



ALBANY COUNTY SHERIFF'S OFFICE

County Court House Albany, New York 12207 (518) 487-5400
WWW.ALBANYCOUNTYSHERIFF.COM



MICHAEL S. MONTELEONE
EXECUTIVE UNDERSHERIFF

CRAIG D. APPLE, SR.
SHERIFF

WILLIAM M. RICE
UNDERSHERIFF

SHAWN P. NOONAN
CHIEF DEPUTY

LEON A. BORMANN
CHIEF DEPUTY

February 16, 2021

Honorable Andrew C. Joyce
Legislative Clerk's Office
112 State Street, Room 710
Albany, New York 12207

Andrew
Dear Mr. Joyce:

The attached correspondence is forwarded for presentation to the members of the Albany County Legislature.

Legislative approval is requested authorizing a contract between Albany County and Capital Region Broadcasters, LLC on a new five year contract to provide a Communications Lease Agreement for tower space for our VHF/UHF and 800Mhz radio systems beginning on March 1, 2021 and ending on February 28, 2026. The compensation for year one shall not exceed \$22,076.00 and the rent shall increase 3% annually.

Should there be any questions, please do not hesitate to contact me.

Sincerely,

Craig D. Apple, Sr.
Craig D. Apple, Sr.
Sheriff

cc: Hon. Daniel McCoy, County Executive
Hon. William Clay, Public Safety Chairman
Hon. Wanda Willingham, Audit & Finance Committee
Brandon Russell, Esq., Majority Counsel
Arnis Zilgme, Esq., Minority Counsel
Christian Barnes, Minority Conference

REQUEST FOR LEGISLATIVE ACTION

FOR COUNSEL USE ONLY

DATE: _____
RECEIVED: _____
RECEIVED BY: _____
METHOD: HAND _____
COURIER _____
MAIL _____

DATE : FEBRUARY 16, 2021

DEPARTMENT: ALBANY COUNTY SHERIFF'S DEPT

CONTACT PERSON: CRAIG D APPLE SR

TELEPHONE: 487-5440

DEPT. REPRESENTATIVE ATTENDING

COMMITTEE MEETING: SHERIFF CRAIG D APPLE SR

PURPOSE OF REQUEST:

ADOPTION OF LOCAL LAW _____
AMENDMENT OF PRIOR LEGISLATION _____
APPROVAL/ADOPTION OF PLAN/PROCEDURE _____
BOND APPROVAL _____
BUDGET AMENDMENT(SEE BELOW) _____
CONTRACT AUTHORIZATION (SEE BELOW) X _____
ENVIRONMENTAL IMPACT _____
HOME RULE REQUEST _____
PROPERTY CONVEYANCE _____
OTHER:(STATE BRIEFLY IF NOT LISTED ABOVE) _____

CONCERNING BUDGET AMENDMENTS

STATE THE FOLLOWING

INCREASE ACCOUNT/LINE NO. _____
SOURCE OF FUNDS: _____
TITLE CHANGE: _____

CONCERNING CONTRACT AUTHORIZATION,

STATE THE FOLLOWING:

TYPE OF CONTRACT

CHANGE ORDER/CONTRACT AMENDMENT _____
PURCHASE (EQUIPMENT/ SUPPLIES) _____
LEASE (EQUIPMENT/SUPPLIES) X _____
REQUIREMENTS _____
PROFESSIONAL SERVICES _____
EDUCATIONAL/TRAINING _____
GRANT: NEW _____
RENEWAL _____
SUBMISSION DEADLINE DATE _____

SETTLEMENT OF A CLAIM _____

RELEASE OF LIABILITY _____

OTHER: (STATE BRIEFLY) _____

CONCERNING CONTRACT AUTHORIZATION (CONT'D)

STATE THE FOLLOWING:

CONTRACT TERMS/CONDITIONS:

PARTY (NAME/ADDRESS):

CAPITAL REGION BROADCASTERS, LLC

4 GLOBAL VIEW

TROY, NY 12180

AMOUNT/RATE SCHEDULE/FEE:

**\$22,076 IN YEAR 1 WITH 3% ANNUAL INCREASES FOR 5 YEARS FOR A
TOTAL OF \$117,205**

TERM: 5 YEARS, WITH A 5 YEAR AUTOMATIC RENEWAL

**SCOPE OF SERVICES: LEASE OF TOWER SPACE ON PINNACLE ROAD
IN THE TOWN OF NEWSCOTLAND.**

LEASE BEGINS 3/1/2021 AND RUNS THRU 2/28/2026 (5 YEARS)

CONTRACT FUNDING:

ANTICIPATED IN CURRENT BUDGET: YES ☒ NO ☐

COUNTY BUDGET ACCOUNTS:

REVENUE: A13020.01140

APPROPRIATION: A93020.4.4046

BOND(RES. NO. & DATE OF ADOPTION)

CONCERNING ALL REQUESTS:

MANDATED PROGRAM/SERVICE: YES ☐ NO ☒

IF MANDATED CITE: AUTHORITY

ANTICIPATED IN CURRENT ADOPTED BUDGET: YES ☒ NO ☐

IF YES, INDICATE REVENUE APPROPRIATION ACCOUNTS:

A13020.01140 - E911

FISCAL IMPACT - FUNDING: (DOLLARS OR PERCENTAGES)

FEDERAL

STATE

COUNTY

100%

E911 SURCHARGE FUNDING

TERM/LENGTH OF FUNDING

PREVIOUS REQUESTS FOR IDENTICAL OR SIMILAR ACTION:

RESOLUTION/LAW NUMBER:

DATE OF ADOPTION:

JUSTIFICATION: (STATE BRIEFLY WHY LEGISLATIVE ACTION IS REQUESTED)

**OUR CURRENT LEASE EXPIRES ON 2/28/2021 AND ATTACHED IS THE CONTRACT FOR OUR
RENEWAL. THIS TOWER CONTAINS EQUIPMENT THAT IS ESSENTIAL IN THE OPERATION OF
OUR E-911 PROGRAM**

**BACK-UP MATERIAL SUBMITTED (I.E. APPLICATION/APPROVAL NOTICES FROM FUNDING SOURCE,
BID TABULATION SHEET, CIVIL SERVICE APPROVAL NOTICE, PROGRAM ANNOUNCEMENT, CONTRACTS
AND/OR ANY MATERIALS WHICH EXPLAIN OR SUPPORT THE REQUEST FOR LEGISLATIVE ACTION.)**

SUBMITTED BY: CRAIG D APPLE SR

TITLE: SHERIFF

**CAPITAL REGION BROADCASTERS
4 GLOBAL VIEW
TROY, NY 12180**

CURRENT RENT 21,433.00 EXPIRES 2/28/20

	DATE	ANNUAL AMT
1	3/1/2021	22,075.99
2	3/1/2022	22,738.27
3	3/1/2023	23,420.42
4	3/1/2024	24,123.03
5	3/1/2025	24,846.72
TOTAL		117,204.43

AUTOMATICALLY EXTENDED FOR 5 YEARS IF NO OPT OUT BY EITHER PARTY

6	3/1/2026	25,592.12
7	3/1/2027	26,359.89
8	3/1/2028	27,150.68
9	3/1/2029	27,965.20
10	3/1/2030	28,804.16
TOTAL		135,872.06

EXECUTION VERSION

COMMUNICATIONS LEASE AGREEMENT

SITE: THE TOWER AT CAPITAL REGION BROADCASTERS

This COMMUNICATIONS LEASE AGREEMENT (this "Lease Agreement") made as of this 17th day of January 2021, by and between Capital Region Broadcasters, LLC, a New York limited liability company having an office at 4 Global View, Troy, New York 12180 ("LESSOR") and County of Albany, NY with an office at 112 State Street, Albany, New York 12207 ("LESSEE").

RECITALS:

WHEREAS, LESSOR is the owner of a tower off County Road 303 (Pinnacle Road), Town of New Scotland, Albany County, New York, and hereinafter referred to as the "Tower", and

WHEREAS, LESSOR is the owner of a building located off County Road 303 (Pinnacle Road), Town of New Scotland, Albany County, New York, and hereinafter referred to as the "Building," and collectively with the Tower referred to as the "Property," and

WHEREAS, LESSOR and LESSEE previously entered a lease agreement pursuant to which LESSEE leased a portion of the Property from LESSOR (the "Prior Lease"), and

WHEREAS, LESSOR and LESSEE now desire to replace and supersede the Prior Lease and any other prior agreements pertaining to LESSEE's lease at the Property with this Lease Agreement,

NOW THEREFORE, in and for the covenants, conditions, agreements and rents hereinafter set forth, and other good and valuable consideration, the adequacy of which is hereby acknowledged:

ARTICLE I

A. As of the Commencement Date (hereinafter defined), the Prior Lease is terminated, superseded and replaced in its entirety (except that the Parties acknowledge there is no break in the continuity of the leasehold interest), and neither party shall have any further rights or obligations thereunder. Any credit or deficiency under the Prior Lease as of the termination date shall, on a pro-rated basis, be refunded or brought current (as the case may be) up to the termination date.

B. LESSOR hereby leases to LESSEE, and LESSEE leases from LESSOR, certain portions of space on the Tower, located as shown on Exhibit "A" attached hereto, and referred to herein as the "Leased Tower Premises." LESSEE shall have a non-exclusive right to occupy and use the Leased Tower Premises, on which LESSEE, at its sole cost and expense, shall install and maintain an emergency services two-way system, including antennas, cabling and ancillary equipment (the "LESSEE's Tower Installations"). The design and placement of the LESSEE's Tower Installations and alterations thereto shall be subject to LESSOR's approval.

C. LESSOR hereby leases to LESSEE, and LESSEE leases from LESSOR, certain portions of space in the Building, and located as shown on Exhibit "A" attached hereto, and referred to herein as the "Leased Building Premises," and collectively with the Leased Tower Premises referred to as the "Leased Premises." LESSEE shall have a non-exclusive right to occupy and use the necessary conduit and/or duct space currently existing within the Leased Building Premises for electrical wiring, telephone lines, pipes, tubes, etc. (referred to herein as the "LESSEE's Building Installations," and collectively with the LESSEE's Tower Installations referred to as the "LESSEE's Installations"), all of which are required by LESSEE as an integral part of its data communications network.

D. At LESSEE's sole expense, LESSEE shall be allowed to install, operate, maintain, replace and remove LESSEE's Installations and related cables, wires, conduits, antennas, air conditioning equipment, and other appurtenances as it may from time to time require; provided, however, that any modifications or improvements to the

Property or Leased Premises shall be subject to the approval of LESSOR. Although such equipment and appurtenances may become fixtures, they shall be and shall remain the property of LESSEE and LESSEE shall maintain them in good condition and repair, remove them within thirty (30) days of the expiration or termination of this Lease Agreement and repair any and all damage caused by such removal, each of the foregoing at LESSEE's sole expense.

ARTICLE II

A. This Lease Agreement shall be for an initial term of five (5) years commencing on the first day of the month following full execution of this Lease Agreement (the "Commencement Date"). The parties agree and acknowledge that the current annual rent is twenty-one thousand four hundred and thirty-three dollars (\$21,433.00) (the "Rent"), payable in one annual payment, for two microwave antennas, two UHF yagis, and four omni-directional VHF antennas. As of March 1, 2021 (the "Rent Commencement Date") the Rent shall increase by 3%. Additionally, during the initial five (5) year term, as of each anniversary of the Rent Commencement Date, the annual Rent shall increase by 3%. Rent shall be paid to LESSOR at LESSOR's address in Article XII hereof or to such other person, firm or place as LESSOR may from time to time so designate in writing at least thirty (30) days in advance of an Annual Payment date. Without limiting the foregoing, LESSEE's failure to pay Rent for a period of ten (10) days after the date on which such Annual Payment is due shall constitute an event of Default as provided in Article XIX.A.1. below.

B. The term of this Lease Agreement shall be automatically extended for one additional renewal period of five (5) years unless terminated as hereinafter set forth. In the event of such automatic renewal, the annual Rent shall increase by 3% as of each anniversary of the Rent Commencement Date.

If at the end of the total ten (10) years, this Lease Agreement has not been terminated by either party giving to the other written notice of an intention to so terminate it at least six (6) months prior to the end of such term, this Lease Agreement shall continue in force upon the same covenants, terms and conditions for a further term of one (1) year, and so on from year to year until the earlier of: (i) termination by either party at the end of any such one (1) year term by giving to the other written notice of an intention to so terminate at least six (6) months prior to the end of such term; or (ii) expiration of the 24th one year term or such earlier date as may be necessary to ensure that the overall term of this Lease Agreement (including the term of the Prior Lease) shall not exceed forty-nine (49) years. In the event of each such automatic one-year renewal, the annual Rent shall increase by 3% in each subsequent year, as of each anniversary of the Rent Commencement Date.

Notwithstanding any provision herein to the contrary, either LESSOR or LESSEE shall each have the right to terminate this Lease Agreement at any time with six (6) months prior written notice.

ARTICLE III

LESSEE shall be provided non-exclusive access to electric power and telephone service and the right to have such lines as are required for such service to be extended over or under LESSOR's Property and on LESSOR's structures, to LESSEE's Installations. LESSEE shall pay for the connection and installation costs, if not already available, and for all utilities consumed by LESSEE's Installation and its equipment. LESSOR shall not be required to add, construct or modify existing utility lines and cables to accommodate LESSEE if existing resources do not satisfy LESSEE's needs. LESSEE acknowledges that utilities up to 200 watts average consumption are included in the Rent. If additional power utilization is required, LESSOR either shall separately meter LESSEE's utility use or reasonably allocate to LESSEE a portion of LESSOR's overall utility use. At LESSOR's request, LESSEE will pay for its utility usage directly to the LESSOR.

ARTICLE IV

A. LESSEE agrees that it will operate its equipment in a manner which will not interfere with, impede, annoy or disturb any communications systems (including, but not limited to, any frequency, transmission, broadcast reception, antenna, satellite, cable or telephone system) or equipment, facilities or property owned or operated by LESSOR or any other tenant sharing the use of the Property, the Tower, the Building or the Leased Premises whether now or in the future. Should such harmful interference be identified as being caused by LESSEE's

Installations or equipment, LESSEE shall immediately take every reasonable step to mitigate and eliminate the interference. LESSOR shall require that all radio operators that do not currently use but in the future desire to use this location will make reasonable efforts to coordinate with LESSEE to insure that their frequencies and antenna locations will be compatible with LESSEE's so as to prevent harmful interference; provided, however, that LESSEE shall take such reasonable actions and make such reasonable modifications to the LESSEE's Installations as may be requested by LESSOR in order to accommodate new equipment, frequencies or technologies on the Property or the Leased Premises if such actions or modifications will eliminate the interference or mitigate the interference to acceptable levels. Should such modifications be made only to accommodate a new tenant and not to eliminate a problem with LESSEE's equipment, the cost of such modifications shall be deducted from fees due to LESSOR.

B. LESSEE further agrees that in installing or operating LESSEE's Installations or occupying the Leased Premises, it will not interfere with LESSOR's or its other tenants' use of the Property in the normal course of LESSOR's or its tenants' business, nor will LESSEE object to any construction, reconstruction, renovation or maintenance by LESSOR, its agents, tenants or contractors of the Tower, the Building or the Property, or any existing communications facilities on the Tower or in the Building. LESSEE shall not suffer or permit any mechanic's lien to be filed upon the Tower, the Building, the Leased Premises or the Property due to the LESSEE's undertaking of installation, alteration or remodeling. In the event that a mechanic's lien is filed, LESSEE shall discharge the same within ten (10) days after the same is filed, at LESSEE's expense, by filing an appropriate bond for such lien or by such other prescribed legal method.

C. In the event LESSOR leases space on the Tower or in the Building to a tenant not currently occupying space and such tenant utilizes communications antennas and related equipment which causes harmful interference to LESSEE's use and operation of LESSEE's Installations, LESSEE shall take such reasonable actions and make such reasonable modifications to the LESSEE's Installations as may be requested by LESSOR in order to accommodate new equipment, frequencies or technologies on the Property or the Leased Premises if such actions or modifications will eliminate the interference or mitigate the interference to acceptable levels. If such actions or modifications are unsuccessful in LESSEE's opinion, such interference claims shall be settled in accordance with the then prevailing interference rules and regulations promulgated by the FCC. In the event that LESSEE utilizes unlicensed radio frequency equipment it must not cause harmful interference to LESSOR or its then existing tenants. LESSOR may require that the use of unlicensed equipment that causes interference be terminated immediately. LESSOR shall reasonably coordinate with LESSEE with regard to future unlicensed devices installed by either existing or new tenants so as to avoid mutual interference. LESSEE shall inform LESSOR of its unlicensed use, but LESSOR is not obligated to serve as arbitrator over any uses of unlicensed equipment between LESSEE and other tenants and LESSOR can exercise all rights granted it under this Lease Agreement. LESSOR does not warrant that any unlicensed operation will be protected.

D. In order to permit LESSOR the opportunity to maintain and repair the Tower, the Building and the Leased Premises and to allow any other tenants of the Tower, the Building and the Property to install, remove, relocate, maintain and repair their equipment, LESSOR and LESSEE recognize and agree that from time to time it will be necessary for LESSOR to request, and for LESSEE to cooperate and comply with LESSOR's request, that LESSEE temporarily cease transmission and broadcast activities, turn off electrical power, and/or make other adjustments to LESSEE's Installations and operations. Except for repairs and maintenance which are of an emergency nature, LESSOR shall provide LESSEE with at least ten (10) days' prior written notice of the date or dates of any work to be performed on the Tower, in the Building or on the Leased Premises which may require such disruption of LESSEE's broadcast operations and, to the maximum extent reasonably practicable, LESSOR shall schedule any such work between the hours of 12 Midnight and 6:00 a.m. LESSEE further agrees that the foregoing shall not be considered an eviction or entitle LESSEE to a reduction or cessation of its obligations under this Lease Agreement, including without limitation a reduction in LESSEE's obligation to make monthly or Annual Payments. In the event that circumstances occur, or in LESSOR's reasonable determination threaten to occur or are likely to occur, and from which LESSOR may reasonably conclude that substantial damage is likely to occur to the property of LESSOR or any other tenant, or that imminent threat to life or health will exist, before employees, agents or contractors of LESSEE can be advised and respond, LESSOR, without notice to LESSEE, may repair, maintain, deenergize, disconnect or dismantle any or all of LESSEE's Installations and take any other action which, in LESSOR's discretion, may appear necessary with respect to the Tower, the Building or the Leased Premises without any liability whatsoever on the part of LESSOR for any damage (including without limitation damage from loss of

programming) which such action may cause, unless the action so taken by LESSOR is manifestly unreasonable under the circumstances.

ARTICLE V

A. LESSEE shall indemnify, defend, and hold LESSOR and LESSOR's officers, directors, agents, affiliates and employees harmless against any claims, liabilities, judgments, costs, damages, losses and expenses (including reasonable attorneys' fees), from personal injury, property damage or otherwise, which may arise out of or are related to (i) the acts or omissions of LESSEE's or LESSEE's agents, servants, employees or contractors in connection with this Lease Agreement; (ii) breaches of LESSEE's obligations, representations or warranties under this Lease Agreement; (iii) any violations of applicable laws, rules, regulations or orders by LESSEE or its employees, servants, contractors or agents; or (iv) the LESSEE's Installations, including the installation, maintenance, operation, or removal thereof, excepting, however, so much of such claims or damages as may be caused by the acts or omissions of LESSOR or its employees, servants, contractors or agents.

B. LESSOR shall indemnify, defend and hold LESSEE and LESSEE's officers, directors, agents, affiliates and or employees harmless against any claims, liabilities, judgments, costs, damages, losses and expenses (including reasonable attorneys' fees) for personal injury, property damage or otherwise, which arise out of or are related to: (i) the acts or omissions of LESSOR's or LESSOR's agents, servants, employees or contractors in connection with this Lease Agreement; or (ii) breaches of LESSOR's obligations, representations or warranties under this Lease Agreement, excepting, however, so much of such claims or damages as may be attributable, in whole or in part, to the acts or omissions of the LESSEE or its employees, agents, servants, or contractors.

C. LESSEE represents, warrants, and covenants to LESSOR that LESSEE shall at no time during the term of this Lease Agreement use or permit the LESSEE's Installations and the Leased Premises to be used without all necessary Approvals (including without limitation FCC licenses and permits) being in effect or in violation of any Environmental Regulations. LESSEE shall defend, indemnify and hold LESSOR and LESSOR's officers, directors, agents, affiliates and or employees harmless from any and all claims of liability arising out of LESSEE's use or occupancy of the LESSEE's Installations and the Leased Premises without such Approvals or in violation of any Environmental Regulation. LESSEE will comply with all applicable laws, ordinances and regulations of all governments and bureaus with respect to LESSEE's Installations and the Leased Premises.

D. For purposes of these provisions, the term "Environmental Regulations" shall mean any law, statute, regulation, order or rule now or hereafter promulgated by any Governmental Authority, whether local, state or federal, relating to air pollution, water pollution, noise control and/or transporting, storing, handling, discharge, disposal or recovery of on-site or off-site hazardous substances or materials as same may be amended from time to time, including without limitation, the following: (i) the Clean Air Act (42 U.S.C. SS 7401 et seq.); (ii) Marine Protection, Research and Sanctuaries Act (33 U.S.C. SS 1401-1445); (iii) Clean Water Act (33 U.S.C. SS 1251 et seq.); (iv) RCRA, as amended by the Hazardous and Solid Waste Amendments of 1984 (42 U.S.C. SS 6901 et seq.); (v) CERCLA, as amended by the Superfund Amendments and Reauthorization Act of 1986 (42 U.S.C. SS 9601 et seq.); (vi) Toxic Substances Control Act (15 U.S.C. SS 2601 et seq.); (vii) the Federal Insecticide, Fungicide and Rodenticide Act, as amended (7 U.S.C. SS 135 et seq.); (viii) the Safe Drinking Water Act (42 U.S.C. SS 300 (f) et seq.); (ix) Occupational Safety and Health Act; (x) the Hazardous Liquid Pipeline Safety Act (49 U.S.C. SS 2001 et seq.); (xi) the Hazardous Materials Transportation Act (49 U.S.C. SS 1801 et seq.); (xii) the Noise Control Act of 1972 (42 U.S.C. SS 4901 et seq.); (xiii) Emergency Planning and Community Right-to-Know Act (42 U.S.C. SS 11001 et seq.); and (xiv) National Environmental Policy Act (42 U.S.C. SS 4321-4347).

E. Except as set forth above in Section V.B., LESSOR has made no representations, warranties or promises with respect to the Tower, the Building, the Property or the Leased Premises. The taking of possession of the Leased Premises by the LESSEE shall be conclusive evidence as against the LESSEE that LESSEE accepts the same "AS IS" and that the Tower, the Building, the Property and the Leased Premises are in good and satisfactory condition, subject only to LESSOR's representations, warranties and indemnification expressly set forth in Section V.B. The parties' indemnification obligations set forth in this Article V shall survive termination or expiration of this Lease Agreement

ARTICLE VI

A. LESSEE shall, at its sole expense, complete all make-ready work and install or modify LESSEE's Installations in accordance with construction plans and specifications prepared by LESSEE and approved by LESSOR.

B. LESSEE shall at its sole expense repair all damages to the Tower, the Building, the Leased Premises or the Property, any of which are a result of LESSEE's use or occupancy of the Tower, the Building, the Leased Premises or the Property. If LESSEE fails to make such repairs within fifteen (15) working days after the damage occurs, LESSOR shall have the right to make all necessary and reasonable repairs, and LESSEE shall reimburse LESSOR for any such expense within ten (10) days of LESSOR presenting to LESSEE a statement showing the cost of such repairs. Failure to make any such reimbursement shall be deemed a material Default under this Lease Agreement.

C. LESSEE shall pay or reimburse LESSOR for expenses which LESSOR pays or incurs in connection with this Lease Agreement or any other agreements called for hereunder, as are determined by a court of competent jurisdiction, arising out of this Lease Agreement.

ARTICLE VII

A. LESSEE will carry during the term of this Lease Agreement (i) comprehensive general liability and property damage insurance coverage protecting LESSEE against loss from liability imposed by law or assumed in any written contract and loss or liability arising from personal injury, including bodily injury or death, and damage to LESSEE's property or the property of others, with a limit of liability of not less than Three Million Dollars (\$3,000,000.00) (combined single limit for personal injury, including bodily injury or death and property damage); (ii) protection against fire, "extended coverage" and other "All Risk" perils in an amount not less than the full replacement cost of the Leased Premises; (iii) Commercial Auto Liability insurance on all owned, non-owned and hired automobiles with a minimum combined limit of not less than one million (\$1,000,000) per occurrence; and (iv) Workers Compensation insurance providing the statutory benefits and not less than one million (\$1,000,000) of Employers Liability coverage. The insurance company issuing such insurance must be authorized to do business in the State of New York and have a financial strength rating (Best's rating) of at least an A and a financial size of at least Class X as reported in the most recent edition of Best's Key Rating Guide Property-Casualty. The insurance coverage of LESSEE may be in the form of a blanket policy. Such coverage shall not be canceled or materially altered to reduce the policy limits until LESSOR has received at least thirty (30) days' advance written notice of such cancellation or change. LESSEE shall be responsible for notifying LESSOR of such change or cancellation.

B. LESSEE agrees to name LESSOR as an additional insured and, prior to the Commencement Date, LESSEE agrees to furnish LESSOR with a certificate of insurance certifying that LESSEE has in force and effect the above specified insurance. LESSEE hereby releases LESSOR (and LESSOR's successors or assigns) from liability and waives all rights of recovery against LESSOR for any loss or damage covered by LESSEE's insurance policies for all perils insured thereunder. In the event of such insured loss, it is the express intention of the parties that LESSEE's insurance company shall not have a subrogated claim against LESSOR.

ARTICLE VIII

LESSEE shall be liable for all taxes, charges or other assessments levied or increased against LESSEE and/or LESSOR arising from LESSEE's Installations and the personal property and trade fixtures placed by LESSEE in the Leased Premises or otherwise arising by reason of this Lease Agreement or LESSEE's use of the Leased Premises.

ARTICLE IX

LESSEE shall not be deemed to have abandoned the Leased Premises even though LESSEE may cease using the communications facilities for a period of time so long as LESSEE continues to pay all Rent and is not in breach of any provision of this Lease Agreement.

ARTICLE X

A. Subject to force majeure, reasonable rules and regulations of LESSOR, and any other provision of this Lease Agreement, LESSEE shall have full and free access to LESSEE's Installations twenty-four (24) hours a day, seven (7) days a week.

B. LESSOR shall provide parking privileges at no cost to LESSEE for at least one vehicle to be used by LESSEE's maintenance personnel for LESSEE's purposes under this Lease Agreement.

ARTICLE XI

Notwithstanding anything to the contrary contained herein, LESSEE may not assign, transfer or sublease this Lease Agreement or any interest herein, except to a corporation, partnership or other entity which (i) is controlled by, controlling or under common control with LESSEE, or (ii) shall merge or consolidate with or into LESSEE, or (iii) shall acquire all or substantially all the assets, property and business of LESSEE, with the prior written consent of LESSOR, which consent shall not be unreasonably withheld. LESSEE shall not, however, and nothing contained in this Lease Agreement shall be construed to permit LESSEE, to place a leasehold mortgage or other lien or encumbrance upon this Lease Agreement, the Tower, the Building, the Property or the Leased Premises. LESSOR may assign or transfer this Lease Agreement or any interest herein without obtaining the consent of LESSEE.

ARTICLE XII

Any notice or demand made pursuant to this Lease Agreement shall be sufficiently given if made by certified mail, return receipt requested, postage prepaid, or by recognized overnight courier, and addressed in the case of LESSEE, to:

Albany County Attorney
112 State Street
Albany, New York 12207

All notifications regarding equipment or technical issues shall be to:

Albany County 911 Center
443 New Salem Road
Voorheesville, New York 12186
518-765-2351

and in the case of LESSOR, to:

Capital Region Broadcasters, LLC
C/o WMHT Educational Telecommunications, Inc.
4 Global View
Troy, New York 12180
Attn: Robert Altman

With a copy to:

Nixon Peabody LLP
677 Broadway, 10th Floor
Albany, NY 12207
Attn: Marissa B. Wiley, Esq.

Any such notice or demand shall be deemed effective upon actual receipt or refusal as shown on the receipt obtained pursuant to the foregoing. LESSEE or LESSOR may from time to time designate any other address for this purpose by written notice to the other party.

ARTICLE XIII

LESSOR warrants that it has full right and power to execute and perform this Lease Agreement, and to grant the lease to the Leased Premises provided herein. LESSEE warrants that it has full right and power to execute and perform this Lease Agreement. The parties irrevocably consent to the jurisdictions of the state and federal courts located within Albany County, New York and expressly and irrevocably waive any objection based on forum non conveniens and any objection to venue in connection therewith.

ARTICLE XIV

Subject to the terms of this Lease Agreement, LESSOR covenants that LESSEE shall, and may peacefully have access to and enjoyment of the Leased Premises for the term of this Lease Agreement free of any claims by any party claiming by, through or under LESSOR, provided that LESSEE pays the Rent to be paid by LESSEE under this Lease Agreement and performs all of LESSEE's covenants and agreements herein contained.

ARTICLE XV

LESSEE, upon termination of this Lease Agreement shall, within a reasonable period not to exceed thirty (30) days from termination, remove LESSEE's Installations and restore, at LESSEE's sole expense, the Leased Premises as nearly as is reasonably possible to their original condition, reasonable wear and tear excepted. If LESSEE fails to comply with any of the foregoing, LESSEE shall reimburse LESSOR for any expenses connected with the removal and storage of LESSEE's Installations and the repair, restoration, alteration or remodeling of the Leased Premises to original condition as nearly as reasonably possible.

ARTICLE XVI

This Lease Agreement and LESSEE's rights shall be subordinate to any mortgage or other lien or encumbrance now or hereafter placed upon the Tower, the Building, the Property and/or the Leased Premises and to any and all advances made on the security thereof and to all renewals, modifications, consolidations, extensions and replacements thereof and to this Lease Agreement. LESSEE agrees to execute any documents required to effectuate the subordination and LESSEE's failure to execute any such documents within ten (10) days after written demand shall constitute a material Default by LESSEE. Subject to the foregoing, any sale, transfer or assignment by the LESSOR of all or part of the Leased Premises to a transferee other than LESSEE shall be under and subject to this Lease Agreement and LESSEE's rights hereunder.

ARTICLE XVII

This Lease Agreement shall extend to and bind the successors and assigns of the parties hereto.

ARTICLE XVIII

This Lease Agreement and the performance thereof shall be governed, interpreted, construed, and regulated by the laws of the State of New York, without regard to its conflicts of law principles.

ARTICLE XIX

Any one or more of the following events shall constitute a Default under this Lease Agreement:

A. (1) default by LESSEE in the due and punctual payment of any Rent or other charges (including without limitation taxes and utility costs) payable under this Lease Agreement or any part thereof when and as the same shall become due and payable, and such default shall continue for a period of ten (10) days after the date on which such payment is due to LESSOR;

(2) default by LESSEE in the performance of or compliance with any of the covenants, agreements, terms or provisions contained in this Lease Agreement and such default shall continue for a period of thirty (30) days after written notice thereof from LESSOR to LESSEE;

(3) LESSEE shall file a voluntary petition in bankruptcy or shall be adjudicated a bankrupt or insolvent, or shall file any petition or answer seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or any future federal bankruptcy act or any other present or future applicable federal, state or other statute or law, or shall seek or consent to or acquiesce in the appointment of any trustee, receiver or liquidator of LESSEE or of all or any substantial part of its properties or of the Leased Premises;

(4) if within sixty (60) days after the commencement of any proceeding against LESSEE seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or any future federal bankruptcy act or any other present or future applicable federal, state or other statute or law, such proceeding shall not have been dismissed, or if, within sixty (60) days after the appointment, without the consent or acquiescence of LESSEE, of any trustee, receiver or liquidator of LESSEE or of all or any substantial part of its properties or of the Leased Premises, such appointment shall not have been vacated or stayed on appeal, or if, within sixty (60) days after the expiration of any such stay, such appointment shall not have vacated.

B. In the event any such Default as set forth in subparagraphs A (1) through (4) of this Article shall occur and not be cured within the applicable grace period, LESSOR, at any time thereafter during the continuance of such Default, may give written notice to LESSEE, specifying such Default or event of Default and stating that this Lease Agreement and the term hereby demised shall expire and terminate on the date specified in such notice, which shall be at least three (3) days after giving such notice, and upon the date specified in such notice, this Lease Agreement and the term hereby demised and all rights of LESSEE under this Lease Agreement shall terminate, but LESSEE shall remain responsible for all of its obligations under this Lease Agreement, including without limitation indemnification and payment of Rent, utility costs and taxes due.

C. Without limiting LESSOR's remedies set forth in Section XIX.B. above, if a Default remains after the applicable grace period, LESSOR may immediately, regardless whether this Lease Agreement has been terminated, re-enter into or upon the Leased Premises, or any part thereof, by summary dispossession proceedings or by any suitable action or proceeding at law, or by force or otherwise, without being liable to indictment, prosecution or damages therefor, and may repossess the same and may remove any persons therefrom or equipment thereon, to the end that LESSOR may have, hold and enjoy the Leased Premises. The word "re-enter", "re-entry" and "re-entered" as used in this Lease Agreement are not restricted to their technical legal meanings. LESSEE acknowledges that LESSOR shall be entitled to recover the Deficiency from Tenant each month as the Default shall arise, and no suit to collect the amount of the Deficiency for any month shall prejudice LESSOR's right to collect the Deficiency for any subsequent month by a similar proceeding. The term "Deficiency" shall mean the difference during the period in question between (i) LESSEE's monthly payments, utility costs and taxes owed to LESSOR, and (ii) the net amount, if any, of payments on account of rent, utility costs and taxes collected by LESSOR under any reletting of the Leased Premises for all or any part of such period (after first deducting from such amount all reasonable out-of-pocket expenses incurred by LESSOR in connection with the termination of LESSEE's right to possess the Leased Premises, LESSOR's re-entry upon the Leased Premises and such reletting, including repossession costs, brokerage commissions, attorneys' fees and disbursements and alteration costs). LESSOR shall not be obligated to relet the Leased Premises and shall not be liable for, nor shall LESSEE's obligations hereunder be diminished because of, LESSOR's failure to relet the Leased Premises or to collect rent or any other payments due from any reletting.

D. LESSEE shall pay to LESSOR all direct reasonable costs incurred by LESSOR in connection with this Article (including court costs and reasonable attorneys' fees and expenses) in (i) obtaining possession of the Leased Premises, (ii) removing and storing LESSEE's Installations, property and equipment, (iii) repairing, restoring, altering, remodeling or otherwise putting the Leased Premises into the condition that existed as of the Commencement Date; (iv) if LESSEE is dispossessed of the Leased Premises and this Lease Agreement is not terminated, reletting all or any part of the Leased Premises (including brokerage commissions, cost of LESSEE finish work, and other costs incidental to such reletting), (v) performing LESSEE's obligations hereunder which

LESSEE failed to perform, and (vi) enforcing, or advising LESSOR of, its rights and remedies hereunder. LESSOR's acceptance of Rent following a Default by LESSEE shall not waive LESSOR's rights regarding such Default.

The rights of LESSOR provided in this Article are in addition to any and all other rights that LESSOR has or may hereafter have at law or in equity upon the occurrence of any Default, including without limitation the right to collect amounts owed by LESSEE under this Lease Agreement such as unpaid Rent or other charges (including without limitation taxes and utility costs).

ARTICLE XX

If the Tower, the Building or any portion of the Leased Premises shall be destroyed or damaged in whole or in part by fire, or as a result directly or indirectly by war, or by act of God, or occurring by reason or any causes whatsoever thereby making it impractical for the Leased Premises to be used for the purposes herein leased, either party may, by written notice to the other party, declare this Lease Agreement null and void upon ten (10) days prior written notice. Upon such termination, the Rent shall be prorated to the date of termination.

ARTICLE XXI

The parties hereto agree that should the Leased Premises, or such portion thereof as will make the Leased Premises untenable for the purposes herein leased, be taken or condemned by competent authority for public or quasi-public use, then either party may, by written notice to the other party, declare this Lease Agreement null and void upon ten (10) days prior written notice. Upon such termination, Rent shall be prorated to the date of termination. The amount of any award made for the taking of such property, or any part thereof, shall be distributed in accordance with the final determination of the condemnation commissioners or other similar officers appointed for the purpose of making such award, and the parties hereto have reserved their rights to make claim for their respective interests therein.

ARTICLE XXII

The failure of the LESSOR to insist upon a strict performance of any of the terms, conditions, or covenants herein shall not be deemed a waiver of any rights or remedies that the LESSOR may have, and shall not be deemed a waiver of any subsequent breach or default in the terms, conditions and covenants herein contained. The LESSEE waives all rights to redeem under any law of the State of New York.

ARTICLE XXIII

If any term or provision of this Lease Agreement or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this Lease Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Lease Agreement shall be valid and enforceable to the fullest extent permitted by law.

ARTICLE XXIV

No diminution or abatement of Rent or other compensation or constructive eviction shall be claimed by the LESSEE for actions by the LESSOR arising from the following: (a) the making of repairs or improvements to the Tower, the Building, the Property, or the Leased Premises or its appliances; (b) complying with any law or ordinance or order of a governmental authority; and (c) performing any of its obligations under this Lease Agreement.

ARTICLE XXV

LESSEE agrees that at any time and from time to time upon ten (10) days' prior written request by LESSOR, LESSEE will execute, acknowledge and deliver to LESSOR a statement in writing (which may be in the form of an estoppel certificate) containing such certifications, terms and conditions as are reasonable and customary

under the circumstances, including without limitation stating that this Lease Agreement is unmodified and in full force and effect (or, if there have been modifications, stating the modifications, and that the Lease Agreement as so modified is in full force and effect), the dates to which the Rent and other charges have been paid and that LESSOR has not defaulted in the performance of any of its obligations under the terms of this Lease Agreement.

ARTICLE XXVI

The parties hereto declare that they have read and do understand each and every term, condition and covenant contained in this Lease Agreement and in any document incorporated by reference. This Lease Agreement includes the entire agreement between the parties relating hereto and supersedes all prior or contemporaneous negotiations, commitments, representatives, writings, and/or oral understandings or agreement. The parties signed this Lease Agreement for the consideration herein expressed. Any addition to, variation or modification of, this Lease Agreement shall be void and ineffective unless in writing signed by the parties hereto.

ARTICLE XXVII

LESSEE represents that it is a Government Body and is in good standing and qualified to do business in the State of New York.

[Signatures on following page.]

IN WITNESS WHEREOF, the parties hereto have duly executed this Lease Agreement as of the day and year first above written.

LESSOR:
Capital Region Broadcasters, LLC

By: 

Name: Jerry Boelun

Title: President / CRB

Date: 1/14/2021

LESSEE:
Albany County, NY

By: 

Name: Daniel C Lynch

Title: Deputy County Executive

Date: 12/15/2020