



**DEPARTMENT HEAD'S SUMMARY REQUISITION FOR COUNCIL ACTION
(RCA)**

DEPARTMENT: Information Technology

AGENDA DATE: November 15, 2011

CONTACT PERSON/PHONE: Miguel A. Gamiño, IT Director/ 541-4746

DISTRICT(S) AFFECTED: All

SUBJECT: Discussion and action on the request that Council approve a License Agreement between the University Medical Center (UMC), the County of El Paso and the City of El Paso to place microwave radio equipment on the roof towers of the UMC properties for the purpose of enhancing the speed for the shared IT Operations and the library's Broadband Technology Opportunity Program grant. The UMC properties are located at 300 S. Zaragoza and 101 Potasio in Fabens. There is no cost to the City since all the parties have determined the service provided by each party is adequate consideration.

BACKGROUND/DISCUSSION:

University Medical Center is the owner and operator of certain properties located at 300 S. Zaragoza and 101 Potasio in Fabens.

The City of El Paso will place microwave radio equipment on the roof towers of the UMC properties as a part of the shared IT Operations between the City and the County. These sites are critical to the City's implementation of the library's Broadband Technology Opportunity Program grant and will be in the connection for 300 S. Zaragoza and 101 Potasio in Fabens.

The County of El Paso will purchase from the City of El Paso the microwave equipment and include UMC in the Microwave Network. Once the County has purchased the equipment (probably before the end of the year), the license will be solely between the County and UMC.

There is no cost to the City under this License Agreement since all of the parties has determined the services provided by each party is adequate consideration.

Mayor
John F. Cook

City Council

District 1
Ann Morgan Lilly

District 2
Susie Byrd

District 3
Emma Acosta

District 4
Carl L. Robinson

District 5
Dr. Michiel R. Noe

District 6
Eddie Holguin Jr.

District 7
Steve Ortega

District 8
Cortney Carlisle Niland

City Manager
Joyce A. Wilson





PRIOR COUNCIL ACTION:

Yes, June 21 2011 Council approved Interlocal Agreement between the City of El Paso and the County of El Paso for shared datacenters, enhanced communications and connectivity and leases for the datacenters.

AMOUNT AND SOURCE OF FUNDING:

Department: Information Technology
Amount: \$0
Funds Available: Not applicable
Funds Source: Not applicable

BOARD/COMMISSION ACTION: N/A

*****REQUIRED AUTHORIZATION*****

DEPARTMENT HEAD:

**Miguel A. Gamiño, Information Technology
Director**

Information copy to appropriate Deputy City Manager

Mayor
John F. Cook

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City Manager
Joyce A. Wilson



RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the City Manager be authorized to sign a License Agreement between the University Medical Center (UMC), the County of El Paso and the City of El Paso to place microwave radio equipment on the roof towers of the UMC properties located at 700 N. Zaragoza and 101 Potasio in Fabens for the purpose of enhancing the speed of the shared IT Operations and the library's Broadband Technology Opportunity Program grant, at no cost to the City.

ADOPTED this _____ day of November, 2011.

CITY OF EL PASO

John Cook
Mayor

ATTEST:

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:



Bertha A. Ontiveros
Assistant City Attorney



Miguel Gamino Jr., Director
Information Technology Department

WHEREAS, the Licensor and Licensees anticipate additional agreements to allow the other party to place additional microwave equipment on other properties owned by each of the parties in order to create and enhance a shared communications system that includes fiber optic and microwave technologies and redundancy for their respective IT Operations;

WHEREAS, it is of mutual advantage to the Licensor and Licensees to enter into this agreement;

NOW, THEREFORE, IT IS HEREBY AGREED BY THE PARTIES AS FOLLOWS:

1. At all times throughout this License Agreement, all parties to this Agreement understand and agree that all references to the term Licensee shall initially mean that the City of El Paso is the Licensee for purposes of the initial purchase of and installation of the microwave network onto the towers of the UMC properties, and all rights, duties, and responsibilities placed upon the Licensee under this Agreement shall be those of the City of El Paso until the Bill of Sale memorializing the purchase of the microwave network by the County of El Paso from the City of El Paso is executed and dated establishing the date the term Licensee under this Agreement shall mean the County of El Paso which shall assume all rights, duties, and responsibilities placed upon the Licensee under this Agreement. Said Bill of Sale upon its execution shall be incorporated herein and made a part hereof for the entirety of this Agreement.

2. The Licensor hereby grants the Licensee the non-exclusive, non-assignable right to and use a portion of the roofs of each UMC property (the "UMC Properties") as more specifically depicted in Exhibit A-1 and Exhibit A-2 (the "Licensed Premises") in order to facilitate transmission and reception of radio communication signals and for the construction, installation, operation, maintenance, repair, removal or replacement of related facilities, antennas, microwave dishes and related cables and utility lines (the "Microwave Network"). The Licensee shall at no time interfere with the operation and use of the UMC Properties.

3. This License is granted to the Licensee for a period of ten (10) years. It is the agreement of the parties that the value paid by the Licensees to the Licensor for the use of the Licensed Premises for the shared IT Operations and communications system and the consideration paid by the Licensor to the Licensee for use of the Licensee's property for the use of the Microwave Network for the shared IT Operations and communications system are nearly equal. There is a value to the Licensor and Licensees to have shared communications system for its internal IT networks. It is the general intent of the parties hereto that this agreement between the Licensor and the Licensees and the covenants to provide the space for the Microwave Network and communications services described herein are mutual adequate consideration and no further monetary payment shall be made by Licensee for use of the respective Licensed Premises and no further monetary payment shall be made by Licensor for access to the Microwave Network communications service.

4. Following the expiration of the initial term and provided that the Licensee is in full compliance with all terms and conditions of this Agreement and that the Agreement has not been earlier terminated as provided herein, this Agreement shall thereafter automatically be extended on a year to year basis without further action of the parties.

5. Plans and specifications for the installation of the Microwave Network at the Licensed Premises shall be subject to written approval of the Licensor. After the plans and specifications have been approved, no additional Microwave Network or replacement of Microwave Network will be allowed

without the written approval of the Licensor. In addition, prior to installing its Microwave Network, the Licensee shall provide the Licensor with its exact frequency of operation and any other data or technical information reasonably requested, including but not limited to frequency analysis(es) so that the Licensor may determine the probability of any interference cases at the UMC Properties. In the event Licensor, in its sole discretion, determines there is a probability of interference from Microwave Network to UMC operations, Licensor may withhold approval of installation until such time as Licensee submits a plan to eliminate or reduce interference to a level acceptable to UMC, and such plan is approved by UMC.

6. Licensee must also provide the Licensor with a copy of its current FCC license before placing any microwave equipment in service or document that such license is not required. If it is required and the Licensee fails to provide and maintain a current FCC license for the microwave equipment placed on UMC Properties, Licensee will not be allowed to operate the microwave equipment from the Leased Premises until all required Licenses are in place and, if the Microwave Network is already installed and the Licensee unreasonably delays, is unable to obtain the required license or loses its license, the Licensor must remove all Microwave Network when so instructed by the Licensor, and this Agreement shall terminate immediately with no liability of the Licensor.

7. The Microwave Network shall at all times remain the sole and exclusive property of the Licensee and may be removed by the Licensee at any time with one hundred eighty (180) days prior written notice to the Licensor.

8. The Licensee shall have full responsibility at its sole cost and expense for the installation, servicing, maintenance and operation of the Microwave Network in accordance with the terms of this License and in accordance with all applicable local, state and federal laws.

9. The Licensee shall pay all costs of installing the Microwave Network, including any electrical lines and outlets which are necessary. The installation shall be done in accordance with industry standards and done in a good and workmanlike manner. All such work shall be done in accordance with the specifications approved by the Licensor and in accordance with all applicable codes.

10. The Licensee may place the approved Microwave Network on Licensed Premises as long as the Licensee remains responsible for the operation and maintenance of its Microwave Network and for any harmful interference that it may cause to the Licensor's operations and Property and its radio signals or Microwave Network.

11. If, in the sole discretion of the Licensor, any of the Licensee's Microwave Network is determined to be a cause of harmful interference to the Licensor's operations and UMC Properties and its radio signals or Microwave Network, Licensor shall notify Licensee in writing and Licensee will immediately implement any and all required changes and modifications to its Microwave Network to reduce the interference to a level that is acceptable to the Licensor. The Licensor will provide all reasonable assistance to the Licensee in its efforts to reduce the interference. If the Licensee cannot reduce the interference to an acceptable level within 48 hours then Licensee shall unplug or otherwise render the appropriate equipment inoperable to prevent continuing interference but allow Licensor to continue its operations. Licensee shall then have a time frame acceptable to Licensor, but not less than 14 business days during which to remedy the problem with interference. In the event that Licensee is unsuccessful, then Licensor may give Licensee written notice and a reasonable deadline by which Licensee must remove the Licensee's equipment causing interference from the Licensed Premises, and this Agreement shall terminate immediately as to the offending equipment with no liability of the Licensor. In the event Licensee fails to remove the Microwave Network by the deadline set forth by

Licensor, Licensor shall have the right to immediately disable or remove the Microwave Network, however in such case, Licensor shall use commercially reasonable care not to damage or permanently disable Licensee's equipment. Licensor shall not be liable for any damage(s) to the Licensee's Microwave Network due to the disabling or removal of said Microwave Network by the Licensor unless the damage is the result of gross negligence on the part of Licensor or its agent. Upon Licensee's failure to remove said equipment within 30 days, the equipment will be considered abandoned and Licensor may dispose of the equipment without any further liability to Licensor.

12. The Licensor shall furnish electrical current for operation of the Microwave Network without charge to the Licensee.

13. The agents and employees of the Licensee are granted ingress and egress access to the Licensed Premises with the prior approval of the Licensor to install, operate, service and maintain the Microwave Network and be accompanied by Licensor's staff if required by Licensor.

14. The Licensee shall hold harmless to the extent allowed by law, the Licensor from liability for loss, damage, or injury to persons or property arising from or related to the performance of this Agreement, which results from acts, omissions, or negligence of the Licensee, its officers, agents, or employees.

15. The Licensor shall hold harmless to the extent allowed by law, the Licensee from liability for loss, damage, or injury to persons or property arising from or related to the performance of this Agreement, which results from acts, omissions, or negligence of the Licensor, its officers, agents, or employees.

16. It shall be the responsibility of the Licensor to maintain the structural integrity of the tower and to make repairs. However, the Licensee may conduct inspections and/or structural analysis of the tower and antenna located on the Properties with reasonable prior notice to Licensor and shall provide Licensor with a copy of the results of the inspections and structural analysis. In the event the inspections or structural analysis indicate a need for maintenance or upgrades to the tower or antenna, Licensee shall notify Licensor and Licensor shall have thirty (30) days to notify Licensee of its election to either 1) perform the indicated maintenance or upgrade at Licensor's cost; 2) decline to perform the indicated maintenance or upgrade but allow the Licensee to perform the maintenance or upgrade at Licensee's cost; or 3) decline the indicated upgrade in maintenance, and give notice of intent to terminate the agreement as it applies to the affected tower and antenna. The Licensees agree to comply with such reasonable rules and regulations pertaining to the operation of the Microwave Network and use of the Licensed Premises as may be prescribed by the Licensor from time to time.

17. The Licensee releases the Licensor from liability for any loss or damage of every description or kind which may result to the Licensee while the Microwave Network is located on the Licensed Premises, provided that nothing herein shall be construed as releasing the Licensor from responsibility for its own negligence or willful misconduct.

18. Liability Insurance.

- (a) The Licensees shall throughout the term of this License Agreement provide and keep in force for the benefit of the Licensor and the Licensees, as co-insureds and as their respective interests may appear, comprehensive general liability insurance in an amount not less than \$500,000 for each person and \$1,000,000 for each single occurrence for bodily injury or death and \$500,000 for each single occurrence for injury.

- (b) If the nature of the Licensee's operations is such as to place any or all of the employees of the Licensee under the coverage of local worker's compensation or similar statute, then the Licensee shall also keep in full force, at its sole cost and expense, so long as this License Agreement remains in effect and during such other time as the Licensee enters the Property, or any part thereof, worker's compensation or similar insurance affording statutory coverage within statutory limit.
- (c) The Licensee may insure against any of the risks described in this paragraph by provision of self-insurance.

19. The Licensee is, and shall be deemed to be an independent contractor and operator responsible to all parties for its respective acts or omissions, and the Licensor shall not be responsible therefore.

20. Any property of the Licensor which is damaged or destroyed by the Licensee incident to the exercise of the privileges herein granted shall be promptly repaired and replaced by the Licensee to the satisfaction of the Licensor. Alternatively, Licensor may promptly notify Licensee of its election to repair and replace the property and obtain reimbursement for costs reasonably incurred. Licensee shall reimburse such costs within thirty (30) days of receipt of a claim for reimbursement.

21. Any party may terminate this Agreement for its convenience by giving the other parties one hundred eighty (180) days written notice. The Licensor may choose to terminate the agreement as it pertains to one, or both of the Licensees. If the Licensor chooses to terminate the agreement with one of the Licensees, the Agreement remains in effect with the remaining Licensee. Either or both of the Licensees may choose to terminate the Agreement with the Licensor. If one of the Licensees terminates the Agreement, the Agreement remains in effect with the remaining Licensee.

22. Should the Licensee violate any of the terms and conditions of this Agreement at any time during the Term of this License, the Licensor will notify the defaulting party in writing giving sixty (60) days to cure the breach. Failure of the Licensee to cure the violation shall result in the immediate termination of this License and the Licensee shall remove its Microwave Network and facilities at its sole cost and expense without further liability of the Licensor.

23. All notices or demands of any kind shall be served by mail, a copy of such notice or demand by certified mail to:

LICENSOR: University Medical Center
Attn: James N. Valenti
4815 Alameda Ave.
El Paso, Texas 79905

LICENSEE: City of El Paso
Attn: Mayor's Office
#2 Civic Center Plaza
El Paso, Texas 79901-1196

With copy to:
City of El Paso
Attn: Capital Assets Manager #2 Civic
Center Plaza
El Paso, Texas 79901-1196

LICENSEE: County of El Paso Texas
Attn: County Judge
El Paso County Courthouse
500 E. San Antonio, Room 301 El Paso,
Texas 79901

With copy to:
County of El Paso, Texas
Attn: County Attorney
El Paso County Courthouse
500 E. San Antonio, Room 503
El Paso, Texas 79901

24. This Agreement will not be assigned by any party without the prior written consent of the remaining parties.

25. The governing law for this Agreement shall be the law of the State of Texas. The venue for all causes of action in this matter shall be in the courts of competent jurisdiction of El Paso County Texas.

26. This Agreement is the entire agreement of the parties and supersedes any prior written or verbal negotiations. The Agreement may only be modified or amended by a written agreement signed by the parties

27. The Microwave Network shall initially consist of the equipment listed on Exhibit A-1 and Exhibit A-2 and shall perform in accordance with the specification and performance standards set forth in Exhibit B-1 to wit: Summary of Comments on UMC Building and Tower Zaragoza, and B-2 to wit: Summary of Comments on UMC Fabens 101 Potasio. The Microwave Network shall comply with all non-interference rules of the Federal Communications Commission.

(Signatures on following page)

STATE OF TEXAS §
 §
COUNTY OF EL PASO §

LICENSE AGREEMENT

IN WITNESS WHEREOF, the parties sign and execute this Agreement to be effective on the day and date first stated above.

CITY OF EL PASO:

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



Bertha A. Ontiveros
Assistant City Attorney

APPROVED AS TO CONTENT:



Miguel A. Gamino Jr.
Director of Information Technology

**EL PASO COUNTY HOSPITAL DISTRICT
D/B/A UNIVERSITY MEDICAL CENTER**

BY: _____

James N. Valenti
President and Chief Executive Officer

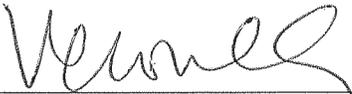
APPROVED AS TO FORM:

Edward M. Sosa
Chief Legal Officer
El Paso County Hospital District

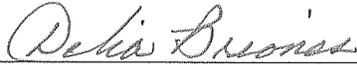
APPROVED AS TO CONTENT:

Janina Prada
Senior Director
UMC-Information Technology Department

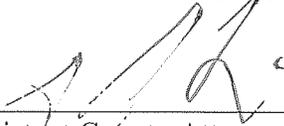
COUNTY OF EL PASO, TEXAS

BY: 
Veronica Escobar, County Judge

ATTEST:


County Clerk

APPROVED AS TO FORM:


Assistant County Attorney

APPROVED AS TO CONTENT:


Peter Cooper
El Paso County Chief Technology Officer

EXHIBIT "A-1"

300 S. Zaragosa, El Paso, Texas

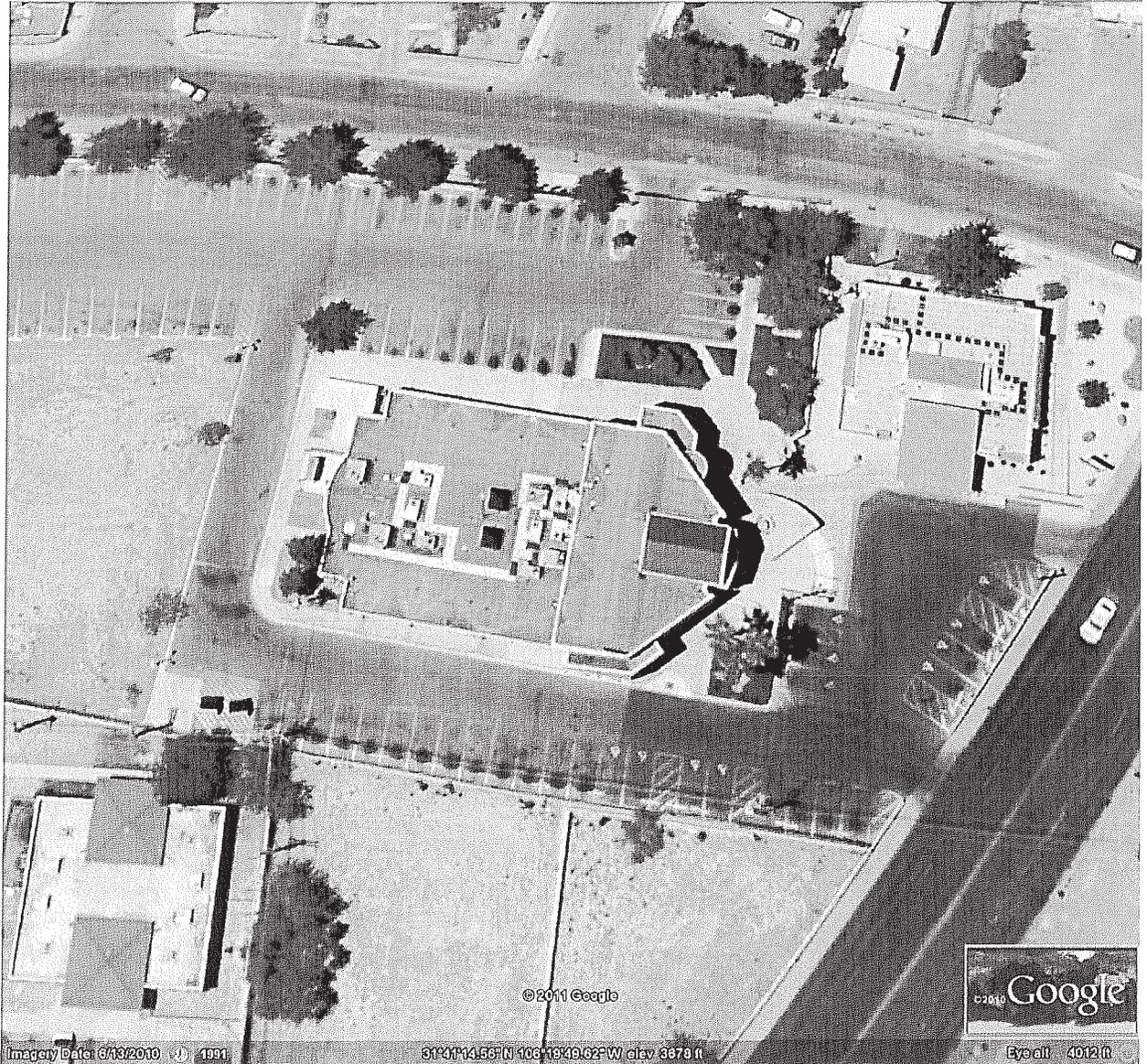


EXHIBIT "A-2"

101 Potasio, Fabens, Texas



Summary of Comments on UMC Building and Tower Zaragoza.pdf

Page: 1

Author: ozogarej
Subject: Text Box
Date: 10/13/2011 11:35:41 AM
■ UMC Tower "300 S. Zaragoza"
Location: NAD83 31-41-14.6 N 106.19.50.1W
Elevation 1117.1

Point to Multi-Point Equipment

FCC Call Sign: WQNZ957

Transmitter Height: 30'

Transmitter Antenna Manufacture: Ubiquiti Networks Inc. Model: AMS 3G-120-18

Transmitter Gain: 18.2 db, Beam Width: 120 Degrees, Antenna Center Line: 29.0 meters-AGL

Transmitter Antenna Azimuth 80 degrees, Transmitter Antenna Elevation Angle: 1.0 degrees

Transmitter Model: SWX-M365, Transmitter Center: 003650.00000, Upper Frequency Band Edge: 003675.00000,

EIRP dMm: 42.0, Transmitter Protocols TDMA and CSMA/CA Channel Block: 3650 -3700 Mhz

Ubiquiti Rocket 365 GPS

CAT6 Patch Panel

Cat6 inline surge protectors

Misc. mounting hardware

FCC REGISTERED: Point to Point Equipment

Radio Equipment: DragonWave Model:11QD40HFC277v04HAAM

Antenna: DragonWave Model: A-ANT-11G-2.5, Beam width: 2.1 Degrees, Gain:37.3 dBi, Center Line: 80 ft.,

Tilt angle:0.4 deg, TX/RX Loss: 0.8 db, Power: COORD TX PWS/RSL 15.5/-38.9 dbm, Attenuator 0.0 db, EIRP 52.0 dbm

Transmitter Frequencies: 11305.00v Mhz - 11385.00v Mhz

Exhibit "B-2"

Summary of Comments on UMC Fabens 101 Potasio.pdf

Page: 1

Author: ozogarej
Subject: Text Box
Date: 10/12/2011 10:31:22 AM
■ UMC Fabens, 101 Potasio

Mount 2 PowerBridge M365 Antenna's on Tower at 30' Height. One for WIC Clinic and One for a UMC link back to Clint Tower.



To: City Council

From: Miguel A. Gamiño Jr., Director
Information Technology

Date: November 15, 2011

Re: Approval of License Agreement between the University Medical Center (UMC), the County of El Paso and the City of El Paso to place microwave radio equipment on the roof towers of the UMC properties

The Information Technology Department is requesting that Council approve the License Agreement between the University Medical Center (UMC), the County of El Paso and the City of El Paso to place microwave radio equipment on the roof towers of the UMC properties. There is no cost to the City since all the parties have determined the service provided by each party is adequate consideration

The City of El Paso will place microwave radio equipment on the roof towers of the UMC properties as a part of the shared IT Operations between the City and the County. These sites are critical to the City’s implementation of the microwave network that supports the Library’s Broadband Technology Opportunity Program grant and will be in the connection for 300 S. Zaragoza and 101 Potasio in Fabens.

The County of El Paso and City of El Paso, desire to co-locate the Information Technology operations through shared datacenters, fiber optic and microwave network to enhance the speed at the “UMC” properties. Additionally, the co-location provides redundancy to enhance uninterrupted services and provides each of the entities disaster recovery of electronic data, communications systems, computer systems and related hardware and software.

The County of El Paso will purchase from the City of El Paso the microwave equipment and include UMC in the Microwave Network. Once the County has purchased the equipment, the license will be solely between the County and UMC.

cc: Joyce Wilson, City Manager
William Studer, Deputy City Manager

Mayor
John F. Cook

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