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STATE OF NEW HAMPSHIRE
DEPARTMENT OF MILITARY AFFAIRS AND VETERANS SERVICES

BUSINESS ADMINISTRATION
STATE MILITARY RESERVATION
4 PEMBROKE ROAD
CONCORD, NEW HAMPSHIRE 03301-5652

David J. Mikolaities, Major General
The Adjutant General

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Warren M. Perry
Deputy Adjutant General

October 28, 2021

His Excellency, Governor Christopher T. Sununu
and the Honorable Council
State House
Concord, New Hampshire 03301

REQUESTED ACTION

Authorize the Department of Military Affairs and Veterans Services (DMAVS) to **retroactively** enter into a no-cost agreement with the US Army Corps of Engineers, New England District by license renewal to use and occupy for support of the New Hampshire Army National Guard approximately 1,526 square feet of finished first floor professional retail/office space located at 111 Main Street, Nashua, NH 03060 effective upon Governor and Council approval for the period September 30, 2019, through September 15, 2024.

EXPLANATION

The requested action is **retroactive** because this is an outstanding housekeeping item for the Department's current Storefront Lease in Nashua, New Hampshire. The New Hampshire Army National Guard (NHARNG) has approval and funding for this storefront recruiting center located in Nashua, NH. The US Army Corps of Engineers (USACE) is an authorized real property agent for the US Army, including the National Guard. Property acquired through purchase or lease by USACE is federal property. A lease was made and entered into between the Federal Government (lessee) and property owner Montcalm Associates (lessor) on September 30, 2019. This lease has a yearly renewable term not to extend beyond September 29, 2024. Due to the state affiliation of the National Guard, it is required to have a license from USACE in order for National Guard Soldiers to operate within the premises of the federal lease. This license was granted beginning September 30, 2019, and will run concurrent with the lease through September 15, 2024. The Adjutant General, Major General David Mikolaities, will sign the license on behalf of the State for use by National Guard Soldiers under his command.

Costs of utilities and other services as outlined in the license are paid for via In-Kind Assistance (IKA) with the Federal Government. The costs of IKA are paid for with funds programmed to be expended within a cooperative agreement. These funds are de-obligated from the agreement and then re-obligated as Federal procurement funds on the Federal side. Use of IKA does not reduce not relieve the State's share requirements.

If authorization to enter into this agreement is approved, the Adjutant General will be authorized to sign and execute a license agreement substantially in the form of the attached draft.

Respectfully submitted,


David J. Mikolaities
Major General, NH National Guard
The Adjutant General

STATE OF NEW HAMPSHIRE

Inter-Department Communication

FROM Michael Haley
Assistant Attorney General

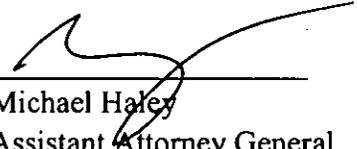
DATE November 4, 2021
AT Department of Justice
Civil Bureau

SUBJECT Department of the Army License
for Army National Guard
Purposes (Nashua)

TO Erin Zayac
Department of Military Affairs and Veterans Services

License for Army National Guard Purposes between the Department of the Army and the Department of Military Affairs and Veterans Services.

I approve the attached agreements as to Form and Substance. After approval by the Governor and Executive Council and execution, please provide me with a copy of any signature pages for final review.



Michael Haley
Assistant Attorney General

License No. DACA33-3-20-021 NH ARNG

DEPARTMENT OF THE ARMY
LICENSE FOR
ARMY NATIONAL GUARD PURPOSES

NEW HAMPSHIRE ARMY NATIONAL GUARD RECRUITING OFFICE
NASHUA, NEW HAMPSHIRE

THE SECRETARY OF THE ARMY, hereinafter referred to as the Secretary, under the authority of his general administrative powers, hereby grants to the **STATE OF NEW HAMPSHIRE**, hereinafter referred to as the grantee, a license to use and occupy for support of the New Hampshire Army National Guard approximately **1,526 square feet** of finished first floor professional retail/office space, known and designated as **111 Main Street, Nashua, NH 03060**, hereinafter referred to as the premises.

THIS LICENSE is granted subject to the following conditions:

1. TERM

This license is granted for a period of approximately one year, beginning 30 September 2019 through 15 September 2020, but revocable at will by the Secretary. The land covered hereby is occupied by the United States under Lease No. **DACA33-5-19-066 NH ARNG**, from The Montcalm Associates for the period beginning 30 September 2019 through 15 September 2020, which provides that, unless and until the Government shall give notice of termination in accordance with the terms thereof, the said lease shall remain in force thereafter from year to year without further notice but in any event it shall expire automatically on 15 September 2024. For such yearly periods that the United States shall allow said lease to remain in effect, this license shall be automatically renewed, but not to extend beyond 15 September 2024, and this license, together with any renewals thereof, shall be subject to all provisions and conditions of said Lease No. **DACA33-5-19-066 NH ARNG**, marked "Exhibit Lic. A", attached and made a part hereof.

2. SUPERVISION BY THE U.S. PROPERTY AND FISCAL OFFICER

The use and occupancy of the premises shall be without cost to the regular establishment of the military departments of the Department of Defense and shall be under the general supervision of the U.S. Property and Fiscal Officer, New Hampshire, hereinafter referred to as said officer, and subject to such rules and regulations as may be prescribed from time to time by said officer.

3. APPLICABLE LAWS AND REGULATIONS

The grantee shall comply with all applicable Federal, state, county, and municipal laws, ordinances, and regulations wherein the premises are located.

4. FACILITY MAINTENANCE

The grantee shall maintain and keep the premises in good repair and condition and all costs of operation, maintenance, and restoration shall be paid for from funds available to the grantee, or from funds other than those appropriated for the regular establishment of the military departments.

5. RIGHT TO USE

The United States, hereinafter referred to as the Government, reserves the right to use the premises, or any part thereof, including all buildings and improvements situated thereon, for such purposes as said officer deems necessary in the interest of national defense.

6. COST OF UTILITIES

The grantee shall pay the cost, as determined by the officer having immediate jurisdiction over the premises, of producing and/or supplying any utilities or other services furnished ~~by the Government or through Government-owned facilities~~ for the use of the grantee, ~~including the grantee's proportionate share of the cost of operation and maintenance of the Government-owned facilities by which such utilities or services are produced and supplied.~~ It is expressly understood that the United States Army Corps of Engineers shall be under no obligation to furnish utilities or services. Payment shall be made in the manner prescribed by the officer having such jurisdiction.

7. USE RESTRICTIONS

The buildings and improvements included in this license shall not be used for the quartering of personnel ~~engaged in the National Guard activities except when such personnel are in the federal service or are participating in authorized training.~~

8. IMPROVEMENTS AND ALTERATIONS

Additions to or alteration or improvement of the premises shall not be made without prior written approval of the District Engineer, New England District, U.S. Army Corps of Engineers. All such additions, alterations or improvements shall be maintained by the grantee in good repair and condition. ~~All such work designated as permanent by said officer shall, upon completion, become property of the Government.~~

9. CONDITION OF PREMISES

The grantee acknowledges that it has inspected the premises, knows its condition, and understands that the same is granted without any representations or warranties whatsoever and without any obligation on the part of the Government.

10. TERMINATION

This license may be terminated by the grantee at any time by giving the District Engineer at least one hundred twenty (120) days-notice in writing.

11. RESTORATION

On or before the expiration of this license or its termination by the grantee, the grantee shall vacate the premises, remove its property (except those permanent additions, alterations, and improvements which have become property of the Government under provision of the Condition on ~~IMPROVEMENTS AND ALTERATIONS~~) and restore the premises to a condition satisfactory to said officer, ordinary wear and tear and damage beyond the control of the grantee excepted. If, however, this license is revoked, the grantee shall vacate the premises, remove said property and restore the premises within such time as the said officer may designate. In either event, if the grantee fails to remove said property and restore the premises, then, at the option of said officer, the property shall either become the property of the Government without compensation therefore, or said officer may cause the property to be removed at the expense of the grantee, and no claim for damages against the Government shall be created on account of such action.

12. USE BY OTHERS

The grantee shall not transfer or assign this license, or any interest in the premises, however, upon concurrence of the Director, Army National Guard, the grantee may (1) permit the temporary or intermittent use of the premises by elements of the Department of Defense for joint use or individual training purposes, provided such use will not interfere with the Army National Guard use; ~~or (2) issue licenses for nonprofit, community service type activities under the same conditions as those allowed by active installation commanders by existing (Army)(Air Force) regulations.~~

13. PROTECTION OF PROPERTY

a. The grantee shall keep the premises in good order and in a clean, safe condition by and at the expense of the grantee. The grantee shall be responsible for any damage that may be caused to property of the United States by the activities of the grantee under this license, and shall exercise due diligence in the protection of all property located on the premises against fire or damage from any and all other causes. Any property of the United States damaged or destroyed by the grantee incident to the exercise of the privileges herein granted shall be promptly repaired or replaced by the grantee to a condition satisfactory to said officer, or at the election of said officer, reimbursement made therefore by the grantee in an amount necessary to restore or replace the property to a condition satisfactory to said officer.

b. Upon termination of the grantee's requirement for the premises, the grantee shall remain responsible to protect and maintain the premises until transfer to and acceptance by another accountability officer is accomplished or in accordance with applicable laws, rules and regulations.

14. ENVIRONMENTAL PROTECTION

a. Within the limits of their respective legal powers, the parties to this license shall protect the premises against pollution of its air, ground and water. The grantee shall comply with any laws, regulations, conditions or instructions affecting the activity hereby authorized if and when issued by the Environmental Protection Agency, or any Federal, state, interstate or local governmental agency having jurisdiction to abate or prevent pollution. The disposal of any toxic or hazardous materials within the premises is specifically prohibited. Such regulations, conditions or instructions in effect or prescribed by said Environmental Protection Agency, or any Federal, state, interstate or local governmental agency are hereby made a condition of this license. The grantee shall not discharge waste or effluent from the premises in such a manner that the discharge will contaminate streams or other bodies of water or otherwise become a public nuisance.

b. The grantee will use all reasonable means available to protect the environment and natural resources, and where damage nonetheless occurs from the grantee's activities, the grantee shall be liable to restore the damaged resources.

c. The grantee must obtain approval in writing from said officer before any pesticides or herbicides are applied to the premises.

15. ENVIRONMENTAL BASELINE STUDY

~~An Environmental Baseline Study (EBS) documenting the known history of the property with regard to the storage, release or disposal of hazardous substances thereon, is attached hereto and made a part hereof as Exhibit LETTER. Upon expiration, revocation or relinquishment of this license another EBS shall be prepared which will document the environmental condition of the property at that time. A comparison of the two assessments will assist the said officer in determining any environmental restoration requirements. Any such requirements will be completed by the grantee to the satisfaction of the said office.~~

16. HISTORICAL PRESERVATION

The grantee shall not remove or disturb, or cause or permit to be removed or disturbed, any historical, archeological, architectural, or other cultural artifacts, relics, or objects of antiquity. In the event such items are discovered on the premises, the grantee shall immediately notify said officer and protect the site and material from further disturbance until the said officer gives clearance to proceed.

17. NON-DISCRIMINATION

The grantee shall not discriminate against any person or persons or exclude them from participation in the grantee's operations, programs or activities conducted on the licensed premises because of race, color, religion, sex, age, handicap or national origin. The grantee by acceptance of this license, hereby gives assurance that it will comply with the provisions of Title VI of the Civil Rights Act of 1964 as amended (42 U.S.C. § 2000d); the Age Discrimination Act of 1975 (42 U.S.C § 6102); the Rehabilitation Act of 1973 as amended (29 U.S.C. § 794); and all requirements imposed by or pursuant to the Department of Defense Directive 5500.11 (32 CFR Part 300) issued on December 28, 1964.

18. ADDITIONAL CONDITIONS

This License is subject to the terms and conditions of Lease No. DACA33-5-19-066 NH ARNG, a copy of which is attached hereto as Exhibit "Lic. A".

PRIOR TO the execution of this License, Condition No. 15 was deleted in its entirety and certain words were deleted in Condition Numbers 6, 7, 8, 11, and 12.

THIS LICENSE is not subject to Title 10, United States Code, Section 2662, as amended.

(signatures on following page)

IN WITNESS WHEREOF, I have hereunto set my hand by authority of the Secretary of the Army, this _____ day of _____, 2020.

MAUREEN B. DAVI
Realty Specialist
Real Estate Contracting Officer

THIS LICENSE is also executed by the grantee this _____ day of _____, 2020.

STATE OF NEW HAMPSHIRE

DAVID J. MIKOLAITIES
Major General
The Adjutant General