

Blue Mountain Translator District
Board of Directors
September 11, 2018 Regular
Meeting Board Packet

Table of Contents

Table of Contents	1
Board of Directors Regular Meeting	2
September 11, 2018	2
6.A. Contract Reviews	3
6.B. Public Safety Cooperation	4
6.C. Approval of Expenditures	5
6.D. Property Refund Requests	6
6.E. Performance Review	7
6.F. Financial Services Evaluation	12
6.G. Antenna Installation	13
6.H. Bylaws Changes	14
Appendix 1: Financial Reports	15
Appendix 2: KOLU Draft Agreement	19
Appendix 3: EONI Draft Agreement	21

Regular Meeting at 12:00 PM
Daniel Chapin Building, Misener Room
1001 4th Street
La Grande, OR 97850

**Board of Directors Regular Meeting
September 11, 2018**

1. Call to Order and Roll Call Vote - 1:00
2. Declaration of Conflict of Interest - 1:00
3. Reports
 - a. Director Report - 1:00
 - b. Staff Report - 1:00
4. Old Business
 - a. Safety - 1:00
5. Approval of Minutes
 - a. April 5, 2018
 - b. May 23, 2018
 - c. June 12, 2018
 - d. July 10, 2018
 - e. August 7, 2018
6. New Business
 - a. Contract Reviews - 10:00
 - b. Public Safety Cooperation - 10:00
 - c. Approval of Expenditures - 5:00
 - d. Property Refund Requests - 5:00
 - e. Performance Review - 10:00
 - f. Financial Services Evaluation - 10:00
 - g. Antenna Install Services - 5:00
 - h. Bylaws Changes - 5:00
7. Public Comment - 5:00
8. Scheduling of Next Meeting and Adjournment - 1:00

6.A. Contract Reviews

1. KOLU/Riverview Baptist Church in Pasco, Washington, wishes to enter into a site lease agreement for the facility on Mt. Harris. KOLU has reviewed a draft contract and desires to renegotiate the cost of the lease. The amount of \$400 per month for operating an FM translator in a community of 22,500 would cost them \$17.78 per potential listener, while the lease costs for their existing Pasco station and southeast Washington translators do not exceed \$3.93 per potential listener in areas with populations ranging from 44,500-380,000. The draft site lease agreement is included in the appendix.
2. Eastern Oregon Net, Inc., has informally held a site lease on Mt. Fanny since July 1, 2014. This lease has only been codified in a letter sent to the firm by the Secretary/Treasurer on May 12, 2014 notifying an increase in the rent charge to \$250.00. EONI wishes to codify the site lease agreement in a formal contract. The Secretary/Treasurer drafted a contract modeled after the site lease agreement with another Internet Service Provider, Oregon Wireless. EONI's leadership wishes to address the following changes to the draft contract:
 - EONI does not want to provide a backup generator, and
 - The contract must clarify that BMTD approval is not required for EONI to modify its installation, and
 - A formal date for entry into the contract must be set.

6.B. Public Safety Cooperation

The Pacific Northwest Seismic Network is working on building out its presence in northeastern Oregon. Oregon Seismic Network Manager Leland O'Driscoll, also of the University of Oregon's Department of Earth Sciences, is interested in collaborating with the Blue Mountain Translator District to research infrastructure needs and generate emergency alerts. Mr. O'Driscoll has delivered the following remarks:

"We are charged with enrolling end-users of the ShakeAlert EEW system in Oregon, and also are responsible for building out the seismic network. These two topics are intimately related.

"It would be great to establish a project in your region, the few things that come to mind would be (1) safeguarding your towers and (2) relaying the alerts over your broadcast system. We need to talk about the current capabilities and limitations of the system.

"One major constraint for the NE Blue Mtns is the lack of real-time seismic monitoring stations. Currently, there is one station near Union, and another on hwy 3 near the OR/WA border (north of Enterprise). Ideally, we can install a few stations in the La Grande - Baker City corridor. This is something on my list of activities, but we haven't had many available cycles to make it out there and scout for sites. We could really use some help in finding some suitable locations (i.e., low seismic noise, available power <A/C or solar>, and ability to communicate data @ ~10 kb/sec)."

6.C. Approval of Expenditures

Payee	Description	Line Item	Expenditure
RS Technology	KGW troubleshooting	Technicians	\$85.0
US Postal Service	Purchase of stamps for office	Postage	\$100.00
OTECC	Beaver Mtn. Power	Power	\$256.56
OTECC	Mt. Fanny Power	Power	\$1,680.27
OTECC	Mt. Harris Power	Power	\$355.52
C's	October Rent	Rent Expense	\$33.00
Baker City Hall	October Rent	Rent Expense	\$125.00
Mountain West Moving & Storage	Equipment transportation	Professional Services	\$225.00

6.D. Property Refund Requests

1-7177

The owner of this property did not receive the 2017-2018 service charge letter until August 2018. The Board of Directors may submit an amended LB-50 to the Baker County Assessor removing the property, ask the Assessor to issue a journal voucher to the owner after property tax statements have been mailed, or issue a refund after the owner has paid property taxes.

6.E. Performance Review

Introduction

The Special Districts Association of Oregon recommends annual performance reviews for administrative officers. A performance review for Secretary/Treasurer Alex McHaddad was conducted in 2018 and tied to a wage increase. Following a second satisfactory performance review, the Secretary/Treasurer requests a wage increase of \$0.50, tied to the increase in state minimum wage for nonurban counties.

Basic Questions

1. What has the Secretary/Treasurer accomplish in the position since the last performance review?
2. What has the Secretary/Treasurer done to achieve these accomplishments?
3. What should the Secretary/Treasurer focus on going forward?

Assisting the Board with its Policy-Making Role

Providing Information	1 Low - 5 High				
Does the Secretary/Treasurer keep you informed, in a timely manner, of the things you want to know about?	1	2	3	4	5
Do you feel that you receive information on an equal basis with other Directors?	1	2	3	4	5
Do reports provide adequate information and analysis to help you make sound decisions?	1	2	3	4	5
Are agenda items and supporting documents appropriate and brought to the Board in sufficient time for deliberations?	1	2	3	4	5
Does the Secretary/Treasurer regularly consult with Directors before setting the agenda to determine appropriate topics and timing?	1	2	3	4	5
Does the Secretary/Treasurer follow up promptly on Board requests for information or action without having to be reminded?	1	2	3	4	5
Are Board packets relatively free of errors and omissions?	1	2	3	4	5

Providing Advice	1 Low - 5 High				
Does the Secretary/Treasurer have adequate knowledge of District affairs?	1	2	3	4	5
Do they exercise good judgment?	1	2	3	4	5
Do you feel that the Secretary/Treasurer considers alternatives before making recommendations?	1	2	3	4	5
Does the Secretary/Treasurer plan ahead, anticipate needs and recognize potential problems?	1	2	3	4	5
How do you feel about the quality of analysis that accompanies recommendations?	1	2	3	4	5
Does he have a good sense of timing in bringing issues to the Board for action?	1	2	3	4	5

Internal Administration

Financial Management	1 Low - 5 High				
Are you comfortable with the Secretary/Treasurer's approach to budget preparation and review?	1	2	3	4	5
Is the Secretary/Treasurer effective in controlling costs through economical utilization of manpower, materials and equipment?	1	2	3	4	5
Does the Secretary/Treasurer have sufficient knowledge of financial matters?	1	2	3	4	5
Does the Secretary/Treasurer provide you with sufficient information on the financial status of the District government?	1	2	3	4	5
Is the budget submitted on time?	1	2	3	4	5
Personnel Management	1 Low - 5 High				
Is the Secretary/Treasurer successful in guiding people so that they work together as a team toward common objectives?	1	2	3	4	5
Is the Secretary/Treasurer effective in selecting and placing personnel?	1	2	3	4	5
Does the Secretary/Treasurer develop and motivate personnel so that they are increasingly effective in performing their duties?	1	2	3	4	5

Is the Secretary/Treasurer willing to face up to disciplinary problems and take action when warranted?	1	2	3	4	5
Is the Secretary/Treasurer effective in promoting positive employer-employee relations?	1	2	3	4	5
Does the Secretary/Treasurer respond to Board suggestions on employee training, work priorities and productivity? Are the decisions explained to the Board?	1	2	3	4	5
Is the Secretary/Treasurer effective on assuring that staff makes a positive impression on citizens?	1	2	3	4	5
Getting the Job Done	1 Low - 5 High				
Do you have the feeling that things the Board decides or directs get done?	1	2	3	4	5
Does the Secretary/Treasurer organize or assign work so that it is performed efficiently and effectively?	1	2	3	4	5
Does the Secretary/Treasurer pay sufficient attention to detail to avoid error or things "slipping through the cracks"?	1	2	3	4	5
Does the Secretary/Treasurer put in sufficient time and effort to perform to your expectations?	1	2	3	4	5
Does the Secretary/Treasurer have a good sense of priorities in the way he spends his time on the job?	1	2	3	4	5
Is the Secretary/Treasurer able to analyze problems or issues and identify causes, reasons and implications?	1	2	3	4	5
Does the Secretary/Treasurer develop and carry out short and long-term action plans?	1	2	3	4	5

External Relations

Citizen Relations	1 Low - 5 High				
Does the Secretary/Treasurer generally make a positive impression on citizens and is he respected in the community?	1	2	3	4	5
Is he effective in handling disputes or complaints involving citizens?	1	2	3	4	5

Does the Secretary/Treasurer have appropriate visibility or identity in the community?	1	2	3	4	5
Does the Secretary/Treasurer represent Board positions and policies accurately and effectively?	1	2	3	4	5
Does the Secretary/Treasurer give sufficient credit to the Board?	1	2	3	4	5
Does the Secretary/Treasurer think and act in a manner reflecting an attitude that client (Board, staff or citizens) perceptions and satisfactions are key?	1	2	3	4	5
Intergovernmental Relations	1 Low - 5 High				
Is the Secretary/Treasurer effective representing the District's interests in dealing with other agencies?	1	2	3	4	5
Does the Secretary/Treasurer participate in enough intergovernmental activity to have an impact on behalf of the District?	1	2	3	4	5

Personal Characteristics

Personality	1 Low - 5 High				
Is the Secretary/Treasurer's personality suited to effective performance of his duties?	1	2	3	4	5
Communications	1 Low - 5 High				
Is the Secretary/Treasurer easy to talk to?	1	2	3	4	5
Do you feel he is a good listener?	1	2	3	4	5
Are communications thoughtful, clear 2 3 4 5 and to the point?	1	2	3	4	5
Does the Secretary/Treasurer show sensitivity to the concerns of others?	1	2	3	4	5
Management Style	1 Low - 5 High				
Does the Secretary/Treasurer demonstrate interest and enthusiasm in performing his duties?	1	2	3	4	5
Does he have sufficient leadership characteristics to command respect and good	1	2	3	4	5

performance from employees?					
Does the Secretary/Treasurer show initiative and creativity in dealing with issues, problems and unusual situations?	1	2	3	4	5
Is the Secretary/Treasurer open to new ideas and suggestions for change?	1	2	3	4	5
Does the Secretary/Treasurer create an atmosphere in which employees can enjoy working for the District?	1	2	3	4	5
Is the Secretary/Treasurer honest and ethical?	1	2	3	4	5
Does the Secretary/Treasurer work well under pressure?	1	2	3	4	5
Is the Secretary/Treasurer able to change his approach to fit new situations?	1	2	3	4	5
Can the Secretary/Treasurer consistently put aside personal views and implement Board policy and direction?	1	2	3	4	5

ACHIEVEMENTS

List the top three achievements or strong points of the Secretary/Treasurer for the past month.

1. _____
2. _____
3. _____

FUTURE DEVELOPMENT

List three performance objectives for the Secretary/Treasurer that you feel are the most important targets for this year.

1. _____
2. _____
3. _____

6.F. Financial Services Evaluation

District finances are handled by two firms: Umpqua Bank provides banking services; and Payroll & Accounting Services, PC, provides payroll and accounting services.

In February 2018, the Board of Directors asked the Secretary/Treasurer to research current and alternative banking services. Umpqua Bank has offered to address District concerns related to monthly online banking user fees.

The Secretary/Treasurer also recommends a review of services provided by Payroll & Accounting Services, PC.

6.G. Antenna Install Services

Multiple firms install antennas on properties within and entirely surrounded by the District. On August 17th, a community member informed the District that Dish Network Corporation has begun installing antennas in Baker and Union Counties, and that technicians claimed that access to all local over-the-air signals is free. In a call to Dish Network's customer service line on August 17th, the Secretary/Treasurer received confirmation that the firm is installing antennas in the area, and was told by the customer service representative that access to local channels is free. The operations of Dish Network present a financial threat to BMTD, as well as peer institutions in the Pacific Northwest.

Directors may consider the following options to address the actions of Dish Network:

- Authorize the District's attorney to send a cease-and-desist letter demanding that technicians affiliated with Dish Network no longer claim that access to BMTD signals is free,
- Engage with local media to better inform the public,
- Consider joint statements and actions with peer institutions and the National Translator Association,
- Ask the District's attorney to research whether ORS 354.665 (3) and ORS 354.675 (4) permit the passage of an ordinance requiring that antenna installation services educate customers about the service charge, and inform the District when an antenna has been installed;* and
- Request amendments to legislation relating to translator districts introduced during the 2019 session of the Oregon Legislative Assembly permitting the adoption of such ordinances if the District's attorney concludes they are not permitted.

* ORS 354.665 Board duties; rules. (3) Establish reasonable rules for the administration of the district.

* ORS 354.675 Powers of district. (4) Perform all acts necessary to insure an efficient and equitable distribution of television programming within the district subject to the availability of funds in the approved budget.

6.H. Bylaws Changes

The Secretary/Treasurer has reviewed the District's governing documents and recommends the following change:

V. Amendments

These By-Laws may be amended at any regular meeting of the Board of Directors by a majority vote of the Board, provided the amendment has been submitted in writing to the secretary at least 45 days prior to the Board Meeting. The proposed by-law amendment(s) shall be mailed to all board members with copies of the proposed by-law change, at least 30 days prior to the board meeting.

- Recommended Change: Amendments may be proposed during any regular monthly board meeting. The Secretary/Treasurer shall introduce a draft amendment at the next regular meeting for a first reading. Following its consideration, the Board will vote on passage during a second reading at the following regular meeting.

Cash Flow - 07/01/2018 to 08/31/2018

Selected Accounts

- [Assets](#)
- [Assets:Current Assets](#) and selected subaccounts
- [Imbalance-USD](#)

Money into selected accounts comes from

Equity:Checking Opening Balance	\$115,809.33
Equity:Money Market Opening Balance	\$49,168.09
Equity:Mt. Fanny Opening Balance	\$25,801.41
Income:Interest Income:MF Interest	\$1.19
Income:Interest Income:MM Interest	\$2.09
Income:Lease Income	\$2,500.00
Income:Other	\$2,835.00
Income:Power Reimbursement	\$2,639.33
Income:Powerline Leases	\$3,000.00
Income:Property Taxes	\$554.92
Income:Service Charges	\$39,002.33
Money In	\$241,313.69

Money out of selected accounts goes to

Expenses:Advertising	\$1,950.98
Expenses:Consultant	\$2,441.60
Expenses:Election Cost	\$1,132.77
Expenses:Engineering:GF Equipment	\$7.00
Expenses:Engineering:GF Technicians	\$1,632.50
Expenses:Fees	\$75.00
Expenses:Insurance:Worker's Comp.	\$564.90
Expenses:Membership Dues	\$900.00
Expenses:Office Supplies	\$18.39
Expenses:Payroll Expenses	\$1,873.54
Expenses:Postage	\$1,705.63
Expenses:Professional Services	\$995.03
Expenses:Rent Expense	\$316.00
Expenses:Taxes	\$1,117.17
Expenses:Travel & Education	\$50.00
Expenses:Utilities:Phone & Internet	\$119.40
Expenses:Utilities:Power	\$4,051.07
Money Out	\$18,950.98

\$20,000.00

Difference

\$222,362.71

Profit & Loss For Period Covering 07/01/2018 to 08/31/2018

Revenues

<u>Income</u>	\$0.00
<u>Antenna Sale</u>	\$0.00
<u>Interest Income</u>	\$0.00
<u>MF Interest</u>	\$1.19
<u>MM Interest</u>	\$2.09
<u>Lease Income</u>	\$2,500.00
<u>Other</u>	\$2,835.00
<u>Power Reimbursement</u>	\$2,639.33
<u>Powerline Leases</u>	\$3,000.00
<u>Property Taxes</u>	\$554.92
<u>Service Charges</u>	\$39,002.33

Total Revenue **\$50,534.86**

Expenses

<u>Expenses</u>	\$0.00
<u>Advertising</u>	\$1,950.98
<u>Antenna Cost</u>	\$0.00
<u>Consultant</u>	\$2,441.60
<u>Election Cost</u>	\$1,132.77
<u>Engineering</u>	\$0.00
<u>GF Equipment</u>	\$7.00
<u>GF Repairs & Maintenance</u>	\$0.00
<u>GF Technicians</u>	\$1,632.50
<u>MF Powerline Maintenance</u>	\$0.00
<u>MM Equipment</u>	\$0.00
<u>Fees</u>	\$75.00
<u>Insurance</u>	\$0.00
<u>Liability</u>	\$0.00
<u>Worker's Comp.</u>	\$564.90
<u>Leases</u>	\$0.00
<u>Membership Dues</u>	\$900.00
<u>Office Supplies</u>	\$18.39
<u>Payroll Expenses</u>	\$1,873.54
<u>Postage</u>	\$1,705.63
<u>Professional Services</u>	\$995.03

<u>Professional Services</u>	\$555.00
<u>Refunds</u>	\$0.00
<u>Rent Expense</u>	\$316.00
<u>Taxes</u>	\$1,117.17
<u>Travel & Education</u>	\$50.00
<u>Utilities</u>	\$0.00
<u>Phone & Internet</u>	\$119.40
<u>Power</u>	\$4,051.07

Total Expenses

\$18,950.98

Net income for Period

\$31,583.88

Site Lease Agreement

Blue Mountain Translator District (BMTD) and KOLU/Riverview Baptist Church (KOLU) or assigns, enter into this Site Lease Agreement (Lease) this [X] day of [month], 2018.

For the sum of [\$X] per month, BMTD agrees to provide KOLU space on its tower and in the building located on the peak of Mt. Harris, Union County, Oregon, for the purposes of operating radio transmission and receive frequencies in the operation of its broadcasting in the ELgin, OR areas.

If any of the existing towers located at the site are not sufficient for the additional antenna(s) needed for KOLU's use, then KOLU shall have the right to install a new 35' mast provided BMTD shall first approve the construction plans to be submitted at least thirty days prior to commencement of any work at the site.

The term of this Agreement shall be for a period of three (3) years and the parties shall have the option to renew this Agreement for three (3) additional and consecutive three (3) year periods. Each additional term will automatically renew if neither party provides notice 90 days before each renewal period of intent not to renew. If no notice is given, then each additional period will automatically renew. BMTD and KOLU both have the right to terminate the contract for whatever reason with 90 days' written notice to the other party at least 90 days prior to any renewal period.

This Lease shall become effective and the first payment due upon KOLU receiving all necessary permits and authorization from the FCC and commencement of installation of its transmission and reception equipment.

The Rent shall increase by 10% on each of the three (3) year renewal periods on the anniversary date of each three (3) year period during the term of this Agreement.

BMTD is providing keyed entry and access to its building and hereby consents to reasonable access to the building as necessary for the installation, operation and maintenance of The Station.

KOLU agrees to provide Liability Insurance of not less than \$1,000,000.00 at all times during the Lease. KOLU further agrees to carry fire insurance. KOLU will add BMTD to both policies as an additional insured.

Any equipment or fixtures installed by KOLU may be removed by KOLU if doing so does not cause damage to the existing structure. If the

equipment or fixture cannot be removed without damaging the structure, the equipment or fixtures shall become property of BMTD.

Transfer of this Lease shall be allowed by written consent by BMTD to KOLU Baptist Church upon its acquiring the Assets of the Station. BMTD agrees not to unreasonably withhold any such consent if KOLU were to transfer or sell The Station to any other party.

Specifications of the facility as planned which may be altered as needed so long as KOLU's equipment fits within the tower specified and the equipment rack within the building:

ERP: watts Main

ERP: watts fx

Antenna:

Transmitter:

Coax:

Rx Antenna:

Rx. Coax:

STL Rx:

Frequencies:

Telemetry

This agreement shall be governed by the laws of the State of Oregon, Union County.

If KOLU, upon physical inspection of the Site, determines the purposes for which KOLU entered into this Agreement are not feasible, the parties agree to mutually terminate this Agreement at no cost to either party.

Entered into this day of [Month], 2018.

BLUE MOUNTAIN TRANSLATOR DISTRICT

Tim Wallender, President of the
Board of Directors
P.O. Box 901
La Grande, OR 97850
Phone: 541-963-0196 Baker County
Website: www.bmd.org
Email: bmtd.org@gmail.com

Martin Gibbs, Chief
Engineer/Chief Operator
KOLU Christian Family
Radio/Riverview Baptist Church
PO Box 2734
Pasco, WA 99302
Phone: 509-547-2062
Website: <https://www.kolu.com/>
Email: mgibbskolu@gmail.com

Tower Site Lease Agreement

This Tower Site Lease Agreement ("Lease") is made and entered into [July 1, 2014], between Blue Mt. Translator District ("Landlord") with a mailing address of P.O. Box 901, La Grande, Oregon 97850 and Eastern Oregon Net, Inc. ("Tenant") with a mailing address of P.O. Box 579, La Grande, Oregon, 97850.

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 July 1, 2014 and shall expire on June 30, 2017.

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 \$250.00 per month beginning July 1, 2014. Tenant may pay rent annually on July 1st (\$3000.00); by quarter (\$750.00) on July 1st, October 1st, January 1st and April 1st; or monthly (\$250.00) on the 1st. Landlord retains the right to increase or decrease rents annually on July 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.
- (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:

- (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) 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 of 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 of any 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 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 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.

LANDLORD:

TENANT:

Blue Mountain Translator District

Eastern Oregon Net, Inc.

Name: Tim Wallender

Name: _____

Title: Board President, BMTD

Title: _____

Date: _____

Date: _____