

MICHAEL N. FEUER, City Attorney

By

Assistant City Attorney

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SITE RENTAL AGREEMENT

Mobile Relay Associates hereinafter called Company, agrees to furnish the non-exclusive use of the below described site to the undersigned Customer for the full term and amount stated below, and in consideration thereof, Customer agrees to make the full number of payments at the number and amounts stated below, commencing on the date Company makes the site available.

STATION DESCRIPTION: WQIX277 & WPRF253

STATION LOCATION: MOUNT LUKENS

CPE SUPPLIER: JOYCE BARISHMAN, MOBILE RELAY ASSOCIATES

Special Provisions

- ☒ This station will operate under a special use permit from the U.S. Forest Service and is subject to a permit fee. The permit fee is subject to change by the U.S.F.S. and will be added to the contract amount.

ANNUAL RATE \$46,200- Monthly Rate \$3,850 January 1, 2021

- ☒ Other 1- 8 ft dishes Mt. Lukens at the 52' level on the tower. 1- 6 ft dish on the 20' level Mt. Lukens

1- Antenna Mt. Lukens for simulcast at the level of 120 ft or below. Mt Lukens 3 racks

1- 8 ft dishes Mt. Lukens at the 84' level on the tower.

TERMS OF PAYMENT:

All payments will be in advance for the services at the rate stated below.

Term of Agreement	Annual	Quarterly Rate	Security Deposit	Annual Fee	Rate For Additional Equipment, If Any
Annual	\$46,200	N/A	N/A	NA	NA

Payments will be paid annual, due on the 1st day of each annual calendar year.

a) **Number of Units:** The number of units is determined by the number of transmitters and/or receiver units installed at the site. Unless otherwise stated, this agreement allows for the installation of one transmitter/receiver (otherwise known as transceiver) unit. Written permission from Company must be obtained prior to the installation of any additional transmitter/receiver units. Additional units will not automatically be allowed use of the site, nor will additional units be guaranteed the same rate schedule.

b) **Connection Fees:** Upon execution of this agreement, Customer agrees to pay the connection fee stated above. The connection fee shall be a one time non-refundable charge. Units added subsequent to the initial connection shall also incur a connection fee to be determined at the time customer contacts Company to install additional equipment. (The connection fee is to provide for proper installation of the equipment and for proper protection from RF interference.)

c) **Security Deposit:** The security deposit shall be non-refundable for the term of this agreement. Customer acknowledges that the security deposit shall be received and held by Company as security for the continuing performance of Customer's obligations hereunder. In the event such deposit is utilized by Company at its sole option and discretion, for application to satisfy any obligation of Customer thereunder, application of such security deposit to satisfy such obligations shall not relieve Customer of its continuing obligations, hereunder, nor shall it be interpreted as a waiver of any rights or remedies of Company. At the termination of this agreement, Company shall refund security deposit or any portion thereof not utilized by Company to meet obligations of Customer. Company shall not be under any obligation to retain Customer's security deposit in an interest bearing or other special ear-marked account for the benefit of Customer.

d) **General Provisions:** The undersigned certifies that he has read and understands all of the terms and conditions on the front and back sides of this agreement, and each party acknowledges receipt of a true copy hereof at the time of execution. All of the terms and conditions on the reverse side hereof are part of this agreement, AND THERE ARE NO EXPRESS OR IMPLIED WARRANTIES, MODIFICATIONS OR PERFORMANCE GUARANTEES OTHER THAN THOSE EXPRESSLY STATED HEREIN. The parties hereto agree that no subsequent modification, warranty, or waiver shall become valid until and unless it is reduced to writing and signed by Customer and Company. Any person executing this agreement on behalf of a Customer who is a corporation specifically agrees to be personally, jointly and severally liable for the performance hereunder.

COMPANY: MOBILE RELAY ASSOCIATES

LOS ANGELES HARBOR DEPARTMENT PORT POLICE
CUSTOMER

ADDRESS 425 S. PALOS VERDES STREET

CITY, STATE, ZIP SAN PEDRO, CA 90731

PHONE 310-732-2607

FAX

BY _____ DATE _____
(Signed)BY _____ TITLE _____
(Printed)BY _____ DATE _____
(Signed)BY _____ TITLE _____
(Printed)

This agreement is Made and Becomes Valid Only When Signed by an Officer of Company.

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- e) **Permits, Licenses and Regulations:** Customer agrees and understands that it is Customer's responsibility to abide by all Federal, State and local regulations pertaining to the installation and operation of Customer's equipment at the site. Customer agrees to secure at his own expense all licenses and permits required by law or ordinance. Customer agrees and understands that changes in rules and policies by agencies or persons other than Company that affect the operation or use of Customer's equipment and of the site are not the Company's responsibility. Customer hereby represents that he has obtained the necessary licenses and permits required to use said station, or that he will obtain said licenses and permits prior to any such use. In addition, Customer agrees to provide Company with a copy of its FCC license, license application, U.S. Forest Service permits and any other documents required for the use of said station within 30 days of the starting date of this agreement. If site is located on U.S. Forest Service land, this agreement will be subject to the Special Use Permit issued by the Forest Service. Termination of the Special Use Permit will terminate this agreement unless the Special Use Permit is canceled due to the negligence, illegal acts and/or failure to pay required fees or provide necessary paperwork to maintain the permit, in which case, Customer is in default of this agreement.
- f) **Liability:** Customer agrees and warrants that he will defend, indemnify and hold harmless Company from any liability arising from or in connection with Customer's use of the site. Customer specifically agrees that Company is not liable for power system problems, lightning, fire, acts of God, theft, vandalism, willful neglect or innocent acts of other Customers, total or partial shutdown of the radio site or any other causes beyond the control of Company. Customer will, upon notice, appear and defend any action brought against Company by any party arising from or in connection with Customer's use of the site and Customer will pay all of Company's costs and legal fees in connection therewith. Company shall have no liability to Customer or other parties for failure of the site to serve Customer's needs except insofar as a diminution of Customer's use charge for the site for the period during which such failure to serve shall exist. Recognizing that it difficult or impossible to ascertain the nature and extent of any damages which may be caused by legal fault on the part of Company, the parties hereto hereby fix the sum of one hundred dollars as complete and liquidated damages and not as a penalty in the event a court of the law or equity determines such damages are the fault of Company.
- g) **Radio and Telephone Channels:** Customer understands that any radio channels or telephone channels used in connection with the site are of his own choosing and responsibility, although Company may, at Customer's request, assist with the selection of radio and/or telephone channels, and assist Customer with the filing out of application forms necessary to obtain the use of such channels. Company does not guarantee that the channels will be obtained or continued, or that the channels will be adequate to satisfy Customer's requirements. Furthermore, Customer understands that Company has no control or responsibility as to the charges levied for the channels or as to the number of other users sharing channels with Customer or as to the amount of airtime available.
- h) **Coverage and Interference:** Representations concerning the distance at which usable radio signals may be transmitted and received by the station or location thereof shall not be binding upon Company unless reduced to writing and made part of this agreement. Customer is hereby notified that the station is subject to degradation of performance from, but not limited to natural and man-made phenomena such as so called "skip" interference, power line and ignition noise, intermodulation, co-channel interference and interference from users of the same or other radio frequencies. Such interference and noise can be minimized by the addition of corrective devices (at Customer's expense) suitable for particular locations and installations. Company will make recommendations to the use of such devices, however, complete freedom from noise and interference cannot be guaranteed and no one is authorized to make, on behalf of Company any representations to the contrary. The Company is not responsible for interference due to the above or other causes.
- i) **Title:** Customer shall have no right, title or interest in the site except for the non-exclusive use thereof as expressly set forth in this agreement.
- j) **Site Access:** Access to site shall be limited only to Company, radio service companies, the Federal Communications Commission (FCC), Customer and other customers of Company at the site. No other parties will be admitted to site without the express written permission of Company. Company will be the custodian of the key to the site.
- k) **Use:** It is expressly agreed by Customer and Company that: (1) Customer shall as all times until the expiration of this agreement hold an FCC station license for the equipment. (2) While using the site, Customer shall be responsible for its proper operation in compliance with FCC rules. (3) Customer hereby consents to the execution of agreements between Company and other parties. (4) Company has no control over the amount of time that Customer's station will be used. This shall in no way alter Customer's obligations to make payments to Company at the stated amount. (5) Customer represents that he has independently ascertained that the station is adequate and proper for Customer's intended use and has entered into this agreement based solely upon said independent investigation, and not by any representation by Company. (6) Customer may not permit anyone other than Customer and its employees to use or enter the site. (7) Customer may not sublease the site. Any violation of the foregoing terms shall constitute a material breach by Customer, and a default of this agreement.
- l) **Installation and Maintenance:** Customer shall at his own expense install and maintain Customer's equipment. Installation shall be performed in a neat and workmanlike manner and shall conform in all respects to the fire, safety and construction standards applicable to such installations and equipment. Customer shall install said equipment, antennas and coaxial lines in the specific location and manner specified by Company. Further, it shall not interfere with the use of the site, improvements, and surrounding property or with the operation of radios or other equipment.
- m) **Equipment Modifications:** In the event of fire, theft, acts of God, building construction, interference with existing and/or future customers, or any other reason that facilitates good building management, Customer is hereby notified that he is responsible to relocate equipment, antennas and coaxial lines and/or install interference filtering equipment upon notice. These modifications will be performed within 30 days of notice and will be performed at Customer's expense. Company cannot guarantee that such modifications will not degrade the system performance. Company shall not be liable for Customer's loss of use of the site, personnel, radio equipment or consequential damages as a result of such modifications.
- n) **Transfer:** In the event that any State, local or Federal governmental agency causes the site to become unavailable, Company shall have the option to make another similar site available, and such modification of site shall not affect the obligation of Customer.
- o) **Termination:** In the event of termination of this agreement, Customer agrees to remove its equipment, antennas and coaxial lines within 30 days.
- p) **Default:** If Customer refuses to allow Company to perform or through any act causes Company to be unable to perform or in the event that any payment remains unpaid for a period of 30 days after becoming due, or in the event that Customer is delinquent in any payments, if Customer makes an assignment for the benefit of creditors, becomes insolvent or becomes involuntarily or voluntarily bankrupt, or otherwise in default or in violation of any term or provision of this agreement, and fails to correct such default within five (5) days of written notice by Company, Company may declare the entire unpaid balance immediately due and payable with interest thereon at the maximum legal rate. In the event that Customer is in default of any term or condition therein, Company may within five days after mailing notice thereof, discontinue Customer's access to the site, disconnect electrical power and otherwise prevent its use until Customer cures the default, reimburses Company for its costs of collection, and pays Company a re-connection charge. In the event that payment remains unpaid for a period of 45 days after becoming due, Company may disconnect Customer's access to the site without notice. Such disconnection shall not cause a reduction in the amounts due under this agreement. In the event suit is brought to enforce any of the terms or provisions hereof, the prevailing party shall be entitled to reasonable attorney's fees and court costs.
- q) **Late Charges:** In the event any payment due hereunder shall remain unpaid for a period of thirty days or more after the due date of such payment, Company shall be entitled to late charges in an amount equivalent to 2 percent per month for each and every month or portion thereof that such payment remains unpaid.
- r) **Notice Provision:** Customer promises to notify Company in writing of each and every failure on the part of Company or site by certified mail, return receipt requested, not later than 48 hours after the occurrence of such failure. Customer also agrees to inform Company of all changes of address, telephone, ownership, contact personnel, location of base station, or company structure within 10 days after said change.
- s) **Assignment:** Should Customer be unable to make further use of the site and shall actually cease making use thereof, as a result of such inability, Customer shall be entitled to assign his rights and obligations hereunder with the express written permission of Company, provided, however, that the assignee shall be subject to the acceptance of Company, which acceptance Company will not unreasonably withhold. Upon assumption of the rights and obligations hereunder by said assignee, Customer and the persons signing this agreement on behalf of Customer shall remain liable for the assignee's performance hereunder. Company reserves the right to assign its rights and obligations hereunder.
- t) **Paragraph Headings:** The headings of the paragraphs herein are contained for reference and convenience only and should not be interpreted in connection with the actual provisions hereof.
- u) **Additional Charges:** Company will render additional billings for the following reasons: (1) License preparation for renewals, modifications, assignments, additions and deletions. (2) Investigation and/or repairing communications problems that are not created by a defect in the Company's site including but not limited to co-user interference, channel crowding and failures of Customer's equipment. (3) The FCC, the U.S. Forest Service, any public utility, any frequency coordinator or any other agency requires any fees and/or deposits in connection with the use of the site. Customer agrees to pay all the above fees and/or deposits upon notice.
- v) **Rate Adjustments:** The rates in this agreement may be adjusted once each year due to cost increases beyond the control of Company. Should this occur, Company must give Customer 60 days written notice of its intention to adjust said rates. This agreement may also be adjusted once each year to compensate for corresponding increases in the consumer price index without notice to Customer.
- w) **Term:** This agreement shall be in effect for a period specified on the reverse side hereof and will be extended for additional yearly periods unless either party shall give written notice by certified mail (return receipt requested) to the other party of their intention not to extend the term of this agreement as least 60 days prior to the expiration of the initial term of this agreement or any extension thereof.
- x) **Misc. Provisions:** Time is of the essence in this agreement. The waiver of any term, provision or default shall not constitute the waiver of any other term, provision or default. This contract is made and is to be performed at the corporate offices of Company at Paramount, Ca. This contract shall be governed by the laws of the State of California. If any part of this agreement shall be adjudged contrary to law, the remaining provisions hereof shall remain in full force and effect. The masculine gender as used herein shall include the feminine and neuter.
- y) **Conversion:** Customer agrees to transfer FCC license to Company or its designee without any further consideration and allow Company to log on the Federal Communications Commission Universal Licensing System and sign for Customer to transfer the station from Customer to Company. Customer promises to provide Company immediately upon request, any and all additional documents, certifications, exhibits and/or attachments which may become necessary to effect the assignment. Customer further agrees to cooperate with Company in any way reasonably necessary to obtain consent from the FCC for transfer of the station from Customer to Company or its designee.

FUNDS AVAILABLE
FY20/21
AGREEMENT BETWEEN
THE LOS ANGELES HARBOR DEPARTMENT AND
MOBILE RELAY ASSOCIATES

Account#	59190	W.O. #	000
Ctr/Div#	412	Job Fac. #	000
Proj/Prog#	000		
Budget FY:		Amount:	
2020/2021		\$23,100	
2021/2022		\$46,662	
2022/2023		\$47,595	
2023/2024		\$48,547	
2024/2025		\$24,514	
TOTAL		\$190,418	
<u>For Acct/Budget Div. Use Only</u>			
Verified by:	<u>M. Ugaldes</u> Digitally signed by Melony Ugaldes Date: 2020.12.07 18:14:25 -08'00'		
Verified Funds Available:	<u>Frank Liu</u> Digitally signed by Frank Liu Date: 2020.12.08 11:58:53 -08'00'		
Date Approved:	<u>12/8/20</u>		