

CITY OF GRAND JUNCTION, COLORADO

ORDINANCE NO. 5132

**AN ORDINANCE TRANSFERRING, AUTHORIZING AND SUBSTITUTING THE
LEASE AGREEMENT BY AND BETWEEN THE CITY OF GRAND JUNCTION AND
PIKES PEAK TELEVISION INC. TO GRAY MEDIA GROUP INC. FOR USE OF
CERTAIN CITY LAND AND RATIFYING ALL ACTIONS HERETOFORE TAKEN AND
IN CONNECTION THEREWITH**

Recitals:

The City of Grand Junction (City) owns property on Grand Mesa and has for many years leased a portion of the land for use as a television and radio transmitting site. The City has had a long-standing relationship with Pikes Peak Television Inc. In late 2008 the City and Pikes Peak Television entered a ten-year lease ("Lease"). In 2019, with the City's consent, Pikes Peak assigned a portion of the leased premises to Chang Media Group. That assignment was part of an initiative to support female and minority owned broadcasters.

At the time of the partial assignment Pikes Peak's records show that it sent a letter to the City notifying it that Gray Media was a successor in interest to Pikes Peak Television Inc. and that Gray intended to exercise an option provided in the Lease for another ten-year term. The City did not receive that letter. Gray has paid the annual Lease payments and notwithstanding the Lease not being in its name Gray performed consistent with the City's expectations as provided in the Lease.

By and with this Ordinance the City Council acknowledges the Lease and transfers the same to Gray Media Group Inc. and substitutes Gray Media Group Inc. for Pikes Peak Television Inc.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION, COLORADO AS FOLLOWS:

1. The foregoing Recitals are incorporated and adopted and in accordance with and pursuant to this Ordinance the City Council of the City of Grand Junction, Colorado hereby transfers, authorizes, substitutes and confirms the Lease, and the making of, and amendment(s) to the same, including naming Gray Television Group Inc. as the tenant and to the extent necessary or required confirming the use by Chang Media of approximately 200 square feet of the leased premises; and,
2. All actions heretofore taken by the officers, employees and agents of the City relating to the Lease described or referred to herein and which actions are consistent with the provisions hereof are hereby ratified, approved, and confirmed; and,
3. The Pikes Peak Television Inc. Lease in the form attached hereto is hereby approved. The City Manager and the officers, employees and agents of the City are


hereby authorized and directed to take all actions necessary or appropriate to effectuate the provisions thereof, to affect the intent and purposes hereof.

4. If any part or provision of this Ordinance or the application thereof to any person or circumstance(s) is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provisions or application, and to this end the provisions of this Ordinance are declared to be severable.

5. The City Council finds and declares that this Ordinance is promulgated and adopted for the public health, safety and welfare and this Ordinance bears a rational relation to the lawful objectives sought to be obtained.


INTRODUCED ON FIRST READING, PASSED for publication in pamphlet form and setting a hearing for March 1, 2023, this 15th day of February 2023 by the City Council of the City of Grand Junction, Colorado.

HEARD, PASSED and ADOPTED ON SECOND READING and ordered published in pamphlet form this 1st day of March 2023.



Anna M. Stout
President of the City Council



Attest:


Amy Phillips
City Clerk

LEASE AGREEMENT

THIS Lease Agreement ("Lease") is made and entered into as of this 12th day of ~~November~~, 2008, by and between the **City of Grand Junction**, a Colorado home rule municipality, 250 N. 5th Street, Grand Junction, CO, 81501 ("Landlord" or "City") and **Pikes Peak Television, Inc.**, 8 Foresight Circle, Grand Junction, CO 81505 ("Tenant").

Recitals

A. The City is the owner of certain real property in the County of Mesa, State of Colorado, as described on **Exhibit A**, attached hereto and incorporated herein by reference. Said real property, together with the access road for ingress, egress and utilities purposes described on said **Exhibit A**, are hereinafter collectively referred to as "the Property".

B. The Property has been used, leased and occupied without cessation by various entities since 1978 as a television and radio broadcast transmitting site. Tenant presently owns and operates the television and radio transmitting tower, transmission building and associated equipment, cable and facilities (collectively, "Tenant's Property") located on, along, over and upon the Property and desires to lease the Property from the City for the sole purposes of operating, maintaining and repairing Tenant's Property and related appurtenances.

C. The City has agreed to lease the Property to Tenant and Tenant has agreed to lease the Property from the City, pursuant to the terms, covenants and conditions of this Lease.

NOW, THEREFORE, in consideration of the recitals above and the terms, covenants, conditions and restrictions contained herein, the parties agree as follows:

1. Grant of Lease. The City hereby leases the Property to Tenant and Tenant hereby accepts and leases the Property from the City, for the term stated in Section 3 and subject to each and every other term, covenant, condition and restriction stated in this Lease.

2. Reservations from Lease. The City retains and reserves unto itself:

a. all oil, gas, coal and other minerals and mineral rights underlying and/or appurtenant to the Property;

b. all water and water rights, ditches and ditch rights, appurtenant to and/or connected with the Property, including, but not limited to, any water and/or water rights which may have been previously used on or in connection with the Property, for whatever purposes;

c. all rights to grant, sell, bargain and convey ownership interest(s) in and to the Property, or any division thereof, to any other party, including the conveyance of easements; and

d. the proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of any part of the Property, or for any conveyance in lieu of condemnation. Tenant hereby assigns and transfers to the City any claim it may have to compensation for damages as a result of any condemnation, except for compensation for damages of Tenant's Property actually so taken.

The City may exercise its rights with respect to the property interests so reserved so long as the exercise of those rights does not unreasonably interfere with Tenant's use and quiet enjoyment of the Property for the purposes set forth in this Lease.

3. Term of Lease. The term of this Lease shall be for a period of ten (10) years (the "Basic Term"), commencing on January 1, 2009 (the "Commencement Date") and continuing through December 31, 2019, on which date this Lease shall expire unless this Lease is extended pursuant to the provisions of Section 4 or unless this Lease is otherwise terminated as herein provided. The term "Lease Year" shall mean a period of twelve (12) successive calendar months following each anniversary of the Commencement Date.

4. Option to Extend Lease. If Tenant performs as required pursuant to this Lease, the City hereby gives and grants to Tenant an option to extend this Lease for four (4) additional ten (10) year period(s) (each, an "Extension Term"). If this Lease is extended for an Extension Term, the Extension Term shall be upon the same terms and conditions of this Lease or upon other terms and conditions which may hereafter be negotiated between the parties. In order to exercise Tenant's option for an Extension Term, Tenant shall give written notice to the City of Tenant's desire and intention to exercise Tenant's option to extend not less than ninety (90) days prior to the expiration of the Basic Term or the then existing Extension Term, as appropriate.

5. Lease Amount. Tenant agrees to pay to the City, at the address of the City as set forth in Section 16.2 or at such other address as the City may from time to time designate in writing, an annual Lease payment for the use of the Property as set forth herein.

5.1 The annual Lease payment for the first five (5) Lease Years during the Basic Term shall be in the amount of Four Thousand Two Hundred Sixteen and 28/100 Dollars (\$4,216.28), and for each of the next five (5) Lease Years of the Basic Term the annual Lease payment shall be in the amount of Four Thousand Six Hundred Thirty-Seven and 91/100 Dollars (\$4,637.91). The annual Lease payment for the first five (5) Lease Years during an Extension Term shall be ten percent (10%) greater than the annual Lease payment during the immediately preceding five Lease Years and the annual Lease payment during the last five (5) years of an Extension Term shall be ten percent (10%) greater than the annual Lease payment during the first five (5) years of such Extension Term.

5.2 All Lease payments shall be due and payable on or before January 1 of each Lease Year without demand by the City. In the event Lease payments are not received on or before January 10 of each Lease Year, Tenant agrees to pay a late charge of \$100.00 for each and every day following January 1 of each Lease Year, which late charge shall be added to the amount of lease payment due. This Lease, at the option of the City, shall automatically terminate, and the City may immediately retake possession of the Property, if the specified Lease payments are not received by the City on or before January 30 of each Lease Year.

6. Use and Condition of Property.

6.1 During the Basic Term and any Extension Term of this Lease, Tenant agrees to use the Property solely for the purpose of installing, constructing, operating and maintaining television, radio, cable, microwave, telephone and cellular broadcast, transmission and retrieval equipment and appurtenances related thereto. Tenant's use and occupancy of the Property shall be subject to the rules, rulings and regulations of any governmental authority having jurisdiction over Tenant or the Property, either now in effect or hereinafter enacted, including, but not limited

to, the Federal Communications Commission ("FCC"), the State of Colorado and the County of Mesa. Tenant shall not use or permit the Property to be used for any other purpose or in any manner contrary to the laws, ordinances or regulations of any such governmental authority.

- 6.2** Prior to the installation or construction of additional facilities and/or improvements upon the Property, Tenant shall obtain the City's written approval of all plans for additional facilities and/or improvements to be constructed upon the Property by Tenant, which approval shall not be unreasonably withheld, conditioned or delayed. Such additional facilities and/or improvements shall become part of Tenant's Property. It is the City's desire that the Property and the improvements to be installed thereon by Tenant will be reasonably compatible with the landscape of the City's adjacent property. To this end, Tenant agrees to comply with all reasonable requirements with the City may impose on Tenant, including, but not limited to, colorings and aesthetics for equipment and facilities (except as required by the FCC or the FAA), transmitters, landscape improvements, building materials and fencing materials. If, for whatever reason, the City does not approve of Tenant's plans, Tenant may terminate this Lease. In such event, Tenant shall vacate the Property in accordance with the provisions of Section 19 of this Lease.
- 6.3** Tenant shall not commit nor permit waste, damage or injury to the Property.
- 6.4** Tenant's use of the access road is non-exclusive. The City shall have the joint right to use said access road and the City may further authorize third parties to use said access road. Should Tenant ever be denied access to the Property by any person or entity holding rights to the access roads and such denial of access continues for more than ten (10) consecutive days, Tenant shall have the right to terminate this Lease upon written notice to the City.
- 6.5** Subject to Section 6.6. below, Tenant shall maintain and repair all aspects of the Property at Tenant's sole cost and expenses, including but not limited to, fences, security devices, the appearance and structural integrity of any improvements and landscaping, in good order, good appearance, condition and repair and in a clean, sanitary, orderly and safe condition. The City shall not be obligated nor required to repair damages to any portion or aspect of the Property, nor to provide access, even if such damages are caused by or result from operations occurring on adjacent lands owned by the City, unless such damages are caused by the City and not covered by insurance maintained by Tenant. Subject to Force Majeure Events (as defined in Section 19 below), if Tenant refuses or neglects to commence repairs or perform maintenance work required under the terms hereof to be performed or paid for by the Tenant within thirty (30) days after written demand by the City or any other governmental authority, or fails to complete such repairs or perform such maintenance within a reasonable time thereafter, the City may enter upon the Property and make such repairs or perform such maintenance without liability to the Tenant's operations by reasons thereof, and if the City makes such repairs or performs such maintenance, Tenant shall pay to the City, on demand, as additional rent, the cost thereof with interest at the rate of fifteen percent (15%) per annum from the date of payment by the City for such repairs or maintenance work until paid in full by the Tenant. Any repairs made or maintenance performed by Tenant or the City, subject to Force Majeure Events, shall be completed expeditiously.

6.6 Tenant has inspected the Property and accepts the Property in its present condition. Tenant agrees that the condition of the Property is sufficient for the purposes of the Tenant. If the Property deteriorates or is damaged due to fire, flood, or other casualty not caused by the City, to the extent where it is no longer functional for the purposes of the Tenant, the City shall have no obligation to repair the Property nor to otherwise make the Property usable or occupiable; damages shall be at the Tenant's own risk, provided, however, that in the event the Property is damaged or deteriorates to the extent where it is no longer functional for the purposes of the Tenant, the Tenant may, at its option, terminate this Lease by giving notice to the City that this Lease is to be terminated. Termination shall be effective thirty (30) days following the date of the notice of termination.

6.7 The City makes no representations or warranties regarding any hazardous, toxic or regulated substances on, under or about the Property, except to the extent that the City states that it has not deposited or cause to be deposited on, under or about the Property any hazardous, toxic or regulated substances.

7. Additional Fees and Charges. In addition to making Lease payments, Tenant shall arrange and pay for, when due:

7.1 all costs and expenses, including but not limited to, deposits, user fees, interest and penalties, for utilities furnished to the Property, including but not limited to, all electricity, natural gas, water, sewer, cable and telephone services, trash and recyclables disposal;

7.2 all general real property and personal property taxes and all special assessments of any kind levied against the Property during the term of this Lease.

8. Insurance. Tenant shall purchase and at all times maintain in effect commercial general liability which will protect the City, its officers, employees and agents from liability in the event of loss of life, personal injury or property damage, suffered by any person or persons on, about or using the Property, including Tenant and employees, agents, licensees and guests of Tenant. Such insurance policy shall have terms and amounts approved by the Risk Manager of the City. Such insurance shall not be cancellable without thirty (30) days prior written notice to the City and shall be written for at least a minimum of One Million Dollars (\$1,000,000.00), combined single limit. The certificate of insurance must be deposited with the City and must designate "the City of Grand Junction, its officers, employees and agents" as additional insureds. If a policy approved by the Risk Manager of the City is not at all times in full force and effect, this Lease shall automatically terminate.

9. Nonliability of the City for Damage.

9.1 The City shall not be liable for liability or damage claims for injury to persons or property, including property of Tenant, from any cause relating to the occupancy and use of the Property by Tenant, including those arising out of damages or losses occurring on areas adjacent to the Property or easements used for the benefit of the Property during the term of this Lease or any extension thereof nor for any injury or damage to any property of Tenant, unless such liability or damage is caused by the willful misconduct of the City and is not covered by the insurance to be maintained by Tenant under this Lease or any insurance maintained by Tenant. Tenant shall indemnify the City, its officers, employees and agents, and hold the City, its officers, employees and agents, from all

liability, loss or other damage claims or obligations resulting from any injuries, including death, or losses of any nature caused by Tenant or its employees and agents.

- 9.2 The City shall not be liable to Tenant for any damages or any loss of profits or loss of opportunities claimed by Tenant or for interruption of Tenant's business or operations resulting from fire, the elements, casualty of any kind or the temporary closure of any public highway providing access to and from the Property.

10. Modifications, Alterations or Additions. No modifications, alterations or additions of improvements upon the Property, shall be performed by Tenant without the express written consent of the City first being obtained, which consent shall not be unreasonably withheld, conditioned or delayed.

11. Pledges. Tenant shall not pledge or attempt to pledge or grant or attempt to grant as collateral or security its interest in any of the Property, without the express written consent of the City first being obtained, which consent shall not be unreasonably withheld, conditioned or delayed.

12. Hazardous Substances.

12.1 The term "Hazardous Substances", as used in this Agreement, shall mean any substance which is:

- a. defined as a hazardous substance, hazardous material, hazardous waste, pollutant or contaminant under any Environmental Law enacted by any federal, state and local governmental agency or other governmental authority;
- b. a petroleum hydrocarbon, including but not limited to, crude oil or any fraction thereof, hazardous, toxic or reproductive toxicant;
- c. regulated pursuant to any law;
- d. any pesticide or herbicide regulated under state or federal law.

The term "Environmental Law", as used in this Lease Agreement, shall mean each and every federal, state and local law, statute, ordinance, regulation, rule, judicial or administrative order or decree, permit, license, approval, authorization or similar requirement of each and every federal, state and local governmental agency or other governmental authority, applicable to Tenant or the Property and pertaining to the protection of human health and safety of the environment, either now in force or hereafter enacted.

12.2 Tenant shall not cause or permit to occur by Tenant and/or Tenant's agents, guests, invitees, contractors, licensees or employees:

- a. any violation of any Environmental Law on, under or about the Property or arising from Tenant's use and occupancy of the Property, including but not limited to, air, soil and groundwater conditions; or
- b. the use, generation, release, manufacture, refining, production, processing, storage or disposal of any Hazardous Substance on, under or about the Property, or the transportation to or from the Property of any Hazardous

Substance, in violation of any Environmental Law, either now in force or hereinafter enacted.

13. Environmental Clean-Up.

13.1 The following provisions shall be applicable to Tenant and to Tenant's agents, guests, invitees, contractors, licensees and employees with respect to the Property:

- a. Tenant shall, at Tenant's sole cost and expense, comply with all Environmental Laws and laws regulating the use, generation, storage, transportation or disposal of Hazardous Substances;
- b. Tenant shall, at Tenant's sole cost and expense, make all submissions to provide all information required by and/or comply with all requirements of all governmental authorities ("the Authorities") under Environmental Laws and other applicable laws.
- c. Should any Authority or the City demand that a clean-up be prepared and that a clean-up be undertaken because of any deposit, spill, discharge or other release of Hazardous Substances by Tenant on, under or about the Property, Tenant shall, at Tenant's sole cost and expense, prepare and submit the required plan(s) and all related bonds and other financial assurances, and Tenant shall carry out all such clean-up plan(s) in compliance with the Authorities and all Environmental Laws and other applicable laws.
- d. Tenant shall promptly provide all information regarding the use, generation, storage, transportation or disposal of Hazardous Substances requested by any Authority. If Tenant fails to fulfill any duty imposed hereunder within a reasonable time, the City may do so on Tenant's behalf and in such case, Tenant shall cooperate with the City in the preparation of all documents the City or any Authority deems necessary or appropriate to determine the applicability of Environmental Laws to the Property and Tenant's use thereof, and for compliance therewith, and Tenant shall execute all documents promptly upon the City's request. No such action by the City and no attempt made by the City to mitigate damages under any Environmental Law or other applicable law shall constitute a waiver of any of Tenant's obligations hereunder.
- e. Tenant's obligations and liabilities hereunder shall survive the expiration or termination of this Lease Agreement.

13.2 Tenant shall indemnify, defend and hold the City, its officers, employees and agents harmless from all fines, suits, procedures, claims and actions of every kind, and all costs associated therewith (including the costs and fees of attorneys, consultants and experts) arising out of or in any way connected with any deposit, spill, discharge or other release of Hazardous Substances on or from the Property and the violation of any Environmental Law and other applicable law by Tenant and/or Tenant's agents, guests, invitees, contractors, licensees and employees that occur with respect to the Property during the term of this Lease or any extension thereof, or from Tenant's failure to provide all information, make all submissions, and take all actions required by all Authorities

under the Environmental Laws and other applicable laws. Tenant's obligations and liabilities hereunder shall survive the expiration or termination of this Lease Agreement.

14. Default, Sublet, Termination, Assignment.

14.1 Should Tenant:

- a. default in the performance of its agreements or obligations herein and any such default continue for a period of ninety (90) days after written notice thereof is given by the City to Tenant; or
- b. abandon or vacate the Property; or
- c. be declared bankrupt, insolvent, make a general assignment for the benefit of creditors, or if a receiver is appointed, for all or substantially all of Tenant's assets;

the City, at the City's option, may cancel and annul this Lease at once and enter and take possession of the Property immediately without any previous notice of intention to reenter, and such reentry shall not operate as a waiver or satisfaction in whole or in part of any claim or demand arising out of or connected with any breach or violation by Tenant of any covenant or agreement to be performed by Tenant. Upon reentry, the City may remove the property and personnel of Tenant and store Tenant's property in a warehouse or at a place selected by the City, at the expense of Tenant and without liability to the City. Any such reentry shall not work as forfeiture of nor shall it terminate the rent(s) to be paid or the covenants and agreements to be performed by Tenant for the full term of this Lease; and upon such reentry, the City may thereafter lease or sublease the Property for such rent as the City may reasonably obtain, crediting Tenant with the rent obtained after deducting the costs reasonably incurred in such reentry, leasing or subleasing, including the costs of necessary repairs, alterations and modifications to the Property. Nothing herein shall prejudice or be to the exclusion or any other rights or remedies which the City may have against Tenant, including but not limited to, the right of the City to obtain injunctive relief based on the irreparable harm caused to the City's reversionary rights.

14.2 Except as otherwise provided for (automatic and immediate termination), if Tenant is in default in the performance of any term or condition of this Lease Agreement, the City may, at its option, terminate this Lease upon giving ninety (90) days written notice. If the Tenant fails within any such ninety (90) day period to remedy each and every default specified in the City's notice, this Lease shall terminate. If Tenant remedies such default, Tenant shall not thereafter have the right of ninety (90) days (to remedy) with respect to a similar subsequent default, but rather, Tenant's rights shall, with respect to a subsequent similar default, terminate upon the giving of notice by the City.

14.3 Tenant shall not assign or sublease the Property, or any right or privilege connected therewith, or allow any other person, except officers, employees and agents of Tenant, to occupy the Property or any part thereof without first obtaining the written consent of the City, which consent must be approved and ratified by the City Council of the City, which consent shall not be unreasonably withheld, conditioned or delayed. In the event of an assignment of this Lease or

sublease, Tenant shall not be released from its obligations and duties under this Lease and this Lease shall remain in full force and effect. Any consent by the City shall not be a consent to a subsequent assignment, sublease or occupation by any other party. Any unauthorized assignment, sublease or permission to occupy by Tenant shall be void and shall, at the option of the City, provide reasonable cause for the City to terminate this Lease. The interest of Tenant in this Lease is not assignable by operation of law without the formal approval and ratification by the City Council of the City. Notwithstanding anything in this Section to the contrary, Tenant shall have the right, without the City's consent, to assign this Lease or sublet the Property or portions thereof to any entity that is controlled by Tenant, is under common control with Tenant or which controls Tenant. Upon written consent from the City, which consent shall not be unreasonably withheld or delayed, Tenant may lease space on the tower and in the transmitter building for the receiving and/or transmitting of radio, television, cable, microwave and cellular signals.

- 14.4** This Lease is not intended to and shall in no way preclude the City from actively marketing the Property for sale or exchange, whether through the efforts of the City, a real estate broker or any other person, nor shall this Lease prevent the City from selling, exchanging or conveying the Property to any other party; provided, however, that in the event any such sale, exchange or conveyance is made during the term of this Lease, such sale, exchange or conveyance shall be made subject to Tenant's leasehold interest in the Property. In the event of the voluntary or involuntary transfer of the City's interest in the Property, Tenant will attorn to the transferee of, or successor to, the City's interest in the Property, and recognize such transferee or successor as Landlord under this Lease if such transferee agrees to assume and perform the City's obligations under this Lease that accrue from and after the date of the transfer.

15. Fees or Commissions. The parties to this Lease Agreement warrant 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, percentage, brokerage or contingent fee. The City and Tenant agree to defend, indemnify and hold the other harmless from any claim for real estate brokerage commissions or finder's fees asserted by any other party claiming to be entitled to brokerage commissions or finder's fees arising out of this Lease.

16. Notices.

- 16.1** All notices to be given with respect to this Lease shall be writing delivered either by United States mail or Express mail, postage prepaid, or by facsimile transmission, personally by hand or courier service, as follows:

To the City: City of Grand Junction
Attn: John Shaver, City Attorney
250 N. 5th Street
Grand Junction, CO 81501-2668
Fax: 970-244-1456

To Tenant: KJCT News 8
c/o Kristy Santiago, General Manager
8 Foresight Circle
Grand Junction, CO 81505
Fax: 970-245-8249

All notices shall be deemed given:

- a. if sent by mail, when deposited in the mail;
- b. if delivered by hand or courier service, when delivered; or
- c. if transmitted by facsimile, when transmitted.

The parties may, by notice as provided above, designate a different address to which notice shall be given.

- 16.2** All Lease payments paid by Tenant to the City shall be delivered by mail or by personal delivery to:

City of Grand Junction Finance Department
Accounts Receivable Department
250 North 5th Street
Grand Junction, CO 81501-2668

All rental payments deposited by Tenant shall be clearly marked "Pikes Peak Television Broadcasting Lease."

17. Not a Partnership. It is expressly agreed between the parties that this Agreement is one of lease and not of partnership and that the City shall not be or become responsible for any debts contracted or incurred by Tenant. Tenant shall save, indemnify and hold the City, its officers, employees and agents harmless against all liability and loss, and against all claims or actions based upon or arising out of any claim, lien, damage or injury (including death), to persons or property caused by Tenant or sustained in connection with Tenant's performance of the terms and conditions of this Agreement or the conditions created thereby, or based upon any violation by Tenant, any statute, ordinance, code or regulation, either now in force or hereafter enacted, and the defense of any such claims or actions, including the costs and fees of attorneys, consultants and experts. Tenant shall also save, indemnify and hold the City, its officers, employees and agents harmless from and against all liability and loss in connection with, and shall assume full responsibility for the payment of, all federal, state and local taxes, fees or contributions imposed or required under unemployment insurance, social security and income tax laws with respect to employees engaged by Tenant.

18. Enforcement, Partial Invalidity, Governing Law.

- 18.1** In the event either party files any action to enforce any agreement contained in this Lease, or for breach of any covenant or condition herein contained, the party prevailing shall be entitled to receive, by judgment of the court from the other party, reasonable attorney's fees, plus the costs or fees of any experts, incurred in such action.
- 18.2** The invalidity of any portion of this Lease Agreement shall not affect the validity of any other provision contained herein. In the event any provision of this Lease Agreement is held to be invalid, the remaining provisions shall be deemed in full force and effect as if they had been executed by both parties subsequent to the expungement of the invalid provisions.
- 18.3** This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado. Venue for any action to enforce any covenant or agreement contained in this Agreement shall be in Mesa County, Colorado.

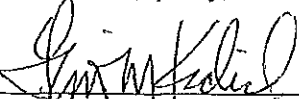
19. **Surrender, Holding Over.** Tenant shall, upon the expiration or termination of this Lease, surrender the Property to the City in good order, condition and state of repair, reasonable wear and use excepted. Upon the expiration or termination of this Lease, Tenant shall remove within thirty (30) days after the last day of the Lease Term, any or all of Tenant's Property, as Tenant elects in a notice to the City. Upon the removal of any of Tenant's Property, Tenant shall restore and re-seed that part of the Property disturbed by such removal as soon as possible. It is agreed that the 30-day period for the removal of Tenant's Property shall be extended by any period that the Property is inaccessible for such purpose due to snow, adverse weather conditions, fire and other matters beyond Tenant's reasonable control (each, a "Force Majeure Event"). In the event Tenant fails to vacate and surrender the Property as provided in this Section, Tenant agrees that Tenant shall pay to the City the sum of \$100.00 per day for each and every day thereafter until Tenant has effectively vacated and surrendered the Property. The parties agree that it would be difficult to establish the actual damages to the City in the event Tenant fails to vacate and surrender the Property upon the expiration or termination of this Lease and that said \$100.00 daily fee is an appropriate liquidated damages amount.

20. **Total Agreement; Applicable to Successors.** This Lease contains the entire agreement between the parties and, except for automatic expiration or termination, cannot be changed or modified except by a written instrument subsequently executed by the parties hereto. This Lease and the terms and conditions hereof apply to and are binding upon the successors and authorized assigns of both parties.

IN WITNESS WHEREOF, the parties have each executed this Lease Agreement dated the day and year first above written.

LANDLORD:

CITY OF GRAND JUNCTION, a Colorado home rule municipality,

By: 
Laurie M. Kadrach, City Manager

ATTEST:

By: 
Stephanie Turn
City Clerk


Date: 11/10/08

TENANT:

PIKES PEAK TELEVISION, INC., a Missouri corporation

By: 
Lyle Leimkuhler, Vice President

ATTEST:

By: 

Date: 11/12/08



EXHIBIT A

A 5 acre parcel of land surrounding the following described latitude and longitude point situate in the Northeast quarter of Section 32, Township 11 South, in Range 97 West of the Sixth Principal Meridian, Mesa County, Colorado:

North Latitude - 39° 02' 55"
West Longitude - 108° 15' 06"

Said 5 acre parcel of land is specifically described as follows:

Beginning at the Northeast corner of said parcel from when U.S.G.L.O. Monument set for East quarter corner of said Section 32 bears South 48° 28' 02" East 720.01 feet, with all bearings herein being relative to a solar observation of true North; thence North 90° 00' 00" West 466.69 feet; thence South 00° 00' 00" East 466.69 feet; thence South 90° 00' 00" East 466.69 feet; thence North 00° 00' 00" East 466.69 feet, containing 5.00 acres, more or less.

Said 5 acre parcel above described is located in Section 32 as shown on U.S. Department of the Interior Geological Survey Map – Palisade, Colo. N3900 – W10815/7.5 – 1962 – AMS 4362 111SE – Series V877.

The transmitting tower is located at the above referenced North latitude and West longitude point.

I HEREBY CERTIFY THAT the foregoing Ordinance, being Ordinance No. 5132 was introduced by the City Council of the City of Grand Junction, Colorado at a regular meeting of said body held on the 15th day of February 2023 and the same was published in The Daily Sentinel, a newspaper published and in general circulation in said City, in pamphlet form, at least ten days before its final passage.

I FURTHER CERTIFY THAT a Public Hearing was held on the 1st day of March 2023, at which Ordinance No. 5132 was read, considered, adopted and ordered published in pamphlet form by the Grand Junction City Council.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of said City this 3rd day of March 2023.



Deputy City Clerk

Published: February 17, 2023
Published: March 03, 2023
Effective: April 02, 2023

