BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

Meeting Date: June 15, 2005 Division: Public Safety

Bulk Item: Yes X No ___ Department: Emergency Communications

Staff Contact Person: James R. "Reggie" Paros

AGENDA ITEM WORDING: Approval of a Lease Agreement with South Broadcasting Systems, Inc. for surplus antenna space on the County owned communications tower located in North Key Largo.

ITEM BACKGROUND: South Broadcasting System, Inc. has agreed to enter into a five year lease agreement to pay Monroe County $24,000.00 annually with a 4% annual increase for use of antenna and ground space at the County owned communications tower site located in North Key Largo for the purpose of broadcasting a FM radio station (WZMQ). They have agreed to pay Sprint Spectrum, L.P. a one time co-location fee and execute an Interference Agreement with the County.

PREVIOUS RELEVANT BOCC ACTION: Not applicable

CONTRACT/AGREEMENT CHANGES: This is a new agreement

STAFF RECOMMENDATIONS: Approval

TOTAL COST: N/A **BUDGETED:** Yes ___ No ___ N/A

COST TO COUNTY: N/A **SOURCE OF FUNDS:** N/A

REVENUE PRODUCING: Yes X No ____ **AMOUNT PER YEAR** $24,000.00 + 4% Annual Increase

APPROVED BY: County Atty Yes OMB/Purchasing Yes Risk Management Yes

DIVISION DIRECTOR APPROVAL: 5/31/2005
James R. "Reggie" Paros

DOCUMENTATION: Included X Not Required ____

DISPOSITION: _____ **AGENDA ITEM #** _____

MONROE COUNTY BOARD OF COUNTY COMMISSIONERS

CONTRACT SUMMARY

Contract with: South Broadcasting

Contract #_____

Effective Date: 6/15/05

Expiration Date: 6/15/10

Contract Purpose/Description:
Lease agreement with South Broadcasting Systems, Inc. for surplus tower space on the County owned communications tower located in Key Largo, Fl.

Contract Manager: Reggie Paros (Name) | 6035 (Ext.) | Emergency Communications/Stop 16 (Department/Stop #)

for BOCC meeting on 6/15/05 Agenda Deadline: 5/31/05

CONTRACT COSTS

Total Dollar Value of Contract: $ _____ + revenue

Current Year Portion: $ $24,000.00 per year

Budgeted? Yes ☐ No ☒

Account Codes: _____-_____-_____-_____-_____

Grant: $ 0

County Match: $ 0

ADDITIONAL COSTS

Estimated Ongoing Costs: $0/yr
(Not included in dollar value above)

For: 0
(eg. maintenance, utilities, janitorial, salaries, etc.)

CONTRACT REVIEW

	Date In	Changes Needed	Reviewer	Date Out
Division Director	5/31/2005	Yes ☐ No ☑		5/31/2005
Risk Management	5-25-05	Yes ☐ No ☑		5-25-05
O.M.B./Purchasing		Yes ☐ No ☑	Marcia Moors Barker	5/27/05.
County Attorney	5/26/05	Yes ☐ No ☑		5/26/05

Comments: _____

Lease Agreement

This lease agreement is made and entered into by MONROE COUNTY, a political subdivision of the State of Florida, whose address is 1100 Simonton Street, Key West, FL 33040, **(County or Lessor),** and South Broadcasting System, Inc, **(Lessee),** whose address is 1001 Ponce de Leon, Coral Gables, FL 33134, the latter being referred to as the **LESSEE.**

WHEREAS, the COUNTY owns a communications tower at the following location: North Key Largo, coordinates 25° 14' 7"N and 80° 19' 35"W, hereinafter referred to as "the Tower;" and

WHEREAS, LESSEE desires to install a new antenna (ERI FM Broadcast antenna) on the tower which antenna must not cause any interference to pre-existing antennae mounted on the tower and will be fed with a single coaxial transmission line no larger than 3 inch in diameter;

WHEREAS, the COUNTY has an agreement with Sprint Spectrum, LP, who erected the North Key Largo Tower, whereby the COUNTY's new licensees, new lessees, and new commercial tower users will be required to pay a co-location fee and execute an Interference Agreement with the COUNTY;

NOW THEREFORE, in consideration of the promises and conditions contained herein, the parties agree as follows:

1. **PROPERTY,** The COUNTY leases to the LESSEE the tower space and a portion of the ground space at the North Key Largo tower site for the LESSEE to construct an equipment shelter, more particularly described in **EXHIBIT A**, attached hereto, and incorporated herein by reference.

2. **TERM,** The term of this agreement is 5 years from _____, 2005 to _____, 2010, with 2 optional extensions of 5 years each.

3. **USE AND CONDITIONS,** The tower shall be used solely for the purpose of placement and maintenance of transmission equipment for FM broadcasting to the public. If the premises are used for any other purpose, without the County Administrator's prior written consent, the COUNTY shall have the option to immediately terminate this agreement. The LESSEE shall not permit any use of the premises, as described in **Exhibits A through D**, in any manner that would obstruct or interfere with any COUNTY functions or duties. Further, the LESSEE shall not sublease any space or antenna use to any other entity, except pursuant to paragraph 13 below.

The LESSEE will further use and occupy said premises in a careful and proper manner, and not commit waste thereon. The LESSEE will not cause, or allow to be caused any nuisance or objectionable activity of any nature on the premises. The LESSEE will not use or occupy said premises for any unlawful purpose and will, at their sole cost and expense, conform to, and obey any, present or future ordinances and/or rules, regulations, requirements, and orders of governmental authorities or agencies with respect to the use and occupation of said premises. The LESSEE shall execute an interference agreement, a copy of which is attached hereto as **EXHIBIT B**.

The equipment shelter constructed by LESSEE on the ground space as described in **EXHIBIT A** shall provide space and electric only for WZMQ and no other entities shall use said shelter for equipment or otherwise, without prior written consent on the COUNTY.

This AGREEMENT and obligations of the LESSEE hereunder are contingent upon them receiving all permits, approvals, and certificates necessary for construction of the antenna and ground shelter as proposed in the attached **EXHIBITS A through D**. The LESSEE shall use the premises for the purpose of constructing, maintaining, and operating a communications facility and uses identical to the communications facility, consisting of the placement of wireless communications equipment, removal and remounting of antennas, and the maintenance of coaxial cables (between the wireless equipment and the antennas), electrical utility service and fiber optic or telephone cables. Prior to construction or installation of any equipment, the LESSEE shall obtain written approval, signed by the COUNTY's Director of Communications, of the specific construction or installation within the premises. COUNTY also grants to the LESSEE, non-exclusive right for ingress and egress over the Real Property to the premises, from the nearest public right-of-way 7 days a week, 24 hours a day, for the installation, removal, and maintenance of all utility wires, cables, conduits, and LESSEE-owned equipment and buildings. LESSEE acknowledges that this is a secured facility that may require COUNTY escort to various areas within the facility. COUNTY shall cooperate with LESSEE in any effort to obtain utility service along said right of way by signing such documents or easements that may be required by utility companies.

LESSEE shall apply for building permits within 120 days of the execution of this AGREEMENT and shall provide COUNTY with written notice of the commencement date within 10 days preceding the commencement of construction by LESSEE and which written notice shall become a part of this AGREEMENT.

4. **RENT.** LESSEE (WZMQ), for the use of the antenna aperture and ground space at the North Key Largo site, must pay the COUNTY an annual fee of $24,000, which shall be due in monthly installments of $2,000, payable by LESSEE beginning on the first day of broadcast transmission and pro-rated for the first month if necessary. Thereafter all payments are due and payable on the first day of each month and payable in advance. The LESSEE's annual rent will be adjusted upward annually with a 4% increase. The first such increase beginning on the first day of the thirteenth month from the commencement date. The LESSEE's twelve monthly payments shall be remitted to Monroe County Clerk's Office, 500 Whitehead Street, Key West, FL 33040. The LESSEE shall also pay to Sprint Spectrum, LP a one-time co-location fee required under the terms of the license agreement through which the COUNTY authorized Sprint Spectrum, LP to construct the tower, prior to any construction activity.

5. **TAXES.** The LESSEE must pay all taxes and assessments, including any sales or use tax, levied by any government agency with respect to the LESSEE operation on the premises.

6. **INSURANCE:** LESSEE shall procure and maintain the following insurance:

   (a) Prior to the commencement of work governed by this lease agreement, the LESSEE shall obtain General Liability Insurance. Coverage shall be maintained throughout the life of the lease agreement and include, as a minimum:

Premises Operations
Products and Completed Operations
Blanket Contractual Liability
Personal Injury Liability
Expanded definition of Property Damage

The minimum limits acceptable shall be $300,000.00 Combined Single Limit (CSL). If split limits are provided, the minimum limits acceptable shall be: $100,000.00 per person, $300,000.00 per Occurrence and $50,000.00 Property damage.

An Occurrence Form policy is preferred. If coverage is provided on a Claims Made policy, its provisions should include coverage for claims filed on or after the effective date of this contract. In addition, the period for which claims may be reported should extend for a minimum of twelve (12) months following the acceptance of work by the County.

The Monroe County Board of County Commissioners shall be named as Additional Insured on all policies issued to satisfy the above requirements.

(b) Prior to the commencement of work governed by this lease agreement, the LESSEE shall obtain All Risk Property Insurance (to include the perils of Flood and Wind) with limits no less than the Replacement Cost Value of the property leased or rented. Coverage shall be maintained throughout the life of the lease agreement and include, as a minimum, liability coverage for: Fire, Lightning, Vandalism, Sprinkler Leakage, Sinkhole Collapse, Falling Objects, Windstorm, Smoke, Explosion, Civil Commotion, Aircraft and Vehicle Damage and Flood.

The Monroe County Board of County Commissioners shall be named as Additional Insured on all policies issued to satisfy the above requirements

(c) Recognizing that the work governed by this lease agreement requires the use of vehicles, the LESSEE, prior to the commencement of work, shall obtain Vehicle Liability Insurance. Coverage shall be maintained throughout the life of the lease agreement and include, as a minimum, liability coverage for:

Owned, Non-Owned and Hired Vehicles -The minimum limits acceptable shall be: $100,000.00 Combined Single Limit (CSL). If split limits are provided, the minimum limits acceptable shall be: $50,000.00 per Person, $100,000.00 per Occurrence, $25,000.00 Property Damage.

The Monroe County Board of County Commissioners shall be named as Additional Insured on all policies issued to satisfy the above requirements.

(d) Prior to the commencement of work governed by this lease agreement, the LESSEE shall obtain Workers' Compensation Insurance with limits sufficient to respond to Florida Statue 440.

In addition, the LESSEE shall obtain Employers' Liability Insurance with limits of not less than:

$100,000.00 Bodily Injury by Accident
$500,000.00 Bodily Injury by Disease, policy limits
$100,000.00 Bodily Injury by Disease, each employee

Coverage shall be maintained throughout the entire term of the lease agreement.

Coverage shall be provided by a company or companies authorized to transact business in the State of Florida.

If the LESSEE has been approved by the Florida's Department of Labor as authorized self-insurer, the County shall recognize and honor the LESSEE'S status. The LESSEE may be required to submit a Letter of Authorization issued by the Department of Labor and a Certificate of Insurance, providing details on the LESSEE'S Excess Insurance Program.

If the LESSEE participates in s self-insurance fund, a Certificate of Insurance will be required. In addition, the LESSEE may be required to submit updated financial statements from the fund upon request from the County.

7. **CONDITION of PREMISES.** The LESSEE must keep the premises in good order and condition . The LESSEE must promptly repair damage to the premises. At the end of the term of this agreement, the LESSEE must surrender the premises to the COUNTY in the same good order
and condition as the premises was on the commencement of the term, normal wear and tear excluded. The LESSEE is solely responsible for any improvements to land and appurtenances placed on premises.

If the tower should be totally or substantially destroyed or damaged (so that LESSEE may not operate its facility as contemplated under this Agreement) so that rebuilding the tower "as is" would not be economically feasible, as may be reasonably determined by the COUNTY, LESSEE may at its sole discretion, terminate this agreement, or rebuild the tower at its own expense. If LESSEE should elect to rebuild the tower as provided for in this paragraph, then the agreement shall recommence at that point in time as if this agreement had just been approved by the parties hereto. In the event that due to such damage or destruction, LESSEE use of the premises is disrupted, the fee due hereunder shall abate in full pending restoration or repair of the premises; provided however, if LESSEE use of the premises is disrupted for a period of 45 days, LESSEE shall have the right to terminate this agreement.

8. **IMPROVEMENTS.** No structure or improvement of any kind, other than those listed in **Exhibits A through D**, shall be placed upon the land without prior approval in writing from the County Administrator. No structure or improvements shall be undertaken without a building permit issued by the COUNTY and other state, and federal agencies as required by law. All structures and improvements shall be constructed in a good and workmanlike manner at LESSEE's sole cost and expense.

LESSEE shall prepare, at its own expense, all necessary drawings and specifications for the installation of LESSEE equipment, and obtain from the Tower manufacturer a certified structural analysis, in compliance with Monroe County Building Codes, which

includes all existing tower equipment, future COUNTY antennae, and the WZMQ proposed antenna and lines. Should the tower analysis result in a finding that redesign or structural strengthening of the tower is necessary to install LESSEE equipment, such redesign and/or strengthening shall be at the sole cost of the LESSEE. LESSEE agrees to replace existing guy wires in the aperture of its proposed antenna with new guy wires of a non-conductive material.

Subject to any landlord's lien, any structures or improvements constructed by LESSEE shall be removed by the LESSEE at LESSEE's sole cost and expense, by midnight on the day of termination of this agreement or extension hereof, and the land restored as nearly as practical to its condition at the time this agreement is executed unless the Board of County Commissioners accepts in writing delivery of the premises together with any structures or improvements constructed by LESSEE. Portable or temporary advertising signs are prohibited.

LESSEE shall perform, at its sole expense, all work required in the preparation of the property or premises hereby leased for occupancy by LESSEE; and LESSEE does hereby accept the leased property and premises as being in fit condition for LESSEE's intended purposes.

COUNTY reserves the right to inspect the leased area and to require adjustment to structures or improvements as it deems necessary. Any adjustments shall be done at LESSEE's sole cost and expense and shall be subject to COUNTY permitting and fees.

9. **HOLD HARMLESS.** The LESSEE is liable for and must fully defend, release, discharge, indemnify, and hold harmless the COUNTY, the members of the County Commission, County officers, and employees, and COUNTY agents and contractors, and the State, its officers, and employees from any against any and all claims, demands, damages, liabilities, causes of action, losses, costs and expenses of whatever type – including investigation and witness costs – that arise out of or are attributable to the LESSEE's operations on the premises except for those claims, demands, damages, liabilities, actions, causes of actions, losses, costs, and expenses that are the result of the negligence of the COUNTY, members of the County Commission, County officers, and employees, and COUNTY agents and contractors, or the State, its officers, and employees. The LESSEE's purchase of the insurance required under this agreement does not release or vitiate obligations under this paragraph.

10. **NON-DISCRIMINATION.** The LESSEE for themselves, their personal representatives, successors in interest, and assigns as a part of the consideration hereof, do hereby covenant and agree that no person on the grounds of race, color, or national origin, shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of premises or in the contracting for improvements to the premises.

11. **TERMINATION.** Upon breach or default of any of the terms of this agreement by LESSEE, COUNTY shall give written notice to the LESSEE of the breach and the LESSEE shall have ten (10) days to cure a monetary breach and sixty (60) days to cure any other breach. After the time to cure the breach, the COUNTY may treat the LESSEE in default and terminate this agreement upon failure of the LESSEE to comply with any provision of this agreement. Any waiver of any breach shall not be deemed a continuing waiver and shall not operate to bar the COUNTY from declaring a forfeiture for any succeeding breach either of the same conditions or otherwise. This agreement may be terminated by the COUNTY if for any reason the tower becomes unsafe or

unstable. LESSEE shall have the right to terminate this lease upon thirty days prior written notice to the COUNTY.

12 **DEFAULT-WAIVER.** The waiver by the LESSEE or the COUNTY of an act or omission that constitutes a default of an obligation under this agreement does not waive another default of that or any other obligation.

13 **ASSIGNMENT.** This agreement may be assigned by the LESSEE to a successor-in-interest upon the sale or transfer of radio station WZMQ to another party, only upon prior written consent of COUNTY, which consent shall not be unreasonably withheld. The terms of this agreement shall remain in full force and effect, and the successor shall be bound to the rights and obligations contained in this agreement. This agreement may be assigned by the COUNTY provided the assignee is bound by all the terms and conditions contained in this agreement.

14. **SUBORDINATION.** This agreement is subordinate to the laws and regulations of the United States, State of Florida, and Monroe County, whether in effect on commencement of this agreement, or adopter after that date.

15. **INCONSISTENCY.** Any item, condition or obligation of this agreement that is in conflict with the items listed in this paragraph is superseded to the extent of the conflict.

16. **GOVERNING LAWS, VENUE.** This agreement is governed by the laws of the State of Florida and the United States. Venue for any dispute arising under this agreement must be in Monroe County, Florida. In the event of any litigation, the prevailing party is entitled to reasonable attorney's fees and costs.

17 **CONSTRUCTION.** This agreement has been carefully reviewed by the LESSEE and the COUNTY. Therefore, this agreement is not to be construed against any party on the basis of authorship.

18. **NOTICES.** Notices in this agreement, unless otherwise specified, must be sent by certified mail to the following:

COUNTY:

County Administrator
1100 Simonton Street
Key West, FL 33040

Emergency Communications Director
10600 Aviation Blvd
Marathon, FL 33050

LESSEE:

South Broadcasting System, Inc.
Raul Alarcon, Sr., President
1001 Ponce de Leon Blvd
Coral Gables, FL 33134

19. **ACCESS.** The authorized employees and agents of the LESSEE shall, at all times during the terms of this lease agreement, have the right to enter upon the respective premises where any of their equipment is located and enjoy full and complete access,

provided that such access is made in such a manner as to create the least practical interference with others' operations.

20. **TOWER AND ANTENNA MAINTENANCE SAFETY.** Inasmuch as Monroe COUNTY has several emergency and governmental services located on the North Key Largo Tower which require emergency and routine maintenance, LESSEE agrees to terminate its transmissions upon a request by the Monroe County Communications Department, within 30 minutes of the request, and to maintain the termination of transmissions until notified by the Monroe County Communications Department that it is safe to resume said transmissions.

21. **FCC RULES.** The parties shall have the right to require amendment of this lease agreement to incorporate any conditions, changes, modifications which are, or may hereafter become, necessary to comply with any requirement or decision of the Federal Communications Commission (FCC) so as not to prejudice or cause the termination of any party's communication authorization.

22. **FULL UNDERSTANDING**. This agreement is the parties' final mutual understanding. It replaces any earlier agreements or understandings, whether written or oral. This agreement cannot be modified or replaced except by another written and signed agreement.

23. **GENERAL CLAUSES** .

a) Contractor shall maintain all books, records, and documents directly pertinent to performance under this Agreement in accordance with generally accepted accounting principles consistently applied. Each party to this Agreement or their authorized representatives shall have reasonable and timely access to such records of each other party to this Agreement for public records purposes during the term of the Agreement and for four years following the termination of this Agreement. If an auditor employed by the County or Clerk determines that monies paid to Contractor pursuant to this Agreement were spent for purposes not authorized by this Agreement, the Contractor shall repay the monies together with interest calculated pursuant to Sec. 55.03, FS, running from the date the monies were paid to Contractor.

b) Interpretation: This Agreement shall be governed by and construed in accordance with the laws of the State of Florida applicable to contracts made and to be performed entirely in the State.

The County and Contractor agree that, in the event of conflicting interpretations of the terms or a term of this Agreement by or between any of them the issue shall be submitted to mediation prior to the institution of any other administrative or legal proceeding.

c) Severability. If any term, covenant, condition or provision of this Agreement (or the application thereof to any circumstance or person) shall be declared invalid or unenforceable to any extent by a court of competent jurisdiction, the remaining terms, covenants, conditions and provisions of this Agreement, shall not be affected thereby; and each remaining term, covenant, condition and provision of this Agreement shall be valid and shall be enforceable to the fullest extent permitted by law unless the enforcement of the remaining terms, covenants, conditions and provisions of this Agreement would prevent the accomplishment of the original intent of this Agreement. The County and Contractor agree to reform the Agreement to replace any stricken

provision with a valid provision that comes as close as possible to the intent of the stricken provision.

d) Attorney's Fees and Costs. The County and Contractor agree that in the event any cause of action or administrative proceeding is initiated or defended by any party relative to the enforcement or interpretation of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees, court costs, investigative, and out-of-pocket expenses, as an award against the non-prevailing party, and shall include attorney's fees, courts costs, investigative, and out-of-pocket expenses in appellate proceedings. Mediation proceedings initiated and conducted pursuant to this Agreement shall be in accordance with the Florida Rules of Civil Procedure and usual and customary procedures required by the circuit court of Monroe County.

e) Binding Effect. The terms, covenants, conditions, and provisions of this Agreement shall bind and inure to the benefit of the County and Contractor and their respective legal representatives, successors, and assigns.

f) Authority. Each party represents and warrants to the other that the execution, delivery and performance of this Agreement have been duly authorized by all necessary County and corporate action, as required by law.

g) Claims for Federal or State Aid. Contractor and County agree that each shall be, and is, empowered to apply for, seek, and obtain federal and state funds to further the purpose of this Agreement; provided that all applications, requests, grant proposals, and funding solicitations shall be approved by each party prior to submission.

h) Adjudication of Disputes or Disagreements. County and Contractor agree that all disputes and disagreements shall be attempted to be resolved by meet and confer sessions between representatives of each of the parties. If no resolution can be agreed upon within 30 days after the first meet and confer session, the issue or issues shall be discussed at a public meeting of the Board of County Commissioners. If the issue or issues are still not resolved to the satisfaction of the parties, then any party shall have the right to seek such relief or remedy as may be provided by this Agreement or by Florida law.

i) Cooperation. In the event any administrative or legal proceeding is instituted against either party relating to the formation, execution, performance, or breach of this Agreement, County and Contractor agree to participate, to the extent required by the other party, in all proceedings, hearings, processes, meetings, and other activities related to the substance of this Agreement or provision of the services under this Agreement. County and Contractor specifically agree that no party to this Agreement shall be required to enter into any arbitration proceedings related to this Agreement.

j) Nondiscrimination. County and Contractor agree that there will be no discrimination against any person, and it is expressly understood that upon a determination by a court of competent jurisdiction that discrimination has occurred, this Agreement automatically terminates without any further action on the part of any party, effective the date of the court order. County or Contractor agree to comply with all Federal and Florida statutes, and all local ordinances, as applicable, relating to nondiscrimination. These include but are not limited to: 1) Title VI of the Civil Rights Act of 1964 (PL 88-352) which prohibits discrimination on the basis

of race, color or national origin; 2) Title IX of the Education Amendment of 1972, as amended (20 USC ss. 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; 3) Section 504 of the Rehabilitation Act of 1973, as amended (20 USC s. 794), which prohibits discrimination on the basis of handicaps; 4) The Age Discrimination Act of 1975, as amended (42 USC ss. 6101- 6107) which prohibits discrimination on the basis of age; 5) The Drug Abuse Office and Treatment Act of 1972 (PL 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; 6) The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (PL 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; 7) The Public Health Service Act of 1912, ss. 523 and 527 (42 USC ss. 690dd-3 and 290ee-3), as amended, relating to confidentiality of alcohol and drug abuse patent records; 8) Title VIII of the Civil Rights Act of 1968 (42 USC s. et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; 9) The Americans with Disabilities Act of 1990 (42 USC s. 1201 Note), as maybe amended from time to time, relating to nondiscrimination on the basis of disability; 10) Monroe County Code Ch. 13, Art. VI, prohibiting discrimination on the bases of race, color, sex, religion, disability, national origin, ancestry, sexual orientation, gender identity or expression, familial status or age; and 11) any other nondiscrimination provisions in any Federal or state statutes which may apply to the parties to, or the subject matter of, this Agreement.

k) Covenant of No Interest. County and Contractor covenant that neither presently has any interest, and shall not acquire any interest, which would conflict in any manner or degree with its performance under this Agreement, and that only interest of each is to perform and receive benefits as recited in this Agreement.

l) Code of Ethics. County agrees that officers and employees of the County recognize and will be required to comply with the standards of conduct for public officers and employees as delineated in Section 112.313, Florida Statutes, regarding, but not limited to, solicitation or acceptance of gifts; doing business with one's agency; unauthorized compensation; misuse of public position, conflicting employment or contractual relationship; and disclosure or use of certain information.

m) No Solicitation/Payment. The County and Contractor warrant that, in respect to itself, it has neither employed nor retained any company or person, other than a bona fide employee working solely for it, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for it, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For the breach or violation of the provision, the Contractor agrees that the County shall have the right to terminate this Agreement without liability and, at its discretion, to offset from monies owed, or otherwise recover, the full amount of such fee, commission, percentage, gift, or consideration.

n) Public Access. The County and Contractor shall allow and permit reasonable access to, and inspection of, all documents, papers, letters or other materials in its possession or under its control subject to the provisions of Chapter 119, Florida Statutes, and made or received by the County and Contractor in conjunction with this Agreement; and the County shall have the right to unilaterally cancel this Agreement upon violation of this provision by Contractor.

o) Non-Waiver of Immunity. Notwithstanding he provisions of Sec. 768.28, Florida Statutes, the participation of the County and the Contractor in this Agreement and the acquisition of any commercial liability insurance coverage, self-insurance coverage, or local government liability insurance pool coverage shall not be deemed a waiver of immunity to the extent of liability coverage, nor shall any contract entered into by the County be required to contain any provision for waiver.

p) Privileges and Immunities. All of the privileges and immunities from liability, exemptions from laws, ordinances, and rules and pensions and relief, disability, workers' compensation, and other benefits which apply to the activity of officers, agents, or employees of any public agents or employees of the County, when performing their respective functions under this Agreement within the territorial limits of the County shall apply to the same degree and extent to the performance of such functions and duties of such officers, agents, volunteers, or employees outside the territorial limits of the County.

q) Legal Obligations and Responsibilities: Non-Delegation of Constitutional or Statutory Duties. This Agreement is not intended to, nor shall it be construed as, relieving any participating entity from any obligation or responsibility imposed upon the entity by law except to the extent of actual and timely performance thereof by any participating entity, in which case the performance may be offered in satisfaction of the obligation or responsibility. Further, this Agreement is not intended to, nor shall it be construed as, authorizing the delegation of the constitutional or statutory duties of the County, except to the extent permitted by the Florida constitution, state statute, and case law.

r) Non-Reliance by Non-Parties. No person or entity shall be entitled to rely upon the terms, or any of them, of this Agreement to enforce or attempt to enforce any third-party claim or entitlement to or benefit of any service or program contemplated hereunder, and the County and the Contractor agree that neither the County nor the Contractor or any agent, officer, or employee of either shall have the authority to inform, counsel, or otherwise indicate that any particular individual or group of individuals, entity or entities, have entitlements or benefits under this Agreement separate and apart, inferior to, or superior to the community in general or for the purposes contemplated in this Agreement.

s) Attestations. Contractor agrees to execute such documents as the County may reasonably require, to include a Public Entity Crime Statement, an Ethics Statement, and a Drug-Free Workplace Statement.

t) No Personal Liability. No covenant or agreement contained herein shall be deemed to be a covenant or agreement of any member, officer, agent or employee of Monroe County in his or her individual capacity, and no member, officer, agent or employee of Monroe County shall be liable personally on this Agreement or be subject to any personal liability or accountability by reason of the execution of this Agreement.

u) Execution in Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be regarded as an original, all of which taken together shall constitute one and the same instrument and any of the parties hereto may execute this Agreement by singing any such counterpart.

v) **Section Headings.** Section headings have been inserted in this Agreement as a matter of convenience of reference only, and it is agreed that such section headings are not a part of this Agreement and will not be used in the interpretation of any provision of this Agreement.

IN WITNESS WHEREOF, each party has caused this agreement to be executed by its duly authorized representative this ____ day of _____, 2005.

(SEAL)
DANNY L. KOLHAGE, CLERK

By:_____
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS

By:_____
Mayor

(SEAL)

SOUTH BROADCASTING SYSTEM:

By: _____ 5/31/05

Title: PRESIDENT, RAULARCOS S.K.

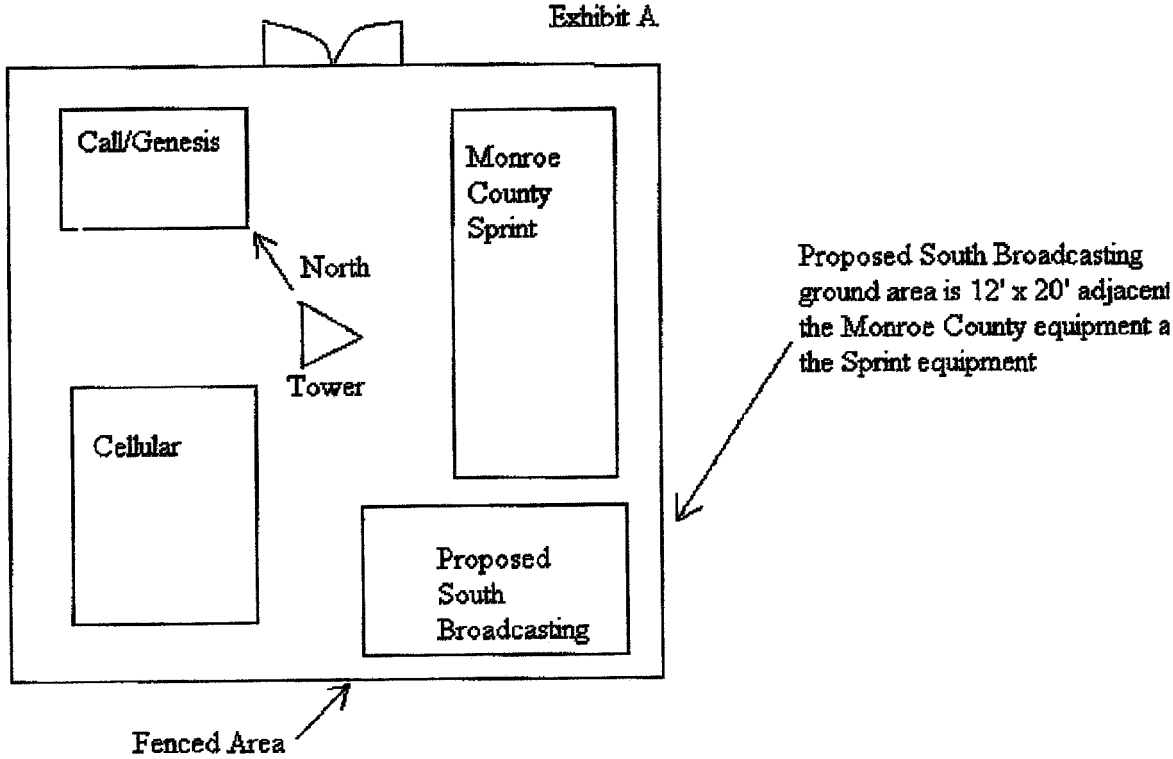
Attest: BETTY GERDTS

Betty R. Gerdts
Commission # DD104321
Expires March 28, 2006
Bonded Thru
Atlantic Bonding Co., Inc.

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM
SUZANNE A. HUTTON
ASSISTANT COUNTY ATTORNEY
Date 5/26/05

SBS NKL Tower Lease

Exhibit A


Call/Genesis
Monroe County Sprint
North
Tower
Cellular
Proposed South Broadcasting
Proposed South Broadcasting ground area is 12' x 20' adjacent the Monroe County equipment a the Sprint equipment
Fenced Area

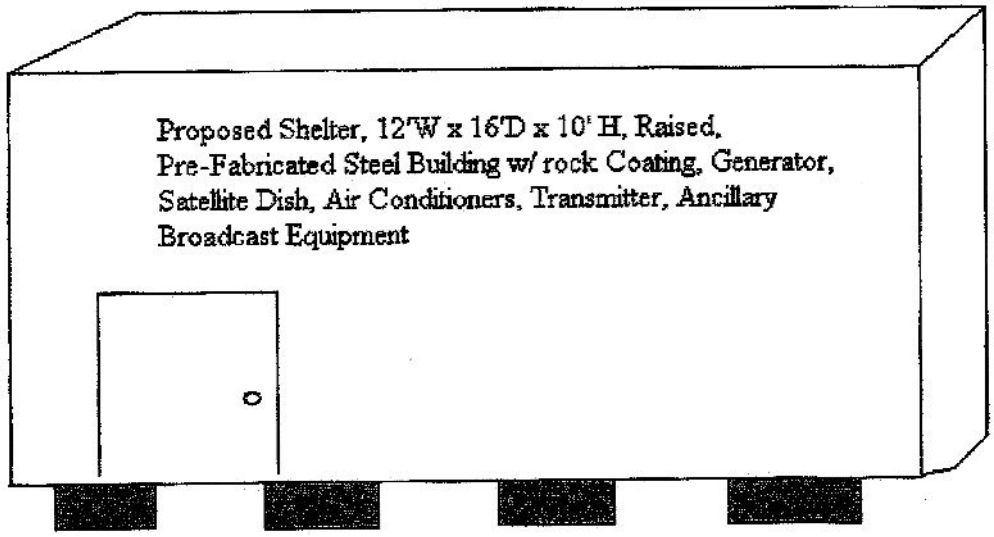

Proposed Shelter, 12'W x 16'D x 10' H, Raised, Pre-Fabricated Steel Building w/ rock Coating, Generator, Satellite Dish, Air Conditioners, Transmitter, Ancillary Broadcast Equipment

EXHIBIT _B_
INTERFERENCE/CONFLICTS

LESSEE shall, at it's own expense, maintain it's equipment on or attached to the Premises in a safe condition, in good repair and in a professional manner, suitable to Monroe County and in accordance to any County, State or Federal laws and regulations.

LESSEE's equipment shall be installed and maintained in a manner so as not to conflict or interfere with Monroe County or any other entity utilizing the facility.

IN THE EVENT OF INTERFERENCE:

1. The entity being affected by the interference will notify the Monroe County Emergency Communications department.

2. The Monroe County Emergency Communications Department in joint participation with the entity being affected will respond within 24 hours to the facility and begin analysis of the problem.

3. Upon identification of the interference source, the responsible entity will be immediately contacted, followed with a written notice.

4. The LESSEE, LESSEE or user responsible for the interference will within 24 hours begin all steps necessary to correct and eliminate the interference at their expense.

5. Should the interference not be minimized within 72 hours or eliminated within 30 days, Monroe County may elect to terminate this Agreement or correct the interference problem at the lessee's, LESSEE's or user's expense.

LESSEE has satisfied itself and hereby represents and warrants to Monroe County that no such obstruction or interference with transmitting or receiving shall result to Monroe County or other LESSEEs, LESSEEs or users located at the facility. LESSEE agrees to indemnify, hold harmless and defend Monroe County against any damage, including attorney's fees, arising out of such obstruction or interference with respect to uses which are in effect as to the date of this Agreement.

EXHIBIT C

LA CADENA
106.3 MIAMI-DADE 107.9 KEY WEST

March 1, 2005

Norm Leggett
Senior Director
Department of Emergency Communications
10600 Aviation Blvd.
Marathon, FL 33050

Subject: Proposal for Tower space lease on North Key Largo Tower

Dear Norm:

WZMQ owned by South Broadcasting System submits the following proposal for the leasing of space on the North Key Largo Tower.

We propose an annual lease of $24,000 paid in monthly installments of $2000 per month for radio station WZMQ.

WZMQ would install a 4-Bay ERI SHPX-4BC FM Broadcast Antenna on the tower occupying a space from 283 to 317 above ground level. The antenna would be fed by one 3 inch coaxial transmission line attached to the tower.

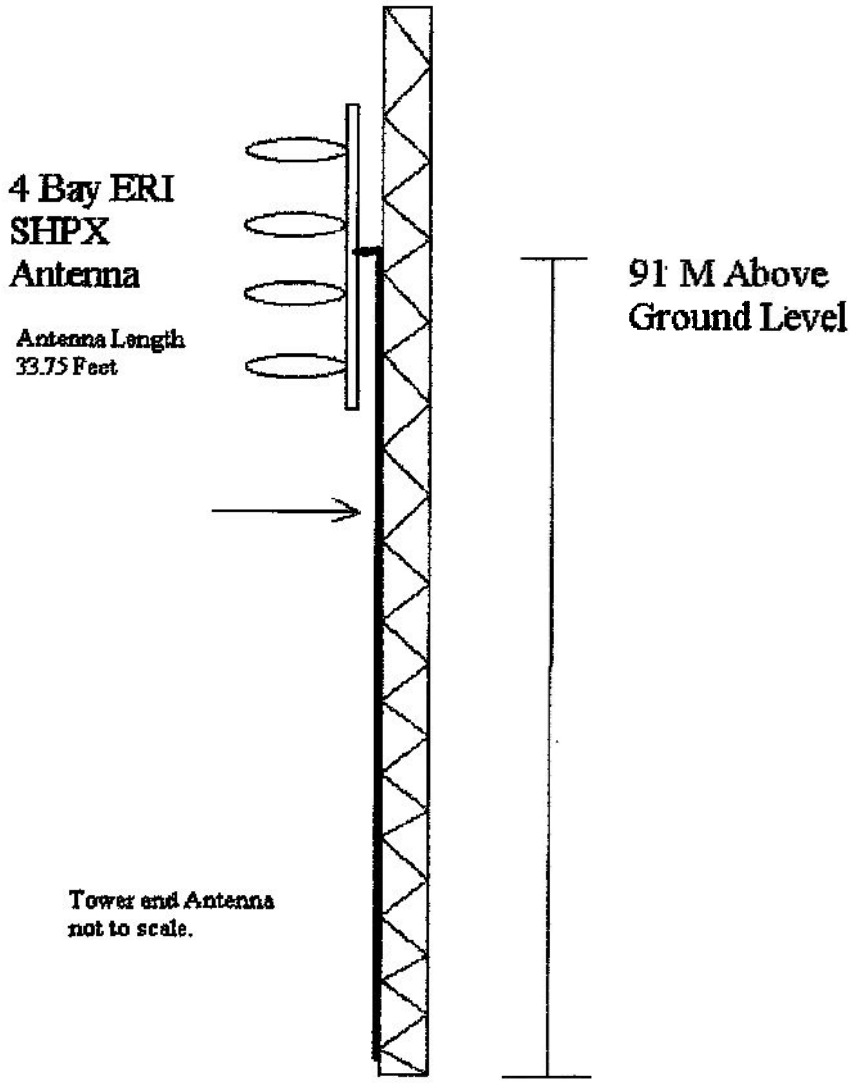
WZMQ would install a shelter at the base of the tower consisting of a 12 x 16 foot building which would occupy ½ of one of the three "future co-locate" ground spaces reserved within the fenced in area below the tower. Tower work would be contracted to Tropical Tower Service of Miami. WZMQ agrees to abide by the terms of all necessary county agreements and will obtain or modify insurance coverage as required by the county.

Sincerely yours,

Raul Alarcon, Sr.
President, South Broadcasting System

South Broadcasting System, 1001 Ponce de Leon, Miami, Florida, 33134
(305) 529-0006 Telephone · (305) 461-9994 Facsimile

Exhibit D


4 Bay ERI
SHPX
Antenna
Antenna Length
33.75 Feet
91 M Above
Ground Level
Tower and Antenna
not to scale.