

**BOROUGH OF LINCOLN PARK
34 CHAPEL HILL ROAD
LINCOLN PARK, NEW JERSEY 07035
(973) 694-6100**

BID SPECIFICATIONS

For:

Lease of:

A Portion of the DPW Site

A lease of property for the construction of a cellular communication tower, installation of antennas and construction of ancillary support equipment and structures on the ground at the existing Borough of Lincoln Park DPW Site, George Cobb Lane, Lincoln Park, New Jersey ("Site").

The Borough of Lincoln Park

**Wednesday
February 24, 2010
10:00 A.M.**

Prepared January 25, 2010

**BOROUGH OF LINCOLN PARK
34 CHAPEL HILL ROAD
LINCOLN PARK, NJ 07035**

NOTICE TO BIDDERS

Notice is hereby given that sealed bids will be received by the Borough Administrator and read in the Council Chambers, Borough Hall, 34 Chapel Hill Road, Lincoln Park, NJ on, Wednesday, February 24, 2010 at 10:00 A.M. prevailing time for the:

**Lease of:
A Portion of the DPW Site**

A lease of property for the construction of a cellular communication tower, installation of antennas and construction of ancillary support equipment and structures on the ground at the existing Borough of Lincoln Park DPW Site, George Cobb Lane, Lincoln Park, New Jersey.

Bid forms and contract specifications may be obtained from the Office of the Borough Administrator, Borough Hall, 34 Chapel Hill Road, Lincoln Park, NJ 07035, Monday through Friday, 8:00 A.M. to 4:00 P.M. after January 27, 2010.

All bidders shall comply with the requirements of the Bid Specifications and all Municipal, County and State Laws.

All Bidders shall use, and complete the proposal blanks furnished by the Borough, comply with all requirements attached thereto, and accompany bids with all required documents.

No bidder may withdraw his bid within sixty (60) days after the actual date of the opening of the bids.

Bidders are required to comply with the requirements of N.J.S.A. 10:5-31 et seq. and N.J.A.C. 17:27.

All business organizations that do business with a local contracting agency are required to be registered with the State of New Jersey and provide proof of that registration to the contracting agency before the contracting agency may enter into a contract with the business. Bidders are advised that failure to submit proof of that registration is considered a mandatory rejection of the bids. Pursuant to N.J.S.A. 40A:11-23.2, business registration has been added to the mandatory list of documents submitted with a bid. **Therefore, a copy of the Bidders and all listed subcontractors' New Jersey Business Registration Certificate must be submitted with the bid.**

Proposals must be enclosed in a sealed envelope with the Bidder's name and address and the project name clearly marked.

The Borough of Lincoln Park reserves the right to reject any and all bids, waive minor informalities, irregularities, or technicalities in the bids received as may be deemed to be in the best interest of the Borough, and to otherwise accept the bid from the lowest responsible Bidder.

BY ORDER OF THE BOROUGH COUNCIL
BOROUGH OF LINCOLN PARK

Sean P. Canning
Borough Administrator

BID DOCUMENT SUBMISSION CHECKLIST

**Lease of:
A Portion of the DPW Site**

A lease of property for the construction of a cellular communication tower, installation of antennas and construction of ancillary support equipment and structures on the ground at the existing Borough of Lincoln Park DPW Site, George Cobb Lane, Lincoln Park, New Jersey.

**A. Failure to submit the following documents is a mandatory cause for the bid to be rejected.
(N.J.S.A. 40A:11-23.2)**

Required With
Submission of Bid
(Owner's Notation)

Initial Each item
Submitted With Bid
(Bidder's initials)

Required	A bid guarantee as required by <u>N.J.S.A. 40A:11-21</u> .	
Required	A certificate from a surety company, pursuant to <u>N.J.S.A. 40A:11-22</u> .	
Required	A statement of corporate ownership, pursuant to <u>N.J.S.A. 52:25-24.2</u> .	
Required	A listing of subcontractors (as applicable) as required by <u>N.J.S.A. 40:11-16</u>	
Required	Bid Proposal Sheet	
Required	New Jersey Business Registration Certificate	
Required	Bidder's acknowledgment of receipt of any notice(s) or revision(s) or addenda to an advertisement, specifications or bid document(s); even if no such notices were issued by the Borough and therefore, no such notices were received by the Bidder.	

**B. Failure to submit the following documents may be a cause for the bid to be rejected.
(N.J.S.A. 40A:11-23.1 b.)**

Required With Submission of Bid (Owner's Notation)		Initial Each Item Submitted With Bid (Bidder's initials)
Required	A Certified Financial Statement, prepared within the last twelve (12) months.	
Required	Acknowledgment from Principal	
Required	Submission of a <i>Non-Collusion Affidavit</i> (NOTE: This form must be notarized.)	
Required	Bidder's Affidavit	
Required	Statement of Qualification and Experience	

C. SIGNATURE: The undersigned hereby acknowledges and has submitted the above listed requirements.

Name of Bidder: _____

By Authorized Representative:

Signature: _____

Print Name: _____

Print Title: _____

Date: _____

ACKNOWLEDGMENT OF RECEIPT OF CHANGES TO BID DOCUMENTS FORM

**Lease of:
A Portion of the DPW Site**

A lease of property for the construction of a cellular communication tower, installation of antennas and construction of ancillary support equipment and structures on the ground at the existing Borough of Lincoln Park DPW Site, George Cobb Lane, Lincoln Park, New Jersey.

Pursuant to **N.J.S.A. 40A: 11-23.1a.**, the undersigned Bidder hereby acknowledges receipt of the following notices, revisions, or addenda to the bid advertisement, specifications or bid documents. By indicating date of receipt, Bidder acknowledges the submitted bid takes into account the provisions of the notice, revision or addendum. **Note:** The record of notice, by the **Borough of Lincoln Park**, to Bidders shall take precedence and that failure to include provisions of changes in a bid proposal may be subject for rejection of the bid.

Borough of Lincoln Park Reference Number or Title of Addendum/Revision	How received by Bidder: (Mail, Fax, Pick-up, etc.)	Date Received:

Note: This form must be completed and returned with the Bid, regardless of whether or not any such *Document Change* notifications were provided by the Borough. Check the following Box: No Document Changes were received.....

Acknowledgment by Bidder:

Name of Bidder: _____

By Authorized Representative:

Signature: _____

Print Name: _____

Print Title: _____ *Date:* _____

INSTRUCTIONS TO BIDDERS
RECEIPT AND OPENING OF BIDS

GENERAL

Bids will be received by the Borough at the Municipal Building, 34 Chapel Hill Road, Lincoln Park, New Jersey, at 10:00 A.M. prevailing time, on Wednesday, February 24, 2010.

Bids may be submitted by Certified Mail, Return Receipt Requested. Bidders are cautioned that reliance on the U.S. Mail for timely delivery of proposals is at the Bidder's risk. Failure by the Bidder to have sealed proposals reach the Borough by the prescribed time will result in the return of the submission unopened and unread.

The Borough may consider informal any bid not prepared and submitted in accordance with the provisions hereof and may waive any informalities or reject any and all bids. Any bid received after the time and date specified shall not be considered.

The specification herein states the minimum requirements of the Borough of Lincoln Park. All bids must be regular in every respect. Unauthorized conditions, limitations or provisions shall be cause for rejection. The Borough of Lincoln Park may consider as irregular or non-responsive any bid not prepared and submitted in accordance with the Bid documents and specifications, or any bid lacking sufficient technical literature to enable the Borough of Lincoln Park to make a reasonable determination of compliance to the specification.

It shall be the Bidder's responsibility to carefully examine each item of the specification. Failure to offer a completed bid or failure to respond to each section of the technical specification will cause the proposal to be rejected without review as non-responsive. All variances, exceptions and/or deviation shall be fully described in the appropriate section or noted on an additional sheet of paper.

The Instructions to Bidders, Specifications, and all other documents, which are part of this specification shall apply to the entire specification, and to any part thereof, and shall be part of this Contract. The division of the specifications into sections and paragraphs is for convenience only and is not necessarily an accurate division.

At the time of the opening of bids, each Bidder will be presumed to have read and to be thoroughly familiar with the plans and contract documents including all addenda. The failure or omission of any Bidder to examine any form, instrument, document or information relating to said contract shall in no way relieve any Bidder from the obligation in respect of his bid.

CHANGES TO THE BID DOCUMENTS, ADDENDA and INTERPRETATIONS

No interpretation of the meaning of the specifications or other pre-bid documents will be made to any Bidder orally. Every request for such interpretation shall be in writing; addressed to the Borough Administrator, Borough of Lincoln Park, 34 Chapel Hill Road, Lincoln Park, NJ 07035, and to be given consideration, must be received at least ten (10) days prior to the date fixed for the opening of bids.

Any and all such interpretations and any supplemental instructions, as issued by the Borough, will be in the form of written addenda to the specifications which, if issued, will be mailed by ***Certified Mail with Return Receipt Requested*** to all prospective Bidders known at that time by the Borough, not later than five (5) days (Saturdays, Sundays and Holidays excepted), prior to the date fixed for the opening of bids. Failure of any Bidder to receive any such addendum or interpretation shall not relieve the Bidder from any obligation under his bid as submitted. All addenda so issued shall become part of the contract documents.

NOTE: On the form provided herein; titled “ACKNOWLEDGMENT OF RECEIPT OF CHANGES TO BID DOCUMENTS FORM”, which must be returned with the bid; the Bidder MUST fill-in the requested information, relative to any such received documents and sign & date same. Further, the Bidder MUST sign & date *and return* such form, *Even if no such documentation has been issued by the Borough/received by the Bidder*, as evidence that no such documents have been received.

When addenda and other forms of notice giving revisions and interpretations of the contract documents are mailed or otherwise transmitted to prospective Bidders, acknowledgment thereof must be made by the Bidder. The acknowledgment shall be sent or hand delivered to the office and/or individual noted on the form, and must be received before the proposal of the Bidder concerned is opened. If the acknowledgment has been received after the opening of bids, the bid envelope will be returned to the Bidder unopened.

QUALIFICATION OF BIDDERS

Each proposal shall contain adequate proof of both financial stability and experience by the Bidder to qualify him to perform in a satisfactory manner all the work covered by the Contract Documents within the time specified in the contract and to provide the items as specified by these specifications. This proof shall be fully recorded on the forms left blank for this purpose.

This record shall show among other things:

1. That the Bidder has competent organization, which has done work similar in amount, value, cost, character and proportions.
2. That the Bidder has available for immediate use the necessary plant and equipment.
3. The names of all officers of the Bidder Corporation.
4. The name of the executive who will give personal attention to the work, whenever so desired by the Borough.
5. The Borough, pursuant to the Local Public Contracts Law, **N.J.S.A. 40A:11-1et. seq.** will require from any person proposing to bid here on, a statement showing his financial ability and experience in performing public work .

BIDDER DISQUALIFICATION

The Borough reserves the right to disqualify any Bidder for the following reasons:

1. Failure to submit required documents with bid.
2. If the Bidder is determined to be non-responsible.
3. If the Bidder is ineligible to bid upon State Contracts.
4. If the Bidder's Proposal does not conform to the specifications.
5. If the bid should contain any willfully false or misleading statements or information.
6. The Bidder/Bid is deemed non-responsive.
7. Any other cause permitted by law.

PREPARATION OF BID

Each bid must be submitted on the prescribed form. All blank spaces for bid prices must be filled in, in ink or typewritten, in figures and words.

PROPOSALS MUST BE MADE UPON THE BLANK FORMS PROVIDED.

Proposals must be enclosed in a sealed envelope with the Bidder's name and address and the project name clearly marked.

The successful bidder shall be responsible, at its expense, for the design and construction of the cellular communication tower, the antenna installation, and construction of any ancillary support equipment and structures at the Site to include any preparation and submission of all plans, design analyses/calculations, application forms and application fees and/or escrow deposits as are needed to file for and process a Major Site Plan, Conditional Use and Variance (as applicable) applications ("Plan Approvals") before the Borough of Lincoln Park Planning Board or Board of Adjustment ("Municipal Agency"), as deemed appropriate pursuant to applicable laws and regulations) and for Building Permit application(s) to the Lincoln Park Building Department. Such Major Site Plan, Conditional Use, Variance(s) (as applicable) and Building Permit application submissions shall include full design analyses and calculations relative to foundation/footing and structural loadings for the cellular communication tower, antennas, ancillary support equipment and structures and/or any other improvements at the Site. All such documents must be reviewed and approved by the Borough before any construction can be initiated.

It is intended that said lease shall include the right to construct a cellular communication tower, install antennas and construct any ancillary support equipment and structures, along with maintenance of the same, at the Site.

NON- COLLUSION

The non-collusion affidavit, which is part of the specifications, shall be completed and submitted with the proposal.

OWNERSHIP DISCLOSURE STATEMENT

Any corporation or partnership submitting a bid shall include in the bid proposal package a statement setting forth the names and addresses of all stockholders in the corporation or partnership who own ten percent (10%) or more of its stock of any class or of all individual partners in the partnership who own a ten percent (10%) or greater interest therein, as the case may be. If one or more such stockholder or partner is itself a corporation or partnership, the stockholders holding ten percent (10%) or more of that corporation's stock, or the individual partners owning ten percent (10%) or greater interest in the partnership, as the case may be, shall also be listed. The disclosure shall be continued until names and addresses of every non-corporate stockholder, and individual partner, exceeding the ten percent (10%) ownership criteria established pursuant to N.J.S.A. 52:25-24.2 have been listed.

EQUAL EMPLOYMENT OPPORTUNITY REQUIREMENTS

Bidders are required to comply with the Employment Goal Compliance Requirements pursuant to N.J.A.C. 17:27 and the Equal Employment Opportunity Requirements pursuant to N.J.S.A. 10:5-31 et seq., as specifically set forth in the attached Exhibit A.

NON DISCRIMINATION

The contractor and any subcontractor shall comply with the New Jersey Non-Discrimination in Employment on Public Works Law, N.J.S.A. 10:2-1 et seq. and the rules and regulations adopted pursuant thereto.

Discrimination on the basis of disability in contracting for the purchase of equipment and services is prohibited. The successful Bidder is required to comply with the provisions of the Americans With Disabilities Act ("ADA"). The successful Bidder further agrees that the provisions of Title II of the ADA are made a part of the Contract and that the successful Bidder is required to comply with the language set forth in Exhibit B.

BIDDER'S AFFIDAVIT AND STATEMENT OF QUALIFICATION & EXPERIENCE

The Bidder's Affidavit, which verifies the authority of the person submitting the bid on behalf of the Bidding entity, must be completed, signed and notarized. If the Bidding entity is a corporation, the corporate seal must be affixed. The Bidder's Statement of Qualification and Experience must also be completed, signed, sealed and notarized.

NEW JERSEY BUSINESS REGISTRATION REQUIREMENTS

N.J.S.A. 52:32-44 requires that each bidder (contractor) submit proof of business registration with the bid proposal. Proof of registration shall be a copy of the bidder's Business Registration Certificate. A Business Registration Certificate is obtained from the New Jersey Division of Revenue. The contractor shall provide written notice to its subcontractors of the responsibility to submit proof of business registration to the contractor.

Before final payment on the contract is made by the contracting agency, the contractor shall submit an accurate list and the proof of business registration of each subcontractor or supplier used in fulfillment of the contract, or shall attest that no subcontractors were used.

For the term of the contract, the contractor and each of its affiliates and a subcontractor and each of its affiliates (N.J.S.A. 52:32-44(g)(3) shall collect and remit to the Director, New Jersey Division of Taxation, the use tax due pursuant to the Sales and Use Tax Act on all sales of tangible personal property delivered into this State, regardless of whether the tangible personal property is intended for a contract with a contracting agency.

A business organization that fails to provide a copy of a business registration as required pursuant to N.J.S.A. 52:32-44 et al. Or subsection e. or f. of N.J.S.A. 5:12-92, or that provides a false business registration information under the requirements of either of those sections, shall be liable for a penalty of \$25 for each day of violation, not to exceed \$50,000 for each business registration copy not properly provided under a contract with a contracting agency.

BID SECURITY

Each bid must be accompanied by a cashier's check, certified check or bid bond duly executed by the Bidder as principal and having as surety thereon a Surety Company approved by the Borough and authorized to do business in the State of New Jersey in the amount of ten percent (10%) of the total amount bid, but in no case to exceed \$20,000.00. Check or Bid Bond shall be made payable to the ***Borough of Lincoln Park***. All bid security, except the security of the three apparent highest responsible bidders, shall be returned within ten (10) days of the opening of the bids. Within three (3) days of the awarding and signing of the contract and the approval of the Contractor's *Performance Guarantee* based on the accepted contract term, the bid security of the remaining bidders shall be returned.

The successful Bidder, upon his failure or refusal to execute and deliver the contract and bonds required within ten (10) days after he has received notice of the acceptance of his bid, shall forfeit to the Borough, as liquidated damages for such failure or refusal, the bid security, as deposited with his bid.

The parties agree and understand that damages set forth above are reasonable, and not a penalty, based upon the facts and circumstances of the parties at the time of bidding, and with due regard to future expectations. Notwithstanding the foregoing, the Borough reserves the right to commence and maintain any action in law or equity for damages or breach as a result of the Bidder's failure or refusal to execute and deliver the Contract and Bonds required herein.

CERTIFICATE OF SURETY

Each Bidder must include with his bid a certificate from a Surety Company stating that it will provide the Contractor with a performance bond in the sum required by these instructions if awarded a contract.

POWER OF ATTORNEY

Attorney's-in-fact who signs bid bonds or contract bonds must file with each bond a certified and effectively dated copy of their *Power of Attorney*. A Power of Attorney must accompany the Bid Bond and Certificate of Surety with the submission of the bid.

PRICES BID

Prices shall be stated in both figures and words, in the appropriate places on the "BID FORM" and bids may be considered informal which contain items not specifically required in the "BID FORM." In the event that there is a discrepancy between the prices written in words, and those written in figures, the prices written in words shall govern.

EQUAL BIDS

When two or more bids are equal in all respects, award may be made by lottery, at the discretion of the Borough, which shall be witnessed by at least three (3) persons and which may be attended by the Bidders or their representatives.

SIGNATURE OF BIDDERS

The firm, corporate, or individual name of the Bidder shall be signed in the space provided for the signatures on the proposal blanks. In the case of a corporation, the bid shall be signed by the president, attested to by the corporate secretary and the corporate seal shall be thereto affixed. An appropriate authorizing resolution shall also be provided. In the case of a partnership, the signature of all partners shall be required to be followed by the firm name. In the case of an individual, use the term "*doing business as*", or "*sole owner*".

All corporations, partnerships, limited liability companies (LLC), or limited liability partnerships (LLP), bidding on this Contract shall submit simultaneously with the bid, a statement setting forth the names and addresses of all stockholders in the corporation who own 10 percent (10%) or more of stock of any class, or all individual partners in the partnership who own 10 percent (10%) or greater interest therein, or all members of LLC's or LLP's who own ten percent (10%) or greater interest therein, as the case may be. If one or more such stockholder or partner is itself a corporation or partnership, the stockholders holding 10 percent (10%) or more of that corporation's stock, or the individual partners owning 10 percent (10%) or greater interest in that partnership, as the case may be shall also be listed. The disclosure shall be continued until names and addresses of every non-corporate stockholder and individual partner exceeding the 10 percent (10%) ownership criteria established herein has been listed.

CONSIDERATION OF PROPOSALS

Competency and responsibility of Bidders, their facilities, and their experience in similar work will be considered in making the awards, as well as, monetary value. Bids from parties not regularly and practically engaged in the specified bid item, may be rejected at the discretion of the Borough.

No bid will be accepted from, or a Contract awarded to, any party, nor will any surety or bonding corporation be accepted as surety, who, is in default upon any contract or obligation to the State or to this or any other Municipality. Failure of any Bidder to have completed a previous contract will be evidence of irresponsibility. Failure of a bonding corporation to have completed or paid

for completion of a previous contract, where a Contractor has failed to complete, will be evidence of a default.

Two (2) proposals from a firm, or a corporation under a different name, will not be considered. Reasonable grounds for supposing that any Bidder is interested in more than one proposal for this work will be cause for the rejection of all proposals in which he has been interested. Any or all proposals will be rejected if there is a reasonable ground for supposing that there is collusion among the Bidders, and all participants in such collusion will receive no further consideration for this work.

In comparing proposals, consideration will not be confined to monetary value alone, and the judgment of the Borough shall be final as to which bid will serve its interests.

AWARD OF BIDS

The Borough shall award the bid or reject all bids therefore within sixty (60) days after they are received. No bidder may withdraw his bid within sixty (60) days after the actual date of opening bids. If for any reason the Borough is unable to make award within such sixty (60) days, it shall be lawful for the Borough and each of the three lowest responsible Bidders to agree upon an extension.

EXECUTION OF CONTRACT

The successful bidder to whom a contract is awarded shall execute such contract and bonds required within ten (10) days after the Borough has forwarded the contract to him for execution. Specifically, the successful bidder shall:

1. Execute and deliver to the Borough three (3) copies of the Lease.
2. Furnish proof in the form of Corporate Resolutions and/or Notarized Acknowledgements to establish the authority of the person executing the Lease on behalf of the successful bidder.
3. Furnish satisfactory evidence of insurance as required.
4. Furnish and maintain the requisite bonds.

Should the bidder fail to execute and deliver the contract and bonds within the time above mentioned, the Borough may thereupon, in its discretion, declare the bid forfeited and may either award the contract to the next highest bidder or re-advertise the contract for new proposals, in which case the Bidder shall pay, without proof of notice of the Borough:

1. The expense of re-letting the contract; and
2. Any difference between the sums, which the said Bidder would have been required to pay upon the completion of the contract if awarded to him and the sum which the Borough may receive from the person or persons by whom the contract shall be finally executed, provided the latter sum is lesser, using the same specifications as the basis for comparison.

The Bidder to whom the Lease has been let shall, within ninety (90) days of the date of notification of award, submit a complete application to the appropriate Lincoln Park Municipal Agency seeking approval for the construction of the cellular communication tower and associated facilities.

The Bidder to whom the Lease has been let shall, within ten (10) days of the date of publication of a resolution of approval:

- a. Furnish a \$25,000.00 (twenty-five thousand dollar) cash Security Deposit for security related to the removal of the tower and rehabilitation of the site.
- b. Furnish the first month's rent.

LEASE SECURITY

Within ten (10) days after the Borough has forward the contract for execution, the successful Bidder shall furnish to the Borough a Performance Bond or Irrevocable Letter of Credit in an amount equal to one hundred percent (100%) of the aggregate base Bid amount for the initial five (5) year term of the Lease. For purposes of the Performance Bond **only**, the Performance Bond amount shall be the aggregate base Bid amount for the initial five (5) year term calculated using the First Year Annual Base Rent with an annual increase of three percent (3%) for five (5) years. However, the **actual rent owed** shall increase annually based upon the **greater** of three percent (3%) or the increase in the Consumer Price Index ("CPI") for the New York-Northeastern New Jersey area which is in effect sixty (60) days prior to the first day of each subsequent rental year.

If a Performance Bond is furnished, the bond shall be furnished in the form as annexed hereto or substantial equivalent thereof. The bond shall be issued by a Surety Company licensed to transact business in the State of New Jersey, and pursuant to New Jersey Law, holding sufficient financial resources to issue said bond. The Acknowledgement of Surety shall bear a date on or subsequent to the date of the bond. Each signature of an attorney-in-fact shall be accompanied by a certified and effectively dated Power-of-Attorney.

If an Irrevocable Letter of Credit is furnished, it shall be issued by a bank authorized to do business in the State of New Jersey. The form of Irrevocable Letter of Credit shall expressly incorporate the Uniform Customs and Practices for Documentary Credits, UCP 500 or such subsequent revision in effect at the time of the letting of the Lease. In addition, the form shall also contain an automatic renewal clause, requiring no less than thirty (30) days written notice to the Borough of the issuing bank's election not to so renew.

Within ten (10) days of the date of publication of a resolution of approval, the successful bidder shall furnish a Twenty-Five Thousand Dollar (\$25,000.00) cash Security Deposit for security related to the removal of the tower and rehabilitation of the site.

Failure to deliver the Performance Bonds or Letters of Credit with the executed Lease or failure to deliver the cash Security Deposit shall be cause for declaring the Lease null and void.

LAWS and REGULATIONS

This Bidder's attention is directed to the fact that all applicable Federal, State, and County laws, Municipal Ordinances, the rules and regulations of all authorities having jurisdiction over this matter shall apply to the contract throughout, and they will be deemed to be included in the contract the same as though herein written in full.

GOVERNING LAW

This Contract is governed by the laws of the State of New Jersey.

ENTIRE AGREEMENT

This document constitutes the entire agreement of the parties hereto, and shall supersede all prior offers, negotiations and agreements. All of the terms and conditions in this Bid Packet, including but not limited to the Notice To Bidders, Information For Bidders, Bid Proposal, the Lease executed by the successful bidder and the Borough, and the Resolution authorizing same, shall constitute the Contract and shall be binding upon all parties in full. In the event there is a conflict or ambiguity between the bid specifications and the lease entered into by the parties, the lease shall control.

EXHIBIT A

MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE

N.J.S.A. 10:5-31 et seq. (P.L. 1975, C. 127)

N.J.A.C. 17:27

CONSTRUCTION CONTRACTS

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

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

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

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

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

When hiring or scheduling workers in each construction trade, the contractor or subcontractor agrees to make good faith efforts to employ minority and women workers in each construction trade consistent with the applicable employment goal prescribed by N.J.A.C. 17:27-7.3; provided, however, that the Division may, in its discretion, exempt a contractor or subcontractor from compliance with the good faith procedures prescribed by the following provisions, A, B and C, as long as the Division is satisfied that the contractor or subcontractor is employing workers provided by a union which provides evidence, in accordance with standards prescribed by the Division, that its percentage of active "card carrying" members who are minority and women workers is equal to or greater than the applicable employment goal

established in accordance with N.J.A.C. 17:27-7.3. The contractor or subcontractor agrees that a good faith effort shall include compliance with the following procedures:

(A) If the contractor or subcontractor has a referral agreement or arrangement with a union for a construction trade, the contractor or subcontractor shall, within three business days of the contract award, seek assurances from the union that it will cooperate with the contractor or subcontractor as it fulfills its affirmative action obligations under this contract and in accordance with the rules promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et. seq., as supplemented and amended from time to time and the Americans with Disabilities Act. If the contractor or subcontractor is unable to obtain said assurances from the construction trade union at least five business days prior to the commencement of construction work, the contractor or subcontractor agrees to attempt to hire or schedule minority and women workers directly, consistent with the applicable employment goal. If the contractor's or subcontractor's prior experience with a construction trade union, regardless of whether the union has provided said assurances, indicates a significant possibility that the trade union will not refer sufficient minority and women workers consistent with the applicable employment goal, the contractor or subcontractor agrees to be prepared to hire or schedule minority and women workers directly, consistent with the applicable employment goal, by complying with the hiring or scheduling procedures prescribed under (B) below; and the contractor or subcontractor further agrees to take said action immediately if it determines or is so notified by the Division that the union is not referring minority and women workers consistent with the applicable employment goal.

(B) If the hiring or scheduling of a workforce consistent with the employment goal has not or cannot be achieved for each construction trade by adhering to the procedures of (A) above, or if the contractor does not have a referral agreement or arrangement with a union for a construction trade, the contractor or subcontractor agrees to take the following actions consistent with the applicable county employment goals:

- (1) To notify the public agency compliance officer, the Division, and minority and women referral organizations listed by the Division pursuant to N.J.A.C. 17:27-5.3, of its workforce needs, and request referral of minority and women workers;
- (2) To notify any minority and women workers who have been listed with it as awaiting available vacancies;
- (3) Prior to commencement of work, to request that the local construction trade union refer minority and women workers to fill job openings, provided the contractor or subcontractor has a referral agreement or arrangement with a union for the construction trade;
- (4) To leave standing requests for additional referral to minority and women workers with the local construction trade union, provided the contractor or subcontractor has a referral agreement or arrangement with a union for the construction trade, the State Training and Employment Service and other approved referral sources in the area until such time as the workforce is consistent with the employment goal;

(5) If it is necessary to lay off some of the workers in a given trade on the construction site, to assure, consistent with the applicable State and Federal statutes and court decisions, that sufficient minority and women employees remain on the site consistent with the employment goal; and to employ any minority and women workers laid off by the contractor on any other construction site on which its workforce composition is not consistent with an employment goal established pursuant to rules implementing N.J.S.A. 10:5-31 et. seq.;

(6) To adhere to the following procedure when minority and women workers apply or are referred to the contractor or subcontractor:

(i) If said individuals have never previously received any document or certification signifying a level of qualification lower than that required in order to perform the work of the construction trade, the contractor or subcontractor shall determine the qualifications of such individuals and if the contractor's or subcontractor's workforce in each construction trade is not consistent with the applicable employment goal, it shall hire or schedule those individuals who satisfy appropriate qualification standards. However, a contractor or subcontractor shall determine that the individual at least possesses the requisite skills, and experience recognized by a union, apprentice program or a referral agency, provided the referral agency is acceptable to the Division. If necessary, the contractor or subcontractor shall hire or schedule minority and women workers who qualify as trainees pursuant to these rules. All of the requirements, however, are limited by the provisions of (C) below.

(ii) If the contractor's or subcontractor's workforce is consistent with the applicable employment goal, the name of any interested women or minority individual shall be maintained on a waiting list for the first consideration, in the event the contractor's or subcontractor's workforce is no longer consistent with the applicable employment goal.

(iii) If, for any reason, said contractor or subcontractor determines that a minority individual or a woman is not qualified or if the individual qualifies as an advanced trainee or apprentice, the contractor or subcontractor shall inform the individual in writing of the reasons for the determination, maintain a copy of the determination in its files, and send a copy to the public agency compliance officer and to the Division.

(7) To keep a complete and accurate record of all requests made for the referral of workers in any trade covered by the contract, on forms made available by the Division and submitted promptly to the Division upon request.

(C) The contractor or subcontractor agrees that nothing contained in (B) above shall preclude the contractor or subcontractor from complying with the union hiring hall or apprenticeship policies in any applicable collective bargaining agreement or union hiring hall arrangement, and, where required by custom or agreement, it shall send journeymen and trainees to the union for referral, or to the apprenticeship program for admission, pursuant to such agreement or arrangement. However, where the practices of a union or apprenticeship program will result in the exclusion of minorities and women or the failure to refer minorities and women consistent with the county employment goal, the contractor or subcontractor shall consider for employment persons referred pursuant to (B) above without regard to such

agreement or arrangement; provided further, however, that the contractor or subcontractor shall not be required to employ women and minority advanced trainees and trainees in numbers which result in the employment of advanced trainees and trainees as a percentage of the total workforce for the construction trade, which percentage significantly exceeds the apprentice to journey worker ratio specified in the applicable collective bargaining agreement, or in the absence of a collective bargaining agreement, exceeds the ratio established by practice in the area for said construction trade. Also, the contractor or subcontractor agrees that, in implementing the procedures of (B) above, it shall, where applicable, employ minority and women workers residing within the geographical jurisdiction of the union.

After notification of award, but prior to signing a construction contract, the contractor shall submit to the public agency compliance officer and the Division an initial project workforce report (Form AA 201) provided to the public agency by the Division for distribution to and completion by the contractor, in accordance with N.J.A.C. 17:27-7. The contractor also agrees to submit a copy of the Monthly Project Workforce Report once a month thereafter for the duration of this contract to the Division and to the public agency compliance officer.

The contractor agrees to cooperate with the public agency in the payment of budgeted funds, as is necessary, for on-the-job and/or off-the-job programs for outreach and training of minorities and women.

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

EXHIBIT B

AMERICANS WITH DISABILITIES ACT OF 1990 Equal Opportunity for Individuals with Disability

The CONTRACTOR and the BOROUGH do hereby agree that the provisions of Title II of the Americans With Disabilities Act of 1990 (the "ACT") (42 U.S.C S12101 et seq.), which prohibits discrimination on the basis of disability by public entities in all services, programs and activities provided or made available by public entities, and the rules and regulations promulgated pursuant thereto, are made a part of this contract. In providing any aid, benefit, or service on behalf of the BOROUGH pursuant to this contract, the CONTRACTOR agrees that the performance shall be in strict compliance with the Act. In the event that the Contractor, its agents, servants, employees or subcontractors violate or are alleged to have violated the Act during the performance of this contract, the CONTRACTOR shall defend the BOROUGH in any action or administrative proceeding commenced pursuant to this Act. The Contractor shall indemnify, protect, and save harmless the BOROUGH its agents, servants and employees from and against any and all suits, claims, losses, demands or damages, of whatever kind or nature arising out of or claimed to arise out of the alleged violation. The CONTRACTOR shall, at its own expense, appear, defend and pay any and all charges for legal services and any and all costs and other expenses arising from such action or administrative proceeding or incurred in connection therewith. In any and all complaints brought pursuant to the BOROUGH grievance procedure, the CONTRACTOR agrees to abide by any decision of the BOROUGH which is rendered pursuant to said grievance procedure. If any action or administrative proceeding results in an award of damages against the BOROUGH or if the BOROUGH incurs any expense to cure a violation of the ADA which has been brought pursuant to its grievance procedure, the CONTRACTOR shall satisfy and discharge the same at its own expense.

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

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

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

SPECIFICATION DETAILS

SITE DESCRIPTION

The Site shall be as accepted by & approved by the Borough. Generally, this Site shall be within a currently unpaved/underutilized portion of the DPW property. Such an acceptable area, being a maximum of 50' in width and depth (i.e.: being a maximum of 2,500 square feet) shall be located along the easterly property line/perimeter fence, in the area that is described as being approximately half-way between the northerly and southerly property limits/to the east of the existing Bulk Ramp Facility. The Borough, as part of the Site Plan approval process, shall determine the final location.

SITE PLAN

Prior to commencing construction, the successful bidder shall submit to and receive approval of all required documents for improvements, from the Lincoln Park Municipal Agency and subsequent thereto, to the Lincoln Park Building Department. No improvements, construction installation or alteration shall be commenced until all required documents for such work have been approved by the Borough and Municipal Agency, and all necessary Permits have been properly obtained from the Lincoln Park Building Department by the successful bidder. All necessary documents, which have been prepared, signed and sealed by the appropriate licensed professionals, shall include fully dimensioned site plans/surveys drawn to scale showing the proposed locations for ground area required; height/quantity/physical configuration of antennas, type and sizing of antenna mountings; proposed type and height of fencing/buildings/support facilities; proposed landscaping; and the proposed sizing, type of materials and full construction details for all proposed improvements; and any other details, including Major Site Plan, Conditional Use and Variance(s) and Building Permit application fees and/or escrow deposits the Borough may request.

Complete application(s) for such Major Site Plan, Conditional Use and Variance(s) must be submitted to the appropriate Lincoln Park Municipal Agency within 90 days from the date of the Notice of Award. Failure of the successful bidder to submit complete applications within the above specified time frame shall be deemed a breach of the herein contract and just cause for the Borough to declare the successful bidder in breach of the Contract and declare the contract null and void. In the event such application(s) are denied then either party may cancel the contract, and all guarantee(s) shall be returned to the successful bidder.

ANTENNA INSTALLATION AND FOUNDATION DESIGN

The antenna installation shall be designed to accommodate a minimum of five (5) carriers with ten (10) feet of vertical separation of space, as well as, provisions for the installation of Borough owned & supplied communications antennas/equipment. The details of such Borough supplied communications antennas/equipment shall be made known to the successful bidder, at the time of executing the contract, so as to enable the required design considerations to be appropriately included in the overall improvements design. Construction of the antenna installation must conform to all applicable codes and regulations. The design and construction plans for the antenna installation must be signed and sealed by a professional engineer licensed in the State of New Jersey and all such costs shall be borne by the successful bidder.

The monopole shall be a maximum of 150' in height – inclusive of all attached antennas – as measured above the adjacent ground surface elevation. The monopole finish shall be a dull galvanized coating, so as to minimize the amount of reflection. The individual antenna attachments to the monopole shall be by “*T-Arms*” rather than by/with “*Platforms*”. Further, the utilization of a “*faux pine tree*” covering shall not be permitted.

SCREENING & CAMOUFLAGE

The accessory/ancillary building(s) or equivalent cabinet enclosure structure(s) shall be sufficiently screened, by either landscaping, other vegetative barrier and/or artificial structures, coloring, or other means – as ultimately approved by the Borough – so as to limit or reduce the visual impact from adjoining or adjacent residential zones, uses or structures located within three-hundred feet (300') of the same.

STRUCTURAL INTEGRITY

Upon completion of the construction of the proposed antenna installation, the successful bidder shall submit a written report from a licensed professional engineer certifying to the structural integrity of the facility and that all antennas mounted thereon are secure and that they meet or exceed applicable design, structural and construction safety requirements.

STATE AND FEDERAL REQUIREMENTS

The proposed installation shall meet or exceed current standards and regulations of the FAA, the FCC, and any other Agency of the State or Federal government with the authority to regulate communications installations.

ACCESSORY AND ANCILLARY STRUCTURES

The successful bidder, along with each co-locator, shall be permitted to install or construct one (1) or more accessory/ancillary building or equipment cabinet enclosure structures within the Site. Each antenna system installed shall consist of not more than twelve (12) antennas and the related/required support facilities/equipment shall be contained within an equipment building. No equipment/support facilities shall be proposed and/or designed so as to be constructed/placed or otherwise maintained outside of a permanent building/structure. Accordingly, all equipment/support facilities shall be enclosed within the permanent structure, depicted and included as part of the overall documents that are to be submitted for approval by the appropriate Municipal Agency. All cabinets, switching gear, electrical/communication enclosures, etc. shall be contained in an equipment building; equivalent to a modular/pre-engineered concrete and steel structure with stone pebble or pre-finished masonry exterior finish as manufactured by Kullman Industries, Inc. The review and approval consideration of the actual exterior finish shall be processed as part of the overall approval process before the appropriate Municipal Agency, and shall be based on several samples submitted by the successful bidder, as part of the document submission.

FENCING AND LANDSCAPING

The site on which the accessory/ancillary building or equipment cabinet enclosure structures are situated shall be completely enclosed with a fence at least six (6) feet high that is acceptable to the Borough, and shall include a locking security gate.

LIGHTING

The antennas, antenna structures and/or accessory/ancillary building or equipment cabinet enclosure structures shall not be artificially lighted, unless required by FAA or other applicable authority. If lighting is required, the lighting alternatives and design shall cause the least disturbance to the surrounding properties and views and shall be subject to the approval by the Borough, as part of the Municipal Agency approval process.

SITE ACCESS

Due to the concerns for security and given the fact that the proposed locations will be within the Borough DPW property, access by the Bidder (i.e.: during the bidding process, construction phase and throughout the operational period of the facility), must be closely monitored and controlled, throughout the project duration. Accordingly, the Bidder will make prior arrangements with the Borough, through the office of the Borough Administrator, whenever access to the site is required. Such access appointment shall be scheduled, with at least a twenty-four (24) hour advance notice, to occur during “normal business hours”, which is described as being Monday through Friday, between the hours of 7:30 AM & 3:30 PM, holidays excluded. Should the Bidder require access during periods other than “normal business hours” as described above, same shall be limited to emergency responses and/or conditions. In such cases, arrangements for access shall be made through contact with the Lincoln Park Police Department, who will make contact & arrangements with the appropriate Borough representative, to facilitate site access for the Bidder. Any such costs incurred by the Borough in providing and facilitating such site access during other than “normal business hours” shall be passed on to the Bidder, with such payment due and payable to the Borough within thirty (30) days of receipt of a detailed invoice for such work.

CONSTRUCTION ACTIVITIES

Again, given the proximity and ongoing nature of the Borough’s activities at this Site, it is imperative that no actions by the successful bidder or any co-locators interfere with the safe and efficient operation of and by the Borough DPW. Accordingly, the successful bidder will be required to provide a detailed construction proposal – plans and/or narrative descriptions – clearly depicting and describing the scope of the proposed construction equipment, its location & duration of utilization, etc., for review and approval by the Borough. Any changes and/or modifications to the Bidder’s proposal, as deemed necessary and/or appropriate by the Borough, so as to minimize any inconvenience or interference with the operation within this DPW property, shall be implemented by the successful bidder, as a condition of any approval that may be granted by the Borough.

DOMESTIC MATERIALS

The successful Bidder shall comply with N.J.S.A. 40A:11-18, which requires that only manufactured and farm products of the United States, wherever available, shall be used in this project.

LEASE TERMS AND CONDITIONS

LEASE AGREEMENT

The successful bidder shall be required to enter into a Lease Agreement with the Borough of Lincoln Park in a form satisfactory to the Mayor and the Borough Council.

Appended hereto is a *DRAFT* form of the proposed Lease which the successful bidder will be required to enter into with the Borough. Given the *DRAFT* nature of this document, minor modifications/changes may be implemented to further reflect the detailed requirements contained elsewhere in these specifications.

LEASE TERM

The initial lease term shall be five (5) years with four (4) five (5) year renewal options, for a maximum of twenty-five (25) years.

Upon termination of the lease the Successful Bidder shall remove all improvements and facilities installed thereon and to properly restore the Site to pre-development conditions as existed prior to installing any of the antennas and/or support facilities.

RENT

Bids shall be submitted for:

1. Annual base rent (**minimum bid of \$30,000.00**)
2. Percent of rent received by each co-locator that will be paid to Borough.
3. All such payments to be made in equal monthly increments.

For ease in implementing this Contract and so as to enable the successful bidder sufficient control to maintain efficient and proper utilization of the site, the successful bidder shall be the party that is responding/responsible to the Borough in this Bid and will have control and responsibility for subsequent co-locators. Such control of subsequent co-locators by the successful bidder, as well as, the assistance required so as to facilitate such implementation, shall not be hindered or prevented by the successful bidder. Rather, the successful bidder shall make the facilitating of such co-locator selection and approvals before the Borough a priority and shall therefore, cooperate in any and all means possible to minimize delays in having subsequent co-locators approved and their required facilities constructed/made operational. Failure of the successful bidder to proceed in this manner, upon verification by a prospective co-locator to the Borough, shall be deemed a breach of this contract and enable the Borough to proceed as hereinabove previously described, relative to any such breach of contract action by the successful bidder. Such approval by the Borough shall be subject to compliance by each of the proposed co-locators with the same standard submission/qualification and procedures as provided initially herein by the successful bidder, with such Borough approval not being unreasonably withheld.

As it relates to the successful bidder, commencement of base rent shall be due upon receipt of approval from the appropriate Lincoln Park Municipal Agency.

As it relates to subsequent co-locators, commencement of rent (the percentage of the rent collected by the successful bidder which shall be paid to the Borough per the bid) shall be due

upon receipt of approval from the appropriate Lincoln Park Municipal Agency for each particular co-locator.

There shall be a yearly increase in base rent paid by the successful bidder by 3% or Consumer Price Index (the "CPI"), whichever is higher, applicable to the New York Region on each anniversary of the Commencement Date or Renewal Date over the term of the Lease.

USE OF PREMISES

The successful bidders shall use the premises for the construction and operation of a wireless communications antenna and related equipment and a location based system, including, without limitation, antenna(s), coaxial cable, base units and other associated equipment as such location based system may be required by any county, state or federal agency/department. The successful bidders, shall at their expense, comply with all present and future Federal, State, County and Local laws, ordinances, rules and regulations (including laws and ordinances relating to health, safety, radio frequency emissions, and radiation) in connection with the use, operation, maintenance, construction and or installation of the premises.

MAINTENANCE, REPAIRS AND UTILITIES

The successful bidder and all co-locators shall, at their own expense, maintain leased premises and all improvements, equipment and other personal property on the premises in good working order, condition and repair. The successful bidder and all co-locators shall keep the premises free from debris and anything dangerous, noxious, or offensive nature or which would create a hazard or undue vibration, heat, noise or interference. The successful bidder shall arrange for the maintenance of the common areas of the leased premises and other co-locators shall contribute a pro-rata share to the cost of such maintenance. Failure of the successful bidder to properly fulfill their obligations as to the continued maintenance of the site and installed facilities shall constitute a breach of this Contract by the successful bidder and the successful bidder shall forfeit all rights and/or privileges granted pursuant to this bid award. Further the Borough shall retain any fees/escrows that have been deposited with the Borough to cover the anticipated costs of accomplishing such required maintenance. The successful bidder and all co-locators shall also arrange for their own-metered electrical service from the local utility company and shall pay all charges for the electricity and other utilities used by it at this site.

INTERFERENCE

The successful bidder and all co-locators shall not cause interference to the radio frequency communications operations of the Borough of Lincoln Park or the Borough's operation of/at the DPW site. Should such interference occur, the successful bidder shall promptly take all necessary action at no cost to the Borough to eliminate the cause of said interference including, if necessary, removing relocating equipment causing said interference. Additionally the Borough shall not permit the installation of any future equipment at the site, which results in technical interference problems with the successful bidders then existing equipment.

INDEMNIFICATION

The successful bidder shall agree to defend, indemnify, and hold harmless the Borough, its officers, agents, servants, and employees and each and every one of them against and from all damages to which the Borough and any of its officers, agents, servants, and employees may be

put (including attorneys' fees and professional fees) through the negligence of said Bidder or Subcontractor of said Bidder or co-locator or through any improper or defective machinery, implements, or appliances used by said Bidder or Subcontractor of said Bidder in the aforesaid work, or through any act or omission on the part of the said Bidder or its agents, employees, or servants.

INSURANCE

During the term of Lease, the successful bidder shall maintain, and cause each co-locator to maintain, in full force and effect at their sole cost and expense the following types and limits of insurance insured by insurers authorized to do business by the State of New Jersey, as follows:

Comprehensive commercial general liability insurance with minimum limits of \$2,000,000 per occurrence combined single limit for bodily injury and property damage.

Comprehensive automobile liability insurance covering the use of all owned, non-owned, hired or leased automobiles with limits of liability of not less than \$2,000,000 combined single limit for bodily injury and property damage.

Umbrella liability insurance with limits of not less than \$4,000,000 per occurrence combined single limit for bodily injury and property damage in excess of the commercial general liability and comprehensive automobile liability limits.

Worker's Compensation and employee liability insurance in accordance with the Laws of the State of New Jersey.

At the start of and during the period of any construction, builders all-risk insurance, together with an installation floaters or equivalent property coverage covering cables, materials, machinery and supplies of any nature whatsoever which are used in or incidental to the installation of the antenna facilities. Upon completion of the installation of the antenna facilities, the successful bidders shall substitute for the foregoing insurance policies of fire, extended coverage and vandalism and malicious mischief insurance of the premises. The amount of insurance at all times shall be representative of the insurable values installed or constructed. Further, successful bidder of construction shall carry 150% of the construction plus installation escalation based on current market value.

The Borough shall have the right to have the insurance proceeds applied to reconstruction, replacement and repair of the Borough's property. The limits of liability of all insurance required hereunder, shall be subject to reasonable upwards, but not downwards, modification, upon the commencement of each renewal term and notice to the tenant at least ninety (90) days prior to renewal.

NAMED INSURED

Commercial General Liability insurance policies shall name the Borough of Lincoln Park and its officers, officials, agents, and employees as additional insured, and shall indemnify and hold the Borough of Lincoln Park harmless from any action arising out of the lease of the site.

EVIDENCE OF INSURANCE

Certificates of insurance for each insurance policy required to be maintained by the successful bidder and co-locators shall be filed and maintained with the Borough annually during the term of the Lease.

CANCELLATION OF POLICIES OF INSURANCE

All insurance policies maintained pursuant to the said Lease Agreement shall contain an endorsement requiring at least ninety (90) days of prior written notice shall be given to the Borough by the Insurer of any intention not to renew such policy or to cancel, replace or materially alter the same.

ASSIGNMENT AND SUBLETTING

The successful bidder may not assign, sublet or otherwise transfer all or any part of its interest in the Lease or in the Premises without the prior written consent of Borough, provided, however that the successful bidders may assign its interest to its parent company, any subsidiary or affiliate of it or its parent company or to any successor-in-interest or entity acquiring fifty percent (50%) or more of its stock or assets.

OPTIONAL TERMINATION

The Borough shall have at its sole discretion the option of terminating the Lease if the successful bidder loses its license to provide PCS/cellular services for, any reason, including, but not limited to, non-renewal, cancellation or expiration of their license, or should the lease be deemed illegal or *ultra vires* by a court of competent jurisdiction. The successful bidder or the Borough may terminate the Lease upon one (1) year written notice due to:

- Changes in Local or State laws and regulations which prevent the successful bidders' ability to operate; and,
- FCC ruling or regulation which is beyond the control of the successful bidders' and further renders the premises unusable; and,
- Technical reasons, including but not limited to height of antenna, frequency allocation and/or signal interference renders the site technically unsuitable.
- The Site, lease premises, or appurtenances are condemned, destroyed, or substantially and materially damaged and rendered inutile by fire, flood, or any other cause beyond the control of the tenant or the Borough.

Should the lease be properly terminated, and neither party shall then be in breach thereof, the parties shall not bear any further liability to the other. Upon termination, tenant shall be responsible for the prompt removal of all equipment, supplies and materials installed or placed on site in accordance with the lease, and shall restore the premises to the condition, which existed prior to commencement of the lease. So as to ensure financial commitment by the successful bidder to provide for the timely removal of all equipment, supplies and materials installed or placed on the site, the successful bidder shall post a \$25,000.00 cash deposit with the Borough as provided above. Such cash deposit shall be held by the Borough in a State approved investment vehicle throughout the life of the lease term. Upon cessation of the lease (and satisfactory removal of all equipment/improvements constructed pursuant to this award and

proper restoration of any disturbed areas) and/or upon completion of the maximum twenty-five (25) year term, the Borough shall return the original \$25,000.00 deposit to the successful bidder or successor-in-interest/equity as the case may be.

APPROVALS

Major Site Plan, Conditional Use and Variance (as applicable) applications before the appropriate Borough of Lincoln Park Municipal Agency (*Planning Board or Board of Adjustment*, as deemed appropriate pursuant to applicable laws and regulations) and for Building Permit application(s) and from the Lincoln Park Building Department must be secured, as required, prior to initiating any construction of the antenna facilities, communications equipment installation, installation/construction, or any repair or replacement thereof during the term of the lease. Co-Locators may begin construction after applying for and receiving Major Site Plan, Conditional Use and Variance (as applicable) approvals from the appropriate Borough of Lincoln Park Municipal Agency (*Planning Board or Board of Adjustment*, as deemed appropriate pursuant to applicable laws and regulations) and for Building Permit application(s) from the Lincoln Park Building Department.

In the event that the application to the appropriate Municipal Agency for the construction of the cellular communications tower is denied, the Lease is null and void.

DAMAGE OR DESTRUCTION OF THE SITE

If the Site or any portion of the DPW property is destroyed or damaged so as to materially hinder effective use through no fault or negligence of the successful bidder, the successful bidder or the Borough may elect to terminate the Lease Agreement upon thirty (30) days written notice to the Borough/Bidder(s). In such event, the successful bidder shall promptly remove the antenna facilities and ancillary support equipment and structures from the premises.

BID PROPOSAL SHEET

**Lease of:
A Portion of the DPW Site**

A lease of property for the construction of a cellular communication tower, installation of antennas and construction of ancillary support equipment and structures on the ground at the existing Borough of Lincoln Park DPW Site, George Cobb Lane, Lincoln Park, New Jersey ("Site").

BASE BID FOR SUCCESSFUL BIDDER: minimum bid of \$30,000.00 required

\$_____ .00/Year _____ Dollars/Year

BID FOR PERCENT OF RENT FROM CO-LOCATORS TO BE PAID TO BOROUGH:

_____ Percent

The highest bidder will be determined by the Base Bid for Successful Bidder. In the event of a tie, the highest bidder will be determined by the Bid for Percent of Rent from Co-Locators to be Paid to Borough. Thereafter, in the event of a tie, the successful bidder will be determined based upon a lottery.

NOTE: All such indicated payments are to be made to the Borough in equal monthly increments, due on or before the first of the respective month.

The undersigned is a Corporation, Partnership, Individual under the laws of the State of _____ having its principal office at _____
_____.

BIDDER'S SIGNATURE: _____

PRINTED NAME & TITLE : _____

ADDRESS: _____

DATE: _____

BIDDER'S AFFIDAVIT

(This Affidavit Is Part of the Proposal)

STATE OF _____)

COUNTY OF _____)

_____ being duly sworn, disposes and says
that (s)he resides at _____

that (s)he is the (TITLE) _____

who signed the above Proposal, or Bid, that he was duly authorized to sign, and that the Bid is a true offer of the Bidder, and that the Seal attached is the Seal of the Bidder, and that all the declarations and statements contained in the Bid are true to the best of his(her) knowledge and belief.

(SEAL)

(Affiant)

Subscribed and sworn to before
me this _____ day of
_____, 2010

NOTARY PUBLIC OF

My Commission Expires _____, _____

BID BOND

KNOW ALL MEN BY THESE PRESENTS: That we, the undersigned,

Principal, and _____ as
Surety, are hereby held and firmly bound onto the Borough of Lincoln Park, as Obligee, in the
penal sum of _____ dollars
(\$ _____), for the payment of which sum, well and truly to be made, the Principal and Surety
bind themselves, their heirs, executors, administrators, successors, and assigns, jointly and
severally, firmly by these presents.

WHEREAS, the Principal has submitted a bid dated _____,
_____ for _____
_____.

NOW THEREFORE, if the Principal shall not withdraw said bid within sixty (60) days after the date of the opening of same, and if the Obligee shall accept the bid of the Principal and the Principal shall enter into a contract with the Obligee in accordance with the terms of such bid, and give such bond or bonds as may be specified in the Contract Documents with good and sufficient Surety for the faithful performance of such contract and for the prompt payment of labor and material furnished in the prosecution thereof, or in the event of the failure of the Principal to enter into such contract and give such bond or bonds within the time specified, if the Principal shall pay to the Obligee the difference not to exceed the penalty hereof between the amount specified in said bid and such larger amount for which the Obligee may in good faith contract with another party to perform the work covered by said bid, then this obligation shall be null and void, otherwise to remain in full force and effect.

BID BOND, (continued)

IN WITNESS WHEREOF, the Principal and the Surety have hereunto set their hands and seals, and such of them as are Corporations have caused their corporate seals to be hereto affixed and these presents to be signed by their proper officers, the day and year set forth hereinbelow.

Signed, Sealed and Dated _____

WITNESS: _____
(Principal)

BY: _____

(CORPORATE SEAL) Title: _____
(PRINT OR TYPE NAME AND TITLE)

WITNESS: _____
SURETY

BY: _____
(Attorney-in-Fact)

(SEAL)

CONSENT OF SURETY

KNOW ALL MEN BY THESE PRESENTS, that we, the undersigned, the

_____, a
corporation organized and existing under the laws of the State of _____ and
authorized to do business in the State of New Jersey do hereby consent and agree with the
Borough of Lincoln Park, that if the foregoing proposal of _____

hereinafter call the Contractor, for _____

be accepted, and a Contract for said work be awarded to said Contractor, we will, upon its being
so awarded, become Surety for said Contractor and agree to be bound with said Contractor upon
the terms and conditions set forth in the Proposal and Specifications and shall provide security
through the issuance of not less than a Performance Bond [*and Labor and Materials Payment
Bond, each*] to be in an amount equal to one hundred percent (100%) of the Contract price and to
be conditioned so as to indemnify the Borough against loss due to the failure of the Contractor to
fulfill the obligations and requirements of said Contract.

IN WITNESS WHEREOF, the undersigned Corporation has caused this
Agreement to be signed by its duly authorized representative and its corporate seal to be affixed
hereto.

Signed, Sealed and Dated this _____ day of _____, ____.

BY: _____
Attorney-in-fact
(type name below signature)

NOTE: Consent of Surety must be signed by an authorized agent or
representative of the Surety Company. The Consent of Surety and Bid Bond are to be
accompanied by a consistently dated Power of Attorney.

BOROUGH OF LINCOLN PARK
NON-COLLUSION AFFIDAVIT

Date: _____

Bid Item: Lease of the property located at DPW Site, George Cobb Lane, Lincoln Park

To the Borough of Lincoln Park:

This is to certify that the undersigned bidder _____
_____ has not either directly or indirectly entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with the proposal submitted to the Borough of Lincoln Park on the _____ day of _____, 2010.

Signature of Bidder: _____

By: _____

Corporate Seal:

Attest: _____
Secretary

(Print name and title below signature)

A Notary Public in the State of _____
Signed and Sworn to before me on

_____.

My commission expires on

_____.

This statement must be completed and signed in order for the bid to be considered.

STATEMENT OF QUALIFICATION & EXPERIENCE

The Bidder submitting this bid warrants that the Bidder has been in continuous existence and engaged in business for the past three (3) years or more.

The Bidder also submits to the Borough an audited Financial Statement prepared by a Certified Public Account for the last fiscal year, as requested by the Borough of Lincoln Park.

OPERATIONAL EXPERIENCE OF BIDDER

(Do not list experience prior to 2000)

Municipality or Area Served	Period FROM - TO	Responsible Contact Name and Phone

OTHER INFORMATION

1. If a partnership, give date of partnership agreement. In what county and state is the partnership agreement filed? Give the names and address of each partner, and the financial interest of each partner.

- a. Date of Partnership:
- b. Where filed:
- c. Name and Address of Each Partner:

<u>NAME</u>	<u>ADDRESS</u>	<u>INTEREST</u>

2. If a Corporation, state:

- a. Date when Organized:
- b. Under the Laws of what State organized?
- c. Is Corporation now duly existing?
- d. Name of Officers and Directors, Post Office address of Officers:

<u>NAME</u>	<u>ADDRESS</u>

3. List below the Surety Companies (Bonding Companies), which have heretofore bonded you on any contract;

- a. Give Name and Address of Surety Company; and name of each Municipality.

DRAFT
LEASE AGREEMENT

THIS LEASE AGREEMENT ("Lease"), dated this ____ day of _____, 2010, by and between:

_____,
a _____ of the State of
_____ having its principal offices located at

(hereinafter, "Lessee"),

and

BOROUGH OF LINCOLN PARK, a municipal corporation of the State of New Jersey, having offices at the Municipal Building, 34 Chapel Hill Road, Lincoln Park, New Jersey 07035

(hereinafter, "Owner").

WITNESSETH THAT:

Owner owns certain real property and improvements thereon located within the Borough of Lincoln Park, County of Morris, State of New Jersey, owner desires to make available upon said site space for the installation, operation and maintenance of radio transmission and/or wireless telecommunications equipment, a Tower, and a control cabinet(s) used by _____ and other wireless telecommunications companies licensed by the State of New Jersey.

NOW THEREFORE, the parties to this Lease stipulate as follows:

1. **PREMISES.** Owner leases to Lessee the premises described as a portion of real property located at the Department of Public Works Site, George Cobb Lane in Lincoln Park, referred to hereinafter as the "Leased Premises."

2. **TERM.** The Lessee is required to submit a complete application to the appropriate Municipal Agency seeking approval for the construction of the cellular communications tower and associated facilities within ninety (90) days from the Notice of Letting of the Lease. The initial Lease term will be five (5) years with four (4) five (5) year renewal options, for a maximum of twenty-five (25) years, commencing as of the date of notice of award of the Lease. In the event that the application to the appropriate Municipal Agency seeking approval for the construction of the cellular communication tower and associated facilities is denied, this Lease is null and void.

Upon written notification to the other party at least sixty (60) days prior to the expiration of the twenty-five (25) year lease, either party may renegotiate a new lease to the satisfaction of both parties, otherwise this Lease automatically terminates at the end of the twenty-five (25) years.

The Borough shall have at its sole discretion the option of terminating the Lease if the successful bidder loses its license to provide PCS/cellular services for, any reason, including, but not limited to, non-renewal, cancellation or expiration of their license, or should the lease be deemed illegal or *ultra vires* by a court of competent jurisdiction. The successful bidder or the Borough may terminate the Lease upon one (1) year written notice due to:

- Changes in Local or State laws and regulations which prevent the successful bidders' ability to operate; and,
- FCC ruling or regulation which is beyond the control of the successful bidders' and further renders the premises unusable; and,
- Technical reasons, including but not limited to height of antenna, frequency allocation and/or signal interference renders the site technically unsuitable.
- The Site, lease premises, or appurtenances are condemned, destroyed, or substantially and materially damaged and rendered inutile by fire, flood, or any other cause beyond the control of the tenant or the Borough.

Should the lease be properly terminated, and neither party shall then be in breach thereof, the parties shall not bear any further liability to the other. Upon termination, tenant shall be responsible for the prompt removal of all equipment, supplies and materials installed or placed on site in accordance with the lease, and shall restore the premises to the condition, which existed prior to commencement of the lease. So as to ensure financial commitment by the successful bidder to provide for the timely removal of all

equipment, supplies and materials installed or placed on the site, the successful bidder shall post a \$25,000.00 cash deposit with the Borough as provided above. Such cash deposit shall be held by the Borough in a State approved investment vehicle throughout the life of the lease term. Upon cessation of the lease (and satisfactory removal of all equipment/improvements constructed pursuant to this award and proper restoration of any disturbed areas) and/or upon completion of the maximum twenty-five (25) year term, the Borough shall return the original \$25,000.00 deposit to the successful bidder or successor-in-interest/equity as the case may be.

If the Site or any portion of the DPW property is destroyed or damaged so as to materially hinder effective use through no fault or negligence of the successful bidder, the successful bidder or the Borough may elect to terminate the Lease Agreement upon thirty (30) days written notice to the Borough/Bidder(s). In such event, the successful bidder shall promptly remove the antenna facilities and ancillary support equipment and structures from the premises.

3. USE OF LEASED PREMISES. The Leased Premises are to be used by Lessee and occupied only and for no other purposes than the following:

(a) Subject to compliance with all applicable laws, Lessee may at its own cost and expense, use the Leased Premises to: (i) construct, install, operate, maintain, repair, protect and secure its radio/cellular equipment and related cables and accessories ("Equipment"), and a freestanding wireless telecommunications tower; (ii) install and operate transmission cable from the Equipment and Tower, electric lines from a main feed or off-site power source to the Equipment and Tower, and telephone lines from a main or off-site telephone entry point to the Equipment and Tower; and (iii) erect, construct or make property improvements, alterations or additions ("Lessee's Improvements") appropriate for Lessee's use and with prior written approval from the Owner, as set forth in (d) below.

Lessee's Improvements may include: enclosing or sheltering Equipment; capping or modifying any sprinkler system in an equipment space, if permitted by law; fencing the Leased Premises, and adding HVAC, if Lessee so requests at locations mutually agreed upon by the parties.

(b) All material and Equipment brought onto the Leased Premises by the Lessee shall remain the Lessee's personal property and, at the Lessee's option, may be removed by Lessee at any

time during the term, but no later than the date that the Lease terminates. The Lessee agrees that, upon termination or expiration of the Lease, the Lessee shall restore the Leased Premises to its condition prior to the commencement of this Lease.

(c) The Lessee shall provide a cash Security Deposit in the amount of Twenty-Five Thousand Dollars (\$25,000.00) within ten (10) days from the date of publication of a resolution of approval, referred to hereinafter as "Commencement Date." Said Security Deposit shall be deposited into an interest bearing account. The Security Deposit and all interest accrued shall be returned to the Lessee at the end of the Lease Term only upon Lessee's completion of the removal of the Tower and equipment and return of the Leased Premises to its original condition as determined by the Borough Engineer. In the event Lessee fails to remove the Tower and equipment or return the Leased Premises to its original condition and Owner takes permanent ownership of the Security Deposit, all interest accrued on said Security Deposit becomes the property of Owner.

(d) As stated in (a), above, Owner may allow Lessee to make reasonably necessary alterations to the Leased Premises which do not cause damage to or interfere with Owner's operation or maintenance of any part of the Leased Premises or any other lessee's operation. Said alterations shall be made in accordance with plans and specifications ("Plans") which have previously been reviewed and approved by Owner. After approval by Owner, Plans will be considered incorporated in this Lease as Exhibit A.

(e) Lessee, at its expense, shall be solely responsible for and shall maintain its Tower and Equipment in a safe, structural, sound, clean and sightly condition and shall indemnify and save harmless Owner against all liens and claims of mechanics and material men furnishing labor and materials in the construction and maintenance of those items.

(f) It is expressly agreed hereby that all rights granted to Lessee under this Lease Agreement are irrevocable until termination as provided herein.

(g) Lessee is responsible for obtaining all appropriate permits from federal, State, county and local agencies, including approval from the appropriate Municipal Agency. Owner shall make

its best efforts to cooperate with Lessee in order to obtain all appropriate permits. However, Owner is not responsible for Lessee's failure to obtain any permits.

(h) **Prior to any disturbance on the site**, the successful Bidder must have first:

- (1) Received approval from the appropriate Municipal Agency for construction of a wireless telecommunications tower and associated facilities and a resolution of approval must have been published.
- (2) Submitted the cash Security Deposit in the amount of \$25,000.00 (twenty-five thousand dollars).
- (3) Submitted the first month's rent.

4. **OBSOLETE EQUIPMENT.** The Lessee will notify the Borough when the use of Towers and/or ancillary equipment is discontinued. Facilities that are not in operational use for wireless telecommunications purposes for a period of six (6) months shall be removed by the Lessee at its cost. This removal shall occur within ninety (90) days of the end of said six (6) month period but not later than the date that the Lease terminates. Upon removal, the Leased Premises will be cleared, restored, and re-vegetated to blend with the surrounding vegetation so as to restore the site to its original condition.

5. **RENT.** Lessee agrees to provide the Owner with the initial monthly base rent payment within ten (10) business days following the date of publication of a resolution of approval. In the event the Commencement Date does not fall on the first day of the month, the base rent shall be pro rated. Thereafter, rent shall be paid on the first day of every month. The monthly base rent payment shall be _____ (not less than \$2,500.00). On each anniversary of the Commencement Date, the base rent shall increase at a rate equal to the **greater** of three percent (3%) or the increase in the Consumer Price Index ("CPI") for the New York-Northeastern New Jersey area which is in effect sixty (60) days prior to the anniversary of the Commencement Date.

Lessee shall also provide the Owner monthly rent payments equal to _____ percent of the rent collected by Lessee for each co-locator. As it relates to subsequent co-locators, commencement of rent (the percentage of the rent collected by the successful bidder which shall be paid to the Borough per

the bid) shall be due upon receipt of approval from the appropriate Lincoln Park Municipal Agency for each particular co-locator.

6. **CO-LOCATION.** It is the intention of this bid that the successful Bidder manages and maintains the site and solicit and negotiate direct leases with third parties for any vacant locations for the mutual economic benefit of the Owner and the successful Bidder. The successful Bidder will be responsible for the construction, maintenance and operation of the new freestanding wireless telecommunications tower and shall have the first choice of location on the tower, as well as equipment location.

In addition, the Owner reserves the right to locate antenna(s) on the wireless telecommunications tower for municipal purposes, if/when needed. The number and location of said municipal antenna(s) is subject to review and approval by the successful bidder, which approval shall not be unreasonably withheld.

7. **TITLE AND POSSESSION.** Owner hereby represents and warrants that it is the sole owner of the Leased Premises and has the right to enter into this Lease Agreement. Further, the person signing this Lease Agreement on behalf of the Owner does so with Owner's full authority. Owner further warrants that Lessee is entitled hereby, in the absence of Lessee's default, actual and quiet and peaceful use, enjoyment and possession of the Leased Premises during the term as herein contemplated.

8. **NON-INTERFERENCE AND MITIGATION.** The Lessee pursuant to paragraph 6 of this Lease, may sub-lease locations on the tower. The Lessee is responsible at the Lessee's own cost and expense to evaluate and determine that there will be no interference caused by or to any pre-existing cellular communication uses on the Leased Premises and Lessee's contemplated use. Lessee shall determine that no such interference shall occur if such other pre-existing uses and the Lessee's Equipment are properly and lawfully installed and operated. If any interference is caused by Lessee due to improper or unlawful operation or any subsequent change or addition of equipment or improvements on the Leased Premises by Lessee, Lessee agrees to eliminate same in a prompt and timely manner, not to exceed thirty (30) days following notice thereof.

9. **ASSIGNMENT AND SUBLETTING.** Except as specifically provided in Paragraph 6 of this Lease Agreement above, Lessee may not assign, or otherwise transfer all or any part of its interest in

this Agreement or in the Leased Premises without the prior written consent of Owner. The Owner shall not unreasonably withhold, condition or delay its written consent.

10. **ACCESS TO LEASED PREMISES** Due to the concerns for security and given the fact that the proposed locations will be within the Borough DPW property, access by the Lessee (i.e.: during the bidding process, construction phase and throughout the operational period of the facility), must be closely monitored and controlled, throughout the project duration. Accordingly, the Lessee will make prior arrangements with the Owner, through the office of the Borough Administrator, whenever access to the site is required. Such access appointment shall be scheduled, with at least a twenty-four (24) hour advance notice, to occur during “normal business hours”, which is described as being Monday through Friday, between the hours of 7:30 AM & 3:30 PM, holidays excluded. Should the Lessee require access during periods other than “normal business hours” as described above, same shall be limited to emergency responses and/or conditions. In such cases, arrangements for access shall be made through contact with the Lincoln Park Police Department, who will make contact & arrangements with the appropriate Borough representative, to facilitate site access for the Lessee. Any such costs incurred by the Owner in providing and facilitating such site access during other than “normal business hours” shall be passed on to the Lessee, with such payment due and payable to the Owner within thirty (30) days of receipt of a detailed invoice for such work.

11. **MAINTENANCE AND REPAIRS; UTILITIES; TAXES; MARKETING AND LIGHT REQUIREMENTS.** (a) Lessee shall perform all repairs necessary to keep its Equipment located on or about the Leased Premises in good condition, reasonable wear and tear and damage from the elements excepted. Owner shall maintain and repair the Leased Premises and access thereto, other than Lessee's Equipment, and only to the extent that failure to do so might adversely affect Lessee, in good and tenantable condition and repair, reasonable wear and tear and damage from the elements excepted.

(b) Lessee shall, at its sole expense, arrange for its own metered electrical supply from the local utility company and shall pay for all electric and other utility charges consumed by Lessee. Owner will cooperate with Lessee in Lessee's efforts to obtain utilities for Lessee's use.

(c) Lessee shall be responsible for compliance with all marking and lighting requirements of the Federal Aviation Administration ("FAA") and the Federal Communications Commission ("FCC") as a result of Lessee's use of the Leased Premises.

12. **LIABILITY AND INSURANCE.** During the term of Lease, the Lessee shall maintain, and cause each co-locator to maintain, in full force and effect at their sole cost and expense the following types and limits of insurance insured by insurers authorized to do business by the State of New Jersey, as follows:

Comprehensive commercial general liability insurance with minimum limits of \$2,000,000 per occurrence combined single limit for bodily injury and property damage.

Comprehensive automobile liability insurance covering the use of all owned, non-owned, hired or leased automobiles with limits of liability of not less than \$2,000,000 combined single limit for bodily injury and property damage.

Umbrella liability insurance with limits of not less than \$4,000,000 per occurrence combined single limit for bodily injury and property damage in excess of the commercial general liability and comprehensive automobile liability limits.

Worker's Compensation and employee liability insurance in accordance with the Laws of the State of New Jersey.

At the start of and during the period of any construction, builders all-risk insurance, together with an installation floaters or equivalent property coverage covering cables, materials, machinery and supplies of any nature whatsoever which are used in or incidental to the installation of the antenna facilities. Upon completion of the installation of the antenna facilities, the Lessee shall substitute for the foregoing insurance policies of fire, extended coverage and vandalism and malicious mischief insurance of the premises. The amount of insurance at all times shall be representative of the insurable values installed or constructed. Further, Lessee of construction shall carry 150% of the construction plus installation escalation based on current market value.

The Owner shall have the right to have the insurance proceeds applied to reconstruction, replacement and repair of the Borough's property. The limits of liability of all insurance required hereunder, shall be subject to reasonable upwards, but not downwards, modification, upon the commencement of each renewal term and notice to the tenant at least ninety (90) days prior to renewal.

13. **INDEMNIFICATION.** The Lessee shall agree to defend, indemnify, and hold harmless the Owner, its officers, agents, servants, and employees and each and every one of them against and from all damages to which the Borough and any of its officers, agents, servants, and employees may be put (including attorneys' fees and professional fees) through the negligence of said Lessee or Subcontractor of said Lessee or co-locator or through any improper or defective machinery, implements, or appliances used by said Lessee or Subcontractor of said Lessee in the aforesaid work, or through any act or omission on the part of the said Lessee or its agents, employees, or servants.

14. **WAIVER AND RELEASE.** Lessee waives and releases all claims against Owner, its officers, directors, agents, employees and servants, and agrees that they shall not be liable for injury to person or damage to property sustained by Lessee or any other person occurring in or about the Leased Premises resulting directly or indirectly from any existing or future condition, defect, matter or thing in the Leased Premises or any part of it, or from equipment or appurtenance which becomes out of repair, or from any occurrence, act or from the negligence or omission of any lessee at the Leased Premises or of any other person; except for the negligence or omission by Owner, its officers, directors, agents, employees and servants.

15. **DEFAULT.** The following shall be deemed a default by Lessee and a breach of this Lease Agreement: (a) Non-payment of rent or other Lessee monetary obligations due as specified hereunder, if remaining unpaid more than ten (10) days after receipt of notice from Owner of such failure to pay; or (b) Lessee's failure to perform any other agreement, representation or warranty under this Lease Agreement within thirty (30) days after receipt of such notice from Owner reasonably specifying the failure.

If the non-monetary default may not be reasonably cured within a thirty (30) day period, this Lease may not be terminated if the defaulting party commences action to cure the default within such thirty (30) day period and proceeds with due diligence to fully cure the default.

16. **NOTICES.** Unless otherwise provided herein, any notice required or permitted to be given hereunder shall be given in writing and shall be effective when deposited in the U.S. Mail, postage prepaid, first class certified, return receipt requested; or when sent via recognized overnight delivery, in a sealed envelope and prepaid, to the address set forth above or as otherwise provided by law.

17. **MISCELLANEOUS.** (a) If any term or condition of this Lease Agreement be held unenforceable, the remaining terms and conditions shall remain binding upon the parties as though said unenforceable provision were not contained herein.

(b) No amendment or revision to this Lease Agreement shall be valid unless made in writing and signed by the authorized agents of both the Lessee and the Owner, nor may any provision hereof be waived except in writing signed by the party waiving the right.

(c) The terms and conditions contained herein shall inure to the benefit of and be binding upon Owner and Lessee and each of their respective heirs, executors, administrators, successors and permitted assigns.

(d) The Lease Agreement and any schedules which may be attached hereto and made a part hereof, constitute the entire agreement of the parties hereto and shall supersede all prior offers, negotiations and agreements.

(e) This Lease Agreement shall be governed by the laws of the State of New Jersey, without regard to conflict of laws.

18. **HAZARDOUS SUBSTANCE INFORMATION.** Owner represents that it has no knowledge of any substance, chemical or waste (collectively, "substance") on the Leased Premises that is identified as hazardous, toxic or dangerous in any applicable federal, State or local law or regulation. Lessee will not introduce or use any such substance on the site in violation of applicable law.

19. **ACCEPTANCE OF PREMISES.** Owner makes no representation or warranty with respect to the condition of the premises and land shall not be liable for any latent patent defect in the premises.

IN WITNESS WHEREOF, the parties have executed, or have caused their properly authorized representatives to duly execute, this Lease Agreement on the date and year first above written.

ATTEST:

BOROUGH OF LINCOLN PARK

Annette Maida-Smith, Borough Clerk

David Rundfeldt, Mayor

WITNESS/ATTEST:

LESSEE:

BY: _____

Print Name: _____

Print Name: _____

Title: _____

Title: _____

(ACKNOWLEDGMENT BY PRINCIPAL, UNLESS IT BE A CORPORATION)

STATE OF _____)

COUNTY OF _____)

On this _____ day of _____, 2010,

before me personally came _____

_____,
to me known and known to me to be the person(s) described in and who executed the foregoing instrument and acknowledged the she/he executed the same.

Notary Public

My Commission Expires _____, _____

(ACKNOWLEDGMENT BY PRINCIPAL, IF A CORPORATION)

STATE OF _____)

COUNTY OF _____)

On this _____ day of _____, 2010, before

me personally came _____ to me known, who
being by me duly sworn, did depose and say that she/he resides in:

that she/he, is the _____ of the corporation
described in and which executed the foregoing instrument; that she/he knows the seal of said
corporation; that the seal affixed to said instrument was such corporate seal: that it was so affixed
by order of the Board of Directors of said Corporation and that she/he signed her/his name
thereto by like order.

Notary Public

My Commission Expires _____, _____

BOND NO. _____

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS: That we, the undersigned

as Principal (Contractor), and _____

_____,
a Surety duly authorized to transact business in the State of New Jersey (Surety), are held and firmly bound unto the Borough of Lincoln Park, Morris County, New Jersey, as Obligee (Owner), in the penal sum of _____ dollars (\$ _____), lawful money of the United States, for the payment whereof Contractor and Surety bind themselves, their heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Contractor has by written agreement dated _____ entered into a Contract with the Owner for the _____

_____.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that if the Contractor, its representatives or assigns, shall promptly and faithfully perform said Contract and all modifications, amendments, additions and alterations thereto that may hereafter be made, according to its terms and true intent and meaning, including repair and/or replacement of defective work, and shall fully indemnify and save harmless the Owner from all cost and damage which it may suffer by reason of the Contractor's failure to do so, and shall fully reimburse and repay the Owner for all outlay and expense which the Owner may incur in making good any such default, and shall protect said Owner against and pay such default, and shall protect said Owner against and pay any and all amounts, damages, costs, and judgments which may or shall be recovered against said Owner or its officers or agents or which the said Owner may be called upon to pay any person or corporation by reason of any damages arising or growing out of the doing of said work or the manner of doing the same or the neglect of said Contractor or its agents or servants or the improper performance of the said work by the said Contractor or its agents or servants or the infringement of any patent or patent right by reason of the use of any materials furnished or worked on as aforesaid or otherwise, then this obligation shall be null and void; otherwise, is shall remain in full force and effect.

PERFORMANCE BOND (continued)

The Surety, for value received, for itself, its successors and assigns, hereby stipulates and agrees, if requested to do so by the Owner, to fully perform and complete the work to be performed under the contract, pursuant to the terms, conditions, and covenants thereof, if for any cause, the Contractor fails or neglects to fully perform and complete such work. The Surety further agrees to commence such work of completion within twenty (20) days after written notice thereof is received from the Owner and to complete such work within such time as the Owner may fix.

In the alternative, the Surety, for value received, for itself, and its successors and assigns, hereby stipulates and agrees that it will obtain a bid or bids for submission to the Owner for completion of the contract in accordance with its terms and conditions, and upon determination by Owner and Surety of the lowest responsible bidder, arrange for a contract between such bidder and Owner and make available as the work progresses sufficient funds to pay the cost of completion less the balance of the contract price. The term "balance of the contract price" as used in this paragraph shall mean the total amount payable by Owner to Contractor under the contract and any amendments thereto, less the amount previously paid by Owner to Contractor. The costs for which the Surety may be liable hereunder shall not exceed the amount set forth in the first paragraph hereunder.

The Surety, for value received, for itself, and its successors and assigns, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the contract or the work to be performed thereunder or the Specifications accompanying the same shall in any way affect its obligations on this Bond, and it does hereby waive notice of any such change, extension of time, alteration, or addition to the terms of the contract or to the work of to the Specifications.

PERFORMANCE BOND (continued)

The Surety expressly agrees that this bond shall be deemed amended automatically and immediately, without formal and separate amendments thereto, upon amendment to the contract increasing the contract price not more than twenty percent (20%), so as to bind the Contractor and the Surety to the full and faithful performance of the contract as so amended.

IN WITNESS WHEREOF, this instrument is executed in four (4) counterparts, each one of which shall be deemed an original, this _____ day of _____, _____.

ATTEST:

Contractor Name and Address

Secretary

BY: _____

Principal of Contractor

(CONTRACTOR'S
SEAL)

Print Name and Title

WITNESS:

Surety Name and Address

By: _____

Witness as to Surety

BY: _____

Attorney-in-Fact

(SURETY SEAL)

Print Name

NOTES: 1. The date of the Bond shall not be earlier than the date of or a date after the date of the agreement.

2. The Surety company shall be authorized to transact business in New Jersey and have sufficient resources to issue the Bond.

3. If Contractor is a partnership, all partners shall execute the Bond.