

LEASE

THIS LEASE, made on this 26th day of February, 2004 by and between the City of Kansas City, Missouri, party of the first part, hereinafter called the Lessor or City, and the Bott Broadcasting Company, party of the second part, hereinafter called Lessee.

WITNESSETH: That said Lessor hereby grants to said Lessee, a Lease to occupy and use, subject to terms and conditions hereinafter stated, the following described property located on the old Municipal Farm west of I-35, herein called Premises.

(See attached Legal Descriptions, Exhibits A-C)

IT IS AGREED AS FOLLOWS

1. **TERM.** The term of this Agreement shall be for a period of fifteen years beginning March 1, 2004 and ending February 28, 2019, subject to the provisions of this Agreement.

If this Lease shall be in force and effect on the expiration date of the original term, and the Lessee shall on that date have complied with the conditions contained herein, the Lessee may elect to renew this lease for a period of fifteen (15) years beginning with the expiration of the original term. To exercise the election the Lessee shall give the Lessor notice in writing of the election at least sixty (60) days and not more than two (2) years prior to the expiration of the original term.

2. **RENT.** For the period March 1, 2004 through February 28, 2005 rent shall be Eight Thousand Two Hundred Forty-three and 00/100 (\$8243.00) per year or Six Hundred Eighty-six and 92/100 (\$686.92) per month.

The amount of Lessee's annual rental payment shall be adjusted effective March 1 of each year starting March 1, 2005, based on the percentage increase in the U.S. Department of Labor, Bureau of Labor Statistics Consumer Price Index for Kansas City, MO-KS (all items - all urban consumers, 1982-84=100) (the "CPI"). The annual rent adjustment shall be determined by multiplying the annual rent in effect immediately prior to such adjustment by a fraction, the numerator of which is the semi-annual CPI published closest, but prior, to such March 1, and the denominator of which is the semi-annual CPI published closest, but prior, to the then immediately preceding March 1. Notwithstanding the foregoing, (1) if the application of the foregoing formula would result in a decrease in the annual rent payment, then on the applicable March 1, the annual rent payment shall not be decreased, but shall remain at the same level as was in effect for the preceding twelve month period, and (2) if the application of the foregoing formula would result in an increase in the annual rent payment of more than four percent (4%), then the annual rent payment shall be increased on the applicable March 1 by four percent (4%). If such index is not published by the Bureau of Labor Statistics or by another similar

March 05 - Feb '06
\$ 703.95

governmental agency at any time during the term of this Lease, then the most closely comparable statistics on the purchasing power of the consumer dollar of urban consumers as published by a responsible financial authority and reasonably selected by Lessor shall be utilized in lieu of such index.

Payments shall be made at the following listed address or at such other place as Lessor shall designate in writing:

Property and Relocation Services

City Hall - 16th Floor

414 East 12th Street

Kansas City, Missouri 64106 - 2795

3. **USE OF PREMISES.** The premises shall be used for the purpose of construction and maintenance of a radio antenna system, to be used for broadcasting only. Such use shall conform with all applicable city ordinances and state and federal laws. All material broadcasted will be done in terms of FCC regulations concerning acceptable community standards and no other use unless specifically authorized by the Lessor through its Director of City Planning and Development.
4. **ACCEPTANCE, MAINTENANCE AND REPAIR.** Lessee has inspected and knows the condition of the Premises and accepts the same in their present condition (subject to ordinary wear, tear and deterioration in the event the term commences after the date hereof and to the rights of present or former occupant or occupants, if any, to remove reasonable movable property). Lessee will return the property to the City, undamaged except for reasonable wear and tear. All maintenance and repair of the property during the period of the Lease shall be the responsibility of Lessee.
5. **HAZARDOUS SUBSTANCES AND WASTES.** Lessee agrees that it will not keep, ship to, ship from, permit or generate any Hazardous Material on the leased Premises without the expressed consent of the Lessor. "Hazardous Material, shall mean (i) "Hazardous Substances" as defined by the Comprehensive Environmental Response Compensation and Liability Act (CERCLA) s42 U.S.C. s9601 et seq.; (ii) "Hazardous Wastes." As defined by the Resource Conservation and Recovery Act (RCRA), s42 U.S.C. s6902 et seq.; (iii) "Hazardous Waste," as that term is defined by the Missouri Hazardous Waste Management Law, RSMO Section 260.350 et seq.; (iv) any pollutant or contaminant or hazardous, dangerous or toxic chemicals, materials or substances within the meaning of any other applicable federal, state or local law, regulation, ordinance or requirement (including consent decrees and administrative orders) relating to or imposing liability or standards of conduct concerning any hazardous, toxic or dangerous waste, substance or material, all as amended or hereafter amended, (v) more than 100 gallons of crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60) degrees Fahrenheit and 14.7 pounds per square inch absolute, (vi) any radioactive material, including any source, special nuclear or by-product material as defined at 42 U.S.C S 2011 et seq., as amended or hereafter amended; and (vii) asbestos in any form or condition.

6. **POSSESSION AT BEGINNING OF TERM.** Lessor shall use due diligence to give possession as nearly as possible at the beginning of the term of this Lease and rent shall abate pro rata for the period of any delay in so doing. Lessee shall make no other claim against Lessor for any such delay.
7. **QUIET ENJOYMENT.** Lessor covenants and agrees that the Lessee on paying the rents and observing and keeping the covenants, agreements and stipulations of this lease agreement, on its part to be kept, shall lawfully, peacefully and quietly hold, occupy and enjoy said demised Premises during the demised term without hindrance, objection or molestation.
8. **LESSOR'S RIGHT OF ENTRY.** Lessor or Lessor's agent may enter the Premises at reasonable hours to examine the same, to do anything Lessor may be required to do hereunder or which Lessor may deem necessary for the good of the Premises and (during the last 60 days of the lease only) to display the property to prospective tenants.
9. **UTILITIES AND SERVICES.** Lessee shall furnish and pay for all electricity, gas, water, fuel, or any services or utilities they use in connection with their program, unless otherwise herein expressly provided. The Lessor shall provide trash and refuse removal, tree trimming and other services customary and normal to residents or occupants within the City of Kansas City, Missouri.
10. **ALTERATIONS.** Lessee shall not make any alterations or additions in or to the Premises, without the prior written consent of Lessor. Such shall not be unreasonably withheld. Lessee has the permission of the Lessor to construct & maintain two additional radio tower systems to be used in broadcasting.
11. **SIGNS AND ADVERTISEMENTS.** Lessee shall not put upon nor permit to be put upon any part of the Premises, any signs, billboards or advertising whatever, without written consent of Lessor.
12. **RECYCLING.** It is the established policy of the City to promote environmentally sound business practices. The Lessee agrees, where reasonable and practicable to incorporate similar practices in his operation on the Premises including, but not limited to encourage recycling.
13. **AMERICANS WITH DISABILITIES ACT.** The Lessee agrees to comply with all provisions, where applicable, of Public Law 101-336 as well as CFR part 35 and 298 CFR part 1630 as applicable (Americans with Disabilities Act), as amended from time to time during the course of this contract.
14. **INSURANCE.** Lessee shall carry a public liability insurance policy on the premises and shall name Lessor as the additional insured. The limits of this liability insurance policy shall be no less than a single limit coverage of \$1,000,000.00 in order to cover Lessor and Lessee by reason of Lessee's operation and use of the Premises. Lessee shall

furnish a Certificate of Insurance to Lessor prior to commencement of the Lease Agreement.

At all times during the term of this Lease Agreement, Lessee shall obtain, pay all premiums for and furnish certificates to the Lessor for insurance as specified herein. **Delivery of such certificates to Lessor shall be a condition precedent to Lessee's right to go upon the Premises.**

All such insurance contracts shall name the Lessor and Lessee as their interests appear and shall inure to the benefit of Lessee and Lessor and their officers, agents, elected officials, representatives or employees. Such insurance contracts shall be with companies acceptable to the Lessor and they shall require ten (10) days prior written notice to both parties hereto of any reduction in coverage or cancellation.

15. **DAMAGE BY CASUALTY.** In case, during the term created or previous thereto, the Premises hereby let, shall be destroyed or shall be so damaged by fire or other casualty, as to become untenable, then in such event, at the option of the Lessor, the term hereby created shall cease, and this lease shall become null and void from the date of such damage or destruction and the Lessee shall immediately surrender said Premises and all interests therein to Lessor, and Lessee shall pay rent within said term only to the time of such surrender; provided, however, that Lessor shall exercise such option to so terminate this Lease by notice in writing, delivered to Lessee within sixty days after such damage or destruction. In case Lessor shall not so elect to terminate this lease, in such event, this lease shall continue in full force and effect and the Lessor shall repair the leased Premises with all reasonable promptitude, placing the same in as good as a condition as they were at the time of the damage or destruction, and for that purpose may enter said Premises and rent shall abate in proportion to the extent and duration of untenability. In either event Lessee shall remove all rubbish, debris, merchandise, furniture, equipment and other of its personal property, within ten days after the request of the Lessor. If the leased Premises shall be slightly injured by fire or the elements, so as not to render the same untenable and unfit for occupancy, then the Lessor shall repair the same with all reasonable promptitude, and in that case, the rent shall not abate. No compensation or claim shall be made by or allowed to the Lessee by reason of any inconvenience or annoyance arising from the necessity of repairing any portion of the building or the leased Premises, however the necessity may occur.

16. **SUBROGATION.** As part of the consideration for this lease, each of the parties hereto does hereby release the other party hereto from all liability for damage due to any act or neglect of the other party (except as hereinafter provided), occasioned to property owned by said parties which is or might be incident to or the result of a fire or any other casualty against which loss either of the parties is carrying insurance at the time of the loss; provided however, that the releases herein contained shall not apply to any loss or damage occasioned by the willful, wanton, or premeditated negligence of either of the parties hereto, and the parties hereto further covenant that any insurance that they obtain on their respective properties shall contain appropriate provision whereby the insurance company, or companies, consent to the mutual release of liability contained in

this paragraph.

17. **INDEMNITY AND PUBLIC LIABILITY.** The Lessee shall defend and indemnify, hold harmless, protect and save the Lessor and all of its officers and employees harmless from and against any and all actions, suits, proceedings, claims and demands, loss, liens, cost, expense, including legal fees, and liability of each kind and nature whatsoever ("claims") for the injury to or death of persons or damage to property, including property owned by the Lessor and from any and all other claims whether in equity or in law asserted by others, which may be brought, made, filed against, imposed upon or sustained by the Lessor, its officers or employees, and that may, in whole or in part, arise from or be attributable to or be caused directly or indirectly by (i) any wrongful act or omission of Lessee, its officers, agents, employees, including volunteers, contractors, patrons, lessees or invitees (ii) any violation of law, ordinance or governmental regulations or orders of any kind; or (iii) the negligent performance by the Lessee, its officers, agents, employees, including volunteers or lessees or subcontractors of any authorized or permitted act contemplated by this Agreement; (iv) any contaminating materials in and around the subject property.
18. **DAMAGE TO PROPERTY ON PREMISES.** Lessee agrees that all property of every kind and description kept, stored or placed in or on the Premises shall be at Lessee's sole risk and hazard and that Lessor shall not be responsible for any loss or damage to any of such property resulting from fire, explosion, water, steam, gas, electricity or the elements, whether or not originating on the premises.
19. **EMINENT DOMAIN.** If the Premises or any substantial part thereof shall be taken by any competent authority under the power of eminent domain or be acquired for any public or quasi-public use or purpose, the term of this Lease shall cease and terminate upon the date when the possession of said premises or the part thereof so taken shall be required for such use or purpose. If any condemnation proceeding shall be instituted in which it is sought to take or damage any part of Lessor's building or the land under it or if the grade of any street or alley adjacent to the building is changed by any competent authority and such change of grade makes it necessary or desirable to remodel the building to conform to the changed grade, either party shall have the right to cancel this lease after having given written notice of cancellation to the other party not less than ninety (90) days prior to the date of cancellation designated in the notice. In either of said events, rent at the then current rate shall be apportioned as of the date of termination. No money or other consideration shall be payable by the Lessor to the Lessee for the right of cancellation. Nothing in this paragraph shall preclude an award being made to Lessee for loss of business or depreciation to the cost or removal of equipment or fixtures.
20. **PUBLIC REQUIREMENTS.** Lessee shall comply with all laws, orders, ordinances and other public requirements now or hereafter affecting the Premises or the use thereof, and save Lessor harmless from expense or damage resulting from failure to do so.

21. **ASSIGNMENT AND SUBLEASE.** Lessee shall not assign, transfer, or encumber this Lease and shall not sublease the Premises or any part thereof or allow any other person to be in possession thereof without the prior written consent of Lessor.
22. **RECORDING.** Lessee shall not, without the prior written approval of Lessor, record this Lease or cause it to be recorded. In the event that Lessee does cause it to be recorded, Lessor may terminate the Lease, upon thirty days notice, at its sole option.
23. **FIXTURES.** Upon the termination of this Lease or before, the Lessor will permit the Lessee or its agents to enter the Premises and remove any and all non-realty items that have been contributed or consigned to the Lessee. Non-realty items are defined as items not permanently attached to the structure and removable without significant damage such as drapes, furnishings, and portable appliances.
24. **SURRENDER AT END OF TERM.** At the expiration of the term hereby created, the Lessor or his agent shall have the right to enter and take possession of the Leased Premises, and the Lessee agrees to deliver same without process of law, and the Lessee shall be liable to Lessor for any loss or damage, including attorney's fees and court costs incurred, as a result of Lessee's failure to comply with the terms hereof.
25. **HOLDING OVER.** Any holding over by Lessee after the expiration of the term of any lawful extension thereof shall be construed to be a tenancy from month to month at a monthly rental equal to two hundred percent (200%) of the rent payable during the last month immediately prior to the expiration of the term and shall otherwise be on the terms and conditions herein specified. Nothing herein set out shall be construed to authorize any such holding over.
26. **DEFAULT.** If default is made in the payment of any installment of rent on the due date thereof, or if Lessee shall default in the performance of any other agreement (other than payment of rent) in this Lease and such default (other than payment of rent), continues for ten days after written notice thereof, or if the Premises be vacated or abandoned, then in any such event this Lease shall terminate, at the option of the Lessor, and Lessor may re-enter the Premises and take possession thereof, with or without force or legal process and without notice or demand, the service of notice, demand or legal process being hereby expressly waived, and upon such entry, as aforesaid, this Lease shall terminate and the Lessor may exclude Lessee from the Premises, changing the lock on the door or doors if deemed necessary, if applicable, without being liable to Lessee for any damages or for prosecution therefor; Lessor's rights in such event may be enforced by action in unlawful detainer or other proper legal action, and the Lessee expressly agrees, notwithstanding termination of this Lease and re-entry by the Lessor that the Lessee shall remain liable for a sum equal to the entire rent payable to the end of the term hereof and shall pay any loss or deficiency sustained by the Lessor on account of the Premises being let for the remainder of the original term for a less sum than before. Lessor, as agent for Lessee without notice may re-let the leased Premises or any part thereof for the remainder of the term or for any longer or shorter period as opportunity

may offer, and at such rental as may be obtained, and Lessee agrees to pay the difference between sum equal to the amount of rent payable during the residue of the term and net rent actually received by the Lessor during the term after deducting all expenses of every kind for repairs, recovering possession and reletting the same, which differences shall accrue and be payable monthly.

All property of the Lessee which is now or may hereafter be at any time during the term of this lease in or upon said Premises, whether exempt from execution or not, shall be bound by and subject to a lien for the payment of the rent herein reserved, and for any damages arising from any breach by the Lessee of any of the covenants or agreements of this Lease to be performed by Lessee. In the event of default by Lessee in the payment of rent or otherwise, Lessor may foreclose such lien and take possession of said property or any part or parts thereof and sell or cause the same to be sold, at such place as Lessor may elect, at public or private sale, with or without notice, to the higher bidder for cash, and apply the proceeds of said sale to pay the costs of taking possession of and selling said property, then owed toward the debt and/or damages as aforesaid. Any excess of the proceeds of said sale over said costs, debt and/or damages shall be paid to Lessee. Any such sales shall bar any right of redemption by Lessee.

27. **WAIVER.** The rights and remedies of the Lessor under this Lease, as well as those provided or accorded by law, shall be cumulative, and none shall be exclusive of any other rights or remedies hereunder or allowed by law. A waiver by Lessor of any breach or breaches, default or defaults, of this Lease hereunder shall not be deemed or construed to be a continuing waiver of such breach of default not as a waiver of or permission, expressed or implied, for any subsequent breach or default, and it is agreed that the acceptance by Lessor of any installment of rent subsequently to the date the same should have been paid hereunder, shall in no manner alter or affect the covenant and obligation of Lessee to pay subsequent installments of rent promptly upon the due date thereof. No receipt of money by Lessor after the termination in any way of this Lease shall reinstate, continue or extend the term above demised.
28. **BANKRUPTCY.** Neither this Lease nor any interest therein nor in any estate hereby created shall pass to any trustee receiver in bankruptcy or to any other receiver or assignee for the benefit of creditors or otherwise by operation of law during the term of this lease or any renewal thereof.

29. NOTICE. Any notice hereunder to Lessee shall be sufficient if sent by U.S. Mail, postage prepaid, addressed to Lessee: **Richard P. Bott, II**

**Bott Broadcasting Company
10550 Barkley
Overland Park, KS 66212**

addressed to Lessor:

**Edgar J. Jordan, Jr., Manager
Property and Relocation Services
16th Floor, City Hall
414 E. 12th Street
Kansas City, MO 64106**

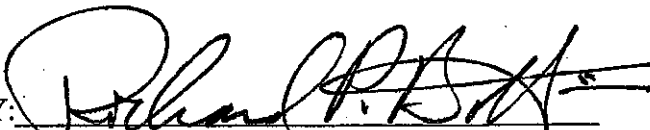
- 30. COVENANTS TO RUN WITH THE PREMISES.** The covenants herein contained shall run with the Premises hereby let and bind the heirs, executors, administrators, assigns and successors of the Lessor and Lessee respectively and consent of Lessor to assignment, and acceptance of rent from assignee of the Lessee shall not release the Lessee from his obligation to pay rent and comply with the other conditions of this Lease.
- 31. ENTIRE AGREEMENT.** This Lease Agreement contains the entire agreement between the parties, and no modification of this Lease Agreement shall be binding upon the parties unless evidenced by an agreement in writing signed by the Lessor and the Lessee after the date hereof.
- 32. APPROVAL BY CITY COUNCIL.** This Lease is not effective until it is approved by Ordinance.

EXHIBITS. The following Exhibits are attached to this Lease and are a part hereof and incorporated by this reference:

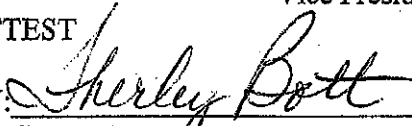
Exhibit A – Legal description 20 acres
Exhibit B - Legal description 12.13 acres
Exhibit C - Leased Premises
Exhibit D- Committee Sub for Ord. #040042

IN WITNESS WHEREOF: Lessee has caused this Lease Agreement to be signed by its Vice President and Lessor has executed the same as of the day and year first above written.

LESSEE:

BY: 
Vice President

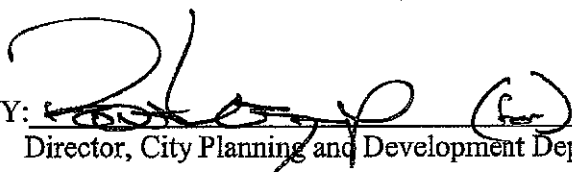
ATTEST

BY: 
Secretary

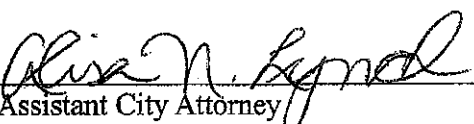
CORPORATE SEAL

LESSOR:

CITY OF KANSAS CITY, MISSOURI,
A Constitutionally Chartered Municipal
Corporation of the State of Missouri

BY: 
Director, City Planning and Development Department

APPROVED AS TO FORM & LEGALITY

BY: 
Assistant City Attorney

ATTEST:

BY: 
City Clerk

Exhibit (a) Legal description existing 20

LEGAL DESCRIPTION:

Beginning at the Southeast Corner of the Northwest 1/4 of Section 25, Township 49, Range 33 in Kansas City, Jackson County, Missouri; thence West 335' along the South Line of said 1/4 Section; thence North 65 degrees West 1,085'; thence North 25 degrees East 600'; thence South 65 degrees East 1,500'; thence South 370' to the 1/4 Section Line; thence West 300' to the point of beginning.

[illegible]

Exhibit (b) Legal description 12.13 acres

ALL THAT PART OF THE NORTH 1/2 OF SECTION 25-TOWNSHIP 49-RANGE 33, KANSAS CITY, JACKSON COUNTY, MISSOURI BEING DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF THE NORTHWEST 1/4 OF SAID SECTION 25-TOWNSHIP 49-RANGE 33; THENCE SOUTH 87°-58'-14" EAST, ALONG THE SOUTH LINE OF THE NORTHEAST 1/4 OF SAID SECTION 25-TOWNSHIP 49-RANGE 33, A DISTANCE OF 300.00 FEET; THENCE NORTH 2°-09'-49" EAST, A DISTANCE OF 268.17 FEET TO THE POINT OF BEGINNING OF THE EASEMENT TO BE DESCRIBED HEREIN; THENCE NORTH 2°-09'-49" EAST, A DISTANCE OF 89.89 FEET; THENCE NORTH 62°-00'-00" WEST, A DISTANCE OF 818.74 FEET; THENCE NORTH 73°-24'-00" EAST, A DISTANCE OF 1127.84 FEET; THENCE SOUTH 16°-36'-00" EAST, A DISTANCE OF 660.00 FEET; THENCE SOUTH 73°-24'-00" WEST, A DISTANCE OF 573.79 FEET TO THE POINT OF BEGINNING. CONTAINING 528,416 SQ. FT. OR 12.13 ACRES.

