

SUBLEASE

between

COMMUNICATIONS & CONTROL, INC.,
as sublessor

and

CITY AND COUNTY OF SAN FRANCISCO,
as subtenant

For the Sublease of
a portion of the Livermore Hills Communications Facility,
Contra Costa County APN 006-070-021, California

October 1, 2012

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LIST OF EXHIBITS

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EXHIBIT B – Diagram of Premises and Photos of Tenant's Equipment

EXHIBIT C – Notice of Commencement Date

EXHIBIT D – Consent of Master Landlord

SUBLEASE

THIS SUBLEASE (this "**Sublease**"), dated for reference purposes only as of October 1, 2012, is by and between COMMUNICATIONS & CONTROL, INC., a California corporation ("**CCI**"), and the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("**City**").

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 are parties to a Site Rental Agreement dated October 1, 2012, a copy of which is attached hereto as Exhibit A (the "**Master Lease**"), pursuant to which CCI leases that portion of the Site described in Exhibit B of the Master Lease (the "**Premises**").

B. City currently maintains and operates certain communications equipment and facilities within the Premises, pursuant to a pre-existing arrangement with the Master Landlord, which arrangement is scheduled to expire on the day before the date of this Sublease.

C. CCI wishes to sublease to City, and City desires to sublease from CCI, the Premises.

CCI and City hereby agree as follows:

1. BASIC SUBLEASE INFORMATION

The following is a summary of basic Sublease information (the "**Basic Sublease Information**"). Each item below shall be deemed to incorporate all of the terms in this Sublease pertaining to such item. In the event of any conflict between the information in this Section and any more specific provision of this Sublease, the more specific provision shall control.

Sublease Reference Date:	October 1, 2012
Sublessor:	COMMUNICATIONS & CONTROL, INC., a California corporation
Sublessee:	CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation
Site:	APN 006-070-021 in unincorporated Contra Costa County, California, commonly known as Livermore Hills
Premises:	All of the Premises described in the Master Lease, including tower space for the installation, use, operation, maintenance, repair and replacement of two (2) six-foot (6') diameter microwave dish antennae, and (approximately four (4) square feet of shelter space for the installation, use, operation, maintenance, repair and replacement of one (1) nineteen inch (19") wide equipment rack, all as shown on Exhibit B to this Sublease

Initial Sublease Term (Section 3):

Estimated Commencement Date:
December 1, 2012

Expiration Date: Last day of the sixtieth full
calendar month following the
Commencement Date

Base Rent (Section 4.1):

\$1,245.00 per month as follows:

\$760 for 2x 6" Dishes @ \$380 each

\$435 for 2"x2" Shelter space

\$50 for Electrical Utility

Adjustment Dates (Section 4.2):

Each anniversary of the Commencement Date
during the Term

Additional Charges (Section 4.3):

As further described in Section 4.3

Use (Section 5.1):

Operation, maintenance, repair, alteration and
replacement of communications equipment
including the antenna(s), cables, dishes, racks
and accessories described in attached
Exhibit B, for the operation of a microwave
relay link for communications coming from
SFPUC's Mt. Allison site and going East to
an additional relay location

Condition (Section 2.3):

City shall take the Premises in "as-is"
condition

Utilities (Section 9.1):

To be provided by City at its sole cost, except
as otherwise specified in Section 9.1

Notice Address of CCI (Section 23.1):

Communications & Control, Inc.
2633 S. Bascom Avenue
Campbell, CA, 95008-5698
Attn: Scott McQueen

Key Contact for CCI:

Scott McQueen

CCI Contact Telephone No.:

(408) 377-2900

Notice Address of Master Landlord:

LaRue Communications
2171 Ralph Ave.
Stockton, CA 95206
Attn: Robert LaRue

With a copy to:

LaRue Communications
P.O. Box 31477
Stockton, CA 95213
Attn: Robert LaRue

Notice Address for City (Section 23.1):

San Francisco Public Utilities Commission
525 Golden Gate Avenue, 5th floor
San Francisco, CA 94102-3220
Attn Director of Information Technology
Services
Re: Livermore Hills Sublease

with a copy to:

San Francisco Public Utilities Commission
525 Golden Gate Avenue, 10th floor
San Francisco, California 94102-3220
Attn: Real Estate Director
Re: Livermore Hills Sublease

Key Contact for City:

SFPUC Director of Information Technology
Services

City Contact Telephone No.:

(415) 551-4301

Alternate Contact for City:

SFPUC Real Estate Director

Alternate Contact Telephone No.:

(415) 487-5210

Brokers (Section 23.8):

Not applicable

2. PREMISES

2.1 Premises. CCI subleases to City and City subleases from CCI, subject to the provisions of this Sublease, the Premises described in Section 1. The Premises are located on and/or within the Master Landlord's transmission tower and shelter which are part of "**Master Landlord's Equipment**" as defined in the Master Lease. The Master Landlord's Equipment, land upon which the Master Landlord's Equipment is located and all other improvements on or appurtenances to such land are referred to collectively as the "**Site**."

2.2 Access. CCI shall provide to City at all times use of the Premises and uninterrupted access thereto to the maximum extent possible, including, without limitation, during any power outages affecting any portion of the Premises. If City's use of any of the Premises, or access thereto is interrupted due to CCI's failure to comply with its obligations under this Sublease or for any other reason other than City's default hereunder, then CCI shall immediately undertake all necessary steps to correct such condition. In the event such condition continues for seventy-two (72) hours and impairs City's ability to access the Premises or to otherwise use the Premises, including any City's Personal Property located thereon, the Rent payable hereunder shall be abated based on the extent to which such default interferes with City's ability to access or use the Premises, including any Tenant's Equipment located thereon. If any such default by CCI shall continue for thirty (30) days or more after City's use is interrupted and impairs City's ability to access or use the Premises, including any equipment of Tenant's located thereon, then City shall have the right, without limiting any of its other rights under this Lease to terminate this Sublease. Nothing in this Section shall limit City's rights with respect to any disruption due to casualty pursuant to **Section 12** (Damage and Destruction) hereof.

2.3 Condition of Premises. CCI shall deliver the Premises to City in a broom-clean condition, but otherwise "as is" condition. CCI and City acknowledge that the antenna(s), equipment rack(s) and related lines and equipment described in **Exhibit B** of this Sublease were

installed in the Premises prior to the Commencement Date under a prior arrangement with the Master Landlord and are owned by City.

2.4 Subordinate to Master Lease. This Sublease is expressly made subject and subordinate to all the terms, covenants and conditions of the Master Lease, which are incorporated herein by reference (collectively, the "**Master Lease Terms**"). City agrees to use the Premises in accordance with the Master Lease Terms and not take or fail to take any act that CCI would be required to not take or take under the Master Lease to comply with the Master Lease Terms. Notwithstanding anything to the contrary in the foregoing, if CCI fails to comply with the Master Lease Terms or there is any breach of any of CCI representations, covenants or warranties in the Master Lease, City shall have no obligation to take any action to cure such failure or breach, except to the extent such failure or breach by CCI is caused by City's default of its obligations under this Sublease.

2.5 Performance of Master Lease Obligations. City further agrees to assume the obligation for performance of all CCI's obligations under the Master Lease, except as may be specifically modified by this Sublease, including, but not limited to, CCI's obligation to pay all rent owed to Master Landlord under the Master Lease, and except in respect to Section Q of the Master Lease which shall have no force and effect as between CCI and City.

2.6 Subleasehold Rights. CCI has not offered, conveyed or encumbered any of its rights or interests under the Master Lease. Except as set forth in Section 2.5 above and as expressly provided to the contrary in this Sublease, City shall have all rights CCI holds under the Master Lease insofar as such rights pertain to the Premises.

2.7 Amendments to Master Lease. CCI agrees that during the Sublease Term, it shall not amend or modify the Master Lease without City's prior written consent, which shall not be unreasonably withheld, conditioned or delayed. CCI acknowledges that it shall be reasonable for City to withhold such consent to a proposed amendment or modification that could affect City's rights or increase its obligations under this Sublease. Further, CCI shall not exercise the termination right under Section L of the Master Lease unless City directs it to do so by written notice.

2.8 Contact with Master Landlord. City has no authority to make any agreement with Master Landlord concerning the Premises or the Master Lease, and City shall not make any payment of Rent or other charges payable by City under this Sublease to Master Landlord, unless expressly required or permitted under this Sublease or CCI directs it to do so. Notwithstanding anything to the contrary in the foregoing, City shall have the right, at its sole cost, to enter into separate agreements with Master Landlord concerning City's use of the Premises following the expiration or earlier termination of the Master Lease. CCI shall have no obligations nor liability pursuant to any such separate agreements.

2.9 Master Landlord Duties. The Master Lease describes Master Landlord's duties. CCI is not obligated to perform Master Landlord's duties. If Master Landlord fails to perform its duties, City shall provide notice to CCI, and CCI shall promptly notify Master Landlord and demand that Master Landlord comply with the Master Lease. In no event shall CCI incur any liability, or otherwise be responsible, nor shall there be any set-off, deduction or abatement of Rent arising from Master Landlord's failure to comply with its duties, unless such failure results from (i) CCI's default beyond all applicable notice and cure periods under the Master Lease (and not from City's default beyond any applicable notice and cure periods under this Sublease), or (ii) CCI's failure to perform its obligations under this Section. Notwithstanding anything to the contrary in the foregoing, if Master Landlord fails to perform its duties under the Master Lease and such failure materially interferes with City's quiet use and enjoyment of the Premises, City shall be entitled to an abatement of Rent to the extent CCI receives an abatement of Rent for such failure under the Master Lease.

2.10 Notices of Default. CCI shall forward to City, promptly upon receipt thereof by CCI or delivery to Master Landlord, a copy of each notice of default or in any way affecting the Master Lease or the Premises received by CCI from Master Landlord or sent by CCI to Master Landlord under the Master Lease. City shall forward to CCI, promptly upon receipt thereof by City or delivery to Master Landlord, a copy of each notice of default or in any way affecting the Master Lease or the Premises received by City from Master Landlord under the Master Lease or sent by City to Master Landlord under the Master Lease. Nothing contained in this Section 2.10 shall be construed as entitling City to make any agreement with Master Landlord concerning the lease of the Premises pursuant to the Master Lease or the Master Lease (provided that City shall have the right to make any separate agreement with Master Landlord concerning the lease of the Premises on the termination of the Master Lease, without notifying CCI of such agreement nor providing any details thereof), nor to permit City to make any payment of Rent or other charges payable under this Sublease directly to Master Landlord.

3. TERM

3.1 Term of Sublease. The term of this Sublease (the "**Sublease Term**") shall commence on the later of the Commencement Date specified in Section 1 (the "**Estimated Commencement Date**") or the Effective Date as defined in Section 21.28 below. Unless extended pursuant to Section 3.4, the term of this Sublease shall end on the expiration date specified in the Basic Sublease Information, or such earlier date on which this Sublease terminates pursuant to the provisions of this Sublease.

3.2 Commencement Date and Expiration Date. The dates on which the Sublease Term commences and terminates pursuant hereto are referred to respectively as the "**Commencement Date**" and the "**Expiration Date**." If the Commencement Date occurs on a date other than the Estimated Commencement Date, then promptly thereafter City shall deliver to CCI, and CCI shall sign, a notice substantially in the form of Exhibit C attached hereto, confirming the actual Commencement Date; provided, however, that the parties' failure to do so shall not affect the commencement of the Sublease Term.

3.3 Delay in Delivery of Possession. CCI shall deliver possession of the Premises in the condition specified in Section 2.3 on the Commencement Date.

4. RENT

4.1 Base Rent. Beginning on the Commencement Date, City shall pay to CCI during the Sublease Term the Rent specified in the Basic Sublease Information (the "**Base Rent**"). The Base Rent shall be payable monthly on or before the first (1st) day of each month, in advance, at the address specified for CCI in the Basic Sublease Information, or such other place as CCI otherwise designates in writing to City. City shall pay the Base Rent without any prior demand and without any deductions or setoff except as otherwise provided in this Sublease. If the Commencement Date occurs on a day other than the first day of a calendar month or the Expiration Date occurs on a day other than the last day of a calendar month, then the monthly payment of the Base Rent for such fractional month shall be prorated based on a thirty (30)-day month.

4.2 Adjustments in Base Rent. On each date specified in the Basic Lease Information for the adjustment of Base Rent (each, an "**Adjustment Date**") during the Term, the Base Rent payable by Tenant under Section 4.1 (Base Rent) shall be increased by four percent (4%) each year. The annual adjustments shall not apply to Additional Charges.

4.3 Additional Charges. "**Additional Charges**" shall mean the payments CCI is required to pay to Master Landlord for electricity under Section F of the Master Lease and any other charges other than Rent (as defined in the Master Lease) CCI is required to pay Master Landlord under the Master Lease, except to the extent such charges arise from CCI's failure to

comply with the Master Lease Terms and such failure is not caused by City's failure to perform its obligations under this Sublease. Notwithstanding anything to the contrary in the foregoing, "Additional Charges" shall not include any income tax or business license tax that CCI is required to pay with respect to its receipt of payments from City under this Sublease.

City shall pay to CCI the applicable Additional Charges within thirty (30) days following City's receipt of Master Landlord's request to CCI therefor. The Additional Charges shall be payable to CCI at the place where the Rent is payable. The Rent, Additional Charges and any amounts that City is required to pay to CCI pursuant to this Sublease are sometimes collectively referred to below as "**Rent**."

4.4 Reduction in Rent. If any of the base rent or additional charges to be paid by CCI to Master Landlord under the Master Lease (collectively, the "**Lease Rent Payments**") are abated or otherwise reduced under the Master Lease, all corresponding payments of Base Rent or Additional Charges payable hereunder shall be equally abated or reduced. CCI shall provide written notice of any such abatement or reduction of any Lease Rent Payment within ten (10) business days of receiving notice or confirmation of such abatement or reduction from Master Landlord.

5. USE

City may use the Premises for the purpose of installing, constructing, maintaining, repairing, restoring, replacing, and operating City's Personal Property located within or on the Premises, including, in the case of an emergency, the right to install temporary facilities required to maintain continuous operation of City's communications facility including a fuel powered electrical generator in a location pre-approved by the Landlord, in the reasonable discretion of the Landlord. City shall notify Scott McQueen, or such other person as designated by CCI, at least 48 hours in advance of any access and shall comply with all reasonable requirements of such designated person with respect to City's requested access. City shall have immediate access to the Premises in the case of an emergency provided City uses its reasonable efforts to give CCI advance notice of such access by notifying Scott McQueen, and if such notice is not possible, City shall notify CCI immediately after such access, which notice may be given by telephone and telefacsimile or email. CCI shall furnish a set of keys to enable City to unlock any gates and doors necessary to gain access to the Premises and to any equipment operated by City under this Sublease. Upon expiration or termination of this Agreement, Tenant shall promptly return all keys provided for access to the Premises.

6. [INTENTIONALLY DELETED]

7. ALTERATIONS

7.1 Alterations by City; City Improvements. City shall not make or permit any alterations, installations, additions or improvements (collectively, "**Alterations**") to the Premises without obtaining CCI's prior written consent and Master Landlord's consent thereto to the extent required under the Master Lease. Repairs and replacements of components with substantially similar components are not considered Alterations. CCI shall not unreasonably withhold, condition or delay its consent to any proposed Alteration if Master Landlord consents to such proposed Alteration, provided that City shall incur all costs, liabilities and responsibilities arising from such Alteration. CCI shall not be entitled to any construction or other administrative fee in connection with any Alteration unless Master Landlord requires such fee be paid. City shall comply with the Master Lease in the performance of any Alteration.

Any Alterations approved by CCI shall made by City at City's sole cost, in compliance with all ordinances, rules, regulations and other requirements of state, federal, municipal or other agencies or bodies or unions having jurisdiction (collectively, "**Applicable Laws**") and any

additional requirements imposed by Master Landlord as a condition to its consent to such Alterations.

7.2 City's Personal Property. All furniture, furnishings, equipment, trade fixtures and articles of movable personal property installed in the Premises by or for the account of City and that can be removed without structural damage to the Premises (collectively, "**City's Personal Property**") shall be and remain City's property to the extent permitted by the Master Lease, and the Transferred Property shall be and remain City's property at all times. At any time during the Sublease Term or at the expiration thereof, City may remove any of City's Personal Property or the Transferred Property, provided City shall repair any damage to the Premises resulting therefrom. Notwithstanding anything to the contrary in Section 7.1, upon the expiration or earlier termination of this Sublease, City shall remove City's Personal Property and the Transferred Property from the Premises in accordance with Section 20 (Surrender of Premises).

7.3 Alteration by CCI. CCI shall not perform any alterations at the Premises unless CCI is required to make such alterations pursuant to the Master Lease. If CCI makes any such alteration, CCI shall provide at least ten (10) business days' prior written notice to City of such proposed alterations and use commercially reasonable efforts to minimize interference with or disruption to City's use and occupancy of the Premises while performing such alteration work. CCI shall promptly remedy any such interference or disruption upon receiving City's notice thereof.

8. REPAIRS AND MAINTENANCE

8.1 CCI's Repairs and Maintenance. CCI shall not be responsible for making any improvements, replacements or repairs to the Premises during the Sublease Term.

8.2 City's Repairs and Maintenance. City shall repair, replace and maintain at its cost the Premises and shall keep the Premises in good working order and in a safe and sanitary condition, to the extent CCI is required to perform such repair, replacement and maintenance under the Master Lease.

8.3 Liens; Prior Notice of Work. Each party shall keep the Premises free from liens arising out of any work performed, material furnished or obligations incurred by such party during the Sublease Term. CCI shall have the right to post on the Premises any notices permitted or required by law or that are needed for the protection of CCI, the Premises, or the Site, from mechanics' and material suppliers' liens. Each party shall give to the other at least five (5) business days' prior written notice of commencement of any repair or construction by such party on the Premises.

9. UTILITIES AND SERVICES

Normal utility service connections into the Premises, are existing pursuant to the Master Lease. City shall look solely to Master Landlord to furnish natural gas, if needed, and electricity, as provided under the Master Lease, and in no event whatsoever shall City look to CCI to furnish any services or shall this Sublease be construed to create any obligation on CCI to furnish any services; provided, however, that CCI shall perform its obligation to notify Master Landlord of its failure to furnish any such services to the extent required of CCI in Section 2.9. City shall pay the cost of all utility charges, including electricity used on the Premises, to the extent they are CCI's responsibility under the Master Lease.

10. COMPLIANCE WITH LAWS AND MASTER LEASE; PREMISES CONDITION

10.1 Premises Condition; Compliance with Laws and Master Lease; Indemnity. CCI represents and warrants to City, and covenants with City, as follows: (a) CCI has not received any notice that the Premises violate any applicable federal, state, or local laws (b) CCI

is the sole owner of the tenant's interest in the Master Lease, has the sole right to occupy the Premises under the Master Lease and has not assigned, subleased, transferred, encumbered, conveyed or disposed of such interest or the Premises; (c) as of the date of this Sublease and as of the Commencement Date, to the best of CCI's knowledge, no defaults past any applicable cure periods exist under the Master Lease, nor are there any acts or events which, with the passage of time or giving of notice or both, could become defaults; (d) CCI shall cause all rent due under the Master Lease to be timely delivered to Master Landlord; (e) CCI shall not cause a default past applicable cure periods of the Master Lease (unless caused by City's failure to perform its obligations under this Sublease); and (f) so long as City is not in default under this Sublease beyond any applicable cure period, CCI shall not modify or terminate the Master Lease without City's prior written consent, in City's sole discretion. Without limiting Section 15.2 (CCI's Indemnity), CCI shall Indemnify City against any and all Claims arising out of any misrepresentation by CCI or failure to perform its obligations under this Section.

10.2 City's Compliance with Master Lease; Indemnity. City shall use the Premises during the Sublease Term in compliance with the requirements specified in Section B of the Master Lease or otherwise approved in writing by Master Landlord and CCI. City shall comply with all laws, ordinances, rules, regulations and other requirements of state, federal, municipal or other governmental agencies or bodies having jurisdiction relating to its use, condition and occupancy of the Premises to the extent that CCI is required to comply with Applicable Laws under the Master Lease; provided, however, that City shall not be required to make any structural Alterations to the Premises required for an Alteration to the Premises made by CCI after the Commencement Date, unless such Alteration was made by CCI at City's request or to comply with CCI's obligations under the Master Lease. City represents and warrants to CCI that City shall not cause a default under the Master Lease. Without limiting Section 15.1 (City's Indemnity), City shall Indemnify CCI against any and all Claims arising directly from City's failure to comply with all Applicable Laws as provided in this Section and its breach of its representation or failure to perform its obligations under this Section.

11. SUBORDINATION

Without the necessity of any additional document being executed by City for the purpose of effecting a subordination, this Sublease shall be subject and subordinate at all times to the following (each an "**Encumbrance**"): (a) the Master Lease; and (b) any matter to which the Master Lease is subordinate pursuant to the terms thereof. Section X [Subordination] of the Master Lease is hereby incorporated in its entirety, provided that all references to "Tenant" in such Section shall be deemed to refer to City.

12. CONDEMNATION; DAMAGE AND DESTRUCTION

12.1 Termination of Master Lease by Master Landlord. If the Master Lease is terminated with respect to the Premises by Master Landlord pursuant to the condemnation or casualty provisions of the Master Lease as a result of fire, other casualty, condemnation or taking of the Premises or any part thereof, this Sublease shall similarly terminate at the same time. CCI shall notify City in writing of any such termination of the Master Lease promptly after receipt of notice thereof from Master Landlord. If the Master Landlord exercises the right to terminate the Master Lease by reason of substantial damage or destruction occurring during the last six months of the term of the Master Lease, and if City provides CCI with timely notice exercising an unexpired option (if any) to extend the term of this Sublease, then CCI shall promptly give notice to Master Landlord exercising the corresponding option (if any) to extend the term of the Master Lease.

12.2 Termination of Master Lease by CCI. If, as a result of a fire, other casualty, condemnation or taking, CCI shall have a right to terminate the Master Lease, CCI and City agree that (i) City shall have the right to terminate this Sublease by giving CCI notice of such termination at least ten (10) days before the deadline under the Master Lease for CCI to give

notice to the Master Landlord terminating the Master Lease, and (ii) CCI may exercise the right to terminate the Master Lease only after receiving either such notice of termination from City or City's prior written consent and, if so terminated then, this Sublease shall similarly terminate concurrently with the Master Lease. CCI agrees to furnish City with a copy of such termination notice sent to Master Landlord. In the event the tower, shelter or the Premises are damaged or destroyed by fire, other casualty, condemnation or taking and this Sublease is not terminated pursuant to **Section 12.1** or this **Section 12.2**, this Sublease shall continue in full force and effect.

12.3 Rent Abatement. In the event the Premises are damaged or destroyed by fire, other casualty, condemnation or taking, City shall have the rent reduction and abatement benefits of CCI, if any, with respect to the Premises (based on the rent due under this Sublease) pursuant to the casualty or condemnation provisions of the Master Lease.

13. ASSIGNMENT AND SUBLETTING

Except as provided in this Section below, City shall not directly or indirectly sell, assign, encumber, pledge or otherwise transfer or hypothecate all or any part of its interest in or rights with respect to the Premises or its subleasehold estate hereunder or permit all or any portion of the Premises to be occupied by anyone other than itself or further sublet all or any portion of the Premises without CCI's prior written consent in each instance, which consent shall not be unreasonably withheld, conditioned or delayed, and Master Landlord's consent as required under the Master Lease. Notwithstanding anything contrary to the foregoing, City shall have the right from time to time to transfer the use or occupancy of all or any of the Premises to any department, commission or agency of the City and County of San Francisco or to the State of California for uses permitted under this Sublease.

CCI shall not directly or indirectly sell, assign, encumber, pledge or otherwise transfer or hypothecate all or any part of its interest in or rights with respect to the Premises or its leasehold estate under the Master Lease or further sublet all or any portion of the Premises without CCI's prior written consent in each instance, which consent shall not be unreasonably withheld, conditioned or delayed, and Master Landlord's consent as required under the Master Lease.

14. DEFAULT; REMEDIES

14.1 Events of Default by City. Any of the following shall constitute an event of default by City hereunder:

(a) City's failure to make any timely payment of Rent and to cure such nonpayment within ten (10) business days after receipt of written notice thereof from CCI, provided that for the first two (2) monthly payments of Rent at the beginning of the Sublease Term and for the first monthly payment of Rent after the beginning of each new fiscal year for City during the Sublease Term, City shall have twenty (20) days to cure any such nonpayment after written notice thereof from CCI;

(b) City's failure to perform any other covenant or obligation of City hereunder (not involving the payment of money) and to cure such non-performance within twenty (20) days of the date of receipt of notice thereof from CCI, provided that if more than twenty (20) days are reasonably required for such cure, and City gives CCI notice of its intentions to take all steps required to cure such default and City commences such cure within such period and diligently prosecutes such cure to completion, then no event of default shall occur; and

(c) Any other event of default set forth in Section M of the Master Lease, unless such event of default is caused by the actions or inactions of CCI or its Agents or Invitees.

14.2 CCI's Remedies. Upon the occurrence of any event of default by City that is not cured within the applicable grace period as provided above, CCI shall have all rights and

remedies available pursuant to law or equity or granted hereunder, or granted in Section M of the Master Lease to the extent applicable to CCI.

In addition, if City fails to perform any of its obligations under this Sublease with respect to the maintenance, repair and/or restoration of the Premises and if (i) City does not correct such failure within the cure period set forth in Section 14.1 or (ii) if an emergency condition exists which involves the threat of imminent personal injury or material property damage, and City fails to timely correct or initiate correction of such condition promptly following notice from CCI, then, in either such event, CCI may cure such default or make such correction at City's sole cost and expense and City shall promptly reimburse CCI within thirty (30) days of receiving a commercially reasonable invoice, together with documenting information, of the costs and expenses incurred by CCI in taking any such action.

14.3 CCI's Default. If CCI fails to perform any of its obligations under this Sublease, then (without limiting any of City's other cure rights under this Sublease) City may, at its sole option, cure such default at CCI's expense if such default continues after twenty (20) days from the date CCI receives notice of City's intention to perform such cure. However, if a default reasonably requires more than twenty (20) days to be cured, such twenty (20) day period shall be extended by up to an additional seventy (70) days if CCI advises City of CCI's intention to take all steps required to cure such default and CCI promptly commences such cure and diligently prosecutes the same to completion. If CCI fails to cure any default within the cure period provided above, and City elects to cure CCI's default as provided herein, CCI shall promptly reimburse City within thirty (30) days of receiving a commercially reasonable invoice, together with documenting information, of the costs and expenses incurred by City in taking any such action. If CCI fails to reimburse City for its reasonable expenses incurred in curing such default within such thirty (30) day period, then City shall have the right to offset such amount from Base Rent until paid in full. City's rights hereunder shall not limit in any way any of its other rights and remedies hereunder or at law or in equity. If City cures any default by CCI under this Sublease or the Master Lease without complying with the requirements of this Section, CCI shall have no obligation to reimburse City for its expenses in curing such default.

15. INDEMNITIES

15.1 City's Indemnity. City shall indemnify, defend and hold harmless ("Indemnify") CCI and its Agents and Master Landlord from and against any and all claims, costs and expenses, including, without limitation, reasonable attorneys' fees (collectively, "Claims"), incurred as a result of (a) City's use of the Premises, (b) any default by City in the performance of any of its obligations under this Sublease, or breach of any representations or warranties by City, or (c) any negligent acts or omissions of City or its Agents or Invitees in, on or about the Premises or the Site; provided, however, City shall not be obligated to Indemnify CCI or its Agents to the extent any Claim arises out of the negligence or willful misconduct of CCI, Master Landlord or their respective Agents. In any action or proceeding brought against CCI or its Agents by reason of any Claim Indemnified by City hereunder, City may, at its sole option, elect to defend such Claim by attorneys reasonably approved by CCI, including attorneys in City's Office of the City Attorney, by other attorneys selected by City, or both. City shall have the right to control the defense and to determine the settlement or compromise of any action or proceeding, provided that CCI shall have the right, but not the obligation, to participate in the defense of any such Claim at its sole cost. City's obligations under this Section shall survive the termination of the Sublease.

15.2 CCI's Indemnity. CCI shall Indemnify City and its Agents against any and all Claims incurred as a result of (a) any default by CCI in the performance of any of its obligations under this Sublease or any breach of any representations or warranties made by CCI under this Sublease, (b) any negligent acts or omissions of CCI or its Agents or Invitees in, on or about the Premises or the Site; provided, however, CCI shall not be obligated to Indemnify City or its Agents to the extent any Claim arises out of the negligence or willful misconduct of City or

Master Landlord or their respective Agents or their Invitees, or (c) arising out any assertion by persons or entities claiming by and through or on account of CCI or its Agents that would interfere with City's quiet possession of the Premises, as further specified in Section 21.18, except to the extent that such Claim arises from the failure of Master Landlord to perform its obligations under the Master Lease, provided that CCI has timely performed its obligations hereunder.

In any action or proceeding brought against City or its Agents by reason of any Claim Indemnified by CCI hereunder, CCI may, at its sole option, elect to defend such Claim by attorneys selected by CCI and reasonably approved by City. CCI shall have the right to control the defense and to determine the settlement or compromise of any action or proceeding, provided that City shall have the right, but not the obligation, to participate in the defense of any such Claim at its sole cost. CCI's obligations under this Section shall survive the termination of this Sublease.

16. INSURANCE

16.1 City's Self-Insurance. CCI acknowledges that City maintains a program of self-insurance and agrees that City shall not be required to carry any insurance with respect to this Sublease; provided, however, City's right to self-insure shall not diminish or limit City's indemnity or other obligations hereunder. City assumes the risk of damage to any of City's Personal Property, except for damage caused by CCI or its Agents or Invitees.

16.2 CCI's Insurance. At all times during the Sublease Term, CCI shall carry the insurance CCI is required to carry under the Master Lease, in the amounts and forms specified in the Master Lease, provided, however, City acknowledges CCI is not carrying such insurance for the benefit of the City and CCI's insurance shall be secondary and not primary. City's self-insurance shall be primary as if City carried separate insurance. CCI shall, upon request by City, provide to City a certificate of insurance issued by CCI's insurance carrier evidencing the insurance required above.

16.3 Waiver of Subrogation. Notwithstanding anything to the contrary contained herein, each party hereby waives any right of recovery against the other for any loss or damage sustained with respect to property damage, the contents of the Premises, whether or not such loss is caused by the fault or negligence of the other; to the extent such loss or damage is covered by property insurance which CCI is required to purchase under the Master Lease or is otherwise actually recovered from valid and collectible insurance covering CCI or by a claim that would have been covered by insurance if City were not self-insured. CCI agrees to obtain a waiver of subrogation endorsement from its insurance carrier issuing such property policy relative to the Premises; provided, CCI's failure to do so shall not affect the above waiver.

17. ACCESS BY CCI AND MASTER LANDLORD

City shall provide access to the Premises to Master Landlord to the extent CCI is required to provide such access to Master Landlord under the Master Lease. City further shall provide reasonable access to the Premises to CCI for inspection by its agents and contractors to confirm City's performance of its obligations under this Sublease or to make repairs CCI is entitled to make under this Sublease, upon no less than twenty-four (24) hours prior notice (except in the event of emergency), provided that such access shall neither block the entrance to the Premises nor unreasonably interfere with City's use of the Premises. CCI shall use commercially reasonable efforts to minimize any such blockage or interference.

18. ESTOPPEL CERTIFICATES

Either party, from time to time during the Sublease Term upon not less than ten (10) days' prior written notice from the other party, may reasonably request the other party to

execute, acknowledge and deliver to such persons or entities designated by such other party a certificate stating: (a) the Commencement Date and Expiration Date of this Sublease, (b) that this Sublease is unmodified and in full force and effect (or, if there have been modifications, this the Sublease is in full force and effect as modified and stating the modifications), (c) that there are no defaults under this Sublease (or if so, specifying the same), (d) the date to which Rent has been paid and such other matters required under the Master Lease, and (e) any applicable matters required under the Master Lease.

19. SURRENDER OF PREMISES

Upon the expiration or sooner termination of this Sublease, City shall surrender the Premises to CCI in the condition required of CCI under Section J of the Master Lease, subject to any damage caused by the actions of CCI or its Agents or Invitees on or after the Commencement Date, and shall remove from the Premises all of City's Personal Property, City's telecommunications, data and computer facilities and any Alterations City desires (to the extent City is entitled to do so hereunder) or is otherwise required to remove from the Premises pursuant to the provisions of Section 7.1 (Alterations by City). City shall repair or pay the cost of repairing any damage to the Premises or the Building resulting from such removal. City's obligations under this Section shall survive the expiration or earlier termination of this Sublease.

20. HAZARDOUS MATERIALS

20.1 Definitions. As used in this Sublease, the following terms shall have the meanings hereinafter set forth:

(a) "**Environmental Laws**" shall mean any federal, state, local or administrative law, rule, regulation, order or requirement relating to industrial hygiene, environmental conditions or Hazardous Material, whether now in effect or hereafter adopted.

(b) "**Hazardous Material**" shall mean any material that, because of its quantity, concentration or physical or chemical characteristics, is deemed by any federal, state or local governmental authority to pose a present or potential hazard to human health or safety or to the environment. Hazardous Material includes, without limitation, any material or substance defined as a "hazardous substance," or "pollutant" or "contaminant" pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA", also commonly known as the "Superfund" law), as amended (42 U.S.C. Section 9601 et seq.), or pursuant to Section 25316 of the California Health & Safety Code; any "hazardous waste" listed pursuant to Section 25140 of the California Health & Safety Code; any asbestos and asbestos containing materials whether or not such materials are part of the structure of the Building or are naturally occurring substances on or about the Site; and petroleum, including crude oil or any fraction thereof, natural gas or natural gas liquids.

(c) "**Release**" when used with respect to Hazardous Material shall include any actual or imminent spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into or inside the Premises or Site.

20.2 CCI's Representations and Covenants. CCI represents and warrants to City that, to the best of CCI's knowledge as of the Commencement Date, CCI has not received any notice that the Premises or the Site is in violation of any Environmental Laws or is being investigated by the California Department of Toxic Substances Control, the Regional Water Quality Control Board, the Bay Area Air Quality Management District, the California Environmental Protection Agency or the United States Environmental Protection Agency with respect to the presence of Hazardous Material therein or migrating to or from the Premises.

20.3 CCI's Environmental Indemnity. Without limiting CCI's Indemnity in Section 15.2 (CCI's Indemnity), above, CCI shall Indemnify City and its Agents against any and

all Claims arising during or after the Sublease Term (a) as a result of any breach of any of CCI's representations, warranties or covenants in the preceding Section, or (b) in connection with any presence or Release of Hazardous Material in the Building or the Site, to the extent such presence or Release was caused by CCI or its Agents or Invitees.

20.4 Covenants and Indemnity. City shall comply with the covenants of CCI under Section 49(c) of the Master Lease and shall, without limiting City's indemnity in Section 15, indemnify CCI, its Agents and Master Landlord against any and all claims arising during and after the Sublease Term to the extent arising (a) as a result of City's failure to comply with such covenants, or (b) any presence or Release of Hazardous Material in the Building or the Site, to the extent such presence or Release was caused by the City or its Agents or Invitees.

21. GENERAL PROVISIONS.

21.1 Notices. Except as otherwise specifically provided in this Sublease, any notice given under this Sublease shall be in writing and given by delivering the notice in person or by commercial courier, or by sending it by first-class mail, certified mail, return receipt requested, or Express Mail, return receipt requested, with postage prepaid, to: (a) City at City's address set forth in the Basic Sublease Information; or (b) CCI at CCI's address set forth in the Basic Sublease Information; or (c) such other address as either CCI or City may designate as its new address for such purpose by notice given to the other in accordance with this Section.

21.2 No Implied Waiver. No failure by either party to insist upon the strict performance of any obligation of the other party under this Sublease or to exercise any right, power or remedy consequent upon a breach thereof shall constitute a waiver of any such breach or of such term, covenant or condition. No acceptance of full or partial Rent by CCI while City is in default hereunder shall constitute a waiver of such default by CCI. No express written waiver of any default or the performance of any provision hereof shall affect any other default or performance, or cover any other period of time, other than the default, performance or period of time specified in such express waiver. One or more written waivers of a default or the performance of any provision hereof shall not be deemed to be a waiver of a subsequent default or performance. The consent of CCI or City given in one instance under the terms of this Sublease shall not relieve the other party of any obligation to secure the consent to any other or future instance under the terms of the Sublease.

21.3 Amendments. Neither this Sublease nor any terms or provisions hereof may be changed, waived, discharged or terminated, except by a written instrument signed by the party against which the enforcement of the change, waiver, discharge or termination is sought. No waiver of any breach shall affect or alter this Sublease, but each and every term, covenant and condition of this Sublease shall continue in full force and effect with respect to any other then-existing or subsequent breach thereof. Whenever this Sublease requires or permits the giving by City of its consent or approval, the City's Director of Property or General Manager of the City's Public Utilities Commission, or his or her designee, shall be authorized to provide such approval, except as otherwise provided by Applicable Law, including the Charter of the City and County of San Francisco. Any amendments or modifications to this Sublease, including, without limitation, amendments to or modifications to the exhibits to this Sublease, shall be subject to the mutual written agreement of City and CCI, and City's agreement may be made upon the sole approval of the Director of Property, or his or her designee; provided, however, material amendments or modifications to this Sublease (a) changing the legal description of the Premises, (b) increasing the Sublease Term, (c) increasing the Rent, (d) changing the general use of the Premises from the use authorized under Section 5.1 of this Sublease, and (e) any other amendment or modification which materially increases City's liabilities or financial obligations under this Sublease may additionally require the approval of City's Public Utilities Commission and Board of Supervisors.

21.4 Authority. CCI represents and warrants to City that the execution and delivery of this Sublease by CCI has been duly authorized and does not violate any provision of any agreement, law or regulation to which CCI or the Site is subject.

21.5 Parties and Their Agents. As used in this Sublease, the term "**Agents**" when used with respect to either party shall include the agents, employees, officers and contractors of such party, and the term "**Invitees**" when used with respect to City shall include the clients, customers, invitees, guests, licensees, assignees or subtenants of City.

21.6 Interpretation of Sublease. The captions preceding the articles and sections of this Sublease and in the table of contents have been inserted for convenience of reference only and such captions shall in no way define or limit the scope or intent of any provision of this Sublease. This Sublease has been negotiated at arm's length and between persons sophisticated and knowledgeable in the matters dealt with herein and shall be interpreted to achieve the intent and purposes of the parties, without any presumption against the party responsible for drafting any part of this Sublease. Except as otherwise specifically provided herein, wherever in this Sublease CCI or City is required or requested to give its consent or approval to any matter or action by the other, such consent or approval shall not be unreasonably withheld or delayed and the reasons for disapproval of consent shall be stated in reasonable detail in writing. Provisions in this Sublease relating to number of days shall be calendar days, unless otherwise specified, provided that if the last day of any period to give notice, reply to a notice or to undertake any other action occurs on a Saturday, Sunday or a bank or City holiday, then the last day for undertaking the action or giving or replying to the notice shall be the next succeeding business day. Use of the word "including" or similar words shall not be construed to limit any general term, statement or other matter in this Sublease, whether or not language of non-limitation, such as "without limitation" or similar words, are used.

21.7 Successors and Assigns. Subject to the provisions of Section 13 relating to assignment and subletting, the terms, covenants and conditions contained in this Sublease shall bind and inure to the benefit of CCI and City and, except as otherwise provided herein, their personal representatives and successors and assigns. There are no third-party beneficiaries to this Sublease.

21.8 Brokers. Neither party has had any contact or dealings regarding this Sublease, the leasing or subleasing of the Premises, or any communication in connection therewith, through any licensed real estate broker or other person who could claim a right to a commission or finder's fee in connection with the Sublease contemplated herein. In the event that any other broker or finder perfects a claim for a commission or finder's fee based upon any such contact, dealings or communication, the party through whom the broker or finder makes his claim shall be responsible for such commission or fee and shall Indemnify the other party from any and all Claims incurred by the indemnified party in defending against the same. The provisions of this Section shall survive any termination of this Sublease.

21.9 Severability. If any provision of this Sublease or the application thereof to any person, entity or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Sublease, or the application of such provision to persons, entities or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each other provision of this Sublease shall be valid and be enforceable to the full extent permitted by law.

21.10 Governing Law. This Sublease shall be construed and enforced in accordance with the laws of the State of California.

21.11 Entire Agreement. The parties intend that this Sublease (including all of the attached exhibits, which are made a part of this Sublease) shall be the final expression of their agreement with respect to the subject matter hereof and may not be contradicted by evidence of any prior or contemporaneous written or oral agreements or understandings. The parties further

intend that this Sublease shall constitute the complete and exclusive statement of its terms and that no extrinsic evidence whatsoever (including prior drafts hereof and changes therefrom) may be introduced in any judicial, administrative or other legal proceeding involving this Sublease.

21.12 Attorneys' Fees. In the event that either CCI or City fails to perform any of its obligations under this Sublease or in the event a dispute arises concerning the meaning or interpretation of any provision of this Sublease, the defaulting party or the non-prevailing party in such dispute, as the case may be, shall pay the prevailing party reasonable attorneys' and experts' fees and costs, and all court costs and other costs of action incurred by the prevailing party in connection with the prosecution or defense of such action and enforcing or establishing its rights hereunder (whether or not such action is prosecuted to a judgment). For purposes of this Sublease, reasonable attorneys' fees of the City's Office of the City Attorney shall be based on the fees regularly charged by private attorneys with the equivalent number of years of experience in the subject matter area of the law for which the City Attorney's services were rendered who practice in the City of San Francisco in law firms with approximately the same number of attorneys as employed by the Office of the City Attorney. The term "attorneys' fees" shall also include, without limitation, all such fees incurred with respect to appeals, mediations, arbitrations, and bankruptcy proceedings, and whether or not any action is brought with respect to the matter for which such fees were incurred. The term "costs" shall mean the costs and expenses of counsel to the parties, which may include printing, duplicating and other expenses, air freight charges, hiring of experts, and fees billed for law clerks, paralegals, and others not admitted to the bar but performing services under the supervision of an attorney.

21.13 Holding Over. Should City hold over in the Premises following the expiration or earlier termination of the Sublease Term, Section G of the Master Lease shall apply to such holdover by City. City shall indemnify and hold CCI harmless from and against any claims and liability that CCI has to Master Landlord based upon such holdover.

21.14 Cumulative Remedies. All rights and remedies of either party hereto set forth in this Sublease shall be cumulative, except as may otherwise be provided herein.

21.15 Time of Essence. Time is of the essence with respect to all provisions of this Sublease in which a definite time for performance is specified.

21.16 Survival of Indemnities. Termination of this Sublease shall not affect the right of either party to enforce any and all indemnities and representations and warranties given or made to the other party under this Sublease, nor shall it affect any provision of this Sublease that expressly states it shall survive termination hereof. Each party hereto specifically acknowledges and agrees that, with respect to each of the indemnities contained in this Sublease, the indemnitor has an immediate and independent obligation to defend the indemnitees from any claim which actually or potentially falls within the indemnity provision even if such allegation is or may be groundless, fraudulent or false, which obligation arises at the time such claim is tendered to the indemnitor by the indemnitee and continues at all times thereafter.

21.17 [Intentionally Deleted].

21.18 Quiet Enjoyment and Title. CCI covenants and represents that it has full right, power and authority to grant the subleasehold estate hereunder, and covenants that City, upon paying the Rent hereunder and performing the covenants hereof, shall peaceably and quietly have, hold and enjoy the Premises and all appurtenances during the full Sublease Term as against all persons or entities claiming by and through or on account of CCI or its Agents, except to the extent that any such action is taken by CCI or Master Landlord or its Agents in compliance with its rights under this Sublease or the Master Lease.

21.19 Bankruptcy. CCI represents and warrants to City that CCI has neither filed nor been the subject of any filing of a petition under the federal bankruptcy law or any federal or

state insolvency laws or laws for composition of indebtedness or for the reorganization of debtors, and, to the best of CCI's knowledge as of the Effective Date, no such filing is threatened.

21.20 Non-Liability of City Officials, Employees and Agents. Notwithstanding anything to the contrary in this Sublease, no elective or appointive board, commission, member, officer, employee or agent of City shall be personally liable to CCI, its successors and assigns, in the event of any default or breach by City or for any amount which may become due to CCI, its successors and assigns, or for any obligation of City under this Sublease.

21.21 MacBride Principles - Northern Ireland. The City and County of San Francisco urges companies doing business in Northern Ireland to move toward resolving employment inequities and encourages them to abide by the MacBride Principles as expressed in San Francisco Administrative Code Section 12F.1 *et seq.* The City and County of San Francisco also urges San Francisco companies to do business with corporations that abide by the MacBride Principles. CCI acknowledges that it has read and understands the above statement of the City and County of San Francisco concerning doing business in Northern Ireland.

21.22 Controller's Certification of Funds. The terms of this Sublease shall be governed by and subject to the budgetary and fiscal provisions of the City's Charter. Notwithstanding anything to the contrary contained in this Sublease, there shall be no obligation for the payment or expenditure of money by City under this Sublease unless the Controller of the City and County of San Francisco first certifies, pursuant to Section 3.105 of the City's Charter, that there is a valid appropriation from which the expenditure may be made and that unencumbered funds are available from the appropriation to pay the expenditure. Without limiting the foregoing, if in any fiscal year of City after the fiscal year in which the Sublease Term commences, sufficient funds for the payment of Rent and any other payments required under this Sublease are not appropriated, then City may terminate this Sublease, without penalty, liability or expense of any kind to City, as of the last date on which sufficient funds are appropriated. City shall use its reasonable efforts to give CCI reasonable advance notice of such termination. City represents and warrants to CCI that City certifies as of Commencement Date that there is valid appropriation for the Rent payable under the Sublease through June 30, 2008.

21.23 Non Discrimination in City Contracts and Benefits Ordinance

(a) Covenant Not to Discriminate. In the performance of this Sublease, CCI covenants and agrees not to discriminate on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, sex, sexual orientation, gender identity, domestic partner status, marital status, disability, weight, height, or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status) against any employee or, any City employee working with, or applicant for employment with, CCI in any of CCI's operations within the United States, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations operated by CCI.

(b) Subcontracts. CCI shall include in all subcontracts relating to the Premises a non-discrimination clause applicable to such subcontractor in substantially the form of subsection (a) above. In addition, CCI shall incorporate by reference in such subcontracts the provisions of Sections 12B.2(a), 12B.2(c)-(k) and 12C.3 of the San Francisco Administrative Code and shall require all subcontractors to comply with such provisions. CCI's failure to comply with the obligations in this subsection shall constitute a material breach of this Sublease.

(c) Non-Discrimination in Benefits. CCI does not as of the date of this Sublease and will not during the Sublease Term, in any of its operations in San Francisco or where the work is being performed for the City elsewhere in the United States, discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or

membership discounts, moving expenses, pension and retirement benefits specified above within the United States, between employees with domestic partners and employees with spouses, and/or between domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law authorizing such registration, subject to the condition set forth in Section 12.B2(b) of the San Francisco Administrative Code.

(d) HRC Form. As a condition to this Sublease, CCI shall execute the "Chapter 12B Declaration: Nondiscrimination in Contracts and Benefits" form (Form HRC-12B-101) with supporting documentation and secure the approval of the form by the San Francisco Human Rights Commission (the "HRC"). CCI hereby represents that prior to execution of the Sublease, CCI executed and submitted to the HRC Form HRC-12B-101 with supporting documentation.

(e) Incorporation of Administrative Code Provisions by Reference. The provisions of Chapters 12B and 12C of the San Francisco Administrative Code relating to non-discrimination by parties contracting for the Sublease of property to City are incorporated in this Section by reference and made a part of this Sublease as though fully set forth herein. CCI shall comply fully with and be bound by all of the provisions that apply to this Sublease under such Chapters of the Administrative Code, including but not limited to the remedies provided in such Chapters. Without limiting the foregoing, CCI understands that pursuant to Section 12B.2(h) of the San Francisco Administrative Code, a penalty of Fifty Dollars (\$50) for each person for each calendar day during which such person was discriminated against in violation of the provisions of this Sublease may be assessed against CCI and/or deducted from any payments due CCI.

21.24 [Intentionally Deleted]

21.25 [Intentionally Deleted]

21.26 [Intentionally Deleted]

21.27 Counterparts. This Sublease 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.

21.28 Effective Date. The date on which this Sublease shall become effective (the "Effective Date") is the date upon which each of the following is satisfied: (a) this Sublease shall have been executed by the parties hereto, (b) any required approval shall have been obtained from City's Public Utilities Commission, Mayor and Board of Supervisors, in their sole and absolute discretion, to the extent require under applicable City laws and policies; (c) Master Landlord shall have delivered the Consent of Master Landlord in the form attached hereto as Exhibit D, to CCI and to City, duly executed by Master Landlord, and (d) HRC shall have approved the HRC Form HRC-12B-101 submitted by CCI to HRC.

21.29 Certification by CCI. By executing this Sublease, CCI certifies that neither CCI nor any of its officers or members have been suspended, disciplined or disbarred by, or prohibited from contracting with, any federal, state or local governmental agency. In the event CCI or any of its officers or members have been so suspended, disbarred, disciplined or prohibited from contracting with any governmental agency, it shall immediately notify the City of same and the reasons therefore together with any relevant facts or information requested by City. Any such suspension, disbarment, discipline or prohibition may result in the termination or suspension of this Sublease. CCI acknowledges that this certification is a material term of this Sublease.

21.30 Sunshine Ordinance. In accordance with Section 67.24(e) of the San Francisco Administrative Code, contracts, contractors' bids, Subleases, 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, Sublease, agreement or other benefit until and unless that person or organization is awarded the contract, Sublease, agreement or benefit. Information provided which is covered by this Section will be made available to the public upon request.

21.31 Conflicts of Interest. Through its execution of this Sublease, CCI acknowledges that it is familiar with the provisions of Section 15.103 of the San Francisco Charter, Article III, Chapter 2 of City's Campaign and Governmental Conduct Code, and Section 87100 *et seq.* and Section 1090 *et seq.* of the Government Code of the State of California, and certifies that it does not know of any facts which would constitute a violation of said provisions, and agrees that if CCI becomes aware of any such fact during the Sublease Term, CCI shall immediately notify City.

21.32 Notification of Limitations on Contributions. Through its execution of this Sublease, CCI acknowledges that it is familiar with Section 1.126 of the San Francisco Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City for the selling or leasing of any land or building to or from the City whenever such transaction would require approval by a City elective officer or the board on which that City elective officer serves, from making any campaign contribution to (1) an individual holding a City elective office if the contract must be approved by the individual, a board on which that individual serves, or a board on which an appointee of that individual serves, (2) a candidate for the office held by such individual, or (3) a committee controlled by such individual, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for such contract or six months after the date the contract is approved. CCI acknowledges that the foregoing restriction applies only if the contract or a combination or series of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of \$50,000 or more. CCI further acknowledges that the prohibition on contributions applies to each prospective party to the contract; each member of CCI's board of directors, chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 20 percent in CCI; any subcontractor listed in the contract; and any committee that is sponsored or controlled by CCI. Additionally, CCI acknowledges that CCI must inform each of the persons described in the preceding sentence of the prohibitions contained in Section 1.126. CCI further agrees to provide to City the names of each person, entity or committee described above.

21.33 Preservative-Treated Wood Containing Arsenic. CCI may not purchase preservative-treated wood products containing arsenic in the performance of this Sublease unless an exemption from the requirements of Environment Code, Chapter 13 is obtained from the Department of Environment under Section 1304 of the Environment Code. The term "preservative-treated wood containing arsenic" shall mean wood treated with a preservative that contains arsenic, elemental arsenic, or an arsenic copper combination, including, but not limited to, chromated copper arsenate preservative, ammoniac copper zinc arsenate preservative, or ammoniacal copper arsenate preservative. CCI may purchase preservative-treated wood products on the list of environmentally preferable alternatives prepared and adopted by the Department of Environment. This provision does not preclude CCI from purchasing preservative-treated wood containing arsenic for saltwater immersion. The term "saltwater immersion" shall mean a pressure-treated wood that is used for construction purposes or facilities that are partially or totally immersed in saltwater.

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS SUBLEASE, SUBLESSOR ACKNOWLEDGES AND AGREES THAT NO OFFICER OR EMPLOYEE OF CITY HAS AUTHORITY TO COMMIT CITY HERETO UNLESS AND UNTIL CITY'S BOARD OF SUPERVISORS SHALL HAVE DULY ADOPTED A RESOLUTION APPROVING THIS SUBLEASE AND AUTHORIZING CONSUMMATION OF THE TRANSACTION CONTEMPLATED HEREBY. THEREFORE, ANY OBLIGATIONS OR LIABILITIES OF CITY HEREUNDER ARE CONTINGENT UPON ADOPTION OF SUCH A RESOLUTION, AND THIS SUBLEASE SHALL BE NULL AND VOID UNLESS CITY'S MAYOR AND BOARD OF SUPERVISORS APPROVE THIS SUBLEASE, IN THEIR RESPECTIVE SOLE AND ABSOLUTE DISCRETION, AND IN ACCORDANCE WITH ALL APPLICABLE LAWS. APPROVAL OF THIS SUBLEASE BY ANY DEPARTMENT, COMMISSION OR AGENCY OF CITY SHALL NOT BE DEEMED TO IMPLY THAT SUCH RESOLUTION WILL BE ADOPTED NOR WILL ANY SUCH APPROVAL CREATE ANY BINDING OBLIGATIONS ON CITY.

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

CCI:

COMMUNICATIONS & CONTROL,
INC., a California corporation

By: 

Name: Scott McQueen

Its: UT. OPERATIONS -

CITY:

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation

By: 

Harlan L. Kelly, Jr.

General Manager

San Francisco Public Utilities Commission

RECOMMENDED BY:

By: _____

Name: _____

APPROVED AS TO FORM:

DENNIS J. HERRERA, City Attorney

By: 

Carolyn J. Stein

Deputy City Attorney

EXHIBIT A

MASTER LEASE

SITE RENTAL AGREEMENT

THIS SITE RENTAL AGREEMENT, hereinafter referred to as "Agreement," dated for reference purposes only as of October 1, 2012, is made and entered into by and between, ~~LaRue Communications~~, hereinafter referred to as "Landlord," and COMMUNICATIONS & CONTROL, INC., a California corporation, with offices located at 2633 S Bascom Avenue, Campbell CA 95008, hereinafter referred to as "Tenant."

Robert LaRue *RL*

RECITALS

1. Landlord is entitled to possession of a certain parcel of unimproved real property used for communications located at Livermore Hills (the "Site") and more particularly described in **Exhibit "A"** which is attached hereto and incorporated herein by this reference.

2. Tenant desires to use a portion of the Site for the purposes of subleasing it to the SFPUC for a communications relay link coming from Mt. Allison and going east, along with any additional links approved by the Landlord.

NOW, THEREFORE, as full and complete consideration of the covenants and agreements hereinafter set forth, Landlord and Tenant agree as follows:

AGREEMENT

A. **PREMISES:** Landlord hereby rents to Tenant and Tenant hereby rents from Landlord, those portions of the Site described in and/or shown on **Exhibit B**, attached hereto and incorporated herein by this reference.

B. **USE OF PREMISES:**

1. **Permitted Uses.** Landlord hereby grants permission to Tenant to occupy the Premises to sublease the Premises to the City and County of San Francisco ("**City**"), acting through its Public Utilities Commission ("**SFPUC**"), pursuant to a written sublease (the "**Sublease**"), for the operation, maintenance, repair, alteration and replacement of communications equipment including the antenna(s), cables, dishes, racks and accessories described in attached **Exhibit B**, for the operation of a microwave relay link for communications coming from SFPUC's Mt. Allison site and going East to an additional relay location.

2. **Site Facilities.** The Site will house equipment necessary for Tenant's operations. An emergency generator may be available in the event of a power failure, but Landlord neither guarantees nor warrants its availability or operation. For the purposes of this Agreement, the transmission tower and all of Landlord's equipment, building, generator, cables, wires, antennas, microwave dishes, and accessories shall hereinafter collectively be referred to as "Landlord's Equipment". Tenant's use of

Landlord's Equipment shall not unreasonably interfere with any of Landlord's existing lessees ("Existing Tenants") whose communications facilities were installed at or near the Premises prior to installation of SFPUC's facilities in the Premises, provided that when unreasonable interference does occur, Tenant, at Tenant's expense, shall work with Landlord to minimize any unreasonable interference caused by Tenant's transmission operations. Landlord and Tenant acknowledge that City's equipment is in place and in operation in the Premises pursuant to a previous arrangement. Any additional equipment necessary for Tenant's operations shall be installed, constructed, operated and maintained by Tenant at Tenant's sole cost and expense, following Tenant's obtaining all appropriate permits to install, construct and commence operations of Tenant from any public agency having jurisdiction over the issuance of permits related to Tenant's operations.

3. **Compliance with Governmental Regulations.** Tenant shall, at Tenant's expense, faithfully observe and comply with all Municipal, State and Federal statutes, rules, regulations, ordinances, requirements, and orders (collectively referred to as "Rules"), now in force or which may hereafter be in force pertaining to the Premises or Tenant's use thereof. The judgment of any court of competent jurisdiction, or the admission of Tenant in any action or proceeding against Tenant, whether Landlord be a party thereto or not, that Tenant has violated any Rules shall be conclusive proof of that fact as between Landlord and Tenant.

4. **Installation Scheduling.** Tenant shall advise Landlord of all installation activities on the Premises in advance of any installation by providing Tenant's schedule for any improvements placed on the Premises.

C. **TERM:**

1. **Term.** The Term ("Term") of this Agreement shall be for five (5) years, and shall commence on December 1, 2012 , and shall expire on November 30, 2017, unless sooner terminated as provided herein.

2. **Extended Terms.** Tenant is granted the option, at its sole discretion, to extend the Term of this Agreement for four (4) additional periods of five (5) years each (each, an "Extended Term"), provided Tenant has abided by the terms and conditions of this Agreement and is not in default hereunder either at the time of exercise or at the time the Extended Term commences. If Tenant should decide to exercise Tenant's option to extend, Tenant shall give written notice thereof to Landlord at least ninety (90) days before the expiration of the Term or then-current Extended Term, as the case may be. If the Sublease includes a term and extension options that are coterminous with the Term and Extended Terms under this Agreement, and City effectively exercises the option to extend the term of the Sublease and provides Landlord with copy of such exercise notice at least ninety (90) days before the expiration of the Term or then-current Extended Term of this Agreement, then such notice shall effectively exercise the option to extend the term of this Agreement.

D. **RENT:**

1. **Rent.** Tenant agrees to pay Landlord, as Rent for the Premises, monthly installments of \$990.00 (plus the Utility fees identified in Section F. Utilities) in advance on or before the first day of each and every calendar month during the Term to the party and at the address designated in **Section H**.

2. **Road Usage Fee.** Tenant agrees to pay Landlord, as Road Usage fee for the Premises, monthly installments in advance on or before the first day of every calendar month during the Term to the party at the address designated in **Section H** the amount of \$ -0-.

3. **Rent Adjustment.** The amount of Rent payable hereunder will be adjusted ("Adjusted Rent") annually, on the "Adjustment Date", commencing with the first annual anniversary date (twelve [12] months after the commencement date of the Term) and thereafter on each annual anniversary date of the commencement date during the Term, and any Extended Term. The Adjusted Rent shall be increased on the Adjustment Date in the amount of four percent (4%) of the previous year's Rent.

4 **Activation Payment.** Concurrently with Tenant's execution of the Agreement, Tenant shall pay to Landlord the amount of \$ -0- for purposes of initiating the occupancy of the Premises and activation of the facilities for Tenant's operations since the site is currently activated.

5. **Approved Installer.** Tenant shall only use an installer approved in advance by Landlord in writing, which approval shall not be unreasonably withheld or delayed.

E. **ACCESS:** Tenant shall have access to and from the Premises for the purpose of construction, installation, operation, maintenance and removal of any of Tenant's equipment. The access includes ingress and egress over existing roads, parking lots, and or any roads that may be established by Tenant at Tenant's sole cost and expense with Landlord's consent. Tenant agrees to keep any access gates or doors locked at all times. Landlord shall furnish a set of keys to enable Tenant to unlock any gates and doors necessary to gain access to the Site and the portions of the Site rented to Tenant under this Agreement. Upon termination of this Agreement, Tenant shall promptly return all keys provided for access to the Site.

F. **UTILITIES:** Landlord shall pay for gas costs. Tenant shall pay for all electricity relating to the operations of their equipment. Initial electrical costs will be an estimated cost given by the Tenant to the Landlord upon the execution of this Agreement to be paid in the same manner as Rent pursuant to **Section D (1)** of this Agreement. Within the first six (6) months of the Term and then yearly thereafter for the Term and any Extended Term, the Tenant's equipment will be audited by Landlord, at Landlord's cost, for electrical usage (for a period of at least thirty (30) days and not more than sixty (60) days to determine the average electrical use of Tenant, and Landlord shall provide Tenant with a

copy of the audit report. Thereafter, in accordance with **Section D(1)** of this Agreement, (i) Tenant's monthly payment for electricity shall be equal to the cost of Tenant's average monthly electrical usage, as determined by such audit, and (ii) Tenant or Landlord shall reimburse the other for any deficiencies or overages in the amounts previously paid by Tenant within thirty (30) days of the notice of the actual usage. Tenant shall be solely responsible for and promptly pay directly to the applicable utility provider all charges for any telephone service and any other utility (other than gas, which shall be paid by Landlord, and electricity, which shall be paid by Tenant to Landlord, as provided above) used or consumed by Tenant on the Premises.
Estimated monthly electricity cost: \$ 50.00.

G. **HOLDING OVER:** Should Tenant, with Landlord's written consent, remain on the Premises, or any portion thereof, after the date upon which the Premises is to be surrendered, Tenant shall become a tenant on a month-to-month basis upon all the terms, covenants and conditions of this Agreement. During any such month-to-month tenancy, Tenant shall pay monthly rent in the amount which was payable by Tenant during the immediately preceding month, subject to any rent adjustments as provided in the Agreement. Nothing in this Section is to be construed as consent by Landlord to the occupancy or possession of the Premises by Tenant after the expiration of the term.

H. **NOTICE:** Any notice, request, demand, instruction or other communication to be given to either party hereunder shall be in writing and shall either be: (a) hand-delivered; (b) sent by Federal Express or a comparable overnight mail service; or (c) mailed by U.S. registered or certified mail, return receipt requested, postage prepaid. For convenience of the parties, copies of notices may also be transmitted by the then-current method for electronic delivery such as by facsimile or email, but such electronically delivered notices shall not be binding on either party. Notice shall be deemed to have been given upon receipt or refusal of delivery of said notice. The addresses for the purpose of this section may be changed by giving notice. Unless and until such written notice is received, the last addressee and address stated shall be considered in effect for all purposes hereunder.

Landlord:

Robert LaRue
~~LaRue Communications~~
2171 Ralph Ave.
Stockton CA 95206
Attn: Robert LaRue
Tel: (209) 462-6059
Cell: (209) 603-4187
Fax: (209) 948-8255

Tenant:

Communications & Control, Inc.
2633 So. Bascom Avenue
Campbell, CA 95008
Attn: Scott McQueen
Tel: (408) 377-2900
Fax: (408) 559-7684

With a copy to:

Robert LaRue
~~LaRue Communications~~
P.O. Box 31477
Stockton CA 95213
Attn: Robert LaRue

With a copy to:

San Francisco Public Utilities
Commission
525 Golden Gate Avenue, 5th floor
San Francisco, CA 94102-3220
Attn Director of Information Technology
Services
Re: Livermore Hills
Tel: (415) 551-4301
Fax: (415) 551-4340

I. LIABILITY AND INDEMNITY:

1. **Of Landlord.** Tenant shall indemnify and hold harmless Landlord, and its agents, employees, partners, shareholders, officers, directors, invitees, and independent contractors (collectively "Agents") of Landlord against and from any and all claims, liabilities, judgments, costs, demands, causes of action and expenses (including, without limitation, reasonable attorney's fees) to the extent caused by Tenant's use of the Premises or any activity done, permitted or suffered by Tenant or its agents in or about the Site. If any action or proceeding is brought against Landlord by reason of any such claim, upon notice from Landlord, Tenant shall defend the same at Tenant's expense by counsel reasonably satisfactory to both Landlord and Tenant.

2. **Of Tenant.** Landlord shall indemnify and hold harmless Tenant, and its agents, employees, partners, shareholders, officers, directors, invitees, and independent contractors (collectively "Agents") of Tenant against and from any and all claims, liabilities, judgments, costs, demands, causes of action and expenses (including, without limitation, reasonable attorneys' fees) to the extent caused by Landlord's use of the Premises or any activity done, permitted or suffered by Landlord or its agents in or about the Site. If any action or proceeding is brought against Tenant by reason of any such claim, upon notice from Tenant, Landlord shall defend the same at Landlord's expense by counsel reasonably satisfactory to both Tenant and Landlord. The obligations of Tenant and Landlord under this Section I. shall survive any expiration or sooner termination of this Agreement.

J. **SURRENDER:** Tenant agrees that on the last day of the Term, or Extended Term, Tenant shall surrender and vacate the Premises in good condition and repair (damage by Acts of God, fire, and normal wear and tear excepted). All property of Tenant not so removed in thirty (30) days, unless such non-removal is consented to by Landlord in writing, shall be deemed abandoned by Tenant, provided that in such event Tenant shall remain liable to Landlord for all reasonable costs incurred in storing and disposing of such abandoned property of Tenant. The obligations herein shall survive the termination of the Agreement.

K. **MAINTENANCE OF PREMISES:** Throughout the Term, or any Extended Term, Tenant shall, at its sole expense, keep and maintain the Premises in good order, condition and repair. Tenant shall not do anything to cause any damage to the Site.

L. **TENANT'S TERMINATION:** Tenant shall have the right to terminate this Agreement at any time upon providing Landlord sixty (60) days written notice for any reason or no reason. Should Tenant terminate pursuant to this provision, Tenant's termination shall be subject to the surrender provisions set out above, as if it were the last day of the Term.

M. **TENANT'S DEFAULT:** The occurrence of any one of the following events shall constitute an event of Default on the part of Tenant ("Default"):

1. The complete abandonment of the Premises by Tenant;
2. Failure to pay two (2) continuous installments of Rent or any other monies due and payable hereunder, said failure continuing for a period of ten (10) days after written notice thereof from Landlord to Tenant;
3. A general assignment by Tenant for the benefit of creditors, without the prior written approval of Landlord, which approval shall not be unreasonably withheld;
4. The filing of a voluntary petition in bankruptcy by Tenant, the filing of a voluntary petition for an arrangement, the filing of a petition, voluntary or involuntary, for reorganization, or the filing of an involuntary petition by Tenant's creditors, said involuntary petition remaining undischarged for a period of sixty (60) days; notwithstanding the foregoing, this paragraph shall not apply if Tenant continues to make timely rental payments to Landlord;
5. Failure in the performance of any of Tenant's covenants, agreements or obligations hereunder which failure continues for ten (10) days after written notice thereof from Landlord to Tenant, provided that, if Tenant has exercised reasonable diligence to cure such failure and such failure cannot be cured within such ten (10) day period despite reasonable diligence, Tenant shall not be in Default under this subsection unless Tenant fails thereafter diligently and continuously to cure such failures; or
6. Chronic delinquency by Tenant in the payment of Rent, or any other periodic payments required to be paid by Tenant under this Agreement. "Chronic Delinquency" shall mean failure by Tenant to pay Rent, or any other payments required to be paid by Tenant under this Agreement within ten (10) days after written notice thereof for any three (3) months (consecutive or nonconsecutive) during any twelve (12) month period. In the event of a Chronic Delinquency, in addition to Landlord's other remedies for Default provided in this Agreement, at Landlord's option, Landlord shall have the right to require that Rent be paid by Tenant quarterly, in advance.

Tenant agrees that any notice given by Landlord pursuant to the above shall satisfy the requirements for notice under California Code of Civil Procedure section 1161, and Landlord shall not be required to give any additional notice in order to be entitled to commence an unlawful detainer proceeding.

N. LANDLORD'S REMEDIES:

1. **Termination for Breach.** In the event of any Default by Tenant, then in addition to any other remedies available to Landlord at law or in equity and under this Agreement, Landlord shall have the immediate option to terminate this Agreement and all rights of Tenant hereunder by giving written notice of such intention to terminate. In the event that Landlord shall elect to so terminate this Agreement then Landlord may recover from Tenant:

a. the worth at the time of award of any unpaid Rent and any other sums due and payable which have been earned at the time of such termination; and

b. such reasonable attorneys' fees incurred by Landlord as a result of a Default, and costs in the event suit is filed by Landlord to enforce such remedy.

2. **Re-entry.** In the event of any Default by Tenant, Landlord shall also have the right, and if Landlord terminates this Agreement in compliance with applicable law, to re-enter the Premises and remove all persons and property from the Premises in accordance with applicable law; such property may be removed and stored in a public warehouse or elsewhere at the cost of and for the account of Tenant.

3. **Reletting.** In the event of the abandonment of the Premises by Tenant or in the event that Landlord shall elect to re-enter as provided above or shall take possession of the Premises pursuant to legal proceedings or pursuant to any notice provided by law, Landlord may relet the Premises.

4. **Cumulative Remedies.** The remedies herein provided are not exclusive and Landlord shall have any and all other remedies provided herein or by law or in equity.

5. **No Surrender.** No act or conduct of Landlord shall be deemed to be or constitute an acceptance of the surrender of the Premises by Tenant prior to the expiration of the Term, or as specifically provided for above, and such acceptance by Landlord of surrender by Tenant shall only flow from and must be evidenced by a written acknowledgment of acceptance of surrender signed by Landlord.

O. LANDLORD'S DEFAULT: Landlord shall not be considered to be in Default under this Agreement unless: (a) Landlord is given notice specifying the Default; and (b) Landlord has failed for thirty (30) days to cure the Default, if it is curable, or to

institute and diligently pursue reasonable corrective acts for Defaults that cannot be reasonably cured within thirty (30) days.

P. **TAXES:** Tenant shall pay taxes imposed on the Premises which are attributable to Tenant's equipment and such tax is paid by Landlord. Tenant shall reimburse Landlord for the amount of any such tax payment within sixty (60) days of receipt of sufficient documentation indicating the amount paid.

Q. **LIABILITY INSURANCE:** During the term of this Agreement, Tenant shall, at Tenant's expense, obtain and keep in force a policy of comprehensive public liability insurance with policy limits of One Million Dollars (\$1,000,000) per occurrence. The limit of said insurance shall not limit the liability of the Tenant hereunder. Tenant may carry such insurance under a blanket policy provided such insurance adds Landlord as an additional insured. If Tenant shall fail to procure and maintain said insurance, Landlord may, but shall not be required to, procure and maintain said insurance, at the expense of Tenant. Upon request, Tenant shall deliver to Landlord certificates evidencing the existence and amounts of such insurance and naming Landlord as additional insured. No policy shall be cancelable or subject to reduction of coverage except after thirty (30) days prior written notice to Landlord.

R. **ASSIGNMENT BY TENANT:** Tenant shall not voluntarily or by operation of law assign all or any part of Tenant's interest in the Agreement or in the Premises, without Landlord's prior written consent, which consent shall not be unreasonably withheld. If Landlord approves an assignment as herein provided Tenant shall pay to Landlord, as additional Rent, the difference, if any, between: (a) the Rent allocable to that part of the Premises affected by such assignment pursuant to the provisions of this Agreement; and (b) any additional rent payable by the assignee to Tenant, after deducting the costs incurred by Tenant in connection with any such assignment. The assignment after approval by Landlord shall not be amended without Landlord's prior written consent, and shall contain a provision directing the assignee to pay the rent and other sums due thereunder directly to Landlord upon receiving written notice from Landlord that Tenant is in Default under this Agreement with respect to the payment of Rent.

S. **ATTORNEY'S FEES:** In the event any legal action or proceeding, including arbitration and declaratory relief, is commenced for the purpose of enforcing any rights or remedies pursuant to this Agreement, the prevailing party shall be entitled to recover from the non-prevailing party reasonable attorneys' fees, as well as costs of suit, in said action or proceeding, whether or not such action is prosecuted to judgment.

T. **WAIVER:** The waiver of any breach of any term, covenant or condition of this Agreement shall not be deemed to be a waiver of such term, covenant or condition or any subsequent breach of the same or any other term, covenant or condition herein contained. The subsequent acceptance of Rent by Landlord shall not be deemed to be a waiver of any preceding breach by Tenant, other than the failure of Tenant to pay the particular rental so accepted, regardless of Landlord's knowledge of such preceding breach

at the time of acceptance of such Rent. No delay or omission in the exercise of any right or remedy of Landlord on any Default by Tenant or in the exercise of any right or remedy of Tenant shall impair such a right or remedy or be construed as a waiver. Any waiver by Landlord of any Default must be in writing and shall not be a waiver of any other Default concerning the same or any other provisions of this Agreement.

U. **TIME:** Time is of the essence of this Agreement and each and every term, condition and provision herein.

V. **INTEREST:** Any installment of Rent and any other sum due from Tenant under this Agreement which is not received by Landlord within ten (10) days from when the same is due shall bear interest from such tenth (10th) day until paid at an annual rate equal to the maximum rate of interest permitted by law or, if there is no applicable maximum legal rate, at eight percent (8%) per year. Payment of such interest shall not excuse or cure any Default by Tenant.

W. **CONSECUTIVE EXERCISING OF OPTIONS:** In the event Tenant does not exercise an option during the prescribed time period and in the manner herein provided, all rights to future options shall automatically terminate.

X. **SUBORDINATION:** Landlord shall have the right to cause this Agreement to be and remain subject and subordinate to any and all mortgages and deeds of trust, if any ("Encumbrances") that are now or may hereafter be executed covering the Premises, or any renewals, modifications, consolidations, replacements or extensions thereof, for the full amount of all advances made or to be made thereunder and without regard to the time or character of such advances, together with interest thereon and subject to all the terms and provisions thereof; provided only, that upon the foreclosure of any such mortgage or deed of trust, so long as Tenant is not in Default, the holder thereof ("Holder") shall agree in writing to recognize Tenant's rights under this Agreement as long as Tenant shall pay the Rent and observe and perform all the provisions of this Agreement to be observed and performed by Tenant. Within twenty (20) days after Landlord's written request, Tenant shall execute, acknowledge and deliver any and all reasonable documents required by Landlord or the Holder to effectuate such subordination. If Tenant fails to do so, such failure shall constitute a Default by Tenant under this Agreement. Pursuant to the terms of this paragraph, Tenant hereby attorns and agrees to attorn to any person or entity purchasing or otherwise acquiring the Premises at any sale or other proceeding or pursuant to the exercise of any other rights, powers or remedies under such Encumbrance.

Y. **CONSTRUCTION:** This Agreement shall be construed and interpreted in accordance with the laws of the State of California. If any provision of this Agreement shall be determined to be illegal or unenforceable, such determination shall not affect any other provision of this Agreement and all such other provisions shall remain in full force and effect.

Z. DAMAGE OR DESTRUCTION

1. Damage Repairable Within Repair Period. In the event of damage to the Premises or the Site by any cause, Landlord shall rebuild or repair the same without delay, provided that such repairs can be made under applicable laws within sixty (60) days after Landlord obtains all necessary permits for such repairs but not later than two hundred ten (210) days after the date of such damage (the "**Repair Period**"). In such event, this Agreement shall remain in full force and effect, except that Tenant shall be entitled to an abatement of Rent while the repairs are being made. Such abatement in Rent shall be based on the extent to which the damage and the making of the repairs interfere with Tenant's access to or use of the License Area or Premises. Landlord's repairs shall not include, and the Rent shall not be abated as a result of, any damage by fire or other cause to Tenant's Personal Property.

2. Damage Not Repairable Within Repair Period. Within twenty (20) days after the date of such damage, Landlord shall notify Tenant whether or not, in Landlord's reasonable judgment made in good faith, such repairs can be made within the Repair Period ("Repair Period Notice"). If Landlord reasonably determines that the repairs cannot be made within the Repair Period, then either party hereto may, by written notice to the other given within sixty (60) days after the date of such damage, terminate this Agreement as of the date specified in such notice, which date shall be not less than sixty (60) nor more than ninety (90) days after the Repair Period Notice is given by Landlord. In case of termination, the Rent shall be reduced by a proportionate amount based on the extent to which such damage interferes with the conduct of Tenant's business in the Premises, and Tenant shall pay such reduced Rent up to the date of termination. Landlord shall refund to Tenant any Rent previously paid for any period of time after such date of termination. If Landlord elects to terminate this Agreement pursuant to this paragraph and within three years thereafter rebuilds or repairs the damage, Tenant shall have the option to enter into a new site rental agreement with Landlord for the same or substantially similar space in the restored Premises on the same terms and conditions as this Agreement. If neither party elects to terminate pursuant to this paragraph, Landlord shall rebuild or repair the damage and rent shall be abated as provided above.

3. Tenant's Temporary Facilities. During the period of any repair or rebuilding provided for hereunder, Tenant shall have the right, at its sole expense, to bring onto the Site in a location mutually acceptable to Tenant and Landlord and to operate a portable generator and/or mobile Communications Site and telescopic antennae or tower (collectively "**Temporary Communications System**") in order to provide for continuous service to Tenant's customers during such period. Neither the placement nor use of such generator or equipment shall interfere with Landlord's operations or business in the Site or, if Landlord has elected to repair or rebuild the Premises or the Site as provided above, with such repair or reconstruction. Notwithstanding the foregoing, Tenant, in its sole discretion, shall have the right to terminate this Agreement upon thirty (30) days advance written notice if Tenant is unable to operate such portable generator or mobile Communication Site on the Site during any period of repair or rebuilding provided for hereunder as a result of Landlord's failure to provide a mutually acceptable location for such equipment.

4. Damage by Flood or Earthquake. Notwithstanding the foregoing, in the event the Premises are damaged or destroyed by reason of flood or earthquake, and such damage or destruction is not fully covered by insurance proceeds payable under the insurance policies Landlord carries (excluding any deductible, for which Landlord shall be responsible), Landlord may terminate this Agreement by written notice to Tenant within thirty (30) days of the date Landlord receives written notice that such damage is not covered by insurance. Such notice from Landlord shall include adequate written evidence of the denial of insurance coverage. If Landlord does not elect to terminate this Agreement as provided above, this Agreement shall remain in full force and effect, and Landlord shall repair and restore the Premises as provided above.

5. Damage During Last Six Months. If at any time during the last six (6) months of the Term of this Agreement there is substantial damage that Landlord would be required to repair hereunder, Landlord or Tenant may, at the respective option of each, terminate this Agreement as of the date such damage occurred by giving written notice to the other party of its election to do so within thirty (30) days after the date of such damage; provided, however, Landlord may terminate the Agreement pursuant to this paragraph only if the time to repair the damage would exceed or be completed within 30 days of the termination date of this Agreement. Further, if Landlord elects to terminate pursuant to this paragraph and Tenant elects within thirty (30) days thereafter by notice to Landlord to exercise an unexpired option to extend the Term, Landlord's termination notice shall be void. The parties hereto understand and agree that the provisions of this Section are intended to govern fully the rights and obligations of the parties in the event of damage or destruction, and Tenant and Landlord each hereby waives and releases the provisions of Section 1932, subdivision 2, and Section 1933, subdivision 4, of the Civil Code of California (when hirer may terminate the hiring) or under any similar law, statute or ordinance now or hereafter in effect.

AA. EMINENT DOMAIN

1. Partial or Total Permanent Taking. If all or any part of the Premises shall be taken as a result of the exercise of the power of eminent domain or any transfer in lieu thereof, this Agreement shall terminate as to the part so taken as of the date of taking. In the case of a partial taking, Tenant shall have the right to terminate this Agreement as to the balance of the Premises by written notice to Landlord within thirty (30) days after such date. In the event of a partial taking of the Premises which does not result in a termination of this Agreement, the Rent and additional charges thereafter to be paid shall be equitably reduced.

If any material part of the Site shall be taken as a result of the exercise of the power of eminent domain or any transfer in lieu thereof, Landlord shall have the right to terminate this Agreement by written notice to Tenant within thirty (30) days of the date of the taking.

2. **Award.** In the event of any taking, Landlord shall be entitled to any award that may be paid or made in connection therewith. Tenant shall have no claim against Landlord for the value of any unexpired term of this Agreement or otherwise except that Tenant may claim any portion of the award that is specifically allocable to Tenant's relocation expenses or the interruption of or damage to Tenant's business or loss or damage to Tenant's personal property.

3. **Temporary Takings.** Notwithstanding the foregoing, if a taking occurs with respect to all or any portion of the Premises for less than ninety (90) days, this Agreement shall remain unaffected thereby, and Tenant shall continue to perform all of the terms, conditions and covenants of this Agreement, except that Tenant shall be entitled to an abatement in Rent to the extent that its use of the Premises as a communications site is materially impaired. In the event of any such temporary taking, Tenant shall be entitled to receive that portion of any award which represents compensation for the use or occupancy of the Premises during the Term up to the total Rent and additional charges owing by Tenant for the period of the taking, and Landlord shall be entitled to receive the balance of any award.


4. **Waiver of Code of Civil Procedure Sections.** The parties understand and agree that the foregoing provisions of this Section are intended to govern fully the rights and obligations of the parties in the event of a taking. Tenant and Landlord each hereby waives and releases any right to terminate this Agreement in whole or in part under Sections 1265.120 and 1265.130 of the California Code of Civil Procedure (partial termination of lease and Court order terminating lease, respectively) or under any similar law, statute or ordinance now or hereafter in effect.

BB. **MISCELLANEOUS:** This Agreement and any attached exhibits and addenda, as signed by the parties hereto, constitute the entire agreement between Landlord and Tenant; no prior written promises, nor prior, contemporaneous, or subsequent oral promises or representations, shall be binding. This Agreement shall not be amended or changed except by written instrument signed by the parties hereto. Section captions herein are for convenience only and neither limit or amplify the provisions of this instrument. The provisions of this instrument shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors, and assigns of said Landlord and Tenant.

[Remainder of page intentionally blank]

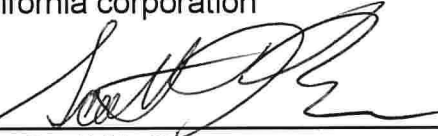
IN WITNESS WHEREOF, Landlord and Tenant have executed this Agreement as of the date first set forth above.

LANDLORD:


Robert LaRue
~~dba LaRue Communications~~

TENANT:

COMMUNICATIONS & CONTROL, INC.,
a California corporation

By: 
Scott McQueen

Title: VP, OPERATIONS

EXHIBIT A

Description of the Site

That certain real property in unincorporated Contra Costa County described as Assessor's Parcel No. 006-070-021, the location of which is shown on attached Exhibit A-1

EXHIBIT A-1

Aerial Photos of Site Location

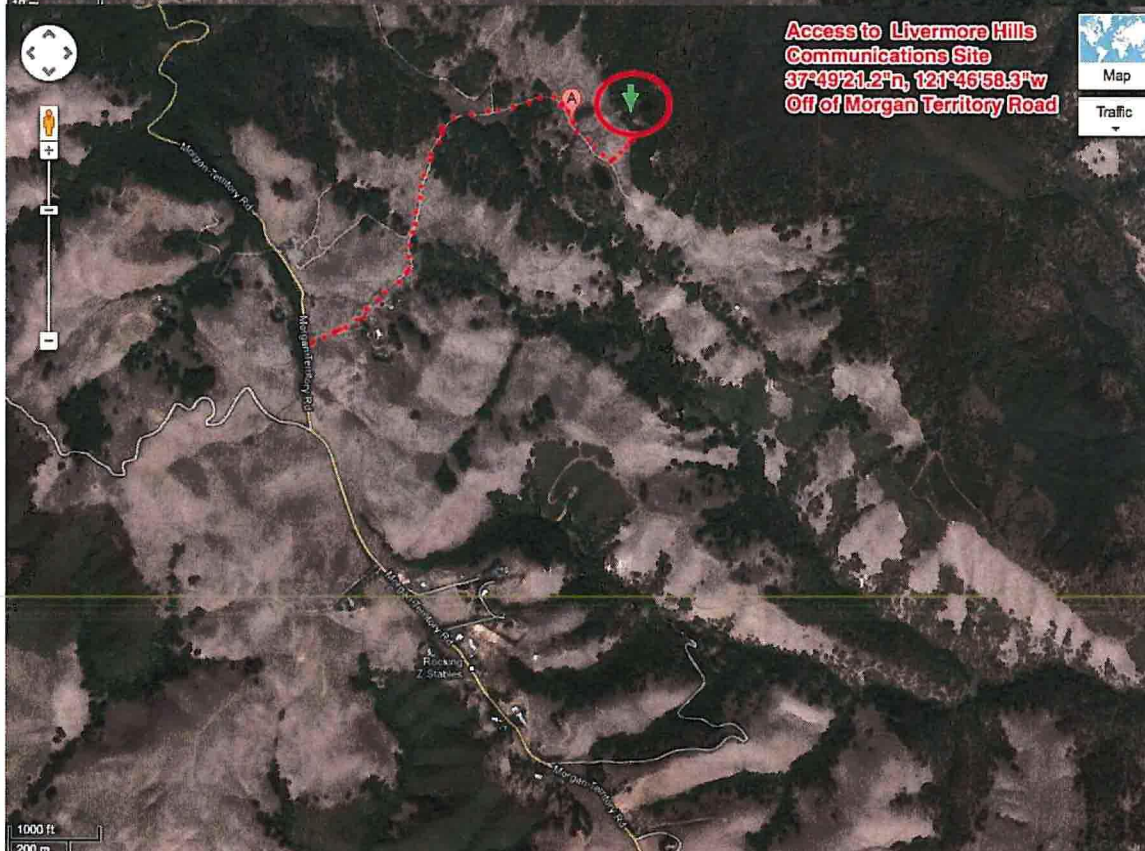
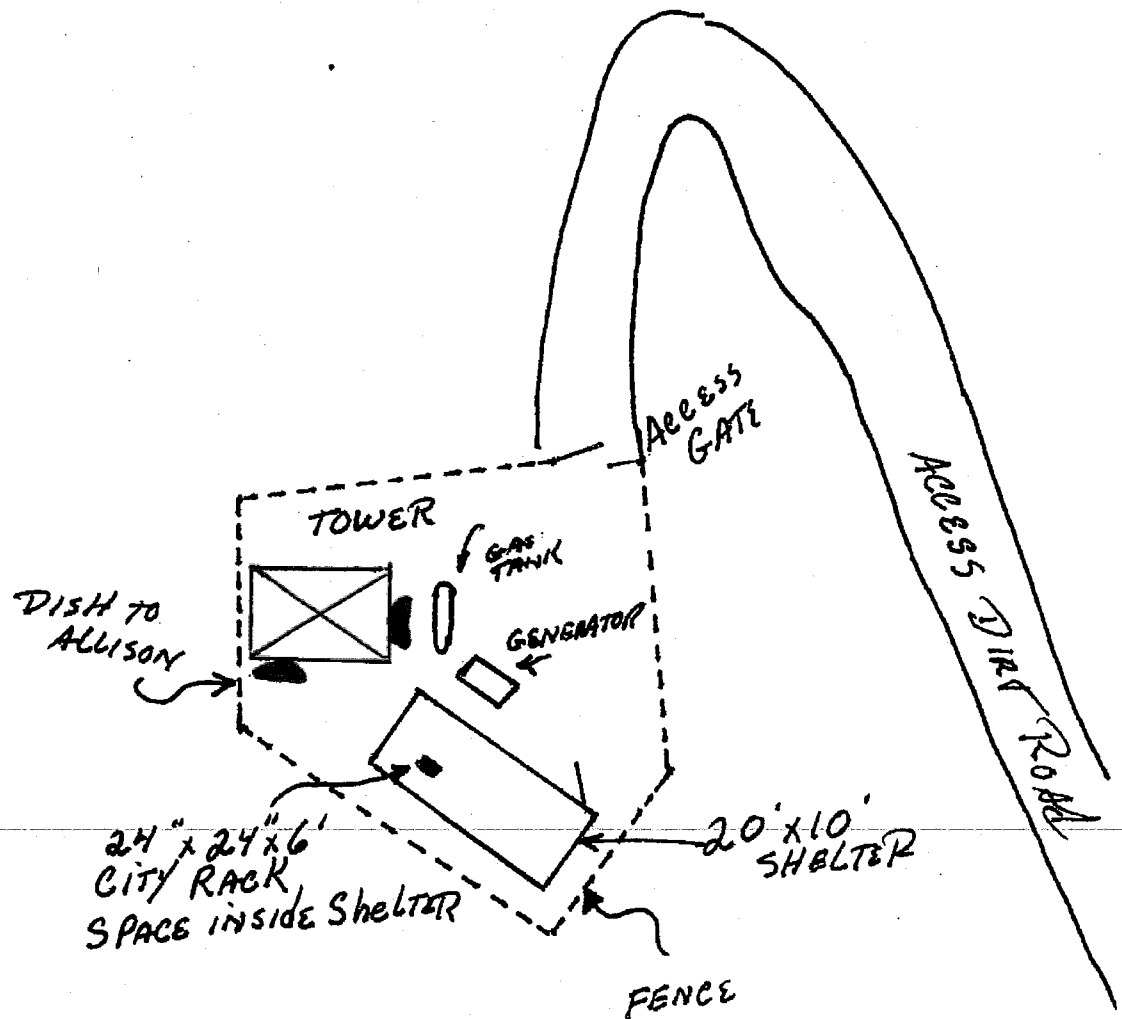


EXHIBIT B

Diagram of Premises and Photos of Tenant's Equipment

October 18, 2012

To: Fonda Davidis
From: Scott McQueen
Subject: Livermore Hills Communications Site





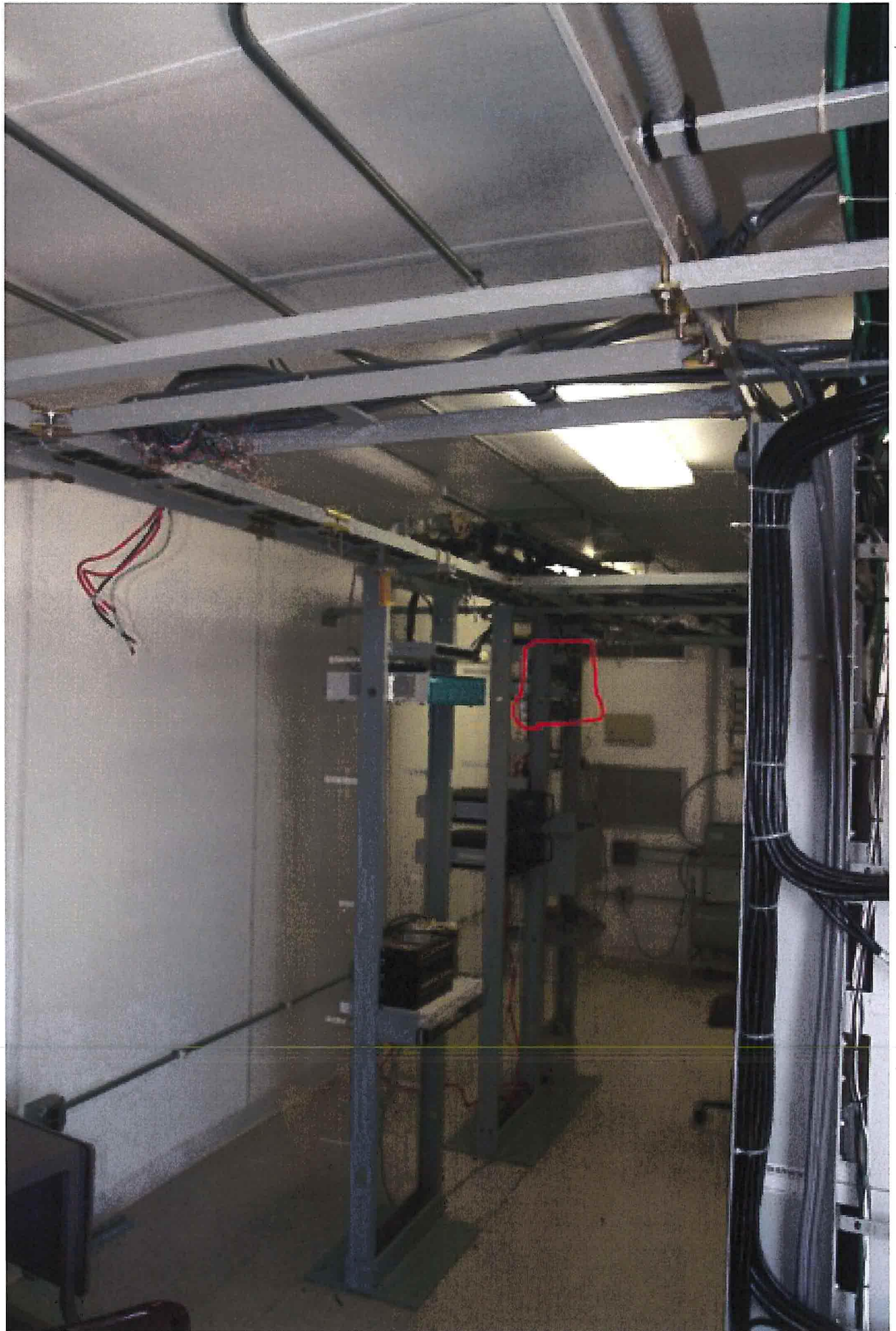
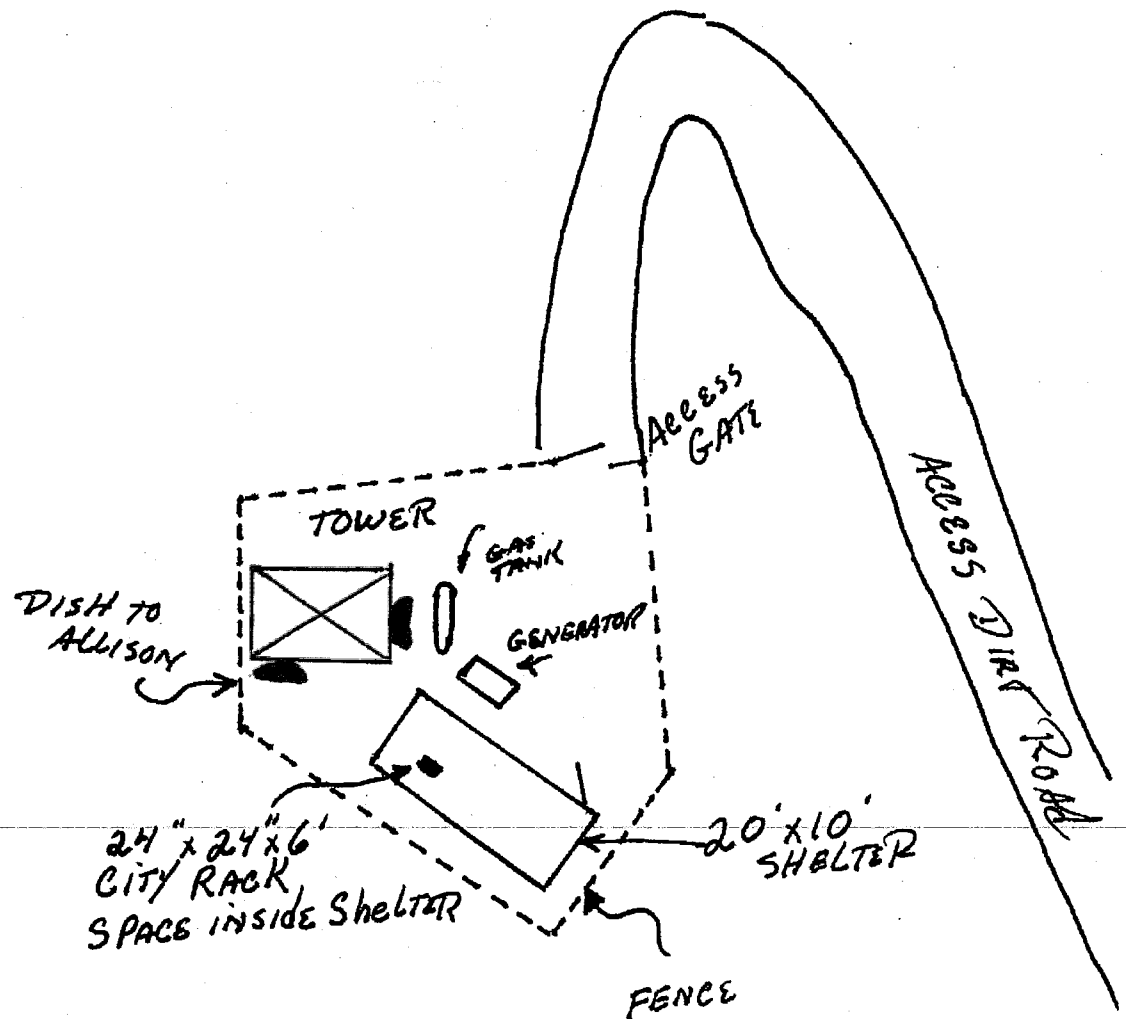


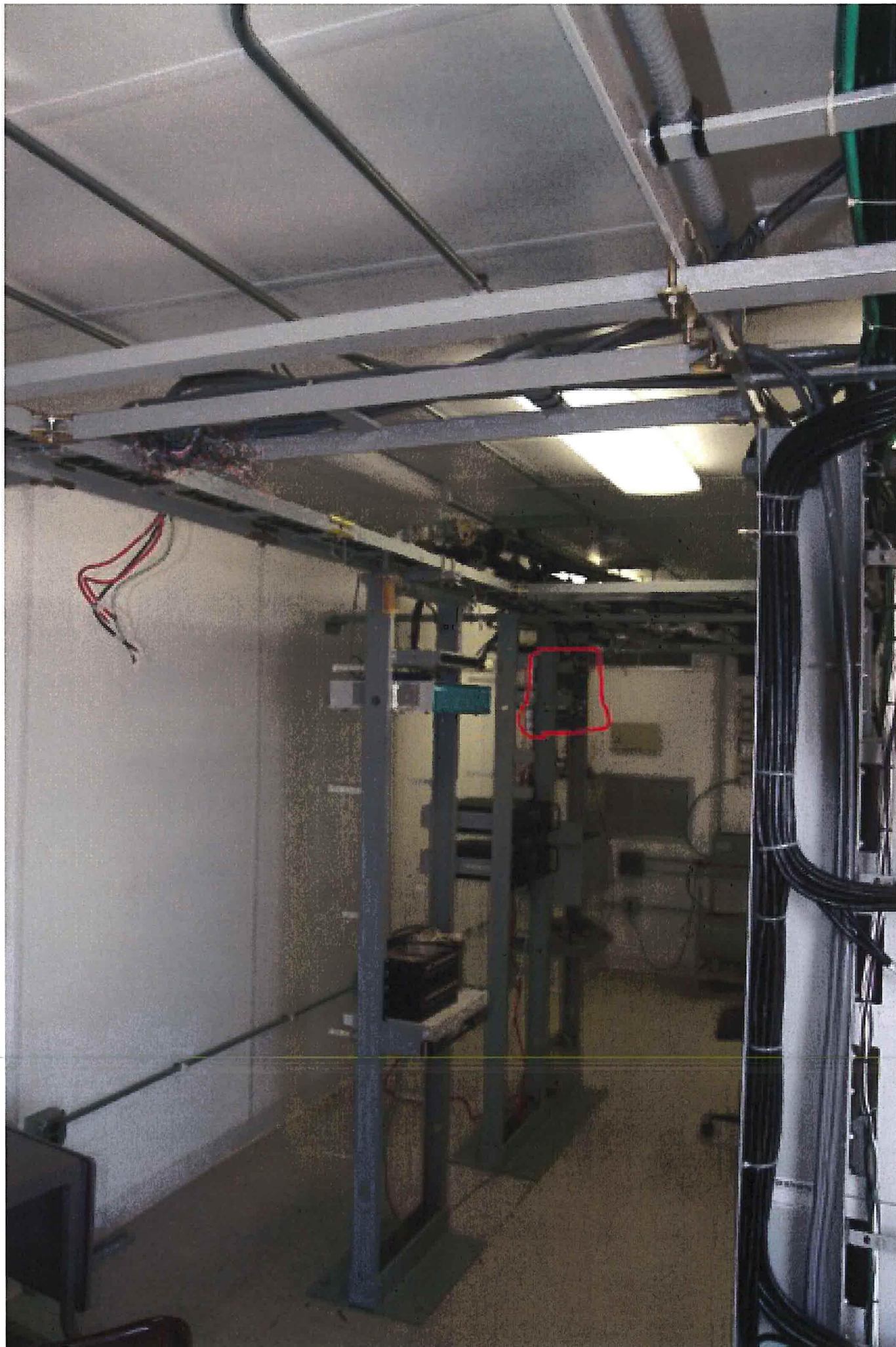
EXHIBIT B

**DIAGRAM OF PREMISES AND
PHOTOS OF TENANT'S EQUIPMENT**
(including on the tower and in the shelter)

October 18, 2012

To: Fonda Davidis
From: Scott McQueen
Subject: Livermore Hills Communications Site





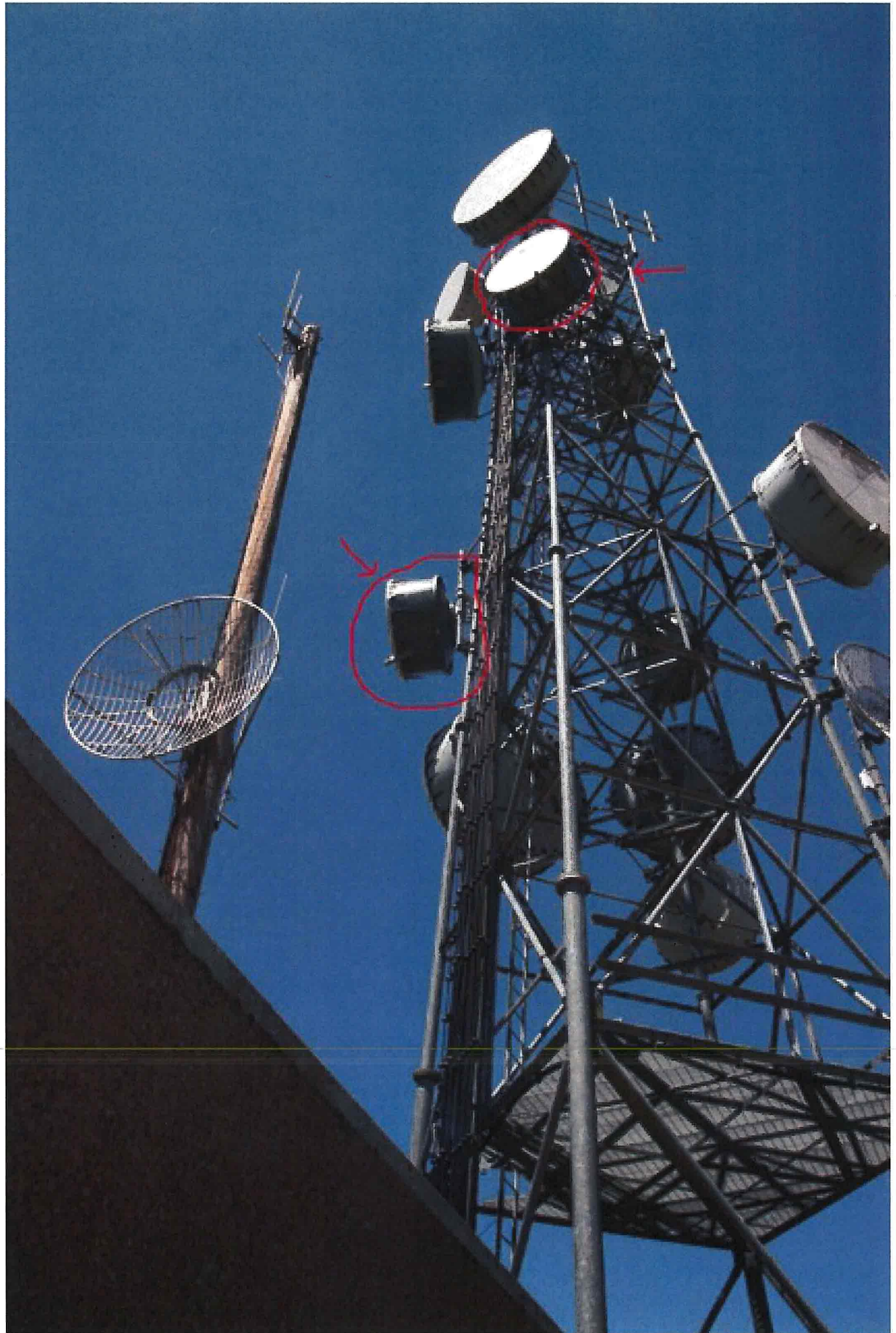


EXHIBIT C

NOTICE OF COMMENCEMENT DATE

[Date]

Mr. Scott McQueen
Communications & Control, Inc.
2633 So. Bascom Avenue
Campbell, CA 95008

RE: Acknowledgement of Commencement Date, Sublease Between COMMUNICATIONS & CONTROL, INC. (CCI), and the CITY AND COUNTY OF SAN FRANCISCO (Tenant), for premises known as a portion of the Livermore Hills communications facility located within APN 006-070-021 in unincorporated Contra Costa County, California

Dear Mr. McQueen:

This letter will confirm that for all purposes of the Sublease, the Commencement Date (as defined in Section 3.2 of the Sublease) is _____, 2012.

Please acknowledge your acceptance of this letter by signing and returning a copy of this letter.

Very truly yours,

[typed name of SFPUC representative]
[title]

Accepted and Agreed:

COMMUNICATIONS & CONTROL, INC.,
a California corporation

By: _____
Scott McQueen

Its: _____

Dated: _____

EXHIBIT D

CONSENT BY MASTER LANDLORD

LANDLORD'S CONSENT AND AGREEMENT

(Sublease)

This Landlord's Consent and Agreement (the "Consent"), dated for reference purposes only as of October 1, 2012, is attached to that certain Sublease dated as of October 1, 2012, 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 lease referred to as the "Master Lease" in the Sublease.

Landlord hereby consents to the subletting described in the Sublease upon the following express terms and conditions:

1. The Sublease is 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 subletting 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, 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 shall expire and come to an end on its natural expiration date, or any premature termination date thereof, or concurrently with any premature termination of the Master Lease (whether by consent or other right, now or hereafter agreed to by Landlord or Sublessor), or by operation of law.

6. This Consent is not assignable.

7. Notwithstanding any provision of the 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 joint and several confirmation of the foregoing conditions and of their agreement to bound thereby and shall constitute Sublessee's acknowledgment that it has received a copy of the Master Lease.

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

LANDLORD:

Robert LaRue

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

LANDLORD'S CONSENT AND AGREEMENT

(Sublease)

This Landlord's Consent and Agreement (the "Consent"), dated for reference purposes only as of October 1, 2012, is attached to that certain Sublease dated as of October 1, 2012, 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 lease referred to as the "Master Lease" in the Sublease.

Landlord hereby consents to the subletting described in the Sublease upon the following express terms and conditions:

1. The Sublease is 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 subletting 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, 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 shall expire and come to an end on its natural expiration date, or any premature termination date thereof, or concurrently with any premature termination of the Master Lease (whether by consent or other right, now or hereafter agreed to by Landlord or Sublessor), or by operation of law.

6. This Consent is not assignable.

7. Notwithstanding any provision of the 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 joint and several confirmation of the foregoing conditions and of their agreement to bound thereby and shall constitute Sublessee's acknowledgment that it has received a copy of the Master Lease.

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

LANDLORD:

Robert LaRue
Robert LaRue

SUBLESSOR:

COMMUNICATIONS & CONTROL, INC.,
a California corporation

By: [Signature]

Its: U.P. OPERATIONS-

SUBLESSEE:

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation

By: [Signature]
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
Carolyn J. Stein
Deputy City Attorney