

COMMUNICATIONS SITE LICENSE AGREEMENT

WHEREAS, the Texas Parks and Wildlife Department (TPWD) is an agency of the State of Texas;

WHEREAS, the TPWD is responsible for the management and regulation of a number of the State's natural resources, including those found in Nueces County, including wildlife, aquatic life, and plants, and the enforcement of such regulations ("Services");

WHEREAS, Nueces County has Public Health and Welfare authority under Chapter 122 of the Texas Health & Safety Code;

WHEREAS, the TPWD provides these valuable services to Nueces County;

WHEREAS, the TPWD is seeking a communications site to place an antenna and ancillary equipment for purposes of providing Services;

WHEREAS, Nueces County has site space available and suitable for this purpose;

NOW THEREFORE, in consideration of the mutual promises, conditions, covenants and considerations passing between the parties hereto, it is understood and agreed by and between the parties to this Communications Site License Agreement as follows:

This Communications Site License Agreement (the "Site Agreement"), entered into as of the _____ day of _____, 2016 by and between **Nueces County**, having an address at **901 Leopard Street, Corpus Christi, Texas**, and TPWD, having an address at 4200 Smith School Road, Austin, Texas 78744.

Site agreement is for one (1) Base Radio with feed line and antenna, including any wires, generator(s), equipment, etc. necessary to carry out TPWD's operation of the radio tower ("Tower Equipment") on **Nueces County Courthouse** site located at **Nueces County, Texas** as designated by Nueces County, Latitude: **27° 47' 46" N** Longitude: **97° 23' 59" W** together with access thereto ("Site"). The Tower Equipment will be installed and maintained by and at the expense of the TPWD.

1. **TERMS:** The Term of this Site Agreement shall be for a period of five (5) years commencing on date of execution. This Agreement may be extended for subsequent five (5) year terms upon written agreement by both parties. However, either party has the right to terminate this Site Agreement at any time upon 30 days written notice to the other party.
2. **TITLE:** TPWD shall have no right, title or interest in the Site except the non-exclusive use thereof as expressly set forth in this Site Agreement.
3. **ELECTRICITY:** Nueces County will provide electricity at the Site at no cost to TPWD.

4. **PERMITS, LICENSES AND REGULATIONS:** TPWD agrees and understands that it is TPWD's responsibility to abide by all federal, state, and local rules and regulations pertaining to the operation of the Site and of TPWD's equipment, including without limitations, those pertaining to the installation, maintenance, height, location, use, operation, and removal of its equipment, antenna systems, and other alterations or improvements authorized herein. TPWD thereby represents that TPWD has obtained the necessary licenses and permits required to use said Site, or that TPWD will obtain said licenses or permits at TPWD's own expense, prior to any such use. Nueces County will provide TPWD a copy of the Antenna Structure Registration as provided to the Nueces County by the FCC.

5. **USE:** It is expressly agreed by TPWD that: (1) while using the Site, TPWD shall be responsible for proper operation and compliance with Federal Communication Commission ("FCC") rules; (2) TPWD hereby consents to the execution of agreement between Nueces County and other parties eligible to share the Site, whereby such parties may utilize and share said Site with TPWD; and (3) TPWD represents that it has independently ascertained that the Site is adequate and proper for TPWD's intended use and has entered into this Site Agreement based solely upon said independent investigation, and not by any representation by Nueces County.

TPWD will not increase the size of its Tower Equipment or alter the wind load or structural impact of its equipment upon the Courthouse structure without the prior written consent of Nueces County. TPWD will limit use of Tower Equipment to execution of its official duties.

6. **COVERAGE AND INTERFERENCE:** Nueces County makes no representations concerning the distance at which useable radio signals may be transmitted and received from the Site or location thereof. TPWD is hereby notified that the Site 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, inter-modulation, co-channel interference, and interference from users of the same or other radio frequencies.

TPWD shall be responsible for taking such reasonable steps as may be necessary to prevent any spurious radiation of objectionable interference with the broadcasting or transmission facilities of Nueces County or other users on the Site caused by TPWD. The determination of what is reasonable shall be within the sole discretion of TPWD. If TPWD has not taken corrective measures within three (3) business days after TPWD has been notified that its equipment is causing objectionable interference, then Nueces County may, in addition to its other rights or remedies, at its discretion: (1) disconnect power to TPWD's equipment and/or (2) take corrective action and charge TPWD for reasonable costs of labor and materials necessary to eliminate such interference and/or spurious radiation. If such objectionable interference or spurious radiation cannot be reduced to levels reasonably acceptable to Nueces County, Nueces County may elect to terminate this Site Agreement by giving TPWD

written notice. Nueces County or its designated representatives shall have the sole right initially and during the term of this Site Agreement, to (a) determine the location of the equipment on the Site, and (b) require TPWD to take whatever action is necessary to eliminate objectionable interference by TPWD's equipment with devices approved by Nueces County to minimize spurious radiation.

6.1 Nothing contained in this Site Agreement shall be deemed to entitle TPWD to the exclusive possession of any vertical span of space on the Site, it being the intention of the parties that the vertical span of space may be used by others at the direction of the Nueces County provided no objectionable interference is caused to TPWD's radio transmission activity. It is understood and agreed that Nueces County intends to and shall have the right to accommodate other transmitters and/or receivers at the Site, and in that connection it is understood and agreed that Nueces County shall have the right at any time during the term of this Site Agreement to locate the antenna or other equipment of other users within the same vertical space on the Site as TPWD may occupy, including the right to require the multiplexing or the transmission of other user(s) provided no objectionable interference is caused to TPWD's transmission activities thereby and, provided, further, that TPWD is not put to any cost in connection therewith. For purposes of this Site Agreement objectionable interference shall be deemed to exist if: (1) a determination to that effect is made by an authorized representative of the FCC, or (2) a condition exists which constitutes interference within the meaning of the provisions of the Rules and Regulations of the FCC at the time in effect, or (3) there is a material impairment of sound, picture, data or other transmission in any material portion of the protected service area of such activity as such area is or may be defined by the FCC at any hour during the period of operation of such activity, as compared with that which would be obtained if no other users were transmitting from the Site or had any equipment at the Site, or (4) a user is prevented from using or having access to its equipment at reasonable and usual times to an extent to which interferes to a material degree with the operation and maintenance thereof, it being understood that a reasonable temporary interference which does not materially interfere with the operation or maintenance of said equipment and which is occasioned by the installation of the new equipment by another user or by repairs to or maintenance of existing equipment of another user shall not be considered objectionable interference.

6.2 If appropriate to maintain safe or efficient operation of the Site, TPWD shall be required to participate in any transmitter and receiver combination and multi-coupling systems operating from one or more antennas installed by Nueces County.

7. **TPWD'S MAINTENANCE AND REMOVAL OF EQUIPMENT AND COAXIAL CABLES:**

7.1 TPWD shall install only the Tower Equipment, (including antenna and transmission line) which has been approved by Nueces County. The TPWD agrees that the installation will be done in a neat, professional manner and in compliance

with all applicable laws and regulations. All costs (including repair of damages caused thereby to TPWD's equipment) will be the responsibility of the TPWD. If TPWD wants to add any additional Tower Equipment, other than TPWD's equipment referenced herein, TPWD cannot install such additional equipment until the parties execute an amendment to this Site Agreement, authorizing the additional equipment.

7.2 TPWD shall properly ground all antenna equipment at the uppermost location of its equipment on the tower and properly ground its coaxial cable at the base of the tower, or at locations identified by the Nueces County.

7.3 Nueces County retains the right to paint all coaxial cables attached to the tower, including TPWD's coaxial cable, as necessary, in order to prevent "black leg".

7.4 TPWD is required to remove all of TPWD's Tower Equipment at TPWD' sole risk and expense, within a reasonable amount of time, not to exceed 30 days, after the termination of this Site Agreement. In the event TPWD does not timely remove its Tower Equipment within this timeline, the Tower Equipment shall be considered abandoned by TPWD and shall become the property of the Nueces County.

7.5 In the event County needs to perform any type of construction or maintenance to Nueces County Courthouse and in their sole discretion Tower Equipment needs to be removed for this purpose TPWD agrees to temporarily remove Tower Equipment. In the alternative, Tower Equipment may be temporarily re-located upon mutual consent of the parties. Nueces County agrees to provide thirty (30) days notice if Tower Equipment will need to removed or relocated under this paragraph.

8. **INSPECTION AND ACCESS:** Nueces County will provide TPWD ingress and egress to the Tower Equipment for the purposes of operating, maintaining, inspecting, using, replacing, repairing, moving, removing, etc. the Tower Equipment and for complying with any reasonable request for inspection by representatives of the FCC. TPWD shall have access only to is own equipment and under no circumstances will TPWD gain access to other equipment located at the Site or allow anyone else access to equipment other than its own. TPWD will provide Nueces County in writing the identity of the service company or individual who is authorized to have access to its equipment for maintenance and only those so named will be required to be admitted. Access may be limited to reasonable conditions as may be required by County relevant to County operational and security concerns.

9. **COORDINATION OF INSTALLATION, REPAIR AND MAINTENANCE:** In the event of the need for installation, repair or maintenance of the tower, equipment building or other common facility, Nueces County agrees to coordinate such activities in such a manner as to minimize any downtime that may be caused to TPWD's operations. TPWD agrees to reduce or shut down the power of its transmitter if necessary at a coordinated time so that such installation, repair or maintenance may take place.

10. **FAILURES AND MAINTENANCE:** TPWD is hereby notified and understands that the Site will not provide communications 100% of the time and it will, by its very nature, fail and require maintenance from time to time without notice. Such facts have been taken into consideration by TPWD prior to the execution of this Site Agreement, and such failures shall not constitute nonperformance or negligence on the part of the Nueces County. The Nueces County is not liable or responsible for interruptions or termination of service caused by strikes, lockouts, governmental acts, acts of God or other conditions beyond its control. Any such interruption or termination of service shall not be considered as a breach of this Site Agreement by Nueces County. The TPWD at its own expense shall be totally responsible for any and all maintenance of its equipment due to lightning, power line surges, ground faults, excessive voltage, or any other causes beyond the control of Nueces County.

11. **CASUALTY:** If the Site becomes completely unusable due to fire or other casualty and TPWD's Tower Equipment becomes inoperable for a period of at least sixty (60) days as a result thereof, either party may elect to terminate this Site Agreement upon thirty (30) days' written notice to the other given prior to the completion of repairs. Without limiting the foregoing, Nueces County shall not, under any circumstances, be responsible for any losses or damages to TPWD's Tower Equipment or loss of service from TPWD's Tower Equipment as a result of fire, theft, vandalism, lightning, loss of AC power by servicing utility, loss of accessibility, power line surges, ground faults, excessive voltage, shut down of Site for necessary repairs or normal maintenance work, and any other causes.

12. **TERMINATION OF LESSOR'S RIGHTS TO SITE:** In the event that any state, local or federal government agency causes the Site and/or its location to become unavailable, or Nueces County's ground lease is terminated for any reason, Nueces County shall have the right to either (1) terminate this Site Agreement without liability to TPWD or (2) subject to TPWD's approval, make another similar site and/or location available on the same terms, in which event the change of site and/or location shall not affect the obligation of TPWD.

13. **INSURANCE:** Nueces County provides no insurance on TPWD's Tower Equipment or personnel. TPWD is self-insured.

14. **GENERAL PROVISIONS:** The undersigned certifies that he has read and understands all of the terms and conditions of this Site Agreement, and each party acknowledges receipt of a true copy hereof at the time of execution. All of the terms and conditions hereof are part of this Site Agreement, and there are no express or implied warranties, modifications, or performance guarantees other than those expressly stated herein.

15. **CONTACTS:** Any contacts or notice required under this contract between the parties shall be submitted in writing to the other party to the contact person and address listed below. If either party wants to change the contact person or address, the party

shall provide reasonable notice of the change to the contact person and address listed below.

16. **DISPUTE RESOLUTION:** The Texas Government Code, Chapter 2260, prescribes dispute resolution processes for certain breach of contract claims applicable to certain contracts for goods and services. If and to the extent that Chapter 2260 applies to this Site Agreement, the contractor shall comply with the requirements of Chapter 2260 and the TPWD administrative rules adopted pursuant to Chapter 2260.

17. **AUTHORITY:** Any individual signing this Site Agreement on behalf of an entity represents and warrants that he has full authority to do so. This Site Agreement shall be binding upon the respective successors, assigns and personal representatives of the parties.

18. **NOTICES:** All notices to either party by the other, required under this contract, shall be personally delivered or mailed to such party at the following respective address:

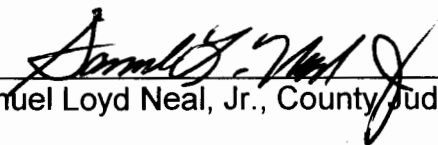
Nueces County
Attn: County Judge
901 Leopard, Room 303
Corpus Christi, Texas 78401

Texas Parks & Wildlife Department
Attn: Christy Orr-Petrolawicz
4200 Smith School Road
Austin, Texas 78744

EXECUTED this the 23rd day of March, 2016.

NUECES COUNTY

ATTEST:



Samuel Loyd Neal, Jr., County Judge



Kara Sands, Nueces County Clerk

TEXAS PARKS & WILDLIFE DEPARTMENT:



Col. Craig Hunter, Division Director, Law Enforcement

