

DATE 8/12, 11

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REVIEWED BY
PREPARED BY

[Redacted]

[Redacted]

CITY ATTORNEYS OFFICE

AN ORDINANCE TO PROVIDE FOR THE LEASE OF SPACE AT THE AIRPORT FROM THE CITY OF ROCK HILL TO ITT INFORMATION SYSTEMS

BE IT ORDAINED by the Governing Body of the City of Rock Hill, in Council assembled:

SECTION 1. That this Ordinance is being adopted in order to effect proper compliance with the provisions of the Home Rule Act of 1975, now South Carolina Code of Laws for 1976, Section 5-7-30, Section 5-7-40 and Section 5-7-260, and Section 2-48 and 2-96 of the Code of the City of Rock Hill.

SECTION 2. That the City of Rock Hill, South Carolina, is the owner of a parcel of land at the Rock Hill-York County Airport, shown as "Lease Area" depicted in Exhibit A of the Lease, which is attached hereto and made a part hereof; that the City of Rock Hill has agreed to lease ITT Information Systems said tract of land for the purpose of establishment, operation and maintenance of the ADS-B radio station facilities, as specified in the proposed Lease; and that the rental for the above described property shall be as set forth in the proposed Lease.

SECTION 3. That lease of the above mentioned tract to ITT Information Systems, for the consideration set forth above, all pursuant to the terms fully set forth in a proposed Lease, a copy of which is attached hereto and incorporated herein, is hereby

approved, authorized, directed, ratified and confirmed in all respects.

SECTION 4. That all ordinances or parts of ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION 5. That this Ordinance shall be and become finally binding immediately after same shall have received first and second readings, given in manner required by law.

DONE AND RATIFIED in Council assembled on this the ____ day of _____, 2011.

A. Douglas Echols, Jr., Mayor

Susie B. Hinton, Mayor Pro Tempore

John A. Black, III, Councilmember

Kathy S. Pender, Councilmember

James C. Reno, Jr., Councilmember

Osbey Roddey, Councilmember

Kevin H. Sutton, Councilmember

ATTEST:

Anne H. Poag
Municipal Clerk

Lease Number: SV022-01
Facility: ADS-B Radio Station Site
Location: Rock Hill Airport

LEASE

Between

The City of Rock Hill, SC

and

ITT Information Systems

THIS AGREEMENT made and entered into this ____ day of _____ in the year 2011, by and between the City of Rock Hill, SC, whose address is:

P. O. Box 11706
Rock Hill, SC 29731

Hereinafter referred to as the Lessor and ITT Information Systems, hereinafter referred to as ITT, whose address is:

12930 Worldgate Drive
Herndon, Virginia 20170

WHEREAS, the parties understand and agree that this Agreement is taken in support of FAA Contract DTFAWA-07-C-00067, issued to ITT on August 30, 2007.

For valuable consideration, receipt of which is hereby acknowledged, the parties hereto agree as follows:

1. PREMISES

The Lessor hereby leases to ITT the following described property located at:

See Attached Lease Exhibit A

(a) Together with a right-of-way for ingress to and egress from the premises; a right-of-way for establishing and maintaining electric power and telecommunication lines to the premises; and unless herein described otherwise, to be by routes reasonably determined and agreed by the Lessor.

(b) And the right to make alterations to the premises to support the ITT radio site equipment, after concurrence by the Lessor as to the site design details prior to start of construction and prior to any alterations during the life of this lease.

2. PUBLIC UTILITIES

ITT is responsible for the provision of any and all required electrical power and/or telecommunications services to the leased site for the term of this Agreement. The Lessor is not responsible to provide any type of public utilities at or on the leased site.

3. TAXES

ITT shall be responsible for the payment of any applicable taxes, fees or governmental assessments against any equipment, personal property and/or improvements owned, leased or operated by ITT.

4. INSURANCE

ITT shall maintain in full force during the term of this Agreement and shall cause all contractors or subcontractors performing Work on the leased site prior to the commencement of any such Work on behalf of ITT to maintain the following insurance:

1. Worker's Compensation Insurance with statutory limits in accordance with all applicable state, federal and maritime laws, and Employers' Liability Insurance with minimum limits of \$500,000 per accident/occurrence, or in accordance with all applicable state, federal and maritime laws.
2. Commercial General Liability Insurance (Bodily Injury and Property Damage) the limits of liability of which shall not be less than \$1,000,000 per occurrence.
3. Additional insurance as may be reasonably required by Lessor during the term of this Agreement in accordance with the then-current Lessor published policies.

5. TERM

To have and to hold said premises with their appurtenances for the term beginning at the date of this Agreement, subject to renewal rights and terms, as may be hereafter set forth.

6. CONSIDERATION

ITT shall pay the Lessor no monetary consideration in the form of rental, it being mutually agreed that the rights extended to ITT herein are in consideration of the obligations assumed by ITT in its establishment, operation and maintenance of the ADS-B radio station facilities upon the premises hereby leased. Maintenance of the Premises shall be performed to standards reasonably requested by Lessor.

7. RENEWAL

This lease may be renewed from year to year at the option of ITT upon the terms and conditions herein specified. ITT's option shall be deemed exercised and the lease renewed each year for one (1) year unless ITT 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 thereof shall extend the period of occupancy of the premises beyond September 30, 2020.

8. RESTORATION

It is hereby agreed between the parties, that upon termination of its occupancy, ITT shall restore the property which is the subject matter of this lease including removal of structures, equipment, and fencing but excluding foundations and subsurface ducting, cables, and grounding systems.

9. INTERFERENCE WITH RADIO SITE OPERATIONS

The Lessor agrees not to erect or allow to be erected any structure or obstruction on the site or adjoining land within the airport boundaries that may interfere with the proper operation of the facilities installed by ITT under the terms of this Lease unless consent hereto shall first be secured from ITT in writing. ITT consent shall not be unreasonably withheld and ITT shall support the Lessor in the evaluation of any potential interference issues. The Lessor shall act in a reasonable way for any construction in proximity to the communication tower, with regard to new construction and RF interference. The Lessor shall be allowed to pursue construction activity giving proper clearance to lessee's tower communication activities. ITT consent shall also be contingent upon FAA approval, when interference results in limitations in radio station performance within the NAS.

10. HAZARDOUS SUBSTANCE

ITT agrees to remediate, at its sole cost, all hazardous substance contamination on the leased premises that is found to have occurred as a direct result of the installation, operation, and/or maintenance of ITT's facilities.

11. QUIET ENJOYMENT

The Lessor warrants that they have good and valid title to the premises, and rights of ingress and egress, and warrants and covenants to defend ITT's use and enjoyment of said premises against third party claims.

12. INDEMNIFICATION

ITT shall indemnify the Lessor against and hold the Lessor harmless from any and all costs, claims, damages, expenses, or causes of action which arise out of the this Agreement. This indemnity does not apply to any claims arising from the gross negligence or intentional misconduct of the Indemnified Party.

13. CONTRACT DISPUTES, DEFAULT AND GOVERNING LAWS

This Agreement shall be governed by the laws of the State in which the property is located, with the exception of its choice of law provisions. If any provision of this Agreement is found invalid or unenforceable under judicial decree or decision, the remaining provisions of this Agreement shall remain in full force and effect.

In the event either party defaults or fails to perform under the terms of this Agreement, the non-defaulting party shall be entitled to all legal and equitable remedies and reasonable attorney fees, including the remedy of eviction against ITT.

This Agreement is wholly subject to and ITT agrees to comply with all City of Rock Hill, Bryant Field and City of Rock Hill Airport related regulations and ordinances. Such matters govern and control over any contrary provisions set forth in this Agreement.

14. SUCCESSORS

The terms and provisions of this lease and the conditions herein bind the Lessor and the Lessor's heirs, executors, administrators, successors, and assigns. The terms and provisions of this lease and the conditions herein bind ITT and ITT's heirs, executors, administrators, successors, and assigns.

15. NOTICES

All notices /correspondence shall be in writing, and shall be addressed as follows (or to such other address as either party may designate from time to time by notice or correspondence to the other).

To LESSOR: City of Rock Hill
ATTN: Eric Ramsdell
P. O. Box 11706
Rock Hill, SC 29731

To ITT: ITT Information Systems
12930 Worldgate Drive
Herndon, Virginia 20170
Attention: ADS-B Subcontracts Department

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

ATTEST: CITY OF ROCK HILL

By: _____
City Clerk

By: _____
David B. Vehaun, City Manager

Date: _____

Date: _____

ITT INFORMATION SYSTEMS

BY _____
Gregory P. Hughes

Contracts and Purchasing
(official title)

(date)

