

# **City of Scottsbluff, Nebraska**

**Monday, November 20, 2017**

**Regular Meeting**

## **Item Reports3**

**Council to consider a Lease with Scotts Bluff County to rent space on the Hydropillar Water Tower and authorize the Mayor to execute the agreement.**

**Staff Contact: Nathan Johnson, City Manager**

# LEASE

This Lease is made December 17, 2017 between the City of Scottsbluff, Nebraska, a Municipal Corporation ("City") and Scotts Bluff County, Nebraska, a Political Subdivision of the State of Nebraska ("County").

## 1. Description.

City owns the following described real estate upon which is located a water tower ("tower site"):

Part of Block One (1), Schlager Subdivision (1.24 Acres), Northwest Quarter (NW 1/4), Section Eleven (11), Township 22 North, Range 55 West of the 6<sup>th</sup> P.M., Scotts Bluff County, Nebraska.

The County has mounted two, four-foot fiberglass radio antennae, one for 800 MHZ radio service and one VHF antenna ("Radio Equipment") on the City's water tower. The City agrees to lease space on its water tower at the tower site to the County for the purpose of maintaining and operating the Radio Equipment and for any other antennae or similar equipment which may later be installed during the term of this Lease.

## 2. Term and Rent.

The term of this Lease shall be for five (5) years beginning on December 17, 2017. Either party has the right to terminate this Lease upon giving sixty (60) days written notice to the other party, at which time provision 5.f. will apply. The County shall have no obligation to pay rent under this Lease.

## 3. Access.

The County shall have a right of reasonable access at all reasonable times to the tower site for construction, maintenance and repair of the Radio Equipment currently in place and for additional installations of similar equipment during the term of this Lease, provided, their activities will not interfere with the City's use and maintenance of the water tower or tower site.

## 4. Use.

The County agrees to use the tower site for the purposes intended by this Lease. Currently, the City is required by the Federal Aviation Administration to have an obstruction marking signal on the water tower at the tower site. The County represents that the addition of its Radio Equipment to the water tower on the tower site adds no more than 10 feet to the existing height of the water tower, and no obstruction marking signal will be required for the County's Radio Equipment. If for any reason, any obstruction marking signal is later required which would not have been necessary but for the County's Radio Equipment, the County agrees to pay the cost of the signal and installation.

## **5. County's Representations.**

The County warrants and represents that the installation, use and maintenance of its Radio Equipment or additional antenna or equipment will not interfere with the City's use of the water tower and any other equipment thereon. The County's use shall not be exclusive and the City shall have the right to lease space on the water tower at the tower site to anyone else as long as the additional lease(s) do not interfere with each other's uses. The County also warrants and represents that:

- a. It will be responsible for and shall indemnify and hold harmless the City for any damage caused to City by County's use of the water tower.
- b. It will carry liability insurance for property damage in the amount of \$1,000,000.00 and bodily injury in the amount of \$1,000,000.00. Proof of such insurance shall be furnished to the City by the County giving the City a certificate of insurance for the then current policy period.
- c. It will keep its Radio Equipment and improvements in good repair.
- d. Its use of the water tower and operation of its Radio Equipment will not be in violation of any law or regulation, nor will its use, disrupt or interfere with any of the City's communications activities or the City's other activities, whether or not located at the tower site.
- e. It shall be responsible for and pay the costs required to move or temporarily relocate the Radio Equipment in the event the City determines to conduct maintenance or repainting of the water tower. In such an event, the City agrees to give the County written notice of the maintenance activity at least thirty (30) days prior to it beginning.
- f. Upon the termination of this Lease for any reason, County will, within 30 days, remove its Radio Equipment and improvements, and leave the water tower and tower site in as good a condition as when entered, subject to reasonable wear and tear and for damage due to causes beyond the County's control. If the Radio Equipment and improvements are not removed within 30 days, then they shall, at the option of the City, be considered abandoned and become City property.
- g. It will not assign this Lease without City's consent.
- h. The County shall be responsible for the cost of installing and maintaining all power lines and equipment necessary for its use.

## **6. City's Obligations and Conduct.**

City agrees that it will not intentionally damage or interference with the County's Radio Equipment or its operation. The City makes no representations to the suitability of the location of the water tower or tower site for the use intended by the County.

**7. Default.**

It shall be deemed a default by the County if there is a violation of any provision of this Lease where the violation continues for 30 days from the date of written notification by City, delivered in person to the County, or by mail, to the Scotts Bluff County Communications Director, 1825 10<sup>th</sup> Street, Gering, Nebraska 69341. Upon declaration of a default, City shall have all legal remedies available to it to include the right to render the County's Radio Equipment inoperable and to remove them from the tower site.

**8. Entire Lease, Amendment and Binding Effect.**

This Lease shall constitute the entire agreement of the parties. It shall not be amended and no provisions shall be considered as waived unless in writing signed by all parties. It shall be binding upon the heirs, personal representatives, successors and assigns of the parties.

CITY OF SCOTTSBLUFF, NEBRASKA,  
A Municipal Corporation,

SCOTTS BLUFF COUNTY, NEBRASKA  
A Political Subdivision of the State of  
Nebraska,

By \_\_\_\_\_  
Mayor, City of Scottsbluff, Nebraska

By \_\_\_\_\_  
Chairman, Scotts Bluff County  
Commissioners

State of Nebraska, Scotts Bluff County: ss.

This Lease was acknowledged before me on \_\_\_\_\_, 20\_\_, by Randy Meininger, Mayor of the City of Scottsbluff, Nebraska, a Municipal Corporation, on behalf of the City.

\_\_\_\_\_  
Notary Public

State of Nebraska, Scotts Bluff County: ss.

This Lease was acknowledged before me on \_\_\_\_\_, 20\_\_, by \_\_\_\_\_, Chairman of the Board of County Commissioners of Scotts Bluff County, Nebraska, a Political Subdivision of the State of Nebraska, on behalf of the County.

\_\_\_\_\_  
Notary Public