



CITY OF WARWICK

FRANK J. PICOZZI, MAYOR

Memorandum

To: The Honorable Stephen McAllister, Council President
The Honorable Members of the City Council

From: Dan Geagan, Principal Planner/GIS Coordinator *DTG*

Date: February 19, 2021

Re: *FAA Proposed Lease Renewal: 771 Post Road - Low Level Wind Shear Alert System*

The Federal Aviation Administration (FAA) is proposing to renew a lease of land at 771 Post Road, for the purposes of maintaining the existing Low Level Wind Shear Alert System (LLWAS) that was approved by the City Council and constructed in 1999/2000. The proposed lease includes provisions for the FAA to maintain the 20' x 20' (400sf) footprint of the existing tower and ground infrastructure, complete with existing utility easements and easements for ingress and egress. No new construction is proposed. The FAA's initial offer, based on an internal FAA land appraisal, was \$6,000 annually for the first 10 years, increasing to \$6,900 for the remaining 10 years. This offer was deemed unacceptable and, after many months of discussion, the FAA is presenting a final offer commencing at \$18,000 annually (\$1,500 per month) with a 5% rate escalator to be introduced every 5 years.

Total value of the lease for the 20-year term amounts to \$387,910.

Proposed Rate Schedule

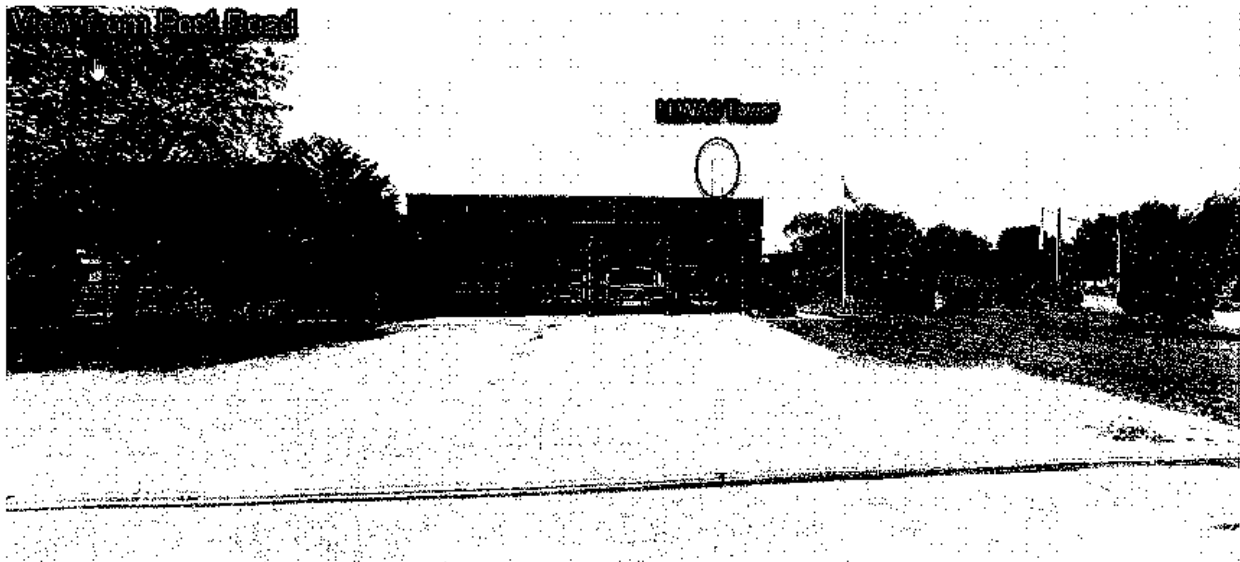
- Year 1 to 5: \$18,000 Annually
- Year 6-10: \$18,900 Annually
- Year 11-15: \$19,845 Annually
- Year 16-20: \$20,837 Annually

BACKGROUND

T.F. Green International Airport is the largest and most active airport among the six operated by the Rhode Island Airport Corporation, with over 70,000 aircraft operations annually (pre-pandemic) and approximately 2 million enplanements for calendar year 2019. To ensure aircraft takeoff and landing flight safety, the FAA designs and installs Low Level Wind Shear Alert Systems (LLWAS) at major airports around the country.

An LLWAS is a ground-based weather station that is used to detect sudden changes in wind velocity and direction in both the vertical and horizontal planes. This low-level turbulence can present a significant risk to flight safety and therefore creates the need for the LLWAS system, which functions by transmitting alerts to Air Traffic Controllers, who then alert pilots to changing conditions so that they can respond appropriately when landing or departing.

The existing LLWAS tower located at 771 Post Road was approved by *Warwick City Council Action No. 0-99-9*, signed by then-Mayor Chafee on March 16, 1999 as an amendment to the Zoning Ordinance, changing the zoning classification of the property from Residential A7 to Residential A7 with tower. The tower, along with two others that are located in Greenwood (2286 Post Road) and St. Timothy's Church (1799 Warwick Avenue), has been providing valuable weather safety data to both Air Traffic Control (ATC) and pilots transiting T.F. Green International Airport for the past two decades.



The Warwick City Council approved the lease in 1999 in the amount of \$7,200 annually, with no escalators, providing a total lease benefit to the City of \$144,000. The City and Planning Department have been in discussions with the FAA for approximately 18 months relative to the proposed lease renewal terms. *The current proposal for Warwick City Council consideration represents an **increase of 170 percent** over the 20-year total of the former lease.*

Comparison Chart: *Expired Lease v. Proposed Renewal*

Year	Expired Lease Annual Rate	Proposed for Council Consideration
1	\$7200	\$18,000.00
2	\$7200	\$18,000.00
3	\$7200	\$18,000.00
4	\$7200	\$18,000.00
5	\$7200	\$18,000.00
6	\$7200	\$18,900.00
7	\$7200	\$18,900.00
8	\$7200	\$18,900.00
9	\$7200	\$18,900.00
10	\$7200	\$18,900.00
11	\$7200	\$19,845.00
12	\$7200	\$19,845.00
13	\$7200	\$19,845.00
14	\$7200	\$19,845.00
15	\$7200	\$19,845.00
16	\$7200	\$20,837.00
17	\$7200	\$20,837.00
18	\$7200	\$20,837.00
19	\$7200	\$20,837.00
20	\$7200	\$20,837.00
Lease Total	\$144,000.00	\$387,910.00

Analysis

The Department has reviewed the location of both the tower and the existing easements relative to the potential reuse and possible disposition of the former Aldrich Junior High School property. Past and future plans for the property include a provision to create a new lot to accommodate both Fire Station #2 and the 400 square feet of land area accommodating the existing LLWAS Tower. Therefore, no adverse impact on any future reuse of the Aldrich property is anticipated by allowing the tower to remain in its current location.

Benefits

The benefits to the City and its residents include:

- Long-term, predictable revenue.
- A substantial increase in the lease compensation rate (+170%).
- Continuance of an essential public safety system that supports flight and passenger safety at T.F. Green International Airport.
- Continued ownership and control of property that includes a City public safety facility.
- Mutual and positive cooperation between the City and the FAA.

Summary and Conclusion

After a thorough review of the proposal, finding no adverse impact related to future use or reuse of the Aldrich property, finding that the project supports an existing and essential flight safety system, finding that the City is to receive a substantial increase in compensation with predictable and sustained revenue, *the Department recommends that the FAA's proposed lease renewal request is worthy of favorable consideration by the Warwick City Council.*

Attachments:

ATTACHMENTS

- 1. PCR 0-99-9**
- 2. FAA Lease Renewal**

THE CITY OF WARWICK
STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

CHAPTER ARTICLE

APPENDIX A
ZONING

RECEIVED
MAY 20 1999

No. 0-99-9

Date 2/16/99

Approved..... *[Signature]* Mayor

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF
WARWICK, FEDERAL AVIATION ADMINISTRATION, PETITIONER

Be it ordained by the City of Warwick:

1 Section I. The Zoning Map and the Record Book of Lot Classifications which are a part of the
2 Zoning Ordinance of the City of Warwick are hereby amended by changing the classification of
3 the following described premises from Residential A-7 to Residential A-7 with approval for tower
4 use:

5 Lot 59 on Assessor's Plat 288 as said plat appeared in the Tax Assessor's Office
6 on December 31, 1998, is hereby changed from Residential A-7 to Residential A-7
7 with approval for tower use #611 in Table 1. Use Regulations, limited to use for a
8 Low Level Windshear Alert System to improve public safety at T.F. Green
9 Airport.

10 Section II. The Clerk of the Zoning Board of Review is hereby authorized and directed to cause
11 said changes to be made on the Zoning Map and the Record Book of Lot Classifications.

12 Section III. This Ordinance shall take effect upon passage and publication as prescribed by law.
13

SPONSORED BY: COUNCIL PRESIDENT GIBBONS

COMMITTEE: ORDINANCE

LAND LEASE

Between

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

And

CITY OF WARWICK, RI

**Lease No. 69435Z-19-L-00056
PVD LLWAS
Warwick, RI**

SECTION 1 - OPENING

6.1.1 Preamble (JAN 2017)

This Lease is hereby entered into by and between the **City of Warwick, RI**, 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 Government. The terms and provisions of this Lease, and the conditions herein, bind the Lessor and the Lessor's heirs, executors, administrators, successors, and assigns.

For purposes of this Lease, the terms Contractor and Lessor are interchangeable with each other.

6.1.2 Succeeding Lease (JAN 2015)

This Lease succeeds Lease No. DTFA12-99-15366 and all other previous agreements between the parties for the leased property described in this document.

6.1.3 Witnesseth (JAN 2015)

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

6.1.4-1 Premises (FEB 2019)

The Lessor hereby leases to the Government the following described property, an approximate 20' X 20' parcel of land on property owned by the City of Warwick off the west side of Palm Boulevard near its intersection with Boston Post Road, as further described in Exhibit "A" which

is attached hereto and made a part hereof, and is hereinafter referred to as the premises, viz:

(a) The Lessor grants the Government the right to establish on the premises a Low Level Wind Shear Alert System (LLWAS) facility consisting of a 400 square foot ground area (20' x 20') a 130 foot high pole with an anemometer and a fence around the site.

(b) The Lessor grants the Government the right to install and maintain underground/overhead power lines as shown on FAA Drawing No. NE-D-27474-003-C which is attached hereto and made a part hereof as Exhibit "B".

(c) 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 a pole line or pole lines for extending 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 Lessor, and unless herein described otherwise, shall be reasonably determined by the Government as the most convenient route.

(d) And 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.

(e) And 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.

SECTION 2 - TERMS

6.2.5 Term (AUG 2002)

To have and to hold, for the term commencing on **October 1, 2019** and continuing through **September 30, 2039** inclusive, provided that adequate appropriations are available from year to year for the consideration herein.

6.2.6 Consideration (JUL 2017)

The Government shall pay the Lessor rent for the premises as follows:

10/1/2019 through 9/30/2024 - \$18,000 per year payable at rate of \$1500.00 per month

10/1/2024 through 9/30/2029 - \$18,900 per year payable at rate of \$1575.00 per month

10/1/2029 through 9/30/2034 - \$19,845 per year payable at rate of \$1653.75 per month

10/1/2034 through 9/30/2039 - \$20,837 per year payable at rate of \$1736.42 per month

All payments are to be made to the City of Warwick, RI, in arrears, without the submission of invoices or vouchers. Payments are due on the first business day following the end of the payment period and are subject to available appropriations. The payments shall be directly deposited in accordance with the "Payment by Electronic Funds Transfer" clause in this Lease. Payments shall be considered paid on the day an electronic funds transfer is made.

6.2.7 Cancellation (JUL 2017)

The Government may terminate this Lease 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 by delivering to the Lessor a written notice specifying the effective date of the termination. The termination notice shall be delivered by certified mail return receipt requested and mailed at least 30 days before the effective termination date.

6.2.14 Holdover

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 for a period not to exceed five (5) years. Payment shall be made in accordance with the Consideration clause of the Lease, in arrears on a prorated basis, at the rate paid during the Lease term. This period shall continue for a period not to exceed five (5) years after lease expiration or until the Government shall have signed a new Lease with the Lessor, acquired the property in fee, or vacated the premises.

6.2.16 Lessor's Successors (JUL 2017)

The terms and provisions of this Lease and the conditions herein bind the Lessor and the Lessor's heirs, executors, administrators, successors, and assigns.

SECTION 3 - GENERAL CLAUSES

3.2.5-1-RE Officials Not to Benefit (OCT 1996)

No member of or delegate to Congress, or resident commissioner, shall be admitted to any share or part of this lease, or to any benefit arising from it. However, this clause does not apply to this lease to the extent that this lease is made with a corporation for the corporation's general benefit.

3.3.1-15-RE Assignment of Claims (OCT 1996)

Pursuant to the Assignment of Claims Act, as amended, 31 U.S.C. § 3727, 41 U.S.C. § 6305 the Lessor may assign its rights to be paid under this lease.

6.3.18-3 Restoration (JUL 2017)

A. The government shall surrender possession of the premises upon the date of expiration or termination, requesting restoration of the premises, the Government at its option shall within (90) days after such expiration or termination, or within such additional time as may be mutually agreed upon either:

1. Restore the premises to as good condition as that existing at the time of the Government's initial entry upon the premises under this lease or any preceding lease (or ordinary wear and tear, damage by natural elements and by circumstances over which the Government has no control, excepted) or,

2. The FAA 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 owner, so long as it is determined by the RECO to be in the best interests of the Government or,

3. Make an equitable adjustment in the lease amount for the cost of such restoration of the premises or diminution of the value of the premises if unrestored, whichever is less. Should a mutually acceptable settlement be made, the parties shall enter into a supplemental agreement hereto effecting such agreement.

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 Lease may be considered as implying that Congress will at a later date appropriate funds sufficient to meet the deficiencies.

6.3.25 Quiet Enjoyment (OCT 1996)

The Lessor 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.

6.3.33 Covenant Against Contingent Fees (AUG 2002)

The Lessor warrants that no person or agency has been employed or retained to solicit or obtain this contract upon an agreement or understanding for a contingent fee, except a bona fide employee or agency. For breach or violation of this warranty, the Government shall have the right to annul this contract without liability or, in its discretion, to deduct from the contract price or consideration, or otherwise recover the full amount of the contingent fee.

6.3.34 Anti-Kickback - Real Property (JAN 2017)

The Anti-Kickback Act of 1986 (41 U.S.C. 51-58), prohibits any person from: (1) Providing or attempting to provide or offering to provide any kickback; (2) Soliciting, accepting, or attempting to accept any kickback; or (3) Including, directly or indirectly, the amount of any kickback in the contract price charged by a prime contractor to the United States Government or in the contract price charged by a subcontractor to a prime contractor or higher tier subcontractor.

6.3.35 Examination of Records (AUG 2002)

The Comptroller General of the United States, the Administrator of FAA or a duly authorized representative from 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.

6.3.36 Subordination, Nondisturbance and Attornment (JAN 2017)

A. The Government agrees, in consideration of the warranties and conditions set forth in this clause, that this Lease 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 Lease. Based on a written demand received by the RECO, the Government will review and, if acceptable, execute such instruments as Lessor may reasonably request to evidence further the subordination of this Lease 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 Lessor if such easement does not interfere with the full enjoyment of any right granted the Government under this Lease.

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 Lease so long as the Government is not in default under this Lease. Lessor will include in any future mortgage, deed of trust or other security instrument to which this Lease becomes subordinate, or in a separate non-disturbance agreement, a provision to the foregoing effect. Lessor 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 Lessor under this Lease, 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 lease 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 Lease, 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.

6.3.37 Notification of Change in Ownership or Control of Land (JUL 2017)

If the Lessor 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 Lessor or Lessor'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.

6.3.45 Contract Disputes - Real Property (JAN 2017)

All contract disputes arising under or related to this Lease will be resolved through the FAA dispute resolution system at the Office of Dispute Resolution for Acquisition (ODRA) and will 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 will apply only to final agency decisions. A Lessor may seek review of a final Government decision only after its administrative remedies have been exhausted.

All contract disputes will be in writing and will be filed at the following address:

Office of Dispute Resolution for Acquisition, AGC-70
Federal Aviation Administration
800 Independence Avenue, S.W., Room 323
Washington, DC 20591
Telephone: (202) 267-3290

A contract dispute against the FAA will be filed with the ODRA within two (2) years of the accrual of the lease claim involved. A contract dispute is considered to be filed on the date it is received by the ODRA.

The full text of the Contract Disputes clause is incorporated by reference. Upon request the full text will be provided by the RECO.

SECTION 4 - FINANCIAL CLAUSES

6.4.1 System for Award Management - Real Property - SAM Waiver (JAN 2017)

The System for Award Management (SAM) is the Government's required method to receive vendor information. However, you have been granted an exception to SAM and therefore must provide your initial payment information and any future changes to your payment information to the RECO on a completed and signed "Vendor Miscellaneous Payment Information" form, together with any other required notice under this Lease.

6.4.2 Payment by Electronic Funds Transfer (JAN 2017)

All payments by the Government under this Lease will be made by electronic funds transfer (EFT). The Government will make payment by EFT through the Automated Clearing House (ACH) network, subject to the rules of the National Automated Clearing House Association. The rules governing federal payments through the ACH are contained in 31 CFR Part 210. The Lessor is responsible for maintaining correct payment information with the Government. If the Lessor's EFT information is incorrect or outdated, the Government is not required to make payments to the Lessor until correct/current EFT information is submitted to the Government for payment distribution.

SECTION 5 - DESIGN AND CONSTRUCTION CLAUSES – Not applicable

SECTION 6 - GENERAL BUILDING REQUIREMENTS AND SPECIFICATIONS CLAUSES – Not Applicable

SECTION 7 - SERVICES, UTILITIES, AND MAINTENANCE CLAUSES – Not Applicable

SECTION 8 - ENVIRONMENTAL OCCUPATIONAL SAFETY AND HEALTH CLAUSES – Not Applicable

SECTION 9 - SECURITY CLAUSES

6.9.5 Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment (OCT 2020)

CLAUSE:

(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 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) 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. 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 16.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.16.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.

6.9.5-1 Covered Telecommunications Equipment or Services- Representations (DEC 2020) PROVISION/CLAUSE:

(a) *Definitions.* As used in this provision, "covered telecommunications equipment or services" has the meaning per the clause 6.9.5 Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment".

(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.

6.9.5-2 Representation Regarding Certain Telecommunications and Video Surveillance Services or Equipment (DEC 2020)

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 provision 6.9.5-1 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 provision 6.9.5-1 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.

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.

SECTION 10 – CLOSING

6.10.1 Notices (JUL 2017)

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

TO THE LESSOR:

The City of Warwick, RI
Planning Department
3275 Post Road
Annex Building
Warwick, RI 02886

Federal Aviation Administration
Land Lease Off Airport
Rev. 08/2019

TO THE GOVERNMENT:
Federal Aviation Administration
Real Estate Branch, AAQ 910
1200 District Avenue
Burlington, MA 01803

6.10.3 Signature Block (JUL 2017)

This Lease shall become effective when it is fully executed by all parties.

In witness whereof, the parties hereto have signed their names.

THE CITY OF WARWICK, RI

By: _____

Print Name: _____

Title: _____

Date: _____

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

By: _____

Print Name: Gail F. Gray

Title: Real Estate Contracting Officer

Date: _____

SECTION 11 – ATTACHMENTS/EXHIBITS/SPECIAL STIPULATIONS*Attachment/Exhibit List*

Number	Title	Date	Number of Pages
1	Exhibit "A" Property Description		1
2	Exhibit "B" FAA Drawing No. NE-D27474-003/C		1
3	Public Authorization Certificate		1

PUBLIC AUTHORIZATION CERTIFICATE

On this day of , 20 , I

[insert name]

certify that I am the of the

[insert title]

_____ named in the attached agreement; that
[insert name of State, County, Municipality, or other Public Authority]

_____ who signed said agreement on behalf of the
[insert name of person who signed the agreement]

_____ is
[insert name of State, County, Municipality, or other Public Authority]

_____ of said
[insert title of person who signed the agreement]

_____ ; and that said agreement was duly signed
[insert name of State, County, Municipality, or other Public Authority]

for and on behalf of by authority of
[insert name of State, County, Municipality, or other Public Authority]

its governing body, and is within the scope of its powers.

Signed _____

EXHIBIT "A"

RECOMMENDED DESCRIPTION
OF AN EASEMENT
TO BE CONVEYED BY
CITY OF WARWICK
TO
FEDERAL AVIATION ADMINISTRATION

That certain parcel or tract of land for easement purposes only situated northwesterly of Post Road and westerly of Palm Boulevard in the City of Warwick, County of Kent, State of Rhode Island and is bounded and described as follows:

Commencing on the northwesterly highway line of Post Road as established by State Highway Plat No. 2093 at Rhode Island Highway Bound located thirty-three and no hundredths feet (33.00') northwesterly from and opposite to Station 118+30.25;

thence turning a counter-clockwise angle of 88°-39'-55" from a Rhode Island Highway Bound located thirty-three and no hundredths feet (33.00') northwesterly from and opposite to Station 121+54.04 as established by said Highway Plat and running northwesterly for a distance of four hundred fifty-five and fourteen hundredths feet (455.14') to the southeasterly corner of the herein described easement for the point and place of beginning;

thence turning a clockwise angle of 88°-44'-55" from the last described course and running S63°-52'-00"W for a distance of twenty and no hundredths feet (20.00') to a corner;

thence turning an interior angle of 90°-00'-00" and running N26°-08'-00"W for a distance of twenty and no hundredths feet (20.00') to a corner;

thence turning an interior angle of 90°-00'-00" and running N63°-52'-00"E for a distance of twenty and no hundredths feet (20.00') to a corner;

thence turning an interior angle of 90°-00'-00" and running S26°-08'-00"E for a distance of twenty and no hundredths feet (20.00') to the point and place of beginning;

the last described course forming an interior angle of 90°-00'-00" with the first described course of said easement.

Said easement contains 400 square feet.

Said easement is conveyed with rights of ingress and egress to construct and maintain equipment within said easement and the rights of access for utilities to said easement.

