

STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL

APPLICATION OF ARX WIRELESS INFRASTRUCTURE, LLC



**1061-1063 BOSTON POST ROAD
MILFORD, CT 06614**

Docket No. _____

March 29, 2021

TABLE OF CONTENTS

	<u>Page</u>
EXECUTIVE SUMMARY.....	1
I. INTRODUCTION	5
A. Authority and Purpose.....	5
B. The Applicant.....	5
C. Application Fee	6
D. Compliance with General Statute § 16-50l (c).....	6
II. SERVICE AND NOTICE REQUIRED BY C.G.S. SECTION 16-501(b)	6
III. PROPOSED FACILITY	7
A. Facility Design.....	7
B. Coverage to be Achieved.....	8
IV. STATEMENT OF NEED AND BENEFIT.....	8
A. Statement of Need	8
1. United States Policy and Law.....	8
2. United States Wireless Usage Statistics	14
3. Site Specific Public Need	16
B. Technological Alternatives	17
V. SITE SELECTION AND TOWER SHARING	18
A. Site Selection.....	18
B. Tower Sharing.....	19
VI. ENVIRONMENTAL COMPATIBILITY.....	19
A. Visual Assessment.....	20
B. Solicitation of State Agency Comments	22
C. MPE Limits/Power Density Analysis	23
D. Other Environmental Factors	24
VII. CONSISTENCY WITH THE MILFORD LAND USE REGULATIONS.....	28
A. Planned and Existing Land Uses	28
B. Milford Plan of Development.....	28
C. Milford Zoning Regulations	29
D. Milford Inland Wetlands and Watercourses Regulations.....	29

TABLE OF CONTENTS (cont.)

	<u>Page</u>
VIII. CONSULTATIONS WITH LOCAL, STATE AND FEDERAL OFFICIALS.....	30
A. Local Consultations.....	30
B. Consultations with State Officials.....	31
C. Consultation with Federal Agencies.....	31
IX. ESTIMATED COST AND SCHEDULE	32
A. Overall Estimated Cost	32
B. Overall Scheduling.....	32
X. CONCLUSION.....	33

EXECUTIVE SUMMARY

Applicant Arx Wireless Infrastructure, LLC ("ARX") submits an application and supporting documentation (collectively "Application") for a Certificate of Environmental Compatibility and Public Need ("Certificate") for the construction, maintenance and operation of a wireless telecommunications facility ("Facility") at 1061-1063 Boston Post Road in the City of Milford (the "Property"). The Facility would provide Celco Partnership d/b/a Verizon Wireless ("Verizon") and New Cingular Wireless PCS, LLC ("AT&T") with enhanced wireless communications and the opportunity for improved 911 service in this area of Milford.

ARX is proposing to construct a telecommunications facility consisting of a 115-foot tall monopole (maximum height not to exceed 116' with antennas) with Verizon and AT&T antennas, situated within a 60' x 60' fenced (chain link) equipment compound within a 75' x 75' leased area, to be located in the rear of the Property. A 20'-wide utility easement originating off Home Acres Avenue would provide the Site with underground utilities. Access to the Site is existing off of Boston Post Road via a 25' easement over an existing paved parking lot between the two buildings. The antennas affixed to the top of the monopole will consist of Verizon panel antennas, mounted in three sectors at a centerline height of 112' and AT&T panel antennas, mounted in three sectors at a centerline height of 100'.

The Property is an approximately 2.44 acre parcel of property located at 1061-1063 Boston Post Road in Milford. The Property is situated on the east side of Boston Post Road with Interstate 95 to the northwest. The Property is commercially developed

and presently occupied by a restaurant and a tire store. There are no trees that will need to be moved from the Property.

ARX is a wireless infrastructure provider that uses its knowledge of the wireless carriers' networks and/or specific information from the individual carriers to develop new wireless facilities where a need has been demonstrated. Since 2004, Verizon and AT&T have had telecommunications equipment situated at 1052 Boston Post Road, Milford, on the rooftop of the site of a former Howard Johnson hotel. The Howard Johnson hotel has been out of business for over a year. The building on that property will eventually be demolished as part of a redevelopment project. In the last year, the carriers have worked with the owner of that site to explore alternative ways to accommodate their telecommunications equipment. However, once the property is redeveloped, Verizon has determined that the new antenna height is not sufficient to satisfy Verizon's coverage needs. Verizon has concluded that there will be no feasible alternative location on that property for the telecommunications equipment, and accordingly, the property at 1052 Boston Post Road has been deemed unusable. Once the Facility is constructed, Verizon and AT&T will relocate to the Property. By relocating to the Property, Verizon and AT&T will be able to satisfy their existing coverage objectives in the area and provide significant capacity relief to their respective wireless networks. The Facility located at the Property satisfied these important network service objectives.

ARX filed a Technical Report with the City of Milford on August 27, 2020. The City asked numerous questions about the Site and about potential alternatives to the Site, to which ARX responded with further information confirming the need for the Site and the selection process.

This Application includes reports, site plans, a visibility analysis and other information detailing the proposed Facility. These reports and supporting documentation contain the relevant site specific information required by statute and the Council's regulations. This Application also includes a copy of the Council's Community Antenna Television and Telecommunication Facilities Application Guide with references to this Application, attached as Exhibit A.

List of Attachments

- A. Council's Community Antenna Television and Telecommunication Facilities Application Guide
- B. Certificate of Service of Application on Government Officials; and List of Officials Served
- C. Legal Notice published in the *New Haven Register*
- D. Notice to Landowners; List of Abutting Landowners; Certificate of Service
- E. Radio Frequency Engineering Report with Propagation Plots Attached
- F. Site Search Summary, Map of Rejected Sites, and 4-Mile Tower Map with Table
- G. Project Plans
- H. Visibility Analysis
- I. National Environmental Policy Act (NEPA) Report
- J. Power Density Report
- K. Avian Resources Evaluation
- L. Wetlands Report
- M. Correspondence with Milford
- N. Federal Aviation Administration Report
- O. Redacted Lease
- P. Aerial Photograph
- Q. U.S.G.S. Map

**STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL**

RE: APPLICATION BY ARX WIRELESS
INFRASTRUCTURE LLC FOR A
CERTIFICATE OF ENVIRONMENTAL
COMPATIBILITY AND PUBLIC NEED
FOR A TELECOMMUNICATIONS FACILITY
AT 1061-1063 BOSTON POST ROAD IN THE
CITY OF MILFORD, CONNECTICUT

DOCKET NO. _____

Date: March 29, 2021

**APPLICATION FOR A CERTIFICATE OF
ENVIRONMENTAL COMPATIBILITY AND PUBLIC NEED**

I. INTRODUCTION

A. Authority and Purpose

Pursuant to General Statutes §§ 16-50g, *et seq.* and §§ 16-50j-1, *et seq.* of the Regulations of Connecticut State Agencies, Applicant Arx Wireless Infrastructure LLC (“ARX”) submits an application and supporting documentation (collectively “Application”) for a Certificate of Environmental Compatibility and Public Need (“Certificate”) for the construction, maintenance and operation of a wireless telecommunications facility at 1061-1063 Boston Post Road in the City of Milford (“Facility”). Cellco Partnership d/b/a Verizon Wireless (“Verizon”) and New Cingular Wireless PCS, LLC (“AT&T”) will be the anchor tenants and will intervene in this proceeding.

B. The Applicant

ARX is a Delaware limited liability company with an office at 110 Washington Avenue, North Haven, Connecticut 06473. ARX will be the Certificate Holder and construct and maintain the Facility accordingly.

Communications regarding the Application should be to ARX’s attorneys as follows:

Cohen and Wolf, P.C.
1115 Broad Street
Bridgeport, CT 06604
Telephone: (203) 368-0211
Attention: David A. Ball, Esq.
dball@cohenandwolf.com
Philip C. Pires, Esq.
ppires@cohenandwolf.com

C. Application Fee

The estimated construction cost for the Facility is \$275,000.00. Therefore, pursuant to § 16-50v-1a(b) of the Regulations of Connecticut State Agencies, a check made payable to the Council in the amount of \$1,250.00 accompanies this Application.

D. Compliance with General Statute § 16-50/ (c)

ARX is not engaged in generating electric power in the State of Connecticut; thus, the proposed Facility is not subject to Connecticut General Statutes § 16-50r. The proposed Facility has not been identified in any annual forecast reports and, therefore, is not subject to General Statute § 16-50/ (c).

II. SERVICE AND NOTICE REQUIRED BY GENERAL STATUTE § 16-50/ (b)

Pursuant to Connecticut General Statutes § 16-50/ (b), copies of this Application have been sent to municipal, regional, state, and federal officials. A certificate of service, along with a list of the parties served with a copy of the Application, is attached hereto as Exhibit B. Pursuant to §16-50/ (b), notice of the Applicants' intent to file this Application was published on two occasions in the New Haven Register (on March 24, 2021 and March 26, 2021) which is the newspaper in which Milford Planning and

Zoning notices are published. A copy of the legal notice is attached hereto as Exhibit C. Finally, pursuant to § 16-50/ (b), notices were sent to each person appearing of record as the owner of real property abutting the Property. Certification of such notice, a sample notice letter, and the list of property owners to whom the notice was mailed are included in Exhibit D.

III. PROPOSED FACILITY

A. Facility Design

This section will provide an overview and general description of the proposed Facility.

The Property is an approximately 2.44 acre parcel of property located at 1061-1063 Boston Post Road in Milford. The Property is situated on the east side of Boston Post Road with Interstate 95 to the northwest. The Property is commercially developed and presently occupied by a restaurant and a tire store. There are no trees that will need to be moved from the Property.

ARX is proposing to construct a telecommunications facility consisting of a 115-foot tall monopole (maximum height not to exceed 116' with antennas) with Verizon and AT&T antennas, situated within a 60' x 60' fenced (chain link) equipment compound within a 75' x 75' leased area, to be located in the rear of the Property. A 20'-wide utility easement originating off Home Acres Avenue would provide the Site with underground utilities. Access to the Site is existing off of Boston Post Road via a 25' easement over an existing paved parking lot between the two buildings. The antennas affixed to the top of the monopole will consist of Verizon panel antennas, mounted in three sectors at a

centerline height of 112' and AT&T panel antennas, mounted in three sectors at a centerline height of 100'.

B. Coverage to be Achieved

AT&T has identified an area of deficient coverage affecting a significant portion of Milford, including key traffic corridors through the residential and commercial areas of the City. The proposed Facility will bring the needed fill-in coverage to significant portions of Interstate 95, Route 1 (Boston Post Road), New Haven Road, Cherry Street, and the residential neighborhoods in the vicinity of these roads, all of which will be impacted by the decommissioning of the existing Howard Johnson site. The proposed Facility will service an area of 1.69 square miles, as well as 6.66 miles of main roads and 11.95 miles of secondary roads.

Exhibit E of this Application includes propagation plots that depict coverage from AT&T's existing sites in the area, including the existing Howard Johnson site, the coverage gap that will occur once the Howard Johnson site is decommissioned, and the anticipated coverage from the proposed Facility together with the existing and approved sites in the area.

IV. STATEMENT OF NEED AND BENEFIT

A. Statement of Need

1. United States Policy & Law

The laws and policy of the United States aim to maximize nationwide wireless access and foster wireless network growth. The United States Congress first set forth a regulatory structure for wireless telecommunications in the Telecommunications Act of

1996 (the “Telecommunications Act”). Aimed at increasing market competition amongst service providers, the Telecommunications Act encouraged “the rapid deployment of new telecommunications technologies.”¹ The Telecommunications Act substantially increased public access to wireless services by removing barriers to provider-competition, promoting universal service at affordable rates and in all areas of the United States, and enhancing the interconnectivity of users and vendors in light of the Telecommunications Act’s proposed changes. Thus, the Telecommunications Act accelerated the process of making wireless services available nationwide for nearly all individuals.

Following the regulatory changes under the Telecommunications Act, Congress passed the Wireless Communications and Public Safety Act of 1999 (the “Public Safety Act”), designating 9-1-1 as the universal emergency assistance number for both landline and wireless telephone service.² The express findings of Congress as stated in the Public Safety Act emphasize the nexus between access to wireless communication and public safety:

Emerging technologies can be a critical component of the end-to-end communications infrastructure connecting the public with emergency medical service providers and emergency dispatch providers, public safety, fire service and law enforcement officials, and hospital emergency and trauma care facilities, to reduce emergency response times and provide appropriate care.³

The emphasis on accessibility found in the Telecommunications Act coupled with the promotion of wireless use for the purpose of enhancing public safety reflect the United

¹ Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996).

² Wireless Communications and Public Safety Act, Pub. L. No. 106-81, §2(a)(3), 113 Stat. 1286-87 (1999).

³ *Id.* at 1287.

States government's ongoing commitment to maximizing the vast potential of wireless services.

Continuing its efforts to utilize wireless services as a means of enhancing public safety, Congress subsequently passed the New and Emerging Technologies 911 Improvement Act of 2008 (the "NET 911 Act"). The NET 911 Act sought to accelerate a country-wide transition to a national IP-enabled emergency network and improve existing emergency services for individuals with disabilities.⁴ Thus, Congressional implementation of the Public Safety Act and the NET 911 Act represent the federal government's growing awareness of the means by which wireless telecommunications not only support economic growth, but create safer municipalities as well.

The United States has continued to acknowledge the importance of maximizing access to wireless services. The American Recovery and Reinvestment Act of 2009 (the "Recovery Act") provided \$7.2 billion to increase broadband access throughout the United States.⁵ The Recovery Act also established the Broadband Technology Opportunities Program, awarding grants for the purposes of enhancing community broadband infrastructure, upgrading or constructing public computer centers, and increasing broadband access in areas that traditionally underutilized broadband services.⁶ In 2010, the Federal Communications Commission developed a National Broadband Plan (the "NBP," or the "Plan") under the direction of Congress, setting forth strategic initiatives for the purpose of maximizing broadband access for every American.

The Executive Summary of the NBP states the express goal of the Plan:

⁴ New and Emerging Technologies 911 Improvement Act of 2008, 47 U.S.C. §615(a)-1.

⁵ National Telecommunications and Information Administration, United States Dept. of Commerce. *Broadband Technology Opportunities Program (BTOP): About*, <http://www2.ntia.doc.gov/about> (last visited July 30, 2013).

⁶ *Id.*

[M]aximizing use of broadband to advance consumer welfare, civic participation, public safety and homeland security, community development, health care delivery, energy independence and efficiency, education, employee training, private sector investment, entrepreneurial activity, job creation and economic growth, and other national purposes. [Internal quotation marks omitted].⁷

The NBP establishes policies for innovation, investment, and the utilization of broadband in specific areas such as health care, education, energy, and public safety. By addressing these various needs, the comprehensive framework of the NBP recognizes that as “the development of electricity, telephony, radio and television transformed the United States and, in turn, helped us transform the world [...] [b]roadband will be just as transformative.”⁸ In order to implement the proposals set forth in the NBP, the FCC established the Broadband Acceleration Initiative (the “Initiative”), in order to “work inside the FCC, with its partners in state and local governments, and in the private sector to reduce barriers to broadband deployment.”⁹ Through the Initiative, the FCC committed to voting on a Notice of Inquiry for the purpose of collecting information on existing barriers to broadband access.¹⁰ Following through on the agenda set forth in the Initiative, the FCC published a Notice of Inquiry in April 2011 in order to better understand the manner in which the FCC and local municipalities should work together to achieve uniform, nationwide, broadband access for all:

This Notice is intended to update our understanding of current rights of way and wireless facilities siting policies, assess the extent and impact of

⁷ Federal Communications Commission, *National Broadband Plan*, ix (July 20, 2013), <http://download.broadband.gov/plan/national-broadband-plan-executive-summary.pdf>,

⁸ *Id.* at 21.

⁹ Federal Communications Commission: *The FCC's Broadband Acceleration Initiative*, (Feb. 9, 2011), http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-304571A2.doc

¹⁰ *Id.*

challenges related to these matters, and develop a record on potential solutions to these challenges.¹¹

Echoing the charge of the FCC found in the Telecommunications Act, FCC Chairman Julius Genachowski's concluding statements in the Notice of Inquiry stressed the ongoing duty of the FCC under the Telecommunications Act to make available broadband services for all individuals, and that "[t]he Broadband Acceleration Initiative, and our actions today, are central to carrying out that duty."¹²

In June 2012, President Obama signed an executive order aimed at accelerating the deployment of broadband on federal lands and reiterating the importance of uniform access to broadband and other wireless services, recognizing the need for improved broadband access across the United States:

Broadband access is essential to the Nation's global competitiveness in the 21st century, driving job creation, promoting innovation, and expanding markets for American businesses. Broadband access also affords public safety agencies the opportunity for greater levels of effectiveness and interoperability.¹³

Despite these efforts from the White House and Congress, the FCC's 8th Broadband Progress Report (the "Report") suggests that the federal and local governments must take additional steps to improve individual access to broadband and wireless services. Although the Report praises the efforts of the public and private sectors in accelerating broadband and wireless deployment throughout the United States, the report states that approximately 19 million Americans reside in areas without access to terrestrial-fixed broadband.¹⁴ Thus, the Report highlights that "broadband is not yet being deployed 'to

¹¹ Federal Communications Commission: Notice of Inquiry 11-51, WC Docket No. 11-59 (Apr. 7, 2011), 5.

¹² *Id.* at 21.

¹³ Exec. Order 13616, 77 Fed. Reg 36,903 (Jun. 20, 2012).

¹⁴ Federal Communications Commission, FCC 12-90, Eighth Broadband Progress Report, at 3 (2012).

all Americans in a reasonable and timely fashion,” and that governments and providers must take an active role in ensuring national interconnectivity.¹⁵

The FCC’s Declaratory Ruling interpreting §332(c)(7)(b) of the Telecommunications Act established specific time limits for decisions on land use and zoning permit applications, which supports the public need for timely deployment of wireless development.¹⁶ The Middle Class Tax Relief and Job Creation Act of 2012 (Section 6409(a)) emphasized the critical nature of the timely deployment of wireless infrastructure to public safety and the economy by preempting a discretionary review process for eligible modifications of existing wireless towers of existing base stations.¹⁷ More recently, in 2018, the FCC adopted two separate orders incorporating several declaratory rulings and a set of new regulations to specifically address various areas of state and municipal oversight of wireless facility siting including towers and small cells.¹⁸ The first order prohibits any actual or de factor moratoria on the siting of wireless facilities. The second, intended to streamline the siting of 4G LTE and future 5G wireless infrastructure, addressed numerous provisions of the Telecommunications Act and focused on any state or local siting requirements that might materially inhibit the deployment of wireless facilities including small cells. The Trump administration has

¹⁵ Id.

¹⁶ WT Docket No. 08-165-Declaratory Ruling on Petition for Declaratory Ruling to Clarify Provisions of Section 332(c)(7)(B) to Ensure Timely Siting Review and to Preempt Under Section 253 State and Local Ordinances that Classify All Wireless Siting Proposals as Requiring at Variance (“Declaratory Ruling”).

¹⁷ Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, §6409 (2012), available at <http://gpo.gov/fdsys/pkg/BILLS-112hr3630enr/pdf/BILLS-112hr3630enr.pdf>; see also H.R. Rep. No. 112-399 at 132-33 (2012)(Conf. Rep.), available at <http://www.gpo.gov/fdsys/pkg/CRPT-112hrpt399/pdf/CRPT-112hrt399.pdf>.

¹⁸ WT Docket No. 17-79 – Declaratory Ruling and Third Report and Order, Accelerating Wireless Broadband Deployment⁵ by Removing Barriers to Infrastructure Investment.

further developed a national strategy for the United States to win the 5G global race and continue American leadership in wireless technology.¹⁹

2. United States Wireless Usage Statistics

Over the past thirty years, wireless communications have revolutionized the way Americans live, work and play. The ability to connect with each other in a mobile environment has proven essential to the public's health, safety and welfare. According to the CTIA's Annual Survey, Americans used a record 15.7 trillion megabytes of mobile data in 2017, nearly quadrupling since 2014 and representing a 40 times the volume used in 2010²⁰. An estimated 400.2 million individuals in the United States subscribed to a wireless provider, up from 128.3 million subscribers as of December of 2011²¹. The reported increase in annual wireless data traffic grew forty (40) times from 2010 to 2017,²² and data-only only devices increased by 147% from 2013 to 2017.²³ Emphasizing the need to meet the heightened demand for wireless services, in 2017 the number of cell sites in operation in the United States exceeded 320,000, representing a 52% increase over the last decade.²⁴ In addition to the vast number of individual wireless subscribers, United States households are increasingly dependent on wireless service, with 52.5% of households exclusively wireless

The number of wireless users is exponentially increasing among the country's teenager and elderly populations as well. In a February 5, 2018 report, Pew Research

¹⁹ See <https://www.whitehouse.gov/presidential-actions/presidential-memorandum-developing-sustainable-spectrum-strategy-americas-future/> and <https://www.whitehouse.gov/articles/america-will-win-global-race-5g/>

²⁰ CTIA Annual "The State of Wireless 2018" available at <https://www.ctia.org/news/the-state-of-wireless-2018>; see also https://api.ctia.org/wp-content/uploads/2018/07/CTIA_ToplineWirelessIndustrySurvey.pdf.

²¹ Id.

²² Id.

²³ Id.

²⁴ Id.

Center found that 95% of all Americans own a cellphone, with 77% of Americans now owning smartphones, compared to just 35% owning smartphones in 2011²⁵. The percentage of adults ages 65 and older who reported owning a cellphone of any kind as of November 2016 was 80%, with smartphone ownership increasing by 24% since 2013.²⁶ By comparison, nearly 95% of American teenagers own a smartphone.²⁷ Clearly, statistics suggest that the number of mobile phone users is growing across demographic lines.

Wireless services not only enhance the efficiency of personal and business communications but also play a key role in enhancing public safety. Up to 80% of all 9-1-1 calls made each year come from a wireless device.²⁸ Beginning May 15, 2015, wireless carriers in the United States voluntarily supported Text-to-911, a program that allows users to send text messages to emergency services as an alternative to placing a phone call.²⁹ A June 2013 study of mobile phone activity by the Pew Research Center indicates that over a 30-day period, 19% of individuals used their mobile device to get help in an emergency situation.³⁰ Therefore, maximizing broadband and wireless access not only promotes convenient and efficient personal communication but enhances public safety as well.

²⁵ See <https://www.pewinternet.org/fact-sheet/mobile/>

²⁶ Monica Anderson and Andrew Perrin, *Report: Tech Adoption Climbs among Older Adults* (May 17, 2017), See <https://www.pewinternet.org/2017/05/17/technology-use-among-seniors/>

²⁷ Monica Anderson and JingJing Jiang, *Teens, Social Media and Technology*, May 31, 2018 (Pew Research Center Internet & Technology) (2018); See <https://www.pewinternet.org/2018/05/31/teens-social-media-technology-2018/>

²⁸ 911 Wireless Service Guide, available at <https://transition.fcc.gov/cgb/consumerfacts/wiireless911srvc.pdf>

²⁹ See *Text-to-911: What you need to know*, available at <https://www.fcc.gov/consumers/guides/what-you-need-to-know-about-text-911>. See also, *Text-to-911 is now available in Connecticut*, available at <https://www.text911ct.org>

³⁰ Joanna Brenner, *Pew Internet: Mobile*, Pew Internet & American Life Project (June 6, 2013). <http://pewinternet.org/Commentary/2012/February/Pew-Internet-Mobile.aspx> (last visited July 30, 2013).

Further, wireless services serve an important function in assisting local police, fire, and first responders. The Federal Communications Commission (FCC) and the Federal Emergency Management Agency (FEMA) established the Wireless Emergency Alerts (WEA) system, a national emergency system used for disseminating location-aware emergency text message alerts.³¹ The messages distributed through the WEA system include Imminent Threat Alerts, such as notification of man-made or natural disasters, and Amber Alerts, which assist law enforcement in the search and identification of missing children.³² Reaching nearly 97% of wireless subscribers, the WEA program reflects the manner in which wireless technology can be utilized to save lives and promote municipal safety.

3. Site Specific Public Need

The Facility proposed in this Application would be an integral component of AT&T's network and Verizon's network in its FCC licensed areas throughout the state. Since 2004, Verizon and AT&T have had telecommunications equipment situated at 1052 Boston Post Road, Milford, on the rooftop of the site of a former Howard Johnson hotel. The Howard Johnson hotel has been out of business for over a year. The building on that property will eventually be demolished as part of a redevelopment project. In the last year, the carriers have worked with the owner of that site to explore alternative ways to accommodate their telecommunications equipment. However, once the property is redeveloped, Verizon has determined that the new antenna height is not sufficient to satisfy Verizon's coverage needs. Verizon has concluded that there will be no feasible alternative location on that property for the telecommunications equipment,

³¹ For more on the WEA program, see CTIA: *Wireless Emergency Alerts on Your Mobile Device* <https://www.ctia.org/consumer-resources/wireless-emergency-alerts> (last visited June 26, 2019).

³² *Id.*

and accordingly, the property at 1052 Boston Post Road has been deemed unusable. Once the Facility is constructed, Verizon and AT&T will relocate to the Property. By relocating to the Property, Verizon and AT&T will be able to satisfy their existing coverage objectives in the area and provide significant capacity relief to their respective wireless networks. The Facility located at the Property satisfies these important network service objectives. Exhibit E of this Application includes a Radio Frequency ("RF") Engineering Report with propagation plots and other information which identify and demonstrate the specific need for a new wireless facility in this area of the State, including the nearby Interstate-95 ("I-95") corridor, to serve the public and meet its need and demand for wireless services.

B. Technological Alternatives

The FCC licenses granted to AT&T and Verizon authorize them to provide wireless services in this area of the state through deployment of a network of wireless transmitting sites. Repeaters, microcell transmitters, distributed antenna systems (DAS) and other types of transmitting technologies are not a practicable or feasible means to providing service within the service area for this site. These technologies are better suited for specifically defined areas where new coverage is necessary, such as commercial buildings, shopping malls, and tunnels, or to address capacity. Ensuring reliable wireless services in this area of Milford requires a tower site that can provide reliable service in this critical location. There are no equally effective technological alternatives to the construction of the proposed Facility for AT&T and Verizon to provide reliable personal wireless services in this area of Connecticut, and the nearby I-95 corridor.

V. SITE SELECTION AND TOWER SHARING

A. Site Selection

ARX is a wireless infrastructure provider that uses its knowledge of the wireless carriers' networks and/or specific information from the individual carriers to develop new wireless facilities where a need has been demonstrated. It is only when it is clear that a new tower facility will be required to provide coverage and reliable service does ARX pursue a site search for a new tower. In performing its site search, ARX consults with wireless carrier radiofrequency engineers to identify geographic areas where a new tower facility will be required for the provision of coverage and/or capacity in the carriers' networks. In this case, Verizon and AT&T identified a need for wireless coverage in this area of Milford and have agreed to support an application by ARX to construct a new facility in this location to provide the coverage required.

AT&T conducted its own site search in the area and identified no existing structures or reasonable location sites for a new tower facility. In conducting its site search, AT&T seeks to avoid the unnecessary proliferation of towers and to reduce the potential adverse environmental impacts of a new facility. In this area of Milford there are no known existing structures suitable for co-location and the provision of reliable service to the public.

Only after determining that no existing suitable facilities or structures could be used to provide reliable coverage in this area, a search for tower sites was conducted. The search included independent reviews by ARX and AT&T, and field work conducted by consultants for both entities.

The map of facilities within a four mile radius (map date of July 2020), along with the site selection narrative and map of rejected sites contained in Exhibit F, provide a thorough explanation of the Applicant's methodology for conducting site searches, the actual search for potential sites in the area, and the locations reviewed during the Applicant's search and the reasons for elimination from consideration of all but the Property.

B. Tower Sharing

To promote the sharing of wireless facilities in the City, ARX proposes to construct a facility that can accommodate AT&T, Verizon, and two other wireless carriers. The Facility would also be willing to accommodate municipal emergency communications equipment at no cost to the City. Details of the design are contained in Exhibit G.

VI. ENVIRONMENTAL COMPATIBILITY

Pursuant to Connecticut General Statutes § 16-50p, the Council is required to find and to determine as part of the Application process any probable environmental impact of the Facility on the natural environment, ecological balance, public health and safety, scenic, historic and recreational values, forest and parks, air and water purity and fish and wildlife. As demonstrated in this Application and the accompanying attachments and documentation, the Facility would not have a significant adverse environmental impact and/or any such effects are unavoidable in this part of the State in order to provide reliable service to the public.

A. Visual Assessment

The visual impact of the Facility would vary from different locations around the Facility depending upon factors such as vegetation, topography, distance from the Facility, and the location of structures around the Facility.

ARX retained visibility experts, All Points Technology (“APT”), to prepare the Visibility Analysis for the site. The Visibility Analysis includes a computer-based, predictive viewshed model, which has proven to depict accurately the potential impact of the Facility from within a 2-mile radius (the “Study Area”).

APT used a combination of a predictive computer model, in-field analysis, and a review of various data sources to evaluate the visibility associated with the Facility on both a quantitative and qualitative basis. The predictive model provides a measurable assessment of visibility throughout the entire area, including private properties and other areas inaccessible for direct observations.

The in-field analyses consisted of a crane test completed on December 9, 2020 and field reconnaissance of the area to: record existing conditions, verify results of the predictive model, inventory seasonal and year-round view locations, and provide photographic documentation from publicly accessible areas. The crane test consisted of positioning a crane at the proposed Facility location and extending the crane boom with a brightly-colored flag to the top height of the monopole (115’ AGL). APT conducted a study area reconnaissance by driving along local and State roads and traveling along other publicly accessible locations to document and inventory where the flag could be seen above and through the tree canopy and other visual obstructions.

Visual observations from the reconnaissance were also used to evaluate results of the preliminary visibility mapping and to identify any discrepancies in the initial modeling.

As presented in the viewshed maps attached to the Visibility Analysis, the visibility of the Facility would be limited primarily to the areas immediately surrounding the Site within ± 0.5 miles or less. The nearest year-round views of the Facility would be north and west along Home Acres Avenue and west and northwest along Boston Post Road. Seasonally, when the leaves are off the deciduous trees in the area, additional areas of visibility are predicted in the area surrounding the Facility and extending up to about 0.68 miles from the Site. Both year-round and seasonal visibility is primarily surrounding the Facility up to about 0.54 miles with additional intermittent points of visibility extending to ± 1.03 miles from the Facility. Predicted year-round visibility of the Facility is estimated to include about 74 acres. Predicted seasonal visibility is estimated to include an additional ± 90 acres. Thus, the total acreage of visibility represents just $\pm 2\%$ of the Study Area.

No schools or commercial day care centers are located within 250 feet of the Facility. Orange Avenue Elementary School is located about 0.59 miles northwest of the Facility at 260 Orange Avenue in Milford. No visibility is predicted from the school grounds. The nearest commercial childcare center is Sedona Daycare & Learning Center about 0.82 miles to the southwest of the Facility at 21 Plymouth Place in Milford. No visibility is predicted from or in the vicinity of the daycare center.

Weather and permitting, and if allowed under COVID-19 protocols, the Applicant may be asked to raise a balloon with a diameter of at least three (3) feet at the Facility on the day of the Council's hearing on this Application, or at a time otherwise specified

by the Council. In lieu of the balloon float, the Applicant will hold a virtual site visit on the day of the hearing.

B. Solicitation of State Agency Comments

ARX submitted a request for review and comment for the Facility to the State Historic Preservation Office (“SHPO”). It also obtained the maps from the database of the Connecticut Department of Energy & Environmental Protection (“CT DEEP”).

- SHPO reviewed the Phase I archaeological survey (See letter from SHPO dated August 18, 2020 contained in NEPA Report attached hereto as Exhibit I) and concluded that “[n]o previously identified archaeological sites are located within 0.5 miles of the project area,” and “the project area possesses a low potential to contain intact archaeological deposits.” SHPO concurred with the findings of the Phase I archaeological survey and concluded that “additional archaeological investigations are not warranted”
- SHPO determined that the Facility would have no adverse effects to sites listed on or eligible for listing on the national Register of Historical Places, with the following conditions: 1) The antennae, wires, mounts, and associated equipment will be designed, painted to match adjacent materials, and installed to be as non-visible as possible; and 2) if not in use for six consecutive months, the antennae, mounts, and equipment shall be removed by the telecommunications facility owner. This removal shall occur within 90 days of the end of such six-month period. (See letter from SHPO dated August 18, 2020 contained in NEPA Report attached hereto as Exhibit I). ARX is prepared to fully comply with these conditions.

- CT DEEP Natural Diversity Data Base (NDDB) has records for State Special

Concern species eastern box turtle and wood turtle in the vicinity of the Property.

If this project is approved, ARX will implement protection strategies and protocols (documented in the letter from CT DEEP dated August 6, 2020 contained in the NEPA Report attached hereto as Exhibit I) during construction activities. ARX is committed to avoiding potential impacts to this State-listed species during construction by implementing the species protection measures recommended by CT DEEP. These recommendations would be incorporated as environmental notes into the construction drawings (Development and Management Plans) to ensure that protective measures are followed prior to and during construction activities.

C. MPE Limits/Power Density Analysis

In August 1996, the FCC adopted a standard for exposure to Radio Frequency (“RF”) emissions from telecommunications facilities like the Facility proposed in this Application. To ensure compliance with applicable standards, AT&T retained C Squared Systems, LLC to perform maximum power density calculations for the Facility assuming that the antennas are operating at 100% capacity and power and that all antenna channels are transmitting simultaneously. Obstructions, such as trees and buildings, that would normally attenuate the signal are not taken into account. The calculations assume even terrain in the area of study and do not consider actual terrain elevations which also could attenuate the signal. As a result, the predicted signal levels reported by C Squared Systems, LLC are much higher than the actual signal levels of the Facility will be.

The resulting power density for AT&T's operations and Verizon's operations would be approximately 20.81% percent of the applicable Maximum Permissible Exposure (MPE) standards. A copy of the power density calculation reports for the Facility are attached hereto as Exhibit J.

D. Other Environmental Factors

The Facility would be unmanned, requiring infrequent monthly maintenance visits by AT&T and Verizon that would last approximately one hour. The equipment located at the Facility would be monitored 24 hours a day, 7 days a week from a remote location. The Facility would not require a water supply or wastewater utilities. No outdoor storage or solid waste receptacles would be needed, and the Facility would not create or emit any smoke, gas, dust or other air contaminants, noise, odors or vibrations other than the installed heating and ventilation equipment. Temporary power outages could require the limited use of emergency generators on site and provisions have been made for a permanent, self-contained, on-site diesel generator. The construction and operation of the proposed Facility would have no significant impact on air, water, or noise quality.

ARX retained APT to evaluate the Facility in accordance with the FCC's regulations implementing the National Environmental Policy Act of 1969 ("NEPA"). A copy of the NEPA Report dated October 8, 2020, is attached hereto as Exhibit I.

- The proposed Facility will not be located in an area designated as a wilderness area or a wildlife preserve. The Facility would not affect federally listed threatened or endangered species or designated critical habitats. As mentioned above, ARX will implement protection strategies and protocols (documented in

the letter from CT DEEP dated August 6, 2020 contained in the NEPA Report attached hereto as Exhibit I) during construction activities to protect State Special Concern species eastern box turtle and wood turtle.

- Additionally, the proposed Facility would not impact migratory bird species since the height would be below 200 feet, would not include guy wires, and would not require lighting. The Site is not proximate to an Important Bird Area and the site design complies with the USFWS Guidelines for minimizing impacts on birds. A study done by APT concluded that the proposed development would not impact migratory bird species. An Avian Resources Evaluation is attached hereto as Exhibit K.
- There are no National Parks, National Forests, National Parkways or Scenic Rivers, State Forests, State Designated Scenic Rivers, or State Gamelands located in the vicinity of the Site.
- APT consulted with the United States Fish and Wildlife Service (“USFW”) and reviewed the CT DEEP Wildlife Division Natural Diversity Data Base (“NDDB”) to determine if rare, threatened, or endangered species or designated critical habitat may be present in the project area. One federally-listed threatened species is documented in the vicinity of the Facility: *Myotis septentrionalis* (northern long-eared bat or “NLEB”), whose range encompasses the entire State of Connecticut. As a result of this preliminary finding, APT evaluated whether the project would be likely to result in an adverse effect to NLEB. The proposed Facility would be located within an existing gravel overflow parking and storage area that does not require tree clearing. The Facility also is not within 150 feet of

a known occupied NLEB maternity roost tree and is not within 0.25 miles of a known NLEB hibernaculum. The nearest known NLEB habitat resource to the proposed Facility is located ±16.11 miles to the northeast in Branford. In addition, ARX will consider additional USFWS voluntary conservation measures, where appropriate and as the project schedule allows, to reduce any potential impacts of activities to NLEB. These activities are more particularly described in the NEPA Report attached hereto as Exhibit I. In addition, by letter dated June 19, 2020, USFW concluded that any “take” (defined as to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect or to attempt to engage in any such conduct) of the NLEB that may occur as a result of the project is not prohibited under 50 CFR § 17.40(o).

- According to the site survey, field investigations, Natural Resources Conservation Service (NRCS) Soil Survey, and USFWS National Wetland Inventory, the Facility will not result in significant changes in surface features such as wetland fill, water diversion, or deforestation. Specifically, the proposed development will not result in either temporary or permanent direct impacts to wetland resource area, as there are no wetlands or watercourses located within or near the Property. If this Application is approved, ARX will design, install, and maintain sedimentation and soil erosion controls during construction activities in accordance with the 2002 Connecticut Guidelines for Soil Erosion and Sediment Control.
- The Facility would not be located within a floodplain.

- The Property is not within an area designated by Conn. Gen. Stat. § 22a-94 as being a coastal resource and therefore the proposed Facility will not result in adverse impacts to coastal resources as defined within the Coastal Management Act.
- APT consulted with nine Native American Indian tribes – the Bad River Band of Lake Superior Tribe of Chippewa Indians, the Delaware Tribe of Indians of Oklahoma, the Keweenaw Bay Indian Community, the Lac du Flambeau Band of Lake Superior Chippewa Indians, the Lac Vieux Desert Band of Lake Superior Chippewa Indians, the Mashantucket Pequot Tribe, the Mohegan Indian Tribe, the Narragansett Indian Tribe, and the Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin – because they might have interests impacted by the construction, operation, and maintenance of the Facility. APT received no reply from the Bad River Band of Lake Superior Tribe of Chippewa Indians, the Keweenaw Bay Indian Community, the Lac du Flambeau Band of Lake Superior Chippewa Indians, the Lac Vieux Desert Band of Lake Superior Chippewa Indians, the Mashantucket Pequot Tribe, the Narragansett Indian Tribe, and the Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin. The Mohegan Indian Tribe replied and indicated that they did not believe that they have any interests that would be impacted by the Facility. The Delaware Tribe of Indians of Oklahoma sent a notice of interest through the FCC Tribal Construction Notification System, in response to which APT sent them a cover letter and a copy of the SHPO Report on August 3, 2020. The Delaware Tribe of Indians of

Oklahoma have provided no further comments to APT. A copy of the Tribal Consult is contained in the NEPA Report attached hereto as Exhibit I.

As a result, the Facility is categorically excluded from any requirement for further environmental review by the FCC in accordance with the NEPA and no permit is required by the FCC prior to construction of the proposed Facility. See 47 C.F.R. §§ 1.1306(b) and 1.1307(a).

VII. CONSISTENCY WITH THE MILFORD LAND USE REGULATIONS

The Council Application Guide for Community Antenna Television and Telecommunications Facilities, as amended in July 2012, requires the inclusion of a narrative summary of the project's consistency with the City's Plan of Conservation and Development (the "Plan"), Zoning Regulations, and Wetlands Regulations as well as a description of planned and existing uses of the site location and surrounding properties.

A. Planned and Existing Land Uses

The Property is approximately 2.44 acres and is currently commercially developed with a restaurant and a tire store. ARX is not aware of any confirmed future development plans regarding the Property. Properties immediately surrounding the property are commercial, Interstate 95, residential, and a cemetery.

B. Milford Plan of Development

The Milford Plan of Conservation and Development ("Plan"), a copy of which is included in the bulk filing, was adopted in December 2012. The Plan does not identify telecommunications facilities as a land use consistent or inconsistent with the general

planning and conservation principles or policies of the City. The Plan does, however, encourage “co-location facilities where multiple carriers use the same tower for their equipment.” See Bulk Filing, Plan dated December 2012 at page 114. The Facility would improve wireless services in the area thereby allowing for better communication for the ever increasing number of individuals who rely primarily or exclusively on wireless services for communication. It would also ensure that, in the event of an emergency, wireless customers would be able to successfully make a 9-1-1 call. In addition, the Facility provides enhanced opportunities for carriers to co-locate, as the Facility would accommodate AT&T and Verizon, as well as two additional future carriers. Accordingly, the Facility would further some of the objectives articulated by the Plan.

C. Milford Zoning Regulations

The Milford Zoning Regulations (“Regulations”) do not have a section addressing telecommunications facilities. See Bulk Filing, Milford Zoning Regulations, amended to March 22, 2019, with subsequent amendments attached. The Property is zoned Interchange Commercial District (ICD). The Telecommunications facilities are not listed as a permitted use or a special use in the ICD zone, and therefore, there is no regulation governing this use in the ICD zone.

D. Milford Inland Wetlands and Watercourses Regulations

The Milford Inland Wetlands and Watercourses Regulations (“Wetlands Regulations”) regulate certain activities conducted in or adjacent to wetlands or watercourses as defined therein. See Bulk Filing, Wetlands Regulations, Section 2, adopted April 17, 1989 last revised June 6, 2001. The Wetlands Regulations provide an

upland review area of 100 feet (and 150 feet for the Wepawaug River watershed, the Beaver Brook watershed, and wetlands or watercourses that are located in open space districts).

ARX retained APT to determine whether there are any wetlands located near the proposed Facility. APT prepared the Wetland Inspection, a copy of which is included as an attachment in Exhibit J (the NEPA Report). As set forth in the Wetland Inspection, there are no wetlands or watercourses on the Property, with the nearest wetland or watercourse being ±1,320 feet to the south. As a result of the significant distance from the proposed Facility to the nearest wetland or watercourse, APT concluded that the proposed Facility would not adversely impact any wetland or watercourse resources.

Accordingly, no temporary impacts to nearby wetland resources are anticipated. In addition, ARX will implement sedimentation and erosion controls that are designed, installed and maintained during construction activities in accordance with the *2002 Connecticut Guidelines for Soil Erosion and Sediment Control*. Further, stormwater generated by the proposed development will be properly handled and treated in accordance with the *2004 Connecticut Stormwater Quality Manual*.

VIII. CONSULTATIONS WITH LOCAL, STATE AND FEDERAL OFFICIALS

A. Local Consultations

Connecticut General Statutes § 16-50f (e) requires an applicant to consult with the local municipality in which a proposed facility may be located and with any adjoining municipality having a boundary of 2,500 feet from the proposed facility concerning the proposed and alternate sites of the facility. On August 27, 2020, ARX submitted a

technical report to the Mayor, the Honorable Ben Blake, regarding the Facility. The technical report, a copy of which is being bulk filed with this Application, included specifics about the Property, the Facility, the site selection process and the environmental effects, if any, of the proposed Facility. A copy of the cover letter submitted with the technical report is included in Exhibit M.

On October 1, 2020, counsel for ARX met virtually with the attorney for the City, John W. Knuff, Esq. ("Attorney Knuff"), and Milford City attorney Jon Berchem. In that meeting, Attorney Knuff asked questions about the project. By letter dated October 8, 2020, counsel for ARX provided information in response to the requests by Attorney Knuff. On October 27, 2020, Attorney Knuff sent a second letter, which requested additional information and suggested some alternative sites. On March 26, 2021, counsel for ARX responded to the second letter from Attorney Knuff in which counsel for ARX, *inter alia*, explained that the sites that Attorney Knuff had suggested were not viable options.

B. Consultations with State Officials

As noted in Section VII.B of this Application, ARX consulted with the SHPO and obtained CTDEEP mapping from the CTDEEP's database in the course of its NEPA survey. As indicated in Section VII.B, the SHPO found no adverse impact. Copies of the correspondence with SHPO and DEEP are included in the NEPA Report attached hereto as Exhibit I .

C. Consultation with Federal Agencies

ARX received a report from Federal Aviation Administration ("FAA") for the Facility, which is attached hereto as Exhibit N. The results indicate that the Facility

does not exceed obstruction standards and would not be a hazard to air navigation. Therefore, no FAA lighting or marking would be required for the Facility proposed in this Application.

ARX evaluated the project to determine whether it fell within any of the “listed” categories requiring review under NEPA. The “listed” categories, included in 47 C.F.R § 1.1307, are activities that may affect wilderness areas; wilderness preserves; endangered or threatened species; critical habitats; National Register historic districts, sites, buildings, structures or objects; Indian religious sites; flood plains; and wetlands. The resulting report, included in the NEPA Report attached hereto as Exhibit I, confirms that the Property does not fall under any of the NEPA “listed” categories of 47 C.F.R. §1.1307. Therefore, the proposed Facility does not require review by the FCC pursuant to NEPA.

IX. ESTIMATED COST AND SCHEDULE

A. Overall Estimated Cost

The total estimated cost of construction for the Facility is \$275,000.00. This estimate includes:

- (1) Tower (cost of tower) and foundation costs (including installation) of approximately \$85,000.00;
- (2) Site development costs of approximately \$160,000.00; and
- (3) Utility installation costs of approximately \$30,000.00.

B. Overall Scheduling

Site preparation and engineering would commence immediately following Council approval of ARX’s Development and Management (“D&M”) Plan and is expected to be

completed within four (4) to five (5) weeks. Installation of the monopole structure, antennas and associated equipment is expected to take an additional eight (8) weeks. The duration of the total construction schedule is approximately fifteen (15) weeks. Facility integration and system testing is expected to require an additional two (2) weeks after the construction is completed.

X. CONCLUSION

This Application and the accompanying materials and documentation demonstrate that a significant public need exists in the City for improved wireless services, including the nearby I-95 corridor, and that the Facility would not have any substantial adverse environmental effects. ARX, therefore, respectfully submits that the public need for the Facility far outweighs any potential environmental effects resulting from the construction of the Facility.

The Applicant therefore respectfully requests the Council grant a Certificate of Environmental Compatibility and Public Need for the Facility.

RESPECTFULLY SUBMITTED,

ARX WIRELESS INFRASTRUCTURE, LLC,

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