



ORIGINAL

Contract Number
19-187 A-3

SAP Number

Real Estate Services Department

Department Contract Representative	<u>Terry W. Thompson, Director</u>
Telephone Number	<u>(909) 387-5252</u>
Contractor	<u>CommStar5, L.P., a California Limited Partnership</u>
Contractor Representative	<u>Stanley Huang</u>
Telephone Number	<u></u>
Contract Term	<u>11/1/2021-10/31/2031 (projected)</u>
Original Contract Amount	<u>\$10,265,100</u>
Amendment Amount	<u>\$0</u>
Total Contract Amount	<u>\$10,265,100</u>
Cost Center	<u></u>
GRC/PROJ/JOB No.	<u>62003700</u>
Internal Order No.	<u></u>

IT IS HEREBY AGREED AS FOLLOWS:

WHEREAS, San Bernardino County, as tenant ("COUNTY") and CommStar5, L.P., a California Limited Partnership, as landlord ("LANDLORD") entered into a Lease Agreement, Contract No. 19-187 dated March 19, 2019, as amended by the First Amendment dated October 27, 2020, and as amended by the Second Amendment dated January 22, 2021 (collectively, the "Lease"), wherein the LANDLORD leases certain premises, comprising approximately 27,019 square feet located at 18818 Hwy 18 Apple Valley, California, as the premises is more specifically set forth in the Lease, to the COUNTY for a term that is projected to commence on November 1, 2021, subject to LANDLORD's delivery of the Premises with the Improvements, as more specifically set forth in the Lease, Substantially Completed and COUNTY's acceptance of the delivered Premises, and;

WHEREAS, the COUNTY and LANDLORD now desire to amend the Lease: (1) to reflect the following changes in the event LANDLORD fails to timely deliver the Premises with the Improvements Substantially Completed and the Premises accepted by COUNTY in accordance with the Lease: (a) the date by which COUNTY may elect to terminate the Lease shall be changed from November 1, 2021 to May 1, 2022; (b) the date by which COUNTY may collect liquidated damages shall be changed from November 1, 2021 to November 16, 2021; (c) the amount of liquidated damages due from LANDLORD shall be increased from \$500.00 per day to \$1,000.00 per day for each day's delay, and (2) to amend certain other terms and conditions of the Lease, all as more specifically set forth in this amendment ("Third Amendment").

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated herein by reference and made a part hereof, and mutual covenants and conditions contained herein, the parties hereto agree that the Lease is amended as follows:

1. Effective August 10, 2021, DELETE in its entirety the existing **Paragraph 8, HOLDING OVER** and SUBSTITUTE therefore the following as a new **Paragraph 8, HOLDING OVER**:

8. **HOLDING OVER**: In the event that COUNTY continues to occupy the Premises after the expiration or earlier termination of the term of the Lease with the consent of the LANDLORD, express or implied, COUNTY's tenancy shall be on a month-to-month term ("**Holdover Period**") on the same terms and conditions as the Lease, including, but not limited to, the Monthly Rent for the Premises in effect as of the expiration or earlier termination of the Lease but excluding any amounts paid for amortized Improvements. Notwithstanding anything to the contrary in the Lease, either party shall have the right to terminate the Lease during the Holdover Period by providing not less than ninety (90) days prior written notice to the other party.

2. Effective August 10, 2021, DELETE in its entirety the existing **Paragraph 41, LANDLORD'S IMPROVEMENTS, subparagraphs "H" and "J"** and SUBSTITUTE therefore the following as a new **Paragraph 41, LANDLORD'S IMPROVEMENTS, subparagraphs "H" and "J"**:

41. **LANDLORD'S IMPROVEMENTS:**

H. LANDLORD agrees that its failure to meet any of the above projected milestone completion dates will mean that the COUNTY will not be able to occupy the Premises with all Improvements Substantially Completed and possession of the Premises accepted by the COUNTY by the last projected milestone completion date of **November 1, 2021**; in which event, the COUNTY shall be due liquidated damages from LANDLORD pursuant to Paragraph 41.J, provided that if LANDLORD fails to meet any of the above projected milestone completion dates by **May 1, 2022**, the COUNTY may therefore elect to terminate this Lease at any time effective on or after May 1, 2022 by providing written notice to LANDLORD and neither party shall have any obligation to the other in the event of such termination by COUNTY. Any such election to terminate by the COUNTY must be in writing and given to LANDLORD before the LANDLORD completes the applicable milestone and notifies the COUNTY of such completion.

J. LANDLORD acknowledges that late delivery of the Premises to COUNTY with all Improvements Substantially Completed and possession of the Premises accepted by the COUNTY by the projected completion date of **November 1, 2021** will cause COUNTY to incur costs not contemplated by this Lease agreement, the exact amount of such costs being extremely difficult and impracticable to fix. Therefore, if LANDLORD does not deliver the Premises with all Improvements Substantially Completed and possession of the Premises is not accepted by the COUNTY by the projected completion date of **November 1, 2021**, LANDLORD agrees to pay to COUNTY liquidated damages of One Thousand and 00/00 Dollars (\$1000.00) for each day's delay beginning **November 16, 2021** and continuing through the date the Premises are delivered with Improvements are Substantially Completed and possession of the Premises accepted by the COUNTY or the date the COUNTY terminates this Lease agreement, whichever is earlier. The parties agree that this charge represents a fair and reasonable estimate of the costs that COUNTY will incur by reason of late delivery. Acceptance of any charge shall not constitute a waiver of LANDLORD's default or prevent COUNTY from exercising any of the other rights and remedies available to COUNTY. The LANDLORD's obligation to pay liquidated damages pursuant to this Paragraph 41.J shall survive the termination of the Lease.

[THE REMAINDER OF THIS PAGE LEFT INTENTIONALLY BLANK]

3. All other provisions and terms of the Lease shall remain the same and are hereby incorporated by reference. In the event of conflict between this Lease and this Third Amendment, the provisions and terms of this Third Amendment shall control.

END OF THIRD AMENDMENT

SAN BERNARDINO COUNTY

LANDLORD: COMMSTAR5, L.P.


Curt Hagman, Chairman, Board of Supervisors


By 
(Authorized signature - sign in blue ink)

Dated: AUG 10 2021

Name Stanley Huang
(Print or type name of person signing contract)

SIGNED AND CERTIFIED THAT A COPY OF THIS DOCUMENT HAS BEEN DELIVERED TO THE CHAIRMAN OF THE BOARD

Title General Partner
(Print or Type)



Lynna Monell
Clerk of the Board of Supervisors
of San Bernardino County
Deputy


Dated: 7/28/2021 #900
Address 425 S. San Gabriel Blvd
San Gabriel, CA 91726



Approved as to Legal Form

Agnes Cheng, Deputy County Counsel
Date 7/22/2021

Reviewed for Contract Compliance

Date _____

Reviewed/Approved by Department

Jim Miller, Real Property Manager, RESD
Date 8/3/21