

FIRST AMENDMENT TO SUBLEASE

THIS FIRST AMENDMENT TO SUBLEASE ("**Amendment**"), dated for reference purposes only as of _____, 2014, is made by and between COMMUNICATIONS & CONTROL, INC., a California corporation ("**CCI**"), as sublandlord, and the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("**City**"), acting by and through its Public Utilities Commission ("**SFPUC**"), as subtenant.

RECITALS

A. Robert LaRue, an individual ("**Master Landlord**") owns the real property in unincorporated Contra Costa County, California, commonly known as Livermore Hills, Assessor's Parcel No. 006-070-021 (the "**Site**"). Master Landlord and CCI entered into a Site Rental Agreement dated October 1, 2012 (the "**Master Lease**"), pursuant to which Master Landlord leased to CCI certain space on Master Landlord's communications tower and certain space in Master Landlord's shelter (collectively, the "**Initial Premises**") for purposes of allowing CCI to sublease the Initial Premises to City. The initial term of the Master Lease is scheduled to expire on November 30, 2017. Under the Master Lease, CCI has four successive options to extend the term for periods of five years each.

B. CCI subleases the Initial Premises to City pursuant to a Sublease dated October 1, 2012 (the "**Sublease**"). The Initial Premises consist of tower space for two 6-foot diameter microwave dish antennas and approximately four square feet of shelter space for one 19-inch wide equipment rack, as further described in the Sublease. The Sublease is currently scheduled to expire on November 30, 2017. City now desires to use additional space on the tower and in the shelter to operate additional equipment (City's "**Additional Facilities**"). City also wishes to amend the Sublease to provide City with four options to extend the term for periods of five years each, consistent with the Master Lease.

C. Concurrently with this Amendment, Master Landlord and CCI are entering into a First Amendment to Site Rental Agreement dated _____, 2014 (the "**Master Lease Amendment**"), pursuant to which Master Landlord is leasing to CCI additional space on Master Landlord's communications tower and additional space in Master Landlord's shelter (collectively, the "**Additional Premises**") for purposes of allowing CCI to sublease the Additional Premises to City.

D. CCI is willing to sublease such additional space to City, and City is willing to sublease the additional space from CCI, and such parties are willing to amend the Sublease to provide City with four (4) options to extend the term of the Sublease, all on the terms and conditions set forth herein.

NOW THEREFORE, in consideration of the foregoing and the covenants set forth below, the parties agree as follows.

AGREEMENT

1. EXPANSION OF PREMISES.

1.1. Additional Premises. From and after the Additional Premises Commencement Date (as defined in **Section 1.2**), the Premises shall be expanded to include the additional space on the tower for the antennas described in attached **Exhibit A**, additional space in the shelter for the equipment rack(s) described in attached **Exhibit A**, and space for the antenna cables, fasteners, and other appurtenances necessary for the installation and operation of City's equipment (the "**Additional Premises**"). CCI and City acknowledge that City's design for the Additional Facilities is not yet complete and may change as it is finalized by City's design/build contractor. The final design may include a different number, size and/or location of antennas and/or equipment racks. Upon CCI's approval of City's plans for City's

Additional Facilities, CCI and SFPUC shall initial the plans and attach a copy to this Amendment as **Exhibit B**.

1.2. Additional Premises Commencement Date. The “**Additional Premises Commencement Date**” shall be the later of (a) the Sublease Amendment Effective Date, as defined in **Section 5**, or (b) the first business day following City’s delivery of written notice to CCI that City has obtained all permits and approvals necessary for City to be legally entitled to construct and operate City’s Additional Facilities in the Additional Premises. At the request of either party, CCI and City will confirm the actual Additional Premises Commencement Date in writing.

1.3. Acceleration of Additional Premises Commencement Date. Notwithstanding anything to the contrary herein, if CCI receives a bona fide offer from a third party to lease all or part of the Additional Premises for comparable rent for a term commencing on a date (the “**Third Party Offer Commencement Date**”) which is on or after the Amendment Effective Date but before the Additional Premises Commencement Date, CCI shall notify City and provide a copy of the offer. Within fifteen business days after receipt of such notice, City shall notify CCI whether City (i) elects to commence paying the Additional Premises Rent for such Additional Premises on the Third Party Commencement Date (in which case, CCI shall tender possession of such Additional Premises to City as of the Third Party Offer Commencement Date, and the Third Party Offer Commencement Date shall be deemed the Additional Premises Commencement Date with respect to such Additional Premises) or (ii) waive City’s right to lease such Additional Premises, in which case CCI shall be free to lease such Additional Premises to the third party. If the bona fide third party offer concerns only a portion of the Additional Premises and City elects to commence paying rent for such portion commencing on the Third Party Commencement Date, only the portion of the Base Rent attributable to that portion of the Additional Premises shall be payable commencing on the Third Party Commencement Date. If City waives the right to lease such Additional Premises and CCI thereafter fails to enter into a lease with the third party before or within ten business days after the Third Party Commencement Date, CCI shall then offer to lease such Additional Premises to City on the original terms provided herein.

1.4. Delay in Delivery of Additional Premises. If due to no fault of City, CCI fails to deliver possession of the Additional Premises to City on the Additional Premises Commencement Date, then City’s obligation to pay the Additional Premises Rent shall not commence until CCI does tender possession to City. If due to no fault of City CCI fails to tender possession of the Additional Premises to City within 30 days after the Additional Premises Commencement Date then commencing on the date CCI does deliver possession, City shall receive a credit equal to one day of pro-rated Additional Premises Rent for each day the delivery of possession was delayed beyond the Additional Premises Commencement Date.

2. RENT.

2.1. Base Rent. Effective as of the Additional Premises Commencement Date, the Base Rent payable under Section 4 of the Sublease shall increase by One Thousand Two Hundred Forty-one and 67/100 Dollars (\$1,241.67) per month (“**Additional Premises Rent**”) to a total Base Rent of Two Thousand Five Hundred Twenty-one and 75/100 Dollars (\$2,521.75) per month, as such Base Rent may be adjusted pursuant to **Section 2.2**.

2.2. Adjustments to Base Rent.

2.2.1. Adjustments for Changes in Design of Additional Facilities. If the final design of the Additional Facilities, as reasonably approved by CCI, includes a different number or different size(s) of antenna or racks than described in **Exhibit A**, then the Additional Premises Rent shall be modified to apply CCI’s standard pricing to the facilities, consistent with the price list attached as **Exhibit C**. CCI and City shall confirm the Additional Premises Rent in writing when CCI approves the plans for the Additional Facilities.

2.2.2. Annual Adjustment. Notwithstanding Section 4.2 of the Sublease to the contrary, commencing on the Additional Premises Commencement Date, and continuing throughout the Term, on each Adjustment Date (as defined in Section 4.2 of the Sublease), the Base Rent payable by City shall be increased by three percent (3%) each year; provided, however, if the Additional Premises Commencement Date is a date after September 30, 2014, the first Adjustment Date for the Additional Premises Rent under Section 4.2 of the Sublease shall be December 1, 2015. Further, if due to no fault of CCI, the Additional Premises Commencement Date occurs after December 1, 2015, the Additional Premises Rent as of the Additional Premises Commencement Date shall include the three percent (3%) increase that would have been applied had the Additional Premises been part of the Premises on December 1, 2015.

2.2.3. The annual adjustments shall not apply to Additional Charges.

2.3. Additional Charges. Effective as of the Additional Premises Commencement Date, the electric utility charge which City pays as an Additional Charge under Section 4.3 of the Sublease (as the estimate of the amount needed to cover City's obligation under Section 9 of the Sublease) shall increase to One Hundred Dollars (\$100.00) per month.

3. OPTIONS TO EXTEND TERM

City is granted four options, at its sole discretion, to extend the Sublease Term for additional periods of five (5) years each (each, an "**Extended Term**"), provided City has abided by the terms and conditions of the Sublease and is not in default thereunder either at the time of exercise or at the time the Extended Term commences. If City should decide to exercise any such option to extend, City shall give written notice thereof to CCI *and* Master Landlord at least ninety (90) days before the expiration of the Term or then-current Extended Term, as the case may be.

4. CITY CONTRACT PROVISIONS

The following provisions are hereby added to the Lease:

4.1. Prevailing Wages for Construction Work on Premises. CCI agrees that any person performing labor in the construction of any improvements to the Premises which CCI provides under this Sublease shall be paid not less than the highest prevailing rate of wages as required by Section 6.22(E) of the San Francisco Administrative Code, shall be subject to the same hours and working conditions, and shall receive the same benefits as in each case are provided for similar work performed in San Francisco County. CCI shall include, in any contract for construction of such improvements to the Premises, a requirement that all persons performing labor under such contract shall be paid not less than the highest prevailing rate of wages for the labor so performed. CCI shall require any contractor to provide, and shall deliver to City every two weeks during any construction period, certified payroll reports with respect to all persons performing labor in the construction of any leasehold improvements or other improvements to the Premises.

4.2. Tropical Hardwood and Virgin Redwood Ban.

4.2.1. Except as expressly permitted by the application of Sections 802(b) and 803(b) of the San Francisco Environment Code, neither CCI nor any of its contractors shall provide any items to City in the construction of any improvements or otherwise in the performance of this Lease that are tropical hardwood, tropical hardwood wood products, virgin redwood, or virgin redwood wood products.

4.2.2. The City and County of San Francisco urges companies not to import, purchase, obtain or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood, or virgin redwood wood products.

4.2.3. In the event CCI fails to comply in good faith with any of the provisions of Chapter 8 of the San Francisco Environment Code, CCI shall be liable for liquidated damages for each

violation in an amount equal to CCI's net profit on the contract, or five percent (5%) of the total amount of the contract dollars, whichever is greatest. CCI acknowledges and agrees that the liquidated damages assessed shall be payable to the City and County of San Francisco upon demand and may be set off against any monies due to CCI from any contract with the City and County of San Francisco.

4.3. Disclosure. In accordance with Section 67.24(e) of the San Francisco Administrative Code, contracts, contractors' bids, leases, agreements, responses to Requests for Proposals, and all other records of communications between City and persons or firms seeking contracts will be open to inspection immediately after a contract has been awarded. Nothing in this provision requires the disclosure of a private person's or organization's net worth or other proprietary financial data submitted for qualification for a contract, lease, agreement or other benefit until and unless that person or organization is awarded the contract, lease, agreement or benefit. Information provided which is covered by this Section will be made available to the public upon request.

5. SUBLEASE AMENDMENT EFFECTIVE DATE.

The "**Sublease Amendment Effective Date**" shall be the first date on which all of the following shall have occurred: **(a)** this Amendment shall have been executed by the parties hereto; **(b)** approval shall have been obtained from City's Public Utilities Commission, Board of Supervisors, and Mayor, each in their sole and absolute discretion, to the extent required under applicable City laws and policies; **(c)** Master Landlord shall have delivered to CCI and to City the Consent of Master Landlord in the form of attached **Exhibit D**, duly executed by Master Landlord; **(d)** Master Landlord and CCI shall have executed and delivered the Master Lease Amendment; and **(e)** City's Contract Monitoring Division ("**CMD**") shall have approved the Form CMD-12B-101 submitted by CCI to CMD.

6. TERMS AND CONDITIONS OF SUBLEASE REMAIN IN FORCE AND EFFECT

The terms and conditions of the Sublease remain in force and effect as amended by this Amendment. In the event of any conflict between the terms and conditions of the Sublease and the terms and conditions of this Amendment, the terms and conditions of this Amendment shall control.

7. DEFINED TERMS

Capitalized terms used herein but not defined shall have the meaning ascribed to them in the Sublease.

8. COUNTERPARTS

This Amendment may be executed in two or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

CCI and City have executed this Amendment as of the date first written above.

CCI:

COMMUNICATIONS & CONTROL, INC., a
California corporation

By: _____

Name: _____

Its: _____

CITY:

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation

By: _____

Harlan L. Kelly, Jr.
General Manager
San Francisco Public Utilities Commission

AUTHORIZED BY

PUBLIC UTILITIES COMMISSION

Resolution No. 14-0112

Adopted: July 8, 2014

BOARD OF SUPERVISORS

Resolution No. _____

Adopted: _____

APPROVED AS TO FORM:

DENNIS J. HERRERA, City Attorney

By: _____

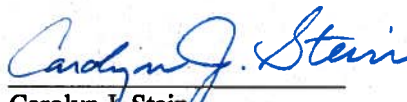

Carolyn J. Stein
Deputy City Attorney

EXHIBIT A

Description of Additional Premises and City's Additional Facilities

The Additional Premises consist of:

Shelter space for one (1) nineteen-inch (19") equipment rack, with access to front and back of rack

Space on the tower for:

One (1) six-foot (6') dish, 30' elevation, 192.35 true azimuth

One (1) six-foot (6') dish, 20' elevation, 111.90 true azimuth

EXHIBIT B

Approved Plans for City's Additional Facilities

[to be initialed by both parties and attached following approval]

EXHIBIT C

CCI's Rental Rates Based on Equipment Installed

EXHIBIT D
CONSENT OF MASTER LANDLORD
(Amendment of Sublease)

This Consent of Master Landlord (the “**Consent**”), dated for reference purposes only as of _____, 2014, is attached to that certain First Amendment to Sublease dated as of _____, 2014 (“**Sublease Amendment**”), by and between COMMUNICATIONS & CONTROL, INC., a California corporation (“**Sublessor**”), and, CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation (“**Sublessee**”). Except as otherwise provided herein, terms used in this Consent shall have the meaning set forth in the Sublease.

The undersigned, Robert LaRue, an individual doing business as LaRue Communications, is the current landlord (“**Landlord**”) under the Site Rental Agreement dated October 1, 2012 (the “**Master Lease**”) under which Landlord leases to CCI certain tower and shelter space for communications equipment. Landlord has previously consented to CCI subleasing such premises to Sublessee under the Sublease dated October 1, 2012. Concurrently with this Consent, Landlord is entering into an amendment to the Master Lease under which the Master Lease premises will be expanded consistent with the expansion of the Sublease premises under the Sublease Amendment, and Sublessee shall be given four options to extend the term of the Sublease for periods of five (5) years each, consistent with Sublessor’s options to extend the term of the Master Lease.

Landlord hereby consents to the Sublease Amendment on the following express terms and conditions:

1. The Sublease as amended remains subject and subordinate to the Master Lease and to all of the terms, covenants, conditions, provisions and agreements set forth in the Master Lease. Unless earlier terminated, the Sublease shall automatically terminate on the termination of the Master Lease.

2. Neither such Sublease Amendment nor this Consent shall:

(a) release or discharge Sublessor from any liability, whether past, present or future, under the Master Lease;

(b) operate as a consent or approval by Landlord to or of any of the terms, covenants, conditions, provisions or agreements of the Sublease and Landlord shall not be bound thereby;

(c) be construed to modify, waive or affect any of the terms, covenants, conditions, provisions or agreements of the Master Lease or to waive any breach thereof, or any of Landlord's rights as Landlord thereunder; or to enlarge or increase Landlord's obligations as Landlord thereunder, or

(d) be construed as a consent by Landlord to any further subletting either by Sublessor or by Sublessee or to any assignment by Sublessor of the Master Lease or assignment by Sublessee of the Sublease, whether or not the Sublease purports to permit the same and, without limiting the generality of the foregoing, both Sublessor and Sublessee agree that the Sublessee has no right whatsoever to assign, mortgage or encumber the Sublease nor to sublet any portion of the subleased Premises or permit any portion of the subleased Premises to be used or occupied by any other party.

3. In the event of Sublessor's default under the provisions of the Master Lease (beyond any applicable notice and/or cure period), the rent due from the Sublessee under the Sublease shall be deemed assigned to Landlord and Landlord shall have the right, upon such default, at any time at Landlord's option, to give notice of such assignment to Sublessee, and Sublessee shall thereafter pay all rent under the Sublease directly to Landlord, notwithstanding any contrary provision of the Sublease. Landlord shall

credit Sublessor with any rent received by Landlord under such assignment and shall recognize Sublessee's rights under the Sublease for so long as Sublessee performs its obligations under the Sublease, but the acceptance of any payment on account of rent from the Sublessee as the result of any such default shall in no manner whatsoever be deemed an attornment by Sublessee to Landlord, or serve to release Sublessor from liability under the terms, covenants, conditions, provisions or agreements under the Master Lease, except to the extent of the rent received by Landlord.

4. Both Sublessor and Sublessee shall be and continue to be liable for the payment of all bills rendered by Landlord for charges incurred by Landlord for services and materials supplied to the subleased Premises to the extent such items are billable to Sublessor under the Master Lease.

5. The term of the Sublease, as amended, shall expire and come to an end on its natural expiration date (including any exercised extension options), or any sooner termination in accordance with its terms, or concurrently with any sooner termination of the Master Lease in accordance with its terms, or by operation of law.

6. This Consent is not assignable.

7. Notwithstanding any provision of the amended Sublease or this Consent to the contrary, Sublessee agrees that Landlord shall not be (i) liable for any act or omission of Sublessor under the Sublease, (ii) subject to any offsets or defenses which Sublessee may have against Sublessor, (iii) bound by any payment of rent or other sums made by Sublessee for any advance period under the Sublease, (iv) bound by any security deposits which Sublessee might have paid to Sublessor or any other party, or (v) bound by any amendment or modification of the Sublease made without Landlord's prior written consent, which may be withheld in the sole and absolute discretion of Landlord.

8. This Consent shall for all purposes be construed in accordance with and governed by the laws of the State of California.

9. This Consent shall not be effective until executed by all the parties hereto.

10. If any one of more of the provisions contained in this Consent shall be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained in this Consent shall not in any way be affected or impaired thereby.

11. Landlord acknowledges that Sublessee maintains a program of self-insurance and agrees that Sublessee shall not be required to carry any insurance with respect to this Sublease; provided, however, Sublessee's right to self-insure shall not diminish or limit City's indemnity or other obligations under the Sublease.

[SIGNATURES ON FOLLOWING PAGE]

The execution of a copy of this Consent by Sublessor and by the Sublessee shall indicate their respective confirmation of the foregoing conditions and their agreement to bound thereby.

IN WITNESS WHEREOF, the parties hereto have executed this Consent as of the date first above written.

LANDLORD:

_____,
Robert LaRue
dba LaRue Communications

SUBLESSOR:

COMMUNICATIONS & CONTROL, INC.,
a California corporation

By: _____

Its: _____

SUBLESSEE:

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation

By: _____
Harlan L. Kelly, Jr.
General Manager
San Francisco Public Utilities Commission

APPROVED AS TO FORM:

DENNIS J. HERRERA
San Francisco City Attorney

By: _____
Carolyn J. Stein
Deputy City Attorney