

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

713



FROM: Economic Development Agency / Facilities Management

SUBMITTAL DATE:
August 4, 2011

SUBJECT: Public Safety Enterprise Communications Project Business Lease, Quail Mesa, Ehrenberg, Arizona

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve the attached Business Lease for the Quail Mesa Public Safety Enterprise Communication site; and,
2. Authorize the Chairman of the Board to execute the same on behalf of the County.

BACKGROUND BY CIP (Commences on Page 2)

Christopher Hans
Christopher Hans

Robert Field

FISCAL PROCEDURES APPROVED
PAUL ANGULO, CPA, AUDITOR-CONTROLLER
BY Samuel Wong
SAMUEL WONG

Robert Field
Assistant County Executive Officer/EDA

FINANCIAL DATA	Current F.Y. Total Cost:	\$ 25,000	In Current Year Budget:	No
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	No
	Annual Net County Cost:	\$ 0	For Fiscal Year:	2011/12

COMPANION ITEM ON BOARD OF DIRECTORS AGENDA: No

SOURCE OF FUNDS: PSEC and RCIT

Positions To Be Deleted Per A-30	<input type="checkbox"/>
Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION: APPROVE

BY: Jennifer L. Sargent
Jennifer L. Sargent

County Executive Office Signature

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Buster, seconded by Supervisor Stone and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Buster, Tavaglione, Stone, Benoit and Ashley
Nays: None
Absent: None
Date: August 16, 2011
xc: EDA, CIP, RCIT, Auditor

Kecia Harper-Ihem
Clerk of the Board
By: [Signature]
Deputy

Prev. Agn. Ref.: N/A

District: 4

Agenda Number:

3.42

ATTACHMENTS FILED
WITH THE CLERK OF THE BOARD

FORM APPROVED COUNTY COUNSEL
BY: [Signature] 8-4-11
DATE: 8-4-11
SYNTHIA M. GUNZEL
Departmental Concurrence

By: [Signature]
Nathan Chiodney, Chief Information Officer
Riverside County Information Technology

Dept't Recomm.: Consent
Per Exec. Ofc.: Consent
Policy: Policy

BACKGROUND: (Continued)

The Public Safety Enterprise Communications Project utilizes long term ground leases in those situations where the site owner is unable to sell the land parcel required for the wireless communication site.

The Quail Mesa Public Safety Enterprise Communications Project site is located on the Colorado River Indian Tribes Reservation on the east side of the Colorado River near Ehrenberg, Arizona. Eastern Riverside County presents a serious communication challenge in that severe topography and wilderness designation are combined with heavy recreational use. The best solution is a site which "looks" westward into California, covering the river and valley areas to the west, replacing an existing County communication facility known as Big Maria, which is being abandoned when the current BLM entitlement expires in 2013, due to environmental concerns expressed by other tribes in the area.

The Colorado River Indian Tribes (CRIT) Reservation includes land on both the California and Arizona sides of the Colorado River and encompasses much of the riverbank in this area. The Riverside County Sheriff's Department and CRIT law enforcement need effective communications over this area which sees heavy vehicular traffic and recreational use of both the river and back county areas.

The annual rent business lease is summarized below:

Location: 33°45'55.62"N 114°26'26.69"W, Near State Highway 1 and Welsh Road, north of Ehrenberg, Arizona

Lessor: Colorado River Indian Tribes (CRIT)

Size: Approximately 10,000 square feet plus access for vehicles and electrical power

Term: 25 years with an option to extend an additional 25 years

Rent: \$25,000 upon lease execution, \$25,000 beginning of year two, then \$3,000 per year

Rent Adjustments: None

Utilities: By County

Interior/Exterior

Maintenance: By County

The Form 11 and attached business lease have been reviewed and approved by County Counsel as to legal form.

FINANCIAL DATA: (Commences on Page 3)

FINANCIAL DATA:

All first and second year rents and associated development costs for the Quail Mesa Leased communications site will be fully funded through the PSEC budget. Riverside County Information Technology's (RCIT) annual budget will fund future rents and all operating costs.

1 Colorado River Indian Tribes
2 26600 Mohave Road, Parker, Arizona
3 Colorado River Indian Reservation 85344

4 U.S. Department of the Interior
5 Bureau of Indian Affairs, Colorado River Agency
6 Route 1, Box 9-C, Parker, Arizona
7 Colorado River Indian Reservation 85344

8 **LEASE NO. CR-27891137**

9 **BUSINESS LEASE**

10 THIS LEASE AGREEMENT (hereinafter "Lease") is made and entered into this 6th day of
11 December 2011 by and between the Colorado River Indian Tribes, an Indian Tribe
12 organized in accordance with Section 16, of the Act of June 18, 1934, 25 U.S.C. Section 476
13 (hereinafter "Lessor"), whose address is 26600 Mohave Road, Parker, Arizona, Colorado River
14 Indian Reservation 85344, and The County of Riverside (hereinafter "Lessee"), a political
15 subdivision of the State of California, existing under the laws of the State of California whose
16 address is 3403 10th Street, Suite 500, Riverside, CA 92501. Lessor and Lessee may
17 individually be referred to in this Lease as the "Party" and collectively as the "Parties." This
18 Lease is made in accordance with the provisions of the Act of April 30, 1964 (78 Stat. 188), as
19 implemented by the regulations contained in 25 CFR Part 162, including all amendments
20 thereto, and other applicable federal laws and regulations.

21 **ARTICLE I. DEFINITIONS**

22 A. "Secretary" means the Secretary of the Interior of the United States of America or
23 his authorized representative, delegate or successor.

24 **ARTICLE II. LEASED PREMISES**

25 **2.1 LEASED PREMISES**

Lessor is the owner of that certain real property described as follows: an area located
within the S ½ NW ¼ NE ¼ of Section 21, Township 5 North, Range 21 West
of Gila River and Salt River B&M La Paz County Arizona within the Colorado River
Indian Reservation as described or depicted on Exhibit "A", "Property".

For the considerations, covenants and agreements hereinafter set out, the Lessor
hereby leases to Lessee and Lessee leases and accepts subject to the terms and
conditions of this Lease, that certain portion of the Property referred to as the "Leased
Premises", defined as a 100' x 100' area located within the Property, as described or
depicted on Exhibit "B", attached hereto and, by this reference, incorporated herein,
together with rights of vehicular ingress and egress over public reservation streets and
roads for the construction, operation and maintenance of the wireless communication
facility, the right to access electrical power via overhead lines from the nearest power
pole, and the right to manage nearby vegetation for fire control for distance of one
hundred (100) feet around the Leased Premises.

1 All of the above land located on the Colorado River Indian Reservation and containing a
2 dedicated use area aggregate of 10,000 SF, more or less, and subject to any prior,
3 valid, existing claims or rights-of-way, including the present existing roads. The square
4 footage figures shown above will be adjusted, if necessary, after Lessee has completed
5 actual surveys and provided the survey documents to Lessor.

6 2.2 SURVEY

7 Within one hundred eighty (180) days after this Lease is approved and executed by the
8 Secretary, Lessee, at its own expense, shall have the Leased Premises surveyed by a
9 registered surveyor, the boundaries posted with substantial monuments, and a tie
10 established with the nearest United States Land Survey Marker or with some other
11 known and recognized point or monument. Corners shall be re-staked, if needed, after
12 the site has been graded. A plat map and legal description of the Leased Premises
13 shall be furnished to the Lessor and the Secretary.

14 2.3 CONDITION OF THE LEASED PREMISES

15 Lessee has previously examined and knows the Leased Premises and no warranties or
16 representations as to the condition thereof have been made by the Lessor or any agent
17 of Lessor prior to or at the time of execution of this Lease. Lessee accepts the Leased
18 Premises in an "as is" condition.

19 ARTICLE III. LEASE TERM AND POSSESSION OF PREMISES

20 3.1 INITIAL TERM OF LEASE

21 The Initial term of this Lease shall be 25 years, commencing on the date the Lease is
22 approved and executed by the Secretary, whichever is later ("Commencement Date").
23 The initial term of this Lease and any Renewal Term shall be referred to collectively as
24 the "full term of this Lease."

25 3.2 RENEWAL TERM

Provided Lessee is not in Default under Article XI of this Lease, Lessee shall have the
option to renew this Lease for an additional twenty-five (25) year period ("Renewal
Term"). The option to renew the term of the Lease shall be exercised by Lessee
providing written notice to Lessor by certified mail at least ninety (90) days prior to the
expiration of the initial term of this Lease. The Renewal Term shall be on the same
terms, covenants, conditions, and subject to the same restrictions and exceptions
contained in this Lease Agreement.

3.3 CONSIDERATION

During the initial term of this Lease, and during any Option term, there shall be
Consideration in the form of rent as set forth in Article 4.1 A.

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1 3.4 PURPOSE

2 Lessee shall develop, use and operate the Leased Premises for the following purposes
3 only: Design, construction, operation, maintenance, and modernization of a non-
commercial public safety wireless microwave and radio communications site.

4 On a "no fee" basis and subject to space availability and technical review and on a first
5 come, first served basis, Lessee shall permit Lessor's Police, Fire, Fish and Game and
6 related public safety departments to co-locate communications equipment on the
7 Leased Premises and Lessee's personal property or Trade Fixtures. This right shall be
8 limited to one full rack (approximately 2'x2') of equipment together with the necessary
antenna and tower attachments. This right shall not extend to other police, fire or fish &
game or public safety agencies working in conjunction with Lessor, but those entities
may pursue a separate contractual arrangement with Lessee, subject to space
availability.

9 Lessee may permit co-location of communications equipment belonging to other public
10 and quasi public agencies on the Leased Premises and may collect and retain Lessee's
11 approved fee for such co-locations. Such agencies include, by illustration, road repair
12 agencies, public utilities, police departments, U.S. Coast Guard, immigration and drug
13 enforcement. Such co-located tenants shall have the same rights of access to the
Leased Premises as does the Lessee. Lessee shall provide Lessor with the name and
contact information of each agency that has co-located communications equipment on
the Leased Premises. Said development, use and operation will be by the Lessee or
through sub-lessees approved in accordance with Article X hereof.

14 Lessor shall not permit future pad development which interferes with Lessee's use of
15 the premises.

16 Any future tenants occupying the Leased Premises shall grade and develop their own
17 sites at their own expense.

18 The Leased Premises shall not be used by Lessee, or any sub-lessee, licensee or
19 concessionaire, or any assignees for any commercial income generation purpose or
20 purposes other than those set out above, except with prior written consent of Lessor.

19 3.5 UNLAWFUL USES

20 The Lessee agrees that the Leased Premises, or any part of the Leased Premises, will
21 not be used for any unlawful conduct or purpose.

22 3.6 SURRENDER OF PREMISES

- 23 A. Upon any termination of this Lease whether by expiration, cancellation, or otherwise,
24 Lessee shall surrender possession of the Leased Premises to Lessor in good condition,
25 reasonable wear and tear excepted. The Lessee will retain the rights to its personal
property and Trade Fixtures as defined in this Section below. Other improvements and
fixtures not included in definition subsection 3.6.D. below can become part of the real
property at Lessor's discretion.

- 1 B. At any time before the termination date of this Lease, Lessee, if not in default
hereunder, shall have the right to remove its personal property and Trade Fixtures.
- 2 C. At the end of the term of this Lease, if directed by Lessor, Lessee shall remove from the
3 Leased Premises all personal property and Trade Fixtures then installed or in place in,
4 on or about the Leased Premises returning the site to the good condition, reasonable
5 wear and tear excepted. If Lessor directs Lessee to remove such property, Lessee
6 agrees to do so, and, in the event Lessee shall fail to remove such property if and when
7 directed, to reimburse Lessor for any expense of removal. If any of Lessee's personal
8 property or Trade Fixtures shall remain on the Leased Premises after the term of this
9 Lease, it shall become the property of the Lessor without any claim therein of Lessee.
- 10 D. Lessee's Trade Fixtures shall include modular buildings, propane or diesel generator
11 fuel tanks, generators, battery plant and the lattice tower structure. Lessee's personal
12 property shall include, but shall not be limited to, all county radio and microwave
13 transmitters and receivers, antennae and support equipment.
- 14 E. Lessor shall have the right to require Lessee to remove any damaged facilities and/or
15 improvements on the Leased Premises, or otherwise restore the Leased Premises,
16 after termination of this Lease, by giving written notification to Lessee within thirty days
17 after such termination.

18 If so notified, Lessee, at Lessee's sole cost and expense shall remove improvements
19 within one hundred and eighty (180) days after the date of written notification and shall
20 restore the Lease Premises to a condition acceptable to the Lessor.

- 21 F. Upon termination of this Lease, whether by expiration, cancellation or otherwise,
22 Lessee shall, if requested by Lessor, execute a quitclaim deed, quitclaiming all of its
23 right, title and interest in and to the Leased Premises and all improvements made to or
24 placed on the Leased Premises to the Lessor.

25 3.7 HOLDING OVER

Holding over by the Lessee after the expiration of this Lease shall not constitute a
renewal of this Lease or give Lessee any rights under this Lease or in the Leased
Premises. Notwithstanding this provision, however, any holding over after the
expiration of the term of this Lease, with the consent of Lessor, shall be construed to be
a tenancy from month to month, revocable upon thirty (30) days written notice, and at
an annual rental of \$12,000 per year and further upon the terms and conditions as
existed other than rental during the last year of the term hereof.

3.8 ABANDONMENT

If, prior to the expiration or other termination of this Lease, Lessee relinquishes
possession of the Leased Premises without Lessor's written consent such
relinquishment shall be deemed to be an abandonment of the Leased Premises and an
event of default under this Lease. Any such period of default shall be deemed to begin
on the date on which possession was relinquished.

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1 3.9 TERMINATION

2 If Lessee is unable for any reason to proceed with the initial construction of the Leased
3 Premises within the first five years of the term granted herein, Lessee may terminate
4 this Lease with sixty (60) days advance written notice of its election to do so. Lessor
5 shall be entitled to retain any lump sum or annual payments made by Lessee as its sole
6 liquidated damages for such termination.

7 After the wireless communications facility has been constructed, Lessee shall have the
8 right to terminate this Lease for any reason or for no reason by giving Lessor 24 months
9 advance written notice of its election to do so.

10 **ARTICLE IV. RENT AND LESSEES CONTRIBUTIONS**

11 4.1

12 A. **CONSIDERATION:** Consideration, in the form of Rent, shall be paid by Lessee to
13 Lessor in amounts as follows:

- 14 i. \$25,000.00 upon full execution of this Lease;
- 15 ii. \$25,000.00 on the first anniversary of the execution of this Lease;
- 16 iii. \$3,000.00 per year for the remaining portion of the 25 year Primary term of this
17 Lease; and,
- 18 iv. \$12,000.00 per year during the 25 year Option term, if exercised.

19 Further, to the satisfaction and acceptance of Lessor, Lessee shall be responsible
20 for all costs associated with the primary and secondary access routes and site
21 grading necessary to establish and maintain the communication facility together with
22 all cost associated with bringing 3Ø phase commercial power to the site, "Site
23 Improvements". The Site Improvements consist of approximately 10,000 sq feet of
24 soils grading and approximately one half (½) mile of commercial power pole line.
25 The work shall commence within ninety (90) days of the Commencement Date as
defined in Section 3.1 herein.

26 B. **EVIDENCE OF PERFORMANCE:** Lessee shall provide satisfactory evidence to the
27 Secretary within ninety (90) days following the completion of construction of the facility.
28 Acceptable evidence of site improvements shall be either a wet stamped wet signed
29 Site Grading Plan or a wet stamped wet signed Statement Letter from a licensed
30 grading contractor stating that the site has been graded in accordance to the approved
31 and accepted Site Grading Plan. Such evidence shall be provided without notice or
32 request.

33 C. **INTEREST AND LATE CHARGES:** Lessee covenants and agrees that all sums to be
34 paid under this Lease, if not paid when due, shall bear interest on the unpaid portion
35 thereof at the rate of eighteen (18%) percent per annum from the date when due.
36 Lessee further agrees that for each calendar month, in which the fixed minimum rent or
37 monthly percentage rent is not paid to Lessor within ten (10) days of the due date,
38 Lessee shall promptly pay to Lessor a sum equal to the greater of fifty dollars (\$50.00)
39 or ten percent (10%) of the unpaid rentals as special damages.

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- D. If the Lessor shall pay any moneys, or incur any expenses in correction of any violation of any covenant of Lessee set forth in this Lease, the amounts so paid, or incurred shall, at Lessor's option and on notice to Lessee, be considered additional rentals payable, and may be collected or enforced as by law provided with respect to rentals.
- E. Lessee shall pay to Lessor fifty dollars (\$50.00) for each of Lessee's checks returned to Lessor unpaid by Lessee's bank.

4.2 TAXES AND ASSESSMENTS ON LESSEE'S PROPERTY

Lessor acknowledges that Lessee, as a governmental body, may be a tax exempt entity as to the leasehold, its improvements and its trade fixtures. Lessee shall be responsible for and shall pay before delinquency all taxes assessed against Lessee's leasehold interest or any personal property of any kind owned or placed in, upon or about the Leased Premises by Lessee. Lessee hereby agrees to protect and hold harmless Lessor and the Leased Premises from all liability for any and all such taxes, assessments and charges together with any interest, penalties or other charges thereby imposed, and from any sale or other proceedings to enforce payment thereof, and to pay all such taxes, assessments and charges before they become a lien on the Leased Premises.

4.3 UTILITIES CONSUMED ON THE LEASED PREMISES

In addition to all rentals herein specified, Lessee shall be responsible for and shall pay for all utilities supplied to, used, or consumed in or upon the demised Leased Premises, including, but not limited to, electricity and water for construction as and when the charges therefore shall become due and payable. Commencing on the date that the Leased Premises are ready for occupancy, Lessee shall make all appropriate applications to the local utility companies and pay all required deposits for meters and service for all utilities.

ARTICLE V. (INTENTIONALLY DELETED)

ARTICLE VI. IMPROVEMENTS, ADDITIONS, ALTERATIONS, MAINTENANCE AND REPAIRS

6.1 INITIAL CONSTRUCTION

Lessee shall be responsible for all costs associated with any construction. All improvements shall require approval by the Lessor's Building and Safety Department pursuant to the Lessor's Health and Safety Code. Lessee shall submit to Lessor's Building and Safety Department complete plans and specifications covering all work which Lessee proposes to do on the Leased Premises, including the fixturation thereof, whether such work is to be done by Lessee or others. Such plans and specifications shall be prepared in such detail as Lessor may require, and Lessee and agrees not to commence work upon any portion of the Leased Premises until Lessor has approved such plans and specifications in writing. Lessor agrees to act with reasonable promptness with respect to approval of such plans and specifications.

1 6.2 IMPROVEMENTS, APPROVAL

2 Lessee shall not make any additions, alterations, or other improvements other than
3 replacement of radio and microwave equipment and antennas (hereinafter referred to in
4 this Article VI as "improvements") to the Leased Premises without the approval of
5 Lessor. Lessee shall submit to Lessor complete plans and specifications covering all
6 such work, whether such work is to be done by Lessee or others. Lessee agrees not to
commence work upon any portion of the Leased Premises until Lessor has approved
such plans and specifications in writing. Lessor agrees to act with reasonable
promptness with respect to such plans and specifications. Any changes in said plans or
specifications must be similarly approved by Lessor.

7 6.3 IMPROVEMENTS, CONSTRUCTION, DUTY TO MAINTAIN AND REPAIR PREMISES

8 All improvements, including the initial construction improvements, on the Leased
9 Premises shall be constructed and/or maintained in a good workmanlike manner in
10 compliance with all laws, code, rules, regulations and orders of all governmental
11 authorities having jurisdiction thereof. Lessee shall, at Lessee's own expense, promptly
12 remove from the Leased Premises all trash and debris which may accumulate in
13 connection with any work in or on the Leased Premises. The Lessee or sub lessee
14 shall at all times during the full term of this Lease and at Lessee's sole cost and
15 expense, maintain the Premises and all improvements thereon and any alterations,
16 additions, or appurtenances thereto, in good order, condition and repair (including any
such replacement, periodic painting, and restoration as is required for that purpose) and
in a safe, sanitary, neat and attractive condition, and shall comply with all public laws,
ordinances and regulations applicable to said Leased Premises. Lessee shall
indemnify and hold harmless Lessor and the United States Government against liability
for all claims arising from any failure to maintain, repair, or alter the Leased Premises
and the improvements thereon, or from any construction, alteration or repair of the
Leased Premises or from the non-observance of any law, ordinance, or regulation
applicable to such construction, alteration or repair.

17 6.4 MECHANIC'S LIENS

18 When Lessee makes any improvements in the Leased Premises, Lessee must pay for
19 same when made. Nothing in the Lease shall be construed to authorize Lessee or any
20 dealing with or under Lessee, to charge the rents of the Leased Premises, or the
21 property of which the Leased Premises form a part, or the interest of Lessor in the
22 estate of the Leased Premises, or any person under and through whom Lessor has
23 acquired its interest in the estate of the Leased Premises, with a mechanic's lien or
24 encumbrance of any kind, and under no circumstances shall Lessee be construed to be
25 the agent, employee or representative of Lessor in the making of any such
improvements to the Leased Premises, but on the contrary, the right or power to charge
a lien, claim or encumbrance of any kind against Lessor's rents or the Leased Premises
or said land is denied. If a mechanic's or materialmen's lien is threatened by any
contractor or supplier, or in the event of the filing of a notice of any such lien, Lessee
will promptly pay same and take steps immediately to have same removed. If the lien is
not removed within ten (10) days from the date of written notice from Lessor, Lessor
shall have the right at Lessor's option to cause the same to be discharged by record of
payment, deposit, bond or other of a court of competent jurisdiction or otherwise, or to

1 pay any portion thereof and of the amounts so paid, including attorney's fees and
2 expenses connected therewith and interest at the rate of 18% per annum on any sums
3 paid or advanced, shall be deemed to be additional rent due from Lessee to Lessor and
4 shall be paid to Lessor immediately upon rendition to Lessee of the bill. Lessee will
indemnify, and hold harmless Lessor and the United States from and against all loss,
claims, damages, costs or expenses suffered by Lessor by reason of any repairs,
installations or improvements made by Lessee.

5 **6.5 NON-RESPONSIBILITY NOTICES**

6 Prior to the commencement of construction of each improvement on the Leased
7 Premises, or any repair or alteration thereto, or work or labor thereon, the Lessee shall
8 give the Lessor and the Secretary ten (10) days written notice of the intention to begin
said activity, so that non-responsibility notices may be posted. Lessor hereby
authorizes Lessee to post said notices on Lessor's behalf.

9 **ARTICLE VII. USE OF PREMISES**

10 **7.1 LESSEE'S USE OF LEASED PREMISES**

11 Lessee shall use and occupy the Leased Premises only for those permitted uses set
12 forth in paragraph 3.5 of this Lease and for no other purpose without Lessor's prior
written consent.

13 **7.2 CONDUCT OF LESSEE'S OPERATIONS**

14 At all times throughout the Lease term, Lessee shall:

- 15 A. Comply with any and all requirements of any of the constituted public authorities, and
16 with the terms of any Tribal, Federal, State, or local statutes, ordinances, or regulations
17 applicable to Lessee or its use, safety, cleanliness, or occupation of the Leased
18 Premises, and save Lessor harmless from penalties, liens, costs, expenses or damages
19 resulting from failure to do so.
- 20 B. Give to Lessor prompt written notice of any accident, fire or damage occurring on or to
the Leased Premises.
- 21 C. Conduct its business in the Leased Premises in all respects in a dignified manner and in
accordance with high standards of operation.

22 **7.3 SEWAGE**

23 Lessee will provide and maintain chemical toilets during the construction period of the
communication facility.

24 **7.4 RIGHTS RESERVED BY LESSOR**

- 25 A. **EASEMENTS.** Lessor expressly reserves all rights in and with respect to the land
hereby leased, not inconsistent with Lessee's use of the Leased Premises as provided
in the Lease, and to enter upon the Leased Premises and give easements to others for
the purpose of installing, using, maintaining, renewing and replacing such overhead or

1 underground water, gas, sewer and other pipelines, and telephone, electric, and power
2 lines, cables and conduits as Lessor may deem desirable in connection with the
3 development or use of any other property in the neighborhood of the land hereby
4 leased, whether owned by Lessor or not, all of which pipelines, lines and conduits shall
5 be buried to a sufficient depth or raised to a sufficient height so as not to interfere with
6 the use or stability of the building or any other improvements on the land hereby leased.

7 B. PRESENTATION FOR SALE OR LEASE. Lessor hereby reserves the right during
8 usual business hours to enter the Leased Premises and to exhibit the same for
9 purposes of sale, lease or mortgage, and during the last six (6) months of the term of
10 this Lease, to exhibit the same to any prospective Lessee, and after notice from either
11 party of intention to terminate this Lease, or at any time within six (6) months prior to the
12 expiration of this Lease, display a "For Rent" sign, except on doors leading into the
13 Leased Premises. Prospective purchasers or Lessees authorized by Lessor may
14 inspect the Leased Premises at reasonable hours at any time.

9 **ARTICLE VIII. LIABILITY INSURANCE AND INDEMNIFICATION**

10 **8.1 ALLOCATION OF RISKS AND INSURANCE**

11 A. LEASED PREMISES. Lessee bears the risk of and shall keep the Leased Premises and
12 all improvements at all times insured against loss or damage by fire, with extended
13 coverage, rent loss insurance and vandalism and malicious mischief endorsement or
14 their equivalents. Lessee is a public agency and maintains programs of self insurance
15 for Liability coverage and insurance for Property that includes replacement coverage for
16 all improvements on the Leased Premises. Lessee shall, from the date of execution of
17 this Lease Agreement, carry such insurance or provide evidence of self insurance, in
18 the names of the Lessee, Lessor, and the United States of America, covering not less
19 than the full replacement value of all improvements on the Leased Premises.
20 Certificates of Self Insurance for Liability and Evidence of Insurance for Property shall
21 be provided to the Lessor and the Secretary, and Lessee shall pay all premiums and
22 other charges payable with respect to such insurance. In the event of damage to any
23 improvement on the Leased Premises, the Lessee shall repair or otherwise reinstate
24 the damaged improvement in a good and substantial manner according to the plan and
25 elevation of the improvement so destroyed or damaged or according to such modified
plan as shall be previously approved in writing by the Lessor. Such reconstruction shall
commence within one (1) year after the damage occurs and shall be pursued diligently.
Insurance proceeds shall be deposited in escrow with an institution approved by the
Lessor. The Lessee shall also deposit in said escrow all additional funds required to
reconstruct the damaged improvement. Escrow instructions shall include provisions
that all funds so deposited shall be used to reconstruct the damaged improvement, and
funds shall be disbursed during the progress of reconstruction on proper architect's,
engineer's, or contractor's certificates. All money in escrow after reconstruction has
been completed shall be paid to the Lessee. Should Lessee elect not to reconstruct,
the Leased Premises shall be cleared at Lessee's expense.

23 B. PROPERTY OF LESSEE. Lessee agrees that all property owned by it in, on or about
24 the Leased Premises shall be at the sole risk and hazard of the Lessee. Lessor shall
25 not be liable or responsible for any loss or damage to Lessee, or anyone claiming under
or through Lessee, or otherwise, whether caused by or resulting from a peril required to
be insured hereunder, and whether or not originating in the Leased Premises or

1 elsewhere, irrespective of whether or not Lessor may be deemed to have been
2 negligent with respect thereto, and provided such damage of loss it is not the result of
3 an intentional and willful wrongful act of Lessor. Lessee agrees that, if any property
4 owned by it and located in the Leased Premises shall be damaged or destroyed by an
5 insured peril, Lessor shall not have any liability to Lessee, nor to any insurer of Lessee,
6 for or in respect of such damage or destruction, and Lessee shall require all policies of
7 risk insurance carried by it on its property in the Leased Premises to contain or be
8 endorsed with a provision in and by which the insurer designated therein shall waive its
9 right of subrogation against Lessor.

10 C. OPERATIONS OF LESSEE. All operations conducted by Lessee shall be at Lessee's
11 sole risk. In addition, Lessee shall procure liability insurance for its operations as
12 follows: At all times during the full term of this Lease, Lessee shall keep in force or
13 maintain program of self insurance at its own expense, public liability insurance and
14 comprehensive general liability insurance including contractual liability insurance
15 sufficient to cover all phases and aspects of the operation and conduct of its business
16 with minimum limits of \$1,000,000 combined single limit with a \$3,000,000 million dollar
17 aggregate covering bodily injury including death and property damage.

18 D. REQUIREMENTS OF ALL POLICIES. All liability insurance policies required of Lessee
19 in this Lease shall name as additional insured the Lessor, the United States of America
20 and Lessee as insured and shall contain an express waiver of any right of subrogation
21 against Lessor and other named insurers designated by Lessor. Said policies shall
22 provide against cancellation, for any reason including non-payment of premiums,
23 without 30 days prior notification to Lessor and the Secretary. There shall be a periodic
24 review, at no less than three (3) year intervals, of coverage and coverage amounts held
25 under this Lease. The review shall give consideration to the economic conditions at the
time and may result in an adjustment of the type of insurance coverage or the amounts
of any coverage if, in the sole discretion of the Lessor or the Secretary such adjustment
is necessary for the protection of Lessor and the United States. Said policies shall be in
such responsible companies as are rated A-, A, A+ or better in the current edition of
Best's Insurance Guide.

E. Lessee shall provide Lessor with a Certificate(s) of Insurance or Certificate(s) of Self
Insurance and/or Evidence of Coverage evidencing the insurance required by this
section, on or before the commencement date, and promptly following the renewal
replacement of such coverage. At Lessee's option, Lessee may self insure for a portion
or all insurance coverage provided in this paragraph.

F. FAILURE TO PROCURE INSURANCE. In the event Lessee shall fail to procure
insurance or maintain the self insurance required under this Article and fail to maintain
the same in force continuously during the term, Lessor or the Secretary shall be entitled
to procure the same and Lessee shall immediately reimburse Lessor or the Secretary
for such premium expense.

G. RISK OF LOSS. Neither Lessor nor the United States Government, nor their officers,
agents, and employees shall be liable for any loss, damage, death or injury of any kind
whatsoever to the person or property of Lessee or sub lessees or of any other person
whomsoever, caused by Lessee's use of the Leased Premises, or by any defect in any
structure erected thereon, or arising from any accident, fire, or from any other casualty
on the Leased Premises or from any other cause whatsoever; and Lessee, as a

1 material part of the consideration for this Lease, hereby waives on Lessee's behalf all
2 claims against Lessor and the United States Government.

3 8.2 INDEMNIFICATION AND WAIVER OF CLAIMS

4 Lessee as a material part of the consideration for this Lease indemnifies Lessor and the
5 United States Government and waives claims as follows:

6 A. INDEMNIFICATION. Lessee will indemnify Lessor and the United States of America
7 and save them harmless from and against any and all claims, cause of actions,
8 damages, liability and (including without limitation, reasonable attorney fees and
9 expenses) imposed upon or asserted against Lessor by reason of (i) loss of life,
10 personal injury, accident or loss of or damage to property of Lessee or any other person
11 during the term occurring in, on or about, or arising from or out of, the Leased Premises
12 or any part thereof, adjacent sidewalks and loading platforms, (ii) any failure on part of
13 Lessee to perform or comply with any of the terms of this Lease, (iii) any use, nonuse or
14 condition of the Leased Premises or any part thereof, (iv) any acts or omissions of
15 Lessee, its agents, contractors, customers or employees, (v) performance of any labor
16 or services or the furnishing of any material or other property with respect to the Leased
17 Premises or any part thereof or (vi) any failure on the part of Lessee to comply with any
18 of the matters set forth in Article IX, including without limitation, any suit or proceeding
19 brought by reason of any such occurrence, Lessee shall at its own expense resist and
20 defend such action, suit or proceeding or cause the same to be resisted and defended
21 by counsel designated by Lessee and approved by Lessor. If any such action, suit or
22 proceeding should result in a final judgment against Lessor, Lessee shall promptly
23 satisfy and discharge such judgment or shall cause such judgment to be promptly
24 satisfied and discharged. The final obligations of Lessee under this Section arising by
25 reason of any such occurrence taking place while this Lease is in effect shall survive
any termination of this Lease, by expiration, cancellation, or otherwise.

B. NOTICE OF CLAIMS OR SUITS. Lessee agrees to promptly notify Lessor of any claim,
action, or proceeding and cause the same to be resisted and defended by counsel
designated by Lessee and approved by Lessor. If any such action, suit or proceeding
should result in a final judgment against Lessor or the United States, Lessee shall
promptly satisfy and discharge such judgment or shall cause such judgment to be
promptly satisfied and discharged. The final obligations of Lessee under this Section
arising by reason of any such Occurrence taking place while this Lease is in effect shall
survive any termination of this Lease, whether by expiration, cancellation, or otherwise.

8.3 LESSOR PAYING CLAIMS

Lessor shall have the option to pay any lien or charge payable by Lessee under this
Lease, or settle any action therefore, if the Lessee after written notice from Lessor or
the Secretary fails to pay or post bond against enforcement. All costs and other
expenses incurred by Lessor in so doing, shall be paid to Lessor by Lessee upon
demand, with interest at the rate of eighteen percent (18%) per annum, from the date of
payment until repaid. Failure to make such repayment on demand shall constitute a
default under this Lease.

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1 **ARTICLE IX. LOSS, DESTRUCTION OR TAKING OF PREMISES**

2 **9.1 LESSEE'S REGULATORY AND ENVIRONMENTAL REQUIREMENTS**

3 A. Lessee shall observe and comply with all laws, present or future ordinances,
4 requirements, rules and regulations of all governmental authorities having jurisdiction
5 over the Leased Premises or any part thereof and of all insurance companies written
6 policies covering the Leased Premises or any part thereof. Lessee shall also promptly
7 obtain each and every permit, license, certificate or other authorization required in
8 connection with the lawful and proper use of the Leased Premises or required in
9 connection with any building or improvement now or hereafter erected thereon.
10 Exclusive of Hazardous Materials normally associated with Lessee's permitted use,
11 Lessee covenants and agrees not to use, generate, release, manage, treat,
12 manufacture, store or dispose of, on, under or about, or transport to or from (any of the
13 foregoing, hereinafter a "Use") the Leased Premises any Hazardous materials. Lessee
14 shall comply with all rules, regulations, laws and ordinances of all governmental
15 authorities having jurisdiction over the Leased Premises relative to Lessee's use,
16 management, storage or disposition of Hazardous Materials. For the purpose of this
17 Lease, "Hazardous Materials: shall include but not be limited to flammable explosives,
18 radioactive materials, hazardous waste, toxic substances and any other related material
19 or substance defined as hazardous or regulated by, any governmental authority and/or
20 Hazardous Materials Laws (including, but not limited to the Comprehensive
21 Environment Response, Compensation and Liability Act of 1980, 42 U.S.C. Section
22 9601, et seq.) or any rules or regulations adopted and guidelines promulgated pursuant
23 to any Hazardous Materials Laws or any other applicable laws. Lessee further agrees
24 to pay all costs and expenses associated with all enforcement, removal, remedial or
25 other governmental or regulatory actions or agreements, instituted or completed
 pursuant to any Hazardous Materials Laws, and all audits, tests, investigations,
 cleanups, reports and other such items incurred in connection with any efforts to
 complete, satisfy or resolve any matters issues or concerns, whether governmental or
 otherwise, arising out of or in any way related to the use, generating, management,
 treatment, manufacturing storage or disposal of hazardous Material in any amount by
 Lessee, its employees, agents, invitees, sub lessees, licensees, concessionaires,
 assignees or contractors. Lessee further agrees to remove all underground storage
 tanks and repair any damage caused by the use of such tanks on the Leased Premises
 or the removal such tanks if directed to do so by Lessor. Lessee further agrees to
 comply with the terms of the Hazardous Substance Rider set forth in Section 12.7 of
 this Lease.

21 B. The Lessee shall, during the full term of this Lease, take whatever mitigation measures
22 the Lessor, Secretary, or applicable federal and/or tribal agencies may require to reduce
23 the harmful effects to surrounding environment from the creation of any pollution,
24 including without limitation, air, water, soil, and aesthetic view pollution. The anti-
25 pollution devices installed as a result of this clause are required to conform to the laws
 and ordinances of the Colorado River Indian Tribes and the United States of America
 government with respect to the installation and quality of said devices.

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1 9.2 FIRE OR OTHER CASUALTY

2 Lessee shall give to Lessor prompt written notice of any accident, fire or damage
3 occurring on or to the Leased Premises. Lessee's obligation to pay all monies owed
4 when due under this Lease shall continue regardless of any partial or substantial
5 destruction of any buildings or common areas.

6 9.3 CONDEMNATION

7 If at any time during the full term of this Lease the Leased Premises or any part thereof
8 is taken or condemned under the laws of Eminent Domain, then and in every such case
9 the leasehold estate and interest of the Lessee in said Leased Premises taken shall
10 cease and terminate. Lessee shall be entitled to participate and receive any part of the
11 damages or award, where said award shall provide for moving or other reimbursable
12 expenses for the Lessee under applicable statute in which event the latter sum shall be
13 received by Lessee, and that portion of any award allocated to the taking of Lessee's
14 building, improvements, trade fixtures, equipment and personal property, or to a loss of
15 business by Lessee. None of the awards or payments to Lessor shall be subject to any
16 diminution or apportionment on behalf of Lessee or otherwise.

17 **ARTICLE X. ASSIGNMENT, SUBLETTING,
18 MORTGAGING AND SUBORDINATION**

19 10.1 ASSIGNMENT AND SUBLETTING BY LESSEE

20 A. Lessee shall not convey or assign this Lease other than to permitted co-location radio
21 equipment of other public and quasi-public agencies, in whole or in part, nor sublet the
22 whole or any part of the Leased Premises, or permit the use of the whole or any part of
23 the Leased Premises by any licensee or concessionaire, without first obtaining the
24 written consent of Lessor, which consent shall not be unreasonably withheld,
25 conditioned or delayed. This prohibition shall be construed to include a prohibition
against any assignment or subletting by operation of law, assignment for the benefit of
creditors, voluntary or involuntary bankruptcy or reorganization, or otherwise, without
the prior written consent of Lessor. Any assignment or sublease without Lessor's
written consent is in violation of this Lease and a default hereunder and, at the option of
Lessor, shall be void.

B. Any transfer of this Lease or any right to or interest in this Lease or any transfer of the
improvements on the Leased Premises, or any transfer of the ownership or controlling
interest of Lessee other than permitted co-locations of radio equipment of other public
and quasi-public agencies shall be deemed an assignment of this Lease. The creation
of any partnership, corporation, joint venture or any other arrangement under which any
person other than Lessee is entitled to share in profits derived directly or indirectly from
the Leased Premises shall also be deemed an assignment of this Lease.

C. Lessor and Lessee agree that no conveyance, assignment or subletting of the Leased
Premises, by either party, shall be valid without the written consent of the other party.
The Parties' consent or refusal to consent to any such subletting or assignment may be
based upon, but shall not be limited to, factors pertaining to:

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1. The acceptability and/or compatibility of any proposed sub lessee or assignee to the Leased Premises and to the whole of any building, structure, or other development wherein said Leased Premises are located, and

2. The financial statement, credit and ability of any proposed sub lessee or assignee to meet the obligations, terms and conditions of this Lease.

D. The acceptance of any rental payments by Lessor from any alleged sub Lessor or assignee shall not constitute approval of the assignment of this Lease by the Lessor, and the consent by Lessor to one assignment or subletting of the Leased Premises shall not constitute a waiver of Lessor's rights hereunder.

E. Lessee shall pay to Lessor the sum of \$1,500.00 as a Transfer Fee for such written consent. In the event of any such assignment, subletting, licensing or granting of a concession, made with the written consent of the Lessor as aforesaid, Lessee will nevertheless remain liable for the performance of all the terms, conditions, and covenants of this Lease. Any permitted assignment or subletting shall be by written agreement, in form and content acceptable to Lessor, and shall specify and require that each one of the sub lessees or assignees shall assume, be bound by, and be obligated to perform the terms and conditions of its sublease and assignor under this Lease.

F. Termination of this Lease, by cancellation or otherwise, shall not serve to cancel approved subleases or sub tenancies, but shall operate as an assignment to Lessor of any and all such subleases or sub tenancies.

10.2 TRANSFER AND MORTGAGING BY LESSOR

A. TRANSFER BY LESSOR. The term 'Lessor' as used in this Lease, means the Owner, only for the time being, of the Leased Premises. So long as all sums held on Lessee's behalf in trust or escrow by Lessor are paid over to any purchaser of said Leased Premises, Lessor shall be and is hereby relieved of all covenants and obligations of Lessor hereunder after the date of sale of said Leased Premises, and it shall be construed without further agreement between the Parties that the purchaser has assumed and agreed to carry out any and all covenants and obligations of Lessor hereunder from the date of such sale.

B. SUBORDINATION. This Lease is subordinate to any and all mortgages or deeds of trust hereinafter placed upon the Leased Premises, now or in the future, or any part thereof, and to all future modifications, consolidations, replacements, extensions and renewals of, and all amendments and supplements to said mortgages or deeds of trust. Notwithstanding such subordination, as aforesaid, this Lease, except as otherwise hereinafter provided, shall not terminate or be divested by foreclosure or other default proceedings under said leases, mortgages, deeds of trust, or obligations secured thereby, and Lessee shall attorn to and recognize the Lessor, Mortgagees, Trustee, Beneficiary or the purchaser at the foreclosure sale in the event of such foreclosure or other default proceeding, as Lessee's Lessor for the balance of the term and provisions hereof.

C. ESTOPPEL & SUBORDINATION DOCUMENTS. Lessee agrees to execute, acknowledge and deliver any and all documents required to effectuate the provisions of this Article within sixty (60) days after request thereof by Lessor or in the event that

1 upon any sale, assignment, lease or hypothecation of the Leased Premises and/or the
2 land thereunder by Lessor, a statement shall be required by Lessee, Lessee agrees to
3 deliver in recordable form a certificate (if such be the case) that this Lease is in full force
4 and effect and there are no defenses or offsets thereto, or stating those claimed by
5 Lessee, the dates to which the rental or other sums have been paid in advance, and
6 any other such certifications of lease terms as may reasonably be required by the
7 Lender. It being intended that any such statements delivered pursuant to this Section
8 may be relied upon by any prospective purchaser, mortgagee, assignee or beneficiary.

9 **ARTICLE XI. DEFAULT AND REMEDIES FOR DEFAULT**

10 **11.1 EVENTS OF DEFAULT**

- 11 A. The occurrence of any of the following shall constitute an event of default hereunder:
- 12 1. The filing of a petition by or against Lessee for adjudication as a bankrupt or
13 insolvent, or for its reorganization or for the appointment of a receiver or trustee of
14 Lessee's property; an assignment by Lessee for the benefit of creditors or the taking
15 of possession of the property of, Lessee by any governmental officer or agency
16 pursuant to statutory authority for the liquidation of Lessee.
 - 17 2. Failure of Lessee to meet the Consideration in lieu of traditional rents above.
18 Required to be provided by Lessee.
 - 19 3. Abandonment or misuse of the Leased Premises.
 - 20 4. The failure to perform any other covenant or condition of this Lease.

21 **11.2 REMEDIES OF LESSOR FOR DEFAULT BY LESSEE**

22 Upon the occurrence of an event of default, Lessor shall have the right, then or at
23 anytime thereafter, and in addition to and not in lieu of any other remedies, relief or
24 rights available to Lessor or the Secretary at law or equity or contained in this Lease or
25 in Part 162 of Volume 25 Code of Federal Regulations, to do any of the following:

- 26 A. Lessor by itself or its authorized agents may cure the default and charge Lessee for the
27 costs of such cure, which charge shall be due and payable as rental under this Lease
28 immediately upon written notice to Lessee.
- 29 B. Lessor may distrain for rent due.
- 30 C. Lessor may look to the following security as provided in Article V above:
 - 31 1. Lessor may exercise its general lien on the leasehold estate and all property in the
32 Leased Premises;
 - 33 2. Lessor may apply all or part of the performance bond, or other security deposit, to
34 the default of Lessee as provided in Section 5.1

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1 D. Lessor, irrespective of the date on which its right of re-entry shall have accrued or be
2 exercised, shall have the right, whether for rent or possession or otherwise, to forfeit
3 this Lease and terminate the state of tenancy hereby created. This right to terminate is
4 exercisable by a written notice to Lessee, which written notice may be part of a notice of
5 default previously delivered to Lessee, and, as such, may be conditioned upon Lessee's
6 failure to cure the default and the event of default. The termination may be made
7 effective as of the event of default, or thereafter, and, if not otherwise specified, will be
8 deemed to be effective immediately. Upon such termination and forfeiture, Lessor shall
9 be entitled to and may take immediate possession of the Leased Premises, any other
10 notice or demand being hereby waived. Such termination does not, however, release
11 Lessee from liability for rentals then overdue or remaining under the Lease but shall
12 operate to accelerate the entire balance of the term rental, which shall become
13 immediately due and payable by Lessee, along with all overdue rentals and charges.

8 11.3 NON-WAIVER OF REMEDIES

9 A. It is expressly agreed that neither the taking of possession of the Leased Premises nor
10 the institution of any proceedings by way of unlawful detainer, ejectment, quiet title, or
11 otherwise, to secure possession of said Leased Premises, nor the re-entry by Lessor
12 with or without the institution of such proceedings, nor the re-renting or subletting of
13 said Leased Premises, shall operate to terminate this Lease in whole or in part, nor of
14 itself constitute and exercise of Lessor's option to do so, but only by the giving of the
15 written notice specifically specifying terminations shall such termination be effected.

16 B. In the event Lessee breaches this Lease, or any covenant, term or condition hereunder,
17 and abandons the Leased Premises, this Lease shall continue in force and effect for so
18 long as the Lessor does not terminate Lessee's right to possession, and Lessor may
19 enforce all rights and remedies of Lessor including, without limitation, the right to
20 recover rental as it becomes due hereunder. Acts of maintenance or preservation or
21 efforts to re-let the Leased Premises, or the appointment of a receiver upon the initiation
22 of the Lessor to protect the Lessor's interest under this Lease shall not constitute a
23 termination of Lessee's right to possession.

24 C. No waiver of any default, breach or failure of Lessee under this Lease shall be
25 construed as a waiver of any subsequent or different default, breach or failure. In case
of a breach by Lessee of any of the covenants or undertakings of Lessee, Lessor
nevertheless may accept from Lessee any payments hereunder without in any way
waiving Lessor's right to exercise the remedies hereinbefore provided for by reason of
any breach or lapse which was in existence at the time such payment or payments were
accepted by Lessor.

D. It is expressly understood that the enumeration herein of express rights, options and
privileges shall not limit Lessor or the Secretary, nor deprive Lessor or the Secretary of
any other remedy or action or cause of action by reason of any default of Lessee,
including the right to recover from Lessee any deficiency upon re-renting.

E. The specific remedies to which Lessor may resort under the terms of this Lease are
cumulative and are not intended to be exclusive of any other remedies or means of
redress to which they may be lawfully entitled in case of any breach of threatened
breach by either of them or of any provisions of this Lease.

1 **ARTICLE XII. GENERAL PROVISIONS**

2 **12.1 BROKERS**

- 3 A. **LESSEE'S BROKERS.** Lessee warrants that it has employed no broker who has or
4 may have a legitimate claim to a commission arising of Lessee's acceptance of the
5 Lease, other than the broker or brokers specifically listed as Lessee's Broker(s) in the
6 addendum to this Lease. Unless otherwise agreed in prior writing by Lessor, any
7 obligation or potential obligation for commission to the brokers so listed are the sole
8 obligation of the Lessee. Should a claim be made upon Lessor or the Leased Premises
9 by the named brokers or any other broker who in Lessor's discretion Lessor determines
10 to have legitimate claim for commission arising out of this transaction, whether such
11 claim is ultimately upheld or not, Lessor may, but shall not be obligated to, discharge
12 the claim either by paying the amount claimed to be due or by any other means.
13 Lessee shall reimburse and pay to Lessor on demand any amount so paid by Lessor
14 and all costs and expenses, including reasonable attorney's fees incurred by Lessor in
15 connection therewith, together with interest thereon at the rate of eighteen percent
16 (18%) per annum from the respective date of Lessor's notice to Lessee of the making of
17 the payment or of the incurring of the cost and expense, including such attorney's fees.
- 18 B. **LESSOR'S BROKERS.** Any commission or other compensation due brokers employed
19 by Lessor shall be the sole responsibility of Lessor.

20 **12.2 SUCCESSORS AND ASSIGNS**

21 All rights, obligations and liabilities herein, given to, or imposed upon, the respective
22 parties hereto shall extend to and bind the several and respective heirs, executors,
23 administrators, successors, sub lessees, and assigns of said parties, subject to the
24 provisions of Article X, provided, however, that no assets of the Lessor other than his or
25 its interest in the Leased Premises shall be affected by reason of any liability which
Lessor or any successor in interest may have under his Lease. If there shall be more
than one Lessee, they shall all be bound jointly and severally by the terms, covenants
and agreements herein and the word "Lessee" shall be deemed and taken to mean
each and every person or party mentioned as a Lessee herein, be the same one or
more. If there shall be more than one Lessee, any notice required or permitted by the
terms of the Lease may be given by or to any one thereof and shall have the same
force and effect as if given by or to all thereof.

20 **12.3 NOTICES**

21 Wherever in this Lease it shall be required or permitted that notice or demand be given
22 or served by either party to this Lease to or on the other, such notice or demand shall
23 not be deemed to have been duly given or served unless made in writing and either
24 personally delivered or forwarded by Certified Mail, Return Receipt Requested, postage
25 prepaid, to the address for each party provided in this Lease. Such addresses may
change from time to time by either party by serving notices as above provided. While
Lessee is in possession of the Leased Premises, notices to the Lessee may also be
delivered or forwarded by Certified Mail to the address provided in the introductory
paragraph of this Lease.

12.4 SCOPE AND INTERPRETATION OF THIS AGREEMENT

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- A. ENTIRE AGREEMENT. This Lease shall be considered to be the only agreement between the parties hereto pertaining to the Leased Premises. It is understood that there are no oral agreements between the parties hereto affecting this Lease and this Lease supersedes and cancels any and all previous negotiations, arrangements, brochures, agreements and understandings, if any, between the parties hereto or displayed by Lessor to Lessee with respect to the subject matter thereof, and none shall be used to interpret or construe this Lease. It is further agreed by and between the parties hereto that there shall be no modifications or amendment to this Lease except as may be executed in writing between the parties hereto. Lessee further agrees not to cancel its Lease, or pursue any other remedies available under this Lease, or at law or equity, with respect to Lessor, for any violation, breach or default of this Lease by virtue of any act or omission on, or with respect to, property not owned by Lessor. All notices must be in writing.
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- B. GENDER AND INTERPRETATION OF TERMS AND PROVISIONS. As used in this Lease and whenever required by the context thereof, each number, both singular and plural, shall include all numbers, and each gender shall include all genders. Lessor and Lessee as used in this Lease or in any other instrument referred to in or made a part of this Lease shall likewise include both the singular and the plural, a corporation, co-partnership, individual or person acting in any fiduciary capacity as executor, administrator, trustee, or in any other representative capacity. All covenants herein contained on the part of Lessee shall be joint and several.
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- C. GOVERNING LAW. This Agreement shall be governed by and construed in accordance with the laws of the Colorado River Indian Tribes, in cases where no law relating to a specific matter exists and if, and only if, such are necessary for the proper completion of this agreement, the laws of the State of Arizona shall be applied. Lessee agrees to at all times abide by and follow the applicable laws, policies, and regulations of the Colorado River Indian Tribes. The Codes of the Colorado River Indian Tribes are available electronically at www.crit-nsn.gov.
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- D. PARTIAL INVALIDITY. If any term covenant or condition of this Lease or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term covenant or condition to person or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby and each term, covenant or condition of the Lease shall be valid and be enforced to the fullest extent permitted by law.
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- E. AMENDMENT. Oral agreements in conflict with any of the terms of this Lease shall be without force and effect. All amendments to be in writing executed by the parties or their respective successors in interest.
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- F. Neither the preparation nor the delivery of this Lease to Lessee for examination shall be deemed to be an offer by Lessor to lease the premises to Lessee but shall be merely a part of the negotiations between Lessor and Lessee. The execution of this Lease by Lessee shall be deemed to constitute an offer by Lessee and compliance with all requirements necessary for the Secretary's approval, to lease the Leased Premises from Lessor upon the terms and conditions contained in this Lease which, offer may be accepted by Lessor only by the execution of this Lease by Lessor.

1 12.5 ENCUMBRANCES.

- 2 A. This Lease or any right to or interest in this Lease, may not be encumbered without the
3 prior written approval of the Lessor, the Secretary. Any encumbrance made without
4 said approval shall be void. An encumbrance must be confined to the leasehold
5 interest of a lessee or a sub lessee and shall not jeopardize in any way Lessor's interest
6 in the land.
- 7 B. In the event of default by the Lessee of the terms of an encumbrance, the encumbrance
8 may exercise any rights provided in the encumbrance, provided that before any sale of
9 the leasehold, whether under power of sale or foreclosure, the encumbrancer shall give
10 to the Lessor and the Secretary notice of the same character and duration as is
11 required to be given to Lessee by such encumbrance or by law.
- 12 C. If such notice of sale is given and the defaults or any of them upon which such notice of
13 sale is based shall then continue. Lessor shall have the following rights which may be
14 exercised at any time prior to completion of sale proceedings: (1) to pay the
15 encumbrancer the full unpaid principal amount of the encumbrance, plus unpaid interest
16 accrued to the date of such payments, plus sale costs incurred to the date of such
17 payment, or (2) to execute in favor of the encumbrancer a promissory note and a new
18 encumbrance, which new encumbrance must be approved by the Colorado River Indian
19 Tribes, for the full unpaid principal amount of the encumbrance, plus unpaid interest
20 accrued to the date of such execution, plus sale expenses incurred to the date of such
21 execution, upon no less favorable terms and conditions as originally provided by the
22 existing encumbrance, or, (3) to exercise any other rights inuring prior to completion of
23 sale proceedings. If Lessor exercises any of the above rights, this Lease shall
24 automatically terminate on the date the rights are exercised and shall be of no further
25 force and effect, provided, however, that such termination shall not relieve Lessee from
any obligation or liability which had accrued prior to the date of termination.

16 12.6 MINERALS

17 This Lease confers no vested interest, right, or title to any minerals including sand and
18 gravel and building stone materials within the Leased Premises. However, moving dirt,
19 sand and rock for the purpose of developing and improving the Leased Premises as
20 required by this Lease, in and of itself, shall not be construed as mining.

19 12.7 HAZARDOUS SUBSTANCES

20 The term 'hazardous substances' as used herein shall include any substances declared
21 to be hazardous or toxic under any law, ordinance or regulations now or hereafter
22 enacted or promulgated by any government authority having jurisdiction over the
23 Leased Premises, Lessor will indemnify and save Lessee harmless from liability, loss or
24 damage including Lessee's legal and other cost directly attributable to said violation
25 resulting from any hazardous substance violation due to any condition or cause located
on the Leased Premises that was precedent to Lessee taking possession of Leased
Premises. Lessee shall not cause or permit its agents, employees or licensees to
cause the use, generation, release, manufacture, production, processing, storage or
disposal of any hazardous substances on or from the Leased Premises, other than fuels
for the stand-by generator, fire suppression materials and materials used in back up

1 batteries which shall be used in conformance with all regulations and good
2 management practices. Lessee will indemnify and save Lessor harmless from liability,
3 loss or damage (including Lessor's legal and other costs directly attributable to said
4 violations resulting from Lessee's violation of this paragraph).

5 **ARTICLE XIII. SPECIAL PROVISIONS**

6 **13.1 SPECIAL PROVISIONS**

- 7 A. While the Leased Premises are in trust or restricted status, all of the Lessee's
8 obligations under this Lease, and the obligation of his sureties, are to the United States
9 as well as to the owner of the land.
- 10 B. Nothing contained in this Lease shall operated to delay or prevent a termination of
11 Federal trust responsibilities with respect to the land by the issuance of a fee patent or
12 otherwise during the term of the Lease, however, such termination shall not serve to
13 abrogate the Lease. The owners of the land and the Lessee and his surety or sureties
14 shall be notified of any such change to the status of the land.

15 **13.2 ANTIQUITIES**

16 In accordance with the Laws of Antiquity of 1906, the National Historic Preservation Act
17 of 1966, and the Archaeological Resources Protection Act of 1979, or any amendment
18 to these Acts, and any other applicable Federal and Tribal Laws, it is understood and
19 agreed by the parties hereto that any areas within the exterior boundaries of the Leased
20 Premises containing graves, ruins, or other antiquities, shall be undisturbed and plainly
21 marked by Lessee and reported immediately to the Lessor and the Secretary for
22 appropriate disposition and action. This shall likewise apply to any discoveries made in
23 excavations during the development of the Leased Premises. Any areas designated as
24 antiquities shall be automatically withdrawn from the Leased Premises, and the
25 minimum rental adjusted accordingly.

16 **13.3 RESERVATION LAWS AND ORDINANCE; CONSENT TO JURISDICTION**

17 The Lessee, Lessee's employees, agents and sub lessees and assignees and their
18 employees and agents shall abide by all laws, regulations and ordinances of the
19 Colorado River Indian Tribes now in force and effect or that may be hereafter in force
20 and effect. The Lessee, Lessee's employees and agents, and sub lessees and
21 assignees and their employees and agents, hereby consent to the jurisdiction of the
22 Tribal Court of the Colorado River Indian Tribes. Such jurisdiction shall include, without
23 limitation, jurisdiction to levy fines and enter judgments for compensatory and punitive
24 damages and injunctive relief, in connection with all activities conducted by Lessee, sub
25 lessees, and assignees, and their respective employees and agents, on the Colorado
River Indian Reservation or which have a proximate effect on persons or property on
the Colorado River Indian Reservation. Lessee hereby appoints the Clerk of the Board
of Supervisors as its agent for service of process.

17 **13.4 INSPECTION**

18 The Lessor and the Secretary and their authorized representatives shall have the right,
19 at any reasonable times during the full term of this Lease, to enter upon the Leased

1 Premises, or any part thereof, to inspect the same and all buildings and other
improvements erected and placed thereon.

2 13.5 INTEREST OF MEMBER OF CONGRESS

3 No member of, or delegate to Congress, or Resident Commissioner, shall be admitted
4 to any share or part of this contract or to any benefit that may arise here from, but this
5 provision shall not be construed to extend to this contract if made with a corporation or
company for its general benefits.

6 13.6 LIMITED WAIVER OF SOVEREIGN IMMUNITY

7 The Colorado River Indian Tribes hereby grants a limited waiver of its sovereign
8 immunity from uncontested suits (hereinafter "Limited Waiver") as described herein
9 solely for actions brought by the County of Riverside ("County"), but not brought by any
10 other person or entity, requesting specific performance against the Colorado River
11 Indian Tribes to enforce the terms of this Agreement. This limited waiver is to be strictly
construed in favor of the Colorado River Indian Tribes and may be enforced only under
the conditions and procedures set forth herein. Prior to instituting an action hereunder,
the County must first raise the matter in dispute for which it is seeking specific
performance with the Tribal Council of the Colorado River Indian Tribes utilizing the
Meet and Confer and Mediation procedures set forth below.

- 12 A. MEET AND CONFER. Prior to instituting an action hereunder, the County must first
13 raise the matter in dispute for which it is seeking Specific Performance with the
14 Colorado River Indian Tribes Tribal Council by requesting that a Meet and Confer be
15 held. This notice shall be in writing and shall set the Meet and Confer for a time at least
16 twenty-one days after the notice is delivered, and shall state the location for the
17 meeting, which shall be held on the Colorado River Indian Tribes Indian Reservation.
18 The County and the Colorado River Indian Tribes may jointly decide to meet at another
19 time and place. Attendees at the Meet and Confer shall have sufficient authority to
20 resolve the matter at issue. Meet and Confer sessions shall be private. The parties
21 agree to maintain the confidentiality of the Meet and confer and shall not rely on, or
22 introduce as evidence in any judicial or other proceeding: (a) views expressed or
23 suggestions made by the other party with respect to a possible settlement of the
24 dispute: (b) admissions made by the other party during Meet and Confer: (c) proposals
25 made or views expressed: or (d) the fact that the other party had or had not indicated a
willingness to accept a proposal. This section shall apply to anything communicated,
exchanged, said, done or occurring in the course of the Meet and Confer. The Meet and
Conger is to be considered a settlement negotiation for the purpose of all state and
federal rules protecting disclosures made during such conference from later discovery
or use in evidence. All conduct, statements, promises, offers, views and opinions, oral
or written, made during a Meet and Confer by any party or a party's agent,
representative, employee, or attorney are confidential and, where appropriate, are to be
considered work product and privileged. Such conduct, statements, promises, offers,
views and opinions shall not be subject to discovery or admissible for any purpose
including impeachment, in any litigation or other proceeding involving the parties;
provided, however, that evidence otherwise subject to discovery or admissible is not
excluded from discovery or admission in evidence simply as a result of it having been
used in connection with the Meet and Confer.

1 B. MEDIATION. If the parties are unable to resolve their dispute through a Meet and
2 Confer, either party may compel mediation under this paragraph by providing written
3 notice to the other party. The parties shall then make their best efforts to agree on a
4 single mediator. If, within fifteen (15) days of the delivery of written notice to compel
5 mediation, the parties do not agree upon a single mediator, each party shall select a
6 mediator and, within thirty (30) days after the delivery of the written notice to compel
7 mediation, provide written notice to the other party of the name and contact information
8 for the mediator chosen. The two selected mediators shall confer and by joint
9 agreement select a third mediator. That third mediator (if agreed upon by the parties)
10 or, in the alternative, all three mediators shall determine a time and place for the
11 mediation and the rules that shall govern the mediation, and shall provide notice of such
12 to each party. The mediator(s) shall adopt rules that the mediator(s) deem(s) fair and
13 reasonable subject to the terms of the Limited Waiver of sovereign Immunity set forth
14 herein. The parties shall bear their own fees and costs related to any mediation and
15 shall each pay one-half the fees of the mediator(s), the reasonable expenses of the
16 mediator(s), and joint costs incurred in the mediation.

9 C. CLAIMS FOR SPECIFIC PERFORMANCE. An action for Specific Performance, if any,
10 may only be brought by the County after a Meet and Confer is held, and after Mediation
11 has been completed following the procedures set forth in subsections (A) and (B)
12 above. No causes of action or claims in law or in equity are cognizable against the
13 Colorado River Indian Tribes except actions against the Colorado River Indian Tribes
14 itself for specific performance of this Agreement. Only actual damages (specifically
15 excluding consequential, punitive, and all other damages) suffered by the County may
16 be sought hereunder. The source from which any damages are to be paid by the
17 Colorado River Indian Tribes shall be limited to the general revenues of the Colorado
18 River Indian Tribes and shall specifically exclude any funds from a federal, state, tribal
19 or other governmental grant or contract and shall further exclude any trust assets of the
20 Colorado River Indian Tribes, any assets of its business enterprises, or those funds set
21 aside for per capita distribution to Tribal members. This Limited waiver does not allow
22 any actions to be brought against Tribal Council Members, Tribal Employees, Tribal
23 Agents, Tribal Members, attorneys for the Colorado River Indian Tribes, or any other
24 individual acting on behalf of the Colorado River Indian Tribes. Any cause of action or
25 claim brought pursuant to this Limited Waiver shall be submitted for hearing in the
United States District Court for the Central district of California.

13.7 WARRANTIES AND REPRESENTATIONS

Each of the Parties signing this Lease warrant and represent (i) the full power to enter
into this Lease on behalf of itself; (ii) that it is entitled to conduct business as described
herein; (iii) that all actions and approvals have been taken which are necessary to
make this Lease a binding and enforceable obligation of each Party; (iv) that the
individuals signing this Lease are authorized to execute this Lease; and (v) that the
delivery, and performance of this Lease is not in conflict with and will not cause an
event of default under any agreement or instrument to which either Party is bound.

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1 IN WITNESS WHEREOF, the parties have executed and delivered this Lease as of the date
2 first written above.

3 Dated: _____

LESSOR:
COLORADO RIVER INDIAN TRIBES

4 Resolution No. 249-11

By: 
Eldred Enas, Chairman

5 Approved 7-12-2011

By: 
Mervin Scott, Secretary

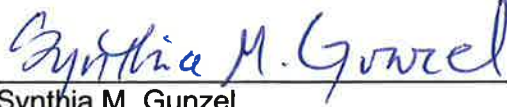
LESSEE:
COUNTY OF RIVERSIDE

9 **ATTEST:**
10 Kecia Harper-Ihem
11 Clerk of the Board

By: 
Bob Buster, Chairman
Board of Supervisors

12 By: 

13 **APPROVED AS TO FORM:**
14 Pamela J. Walls
15 County Counsel

16 By: 
17 Synthia M. Gunzel
18 Deputy County Counsel

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UNITED STATES DEPARTMENT OF THE INTERIOR

The within Lease is hereby approved and declared to be made in accordance with the law and the rules and regulations prescribed by the Secretary of the Interior thereunder, and now in force.

Date Approved: 12/6/2011 Janice Staudte
Superintendent, Colorado River Agency

Pursuant to authority delegated to the Assistant Secretary-Indian Affairs by 209 DM 8, 230 DM 1, and to the Western Regional Director by 3 IAM 4 (Release No. 99-03) and 10 BIAM 11, as amended by Western Regional Release No. 97-1, and any further delegations needed to effectuate the Reorganization embodied in DM Releases dated April 21, 2003.

EXHIBIT "A"

"Property"

Legal Description

That Portion within the S ½, N ¼, NW ¼, NE ¼ of Section 21, Township 5 North, Range 21 West of Gila River and Salt River B&M La Paz County Arizona within the Colorado River Indian Reservation

Notes

1. This Exhibit may be replaced by a land survey or a Site Plan of the Premises once it is received by Lessee.

EXHIBIT "B"

"Premises"

A 100' x 100' area located within the S ½, N ¼, NW ¼, NE ¼ of Section 21, Township 5 North, Range 21 West of Gila River and Salt River B&M La Paz County Arizona within the Colorado River Indian Reservation as depicted herein.

(See Note 1. Below)

Notes

1. This Exhibit may be replaced by a land survey or a Site Plan of the Premises once it is received by Lessee.