

Attachment 2

ATTACHMENT 2

First Amendment to the Revocable License for GPS Site at Point Sal

Project: UNAVCO GPS @ Point Sal
APN: 113-160-007 & 113-160-008
File: 000156
Agent: CS

FIRST AMENDMENT TO THE REVOCABLE LICENSE FOR
GPS SITE AT POINT SAL

THIS FIRST AMENDMENT TO THE REVOCABLE LICENSE (hereinafter "First Amendment") is entered into by and between the

COUNTY OF SANTA BARBARA, a political subdivision of the State of California, hereinafter referred to as "COUNTY"

and

UNAVCO, Inc., a Colorado nonprofit corporation, hereinafter referred to as "LICENSEE"

with reference to the following:

WHEREAS, the COUNTY is fee owner of that certain real property and improvements located in the unincorporated area of the County of Santa Barbara, State of California, described as Assessor's Parcel Numbers 113-160-007 and 113-160-008, and commonly known as Point Sal, shown on "EXHIBIT A" attached hereto and incorporated herein by reference as the "Property"; and

WHEREAS, on March 20, 2007, COUNTY granted LICENSEE, its authorized agents, contractors, officers and employees, the right to enter upon and move workers, equipment and materials over, within and upon the Property covering those portions of the Property necessary to install, operate, maintain and service a global positioning system (hereinafter "GPS Site") to measure and study geological ground shifting and slow fault slip, and for such other purposes as may be incidental to such activities; and

WHEREAS, the initial term of the Revocable License was 5 years and automatically renewed each and every year thereafter if the License has not been terminated and LICENSEE is in good standing; and

WHEREAS, COUNTY now finds it necessary to amend the Revocable License to update the Indemnification and Insurance and the LICENSEE'S contact provisions.

NOW, THEREFORE, COUNTY and LICENSEE agree to amend the Revocable License for GPS Site at Point Sal as follows:

1. Section 10. INDEMNIFICATION shall be deleted in its entirety and replaced with the following:

“10. INDEMNIFICATION

LICENSEE agrees to indemnify, defend (with counsel reasonably approved by COUNTY) and hold harmless COUNTY and its officers, officials, employees, agents and volunteers from and against any and all claims, actions, losses, damages, judgments and/or liabilities arising out of this Agreement from any cause whatsoever, including the acts, errors or omissions of any person or entity and for any costs or expenses (including but not limited to attorneys' fees) incurred by COUNTY on account of any claim except where such indemnification is prohibited by law. LICENSEE'S indemnification obligation applies to COUNTY'S active as well as passive negligence but does not apply to COUNTY's sole negligence or willful misconduct.

NOTIFICATION OF ACCIDENTS AND SURVIVAL OF INDEMNIFICATION PROVISIONS

LICENSEE shall notify COUNTY immediately in the event of any accident or injury arising out of or in connection with this Agreement. The indemnification provisions in this Agreement shall survive any expiration or termination of this Agreement.”

2. Section 11. INSURANCE shall be deleted in its entirety and replaced with the following:

“11. INSURANCE

LICENSEE shall procure and maintain for the duration of the Agreement insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the LICENSEE'S operation and use of the leased premises. The cost of such insurance shall be borne by the LICENSEE.

A. Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01 covering CGL on an “occurrence” basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.
2. **Workers' Compensation:** as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease. (This applies to lessees with employees).

3. **Automobile Liability:** ISO Form Number CA 00 01 covering any auto (Code 1), or if Contractor has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than \$1,000,000 per accident for bodily injury and property damage.
4. **Property Insurance:** against all risks of loss to any tenant improvements or betterments, at full replacement cost with no coinsurance penalty provision

If the LICENSEE maintains higher limits than the minimums shown above, the COUNTY requires and shall be entitled to coverage for the higher limits maintained by the LICENSEE. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the COUNTY.

B. Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

1. **Additional Insured** – The COUNTY, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the LICENSEE including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the LICENSEE's insurance at (least as broad as ISO Form CG 20 10).
2. **Primary Coverage** – For any claims related to this contract, the LICENSEE'S insurance coverage shall be primary insurance coverage at least as broad as ISO CG 20 01 04 13 as respects the COUNTY, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the COUNTY, its officers, officials, employees, or volunteers shall be excess of the LICENSEE'S insurance and shall not contribute with it.
3. **Legal Liability Coverage** – The property insurance is to be endorsed to include Legal Liability Coverage (ISO Form CP 00 40 04 02 or equivalent) with a limit equal to the replacement cost of the leased property.
4. **Notice of Cancellation** – Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the COUNTY.
5. **Waiver of Subrogation Rights** – LICENSEE hereby grants to COUNTY a waiver of any right to subrogation, which any insurer of said LICENSEE may acquire against the COUNTY by virtue of the payment of any loss under such insurance. LICENSEE agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not the COUNTY has received a waiver of subrogation endorsement from the insurer.
6. **Deductibles and Self-Insured Retention** – Any deductibles or self-insured retentions must be declared to and approved by the COUNTY. The COUNTY may require the LICENSEE to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

7. **Acceptability of Insurers** – Unless otherwise approved by Risk Management, insurance shall be written by insurers authorized to do business in the State of California and with a minimum A.M. Best’s Insurance Guide rating of “A- VII”.
8. **Verification of Coverage** – LICENSEE shall furnish the COUNTY with original Certificates of Insurance including all required amendatory endorsements (or copies of the applicable policy language effecting coverage required by this clause) and a copy of the Declarations and Endorsement Page of the CGL policy listing all policy endorsements to COUNTY before occupying the premises. However, failure to obtain the required documents prior to the work beginning shall not waive the LICENSEE’S obligation to provide them. The COUNTY reserves the right to require complete, certified copies of all required insurance policies, including endorsements, required by these specifications, at any time.
9. **Failure to Procure Coverage** – In the event that any policy of insurance required under this Agreement does not comply with the requirements, is not procured, or is canceled and not replaced, COUNTY has the right but not the obligation or duty to terminate the Agreement. Maintenance of required insurance coverage is a material element of the Agreement and failure to maintain or renew such coverage or to provide evidence of renewal may be treated by COUNTY as a material breach of contract.
10. **Special Risks or Circumstances** – COUNTY reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this Agreement. LICENSEE agrees to execute any such amendment within thirty (30) days of receipt.

Any failure, actual or alleged, on the part of COUNTY to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of COUNTY.”

3. Section 13. NOTICES: shall be entirely deleted and replaced with the following:

“13. NOTICES: Any notice to be given to either party, by the other, shall be either a) in writing and served, personally or by first class mail, or b) via electronic mail, to the following:

To LICENSEE:

UNAVCO, Inc.
James Downing, Senior Contracts
and Permitting Manager
6350 Nautilus Drive, Suite B/C
Boulder, CO 80301
Office: 303-381-7559
Cell: 802-565-0365
Email: downing@unavco.org

With copy to: UNAVCO, Inc.
Matt Burgess, Permitting Assistant/
Geodetic Infrastructure
1301 Calle Avanzado
San Clemente, CA 92673
Tel: 619-987-2062
Email: matt.burgess@unavco.org

To COUNTY: County of Santa Barbara
CSD/Parks
Jeff Lindgren, Assistant Director
123 E. Anacapa, Second Floor
Santa Barbara, CA 93101
Tel: 805-568-2475
Email: jlindgren@countyofsb.org

With copy to: County of Santa Barbara
General Services Department
Real Estate Division
1105 Santa Barbara Street, 2nd Floor
Santa Barbara, CA 93101
Tel: 805-568-3070

4. It is expressly understood that in all other respects, said terms and conditions of the Revocable License for GPS Site at Point Sal dated March 20, 2007, shall be in full force and effect.

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Project: UNAVCO GPS @ Point Sal
APN: 113-160-007 & 113-160-008
File: 000156
Agent: CS

IN WITNESS WHEREOF, COUNTY and LICENSEE have executed this First Amendment by the respective authorized representatives as set forth below to be effective as of the date executed by COUNTY.

“COUNTY”
COUNTY OF SANTA BAR BARA

ATTEST:
MONA MIYASATO
CLERK OF THE BOARD

By: _____
JOAN HARTMANN, CHAIR
BOARD OF SUPERVISORS

By: _____
Deputy Clerk

Date: _____

“LICENSEE”
UNAVCO, INC.

RECOMMENDED FOR APPROVAL:
COMMUNITY SERVICES DEPT.

By: _____
James Downing, Manager
Senior Contracts & Permitting

By: _____
George Chapjian, Director

APPROVED AS TO FORM:
RACHEL VAN MULLEM
COUNTY COUNSEL

APPROVED AS TO FORM:
GREG MILLIGAN, ARM
RISK MANAGER

By: _____
Johannah Hartley, Deputy County
Counsel

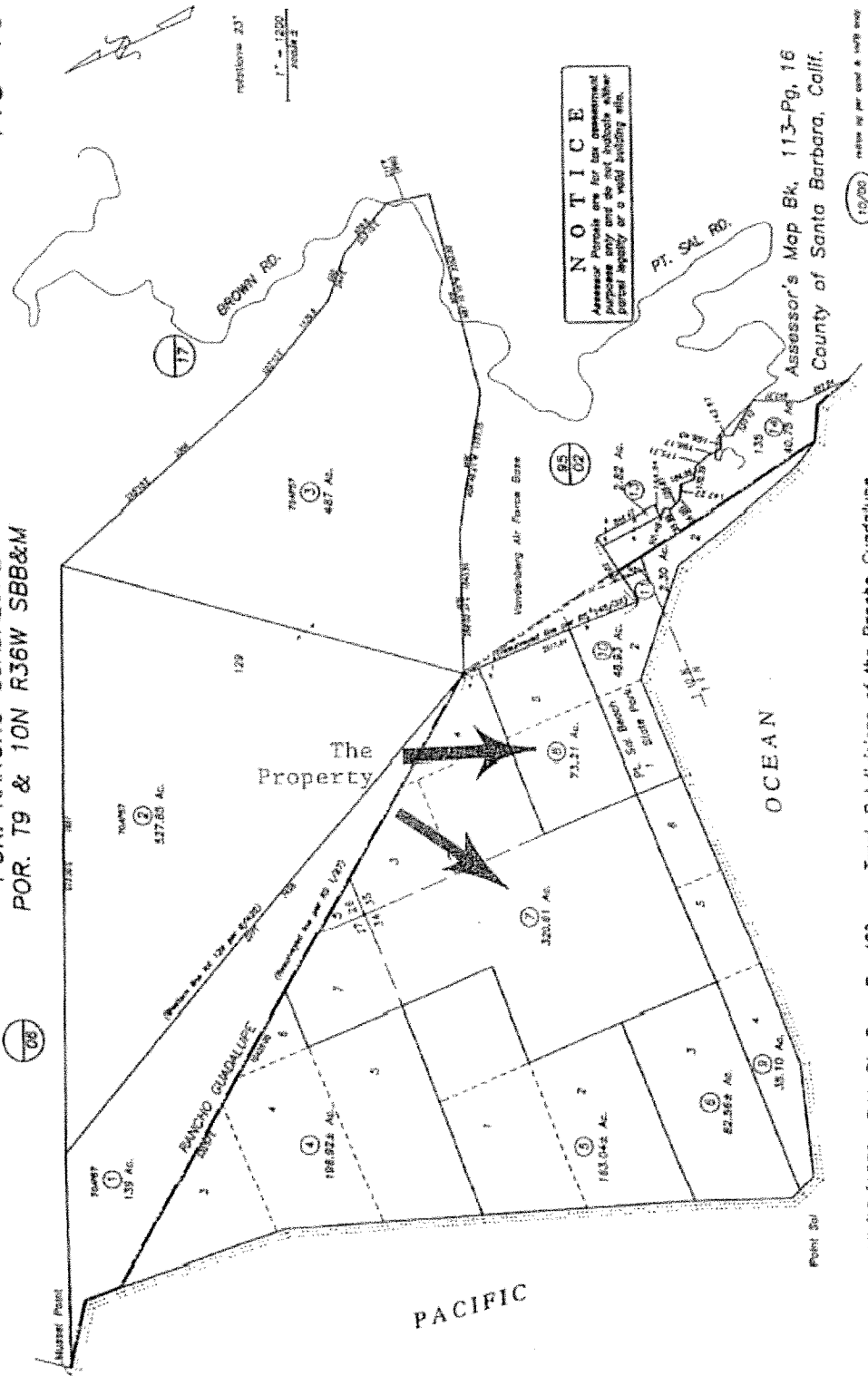
By: _____
Risk Management

APPROVED:
By: _____
Julie Lawrence, Manager
GS/Real Estate Division

APPROVED:
By: _____
Jeff Lindgren, Assistant Director
CDS/Parks

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POR. RANCHO GUADALUPE
POR. T9 & 10N R36W SBB&M



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EXHIBIT A