

LEASE AGREEMENT

Agenda Item # 14  
Date 12/30/20

City of Fremont, Nebraska, a Nebraska Municipal Corporation

-and-

Dodge County, Nebraska, a Nebraska County Corporation

(Collectively hereinafter referred to as the "Joint Owners")

-and-

Allo Communications, LLC, a Nebraska Limited Liability Company  
(hereinafter referred to as the "Allo")

The parties covenant and agree as follows:

1. Subject to the terms and conditions herein contained, Joint Owners agree to lease to Allo a 100 x 100-foot lot on the north side of Lot 3 in Outlot "A" in the Technology Park (shown in Exhibit A), further described by a boundary survey in Exhibit B (hereinafter referred to as the "Lot") according to the terms of this lease agreement ("Agreement").

**Term**

2. The term of this Agreement shall be for the following period:  
January 1, 2021 to December 31, 2021.

**Rent**

3. The rent payable by Allo for the Lot shall be One Dollar (\$1.00) per year payable at the commencement of this Agreement. If the rent is not paid by the designated date, this Agreement shall automatically become null and void.

**Use of Lot**

4. The Joint Owners and Allo agree that use of the Lot will be for Allo's exclusive purpose of establishing a communications facility to deliver internet and TV service to businesses and residents of the City Fremont via a fiber optic network.

**Maintenance**

5. During the term of the lease, Allo shall be responsible for maintaining the Lot in a good and safe state of repair to the satisfaction of the Joint Owners. Maintenance shall include, but not be limited to, the following:  
(a) Mowing and keeping the Lot clear of weeds and debris.

## **Improvements**

6. Improvements by Allo must be approved in advance in writing by the Joint Owners and shall be at Allo's expense unless otherwise agreed to by the Joint Owners.

## **Damage or Destruction of Lot**

7. If the Lot shall be damaged by a casualty against which the Joint Owners are insured, the damage to the Lot shall be repaired by the Joint Owners with reasonable diligence at its expense except that repairs to alterations, additions or improvements made by Allo shall be performed by Allo, or others acceptable to the Joint Owners, at the expense of Allo, for all repairs and replacements of property that belongs to Allo.

## **Insurance**

8. Allo shall maintain and keep in force during the term of this Agreement general liability insurance in an amount not less than One Million Dollars (\$1,000,000.00) in a form satisfactory to the Joint Owners, which will name the Joint Owners as an additional Named Insureds. Allo shall supply proof of such insurance to the Joint Owners and proof of payment of premium prior to January 1 of each year. The insurance company is required to notify the Joint Owners should the insurance be dropped or terminated prior to the termination of this Agreement and that such drop or termination of insurance would place Allo in default of the Agreement. Said insurance shall be in effect for the entire term of this Agreement.

## **Indemnification**

9. Allo shall indemnify and save harmless the Joint Owners, their employees or agents against all expenses, liability, losses, damages, costs, claims, judgments or proceedings of any kind whatsoever that may arise against the Joint Owners, its employees or agents in relation to any negligence in their use of the Lot, their respective employees, agents, guests, patrons, sublessees or licensees during the term of this Agreement and any renewals hereunder. Any damage to the Lot caused by Allo or their respective employees, agents, guests, patrons, sublessees or licensees, shall be paid by Allo. By signing this Agreement, Allo waives any right of subrogation or claim for damages or costs arising from the use of the Lot under the terms of this Agreement.

## **Taxes**

10. Allo shall be responsible for the payment of all sales and use taxes, which may be applicable to its use and operation of the Lot. Property taxes, if any, shall be the responsibility of the Joint Owners.

**Utilities**

11. Utilities charges including water, gas, electricity, telephone, internet, garbage and sewer shall be the responsibility of Allo.

**Fencing**

(a) Allo shall be responsible for the installation and maintenance of fencing the Lot at Allo's expense.

**Access to Lot**

12. The Joint Owners shall grant Allo access to the Lot during the term of this lease.

**Default Remedies**

13. If the rent is not paid when due in accordance with Paragraph 3 of this Agreement, or in case of breach or non-observance of or non-performance by Allo of any of the provisions of this Agreement, and if the default continues for 30 days after written notice thereof to Allo, then, in every such case, the Joint Owners, in addition to any other remedy now or hereafter provided by law, may at their option, cancel this Agreement and re-enter and take possession of the Lot or any part thereof by force, if necessary, without any previous notice of intention to re-enter and may remove all persons and property therefrom and may use such force and assistance in making such removal as the Joint Owners may deem advisable and such re-entry shall not operate as a waiver of satisfaction in whole or in part of any right, claim or demand arising out of, or connected with, any breach or violation by Allo of any covenant or agreement on its part to be performed.

**Removal of Allo's Property**

14. All articles of personal property and all business and trade fixtures, machinery & equipment and furniture owned by Allo installed by Allo on the Lot at Allo's expense shall remain the property of Allo and may be removed by Allo at any time during the term of this Agreement, provided that Allo, at their own expense, shall repair any damage to the Lot caused by such removal or by the original installation and provided further that there shall be no unpaid rent due to the Joint Owners.

**Property of the Joint Owners**

15. All fittings, fixtures and other appurtenances shall, at the expiration of the term of this Agreement, become the property of the Joint Owners. All maintenance equipment allocated to the Lot shall remain the property of the Joint Owners.

**No Representation**

16. Allo agrees that it has leased the Lot after examining the same and that no representations, warranties or conditions have been made other than those expressed herein, and that no agreement collateral hereto shall be binding upon the Joint Owners unless it be made in writing and signed on behalf of the Joint Owners.

**Right of Entry to Make Repairs**

17. Allo agrees that the Joint Owners shall have the right to enter the Lot at all reasonable times to examine the same and make such repairs, alterations, improvements or additions as the Joint Owners may deem necessary or desirable or as the Joint Owners may be required to make by law or in order to repair and maintain the Lot. The Joint Owners shall be allowed to take into the Lot all material which may be required for such purpose and the rent reserved shall in no way abate while such repairs, alterations, improvements or additions are being made by reason of intention of the business of Allo. The Joint Owners will exercise reasonable diligence so as to minimize the disturbance or interruption of Allo's operations.

**Notices**

18. Unless otherwise provided herein to the contrary, all notices required under this Agreement shall be deemed given when hand delivered, with receipt therefore, or deposited in the United States mail, first class postage prepaid, addressed as follows:

Joint Owners of Fremont  
Brian Newton, Joint Owners Administrator  
400 E. Military Avenue  
Fremont, NE 68025

Allo Communications  
Attn: President

330 S 21<sup>st</sup> Street  
Lincoln, NE 68510

**Assignment**

19. This Agreement may not be assigned or transferred in whole or in part by Allo without the express consent of the Joint Owners.

**Applicable Law**

20. The laws of the State of Nebraska shall apply and bind the parties in any and all questions pertaining to the Agreement.

**Inurement**

21. This Agreement and everything herein contained shall inure to the benefit of and be binding upon the parties and their successors. Whenever the singular or masculine is used the same shall be construed as meaning the plural or feminine or body corporate or politic as the context may require.

**Entire Agreement**

22. The entire agreement of the parties is contained herein, and this Agreement supersedes any and all oral contracts and negotiations between the parties.

Signed by the City of Fremont this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

By \_\_\_\_\_  
Joey Spellerberg, Mayor

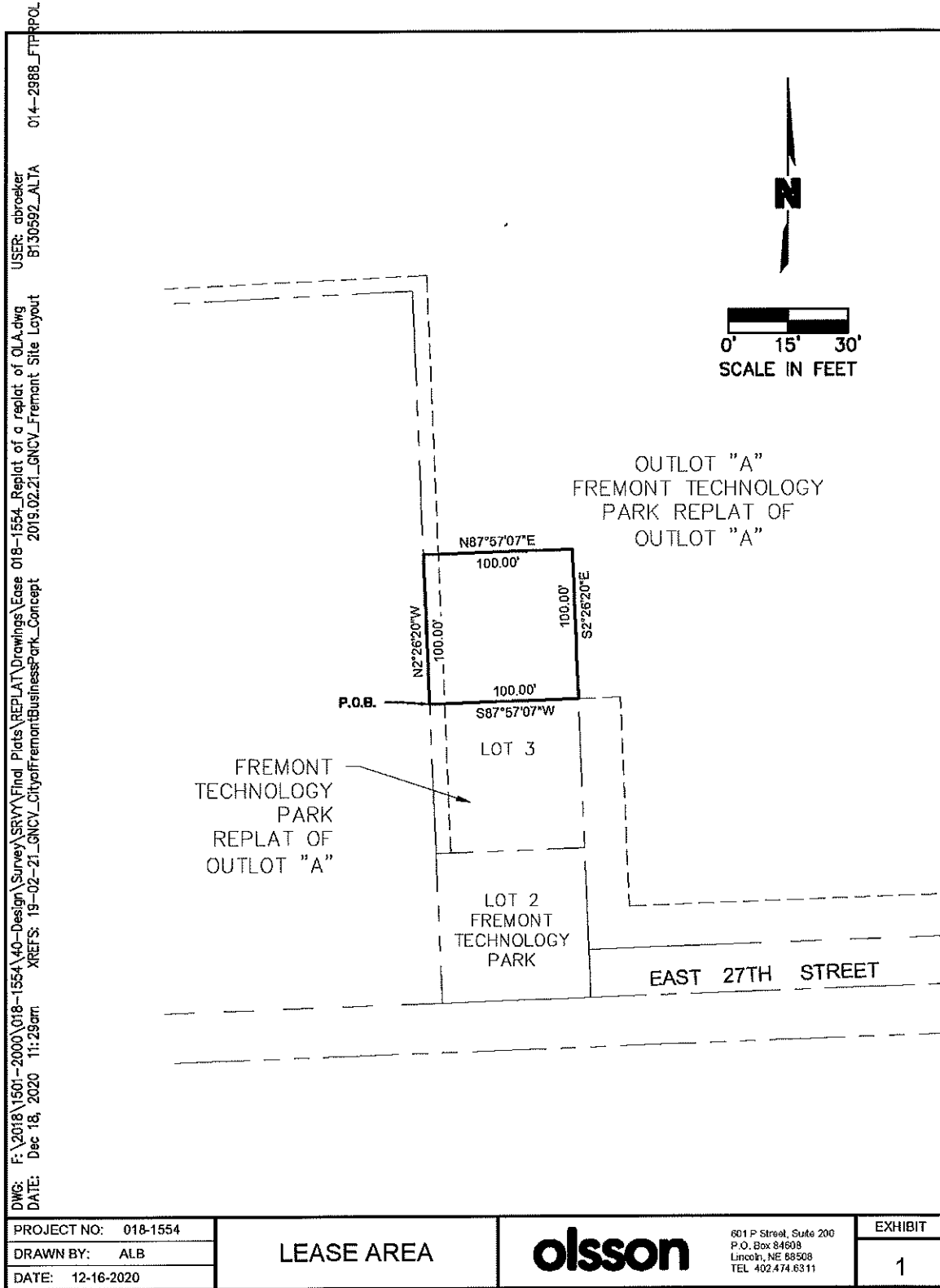
Signed by Dodge County this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

By \_\_\_\_\_  
Bob Missell, Chairman Board of Supervisors

Signed by Allo this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

By \_\_\_\_\_  
Brad Moline, President

Exhibit A



LEGAL DESCRIPTION

A TRACT OF LAND COMPOSED OF A PORTION OF OUTLOT "A", FREMONT TECHNOLOGY PARK REPLAT OF OUTLOT "A", LOCATED IN THE SOUTHWEST QUARTER OF SECTION 12, TOWNSHIP 17 NORTH, RANGE 8 EAST OF THE 6TH P.M., CITY OF FREMONT, DODGE COUNTY, NEBRASKA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF LOT 3, FREMONT TECHNOLOGY PARK REPLAT OF OUTLOT "A", SAID POINT BEING A SOUTHWEST CORNER OF OUTLOT "A", " FREMONT TECHNOLOGY PARK REPLAT OF OUTLOT "A", SAID POINT BEING THE TRUE POINT OF BEGINNING; THENCE NORTHERLY ON A WEST LINE OF SAID OUTLOT "A", ON AN ASSUMED BEARING OF  $N02^{\circ}26'20''W$ , A DISTANCE OF 100.00' TO A POINT; THENCE  $N87^{\circ}57'07''E$ , ALONG A LINE THAT IS 100.00' NORTH OF AND PARALLEL WITH THE SOUTH LINE OF SAID OUTLOT "A", A DISTANCE OF 100.00' TO A POINT; THENCE  $S02^{\circ}26'20''E$ , ALONG A LINE THAT IS 100.00' EAST OF AND PARALLEL WITH THE WEST LINE OF SAID OUTLOT "A", A DISTANCE OF 100.00' TO A NORTHEAST CORNER OF SAID LOT 3, SAID POINT BEING A SOUTHWEST CORNER OF SAID OUTLOT "A"; THENCE  $S87^{\circ}57'07''W$ , ON A NORTH LINE OF SAID LOT 3, SAID LINE BEING A SOUTH LINE OF SAID OUTLOT "A", A DISTANCE OF 100.00' TO THE POINT OF BEGINNING, SAID TRACT CONTAINS A CALCULATED AREA OF 10,000.23 SQUARE FEET OR 0.23 ACRES, MORE OR LESS.

December 28, 2020