



COUNTY COMMISSION

BALDWIN COUNTY
312 Courthouse Square, Suite 12
BAY MINETTE, ALABAMA 36507
(251) 937-0264
Fax (251) 580-2500
www.baldwincountyal.gov

MEMBERS
DISTRICT 1. JAMES E. BALL
2. JOE DAVIS, III
3. BILLIE JO UNDERWOOD
4. CHARLES F. GRUBER

August 19, 2021

Mr. Paul Mueller, Chairman
23171 McAuliffe Drive
Robertsdale, Alabama 36567

**RE: Real Estate Lease Agreement with Baldwin County E-911 Emergency
Communication District for Old E-911 Building in Robertsdale, Alabama**

Dear Mr. Mueller:

Please find enclosed a **fully executed original** *Real Estate Lease* between the Baldwin County Commission and the Baldwin County Emergency Communication District for the lease of the real property (old E-911 Building) located at 23130 McAuliffe Drive, Robertsdale, Alabama, 36567, which was approved during the August 3, 2021, Baldwin County Commission Regular meeting.

This *Real Estate Lease* shall be for a term of ninety-nine (99) years, commencing on September 1, 2021, and ending on August 31, 2120, unless terminated at an earlier date for any reason set forth in this *Lease*.

If you have any questions or need further assistance, please do not hesitate to contact me at (251) 937-9561 or Wayne Dyess, County Administrator, at (251) 580-2550.

Sincerely,

JAMES E. BALL, Vice Chairman
Baldwin County Commission

JEB/clc Item BA5

cc: JSmith@baldwin911.org
Cian Harrison
Eva Cutsinger
Christie Davis
Ron Cink
Wanda Gautney
Junius Long

ENCLOSURE(S)

REAL ESTATE LEASE

THIS AGREEMENT is made by and between the **BALDWIN COUNTY COMMISSION** ("Lessee") and the **BALDWIN COUNTY EMERGENCY COMMUNICATION DISTRICT** ("the Lessor").

WITNESSETH:

WHEREAS, Lessor is the owner of certain real property and facilities located at 23130 McAuliffe Drive, Robertsedale, Alabama 36567 ("Leased Premises");

WHEREAS, Lessor desires to move its operations from the Leased Premises to another property in Baldwin County, Alabama, located at 23171 McAuliffe Drive, Robertsedale, Alabama 36567 ("E-911 Facility"); and

WHEREAS, Lessee desires to use the Leased Premises in exchange for valuable consideration; and

WHEREAS, Lessor has a need for maintenance of the E-911 Facility and for improvements to the Leased Premises; and

WHEREAS, Lessor and Lessee have determined that it is desirable and that a public purpose will be served by leasing the Leased Premises to the Lessee.

NOW, THEREFORE, for and in consideration of the covenants and conditions herein to be kept, performed and observed, the parties agree as follows:

ARTICLE 1. DEMISE OF LEASED PREMISES

Description of Leased Premises

1.1 Lessor leases to Lessee, and Lessee rents and accepts from Lessor, the real property and facilities located at 23130 McAuliffe Drive, Robertsedale, Alabama, more particularly identified on Exhibit A attached hereto and incorporated herein by reference ("Leased Premises")

Land Subject to Liens, Encumbrances, and Other Conditions

1.2 This Lease and the Leased Land are subject to all present and future leases, liens, encumbrances, conditions, rights, easements, restrictions, rights of way, covenants, other matters of record, and zoning and building laws, ordinances, regulations, and codes affecting or governing the Leased Premises or that may affect and govern the Leased Premises after the execution of this Lease, and all matters that may be disclosed by inspection or survey.

ARTICLE 2. TERM AND RENT

Term of Lease

2.1 This Lease shall be for a term of ninety-nine (99) years ("Term"), commencing on the 1st day of September, 2021, and ending on the 31st day of August, 2120, unless terminated at an earlier date for any reason set forth in this Lease.

Holdover

2.2 If Lessee holds over after the expiration of the initial term of this lease agreement or any extensions thereof, then Lessee's tenancy shall be from month to month on all the terms and conditions as set forth in this Lease.

Consideration

2.3 Lessee's consideration to Lessor for this Lease shall be:

(a) the payment of the amount of One Dollar (\$1.00) per year, with the first payment being due on or before September 1, 2021 and each successive payment being due on the same date each year;

(b) grounds maintenance services for the E-911 Facility provided by or on behalf of Lessee for the benefit of Lessor for the Term of this lease;

(c) securing performance of remodeling and additions to the Leased Premises ("Identified Improvements") and payment of all associated architectural fees, construction costs, and additional expenses which are estimated to be approximately Three Hundred and Fifty Thousand Dollars (\$350,000.00); and,

(d) the payment of Sixteen Thousand Seven Hundred and Seventy-Eight Dollars (\$16,778.00) to Lessor for reimbursement of all verifiable utility costs incurred by Lessor between May 4, 2020 and May 5, 2021 for the Leased Premises.

ARTICLE 3. USE AND CONSTRUCTION OF IMPROVEMENTS

Primary Use

3.1 Lessee shall have the exclusive right to use the Leased Premises for any lawful purpose during the term of this Lease.

Construction of Buildings and Other Improvements

3.2 Lessee shall have the right to construct improvements or modifications ("Additional Improvements") on the Leased Premises beyond the Identified Improvements. Any Additional Improvements must be constructed at Lessee's sole cost and expense. All improvements will become property of Lessor.

ARTICLE 4. OPERATING COSTS AND IMPOSITIONS

Operating Costs

4.1 Lessee shall pay all "Operating Costs" and "Impositions" defined in Paragraphs 4.2 and 4.03, below, in connection with the Leased Premises.

Definition of Operating Costs

4.2 "Operating Costs" shall include, but shall not be limited to, all expenses paid or incurred in connection with the following activities:

- (1) Water, sewer, gas, electricity, fuel oil, and other utilities.
- (2) Landscaping.

- (3) Insurance.
- (4) Rubbish removal.
- (5) Supplies and sundries.
- (6) Insurance premiums.
- (7) Maintenance.
- (8) All other expenses, whether or not mentioned in this Lease, that are incurred with regard to operation of the Leased Premises, including any replacements if necessary for repairs and maintenance or otherwise.

Definition of Impositions

4.3 "Impositions" shall include all fines and levies that result from construction activities or the normal operation of the premises on the Leased Premises, all real estate property taxes, assessments, and other governmental charges that are laid, assessed, levied, or imposed on the Leased Premises and become due and payable during the Term of this Lease, or any lien that arises during the time of this Lease on the Leased Premises and Improvements, any portion of these, or the sidewalks or streets in front of or adjoining the Leased Premises and Improvements.

ARTICLE 5. LAWS AND GOVERNMENTAL REGULATIONS

Compliance With Legal Requirements

5.01 Lessee shall promptly comply with all laws and ordinances, and all orders, rules, regulations, and requirements of federal, state, and municipal governments and appropriate departments, commissions, boards, and officers of these governments ("Legal Requirements") throughout the Term of this Lease, and without cost to Lessor. Lessee shall promptly comply with these Legal Requirements whether they are foreseen or unforeseen, or ordinary or extraordinary.

ARTICLE 6. LIENS AND ENCUMBRANCES

Creation Not Allowed

6.1 Lessee shall not create, permit, or suffer any mechanics' or other liens or encumbrances on or affecting the Leased Premises or the fee estate or reversion of Lessor.

Lessor Not Liable for Labor, Services, or Materials Furnished to Lessee

6.2 Lessor shall not be liable for any labor, services, or materials furnished or to be furnished to Lessee in connection with any work performed on or at the Leased Premises.

ARTICLE 7. INSURANCE

Liability Insurance

7.1 At all times during the Term of this Lease, Lessee shall maintain, at its sole cost, comprehensive broad-form general public liability insurance against claims and liability for personal injury, death, and property damage arising from the use, occupancy, disuse, or condition of the Leased Premises. The insurance shall be maintained for the mutual benefit of Lessor and Lessee. The insurance policy or policies shall name both Lessor and Lessee as insureds.

Certificates of Insurance

7.2 Lessee shall furnish Lessor with certificates of all insurance required by this Article 7 upon request by Lessor. Lessor shall furnish Lessee with certificates of all insurance required by this Article 7 upon request by Lessee.

Indemnification of Lessor

7.3 Lessor shall not be liable for any loss, damage, or injury of any kind or character to any person or property arising from any use of the Leased Premises or Improvements, or caused by any defect in any building, structure, equipment, facility, or other improvement on the Leased Premises, or caused by or arising from any act or omission of Lessee, or any of its agents, employees, licensees, or invitees, or by or from any accident, fire, or other casualty on the land, or occasioned by the failure of Lessee to maintain the premises in safe condition. Lessee waives all claims and demands on its behalf against Lessor for any loss, damage, or injury, and agrees to indemnify and hold Lessor entirely free and harmless from all liability for any loss, damage, costs, or injury of other persons, and from all costs and expenses arising from any claims or demands of other persons concerning any loss, damage, or injury, caused other than by the negligent or intentional act or omission of Lessor.

Casualty Insurance

7.4 At all times during the Term of this Lease, Lessee shall maintain adequate casualty insurance covering the Leased Premises and any improvements. Lessee shall name Lessor as an Additional Insured and Loss Payee at all times during the term of this lease. Lessee shall furnish a certificate of insurance annually upon policy renewal to Lessor evidencing said coverage and designations. Lessee is solely responsible for casualty insurance covering any fixtures, furniture, or equipment.

ARTICLE 8. LEASE HOLD MORTGAGES

Leasehold Mortgages Not Permitted

8.1 Lessee shall not be permitted to mortgage Lessee's leasehold interest in the Leased Premises. Lessee agrees to subordinate any interest created by this lease to any indebtedness of the Lessor presently or hereinafter existing. This includes, without limitation, bond financing.

ARTICLE 9. DEFAULT

Events of Default

9.1 Lessee's failure to observe or perform or cause to be observed or performed any other term, covenant, or agreement under this Lease shall constitute a default under this Lease.

Notice of Election to Terminate Lessee's Possession

9.2 If any event creating default occurs, Lessor may elect to terminate Lessee's right of possession under this Lease. Upon termination, all of Lessee's rights, title, and interest in the Leased Premises shall expire completely and Lessee shall, within a reasonable time, quit and surrender the Leased Premises.

Lessor's Entry After Termination of Lessee's Possession

9.3 At any time after the termination of Lessee's right of possession under this Lease pursuant to Paragraph 9.2 of this Lease, Lessor may enter and possess the Leased Premises by summary proceedings, ejectment, or otherwise, and Lessor may remove Lessee and all other persons and property from the Leased Premises.

Costs Incurred Due to Breach

9.4 Lessee expressly agrees to pay all expenses that Lessor may incur for reasonable attorneys' fees, and all other costs paid or incurred by Lessor for enforcing the terms and provisions of this Lease, restoring the Leased Premises to good order and condition, and for maintaining the Leased Premises.

ARTICLE 10. EXPIRATION OF TERM

Lessee's Delivery of Possession After Termination or Expiration

10.1 On the expiration date of this Lease as set forth in Paragraph 2.1 of this Lease, or the termination of Lessee's possession under this Lease pursuant to Paragraph 9.3, or any entry or possession of the Leased Premises by Lessor pursuant to Paragraph 9.3 (collectively referred to as the "Expiration Date"), Lessee shall promptly quit and surrender the Leased Premises, and deliver to Lessor actual possession and ownership of the Leased Premises, and return the premises in good condition, wear and tear excepted.

Lessee's Removal of Movable Objects

10.2 Lessee shall have the right to remove from the Leased Premises and Improvements all movable fixtures, movable equipment, and articles of personal property used or procured for use in connection with the use of the Leased Premises on or before the Expiration Date, provided that Lessee shall promptly repair, or cause to be repaired, any damage resulting to the Leased Premises or Improvements by reason of this removal. Any fixtures, equipment, or articles of personal property of Lessee that remain at or on the Leased Premises after the Expiration Date shall be deemed to have been abandoned by Lessee, and may either be retained by Lessor as its property or disposed of by Lessor without accountability to Lessee for the value of these fixtures, equipment, or articles of personal property, or any proceeds derived from the sale of these items.

ARTICLE 11. GENERAL PROVISIONS

No Waiver of Breach by Lessor's Actions

11.1 The failure of Lessor to seek redress for violation of, or to insist on the strict performance of any covenant, agreement, term, provision, or condition of this Lease shall not constitute a waiver of the covenant, agreement, term, provision, or condition. The receipt by Lessor of rent with knowledge of the breach of any covenant, agreement, term, provision, or condition of this Lease shall not be deemed a waiver of that breach.

Waiver of Any Provision Must Be Written

11.2 No provision of this Lease shall be deemed to have been waived, unless the waiver is in writing and signed by the party against whom enforcement is sought. Each right and remedy of Lessor provided for in this Lease shall be cumulative and in addition to every other right or remedy provided for in this Lease, or now or later existing at law, in equity, by statute, or otherwise.

Entire Agreement

11.3 This Lease and the Exhibits annexed to this Lease contain the entire agreement between Lessor and Lessee, and any agreement made after the execution of this Lease between Lessor and Lessee shall be ineffective to change, modify, waive, release, discharge, terminate, or effect a surrender or abandonment of this Lease, in whole or in part, unless that agreement is in writing and signed by the party against whom enforcement is sought.

Notices

11.4 All notices and demands of any kind that either party may be required or may desire to give to the other in connection with this Lease must be given by registered or certified mail, return receipt requested, with postage fully prepaid, and addressed to the party to be served at the party's address as set forth below. Any notice shall be deemed received on first attempted delivery. Any party may change the address to which notices to that party are to be directed by notice given in the manner provided in this Paragraph 11.4.

Lessor: Paul Mueller
Chairman
Baldwin County Emergency Communication District
23171 McAuliffe Drive
Robertsdale, Alabama 36567

Lessee: Joe Davis, III
Chairman
Baldwin County Commission
312 Courthouse Square, Suite 12
Bay Minette, Alabama 36507

Lessor's Entry and Inspection of Premises

11.5 Lessor, or its agents or designees, shall have the right to enter the Leased Premises during reasonable business hours for inspection, or to complete any work that may be necessary because of Lessee's default under any of the terms, covenants, and conditions of this Lease continuing beyond the applicable periods of grace, or to exhibit the Leased Premises. Lessor operates a dispatch service and certain pieces of equipment used for those services may remain on the Leased Premises. When Lessor needs to access such equipment, Lessor may access the Leased Premises at any reasonable time and in any reasonably non-intrusive manner.

Partial Invalidity or Unenforceability

11.6 If any term, covenant, or condition of this Lease shall be invalid or unenforceable to any extent, the remainder of the terms, covenants, and conditions of this Lease shall remain in full force and effect and shall in no way be affected, impaired, or invalidated.

Individuals Benefitted by Lease

11.7 This Lease shall inure to the benefit of and be binding on Lessor and Lessee and their respective distributees, personal representatives, executors, successors, and assigns except as otherwise provided in this Lease.

No Agency

11.8 Nothing contained in this Agreement shall be deemed or construed by the parties or by any third person to create a relationship of principal and agent or of partnership or of joint venture or of any association between Lessee and Lessor, and neither the provisions contained in this

Agreement or any acts of the parties shall be deemed to create any relationship between Lessee and Lessor, other than the relationship of Lessor and Lessee.

ARTICLE 12. ASSIGNMENT AND SUBLETTING

12.01 Lessee will not assign this Lease in whole or in part, nor sublet all or any part of the Premises, nor license concessions or lease departments therein, without first obtaining the written consent of Lessor; provided however, that Lessee may assign its rights under this Lease to an operating subsidiary of Lessee without obtaining Lessor's consent.

ARTICLE 13. DISCLAIMER OF WARRANTIES

13.01 The execution by the Lessor and Lessee of this Agreement shall not be construed as a warranty or representation by the Lessor or by Lessee that the premises are fit and suitable for the use which Lessee intends to make or may make of the premises or for the installation of the proposed improvements. The Lessor hereby specifically disclaims any and all warranties whether express or implied.

[Signature page follows]

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

LESSOR:

BALDWIN EMERGENCY COMMUNICATIONS DISTRICT,

By: *Paul Mueller*
Paul Mueller, Chairman

STATE OF ALABAMA)

COUNTY OF BALDWIN)

I, Shelley A. Lubertozzi, a Notary Public in and for said County in said State, hereby certify that PAUL MUELLER, whose name as Chairman of the BALDWIN EMERGENCY COMMUNICATIONS DISTRICT, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of such instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said Baldwin County Emergency Communications District on the day the same bears date.


Given under my hand and seal this the 11th day of August, 2021.

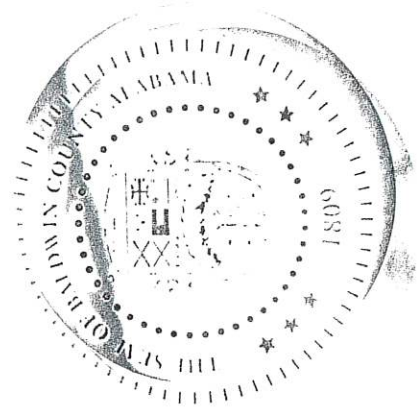
Shelley A. Lubertozzi
Notary Public
My Commission Expires: Jan 7, 2024



LESSEE:

BALDWIN COUNTY COMMISSION.

By: 
Joe Davis, III, Chairman
James E. Ball, Vice Chairman



STATE OF ALABAMA)

COUNTY OF BALDWIN)

I, Carietta Crook, a Notary Public in and for said County in said State, hereby certify that JOE DAVIS, III, whose name as ^{Vice} Chairman of the BALDWIN COUNTY COMMISSION, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of such instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said Baldwin County Commission on the day the same bears date.

Given under my hand and seal this the 17th day of August, 2021


Notary Public

My Commission Expires:

My Commission Expires:
• July 14, 2025 •

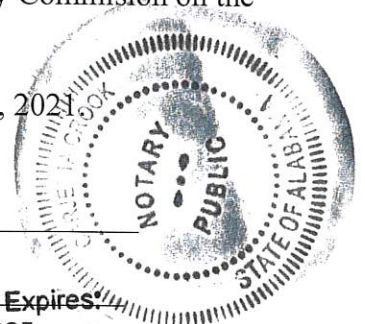


EXHIBIT A

LEGAL DESCRIPTION

Commence at the Southeast corner of the Southwest Quarter of Section 36, Township 5 South, Range 3 East as shown on plat of a survey by C. M. Arnold (Al. Reg. No. 12940) dated 11/8/83; run thence South 89 degrees 39 minutes 50 seconds West for 1333.2 feet to the Southwest corner of Robertsedale Industrial Park as shown on plat of survey by C. M. Arnold dated 11/8/83; run thence North 00 degrees 03 minutes 45 seconds East for 466.7 feet; run thence North 89 degrees 39 minutes 50 seconds East for 50.0 feet to the Point of Beginning; run thence North 00 degrees 03 minutes 45 seconds East for 466.7 feet; run thence North 89 degrees 39 minutes 50 seconds East for 466.7 feet; run thence South 00 degrees 03 minutes 45 seconds West for 466.7 feet; run thence South 89 degrees 39 minutes 50 seconds West for 466.7 feet to the Point of Beginning. Said land containing 5.0 acres and being in Section 36, Township 5 South, Range 3 East, Baldwin County, Alabama.

ALSO a right-of-way for a road described as follows: Commence at the Southeast corner of the Southwest Quarter of Section 36, Township 5 South, Range 3 East, as shown on plat of a survey by C. M. Arnold (Ala. Reg. No. 12940) dated 11/8/83; run thence South 89 degrees 39 minutes 50 seconds West for 1333.2 feet to the Southwest corner of Robertsedale Industrial Park as shown on plat of survey by C. M. Arnold dated 11/8/83; run thence North 00 degrees 03 minutes 45 seconds East for 466.7 feet to the Point of Beginning; run thence North 00 degrees 03 minutes 45 seconds East for 2037.39 feet to the South right-of-way of County Road No. 54; run thence North 89 degrees 24 minutes 40 seconds East along said South right-of-way for 50 feet; run thence South 00 degrees 03 minutes 45 seconds West for 2037.61 feet; run thence South 89 degrees 39 minutes 50 seconds West for 50 feet to the Point of Beginning. Said land containing 2.339 acres and being in Section 36, township 5 South, Range 3 East, Baldwin County, Alabama.