

ORIGINAL

Contract Number

21-138

SAP Number

**BOARD GOVERNED COUNTY
SERVICE AREA 29**

Department Contract Representative	Terry W. Thompson, Director
Telephone Number	(909) 387-5252
Contractor	UNAVCO, INC.
Contractor Representative	James Downing, Senior Contracts and Permitting Manager
Telephone Number	(303) 381-7559
Contract Term	3/1/21 – 2/28/26
Original Contract Amount	\$0.00
Amendment Amount	
Total Contract Amount	\$0.00
Cost Center	
GRC/PROJ/JOB No.	52002130
Internal Order No.	

Briefly describe the general nature of the contract:

This License agreement is for a period of five (5) years from March 1, 2021 through February 28, 2026 with three (3) five-year options to extend the term. The Premises consist of approximately 625 square feet of land situated within the fenced area on a certain portion of the County Service Area 29 –owned land located on the north side of Verde Road (Assessor Parcel No. 0449-271-04) in Lucerne Valley for the non-exclusive use of the Premises by LICENSEE for the operation and maintenance of one (1) earthquake monitoring station.

FOR DISTRICT USE ONLY

Approved as to Legal Form

Reviewed for Contract Compliance

Reviewed/Approved by Department

► See signature page

►

►

Agnes Cheng, Deputy County Counsel

Jim Miller, Real Property Manager, RESD

Date

Date

Date

COUNTY SERVICE AREA 29

LICENSE AGREEMENT

LICENSEE: UNAVCO, INC.
6350 Nautilus Drive
Boulder, CO 80301-5554

DISTRICT: COUNTY SERVICE AREA 29
Real Estate Services Department
385 North Arrowhead Avenue, Third Floor
San Bernardino, CA 92415-0180

PREMISES: The Premises consist of approximately 625 square feet of land, situated within the fenced area on a certain portion of District-owned land located on the north side of Verde Road in Lucerne Valley

TERM OF LICENSE: Five (5) years with three (3) five-year options to extend

COMMENCEMENT DATE OF LICENSE: March 1, 2021

CONTRACT NO.

REV. 11/28/2102

TYPED:

TABLE OF CONTENTS

PARAGRAPH	CAPTION	PAGE
1.	USE	1
2.	TERM.....	1
3.	OPTION TO EXTEND TERM	1
4.	FEES	1
5.	ACCEPTANCE OF PREMISES	1
6.	ASSIGNMENT & SUBLICENSE.....	1
7.	DISTRICT'S ACCESS TO PREMISES	1
8.	MAINTENANCE/REPAIRS	2
9.	HAZARDOUS MATERIALS	2
10.	IMPROVEMENTS	3
11.	DEFAULT AND RIGHT TO TERMINATE	3
12.	HOLDING OVER.....	4
13.	LICENSES AND CERTIFICATIONS	4
14.	INDEMNIFICATION	5
15.	INSURANCE REQUIREMENTS AND SPECIFICATIONS.....	5
16.	TAXES, ASSESSMENTS AND LICENSES.....	7
17.	BUILDING AND SAFETY REQUIREMENTS	7
18.	GENERAL COVENANTS AND AGREEMENTS.....	8
19.	TERMINATION	8
20.	INCORPORATION OF PRIOR AGREEMENT	8
21.	WAIVERS	8
22.	AMENDMENTS.....	8
23.	RESERVED	8
24.	PROVISIONS ARE COVENANTS AND CONDITIONS	8
25.	CONSENT	9
26.	EXHIBITS.....	9
27.	LAW	9
28.	CAPTIONS AND COVER PAGE	9
29.	SEVERANCE	9
30.	NOTICES	9
31.	SURVIVAL	9
32.	VENUE	9
33.	ATTORNEYS' FEES AND COSTS.....	9
34.	FORMER DISTRICT AND COUNTY OFFICIALS.....	10
35.	MATERIAL MISREPRESENTATION	10
36.	INTERPRETATIONS	10
37.	DISCLOSURE.....	10
38.	UTILITIES	10
39.	AUTHORIZED SIGNATORS.....	11

EXHIBIT "A" Premises

EXHIBIT "B" List of Former District and County Officials

LICENSE AGREEMENT

This License Agreement ("License") is made and entered into by and between County Service Area 29, a body politic and corporate, hereinafter designated as "DISTRICT" and UNAVCO, INC., hereinafter called "LICENSEE" (collectively, the "PARTIES" and each individually, a "PARTY").

COVENANTS AND AGREEMENTS:

1. **USE:** The DISTRICT permits the LICENSEE to use approximately 625 square feet of land ("Premises") situated within the fenced area on a certain portion of the DISTRICT-owned land ("Site") located on the north side of Verde Road (Assessor Parcel No. 0449-271-04) in Lucerne Valley for the non-exclusive use of the Premises by LICENSEE for the operation and maintenance of one (1) earthquake monitoring station (the station and all associated equipment for the station shall hereinafter collectively be referred to as the "Station"), as the Premises is more particularly depicted in Exhibit "A", Premises, attached hereto and incorporated herein by reference.
2. **TERM:** The initial term of this License shall be five (5) years, commencing on March 1, 2021 and ending on February 28, 2026 ("Initial Term").
3. **OPTION TO EXTEND TERM:** DISTRICT gives LICENSEE the option to extend the term of the License on the same provisions and conditions, for three (3) five-year periods (each an "extended term") following expiration of the Initial Term or an extended term, provided that at the time of exercise of each 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, by LICENSEE giving written notice of exercise of each option to DISTRICT 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.
4. **FEES:** In lieu of monetary consideration, LICENSEE agrees to:
 - A. Notify the DISTRICT or on-site representative prior to each entry onto the Premises for any maintenance and/or service visits.
 - B. Provide DISTRICT with data from LICENSEE's Station, including but not limited to data for ground shifts and related seismic events, at no cost to DISTRICT for the duration of this License.
5. **ACCEPTANCE OF PREMISES:** The Premises are provided to LICENSEE for use in its "AS-IS" condition, without any representations or warranties by DISTRICT as to its condition, compliance with applicable laws, suitability for LICENSEE's intended use, or access to the Premises. LICENSEE expressly acknowledges that DISTRICT 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 or LICENSEE's station located thereon. LICENSEE hereby accepts the Premises and deems it fit and proper for the purposes for which LICENSEE shall use the Premises.
6. **ASSIGNMENT & SUBLICENSE:** This License shall not be assigned nor shall the Premises be sublicensed in whole or in part without the express prior written approval of the DISTRICT.
7. **DISTRICT'S ACCESS TO PREMISES:**
 - A. DISTRICT, or a duly authorized representative of the DISTRICT, reserves the right to enter upon the Premises at any reasonable time for the purpose of inspecting the Premises for conformance with the terms of this License and for carrying out any routine and emergency maintenance or construction repair work on the Premises that DISTRICT is required to repair under this License or may deem expedient (but without obligation) to repair and DISTRICT shall not be liable for damages to LICENSEE's Station as a result thereof.

B. DISTRICT'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 DISTRICT, LICENSEE must allow same to be done without interference. DISTRICT shall give LICENSEE reasonable notice of impending activities whenever possible.

8. **MAINTENANCE/REPAIRS:**

A. The DISTRICT's maintenance roads at the Site will be available for normal and routine use by LICENSEE for access to and from the Premises. Maintenance and inspection of LICENSEE's Station and the Premises will be the sole responsibility of the LICENSEE and regular inspections are required as necessary to ensure the Station and the Premises are maintained in a good and safe order, condition, and repair to substantially the same condition as existed as of the commencement of the initial term of this License, reasonable wear and tear excluded. Any damage to DISTRICT's property or the property of others at the Site or the Premises resulting from LICENSEE's activities shall be the sole responsibility of LICENSEE and LICENSEE shall repair such damage at its sole cost. If any of LICENSEE's Station or activities become a hazard to DISTRICT's facilities or other users of the Site, the LICENSEE will be required to eliminate the hazard.

B. LICENSEE shall have ten (10) days from the creation of the need to repair to perform its obligation to repair under this paragraph, except that LICENSEE shall perform its obligations immediately if the nature of the problem presents a hazard, emergency or unsafe condition. If LICENSEE does not perform its obligations within the time limitations in this paragraph, DISTRICT can perform the obligations and has the right to be reimbursed for the sum it actually expends (including charges for DISTRICT's equipment and personnel) in the performance of LICENSEE's obligations.

9. **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. In connection with the License of the Premises by LICENSEE, (a) LICENSEE agrees and acknowledges that it has had an opportunity to investigate the Premises and their environs for the presence of any hazardous substance; (b) any and all reports, studies, analyses, estimates, maps, drawings, materials, etc. delivered by DISTRICT to LICENSEE preceding execution of this License are delivered to LICENSEE as an

accommodation and not with the intent that such items be relied upon by LICENSEE, except to the extent that LICENSEE has independently confirmed the validity of such items; and (c) LICENSEE's decision to enter into this License is based upon the investigation, study and analysis of the Premises and their environs made by LICENSEE or its agents and/or independent contractors, and not upon oral or written statements or representations of DISTRICT. It is expressly understood by LICENSEE and DISTRICT that all statements and representations made by DISTRICT which are not included in this License (a) are intended by DISTRICT to be made as an accommodation to LICENSEE in DISTRICT's investigation and not in lieu of LICENSEE's investigation; and (b) are not to be relied and acted upon by LICENSEE.

C. LICENSEE shall comply with all applicable laws, statutes, regulations, and orders concerning Hazardous Substances relating to LICENSEE's use of the Premises. 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 of any Hazardous Substance. LICENSEE shall maintain and inspect LICENSEE's Station located on the Premises and immediately inform DISTRICT of any release of Hazardous Substances. Upon reasonable notice to LICENSEE, DISTRICT may inspect LICENSEE's Station on the Premises to determine if any release of Hazardous Substances has occurred, or may occur, from or related to LICENSEE's Station. In removing or modifying LICENSEE's Station as provided in this License, LICENSEE shall also remove all residue of Hazardous Substances related thereto.

D. LICENSEE shall be solely responsible, at its cost, for any violation of applicable Hazardous Substances laws. LICENSEE shall further indemnify (with counsel acceptable to DISTRICT), protect, defend and hold the DISTRICT and the County of San Bernardino ("COUNTY") and their respective 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 DISTRICT's and COUNTY's attorneys' and consultants' fees) arising out of or involving any Hazardous Substances present on, used, manufactured, handled, generated, stored, treated, discharged, released, buried, disposed, or brought onto, under, or about 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 or by anyone under LICENSEE's control, 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 DISTRICT and LICENSEE shall release LICENSEE from its obligations under this License with respect to Hazardous Substances, unless specifically so agreed by DISTRICT in writing at the time of such agreement. Notwithstanding the foregoing or any other provision in this License, LICENSEE shall not be responsible or liable for any Hazardous Substances that existed before the execution of this License unless LICENSEE exacerbates the condition of any pre-existing Hazardous Substances.

10. **IMPROVEMENTS:** All improvements or alterations to the Premises require the DISTRICT's prior written consent. At the end of the term, DISTRICT shall have the option to require that LICENSEE remove any permitted improvements or alterations and restore the Premises to the condition that existed immediately prior to such improvements or alterations or to have the improvements or alteration remain in place and surrendered with the Premises without compensation to LICENSEE.

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

A. If LICENSEE should fail to perform, keep or observe any of the terms, conditions or covenants as set forth in this License, DISTRICT 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, DISTRICT may at its option elect to terminate this License. Such election to terminate shall not be construed as a waiver of any claim the DISTRICT 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.

B. If, however, in the sole discretion of DISTRICT, the problem represents a hazard or emergency, LICENSEE shall perform its obligations immediately. If LICENSEE fails to perform its obligations immediately, DISTRICT may perform the obligations and have the right to be reimbursed for the sum it actually expends (including charges for DISTRICT's equipment and personnel) in the performance of LICENSEE's obligations. If LICENSEE does not reimburse DISTRICT within ten (10) days after demand from DISTRICT, DISTRICT may at its option elect to terminate this License.

C. Upon any termination of this License, LICENSEE covenants and agrees to surrender the Premises to the DISTRICT in the condition required by this License. If LICENSEE continues to use the Premises after any termination of this License without DISTRICT's express written consent, LICENSEE such use shall be unauthorized and DISTRICT shall have the right to pursue all rights and remedies available at law or in equity. In the event of the failure of LICENSEE to remove the Station from the Premises immediately upon any termination of this License, DISTRICT may remove the Station and place the same in storage at the expense of LICENSEE and without liability to DISTRICT for loss thereof. LICENSEE agrees to pay DISTRICT on demand all expenses incurred in such removal, including court costs and attorney's fees and storage charges; or DISTRICT may without notice sell all or any part of the Station at public or private sale for such prices as DISTRICT may obtain, and apply the proceeds of such sale upon any amounts due under this License from LICENSEE and to any expense incidental to the removal and sale of the Station, with the surplus, if any, being refunded to LICENSEE.

D. The receipt by the DISTRICT 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 DISTRICT 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 DISTRICT to the LICENSEE prior to the receipt of any such sum of money or other consideration, unless so agreed to be in writing and signed by DISTRICT. Any act of the DISTRICT 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 DISTRICT agreeing to accept such surrender.

12. **HOLDING OVER:** If the LICENSEE continues to use 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 express written consent of the DISTRICT, then LICENSEE shall be deemed to be holding the Premises on a month-to-month term subject to all the provisions of this License except that either party shall have the right to terminate the month-to-month term by providing the other party with not less than thirty (30) days prior written notice, and the annual fee payable during such period of holding over shall be One Thousand and no/100 Dollars (\$1,000.00) per month.

13. **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 LICENSEE's use of the Premises under this License. Failure to comply with this provision will constitute a default and right to terminate by DISTRICT under **Paragraph 11, DEFAULT AND RIGHT TO TERMINATE**, of this license.

14. **INDEMNIFICATION:** The LICENSEE agrees to indemnify, defend (with counsel reasonably approved by DISTRICT) and hold harmless the DISTRICT and the COUNTY and its respective 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 DISTRICT and 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 DISTRICT's and the COUNTY's "active" as well as "passive" negligence but does not apply to the DISTRICT's or the COUNTY's "sole negligence" or "willful misconduct" within the meaning of Civil Code Section 2782.

15. **INSURANCE REQUIREMENTS AND SPECIFICATIONS:**

A. 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 License 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 \$250,000 limits covering all persons including volunteers providing services on behalf of the LICENSEE and all risks to such persons under this License agreement.

If LICENSEE has no employees, it may certify or warrant to the DISTRICT 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 DISTRICT'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), 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 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) for bodily injury and property damage, per occurrence.

If the LICENSEE is transporting one or more non-employee passengers in the use of this License, the automobile liability policy shall have a combined single limit of two million dollars (\$2,000,000) for bodily injury and property damage per occurrence.

If the LICENSEE owns no autos, a non-owned auto endorsement to the General Liability policy described above is acceptable.

(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.

(6) 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.

B. Additional Insured - All policies, except for the Workers' Compensation, shall contain endorsements naming the DISTRICT and the COUNTY and their respective 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 DISTRICT or the COUNTY to vicarious liability but shall allow coverage for the DISTRICT and 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.

C. 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 DISTRICT and the COUNTY.

D. 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 DISTRICT.

E. 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 DISTRICT or between the DISTRICT and any other insured or additional insured under the policy.

F. Proof of Coverage - The LICENSEE shall furnish Certificates of Insurance to the San Bernardino Real Estate Services Department (RESO) administering the License evidencing the insurance coverage, including endorsements, as required, prior to the commencement of performance of services hereunder, which certificates shall provide that such insurance shall not be terminated or expire without thirty (30) days written notice to RESO, 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.

G. Acceptability of Insurance Carrier - Unless otherwise approved by the DISTRICT 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".

H. Insurance Review – Insurance requirements are subject to periodic review by the DISTRICT. The DISTRICT's Director of Risk Management or designee is authorized, but not required, to reduce, waive or suspend any insurance requirements whenever the DISTRICT'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 DISTRICT. In addition, the DISTRICT'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 DISTRICT, inflation, or any other item reasonably related to the DISTRICT'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 DISTRICT 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 DISTRICT.

I. 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 DISTRICT to give notice to immediately suspend all LICENSEE's business activities on the Premises. Failure to reinstate said insurance within the (10) days of notice to do so shall be cause for termination and for forfeiture of this agreement, and/or DISTRICT, at its discretion, may procure or renew such insurance and pay any and all premiums in connection therewith, and all monies so paid by DISTRICT shall be repaid by LICENSEE to DISTRICT upon demand but only for the pro rata period of non-compliance.

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

K. 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 same requirements as set forth in this Paragraph 15 and naming the DISTRICT 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.

L. 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 DISTRICT's Director of Risk Management .

16. **TAXES, ASSESSMENTS AND LICENSES:** LICENSEE shall pay before delinquency any and all property taxes, 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 on such interest, unless the parties otherwise agree in writing prior to the start of construction or installation.

17. **BUILDING AND SAFETY REQUIREMENTS:** All of 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 the use of DISTRICT or other users at the Site, or is in violation of any of said rules, regulations, ordinances, statutes or orders, the LICENSEE shall remove or modify its use to conform with the applicable regulations within thirty (30) days of receipt of written notice to do so from the DISTRICT. DISTRICT's determination of conflicting use shall be conclusive.

18. **GENERAL COVENANTS AND AGREEMENTS:**

A. At any time during the term of the License, the DISTRICT may revise, modify, or add provisions to the License as may be required to meet the DISTRICT's obligations for the Site purposes so long as any revisions, modifications, or additions do not materially interfere with LICENSEE's use of the Premises.

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 on the Premises.

D. Uses granted to LICENSEE under this License are valid only to the extent of the DISTRICT'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 DISTRICT, the DISTRICT 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 the 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 DISTRICT 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 DISTRICT.**

G. Notwithstanding anything to the contrary in this License, DISTRICT's negligence, default, or breach of this License, DISTRICT shall not be liable for any injury to LICENSEE's or its permitted shared users' business or any loss of income or profit therefrom, or for any special, incidental, consequential, or punitive damages allegedly sustained by LICENSEE

19. **TERMINATION:** Either party 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 ninety (90) days prior to the date of termination. LICENSEE shall perform all necessary removals required by this License within said ninety (90) days.

20. **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. For avoidance of doubt, this License supersedes Use Permit No. 05-942 for the Premises.

21. **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.

22. **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.

23. **RESERVED.**

24. **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.

25. **CONSENT:** Unless expressly provided otherwise in the License, whenever consent or approval of either party is required that party shall not unreasonably withhold such consent or approval.

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

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

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

29. **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.

30. **NOTICES:** Any notice, demand, request, consent, approval or communication that either party desires or is required to give to the other party, or any other person shall be in writing and either served personally or sent by postage prepaid, first-class United States mail, certified or registered, return receipt requested or sent by reputable overnight delivery service. 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. Notices shall be deemed delivered 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, first-class United States mail, certified or registered, return receipt requested or reputable overnight delivery services. Any notices received on a non-business day or after business hours on a business day shall be deemed received on the immediately following business day.

LICENSEE's address: UNAVCO, INC.
6350 Nautilus Drive
Boulder, CO 80301-5554

DISTRICT's address: COUNTY SERVICE AREA 29
Real Estate Services Department
385 North Arrowhead Avenue, Third Floor
San Bernardino, CA 92415-0180

31. **SURVIVAL:** The obligations of the parties which, by their nature, continue beyond the term of this license, will survive the termination of this License.

32. **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. The License shall be construed and interpreted in accordance with the laws of the State of California.

33. **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 14, INDEMNIFICATION.**

34. **FORMER DISTRICT AND COUNTY OFFICIALS:** LICENSEE agrees to provide or has already provided information on former DISTRICT and COUNTY administrative officials (as defined below) who are employed by or represent LICENSEE. The information provided includes a list of former DISTRICT and COUNTY administrative officials who terminated DISTRICT or COUNTY employment within the last five years and who are now officers, principals, partners, associates or members of LICENSEE. The information should also include the employment and/or representative capacity and the dates these individuals began employment with or representation of LICENSEE. For purposes of this provision, "DISTRICT administrative official" and "COUNTY administrative official" are defined as a member of the Board of Supervisors or such officer's staff, DISTRICT or COUNTY Administrative Officer or member of such officer's staff, DISTRICT or 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 "B", List of Former District and County Officials.)

35. **MATERIAL MISREPRESENTATION:** If during the course of the administration of this License, the DISTRICT determines that the LICENSEE has made a material misstatement or misrepresentation or that materially inaccurate information has been provided to the DISTRICT, this License may be immediately terminated. If this License is terminated according to this provision, the DISTRICT is entitled to pursue any available legal remedies.

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

37. **DISCLOSURE:** All information received by the DISTRICT from the LICENSEE or any source concerning this License, including the License itself, may be treated by the DISTRICT 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 DISTRICT in connection with this License are intended for the exclusive use of the DISTRICT, 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 DISTRICT to hold in confidence is made to the DISTRICT, the DISTRICT 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 DISTRICT a legally sound basis for the nondisclosure, and agrees to indemnify, defend, and hold the DISTRICT 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 DISTRICT fails to notify LICENSEE of any such disclosure request and/or releases any information concerning the License received from the LICENSEE or any other source.

38. **UTILITIES:** DISTRICT shall, at its cost, provide electric to the LICENSEE's Station at the Premises. In the event LICENSEE requires any other utilities or utility connections at the Premises, LICENSEE shall be responsible, at its sole cost and expense, to obtain such utilities or connections from the utility provider, subject to DISTRICT's prior written consent.

REMAINDER OF THIS PAGE LEFT INTENTIONALLY BLANK

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

END OF LICENSE.

COUNTY SERVICE AREA 29

By: 
Curt Hagman, Chairman
Board of Supervisors

Date: FEB 09 2021

UNAVCO, INC.


By: 
James Downing

Title: Senior Contracts and Permitting Manager

Date: 1/28/21

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: FEB 09 2021

Approved as to Legal Form:

MICHELLE D. BLAKEMORE, County Counsel
San Bernardino County, California

By: Agnes Cheng, Deputy County Counsel

Date: _____
110568.13

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Supervisors

By: _____
Deputy

Date: _____

Approved as to Legal Form:

MICHELLE D. BLAKEMORE, County Counsel
San Bernardino County, California

By: _____
Agnes Cheng, Deputy County Counsel

Date: 2/2/2021
110568.13

UNAVCO, INC.

By: _____
James Downing

Title: Senior Contracts and Permitting Manager

Date: 1/28/21

EXHIBIT "A" – PREMISES

LUCERNE VALLEY
VIEW TO THE NORTH OF THE SITE AREA

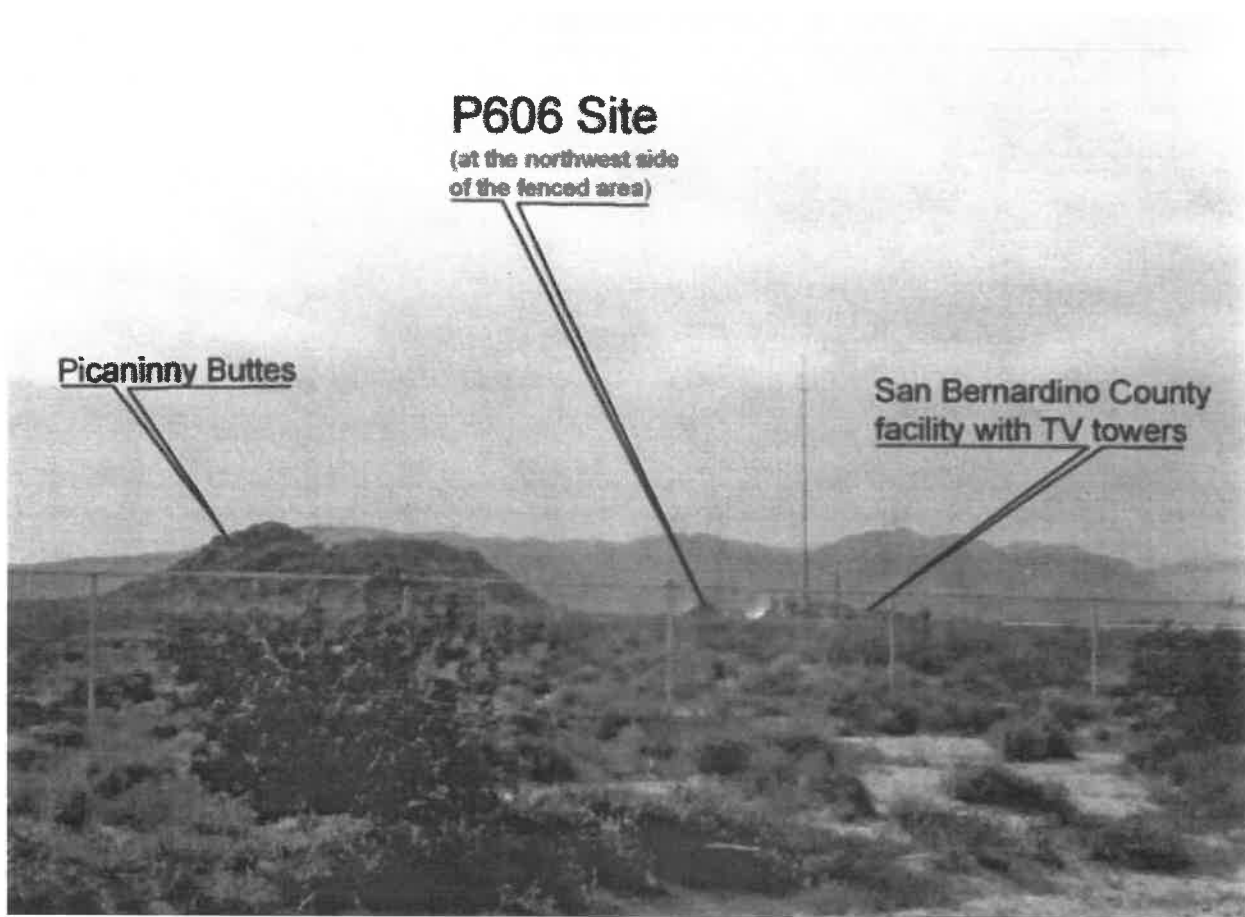


EXHIBIT "B" - LIST OF FORMER DISTRICT AND COUNTY OFFICIALS

INSTRUCTIONS: List the full name of the former DISTRICT Administrative Official and former COUNTY Administrative Official, the title/description of the Official's last position with the DISTRICT or COUNTY, the date the Official terminated DISTRICT or 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