



United States Department of the Interior



BUREAU OF LAND MANAGEMENT
Tucson Field Office
3201 East Universal Way
Tucson, Arizona 85756
www.blm.gov/arizona

APR 03 2019

In Reply Refer To:
2860 (AZG020)
AZA-006237

CERTIFIED MAIL: 7017 3380 0000 2368 2019

Cochise County Government
ATTN: Gregory Walton/Joe Casey
1415 Melody Land, Bldg D.
Bisbee, AZ 85603

Dear Sirs:

Enclosed are two copies of the communication site lease form (BLM Form 2800-18) for approval of the amendment to your communication site (AZA-006237) located on Mule Mountain in Arizona. Please review the documents, and if they meet with your approval, please have both copies signed, dated by the appropriate authorized signatory, and returned to the office address listed above.

Upon our receipt of the signed documents we will issue the amended communication site lease for the remainder of the term of the lease. Your lease is scheduled to expire on February 28, 2022.

If you have any questions or concerns, please contact Leslie Uhr at (520) 258-7298 or luhr@blm.gov. Your assistance in this matter is appreciated.

Sincerely,

acting Field Manager

Enclosures:
Lease Documents
Stipulations
Map

THE UNITED STATES
Department of the Interior
Bureau of Land Management

COMMUNICATIONS USE LEASE

Cochise County Government - Emergency Services
(Lessee Name)

of 1415 Melody Land, Bldg D
(Billing Address - 1)

Same
(Billing Address -2)

Bisbee
(City)

Arizona
(ST)

85603
(Zip Code)

THIS LEASE, dated this _____ day of APRIL, 2019, by and between the UNITED STATES OF AMERICA, acting through the Bureau of Land Management, Department of the Interior (hereinafter called the "United States" or "Bureau of Land Management"), as authorized by the Act of October 21, 1976, and implementing regulations (90 Stat. 2743; 43 U.S.C. 1701, et seq.; 43 CFR 2800), and Cochise County Government, its agents, successors, and assigns (hereinafter called the "Lessee").

The United States and the Lessee are jointly referred to herein as the "Parties." As used herein, the "Authorized Officer" refers to the Bureau of Land Management official having the delegated authority to execute and administer this lease. Generally, unless otherwise indicated, such authority may be exercised by the Field Manager or District Manager for the public lands wherein the following described lands are located.

The United States, for and in consideration of the terms and conditions contained herein and the payment to the United States of a rental in advance by the Lessee, does hereby grant to the Lessee a lease for the following described lands in the County

of Cochise, State of Arizona: SE1/4SW1/4SE1/4 Sec. 25; T. 22 S., R. 23 E., Gila & Salt River Meridian
(Legal Description)

(hereinafter called the "property"). The Lessee accepts this lease and possession of the property, subject to any valid existing rights, and agrees not to use the property, or any part thereof, except as a site for only the construction, operation, maintenance, and termination of a MIC communications facility.
(Type of Communication Use)

The stipulations for the property are attached and dated March 29, 2019 and made part hereof as Exhibit A. The location of the site pertaining to this lease are shown on the map contained in Exhibit B. The facilities specifically authorized under this lease include the following: One 20-foot by 10-foot enclosed block Building; an 80-foot tall self supporting lattice Tower; cable array; one 4-foot by 6-foot cement pad with a 500-gallon Propane Tank; a 30kW Generator; access and parking next to building; 115-foot tall self-supporting lattice Tower, and a 6 ft tall chain-link fence around the perimeter of the site, with 3-strands of barbed wire at top and 2-16 ft wide double drive gates. The dated and initialed exhibit(s), attached hereto, are incorporated into and made a part of this instrument as fully and effectively as if they were set forth herein in their entirety.

The parties agree that this lease is made subject to the following terms and conditions.

I. TENURE, RENEWAL AND TRANSFERABILITY

A. This lease will terminate at one minute after midnight on February 28, 2022. Termination at the end of the lease term occurs by operation of law and does not require any additional notice or documentation by the Authorized Officer. This lease is not renewable; but the Lessee has the right to request a new lease pursuant to paragraph "C" below.

B. The Lessee will undertake and pursue with due diligence construction and operation that is authorized by this lease. To the extent specified in Exhibit A, construction will commence on ASAP for Amendment.
(Date)

This lease will terminate if operation does not commence by that date, unless the parties agree in writing, in advance, to an extension of the commencement date.

C. If the Lessee desires a new lease upon termination of this lease, the Lessee must notify the Authorized Officer accordingly, in writing. The notice must be received by the Authorized Officer at least one year prior to the end of the lease term. The Authorized Officer will determine if the use should continue and, if it is to continue, if a new lease should be issued to the Lessee and under what conditions. The Authorized Officer will require payment of any amounts owed the United States under any Bureau of Land Management authorization before issuance of another authorization.

D. This lease is assignable with prior written approval of the Authorized Officer. Renting of space does not constitute an assignment under this clause.

II. RENTAL

A. The Lessee must pay in advance an annual rental determined by the Authorized Officer in accordance with law, regulation, and policy. The annual rental will be adjusted by the Authorized Officer to reflect changes in fair market value, annual adjustments using the Consumer Price Index-Urban (CPI-U), changes in tenant occupancy, or phase-in of rental, if applicable.

B. After the initial rental period rental payments are due at the close of the first business day after January 1 of each calendar year for which a payment is due. Payments due the United States for this use must be received at the Bureau of Land Management office as noted on the billing statement in the form of a check or money order payable to Bureau of Land Management/DOI. Credit card payments (VISA and MasterCard) can be made in person, through the mail, or by telephone. This lease will terminate automatically if accrued rent is not received by the Bureau of Land Management within 90 calendar days after the initial due date for the payment of such rent.

C. Pursuant to the Federal Claims Collection Act of 1966, as amended, 31 U.S.C. 3717, *et seq.*, regulations at 7 CFR Part 3, Subpart B and 4 CFR Part 102, an interest charge will be assessed on any amount due but not received by the due date. Interest will accrue from the date the payment was due. Administrative costs will also be assessed in the event that two or more billing notices are required for unpaid accounts. In addition, an administrative penalty at a percentage rate prescribed by law or regulation will be assessed for failure to pay any portion of the debt that is more than 90 days past due. This paragraph survives the termination of this lease, regardless of cause.

Other late fee charges may be assessed in accordance with standard BLM accounting procedures and policy.

D. Disputed rentals are due and payable on or before the due date.

III. RESPONSIBILITIES OF THE LESSEE

A. The Lessee is authorized to rent space and provide other services to customers and/or tenants and must charge each customer/tenant a reasonable rental without discrimination for the use and occupancy of the facilities and services provided. The Lessee must impose no unreasonable restrictions nor any restriction restraining competition or trade practices. By October 15th of each year, the Lessee must provide the Authorized Officer a certified statement, listing all tenants and customers, by category of use, located within the facility on September 30th of that year.

B. All development, operation and maintenance of the authorized facility, improvements, and equipment located on the property must be in accordance with stipulations in the communications site plan approved by the Authorized Officer. If required by the Authorized Officer, all plans for development, layout, construction, or alteration of improvements on the property as well as revisions of such plans, must be prepared by a licensed engineer, architect, and or landscape architect. Such plans must be approved in writing by the Authorized Officer before commencement of any work. After completion, as-built plans, maps, surveys, or other similar information will be provided to the Authorized Officer and appended to the communications site plan.

C. The Lessee must comply with applicable Federal, State, county, and municipal laws, regulations and standards for public health and safety, environmental protection, siting, construction, operation, and maintenance in exercising the rights granted by this lease. The obligations of the Lessee under this lease are not contingent upon any duty of the Authorized Officer, or other agent of the United States, to inspect the premises. A failure by the United States, or other governmental officials, to inspect is not a defense to noncompliance with any of the terms or conditions of this lease. Lessee waives all defenses of laches or estoppel against the United States. The Lessee must at all times keep the title of the United States to the property free and clear of all liens and encumbrances.

D. Use of communications equipment is contingent upon the possession of a valid Federal Communications Commission (FCC) or Director of Telecommunications Management/Interdepartmental Radio Advisory Committee (DTM/IRAC) authorization (if required), and the operation of the equipment is in strict compliance with applicable requirements of FCC or IRAC. A copy of each applicable license or authorization must at all times be maintained by the Lessee for each transmitter being operated. The Lessee must provide the Authorized Officer, when requested, with current copies of all licenses for equipment in or on facilities covered by this lease.

E. The Lessee must ensure that equipment within his or her facility (including tenant and customer equipment) operates in a manner which will not cause harmful interference with the operation of existing equipment on or adjacent to the communications site. If the Authorized Officer or authorized official of the Federal Communications Commission (FCC) determines that the Lessee's use interferes with existing equipment, the Lessee must promptly take the necessary steps to eliminate or reduce the harmful interference to the satisfaction of the Authorized Officer or FCC official.

F. When requested by the Authorized Officer, the Lessee must furnish technical information concerning the equipment located on the property.

IV. LIABILITIES

A. The Lessee assumes all risk of loss to the authorized improvements.

B. The Lessee must comply with all applicable Federal, State, and local laws, regulations, and standards, including but not limited to, the Federal Water Pollution Control Act, 33 U.S.C. 1251 *et seq.*, the Resource Conservation and Recovery Act, 42 U.S.C. 6901 *et seq.*, the Comprehensive Environmental Response, Control, and Liability Act, 42 U.S. C. 9601 *et seq.*, and other relevant environmental laws, as well as public health and safety laws and other laws relating to the siting, construction, operation, and maintenance of any facility, improvement, or equipment on the property.

C. The Lessee must indemnify, defend, and hold the United States harmless for any violations incurred under any such laws and regulations or for judgments, claims, or demands assessed against the United States in connection with the Lessee's use or occupancy of the property. The Lessee's indemnification of the United States must include any loss by personal injury, loss of life or damage to property in connection with the occupancy or use of the property during the term of this lease. Indemnification must include, but is not limited to, the value of resources damaged or destroyed; the costs of restoration, cleanup, or other mitigation; fire suppression or other types of abatement costs; third party claims and judgments; and all administrative, interest, and other legal costs. This paragraph survives the termination or revocation of this lease, regardless of cause.

D. The United States has no duty, either before or during the lease term, to inspect the property or to warn of hazards and, if the United States inspects the property, it will incur no additional duty nor any liability for hazards not identified or discovered through such inspections. This paragraph survives the termination or revocation of this lease, regardless of cause.

E. The Lessee has an affirmative duty to protect from damage the land, property, and interests of the United States.

E. (1). The Lessee must maintain \$ 1,000,000.00 worth of insurance coverage, naming the United States additionally insured on the policies(s), to partially fund the indemnification obligations of the Lessee for any and all losses due to personal injury, loss of life, or property damage, including fire suppression and hazardous waste costs. The Lessee must furnish proof of insurance (such as a surety bond, or certificate of insurance) to the Authorized Officer prior to execution of this lease and verify annually, and in writing, the insurance obligation to the Authorized Officer. The Authorized Officer may allow the Lessee to replace, repair, restore, or otherwise undertake necessary curative actions, to the satisfaction of the Authorized Officer, in order to mitigate damages in addition to or as an alternative to monetary indemnification.

F. In the event of any breach of the lease by the Lessee, the Authorized Officer may, on reasonable notice, cure the breach at the expense of the Lessee. If the Bureau of Land Management at any time pays any sum of money or does any act which requires payment of money, or incurs any expense, including reasonable attorney's fees, in instituting, prosecuting, and/or defending any action or proceeding to enforce the United States rights hereunder, the sum or sums so paid by the United States, with all interests, costs and damages will, at the election of the Bureau of Land Management, be deemed to be additional rental hereunder and will be due from the Lessee to the Bureau of Land Management on the first day of the month following such election.

V. OTHER PROVISIONS

A. **Nondiscrimination.** The Lessee must at all times operate the described property and its appurtenant areas and its buildings and facilities, whether or not on the property, in full compliance with Title VI of the Civil Rights Act of 1964 and all requirements imposed by or pursuant to the regulations issued thereunder by the Department of the Interior and in effect on the date this lease is granted to the end that no person in the United States will, on the grounds of race, sex, color, religion, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any of the programs or activities provided thereon.

B. **Termination and Suspension.**

1. **General.** For purposes of this lease, termination and suspension refer to the cessation of uses and privileges under the lease.

"Termination" refers to an action by the Authorized Officer to end the lease because of noncompliance with any of the prescribed terms, abandonment, or for reasons in the public interest. Termination also occurs when, by the terms of the lease, a fixed or agreed upon condition, event, or time occurs. For example, the lease terminates at expiration. Termination ends the Lessee's right to use the public land for communication purposes.

"Suspension" is a temporary action and the privileges may be restored upon the occurrence of prescribed actions or conditions.

2. This lease may be suspended or terminated upon breach of any of the terms or conditions herein or upon nonuse, or when in the public interest. Nonuse refers to a failure to operate consistently the facilities on the property for any period during the term in excess of 180 days. When suspended or terminated in the public interest, the Lessee will be compensated subject to the availability of appropriated funds. Compensation will be based upon the initial cost of improvements located on the lease, less depreciation as allocated over the life of the improvements as evidenced by the Lessee's Federal tax amortization schedules.

3. Except in emergencies, or in case of nonuse, the Authorized Officer will give the Lessee written notice of the grounds for termination or suspension and a reasonable time, not to exceed 90 days, to complete the corrective action. After the prescribed period, the Bureau of Land Management is entitled to such remedies as are provided herein.

4. Any discretionary decisions or determinations by the Authorized Officer on termination or suspension are subject to appeal in accordance with the regulations in Title 43, Code of Federal Regulations.

C. Restoration

1. In the event the Authorized Officer decides not to issue a new lease, or the Lessee does not desire a new lease, the Lessee must, prior to the termination of this lease, restore and stabilize the site to the satisfaction of the Authorized Officer.

2. In the event this lease is revoked for noncompliance, the Lessee must remove all structures and improvements within a reasonable period as determined by the Authorized Officer, except those owned by the United States, and must restore the site as nearly as reasonably possible to its original condition unless this requirement is otherwise waived in writing by the Authorized Officer.

3. If the Lessee fails to remove all structures or improvements within the prescribed period, they will become the property of the United States and may be sold, destroyed, or otherwise disposed of without any liability to the United States.

D. Members of Congress. No member of or Delegate to Congress or Resident Commissioner may benefit from this lease either directly or indirectly, except when the lease provides a general benefit to a corporation.

E. Reservations. This lease is granted subject to the following reservations by the United States:

1. The right to all natural resource products now or hereafter located on the property unless stated otherwise herein, and the right to obtain, utilize, or dispose of such resources insofar as the rights and possession of the Lessee are not unreasonably affected.

2. The right to modify the communications site plan as deemed necessary.

3. The right to enter upon the lease and inspect all facilities to assure compliance with the conditions of this lease.

4. The right of the United States to use or to authorize the use of the property for compatible uses, including the subsurface and air space.

In the event of any conflict between any of the preceding printed clauses or any provisions thereof and any of the following clauses or any provision thereof, the preceding printed clauses control.

ACCEPTED this _____ day of _____, 2019, I, the undersigned have read, understand and accept the terms and conditions of this lease.

Lessee

User Note: If a corporation is the Lessee, the title of the duly authorized official signing on behalf of the corporation should be added to the signature block.

IN WITNESS WHEREOF, the Bureau of Land Management, by its Authorized Officer, has executed this lease on the day and year first written above.

UNITED STATES OF AMERICA

(Signature of Authorized Officer)

Field Manager
(Title of Authorized Officer)

Jayme M. Lopez
(Printed Name of Authorized Officer)

(Date)

=====

**Bureau of Land Management
COMMUNICATION SITE STIPULATIONS**

AZA-006237

Cochise County Government Services

1. The Tucson Field Manager or its designee is the Authorized Officer (AO), as defined by 43 CFR 2920.0-5(c).
2. "Lessee," or "holder," means Cochise County Government Services, and any and all assignees that may be of record, including all agents, contractors, sub-contractors, and employees.
3. "Lease," means the right-of-way, license, grant, permit, or other permission granted by the United States to the lessee for the use of public lands and resources.
4. Holder shall follow all criteria contained in the U.S. Fish and Wildlife Service's guidelines "Service Guidance on the Siting, Construction, Operation and Decommissioning of Communication Towers" (2000), in the construction, operation, maintenance, and termination of the facility. This information is contained on the following website:
https://www.fws.gov/habitatconservation/com_tow_guidelines.pdf
5. Fences not directly related to the security of the telecommunication equipment or structures are not permitted. Any fencing material shall be approved, prior to installation, by the authorized officer. Metallic fencing shall be grounded to standards contained in Motorola's publication "Standards and Guidelines for Communications Sites R56", most recent edition (a.k.a., Motorola R56 standards).
6. The antenna support structures (towers) shall be constructed of galvanized steel, and shall be self-supporting unless otherwise approved by the BLM authorized officer. All towers shall meet Electronics Industries Associated Standard RS-222G, Structural Standards for Steel Antenna Towers. All metallic structural materials shall be galvanized, plated, or coated. Dissimilar metals will not be placed in contact with each other in such a manner that could create a galvanic junction.
7. The 2015 FAA revised Obstruction Marking and Lighting Advisory Circular AC70/7460-IL encourages all existing tower owners to replace non-flashing lights with flashing lights (revised primarily to reduce impacts to migratory birds). If in compliance with the FAA requirements, the new 115' tower should not have any lights. If lights are required, the lights shall be flashing lights.
8. Per the 2016 FWS Communication Tower Recommendations per the FAA advisory:
 - 1) Schedule all vegetation removal and maintenance activities outside the breeding bird season to reduce the risk of bird take.
 - 2) Prevent the introduction of invasive plants during construction by using on native and local seed stock and using wash stations prior to entering.

- 3) Tower design with guy-wires should include daytime visual markers or bird flight diverters installed on the guy-wires to prevent daytime collisions.
 - 4) No tower lighting if less than 200' in height is the preferred option if FAA regulations and lighting standards permit. Choose minimum intensity strobes; do not use solid or pulsating red incandescent lights on towers.
 - 5) Security lighting should be motion- or heat-sensitive, down-shielded, and of a minimum intensity to reduce nighttime bird attraction and eliminate constant nighttime illumination while still allowing safe nighttime access to the site.
 - 6) Towers no longer in use, not re-licensed by the FCC for use, or obsolete should be removed within 12 months of cessation of use, preferably sooner.
9. Construction of the facility must be complete and the facility operational within six months from the effective date of this authorization unless an extension is approved in writing by the BLM authorized officer.
 10. Upon completion of construction activities and installation of equipment, but prior to turning on equipment except for test purposes, holder shall submit to the BLM authorized officer, a statement certifying that the improvements authorized by this amendment are constructed and operated according to Motorola R56 Standards (latest edition). Such statement shall be signed by an individual certified to conduct R56 inspections, and shall be accompanied by the individual's certification.
 11. The holder's building and appurtenances shall be painted (or manufactured) to blend with the natural color of the landscape. The color shall be approved in advance by the BLM authorized officer.
 12. The holder shall remove only the minimum amount of vegetation necessary for the construction of structures and facilities. Topsoil shall be conserved during excavation and reused as cover on disturbed areas to facilitate regrowth of vegetation. Any vegetation removal should be first searched for bird nests and delayed if necessary until eggs and nestlings are fledged.
 13. All existing improvements disturbed during construction (e.g. roads, parking spaces, etc.) shall be reconstructed to their original condition following completion of construction activities, as determined by the BLM authorized officer.
 14. Any archaeological or historical artifacts or remains, or vertebrate fossils discovered during operations shall be left intact and undisturbed; all work in the area shall stop immediately and the AO shall be notified immediately. Commencement of operations shall be allowed upon clearance by the AO.
 15. If, in connection with operations under this authorization, any human remains, funerary objects, sacred objects or objects of cultural patrimony as defined in the Native American Graves Protection and Repatriation Act (P.L. 101-601; Stat. 3048; 25 U.S.C. 3001) are discovered by the

holder, or any person working on his behalf, on public or Federal lands, the holder shall stop operations in the immediate area of the discovery, protect the remains and objects and immediately notify the AO of the discovery. The holder shall continue to protect the immediate area of the discovery until notified by the AO that operations may resume.

16. The holder agrees to accommodate the entry/development of other compatible communication uses of the facility on a first-come, first-served basis. If an applicant agrees to comply with all the terms and conditions for use of the site contained herein, obtains a Federal Communications Commission or Interdepartmental Radio Advisory Committee authorization, and there is space available, the holder may not refuse to enter into a use agreement with the applicant. Exceptions to this requirement will be made by the BLM authorized officer on a case-by-case basis.
17. All equipment in the facility must be clearly posted with the owner's name and operating frequency.
18. The holder shall ensure that the BLM serial number assigned to this authorization is posted on the door of the holder's building in letters that are at least 1.5 inches high.
19. All areas authorized under this Lease shall be maintained in a sanitary condition at all time; waste materials shall be disposed of promptly at an appropriate waste disposal site. "Waste" means all discarded matter including, but not limited to, human waste, trash, spare or damaged radio equipment/antennas/cables, excess construction materials, refuse, oil drums, petroleum products, ashes, vegetative debris, and equipment.
20. No concentrated beam of energy shall be allowed to pass through any commonly occupied building, nor shall it pass through another user's electronic facility or antenna system. Structures and antennas shall not be constructed or placed in such a manner as to block an existing concentrated beam of energy.
21. The BLM reserves the right to authorize joint use by other electronic communication users of this site, together with the roads and the power, telephone and other auxiliary utility service lines installed and operated by the holder, upon payment by such users to the holder of a just and equitable portion of the costs of installation, maintenance and operation; provided that such joint use will conform to sound engineering practices.
22. The holder shall join the Mule Mountain Users Group Association and remain a member in good standing. Within 90 days from the effective date of this grant, the holder shall provide the authorized officer with evidence of membership. Failure of the holder to join the Mule Mountain Users Group Association and remain a member in good standing shall constitute sufficient grounds for termination of this authorization.

23. The holder agrees not to install or allow the installation of any radio facilities or support facilities not specified in this Lease within the area authorized and covered by this Lease, without advance notification and written approval of the BLM authorized officer.

24. The holder understands that this Lease authorizes specific communication facilities to be constructed, maintained and operated on public lands. This Lease does not grant in any way the exclusive development/use rights to a specific plot of land, as those rights are reserved to the United States in Federal regulations at 43 CFR 2800.

25. At least 120 days prior to termination of the authorization, the lessee shall contact the BLM authorized officer to arrange a joint inspection of the Lease. This inspection will be held to agree to an acceptable termination and rehabilitation plan. This plan shall be prepared by the holder and shall include, but is not limited to, removal of facilities, drainage structures, or surface material, recontouring, top-soiling, or revegetation. The authorized officer must approve the plan in writing prior to the lessee's commencement of any termination activities.