

AMENDMENT NO. 1  
TO ELECTRONIC SITE LEASE 2014-0212-LD/BT

This amendment is made and entered into this 29<sup>th</sup> day of MARCH, 2016, by and between **Santa Fe County**, (hereinafter referred to as the "Lessee"), a New Mexico political subdivision, and **Tesuque Radio Company, Inc.**, a New Mexico corporation ("Lessor").

**WHEREAS**, the Lessor and Lessee entered into Lease No. 2014-0212-LD/BT in 2012 (the Lease) for the Lessee's lease the Electronic Site for a term of three years subject to automatic renewal if the Lessee does not affirmatively terminate the Lease; and

**WHEREAS**, the term and termination date of the Lease was set forth in Exhibit A to the Lease. As of June 30, 2015, such term has renewed for three years pursuant to Article 4. Term of the Lease; and

**WHEREAS**, according to Article 22 (o) (Miscellaneous Provisions) of the Lease, the Lease may be modified by an instrument in writing executed by the parties; and

**WHEREAS**, with the commencement of this term renewal, the parties wish to update the information in Exhibit A regarding the base rent and other charges due for the Lease term of July 1, 2015 to June 30, 2018.

**NOW, THEREFORE**, in consideration of the mutual covenants and conditions contained herein, the parties agree as follows:

1. Exhibit A to the Lease is replaced with Exhibit A attached hereto.
2. All other provisions and terms and conditions of the Lease, not specifically amended or modified by this Amendment No. 1 shall remain in full force and effect.

**IN WITNESS WHEREOF**, the parties have executed this Amendment.

**LESSEE - SANTA FE COUNTY:**

Miguel M. Chavez

Miguel M. Chavez, Chair  
Santa Fe County Board of County Commissioners


**ATTESTATION:**

Geraldine Salazar

Geraldine Salazar  
Santa Fe County Clerk

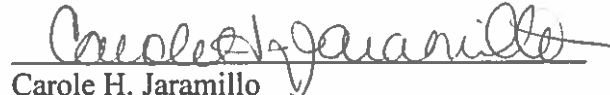


Approved as to form:

  
Gregory S. Shaffer  
Santa Fe County Attorney


3-11-16  
Date

Finance Department:

  
Carole H. Jaramillo  
Finance Director

3/17/16  
Date

**LESSOR - TESUQUE RADIO COMPANY, INC.,**  
A New Mexico Corporation

  
~~John C. Herklotz, President~~  
Lauren Thompson,  
Senior Vice President

3-11-16  
Date



**EXHIBIT A**  
**TO**  
**ELECTRONIC SITE LEASE AGREEMENT**

**Lessee:** Santa Fe County Date of original Lease: July 1, 2012  
102 Grant Avenue  
Santa Fe, New Mexico 87504  
Telephone: (505) 986-6200

Commencement Date: July 1, 2012

Termination Dates: Initial Lease: June 30, 2015. Automatic Lease term renewal according to Section 4. Term: June 30, 2018.

**Description of Equipment:**

Santa Fe County Fire Department has one (1) repeater with SN0201482, and one (1) Decibel Products (Andrew) model DB 222-A omnidirectional exposed dipole antenna at 35' on tower. Transmit 154.415 MHz; Receive 158.970 MHz.

Santa Fe County Sheriff's Office has one (1) repeater with SN0201476, and one (1) Decibel Products (Andrew) model DB 222-A omnidirectional exposed dipole antenna at 15' – 20' off the ground on the roof. Transmit 154.785 MHz; Receive 158.8875 MHz.

Base Rent and charges from July 1, 2015 through June 30, 2016 (Base Rent for period, as subject to revision in accordance with the Agreement and paragraph 2, below):

Monthly Base Rent	\$1,047.38
GRT	\$72.01
Electricity	<u>\$25.00</u>
TOTAL	\$1,144.39 X 12 = \$13,732.68 + FS fee \$550.00 = \$14,282.68

Base Rent and charges from July 1, 2016 through June 30, 2017 (Base Rent for period, as subject to revision in accordance with the Agreement and paragraph 2, below):

Monthly Base Rent	\$1,099.75
GRT (7%)	\$76.98
Electricity	<u>\$25.00</u>
TOTAL	\$1,201.73 X 12 = \$14,420.76 + FS fee \$550.00 = \$14,970.76

Base Rent and charges from July 1, 2017 through June 30, 2018 (Base Rent for period, as subject to revision in accordance with the Agreement and paragraph 2, below):

Monthly Base Rent	\$1,154.73
GRT (7%)	\$80.83
Electricity	<u>\$25.00</u>
TOTAL	\$ 1,260.56 X 12 = \$15,126.72 + FS fee \$550.00 = \$15,676.72

Deposit: None

Other Terms:

This Lease terminates and replaces all prior leases between Tesuque Radio Company and Santa Fe County, including the Electronic Site Lease dated July 1, 2007 (the "Prior Lease"). The following provisions, revise and supersede the provisions of the Electronic Site Lease Agreement (the "Agreement") to which this Exhibit A is attached. In the event of any conflict between this Exhibit A and the Agreement, the provisions of this Exhibit A shall control.

1. Notwithstanding the provisions of Section 3 respecting monthly installments of rent, Lessee shall pay annual rent based upon an annual period of July 1 to June 30. The first payment of rent, for the periods July 1, 2012 through June 30, 2013 and July 1, 2013 through June 30, 2014, in the amount of \$22,800.00, shall be paid by Lessee to Lessor on or before February 28, 2014, together with electricity charges of \$600.00 and New Mexico gross receipts tax of \$1,567.50.

2. Notwithstanding the provisions of Subsection 3(b) respecting escalations in the rent provided for under the Electronic Site Lease Agreement, there shall be no increase to Base Rent under Subparagraph 3(b) for the periods July 1, 2012 through June 30, 2013 or July 1, 2013 through June 30, 2014. Commencing with the period July 1, 2014 through June 30, 2015, Base Rent shall increase at a rate of five percent (5%) on each anniversary date of the Agreement.

3. Lessee shall pay to Lessor, on or before February 28, 2014, the amount of \$15,001.97, representing the amount agreed by Lessor and Lessee to represent and discharge all obligations of Lessee to Lessor for (1) payments of rent, electricity charges, and New Mexico gross receipts tax under the Prior Lease through June 30, 2012, and (2) payments of United States Forest Service use fee amounts through the September 30, 2012 reporting date.

4. Section 3(b) of the Electronic Site Lease Agreement is deleted in its entirety.

5. The second sentence of Subsection 3(e) of the Electronic Site Lease Agreement is revised to read as follows:

Accordingly, Lessee will pay with all amounts payable under this Section, together with such amounts, an amount equal to New Mexico State gross receipts tax (or other applicable taxes for which Lessor is entitled to seek reimbursement from Lessee) at the rate of taxation then specified for Santa Fe County, upon notice from Lessor.

6. The third sentence of Subsection 3(f) of the Electronic Site Lease Agreement is revised to read as follows:

Lessee will pay each such amount to Lessor, together with an amount equal to any gross receipts tax (or other applicable tax for which Lessor is entitled to seek reimbursement from Lessee) thereon, within the calendar month commencing after the month in which the Lessee is invoiced for the amount.

7. The following sentence is inserted at the end of Section 4. Term: Lessor agrees to provide advance written notice to Lessee if Lessor plans or intends to assign this Lease pursuant to Section 22(f) of this Lease. Lessor's failure to provide sufficient advance notice to the Lessee of any assignment of this Lease shall not constitute a default of Lessor's obligations under this Lease.

8. The words "to indemnity" are deleted from the last line of Section 5(c) of the Electronic Site Lease Agreement, and are replaced with the word "for."

9. Section 9 of the Electronic Site Lease Agreement is revised to read as follows:

Government Regulations. Lessee agrees that it will comply at its own cost and expense with the terms of any federal state, or local law, rule or regulation, including but not limited to those of the Federal Communications Commission, and those laws, rules and regulations requiring adherence to radio frequency radiation and energy limitations and safety standards, applicable to Lessee, or to Lessee's use of its equipment and the Electronic Site (including, specifically, but not by way of limitation, the Communications Use Lease and the United States Forest Service Tesuque Peak Site Plan, as from time to time in effect).

10. The second sentence of Subsection 12(a) of the Electronic Site Lease Agreement is deleted in its entirety.

11. Subsections 12(b) and 12(c) of the Electronic Site Lease Agreement are both deleted in their entirety.

12. Section 13 of the Electronic Site Lease Agreement is revised to read as follows:

Insurance. Lessee will obtain, pay all premiums for and maintain in full force and effect during the Term of this Agreement comprehensive public liability insurance, whether by primary or excess loss or blanket coverage covering all of Lessee's operations and activities on or about the Electronic Site and the access road, including but not limited to the operations of contractors and the operation of vehicles and equipment, with aggregate limitations at least equivalent to those prevailing in the industry, but in no event less than \$1 million for injury to, or death of, any one or more persons, and \$1 million for property damage, or such lesser amounts as Lessor may prescribe from time to time. Each of the foregoing limitations will be for each occurrence and shall not be an aggregate limit in the policy or policies. Lessee further agrees to increase the foregoing limits as Lessor may from time to time reasonably require by notice applicable to all lessees in similar circumstances. Lessee shall cause all of its contractors

installing its equipment and making repairs or changes to the equipment to procure public liability and property damage insurance complying with this Section; and Lessee further shall require of its contractors that they maintain worker compensation insurance. Lessee will give Lessor such evidence of insurance coverage as Lessor may require from time to time. All insurance policies will provide for not less than 30 days' written notice of cancellation or change, commencing with the receipt thereof to be given to Lessor before any cancellation or change in the policy will be effective. Such insurance further shall include coverage for the liability assumed by Lessee under this Agreement. If Lessee fails to procure or maintain the required insurance policies, or fails to cause its contractors to procure the required policies, Lessor may, but will not be required to, procure or maintain such policies at the expense of Lessee. Any amounts so paid by Lessor will be additional amounts due from Lessee under Section 3. Lessee's obligation to obtain insurance coverage may be satisfied by Lessee's participation in the insurance pool of the New Mexico Association of Counties, provided that such insurance coverage otherwise meets all of the requirements of this Section 13.