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U.S. Department
of Transportation
Federal Aviation
Administration

Vol. 1187 Page 12854

NORTHWEST MOUNTAIN REGION
17900 PACIFIC HIGHWAY SOUTH
C-68966
SEATTLE, WASHINGTON 98168

Lease No.: DTFA11-87-L-00103
RCAG Access Road
Klamath Falls, Oregon

LEASE

between

SAM DEHLINGER, INC.

and

THE UNITED STATES OF AMERICA

This LEASE, made and entered into this
in the year one thousand nine hundred and eighty-seven
by and between Sam Dehlinger, Inc.
9338 Hill Road
whose address is Klamath Falls, Oregon 97603

day of 30 June

for itself and its
hereinafter called the Lessor and the UNITED STATES OF AMERICA, hereinafter called the Government:
~~HEIR, EXOR, ADMOR, SUCCESSORS, AND ASSIGNS,~~

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

1. For the term beginning October 1, 1987 and ending September 30, 19 88 the Lessor hereby leases to the Government the following described property, hereinafter called the premises, viz:

Approximately 2.2 acres of land developed as a roadway located in the E1/2, NW 1/4, AND W 1/2, NE 1/4, Sec. 33, T39S, R10E, W.M., and to use this approximate 0.6 mile of roadway leading from a point on the North line of the E1/2, NW 1/4 to a point of the South line of the W1/2, NE 1/4. Sec. 33, T39S, R10E, Willamette Meridian, Klamath County, Oregon, over and along the existing Fire Control Road.

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In addition, upon and across the lands of the undersigned owner, approximately 5.1 acres of land developed as a roadway located in the S1/2, Sec. 33, T39S, R10E, W.M., and to use this approximate 1.4 mile of roadway leading from a point on the North line of the S 1/2 of Sec. 33, to a point on the South line of the S1/2, Sec. 33, T39E, Willamette Meridian, Klamath County, Oregon, over and along the existing Fire Control Road. Said premises to used for an access road.

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 alterations, fixtures, additions, structures or signs 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 date of expiration or termination of this lease, or within ninety (90) days thereafter, by or on behalf of the Government, or its grantees, or purchasers of said alterations, 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 one (1) year unless the Government gives the Lessor thirty (30) days written notice that it will not exercise its option before this lease or any renewal thereof expires; PROVIDED that no renewal shall extend this lease beyond the 30th day of September 19 92; AND PROVIDED FURTHER, that adequate appropriations are available from year to year for the payment of rentals.

~~3. The Government shall pay the Lessor rental for the premises in the amount of _____ per _____ for the term set forth in Article I above, and _____ for each annual renewal exercised by the Government hereafter. Payments shall be made in arrears at the end of each 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 at least thirty (30) days notice in writing to the Lessor, and no rental shall accrue after the effective date of termination. Said notice shall be sent by certified or registered mail.

~~5. The Government shall surrender possession of the premises upon the date of expiration or termination of this lease. If the Lessor by written notice at least _____ days before the date of expiration or termination requests restoration of the premises, the Government at its option shall within ninety (90) days after such expiration or termination, 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 initial entry upon the premises under this lease or any preceding lease (changes to the premises in accordance with paragraph 1.(a), 1.(b) and 1.(c) 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 6 of this lease.~~

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6. (a) This lease is subject to the Contract Disputes Act of 1978 (Public Law 95-563).

(b) Except as provided in the Act, all disputes arising under or relating to this lease shall be resolved in accordance with this clause.

(c) (i) As used herein, "claim" means a written demand or assertion by one of the parties seeking, as a legal right, the payment of money, adjustment or interpretation of lease terms, or other relief, arising under or relating to this lease.

(ii) A voucher, invoice, or request for payment that is not in dispute when submitted is not a claim for the purposes of the Act. However, where such submission is subsequently not acted upon in a reasonable time, or disputed either as to liability or amount, it may be converted to a claim pursuant to the Act.

(iii) A claim by the Lessor shall be made in writing and submitted to the Contracting Officer for decision. A claim by the Government against the Lessor shall be subject to a decision by the Contracting Officer.

(d) For Lessor claims of more than \$50,000, the Lessor shall submit with the claim a certification that the claim is made in good faith; the supporting data are accurate and complete to the best of the Lessor's knowledge and belief; and the amount requested accurately reflects the lease adjustment for which the Lessor believes the Government is liable. The certification shall be executed by the Lessor if an individual. When the Lessor is not an individual, the certification shall be executed by a senior company official in charge at the Lessor plant or location involved, or by an officer or general partner of the Lessor having overall responsibility for the conduct of the Lessor's affairs.

(e) For Lessors claims of \$50,000 or less, the Contracting Officer must render a decision within 60 days. For Lessor claims in excess of \$50,000, the Contracting Officer must decide the claim within 60 days or notify the Lessor of the date when the decision will be made.

(f) The Contracting Officer's decision shall be final unless the Lessor appeals or files a suit as provided in the Act.

(g) The authority of the Contracting Officer under the Act does not extend to claims or disputes which by statute or regulation other agencies of the Executive Branch of the Federal Government are expressly authorized to decide.

(h) Interest on the amount found due on a Lessor claim shall be paid from the date the claim is received by the Contracting Officer until the date of payment. Interest on the amount found due on a Government claim shall be paid from the date the claim is received by the Lessor until the date of payment. Interest shall be computed at ten percent (10%) per annum on the basis of a 365 or 366 day year, whichever applies.

(i) Except as the parties may otherwise agree, pending final resolution of a claim by the Lessor arising under the lease, the Lessor shall proceed diligently with the performance of the lease and its terms in accordance with the Contracting Officer's decision.

7. 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.

8. 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 amounts otherwise due under this lease or other consideration, the full amount of such commission, brokerage, percentage, or contingent fee.

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9. All notices sent to the parties under the lease shall be addressed as follows:

To the Lessor: Same as Page 1.

To the Government: Same as Page 1.

10. This lease is subject to the additional provisions set forth below, or attached hereto and incorporated herein. These additional provisions are identified as follows:

- a. No monetary consideration in the form of rental shall be due the owner; it being mutually agreed that the rights extended to the U.S. Government herein are in consideration of the obligations assumed by the Federal Aviation Administration in its establishment of the RCAG (remote center/air ground) communications facility and maintenance of the access road upon the land of the owner. Maintenance shall consist of the upkeep of the surfaces, irrigation and drainage ditches to provide full flow of water therein, together with maintenance of gates and locks at existing fences to prevent use of the said road by others than the United States and its contractors, other duly authorized representatives, and the owners and his agents. Said maintenance shall be deemed as consideration for this right-of-way.
- b. The Government shall maintain the present configuration of the roadway to the fullest extent, and it shall be responsible for restoration of its contour and grade in the event of excessive erosion or washout.
- c. Upon the termination or non-renewal of this agreement, the Government will vacate, leaving the road in its present condition, being exempt from restoration of the land to its original condition.
- d. Irrelevant wording in the Preamble and Article 4 was deleted; Articles 1c, 3, and 5 were deleted in their entirety; and Articles 10a thru d were added prior to the signature by both parties.

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 volume _____, 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)~~

Sam DeLinger Inc (Lessor)
Sam DeLinger (Lessor)
 _____ (Lessor)
 _____ (Lessor)
 _____ (Lessor)

THE UNITED STATES OF AMERICA
 By DeRay F. Hinkle
 Title Contracting Officer

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(Corporate Acknowledgment)

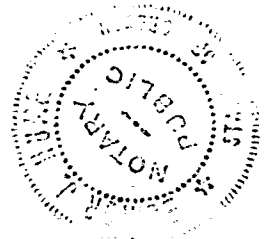
STATE OF OREGON }
 COUNTY OF Klamath } SS

On this 30th day of June, 1987, before me
 _____ a Notary Public, in and for
 the said County of Klamath, State of Oregon
 _____, personally appeared SAM DEHLINGER
 _____, known to me to be the
 person who executed the above Instrument, on behalf of the Corporation herein
 named, and acknowledged to me that such Corporation executed the same.

IN WITNESS WHEREOF, I hereunder set my hand and official seal, at my office
 in the County of Klamath, State of Oregon
 _____, the day and year in this certificate first above
 written.

(Signed) Elinor J. Hume
 Notary Public in and for the County
 of Klamath, State of
Oregon

My commission Expires: 11-2-87



STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of U.S. Dept.-Trans. Fed. Aviation Ad. the 20th day
 of July A.D., 1987 at 12:19 o'clock P M., and duly recorded in Vol. M87,
 of Deeds on Page 12854.

Evelyn Biehn, County Clerk
 By Sam Smith

FEE \$21.00