

STATE OF TEXAS

COUNTY OF HIDALGO

LEASE OF RADIO TOWER SPACE

C-12-040-05-22

THIS AGREEMENT this day made and entered into by and between MCALLEN COMMUNICATIONS COMPANY, INC., a Texas Corporation, acting by and through its authorized officers, hereinafter called "Lessor", and COUNTY OF HIDALGO, TEXAS, hereinafter called "Lessee";

WITNESSETH

WHEREAS, Lessor responded to a request for bids for the "Lease of Tower Space (McCook)", and

WHEREAS, Lessor submitted a bid to provide services in accordance with the specifications as bid, a copy of such specifications and bid being attached hereto as Exhibit A, and incorporated herein for all purposes (the Specification); and

WHEREAS, in recognition of and in consideration of Lessor's agreement to perform the Services in accordance with Specifications, the Commissioners Court of County awarded the bid to the Lessor on this 22rd day of May, 2012.

WHEREAS, Lessor is the owner of a 440 foot radio tower and concrete building at a location described as being Latitude 26° 32' 37" NORTH X Longitude 98° 22' 08" WEST, AMSL 302.3', AGL 459', Highest point AMSL 761.3', or hereafter called the Radio Tower, FCC Registration #1206137, and

WHEREAS, Lessor leases the surface to house the radio tower and equipment in the hereinafter described tract:

582 acres of land, more or less, being all of the South Half of Survey No. 487, Elder B. Barton Original Grantee, Certificate No. 964, Patent No. 217, Volume 8, Abstract No. 592, Hidalgo County, Texas, and being the same land described in Deed of Partition, dated April 16, 1940, recorded in Volume 469, Page 353, Deed Records, Hidalgo County, Texas, and

WHEREAS, Lessee operates a private station, and is desirous of using space on Lessor's said radio tower for its transmitting antenna and space in said building below said tower for the use of its transmitting equipment;

NOW, THEREFORE, Lessor does by these presents, LEASE LET, and DEMISE unto the Lessee the right to use said radio tower at a distance of Four Hundred Forty (440) feet from the ground for the installation and maintenance of their antenna and the right to use such space in the building at the foot of said tower as may be reasonably necessary for the operation of Lessee's equipment.

The term of this lease shall be for ONE (1) year, commencing on May 26, 2012 and terminating on May 25, 2013; subject however to earlier termination as hereinafter provided.

Provided Lessee is not in default hereunder, Lessee is granted the option to renew and extend this lease for an additional nine (9) one year terms, (the "renewal term"). Lessee shall give Lessor written notice of its intent to exercise its renewal option at least thirty (30) days prior to the expiration of the initial term, or, if applicable, any renewal term. Failure to timely deliver such notice shall constitute a waiver of this option to renew.

The rent payable by Lessee to Lessor under this lease agreement for the initial term shall be charged a monthly payment of \$1,122.00, or an annual payment of \$13,464.00 for the initial term. Specifics for each optional renewal term are specified in Lessor's bid packet attached hereto as Exhibit B. Each monthly rental payment is due on the first day of each month during the term of the lease.

The parties hereby agree and covenant with each other as follows:

1. Lessee shall pay the rent to Lessor at P. O. Box 1139, Edinburg, Texas 78540-1139, as the same shall become due.
2. Subject to the terms and conditions hereof, Lessor will maintain the radio tower, the building, and the ingress and egress road in suitable condition for use by Lessee for the purpose authorized hereunder.
3. Lessee shall promptly execute and fulfill all requirements of law, Federal, State and Local, applying to its business, and radio transmittal. Lessee shall not assign this agreement of sublet the premises, and any part thereof, without the consent of the Lessor in writing. Lessee shall not make any alteration in the building or tower without written consent.
4. If the leased premises shall be damaged by, or as a result of fire, windstorm, or other casualty, Lessor shall make repairs to such leased premises (exclusive of antenna and property of Lessee) with reasonable dispatch. Lessor shall not be responsible for any delays arising in connection with the adjustment of insurance loss or labor troubles and no abatement of rent shall be made in this case. There shall be no abatement of rent, unless the damage is so extensive that the tower and transmitter building leased hereunder cannot be used for ratio transmission by Lessee while being repaired, in which event, rent shall abate until such time as said tower and transmitter building shall have been put in repair. In the event the leased property, either the tower or the transmitter building, is destroyed or so damaged that in the opinion of the Lessor, it cannot be repaired within ninety (90) days after the loss, or if Lessor shall decide not to rebuild, or if the damage shall be caused under conditions not insured against by the Lessor and the Lessor shall decide not to repair the damage, then the Lessor, at its option, may terminate this lease and the rent shall be paid to the date of such damage and thereupon, the lease shall terminate.
5. If the Lessee shall fail to pay the rent of any installment thereof when due, the Lessor may, by thirty (30) days written notice to Lessee, cancel and terminate this lease.
6. Lessor shall furnish electric power required to operate the Lessee's radio base station equipment. Lessee shall install two transmitters/receivers that will provide interoperable communications between users of 800 MHZ and VHF two way radio equipment with the appropriate antennas and peripherals, specifically: One (1) Generator, One (1) 500 Gallon Fuel Tank, Two (2) Cross band Stations, Two (2) Antennas and Cabins, Two (2) 83" Cabinets

at said tower site. Upon execution of this lease agreement, Lessor shall fence tower area where Lessee's may install a combination lock and furnish combination to Lessee. Lessor shall not be responsible for any power failure including operations of generator equipment and fuel tank. By the same token, the Lessor shall not be responsible for the Lessee's radio equipment maintenance, unless a separate maintenance equipment contract is drawn to cover specified maintenance.

7. It is a condition precedent to any cause of action in the Lessee, that the Lessee shall serve written notice on the Lessor of the condition, defect, act, omission, or breach complained of. All notices required hereunder or that may be given hereunder shall be effective for all purposes if addressed by Lessee to Lessor at its principal place of business at P. O. Box 1139, Edinburg, Texas, and by Lessor to Lessee at its principal place of business.
8. If the Lessor is unable to give Lessee possession of the property and premises leased hereby on the date fixed for the commencement of this term, Lessee may terminate the Lease on written notice.
9. No representative, agreement, or promise has been made by the Lessor, or any agent of Lessor, except as stated herein or in a written communication to the Lessee signed by the Lessor, and this lease may not be changed, varied, or extended except by instrument in writing signed by both parties hereto. It supersedes any and all prior agreements and understandings between the parties hereto with respect to the lease property and premises and the terms of this agreement.
10. Lessor shall not be liable for any loss, damage, or injury of any kind or character to any person or property caused by or arising from any act or omission of Lessee, or of any of its agents, employees, licenses, or invitees, or occasioned by the failure of Lessee to maintain any of Lessee's equipment located on the premises. Lessor owns no vehicles and has no auto liability insurance. Lessor has no uninsured/underinsured motorist coverage. Lessor has no employees and has no workers' compensation insurance. Lessor provided proof of general liability coverage as stated in the response to bid attached hereto as Exhibit B.
11. Lessor leases the surface property from a third party. The property is operated for ranching, and leased for hunting, and oil and gas. There is livestock and wildlife on the property, including snakes, spiders, scorpions, etc. Lessee or its agents, contractors, or subcontractors should be notified of the activities and the wildlife in advance.
12. The tower building is equipped with an Argus Security System which monitors tower lights, temperature, and unauthorized entry. A code is required to gain entry to the site. Lessor recommends that Lessee or its agents, contractors, or subcontractors telephone Lessor prior to working at the site to avoid any unwarranted calls to law enforcement officials. Lessor or its agent will be available to answer telephone calls 24 (Twenty four) hours a day, 7 (seven) days a week. The contact numbers are as follows: regular working hours (956) 383-1960, after hours (McAllen Ranch main gate) (956) 481-3230.
13. In any case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and this Agreement shall be

construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

14. This agreement shall be binding upon and inure to the benefit of and be enforceable by the parties hereto and their respective heirs, executors, administrators, legal representatives, successors, and assigns where permitted by this Agreement.
15. This Agreement shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Hidalgo County, Texas. The parties hereby consent to personal jurisdiction in Hidalgo County, Texas.
16. Nothing in this Agreement shall be construed so as to require the commission of any act contrary to law, and whenever there is any conflict between any provision of this Agreement and any present or future law, ordinance or administrative, executive or judicial regulation, order to decree, or amendment thereof, contrary to which the parties have no legal right to contract, the latter shall prevail, but in such event the affected provision or provisions of this Agreement shall be modified only to the extent necessary to bring them within the legal requirements and only during the time such conflicts exist.
17. No waiver by Lessor or Lessee of any breach of any provision of this Agreement shall be deemed to be a waiver or any preceding or succeeding breach of the same or any other provision hereof.
18. This Agreement contains the entire contract between the parties hereto, and each party acknowledges that neither has made (either directly or through any agent or representative) any representation or agreements in connection with this Agreement not specifically set forth herein. This agreement may be modified or amended only by agreement in writing executed by County, and Lessor, and not otherwise.
19. At any time after the initial twelve (12) months of the term of this lease, this agreement may be terminated by Lessee without cause upon thirty (30) days written notice and payment of a Termination Fee equal to one-half (1/2) of the rent payable under the balance of the current 12 (twelve) month term of this lease.
20. **Commitment of Current Revenues Only.** In the event that, during any term hereof, the Commissioners Court does not appropriate sufficient funds to meet the obligations of Lessee under this Agreement, Buyer may terminate this Agreement upon sixty (60) days written notice to Lessor. Lessee agrees, however, to use reasonable efforts to secure funds necessary for the continued performance of this Agreement. The parties intend this provision to be a continuing right to terminate this Agreement at the expiration of each budget period of Lessor pursuant to the provisions of Tex. Loc. Govt. Code Ann. ' 271.903 (Vernon Supp. 1996).

IN TESTIMONY WHEREOF, witness our hands this, the _____ day of _____, 2012.

APPROVED BY COMMISSIONER'S COURT ON _____, 2012.

County of Hidalgo

By: _____
Ramon Garcia, County Judge

ATTEST: _____

Arturo Guajardo, Jr. County Clerk

LESSOR:

MCALLEN COMMUNICATIONS CO., INC.

James A. McAllen, President
P. O. Box 1139
Edinburg, Texas 78540-1139
(956) 383-1960

Approved as to Form:

By: Atlas & Hall, PLC/Date
