

**SAN BERNARDINO COUNTY**



**REQUEST FOR PROPOSAL**

**LICENSE FOR SAN BERNARDINO COUNTY FOR THE USE OF**

**PROPOSED PROPERTY ADDRESS  
780 E. GILBERT STREET  
SAN BERNARDINO, CA**

**(January 2024)**

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# GENERAL INFORMATION

## REQUEST FOR PROPOSALS (RFP)

### SAN BERNARDINO COUNTY REAL ESTATE SERVICES DEPARTMENT

#### GENERAL INFORMATION

San Bernardino County is accepting proposals for the license of approximately 816 ± square feet of County-owned vacant land (Premises) located at 780 E. Gilbert Street San Bernardino as shown on the map attached hereto as Attachment "1" Site Location Map. for use as a wireless communication facility. The Premises shall include a new build-to-suit communication shelter, a monopole of appropriate height not to exceed 100 feet camouflaged to match the existing natural trees in the adjacent area and shall include such additional structures as necessary to provide emergency back-up power by generator or solar panel generation of electrical power. The site shall be enclosed by a perimeter concrete masonry fence line eight feet in height.

The successful Proposer will be expected to: provide a licensed architect and complete plans for construction; obtain all applicable government approvals for modification or construction of the facility inclusive of commercial electrical power to the site; construct the building and/or improvements; enter into a license agreement with the County; and maintain the facility. The successful proposer shall have a minimum of ten (10) years experience as an operator or manager of wireless communications facilities and has a net worth of at least Twenty Million Dollars (\$20,000,000).

It is the County's intent that the contractual relationship between the Proposer and the County shall be substantially as set forth in the form of license agreement attached. In developing its proposal, the Proposer should carefully review the form of license agreement to take into consideration the rights, obligations, and costs associated therewith. **Any change the Proposer desires in the form of license agreement must be specified in detail in its proposal. The failure of Proposer to specify in its proposal any changes in the form of license agreement attached which the Proposer desires shall mean that the Proposer agrees to all of the terms and conditions of the form of license agreement attached.**

This is not a solicitation of bids. This RFP and/or the receipt of any proposals resulting from this RFP shall in no way obligate the County to enter into a license. The County reserves the right at any time up until a license is mutually executed, if at all, for any reason, to accept or reject any one or more proposals; to negotiate the terms and specifications for the premises; to modify any part of the RFP; or to cancel this RFP with or without issuing a new RFP. The County assumes no responsibility or liability for the accuracy of any information set forth in maps, reports, or other documents/materials provided for the Proposer's use in developing its proposal. The Proposer assumes all liability in the use of such information in developing its proposal. The County assumes no responsibility or liability for costs incurred by the Proposer in the preparation of a proposal and response to this RFP. Materials submitted in connection with this RFP are for the exclusive use of the County.

The Proposer is responsible for making all necessary investigations and examinations that may affect its performance under the form of license agreement attached. Failure to do so will not act to relieve the proposer of any license obligations. It is mutually agreed that the submission of a proposal shall be considered conclusive evidence that the Proposer has made such investigations and examinations.

Any reasonable inquiry to determine the responsibility of a Proposer may be conducted by the County. The submission of a proposal shall constitute permission by the Proposer for the County to verify all information contained therein. If the County deems it necessary, additional information may be requested from the Proposer. Failure to comply with any such request may disqualify a Proposer from further consideration. Such additional information may include evidence of financial ability to perform, for example, tax returns, bank statements, etc. All financial information submitted in response to request for financial data is subject to disclosure under the provisions of the California Public Records Act, Government Code section 6250 and following.

All Proposals and other material submitted become the property of the County and are subject to release according to the California Public Records Act (Government Code § 6250). All Proposal information, including cost information, will be held in confidence during the evaluation and negotiation process. Thereafter, Proposals are subject to becoming a non-exempt public record.

If a Proposer believes that any portion of its Proposal is exempt from public disclosure, it must indicate the specific portions believed to be confidential and not subject to disclosure in its Proposal. The Proposer also must include a brief description that sets out the reasons for exemption from disclosure. Each stated exemption must include a citation to supporting legal authority, including statutory authority or case law, to support exemption from the Public Records Act. Requested exemptions that do not meet the requirements of this section will not be considered.

The County will use reasonable means to ensure that such information is safeguarded, but will not be held liable for inadvertent disclosure of the information. Proposals marked "Confidential" in their entirety will not be honored, and the County might not deny public disclosure of any portion of Proposals so marked.

By submitting a Proposal with portions identified as "Confidential," Proposer represents that it has a good faith belief that such portions are exempt from disclosure under the California Public Records Act. Proposer may be requested to obtain legal protection from disclosure should a Public Records Act request be received. In the event the County does not disclose the information marked "Confidential," Proposer agrees to reimburse the County for, and to indemnify, defend (with counsel approved by County) and hold harmless the County, its officers, employees, agents, and volunteers from and against any and all claims, damages, losses, liabilities, suits, judgments, fines, penalties, costs and expenses, including without limitation, attorneys' fees, expenses and court costs of any nature arising from or relating to the County's non-disclosure of any such designated portions of a Proposal.

Political Contributions. Proposer must disclose to the County through completion of Exhibit D to Attachment 2– Senate Bill 1439 Proposer Information Report, whether it has made any campaign contributions of more than \$250 to any member of the Board of

Supervisors or other County elected officer [Sheriff, Assessor-Recorder-Clerk, District Attorney, Auditor-Controller/Treasurer/Tax Collector] after January 1, 2023. Proposer acknowledges that under Government Code section 84308, subdivision (e)(2), Proposer may not make a contribution of more than \$250 to any member of the Board of Supervisors or other County elected officer while award of a contract pursuant to this Request for Proposal is pending, and for 12 months after a final decision is rendered by the County.

Campaign contributions include those made by any agent/person/entity on behalf of the Proposer or by a parent, subsidiary or otherwise related business entity of Proposer.

## INSTRUCTIONS TO PROPOSERS

- I. Proposals deemed responsive to this RFP must:
  - A. Proposer will be required to register through the County's Electronic Procurement Network (ePro) at <https://epro.sbcounty.gov/bsol/>. All proposers must register with the ePro system prior to the date and time to receive the proposal or they will be disqualified. Late or incomplete proposals will not be accepted. System-related issues in ePro shall be directed to Proposer support at [ePro.Vendors@buyspeed.com](mailto:ePro.Vendors@buyspeed.com) or (855) 800 – 5046. Please provide the assigned ePro Vendor Number on the proposal. For questions involving ePro, please contact the County's Purchasing Department at (909) 387-2060.
  - B. A Proposer's response to the RFP must be made according to the specifications set forth in this section, both for content and sequence.
  - C. A Proposer must present evidence, satisfactory to the County, indicative of its ability to design, construct, finance, operate and maintain the premises. Proposers must include the following information in sequence.
  - D. Proposers shall take into account the requirement to comply with the California Public Contract Code Sections 22000 through 22045 regarding bidding procedures and Labor Code Sections 1720.2 and 1770 et seq. regarding general prevailing wages and the registration requirements on the State's Department of Industrial Relations (DIR) website (<http://www.dir.ca.gov/Public-Works/PublicWorks.html>) and the use of "prevailing wages" for contractor and sub-contractors' and its staff.
  - E. All questions regarding the RFP must be submitted on or before **January 31, 2024**, to the person identified below (RFP Contact):
    - San Bernardino County
    - Real Estate Services Department
    - Attn: Keith Burke
    - 385 N. Arrowhead Avenue, 3<sup>rd</sup> Floor
    - San Bernardino, CA 92415
    - (909) 677-7961 Phone
    - (909) 387-5180 Fax
    - Keith.Burke@res.sbcounty.gov

Fax number and e-mail address may only be used to submit questions. Proposals will not be accepted by e-mail or facsimile.

## GENERAL INFORMATION

- II. The following is a list of items that must accompany the proposal:
- A. Name of Proposer exactly as it will appear on the license agreement.
  - B. Address of Proposer for purposes of notice or other communication relating to the proposal.
  - C. Contact Person.
  - D. Telephone number of Proposer.
  - E. Type of ownership the Proposer intends to operate the business which this proposal is concerned, e.g.: a sole proprietorship; Partnership; Corporation; Joint Venture, names of all partners, officers, etc., and who has the authority to sign the license agreement.
  - F. Proposed method of financing the development and/or modifications for the Premises.
  - G. The recommended Proposer may be required to provide financial information to evidence ability to perform (for example, tax returns, bank statements, etc.).
  - H. Proposer's Experience in performing the license obligations.
  - I. References.
  - J. Description of the proposed improvement to the Premises.
  - K. Specify any proposed changes to the form of revenue license agreement attached. Include preferred initial term of five (5) years, with four (4) five-year options to extend the term and the expected annual revenue. **The annual revenue amount provided by the proposer should be the highest and best proposal.** Proposers are requested to include in their proposal for their lowest cost per square foot amount under the following assumption:
    - 1. The lease agreement will include **Paragraph 40, COUNTY'S RIGHT TO TERMINATE LICENSE;**
  - L. Provide estimated development schedule.
  - M. The proposal must be made by the Proposer or by an agent bearing a notarized authorization or power of attorney signed by the Proposer authorizing the agent to act on the Proposer's behalf.

If the proposal is made by an individual, it shall be signed with the full name of the Proposer, and its address shall be given. If it is made by a partnership, it shall be signed with the partnership name and by an authorized partner. If it is made by a joint venture, it shall be signed by the authorized representative of the joint venture. If it is made by a corporation, it shall be signed by the authorized agent for the corporation.

N. Provide information on former County administrative officials (as defined below) who are employed by or represent your business. The information provided must include a list of former County administrative officials who terminated county employment within the last five years and who are now officers, principals, partners, associates or members of the business. Should also include the employment and/or representative capacity and the dates these individuals began employment with or representation of your business. For purposes of this section, "County administrative official" is defined as a member of the Board of Supervisors or such officer's staff, CAO or member of such officer's staff, county department or group head, assistant department or group head, or any employee in the Exempt Group, Management Unit or Safety Management Unit. Failure to provide this information will result in the response to the request for proposal being deemed non-responsive. The information should be submitted in the form of **Exhibit "C", LIST OF FORMER COUNTY OFFICIALS**, attached to the form of license agreement.

O. The proposal must be submitted as follows:

- 1) Provide two (2) copies of the proposal in a sealed envelope marked "RFP – Real Estate Services Department-860 E. Gilbert Street".
- 2) Include name, address and daytime phone number of Proposer (or authorized agent) on the envelope.
- 3) The package may be sent by certified mail or hand delivered, but **must arrive** no later than 4:00 p.m., **January 31, 2024**, to Real Estate Services Department, 385 North Arrowhead Avenue, Third Floor, San Bernardino, CA 92415-0180.

**It is the sole responsibility of the Proposer to see that its proposal is completed and received by the date and time indicated above. Proposals received after the deadline will be rejected.**

P. Proposals shall remain open, valid and subject to acceptance anytime within nine (9) months after the Proposal submission.

Q. Proposers are responsible for reviewing whether they or their subconsultants are disqualified under Government Code Section 1090 et seq (Section 1090) from entering into a contract prior to submitting a proposal. The submission of a proposal is a representation by Proposer that neither Proposer, nor any of Proposer's contractors, or subcontractors are disqualified under Section 1090 from entering into a contract resulting from this RFP. **Any proposal submitted by a Proposer or subconsultant that is found by the County to be disqualified**



**under Section 1090 will result in that proposal being deemed non-responsive.**

- R. In accordance with Public Contract Code section 2204(a), the Proposer certifies upon submission that the Proposer signing the Proposal is not identified on a list created pursuant to subdivision (b) of Public Contract Code section 2203 (<http://www.dgs.ca.gov/pd/Resources/PDLegislation.aspx>) as a person (as defined in Public Contract Code section 2202(e)) engaging in investment activities in Iran described in subdivision (a) of Public Contract Code section 2202.5, or as a person described in subdivision (b) of Public Contract Code section 2202.5, as applicable.

Proposers are cautioned that making a false certification may subject the Proposer to civil penalties, termination of an existing contract, and ineligibility to bid on a contract for a period of three (3) years in accordance with Public Contract Code section 2205. Proposer agrees that signing the Proposal shall constitute signature of this Certification.

### **PROPOSAL EVALUATION AND AWARD RECOMMENDATION**

#### III. Proposal Evaluation and Award Recommendation:

- A. Evaluation Process: All Proposals will be subject to a standard review process developed by County. A primary consideration shall be the effectiveness of the Proposer's delivery of comparable or related services based on demonstrated performance.

B. Evaluation Criteria:

- 1) Initial Review: All proposals will be initially evaluated to determine if they meet the following minimum requirements:

- a. The proposal must be complete, in the required format, and be in compliance with all the requirements of this RFP.

However, no proposal shall be rejected if it contains only a minor irregularity, defect or variation, provided the minor irregularity, defect or variation is considered by the County to be immaterial or inconsequential, and allowing the Proposer to remedy the minor irregularity, defect or variation will not give the Proposer an unfair advantage over other Proposers. In such cases, the Proposer will be notified of the deficiency in the proposal and given an opportunity to correct the irregularity, defect or variation or the County may elect to waive the deficiency and accept the proposal.

- 2) Evaluation: Proposals meeting the above requirements will be evaluated on the basis of the following criteria:

- a. Building Structure/Property Development.  
d. Length of Term/County's Right to Terminate.

- e. Proposer's Experience/Ability to Finance.
- f. Record of any unsatisfactory performance on contracts with the County whether on current contracts or on contracts that have expired or been terminated within the last five (5) years
- g. Proposer's exceptions or deviations of the RFP requirements and the form of License Agreement
- h. RFP package responsiveness and completeness

Selection of the recommended Proposer to enter into a license to be approved by the County's Board of Supervisors in its sole discretion will be based on determination of which proposal will best meet the requirements of the County and the requirements of this RFP. The County reserves the right to request the information described herein from the Proposer. Failure to provide the information may result in a disqualification from the selection process. The County also reserves the right to obtain the requested information by way of a background check performed by an investigative firm. Proposer also may be requested to provide information to clarify initial responses. Negative information provided or discovered may result in disqualification from the selection process. Proposers may be asked to disclose whether the firm, or any of its partners, principals, members, associates or key employees (as that term is defined herein), within the last ten years, has been indicted on or had charges brought against it or them (if still pending) or convicted of any crime or offense arising directly or indirectly from the conduct of the firm's business, or whether the firm, or any of its partners, principals, members, associates or key employees, has within the last ten years, been indicted on or had charges brought against it or them (if still pending) or convicted of any crime or offense involving financial misconduct or fraud. If the response is affirmative, the Proposer will be asked to describe any such indictments or charges (and the status thereof), convictions and the surrounding circumstances in detail. In addition, Proposer may be asked to disclose whether the firm, or any of its partners, principals, members, associates or key employees, within the last ten years, has been the subject of legal proceedings as defined herein arising directly from the provision of services by the firm or those individuals. "Legal proceedings" means any civil actions filed in a court of competent jurisdiction, or any matters filed by an administrative or regulatory body with jurisdiction over the firm or the individuals. If the response is affirmative, the Proposer will be asked to describe any such legal proceedings (and the status and disposition thereof) and the surrounding circumstances in detail. For purposes of this provision "key employees" includes any individuals providing direct service to the County. "Key employees" do not include clerical personnel providing service at the firm's offices or locations.

- 3) License Award: A license may be recommended for award based on a competitive review of proposals received. The contents of the proposal of the recommended Proposer, if any, will be incorporated into the license. Failure to accept these obligations in a license agreement may result in disqualification from the RFP process. The County reserves the right to

negotiate any proposed term(s) with the recommended Proposer prior to license award, if any, by the County's Board of Supervisors.

- 4) Protests: Proposers may protest the Proposer recommended for license award, provided the protest is in writing, clearly identifies the RFP, is delivered to the address listed above for proposal submission, and submitted within ten (10) calendar days of the date of the notification of intent to award or non-selection is delivered.

Grounds for a protest are that the County failed to follow the selection procedures and adhere to requirements specified in the RFP or any addenda or amendments; there has been a violation of conflict of interest as provided by California Government Code Section 87100 et seq.; violation of conflict of interest as provided by California Government Code Section 87100 et seq; or violation of State or Federal law. Protests will not be accepted on any other grounds. All protests shall be sent to:

Pete Mendoza, Interim Director  
San Bernardino County  
Purchasing Department  
777 E. Rialto Avenue  
San Bernardino, CA 92415

The County will consider only those permitted specific issues addressed in the written protest. A written response will be directed to the protesting Proposer within a reasonable timeframe prior to the tentatively scheduled date for awarding the License. The decision of the Interim Purchasing Director shall be deemed final.

- 5) Final Approval: Proposer acknowledges any license resulting from this RFP will be awarded by final approval of the San Bernardino County Board of Supervisors, and that unless and until such approval by the Board, there is no binding obligation by the County, and any action by the Proposer taken prior to such approval is at the Proposer's sole risk.
- 6) Inaccuracies or Misrepresentations: If in the course of the RFP process, the County determines that the Proposer has made a material misstatement or misrepresentation or that materially inaccurate information has been provided to the County, the Proposer may be eliminated from the RFP process.

**ATTACHMENT "1" SITE LOCATION MAP**

**PROJECT AREA  
780 E. Gilbert Street  
San Bernardino, CA**



**SITE LOCATION MAP**



**Site Location**

## ATTACHMENT "2" FORM OF LICENSE AGREEMENT

THE INFORMATION IN THIS BOX IS NOT A PART OF THE CONTRACT AND IS FOR COUNTY USE ONLY



Contract Number

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SAP Number

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### Real Estate Services Department

<b>Department Contract Representative</b>	Terry W. Thompson, Director
<b>Telephone Number</b>	(909) 387-5000
<b>Contractor</b>	_____
<b>Contractor Representative</b>	_____
<b>Telephone Number</b>	_____
<b>Contract Term</b>	_____
<b>Original Contract Amount</b>	_____
<b>Amendment Amount</b>	_____
<b>Total Contract Amount</b>	_____
<b>Cost Center</b>	_____
<b>GRC/PROJ/JOB No.</b>	_____
<b>Internal Order No.</b>	_____

**Briefly describe the general nature of the contract:**

This license agreement is for a period of five (5) years with four five-year options to extend the term . Premises consist of approximately 816 square feet of unimproved land located at 780 E. Gilbert Street, San Bernardino, CA for the placement, maintenance and operation of a cellular communications facility containing \_\_\_\_\_.

Approved as to Legal Form  ► Please see signature page Agnes I. Cheng, Deputy County Counsel  Date _____	Reviewed for Contract Compliance  ► _____  Date _____	Reviewed/Approved by Department  ► _____ Lyle Ballard, Real Property Manager, RESD  Date _____
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**LICENSE AGREEMENT**

**LICENSEE:**

**COUNTY:** SAN BERNARDINO COUNTY  
Real Estate Services Department  
385 North Arrowhead Avenue, Third Floor  
San Bernardino, CA 92415-0180

**PREMISES:** Approximately 816 square feet of County-owned land located at 780 E. Gilbert Street San Bernardino, CA.

**TERM OF LICENSE:** Five (5) years with four (4) five-year options to extend the term of the License Agreement

**COMMENCEMENT DATE OF LICENSE:**

**CONTRACT NO.**

**REV. 3/1/2011**

**TYPED:**

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## LICENSE AGREEMENT

This License Agreement (the "License") is made and entered into by and between San Bernardino County, a body politic and corporate, hereinafter designated as "COUNTY" and \_\_\_\_\_ hereinafter called "LICENSEE". The COUNTY and LICENSEE are at times collectively referred to hereinafter as the "Parties" or individually as the "Party".

### WITNESSETH

WHEREAS, the LICENSEE desires to install, operate, repair, and maintain a cellular communication facility situated on approximately 816 square feet of County-owned land located at 780 E. Gilbert Street San Bernardino, CA; and,

WHEREAS, COUNTY and LICENSEE now desire to enter into a license agreement for the use of a certain portion of the County-owned land, as more specifically described in this License; and,

NOW, THEREFORE, in consideration of mutual covenants and conditions, the Parties hereto agree to the following:

In consideration of the covenants and agreements hereinafter contained being fully kept and performed, and in consideration of the benefits to be derived by each Party, COUNTY does hereby grant to LICENSEE a non-exclusive license for the use of that certain portion of real property, comprising approximately 816 square feet ("Premises") located at 780 East Gilbert Street, San Bernardino, CA ("Site"), as said premises is more particularly described in Exhibit "A" (the "Premises"), for use as a cellular communications facility with certain authorized equipment, as said equipment is more particularly described in Exhibit "C" (LICENSEE's Authorized Equipment), attached hereto and made a part hereof.

### COVENANTS AND AGREEMENTS:

1. **USE:** The COUNTY grants a non-exclusive license for the use of the Premises to LICENSEE for the purpose of installing, constructing, operating, repairing, removing, replacing, modifying, upgrading and maintaining, subject to Paragraph 12, a cellular communication facility containing a \_\_\_\_\_ (collectively, the "LICENSEE's Authorized Equipment") which equipment is more particularly described on Exhibit "C" attached hereto and made a part hereof.

This License and the rights herein granted to LICENSEE shall be subject to the paramount legal duties and obligations of COUNTY including, but not limited to, the right to cross over and/or occupy the Premises with any and all equipment necessary in the preservation of the surrounding County-owned property without liability for any damages to LICENSEE's Authorized Equipment except to the extent caused by the intentional misconduct or gross negligence of COUNTY. COUNTY shall give reasonable advance notice either verbally or in writing of its intent to enter and cross the Premises.

2. **TERM:** The initial term of said License shall be five (5) years duration commencing on the first day of the month immediately following full execution of this License by the parties hereto (the "Commencement Date") and ending on the day immediately preceding the fifth (5<sup>th</sup>) anniversary of the Commencement Date (the "Initial Term"). The Initial Term, together with any Extended Terms (as defined below) are referred to collectively as the "Term".

3. **OPTION TO EXTEND TERM:** COUNTY gives LICENSEE the option to extend the Term of the License on the same provisions and conditions, except for the Annual License Fee (as defined below) for four (4) five-year periods ("Extended Terms") following expiration of the Initial Term, provided that at the time of exercise of the applicable option, LICENSEE is not in default with respect to any of the terms, covenants or conditions to be observed or performed by LICENSEE hereunder beyond any applicable cure periods, by LICENSEE giving written notice of exercise of the option to COUNTY at least one (1) year, but not more than eighteen (18) months,

prior to the expiration of the preceding Term. Said options shall be deemed to be independent and consecutive, with LICENSEE's right to exercise the second of said options terminating upon LICENSEE's failure to exercise the first option. The Annual License Fee for each extended Term shall be reestablished in accordance with **Paragraph 5, FEE ADJUSTMENTS.**"

4. **FEES:**

A. LICENSEE shall pay to COUNTY an annual license fee ("Annual License Fee") for the duration of the term of this License. The initial Annual License Fee shall be \_\_\_\_\_, which shall be payable in advance on the Commencement Date. Thereafter, the amount of the Annual License Fee shall be increased on each Adjustment Date (as defined in Paragraph 5 below) for the remainder of the Initial Term in accordance with Paragraph 5 of the License, which increased amount shall be payable in advance on each Adjustment Date.

B. If any Annual License Fee or other amounts are not paid when due and payable, LICENSEE shall pay to COUNTY an additional amount of Fifty and 00/100 Dollars (\$50.00) for each overdue Annual License Fee or other amount as an administrative processing charge. The Parties agree that this administrative charge represents a fair and reasonable estimate of the costs that COUNTY will incur by reason of late payment by LICENSEE. Acceptance of any administrative charge shall not constitute a waiver of LICENSEE's default with respect to the overdue Annual License Fee or amount or prevent COUNTY from exercising any of the other rights and remedies available to COUNTY. The Annual License Fee and other amounts not paid when due shall bear simple interest from the date due at the rate of one and one-half percent (1½%) per month until paid in full.

5. **FEE ADJUSTMENTS:** The Annual License Fee initially established at \_\_\_\_\_ per year shall be subject to an increase on each anniversary of the Commencement Date ("Adjustment Date(s)") during the Term in the amount of three and one half percent (3.5%) over the Annual License Fee immediately preceding the Adjustment Date.

6. **CONDITION OF PREMISES:** The Premises are provided to LICENSEE in its AS-IS condition without any representations or warranties whatsoever, including but not limited to its condition or suitability for LICENSEE's Authorized Equipment or LICENSEE's intended use and LICENSEE expressly acknowledges that COUNTY shall not be in any way liable for and LICENSEE assumes all risk of injury, damage, or loss in its use of the Premises, including without limitation, any risk of injury, damage, or loss regardless of cause to LICENSEE, LICENSEE's Equipment, or LICENSEE's personal property located on the Premises. Upon the commencement of LICENSEE's use of the Premises, the same shall conclusively be deemed that LICENSEE finds the Premises fit and proper for the purposes for which LICENSEE shall use the Premises.

7. **ASSIGNMENT:** This License shall not be assigned, the Premises shall not be sub-licensed or shared by third-parties, nor shall LICENSEE's interests herein be otherwise transferred without the express written approval of the COUNTY, which approval shall not be unreasonably withheld, conditioned or delayed. Except as provided in this License, any assignment, sub-license, shared use, or other transfer without the written approval of the COUNTY shall be null and void. Any change in control or ownership of the LICENSEE shall be deemed an assignment for purposes of this paragraph for which COUNTY consent is required. Notwithstanding anything to the contrary contained in this License or otherwise, and without LICENSEE being relieved of any obligations herein, (a) LICENSEE shall have the right to assign this License or sub-license the Premises upon prior written notice to COUNTY but without the prior approval of COUNTY to any business entity which: (i) is a parent of LICENSEE, a subsidiary of LICENSEE or LICENSEE'S parent, or an affiliate of LICENSEE or LICENSEE's parent, provided that the affiliate is either directly or indirectly controlled by LICENSEE or under common control with LICENSEE; (ii) is the successor or surviving entity resulting from a merger or other plan of reorganization with LICENSEE so long as such entity has at least ten (10) years of experience as an operator or manager of wireless communications facilities and has a net worth of at least Twenty Million Dollars (\$20,000,000) at the time of such merger or reorganization; or, (iii) acquires more than fifty percent (50%) of either an ownership interest in LICENSEE or all or substantially all of the assets of LICENSEE in the "Metropolitan Trading Area" or "Basic Trading Area" (as those terms are defined by the FCC) in which the Premises is located so long as such entity has at least ten (10) years of experience as an operator or manager of wireless communications and has a net

worth of at least Twenty Million Dollars (\$20,000,000) at the time of such acquisition,; and (b) LICENSEE may, with prior written notice to but without prior consent of COUNTY, share use of LICENSEE-owned improvements on the existing Premises with third-party telecommunications carriers, provided that: (i) the LICENSEE-owned improvements at the Premises can structurally accommodate the number of shared users, with satisfactory evidence to be provided to COUNTY upon request; (ii) such shared use is on the same terms and conditions as this License and a default by any shared user shall be a default by LICENSEE under this License; (iii) if LICENSEE and/or said third-party telecommunications carrier desire to add or modify LICENSEE's Authorized Equipment as a result of such shared use, including any equipment on the ground of the Premises, such additional or modified equipment shall require COUNTY's prior written consent pursuant to Paragraph 7 of this License.

**8. COUNTY'S ACCESS TO PREMISES:**

A. COUNTY, or a duly authorized representative of the COUNTY, reserves the right to enter upon the Premises at any reasonable time for the purpose of inspecting the Premises for conformance to license provisions and for carrying out any routine and emergency maintenance or construction repair work on the Premises that COUNTY may deem expedient nor shall said COUNTY be liable for damages to LICENSEE's Authorized Equipment as a result thereof except to the extent caused by the intentional misconduct or gross negligence of COUNTY or COUNTY's agents.

B. COUNTY's activities at the Site shall take precedence at all times, and when any work or activity must be performed to carry out the functions and purposes of the COUNTY, LICENSEE must allow same to be done without interference. COUNTY shall give LICENSEE reasonable notice of impending activities whenever possible.

**9. MAINTENANCE/REPAIRS/ACCESS:**

A. The COUNTY's existing maintenance roads will be available, at no additional charge to LICENSEE for LICENSEE's access to the Premises. Maintenance and inspection of LICENSEE's Authorized Equipment and the Premises will be the sole responsibility of the LICENSEE and regular inspections are required as necessary to ensure that LICENSEE's Authorized Equipment and the Premises are maintained in a good and safe condition. Any damage to COUNTY's property or property of others resulting from said maintenance activities shall be the sole responsibility of LICENSEE. If LICENSEE's Authorized Equipment becomes a hazard to COUNTY's or other users operations at the Site, the LICENSEE will be required to eliminate the hazard.

B. LICENSEE shall have twenty (20) days from the creation of the need to maintain and repair to perform its obligation to maintain and repair under this paragraph 9, except that LICENSEE shall begin to perform its obligations immediately, if the nature of the problem presents a threat to life, health, or safety of persons or destruction of property. If LICENSEE does not perform its obligations within the time limitations in this paragraph 9, COUNTY can, upon written notice to the LICENSEE, perform the obligations and has the right to be reimbursed for the sum it actually expends (including charges for COUNTY's equipment and personnel) in the performance of LICENSEE's obligations.

**10. HAZARDOUS MATERIALS:**

A. Definition. For purposes of this License, the term "Hazardous Substance" means any (a) substance, product, waste or other material of any nature whatsoever which is or becomes listed, regulated, or addressed pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601, et seq. ("CERCLA"); the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq. ("RCRA"); Toxic Substances Control Act, 15 U.S.C. Sections 2601 et seq.; the Clean Water Act, 33 U.S.C. Sections 1251 et seq.; the California Hazardous Waste Control Act, Health and Safety Code Sections 25100 et seq.; the California Hazardous Substance Account Act, Health and Safety Code Sections 25330 et seq.; the California Safe Drinking Water and Toxic Enforcement Act, Health and Safety Code Sections 25249.5 et seq.; California Health and Safety Code Sections 25280 et seq. (Underground Storage of Hazardous Substances); the California Hazardous Waste Management Act, Health and Safety Code Sections 25170.1 et seq.; California Health and Safety Code Sections

25501 et seq. (Hazardous Materials Response Plans and Inventory); or the California Porter-Cologne Water Quality Control Act, Water Code Sections 1300 et seq, all as amended, (the above-cited California state statutes are hereinafter collectively referred to as "the State Toxic Substances Laws") or any other federal, state or local statute, law, ordinance, resolution, code, rule, regulation, order or decree regulating, relating to, or imposing liability or standards of conduct concerning any hazardous, toxic or dangerous waste, substance or material, as now or at any time hereafter in effect, (b) any substance, product, waste or other material of any nature whatsoever which may give rise to liability under any of the above statutes or under any statutory or common law theory based on negligence, trespass, intentional tort, nuisance or strict liability or under any reported decisions of a state or federal court, (c) petroleum or crude oil other than petroleum and petroleum products contained within regularly operated motor vehicles, and (d) asbestos.

B. LICENSEE shall not permit, authorize, or suffer at any time herein relevant the presence, use, manufacture, handling, generation, storage, treatment, discharge, release, burial or disposal on, under or about the Premises of any Hazardous Substance, or the transportation to or from the Premises or the Site of any Hazardous Substance.

C. LICENSEE shall be solely responsible, at its cost, for any violation of applicable Hazardous Substances laws by LICENSEE or its employees, contractor, and agents. LICENSEE shall further indemnify, protect, defend and hold COUNTY and their officers, agents, employees, and volunteers and the Premises and the Site, harmless from and against any and all damages, liabilities, judgments, costs, claims, liens, expenses, penalties and loss of permits (including COUNTY's attorneys' and consultants' fees) arising out of or involving any Hazardous Substances brought onto the Premises or the Site by or for LICENSEE or by anyone under LICENSEE's control. LICENSEE's obligations under this paragraph shall include, but not be limited to, the effects of any contamination or injury to person, property or the environment created or suffered by LICENSEE, and the cost of investigation (including consultants' and attorneys' fees and testing), removal, remediation, restoration and/or abatement thereof, or of any contamination therein involved, and shall survive the expiration or earlier termination of this License. No termination, cancellation or release agreement entered into by COUNTY and LICENSEE shall release LICENSEE from its obligations under this License with respect to Hazardous Substances, unless specifically so agreed by COUNTY in writing at the time of such agreement.

D. LICENSEE shall comply with all applicable laws, statutes, regulations, and orders concerning Hazardous Substances, as defined in subparagraph 11A, relating to LICENSEE's Authorized Equipment on the Premises.

E. During the Term, LICENSEE shall maintain and inspect LICENSEE's Authorized Equipment located on the Premises and immediately inform COUNTY of any release of Hazardous Substances. Upon reasonable notice to LICENSEE, COUNTY may inspect LICENSEE's Authorized Equipment on the Premises to determine if any release of Hazardous Substances has occurred, or may occur, from or related to LICENSEE's Authorized Equipment. In removing or modifying LICENSEE's Equipment as provided in this License, LICENSEE shall also remove all residue of Hazardous Substances related thereto.

11. **UTILITIES:** COUNTY shall have no obligation to furnish to the Premises any electric, gas, water, trash, and or any other utilities. In the event that LICENSEE desires to connect to, maintain, repair, upgrade, remove or replace existing utility related equipment at the Premises, LICENSEE shall obtain COUNTY's prior written approval and shall comply with Paragraph 12. .

12. **IMPROVEMENTS:** LICENSEE shall not make any improvements or alterations to the Premises or LICENSEE's Authorized Equipment after its initial installation as detailed in Exhibit "B" ("LICENSEE's Initial Improvements") without COUNTY's prior written consent, not to be unreasonably withheld, conditioned or delayed. In the event that LICENSEE desires to alter the LICENSEE's Initial Improvements, the Premises or LICENSEE's Authorized Equipment, LICENSEE shall, along with its consent request, submit all plans and specifications and any other information reasonably requested by COUNTY for said improvements or alterations. All improvements to the Premises that are directly related to installing, operating and maintaining the LICENSEE's Authorized Equipment shall remain the property of LICENSEE and shall not be considered fixtures. Upon termination of this License, the LICENSEE shall have the right to remove improvements directly related to

operating and maintaining the LICENSEE's Authorized Equipment, which removal shall be completed on or before the expiration of the then current Term. The Premises shall be returned to COUNTY in as good a condition and repair as it was initially received by LICENSEE, reasonable wear and tear excepted, and LICENSEE shall repair any damage to the Premises, at the Site, or on adjacent County-owned property caused by LICENSEE's removal of LICENSEE's Authorized Equipment or LICENSEE's use of the Premises. Upon such termination, if the LICENSEE does not elect to exercise such right, COUNTY shall either require LICENSEE, at LICENSEE's expense, to remove LICENSEE's Authorized Equipment, or elect to retake possession of the Premises together with LICENSEE's Authorized Equipment which shall thereupon become the property of the COUNTY without compensation to LICENSEE.

13. **DEFAULT AND RIGHT TO TERMINATE:**

A. If there should be any default in payment by LICENSEE of the Annual License Fee or any other sums provided herein or if LICENSEE fails to continuously operate and maintain the LICENSEE's Authorized Equipment throughout the Term of the License, including any extensions thereof, for a period of one (1) year or more (provided that the Annual License Fee shall be paid during said year) or abandons LICENSEE's Authorized Equipment COUNTY may give LICENSEE written notice of such default. This License will not be terminated if within ten (10) days after receipt of such written notice the LICENSEE shall cure the default or breach for a monetary default and thirty (30) days for a non-monetary default. If the non-monetary default is of a nature that it cannot reasonably be cured within said thirty (30) day period, this License may not be terminated if LICENSEE commences its cure of such default within said thirty (30) day period and thereafter diligently proceeds to fully cure such default but in no event shall the total cure period exceed sixty (60) days after the occurrence of such default.

B. If LICENSEE should fail to perform, keep or observe any of the terms, conditions or covenants as set forth in this License, other than payment of fees as provided hereinabove, COUNTY may give LICENSEE written notice to correct such condition or cure such default.

(1) This License will not be terminated if within thirty (30) days after receipt of such written notice, the LICENSEE shall cure the condition or default.

(2) If such condition or default should continue for thirty (30) days after receipt of written notice of default, COUNTY may at its option elect to terminate this License. Such election to terminate shall not be construed as a waiver of any claim the COUNTY may have against LICENSEE, consistent with such termination.

(3) If, however, LICENSEE shall have commenced the elimination of such default within thirty (30) days after receipt of such notice and shall continuously and diligently proceed in good faith to eliminate such default, then the period for correction shall be extended for such length of time as is reasonably necessary to complete such correction.

C. If, however, in the sole discretion of COUNTY, and notwithstanding the cure periods in Paragraph 13.A, the problem or default represents a hazard or emergency, LICENSEE shall perform its obligations immediately. If LICENSEE fails to perform its obligations immediately, COUNTY may perform the obligations and have the right to be reimbursed for the sum it actually expends (including charges for COUNTY's equipment and personnel) in the performance of LICENSEE's obligations.

D. Upon any termination of this License, LICENSEE covenants and agrees to surrender the Premises peaceably to the COUNTY immediately upon any such termination. If LICENSEE continues to use the Premises after any termination of this License without County consent, COUNTY shall have the right to pursue all available rights and remedies available at law or in equity. In the event of the failure of LICENSEE to remove the LICENSEE's Authorized Equipment from the Premises immediately upon any termination of this License, in addition to the remedies available to COUNTY pursuant to Paragraph 13, COUNTY may remove LICENSEE's Authorized Equipment and place the same in storage at the expense of LICENSEE and without liability to COUNTY for loss thereof. LICENSEE agrees to pay COUNTY within thirty (30) days of COUNTY's demand all expenses incurred in such removal, including court costs and reasonable attorney's fees and storage charges

and/or COUNTY may without notice sell all or any part of said LICENSEE's Authorized Equipment at public or private sale for such prices as COUNTY may obtain, and apply the proceeds of such sale to any reasonable expense incidental to the removal and sale of said LICENSEE's Authorized Equipment, with the surplus, if any, being refunded to LICENSEE.

E. The receipt by the COUNTY of any fees or of any other sum of money paid by LICENSEE after any default, the termination of this License for any reason, or after the giving by COUNTY of any notice to effect such termination, shall not waive the default, reinstate, continue or extend the Term of this License, or destroy, or in any manner impair the efficacy of any such notice of termination as may have been given hereunder by COUNTY to LICENSEE prior to the receipt of any such sum of money or other consideration, unless so agreed to be in writing and signed by COUNTY. Any act of the COUNTY or its agents or employees during the Term of this License shall not be deemed to be an acceptance or a surrender of said Premises, excepting an agreement in writing signed by the COUNTY agreeing to accept such surrender.

14. **HOLDING OVER:** If LICENSEE continues using the Premises after the expiration of the Term or after any termination of this License prior to the expiration of the Term, and if said use is with the consent of the COUNTY, then LICENSEE shall be deemed to be holding over the Premises on a month-to-month basis subject to all the provisions of this License, except, during such holdover, the Annual License Fee shall increase to an amount equal to one hundred fifty percent (150%) over the Annual License Fee immediately in effect prior to the initiation of holdover, which shall be pro-rated and payable monthly during any month-to-month holdover.

15. **LICENSES AND CERTIFICATIONS:** LICENSEE agrees that it will acquire and maintain those certifications, licenses, approvals and permits required by any Federal, State or local jurisdiction or authority for carrying out the purpose of this License and LICENSEE shall comply with all laws and regulations and industry standard safety measures for the access and use of the LICENSEE's Authorized Equipment on the Premises. Failure to comply with this provision will constitute a default and right to terminate by COUNTY under Paragraph 13, **DEFAULT AND RIGHT TO TERMINATE**, of this License.

16. **INDEMNIFICATION:** LICENSEE agrees to indemnify, defend (with counsel reasonably approved by COUNTY) and hold harmless the COUNTY and its authorized officers, employees, agents and volunteers from any and all claims, actions, losses, damages, and/or liability arising out of this License from any cause whatsoever, including the acts, errors or omissions of any person and for any costs or expenses incurred by the COUNTY on account of any claim except where such indemnification is prohibited by law. This indemnification provision shall apply regardless of the existence or degree of fault of indemnitees. The LICENSEE's indemnification obligation applies to the COUNTY's "active" as well as "passive" negligence but does not apply to the COUNTY's "sole negligence" or "willful misconduct" within the meaning of Civil Code Section 2782.

17. **INSURANCE REQUIREMENTS AND SPECIFICATIONS:**

A. Reserved.

B. The LICENSEE agrees to provide insurance set forth in accordance with the requirements herein. If the LICENSEE uses existing coverage to comply with these requirements and that coverage does not meet the specified requirements, the LICENSEE agrees to amend, supplement or endorse the existing coverage to do so. The type(s) of insurance required is determined by the scope of the License hereunder. Without in anyway affecting the indemnity herein provided and in addition thereto, the LICENSEE shall secure and maintain throughout the contract term the following types of insurance with limits as shown:

(1) Workers' Compensation/Employers Liability – A program of Workers' Compensation insurance or a state-approved, self-insurance program in an amount and form to meet all applicable requirements of the Labor Code of the State of California, including Employer's Liability with Two Hundred Fifty Thousand Dollars (\$250,000.00) limits covering all persons including volunteers providing services on behalf of the LICENSEE and all risks to such persons under this License.

If LICENSEE has no employees, it may certify or warrant to the COUNTY that it does not currently have any employees or individuals who are defined as "employees" under the Labor Code and the requirement for Workers' Compensation coverage will be waived by the COUNTY's Director of Risk Management.

If, LICENSEE is a non-profit corporation, organized under California or Federal law, volunteers for LICENSEE are required to be covered by Workers' Compensation insurance.

(2) Commercial/General Liability Insurance – The LICENSEE shall carry General Liability Insurance covering all operations performed by or on behalf of the LICENSEE providing coverage for bodily injury and property damage with a combined single limit of not less than One Million Dollars (\$1,000,000.00), per occurrence. The policy coverage shall include:

- (a) Premises operations and mobile equipment.
- (b) Products and completed operations.
- (c) Broad form property damage (including completed operations).
- (d) Explosion, collapse and underground hazards.
- (e) Personal injury
- (f) Contractual liability.
- (g) \$2,000,000.00 general aggregate limit.

(3) Commercial Property Insurance Providing all risk coverage for the premises, building, fixtures, equipment and all property constituting a part of the Premises. Coverage shall be sufficient to insure One Hundred percent (100%) of the replacement cost.

(4) Automobile Liability Insurance – Primary insurance coverage shall be written on ISO Business Auto coverage form for all owned, hired and non-owned automobiles or symbol 1 (any auto). The policy shall have a combined single limit of not less than One Million Dollars (\$1,000,000.00) for bodily injury and property damage, per occurrence.

(5) Umbrella Liability Insurance - An umbrella (over primary) or excess policy may be used to comply with limits or other primary coverage requirements. When used, the umbrella policy shall apply to bodily injury/property damage, personal injury/advertising injury and shall include a "dropdown" provision providing primary coverage for any liability not covered by the primary policy. The coverage shall also apply to automobile liability.

C. If LICENSEE performs any construction of the Premises on behalf of the COUNTY, LICENSEE shall also procure and maintain coverages as follows:

(1) For construction contracts for projects over One Million Dollars (\$1,000,000.00) and less than Three Million Dollars (\$3,000,000.00) require limits of not less than Three Million Dollars (\$3,000,000.00) in General Liability and Auto Liability coverage.

(2) For construction contracts for projects over Three Million Dollars (\$3,000,000.00) and less than Five Million Dollars (\$5,000,000.00) require limits of not less than Five Million Dollars (\$5,000,000.00) in General Liability and Auto Liability coverage.

(3) For construction contracts for projects over Five Million Dollars (\$5,000,000.00) and less than Ten Million Dollars (\$10,000,000.00) require limits of not less than Ten Million Dollars (\$10,000,000.00) in General Liability and Auto Liability coverage.

(4) Subcontractor Insurance Requirements. The LICENSEE agrees to require all parties or subcontractors, including architects or others it hires or contracts with related to the performance of this License to provide insurance covering the contracted operation with the basic requirements for all contracts in B1 and the insurance sections for all contracts in B2, (including waiver of subrogation rights) and naming the COUNTY as an

additional insured. The LICENSEE agrees to monitor and review all such coverage and assumes all responsibility ensuring that such coverage is provided as required here.

(5) Course of Construction/Installation (Builder's Risk) Property insurance providing all risk, including theft coverage for all property and materials to be used on the project. The insurance policy shall not have any coinsurance penalty.

D. Additional Insured – All policies, except for the Workers' Compensation, shall contain endorsements naming the COUNTY and their officers, employees, agents and volunteers as additional insureds with respect to liabilities arising out of the use under this License hereunder. The additional insured endorsements shall not limit the scope of coverage for the COUNTY to vicarious liability but shall allow coverage for the COUNTY to the full extent provided by the policy. Such additional insured coverage shall be at least as broad as Additional Insured (Form B) endorsement form ISO, CG 2010.11 85.

E. Waiver of Subrogation Rights – The LICENSEE shall require the carriers of required coverages to waive all rights of subrogation against the COUNTY, their officers, employees, agents, volunteers, contractors and subcontractors. All general or auto liability insurance coverage provided shall not prohibit the LICENSEE and LICENSEE's employees or agents from waiving the right of subrogation prior to a loss or claim. The LICENSEE hereby waives all rights of subrogation against the COUNTY.

F. Policies Primary and Non-Contributory – All policies required herein are to be primary and non-contributory with any insurance or self-insurance programs carried or administered by the COUNTY.

G. Severability of Interests – The LICENSEE agrees to ensure that coverage provided to meet these requirements is applicable separately to each insured and there will be no cross liability exclusions that preclude coverage for suits between the LICENSEE and the COUNTY or between the COUNTY and any other insured or additional insured under the policy.

H. Proof of Coverage – The LICENSEE shall furnish Certificates of Insurance to the COUNTY's Real Estate Services Department (RESD) administering the License evidencing the insurance coverage, including endorsements, as required, prior to the commencement of performance of services hereunder, which shall provide that such insurance shall not be terminated or expire without thirty (30) days written notice to RESD, and LICENSEE shall maintain such insurance from the time LICENSEE commences use under the License hereunder until the end of the period of the License. Within fifteen (15) days of the commencement of this contract, the LICENSEE shall furnish a copy of the Declaration page for all applicable policies and will provide complete certified copies of the policies and endorsements immediately upon request.

I. Acceptability of Insurance Carrier – Unless otherwise approved by the COUNTY Department of Risk Management, insurance shall be written by insurers authorized to do business in the State of California and with a minimum "Best" Insurance Guide rating of "A- VII".

J. Insurance Review – Insurance requirements are subject to periodic review by the COUNTY. The COUNTY's Director of Risk Management or designee is authorized, but not required, to reduce, waive or suspend any insurance requirements whenever the COUNTY's Department of Risk Management determines that any of the required insurance is not available, is unreasonably priced, or is not needed to protect the interests of the COUNTY. In addition, the COUNTY's Director of Risk Management or designee is authorized, but not required, to change the above insurance requirements to require additional types of insurance coverage or higher coverage limits, provided that any such change is reasonable in light of past claims against the COUNTY, inflation, or any other item reasonably related to the COUNTY's risk.

Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this License. LICENSEE agrees to execute any such amendment within thirty (30) days of receipt.



Any failure, actual or alleged, on the part of RESD or COUNTY to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of RESD or the COUNTY.

K. Deductibles and Self-Insured Retention - Any and all deductibles or self-insured retentions in excess of \$10,000 shall be declared to and approved by COUNTY's Risk Management Department.

L. Failure to Procure Insurance. All insurance required must be maintained in force at all times by LICENSEE. Failure to maintain said insurance, due to expiration, cancellation, etc., shall be cause for the COUNTY to give notice to immediately suspend all LICENSEE's business activities on the Premises. Failure to reinstate said insurance within ten (10) days of notice to do so shall be cause for termination and for forfeiture of this License, and/or COUNTY, at its discretion, may procure or renew such insurance and pay any and all premiums in connection therewith, and all monies so paid by COUNTY shall be repaid by LICENSEE to COUNTY upon demand but only for the pro rata period of non-compliance.

M. COUNTY shall have no liability for any premiums charged for such coverage(s). The inclusion of COUNTY as additional named insured is not intended to and shall not make a partner or joint venturer with LICENSEE in LICENSEE's operations.

The LICENSEE agrees to require all parties or subcontractors, or others it hires or contracts with related to the use of this License to provide insurance covering such use with the basic requirements and naming the COUNTY as additional insured. LICENSEE agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided as required herein.

18. **TAXES, ASSESSMENTS AND LICENSES:** LICENSEE shall pay before delinquency any and all taxes, if any, assessments, fees, or charges, including possessory interest taxes, which may be levied or assessed upon any personal property, improvements or fixtures, if any, installed or belonging to LICENSEE and located within the Premises. LICENSEE shall also pay all license or permit fees necessary or required by law for the conduct of its operation and/or in accordance with Section 107 of the California Revenue and Taxation Code. LICENSEE recognizes and understands that this License may create a possessory interest subject to property taxation and that the LICENSEE may be subject to the payment of property taxes levied solely on such interest, unless the Parties otherwise agree in writing prior to the start of construction or installation.

19. **BUILDING AND SAFETY REQUIREMENTS:** All LICENSEE's activities under this License must conform to all applicable rules, regulations, laws, ordinances, codes, statutes or orders of any governmental authority, Federal, State or local lawfully exercising authority over LICENSEE's operations. In the event that the LICENSEE's use of the Premises conflicts in any way with other uses at the property of which the Premises is a part (COUNTY's determination of such conflicting uses shall be conclusive), or in the event the LICENSEE's use of the Premises is in violation of any of said rules, regulations, ordinances, statutes or orders, the LICENSEE shall remove or modify the LICENSEE's Authorized Equipment to conform with the applicable regulations within thirty (30) days of receipt of written notice to do so from the COUNTY.

20. **GENERAL COVENANTS AND AGREEMENTS:**

A. At any time during the Term of this License, COUNTY may revise, modify, or add provisions to the License as may be required to meet the COUNTY's obligations or purposes, provided that such revisions, modifications and additions to the License are documented in an amendment to the License executed by both parties.

B. LICENSEE agrees not to use said Premises, or any part thereof, for any purpose which causes injury to any neighboring property, nor for any purpose in violation of valid applicable laws or ordinances.

C. No political signs shall be permitted at the Site.

D. Uses granted to LICENSEE under this License are valid only to the extent of the COUNTY's existing rights and may be subject to other existing easements and encumbrances. Rights granted to the LICENSEE are not exclusive.

E. If the LICENSEE should refuse or neglect to comply with the provisions of the License, or the orders of the COUNTY, the COUNTY may have such provisions or orders carried out by others at the expense of the LICENSEE. All the terms, covenants and conditions set forth herein are to be strictly complied with by LICENSEE. Any failure to comply therewith shall be grounds for immediate cancellation of the License.

F. This License is valid only to the extent of COUNTY jurisdiction. Permits required by other interested agencies shall be the responsibility of the LICENSEE. NOTHING CONTAINED IN THIS LICENSE SHALL BE CONSTRUED AS A RELINQUISHMENT OF ANY RIGHTS NOW HELD BY THE COUNTY.

21. **TERMINATION:** LICENSEE or COUNTY may terminate this License at any time and for any reason by giving the other Party written notice of any termination pursuant to this paragraph at least one (1) years' notice prior to the date of termination. COUNTY's Real Estate Services Department Director shall have the authority on behalf of COUNTY to provide LICENSEE with notice of any termination pursuant to this paragraph. LICENSEE shall perform all necessary removals on or before the expiration of the License. Notwithstanding anything to the contrary contained in this License or otherwise, LICENSEE may terminate this License without further liability, upon thirty (30) days prior written notice to COUNTY, for any of the following reasons: (i) changes in local or state laws or regulations which prohibit LICENSEE's operation at the Premises ; (ii) if LICENSEE is unable to obtain or maintain any governmental approvals, permits, licenses and other required approvals required for the construction or operation of the LICENSEE's Authorized Equipment.

22. **INCORPORATION OF PRIOR AGREEMENT:** This License contains all of the agreements of the parties hereto with respect to any matter covered or mentioned in this License, and no prior agreement or understanding pertaining to any such matter shall be effective for any purpose.

23. **WAIVERS:** No waiver by either Party of any provisions of this License shall be deemed to be a waiver of any other provision hereof or of any subsequent breach by either Party of the same or any other provisions.

24. **AMENDMENTS:** No provision of this License may be amended or added to except by an agreement in writing signed by the Parties hereto or their respective successor in interest, expressing by its terms an intention to modify this License.

25. **SUCCESSORS:** This License shall inure to the benefit of and be binding upon the heirs, executors, administrators, successors, and assigns of the Parties hereto.

26. **PROVISIONS ARE COVENANTS AND CONDITIONS:** All provisions, whether covenants or conditions, on the part of either party shall be deemed to be both covenants and conditions.

27. **CONSENT:** Except as otherwise expressly specified, whenever consent or approval of either Party is required that Party shall not unreasonably withhold such consent or approval.

28. **EXHIBITS:** All exhibits referred to are attached to this License and incorporated by reference.

29. **LAW:** This license shall be construed and interpreted in accordance with the laws of the State of California.

30. **CAPTIONS AND COVER PAGE:** The paragraph captions and the cover page of this License shall have no effect on its interpretations.

31. **SEVERANCE:** If any provision of this License is determined to be void by any court of competent jurisdiction, then such determination shall not affect any other provision of this License, and all such other provisions shall remain in full force and effect provided, however, that the purpose of the License is not frustrated.

It is the intention of the Parties hereto that if any provision of this License is capable of two constructions, one of which would render the provision void and the other of which would render the provision valid, then the provision shall have the meaning which renders it valid.

32. **NOTICES:** Any notice, demand, request, consent, approval, or communication that either Party desires or is required to give to the requested other Party or any other person shall be in writing and either served personally, sent via a nationally recognized overnight courier, or sent by United States, postage prepaid, first-class mail, certified or registered, return receipt. Any notice, demand, request, consent, approval, or communication that either Party desires or is required to give to the other Party shall be addressed to the other party at the address set forth below. Either Party may change its address by notifying the other Party of the change of address. Notice shall be deemed delivered and effective upon the earlier of: (i) actual receipt; or (ii) the date of delivery or refusal of the addressee to accept delivery if such notice is sent by postage pre-paid, United States first-class mail, certified or registered, return receipt requested or via a nationally recognized overnight courier.

COUNTY's address: San Bernardino County  
Real Estate Services Department  
385 North Arrowhead Avenue, Third Floor  
San Bernardino, CA 92415-0180

LICENSEE's address:

33. **SURVIVAL:** The obligations of the Parties which, by their nature, continue beyond the Term of this License, will survive the termination of this License.

34. **VENUE:** The Parties acknowledge and agree that this License was entered into and intended to be performed in San Bernardino County, California. The Parties agree that the venue for any action or claim brought by any party to this License will be the Superior Court of California, County of San Bernardino. Each Party hereby waives any law, statute (including but not limited to Code of Civil Procedure section 394), or rule of court that would allow them to request or demand a change of venue. If any third party brings an action or claim concerning this License, the Parties hereto agree to use their best efforts to obtain a change of venue to the Superior Court of California, County of San Bernardino. This License shall be construed and interpreted in accordance with the laws of the State of California.

35. **ATTORNEYS' FEES AND COSTS:** If any legal action is instituted to enforce or declare any Party's rights hereunder, each Party, including the prevailing Party, must bear its own costs and attorneys' fees. This paragraph shall not apply to those costs and attorneys' fees directly arising from any third party legal action against a Party hereto and payable under Paragraph 16, INDEMNIFICATION and those arising from COUNTY's collection efforts (whether prior to or as a result of a court action) due to non-payment of the fee or any other amounts overdue under this License.

36. **FORMER COUNTY OFFICIALS:** LICENSEE agrees to provide or has already provided information on former COUNTY administrative officials (as defined below) who are employed by or represent LICENSEE. The information provided includes a list of former COUNTY administrative officials who terminated COUNTY employment within the last five (5) years and who are now officers, principals, partners, associates or members of the business. The information should also include the employment and/or representative capacity and the dates these individuals began employment with or representation of your business. For purposes of this provision, "COUNTY administrative official" is defined as a member of the Board of Supervisors or such officer's staff, COUNTY Administrative Officer or member of such officer's staff, COUNTY department or group head, assistant department or group head, or any employee in the Exempt Group, Management Unit or Safety Management Unit. (See Exhibit "C", List of Former County Officials.)

37. **MATERIAL MISREPRESENTATION:** If during the course of the administration of this License, the COUNTY determines that LICENSEE has made a material misstatement or misrepresentation or that materially

inaccurate information has been provided to the COUNTY, this License may be immediately terminated. If this License is terminated according to this provision, the COUNTY is entitled to pursue any available legal remedies.

38. **INTERPRETATIONS:** As this License was jointly prepared by both Parties, the language in all parts of this License shall be construed, in all cases, according to its fair meaning, and not for or against either Party hereto.

39. **DISCLOSURE:** All information received by the COUNTY from any source concerning this License, including the License itself, may be treated by the COUNTY as public information subject to disclosure under the provisions of the California Public Records Act, Government Code section 6250 et seq. (the "Public Records Act"). LICENSEE understands that although all materials received by the COUNTY in connection with this License are intended for the exclusive use of the COUNTY, they are potentially subject to disclosure under the provisions of the Public Records Act. In the event a request for disclosure of any part or all of any information which a LICENSEE has reasonably requested COUNTY to hold in confidence is made to the COUNTY, the COUNTY shall notify the LICENSEE of the request and shall thereafter disclose the requested information unless the LICENSEE, within five (5) days of receiving notice of the disclosure request, requests nondisclosure, provides COUNTY a legally sound basis for the nondisclosure, and agrees to indemnify, defend, and hold the COUNTY harmless in any/all actions brought to require disclosure. LICENSEE waives any and all claims for damages, lost profits, or other injuries of any and all kinds in the event COUNTY fails to notify LICENSEE of any such disclosure request and/or releases any information concerning the contract received from the LICENSEE or any other source.

40. **BROKER'S COMMISSIONS:** LICENSEE is solely responsible for the payment of any commissions to any broker who has negotiated or otherwise provided services in connection with this License.

41. **RESERVED:**

42. **COUNTERPARTS.** This License may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute a single instrument..

43. **COUNTY COOPERATION.** COUNTY, as the fee owner of the Site, agrees to cooperate, at no cost or obligation to do so, with LICENSEE in executing applications for construction permits.

44. **RESERVED.**

45. **INTERFERENCE.** LICENSEE shall not interfere with the radio frequency communications of COUNTY or any of COUNTY's existing licensees or users as of the date of full execution of this License.

46. **CAMPAIGN CONTRIBUTION DISCLOSURE (SB 1439):** LICENSEE has disclosed to the County using "Exhibit J" – Campaign Contribution Disclosure Senate Bill 1439, whether it has made any campaign contributions of more than \$250 to any member of the Board of Supervisors or other County elected officer [Sheriff, Assessor-Recorder-Clerk, Auditor-Controller/Treasurer/Tax Collector and the District Attorney] within the earlier of: (1) the date of the submission of LICENSEE's proposal to the County, or (2) 12 months before the date this License was approved by the Board of Supervisors. LICENSEE acknowledges that under Government Code section 84308, LICENSEE is prohibited from making campaign contributions of more than \$250 to any member of the Board of Supervisors or other County elected officer for 12 months after the County's consideration of the License.

In the event of a proposed amendment to this License, the LICENSEE will provide the County a written statement disclosing any campaign contribution(s) of more than \$250 to any member of the Board of Supervisors or other County elected officer within the preceding 12 months of the date of the proposed amendment.

Campaign contributions include those made by any agent/person/entity on behalf of the LICENSEE or by a parent, subsidiary or otherwise related business entity of LICENSEE.

47. **ELECTRONIC SIGNATURES:** This Lease may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts shall together constitute one and the same Agreement. The parties shall be entitled to sign and transmit an electronic signature of this Lease (whether by facsimile, PDF or other mail transmission), which signature shall be binding on the party whose name is contained therein. Each party providing an electronic signature agrees to promptly execute and deliver to the other party an original signed Lease upon request.

48. **AUTHORIZED SIGNATORS:** Both Parties to this License represent that the signators executing this document are fully authorized to enter into this License.

**END OF LICENSE.**

\* \* \* \* \*

\* \* \* \* \*

**COUNTY: SAN BERNARDINO COUNTY**

**LICENSEE:**

By: \_\_\_\_\_  
Dawn Rowe, Chair, Board of Supervisors

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

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

Lynna Monell, Clerk of the Board of  
Supervisors

By: \_\_\_\_\_  
Deputy

Date: \_\_\_\_\_

Approved as to Legal Form:

TOM BUNTON, County Counsel  
San Bernardino County, California

By: \_\_\_\_\_  
Agnes Cheng, Deputy County Counsel

Date: \_\_\_\_\_

110568.13

**EXHIBIT "A"**  
**PREMISES DESCRIPTION**

Approximately 816 square feet of unimproved land, as more particularly shown on page \_\_\_\_\_ and identified therein as a portion of the County-owned property located at 780 E. Gilbert Street, commonly known as APN 0147-081-47.

**THE FOLLOWING PAGES REPRESENT EXHIBIT "A-1" FOR THE PURPOSES OF THIS LICENSE  
AGREEMENT**

EXHIBIT "A-1"  
Premises Depiction and Licensee's Initial Equipment Installation



**EXHIBIT "B"**  
LICENSEE's AUTHORIZED EQUIPMENT

**EXHIBIT "C"**  
**LIST OF FORMER COUNTY OFFICIALS**

**INSTRUCTIONS:** List the full name of the former COUNTY Administrative Official, the title/description of the Official's last position with the COUNTY, the date the Official terminated COUNTY employment, the Official's current employment and/or representative capacity with the LICENSEE , the date the Official entered LICENSEE's employment and/or representation.

OFFICIAL'S NAME:

REQUIRED INFORMATION



**EXHIBIT "D"**  
**Campaign Contribution Disclosure**  
**(SB 1439)**

**DEFINITIONS**

Actively supporting the matter: (a) Communicate directly with a member of the Board of Supervisors or other County elected officer [Sheriff, Assessor-Recorder-Clerk, District Attorney, Auditor-Controller/Treasurer/Tax Collector] for the purpose of influencing the decision on the matter; or (b) testifies or makes an oral statement before the County in a proceeding on the matter for the purpose of influencing the County's decision on the matter; or (c) communicates with County employees, for the purpose of influencing the County's decision on the matter; or (d) when the person/company's agent lobbies in person, testifies in person or otherwise communicates with the Board or County employees for purposes of influencing the County's decision in a matter.

Agent: A third-party individual or firm who, for compensation, is representing a party or a participant in the matter submitted to the Board of Supervisors. If an agent is an employee or member of a third-party law, architectural, engineering or consulting firm, or a similar entity, both the entity and the individual are considered agents.

Otherwise related entity: An otherwise related entity is any for-profit organization/company which does not have a parent-subsidary relationship but meets one of the following criteria:

- (1) One business entity has a controlling ownership interest in the other business entity;
- (2) there is shared management and control between the entities; or
- (3) a controlling owner (50% or greater interest as a shareholder or as a general partner) in one entity also is a controlling owner in the other entity.

For purposes of (2), "shared management and control" can be found when the same person or substantially the same persons own and manage the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees, or otherwise share activities, resources or personnel on a regular basis; or there is otherwise a regular and close working relationship between the entities.

Parent-Subsidiary Relationship: A parent-subsidiary relationship exists when one corporation has more than 50 percent of the voting power of another corporation.

**LICENSEE must respond to the questions on the following page. If a question does not apply respond N/A or Not Applicable.**

Name of LICENSEE: \_\_\_\_\_

1. Name of Licensee:

2. Is the entity listed in Question No. 1 a non-profit organization under Internal Revenue Code section 501(c)(3)?

Yes  If yes, skip Question Nos. 3 - 4 and go to Question No. 5.

No

3. Name of Principal (i.e., CEO/President) of entity listed in Question No. 1, if the individual actively supports the matter and has a financial interest in the decision:

4. If the entity identified in Question No.1 is a corporation held by 35 or less shareholders, and not publicly traded ("closed corporation"), identify the major shareholder(s):

5. Name of any parent, subsidiary, or otherwise related entity for the entity listed in Question No. 1 (see definitions above):

Company Name	Relationship

6. Name of agent(s) of Contractor:

Company Name	Agent(s)	Date Agent Retained (if less than 12 months prior)

7. Name of Subcontractor(s) (including Principal and Agent(s)) that will be providing services/work under the awarded contract if the subcontractor (1) actively supports the matter and (2) has a financial interest in the decision and (3) will be possibly identified in the contract with the County or board governed special district:

Company Name	Subcontractor(s):	Principal and/or Agent(s):

8. Name of any known individuals/companies who are not listed in Questions 1-7, but who may (1) actively support or oppose the matter submitted to the Board and (2) have a financial interest in the outcome of the decision:

Company Name	Individual(s) Name

9. Was a campaign contribution, of more than \$250, made to any member of the San Bernardino County Board of Supervisors or other County elected officer on or after January 1, 2023, by any of the individuals or entities listed in Question Nos. 1-8?

No  If **no**, please skip Question No. 10.                      Yes  If **yes**, please continue to complete this form.

10. Name of Board of Supervisor Member or other County elected officer: \_\_\_\_\_  
 Name of Contributor: \_\_\_\_\_  
 Date(s) of Contribution(s): \_\_\_\_\_  
 Amount(s): \_\_\_\_\_

Please add an additional sheet(s) to identify additional Board Members or other County elected officers to whom anyone listed made campaign contributions.

By signing below, Licensee certifies that the statements made herein are true and correct. Licensee understands that the individuals and entities listed in Question Nos. 1-8 are prohibited from making campaign contributions of more than \$250 to any member of the Board of Supervisors or other County elected officer while this matter is pending and for 12 months after a final decision is made by the County.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Entity Name, if applicable