

30-214

MB

DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION
CENTRAL REGION
601 EAST 12th STREET
KANSAS CITY, MISSOURI 64106

Lease No.: DOT-FA73CE-6917

LEASE

VORTAC (Obs. Rem. & Zon.)
Wolbach, Nebraska

between

JOE WAGNER

and

THE UNITED STATES OF AMERICA

This LEASE, made and entered into this 5th day of January, 1973
in the year one thousand nine hundred and
by and between Joe Wagner,

whose address is Wolbach,
Nebraska 68882,

for himself and his heirs, executors, administrators, successors, and
assigns, hereinafter called the lessor, and the UNITED STATES OF AMERICA, hereinafter called the
Government:

WITNESSETH: The parties hereto for the consideration hereinafter mentioned covenant and
agree as follows:

1. For the term beginning July 1, 1973 and ending June 30, 1974, the lessor
hereby leases to the Government the following described property, hereinafter called the prem-
ises, viz:

A parcel of land located in the East 1/2 of the NW 1/4 of Section 9, T-16-N,
R-9-W, 6th P.M., Howard County, Nebraska and more particularly described as follows:

That portion of the West 1/2 of said Section 9 which is within a radius of 1,000
feet of a transmitter building, located on adjacent property, the center of said
building being 1,427 feet South and 44 feet East of the NE corner of the NW 1/4
of said Section 9.

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~~a. Together with a right-of-way for ingress to and egress from the premises; a right-of-way or rights-of-way for establishing and maintaining a pole line or pole lines for extending electric power, and telecommunications facilities to the premises; and right-of-way for subsurface power, communication and water lines to the premises; all rights-of-way to be over the said lands and adjoining lands of the lessor, and unless herein described by metes and bounds, to be by routes reasonably determined to be the most convenient to the Government.~~

b. And the right of grading, conditioning, and installing drainage facilities, and seeding the soil of the premises, and the removal of all obstructions from the premises which may constitute a hindrance to the establishment and maintenance of air navigation and telecommunications facilities.

c. And the right to make alterations, attach fixtures, and erect additions, structures, or signs, in or upon the premises hereby leased, which fixtures, additions, or structures so placed in or upon, or attached to the said premises shall be and remain the property of the Government, and may be removed upon the effective date of termination of this lease, or within 90 days thereafter, by or on behalf of the Government, or its grantees, or purchasers of said fixtures, additions, structures, or signs.

2. This lease may, at the option of the Government, be renewed from year to year and otherwise upon the terms and conditions herein specified. The Government's option shall be deemed exercised and the lease renewed each year for 1 year unless the Government gives the lessor 30 days written notice that it will not exercise its option before this lease or any renewal thereof expires; *PROVIDED*, that no renewal thereof shall extend the period of occupancy of the premises beyond the 30th day of June 19 88 ; *AND PROVIDED FURTHER*, that adequate appropriations are available from year to year for the payment of rentals.

3. The Government shall pay the lessor for the premises

Eighty-Five Dollars

(\$ 85.00)

for the term set forth in Article 1 above, and

Eighty-Five Dollars

(\$ 85.00)

per year for each annual renewal exercised by the Government hereafter. Payments shall be made in arrears at the end of each Govt. Fiscal Year without the submission of invoices or vouchers.

~~4. The Government may terminate this lease, in whole or in part, at any time by giving 30 days notice in writing to the lessor, and no rental shall accrue after the effective date of termination. Said notice shall be computed commencing with the day after the date of mailing.~~

5. No Member of Congress or Resident Commissioner shall be admitted to any share or part of this lease, or to any benefit to arise therefrom. Nothing, however, herein contained, shall be construed to extend to any incorporated company if the lease be for the general benefit of such corporation or company.

6. The lessor warrants that no person or selling agency has been employed or retained to solicit or secure this lease upon an agreement or understanding for a commission, brokerage, percentage or contingent fee, except bona fide employees or bona fide established commercial or selling agencies maintained by the lessor for the purpose of securing business. For breach or violation of this warranty, the Government shall have the right to annul this lease without liability, or in its discretion to deduct from the contract price or consideration, the full amount of such commissions, brokerage, percentage, or contingent fee.

~~7. The Government shall surrender possession of the premises upon the expiration or the effective date of termination of this lease. If the lessor, by written notice at least days before the expiration or the effective date of termination requests restoration of the premises, the Government at its option shall within ninety (90) days thereafter, or within such additional time as may be mutually agreed upon, either (1) restore the premises to as good condition as that existing at the time of the Government's entering upon the premises under this lease (changes to the premises in accordance with paragraph 1 above, ordinary wear and tear, damage by natural elements and by circumstances over which the Government has no control, excepted) or (2) make an equitable adjustment in the lease amount for the cost of such restoration of the premises or the diminution of the value of the premises if unrestored, whichever is less. Should a mutually acceptable settlement be made hereunder, the parties shall enter into a supplemental agreement hereto effecting such agreement. Failure to agree to any such equitable adjustment shall be a dispute concerning a question of fact within the meaning of Clause 8 of this lease.~~

8. (a) Except as otherwise provided in this contract, any dispute concerning a question of fact arising under this contract which is not disposed of by agreement shall be decided by the Contracting Officer, who shall reduce his decision to writing and mail or otherwise furnish a copy thereof to the lessor. The decision of the Contracting Officer shall be final and conclusive unless within 80 days from the date of receipt of such copy, the lessor mails or otherwise furnishes to the Contracting Officer a written appeal addressed to the Secretary, Department of Transportation. The decision of the Secretary or his duly authorized representative for the determination of such appeals shall be final and conclusive unless determined by a court of competent jurisdiction to have been fraudulent, or capricious, or arbitrary, or so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence. In connection with any appeal proceeding under this clause, the lessor shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of a dispute hereunder, the lessor shall proceed diligently with the performance of the contract and in accordance with the Contracting Officer's decision.

(b) This "Disputes" clause does not preclude consideration of law questions in connection with decisions provided for in paragraph (a) above: *Provided*, That nothing in this contract shall be construed as making final the decision of any administrative official, representative, or board on a question of law.

9. This lease is subject to the additional provisions set forth below, which are made a part hereof, and identified as follows:

SEE ATTACHMENT "A" CONTAINING ARTICLES 10, 11, 12, 13, 14, and 15.

IN WITNESS WHEREOF, the parties hereto have hereunto subscribed their names as of the date first above written.

As the holder of a mortgage, dated _____

_____, recorded in Liber

_____, pages _____,
against the above-described premises, the undersigned hereby consents to the foregoing lease and agrees that, if while the lease is in force the mortgage is foreclosed, the foreclosure shall not void the lease.

(Mortgagee)

Joe Wagner

(Lessor) Joe Wagner

(Lessor)

(Lessor)

(Lessor)

(Lessor)

THE UNITED STATES OF AMERICA

By _____

M. T. Bailey
M. T. Bailey

Title Chief, Real Property Section

(Notary Seal)

10. The Lessor hereby warrants that he has acquired and possesses an adequate real estate right in the property described herein, and that he is authorized to grant to the United States of America the real estate rights and interests set forth herein.
11. The Lessor grants to the Government the right to replace any metallic fence owned by him within 800 feet of the above described point. The metallic fence to be maintained by the Government.
12. The Lessor further agrees that during the term of this lease, or any renewal thereof, he will not erect, nor allow to be erected upon said premises, any obstruction greater in height than five (5) feet without the written consent of the Federal Aviation Administration. This restriction applies only to the Lessor and does not include growing crops or farm machinery in operation.
13. The Lessor grants the Government the right and privilege of constructing and maintaining a drainage ditch on above described property. The Lessor agrees that such a drainage ditch is required to carry the run-off from the access road constructed on adjacent lands. Said access road runs North-South and is 20 feet from and parallel to the East property line fence of the lessor; location of said drainage ditch to be as follows:

 From a point on the East property line of the lessor, 1,371 feet south of the NE corner of the NW 1/4 of said Section 9, drainage ditch shall proceed South 38°-00'-00" West a distance of 7 feet; thence South parallel to the fence of the lessor, a distance of 440 feet.

 The Lessor also agrees to allow workmen and construction equipment to enter upon their property for the construction of and maintenance of said construction described above.

 The Lessor further agrees that since above described betterment is to be of mutual benefit both to the Government and to him, he, the Lessor will not allow said drainage structure to become obstructed by growing crops or by-products of same.
14. This Lease supersedes License No. C3ca-1919A which expires 30 June 1973.
15. Paragraphs a, b, and c of Article 1 and Articles 4 and 7 were deleted; and Articles 10, 11, 12, 13, 14 and 15 were added prior to the signature of all parties to the lease.

STATE OF Nebraska)
COUNTY OF Greeley) SS

On this 5th day of January, 1973, before me personally appeared the person herein described as the lessor, to me known to be the person described in and who executed the foregoing instrument and acknowledged that he executed same as his free act and deed. In testimony whereof, I have hereunto set my hand and affixed my official seal.

Elton M. Jess
Elton M. Jess Notary Public

My Commission expires December 3, 1976



STATE OF NEBRASKA, # 56
HOWARD COUNTY, ss.

FILED FOR RECORD

MO. Jan DAY 9 1973
AT 9 O'CLOCK A.M. RECORDED
IN BOOK 30 OF Maps PAGE 214
Lucile Reynolds COUNTY CLERK
BY Joan Kuper DEPUTY

CHG. _____
PAID. 15.25
SEE BOOK ✓
NUMERICAL INDEX ✓
GENERAL INDEX ✓