



YAR 28

STATE OF NEW HAMPSHIRE
DEPARTMENT of NATURAL and CULTURAL RESOURCES
DIVISION OF FORESTS AND LANDS

172 Pembroke Road Concord, New Hampshire 03301
Phone: 271-2214 Fax: 271-6488 www.nhdf.org

October 20, 2017

His Excellency, Governor Christopher T. Sununu
and the Honorable Executive Council
State House
Concord, New Hampshire 03301

REQUESTED ACTION

- 1) Pursuant to RSA 227-H:9, authorize the Department of Natural and Cultural Resources, Division of Forest and Lands (DNCR) to enter into a **RETROACTIVE** Lease Agreement (Lease) with the Federal Bureau of Investigation, a United States Federal Service of Quantico, VA, for equipment and antenna space in designated areas on Mount Washington in Sargent’s Purchase, NH for a period of five (5) years from October 1, 2016 through September 30, 2021, with an initial term of one (1) year and four (4) additional option periods, upon Governor and Executive Council approval.
- 2) Further authorize DNCR to accept an initial annual rent payment of \$6,240 with annual rental payments escalated by 3% for each subsequent year of the Lease to be deposited into accounting unit #03-35-35-351510-37420000-402040 “Mt Washington Commission”.

EXPLANATION

The Federal Bureau of Investigation currently leases space in and on the Yankee Building for facilities required for agency and public safety communications. Total fiscal revenue over the 5-year period will be \$33,129. This lease is retroactive due to protracted negotiations between the parties in regards to a standard Federal Acquisition Regulation (FAR 52.233-1) specifying the handling of ‘Disputes’. The State of New Hampshire would not accept this regulation as only the New Hampshire Superior Court has jurisdiction over claims regarding the State and only the State Legislature can waive sovereign immunity. Therefore, we could not agree to be bound by the decision of a “Contracting Officer” as described in FAR 52.233-1.

The Lease is subject to DNCR’s “Policy on Use and Management of DNCR Communication Facilities” attached as Exhibit A and all installed communication equipment shall meet the guidelines set forth by DNCR’s “Technical Requirements for Use of Communication Sites” attached as Exhibit B.

The Attorney General’s office has reviewed and approved the Lease as to form, substance, and execution.

Respectfully submitted,

Concurred,

(SUN)

Brad W. Simpkins
Director

Jeffrey J. Rose
Commissioner



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DIVISION OF FORESTS AND LANDS

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NOTICE OF AGENCY NAME CHANGE

October 18, 2017

Allison E. Culley
Radio Coordination Unit
Federal Bureau of Investigation (FBI)
ERF Building 27958A
Quantico, VA 22135

Re: *Lease BS-045, Mt. Washington State Park - Communications Site*

This notice is provided in regard to the above referenced lease currently being processed between the Federal Bureau of Investigation and the State of New Hampshire. Please be informed that effective July 1, 2017, the Department of Resources and Economic Development was re-designated the Department of Natural and Cultural Resources. The change in name does not affect the lease other than that all future correspondence will be under the new agency name. If you have any questions regarding the change in name or the above referenced lease, please do not hesitate to contact me at (603) 271-2214 or at tracey.boisvert@nh.gov.

Sincerely,

Tracey Boisvert, Administrator
Land Management Bureau

LEASE AGREEMENT

FEDERAL BUREAU OF INVESTIGATION
MOUNT WASHINGTON
MOUNT WASHINGTON STATE PARK
SARGENTS PURCHASE, NEW HAMPSHIRE

| <u>CRITICAL DATES / TERM / RENT</u> (for State use only) | |
|---|-------------|
| DEFINITION | DATE |
| Term Effective Date: Governor and Council approval date | |
| Billing Commencement Date: beginning invoice date for rent owed, set by Lease terms to be monthly, quarterly, or annual. | 01-Oct-2016 |
| Term & Initial Annual Rent: 5 years maximum, beginning at \$6,240.00, subject to an annual 3% adjustment. | |

THIS LEASE AGREEMENT ("the Lease"), is made and entered into by and between the State of New Hampshire acting through its Department of Resources and Economic Development, having a mailing address of 172 Pembroke Road, Concord, New Hampshire 03301 ("the State" or "Site Owner/Manager"), under authority of RSA 227-H:9, and Federal Bureau of Investigation, a United States of America Federal Service having its place of business at FBI – ERF Building 27958A, Quantico, VA 22135 ("the Lessee" or "Site User"). The State and the Lessee together shall be "the Parties".

NOW, THEREFORE the State and the Lessee agree as follows:

PURPOSE: The purpose of the Lease is to provide for the use and possession by the Lessee of certain areas within and upon the real property and improvements thereon (the "Property") known as the top of Mount Washington, located in Mount Washington State Park, according to the terms and conditions set forth below.

-WITNESSETH THAT-

I. **LEASED PREMISES**

The State, for and in consideration of the covenants and agreements hereinafter contained and made on the part of the Lessee, does hereby lease to the Lessee:

- a) Designated Space on the Yankee Building
- b) Designated Space in the Yankee Building

The above described land and rights shall hereinafter be called the "Leased Premises."

No additional facilities shall be allowed without prior written permission of the State.

II. ENTRY AND USE OF LEASED PREMISES

The Lessee shall be permitted to enter and use the Leased Premises as a wireless communication site. The Lessee shall not be permitted to use the Leased Premises for any other purpose except by prior written approval of the State. The State shall have the right to request identification of any and all individuals representing the Lessee who seek access to the Property under the terms of the Lease and to deny access to the Property by certain individuals identified, if necessary.

The State shall be notified forty eight (48) hours before the start of work, or planned maintenance, at the Leased Premises during normal business hours, Monday thru Friday between 8 a.m. and 4 p.m., however; unexpected/emergency repairs may be made immediately, with notice of such actions being made to the State within twenty four (24) hours.

Access Notifications should be made via phone, text message, or email to:

Justin Bellen
Communications Technician
NH Division of Forests & Lands
172 Pembroke Rd
Concord NH 03301
Office: 603-271-2214
Cell: 603-892-5620
justin.bellen@dred.nh.gov

III. AUTHORIZED FACILITIES

The Lessee is authorized to have the following equipment on the Property

Please reference Attachment 3, FBI Site Information

No additional facilities shall be allowed without written permission of the State, which shall not be unreasonably withheld or delayed.

IV. ACCESS LIMITATION

Access to Mount Washington during the summer season shall be coordinated with the State and shall be at the Lessee's own expense. The Lessee, to the greatest extent possible, shall schedule non-emergency access at dates and times that cause the least amount of conflict with the public recreational use of the Property. Where possible, at its sole discretion and if space permits, the State will endeavor to provide the Lessee with transport on scheduled State transportation free of charge.

The State shall provide the Lessee with transportation during the winter season on an "available space" basis. Trips scheduled during normal shift changes shall be at a rate of \$100.00 per seat. For unscheduled or emergency trips, the Lessee shall pay \$500 per trip, plus the current hourly

rate for State Park Staff Site Support labor. The State, at its sole discretion, may waive these fees if it deems appropriate.

The Lessee will be held responsible for damage to State land resulting from improper motorized access to Mount Washington by the Lessee, or their agents.

Access contact:

Mt. Washington State Park Manager (MWSP) (603) 466-3347
Dept. of Resources and Economic Development (DRED) Communications Technician
(603) 271-2214

V. TERM

The Lease shall be effective as of the date of approval by the Governor and the Executive Council (Term Effective Date). The Lessee shall have and hold the Leased Premises for a maximum term of five (5) years. The initial term of this Agreement shall run from 10/01/2016 to 09/30/2017 (base year). This Agreement may be extended for (4) four additional one-year option periods. Each option year shall run from October 1 until September 30 so as to conform to the United States Government's fiscal year. Extension of this Agreement beyond the base year and subsequent option years is contingent upon Congressional approval of the funding needed to cover this Agreement.

VI. LEASE EXTENSIONS

This Lease cannot be extended beyond the initial 5 year term.

VII. RENT – OR CONSIDERATION

****Federal Tenants Only**** Upon agreement of the parties, the Lessee may pay rent by electronic funds transfer and in such event, the State agrees to provide to the Lessee bank routing information for such purpose upon request of the Lessee.

Please refer to Attachment 2, FBI fee for payment details.

VIII. ANNUAL ESCALATION

Each year on October 1 the Lease amount will be adjusted by applying a three percent (3%) escalator.

IX. TAXES

The Lessee shall pay, in addition to any other payments provided hereunder, all taxes and all fees, assessments and other costs or expenses now or hereafter imposed by any government authority, directly in connection with the Lessee's equipment or use of the Leased Premises. In addition, the Lessee shall pay that portion, if any, of the personal property taxes or other taxes directly attributable to the Lessee's equipment. The Lessee shall pay any increase in real estate taxes levied against the Leased Premises and the Lessee's equipment directly attributable to the Lessee's use

and occupancy of the Lease Premises. Pursuant to the application of RSA 72:23 I, which provides for taxation of certain State properties used or occupied by persons or entities other than the State.

The Lessee shall make payment of such taxes, fees, and assessments to the State or such government authority as has invoiced taxes, fees, and assessments, within thirty (30) days of the date of invoice. Failure of the Lessee to pay the duly assessed real estate and/or personal property taxes, fees and assessments when due shall be cause to terminate the Lease by the State provided written notice has been given the Lessee by the party assessing the tax and sixty (60) days have elapsed from the date of the receipt of notice by the Lessee and no payment has been made.

X. RIGHT TO LEASE - COMPLIANCE WITH LAW

The State represents that it has the full right, title, interest, power and authority to enter into the Lease and to let the Leased Premises for the term herein granted. The Lessee shall comply with all applicable federal and state laws, rules and regulations in connection with the operation of the Lease.

XI. QUIET ENJOYMENT-INSPECTION

The Lessee, upon the payment of the rent herein provided, and upon the performance of all of the terms of the Lease, shall peaceably and quietly have, hold and enjoy the Leased Premises without any hindrance, disturbance, interference or interruption from the State or from any persons claiming by, through and under the State.

Provided however, the Lessee agrees that the State or any of its duly authorized agents may with reasonable notice to the Lessee, inspect any and all the Lessee Property located on the Leased Premises during usual business hours; and

The Lessee understands and hereby accepts that other leasehold tenants occupy the Property which may result in possible inconvenience when another lessee is doing work coincidentally onsite.

XII. MUTUAL NON-INTERFERENCE - CONFLICTS WITH RECREATIONAL USERS

The Lessee agrees to install radio equipment of the type and frequency which will not cause measurable interference to the State, other lessees of the premises or neighboring landowners. In the event the equipment of the Lessee causes such interference, and after the State has notified the Lessee of such interference, the Lessee will take all steps necessary to correct and eliminate the interference. Continued interference problems caused by the equipment of the Lessee shall be just cause for termination of the Lease subject to the provisions of Section XXIX

The State agrees that the State and any other tenants of the Property who currently have or in the future take possession of the Property will be permitted to install only such radio equipment that is of the type and frequency which will not cause measurable interference to the Lessee. In the event any such equipment of the State or of another tenant at the Property causes such interference, the State will see that the interfering party takes all steps necessary to correct and eliminate the interference.

The State covenants and agrees that it will not permit or allow the erection, installation or construction of any buildings, or structures, on any portion of its remaining land at the Property that will shield or obstruct or otherwise interfere with the reception or transmitting of radio signals over the paths established by the Lessee; however, the Lessee agrees to comply with all reasonable requests in writing of the State or any of its agents as to particular situations which may arise to permit the erection, installation or construction of such structures. In no event however, shall the Lessee's compliance with such requests relieve the State of its obligation to see that the State or any other interfering party take all steps necessary to correct and eliminate any interference caused thereby. In addition, all reasonable precautions will be taken by the Lessee to ensure that there will be no conflict with the State's use, which can include the public's use of the Property including, but not limited to, obstructing access to the summit or viewpoints from the summit.

XIII. ASSIGNMENT/SUBLEASE

The Lessee may not assign or transfer its rights under the Lease or sublease any portion of the Leased Premises to any third party without the express written permission of the State.

However, the interest of the Lessee under the Lease may be freely assigned in the following cases:

- a) in connection with the transfer of the FCC authorization to operate a wireless communication system, so that the name and identity of the holder of the interest of the Lessee hereunder can be consistent with the name and identity of the holder of said FCC authorization; and
- b) to principals, affiliates, subsidiaries of its principals, in each case of the Lessee, or to any entity which acquires all or substantially all of the assets of the Lessee in the New Hampshire market by reason of a merger, acquisition or other business reorganization.

XIV. COMMUNICATION SITE POLICY-TECHNICAL REQUIREMENTS

The Lease is granted subject to the State of New Hampshire Department of Resources and Economic Development "Policy on Use and Management of Mountaintops for Communication Facilities" adopted November 7, 1989, and revised on January 1, 2014, a copy of which is attached herewith, made a part hereof, and is marked Exhibit "A".

All communications equipment and appurtenances shall be installed in compliance with the "State of New Hampshire Department of Resources and Economic Development Technical Requirements for Use of Communication Sites" adopted June 30, 1995, and revised in February, 2014, a copy of which is attached herewith, made a part hereof, and is marked Exhibit "B".

XV. INDEMNIFICATION-LIABILITY INSURANCE

The Lessee shall indemnify and save the State harmless from any and all costs, claims, loss, damage, damages, liability, demands and suits of any kind, by whomever brought, that may in whole or in part arise from or be caused by:

- a) The operation, maintenance, use or occupation of the herein Leased Premises by the Lessee; or
- b) The acts, omissions or gross negligence of the Lessee, its agents, officers, employees or
- c) The failure of the Lessee to observe and abide by any of the terms or conditions of the Lease or any applicable law, ordinance, rule, or regulation. The obligation of the Lessee to

so relieve the State shall continue during any period of occupancy or of holding over by the Lessee, its agents, officers, or employees beyond the expiration or other termination of the Lease.

However, nothing in this paragraph shall require the Lessee to indemnify the State against the willful or negligent actions by the State.

Lessee, as an agency of the United States Government, is self-insured

XVI. WORKERS COMPENSATION INSURANCE

The Lessee must demonstrate compliance with, or exemption from compliance with, applicable workers' compensation statutes, including RSA 281-A and, if applicable, RSA 228:4-b, RSA 21-1:80, and any other applicable laws or rules.

XVII. RISK OF LOSS - FIRE - CASUALTY

All property of every kind installed by the Lessee on the Leased Premises shall be at the sole risk of the Lessee and the State shall not be liable to the Lessee or any other person for any injury, loss, damage, or inconvenience occasioned by any cause whatsoever to Lessee installed property. The Lessee shall be responsible for maintaining appropriate property insurance for its interest in the Leased Premises and property located thereon.

Should the existing Equipment Building on the Property be substantially damaged by fire, other casualty or act of God, then the State shall notify the Lessee as soon as it is able as to whether or not the State intends to rebuild the Equipment Building and the likely time frame within which the rebuilding would be accomplished. During such rebuilding the Lessee shall, at its option, have the right to erect suitable temporary structures to effectuate the broadcast of the signal of the Lessee. If the State elects not to rebuild the Equipment Building then the Lessee may, at its option, elect either to terminate the Lease or to rebuild on the same site, substitute structures of similar design and size as existed prior to the damage with the approval of the State, which shall not be unreasonably withheld.

The State shall not be obligated to rebuild or replace any building wholly or substantially destroyed by fire, flood, weather event, act of God, or other casualty. The State shall not be liable to Lessee for any injury, loss, damage, or inconvenience occasioned by any cause whatsoever to the Property, including but not limited to any loss of income for any function, program or contract that may not take place for whatever reason due to an emergency or unforeseeable situation.

XVIII. INSTALLATION AND MAINTENANCE - COST

All improvements installed by the Lessee at the Property for its sole benefit shall be at the expense of the Lessee, and subject to prior written approval by the State. During the term of the Lease, the Lessee will maintain such improvements installed by the Lessee on the Property in a safe and reasonable condition, and neat in appearance so as to minimize visual impact. The materials and design for the installation at the Property shall comply with all applicable federal, state and local

laws, rules and approvals. The Lessee shall have all construction plans relating to the project at the Property approved by applicable federal, state and local governmental authorities having jurisdiction over construction and installation of cell facilities on the Property ("Governmental Authorities") prior to the commencement of such construction and installation.

It is understood and agreed that the ability of the Lessee to use the Property is contingent upon its obtaining, after the execution date of the Lease, all of the certificates, permits and other approvals that may be required by any Governmental Authority as well as a satisfactory building structural analysis, so as to permit the use by the Lessee of the Property as contemplated by the Lease. The State shall cooperate with the Lessee in its effort to obtain all required Governmental Authority approvals, and shall take no action which would adversely affect the status of the Property with respect to the proposed use thereof by the Lessee. In the event that any of such applications should be finally rejected or any certificate, permit, license or approval issued to the Lessee is canceled, expires, lapses, or is otherwise withdrawn or terminated by the relevant Governmental Authority, or, in the event that the Lessee determines that the Property site is no longer technically compatible for the use contemplated by the Lease, or that the Lessee, in its sole discretion, will be unable to use the Property for its intended purposes, the Lessee shall have the right to terminate the Lease subject to 90-day written notice to the State. Notice of the exercise by the Lessee of its right to terminate shall be given to the State in writing by certified mail, return receipt requested, and shall be effective upon the mailing of such notice by the Lessee. All rentals paid to said termination date shall be retained by the State. Upon such termination, the Lease shall become null and void and, except as expressly provided in the Lease, the parties shall have no further obligations including the payment of money, to each other. The Lessee shall remove any and all of its property from the Property prior to termination of the Lease under this paragraph.

XIX. CONDITIONS - RENT ABATEMENT

The obligations of the Lessee hereunder, including the obligations to pay rent, are expressly conditioned upon and subject to the following:

- a) The continued authorization of the Lessee to use the Facilities for the purposes intended by the Lessee pursuant to all necessary approvals from Governmental Authorities relating to such use; and
- b) The continued retention by the State of good, clear, and marketable title to the Property underlying the Leased Premises, and such title remaining free from encumbrances and restrictions which would interfere with the use of the Leased Premises intended by the Lessee or would impair the ability of the Lessee to pledge the leasehold estate as collateral to secure debt financing.

If any of the foregoing conditions should fail to remain satisfied, the Lessee shall have no obligation to pay rent until such condition is once again satisfied or waived, and rent which would otherwise be due during the intervening time pending satisfaction of such condition is hereby excused and forgiven.

XX. LEASE RUNNING WITH THE LAND

The covenants, terms, conditions, provisions and understandings in the Lease shall be construed as covenants running with the land and are binding upon and inure to the benefits of the respective successors and assigns of the parties herein.

XXI. ENTIRE AGREEMENT

The Lease expresses the entire agreement between the parties, and supersedes all prior understandings.

XXII. NOTICES

All notices, demands, requests and other communications required by the Lease shall be in writing and shall be considered properly given if sent by United States registered or certified mail, postage prepaid, to:

- a) The State:
The State of New Hampshire
Department of Resources and Economic Development
172 Pembroke Road
Concord, New Hampshire 03301
Attention: Administrator, Land Management Bureau

or at such other address of the State from time to time may have designated by written notice to the Lessee. Such notice shall be deemed properly given upon the posting in the United States mail.

- b) The Lessee:
FBI – ERF
Building 27958A,
Quantico, VA 22135 (or designee)

or at such other address as the Lessee from time to time may have designated by written notice to the State. Such notice shall be deemed properly given upon the posting in the United States mail.

XXIII. AMENDMENT - EXTENT OF INSTRUMENT - CHOICE OF LAWS - ETC.

The terms of the Lease may be modified or amended by written agreement between the Lessee and the State. The Lease, which may be executed in a number of counterparts each of which shall have been deemed an original but which shall constitute one and the same instrument is to be construed according to the laws of New Hampshire, is to take effect as a sealed instrument, is binding upon, inures to the benefits of, and shall be enforceable by the parties hereto and their respective successors and assigns.

XXIV. SOVEREIGN IMMUNITY

The Lease does not abridge or limit, nor shall it be interpreted as abridging or limiting the sovereign or official immunity to which the State and its representatives and agents are lawfully entitled.

XXV. SEVERABILITY

If any term of the Lease or any application thereof shall be invalid or unenforceable, the remainder of the Lease and any application of such term shall not be affected thereby.

XXVI. NO WAIVER OR BREACH

No assent, by either party, whether express or implied to a breach of a covenant, condition or obligation by the other party, shall act as a waiver of a right of action for damages as a result of such breach, or shall be construed as a waiver of any subsequent breach of the covenant, condition or obligation.

XXVII. NOTICE OF LEASE

The State agrees to execute a Notice of the Lease Agreement, substantially in the form of that attached hereto as Exhibit "C", which the Lessee shall record with the appropriate recording officer. The date set forth in the Notice of Lease is for recording purposes only and bears no reference to commencement of either term or rent payments.

XXVIII. STATE PARK STAFF SITE SUPPORT

The Lessee agrees to reimburse the State in no less than half (1/2) hour increments for State Park staff time, requested or previously arranged by the Lessee, spent inspecting, managing, maintaining or repairing the Leased Premises or Facilities at the rate of **Fifty One Dollars and Thirty Five Cents (\$51.35) per hour**. Each call-out shall be no less than a two (2) hour minimum. Use of State Park staff shall be at the sole discretion of the appropriate State Park Manager.

Any work performed by State Park staff at the request of the Lessee shall be invoiced by the State and paid by the Lessee within thirty (30) days of receipt. If payment is not made within 30 days, all future requests for assistance may not be acted upon until such time as payment is made. All work performed by State Park staff pursuant to this Section shall be upon the request of the Lessee, and the State assumes no liability.

XXIX. DEFAULT - THE LESSEE'S RIGHT TO CURE - TERMINATION - RESTORATION

In the event there is a default by the Lessee with respect to any of the provisions of the Lease or its obligations under it, including the payment of rent, the State shall give the Lessee written notice of such default. After receipt of such written notice, the Lessee shall have fifteen (15) days in which to cure any monetary default and thirty (30) days in which to cure any non-monetary default, provided the Lessee shall have such extended period as may be required beyond the thirty (30) days if the nature of the cure is such that it reasonably requires more than thirty (30) days whose length of time shall be agreed upon by the parties, and the Lessee commences the cure within the thirty (30) day period and thereafter continuously and diligently pursues the cure to completion. The State may not maintain any action or effect any remedies for default against the Lessee unless and until the Lessee has failed to cure the same within the time periods provided in this paragraph. The failure of the Lessee to act to cure the default within the specified time periods shall be just cause for termination of the Lease.

The Lessee shall have the unilateral right to terminate the Lease at any time by giving ninety (90)

day written notice to the State of the exercise by the Lessee of this option.

The Lessee, upon termination of the Lease, shall, within sixty (60) days of termination, remove all of its equipment, personal property and all fixtures from the Property and repair any damage caused by its use of the Leased Premises or the removal of its equipment, reasonable wear and tear excepted. If such time for removal causes the Lessee to remain on the Leased Premises after termination of the Lease, the Lessee shall pay rent at then-existing monthly rate or on the existing monthly pro rata basis if based upon a longer payment term, until such time as the removal of the equipment, personal property and all fixtures are completed.

XXX. FREQUENCY AUTHORIZATIONS

All Federal government frequencies are authorized by the Department of Commerce (DOC) and are exempt from disclosure under the Freedom of Information Act, Title 5, USC, Section 552 (b) (2), (b) (4), and (b) (7), and therefore exempt from disclosure under New Hampshire's Right-to-Know Law, RSA 91-A. Frequencies cannot be posted at communication sites. Copies of DOC frequency authorizations can be provided to communications site owners or managers upon request.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have caused the Lease to be executed the day and year first above written.

**THE STATE OF NEW HAMPSHIRE
DEPARTMENT OF RESOURCES
AND ECONOMIC DEVELOPMENT**

By: *Jeffrey J. Rose*
Jeffrey J. Rose
Commissioner

THE STATE OF NEW HAMPSHIRE
COUNTY OF MERRIMACK

The foregoing instrument was acknowledged before me this 24th day of October 2017,
by Jeffrey J. Rose, in his capacity as Commissioner of the Department of Resources and Economic
Development.

Lishe Carson
NOTARY PUBLIC/JUSTICE OF PEACE
My Commission expires: Nov. 20, 2018

FEDERAL BUREAU of INVESTIGATION

By: *Nancy J Beck*
Nancy Beck
Contracting Officer
Duly Authorized

FEDERAL BUREAU OF INVESTIGATION
COUNTY OF Stafford


The foregoing instrument was acknowledged before me this 7th day of August 2017,
by, ~~James F. Driscoll~~ in his capacity as Contracting Officer for the Federal Bureau of Investigation
Nancy Beck

Jennifer S Turner
NOTARY PUBLIC/JUSTICE OF PEACE
My Commission expires: 4-30-2021



Approved as to form, substance and execution

Date 10/27/17

By: 

Assistant Attorney General

Approved by Governor and Council

Date _____

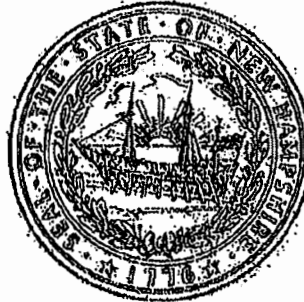
Agenda Item No. _____

The following Exhibits are attached hereto and incorporated herein by reference:

- "A" State of New Hampshire Department of Resources and Economic Development Policy of Use and Management of Mountaintops for Communication Facilities
- "B" State of New Hampshire Department of Resources and Economic Development Technical Requirements for Use of Communication Sites
- "C" Notice of Lease
- " " Standard FBI Antenna Site Agreement Rider
- "2" FBI Standard BOA Attachment 2 - Fee
- "3" FBI Standard BOA Attachment 3 - Site Information

Exhibit A

STATE OF NEW HAMPSHIRE
DEPARTMENT OF RESOURCES AND ECONOMIC DEVELOPMENT



POLICY ON USE AND MANAGEMENT
OF DRED COMMUNICATION FACILITIES

Adopted Nov. 7, 1989
Revised April 15, 1998
Reviewed January 2, 2008
Revised January 1, 2014

Jeffrey J. Rose, Commissioner

172 Pembroke Rd
Concord N.H. 03301
State of New Hampshire
Department of Resources and Economic Development

POLICY ON USE AND MANAGEMENT
OF DRED COMMUNICATIONS
FACILITIES

INTRODUCTION

In 1964, the State of New Hampshire, recognizing the future needs for public communication sites and the potential proliferation of antenna towers, microwave dishes, transmitter buildings and other apparatus on New Hampshire's high peaks and ridges, established a policy limiting radio/electronics installations on Department of Resources and Economic Development (DRED) administered land. At that time, the primary concerns were providing sites for future public communication needs and mitigating the visual impact of installations. New communication installations and renewals of existing permits were limited to public agencies. Requests for new communications installations by agencies not supported with public funds were considered only where installations would provide a measure of public service or public safety.

In the 1980's, three additional concerns developed regarding communication facilities on state-owned summits. First was a concern for protecting the aesthetics and natural condition of the State's high peaks and ridges. Second was a concern regarding electronic interference and signal deterioration caused by the growing number of transmission and reception installations. Although there currently isn't a way to quantify the threshold below which a transmission signal becomes unacceptably weakened by neighboring users, each addition of equipment at a site has a negative effect. As the number of installations increased, so had the concern over maintaining signal integrity since most of the Communications users at state-owned mountaintops were there for the purposes of public health and safety, law enforcement, national defense, and public information.

The third concern was the potential negative impact to public health from intense communications signals. The mountaintops were originally acquired and maintained for the visiting public and it was important to limit radio frequency radiation to levels safe for continued public use of the area.

In 2012, a review of the policy was prompted by DRED's growing responsibility for over 167,000 acres of public land and an ever increasing demand to install or expand communications facilities on DRED lands to enhance public safety and security, and to fulfill the public interest for commercial broadband internet access. In 2013, the Policy was revised to: a) provide new guidelines and processes for establishing new or expanded communication sites in locations beyond just mountaintops; b) allow for commercial communications applications and corresponding lease fees; and c) ensure that impacts from new or expanded communications facilities to the land's traditional uses and purposes were minimized and mitigated.

As the result of a "Internal Control Review" of the Communications Program by the Office of Legislative Budget Assistant – Audit Division, a "Communications Program Manual" was developed. The Manual dovetails with the Policy and established procedures and protocols, including accountability of equipment and sites through a newly acquired database – ComSite,

and the billing and collecting of Program revenues through the State's new billing system --
LAWSON/NHFfirst.

I. DEFINITIONS:

"Commissioner" shall mean the Commissioner of the Department of Resources and Economic Development (DRED).

"Permit" shall mean any form of agreement, including licenses, special use permits, or leases issued by the Commissioner for use of a DRED communication site.

"Private user" shall mean any person or business entity, including a non-profit organization, which is not a "public user" or "quasi-public user."

"Public user" shall mean a federal, state, county, or municipal agency or some governmental association thereof.

II. GOAL:

The ultimate goal for state-owned locations used for communications facilities, including mountaintops, is to have such areas cleared of all appurtenances and machinery, with the possible exception of observation platforms. This goal cannot be realized until the technology of electronic communications has advanced to where antennas and other electrical paraphernalia are outmoded. Until that time, the overall management objective for communications sites will be to give priority to transmission sites for communications critical to the public health, safety and welfare, while minimizing the aesthetic and environmental impacts of these communications facilities.

III. POLICY:

It is the policy of the Department of Resources and Economic Development to permit, when no other feasible alternative is available, controlled development of state-owned land under its jurisdiction for electronic communications necessary to public health, safety and welfare; and to facilitate, wherever possible, in the consolidation of commercial electronic communication networks across the state.

IV. GUIDELINES AND CONSIDERATIONS:

A. Values to Be Protected: Management of the communications sites on DRED lands is intended to protect three distinct values deemed essential to the public interest:

1. *Aesthetics/natural condition and public use:* To maintain the natural and scenic character of an area. Communication facilities shall be installed so as to have the least physical disturbance or modification of the natural environment and minimal impact to the public enjoyment of these environments.

2. *Public health, safety and welfare:* To consider communications projects necessary and desirable to maintain or improve the health, safety and welfare interests of the public at large, as well as to reasonably safeguard the health and safety of visitors to communication sites.
 3. *Electronic integrity:* To uphold the non-interference of communications signals and frequencies between communications systems and/or associated electrical devices.
- B. Communication Site Designation: In order to articulate the use of DRED properties for communications activities, the following site designations are hereby established for the purpose of describing existing assets and limitations that each site category may possess. All current and future sites will be classified by these designations:
1. *Multiple Use Sites ("MU")* may allow for the full range of communication uses, so long as those uses are compatible with site conditions, typical management activities, traditional public use, and deed covenants, if any; and strive to minimize the aesthetic and environmental impacts. MU Sites typically contain electric power from off-site, phone capability, and usually have generator back-up capabilities. Infrastructure specific to communications can be erected at these sites (tower, building, etc.) provided such installations are in compliance with and meet the objectives of the other sections of this policy.
 2. *Limited Use Sites ("LU")* have one or more limitations that prohibit the expansion of a LU Site. Limitations may include, but are not limited to: access issues; protection of special aesthetic or natural site conditions; lack of a power source, telephone, or fiber resources; public health or safety concerns; interference with other communication sites; or incompatibility with other primary uses of a particular site. These sites shall have restrictions placed upon them based upon their limiting factors.
 3. *Restricted Use Sites ("RU")* are restricted communication sites and shall be limited to only those uses that are deemed a critical need for public health, safety or welfare; where the benefits derived from having the communication site outweigh the potential detriments to the values to be protected. Examples of restricted uses include those related to fire and rescue, law enforcement, emergency medical services, and/or emergency management. Such sites shall not be used for commercial activities or "for profit" purposes. Measures shall be taken to ensure that no alternative sites exist, and that aesthetic and environmental impacts will be minimized or mitigated.
- C. Approved, Designated DRED Sites: The following specific DRED sites are hereby designated by the Commissioner as "Communication Sites." The letter designation after each site indicates its current designation.

Belknap Mountain, Belknap Mountain State Forest (MU)
Blue Job Mountain, Blue Job State Forest (MU)
Cannon Mountain, Franconia Notch State Park (MU)
Cardigan Mountain, (RU)
Federal Hill, Federal Hill Fire Tower (LU)
Hampton Beach State Park, (RU)
Holden Hill, Coleman State Park (MU)
Hyland Hill, Hyland Hill State Forest (MU)
Jordan Hill, Walker State Forest (RU)
Kearsarge Mountain, Kearsarge Mountain State Forest (MU)
Magalloway Mountain (RU)
Milan Hill, Milan Hill State Park (MU)
Oak Hill, Oak Hill Fire Tower (MU)
Pack Monadnock Mountain, Miller State Park (MU)
Pitcher Mountain, Pitcher Mountain Fire Tower (MU)
Prospect Mountain, Weeks State Park (LU)
Mt. Sunapee, Mt. Sunapee State Park (MU)
Mt. Washington State Park, (MU)
Wantastiquet Mountain, Wantastiquet Mountain State Forest (MU)
Warner Hill, Warner Hill Fire Tower (MU)

Development of communications facilities at these sites shall be restricted to specific areas, as determined by the Commissioner.

V. APPLICATION FOR COMMUNICATIONS SITE USE:

- A. Application for a communication site use will be filed with the Commissioner, Department of Resources and Economic Development and shall include the following information:
1. Demonstrated need for public health and safety, or for the public welfare interests served by commercial-service communications.
 2. Complete plans and specifications of the proposed installation including, but not limited to, buildings, towers, power lines, accessory structures, fuel tanks, generators, method(s) of access to the site and access improvements.
 3. Detailed specifications including type, frequency, size and proposed location of

receiving and/or transmission unit(s) and antenna(s).

4. Analysis of compatibility with existing facilities and equipment (intermod and structural analysis) and power requirements.
5. Written documentation that the installation meets the current ANSI standards for controlled and uncontrolled human exposure to radio frequency electromagnetic fields. Cumulative effects of the proposed installation together with the existing facilities shall be considered.
6. Power and access availability without major new development.

B. Applications for New Communications site designations will be filed with the Commissioner, Department of Resources and Economic Development and shall include the following process.

1. A description of alternative sites considered, including other DRED-designated communication sites and locations on private property, and the results from an investigation that demonstrates why the alternative sites are not feasible.
2. Compatibility with long-range multiple use plans.
3. Aesthetic compatibility with surrounding environment.
4. Impact on aesthetic/natural and recreational resources and efforts to minimize or mitigate such impacts.
5. Deed and/or property use restrictions.

Regional and Local Review: In accordance with RSA 674:54 II, all applications for new communication site designations shall be sent to the Board of Selectmen/City Council of the municipality and to the appropriate Regional Planning Commission in which the proposed site is located to provide an opportunity for public hearing(s), subject to the following:

1. DRED will provide a public notification in a newspaper in general circulation in the area stating that a proposal for a new communication site designation has been sent to the municipality.
2. DRED will provide written notification to: (1) persons who have interests of record in the site; (2) persons who have written use agreements for the site on file with DRED; (3) landowners across which the State has deeded or written access rights to the site; and (4) donors of land which contains the site.
3. DRED personnel and the applicant shall participate in any hearing(s) requested by the municipality or by the Regional Planning Commission.

4. DRED shall respond in writing to any written comments made by the municipality relative to the application and received within 30 days after the hearing. Responses shall identify any modifications made in response to comments from the municipality or a written explanation as to why the implementation of the comments would be contrary to the proposed public project.
5. Upon completion of the processes described in this section, applications for a new communication site shall be submitted to Governor and Executive Council for final approval.
6. Applications from public and private users shall be submitted to the local governing body by the applicant for approval under the municipality's Site Plan Review Regulation.
7. Application(s) for use permits or leases for new communication sites shall follow the same procedures as existing designated sites.
8. Application(s) for a new site, or modification or expansion of an existing site may be reviewed by the Communication Site Advisory Committee, as deemed necessary by the Commissioner.
9. Once a site has been officially designated, new users on the site can be processed by the DRED communications office without review by the Advisory Committee, providing the new user doesn't significantly modify or alter the site, such as but not limited to adding buildings, extending the tower height or other buildings or structures, in which case it shall be reviewed by the Advisory Committee.

VI. CONSOLIDATION:

- A. Towers and buildings: on each communication site will be consolidated and shared by site users in a manner striving for the following goals:
 1. A single, expandable, low profile transmitter building serviced by a single, non-overhead utility line.
 2. As few multiple-use, broadband antennae as are technically feasible, affixed to a single tower. Such consolidation will be planned on a site-by-site basis according to building design, cable and power layout, and vegetation distribution; and accomplished through cooperative funding among users, contributions, or bonding.
 3. Additions to, and modifications or relocation of, existing structures and equipment shall be compatible with the designated site plan for consolidation of facilities through shared use.

VII. ADVISORY COMMITTEE:

A. Communication Site Advisory Committee is established as an adjunct to the Commissioner's office. Technical advisors may serve as deemed necessary or desirable by the Committee. Committee membership shall include the following individuals or their designee:

- Director, Division of Forests and Lands
- Director, of Parks and Recreation
- Director, Division of State Police
- Executive Director, New Hampshire Fish & Game Department
- President/Forster, Society for the Protection of New Hampshire Forests
- Executive Director, Local Government Center

B. Purpose: The Advisory Committee is established for the purpose of advising the Commissioner on the following matters:

1. Designation of new communication sites, or modification to tower height, building size and/or expansion of existing sites if deemed necessary by the Commissioner.
2. Developing Plans for consolidation of facilities.
3. Policies, rules, and regulations for communication site management may be reviewed periodically
4. Recommended changes to policy, rules and regulations for communications site management may be made by Advisory Committee, Communications Site Committee, Communications Section Chief, or the Department and approved by the Commissioner.

VIII. MODIFICATION OR EXPANSION OF EXISTING SITES:

A. New or Expansion Proposals: Proposals for new or enlarged installations at designated communication sites, which are demonstrated to be in the overall interest of public health or safety will be given the highest priority. New users may be permitted subject to the following:

1. Can be accomplished without compromising the values to be protected under Section IV. A, and
2. Would result in a net improvement in onsite facility aesthetics, primarily through consolidation, or
3. Would result in enhanced public recreation access or opportunities, or
4. Would provide the tower or building space needed to accommodate "public users," as determined by the Commissioner.

IX. INTERFERENCE:

- A. New Installations: New installations/users shall not interfere with existing installations, users and functions. Where irreconcilable conflicts arise between "public user," and "private user" installations over electronic interference, space, power supply, or location, the "public" or "quasi-public" user shall take precedence and displace the "private user." Order of displacement is: 1) private users; 2) quasi-public users engaged in low power broadcasting; 3) other quasi-public users. Within each category, newest installations shall be displaced first.
- B. Electronic Interference: In the case of a complaint of electronic interference or other conflicts created by a new installation, it shall be the responsibility of the proponent of the new installation to submit plans for resolving the complaint or potential problem. The plans shall be consistent with the site consolidation effort. The complainant and new installation proponent shall attempt to resolve the matter. Unresolved issues and the proponent's plans shall be submitted to the Communication Office within 10 working days of the complaint for review and recommendation for action by the Commissioner.

X. OTHER INSTALLATION REQUIREMENTS:

- A. Additional considerations shall include:
1. Communication tower(s) on DRED communication sites shall be the minimum height necessary to meet technical requirements of the equipment installed and the service area, but under no circumstances shall tower structure exceed 180 feet in height.
 2. All DRED communication sites shall meet the current American National Standards Institute (ANSI) requirements for controlled and uncontrolled human exposure to radio frequency electromagnetic fields.
 3. Permits/leases for site use are not transferable and facilities (buildings, tower and equipment) may not be sub-leased.
 4. Requests for changes or modification of a permitted installation shall be submitted in writing for approval by the Commissioner.
 5. Site users shall comply with all applicable federal, state and local laws, ordinances and rules.
 6. All equipment installations shall be accomplished in compliance with the latest edition of the "State of New Hampshire Department of Resources and Economic Development Technical Requirements For use of Communication Sites," and all grounding of equipment will meet Motorola's R-56 requirements.
 7. Intermod Study is required of all new prospective users or a change of frequency by a current user.

8. Structural analysis may be required by new users and upgrades by current users.
9. An RF Study is required by all new users at all sites. Sites that are manned by volunteers or paid personnel require the RF Study to specifically reference and address the effects and risk to personnel from RF exposure.

XI. TENANT CATEGORIES (basis for annual rent):

The following table depicts the tenant categories and provides the degree of annual rent to be charged in order to occupy a DRED communication site:

| CATEGORY | ANNUAL RENT BASIS |
|--|--|
| NH State Entity | Beneficial Services (no-charge tenants as of 1/1/2013) |
| Federal Entity | Administrative Fee (\$1,000 as of 1/1/2013) |
| Government/Quasi-Governmental, Municipalities, County, Other State | Administrative Fee (\$1,000 as of 1/1/2013) |
| Commercial | Fair Market Rent |
| Other | Fair Market Rent |

XII. FEES:

A. **Fair Market Value Rent:** All new or renewed non-state tenant contracts (leases, permits, licenses) shall be assessed an annual fair market value rent (the Market Rent) or annual administrative fee(the Administrative Fee: based on beneficial services arrangements and/or other considerations) for each communications site, which shall be set by the Commissioner.

1. Items to be considered in determining the Market Rent or Administrative Fee will include:
 - Administration costs to the state.
 - User classification (public, quasi-public, private) and type of installation.
 - Prorated share of facilities maintenance.
 - Inventory of the equipment installed at the site.
 - Benefits accruing to the state as a result of joint installation.
 - Costs associated with installations at alternative locations on private property.
 - Market Rent values on comparable private communications sites.
 - Potential impacts to existing state park or state forest operations.
 - Public safety and/or quality of life considerations.
2. All communication installations on DRED lands owned by or leased to non-public tenants shall be subject to local taxes, payable by the tenant.

XIII. AMENDMENTS:

The Policy may be amended from time to time to serve the public interest upon recommendation of the Communication Site Advisory Committee and approval by the Commissioner.

Approved: Jeffrey J. Rose Date 1/29/14
Jeffrey J. Rose, Commissioner
Department of Resources and Economic Development

STATE OF NEW HAMPSHIRE
DEPARTMENT OF RESOURCES AND ECONOMIC DEVELOPMENT



**TECHNICAL REQUIREMENTS
FOR USE OF COMMUNICATION SITES**

Adopted June 30, 1995
Reviewed April 27, 2005
Revised February , 2014

Jeffrey J. Rose, Commissioner

172 Pembroke Road
Concord, N.H. 03301

State of New Hampshire
Department of Resources and Economic Development
Technical Requirements
For Use of Communication Sites

Introduction

The following outlines technical requirements for installation, operation and maintenance of communication equipment and appurtenances at Department of Resources and Economic Development (DRED) communication sites as required by Item III.H.6 of the DRED "Policy On Use and Management of Mountaintops for Communication Facilities". As stated in the policy, all requests for new communication equipment installations or modifications of existing equipment require review by the Communication Site Advisory Committee and approval by the Commissioner.

The Commissioner, with counsel from the Communication Site Advisory Committee, shall be the final authority in resolution of any conflicts between site users or in interpretation of these technical requirements and may require testing of user's equipment to determine compliance or to investigate possible sources of interference.

These requirements are in addition to any standards or conditions contained in the lease/use agreement.

These requirements shall apply to all new communications facilities and to existing facilities that are upgraded or expanded. The requirements may be waived or modified by the DRED Site Manager for facilities and/or users in existence at the date of adoption, as communication site conditions warrant.

Transmitters and Associated Equipment

- A. Transmitters shall be equipped with isolators to provide the following minimum isolation to reduce the possibility of intermodulation interference.
 - 25 db (70 MHz to 220 MHz)
 - 50 db (220 MHz to 1000 MHz)
 - 75 db (1000 MHz to 76 GHz)
- B. A Bandpass cavity shall be used between each antenna and associated transmitter or combiner. A combiner, or duplexer will satisfy this requirement.
- C. R.F. Devices including duplexers, isolators, cavities, switches, etc. shall be located inside grounded cabinets where physically possible. Open racks may be permitted on a site by site basis to fit specific needs.
- D. Grounding to each cabinet and device shall be installed and comply with current Standards and Guidelines for Communication Sites (R56), NFPA 780: Standard for the Installation of Lightning Protection Systems, and NFPA 70: National Electrical Code® when applicable.
- E. Transmission lines entering enclosed equipment cabinets shall do so via bulkhead connectors. Type "N" bulkhead connectors shall be used above 54 MHz.
- F. Power, telephone, network, or control lines shall be protected by grommets where they enter enclosed radio cabinets. Where high R.F. fields exist, telephone lines and control lines shall enter radio cabinets via RFI filtration devices.

- G. The use of RG\8, RG\58, braided shield, single shield coax cable or aluminum shielded cable is not permitted. This includes cables located within cabinets or racks. PTP, Microwave, or GPS systems whose manufacturer requires the use of LMR-400 or similar cable will be exempt providing the manufacturer's documentation is submitted to the DRED site manager prior to installation. Double shielded RG\58 (Belden 8268, etc.) may be used in external frequency reference and 1 PPS launch timing applications.
- H. Ethernet cable (CAT5e, CAT6, etc.) shall be routed to not interfere or receive interference from RF equipment.
- I. Ethernet cable (CAT5e, CAT6, etc.) shall be plenum rated for in shelter use and shielded/ outdoor rated when used outside of the shelter or on the tower.
- J. Ethernet cable (CAT5e, CAT6, etc.), and telephone lines shall be grounded upon entry into the shelter from an outside source (tower mounted equipment, or telco lines) using a UL listed surge suppressor and shall be installed in accordance with current Standards and Guidelines for Communication Sites (R56), NFPA 780: Standard for the Installation of Lightning Protection Systems, and NFPA 70: National Electrical Code® when applicable.
- K. Microwave or PTP transceivers shall be secured to an open rack or mounted within an enclosed cabinet. Unsecured devices will not be permitted.
- L. At no time will any equipment be mounted to an ice bridge or its support structure.
- M. Microwave or PTP ODU (Outdoor Units) should be mounted as close to the antenna as possible.

Antenna System Requirements

- A. Antenna systems must be approved by the DRED Site Manager prior to the commencement of installation work. The cost of any changes to the existing tower including structural work, tower painting, tower lighting, etc. will be paid for by the site user. Rearrangements of existing antennas will not be considered except under unusual circumstances.
- B. The design of each proposed antenna systems shall take into account the following:
 - *Antenna location will be assigned by the DRED Site Manager based on available space, required radiation pattern, transmitter power and frequency, antenna type, mounting restrictions and interference considerations.
 - *Only antennas which provide a direct dc path to ground may be utilized.
 - *Antennas shall be equipped with coaxial lightning protectors meeting ANSI standard 62.1. Lightning protectors shall be connected to site ground system in accordance with current Standards and Guidelines for Communication Sites (R56) and NFPA 780: Standard for the Installation of Lightning Protection Systems.
 - *R.F. link antennas, control antennas, and Microwave Antennas will be assigned mounting positions as low on the tower as possible.

*Metal antenna mounting hardware and falling ice protection hardware will be hot dipped galvanized or stainless steel.

*Only solid copper jacketed coax cable will be permitted for antenna cable runs. PTP, Microwave, or GPS systems whose manufacturer requires the use of LMR-400 or similar cable will be exempt providing the manufacturer's documentation is submitted to the DRED site manager prior to installation.

*Coax cable shall be individually attached to the tower legs or waveguide hangers. The location of coax cable runs will be assigned by the DRED Site Manager.

*Attachment of coax cable will be by stainless steel clamps or hangers spaced a maximum of three feet apart.

*The use of plastic " tie wraps " to support coax cable in any location is not permitted. The use of coating products that emit acetic acid are not permitted. Use of ultra-violet protected "tie wraps" are allowed on a temporary basis during construction or for temporary installations.

*Grounding kits with solid copper straps and mechanical compression shall be installed at top of tower, at point where coax cable departs the tower, and at the building entrance point. These clamps will be properly sealed to prevent corrosion at the coax cable connection. Stainless steel connectors will be used from the grounding kit to the tower. Grounding kits and procedures must comply with current Standards and Guidelines for Communication Sites (R56).

*Horizontal runs of coax cable shall be protected by ice shields and supported every three feet with stainless steel clamps or hangers.

*Coax cable shall enter buildings via weatherproof cable entrance ports or cable mounting plates. Positions will be assigned by the DRED Site Manager. Ground Clamps will be used on both sides of this connection and will be connected to the site ground system.

*Coax cable runs located inside buildings will utilize existing cable racks or will be supported overhead by hangers.

Power Requirements:

- A. Each site user will be responsible for the cost of installation of separately metered electrical service when such metering is required unless otherwise specified in the lease/use agreement.
- B. The provisions of backup power by DRED will require approval of the DRED Site Manager.
- C. Emergency generating equipment or battery backup units shall not be installed without approval of the DRED Site Manager.
- D. Each new transmitter and equipment cabinet will be connected to a separately fused AC outlet in accordance with current Standards and Guidelines for Communication Sites (R56), NFPA 70: National Electrical Code®, and State Electrical codes.
- E. Under no circumstances will one station be plugged into the accessory outlet of another cabinet.

- F. All electrical installation work shall be in full compliance with current Standards and Guidelines for Communication Sites (R56), NFPA 70: National Electrical Code®, and State Electrical codes.

Administrative Items

- A. A frequency compatibility study must be performed prior to installation; it shall be done by an independent consulting firm, which has been approved by DRED. The cost of this study is the responsibility of the site user. A subsequent study may be required each time the site user proposes an additional frequency at the site.
- B. The site user shall immediately cease operation if notified by the DRED that they are causing harmful interference.
- C. The DRED Site Manager shall be provided with copies of all FCC license applications, current FCC licenses and equipment specifications.
- D. The site user shall make no changes after the initial installation without prior written approval from the DRED Site Manager.
- E. Equipment shall be maintained in such a manner as to prevent it from becoming a source of interference or a safety hazard.
- F. Equipment shall have an ID tag attached, which shows licensee's name, address, call sign, frequency, tone squelch frequency and telephone number of person or organization responsible for maintenance work. Radio station licenses shall be posted for each transmitting station as required by FCC rules.
- G. Speakers will be turned off except during periods of maintenance work.
- H. Areas in and around the site user's equipment shall be kept clean and neat at all times. In addition, exterior areas including access roads, trails, and parking area shall be kept clean. Trash and unused materials shall be immediately removed from the site and not stored on the premises in any manner.
- I. Smoking, open flame, or welding will not be permitted inside buildings.
- J. Should the site user cause discharge of any Fire Protection System, they will be responsible for all costs associated with recharging the system, cleaning the building and repairing damaged equipment.
- K. If the building has an alarm system installed, the site user will notify designated Alarm Center when entering or leaving building in accordance with posted instructions.
- L. Site access shall be as designated in and subject to restrictions as described in the lease\use agreement. The DRED will not be responsible for plowing of access roads or trail entrances to the site unless specified in lease/use agreement.
- M. Prior to the signing of any lease, a joint visit of the site will be made by the proposed site user and the DRED Site Manager. Any additional special technical requirements not covered in this document will be determined at this meeting.

- N. When a lease is terminated for any reason, the site user will remove all equipment including antennas and feed lines within thirty days and will be responsible for any work necessary to return site to its previously existing condition. Should the site user fail to do so, then DRED will arrange to have work completed and will bill the site user for this work.

mtops tec

EXHIBIT "C"

Notice of Lease

Notice of the following Lease is hereby given in accordance with the provisions of the New Hampshire Revised Statutes Annotated, Chapter 477, Sections 7 and 7-a: and as per Chapter 72, Section 72:1, failure of the Lessee to pay the duly assessed personal and real estate taxes when due, or failure to record this Notice of Lease, shall be cause to terminate the Lease by the State.

LESSOR: **STATE OF NEW HAMPSHIRE**, Department of Natural and Cultural Resources , having a mailing address of 172 Pembroke Road, Concord, New Hampshire 03301

LESSEE: **FEDERAL BUREAU of INVESTIGATION**, a United States of America Federal Service having its place of business at FBI-ERF, Building 27958A, Quantico, VA 22135

TERM EFFECTIVE DATE: _____

DESCRIPTION: Communications Lease at Mount Washington State Park – Sargent’s Purchase, NH

LEASED PREMISES

The STATE, for and in consideration of the covenants and agreements hereinafter contained and made on the part of LESSEE, does hereby grant, demise and lease to LESSEE:

- a. Designated Space on the Yankee Building and
- b. Designated Space in the Yankee Building
- c. Together with all lines, anchors, connections and such appurtenant and accessory devices as required for the transmission, reception, encryption and translation of voice and data signals by means of radio frequency energy (collectively, the “Facilities”).

TERM: One (1) five (5) year

RIGHTS OF EXTENSION OR RENEWAL: None

EXECUTED as an instrument under seal on the dates indicated below.

LESSOR:

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF RESOURCES
AND ECONOMIC DEVELOPMENT**

By: Jeffrey J. Rose
Jeffrey J. Rose
Commissioner

STATE OF NEW HAMPSHIRE
COUNTY OF MERRIMACK

The foregoing instrument was acknowledged before me this 24th day of October, 2017, by Jeffrey J. Rose, in his capacity as Commissioner of the Department of Resources and Economic Development.

Lishe Carson
NOTARY PUBLIC/JUSTICE OF PEACE
My Commission expires: NOV. 20, 2018

LESSEE:

Federal Bureau of Investigation

By: Nancy J. Beck
Nancy J. Beck
Contracting Officer
Duly Authorized

FEDERAL BUREAU of INVESTIGATION
COUNTY OF STAFFORD

On this 7th day of September, 2017, before me, the undersigned Contracting Officer for the Federal Bureau of Investigation, personally appeared, who acknowledged being authorized to do so, executed the foregoing instrument for the purposes contained therein, by signing above.

Jennifer Turner
NOTARY PUBLIC/JUSTICE OF PEACE
My Commission expires: 4-30-2021



**STANDARD FBI ANTENNA SITE
AGREEMENT RIDER**

This rider is hereby incorporated as part of a certain Agreement entered between the Department of Resources & Economic Development (Site Owner/Manager) and the Federal Bureau of Investigation (FBI) (Site User) for use of said Premises Mount Washington (site name) located at 1594 Mount Washington Auto Road, Sargent's Purchase, NH 03581 (site address).

NOTE: THE TERMS AND CONDITIONS OF THIS RIDER SHALL GOVERN OVER THE TERMS AND CONDITIONS OF SAID AGREEMENT.

This Agreement shall be deemed a permit, not a lease.

The initial term of this Agreement shall run from October 1, 2016 to September 30, 2017 (base year). Site User may extend the term of the Agreement for four additional one-year option periods. Each option year shall run from October 1 until September 30 so as to conform to the Government's fiscal year. In addition, Site User shall give the Site Owner/Manager a written notice of intent to renew at least 60 days before the Agreement expires on September 30.

The FBI, Department of Justice, is an agency of the United States Government and is self-insured.

For Rooftop installations, Site User acknowledges that Site Owner/Manager may decide, in its sole discretion, from time to time, to make repairs to the roof of the building on the Property or to replace all or part of the roof of the building on the Property. If Site Owner/Manager elects to make roof repairs, Site User will, upon Site Owner/Manager's request, and at Site Owner/Manager's cost, temporarily remove or relocate Site User's rooftop Improvements so that the roof repairs may be completed.

Site Owner/Manager shall have the right to change the location of the Improvements (including relocation of Improvements on the tower to an elevation used by other Site Users) upon sixty (60) days written notice to Site User, provided that said change does not, when complete, materially alter the signal pattern of the Improvements existing prior to the change. Any such relocation shall be performed at Site Owner/Manager's expense and with reasonably minimal disruption to Site User's operations and shall be evidenced by an amendment to this Agreement.

Site Owner/Manager, at Site Owner/Manager's sole cost and expense, shall maintain the Premises (excluding Site User's Improvements) and the access to the Premises in good order and repair. Site Owner/Manager shall, at Site Owner/Manager's sole expense, provide for interior maintenance and repairs of the property, as applicable, in accordance with generally accepted good practices. Damage resulting from the acts or omissions of Site User shall be repaired by Site User at the Site User's sole cost and expense. The costs of any maintenance and operations of the Site User's Improvements, unless otherwise provided herein, shall be at the sole expense of Site User.

Site User assumes liability for claims and/or liability of personal and property damages arising out of the acts, omissions, or negligence of the Site User or its employees acting within the scope of their employment (1) in the operation and maintenance of the herein Premises or (2) the failure of the Site User or its employees acting in the scope of their employment to observe and abide by any of the terms of conditions of this Agreement. This assumption of liability is coextensive with and in accordance to the liability of the Government under the Federal Tort Claims Act (Title 28, USC, Section 2671-2680). Claims for tort damages shall be submitted and adjudicated in accordance with the procedures of the Federal Tort Claims Act and applicable state and Federal law.

All transactions arising hereunder shall be governed and interpreted by the laws of the state in which the communications site resides, provided that such state law does not conflict with federal law.

All Federal government frequencies are authorized by the Department of Commerce (DOC) and are exempt from disclosure under the Freedom of Information Act. Frequencies cannot be posted at communications sites. Copies of DOC frequency authorizations can be provided to communications site owners or managers upon request.

The monthly fees provided for herein shall be due and payable by Site User in arrears.

In compliance with the Debt Collection Improvement Act of 1996, all Federal payments will be made by electronic funds transfer (EFT). Complete and return attached EFT information form.

Any interest liability for late payments shall be computed and assessed in accordance with the terms and provisions embodied in the Prompt Payment Act, Federal Acquisition Regulation 52.232-25.

Extension of this Agreement beyond the base year and subsequent option years is contingent upon Congressional approval of the funding needed to cover this agreement.

Except as otherwise provided in this Agreement, neither party shall be liable to the other for any claim that either may have against the other with respect to the recovery of any incidental, consequential, indirect, special, punitive, or exemplary damages.

ATTACHMENT 2

Site User shall pay an all inclusive fee of **\$520.00** per month for the base year of this agreement to the Site Owner/Manager for the use of the Premises. **The fee shall include the cost of electricity for the Site User's Improvements.** Payments shall be made payable monthly in arrears and shall commence on the date of installation of equipment or upon another agreed to date. Payment will be made by Electronic Funds Transfer.

Renewal of this Agreement for each successive year shall be on the same terms and conditions as set forth herein except that fee shall be increased by 3% over the rent paid during the preceding term for each renewal period.

Base Year: **520.00**/month
Option Year 1: **535.60**/month
Option Year 2: **551.67**/month
Option Year 3: **568.22**/month
Option Year 4: **585.26**/month

The federal government has created the System for Award Management (SAM.gov) <https://www.sam.gov/portal/public/SAM/>. This system increases visibility of vendor sources for specific supplies and services as well as establishes a common source of vendor data for the Federal Government. Every vendor registered in SAM.gov has a unique Dun and Bradstreet (DUNS) number. Payments to vendors are sent to the banking information that is tied to the DUNS number in SAM.gov. The banking information that the vendor enters into SAM.gov is not accessible to anyone other than the vendor. It is necessary for the Site Owner/Manager to ensure that the FBI has the DUNS number which has the current banking account information which the Site Owner/Manager desires the FBI to direct payments to. The Site Owner/Manager is required to keep the SAM.gov registration up-to-date and to ensure the banking information is accurate. If the Site Owner/Manager **does not** register in SAM.gov, it is necessary for the Site Owner/Manager to provide the routing and account numbers below.

PAYMENT INFORMATION FOR ELECTRONIC FUNDS TRANSFER

Tax Identification Number (mandatory): **026000618**

Licensor DUNS Number (mandatory): **073451838**

FINANCIAL INSTITUTION INFORMATION

9-Digit Routing Number: _____

Depositor Account Number: _____

VENDOR SITE NUMBER: _____
DATE LEASE EXECUTED: _____

SITE NAME: Mt Washington
SITE NUMBER: BS-045

FBI STANDARD BOA ATTACHMENT 3
SITE INFORMATION

ADDRESS (E911)
Mt. Washington
Sargents Purchase, NH 03846
County _____

On-site Phone # 6034662626
NPA 603
NXX 466
On-site LEC ID _____
Phone # closest to site _____

TELCO DEMARC (LEC point of entry) _____

FBI EQUIPMENT DEMARC/EXTENSION (bldg, floor, suite, etc.)
Yankee Bldg 3rd fl.

Latitude 44 16 13 N (degrees:minutes:seconds)

Structure Type High Rise Building

Longitude 71 18 13-W (degrees:minutes:seconds)

Structure Height (feet)
(Base of structure to top of structure) 50

Above Mean Sea Level
(AMSL) to BASE of structure 6288

Site shared with _____

FOR SITE ACCESS CALL Communications Technician

Phone 6032712214

SITE MANAGEMENT
DRED - NH
172 Pembroke Road
Concord, NH 03301
Phone 603-271-2214 Fax _____
Site POC Email _____

LAND OWNER
State of New Hampshire
Same
Phone _____ Fax _____

BUILDING OWNER
Same
Phone _____ Fax _____

TOWER OWNER
Same
Phone _____ Fax _____

Utilities Provider _____
 Backup power required Party responsible for: _____ name _____ phone _____
 Backup generator available Utility Payment _____
Road Maintenance _____

Bureau-owned property Quantar Repeater

Directions to site
95N to exit 55. Go right off of exit and follow into Lincoln. Pickup Route 6E in Lincoln and follow approx. 40 miles and you'll come to Musquash lake on left. Go past lake and picnic area. Less than 1 mile after lake on right is dirt road that goes up the mountain. Follow approx. 1.4 miles to summit.

Other comments about site (connectivity issues, site access, special contact info, etc.) _____

Winter time access is via Snow Cat and at \$500 a trip if not coordinated with Mt Washington State Park staff then cost will be negotiated on number of staff and load being carried on scheduled trip.

Form completed by TM Michael Pettis Date 05/05/2016

| ANTENNA | Antenna 1 | Antenna 2 | Antenna 3 | Antenna 4 |
|---------------------------|-----------|-----------|-----------|-----------|
| Type | Omni | | | |
| Manufacturer | Cellwave | | | |
| Model | | | | |
| Model Number | | | | |
| Size (feet) | 1.8 | | | |
| Mount Location | Top | | | |
| Antenna Height (AGL) (ft) | 50 | 0 | | |
| Azimuth (deg) (omni=360) | 360 | 0 | | |
| Aperture (MW) | | | | |
| Feedline diameter (in) | 7.8 | | | |
| Feedline Length (ft) | 40 | 0 | | |
| Antenna Gain (dBd) | 3. | | | |

| RADIO | Station 1 | Station 2 | Station 3 | Station 4 |
|---|------------|-----------|-----------|-----------|
| Antenna (Identify antenna number from above) | 1 | 0 | | |
| Type of Equipment (repeater, receiver, comparator, etc) | Repeater | | | |
| Manufacturer | Motorola | | | |
| Model | Quantar | | | |
| Model Number | T5365A | | | |
| Serial Number | 509CYD0072 | | | |
| Property Number (BCN) | F1454972 | | | |
| Channel Name | H5 | | | |
| Zone | Portsmouth | | | |
| Bandwidth | Narrowband | | | |
| TX Power | 125W | | | |
| TX Frequency | | | | |
| RX Frequency | | | | |
| Program/Component (FBI, MIGS, ATF, USMS, SSG, etc.) | FBI | | | |
| Firmware Revision | | | | |

Other DOJ property located at this site

Site station configurations and general comments

| WIRELINE CONNECTIVITY – Service-Enabling Devices (SEDS) | | | | |
|---|-----------------|---------------------|---------|---|
| Type of CSU/DSU: Adtran, Paradyne, Other | <u>Paradyne</u> | Model # | <u></u> | FBI or Telco owned? <u>FBI</u> |
| T-1 Channel Bank: Model # | <u></u> | FBI or Telco owned? | <u></u> | Open ports? <u>No</u> If yes, # <u></u> |