

**TELECOMMUNICATIONS TOWER LICENSE AGREEMENT**

<b>Location of Licensed Premises:</b>  <b>Vollmer Peak</b> <b>Contra Costa County</b>	<b>License No: 3951-002</b> <b>Project No: 9425</b>
<b>Agency: California Highway Patrol</b>	<b>Licensor: Contra Costa County</b>

THIS LICENSE AGREEMENT, dated July 1, 2021, ("License") by and between, **Contra Costa County**, hereinafter referred to as "County", and the **State of California**, at the direction and with the consent of the **California Highway Patrol (CHP)**, acting by and through the Director of the **Department of General Services (DGS)**, hereinafter collectively referred to as "State".

**RECITALS**

**WHEREAS**, Pursuant to Section 14669 (a) of the Government Code, the Director of the Department of General Services ("Director") may acquire a license for any State agency to use any real property, if the Director deems the licensing is in the best interests of the State; and

**WHEREAS**, the County has under its jurisdiction certain telecommunications facilities located off Tilden Regional Park, accessed by the existing access road owned by the East Bay Regional Park District ("District"), leading from the intersection of Grizzly Peak Boulevard and South Park Drive at the entrance of District's Corp Yard to the Premises, as shown on Exhibit A-1: Site Map, and Exhibit A-2 Location Map; and

**WHEREAS**, this License is subject to the terms of an underlying Master License between County and property owner, East Bay Regional Parks District (the "Master License"), attached as Exhibit B; and

**WHEREAS**, State desires to continue to License space in said telecommunications facility; and

**WHEREAS**, the Director has determined that it is in the best interests of the State that such a License be consummated between the State and County on the terms and conditions herein contained, and County is willing to allow State to continue to License that space, under the terms of this License.

**NOW THEREFORE**, the parties agree to the provisions that follow and are incorporated herein as:

**AGREEMENT****PROPERTY  
DESCRIPTION**

1. Under the terms of this License, County does hereby license to State, and State hereby licenses from County, those certain premises for CHP owned antennas described as two exposed dipole antennas and one 8-foot Microwave Dish antenna and related equipment located on County's Tower (the foregoing herein defined as the "Licensed Premises"), located at Vollmer (Bald) Peak, Tilden Park, Contra Costa County CA, Lat: 37-53-02, Long: 122-13-15, with APN 267-010-009 (the "Property"). Access is along "Vollmer Park Trail" (the "Access Road"), from the intersection of Grizzly Peak Boulevard and South Park Drive at the entrance to District's corporation yard to the Property. The equipment State will maintain within the Licensed Premises is further described in "Equipment Information," dated August 12, 2021, as referenced in Exhibit C. Applicable drawings concerning the Licensed Premises and equipment that will be maintained on the Licensed Premises are included herein and attached hereto as Exhibit D.

**USE**

2. County licenses to the State the Licensed Premises for operating and using a radio relay station, together with the necessary appurtenances thereto.

**STATE EQUIPMENT  
REPLACEMENT &  
MODIFICATION**

3. State shall seek the approval of County prior to any replacement, modification, repair, removal, maintenance of State's equipment, or other activities on any portion of the Licensed Premises, which may cause interference with existing communication operations and the facility. State shall follow guidelines for Site Standards as described in Exhibit E – Site Standards.

**TERM**

4. The term of this License shall be comprised of an initial period of up to ten (10) years ("Term"), provided that the term of the Master License remains in effect. Unless State gives prior written notice at least 60 days before the end of the then-current Term that it will allow the License to expire at the end of the current Term, and provided the Master License remains in effect, the Term shall be extended for one 5-year Extension, followed by one 7-month Extension, expiring January 31, 2037.

Initial Term: July 1, 2021 – June 30, 2031

Extension #1: July 1, 2031 – June 30, 2036

Extension #2: July 1, 2036 – January 31, 2037

**EXPIRATION; EARLY  
TERMINATION**

5. The original term of the Master License expires January 31, 2022, but that expiration date can be extended by up to three additional five-year periods, through January 31, 2037, provided that the licensor does not provide timely notice of nonrenewal before any five-year renewal period, and provided that the County Public Works Director exercises that five-year renewal option. This License does not commit the licensor under the Master License or the Public Works Director to exercise their discretion in any particular way.

Notwithstanding anything to the contrary in Section 4 or elsewhere in this License, this License shall automatically expire on the expiration date of the Master License (as defined in Section 4 of the Master License). The County will endeavor to provide the State 60 days' advance written notice of the expiration date of the Master License. Additionally, State or County may terminate this License at any time during the Term, by giving written notice to the other party at least sixty (60) days prior to the date when such termination shall become effective.

**FEE**

6. In consideration for the License, for each year during the Term of this License, State agrees to pay County a non-refundable fee ("Monthly Fee"), paid monthly in arrears from legally available funds by State to County, on or before the last day of each month. The Monthly Fee for Year 1 shall be \$25 per rack unit per month with 354 rack units at \$8,850 per month. Beginning July 1, 2022, the amount of the Monthly Fee shall increase annually by three percent (3%) over the Monthly Fee due the County on the previous July 1, as set forth in the fee schedule below.

**Fee Schedule**

<u>Year</u>	<u>Term</u>	<u>Monthly Payment</u>
<u>Initial Term</u>		
1	July 1, 2021 – June 30, 2022	\$ 8,850.00
2	July 1, 2022 – June 30, 2023	\$ 9,115.50
3	July 1, 2023 – June 30, 2024	\$ 9,388.97
4	July 1, 2024 – June 30, 2025	\$ 9,670.63
5	July 1, 2025 -- June 30, 2026	\$ 9,960.75
6	July 1, 2026 -- June 30, 2027	\$ 10,259.58
7	July 1, 2027 – June 30, 2028	\$ 10,567.36
8	July 1, 2028 – June 30, 2029	\$ 10,884.38
9	July 1, 2029 – June 30, 2030	\$ 11,210.92
10	July 1, 2030 – June 30, 2031	\$ 11,547.24
<u>Extension #1</u>		
11	July 1, 2031 – June 30, 2032	\$ 11,893.66
12	July 1, 2032 – June 30, 2033	\$ 12,250.47
13	July 1, 2033 – June 30, 2034	\$ 12,617.98
14	July 1, 2034 – June 30, 2035	\$ 12,996.52
15	July 1, 2035 – June 30, 2036	\$ 13,386.42
<u>Extension #2</u>		
16	July 1, 2036 – January 31, 2037	\$ 13,788.01

**Payments:**

State shall make Monthly Fee payments to payable to **Contra Costa County** and sent to the following address:

Contra Costa County Department of Information Technology  
Attn: Accounting  
30 Douglas Drive  
Martinez, CA 94553

- |                            |   |
|----------------------------|---|
| <b>DELINQUENT FEE</b>      | <b>7.</b> A Monthly Fee shall be deemed delinquent if not received by County within thirty (30) days after the Monthly Fee is due. If the Monthly Fee becomes delinquent, State shall be responsible for paying the Monthly Fee, plus interest of 1.5% per month or portion thereof that the Monthly Fee remains unpaid.  |
| <b>PRORATIONS</b>          | <b>8.</b> Notwithstanding anything to the contrary herein, the Monthly Fee payable hereunder for any period of time less than one month shall be determined by prorating the monthly rent herein specified based on a 30-day month and on the actual number of days the State occupies the Premises. If State is due any refund of any portion of its Monthly Fee following the termination of this License prior to the expiration of the then current Term, the County will issue such refund within 60 days following the date on which this License terminates.   |
| <b>NON-EXCLUSIVE USE</b>   | <b>9.</b> State agrees that the License granted hereunder is nonexclusive. County reserves the right to issue licenses and permits to others for the same or other purposes.  |
| <b>EXISTING FACILITIES</b> | <b>10.</b> It is understood and agreed that County has leases and/or licenses with others for all or a portion of the Property.<br><br>The holders of the leases and/or licenses in the Property granted by the County have the right to enter on the Property and maintain their facilities. State will not be compensated for damage resulting from such maintenance activities by other licensees or lessees.  |
| <b>HOLDOVER</b>            | <b>11.</b> In the event the State remains in possession of the Licensed Premises with the permission of County after the expiration of the Term, this License shall be considered in holdover and extended on a month-to-month basis, subject to thirty (30) days termination by either party, and all terms and conditions of this Agreement will also convert to a month-to-month condition. In addition, the Monthly Fee for each year during the holdover period shall be subject to an annual increase of three percent (3%) above the prior Monthly Fee, calculated and increased in the same manner and at the same time as other Monthly Fees under Section 6, above. |

## NOTICES

12. All notices and correspondence exchanged between the parties shall reference CHP (Licensee Agency), the Licensed Premises address Vollmer Peak, and the State's File No. 3951-002. Notice of change of address or telephone number shall be given by written notice in the manner described in this paragraph. All notices or other communications required or permitted hereunder shall be in writing, and sent by overnight courier, registered mail, certified mail or postage prepaid mail to the addresses set forth below. All such notices shall be deemed received on the date of delivery receipt or rejection to the address of the person to receive such notice if received Monday through Friday during business hours, so long as such day is not a State or Federal holiday. If Saturday or Sunday, then such notice shall be effective on the following business day.

COUNTY:           **Contra Costa County Public Works Department**  
Attention: Real Estate Division  
255 Glacier Drive  
Martinez, CA 94533

STATE           **Department of General Services**  
Real Estate Lease Management A (3951-002)  
707 3<sup>rd</sup> Street, Fifth Floor  
West Sacramento, CA 95605  
Phone: (916) 375-4172  
Email: [Leasemanagement@dgs.ca.gov](mailto:Leasemanagement@dgs.ca.gov)

With Copies to   **California Highway Patrol**  
Telecommunications Section - Leasing  
601 North 7<sup>th</sup> Street – Building C  
Sacramento, CA 95811  
Phone: (916) 843-4200  
Email: [CHPTelecomLeasing@chp.ca.gov](mailto:CHPTelecomLeasing@chp.ca.gov)

Notice of change of address or telephone number shall be given by written notice. County is obligated to notice all State offices listed above and the failure to provide notice to all State offices will be deemed to constitute a lack of notice.

## INTERFERENCE

13. (a) County understands that State's existing Public Safety Network System is used to support all types of radio, digital, microwave, and fiber optic communications of the State of California.
- (b) The State agrees to cooperate with County and any of its current and future licensees or lessees to minimize technical interference between the

telecommunication activities of the State and the County and any of its current and future licensees.

**UTILITIES &  
SERVICES**

- 14. (a)** It is mutually agreed that State shall have the right to run telephone lines and/or other communication facilities to the Premises, provided that the location of the lines and facilities shall be subject to County's advance written approval. The cost of installation shall be the responsibility of State.
- (b)** County shall provide electrical power to State at County's sole cost and expense, including both commercial and standby power.

**ROAD ACCESS &  
SITE ACCESS  
PROCEDURES**

- 15.** State, including its authorized agents, employees and contractors, shall have a non-exclusive right of ingress and egress to and from the Property and Licensed Premises, along the Access Road or other course or courses designated by the County. State may bring automobiles, trucks, and motorized equipment over the Access Road and onto the Property.

**ROAD MAINTENANCE**

- 16.** Per the terms of the Master License, District is responsible for regular Access Road maintenance. State agrees to repair, at State's expense, any abnormal or excessive road damage to the Access Road, water drains, berms, and/or culverts where such damage is caused solely by State's use.

**FIRE HAZARDS**

- 17.** The State shall exercise reasonable care and precaution to prevent fires from starting or occurring on the Property. No smoking is allowed on the Property.

**ALTERATIONS TO  
PREMISES**

- 18.** State shall have the right during the Term of this License, with written consent of County, such consent not to be unreasonably withheld, to make alterations to State's equipment. It is mutually understood and agreed that no alterations or variations of the terms of this License shall be valid unless made in writing and signed by the parties hereto, and that no oral understanding or agreement not incorporated herein, shall be binding on any of the parties hereto.

**EQUIPMENT  
CHANGE**

- 19.** Any change in State's approved communication equipment other than like for like replacement requires technical approval from County, consistent with Paragraphs 3 and 13, "Interference". To initiate approval for a change of non like for like equipment, State must first contact County to obtain written approval.

**EQUIPMENT  
MAINTENANCE**

- 20.** State shall maintain all radio equipment utilized for State purposes, and may fix and repair said equipment at State's sole cost.

**INSURANCE**

- 21.** The County understands and agrees to the following:
- (a)** The State of California has elected to be insured for its motor vehicle and general liability exposures through a self-insurance program.

**INSURANCE  
(CONT'D)**

- (b) The State Attorney General administers the general liability program through an annual appropriation from the General Fund. The Office of Risk and Insurance Management administers the motor vehicle liability program.

Should any claims arise for general liability exposures; for any tort liability that may develop through the carrying out of official State activities and operations, they should be referred to:

Victim Compensation and Government Claims Board  
P.O. Box 3035  
Sacramento, CA 95812-3035  
Internet link: [www.vcgcb.ca.gov](http://www.vcgcb.ca.gov)

Claims arising from operation of a State-owned vehicle should be forwarded to:

Office of Risk and Insurance Management  
Auto Self-Insurance  
707 Third Street, MS-403  
West Sacramento, California 95605  
Phone: (800) 900-3634

- (c) The State of California has entered into a Master Agreement with the State Compensation Insurance Fund to administer worker compensation benefits for all State employees, as required by the Labor Code.

**SUBROGATION**

22. To the extent authorized by any fire and extended coverage insurance policy issued to County on the herein described Property, County hereby waives the subrogation rights of the insured, and releases the State from liability for any loss or damage covered by said insurance.

**HOLD HARMLESS**

23. To the extent permitted by Government Code section 14662.5, State agrees to indemnify, defend and hold harmless County, its officers, employees, and representatives ("County Indemnitees") from and against any cost, expense, liability, damage, injury, or death, including without limitation attorney's fees and costs, (collectively, "Liabilities") to the extent that the Liabilities are proximately caused by reason of the State's uses authorized in this License. However, State shall have no obligation to indemnify, defend or hold harmless County Indemnitees from and against any Liabilities that are caused by the sole negligence or willful misconduct of any County Indemnatee, or from any other Liabilities not expressly authorized by Government Code Section 14662.5.

If any party to this License is held liable upon any judgment for damages caused to third parties by a negligent, intentional, or wrongful act or omission

occurring in the performance of this License and pays in excess of its pro rata share in satisfaction of such judgment, such party shall be entitled to contribution from the other party to this License. The pro rata share of each party shall be determined according to the comparative fault of the respective parties, as between them. The requirements of this Section 23 shall survive the expiration or termination of this License.

**ASSIGNMENT,  
SUBLETTING**

- 24.** State shall not assign or sublicense State's rights under this agreement.

State is authorized to collocate with other State Agencies, with prior written consent of County. A collocation of State Agencies will not be considered an assignment or sublicense pursuant to this clause.

**SURRENDER OF  
POSSESSION**

- 25. (a)** Upon termination or expiration of this License, State shall peaceably and quietly leave, surrender, and yield to the County, all and singular, the Licensed Premises in good order, condition, and repair, reasonable use and wear thereof and damage by acts of nature, excepted. State shall remove all equipment within 90 days after License expiration or termination, except in the case of fire or other natural disaster, in which case removal date to be mutually agreed upon. Upon termination, a qualified representative of the County shall inspect the Licensed Premises to determine that the Licensed Premises were left in accordance to the terms specified.

- (b)** In the event State causes damage to the Licensed Premises, State shall assume responsibility for the cost to restore the Licensed Premises to its prior condition within 90 days after License expiration or termination, or within 90 days after written demand by County. The requirements of this Section 26 shall survive the expiration or termination of this License.

**AMENDMENTS AND  
MODIFICATIONS**

- 26.** No amendment, modification, or supplement to this License shall be binding on either party unless it is in writing and signed by both parties.

**FORCE MAJEURE**

- 27.** If either State or County will be delayed or prevented from the performance of any act required hereunder by reason of acts of nature, governmental restrictions, regulations or controls (except those reasonably foreseeable in connection with the uses contemplated by this License) or other cause without fault and beyond the control of the party obligated (except financial inability), performance of such act shall be excused for the period of such delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay.

**ENTIRE AGREEMENT**

- 28.** This License and its exhibits constitute the entire agreement between State and County. No prior written or prior, contemporaneous or subsequent oral promises or representations shall be binding.



- SUPERSEDURE**      **29.** This License supersedes and voids any prior license, lease or agreement between State and County for the Licensed Premises, whether or not expressly referenced in this License.
- COUNTERPARTS**      **30.** This License may be executed in one or more counterparts, all of which taken together shall constitute one and the same instrument. The exchange of copies of this License and of signature pages by electronic mail in "portable document format" ("pdf") form or by any other electronic means shall constitute effective execution and delivery of this License. However, this License shall be executed with wet-ink signatures or digital signatures using an approved technology. In the event the License is executed by wet ink signatures, the original signatures shall also be exchanged between the parties via mail, in addition to any copies exchange via electronic means.
- SEVERABILITY**      **31.** If any term, covenant, condition or provision of this License or any application thereof, to any extent, is found invalid, void, or unenforceable by a court of competent jurisdiction, the remainder of this License will not be affected thereby, and will be valid and enforceable to the fullest extent permitted by law.
- ORDINANCES AND STATUTES**      **32.** County and State further agree to the comply with the following:  
  
State shall comply with the requirements of all Municipal, County, State, and Federal law now in force, or which may hereafter be in force, pertaining to said Licensed Premises, and shall faithfully use the Licensed Premises consistent with all Municipal and County Ordinances and State and Federal statutes and regulation now in force or which may hereafter be in force.
- BINDING**      **33.** The terms of this License and covenants and agreements herein contained shall apply to and shall bind and inure to the benefit of the heirs, representatives, assignees and successors in interest of County and State.
- APPLICABLE LAW**      **34.** This License shall be governed by the laws of the State of California.
- ESSENCE OF TIME**      **35.** Time is of the essence for each and all the provisions, covenants and conditions of this License.
- POLLUTION**      **36.** State, at its expense, shall comply with all applicable laws, regulations, rules, and others with respect to the use of the Licensed Premises, regardless of when they become effective, including, without limitation, those relating to health, safety, noise, environmental protection, waste disposal, and water and air quality, and furnish satisfactory evidence of such compliance upon request by the County.
- State shall, not permit hazardous materials to be handled at any time on the Licensed Premises. Should any discharge, leakage, spillage, emission or

**POLLUTION (CONT'D)**

pollution of any type occur upon the Premises due to the State's use and occupancy thereof, State, at its sole expense, shall clean all the premises affected thereby, whether owned or controlled by the County or any third party, to the satisfaction of County (insofar as the property owned or controlled by the County is concerned), third party (insofar as the third party's property is concerned), and any governmental body having jurisdiction. The requirements of this Section 36 shall survive the expiration or termination of this License.

**DEFAULT**

- 37.** If either party is in material breach of any of its obligations under this License, the non-breaching party shall provide written notice of breach to the breaching party, to identify the subject of the breach and the reasonable steps the breaching party must take to cure the breach consistent with the terms of this License. If any material breach continues for a period of thirty (30) days after the breaching party's receipt of written notice from the other party, this License may, at the non-breaching party's sole discretion, be terminated.

However, notwithstanding the foregoing, if a non-monetary material breach cannot be reasonably cured within such thirty (30) day period and the breaching party commences to cure such material breach within the thirty (30) day period, the time to cure shall be extended by a writing signed by both parties, to a reasonable time within which the breach must be cured, as mutually agreed by both parties. Thereafter, so long as the breaching party diligently prosecutes the cure to completion the material breach, then this License may not be terminated under this Section 37; provided, however, that if the breaching party stops or unreasonably delays taking steps to cure the breach, the non-breaching party may terminate this License upon 30 days' advance written notice to the breaching party.

**The remainder of this page has been intentionally left blank.**

**IN WITNESS WHEREOF**, this License has been executed by the parties hereto as of the date written below.

**STATE OF CALIFORNIA**

Director of Department of  
General Services

By: \_\_\_\_\_  
**Tony Psihopaidas** Assistant Chief  
State Owned Leasing & Development

**Consent:**

CALIFORNIA HIGHWAY PATROL

By: \_\_\_\_\_  
**J. D. Saccani**, Assistant Chief  
Administrative Services Division

**Approval Recommended:**

Department of General Services  
State Owned Leasing and Development

By: \_\_\_\_\_  
**Carol Leidy**  
Associate Real Estate Officer

**COUNTY:**

**CONTRA COSTA COUNTY**,  
a political subdivision of the State of California

By: \_\_\_\_\_  
**Brian M. Balbas**  
Director of Public Works

**Approval Recommended:**

By: \_\_\_\_\_  
**Marc Shorr**  
Chief Information Officer  
Department of Information Technology

By: \_\_\_\_\_  
**Jessica L. Dillingham**  
Principal Real Property Agent

By: \_\_\_\_\_  
**Margaret Eychner**  
Senior Real Property Agent

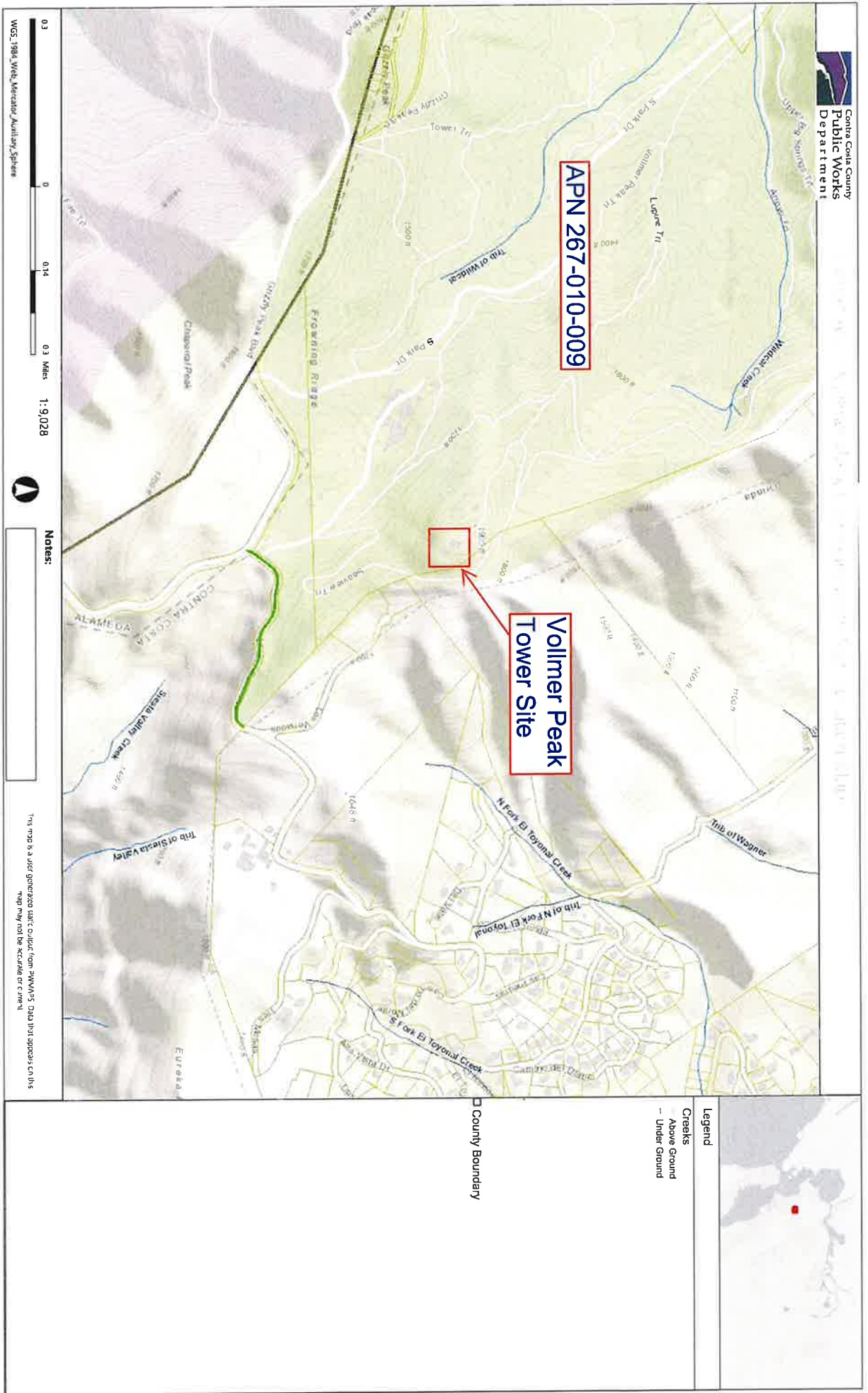
**Approved as to Form:**

**Mary Ann McNett Mason**, County Counsel

By: \_\_\_\_\_  
**Stephen M. Siptroth**  
Deputy County Counsel

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EXHIBIT "A-2"



## EXHIBIT B

### LICENSE AGREEMENT

This License Agreement ("**Agreement**") is entered into as of February 1, 2017, ("**Effective Date**") by and between the East Bay Regional Park District, a California special district ("**District**"), whose address is 2950 Peralta Oaks Court, P.O. Box 5381, Oakland, California 94506-0381, and Contra Costa County ("**County**"), a political subdivision of the State of California, with an office at 255 Glacier Drive, Martinez, CA 94521. The District and the County are each sometimes referred to herein as a "**Party**" and together as the "**Parties**."

#### RECITALS

- A. The District acquired Tilden Regional Park from East Bay Municipal Utility District ("**EBMUD**") by deed, dated July 1, 1940. The deed requires the District to use the property only for park, recreation, environmental purposes, and public use associated therewith.
- B. On May 13, 1969, EBMUD agreed to allow a portion of Tilden Park, on the southerly portion of Bald Peak ("**Vollmer Peak**" or "**Premises**"), as shown in **Exhibit A** attached hereto and incorporated herein by this reference, to be used as a telecommunication site for public agencies. The District is authorized to use, and to license the use of, the Premises to other governmental agencies exclusively for the purpose of operating, managing, and maintaining a California multiple radio/microwave communications system for use by public agencies only ("**Licensed Purposes**").
- C. The Premises are accessible by means of the existing access road ("**Access Road**") which leads from the intersection of Grizzly Peak Boulevard and South Park Drive at the entrance to East Bay Regional Corp Yard to the Premises. The District owns the Access Road in fee title.
- D. The County has operated, maintained, and managed a sixty-foot telecommunications tower ("**Tower**") and related telecommunications facilities and appurtenant structures ("**Related Facilities**"), on the Premises, and has used the Access Road to access the Premises. The Tower and Shelter are shown in **Exhibit B** attached hereto and incorporated herein by this reference. The County also has used six racks within a District-owned telecommunications equipment shelter ("**Shelter**") located on the Premises, as more particularly described in **Exhibit D** attached hereto and incorporated herein by this reference.
- E. The County licenses the use of its Tower and the Related Facilities to the District and other public agencies under separate licenses (each a "**Tower License**") between the County and each public agency. The District licenses the use of the Shelter to each public agency that desires to maintain ancillary equipment in the Shelter.
- F. The County desires to continue to license from District, and District desires to continue to grant to the County a license to: use of the Premises for operation, maintenance, and management of the Tower; use of certain rack space in the Shelter; and use of the Access Road.

## **AGREEMENT**

**NOW, THEREFORE,** for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereto agree as follows:

**1. GRANT OF LICENSES.** In consideration for County's performance of its obligations under this Agreement, the District hereby grants to the County the following licenses (together "**Licenses**"):

- A. A non-exclusive license to occupy and use the Premises, as shown on **Exhibit A**, for the operation, maintenance, and management of the Tower and Related Facilities, including the right, subject to the requirements of Section 3, below, to grant to other public agencies Tower Licenses to occupy and use the Tower for the Licensed Purposes.
- B. A non-exclusive license to occupy and use the Shelter, and for the exclusive use of six (6) racks within the Shelter, as more particularly described in **Exhibit D**.
- C. A non-exclusive license to use the Access Road, to access the Premises.

**2. PARTIES' OBLIGATIONS.**

- A. The County shall not use the Premises in any manner that is inconsistent with the stated Licensed Purposes. No other use of the Premises is permitted.
- B. The County shall be responsible for the operation, maintenance, and management of the Tower and Related Facilities on the Premises.
- C. The District and the County agree to manage and maintain the Premises in accordance with the terms of **Exhibit C** attached hereto and incorporated herein by this reference.
- D. As partial consideration for the Grant of Licenses in Section 1, above, the County shall provide space on the Tower for the District's telecommunications equipment at no charge to the District.
- E. The District shall be solely responsible for the operation, maintenance, and management of the Access Road.
- F. The County shall provide copies of all third party Tower Licenses to the District.

**3. CONSENT REQUIRED.**

- A. Before the County grants a new Tower License, the County shall provide the District information concerning the agency that desires to license space on the Tower from the County, and the location and description of the equipment to be installed on the

Tower. This information will be reviewed by the District and EBMUD. The County shall be responsible for forwarding this information to EBMUD.

- B. Within 30 days after the District's receipt of the information specified in Section 3.A., above, the District shall notify the County in writing whether the District consents to the new Tower License. The District shall not withhold consent for any new Tower License that is consistent with the Licensed Purposes. If the District does not provide the written notice within the above 30-day period, the new Tower License shall be deemed consented to by the District. The County shall provide a copy of the new Tower License to the District within 30 days of execution.
- C. The requirements of this Section 3 only apply to new Tower Licenses first granted after the Effective Date of this Agreement. The requirements of this Section 3 shall not apply the renewal or extension of a Tower License. However, the County shall notify District of any such renewals and extensions and provide copies thereof with 30 days of execution.

#### 4. TERM.

- A. Term. The term ("**Term**") of this Agreement shall be for five (5) years commencing on the Effective Date and shall expire on January 31, 2022 ("**Expiration Date**"), unless this Agreement is terminated earlier. The Term of this Agreement may be extended as provided in Section 4(B), below.
- B. Extend the Term. Unless the District provides the County notice of nonrenewal at least 365 days before the Expiration Date, the County's Public Works Director may extend the Term of this Agreement by up to three additional successive five-year periods, one at a time, by providing advance written renewal notice to the District at least 180 days before the Expiration Date. The County's Public Works Director's renewal notice shall cause the Term to extend for an additional five years, and the Expiration Date shall become the last day of that five-year period. If the District provides notice of nonrenewal as provided herein, the Agreement may not be extended and shall expire on the Expiration Date, unless sooner terminated in accordance with Section 24.
- C. No Right to Extend if in Default. Notwithstanding Section 4(B), above, if the County is in Material Breach of any of its obligations under this Agreement, as defined in Section 19, below, at the end of the initial Term or any of the extended terms, the County may not extend the term of this Agreement unless and until it cures the breach and obtains the District's consent.

#### 5. FEES.

- A. Fees.
  - I. License Fees. Each month during the term of this Agreement, the County shall pay the District a monthly license fee of \$400 (each payment a "**License**



**Fee**" and collectively "**License Fees**") per rack, for each of the six (6) racks in the Shelter that are licensed to the County hereunder. The County may install additional racks only with the District's consent, and any additional racks shall be subject to the License Fee.

2. Road Fees. For the 12-month period following the Effective Date, and for each 12-month period thereafter during the term of this Agreement, the County shall pay the District \$500 per 12-month period (each a "**Road Fee**" and collectively "**Road Fees**") for use of the Access Road.

**B. Payments.**

1. License Fees. The County shall pay the District the License Fees for the first month during the Term of this Agreement within 30 days after the Effective Date of this Agreement. For each subsequent month during the Term of this Agreement, the County shall pay the District the License Fees for that month by the 15th day of that month.
2. Road Fee. The County shall pay the District the Road Fee for the first 12-month period following the Effective Date within 30 days after the Effective Date. For each subsequent 12 month period, the County shall pay the District the Road Fee for that 12-month period no later than 30 days before the first day of that 12-month period.
3. Place of Payment. The County shall send its License Fees payments and Road Fee payments to the East Bay Regional Park District, at P.O. Box 5381, Oakland, California 94605-0381, Attention – Finance.

- D. Adjustment of the License Fee. On February 1, 2018, and on each February 1 thereafter during the term of this Agreement, the License Fee specified in Section 5(A)(1), above, shall increase based on the percentage increase, if any and not to exceed three percent (3%), in the Consumer Price Index for all Urban Consumers for the San Francisco, Oakland, San Jose, California area, published by the United States Department of Labor, Bureau of Labor Statistics during the 12-month period that ends on the December 30th immediately prior to the February 1 on which the increase, if any, will be effective. If the License Fee will increase on February 1 as provided herein, the District shall provide the County notice of the increase by the January 15 immediately before that February 1.

6. **UTILITIES.** The County shall furnish, at its sole cost and expense, all utilities required to operate the Premises, including, without limitation, gas, electricity, water, and telephone service and all connection charges.
7. **DISTRICT'S RIGHTS.** The District expressly reserves the right to use the Premises for the District's operations, and to construct, reconstruct, and maintain existing or additional facilities or improvements on the Premises that do not unreasonably interfere with the County's use of the Premises under this Agreement. The County shall ensure that its use of

the Premises as provided herein does not interfere with the present or future operations of District.

**8. USE OF ROAD FEES; MAINTENANCE OF ROAD.**

- A. Use of Road Fees. The District shall separately account for all Road Fees paid by the County under this Agreement. The District shall not use Road Fees for any purpose other than to repair the Access Road as specified in Section 8(B), below.
- B. The District shall be solely responsible for the repair and regular maintenance of the Access Road. However, if, during the term of this Agreement, the Access Road is damaged by landslide, washout, subsidence, earthquake, or other force majeure, the District may use Road Fees paid hereunder, and not previously expended, to pay the District's direct cost to repair the Access Road. If those repair costs exceed the amount of the Road Fees on deposit with the District, the District may charge the County an additional amount as its proportional share of the repair costs, not to exceed \$5,000 per calendar year.

The County will pay its proportional share of Access Road repair costs within 30 days after receipt of a written demand for payment from the District that includes the total amount spent by the District to repair the Access Road.

9. **PRIOR APPROVAL FOR WORK PERFORMED.** The County agrees that prior to repair, removal or alteration of the District's existing Shelter and communications equipment, details of the proposed scope of work must be submitted in advance and in writing to District for review and approval. The County will reimburse District for any reasonable costs incurred by District in reviewing the County's work plan and for District's inspection of construction activities. The County shall comply with all of the terms of any encroachment permits issued by District.
10. **CONDITION OF PREMISES.** The County shall, at all times and at County's sole cost and expense, keep its equipment located on the Premises in good condition and repair, reasonable wear and tear excepted, including making replacements when necessary and removing inoperable, obsolete or abandoned equipment without delay. If the County fails to promptly make any repairs that are necessary to remedy a dangerous condition on the Premises, the District shall give written notice of its intention to make such repairs. If the County does begin making the required repair within 30 days after receipt of District's notice, the District may make such repairs and shall be reimbursed by the County for any and all reasonable costs incurred by District in performing such repairs including administrative overhead.
11. **FREQUENCY COMPATIBILITY.** The County shall provide for complete frequency compatibility for all radio transmitting equipment currently existing on the Tower, and for any installed on the Tower after the Effective Date. If an entity that maintains equipment on the Tower notifies the County that an interference problem exists, the County shall be responsible for determining the cause of, and resolving, the interference problem. If the County is unable to resolve an interference problem within 30 days after receiving notice of

the problem, the County shall require the equipment causing the interference problem to be taken out of service until the interference problem is corrected to the complete satisfaction of the user or users of the Tower that encountered an interference problem. The County shall require all persons and entities operating equipment under Tower Licenses to comply with the requirements of the Federal Communications Commission, including those requirements related to radio-frequency emissions.

**12. COMPLIANCE WITH LAWS.** The County shall comply with all applicable ordinances, rules, and regulations of local, state and federal governmental authorities pertaining to the County's activities on the Premises. If the County is required to obtain any permits or other approvals from any federal, state, or local agency, the District shall cooperate with the County's efforts to obtain those permits or other approvals.

**13. RULES.** The County shall ensure that its employees, contractors, and agents comply with the following District rules:

- A. No alcoholic beverages may be consumed on District property, including the Premises.
- B. The County shall use the Access Road to access the Premises and shall not travel any other road on District property or open fields except in cases of emergency or with the prior authorization of the Park Supervisor (510) 544-2711.
- C. The County may use the Access Road during regular park hours, between the hours of 5:00 a.m. and 10:00 p.m. on each day. However, if the County, in its sole discretion, determines that an emergency exists at the Premises, the County may use the Access Road to respond to the emergency regardless of the time of day.
- D. The County shall observe a reasonable speed limit on District's property.
- E. The County shall not smoke, use matches, or have open fires on District property.
- F. The County shall comply with District's Ordinance 38, a copy of which can be accessed via the District website <http://www.ebparks.org/>, which is incorporated herein by reference.

**14. NONDISCRIMINATION.** In the performance of its obligations under this Agreement, the County shall not discriminate against any employee or applicant for employment because of race, color, religion, ancestry, sex, gender, sexual orientation, age, or national origin.

**15. HAZARDOUS MATERIALS.**

- A. Condition of the Premises. The District represents and warrants that it has conducted no site investigation(s) for Hazardous Materials (as defined in Section 15(C), below) and has no knowledge of any Hazardous Materials existing on or about the Premises in violation of any applicable law. The County represents and warrants to the District that the County will not generate, store, or dispose of any Hazardous

Materials on, under, or about the Premises in violation of any Hazardous Substance Laws (as defined in Section 15(C), below). If the County causes or contributes to a release of Hazardous Materials to the air, soil, surface water, or groundwater in, on, under, or adjacent to the Premises in violation of applicable Hazardous Substance Laws, the County shall do all of the following in accordance with all applicable laws: immediately report the release to the District as well as to appropriate government agencies; promptly clean up the Hazardous Materials so released; and restore the Premises to its condition as it existed prior to the release. The County shall defend, indemnify, and hold harmless the District from any losses, costs, claims, damages, penalties, and liabilities, including all costs of investigation, testing, remedial planning, and implementation and monitoring, arising from or caused by any release or migration of Hazardous Materials caused or contributed to by the County.

- B. Clean Up. If any cleanup, repair, detoxification, or other similar action is required by any governmental or quasi-governmental agency as a result of the storage, release, or disposal of Hazardous Materials by District, its officers, employees, agents, or contractors, at any time, or by any prior owner, possessor, or operator of any part of the Premises, and such action interferes with the County's ability to occupy or use the Premises for more than 24 hours, as determined by the County, the County's sole remedy shall be a credit against future License Fees to be paid by the County under Section 5, in the amount of 1/30<sup>th</sup> of the monthly License Fees for each day, or portion thereof, of the above-described interference. After the first 24 hours of the above-described interference, the County shall also be entitled to terminate this Agreement upon not less than thirty (30) days advance written notice to the District.
- C. Definitions. For the purposes of this Section 15, "Hazardous Materials" includes, but is not limited to, substances defined as "hazardous substances," "hazardous materials," or "toxic substances" in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et. seq.; and those substances defined as hazardous, toxic, hazardous wastes, toxic wastes, or as hazardous or toxic substances, including but not limited to petroleum and petroleum by-products, by any law or statute now or after this date in effect in California, and in the regulations adopted and publications promulgated pursuant to those laws (all collectively referred to herein as "Hazardous Substance Laws").
- D. Survival. Notwithstanding anything to the contrary contained herein, the provisions of this Section 15 shall survive the expiration or termination of this Agreement.

## **16. INDEMNIFICATION & LIABILITY FOR LOSSES.**

- A. Indemnification. The County shall indemnify, defend, and hold harmless the District, its directors, officers, employees, agents, and invitees (each of which is an "Indemnitee") from and against any and all claims, demands, losses, costs, expenses, and liabilities for damages, including attorney's fees and costs ("Claims"), that arise out of the County's operation or performance under this Agreement including but

not limited to the County's construction, occupation, use, operation, and maintenance of the Premises, the Tower, and the Related Facilities. However, the County shall not be required to indemnify, defend, or hold harmless any Indemnitee from and against any Claim that arises from the sole negligence or intentional or willful misconduct of that Indemnitee.

- B. Assumption of Risk. The District shall have no responsibility to safeguard County equipment and property located on the Premises, or County employees, officers, agents, and contractors, for loss, damage, injury, or death. The County agrees to assume all such risk and hereby releases the District from all claims and recourse against District, including the right of contribution, for all loss or damage or expenses incurred by reason of death or injury to, or damage to property of, the County, its officers, employees, and agents. The County releases the District from any liability relating to, or in any way connected to, the County's use and access upon and across the District's property and the County's activities and use of the Premises, regardless of fault of the District. However, notwithstanding the foregoing, in accordance with California law, the County's assumption of risk and releases under this Section 16(B) shall not apply to any losses, damages, or expenses resulting from the intentional and willful misconduct or gross negligence of the District, its officers, or its employees, for which the District shall remain liable to the County, its officers, employees, agents, and contractors.

17. **INSURANCE.** The County has elected to be insured for its motor vehicle and general liabilities exposures through a self-insurance program.

18. **ASSIGNABILITY.** The County shall not voluntarily assign, transfer, sublet, or otherwise transfer or encumber, all or any part of the County's interest in the Licenses granted hereunder. Any attempt by County to assign this Agreement shall be void and of no effect.

19. **DEFAULT FOR MATERIAL BREACH.** The occurrence of any one or more of the following shall constitute a "**Material Default**" of this Agreement by the County:

- A. The County's vacating or abandonment of the Premises.
- B. The failure of the County to make any required payment of a License Fee, or any other payment required to be made by the County hereunder, within thirty (30) days after receipt of written demand for payment from District, which may be given by the District at any time after the date payment is due under this Agreement.
- C. The failure of the County to perform and of its obligations under this Agreement and the County's failure to cure said default within thirty (30) days after receipt of written notice thereof from the District. If the nature of the County's default is such that more than thirty (30) days are reasonably required for cure the default, then the County shall not be in default if, within thirty (30) days after receipt of notice from the District, the County begins taking reasonable steps to cure the default and thereafter diligently prosecutes such cure to completion.

- D. The failure of the County to comply with any lawful written order or directives relating to the Premises from any governmental entity within the time set forth in such order, and after the County's exhaustion of all appeal rights and administrative remedies.
- E. If any petition is filed by the County under any section or chapter of the Federal Bankruptcy Code, as it may be amended from time to time, and such petition is not dismissed within ninety (90) days thereafter; if the County becomes insolvent or makes a transfer in fraud of creditors; if the County makes a general arrangement or general assignment for the benefit of creditors; or if a receiver, custodian, or trustee is appointed for any of the assets of the County located at the Premises and the appointment is not vacated within ninety (90) days thereafter.
- F. The discovery by the District that the County has provided the District with false financial information.

**20. REMEDIES.** In the event of a Material Default by the County, as defined in Section 19, above, the District may take any or all of the following actions:

- A. Terminate this Agreement and the Licenses granted hereunder, in accordance with Section 25(A)(1), below, in which case the County shall remove the Tower, Related Facilities, and all County Property from the Premises, and return the Premises to a neat and clean condition.
- B. Recover unpaid License Fees and Road Fees then owed by the County through and including the date this Agreement terminates, and any other amounts necessary to compensate District for the County's failure to perform its obligations under this Agreement, including but not limited to retaking possession of the Premises, making such repairs as necessary to return the Premises to a good condition, and in removing all persons and property from the Premises in accordance with law.
- C. The Parties agree that the District's remedies under this Section 20 are in addition to all remedies available to the District in law or equity.

**21. WAIVER.** The waiver by District of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of any subsequent breach of the same term, covenant, or condition. If the County fails to pay any License Fees or the Road Fee in the manner required by this Agreement but the District later accepts said payment, that acceptance will be deemed a waiver of the County's failure to pay. Otherwise, the District's acceptance of License Fees or Road Fees shall not constitute a waiver of a breach of any other term, covenant, or condition herein contained.

**22. RELOCATION AND REMOVAL.**

- A. Relocation from the Premises. If the District requires the Premises for other District purposes, it shall make reasonable efforts to consult with the County to identify other District property that would be suitable for use by the County for its

telecommunications purposes. If the County elects to move its Tower and Related Facilities to that other location: the District shall not have any obligation to pay any cost and expense related to that relocation; and the Parties shall amend this Agreement to identify the new location, which shall become the "Premises," and to remove any and all obligations of the County related to the former Premises and to make such other changes as deemed necessary. If other suitable District property cannot be identified, or if the County elects not to move its Tower and Related Facilities to other District property, then the District may terminate this Agreement in accordance with Section 25(A)(2), below.

- B. Waiver of Relocation Benefits under State and Federal Law. In the event that the District requires the County to relocate from the Premises under Section 22(A), above, the County hereby specifically waives any rights to, and releases District from any obligation to provide, relocation benefits and relocation payments to which the County would otherwise be entitled under California or federal relocation laws. The County shall hold the District harmless from and indemnify the District against any and all liability cost and expense suffered or incurred by the District and arising in connection with any such rights or claim asserted by the County.

23. **CONDEMNATION.** If any part of the Premises is condemned for a public use and the remainder of the Premises is suitable for occupation and use by the County as herein authorized: this Agreement shall remain in effect; and the Licenses herein granted shall remain in effect only as to the remainder of the Premises after title to the part taken vests in the condemner. If all of the Premises is condemned, or if a substantial portion of the Premises is condemned and is no longer suitable for County's occupation and use as herein authorized, the Licenses granted herein and this Agreement shall terminate as of the date title to the Premises, or substantial portion thereof, vests in the condemner. In any condemnation proceeding to acquire the Premises, or any portion thereof, the County shall be entitled to all compensation awarded for damages to, or loss of, the County improvements, and for lost income caused by the taking, if any; and the District shall be entitled to all other damages including without limitation lost income and compensation for damages to real property owned by the District, including damages to the Premises and real property on which the County's improvements are located.

24. **TERMINATION.**

- A. District's Right to Terminate.

1. In the event of a Material Breach, as specified in Section 19, above, the District may immediately terminate this Agreement upon 180 days advance written notice to the County. During that 180-day period, the County shall be entitled to continue to occupy and use the Premises solely for the purpose of removing the Tower and Related Facilities from the Premises and returning the Premises to a neat and clean and natural condition.
2. Except as otherwise specified in Section 25(A)(1), above, the District shall not be entitled to terminate this Agreement within the first five (5) years

following the Effective Date. After the expiration of the first five (5) years following the Effective Date, and provided this Agreement has not already expired, the District may terminate this Agreement by providing the County at least three (3) years advance written notice. If the District elects to terminate this Agreement, before the Expiration Date, the County shall remove the Tower, Related Facilities, and all other County property from the Premises, and return the Premises to a neat and clean and natural condition.

B. County's Right to Terminate. At any time during the term of this Agreement, the County may, at its sole discretion, terminate this Agreement by providing the District at least one hundred eighty (180) days advance written notice. If the County elects to terminate this Agreement under this Section 25(B), before the termination date the County shall remove the Tower, Related Facilities, and all other County property from the Premises, and return the Premises to a neat and clean and natural condition.

C. Effect of Termination or Expiration. Except as expressly provided herein, on the date this Agreement terminates or expires, the Licenses herein granted shall terminate, and the terms and conditions herein contained shall no longer be of any force or effect.

D. Refund of License Fees. Within 30 days after the termination or expiration date of this Agreement, the District shall refund to the County:

1. All License Fees paid by the County for any months following the month in which the termination date occurs, if any; and
2. A proportion of the License Fees paid for the month in which the termination date occurs, based on the following formula:

$$\frac{[(\text{License Fees paid for current month}) / (\text{Number of days in current month})] \times (\text{number of days during the period from and including the day after the termination date, through and including the last day of the current month})}{\text{Amount of refund to County}}$$

25. **HOLD OVER.** Any holding over by the County after the expiration or termination of this Agreement, with the written consent of District, shall be construed to be a tenancy from month to month on the same terms and conditions specified herein so far as applicable. Notwithstanding anything to the contrary contained herein, including in Section 25(B), during any hold over tenancy, the Licenses herein granted shall continue to remain in effect until the hold over tenancy is terminated. Either Party may terminate any hold over tenancy on thirty (30) days written notice to the other Party.

26. **REMOVAL OF COUNTY'S EQUIPMENT BY DISTRICT.** If, after the termination or expiration of this Agreement, the County fails to remove the Tower, Related Equipment, and other County property from the Premises as required herein, the removal work may be performed by District, and the County shall pay the District, within 30 days after receiving a



demand for payment, all of the District's direct costs, plus an additional amount of 20% of those costs for administrative overhead.

**27. INDEPENDENT CAPACITY.** The County is a licensee and the District is a licensor hereunder, but the County and the District are otherwise independent of one another. Nothing in this Agreement creates, nor shall it be construed as creating, a joint exercise of powers agency, partnership, or joint venture of the County and the District. The County retains the sole discretion to perform its obligations under this Agreement, and to exercise its rights under the Licenses herein granted. The County is solely responsible for the employment, direction, compensation, and discharge of all persons employed by or engaged by the County in the performance of its obligations under this Agreement, or the exercise of its rights under the Licenses herein granted.

**28. NOTICES.** Any notice required or desired to be given or served hereunder shall be deemed properly given if it is personally delivered, sent by registered U.S. Mail, or sent by overnight delivery with delivery to be made on the next business day, with postage prepaid, addressed to:

**For District:**

East Bay Regional Park District  
2950 Peralta Oaks Court  
P.O. Box 5381  
Oakland, California 94605  
Attention: Business Services

**For County:**

Contra Costa County Public Works Dept.  
Attn: Principal Real Property Agent  
255 Glacier Drive  
Martinez, California 94553

With a copy to:

District Counsel  
2950 Peralta Oaks Court  
P.O. Box 5381  
Oakland, California 94605

Either Party may designate other persons or addresses to which notices must be given under this Agreement by providing written notice to the other Party in the manner set forth in this Section. Each notice given hereunder shall be deemed given, and received by the other Party: on the same day if delivered in person; on the next business day following the date of mailing if delivered by overnight delivery; and on the fifth day following the date of mailing if mailed by registered U.S. Mail.

For day to day operations, the contact at the District shall be the Business Services Manager, 510-544-2513; and the contact for the County shall be leasing agent, 925-313-2132.

**29. EXISTING CONDITION.** This Licenses granted hereunder are granted subject to all existing liens, encumbrances, conditions, and restrictions of record affecting the Premises and are also subject to all existing rights, rights of way, licenses, leases, reservations, and easements by whomsoever held, in and to the Premises that predate the Effective Date of this Agreement.

30. **ENTIRE AGREEMENT.** This Agreement constitutes the entire agreement between the Parties and supersedes all prior written and verbal representations or understandings between the parties. This Agreement also supersedes the "**Communication License**," dated July 1, 1997, between the County and the District, which is hereby terminated and of no further force or effect.
31. **SEVERABILITY.** If any provision of this Agreement is determined by a Court to be invalid or unenforceable with respect to any Party, the remainder of this Agreement shall not be affected and shall be valid and enforceable to the fullest extent permitted by law.
32. **COUNTERPARTS.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original.

**IN WITNESS WHEREOF,** the Parties hereto have executed this Agreement as of the Effective Date hereof.

East Bay Regional Park District "District"

By: 

Robert E. Doyle, General Manager

Date: 

**APPROVED AS TO FORM:** 

By: 

District Counsel

Contra Costa County "County"

By: 

Julia R. Bueren, Director of Public Works

**RECOMMENDED FOR APPROVAL:**

By: 

Karen A. Laws  
Principal Real Property Agent

By: 

David L. Silva  
Supervisory Real Property Agent

**APPROVED AS TO FORM:**

Sharon L. Anderson, County Counsel

By: 

Stephen Siptroth  
Deputy County Counsel

## EXHIBIT A



**EXHIBIT B**



Tilden Volmer Peak License Agreement Exhibit

## EXHIBIT C

A) Site Management. County shall provide management for the Premises, including but not limited to the following:

- i) County shall negotiate and administer all Tower Licenses for the use of the Tower on the Premises, and the District shall negotiate and administer all licenses for users of the Shelter on the Premises. Any new licenses or renewal of existing licenses shall be applied for and approved in writing by both the District, County, and East Bay Municipal Utility District prior to execution.
- ii) County shall coordinate space on the Premises for housing combination radio or microwave transmitter receiver equipment, including interference calculations for electronic equipment and antennas, inspection of equipment for damage and safety hazards, battery maintenance, and analysis of interference and compatibility problems with existing equipment. District agrees that in the event of harmful interference or degradation to radio operations, County may require that the interfering signal be suspended upon notice by County to applicable sub licensee pending resolution of such interference or degradation and shall not resume such operation without agreement by the FCC or the County.
- iii) County shall coordinate space on the towers for antennas, including any required structural considerations, repairs or replacement of the towers as required.
- iv) County shall provide, inspect, maintain and repair the emergency generator and electrical system.
- v) All current users of the Shelter and Tower are listed in Exhibit "D". No other users of the Premises will be allowed without prior written approval by the District and the East Bay Municipal Utility District.
- vi) County shall keep all equipment on the Premises in good working condition in accordance with acceptable "industry standards" when the standards of the following codes, if applicable, are met: National Electrical Code (NEC), Electronic Industries Association (EIA), National Electrical Manufacture's Association (NEMA), Institute of Electrical and Electronic Engineers (IEEE), Federal Communications Commission (FCC), and National Electric Safety Code (NESC).
- vii) County agrees that no facilities shall be constructed or any alterations made at the Premises without District's prior written consent, which consent shall not be unreasonably withheld.

- B) Maintenance. County shall be responsible for the maintenance of the tower and all improvements thereon and the emergency generator, and shall be solely responsible for all expenses incurred in connection with its use of the licensed property.

The County and the District agree to perform the following:

- i) District shall keep the roof and exterior of the building in good order, condition, and repair and shall maintain the structural integrity of the building, except County shall maintain the exterior doors and their fixtures, closer and hinges, and all locks and key systems in the demised Premise.
- ii) County shall keep and maintain the interior of the Premises in good order, condition, and repair, including the lighting and electrical systems. District shall repair damage to the interior caused by failure to maintain the exterior in good repair, including damage to the interior caused by roof leaks and/or interior and exterior wall leaks.
- iii) County shall maintain the grounds including weed abatement and general cleanup within a 100 yard radius of the enclosure fence. County will use only the District's Pest Management Department approved materials that may be used at the Premises.
- iv) County agrees to cooperate with District to protect the lands of District from destruction by erosion, fire, or improper use, and to protect the flora and fauna within the park. The provisions of this license shall at all times be interpreted so as to accomplish such objectives.
- v) County shall pay all costs of construction done by it or caused to be done by it on the licensed facility as permitted by this license. County shall keep the licensed facility free and clear of all mechanic liens resulting from construction done by or for County.

**EXHIBIT D**

**CUSTOMERS ON VOLLMER PEAK**

2015

**Number of Racks**

East Bay Regional Communications System Authority	4
BART	1.0
Cal Trans	4.0
CHP	9.0
EBMUD	0.5
EBRPD	3.0
Golden Gate Bridge Dist.	5.0
	<hr/>
	26.50
<b>AGENCIES BELOW ARE DIVISIONS OF CONTRA COSTA COUNTY</b>	
Con Fire - CFD	1.3
CWS - Community Warning System - Sheriff	1
EMS - Emergency Medical Services - Health Svcs.	0.5
Flood Control - Public Works	0.3
Lamorinda Public Works	0.5
Sheriff	1
SRVFD - San Ramon Valley Fire District	0.5
<b>CONTRA COSTA COUNTY SUB-LEASE</b>	
Alameda County	0.9
	<hr/>
	6



EAST BAY REGIONAL PARK DISTRICT

RESOLUTION NO.: 2017 – 01 - 016

January 31, 2017

**AUTHORIZATION TO ENTER INTO A COMMUNICATION SITE LICENSE AGREEMENT  
WITH CONTRA COSTA COUNTY: VOLLMER PEAK, TILDEN REGIONAL PARK**

WHEREAS, in 1961, a communication site license agreement was granted to Contra Costa County for the District's site on Vollmer Peak in Tilden Regional Park; and

WHEREAS, Contra Costa County has requested to continue their communication site license agreement; and

WHEREAS, the Board Operations Committee, at its January 19, 2017 meeting, has reviewed and unanimously recommended authorization of this agreement by the full Board;

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the East Bay Regional Park District hereby authorizes the Communication Site License Agreement with Contra Costa County, for the existing site at Vollmer Peak in Tilden Regional Park for a five-year term, and three additional five-year terms, so long as the Contra Costa County is not in default under the terms of the lease, for an annual total of \$28,400, with an annual CPI adjustment up to 3%, for six racks at \$400 per rack to be coded to Account 101-5121-105-3782 and an annual road fee of \$500 to be coded to Account 101-5942-765-3782; and

BE IT FURTHER RESOLVED, that the General Manager is hereby authorized and directed, on behalf of the District and in its name, to execute and deliver such documents and to do such acts as may be deemed necessary or appropriate to accomplish the intentions of this resolution.

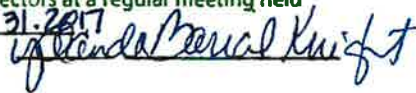
Moved by Director Waespi, seconded by Director Corbett, and adopted this 31st day of January, 2017, by the following vote:

FOR: Ellen Corbett, Whitney Dotson, Beverly Lane, Dee Rosario, Dennis Waespi,  
Ayn Wieskamp.  
AGAINST: None.  
ABSTAIN: None.  
ABSENT: None.

  
Beverly Lane, Board President

**CERTIFICATION**

I, Yolande Barial Knight, Clerk of the Board of Directors of the East Bay Regional Park District, do hereby certify that the above and foregoing is a full, true and correct copy of Resolution No. 2017-01-016 adopted by the Board of Directors at a regular meeting held on JANUARY 31, 2017







Contra Costa County  
**Public Works  
Department**

Julia R. Bueren, Director

Deputy Directors  
Brian M. Balbas, Chief  
Mike Carlson  
Stephen Kowalewski  
Carrie Ricci  
Joe Yee

March 2, 2017

Ms. Renee Patterson  
East Bay Regional Park District  
2950 Peralta Oaks Court  
Oakland, CA 94605

RE: License Agreement – Bald Peak (Vollmer Peak)  
with Contra Costa County

Dear Ms. Patterson:

I am happy to present to you the enclosed signed License Agreements from Contra Costa County regarding the Premises located at Bald Peak (Vollmer Peak). I am requesting you obtain the signature of your General Manager and District Counsel on each document, and return two (2) fully executed License Agreements to my attention. My address is 255 Glacier Drive, Martinez, California 94553.

Should you have any questions, please contact me at (925) 313-2132.

Sincerely,

David L. Silva  
Supervisory Real Property Agent  
Real Estate Division

DS:sd  
G:\realprop\2017-Files\Ltr to R. Patterson - License Ag - Bald Peak (Vollmer Peak) w CCC.docx  
Enclosures (4)

c: Ed Woo, Dept. of Information Technology  
K. Laws, Public Works Dept.



Contra  
Costa  
County

To: Board of Supervisors  
From: Julia R. Bueren, Public Works Director/Chief Engineer  
Date: February 14, 2017

Subject: Execute a license agreement with East Bay Regional Park District for Vollmer Peak Tower

**RECOMMENDATION(S):**

APPROVE and AUTHORIZE the Public Works Director, or designee, to execute a license agreement with East Bay Regional Park District, for a five-year term beginning February 1, 2017, with three optional five-year extensions, to use District property for the County's Vollmer Peak telecommunications tower, at a rate of \$2,400 per month, Orinda area.

AUTHORIZE the Public Works Director to provide notice to renew the license agreement by up to three additional five-year periods, if determined to be necessary.

**FISCAL IMPACT:**

100% General Fund

**BACKGROUND:**

The County has operated a telecommunications tower (Tower) on Vollmer

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD COMMITTEE

Action of Board On: 02/14/2017 ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

**VOTE OF SUPERVISORS**

AYE: John Gioia, District I Supervisor  
Candace Andersen, District II Supervisor  
Diane Burgis, District III Supervisor  
Karen Mitchoff, District IV Supervisor  
Federal D. Glover, District V Supervisor

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: February 14, 2017

David J. Twa, County Administrator and Clerk of the Board of Supervisors

*Stephanie Mello*  
By: Stephanie Mello, Deputy



Contact: Dave Silva, (925)  
313-2132

cc:

### BACKGROUND: (CONT'D)

Peak since 1961 under various agreements with the East Bay Regional Park District (District), which owns the property. The County is responsible for maintaining and operating the Tower, and it uses rack space in an adjacent District-owned shelter (Shelter). The County's Department of Information Technology (DOIT) operates the Tower as a microwave/radio communications site for Bay Area public agencies. The Tower provides critical radio and microwave coverage for the western half of Contra Costa County and the northeastern portion of the San Francisco Bay Area. The County uses a District road to access the Tower and Shelter.

Under this license agreement, the District will continue to grant the County a license to maintain the Tower on Vollmer Peak, to use six racks in the Shelter, and to use the District's road to access the Tower and Shelter. The County will pay the District \$2,400 per month, subject to annual increases beginning February 1, 2018, for the six racks in the Shelter, and will pay the District a road fee of \$500 per year. The license agreement requires the County to indemnify the District against claims that arise from the County's actions under the agreement.

The term of the license agreement begins on February 1, 2017, and it expires five years after the effective date. The County may elect to extend the license term by up to three additional five-year periods, unless the District provides notice of nonrenewal at least 180 days in advance of the expiration of the then-current term of the license agreement.

Because the Tower is an integral part of the County's telecommunications network, the Departments of Public Works and Information Technology recommend that the Board of Supervisors approve the license agreement.

### CONSEQUENCE OF NEGATIVE ACTION:

If the license agreement is not approved, DOIT will not be able to operate a communications site on Vollmer Peak, which will have a negative effect on the County and the public agencies that are using the telecommunications tower. The County would also incur additional costs to remove the tower from the site and relocate it to another site, if feasible.

### ATTACHMENTS

License Agreement with EBRPD for Vollmer Peak

## EXHIBIT C

Project Site: Vollmer Peak

Lease Number: 3951-002

County: Contra Costa

### Equipment Information

#### Vault and Tower Lease

Racks: Number: N/A Dimensions: N/A

Storage Space: Type: N/A Square Footage: N/A

Antennas: Type: Exposed Dipole Size: \_\_\_\_\_

Type: Exposed Dipole Size: \_\_\_\_\_

Type: M/W Dish Size: 8 ft

Type: \_\_\_\_\_ Size: \_\_\_\_\_

Transmitters: Frequency: N/A Frequency: \_\_\_\_\_

Frequency: \_\_\_\_\_ Frequency: \_\_\_\_\_

Receivers: Frequency: N/A Frequency: \_\_\_\_\_

Frequency: \_\_\_\_\_ Frequency: \_\_\_\_\_

Tower: Type: \_\_\_\_\_ Height: 60 ft CHP owned? (Y/N): N

Propane tank: Gallons: N/A Number: \_\_\_\_\_

Generator: Type: N/A Number: \_\_\_\_\_

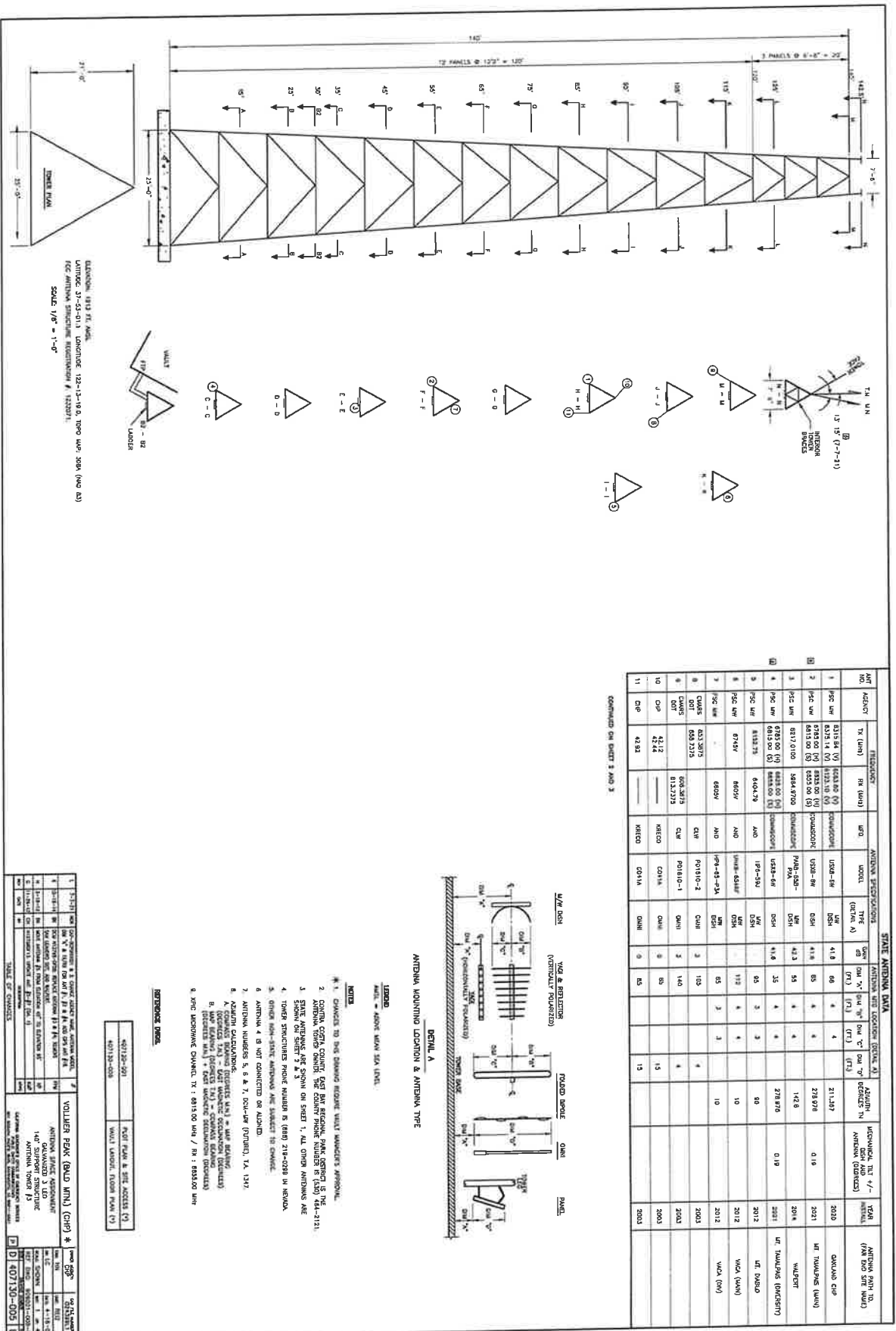
Vault: Dimensions: N/A CHP owned? (Y/N): N/A

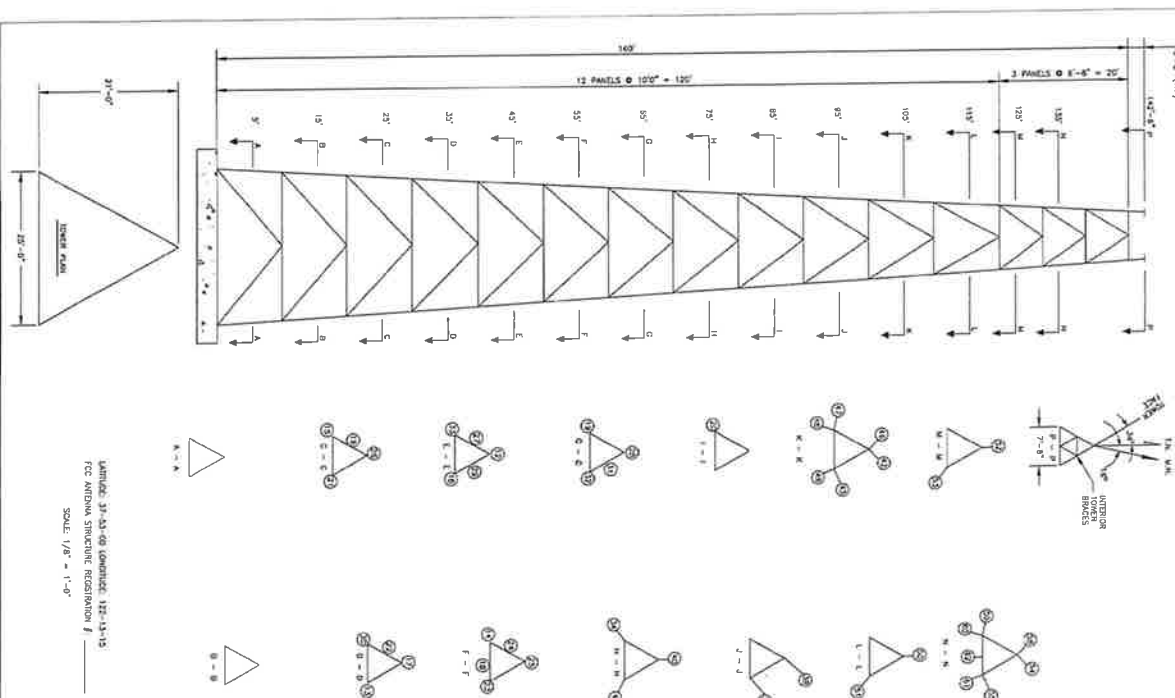
Latitude and Longitude: Lat: 37-53-02 Long: 122-13-15

Comments: \_\_\_\_\_

Completed By: \_\_\_\_\_ Date: \_\_\_\_\_

# EXHIBIT D Vollmer Peak Drawings





OTHER ANTENNA DATA									
ANT. IDENTIFICATION	AGENCY	CHARGED	TYPE	MODEL	TYPE	CON	ANTENNA WIRE LENGTH	HEIGHT	REMARKS
42	EDMO		42	42	42	42	42	42	42
43	EDMO		43	43	43	43	43	43	43
44	EDMO		44	44	44	44	44	44	44
45	EDMO		45	45	45	45	45	45	45
46	EDMO		46	46	46	46	46	46	46
47	EDMO		47	47	47	47	47	47	47
48	EDMO		48	48	48	48	48	48	48
49	EDMO		49	49	49	49	49	49	49
50	EDMO		50	50	50	50	50	50	50
51	EDMO		51	51	51	51	51	51	51
52	EDMO		52	52	52	52	52	52	52
53	EDMO		53	53	53	53	53	53	53
54	EDMO		54	54	54	54	54	54	54
55	EDMO		55	55	55	55	55	55	55
56	EDMO		56	56	56	56	56	56	56
57	EDMO		57	57	57	57	57	57	57
58	EDMO		58	58	58	58	58	58	58
59	EDMO		59	59	59	59	59	59	59
60	EDMO		60	60	60	60	60	60	60
61	EDMO		61	61	61	61	61	61	61
62	EDMO		62	62	62	62	62	62	62
63	EDMO		63	63	63	63	63	63	63
64	EDMO		64	64	64	64	64	64	64
65	EDMO		65	65	65	65	65	65	65
66	EDMO		66	66	66	66	66	66	66
67	EDMO		67	67	67	67	67	67	67
68	EDMO		68	68	68	68	68	68	68
69	EDMO		69	69	69	69	69	69	69
70	EDMO		70	70	70	70	70	70	70
71	EDMO		71	71	71	71	71	71	71
72	EDMO		72	72	72	72	72	72	72
73	EDMO		73	73	73	73	73	73	73
74	EDMO		74	74	74	74	74	74	74
75	EDMO		75	75	75	75	75	75	75
76	EDMO		76	76	76	76	76	76	76
77	EDMO		77	77	77	77	77	77	77
78	EDMO		78	78	78	78	78	78	78
79	EDMO		79	79	79	79	79	79	79
80	EDMO		80	80	80	80	80	80	80
81	EDMO		81	81	81	81	81	81	81
82	EDMO		82	82	82	82	82	82	82
83	EDMO		83	83	83	83	83	83	83
84	EDMO		84	84	84	84	84	84	84
85	EDMO		85	85	85	85	85	85	85
86	EDMO		86	86	86	86	86	86	86
87	EDMO		87	87	87	87	87	87	87
88	EDMO		88	88	88	88	88	88	88
89	EDMO		89	89	89	89	89	89	89
90	EDMO		90	90	90	90	90	90	90
91	EDMO		91	91	91	91	91	91	91
92	EDMO		92	92	92	92	92	92	92
93	EDMO		93	93	93	93	93	93	93
94	EDMO		94	94	94	94	94	94	94
95	EDMO		95	95	95	95	95	95	95
96	EDMO		96	96	96	96	96	96	96
97	EDMO		97	97	97	97	97	97	97
98	EDMO		98	98	98	98	98	98	98
99	EDMO		99	99	99	99	99	99	99
100	EDMO		100	100	100	100	100	100	100



## **Exhibit E**

### **Site Standards**

The following standards are established as minimum site user requirements to allow all systems to operate with a minimum of interference and the maximum attainable reliability. Additional requirements may be imposed depending on the individual case. All site users will be handled on an equitable basis under these standards regardless of the equipment type.

1. Each transmitter must be identified with a County approved designation tag, along with the name and phone number or the person responsible for the operation of the transmitter. Each transmitter shall have its FCC licensed call sign on the cabinet.
2. A certified true copy of the Federal Communications Commission license grant for each transmitter shall be provided to the County prior to any installation commencing.
3. Only FCC type accepted/approved transmitters shall be installed.
4. Each transmitter (microwave excepted) shall have a harmonic filter, protective isolator and band-pass cavity which shall as a minimum meet the requirements in Table 1. The isolator shall proceed the band-pass cavity in the transmit path.
5. Additional filters, band-pass cavities, isolators and other protection may be required to solve site specific interference problems.
6. Double-shielded (MILC17), or solid outer conductor (Helix) shall be used to connect RF equipment to antennas, protective devices and components; preferably using type "N" connectors and a minimum number of adapters. Single-shield cable and unjacketed transmission line are prohibited.
7. Transmission lines shall be grounded at the top, bottom, and building entry point, utilizing the transmission line manufacturer's grounding kit.
8. A lightning arrester shall be provided on each transmission line entering the building. The lightning arrester's ground shall be connected to the ground bar below the cable-entry in the building.
9. Antenna mounting assemblies shall utilize galvanized steel structural members specifically designed to fit the tower structure. All ferrous metals utilized with the mounting hardware shall either be hot-dipped galvanized or stainless steel.
10. Contact surfaces of dissimilar metals shall be treated to prevent galvanic corrosion (rust).
11. Transmission line supports and hangers shall adequately support the transmission lines when subjected to wind and ice, and shall prevent vibration and shaking. The support shall ensure that no weight or stress is placed on adjoining sections. The use of wire-ties, steel bands, wraplock, wire, or any other attachment other than that specified will not be accepted.
12. Site users will submit detailed plans for their installations. Detailed plans should include all equipment, transmission lines, antenna mounts and FCC licenses.



13. All transmission lines will be color coded as specified by County.

14. Site users will pay the County for any Load Calculation studies.

Testing and Inspection:

The County shall have the rights to inspect all phases of work of the transmitter and antenna system to determine that the system meets these specifications. Any discrepancies shall be correct immediately.

<b>Frequency</b>	<b>Isolator</b>	<b>BPC Attenuation ± From Carrier Frequency</b>
30 – 60 MHz	40 dB	15 dB minimum
130 – 180 MHz	50 dB	15 db minimum
400 – 512 MHz	50 dB	20 dB minimum
800 – 960 MHz	50 dB	25 dB minimum