

Meeting Date
November 3, 2015



AGENDA	
Section	CONSENT
Item No.	<i>II. C. 3.</i>

AGENDA REPORT
BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

SUBJECT:	AUTHORIZATION FROM THE BOARD OF COUNTY COMMISSIONERS FOR A LEASE AMENDMENT PROVIDING EARLY TERMINATION OF THE 2012 CONTRACT FOR GROUND LEASE WITH DR. STOREY AND EXECUTION OF A BILL OF SALE.
DEPT/OFFICE:	EMERGENCY MANAGEMENT

Requested Action:

It is requested that the Board of County Commissioners authorize the Chairman to sign a lease amendment to the contract with Dr. Ben Storey, providing for termination of a ground lease in advance of the end date of the agreement, and to execute a Bill of Sale for decommissioned tower for a nominal fee of \$10, subject to approval by the County Attorney's Office.

Summary Explanation & Background:

The Board of County Commissioners have had an active ground lease agreement with Dr. Storey since 2006 for continued use of the designated property space located at 4066 Burkholm Road in Mims for a County-owned radio tower. The County's contract provides a quarterly rent for the space and is scheduled to end September 30, 2016. The initial rent was established at \$16,885.56 annually or \$4,221.39 quarterly with a 5% increase for each fiscal year the contract remains active. For this last fiscal year of the agreement, the annual expense would be \$19,547.12 or \$4,886.78 quarterly.

Over the past year, a new radio tower was constructed in Scottsmoor at 4950 Highway US 1 behind Fire Station 21, on County-owned property, and is now an active part of the Public Safety Radio Network, having had the North System cutover on August 19, 2015. The Mims site is no longer required by the network and is in the process of being deconstructed, with the old network equipment being removed. On April 13, 2015, Emergency Management sent a registered letter to Dr. Storey explaining the change of requirements for the network and advising that the October-December installment is intended to be the last payment. In previous discussions with Dr. Storey, he had expressed an interest in acquiring the County-owned tower at the soon-to-be-decommissioned site and the County Attorney's Office has recommended Emergency Management seek authorization from the Board for a lease amendment which will terminate the 2012 agreement in advance of the end date of September 30, 2016 and authorization to execute a Bill of Sale between Brevard County and Dr. Storey for the nominal amount of \$10.

Emergency Management has requested quotes from three tower companies for the site deconstruction, as the agreement requires, and the lowest quote received is in the amount of \$32,430. There would be a cost savings to the County of **\$47,080.34** to terminate the contract early and sell the site to property owner Dr. Storey.

Fiscal impact: Savings of \$47,080.34: \$14,660.34 for 9-month contract [\$4,886.78 quarterly (January 2016 to September 2016)], if the contract is not terminated in advance, plus \$32,430 to properly remove the tower and grounding equipment (generator and shelter) and to restore the location to its original condition, per the agreement.

Clerk to the Board Instructions:

Have Chairman sign three (3) copies of 1st Amendment & Bill of Sale & return to EM for Dr. Storey's signature. Need copy of Tammy gram for file.

Exhibits Attached: Copy of the 2012 Lease Agreement, copy of the registered letter sent to Dr. Storey, bill of sale, amendment to Mims Lease document and copy of the site decommissioning quotes from vendors

Contract /Agreement (If attached): Reviewed by County Attorney		Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	PR	<input type="checkbox"/>
County Manager		Assistant County Manager		Department Director / Extension Kimberly Prosser, Director 637-6670			
Stockton Whitten		Assistant County Manager Frank Abbate					



Tammy Etheridge, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001
Fax: (321) 264-6972

November 4, 2015

MEMORANDUM

TO: Kimberly Prosser, Emergency Management Office Director

RE: Item II.C.3., Authorization for Termination of a Ground Lease with Dr. Ben Storey in Advance of the End Date of the Agreement and Execute a Bill of Sale

The Board of County Commissioners, in regular session on November 3, 2015, authorized the Chairman to execute the approved Lease Amendment to the Contract with Dr. Ben Story, providing for termination of a Ground Lease in advance of the end date of the Agreement; and authorized the Chairman to execute the approved Bill of Sale for decommissioned tower for a nominal fee of \$10, subject to approval by the County Attorney. Enclosed are three executed Lease Amendments and three executed Bills of Sale for your action.

Upon execution by Dr. Ben Story, please return the fully-executed Lease Amendment and Bill of Sale to this office for inclusion in the official minutes.

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tammy Etheridge

Tammy Etheridge, Deputy Clerk

/ds

Encls. (6)

cc: Finance
Budget

RECEIVED

NOV 16 2015

BREVARD COUNTY
EMERGENCY MANAGEMENT

BILL OF SALE

THAT, for and in consideration of the sum of Ten Dollars (\$10.00), and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Board of **County Commissioners of Brevard County, Florida** ("Seller"), hereby sells, transfers, conveys, assigns and delivers to **Dr. Ben C. Storey, M.D.**, ("Buyer"), to have and to hold for its own use and benefit forever, and Buyer hereby purchases, accepts and acquires from Seller, all of Seller's right, title and interest in the furniture, fixtures, and equipment listed in Exhibit A (together, the "Personal Property") which is, as of the date hereof, located at 4234 Burkholm Road, Mims, Florida (the "Premises"). The Premises was previously leased by Buyer to Seller pursuant to that certain Mims Tower Lease Agreement dated October 1, 2012 (the "Lease") and the First Amendment to the Mims Tower Lease Agreement dated 1/10/15, 2015. The Lease has been terminated or will be terminated by Buyer and Seller pursuant to the First Amendment.

Buyer acknowledges and agrees that notwithstanding anything in the Lease to the contrary, including, without limitation, any obligation on the part of Seller to remove the Personal Property from the Premises and restore the Premises to its original condition upon the expiration or termination of the Lease, Buyer and Seller have agreed that the Personal Property shall remain at the Premises. Accordingly, Seller shall have no obligation to remove the Personal Property or otherwise restore the areas of the Premises within which the Personal Property is located. Buyer hereby accepts the Seller's surrender of the Premises in the condition as it exists as of the date hereof.

As of the date hereof, Seller represents to Buyer that (i) Seller is the owner of the full legal and beneficial title to the Personal Property, (ii) Seller has the good and lawful right to sell the Personal Property, and (iii) that good and marketable title to the Personal Property is hereby vested in Buyer.

Buyer acknowledges that the Personal Property (including associated supplies) may be regulated under laws relating to the protection of human health and the environment. Buyer

further acknowledges that it is the Buyer's responsibility to comply with all applicable government requirements and to take all steps necessary to protect himself and others who may be exposed to the regulated components of the Personal Property. Buyer acknowledges that the Personal Property may be regulated for many reasons including, but not limited to:

- (a) The Personal Property may have associated registration, permit, license, certification, reporting, closure, notification and/or other requirements in order to maintain, operate, service, remove, relocate, remove and/or dispose of the Personal Property;
- (b) The Personal Property may contain or operate with chemicals or components that contain materials or substances that are deemed toxic and/or hazardous under a Federal, State or local law and which may have the potential to cause injury to personnel and/or the environment;
- (c) The Personal Property may have the potential for causing harm if operated or maintained improperly or without taking appropriate safety precautions; and/or
- (d) The Personal Property may also be subject to other regulatory requirements.

It is possible that other types of regulated materials are being transferred to Buyer in connection with the Personal Property, and it is Buyer's responsibility to determine any and all regulatory requirements associated with such materials and to comply with any and all such requirements.

If any of the regulated Personal Property requires permits, registrations or other notifications and/or actions by or to the government (collectively, "Regulatory Requirements"), then Buyer agrees that it shall, within the time period allowed by law but in any case not more than thirty (30) days, file any and all documentation (and pay any fees) necessary to meet the

applicable Regulatory Requirements and this shall include all actions necessary to assure that Buyer, and not Seller, is named as the owner of and person responsible for such Personal Property. Buyer hereby accepts the assignment of any Regulatory Requirements related to the Personal Property as of the date hereof or as soon after the date hereof as is permitted by the applicable governmental regulations and laws. In the event that the assignment of the Regulatory Requirements to Buyer does not become effective as of the date hereof, Buyer shall indemnify and hold harmless Seller from any liability relating to the Regulatory Requirements from and after the date hereof, including, without limitation, any penalties for non-compliance with the Regulatory Requirements.

The Personal Property is not new, and Buyer acknowledges and agrees that Seller and Seller's employees, agents and representatives have not made any express or implied representations, statements, or inducements about the condition of the Personal Property or the uses or operation thereof. Without limiting the foregoing, this Bill of Sale contains all agreements, promises or understandings between Seller and Buyer and Seller shall not be liable for or be bound by any oral or written statements or representations pertaining to the condition or use of the Personal Property, or any other information respecting same furnished by Seller or any employee, agent or representative of Seller or other person purportedly representing Seller unless made in writing and signed by the parties. Buyer has had the opportunity to independently examine the Personal Property and to satisfy itself of the condition of the Personal Property. Buyer hereby accepts the Personal Property "AS IS" and at its own risk. To the extent allowed by law, from and after the date hereof, Buyer agrees to indemnify and hold Seller and its agents, and employees harmless from any and all liability in connection with the transfer, ownership, operation, maintenance and all use of the Personal Property, including, but not limited to, claims arising out of the compliance status of the Personal Property, exposures to hazardous substances and, if applicable, the ultimate disposal of the Personal Property by Buyer. Except as may be required by law, **SELLER DISCLAIMS ALL WARRANTIES FOR THE PERSONAL PROPERTY WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES THAT THE PERSONAL PROPERTY IS MERCHANTABLE OR FIT FOR ANY PARTICULAR PURPOSE.**

This Bill of Sale shall inure to the benefit of Buyer, its successors and assigns.

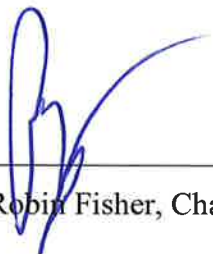
IN WITNESS WHEREOF, the parties have caused this Bill of Sale to be executed and delivered this 3rd day of Nov., 2015

SELLER:


BUYER:

**BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY**

By: _____


Robin Fisher, Chairman

By: _____


Dr. Ben C. Storey, M.D.

Date: _____

November 3, 2015

Date: _____

12-23-15

ATTEST:



Scott Ellis, Clerk of Court

AS APPROVED BY THE BOARD 11/3/15

EXHIBIT A

THE PERSONAL PROPERTY

A 140' Self-Supporting Communications Tower (the "Tower") and its support base, without any antennas, coaxial cables and other communications equipment installed on the Tower.

*We will keep the County property "as is"
in its entirety.*

Bevo Hursey

First Amendment to Mims Tower Lease Agreement

THIS FIRST AMENDMENT (the "Amendment") to the Mims Tower Lease Agreement (the "Lease") is made and entered into on the 3 day of November 2015, by and between the BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS (hereinafter referred to as "Lessee") and DR. BEN C. STOREY, M.D., whose address is 4234 Burkholm Road, Mims, Florida 32754 (hereinafter referred to as "Lessor"). Lessee and Lessor are collectively referred to herein as the "Parties".

RECITALS

A. Lessor is the owner of certain real property located at 4066 Burkholm Road, Mims, Florida 32754 (hereinafter referred to as the "Leased Premises"). A self-supporting communications tower is currently located on the Leased Premises (hereinafter referred to as the "Mims Tower"). The Mims Tower is located at Latitude 28 degrees 43' 28" N/Longitude 80 degrees 52' 33" W.

B. Lessee currently owns, operates and maintains the Mims Tower for the placement of communications antennas and receivers. The Mims Tower is currently operated on the Leased Premises pursuant to that certain Lease Agreement dated October 1, 2012, by and between the Lessor and Brevard County Board of County Commissioners, as Lessee, incorporated herein by this reference.

C. The Lessee has notified the Lessor via registered letter on April 13, 2015 that due to recent network enhancements in the County 800 MHz Radio Network, the equipment located at the Mims Tower Site will no longer be needed by the County 800 MHz Radio Network. Therefore, the site can be vacated in advance of the original termination date of September 30, 2016 and site needs to be decommissioned according to the Lease.

D. The Parties desire to amend the Lease to change the termination date to December 31, 2015.

NOW, THEREFORE, in consideration of the above recitals and the mutual covenants and agreements herein set forth, Lessor and Lessee agree and covenant as follows:

A. Paragraph 4(a) **Term and Renewal/Initial Term** is amended to read: “The parties agree the initial term of this Lease shall commence on October 1, 2012, (the Commencement Date”), and end on December 31, 2015.”

B. The Lessee will officially vacate the premises no later than December 31, 2015 and will pay the Lessor the quarterly payment of \$4,886.78 as the final installment in the Lease.

C. The Lessor has expressed an interest in acquiring some of the County-owned site equipment located at the Mims Tower Site in response to the County’s official notification regarding the renewal status of the current Lease for Fiscal 2016. Specifically discussed for possible acquisition by the Lessor include the existing tower structure (“as is”) and its support base (“as is”). The other County-owned property will be removed as originally planned and the existing FP&L electrical service connection will be discontinued by the County.

D. A final disposition of selected County-owned equipment at the MIMS TOWER to include a Bill of Sale listing of the specific property transferred to the Lessor effective as of the amended Lease termination date. A draft Bill of Sale is attached to this Amendment as Exhibit “A”.


E. All other terms and conditions of the Lease not inconsistent with the provisions of this Amendment shall remain in full force and effect.

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IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed in their respective names by their duly authorized representatives as of the day and year first above written.

ATTEST:

BOARD OF COUNTY COMMISSIONERS OF
BREVARD COUNTY, FLORIDA



Scott Ellis, Clerk

By: 

Chairman,

Date: November 3, 2015

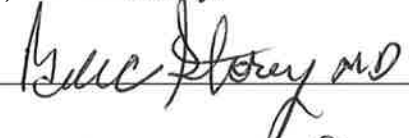
Reviewed for legal form and content by:



Christine Lepore, Assistant County Attorney

As approved by Board on: 11/3/15

Contractor, Dr. Ben Storey:



Signature
Ben C. Storey, Owner

Name & Title, Typed or Printed

Date: 12/15/15

First Amendment to Mims Tower Lease Agreement

THIS FIRST AMENDMENT (the "Amendment") to the Mims Tower Lease Agreement (the "Lease") is made and entered into on the 3 day of November 2015, by and between the BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS (hereinafter referred to as "Lessee") and DR. BEN C. STOREY, M.D., whose address is 4234 Burkholm Road, Mims, Florida 32754 (hereinafter referred to as "Lessor"). Lessee and Lessor are collectively referred to herein as the "Parties".

RECITALS

A. Lessor is the owner of certain real property located at 4066 Burkholm Road, Mims, Florida 32754 (hereinafter referred to as the "Leased Premises"). A self-supporting communications tower is currently located on the Leased Premises (hereinafter referred to as the "Mims Tower"). The Mims Tower is located at Latitude 28 degrees 43' 28" N/Longitude 80 degrees 52' 33" W.

B. Lessee currently owns, operates and maintains the Mims Tower for the placement of communications antennas and receivers. The Mims Tower is currently operated on the Leased Premises pursuant to that certain Lease Agreement dated October 1, 2012, by and between the Lessor and Brevard County Board of County Commissioners, as Lessee, incorporated herein by this reference.

C. The Lessee has notified the Lessor via registered letter on April 13, 2015 that due to recent network enhancements in the County 800 MHz Radio Network, the equipment located at the Mims Tower Site will no longer be needed by the County 800 MHz Radio Network. Therefore, the site can be vacated in advance of the original termination date of September 30, 2016 and site needs to be decommissioned according to the Lease.

D. The Parties desire to amend the Lease to change the termination date to December 31, 2015.

NOW, THEREFORE, in consideration of the above recitals and the mutual covenants and agreements herein set forth, Lessor and Lessee agree and covenant as follows:

A. Paragraph 4(a) **Term and Renewal/Initial Term** is amended to read: “The parties agree the initial term of this Lease shall commence on October 1, 2012, (the Commencement Date”), and end on December 31, 2015.”

B. The Lessee will officially vacate the premises no later than December 31, 2015 and will pay the Lessor the quarterly payment of \$4,886.78 as the final installment in the Lease.

C. The Lessor has expressed an interest in acquiring some of the County-owned site equipment located at the Mims Tower Site in response to the County’s official notification regarding the renewal status of the current Lease for Fiscal 2016. Specifically discussed for possible acquisition by the Lessor include the existing tower structure (“as is”) and its support base (“as is”). The other County-owned property will be removed as originally planned and the existing FP&L electrical service connection will be discontinued by the County.

D. A final disposition of selected County-owned equipment at the MIMS TOWER to include a Bill of Sale listing of the specific property transferred to the Lessor effective as of the amended Lease termination date. A draft Bill of Sale is attached to this Amendment as Exhibit “A”.


E. All other terms and conditions of the Lease not inconsistent with the provisions of this Amendment shall remain in full force and effect.

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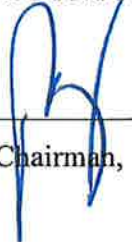
IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed in their respective names by their duly authorized representatives as of the day and year first above written.

ATTEST:

BOARD OF COUNTY COMMISSIONERS OF
BREVARD COUNTY, FLORIDA



Scott Ellis, Clerk

By: 

Chairman,

Date: November 3, 2015

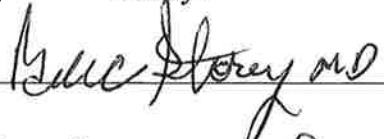
Reviewed for legal form and content by:



Christine Lepore, Assistant County Attorney

As approved by Board on: 11/3/15

Contractor, Dr. Ben Storey:



Signature

Ben C. Storey, Owner

Name & Title, Typed or Printed

Date: 12/15/15



BOARD OF COUNTY COMMISSIONERS

Emergency Management
1746 Cedar Street
Rockledge, FL 32955

April 13, 2015

Dr. Ben C. Storey
4234 Burkholm Road
Mims, FL 32754

Re: Ground Lease – Mims Tower Site – **REGISTERED LETTER**

Dear Dr. Storey:

As you know, October 2015-September 2016 is the last year of the previously agreed upon renewal period for the ground lease at your Mims property. However, due to recent infrastructure changes to the County 800 MHz Public Safety Network, Emergency Management proposes to vacate your property no later than mid-November. Therefore we will not be requesting an additional year's renewal of the ground lease. Per the contract Section 4(b), this letter should be considered our six month advance written notice that we intend to vacate the site and relinquish the current lease.

As a consequence of Brevard County vacating your property earlier than originally planned, we will be forwarding to you the first quarter's installment of \$4,886.78 for the time frame of October-December 2015. This final lease payment should provide for our continued use of the property during that time in order to make the necessary preparations to decommission the site. If you are interested in acquiring some of the County property currently installed at the location, please contact Lizzet Ruiz, Public Safety Radio System Manager, at 321-637-4074 or Lizzet.Ruiz@brevardcounty.us.

If you have any questions, please do not hesitate to contact us.

Sincerely,

Kimberly Prosser
Director

KP: lm

**BREVARD COUNTY
BOARD OF COUNTY COMMISSIONERS**

INITIAL CONTRACT FORM

SECTION I

The following information must be completed on all new contracts submitted to the Board.

1. Contractor: <u>DR. BEN STOREY</u>	
2. Fund/Account #: <u>1382 / 285700</u>	Department Name: <u>EMERGENCY MANAGEMENT</u>
4. Contract Description: <u>LEASE FOR MIMS TOWER SITE</u>	
5. Contract Monitor: <u>LISA MORGAN</u>	6. Mail Stop #: <u>53</u>
7. Dept./Office Director: <u>KIMBERLY PROSSER</u>	8. Contract Type: <u>LEASE</u>
ACTION DATE: <u>30 days from entry</u>	ACTION REQUIREMENT: <u>Need complete data</u>

SECTION II

The following departments must approve all contracts submitted to the Board:

<u>COUNTY OFFICE</u>	<u>APPROVAL</u>		<u>INITIALS</u>	<u>DATE</u>
	<u>YES</u>	<u>NO</u>		
User Agency	<u>✓</u>	<u>_____</u>	<u>kp</u>	<u>10-8-15</u>
Risk Management	<u>✓</u>	<u>_____</u>	<u>ak</u>	<u>10-13-15</u>
County Attorney	<u>_____</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>

If any office denies approval, the package will be returned immediately to the User Agency.

NOTE: This form should be attached to all new contracts being submitted to the Board for approval. After the contract has been approved, the contract package, including this form, will go to the Clerk to the Board. The Clerk's office will return the Initial Contract Form to department for contract to be entered into the Contract Management System. See AO-29 for additional information.

AO-29: EXHIBIT I



MIMS TOWER LEASE AGREEMENT

THIS LEASE AGREEMENT (the "Lease") is made and entered into this 1 day of Oct, 2012, by and between BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS (hereinafter referred to as "Lessee") and DR. BEN C. STOREY, M.D., whose address is 4234 Burkholm Road, Mims, Florida 32754 (hereinafter referred to as "Lessor"). Lessee and Lessor are sometimes collectively referred to herein as the "Parties".

RECITALS

A. Lessor is the owner of certain real property located at 4066 Burkholm Road, Mims, Florida, 32754 (hereinafter referred to as the "Leased Premises"). A self-supporting communications tower is currently located on the Leased Premises (hereinafter referred to as the "Mims Tower"). The Mims Tower is located at Latitude 28 degrees 43' 28" N / Longitude 80 degrees 52' 33" W.

B. Lessee currently owns, operates and maintains the Mims Tower for the placement of communication antennas and receivers. The Mims Tower is currently operated on the Leased Premises pursuant to that certain Lease Agreement dated March 21, 2006, by and between the Lessor and Brevard County Board of County Commissioners, as Lessee.

C. The Parties desire to enter into a new Lease Agreement concerning the continued operation and maintenance of the Mims Tower on the Leased Premises.

WITNESSETH

In consideration of the mutual covenants and agreements herein set forth, Lessor and Lessee agree and covenant as follows:

1. **Recitals.** The Parties acknowledge and agree that the recitals set forth above are true and correct and by this reference are hereby incorporated into this Lease and made a part hereof.

2. **Leased Premises.** Subject to the terms and conditions set forth in this Lease, the Lessor does hereby lease, demise, grant, and let to Lessee, an exclusive lease to operate, maintain and repair, at Lessee's sole cost, risk, and expense, the Mims Tower on the Leased Premises, together with the absolute right to access the Mims Tower at any time for purposes of operating, maintaining, and repairing the Mims Tower. Leased premises are further described as Lot 1, Block 2, Indian River Park Subdivision, Plat Book 2, Page 33, Section 21, Township 20 G, Range 34.

The Lessor also grants Lessee an easement to access to the tower location through surrounding property owned by Lessor as has been allowed in the past. The Lessee shall maintain the access from the public street, Burkholm Road, to the tower free of overgrowth such that the Lessee can access the tower site without difficulty. If Lessor sells/leases the subject property through which access has been allowed, the Lessor shall sell/lease said property subject to the Lessee's easement pursuant to this Lease.

3. **Condition of the Leased Premises.** Lessee accepts the Leased Premises "as-is", subject to maintenance of the access roadway from the public to the tower. Lessee acknowledges that Lessor

has made no representations or warranties relating to the suitability of the Leased Premises for any particular use.

4. Term and Renewal.

(a) **Initial Term.** The parties agree the initial term of this Lease shall be for a period of four (4) years commencing October 1, 2012, (the "Commencement Date"), and ending on September 30, 2016.

(b) **Renewal Term.** Provided that Lessee is not in default of any material provisions of this Lease, Lessee may, at its option, renew or extend the Lease for five (5) additional periods of one (1) year each, upon the same terms, covenants, and conditions as set forth in this Lease Agreement.

After the initial two (2) year term of this Lease, however, either party may terminate this Lease upon providing six (6) months advance written notice to the other party of the intent to terminate the use at the end of six (6) months.

5. Rent.

(a) **Calculation of Rent.** The rent payable by Lessee to Lessor during the first year of the initial four (4) year term of this Lease shall be Sixteen Thousand Eight Hundred Eighty Five Dollars and 56/100 (\$16,885.56) annually (\$4,221.39 quarterly) beginning with the Commencement Date. The rent shall be payable on a quarterly basis at the beginning of each quarter of this Lease with the exception that the payment of the first quarter under this Lease shall be due within 30 days of the execution the Board's execution of the Lease. The quarterly rent payable by the Lessee shall increase by five percent (5%) for each new County fiscal year (the County fiscal year begins on October 1). For example, as of October 1, 2013, and continuing until September 30, 2014, the rent payable by the Lessee shall be Four Thousand Four Hundred Thirty Two Dollars and 46/100 (\$4,432.46) quarterly.

(b) **Subleasing.** In addition to the rental amounts as set forth in (a) above, Lessor shall receive the amount of twenty percent (20%) of any gross receipts from income received by the Lessee as a result of Lessee's leasing to one or more third parties space on Lessee's tower situated on the premises, provided that if Lessor identifies a potential sublease that is approved by the Lessee, the Lessor shall receive the amount of forty percent (40%) of any gross receipts,.

(c) **Delinquent Rent.** Any installment of rent, or other amounts due from Lessee under this Lease, that is not received within thirty (30) business days after it is due, shall accrue interest from the date when the same was due until paid by Lessee at the interest rate of ten percent (10%) per annum. Provided, however, that this provision concerning delinquent rent shall not apply to any rent due between the Commencement Date and thirty (30) days after the date that this Lease becomes effective and binding,

6. Risk of Loss. Lessee assumes all risks in connection with the subject property, including but not limited to the operation, maintenance and use of the Mims Tower located on the Leased Premises, and such structural enhancement, if any, of the Mims Tower as is undertaken by Lessee or on Lessee's behalf,

7. Compliance with Laws. Lessee shall comply with all present and future laws,

regulations, and requirements of all federal, state, and local governments and their agencies as they relate to the use, operation, maintenance, repair, replacement, and occupancy of the Mims Tower and its communications system, as the case may be. Without limiting the foregoing, Lessee shall at all times use, operate, maintain, repair, and replace its property located on or around the Mims Tower in accordance with the FCC requirements,

8. **Maintenance.** Lessee shall be responsible for the maintenance and upkeep of the Mims Tower and all of the Lessee's associated communications equipment located on or about the Leased Premises, and Lessee shall also be solely responsible for all repairs to the Leased Premises required as a result of the negligent or intentional acts or omissions of Lessee. Except as otherwise provided herein, Lessee shall have no obligations with respect to the maintenance and upkeep of the Leased Premises.

9. **Use.**

(a) **Use.** The Leased Premises shall be used and occupied by Lessee in conjunction with its operation and maintenance of the Mims Tower in furtherance of its mission in operating the 800 MHz radio system for the public safety, health, and welfare. The Lessee shall be allowed to upgrade generators (including a small structure to protect the generator) that service the tower. The Lessee will comply with any applicable federal, state, or local codes in the use of the premises.

(b) **Suitability.** Lessee acknowledges that neither Lessor nor any agent of Lessor has made any representation or warranty with respect to the Leased Premises or with respect to the suitability of the Leased Premises for the conduct of Lessee's business, nor has Lessor agreed to undertake any modification, alteration or improvement to the Leased Premises. The taking of possession of the Leased Premises by Lessee shall conclusively establish that the Leased Premises were at such time in satisfactory condition.

(c) **Lessee's Acceptance.** Lessee accepts the Leased Premises in the condition they are in on the effective date of this Lease. Lessee hereby acknowledges that it has received the Leased Premises in a thoroughly good and tenantable order, safe condition, and repair of which the execution of this Lease, and Lessee's taking of possession hereunder shall be conclusive evidence.

(d) **Zoning and Occupational License.** Lessee shall be solely responsible for determining that the purpose for which it intends to use the Leased Premises is allowed under the current zoning and occupational license rules and regulations or other grandfathered under such rules and regulations. Lessor makes no representations as to the permissible uses under the applicable zoning and occupational license rules and regulations.

10. **Indemnification.** In consideration for the mutual promises and consideration set forth in this Lease, the receipt and sufficiency of which are hereby acknowledged, Lessor agrees that he shall fully indemnify, defend, and hold Lessee, its agents, and employees harmless from and against all claims, damages, losses and expenses, including attorney's fees, arising out of or as a result of any act occurring on the Leased Premises, where such claim, damage, loss, or expenses is caused by the sole negligence of anyone for whose act the Lessor may be liable. Likewise, the Lessee agrees it shall fully indemnify, defend and hold Lessor harmless from and against all claims, damages, losses, and

expenses, including attorney's fees, arising out of or as a result of any act occurring on the Leased Premises, where such claim, damage, loss, or expense is caused by the sole negligence of the Lessee, its officers, agents, or employees or anyone for whose acts any of them may be liable.

11. **Taxes.** Lessor shall pay all real property taxes, assessments and deferred taxes on the property.

12. **Assignment.** Neither party may assign any portion of the Lease, or any of its rights hereunder, without the written permission of the other party, which may be unreasonably withheld.

13. **Authorized Signatures.** This Lease will become effective and binding only when it has been signed by an authorized representative of the Lessee and Lessor. The authorized representative signing on behalf of each party represents that he/she is authorized to enter into this Lease on behalf of the party represented.

14. **Venue.** The Parties agree that any action or suit brought to interpret or enforce any provision of this Lease shall be brought exclusively in the appropriate state court having venue in Brevard County, Florida, and acknowledge that this provision was bargained for.

15. **Governing Law.** This Lease shall be construed in accordance with the laws of the State of Florida and Brevard County Code of Ordinances.

16. **Entire Agreement.** This Lease constitutes the entire agreement between the Parties and supersedes all prior offers, negotiations and agreements.

17. **Construction of Agreement.** This Lease has been drafted and prepared by Lessee's attorney as a convenience, and the Parties have read and negotiated all of the language of this Lease. The Parties acknowledge and agree that, because both Parties participated in the negotiating and drafting of this Lease, no rule of construction shall apply to this Lease which construes any language, whether ambiguous, unclear or otherwise, in favor of or against any party by reason of that party's role in drafting this Lease.

18. **Headings.** Headings contained in this Lease are for convenience and shall not be construed to amplify, relate, modify, or otherwise affect any of the terms, provisions and conditions of this Lease.

19. **Attorney's Fees.** In any action at law or in equity arising hereunder, each party shall bear its own attorney's fees and costs.

20. **Notices.** Any notices or communications required or permitted to be given pursuant to this Lease shall be in writing and shall be deemed delivered by one party to another party when personally delivered to them or placed in a depository under the control of the United States Postal Service, and mailed by certified or registered mail, return receipt requested, postage prepaid, addressed to:

If to Lessee:

Brevard County Board of County Commissioners
Office of the Brevard County Manager
2725 Judge Fran Jamieson Way
Viera, Florida 32940

With a copy to:

Brevard County Emergency Management Director
Office of Emergency Management
1746 Cedar Street
Rockledge, Florida 32955

If to Lessor:

Dr. Ben C. Storey, M.D.
4234 Burkholm Road
Mims, Florida 32754

or such other address as shall have been furnished in writing to all of the Parties in a like manner. Refusal of the mailing by any party shall be deemed to be received in writing for purposes of this Lease.

21. **Termination.** Notwithstanding any provisions contained in this Lease to the contrary, Lessee may terminate this Lease in the event of a breach of this Lease by Lessor, but such termination shall not preclude Lessee from pursuing any and all remedies otherwise available under the law resulting from any such breach. Likewise, Lessor may terminate this Lease in the event of a breach of the Lease by the Lessee, but such termination shall not preclude Lessor from pursuing any and all remedies otherwise available under the law resulting from any such breach.

22. **Removal of Tower.** At the conclusion of the term of this Lease, including any renewals exercised by the Lessee, or upon termination of this Lease, the Lessee shall, within sixty (60) days, remove the tower structure, any antennas, or other structures placed upon the tower, any cabinets, structures, or generators used to support the tower, guy wires, etc.. The Lessee shall be required to remove the concrete base to a reasonable depth as required by the Lessor, and shall cover any remainder of the concrete base with dirt, soil, sand, or other surface materials compatible with the surrounding area.

23. **Savings Clause.** The invalidity or enforceability of any particular provision of this Lease shall not affect the other provisions, and this Lease shall be construed in all respects as if such invalid or unenforceable provision were omitted.

24. **No Waiver.** The failure of any of the Parties at any time to require performance of any provision of this Lease shall in no manner affect the right of such party at any later time to enforce or require the same unless waived in writing. No waiver by any party of any condition of breach shall be construed or deemed to be a waiver of any other condition or any other breach of any term, covenant or warranty contained in this Lease.

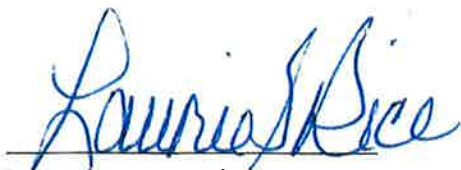
25. **Binding Effect.** Except as otherwise provided herein, the provisions of this Lease shall be binding upon and inure to the benefit of the Parties hereto, their successors and assigns.

26. **Amendments.** The Parties agree that no change or modification of this Lease shall be valid unless the same be in writing and signed by the Parties.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals on the day and year first above written.

ATTEST:

BOARD OF COUNTY COMMISSIONERS OF
BREVARD COUNTY, FLORIDA




Laurie S. Rice,
Chief Deputy Clerk

By: 

Commissioner Chuck Nelson, Chairman

Date: _____

Reviewed for legal form and
content:  10/12/12
(Assistant) County Attorney

As approved by the Board on: October 23, 2012

CONTRACTOR, Dr. Ben Storey

By: 
Signature

BEN C. STOREY
Name & Title, Typed or Printed

Date: Oct 1, 2012

KIRMS COMMUNICATIONS LLC

11844 Sandy Run Rd
Jupiter, FL 33478 US
harrykirms@hotmail.com

ESTIMATE

ADDRESS

Brevard County
Emergency Operations Center
1746 Cedar Street
Rockledge, FL 32955
Attn: Lisa, Morgan

ESTIMATE # 1266
DATE 07/15/2015
EXPIRATION DATE 08/15/2015

ACTIVITY	QTY	RATE	AMOUNT
Mims Tower- 4058 Burkham Road			
03	1	2,000.00	2,000.00
1. Mobilize			
03	1	3,550.00	3,550.00
2. Fence/rock removal			
03	1	4,525.00	4,525.00
3. Shelter/generator removal			
03	1	4,750.00	4,750.00
4. Building/generator pad removal			
03	1	5,250.00	5,250.00
5. Tower foundation removal			
03	1	1,250.00	1,250.00
6. Line and antenna removal			
03	1	5,630.00	5,630.00
7. Tower removal			
03	1	1,750.00	1,750.00
8. Electrical/grounding removal (all removed below grade)			
03	1	1,000.00	1,000.00
9. Fill dirt/grade			
03	1	500.00	500.00
10. Sod			
03	1	2,225.00	2,225.00
11. Disposal			

TOTAL**\$32,430.00**

Accepted By

Accepted Date



COMMUNICATIONS INTERNATIONAL

Indian River County, FL - Corporate Headquarters

4450 US Highway 1, Vero Beach, FL 32967

772-569-5355 Toll Free: 1-888-275-4244

Brevard County, FL

321-636-9885

Collier County, FL

941-430-3892

Hollywood, FL

954-967-4349

Lynchburg, VA

804-845-3170

Marianna, FL

850-482-3107

Miami, FL

305-885-1585

Princeton, NC

919-936-9937

Tampa, FL

813-887-1888

Tallahassee, FL

850-575-5004

Volusia County, FL

386-761-9999

Name: Brevard County PSRS
 Address: 1746 Cedar Street
 City, State: Rockledge, FL
 Zip: 32955

Attention: Lizzet Ruiz
 Phone: 321-637-4074
 Fax: 321-633-1738
 Date: August 25, 2015

Brevard County PSRS - Mims Site Decommissioning

Item	Qty	Model	Description	Unit Price	Total
1	1		De-stack tower, cut up and remove. Crush shelter and remove. Transport generator to Brevard. Remove shelter and generator pads. Cut tower foundation 1' below grade. Remove fence, remove conduit and grounds 1' below grade. Fill dirt and sod.	\$39,562.50	\$39,562.50

Note		Shipping & Handling
Purchase Order To: COMMUNICATIONS INT'L, INC. 4450 US Highway 1 Vero Beach, FL 32967 Fax: 772-567-2292		Sub Total \$39,562.50 Sales Tax TOTAL \$39,562.50 Deposit Balance Due \$39,562.50
All warranties are manufacturers' warranties		
All orders are subject to shipping & handling charges		
Presented by Title Prices in effect for Accepted By	Cem Oktar Project Manager 30 DAYS	Proposal # BC082515

COMSTRUCT SERVICES, INC.



Date: 7/6/2015


To: Brevard County - Public Safety Radio Systems
1746 Cedar Street
Rockledge, FL 32955
Attn: Lizzet Ruiz, Manager

Subject: Tower Demo
Site: Mims Tower - 4058 Burkhams Road

Mobilize	\$2,700.00
Fence/Rock Removal	\$3,624.00
Shelter/Generator Removal	\$3,320.00
Building/Generator Pad Removal	\$3,500.00
Tower Foundation Removal	\$7,300.00
Line and Antenna Removal	\$1,800.00
Tower Removal	\$9,840.00
Electrical/Grounding Removal (all removed below grade)	\$5,400.00
Fill Dirt/Grade	\$4,956.00
Sod	\$3,400.00
Disposal	\$1,620.00

Quote for the above Scope of Work: **\$47,460.00**

Should you have any questions please do not hesitate to contact me at mike.bigelow@comstructinc.com or 352-266-8421.

Signed: 
Michael A. Bigelow, President