



Jesse A. Langer
(t) 203.786.8317
(f) 203.772.2037
jlanger@uks.com

LEED Green Associate

March 10, 2015

***VIA FEDERAL EXPRESS AND
ELECTRONIC MAIL***

Ms. Melanie A. Bachman, Esq., Executive Director
Connecticut Siting Council
Ten Franklin Square
New Britain, CT 06501

Re: Docket No. 454 – Application by Tower Holdings, LLC for A Certificate of Environmental Compatibility and Public Need for A Telecommunications Facility at 199 Brickyard Road, Farmington, Connecticut

Dear Attorney Bachman:

This office represents Tower Holdings, LLC (“Tower Holdings”), the applicant in the above-captioned docket. At the request of the Connecticut Siting Council, I have enclosed the following:

1. The Site Plan, with a second scale, which represents a true full size and half size scale;
2. The assignment of the AT&T lease from Farmington River Properties, LLC to Tower Holdings;
3. Materials concerning Marcus Communications, LLC’s network users and need for the proposed Facility; and
4. A memorandum of the genesis of the proposed Facility and legal authority.

In accordance with § 16-50j-12 of the Regulations of Connecticut State Agencies, I have enclosed an original and fifteen (15) copies of each of the above supplemental filings. If you have any questions concerning any of these submissions, please do not hesitate to contact me.

Updike, Kelly & Spellacy, P.C.
One Century Tower ■ 265 Church Street ■ New Haven, CT 06510 (t) 203.786.8300 (f) 203.772.2037 www.uks.com

Ms. Melanie A. Bachman, Esq., Executive Director
Connecticut Siting Council
March 10, 2015
Page 2

Very truly yours,

A handwritten signature in blue ink, appearing to read "Jesse A. Langer", with a long horizontal flourish extending to the right.

Jesse A. Langer

Enclosures

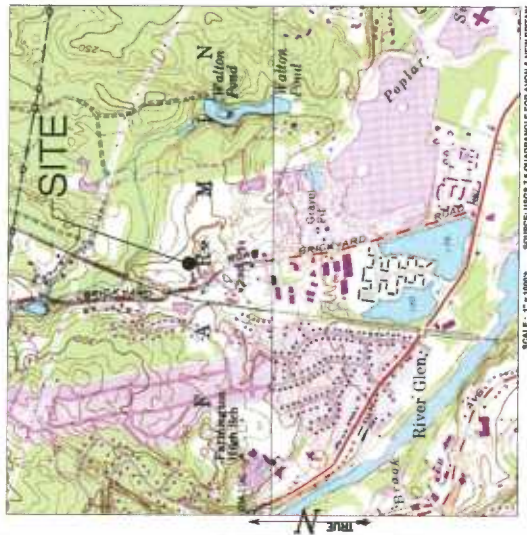
cc: *Service List (via regular mail and electronic mail)*

Site Plan with Scales

LOCATION MAP



USGS TOPOGRAPHIC MAP



TOWER HOLDINGS, LLC

199 BRICKYARD ROAD
 FARMINGTON, CONNECTICUT 06032
 OFFICE: (888) 973-7483

ALL-POINTS TECHNOLOGY CORPORATION
 3 SADDLEBROOK DRIVE
 KILLINGWORTH, CT 06419
 WWW.ALLPOINTSTECH.COM
 PHONE: (860)-663-1697
 FAX: (860)-663-0935

CONTACT PERSONNEL

- APPLICANT: TOWER HOLDINGS, LLC
 199 BRICKYARD ROAD
 FARMINGTON, CT 06032
- LANDLORD: TOWER HOLDINGS, LLC
 199 BRICKYARD ROAD
 FARMINGTON, CT 06032
- TH PROJECT MANAGER: STEVE SAVINO (860) 677-1899
- TH PROJECT ATTORNEY: JESSE A. LANGER
 UPDIKE, KELLY & SPELLACY, P.C.
 ONE CENTURY TOWER
 285 CHURCH STREET
 NEW BRITAIN, CT 06110
 (203) 786-8317
- POWER PROVIDER: CLAP (860) 661-2690
 JOHN SEPDECKNY
- TELECO PROVIDER: AT&T (800)-727-6889
- CALL BEFORE YOU DIG: (800) 922-2465
- GOVERNING CODE: 2009 CONNECTICUT BUILDING CODE (2009 IBC BASIS)
 NATIONAL ELECTRICAL CODE
 IAW/ITA 222F

SITE INFORMATION

**FARMINGTON
 199 BRICKYARD ROAD
 FARMINGTON, CT 06032**

TITLE SHEET AND INDEX

PERMITTING DOCUMENTS:
 FARMINGTON
 199 BRICKYARD ROAD
 FARMINGTON, CT 06032

DESIGN TYPE: RAW LAND

REVISIONS:
 REV. 0: 12/27/13 FOR REVIEW, SMC
 REV. 1: 12/27/13 ATTORNEY COMMENTS, SMC
 REV. 2: 12/27/13 REVISE TOWER, SMC
 REV. 3: 12/27/13 REV. TOWER INVENTORY, SMC
 REV. 4: 12/27/13 REV. TOWER COMMENTS, SMC
 REV. 5: 01/16/14 REV. PERM, SMC

APPT. FILE NO. CT-323-120
 APPT. DRAWING NUMBER: CT-323-120
 DRAWN BY: RCB
 CHECKED BY: SMC
 DATE: 12/26/13

SHEET NUMBER: **T-1**

THE SITE NAME: **FARMINGTON**
 APPT. FILE NUMBER: **CT-323-120**

TOWER HOLDINGS, LLC
 199 BRICKYARD ROAD
 FARMINGTON, CT 06032
 (860) 663-4800

ALL-POINTS TECHNOLOGY CORPORATION
 3 SADDLEBROOK DRIVE
 KILLINGWORTH, CT 06419
 WWW.ALLPOINTSTECH.COM
 PHONE: (860)-663-1697
 FAX: (860)-663-0935

DRAWING INDEX

- T-1 TITLE SHEET & INDEX
- A-1 ABUTTERS MAP
- 1 OF 1 BOUNDARY & TOPOGRAPHIC SURVEY
- SP-1 SITE PLAN
- SP-2 COMPOUND PLAN AND TOWER ELEVATION
- SP-3 TOWER ELEVATIONS

SITE INFORMATION:

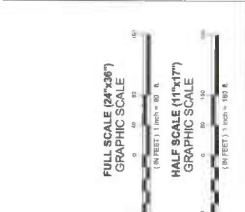
- SITE NAME: FARMINGTON
- SITE ADDRESS: 199 BRICKYARD ROAD, FARMINGTON, CT 06032
- MAP: 25 & 26
- LOTS: 3A & 3B
- ZONE: INDUSTRIAL CT ZONE
- LATITUDE: 72° 51' 16.72" W
- LONGITUDE: 241° 5' AMSL
- ELEVATION: 241 ± AMSL
- FEMA/FIRM DESIGNATION: PANEL #090030338F - ZONE 'X'
- ACREAGE: 2.49 Ac

LEGEND	
[Symbol]	SLURB
[Symbol]	DRAINAGE KULET/STRUCTURE
[Symbol]	CATCH BASIN
[Symbol]	SOB
[Symbol]	WALL
[Symbol]	EDGE OF PAVEMENT
[Symbol]	STONE WALL
[Symbol]	UTILITY POLE
[Symbol]	STOCKADE FENCE
[Symbol]	CONTOURS
[Symbol]	TOP/BOTTOM OF CURB
[Symbol]	SCOT ELEVATION
[Symbol]	CONCRETE
[Symbol]	SOFT WIRE
[Symbol]	NEW FENCE
[Symbol]	AND RELOC UTILITIES

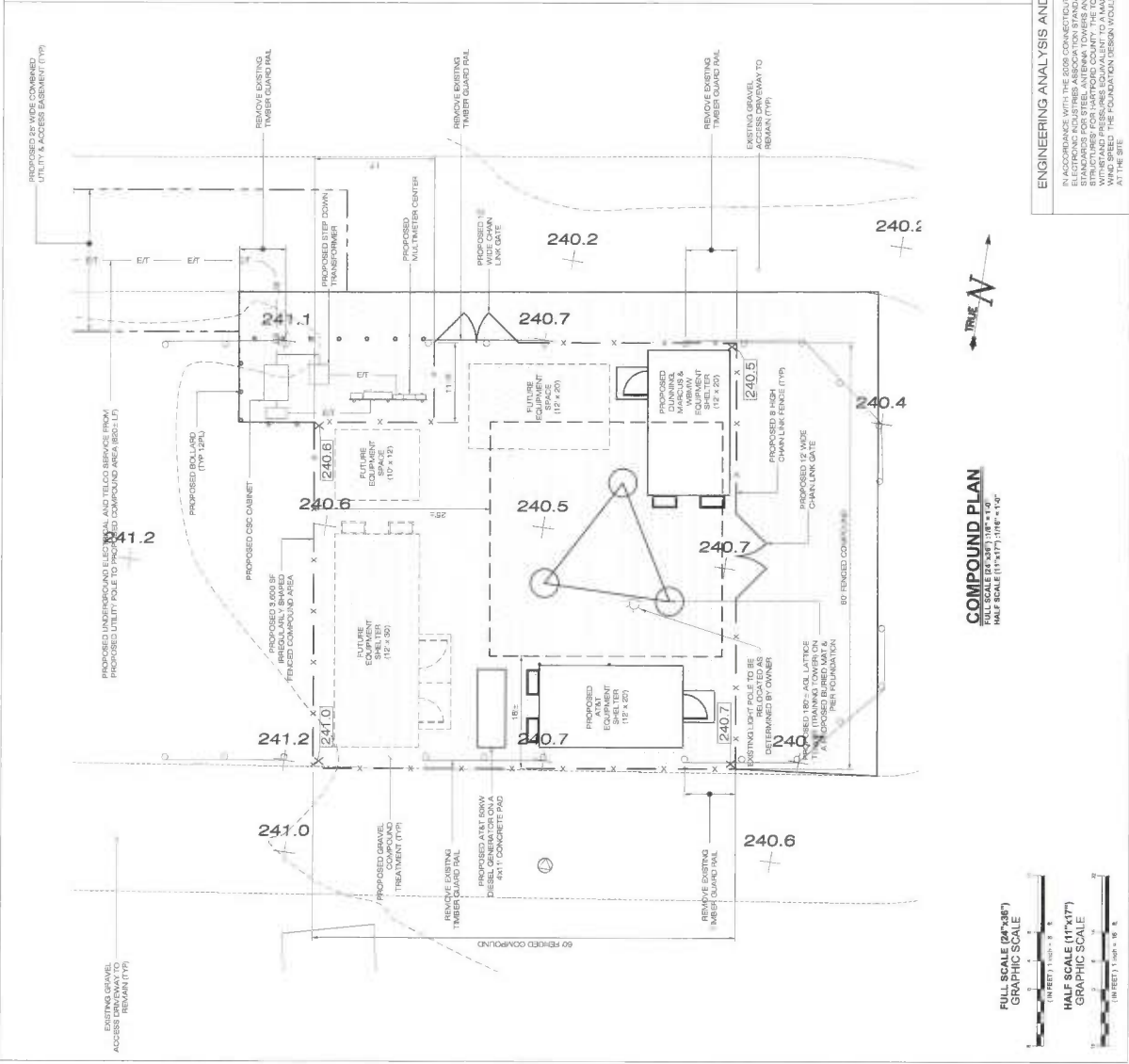


THE SITE NAME FARMINGTON ART FILING NUMBER CT-323-120	PERMITTING DOCUMENTS FARMINGTON 199 BRICKYARD ROAD FARMINGTON, CT 06032
TOWER HOLDINGS, LLC 199 BRICKYARD ROAD FARMINGTON, CT 06032 (949) 993-8900	DESIGN TYPE RAW LAND
ALL POINTS TECHNOLOGICAL CORPORATION 1175 BROADWAY SUITE 1200 FARMINGTON, CT 06032 (860) 271-1111	REVISIONS REV. 2: 11/20/13 FOR REVIEW REV. 1: 12/27/13 ATTORNEY COMMENTS REV. 0: 10/28/13 REVISIONS REV. 0: 10/28/13 REVISIONS REV. 0: 10/28/13 REVISIONS
ABUTTERS MAP SCALE AS NOTED DRAWN BY: RCB CHECKED BY: SMC DATE: 12/23/13	SHEET NUMBER: A-1

BASE MAPPING FROM 1. TOPOGRAPHIC SURVEY, PROPERTY SITUATE BRICKYARD ROAD, FARMINGTON, CONNECTICUT, PREPARED BY BARRETT ROMANO & VAN WEELE, P.C. 1/9 A COMMENCE DATE IN APRIL 1998. 2. TOWN OF FARMINGTON ASSESSORS MAPS 25, 26, 27, AND 28. 3. TOWN OF FARMINGTON GIS WEBSITE 4. DIGITAL GLOBAL 2010 DIGITAL ORTHOPHOTOGRAPHS
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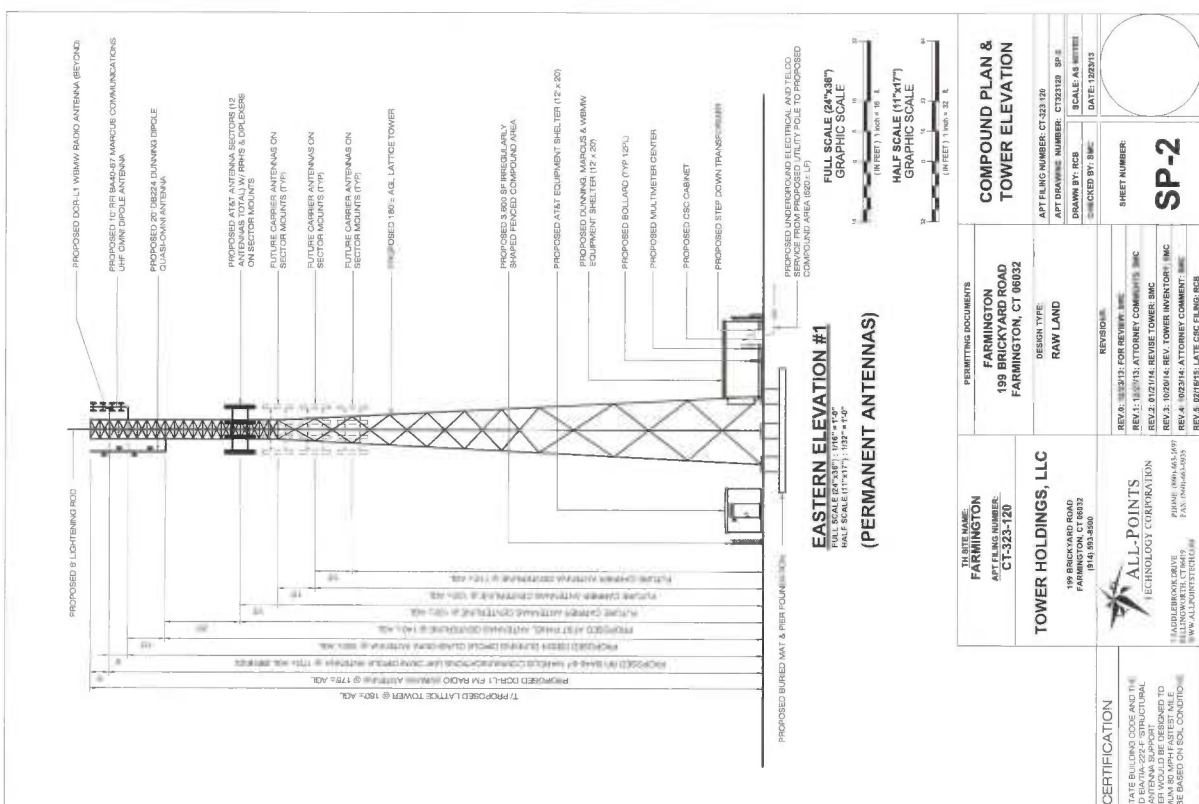
ABUTTERS MAP
 HALF SCALE (117'x177') 1"=500'
 PREPARED FOR: TOWER HOLDINGS, LLC
 PREPARED BY: ALL POINTS TECHNOLOGICAL CORPORATION
 DATE: 12/23/13



FULL SCALE (24"x36")
GRAPHIC SCALE
(IN FEET) 1" = 6' E

HALF SCALE (11"x17")
GRAPHIC SCALE
(IN FEET) 1" = 6' E

COMPOUND PLAN
FULL SCALE (24"x36")
HALF SCALE (11"x17") 1:16" = 1'-0"



EASTERN ELEVATION #1
(PERMANENT ANTENNAS)
FULL SCALE (24"x36")
HALF SCALE (11"x17") 1:16" = 1'-0"

FULL SCALE (24"x36")
GRAPHIC SCALE
(IN FEET) 1" = 6' E

HALF SCALE (11"x17")
GRAPHIC SCALE
(IN FEET) 1" = 6' E

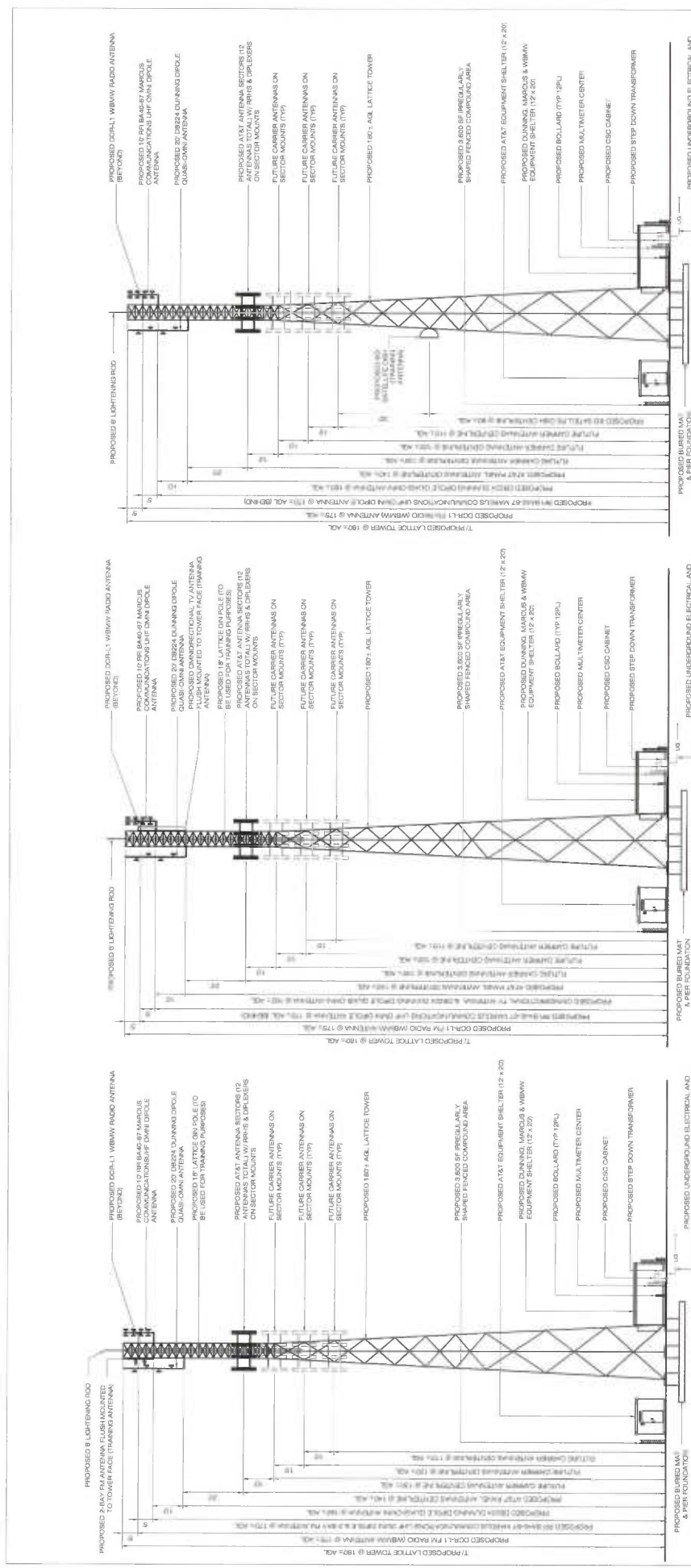
THE SITE NAME: FARMINGTON ART #18 NUMBER: CT-323-120	PERMITTING DOCUMENTS: FARMINGTON 199 BRICKYARD ROAD FARMINGTON, CT 06032	AP# FILING NUMBER: CT323120 AP# DRAWING NUMBER: SCALE AS SHOWN DRAWN BY: RBC CHECKED BY: SMC DATE: 12/29/13	SHEET NUMBER: SP-2
TOWER HOLDINGS, LLC 100 BRICKYARD ROAD FARMINGTON, CT 06032 (P) 410 933-2500	DESIGN TYPE: RAW LAND	REVISIONS: REV. 1: 12/29/13 FOR REVIEW REV. 2: 12/29/13 ATTORNEY COMMENTS REV. 3: 02/04/14 REV. TOWER INVENTORY REV. 4: 02/25/14 ATTORNEY COMMENTS REV. 5: 02/25/14 LATE SITE PLANS RBC	

ENGINEERING ANALYSIS AND CERTIFICATION

IN ACCORDANCE WITH THE 2008 CONNECTICUT STATE BUILDING CODE AND THE ELECTRONIC INDUSTRIES ASSOCIATION STANDARD EIA/EMF-224 STRUCTURAL REQUIREMENTS FOR WIRELESS COMMUNICATIONS TOWERS, THIS TOWER SHALL BE DESIGNED TO WITHSTAND PRESSURE EQUIVALENT TO A MINIMUM 80 MPH FASTEST-MILE WIND SPEED. THE FOUNDATION DESIGN SHALL BE BASED ON SOIL CONDITIONS AT THE SITE.

FULL SCALE (24"x36")
GRAPHIC SCALE
(IN FEET) 1" = 6' E

HALF SCALE (11"x17")
GRAPHIC SCALE
(IN FEET) 1" = 6' E



EASTERN ELEVATION #2
 PERMANENT & TRAINING ANTENNAS
 FULL SCALE (24" x 36") 1/8" = 1'-0"
 HALF SCALE (11" x 17") 1/32" = 1'-0"

EASTERN ELEVATION #3
 PERMANENT & TRAINING ANTENNAS
 FULL SCALE (24" x 36") 1/8" = 1'-0"
 HALF SCALE (11" x 17") 1/32" = 1'-0"

EASTERN ELEVATION #4
 PERMANENT & TRAINING ANTENNAS
 FULL SCALE (24" x 36") 1/8" = 1'-0"
 HALF SCALE (11" x 17") 1/32" = 1'-0"

PERMITTING DOCUMENTS FARMINGTON 199 BRICKWAY ROAD FARMINGTON, CT 06032	DESIGN TYPE RAW LAND	APT FILING NUMBER: CT 123120 SCALE: AS BUILT DRAWN BY: RCB CHECKED BY: SMC DATE: 1/25/13
	TOWER ELEVATIONS	SHEET NUMBER: SP-3
IN SITE NAME: FARMINGTON APT FILING NUMBER: CT-323-120	REVISIONS REV. 1: 1/25/13: FOR REVIEW: SMC REV. 2: 1/25/13: ATTORNEY COMMENTS: SMC REV. 3: 1/25/14: REVISE TOWER: SMC REV. 4: 1/25/14: ATTORNEY COMMENT: SMC REV. 5: 2/10/15: LATE CIRC PLUMBING	ALL-POINTS TECHNOLOGICAL CORPORATION 100 BROADWAY ROAD FARMINGTON, CT 06032 (914) 933-5500

IN SITE NAME: FARMINGTON APT FILING NUMBER: CT-323-120	DESIGN TYPE RAW LAND	APT FILING NUMBER: CT 123120 SCALE: AS BUILT DRAWN BY: RCB CHECKED BY: SMC DATE: 1/25/13
TOWER ELEVATIONS	SHEET NUMBER: SP-3	ALL-POINTS TECHNOLOGICAL CORPORATION 100 BROADWAY ROAD FARMINGTON, CT 06032 (914) 933-5500
IN SITE NAME: FARMINGTON APT FILING NUMBER: CT-323-120	REVISIONS REV. 1: 1/25/13: FOR REVIEW: SMC REV. 2: 1/25/13: ATTORNEY COMMENTS: SMC REV. 3: 1/25/14: REVISE TOWER: SMC REV. 4: 1/25/14: ATTORNEY COMMENT: SMC REV. 5: 2/10/15: LATE CIRC PLUMBING	ALL-POINTS TECHNOLOGICAL CORPORATION 100 BROADWAY ROAD FARMINGTON, CT 06032 (914) 933-5500



Assignment of the AT&T lease from
Farmington River Properties, LLC to
Tower Holdings, LLC

ASSIGNMENT AND ASSUMPTION OF LEASE

THIS ASSIGNMENT AND ASSUMPTION OF LEASES (the "Assignment"), is made and entered into as of the ___ day of September, 2013, by and between, Farmington River Properties, LLC, a Connecticut limited liability company ("Assignor"), and Tower Holdings, LLC, a Connecticut limited liability company ("Assignee").

W I T N E S S E T H:

WHEREAS, Assignor, is the owner of property commonly referred to as 199 Brickyard Road, Farmington, Connecticut ("Property");

WHEREAS, on June 28, 2013, Assignor executed that certain Structure Lease Agreement ("Lease") with New Cingular Wireless PCS, LLC for the purpose of New Cingular Wireless PCS, LLC serving as the anchor tenant on a telecommunications facility that Assignee intends to construct, maintain and operate on the Property; and

WHEREAS, Assignor has agreed to assign to Assignee, and Assignee has agreed to assume from Assignor, all of Assignor's right, title interest and obligations, as landlord, in and to the Lease, any tenant security deposits, lease guaranties, and license agreements identified on Schedule A attached hereto, on the terms and conditions stated herein.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each of the parties hereto, and intending to be legally bound hereby, Assignor and Assignee hereby agree as follows:

Section 1. Assignment. Effective as of the date hereof (the "Effective Date"), Assignor hereby assigns, transfers and sets over to and for the exclusive benefit of Assignee, all of the right, title and interest of Assignor, in and to the Lease, any tenant security deposits (if any) (the "Security Deposits"), and lease guaranties (if any) ("Guaranties"), said Lease, Security Deposits and Guaranties being more particularly identified on Schedule A attached hereto and incorporated herein.

Section 2. Assumption. As of the Effective Date, Assignee hereby accepts the assignment stated in Section 1, and assumes and agrees to pay, perform and discharge, and otherwise be and remain responsible for, at its sole cost and expense, all obligations and liabilities of Assignor, as landlord or lessor, under the Lease, which are required to be performed by Assignor under the Lease and first arise and accrue from and after the Effective Date. Assignee further agrees, at its sole cost and expense, to perform, observe and comply with all of the covenants and conditions which are required to be observed, performed or complied with by Assignor, under the Lease and any Guaranties, and which first arise and accrue from and after

the Effective Date, including, but not limited to, holding and returning all security deposited under the Lease in accordance with the terms of the Lease.

Section 3. Binding Effect; Governing Law. All obligations, covenants and undertakings contained in this Assignment shall bind and be enforceable against, and shall inure to the benefit of, Assignor and Assignee, and their respective successors, legal representatives and assigns. This Assignment shall be governed by the laws of the State of Connecticut, and shall be construed in accordance with such laws.

Section 4. Notices. Any notice or other communication required or which may be given under this Assignment to either party hereto shall be in writing.

Section 5. Further Assurances. Each party hereto shall, from time to time, for a period expiring twelve (12) months after the Effective Date, at the request of the other party (for purposes of this Section 5, the "Requesting Party"), execute and deliver to the Requesting Party such other instruments of transfer, conveyance and assignment and shall take such other actions as may reasonably be required to (a) more effectively carry out the terms of this Assignment, (b) vest in Assignee the rights intended to be conveyed hereunder, and (c) provide for the assumption by Assignee of the duties and obligations delegated by Assignor to Assignee. The responding party shall comply with a request under this Section 5 at its sole cost and expense.

Section 6. Headings. Section captions contained herein are inserted as a matter of convenience and for reference only, and in no way define, limit, extend or describe the scope of this Assignment or any provision hereof.

Section 7. Severability. In the event that any covenant, condition or other provision herein contained is held to be invalid, void or illegal by any court of competent jurisdiction, the same shall be deemed severable from the remainder of this Assignment and shall in no way affect, impair or invalidate any other covenant, condition or other provision herein contained. If such condition, covenant or other provision shall be deemed invalid due to its scope or breadth, such covenant, condition or other provision shall be deemed valid to the extent of the scope or breadth permitted by applicable law.

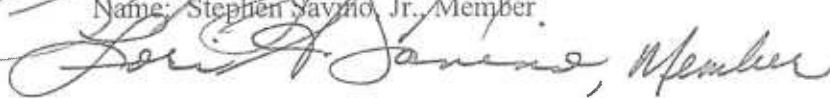
Section 8. Waivers; Modifications. No breach of any provision hereof can be waived unless in writing. Waiver of any one breach of any provision hereof shall not be deemed to be a waiver of any other breach of the same or any other provision hereof. This Assignment may be amended or modified only by a written agreement executed by the parties in interest at the time of the amendment or modification.

Section 9. Counterparts. This Assignment may be executed in multiple counterparts, each of which shall be deemed an original but all of which together shall be deemed to constitute one and the same agreement.

IN WITNESS WHEREOF, Assignor and Assignee have hereunto caused this Assignment to be duly executed as of the date first set forth above.

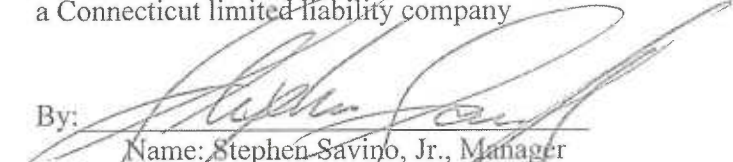
ASSIGNOR:

FARMINGTON RIVER PROPERTIES, LLC,
a Connecticut limited liability company

By: 
Name: Stephen Savino, Jr., Member
 Member

ASSIGNEE:

TOWER HOLDINGS, LLC,
a Connecticut limited liability company

By: 
Name: Stephen Savino, Jr., Manager

Schedule A
(Lease, Security Deposits and Guaranties)

1.) {AT&T Lease}

Marcus Communications, LLC

From : Bruce Marcus<bruce@marcusradio.com> To : "Chuck Regulbuto (chuck@northeastitesolutions.com)"
<chuck@northeastitesolutions.com>

Cc : "Mike Bula" <mike@marcusradio.com>

Date : Wed, 11 Feb 2015 16:11:29 -0500

Subject : Users that would make use of the Brickyard Road Tower ===== Forwarded message =====

> Chuck we have many public safety and state agencies on our voice link network. We have others that fall into the School and Healthcare sectors.

>

>

>

> We support the Probation Officers for the entire State of Ct - they use their portable radios to serve warrants and pick up wanted persons.

>

> We have The Capitol Region of Governments Command posts and regional Bomb Squads that use our Network > > Metro Traffic Squad/regional; traffic investigation unit > > East Central narcotics Squad.

>

> Aetna Ambulance

>

> Ambulance Service of Manchester

>

> Hunters Ambulance Service

>

> Suburban Livery - student and medical transportation > > Specialty Transportation - School Bus service to the valley

> > Metropolitan District Commission - emergency communications support > > State of Ct facilities division state

wide > > First Student Bus transportation > > Greater Hartford Transit District - Elderly transport- on demand para

transit services to the Hartford Region > > > > > > > Chuckles is this enough ?

>

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> Bruce S. Marcus

> Chief Technology Officer

>

- > Marcus Communications, LLC.
- > 33 Mitchell Dr
- > P.O. Box 1498
- > Manchester, CT 06042
- >
- > Desk: (860) 646-1839 x325
- > Mobile: (860) 983-6728
- > Fax: (860) 649-8492
- > E-Mail: bruce@marcusradio.com
- >
- >
- >
- >
- >

From : Bruce Marcus<bruce@marcusradio.com>
To : "Chuck Regulbuto (chuck@northeastsitesolutions.com)" <chuck@northeastsitesolutions.com>
Cc : "Mike Bula" <mike@marcusradio.com>
Date : Mon, 09 Mar 2015 14:26:42 -0400
Subject : FW: Northeast Towers

===== Forwarded message =====

Chuck, our maps are attached- Please not they can be deceiving showing we have coverage in the Farmington area. This is true! However it's not depicting loading issues at our Avon site . The issues is to off load Avon from traffic in the Farmington area surrounding your tower.

Bruce S. Marcus
Chief Technology Officer

Marcus Communications, LLC.
33 Mitchell Dr
P.O. Box 1498
Manchester, CT 06042

Desk: (860) 646-1839 x325
Mobile: (860) 983-6728
Fax: (860) 649-8492
E-Mail: bruce@marcusradio.com

-----Original Message-----

From: Mike Bula
Sent: Monday, March 09, 2015 2:21 PM
To: Bruce Marcus
Subject: FW: Northeast Towers

-----Original Message-----

From: Shawn Bald
Sent: Wednesday, February 11, 2015 3:49 PM
To: chuck@northeastsitesolutions.com; Bruce Marcus; Mike Bula
Subject: RE: Northeast Towers

Chuck,

Please see the attached maps depicting talk-back DMR portable coverage from 100' on a proposed tower at your site, versus 180' at the same location. At 180' we are able to use diversity gain to improve talk-back coverage.

Regards,

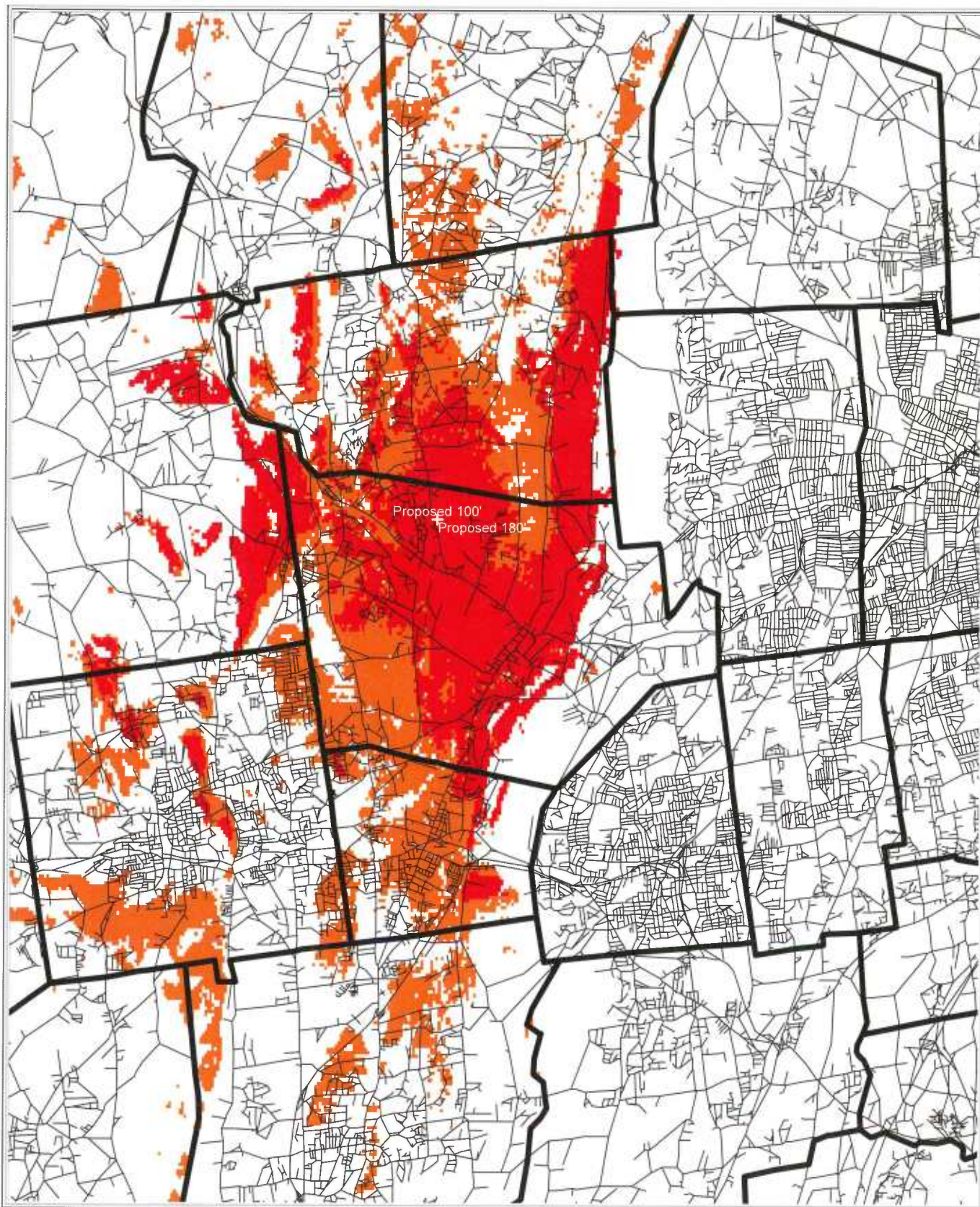
Shawn Bald

RF/IT Network Engineer
Marcus Communications

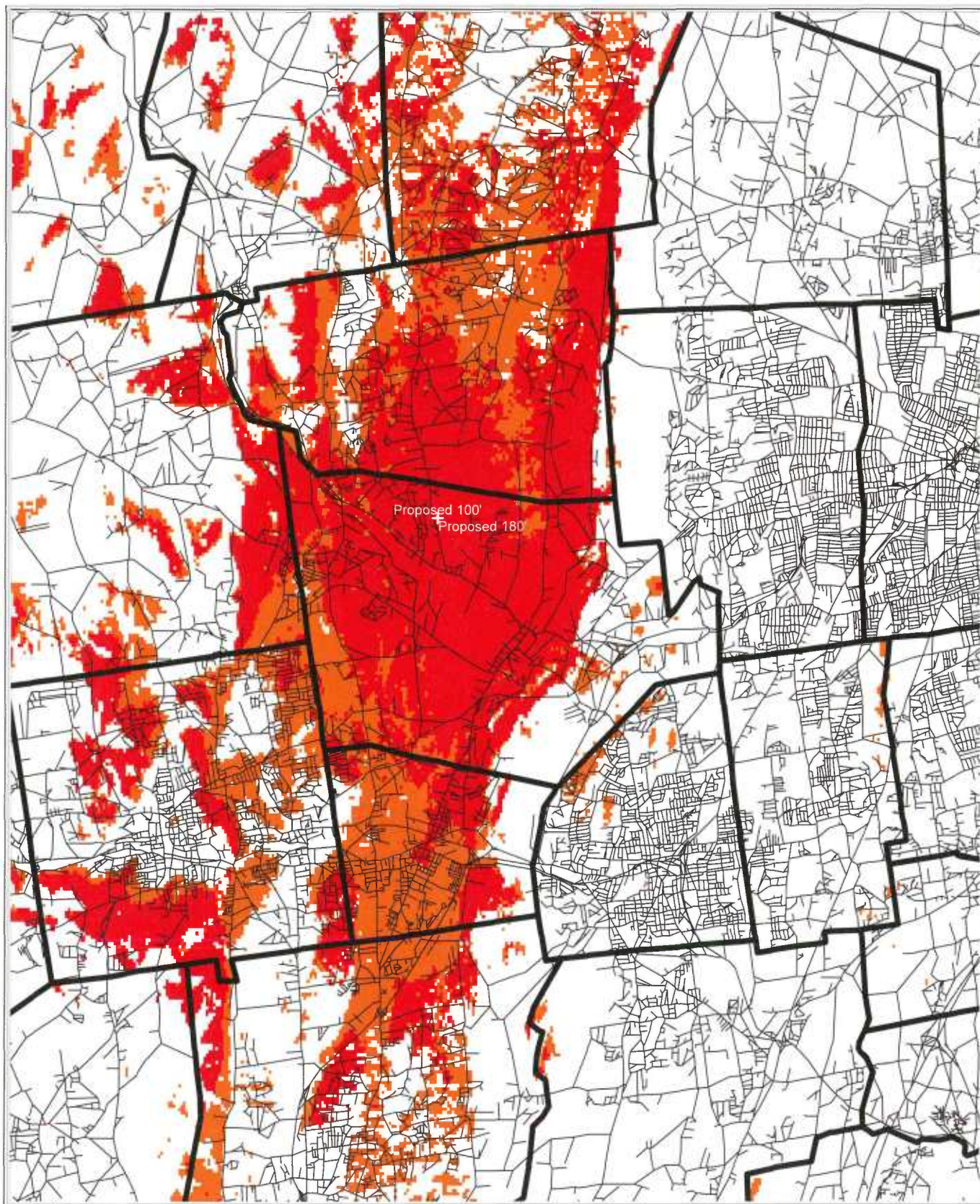
Phone: (860) 646-1839 x225

Fax: (860) 649-8492

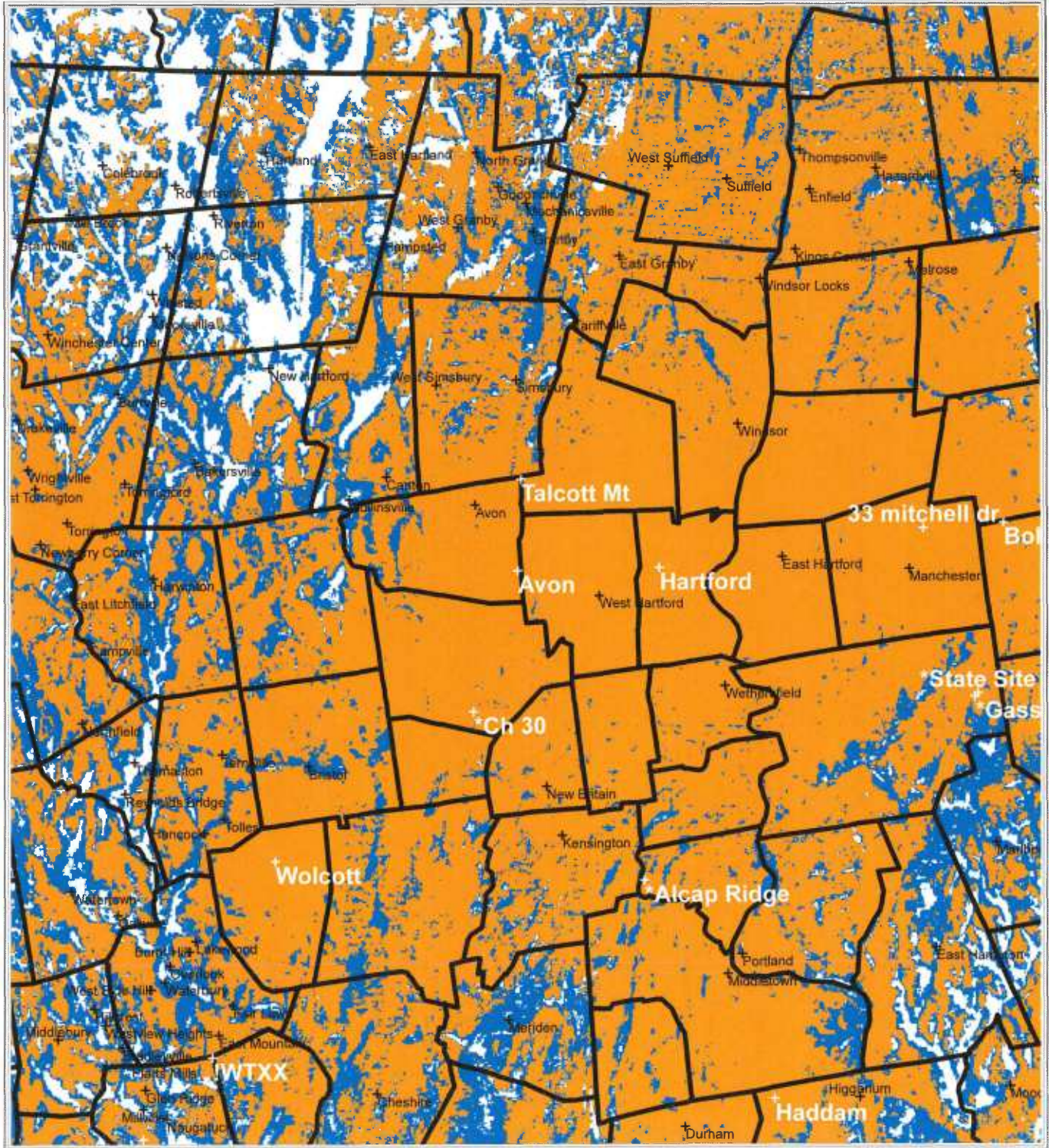
Email: shawn@marcusradio.com



RED= Indoor Portable ORANGE= Outdoor Portable



RED= Indoor Portable ORANGE= Outdoor Portable



ORANGE= Outdoor Portable BLUE= Mobile

Memorandum of the Genesis of the Proposed Facility
and Legal Authority

**STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL**

IN RE:

DOCKET NO. 454

**APPLICATION OF TOWER HOLDINGS,
LLC FOR A CERTIFICATE OF
ENVIRONMENTAL COMPATIBILITY
AND PUBLIC NEED FOR THE
CONSTRUCTION, MAINTENANCE
AND OPERATION OF A
TELECOMMUNICATIONS FACILITY
AT 199 BRICKYARD ROAD IN THE
TOWN OF FARMINGTON,
CONNECTICUT**

March 10, 2015

GENESIS OF THE PROPOSED FACILITY AND LEGAL AUTHORITY

On February 3, 2015, during the first session of the evidentiary hearing on the above-captioned docket, the Connecticut Siting Council (“Council”) requested that the applicant, Tower Holdings, LLC (“Tower Holdings”), provide a timeline of the events concerning the genesis of the telecommunications facility proposed at 199 Brickyard Road, Farmington, Connecticut (“Facility”). The Council further requested that Tower Holdings provide the legal basis on which the Council has exclusive jurisdiction over the Facility, including the additional height requested above the proposed location of New Cingular Wireless PCS, LLC (“AT&T”).

I. GENESIS OF THE PROPOSED FACILITY

Tower Holdings’ affiliate, Northeast Towers, Inc. (“NET”), initially contemplated a tower training facility in or around January of 2013. *February 3, 2015 Hearing Transcript (“Tr.)*, pp. 34-35, 81. Prior to that date, there had long been a need for improved training and controlled training facilities, both of which are in the interest of the public health and safety. *Pre-filed Testimony of Ernest R. Jones, P.E., dated January 5, 2015 (“Jones Testimony”)*; *Tr.*, pp 52-57, 115-16. The President of NET, Mr. Stephen Savino, Jr., also wanted to share the

knowledge he has acquired over the last thirty-four years in the telecommunications industry with those new to the industry. *Tr.*, p. 103.

At about the same time, on or about January 25, 2013, Mr. Chuck Regulbuto learned that AT&T might have a coverage gap in the area of 199 Brickyard Road, Farmington (“Property”). *Tr.*, pp. 81-82. Mr. Regulbuto passed this information along to Mr. Savino. *Id.* In early March of 2013, AT&T approved the Property as a candidate for an AT&T site. *Id.* These events were serendipitous as well as a function of NET’s involvement in the telecommunications industry. *Id.*, pp. 34-35.

Regardless, NET’s desire to utilize a training facility and AT&T’s need to satisfy a coverage gap in the area of the Property represented a true synergy. NET would be able to utilize a training facility in a controlled environment and the income derived from a lease with AT&T, and possible other wireless providers, would, among other things, assist in covering the costs associated with maintaining the Facility. Additionally, as discussed in Part II, *infra*, the presence of one or more wireless carriers would benefit the public health and safety in accordance with Wireless Communications and Public Safety Act of 1999, 47 U.S.C. § 615 *et seq.* (“WCPSA”) and the Enhanced 911 Act of 2004, 47 U.S.C. § 942 *et seq.* (“911 Act”), as well as promote similar policies of the State.

Shortly thereafter, in March 2013, Mr. Savino and Mr. Regulbuto approached Jeff Ollendorf, the Town of Farmington’s (“Town”) Planner, to discuss conceptually what would eventually become the Facility. *Tr.*, pp. 35, 90. Tower Holdings did so because it and its affiliates endeavor to be good corporate citizens, particularly since they have called the Town home for more than twenty years. During this walk-in meeting, Mr. Ollendorf requested photo-simulations of the proposed Facility. *Id.*, p. 90. Tower Holdings agreed to provide some

conceptual photo-simulations, and its intent at that juncture was to continue collaborative efforts with the Town with another informal meeting, particularly because it had recently learned that the involvement of AT&T triggered the exclusive jurisdiction of the Council.¹ *Id.*, 90-91.

On or about April 18, 2013, Mr. Regalbuto provided Mr. Ollendorf a preliminary visibility analysis, with requested photo-simulations; *id.*, p. 91-92; which were prepared by All-Points Technology Corporation, P.C. The photo-simulations were intended to provide the Town with an idea of the potential views of a lattice structure, which was necessary for the training component of the Facility. The photo-simulations did not include any fixtures, specifically AT&T's antennas, because AT&T had not yet informed Tower Holdings of the height it needed to remedy the coverage gap in the area of the Property. *Id.* Additionally, although negotiations were underway in earnest, AT&T and Farmington River Properties, LLC, the owner of the Property, had not yet finalized a lease. *Id.* Furthermore, NET was still assessing the configuration of the Facility to the extent it would be used for training. In other words, the Facility was still in its infancy. *Id.*

On or about April 19, 2013, Mr. Regalbuto received an email from Mr. Ollendorf indicating that the Town's Zoning Commission ("Commission") had placed what Tower Holdings thought would be an informal meeting about the Facility on the Commission's agenda for April 29, 2013, and learned that the scheduled meeting would be on the record. *Id.*, p. 91. On or about April 25, 2013, Tower Holdings requested that the meeting be removed from the agenda because the proposed Facility was still in its infancy and the height for AT&T's antennas had not been finalized. *Id.*, 91-92. Tower Holdings was simply not ready to make a formal presentation of the Facility at that time.

¹ This is Tower Holdings' first application before the Council. Similarly, Northeast Towers, Inc. has not appeared before the Council.

Thereafter, Tower Holdings continued to refine the configuration of the Facility, perform the various due diligence necessary for the installation of the Facility and work with AT&T to finalize the necessary instruments for AT&T to locate its equipment on the Facility. These efforts stretched through the remainder of 2013 and into early 2014 until Tower Holdings submitted its Technical Report concerning the Facility to the Town on February 4, 2014.

At no time did Tower Holdings submit an application to the Commission. At no time did Tower Holdings represent that it would submit an application to the Commission. Rather, in April 2013, Tower Holdings simply was not ready to discuss the Facility in detail sufficient enough to make the meeting worthwhile to those in attendance.

Although the location of AT&T on the Facility left Tower Holdings with no option but to submit to the Council's jurisdiction, it could be said that Tower Holdings found itself caught between the proverbial rock and hard place. On the one hand, it could have submitted an application to the Commission by withholding AT&T's potential location on its Facility and, after an approval, submit an application for a tower share with the Council. Although this would have satisfied the Town, this approach would have likely been received by the Council as an end-run around the Council's jurisdiction, particularly since the cost of obtaining a Certificate from the Council would likely be far more expensive than a proceeding before the Commission. On the other hand, Tower Holdings could recognize the Council's jurisdiction and submit the Application for a Certificate as it did, despite the great expense it would occur, and potentially frustrate the Town, which it apparently has, because the Council has exclusive jurisdiction over siting in such instances.

II. LEGAL BASIS FOR THE FACILITY

The proposed Facility falls within the definition of “facility” as that term is defined by General Statutes § 16-50i(a)(6).² The involvement of a licensed wireless provider such as AT&T brings the proposed Facility squarely within the definition of “facility.” The Council has exclusive jurisdiction over “facilities” pursuant to General Statutes § 16-50x.³

The Council also has the authority to approve the height requested in Tower Holdings’ Application for a Certificate of Environmental Compatibility and Public Need (“Application”). Specifically, Tower Holdings seeks to construct a 180 foot lattice structure above ground level (“AGL”), with AT&T located at 140 feet AGL. The additional forty feet would accommodate: (1) the communications equipment of Marcus Communications, LLC (“Marcus”), radio station “Soft Rock” 106.5 WBWM (“WBWM”) and Dunning Sand & Gravel (“Dunning”); (2) training activities and temporary training equipment performed by NET; (3) any municipal public safety antennas should the need arise; and (4) any future wireless providers should the need arise. The additional height would benefit the public health and safety.

² General Statutes § 16-50i(a)(6) provides in relevant part: “Facility’ means . . . such telecommunication towers, including associated telecommunications equipment, owned or operated by the state, a public service company or a certified telecommunications provider or used in a cellular system, as defined in the Code of Federal Regulations Title 47, Part 22, as amended, which may have a substantial adverse environmental effect, as said council shall, by regulation, prescribe”

³ General Statutes § 16-50x(a) provides in relevant part: “Notwithstanding any other provision of the general statutes, except as provided in section 16-243, the council shall have exclusive jurisdiction over the location and type of facilities and over the location and type of modifications of facilities subject to the provisions of subsection (d) of this section. When evaluating an application for a telecommunication tower within a particular municipality, the council shall consider any location preferences or criteria (1) provided to the council pursuant to section 16-50gg, or (2) that may exist in the zoning regulations of said municipality as of the submission date of the application to the council. In ruling on applications for certificates or petitions for a declaratory ruling for facilities and on requests for shared use of facilities, the council shall give such consideration to other state laws and municipal regulations as it shall deem appropriate. Whenever the council certifies a facility pursuant to this chapter, such certification shall satisfy and be in lieu of all certifications, approvals and other requirements of state and municipal agencies in regard to any questions of public need, convenience and necessity for such facility.”

The United States Congress has passed several acts to further deployment of emergency services and to encourage the construction and operation of seamless and reliable networks. One such legislation is the WCPSA. The Congress made several findings in support of this legislation, one of which was “improved public safety remains an important public health objective of Federal, State, and local governments and substantially facilitates interstate and foreign commerce” 47 U.S.C. § 615(a)(4). “The purpose of the Act is to encourage and facilitate the prompt deployment throughout the United States of a seamless, ubiquitous, and reliable end-to-end infrastructure for communications, including wireless communications, to meet the Nation’s public safety and other communication needs.” § 615(b). The Congress also passed the 911 Act. Among other findings, the Congress found that “enhanced 911 is a high national priority and it requires Federal leadership, working in cooperation with State and local governments and with the numerous organizations dedicated to delivering emergency communications services.” 47 U.S.C. § 942(4).

Like other states, Connecticut implements these policies. The Department of Emergency Services and Public Protection oversees a broad range of public safety services, including Enhanced 911 services and emergency management. *See generally* Chapter 517 of the General Statutes.

The Council also plays a pivotal role in implementing the aforementioned federal policies through the siting of “facilities.” An important component of the Council’s charge is to ensure that a proposed “facility” furthers the policies of the State and the Federal Governments, particularly the public health and safety. General Statutes § 16-50p(a)(3)(A) and (B) requires the Council to consider, among other factors, the public need for the “facility,” basis for that need

and whether the proposed “facility” conflicts with the environmental and public health and safety policies of the State.⁴

Connecticut’s policy to avoid the unnecessary proliferation of towers also offers important guidance to the Council. General Statutes § 16-50aa(a) provides: “The General Assembly finds that the sharing of towers for fair consideration whenever technically, legally, environmentally and economically feasible, and whenever such sharing meets public safety concerns, will avoid the unnecessary proliferation of towers and is in the public interest.” (Emphasis added.) In furtherance of this policy the Council has required applicants to make space available on their “facilities” for municipal public safety equipment at no charge to the host municipality. To this end, the Council has approved “facilities” at heights greater than those required for the wireless provider because those approvals have met “public safety concerns.”

In Docket No. 391 – Old Lyme, T-Mobile Northeast, Inc. (“T-Mobile”) filed an Application for a Certificate of Environmental Compatibility and Public Need for a 100 foot AGL telecommunications facility. *Id.*, *Opinion*, p. 2. The initial proposal increased to 110 feet AGL to remedy the coverage needs of AT&T, which the Council ultimately approved. *Id.* The Council, however, also required T-Mobile to install the “facility” so that it could be expandable to 160 feet AGL. *Id.* The Council included this condition because the Town of Old Lyme had requested that the “facility” be approved at 160 feet AGL to accommodate a future upgrade of its

⁴ General Statutes § 16-50p(a)(3) provides in relevant part: “The council shall file, with its order, an opinion stating in full its reasons for the decision. The council shall not grant a certificate, either as proposed or as modified by the council, unless it shall find and determine: (A) Except as provided in subsection (b) or (c) of this section, a public need for the facility and the basis of the need; (B) The nature of the probable environmental impact of the facility alone and cumulatively with other existing facilities, including a specification of every significant adverse effect, including, but not limited to, electromagnetic fields that, whether alone or cumulatively with other effects, impact on, and conflict with the policies of the state concerning the natural environment, ecological balance, public health and safety, scenic, historic and recreational values, forests and parks, air and water purity and fish, aquaculture and wildlife; (C) Why the adverse effects or conflicts referred to in subparagraph (B) of this subdivision are not sufficient reason to deny the application” (Emphasis added.)

municipal equipment. *Id.* The Council found that the fifty feet of additional height “would be prudent on behalf of public safety, and will order a tower with the capability for such expansion.” (Emphasis added.) *Id.*; *see also Docket 391, Findings of Fact, Nos. 21-24.*

In Docket No. 421 - Trumbull,⁵ T-Mobile filed an Application for a Certificate of Environmental Compatibility and Public Need for a 150 foot AGL “facility.” *Id., Opinion, p. 1.* The height was driven not by T-Mobile’s need, but by the Town of Trumbull’s desire to locate its upgraded emergency communications system at the top of the “facility.” *Docket No. 421, Findings of Fact, Nos. 20-23; Opinion, p. 2.* The Town, however, was in a preliminary study phase and the emergency communications upgrade was contingent upon funding sources not yet available. *Id.* Accordingly, the Council decided that “[i]n order not to impeded any future upgrades to the Town’s emergency communication system, [it] will require that the facility be capable of supporting an extension.” *Docket No. 421, Opinion, p. 2; Order No. 2.*

In both Dockets, the Council indicated that future requests for the extended heights would be subject to the Council’s approval. *Docket No. 421, Opinion, p. 2; Docket No. 391, Opinion, p. 2.*

The additional height requested in Tower Holding’s Application is similar to the requests made in Docket Nos. 391 and 421. Although the Application does not include a request by a municipality, at least at this juncture, Marcus’ network serves emergency service providers and other important service providers that promote public safety. *See Marcus Communications, LLC materials filed contemporaneously with this memorandum.* Marcus has a demonstrable need for collocating its equipment on the Facility to address capacity concerns associated with its network. *Id.*

⁵ Tower Holdings respectfully requests that the Council take administrative notice of Docket No. 421 – Trumbull in accordance with § 16-50j-28(f) of the Regulations of Connecticut State Agencies.

Additionally, as discussed throughout the Application, its supporting materials and the testimony provided by representatives of Tower Holdings, the training component of the Facility is instrumental to public safety. The importance of proper training, and the need for a controlled training facility, is buttressed by the guidelines for gin pole training published by the National Association of Tower Erectors in 2013. The use of gin poles is pivotal to the services NET provides to its customers. *Jones Testimony; Tr., pp 52-57, 115-16.* The Facility, therefore, would play an important role in ensuring that the State's telecommunications infrastructure and, by extension, the country's telecommunications infrastructure, operates as seamlessly as possible and, when part of that infrastructure goes down, it is repaired as quickly and safely as possible.

Respectfully submitted by,

TOWER HOLDINGS, LLC

A handwritten signature in blue ink, appearing to read "Jesse A. Langer".

By: _____

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CERTIFICATION

I hereby certify that on this day a copy of the foregoing was delivered by electronic mail and regular mail, postage prepaid, to all parties and intervenors of record, as follows:

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