

Blue Mountain Translator District 1

Board of Directors **Regular Meeting Minutes** **February 6, 2018**

1. Call to Order and Roll Call Vote	<p>President Tim Wallender called the meeting to order at 12:06 PM. The meeting was held at the nearest practical location, Community Bank at 2313 Adams Avenue in La Grande, Oregon.</p> <p>Directors: President Tim Wallender, Director April Simpson (by phone), Director Katy Thomas, Director Christina Wood.</p> <p>Staff: Secretary/Treasurer Alex McHaddad.</p> <p>Members of the Public: Mr. Richard Beck, Mr. Fred Leitch.</p>
2. Declaration of Conflict of Interest	<p>Secretary/Treasurer McHaddad informed the Board of a potential conflict of interest, having recently engaged in some under-the-table camera work for a potential recipient of advertising funds listed in Item 5.d. He believed that the advertising funds would not be utilized to pay his honorarium. The Board of Directors did not take any action following this declaration.</p>
3. Approval of Minutes	<p>President Wallender asked if the minutes had been reviewed by the Directors.</p> <p>Director Thomas moved to approve the minutes for the January 9, 2018 Regular Meeting, second by Director Wood.</p> <p>Motion to approve the minutes for the January 9, 2018 Regular Meeting. Aye: President Wallender, Director Simpson, Director Thomas. Nay: N/A. Abstain: N/A.</p> <p>Minutes for the January 9, 2018 Regular Meeting approved.</p> <p><i>Minutes are available online at http://www.bmtd.org/public-notice/</i></p>
4.a. Director Reports	<p>President Wallender noted that he did not have a substantial report. He has regularly emailed directors and the Secretary/Treasurer when he has ideas that must be addressed by staff or at a Board meeting. District operations appear to be running smoothly. The new Quest channel is proving to be popular, and its logo must be placed on BMTD fliers going</p>

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	<p>forward. OPB is not paying their power bills on Mt. Fanny until payment of the final two engineering bills has been made.</p> <p>In response to a query from Director Thomas, President Wallender and Secretary/Treasurer McHaddad discussed existing promotional material and additions that need to be made.</p> <p>Director Wood announced that she would discuss the upcoming Union County Chamber of Commerce banquet during Item 6.</p>
4.b. Staff Report	<p>Secretary/Treasurer McHaddad reviewed the staff report included in the Board Packet.</p> <p>Noting the upcoming National Association of Broadcasters conference, Secretary/Treasurer McHaddad declared a desire to attend, given that the event will provide valuable information for the creation of a local television channel. Mr. Brent Clapp, from Brent Clapp Media Services, will be attending for the same purpose. Costs would include conference fees, per diem, and travel, though the Secretary/Treasurer could potentially share a room with his father, who is also attending.</p> <p>A member of the public, Mr. Richard Beck, noted that he had attended the conference in the past and expressed that attending would be valuable for fulfilling the District's goals.</p> <p>President Wallender asked that the Board receive a budget for approval at the next meeting. Travel opportunities were discussed.</p> <p>Secretary/Treasurer McHaddad addressed the staff report note that the District would be passing a supplemental budget. The Secretary/Treasurer chose to submit an inter-fund transfer resolution, as authorized by ORS Chapter 294.463, rather than a supplemental budget.</p> <p><i>The staff report is listed on Page 3 of the Board Packet, available online at http://www.bmtd.org/public-notice/</i></p>
5.a. Inter-Fund Transfer Resolution	<p>Secretary/Treasurer McHaddad reviewed the purpose and substance of the inter-fund transfer resolution at the request of President Wallender. Inter-fund Transfer Resolutions differ from Supplemental Budgets as defined by the ORS.</p> <p>President Wallender asked for clarification on the original far-right column heading "New Fund," noting that it appeared to create a new fund. Secretary/Treasurer McHaddad clarified that these resolutions cannot legally be used to create a new fund, and recommended changing the column heading to "New Appropriation for Fund." The far-right column shows the sum of the original appropriation and the transferred amounts from the surplus.</p> <p>Director Wood recommended that these updated appropriations be published for the edification of the public. Secretary/Treasurer</p>

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	<p>McHaddad announced that the updates would be presented to the Union County Commissioners the following day.</p> <p>Motion to approve the Inter-Fund Transfer Resolution introduced in Item 5.a. as amended. Aye: President Wallender, Director Simpson, Director Thomas, Director Wood. Nay: N/A. Abstain: N/A. Inter-Fund Transfer Resolution introduced in Item 5.a. approved as amended.</p> <p><i>Text of the amended resolution is available online at http://www.bmtd.org/public-notice/</i></p>
5.b. Approval of Expenditures	<p>Secretary/Treasurer McHaddad reviewed the expenditures included in the item.</p> <p>An additional expenditure of \$70.00, reimbursing Director Wood for Baker County Chamber Banquet expenditures, was added to the agenda following the distribution of the Board Packet.</p> <p>Secretary/Treasurer McHaddad asked to be reimbursed for his ticket for the Baker Chamber of Commerce Banquet, a cost of \$35.00.</p> <p>President Wallender entertained a motion to approve the expenditures listed in Item 5.a. as amended, so moved by Director Thomas.</p> <p>Motion to approve the expenditures listed in Item 5.b. as amended Aye: President Wallender, Director Simpson, Director Thomas, Director Wood. Nay: N/A. Abstain: N/A. Expenditures listed in Item 5.b. Approved as amended.</p> <p><i>Expenditures are listed on Page 5 of the Board Packet available online at http://www.bmtd.org/public-notice/</i></p>
5.c. Travel	Secretary/Treasurer McHaddad reviewed the travel authorization.

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<p>Authorization</p>	<p>Because Director Simpson had requested that two-way mileage be approved, the Secretary/Treasurer compiled two travel budgets respectively including one-way and two-way mileage for approval. The Secretary/Treasurer disclosed that he would potentially be interviewing for a remote part-time job while in Salem, adding to the personal nature of staying in Salem one additional day.</p> <p>Director Simpson expressed that because the Secretary/Treasurer is only taking the trip to the area to conduct District business, the District should fund his return journey. Director Wood concurred and noted that this precedent could not be used to fund excessive reimbursements such as lodging for an additional week.</p> <p>Director Simpson moved to approve the travel authorization with two-way mileage, second by Director Thomas.</p> <p>Motion to approve travel authorization with two-way mileage. Aye: President Wallender, Director Simpson, Director Thomas, Director Wood. Nay: N/A. Abstain: N/A.</p> <p>Travel authorization with two-way mileage approved.</p> <p>Secretary/Treasurer McHaddad reviewed proposed amendments to the Bylaws of the Special Districts Association of Oregon and asked for guidance from the Board on whether to support or oppose the amendments. One amendment is legally mandated to remove SDAO authority to fill vacancies on the newly-independent Special Districts Insurance Services board. The other amendment replaces the existing dues system and allows the SDAO Board to levy dues based on its own formula, which was not described in the amendment notice.</p> <p>The Directors voiced opposition to the amendment to the dues system. The District is not well-represented by the legislature or the SDAO, increased dues may not fiscally sustainable for the District, and the District does not receive as many services from the SDAO. Insurance rates are supposedly reduced, though President Wallender noted that the most recent bill is rather high.</p> <p>Secretary/Treasurer McHaddad announced that he was considering candidacy for the SDAO Board since there is currently no representation east of Bend. Additionally, he believes that SDAO should lobby for</p>
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	<p>Districts that have only one incarnation in the state. Director Wood noted that the Secretary/Treasurer will not likely be employed by the District for the duration of his career, and this step would improve his eligibility for other occupations in the future.</p> <p>Secretary/Treasurer McHaddad noted that he would be meeting with Senators Cliff Bentz and Bill Hansell, and Representatives Greg Barreto and Lynn Findley, the new legislator for District 60. He would review three revenue system revisions, including property taxes, signal scrambling, and incorporated property liability, the latter having been introduced during the previous legislative session. The Secretary/Treasurer noted that the Representative who chaired the committee that refused to hear the bill has one constituent who owns a currently delinquent property.</p> <p>Director Wood discussed a previous attempt to absorb assets of a defunct community cable organization. Secretary/Treasurer McHaddad suggested that such an amendment could be considered in a different session, along with another proposal from Baker County Assessor Kerry Savage that the District provide wireless Internet.</p> <p>Secretary/Treasurer McHaddad noted a minor amendment that will also be discussed that would allow Assessors to use current-year property lists to assemble property tax statements. The hope is that all four legislators will sponsor legislation supporting the District. Director Wood wants District governance to reflect changes in technology.</p> <p>President Wallender wants legislation to improve Assessor workloads and streamline the District's billing process. In response to remarks from the Directors, Secretary/Treasurer McHaddad suggested that a pro-rating system for service charges would need to be approved by voters.</p> <p><i>Travel authorization items listed on page 6 of the Board Packet available online at http://www.bmtd.org/public-notice/</i></p>
5.d. Advertising Authorization	<p>Secretary/Treasurer McHaddad reviewed the advertising opportunities listed in the item. He noted that the description for one item was accidentally included within the description for another item.</p> <p>Director Wood commented on the utility of advertising on golf scorecards. Director Thomas asked about the advertising opportunity, suggested to the District by a corporate partner. Secretary/Treasurer</p>

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	<p>McHaddad clarified that the price on the authorization differed from the amount noted by the District's contract accountant because it included two years of advertising at one course and one year at a second course. Director Thomas noted that the return on this initiative would be limited, and that these funds could be better spent elsewhere.</p> <p>Director Thomas moved to approve the itemized advertising authorizations for the Baker City Herald and Brent Clapp Media Services, second by Director Simpson.</p> <p>Discussion: Director Wood expressed that this funding could be better spent elsewhere. President Wallender asked that Director Simpson and Secretary/Treasurer McHaddad collaborate on creating the videos.</p> <p>Motion to approve advertising authorizations for the Baker City Herald and Brent Clapp Media Services.</p> <p>Aye: President Wallender, Director Simpson, Director Thomas, Director Wood.</p> <p>Nay: N/A.</p> <p>Abstain: N/A.</p> <p>Advertising authorizations approved.</p> <p><i>Advertising authorizations listed on page 7 of the Board Packet available online at http://www.bmtd.org/public-notice/</i></p>
5.e. Change of Bank	<p>Secretary/Treasurer McHaddad asked Director Thomas to discuss this item. Director Thomas noted monthly fees charged by Umpqua Bank that might not be charged at other banks. She believes that the District should review alternative banking services and that the Board should consider partnering with a new bank. President Wallender expressed disappointment that discussions with Umpqua Bank about removing monthly fees and online banking fees did not result in removal of either fee. The District is charged an extra fee per online user. Director Thomas mentioned that one of the District's corporate partners expressed a preference for changing banks.</p> <p>Mr. Richard Beck noted that his wife is the branch manager of one of the Umpqua Bank branches in La Grande and suggested that the District could discuss fees with her.</p> <p>Discussion between Directors Thomas and Wood and Secretary/Treasurer McHaddad noted that Director Thomas's occupation as the branch manager of a competing bank created a conflict of interest in her involvement with the process of researching different bank opportunities.</p>

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	<p>President Wallender and Secretary/Treasurer McHaddad agreed to hold a preliminary conversation on changing banks following the return from Seaside.</p>
<p>5.f. Fee for OPB Broadcast</p>	<p>Secretary/Treasurer McHaddad clarified that this item was actually requested by President Wallender. The District transmits OPB’s signal in the area on K34NG-D, formerly K50CI-D. While the Secretary/Treasurer had no personal perspective to offer, he noted that television service providers often pay networks for the right to carry their content.</p> <p>President Wallender can find no written agreement for OPB’s broadcast on the District’s Transmitter. OPB has neglected to pay its recent power bills, and it has never paid the District for the use of its transmitters. The President felt that OPB has been overbearing toward the District during the course of their relationship, and he asked for the Board’s support in future conversations with OPB.</p> <p>Director Wood noted that relations with OPB had been cold for the past few years.</p> <p>President Wallender asked for support from the Board to speak on behalf of the District. Directors did not oppose the President’s request.</p>
<p>5.g. EONI Contract Update</p>	<p>The Secretary/Treasurer reviewed the state of contracts between two Internet service providers who utilize District services. Directors were provided with a copy of the Site Lease Agreement with Oregon Wireless. Oregon Wireless has a contract that covers facility rent and powerline access, for which they pay \$2,400 per year. Eastern Oregon Net, Inc. is known to have separate contracts with the District for rent and powerline access, but only the latter agreement is stored in the District’s office. Prior to the meeting, President Wallender suggested presenting a new contract to EONI identical to the contract with Oregon Wireless. The Secretary/Treasurer’s review of payments from EONI has led to the conclusion that EONI pays \$1,000 per year each for powerline access and the site lease. Introducing fee parity for both Internet Service providers would raise EONI’s rent by \$400.00 per year, and the District could add a stipulation to the contract that in the future rent will not increase by more than a set percentage per year. This stipulation could be added to the contract with Oregon Wireless.</p> <p>President Wallender asked that each ISP sign two separate contracts each for site use and powerline access.</p> <p>In response to a query from Director Thomas, Secretary/Treasurer McHaddad clarified that each contract had a year-to-year renewal. Director Simpson noted that introducing contractual limits on rent increases could be positive for the District’s relationship with th District; however, these limits could prove problematic if property upkeep</p>

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	<p>expenses grow beyond a contractual limit. Both the District and EONI benefit from the lease of the property, and increases in rent reflect changes in the market, so raising rent is not unreasonable. President Wallender could not recall when the contracts had been revisited. He does remember one meeting at which Oregon Wireless asked for use of the facility.</p> <p>Mr. Richard Beck supported the division of agreements into separate contracts for facility use and powerline access.</p> <p>Director Wood suggested that if EONI feels they can get more favorable rent from another property owner, they are free to pursue this route.</p> <p>Secretary/Treasurer McHaddad noted that there is precedent for this in District history; files in the office noted that the District once attempted to raise rent for Oregon Wireless by 250%, and the ISP dissented, noting that a local forest management firm had offered the use of another property at a more favorable price. Oregon Wireless had only recently signed the contract, and they asked that the contract with the District be changed so as to prevent such increases in the future. The Secretary/Treasurer found no record that the District pressed for the increase further following this correspondence, or that the contract was amended to include contractual limits on rent increase.</p> <p>Director Wood noted that all contracts signed with lessees were different.</p> <p>In response to a query from Director Thomas, President Wallender clarified that the Board was deliberating a rent increase for EONI to establish parity with the other ISP utilizing the District's facility. President Wallender noted that discovery of the difference in rent might be disagreeable to Oregon Wireless.</p> <p>In response to a query from a member of the public, Mr. Fred Leitch, President Wallender noted that EONI leases space on Mt. Fanny, and Oregon Wireless leases space on Mt. Harris.</p> <p>Mr. Leitch asked for clarification of how the District determined which property on Mt. Fanny belonged to the District, and which property belonged to OPB. He asked whether the District could lease out space at the OPB facility. President Wallender stated that he was not comfortable addressing that topic during the discussion of the item, as the Board was deliberating on a contract with a preexisting District customer.</p> <p><i>Existing contract with Oregon Wireless appended to Minutes.</i></p>
5.h. Nordic Club Snocat Contract Update	<p>President Wallender opened the item. Director Wood expressed that she believed the topic had already been discussed. Secretary/Treasurer McHaddad noted that the existing contract for use of a "Snocat" vehicle the District had sold to the Blue Mountain Nordic Club still referenced by name the engineers from OPB who previously serviced the District's</p>

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	<p>towers. The contract highlighted the Club's Snocat as a backup vehicle in case OPB's Snocat was unavailable. The Secretary/Treasurer suggested increasing the number of uses to 3 per year and removing all mentions of OPB from the contract, as well as paying for mileage costs. President Wallender suggested that the District pick up the vehicle with a full tank and return it with a full tank. The District would only utilize the Snocat during emergencies. President Wallender expressed that the Secretary/Treasurer should be given consent to negotiate these amendments to the contracts. Secretary/Treasurer McHaddad clarified that the District should ask for 3 uses per year to plan for at least one emergency at each of the District's tower sites.</p> <p>The Secretary/Treasurer noted that the District's insurance provider needed to be paid by March 1, but the contract for the year could not be completed until the Snocat contract was finalized. A short special meeting will need to be held later in the month to consider approval of the contract. The small conference room in Baker City Hall could be utilized.</p> <p><i>Existing contract located on page 8 of the Board Packet available online at http://www.bmtd.org/public-notice/</i></p>
5.i. Reminder Letter Campaign	<p>Secretary/Treasurer McHaddad reviewed the reminder letter report included in the board packet. The District's board policies require reminder letters to be sent to the owners of delinquent properties in February. Locations of properties by county were listed in the board packet, along with maps of the cities where delinquent properties were located. Properties owned by residents of cities outside the District were not highlighted on the map. One property owner in the District is a resident of Canada.</p> <p>The Secretary/Treasurer highlighted options for the reminder letter campaign. President Wallender had suggested that the District print and send the letters themselves, but Chaves Consulting, which sends the initial service charge letters, has the ability to do so more efficiently. Changes to the letter were also discussed, such as adding an exemption request and clarifying that failure to return the letter would result in a lien being placed against the owner's property.</p> <p>Director Wood asked that the District announce the reminder letter campaign to local news media.</p> <p>Secretary/Treasurer McHaddad noted that printing letters would be incredibly time-consuming for the District, since the database did not allow for the print of an individual letter for every delinquent property owner. The District could consider simply having Chaves print the letters, which the District would mail individually thereafter.</p>

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	<p>Director Simpson asked for information on the database software used by the District. Secretary/Treasurer McHaddad clarified that the software was customized for the District, and that Chaves make software for other local governments throughout the Pacific Northwest. They can develop any modification requested by the District, but the District will need to pay.</p> <p>Director Thomas expressed that having Chaves print and mail all reminder letters would be best for the District. The Secretary/Treasurer will draft a letter for review by the Board prior to sending it to Chaves for printing.</p> <p><i>Reminder letter campaign information on page 9 of the Board Packet available online at http://www.bmtd.org/public-notice/</i></p>
7. Communications from the Floor	<p>Director Wood described the centerpiece she made for the Baker Chamber Banquet, and asked when the Union County Banquet would be held. Director Thomas clarified the date and the theme. In response to a query from President Wallender, Director Simpson declared that she would not be able to participate in making the table centerpiece. The Secretary/Treasurer reviewed network promotional materials that had been received.</p> <p>Secretary/Treasurer McHaddad discussed power and engineering bill problems with OPB. The transaction history sent by OPB did not seem to provide the information necessary to ascertain the proper amount the District is owed for overbilling by OPB. Furthermore, OPB has not paid power bills since summer 2017. OPB asked for clarification of whether the District should pay its engineering bills before power bills were sent, or if the District preferred to receive checks in the amount of delinquent power bills minus the amount due for engineering. OPB has a reporting deadline. The Secretary/Treasurer wants to defer the matter to the District's contract accountant. President Wallender discussed his recollections of the issue and committed to speaking to the accountant following the meeting.</p> <p>President Wallender asked if any prospective Directors had been located; none had. Secretary/Treasurer McHaddad and the Directors clarified the qualifications for service on the Board.</p>
8. Public Comment	<p>Mr. Richard Beck revealed that he had watched the live launch of the Quest channel. He thanked the Board for allowing him to attend the meeting. He was considering becoming part of the Board.</p> <p>Director Wood discussed the origin of the District in relation to eligibility for serving on the Board.</p> <p>President Wallender declared that all members should be eligible for a</p>

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	<p>seat on the Board, regardless of place of residence.</p> <p>Mr. Beck asked about the possibility of signal scrambling. The District has not researched the cost of such a project. Costs of such a program were discussed, as well as the need to educate community members. President Wallender suggested that new fliers be printed.</p> <p>Secretary/Treasurer McHaddad noted that the website did not have a working link to a PDF of the channel listing and that he would place one on the website.</p> <p>Mr. Beck expressed that the Secretary/Treasurer's attendance at NAB would help create a new local channel, which would be financially beneficial for the District. He also discussed ad insertion for channels broadcast over the District's transmitters. Director Wood clarified that the District is a nonprofit entity.</p> <p>President Wallender noted that additional revenue related to launching another channel could be useful for updating District technology. He added that in Colorado, translators are operating by local parks and recreation authorities. Secretary/Treasurer McHaddad clarified state statutes would need to be changed for this to be repeated in Oregon.</p> <p>Mr. Beck discussed the cost of changes in technology.</p> <p>Mr. Fred Leitch mentioned the difficulties in viewing television signals following the transition to digital broadcasting.</p>
9. Scheduling of Next Meeting and Adjournment	<p>The Board will hold a special meeting on February 23 in Baker City. The Board will hold its next regular meeting on March 6, 2018 in La Grande.</p> <p>President Wallender adjourned the meeting at 1:52 PM.</p> <p><i>Respectfully submitted,</i> <i>A. Alex McHaddad, Secretary/Treasurer</i> <i>February 13, 2018</i></p>

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Tower Site Lease Agreement

This Tower Site Lease Agreement ("Lease") is made and entered into Sept 1, 2013, between Blue Mt. Translator District ("Landlord") with a mailing address of P.O. Box 901, La Grande, Oregon 97850 and Cavin Wireless, Inc. ("Tenant") with a mailing address of P.O. Box 231, Cove, Oregon, 97824.

Recitals

- A. Landlord currently occupies certain land and premises (Site) described on Exhibit A, attached hereto and incorporated herein.
- B. Tenant desires to obtain the right Landlord to use a portion of the Site for the purposes of placing, operating and maintaining on the Site, Tenant's Internet communications system to consist of required equipment and antennas.
- C. Landlord is willing to grant such a right to Tenant for such purpose subject to the terms and conditions set forth herein.

Agreement

NOW, THEREFORE, in consideration of the foregoing, Landlord and Tenant agree as follows:

Term: The term of the lease shall begin on September 1, 2013 and shall expire on August 31, 2016.

Use: Tenant shall use the Premises for the purpose of placing, maintaining, and operating is Broadcast System and Equipment and uses directly incidental thereto. Tenant will not use the Site for any purpose prohibited by applicable law. Tenant will not commit waste and will not create any nuisance. It is further understood and agreed that Tenant's right to use the Premises is contingent upon its obtaining and continually maintaining in full force and effect, after the execution date of this Lease, all the certificates, permits, and other approvals that may be required by any federal, state, or local authorities and/or private landholders. Landlord, at no cost to Landlord, shall cooperate with Tenant in its efforts to obtain such approvals. In the event that any of such applications should be finally rejected or any certificate, permit, licence, or approval issued to Tenant is canceled, expires, lapses, or is otherwise withdrawn or terminated by governmental authority so that Tenant will be unable to use the Premises for its intended purposes, this Lease shall automatically terminate.

Annual Rent: Tenant shall pay to Landlord \$200.00 per month beginning September 1, 2013. Tenant may pay rent annually on September 1st (\$2400.00); by quarter (\$600.00) on September 1st,

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December 1st, March 1st and June 1st; or monthly (\$200.00) on the 1st. Landlord retains the right to increase or decrease rents annually on September 1st with thirty (30) day advance written notice.

Utilities: Electrical power will be provided by Landlord. Tenant shall have all electrical work completed in accordance with applicable state law and local codes and only after submitting plans to Landlord and receiving approval.

Tenant shall provide and maintain a backup electrical generator at the site that will provide electrical power for Landlord's transmission equipment and associated required equipment for the duration of this agreement.

Taxes or Assessments: In addition to any applicable Rent, Tenant shall pay additional taxes or assessments, if any, which may be levied or charged to Landlord as a result of tenant's use or occupancy of the Premises, including but not limited to, assessments upon or measured by Rent, including without limitation, any gross revenue tax, excise tax, or value added tax levied by the federal government or any other governmental body with respect to the receipt of Rent; and upon this transaction or any document to which Tenant is a party creating or transferring an interest or an estate in the Premises. Tenant shall additionally promptly pay when due all personal property taxes on Tenant's Equipment and personal property on the Premises and any other taxes payable by tenant.

Tenant's Facilities:

- (a) Tenant will install and operate Tenant's Equipment in compliance with all Federal and State rules and regulations.
- (b) All Equipment shall be installed in a good and workmanlike manner and in compliance with all applicable Laws.
- (c) Tenant shall provide to Landlord each September current inventory of Tenant's equipment and its location. No changes or additions to equipment, antennas, poles or any other property not belonging to Tenant or Landlord maybe done without first notifying Landlord and receiving approval.

Operation of Tenant's Facilities:

- (a) Tenant shall be responsible, at its sole cost, for the placement, installation, maintenance and replacement of its Equipment.
- (b) Tenant shall not remove from the Site any valuable materials, or any other property not belonging to Tenant.
- (c) Tenant shall not allow debris or refuse to accumulate on the Premises.

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- (d) Tenant shall comply with all customary practices and courtesies in use of the Site.
- (e) Tenant shall operate the Tower and Equipment in such a manner that it will not interfere with or retard the operation of the Landlord.
- (f) Tenant shall operate the Tower and Equipment with due care and maintain the Premises in a safe, clean and sanitary condition. Tenant shall, at its sole cost and expense, maintain the In-Use Poles and the Equipment in good repair and condition, exercising due regard for Landlord's equipment on the Site. All damage or injury to the Premises caused by the Tenant, its agents, employees, or invitees may be repaired, restored, or replaced by the Landlord, at the expense of the Tenant. Such expense will be collectible and will be paid by Tenant within 10 days after delivery of a statement of such expense.

Security:

Tenant agrees that it will not change locks on any doors to the Premises or install additional locks on such doors.

Insurance:

At all times during the Term of this Lease, Tenant will carry and maintain, at its own cost and expense:

- (a) Commercial general liability insurance for claims for bodily injury or death and property damage with combined single limits of not less than \$2,000,000 per occurrence, including coverage for premises-operations and contractual liability;
- (b) Landlord will be named as an additional insured and issued a certificate of insurance at each renewal.
- (c) insurance coverage on a broad form basis insuring against "all risks of direct physical loss" on all of Tenant's In-Use Poles and Equipment and personal property located on the Premises and the Site, in an amount not less than their full replacement value. Tenant may satisfy its obligations hereunder through a program of self-insurance;
- (d) Worker's compensation insurance insuring against and satisfying Tenant's obligations and liabilities under the worker's compensation laws of the state in which the Premises are located, including employer's liability insurance in the limits required by the laws of the state in which the Premises are located.

Waiver and Indemnify:

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- (a) From and after execution from this Lease, Tenant assumes all risks of its own operations, and Tenant and its agents and independent contractors shall indemnify and hold harmless Landlord from and against any and all claims, actions, damages, liabilities and expenses, by reason of death or injuries to persons or damage to property arising either directly or indirectly out of: (i) the use, occupancy, or enjoyment of the Premises by the Tenant, its agents, employees, or contractors, or any maintenance, repair, work, activity, or other things allowed or permitted by Tenant to be done or left undone in or about the Premises, the Building, or the Site; (ii) the actions or omissions of Tenant, Tenant's agents, servants, contractors, or employees, or of any other persons entering into the Premises, the Building, or the Site under express or implied invitation of Tenant; (iii) any breach or default in the performance of any obligation of Tenant under this lease; (iv) the interference of the Equipment; or (v) any negligent or willful act or failure to act of Tenant, its agent, employees, or contractors. Tenant shall not, however, be required to indemnify Landlord to the extent such damages are caused by the gross negligence or willful misconduct of Landlord.
- (b) If the Tower or Equipment are destroyed or damaged by any cause to such an extent or degree that Tenant suffers shut down of service or loss of revenue or property, Landlord shall not be responsible in any way for loss of such revenue or property. If Tenant cannot or chooses not to restore service within 90 days, either party may, at its option and without liability, terminate this Lease upon notice to the other party.

Environmental Matters

- (a) Tenant's Obligations. Tenant will not cause or permit the storage, treatment or disposal of any Hazardous Waste in, on, or about the Premises or any part of the Site by Tenant, its agents, employees or contractors. Tenant will not permit the Premises to be used or operated in a manner that may cause the Site or any part of the Site to be contaminated by any Hazardous materials in violation of any Environmental Laws.
- (b) Mutual Obligations: Each party will promptly notify the other party of (i) any and all enforcement, cleanup, remedial, removal, or other governmental or enforcement cleanup or other governmental or regulatory actions instituted, completed or threatened pursuant to any Environmental Laws relations to any Hazardous Materials affecting any part of the Site; and (ii)

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all claims made or threatened by any third party against Tenant, Landlord or any part of the Site relating to damage, contribution, cost recovery, compensation, loss or injury resulting from any Hazardous Materials on or about the Site or any part of the Site.

Removal: Upon the expiration or other termination of this Lease, Tenant shall quit and surrender to Landlord the Premises in good order and condition, and Tenant shall remove all of its Equipment. If within 60 days after the termination of this Lease Tenant has not removed its Equipment and property and not restored the Premises, Landlord may do so and Tenant shall reimburse Landlord for all expenses or costs for removal and restoration.

Holdover: Tenant will have no right to remain in possession of all or any part of the Premises after the expiration of the Term. If Tenant remains in possession of all or any part of the Premises after the expiration of the Term, with the express or implied consent of the Landlord: (a) such tenancy will be deemed to be a periodic tenancy from month-to-month only; (b) such tenancy will not constitute a renewal or extension of this Lease for any further term; and c) such tenancy may be terminated by Landlord upon the earlier of 30 days' prior written notice or the earliest date permitted by law. In such event, Monthly Rent will be at current rate payable at the beginning of each month for the period of holdover. Any other sums due under this Lease will be payable in the amount and at the times specified in this Lease. Such month-to-month tenancy will be subject to every other term, condition, and covenant contained in this Lease, except that any renewal, expansion or purchase options or rights of first refusal contained in this Lease shall be null and void during such month-to-month tenancy.

Events of Default: The following events are referred to, collectively, as "Events or Default" or, individually, as an "Event of Default":

- (a) Tenant vacates or abandons the Premises;
- (b) This Lease or the Premises or any part of the Premises are taken upon execution or by other processes of law directed against Tenant, or are taken upon or subject to any attachment by any creditor of Tenant or claimant against Tenant, and said attachment is not discharged or disposed of within 15 days after its levy;
- (c) Voluntary or involuntary proceedings under any bankruptcy or insolvency or for reorganization or arrangement under the bankruptcy laws of the United States or insolvency act o any

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state or for the dissolution of Tenant are instituted against Tenant, or a receiver or trustee is appointed for all or substantially all of the property against Tenant, or a receiver or trustee is appointed for all or substantially all of the property of Tenant, and such proceeding is not dismissed or such receivership or trusteeship vacated within 60 days after such institution or appointment;

- (d) Tenant shall fail to correct and eliminate unacceptable interference caused by its Equipment; or
- (e) Tenant shall fail to perform any of the other agreements, terms covenants or conditions herof on Tenant's party to be performed, and such nonperformance shall continue for a period of 30 days after written notice thereof from Landlord to Tenant, or if such performance cannot be reasonably accomplished within such 30-day period, Tenant shall not have commenced in good faith such performance within such 30-day period, Tenant shall not have commenced in good faith such performance within such 30-day period or shall not have diligently proceeded therewith to completion.

Landlord's Remedies: If any one or more Events of Default set forth above occurs then Landlord has the right, at its election to terminate this Lease, in which case Tenant's right to possession of the Premises will cease and this Lease will be terminated as if the expiration of the Term fixed in such notice were the end of the Term, and all obligations of Landlord and tenant shall cease except as to Tenant's liability as herein provided, and Tenant shall surrender the Premises and remove all of its Equipment.

Condemnation: In the event of a condemnation or other taking by any governmental agency of the Premises or a portion of the Site or the Tower necessary for the operation of Tenant's Equipment on the Tower, this Lease will terminate on the date the condemning authority takes possession of the Premises. The award for the Premises shall be paid to Landlord, except that Tenant will have the right to assert a separate claim against the condemning authority in a separate action so long as Landlord's award is not otherwise reduced, for (i) moving expenses, (ii) business interruption, and (iii) leasehold improvement paid for by Tenant.

Effects of Sale: A sale, conveyance, or assignment of Landlord's interest in the Site will operate to release Landlord from liability from and after the effective date of such sale, conveyance, or assignment upon all of the covenants, terms and conditions of this Lease, express or implied, except those liabilities which arose prior

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to effective date, and, after the effective date of sch sale, conveyance or assignment, Tenant will look solely to Landlord's successor-in-interest to this Lease. Any such transfer or transfers of title or conveyance shall not disturb Tenant's rights under this Lease so long as Tenant is not in default under this Lease.

Inspection: Landlord reserves the right to enter, at any time, the Premises to inspect the same.

Assignment: Tenant may not assign this Lease and sublet any part or the entire Tower without the approval of Landlord.

Quiet Enjoyment: Landlord covenants and agrees with Tenant that so long as Tenant pays rent and observes and performs all the terms, covenants, and conditions of this Lease, Tenant may peaceably and quietly enjoy the Premises, and Tenant's possession will not be disturbed by anyone claiming by, through, or under Landlord.

Time of the Essence: Time is of the essence of each and every provision of this Lease.

No Waiver: The waiver by either party of any agreement, condition, or provision contained in this Lease will not be deemed to be a waiver of any subsequent breach of the same or any other agreement, condition, or provision contained in this Lease.

Notices: All notices and other communications required or permitted under this Agreement shall be in writing and shall be given: (a) by United States first class mail, postage prepaid, (b) by hand delivery (including by means of a professional messenger service), or (c) by a nationally recognized overnight delivery service that routinely issues receipts. Any such notice or other communication shall be addressed to the party for whom it is intended at its address set forth above, and shall be deemed to be effective when actually received or refused. Either party may by similar notice given, change the address to which future notices or other communications shall be sent.

Landlord's Name: Tenant is prohibited from using Landlord's name, logo, mark or any other identifying symbol as a business reference, in advertising or sales promotion, or in any publicity matter without Landlord's prior written consent.

Counterparts: This Lease may be executed in counterparts, and when each of the parties hereto has executed and delivered one or more counterparts this Lease shall be binding and effective, even though no single counterpart has been executed by both parties.

Entire Agreement: This Lease embodies the entire agreement between the parties hereto relative to the subject matter hereof. No amendment, alteration, modification of, or addition to the Lease will

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be valid or binding unless expressed in writing and signed by Landlord and Tenant.

Severability: If any provision of this Lease proves to be illegal, invalid or unenforceable, the remainder of this Lease will not be affected by such finding, and in lieu of each provision of this Lease that is illegal, invalid or unenforceable, a provision will be added as a part of this Lease as similar in terms to such illegal, invalid or unenforceable provision as may be possible and be legal, valid and enforceable.

Captions: The captions of the various Articles and Sections of this Lease are for convenience only and do not necessarily define, limit, describe or construe the contents of such Articles or Sections.

Recordation: Tenant shall record a memorandum of this Lease in the public records if it so desires.

Extensions: This Lease may be renegotiated for additional three-year (3 year) terms unless the Landlord terminates it at the end of the then current term by giving Tenant written notice of intent to terminate at least ninety days prior to the end of the then current term. At the end of any current term, landlord may opt for a month to month lease with the written notice to terminate schedule shown below.

- a) 90 days, if notified April-August,
- b) 120 days, if notified in March
- c) 5 months, if Notified in February
- d) 6 months, if notified in January
- e) 7 months, if notified in December
- f) 8 months, if notified in November
- g) 9 months, if notified in October
- h) 10 months, if notified in September

EXECUTED as of the day and year first above written.