

**SECOND AMENDMENT TO COUNTY OF MONTEREY
WIRELESS COMMUNICATION SITE LEASE AGREEMENT**

This Second Amendment (the "Amendment") to the "County of Monterey Wireless Communication Site Lease Agreement" dated April 1, 2013 (the "Lease"), is made and entered into by and between the County of Monterey ("Lessee") and Weathertop Estate LLC ("Lessor") as successor in interest to Weathertop Ranch LLC ("Weathertop"). Lessor and Lessee may be referred to herein individually as a "Party" or collectively as the "Parties."

RECITALS

- A. WHEREAS, Lessee entered into the Lease with Weathertop for the purpose of installing radio communications equipment (the "Equipment") on a portion of the real property further described in the Lease and identified by Assessor's Parcel Number 187-011-006 (the "Premises");
- B. WHEREAS, an "Amendment #1" to the Lease was entered into between the Lessee and Weathertop on November 15, 2017 ("First Amendment");
- C. WHEREAS, Lessor purchased the Premises and is the successor in interest of Weathertop, assuming all of Weathertop's rights and duties under the Lease;
- D. WHEREAS, Lessor wishes to use the Premises for other purposes and gave Lessee a Notice of Termination of the Lease on March 31, 2022;
- E. WHEREAS, the Notice of Termination is effective October 31, 2022;
- F. WHEREAS, upon termination, Section 3 of the Lease requires Lessee to "remove the Equipment and repair and restore the affected areas of the Premises . . . as nearly as possible to the condition in which it existed immediately prior" to the start of the Lease;
- G. WHEREAS, the Parties now wish to amend Section 3 and 6(A) of the Lease to permit Lessor to remove the Equipment prior to the termination date on the terms designated herein; and
- H. WHEREAS, all other terms of the Lease and First Amendment will remain unchanged.

NOW, THEREFORE, in consideration of the mutual covenants and promises herein contained and other good and valuable consideration, and to avoid unnecessary litigation, it is hereby agreed by and between the Parties as follows:

AMENDMENTS

- 1. Incorporation of Recitals. The Parties agree to incorporate by reference the above-stated recitals as material terms to this Agreement and as though fully set forth herein.
- 2. Section 3, Term/Termination of the Lease shall be amended by removing, "*In the event of termination of this Agreement, LESSEE shall remove the Equipment and repair and restore the affected areas of the Premises prior to the termination of this Agreement and to the*

extent reasonably requested by LESSOR, restore the Premises as nearly as possible to the condition in which it existed immediately prior to the date that LESSEE first began utilizing the Premises” and replacing it with “Upon giving notice of termination of this Agreement, LESSOR shall have the right, at LESSEE’s sole expense, to remove the Equipment and repair and restore the affected areas of the Premises as nearly as possible to the condition in which it existed immediately prior to the date at which LESSEE first began utilizing the Premises (the “Right to Restore”). Within 30 days of the completion of any work performed consistent with LESSOR’s Right to Restore or the effective date of termination, whichever is later, LESSOR may seek full reimbursement from LESSEE by invoicing LESSEE for all expenses incurred in connection with exercise of the Right to Restore in an amount not to exceed \$100,000 or LESSOR’s actual costs, whichever is lesser. LESSOR shall substantiate all reimbursable expenses through invoices, receipts, cancelled checks, credit card statements, or equivalent means. LESSEE shall reimburse LESSOR for any such expenses within thirty (30) day of presentation of invoices, receipts, cancelled checks, or credit card receipts to LESSEE.”

3. The first sentence of Section 6(A) of the Lease is hereby Amended to read, in its entirety, as follows: **“INDEMNIFICATION:** LESSEE, during the term hereof, shall indemnify and hold harmless the LESSOR from and against any and all claims and demands for injuries to persons or loss of life, or damage to property, relating to this Agreement (and any amendments thereto) and/or arising out of the installation, operation or maintenance of the Equipment on the Premises by the LESSEE, or LESSOR’S exercise of its Right to Restore, excepting however, such claims and demands for injuries to persons or loss of life, or damage to property, caused by the gross negligence or intentional acts or omissions of the LESSOR. LESSOR, during the term hereof, shall indemnify and hold harmless the LESSEE from and against any and all claims and demands for injuries to persons or loss of life, or damage to property, occurring within the Premises and arising out of the gross negligence or intentional acts of the LESSOR.”
4. All other provisions of the Lease and First Amendment not amended herein shall continue unchanged and remain in full force and effect.

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment on the dates appearing below their respective signatures:

<u>LESSEE:</u> By: Title: Chief Information Officer Date:	<u>LESSOR:</u> By: Title: Manager Date:
<u>COUNTY COUNSEL</u> By: Title: Deputy County Counsel Date:	<u>AUDITOR-CONTROLLER</u> By: Title: Auditor-Controller Date: