its employees, agents, servants or subcontractors to comply with any term or condition of these specifications. These Hold Harmless obligations of the bidder shall not apply to any claims arising from the acts or omissions of Borough of Seaside Park. The bidder further agrees that this indemnification by the bidder shall continue after completion of the lease for all claims, demands, suits, actions, recoveries, judgments, costs and expenses, including attorney's fees resulting from acts or omissions of the bidder, its employees, agents, servants or subcontractors which occur prior to the completion of the lease.

11. NON-COLLUSION AFFIDAVIT.

The Non-Collusion Affidavit, which is part of these specifications, shall be properly executed and submitted intact with the proposal.

12. STATEMENT OF CORPORATE OWNERSHIP.

Chapter 33 of the Public Laws of 1977 provides that no corporation or partnership shall be awarded any contract for the performance of any work or the furnishing of any materials or supplies, unless, prior to the receipt of the bid or accompanying the bid said corporation or partnership, there is submitted a statement setting forth the names and addresses of all stockholders in the corporation or partnership who own a ten (10%) percent or greater interest therein. Said Statement shall be completed and attached to the bid proposal. If any stockholder or partner has been previously convicted of a crime of bribery (or other financial crime), then such bidder shall not be a responsible bidder.

13. NON-DISCRIMINATION.

There shall be no discrimination against any employee engaged in the work pursuant to any contract resulting from this bid, or against any applicant to such employment because of race, creed, color, national origin or ancestry, sexual or affectional preference or handicap. This provision shall include, but not be limited to the following: employment upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rate of pay or other forms of compensation and selection for training, including apprenticeship. The contractor shall insert a similar provision in all subcontracts for services to be covered by any contract resulting from this bid.

14. STATUTORY AND OTHER REQUIREMENTS.

B. Required Affirmative Action Evidence

1. No firm may be awarded a contract unless they comply with the Affirmative Action regulations of P.L. 1975, C. 127 (N.J.A.C. 12:27 et seq).

2. Procurement, Professional and Service Contracts

All successful vendors must submit prior to the date of award one of the following:

- i. a letter from the U.S. Department of Labor that the contractor has an existing federally approved or sanctioned Affirmative Action Program; or
- ii. a Certificate of Employee Information Report approval;

if vendor does not have either of the above, the public agency is required to provide the vendor with an initial Affirmative Action Employee Information Report (Form AA-302).

C. Americans with Disabilities Act of 1990

All vendors must comply with Title II of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101).

D. Alternative Dispute Resolution

All disputes arising under this contract shall be submitted to the alternate dispute resolution procedures of mediation or non-binding arbitration pursuant to *N.J.S.A. 40A:12-1 et seq.*

E. Worker and Community Right to Know:

The manufacturer or supplier of a substance of mixture shall supply the Chemical Abstracts Service number of all the components of the mixture or substance and the chemical name to the Borough to assure that every container bears a proper label 315 “Worker and Community Right to Know Act”, subsection b, Section 14. Further all applicable Material Safety Data Sheets (M.S.D.S.), a/k/a, hazardous substance fact sheet, must be furnished to the Borough.

F. Acquisition, Merge, Sale and/or Transfer of Business, etc.

It is understood by all parties that if, during the life of the lease, the successful bidder disposes of his/her business concern by acquisition, merger, sale and/or transfer or by any means convey his/her interest(s) to another party, all obligations are transferred to that new party. In this event, the new owner(s) may be required to submit, when required a performance bond in the amount of one year of then current lease payments.

G. Governing Law, State and Funding:

This contract shall be governed by and construed in accordance with the laws of the State of New Jersey, including the New Jersey Prevailing Wage Act, N.J.S.A. 34:56-27 and the New Jersey Local Lands and Buildings Law, N.J.S.A. 40A:12-1 et seq.

PROJECT SPECIFICATIONS

1. Borough of Seaside Park is soliciting bids for the lease of real property for placement of communications antennas and facilities on the Barnegat Water Tower at property located at Block 5, Lot 17, Seaside Park, New Jersey 08752.
2. The intent of these specifications is for each successful bidder, as determined by the Borough, to enter into a lease agreement (substantially as in the attached form) with the Borough for the placement of antennas on the water tower and ancillary ground equipment in the area around the water tower. Highest successful bidder shall install its antennas and ground equipment at the available location of its choice. Choice of location of antennas and ancillary ground equipment for other successful bidders shall be made in order of bid amount, from highest to lowest. Unless otherwise authorized by the Borough, the successful bidders shall work together in the design and placement of equipment installations Each successful bidder shall contribute a pro-rata share of costs of the collective aspects of the project (if any) such as drawings and attorney fees. The terms of the lease(s) shall be the bid terms submitted and approved by the Borough.
3. Successful bidders will procure and maintain commercial general liability insurance, with limits of not less than \$1,000,000 combined single limit per occurrence for bodily injury and property damage liability, and Umbrella liability insurance with limits of not less than \$4,000,000 per occurrence combined single limit for bodily injury and property damage in excess of the commercial general liability and comprehensive automobile liability limits, with a certificate of insurance to be furnished to the Borough within 30 days of written request. Upon receipt of notice from its insurer, successful bidder shall provide 30 days written notice of cancellation of any required coverage. The successful bidder shall name the Borough as an additional insured under said policy Insurance requirements may be negotiated if mutually agreed upon by Successful Bidder and Borough, provided minimum amounts are satisfied.
4. The Borough makes no representations regarding the status or condition of the facility or property. Bidders may contact the Borough to arrange for inspection of the site and to satisfy themselves of its suitability for its proposed use.
5. The minimum bid is sixty-five thousand and 00/100 dollars (\$65,000.00) a year to be paid in equal monthly installments. Rental payments shall commence on the first day of the month after bid award, whichever occurs first (the "Rent Commencement Date"). An extension of the Rent Commencement Date limit may be granted by the Borough if there is a delay in obtaining necessary approvals which is beyond the control of successful bidder and/or if the Borough deems successful bidder is making a good faith effort to obtain necessary approvals.
6. A one-time, up-front payment of \$3,000 shall be made by each successful bidder to the Borough within 30 days of bid award. This one-time, up-front payment is in addition to the annual base Rent amount.

7. Upon expiration of the five-year term, the agreement shall automatically be extended for four (4) additional five-year terms, unless successful bidder terminates it at the end of the then current term by giving Borough written notice of the intent to terminate at least six (6) months prior to the end of the then current term. Upon expiration of the final Term, or upon termination of the lease agreement, the successful bidder's equipment shall be removed at its sole cost and expense and the successful bidder shall restore the premises shall to its original condition, reasonable wear and tear excepted.
8. Beginning with the first-year anniversary of the Commencement Date, and each year thereafter, the monthly Rent will increase at the rate of the consumer price index inflator or 2.75% - whichever is greater - over the previous year's Rent. The Consumer Price Index shall be defined as follows: At the end of each lease agreement year (12 month period) of the extended term hereof or of any extension or renewal hereof, the monthly rental for the next succeeding lease agreement year shall be increased by the annual increase in the Consumer Price Index ("CPI") where "CPI" is the Consumer Price Index for the month of December just preceding such lease agreement anniversary year, and the "Base CPI" is the Consumer Price Index for December of the previous lease agreement year. As used herein, Consumer Price Index shall mean and refer to that table in the Consumer Price Index published by the United States Department of Labor, Bureau of Labor Statistics, now known as the "Consumer Price Index" for all Urban Consumers (Index 1982-1984 = 100). If such Index referred to above shall be discontinued, then any successor Consumer Price Index of the United States Bureau of Labor Statistics, or successor agency thereto, shall be used, and if there is no successor Consumer Price Index, the parties hereto shall authorize Borough's attorney to designate a substitute Index or formula. In no event shall the next lease agreement year rental be less than the prior year.
9. If a bidder should fail to enter into a lease or perform under the parameters of this bid, then the Borough shall have the right to award to the next highest bidder.
10. Any supplemental instructions or requirements will be in the form of a written Addendum which will be forwarded to all prospective bidders on record by Fax and/or email.
11. It is understood and agreed that the successful bidder and any co-locator's ability to use the Premises is contingent upon its obtaining, after the execution date of the Lease, all of the certificates, permits including, but not limited to approvals by N.J.D.E.P. if required, and other approvals (collectively the "Governmental Approvals") that may be required by any Federal, State or Local authorities which will permit use of the Premises as set forth above. Submission of design drawings and permit applications shall occur in a timely manner. Zoning is not required as this is a permitted use involving the installation of antennas on an existing Borough owned structure. Bidder shall file for approval and permits commensurate with the permitted use designation. The Borough will, as a condition of the lease, require an informal design review and approval by the municipal communications consultant and the Borough Committee. Borough Committee shall have input and the right of final approval of all design aspects of the compound and the tower.
12. Successful bidder shall have the right to perform the following due diligence investigations to the

extent required by the bidder:

- a. Title Search.
 - b. Phase One and Phase Two Environmental Inspections, if required.
 - c. Soil Boring Tests.
 - d. Historic Screening as required by the National Environmental Protection Act Checklist.
 - e. Regulatory filing with the Federal Aviation Administration (FAA), if applicable.
 - f. Any and all required NJDEP permits, or other permits and approvals required by any governmental agency with jurisdiction.
13. Successful bidder(s) agree to pay Borough reasonable fees for the engineering review of Plans associated with the installation of Successful bidder's equipment, in an amount not to exceed TEN THOUSAND and NO/100 Dollars (\$10,000), upon reasonable proof of same.
14. Upon Borough review and approval, the Successful Bidder(s) shall submit electrical and building permit applications for any new equipment. No improvements, construction, installation or alteration shall be commenced until plans for such work have been approved by the Borough and all necessary permits have been properly obtained by the successful bidder. The plans shall include fully dimensioned site plan drawn to scale showing the proposed locations for ground area required; height of antenna, type and sizing of antenna and antenna mountings; proposed type and height of fencing; proposed landscaping; and the proposed sizing and type of construction materials for all structures, including cabinets, shelters, fencing; and any other details the Borough may request. The design and construction plans must be signed and sealed by a professional engineer licensed in the State of New Jersey.
15. Prior to commencing construction, Successful Bidder(s) must provide to the Borough a list of all subcontractors.
16. It shall be recognized that the integrity of the water tower shall not be compromised in any way and any and all attachments thereto, or alternations made thereof shall be carried out using only methods reviewed and approved by the municipal engineer and/or other professionals as may be required by the Borough. Upon completion of the proposed installation and installation of the antennae, the successful bidder shall submit a written report from a licensed professional engineer certifying to the structural integrity of the water tower and that all antennae mounted thereon are secure and that they meet or exceed applicable design-to, structural and construction safety requirements.
17. Upon lease commencement, and upon each anniversary of the lease commencement date, Successful bidder(s) shall provide Borough with contact information for Successful bidder's field technician.
18. All successful bidders shall, at their own expense, maintain the leased premises and all improvements, equipment and other personal property on the premises in good working order, condition and repair. All successful bidders shall keep the premises free from debris and anything dangerous, noxious, or offensive nature or which would create a hazard or undue

vibration, heat, noise or interference. Successful bidders shall contribute a pro rata share to the cost of maintenance of the common areas of the leased premises. Successful bidders shall also arrange for their own metered electrical service from the local utility company and shall pay all charges for the electricity and other utilities used by it at this site.

19. From time to time, it may be necessary for the Borough to performance maintenance on the tower, including, without limitation, painting. If such maintenance requires the relocation of successful bidder's equipment, successful bidder agrees to cooperate with Borough to relocate its equipment, at successful bidder's expense, provided that Borough provides at least ninety (90) days prior written notice to successful bidder, including the nature of the maintenance and its duration. Successful bidder shall also be permitted to erect temporary facilities on the Property in a location satisfactory to both successful bidder and Borough for the duration of the scheduled maintenance. Within thirty (30) days from which time successful bidder is notified that maintenance is complete, successful bidder shall reattach its equipment back to the original location set forth in this agreement or any subsequent amendments thereto. Temporary facilities shall be removed promptly after scheduled maintenance is complete and successful bidder's equipment has been returned to its original location.
20. If the Borough decides to decommission the water tower, Borough will give successful bidder(s) Three Hundred Sixty-Five (365) days written notice. Successful bidder(s) shall, at the end of the one-year notice, remove its facilities of the site.
21. Successful bidder's installation shall meet or exceed current standards and regulations of the FAA, the FCC, and any other Agency or State or Federal government with the authority to regulate communications equipment.
22. Each of the successful bidders shall be permitted to install or construct one (1) accessory/ancillary building or equipment cabinet concrete platform within the site. The floor space of each accessory/ancillary building or equipment cabinet shall not exceed one hundred and fifty (150') square feet without the consent of the Borough. Successful bidder(s) shall submit an informal Site Plan to the Borough Governing Body for its approval. Successful bidder(s) shall be obligated to obtain any and all permits necessary for the construction of the building or equipment cabinet.
23. The site on which the building or cabinets are situated shall be completely enclosed with a fence or wall. If it becomes necessary to replace the existing fence, each successful bidder shall contribute a pro-rata share of the costs associated with the replacement fence. The new fence or wall shall be at least eight (8) feet high made of a non-translucent composition type fencing or wall acceptable to the Borough and shall include a locking security gate.
24. The water tower shall not be artificially lighted, unless required by FAA or other applicable authority. If lighting is required, the lighting alternatives and design shall cause the least disturbance to the surrounding properties and views and shall be subject to the approval by the Borough.

25. If successful bidder currently has equipment installed on the water tower, as was permitted by a previous lease, successful bidder's equipment may remain at its existing location, provided successful bidder signs a new lease (substantially as attached to these specifications), and pays to Borough any back-owed rent, if applicable. All lease agreements must include a full equipment list and site plan as exhibits to the lease agreement.
26. Periodically the water tower receives routine painting and maintenance. During this time, successful bidder will be required to temporarily remove & relocate its equipment from the water tower until the painting and maintenance is complete. Since this painting and maintenance is planned so soon after this bid may be awarded, successful bidder may choose to initially install a temporary ballast foundation and tower, or Cell on Wheels (C.O.W.), or other temporary tower design ("Temporary Tower"), as approved by the Borough. Placement, square footage, height, and all other details of any Temporary Tower or towers shall require the approval of the Borough. Temporary Tower may be installed after execution of the Lease and remain up to the date that the water tower painting and maintenance is complete, but not to exceed 12 months unless extended by the Borough Committee. The cost of the Temporary Tower (procuring, rental, installation, maintenance, and related expenses) shall be the responsibility of successful bidder and may be shared equally amongst successful bidders who co-locate on the Temporary Tower (if any) on a pro-rata cost basis. No additional rent or fees above actual costs, as shall be approved by the municipality, shall be permitted to be assessed.

Rent for Temporary Tower(s) shall be the amount bid for the permanent site and shall be paid directly to Borough of Seaside Park by each successful bidder locating on the Temporary Tower, commencing upon the installation of successful bidders' equipment on a Temporary Tower.

Bid Proposal Form

Lease for antenna attachment on a municipal water tower and ground space for ancillary support equipment and structures with simultaneous leasing and co-location of additional carriers at the same site, on the property known as Block 5, Lot 17, Barnegat Water Tower, Seaside Park, New Jersey 08752.

The firm of _____ submits a binding bid proposal for the above-referenced bid for an annual rent during initial term for each year at

\$ _____/yr.

(Minimum bid shall be not less than sixty-five thousand and 00/100 dollars (\$65,000.00) per year.)

(Proposed Annual Rent Amount Written in Words)

Name of Company _____

Signature _____ Date _____

(Printed Name)

(Position)

Address of Company _____

Witnessed By: _____

(Name)

(Position or Notary)

**REQUIRED EVIDENCE
AFFIRMATIVE ACTION REGULATIONS
PUBLIC LAW 1975, C. 127 (N.J.A.C. 17:27)**

If awarded a contract, all procurement and service contractors will be required to comply with the requirements of P.L. 1975, C 127, (N.J.A.C. 17:27). Prior to the date of the award, the successful bidder shall present one of the following:

1. A letter from the U.S. Department of Labor that the successful bidder has an existing federally approved or sanctioned Affirmative Action Program.

OR

2. A Certificate of Employee Information Report Approval.

OR

3. If you do not have either of the above, check below:

_____ Please send our company an Affirmative Action form for our completion (A.A.302 - Affirmative Action Employee Information Report).

The following questions must be answered by all successful bidders:

1. Do you have federally approved or sanctioned Affirmative Action Program?

Yes ___

No ___

2. Do you have a State Certificate of Employee Information Report Approval?

Yes ___

No ___

You shall submit a photostatic copy of such certificate.

The undersigned successful bidder certifies that he is aware of the commitment to comply with the requirements of P.L. 1975, C 127 (N.J.A.C. 17:27) and agrees to furnish the required documentation pursuant to the law. The successful bidder must be rejected as non-responsible if the successful bidder fails to comply with the requirements of P.L. 1975, C 127 (N.J.A.C. 17:27) within the time frame. The Affirmative Action Affidavit for vendors having less than fifty (50) employees is no longer acceptable, a New Jersey Certificate of approval or A.A.302 is required.

Company

Signature

Title

Mandatory Affirmative Action Language
P.L. 1975, C. 127 (N.J.A.C. 17:27)

During the performance of this contract, the contractor agrees as follows:

The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation. The contractor will take affirmative action to ensure that such applicants are recruited and employed and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause;

The contractor or subcontractor, where applicable, will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation;

The contractor or subcontractor, where applicable, will send to each labor union or representative or workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer advising the labor union or workers' representative of the contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The contractor or subcontractor, where applicable, agrees to comply with the regulations promulgated by the Treasurer pursuant to PL 1975, C127, as amended and supplemented from time to time and the Americans with Disabilities Act.

The contractor or subcontractor agrees to inform in writing appropriate recruitment agencies in the area, including employment agencies, placement bureaus, colleges, universities, labor unions, that it does not discriminate on the basis of age, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.

The contractor or subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job-related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable Federal Law and applicable Federal Court decisions.

The contractor or subcontractor agrees to review all procedures relating to transfer, upgrading, downgrading, and layoff to ensure that all such actions are taken without regard to age, creed, color,

national origin, ancestry, marital status, sex, affectional or sexual orientation, and conform with the applicable employment goals, consistent with the statues and court decisions of the State of New Jersey, and applicable Federal Law and applicable Federal Court decisions.

The contractor and its subcontractors shall furnish such reports or other documents to the Affirmative Action Office as may be requested by the office from time to time in order to carry out the purposes of these regulations and public agencies shall furnish such information as may be requested by the Affirmative Action Office for conducting a compliance investigation pursuant to Subchapter 10 of the Administrative Code (N.J.A.C. 17:27).

STATE OF NEW JERSEY – LAWS OF 1977 – CHAPTER 33

(Disclosure Statement)

No corporation or partnership shall be awarded any contract, nor shall any agreement be entered into for the performance of any work or the furnishing of any materials or supplies, the cost of which is to be paid with or out of public funds, by the State, or agency of the State, or of any county, municipality or Borough, or any authority, board of commission which exercises governmental functions, unless prior to the receipt of the bid, or accompanying the bid, of said corporation or partnership, there is submitted a statement setting forth the names and addresses of all stockholders in the corporation or partnership who own 10% or more of that corporation's stock, or the individual partners owning 10% or greater interest in that partnership, as the case may be, shall also be listed. The disclosure shall be continued until names and addresses of every non-corporate stockholder and individual partner, exceeding the 10% ownership criteria established in this act, has been listed.

STOCKHOLDER OR PARTNERSHIP DISCLOSURE STATEMENT

This form must be completed, signed and submitted with the Bid Proposal in accordance with PL. 1977, Chapter 33 of the Laws of the State of New Jersey.

List Stockholders or Partners by name, address and % of the stock held by each of more than 10%.

	<u>NAME</u>	<u>ADDRESS</u>	<u>% OF STOCK HELD</u>
3.	_____	_____	_____
4.	_____	_____	_____
5.	_____	_____	_____
6.	_____	_____	_____
7.	_____	_____	_____
8.	_____	_____	_____
9.	_____	_____	_____
10.	_____	_____	_____

Prepared by: **Name:** _____
 Position: _____
 Signature: _____
 Date: _____

NON-COLLUSION AFFADAVIT

Lease for antenna attachment on a municipal water tower and ground space for ancillary support equipment and structures with simultaneous leasing and co-location of additional carriers at the same site, on the property known as Block 5, Lot 17, Barnegat Water Tower, Seaside Park, New Jersey 08752.

STATE OF _____

COUNTY OF _____

I, _____ as _____ of _____
(Name of Partner or Officer Title Name of the Firm)

Located at _____
(Business Address)

in the County of _____ and State of _____ being of full age, and duly sworn according to law on my oath depose and say that I am _____ of the firm of _____ the bidder making the Proposal for the above named project, and that I executed said Proposal with full authority to do so; that said bidder has not, directly or indirectly, entered into any agreement, participated in collusion, or otherwise taken any action in restraint of free, competitive bidding in connection with the above named project; and that statements contained in said Proposal and in this affidavit are true and correct, and made with full knowledge that Borough of Seaside Park relies upon the truth of the statements contained in said Proposal and in the statements contained in this affidavit in awarding the contract for said project.

I further warrant that no person or selling agency has been employed or retained to solicit or secure such contract upon an agreement of understanding for a commission, percentage, brokerage or contingent fee, except bona fide employees of bona fide established commercial or selling agencies maintained by

(Name of Successful bidder)

in accordance with NJSA 52:34-15.

Subscribed and sworn to before me

this ___ date of _____, 2024

Signature

NOTARY PUBLIC

NAME OF AFFIANT

ADDENDA ACKNOWLEDGEMENT

THIS MUST BE SUBMITTED WITH YOUR BID

- Please sign this sheet that you have received all the addenda that have been prepared for this project.
- List on this sheet all the addenda that you have received.
- In the event that none were necessary please initial below that you have not received any.

Acknowledgement by Bidder:

NO ADDENDA HAVE BEEN NECESSARY

Signature: _____

Print Name: _____

Name of Company: _____

CONSENT OF SURETY

In consideration of the premises and of One Dollar (\$1.00) lawful money of the United States, it is in hand paid by the SUCCESSFUL BIDDER, the receipt whereof is hereby acknowledged, the undersigned surety consents and agrees that if the contract, for which the preceding estimate and proposal is made, be awarded to the person or persons submitting the same as contracted, it will become bound as surety and guarantor for its faithful performance, in an amount equal to one hundred percent (100%) of the first year of the contract price, and will execute it as party of the third party thereto when required to do so by the OWNER, and if said SUCCESSFUL BIDDER shall omit or refuse to execute such contract, if so awarded, it will pay without proof of notice and on demand to the OWNER any increase between the sum to which the said CONTRACTOR would have been entitled upon the completion of the contract and the sum which the said OWNER may be obligated to pay to another contractor to whom the contract may be afterwards awarded, the amount in such case to be determined by the bids plus the cost, if any, of re-advertising for bids for this project, less that amount of any certified check or bid bond payable and received.

In witness whereof, the said surety has caused these presents to be signed and attested by a duly authorized officer and its corporate seal to be hereto affixed this ___ day of _____, 2024.

(Name of Bidder / Contractor)

(witness) By _____

(Name of Insurance Company)

(witness) By _____

ACKNOWLEDGEMENT OF CORPORATE SURETY

State of _____
County of _____

On this ___ day of _____, 2024, before me appeared _____, to me personally known, who is being by me duly sworn, did say that he is the aforesaid officer or attorney-in-fact of the _____, a corporation; that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed in behalf of said corporation by the aforesaid officer, by authority of its Board of Directors; and the aforesaid officer acknowledged said instrument to be the free act and deed of said corporation.

(Signature)
Notary Public, State of _____,
Commission expires: _____



DISCLOSURE OF INVESTMENT ACTIVITIES IN IRAN FORM

STATE OF NEW JERSEY
DEPARTMENT OF THE TREASURY - DIVISION OF PURCHASE AND PROPERTY
33 WEST STATE STREET, P.O. BOX 230 TRENTON, NEW JERSEY 08625-0230

BID SOLICITATION # AND TITLE: _____

VENDOR NAME: _____

Pursuant to N.J.S.A. 52:32-57, et seq. (P.L. 2012, c.25 and P.L. 2021, c.4) any person or entity that submits a bid or proposal or otherwise proposes to enter into or renew a contract must certify that neither the person nor entity, nor any of its parents, subsidiaries, or affiliates, is identified on the New Jersey Department of the Treasury's Chapter 25 List as a person or entity engaged in investment activities in Iran. The Chapter 25 list is found on the Division's website at <https://www.state.nj.us/treasury/purchase/pdf/Chapter25List.pdf>. Vendors/Bidders must review this list prior to completing the below certification. If the Director of the Division of Purchase and Property finds a person or entity to be in violation of the law, s/he shall take action as may be appropriate and provided by law, rule or contract, including but not limited to, imposing sanctions, seeking compliance, recovering damages, declaring the party in default and seeking debarment or suspension of the party.

CHECK THE APPROPRIATE BOX

I certify, pursuant to N.J.S.A. 52:32-57, et seq. (P.L. 2012, c.25 and P.L. 2021, c.4), that neither the Vendor/Bidder listed above nor any of its parents, subsidiaries, or affiliates is listed on the New Jersey Department of the Treasury's Chapter 25 List of entities determined to be engaged in prohibited activities in Iran.

OR

I am unable to certify as above because the Vendor/Bidder and/or one or more of its parents, subsidiaries, or affiliates is listed on the New Jersey Department of the Treasury's Chapter 25 List. I will provide a detailed, accurate and precise description of the activities of the Vendor/Bidder, or one of its parents, subsidiaries or affiliates, has engaged in regarding investment activities in Iran by completing the information requested below.

Entity Engaged in Investment Activities
Relationship to Vendor/ Bidder
Description of Activities

Duration of Engagement
Anticipated Cessation Date

**Attach Additional Sheets If Necessary.*

CERTIFICATION

I, the undersigned, certify that I am authorized to execute this certification on behalf of the Vendor, that the foregoing information and any attachments hereto, to the best of my knowledge are true and complete. I acknowledge that the State of New Jersey is relying on the information contained herein, and that the Vendor is under a continuing obligation from the date of this certification through the completion of any contract(s) with the State to notify the State in writing of any changes to the information contained herein; that I am aware that it is a criminal offense to make a false statement or misrepresentation in this certification. If I do so, I may be subject to criminal prosecution under the law, and it will constitute a material breach of my contract(s) with the State, permitting the State to declare any contract(s) resulting from this certification void and unenforceable.

Signature

Date

Print Name and Title

CERTIFICATION OF NON-INVOLVEMENT IN ACTIVITIES IN RUSSIA OR BELARUS

Program Name:

Applicant Name:

DBA:

Pursuant to N.J.S.A. 52:32-60.1, et seq. ([P.L. 2022, c.3](#)) any person or entity (hereinafter 'Applicant') that seeks to be approved for or continue to receive an economic development subsidy from the New Jersey Economic Development Authority must complete the certification below indicating whether or not the Applicant is identified on the Office of Foreign Assets Control (OFAC) Specially Designated Nationals and Blocked Persons List, available here: <https://sanctionssearch.ofac.treas.gov/>. If the New Jersey Economic Development Authority finds that an Applicant has made a certification in violation of the law, it shall take any action as may be appropriate and provided by law, rule or contract, including but not limited to, imposing sanctions, seeking compliance, recovering damages, declaring the party in default and seeking debarment or suspension of the party.

Certification

I, the undersigned, have read and reviewed the Office of Foreign Assets Control (OFAC) Specially Designated Nationals and Blocked Persons list, and having done so certify (must check one appropriate box and complete the Authorized Signature section below):

- A.** That the Applicant is not identified on the OFAC Specially Designated Nationals and Blocked Persons list on account of activity related to Russia and/or Belarus **and** is not engaged in activities related to Russia or Belarus. **OR**
- B.** That I am unable to certify as to "A" above because the Applicant is identified on the OFAC Specially Designated Nationals and Blocked Persons list on account of activity related to Russia and/or Belarus. **OR**
- C.** That I am unable to certify as to "A" or "B" above because the Applicant, though identified on the OFAC Specially Designated Nationals and Blocked Persons list on account of activity related to Russia and/or Belarus, is engaged in activities in Russia or Belarus consistent with federal law, regulation, license or exemption. A detailed, accurate and precise description of how the Applicant's activity related to Russia and/or Belarus is consistent with federal law is set forth below, including a copy of the license or listing the exemption.

If Option C is selected, please attach to this form a detailed, accurate and precise description of how the Applicant's activity related to Russia and/or Belarus is consistent with federal law. If applicable, please also attach a copy of the license.

Authorized Signature

I understand that if the above statements are willfully false, I shall be subject to penalty.

Signature of Applicant Authorized Representative

Sign here

Date

Print Name & Title of Applicant Authorized Representative

Applicant FEIN or Taxpayer ID

Definitions

"Economic Development subsidy" means the provision of an amount of funds to a recipient with a value of greater than \$25,000 for the purpose of stimulating economic development in New Jersey, including, but not limited to, any investment, bond, grant, loan, loan guarantee, matching fund, tax credit, or other tax expenditure.

SAMPLE TOWER LEASE AGREEMENT

This Agreement, made this ___ day of _____, 2024, between Borough of Seaside Park with its principal offices at 1701 N. Ocean Avenue , Seaside Park, New Jersey 08752 hereinafter designated LESSOR, and _____, with offices at _____, hereinafter designated LESSEE. The LESSOR and LESSEE are at times collectively referred to hereinafter as the "Parties" or individually as the "Party".

Whereas, LESSOR is the owner of property having a street address of Seaside Park, NJ 08752 and designated as Block 5, Lot 17, located in Borough of Seaside Park, County of Seaside Park, State of New Jersey (hereinafter referred to as the "Property"). The Property is more fully described on Exhibit "A, attached hereto and made a part of this Agreement.

In consideration of the mutual covenants contained herein and intending to be legally bound hereby, the Parties hereto agree as follows:

1. PREMISES.

LESSOR hereby leases to the LESSEE a portion of that certain space ("the Tower Space") on the LESSOR's water tower, hereinafter referred to as the "Tower", located at Seaside Park, NJ, as shown on the Tax Map of Seaside Park as Block 5, Lot 17, as described in Exhibit "A" (the entirety of LESSOR's property is herein after referred to as "Property"), together with a lease area of 150 square feet (the "Land Space") sufficient for the installation of LESSEE's equipment cabinets or building; together with the non-exclusive right ("the Right of Way") for ingress and egress, seven (7) days a week, twenty-four (24) hours a day, on foot or motor vehicle, including trucks, and for the installation and maintenance of utility wires, poles, cables, conduits, and pipes over, under, or along a _____ (__) foot wide right-of-way to the Land Space. The Tower Space, Land Space, and Right of Way are substantially described in Exhibit "A" and Exhibit "C", attached hereto and made a part hereof demised premises and are collectively referred to hereinafter as the "Premises".

The Premises may be used by LESSEE for the transmission and reception of radio communication signals and for the construction, installation, operation, maintenance, repair, upgrade, removal or construction of related facilities, including antennas, cables, related ground equipment and/or cabinets), as described in the attached Exhibit B and depicted in the attached Exhibit C.

All of LESSEE's equipment or other property attached to or otherwise brought onto the Premises shall at all times remain personal property and are not considered fixtures, and at LESSEE's option may be removed by LESSEE at any time during the term hereof or any renewal terms. Upon expiration or termination of this Agreement, LESSEE agrees to repair any damage to the Premises caused by LESSEE during the term of the Agreement, within 90 days from the date of expiration or termination of this Agreement, ordinary wear and tear and damage from the elements excepted. In connection therewith, LESSEE shall have the right, at its sole cost and expense, to obtain electrical and telephone service from the servicing utility company, including the right to install a separate meter and main breaker, where required. LESSEE shall be responsible for the electricity it consumes for its operations at the normal rate charged by the servicing utility company. LESSEE and LESSOR agree that if in the future an easement is required to obtain electrical power, an acceptable location, at no cost to LESSEE, will be agreed to by LESSOR and the servicing utility company.

2. SURVEY. LESSOR also hereby grants to LESSEE the right to survey the Property and Premises. Cost for such work shall be borne by the LESSEE.

3. TERM; RENTAL; ELECTRICAL.

a. This Agreement shall be effective as of the date of execution by both Parties (the "Commencement Date", provided, however, the initial term shall be for five (5) years and shall commence on the Rent Commencement Date (as hereinafter defined) at which time rental payments shall commence and be due at a total annual rental of _____ Dollars (\$_____) ("Rent") to be paid in equal monthly installments on the first day of the month, in advance, to Borough of Seaside Park or to such other person, firm or place as LESSOR may, from time to time, designate in writing at least thirty (30) days in advance of any Rent payment date by notice given in accordance with Paragraph 23 below. Rental payments shall commence on the first day of the month after the date of bid award, (the "Rent Commencement Date"). An extension of the Rent Commencement Date limit may be granted by LESSOR if there is a delay in obtaining necessary approvals which is beyond the control of LESSEE and/or if LESSOR deems LESSEE is making a good faith effort to obtain necessary approvals.

Upon agreement of the Parties, LESSEE may pay rent by electronic funds transfer and, in such event, LESSOR agrees to provide to LESSEE bank routing information for such purpose upon request of LESSEE.

b. On the first-year anniversary of the Commencement Date, and each year thereafter, the monthly Rent will increase at the rate of the consumer price index inflator or 2.75% - whichever is greater - over the previous year's Rent. The Consumer Price Index shall be defined as follows: At the end of each Agreement year (12 month period) of the extended term hereof or of any extension or renewal hereof, the monthly rental for the next succeeding Agreement year shall be increased by the

annual increase in the Consumer Price Index ("CPI") where "CPI" is the Consumer Price Index for the month of December just preceding such Agreement anniversary year, and the "Base CPI" is the Consumer Price Index for December of the previous Agreement year. As used herein, Consumer Price Index shall mean and refer to that table in the Consumer Price Index published by the United States Department of Labor, Bureau of Labor Statistics, now known as the "Consumer Price Index" for all Urban Consumers (Index 1982-1984 = 100). If such Index referred to above shall be discontinued, then any successor Consumer Price Index of the United States Bureau of Labor Statistics, or successor agency thereto, shall be used, and if there is no successor Consumer Price Index, the parties hereto shall authorize LESSOR's attorney to designate a substitute Index or formula. In no event shall the next lease agreement year rental be less than the prior year.

c. LESSOR shall grant LESSEE the right to use whatever means necessary to procure and deliver electrical service and telephone service within the Premises and LESSOR shall cooperate in said efforts, at no cost to LESSOR. LESSEE shall be permitted at any time during the Term, to install, maintain and/or provide access to and use of, as necessary (during any power interruption at the Premises), a temporary power source, and all related equipment and appurtenances within the Premises, or elsewhere on the Property in such locations as reasonably approved by LESSOR. LESSEE shall have the right to install conduits connecting the temporary power source and related appurtenances to the Premises with the LESSORS approval.

d. A one-time, up-front payment of \$3,000 shall be made by LESSEE to the LESSOR within thirty (30) days of bid award. This one-time, up-front payment is in addition to the annual base Rent amount.

e. Upon Lease Commencement, and upon each anniversary of the Commencement Date, LESSEE shall provide LESSOR with contact information for LESSEE's field technician.

f. LESSEE agrees to pay LESSOR reasonable fees for the engineering review of Plans associated with the installation of LESSEE's equipment, in an amount not to exceed TEN THOUSAND and NO/100 Dollars (\$10,000), upon reasonable proof of same.

4. EXTENSIONS. This Agreement shall automatically be extended for four (4) additional five (5) year terms unless LESSEE terminates it at the end of the then current term by giving LESSOR written notice of the intent to terminate at least six (6) months prior to the end of the then current term. The initial term and all extensions shall be collectively referred to herein as the "Term". If LESSEE shall remain in possession of the Premises at the expiration of the Lease or any Renewal Term without a written agreement, such tenancy shall be deemed a month-to-month

tenancy under the same terms and conditions of the Lease until which time the lease is either renewed or either party cancels the month-to-month tenancy.

5. TAXES. LESSEE shall have the responsibility to pay any personal property, real estate taxes, assessments, or charges owed on the Property which LESSOR demonstrates is the result of LESSEE's use of the Premises and/or the installation, maintenance, and operation of the LESSEE's improvements, and any sales tax imposed on the Rent (except to the extent that LESSEE is or may become exempt from the payment of sales tax in the jurisdiction in which the Property is located), including any increase in real estate taxes at the Property which LESSOR demonstrates arises from the LESSEE's improvements and/or LESSEE's use of the Premises. LESSOR and LESSEE shall each be responsible for the payment of any taxes, levies, assessments and other charges imposed including franchise and similar taxes imposed upon the business conducted by LESSOR or LESSEE at the Property. Nothing in this Paragraph shall be construed as making LESSEE liable for any portion of LESSOR's income taxes in connection with any Property or otherwise. Except as set forth in this Paragraph, LESSOR shall have the responsibility to pay any personal property, real estate taxes, assessments, or charges owed on the Property and shall do so prior to the imposition of any lien on the Property.

LESSEE shall have the right, at its sole option and at its sole cost and expense, to appeal, challenge or seek modification of any tax assessment or billing for which LESSEE is wholly or partly responsible for payment. LESSOR shall reasonably cooperate with LESSEE at LESSEE's expense in filing, prosecuting and perfecting any appeal or challenge to taxes as set forth in the preceding sentence, including but not limited to, executing any consent, appeal or other similar document. In the event that as a result of any appeal or challenge by LESSEE, there is a reduction, credit or repayment received by the LESSOR for any taxes previously paid by LESSEE, LESSOR agrees to promptly reimburse to LESSEE the amount of said reduction, credit or repayment. In the event that LESSEE does not have the standing rights to pursue a good faith and reasonable dispute of any taxes under this paragraph, LESSOR will pursue such dispute at LESSEE's sole cost and expense upon written request of LESSEE.

6. USE; GOVERNMENTAL APPROVALS.

a. LESSEE shall use the Premises for the transmission and reception of radio communication signals and for the construction, installation, operation, maintenance, repair or removal or construction of related facilities and antennas. All of LESSEE'S improvements, equipment, antennas and conduits shall be at LESSEE's expense and their installation shall be at the discretion of the LESSEE in consultation and agreement with the LESSOR. LESSEE may, with LESSOR consent, repair, add or otherwise modify its utilities, equipment, antennas and/or conduits or any portion thereof and the frequencies over which the equipment operates during the

Term in consultation. Modifications of equipment after the initial installation require prior approval of LESSOR, which shall not be unreasonably withheld. Substantial modifications, as determined by LESSOR, shall be memorialized by a Lease amendment. It is understood and agreed that LESSEE's ability to use the Premises is contingent upon its obtaining after the execution date of this Agreement all of the certificates, permits, including, but not limited to approvals by N.J.D.E.P., if required, and other approvals (collectively the "Governmental Approvals") that may be required by any Federal, State or Local authorities and structural analysis which will permit LESSEE use of the Premises as set forth above. Submission of design drawings and permit applications shall occur in a timely manner.

b. Zoning is not required as this is a permitted use involving the installation of antennas on an existing LESSOR owned structure and considered a Municipal Facility. If installing new equipment, LESSEE shall file for approval and permits commensurate with the permitted use designation. If installing new equipment, LESSOR will, as a condition of the lease, require an informal design review and approval by the municipal communications consultant and the Borough Governing Body. The Borough Governing Body shall have input and the right of final approval of all design aspects of the compound and the Tower. Upon Governing Body approval, LESSEE shall submit electrical and building permit applications for the installation of any new equipment.

c. LESSOR shall cooperate with LESSEE in its effort to obtain approval and shall take no action which would adversely affect the status of the Property with respect to the proposed use thereof by LESSEE. In the event that (i) any of such applications for such Governmental Approvals should be finally rejected; (ii) any Governmental Approval issued to LESSEE is canceled, expires, lapses, or is otherwise withdrawn or terminated by governmental authority; (iii) LESSEE determines that such Governmental Approvals may not be obtained in a timely manner; (iv) LESSEE determines that structural analysis is unsatisfactory; (v) LESSEE determines that the Premises is no longer technically or structurally compatible for its use, or (vi) LESSEE, in its sole discretion, determines that the use the Premises is obsolete or unnecessary, LESSEE or LESSOR shall have the right to terminate this Agreement. Notice of LESSEE's or LESSOR's exercise of its right to terminate shall be given to either party in writing by certified mail, return receipt requested, and shall be effective one-hundred and eighty (180) days upon the mailing of such notice by LESSEE, or upon such later date as designated by LESSEE. All rentals paid to said termination date shall be retained by LESSOR. Upon such termination, this Agreement shall be of no further force or effect except to the extent of the representations, warranties and indemnities made by each Party to the other hereunder. Otherwise, the LESSEE shall have no further obligations for the payment of rent to LESSOR.

d. LESSEE shall work with the municipal communications consultant to design and construct the site so that other providers will have adequate amount of space to locate their own ancillary and support equipment. The location of LESSEE's antennas on the Tower and the Ground Space shall be designed so as to maximize the use to accommodate all future Co-locators. Final site design to be approved by LESSOR.

e. Prior to commencing construction, LESSEE must provide to LESSOR a list of all subcontractors.

7. INDEMNIFICATION. Subject to Paragraph 9, each Party shall indemnify and hold the other harmless against any claim of liability or loss from personal injury or property damage resulting from or arising out of use of the facility that is the subject of this lease. This indemnification will cover all actions including but not limited to, the negligence or willful misconduct of the indemnifying Party, its employees, contractors or agents, except to the extent such claims or damages may be due to or caused by the negligence or willful misconduct of the other Party, or its employees, contractors or agents. The indemnified Party will provide the indemnifying Party with prompt, written notice of any claim covered by this indemnification; provided that any failure of the indemnified Party to provide any such notice, or to provide it promptly, shall not relieve the indemnifying Party from its indemnification obligation in respect of such claim, except to the extent the indemnifying Party can establish actual prejudice and direct damages as a result thereof. The indemnified Party will cooperate appropriately with the indemnifying Party in connection with the indemnifying Party's defense of such claim. The indemnifying Party shall defend any indemnified Party, at the indemnified Party's request, against any claim with counsel reasonably satisfactory to the indemnified Party. The indemnifying Party shall not settle or compromise any such claim or consent to the entry of any judgment without the prior written consent of each indemnified Party and without an unconditional release of all claims by each claimant or plaintiff in favor of each indemnified Party.

8. INSURANCE.

LESSEE will procure and maintain commercial general liability insurance, with limits of not less than \$1,000,000 combined single limit per occurrence for bodily injury and property damage liability, and Umbrella liability insurance with limits of not less than \$4,000,000 per occurrence combined single limit for bodily injury and property damage in excess of the commercial general liability and comprehensive automobile liability limits, with a certificate of insurance to be furnished to LESSOR within 30 days of written request. LESSEE shall name LESSOR as an additional insured under said policy. Upon receipt of notice from its insurer, LESSEE shall provide 30 days written notice of cancellation of any required coverage.

9. LIMITATION OF LIABILITY. Except for indemnification pursuant to paragraphs 7 and 27, neither Party shall be liable to the other, or any of their respective agents, representatives, employees for any lost revenue, lost profits, loss of

technology, rights or services, incidental, punitive, indirect, special or consequential damages, loss of data, or interruption or loss of use of service, even if advised of the possibility of such damages, whether under theory of contract, tort (including negligence), strict liability or otherwise.

10. TERMINATION. Notwithstanding anything to the contrary contained herein, provided LESSEE is not in default hereunder beyond applicable notice and cure periods, LESSEE shall have the right to terminate this Agreement upon the annual anniversary of the Commencement Date provided that six (6) months prior notice is given to LESSOR.

11. ACCESS TO PREMISES. LESSOR agrees the LESSEE shall have access to the Premises at all times for the purpose of installing and maintaining the said equipment as set forth on Exhibit B that must be adhered to or access will be denied. LESSOR shall furnish LESSEE with necessary means of access for the purpose of ingress and egress to this site and Tower location. It is agreed, however, that only authorized engineers, employees or properly authorized contractors of LESSEE or persons under their direct supervision will be permitted to enter said Premises.

12. TOWER COMPLIANCE. LESSOR covenants that it will keep the Tower in good repair as required by all Laws (as defined in Paragraph 33 below).

No materials may be used in the installation of the antennas or transmission lines that will cause corrosion or rust or deterioration of the Tower structure or its appurtenances. All antenna(s) on the Tower must be identified by a marking fastened securely to its bracket on the Tower and all transmission lines are to be tagged at the conduit opening where it enters any user's equipment space.

LESSEE acknowledges that the primary function of the water tower is to provide water storage for LESSOR and its customers. As such LESSOR may require maintenance of the water tower that may require interruption of LESSEE's service. LESSOR and LESSEE both agree to cooperate and work together to minimize any such interruption in service for either party.

LESSEE and LESSOR acknowledge that LESSEE shall take all reasonable engineering design standards including but not limited to designing its installation with stand-off brackets to minimize the possibility of having to remove its installation during routine tower painting. Such installation design standards will have to have prior written approval from LESSOR. LESSEE and LESSOR agree to take a reasonable commercial efforts together to minimize any down time of LESSEE's communications service should the need arise including but not limited to cooperation and coordination between both parties to turn off one sector of antennas at a time, so that such maintenance has minimal effect on LESSEE's communications service.

Should LESSOR determine it must undertake emergency maintenance or emergency repair of the Tower in the Tower Space that the LESSEE has installed, LESSOR shall give as much notice as possible of this emergency work. LESSOR shall immediately call the LESSEE at _____ to inform LESSEE of such emergency and both LESSOR and LESSEE will work together to determine the extent of the emergency and what actions should be taken by both parties

Should LESSOR determine it must perform routine maintenance or repair to the Tower in the Tower Space that LESSEE has installed, LESSOR shall give LESSEE at least ninety (90) days written notice of such work, such that LESSEE may evaluate its options.

Upon prior written request of the LESSOR, LESSEE shall relocate its equipment, at LESSEE'S sole cost, on a temporary basis to another location on the Property (hereinafter referred to as the "Temporary Relocation") for the purpose of LESSOR performing maintenance, repair or similar work at the Property or on the Tower provided:

a. The Temporary Relocation is similar to LESSEE's existing location in size and is fully compatible for LESSEE's use, in LESSEE's reasonable determination;

b. LESSEE pays all costs incurred by LESSEE for relocating LESSEE's equipment to the Temporary Relocation and improving the Temporary Relocation so that it is fully compatible for the LESSEE's use, in LESSEE's reasonable determination.;

c. LESSOR gives LESSEE at least ninety (90) days written notice prior to requiring LESSEE to relocate;

d. LESSEE's use at the Premises is not interrupted or diminished during the relocation and LESSEE is allowed, if necessary, in LESSEE's reasonable determination, to place a temporary installation on the Property at a location acceptable to LESSOR and LESSEE during any such relocation; and

e. Upon the completion of any maintenance, repair or similar work by LESSOR, LESSEE is permitted to return to its original location from the temporary location with all costs for the same being paid by LESSEE.

f. If LESSOR decides to decommission the water tower, LESSOR will give LESSEE Three Hundred Sixty-Five (365) days written notice. LESSEE shall, at the end of the one-year notice, remove its facilities of the site.

13. All antenna(s) on the Tower must be identified pursuant to Federal Communication Commission ("FCC") requirements.

14. INTERFERENCE. LESSEE agrees to install equipment of the type and frequency which will not cause harmful interference which is measurable in accordance with then existing industry standards to any equipment of LESSOR or other LESSEEs of the Property which existed on the Property prior to the date this Agreement is executed by the Parties. In the event any after-installed LESSEE's Equipment causes such interference, for a period in excess of ninety (90) days after LESSOR has notified LESSEE in writing of such interference, LESSEE will take all commercially reasonable steps necessary to correct and eliminate the interference, including but not limited to, at LESSOR's option, powering down such equipment and later powering up such equipment for intermittent testing. In no event will LESSOR be entitled to terminate this Agreement or relocate the equipment as long as LESSEE is making a good faith effort to remedy the interference issue. LESSOR agrees that LESSOR and/or any other tenants of the Property who currently have or in the future take possession of the Property will be permitted to install only such equipment that is of the type and frequency which will not cause harmful interference which is measurable in accordance with then existing industry standards to the then existing equipment of LESSEE. The Parties acknowledge that there will not be an adequate remedy at law for noncompliance with the provisions of this Paragraph and therefore, either Party shall have the right to equitable remedies, such as, without limitation, injunctive relief and specific performance. It is understood that in any dispute arising out of the definition of harmful under industry standards the LESSOR will conduct a good faith evaluation and will make the sole determination if harm has been caused or is likely to occur.

15. REMOVAL AT END OF TERM. LESSEE shall, upon expiration of the Term, or within ninety (90) days after any earlier termination of the Agreement, remove its building(s), antenna(s), equipment, conduits, fixtures and all personal property and restore the Premises to its original condition, reasonable wear and tear and casualty damage excepted. LESSOR agrees and acknowledges that all of the equipment, conduits, fixtures and personal property of LESSEE shall remain the personal property of LESSEE and LESSEE shall have the right to remove the same at any time during the Term, whether or not said items are considered fixtures and attachments to real property under applicable Laws. If such time for removal causes LESSEE to remain on the Premises after termination of this Agreement, LESSEE shall pay Rent at the then existing monthly rate or on the existing monthly pro-rata basis if based upon a longer payment term, until such time as the removal of the building, antenna structure, fixtures and all personal property are completed.

16. HOLDOVER. LESSEE has no right to retain possession of the Premises or any part thereof beyond the expiration of that removal period set forth in Paragraph 15 herein, unless the Parties are negotiating a new lease or lease extension in good faith. In the event that the Parties are not in the process of negotiating a new lease or lease extension in good faith, LESSEE holds over in violation of Paragraph 15 and this Paragraph 16, then the Rent then in effect payable from and after the time of the expiration or earlier removal period set forth in Paragraph 15 shall be equal to the

Rent applicable during the month immediately preceding such expiration or earlier termination.

17. RIGHTS UPON SALE. Should LESSOR, at any time during the Term decide (i) to sell or transfer all or any part of the Property or the Tower thereon to a purchaser other than LESSEE, or (ii) to grant to a third party by easement or other legal instrument an interest in and to that portion of the Tower and or Property occupied by LESSEE, or a larger portion thereof, for the purpose of operating and maintaining communications facilities or the management thereof, such sale or grant of an easement or interest therein shall be under and subject to this Agreement and any such purchaser or transferee shall recognize LESSEE's rights hereunder under the terms of this Agreement. To the extent that LESSOR grants to a third party by easement or other legal instrument an interest in and to that portion of the Tower and/or Property occupied by LESSEE for the purpose of operating and maintaining communications facilities or the management thereof and in conjunction therewith, assigns this Agreement to said third party, LESSOR shall not be released from its obligations to LESSEE under this Agreement, and LESSEE shall have the right to look to LESSOR and the third party for the full performance of this Agreement.

18. QUIET ENJOYMENT. LESSOR covenants that LESSEE, on paying the Rent and performing the covenants herein, shall peaceably and quietly have, hold and enjoy the Premises.

19. TITLE. LESSOR represents and warrants to LESSEE as of the execution date of this Agreement, and covenants during the Term that LESSOR is seized of good and sufficient title and interest to the Property and has full authority to enter into and execute this Agreement. LESSOR further covenants during the Term that there are no liens, judgments or impediments of title on the Property, or affecting LESSOR's title to the same and that there are no covenants, easements or restrictions which prevent or adversely affect the use or occupancy of the Premises by LESSEE as set forth above.

20. INTEGRATION. It is agreed and understood that this Agreement contains all agreements, promises and understandings between LESSOR and LESSEE and that no verbal or oral agreements, promises or understandings shall be binding upon either LESSOR or LESSEE in any dispute, controversy or proceeding at law, and any addition, variation or modification to this Agreement shall be void and ineffective unless made in writing signed by the Parties. In the event any provision of the Agreement is found to be invalid or unenforceable, such finding shall not affect the validity and enforceability of the remaining provisions of this Agreement. The failure of either Party to insist upon strict performance of any of the terms or conditions of this Agreement or to exercise any of its rights under the Agreement shall not waive such rights and such Party shall have the right to enforce such rights at any time and take such action as may be lawful and authorized under this Agreement, in law or in equity.

21. GOVERNING LAW. This Agreement and the performance thereof shall be governed, interpreted, construed and regulated by the Laws of the State in which the Property is located.

22. ASSIGNMENT. This Agreement may be sold, assigned or transferred by the LESSEE without any approval or consent of the LESSOR to the LESSEE's principal, affiliates, subsidiaries of its principal or to any entity which acquires all or substantially all of LESSEE's assets in the market defined by the Federal Communications Commission in which the Property is located by reason of a merger, acquisition or other business reorganization. As to other parties, this Agreement may not be sold, assigned or transferred without the written consent of the LESSOR, which such consent will not be unreasonably withheld, delayed or conditioned. No change of stock ownership, partnership interest or control of LESSEE or transfer upon partnership or corporate dissolution of LESSEE shall constitute an assignment hereunder.

23. NOTICES. All notices hereunder must be in writing and shall be deemed validly given if sent by certified mail, return receipt requested or by commercial courier, provided the courier's regular business is delivery service and provided further that it guarantees delivery to the addressee by the end of the next business day following the courier's receipt from the sender, addressed as follows (or any other address that the Party to be notified may have designated to the sender by like notice):

LESSOR: Borough of Seaside Park
1701 N. Ocean Avenue
Seaside Park, New Jersey 08752

LESSEE:

Notice shall be effective upon actual receipt or refusal as shown on the receipt obtained pursuant to the foregoing.

24. SUCCESSORS. This Agreement shall extend to and bind the heirs, personal representative, successors and assigns of the Parties hereto.

25. SUBORDINATION AND NON-DISTURBANCE. LESSOR shall obtain not later than fifteen (15) days following the execution of this Agreement, a Non-Disturbance Agreement, as defined below, from its existing mortgagee(s), ground LESSORs and master LESSORs, if any, of the Property. At LESSOR's option, this Agreement shall be subordinate to any future master lease, ground lease, mortgage, deed of trust or other security interest (a "Mortgage") by LESSOR which from time to time may encumber all or part of the Property, Tower or right-of-way; provided, however, as a condition precedent to LESSEE being required to subordinate its

interest in this Agreement to any future Mortgage covering the Tower or Property, LESSOR shall obtain for LESSEE's benefit a non-disturbance and attornment agreement for LESSEE's benefit in the form reasonably satisfactory to LESSEE, and containing the terms described below (the "Non-Disturbance Agreement"), and shall recognize LESSEE's right to remain in occupancy of and have access to the Premises as long as LESSEE is not in default of this Agreement beyond applicable notice and cure periods. The Non-Disturbance Agreement shall include the encumbering party's ("Lender's") agreement that, if Lender or its successor-in-interest or any purchaser of Lender's or its successor's interest (a "Purchaser") acquires an ownership interest in the Tower or Property, Lender or such successor-in-interest or Purchaser will (1) honor all of the terms of the Agreement, (2) fulfill LESSOR's obligations under the Agreement, and (3) promptly cure all of the then-existing LESSOR defaults under the Agreement. Such Non-Disturbance Agreement must be binding on all of Lender's participants in the subject loan (if any) and on all successors and assigns of Lender and/or its participants and on all Purchasers. In return for such Non-Disturbance Agreement, LESSEE will execute an agreement for Lender's benefit in which LESSEE (1) confirms that the Agreement is subordinate to the Mortgage or other real property interest in favor of Lender, (2) agrees to attorn to Lender if Lender becomes the owner of the Tower or Property and (3) agrees accept a cure by Lender of any of LESSOR's defaults, provided such cure is completed within the deadline applicable to LESSOR. In the event LESSOR defaults in the payment and/or other performance of any mortgage or other real property interest encumbering the Property, LESSEE, may, at its sole option and without obligation, cure or correct LESSOR's default and upon doing so, LESSEE shall be subrogated to any and all rights, titles, liens and equities of the holders of such mortgage or other real property interest and LESSEE shall be entitled to deduct and setoff against all rents that may otherwise become due under this Agreement the sums paid by LESSEE to cure or correct such defaults.

26. RECORDING. LESSOR agrees to execute a Memorandum of this Agreement which LESSEE may record with the appropriate recording officer. The date set forth in the Memorandum of Lease is for recording purposes only and bears no reference to commencement of either the Term or Rent payments.

27. DEFAULT.

In the event there is a breach by LESSEE with respect to any of the provisions of this Agreement or its obligations under it, including the payment of Rent, LESSOR shall give LESSEE written notice of such breach. After receipt of such written notice, LESSEE shall have fifteen (15) days in which to cure any monetary breach and thirty (30) days in which to cure any non-monetary breach, provided LESSEE shall have such extended period as may be required beyond the thirty (30) days if the nature of the cure is such that it reasonably requires more than thirty (30) days and LESSEE commences the cure within the thirty (30) day period and thereafter continuously and diligently pursues the cure to completion. LESSOR may not maintain any action or

effect any remedies for default against LESSEE unless and until LESSEE has failed to cure the breach within the time periods provided in this Paragraph.

In the event there is a breach by LESSOR with respect to any of the provisions of this Agreement or its obligations under it, LESSEE shall give LESSOR written notice of such breach. After receipt of such written notice, LESSOR shall have thirty (30) days in which to cure any such breach, provided LESSOR shall have such extended period as may be required beyond the thirty (30) days if the nature of the cure is such that it reasonably requires more than thirty (30) days and LESSOR commences the cure within the thirty (30) day period and thereafter continuously and diligently pursues the cure to completion. LESSEE may not maintain any action or effect any remedies for default against LESSOR unless and until LESSOR has failed to cure the breach within the time periods provided in this Paragraph. Notwithstanding the foregoing to the contrary, it shall be a default under this Agreement if LESSOR fails, within five (5) days after receipt of written notice of such breach, to perform an obligation required to be performed by LESSOR if the failure to perform such an obligation interferes with LESSEE's ability to conduct its business on the Property; provided, however, that if the nature of LESSOR's obligation is such that more than five (5) days after such notice is reasonably required for its performance, then it shall not be a default under this Agreement if performance is commenced within such five (5) day period and thereafter diligently pursued to completion.

28. REMEDIES. Upon a default, the non-defaulting Party may at its option (but without obligation to do so), perform the defaulting Party's duty or obligation on the defaulting Party's behalf, including but not limited to the obtaining of reasonably required insurance policies. The costs and expenses of any such performance by the non-defaulting Party shall be due and payable by the defaulting Party upon invoice therefor. In the event of a default by either Party with respect to a material provision of this Agreement, without limiting the non-defaulting Party in the exercise of any right or remedy which the non-defaulting Party may have by reason of such default, the non-defaulting Party may terminate the Agreement and/or pursue any remedy now or hereafter available to the non-defaulting Party under the Laws or judicial decisions of the state in which the Premises are located; provided, however, LESSOR shall use reasonable efforts to mitigate its damages in connection with a default by LESSEE. If LESSEE so performs any of LESSOR's obligations hereunder, the full amount of the reasonable and actual cost and expense incurred by LESSEE shall immediately be owing by LESSOR to LESSEE, and LESSOR shall pay to LESSEE upon demand the full undisputed amount thereof with interest thereon from the date of payment at the greater of (i) ten percent (10%) per annum, or (ii) the highest rate permitted by applicable Laws. Notwithstanding the foregoing, if LESSOR does not pay LESSEE the full undisputed amount within thirty (30) days of its receipt of an invoice setting forth the amount due from LESSOR, LESSEE may offset the full undisputed amount, including all accrued interest, due against all fees due and owing to LESSOR until the full undisputed amount, including all accrued interest, is fully reimbursed to LESSEE.

29. ENVIRONMENTAL. LESSEE shall conduct its business in compliance with all applicable laws governing the protection of the environment or employee health and safety ("EH&S Laws"). LESSEE shall indemnify and hold harmless the LESSOR from claims to the extent resulting from LESSEE's violation of any applicable EH&S Laws or to the extent that LESSEE causes a release of any regulated substance to the environment. LESSOR shall indemnify and hold harmless LESSEE from all claims resulting from the violation of any applicable EH&S Laws or a release of any regulated substance to the environment except to the extent resulting from the activities of LESSEE. The Parties recognize that LESSEE is only leasing a small portion of LESSOR's property and that LESSEE shall not be responsible for any environmental condition or issue except to the extent resulting from LESSEE's specific activities and responsibilities. In the event that LESSEE encounters any hazardous substances that do not result from its activities, LESSEE may relocate its facilities to avoid such hazardous substances to a mutually agreeable location or, if LESSEE desires to remove at its own cost all or some the hazardous substances or materials (such as soil) containing those hazardous substances, LESSOR agrees to sign any necessary waste manifest associated with the removal, transportation and/or disposal of such substances.

30. CASUALTY. In the event of damage by fire or other casualty to the Tower or Premises that cannot reasonably be expected to be repaired within forty-five (45) days following same or, if the Property is damaged by fire or other casualty so that such damage may reasonably be expected to disrupt LESSEE's operations at the Premises for more than forty-five (45) days, then LESSEE may, at any time following such fire or other casualty, provided LESSOR has not completed the restoration required to permit LESSEE to resume its operation at the Premises, terminate this Agreement upon fifteen (15) days prior written notice to LESSOR. Any such notice of termination shall cause this Agreement to expire with the same force and effect as though the date set forth in such notice were the date originally set as the expiration date of this Agreement and the Parties shall make an appropriate adjustment, as of such termination date, with respect to payments due to the other under this Agreement. Notwithstanding the foregoing, the Rent shall abate during the period of repair following such fire or other casualty in proportion to the degree to which LESSEE's use of the Premises is impaired.

31. CONDEMNATION. In the event of any condemnation of all or any portion of the Property, this Agreement shall terminate as to the part so taken as of the date the condemning authority takes title or possession, whichever occurs first. If as a result of a partial condemnation of the Premises or Tower, LESSEE, in LESSEE's sole discretion, is unable to use the Premises for the purposes intended hereunder, or if such condemnation may reasonably be expected to disrupt LESSEE's operations at the Premises for more than forty-five (45) days, LESSEE may, at LESSEE's option, to be exercised in writing within fifteen (15) days after LESSOR shall have given LESSEE written notice of such taking (or in the absence of such notice, within fifteen (15) days after the condemning authority shall have taken possession) terminate this

Agreement as of the date the condemning authority takes such possession. LESSEE may on its own behalf make a claim in any condemnation proceeding involving the Premises for losses related to the equipment, conduits, fixtures, its relocation costs and its damages and losses (but not for the loss of its leasehold interest). Any such notice of termination shall cause this Agreement to expire with the same force and effect as though the date set forth in such notice were the date originally set as the expiration date of this Agreement and the Parties shall make an appropriate adjustment as of such termination date with respect to payments due to the other under this Agreement. If LESSEE does not terminate this Agreement in accordance with the foregoing, this Agreement shall remain in full force and effect as to the portion of the Premises remaining, except that the Rent shall be reduced in the same proportion as the rentable area of the Premises taken bears to the total rentable area of the Premises. In the event that this Agreement is not terminated by reason of such condemnation, LESSOR shall promptly repair any damage to the Premises caused by such condemning authority.

32. SUBMISSION OF AGREEMENT / PARTIAL INVALIDITY / AUTHORITY.

The submission of this Agreement for examination does not constitute an offer to lease the Premises and this Agreement becomes effective only upon the full execution of this Agreement by the Parties. If any provision herein is invalid, it shall be considered deleted from this Agreement and shall not invalidate the remaining provisions of this Agreement. Each of the Parties hereto warrants to the other that the person or persons executing this Agreement on behalf of such Party has the full right, power and authority to enter into and execute this Agreement on such Party's behalf and that no consent from any other person or entity is necessary as a condition precedent to the legal effect of this Agreement.

33. APPLICABLE LAWS. During the Term, LESSEE shall maintain the Property and all structural elements of the Premises in compliance with all applicable laws, rules, regulations, ordinances, directives, covenants, easements, zoning and land use regulations, and restrictions of record, permits, building codes, and the requirements of any applicable fire insurance underwriter or rating bureau, now in effect or which may hereafter come into effect (including, without limitation, the Americans with Disabilities Act and laws regulating hazardous substances) (collectively "Laws"). LESSEE shall, in respect to the condition of the Premises and at LESSEE's sole cost and expense, comply with (a) all Laws relating solely to LESSEE's specific and unique nature of use of the Premises (other than general office use); and (b) all building codes requiring modifications to the Premises due to maintenance of common elements of the Premises, as well as the improvements being made by LESSEE in the Premises.

34. SURVIVAL. The provisions of the Agreement relating to indemnification from one Party to the other Party shall survive any termination or expiration of this Agreement. Additionally, any provisions of this Agreement which require performance

subsequent to the termination or expiration of this Agreement shall also survive such termination or expiration.

35. CAPTIONS. The captions contained in this Agreement are inserted for convenience only and are not intended to be part of the Agreement. They shall not affect or be utilized in the construction or interpretation of the Agreement.

[Signatures to follow on next page.]

IN WITNESS WHEREOF, the Parties hereto have set their hands and affixed their respective seals the day and year first above written.

LESSOR:

Borough of Seaside Park

WITNESS

By: _____

Name: _____

Its: _____

Date: _____

LESSEE:

WITNESS

By: _____

Name: _____

Its: _____

Date: _____

EXHIBIT A
DESCRIPTION OF PROPERTY

Page 1 of __

The Property is described and/or depicted as follows:

Site Address:

BARNEGAT WATER TOWER, Seaside Park, NJ 08752

Block: 5 Lot: 17

EXHIBIT B
DESCRIPTION OF EQUIPMENT

(Attach Equipment List)

Page 1 of 2

The Premises and equipment is described as follows:

Tower Area:

Space on the Tower at approximately the _____' level extending approximately ____ feet above and below that level.

Tower Equipment:

Up to _____ (___) antennas, _____ (___) RRH's and/or RRU's, and up to _____ associated _____" cables.

Ground Area:

An area measuring approximately ____ square feet with equipment placement as per Lease Exhibit C herein.

EXHIBIT C

DRAWINGS

Page 1 of __

Notes:

1. Any setback of the Premises from the Property's boundaries shall be the distance required by the applicable governmental authorities.
2. Width of access road shall be the width required by the applicable governmental authorities, including police and fire departments.

EXHIBIT D

MEMORANDUM OF LEASE AGREEMENT

This Memorandum of Lease Agreement is entered into on this _____ day of _____, 2024, by and between BOROUGH OF SEASIDE PARK, a municipal corporation, with an office at 1701 N. Ocean Avenue , Seaside Park, New Jersey 08752, (hereinafter referred to as "LESSOR") and _____ with an office at _____ (hereinafter referred to as "LESSEE").

- 1. LESSOR and LESSEE entered into a Standard Lease Agreement ("Agreement") on the _____ day of _____ 2024, for the purpose of installing, operating and maintaining a radio communications facility and other improvements. All of the foregoing are set forth in the Agreement.
2. The term of the Agreement is for five (5) years commencing on _____, 2024, and ending on _____, with four (4) successive five (5) year options to renew.
3. The Property which is the subject of the Agreement is described in Exhibit A annexed hereto. The portion of the Property being leased to LESSEE ("Premises") is described in Exhibit B annexed hereto.

IN WITNESS WHEREOF, the parties have executed this Memorandum of Agreement as of the day and year first above written.

LESSOR
BOROUGH OF SEASIDE PARK

LESSEE

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

State of _____

County of _____

LESSOR ACKNOWLEDGEMENT

State of New Jersey

County of Seaside Park

On _____, before me, _____, Notary Public, personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument, the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Notary Public (Seal)

My commission expires: _____

LESSEE ACKNOWLEDGEMENT

State of _____

County of _____

On _____, before me, _____, Notary Public, personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument, the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Notary Public (Seal)

My commission expires: _____