

Invitation for Bids:
Rooftop Antenna Leases

Brookline Housing Authority

90 Longwood Avenue

Brookline, MA 02446

Telephone: (617) 277-2022

Facsimile: (617) 277-1462

I. INTRODUCTION

The Brookline Housing Authority (the "Authority") is soliciting sealed bids for the Lease and use of rooftop and related space on buildings operated by the Authority in the Town of Brookline and the buildings listed below. This space is available for the installation and operation of wireless and radio communications facilities. The Lease and use of these spaces will be on a nonexclusive basis. Multiple awards may be made available for each building and/or amongst buildings, space permitting.

The Authority is a high-performing, mid-sized public housing agency that provides affordable housing and services to low income families, seniors, and people with disabilities in the town of Brookline, MA. While the Authority is an independent public agency, the Authority maintains a close relationship with the Town and its departments.

The Authority operates 930 apartments at twelve locations. The BHA's buildings are well maintained by a professional maintenance staff that attends to the buildings' needs 24 hours a day. The BHA's buildings are among the tallest buildings in Brookline. The BHA's buildings are well distributed among market-rate residential and commercial properties throughout North Brookline.

The information provided in this IFB and any subsequent addenda or related documents, is provided as general information only. The Authority makes no representations or warranties, express or implied, as to the accuracy, timeliness and/or completeness of the information provided in this IFB or the status or condition of the Buildings. This IFB (including all attachments and supplements) and any information concerning the Buildings are made subject to errors, omissions, withdrawals without prior notice, and changes to, and additional or different interpretations of laws and regulations. No costs of responding to this IFB or any addenda or other documents or attendance at meetings in connection with this IFB shall be reimbursed by Authority. Any limitations or conditions regarding a proposal submission must be clearly stated in any proposal submitted to the Authority.

II. Property Description

| Program/Regulator | Development | Building Address | Approx. Elevation ¹ | Cable Provider* | Power Provider |
|-------------------|------------------|----------------------------------|--------------------------------|-----------------|----------------|
| Federal/HUD | Morse Apts | 90 Longwood Ave | 110' | Comcast/RCN | Eversource |
| Federal/HUD | Kickham Apts | 190 Harvard St | 110' | Comcast/RCN | Eversource |
| Federal/HUD | O'Shea House | 61 Park St | 88'6" | Comcast/RCN | Eversource |
| Federal/HUD | Sussman House | 50 Pleasant St | 100' | Comcast/RCN | Eversource |
| Federal/HUD | Walnut St Apts | 22 High St | 106' | Comcast/RCN | Eversource |
| Federal/HUD | Col Floyd Apts | 32- 40 Marion St ² | 25' | Comcast/RCN | Eversource |
| Federal/HUD | Col Floyd Apts | 19-36 Foster St ³ | 25' | Comcast/RCN | Eversource |
| State/DHCD | Egmont St Apts | 338-348 St. Paul ⁴ St | 39'-47' | Comcast/RCN | Eversource |
| State/DHCD | Egmont St Apts | 51-85 Egmont St ⁵ | 44'-48' | Comcast/RCN | Eversource |
| State/DHCD | Egmont St Apts | 209-221 Pleasant St | 49'-52' | Comcast/RCN | Eversource |
| State/DHCD | Trustman Apts | 144-156 Amory St | 35' | Comcast/RCN | Eversource |
| State/DHCD | Trustman Apts | 7-33 Egmont St | 45' | Comcast/RCN | Eversource |
| State/DHCD | Trustman Apts | 337-347 St. Paul St | 42' | Comcast/RCN | Eversource |
| State/DHCD | High Street Vets | 176-224 High St ⁶ | 35' | Comcast/RCN | Eversource |
| State/DHCD | High Street Vets | 6-30 New Terrace Rd | 35' | Comcast/RCN | Eversource |
| State/DHCD | High Street Vets | 186-218 Chestnut St ⁷ | 35' | Comcast/RCN | Eversource |
| State/DHCD | Connolly House | 1057 Beacon St | 40' | Comcast/RCN | Eversource |
| N/A | Dummer St Apts | 86 Dummer St | 40' | Comcast/RCN | Eversource |

*Comcast and RCN are the two cable providers in Town of Brookline. One or both serve all of our buildings.

¹ More information can be found about our buildings in the Brookline Assessors Database, including graphics of our rooftops and access to an online GIS viewer of our properties. <http://apps.brooklinema.gov/assessors/propertylookup.asp>.

² Two buildings

³ Two buildings

⁴ Shares building with 51-55 Egmont St.

⁵ Three buildings

⁶ Two buildings

⁷ Two buildings

III. GENERAL INSTRUCTIONS

A. Bid Submission

Bidders responding to this IFB must submit sealed bids no later than 4:30 PM February 6, 2018 to:

Desirée Ladd, Executive Assistant
Brookline Housing Authority
90 Longwood Avenue
Brookline, MA 02446

Respondents must submit all bids in a sealed envelope with the following marked plainly on the outside: Rooftop Lease Bid

Firm Name
Address
Telephone Number
Contact Person

At such time, the bids will be publicly opened and read aloud. The Authority reserves the right to reject any or all bids if it is in the best interests of the Authority to do so.

B. Inquiries, Notice of Intention to Bid, and Modifications

Inquiries regarding this IFB or requests for clarification must be submitted, via email, no later than 4:30 PM January 11, 2018 to:
Desirée Ladd at dladd@brooklinehousing.org.

Proposers considering responding to the IFB are encouraged to submit a Notice of Intention to Bid via email, no later than 4:30 PM January 11, 2018 to:
Desirée Ladd at dladd@brooklinehousing.org.

On or before this date and time: Bidders may submit any questions, clarifications or requests for further information. Bidders must promptly notify the BHA of any ambiguity, inconsistency, or error they may discover upon examination of this IFB and all documents attached and/or referenced hereto. Further, Bidders must notify the BHA of any term(s) in any document attached to this IFB to which the Bidder has an objection or that it is unwilling to execute. Requested modifications to any term or to any attachment to the IFB not submitted via email on or before this date will not be reviewed or considered by the BHA unless the BHA, in its sole and absolute discretion and judgment, determines any such changes are minor in nature and not prejudicial to fair competition. The Authority is not accountable for any oral instructions. Responses to modifications to the terms of this IFB or any attachment thereto, if acceptable to the BHA, will be issued as an addendum to the RFP. The addendum will be posted to the BHA website and sent via email to every individual or firm on record as having submitted a Letter of Intent to the BHA.

IV. SCOPE OF LEASE

A. Introduction

This Invitation for Bids ("IFB") is issued by the Brookline Housing Authority (hereinafter the "Authority") to solicit bids for the lease and use of available rooftop and penthouse space on the buildings listed in Section B below. This space is available for the installation and operation of radio and communications facilities. These facilities can include, but are not limited to Wireless Communications, Communications Systems, Paging, Mobile Radio and Wireless Internet, Services and Wireless Low Power Land Area Network Services. The use of these spaces will be on a non-exclusive basis and will be subject to the terms and conditions of this IFB and will be subject to the terms and conditions of the lease between the Authority and the awarded Respondent(s).

B. Lease Term

Each Bid must be for an initial lease term of ten years with two optional five year renewals.

C. Lease Rates and Payment Schedules

The base lease rate must be clearly identified in the Respondent's bid and is not subject to further negotiation following bid submission.

D. Respondents' Responsibilities

Respondents must include with their bid:

1. A fully completed "FORM FOR BID RESPONSE" which is included in this IFB package.
2. Description of the proposed antenna facilities and equipment to be installed including catalogue cuts and space and mounting requirements.
3. AC power requirements and number and types of telephone and fiber lines required and any wireless backhand requirements (if any).
4. Access requirements (how often is access required for maintenance).
5. Certification that the installation is in compliance with all regulations regarding exposure of the general public and workers to Non-Ionizing Radiation. These regulations include, but are not limited to, those promulgated by the Federal Communications Commission, Massachusetts Department of Public Health, the Massachusetts Department of Labor and OSHA.
6. Certification that the Tenant will maintain general liability insurance, on an occurrence basis, in the amount of \$1,000,000.00 for personal injury and/or property damage that includes the Authority as a named insured and excess/umbrella coverage of \$2,000,000.00. The Respondent's insurance company shall be licensed in Massachusetts and shall maintain A.M. Best rating of "A-" or better, or the equivalent.
7. Executed MGL c.30B §10 Non-Collusive Affidavit in the form included with this package.
8. Executed MGL c. 62C, §49A REAP Certificate in the form included in this package.

E. Site Inspection

The site is available for inspection under the supervision of the Authority by any and all Respondents and upon appointment. Each Respondent is encouraged to visit the site to verify the suitability of each building for the Respondent's purposes. Site visits may be scheduled by contacting BHA Director of Maintenance George Lalli at (617)-277-2022, Ext. 312, or via email (glalli@brooklinehousing.org).

F. Award of Contract

1. Bid Evaluation and Awards

The Authority will review and select the most responsive proposals for telecommunications facilities that fit the subject Authority buildings(s), and taking into consideration all requirements and criteria set forth in this IFB, particularly compensation offered. It is the primary goal of the Authority to use this IFB process to maximize the revenue generated by the available space. If two or more lower priced bids can fit into the space of a higher priced bid and provide larger total rental income, then the Authority may reject a higher priced bid. The Authority may consider bids from FCC licensed providers as more advantageous than from other Bidders.

The Authority has the right to accept or reject any and all proposals or any parts thereof, to withdraw or amend this IFB at any time, and to waive any defects, any formality, or minor irregularities, all as may be in the best interests of the Authority. The decision of the Authority on all awards is final.

2. Bid Revisions

Except as otherwise provided in MGL c. 30B §5(f), there shall be no changes allowed to any bids after opening.

3. Waiver and Rejection

The Authority reserves the right to waive any informalities in or to reject any or all bids if it is in the public interest to do so.

V. FORM OF LEASE

All site leases for the available Building rooftops rooftop will be executed by and between the Authority and the awarded Respondent(s) in substantially the same form of lease included with this Invitation for Bids.

FORM FOR BID RESPONSE

Name & Address of Respondent / Bidder

Proposed Monthly Rental Amount: \$

Brief description of proposed use of leased space and system configuration:

Approximate dimensions (length, width and height) of the cabinet the proposed equipment will be installed in:

Number of phone lines required for proposed installation:

Estimated total electrical wattage to be drawn by all of the proposed equipment:

Estimated number of times per month bidder will need to visit the site to adjust or inspect the installation:

Additional Attachments to Bid response — Include catalogue cuts and space and mounting requirements for all equipment to be included in this proposed installation.

Radio Frequency Interference — The undersigned certifies the proposed installation outlined in this bid shall not cause radio frequency interference to the Authority or to any other lessee who is using the Site at the time of installation, provided the equipment used by another lessee is operating within the technical parameters specified by its manufacturer and/or as defined by the FCC.

Non-Ionizing Radiation — The undersigned certifies the proposed installation outlined in this bid will comply with all regulations regarding exposure of the general public and workers to Non-Ionizing Radiation. These regulations include, but are not limited to, those promulgated by the Federal Communications Commission, Massachusetts Department of Public Health, the Massachusetts Department of Labor and OSHA.

General Liability Insurance — The undersigned certifies that if awarded a lease pursuant to this bid it will maintain general liability insurance, on an occurrence basis, in the amount of \$1,000,000.00 for personal injury and/or property damage that includes the Authority as a named insured and excess/umbrella coverage of \$2,000,000.00.

Full Corporate Name of Respondent/Bidder

By:

(Print Name)

(Signature)

Title

Business Address:

Telephone No:

Proposed Rental Amount

| Original Lease Term | Monthly Rent | Yearly Rent |
|---------------------|--------------|-------------|
| Year 1 | \$ | \$ |
| Year 2 | \$ | \$ |
| Year 3 | \$ | \$ |
| Year 4 | \$ | \$ |
| Year 5 | \$ | \$ |
| Year 6 | \$ | \$ |
| Year 7 | \$ | \$ |
| Year 8 | \$ | \$ |
| Year 9 | \$ | \$ |
| Year 10 | \$ | \$ |
| Sum of Totals Above | \$ | \$ |

Escalation Rate

1st Five (5) Year Renewal Term: (Annual Escalator) _____ %

2nd Five (5) Year Renewal Term: (Annual Escalator) _____ %

NON-COLLUSIVE AFFIDAVIT

(MGL c. 30B, §10)

The undersigned certifies under penalties of perjury that this bid is in all respects bona fide, fair and made without collusion or fraud with any other person. As used in this paragraph the word "person" shall mean any natural person, joint venture, partnership, corporation or other business or legal entity.

(Name of person signing bid)

(Company)

(Date)

DISCLOSURE OF BENEFICIAL INTERESTS IN REAL PROPERTY TRANSACTION

(MGL c.7 §40J)

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 Asset Management and Maintenance (DCAM), as required by MGL c.7, §40J, prior to the conveyance of our execution of a lease for the real property described below. Attach additional sheets if necessary.

1. Public agency involved in this transaction: Brookline Housing Authority
2. Complete legal description of property: _____
3. Type of transaction: Lease for an initial ten-year term, with 2 optional 5-year terms.
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.

| Name | Address |
|-------|---------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

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

| Name | Title or position |
|-------|-------------------|
| _____ | _____ |
| _____ | _____ |

7. 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 Asset Management and Maintenance (DCAM) 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: _____

Title: _____

Printed Name: _____

Date: _____

LEASE OF ROOFTOP SPACE FOR TELECOMMUNICATIONS FACILITIES

THIS LEASE AGREEMENT ("Lease"), dated this day of _____, 2017 is entered into by Brookline Housing Authority, a body politic and corporate organized under chapter 121B of the General Laws of Massachusetts having its principal office at 90 Longwood Avenue, Brookline, Massachusetts 02446 (called "Landlord") and (Insert Name of Tenant and Type of Entity), a Massachusetts corporation having an office at (Insert Tenant's Complete Address) (called "Tenant").

BACKGROUND

Landlord owns certain property and improvements, including a "Building," located at (Insert Street Address of Building), in (Insert City or Town, and County) Commonwealth of Massachusetts, (the "Property"). Tenant desires to use a portion of the Property for housing and operating certain communications equipment (described below) in connection with its federally licensed wireless communications business. The Property is more specifically described and/or depicted in Schedule "A" attached hereto and incorporated herein.

NOW, THEREFORE, the parties agree as follows:

1. **SCOPE OF LEASE.** The Landlord agrees to lease to Tenant the space described herein under the terms and conditions set forth herein and in strict accordance with the Invitation for Bids dated (Insert Date of Invitation for Bids), prepared by Landlord and the information provided by Tenant in its bid (the "Bid") dated (Insert Date of Tenant's Bid). The Invitation for Bids and the Bid are incorporated herein by reference and are made a part thereof.
2. **LEASE OF PREMISES.** Landlord leases to Tenant portions of the Property consisting of:
 - a. Rooftop space for the installation of Tenant's wireless communications facilities and GPS antenna in the configuration set forth in the attached Schedule B.
 - b. Space for housing Tenant's transmitter/receiver base station(s) in the configuration set forth in the attached Schedule B.
 - c. Access to Landlord's electrical wiring infrastructure at the Site so that Tenant can install a separate electrical meter to measure electrical usage by its transmitter/receiver base station(s);
 - d. The space for a minimum of (insert number and type) phone lines to be installed and fiber by utility company, at the Tenant's expense, and the space to route such telephone lines from their demarcation point to Tenant's transmitter/receiver base station(s);
 - e. The space to run cable, including but not limited to phone lines, electrical cable, and hybrid/coaxial cable to Tenant's transmitter/receiver base station(s), its antenna systems, microwave and GPS antenna; (collectively, "Leased Premises"); together with unrestricted access 24 hours per day, 7 days per week to the Leased Premises

for entry in case of emergency, and to the entrance hall, stairs and corridors leading to the Leased Property, in common with Landlord and other tenants, including, without limitation, for Tenant's uses from the nearest public right-of-way along the Property; provided, however, that Tenant shall use good faith efforts to (i) give at least twenty-four (24) hours' notice to Landlord prior to any non-emergency entry upon the Property and (ii) minimize interference with the privacy and quiet enjoyment of the Property by any tenant or other guest of the Landlord in connection with any such entry. Tenant shall minimize, in connection with any entry on the Property and any work on the Leased Property, any interference, including by noise, of the residential tenants of the Property. Any security breaches by Tenant's contractors, subcontractors, employees or agents against any such residential tenants shall be immediately remedied by Tenant. Tenant shall notify Landlord when any Tenant installation or repairs thereof are to occur so that Landlord may inspect such work. Tenant shall immediately notify Landlord of any damage to the Property or that of other tenants of the Property occasioned by any Tenant work and shall promptly remedy any such damages, and in any event within thirty (30) days.

3. **USE.** Subject to compliance with all Laws (defined below), Tenant may at its own cost and expense, use the Leased Premises solely to construct, install, operate, maintain, repair, replace, protect and secure, its equipment and related equipment, cables, accessories and improvements as described in Schedule "B" (collectively "Tenant's Installations"). Landlord also grants to Tenant the right to (i) install and operate transmission cable from the equipment to the antennas, electric lines from the main feed to the equipment and telephone lines from the main telephone entry point to the equipment, and (ii) erect, construct or make Property improvements, alterations or additions ("Tenant's Changes") appropriate for Tenant's use subject to Landlord's reasonable approval, which approval shall not be unreasonably withheld or delayed so long as such are reasonably within the scope of Tenant's Installation shown on Schedule "B". Tenant's Changes may include enclosing or sheltering equipment, capping or modifying any sprinkler system in the equipment space, if permitted by Law, and adding HVAC and storing sealed batteries outside of the Leased Premises, if Tenant so requests, at locations in or on the Building mutually agreed upon by the parties, provided that no wires, cables, conduits or other connections shall be located on the exterior of the Building except as shown on Schedule "B". Tenant shall pay all costs incurred by Landlord in reviewing and approving any such changes (up to a maximum per request for change of \$1,000 to be evidenced by invoices and other documentation reasonably requested by Tenant), including costs for Landlord's architects and consultants promptly upon demand as additional rent hereunder. All Tenant Installations shall remain Tenant's personal property and may be removed by Tenant at any time during the term, but in any event shall be removed by Tenant no later than ten (10) days after the Lease has been terminated or has expired. Tenant agrees that, upon termination or expiration of this Lease, the Tenant shall restore the Leased Premises to its condition as of the Commencement Date (as defined in Paragraph 4 below), reasonable wear and tear and damage from the elements, casualty and eminent domain excepted. All costs of Tenant's Installation including electrical connections,

telephone service, cable, climate control and other items shall be borne by the Tenant. Electrical, telephone and other cable and appurtenances shall be concealed wherever feasible and where this is not feasible, all such runs, locations and methods shall be subject to the prior approval of Landlord.

Tenant shall utilize so-called stealth design techniques where practical and the additional cost of such will not reduce the rent to be paid to Landlord hereunder. All damage to the Landlord's facilities caused by the Tenant or its personnel or contractors shall be repaired by the Tenant to the satisfaction of the Landlord. Tenant shall provide Landlord with the name(s) and telephone number(s) of personnel who shall respond within two (2) hours to emergency calls from the Landlord. Such calls include, but, are not limited to complaints of disturbing noises such as bells, whistles, voices etc. The current name(s) and phone number(s) of the Tenant's emergency response are set forth in Schedule C, annexed hereto. Tenant will take all precautions which, at a minimum, conform to industry standards, to protect the Building and the Property of Landlord and the residential tenants as well as the Tenant's Installations from potential damage caused by lightning.

4. **TERM.** Subject to Tenant's termination right set forth in Paragraph 6 below, the Lease term will be ten (10) years, commencing upon the date that is the later of (i) the date which is the first (1st) day of the month following the date that this Lease is approved in writing by the Department of Housing and Community Development of the Commonwealth of Massachusetts [or the U.S. Department of Housing and Urban Development ("HUD") (herein the "Department"), or (ii) the date which is the first (1st) day of the month following the date of Tenant's receipt of a building permit for construction of Tenant's installation, whichever last occurs (the "Commencement Date"). As used herein, "term" refers to the term hereof. If, at any time during this Lease Tenant determines the Leased Premises have become unsuitable for Tenant's use due to destruction or damage to the Building or Property or the taking thereof (by partial condemnation or otherwise) sufficient, in Tenant's reasonable judgment, to materially and adversely affect Tenant's use of Tenant's Installations (unless such destruction or damage is cured within ninety (90) days after the occurrence thereof); then, in any such case, Tenant may terminate this Lease early by notice to Landlord. Termination shall be effective thirty (30) days after notice is sent by Tenant, except that in the case of a termination due to casualty or taking permitted under the foregoing, rent shall be payable only to the date of the casualty or the transfer of property to the taker, as the case may be. This Lease shall automatically be extended for two (2) additional five (5) year terms unless Tenant terminates the Lease at the end of the then current term by giving Landlord written notice of the intent to terminate at least six (6) months prior to the end of the then current term.

5. **RENT.** Commencing on the Commencement Date, Tenant will pay Landlord, by the first calendar day, monthly rent in advance of (Insert Rental Rate), prorated for any partial months at the beginning or end of the Term. Rent shall be increased on each anniversary of the Commencement Date by an amount equal to _____% of the rent in effect the previous year. Landlord agrees to provide to Tenant with certain documentation (the "Rental Documentation") evidencing Landlord's interest in, and right to receive payments under, this Lease. Such Rental documentation shall be either a complete and fully executed Internal Revenue Service Form W-9, or equivalent, for any party to whom rental payments are to be made pursuant to this Agreement; or (ii) other documentation, reasonably acceptable to Tenant or its auditors, that accomplishes the same purpose, namely to confirm Landlord's title to and/or interest in the Property and right to receive rental payments hereunder. Landlord agrees to cooperate with Tenant in providing updated Rental Documentation within thirty (30) days of a written request from Tenant therefore.
6. **APPROVALS CONTINGENCY.** Landlord agrees that Tenant's ability to use the Leased Premises is contingent upon Tenant's ability to obtain any and all governmental licenses, permits, approvals or other relief required for Tenant's use of the Leased Premises (called "Governmental Approvals") by that date which is twelve (12) months from the date hereof, provided that Tenant shall have the right, without obligation, to appeal any denial and the contingency date for obtaining Governmental Approvals shall be extended until such time as a final decision is rendered and is not the subject of any further appeal made or defended by Tenant. Tenant shall use its best efforts to obtain such approvals. Landlord agrees to cooperate with Tenant and, at Tenant's expense, join in any applications for Governmental Approvals. Landlord specifically authorizes Tenant to prepare, execute, and file all necessary or appropriate applications to obtain Governmental Approvals for its use under this Lease. If this Paragraph 6 is not satisfied, then Tenant shall have the right exercised by notice to Landlord, accompanied by any unpaid rent through the date of termination, without obligation, to terminate this Lease and render it null and void from and after the date of termination. All rent accrued through the date of termination shall belong to Landlord.
7. **NON-INTERFERENCE.** Tenant acknowledges that this Lease does not exclude other antenna facilities on the Property (other than the Leased Premises), and Tenant agrees to reasonably cooperate with Landlord and other potential antenna facility operators as to their proposed operations not inconsistent with this Lease. If any interference is caused by Landlord or anyone now or in the future holding a Property interest from or under Landlord due to improper or unlawful operation, or any subsequent material change or addition of equipment or improvements by Landlord or any such other holder on the Property, Landlord agrees to use reasonable efforts not requiring expenditure of money to eliminate

same in a prompt and timely manner. If such interference, or interference by Tenant's Installations with then existing communications equipment, cannot be eliminated within a reasonable length of time, but not to exceed thirty (30) days after notice thereof, Landlord or Tenant, as the case may be, shall cause the interference to cease except for brief tests necessary for the elimination of the interference. Landlord shall incorporate into any subsequent or contemporaneous leases or agreements with Landlord for telecommunications transmission and receiving equipment on the Property or for the placement of other structures or equipment on the roof of the Property a provision that the other party shall not interfere with Tenant's operations on the Property.

8. **INSURANCE/LIABILITY.**

- a. Tenant shall carry during the Lease term, at its own cost and expense, the following insurance: (i) "All Risk" property insurance for Tenant's Installation replacement cost; and (ii) comprehensive general liability insurance with a commercial general liability endorsement having a minimum limit of liability of \$1,000,000 for injury or death arising out of one occurrence and \$1,000,000 for damage to property from any one occurrence and excess/umbrella coverage of \$2,000,000.
- b. Tenant shall name Landlord as an additional insured under its liability policy and require its insurance company to deliver a certificate of insurance to be delivered to Landlord within thirty (3) after the execution of this Lease and shall require at least thirty (30) days' written notice of termination or cancellation of the policy to Landlord. Such endorsement shall be delivered to Landlord within thirty (30) days from the execution of this Lease and before the expiration of any term thereof from a reputable, licensed insurance company authorized to write that type of insurance under the laws of the Commonwealth of Massachusetts.
- c. Tenant shall promptly reimburse Landlord as additional rent hereunder upon presentation of appropriate written evidence thereof any increased insurance premium of Landlord occasioned by Tenant's Installations or Tenant use of the property.

9. **WARRANTIES.** Landlord represents and warrants that (a) Landlord: (i) solely owns (or controls by lease or license) the Property as a legal lot in fee simple, unencumbered by any liens, restrictions, mortgages (subject to Paragraph 16 below), covenants, conditions, easements, leases, proffers, commitments, agreements of record or not of record, which would adversely affect Tenant's use and enjoyment of the Leased Premises under this Lease; (ii) is duly organized/formed, validly existing and in good standing and has all rights, power and authority to make this Lease and bind itself thereto through the party set forth as signatory of Landlord set forth below; (iii) grants Tenant,

unless Tenant defaults hereunder, actual and quiet and peaceful use, enjoyment and possession of the Leased Premises during the term as herein contemplated. Tenant represents and warrants to the Landlord that Tenant it has not dealt with any broker and that no brokerage commission is due to any broker in connection with this transaction (except for a commission to (Insert name(s) of Broker(s), if none state NONE) which Commission(s) Tenants agrees to be solely responsible for and to pay forthwith.

10. **ACCESS TO LEASED PREMISES.** Landlord shall be permitted access to the Leased Premises (i) for emergencies without prior notice to Tenant, so long as Tenant is notified as soon thereafter as reasonably practicable; and (ii) otherwise with reasonable prior notice to Tenant to make necessary repairs; in all cases provided that Tenant's equipment technology and proprietary interests remain secure and Tenant's operation is not adversely affected.
11. **MAINTENANCE AND REPAIRS; UTILITIES.** Timing for Installation and Maintenance.
 - a. Tenant shall perform all repairs necessary to keep Tenant's Installations located on or about the Leased Premises in good condition, reasonable wear and tear and damage from the elements excepted. Landlord shall maintain and repair the Property and access thereto, other than Tenant's Installations, and only to the extent failure to do so adversely affects Tenant, in good and tenantable condition and repair, reasonable wear and tear and damage from the elements excepted. No work shall be done in the Leased Premises by Landlord without prior notification to Tenant. Except for an emergency when notice thereof shall be given to the Landlord as soon as practicable, all installation and repair work by the Tenant shall be performed during the hours of 8 A.M. to 4:30 P.M. on business days. Tenant shall coordinate with Landlord's representative so that such representative may observe any such installation or maintenance in order to avoid any dispute as to the cause of any damage to the Building.
 - b. Tenant, at its sole expense, shall arrange for its own metered electrical supply from the local utility company and shall pay for all electric and other utility charges consumed by Tenant.
 - c. During the application period for electric service from the local utility company, Tenant shall have the right to use temporarily Landlord's electricity for installation of Tenant's equipment, provided that Tenant shall supply proper adapters and extension cords, and provided that where heavy duty electric equipment drawing current in excess of 15 amperes is involved, the Tenant shall provide temporary service to supply the power. Tenant hereby agrees that Landlord shall have no obligation to furnish electricity or any other utility to the Property and shall not be liable for any

interruption of electricity or other utility service to the Property except to the extent caused by any intentional misconduct of Landlord. Notwithstanding the foregoing, Landlord and Tenant further agree that Tenant shall not operate Tenant's equipment until a separate electrical meter for Tenant's usage is installed.

- d. In the event Landlord determines that modernization work or other work, including roof work, is needed at the Property, which work will interfere with Tenant's use of the Leased Premises, Landlord may, upon at least thirty (30) days' written notice to Tenant, suspend this Lease and all rent payable hereunder for the period of such modernization or work but not in excess of one-hundred and twenty (120) days. In the event Landlord decides to cease its residential operation at the Property for any reason, it may terminate this Lease and Tenant's rights hereunder, upon ninety (90) days' written notice to Tenant.

12. **DEFAULT AND RIGHT TO CURE.** The following shall be deemed a default by Tenant and a breach of this Lease: (a) Nonpayment of rent or other Tenant monetary obligations due as specified hereunder, if remaining unpaid more than five (5) days after the due date thereof, or (b) Tenant's failure to perform any other agreement, representation or warranty under this Lease within thirty (30) days after receipt of such notice from Landlord reasonably specifying the failure provided, however, that if such failure cannot reasonably be cured within such initial thirty (30) day period, such failure shall not be deemed to exist if Tenant in fact shall honestly commence to rectify the same within such thirty (30) day period and provided such efforts shall be prosecuted to completion with reasonable diligence, but in all events within not more than an additional forty-five (45) day period. In the event of any default by Tenant hereunder, Landlord may, to the extent permitted by law, immediately at any time thereafter and without demand or notice, terminate this Lease and enter into and upon the Leased Premises, or any part thereof in the same of the whole, and repossess the same as of Landlord's former estate, and expel Tenant and those claiming through or under Tenant and remove its effects without being deemed guilty of any manner of trespass, and without prejudice to any remedies which might otherwise be used for arrears of rent or preceding breach of covenant. No termination or repossession provided for in this paragraph shall relieve Tenant of its liabilities and obligations under this Lease, all of which shall survive any such termination or repossession. In the event of any such termination or repossession, Tenant shall pay to Landlord either (i) in advance on the first day of each month, for what would have been the entire balance of the term hereof, one-twelfth (1/12) (and a pro rata portion thereof for any fraction of a month) of the annual rent, additional rent and all other amounts for which Tenant is obligated hereunder, less, in each case, the actual net amount received by Landlord by reason of

any reletting of the Leased premises after deducting Landlord's reasonable expenses in connection with such reletting, including, without limitation, removal, storage and repair costs and reasonable brokers' and attorneys' fees, or (ii) upon demand and at the option of Landlord exercisable by Landlord's giving notice to Tenant within thirty (30) days after any such termination, as liquidated damages, an amount equal to one year's rent. Notwithstanding the foregoing, Landlord shall have no obligation to relet the Leased Premises or otherwise mitigate any damages owed by Tenant to Landlord hereunder.

13. **ASSIGNMENT/SUBLEASE.** Landlord may assign this Lease, provided said assignee will assume, recognize and become responsible to Tenant for, the performance of all of the terms and conditions to be performed by Landlord under this Lease.

Upon not less than fifteen (15) days prior written notice (to the extent not prohibited by securities laws), Landlord agrees that Tenant may assign or sublet this Lease in whole or part to any person or business entity which is licensed by the FCC to operate wireless communications, is a parent, subsidiary or affiliate of Tenant, controls or is controlled by or under common control with Tenant is merged or consolidated with Tenant or purchases a majority or controlling interest in the ownership or assets of Tenant in the market defined by the FCC ("Permitted Transferee"). Upon notification to Landlord by Tenant of any such assignment to a Permitted Transferee, Tenant shall notify Landlord of such assignment and provide the name of any new assignee (if the name of the Tenant entity should change). Tenant may not otherwise assign or sublet this Lease without Landlord's consent, which consent shall not be unreasonably withheld, condition or delayed. Landlord agrees that it will not withhold its consent and Tenant shall be relieved of all future performance, liabilities and obligations under this Lease provided that (i) Tenant delivers written evidence satisfactory to Landlord in its reasonable judgment that such assignee has a net worth (determined in accordance with generally accepted accounting principles) of not less than \$10 million, and (ii) such assignee has agreed, pursuant to a written instrument delivered to Landlord by Tenant, to be liable for and bound by all future performance, liabilities and obligations under this Lease. Additionally, Tenant may mortgage, assign and/or grant a security interest in this Lease and Tenant's Equipment shown in Schedule B, to Tenant's mortgagees or holders of security interests, including their successors or assigns (hereinafter collectively referred to as "Mortgagees"), provided such Mortgagees agree to be bound by the terms and provisions of this Lease. In such event, Landlord shall execute such consent to leasehold financing as may reasonably be required by Mortgagees. Landlord agrees to notify Tenant and Tenant's Mortgagees (if notified of any such Mortgagees) simultaneously of any default by Tenant and to give Mortgagees the same right to cure any default as

Tenant except that the cure period for any Mortgagee shall not be less than ten (10) days after receipt of the default notice. Furthermore, the tenant's firm and/or its successors are required to remove any and all equipment from the landlord's property in the case that the tenant is no longer a going concern.

14. **NOTICES.** Unless otherwise provided herein, any notice or demand required or permitted to be given hereunder shall be given in writing by hand delivery, first class certified or registered mail, return receipt requested, or by recognized overnight mail, in a sealed envelope, postage prepaid, to be effective when properly sent and received, refused or returned marked undeliverable. Notice shall be addressed to the parties at the addresses set forth above as to Tenant Attn: (Insert name of officer to receive notice); and as to Landlord Attn: (Insert name of officer to receive notice). Either party hereto may change the place for the giving of notice to it by like written notice to the other as provided herein.
15. **SEVERABILITY.** If any term or condition of this Lease be held unenforceable, the remaining terms and conditions shall remain binding upon the parties as though said unenforceable provision were not contained herein.
16. **SUBORDINATION.** At Landlord's option, this Lease shall be subordinate to any mortgage, or any modification, extension, or renewal of any such mortgage, entered into by Landlord, from time to time, as may encumber all or part of the Property. This subordination shall be automatic and self-operative without further consent from Tenant. Notwithstanding the foregoing, Tenant hereby agrees to execute commercially customary subordination agreements with Landlord's mortgagee(s) within thirty (30) days after any written request therefore.
17. **AMENDMENT; WAIVER.** No Lease revision shall be valid unless made in writing and signed by Tenant and an authorized agent of the Landlord and approved in writing by the Department of Housing and Community Development or any successor thereto. No provision may be waived except in a writing signed by the party waiving the right.
18. **SHORT FORM LEASE.** Neither this Lease nor any Short Form Lease or Memorandum of Lease thereof shall be recorded by either party without the written consent of the other party.
19. **BIND AND BENEFIT.** The Lease terms and conditions contained shall run with the Property and inure to the benefit of and be binding upon Landlord and Tenant and each of their respective heirs, executors and administrators, successors and permitted assigns.

20. **ENTIRE AGREEMENT.** This Lease and the exhibits attached hereto, all being a part hereof, constitute the entire agreement of the parties hereto and shall supersede all prior offers, negotiations and agreements.
21. **GOVERNING LAW.** This Lease shall be governed by the laws of the Commonwealth of Massachusetts.
22. **INTERPRETATION.** Unless otherwise specified, the following rules of construction and interpretation apply: (a) Captions are for convenient reference only and in no way define or limit the construction of the terms and conditions hereof; (b) use of the term "including" shall be interpreted to mean "including but not limited to," use of the terms "termination" or "expiration" are interchangeable; use of the terms "will" and "shall" are interchangeable; (c) except if otherwise expressly stated, whenever a party's approval or consent is required under this Lease, such consent shall not be unreasonably withheld or delayed; (d) reference to a default shall take into consideration any applicable notice, grace and cure periods; and (e) exhibits and schedules are an integral part of this Lease.
23. **ESTOPPEL.** (a) Either party shall, 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 Lease is unmodified and in full force and effect (or, if modified, stating the nature of such modification and certifying this Lease, 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, (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 and (iii) certifying as to such other matters as the other party may reasonably request in connection with this Lease. Any such statement may be conclusively relied upon by any prospective purchaser or encumbrancer of the Leased Premises or Tenant Installations. Failure to timely deliver such a statement shall be conclusive as a self-operative statement from the party from whom requested that (i) this Lease 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 the requesting party's performance, and (iii) no more than one month's rent has been paid in advance.
24. **TENANT'S INDEMNITY.** Tenant shall indemnify and hold Landlord and any mortgagee of the Property harmless, and defend Landlord and any such mortgagee (with counsel reasonably acceptable to Landlord or such mortgagee, as the case may be) from and against any claim, liability or loss resulting from injury or damage to persons or property to the extent caused, in whole or in part, by the use and occupancy of the Property by Tenant, its contractors, subcontractors, servants or agents, except to the extent such claims,

liabilities or damages may be due to or caused by the gross negligence or wrongful acts of Landlord, its servants or agents.

25. **TAXES.** As the Property is exempt from real estate taxes but Landlord is obligated to make Payments in Lieu of Taxes pursuant to Mass. General Laws, c. 121B, § 16, Tenant shall pay as additional rent any real estate taxes levied against the Property and allocable to the improvements constructed thereon by Tenant and any personal property taxes levied against the Property as a result of Tenant's improvements or this Lease, including any increase in the so-called Payments in Lieu of Taxes arising out of the improvements constructed thereon by Tenant or any separate or additional assessment to Landlord or Tenant of this leasehold. Payment of such taxes shall be made within ten (10) days after demand by Landlord. Such demand shall be accompanied by a copy of the tax bill. Tenant shall be entitled to appeal any such increase payable by Tenant at Tenant's sole cost and expense.
26. **LIMITATION OF LANDLORD'S LIABILITY.** Tenant's recourse against Landlord and Landlord's liability for the collection of any judgment or other judicial process requiring the payment of money by Landlord in the event of any breach of the covenants, agreements or obligations of Landlord hereunder, shall be subject to the limitations set forth under the Massachusetts Torts Claims Act, c. 258 of the General Laws.
27. **OVERLOADING.** Tenant covenants not to place any property within the Property as to exceed the load bearing capacity of the Building, not to injure, deface or otherwise harm the Property, nor commit any nuisance, or permit the emission of any objectionable noise or odor, nor make, allow or suffer any waste,; not to dump, flush or in any way introduce any Hazardous Waste into the septic, sewage or other waste disposal system serving the Property; not to generate, store, use or dispose of Hazardous Waste in or on the Property, or dispose of Hazardous Waste from the Property to any other location; nor make any use of the Property which is contrary to any law or ordinance which will invalidate any of Landlord's insurance. Tenant shall save Landlord and any mortgagee of the Property harmless and indemnify from all injury, loss, claims, damages or liabilities arising from Tenant's use of the Property in violation of any federal, state, local or other laws relating to pollution or protection of the environment.
28. **CONDEMNATION OR CASUALTY, DESTRUCTION, FIRE AND OTHER CASUALTY.**
 - a. If the Leased Premises or any part thereof, or any portion of the Property so as to materially interfere with Tenant's use of the Leased Premises, shall be damaged by fire or other casualty, Tenant shall give immediate notice thereof to Landlord and this Lease shall continue in full force and effect except as hereinafter set forth. If the

Leased Premises is partially damaged or rendered partially unusable by fire or other casualty, the damages thereto shall be repaired by, and at the expense of, Landlord and the rent, until such repair shall be substantially completed, shall be apportioned from the day following the casualty according to the part of the Leased Premises which is usable. If the Leased Premises is totally damaged or rendered wholly unusable by fire or other casualty, then the rent shall be proportionately paid up to the time of the casualty and thenceforth shall cease until the date when the Leased Premises shall have been repaired and restored by Landlord, subject to Landlord's right to elect not to restore the same as hereinafter provided. Notwithstanding the provisions of this Paragraph 28(a) or any other provisions of this Lease, (i) Tenant shall be responsible for insuring (or electing not to insure) all of its personal property, fixtures and equipment, and (ii) Landlord shall have no obligation to pay for, repair, replace, rewire or otherwise restore any of Tenant's personal property, fixtures or equipment in the event of any fire or other casualty or condemnation, all of which repairs, replacement, rewiring and other restoration shall be sole obligation of Tenant.

- b. If, whether or not the Leased Premises is damaged in whole or in part, the Building owned by Landlord shall be so damaged that Landlord shall decide not to rebuild it, then Landlord may elect to terminate this Lease by written notice to Tenant given within sixty (60) days after such fire or casualty specifying a date for the expiration of the Lease, which date shall not be less than sixty (60) days or more than ninety (90) days after the giving of such notice and, upon the date specified in such notice, the Term of this Lease shall expire as fully and completely as if such date were the date set forth for the termination of this Lease and Tenant shall forthwith quit, surrender and vacate the Leased Premises without Prejudice, however, to either party's rights and remedies against the other under the Lease provisions in effect prior to such termination, and any rent owing shall be paid up to such date and any payments of rent made by Tenant which were on account of any period subsequent to such date shall be returned to Tenant.

Unless Landlord shall serve a termination notice as provided for herein, Landlord shall make the repairs and restorations under the conditions of Subparagraph (a) hereof, with all reasonable expedition and with the least interruption of Tenant's business as practicable. After any such casualty affecting the Leased Premises, Tenant shall cooperate with Landlord's restoration by removing from the Leased Premises, as promptly as reasonably possible, all of Tenant's salvageable trade fixtures and equipment. Tenant's liability for rent shall resume ten (10) days after written notice from Landlord that restoration of the Leased Premises is

substantially completed in accordance with Tenant's Plans. In the event of a taking, all rights to damages to the Building and the Property shall belong solely to the Landlord.

29. **HEALTH OR ENVIRONMENTAL RISK.** Anything to the contrary contained herein notwithstanding, if, during the Lease Term, Landlord in its sole and absolute judgment, believes that Tenant's use of the Leased Premises poses a human health or environmental hazard that cannot be remediated or has not been remediated within thirty (30) days after Tenant has been notified thereof, then (i) Tenant shall immediately cease all operations on the Site; (ii) the Lease shall terminate on thirty (30) days' prior notice to Tenant; and (iii) Tenant shall remove all equipment in the Site installed by Tenant within thirty (30) days thereafter. Tenant agrees that its equipment, installations and operations will comply with all applicable regulations promulgated by the Federal Communications Commission ("FCC"), Massachusetts Department of Public Health ("MADPH") and the Executive Office of Labor and Workplace Development ("EOLWD"). In the event it is determined by the FCC, MADPH or EOLWD or other appropriate legal authority that Tenant has violated this provision and has failed to cure as set forth in this Lease, then (i) Tenant shall immediately cease all operations on the Site; (ii) the Lease shall terminate on thirty (30) days' prior notice to Tenant; and (iii) Tenant shall remove all equipment in the Site installed by Tenant within thirty (30) days thereafter.
30. **TENANT'S WORK.** Tenant covenants to procure at Tenant's sole expense all necessary permits and licenses before undertaking any alterations to the Property; to do all such work in a good and workmanlike manner employing materials of good quality and so as to conform with all applicable zoning, building, fire, health and other codes, regulations, ordinances, laws and insurance policies maintained with respect to the Property; to pay promptly when due the entire cost of any work on the Property undertaken by Tenant so that the Property shall at all times be free of liens for labor and material; to employ for any such work contractors reasonably approved by Landlord; to require such contractors employed by Tenant and their subcontractors to carry workmen's compensation insurance in accordance with statutory requirements and comprehensive public liability insurance in amounts approved by Landlord covering such contractors on or about the Property and to submit certificates evidencing such coverage to Landlord upon Landlord's request; to save Landlord and any mortgagee of the Property harmless and indemnify from all injury, loss, claims or damage to any person or property occasioned by or growing out of such work.

31. **OTHER EASEMENTS; LEASES.** Landlord shall have the right to grant liens, restrictions, mortgages, covenants, conditions, easements, leases, proffers, commitments, agreements of record or not of record, and other instruments granting rights to third parties to use and occupy all or any portion of the Property; provided, however, that no such instrument or agreement shall result in any material interference with the use, installation, operation, maintenance, repair or replacement of Tenant's Installation or Tenant's use and quiet enjoyment of the Leased Premises.
32. **MARKING AND LIGHTING REQUIREMENTS.** Tenant acknowledges that it shall be responsible at its sole cost and expense, for compliance with all tower or building marking and lighting requirements which may be required by the Federal Aviation Administration ("FAA") or the Federal Communications Commission ("FCC") and which may be required due to Tenant's use of the Leased Premises. Tenant shall indemnify and hold harmless Landlord from any fines or other liabilities caused by Tenant's failure to comply with such requirements. Further, should Landlord be cited by either the FCC or FAA or in the event any claims are brought against Landlord because the Property is not in compliance, Tenant shall indemnify Landlord for all costs, liabilities, damages and expenses, including reasonable attorneys' fees. Further, if Tenant does not cure the conditions of noncompliance within the time frame allowed by the citing agency, Landlord may terminate this Lease immediately upon thirty (30) days written notice to Tenant without any further liability.
33. **SUBJECT TO APPROVAL OF HUD [As Applicable].** This Lease is subject to the prior written approval of the U.S. Department of Housing and Urban Development and shall be subordinate to the terms and conditions of the Annual Contributions Contract ("ACC") and the Declaration of Trust ("DOT") maintained by the Authority and the U.S. Department of Housing and Urban Development ("HUD"). This Agreement may be terminated by the Authority and or HUD in the event that HUD approves the termination of the ACC at the project under Section 18 of the U.S. National Housing Act of 1937 (the "1937 Act").
34. **SUBJECT TO APPROVAL OF DHCD [As Applicable].** This Lease is subject to the prior written approval of the Massachusetts Department of housing and Urban Development ("DHCD") and shall be subordinate to the terms and conditions of the Annual Contributions Contract ("ACC") and the Declaration of Trust ("DOT") maintained by the Authority and DHCD.
35. **COUNTERPARTS.** This Lease may be executed in one or more counterparts, each of which shall be deemed an original.

IN WITNESS WHEREOF, the parties have executed this Agreement, effective as of the date set forth below that their lease is approved by the Department.

TENANT

| |
|-----------------|
| SIGNATURE: |
| NAME AND TITLE: |
| DATE: |

LANDLORD

| |
|-----------------|
| SIGNATURE: |
| NAME AND TITLE: |
| DATE: |

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (As Applicable)

| |
|-----------------|
| SIGNATURE: |
| NAME AND TITLE: |
| DATE: |

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (As Applicable)

| |
|-----------------|
| SIGNATURE: |
| NAME AND TITLE: |
| DATE: |

ADDITIONAL ATTACHMENTS TO THIS AGREEMENT

Schedule A – Description of the Property

Schedule B – Listing of Tenant’s Equipment

Schedule C – Listing of Landlord’s and Tenant’s 24 hours emergency contact numbers

SAMPLE

Description of Property

SAMPLE

Listing of Tenant's Equipment

SAMPLE

Listing of Landlord's and Tenant's 24 Hour Emergency Contact Numbers

SAMPLE