

SUMMERFIELD TOWNSHIP
SPECIAL MEETING AGENDA
WEDNESDAY FEBRUARY 14, 2024

1. CALL TO ORDER/PLEDGE: 102

2. ROLL CALL:

DAN WILHELM - Pre

MIKE ROMATZ Pre

GLENN ALEXANDER Pre

SHERI LEVY Pre

JACLYN HALL Pre .

3. PUBLIC COMMENTS: -n/a

4. Contract with HORVATH TOWERS VI, LLC. MOTION: Dan 2ND: Glenn

Roll Call:

Wilhelm Y Alexander Y Romatz Y Levy Y Hall Y

5. ADJOURN MEETING MOTION: 1:18 2ND:

OPTION AND LAND LEASE AGREEMENT

This Option and Land Lease Agreement (“**Agreement**” or “**Lease**”) is made and entered into this ____ day of _____, 2024, by and between SUMMERFIELD TOWNSHIP, having a mailing address of 9971 N. Finley Lake Avenue, Harrison, Michigan 48625 (“**Landlord**”), and HORVATH TOWERS VI, LLC, a Delaware limited liability company, having an address of 2307 Edison Road, Suite 2, South Bend, Indiana 46615 (“**Tenant**”).

I OPTION TO LEASE

1.1 Option, Commitment Deposit, and Option Term. Landlord owns certain real property described on *Exhibit A* attached hereto and made a part hereof (the “**Property**”). In consideration of the sum of ONE THOUSAND AND 00/100 DOLLARS (\$1,000.00) (the “**Commitment Deposit**”), to be paid by Tenant to Landlord upon full execution of this Agreement, Landlord grants to Tenant for a term of thirty-six (36) months (the “**Option Term**”) an exclusive option to lease (the “**Option**”) a portion of the Property measuring approximately 140’ x 60’ for a total of 8,400 square feet and located at +/- 9971 N. Finley Lake Avenue, Harrison, Michigan 48625 (Clare County) (44°7’50.4” / -84°53’23.3”) for the purpose of constructing and operating a communications facility (the “**Equipment**”) together with the unrestricted access, and the construction and maintenance of a route for such unrestricted access, for Tenant’s uses from the nearest public right-of-way along the Property to the Leased Premises as described on the attached *Exhibit B* (collectively, the “**Leased Premises**”).

1.2 Testing. Upon notification via letter, email, or text, to Landlord, during the Option Term and during the term of this Agreement, Tenant and its agents, engineers, surveyors and other representatives will have the right to enter upon the Property to inspect, examine, conduct soil, drainage testing, material sampling, and other geological or engineering tests or studies of the Property (collectively, the “**Tests**”), to apply for and obtain licenses, permits, approvals, or other relief required of or deemed necessary or appropriate at Tenant’s sole discretion for its use of the Leased Premises and include, without limitation, applications for zoning variances, zoning ordinances, amendments, special use permits, and construction permits (collectively, the “**Government Approvals**”), initiate the ordering and/or scheduling of necessary utilities, and otherwise to do those things on or off the Property that, in the opinion of Tenant, are necessary to determine the physical condition of the Property, the environmental history of the Property, Landlord’s title to the Property and the feasibility or suitability of the Property for Tenant’s Permitted Use, all at Tenant’s expense. Tenant will keep Landlord reasonably informed via letter, email, or text, as to any of the above identified activities. 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 Property, whether or not such defect or condition is disclosed by Tenant’s inspection. Tenant will restore the Property to its condition as it existed at the commencement of the Option Term, reasonable wear and tear and casualty not caused by Tenant excepted. In addition, Tenant shall indemnify, defend and hold Landlord harmless from and against any and all injury, loss, damage, or claims arising directly out of Tenant’s Tests. Upon completion of construction of the Equipment, Tenant no longer needs to notify Landlord of access to the Leased Premises.

1.3 Exercise of Option. During the Option Term, Tenant may exercise the Option by providing Landlord with thirty (30) days written notice of its intention to commence construction of the tower build, and confirmation that a primary wireless carrier has been secured to install its equipment on the tower and provide its cellular signal as soon as commercially practicable. If Tenant exercises the Option then Landlord leases the Leased Premises to the Tenant subject to the terms and conditions of this Agreement. If Tenant does not exercise the Option, this Agreement will terminate and the parties will have no further liability to each other.

II

TERM

2.1 Initial Term and Commencement. The initial term of this Lease shall be five (5) years (the “**Initial Term**”) commencing upon the date of written notification by Tenant to Landlord of Tenant’s exercise of the option, or the date Tenant commences construction, whichever occurs first (the “**Commencement Date**”) and terminating at midnight on the last day of the Initial Term. Tenant may terminate this Lease at any time it deems necessary, upon 120 day written notice to the Landlord.

2.2 Renewal Term. Tenant shall have the right to extend this Lease for nine (9) additional five (5) year terms (each a “**Renewal Term**”). This Lease shall automatically renew for each successive Renewal Term unless Tenant notifies Landlord, in writing, of Tenant's intention not to renew this Lease, at least ninety (90) days prior to the expiration of the Initial Term or any Renewal Term. If Tenant shall remain in possession of the Leased Premises at the expiration of this Lease or any Renewal Term without a written agreement, such tenancy shall be deemed a month-to-month tenancy under the same terms and conditions of this Lease.

III RENT

3.1 Rent. Tenant agrees to pay to Landlord annual rent (“**Rent**”) in the amount of Nine Thousand and 00/100 Dollars (\$9,000.00), payable in equal monthly installments of Seven Hundred Fifty and 00/100 Dollars (\$750.00). Rent shall be payable within twenty (20) days following the date tenant commences construction (the “**Rent Commencement Date**”) prorated for the remainder of the month in which the Rent Commencement Date falls and thereafter Rent will be payable monthly in advance by the fifth day of the month to Landlord's address specified in Article XII, below. Payment of Rent is contingent upon Landlord providing to Tenant, upon request, a properly executed Form W-9 showing the taxpayer identification number of the Landlord.

3.2 Per Term Escalation. Commencing on the first day of each of the nine (9) additional five (5) year Renewal Terms, Rent shall increase by five percent (5%) over the previous Term’s rental rate.

IV RIGHTS AND OBLIGATIONS OF TENANT

4.1 Right of Access. Tenant shall, during the Term of this Agreement, have the right of ingress to and egress from the Leased Premises over an access road, as shown in **Exhibit B**, attached hereto and incorporated herein by reference, for the purpose of installing, operating, maintaining and/or removing the Equipment, however, such right is limited to authorized employees, subtenants, licensees, invitees, assignees, or agents of Tenant and/or other persons under Tenant's supervision. The parties agree that **Exhibit B** will be replaced by a final survey once said survey is complete. Landlord and Tenant shall cooperate with each other to determine a mutually acceptable access route.

4.2 Temporary Construction Easement. Landlord hereby grants to Tenant and to its respective agents, employees, contractors, materialmen, and laborers, a temporary easement for access and passage over, along, and across the Leased Premises as shall be reasonably necessary for the constructing party to construct or maintain improvements upon the Leased Premises and/or Landlord’s surrounding property; provided, however, that such easement shall be in effect only during periods when actual construction or maintenance is being performed and provided further that the use of such easement shall not be exercised so as to unreasonably interfere with the use and operation of the Leased Premises or Landlord’s surrounding property. Any constructing party availing itself of the temporary easement shall diligently complete such work as quickly as possible and shall promptly restore the Leased Premises and/or Landlord’s surrounding property to its original condition immediately prior to the commencement of this Agreement, with the exception of (i) plants, trees, crops, or similar vegetation, removed from the Leased Premises and/or topographical changes to the Leased Premises in order to fulfill the transaction contemplated by this Agreement, however, if any longstanding, distinctive, sentimental, or historically significant, vegetation is removed during this period, Tenant shall

make its best efforts to restore such items to their original condition or in the alternative, provide adequate compensation to the Landlord after parties confer and agree to such compensation; and/or (ii) ordinary wear and tear.

4.3 Removal of Equipment. Upon expiration or termination of this Agreement, Tenant shall remove all of the Equipment installed on the Leased Premises without damage to Landlord's property, and shall restore the Leased Premises, as is reasonable, to its original condition immediately prior to the commencement of this Agreement, with the exception of (i) plants, trees, crops, or similar vegetation, removed from the Leased Premises and/or topographical changes to the Leased Premises in order to fulfill the transaction contemplated by this Agreement; and/or (ii) ordinary wear and tear. However, if any longstanding, distinctive, sentimental, or historically significant, vegetation is removed during this period, Tenant shall make its best efforts to restore such items to their original condition or in the alternative, provide adequate compensation to the Landlord after parties confer and agree to such compensation. Title to all Equipment, whether or not such is considered real or personal property, and whether or not such is considered as being affixed to the property, shall be and remain vested in Tenant (or its subtenants and licensees, as applicable) provided such equipment is timely removed from the Leased Premises as provided herein.

4.4 Utilities. During the Term of this Agreement, Tenant shall pay for its own separately metered utilities. Tenant shall, during the Term of this Agreement, have the right to order, construct and maintain utilities along the route shown in **Exhibit B**, attached hereto and incorporated herein by reference. Such utility location and installation method shall be mutually agreed upon by the utility companies and the Tenant. Landlord agrees to comply with each utility company to provide a separate easement for utilities if additional easements are necessary.

4.5 Maintenance. Tenant shall be responsible for maintaining the Equipment. Tenant shall have no other maintenance responsibilities with respect to the Leased Premises other than those expressly set forth herein.

4.6 Taxes. Tenant shall be responsible for any taxes, including real estate and personal property taxes that may be incurred as a result of the installation or operation of the Equipment at the Leased Premises. Landlord shall promptly pay all real estate taxes and assessments against the Property when due and shall avoid any delinquencies with respect thereto. Tenant shall promptly pay Landlord only upon receipt of such invoice and all other reasonable documentation as requested of Landlord by Tenant to evidence such increase in taxable amounts resulting from the installation or operation of the Equipment at the Leased Premises. Landlord shall also pay promptly, when due, any other amounts or sums due and owing with respect to its ownership and operation of the Property, including, without limitation, judgments, liens, mortgage payments, and other similar encumbrances. If Landlord fails to make any payments required under this Lease, such as the payment of real estate taxes and assessments or breaches any other obligation or covenant under this Lease, Tenant may (without obligation), after providing ten (10) days written notice to Landlord, make such payment or perform such obligation on behalf of Landlord. The full amount of any costs so incurred by Tenant (including any attorneys' fees incurred in connection with Tenant performing such obligation) shall be paid by Landlord to Tenant with interest at the statutory rate thereon.

4.7 Subleases. Landlord hereby grants Tenant the right to sublease or license all or any part of the Leased Premises, upon Tenant providing thirty (30) day written notice to Landlord by U.S. mail and/or any other form of electronic communication. Any such subtenant or licensee shall have the right to use any and all easements granted hereunder pursuant to the terms hereof.

V

RIGHTS & OBLIGATIONS OF LANDLORD

5.1 Interference. Landlord shall not interfere with the installation or cause any interference with the operation of the Equipment or with Tenant's (or its subtenant's or licensee's) use of the Leased Premises as contemplated herein.

VI

INDEMNIFICATION

6.1 **Indemnification by Tenant.** Tenant shall indemnify and hold harmless Landlord from any claim which may arise against Landlord by any reason or occurrence attributable to (i) the installation, operation or maintenance of the Equipment on the Leased Premises; (ii) is due to Tenant's failure to perform any material obligation hereunder; or (iii) is due to any misrepresentation or breach of warranty by Tenant hereunder. Tenant shall not be liable for and shall have no obligation to indemnify or defend Landlord or any third party and will not hold Landlord or any third-party harmless from any claims or damages that may have arisen or may arise due to a preexisting condition or defect, including, but not limited to, any claims arising out of contamination by, or storage of, any hazardous substance(s).

6.2 **Indemnification by Landlord.** Landlord agrees to indemnify, defend and hold Tenant harmless from and against any and all injury, loss, damage or liability, costs or expenses in connection with a third party claim (including reasonable attorneys' fees and court costs) arising directly from the negligent or intentional wrongdoings of Landlord's employees, invitees, agents or independent contractors. Nothing in this Section shall be construed as a waiver of Landlord's governmental immunity.

6.3 **Environmental Notice by Landlord.** Landlord agrees to immediately notify Tenant of any known regulated and/or hazardous waste conditions, including, without limitation, complaints or reports that may be or have been filed against Landlord or the property or served upon Landlord, its agents, servants, employees, or other representative.

VII ASSIGNMENT

7.1 **Assignment by Tenant.** This Agreement may, at any time, be assigned by the Tenant, upon Tenant providing thirty (30) day written notice to Landlord by U.S. mail and/or any other form of electronic communication. Upon reasonable request by Tenant, Landlord shall execute an Estoppel Certificate, Acknowledgment of Rights, or similar document, as set forth in (Article VIII, Section 8.2) hereof, in connection with such assignment.

7.2 **Assignment by Landlord.** This Lease may, at any time, be assigned by the Landlord, who shall provide written notice to Tenant by regular U.S. mail and/or any other form of electronic communication. The assignee shall be bound by the terms of this Agreement and shall not modify the Leased Premises or the associated utility and access easements in any way which would adversely affect Tenant's use of the Leased Premises.

7.3 **Effect of Assignment.** All the covenants, provisions, terms, agreements, and conditions of this Agreement shall be construed as running with the land and shall inure to the benefit of and be binding upon the respective successors and assigns of the parties hereto. Upon written notification to Landlord of any assignment of this lease by Tenant (together with a copy of such assignee's written assumption of Tenant's obligations hereunder, Landlord shall look solely to such assignee for the satisfaction of Tenant's obligations hereunder, and Tenant shall be released from any further obligations under this lease. As used herein, the term "**Tenant**" means the holder, from time to time, of the leasehold estate under this Agreement and the term "**Landlord**" means the holder, from time to time, of the reversionary estate under this Agreement.

VIII RIGHTS OF TENANT TO MORTGAGE

8.1 **Right of Tenant to Mortgage Leasehold Interest.** Landlord acknowledges that Tenant has the right, upon notice but without the necessity of obtaining Landlord's consent, at any time to: (i) encumber its leasehold estate

by mortgage or other encumbrance or lien, in each case solely on the leasehold estate, and provided that Tenant does not encumber Landlord's fee interest in Landlord's property; and (ii) grant security interests in or place liens in favor of its lender upon any and all improvements owned by Tenant, including, but not limited to, the Equipment (whether or not such is considered real or personal property).

8.2 Estoppel Certificates, Landlord's Acknowledgment of Rights, and other Similar Documents. Landlord agrees that it will from time to time, within ten (10) days after request by Tenant, execute and deliver an Estoppel Certificate, Landlord's Acknowledgment of Rights, or other similar statement, in a form that is reasonably acceptable to both Landlord and Tenant and which is recordable in the Land Records of the jurisdiction in which the Leased Premises are located certifying that (i) this Agreement is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as so modified); (ii) stating the dates to which rent and other charges payable hereunder have been paid; (iii) stating that Tenant is not in default hereunder (or if Landlord alleges a default stating the nature of such alleged default); and (iv) acknowledging the rights of Tenant and Tenant's mortgagee as set forth in Section 8.1 above, and further stating such other matters as Tenant or Tenant's mortgagee shall reasonably require.

8.3 Waiver of Lien Rights by Landlord. Landlord waives any lien rights it may have concerning the Equipment, whether or not such are deemed Tenant's personal property or fixtures. Landlord acknowledges that Tenant may enter into financing arrangements which, among other things, may provide that the Equipment shall serve as collateral. In connection therewith, Landlord disclaims any interest in the Equipment, whether fixtures or otherwise, except if the Tenant fails to timely remove the Equipment following termination pursuant to the terms of Article XI, Section 11.3 and agrees that the Equipment shall be exempt from execution, foreclosure, sale, levy, attachment, or distress for any rent due or to become due and that the Equipment may be removed at any time without recourse to legal proceedings.

IX COVENANTS & WARRANTIES

9.1 Quiet Enjoyment. Landlord covenants that Tenant, upon performance of the terms set forth herein, shall peaceably and quietly hold and enjoy the Leased Premises during the Term of this Agreement without hindrance or interruption by Landlord or any other person, including other tenants or subtenants of Landlord. Landlord acknowledges (i) that any interference with the Equipment caused by Landlord may cause irreparable harm to Tenant and would constitute a breach of the covenant of quiet enjoyment set forth herein, (ii) that the cessation of such interference is material to the Agreement; and therefore (iii) that Tenant shall have upon any such interference, the right to enjoin any such interference or to terminate this Agreement.

9.2 Landlord Owns Leased Premises in Fee Simple. Landlord represents and warrants that Landlord owns the Leased Premises in fee simple and has full power and authority to lease the Leased Premises as well as to grant all easements and rights of way contemplated hereunder without the consent of any other party. Landlord further represents and warrants that the Leased Premises are free and clear of any encumbrances, other than liens of record such as mortgages or others as specifically set forth herein. In the event that it is determined that Landlord has breached its representation and warranty under this section and Tenant is unable to use the Leased Premises for the purposes contemplated herein and/or to utilize the easements granted herein for the stated purposes, Tenant shall have a right to terminate this Agreement without further obligation to Landlord and seek all other damages available to it at law and in equity, which shall include, without limitation, the right to receive damages in an amount equal to all direct and indirect costs incurred by Tenant as a result of such breach. Landlord agrees to assist Tenant in curing any defects in title.

X INSURANCE

10.1 Insurance for Option Term and Initial Term. Tenant shall carry, during the Option Term and the Initial Term of this Agreement, the following insurance, with customary coverages and exclusions:

Bodily Injury:

Five Hundred Thousand Dollars (\$500,000) for injury to any person, and
One Million Dollars (\$1,000,000) for all injuries sustained by more than one person in any one occurrence.

Property Damage:

One Million Dollars (\$1,000,000) per damage as the result of any one accident.

10.2 Insurance for Renewal Terms. Tenant will increase amount of insurance coverage during the Renewal Terms to reflect current economic conditions and to comply with industry standards for maintaining adequate coverage. Tenant shall, upon Landlord's request, furnish to Landlord Certificates of Insurance certifying that Tenant has the above-described insurance and naming Landlord as an additional insured on Tenant's policy as it relates to the Leased Premises.

XI **DEFAULT**

11.1 Default by Landlord. If Landlord defaults in the performance or observance of any provision of this Agreement on its part to be performed and does not commence to cure such default within forty-five (45) days after written notice thereof or does not thereafter diligently complete the cure, if such default is capable of cure, or make, in good faith, progress toward such cure, then, in addition to any other remedies provided in this Lease, Tenant shall have the option to terminate this Agreement upon thirty (30) days' written notice, in accordance with Article XII, without further obligation or liability. Tenant reserves the right to withhold Rent as remedy for material breaches of this Agreement, including, but not limited to: (i) refusal to execute any documents specified in Article VII, Article VIII, and Article XIII, (ii) failure to pay property taxes; (iii) failure to provide Tenant with access to the Property.

11.2 Default by Tenant. If Tenant defaults in the performance or observance of any provision of this Agreement on its part to be performed and does not commence to cure such default within fortyfive (45) days after written notice thereof or does not thereafter diligently complete the cure, if such default is capable of cure, or make, in good faith, progress toward such cure, then, in addition to any other remedies provided in this Lease, Landlord shall have the option to terminate this Agreement upon thirty (30) days' written notice, in accordance with Article XII, without further obligation or liability, subject, however, to the cure rights of any leasehold mortgagee as set forth herein.

11.3 Termination by Landlord. If Tenant is in default of this Agreement and fails to remedy such default pursuant to the provisions of this Agreement, Landlord shall have all means available to enforce this Agreement, including but not limited to all legal actions or remedies. In the event of termination of this Agreement as aforesaid, Tenant shall, within ninety (90) days of such termination, or soon thereafter as Landlord approves in writing, remove all Equipment from the Leased Premises pursuant to the terms of Article IV, Section 4.3. Tenant's failure to timely remove the Equipment following termination shall forfeit all right and title to the Equipment, which shall be deemed the property of Landlord, who may, in Landlord's sole discretion, remove it from the Leased Premises and dispose of it as Landlord sees fit. If Landlord elects to so remove the Equipment from the Property, tenant shall be liable to Landlord for: (i) any and all costs incurred in such removal; and (ii) any costs necessary to restore the Licensed Premises to its original condition following such removal. Tenant's liability for these costs will survive the termination of this Agreement.

XII **NOTICE**

Site Name: HV1575 | North Clare East
Site Address: +/- 9971 N. Finley Lake Avenue, Harrison, Michigan 48625 (Clare County)

12.1 Notice to Parties. It is understood and agreed between the parties hereto that written notice delivered by overnight commercial courier service or by certified mail, return receipt requested, postage prepaid, to a party's offices as specified herein, shall constitute notice to that party sufficient to comply with the terms of this Agreement. Addresses are as follows:

To Landlord: SUMMERFIELD TOWNSHIP
9971 N. Finley Lake Avenue
Harrison, MI 48625
ATTN: Daniel Wilhelm, Township Supervisor
Telephone: (989) 539-2501 | 313-580-5590
Email: summerfielddan40@yahoo.com

Landlord's Payee: SUMMERFIELD TOWNSHIP
9971 N. Finley Lake Avenue
Harrison, MI 48625
ATTN: Daniel Wilhelm, Township Supervisor

To Tenant: HORVATH TOWERS VI, LLC
2307 Edison Road, Suite 2
South Bend, IN 46615
Office: (574) 237-0464
ATTN: Lease Administration
Email: ehorvath@horvathcommunications.com
CC: hmorley@horvathcommunications.com

XIII **GENERAL PROVISIONS**

13.1 Contingencies.

13.1.2 Permits, Approvals, Utilities, Rights of Way. This Agreement is contingent upon Tenant's obtaining and maintaining any permits, licenses, or approvals required by any applicable federal, state, or local authority, including, without limitations, the Federal Communications Commission, the Federal Aviation Authority, and any local zoning authority, as well as obtaining all necessary utilities and any and all easements and rights of way necessary to access the Leased Premises.

13.1.3 Technical Analysis and Environmental Studies. This Agreement is further contingent upon (i) the satisfactory completion of technical analyses which will be performed to verify that acceptable microwave communication is possible from the tower to be constructed on the Leased Premises to other communications facilities operated, or planned, by Tenant in the surrounding area and/or (ii) a satisfactory environmental/geological report indicating that the Leased Premises are suitable and/or economically viable for Tenant's intended use. Such analyses shall be completed within the applicable Option Term of this Agreement.

13.2 Non-Disturbance. The Landlord shall obtain for the benefit of the Tenant and its subtenants a commercially reasonable Non-Disturbance and Attornment Agreement (a "**Non-Disturbance Agreement**") from each holder of a mortgage, deed of trust, deed to secure debt or other similar instrument now or hereafter encumbering the Leased Premises (a "**Mortgage**"), confirming that the Tenant's right to quiet possession of the Leased Premises during the term of this Agreement, including any extensions hereof, shall not be disturbed as long as the Tenant is not in default of this Agreement hereunder. No such subordination shall be effective unless the holder of such Mortgage shall, either in the Mortgage itself or in a separate agreement with the Tenant and its subtenants, agree that in the event of a foreclosure or conveyance in lieu of foreclosure of the Landlord's interest in the Leased Premises, such holder shall

recognize and confirm the validity and existence of this Lease and the related rights of the Tenant and its subtenants hereunder, and this Agreement shall continue in full force and effect and the Tenant shall have the right to continue its use and occupancy of the Leased Premises in accordance with the provisions of this Agreement as long as the Tenant is not in default of this Agreement beyond applicable notice and cure periods. The Landlord shall execute in a timely manner whatever instruments may reasonably be required to evidence the provisions of this paragraph and shall use its best efforts to cause the holder of any Mortgage to do the same.

13.3 Landlord's Assistance with Various Applications and Permits. Landlord shall join in and consent to any applications or petitions filed by Tenant with any governmental, public, or judicial agency in connection with the use, development, or occupancy of the Leased Premises and which may require the joinder and consent of Landlord, including, but not limited to, building permits, applications for reclassifications, special exceptions and variances under the zoning laws, demolition of improvements, construction or alteration of improvements, erection and maintenance of signs, connections to utility facilities, public works agreements, subdivision applications, and licenses or minor privileges; but Tenant shall bear all costs and fees with respect to such applications. All costs associated with the above instruments are the sole responsibility of the Tenant.

13.4 Recordation and Memorandum of Agreement. Simultaneously with the execution of this Agreement, Landlord shall execute a Memorandum of Option, a form of which is attached and incorporated herein as **Exhibit C**, and a Memorandum of Lease, a form of which is attached and incorporated herein as **Exhibit D**, both in recordable form for recording among the appropriate Office of Land Records. Such memoranda shall contain a description of the Leased Premises and its associated access and utility easements and set forth the term of this Agreement and any other provisions hereof as may be necessary or desirable. Tenant shall pay for all document recording fees.

13.5 First Right of Refusal. In the event Landlord receives an offer or letter of intent from any person or entity that is in the business of owning, managing, or operating communications facilities or is in the business of acquiring landlord interests in agreements relating to communications facilities, to purchase fee title, an easement, a lease, a license, or any other interest in the Premises or any portion thereof or to acquire any interest in this Agreement, an option for any of the foregoing, or any rights hereunder (in each case, the "**Sale Assets**"), Landlord shall first communicate the terms of such offer to Tenant by written notice in accordance with Article XII herein, and provide a copy of the bonafide offer to Tenant and offer to sell such property to Tenant upon the same terms and conditions, including any financing terms. Tenant shall have thirty (30) days from receipt of said written notice from Landlord to accept said offer in writing. If Tenant accepts Landlord's offer within thirty (30) days, Landlord shall be bound to sell the Sale Assets to Tenant, and Tenant shall be bound to purchase the Sale Assets from Landlord, in accordance with the bonafide offer. If Tenant purchases the Sale Assets pursuant to this paragraph, any easements granted from Landlord to Tenant for the benefit of the Leased Premises shall become permanent easements without further consideration. If Tenant fails to exercise such right of first refusal within the stated time, Landlord may sell the Sale Assets subject to any and all terms and conditions of this Lease; provided, however, that if the terms of sale change and if Landlord has not sold or transferred title to such property within ninety (90) days of the date of Landlord's written notice to Tenant, any such sale and transfer of title shall again be subject to Tenant's said right of first refusal. Tenant's right of first refusal shall continue in effect as to any subsequent proposed sale by the current landlord or by any transferee. Notwithstanding anything to the contrary contained herein, the terms of this paragraph setting forth Tenant's right of first refusal shall not apply to any sales or transfers of the Property, in whole or in part, to any entity that is an affiliated division or department of Landlord.

13.6 Non-Competition. During the Term and for the two (2) year period commencing on the effective date of termination of this Lease during or after the initial Term, or during or after the first two Renewal Terms, Landlord will not (i) enter into a lease with a Competitor of Tenant of property owned or controlled by Landlord within a one and one-half (1½) square mile radius of the Leased Premises, for the purpose of constructing and operating a communications facility; or (ii) sell to a Competitor of Tenant or to any third-party property owned or controlled by Landlord within a one and one-half (1½) square mile radius of the Leased Premises for the purpose of constructing and operating a communications facility. For purposes of this Lease, the term "**Competitor**" means any person or entity

engaged in the business of (i) building wireless communication facilities for the purpose of broadcasting and/or receiving wireless transmissions licensed by the Federal Communications Commission of the United States (the "FCC"), or (ii) subletting wireless communication facilities to any third-party for the purpose of broadcasting/receiving wireless transmissions licensed by the FCC. The parties agree that the terms of this Agreement, generally, and in particular this Article XIII, Section 13.6, are reasonable and should be valid and enforceable in order to protect the legitimate business interest of Tenant. Landlord acknowledges and agrees that any violation of Article XIII, Section 13.6 hereof would cause Tenant irreparable damage and that Tenant's remedy at law for any breach of Landlord's obligations under this Agreement would be inadequate. Landlord specifically agrees that if it violates or threatens to violate such restrictions, Tenant shall be entitled to injunctive relief against Landlord, without the necessity of proof of actual damage or the posting of a bond, in addition to any other remedies available under this Agreement at law or in equity.

13.7 Invalidity of Certain Provisions. In the event that any provision of this Agreement is invalid or unenforceable, the remainder of this Agreement shall not be affected, and a suitable and equitable provision shall be substituted for the invalid or unenforceable provision in order to carry out, as far as may be valid and enforceable, the intent and purpose of such invalid or unenforceable provision.

13.8 No Partnership. Notwithstanding any obligation from one party to the other herein, the parties hereto state that they have not created and do not intend to create by this Agreement a Joint Venture or Partnership relation between them.

13.9 Entire Understanding. This Agreement contains the entire understanding of the parties with respect to the subject matter hereof and supersedes any and all other oral or written agreements or understandings between, the parties. Neither party has made nor relied on any promise, understanding, warranty, or representation other than as specifically set forth herein. This Agreement may not be changed, modified, or amended except by a written instrument signed by both parties hereto. Both parties have had the opportunity to review this Agreement prior to execution, and in its final form, the Agreement reflects the understanding of both parties and shall not be construed against any one party.

13.10 Condemnation. If a condemning authority takes all of the Property, or a portion sufficient in Tenant's determination, to render the Property unsuitable for the use which Tenant was then making of the Property, this Lease shall terminate as of the date the title vests in the condemning authority. Landlord and Tenant shall share in the condemnation proceeds in proportion to the values of their respective interests in the Property which for Tenant shall include, where applicable, prepaid Rent. A sale of all or part of the Property to a purchaser with the power of eminent domain in the face of the exercise of eminent domain power shall be treated as a taking by condemnation for the purposes of this paragraph.

13.11 Choice of Law. The validity of this Agreement, the terms of this Agreement, and all duties, obligations, and rights arising from this Agreement shall be governed by and interpreted in accordance with the laws of the State of Michigan.

13.12 Jurisdiction. The parties agree to be subject to personal jurisdiction in Indiana with respect to any legal action concerning the validity or enforcement of this Agreement, and further agree that such legal action may be brought only in the United States District Court for the Western District of Michigan, or in a state court in Clare, Michigan. If such legal action is initiated in any other court, then Tenant and Landlord will voluntarily agree to have such action transferred to or re-filed in the United States District Court for the Western District of Michigan, or in a state court in Clare County, Michigan.

13.13 Enforcement. If either Tenant or Landlord finds it necessary or appropriate to initiate legal proceedings to enforce its rights under this Agreement, each party shall bear its own costs, attorney fees, expert witness fees, and other litigation expenses.

Site Name: HV1575 | North Clare East

Site Address: +/- 9971 N. Finley Lake Avenue, Harrison, Michigan 48625 (Clare County)

[SIGNATURES ON FOLLOWING PAGE]

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Site Name: HV1575 | North Clare East
Site Address: +/- 9971 N. Finley Lake Avenue, Harrison, Michigan 48625 (Clare County)

IN WITNESS WHEREOF, this Agreement is hereby executed as of the first date written above.

LANDLORD:

SUMMERFIELD TOWNSHIP

By: Daniel Wilhelm, Township Supervisor

Signed: _____

Print Name: Daniel Wilhelm

Title: Township Supervisor

Date: _____

TENANT:

**HORVATH TOWERS VI, LLC,
a Delaware limited liability company**

Signed: _____

Print Name: Erin Moskwinski

Title: President and CEO

Date: _____

Site Name: HV1575 | North Clare East
Site Address: +/- 9971 N. Finley Lake Avenue, Harrison, Michigan 48625 (Clare County)

LANDLORD ACKNOWLEDGMENT

STATE OF _____)
) SS:
COUNTY OF _____)

On the ____ day of _____, 20____, before me personally appeared DANIEL WILHELM, Township Supervisor for SUMMERFIELD TOWNSHIP, who being duly sworn upon his oath, deposed and made proof to my satisfaction and acknowledged that he signed and delivered the same as voluntary act and deed.

Notary Public

My Commission Expires: _____

TENANT ACKNOWLEDGMENT

STATE OF INDIANA)
) SS:
COUNTY OF ST. JOSEPH)

I CERTIFY that on ____ day of _____, 20____, ERIN MOSKWINSKI personally came before me and acknowledged under oath that she:

- (a) is the President and CEO of HORVATH TOWERS VI, LLC, the limited liability company named in the attached instrument,
- (b) was authorized to execute this instrument on behalf of the company, and
- (c) executed the instrument as the act of the company.

Notary Public

My Commission Expires: _____

Site Name: HV1575 | North Clare East

Site Address: +/- 9971 N. Finley Lake Avenue, Harrison, Michigan 48625 (Clare County)

Exhibit A
TO OPTION AND LAND LEASE AGREEMENT
Description of Property

PARENT PARCEL

PARCEL NO.: 002-015-200-11

PROPERTY ADDRESS: +/- 9971 N. Finley Lake Avenue, Harrison, Michigan 48625 (Clare County)

< *LEGAL DESCRIPTION TO BE INSERTED* >

Site Name: HV1575 | North Clare East

Site Address: +/- 9971 N. Finley Lake Avenue, Harrison, Michigan 48625 (Clare County)

Exhibit B
TO OPTION AND LAND LEASE AGREEMENT
Survey of Leased Premises

SITE SKETCH

[SEE ATTACHED]

Exhibit C
TO OPTION AND LAND LEASE AGREEMENT
Form of Memorandum of Option

MEMORANDUM OF OPTION

This Memorandum of Option is entered into on this ____ day of _____, 20____, by and between _____, having a mailing address of _____ ("Landlord"), and HORVATH TOWERS VI, LLC, a Delaware limited liability company, having an address of 2307 Edison Road, Suite 2, South Bend, Indiana 46615 ("Tenant").

1. Landlord and Tenant entered into a certain Option and Land Lease Agreement ("Agreement") dated _____, 20____, regarding certain real property of Landlord described on **EXHIBIT A** attached hereto and made a part hereof (the "Property").
2. The Agreement grants to Tenant for a period of thirty-six (36) months commencing on _____, 20____, an option (the "**Option**") to lease a portion of the Property measuring approximately 100' x 100' (10,000) square feet and located at +/- _____ (____° ____' ____" / ____° ____' ____") for the purpose of constructing and operating a communications facility together with unrestricted access for Tenant's egress from the nearest public right-of-way along the Property to the Premises.
3. During the term of the Option, Landlord will not sell or transfer any interest in the Property, within a two (2) square mile radius, to any other party for the purpose of constructing and operating a communications facility, without the prior written consent of Tenant.
4. During the term of the Option, Tenant shall have the right to enter upon the Property to inspect, examine, conduct soil, drainage testing, material sampling, and other geological or engineering tests or studies of the Property, to apply for and obtain licenses, permits, approvals, or other relief required of or deemed necessary or appropriate at Tenant's sole discretion for its use of the Premises and include, without limitation, applications for zoning variances, zoning ordinances, amendments, special use permits, and construction permits (collectively, the, initiate the ordering and/or scheduling of necessary utilities, and otherwise to do those things on or off the Property that, in the opinion of Tenant, are necessary in Tenant's sole discretion to determine the physical condition of the Property, the environmental history of the Property, Landlord's title to the Property and the feasibility or suitability of the Property for Tenant's Permitted Use, all at Tenant's expense.
5. Tenant shall have the sole right in its discretion to exercise the Option, whereupon the Option shall become a Lease, and Tenant shall record a memorandum of lease.

Site Name: HV1575 | North Clare East
Site Address: +/- 9971 N. Finley Lake Avenue, Harrison, Michigan 48625 (Clare County)

6. The Agreement shall be binding upon and inure to the benefit of the parties and their respective heirs, successors, and assigns, subject to the provisions of the Agreement.
7. This Memorandum is prepared for the purpose of recordation and does not modify the provisions of the Agreement. The Agreement is incorporated herein by reference. If there are any conflicts between the Agreement and this Memorandum, the provisions of the Agreement shall prevail.

IN WITNESS WHEREOF, the parties have executed this Memorandum of Option as of the day and year first above written.

LANDLORD:

[INSERT LANDLORD ENTITY]

Signature: _____

Print Name: _____

Title: _____

Date: _____

TENANT:

HORVATH TOWERS VI, LLC,
a Delaware limited liability company

Signature: _____

Print Name: Erin Moskwinski

Title: President and CEO

Date: _____

Site Name: HV1575 | North Clare East
Site Address: +/- 9971 N. Finley Lake Avenue, Harrison, Michigan 48625 (Clare County)

LANDLORD ACKNOWLEDGMENT

STATE OF _____)
) SS:
COUNTY OF _____)

On the ____ day of _____, 20____, before me personally appeared _____, who being duly sworn upon his/her oath, deposed and made proof to my satisfaction that he/she signed and delivered the same as his/her voluntary act and deed.

Notary Public

My Commission Expires: _____

TENANT ACKNOWLEDGMENT

STATE OF INDIANA)
) SS:
COUNTY OF ST. JOSEPH)

I CERTIFY that on ____ day of _____, 20____, ERIN MOSKWINSKI personally came before me and acknowledged under oath that she:

- (a) is the President and CEO of HORVATH TOWERS VI, LLC, the limited liability company named in the attached instrument,
- (b) was authorized to execute this instrument on behalf of the company, and
- (c) executed the instrument as the act of the company.

Notary Public

My Commission Expires: _____

This Instrument Was Prepared By :

Heather K. Morley
HORVATH TOWERS VI, LLC
2307 Edison Road, Suite 2
South Bend, IN 46615

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each social security number in this document unless required by law.

-Heather K. Morley

When Recorded, Return to:

HORVATH TOWERS VI, LLC
ATTN: Leasing Manager
2307 Edison Road, Suite 2
South Bend, IN 46615
(574) 237-0464

Exhibit C

Option and Land Lease Agreement | 2023

Site Name: HV1575 | North Clare East
Site Address: +/- 9971 N. Finley Lake Avenue, Harrison, Michigan 48625 (Clare County)

EXHIBIT A
TO MEMORANDUM OF OPTION
Description of Premises

The Premises are described and/or depicted as follows:

[A Complete Survey will be attached prior to recording].

**Exhibit Only -
Do Not Execute**

Exhibit C

Option and Land Lease Agreement | 2023

Site Name: HV1575 | North Clare East
Site Address: +/- 9971 N. Finley Lake Avenue, Harrison, Michigan 48625 (Clare County)

Exhibit D
TO OPTION AND LAND LEASE AGREEMENT
Form of Memorandum of Lease

MEMORANDUM OF LEASE

This Memorandum of Lease is entered into on this ____ day of _____, 20____, by and between _____, having a mailing address of _____ ("Landlord"), and HORVATH TOWERS VI, LLC, a Delaware limited liability company, having an address of 2307 Edison Road, Suite 2, South Bend, Indiana 46615 ("Tenant").

1. Landlord and Tenant entered into a certain Option and Lease Agreement ("Agreement") dated _____, 20____, for the purpose of installing, operating, and maintaining a communications facility and other improvements. All of the foregoing are set forth in the Agreement.
2. The initial term of the Agreement is for ten (10) years commencing on _____, 20____, the Commencement Date. The renewal term is subject to eight (8) additional five (5) year extension periods.
3. The portion of the land being leased to Lessee (the "Premises") is described in **EXHIBIT A** annexed hereto.
4. During the initial term, Landlord will not lease or transfer any interest in the Property, within a two (2) square mile radius, to any other party for the purpose of constructing and operating a communications facility, without the prior written consent of Tenant.
5. During the Term of the Agreement, Tenant shall have the continuing first right to purchase (a) all or any portion of the Premises, (b) any adjoining or adjacent property subject to an easement hereunder, or (c) the Agreement or any rights thereunder in accordance with and subject to the provisions and conditions of the Lease.
6. The Agreement shall be binding upon and inure to the benefit of the parties and their respective heirs, successors, and assigns, subject to the provisions of the Agreement.
7. This Memorandum of Lease is prepared for the purpose of recordation and does not modify the provisions of the Agreement. The Agreement is incorporated herein by reference. If there are any conflicts between the Agreement and this Memorandum of Lease, the provisions of the Agreement shall prevail.

[END OF MEMORANDUM OF LEASE]

[SIGNATURES AND ACKNOWLEDGEMENTS FOLLOW]

Site Name: HV1575 | North Clare East
Site Address: +/- 9971 N. Finley Lake Avenue, Harrison, Michigan 48625 (Clare County)

IN WITNESS WHEREOF, the parties have executed this Memorandum of Lease as of the day and year first above written.

LANDLORD:

[INSERT LANDLORD ENTITY]

Signature: _____
Print Name: _____
Title: _____
Date: _____

**Exhibit Only -
Do Not Execute**

TENANT:

HORVATH TOWERS VI, LLC,
a Delaware limited liability company

Signature: _____
Print Name: Erin Moskwinski
Title: President and CEO
Date: _____

Site Name: HV1575 | North Clare East
Site Address: +/- 9971 N. Finley Lake Avenue, Harrison, Michigan 48625 (Clare County)

LANDLORD ACKNOWLEDGMENT

STATE OF _____)
) SS:
COUNTY OF _____)

On the ____ day of _____, 20____, before me personally appeared _____, who being duly sworn upon his/her oath, deposed and made proof to my satisfaction that he/she signed and delivered the same as his/her voluntary act and deed.

Notary Public

My Commission Expires: _____

TENANT ACKNOWLEDGMENT

STATE OF INDIANA)
) SS:
COUNTY OF ST. JOSEPH)

I CERTIFY that on ____ day of _____, 20____, ERIN MOSKWINSKI personally came before me and acknowledged under oath as follows:

- (a) is the President and CEO of HORVATH TOWERS VI, LLC, the limited liability company named in the attached instrument,
- (b) was authorized to execute this instrument on behalf of the company, and
- (c) executed the instrument as the act of the company.

Notary Public

My Commission Expires: _____

This Instrument Was Prepared By :

Heather K. Morley
HORVATH TOWERS VI, LLC
2307 Edison Road, Suite 2
South Bend, IN 46615

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each social security number in this document unless required by law.

-Heather K. Morley

When Recorded, Return to:

HORVATH TOWERS VI, LLC
2307 Edison Road, Suite 2
South Bend, IN 46615
(574) 237-0464

Exhibit D

Option and Land Lease Agreement | 2023

Site Name: HV1575 | North Clare East
Site Address: +/- 9971 N. Finley Lake Avenue, Harrison, Michigan 48625 (Clare County)

EXHIBIT A
TO MEMORANUM OF LEASE
Description of Premises

The Premises are described and/or depicted as follows:

[A Complete Survey will be attached prior to recording].

**Exhibit Only -
Do Not Execute**

Exhibit D

Option and Land Lease Agreement | 2023

SUMMERFIELD TOWNSHIP ZONING AND PERMIT FEES

APPLICATION FEES SHALL BE COLLECTED FOR EACH APPLICATION UNDER THE ZONING ORDINANCE IN THE FOLLOWING AMOUNTS.

NOTE: APPLICATION FEES SHALL BE NON-REFUNDABLE

Change of Use Permit:	\$100.00
Fence Permit:	\$50.00
Manufactured/Mobile Home Permit:	\$500.00*
Ponds Under 1 acre	\$50.00
Rezoning or amendment of Zoning Ordinance or Zoning Map:	\$100.00
Sign Permit:	\$50.00
Site Plan Review	\$1500.00
Special Meetings	
Township Board	\$300.00
Planning Committee	\$300.00
Unlisted Permits:	\$100.00
Wireless Telecommunications Equipment Permit:	\$1000.00
Variance, Interpretation, or appeal to the Zoning Board of Appeals:	\$50.00
Zoning Permit:	\$50.00

*Manufactured/Mobile Home Permit – Refund \$450 after completion of electrical plumbing, and occupancy permit. This must be completed in 6 months, there is a 1-time extension if more time is needed to complete

Escrow Fees – In addition to the above application fees, for each requested rezoning, zoning amendment, special use permit, or PUD, the applicant shall pay the Township an escrow fee of \$2,500.00, or such other escrow amount as may be determined reasonable by the Township Board, to cover Township's estimated expenses for engineering, planning, legal and other expert services, special meetings, traffic studies, environmental studies, publications, and similar expenses related to the application and the enforcement of the requested permit or approval. If the Township's actual expenses are less than the escrow fee, the application shall receive a refund without interest or the unexpended balance of the escrow fee upon the completion of the matter. If at any time during the zoning review process, the remaining balance of funds paid into escrow appears to be insufficient to defray the Township's remaining anticipated costs, the Township shall so notify the applicant, and the applicant shall promptly make a required additional payment. If the subsequent billings become overdue, the Township shall suspend further processing of the application, including consideration for any board, commission, or administrative actions or approvals, until the overdue amount is paid in full. For good cause, the Township Board may waive or reduce any application fee or escrow fee.