

INTRODUCED: November 12, 2024

AN ORDINANCE No. 2024-306

To authorize the Chief Administrative Officer, for and on behalf of the City of Richmond, to execute a Lease Agreement between the City of Richmond, as landlord, and the United States National Parks Service, a division of the Department of the Interior, as tenant, to maintain and operate radio communications equipment on and within City Hall located at 900 East Broad Street.

Patron – Mayor Stoney and Ms. Robertson

Approved as to form and legality
by the City Attorney

PUBLIC HEARING: DEC 9 2024 AT 6 P.M.

THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. That the Chief Administrative Officer, for and on behalf of the City of Richmond, be and is hereby authorized to execute a Lease Agreement between the City of Richmond, as landlord, and the United States National Parks Service, a division of the Department of the Interior, as tenant, to maintain and operate radio communications equipment on and within City Hall located at 900 East Broad Street. The Lease Agreement shall be approved as to form by the City Attorney and shall be substantially in the form of the document attached to this ordinance.

§ 2. This ordinance shall be in force and effect upon adoption.

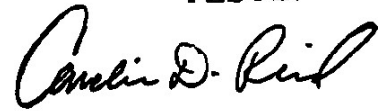
AYES: 9 NOES: 0 ABSTAIN: _____

ADOPTED: FEB 10 2025 REJECTED: _____ STRICKEN: _____

APPROVED AS TO FORM:

CITY ATTORNEY'S OFFICE

**A TRUE COPY:
TESTE:**

A handwritten signature in cursive script, appearing to read "Amelia D. Reed".

City Clerk



City of Richmond

900 East Broad Street
2nd Floor of City Hall
Richmond, VA 23219
www.rva.gov

Master

File Number: Admin-2024-1191

File ID: Admin-2024-1191

Type: Request for Ordinance or Resolution

Status: Regular Agenda

Version: 1

Reference:

In Control: City Clerk Waiting Room

Department:

Cost:

File Created: 09/11/2024

Subject:

Final Action:

Title:

Internal Notes:

Code Sections:

Agenda Date: 11/12/2024

Indexes:

Agenda Number:

Patron(s):

Enactment Date:

Attachments: Admin-2024-1191 WD Ordinance - NPS Lease at City Hall AATF 08-19-2024, Admin-2024-1191 Lease Agreement National Park Service at City Hall AATF 08-19-2024

Enactment Number:

Contact:

Introduction Date:

Drafter: Donetta.McQueen@rva.gov

Effective Date:

Related Files:

Approval History

Version	Seq #	Action Date	Approver	Action	Due Date
1	1	10/3/2024	Jonthan Fetterman	Approve	10/4/2024
1	2	10/3/2024	Stephen Willoughby	Approve	10/7/2024
1	3	10/3/2024	Meghan Brown	Approve	10/7/2024
1	4	10/3/2024	Sheila White	Approve	10/7/2024
1	5	10/4/2024	Sabrina Joy-Hogg	Approve	10/9/2024
1	6	10/8/2024	Jeff Gray	Approve	10/8/2024
1	7	10/28/2024	Lincoln Saunders	Approve	10/17/2024
1	8	10/31/2024	Mayor Stoney	Approve	11/11/2024

History of Legislative File

Master Continued (Admin-2024-1191)

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
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Text of Legislative File Admin-2024-1191

City of Richmond

Intracity Correspondence

O&R Transmittal

DATE: October 2, 2024

TO: The Honorable Members of City Council

THROUGH: The Honorable Levar M. Stoney, Mayor

THROUGH: J.E. Lincoln Saunders, Chief Administrative Officer

THROUGH: Sabrina Joy-Hogg, DCAO, Finance and Administration

THROUGH: Sheila White, Director, Department of Finance

THROUGH: Meghan Brown, Director, Department of Budget and Strategic Planning

THROUGH: Stephen M. Willoughby, Director, Department of Emergency Communications, Preparedness and Response

FROM: Jonathan Fetterman, Senior Manager, Department of Emergency Communications, Preparedness and Response

RE: Lease Agreement between the City of Richmond and the National Parks Service (NPS)

ORD. OR RES. No.

PURPOSE: To authorize the Chief Administrative Officer, for and on behalf of the City of Richmond, to execute a Lease Agreement between the National Parks Service (NPS), a division of the Department of the Interior and the City of Richmond to allow the NPS to maintain and operate radio communications equipment on and within City Hall located at 900 E. Broad Street.

BACKGROUND: The NPS has had radio equipment installed within City Hall without a formal agreement with the City. This ordinance will allow the City of Richmond to enter into a lease agreement with NPS to formalize the relationship and the equipment installed at City Hall.

COMMUNITY ENGAGEMENT: N/A

STRATEGIC INITATIVES AND OTHER GOVERNMENTAL: N/A

FISCAL IMPACT: The City of Richmond will receive rent in the amount of \$12,000.00 annually during this lease.

DESIRED EFFECTIVE DATE: Upon Adoption

REQUESTED INTRODUCTION DATE: November 12, 2024

CITY COUNCIL PUBLIC HEARING DATE: December 9, 2024

REQUESTED AGENDA: Consent Agenda

RECOMMENDED COUNCIL COMMITTEE: Public Safety Committee

AFFECTED AGENCIES: Department of Emergency Communications, Preparedness and Response, Department of Finance

RELATIONSHIP TO EXISTING ORD. OR RES.: N/A

ATTACHMENTS: NPS Lease Agreement with Exhibits

STAFF: Jackie Crotts, Deputy Director, (646-8457), Jonathan Fetterman, Senior Manager (646-1340)

LEASE AGREEMENT

THIS LEASE AGREEMENT (this “Agreement”) is made this ___ day of _____, 20__ (the “Effective Date”) by and between the **CITY OF RICHMOND**, a municipal corporation of the Commonwealth of Virginia, hereinafter designated as Landlord, and the United States of America, through its National Park Service, a division of the Department of the Interior, hereinafter designated as Tenant. Landlord and Tenant are at times collectively referred to hereinafter as the “Parties” or individually as a “Party.”

RECITALS

- A. Landlord owns that certain real property located at 900 East Broad Street, Richmond, Virginia 23219, shown on the Tax Map for the City of Richmond, Virginia, as Tax Parcel No. E0000175001 (the “Property”), as more particularly described in “Exhibit A,” attached hereto and made a part hereof.
- B. Tenant desires to lease from Landlord a portion of the Property (the “Leased Premises,” as defined herein) for the purpose of installing, maintaining, repairing and operating a communications facility.
- C. Landlord is willing to lease the Leased Premises to Tenant in accordance with the terms of this Agreement.

AGREEMENT

NOW, THEREFORE, for and in consideration of the promises and covenants contained in this Agreement and for other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged by the Parties, the Parties agree as follows:

1.0 Recitals. The foregoing recitals are true and correct and are incorporated in this Agreement by reference.

2.0 Definitions. Words, terms and phrases used in this Agreement shall have the meanings ascribed to them by the sections below, unless the context clearly indicates that another meaning is intended.

2.1 Access Route. “Access Route” means the access route incident to this Agreement, as further defined in Section 3.3 herein.

2.2 Additional Facilities. “Additional Facilities” means any utility wires, poles, cables, conduits, pipes and other facilities appurtenant to the Communications Facility and necessary for its operation, all as described in Exhibit B, attached hereto and made a part hereof.

2.3 Business Day(s). “Business Day(s)” means that day that is neither a Saturday, a Sunday, nor a day observed as a legal holiday by the City of Richmond, Virginia, the Commonwealth of Virginia or the United States government.

2.4 City Council. “City Council” means the City Council for the City of Richmond, Virginia.

2.5 Commencement Date. “Commencement Date” means the date on which the Term begins, which date shall be determined in accordance with Section 6.1 of this Agreement.

2.5 Communications Facility. “Communications Facility” means towers, support structures, dishes, antennas, receivers, cables, wires and other equipment, facilities and improvements Tenant installs and constructs on the Leased Premises, all as shown on Exhibit B, attached to and made a part of this Agreement.

2.6 Day(s). “Day(s)” means a calendar day, except that if any period of Days referred to in this Agreement shall end on a Day that is not a Business Day, then the expiration of such period shall be automatically extended until the end of the first succeeding Business Day.

2.7 Director. “Director” means the director of the City’s Department of Emergency Communications, Preparedness, and Response.

2.8 Governmental Approvals. “Governmental Approvals” means all certificates, permits and other approvals that may be required by any federal, state or local authorities for Tenant to engage in the Permitted Use.

2.9 Hazardous Substances and Wastes. “Hazardous Substances and Wastes” means those hazardous substances and hazardous wastes as defined in the Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C. §§ 9601 et seq., and the Resource Conservation and Recovery Act, 42 U.S.C. §§9601 et seq., respectively, and in any regulations promulgated thereto.

2.10 Indemnifiable Loss. “Indemnifiable Loss” means (i) any amount awarded in, or paid in settlement of, any Proceeding, including any interest, (ii) any reasonable out-of-pocket expense incurred in defending a Proceeding or in any related investigation or negotiation, including court filing fees, court costs, arbitration fees, witness fees, consultants’ fees, experts’ fees, and attorneys’ and other professionals’ fees and disbursements, and (iii) costs incurred in connection with any investigation or audit of site conditions and any remedial, removal, or restoration work required by any governmental authority.

2.11 Indemnified Parties or Indemnified Party means the City and all of its agents, employees, officers, volunteers, contractors, legal representatives, successors and assigns, and each of them.

2.12 Initial Term. “Initial Term” means the initial five (5)-Year term of the Lease, to begin on the Commencement Date.

2.13 Interference. “Interference” means material degradation, interruption or blockage of signals transmitted from or received on the Property, or acts which prevent or obstruct any party from maintaining its equipment on the Property.

2.14 Laws. “Laws” means (i) all applicable laws, rules, regulations, ordinances, directives, covenants, easements, zoning and land use regulations; (ii) all restrictions of record, permits, and building codes, and; (iii) the requirements of any applicable fire insurance underwriter or rating bureau, now in effect or which may hereafter come into effect.

2.15 Lease. “Lease” means Landlord’s lease of the Leased Premises to Tenant, pursuant to this Agreement.

2.16 Leased Premises. “Leased Premises” means those portions of the Property that Landlord leases to Tenant, as shown on Exhibit B.

2.17 Permitted Use. “Permitted Use” means the installation, repair, maintenance, operation, housing, removal, modification, and replacement of the Communications Facility and the Additional Facilities, and any portion thereof.

2.18 Plans. “Plans” means any working drawings, plans, specifications, illustrations, and descriptions, as Landlord may require, of work to be performed by Tenant or the Tenant Parties relating to the Communications Facility or the Additional Facilities.

2.19 Proceeding. “Proceeding” means any judicial, administrative, or arbitration action, suit, claim, investigation, or proceeding.

2.20 Rental Fee. “Rental Fee” means the annual payment Tenant will pay Landlord during the Term, as further defined in Section 5.1 below.

2.21 Tenant Parties. “Tenant Parties” or “Tenant Party” means Tenant; any licensee of Tenant; and all officers, employees, agents, contractors, subcontractors, and invitees of (i) Tenant or (ii) any licensee of Tenant, and each of them.

2.22 Term. “Term” means the duration of the Lease, to include the Initial Term plus all Term Extensions.

2.23 Term Extension. “Term Extension” means a five (5)-year period subsequent to the Initial Term for which this Agreement is renewed.

2.24 Year. “Year” means each period during the Term that begins on the Commencement Date or any anniversary thereof and ends twelve (12) months therefrom at 11:59 PM on the date, or any anniversary thereof, that immediately precedes the Commencement Date.

3.0 Leased Premises; Access.

3.1 Lease. Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, the Leased Premises, subject to the terms of this Agreement. Tenant accepts the Leased Premises “AS IS”, without relying on any representation, covenant or warranty by Landlord other than as expressly set forth in this Agreement.

3.2 Permitted Use of Leased Premises. Subject to the terms of this Agreement, Tenant shall have the right during the Term to use the Leased Premises only for the Permitted Use.

3.3 Access. Prior to the Commencement Date, Tenant may not enter or permit or arrange for another party's entry upon the Property for any reason related to this Agreement unless otherwise permitted by this Agreement. Landlord grants to Tenant, for the duration of the Term, a non-exclusive Access Route benefitting the Leased Premises through the public entrance on the first floor of City Hall and taking the City Hall elevators to the Observation Deck to (i) access the equipment room on the Observation Deck or (ii) enter the roof of City Hall through the access located on the Observation Deck for ingress and egress to and from the Leased Premises on foot. Except in cases of emergency, Tenant shall not enter upon or permit or arrange for another party's entry upon the Access Route or the Leased Premises without obtaining prior consent from Landlord, which consent Landlord shall not unreasonably withhold, condition, or delay. Events in which such consent shall be deemed reasonably withheld shall include, without limitation, (i) failure by any Tenant Party to demonstrate it maintains the insurance policies described in Section 18 of this Agreement as of the day or days of desired access, (ii) failure by any Tenant Party to acknowledge its awareness of, understanding of, and intent to adhere to the requirements of all Laws that govern the work to be performed, and (iii) inability by any party seeking entry to demonstrate it is a Tenant Party. Tenant shall request access consent from Landlord by email at dec-radioshop@rva.gov at least seventy-two (72) hours in advance of the time of desired entry, which request must include both the reason for Tenant's or any Tenant Party's desired entry and a work schedule detailing work to be performed during the period of desired access.

4.0 Term.

4.1 Initial Term. The Initial Term shall be for five (5) Years, to begin on the Commencement Date.

4.2 Renewal Terms. Subject to Landlord's approval, and so long as Tenant is not in default beyond any applicable grace or cure period, Tenant shall have the option to renew this Agreement for five (5) separate Term Extensions. Tenant shall notify Landlord of its desire to exercise each Term Extension at least one hundred eighty (180) Days prior to expiration of the Term. The Director or their designee shall notify Tenant within sixty (60) Days after receipt of said notification whether the Director wishes to grant the requested Term Extension, but such Term Extension shall be subject to final approval by the City Council.

5.0 Rent.

5.1 Rental Fee; Payment Date; Escalation. Tenant shall pay Landlord annual rent for the Lease in the form of the Rental Fee. The Rental Fee shall be TWELVE THOUSAND AND 0/100 DOLLARS (\$12,000.00) which Tenant shall pay Landlord within ten (10) Days following the Commencement Date. For each remaining Year of the Initial Term, Tenant shall pay Landlord, on each anniversary of the Commencement Date, the Rental Fee.

5.2 Method of Payment. Tenant shall remit each Rental Fee payment to the City of Richmond

Department of Emergency Communications, Preparedness, and Response at the following address:

City of Richmond
Department of Emergency Communications, Preparedness, and
Response
3516 N. Hopkins Road
Richmond, Virginia 23224
Attn: Director

Upon written agreement of the Parties, Tenant may pay the Rental Fee by electronic funds transfer, in which event Landlord will provide bank routing information to Tenant for such purpose.

5.3 Rental Fee Upon Renewal. Upon any renewal of this Agreement, the Rental Fee for each Year of that Term Extension shall be (i) 103% of the Rental Fee for the prior Term and (ii) due and payable on the anniversary of the Commencement Date in the calendar year this Agreement is renewed. The Rental Fee for each subsequent Year of any such Term Extension will be due on each anniversary of the Commencement Date.

6.0 Commencement Date; Improvements; Ownership.

6.1 Commencement Date. The Commencement Date will be the Effective Date. Tenant states that as of the Commencement Date, the following are true:

(i) the non-ionizing electromagnetic radiation emitted from the Communications Facility and any related facilities and structures do not result in a level of exposure at any point beyond the outer limits of the Leased Premises that exceeds the lowest applicable exposure standards established by any regulatory agency of the United States government or by the American National Standards Institute the Communications Facility;

(ii) Tenant carries all insurance described in Section 18.0 of this Agreement.

6.2 Submittals Prior to Communications Facility and Additional Facilities Work. Unless otherwise permitted by this Agreement, Tenant may not perform or have performed on its behalf any construction, installation, alteration, removal, replacement, or other work of, on, or relating to the Communications Facility and Additional Facilities until it has submitted each of the below-enumerated items in this Section 6.2 (the "Submittals") to the Director and subsequently received written approval of the Submittals from the Director or his designee, which approval the Director shall not unreasonably withhold, condition, or delay:

(i) the Plans;

(ii) evidence of issuance to Tenant of all Governmental Approvals required for construction, installation and operation of all items included in the Plans;

(iii) certification by a professional engineer licensed in the Commonwealth of Virginia and primarily experienced with the design and operation of communication equipment, antenna

support structures, and antennas that the non-ionizing electromagnetic radiation emitted from the Communications Facility and any related facilities and structures will not result in a level of exposure at any point beyond the outer limits of the Leased Premises that exceeds the lowest applicable exposure standards established by any regulatory agency of the United States government or by the American National Standards Institute;

(iv) assurances by an expert in the field of telecommunications technology, through production of an intermodulation study, that the Communications Facility and any related facilities and structures will not interfere with or otherwise restrict the use and effectiveness of any telecommunication system operated by Landlord, including but not limited to Landlord's emergency communications system.

(v) a structural analysis report detailing (i) the effect of the load imposed by such constructed or installed facilities upon any structures owned by Landlord, which report shall be performed by a structural engineer licensed in the Commonwealth of Virginia, and (ii) any other related information the Director may require.

Tenant shall deliver the Submittals to the Director at least ninety (90) Days in advance of performing or having performed any work on the Property.

6.2.1 Termination. Landlord may terminate this Agreement in the event Tenant fails to submit the Plans and all other Submittals to Landlord within 30 days following the Effective Date.

6.3 Preconditions for Communications Facility and Additional Facilities Work. Any work to be performed by or on behalf of Tenant in connection with the Communications Facility or the Additional Facilities may only be performed by (i) a qualified employee of the Tenant, or (ii) a qualified contractor (but in the event of a contractor whose work involves climbing a tower structure, a certified contractor), which contractor carries the insurance required pursuant to Section 18.0 of this Agreement as well as all licenses or certifications commonly recognized in the applicable industry.

6.4 Maintenance and Repair of Improvements; Changes to Improvements. Tenant, without submitting any of the items described in Section 6.2 above unless required by the Laws, may maintain and repair the Communications Facility and the Additional Facilities or any part thereof. Following the Effective Date, Tenant acknowledges that any change made to the Communications Facility or the Additional Facilities as each is shown in the original attachments to this Agreement will require new attachments to this Agreement and amendment thereof.

6.5 Ownership of Improvements. The Communications Facility and the Additional Facilities shall be and remain the property of Tenant, and Landlord's equipment shall be and remain the property of Landlord.

7.0 Utilities. Tenant shall be responsible for and pay all costs and charges for telephone, internet access, satellite, and coaxial or fiber optic cable utilities in connection with Tenant's occupancy of the Leased Premises. Tenant shall obtain such services in its own name and timely pay all charges directly to the provider. Landlord shall not be responsible or liable for any interruption in such

services, nor shall such interruption affect the continuation or validity of this Lease.

8.0 Interference.

8.1 Generally. Tenant agrees that the type and frequency of the Communications Facility and Additional Facilities, as well as the installation and operation and any modification thereof, will not cause Interference, as may be measurable in accordance with then existing industry standards and any applicable Laws, to any equipment of Landlord or other tenants of the Property that existed on the Property prior to the Commencement Date. In the event any of the Communications Facility or Additional Facilities cause such Interference, and after Landlord has notified Tenant of such Interference, Tenant shall take all reasonable steps necessary to correct and eliminate the Interference, including but not limited to powering down such equipment and later powering up such equipment for intermittent testing. Failure by Tenant to correct and eliminate such Interference within thirty (30) Days from receipt of notice thereof shall constitute a default under this Agreement as described in Section 22.0 below.

8.2 Interference with City of Richmond Emergency Communication Center.

8.2.1 Tenant to Cease Operations; Notice. Notwithstanding anything to the contrary in Section 8.1 above, in the case that Interference caused by Tenant disables operating public safety communication systems owned by Landlord, Tenant shall immediately cease and desist operations, or modify operations such that Interference to the public safety systems is abated, once it has received notice that its equipment is known to be a significant contributor to such Interference. Landlord will notify Tenant of such Interference at the telephone number listed in Section 8.3 below, and Landlord will provide Tenant prompt cooperation and assistance in eliminating such Interference. All proposed methods of testing for and eliminating such Interference shall be subject to approval of Landlord's technical staff or consultant, which approval Landlord will not unreasonably withhold, condition or delay.

8.2.2 Time to Correct. If Tenant's Interference to Landlord's public safety communication systems is limited to a specific number of channels representing less than 10% of the total capacity of the system affected, Tenant shall correct such Interference within 168 hours of receipt of notice. If Interference by Tenant affects between 11% and 25% of the total capacity of the Landlord's public safety communications systems, Tenant shall correct such Interference within 72 hours from its receipt of notice thereof. If Interference by Tenant affects more than 25% of the total capacity of the Landlord's public safety communication systems, Tenant shall immediately power down the Communications Facility and cease and desist its operation thereof, and Tenant shall not renew such operation until Tenant and Landlord reasonably agree that per the results of intermittent testing of the Communications Facility, the renewal of operation thereof will not result in Interference to Landlord's public safety communication systems. Notwithstanding the terms of Sections 21.0 or 22.0 below or anything to the contrary in Section 8.1 above, if Tenant fails to correct its Interference within the timeframes set forth in this section, Landlord may correct such Interference at no expense or liability to Landlord, and Tenant shall reimburse Landlord for the cost thereof.

8.3 Emergency Condition. Upon discovery by either Landlord or Tenant of an emergency condition, including Interference or damage, in or affecting equipment belonging to either Party, the Party discovering the emergency condition shall notify the other by telephone at the following twenty-four (24) hour response numbers:

Landlord
City of Richmond Emergency Communications Supervisor
(804) 646-5110

Attn: Park Superintendent
National Park Service
Richmond National Battlefield Park
3215 E Broad Street
Richmond, VA 23223
(804) 226-1981

8.4 Sharing of Technical Information. Tenant agrees to provide pertinent technical information to any prospective tenants of the Property who may wish to install communications equipment thereon, which information shall include the locations of the Communications Facility and Additional Facilities and the nature of the equipment, operating frequencies and power output thereto.

9.0 Compliance With Laws; Governmental Approvals; Liens

9.1 Compliance With Laws. During the Term, Tenant shall, in respect to the condition of the Leased Premises and the Access Route and its use of both, comply at its sole cost and expense with all applicable Laws, including but not limited to all building codes requiring modifications to the Leased Premises by Tenant due to Tenant's construction, installation, and use of the Communications Facility and the Additional Facilities. Tenant further agrees to not allow any use or occupation of or entry upon the Leased Premises or the Access Route in violation of the Laws, nor to suffer any act done or the existence of any condition on the Leased Premises, the Access Route, or any portion of either, or any article to be brought thereon, which may be dangerous (unless safeguarded as required by the Laws) or which may, in law, constitute a nuisance, or which may make void or avoidable any insurance then in force on either the Leased Premises or the Access Route.

9.2 Governmental Approvals. Tenant acknowledges and agrees that Tenant's ability to use the Leased Premises for the Permitted Use is contingent upon its obtaining all Governmental Approvals necessary for the Permitted Use.

9.3 Liens. Tenant shall not encumber the Leased Premises with any materialmen's or mechanic's lien, nor shall Tenant suffer or permit any such lien to exist. Should any such lien hereafter be filed as a result of Tenant's actions or failure to act, Tenant shall, at its sole cost within thirty (30) Days after the lien is filed, discharge the lien or post a bond in the amount of the lien.

10.0 Removal at End of Term. Tenant shall, upon expiration of the Term, or within thirty (30)

Days following the date of any earlier termination of the Agreement, have removed the Communications Facility, the Additional Facilities, and any other of its property, whether below, on, or above the ground, from the Leased Premises and shall have restored the Leased Premises to their original condition, reasonable wear and tear excepted. Landlord agrees and acknowledges that all portions of the Communications Facility and the Additional Facilities, as well as any other of its property, will remain the property of Tenant whether or not said items are considered fixtures and attachments to real property under applicable Laws, and that Tenant will have the right to remove the same at any time during the Term (subject to Section 6.1 above). Within fifteen (15) Days from receipt of written demand from Landlord, Tenant shall pay to Landlord a prorated amount of the Rental Fee plus 50% for each Day Tenant fails to comply with the terms of this Section 10. Tenant's breach of any term of this Section 10 shall immediately constitute a default under this Agreement, notwithstanding the cure periods set forth in Section 21 below. This Section 10 shall survive termination or expiration of this Agreement.

11.0 Holdover. Tenant shall have no right to retain possession of the Leased Premises or any part thereof beyond the expiration or termination of this Agreement, and any such instance shall be deemed a "holdover." Tenant's removal of its property from the Leased Premises in compliance with Section 10 above shall not be deemed a holdover. In the event of holdover, (i) Tenant shall vacate upon notice from Landlord; (ii) within fifteen (15) Days from receipt of written demand from Landlord, Tenant shall pay to Landlord a prorated amount of the Rental Fee plus 50% for each Day of holdover; (iii) a periodic tenancy shall not be deemed created regardless of the actions or lack thereof of Tenant or Landlord, including, but not limited to, Tenant's possession of the Leased Premises and payment to Landlord, and Landlord's acceptance of payment and failure to evict Tenant from the Leased Premises. Tenant's breach of any term of this Section 11 shall immediately constitute a default under this Agreement, notwithstanding the cure periods set forth in Section 21 below. This Section 11 shall survive termination or expiration of this Agreement.

12.0 Quiet Enjoyment. Landlord covenants that Tenant, on paying the Rental Fee and performing the covenants, agreements, and conditions of this Agreement, shall peaceably and quietly have, hold, and enjoy the Leased Premises against anyone claiming by or through Landlord, subject to the terms this Agreement.

13.0 Care and Maintenance. Tenant, at its sole cost and expense, shall maintain the Leased Premises, the Communications Facility, and the Additional Facilities in a clean, attractive condition and shall not commit or allow any waste or damage to be committed on or to any portion of the Leased Premises or the Access Route during the Term.

14.0 Subordination; Non-Disturbance. At Landlord's option, this Agreement may be subordinate to any mortgage by Landlord which may now or hereafter affect all of the Property, including the Leased Premises, provided that any such mortgage shall recognize the validity of this Agreement in the event of foreclosure of Landlord's interest and also recognize Tenant's right to remain in possession and have access to the Leased Premises. Tenant shall attorn to such mortgagee or other party and recognize the same as Landlord hereunder, provided that such mortgagee or other party agrees not to disturb Tenant's interest in the Leased Premises arising from this Agreement so long as Tenant continues to perform its obligations according to the terms of this Agreement. Tenant shall execute any instruments that may reasonably be required to give

effect to this subordination clause.

15.0 Right of Entry.

15.1 Right of Entry; Inspection. At any time during the Term, Landlord and any representative of Landlord's choosing shall have the right to enter the Leased Premises to inspect the Leased Premises to ensure compliance with the terms of this Agreement; to conduct any repair, improvement, or maintenance; to perform any obligation of Tenant under this Agreement in accordance with Section 22.2 below; and for any other lawful reason. Notwithstanding Tenant's right to inspect the Leased Premises, Landlord shall have no obligation to do so.

15.2 Detection of Violation; Landlord Remedy. If Landlord detects any violation of the terms set forth in this Agreement, Landlord may notify Tenant in writing, in which case Tenant shall eliminate such violation. If, in Landlord's judgment, steps taken by Tenant are inadequate or not timely, Landlord or its representative shall be entitled to re-enter the Leased Premises and take corrective actions as Landlord deems necessary to eliminate the violation. This remedy is in addition to remedies set forth under other sections of this Agreement and subject to the terms of Section 21 of this Agreement. Landlord's failure to detect any violation, or to notify Tenant of any violation, shall not relieve Tenant of its obligations under the terms of this Agreement. Tenant shall reimburse Landlord for all actual costs and expenses incurred by Landlord in remedying any condition resulting from Tenant's violation of this Agreement.

16.0 Environmental.

16.1 Hazardous Substances. Tenant shall not, either with or without negligence, cause, permit, or allow the generation, escape, disposal or release of any Hazardous Substances and Wastes within the Property. Tenant shall not allow the storage or use within the Property of any Hazardous Substances or Wastes in any manner not sanctioned by the Laws, nor allow to be brought into or unto the Leased Premises or the Property any Hazardous Substances or Wastes unless and except in accordance with the Laws and for use in the ordinary course of activities permitted under this Agreement. Tenant shall be exclusively responsible for the correction of any environmental condition on the Property relating to or arising from a violation of the terms of this Section 16.1 by Tenant or any Tenant Party. In the event of such violation, Tenant shall immediately (i) notify Landlord in writing and (ii) work to mitigate and remediate any environmental condition that arises from such violation, as Tenant, Landlord, or both may reasonably identify, which work Tenant shall promptly and diligently complete.

16.2 Environmental Certification. Upon expiration of the Term, or within thirty (30) Days following termination of this Agreement, whichever first occurs, Tenant shall furnish Landlord a written certification from a licensed environmental engineering firm that the Property has not been environmentally contaminated by Tenant's operations.

17.0 Indemnification.

17.1 Scope of Indemnity. Tenant agrees to indemnify the Indemnified Parties against any liability and Indemnifiable Loss arising out of any actual or threatened Proceeding relating to,

resulting from, or arising out of this Agreement, including but not limited to Tenant's and the Tenant Parties' (i) use or occupation of, or presence upon, the Leased Premises or the Access Route, and (ii) a breach of this Agreement, except that Tenant shall not be obligated to indemnify an Indemnified Party to the extent that an Indemnifiable Loss suffered by any Indemnified Party is determined by a final non-appealable judgment of a court of competent jurisdiction to have arisen solely from such Indemnified Party's gross negligence or willful misconduct. Tenant shall remit payment for any Indemnifiable Loss within 15 Days following demand from any Indemnified Party therefor. Nothing in this Section 17.0 may be construed as a waiver of the sovereign immunity granted to Landlord by the Commonwealth of Virginia Constitution, statutes, and applicable case law.

17.2 Notice of Proceeding; Defense of Proceeding. If any Proceeding is brought against any Indemnified Party by reason of any occurrence for which Tenant is obliged to indemnify such Indemnified Party, such Indemnified Party will promptly notify Tenant of such Proceeding. Tenant, upon the request of such Indemnified Party, shall resist and defend such Proceeding at Tenant's sole expense, or cause the same to be resisted and defended by counsel designated by Tenant and approved by such Indemnified Party in writing. Landlord shall be entitled to participate in such defense and any related compromise or settlement and to use counsel of its selection, in its sole discretion, and at Tenant's expense, if Landlord reasonably determines, after a reasonable period of time, that Tenant has failed to take reasonable and appropriate action to defend, compromise, or settle such Proceeding. No compromise or settlement by Tenant under this Section 17.0 may require Landlord to alter any policy or practice of Landlord as a result thereof. The Indemnified Parties shall cooperate with Tenant in the defense of any matters for which Tenant is required.

18.0 Insurance. Beginning on the Effective Date and for so long as any property of Tenant or the Tenant Parties remains on the Property, Tenant shall, at its own expense, maintain liability insurance policies in a form reasonably acceptable to Landlord. These policies shall include, but need not be limited to the following:

- (i) Commercial General Liability insurance with limits of \$2,000,000 per occurrence for bodily injury and property damage and \$2,000,000 general aggregate;
- (ii) Commercial Automobile Liability Insurance in an amount of \$2,000,000 combined single limit each accident for bodily injury and property damage;
- (iii) Workers' Compensation insurance meeting all statutory requirements of the Commonwealth of Virginia;
- (iv) Employer's Liability insurance with limits of \$1,000,000 each accident/disease/policy limit; and
- (v) Umbrella Liability insurance shall be maintained above the primary Commercial General Liability, Commercial Automobile Liability, and Employers' Liability policies required herein. The limit of such Umbrella Liability insurance shall not be less than \$2,000,000 each occurrence and aggregate.

All such policies shall (a) be issued by companies duly authorized or permitted to conduct business in the Commonwealth of Virginia and having a Best's Key Rating of at least A-: VII, (b) with the exception of Workers Compensation and Employer's Liability policies, shall be endorsed to include the Indemnified Parties as additional insureds for purposes of this Agreement, (c) be primary to any insurance coverage any of the Indemnified Parties may possess, and (d) be written to include a waiver of subrogation against each of the Indemnified Parties.

Tenant shall additionally meet the following requirements:

- (i) Tenant shall ensure the Tenant Parties obtain and maintain insurance coverage that meets or exceeds the insurance coverage required of Tenant; Landlord must authorize any exceptions in writing before any excepted Tenant Party enters the Property for purposes of this Agreement;
- (ii) Tenant shall submit certificates of insurance to Landlord for all insurance policies required by this Section 18, including certificates of insurance for all Tenant Parties, and including additional insured and waiver of subrogation endorsements, (a) at least thirty (30) Days prior to both the commencement of any work for purposes of this Agreement and the entry of Tenant or any of the Tenant Parties upon the Premises, (b) upon renewal of each insurance policy required by this Section 18, and (c) upon request by Landlord.
- (iii) Landlord shall be provided with at least thirty (30) Days prior written notice of the cancellation, termination, non-renewal, or reduction in coverage of any insurance policy required by this Agreement if, as a result of such change in coverage, the insurance requirements set forth in this Section 18.0 are not met.

The limits of insurance required by this Section 18.0 shall in no event limit the liability obligations of Tenant under this Agreement.

The foregoing limits of insurance shall not prohibit Tenant from obtaining a liability insurance policy or policies in excess of such limits.

This Section 18.0 shall survive termination or expiration of this Agreement.

19.0 Limitation of Liability.

19.1 Consequential Loss Waiver. As a material part of the consideration for this Agreement, and notwithstanding any provision herein to the contrary, neither Landlord nor Tenant shall be liable for, and each Party hereby waives any claims against the other for, any consequential damages incurred by either Party and arising out of any default by the other Party under this Agreement.

19.2 Exceptions to Waiver. The foregoing limitation will not, however, in any manner:

- (i) limit Tenant's liability for any type of damage arising out of Tenant's obligation to indemnify, protect, defend, and hold each of the Indemnified Parties harmless under this Agreement;
- (ii) limit Tenant's or Landlord's liability for any type of damage to the extent covered by the proceeds of insurance required hereunder; or
- (iii) limit the amounts expressly provided to be payable by either Party pursuant to this Agreement.

19.3 Limitation of Landlord Liability. Except to the extent of the willful misconduct of Landlord and subject to Tenant's indemnification obligations, Landlord shall not be liable or responsible in any way for any damage whatsoever to any personal property belonging to either Tenant or the Tenant Parties.

20.0 Condemnation. Landlord shall give prompt notice to Tenant of any discussions, offers, negotiations, or proceedings with any party regarding a taking of any portion of the Leased Premises. If (a) all of the Leased Premises are taken, or (b) any part of the Leased Premises is taken and the remainder is insufficient in Tenant's reasonable opinion for the Tenant's Permitted Use, then this Agreement shall terminate as of the date the condemning authority takes title or possession, whichever occurs first.

21.0 Breach and Default.

21.1 Breach by Tenant. In the event there is a breach by Tenant with respect to any of the provisions of this Agreement or its obligations under it, Landlord shall give Tenant written notice of such breach. After receipt of such notice, and unless otherwise stated in this Agreement, Tenant shall have ten (10) Days in which to cure any monetary breach and thirty (30) Days in which to cure any non-monetary breach, provided Tenant shall have an additional thirty (30) Days in which to cure a breach if the nature of the cure is such that it reasonably requires more than thirty (30) Days and Tenant commences the cure within the initial thirty (30)-Day period and thereafter continuously and diligently pursues the cure to completion. Landlord may not maintain any action or effect any remedies for default against Tenant unless and until Landlord determines that Tenant has failed to cure the breach within the time periods provided in this section or elsewhere in this Agreement, except that Landlord may terminate this Agreement in accordance with Section 6.2.1 above notwithstanding the terms of this Section 21.1.

21.2 Breach by Landlord. In the event there is a breach by Landlord with respect to any of the provisions of this Agreement or its obligations under it, Tenant shall give Landlord written notice of such breach. After receipt of such written notice, Landlord shall have thirty (30) Days in which to cure any such breach, provided Landlord shall have an additional thirty (30) Days in which to cure a breach if the nature of the cure is such that it reasonably requires more than thirty (30) Days and Landlord commences the cure within the thirty (30)-Day period and thereafter continuously and diligently pursues the cure to completion. Tenant may not maintain any action or effect any remedies for default against Landlord unless and until Landlord has failed to cure the breach within the time periods provided in this Section 21.2.

22.0 Remedies for Default.

22.1 Default. A default under this Agreement shall occur upon failure to cure any breach of this Agreement in accordance with the terms of this Agreement, or as otherwise provided by this Agreement.

22.2 Non-Defaulting Party May Correct Default. Upon a default, the non-defaulting Party may, at its option but without obligation to do so, perform the defaulting Party's duty or obligation on the defaulting Party's behalf. The costs and expenses of any such performance by the non-defaulting Party shall be due and payable by the defaulting Party upon invoice therefor.

22.3 Non-Defaulting Party May Terminate. In the event of a default by either Party with respect to a provision of this Agreement, without limiting the non-defaulting Party in the exercise of any right or remedy which the non-defaulting Party may have by reason of such default, the non-defaulting Party may terminate this Agreement and pursue any remedy now or hereafter available to the non-defaulting Party under the Laws or judicial decisions of the Commonwealth of Virginia.

23.0 Miscellaneous.

23.1 Entire Agreement. This Agreement contains the entire understanding between the Parties and supersedes any prior understandings and written or oral agreements between them respecting this subject matter. There are no representations, agreements, arrangements, or understandings, oral or written, between the Parties relating to the subject matter of this Agreement that are not fully expressed in this Agreement. No rights, easements or licenses are acquired in the Property or any land adjacent to the Property by Tenant by implication or otherwise except as expressly set forth in this Agreement.

23.2 Amendments. This Agreement may be amended, modified and supplemented only by the written consent of both Parties preceded by all formalities required as prerequisites to the signature by each party to this Agreement, except that the Landlord's Chief Administrative Officer may administratively approve amendments to the exhibits of this Agreement.

23.3 No Waiver. The failure of either of the Parties to insist upon the strict performance of any provision of this Agreement shall not be deemed to be a waiver of the right to insist upon strict performance of such provision or of any other provision of this Agreement at any time. Waiver of any breach of this Agreement shall not constitute waiver of a subsequent breach.

23.4 Severability. In the event any provision of this Agreement is found to be invalid or unenforceable, such finding shall not affect the validity and enforceability of the remaining provisions of this Agreement.

23.5 Third-Party Beneficiaries. Notwithstanding any other provision of this Agreement, Tenant and Landlord hereby agree that, (i) no individual or entity shall be considered, deemed or otherwise recognized to be a third-party beneficiary of this Agreement; (ii) the provisions of this Agreement are not intended to be for the benefit of any individual or entity other than Tenant and

Landlord; (iii) no individual or entity shall obtain any right to make any claim against Tenant and Landlord under the provisions of this Agreement; and (iv) no provision of this Agreement shall be construed or interpreted to confer third-party beneficiary status on any individual or entity. For purposes of this section, the phrase “individual or entity” means any individual or entity, including, but not limited to, individuals, contractors, subcontractors, vendors, subvendors, assignees, licensors and sublicensors, regardless of whether such individual or entity is named in this Agreement.

23.6 No Agency, Joint Venture, or Other Relationship. Neither the execution of this Agreement nor the performance of any act or acts pursuant to the provisions of this Agreement shall be deemed to have the effect of creating between the Landlord and Tenant, or any of them, any relationship of principal and agent, partnership, or relationship other than the relationship established by this Agreement.

24.0 Governing Law; Forum Choice.

24.1 Governing Law. All issues and questions concerning the construction, enforcement, interpretation and validity of this Agreement, or the rights and obligations of the Parties in connection with this Agreement, shall be governed by, and construed and interpreted in accordance with, the laws of the Commonwealth of Virginia, without giving effect to any choice of law or conflict of laws rules or provisions, whether of the Commonwealth of Virginia or any other jurisdiction, that would cause the application of the laws of any jurisdiction other than those of the Commonwealth of Virginia.

24.2 Forum Choice. Any and all disputes, claims and causes of action arising out of or in connection with this Agreement, or any performances made hereunder, shall be brought, and any judicial proceeding shall take place, only in the Circuit Court of the City of Richmond, Virginia.

25.0 Assignment; Sublease. Tenant may neither sell, assign, sublease, nor otherwise transfer this Agreement without the prior written consent of Landlord.

26.0 Notices. Each party shall give any notice required or permitted to be given under this Agreement in writing and such notice shall be delivered by certified mail, postage prepaid, return receipt requested; or by a commercial overnight carrier that provides next day delivery and provides a receipt. Such notice shall be addressed as follows (or any other address that the Party to be notified may have designated to the sender by like notice):

TENANT: Attn: Park Superintendent
National Park Service
Richmond National Battlefield Park
3215 E Broad Street
Richmond, VA 23223

LANDLORD: City of Richmond
Department of Emergency Communications, Preparedness,

and Response
3516 North Hopkins Road
Richmond, Virginia 23224
Attn: Director

With a copy to: Office of the City Attorney
City of Richmond
900 E. Broad Street, Suite 400
Richmond, Virginia 23219
Attn: Susan McKenney

Notice shall be effective upon actual receipt or refusal as shown on the receipt obtained pursuant to the foregoing.

27.0 Captions. The captions contained in this Agreement are inserted for convenience only and are not intended to be part of this Agreement. They shall not affect or be utilized in the construction or interpretation of this Agreement.

28.0 Survival. The provisions of the Agreement relating to indemnification from one Party to the other Party shall survive any termination or expiration of this Agreement. Additionally, any provisions of this Agreement which require performance subsequent to the termination or expiration of this Agreement shall survive such termination or expiration.

29.0 Subject to Appropriation. Any payments and other performance by Landlord under this Agreement are subject to annual appropriations by the City Council; consequently, this Agreement shall bind Landlord only to the extent that the City Council appropriates sufficient funds for Landlord to perform its obligations hereunder.

30.0 Signature Authority. Following the authorization of this Agreement by the City Council, Landlord's Chief Administrative Officer shall have the authority to execute this Agreement on behalf of Landlord, and to approve amendments to this Agreement as permitted by Section 23.2 above. Except as otherwise provided herein, only the Chief Administrative Officer or his designee shall have the authority to provide any notices or authorizations contemplated under this Agreement on behalf of Landlord.

31.0 Partial Invalidity; Authority. If any provision herein is invalid, it shall be considered deleted from this Agreement and shall not invalidate the remaining provisions of this Agreement. Each of the Parties hereto warrants to the other that the person or persons executing this Agreement on behalf of such Party has the full right, power and authority to enter into and execute this Agreement on such Party's behalf and that no consent from any other person or entity is necessary as a condition precedent to the legal effect of this Agreement.

32.0 Signatures; Counterparts. This Agreement is signed when a Party's signature is delivered by facsimile, email, or other electronic medium. These signatures must be treated in all respects as having the same force and effect as original signatures. This Agreement may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the

same Lease.

33.0 Sovereign Immunity. Nothing in this Lease may be construed as a waiver of the sovereign immunity granted Landlord by the Commonwealth of Virginia Constitution, statutes, and applicable case law, nor may anything in this Lease be construed as an agreement by Landlord to indemnify.

***{REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.
SIGNATURES ON FOLLOWING PAGE.}***

IN WITNESS WHEREOF, as authorized by Ordinance No. _____ approved by the Richmond City Council on _____, _____, this Agreement has been entered into as of the Effective Date by duly authorized officers of the parties.

Landlord:

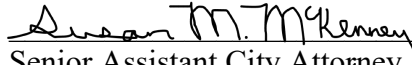
CITY OF RICHMOND, VIRGINIA,
a municipal corporation of the Commonwealth of Virginia

By: _____

Name: _____

Title: _____

APPROVED AS TO FORM



Senior Assistant City Attorney
City of Richmond

Tenant:

United States of America
National Park Service

By: _____

Name: _____

Title: _____

APPROVED AS TO FORM

Counsel for Tenant

EXHIBIT A

Property

Richmond City Hall, 900 E. Broad Street, Richmond, Virginia 23219

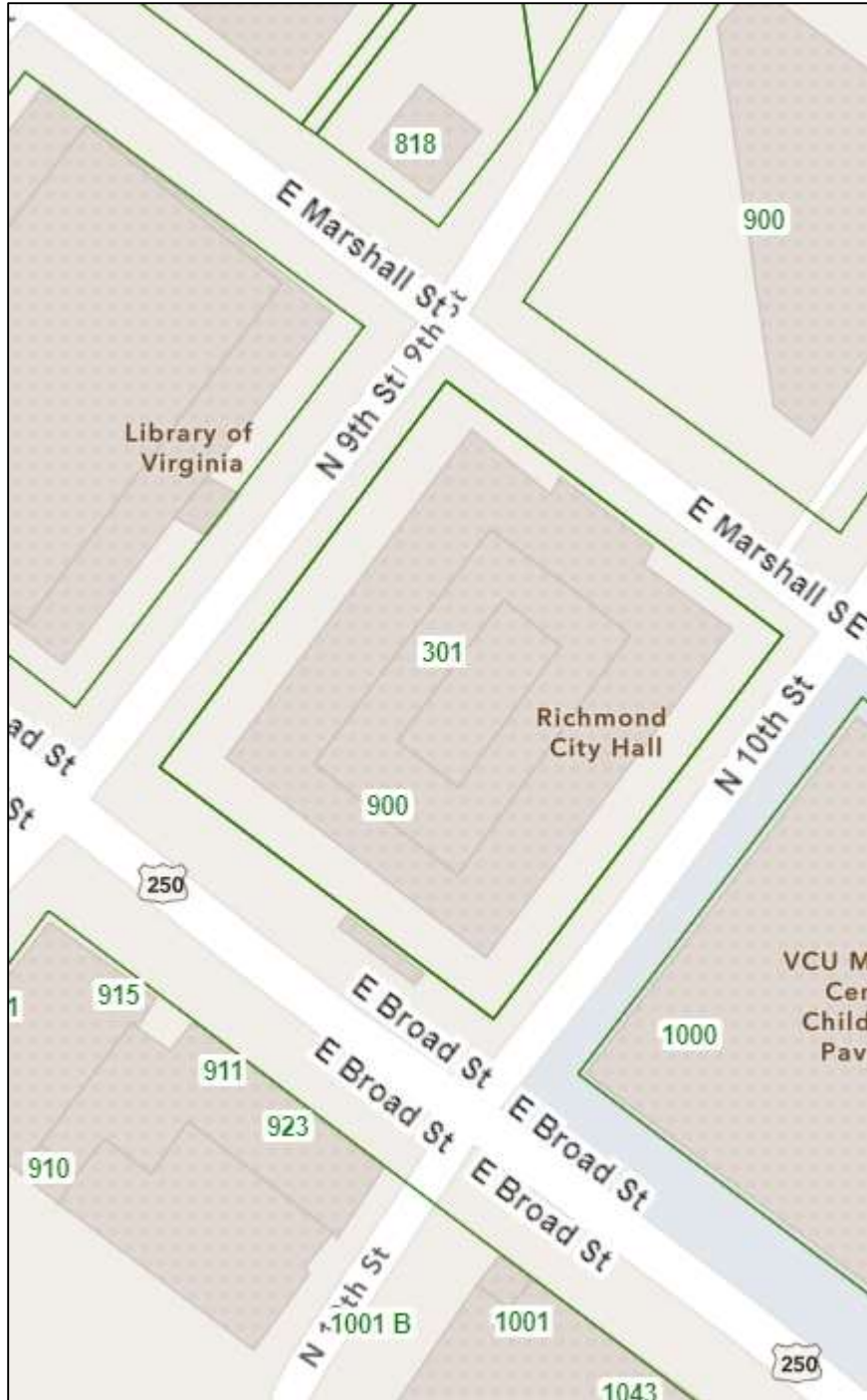
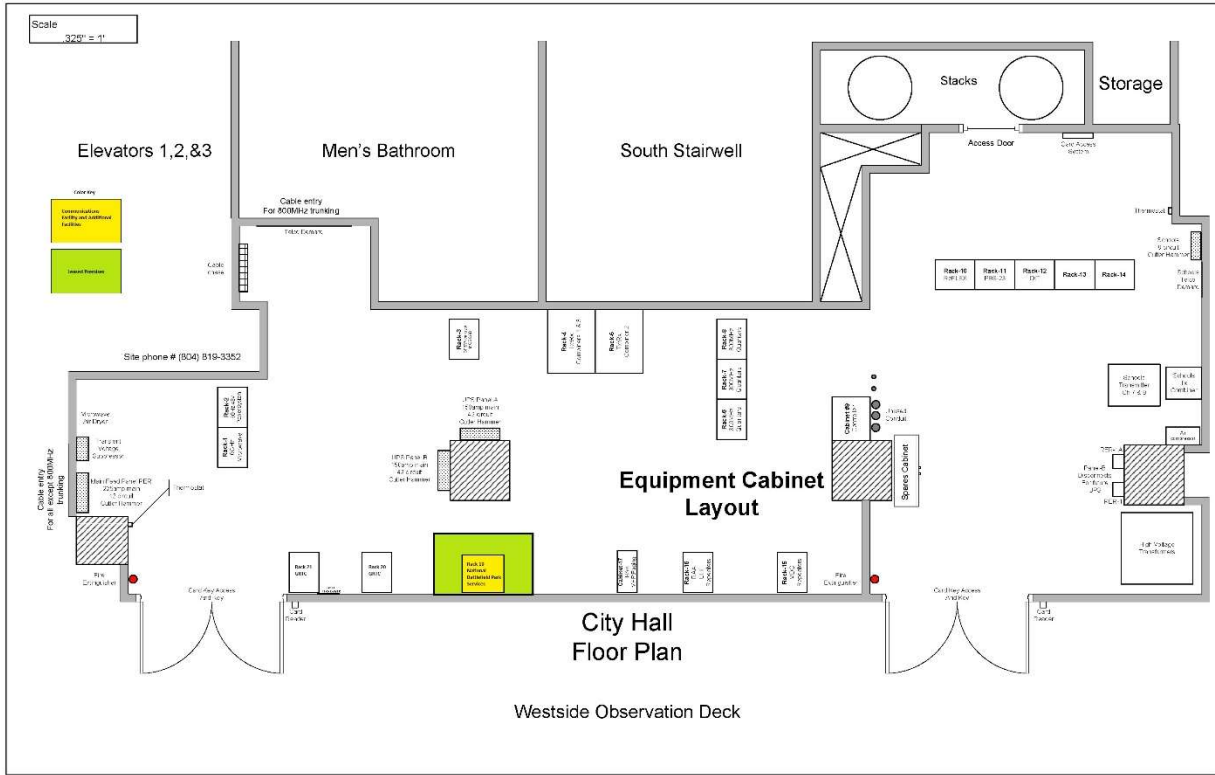


EXHIBIT B

Leased Premises, Communications Facility, Additional Facilities



NPS has the following equipment at City Hall:

- (1) Motorola Cabinet housing one conventional repeater

