

## LEASE AGREEMENT

**THIS LEASE AGREEMENT** ("Lease") is made and entered into by and between the **CITY AND COUNTY OF DENVER**, a home rule municipal corporation of the State of Colorado ("City" or "Lessor"), and Denver Health and Hospital Authority, a body corporate and political subdivision of the State of Colorado, whose address is 777 Bannock Street, Denver, Colorado 80204 ("Lessee").

### WITNESSETH:

**WHEREAS**, the City is the owner of certain property located at 12025 E. 45<sup>th</sup> Avenue, Denver, Colorado, at which the City intends to relocate its 911 communications center; and

**WHEREAS**, DHHA desires to co-locate its dispatchers by leasing space in the 911 communications center; and

**WHEREAS**, the City desires to lease a portion of the space in the 911 Communications Center, the Leased Premises, to Lessee for use as a dispatch center.

**NOW, THEREFORE**, for and in consideration of the mutual covenants and agreements contained in this Lease Agreement, the City and the Lessee agree as follows:

1. **LEASED PREMISES:** Subject to the terms of this Lease, the City agrees to lease, demise, and let unto Lessee and the Lessee does hereby lease from the City a portion of the premises located at 12025 E. 45<sup>th</sup> Avenue, Denver, Colorado 80239, as more particularly described and depicted on **Exhibit A**, attached and incorporated by this reference, containing building space of approximately 9,516 square feet (the "Leased Premises"). Exhibit A may be modified upon the written authorization of the City's Director of Real Estate (the "Director") to correct minor, technical errors.

2. **OPTION TO EXPAND THE LEASED PREMISES.** Lessee shall have the option to expand the Leased Premises up to 12,812 square feet by giving the Director written notice. The City shall have nine months in which to make the additional space available to Lessee. Lessee shall pay Rent of \$7.00/square foot per year and Operational Expenses of \$6.00/square foot per year paid on a monthly basis for any additional leased space during the initial ten (10) year term of this Lease Agreement. Upon mutual agreement of the scope of work associated with any expansion, Lessor shall oversee all required construction and installation of improvements at Lessee's sole cost.

3. **TERM:** The term of this Lease shall begin on January 1, 2016 and it shall terminate December 31, 2025 (the "Term"). Notwithstanding the forgoing, Lessee may terminate the Lease with ninety (90) days written notice to the City and the City may terminate the Lease with ninety (90) days written notice to Lessee. Lessee shall have an option to renew the Lease for two additional ten year terms. Each option shall be exercised by giving the City notice 90 days prior to the expiration of the then current term. The renewed lease shall be formalized in an amendment to this Lease Agreement properly executed by all City officials and approved by City Council, if required.

4. **RENT:** Rent shall be paid by Lessee monthly to the City, or to another party as otherwise specified by the City to receive Rents on its behalf. If the City specifies another party to receive Rents, Lessee will be given written notice of such change no less than seven (7) days prior to the next succeeding Rent due date so that Lessee is allowed time sufficient to deliver Rents on or before the due date. Rent payable monthly by Lessee shall be:

Monthly Rent years 1 – 7:                   \$39,056.18/month

Monthly Base Rent years 8 – 10:       \$5,551.00/month

**Total Contract Amount (including Operating Expenses)                   \$ 4,135,636.21**

Rent in years 1 through 7 is calculated to pay for City-provided tenant improvements estimated at \$2,975,795.00 amortized over 7 years at 2.5% interest. The Parties agree that this Lease Agreement shall be amended to reflect the actual cost of tenant improvements amortized over 7 years as the Monthly Rent in years 1-7. Lessee shall have the right to pre-pay the remaining principal balance of the tenant improvement costs early in accordance with the amortization schedule attached as **Exhibit B**, in which case Monthly Rent will be considered paid in full through the end of year 7. Lessee shall pay the Monthly Base Rent for Years 8 -10 of the ten year Lease Term. In addition to the foregoing, if the City Assessor assesses a Possessory Interest or other tax related to the Leased Premises, Lessee shall pay before delinquent any and all taxes, assessments, and other charges levied, assessed or imposed, and which become payable during the Term, upon Lessee's operations, occupancy, or conduct of business at the Leased Premises, resulting from Lessee's occupation or subletting of the Leased Premises, or upon Lessee's equipment, furniture, appliances, trade fixtures, and other personal property of any kind installed or located on the Leased Premises. Such taxes include any Possessory Interest taxes resulting from this Lease or a sublease of the Leased Premises.

If Lessee exercises its right to expand the Leased Premises, Additional Monthly Rent shall be calculated at a rate of \$7.00/square foot per year for the additional space leased by Lessee.

5. **USE:** The Leased Premises may be used and occupied by Lessee solely as a dispatch center, unless the Director agrees to another use. The Lessee shall use the Leased Premises in a careful, safe, and proper manner, and shall not use or permit the Leased Premises to be used for any purpose prohibited by the laws of the United States of America, the State of Colorado, or the Charter, ordinances or Executive Orders of the City and County of Denver. The Lessee shall not commit or suffer to be committed any waste or damage upon the Leased Premises or any nuisance to be created or maintained on the Leased Premises. The Lessee shall also keep the Leased Premises free and clear from all trash, debris, and waste resulting from its use or the use by its employees, officers, agents, invitees and visitors.

6. **QUIET ENJOYMENT:** Lessee shall and may peacefully have, hold and enjoy the Leased Premises, subject to the terms of this Lease Agreement, provided that Lessee pays the Rent and performs all of Lessee's covenants and agreements set forth in this Lease Agreement.

7. **ENTRY BY CITY:** Lessee shall permit representatives of the City to enter into and upon the Leased Premises after receiving reasonable prior notice from the City to inspect the same, except in the case of emergencies, in which case the City may enter into and upon the Leased Premises without notice, and Lessee shall not be entitled to any abatement or reduction of Rent by reason thereof. City shall not cause unreasonable interference in the normal course of Lessee's business and Lessee or an authorized employee or agent shall have the right to accompany the City during its inspections.

8. **CARE AND SURRENDER OF THE LEASED PREMISES:** At the termination of this Lease, Lessee shall deliver the Leased Premises, to the City in good condition, ordinary wear and tear excepted.

9. **TENANT IMPROVEMENTS:**

A. **By Lessee:** Unless otherwise expressly agreed to in writing, Lessee shall not make any improvements to the Leased Premises during the term of this Lease.

B. **By City:** The City agrees that it shall undertake construction of improvements suitable for dispatchers within the Leased Premises (“Tenant Improvements”) according to the construction plans and specifications submitted to and approved by the Lessee.

10. **OPERATING EXPENSES:** Lessee shall pay the actual cost incurred by the City for Operating Expenses at a rate of \$6.00/square foot per year which shall increase by 3% annually. Operating Expenses shall be paid monthly in arrears beginning in the month immediately following occupancy. The rate is estimated and the parties agree to reconcile the amounts paid with the amount due at the end of each year. If Lessee has overpaid, then the overpayment shall be credited against the next year's Operating Expenses due. If the Lessee has underpaid, the rate of Operating Expenses shall be adjusted so the City can recover the actual cost of providing the services.

YR 1: \$6.00/s.f.	\$4,758.00/mo	\$57,096.00/yr
YR 2: \$6.18/s.f.	\$4,900.67/mo	\$58,808.88/yr
YR 3: \$6.37/s.f.	\$5,051.41/mo	\$60,616.92/yr
YR 4: \$6.56/s.f.	\$5,202.08/mo	\$62,424.96/yr
YR 5: \$6.76/s.f.	\$5,360.68/mo	\$64,328.16/yr
YR 6: \$6.96/s.f.	\$5,519.28/mo	\$66,231.36/yr
YR 7: \$7.17/s.f.	\$5,685.81/mo	\$68,229.72/yr
YR 8: \$7.39/s.f.	\$5,860.27/mo	\$70,323.24/yr
YR 9: \$7.61/s.f.	\$6,034.73/mo	\$72,416.76/yr
YR10: \$7.84/s.f.	\$6,217.12/mo	\$74,605.44/yr

In return for payment for Operating Expenses, the City shall furnish or cause to be furnished for the Leased Premises the following services:

- A. Heating, air conditioning and ventilation;
- B. Water and sewer service sufficient for drinking, lavatory, toilet and ordinary cleaning purposes;
- C. Electricity and electrical facilities at standard outlets with sufficient power to operate the dispatch center;
- D. Telephone outlets;
- E. Customary common area maintenance and janitorial services;
- F. Removal of ice, snow and debris in the common areas and the parking lot at the Leased Premises;
- G. Operation, maintenance, and repair of the communications center, including the Leased Premises, to include mechanical, plumbing, and electrical services necessary for the proper operation of the communications center, provided that:

- (i) If all or part of such systems or facilities are destroyed, damaged or impaired, City shall have a reasonable time in which to complete necessary repair or replacement, and during that time shall be required only to maintain such services as are reasonably possible in the circumstances;
- (ii) City may temporarily discontinue such services or any of them at such times as may be necessary due to unforeseen causes (except due to lack of funds) beyond the reasonable control of City; and
- (iii) City shall use reasonable diligence in carrying out its obligations under this paragraph.

No reduction or discontinuance of such services as permitted by this Lease shall be construed as an eviction of the Lessee or release the Lessee from any obligation under this Lease as long as City evidences in writing that it is exercising reasonable diligence in carrying out its obligations hereunder.

11. **INDEMNITY**: To the extent permitted by Colorado law, the Lessee shall be responsible for and agrees to defend, the City, its officers, agents and employees from any and all losses, damages, claims, demands, suits, actions or proceedings of any kind or nature whatsoever, including without limitation Workers' Compensation claims, of or by anyone whomsoever, that the City may sustain or on account of injuries to the person or property of the City, its agents or employees or to injuries or death of any other person rightfully on the Leased Premises for any purpose whatsoever, where the injuries are caused by the negligence or misconduct of the Lessee, the Lessee's agents, employees, subtenants, assignees, or of any other person entering upon the Leased Premises under express or implied invitation of the Lessee or where such injuries are the result of the violation of the provisions of this Lease by any of such persons. This provision shall survive the expiration or earlier termination of this Lease. Lessee need not, however, be responsible for or defend the City, its officers, agents and employees from damages resulting from the intentionally tortious acts or negligence of the City's officers, agents and employees.

12. **LOSS OR DAMAGE**: The City shall not be liable or responsible to Lessee for any loss or damage to any property or person occasioned by theft or fire, natural disasters, public enemy, injunction, riot, strike, insurrection, war, court order, requisition or order of any

governmental entity other than the City. In the event of a fire or other casualty in or to the Leased Premises, Lessee shall immediately give notice thereof to City.

13. **HAZARDOUS SUBSTANCES**: Lessee shall not cause or permit any Hazardous Substance to be used, stored, generated, or disposed of on or in the Leased Premises by Lessee, Lessee's agents, employees, contractors, or invitees. If Hazardous Substances are used, stored, generated, or disposed of on or in the Leased Premises, or if the Leased Premises become contaminated in any manner due to the actions or inactions of the Lessee, Lessee shall indemnify and hold harmless the City from any and all claims, damages, fines, judgments, penalties, costs, liabilities, or losses (including, without limitation, a decrease in value of the premises, damages caused by loss or restriction of rentable or usable space, or any damages caused by adverse impact on marketing of the space, and any and all sums paid for settlement of claims, attorneys' fees, consultant, and expert fees) arising during or after the Lease Term and arising as a result of those actions or inactions by Lessee. This indemnification includes, without limitation, any and all costs incurred because of any investigation of the site or any cleanup, removal, or restoration mandated by a federal, state, or local agency or political subdivision. Without limitation of the foregoing, if Lessee causes or permits the presence of any Hazardous Substance on the Leased Premises and that results in contamination, Lessee shall promptly, at its sole expense, take any and all necessary actions to return the Leased Premises to the condition existing prior to the presence of any such Hazardous Substance on the premises. Lessee shall first obtain City's approval for any such remedial action. As used herein, "Hazardous Substance" means any substance that is toxic, ignitable, reactive, or corrosive and that is regulated by any local government, the State of Colorado, or the United States Government. "Hazardous Substance" includes any and all material or substances that are defined as "hazardous waste", "extremely hazardous waste", or a "hazardous substance" pursuant to state, federal, or local governmental law. "Hazardous Substance" includes but is not restricted to asbestos, polychlorobiphenyls ("PCBs"), and petroleum.

14. **HOLDING OVER**: If after the expiration of the Term and any extensions of the Term of this Lease, Lessee shall remain in possession of the Leased Premises or any part thereof, and continue to pay rent, without any express agreement as to such holding, then such holding over shall be deemed and taken to be a periodic tenancy from month-to-month, subject to all the terms and conditions of this Lease, except for the provisions relating to the period of Lessee's

occupancy, and at a rent equivalent to 125% of the then current monthly installment of rent due under this Lease Agreement, payable in advance on the first day of each calendar month. Such holding over may be terminated by City or Lessee upon ten (10) days' notice. If Lessee fails to surrender the Leased Premises upon termination or expiration of this Lease, or such month-to-month tenancy, then Lessee shall indemnify City against loss or liability resulting from any delay of Lessee in not surrendering the Leased Premises.

15. **REMEDIES UPON BREACH:** If this Lease is breached by Lessee, the City may have any one or more of the following described remedies, in addition to all of the rights and remedies provided at law or in equity:

(a) The City may terminate this Lease and forthwith repossess the Leased Premises and be entitled to recover as damages a sum of money equal to the total of (i) the cost of recovering the Leased Premises, including reasonable attorneys' fees; (ii) the unpaid Rent earned at the time of termination, plus interest thereon at the rate of twelve percent (12%) per annum from the due date; (iii) the balance of the Rent for the remainder of the term less any Rents the City receives for the Leased Premises for said period; (iv) damages for the wrongful withholding of the Leased Premises by Lessee; (v) unpaid taxes or assessments and (vi) any other sum of money in damages owed by Lessee to City as a result of its use and occupancy of the Leased Premises.

(b) Before exercising any remedy or right herein or in law or equity, the City shall supply written notice of such default to the Lessee and provide fifteen (15) days from the date of such notice to cure the noted default.

16. **LESSEE'S INSURANCE:** From the commencement of this Lease, and at all times throughout the term, Lessee (or its contractor(s)) shall carry and maintain the following insurance policies:

(a) Sufficient Workers' Compensation Insurance or a program of self insurance to fully insure its responsibilities under Colorado law;

(b) Fire and extended coverage insurance on all of its personal property, including without limitation fixtures and removable trade fixtures, located in the Leased Premises;

(c) A policy or policies of comprehensive general liability insurance, issued by and binding upon an insurance company authorized to do business in the State of Colorado, such insurance to afford minimum protection of not less than \$1,000,000.00 per occurrence and

\$2,000,000.00 general aggregate. Commercial general liability coverage shall be at least as broad as insurance services office standard form CG 0001 or equivalent. The City and County of Denver, its officers, officials and employees shall be named as additional insureds, with coverage at least as broad as insurance services office standard form CG 2026. Defense costs coverage shall include defense costs coverage for additional insureds outside the limits of insurance;

(d) Contractual liability coverage;

(e) Waiver of Subrogation and Rights of Recovery against the City, its officers, officials and employees for both Worker's Compensation and commercial general liability (per ISO form CG2404 or equivalent) coverage;

(f) The certificates evidencing the existence of the above policy or policies, all in such form as the City's Risk Administrator may require, are to be provided to the City upon execution of this Agreement. Each such policy or certificate shall contain a valid provision or endorsement stating "This policy will not be canceled or materially changed or altered without first giving thirty (30) days' written notice thereof to the City's Risk Administrator, 201 West Colfax Avenue, Dept. 1105, Denver, Colorado 80202, and sent by certified mail, return receipt requested."

Lessee understands and acknowledges that the City does not provide any insurance coverage for any property of the Lessee, its agents, employees or assignees located in the Leased Premises and Lessee acknowledges and agrees that the Lessee, its agents, employees and assignees have no claim against the City for any damage or loss of personal property and belongings of Lessee, its agents, employees or assignees in the Leased Premises.

17. **VENUE, GOVERNING LAW:** This Lease Agreement shall be construed and enforced in accordance with the laws of the State of Colorado and the Charter and Revised Municipal Code of the City and County of Denver. Venue for any legal action relating to this Agreement shall lie in the State District Court in and for the City and County of Denver, Colorado.

18. **ASSIGNMENT AND RIGHT TO SUBLEASE:** The Lessee shall not assign or transfer its rights under this Lease, or sublet the Leased Premises without first obtaining the written consent of the Director, whose consent will not be unreasonably withheld.

19. **NO DISCRIMINATION IN EMPLOYMENT:** In connection with the performance of work under this Lease, Lessee agrees not to refuse to hire, discharge, promote or



demote, or to discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, gender, age, military status, sexual orientation, gender variance, marital status, or physical or mental disability; and further agrees to insert the foregoing provision in all subcontracts hereunder.

20. **EXAMINATION OF RECORDS**: The Lessee agrees that any duly authorized representative of the City shall, until the expiration of three (3) years after final payment under this Lease, have access to and the right to examine any directly pertinent books, documents, and records of the Lessee involving matters directly related to this Lease.

21. **AMENDMENT**: No alteration, amendment or modification of this Lease shall be valid unless evidenced by a written instrument executed by the parties with the same formality as this Lease; however, the Director shall have the authority to execute agreements which make technical, minor, or non-substantive changes to this Lease. The failure of either party to insist in any one or more instances upon the strict compliance or performance of any of the covenants, agreements, terms, provisions or conditions of this Agreement, shall not be construed as a waiver or relinquishment for the future of such covenant, agreement, term, provision or condition, but the same shall remain in full force and effect.

22. **SEVERABILITY**: If any portion of this Lease is determined by a court to be unenforceable for any reason, the remainder of the Lease remains in full force and effect.

23. **BINDING EFFECT**: This Lease when executed and when effective, shall inure to the benefit of and be binding upon the successors in interest or the legal representative of the respective parties.

24. **THIRD PARTIES**: This Lease Agreement does not, and shall not be deemed or construed to, confer upon or grant to any third party or parties any right to claim damages or to bring any suit, action or other proceeding against the parties because of any breach or because of any of the Lease Agreement's terms, covenants, agreements and conditions.

25. **NOTICES**: All notices hereunder shall be given to the following by hand delivery or by certified mail, return receipt requested:

To the City: Director of Real Estate  
201 W. Colfax Ave., Dept. 1010  
Denver, CO 80204

With copies to: Denver City Attorney's Office

201 W. Colfax, Department 1207  
Denver, Colorado 80202

To Lessee:

Office of General Counsel  
777 Bannock Street  
Denver, Colorado 80204

Either Party may designate in writing from time to time the address of substitute or supplementary persons to receive such notices. The effective date of service of any such notice shall be the date the notice is deposited in the mail or hand-delivered to the Party.

26. **ENTIRE AGREEMENT**: The parties acknowledge and agree that the provisions contained in this Lease Agreement and its Exhibits constitute the entire agreement and that all representations made by any officer, agent or employee of the respective parties unless included in the Lease Agreement are null and void and of no effect.

27. **WHEN RIGHTS AND REMEDIES NOT WAIVED**: In no event shall any performance hereunder constitute or be construed to be a waiver by any party of or any breach of covenant or condition or of any default which may then exist. The rendering of any such performance when any breach or default exists shall in no way impair or prejudice any right or remedy available with respect to such breach or default. Further, no assent, expressed or implied, to any breach of any one or more covenants, provisions, or conditions of the Lease shall be deemed or taken to be a waiver of any other default or breach.

28. **NO PERSONAL LIABILITY**: No elected official, director, officer, agent or employee of the City, nor any director, officer, employee or personal representative of Lessee shall be charged personally or held contractually liable by or to the other party under any term or provision of this Lease Agreement or because of any breach or because of its or their execution, approval or attempted execution of this Lease Agreement.

29. **CONFLICT OF INTEREST BY CITY OFFICER**: Lessee represents that to the best of its information and belief, no officer or employee of the City is either directly or indirectly a party or in any manner interested in this Lease, except as such interest may arise as a result of the lawful discharge of the responsibilities of such elected official or employee.

30. **APPROPRIATION**: All obligations of the City under and pursuant to this Agreement are subject to prior appropriation of monies expressly made by the City Council for

the purposes of this Agreement and paid into the Treasury of the City.

31. **AUTHORITY TO EXECUTE**: Lessee represents that the persons who have affixed their signatures to this Lease Agreement have all necessary and sufficient authority to bind Lessee. This Lease is expressly subject to, and shall not be or become effective or binding on the City until, approval by its City Council and full execution by all signatories required by law.

32. **PARAGRAPH HEADINGS**: The paragraph headings are inserted only as a matter of convenience and for reference and in no way are intended to be a part of this Lease or to define, limit or describe the scope or intent of this Lease or the particular paragraphs to which they refer.

33. **ELECTRONIC SIGNATURES AND ELECTRONIC RECORDS**: Lessee consents to the use of electronic signatures by the City. The Lease Agreement, and any other documents requiring a signature hereunder, may be signed electronically by the City in the manner specified by the City. The parties agree not to deny the legal effect or enforceability of the Lease solely because it is in electronic form or because an electronic record was used in its formation. The parties agree not to object to the admissibility of the Lease in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

## Exhibit B

### 911 Communications Center Amortization Schedule (Years 1-7)

12045 E. 45th Avenue (911 Communications Center)						
Period	Beginning	Annual Principal	Rate	Interest	Annual Total	Monthly
2016	\$ 2,975,795.00	\$394,279.24	2.50%	\$ 74,394.88	\$468,674.11	\$39,056.18
2017	\$ 2,581,515.76	\$404,136.22	2.50%	\$ 64,537.89	\$468,674.11	\$39,056.18
2018	\$ 2,177,379.54	\$414,239.62	2.50%	\$ 54,434.49	\$468,674.11	\$39,056.18
2019	\$ 1,763,139.92	\$424,595.61	2.50%	\$ 44,078.50	\$468,674.11	\$39,056.18
2020	\$ 1,338,544.31	\$435,210.50	2.50%	\$ 33,463.61	\$468,674.11	\$39,056.18
2021	\$ 903,333.80	\$446,090.77	2.50%	\$ 22,583.35	\$468,674.11	\$39,056.18
2022	\$ 457,243.04	\$457,243.04	2.50%	\$ 11,431.08	\$468,674.11	\$39,056.18
		<b>\$2,975,795.00</b>		<b>\$304,923.78</b>	<b>\$3,280,718.78</b>	<b>\$273,393.23</b>