
U. S. GOVERNMENT LEASE FOR REAL PROPERTY

DATE OF LEASE October 1, 2019	LEASE NO. HSCG89-20-1-0029
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PURPOSE. Pursuant to specific Congressional appropriations and 14 U.S.C. 501(e), the statutory authority, the parties understand that the sole purpose of this lease is to secure for the United States a lease for use of and access to Holy Cross Communication Site near South Bend Washington to maintain uninterrupted search and rescue communications equipment.

THEREFORE THIS LEASE, made and entered into this date by and between **Pacific County, Department of Public Works**, whose address is **P.O. Box 66, South Bend, Washington 98586**, and whose interest in the property hereinafter described is that of owner ("LESSOR"), and the Commanding Officer, U.S. Coast Guard SILC, Product Line Division, Portfolio Management Branch, Oakland, California, on behalf of the **UNITED STATES OF AMERICA**, hereinafter called the ("Government:"), for the consideration hereinafter mentioned.

WITNESSETH: The parties hereto for the considerations hereinafter mentioned, covenant and agrees as follows:

1. Lessor hereby leases to the Government the following described premises:

The premises are located at: Latitude: 46.695278 Longitude: -123.7725

Space in Lessor's Building for two 19-inch racks, shelf space for base station, wall and cabinet space for Communications equipment, further described in Paragraph 7.

Space on the tower for three parabolic grid microwave grid antennas and a whip antenna.

To be used for: Holy Cross Communication Site

2. **TO HAVE AND TO HOLD** the said premises with their appurtenances for the term beginning on October 1, 2019 Through September 30, 2020 subject to termination and renewal rights as may be hereinafter set forth.

3. The Government shall pay the Lessor annual rent of \$16,223.36, in arrears. ("Rent"), provided appropriations are granted by Congress. Rent for a lesser period will be prorated. For each subsequent year of the Initial Term and for each year of any succeeding term(s), as applicable, the annual rent shall be increased by two percent (2%) over the annual rent for the immediately preceding year, provided appropriations are granted by Congress. Rent for less than one (1) year shall be prorated. Electronic (ACH) Rent payments shall be made payable to Lessor .

Accounting Data: 2/S/001/113/30/0/01/71113/2321 \$16,223.36 (Fiscal Year 2020)

4. The Government may terminate this lease at any time by giving at least thirty (30) days' notice in writing to the Lessor. Said notice shall be computed commencing with the day after the date of mailing.

5. This lease may be renewed at the option of the Government, for the following term: four (4), one (1) year successive renewal terms, provided notice is given in writing to the Lessor at lease thirty (30) days before the end of the original lease and conditions of this lease shall remain the same during the renewal term. Said notice shall be computed commencing with the day after the date of mailing.

6. The Lessor shall furnish to the Government the following:
- The right of ingress and egress over the adjacent property of the Lessor for the Government, its contractors or other duly authorized representatives, necessary or convenient for the maintenance, repair operation and replacement of Government equipment located on its leased premises.
 - Electrical Power as follows:
 - 48 VDC floated on batteries with sufficient energy to provide a minimum of 24-hour reserve backup

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- power to each rack.
 - 2) 115 VAC to base station.
 - 3) Power is to be backed up by an on-site generator

c. Security:

- 1) Site security will be provided by an intrusion alarm to Pacific County Sheriff Department.
- 2) The outer perimeter gate will be locked with a chain and multiple locks.
- 3) A key box will be provided inside with a Government provided combination lock.

d. The Lessor shall notify the Government, in writing, within thirty (30) days of any:

- 1) Transfer of ownership of the described premises.
- 2) Change of payment or mailing address for ACH payments

7. EQUIPMENT AND FREQUENCIES: Government will install, operate, maintain, and replace (in kind) the following equipment at the site:

a. Equipment:

Two (2) 19-inch equipment racks.

One (1) microwave radio TX-8.055GHz RX-8.235 GHz Harris Constellation 7.

One (1) microwave radio TX-7.185GHz RX-7.635 GHz Harris Constellation 7.

One (1) VHF base station TX.RX channels 12, 16, 21, 29, 23, 81 Motorola.

One (1) 8 foot solid microwave antenna at 115-foot tower elevation

One (1) 10 foot solid microwave antenna at 85-foot tower elevation.

One (1) 6 foot solid microwave antenna at 105-foot tower elevation.

One (1) VHF whip antenna.

b. Site Connections with Frequencies

	<u>Transmit Frequency</u>	<u>Received Frequency</u>
South Mountain	8.055 GHz	8.235 GHz
Radar Ridge/Naselle	7.185 GHz	7.635 GHz

8. The following are attached and made a part hereof:

- a. The General Clauses (GSA form 3517A as amended) – Amendment “A”
- b. Area Map Exhibit “A”
- c. Tower Diagram Exhibit “B”

9. SUCCESSORS BOUND: The Lease shall bind, and inure to the benefit of, the parties and their respective heirs, executors, administrators, successors, and assigns.

10. SUBLETTING/ASSIGNMENT: Government may not sublet or assign lease premises to without the prior written consent of the Lessor, which consent shall not be unreasonably withheld.

11. ENVIRONMENTAL PROTECTION: The Government is limited by Federal Law as to the assumption of liability for its acts or omissions. Within its legal limitations and appropriations, the Government agrees to the following: Government may not unlawfully pollute the air, ground or water, nor create a public nuisance. Licensee shall, at no cost to the Licensor, promptly comply with all applicable Federal, state, and local laws, regulations, and directives regulating the quality of the environment. This does not affect the Government's right

to contest the validity of such laws, regulations or directives or to try to enjoin their applicability. Government shall use all required means to protect the environment and natural resources from any damage arising from Licensee's use of the facility and activities incident to its use. If any damage results to the environment or natural resources, Government shall restore the environment or damaged resources. Government agrees to comply with all applicable federal, state and local environmental laws and regulations, including, but not limited, to those laws concerning any petroleum products, toxic substances, medical wastes and hazardous materials, substances or wastes.

12. **ANTI-DEFICIENCY ACT:** (31 USC §1341 as amended). Nothing in this Lease shall constitute an obligation of funds of the United States in advance of appropriation thereof.

13. **INDEMNIFICATION:** The Government, in the manner and to the extent provided by the Federal Tort Claims Act (28 USC Sections 2671-2680 as amended) shall be liable for, and shall hold Lessor harmless from, claims for damage or loss of property, personal injury or death caused by the acts or omissions of the Government, its officers, employees and agents in the use of the leased premises.

14. **INSURANCE:** Government is a self-insured entity and as such is not required to provide Lessor with any certificate of insurance or notice of renewal, termination, cancellation, expiration or alteration of insurance policy.

15. **OWNERSHIP OF IMPROVEMENTS:**
It is understood and agreed that any improvements added by the Government belong to the Government.

16. **EQUIPMENT INSTALLATION AND OPERATION.** The Government shall have the right during the term of this Lease to install, operate, maintain, repair, and replace upon the Premises, including but not limited to any shore-tie or other improvement presently existing or to be constructed upon the Premises, or related or ancillary to, the operation, performance, and maintenance of the equipment and infrastructure. Upon termination of this Lease, the Lessor shall permit the Government all reasonable access to the Premises for the purpose of removing or otherwise disposing of the equipment or any part thereof, and the Government shall conduct its removal of the equipment or any part thereof in a reasonable and safe manner and within a reasonable period of time, in accordance with all Federal, state, and local law.

17. **IMPROVEMENTS AND ALTERATIONS.** The Government shall have the right during the term of this lease, as long as the prior written consent of Lessor is received by the Government, which consent shall not be unreasonably withheld or delayed by Lessor, to make improvements and alterations, erect structures, and attach fixtures and signs upon the Premises. Government acknowledges that Lessor's consent to the installation of any such improvements may be conditioned upon a reasonable increase in the Rental Amount payable by Government to Lessor pursuant to condition 3 of this Agreement. If Lessor consents to the installation of such improvements, Lessor shall deliver to Government an amendment to this Agreement and any other documents required to evidence such a modification. The Government shall have the right to tie into or make any physical connection with any structure located on the property as is reasonably necessary for appropriate utilization of the Premises. Any improvements, structures, fixtures or signs attached to or otherwise erected upon the Premises shall remain the property of the Government and may be removed or otherwise disposed of by the Government.

18. **OFFICIALS NOT TO BENEFIT:** No member or delegate to Congress or Resident Commissioner shall be admitted to any share or part of this Lease or any benefit to arise there from, but this provision shall not be construed to extend to this Lease if made with a corporation whose membership, includes a member or delegate to Congress or Resident Commissioner, who indirectly receives a general benefit from this Lease.

19. **AMENDMENT OR MODIFICATION:** No amendment or modification shall be valid unless evidenced by an agreement in writing signed by both parties.

20. **GOVERNING LAW:** The parties shall construe the Lease to be in accordance with and governed by the laws of the State of Washington, insofar as those laws are consistent with applicable federal laws and regulations.

21. **SEVERABILITY:** If any term or provision of this Lease is held invalid or unenforceable, the remainder of this Lease shall not be affected thereby and each term and provision hereof shall be valid and enforced to the fullest extent permitted by law.

22. PAYMENTS OF TAXES AND ASSESSMENTS:

The Government is not responsible for or liable for the payment of any real property taxes, personal taxes or assessments levied or assessed upon or against the leased premises.

23. ENTIRE AGREEMENT: This Lease, with attachment, constitutes the only agreement between Lessor and Government. Any prior understanding or representation of any kind, which proceeded the date of this Lease, are not binding on either party, except to the extent the understandings are incorporated into this Lease.

24. MUTUAL AUTHORITY: Lessor and Government represent and warrant to each other that they have full right, power and authority to enter into this Lease without the consent or approval of any other entity or person and make these representations knowing that the other party will rely thereon. Furthermore, the signatories on behalf of Lessor and Government further represent and warrant that they have full right, power and authority to act for and on behalf of Lessor and Government in entering into this lease.

25. ATTORNEY FEES: To the extent not in conflict with federal law, should any dispute arise between the parties hereto or their legal representatives, successors and assigns concerning any provision of this Lease or the rights and duties of any person in relation thereto, the party prevailing in such dispute shall be entitled, in addition to such other relief that may be granted, to recover reasonable attorneys' fees and legal costs in connection with such dispute as determined by the judgment or award of any court or tribunal of competent jurisdiction.

26. LEASE ADMINISTRATION:

The following office shall administer this Lease:

Commanding Officer
Civil Engineering Office Oakland
1301 Clay Street, Suite 700N
Oakland, CA 94612-5203

27. TAX IDENTIFICATION: Government regulations require a Lessor tax identification number (TIN/SSN). Lessor hereby certifies that the following TIN/SSN and telephone number are correct:

TIN/SSN: _____
Telephone Number: _____
DUNS: _____
Registered in SAM _____ Yes _____ No

Date

Signature

28. PAYMENT BY ELECTRONIC FUNDS TRANSFER- SYSTEM FOR AWARD MANAGMENT:

a. Method of Payment:

1) All payments by the Government under this contract shall be made by electronic transfer (EFT), except as provided in paragraph (a)(2) of this clause. As used in this clause, the term "AFT" refers to the funds transfer and may also include the payment information transfer.

2) In the event the Government is unable to release one or more payments by EFT, the Lessor agrees to either accept payment by check or some other mutually agreeable method of payment or request the Government extend the payment due date until such time as the Government can make payment by EFT (see paragraph (d) of this clause).

b. Lessor EFT information. The Government shall make payment to the Lessor using the EFT information contained in the System for Award Management (SAM) database. In the event that the EFT information changes, the Lessor shall be responsible for providing the updated SAM database.

c. Mechanisms for EFT payment. The Government may make payments by EFT through either the Automated Clearing House (ACH) network, subject to the rules of the National Automated Clearing House Association, or Fedwire Transfer System. The rules governing Federal payments through the ACH are contained in 31 CFR part 210.

d. Suspension of payment. If the Lessor EFT information in the SAM database is incorrect, then the Government need not make payment to the Lessor under this contract until correct EFT information is entered into the SAM database; and any invoice or contract financing request shall be deemed not to be proper invoice for the purpose of prompt

payment under this contract. The prompt payment terms of the contract regarding notice of an improper invoice and delays in accrual of interest penalties apply.

e. Lessor EFT arrangements. If the Lessor has identified multiple payment receiving points (i.e., more than one remittance address and/or EFT information set) in the SAM database, and the Lessor has not notified the Government of the payment receiving point applicable to this contract, the Government shall make payment to the first payment receiving point (EFT information set or remittance address is applicable) listed in the SAM database.

f. Liability for incomplete or erroneous transfer:

1) If an incomplete or erroneous transfer occurs because of Government used the Lessor's EFT information incorrectly, the Government remains responsible for making a correct payment, paying any prompt payment penalty due and recovering any erroneously directed funds.

2) If any incomplete or erroneous transfer occurs because the Lessor's EFT information was incorrect, or was revised within 30 days of Government release of the EFT payment transaction instruction to the Federal Reserve System, and if funds are no longer under the control of the payment office, the Government is deemed to have made payment and the Lessor is responsible for recovery of an erroneously directed funds or if the funds remain under the control of payment office, the Government shall not make payment, and the provisions of paragraph (d) of this clause shall apply.

g. EFT and prompt payment. A payment shall be deemed to have been made in a timely manner in accordance with the prompt payment terms of this contract if, in the EFT payment transaction instruction released to the Federal Reserve System, the date specified for settlement of the payment is on or before the prompt payment due date, provided the specified payment date is a valid date under the rules of the Federal Reserve System.

h. EFT and assignment claims. If the Lessor assigns the proceeds of this contract as provided for in the assignment of claims terms of this contract, the Lessor shall require as a condition of any such assignment, that the assignee shall register in the SAM database and shall be paid by EFT in accordance with the terms of this clause. In all respects, the requirements of this clause shall apply to the assignee as if it were the Lessor. EFT information that shows the ultimate recipient of the transfer to be other than the Lessor, in the absence of proper assignment of claims acceptable to the Government, is incorrect EFT information within the meaning of paragraph (d) of this clause.

i. Liability for change to EFT information by financial agent. The Government is not liable for errors resulting from changes to EFT information made by the Lessor's financial agent.

j. Payment information. The payment or disbursing office shall forward to the Lessor available payment information that is suitable for transmission as of the date of release of EFT instruction to the Federal Reserve System. The Government may request the Lessor to designate a desired format and method(s) for delivery of payment information from a list of formats and methods the payment office is capable of executing. However, the Government does not guarantee that any particular format or method of delivery is available at any particular payment office and retains the latitude to use the format and delivery method most convenient to the Government. If the Government makes payment by check in accordance with paragraph (a) of this clause, the Government shall mail the payment information to the remittance address contained in the SAM database.

IN WITNESS WHEREOF, the parties hereto have hereunto subscribed their names as of the date first above written.

LESSOR

SIGNATURE	SIGNATURE
NAME OF SIGNER	NAME OF SIGNER

IN PRESENCE OF

SIGNATURE	SIGNATURE
NAME OF SIGNER	NAME OF SIGNER

UNITED STATES OF AMERICA

SIGNATURE	NAME OF SIGNER David E. Brumley
	OFFICIAL TITLE OF SIGNER Realty Specialist Contracting Officer United States Coast Guard

GENERAL CLAUSES

(Acquisition of Leasehold Interests in Real Property for Small Leases)

1. MAINTENANCE OF THE PROPERTY, RIGHT TO INSPECT (SIMPLIFIED) (APR 2015)

The Lessor shall maintain the Property, including the Building, Building systems, and all equipment, fixtures, and appurtenances furnished by the Lessor under this Lease, in good repair and tenantable condition. Upon request of the Lease Contracting Officer (LCO), the Lessor shall provide written documentation that Building systems have been properly maintained, tested, and are operational within manufacturer's warranted operating standards. The Lessor shall maintain the Premises in a safe and healthful condition according to applicable OSHA standards, including standards governing indoor air quality, existence of mold and other biological hazards, presence of hazardous materials, etc. The Government shall have the right, at any time after the Lease is signed and during the term of the Lease, to inspect all areas of the Property to which access is necessary for the purpose of determining the Lessor's compliance with this clause.

2. If the building is partially or totally destroyed or damaged by fire or other casualty so that the leased space is untenable as determined by the Government, the Government may terminate the lease upon 15 calendar days written notice to the Lessor and no further rental will be due.

3. The Lessor shall maintain the demised premises, including the building, building systems, and all equipment, fixtures, and appurtenances furnished by the Lessor under this lease, in good repair and tenantable condition. Upon request of the Contracting Officer, the Lessor shall provide written documentation that building systems have been maintained, tested, and are operational.

4. DEFAULT BY LESSOR (APR 2012)

A. The following conditions shall constitute default by the Lessor, and shall give rise to the following rights and remedies for the Government:

(1) Prior to Acceptance of the Premises. Failure by the Lessor to diligently perform all obligations required for Acceptance of the Space within the times specified, without excuse, shall constitute a default by the Lessor. Subject to provision of notice of default to the Lessor, and provision of a reasonable opportunity for the Lessor to cure its default, the Government may terminate the Lease on account of the Lessor's default.

(2) After Acceptance of the Premises. Failure by the Lessor to perform any service, to provide any item, or satisfy any requirement of this Lease, without excuse, shall constitute a default by the Lessor. Subject to provision of notice of default to the Lessor, and provision of a reasonable opportunity for the Lessor to cure its default, the Government may perform the service, provide the item, or obtain satisfaction of the requirement by its own employees or contractors. If the Government elects to take such action, the Government may deduct from rental payments its costs incurred in connection with taking the action. Alternatively, the Government may reduce the rent by an amount reasonably calculated to approximate the cost or value of the service not performed, item not provided, or requirement not satisfied, such reduction effective as of the date of the commencement of the default condition.

(3) Grounds for Termination. The Government may terminate the Lease if:

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- (i) The Lessor's default persists notwithstanding provision of notice and reasonable opportunity to cure by the Government, or
- (ii) The Lessor fails to take such actions as are necessary to prevent the recurrence of default conditions,

and such conditions (i) or (ii) substantially impair the safe and healthful occupancy of the Premises, or render the Space unusable for its intended purposes.

(4) Excuse. Failure by the Lessor to timely deliver the Space or perform any service, provide any item, or satisfy any requirement of this Lease shall not be excused if its failure in performance arises from:

- (i) Circumstances within the Lessor's control;
- (ii) Circumstances about which the Lessor had actual or constructive knowledge prior to the Lease Award Date that could reasonably be expected to affect the Lessor's capability to perform, regardless of the Government's knowledge of such matters;
- (iii) The condition of the Property;
- (iv) The acts or omissions of the Lessor, its employees, agents or contractors; or
- (v) The Lessor's inability to obtain sufficient financial resources to perform its obligations.

(5) The rights and remedies specified in this clause are in addition to any and all remedies to which the Government may be entitled as a matter of law.

5. INTEGRATED AGREEMENT (JUN 2012)

This Lease, upon execution, contains the entire agreement of the parties and no prior written or oral agreement, express or implied, shall be admissible to contradict the provisions of the Lease. Except as expressly attached to and made part of the Lease, neither the Request for Lease Proposals nor any pre-award communications by either party shall be incorporated in the Lease.

6. CHANGES (SIMPLIFIED) (SEP 2011)

- A. The LCO may at any time, by written order, direct changes to the TIs within the Space, Building Security Requirements, or the services required under the Lease.
- B. If any such change causes an increase or decrease in Lessor's costs or time required for performance of its obligations under this Lease, whether or not changed by the order, the Lessor shall be entitled to an amendment to the Lease providing for one or more of the following:
 - 1. An adjustment of the delivery date;
 - 2. An equitable adjustment in the rental rate; or
 - 3. A lump sum equitable adjustment.
- C. The Lessor shall assert its right to an amendment under this clause within **30 days** from the date of receipt of the change order and shall submit a proposal for adjustment. Failure to

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agree to any adjustment shall be a dispute under the Disputes clause. However, the pendency of an adjustment or existence of a dispute shall not excuse the Lessor from proceeding with the change, except the Lessor shall not be obligated to comply with such order or direction if the adjustment to which it is entitled causes the annual rent (net of operating costs) to exceed the Simplified Lease Acquisition Threshold established under GSAR 570.102.

- D. Absent a written change order from the LCO, or from a Government official to whom the LCO has explicitly delegated in writing the authority to direct changes, the Government shall not be liable to Lessor under this clause.

7. COMPLIANCE WITH APPLICABLE LAW (JAN 2011)

Lessor shall comply with all Federal, state and local laws applicable to its ownership and leasing of the Property, including, without limitation, laws applicable to the construction, ownership, alteration or operation of all Buildings, structures, and facilities located thereon, and obtain all necessary permits, licenses and similar items at its own expense. The Government will comply with all Federal, state and local laws applicable to and enforceable against it as a tenant under this Lease, provided that nothing in this Lease shall be construed as a waiver of the sovereign immunity of the Government. This Lease shall be governed by Federal law.

8. 52.252-2 CLAUSES INCORPORATED BY REFERENCE (VARIATION) (DEC 2003)

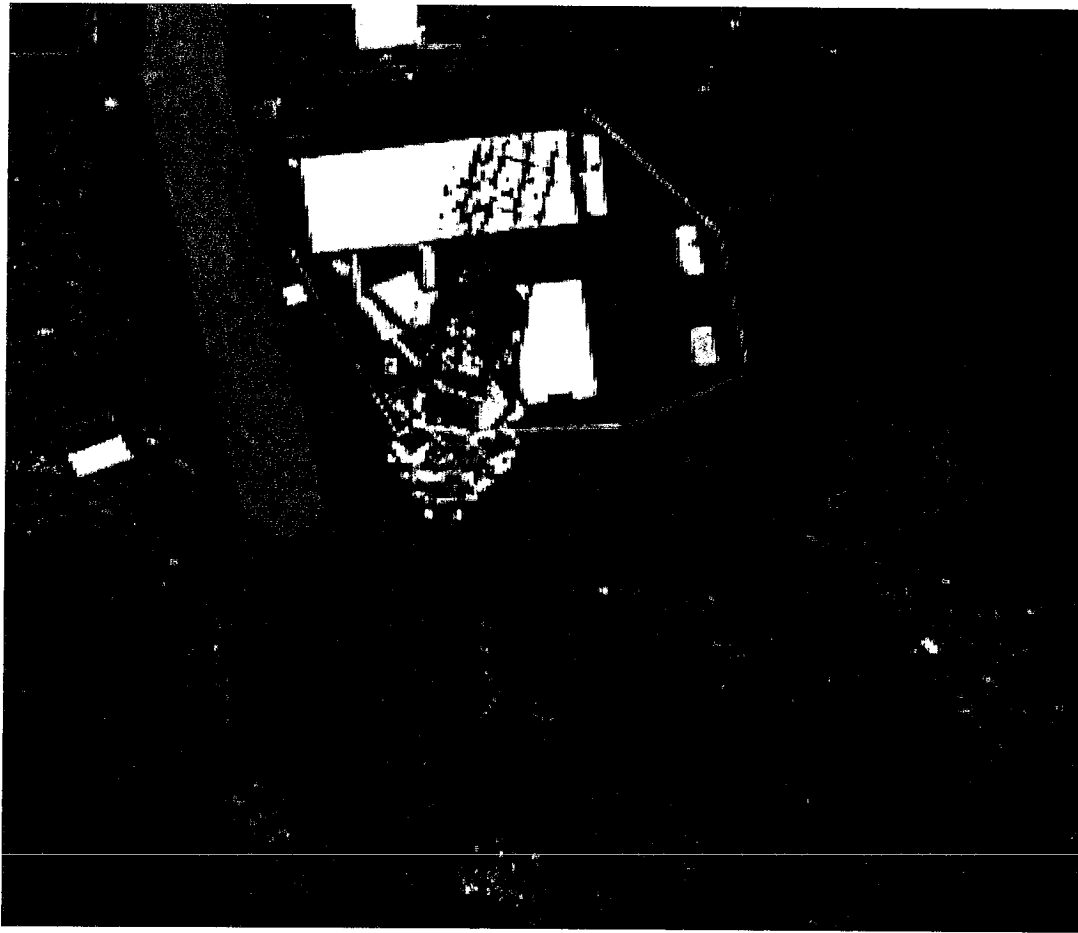
This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make the full text available, or the full text may be found at <http://www.acquisition.gov>.

9. The following clauses are incorporated by reference:

FAR 52.222-21	PROHIBITION OF SEGREGATED FACILITIES (APR 2015)
FAR 52.222-26	EQUAL OPPORTUNITY (APR 2015)
FAR 52.222-36	EQUAL OPPORTUNITY FOR VETERANS (OCT 2015) (Applicable to leases \$150,000 or more, total contract value. Full text may be found at http://www.acquisition.gov)
FAR 52.222-36	EQUAL OPPORTUNITY FOR WORKERS WITH DISABILITIES (JUL 2014) (Applicable to leases over \$15,000 total contract value. Full text may be found at http://www.acquisition.gov)
FAR 52.222-37	EMPLOYMENT REPORTS ON VETERANS (FEB 2016) (Applicable to leases \$150,000 or more, total contract value.)
FAR 52.223-6	DRUG-FREE WORKPLACE (MAY 2001) (Applicable to Leases over the Simplified Lease Acquisition Threshold as well as to any Leases of any value awarded to an individual)

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HOLY CROSS LEASED TOWER SPACE
HSCG89-20-1-0029 EXHIBIT "A"



HOLY CROSS, WA
TOWER SPACE
LAT: 46.695278
LONG: 123.772500

Holy Cross Tower

HSCG89-20-1-0029

EXHIBIT "B"

