

**ATTACHMENT A
VERTEX TOWER ASSETS, LLC SPECIAL PERMIT APPROVAL**

**AGREEMENT FOR DECOMMISSIONING OF WIRELESS TOWER FACILITY AND
RECLAMATION OF WIRELESS TOWER FACILITY SITE**

THIS AGREEMENT, dated as of the ____ day of _____, 2022, is made by and among **Vertex Tower Assets, LLC**, a Massachusetts limited liability company, with a principal place of business located at 2 Commercial Street, Sharon, MA 02067 (the “Operator”), Barbara Melville, with a mailing address of PO Box 611, Conway, MA 01341 (collectively “Property Owner”) and the **Town of Conway**, a municipal corporation, with offices located 32 Main Street, Conway, MA (the “Town”) (each a “Party” and together the “Parties”).

WHEREAS, the Operator has submitted an application for Special Permit approval to develop a 156 foot monopine WIRELESS TOWER FACILITY or (the “FACILITY”) on a property located at 1356 Ashfield Road (Rt. 116), Conway, MA, Assessors Map Parcel 409-013-001 and 409-013-000 (the “Property”); and

WHEREAS, the Operator has submitted a Decommissioning Surety Memorandum which included a plan for the decommissioning of the WIRELESS TOWER FACILITY and the reclamation of the portion of the Property on which the FACILITY is situated (the “Site”) in accordance with the requirements of the Town of Conway Planning Board (the “Decommissioning Plan”), and the Planning Board has approved the Decommissioning Plan as part of the Special Permit Approval dated July 7, 2022, with an amount of \$35,000.00 and escalator of 15% every five (5) years

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the Parties agree as follows:

1. The Operator shall be responsible for dismantling and removing the Wireless Tower Facility and reclaiming the Site in accordance with the provisions of the Decommissioning Plan, which is attached hereto as Exhibit A and made a part hereof.
2. The dismantling and removal of the WIRELESS TOWER FACILITY shall be required within one year of the event that the Wireless Tower facility has been abandoned by the Operator, is not functioning with no apparent Operator intent to repair, the Operator’s land use rights have been terminated, or the Operator’s licensing authorization has been terminated.
3. The Operator may apply to the Planning Board for an extension to or exception from the requirement that the WIRELESS TOWER FACILITY be dismantled and removed within one year in the event that the above occur.
4. The Planning Board may grant, in its sole discretion, for good cause shown, such extension or exception and may impose such other conditions as it deems reasonable, just and proper. The Operator shall be responsible for payment of all of the Town’s consulting expenses in reviewing and approving this request for extension or exception.

5. In the event that decommissioning of the WIRELESS TOWER FACILITY and restoration of the Site is not completed within six (6) months of the expiration of the one-year period set forth in Paragraph 2 above, or the restoration of the Site is not completed within six (6) months of the removal of all equipment, structures and foundations in accordance with the provisions of the Decommissioning Plan, the Town, or its designated officials or agents, shall seek all remedies available to it with and through the surety that issued the Decommissioning Bond for the prompt decommissioning of the site and restoration set forth in Paragraph "2". In such event, the Town shall have the right, but not the obligation, to enter upon the property to dismantle and remove the FACILITY and reclaim the Site in the manner set forth in the Decommissioning Plan or in such other manner as the Town deems reasonable and appropriate under the circumstances. Prior to taking such action, the Town, or its designated officials or agents, shall provide a written directive to the Operator and notification to the Property Owner at the addresses set forth herein, or such superseding address as is provided to the Town, by certified mail, return receipt requested, subsequent to the execution of this Agreement, requiring the Operator to fully and completely dismantle and remove the FACILITY and reclaim the Site within a time period specified by the Town.

6. Should the surety that issued the Decommissioning Bond terminate or cancel the bond, the Operator shall within thirty days provide the Town with evidence of an equivalent replacement surety.

7. Notwithstanding the foregoing, nothing in this Agreement shall impose the obligation upon the Town to enter the Property and dismantle and remove the WIRELESS TOWER FACILITY and/or reclaim the Site.

8. In the event that the Town takes such action to dismantle and remove the WIRELESS TOWER FACILITY and/or reclaim the Site, after written notice and expiration of applicable grace periods to the Operator, the Town may recover all expenses incurred for such activities from the Operator and/or the surety. This agreement grants specific rights to the Town of Conway or its agents to access the Site through existing easements of the property owner for the sole purpose of dismantling and reclaiming said Wireless Tower Facility. Being the same ingress and egress easements referenced in a Memorandum of Lease recorded in Franklin County Registry of Deeds, Book 7136, Page 80 and 82.

9. The Town shall have the right to collect such costs and expenses against the Operator and/or the surety by any other manner, by action in law or equity, and in the event of such legal proceedings, the Operator shall be liable for all legal expenses, costs and disbursements in connection with said litigation as awarded by a court of competent jurisdiction.

10. This Agreement is intended to solely benefit the Town. Notwithstanding anything to the contrary in this Agreement or otherwise, no other person or entity shall claim or be entitled to any rights created hereunder by virtue of any asserted status as a third-Party beneficiary.

11. All notices set forth herein shall be directed to the Parties as follows:

To Vertex Tower Assets, LLC

Attention: Francis Parisi
Parisi Law Associates, P. C.
225 Dyer Street
Providence, RI 02903
(401) 447-8500
fparisi@plapc.com

To the Property Owner:

Barbara Melville
PO Box 611
Conway, MA 01341

To the Town of Conway

Attention: Town Administrator
32 Main Street
P.O. Box 240
Conway, MA 01341

The Operator has a continuing obligation to notify the Town Administrator of the Town of Conway of any changes to its address, in writing, sent by certified mail, return receipt requested. Any failure of any part to do so shall relieve the Town of the obligation to provide any required notifications. The lack of receipt of any required notice shall not be a bar to the enforcement of this Agreement if the Operator has not complied with the provisions of this paragraph.

12. This Agreement shall exist in perpetuity until the WIRELESS TOWER FACILITY is removed from the Site and the Site is restored to its natural state.

13. This Agreement shall include, but is not limited to, the following appurtenant rights granted to the Town necessary to effectuate the meaning and intent hereof:

- a. Upon the occurrence of the conditions in Paragraph 4 above, and the failure of the Operator as required herein, the Town shall have the right, but not the obligation, to enter upon the Property and inspect the same and demolish and remove the WIRELESS TOWER FACILITY and reclaim the Site as set forth in Exhibit A. These rights shall include, but not be limited to:

the right of ingress and egress by person(s), motor vehicle(s), and construction equipment necessary to demolish and remove the WIRELESS TOWER FACILITY from the Property as set forth in Exhibit A

14. This Agreement may not be amended or modified except by a written instrument consented to by the Town of Conway.

15. This Agreement is governed by and shall be construed in accordance with the laws of the State of Massachusetts.

IN WITNESS WHEREOF, each of the Parties below has herein set its/their hand and seal the day and year first above written.

OPERATOR:

VERTEX TOWER ASSETS, LLC

By: _____

Name: _____

Title: _____

Dated: _____

PROPERTY OWNER:

By: _____

Name: _____

Title: _____

Dated: _____

TOWN:

TOWN OF CONWAY, MASSACHUSETTS

By: _____

Name: _____

Title: _____

Dated: _____

EXHIBIT A
DECOMMISSIONING PLAN

Commented [1]: We need more specific decommissioning plan for this particular tower, not this one (which is for deerfield road)



December 11, 2019

Mr. Stephen Kelleher
Manager
Vertex Tower Assets, LLC
155 South Street, Suite 205
Wrentham, MA 02093

**RE: Opinion of Cost for Removal of Tower
Vertex Tower Assets, LLC
Conway (VT-MA-0014A)
1384 S. Deerfield Road
Conway, MA 01341**

Mr. Kelleher:

The Engineer's estimate attached herein has been prepared for the take down and removal costs of the proposed Vertex Tower Assets, LLC telecommunications tower referenced above. These costs are based upon the permitting plan set dated December 11, 2019 and on data compiled in the *2019 Site Work & Landscape Cost Data, 38th Annual Edition* published by RSMMeans with industry specific data adjusted to location and present-day costs.

The estimate includes removal of the compound fence, monopine tower, disconnection of utilities, removal of utility cabinets, and revegetation of the compound area. Removal of carrier specific tower and ground mounted equipment shall be handled by the individual carriers. The estimate assumes gravel surfaces for the driveway, wetland crossing bridge, concrete foundation, underground portions of the grounding ring, utility conduits, utility poles, and drainage features will remain. No salvage value has been credited.

Based on the construction cost estimates provided, it is my professional opinion that approximately \$29,850 will be adequate to recover the take down costs of the proposed telecommunications tower in the current construction environment.

If you have any questions or need further information, please do not hesitate to call.

Sincerely,
ProTerra Design Group,

Jesse Moreno, PE
Managing Partner

Enclosure

ProTerra Design Group, LLC
4 Bay Road, Building A, Suite 200
Hadley, MA 01035

(413)320-4918
info@protterra-design.com

RS Means Ref.	Description	Unit	Quantity	Unit Cost	Total Cost
Crew R-1A	General - Disconnect utilities	DAY	1	\$ 1,290.40	\$ 1,290.40
024119.19-0840	General - Dumpster rental (40 CY - 10 ton)	EA	2	\$ 850.00	\$ 1,700.00
015433.40-7600	General - Deliver tower salvage to yard (tractor)	DAY	2	\$ 594.90	\$ 1,189.80
015433.40-6800	General - Deliver tower salvage to yard (trailer)	DAY	2	\$ 262.90	\$ 525.80
Crew B-34 (part)	General - Deliver tower salvage to yard (driver)	DAY	2	\$ 566.00	\$ 1,132.00
Crew B-34M	General - Light Equipment (Material Handler, Skid Steer)	DAY	1	\$ 890.95	\$ 890.95
Crew B-34B	General - Truck and Operator	DAY	1	\$ 1,189.76	\$ 1,189.76
024113.60-1770	Compound - Demolish fence & gates	LF	200	\$ 3.97	\$ 794.00
024119.20-0020	Demolition - Dump Charges & Tipping Fees	TON	15	\$ 81.00	\$ 1,215.00
015436.50-1800	Tower - Mob/Demob Crane	EA	2	\$ 555.00	\$ 1,110.00
015433.60-2300	Tower - Crane rental	DAY	3	\$ 2,021.00	\$ 6,063.00
Crew B-12 (part)	Tower - Crane operator	DAY	3	\$ 690.00	\$ 2,070.00
Crew L-5A (part)	Tower - Removal Crew	DAY	3	\$ 2,169.80	\$ 6,508.80
312514.16-1000	Erosion Control - Silt fence install, maintain, & removal	LF	200	\$ 1.93	\$ 386.00
329119.13-0800	Restoration - Furnish & spread loam	SY	267	\$ 6.50	\$ 1,733.33
329119.13-1000	Restoration - Fine grade	SY	267	\$ 3.99	\$ 1,064.00
329219.13-0100	Restoration - Seed	SY	267	\$ 0.57	\$ 152.00
329113.16-0200	Mulch & Hay	SY	267	\$ 1.56	\$ 416.00
	<i>Subtotal</i>				\$ 29,430.84
	Regional Adj. (Greenfield, MA)	101.4%			\$ 412.03
	2019 CI Adjustment	100.0%			\$ -
	Total Estimated Cost (Present-Day)				\$ 29,842.88