

**ANTENNA SITE LEASE
(USGS-G21PL00010)
(TCOL- 2022-00_)**

**BETWEEN the COUNTY OF SONOMA and the
UNITED STATES GEOLOGICAL SURVEY (USGS)
FOR USE OF COUNTY TELECOMMUNICATIONS FACILITIES
AT SONOMA MOUNTAIN**

This Lease Agreement for Use of County Facilities (this "Lease") dated October 1, 2020 (the "Effective Date"), is entered into by and between the **COUNTY OF SONOMA**, a political subdivision of the State of California ("County"), and the **UNITED STATES GEOLOGICAL SURVEY** ("USGS" or "Lessee"). County and Lessee are sometimes collectively referred to herein as the "Parties" and singularly, a "Party."

RECITALS

WHEREAS, County is the owner of that certain property known as the Sonoma Mountain Communications Site located at 2482 Sonoma Mountain Road, Petaluma, California 94954 on Sonoma County APN 136-190-016, (hereinafter, the "Site") which Site is more particularly described in the Grant of Easement between the County and John L. Stevenson dated August 18, 1959 (the "Easement Agreement"), attached as **Exhibit A** hereto;

WHEREAS, the County has constructed, owns and operates an existing one hundred eighty-five (185) ft. radio telecommunications tower ("Main Tower"), an existing forty (40) ft. microwave support structure ("MW Structure") and a radio communications vault ("Vault") located at the Site;

WHEREAS, Lessee has conducted activities on the Site since approximately 1997 and continues to operate its equipment at the Site for earthquake monitoring in the Northern California Seismic Network (NCSN), as part of the USGS mission to provide science to safeguard communities from natural hazards. Said equipment is a node on the USGS private microwave backbone, designed to transmit seismic data for rapid earthquake detection, including Earthquake Early Warning (see <https://www.shakealert.org/> for more details). The Site is also a reception point for many seismic monitoring sensors in the surrounding area. All seismic data collected in the NCSN is publicly available and used for seismological research worldwide. Earthquake location and magnitude information (e.g. shakemaps) are used by first responders to allocate resources where they are needed most following a large event;

WHEREAS, Lessee has: (i) two (2) existing equipment racks within the Vault; (ii) six (6) Yagi antennas on the MW Structure and three (3) Yagi antennas mounted on a pole on northeast side of Vault; (iii) two (2) four (4') ft. microwave dish antennas on the MW Structure; (iv) a seismic monitoring sensor at this Site; (v) and continues to utilize some of the County's infrastructure at the Site in connection with Lessee's operations (see attached **Exhibit B** hereto);

WHEREAS, Lessee requests County's permission to build a new eight (8) ft. by eight (8) ft. concrete pad and forty (40) ft. tall self-supporting tower (hereinafter, the "USGS Tower") at the Site. Upon completion of construction, Lessee desires to migrate seven (7) of its Yagi antennas from the MW Structure and pole to the USGS Tower, remove and take off site two (2) Yagis, continue to operate two (2) four (4) ft. wide dish antennas on the MW Structure, and continue to utilize some of the County's infrastructure at the Site in connection with Lessee's operations. See Exhibit F USGS Radio Upgrade Project, Site Name: Sonoma Mountain Statement of Work hereto ("Statement of Work") and Construction Drawings. It is anticipated that the improvement described in the Statement of Work and Construction Drawings subject to approval by County (the "USGS Improvements") will be completed ten (10) months after execution of this lease. The USGS Improvements include—but are not limited to—the following: installing a new forty (40) foot four-leg, self-supporting tower and constructing a new concrete foundation for said tower; installing a new ice bridge for transmission lines; installing new grounding systems for the new tower. Lessee is responsible for obtaining all necessary approvals and permits for the USGS Improvements, and the Parties agree to work in good faith concerning said improvement plans;

WHEREAS, Lessee has submitted an application for operations to County for review and County has provided comments and proposed revisions to Lessee's application. No construction shall commence on the Site prior to final approval by County of USGS's plans and issuance of all appropriate permits. Lessee shall pay for, obtain all approvals and cause the completion of the USGS Improvements according to plans and specifications based on approval, if any, from the County;

WHEREAS, at its sole cost and expense, Lessee will operate and maintain all of its equipment whether on the MW Structure, the new USGS Tower or in the Vault; and

WHEREAS, County finds that Lessee's continued use at the Site for the earthquake monitoring operations is of critical public benefit and is not inconsistent with County's operations and other lessees or users at the Site.

NOW, THEREFORE, in consideration of the Premises and of the agreements of the respective parties herein set forth, it is mutually agreed as follows:

AGREEMENT

1. Lease. County hereby grants a Lease, subject to all the terms and conditions of this Lease, to utilize a portion of the Site as described in Section 2 below.

2. Premises. New Equipment. Equipment List.

2.1 Rack Space. As of the Effective Date, Lessee operates its radio equipment in two racks in the Vault. County grants Lessee the right to operate two (2) equipment racks within the Vault. Specifically, Lessee shall use a portion of the Vault on the Site as generally shown or described in Exhibit B-1 ("Lessee's Vault Space"). County shall use good faith efforts to maintain and condition the Vault in good working order.

2.2 Tower Space.

2.2.1 As of the Effective Date, Lessee has nine (9) Yagi antennas ("Yagi Antennas") on the MW Structure and the pole on the Vault. County grants a Lease to operate, maintain and repair

the Yagi Antennas as shown or described in **Exhibit B-2** until new tower (“USGS Tower”) is complete and seven (7) Yagi antennas are moved to USGS Tower, and two (2) are removed and taken off site by Lessee.

2.2.2 County grants a lease to Lessee to use a portion of the land at the Site to install, construct and operate a new eight foot (8’) by eight foot (8’) concrete pad and upon which USGS shall install new forty foot (40’) tall three leg, self-supporting tower (the pad and tower shall be collectively referred to as the “USGS Tower”). County further grants a lease to Lessee to install a Vault penetration required to route its transmission cables to the USGS Tower, at the location identified at **Exhibit J**, attached hereto and made a part hereof. As a condition to granting a lease for the USGS Tower, and prior to completion of construction of the USGS Tower, Lessee shall remove the existing pad at the Site and restore it to its previous or better condition at its sole cost and expense, prior to construction of USGS Tower. Not less than 60 days prior to installation of replacement or new antennas, Lessee shall obtain all permits required by Permit Sonoma (the County of Sonoma planning and building permit authority) and all other applicable permitting authorities and provide a copy to County. Lessee shall work with County and its agents during construction to ensure limited impact on County’s use of the Property and on its other tenants. Prior to commencement of any construction which is subject to County’s prior approval per Section 2.9 below, Lessee shall provide County with a timeline for the construction.

2.3 **MW Structure Space.**

2.3.1 As of the Effective Date, Lessee has two (2), four (4) ft. MW antennas on the MW Structure at the Site (“MW Antennas”). County grants a lease to operate, maintain and repair the MW Antennas as shown or described in **Exhibit B-2**.

2.3.2 If Lessee desires to modify or replace any of the MW Antennas with new or like kind antennas, it shall seek the prior approval of County prior to said replacement which may be subject to further structural analysis and approval of plans by the County, and pay a transaction fee to County for its review the same which fee shall be reasonable, and if the weight or length of said replacement antennas are different than the existing, County shall have the right to adjust the Rent payable hereunder.

2.3.3 Not less than 60 days prior to installation of replacement or new antennas, Lessee shall obtain all required permits required by applicable permitting authorities and provide a copy to County.

2.4 **Seismic Sensor.** County grants Lessee a lease to operate a seismic sensor near the north fence at the Site and underground cabling from the Vault to said sensor. Lessee shall use reasonable efforts to remove said underground cabling to said sensor and avoid damage to any existing underground improvements, and if underground improvements are encountered which interfere with removal of any cabling, Lessee may leave said portion of cabling in place with County’s prior consent in writing. Lessee shall install a separate source of solar power for said sensor together with its construction plans for the USGS Improvements.

2.5 **Security Cameras.** As of the Effective Date, Lessee has two cameras at the Site, one on the Main Tower and one on the Vault. County grants a lease to Lessee to operate, maintain and repair said security cameras at the Site. Lessee will remove both cameras by the issuance of a final building permit for the USGS Tower.

2.6 **Lessee’s Equipment.** Lessee is hereby authorized to operate, utilize and make beneficial use of the all of the equipment as set forth and described in this Section 2 and as listed on **Exhibit C** (the “Lessee-Owned Equipment”).

2.7 **Relocation.** County reserves the right to relocate the Lessee-Owned Equipment within the Site, provided said relocation does not unreasonably affect the operation and performance of Lessee’s

equipment.

2.8 Premises. All portions of the Site, which are leased to Lessee hereunder and referenced above, shall be referred to herein as “Premises”.

2.9 Review of Plans. County’s execution of this Lease will signify its preliminary approval of the location and site lay-out of the USGS Improvements and Lessee-Owned Equipment as reflected on Exhibit B, Exhibit C, and Exhibit F. Notwithstanding anything herein to the contrary, Lessee shall not commence any construction activities without County’s prior and final approval of all design and construction plans, including an interference study, a geotechnical study of the soils at the location of the USGS Tower and the prior issuance and receipt by County of permit(s) from Permit Sonoma (the building permitting authority within the County of Sonoma) and any other permitting authority. Upon receipt of said County approval, Lessee shall have the right to: (i) install and operate transmission cables from the Vault to the antennas; (ii) install and operate electric lines from the main feed to the Vault and communication lines from the main entry point to the Vault; (iii) to make improvements, alterations, or additions to the Vault appropriate for Lessee’s use consistent with the County approved plans and issued permits; and (iv) construct and install the USGS Tower. The date upon which the USGS receives its final ~~plan~~ to operate the USGS Improvements shall be referred to as “Completion of Construction.”

2.10 Post Construction. After Lessee’s installation of USGS Improvements and Lessee-Owned Equipment on the Premises, if approved, the Parties shall inspect the Premises to: (i) insure that all construction material and debris have been removed from the Premises and the Site, (ii) make sure all safety and emergency signs are posted, and (iii) the construction was performed consistent with the approval plans and permits. If Lessee has failed to comply with items (i)-(iii) above, Lessee shall have thirty (30) days to so comply. If Lessee fails to do so, County may perform the necessary work and bill Lessee for the cost of such work. Lessee shall use best efforts to complete all work associated with installation of the USGS Improvements and Lessee-Owned Equipment no later than one hundred eighty (180) days after commencement of construction of the USGS Improvements.

2.11 Structural Analysis. Lessee shall be solely responsible for any cost or expense for any and all maintenance and repairs required to ensure that USGS Improvements complies with all federal, state, and local laws, ordinances, rules and regulations. Lessee shall perform a structural analysis that complies with the latest version of TIA-222 at least every five (5) years if antennas have been added to tower, or as regulations mandate. Lessee reserves the right to add antennas to USGS Tower as long as tower structural load is not exceeded and further subject to additional interference studies. Lessee shall cause a copy of that analysis to be delivered to the County for its benefit promptly upon preparation.

2.12 Capital Improvements Contribution. The Parties acknowledge and agree that certain improvements and maintenance to the Site are needed and useful to the operations of Lessee and other users at the Site. As a condition precedent to the effectiveness of this Lease, together with Base Rent owed upon execution of this Lease, Lessee shall pay County the sum of One Hundred Thousand Dollars (\$100,000.00) (“Capital Improvement Contribution”) for County’s construction of certain capital improvements at the Site beneficial to use of the Site including Lessee’s seismic monitoring use.

3. Non-exclusive Lease. The lease herein granted for use of space within County owned premises is non-exclusive. County continues to maintain and control the Site and Premises including, without limitation, leasing and sub-leasing. Notwithstanding the foregoing, Lessee shall have exclusive use of the ground space for and the USGS Tower.

4. Term.
- 4.1 Term. The term of this Lease shall be deemed to commence as of the Effective Date and shall end on September 30, 2040 (the "Term"). The first year of the Term shall be the "Base Year."
- 4.2 Early Termination. The Term is subject to earlier termination in accordance with **Section 24** and subject to **Section 35.1** of this Lease.
5. Consideration.
- 5.1 Rent.
- 5.1.1 Lessee shall pay to County in arrears, commencing with the Effective Date, as rent for the Premises the sum of Four Thousand One Hundred Seventy Two Dollars (\$4,270.00) ("Base Rent") per month without deduction, offset, prior notice or demand, in lawful money of the United States as set forth in the table attached hereto and incorporated herein at **Exhibit D** "Rent Calculation" which identifies the separate rent components. Base Rent shall include Lessee's required contributions to Site and road maintenance, utilities and backup generator access. Upon completion of construction of the USGS Tower; removal of all six (6) Yagi antennas from the County MV Tower; removal of all three (3) Yagi antennas and pole from the side of the Vault; removal of the existing concrete tower pad; and removal of security cameras from the Vault, Base Rent will thereafter be reduced to Three Thousand Three Hundred and Eight Dollars (\$3,308.00) per month, provided there are no other component changes.
- 5.1.2 Any additions to or modifications or removal of any Lessee-Owned Equipment shall be delivered in writing by Lessee and reviewed by County and the corresponding rent per equipment component shall be adjusted accordingly thereafter and the Parties shall execute a writing memorializing that adjustment. Rent and all other payments required hereunder shall be sent to the address identified in **Section 31** below, or such other address as County may direct payment to be sent.
- 5.2 Base Rent Escalations. On the anniversary of the Effective Date, commencing October 1, 2021, the annual Base Rent will increase by three percent (3%). The Government is tax exempt. The Government is not responsible or liable for any real property or personal property taxes, personal taxes, or assessments levied or assessed upon or against the Premises.
- 5.3 Transaction Fee. Lessee shall pay to County a one-time transaction fee to defray County's legal, and administrative costs in reviewing its equipment application and preparing this lease, an amount of Five Thousand Hundred Dollars (\$5,000.00), which shall be due within thirty (30) days of execution of this Lease.
- 5.4 Anti-Deficiency Act. Lessee's obligation to pay rent under this Lease is contingent upon the appropriation of funds. Notwithstanding the foregoing, the lack of an appropriation of funds shall not affect County's right to terminate the Lease and regain possession of the Premises and Lessee's remaining obligations under this Lease.
6. Use. Lessee's use of the Premises shall be for transmitting geophysical data for rapid earthquake detection and as a reception point for seismic monitoring sensors in the surrounding area, through use of Lessee-Owned Equipment in the Vault, on the Tower and MW Structure and necessary connections to power and for no other purposes. No other use shall be permitted. Rules and regulations may be adopted by County and provided to Lessee for the security, safety, care and cleanliness of the Premises and the preservation of good order thereon, and Lessee hereby agrees to comply with them.

Lessee shall have a non-exclusive right of ingress and egress to the Site and the Premises over the access road described at **Exhibit A** which is permitted only in accordance with the terms of this Lease and the Rules and Regulations attached hereto as **Exhibit D**, and any security clearances required by the County Sheriff's Telecommunications Bureau. Lessee shall be responsible to make any repairs necessary due to its installation of Lessee Owned Equipment and use of the access road to the Site.

7. Utilities/Repairs/Maintenance.

7.1 Utilities - Electrical Power. The County will provide electrical power to the Site and the Lessee-Owned Equipment, and the cost of which is deemed included in Base Rent [confirm now that submeter is required].

7.2 Repairs and Maintenance. County shall be responsible for providing general maintenance and repair at the Premises and the Site, the cost of which is deemed included in Base Rent. Notwithstanding the above, Lessee shall be responsible for restoring any extraordinary damage to the road providing access to the Site caused by installation of the USGS Tower and related construction activities, caused by Lessee or its contractors. Lessee shall return the road to the condition it was in prior to commencement of said construction. If Lessee fails to do so, County may perform the necessary work and bill Lessee for the cost of such work, which shall be due and payable by Lessee within 30 days of receipt of said invoice.

Lessee

8. Generator. County will provide an emergency power generator, including fuel storage, at the Site for benefit of the Premises. A portion of the cost to maintain the generator, for use of emergency power and fuel costs, the cost of which is deemed included in Base Rent.
9. Equipment Installation and Operation. Lessee shall be solely responsible for the cost of maintenance, repair or replacement of the Lessee-Owned Equipment listed on **Exhibit C** and responsible for Lessee's proportionate share of maintenance, repair or replacement of the Shared Use of County Owned Equipment listed on **Exhibit C**. Furthermore, Lessee shall be solely responsible for any cost or expense for any and all maintenance and repairs required to ensure the Premises comply with all federal, state and local laws, ordinances, rules and regulations, including without limitation, alterations or repairs necessitated by the Americans with Disabilities Act (See **Section 34.9**). The Lessee-Owned Equipment will be installed, operated and maintained in accord with the terms of this Lease. Lessee acknowledges and agrees that County's communications and the communications of other public agencies at the Site are necessary for critical public safety, public service and law enforcement purposes.
10. Covenant of Noninterference. Lessee will not commit any act or omission that would in any way interfere with County's transmissions or communications or any other preexisting communication facility or antenna. Lessee shall reasonably cooperate with current and future users of the Premises and with any other third parties who are impacted by Lessee's use of the Premises. Subsequent Lessees shall be subject to the foregoing requirements with respect to their use, maintenance or operation of equipment in or around the Premises. County shall advise all Site Lessees when changes are made to equipment that may cause interference to other Lessees.
11. Taxes. Unless deemed exempt, Lessee shall be responsible or liable for any real property or personal property taxes, personal taxes, or assessments levied or assessed upon or

against the Premises.

12. Possessory Interest. If and to the extent applicable to Lessee as a federal agency, Lessee expressly recognizes and understands that this Agreement may create a possessory interest subject to property taxation and that Lessee may be subject to the payment of property taxes levied on such interest.
13. Compliance with Laws. Lessee represents and warrants to County that Lessee has complied with all laws applicable to the acceptance and use of the lease herein granted. Lessee shall observe and comply at all times with all applicable federal, state and county statutes and ordinances, rules, regulations, directives, and orders of governmental agencies now in force or which may hereinafter be in force relating to or affecting the use of the lease herein granted, including all applicable FCC rules and regulations. Lessee shall provide County with all current licenses to operate its equipment and shall forward any new or renewal licenses during the Term.
14. Annual Inspection by County. Lessee acknowledges that the Premises shall be subject to an inspection on not more than an annual basis, for compliance with all applicable federal, state and county statutes and ordinances, rules, regulations, directors, and orders of governmental agencies, including Sonoma County Sheriff's Office, Telecommunications Bureau and the Permit and Resource Management Department. The cost of said inspection fee shall not exceed Five Hundred Dollars (\$500) per inspection. Lessee shall be solely responsible for the inspection fee for said annual inspection of the Premises performed by County within sixty (60) days of receipt of invoice therefor.
15. Waste; Nuisance. Lessee shall not commit, suffer, or permit the commission by others of: (i) any waste or nuisance on the Premises; (ii) any action or use of the Premises, which interferes, or conflicts with the use of the Premises by County or any authorized person; or (iii) any action on the Premises in violation of any laws or ordinances.
16. Inspection. County shall be permitted to enter and inspect the Premises at any and all times.
17. Extent of Grant of Lease. This Agreement and the lease herein granted are valid only to the extent of County's jurisdiction as a lessor of the Site. Acquisition of any other necessary permits or entitlements for use are the responsibility of Lessee. NOTHING CONTAINED IN THIS AGREEMENT SHALL BE CONSTRUED AS A RELINQUISHMENT OF ANY RIGHTS NOW HELD BY COUNTY.
18. Deposit Refund. Not Applicable. No deposit by Lessee has been made.
19. Bankruptcy - **Intentionally Deleted**
20. Non liability of County. Except as may be provided herein to the contrary, County, its officers, agents, and employees shall not be liable to Lessee for any loss or damage to Lessee or Lessee's property from any cause. Lessee expressly waives all claims against County, its officers, agents, and employees, unless such injury or damage is caused by or due to the negligence or willful misconduct of County, its officers, agents, and employees. Lessee hereby agrees to accept the Premises in its "as-is" physical condition and its "as-is" state of repair.

21. Indemnification. Lessee shall cooperate, to the extent allowed by law, in the submission of claims pursuant to the Federal Tort Claims Act against the United States for personal injuries or property damage resulting from the negligent or wrongful act or omission of any employee of the United States while acting within the scope of his or her employment, arising out of this Lease. Nothing in this Lease shall constitute an obligation of funds of the United States in advance of an appropriation of those funds. County shall indemnify, defend, save and hold harmless Lessee, and its agents and employees from all claims, judgments, charges, costs, liabilities or losses which (a) arise out of or occur by reason of the use of the Premises by County, its agents, employees, or contractors, and/or (b) arise out of any act or omission of County, its agents, employees, or contractors in relation to County's use of the Premises, whether such claim or claims, action or actions, be for damages, injury to persons or property, including the Premises and Improvements, or death of any person, made by any person, whether employed by any of the Parties or otherwise, except claims resulting from the sole negligence of willful misconduct of the Lessee, its agents, or employees.

21.1 – 21.4 – **Intentionally Deleted**

22. Insurance. Lessee is The United States Geological Survey and as such is an agency of the United States Government, and Lessee is a self-insured entity. A Federal agency cannot execute an indemnification/hold harmless agreement unless specifically authorized by the U.S. Congress in a particular matter or case. The United States Geological Survey agrees to cooperate, to the extent allowed by law, in the submission of claims pursuant to the Federal Tort Claims Act against the United States for personal injuries or property damage resulting from the negligent or wrongful act or omission of any employee of the United States while acting within the scope of his or her employment, arising out of this Lease. Nothing in this Lease shall constitute an obligation of funds of the United States in advance of an appropriation of those funds.
23. Liability for Loss or Damage to County Property. Lessee shall be liable to the extent allowed by law to the County for any loss or damage to the Premises arising from or in connection with Lessee's performance hereunder or any of its officers, agents, and employees.
24. Nondiscrimination. In the performance of this Lease, Lessee shall comply with all applicable federal laws, rules and regulations regarding nondiscrimination in employment because of race, color, ancestry, national origin, religion, sex, sexual orientation, marital status, age, medical condition or disability.
25. Termination by County or Lessee. Either Party may terminate this Lease for any reason whatsoever upon ninety (90) days prior written notice to the other Party. Notwithstanding the foregoing, County may immediately terminate this Lease for cause upon any material breach by Lessee of the terms hereof, including without limitation, failure to pay rent in a timely manner or perform its maintenance obligations pursuant to **Section 26** below.
26. Default and Right to Cure. Except as otherwise specified in this Lease, a Party shall be deemed in default under this Lease if it fails to make any payment within five (5) days of the date said payment is due, or to perform any obligation required of it within thirty (30) days or, if performance requires more than 30 days within a reasonable time, after receipt of written notice of such breach from the non-

defaulting Party ("Default"). This Lease shall not be terminated due to any nonmonetary Lessee Default unless County shall have given Lessee prior written notice of said Default, , and Lessee fails to cure or commence the cure of such Default within the thirty (30) days of receipt of said notice. This Lease may be terminated in the event of a monetary Default by Lessee if Lessee fails to pay any monetary sum due hereunder upon ten (10) days' notice from County. If Congress fails to appropriate funds for Lessee's operations hereunder, County may terminate this Lease within 30 days of said non-appropriation. If there is any conflict between this **Section 26** and other remedies available under applicable state law, the provisions of this **Section 26** shall apply.

27. **License is Personal** - **Intentionally Deleted**
28. **Provisions are Conditions of Use/Occupancy**. Each provision of this Lease shall be deemed a condition of the right of Lessee to use or continue to occupy the Premises.
29. **Lessee to Act in Independent Capacity**. Lessee, its officers, agents, and employees shall act in an independent capacity and shall not represent themselves to be or be construed to be officers, agents, or employees of County.
30. **License Not a Lease** - **Intentionally Deleted**
31. **Notice**. Any notice required or permitted to be given under this Lease shall be in writing. Delivery of such written notice shall be conclusively taken as sufficiently given forty-eight (48) hours after deposit in the United States Mail, registered or certified, return receipt requested, with the postage thereon fully prepaid, addressed as follows:

If to COUNTY: County of Sonoma
General Services Department
Attn. Real Estate Manager
2300 County Center Drive, Suite A200
Santa Rosa, CA 95403
Tel: 707 565 2550 and

Sheriff Telecommunications Bureau
2796 Ventura Avenue
Santa Rosa, CA 95403
Tel: 707 565-1984
Fax: 707 565-6002
E-Mail: radio@sonoma-county.org

If to LESSEE: Department of Interior
United States Geological Survey (USGS)
Attn: Facilities Leasing and Management Branch (FLMB)
3020 State University Drive East
Sacramento, CA 95819
650-329-4051 or 916-278-9427

Any notice required or permitted to be given by County under this Lease, including under **Sections 25** and **26** hereof, may be made by the Director of the General Services Department. Either Party

may at any time change its address for notices by giving written notice of such change to the other Party in the manner provided in this **Section 31**.

32. **No Continuing Waiver.** The waiver by County of any breach of any of the provisions of this Lease shall not constitute a continuing waiver of any subsequent breach of the same, or of any other provision of this Lease.
33. **Surrender and Equipment Removal.** Upon the expiration or sooner termination of this Lease and at County's election, Lessee, at its sole cost and expense, shall remove or relocate such of its structures and equipment, including the Lessee-Owned Equipment, as designated by County, restore the Premises to its original condition, and vacate the Premises. At County's election and direction to Lessee, footings, foundations, and concrete will be removed to a specified depth of below grade. Rent shall be due and payable until all Lessee-Owned Equipment is fully removed and the Site restored to County's specifications. The access rights granted to Lessee hereunder shall continue during such reasonable period after the termination or expiration of the Term as is necessary for Lessee to remove all such property of Lessee as may be requested by County. Should Lessee neglect to restore the Premises to a condition satisfactory to County within thirty (30) days after County's tender of written notice of the same, County may perform such work or have the work performed and Lessee shall immediately reimburse County for all direct and indirect costs associated with such work upon receipt of an invoice therefore. This Article shall survive the expiration or termination of this Lease.
34. **General Provisions.**
- 34.1 **Time of Essence.** Time is and shall be of the essence of this Lease and of each and every provision contained in this Lease.
- 34.2 **Incorporation of Prior Agreements; Amendments.** This Lease contains all the agreements of the Parties with respect to any matter mentioned herein. No prior agreement, or understanding pertaining to any such matter shall be effective. This Lease may be modified in writing only, signed by the Parties in interest at the time of the modification, and this sentence may not be modified or waived by any oral agreement, whether executed or unexecuted.
- 34.3 **Conflict Resolution.** In the event County alleges a breach by Lessee of this agreement, County shall file a claim with General Accounting Office (GAO) for adjudication. If unsatisfied with the holding of GAO, County has the right to file an action with the Court of Federal Claims.
- 34.4 **Amount Due Payable in U.S. Money.** All sums payable under this Lease must be paid in lawful money of the United States of America.
- 34.5 **No Third Party Beneficiaries.** Nothing contained in this Lease shall be construed to create and the Parties do not intend to create any rights in third parties.
- 34.6 **Construction of Agreement; Severability.** To the extent allowed by law, the provisions in this Lease shall be construed and given effect in a manner that avoids any violation of statute, regulation, or law. County and Lessee agree that in the event any provision in this Lease is held to be invalid or void by any court of competent jurisdiction, the invalidity of any such provision shall in no way affect any other provision in this Lease. Lessee and County acknowledge that they have each contributed to the making of this Lease and that, in the event of a dispute over the interpretation of

this Lease, the language of this Lease will not be construed against one Party in favor of the other. Lessee and County further acknowledge that they have each had an adequate opportunity to consult with counsel in the negotiation and preparation of this Lease.

34.7 Relationship. The Parties intend by this Lease to establish the relationship of County and Lessee only, and do not intend to create a partnership, joint venture, joint enterprise, or any business relationship other than that of County and Lessee.

34.8 Captions. The captions in this Lease are for convenience only and are not a part of this Lease. The captions do not in any way limit or amplify the provisions hereof, and shall have no effect upon the construction or interpretation of any part hereof.

34.9 Certified Access Specialist Disclosure. Pursuant to California Civil Code Section 1938, the subject property has not been inspected by a "Certified Access Specialist".

35. Hazardous Materials.

35.1 Lessee shall not cause or permit any Hazardous Materials (as hereinafter defined) to be brought upon, kept or used in or about the Premises by Lessee, its agents employees, contractors or invitees, without the prior written consent of County, which County shall not unreasonably withhold as long as Lessee demonstrates to County's satisfaction that such Hazardous Materials: (i) are necessary or useful to Lessee's business and will be used, kept and stored in a manner that complies with all laws, statutes, ordinances, rules, regulations, orders, requirements, and policies of any and all governmental agencies and authorities and any fire insurance underwriters applicable to any such Hazardous Materials ("Hazardous Materials Laws"); and (ii) do not otherwise, due to the quantity, nature or use of such Hazardous Materials, substantially increase the risk of fire or other casualty to the Premises.

35.2 To the extent any Hazardous Materials are used, kept, or are present in or on the Premises after the commencement of this Lease, Lessee shall ensure that all such Hazardous Materials, and all uses thereof, are in full compliance with all Hazardous Materials Laws.

35.3 If Lessee breaches the obligations stated in this **Section 35** or if the presence of Hazardous Materials on or about the Premises after the commencement of this Lease results in contamination of the Premises, then Lessee shall cooperate, to the extent allowed by law, in the submission of claims pursuant to the Federal Tort Claims Act against the United States for personal injuries or property damage resulting from the negligent or wrongful act or omission of any employee of the United States while acting within the scope of his or her employment, arising out of this Lease. Nothing in this Lease shall constitute an obligation of funds of the United States in advance of an appropriation of those funds.

County shall indemnify, defend, save and hold harmless Lessee, and its agents and employees from all claims, judgments, charges, costs, liabilities or losses which (a) arise out of or occur by reason of the use of the Premises by County, its agents, employees, or contractors, and/or (a) arise out of any act or omission of County, its agents, employees, or contractors in relation to County's use of the Premises, whether such claim or claims, action or actions, be for damages, injury to persons or property, including the Premises and Improvements, or death of any person, made by any person, whether employed by any of the Parties or otherwise, except claims

resulting from the sole negligence of willful misconduct of the Government, its agents, or employees.

35.4 As used herein, the term "Hazardous Materials" includes, without limitation, any flammable explosives, radioactive materials, hazardous materials, hazardous wastes, hazardous or toxic substances, or related materials defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C §9601 et seq.), the Hazardous Materials Transportation Act, as amended (49 U.S.C. §1801 et seq.), the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. §6901 et seq.), Section 25117 of the California Health and Safety Code, Section 25316 of the California Health and Safety Code, and in the regulations adopted and publications promulgated pursuant to them, or any other federal, state, or local environmental laws, ordinances, rules, or regulations concerning the environment, industrial hygiene or public health or safety now in effect or enacted after this date.

36. Access. Subject to the Rules and Regulations attached hereto at Exhibit E , road use restrictions of record, and any security protocols imposed by County on Site users, at all times throughout the Term of this Lease, and at no additional charge to Lessee, Lessee and its employees, agents, sub lessees and subcontractors, will have non- exclusive, twenty-four (24) hour, seven (7) day a week pedestrian and vehicular access to and over the Property described in the Grant of Easement between the County and John L. Stevenson dated August 18, 1959 (the "Easement Agreement"), attached as Exhibit A.
37. Mechanic's Liens. Lessee shall protect County's Premises, the Site, and adjacent property against damage resulting from the performance of any work undertaken by Lessee or Lessee's agents, employees, contractors, or assigns under this Agreement, and Lessee shall not permit any mechanics', materialman's, or other liens to be filed against County's Premises, the Site, or against Lessee's interest in the County's Premises. Lessee further covenants and agrees that any lien filed against County's Premises or the Site for work claimed to have been done for, or materials claimed to have been furnished to, Lessee will be discharged by Lessee, by bond or otherwise, within thirty (30) days after receipt of written notice of such filing of the lien, at the cost and expense of Lessee. Lessee shall indemnify County against all liens or liability in any way arising out of the performance of the work or the furnishing of labor, services, materials, supplies, equipment or power in connection the performance of any work undertaken by Lessee or Lessee's agents, employees, contractors, or assigns under this Agreement. Without limiting the foregoing, if any such liens are filed and not released within such thirty (30) day period, County may, without waiving its rights and remedies based on such breach by Lessee and without releasing Lessee from any of its obligations, cause such liens to be released by any means it shall deem proper, including payment in satisfaction of the claim giving rise to such liens. Upon County's notice to Lessee, Lessee shall pay to County any sum paid, or costs incurred, by County to remove such liens, together with interest at the legal rate from the date of payment by County. County shall have the right at all reasonable times to post and keep posted on County's Premises any notices that it deems necessary for protection from such liens.

LESSEE HAS CAREFULLY READ AND CONSIDERED THE TERMS AND CONDITIONS SET FORTH IN THIS AGREEMENT AND HEREBY AGREES THAT LESSEE SHALL BE BOUND BY ALL SAID TERMS AND CONDITIONS.

IN WITNESS WHEREOF, the Parties hereto have executed this Lease below.

“LESSEE”: DEPARTMENT OF INTERIOR
UNITED STATES GEOLOGICAL SURVEY

By: _____

Print Name: _____

Title: _____

Executed by the County of Sonoma General Services Department this _____ day of _____, 2022, pursuant to authority granted by Agenda Item No. _____ dated _____, 2022.

“COUNTY”: COUNTY OF SONOMA, a political
subdivision of the State of California

By: _____

Name: _____

Its: Director, Department of General Services

APPROVED AS TO FORM
FOR COUNTY:

Deputy County Counsel

APPROVED AS TO SUBSTANCE FOR COUNTY:

Real Estate Manager

Sheriff

Exhibit A

Property

Sonoma Mtn. – USGS - 2019

That certain parcel of land located in the unincorporated area of the County of Sonoma, State of California, commonly known as the located at 2482 Sonoma Mt. Road, Petaluma, CA, 94954, being Sonoma County Assessor's Parcel #136-190-016, and as more particularly described in the Grant of Easement agreement attached hereto as Exhibit A.

Exhibit B-1

See Attached USGS (Lessee) Vault Space

Exhibit B-2

County MW Structure with USGS antennas shown



Exhibit B-3 Location of USGS Antennas

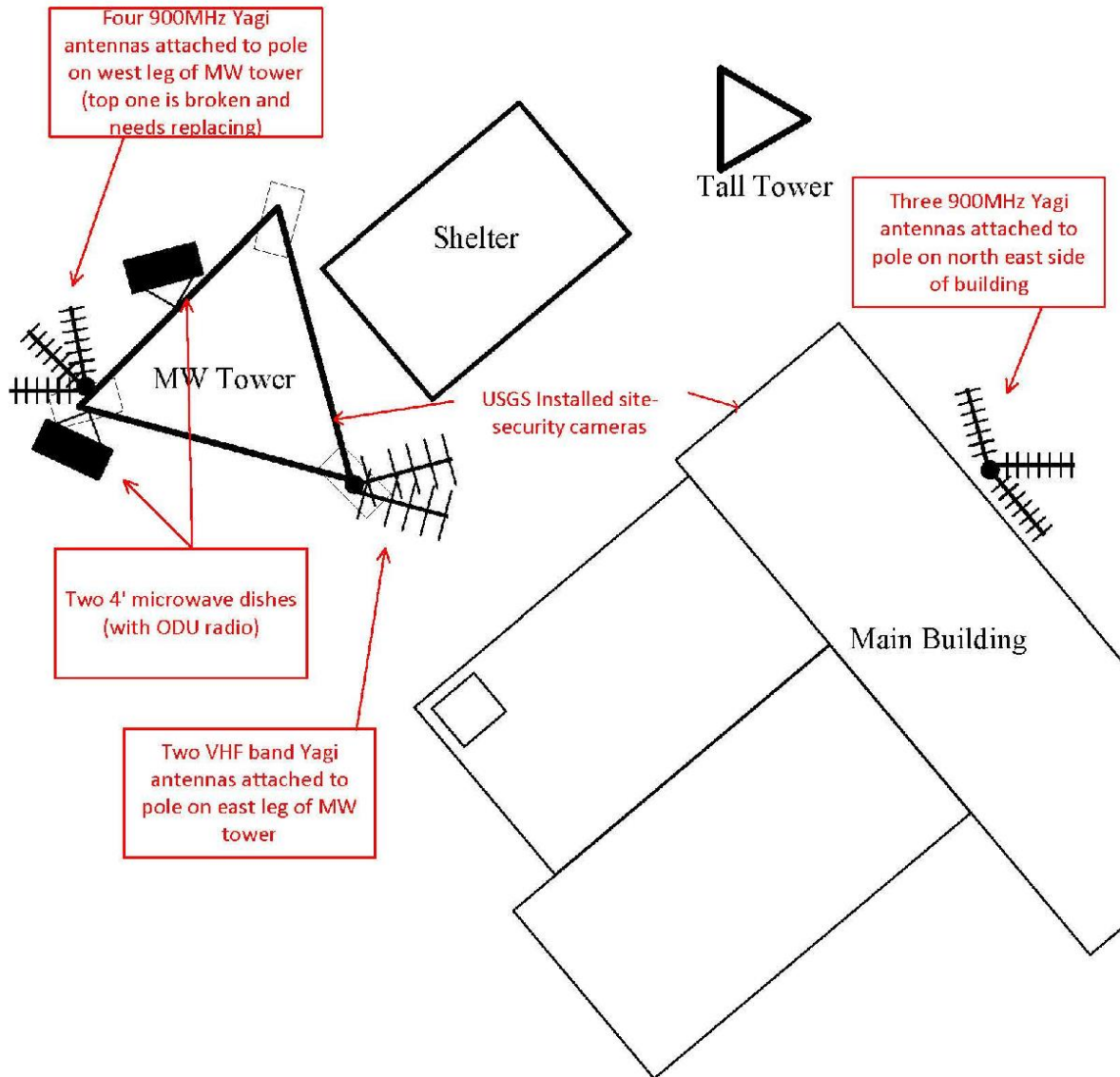


Exhibit B-4 Location of USGS Seismic Sensor

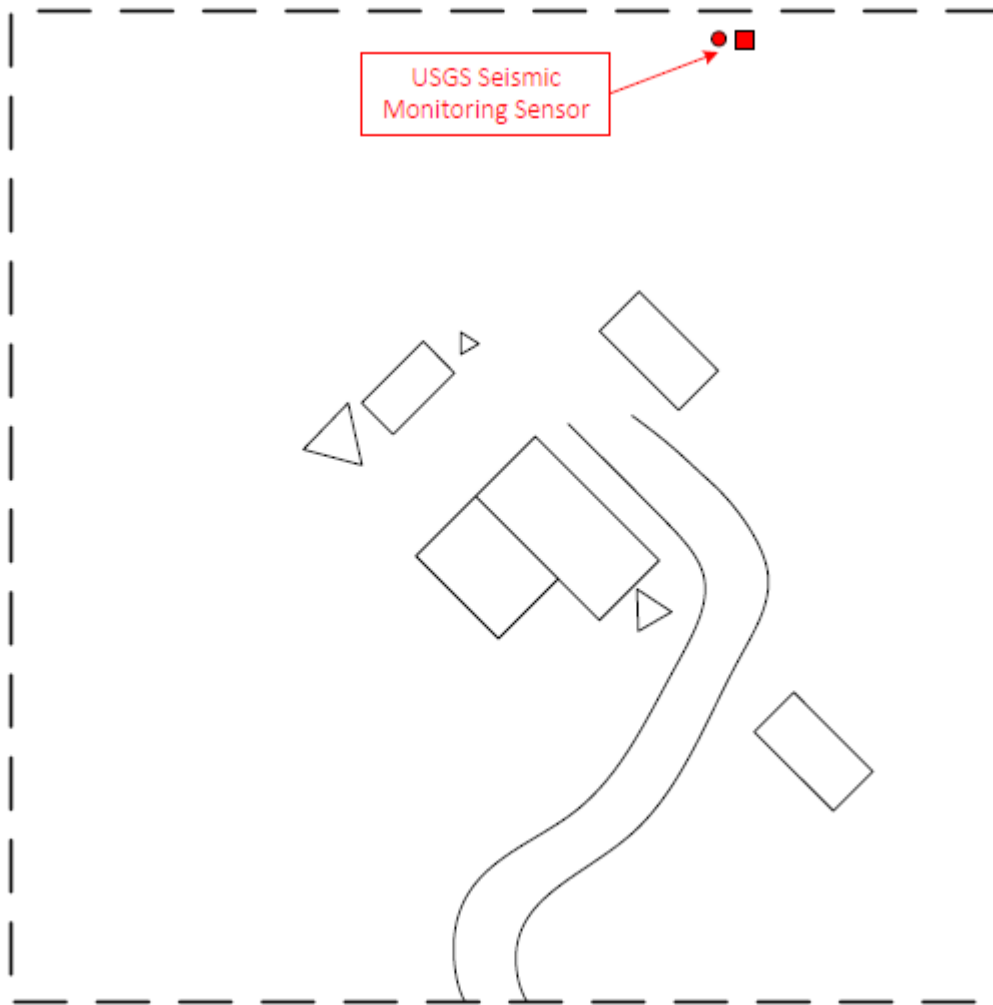


Exhibit C

Sonoma Mtn– County of Sonoma Communications Facility The USGS “Lessee”-Owned Equipment List

A. Lessee-Owned Equipment

- 1) Nine (9) yagis and associated feedlines
- 2) Two (2) four (4) ft. microwave (MW) dish antenna with ODU on County owned MW Structure and associated feedlines
- 3) Radios, routers, power supplies, batteries, and seismic data processing equipment in two (2) racks
- 4) Two (2) video surveillance cameras (one on tower, one on vault)
- 5) Seismic monitoring sensor and datalogger housed in an enclosure on north side of Site

B. Shared Use of County Owned Equipment

- 1) Use of County’s Power Supply System
- 2) Use of County’s “Ice Bridge” and feed lines
- 3) Connection to County Generator

Exhibit D

RENT CALCULATION

Rent from Effective date to USGS Tower completion date (estimating up to 10 months for construction of new tower)			
Rent include utilities, site maintenance, backup generator access			
Component	Rent per Unit of Equipment	Quantity	Rent per month
Equipment Racks in Sonoma Vault	\$750	2	\$1,500
Antenna (Yagis)	\$100	9	\$900
Microwave (4 ft.)	\$860	2	\$1,620
Cameras mounted on Sonoma Tower and Vault	\$125	1 each location	\$250
Total			\$4,270
Rent after USGS Tower completion date (estimated to be after January 1, 2023)			
Equipment Racks in Sonoma Vault	\$750	2	\$1,500
Ground Space for USGS Tower	\$2.94 per sq. ft./mo.	64	\$188
Microwave (4 ft.)	\$860	2	\$1,620
Total			\$3,308

1. Rent and fees subject to 3% annual increase on anniversary date of new USGS tower each year (estimated to be after January 1, 2023)
2. Rent shall be adjusted upon addition of new or removal of existing equipment according to the components as set forth above

EXHIBIT E

RULES AND REGULATIONS

1. No sign, placard, name or notice shall be installed on or about the Premises without the written consent of County, and County shall have the right to remove any such sign, placard, name or notice without notice to and at the expense of Lessee.
2. Access roads shall not be obstructed by Lessee or used for any purpose other than for ingress to and egress from the Site and Premises.
3. Physical Access; Administrative Policy 9-4.
Lessee agrees to comply with the County and Sheriff Office T-Comm Bureau access regulations and security policies when entering and using County facilities.
 - (a) **County Administrative Policy 9-4 Information Technology Professionals Policy Manual** requires that background investigations, or security clearance, be conducted on individuals requesting access to County facilities. Lessee, or its contractor personnel requiring access to the County's Telecommunication sites listed in this Agreement must complete a , "Request for Facility Clearance" to be obtained from Sheriff Office T-Comm Bureau, request and return it to the Sheriff's Personnel Bureau to obtain such security clearance. Background investigations may require the person requesting access to submit a consent and waiver form permitting County to obtain personal employment and/or professional qualification information from third parties, and releasing such third parties from any liability for disclosing information to County.
 - (b) All personal information provided will be maintained by the County in strictest confidence to the extent allowed by law. The type of clearance required can vary based on the background investigation previously conducted by other law enforcement and governmental agencies. The Sheriff's Office maintains sole discretion in determining what level of background investigation may be needed. Sheriff's Office may restrict access to any person at any time at its sole discretion.
 - (c) No person shall enter the Premises herein until approval has been obtained in writing from the Sheriff's Office and corresponding access has been granted, via issuance of either keys or access pass by Sheriff's Telecommunications staff. Lessee's authorized persons are required to email Sheriff-TComm@sonoma-county.org prior to their accessing Telecommunications facilities. Persons granted access to facilities are prohibited from lending their keys, passes, etc. to other personnel. If Lessee has a need to bring contractors or other professional staff on site, Lessee personnel authorized to access the Site shall escort such persons at all times. Failure to follow such procedures shall result in access being revoked.
 - (d) Lessee personnel are required to immediately notify Sheriff's Personnel Bureau staff when a person authorized for clearance no longer works for the agency. Lessee, and its contractors, are required to return keys/passes, within 24 hours of the notification. Keys / passes will be re-issued when a new security clearance has been completed for the replacement personnel. To ensure the most efficient delivery services, report all telecommunication issues during Regular Hours to the T-Comm Bureau at: 707 565-1984.
 - (e) In no circumstance will Lessee be allowed to access the County Microwave Tower (described as the MW Structure herein), nor the County Radio Tower (described as the County Tower herein) without prior written consent of County, which must be requested at least seventy-two (72) hours in advance. County's approval to access the Microwave Tower may be subject to an escort fee, charged at then then current rates of the T-

Comm Bureau. Any personnel of Lessee will be subject to confirmation of Lessee's personnel certifications, insurance certificates and other requirements at the sole discretion of the County. With County's prior written approval, County agrees to Lessee's use of a lift to access Lessee's equipment mounted on the MW Structure. In accordance with such alternative access, no personnel climbing certification will be required of Lessee to access Lessee's equipment on the MW Structure.

4. Access, electric lock combination and keys for gates must be authorized by the Sonoma County Sheriff T-Comm Bureau at: 707 565-1984. Lessee shall not alter any lock or install any new or additional locks or any bolts on any gates, doors or windows of the Premises.
5. County will direct Lessee as to where and how cables, wires and chases, if any, are to be introduced. No boring or cutting for wires will be allowed without the written consent of County.
6. County reserves the right to exclude or expel from the Premises any person who violates any of these rules and regulations or the License to which these rules and regulations are made a part.
7. All gates and doors shall be left locked when the Premises are not in use.
8. Lessee's equipment or frequency additions or changes must be made pursuant to the terms of **Section 9** of this Agreement.
9. Any interference caused by Lessee's equipment to the equipment of County or County's operations at the Site shall be resolved, to the County's satisfaction, within twenty four (24) hours of telephonic notice to Lessee. (Property Services Hotline: 800-357-7641, 7 am to 6 pm Central Time; after hours emergencies call the NOCC: 888-859-1400). If Lessee's equipment is causing interference which may put first responders or the public at risk, the County may, in its sole discretion, immediately shut down or remove the equipment or transmissions causing the interference.
0. Lessee shall not use or keep in the Premises any kerosene, gasoline or inflammable or combustible fluid or other hazardous material, or use any method of heating or air conditioning other than that supplied by County, provided, however, that Lessee may use back-up batteries consistent with all applicable regulations including those of the County of Sonoma.
1. County shall use good faith efforts to provide the following radio frequency emission best management practices on the Transmission Site:
 - (i) Post a NOTICE, CAUTION, or WARNING sign, as needed to advise persons when they are entering an area on the Property in which the radio frequency emissions exceed safety standards established by the Federal Communications Commission (FCC).
 - (ii) Post radio frequency guideline signage, which complies with FCC guidelines, at each access point to the Transmission Site.
 - (iii) Control access to the Transmission Site in a manner that prevents access by the general public.
 - (iv) Inspect the Property to ensure compliance with FCC radio frequency emission safety standards after the addition or modification of any equipment on the Property or any other change to the radio frequency environment on the Property.
 - (v) Lessee shall provide County with signage for posting as required above. If Lessee adds or modifies

any equipment on the Premises, Lessee shall pay for and coordinate any inspection of the Transmission Site to ensure compliance with BCC radio frequency emission safety standards as required above. Lessee shall ensure that in the Property, any person accessing an area in which the radio frequency emissions exceed levels considered safe for the general public, as established by the FCC: (1) wears a personal radio frequency exposure monitor; and (2) has completed radio frequency safety awareness training, which includes knowledge of the use of personal protective equipment.