

Item # 4-5

**City of Carson City
Agenda Report**

Date Submitted: 03/06/06

Agenda Date Requested: 03/15/06

Time Requested: Consent

To: Mayor and Supervisors

From: Fire Department

Subject Title: Action to enter into a license agreement with Sierra Surgery Hospital, a Nevada LLC, for the purpose of leasing space for emergency communications equipment and to authorize the Mayor to sign the license agreement at a cost of \$150.00 annually paid from the general fund.

Staff Summary: This license agreement will allow the Fire Department to place interoperable radio communications equipment within the Sierra Surgery facility. The surgical hospital will lease radio space to the city.

Type of Action Requested: (check one)
☐ Resolution ☐ Ordinance
☒ Formal Action/Motion ☐ Other (Specify)

Does This Action Require A Business Impact Statement: ☐ Yes ☒ No

Recommended Board Action: I move to enter into a license agreement with Sierra Surgery Hospital, a Nevada LLC, for the purpose of leasing space for emergency communications equipment and to authorize the Mayor to sign the license agreement at a cost of \$150.00 annually paid from the general fund.

Explanation for Recommended Board Action: By approving this agreement the City will be able to expand radio communications for fire and EMS units while in Carson-Tahoe Regional Medical Center. Presently radio communications around the hospital campus is poor.

Applicable Statute, Code, Policy, Rule or Regulation:

Fiscal Impact: \$150.00 annually.

Explanation of Impact: The lease amount of \$150 annually is consistent with costs paid by other local government for similar agreements.

Funding Source: General fund, through the Fire Department annual budget.

Alternatives: Other alternatives for radio communications sites have been explored. We have no alternative location available to us. This is the most cost effective location. If we do not

pursue to license agreement, our radio communications will continue to be poor. This could have an ultimate effect on public and employee safety.

Supporting Material: License Agreement

Prepared By: R. Stacey Giomi, Fire Chief

NOTE: A total of 2 original signatures are needed on the Agreement (two originals are included).

Reviewed By:

Randy Giomi
(Fire Chief)

Date: 3-6-07

[Signature]
(City Manager)

Date: 3-6-07

Marie Rubetta
(District Attorney)

Date: 3-6-07

[Signature]
(Finance Director)

Date: 3/6/7

Board Action Taken:

Motion: _____

1) _____

Aye/Nay

2) _____

(Vote Recorded By)

LICENSE AGREEMENT

This License Agreement is entered this 15TH day of March, 2007, by and between Sierra Surgery Hospital, a Nevada LLC ("Licensor", and CARSON CITY, NEVADA, a Consolidated Municipality, ("Licensee").

In consideration of the mutual promises contained in this Agreement, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. USE, DESCRIPTION OF PREMISES. Licensor hereby grants to Licensee a nonexclusive license to install, maintain, operate and remove radio communications equipment and appurtenances certain improvements for transmission and reception of a communications facility, on a designated rooftop and interior area ("premises") located on property known as Sierra Surgery Hospital (1400 Medical Parkway, Carson City, NV).

2. USE OF PREMISES; LIMITATION TO DESCRIBED PURPOSE; IMPROVEMENTS.

- a. Licensee may use the premises for its sole and limited purpose of the transmission and reception through Licensor's facility located at 1400 Medical Parkway, Carson City, Nevada.
- b. Licensee shall have the right, at its own cost and expense and in compliance with specifications provided by Licensor, to place and maintain on the premises improvements, personal property and facilities described in the attached Exhibit A, which include without limitation transmitting and receiving antennas, microwave dishes, tower mounted BTS units and base station equipment (the "Facilities"). All of Licensee's construction and installation work shall be performed at Licensee's sole expense and in a workmanlike manner and shall not interfere with Licensor's use of the premises, including Licensor's electronic transmission and receiving equipment. In addition, Licensee shall be responsible for any damage or necessary repairs to the facility attributable to the installation, continued presence, or removal of Licensee's Facilities. The Facilities shall remain the exclusive property of Licensee, and Licensee shall have the right to remove all or any portion of the Facilities during the License term and following the termination of this License.

3. COOPERATION. During the Initial License term or any Renewal Terms, Licensor agrees to cooperate with the Licensee in obtaining and maintaining, at the Licensee's sole expense, all approvals and permits required for Licensee's use of the Premises ("Governmental Approvals") and Licensee agrees to allow Licensee to perform surveys and other engineering procedures on, under and over the Property necessary to determine that the Premises will be acceptable to Licensee's engineering specifications, system design and Governmental Approvals, provided that all such activities are first approved by Licensor, which approval shall not be unreasonably withheld.

4. TERM & LICENSE FEES.

- a. The term of this agreement (the "Initial Term") is five years, commencing on the date all governmental building permits are received ("Commencement Date"). This Agreement will be automatically renewed for five additional terms (each a "Renewal Term") of five years unless Licensee notifies Licensor of Licensee's intention not to renew this License at least 60 days prior to the expiration of the Initial Term or any Renewal Term.

- b. Licensee shall pay to Licensor, as a License Fee, the sum of one-hundred fifty dollars (\$ 150) per year. The License Fee shall be payable on the first day of each month in advance to the Licensor's address as specified in this Agreement. If the Commencement Date is other than on the first day of a month, the License Fee shall be prorated for the first month or the number of days from the Commencement Date to the end of the month.
- c. If the License is terminated at a time other than on the last day of a month, the License Fee shall be prorated as of the date of termination, and, in the event of termination for any reason other than nonpayment of the License Fee, all prepaid License Fees shall be refunded to Licensee.
- d. The License Fee for each year following year one will be cumulatively increased by 2.5% for each succeeding year.

6. UTILITIES. Licensee shall be responsible, as its sole cost and expense, for installing connections to the existing interior power circuit panel for power and telephone services. Licensee shall pay all costs and bills associated therewith to Licensor, either through metering of this connection or through a monthly estimate to be updated annually based on power usage.

7. TAXES. Licensee shall pay any personal property taxes assessed on or any portion of such taxes attributable to the Licensee's Facilities.

8. ACCESS. Licensor shall provide Licensee ingress and egress from an open and improved public road, and access to the Property adequate to service the Facilities, 24 hours per day, seven days per week during the Initial Term of this License or any Renewal term thereof at no additional charge to Licensee. Licensee hereby acknowledges that due to the location of the site there may be instances when access to the site may be temporarily blocked due to deep snow.

9. INSURANCE.

- a. Licensee shall provide Commercial General Liability Insurance naming the Licensor as an additional insured on the policy, with limits of not less than Two Million Dollars (\$2,000,000.00) combined single limit per occurrence for bodily injury and property damage liability, with a certificate of insurance to be furnished to the Licensor within 30 days. Such insurance may be satisfied through any combination of excess liability and/or umbrella policies.
- b. Licensor and Licensee agree that in the event of loss or damage to property due to any peril which is covered by an insurance policy maintained by either of the parties, the parties shall look solely to such insurance for recovery, and, provided that the loss is covered by the insurance policy, neither party's insurance company shall have a subrogated claim against the other party.

10. DESTRUCTION OF PROPERTY. If the Property or Premises are destroyed or damaged so as, in Licensee's judgment, to hinder the effective use of the Facilities, Licensee may elect to terminate the License as of the date of the damage or destruction by so notifying Licensor in writing not more

than 45 days following the date of the damage. In such event, all rights and obligations of the parties shall cease as of the date of the damage or destruction and Licensee shall be entitled to the reimbursement of any License Fee prepaid by Licensee.

11. INDEMNITY AND HOLD HARMLESS. Licensors and Licensee, to the extent provided by Nevada law, each indemnifies the other against and holds the other harmless from any and all costs (including attorneys' fees) and claims of liability or loss which arise out of the ownership, use and/or occupancy of the Facilities by the indemnifying party. The indemnity obligations under this paragraph will survive termination of this Agreement.

12. HAZARDOUS SUBSTANCE. Licensors represent that it has no knowledge of any substance, chemical or waste (collectively, "substance") on the Property that is identified as hazardous, toxic or dangerous in any applicable federal, state or local law or regulation. Licensee and its contractors will not introduce or use any such substance on the Property in violation of any applicable law and, in the event such an introduction occurs, will assume the responsibility for and fully indemnify Licensors for any enforcement action due to the introduction of a substance by the Licensee only.

13. NOTICES. All notices, requests, demands and other communications shall be in writing and shall be deemed delivered when sent via U.S. mail, certified mail return receipt requested, or sent by overnight carrier to the following addresses:

To Licensors: Sierra Surgery Hospital
1400 Medical Parkway
Carson City, NV 89703
Attn: Chief Executive Officer

To Licensee: Carson City Fire Department
777 S. Stewart St.
Carson City, NV 89701
Attn: Fire Chief

14. TERMINATION. This License may be terminated, without penalty or further liability with 120 days written notice as follows: (a) by either party upon default of any covenant or term by the other party, which default is not cured within 60 days of receipt of written notice of default without, however, limiting any other rights available to the parties pursuant to any other provisions; (b) by Licensee if it is unable to obtain or maintain any license, permit or other Governmental Approval necessary to the construction and/or operation of the Facilities or the Licensee's business; (c) by Licensee if the Property is or becomes unacceptable under Licensee's design, economic or engineering specifications for the Facilities; (d) by Licensors to the extent that removal of Licensee's Facilities is necessary to complete any improvements or repairs determined by Licensors to be in the Licensors' best interests; however, if improvements or repairs are minimal the Licensee will be allowed to erect a temporary facility until such time as improvements or repairs are completed. After completion of the first five-year term of this license, the Licensors may, if it finds it in the best interest of the Licensors to do so, terminate this agreement with one year's notice.

15. NO PAYMENT ON TERMINATION. If this License Agreement is partially or completely terminated for any reason, Licensors are not required to compensate Licensee for the construction, removal, reconstruction or relocation of the Facilities located on the Licensed Property.

16. TRANSFER, ASSIGNMENT OR SUBLEASE. Licensee will not assign or transfer this agreement without the prior written consent of the Licensor, which consent will not be unreasonably withheld, delayed or conditioned; provided, however, as long as Licensee is not in default hereunder and gives Licensor prior written notice of its intent to assign this agreement, Licensee may assign without Licensor's consent to any lender in connection with a financing agreement, any party controlling, controlled by or under common control with Licensee or to any party which acquires substantially all of the assets of Licensee. Licensee shall not have the right to sublease all or any part of its rights and obligations under this Agreement.

17. WAIVER OF LIEN. Licensor hereby waives any and all lien rights it may have, statutory or otherwise, concerning the Facilities or any portion thereof which shall be deemed personal property for the purpose of this License, regardless of whether or not same is deemed real or personal property under applicable laws, and Licensor gives Licensee the right to remove all or any portion of same from time to time in Licensee's sole discretion without Licensor's consent.

18. FEDERAL REGULATIONS. Licensee warrants that it shall comply with all Federal regulations, including but not limited to all rules and regulations of the Federal Communications Commission, in the operation and maintenance of its Facilities.

19. CONDEMNATION. If a condemning authority takes all of the Property, or a portion sufficient, in Licensee's determination, to render the Property unsuitable for the use which Licensee was then making of the Property, this License shall terminate as of the date the title vests in the condemning authority.

20. GOVERNING LAW/VENUE. The parties acknowledge and agree that this License Agreement will be construed, enforced and any actions brought on this Agreement will be in accord with the laws of the State of Nevada.

21. ENTIRE AGREEMENT. This License Agreement shall constitute the entire Agreement and understanding of the parties, and supersedes all offers, negotiations and other agreements. There are no representations or understandings of any kind not set forth in this agreement.

22. MODIFICATION. Any modification of, or amendment to, this License Agreement must be in writing and executed by both parties.

23. SEVERABILITY OF PROVISIONS. If any term of this License Agreement is found to be void or invalid, such invalidity shall not affect the remaining terms of this License Agreement, which shall continue in full force and effect.

LICENSOR:

By:


Joan Lapham
Chief Executive Officer

Date:

3-2-07

LICENSEE:
REVIEWED AND RECOMMENDED BY:

Stacey Giomi

Stacey Giomi
Fire Chief

3-2-06

Date

APPROVED AS TO FORM:

Carson City District Attorney

Date

APPROVED:

MARV TEIXEIRA, Mayor

Date

ATTEST:

ALAN GLOVER, Clerk-Recorder

Date

Exhibit A

Site description and list of improvements, personal property and facilities.

The Licensee will occupy approximately 6 square feet of area in the electrical room located in the northwest portion of the facility. The electrical room is adjacent to the boiler room. The Licensee will install two-way radio components in a cabinet and connect the components to an antenna on the exterior of the building.

The Premises consist of those areas described above and where the Licensee occupies Licensor's Property. The Premises and the associated utility connections and access, including easements, ingress, egress, dimensions, and locations as described above, are approximate only and may be adjusted or changed by Tenant at the time of construction to reasonably accommodate sound engineering criteria and the physical features of Licensor's Property.