

LICENSE AGREEMENT

WHEREAS, City of Twentynine Palms as licensee, ("LICENSEE") and San Bernardino County, as licensor, ("COUNTY") desire to enter into this License Agreement ("License") for LICENSEE's use of a certain portion of the COUNTY's existing rack space within the COUNTY-owned equipment shelter and existing antenna space on the COUNTY-owned antenna tower located at the COUNTY's communication site, commonly known as Donnell Hill Communication Site near 73195 Cactus Dr., Twentynine Palms, CA ("Site"), for the installation and operation of LICENSEE's communication system equipment; and

WHEREAS, COUNTY is willing to permit said use of a portion of the County Circuits/Sites subject to certain conditions as more specifically set forth in this License; and,

WHEREAS, portions of the Site to be used by LICENSEE are currently excess to the COUNTY's needs.

NOW, THEREFORE, in consideration of the execution of this License, the parties mutually agree to the following terms and conditions.

I. DEFINITIONS

- 1.1 "License" means this License Agreement and any relevant Documents, including any Exhibits and/or Attachments, all of which are made a part of this License.
- 1.2 "Site" refers individually or collectively to the physical property and all the structures thereon, including, therein, County designated rack space, each rack space defined as space for one (1) EIA Standard 19" wide by 2' deep by 7' tall rack or one-half (½) EIA Standard 19" wide by 2' deep by 3½" tall rack and the use of cable runs and County designated tower space for the placement of the antenna(s) as may be singularly or collectively approved by COUNTY.
 - 1.2.1 "Improvements" (when applicable) refers individually or collectively to the LICENSEE's communication system and related equipment, cabling and antenna(s) as may be approved by the Innovation and Technology Department (ITD)- Communications Division.
- 1.3 "Circuits" (when applicable) refers individually or collectively to the COUNTY microwave circuit(s) licensed herein for use by LICENSEE. Each Circuit is a single 56K digital channel path for digital routes or a single 9.6KB analog channel for analog routes.

II. LICENSE TO USE

COUNTY hereby gives permission, revocable and terminable as hereinafter provided, to LICENSEE to enter the Site for the purpose of installing and maintaining Improvements on the County designated rack space and designated tower space for the placement of antenna(s) ("Licensed Area"). LICENSEE shall not install any antenna equipment or wave guide cabling or coax antenna cables at the Licensed Area or the Site without the prior written approval of the COUNTY ITD Public Safety Communications Division and only upon prior review and approval of LICENSEE's plans, specifications, and structural calculations in support of the loading of COUNTY's antenna tower at the Site. LICENSEE shall not be permitted to use the Site or the Licensed Area for any other purposes, except by prior written permission of COUNTY.

III. LICENSEE EQUIPMENT AND IMPROVEMENTS

3.1 Acknowledgement of Responsibility

LICENSEE acknowledges that the Site is essential to COUNTY's fulfilling its mission of public safety, diligence in safeguarding and restricting access to the Site and protecting COUNTY property, of all kinds, at said Site. LICENSEE warrants that it will not disturb or tamper with any COUNTY equipment, nor other COUNTY clients' or users' equipment to include, but not limited to, electronic, electrical, LPG, buildings, towers, grounding systems, antennas, feed lines, etc., at the Site. Exercising all reasonable diligence, LICENSEE warrants that it will take reasonable steps to ensure it will not hamper in any manner, the ability of the COUNTY to fulfill its mission at/through the Site.

LICENSEE shall be liable for all claims, demands, actions, and causes of action founded upon the negligence or otherwise wrongful conduct on the part of any employee or agent of LICENSEE attributable to LICENSEE's installation/maintenance or operation of LICENSEE's Equipment on the Site. Further, LICENSEE shall release, remise, and forever discharge COUNTY of and from any and all claims, demands, actions, and causes of action not based upon the intentional acts or negligence of COUNTY that LICENSEE may acquire by reason of LICENSEE's installation/maintenance or operation of LICENSEE's Equipment on the Site.

3.2 Requirements, Limitations, and Installation Conditions – This License is subject to the limitations, requirements and installation conditions as set forth below:

3.2.1 Installation: LICENSEE will observe and require LICENSEE retained contractors and sub-contractors to observe standard safety practices when climbing towers and when installing LICENSEE's Equipment on the Licensed Area as designed by the County. LICENSEE agrees to install, maintain, and operate LICENSEE's Equipment in accordance with the highest standard prevailing in the communications industry. Installation practices and materials are subject to approval of the County's ITD.

3.2.2 Access: Access to rack space and any antenna space at the Site is on an escorted basis using COUNTY ITD personnel at the appropriate COUNTY Board of Supervisors approved ITD standard time and material billing rates, on a portal-to-portal basis, in effect at the time of the escort. LICENSEE must request Site access at least three (3) working days, as defined a COUNTY government work schedule, (and excluding COUNTY holidays and closures) prior to desired access date.

3.2.3 Equipment Changes: Changes and modifications to LICENSEE's Equipment that may alter performance of the Site or interfere with communications at the Site are to be approved in writing prior to any installation of LICENSEE's Equipment by the County's ITD Public Safety Communications Division. Following approval of any changes or modifications to the LICENSEE's Equipment (as applicable), the Agreement shall be amended to reflect the updated authorized equipment.

3.2.4 Power: COUNTY will install electrical power as needed above each rack to be used by LICENSEE under this License. The cost for labor and materials to perform the installation work will be the responsibility of the LICENSEE, payable by LICENSEE to COUNTY upon invoice.

3.3 Additional Controlling Documents – Site may be subject to leases, master leases, licenses, rights-of-way, grants, use permits, or other controlling agreements (collectively,

“Documents”) secured by the COUNTY from other governmental or private entities. LICENSEE agrees to be bound by the conditions and covenants of these Documents and is responsible for any related costs that may be incurred directly or indirectly due to LICENSEE’s use of its Licensed Area at the Site.

- 3.4 Maintenance – The costs of any installation, maintenance, operation, replacement, or removal of the LICENSEE’s Equipment shall be at the sole expense of LICENSEE. Contractors providing maintenance or repair services for LICENSEE’s Equipment are required to be pre-approved by the COUNTY.
- 3.5 Interference – LICENSEE’s Equipment shall be located so as not to interfere, physically or electronically, with any of the COUNTY’s operations, and any equipment installed previous to LICENSEE’s installation by other COUNTY users.

In the event the COUNTY determines or is notified that the operation of the LICENSEE’s Equipment caused or is causing interference to transmission and/or reception of any other communications systems in use in the vicinity of the Site, County’s ITD shall notify LICENSEE to correct the problem and COUNTY reserves the right to immediately remove all or any portion of LICENSEE’s Equipment from service.

If such interference is not eliminated within a twenty-four (24) hour period, COUNTY shall have the right to terminate this License, remove all or any portion of LICENSEE’s Equipment from service, and take whatever immediate steps are necessary to eliminate said interference, including powering off LICENSEE’s Equipment without further notification.

IV. COUNTY CIRCUITS

- 4.1 Circuit Control – COUNTY reserves the right to manage and control COUNTY’s Circuits from time-to-time to meet the COUNTY’s Public Service Requirements. COUNTY will endeavor to give LICENSEE sufficient notice of control but cannot be held responsible for interruption to LICENSEE’s usage.
- 4.2 Maintenance – COUNTY will exercise all reasonable care to insure the availability and quality of its circuits licenses to LICENSEE; however, the License neither carries nor implies any warranty relative to the availability or performance of COUNTY Circuits licensed to LICENSEE. LICENSEE has no legal or other recourse in the event of failed or unsatisfactory COUNTY Circuit availability or performance.

V. EFFECTIVE DATE AND TERMINATION

- 5.1 Term: This agreement shall commence July 1, 2026 and shall terminate June 30, 2031. This agreement shall remain in effect five (5) consecutive years unless the COUNTY or the LICENSEE, at the sole discretion of either, terminates the agreement by giving sixty (60) days written notice to the other party. COUNTY may, at its sole discretion, opt not to terminate its services until replacement services are identified and in place; however, in no event shall COUNTY’s services be continued beyond 120 days of the original written notice. Any such termination date shall coincide with the end of a calendar month. Neither party shall incur any liability to the other by reason of such termination. Notwithstanding the foregoing, in the event the License is terminated by LICENSEE pursuant to this Section V but LICENSEE, despite its diligent efforts, requires additional time to remove LICENSEE’s Equipment after the effective termination date, upon written request to the COUNTY to be received by COUNTY prior to the effective termination date, COUNTY may, at its sole discretion, opt by express written consent to continue the License for a month-to-month term not to exceed one hundred twenty (120) days after the original

effective termination date . During any such month-to-month term and any other holdover period with or without the COUNTY's permission, LICENSEE shall pay to COUNTY the then current monthly fee (which shall be calculated by dividing the then current annual license fees as set forth in Section V [but without the Annual Escalator] by 12).

5.2 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 for three (3) five (5) 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 notice and cure period, and provided LICENSEE gives written notice of exercise of the option to COUNTY at least one (1) year prior to the expiration of the Initial Term or the then existing Extended Term. Such extensions shall be automatic unless either party gives 60 days written notice of termination or non-renewal to the other party. The Annual License Fee for the first (1st) year of each Extended Term shall be re-established in accordance with the market rate for comparable properties in the Twentynine Palms area, San Bernardino County, (with the Annual License Fee for the remainder of the Extended Term to be subject to the 3.0% annual percentage increase stated in paragraph 6.3 and as shown in Exhibit "A"), provided that if the parties are unable to agree on the re-established Annual License Fee for the first year of an Extended Term, such fee shall be determined in accordance with Section 5.3. below.

5.3 If the Parties are unable to agree on the Annual License Fee for the first (1st) year of any Extended Term within five (5) months of LICENSEE's exercise of the subject option, the subject Annual License Fee shall be determined through arbitration conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association. If the arbitration-determined Annual License Fee increases the Annual License Fee payable for the first (1st) year of an Extended Term by an amount equal to more than six percent (6%) over the Annual License Fee payable for the year immediately preceding the expiration of the Initial Term or the then current Extended Term, the LICENSEE shall have the right to terminate this License within thirty (30) days after the date the arbitrator issues its formal Annual License Fee determination by providing written notice of termination to COUNTY within said thirty (30) days. If the arbitration-determined Annual License Fee reduces the Annual License Fee payable for the first year of an Extended Term by an amount equal to more than six percent (6%) below the Annual License Fee payable for the year immediately preceding the expiration of the Initial Term or the then current Extended Term, the COUNTY shall have the right to terminate this License within thirty (30) days after the date the arbitrator issues its formal Annual License Fee determination by providing written notice of termination to LICENSEE within said thirty (30) days. If neither parties timely exercises its respective right to terminate the License under this paragraph, then the Annual License Fee for the first year of an Extended Term shall be the arbitration-determined Annual License Fee. The COUNTY's RESD Director shall be authorized to provide such termination notice on behalf of the COUNTY. If the subject Annual License Fee is pending determination by the arbitration process at the expiration of the Initial Term or the then current Extended Term, as of the commencement date of the subject Extended Term, LICENSEE shall pay the Annual License Fee in the amount due for the year immediately preceding expiration of the Initial Term or the then current Extended Term. Upon determination of the subject Annual License Fee through arbitration, and provided that this License is not terminated pursuant to this paragraph, LICENSEE shall, within forty-five (45) days after the date the arbitrator issues its formal Annual License Fee determination, pay to COUNTY any deficiency between the Annual License Fee paid and the arbitration-determined Annual License Fee for the period from the commencement of an Extended Term through the date the arbitrator issues its formal Annual License Fee determination. In the event that either party terminates the License in

accordance with this paragraph, then no deficiency shall be payable to COUNTY and no refunds shall be due to LICENSEE for the period after the commencement of an Extended Term through the date the arbitrator issues its formal Annual License Fee determination.

VI. RATES AND PAYMENT TERMS.

- 6.1 Payment rates and conditions are set forth on Exhibit "A", "San Bernardino County Rack Space and Antenna Space Rates and Payment Terms," attached hereto. Payment shall be payable within sixty (60) days of each annual commencement date.

July 1, 2026 – June 30, 2027 – annual payment \$4,997
July 1, 2027 – June 30, 2028 – annual payment \$5,147
July 1, 2028 – June 30, 2029 – annual payment \$5,301
July 1, 2029 – June 30, 2030 – annual payment \$5,460
July 1, 2030 – June 30, 2031 – annual payment \$5,624

Checks shall be made payable to the San Bernardino County

Payment address is: Real Estate Services Department
385 N Arrowhead Ave, Third Floor
San Bernardino, CA 92415-0180

- 6.2 No substitution of or additions to LICENSEE's Equipment or Improvements is permitted **without written pre-approval** of County's ITD. In the event such substitution or additional equipment is approved by the COUNTY, Exhibits "A", as applicable, of this License shall be amended to reflect a change in LICENSEE's Equipment, in which case, County will provide to LICENSEE a revised Exhibit "A" incorporating such change(s) which shall be promptly signed by LICENSEE and returned to COUNTY. LICENSEE's subsequent invoice shall be adjusted in accordance with the change(s), on a prorated basis, as necessary.
- 6.3 The rates set forth in Exhibit "A" shall be adjusted on each anniversary of the Commencement Date of this License during the initial term of this License and any extended term by the "Annual Escalator". The Annual Escalator is defined as three percent (3.0%), rounded to the nearest whole dollar, per license year.

VII. AGREEMENT AUTHORIZATION

LICENSEE warrants and represents that the individual signing this License is a properly authorized representative of the LICENSEE and has the full power and authority to enter into this License on the LICENSEE's behalf.

VIII. ASSIGNMENT

This License, or any interest therein, including any claims for monies due with respect thereto, shall not be assigned, and any such assignment shall be void and without effect.

IX. DEFAULT

If the LICENSEE does not make timely payment of amounts due under this License or breaches any term or condition of this License, COUNTY may declare immediately due and payable the entire unpaid amount, plus all other amounts due hereunder, less any unearned charges. COUNTY may also exercise all rights and remedies of a secure party under the Uniform Commercial Code (or other similar law) of the State of California and pursue any other remedies existing in law or in equity.

X. HOLDING OVER

If the LICENSEE continues in possession of 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 occupancy is with the consent of the COUNTY, then LICENSEE shall be deemed to be holding the Premises on a month-to-month basis subject to all the provisions of this license, and the annual fee payable during such period of holding over shall be the same as the annual fee most recently payable prior to the date such holding over was commenced.

XI. INDEMNIFICATION AND INSURANCE

11.1 Indemnification

The 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 contract 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 indemnities. 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.

11.2 Insurance

The COUNTY and the LICENSEE are authorized self-insured or partially self-insured public entities for purposes of Professional Liability, General Liability, Automobile Liability and Worker's Compensation and warrant that through their respective programs of self-insurance and insurance, they have adequate coverage or resources to protect against liabilities arising out of performance of the terms, conditions or obligations of this Agreement.

11.2.1 Additional Named Insured – All policies or programs of self insurance, except for the Workers' Compensation policies shall contain endorsements naming the COUNTY and its officers, employees, agents and volunteers as additional named insureds with respect to liabilities arising out of this License. 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.

XII. GENERAL TERMS AND CONDITIONS

12.1 Permits - LICENSEE is responsible for obtaining and paying any costs of all permits, licenses or approvals by any regulatory bodies having jurisdiction over the uses authorized herein, as appropriate.

12.2 Waiver - No waiver of a breach of any provision of this License shall constitute a waiver of any other breach, or of such provision. Failure of COUNTY to enforce at any time, or from time to time, any provision of this License shall not be construed as a waiver thereof. The remedies herein reserved shall be cumulative and additional to any other remedies in law or equity.

- 12.3 Validity - The invalidity in whole or in part of any provision of this License shall not void or affect the validity of any other provision.
- 12.4 Captions and Paragraph Headings - Captions and paragraph headings used herein are for convenience only and are not a part of this License and shall not be used in construing it.
- 12.5 Exhibits - All Exhibits attached hereto, if any, are an integral part of this License and are incorporated herein by reference.
- 12.6 Entire Agreement - This License shall constitute the entire agreement between the parties and supersedes all prior negotiations, discussions, and preliminary understanding. This License may be amended as COUNTY and the LICENSEE mutually agree in writing. Any such amendment must be signed/approved by authorized representatives of the COUNTY and LICENSEE. This License shall be governed by the laws of the State of California.
- 12.7 Compliance – This License shall be subject to immediate termination under the following circumstances:
- (a) LICENSEE fails or neglects to comply with any term or condition of this License; or
 - (b) LICENSEE fails or neglects to comply with any reasonable requirement of COUNTY after thirty (30) days written notice and demand; or
 - (c) LICENSEE fails or neglects to comply with any Master Lease, Agreement, or Permit to which the COUNTY is subject.

In the event of such termination, the COUNTY may immediately disconnect all LICENSEE's Equipment. LICENSEE shall, if appropriate, immediately remove any and all of LICENSEE's Equipment from the Site and surrender all rights and privileges under this License. If LICENSEE fails to promptly restore the Site to its former condition, the COUNTY may restore the Site at LICENSEE's sole expense.

- 12.8 Changes and Right to Prioritize – COUNTY reserves the right to make rack and antenna space changes at the Site, and to prioritize or restrict usage as necessary to optimize overall service effectiveness of the Site to the COUNTY and its users without liability to LICENSEE and LICENSEE shall have no claims of liability, damages, or otherwise against the COUNTY.
- 12.9 Notifications - All notices or demands required, or permitted to be given or made hereunder, shall be in writing and shall be deemed duly given upon the date actual delivery to the recipient or the recipient's refusal to accept delivery, if delivery is by hand; OR if delivery is by first class United States mail, postage pre-paid, certified or registered, return receipt requested, OR reputable overnight courier service.

Each such notice is to be sent to the respective party at the address indicated below or to any other address or person that the respective party may designate by written notice delivered pursuant hereto:

Licensee: City of Twentynine Palms
 Public Works Department
 6136 Adobe Road
 Twentynine Palms, CA, 92277

Attn: Public Works Superintendent

County: San Bernardino County
Real Estate Services Department
385 N. Arrowhead Ave.
San Bernardino, CA. 92415-0180

With a copy to: San Bernardino County
Innovation and Technology Department
670 E. Gilbert Street, First Floor
San Bernardino, CA 92415-0915
Attn: Administration Services

**XIII. INNOVATION AND TECHNOLOGY DEPARTMENT AND REAL ESTATE SERVICES
DEPARTMENT AUTHORIZATION**

The County's Innovation and Technology Department, through its Chief Information Officer or authorized designee, is authorized to discharge all technical functions ascribed to COUNTY in this License, except those specifically reserved by law to the Board of Supervisors. The County's Real Estate Services (RES) Director is authorized to administer all other provisions of this License, except those specifically reserved by law to the Board of Supervisors.

XIV. FORCE MAJEURE

COUNTY shall not be held liable for any delay or failure in performance of any part of this License from any cause beyond its control and without its fault or negligence, such as acts of God, acts of civil or military authority, government regulations, strikes, labor disputes, embargoes, epidemics, war, terrorist acts, riots, insurrections, fire, explosions, earthquakes, nuclear accidents, floods, power blackouts, brownouts, or surges, volcanic action, other major environmental disturbances, unusually severe weather conditions, inability to secure product or services of other persons or transportation facilities, or acts or omissions of transportation common carriers.

XV. ELECTRONIC COUNTERPARTS

This Agreement 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 Agreement (whether by facsimile, PDF or other email 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 Agreement upon request.

END OF LICENSE AGREEMENT.

IN WITNESS THEREOF, the parties have hereto executed this License on the date set forth below their respective signatures.

SAN BERNARDINO COUNTY

CITY OF TWENTYNINE PALMS

(Print or type name of corporation, company, contractor, etc.)

►

Dawn Rowe, Chair, Board of Supervisors

By ► _____
(Authorized signature - sign in blue ink)

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

Name Kevin Cole
(Print or type name of person signing contract)

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

Title City Manager
(Print or Type)

By _____
Deputy

Dated: _____

Address 6136 Adobe Road
Twentynine Palms, CA 92277

FOR COUNTY USE ONLY

Approved as to Legal Form
► _____
John Tubbs II, Deputy County Counsel
Date _____

Reviewed for Contract Compliance
► _____
Date _____

Reviewed/Approved by Department
► _____
John Gomez, Real Property Manager, RESD
Date _____

EXHIBIT "A"
SAN BERNARDINO COUNTY RACK SPACE AND ANTENNA SPACE
RATES AND PAYMENT TERMS

LICENSE AREA PROVIDED

The following Rack Space and Antenna Space selected by check mark shall be rendered to Licensee under this License:

- (½) Rack Spaces Fee @ \$4,997 per rack per year
- Contract Administration Charge* @ \$500 **

* Fees are subject to annual increases set forth in Section VI
 ** One-time Contract Administration charge, payable upon the first date of this agreement

PAYMENT SCHEDULE

Licensee shall be invoiced as specified by check mark:

- Monthly Invoicing:** On the last day of each month of the Term.
- Annual Invoicing:** On July 1 (for period July 1 through June 30).

Payments are payable within sixty (60) days of every July 1st

CHARGES FOR SERVICES

| Equipment Type | No of Units | Rack Space and Antenna Space Charges | Annual Charge |
|---|-------------|--------------------------------------|---------------|
| One-Time Contract Administration Charge** | | | \$500.00 |
| | | | |
| Rack Space: ½ | | | |
| July 1, 2026 – June 30, 2027 | | \$4,997 | \$4,997 |
| July 1, 2027 – June 30, 2028 | | \$5,147 | \$5,147 |
| July 1, 2028 – June 30, 2029 | | \$5,301 | \$5,301 |
| July 1, 2029 – June 30, 2030 | | \$5,460 | \$5,460 |
| July 1, 2030 – June 30, 2031 | | \$5,624 | \$5,624 |
| Total Cost for ½ Rack Spaces for five year period | | | \$27,029 |