



**INVITATION FOR BID (IFB)
LEASE OF MUNICIPAL WATER TOWER SPACE AT CARR TANK FOR
TELECOMMUNICATIONS ANTENNAS**

ISSUE DATE: September 14, 2018

IFB NO.: 500610-FY18-33 (RE-BID)

QUESTIONS DUE: October 31, 2018; 5:00 P.M.

BIDS DUE: November 8, 2018; 3:00 P.M.

DELIVERY ADDRESS: Town of Leesburg
Procurement Division
25 West Market Street
Leesburg, VA 20176

CONTACT: Octavia Andrew, CPPO, CPPB, VCO
Chief Procurement Officer
Phone: 703-737-7176
Fax: 703-771-2799
E-mail: oandrew@leesburgva.gov

NOTICE OF ADDENDA: Any addenda to this IFB will be posted on the Town's Bid Board (<http://www.leesburgva.gov/bidboard>) and will only be emailed to those firms who have REGISTERED on this site. It is the firm's responsibility to provide a correct email address and to be aware of any addenda.

**NOTICE TO BIDDERS
TOWN OF LEESBURG
IFB NO. 500610-FY18-33 (RE-BID)**

Sealed bids will be received by the Town of Leesburg, Virginia for:

LEASE OF MUNICIPAL WATER TOWER SPACE AT CARR II TANK FOR
TELECOMMUNICATIONS ANTENNAS
LOCATED AT 550 FORT EVANS ROAD, NE, PARCEL NO. 148-47-2140-000, TAX MAP NO.
/49////////16D
LOUDOUN COUNTY, VIRGINIA

OBTAINING BID DOCUMENTS: Interested bidders may obtain bid documents from the Town's Bid Board:
<http://www.leesburgva.gov/bidboard>.

SUBMISSION OF BIDS: The bid documents will consist of this Notice to Bidders, Instructions to Bidders, Specifications, Lease Agreement, Bid Forms and the required Affidavit. These documents must be completed (each blank must be filled in unless otherwise specified), signed and received by the Town of Leesburg, 25 W. Market St., Leesburg, VA 20176 **no later than 3:00 P.M. (EST) on Thursday, November 8, 2018.** Bid documents must be delivered in a sealed envelope with the signature of a company officer across the envelope seal. Envelopes must be clearly marked: LEASE OF WATER TOWER SPACE AT CARR TANK FOR TELECOMMUNICATIONS ANTENNAS.

BID OPENING: Bids will be opened at the Town Council business meeting scheduled for **Tuesday, November 13, 2018, at 7:00 p.m.**, or as soon as possible thereafter, depending on the agenda. The Bid process will be conducted pursuant to Virginia Code Sections 15.2-1800 and 15.2-2100 through 15.2-2105. Bids will be publicly opened and read aloud.

RENT, INITIAL TERM: The minimum bid per Antenna lease is \$4,000 per month for up to six (6) antennas and associated equipment. The initial lease term will be for five (5) years with the possibility of four 5-year extensions unless terminated by either Lessee or Town in accordance with the lease provisions. Any BID less than this minimum will be deemed non-responsive, and will not be considered.

TIE BIDS: In the event that two or more bidders bid the same amount (are tied) for the lease, the Town Council will review the offers and determine which responsible bidder, in its opinion, would be best suited to occupy the space.

NOTICE OF AWARD: Within a reasonable number of days following the bid opening, the Town Council will review the high bidder's documents. The Lease will be awarded to the highest responsive, responsible bidder, or another responsible bidder if, in the Town Council's opinion, some reason affecting the interest of the Town makes it advisable to do so, pursuant to Va. Code § 15.2-2102.

The Notice of the Award, a contract resulting from this Invitation for Bid will be posted on the Town's Public Notice Board, located at 25 W. Market St., Leesburg, VA 20176, and on the Town's Bid Board (<http://www.leesburgva.gov/bidboard>).

QUESTIONS: Questions must be submitted in writing to the Chief Procurement Officer, Octavia Andrew, at oandrew@leesburgva.gov. Questions must be received by 5:00 P.M. on Wednesday, October 31, 2018. The subject line of the email must include: IFB NO. 500610-FY18-33 (RE-BID) LEASE OF WATER TOWER SPACE AT CARR II TANK FOR TELECOMMUNICATIONS ANTENNAS.

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I. PURPOSE

The Town of Leesburg (the “Town”) is accepting sealed bids for the lease of municipal water tower space at the Carr II Tank for telecommunications antennas located at 550 Fort Evans Road NE, Leesburg, VA 20176. We are seeking sealed bids from state licensed and Federally Licensed Communication Companies (FCC), also referred to herein as “bidder”.

II. BACKGROUND

The Town of Leesburg is located 35 miles west of Washington, D.C. The Town encompasses an area of 12 square miles with an estimated utility service population of 62,500. The Town’s fiscal year begins on July 1 and ends on June 30.

The Town of Leesburg is a full-service municipal corporation that provides the following services to Town residents and businesses: police, refuse collection and disposal, water and sewer utilities, storm water management, airport, parks and recreation, and maintenance of streets and roadways.

Currently, the Town has 2 long term lease agreements in place from firms co-locating on the tank.

III. DESCRIPTION

The successful bidder shall at its own cost and expense and in strict conformity with all applicable regulations and specifications, furnish all material, labor and equipment for the installation of the antenna array, cable connections and ground building.

The successful bidder shall at its own cost and expense and in strict conformity with all applicable regulations and specifications, furnish all material, labor and equipment for the installation of the required power and phone service to the site. The successful bidder will be required to install their own electric meter for power consumption.

The successful bidder shall coordinate the location of its control building with the staff of Department of Utilities located such that its operation will in no way conflict with the operational activities of Town or other cell antenna lessees at this location.

The successful bidder will be subject to strict guidelines as far as personnel access and maintenance of a secure site at all times. The Town will coordinate and cooperate with all procedures with regards to security with the lessee.

The successful bidder will be required to apply for a zoning permit from the Town of Leesburg and Loudoun County and may even be required to file for special exception and site plan approval with Loudoun County.

In the event that the subject water tank is destroyed or demolished, then the lease agreement shall terminate. If the demolition is voluntary by the Town, at least twelve (12) months’ advance notice of demolition will be given to the Lessee.

All facilities constructed by the successful bidder shall be erected in accordance with all applicable municipal, state and Federal laws and regulations.

The successful bidder will procure and maintain commercial general liability insurance as required by the lease throughout its term.

The Town shall have aesthetic control over the proposed cell antenna plan and shall approve all plans and specifications prior to construction. Such review and approval shall be above and beyond all required review and approval under applicable federal, state, local laws, rules and regulations.

Said aesthetic control shall include, but not limited to, review and approval of all equipment and appurtenance design and specifications, location of all equipment and appurtenance on tank and site area landscaping design and specifications. The Town shall also have control over the volume of noise emissions produced by the antennae and related equipment so as to eliminate any nuisance that may exist to the areas surrounding the tank site.

The Town makes no representations regarding the status or condition of the facility. Bidders may contact Russell Chambers, Utility Plant Manager (rchambers@leesburgva.gov) to arrange for inspection of the site and to satisfy themselves as to its suitability for its proposed use.

Building Specifications

1. The ground space including equipment shelter for use by the cell service providers shall be located in the general area shown on the site plan not exceeding 300(+/-) square feet.
2. The location of the building is subject to approval by the Loudoun County zoning department. Bidder shall inform itself with all necessary approvals prior to bidding.
3. The building architecture shall comply with the facade of the existing building at the tank site.

Underground Utilities

1. All conduits (Schedule 40) shall be located underground to and from the tank and building.
2. Proper handholes shall be used when required.
3. The power and phone service to the building shall be coordinated by the bidder through a separate meter.
4. All conduits shall be encased in concrete and be at depth of no less than 2' from the finished grade.
5. Crossing of conduits with Town's utilities shall occur at 90 degrees where possible. Paralleling conduits on top of Town's utilities will not be allowed.

Restoration

1. All disturbed areas will be graded and seeded/sodded and returned to their original conditions.

2. All damaged paints due to the work or welding must be repainted with same material by a professional painting contractor familiar with this type of work and inspected by a certified third party inspection firm approved by the Town. Third party inspectors must have the following credentials: NACE (National Association of Corrosion Engineers) and AWS (American Welding Society) Certification.

Site Inspections and Requirements

1. The Town makes no representations of any kind with respect to the site, adequacy to support the equipment, or the appropriateness of the site for use as a site for wireless communication equipment.
2. Any bidder who is licensed by the Federal Communications Commission (FCC) to provide wireless telecommunications service can conduct testing at the site with the submission of documentation of insurance in an amount satisfactory to the Town. In addition, the Town will require the bidder to provide a "Hold Harmless Agreement" and coordinate access to the site through the Utilities Department. All insurance certificates and the Hold Harmless Agreement must be in place prior to arranging for site access.
3. Each bidder will be responsible for determining the adequacy of the existing Water Tower to support the bidder's equipment, ground apparatus and the suitability of the site for use as a wireless communication equipment site. Included with the determination, a structural evaluation and wind load analysis for the existing Water Tower and loads to hold additional antenna installation shall be completed by a Virginia Licensed Professional Engineer and submitted prior to approval of the construction plans. The Town may require the bidder at his/her own expense(s) to pay for review services by the Town's Consultant Engineer (Hazen & Sawyer) to verify the structural analysis and report.
4. All mounting and attachment points should be "isolated" in such a way to protect the existing coating from metal clamps and screws that might damage the coating and cause eventual corrosion.
5. All vertical cable runs should be contained in the trays to maintain existing aesthetics. All new conduit runs, equipment and hardware must be painted to match existing tank color. All coating repairs must strictly follow coating system requirements for Tnemec paint system. Existing exterior coating system is TNEMEC Series 701- Color is Tear Drop.
6. In the event the tank must be taken off line for an upgrade, the cell provider shall be responsible for all costs incurred and associated with taking the tank out of service, draining, filling, sampling and testing, including providing onsite water for construction during the period when the tank is not in service, if required. Repairs to the interior coating of the tank shall be conducted by a Town approved painting contractor (Dixon or approved equivalent). Scope of services and frequency of paint contractor visits and inspections to be approved by Town prior to draining of tank.
7. Bidder and its contractor have right of ingress and egress from the Property, twenty-four (24) hours a day, seven days a week. An escort is required to access the Property as the Property is not manned 24 hours a day, 7 days a week. Bidder and its contractor shall contact Water Supply staff for access at the following telephone numbers:
During normal plant operations: 703-737-7110
After business hours/no answer received at above number: 571-246-4273; 571-246-4448

IV. QUALIFICATIONS

Any bidder who is a state licensed and Federally Licensed Communication Company (FCC).

V. LEASE TERM

The initial lease term will be for five (5) years with the possibility of four 5-year renewals unless terminated by either Lessee or Town in accordance with the lease provisions.

VI. BID SUBMITTAL INSTRUCTIONS

1. All bids must be submitted in an appropriately marked and sealed envelope, to include one (1) original and one (1) copy of the following documents. These documents must be completed (each blank must be filled in unless otherwise specified), signed, and received by the Town of Leesburg, 25 West Market Street, Leesburg, VA 20176 **no later than 3:00 P.M. on Thursday, November 8, 2018**. The bids will be opened at the Town Council business meeting scheduled for **Tuesday, November 13, 2018, at 7:00 P.M.**, or as soon as possible thereafter, depending on the agenda.

- a. IFB Submission Form (Page 14)
- b. Bid Form (Pages 15 - 17)
- c. Addenda Acknowledgement Form (Page 18)

Bids in the form of telegrams, telephone, facsimiles or telex messages will not be accepted. The same person, firm, or corporation may submit only one bid. The submittal of more than one bid shall be cause for rejection by the Town of all bids submitted by the person, firm, or corporation.

All blanks, except signatures, on the Bid Form shall be legibly completed in ink.

Where so indicated in the Bid Form, sums shall be expressed in both words and figures, and in case of discrepancy between the two, the amount written in words shall govern.

The signer of the Bid must initial interlineations, alterations, and erasures.

The Town shall have the right to reject any bid that does not provide all requested information.

Each copy of the Bid shall include the legal name of the Bidder and a statement that the Bidder is a sole proprietor, partnership, corporation, or other legal entity. Each copy shall be signed by the person or persons legally authorized to bind the Bidder to a lease agreement. A Bid by a corporation shall further give the State of incorporation and have the corporate seal affixed. A Bid submitted by an agent shall have a current power of attorney attached certifying the agent's authority to bind the Bidder. A bid submitted by a foreign corporation shall be accompanied by evidence of authorization to conduct business in Virginia.

2. **BID SECURITY** - Accompanying each bid shall be a certified check, cashier's check or a bid bond in an amount equal to three months' rent payable unconditionally to the Town of Leesburg. When submitting a bid bond, it shall contain Power of Attorney for the full amount of the bid bond from a surety company authorized to do business in the Commonwealth of Virginia and acceptable to the Town. The check or bond of the unsuccessful bidders shall be returned at the completion of award of one or more leases pursuant to this bid package. The check or bond of the bidder to whom a contract is awarded shall be retained until the contract is executed and the required performance bond or other security is submitted. The check or bond of any successful bidder shall be forfeited if the bidder fails to enter into a lease pursuant to this bid package.
3. **BID DOCUMENTS** - The bid must be returned in its entirety in order to be considered for an award. Each bid must be accompanied by the items requested below in the form attached as Attachment B.

Failure to provide these items and the entire bid package may be cause for rejecting the bid.

1. IFB Submission Form
 2. Bid Form
 3. Addenda Acknowledgment Form
4. **FAILURE TO ENTER INTO LEASE** - Should the successful bidder(s) fail to execute and deliver the lease and certificate of insurance within sixty days after receipt of written notification by the Town Administrator that the lease is ready for execution, the bidder shall forfeit to the Town as liquidated damages the bid guarantee deposited with its bid.
 5. **RIGHT TO REJECT BIDS** - The Town reserves the right to reject any and all bids or parts thereof and to waive any informality if deemed in the best interests of the Town.
 6. **FORM OF LEASE** - The proposed form of lease is attached as Attachment D. Bidders shall insert the amount of base rent proposed as part of its bid. If any material changes are made to the bid package, the Town may reject the bid unless the bidder clearly acknowledges its willingness to enter into the Lease Agreement without modifications. The Town shall determine whether any changes are material.

VII. AWARD CRITERIA

Bidders are hereby notified and advised that the Town has invited bids that allow for co-location on the water tank premises.

Subject to the rights of any existing tenants and to the Town's, and conditioned upon all required governmental approvals, including zoning and engineering approvals, the highest responsive and responsible bidder, as tabulated by the Evaluation Team will be awarded the right to select its desired location (subject to Town approval) on the water tank for its antenna array and ground facility. In the event that two or more bidders bid the same amount (are tied) for the lease, the Town Council

will review the offers and determine which responsible bidder, in its opinion, would be best suited to occupy the space.

Award of the contract, if any, will be made within sixty days following the bid date, but shall be conditioned upon successful receipt by the bidder of all required approvals, including governmental approvals.

The Town reserves the right to accept or to reject any or all bids in whole or in part, to make multiple awards, and to waive informalities in the process of awarding this contract.

The successful bidder shall be expected to sign a lease agreement with the Town. Additional terms and provisions may be included in the lease agreement, a sample copy of which is enclosed.

VIII. QUESTIONS AND INQUIRIES

Unless otherwise instructed, the Procurement Contact is the sole point of contact for questions concerning this IFB. Questions concerning this IFB must be made in writing to the Procurement Contact listed on the cover page of the IFB. **Questions must be received by 5:00 p.m. on Wednesday, October 31, 2018.**

A formal addendum responding to all questions received by the deadline will be made available no later than five business days before the bid due date. Additional clarifications to the specifications will also be in the form of a written addendum. All addenda will be posted on the Town's website. Such addenda will become part of the lease agreement documents. Verbal instructions are not binding and will not form a part of the bid documents. It is the bidder's responsibility to obtain all addenda from the Town's website: <http://www.leesburgva.gov/bidboard>.

IX. GENERAL TERMS AND CONDITIONS

A. General Terms and Conditions

1. **Bid Binding for Sixty (60) Days:** Bidder agrees that this Bid shall be valid and may not be withdrawn for a period of sixty (60) calendar days after the due date.
2. **Late Bids:** Bids received after the time specified on the cover page of this IFB will not be accepted and will be returned unopened, provided a return address is visible.
3. **Acceptance or Rejection of Bids:** The Town reserves the right to accept or reject any or all bids in whole or in part and to waive minor informalities in the process of awarding this lease agreement.
4. **Competition Intended:** It is the Town's intent that this invitation for bid permits competition. It shall be the bidder's responsibility to advise the Procurement Officer in writing if any language, requirements, specifications, etc., or any combinations thereof, inadvertently restricts or limits the requirements stated in this IFB to a single

source. The Procurement Officer must receive such notification at least ten (10) business days before the due date.

5. **Understanding of Specifications:** Bidders shall thoroughly examine and be familiar with the lease agreement. The failure or omission of any bidder to receive or examine this document shall in no way relieve any bidder of obligations with respect to this bid or the subsequent lease agreement. The submission of a bid shall be taken as prima facie evidence of compliance with this paragraph.
6. **Inquiries Concerning Specifications:** Questions concerning this IFB must be made in writing to the Procurement Contact listed on the cover page of the IFB.
7. **ADA Reasonable Accommodation Clause:** If you need any reasonable accommodation for any type of disability in order to participate in this procurement, please contact the Procurement Officer at least ten (10) business days before the bid due date.
8. **Costs Incurred in Responding:** This solicitation does not commit the Town to pay any costs incurred in the preparation and submission of bids, or to procure or offer a lease for space defined herein.
9. **Economic Non-Discrimination:** During the term of the lease agreement, Bidder agrees to 1) furnish said services on a reasonable, and not unjustly discriminatory, basis to all users thereof, and 2) charge reasonable, and not unjustly discriminatory, prices for each unit or service, provided that the contractor may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.
10. **Employment Discrimination Prohibited:** During the term of this lease agreement, the Bidder agrees as follows:
 - a. The Bidder will not discriminate against any employee or applicant for employment because of race, religion, color, sex or national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment. The Bidder agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
 - b. The Bidder, in all solicitations or advertisements for employees placed by or on behalf of the Bidder, will state that such Bidder is an equal opportunity employer.
 - c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.

The Bidder will include the provisions of the foregoing paragraphs a, b and c in every subcontract or purchase order of over \$10,000 so that the provisions will be binding upon each subcontractor or vendor.

11. **Disposition of Bids:** All materials submitted in response to this IFB will become the property of the Town. One (1) copy of each bid shall be retained for official files and will become a public record. These records will be available for public inspection after award of the lease. It is understood that the bid will become a part of the official file on this matter without obligation on the part of the Town except as to the disclosure restrictions contained in Section 12. “Trade Secrets and Proprietary Information Disclosure”.
12. **Trade Secrets and Proprietary Information Disclosure:** In compliance with the Town’s Procurement Policies, all bids will be available for public inspection. Trade secrets and proprietary information submitted by a bidder in connection with procurement shall not be subject to public disclosure under the Virginia Freedom of Information Act. However, the bidder must invoke the protection of this section before or upon submission of the data or other materials, and must identify the specific area or scope of data or other materials to be protected and state the reasons why protection is necessary. An all-inclusive statement that the entire bid is proprietary is unacceptable. A statement that the costs are to be protected is unacceptable.
13. **Laws and Regulations:** The bidder’s attention is directed to the fact that all applicable Commonwealth of Virginia laws, municipal ordinances and the rules and regulations of all authorities having jurisdiction over the lease agreement shall apply to the lease throughout, and they will be considered to be included in the lease the same as though herein written out in full.
14. **License Requirement:** All firms doing business for the Town are required to be licensed in accordance with the Town’s “Business, Professional, and Occupational Licensing (BPOL) Tax” Ordinance. Wholesale and retail merchants without a business location in Leesburg, VA are exempt from this requirement. Questions concerning the BPOL Tax should be directed to the Department of Finance, telephone **703-771-2717**. Indicate the BPOL license number on the bid form.
15. **Ethics in Public Contracting:** The bidder agrees that it will adhere to Article 6 – “Ethics in Public Contracting” requirements set forth in the Virginia Public Procurement Act.
16. **Safety:** All contractors and subcontractors performing services for the Town are required and shall comply with all Occupational Safety and Health Administration (OSHA), State and County Safety and Occupation Health Standards and any other applicable rules and regulations. Also, all contractors and subcontractors shall be held responsible for the safety of their employees and any unsafe acts or conditions

that may cause injury or damage to any persons or property within and around the work site area under this lease.

17. **Termination of Lease:** Nothing set forth herein waives Town's right to terminate this Lease for default. All provisions set forth in the Rules, Regulations and Minimum Standards under Chapter 3, I, s. regarding lease termination attached as Exhibit A are incorporated herein by reference.
18. **Non-Assignment of Lease:** The Bidder shall not assign the lease, or any portion thereof, without the advanced written permission of the Town of Leesburg, such permission not to be unreasonably withheld.
19. **Discrimination Prohibited; Participation of Small and Minority-Owned Business:** The Town shall not discriminate against a bidder because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment.
20. **Collusion Among Bidders:** More than one bid from an individual, firm, partnership, corporation or association under the same or different name will be rejected. Reasonable grounds for believing that a bidder has an interest in more than one bid for the work contemplated will cause rejection of all bids in which the bidder is interested. Any or all bids will be rejected if there is any reason for believing that collusion exists among the bidders. Participants in such collusion may not be considered in future bids for the same work. The signer of the bid must declare that all persons, companies and parties interested in the lease as principals are named therein; that the bid is made without collusion with any other person, persons, company or parties submitting a bid; that it is in all respects fair and in good faith without collusion or fraud; and that the signer of the bid has authority to contractually bind the bidder. See Bidder Submission Form.
21. **Town Employees:** No employee of the Town shall be admitted to any share or part of this lease or to any benefit that may arise there from.
22. **Qualification of Bidders:** Each bidder may be required, before the award of any lease, to show to the complete satisfaction of the Evaluation Team that it has the necessary facilities, abilities, and financial resources to conduct its business specified herein in a satisfactory manner, and the bidder may also be required to show past history and reference which will enable the Evaluation Team to be satisfied as to the bidder's qualifications. Failure to qualify according to the foregoing requirements will justify bid rejection.
23. **Protest Of Award Or Decision To Award:** A bidder may protest an award or decision to award a lease under procedures as set forth in the Virginia Public Procurement Act.

24. **Ethics In Public Contracting:** This specification incorporates by reference, but is not limited to, the provisions of law contained in the Virginia Conflict of Interest Act, the Virginia Governmental Frauds Act, Articles 2 and 3 of Chapter 10 of title 18.2 of the Code of Virginia, as amended, and the Town Procurement Policy.
25. **Faith-Based Organizations:** The Town of Leesburg does not discriminate against faith-based organizations.
26. **Insurance Requirements:**

Lessee agrees it shall secure at its own expense general liability insurance in an amount not less than \$2,000,000 solely contained in a Commercial General Liability Policy or in combination with an Umbrella or Excess Policy. Included shall be coverage for Bodily Injury and Property Damage resulting from the operations, products, and completed operations of Lessee. Said insurance shall insure performance by Lessee of the indemnity provisions of Section 7.

Lessee shall also carry automobile insurance contained in an amount no less than \$2,000,000 in a Commercial Auto Policy or in combination with an Umbrella or Excess Policy. Lessee shall also carry Workers' Compensation Insurance, which meets the statutory requirements of the Commonwealth of Virginia. In addition, Lessee shall carry other insurance coverage deemed by the Town to be appropriate to the Lease Agreement.

The above-mentioned coverage shall be placed with an insurance carrier licensed to do business in the Commonwealth of Virginia. The carrier must have an AM Best Rating of A or better. A Certificate of Insurance identifying coverage and naming the Town of Leesburg as an additional insured shall be furnished to the Town. Liability coverage shall contain wording prohibiting cancellation of coverage, failure to renew, or reduction in limit without the insurer first giving 30 days' prior written notice of such action to the Town.

Lessee is responsible for any improvements and/or betterments made to the Premises by the Lessee. Lessee is also responsible for its belongings, furniture, computers, and any all other personal items which Lessee may use and/or store within the Premises. The Town shall neither be responsible for any improvements and/or betterments nor personal items within the Premises and the Lessee, if Lessee desires, may maintain insurance, at its own cost, for improvements, betterments and personal belongings. The Town does not and will not maintain insurance for improvements and betterments made to the Premises by the Lessee. The Town does not and will not maintain insurance for the Lessee's personal belongings within the Premises.

ATTACHMENT A

**IFB SUBMISSION FORM
IFB NO. 500610-FY18-33 (RE-BID)**

SECTION I – COMPANY IDENTIFICATION AND OWNERSHIP DISCLOSURE

Company _____
Address _____
Contact Person _____ Title _____
Telephone No. _____ Fax No. _____ Email _____
Organized under the laws of the State of _____
Principal place of business at _____
Federal Id Number _____ Registered Agent _____
State Corp. Commission Registration No. _____ (attach Certificate of Good Standing)

List the names and addresses of all persons having ownership of 3% or more in the company:

Name	Address
_____	_____
_____	_____
_____	_____

The Town of Leesburg requests, as a matter of policy, that any consultant or firm receiving an award of lease resulting from a formal solicitation issued by the Town shall make certification as specified below. Receipt of such certification, shall be a prerequisite to the award of lease and payment thereof.

SECTION II – EMPLOYEES NOT TO BENEFIT - I (we) hereby certify that if the lease is awarded to our firm, partnership, or corporation, that no employee of the Town of Leesburg, or members of his/her immediate family, including spouse, parents or children has received or been promised, directly or indirectly, any financial benefit, by way of fee, commission, finder’s fee, political contribution or any similar form of remuneration on account of the act of awarding and/or executing this lease agreement.

SECTION III – CONFLICTS OF INTEREST - This solicitation is subject to the provisions of VA Code Ann. Section 2.1-639.2 et seq., the State and Local Government Conflict of Interests Act. The Supplier [] is [] is not aware of any information bearing on the existence of any potential organizational conflict of interest.

SECTION IV – COLLUSION - I certify that this offer is made without prior understanding, agreement, or connection with any corporation, firm, or person submitting an offer for the same services, materials, supplies, or equipment and is in all respects fair and without collusion or fraud. I understand collusive bidding is a violation of the State and federal law and can result in fines, prison sentences, and civil damage awards. I hereby certify that the responses to the above representations, certifications, and other statements are accurate and complete. I agree to abide by all conditions of this RFP and certify that I am authorized to sign for my company.

Signature _____ Date _____
Name (Printed) _____ Title _____

BIDDER MUST RETURN THIS FORM WITH THEIR BID

ATTACHMENT B

BID FORM

This is not a lease. Submit bid on this form.

Date:	Subject: IFB No. 500610-FY18-33 (RE-BID) Lease of Municipal Water Town Space at Carr Tank for Telecommunications Antennas	Bid Due Date: November 8, 2018 by 3:00 P.M.
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Bidder Information:

Company Name: _____ Phone: _____
 Address: _____ Fax: _____
 _____ Email: _____
 BPOL# _____ Federal ID# _____

Instructions to Bidders: Bids must be sealed with appropriate markings on the outside of the envelope or container. The minimum bid price is \$4,000 during the initial term per year and subject to a minimum of 3% escalation on each anniversary of the Commencement Date.

Item	Description	Quantity (months)	Monthly Lease Amount	Annual Lease Amount (12 x monthly lease amount)
1	Lease of municipal water tower space for six (6) telecommunications antennas 550 Ft. Evans Road Parcel No. 148-47-2140-000 Tax Map No. 49////////16D Instrument No 20060824-0072687	12	\$ _____ (minimum bid is \$4,000/mo, additional antennas \$100.00 each per month)	\$ _____

Physical modifications (if any) proposed to the: _____

Bidder Guarantees product or services offered will meet or exceed specifications identified in this Invitation for Bid, subject to all conditions stated herein and on the attached sheets.

By _____ Title _____ Date _____.

BID BOND

BOND NO. _____

AMOUNT: \$ _____

KNOW ALL MEN BY THESE MEN PRESENTS, that _____ hereinafter called the PRINCIPAL, and _____ a corporation duly organized under the laws of the State of _____ having its principal place of business at _____ in the State of _____ and authorized to do business in the Commonwealth of Virginia, as SURETY, are held and firmly bound unto _____, as OWNER, hereinafter called the OBLIGEE, in the sum of _____ DOLLARS (\$ _____) for the payment for which we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS BOND IS SUCH THAT:

WHEREAS, the PRINCIPAL is herewith submitting his or its Bid Proposal for _____ said Bid Proposal, by reference thereto, being hereby made a part hereof.

NOW THEREFORE,

- (A) If the bid shall remain open for a period of not less than 60 days following opening of the bids and be rejected, or in the alternate,
- (B) If the bid shall remain open for a period of not less than 60 days following opening of the bids and be accepted and the PRINCIPAL shall execute and deliver a Contract in the form of Contract attached hereto (properly completed in accordance with the bid) and shall furnish a performance and payment deposit or surety bond for his faithful performance of the Contract, and for the payment of all persons performing labor or furnishing materials in connection therewith,
- (C) THEN, this obligation shall be void; otherwise the same shall remain in force and effect, it being expressly understood and agreed that the liability of the SURETY for any and all claims hereunder shall, in no event, exceed the said amount of this obligation as herein stated. Provided, however, that in addition to the amount of this obligation as herein stated, the SURETY shall be liable for all costs and attorney's fees incurred by the OBLIGEE in enforcing the obligations hereunder.

The SURETY, for value received, hereby stipulates and agrees that the obligation of the SURETY and its bond shall be in no way impaired or affected by any extension of the time within which the OWNER may accept such bid; and the SURETY does hereby waive notice of such extension.

IN WITNESS WHEREOF, the PRINCIPAL and the SURETY have hereunto set their hands and seals, and have executed this instrument and such of them as are corporations have caused their corporate seals to be hereto affixed and these presents to be signed by their proper officers, the day and year first set forth above.

Signed and sealed this _____ day of _____, 20_____ .

PRINCIPAL

By _____

SURETY

By _____

Attorney-In-Fact

IMPORTANT: The SURETY executing bonds must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the Commonwealth of Virginia.

END OF SECTION

ATTACHMENT C

ACKNOWLEDGEMENT OF ADDENDA

Bidder acknowledges receipt of the following ADDENDA, which have been considered in the preparation of this bid.

No. _____	Dated: _____

ATTACHMENT D

LEASE AGREEMENT

550 FORT EVANS ROAD, NE, PARCEL NO. 148-47-2140-000, TAX MAP NO. 49////////16D

THIS LEASE AGREEMENT (“the Lease”), made this _____ day of _____, 20__, between the TOWN OF LEESBURG, a municipal corporation with its principal mailing address of 25 W. Market Street, Leesburg, Virginia 20176, hereinafter designated “Town” and _____ with its principal offices at _____, hereinafter designated Lessee. The Town and Lessee are at times collectively referred to hereinafter as the “Parties” or individually as the “Party”.

WITNESSETH:

WHEREAS, Town is the owner of that certain real property located at 550 Fort Evans Rd. NE, Leesburg, VA, identified as Parcel No. 148-47-2140-000, Tax Map No. 49////////16D, (the “Property”) Instrument number 20060824-0072687 among the Land Records of Loudoun County, Virginia, upon which, among other things, is a water tower owned by Town (the “Water Tower”); and

WHEREAS, Lessee desires to locate certain communications equipment (“Equipment”) on space on the Water Tower and to use a portion of the Property, consisting of three hundred (300) square feet of ground space for placement of Lessee’s equipment structure for related purposes, together with rights-of-way for access thereto and for utilities and related services (such space on the Water Tower, land area and right-of-way being collectively referred to herein as the “Premises”); and

WHEREAS, Town has determined that leasing a portion of the Property to Lessee will not interfere with the public needs of Town’s operations at the Property and will benefit the public and Town by defraying a part of the cost of operating Town’s facility at the Property.

NOW, THEREFORE, FOR AND IN CONSIDERATION of the mutual covenants and conditions set forth herein (including the foregoing recitals, which are a material part of this Lease and not mere prefatory language, and are herein fully incorporated by this reference), and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. **Lease.**
 - (a) Town hereby leases to Lessee (a) a portion of that certain space on the Water Tower, located at 550 Fort Evans Rd. NE in, Loudoun County, Virginia 20176 (Parcel ID No. 148-47-2140-000 Tax Map No. 49////////16D and being further described as instrument number 20060824-0072687 as recorded in the Land Records of Loudoun County, Virginia (the entirety of Town’s property is referred to hereinafter as the “Property”); together with (b) space on the Water Tower necessary to maintain Lessee’s vertical and horizontal separation requirements; together with (c) the non-exclusive right for ingress and egress, seven (7) days a week, twenty-four (24) hours a day, (with reasonable notice to the Town’s designated contact) on foot or motor vehicle, including trucks, and for the installation and maintenance of utility wires, poles, cables, conduits,

and pipes over, under, or along a right-of-way extending from the nearest public right-of-way to the demised premises (“Right-of-Way Area”) and identified as “Ex. Ingress-egress easement” on **Exhibit 1 Part 1** and **Exhibit 1 Part 2**; together with (d) all of the following:

- (i) 300(+/-) square feet of ground space located within the fenced compound at the Property as shown on **Exhibit 1** hereto for installation of a 10 foot x 10 foot platform. Use of this platform shall be limited to the installations and purposes detailed on **Exhibit 1 Part 2** and **Exhibit 1 Part 3** hereto and any approved revisions thereto;
- (ii) The space to run electrical cable from the main electrical feed point to Lessee’s transmitter/receiver base station(s), together with access to Town’s electrical wiring infrastructure so that Lessee can install an electric or sub-meter direct from the utility company and the electric circuit(s) serving Lessee’s equipment;
- (iii) The space for phone lines, with the necessary telephone blocks and the space to route these telephone lines from their demarcation point to Lessee’s transmitter/receiver base station(s); **and**
- (iv) The space to run cable, including but not limited to phone lines, electrical cable, and coaxial cable, from the cable’s source point to Lessee’s transmitter/receiver base station(s), and its antenna systems. Town agrees to grant to Lessee or to the utility companies as Lessee may designate, a utilities path necessary to serve Lessee’s equipment.

In the event any public utility is unable to use the right-of-way, the Town hereby agrees to grant an additional right-of-way either to the Lessee or to the public utility at no cost to the Lessee, so long as right-of-way is available.

- (b) Lessee shall have the right to survey the Property, the Premises and the Right of Way Area, and said survey shall then become **Exhibit 1 Part 1** which shall be attached hereto and made a part hereof, and shall control in the event of boundary and access discrepancies between it and **Exhibit 1 Part 1**. Cost for such survey shall be borne by Lessee.

2. **Term.**

- (a) This Lease shall be effective as of the date of execution by both parties, provided, however, the initial term shall be for 5 years and shall commence on the Commencement Date (as hereinafter defined) at which time rental payments shall commence and will be due at an annual rental of _____Dollars (\$_____.00) for the first year, increasing by three percent (3%) on each anniversary of the Commencement Date, to be paid in equal monthly installments on the first day of the month, in advance. The initial term shall commence on the first day of the month following the date Lessee obtains a building permit authorizing

installation of its equipment on the Premises (the "Commencement Date"). Town and Lessee agree that they shall acknowledge the Commencement Date in writing (which may be by exchange of emails) (the "Commencement Acknowledgement"). Town and Lessee acknowledge and agree that initial rental payment(s) shall not actually be sent by Lessee until thirty (30) days after the Commencement Acknowledgement. By way of illustration of the preceding sentence, if the Commencement Date is January 1 and the Commencement Acknowledgement is dated January 14, Lessee shall send to Town the rental payments for January 1 and February 1 by February 13. The foregoing notwithstanding, if the Lessee fails to obtain a building permit within 120 days of approval of this Lease by Town, or of approval of a Special Use Permit by Town Council, whichever occurs later, then upon 45 days written notice, Town may terminate this Lease unless within the notice period Lessee tenders its initial rental payment and thereafter pays rent in accordance with the terms of this Lease.

- (b) This Lease shall automatically be extended for four (4) additional 5-year terms unless either Lessee or Town terminates it at the end of the then current term by giving the other party written notice of the intent to terminate at least six (6) months prior to the end of the then current term.
- (c) During the Term, but subject to Lessee's substantial compliance with such reasonable regulations regarding access to the Property as Town may promulgate from time to time (and which are applicable to all tenants, occupants and users of the Property), Lessee's employees, agents, contractors, subcontractors, lenders and invitees (collectively, "agents") shall have access to the Premises, for any purpose related to Lessee's communications facility, twenty-four (24) hours a day, seven (7) days a week, at no additional charge in accordance with the provisions of this Paragraph (with reasonable notice to the Town's contact). Town will at all times during the term of this Lease provide Lessee with the name and telephone number of the person responsible for giving Lessee access to the Site. The current name(s) and phone number(s) are set forth on **Exhibit 5**. Access to the Water Tower shall be allowed as provided in Paragraph 4(f) of this Lease.

3. **Rent.**

- (a) **Rental Payments.** (i) During the initial term, Lessee shall pay directly to Town, the monthly rental the "Rent") set forth in Section 2(a), above. Partial months at the beginning and end of the Term will be prorated, in advance. Subject to the provisions of Paragraph 4(b) hereof, the Rent is exclusive of charges for the furnishing of electricity to Lessee. Lessee will install a separate metering system and is responsible for its electrical costs relating to its use of the site.
 - (i) The monthly rent is for six (6) antennas and associated equipment for wireless telecommunications. Each additional antenna (over 6) shall be \$100.00 per month per antenna.

- (ii) The annual rental for each year of each year extension term shall increase on each anniversary of the Commencement Date by three percent (3%) above the annual rental payable with respect to the immediately preceding year. The initial term and all extensions shall be collectively referred to herein as the "Term".
- (b) Late Payments. If Lessee fails to pay to Town any Rent, additional fees or other payments as hereinafter provided, within ten (10) calendar days after notice from Town of such failure, Lessee shall pay to Town, as an additional fee, a late payment fee equal to five (10%) percent of such delinquent payment for each and every month or part thereof that such payment remains unpaid or not paid in full.
- (c) Address for Payments. All sums payable hereunder by Lessee shall be payable to Town at 25 West Market Street, Leesburg, VA 20176, or to such other person or address that Town shall designate in writing at least thirty (30) days in advance of any Rent payment date.

4. **Compliance with Laws and Town's Requirements.**

- (a) Lessee shall operate and maintain the Premises (exclusive of the Right of Way Area) during the Term in compliance with all present and future applicable laws, statutes and regulations imposed by any local, state, or Federal authority having jurisdiction with respect thereto (including, without limitation, the rules and regulations of the Federal Communications Commission (the "FCC") and the Federal Aviation Administration (the "FAA") (collectively, "Regulations"). Town agrees to cooperate with Lessee in making application for and obtaining all licenses, permits and any and all other necessary approvals that may be required for Lessee's intended use of the Premises. Lessee shall attach as **Exhibit 2** to this Lease, copies of all FCC operating licenses and copies of other licenses which it has been issued pertinent to this Lease. Prior to construction of the Equipment Shelter (within ground space), and any installations in the Right of Way Area, or any modifications or changes thereto ("Work"), if any, Lessee and Town shall comply with the following:
 - (i) Lessee shall submit detailed plans and specifications for Lessee's contemplated Work for Town's reasonable approval at the address given in Paragraph 3(c), above (when approved, the "Approved Plans"). Lessee shall cooperate in all respects with Town's reasonable requests for applicable documentation in connection with this Paragraph 4(a)(i). Any and all work must be closely coordinated with Town representatives to ensure there are no impacts to Town property or water quality. Additionally, all costs associated with draining cleaning and restoring the water tower to service shall be borne by the Lessee. For modifications that may impact tank structure or coatings, a certified, Town approved, third party inspection company may be retained to provide inspection services; this cost shall also be borne by the Lessee.

- (ii) Prior to commencement of any Work, Lessee shall obtain Town's prior written reasonable approval and the required approvals of all applicable federal, state and local agencies. Lessee shall promptly deliver to Town copies of any written evidence Lessee receives of its compliance with all applicable Regulations in connection with Lessee's contemplated Work, and Town agrees that copies of building permit(s) will satisfy the conditions of this provision.
- (iii) Lessee's Work shall be completed substantially in accordance with the Approved Plans, with exception for minor, non-material deviations as are required by site conditions. Lessee's Equipment shall not cause material interference that is measurable by applicable industry standards to radio frequencies of any incumbent telecommunications equipment located on the Property as of the Commencement Date. Lessee's Work and installation of equipment shall be in compliance with all applicable regulations, including but not limited to zoning, FAA and FCC specifications. Lessee shall be entitled to install on the Water Tower, as part of Lessee's Work, the equipment listed on **Exhibit 4** to this Lease. Lessee acknowledges that Town's maintenance contractor for the Water Tower will charge a fee for its inspection and review of Lessee's plans and installation, which fee, shall be paid by Lessee.
- (iv) Prior to commencement of any Work, Lessee shall review with Town's Director of Utilities the known locations, if any, of existing substances or materials that are defined as hazardous by any applicable local, state or federal law, regulation or directive ("Hazardous Material") on the Property, that may affect Lessee's Work. If Lessee encounters Hazardous Material (other than as identified by Town as required in the preceding sentence) on the Property during the course of Lessee's Work, Lessee shall immediately stop Work and contact Town's Director of Utilities (as designated in writing by Town) if Lessee is unable to contact Town within four (4) hours of encountering such Hazardous Material. Lessee shall thenceforth follow all of Town's reasonable instructions with respect to such Hazardous Material. Town shall use reasonable efforts to remediate the Hazardous Material, at its cost. Lessee shall not re-commence Work until notified that it may do so by Town, such authorization to re-commence Work not to be unreasonably delayed, conditioned or withheld. If notice of such authorization is not given within thirty (30) days of Lessee's ceasing Work, Lessee shall, in addition to any other rights available under this Lease, at law and/or at equity, have the right to terminate this Lease upon written notice to Town or to relocate to an alternate location on the Property and/or the Water Tower, as applicable, promptly selected by Town but reasonably acceptable to Lessee. If, in Town's reasonable discretion, continuation of Lessee's Work may (i) violate applicable law regarding the management, transport, disposal or other activity with respect to Hazardous Material; (ii) pose an additional threat to the health, safety or welfare of persons on the Property and permitted by

Lessee to be on the Premises; or (iii) impose additional, adverse legal liability upon Town, then, at Town's election, Town shall either relocate the Premises to an alternate location selected by Town but reasonably acceptable to Lessee, or, if such relocation is impracticable, Town shall have the right to require Lessee to cease all Work until such time as Town's concerns are addressed in a manner approved by Town.

(v) Lessee agrees that it will not use, generate, store or dispose of any Hazardous Material on, under, about or within the Property in violation of any law or regulation. Without having any duty of inspection or research, Town represents to the best of its actual knowledge (i) that neither Town nor, to Town's knowledge, any third party has used, generated, stored or disposed of, or permitted the use, generation, storage or disposal of, any Hazardous Material on, under, about or within the Property in violation of any law or regulation, and (ii) that Town will not, and will not permit any third party to use, generate, store, or dispose of any Hazardous Material on, under, about or within the Property in violation of any law or regulation. Town and Lessee each agree to defend, indemnify and hold harmless the other and the other's partners, affiliates, agents and employees against any and all losses, liabilities, claims and/or costs (including reasonable attorneys' fees and costs) arising from any breach of any representation, warranty or agreement contained in this paragraph. Notwithstanding anything to the contrary in this Section 4(a)(v), each of the party's indemnification obligations shall be only to the extent permissible under law.

(b) If Lessee requires an electric power (and/or other utility) supply and/or usage for the operation of its communications facilities, Lessee at its sole cost and expense shall obtain such power supply. Any work performed in connection with this subparagraph (b) shall comply with provisions of subparagraph (a) hereof. In connection therewith, Town agrees to sign, or cause to be signed, such documents or easements as may be required by any servicing utility company to provide such power supply to the Premises, including the grant to Lessee, or to the servicing utility company, at no cost to Lessee, of an easement in, over, across, or through the Property as required by such servicing utility company to provide utility services as provided herein.

(c) As security for the performance of its obligations hereunder, Lessee shall post a bond in an amount equal to three months' rent, which may be a certified check, cashier's check or a bid bond. In the event that there shall be no material default by Lessee prior thereto, Town shall reasonably cooperate and take all necessary or appropriate action to release such bond at the expiration or sooner termination of the term of this Lease.

(d) In any case where the approval or consent of Town is required, requested, or otherwise to be given under this Lease, such approval or consent shall not be unreasonably delayed, conditioned or withheld.

- (e) In addition to any other rights of termination created by this Lease, Lessee shall have the right to terminate this Lease upon thirty (30) days written notice if (i) due to no act or omission of Lessee, Lessee does not obtain or maintain any license, permit, or other approval necessary for the construction and/or operation of the Equipment Shelter and Lessee's Equipment; or (ii) due to no act or omission of Lessee, Lessee is unable to occupy or utilize the Premises due to an action of the FCC, including without limitation, a take-back of channels or change in frequencies; or (iii) Lessee determines that the Premises is not appropriate for its operations for technological reasons, including, without limitation, signal interference, due to no act or omission of Lessee; or (iv) for any reason or for no reason, provided Lessee delivers written notice of such termination pursuant to this clause (iv) to Town no later than thirty (30) days prior to the Commencement Date.
- (f) Provisions Regarding Water Tower.
- (i) Town agrees that Lessee shall have access to the Water Tower for the purpose of installing and maintaining Lessee's equipment thereon. Town shall furnish Lessee with necessary access for the purposes of ingress and egress to the site and the Water Tower location. It is agreed, however, that only authorized engineers, employees or properly authorized contractors of Lessee or persons under their direct supervision will be permitted to enter said premises. Access shall be conditioned in accordance with Town's adopted policies requiring proper identification of any person gaining access to the Property. Access shall be granted only after 24 hours' notice for non-emergency and 4 hours' notice for emergency maintenance or repair purposes, and only under the supervision by Town's employee or agent. Town shall provide Non-emergency and Emergency contact information to the Lessee for facilitated access.
- (ii) Town acknowledges that it is obligated to keep the Water Tower in good repair as required by all applicable federal, state, county and local laws. Town shall also comply with all applicable rules and regulations enforced by the Federal Communications Commission with regard to the lighting, marking and painting of towers. Except as expressly provided otherwise elsewhere in this Lease, nothing herein is intended to or shall be deemed to create a contractual duty by the Town to maintain the Water Tower for the benefit of Lessee. In the event that Town must undertake repair or maintenance on the water or sewer facilities adjacent to the Lessee's structure and/or facilities, any reasonable additional costs for the project necessitated by the placement of Lessee's structures and/or Equipment, including but not limited to additional shoring, sheeting, or other trench reinforcement, shall be paid for by Lessee.

Town and Lessee agrees that Town may need to maintain the Water Tower during the term of the Lease, including but not limited to painting and repair. Lessee further agrees to pay the additional cost to the Town of painting and

maintaining the Water Tower with Lessee's Equipment present on the Water Tower, and for any increased cost of painting or maintaining the Water Tower resulting from the location of Lessee's Equipment on or near the Water Tower. It is understood and agreed that Lessee's Equipment, its installation, maintenance and operation will in no way interfere with Town's operation and/or maintenance of the Water Tower. At Town's sole discretion and upon prior written notice, Lessee shall remove any or all of Lessee's Equipment from the Water Tower at Lessee's sole cost and expense to accommodate Water Tower maintenance or repair such as sandblasting, painting, or construction or repairs or additions to the Water Tower, so long as Town uses all available speed to accomplish such work. In the event of an emergency situation as determined by Town, Lessee shall remove its Equipment within twenty-four (24) hours of Town's notice or such other time period specified by Town. Town may provide Lessee, at Lessee's sole cost and expense and mutual agreement as to relocation, the opportunity to temporarily relocate and continue to operate its Equipment, or set up an acceptable, alternative temporary location elsewhere on the Premises, or otherwise to secure the Equipment generally to protect them from damage. Lessee agrees that deactivation of its Equipment may be required to facilitate Town's maintenance or accommodate an emergency situation as determined by Town. Upon completion of such Water Tower maintenance, Town shall promptly provide Lessee with written notice thereof, and Lessee shall have the right to immediately restore operation of Lessee's Equipment to its original position on the Water Tower.

All additional or incremental costs referred to above in this Paragraph 4(f)(ii) shall be appropriately and fairly allocated among, and paid by, all lessees and other users of the Property. In the event this Lease is extended for additional terms in accordance with the provisions of Paragraph 2(b) hereof, Lessee shall be responsible for additional maintenance costs as provided by this subparagraph.

- (iii) No material may be used in the installation of Lessee's equipment or transmission lines that will cause corrosion or rust or deterioration of the Water Tower structure or its appurtenances. All antennas on the Water Tower must be identified by a marking fastened securely to the bracket(s) therefore on the Water Tower and all transmission lines are to be tagged at the conduit opening where it enters any user's equipment space.

5. **Interference.**

- (a) Lessee agrees to install equipment of the type and frequency which will not cause material interference which is measurable in accordance with then existing industry standards ("Interference") to any equipment of Town or other lessees of the Property which existed on the Property or was approved for installation and for which Town had executed a lease prior to the date this Lease is executed by the Parties, provided

that prior to Lessee's installation Town provides Lessee with sufficient information as to such equipment approved for installation but not yet installed.. In the event any after-installed Lessee's equipment causes such Interference, and after Town has notified Lessee in writing of such Interference, Lessee will take all commercially reasonable steps necessary to correct and eliminate the Interference. Lessee agrees that it will, in the event that such interference cannot otherwise be remedied within seventy-two (72) hours after notice from Town, at the end of the seventy-two (72) hour notice period it will power down the equipment causing such interference (except for intermittent testing) until such interference can be remedied. In no event will Town be entitled to terminate this Lease or relocate the equipment as long as Lessee is making a good faith effort to remedy the Interference issue. Town agrees that Town and/or any other tenants of the Property who currently have or in the future take possession of the Property will be permitted to install only such equipment that is of the type and frequency which will not cause Interference to the then existing equipment of Lessee. The Parties acknowledge that there will not be an adequate remedy at law for noncompliance with the provisions of this Paragraph and therefore, either Party shall have the right to equitable remedies, such as, without limitation, injunctive relief and specific performance. The foregoing provisions notwithstanding, nothing herein is intended or will be construed to make Town the guarantor of any third party's performance.

- (b) Subsequent to the installation of Lessee's Equipment, Town shall not permit itself, any of its tenants, agents or Lessees to install new equipment on the Property or property contiguous thereto owned or controlled by Town, if such equipment would cause Interference with Lessee's operations. Such Interference shall be deemed a material breach by Town. If Interference occurs, Town agrees, upon request by Lessee, to take all action reasonably necessary to eliminate such Interference, in a reasonable time period, not later than thirty (30) days after notice from Lessee. If Town fails to comply with this paragraph, Lessee may terminate this Lease, and/or pursue any other remedies available under this Lease, at law, and/or in equity. The foregoing provisions notwithstanding, nothing herein is intended or will be construed to make Town the guarantor of any third party's performance.
- (c) Prior to installation of Lessee's Equipment, Town may require that an intermodulation study be performed at Lessee's sole cost and expense, prior to the Commencement Date, and Lessee also agrees to share results of said study with Town.
- (d) If required to remedy Interference by Lessee as described in paragraph 5(a), above, Town reserves the right to require Lessee to relocate Lessee's Equipment (or a portion of Lessee's Equipment) to an alternate location designated by Town. Lessee shall remove and relocate Lessee's Equipment at its sole cost and expense within ten (10) calendar days of Town's directive, if Lessee's Equipment is a source of Interference to the pre-existing equipment of other wireless operators. If Lessee fails to complete such relocation to Town's reasonable satisfaction, then Town may require Lessee to power down and cease transmissions from Lessee's interfering

equipment until such time as the Interference is resolved in a manner reasonably approved by Town.

- (e) If required to remedy interference to Lessee as described in Paragraph 5(b) above, and a relocation of the interfering party is not possible, Town may request Lessee to relocate Lessee's Equipment (or a portion of Lessee's Equipment) to an alternate location designated by Town, at Town's cost and expense.
- (f) Lessee is aware of its obligation to comply with all applicable rules and regulations of the FCC and other applicable rules and/or regulations of any other federal or state agency (to the extent any state law is not preempted by federal requirements) having jurisdiction over the installation, operations and maintenance of Lessee's Equipment. Lessee agrees to be solely responsible for compliance with all applicable FCC and other governmental requirements with respect to installation, operation and maintenance of Lessee's Equipment and for repairs to Lessee's Equipment.

6. **Lessee's Maintenance Obligations.**

- (a) Prior to the commencement date, Lessee shall inspect those portions of the Premises over which it will have exclusive control and may designate in writing any reasonable repairs Town must accomplish prior to taking possession. The fact of Lessee taking possession under this lease shall conclusively demonstrate that Town has met all obligations of the foregoing sentence. Thereafter, Lessee, at its sole cost and expense (except as provided herein to the contrary), shall be responsible for the maintenance of Lessee's Equipment and the Equipment Shelter(s) and shall keep any part of its Premises over which Lessee has exclusive control neat and clean, in accordance with all laws and regulations applicable to Lessee's use thereof and this Lease. Lessee shall also remedy any damage and remove any trash from any of the Property left by Lessee or any of its contractors, employees or agents. Lessee shall not create any nuisance, unreasonably interfere with, or unreasonably disturb any other Lessee of other parts of the Property (subject to the provisions hereof relating to Interference with equipment installations), or Town. Lessee shall be solely responsible for securing the safety and security of Lessee's Equipment. Prior to the execution of this Lease, Lessee has undertaken such studies and inspections so as to satisfy itself that the Water Tower is of such construction and condition as to permit Lessee to enter upon the Premises for the purposes of the operations authorized hereunder. The parties agree that by signature hereto, Town assumes no contractual duty to Lessee to maintain the Water Tower or Property except for remedying conditions caused by Town or its authorized employees or agents that materially affect Lessee's ability to occupy and use the Premises for the purposes of this Lease and then only to the extent of returning the Property to same or equivalent condition as the date of this Lease; however, the foregoing shall not affect Town's acknowledgement of its obligations under applicable laws as set forth in Paragraph 4(f)(ii) above. Town shall have no obligation to obtain or maintain any license, permit or other approval of any federal, state or local agency having jurisdiction solely as a result of Lessee's use of the Premises as a communications facility. Town shall have no obligation to maintain or

insure Lessee's Equipment, and Lessee shall have no obligation to maintain or insure any equipment or property of Town. All maintenance work required of Lessee hereunder shall be performed by licensed contractors, previously approved in writing by Town, such approvals not to be unreasonably withheld, delayed or conditioned.

If Lessee, in its reasonable opinion, determines that any repairs to the Water Tower are necessary due to Town's failure to maintain the Water Tower as provided above, Lessee shall advise Town thereof and shall provide information in reasonable detail with respect to the need for such repairs. Provided that Town has approved such repairs, which approval will not be unreasonably withheld, Town shall cause such repairs to be made at Town's cost within thirty (30) days after approval of such repairs, or if necessary such longer time as may be reasonably required for completion of such repairs.

- (b) Town shall be responsible for compliance with all marking and lighting requirements of the FAA and FCC other than those necessitated because of Lessee's Equipment. Lessee shall be solely responsible for compliance with all FAA and FCC requirements, and all requirements under applicable laws, with respect to Lessee's Equipment.
- (c) Lessee, upon termination of this Lease, shall, within ninety (90) days, remove its Equipment Shelter(s), its equipment on the Water Tower, fixtures and all personal property and otherwise restore the Premises to its original condition, reasonable wear and tear excepted. Town agrees and acknowledges that the Equipment, fixtures and personal property of Lessee that is not permanently affixed (i.e., welded or stud welded) to the Water Tower shall remain the personal property of Lessee and Lessee shall have the right to remove the same, whether or not said items are considered fixtures and attachments to real property under applicable law. Lessee agrees that for Equipment permanently affixed (i.e., welded or stud welded) to the Water Tower and with the Town's agreement, such Equipment shall either remain in place and become property of the Town or be removed by the Lessee. If such time for removal causes Lessee to remain on the Premises after termination of this Lease, Lessee shall pay the Rent at the then existing monthly rate until such time as the removal of the Equipment Shelter(s), equipment, fixtures and all personal property are completed.

7. **Indemnification.**

- (a) Lessee agrees to indemnify, defend and hold Town harmless from any and all loss, damage or liability and from all costs for any such loss or damage to Town's facilities or equipment located on the Property that occur as a result of Lessee's Work or Lessee's Equipment, and from any and all third party claims, actions, judgments, causes of action (and any damages resulting therefrom) proximately arising out of Lessee's activities on the Property, except if due to the negligence or misconduct of Town or due to the presence or operation of Town's Equipment. Lessee hereby assumes the risk of the inability to operate as a result of any structural or power failures at the Property unless the same is due to any act or omission of Town.

- (b) Lessee agrees to indemnify and hold Town harmless from and against any and all third party claims and any loss, costs, liabilities, damages, judgments, and expenses (including attorneys' fees) arising from such third party claims, resulting from bodily injury or death of any person or property damage to any property sustained by any person, provided such third party claims are proximately arising from Lessee's or Lessee's contractors', agents', invitees', servants' or employees' operations at the Property including, but not limited to, the installation, removal and maintenance of Lessee's Equipment, except if due to the negligence or misconduct of Town.
- (c) Town shall be entitled to recover from Lessee its actual, direct damages under the foregoing indemnities, and each Party shall be entitled to recover from the other Party its actual, direct damages for any breach of this Lease or other act or omission of such Party (subject to any applicable sovereign immunity), but neither Party shall be entitled to recover from the other Party any special, incidental, indirect or consequential or punitive damages, or to recover for any lost revenue, lost profits, loss of technology, rights or services, loss of data or interruption or loss of use of service, in any case or controversy however arising, even if such Party has been advised of the possibility of such damages, and whether arising under theory of contract, tort (including negligence), strict liability or otherwise.

8. **Casualty and Condemnation.**

- (a) In the event of damage by fire or other casualty to the Premises that cannot reasonably be expected to be repaired within forty-five (45) days following same or, if the Right of Way Area is damaged by fire or other casualty so that such damage may reasonably be expected to disrupt Lessee's operations at the Premises for more than forty-five (45) days, then Lessee may at any time following such fire or other casualty, provided Town has not completed the restoration or alternative means of access required to permit Lessee to resume its operation at the Premises, terminate this Lease upon fifteen (15) days written notice to Town. Any such notice of termination shall cause this Lease to expire with the same force and effect as though the date set forth in such notice were the date originally set as the expiration date of this Lease and the Parties shall make an appropriate adjustment, as of such termination date, with respect to payments due to the other under this Lease. Notwithstanding the foregoing, provided that the casualty was not caused by the acts or omissions of Lessee, all Rent shall abate during the period following such fire or other casualty in proportion to the degree to which Lessee's use of the Premises is impaired, until the time repairs are complete and Lessee is able to use the Premises in accordance with its intended purposes.
- (b) If any governmental, public body or other condemning authority takes, or if Town transfers in lieu of such taking, all or part of the Premises, then Lessee may elect to (i) terminate this Lease, effective on the date that title vests in the condemning authority, or (ii) relocate to an alternative location on the Property, reasonably acceptable to Town, for the Equipment Shelter(s) and Lessee's Equipment. Lessee

shall provide written notice of its election within thirty (30) days after receiving actual notice of a taking.

9. **Insurance.**

- (a) The Parties each agree to provide the other with 30 days prior written notice of any cancellation, expiration or default of any applicable liability insurance policy required by this Lease. To the extent liability attaches, Town and Lessee each agree to be responsible for the acts or omissions of its officers, employees and agents arising out of their job duties; provided, however, that neither sovereign immunity nor any other applicable defense is waived by this Lease and the applicable insurance coverage. This Lease is not intended to benefit or create rights in any third party.
- (b) Lessee agrees it shall secure at its own expense general liability insurance in an amount not less than \$2,000,000 solely contained in a Commercial General Liability Policy or in combination with an Umbrella or Excess Policy. Included shall be coverage for Bodily Injury and Property Damage resulting from the operations, products, and completed operations of Lessee. Said insurance shall insure performance by Lessee of the indemnity provisions of Section 7.

Lessee shall also carry automobile insurance contained in an amount no less than \$2,000,000 in a Commercial Auto Policy or in combination with an Umbrella or Excess Policy. Lessee shall also carry Workers' Compensation Insurance, which meets the statutory requirements of the Commonwealth of Virginia. In addition, Lessee shall carry other insurance coverage deemed by the Town to be appropriate to the Lease Agreement.

The above-mentioned coverage shall be placed with an insurance carrier licensed to do business in the Commonwealth of Virginia. The carrier must have an AM Best Rating of A or better. A Certificate of Insurance identifying coverage and naming the Town of Leesburg as an additional insured shall be furnished to the Town. Liability coverage shall contain wording prohibiting cancellation of coverage, failure to renew, or reduction in limit without the insurer first giving 30 days' prior written notice of such action to the Town.

Lessee is responsible for any improvements and/or betterments made to the Premises by the Lessee. Lessee is also responsible for its belongings, furniture, computers, and any all other personal items which Lessee may use and/or store within the Premises. The Town shall neither be responsible for any improvements and/or betterments nor personal items within the Premises and the Lessee, if Lessee desires, may maintain insurance, at its own cost, for improvements, betterments and personal belongings. The Town does not and will not maintain insurance for improvements and betterments made to the Premises by the Lessee. The Town does not and will not maintain insurance for the Lessee's personal belongings within the Premises.

- (c) Notwithstanding the foregoing insurance requirements, the insolvency, bankruptcy, or failure of any insurance company carrying insurance for Lessee, or failure of any such insurance company to pay claims accruing, shall not be held to waive any of the provisions of this Lease or relieve Lessee from any obligations under this Lease.
- 10. **Taxes.** Lessee hereby acknowledges that personal property taxes may be assessed against Lessee's Equipment by the taxing authority. Lessee agrees to promptly pay any and all personal property tax assessed against Lessee's Equipment, or to promptly reimburse Town on presentation of documentation of such taxes.
- 11. **Notices.** All notices required to be given hereunder shall be given in writing either by an overnight courier, or certified or registered mail at the following addresses or at such other address as may be designated in writing by either Party:

If to Town: Director, Department of Utilities
1385 Russell Branch Parkway, SE
Leesburg, VA 20175

With a copy to:

Town Manager
25 W. Market Street
Leesburg, VA 20176

If to Lessee: Company
Address
City, State ZIP

Notice given by mail shall be deemed given three (3) calendar days after the date of mailing thereof.

- 12. **Default and Right to Cure.**
 - (a) An event of default by Lessee ("Lessee Default") shall be defined as (i) the failure to pay Rent, additional fees or other payments set forth herein for a period of more than fifteen (15) calendar days immediately succeeding written notice from Town. In the event that Lessee requires such written notice more than two times in a calendar year Lessee shall pay one hundred dollars (\$100.00) for the first such notice given during that calendar year, five hundred dollars (\$500.00) for the second notice, and one thousand dollars (\$1,000.00) for each additional notice given; (ii) failure to perform any material term, condition or covenant contained herein for a period of more than thirty (30) days immediately succeeding written notice thereof from Town; provided, however, it shall be a Lessee Default under this Lease if Lessee fails, within five (5) days after receipt of written notice of breach, to perform an obligation required to be performed by Lessee if the failure to perform such obligation interferes with Town's ability to conduct its business at the Property, but provided further that if the nature

of Lessee's obligation is such that more than five (5) days after such notice is reasonably required for its performance, then it shall not be a default under this Lease if performance is commenced within such five (5) day period and thereafter diligently pursued to completion. Lessee shall be afforded such additional time to cure any non-monetary Lessee default that cannot reasonably be cured within such five (5) day period or such thirty (30) day period provided, however, that Lessee commences to cure such default within the applicable notice period and diligently pursues such cure.

- (b) In the event of a Lessee Default without cure hereunder, then in addition to its remedies for default at law and in equity, Town shall be entitled to terminate this Lease upon thirty (30) days written notice to Lessee.
- (c) An event of default by Town ("Town Default") shall be defined as the failure by Town to perform any material term, condition or covenant contained herein for a period of more than thirty (30) days immediately succeeding written notice thereof from Lessee; provided, however, it shall be a Town Default under this Lease if Town fails, within five (5) days after receipt of written notice of breach, to perform an obligation required to be performed by Town if the failure to perform such obligation interferes with Lessee's ability to conduct its business at the Property, but provided further that if the nature of Town's obligation is such that more than five (5) days after such notice is reasonably required for its performance, then it shall not be a default under this Lease if performance is commenced within such five (5) day period and thereafter diligently pursued to completion. In the event of a Town Default without cure hereunder, then in addition to its remedies for default at law and in equity, Lessee shall be entitled to terminate this Lease upon thirty (30) days written notice thereof to Town.
- (d) Other Remedies. Upon a default, the non-defaulting Party may at its option (but without obligation to do so), perform the defaulting Party's duty or obligation on the defaulting Party's behalf, including but not limited to the obtaining of reasonably required insurance policies. The costs and expenses of any such performance by the non-defaulting Party shall be due and payable by the defaulting Party upon invoice therefor. In the event of a default by either Party with respect to a material provision of this Lease, without limiting the non-defaulting Party in the exercise of any right or remedy which the non-defaulting Party may have by reason of such default, the non-defaulting Party may terminate the Lease and/or pursue any remedy now or hereafter available to the non-defaulting Party under the laws or judicial decisions of the state in which the Premises are located; provided, however, each Party shall use reasonable efforts to mitigate its damages in connection with a default by the other Party. If either Party so performs any of the defaulting Party's obligations hereunder, the full amount of the reasonable and actual cost and expense incurred by the non-defaulting Party shall immediately be owing by the defaulting Party, and the defaulting Party shall pay to the non-defaulting Party upon demand the full undisputed amount thereof with interest thereon from the date of payment at the greater of (i) ten percent (10%) per annum, or (ii) the highest rate permitted by

applicable Laws. Notwithstanding the foregoing, if Town is the defaulting Party and does not pay Lessee the full undisputed amount within thirty (30) days of its receipt of an invoice setting forth the amount due from Town, Lessee may offset the full undisputed amount, including all accrued interest, due against all fees due and owing to Town until the full undisputed amount, including all accrued interest, is fully reimbursed to Lessee.

13. **Assignment.**

- (a) Town reserves the right to assign, transfer, mortgage or otherwise encumber the Property and its interest in this Lease (collectively, "Town Transfer"). In the event of any such Town Transfer, Town agrees to cause the transferee to accept an assignment and assumption of this Lease and to recognize Lessee and Lessee's rights hereunder, and Lessee shall recognize such transferee provided that the prospective transferee executes and delivers to Lessee a Subordination and Non-Disturbance and Attornment (SNDA) instrument agreeing to recognize Lessee and to not disturb Lessee's tenancy. If the Town Transfer is to a lender to Town, Lessee agrees to execute and deliver to such lender an SNDA subordinating this Lease and Lessee's rights hereunder, as may be required by Town and such Lender provided the same is reasonably acceptable to Lessee and such lender agrees to recognize Lessee's rights under this Lease so long as there is no Lessee Default, in connection with Town's contemplated transaction.
- (b) Lessee, upon notice to Town but without any approval or consent by Town with advanced written permission, may assign this Lease and its rights hereunder to its principals, affiliates, subsidiaries, to any entity which acquires all or substantially all of Lessee's assets in the market defined by the FCC in which the Property is located by reason of a merger, acquisition or other business reorganization or transaction; or to any entity which acquires or receives an interest in the majority of communications towers of Lessee in such market. No change of ownership or control of Lessee shall constitute an assignment hereunder. Lessee may assign this Lease and its rights hereunder to any other person entity only upon consent by Town, which consent will not be unreasonably withheld, delayed or conditioned.
- (c) If Town, at any time during the Term, decides (i) to sell or transfer all or any part of the Property or the Water Tower or (ii) to grant to a third Party by easement or other legal instrument an interest in and to that portion of the Water Tower or Property occupied by Lessee, or a larger portion thereof, for the purpose of operating and maintaining communications facilities or the management thereof, such sale or grant of an easement or interest therein shall be under and subject to this Lease and any such purchaser or transferee shall recognize Lessee's rights hereunder under the terms of this Lease. To the extent that Town grants to a third Party by easement or other legal instrument an interest in and to that portion of the Water Tower and/or Property occupied by Lessee for the purpose of operating and maintaining communications facilities or the management thereof and in conjunction therewith assigns this Lease to said third Party, Town shall not be released from its obligations

to Lessee under this Lease, and Lessee shall have the right to look to Town and the third Party for the full performance of this Lease.

14. **Miscellaneous.** This Lease is made subject to all local, state and federal laws and regulations now or hereafter in force, and shall not be modified or extended, except by an instrument duly signed by Town and Lessee. Waiver of a breach of any provision hereof under any circumstances will not constitute a waiver of any subsequent breach of such provision, or of a breach of any other provision of this Lease.
15. **Title.** Town covenants that Town is seized of good and sufficient title and interest to the Property and has full authority to enter into and execute this Lease. Town further covenants that, to the best of Town's knowledge, information and belief, there are no liens, judgments or impediments of title on the Property or affecting Town's title to the same and that there are no covenants, easements or restrictions which prevent the use of the Premises by Lessee as contemplated in this Lease.
16. **Quiet Enjoyment.** The parties acknowledge that the Property is part of Town's municipal water supply system and, as such, is regulated and subject to regulation by, *inter alia*, the Virginia Department of Health and federal Environmental Protection Agency and that may supersede the Parties' rights and obligations under this Lease. Subject to the foregoing, Town covenants and agrees that Lessee shall be entitled to quiet enjoyment of the Premises and Lessee's occupation thereof shall not be disturbed, provided that Lessee shall not be in default hereunder.
17. **Memorandum of Agreement.** Lessee may record a short form memorandum or notice of this Lease in the land records of the applicable jurisdiction where such records are filed. Any such memorandum shall be in the form attached hereto as **Exhibit 3**.
18. **Estoppel Letter.** Either Town or Lessee shall, at any time upon fifteen (15) days prior written notice from the other, execute, acknowledge and deliver to the other a statement in writing (i) certifying that this Lease is unmodified and in full force and effect (or, if modified, stating the nature of such modification and certifying this Lease, as so modified, is in full force and effect) and the date to which the Rent and other charges, if any, are paid in advance, and (ii) acknowledging that there are not, to such Party's knowledge, any uncured defaults on the part of the other Party, or specifying such defaults if any are claimed. Any such statement may be conclusively relied upon by any prospective purchaser or encumbrancer of the Premises or Lessee's Equipment.
19. **Authority of Town and Lessee.** Town and Lessee warrant and represent each to the other: (i) each possesses the full power and authority to enter into this Lease and perform the duties and obligations required hereunder; (ii) the individual(s) signing on behalf of Town and Lessee are duly authorized to sign on behalf of Town and Lessee, respectively, and by their signatures hereon, bind and benefit Town and Lessee; and (iii) no consent from any other person or entity is necessary as a condition to the legal effect of this Lease.

20. **Waiver of Lien.** Town waives any lien rights it may have concerning Lessee's Equipment, which is deemed Lessee's personal property and not fixtures, and Lessee has the right to remove the same at any time without Town's consent.
21. **Testing.** Lessee shall have the right, at any time following the full execution of this Lease to enter upon the Property for the purpose of making appropriate engineering and boundary surveys, inspections, soil test borings and other reasonably necessary tests.
22. **Submission of Agreement; Severability.** The submission of this Lease for examination does not constitute an offer for a lease of the Premises and this Lease becomes effective only upon the full execution of this Lease by both Parties. If any provision herein is invalid, it shall be considered deleted from this Lease and shall not invalidate the remaining provisions of this Lease.
23. **Survival.** The provisions of the Lease relating to indemnification from one Party to the other Party shall survive any termination or expiration of this Lease. Additionally, any provisions of this Lease which require performance subsequent to the termination or expiration of this Lease shall also survive such termination or expiration.
24. **Captions.** The captions contained in this Lease are inserted for convenience only and are not intended to be part of the Lease. They shall not affect or be utilized in the construction or interpretation of the Lease.
25. **Governing Law.** This Lease shall be governed by and construed under the laws of the Commonwealth of Virginia, without giving effect to principles of conflict of laws.
26. **Exhibits.** All exhibits referenced herein are incorporated herein by reference as though set forth at length herein. The exhibits are:
- | | |
|-----------|---|
| Exhibit 1 | Drawing depicting Premises and Right of Way Area in three parts including survey (to be attached if prepared by Lessee pursuant to Section 1 of this Lease) |
| Exhibit 2 | Lessee's operating license(s) and other licenses pertinent to this Lease |
| Exhibit 3 | Form of Memorandum of Agreement |
| Exhibit 4 | List of Lessee's Equipment to be located on the Water Tower |
| Exhibit 5 | Town's contact information for site access |

[SIGNATURE PAGES TO FOLLOW]

IN WITNESS WHEREOF, the undersigned have affixed their hands and seals to this Lease Agreement as of the date first written above.

APPROVED AS TO FORM:

LESSOR: TOWN OF LEESBURG

By: _____
Barbara Notar, Town Attorney
Date: _____, 20__

By: _____
Kelly Burk, Mayor
Date: _____, 20__

STATE OF VIRGINIA
County of Loudoun, to wit:

I, _____, a Notary Public in and for the County and State aforesaid, do hereby certify that this day personally appeared before me in my jurisdiction aforesaid Kelly Burk, Mayor of the Town of Leesburg, whose name is signed to the foregoing writing dated _____, and acknowledged the same before me.

Given under my hand _____.

NOTARY PUBLIC

My commission expires: _____

LESSEE: _____

By: _____

Its: _____

Date: _____

STATE OF _____

County/City of _____, to wit:

I, _____, a Notary Public in and for the County/City and State aforesaid, do hereby certify that this day personally appeared before me in my jurisdiction aforesaid _____, whose name is signed to the foregoing writing dated _____, and acknowledged the same before me.

Given under my hand _____.

NOTARY PUBLIC

My commission expires: _____

Exhibit 1

Drawing Depicting Premises and Right of Way Area

[attached in three parts]

Exhibit 2

Lessee's Operating Licenses and Other Pertinent Licenses

Exhibit 3
Memorandum of Lease Agreement

This Memorandum made this ____ day of _____, 2018, between the TOWN OF LEESBURG, a municipal corporation with its principal mailing address of 25 W. Market Street, Virginia 20176, hereinafter designated "Town" and (COMPANY) with its principal offices at (ADDRESS), hereinafter designated "Lessee".

1. Town and Lessee entered into a Lease Agreement (the "Lease") on _____, 2018 leasing the Premises (as hereinafter defined) to Lessee for a term of five (5) years with the right to renew for four (4) additional five (5) year terms.
2. The Lease concerns space on Town's certain real property located at 550 Fort Evans Road, NE, Leesburg, VA, identified as Parcel ID No. 148-47-2140-000, Tax Map. No. 49////////16D ("Property") among Land Records of Loudoun County, Virginia upon which among other things, is a water tower owned by Town (the "Water Tower"), as more thoroughly described on Exhibit "A" attached hereto and incorporated herein by reference.
3. The term of the Lease shall commence on the first day of the month following the date Lessee commences installation of the equipment on the Premises, and a copy of the Lease is on file in the offices of Town and Lessee.
4. The terms, covenants and provisions of the Lease of which this is a Memorandum, shall extend to and be binding upon the respective executors, administrators, heirs, successors and assigns of Town and Lessee.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals to this First Amendment to Lease Agreement.

APPROVED AS TO FORM:

By: _____
Barbara Notar
Town Attorney

LESSOR: TOWN OF LEESBURG

By: _____
Kelly Burk
Mayor

Date: _____

LESSEE:

By: _____

Title: _____

Date: _____

Exhibit 4
List of Lessee's Equipment on the Water Tower

Antenna Information

Transmission Lines

(), one each for the antennas listed above

Shelter

' wide x ' long

Frequencies

Transmit: Receive:

[Note: The foregoing specification of frequencies shall not be deemed to require Town's prior consent or approval for Lessee to operate on such frequencies as to which Lessee may be licensed by federal authorities to operate from time to time, nor for installation or substitution of equipment on Town's tower for operations on such frequencies.]

Exhibit 5

Town's Contact Persons for Access

Name	Telephone Number
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