

TOWER AND GROUND SPACE LEASE

This **TOWER AND GROUND SPACE LEASE** (the "**Lease**") is made and entered into this ___ day of _____, 2018 (the "**Effective Date**"), by and between the **BOROUGH OF WEST CHESTER**, a Pennsylvania political subdivision with an office at 401 East Gay St., West Chester, PA 19380 (the "**Landlord**"), and the **COUNTY OF CHESTER**, a Pennsylvania political subdivision with an office at 313 West Market Street, West Chester, Pa 19380-0991 (the "**Tenant**").

WITNESSETH:

WHEREAS, Landlord owns that certain plot, parcel or tract of land, together with all rights and privileges arising in connection therewith located at 401 E. Gay Street, Borough of West Chester, in the County of Chester, Commonwealth of Pennsylvania, also known as Parcel No. 1-5-398-E, as more fully described in **Exhibit A** attached hereto and made a part hereof (the "**Site**"), upon which Landlord has constructed and owns a one hundred twenty(120) foot high monopole communications tower (the "**Tower**") and an accompanying one hundred forty-three (143) square foot equipment shelter near the base of the Tower (the "**Building**") for ground equipment; and

WHEREAS, Tenant operates a public safety radio system serving Chester County's emergency responders communications and related needs (collectively, the "**System**"), which System the Tenant is in the process of adding additional in-building radio coverage so West Chester Borough Police may migrate to the System; and

WHEREAS, the Tower and Building are located in an existing fenced in compound with other necessary ground equipment, including, but not limited to, a generator and/or propane fuel source (the "**Ground Space**"), as more particularly shown on **Exhibit B** attached hereto and made a part hereof; and

WHEREAS, in connection with the upgrading of Tenant's System, Tenant desires to lease from Landlord, and Landlord desires to lease to Tenant: (i) Tower space for placement of certain of Tenant's Equipment (as hereinafter defined), such as, by way of example only and not by way of limitation, telecommunications equipment, antenna, microwave dishes, switches, cables, wiring, and related equipment, support structures, accessories, and improvements, at the height levels and as more particularly shown on **Exhibit C** attached hereto and made a part hereof (the "**Tower Space**"); and (ii) one hundred (100) square feet of floor space (the "**Shelter Space**") within the Building for placement of certain of Tenant's Equipment, such as, by way of example only, and not by way of limitation, those more particularly described on the **Exhibit D** attached hereto and made a part hereof; and

WHEREAS, the Tower Space and Shelter Space and any expansion or modification thereof are collectively referred to in this Lease as the "**Premises**"; and

WHEREAS, Tenant desires to conduct improvements on the Tower and expand the Building in order to facilitate Tenant's Equipment; and

WHEREAS, the parties hereby acknowledge and agree that the description and configuration of Tenant's Equipment as depicted in **Exhibit C** and **Exhibit D** may be amended and/or replaced prior to Tenant commencing installation of Tenant's Equipment based upon factors such as Tests and Government Approvals (both hereinafter defined), permitting, licensing, and modifications to the System design, as well as space, cost, and construction considerations, etc., upon mutual agreement by Landlord and Tenant; except that Tenant may unilaterally, at any time prior to its commencing installation of Tenant's Equipment or thereafter at any time during the term and/or extension term (as hereinafter defined) of this Lease, amend or replace Tenant's Equipment and/or its configuration within the Tower Space. In addition, Tenant may at any time during the term and/or extension term of this Lease, amend or replace Tenant's Equipment and/or its configuration and location within the Site, subject, however, to Landlord's reasonable approval, which shall not be unreasonably withheld or delayed. In such instances, there shall be no increase in rent (as hereinafter defined) and the parties will amend and/or replace such Exhibits to reflect such changes in lieu of entering into a formal amendment of this Lease.

NOW, THEREFORE, in consideration of the mutual promises, conditions, and other good and valuable consideration of the parties hereto, and intending to be legally bound hereby, it is covenanted and agreed as follows:

1. **Lease and Privileges.** Tenant hereby leases the Premises from Landlord, and Landlord hereby leases the Premises to Tenant and confers upon Tenant the following described privileges concerning the Premises, which privileges shall be irrevocable for the Premises for the duration of this Lease:

(a) To place and affix lines, conduits, connections, devices, and equipment for the transmission, reception, encryption and translation of communications signals and to install, maintain, operate, repair, replace and upgrade its communications fixtures and related equipment, cables, accessories and improvements and other items necessary to the successful and secure use of the Premises, including lines for signal carriage between the Shelter Space and the Tower Space, as Tenant, in its sole discretion, deems necessary or desirable for the conduct of Tenant's System (collectively, the "**Permitted Use**"). Tenant shall have the right, but not the obligation, to add, modify, and/or replace equipment on the Tower Space leased by Tenant hereunder in order to be in compliance with any current or future federal, state or local mandated application including, without limitation, emergency 911 communication services at no additional cost;

(b) To extend and connect utility lines between the Building, the Tower Space and suitable utility company service connection points;

(c) To travel between the Site and the public road over routes which Landlord is entitled to use twenty-four (24) hours per day, seven (7) days per week;

(d) To traverse other portions of the Site reasonably necessary to accomplish Tenant's purposes as contemplated in this Lease twenty-four (24) hours per day, seven (7) days per week;

(e) To use all common areas and equipment in the Building to service Tenant's needs;

(f) During the Term of this Lease and any Extension Term, Tenant and its agents, engineers, surveyors and other representatives will have the right to enter upon the Site to inspect, survey, test, evaluate, assess, measure or appraise the Tower and Site, including, without limitation, the Premises, and/or to perform such other due diligence as Tenant deems necessary in its sole discretion, all at Tenant's expense, to determine the suitability and feasibility of the Premises for Tenant's Permitted Use thereof (collectively, the "**Tests**"), to apply for and obtain all regulatory, administrative and governmental licenses, permits, approvals or other relief required of or deemed necessary or appropriate by Tenant in its sole discretion for its Permitted Use of the Premises, including, without limitation, any and all applications for zoning permits and variances, zoning ordinance amendments, land development approvals, environmental permits and approvals, special use permits, construction permits, licenses and FCC licenses, permits and approvals (collectively, referred to as "**Governmental Approvals**"), and otherwise to do those things on or off the Site that, in the opinion of Tenant, are necessary in Tenant's sole discretion to determine the physical condition of the Site, the environmental history of the Site, Landlord's title to the Site, and the feasibility or suitability of the Site for Tenant's Permitted Use, all at Tenant's expense. Tenant will not be liable to Landlord or any third party on account of any pre-existing defect or condition on or with respect to the Site, whether or not such defect or condition is disclosed by Tenant's inspection;

(g) To enhance the Tower, at its sole cost and expense, in order to pass Tests and facilitate Tenant's Equipment; and

(h) To expand the Building, at its sole cost and expense, in order to pass Tests and facilitate Tenant's Equipment.

2. **Use of Premises.** Tenant shall be entitled to use the Premises for the Permitted Use, to install, operate, and maintain Tenant's Equipment on the Premises and to exercise all of the privileges granted in Section 1 above, and for all reasonably-related purposes. Tenant's use of the Premises shall at all times comply with and conform to all laws and regulations applicable thereto.

3. **Term.** The term of this Lease shall commence upon the Effective Date and shall expire following the fifth (5th) anniversary of the Effective Date, unless terminated earlier in accordance with the terms hereof (the "**Term**"). This Lease will automatically renew for five (5) additional five (5) year terms (each such renewal term, an "**Extension Term**"), upon the same terms and conditions, unless Tenant notifies Landlord in writing of Tenant's intention not to renew at least ninety (90) days prior to the expiration of the Term, or Extension Term, as applicable.

4. **Option to Terminate.** This Lease may be terminated, without penalty or further liability, as follows:

(a) by either party upon at least ninety (90) days prior written notice to the other if the other party remains in default of any material covenant or material term of this Lease beyond any applicable notice and cure period, as provided in Section 17 hereof;

(b) by Tenant, upon written notice to Landlord, if Tenant is unable to obtain, or maintain, any required approval(s) or the issuance of a license or permit by any agency, board, court or other governmental authority necessary for the construction or operation of the Tenant's Equipment as now or hereafter intended by Tenant including, but not limited to, all zoning, subdivision and land development permits and approvals, and all regulatory, administrative and governmental licenses, permits, approvals or other relief required or deemed necessary by Tenant for its Permitted Use of the Premises in connection with the System including, without limitation, any and all applications for Federal Communications Commission (the "FCC") licenses, permits and approvals;

(c) by Tenant, if acting reasonably and in good faith, shall be unable to obtain any or all regulatory, administrative and governmental licenses, permits, approvals or other relief required or deemed necessary or appropriate by Tenant for its Permitted Use of the Premises; if Tenant's technical reports fail to establish to Tenant's satisfaction that the Premises is capable of being suitably engineered to accomplish Tenant's Permitted Use of the Premises; or if Tenant's title insurer determines that Landlord does not have a valid fee simple title in the Site and a right to lease, or if such title or interest has encumbrances and restrictions that would interfere with Tenant's Permitted Use of the Site;

(d) by Tenant if Tenant determines at any time that the cost of obtaining or retaining the approvals, licenses, permits or other relief required or deemed necessary by Tenant as described in Section 4(b) is commercially unreasonable or unfeasible as determined by Tenant acting in good faith;

(e) by Tenant if Tenant is unable to occupy and utilize the Premises due to an action of the FCC, including, without limitation, a take back of channels or change in frequencies;

(f) by Tenant upon at least ninety (90) days prior written notice to Landlord for any reason or no reason; or

(g) as otherwise expressly provided for in this Lease.

5. **Rent.**

(a) Rent.

(i) Premises. Commencing on March 1, 2018 (the "Rent Commencement Date"), and on the first day of each year thereafter during the remainder of the Term, Tenant will pay Landlord an annual rent for the Premises of One Dollar (\$1.00) per year (the "Rent"), at the address specified in Section 24 below.

(ii) No Rent Adjustments. Landlord and Tenant acknowledge that in connection with the enhancement of in-building coverage of the System some of Tenant's Equipment may added or removed from the Tower and Site permanently, and Landlord agrees that the Rent shall not be increased or decreased in such a scenario.

(b) Landlord shall provide, upon request by Tenant, a properly executed IRS Form W-9, or its equivalent, showing the taxpayer ID of the Landlord. All other charges payable by Tenant hereunder shall be billed by Landlord and paid by Tenant within thirty (30) days from Tenant's receipt of a written invoice with appropriate back-up detail.

6. Tenant's Personal Property. Landlord acknowledges and agrees that all personal property, equipment, apparatus, fittings, buildings, fixtures and trade fixtures installed or stored on the Premises by Tenant constitute personal property, not real property, and shall continue to be the personal and exclusive property of Tenant, including, without limitation, all telecommunication equipment, antennas, switches, cables, wiring and associated equipment or personal property placed upon the Premises by the Tenant (collectively, "Tenant's Equipment"). Tenant's Equipment shall remain at all times the personal property of Tenant, and neither Landlord, nor any person claiming by, through or under Landlord shall have any right, title or interest (including without limitation, a security interest) in Tenant's Equipment. Tenant, and Tenant's successors in interest, shall have the right to remove Tenant's Equipment at any time during the Term or any Extension Term of this Lease or its earlier termination. With respect to the holder of any mortgage, deed of trust or other lien affecting Landlord's interest in the Premises, whether existing as of the date hereof or arising hereafter, Landlord and Tenant hereby agree, acknowledge and declare that Tenant's Equipment is now and shall at all times hereafter remain the personal and exclusive property of Tenant. The parties further acknowledge and agree that Landlord shall have no right or authority to grant a lien upon or security interest in any of Tenant's Equipment.

7. Maintenance; Casualty.

(a) By Landlord. Landlord has the right and responsibility to repair and maintain the Site, including, without limitation, the Tower, Building, and Ground Space, in good and tenantable condition. Without limiting the generality of the foregoing, and subject to Tenant's responsibility to repair and maintain those items set forth in subsection (b) below, the Landlord shall provide, repair and maintain the Building to service Tenant's needs; and shall continue to provide, repair and maintain the existing compound fencing, fuel tanks, and other ground equipment servicing the Building. In the event that Landlord fails to repair or maintain the Site, including, without limitation, the Tower, Building, and Ground Space in good and tenantable condition, Tenant may (but is under no obligation to) repair or maintain the Site, including, without limitation, the Tower, Building, and Ground Space (immediately, if in Tenant's reasonable determination any failure to do so may cause loss of function or diminished capacity of the System, and otherwise, after thirty (30) days has elapsed from the date Tenant notifies Landlord of the need for repairs or maintenance without Landlord completing such repairs or maintenance), in which event Landlord shall reimburse Tenant for all costs and expenses reasonably incurred by Tenant in doing so, which costs and expenses shall be payable by Landlord within thirty (30) days of demand therefor by Tenant.

(b) By Tenant. Tenant shall be responsible to install and maintain a new generator and two HVAC components as shown on **Exhibit D** as well as certain Tower modifications to support Tenant's Equipment only as shown on **Exhibit C**. To the extent Landlord receives any complaints of noise resulting from the use of the generator to be installed from anyone residing in close proximity to the Premises, Tenant shall take such reasonable steps necessary to reduce the applicable noise levels.

(c) Casualty. If the Tower, Building, Ground Space or Site is damaged for any reason, other than a negligent act or omission of Tenant or its contractors, so as to render it substantially unusable for Tenant's Permitted Use, in Tenant's sole determination, then Tenant may terminate this Lease by providing written notice to Landlord. Upon such termination, Tenant will be entitled to be reimbursed for any prepaid Rent on a pro rata basis. If notice of termination is not given, and Landlord or Tenant undertake to rebuild the Tower, Building, Ground Space, or Site, Landlord agrees to permit Tenant to place temporary transmission and reception facilities on the Site under this Lease at no cost to Tenant until such time as reconstruction of the Tower, Building, Ground Space, and Site is completed.

(d) Snow Removal. Landlord shall be required to perform all snow and/or ice removal on the Premises and access road.

8. **FCC and FAA Compliance**. Landlord agrees to be solely responsible for full compliance, at all times, with the Tower marking, lighting, maintenance, inspection, recording, and notification requirements of the FCC and the Federal Aviation Administration (the "**FAA**").

9. **FCC and FAA Tower Registration**. Landlord agrees to be solely responsible for full compliance, at all times, with the Tower registration requirements of the FCC and the FAA. Landlord warrants to Tenant that the Tower has been registered by Landlord with the FCC and/or the FAA if required by the FCC and/or the FAA. Additionally, Landlord warrants to Tenant that in the event the FCC or the FAA requires the Tower to be registered during the Term of this Lease or any Extension Term, Landlord shall take all necessary actions to register the Tower. Landlord shall provide Tenant with a copy of the FCC and FAA Tower registration at the commencement of this Lease and upon subsequent request by Tenant.

10. **Utilities**. Landlord shall ensure that utility services are accessible and continually available at the Premises for Tenant's Permitted Use. Tenant shall be responsible for the separate metering, billing, and payment of its utility services consumed by its operations at the Premises. Landlord acknowledges that **Exhibit B** calls for the existing single meter at the Premises to be replaced with a dual meter configuration for use by Tenant along with an existing tenant currently leasing space on the Tower. Landlord shall provide Tenant with all necessary access/easement rights to read and maintain any meter installed for its use and benefit in connection with this Lease. In the event Tenant cannot secure its own metered utility services, Tenant will have the right, at its own cost and expense, to submeter from the Landlord. When submetering is required under this Lease, Landlord will read the meter and provide Tenant with an invoice and usage data on a monthly basis. Landlord agrees that it will not include a mark-up on the utility charges. Landlord further agrees to provide the usage data and invoice on forms provided by Tenant and to send such forms to such address and/or agent designated by Tenant. Tenant will remit payment within thirty (30) days of receipt of the usage data and required

forms. If Tenant submeters utility services from Landlord, Landlord agrees to give Tenant at least twenty-four (24) hours advanced notice of any planned interruptions of said utility services. Landlord acknowledges Tenant's intended use of the Premises, which requires electrical power to operate and must operate twenty-four (24) hours per day, seven (7) days per week. If the interruption is for an extended period of time, in Tenant's reasonable determination, the Landlord agrees to allow Tenant the right to bring in a temporary source of power for the duration of the interruption. Landlord will fully cooperate with any utility company requesting an easement over, under and across the Site in order for the utility company to provide service to the Tenant and Landlord will not charge the utility company or Tenant for any utility easement. Landlord will not be responsible for interference with, interruption of or failure, beyond the reasonable control of Landlord, of such services to be furnished or supplied by Landlord.

11. Taxes. Tenant shall pay any personal property taxes levied against Tenant's leasehold improvements on the Premises. Landlord shall pay any and all real property taxes and assessments levied against the Site, Tower, Building, or improvements thereon, and any personal property taxes levied against the Tower, Building and any other of Landlord's equipment or property.

12. Access. As an appurtenance to the estate created by this Lease, Landlord hereby grants to Tenant, during the Term and any Extension Term, non-exclusive easements and rights-of-way: (a) over the parking areas and driveways now or hereafter located on the Site for vehicular and pedestrian access, ingress, and egress to and from the Premises and the Site and all elements thereof for use by Tenant, its employees, agents, contractors, invitees, assignees, and licensees; (b) over, under, through, and across the Site for the construction and use of the Site for storing equipment, vehicles, materials, and other items thereon in connection with the installation of Tenant's Equipment, and the construction, maintenance, and repair of the Tenant's Equipment. Tenant shall have unrestricted access, twenty-four (24) hours per day, seven (7) days per week, to and over the Site and Premises, subject to such reasonable rules and regulations as Landlord may impose, for the installation, maintenance and operation of Tenant's Equipment and any utilities serving the Premises; provided, however, that such rules and regulations shall not inhibit or restrict in any material manner Tenant's use of the Premises for the Permitted Use. In the event of a conflict between such rules and regulations and terms of this Lease, this Lease shall control. Landlord shall provide Tenant with any current rules and regulations in writing prior to Tenant's execution of this Lease, and shall provide any modifications to such rules and regulations to Tenant at least thirty (30) days prior to Landlord's implementation of such rules and regulations.

13. Compliance with Laws. Tenant shall, at Tenant's cost and expense, comply in all material respects with all federal, state, county or local laws, rules, regulations and ordinances now or hereafter enacted by any governmental authority or administrative agencies having jurisdiction over the Site and applicable specifically to Tenant's use and occupancy of the Premises.

14. Mutual Indemnification.

(a) Tenant agrees to indemnify and hold Landlord harmless from any and all losses, damages, liability, or expenses (including reasonable attorneys' fees) actually incurred by

Landlord, arising from loss of life, personal injury and/or property damage, caused by or resulting from, in whole or in part, any negligent act or omission or intentional misconduct of Tenant or any officer, agent, contractor or employee of Tenant, in connection with Tenant's use or occupancy of the Premises. Landlord agrees to indemnify and hold Tenant harmless from any and all losses, damages, liability, or expenses (including reasonably attorneys' fees) actually incurred by Tenant, arising from loss of life, personal injury and/or property damage, caused by or resulting from, in whole or in part, any negligent act or omission or intentional misconduct of Landlord or any officer, agent, contractor or employee of Landlord, in connection with the management, use, or occupancy of the Site, including, without limitation, the Tower, Building and Ground Space.

(b) Notwithstanding the provisions of Section 14(a) above, in the event of the concurrent negligence or intentional misconduct of Tenant, its agents, employees, sublessees, or contractors on the one hand and that of Landlord, its partners, directors, officers, agents, employees, sublessees, or contractors on the other hand, which concurrent negligence or intentional misconduct results in injury or damage to persons or property and relates to the construction, alteration, repair, addition to, subtraction from, improvement to, or maintenance of the Premises, Site, Tower, Building or Ground Space, a party's (the "Indemnifying Party") obligation to indemnify the other as set forth in this Section 14 shall be limited to the extent of the Indemnifying Party's negligence and/or intentional misconduct, and that of its agents, employees, sublessees, or contractors, including the Indemnifying Party's proportionate share of reasonable costs, attorneys' fees, and expenses actually incurred in connection with any claim, action, or proceeding brought with respect to such injury or damage.

(c) The obligations of Tenant and Landlord under this Section 14 arising by reason of any occurrence taking place during the Lease Term and any Extension Term shall survive the expiration or earlier termination of this Lease.

15. Insurance. Tenant shall continuously maintain in full force and effect a policy of commercial general liability insurance with limits of not less than One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) per aggregate, and an umbrella liability policy of not less than Five Million Dollars (\$5,000,000) covering Tenant's work and operations on the Site. Landlord shall continuously maintain in full force and effect a policy of property and casualty insurance covering the full replacement value of the Tower, Building, Ground Space and any other of Landlord's property on the Site demised herein to Tenant, and Landlord covenants to apply all proceeds from such policy to repair, restore, and replace said Tower, Building, Ground Space or other property if it is damaged or destroyed. Upon request, both Tenant and Landlord shall provide to the other a copy of their certificate of insurance, evidencing their insurance coverage. This Section 15 shall survive expiration or termination of this Lease.

16. Interference. Landlord will provide Tenant with a list of all radio frequency users on the Site to allow Tenant to evaluate for interference. Tenant agrees to install and operate only equipment that does not cause interference to Landlord or other tenants of the Site, provided that their installations predate that of Tenant's Equipment (collectively, "Pre-Existing User"). Landlord agrees not to allow any user of the Tower whose equipment is installed or modified subsequent to Tenant's Equipment ("Subsequent User") to interfere with or adversely affect the

operations of Tenant. In the event Tenant is subject to any such interference, Landlord shall, or shall cause such other Subsequent User to, immediately (but in no event more than forty-eight (48) hours after receipt of notice of interference from Tenant) take all steps necessary to correct and eliminate the interference. If such interference is not eliminated within forty-eight (48) hours after Landlord's receipt of notice of such interference from Tenant, Landlord shall (or shall cause such other Subsequent User to) cease operations, if requested by Tenant, until the interference is eliminated. The parties acknowledge that Tenant will suffer irreparable injury if the interference does not cease within the above-mentioned forty-eight (48) hour cure period and, therefore, Tenant will have the right, in addition to any other rights that it may have at law or in equity for Landlord's breach of this Lease, to elect to enjoin such interference or to terminate this Lease upon notice to Landlord.

17. Default.

(a) The following will be deemed a default by Landlord and a breach of this Lease: (i) Landlord's failure to provide access to the Site within twenty-four (24) hours after receipt of written notice of such default; (ii) Landlord's failure to cure interference in accordance with Section 16 of this Lease; and/or (iii) Landlord's failure to perform any term or condition, or to cure a breach of any warranty or covenant under this Lease within thirty (30) days after receipt of written notice from Tenant; *provided*, that if such failure or breach cannot reasonably be cured within such thirty (30) day period, and Landlord diligently commences and prosecutes such cure, Landlord shall be afforded an additional fifteen (15) days in which to cure such breach. In the event of a default by Landlord, and after the applicable notice and cure period, Tenant shall be entitled, in addition to all remedies otherwise available under this Lease, at law or in equity, to: (i) bring suit for the collection of any amounts for which Landlord may be in default, or for the performance of any covenant or agreement required to be performed by Landlord hereunder; (ii) terminate this Lease; and/or (iii) cure any such breach or default on behalf of Landlord, in which event Landlord shall reimburse Tenant for all costs and expenses reasonably incurred by Tenant in doing so, which costs and expenses shall be payable by Landlord immediately upon demand therefor by Tenant.

(b) The following will be deemed a default by Tenant and a breach of this Lease: (i) non-payment of Rent if such Rent remains unpaid for more than thirty (30) days after receipt of written notice from Landlord of such failure to pay; or (ii) Tenant's failure to perform any other term or condition under this Lease within thirty (30) days after receipt of written notice from Landlord specifying the failure. No such failure, however, will be deemed to exist if Tenant has commenced to cure such default within such thirty (30) day period and provided that such efforts are prosecuted to completion with reasonable diligence. Delay in curing a default will be excused if due to causes beyond the reasonable control of Tenant. If Tenant remains in default beyond any applicable cure period, Landlord will have the right to exercise any and all rights and remedies available to it under this Lease, at law and in equity.

18. Jurisdiction; Venue; Attorney Fees and Expenses.

(a) Jurisdiction and venue for any disputes arising in connection with this Lease shall lie solely with the Court of Common Pleas of the Commonwealth of Pennsylvania, in and for the County of Chester. All parties hereto hereby submit themselves to the exclusive

jurisdiction and agree to accept service of any court process, order or other document by certified mail in lieu of personal service.

(b) In the event of any litigation arising under this Lease, the non-prevailing party shall, upon demand, reimburse the prevailing party for all costs and expenses arising therefrom, including reasonable attorneys' fees.

19. Quiet Enjoyment. Landlord hereby covenants that Tenant shall have quiet and peaceful possession of the Premises throughout the Term of this Lease and any Extension Term, and that Landlord will not disturb Tenant's occupancy thereof as long as Tenant is not in default hereunder.

20. Assignment of Tenant's Interest. Tenant may freely assign its interests under this Lease to a party who will continue to operate the System. Upon notification to Landlord of such assignment, Tenant will be relieved of all future performance, liabilities and obligations under this Lease. Any other proposed assignment of this Lease by Tenant shall require Landlord's prior written consent, which shall not be unreasonably withheld, conditioned or delayed. No assignment shall be effected pursuant to this Section 20 unless Tenant shall notify Landlord in a writing setting forth the name, address, and telephone number of such assignee.

21. Hazardous Substances.

(a) Landlord hereby represents and warrants to Tenant that, to the best of Landlord's knowledge, the Site is free from hazardous substances as of the date of this Lease, and, that Landlord has never generated, stored, handled, or disposed of any hazardous waste or hazardous substances upon the Site, and that Landlord has no knowledge of such uses historically having been made of the Site or such substances historically having been introduced thereupon except in compliance with all applicable environmental laws and regulations, and, to the best of Landlord's knowledge, the Site has never been subject to any contamination or hazardous conditions resulting in any environmental investigation, inquiry or remediation. Landlord and Tenant agree that each will be responsible for compliance with any and all environmental and industrial hygiene laws, including any regulations, guidelines, standards, or policies of any governmental authorities regulating or imposing standards of liability or standards of conduct with regard to any environmental or industrial hygiene condition or other matters as may now or at any time hereafter be in effect, that are now or were related to that party's activity conducted in or on the Site.

(b) Landlord and Tenant agree to hold harmless and indemnify the other from, and to assume all duties, responsibilities and liabilities at the sole cost and expense of the indemnifying party for, payment of penalties, sanctions, forfeitures, losses, costs or damages, and for responding to any action, notice, claim, order, summons, citation, directive, litigation, investigation or proceeding which is related to: (i) the indemnifying party's failure to comply with any environmental or industrial hygiene law, including, without limitation, any regulations, guidelines, standards or policies of any governmental authorities regulating or imposing standards of liability or standards of conduct with regard to any environmental or industrial hygiene conditions or matters as may now or hereafter be in effect, or (ii) any environmental or industrial hygiene conditions that arise out of or are in any way related to the

condition of the Site and activities conducted by the party thereon, unless the environmental conditions are caused by the other party.

(c) The indemnification obligations in this Section 21 specifically include reasonable costs, expenses and fees incurred in connection with any investigation of Site conditions or any clean-up, remediation, removal or restoration work required by any governmental authority. The provisions of this Section 21 will survive the expiration or termination of this Lease.

(d) In the event Tenant becomes aware of any hazardous materials on the Site, or any environmental or industrial hygiene condition or matter relating to the Site that, in Tenant's sole determination, renders the condition of the Site or Premises unsuitable for Tenant's use, or if Tenant believes that the leasing or continued leasing of the Site would expose Tenant to undue risks of government action, intervention or third-party liability, Tenant will have the right, in addition to any other rights it may have at law or in equity, to terminate the Lease upon notice to Landlord.

22. Compliance with FCC Radio Frequency Emissions Requirements.

(a) It shall be the responsibility of Tenant to ensure that Tenant's use, installation, or modification of equipment at the Premises does not cause radio frequency radiation exposure levels of all the existing equipment located at the Site on the Effective Date of this Lease to exceed those levels permitted by the FCC. Landlord shall require Subsequent Users installing equipment after the installation of Tenant's Equipment to bear the same responsibility.

(b) Tenant agrees that in the event there is any change to applicable rules, regulations, and procedures governing exposure to radio frequency radiation which place the Tower in noncompliance, Tenant will cooperate with Landlord and other users of the Tower to bring the Tower into compliance, which cooperation shall include, but not be limited to, sharing pro rata the costs associated with bringing the Tower into compliance.

23. Subordination. Tenant agrees to subordinate this Lease to any ground lease, mortgage or trust deed which may hereafter be placed on the Site, provided such ground lessor, mortgagee or trustee thereunder shall ensure to Tenant the right to possession of the Premises and other rights and privileges granted to Tenant herein so long as Tenant is not in default beyond any applicable grace or cure period, such assurance to be in form reasonably satisfactory to Tenant. Further, Landlord agrees to promptly have any mortgagee or trustee that has a mortgage or trust deed currently placed on the Site to execute a non-disturbance agreement in a form reasonably satisfactory to Tenant ensuring to Tenant the right to possession of the Premises and other rights and privileges granted to Tenant herein so long as Tenant is not in default beyond any applicable grace or cure period.

24. Notices. Any notice, demand or communication which Landlord or Tenant shall desire or be required to give pursuant to the provisions of this Lease shall be sent by registered or certified mail or reputable overnight delivery service with all fees prepaid. The giving of any such notices shall be deemed complete upon the date of mailing in a United States Post Office

with postage charges prepaid, or upon delivery by a reputable overnight delivery service with verification of receipt (or verification of rejection or refusal to accept receipt), addressed to the party intended to be given such notice at the addresses set forth below or to such other address as such party may theretofore have designated by notice similarly given:

If to Tenant:

County of Chester
313 West Market Street
West Chester, PA 19380-0991
Attn: County Commissioners
and Solicitor

With a copy to:

Chester County Department
of Emergency Services
601 Westtown Road,
Suite 012
West Chester, PA 19380
Attn: Director

And:

Stephen H. Kalis, Esq.
Levin V. Czubaroff, Esq.
Fox Rothschild, LLP
Eagleview Corporate Center
747 Constitution Drive
Suite 100
P.O. Box 673
Exton, PA 19341

If to Landlord:

The Borough of West Chester
401 E. Gay Street
West Chester, PA 19380

25. Surrender. Upon the expiration or earlier termination of this Lease, Tenant shall remove all of Tenant's Equipment from the Premises and surrender the Premises to Landlord in good condition, reasonable wear and tear, condemnation, and insured casualty excepted. The parties agree that all of Tenant's Equipment must be removed from the Premises no later than the date of expiration of this Lease, or if this Lease is earlier terminated in accordance with its terms then all of Tenant's Equipment must be removed from the Premises no later than ninety (90) days after the date on which such early termination takes effect. In the event Tenant does not remove Tenant's Equipment within the time period outlined in this Section 25, Tenant shall be deemed to be a holdover tenant and Landlord, at its sole option, may remove Tenant's Equipment and thereafter charge Tenant for all applicable cost associated therewith. If Tenant holds over and remains in possession of the Premises beyond the expiration or earlier termination of this Lease, such holding over shall not be deemed or construed to be a renewal of this Lease, but shall constitute the creation of a month-to-month tenancy which may be terminated by either Landlord or Tenant upon thirty (30) days prior written notice to the other party.

26. Tenant's Self-help. If Landlord at any time fails to perform any of its obligations under this Lease, Tenant shall have the right, but not the obligation, upon giving the Landlord at least two (2) business days prior written notice of its election to do so (except in the event of an emergency, when no prior notice shall be required) to perform such obligations on behalf of, at the expense of, and for the account of Landlord, and to take all necessary action to perform such obligations. Tenant's costs and expenses incurred thereby and attributable solely to Landlord's failure shall be paid by Landlord within thirty (30) days of demand thereof by Tenant or at Tenant's option, Tenant may deduct and set off all costs and expenses reasonably incurred by Tenant from any Rent or other payments due to Landlord under this Lease. Tenant is not

required to declare Landlord in default or give Landlord an opportunity to cure per Section 17 of this Lease prior to exercising Tenant's rights under this Section 27.

27. Right of First Refusal. If Landlord gives or receives a firm offer (an "Offer") to sell, transfer, license or otherwise convey any interest, whether by fee simple interest, easement interest, leasehold, or otherwise, and which interest underlies or affects any or all of the Premises (the "ROFR Premises") to any third party, Landlord shall offer Tenant a right of first refusal to purchase the ROFR Premises (or such larger portion of Landlord's property that encompasses the Premises, if applicable). Landlord shall provide a written copy of Offer to Tenant which copy shall include, at a minimum, the purchase price, proposed closing date, and financing terms (collectively, the "Minimum Terms"). Within thirty (30) days of receipt of such Offer, Tenant shall provide written notice to Landlord of Tenant's election to purchase the ROFR Premises on the same Minimum Terms or more beneficial terms to Landlord. In such event, Landlord agrees to sell the ROFR Premises to Tenant subject to Tenant's payment of the purchase price and compliance with a purchase and sale agreement to be negotiated in good faith between Landlord and Tenant. If Tenant provides written notice that it does not elect to exercise its right of first refusal to purchase the ROFR Premises, or if Tenant does not provide notice of its election within the thirty (30) day period, Tenant shall be deemed to have waived such right of first refusal only with respect to the specific Offer presented (and any subsequent Offers shall again be subject to Tenant's continuing right of first refusal hereunder), and Landlord shall be permitted to consummate the sale of the ROFR Premises in accordance with the terms of the Offer ("Permitted Sale"). If Landlord does not consummate the Permitted Sale within ninety (90) days of the date of Tenant's waiver of its rights of first refusal, such Offer shall be deemed to have lapsed.

28. Sale of Site. If Landlord at any time during the Term of this Lease or any Extension Term, subject to Section 28, sells, subdivide or rezone any of the Site, to a purchaser other than Tenant, Landlord shall promptly notify Tenant in writing, and such sale, subdivision or rezoning shall be subject to this Lease and Tenant's rights hereunder. Landlord agrees not to sell, lease or use any areas of the Site for the installation, operation or maintenance of other wireless communications facilities if such installation, operation or maintenance would interfere with Tenant's Permitted Use or Tenant's Equipment. In the event the Site is transferred, the new owner shall have a duty at the time of such transfer to provide Tenant with a completed IRS Form W-9, or its equivalent, and other related paper work to effect a transfer in Rent to the new owner.

29. Warranties.

(a) Tenant and Landlord each acknowledge, represent and warrant that it is duly organized, validly existing and in good standing and has the right, power and authority to enter into this Lease and bind itself hereto through the party set forth as signatory for the party below.

(b) Landlord represents and warrants to Tenant that: (i) Landlord is the fee simple owner of the Site and Tower free and clear of all liens, restrictions and encumbrances; (ii) Landlord's execution and performance of this Lease will not violate any laws, ordinances, covenants or the provisions of any mortgage, lease or other agreement, or any court order,

binding on the Landlord; (iii) no consents or approvals are required from any other parties for Landlord to enter into this Lease, including, without limitation, any ground lessor or lender of Landlord; (iv) there are no restrictions, covenants, agreements or conditions which prevent Tenant from using the Premises for the Permitted Use, and Landlord shall not create, and shall use its best efforts to prevent from being created, any such restrictions, covenants, agreements or conditions during the Term or any Extension Term; (v) the Site is zoned in a manner permitting Tenant to use the Premises for the Permitted Use; (vi) the Tower and all facilities located in and/or serving the Site (including the Premises) are in good condition and repair; (vii) the Site is served by legal access from a public right-of-way and the Landlord is entitled to use such access twenty-four (24) hours per day/seven (7) days per week; and (viii) the Site is in compliance with all applicable laws, codes, rules, regulations, ordinances, orders and insurance requirements.

30. Governing Law. The parties hereto agree that the terms and performances of this Lease shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania, without regard to principles of conflicts of law.

31. Severability. If a court of competent jurisdiction renders any provision of this Lease (or any portion of a provision) to be invalid or otherwise unenforceable, that provision or portion of the provision will be severed and the remainder of this Lease will continue in full force and effect as if the invalid provision or portion of the provision were not part of this Lease.

32. Interpretation. Unless otherwise specified, the following rules of construction and interpretation apply: (i) captions are for convenience and reference only and in no way define or limit the construction of the terms and conditions hereof; (ii) use of the term “including” will be interpreted to mean “including but not limited to”; (iii) whenever a party’s consent is required under this Lease, except as otherwise stated in the Lease or as same may be duplicative, such consent will not be unreasonably withheld, conditioned or delayed; (iv) exhibits are an integral part of this Lease and are incorporated by reference into this Lease; (v) use of the terms “termination” or “expiration” are interchangeable; (vi) reference to a default will take into consideration any applicable notice, grace and cure periods; and (vii) to the extent there is any issue with respect to any alleged, perceived or actual ambiguity in this Lease, the ambiguity shall not be resolved on the basis of who drafted the Lease.

33. Binding Effect; Successors and Assigns. All of the covenants, conditions, and provisions of this Lease shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

34. Counterparts. This Lease may be executed in counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same document.

35. Entire Agreement. This Lease constitutes the entire agreement of the parties with respect to the transactions contemplated hereby and may not be modified except in writing signed by both parties. The recitals in the form of “WHEREAS” clauses at the beginning of this Lease are incorporated herein by reference.

36. Non-binding until Full Execution. Both parties agree that this Lease is binding on both parties only upon the handwritten legal execution and delivery of this Lease by Landlord and Tenant.

37. Memorandum of Lease. Neither Landlord nor Tenant shall permit, allow nor cause this Lease, or any amendment to this Lease, to be recorded in any public registry or office of register of deeds; provided, however, that at the request of either party, Landlord and Tenant agree to execute a recordable memorandum of this Lease setting forth the names and addresses of the parties, a reference to this Lease with its date of execution, specific legal descriptions of the Site and Premises, the Lease commencement date, the Term of the Lease and any Extension Terms provided for, and all other information that may be required by statute, which memorandum may be recorded by Tenant at Tenant's expense or by Landlord at Landlord's expense in the appropriate public records of the jurisdiction in which the Site is situated.

38. Condemnation.

(a) Total Taking. If all of the Premises are taken by the power of eminent domain exercised by any governmental or quasi-governmental authority, this Lease shall terminate as of the earlier of: (i) the date Tenant is required to vacate the Premises, or (ii) the date title passes to the condemning authority, and upon either such date of termination, all Rent and other costs due hereunder shall be paid to that date. Any unearned portion of the Rent or other amounts paid in advance of such termination shall be refunded by Landlord to Tenant within thirty (30) days following such termination. The term "eminent domain" shall include the taking or damaging of property by, through, or under any governmental or quasi-governmental authority, and any purchase or acquisition in lieu thereof, whether or not the damaging or taking is by the government or any other person.

(b) Partial Taking. Tenant may terminate this Lease upon written notice to Landlord for any of the following events of partial taking:

(i) The Premises, after the taking, would no longer satisfy the requirements for Tenant's Permitted Use, based on Tenant's System requirements in Tenant's reasonable business judgment;

(ii) The access to the Premises is adversely affected;

(iii) The parking available to the Premises is adversely affected and/or;

(iv) If Tenant's System operations will otherwise be adversely affected.

The portion of Rent and any other charges with respect to the affected Premises shall be abated during any period that the Tower or Site has not been restored following an event described in this Section 39.

(c) The parties will each be entitled to pursue their own separate awards in the condemnation proceeds, which for Tenant will include, where applicable, the value of Tenant's Equipment, moving expenses, prepaid fee, and business dislocation expenses, provided that any award to Tenant will not diminish Landlord's recovery. Notwithstanding the foregoing, Tenant

shall also have the option to seek any legal or equitable remedy available to Tenant (including, but not limited to, taking the Tower or Site pursuant to its condemnation authority) in the event another governmental or quasi-governmental authority seeks condemnation of the Tower or Site.

(d) This Section 39 shall survive expiration or termination of this Lease.

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

LANDLORD:

BOROUGH OF WEST CHESTER

By: _____
Name: _____
Title: _____

TENANT:

COUNTY OF CHESTER, PENNSYLVANIA

Attest as to all: _____
County Clerk

By: _____
_____, Chair
County Commissioner

By: _____

County Commissioner

By: _____

County Commissioner

EXHIBIT A

Legal Description of Site

(See Attached)

LEGAL DESCRIPTION

ALL THAT CERTAIN lot of Ground, Situate in said District, on East Gay Street in the Borough of West Chester, County of Chester and State of Pennsylvania, bounded and described as follows:

BEGINNING at the corner of Gay and Adams Street, thence Eastwardly along said Gay Street, Three hundred and thirty-eight feet and eight tenths to the corner of Penn Street, thence Northwardly along Penn Street, Three hundred and forty-one feet to the corner of Chestnut Street, thence Westwardly along said Chestnut Street, Three hundred and thirty-five feet and seven tenths to the corner of Adams Street, thence Southwardly along said Adams Street, Three hundred and forty-one feet and nine tenths to the corner of Gay Street, the place of beginning.

UPI NO. 1-5-398-E

BEING the same premises which West Chester Area School District (Successor to West Chester School District), by Deed dated 06/24/1977 and recorded 06/24/1977 in the Office of the Recorder of Deeds in and for the County of Chester in Deed Book E-51 Page 331, granted and conveyed unto The Borough of West Chester.

EXHIBIT B

Ground Space

(See Attached)

EXHIBIT C

Tenant's Equipment and Tower Space

(See Attached)

CHESTER COUNTY
DEPARTMENT OF
EMERGENCY SERVICES
VOICE RADIO PROJECT

Presented by:
HARRIS
RF Communications Division
1000 Kreyler Drive
Lansdale, PA 17037



Robert J. Heath PE, LLC
1116 WALNUT LANE,
LANSDALE, PA 17046
TEL: 267-260-9987

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THE BOARD OF PROFESSIONAL ENGINEERS AND
SURVEYORS. THE DATE OF ALTERATION IS:
DATE: _____ BY: _____

Engineer's Seal:

NO.	DATE	DESCRIPTION
1	2019-01-31	ISSUE AGREEMENT DOCUMENT
0	2017-12-11	ISSUE AGREEMENT DOCUMENT

CHESTER COUNTY
P25 VOICE RADIO PROJECT
Site Name:
W-Chester Borough Building
Site Code:
TWR07

Sheet Title:
Tower Elevation
Sheet #:
CR.0
Drawing File Name:
CHESCO_WCBBD_C60_R1.dwg

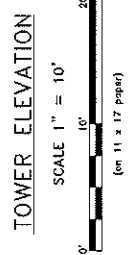
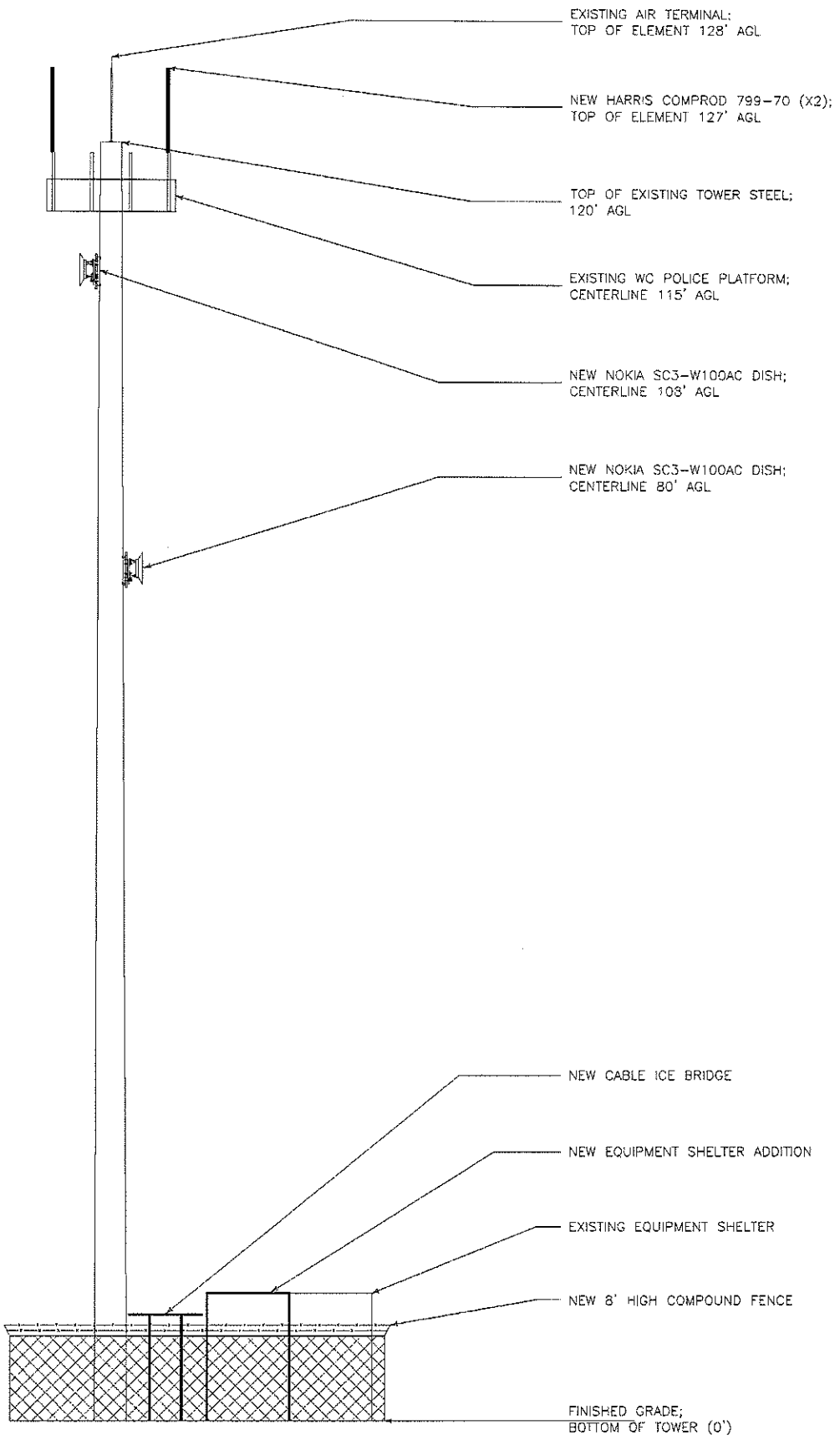


EXHIBIT D

Shelter Space

(See Attached)

CHESTER COUNTY
 DEPARTMENT OF
 EMERGENCY SERVICES
 VOICE RADIO PROJECT

Presented by:



RF Communications Division
 1000 Kreider Drive
 Suite 600
 Ardmore, PA 17007

Prepared by:



Robert J. Heath PE, LLC
 1116 WALNUT LANE,
 LANSDALE, PA 19446
 TEL: 267-250-9931

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 CONSENT IS UNLAWFUL AND WILL BE CAUSE FOR
 REVOCATION OF THE LICENSE AND FOR A FINE AT
 THE DISCRETION OF THE BOARD OF PROFESSIONAL
 ENGINEERS.

Engineer's Seal:

NO.	DATE	DESCRIPTION
1	2017-11-10	INITIAL DESIGN DRAWINGS
2	2017-12-05	BASE AGREEMENT DOCUMENT

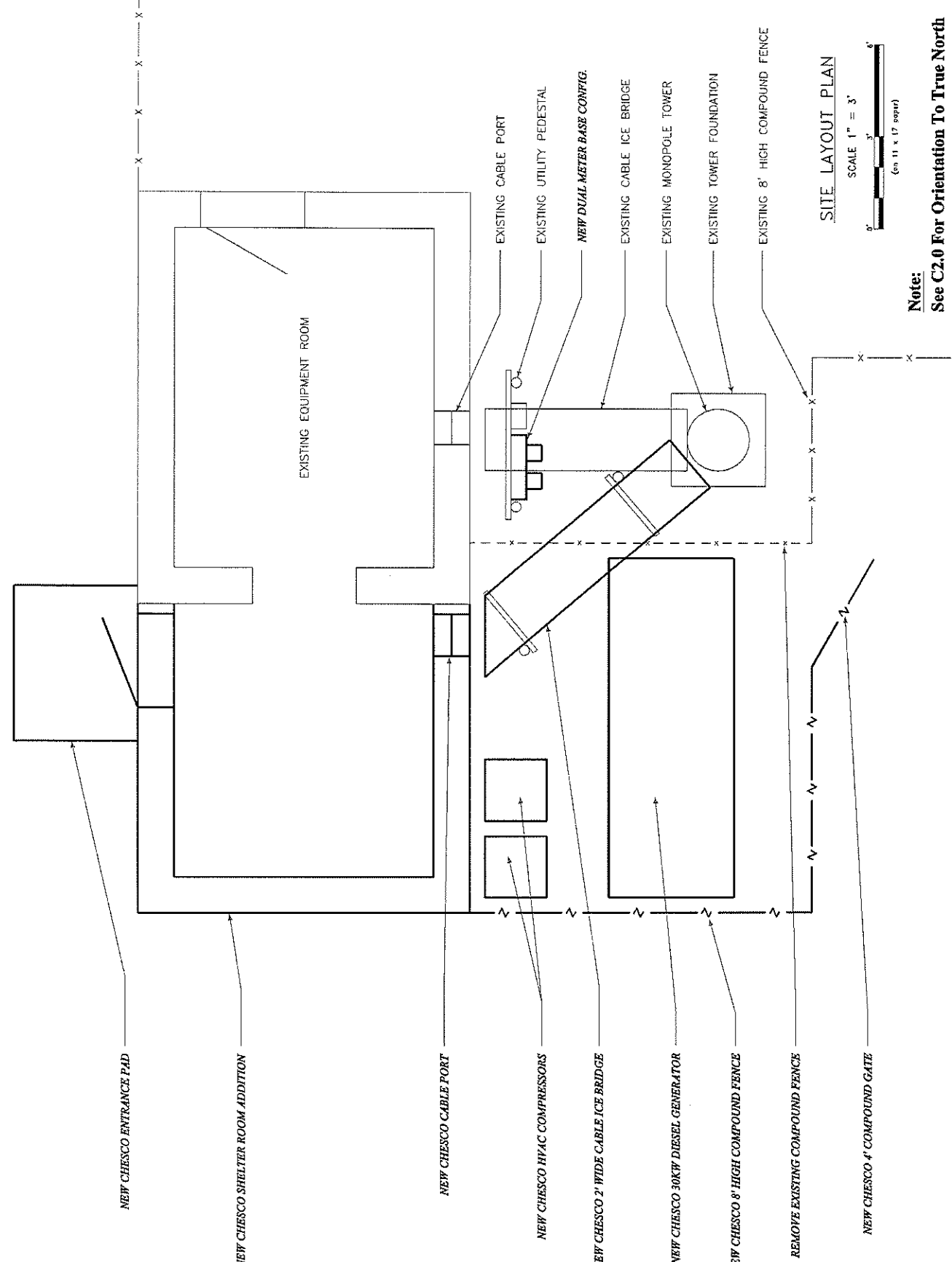
CHESTER COUNTY
 P25 VOICE RADIO PROJECT

Site Name:
 W-Chester Borough Building

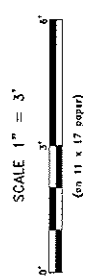
Site Code:
 TWR07

Sheet Title: Sheet #:
 Site Layout Plan C3.0

Drawing File Name:
 CHESCO_WCB00_C30_R2.dwg



SITE LAYOUT PLAN



Note:
 See C2.0 For Orientation To True North