

OFF-AIRPORT LAND LEASE
Between
THE UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION
And
COUNTY OF ALBANY, NEW YORK

FAA CONTRACT NO: 69435Z-19-L-00154

ATID/FACILITY TYPE: (ALB) RTR/RCO & ASR-9

LOCATION: Albany, New York

1. Preamble (09/2021) 6.1.1

This Lease for real property is hereby entered into by and between County of Albany, New York, hereinafter referred to as the Lessor and the United States of America, acting by and through the Federal Aviation Administration, hereinafter referred to as the FAA.

2. Definitions (09/2021) 6.1.1-1

For purposes of this document, the following definitions apply;

Contract- refers to this legal instrument used to acquire an interest in real property for the direct benefit or use by the FAA. As used herein, contract denotes the document (for example- lease, easement, memorandum of agreement, or other legally binding agreement) used to implement an agreement between a customer (buyer) and a seller (supplier).

Contractor- refers to the party(ies) receiving a direct procurement contract from the FAA and who is(are) responsible for performance of contract requirements. For purposes of this document, the contractor may also be called the Lessor, Permitter, Licensor, Grantor, Airport, or Offeror depending on the type of contract or the provision within the contract.

Government- refers to the United States of America acting by and through the Federal Aviation Administration (FAA). For purposes of this document, Government and FAA are interchangeable.

Real Estate Contracting Officer (RECO) - is a trained and warranted official who contracts for real property on behalf of the FAA. For purposes of this agreement, RECO is interchangeable with Contracting Officer (CO).

3. Succeeding Contract (09/2021) 6.1.2

This contract succeeds DTFA05-93-L-62174 and all other previous agreements between the parties for the property described in this document.

4. Lease Witnesseth (09/2021) 6.1.3

Witnesseth: The parties hereto, for the consideration hereinafter mentioned, covenant and agree as follows:

5. Description of Premises (09/2021) 6.1.4-3

This contract covers the following described property, hereinafter referred to as the premises and hereby consisting of:

(ALB) Airport Surveillance Radar [ASR-9] Site

All that tract or parcel of land, situate in The Town of Colonie, County of Albany, and State of New York and being bounded and described as follows:

Commencing at a concrete monument found at the northwest corner of Fee Parcel 283 of Map 227 of the Lands Appropriated by the People of the State of New York, recorded in Liber 2709, Page 432 on 5/15/2002, said point also being on the westerly line of lands reputedly conveyed to the County of Albany by deed recorded in Liber 768, Page 394;

Thence North 09 Degrees 00 Minutes 03 Seconds West, along the westerly line of lands conveyed to the County of Albany, a distance of 706.62 feet to a point;

Thence North 84 Degrees 18 Minutes 18 Seconds East, through the lands conveyed to the County of Albany, a distance of 336.44 feet to a concrete monument found at the Point of Beginning.

Thence from the Point of Beginning and through the lands conveyed to the County of Albany, the following four courses and distances:

1. North 05 Degrees 41 Minutes 43 Seconds West, a distance of 150.00 feet to a set ¾" rebar with cap;
2. North 84 Degrees 18 Minutes 18 Seconds East, for a distance of 150.00 feet to found concrete monument;
3. South 05 Degrees 41 Minutes 43 Seconds East, for a distance of 150.00 feet to a found concrete monument;
4. South 84 Degrees 18 Minutes 18 Seconds West, for a distance of 150.00 feet to the Point of Beginning. Containing a total of 0.52 Acres.

(ALB) Remote Transmitter/Receiver [RTR]/Remote Communications Outlet [RCO] Site

All that tract or parcel of land, situate in The Town of Colonie, County of Albany, and State of New York and being bounded and described as follows:

Commencing at a concrete monument found at the northwest corner of Fee Parcel 283 of Map 227 of Lands Appropriated by the People of the State of New York, recorded in Liber 2709, Page 432 on 5/15/2002, said point also being on the westerly line of lands reputedly conveyed to the County of Albany by deed recorded in Liber 768, Page 394;

Thence along the westerly line of lands conveyed to the County of Albany the following two courses and distances:

1. North 09 Degrees 00 Minutes 03 Seconds West, a distance of 706.62 feet to a point;

2. North 09 Degrees 00 Minutes 03 Seconds West, a distance of 55.63 feet to a point;
Thence North 83 Degrees 18 Minutes 06 Seconds East, through the lands conveyed to the County of Albany, a distance of 42.77 feet to a duranail set at the Point of Beginning.

Thence from said Point of Beginning and through the lands conveyed to the County of Albany the following four courses and distances:

1. North 06 Degrees 42 Minutes 47 Seconds West, a distance of 101.07 feet to a set duranail;
2. North 83 Degrees 28 Minutes 25 Seconds East, a distance of 121.54 feet to a set duranail;
3. South 06 Degrees 54 Minutes 54 Seconds East, a distance of 100.70 feet to a set duranail;
4. South 83 Degrees 18 Minutes 06 Seconds West, a distance of 121.89 feet to the Point of Beginning. Containing a total of 0.28 Acres of Land.

Access Road for (ALB) RTR and (ALB) ASR-9 areas

A non-exclusive Access Road Easement for ingress/egress situate in The Town of Colonie, County of Albany, and State of New York and being bounded and described as follows:

Commencing at a concrete monument found at the northwest corner of Fee Parcel 283 of Map 227 of the Lands Appropriated by the People of the State of New York, recorded in Liber 2709, Page 432 on 5/15/2002, said point also being on the westerly line of lands reputedly conveyed to the County of Albany by deed recorded in Liber 768, Page 394;

Thence North 70 Degrees 50 Minutes 36 Seconds East, along the northerly line of Fee Parcel 283 of Map 227 of the lands Appropriated by the People of the State of New York, Liber 2709, Page 432, a distance of 54.27 to a point on the westerly edge of a paved driveway, said point being the Point of Beginning;

Thence from the Point of Beginning and along the edge of a paved driveway and through the lands conveyed to the County of Albany, the following six courses and distances:

1. North 20 Degrees 18 Minutes 38 Seconds West, a distance of 205.13 feet to a point;
2. North 09 Degrees 01 Minutes 54 Seconds West, a distance of 75.42 feet to a point;
3. North 07 Degrees 56 Minutes 15 Seconds West, a distance of 175.50 feet to a point;
4. North 09 Degrees 19 Minutes 11 Seconds West, a distance of 113.31 feet to a point;
5. North 09 Degrees 25 Minutes 49 Seconds West, a distance of 157.55 feet to a point;
6. North 01 Degrees 04 Minutes 28 Seconds East, a distance of 30.01 feet to a point at the edge of a gravel driveway;

Thence along the edge of a gravel driveway and through the lands conveyed to the County of Albany, the following three courses and distances:

1. North 01 Degrees 34 Minutes 35 Seconds West, a distance of 52.73 feet to a point;
2. North 2 Degrees 00 Minutes 55 Seconds West, a distance of 49.21 feet to a point;
3. North 87 Degrees 34 Minutes 21 Seconds East, a distance of 14.22 feet to a set duranail at the northwest corner of the "ALB RTR" Site;

Thence South 06 Degrees 42 Minutes 47 Seconds East, along the west line of the "ALB RTR Site", a distance of 101.07 feet to a set duranail;

Thence South 45 Degrees 58 Minutes 57 Seconds East, through the lands conveyed to the County of Albany, a distance of 6.14 feet to a point on the northerly edge of a paved driveway;

Thence along the northerly edge of a paved driveway and through the lands conveyed to the County of Albany, the following three courses and distances:

1. North 83 Degrees 06 Minutes 44 Seconds East, a distance of 117.10 feet to a point;
2. North 82 Degrees 14 Minutes 53 Seconds East, a distance of 88.53 feet to a point;
3. North 80 Degrees 59 Minutes 35 Seconds East, a distance of 87.51 feet to a point on the westerly line of the "ALB ASR9" Site;

Thence South 5 Degrees 41 Minutes 43 Seconds East, along the westerly line of the "ALB ASR9" Site, a distance of 10.87 feet to a point on the southerly edge of a paved driveway;

Thence along the edge of a paved driveway and through the lands conveyed to the County of Albany, the following two courses and distances:

1. South 81 Degrees 37 Minutes 06 Seconds West, a distance of 131.41 feet to a point;
2. South 82 Degrees 51 Minutes 14 Seconds West, a distance of 162.92 feet to a point;

Thence southwesterly along the edge of a paved driveway and along a non-tangent curve to the left, said curve having a radius of 25.00 feet, an arc length of 33.17, a delta angle of 76 Degrees 01 Minutes 12 Seconds, and a chord measuring South 37 Degrees 35 Minutes 32 Seconds West, a distance of 30.79 feet to a point;

Thence continuing along the edge of a paved driveway and through the lands conveyed to the County of Albany, the following nine courses and distances:

1. South 09 Degrees 54 Minutes 15 Seconds East, a distance of 49.07 feet to a point;
2. South 09 Degrees 28 Minutes 25 Seconds East, a distance of 213.05 feet to a point;
3. South 08 Degrees 03 Minutes 16 Seconds East, a distance of 176.24 feet to a point;
4. North 77 Degrees 47 Minutes 04 Seconds East, a distance of 1.48 feet to a point;

5. South 08 Degrees 07 Minutes 12 Seconds East, a distance of 52.03 feet to a point;
6. South 11 Degrees 13 Minutes 02 Seconds East, a distance of 19.70 feet to a point;
7. South 17 Degrees 09 Minutes 13 Seconds East, a distance of 19.67 feet to a point;
8. South 20 Degrees 59 Minutes 53 Seconds East, a distance of 141.77 feet to a point;
9. South 20 Degrees 46 Minutes 31 Seconds East, a distance of 45.31 feet to a point on the northerly line of the aforementioned Fee Parcel 283 of Map 227 of the Lands Appropriated by the People of the State of New York, recorded in Liber 2709, Page 432 on 5/15/2002;

Thence South 70 Degrees 50 Minutes 36 Seconds West, along the northerly line of Fee Parcel 283 of Map 227 of the Lands Appropriated by the People of the State of New York, a distance of 11.58 feet to Point of Beginning. Containing a total of 0.28 Acres of land.

10' Wide Cable Easement

A 10-foot wide Cable Easement situate in The Town of Colonie, County of Albany, and State of New York and being bounded and described as follows:

Commencing at a concrete monument found at the northwest corner of Fee Parcel 283 of Map 227 of the Lands Appropriated by the People of the State of New York, recorded in Liber 2709, Page 432 on 5/15/2002, said point also being on the westerly line of lands reputedly conveyed to the County of Albany by deed recorded in Liber 768, Page 394;

Thence along the westerly line of lands conveyed to the County of Albany the following two courses and distances:

1. North 09 Degrees 00 Minutes 03 Seconds West, a distance of 706.62 feet to a point;
2. North 09 Degrees 00 Minutes 03 Seconds West, a distance of 55.63 feet to a point;

Thence through the lands conveyed to the County of Albany the following three courses and distances:

1. North 83 Degrees 18 Minutes 06 Seconds East, a distance of 42.77 feet to a duranail set at the southwest corner of the "ALB RTR Site" Lease Area;
2. North 83 Degrees 18 Minutes 06 Seconds East, along the south line of the "ALB RTR site", a distance of 121.89 feet to a duranail set;
3. North 06 Degrees 54 Minutes 54 Seconds West, along the east line of the "ALB RTR Site, a distance of 22.00 feet to the Point of Beginning.

Thence from the Point or Place of Beginning and through the lands of the County of Albany, the following four courses and distances:

1. North 06 Degrees 54 Minutes 54 Seconds West, along the east line of a proposed "RTR" Lease area, a distance of 10.00 feet to a point;

2. North 82 Degrees 09 Minutes 21 Seconds East, a distance of 175.82 feet to a point on the west line of a the "ALB ASR9" Site;
3. South 05 Degrees 41 Minutes 43 Seconds East, along the west line of the "ALB ASR9" Site, a distance of 10.01 feet to a point;
4. South 82 Degrees 09 Minutes 21 Seconds West, a distance of 175.61 feet to the Point of Beginning. Containing a total of 0.04 acres.

PERPETUAL EASEMENT PARCEL ONE

All that tract or parcel of land, situate in The Town of Colonie, County of Albany, and State of New York and being bounded and described as follows:

BEGINNING at a point on the westerly bounds of Albany Shaker Road (also known as Heritage Lane), said point being South 02 Degrees 54 Minutes 34 Seconds East, a distance of 7.00 feet from a found rebar at the northeast corner of property described in a deed from the Town of Colonie to the County of Albany in Liber 2932, Page 96 and recorded on 09/23/2008.

Thence South 02 Degrees 54 Minutes 34 Seconds East, along the easterly bounds of the aforementioned lands of the County of Albany and along the westerly bounds of the Albany Shaker Road, a distance of 10.00 feet to a point;

Thence through the aforementioned lands of the County of Albany the following eighteen courses and distances:

1. South 87 Degrees 04 Minutes 35 Seconds West, a distance of 572.56 feet to a point;
2. South 39 Degrees 06 Minutes 22 Seconds West, a distance of 171.63 feet to a point;
3. North 52 Degrees 36 Minutes 24 Seconds West, a distance of 160.65 feet to a point;
4. North 64 Degrees 36 Minutes 20 Seconds West, a distance of 17.10 feet to a point;
5. North 82 Degrees 25 Minutes 05 Seconds West, a distance of 16.49 feet to a point;
6. South 84 Degrees 18 Minutes 56 Seconds West, a distance of 15.23 feet to a point;
7. South 68 Degrees 45 Minutes 06 Seconds West, a distance of 9.06 feet to a point;
8. South 52 Degrees 49 Minutes 24 Seconds West, a distance of 10.95 feet to a point;
9. South 40 Degrees 26 Minutes 37 Seconds West, a distance of 13.26 feet to a point;
10. South 27 Degrees 25 Minutes 18 Seconds West, a distance of 24.46 feet to a point;
11. South 23 Degrees 29 Minutes 56 Seconds West, a distance of 12.01 feet to a point;
12. South 24 Degrees 23 Minutes 49 Seconds West, a distance of 54.69 feet to a point;
13. South 23 Degrees 33 Minutes 35 Seconds West, a distance of 46.42 feet to a point;
14. South 25 Degrees 05 Minutes 39 Seconds West, a distance of 52.00 feet to a point ;
15. South 31 Degrees 53 Minutes 56 Seconds West, a distance of 50.69 feet to a point;

16. South 25 Degrees 46 Minutes 33 Seconds West, a distance of 38.69 feet to a point;
17. South 10 Degrees 02 Minutes 26 Seconds West, a distance of 31.02 feet to a point;
18. North 87 Degrees 30 Minutes 10 Seconds West, a distance of 47.29 feet to point on the westerly bounds of the aforementioned lands conveyed to the County of Albany;

Thence North 29 Degrees 59 Minutes 29 Seconds East, along the westerly bounds of the aforementioned lands of the County of Albany, a distance of 11.27 feet to a point;

Thence through the aforementioned lands of the County of Albany the following eighteen courses and distances:

1. South 87 Degrees 30 Minutes 10 Seconds East, a distance of 33.32 feet to a point;
2. North 10 Degrees 02 Minutes 26 Seconds East, a distance of 23.64 feet to a point;
3. North 25 Degrees 46 Minutes 33 Seconds East, a distance of 40.61 feet to a point;
4. North 31 Degrees 53 Minutes 56 Seconds East, a distance of 50.63 feet to a point;
5. North 25 Degrees 05 Minutes 39 Seconds East, a distance of 51.27 feet to a point;
6. North 23 Degrees 33 Minutes 35 Seconds East, a distance of 46.36 feet to a point;
7. North 24 Degrees 23 Minutes 49 Seconds East, a distance of 54.68 feet to a point;
8. North 23 Degrees 29 Minutes 56 Seconds East, a distance of 12.27 feet to a point;
9. North 27 Degrees 25 Minutes 18 Seconds East, a distance of 26.67 feet to a point;
10. North 41 Degrees 04 Minutes 57 Seconds East, a distance of 14.77 feet to a point;
11. North 52 Degrees 49 Minutes 24 Seconds East, a distance of 13.43 feet to a point;
12. North 68 Degrees 45 Minutes 06 Seconds East, a distance of 11.83 feet to a point;
13. North 84 Degrees 18 Minutes 56 Seconds East, a distance of 17.76 feet to a point;
14. South 82 Degrees 25 Minutes 05 Seconds East, a distance of 19.22 feet to a point;
15. South 64 Degrees 36 Minutes 20 Seconds East, a distance of 19.72 feet to a point;
16. South 52 Degrees 36 Minutes 24 Seconds East, a distance of 151.99 feet to a point;
17. North 39 Degrees 06 Minutes 22 Seconds East, a distance of 166.37 feet to a point;
18. North 87 Degrees 04 Minutes 35 Seconds East, a distance of 577.01 feet to The Point of Beginning. Containing 0.31 Acres of Land.

PERPETUAL EASEMENT PARCEL TWO

All that tract or parcel of land, situate in The Town of Colonie, County of Albany, and State of New York and being bounded and described as follows:

Commencing at a concrete monument found at the northwest corner of Fee Parcel 283 of Map 227 of the Lands Appropriated by the People of the State of New York, recorded in Liber 2709, Page 432 on 5/15/2002, said point also being on the westerly line of lands reputedly conveyed to the County of Albany by deed recorded in Liber 768, Page 394;

Thence along the westerly line of lands conveyed to the County of Albany the following two courses and distances:

1. North 09 Degrees 00 Minutes 03 Seconds West, a distance of 706.62 feet to a point;
2. North 84 Degrees 18 Minutes 18 Seconds East, a distance of 336.44 feet to a found concrete monument at the southwest corner of the ALB ASR Lease Site;

Thence along the bounds of the ALB ASR Lease Site, the following two courses and distances:

1. North 05 Degrees 41 Minutes 43 Seconds West, a distance of 150.00 feet to a set ¾" rebar with cap;
2. North 84 Degrees 18 Minutes 18 Seconds East, a distance of 150.00 feet to a concrete monument at the POINT OF BEGINNING.

Thence South 84 Degrees 18 Minutes 18 Seconds West Along the northerly line of the aforementioned ALB ASR Lease Site, a distance of 82.00 feet to a point;

Thence through the lands reputedly conveyed to the County of Albany by deed recorded in Liber 768, Page 394, the following five courses and distances:

1. North 05 Degrees 41 Minutes 42 Seconds West, a distance of 10.00 feet to a point;
2. North 84 Degrees 18 Minutes 18 Seconds East, a distance of 92.00 feet to a point;
3. South 05 Degrees 41 Minutes 43 Seconds East, a distance of 153.77 feet to a point;
4. North 82 Degrees 52 Minutes 48 Seconds East, a distance of 249.31 feet to a point;
5. South 87 Degrees 57 Minutes 07 Seconds East, a distance of 32.10 feet to a point on the westerly bounds of the Lands Appropriated by the People of the State of New York; Fee Parcel 242, Map 227, recorded in Liber 2709, Page 432 on 05/15/2002, for highway improvements of Watervliet-Shaker Road/State Route 155), said point being South 21 Degrees 37 Minutes 07 Seconds West, a distance of 7.41 feet from an existing New York State Concrete Highway Monument;

Thence South 87 Degrees 57 Minutes 07 Seconds East, through the Lands Appropriated by the People of the State of New York; Fee Parcel 242, Map 227, recorded in Liber 2709, Page 432 on 5/15/2002, for highway improvements of Watervliet-Shaker Road/State Route 155, a distance of 214.92 feet to a point on the easterly bounds thereof;

Thence South 87 Degrees 57 Minutes 07 Seconds East, continuing through the aforementioned lands reputedly conveyed to the County of Albany by deed recorded in Liber 768, Page 394, a distance of 197.68 feet to a point on the westerly bounds of lands described in a deed from the Town of Colonie to the County of Albany in Liber 2932, Page 96, recorded on 09/23/2008;

Thence South 29 Degrees 59 Minutes 29 Seconds West, along the westerly bounds of the lands described in Liber 2932, Page 96, a distance of 11.27 feet to a point;

Thence North 87 Degrees 57 Minutes 07 Seconds West, through the aforementioned lands reputedly conveyed to the County of Albany by deed recorded in Liber 768, Page 394, a distance of 195.20 feet to a point on the easterly bounds of the aforementioned Lands Appropriated by the People of the State of New York; Fee Parcel 242, Map 227, recorded in Liber 2709, Page 432 on 05/15/2002;

Thence North 87 Degrees 57 Minutes 07 Seconds West, through the aforementioned Lands Appropriated by the People of the State of New York; Fee Parcel 242, Map 227, recorded in Liber 2709, Page 432 on 05/15/2002, a distance of 215.66 feet to a point on the westerly bounds thereof;

Thence through the lands reputedly conveyed to the County of Albany by deed recorded in Liber 768, Page 394, the following three courses and distances:

1. North 87 Degrees 57 Minutes 07 Seconds West, a distance of 27.52 feet to a point;
2. South 82 Degrees 52 Minutes 48 Seconds West, for a distance of 259.01 feet to a point;
3. North 05 Degrees 41 Minutes 43 Seconds West, for a distance of 4.02 feet to a found concrete monument at the southeast corner of the ASR ALB Lease Site;

Thence North 05 Degrees 41 Minutes 43 Seconds West, along the easterly bounds of the ASR ALB Lease Site, a distance of 150.00 feet to the POINT OF BEGINNING. Containing 0.21 Acres.

- A. Together with a right-of-way for ingress to and egress from the premises (for Government employees, their agents and assigns); a right-of-way for establishing and maintaining electric power and/or telecommunication lines to the premises; and a right-of-way for subsurface power, communication and/or water lines to the premises; all rights-of-way to be over said lands and adjoining lands of the contractor, and unless herein described otherwise, shall be reasonably determined by the Government as the most convenient route.
- B. This contract includes the right of grading, conditioning, installing drainage facilities, seeding the soil of the premises, and the removal of all obstructions from the premises that may constitute a hindrance to the establishment and maintenance of Government facilities.
- C. The Government shall also have the right to make alterations, attach fixtures, erect additions, structures, or signs, in or upon the premises hereby leased. All alterations and additions are and will remain the property of the Government.

RESTRICTIVE AERIAL EASEMENT (200-FOOT RADIUS)

The Contractor hereby confirms, establishes, grants, and conveys to the Government and its successors and assigns an exclusive Restrictive Aerial Easement in, on, over, and across the property within a 200-foot radius from the center of the facility.

This contract includes the right to prohibit all obstructions above ground surface and other obstacles (e.g., new fencing or vegetation structures) that abridge the rights hereby granted. The restrictions are subject to the rights of the Contractor and assigns to use the land for the type and height of the permitted by the Government and further subject to existing structures in place under existing easements for public roads and highways, public utilities, railroads, and pipelines, and any present or future use by lessor and assigns, which does not interfere with or abridge the restrictive rights hereby contracted.

Contractor or it's agent is required to go to website <https://oeaaa.faa.gov> to submit essential data for FAA evaluation prior to any construction or alteration, including any construction activities planned/performed by third parties.

6. Purpose (09/2021) 6.1.5

It is understood and agreed that the use of the herein described premises shall be related to FAA's activities in support of the National Airspace System (NAS).

7. Legal Authority (09/2021) 6.2.1

This contract is entered into under the authority of 49 U.S.C. 106(l)(6) and (n), which authorizes the Administrator of the FAA to enter into contracts, acquisitions of interests in real property, agreements, and other transactions on such terms and conditions as the Administrator determines necessary.

8. Term (09/2021) 6.2.3

To have and to hold, for the term commencing on 10/01/2017 and continuing through 9/30/2037 inclusive, provided that adequate appropriations are available from year to year for the consideration herein.

9. Consideration (No Cost) (09/2021) 6.2.4-4

The Government shall pay the contractor no monetary consideration. It is mutually agreed that the rights extended to the Government herein are in consideration of the obligations assumed by the Government in its establishment, operation and maintenance of facilities upon the premises.

10. Termination (09/2021) 6.2.5

The Government may terminate this contract at any time, in whole or in part, if the Real Estate Contracting Officer (RECO) determines that a termination is in the best interest of the Government. The RECO shall terminate this contract by delivering a written notice specifying the effective date of the termination. The termination notice shall be delivered at least 30 days before the effective termination date. No costs shall accrue as of the effective date of termination.

11. Excuse (09/2021) 6.2.5-3

A. The Lessor will not be in default because of any failure to perform the requirements of this Lease under its terms if the failure arises from causes beyond the control and without the fault or negligence of the Lessor.

B. Permissible causes for excuse are:

- i. acts of God (e.g., fires, floods, pandemics, epidemics, unusually severe weather, etc.),
- ii. acts of the public enemy,
- iii. acts of the Government in either its sovereign or contractual capacity,
- iv. pandemic, epidemic, or quarantine restrictions,
- v. strikes, and

vi. freight embargoes. In each instance, the failure to perform must be beyond the control and without the fault or negligence of the Lessor.

C. Excuse will not be granted when:

- i. the Lessor had actual or constructive knowledge prior to the Lease Award Date that he/she could not perform in accordance with the requirements of the Lease contract;
- ii. the conditions of the property prevent performance;
- iii. the Lessor, its employees, agents or contractors, by error or omission, fails to perform; or
- iv. the Lessor is unable to obtain sufficient financial resources to perform its obligations.

D. The RECO will ascertain the facts and extent of the failure. If the RECO determines that any failure to perform is excusable, the RECO will revise the delivery schedule subject to the rights of the Government under the default and termination clauses of this contract.

12. Binding Effect (09/2021) 6.2.6

The provisions of this contract and the conditions herein shall be binding upon, and for the benefit of, the parties and their successors and assigns. In the event of any sale or transfer of ownership of the property or any portion thereof, the Government will be deemed to have attorned to any purchaser, successor, assign, or transferee. The succeeding owner will be deemed to have assumed all rights and obligations of the contractor under this contract establishing direct privity of estate and contract between the Government and said succeeding owner, with the same force, effect, and relative priority in time and right as if the contract had initially been entered into between such succeeding owner and the Government.

13. Holdover (09/2021) 6.2.12

If after the expiration of the Lease, the Government shall retain possession of the premises, the Lease shall continue in full force and effect on a month-to-month basis. Payment shall be made in accordance with the Consideration clause of the Lease at the rate paid during the Lease term. This period shall continue until the Government shall have signed a new lease with the Lessor, acquired the property in fee, or vacated the premises.

14. RE Clauses Incorporated by Reference (09/2021) 6.3.0

This solicitation or contract, as applicable, incorporates by reference the provisions or clauses listed below with the same force and effect as if they were given in full text. Upon request, the RECO will make the full text available, or the full text may be obtained via internet at https://fast.faa.gov/RPF_Real_Property_Clauses.cfm.

A. **Officials Not To Benefit (09/2021) 6.3.0-2**

B. **Assignment of Claims (09/2021) 6.3.0-3**

C. **Contracting Officer's Representative (09/2021) 6.3.0-4**

D. **Contingent Fees (09/2021) 6.3.0-5**

15. Title to Improvements (09/2021) 6.3.5

Title to the improvements constructed for use by the Government during the life of this Agreement shall be in the name of the Government.

16. Funding Responsibility for FAA Facilities (09/2021) 6.3.6

The Contractor agrees that all Contractor requested relocation(s), replacement(s), or modification(s) of any existing or future FAA navigational aid or communication system(s) necessitated by Contractor improvements or changes will be at the expense of the Contractor. In the event that the Contractor requested changes or improvements interferes with the technical and/or operational characteristics of the FAA's facility, the Contractor will immediately correct the interference issues at the Contractor's expense. Any FAA requested relocation, replacement, or modifications shall be at the FAA's expense. In the event such relocations, replacements, or modifications are necessary due to causes not attributable to either the Contractor or the FAA, funding responsibility shall be determined by mutual agreement between the parties and memorialized in a Supplemental Agreement.

17. Changes (09/2021) 6.3.8

A. The RECO may at any time, by written order via Supplemental Agreement, make changes within the general scope of this Lease in any one or more of the following:

- i. Work or services;
- ii. Facilities or space layout;
- iii. Amount of space/land;
- iv. Any other change made within the scope of this lease.

B. If any such change causes an increase or decrease in the Lessor's cost or time required for performance under this lease, the RECO will modify this Lease to provide one or more of the following:

- i. An equitable adjustment in the rental rate;
- ii. A lump sum equitable adjustment;
- iii. An equitable adjustment of the annual operating costs per rentable square foot; or
- iv. An adjustment to the delivery date.

C. The Lessor must assert its right to an adjustment by written proposal under this clause within thirty (30) days from the date of receipt of the change order. Lessor's request must include all documentation necessary to validate his/her right to an adjustment. Failure to reach agreement on any adjustment constitutes grounds for dispute under the Contract Disputes clause.

D. Nothing in this clause excuses the Lessor from proceeding with the change as directed.

E. Absent written supplemental agreement the Government is not liable to the Lessor under this clause.

18. Failure in Performance (09/2021) 6.3.16

In the event the Contractor fails to perform a service, provide an item, or satisfy a requirement under this Contract, the Government may:

- A. perform the service, provide the item, or satisfy the requirement itself, and abate the rent by its actual costs (including administrative costs) incurred in doing so,
- B. not correct the Contractor's performance and abate the rent by an amount reasonably calculated to approximate the decreased value of the Contract arising from the Contractor's failure to perform, or
- C. pursue termination of the contract under the "Termination" clause(s) in this Contract.

19. No Waiver (09/2021) 6.3.17

No failure by the Government to insist upon strict performance of any provision of this Contract or failure to exercise any right, or remedy consequent to a breach thereof, will constitute a waiver of any such breach in the future.

20. Restoration (09/2021) 6.3.18-1

A. The Government shall surrender possession of the premises upon vacation of the premises. The Government at its option shall either:

- i. Restore the premises to as good condition as that existing at the time of the Government's initial entry upon the premises under this contract or any preceding contract (ordinary wear and tear, damage by natural elements or by circumstances over which the Government has no control, excepted) or,
- ii. The Government may also elect to offer abandonment of installed real property improvements in lieu of restoration or some combination of abandonment and restoration as determined by mutual agreement with the contractor, so long as it is determined by the RECO to be in the best interests of

the Government or,

B. In the event that the Government has to make payment under this clause, such payments will not exceed appropriations available at the time of the restoration in violation of the Anti-Deficiency Act.

C. Nothing in this contract may be considered as implying that Congress will, at a later date, appropriate funds sufficient to meet the deficiencies.

21. Quiet Enjoyment (09/2021) 6.3.25

The Contractor warrants that they have good and valid title to the premises, and rights of ingress and egress, and warrants and covenants to defend the Government's use and enjoyment of said premises against third party claims.

22. Damage by Fire or Other Casualty or Environmental Hazards (09/2021) 6.3.26

If the premises is partially or totally destroyed or damaged by fire or other casualty or if environmentally hazardous conditions are found to exist so that the premises is untenable as determined by the Government, the Government may agree to allow restoration/reconstruction, or may elect to terminate the contract, in whole or in part, immediately by giving written notice to the contractor and no further rental will be due. The Government shall have no duty to pay rent while the premises are unoccupied.

23. Interference (09/2021) 6.3.28

In the event that FAA operations interfere with the Contractor's facility, the Contractor must immediately notify the RECO. The FAA will begin assessment of interference immediately upon notification.

If the Contractor or its facility interferes with the FAA's equipment and the Contractor either knows of, or is notified by the FAA, of the interference, the Contractor will immediately remediate the interference at its own cost.

Notification under this clause must include the following information, if known:

- A. type of interference,
- B. the commencement date of the interference, and
- C. the root cause of the interference.

24. Hold Harmless (09/2021) 6.3.30

In accordance with and subject to the conditions, limitations and exceptions set forth in the Federal Tort Claims Act, 28 U.S.C. Ch. 17, the Government will be liable to persons damaged by any personal injury, death or injury to or loss of property, which is caused by a negligent or wrongful act or omission of an employee of the Government while acting within the scope of his office or employment under circumstances where a private person would be liable in accordance with the law of the place where the act or omission occurred. The foregoing shall not be deemed to extend the Government's liability beyond that existing under the Act at the time of such act or omission or to preclude the Government from using any defense available in law or equity.

25. Compliance with Applicable Laws (01/2022) 6.3.31-1

This Contract shall be governed by federal law. The Contractor shall comply with all applicable federal, state, and local laws. The Government will comply with all federal, state, and local laws applicable to and enforceable against it, provided that nothing in this lease shall be construed as a

waiver of the sovereign immunity of the Government.

26. Examination of Records (09/2021) 6.3.32

The Comptroller General of the United States, the Administrator of FAA or a duly authorized representative of either shall, until three (3) years after final payment under this contract, have access to and the right to examine any of the Lessor's directly pertinent books, documents, paper, or other records involving transactions related to this contract.

27. Subordination, Nondisturbance and Attornment (09/2021) 6.3.33

A. The Government agrees, in consideration of the warranties and conditions set forth in this clause, that this contract is subject and subordinate to any and all recorded mortgages, deeds of trust and other liens now or hereafter existing or imposed upon the premises, and to any renewal, modification or extension thereof. It is the intention of the parties that this provision shall be self-operative and that no further instrument shall be required to effect the present or subsequent subordination of this contract. Based on a written demand received by the RECO, the Government will review and, if acceptable, execute such instruments as the contractor may reasonably request to evidence further the subordination of this contract to any existing or future mortgage, deed of trust or other security interest pertaining to the premises, and to any water, sewer or access easement necessary or desirable to serve the premises or adjoining property owned in whole or in part by the contractor if such easement does not interfere with the full enjoyment of any right granted the Government under this contract.

B. No such subordination, to either existing or future mortgages, deeds of trust or other lien or security instrument shall operate to affect adversely any right of the Government under this contract so long as the Government is not in default under this contract. Contractor will include in any future mortgage, deed of trust or other security instrument to which this contract becomes subordinate, or in a separate non-disturbance agreement, a provision to the foregoing effect. Contractor warrants that the holders of all notes or other obligations secured by existing mortgages, deeds of trust or other security instruments have consented to the provisions of this clause, and agrees to provide true copies of all such consents to the RECO promptly upon demand.

C. In the event of any sale of the premises or any portion thereof by foreclosure of the lien of any such mortgage, deed of trust or other security instrument, or the giving of a deed in lieu of foreclosure, the Government will be deemed to have attorned to any purchaser, purchasers, transferee or transferees of the premises or any portion thereof and its or their successors and assigns, and any such purchasers and transferees will be deemed to have assumed all obligations of the contractor under this contract, so as to establish direct privity of estate and contract between Government and such purchasers or transferees, with the same force, effect and relative priority in time and right as if the contract had initially been entered into between such purchasers or transferees and the Government; provided, further, that the RECO and such purchasers or transferees shall, with reasonable promptness following any such sale or deed delivery in lieu of foreclosure, execute all such revisions to this contract, or other writings, as shall be necessary to document the foregoing relationship.

D. None of the foregoing provisions may be deemed or construed to imply a waiver of the Government's rights as a sovereign.

28. Notification of Change in Ownership or Control of Land (10/2022) 6.3.34

If the Contractor sells, dies or becomes incapacitated, or otherwise conveys to another party or

parties any interest in the aforesaid land, rights of way thereto, and any areas affecting the premises, the Government shall be notified in writing, of any such transfer or conveyance within 30 calendar days after completion of the change in property rights. Concurrent with the written notification, the Contractor or Contractor's heirs, representatives, assignees, or trustees shall provide the Government copies of the associated legal document(s) (acceptable to local authorities) for transferring and/or conveying the property rights.

29. Integrated Agreement (09/2021) 6.3.36

Contract, upon execution, contains the entire agreement of the parties, and no prior written or oral agreement, express or implied shall be admissible to contradict the provisions of this Contract.

30. Unauthorized Negotiating (09/2021) 6.3.37

In no event shall the Contractor enter into negotiations concerning the premises with anyone other than the RECO or his/her designee.

31. Contract Disputes (09/2021) 6.3.39

A. All contract disputes arising under or related to this contract shall be resolved through the Federal Aviation Administration (FAA) dispute resolution system at the Office of Dispute Resolution for Acquisition (ODRA) and shall be governed by the procedures set forth in 14 C.F.R. Parts 14 and 17, which are hereby incorporated by reference. Judicial review, where available, will be in accordance with 49 U.S.C. 46110 and shall apply only to final agency decisions. A contractor may seek review of a final FAA decision only after its administrative remedies have been exhausted.

B. The filing of a contract dispute with the ODRA may be accomplished by mail, overnight delivery, hand delivery, or by facsimile, or if permitted by Order of the ODRA, by electronic filing. A contract dispute is considered to be filed on the date it is received by the ODRA during normal business hours. The ODRA's normal business hours are from 8:30 am to 5:00 pm Eastern Time.

C. Contract disputes are to be in writing and shall contain:

- i. The contractor's name, address, telephone and fax numbers and the name, address, telephone and fax numbers of the contractor's legal representative(s) (if any) for the contract dispute;
 - ii. The contract number and the name of the Contracting Officer;
 - iii. A detailed chronological statement of the facts and of the legal grounds for the contractor's positions regarding each element or count of the contract dispute (i.e., broken down by individual claim item), citing to relevant contract provisions and documents and attaching copies of those provisions and documents;
 - iv. All information establishing that the contract dispute was timely filed;
 - v. A request for a specific remedy, and if a monetary remedy is requested, a sum certain must be specified and pertinent cost information and documentation (e.g., invoices and terminated checks) attached, broken down by individual claim item and summarized; and
 - vi. The signature of a duly authorized representative of the initiating party
- D. Contract disputes shall be filed at the following address:

- i. For filing by hand delivery, courier or other form of in-person delivery:

Office of Dispute Resolution for Acquisition
Federal Aviation Administration
600 Independence Avenue SW., Room 2W100
Washington, DC 20591; or

For filing by U.S. Mail:

Office of Dispute Resolution for Acquisition
Federal Aviation Administration
800 Independence Avenue SW
Washington, DC 20591
[Attention: AGC-70, Wilbur Wright Bldg. Room 2W100]; or

Telephone: (202) 267-3290

Facsimile: (202) 267-3720

Alternate Facsimile: (202) 267-1293; or

ii. Other address as specified in 14 CFR Part 17.

E. A contract dispute against the FAA shall be filed with the ODRA within two (2) years of the accrual of the contract claim involved. A contract dispute by the FAA against a contractor (excluding contract disputes alleging warranty issues, fraud or latent defects) likewise shall be filed within two (2) years after the accrual of the contract claim. If an underlying contract entered into prior to the effective date of this part provides for time limitations for filing of contract disputes with the ODRA which differ from the aforesaid two (2) year period, the limitation periods in the contract shall control over the limitation period of this section. In no event will either party be permitted to file with the ODRA a contract dispute seeking an equitable adjustment or other damages after the contractor has accepted final contract payment, with the exception of FAA claims related to warranty issues, gross mistakes amounting to fraud or latent defects. FAA claims against the contractor based on warranty issues must be filed within the time specified under applicable contract warranty provisions. Any FAA claims against the contractor based on gross mistakes amounting to fraud or latent defects shall be filed with the ODRA within two (2) years of the date on which the FAA knew or should have known of the presence of the fraud or latent defect.

F. A party shall serve a copy of the contract dispute upon the other party, by means reasonably calculated to be received on the same day as the filing is to be received by the ODRA.

G. After filing the contract dispute, the contractor should seek informal resolution with the Contracting Officer.

H. The FAA requires continued performance with respect to contract disputes arising under this contract, in accordance with the provisions of the contract, pending a final FAA decision.

I. The FAA will pay interest on the amount found due and unpaid from (1) the date the Contracting Officer receives the contract dispute, or (2) the date payment otherwise would be due, if that date is later, until the date of payment. Simple interest on contract disputes shall be paid at the rate fixed by the Secretary of the Treasury that is applicable on the date the Contracting Officer receives the contract dispute and then at the rate applicable for each 6-month period as fixed by the Treasury Secretary until payment is made. Interest will not accrue for more than one year.

J. Additional information and guidance about the ODRA dispute resolution process for contract disputes can be found on the ODRA website at <http://www.faa.gov>.

32. Clearing/Disposing of Debris (09/2021) 6.3.41

A. The Government shall notify the Contractor in writing ten (10) days prior to the start of any clearing of trees and/or brush and tree cuttings.

B. The Contractor grants the Government the right and privilege to enter upon the Contractor's land in order to cut, trim, tip, shape and maintain any trees situated within the premises and said cutting

privilege granted to the Government shall include native grasses, scrub brush, and scrub to trees. Only those trees that are determined by the Government to interfere with the operation and proper function of the Government's facility will be subject to the Government's granted privilege. Coordination with the Contractor will be made prior to any cutting of any selected trees.

C. The Government agrees to dispose of all grass, brush, and tree cuttings by the Government's contractor. All tree logs, limbs, or branches 2 or more inches in diameter and 5 feet in length, shall be stacked in an area selected by the Lessor. The Government's disposal of debris, grass, branches, etc., shall comply with regulatory requirements.

33. Road Maintenance 6.3.42

The Government does not have exclusive use of the access road but shall share the use of the access road with the Contractor and the Contractor's service providers. The FAA will coordinate all repair and maintenance of the road, to include, but not limited to, clearing of fallen trees, snow removal, etc. The FAA will notify the Contractor prior to each contract being executed unless emergency circumstances prevent such notification. Repair and maintenance shall be conducted in accordance with standards determined by the FAA, and each party shall be responsible for its proportional share of the costs as determined by mutual agreement. Each party will pay their portion of payment for services directly to the FAA-selected vendor. If the Contractor provides either repair or maintenance services on its own, the FAA must be coordinated with prior to the performance of the services so that the FAA can ensure availability of appropriated funds. The FAA is not responsible for services rendered without its approval.

34. Organizational Conflict of Interest (07/2022) 6.3.47

A. The offeror or Contractor warrants that, to the best of the Contractor's knowledge and belief, there are no relevant facts or circumstances which could give rise to an organizational conflict of interest (OCI), as defined in the FAA Acquisition Management System, "Organizational Conflicts of Interest (3.1.7)", or that the Contractor has disclosed all such relevant information.

B. The offeror or Contractor agrees that if an actual or potential OCI is discovered after award, the Contractor must make a full disclosure in writing to the Contracting Officer. The disclosure must include a mitigation plan describing actions the Contractor has taken or proposes to take to avoid, mitigate, or neutralize the actual or potential conflict. Changes in the Contractor's relationships due to mergers, consolidations or any unanticipated circumstances may create an unacceptable organizational conflict of interest which may necessitate disclosure.

C. The FAA reserves the right to review and audit OCI mitigation plans as needed after award, and to reject mitigation plans if the OCI, in the opinion of the Contracting Officer, cannot be avoided, or mitigated.

D. The Contracting Officer may terminate this contract for convenience in whole or in part, if it deems such termination necessary to avoid an OCI. If the Contractor was aware of a potential OCI prior to award or discovered an actual or potential conflict after award and did not disclose or misrepresented relevant information to the Contracting Officer, the Government may terminate this contract for default, debar the Contractor from government contracting, or pursue such other remedies as may be permitted by law or this contract.

E. The Contractor further agrees to insert provisions which must conform substantially to the language of this clause including this paragraph (d) in any subcontract or consultant agreement hereunder.

35. Hazardous Substance Contamination (09/2021) 6.8.1

The FAA agrees to remediate, at its sole cost, all hazardous substance contamination on the FAA facility premises that is found to have occurred as a direct result of the installation, operation, relocation and/or maintenance of the FAA's facilities covered by this contract. The Contractor agrees to remediate at its sole cost, all other hazardous substance contamination found on the FAA facility premises. The Contractor also agrees to hold the FAA harmless for all costs, liabilities and/or claims by third parties that arise out of hazardous contamination found on the FAA facility premises that are not directly attributable to the installation, operation and/or maintenance of the facilities.

36. Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment (04/2022) 6.9.5

(a) Definitions. As used in this clause--

Backhaul means intermediate links between the core network, or backbone network, and the small subnetworks at the edge of the network (e.g., connecting cell phones/towers to the core telephone network). Backhaul can be wireless (e.g., microwave) or wired (e.g., fiber optic, coaxial cable, Ethernet).

Covered foreign country means The People's Republic of China.

Covered telecommunications equipment or services means—

- (1) Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities);
- (2) For the purpose of public safety, security of Government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities);
- (3) Telecommunications or video surveillance services provided by such entities or using such equipment; or
- (4) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

Critical technology means—

- (1) Defense articles or defense services included on the United States Munitions List set forth in the International Traffic in Arms Regulations under subchapter M of chapter I of title 22, Code of Federal Regulations;
- (2) Items included on the Commerce Control List set forth in Supplement No. 1 to part 774 of the Export Administration Regulations under subchapter C of chapter VII of title 15, Code of Federal Regulations, and controlled—

- (i) Pursuant to multilateral regimes, including for reasons relating to national security, chemical and biological weapons proliferation, nuclear nonproliferation, or missile technology; or
- (ii) For reasons relating to regional stability or surreptitious listening.
- (3) Specially designed and prepared nuclear equipment, parts and components, materials, software, and technology covered by part 810 of title 10, Code of Federal Regulations (relating to assistance to foreign atomic energy activities);
- (4) Nuclear facilities, equipment, and material covered by part 110 of title 10, Code of Federal Regulations (relating to export and import of nuclear equipment and material);
- (5) Select agents and toxins covered by part 331 of title 7, Code of Federal Regulations, part 121 of title 9 of such Code, or part 73 of title 42 of such Code; or
- (6) Emerging and foundational technologies controlled pursuant to section 1758 of the Export Control Reform Act of 2018 (50 U.S.C. 4817).

Interconnection arrangements means arrangements governing the physical connection of two or more networks to allow the use of another's network to hand off traffic where it is ultimately delivered (e.g., connection of a customer of telephone provider A to a customer of telephone company B) or sharing data and other information resources.

Reasonable inquiry means an inquiry designed to uncover any information in the entity's possession about the identity of the producer or provider of covered telecommunications equipment or services used by the entity that excludes the need to include an internal or third-party audit.

Roaming means cellular communications services (e.g., voice, video, data) received from a visited network when unable to connect to the facilities of the home network either because signal coverage is too weak or because traffic is too high.

Substantial or essential component means any component necessary for the proper function or performance of a piece of equipment, system, or service.

(b) Prohibition.

(1) Section 889(a)(1)(A) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2019, from procuring or obtaining, or extending or renewing a contract to procure or obtain, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. The Contractor is prohibited from providing to the Government any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, unless an exception at paragraph (c) of this clause applies or the covered telecommunication equipment or services are covered by a waiver described in AMS T3.6.4 A.17.e.

(2) Section 889(a)(1)(B) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2020 from entering into a contract, or extending or renewing a contract, with an entity that uses any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, unless an exception at paragraph (c) of this clause applies or the covered telecommunication equipment or services are covered by a waiver described in AMS T3.6.4A.17.e. This prohibition applies to an

entity that uses covered telecommunications equipment or services, including use not in support of the Government.

(c) Exceptions. This clause does not prohibit contractors from providing—

(1) A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or

(2) Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(d) Reporting requirement.

(1) In the event the Contractor identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the Contractor is notified of such by a subcontractor at any tier or by any other source, the Contractor must report the information in paragraph (d)(2) of this clause to the Contracting Officer, unless elsewhere in this contract are established procedures for reporting the information. For indefinite delivery contracts, the Contractor must report to the Contracting Officer for the indefinite delivery contract and the Contracting Officer(s) for any affected order.

(2) The Contractor must report the following information pursuant to paragraph (d)(1) of this clause:

(i) Within one business day from the date of such identification or notification: The contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.

(ii) Within 10 business days of submitting the information in paragraph (d)(2)(i) of this clause: Any further available information about mitigation actions undertaken or recommended. In addition, the Contractor must describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.

(e) Subcontracts. The Contractor must insert the substance of this clause, including this paragraph (e), in all subcontracts and other contractual instruments, including subcontracts for the acquisition of commercial items.

37. Covered Telecommunications Equipment or Services- Representations (09/2021) 6.9.5-1

(a) Definitions. As used in this provision, “covered telecommunications equipment or services” has the meaning per the "Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment” clause in this contract.

(b) Procedures. The offeror must review the list of excluded parties in the System for Award Management (SAM) (<https://www.sam.gov>) for entities excluded from receiving federal awards for covered telecommunications equipment or services.

(c) Representations.

1. The offeror represents that it **does**, **does not provide** covered

telecommunications equipment or services as part of its offered products or services to the Government in the performance of any contract, subcontract, or other contractual instrument.

2. After conducting a reasonable inquiry for purposes of this representation, the offeror represents that it **does,** **does not use** covered telecommunications equipment or services, or any equipment, system, or service that uses telecommunications equipment or services.

38. Representation Regarding Certain Telecommunications and Video Surveillance Services or Equipment (09/2021) 6.9.5-2

NOTE: The offeror must not complete the representation at paragraph (d)(1) in this provision if the offeror has represented that it does not provide covered telecommunications equipment or services as part of its offered products or services to the Government in the performance of any contract, subcontract, or other contractual instrument in the provision "Covered Telecommunications Equipment or Services – Representation" (c)(1). Additionally, The offeror must not complete the representation at paragraph (d)(2) in this provision if the offeror has represented that it does not use covered telecommunications equipment or services, or any equipment, system, or service that uses telecommunications equipment or services in the provision "Covered Telecommunications Equipment or Services – Representation" (c)(2).

PROVISION/CLAUSE:

(a) Definitions. As used in this provision--

Backhaul, covered telecommunications equipment or services, critical technology, interconnection arrangements, reasonable inquiry, roaming, and substantial or essential component have the meanings provided in the clause AMS clause 6.9.5, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment.

(b) Prohibitions.

(1) Section 889(a)(1)(A) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2019, from procuring or obtaining, or extending or renewing a contract to procure or obtain, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

Nothing in this prohibition will be construed to—

(i) Prohibit the head of the agency from procuring with an entity to provide a service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or

(ii) Cover telecommunications equipment that cannot route or redirect user data traffic or cannot permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(2) Section 889(a)(1)(B) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2020 from entering into a contract or renewing a contract with an entity that uses any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential part of any system or as critical technology as part of any system. This prohibition applies to any entity that uses covered telecommunications equipment or services, including uses not in support of the

Government.

Nothing in this prohibition will be construed to-

- (i) Prohibit the head of the agency from procuring with an entity to provide a service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or
- (ii) Cover telecommunications equipment that cannot route or redirect user data traffic or cannot permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(c) Procedures: The offeror must review the list of excluded parties in the System for Award Management (SAM) (<https://www.sam.gov>) for entities excluded from Federal awards for covered telecommunications equipment or services.

(d) Representations.

(1) The Offeror represents that it ☐ **will**, ☐ **will not provide** covered telecommunications equipment or services to the Government in the performance of any contract, subcontract or other contractual instrument resulting from this solicitation.

(2) After conducting a reasonable inquiry for purposes of this representation, the Offeror represents that it ☐ **does**, ☐ **does not USE** covered telecommunications equipment or services, or use any equipment, system, or service that uses covered telecommunications equipment or services. The Offeror must provide the additional disclosure information required at paragraph (e) if the Offeror indicates “does”.

(e) Disclosures. Disclosure for the representation in paragraph (d) (1) of this provision-
If the Offeror has responded “will” in the representation in paragraph (d) (1) of this provision, the Offeror must provide the following information as part of the offer—

(1) For covered equipment

- (i) The entity that produced the covered telecommunications equipment (include entity name, unique entity identifier, CAGE code, and whether the entity was the original equipment manufacturer (OEM) or a distributor, if known;
- (ii) A description of all covered telecommunications equipment offered (include brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); and
- (iii) Explanation of the proposed use of covered telecommunications equipment and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b) (1) of this provision;

(2) For covered services-

- (i) If the service is related to item maintenance, a description of all covered telecommunications services offered (include on the item being maintained: brand, model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable; or
- (ii) If not associated with maintenance, the Product Service Code (PSC) of the service being provided; and explanation of the proposed uses of covered telecommunications services and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(1) of this provision.

Disclosure for representation in paragraph (d) (2) of this provision. If the Offeror has responded

“does” to paragraph (d)(2) of this provision, the offeror must provide the following information as part of the offer—

(3) For covered equipment

- (i) The entity that produced the covered telecommunications equipment (include entity name, unique entity identifier, CAGE code, and whether the entity was the OEM or a distributor, if known;
- (ii) A description of all covered telecommunications equipment offered (include brand; model number, such as original equipment manufacturer (OEM) number, manufacturer part number, or wholesaler number; and item description, as applicable); and
- (iii) Explanation of the proposed use of covered telecommunications equipment and services and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b) (2) of this provision.

(4) For covered services-

- (i) If the service is related to item maintenance, a description of all covered telecommunications services offered (include on the item being maintained: brand, model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); or
- (ii) If not associated with maintenance, the Product Service Code (PSC) of the service being provided; and explanation of the proposed uses of covered telecommunications services and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(2) of this provision.

39. Notices (09/2021) 6.10.1

All notices/correspondence must be in writing, reference the Contract number, and be addressed as follows:

TO THE LESSOR:

County Executive
County of Albany
112 State Street Room 1200
Albany, New York 12207-1003

TO THE GOVERNMENT:

Federal Aviation Administration
Real Estate Branch, AAQ-910
1701 Columbia Ave., 4th Floor
College Park, GA 30337-2714

40. Signature Block (09/2021) 6.10.3

This Contract shall become binding when it is fully executed by both parties. In witness whereof, the parties hereto have subscribed their names as of the date shown below.

COUNTY OF ALBANY, NEW YORK

**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION**

By: _____
Daniel P. McCoy
County Executive
Date: _____

By: _____
Christopher A. Barnhill
Real Estate Contracting Officer
Date: _____

ATTACHMENTS/EXHIBITS:

Number	Title	Number of Pages
1	Notary Acknowledgements	1
2	Public Authorization Certificate	1

CERTIFICATE OF ACKNOWLEDGMENT

STATE OF NEW YORK

COUNTY OF _____

On this _____ day of _____, 2023, before me, _____

the undersigned Notary Public, personally appeared **Daniel P. McCoy**, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledge that he executed the same for the purposes therein contained.

Notary Public Signature

Affix Seal

CERTIFICATE OF ACKNOWLEDGMENT

STATE OF GEORGIA

COUNTY OF _____

On this _____ day of _____, 2023, before me, _____

the undersigned Notary Public, personally appeared **Christopher A. Barnhill** known to me to be the person whose name is subscribed to the foregoing instrument and acknowledge that he executed the same for the purposes therein contained.

Notary Public Signature

Affix Seal

PUBLIC AUTHORIZATION CERTIFICATE

On this _____ day of _____, 2023, I _____
[Insert Name]
_____ of the County of Albany named in the attached agreement; that Daniel P. McCoy
[Insert Title]
who signed said agreement on behalf of the County of Albany is County Executive of said County of Albany;
and that said agreement was duly signed for and on behalf of the County of Albany by authority of its governing
body, and is within the scope of its powers.

[Affix Seal]

Signed _____