

TOWNSHIP OF SOUTH BRUNSWICK, MIDDLESEX COUNTY, NEW JERSEY

SPECIFICATIONS AND PROPOSAL

FOR THE

**LEASE OF SPACE FOR TELECOMMUNICATIONS PURPOSES ON AN
EXISTING MONOPOLE AT THE TOWNSHIP WATER STORAGE FACILITY,
ROUTE 1 AND MAJOR ROAD**

BIDS TO BE RECEIVED ON OR BEFORE OCTOBER 16, 2018 at 2:00 P.M.

AT THE

SOUTH BRUNSWICK TOWNSHIP MUNICIPAL BUILDING

MONMOUTH JUNCTION, NEW JERSEY 08852

**ROBERT J. MITCHELL
PURCHASING AGENT**

NOTICE OF INVITATION TO BID

The Township of South Brunswick will be accepting sealed bids for the lease of space on its telecommunications monopole, with accompanying ground space for an equipment enclosure, located at 3960 Route 1, Monmouth Junction (South Brunswick Township), New Jersey, 08852, also known as Lot 8.04 in Block 85 on the tax maps of the Township of South Brunswick. This auction has been authorized by Resolution 2018-327.

All bids must be received no later than **Tuesday, October 16, 2018 at 2:00 p.m.** Bids shall be opened on **Thursday, October 18, 2018 at 2:00 p.m.** in the South Brunswick Municipal Building, 540 Ridge Road (Route 522), Monmouth Junction, New Jersey.

The minimum bid price shall be \$3,700.93 per month. Before any construction or site work is started, a site plan must be submitted to the Information Technology Manager for review and approval. The Township of South Brunswick already leases space at this location. Any equipment installed as a result of this lease shall not cause any interference with the existing operation on the site.

The successful bidder will be required to maintain liability insurance naming the Township of South Brunswick as an additional insured in an amount not less than a combined single limit of \$1,000,000.00 for injury or damage to one or more persons or property.

The successful bidder shall be subject to such other terms and conditions as are contained in a Telecommunications Lease Agreement, a copy of which may be obtained from the Township's website at www.sbtnj.net or in the Township Clerk's office. Interested parties may make arrangements to inspect the site during the week prior to the submission deadline by contacting the Information Technology Manager at 732-329-4000, Ext.7315.

Robert J. Mitchell
Purchasing Agent

To be advertised: Tuesday, September 25, 2018
Tuesday, October 2, 2018
Home News Tribune

Friday, September 28, 2018
The Sentinel of North and South Brunswick

To be posted: Beginning Thursday, September 20, 2018
Ending Tuesday, October 16, 2018
www.sbtnj.net

SPECIFICATIONS AND INSTRUCTIONS TO BIDDERS

General Provisions

- 1.** Sealed proposals will be received by the Office of the Purchasing Agent at the Municipal Building, 540 Ridge Road; Monmouth Junction, in the County of Middlesex and the State of New Jersey at any time on or before **Tuesday, October 16, 2018 at 2:00 p.m.** Bidders shall be responsible to carefully examine the lease provisions as well as the conditions under which the lease will be awarded. Failure to offer a complete bid, or meet all sections of this invitation, may be deemed just cause for rejection of a bid as not meeting specifications.
- 2.** All bids must be submitted on the attached bidding form furnished by the Township and must be placed in a sealed envelope, plainly marked on the outside, **“Bid for Telecommunications Lease”**. If mailed to the Township, the bid shall be addressed to the Purchasing Agent, Township of South Brunswick, Municipal Building, 540 Ridge Road, P.O. Box 190, Monmouth Junction, New Jersey 08852 and shall be plainly marked, **“Bid for Telecommunications Lease”**. All bids must be received prior to bid opening, 2:00 p.m. local time. The Township will not assume any responsibility for bids forwarded by mail. It is the bidder's responsibility to see that bids are presented to the Township Official on the hour and at the place designated. Only original documents with original seals and signatures will be accepted. Facsimile or email transmitted documents will be rejected.
- 3.** Bidders are to submit the non-collusion affidavit with the bid proposal form.
- 4.** Bids will be received and awarded in accordance with Chapter 198 of the Public Laws of 1971, commonly referred to as the Local Public Contracts Law. **(N.J.S.A. 40A:11-1, et. seq.)**
- 5.** The Township Council reserves the right to accept or reject any or all proposals, to waive irregularities and technicalities, and to award in whole or in part to the highest responsible bidder, if it is in the best interest of the Township to do so. Without limiting the generality of the foregoing, any proposal which is incomplete, obscure, or irregular may be rejected. The Township Council intends to award the bid at a public meeting within sixty (60) days after the opening date.
- 6.** The Township reserves the right to postpone the date for presentation and opening of proposals and will give written notice of any such postponement to each prospective bidder as prescribed by law.
- 7.** Failure to sign the bid proposal or give all information requested may result in the bid being rejected.

8. When two or more bids are equal in all respects, award may be made by the Township to the bidder whose bid, in the discretion of the Township, is the most advantageous, price and other factors considered.

9. Where applicable, if there is a discrepancy between the prices written in words and written in figures, the prices written in words shall govern. Where applicable, if there is a discrepancy whereby the unit price written in words or figures is less than the unit price shown in parentheses, i.e. (Note: not less than \$1.00 per unit), the unit price shown in parentheses shall govern. Where applicable, if there is a discrepancy in the Extended Total of any item, the correct total shall be determined by multiplying the estimated quantity by the unit price written in words and the resulting total shall govern. The correct Extended Total for each item shall then be added to obtain the "Bid Total" or "Total Base Bid" whichever is applicable.

10. The terms and conditions of the lease agreement accompanying the Notice of Invitation to Bid are incorporated herein by reference and are a part of these Specifications as if fully set forth at length.

11. Other mandatory requirements.

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

GOODS, PROFESSIONAL SERVICE AND GENERAL SERVICE CONTRACTS

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

The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Except with respect to affectional or sexual orientation and gender identity or expression, the contractor will ensure that equal employment opportunity is afforded to such applicants in recruitment and employment, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affection- al or sexual orientation, gender identity or expression, disability, nationality or sex. Such equal employment opportunity 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 apprentice- ship. 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 will send to each labor union, with which it has a collective bargaining agreement, a notice, to be provided by the agency contracting officer, advising the labor union of the contractor's commitments under this chapter and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

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

The contractor or subcontractor agrees to make good faith efforts to meet targeted county employment goals established in accordance with N.J.A.C. 17:27-5.2. The contractor or subcontractor agrees to inform in writing its appropriate recruitment agencies including, but not limited to, employment agencies, placement bureaus, colleges, universities, and labor unions, that it does not discriminate on the basis of age, race, creed, color, or national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.

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

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

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

Letter of Federal Affirmative Action Plan Approval;

Certificate of Employee Information Report; or

Employee Information Report Form AA-302 (electronically provided by the Division and distributed to the public agency through the Division's website at: http://www.state.nj.us/treasury/contract_compliance).

The contractor and its subcontractors shall furnish such reports or other documents to the Division of Purchase & Property, CCAU, EEO Monitoring Program as may be requested by the office from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Division of Purchase & Property, CCAU, EEO Monitoring Program for conducting a compliance investigation pursuant to N.J.A.C. 17:27-1.1 et seq.

AMERICANS WITH DISABILITIES
Equal Opportunity for Individuals with Disability.

The BIDDER and the TOWNSHIP 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 agreement. In providing any aid, benefit, or service on behalf of the TOWNSHIP pursuant to this agreement, the BIDDER agrees that the performance shall be in strict compliance with the Act. In the event that the BIDDER, its agents, servants, employees, or subcontractors violate or are alleged to have violated the Act during the performance of this agreement, the BIDDER shall defend the TOWNSHIP in any action or administrative proceeding commenced pursuant to this Act. The BIDDER shall indemnify, protect, and save harmless the TOWNSHIP, 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 BIDDER'S action or failure to act that is alleged to have caused a violation of the Act. The BIDDER 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.

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

NEW JERSEY BUSINESS REGISTRATION REQUIREMENTS

In all contracts with public entities, every contractor shall provide written notice to its subcontractors of the responsibility to submit proof of business registration to the contractor as may be required by law.

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 the 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 section 1 of P.L.2001, c.134(C.52:32-44 et al.) or subsection e. or f. of section 92 of P.L. 1977, c.110 (C.5:12-92), or that provides 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.

All bidders must submit a copy of their proof of registration with bids.

**SOUTH BRUNSWICK TOWNSHIP
AFFIRMATIVE ACTION QUESTIONNAIRE**

No firm may be issued a contract unless they comply with the Affirmative Action Regulations of P.L. 1975, C. 127 (N.J.A.C.17:27).

All firms: An employee information report must be completed and returned prior to or at the time of an award. An Affirmative Action Plan approved by the Federal Government or the State of New Jersey Treasurer is an acceptable alternate.

FILL IN THE APPLICABLE BOX BELOW. YOUR BID WILL BE ACCEPTED EVEN IF YOU ARE NOT IN COMPLIANCE AT THIS TIME. IF, HOWEVER, YOU ARE THE SUCCESSFUL BIDDER AND HAVE NOT YET COMPLIED WITH THE AFFIRMATIVE ACTION REGULATIONS, YOU WILL BE SENT THE AFFIRMATIVE ACTION DOCUMENT FOR COMPLETION PRIOR TO AWARD. YOU MUST RETURN THE COMPLETED DOCUMENT TO THE TOWNSHIP WITHIN SEVEN DAYS AFTER YOU HAVE RECEIVED SAME.

ALL FIRMS:

A FEDERAL LETTER OF APPROVAL HAS BEEN RECEIVED.(PROOF MUST BE SUBMITTED WITH BID.)

OR

A CURRENT STATE OF NEW JERSEY "CERTIFICATE OF EMPLOYEE INFORMATION REPORT OF APPROVAL" HAS BEEN RECEIVED.
(COPY OF SAME MUST BE SUBMITTED WITH BID.)

OR

AN AFFIRMATIVE ACTION EMPLOYEE INFORMATION REPORT (FORM AA-302 MUST BE SUBMITTED, AS INDICATED ON SAID FORM.
(SOUTH BRUNSWICK TOWNSHIP WILL FORWARD YOU THIS FORM, IF YOU ARE A SUCCESSFUL BIDDER.)

I CERTIFY THAT THE ABOVE INFORMATION IS CORRECT TO THE BEST OF MY KNOWLEDGE.

Firm Name _____

Signature _____

Title _____

Date _____

STATEMENT OF OWNERSHIP
(OWNERSHIP DISCLOSURE CERTIFICATION)

N.J.S.A. 52:25-24.2 (P.L. 1977, c.33, as amended by P.L. 2016, c.43)

**This Statement Shall Be Included with
All Bid and Proposal Submissions**

Name of Business: _____

Address of Business: _____

Name of person completing this form: _____

N.J.S.A. 52:25-24.2:

"No corporation, partnership, or limited liability company shall be awarded any contract nor shall any agreement be entered into for the performance of any work or the furnishing of any materials or supplies, unless prior to the receipt of the bid or proposal, or accompanying the bid or proposal of said corporation, said partnership, or said limited liability company there is submitted a statement setting forth the names and addresses of all stockholders in the corporation who own 10 percent or more of its stock, of any class, or of all individual partners in the partnership who own a 10 percent or greater interest therein, or of all members in the limited liability company who own a 10 percent or greater interest therein, as the case may be.

If one or more such stockholder or partner or member is itself a corporation or partnership or limited liability company, the stockholders holding 10 percent or more of that corporation's stock, or the individual partners owning 10 percent or greater interest in that partnership, or the members owning 10 percent or greater interest in that limited liability company, as the case may be, shall also be listed. The disclosure shall be continued until names and addresses of every noncorporate stockholder, and individual partner, and member, exceeding the 10 percent ownership criteria established in this act, has been listed.

To comply with this section, a bidder with any direct or indirect parent entity which is publicly traded may submit the name and address of each publicly traded entity and the name and address of each person that holds a 10 percent or greater beneficial interest in the publicly traded entity as of the last annual filing with the federal Securities and Exchange Commission or the foreign equivalent, and, if there is any person that holds a 10 percent or greater beneficial interest, also shall submit links to the websites containing the last annual filings with the federal Securities and Exchange Commission or the foreign equivalent and the relevant page numbers of the filings that contain the information on each person that holds a 10 percent or greater beneficial interest."

The Attorney General has advised that the provisions of N.J.S.A. 52:25-24.2, which refer to corporations, partnerships, and limited liability corporations apply to all forms of business entities, including limited partnerships, limited liability partnerships, and Subchapter C and S corporations (Attorney General Opinion 02-0018, January 23, 2002 and 15-0021, May 8, 2015).

This Ownership Disclosure Certification form shall be completed, signed and notarized.

**Failure of the bidder/proposer to submit the required information is cause for
automatic rejection of the bid or proposal**

Part I

Check the box that represents the type of business organization:

- Sole Proprietorship (skip Parts II and III, sign and notarize at the end)
- Non-Profit Corporation (skip Parts II and III, sign and notarize at the end)
- Partnership Limited Partnership Limited Liability Partnership
- Limited Liability Company
- For-profit Corporation (including Subchapters C and S or Professional Corporation) Other (be specific): _____

Part II

- I certify that the list below contains the names and addresses of all stockholders in the corporation who own 10 percent or more of its stock, of any class, or of all individual partners in the partnership who own a 10 percent or greater interest therein, or of all members in the limited liability company who own a 10 percent or greater interest therein, as the case may be.

OR

- I certify that no one stockholder in the corporation owns 10 percent or more of its stock, of any class, or no individual partner in the partnership owns a 10 percent or greater interest therein, or that no member in the limited liability company owns a 10 percent or greater interest therein, as the case may be.

Sign and notarize the form below, and, if necessary, complete the list below.

(Please attach additional sheets if more space is needed):

Name: _____

Name: _____

Address: _____

Address: _____

Name: _____
Address: _____

Name: _____
Address: _____

Name: _____
Address: _____

Name: _____
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Address: _____

Part III - Any Direct or Indirect Parent Entity Which is Publicly Traded:

“To comply with this section, a bidder with any direct or indirect parent entity which is publicly traded may submit the name and address of each publicly traded entity and the name and address of each person that holds a 10 percent or greater beneficial interest in the publicly traded entity as of the last annual filing with the federal Securities and Exchange Commission or the foreign equivalent, and, if there is any person that holds a 10 percent or greater beneficial interest, also shall submit links to the websites containing the last annual filings with the federal Securities and Exchange Commission or the foreign equivalent and the relevant page numbers of the filings that contain the information on each person that holds a 10 percent or greater beneficial interest.”

Pages attached with name and address of each publicly traded entity as well as the name and address of each person that holds a 10 percent or greater beneficial interest.

OR

Submit here the links to the Websites (URLs) containing the last annual filings with the federal Securities and Exchange Commission or the foreign equivalent.

AND

Submit here the relevant page numbers of the filings containing the information on each person holding a 10 percent or greater beneficial interest.

Subscribed and sworn to before me this ____ day of _____, 2018.

(Notary Public)

My Commission expires:

(Affiant)

(Print name of affiant and title if applicable)

(Corporate Seal if a Corporation)

TOWNSHIP OF SOUTH BRUNSWICK

BID PROPOSAL FORM

The undersigned bidder declares he has read the notice to bidders, instructions to bidders and specifications/lease provisions attached thereto, that he has determined the conditions affecting the bid and agrees, if this proposal is accepted, to enter into an agreement for the following:

Lease of space on a monopole located in the southeastern corner of the South Brunswick Township water storage facility, with accompanying ground space for an equipment enclosure, located at 3960 Route 1, Monmouth Junction (South Brunswick Township), New Jersey, 08852, also known as Lot 8.04 in Block 85 on the tax maps of the Township of South Brunswick

Bid amount \$ _____ per month

Company _____

Address _____

Telephone _____

By _____ Title _____
(Signature)

Name – Type or Print

Witness _____ Title _____

Date _____

**TOWNSHIP OF SOUTH BRUNSWICK
BID DOCUMENT CHECKLIST**

<u>Required with Bid</u>	<u>Read, Signed & Submitted</u>
Stockholders Disclosure Certification	<input type="checkbox"/>
Non-Collusion Affidavit	<input type="checkbox"/>
Bid Proposal Form	<input type="checkbox"/>
Affirmative Action Questionnaire	<input type="checkbox"/>
Business Registration Certificate	<input type="checkbox"/>

This form need not be submitted. It is provided for bidder's use in assuring compliance with all required documentation

TELECOMMUNICATIONS LEASE AGREEMENT
(Major Road/Route 1)

This lease agreement ("Agreement") is entered into this ____ day of _____, 2018, between the Township of South Brunswick, a municipal corporation of New Jersey, located at the Municipal Complex, 540 Ridge Road, Monmouth Junction, NJ 08852 ("Lessor") and _____ ("Lessee"), located at _____.

In consideration of the mutual covenants contained herein, and for good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Premises. Lessor is the owner of the following parcel:
Lot 8.04 in Block 85, located at 3960 Route 1, South Brunswick Township, on which is located a water storage facility and 2 radio towers ("Land"). Lessor hereby leases the following portion of said property to Lessee: A 10' x 12' portion of ground space located next to the existing monopole on the property for the location of an equipment enclosure. Space for 12 panel style antennas will be on the existing monopole at an elevation of approximately 185± feet. The ground space and monopole space are collectively referred to as the Premises, as depicted in Exhibit A.
2. Use. The Premises may be used by Lessee only in connection with the provision of communications services, including without limitation, the transmission and the reception of radio communication signals on various frequencies, and for the construction, maintenance and operation of necessary facilities, including but not limited to the monopole and antennas and an air conditioned equipment shelter. Lessor agrees to cooperate with Lessee, at Lessee's expense, in making application for obtaining all licenses, permits and any and all other necessary approvals that may be required for Lessee's intended use of the Premises.
3. Tests and Construction. Lessee shall have the right at any time following the full execution of this Agreement to enter upon the Land for the purpose of making necessary engineering surveys and inspections and soil test borings and other reasonably necessary tests ("Tests"), if needed, and for the purpose of constructing the Lessee's Facilities (as defined in Paragraph 6(a) below) and installing the Site Equipment (as defined in Paragraph 9(a) below) (collectively "Construction"). During any Tests or Construction, Lessee will provide Lessor with a certificate of insurance naming Lessor as an additional insured and evidencing liability insurance in the amounts set forth in Paragraph 14 of this Agreement. In conducting any Tests or Construction, Lessee will coordinate the scheduling of same with Lessor as well as cooperate with Lessor so as to minimize any interference with the business operations currently conducted by Lessor on the Land. No Construction shall occur unless the proposed Facilities and Site Equipment are first reviewed and approved by Lessor. A structural analysis of the monopole shall be provided to Lessor prior to Construction in order to ensure that the monopole is able to safely accommodate the proposed Construction. Any unused cables located at the top of the monopole must be removed from outside or inside the monopole before additional lines can be added.

4. Term. The term of this Agreement shall be five (5) years commencing on the later of the date Lessee begins commercial operation of the Lessee Facilities (which facilities are defined in Paragraph 6(a) below) or on November 1, 2018 ("Commencement Date") and terminating on the fifth anniversary of the Commencement Date (the "Term") unless otherwise terminated as provided in Paragraph 12. This Agreement shall automatically be extended for three (3) successive five (5) year periods (the "Renewal Terms"), unless either party notifies the other not less than sixty (60) days prior to the respective expiration date of its intention not to extend.

5. Rent.

(a) Within 15 days after the Commencement Date and on the first day of each month thereafter, Lessee shall pay to the Lessor as rent _____ Dollars (\$_____) per month ("Rent"). If the Commencement Date is a date other than the first of the month, the Rent for the first calendar month shall be prorated on the basis of the number of actual days in such partial month. Rent shall be payable to Lessor at Township of South Brunswick, 540 Ridge Road, P.O. Box 190, Monmouth Junction, NJ 08852, Attention: Township Treasurer.

(b) For any Renewal Term, Lessee shall pay the current Rent, increased by two percent (2%) per annum or any percentage increase which occurred in the Consumer Price Index ("CPI") for the New York-Northeastern New Jersey Metropolitan Statistical Area during the preceding five (5) year period, whichever is higher, which calculations shall be provided by the Township.

(c) If this Agreement is terminated prior to its expiration, Rent shall be prorated as of the date of termination.

6. Improvements; Liability; Utilities; Access.

(a) Lessee has the right to erect, maintain and operate on the Premises communications facilities including utility lines, an air conditioned equipment shelter, radio transmitting and receiving antennas and supporting structures thereto ("Lessee Facilities"). In connection therewith, Lessee has the right to do all work necessary to prepare, maintain and alter as per approved site plan, the Premises for Lessee's business operations and to install transmission lines connecting the antennas to the transmitters and receivers. All of Lessee's construction and installation work shall be performed at Lessee's sole cost and expense and in a good and workmanlike manner. Title to the Lessee Facilities shall be held by Lessee. All of the Lessee Facilities shall constitute personal property and are not fixtures. Lessee has the right to remove the Lessee Facilities at its sole expense on or before the expiration or earlier termination of the Term or any Renewal Term. At the end of the Agreement, Lessee shall remove all facilities which it placed or allowed to be placed on the site and Lessee shall restore the Premises to its current condition, reasonable wear and tear excepted.

(b) Whenever Lessee desires to undertake any construction, repairs or maintenance work upon or about the antenna location it shall:

(1) Provide a work schedule to the South Brunswick Township Information Manager at least seven (7) days in advance, listing the dates that the work

will be done on the property;

- (2) Take all reasonable corrective actions at the conclusion of the work day to prevent the work area from becoming an attractive nuisance which could invite entry by members of the public into the work area;
- (3) Restore the entire area disturbed by the work at least to the condition in which it had existed prior to the work; and
- (4) Comply with all ordinances, regulations and statutes governing the work and obtain all necessary permits therefor, and post performance and/or maintenance bonds if required by the Lessor or any other governmental entity or agency having an interest in the work.

(c) Lessee shall have the right to draw electricity from the electric supply on the land, if available. If Lessee submeters its power from Lessor's electric supply, Lessee shall reimburse Lessor for the actual electricity it consumes at the rate paid by Lessor to the utility company. Lessee shall have the right, at its option and expense, to obtain electrical service from any utility company that provides electric service to the Premises, including the installation of a separate meter and main breaker. Lessee has the right to improve the present utilities on the Premises and to install new utilities (including a standby power generator for Lessee's exclusive use at a location on the Premises acceptable to both parties). Lessee also has the right to bring utilities to the Land in order to service the Premises as per the plan to be approved by the Township. The location of the utility lines shall be as required by Lessee and the applicable utility company. At Lessee's reasonable request, Lessor shall execute necessary documents evidencing such utility easement rights, including a utility easement in favor of Lessee or the applicable utility company. Lessee shall pay for the electricity it consumes in its operations.

(d) Lessor shall provide to Lessee, Lessee's employees, agents and subcontractors access over the Land to the Premises twenty-four (24) hours a day, seven days a week, at no additional charge to Lessee. Prior notice must be given to South Brunswick Police Dispatch before entering the property except in cases of emergency, in which event the Police shall be notified in a reasonable period of time.

7. Inspections. Lessee agrees, during construction, to bear the reasonable cost and expense incurred by Lessor for inspection of the operation conducted hereunder and the Lessor shall have the right, in its sole discretion, to designate such inspectors and engineers or specialized engineering firm deemed necessary for the protection of its property rights and the rights of the public. Said inspectors, engineers, or specialized engineering firm so retained shall not be considered agents, servants or employees of either Lessee or the Lessor and their duties shall be limited to the inspection of the operation and the submission to the Lessor of reports concerning the status of the work.

8. Interference.

- (a) Lessee shall not operate the Lessee Facilities in a manner that will cause interference

to Lessor and other lessees of the land whose installation predates the Lessee Facilities. All operations by Lessee shall be lawful and in compliance with all Federal Communications Commission ("FCC") requirements.

- (b) Subsequent to the installation of the Lessee Facilities, Lessor shall not permit itself, its lessees or licensees to install new equipment at the Premises if such equipment is likely to cause interference with the operations of Lessee's Facilities. Such interference shall be deemed a material breach of this Agreement by Lessor, and Lessee shall have the right to bring a court action against the interfering party of terminate this Agreement.

9. Equipment.

- (a) Lessee shall provide all transmitters and receivers and all related electronic equipment, cables and associated equipment ("Site Equipment") required for the installation and operation of Lessee's system. The Site Equipment is and shall remain the sole property of the Lessee and may be removed from the Premises at any time by the Lessee. Lessee shall remove all Site Equipment from the Premises at Lessee's expense upon the termination of this Agreement.

- (b) Lessee shall provide all of the equipment and labor necessary for the installation of Lessee's system including the antennas, associated feed lines, isolation equipment and electrical terminals. The equipment provided by Lessee shall remain the sole personal property of Lessee and shall not be deemed fixtures.

- (c) Lessee shall, at its sole cost and expense, maintain and repair its Site Equipment.

- (d) Title to the Site Equipment placed on the Premises by Lessee shall be held by Lessee. All of the Site Equipment shall remain the property of Lessee and are not fixtures. Lessee has the right to remove all the Site Equipment at its sole expense on or before the expiration or termination of this Agreement. Lessor acknowledges that Lessee may enter into financing arrangements including promissory notes and financial and security agreements for the financing of the Site Equipment (the "Collateral") with a third party financing entity and may in the future enter into additional financing arrangements with other financing entities. In connection therewith, Lessor (i) consents to the installation of the Collateral to the extent that the Collateral is part of the approved Lessee's Facilities; (ii) disclaims any interest in the Collateral, as fixtures or otherwise, whether arising at law or otherwise, including, but not limited to any statutory landlord's lien ; and (iii) agrees that the Collateral shall be exempt from execution, foreclosure, sale, levy, attachment, or distress for any Rent due or to become due and that such Collateral may be removed at any time without recourse to legal proceedings. No financing arrangements permitted by this section shall in any way act or serve as a lien or encumbrance on the Premises, Land or any other real or personal property not owned by Lessee.

10. Indemnification.

- (a) Lessee hereby agrees to defend, indemnify and save harmless Lessor, its officials,

servants and employees, and each and every one of them from and against all suits, costs, claims, expenses, and judgments of every kind and description against Lessor by agents, servants, employees and contractors of Lessee and from and against all damages and expenses to which the Lessor or any of its officials, servants and employees may be subject to the extent caused by the construction, reconstruction, maintenance, repair, alteration or operations of the Lessee Facilities, except to the extent that such damage or expense is caused by the negligence or willful misconduct of Lessor or any of its officials, servants, employees, agents or contractors.

(b) Lessor agrees to defend, indemnify and save harmless Lessee, its officers, employees, contractors and subcontractors from and against any claims, suits, losses, damages, liabilities and expenses arising out of or in connection with Lessor's negligent acts or omissions or willful misconduct.

11. Restoration; Removal of Antenna System. Lessee agrees that it shall, at its sole cost and expense, restore all of Lessor's real or personal property which is in any way disturbed by the construction and installation herein authorized or by any future maintenance of the installation to at least the condition it was in prior to entry by the Lessee reasonable wear and tear excepted. If the restoration has not been completed within ninety (90) days of completion of the construction or maintenance, the Lessor may give notice to the Lessee and thirty (30) days thereafter may perform the restoration with its own or a contracted work force at Lessee's sole cost and expense. Within ninety (90) days of termination of this Agreement, or any renewal thereof, subject to any force majeure event, Lessee shall remove the Lessee Facilities and Site Equipment from the Premises. If Lessee fails to remove the Lessee Facilities or Site Equipment, the Lessor may effect such removal, with its own or a contracted work force at Lessee's sole cost and expense.

12. Termination.

(a) This Agreement may be terminated without further liability on thirty (30) days prior written notice as follows: (i) by either party upon a default of any covenant or term hereof by the other party, which default is not cured within sixty (60) days of receipt of written notice of default, provided that the grace period for any monetary default is fifteen (15) days from receipt of notice; or (ii) by Lessee for any reason or for no reason provided Lessee delivers written notice of early termination to Lessor prior to the Commencement Date of this Agreement; or (iii) by Lessee if it does not obtain or maintain any license, permit or approval necessary to the construction and operation of Lessee Facilities; or (iv) by Lessee if Lessee is unable to occupy and utilize the Premises due to an action of the FCC, including without limitation, a take back of channels or change in frequencies; or (v) by Lessee if Lessee determines that the Premises are not appropriate for its operations for economic, environmental or technological reasons, including, without limitation, signal interference.

13. Termination in the Event of Casualty or Condemnation.

(a) In the event of any damage, destruction or condemnation of the Premises or any part thereof, which renders the Premises unusable or inoperable, Lessee shall have the right, but not the obligation, to terminate this Agreement and all of its duties and obligations herein by giving written notice to Lessor within thirty (30) days after such damage, destruction or condemnation,

if by virtue of such casualty or condemnation the Premises are no longer adequate for Lessee to continue its operations or any repairs to the Premises have not been completed or cannot reasonably be completed within sixty (60) days from the date of the damage. Rent shall abate as of the date of the damage, destruction or condemnation.

(b) If Lessee does not terminate this Agreement: (1) the Rent payable herein shall be reduced or abated in proportion to the actual reduction or abatement of use of the Premises; and (2) within sixty days from the date of such damage or destruction, Lessor shall make any necessary repairs to the Premises caused by any such damage or destruction.

(c) In the event of condemnation, unless Lessee is allowed by the condemning authority to continue its operations on the Premises, this Agreement shall terminate as of the date title to the land vests in the condemning authority or Lessee is required to cease its operations, whichever is earlier. Lessee shall be entitled to share in the proceeds of any condemnation to the extent that the proceeds include the value of any of Lessee's improvements which are transferred to the condemning authority, moving expenses, prepaid rent and business dislocation expenses.

14. Insurance.

(a) Lessee, at Lessee's sole cost and expense, shall procure and maintain on the Premises and on Lessee's Site Equipment, bodily injury and property damage insurance with a combined single limit of at least One Million and 00/100 Dollars (\$1,000,000.00) per occurrence. Such insurance shall insure, on an occurrence basis, against all liability of Lessee, its employees, and agents arising out of or in connection with Lessee's use of the Premises, all as provided for herein. Lessor shall be named as an additional insured on Lessee's policy. Lessee shall provide to Lessor a certificate of insurance evidencing the coverage required by this paragraph.

(b) All insurance required under this Agreement shall:

(1) Be issued as a primary policy; and

(2) Contain an endorsement requiring thirty (30) days written notice from the insurance company to both parties before cancellation or change in the coverage, scope, and amount of any policy. Each certification of the policy shall be deposited with Lessor within thirty (30) days of the Commencement Date and, on renewal of the policy, not less than thirty (30) days before the expiration of the expiring term of the policy.

(c) Lessor shall procure and maintain commercial general liability and property insurance in commercially reasonable amounts.

15. Waiver of Subrogation. Lessor and Lessee release each other and their respective principals, employees, representatives and agents, from any claims for damage to any person or the Premises or to the Lessee Facilities or Site Equipment thereon caused by, or resulting from, risks insured against under any insurance policies carried by the parties and in force at the time

of such damage. Lessor and Lessee shall cause each insurance policy obtained by it to provide that the insurance company waives all right of recovery by way of subrogation against the other in connection with any damage covered by any policy. Neither Lessor nor Lessee shall be liable to the other for damage caused by fire or any of the risks insured against under the insurance policy required by paragraph 14.

16. Premises. Lessee shall maintain the Premises and operate its facilities thereon in such a manner as will best enable it to fulfill its service requirements, and in accordance with the specifications herein mentioned. Lessor reserves the right to support antenna systems for its emergency and government communications systems, including the utilization of sufficient space in the Land for an equipment building. Except for emergencies, Lessor shall provide Lessee with at least 48 hours prior notice, via telephone, mail, fax or e-mail, of any maintenance or other work to be performed by Lessor within ten (10') feet of Lessee's antennas in order to allow Lessee to power down its antennas, if necessary. Lessee shall provide Lessor with a telephone number(s) where Lessee's representative can be reached 24 hours per day, 7 days per week. Lessee shall have a non-exclusive right of access to and from the site 7 days a week, 24 hours a day, on foot or motor vehicle, including small trucks and vans. Lessee has the right to survey the property, which survey shall be attached as a lease exhibit. Cost for such work shall be borne by the Lessee.

17. Assignment. The Agreement shall not be sold, transferred or assigned by Lessee without prior approval of Lessor, except to Lessee's principals, affiliates, subsidiaries or to any entity which acquires all or substantially all of the Lessee's assets in the wireless communications market by reason of a merger, acquisition or other business reorganization. As to other parties, this Agreement may not be sold, assigned or transferred without the written consent of the Lessor, which consent will not be unreasonably withheld or delayed. Notwithstanding anything to the contrary contained in this Agreement, Lessee may assign, mortgage, pledge, hypothecate or otherwise transfer without consent, but upon thirty (30) days written notice to Lessor, its interest in this Agreement to any financing entity, or agent on behalf of any financing entity to whom Lessee (i) has obligations for borrowed money or in respect of guaranties thereof, (ii) has obligations evidenced by loans, bonds, debentures, notes or similar instruments, or (iii) has obligations under or with respect to letters of credit, bankers acceptances and similar facilities or in respect of guaranties thereof, provided Lessee remains primarily liable under the terms and conditions of the Agreement. In every Assignment of Lessee's interests in this Agreement, Lessee shall notify Lessor of the name and address of the assignee within ten (10) days of the effective date of the Assignment.

18. Warranty of Title.

(a) Lessor warrants that: (i) Lessor owns the land in fee simple or has an easement thereon and has rights of access thereto; (ii) Lessor has full right to make this Agreement.

(b) Lessor warrants that the making of this Agreement and the performance thereof will not violate any laws, ordinances, restrictive covenants, or the provision of any mortgage, lease, or other agreements under which Lessor is bound and which restricts

the Lessor in any way with respect to the use or disposition of the Land.

19. Repairs. Lessee shall not be required to make any repairs to the Premises or Land unless such repairs shall be necessitated by reason of the default or negligence of Lessee, its agent, servants or employees as specified herein.

20. Environmental Conditions. Lessor states that to the best of its knowledge the Land has not been used for the generation, storage, treatment or disposal of hazardous substances or hazardous wastes. In addition, Lessor states that to the best of its knowledge no hazardous substances, hazardous wastes, pollutants, asbestos, polychlorinated biphenyls (PCBs) petroleum or other fuels (including crude oil or any fraction or derivative thereof) or underground storage tanks (collectively "Environmental Hazards") are located on or about the Land. For purposes of this Agreement, the term "hazardous substances" shall be as defined in the Comprehensive Environmental Response Compensation and Liability Act (42 U.S.C. Section 9601 et seq.) (CERCLA), and any regulation promulgated pursuant thereto. The term "hazardous wastes" shall be as defined in the Resource Conservation and Recovery Act (42 U.S.C. Section 6901 et seq.) (RCRA), any regulations as defined in the Clean Water Act (33 U.S.C. Section 1251 et seq.), and any regulations promulgated pursuant thereto.

21. Miscellaneous.

(a) This Agreement, the Notice of Public Auction and Specific Instructions attached hereto as Exhibit B, constitute the entire agreement and understanding between the parties, and supersedes all offers, negotiations and other agreements concerning the subject matter contained herein. There are no representations or understandings of any kind not set forth herein. Any amendments to this Agreement must be made in writing and executed by both parties.

(b) If any provision of this Agreement is invalid or unenforceable with respect to any party, the remainder of this Agreement or the application of such provision to persons other than those as to whom it is held invalid or unenforceable, shall not be affected and each provision of this Agreement shall be valid and enforceable to the fullest extent by law.

(c) This Agreement shall be binding on and inure to the benefit of the successors and permitted assignees of the respective parties.

(d) The captions of this Agreement have been inserted for convenience only and are not to be construed as part of this Agreement or in any way limiting the scope or intent of its provision.

(e) Any notice or demand required to be given herein (except for the notice required under paragraph 16) shall be made by certified or registered mail, return receipt requested, or reliable overnight courier to the address of the respective parties set forth below:

Lessor: Township of South Brunswick
540 Ridge Road

P.O. Box 190
Monmouth Junction NJ 08852
Attention: Township Manager

With a Copy to: Township of South Brunswick
540 Ridge Road
P.O. Box 190
Monmouth Junction NJ 08852
Attention: Information Technology Manager

Lessee:

Lessor or Lessee may from time to time designate any other address for this purpose by written notice to the other party.

(f) This Agreement shall be construed in accordance with the laws of the State of New Jersey, and the laws of the State of New Jersey will apply to any dispute concerning or arising out of it. The Superior Court of New Jersey with venue in Middlesex County shall be the forum for resolving any dispute concerning or arising out of this Agreement.

(g) Except as specifically provided herein, all rentals paid to the termination date shall be retained by the Lessor.

(h) Lessor acknowledges that a Memorandum of Agreement may be recorded by Lessee in the Official Records of the County where the Land is located. A copy of any proposed Memorandum of Agreement shall be provided by Lessee to Lessor at least seven (7) days prior to any recording thereof.

22. Quiet Enjoyment. Lessor covenants that Lessee, on paying the rent and performing the covenants, shall peaceably and quietly have, hold and enjoy the Premises.

22. Mortgage Subordination. At Lessor's option, this Agreement shall be subordinate to any mortgage by Lessor provided, however, that every such mortgage shall recognize the validity of this Agreement in the event of foreclosure of Lessor's interest and Lessee's right to remain in occupancy of and have access to the Land as long as Lessee is not in default of this Agreement. At Lessee's request, Lessor will furnish to Lessee a non-disturbance agreement for each such mortgage encumbering the Land. Lessee shall execute whatever instruments may reasonably be required to evidence this subordination clause.

IN WITNESS WHEREOF, the parties have executed this agreement as of the date first above written.

ATTEST:

LESSOR: Township of South Brunswick

Barbara Nyitrai
Township Clerk

By: _____
Charles Carley, Mayor

ATTEST/WITNESS:

LESSEE:

By: _____

STATE OF NEW JERSEY:
SS
COUNTY OF MIDDLESEX:

I CERTIFY that on _____, 2018, BARBARA NYITRAI personally came before me and she acknowledged under oath, to my satisfaction, that:

- (a) she is the Township Clerk of the Township of South Brunswick, the municipal corporation named in this document;
- (b) she is the attesting witness to the signing of this document by Charles Carley, who is the Mayor of the Township of South Brunswick;
- (c) this document was signed and delivered by the Township of South Brunswick as its voluntary act duly authorized by a proper resolution of the Township Council;
- (d) she knows the proper seal of the Township of South Brunswick which was affixed to this document; and
- (e) she signed this proof to attest to the truth of these facts.

Signed and sworn to before me
On _____, 2018

Donald J. Sears
An Attorney at Law
In the State of New Jersey

Barbara Nyitrai, Township Clerk

STATE OF _____:

SS

COUNTY OF _____:

I CERTIFY that on _____, _____ personally came before me and he/she acknowledged under oath, to my satisfaction, that:

(a) he/she is the _____ of _____, the corporation named in this document;

(b) he/she is the attesting witness to the signing of this document by _____, who is the _____;

(c) this document was signed and delivered by the Corporation as its voluntary act duly authorized by a proper resolution;

(d) he/she knows the proper seal of the Corporation, which was affixed to this document; and

(e) he/she signed this proof to attest to the truth of these facts.

Signed and sworn to before me

On _____, 2018

EXHIBIT A

(Approved site plan)

Please see attached.

EXHIBIT B

NOTICE OF INVITATION TO BID

The Township of South Brunswick will be accepting sealed bids for the lease of space on its telecommunications monopole, with accompanying ground space for an equipment enclosure, located at 3960 Route 1, Monmouth Junction (South Brunswick Township), New Jersey, 08852, also known as Lot 8.04 in Block 85 on the tax maps of the Township of South Brunswick. This auction has been authorized by Resolution 2018-327.

All bids must be received no later than **Tuesday, October 16, 2018 at 2:00 p.m.** Bids shall be opened on **Thursday, October 18, 2018 at 2:00 p.m.** in the South Brunswick Municipal Building, 540 Ridge Road (Route 522), Monmouth Junction, New Jersey.

The minimum bid price shall be \$3,700.93 per month. Before any construction or site work is started, a site plan must be submitted to the Information Technology Manager for review and approval. The Township of South Brunswick already leases space at this location. Any equipment installed as a result of this lease shall not cause any interference with the existing operation on the site.

The successful bidder will be required to maintain liability insurance naming the Township of South Brunswick as an additional insured in an amount not less than a combined single limit of \$1,000,000.00 for injury or damage to one or more persons or property.

The successful bidder shall be subject to such other terms and conditions as are contained in a Telecommunications Lease Agreement, a copy of which may be obtained from the Township's website at www.sbtnj.net or in the Township Clerk's office. Interested parties may make arrangements to inspect the site during the week prior to the submission deadline by contacting the Information Technology Manager at 732-329-4000, Ext.7315.

Robert J. Mitchell
Purchasing Agent

To be advertised: Tuesday, September 25, 2018
Tuesday, October 2, 2018
Home News Tribune

Friday, September 28, 2018
The Sentinel of North and South Brunswick

To be posted: Beginning Thursday, September 20, 2018
Ending Tuesday, October 16, 2018
www.sbtnj.net