

STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL

IN RE:

APPLICATION OF HOMELAND TOWERS, LLC AND
NEW CINGULAR WIRELESS PCS, LLC d/b/a AT&T
FOR A CERTIFICATE OF ENVIRONMENTAL
COMPATIBILITY AND PUBLIC NEED FOR THE
CONSTRUCTION, MAINTENANCE, AND
OPERATION OF A TELECOMMUNICATIONS
FACILITY AT ONE OF TWO SITES IN THE
TOWN OF KENT, CONNECTICUT

DOCKET NO. 488

April 7, 2020

MOTION FOR A PROTECTIVE ORDER RELATED TO DISCLOSURE
OF THE EXACT MONTHLY RENT IN THE LEASE AGREEMENT BETWEEN
HOMELAND TOWERS, LLC AND LESSOR

In furtherance of the Council's ruling in Docket 366, the Applicant, Homeland Towers, LLC respectfully moves for a protective order related to the disclosure of the exact monthly rent in the respective lease agreement with Jason Dubray and Jennifer Dubray ("Landlord") and John P. Atwood ("Landlord"). The Siting Council's evaluation of the Applicant's proposed facility should not be based on the financial terms of Homeland's agreement with the Landlord as it does not relate to the criteria set forth in Section 16-50p of the Connecticut General Statutes. Additionally, Homeland considers the specific amount of rent and other financial terms that these parties agreed upon as proprietary corporate information. It is respectfully submitted that the specific monthly rent of the lease agreement between Homeland and the Landlord as well as other financial terms is not relevant to this proceeding and should be excluded from any public disclosure. In furtherance of this motion, portions of the lease with the monthly rent and other financial terms disclosed has been provided in the included sealed envelope and marked "Confidential: Disclosure of the Contents is Bound by Protective Order Issued by the Siting Council" with a redacted copy of the leases attached to this motion and provided in furtherance of Section 16-50o(c) of the Connecticut General Statutes.



Lucia Chiochio, Esq.
Cuddy & Feder LLC
Attorneys for the Applicants

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DOCKET NO. 488

April ____, 2020

PROTECTIVE ORDER

WHEREAS, the financial provisions in the lease agreements between Jason Dubray and Jennifer Dubray (the "Landlord") for the property located at 93 Richards Road, Kent, CT and Homeland Towers, LLC ("Homeland") (the "Tenant") are proprietary, confidential and commercially valuable information ("Confidential Information");

WHEREAS, the Confidential Information qualifies as "trade secrets" as defined by Connecticut Law;

WHEREAS, Homeland would be harmed by the disclosure of the Confidential Information;

WHEREAS, Homeland is willing to provide the Confidential Information to the Siting Council subject to a protective order;

NOW, THEREFORE, it is hereby ordered that a protective order enter with respect to the Confidential Information and that the following is adopted for the protection of the Confidential Information:

1. The Confidential Information shall be governed by the terms of this Order.
2. The Confidential Information is proprietary, confidential and constitutes trade secrets.
3. The Confidential Information shall be given solely to the Siting Council and its staff and the Siting Council and its staff shall take all reasonable precautions to maintain the confidentiality of the Confidential Information.

4. The Confidential Information is subject to this Order and shall in no event be disclosed to any person or entity.

5. The Confidential Information shall be delivered in a sealed envelope to the Siting Council and marked as follows: "Confidential: Disclosure of the Contents is Bound by Protective Order Issued by the Siting Council."

6. Nothing herein shall be interpreted as a determination that any of the Confidential Information will be admissible as substantive evidence in this proceeding or at any hearing or trial. Any party seeking to change the terms of this Order shall do so by motion and serve all parties. No information protected by this Order shall be made public until the Siting Council rules on any such motion to change the terms of this Order.

7. The Siting Council and its staff shall not access, use or disclose the Confidential Information in any proceeding, nor make the Confidential Information available to any party, intervenor or interested individual or entity in any proceeding.

8. The Confidential Information shall remain confidential and proprietary after the conclusion of all proceedings in this docket.

9. All copies of the Confidential Information shall be returned to Homeland no later than thirty (30) days after the expiration of all appeal periods applicable to the final decision rendered in this proceeding.

CONNECTICUT SITING COUNCIL

By: _____

Dated: _____, 2020

SITE NO.: CT757
SITE NAME: Kent
LESSOR: Jason Dubray and Jennifer Dubray
LEASE NO.: _____

OPTION AND GROUND LEASE AGREEMENT

THIS OPTION AND GROUND LEASE AGREEMENT ("Agreement") is made and entered into as of this 11th day of September 2019 (the "Effective Date") by and among JASON DUBRAY AND JENNIFER DUBRAY, as individuals ("LESSOR") and HOMELAND TOWERS, LLC, a New York limited liability company, ("LESSEE").

Recitals

- A. WHEREAS, LESSOR is the owner of the following described property located at 93 Richards Road, Town of Kent, County of Litchfield, State of Connecticut, a legal description of which is set forth in **Exhibit "A"** hereto (the "Property"); and
- B. WHEREAS, LESSEE desires to lease certain ground space on the Property for the placement of LESSEE's equipment, building(s) and tower(s) for the purpose of constructing, establishing, and maintaining a radio transmission tower facility for LESSEE's use and that of its subtenants, licensees and customers (collectively, "Customers"), which facility includes tower(s), building(s), radio transmitting and receiving antennas, communications equipment, and related cables, wires, conduits, air conditioning equipment and other appurtenances (the "Telecommunications Facilities"); and
- C. WHEREAS, LESSOR understands and accepts that LESSEE's primary business is the leasing, subleasing, and licensing portions of the Telecommunications Facilities to its Customers.

Agreement

NOW, THEREFORE, in consideration of the foregoing premises, the mutual covenants and promises contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, LESSOR and LESSEE agree as follows.

1. Option to Lease. (a) In consideration of the payment of [REDACTED] by LESSEE to LESSOR, LESSOR hereby grants to LESSEE an option to lease the Leased Premises (as defined in Section 2 below), on the terms and conditions set forth herein (the "Option"). The Option shall be for a term of twelve (12) months, commencing upon the date of mutual execution of this Agreement and ending twelve (12) months from such date (the "Initial Option Period"). LESSEE shall have the right to extend the Option for one (1) additional twelve (12) month periods (each, an "Extension Period") by giving written notice to LESSOR prior to the end of the then-current Option Period, which notice shall be accompanied by [REDACTED] (the "Additional Option Fee"). As used herein, "Option Period" means the Initial Option Period and any applicable Extension Period(s).

(b) During the Option Period and any applicable extension thereof, LESSEE may exercise the Option by so notifying LESSOR in writing.

(c) The provisions of Sections 3(b) and 3(c) of this Agreement shall apply with equal force during the Option Period and, to the extent that LESSEE exercises the Option, the Term of this Agreement.

2. Premises. Subject to the following terms and conditions, LESSOR leases to LESSEE and LESSEE leases from LESSOR certain ground space located on the Property sufficient for the construction, operation and maintenance of LESSEE's Telecommunications Facilities, together with all necessary easements for access, egress and utilities, as generally described in this Agreement and depicted on the site plan/drawing attached hereto as **Exhibit "B"** (collectively referred to hereinafter as the "Leased Premises"). The Leased Premises, located at 93 Richards Road, Kent, CT 06785, is comprised of approximately Five Thousand Six Hundred Twenty Five (5,625) square feet of ground space.

3. Permitted Use. (a) The Leased Premises may be used by LESSEE solely for, the construction, operation, maintenance, repair and/or replacement of Telecommunications Facilities for the transmission and reception of radio communication signals by LESSEE and its Customers (the "Permitted Use").

(b) LESSEE shall, at its expense, obtain any and all certifications, licenses, variances, permits, conditional use permits or authorizations required for LESSEE's use of the Leased Premises from all applicable federal, state, local government and/or regulatory entities (the "Governmental Approvals"). LESSOR agrees to cooperate with LESSEE, at LESSEE's expense, in obtaining Governmental Approvals by, subject to LESSOR's prior approval, not to be unreasonably withheld: (i) allowing LESSEE to obtain Governmental Approvals and file such applications, letters and/or documents for zoning and/or building permits as are deemed necessary or appropriate by LESSEE in connection with its use of the Leased Premises; (ii) promptly executing any documents or applications as requested by LESSEE to apply for permits for the use of the Property and Leased Premises; (iii) appointing LESSEE as its agent for all conditional use permit and variance applications, including executing any documents or applications reasonably necessary thereto; (iv) authorizing LESSEE as its agent with respect to signing any zoning or building permit applications for LESSEE's use of the Leased Premises; provided, however, that LESSEE shall not be permitted to apply for any zoning change or other application that would result in a change of zone or which would unreasonably interfere with, disturb, limit or impair LESSOR's use of the Property, outside of the Leased Premises; and (v) undertaking any other steps reasonably necessary to obtain any Governmental Approval(s) deemed necessary or appropriate by LESSEE. LESSOR shall take no action during the Option Period or, in the event that the Option is exercised, during the Term of this Agreement (as defined in Section 4 below) that would adversely affect the status of the Leased Premises with respect to the proposed use thereof by LESSEE, including, without limitation, initiating, imposing, or consenting to (A) any change in the zoning of the Property, or (B) the placement of any restriction(s) or limitation(s) on the Property that would restrict, limit, or prevent LESSEE's ability to use the Leased Premises in the manner set forth in this Section 3.

(c) LESSEE shall perform, at LESSEE's expense, title reports, RF engineering studies, surveys, soil tests, engineering procedures, environmental investigations and such other tests and reports as deemed necessary by LESSEE to determine that LESSEE's use of the Leased Premises will be compatible with LESSEE's engineering specifications, permitted use, system design, operations and Government Approvals (the "Investigations"). LESSOR agrees to cooperate with LESSEE, at LESSEE's expense, with respect to the Investigations by: (i) granting LESSEE a license to enter the Property and conduct the Investigations on, under and over the Property; (ii) allowing LESSEE to perform the Investigations; and (iii) undertaking any other steps as are reasonably necessary in support of such Investigations; including, but not limited to, the execution and delivery of an owner's affidavit of title reasonably satisfactory to LESSEE's title insurer.

(d) In addition to the provisions of Section 10 below, prior to LESSEE's construction of the Telecommunications Facilities, LESSEE shall have the right to immediately terminate this Agreement upon written notice to LESSOR if LESSEE deems the results of any of the studies, reports, and/or Governmental Approvals referenced in this Section 3 to be unacceptable to LESSEE in its sole discretion.

4. Term. (a) The initial term of this Agreement ("Initial Term") [REDACTED] commencing on the date of LESSEE's exercise of the Option (the "Commencement Date"). LESSEE shall have the right to extend this Agreement (including all terms and conditions set forth herein) for [REDACTED], and collectively, the "Renewal Terms"). Each such renewal shall occur automatically unless LESSEE sends written notice to LESSOR of its intent not to renew this Agreement at least ninety (90) days prior to the expiration of the Initial Term or then-applicable Renewal Term, as the case may be. As used herein, "Term" means the Initial Term and any applicable Renewal Term(s).

(b) In the event that LESSEE exercises all of the Renewal Terms set forth in the preceding paragraph, LESSEE shall have the exclusive right for the period commencing on the first day of the final year of the final Renewal Term through the date which is six (6) months thereafter, to negotiate with LESSOR for a [REDACTED]. If, at the end of such six (6) month period, the parties have not reached agreement as to all of the material terms of such new lease ([REDACTED] then LESSEE's Limited First Right To Negotiate shall be of no further force or effect.

5. Rent. ([REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

6. **Interference.** Subject to LESSEE's rights under this Agreement including, without limitation, non-interference, LESSEE shall not use the Leased Premises in any way which interferes with the use of the Property by LESSOR or its lessees or licensees. LESSOR shall not use, nor shall LESSOR permit its tenants, licensees, employees, invitees or agents to use, any portion of the Property in any way that interferes with the operations of LESSEE. Any interference prohibited by this paragraph shall be deemed to constitute a material breach of this Agreement, and the offending party shall, upon written notice from the other, promptly cause such interference to be terminated. In the event that any such interference is not so terminated, the injured party shall have the right, in addition to any other rights that it may have at law or in equity, to bring a court action to enjoin such interference or to terminate this Agreement immediately upon written notice to the other party.

7. **Construction of Improvements.** (a) From time to time during the Term hereof, LESSEE shall have the right, in its sole judgment and at its sole cost and expense, to construct, install, operate, maintain, replace, remove, modify, add to, upgrade, rebuild, and/or relocate any or all of the Telecommunications Facilities. Notwithstanding the fact that certain such equipment and appurtenances that are a part of the Telecommunications Facilities may be classified as fixtures under applicable law, the parties agree and acknowledge that all such equipment and appurtenances are, and shall at all times remain, the sole property of LESSEE or its Customers, as the case may be, and that LESSEE shall have the right to remove any or all of the same during the Term of this Agreement and/or at the expiration or earlier termination hereof. Within sixty (60) days of the expiration or earlier termination of this Agreement, LESSEE shall remove all of its Telecommunications Facilities including without limitation all buildings, communications equipment and other personal property from the Leased Premises, and cause its sublessees and customers to do the same, including the removal of any foundation to one foot (1') below grade, but not including underground utilities, if any, and restore the Leased Premises to its original condition, reasonable wear and tear and casualty loss excepted. If such time for removal causes LESSEE to remain on the Leased Premises after the removal period contemplated above, LESSEE shall [REDACTED] until such time as the removal of the Telecommunications Facilities, fixtures and all personal property are completed.

(b) The Telecommunication Facilities shall be initially configured as generally set forth in Exhibit "C," hereto (the "Site Plan"). LESSEE shall have the right to modify, replace, add to, upgrade, rebuild, and/or relocate the Telecommunication Facilities at any time during the Term.

(c) LESSEE shall be solely responsible for the operation, maintenance, repair of, and the insurance for, the Telecommunications Facilities. Upon LESSOR's request to LESSEE after the Commencement Date, LESSEE agrees to post a removal bond or other surety to guarantee the removal of the Telecommunications Facilities from the Leased Premises upon expiration or earlier termination of this Agreement (the "Bond Requirement").

8. **Access.** (a) As partial consideration for the Rent paid by LESSEE pursuant to this Agreement, LESSEE shall have, throughout the Term hereof, the right to access the Leased Premises over and across the Property as mutually agreed twenty-four (24) hours per day,

seven (7) days a week for the purpose of ingress, egress, operation, maintenance, replacement, and repair of the Telecommunications Facilities (LESSEE's "Access Rights"). The Access Rights granted herein (i) include the nonexclusive right to enter the Property from the nearest public street and driveway as mutually agreed upon by LESSOR and LESSEE, parking rights, and (ii) extend to LESSEE, its Customers, their contractors, subcontractors, equipment and service providers, governmental agencies of appropriate jurisdiction, and the duly-authorized employees, inspectors, representatives, and agents of each of them. LESSEE agrees to reimburse LESSOR for fifty percent (50%) of the reasonable annual expenses that LESSOR incurs in order to provide the Access Rights.

(b) In addition to the Access Rights set forth in the preceding paragraph, during the initial period that the Telecommunications Facilities are being constructed, LESSOR grants to LESSEE and its Customers the right to use such portions of the Property and the Adjacent Property as are mutually agreed upon and are reasonably required for the construction and installation of the Telecommunications Facilities, including, but not necessarily limited to, (i) the right of ingress to and egress from the Property and, to the extent reasonably required, the Adjacent Property for construction machinery and related equipment, and (ii) the right to use such portions of the Property and/or Adjacent Property as are reasonably necessary for the storage of construction materials and equipment; provided, that LESSEE's insurance required hereunder includes coverage for the Property and/or Adjacent Property used by LESSEE and provided, further that LESSEE promptly upon the completion of the Telecommunications Facilities restores the Property and/or Adjacent Property used by it, to the condition existing prior to such use. Subject to LESSOR's consent, in its sole discretion, LESSEE shall have the right to use the Property and/or the Adjacent Property, as may be mutually agreed upon by LESSOR and LESSEE for subsequent periods that the Telecommunications Facilities are being further constructed subject to compliance with the conditions set forth above. As used herein, "Adjacent Property" means other real property owned by LESSOR that is contiguous to, surrounds, or in the immediate vicinity of the Property.

9. Utilities. (a) LESSOR hereby grants to LESSEE, at LESSEE's sole cost and expense, the right to install, and, to the extent applicable, improve, upgrade, and modify utilities at the Leased Premises (including, without limitation, telephone service, telecommunications lines (including, fiber) and electricity). LESSEE shall, to the extent reasonably practicable, install separate meters or sub-meters, as the case may be, for utilities used in the operation of the Telecommunications Facilities on the Leased Premises.

(b) As partial consideration for the Rent paid by LESSEE under this Agreement, LESSOR hereby grants to LESSEE and the servicing utility companies a nonexclusive right of way per a plan and/or easement agreed upon by the servicing utility company, LESSOR and LESSEE over and across the Property as necessary for the construction, installation, running, servicing and maintenance of electrical power and other utilities necessary to serve the Telecommunication Facilities. Upon LESSEE's request, LESSOR agrees to promptly execute any and all documents necessary to evidence the rights granted to LESSEE pursuant to this paragraph including, without limitation, right-of-way and easement documents, and further grants to LESSEE an irrevocable power of attorney to execute, on LESSOR's behalf, any and all such documents.

10. Default and Termination. (a) In addition to other events or circumstances permitting the termination of this Agreement, this Agreement may be terminated, without any penalty or further liability, as follows: (i) by either party, upon a breach or default of any covenant or term hereof by the other party, which breach or default is not cured within thirty (30) days of the breaching party's receipt of written notice thereof from the non-breaching party; provided, however, that if efforts to cure such breach are commenced within such thirty (30) day period and are thereafter diligently prosecuted to completion, such period shall be extended for a period of time not to exceed three (3) months; and further provided that the cure period for any monetary default shall be ten (10) days from the defaulting party's receipt of the other party's written notice of payment delinquency; (ii) by LESSEE, upon thirty (30) days prior written notice to LESSOR, in the event that the Leased Premises become technologically unsuitable, in LESSEE's opinion, for LESSEE's Telecommunications Facilities for reasons including, but not limited to, unacceptable radio signal interference and any addition, alteration, or new construction on, adjacent to, or in the vicinity of the Leased Premises and/or the Property that blocks, either partially or totally, transmission or receiving paths; (iii) by LESSEE, upon thirty (30) days prior written notice to LESSOR, in the event that any Governmental Approval that LESSEE considers to be necessary for the construction, operation, maintenance, reconstruction, modification, addition to, or removal of the Telecommunications Facilities is not, in LESSEE's sole discretion, reasonably obtainable or maintainable in the future; (iv) by LESSEE, upon thirty (30) days prior written notice to LESSOR, in the event that the Leased Premises cease to be economically viable as a telecommunications site (as determined by LESSEE in its sole business judgment); and (v) by LESSEE, upon thirty (30) days prior written notice to LESSOR, if any Hazardous Substance (as defined in Section 13 below) is or becomes present on the Property in violation of any Environmental Laws (as also defined in Section 13 below) that has a material, adverse effect upon LESSEE's use of the Leased Premises to the extent that such is not caused by LESSEE and which is not remediated by LESSOR per Section 10(a)(i) above.

(b) Except as expressly limited by this Agreement, a party's termination hereof as the result of a breach thereof by the other party that is not cured within the applicable period set forth in Section 10(a) shall be in addition to, and not in lieu of, any and all remedies available to the terminating party, whether at law or in equity.

11. Condemnation. If all or any part of the Leased Premises, or if all or any part of the Property underlying the Telecommunication Facilities or providing access to the Premises is taken by eminent domain or other action by governmental authority(s) of appropriate jurisdiction (each, an "Act of Condemnation"), and if, in LESSEE's sole discretion, such an Act(s) of Condemnation renders the Premises unusable for the Permitted Use set forth in Section 3 hereof, then LESSEE shall have the right to immediately terminate this Agreement upon written notice to Lessor, and all Rent obligations (except those that accrued prior to the effective date of termination) shall cease. If LESSEE elects not to terminate this Agreement following an Act of Condemnation, then this Agreement shall continue unaffected, except that the Rent shall be reduced or abated in proportion to the actual reduction or abatement of LESSEE's use of the Leased Premises as a result of such Act of Condemnation. In the event of an Act of Condemnation (whether in whole or in part), LESSEE shall be entitled to pursue and receive the award related to the Telecommunication Facilities and any equipment and/or infrastructure owned or constructed by LESSEE that is related thereto. The terms set forth in this Section 11 shall survive the expiration or earlier termination of this Agreement.

12. Indemnification. Subject to the provisions of Section 14 below, LESSEE shall defend (with counsel reasonably acceptable to LESSOR), indemnify, and hold LESSOR harmless from and against any claims (including reasonable attorneys' fees, costs and expenses incurred in defending against such claims), losses, damages, and liabilities (collectively, "Claims") resulting from the negligence or willful misconduct of LESSEE and LESSEE's agents, licensees, invitees, and contractors, and the shareholders, directors, officers, and employees of each of them (the "LESSEE Parties") occurring in or about the Premises or the Property. LESSOR shall defend (with counsel reasonably acceptable to LESSEE), indemnify, and hold LESSEE harmless from all Claims arising from the negligence or willful misconduct of LESSOR and LESSOR's agents, lessees, licensees, invitees, and contractors, and the shareholders, directors, officers, and employees of each of them (the "LESSOR Parties") occurring in or about the Premises or the Property. The terms set forth in this Section 12 shall survive the expiration or earlier termination of this Agreement.

13. Hazardous Substances. LESSOR represents and warrants to LESSEE that LESSOR (a) is not presently, nor at any time in the past did LESSOR engage in or permit, and (b) has no knowledge of any other person or entity's engaging (whether past or present) or permitting (whether past or present) any operations or activities upon, or any use or occupancy of any portion of the Property (including, without limitation, the Leased Premises), for the purpose of or in any way involving the handling, manufacturing, treatment, storage, use, transportation, spillage, leakage, dumping, discharge or disposal (whether legal or illegal), accidental or intentional, of any hazardous substances, materials or wastes (individually, a "Hazardous Substance" and collectively, "Hazardous Substances") regulated under any federal, state, or local law, rule, or regulation pertaining to the environment, public health or safety, or the handling, manufacturing, treatment storage, use, transportation, spillage, leakage, dumping, discharge or disposal of Hazardous Substances (collectively, "Environmental Laws"). LESSOR and LESSEE each agree that they will not use, generate, store, or dispose of any Hazardous Material on, under, about or within the Property or the Leased Premises in violation of any Environmental Law. LESSOR shall indemnify, defend, and hold harmless LESSEE and the LESSEE Parties (as defined in Section 12 above), and LESSEE shall indemnify, defend, and hold harmless LESSOR and the LESSOR Parties (as defined in Section 12 above), from and against any and all Claims (as also defined in Section 12) arising from the indemnifying party's breach of any obligation, representation, or warranty contained in this paragraph, except for Claims arising in whole or in any part out of the indemnified party's use or occupancy of the Property or the Leased Premises. The indemnification provisions set forth in this Section 13 shall survive the expiration or earlier termination of this Agreement.

14. Insurance. a) During the Term of this Agreement, LESSEE shall, at its sole cost and expense, procure and maintain the following insurance with customary exceptions and exclusions:

[REDACTED] (collectively, the "LESSEE Policies"). LESSEE covenants and agrees that LESSOR shall be named as an additional insured under the LESSEE Policies. In the event of LESSOR's written request therefore, LESSEE shall provide LESSOR with a certificate of insurance evidencing the coverage required hereby not later than thirty (30) days following its receipt of LESSOR's request.

(b) Notwithstanding the foregoing insurance requirements, the insolvency, bankruptcy, or failure of any insurance company carrying or writing any of the policies referenced in this Section 14 shall not be construed as a waiver of any of the provisions of this Agreement, nor shall any such insolvency, bankruptcy, or failure relieve either party from its obligations hereunder. The terms set forth in this Section 14(c) shall survive the expiration or earlier termination of this Agreement.

15. Taxes. LESSOR shall be responsible for all real and personal property taxes, assessments, and similar charges assessed against the Property and LESSOR's property thereon, and LESSEE shall be responsible, to the extent applicable, for any and all personal property taxes, assessments, and similar charges attributable to LESSEE's equipment and other property owned by LESSEE located at the Leased Premises and for any increase in real property taxes levied against the Property and/or the Leased Premises to the extent directly attributable to LESSEE's improvements, including without limitation, the Telecommunications Facilities.

16. Quiet Enjoyment, Title and Authority. (a) During the Term of this Agreement, LESSEE may, provided that it is not in default hereunder beyond any applicable notice and cure period, peaceably and quietly hold and enjoy the Premises, free from disturbance from any person claiming by, through, or under LESSOR.

(b) LESSOR covenants and warrants to LESSEE that: (i) LESSOR has full right, power, and authority to execute this Agreement; (ii) LESSOR has good and unencumbered title to the Property, free and clear of any liens or mortgages, except those disclosed to LESSEE and of record as of the date of this Agreement; (iii) there are no pending or threatened actions including, without limitation, bankruptcy or insolvency proceedings (whether voluntary or involuntary) under state or federal law, suits, claims or causes of action against LESSOR or which may otherwise adversely affect the Property or the Leased Premises, (iv) LESSOR has obtain any and all consents from third parties or governmental authorities necessary for the execution of this Agreement and (v) LESSOR's execution and performance of this Agreement will not violate the covenants, provisions, representations, or warranties of any mortgage, deed of trust, lease, or other agreement to which LESSOR is a party or by which LESSOR is otherwise bound.

(c) LESSOR agrees that, during the Term of this Agreement, LESSEE will have the exclusive right to use the Leased Premises or any portion thereof for use as telecommunications facilities providing transmission and/or receiving facilities for wireless providers and/or users, and that that LESSOR shall not itself operate wireless telecommunications facilities on the Property, or any portion thereof, nor will LESSOR grant a lease, sublease, license, or other right to use the Property, any portion thereof, or any property that is adjacent thereto that may be owned by LESSOR, to any other person or entity for the operation of antenna and/or telecommunications facilities.

17. Notices. All notices, demands, requests, or other communications which are required to be given, served, or sent by one party to the other pursuant to this Agreement shall be in writing and shall be mailed, postage prepaid, by registered or certified mail, or forwarded by a reliable overnight courier service with delivery verification, to the following addresses for LESSOR and LESSEE, or to such address as may be designated in writing by either party pursuant to this Section 17:

If to LESSEE, to:

Homeland Towers, LLC
9 Harmony Street, 2nd Floor
Danbury, CT 06810
Telephone: (203) 297-6345
Facsimile:

If to LESSOR, to:

Jason Dubray
93 Richards Road
South Kent, CT 06785

Attn: _____
Telephone: 860-866-8354
Facsimile: _____

With a copy to:

Rogin Nassau, LLC
CitiPlace I, 22nd Floor
185, Asylum Street
Hartford, CT 06103

Attn: Lawrence J. Davidson Jr.
Telephone: 860-256-6328
Facsimile: 860-278-2179

Notice given by certified or registered mail or by reliable overnight courier shall be deemed to have been delivered on the date of receipt (or on the date receipt is refused, as the case may be) as shown on the certification of receipt or on the records or manifest of the U.S. Postal Service or courier service.

18. Estoppel, Non-Disturbance and Attornment. (a) From time to time during the Term of this Agreement, LESSOR agrees, upon not less than fifteen (15) days prior written notice from LESSEE, to execute, acknowledge and deliver to LESSEE a written estoppel certificate (the "Lessor Estoppel") certifying that as of the date of the certification: (i) the Agreement is a valid and enforceable Agreement and is in full force and effect; (ii) that LESSEE is not in default under any of the terms, conditions, or covenants of the Agreement beyond or any applicable cure period or, if applicable, truthfully specifying any default by LESSEE hereunder and the cure period applicable thereto; (iii) the commencement and expiration dates of the then-current term hereof together with any remaining

Renewal Term(s); (iv) the amount of the then-current rent payable under the Agreement; and (v) a true and correct copy of the Agreement and all amendments thereto shall be attached to the Lessor Estoppel.

(b) LESSOR shall use good faith efforts to obtain for LESSEE from the holder of any mortgage and/or deed of trust now or hereafter encumbering the Property a non-disturbance and attornment agreement in a form reasonably satisfactory to LESSEE, which agreement shall provide that as long as LESSEE is not in default of any of its material obligations under this Agreement beyond any applicable cure period, its rights as LESSEE hereunder shall not be terminated and its access to and possession of the Leased Premises shall not be disturbed by the mortgagee or trustee, as the case may be, or by any proceedings on the debt which any such mortgage or deed of trust secures, and that any sale at foreclosure shall be subject to this Agreement.

(c) For purposes of allowing LESSEE to satisfy its lender's continuing rights with respect to LESSEE'S property on the Leased Premises, and with respect to LESSEE's rights and interests under this Agreement, LESSOR agrees as follows:

(i) LESSOR shall recognize the subleases and/or licenses of all Customers of LESSEE on the Leased Premises, and, notwithstanding any default hereunder by LESSEE, will permit such Customers to remain in occupancy thereof so long as such Customer is not in default of any material obligation under its sublease/license with LESSEE beyond any applicable notice and cure period and provided, further, that such Customers or any other third party pay directly to LESSOR any monetary amount owed by LESSEE to LESSOR that is in default;

(ii) LESSOR consents to the granting by LESSEE of a lien and security interest in and/or mortgaging of LESSEE's interest in this Agreement and all of LESSEE's personal property and fixtures located on or attached to the Property, and furthermore consents to the exercise by LESSEE's mortgagee of its rights of foreclosure with respect to such mortgagee's lien and/or security interest. LESSOR agrees to recognize LESSEE's mortgagee as LESSEE hereunder upon any such exercise by LESSEE's mortgagee of its rights of foreclosure. LESSOR further agrees (A) to subordinate any lien or security interest which it may have which arises by law or pursuant to this Agreement to the lien and security interest of LESSEE's mortgagee in the collateral securing all indebtedness at any time owed by LESSEE to its mortgagee (collectively the "Collateral"), and (B) that, upon an event of default by LESSEE under this Agreement or under any applicable mortgage, security agreement, or other loan document executed in favor of LESSEE's mortgagee, LESSEE's mortgagee shall have the full right, title, and authority to exercise its rights against the Collateral prior to the exercise by the LESSOR of any rights which it may have or claim to have therein, including, but not limited to, the right to enter upon the Leased Premises and remove the Collateral free and clear of any applicable lien or security interest of LESSOR provided that LESSEE's mortgagee abides by LESSOR's restoration obligation under Section 7 hereof;

(iii) Within a reasonable time after the occurrence thereof, LESSOR shall give LESSEE's lender written notice of any breach or default of the terms of this Agreement that is not cured by LESSEE within any applicable notice and cure period(s) (an "Uncured LESSEE Default"). As of the Effective Date of this Agreement, notices to LESSEE's lender are to be addressed to: Goldman Sachs Specialty Lending Group, LP, ATTN: InSite Account Manager, 6011 Connection Drive, Irving, TX 75039, or to such other address/and or lender as may be specified by LESSEE from time to time during the Term hereof. LESSOR further agrees that no default shall be deemed to have occurred under this Agreement unless LESSOR gives the notice required to lender that is required by this paragraph, and that in the event of any Uncured LESSEE Default, lender shall have the right, to the same extent and with the same effect as LESSEE, for the period set forth in this Agreement, to cure or correct any such Uncured LESSEE Default, whether the same shall consist of the failure to pay rent or the failure to perform, and LESSOR agrees to accept such payment or performance on the part of lender as though the same had been made or performed by the LESSEE; and

(iv) LESSOR acknowledges and agrees that nothing contained in this Agreement shall construed as obligating LESSEE's mortgagee to take any action hereunder, or to perform or discharge any obligation, duty, or liability of LESSEE under this Agreement.

19. Assignment and Subletting

20. Right of First Refusal. (a) If, during the Option Period or the Lease Term, LESSOR receives a bona fide offer (“Bona Fide Offer”) from a third party in the business of acquiring, owning, operating, managing or developing telecommunication sites or telecommunication site leases or any interest pertaining thereto, to lease or purchase LESSOR’s interest under this Agreement including, but not limited to, LESSOR’s rights to receive rents hereunder (the “Property Interest”), LESSEE shall have the right of first refusal (“Right of First Refusal”) to so acquire the Property Interest that is the subject of the Bona Fide Offer. LESSOR shall provide LESSEE with a written copy of the Bona Fide Offer, and LESSEE shall have thirty (30) days following its receipt thereof to notify LESSOR in writing as to whether it wishes to exercise its Right of First Refusal with respect to the Property Interest that is the subject thereof. If LESSEE exercises its right to purchase the subject Property Interest, such purchase shall be made pursuant to all of the terms and conditions set forth under the Bona Fide Offer. If LESSEE fails to exercise its Right of First Refusal, this Agreement shall remain in full force and effect, and such Right of First Refusal shall lapse with respect to the Bona Fide Offer, but not with respect to any subsequent Bona Fide Offer(s), if LESSOR fails to convey the Property Interest that is the subject thereof to the third party in strict accordance with the terms of the Bona Fide Offer within one hundred eighty (180) days of the date of LESSEE’s waiver of such Right of First Refusal.

(b) Notwithstanding the foregoing, LESSEE and LESSOR agree that the Right of First Refusal contained in this Section 20 shall not apply to any assignment, sale or transfer of the Property or the Property Interest from LESSOR to (i) an, heir, lineal descendant or other relative of LESSOR, or a spouse of such individual(s) or (ii) a family trust established for estate planning purposes for the benefit of LESSOR and its heirs, lineal descendants or other relatives, or their respective spouses.

21. Miscellaneous. (a) This Agreement, including Exhibits A-D hereto which are hereby incorporated herein by this reference, constitutes the entire Agreement and understanding of the parties with respect to the subject matter hereof, and supersedes all prior offers, negotiations, and agreements with respect thereto. There are no representations or understandings of any kind not set forth herein. Any amendments to this Agreement must be in writing and be executed by a duly authorized representative of each party.

(b) LESSOR shall, to the extent it is a corporate entity, trust or business organization, not later than thirty (30) days following the Effective Date hereof, provide LESSEE with a copy of LESSOR’s organizational documents which may include, by way of example, (i) LESSOR’s Articles of Incorporation, By-Laws, Partnership Agreement, Operating Agreement and the like, which documents shall evidence LESSOR’s authority, right, and ability to enter into this Agreement, (ii) current certificates of good standing and incumbency, (iii) a duly-executed and authorized resolution authorizing the transactions contemplated hereby, and (iv) a document evidencing, to LESSEE’s commercially-reasonable satisfaction, the signature authority of the LESSOR representative who executed this Agreement on LESSOR’s behalf.

(c) Upon the request of LESSEE, the parties shall execute the Memorandum of Lease attached hereto and incorporated herein as **Exhibit “D”** (the “Memorandum”). LESSEE shall cause the Memorandum to be recorded, at LESSEE’s sole cost and expense, in the official records of the county and state in which the Leased Premises are located. Upon determination of the legal description of the Leased Premises by LESSEE (the “Leased Premises Legal Description”), LESSOR and LESSEE shall amend this Agreement and record an amendment to the Memorandum to incorporate the Leased Premises Legal Description.

(d) Any sale or conveyance of all or any portion of the Leased Premises shall be subject to this Agreement and LESSEE’s rights hereunder.

(e) This Agreement shall be construed in accordance with the laws of the state in which the Leased Premises are located, without regard to the choice of law rules thereof.

(f) If any term of this Agreement is found to be void or invalid, such invalidity shall not affect the remaining terms of this Agreement, which shall continue in full force and effect.

(g) This Agreement may be executed in any number of counterparts (including by facsimile or by electronic copy or transmission), each of which shall be the binding agreement of the executing party, and which, when taken together, shall constitute but one and the same instrument.

(h) This Agreement shall extend to and be binding upon the heirs, successors or assignees of the parties hereto.

(i) The headings, captions and numbers in this Agreement are solely for convenience and shall not be considered in construing or interpreting any provision herein.

(j) Neither party to this Agreement shall be liable for any real estate brokers' or leasing agents' commissions in the absence of a written agreement, which expressly provides therefore and is signed by the party to be charged or obligated with payment thereof. LESSOR and LESSEE shall each indemnify and defend and hold harmless each other from and against any liability arising from such claims for commissions as a result of its acts.

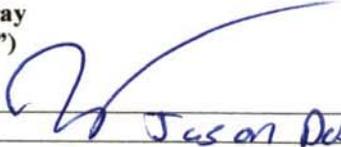
(k) No failure or delay by either party to the exercise of its rights under this Agreement or to insist upon the strict compliance with any obligation imposed by this Agreement, and no course of dealing, custom or practice of either party contrary to the terms of this Agreement, shall constitute a waiver or a modification of the terms hereof or the right to demand strict compliance with the terms of this Agreement.

(l) The provisions of this Section 21 shall survive the expiration or earlier termination of this Agreement.

[SIGNATURE PAGE FOLLOWS.]

IN WITNESS WHEREOF, the parties have caused this Option and Ground Lease Agreement to be executed by their duly-authorized representatives as of the Effective Date set forth above.

Jason Dubray
("LESSOR")

By: 
Name: Jason Dubray
owner

Jennifer Dubray
("LESSOR")

By: 
Name: Jennifer Dubray
owner

HOMELAND TOWERS, LLC
("LESSEE")

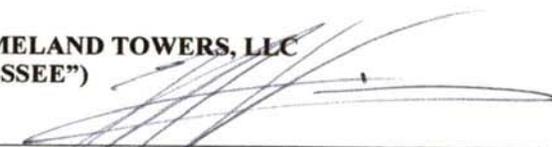
By: 
Name: Manuel J. Vicente
Title: President

EXHIBIT "A" TO OPTION AND GROUND LEASE AGREEMENT

LEGAL DESCRIPTION OF PROPERTY

ALL THAT CERTAIN PIECE OR PARCEL OF LAND LOCATED IN THE TOWN OF KENT, COUNTY OF LITCHFIELD, AND STATE OF CONNECTICUT, LYING IN THE EASTERLY SIDE OF TOWN HIGHWAY KNOWN AS RICHARDS ROAD. SAID PREMISES CONTAINING 6.821 ACRES AND ARE KNOWN AS LOT ONE ON A CERTAIN MAP ENTITLED "SUBDIVISION PLAN PREPARED FOR MARJORIE E. RICHARDS, RICHARDS ROAD, KENT, CONNECTICUT, SCALE 1" = 100' NOVEMBER 1989, REVISED DECEMBER 6, 1989," APPROVED BY THE PLANNING AND ZONING COMMISSION OF THE TOWN OF KENT ON JANUARY 8, 1990, WHICH MAP IS FILED WITH THE KENT TOWN CLERK AS MAP NO. 767B, BEING A CLASS A-2 SURVEY CERTIFIED SUBSTANTIALLY CORRECT IN ACCORDANCE WITH THE CODE OF RECOMMENDED PRACTICE FOR STANDARDS OF ACCURACY OF SURVEYS AND MAPS APPROVED BY THE STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS, AND LAND SURVEYORS, RICHARD J. ADAMS, REGISTERED LAND SURVEYOR 9674, KENT, CONNECTICUT.

Tax ID: 1764

BEING THE SAME PROPERTY CONVEYED TO JENNIFER DUBRAY AND JASON DUBRAY, AS JOINT TENANTS, GRANTEE, FROM MARJORIE E. RICHARDS, GRANTOR, BY DEED RECORDED 02/20/1990, AS BOOK 94, PAGE 579 OF THE TOWN CLERK.

EXHIBIT "B" TO OPTION AND GROUND LEASE AGREEMENT
DEPICTION/DESCRIPTION/SITE PLAN OF LEASED PREMISES¹

The Leased Premises includes ground space.

The Leased Premises includes rooftop space.

¹ LESSEE reserves the right to replace this Exhibit during the Term of this Agreement with a legal description of the Leased Premises (the "Leased Premises Legal Description"). Effective on the date of LESSEE's delivery of the Leased Premises Legal Description to LESSOR, such Legal Description shall replace the text of this Exhibit.



ALL-POINTS
TECHNOLOGY CORPORATION

3 SADDLEBROOK DRIVE
KILLINGWORTH, CT 06419
WWW.ALLPOINTSTECH.COM

PHONE: (860)-663-1697
FAX: (860)-663-0935

APT FILING NUMBER: CT283180

LE-1

SCALE: AS NOTED

DRAWN BY: ELZ

DATE: 07/19/19

CHECKED BY: RCB



HOMELAND TOWERS, LLC
9 HARMONY STREET
2nd FLOOR
DANBURY, CT 06810

HOMELAND TOWERS:
CT757

KENT
93 RICHARDS ROAD
SOUTH KENT, CT 06785

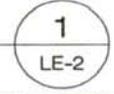
EXIST. UTILITY POLE
(CL&P POLE # 10854)

EXIST. UTILITY POLE
(CL&P POLE # 15038)

PROP. UNDERGROUND ELEC. & TELCO
SERVICE FROM EXIST. UTILITY POLE
(CL&P POLE # 10854) TO PROP.
COMPOUND (APPROX. 1,140'±) PROVIDE
(2) 3" CONDUITS AT EXIST. BUILDING FOR
LANDLORD'S USE.

PROP. IRREGULARLY SHAPED
(6,075± SF) LEASE AREA & 60'x60'
(3,600± SF) FENCED GRAVEL
COMPOUND AREA

PROP. 175'± AGL MONOPOLE



PROPERTY LINE (TYP.)

EXIST. RESIDENCE (TYP.)

EXIST. BUILDING

PROP. COMPOUND ACCESS FROM
RICHARDS ROAD ALONG EXIST.
VARYING WIDTH GRAVEL ACCESS
DRIVE (APPROX 1,070'±)



1 SITE PLAN
LE-1 SCALE : 1" = 200'-0"

NOTE: EXACT LOCATION AND ORIENTATION OF PROPOSED LEASE AREA PENDING SITE SURVEY & FURTHER ENGINEERING REVIEW AND ANALYSIS. PROPOSED UTILITY ROUTING AND R.O.W. EXTENTS TO BE DETERMINED BY LOCAL UTILITY PROVIDERS.

EXHIBIT "C" TO OPTION AND GROUND LEASE AGREEMENT

SITE PLAN²

² LESSEE reserves the right to replace this Exhibit during the Term of this Agreement with an as-built site plan (the "As-Built Site Plan"). Effective on the date of LESSEE's delivery of the As-Built Site Plan to LESSOR, such As-Built Site Plan shall replace the text of this Exhibit.



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PHONE: (860)-663-1697
FAX: (860)-663-0935

APT FILING NUMBER: CT283180

LE-2

SCALE: AS NOTED

DRAWN BY: ELZ

DATE: 07/19/19

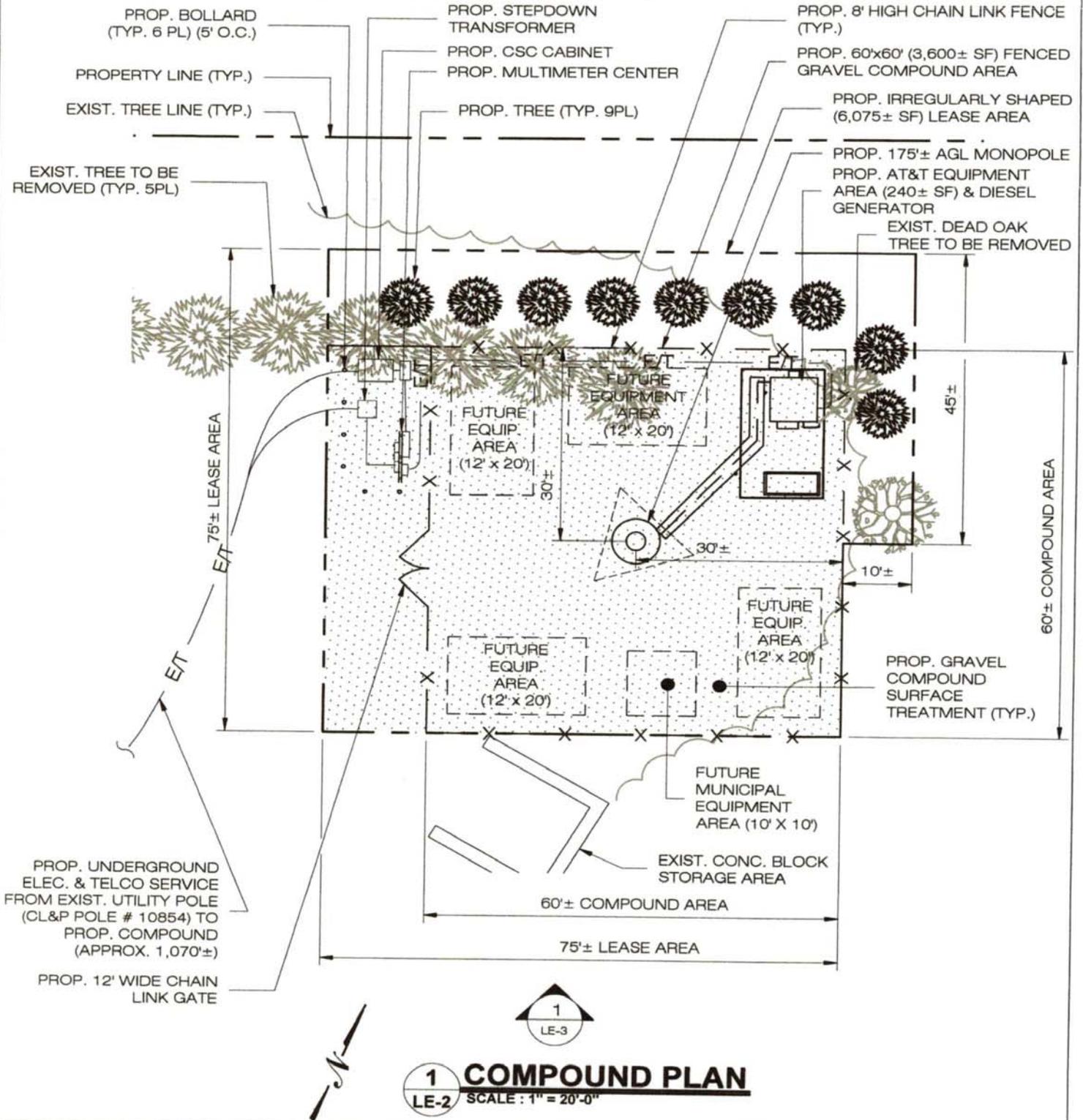
CHECKED BY: RCB



HOMELAND TOWERS, LLC
9 HARMONY STREET
2nd FLOOR
DANBURY, CT 06810

**HOMELAND TOWERS:
CT757**

**KENT
93 RICHARDS ROAD
SOUTH KENT, CT 06785**



1 COMPOUND PLAN
LE-2 SCALE: 1" = 20'-0"

NOTE: EXACT LOCATION AND ORIENTATION OF PROPOSED LEASE AREA PENDING SITE SURVEY & FURTHER ENGINEERING REVIEW AND ANALYSIS. PROPOSED UTILITY ROUTING AND R.O.W. EXTENTS TO BE DETERMINED BY LOCAL UTILITY PROVIDERS.



ALL-POINTS
TECHNOLOGY CORPORATION

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PHONE: (860)-663-1697
FAX: (860)-663-0935

APT FILING NUMBER: CT283180

LE-3

SCALE: AS NOTED

DRAWN BY: ELZ

DATE: 07/19/19

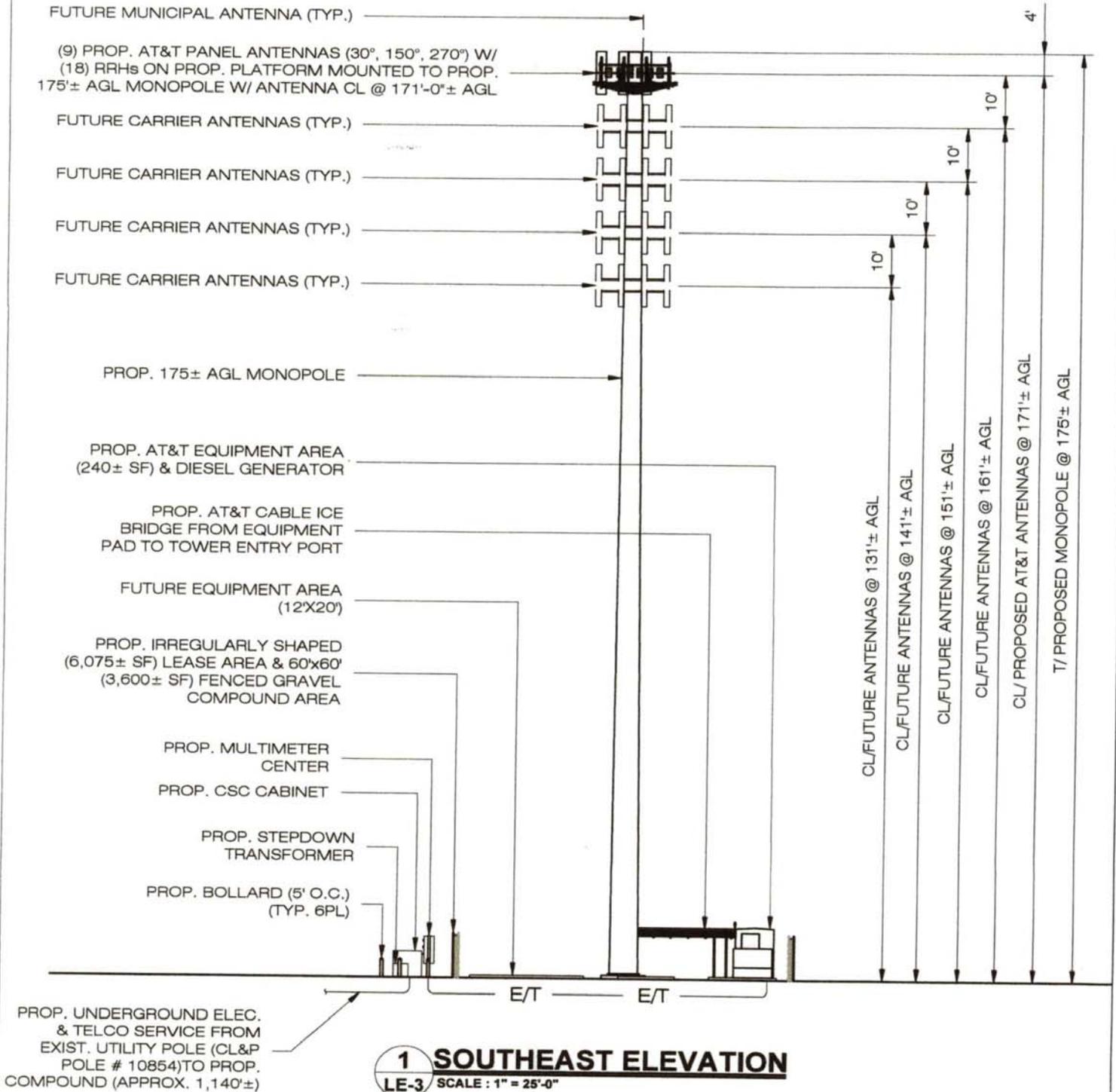
CHECKED BY: RCB



HOMELAND TOWERS, LLC
9 HARMONY STREET
2nd FLOOR
DANBURY, CT 06810

HOMELAND TOWERS:
CT757

KENT
93 RICHARDS ROAD
SOUTH KENT, CT 06785



1 SOUTHEAST ELEVATION
LE-3 SCALE: 1" = 25'-0"

NOTE: EXACT LOCATION AND ORIENTATION OF PROPOSED LEASE AREA PENDING SITE SURVEY & FURTHER ENGINEERING REVIEW AND ANALYSIS. PROPOSED UTILITY ROUTING AND R.O.W. EXTENTS TO BE DETERMINED BY LOCAL UTILITY PROVIDERS.