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FS-2700-10b (V.01/17)
OMB No. 0596-0082

U.S. DEPARTMENT OF AGRICULTURE
FOREST SERVICE
COMMUNICATIONS USE LEASE
AUTHORITY:
Section 501(a)(5) of the Federal Land Policy and Management Act, 43 U.S.C. 1761(a)(5)

COUNTY OF SANTA BARBARA, Information and Communications Technology Department, 4568 Calle Real, Building C, Santa Barbara, CA 93110.

This lease is issued by the UNITED STATES OF AMERICA, acting through the United States Department of Agriculture, Forest Service (hereinafter the "United States" or "Forest Service"), as authorized by section 501(a)(5) of the Federal Land Policy and Management Act, 43 U.S.C. 1761(a)(5), to the COUNTY OF SANTA BARBARA, its agents, successors, and assigns (hereinafter called the "Lessee").

The United States and the lessee are jointly referred to in this lease as the "parties." The term "authorized officer" refers to the Forest Service official having the delegated authority to execute and administer this lease. Generally, unless otherwise indicated, this authority may be exercised by the Forest Supervisor or District Ranger of the Los Padres National Forest, Santa Barbara Ranger District, in which the following described lands are located.

The United States, in consideration of the terms and conditions in this lease and the payment to the United States of rent in advance by the lessee, hereby issues the lessee a lease for the following described communications facility in the County of Santa Barbara, State of California, NW ¼ SW ¼ Sec. 12, T.5N., R.30W., San Bernardino Meridian (hereinafter called the "lease area"). The lessee accepts this lease and possession of the lease area, subject to any valid existing rights, and agrees to use the lease area only for construction, operation, maintenance, and termination of a **private mobile radio service** communications facility. Authorized facilities under this lease include:

Equipment shelters:	Use of Forest Service 14' x 45' block building with cooperative maintenance
Antenna support structures:	60' 3-sided lattice tower, 15' lattice tower, 10' metal mast #2, 20' metal mast #3, 20' metal mast #4
Ancillary improvements:	Use of Forest Service 1000-gallon propane tank with concrete block surround; use of FS generator; maintenance of the Forest Service building and backup power supply is the responsibility of all parties who share space in the building. Access is from a spur road 1320' x 20' off West Camino Cielo 5N19; spur road maintenance is the shared responsibility of all facility owners. Power provided by Pacific Gas and Electric Co.

The location of the lease area is described or shown generally in the communications site management plan and/or communications site map dated **11/13/2018** for the **Santa Ynez and East Santa Ynez Peak Communications Site**, which is attached as Appendix A of this lease. This and any other appendices are hereby incorporated into this lease.

Any additional appendices to this lease are incorporated into and made a part of this instrument as fully

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and effectively as if they were set forth herein in their entirety.

This lease is issued subject to the following terms and conditions.

I. TENURE, RENEWAL AND TRANSFERABILITY

A. This lease shall terminate at one minute after midnight on **12/31/2048**. Termination at the end of the lease term shall occur by operation of law and shall not require any additional notice or documentation by the authorized officer. This lease is not renewable, but the lessee has the right to request a new lease.

B. If the lessee desires a new lease upon termination of this lease, the lessee shall notify the authorized officer accordingly, in writing. The notice must be received by the authorized officer at least one year prior to the end of the lease term. The authorized officer shall determine if the use should continue and, if it is to continue, if a new lease should be issued to the lessee and under what conditions. The authorized officer shall require payment of any amounts owed the United States under any Forest Service authorization before issuance of another authorization.

C. This lease is assignable with prior written approval of the authorized officer, except when rent has been exempted or waived in whole or in part. Renting of space does not constitute an assignment under this clause.

II. RENT

A. The lessee shall pay rent annually in advance as determined by the authorized officer in accordance with law, regulation, and policy. The annual rent shall be adjusted by the authorized officer to reflect changes in fair market value, annual adjustments using the Consumer Price Index-Urban (CPI-U), changes in tenant occupancy, or phase-in rent, if applicable.

B. Rent is due at the close of business on January 1 of each year for which a payment is due. Payments in the form of a check, draft, or money order are payable to USDA, Forest Service. If the due date for the rent falls on a non-work day, the charges shall not apply until the close of business on the next workday. This lease shall terminate if rent is not received by the Forest Service within 90 calendar days of the due date.

C. Pursuant to 31 U.S.C. 3717 et seq., interest shall be charged on any rent not paid within 30 days from the date the rental or rental calculation financial statement specified in this authorization becomes due. The rate of interest assessed shall be the higher of the rate of the current value of funds to the U.S. Treasury (i.e., Treasury tax and loan account rate), as prescribed and published by the Secretary of the Treasury in the Federal Register and the Treasury Fiscal Requirements Manual Bulletins annually or quarterly or at the Prompt Payment Act rate. Interest on the principal shall accrue from the date the rent is due. In addition, an administrative penalty at a percentage rate prescribed by law or regulation will be assessed for failure to pay any portion of the debt that is more than 90 days past due. This paragraph shall survive the termination or revocation of this lease, regardless of cause.

D. Disputed rent is due and payable by the due date. No appeal of rent shall be considered by the Forest Service without full payment of the disputed amount.

III. RESPONSIBILITIES OF THE LESSEE

A. The lessee is authorized to rent space and provide other services to customers and tenants and shall charge each customer and tenant a reasonable rent without discrimination for the use and occupancy of

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the facilities and services provided. The lessee shall not impose unreasonable restrictions or restrictions restraining competition or trade practices. By October 15 of each year, the lessee shall provide the authorized officer a certified statement listing all tenants and customers by category of use in the authorized facilities on September 30 of that year.

B. All development, operation and maintenance of the authorized facilities, improvements, and equipment located in the lease area shall be in accordance with stipulations in the applicable communications site management plan approved by the authorized officer. If required by the authorized officer, all plans for development, layout, construction, or alteration of improvements in the lease area, as well as revisions of those plans, must be prepared by a licensed engineer, architect, and/or landscape architect. These plans must be approved in writing by the authorized officer before commencement of any work. After completion, as-built plans, maps, surveys, or other similar information shall be provided to the authorized officer and appended to the communications site management plan.

C. The lessee shall comply with applicable federal, state, county, and municipal laws, regulations and standards for public health and safety, environmental protection, siting, construction, operation, and maintenance in exercising the rights granted by this lease. The obligations of the lessee under this lease are not contingent upon any duty of the authorized officer or other agent of the United States to inspect the authorized facilities or lease area. A failure by the United States or other governmental officials to inspect is not a defense to noncompliance with any of the terms and conditions of this lease. The lessee waives all defenses of laches or estoppel against the United States. The lessee shall at all times keep the title of the United States to the lease area free and clear of all liens and encumbrances.

D. Use of communications equipment in the lease area is contingent upon possession of a valid Federal Communication Commission (FCC) license or Director of Telecommunications Management/ Interdepartmental Radio Advisory Committee (DTM/IRAC) authorization and operation of the equipment in strict compliance with applicable requirements of the FCC or IRAC. A copy of each applicable license or authorization shall at all times be maintained by the lessee for each transmitter being operated. The lessee shall provide the authorized officer, when requested, with current copies of all FCC licenses and DTM/IRAC authorizations for equipment in or on facilities covered by this lease.

E. The lessee shall ensure that equipment within facilities authorized by this lease (including tenant and customer equipment) operates in a manner that will not cause harmful interference with the operation of existing equipment on or adjacent to the communications site covered by this lease. If the authorized officer or authorized official of the FCC determines that the lessee's use interferes with existing equipment, the lessee will promptly take the necessary steps to eliminate or reduce the harmful interference to the satisfaction of the authorized officer or FCC official.

F. When requested by the authorized officer, the lessee shall furnish technical information concerning the equipment located in the lease area.

IV. LIABILITIES

A. The lessee assumes all risk of loss to the authorized facilities and ancillary improvements.

B. The lessee shall comply with all applicable federal, state, and local laws, regulations, and standards, including but not limited to the Federal Water Pollution Control Act, 33 U.S.C. 1251 et seq., the Resource Conservation and Recovery Act, 42 U.S.C. 6901 et seq., the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601 et seq., and other relevant environmental laws, as well as public health and safety laws and other laws relating to the siting, construction, operation and maintenance of any facility, improvement, or equipment in the lease area.

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C. The lessee shall indemnify, defend, and hold harmless the United States for any violations incurred under any such laws and regulations or for judgments, claims, or demands assessed against the United States in connection with the lessee's use or occupancy of the lease area. The lessee's indemnification of the United States shall include any loss of personal injury, loss of life or damage to property in connection with the occupancy or use of the lease area during the term of this lease. Indemnification shall include but not be limited to the value of resources damaged or destroyed; the costs of restoration, cleanup, or other mitigation; fire suppression or other types of abatement costs; third-party claims and judgments; and all administrative, interest, and other legal costs. This clause shall survive the termination or revocation of this lease, regardless of cause.

D. The Forest Service has no duty, either before or during the lease term, to inspect the lease area or to warn of hazards and, if the Forest Service inspects the lease area, it shall incur no additional duty nor any liability for hazards not identified or discovered through those inspections. This paragraph shall survive the termination or revocation of this lease, regardless of cause.

E. The lessee has an affirmative duty to protect from damage the land, property, and interests of the United States. F. In the event of any breach of the lease by the lessee, the authorized officer may, on reasonable notice, cure the breach at the expense of the lessee. If the Forest Service at any time pays any sum of money or does any act which will require payment of money or incurs any expense, including reasonable attorney's fees, in instituting, prosecuting, or defending any action or proceeding to enforce the United States' rights hereunder, the sums paid by the United States, with all interests, costs, and damages, shall at the election of the Forest Service be deemed to be additional rent under this lease and shall be due from the lessee to the Forest Service on the first day of the month following that election.

V. MISCELLANEOUS PROVISIONS

A. Nondiscrimination. The lessee and its employees shall not discriminate against any person on the basis of race, color, sex (in educational and training programs), national origin, age, or disability or by curtailing or refusing to furnish accommodations, facilities, services, or use privileges offered to the public generally. In addition, the lessee and its employees shall comply with the provisions of Title VI of the Civil Rights Act of 1964 as amended, Section 504 of the Rehabilitation Act of 1973, as amended, Title IX of the Education Amendments of 1972, as amended, and the Age Discrimination Act of 1975, as amended.

B. Revocation, Termination and Suspension

1. General. For purposes of this lease, termination, revocation, and suspension refer to the cessation of uses and privileges under the lease.

"Revocation" refers to an action by the authorized officer to end the lease because of noncompliance with any of the prescribed terms, abandonment, or for reasons in the public interest. Revocations are appealable.

"Termination" refers to the cessation of the lease under its own terms without the necessity for any decision or action by the authorized officer. Termination occurs automatically when, by the terms of the lease, a fixed or agreed upon condition, event, or time occurs. For example, the lease terminates at expiration. Terminations are not appealable.

"Suspension" refers to a revocation which is temporary and the privileges may be restored upon the occurrence of prescribed actions or conditions. Suspensions are appealable.

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2. This lease may be suspended or revoked upon breach of any of the conditions herein or upon nonuse. Nonuse refers to a failure to operate the authorized facilities on the property for a period of **ONE** year.

3. Except in emergencies, the authorized officer shall give the lessee written notice of the grounds for revocation or suspension and a reasonable time, not to exceed 90 days, to complete the corrective action. After 90 days, the Forest Service is entitled to such remedies as provided herein.

4. This lease may be revoked at the discretion of the Forest Service when in the public interest. When revoked in the public interest, the lessee shall be compensated subject to the availability of appropriated funds. Compensation shall be based upon the initial cost of improvements located on the lease, less depreciation as allocated over the life of the authorized facilities, based on the Lessee's federal tax amortization schedules.

5. Written decisions by the authorized officer relating to administration of this lease are subject to administrative appeal pursuant to 36 CFR 214.

6. If upon expiration of this lease the authorized officer decides not to issue a new lease, or the lessee does not desire a new lease, the authorized officer and the lessee shall, within six months prior to the termination date of this lease, agree upon a mitigation plan to restore and stabilize the site lease area.

7. Upon termination or revocation of the authorization, delinquent fees and other charges associated with the authorization will be subject to all rights and remedies afforded the United States pursuant to 31 U.S.C. 3711 *et seq*. Delinquencies may be subject to any or all of the following conditions:

a. Administrative offset of payments due the lessee from the Forest Service.

b. Delinquencies in excess of 60 days shall be referred to United States Department of the Treasury for appropriate collection action as provided by 31 U.S.C. 3711 (g), ()(1).

c. The Secretary of the Treasury may offset an amount due the debtor for any delinquency as provided by 31 U.S.C. 3720 et seq.). If this lease is revoked for noncompliance, the lessee shall remove all authorized structures and improvements, except those owned by the United States, within **180 days**, and shall restore the site as nearly as reasonably possible to its original condition unless this requirement is waived in writing by the authorized officer.

If the lessee fails to remove all authorized structures or improvements within the prescribed period, they shall become the property of the United States and may be sold, destroyed, or otherwise disposed of without any liability to the United States.

C. No member of or delegate to Congress or resident commissioner shall benefit from this lease whether directly or indirectly, other than to the extent the lease provides a general benefit to a corporation.

D. This lease is issued subject to the following reservations by the United States:

1. The right of the United States to all natural resources now or hereafter located in the lease area unless stated otherwise, and the right to utilize or dispose of those resources insofar as the rights of the lessee are not unreasonably affected.

2. The right of the United States to modify the communications site management plan as deemed necessary.

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3. The right of the United States to enter the lease area and inspect all authorized facilities to ensure compliance with the terms and conditions of this lease.

4. The right of the United States to require common use of the lease area and the right to authorize use of the lease area for compatible uses.

E. The Forest Service and the lessee shall keep each other informed of current mailing addresses.

F. This lease supersedes a special use authorization designated Santa Barbara, County of, SBD7P, dated 05/15/2000.

G. If there is any conflict between any of the preceding printed clauses and any of the following clauses the preceding printed clauses shall control.

H. Noxious Weeds (R5-D9). The permit holder shall prepare, in cooperation with the Forest Service, a noxious weed plan for surveying, preventing, reporting, controlling and monitoring noxious weed populations on the authorized areas and within the holder's area of responsibility. These measures may include, where appropriate, equipment inspection for soil, seeds, and vegetative matter, equipment cleaning, and use of weed-free materials (soil, gravel, straw, mulch) and seed mixes. A current list of noxious weeds of concern is available at the Forest Supervisor's Office.

I. Herbicide and Pesticide Use (D-18). Herbicides and pesticides may not be used outside of buildings to control undesirable woody and herbaceous vegetation, aquatic plants, insects, rodents, or fish without the prior written approval of the Authorized Officer. A request for approval of planned uses of pesticides shall be submitted annually by the holder on the due date established by the Authorized Officer. The report shall cover a 12-month period of planned use beginning 3 months after the reporting date. Information essential for review shall be provided in the form specified. Exceptions to this schedule may be allowed, subject to emergency request and approval, only when unexpected outbreaks of pests require control measures which were not anticipated at the time an annual report was submitted. Only those materials registered by the U.S. Environmental Protection Agency for the specific purpose planned shall be authorized for use on National Forest System lands. Label instructions and all applicable laws and regulations shall be strictly followed in the application of pesticides and disposal of excess materials and containers.

J. Protection of Endangered, Threatened, and Sensitive Species (X-8). The location of sites within the permit area needing special measures for protection of plants or animals listed as threatened or endangered under the Endangered Species Act (ESA) of 1973, 16 U.S.C. 531 *et seq*., as amended, or as sensitive by the Regional Forester under Forest Service Manual (FSM) 2670, pursuant to consultation conducted under section 7 of the ESA, may be identified on the ground or shown on a separate map. The map shall be attached to this permit as an appendix. The holder shall take any protective and mitigative measures specified by the Authorized Officer. If protective and mitigative measures prove inadequate, if other sites within the permit area containing threatened, endangered, or sensitive species are discovered, or if new species are listed as threatened or endangered under the ESA or as sensitive by the Regional Forester under the FSM, the Authorized Officer may specify additional protective and mitigative measures. Discovery of these areas by the holder or the Forest Service shall be promptly reported to the other party.

K. Archaeological-Paleontological Discoveries (X-17). The holder shall immediately notify the Authorized Officer of all antiquities or other objects of historic or scientific interest, including but not

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limited to historic or prehistoric ruins, fossils, or artifacts discovered in connection with the use and occupancy authorized by this permit. The holder shall leave these discoveries intact and in place until directed otherwise by the Authorized Officer. Protective and mitigative measures specified by the Authorized Officer shall be the responsibility of the holder.

L. Native American Graves Protection and Repatriation. In accordance with 25 U.S.C. 3002(d) and 43 CFR 10.4, if the holder inadvertently discovers human remains, funerary objects, sacred objects, or objects of cultural patrimony on National Forest System lands, the holder shall immediately cease work in the area of the discovery and shall make a reasonable effort to protect and secure the items. The holder shall immediately notify the authorized officer by telephone of the discovery and shall follow up with written confirmation of the discovery. The activity that resulted in the inadvertent discovery may not resume until 30 days after the forest archaeologist certifies receipt of the written confirmation, if resumption of the activity is otherwise lawful, or at any time if a binding written agreement has been executed between the Forest Service and the affiliated Indian tribes that adopts a recovery plan for the human remains and objects.

M. Cooperative Utility Expenses (X-14). The holder shall pay the holder's proportionate share of the cost to operate and maintain utilities, such as waste treatment or water systems, that are owned and operated by the Forest Service and that serve the permit area, and the cost of utilities, such as electricity and telephone service, that are paid for by the Forest Service and that serve the permit area. The holder shall deposit funds into a cooperative account at times and in amounts specified by the Authorized Officer to cover the holder's proportionate share of the cost of these utilities and services. Any amounts deposited exceeding the cost of these utilities and services shall be refunded to the holder.

THIS LEASE IS GRANTED SUBJECT TO ALL ITS TERMS AND CONDITIONS.

BEFORE ANY LEASE IS ISSUED TO AN ENTITY, DOCUMENTATION MUST BE PROVIDED TO THE AUTHORIZED OFFICER OF THE AUTHORITY OF THE SIGNATORY FOR THE ENTITY TO BIND IT TO THE TERMS AND CONDITIONS OF THE LEASE.

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"COUNTY"

COUNTY OF SANTA BARBARA

ATTEST:
MONA MIYASATO
CLERK OF THE BOARD

By: _____
Deputy Clerk

GREGG HART, CHAIR
BOARD OF SUPERVISORS

Dated: _____

RECOMMENDED FOR APPROVAL:
JANETTE D. PELL, DIRECTOR
GENERAL SERVICES DEPARTMENT

By: DocuSigned by: Janette D. Pell 1FBA9BD673A445F...

APPROVED AS TO FORM:
MICHAEL C. GHIZZONI
COUNTY COUNSEL

By: _____
Scott Greenwood, Deputy County Counsel

APPROVED AS TO ACCOUNTING FORM:
BETSY M. SCHAFFER, CPA, CPFO
AUDITOR-CONTROLLER

By: C. Edwin Price, Jr. Digitally signed by C. Edwin Price, Jr. Date: 2020.10.01 16:06:02 -07'00'
Deputy

APPROVED:

By: Ray Aromatorio, Risk Manager Date: 2020.09.29 19:02:13 -04'00'
Ray Aromatorio, ARM, AIC
Risk Manager

APPROVED:

By: Carlo Achdjian
Carlo Achdjian, Manager
Real Property Division

U.S. Department of Agriculture
Forest Service

By: _____
JOHN F. SMITH, District Ranger
Santa Barbara Ranger District

Date

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To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW, Washington, DC 20250-9410 or call toll free (866) 632-9992 (voice). TDD users can contact USDA through local relay or the Federal relay at (800) 877-8339 (TDD) or (866) 377-8642 (relay voice). USDA is an equal opportunity provider and employer.

The Privacy Act of 1974 (5 U.S.C. 552a) and the Freedom of Information Act (5 U.S.C. 552) govern the confidentiality to be provided for information received by the Forest Service.

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