

Town of Manchester
RFP
For
A Lease of the Use of Space
At School Street for
Telecommunications System Purposes

The Town of Manchester, Massachusetts, acting through its Board of Selectmen (the "Town"), is accepting sealed proposals to lease a portion of land at 197 School Street for the purpose of installing / maintaining wireless communications facilities and related apparatus.

The term of the lease will be for an initial period of ten-years with two five-year extension periods for a total term of twenty years.

The Request for Proposal (RFP) is available by contacting **morongd@manchester.ma.us**. The contact person is Debi Morong, Executive Assistant to the Town Administrator.

Proposals shall be submitted in a sealed envelope clearly marked "RFP – School St. Cell Tower, Installation / Maintenance of Telecommunications Facility, Town of Manchester, MA."

Proposals will be accepted until **October 30, 2017 at 2:00 PM** at **Manchester Town Hall, Room #3, Selectmen's Office, 10 Central St. Manchester, MA.**

The Town reserves the right to reject any or all proposals, waive informalities, and to award the lease in the best interest of the Town. Any proposal received after the time and date specified shall not be considered.

I. Introduction

The Town requests sealed proposals for lease of a portion of the Town's property at 197 School Street and adjacent land for the purpose of installing wireless communication systems including related apparatus.

The site currently has a permitted telecommunications monopole that has multiple antennas attached. The current lease holder is responsible for its removal should the proposer so request. The leased site consists of approximately 3600 square feet of ground space at 197 School Street, Manchester, Massachusetts together with the right of access from School Street all being a portion of the property described in a certain Quit Claim Deed dated December 28, 1992 and recorded with the Essex County Registry of Deeds in Book 11673, Page 392.

Proposers are responsible for submitting a plan for installation of their equipment. Once a proposal is selected it will be the sole responsibility of the successful proposer to obtain all necessary permits and approvals required for the installation of its equipment and for all costs for construction and maintenance of its facilities. A lease will be required and is subject to review and approval by the Board of Selectmen and the Town's Counsel. All costs associated with such review shall be paid by the proposer via reimbursement to the Town Of Manchester.

The Town's objectives in offering this RFP are to:

- a. Control the potential number of telecommunication facilities, in the Town;
 - b. Insure that any telecommunications facilities which are constructed are as innocuous as possible;
- and*

- c. Identify a reliable and experienced firm capable of providing and supporting the services requested.

The Town of Manchester is an equal opportunity owner/purchaser.

The Town reserves the right to reject any or all proposals, waive informalities, and to award the lease in the best interest of the Town. Any proposal received after the time and date specified shall not be considered.

II. Purpose and Background

The Town owns and operates an organics composting site as part of the Town's municipal waste system. The Board of Selectmen has determined that there is available surplus space at the compost site. Further, the Board of Selectmen has decided to offer to private companies the use of portions of the site for a telecommunications system under a 10-year term lease agreement with extension options.

The Town has issued the RFP to allow telecommunications companies, all on an equal basis, the opportunity to propose a 10-year term lease fee arrangement with up to 2 additional 5-year extensions. This RFP document describes all of the terms, conditions and minimum requirements, which must be the basis of any proposal response. Selection of the successful proposer will be primarily on the basis of the highest lease payments offered provided that all of the RFP requirements are satisfied. The highest bidder will have exclusive rights to the space available.

Throughout the duration of this lease the Town intends to continue use of the compost site as an active part of the Town's municipal waste system. Under the lease agreement, the successful proposer will be allowed to install, operate, and maintain a telecommunication monopole and antenna as well as various ancillary electrical and mechanical equipment which may be needed.

All equipment, installation, operation, and maintenance shall be in accordance with the terms of the technical requirements outlined in the RFP.

III. Instructions to Proposers

1. Failure to complete the enclosed forms, answer any questions, or provide the required documentation will result in a proposal being deemed non-responsive and will result in rejection of the proposal, unless the Town determines that such failure constitutes a minor informality, as defined under M.G.L. c. 30B.
2. Proposers may submit requests for clarification and any questions about information contained in this RFP in writing and addressed to:

Manchester Town Hall
Attn: Gregory Federspiel, Town Administrator
10 Central Street, Room #3
Manchester, MA 01944

No requests or questions will be accepted after October 20, 2017. The name, address, telephone number and fax number of the person requesting the information must be provided by the proposer. Answers to questions shall be provided in writing to all proposers. Only answers provided by the Town in writing may be relied upon by the proposers.

3. The Town must receive one original and five copies of the Response to Request for Proposal, prior to 2:00 PM on October 30, 2017. Proposals must be delivered in a sealed package, boldly marked "**RFP** –

School St Cell Tower, Installation of Telecommunications Facility, Town of Manchester, MA.”

4. Proposers may correct, modify or withdraw proposals, in writing only, not less than 48 hours prior to the proposal opening. Corrections or modifications must be in a sealed envelope when submitted. Such envelope shall be marked with the name, address and phone number of the proposer.
5. The successful proposers will be notified by the Town by November 7, 2017 and will be expected to execute a lease with the Town within 60 days thereafter in substantially the form attached hereto as Exhibit 2.
6. Each proposal shall remain in effect for a period of 120 days from the deadline for submission, until a lease is either issued or the RFP is cancelled, whichever occurs first.
7. In the case of a discrepancy on the Price Summary Form, between the written or numerical amounts, the written amount shall prevail.
8. The awarding of a lease pursuant to this RFP (the “Lease”) is subject to review by Town Counsel and approval by the Board of Selectmen.
9. The successful proposers must agree to file applications for any zoning relief that may be necessary under the Town’s Zoning Bylaw. Such completed applications shall be filed within 60 days of the notice of the award of the Lease.
10. The successful proposers shall be fully responsible for obtaining all permits in accordance with all applicable federal, state, and local regulations and bylaws and for compliance therewith; and for all costs of construction and maintenance of the wireless communications facilities; and for ensuring that all apparatus will be installed in such a manner as to minimize any impact upon the operation or use of the compost site.

IV. Compost Site Viewing

Prospective proposers wishing to view the compost site may arrange for a facility visit by contacting Debi Morong at 978-526-2000 or by email morongd@manchester.ma.us

V. Site Description

The compost site is located at 197 School Street Manchester, MA.

The Town makes no representations of any kind with respect to the site, its adequacy to support the equipment or its appropriateness for the intended use except to note that the site has served as a telecommunications site for the past 20 years. Proposers will be permitted to inspect Town records relating to the site and will have access to the site to make inspections, perform engineering surveys and tests at their own expense and with the prior written approval of the Town, and otherwise to assure themselves that the site will be suitable for the proposed use.

Proposers are advised that part of the site and adjacent land is subject to existing leases. Proposers are further advised that any new wireless communications facilities installed by a successful proposer must not interfere in any way with the use of the site and adjacent land owned by the Town of Manchester.

VI. Evaluation Process

The Town will follow the process described by M.G.L. Chapter 30B, Section 16 for Requests for

Proposals for disposition of real property. The Town reserves the right to choose a proposal from among all the responsive and responsible proposals which is the most advantageous to the Town as determined by the Board of Selectmen.

The Lease(s) will be awarded to the proposer(s) who meet the evaluation criteria, submits the required documents and has demonstrated experience and resources to fulfill the requirements of the RFP.

The Town may make such investigation as it deems necessary to determine the ability of the proposers to install wireless communications facilities and related apparatus at the compost site. The proposers shall furnish to the Town all such information and data for this purpose as the Town may request.

The Town shall award a lease or leases, if at all, to the responsive and responsible proposer(s) whose proposal is deemed by the Town to be the most advantageous, taking into consideration price and the evaluation criteria stated in this RFP. The Town reserves the right to reject any and all proposals if such rejection is deemed to be in the best interest of the Town. The Town also reserves the right to waive any informalities in the proposal process and to accept the proposal deemed to be in the best interest of the Town.

Proposers have (60) sixty-days from the time they receive notice from the Town of Manchester that their proposal has been accepted to execute the Lease. If the parties fail to execute the Lease within sixty (60) days of the notice to award, the parties may extend this period by mutual agreement or the Town may select the next most advantageous offer. The Lease shall be in substantially the form as attached hereto as Exhibit 2, subject to final negotiation by the Town and approval by Town Counsel.

A. Minimum Criteria

The proposals will be evaluated for minimum criteria, which are listed below. Proposals that do not meet the minimum criteria will be rejected.

1. Proposers must be able to meet all the mandatory requirements as described in this RFP including all the minimum lease requirements. The Town reserves the right to reject any proposal if the evidence submitted by, or investigation of, such proposer fails to satisfy the Town that such proposer is properly qualified to carry out the obligations of the lease agreement;
2. Proposers must include in its proposal all the submission requirements (see Section IX).
3. Proposers must be licensed to provide wireless communications services in Massachusetts by the Federal Communication Commission.

B. Comparative Evaluation Criteria

The purpose of information requested in this Section is to assist the Town in evaluating each proposal. Responses shall be complete so as to allow evaluation of the following criteria:

1. Total Annual Net Lease Fee during the Lease Term and Renewal Terms.
2. Financial Strength and credit worthiness of the proposer
 - a. A highly advantageous rating will be given to proposers who, in the sole discretion of the Town, have more than sufficient assets to enter into the Lease and make payments for the total annual lease value set forth in the proposal. The proposer must demonstrate the financial ability to pay the Lease during the entire term of the Lease, including renewals.
 - b. An advantageous rating will be given to proposers who, at the sole discretion of the Town, have sufficient assets to enter into the Lease but cannot demonstrate the financial ability to meet the entire term of the Lease.
 - c. An unacceptable rating will be given to proposers who, in the sole discretion of the Town, do not have sufficient assets to enter into the Lease, regardless of the term.

For the purpose of this criterion, assets of a parent company or affiliate(s) will be considered if such assets are available to support the funding of the payments under the Lease, for the entire term of the Lease.

3. Technical Expertise and Capabilities.
 - a. Highly advantageous rating will be given to proposers who, at the sole discretion of the Town, have significant technical expertise and capabilities for the construction, operation and maintenance of wireless communication facilities, and other experience, professional licenses and accreditations, professional references demonstrate that the proposer is capable of developing a specialized approach to the operation and maintenance of the wireless communications facility, including antennas and communication equipment, in a manner that is suitable for the Lease.
 - b. Advantageous rating will be given to proposers who, at the sole discretion of the Town, have some technical expertise and capabilities for the operation and maintenance described above.
 - c. Unacceptable rating will be given to proposers who, at the sole discretion of the Town, have little or no specific technical expertise or capabilities for operation and maintenance described above.

4. Most Aesthetically and Environmentally Appropriate Location and Use of Property.
 - a. Highly advantageous rating will be given to proposers who in the sole discretion of the Town, propose to locate their facilities in the most aesthetically and environmentally appropriate location, which minimizes the potential visual and environmental impact of the proposed facility to the site.
 - b. Advantageous rating will be given to proposers who in the sole discretion of the Town, propose to locate their facilities in an area that is a less aesthetically and environmentally appropriate location and where the facility will have more of a potential visual impact and environmental impact to the site.
 - c. Unacceptable rating will be given to proposers who, in the sole discretion of the Town, propose to locate their facilities in an area that has a significant visual and environmental impact to the site.

5. Least amount of impact to existing Town and other publicly owned facilities and Operations.
 - a. Highly advantageous rating will be given to proposers who, at the sole discretion of the Town, propose a location and provide plans for their facilities which have no adverse impact on existing Town-owned facilities.
 - b. Advantageous rating will be given to proposers who, at the sole discretion of the Town, propose a location and provide plans for their facilities, which have an indirect adverse impact on existing Town-owned facilities.
 - c. Unacceptable rating will be given to proposers who, at the sole discretion of the Town, propose a location and provide plans for their facilities which have a significant impact on existing Town-owned facilities.

6. Experience with Similar Projects.
 - a. Highly advantageous rating will be given to proposers who, at the sole discretion of the Town, have significant experience in the development and operation of facilities that are similar nature, size and scope. In particular, this highest rating will be reserved for proposers who have significant experience in dealing with municipalities

and leasing of public land, who have developed sites in Massachusetts, and who have experience using design methods and techniques to minimize visual impacts of the proposed equipment.

- b. Advantageous rating will be given to proposers who, at the sole discretion of the Town, have experience in the development and operation of similar projects.
- c. Unacceptable rating will be given to proposers who, at the sole discretion of the Town, have little or no experience in the development and operation of similar projects.

B. Price

The lease price components will be evaluated on the basis of the most advantageous price for the initial ten-year term of the lease.

1. Proposals shall specify an annual rent for the first year (base rent of lease) and for the nine subsequent years of the initial ten-year term which shall be **no less than \$36,000 per year (\$3,000 per month)**.

2. Proposers may propose an option to enter into a lease which will meet the requirements of this RFP. In such event the proposer proposes an option, the proposer shall state the amount the proposer will pay the Town for the option right to enter into a lease and shall state the maximum length of the option term. Any such option period shall not exceed the period of time reasonably necessary for the proposer to obtain all permits necessary to install and operate the wireless communications facilities to be installed at the compost site.

VII. Minimum Lease Requirements

The lease, or the option to lease, for the installation of the wireless communications facility on and at the compost site shall be entered into by the Town and the successful proposer within 30 days of the notice of the award and shall include, at a minimum, the following:

Term: The minimum lease term will be ten years with the option for up to two five-year renewals.

Assignment/Sub-Lease: The lease will provide that the Town may assign its rights under the lease provided that any assignee will assume the Town's obligations with respect to the lease. Further, the lease will provide that the lessee may assign or sublet the lease to any entity which is licensed by the Federal Communications Commission to operate the facility and which is a parent, subsidiary or affiliate of the lessee which controls or is controlled by or under common control with lessee or which is merged or consolidated with lessee provided that notification is submitted to the Town. The lessee shall not otherwise assign or sublet the lease without the Town's written consent.

Insurance: The lessee shall maintain insurance satisfactory to the Town covering the Facility and shall indemnify the Town for any damages arising from construction or use of the Facility as required by the lease agreement. The lessee shall list the Town as an additional insured on all such policies. The minimum requirements for comprehensive general liability insurance will be \$1,000,000 per occurrence and \$2,000,000 aggregate coverage. In addition, the lessee shall provide evidence of worker's compensation coverage for its employees as required by Massachusetts General Law.

Access: The Town shall have a right of access to the Facility at all times, to inspect the Facility, to take necessary actions to protect the property or persons in the Town, to enforce the terms of the lease agreement, or for any other purpose. Except in cases of emergency, the Town will give the lessee at least twenty-four (24) hours notice of any request for access to the Facility.

Termination: At the end of the lease period, the lessee shall remove all personal property and equipment

installed at the site, and shall, at the request of the Town, remove any building or other structures, including the Facility itself, erected by it at the site, including any utility connections, and shall restore the site to its pre-existing condition. If the Town does not require removal of the building or other structures, including the Facility itself and utility connections installed by the lessee, the Town may require the lessee to transfer such buildings, structures and connections to the Town.

Timeliness: If the proposer fails to apply for all permits necessary to construct or install the Facility within three (3) months after execution of the lease, and to proceed to construct or install such facilities within three (3) months after obtaining such permits, the lease and any option to lease shall terminate and the Town shall be free to lease or otherwise dispose of the site as it may determine.

Permit: The proposer shall obtain all permits, licenses and approvals necessary for location and operation of the Facility and shall furnish the Town with copies of such permits before commencing with construction or installation of equipment at the site. This RFP does not represent approval or exemption of the facility from the Town's building permit procedures or zoning bylaws and the proposer is responsible for obtaining all necessary permits there under.

Indemnification: The lessee shall indemnify the Town against all claims arising from the use of the Facility.

Frequency Interference: The lessee shall install communication equipment of the types and frequencies that will not cause "measurable interference" as defined by the Federal Communications Commission to present and future municipal communications equipment of the Town or the residents of the Town. If the lessee's equipment causes such interference, the lessee shall correct and eliminate such interference within thirty (30) days of written notice from the Town.

Other Terms: The lease shall contain such other terms reasonably required by the Town, which are included in the form of lease included as Exhibit 1 of this RFP.

VIII. Miscellaneous

1. Disclosure of Beneficial Interests

In accordance with M.G.L. Chapter 7, Section 40J, the successful proposer shall submit to the Town prior to execution of a lease agreement a completed Disclosure of Beneficial Interests in Real Property Transaction form (see attached) which shall become part of the lease agreement.

IX. Submission Requirements

The following information shall be provided:

A. **Information on the Proposer:**

Name, address, size and organizational structure of the proposer's firm;

Name and title of the person authorized to act for the proposer (this person must sign the proposal); *and*

Name and telephone numbers of the proposers contact person, technical consultant, and project manager.

B. **Background of the Proposer:**

List the locations of at least three (3) wireless facilities the proposer has installed in the last two years and the name and telephone number of the owners of the sites;

List all current lease relationships with Massachusetts's municipalities and the Commonwealth of Massachusetts or any of their sub-entities;

List three recent projects that the proposer has completed that are most similar to the structure being proposed with the names and telephone numbers of references;

List any proceeding by the federal, state or local government to revoke any license or permit or to impose any fines or penalties relating to the location or operation of wireless communication facilities owned or operated by the proposer; *and*

List any litigation involving the proposer concerning the location or use of a wireless communication facility in Massachusetts over the last three years, giving the names of the parties, the court and case number and the outcome of such litigation.

C. Description

Site plan showing the design of the facilities to be installed on the compost site and of any structures to be erected on the adjacent land, identifying the exact footprint for such structures.

Elevations of all buildings and structures.

List and description of equipment to be installed (Note: detailed specifications of proprietary equipment is not required); *and*

Landscape plans and security structures proposed

D. Completed Forms

Completed Certificate of Non-Collusion and Statement of Tax Compliance (Forms attached)

E. Proposed Time Line for Completing the Installation

List schedule for permitting, construction timetable, and the date of commencement of projected operations.

F. Price Proposals:

Base lease price shall be no less than \$36,000 per year (\$3,000 per month);

Checklist

A complete proposal must have the following items:

One Original and Five (5) copies of the completed Project Proposal, which includes:

- Proposal summary
- Information on the proposer
- Background on the proposer
- Description of Facility
- Certificate of License from the Federal Communications Commission
- Evidence the individual signing the Proposal and Price Proposal Form is contractually authorized to bind the proposer.
- Certificate of Non-Collusion (Form Attached)
(Please note that failure to submit the certificate of non-collusion will result in immediate disqualification of the proposal)
- Statement of Tax Compliance (Form Attached)
- Certificate(s) of Insurance for coverage required in the minimum lease requirements (Section VI)
- Proposed Time Line
- Base lease price proposal

Certificate of Non-Collusion

The undersigned certified under penalties of perjury that this bid or proposal has been made and submitted in good faith and without collusion or fraud with any other person. As used in this certification, the word "person" shall mean any natural person, business, partnership, corporation, union, committee, club, or other organization entity, or group of individuals.

Name of Person Signing Proposal

Name of Business

Date

Statement of Tax Compliance

I certify under the penalties of perjury that I, to the best of my knowledge and belief, have filed all state tax returns and paid all state taxes required under law.

Countersignature of Individual or
Corporate Name (mandatory)

By: Corporate Officer (mandatory)

Federal Identification No.

Disclosure of Beneficial Interests in Real Property Transaction

This form contains a disclosure of the names and addresses of all persons with a direct or indirect beneficial interest in the real estate transaction described below. This form must be filed with the Massachusetts Division of Capital Planning and Operations, as required by M.G.L. Chapter 7, Section 40J, prior to the conveyance of or execution of a lease for the real property described below. Attach additional sheets if necessary.

1. Public agency involved in this transaction: _____
(Name of Jurisdiction)

2. Complete legal description of the property:

3. Type of transaction: Sale Lease or rental for _____ (term)

4. Seller(s) or Lessor(s): _____

Purchaser(s) or Lessee(s): _____

5. Names and addresses of all persons who have or will have a direct or indirect beneficial interest in the real property described above. *Note: If a corporation has or will have a direct or indirect beneficial interest in the real property, the names of all stockholders must also be listed except that, if the stock of the corporation is listed for sale to the general public, the name of any person holding less than ten percent of the outstanding voting shares need not be disclosed.*

<u>Name</u>	<u>Address</u>
_____	_____
_____	_____
_____	_____
_____	_____

None of the persons listed in this section is an official elected to public office in the Commonwealth of Massachusetts except as noted below:

<u>Name</u>	<u>Title or Position</u>
_____	_____
_____	_____

6. This section must be signed by the individual(s) or organization(s) entering into this real property transaction with the public agency named in Item 1. If this form is signed on behalf of a corporation, it must be signed by a duly authorized officer of that corporation.

The undersigned acknowledges that any changes or additions to Item 4 of this form during the term of any lease or rental will require filing a new disclosure with the Division of Capital Planning and Operations within 30 days following the change or addition.

The undersigned swears under the pains and penalties of perjury that this form is complete and accurate in all respects.

Signature: _____ Printed Name: _____

Title: _____ Date: _____

PRICE PROPOSAL _____ TOWN OF MANCHESTER

The undersigned proposes to lease a portion of the Town owned compost site consisting of 3600 square feet of land for the sole purpose of erecting, operating and maintaining a cellular/wireless communication facility to provide personal communications services, including antennas, an equipment pad or shelter, cables, transmission and utility wires, poles, conduits, pipes, accessories and related equipment and improvements.

\$_____ Minimum Annual payment for the first year (base year) of the lease. (minimum bid required), subject to an annual escalation increase of ____% beginning in the second year of the lease (**4% minimum required**).

Name of Bidder: (Company)_____

Signature:_____

Date:_____

EXHIBIT 1

TOWN OF MANCHESTER
LEASE AGREEMENT

THIS LEASE AGREEMENT ("Agreement"), dated as of the date below, is entered into by the Town of Manchester, a Massachusetts municipal corporation, with a Tax ID# of 046-001-208 having its principal office at 10 Central Street Town Hall, Manchester, MA (hereinafter referred to as "Landlord") and _____, having a mailing address of _____ (hereinafter referred to as "Tenant").

BACKGROUND

Landlord owns that certain plot, parcel or tract of land, together with all rights and privileges arising in connection therewith, located at 197 School Street as described in Book 11673 at Page 392 as recorded in the Essex County Registry of Deeds (the "Premises"). Tenant desires to use a portion of the Premises in connection with its federally licensed communications business.

The parties agree as follows:

1. LEASE OF PREMISES. Landlord hereby leases to Tenant space located on the Property, together with the non-exclusive right for ingress and egress, seven (7) days a week, twenty-four (24) hours a day for the purpose of installation and maintenance of the demised premises, which land, building space and access are collectively referred to hereinafter as the "Property". Landlord also grants to the Tenant the right and sufficient space for the installation and maintenance of wires, cables, conduits and pipes, all as shown in Exhibit "1".

2. PERMITTED USE.

(a) Tenant may erect and maintain on the Premises improvements, personal property, and facilities, including, but not limited to a communications facility installed upon the compost site located on the Premises, which may include a suitable support structure, in accordance with Tenant's response to the Town of Manchester "RFP – 197 School Street, Installation of Telecommunications Facility, Town of Manchester, MA", radio transmitting and receiving antennas, communications equipment, equipment cabinets and/or shelter, and related facilities for the transmission and reception of communications signals and the installation, maintenance, operation, repair and replacement of its communications fixtures and related equipment, cables, accessories and improvements (collectively, the "Communication Facility"); such use includes the right to test, survey and check title on the Property and any other items necessary to the successful and secure operation of the Communication Facility. Landlord and Tenant agree that Exhibit 1 shows the initial installation of Tenant and that it does not limit Tenant's rights under this paragraph. Landlord's execution of this Agreement will signify Landlord's approval of Exhibit 1. Tenant has the right to install and operate transmission cables from the equipment shelter or

cabinet to the antennas, electric lines from the main feed to the equipment shelter or cabinet and communication lines from the main entry point to the equipment shelter or cabinet, and to make Premises improvements, alterations, or additions appropriate for Tenant's use ("Tenant Changes"). Tenant agrees to comply with all applicable governmental laws, rules, statutes and regulations, relating to its use of the Communication Facility on the Premises. Tenant has the right to modify, supplement, replace, and/or upgrade the equipment at any time during the term of this Agreement. Tenant will be allowed, subject to approval by Landlord, which approval will not be unreasonably withheld, to make such alterations to the Premises as are required to accomplish Tenant's Changes or to insure that Tenant's Communication Facility complies with all applicable federal, state or local laws, rules or regulations, permits, and approvals.

(b) Construction Standards. Any and all improvements to be constructed, erected or maintained on or at the Premises shall be constructed, erected and maintained in accordance with plans and specifications submitted to and approved by the Landlord and in accordance with local building permits. The Tenant's construction, operation and maintenance of any and all improvements on or at the Premises shall at all times comply with all applicable federal, state, and local laws (including the local Zoning By-law), rules and regulations as they may be enacted or amended from time to time, including, but not limited to, FCC and FAA regulations. The Tenant will be responsible for obtaining, at its sole cost and expense, all approvals, and permits necessary for the construction of any and all improvements on or at the Premises, and the operation and maintenance of said improvements and the Premises, including, without limitation, special permits and variances required by local authorities, and approvals and authorizations required by the FCC and FAA.

(c) Construction Costs. The Tenant will pay all costs and expenses incurred in connection with the construction, maintenance and operation of the Communication Facility and any and all related improvements on or at the Premises, including utility connections and the cost of electricity and other utilities the Tenant consumes in its construction, maintenance and operational activities at the rate charged by the servicing utility company, for which the Tenant will make payments directly to said company. The Tenant shall perform all construction, maintenance and operations activities on or at the Premises in compliance with all applicable laws, ordinances, codes and regulations, as the same may be administered by authorized governmental officials.

(d) Removal. The Tenant shall be responsible for removal of all portions of the Communications Facility in accordance with this Agreement.

3. TERM.

(a) The initial lease term will be ten (10) years ("Initial Term"), commencing upon the Commencement Date, as defined below. The Initial Term will terminate on the last day of the month in which the tenth annual anniversary of the Commencement Date occurred.

(b) This Agreement may be renewed for two (2) additional five (5) year terms (the "Extension Terms"), upon the same terms and conditions at the sole option of the Landlord, unless the Tenant notifies the Landlord in writing of Tenant's intention not to renew this Agreement at least ninety (90) days prior to the expiration of the Initial Term.

(c) The Initial Term and the Extension Terms are collectively referred to as the Term ("Term").

4. RENT. Commencing on the date that Tenant executes this Lease Agreement (the "Commencement Date"), Tenant will pay the Landlord a monthly rental payment in accordance with the following Table, plus any applicable tax, to Landlord, at the address set forth above, on or before the 5th day of each calendar month in advance:

RENT TABLE FOLLOWS ON NEXT PAGE

RENT TABLE

<u>Year</u>	<u>Monthly Rent</u>	<u>Annualized Rent</u>
1		
2		
3		
4		
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Rent will be prorated for any partial month.

5. APPROVALS.

(a) Landlord agrees that Tenant's ability to use the Premises is contingent upon its suitability for Tenant's intended use and Tenant's ability to obtain all governmental licenses, permits, approvals or other relief required of or deemed necessary by Tenant for its use of the Premises, including without limitation applications for zoning variances, zoning ordinances, amendments, special use permits, and construction permits (collectively referred to as "Governmental Approvals"). Landlord authorizes Tenant to prepare, execute and file all required applications to obtain Governmental Approvals for Tenant's use under this Agreement and agrees to reasonably assist Tenant with such applications, except with respect to local permits and/or approvals where Landlord's assistance may constitute a conflict of interest.

(b) Tenant has the right to obtain a title report or commitment for a leasehold title policy from a title insurance company of its choice and to have the Property surveyed by a surveyor of its choice, all at Tenant's sole cost and expense.

(c) Tenant may also obtain, at Tenant's sole cost and expense, soil boring, percolation, engineering procedures, environmental investigation or other tests or reports ("Tests") on, over, and under the Property, necessary to determine if the Tenant's use of the Premises will be compatible with Tenant's engineering specifications, system, design, operations or Governmental Approvals. Tenant will indemnify Landlord against all costs (including reasonable attorney's fees), claims, and damages relating to the conducting of said tests and inspections, excepting requirements contained within applicable environmental reporting guidelines and any resulting remediation required of Landlord.

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

(a) by either party on thirty (30) days prior written notice, if the other party remains in default under Paragraph 15 of this Agreement after the applicable cure periods;

(b) by Tenant upon written notice, if Tenant is unable to obtain, or maintain, any required approval(s) or the issuance of a license or permit by any agency, board, court or other governmental authority necessary for the construction or operation of the Communication Facility as now and hereafter intended by Tenant or if Tenant determines in its sole discretion that the cost of obtaining or retaining the same is commercially unreasonable, so long as, in the event Tenant makes such a determination, Tenant pays Landlord a termination fee equal to six (6) months of rent at the current rent rate;

(c) by Tenant on ninety (90) days written notice for any reason other than (a) or (b) above, or paragraph 8, or paragraph 20 below, so long as Tenant pays Landlord a termination fee equal to six (6) months rent, at the current rent rate.

7. INSURANCE.

Tenant will carry during the Term, at its own cost and expense, the following insurance:

(a) "All Risk" property insurance for its property's replacement cost;

(b) commercial general liability insurance with a minimum limit of liability of \$1,000,000 combined single limit for bodily injury or death and/or property damage arising out of any one occurrence; and

(c) workers' compensation insurance as required by law.

Tenant shall make reasonable efforts to provide an updated insurance certificate prior to the expiration of its general liability insurance policy. Failure to provide such an updated certificate will not be grounds for termination.

8. INTERFERENCE.

(a) Where there are existing radio frequency user(s) on the Landlord's Property, the Landlord will provide Tenant with a list of all existing radio frequency user(s) and their frequencies on the Property to allow Tenant to

evaluate the potential for interference. Tenant warrants that its use of the Premises will not interfere with existing radio frequency user(s) on the Premises as long as the existing radio frequency user(s) operate and continue to operate within their frequencies and in accordance with all applicable laws and regulations.

(b) Landlord will not grant, after the date of this Agreement, a lease, license or any other right to any third party for use of the Property, if such use may in any way adversely affect or interfere with Tenant's Communication Facility. Landlord will notify Tenant and receive Tenant's written approval, which approval shall not be unreasonably withheld, prior to granting any third party the right to install and operate communications equipment on the Property. Nothing contained herein will restrict Tenant nor its successors and assigns from installing and modifying its communications equipment.

(c) Landlord will not use, nor will Landlord permit its employees, tenants, licensees, invitees or agents to use, any portion of the Property in any way which interferes with the operations of Tenant or the rights of Tenant under this Agreement. Landlord will cause such interference to cease upon not more than forty-eight (48) hour notice from Tenant. In the event any such interference does not cease within the aforementioned cure period then the parties acknowledge that Tenant will suffer irreparable injury, and therefore, Tenant will have the right, in addition to any other rights that it may have at law or in equity, for Landlord's breach of this Agreement, to elect to enjoin such interference or to terminate the Agreement upon notice to Landlord.

9. INDEMNIFICATION.

(a) Tenant agrees to protect, defend, indemnify, and hold harmless Landlord from and against any liability, claims, or causes of action in favor of any party, arising directly out of Tenant's actions or failure to act under this Agreement, or resulting from negligence or any willful act or omission by the Tenant, its subcontractors, agents or employees, except to the extent attributable to the negligent or intentional act or omission of Landlord, its employees agents or independent contractors. Tenant agrees to investigate and defend against any such liability, claims, or causes of action in favor of any party, arising directly out of Tenant's actions or failure to act under this Agreement or resulting from the negligence or any willful act or omission by Tenant, its subcontractors, agents or employees. Tenant agrees to investigate and defend against any such liability, claims, or causes of action at its sole expense.

(b) Notwithstanding anything to the contrary in this Agreement, each of Tenant and Landlord hereby waives any claims that they may have against the other with respect to consequential, incidental or special damages.

10. WARRANTIES.

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

(b) Landlord represents and warrants that: (i) Landlord solely owns the Property as a legal lot in fee simple, or controls the Property by lease or license, unencumbered by any liens, restrictions, mortgages, covenants, conditions, easements, leases, agreements of record or not of record, which would adversely affect Tenant's use and enjoyment of the Premises under this Agreement; (ii) as long as Tenant is not in default then Landlord grants to Tenant sole, actual, quiet and peaceful use, enjoyment and possession of the Premises; (iii) its execution and performance of this Agreement will not violate any Laws, ordinances, covenants or the provisions of any mortgage, lease or other agreement binding on the Landlord; and (iv) if the Property is or

becomes encumbered by a deed to secure a debt, mortgage or other security interest, Landlord will use best efforts to provide promptly to Tenant a mutually agreeable Subordination, Non-Disturbance and Attornment Agreement.

11. ENVIRONMENTAL.

(a) Landlord and Tenant agree that each will be responsible for compliance with any and all environmental and industrial hygiene laws, including any regulations, guidelines, standards, or policies of any governmental authorities regulating or imposing standards of liability or standards of conduct with regard to any environmental or industrial hygiene condition or matters as may now or at any time hereafter be in effect, that are now or were related to that party's activity conducted in, or on the Property.

(b) Tenant agrees to hold harmless and indemnify Landlord from and to assume all duties, responsibilities, and liabilities at its sole cost and expense, for all duties, responsibilities and liability (for payment of penalties, sanctions, forfeitures, losses, costs, or damages) and for responding to any action, notice, claim, order, summons, citation, directive, litigation, investigation or proceeding which is related to (i) Tenant's failure to comply with any environmental or industrial hygiene law, including without limitation any regulations, guidelines, standards or policies of any governmental authorities regulating or imposing standards of liability or standards of conduct with regard to any environmental or industrial hygiene conditions or matters as may now or hereafter be in effect, and (ii) any environmental or industrial hygiene conditions that arise out of or are in any way related to the activities conducted by the Tenant on the Leased Premises, unless the environmental conditions are caused by the Landlord or third party..

(c) The indemnifications of this Paragraph specifically include reasonable costs, expenses and fees incurred in connection with any investigation of Property conditions or any clean-up, remedial, removal or restoration work required by any governmental authority. The provisions of this Paragraph will survive the expiration or termination of this Agreement.

12. ACCESS. At all times throughout the term of this Agreement, and at no additional charge to Tenant, Tenant and its employees, agents, and subcontractors, will have twenty-four hour, seven day access to and over the Property for the installation, maintenance and operation of the Communication Facility and any utilities serving the Premises. In the event any public utility is unable to use the access provided to Tenant the Landlord hereby agrees to grant an additional access either to Tenant or to the public utility, for the benefit of Tenant, at no cost to Tenant.

13. REMOVAL. All portions of the Communication Facility brought onto the Property by Tenant will be and remains Tenant's personal property and, at Tenant's option, may be removed by Tenant at any time during the Term. Landlord covenants and agrees that no part of the Communication Facility constructed, erected or placed on the Premises by Tenant will become, or be considered as being affixed to or a part of, the Property, it being the specific intention of the Landlord that all improvements of every kind and nature constructed, erected or placed by Tenant on the Premises will be and remain the property of the Tenant and may be removed by Tenant at any time during the Term. **Within one hundred twenty (120) days of the termination of this Agreement, Tenant will remove all such improvements. Footings, foundations, and concrete will be removed**

from the Property and the Property restored as close as is reasonably possible to its original condition, normal wear and tear accepted.

14. MAINTENANCE, UTILITIES.

(a) Tenant will keep and maintain the Premises in good condition, reasonable wear and tear and damage from the elements excepted.

(b) Tenant will be solely responsible for and promptly pay all utilities charges for electricity, telephone service or any other utility used or consumed by Tenant on the Premises. Landlord will cooperate with any utility company requesting an easement over, under and across the Property in order for the utility company to provide service to the Tenant.

15. DEFAULT AND RIGHT TO CURE.

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

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

16. ASSIGNMENT/SUBLEASE. Tenant may assign or sublease this Agreement, in whole or in part, to affiliates, subsidiaries, subsidiaries of its principal or to any entity which acquires all or substantially all of the Tenant'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 without Landlord's consent. No other assignment or sublease this Agreement, in whole or in part, shall be permitted without landlord's written consent, which consent shall not be unreasonably denied.

17. NOTICES. All notices, requests, demands and communications hereunder will be given by first class certified or registered mail, return receipt requested, or by a recognized overnight courier, postage prepaid, to be effective when properly sent and received, refused or returned undelivered. Notice will be addressed to the parties at the addresses set forth above. Either party hereto may change the place for the giving of notice to it by thirty (30) days written notice to the other as provided herein.

18. SEVERABILITY. If any term or condition of this Agreement is found unenforceable, the remaining terms and conditions will remain binding upon the parties as though said unenforceable provision were not contained herein. However, if the invalid, illegal or unenforceable provision materially affects this Agreement then the Agreement may be terminated by either party on ten (10) days prior written notice to the other party hereto.

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

20. CASUALTY. Landlord will provide notice to Tenant of any casualty affecting the Property within forty-eight (48) hours of the casualty. If any part of the Communication Facility or Property is damaged by fire or other casualty so as to render the Premises unsuitable, in Tenant's sole determination, then Tenant may terminate this Agreement by providing written notice to the Landlord, which termination will be effective as of the date of such damage or destruction. Upon such termination, Tenant will be entitled to collect all insurance proceeds payable to Tenant on account thereof and to be reimbursed for any prepaid Rent. Tenant shall provide notice to Landlord of any release by Tenant or observed by Tenant of oil and/or hazardous materials on the Property within twenty-four (24) hours of such release.

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

22. MISCELLANEOUS.

(a) Amendment; Waiver. This Agreement cannot be amended, modified or revised unless done in writing and signed by an authorized agent of the Landlord and an authorized agent of the Tenant. No provision may be waived except in a writing signed by both parties.

(b) Short Form Lease. Either party will, at any time upon fifteen (15) days prior written notice from the other, execute, acknowledge and deliver to the other a recordable Memorandum of Lease. Either party may record this memorandum at any time, in its absolute discretion.

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

(d) Entire Agreement. This Agreement and the exhibits attached hereto, all being a part hereof, constitute the entire agreement of the parties hereto and will supersede all prior offers, negotiations and agreements.

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

(f) Interpretation. Unless otherwise specified, the following rules of construction and interpretation apply: (i) captions are for convenience and reference only and in no way define or limit the construction of the terms and conditions hereof; (ii) use of the term "including" will be interpreted to mean "including but not limited to"; (iii) whenever a party's consent is required under this Agreement, except as otherwise stated in the Agreement or as same may be duplicative, such consent will not be unreasonably withheld, conditioned or delayed; (iv) exhibits are an integral part of the Agreement and are incorporated by reference into this Agreement; (v) use of the terms "termination" or "expiration" are interchangeable, and (vi) reference to a default will take into consideration any applicable notice, grace and cure periods.

(g) Estoppel. Either party will, at any time upon fifteen (15) days prior written notice from the other, execute, acknowledge and deliver to the other a statement in writing (i) certifying that this Agreement is unmodified and in full force and effect (or, if modified, stating the nature of such modification and certifying this Agreement, as so modified, is in full force and effect) and the date to which the rent and other charges are paid in advance, if any, and (ii) acknowledging that there are not, to such party's knowledge, any uncured defaults on the part of the other party hereunder, or specifying such defaults if any are claimed. Any such statement may be conclusively relied upon by any prospective purchaser or encumbrancer of the Premises. Failure to deliver such a statement within such time will be conclusive upon the requesting party that (i) this Agreement is in full force and effect, without modification except as may be properly represented by the requesting party, (ii) there are no uncured defaults in either party's performance, and (iii) no more than one month's rent has been paid in advance.

(h) No Option. The submission of this Agreement for examination or consideration does not constitute a reservation of or option for the Premises. This Agreement will become effective as an Agreement only upon the legal execution, acknowledgment and delivery hereof by Landlord and Tenant.

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed this _____ day of _____, 2017.

LANDLORD

Town of _____
Board of Selectmen

TENANT

By: _____

Print Name:

Its: