

ATTACHMENT B --- REDLINE VERSION

Project No: PM 055-386-6460-1-1
 Project Name: OCTA License (OCTA Agreement No. C-6-00396)
 Project Location: Multiple 800 MHz Communications Sites

LICENSE (Communications Agreement)

This **First Amendment to License Agreement** ("License") is made _____, 20~~06~~**18**, by and between the **COUNTY OF ORANGE**, hereinafter referred to as "COUNTY," and the **ORANGE COUNTY TRANSPORTATION AUTHORITY**, hereinafter referred to as "LICENSEE," without regard to number or gender. **COUNTY and LICENSEE may be referred to individually herein as a "Party" or collectively as the "Parties."**

1. DEFINITIONS

The following words in the License have the significance attached to them in this clause, unless otherwise apparent from context:

"Sheriff" means the Sheriff of the County of Orange, or designee, or upon written notice to LICENSEE, such person or entity as shall be designated by the Board of Supervisors.

"Communications Director" means the Director of Communications, Sheriff-Coroner Department, County of Orange, or designee, or upon written notice to LICENSEE, such person or entity as shall be designated by the Sheriff-Coroner.

"Board of Supervisors" means the Board of Supervisors of the County of Orange, a political subdivision of the State of California.

"Auditor-Controller" means the Auditor-Controller of the County of Orange, or designee, or upon written notice to LICENSEE, such person or entity as shall be designated by the Board of Supervisors.

"County Counsel" means the legal Counsel of the County of Orange, or designee, or upon written notice to LICENSEE, such person or entity as shall be designated by the Board of Supervisors.

"Risk Manager" means the Manager of the County Executive Office (CEO)/Risk Management Department, County of Orange, or designee, or upon written notice to LICENSEE, such person or entity as shall be designated by the Board of Supervisors.

2. TERM

This License shall become effective ("**Effective Date**") on the date first written above and shall continue in effect until ~~twenty~~ (~~1~~**20**) years, thereafter, **expiring November 20, 2026** or until terminated as provided in the Clause **3 entitled** (Termination) of this License, whichever first occurs.

3. TERMINATION

This License or rights related to use of any individual communications site shall be revocable by either COUNTY or LICENSEE at any time; however, except for emergency circumstances requiring immediate or other date specific termination of this License by COUNTY at its sole discretion,

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2 COUNTY shall give one hundred eighty (180) days prior written notice to LICENSEE upon
3 revocation. LICENSEE will attempt to give forty five (45) days prior written notice to COUNTY upon
4 revocation of this License or any part thereof.

6 In the event either party terminates this License or any part thereof, LICENSEE shall promptly
7 remove its communications equipment, as defined below, from License Area and return the License
8 Area to its original condition, normal wear and tear excepted.

10 In the event LICENSEE ceases operation and removes its communications equipment from any
11 individual COUNTY communications site, the provisions of this License shall remain in full force and
12 effect for LICENSEE's use of the remainder of the Facility and shall in no way affect, impair or
13 invalidate this License.

14 4. LICENSE AREA

16 COUNTY grants to LICENSEE the right to use certain properties (collectively the "License Area")
17 located at multiple COUNTY communications facilities hereinafter (collectively the "Facilityies") and
18 shown individually by site on "*Revised Exhibit A,*" Site Plan, which exhibit is attached hereto and
19 by reference made a part hereof.

20 5. USE

22 LICENSEE's use of the License Area shall be limited to the operation of certain LICENSEE-owned
23 radio communications equipment ("**Communications Equipment**") described in "*Revised Exhibit*
24 *B,*" Communications Site Licensee Equipment, attached hereto and by reference made a part
25 hereof. Throughout the term of this License and at all times, COUNTY shall have the right, at
26 COUNTY's discretion, to determine the specific location of LICENSEE's Communications
27 Equipment within the License Area. Should COUNTY determine the need to relocate
28 Communications Equipment at any time after the Effective Date of this License, COUNTY shall
29 provide LICENSEE with one hundred eighty (180) days prior written notice of such anticipated
30 relocation. All costs associated with such relocation shall be the responsibility of LICENSEE and
31 LICENSEE shall promptly reimburse COUNTY within thirty (30) days after receipt of invoice for the
32 cost of said relocation. Should LICENSEE determine the proposed relocation area is unacceptable,
33 LICENSEE has the right to terminate this License upon forty-five (45) days prior written notice.

36 LICENSEE shall use the License Area in a manner so as not to interfere with the COUNTY's use of
37 or equipment at the Facility, or with the use by or equipment of COUNTY's other licensees at said
38 Facility.

40 LICENSEE agrees not to use the License Area for any other purpose nor to engage in or permit any
41 other activity within or from the License Area. LICENSEE further agrees not to conduct or permit to
42 be conducted any public or private nuisance in, on, or from the License Area, nor to commit or
43 permit to be committed waste on the License Area, and to comply with all governmental laws and
44 regulations in connection with its use of the License Area.

46 6. LICENSE SUBORDINATE TO COUNTY SITE LEASES

48 This License and the rights and privileges granted to LICENSEE in and to the License Area are
49 subject to all covenants, conditions, restrictions and exceptions of record or apparent. This License
50 shall at all times be subordinate and subject to the provisions and requirements of certain
51 agreements between COUNTY and the parties as follows and subsequent and other COUNTY

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2 agreements relative to the development, operation and maintenance of certain radio
 4 communications facilities included in this License: Sierra Peak Lease dated January 31, 2002 (U.S.
 6 Forest Service); Santiago Peak Lease dated September 30, 2003 (U.S. Forest Service); ~~Belero~~
 8 ~~Peak Lease dated May 1, 1979 (The Irvine Company); Signal Peak Lease dated December 17,~~
~~1986 (The Irvine Company)~~ **San Clemente Lease dated May 11, 1976 and First Amendment**
dated June 22, 1998 (City of San Clemente); Moorhead Remote Lease dated October 5, 1999
 (Laguna Beach County Water District); and, Laguna Remote Facility Lease date April 9, 1968 (City
 of Laguna Beach).

10 In the event any party to an agreement relating to the radio communications facilities included in
 12 this License shall declare a default under an agreement for action or inaction on the part of
 14 LICENSEE, COUNTY shall have the right to cure any such default and invoice LICENSEE for the
 cost(s) thereof. LICENSEE shall reimburse COUNTY for such cost(s) within thirty (30) days after
 receipt of said invoice.

16 Nothing contained in this License or in any document related hereto shall be construed to imply the
 conveyance to LICENSEE of rights in the License Area, which exceed those owned by COUNTY.

7. RENT

A. Annual Payments

22 Commencing on the Effective Date of this License, LICENSEE agrees to pay COUNTY annual
 24 rent ("**Rent**") for the use of the License Area as provided by the schedule in "**Revised Exhibit E**"
 26 Communications Site Equipment Rent, attached hereto and by this reference made a part
 hereof.

28 Rent shall be payable annually in advance within thirty (30) days after receipt of invoice provided
 30 by COUNTY. LICENSEE shall be provided with said invoice at the commencement of this
 32 License and within sixty (60) days prior to the first day of each anniversary of the Effective Date
 of this License. LICENSEE shall pay the Rent while this License is in effect, without deduction or
 offset, in lawful money of the United States. Rent shall be due and payable to COUNTY whether
 or not an actual invoice is sent by COUNTY or received by LICENSEE.

34 In the event the obligation to pay Rent terminates on a day other than the anniversary date of the
 36 Effective Date of the License, said Rent shall be prorated to reflect the actual period of use on
 the basis of a 360-day year.

38 The Rent amount for Year 1, **Seventy Five Thousand Two Hundred Twenty Dollars**
 40 **(\$75,220)**, is initially calculated in accordance with Exhibit B and the schedule set forth in **the**
 42 **original "Exhibit C," that was attached to this License, furthermore, the Rent amount**
 44 **starting with Year 11 of this License shall be in accordance with the Rent Schedule**
("Revised Exhibit C"), ~~Rental Rates~~ **which is** attached hereto and **by reference** made a part
 hereof.

B. Rent Adjustment

48 ~~The Board of Supervisors may from time to time revise and/or amend all or any portion of the~~
 50 ~~Rental Rates set forth in Exhibit C. COUNTY shall use its best efforts to provide written~~
~~notification of any proposed Rent modification to LICENSEE at least thirty (30) days prior to~~
~~consideration by the Board of Supervisors at a regularly scheduled meeting. In the event the~~

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~~Board of Supervisors revises or amends the Rental Rates (Exhibit C), LICENSEE's Rent shall be automatically adjusted per the new Rental Rates (Exhibit C) as of the date of approval of the new Rental Rates (Exhibit C) by the Board of Supervisors. Upon approval of the new Rental Rates (Exhibit C), COUNTY shall provide LICENSEE with the Board of Supervisors approval, a revised Exhibit C Rental Rates and a revised Exhibit E Communications Site Rent. Said revisions of Exhibit C and Exhibit E shall replace the existing Exhibit C and Exhibit E of this License.~~

~~LICENSEE shall be invoiced for any increased Rent prorated from the date of Board of Supervisors approval of the Rental Rates (Exhibit C). LICENSEE shall be credited for any decrease in the Rent prorated from the date of said approval and said credit shall be applied on the invoice LICENSEE receives within sixty (60) days prior to the following anniversary of the Effective Date of this License.~~

~~In the event of the implementation of a new Board of Supervisors approved Rental Rates (Exhibit C), adjustment of Rent shall additionally include the modification of the annual Rent payments for the years remaining in the License term as set forth in this Clause Rent (A) Annual Payments above. COUNTY shall provide in the written notice of adjustment to LICENSEE a listing of the revised Rent amounts due for each remaining year. The new Rent amounts due shall be calculated at the same year-to-year incremental rate of increase as was used in the original schedule (Exhibit C) herein and COUNTY and LICENSEE mutually agree that the new Rent amounts due shall modify and replace the amounts set forth in the original schedule on Exhibit E.~~

The Board of Supervisors may from time to time revise and/or amend all or any portion of the Rent Schedule set forth in Revised Exhibit C. COUNTY shall use its best efforts to provide written notification of any proposed Rent modification to LICENSEE at least thirty (30) days prior to consideration by the Board of Supervisors at a regularly scheduled meeting. In the event the Board of Supervisors revises or amends the Rent Schedule (Revised Exhibit C), LICENSEE's Rent shall be automatically adjusted per the new Rent Schedule (Revised Exhibit C) as of the date of approval of the new Rent Schedule (Revised Exhibit C) by the Board of Supervisors. Upon approval of the new Rent Schedule (Revised Exhibit C), COUNTY will provide LICENSEE with a written notice of adjustment to LICENSEE's Rent according to the Board of Supervisors approved new Rent Schedule (Revised Exhibit C) and a copy of the Board item referencing approval of said new Rent Schedule (Revised Exhibit C).

LICENSEE shall be invoiced for any increased Rent prorated from the date of Board of Supervisors approval of the Rent Schedule (Revised Exhibit C). LICENSEE shall be credited for any decrease in the Rent prorated from the date of said approval and said credit shall be applied on the invoice LICENSEE receives within sixty (60) days prior to the following anniversary of the Effective Date of this License.

In the event of the implementation of a new Board approved Rent Schedule (Revised Exhibit C), adjustment of Rent shall additionally include the modification of the annual Rent payments for the years remaining in the License term as set forth in Section A Annual Payments above. COUNTY shall provide in the written notice of adjustment to LICENSEE a listing of the revised Rent Amounts Due for each remaining year. The new Rent Amounts Due shall be calculated at the same year-to-year incremental rate of increase as was used in the original schedule herein and COUNTY and LICENSEE mutually agree that the new Rent amounts due shall modify and replace the amounts set forth in the original schedule.

8. PROCESSING FEE

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2 Upon approval by COUNTY of this **First Amendment to** License, LICENSEE shall pay to COUNTY
4 a processing fee of One Thousand One Hundred Fifty Dollars (\$1,150) for issuance of this License
6 and an additional One Thousand ~~One~~**Seven** Hundred Fifty Dollars (\$1,~~1~~**7**50) for each subsequent
8 amendment to this License. Said processing fee is deemed earned by COUNTY and is not
10 refundable. COUNTY shall provide LICENSEE with an invoice for processing fee and LICENSEE
12 shall promptly pay the total processing fee amount within thirty (30) days after receipt of invoice.
14 **COUNTY reserves the right to adjust the Processing Fee at any time throughout the**
16 **remaining term of this License.**

9. PAYMENT PROCEDURE

12 All payments pursuant to this License shall be delivered to the County of Orange, Auditor-
14 Controller, P.O. Box 567 (630 North Broadway), Santa Ana, California 92702. COUNTY may
16 change the designated place of payment at any time upon ten (10) days written notice to
18 LICENSEE. All fee payments may be made by check payable to the "County of Orange."
20 LICENSEE assumes risk of loss if payments are made by mail.

22 No payment by LICENSEE or receipt by COUNTY of an amount less than the payment due shall be
24 deemed to be other than on account of the payment due, nor shall any endorsement or statement
26 on any check or any letter accompanying any check or payment as payment be deemed an accord
28 and satisfaction, and COUNTY shall accept such check or payment without prejudice to COUNTY's
30 right to recover the balance of said payment or pursue any other remedy in this License.

10. CHARGE FOR LATE PAYMENT

32 LICENSEE hereby acknowledges that the late payment of any sums due hereunder will cause
34 COUNTY to incur costs not contemplated by this License, the exact amount of which will be
36 extremely difficult to ascertain. Such costs include but are not limited to costs such as
administrative processing of delinquent notices, increased accounting costs, etc.

38 Accordingly, if any payment pursuant to the License is not received by COUNTY by the due date, a
40 late charge of 1.5% of the payment due and unpaid, plus \$100 shall be added to the payment, and
42 the total sum shall become immediately due and payable to COUNTY. An additional charge of 1.5%
44 of said payment, excluding late charges, shall be added for each additional month that said
payment remains unpaid.

46 LICENSEE and COUNTY hereby agree that such late charges represent a fair and reasonable
estimate of the costs that COUNTY will incur by reason of LICENSEE's late payment.

48 Acceptance of such late charge (and/or any portion of the overdue payment) by COUNTY shall in
no event constitute a waiver of LICENSEE's default with respect to such overdue payment, or
prevent COUNTY from exercising any other rights and remedies granted hereunder. COUNTY shall
provide LICENSEE with an invoice for said charges and LICENSEE shall pay COUNTY within thirty
days after receipt of said invoice.

11. SERVICES CHARGES

48 Due to safety, health, or other reasons, COUNTY may find it necessary to perform labor on
50 Communications Equipment within the License Area. In such instances, COUNTY shall charge
LICENSEE for such labor on an hourly basis according to rates currently approved by the Board of

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Supervisors, including administrative costs, and shall charge LICENSEE for the cost of all parts required.

Rates for service charges shall be in accordance with the service charges ("Service Charges") set forth in "**Revised Exhibit D**", attached hereto and made a part hereof. Such Service Charges rates may change from time to time as they are revised or amended by the Board of Supervisors. LICENSEE agrees to pay such Board of Supervisors approved revised or amended rate within thirty (30) after receipt of invoice for such revised or amended rates.

12. UTILITIES

COUNTY shall be responsible for and pay all charges for utilities used by LICENSEE in the operation of Communications Equipment within the License Area.

13. MAXIMUM PERMISSIBLE EXPOSURE TO RADIOFREQUENCY EMISSIONS

LICENSEE agrees to indemnify, defend, and save harmless COUNTY, its officers, agents, and employees from and against any and all claims, demands, losses, or liabilities of any kind or nature, which COUNTY, its officers, agents, and employees may sustain or incur or which may be imposed upon them for injury to or death of persons, or damage to property as a result of, or arising, out of radiofrequency emissions exposure in connection with LICENSEE's ownership, use, operation, maintenance, repair, change, alteration, adjustment, relocation of, or addition to Communications Equipment at the Facility.

In the event LICENSEE desires to change, alter, adjust, relocate, or add to Communications Equipment at the Facility, an amendment to the License shall first be approved by COUNTY. If the COUNTY determines the aggregate radiofrequency emissions at Facility are above the acceptable levels per the Federal Communication Commission's Guidelines for Human Exposure to Radiofrequency Emissions ("**Guidelines**"), then the COUNTY shall have the right to require LICENSEE to modify or remove Communications Equipment at LICENSEE's sole cost within sixty (60) days following a written request from COUNTY.

14. ACCESS

Access to the License Area by LICENSEE, its officers, agents, contractors and employees, shall not be permitted without proper escort by a COUNTY employee designated by the Communications Director. Access shall be only for purposes of installation of Communications Equipment as described in **Exhibit B**, and thereafter for emergency or non-emergency maintenance and repair. LICENSEE shall provide COUNTY with twenty four (24) hour verbal or written notice prior to date and time LICENSEE desires to access License Area. Access shall be limited to normal business hours as set forth by the Communications Director except for access required to effect emergency maintenance and repairs. Voice-mail or other form of voice-recorded message shall not be considered prior notice. No building keys will be issued or loaned to the LICENSEE, its officers, agents, contractors or employees.

LICENSEE shall pay COUNTY an escort fee ("**Escort Fee**") at the Board of Supervisor's approved hourly rate for time spent by COUNTY in providing said escort. COUNTY shall provide LICENSEE

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2 with an invoice for Escort Fee and LICENSEE shall pay COUNTY within thirty (30) days after
3 receipt of said invoice.

4 15. ANTENNA TOWER REPAIR AND MAINTENANCE

6 All work on COUNTY's antenna tower, including but not limited to repair, maintenance, alteration,
7 adjustment, or relocation of LICENSEE's radio antennas ("**Tower Work**") shall be performed by the
8 service company ("**Contractor**") under contract to COUNTY.

10 In the event LICENSEE uses Contractor, LICENSEE shall be invoiced directly by Contractor and
11 shall directly pay Contractor for all Tower Work performed at the request of LICENSEE. Failure to
12 pay Contractor shall constitute default of LICENSEE under this License. COUNTY shall not be
13 liable for payment of charges incurred by LICENSEE regarding work completed by Contractor at the
14 request of LICENSEE.

16 Prior to any and all Tower Work, to ensure compliance with COUNTY's site requirements,
17 LICENSEE shall submit a written request to the Communications Director's designee identifying all
18 work and services needed to be performed. Said requests shall be submitted at least twenty-four
19 (24) hours prior to any work being performed by COUNTY's Contractor. Voice-mail or other form of
20 voice-recorded message shall not be considered prior notice. Additionally, COUNTY shall provide
21 an escort at all times during and at every instance of LICENSEE-required Tower Work. LICENSEE
22 agrees to reimburse COUNTY at the Board of Supervisors approved hourly rate for COUNTY's cost
23 of said escort. LICENSEE shall be invoiced for said escort charges and agrees to reimburse
24 COUNTY in full within thirty (30) days after receipt of said invoice.

26 16. OPERATIONS

28 The operation of Communications Equipment shall be in accordance with all applicable rules and
29 regulations of the Federal Communications Commission and any deviation therefrom shall be
30 cause for COUNTY to demand that LICENSEE cease the deviation immediately.

32 Should the operation of Communications Equipment, in the opinion of Communications Director,
33 interfere with the operation of COUNTY's communications equipment or any other equipment
34 installed at the Facility, upon verbal notice by COUNTY, LICENSEE shall immediately eliminate
35 said interference in a manner acceptable to Communications Director.

36 In the event LICENSEE does not eliminate said interference, Communications Director retains the
37 right to modify or remove Communications Equipment and LICENSEE shall, upon demand of
38 Communications Director, pay the cost of said modification or removal thereof incurred by COUNTY
39 within thirty (30) days of receipt of said written demand.

42 17. MAINTENANCE**44 A. LICENSEE Obligations**

46 All installation, operation and maintenance of LICENSEE's Communications Equipment shall be at
47 LICENSEE's sole cost and expense.

48 LICENSEE agrees to provide its own Federal Communications Commission licensed (or equivalent)
50 technician, who shall be responsible for performing all engineering consultation, service,

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2 maintenance and repair on LICENSEE's Communications Equipment in compliance with the access provisions of the Clause entitled Access of this License.

4 LICENSEE shall, to the satisfaction of the COUNTY, keep and maintain the License Area and all Communications Equipment in good condition and substantial repair. It shall be LICENSEE's responsibility to take all steps necessary or appropriate to maintain such standard of condition and repair.

8 LICENSEE expressly agrees to maintain License Area in a safe, clean, wholesome, and sanitary condition, to the complete satisfaction of COUNTY and in compliance with all applicable laws. LICENSEE further agrees to keep License Area free and clear of rubbish and litter.

12 B. COUNTY Provisions

14 COUNTY shall have no obligation or responsibility for maintaining or repairing LICENSEE's Communications Equipment; however, COUNTY, at its sole discretion and upon request of LICENSEE, may provide engineering consultation and maintenance/repair services to LICENSEE.

18 LICENSEE agrees that all charges in connection with any engineering consultation, maintenance and repair, and escort and access services performed by COUNTY shall be paid by LICENSEE at the time and material rates in accordance with **Revised** Exhibit D (Service Charges). **Revised** Exhibit D of this License shall be reviewed on a periodic basis based on an analysis performed by COUNTY and may be adjusted at any time at the discretion of the Board of Supervisors.

24 LICENSEE agrees to pay COUNTY for the above services based upon approved invoices submitted by COUNTY. Invoices shall be rendered quarterly by COUNTY to LICENSEE and LICENSEE shall pay COUNTY promptly within thirty (30) days after the date on each invoice.

28 COUNTY shall have the right to enter upon and inspect the License Area and Communications Equipment at any time and perform any emergency repairs as deemed necessary by COUNTY.

32 In the event LICENSEE fails to maintain or make repairs or replacements as required herein, COUNTY may notify LICENSEE in writing of said failure. Should LICENSEE fail to correct the situation within a reasonable time thereafter as established by the Communications Director, the Communications Director may have the necessary correction(s) made and the reasonable cost thereof, including but not limited to the cost of labor, materials, equipment and administration, shall be paid by LICENSEE within ten (10) days of receipt of a statement of said cost from the Communications Director. The Communications Director may, with sole discretion, choose other remedies available herein, or by law. The Communications Director shall provide reasonable documentation of the costs upon LICENSEE's request.

42 **18. INSURANCE/SELF INSURANCE**

44 ~~LICENSEE agrees to purchase all required insurance at LICENSEE's expense and to deposit with the COUNTY certificates of insurance, including all endorsements required herein, necessary to satisfy the COUNTY that the insurance provisions of this License have been complied with and to keep such insurance coverage and the certificates and endorsements therefore on deposit with the COUNTY during the entire term of this License. This License shall automatically terminate at the same time LICENSEE's insurance coverage is terminated. If within ten (10) business days after termination under this Clause LICENSEE obtains and provides evidence of the required insurance coverage acceptable to County's Risk Management, this License may be reinstated at the sole~~

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~~discretion of Sheriff. LICENSEE shall pay COUNTY Four Hundred Fifty Dollars (\$450) for processing the reinstatement of this License.~~

LICENSEE agrees to purchase all required insurance, or maintain a program of self-insurance at LICENSEE's expense and to deposit with the COUNTY certificates of insurance or self-insurance, including all endorsements if applicable, required herein, necessary to satisfy the COUNTY that the insurance provisions of this License have been complied with and to keep such insurance coverage and the certificates and endorsements therefore on deposit with the COUNTY during the entire term of this License.

~~LICENSEE agrees that LICENSEE shall not operate on the License Area at any time the required insurance is not in full force and effect as evidenced by a certificate of insurance and necessary endorsements or, in the interim, an official binder being in the possession of Sheriff. In no cases shall assurances by LICENSEE, its employees, agents, including any insurance agent, be construed as adequate evidence of insurance. Sheriff will only accept valid certificates of insurance and endorsements, or in the interim, an insurance binder as adequate evidence of insurance. LICENSEE also agrees that upon cancellation, termination, or expiration of LICENSEE's insurance, COUNTY may take whatever steps are necessary to interrupt any operation from or on the License Area until such time as the Sheriff reinstates the License.~~

LICENSEE agrees that LICENSEE shall not operate on the License Area at any time the required insurance is not in full force and effect as evidenced by a certificate of insurance and necessary endorsements or, in the interim, an official binder being in the possession of Sheriff Real Estate Manager. In no cases shall assurances by LICENSEE, its employees, agents, including any insurance agent, be construed as adequate evidence of insurance. Sheriff Real Estate Manager will only accept proof of self-insurance or valid certificates of insurance and endorsements, or in the interim, an insurance binder as adequate evidence of insurance. LICENSEE also agrees that upon cancellation, termination, or expiration of LICENSEE's insurance, COUNTY may take whatever steps are necessary to interrupt any operation from or on the License Area until such time as the Sheriff Real Estate Manager reinstates the License.

~~If LICENSEE fails to provide Sheriff with a valid certificate of insurance and endorsements, or binder at any time during the term of the License, COUNTY and LICENSEE agree that this shall constitute a material breach of the License. Whether or not a notice of default has or has not been sent to LICENSEE, said material breach shall permit COUNTY to take whatever steps necessary to interrupt any operation from or on the License Area, and to prevent any persons, including, but not limited to, members of the general public, and LICENSEE's employees and agents, from entering the License Area until such time as Sheriff is provided with adequate evidence of insurance required herein. LICENSEE further agrees to hold COUNTY harmless for any damages resulting from such interruption of business and possession, including, but not limited to, damages resulting from any loss of income or business resulting from the COUNTY's action.~~

If LICENSEE fails to provide Sheriff Real Estate Manager with proof of self-insurance or a valid certificate of insurance and endorsements, or binder at any time during the term of the License, COUNTY and LICENSEE agree that this shall constitute a material breach of the License. Whether or not a notice of default has or has not been sent to LICENSEE, said material breach shall permit COUNTY to take whatever steps necessary to interrupt any operation from or on the License Area, and to prevent any persons, including, but not limited to, members of the general public, and LICENSEE's employees and agents, from entering the License Area until such time as Sheriff Real Estate Manager is provided with adequate evidence of insurance or proof of self-insurance as required herein. LICENSEE further agrees to hold COUNTY harmless for any damages resulting from such interruption of

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2 business and possession, including, but not limited to, damages resulting from any loss of
 2 income or business resulting from the COUNTY's action.

4 LICENSEE may occupy the Premises only upon providing to COUNTY the required
 4 insurance stated herein and maintain such insurance or self-insurance for the entire term of
 6 this LICENSE. COUNTY reserves the right to terminate this LICENSE at any time
 6 LICENSEE's insurance is canceled or terminated and not reinstated within ten (10) days of
 8 said cancellation or termination. LICENSEE shall pay COUNTY a fee of Four Hundred Fifty
 8 Dollars (\$450) for processing the reinstatement of the LICENSE. LICENSEE shall provide to
 10 COUNTY immediate notice of said insurance cancellation or termination.

12 All contractors performing work on behalf of LICENSEE pursuant to this License shall obtain
 12 insurance subject to the same terms and conditions as set forth herein for LICENSEE. LICENSEE
 14 shall not allow contractors or subcontractors to work if contractors have less than the level of
 14 coverage required by the COUNTY from the LICENSEE under this License. It is the obligation of
 16 the LICENSEE to provide written notice of the insurance requirements to every contractor and to
 16 receive proof of insurance prior to allowing any contractor to begin work within the License Area.
 18 Such proof of insurance must be maintained by LICENSEE through the entirety of this License and
 18 be available for inspection by a COUNTY representative at any reasonable time.

20 ~~All insurance policies required by this License shall declare any deductible or self-insured retention
 22 (SIR) in an amount in excess of \$25,000 (\$5,000 for automobile liability), which shall specifically be
 22 approved by the COUNTY's County Executive Office (CEO)/Office of Risk Management.
 24 LICENSEE shall be responsible for reimbursement of any deductible to the insurer. Any self-
 24 insured retentions (SIRs) or deductibles shall be clearly stated on the certificate of insurance.~~

26 ~~If the LICENSEE fails to maintain insurance acceptable to the COUNTY for the full term of this
 28 License, the COUNTY may terminate this License.~~

30 All self-insured retentions (SIRs) shall be clearly stated on the Certificate of Insurance.
 30 LICENSEE, in addition to, and without limitation of, any other indemnity provision(s) in this
 32 License, agrees to all of the following:

34 A. In addition to the duty to indemnify and hold the COUNTY harmless against any and
 34 all liability, claim, demand or suit resulting from LICENSEE's, its agents, employee's or
 36 subcontractor's performance of this Agreement, LICENSEE shall defend the COUNTY at its
 36 sole cost and expense with counsel approved by Board of Supervisors against same; and,
 38

40 B. LICENSEE's duty to defend, as stated above, shall be absolute and irrespective of any
 40 duty to indemnify or hold harmless; and,

42 C. The provisions of California Civil Code Section 2860 shall apply to any and all actions
 42 to which the duty to defend stated above applies, and the LICENSEE's SIR provision shall be
 44 interpreted as though the LICENSEE was an insurer and the County was the insured.

46 If the LICENSEE fails to maintain insurance, or a program of self-insurance acceptable to the
 46 COUNTY for the full term of this License, the COUNTY may terminate this License.

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Qualified Insurer

~~The policy or policies of insurance must be issued by an insurer licensed to do business in the state of California (California Admitted Carrier).~~

~~Minimum insurance company ratings as determined by the most current edition of the Best's Key Rating Guide/Property-Casualty/United States or ambest.com shall be A- (Secure Best's Rating) and VIII (Financial Size Category).~~

~~If the carrier is a non-admitted carrier in the state of California, CEO/Office of Risk Management retains the right to approve or reject carrier after a review of the company's performance and financial ratings.~~

The policy or policies of insurance must be issued by an insurer with a minimum rating of A- (Secure A.M. Best's Rating) and VIII (Financial Size Category as determined by the most current edition of the Best's Key Rating Guide/Property-Casualty/United States or ambest.com). It is preferred, but not mandatory, that the insurer be licensed to do business in the state of California (California Admitted Carrier).

If the insurance carrier does not have an A.M. Best Rating of A-/VIII, the CEO/Office of Risk Management retains the right to approve or reject a carrier after a review of the company's performance and financial ratings.

The policy or policies of insurance maintained by the LICENSEE shall provide the minimum limits and coverage as set forth below:

Coverages

Minimum Limits

Commercial General Liability with broad Form property damage, contractual liability	\$1,000,000 combined single limit per occurrence \$2,000,000 aggregate
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Automobile Liability including coverage for Owned, non-owned and hired vehicles	\$1,000,000 combined single limit per occurrence
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Workers' Compensation	Statutory
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Employers' Liability Insurance	\$1,000,000 per occurrence
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Environmental Impairment Liability	\$1,000,000 per occurrence
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Commercial Property Insurance on an "All Risk" or "Special Causes of Loss" basis covering all, contents	100% of the Replacement Cost Value and no coinsurance provision
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~~All liability insurance required by this License shall be at least \$1,000,000 combined single limit per occurrence. The minimum aggregate limit for the Commercial General Liability policy shall be \$2,000,000.~~

~~The County of Orange shall be added as an additional insured on all insurance policies required by this License with respect to work done by the LICENSEE under the terms of this License (except Workers' Compensation/Employers' Liability). An additional insured endorsement evidencing that the County of Orange is an additional insured shall accompany the certificate of insurance.~~

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~~All insurance policies required by this License shall be primary insurance, and any insurance maintained by the County of Orange shall be excess and non-contributing with insurance provided by these policies. An endorsement evidencing that the LICENSEE's insurance is primary and non-contributing shall specifically accompany the certificate of insurance for the Commercial General Liability.~~

~~All insurance policies required by this License shall give the County of Orange no less than thirty (30) days notice in the event of cancellation. This shall be evidenced by an endorsement separate from the certificate of insurance. In addition, the cancellation clause must include language as follows, which edits the pre-printed ACORD certificate:~~

~~SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT. BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENT OR REPRESENTATIVE.~~

~~All insurance policies required by this License shall waive all rights of subrogation against the County of Orange and members of the Board of Supervisors, its elected and appointed officials, officers, agents and employees when acting within the scope of their appointment or employment.~~

~~The Commercial General Liability policy shall contain a severability of interests clause.~~

~~The LICENSEE is aware of the provisions of Section 3700 of the California Labor Code, which requires every employer to be insured against liability for Workers' Compensation or be self-insured in accordance with provisions of that code. The LICENSEE will comply with such provisions and shall furnish the COUNTY satisfactory evidence that the LICENSEE has secured, for the period of this License, statutory Workers' Compensation insurance and Employers' Liability insurance with minimum limits of \$1,000,000 per occurrence.~~

~~Insurance certificates should be forwarded to the COUNTY address provided in the Clause entitled Notices of this License or to an address provided by Sheriff. LICENSEE has ten (10) business days to provide adequate evidence of insurance or this License may be cancelled.~~

~~COUNTY expressly retains the right to require LICENSEE to increase or decrease insurance of any of the above insurance types throughout the term of this License. Any increase or decrease in insurance will be as deemed by County of Orange Risk Manager as appropriate to adequately protect COUNTY.~~

~~COUNTY shall notify LICENSEE in writing of changes in the insurance requirements. If LICENSEE does not deposit copies of acceptable certificates of insurance and endorsements with COUNTY incorporating such changes within thirty (30) days of receipt of such notice, this License may be in breach without further notice to LICENSEE, and COUNTY shall be entitled to all legal remedies.~~

~~The procuring of such required policy or policies of insurance shall not be construed to limit LICENSEE's liability hereunder or to fulfill the indemnification provisions and requirements of this License.~~

ATTACHMENT B --- REDLINE VERSION

~~The County of Orange Certificate of Insurance and the Special Endorsement for the County of Orange can be utilized to verify compliance with the above-mentioned insurance requirements in place of commercial insurance certificates and endorsements.~~

~~If LICENSEE is self-insured, LICENSEE shall provide COUNTY, before commencement of this License, a letter of self-insurance verifying all the stated coverage minimums and comparable terms.~~

~~If LICENSEE elects to self-insure for this License, in addition to and without limitation of any other provision of their License, LICENSEE agrees to all of the following:~~

~~The duty to defend the County of Orange, with counsel approved in writing by the County, from any liability claim or suit to which this License applies, is broader than LICENSEE's duty to indemnify; and LICENSEE shall have the right and duty to defend the County of Orange from any and all liability claims or suits if there is any potential for indemnity under this License.~~

Required Coverage Forms

The Commercial General Liability coverage shall be written on Insurance Services Office (ISO) form CG 00 01, or a substitute form providing liability coverage at least as broad.

The Business Auto Liability coverage shall be written on ISO form CA 00 01, CA 00 05, CA 00 12, CA 00 20, or a substitute form providing liability coverage at least as broad.

Required Endorsements

The Commercial General Liability policy shall contain the following endorsements, which shall accompany the Certificate of insurance:

A. An Additional Insured endorsement using ISO form CG 20 26 04 13 or a form at least as broad naming the County of Orange, its elected and appointed officials, officers, employees, agents as Additional Insureds. Blanket coverage may also be provided which will state - As Required By Written Agreement.

B. A primary non-contributing endorsement using ISO form CG 20 01 04 13, or a form at least as broad, evidencing that the LICENSEE's insurance is primary and any insurance or self-insurance maintained by the County of Orange shall be excess and non-contributing.

The Workers' Compensation policy shall contain a Waiver of Subrogation endorsement waiving all rights of subrogation against the County of Orange, its elected and appointed officials, officers, agents and employees. Blanket coverage may also be provided which will state - As Required by Written Agreement.

All insurance policies required by this license shall waive all rights of subrogation against the County of Orange, its elected and appointed officials, officers, agents and employees when acting within the scope of their appointment or employment.

LICENSEE shall notify County in writing within thirty (30) days of any policy cancellation and ten (10) days for non-payment of premium and provide a copy of the cancellation notice to County. Failure to provide written notice of cancellation may constitute a material breach of the LICENSE, upon which the County may suspend or terminate this LICENSE.

ATTACHMENT B --- REDLINE VERSION

2 The Commercial General Liability policy shall contain a severability of interests clause, also
 2 known as a "separation of insureds" clause (standard in the ISO CG 001 policy).

4 Insurance or self-insurance certificates should be forwarded to the COUNTY address
 4 provided in the Clause (NOTICES) below or to an address provided by Sheriff Real Estate
 6 Manager. LICENSEE has ten (10) business days to provide adequate evidence of insurance
 6 or this License may be cancelled.

8 COUNTY expressly retains the right to require LICENSEE to increase or decrease insurance
 10 of any of the above insurance types throughout the term of this License. Any increase or
 10 decrease in insurance will be as deemed by County of Orange Risk Manager as appropriate
 12 to adequately protect COUNTY.

14 COUNTY shall notify LICENSEE in writing of changes in the insurance requirements. If
 14 LICENSEE does not deposit copies of acceptable certificates of insurance and
 16 endorsements with COUNTY incorporating such changes within thirty (30) days of receipt of
 16 such notice, his License may be in breach without further notice to LICENSEE, and COUNTY
 18 shall be entitled to all legal remedies.

20 The procuring of such required policy or policies of insurance shall not be construed to limit
 20 LICENSEE's liability hereunder nor to fulfill the indemnification provisions and requirements
 22 of this License, nor in any way to reduce the policy coverage and limits available from the
 22 insurer.

19. AUTHORITY

24 Each person executing this License on behalf of LICENSEE does hereby covenant and warrant that
 26 (a) LICENSEE has full right and authority to enter into this License; and (b) each person signing this
 28 License on behalf of LICENSEE is duly authorized to do so.

20. NOTICES

30 All notices pursuant to this License shall be addressed as set forth below or as either party may
 32 hereafter designate by written notice and shall be sent through the United States mail and duly
 34 registered or certified with postage prepaid. If any notice is sent by registered or certified mail, as
 36 aforesaid, the same shall be deemed served or delivered twenty-four (24) hours after mailing
 38 thereof as above provided. Notwithstanding the above, COUNTY may also provide notices to
 40 LICENSEE by personal delivery or by regular mail and any such notice given shall be deemed to
 40 have been given upon receipt.

COUNTY

42 Sheriff-Coroner Department
 44 Communications Division
 44 840 N. Eckhoff St., Suite 104
 46 Orange, CA 92868-1021
 46 Attn: Communications Director

48 and

50 Sheriff/Real Property Services

LICENSEE

OCTA
 550 S. Main St.
 PO Box 14184
 Orange, CA 92863-1584
 Attn: Right of Way Administration

ATTACHMENT B --- REDLINE VERSION

320 N. Flower Street, Suite 108
Santa Ana, CA 92703
Attn: Real Property Agent

21. ATTACHMENTS TO LICENSE

This License includes the following, which are attached hereto and made a part hereof:

I. GENERAL CONDITIONS

II. EXHIBITS

- Revised** Exhibit A – Site Plan
- Revised** Exhibit B – Description of Communications Site Licensee Equipment
- Revised** Exhibit C – Rental Rates
- Revised** Exhibit D – Service Charges
- Revised** Exhibit E – Communications Site Equipment Rent

IN WITNESS WHEREOF, the parties have executed this License as of the day and year first written above.

COUNTY

LICENSEE

APPROVED AS TO FORM:

ORANGE COUNTY
TRANSPORTATION AUTHORITY

County Counsel

By: _____
Deputy

By: _____
~~Arthur T. Leahy~~ Darrell Johnson

Date: _____

Title: Chief Executive Officer

Date: _____

APPROVED AS TO FORM:

**SIGNED AND CERTIFIED THAT A COPY
OF THIS DOCUMENT HAS BEEN DELIVERED
TO THE CHAIRMAN OF THE BOARD OF**

By: _____
~~Kennard R. Smart, Jr.~~ James M.
Donich

**SUPERVISORS
ATTEST:**

General Counsel

ATTACHMENT B --- REDLINE VERSION

2
4
6
8
10
12
14

~~Darlene J. Bloom~~Robin Stieler
Clerk of the Board of Supervisors of
Orange County, California

COUNTY
COUNTY OF ORANGE

By: _____
Chairman, Board of Supervisors

APPROVED:

By: _____
~~John D. Byrd~~Beth McCormick
General Manager Transit