

**TELECOMMUNICATIONS VAULT LEASE**

Location of Leased Premises: <b>BIG HILL RADIO SITE EL DORADO COUNTY</b>
Agency: <b>CALIFORNIA HIGHWAY PATROL</b>

Lease No.: L-1579

**SUB-SUBLEESSEE: COUNTY OF EL DORADO,  
EL DORADO COUNTY SHERIFF'S  
DEPARTMENT**

THIS SUB-SUBLEASE, dated for reference purposes only, February 25, 2016, by and between the State of California acting by and through the Director of the **Department of General Services (DGS)** with the consent of the **California Highway Patrol (CHP)**, hereinafter collectively referred to as "**STATE**", and the **County of El Dorado**, a political subdivision of the State of California, on behalf of the **El Dorado County Sheriff's Department**, hereinafter referred to as "**LESSEE**".

**RECITALS**

**WHEREAS**, pursuant to Section 14666.8 of the Government Code, the Director of General Services, with the consent of the State agency concerned, may lease department managed and state owned real property to providers of telecommunications services, for a period not to exceed ten (10) years, and the lease may provide for a negotiated number of renewal terms, not to exceed five years each term; and

**WHEREAS**, PURSUANT TO Section 14670 (a) (2) of the Government Code, the Department with the consent of the State agency concerned may sublet any real or personal property leased by the State, the subletting of which is not expressly prohibited by law, if it deems such subletting is in the best interest of the State; and

**WHEREAS**, the STATE has under its jurisdiction certain real property in the County of El Dorado, State of California, commonly referred to as **Big Hill Radio Site**; and

**WHEREAS**, LESSEE desires to lease a portion of the property described herein from the STATE; and

**WHEREAS**, it is in the best interests of the STATE that such a lease be consummated between the STATE and LESSEE on the terms and conditions herein contained.

**WHEREAS**, this Sub-Sublease is subject to the certain Master Communications Use Lease, dated October 6, 2011 and expiring December 31, 2030, by and between the U.S. Department of Agriculture Forest Service and Panella Trucking, LLC, (Master Lease), attached hereto and made a part hereof, marked "Exhibit A", and to that certain Vault Lease, dated April 14, 2010 and expiring December 31, 2030, by and between Panella Trucking, LLC and the State of California, acting by and through the Director of the Department of General Services, with the consent of the California Highway Patrol (Sublease), attached hereto and made a part hereof, marked "Exhibit B"; and

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

- Section 1: Site Specific Provisions
- Section 2: Telecom Specific Provisions
- Section 3: Standard Provisions

**WITNESSETH:****SECTION 1 –SITE SPECIFIC PROVISIONS****PROPERTY  
DESCRIPTION**

1. STATE does hereby Lease to LESSEE, and LESSEE hereby hires from STATE in STATE's vault, those certain premises situated on Big Hill Radio Site, County of El Dorado, State of California upon the terms, agreements, and conditions hereinafter set forth. The area leased in STATE's vault is approximately four (4) square feet, with one (1) communications vault rack located in rack space 10, and four (4) antenna assignments installed at antenna positions 8, 9, 10 and 11, hereinafter referred to as "Premises" and more particularly described as follows:

A portion of the Northeast ¼ of Section 33, Township 12 North, Range 14 East, Mount Diablo Base and Meridian.

**USE**

2. (a) The Premises shall be used during the term hereof solely and only for the purpose of operating and maintaining telecommunications equipment as described in LESSEE's "Radio Vault Space Application", (State Form TD-311), dated July 15, 2009 consisting of fifteen (15) pages, available upon request, and all facilities necessary thereto and such other transmitting and receiving equipment as STATE may from time to time consent to in writing and for no other purposes whatsoever.
- (b) LESSEE shall at its sole cost and expense, comply with all of the requirements of all Municipal, State and Federal statutes, laws, ordinances and regulations now in force, or which may be in force pertaining to the premises.
- (c) LESSEE shall not be responsible in any manner for the maintenance and repair of the equipment of the STATE or its political subdivisions located on the Premises.

**MASTER  
LEASE/SUBLEASE**

3. STATE and LESSEE acknowledge and agree that the STATE's rights are pursuant to the existing Master Lease for the Big Hill Radio Site by and between the U.S. Department of Agriculture Forest Service and Panella Trucking, LLC; and a Sublease by and between Panella Trucking LLC and STATE. LESSEE and STATE agree to be bound by said Master Lease and Sublease and any site master plan, as applicable to the access and occupancy of the Communication Site.

**TERM**

4. (a) The initial term of this Lease shall be for ten years to begin May 1, 2016, and shall end April 30, 2026, with LESSEE having one (1) automatic extension option through December 31, 2030, which date coincides with the expiration of the Master Lease and Sublease.
- (b) Unless LESSEE gives prior written notice within ninety (90) days of the end of the ten (10) year initial term that it will not exercise its option, the Lease will automatically extend through December 31, 2030.
- (c) All other provisions of the Lease shall remain the same unless either party notifies the other in writing ninety days (90) days in advance of the end of the current Term.

**LEASE PAYMENTS** 5. Rent shall be paid annually, and shall be paid in advance by LESSEE to STATE on or before the first day of May each year, with an increase by three percent (3%) annually during said term and extension period as follows:

<u>Period</u>	<u>Term</u>	<u>Annual Payment</u>
1	5/1/2016 – 4/30/2017	\$2214.50
2	5/1/2017 - 4/30/2018	\$2280.94
3	5/1/2018 - 4/30/2019	\$2349.36
4	5/1/2019 - 4/30/2020	\$2419.84
5	5/1/2020 - 4/30/2021	\$2492.44
6	5/1/2021 - 4/30/2022	\$2567.21
7	5/1/2022 - 4/30/2023	\$2644.23
8	5/1/2023 - 4/30/2024	\$2723.56
9	5/1/2024 - 4/30/2025	\$2805.26
10	5/1/2025 - 4/30/2026	\$2889.42
<b><u>Extension</u></b>		
11	5/1/2026 – 4/30/2027	\$2976.10
12	5/1/2027 - 4/30/2028	\$3065.39
13	5/1/2028 - 4/30/2029	\$3157.35
14	5/1/2029 - 12/31/2030	\$3252.07

(b) Payments are to be made directly to the following address:

California Highway Patrol  
Office of Administrative Services  
Telecommunications Section Accounts Receivable (L-1579)  
601 7<sup>th</sup> Street – Building C  
Sacramento, CA 95811  
Telephone: (916) 375-2900

LESSEE acknowledges that rent and past due rent shall be due and payable to STATE whether or not an actual invoice is sent by STATE or received by LESSEE.

**UTILITIES** 6. STATE makes no guarantee as to the reliability of the electrical services. STATE shall supply and LESSEE shall receive commercial power service, as well as emergency standby power service from STATE’S generator in said vault during any interruptions to the regular electric service. STATE shall not, however, undertake to supply said emergency standby service except when the same shall be required for STATE’s use at the facility.

**NOTICES** 7. All notices or other communications required or permitted hereunder shall be in writing, and shall be sent by overnight courier, or sent by registered or certified mail, postage prepaid, return receipt requested to the addresses set forth below. All such notices or other communications shall be deemed received upon the earlier of (i) if sent by overnight courier, the date of delivery to the address of the person to receive such notice, (ii) if mailed as provided above, on the date of receipt or rejection, when received by the other party if received Monday through Friday between 6:00 a.m. and 5:00 p.m. Pacific Standard Time. so long as such day is not a State or Federal holiday and otherwise on the next day provided that if the next day is Saturday, Sunday, or a state or federal holiday, such notice shall be effective on the

following business day.

STATE                    **DEPARTMENT OF GENERAL SERVICES**  
State Owned Leasing and Development (L-1579)  
707 3<sup>rd</sup> Street, Fifth Floor  
West Sacramento, CA 95605  
Phone: (916) 375-4025

With Copies to      **CALIFORNIA HIGHWAY PATROL**  
Telecommunications Section – Leasing  
601 N. 7<sup>th</sup> Street - Building C  
Sacramento, CA 95811-0208

LESSEE:                **COUNTY OF EL DORADO**  
**SHERIFF'S DEPARTMENT**  
Communications Department  
300 Fair Lane  
Placerville, CA 95667

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

**EARLY  
TERMINATION**

8. STATE or LESSEE may terminate this Lease at any time by giving written notice to the other party at least ninety (90) days prior to the date when such termination shall become effective.

**HOLDING OVER**

9. Should LESSEE hold over after the expiration or extension periods of the term of this Lease with the consent of STATE, expressed or implied, said tenancy shall be deemed to be a tenancy only from month to month. All terms and conditions of this Agreement will also convert to a month to month condition. In addition, the rental payments for the holdover period shall be subject to an annual increase of three percent (3%). Such month-to-month tenancy may continue until either party hereto serves upon the other written notice of its intention to terminate such tenancy with 30 days prior written notice.

State offers and LESSEE accepts no assurance that the Leased Premises or any other comparable space or facilities at the site described herein will be made available to LESSEE beyond the term stated above or as said term is reduced as provided herein.

**IMPROVEMENTS &  
MODIFICATIONS**

10. LESSEE at its sole cost and expense may, subject to the "Fees Assessed LESSEE for Changes", Section 2. Paragraph 3, from time to time during its tenancy of the Premises:

(a) Connect wires and equipment to lines adjoining the Premises. All work done by LESSEE on the Premises shall be done in a lawful manner and in conformity with all applicable laws, ordinances, and regulations, and all installed equipment shall be located or screened so as not to be visible from publically accessible areas on the ground, and provided further that the Premises shall be kept free from any and all liens and charges on account of labor or materials used in or contributing to any work thereon.

(b) Furnish, install and use in, upon, and under, and remove from the Premises such wires, equipment and other property of whatsoever kind and nature as LESSEE deems necessary consistent with the purpose of this Lease as set forth in "Use" Section hereof.

(c) In making any excavation and/or installation of equipment on the Premises and/or easement areas, LESSEE shall make the same in such manner as will cause the least injury to the surface of the ground around such excavation and/or construction, and shall replace the earth so removed by it and restore the surface of the ground and any improvement thereon to as near the same condition as they were prior to such excavation as is practicable.

(d) Improve the Premises in a manner consistent with the purposes of this Lease as set forth in "Use" Section hereof, including but not limited to the installation, operation, maintenance, or removal of said communication equipment, provided that any such improvement or equipment shall be constructed, installed and, if necessary, screened in such manner as not to impair visibility from any publically accessible areas on the ground, and provided further that plans for the construction or enlargement of any improvement will be submitted to STATE in advance of such construction or enlargement, and will be subject to written approval by STATE. STATE will not unreasonably withhold such approval. Such approval by STATE will not constitute approval of any communication equipment installed or to be installed by LESSEE, and will not relieve LESSEE of the obligation of complying with any and all terms and conditions of this Lease; LESSEE shall notify the STATE thirty (30) days prior to the actual construction.

11. This Lease may be executed in separate counterparts, each of which when so executed shall be deemed to be an original. Such counterparts shall, together, constitute and be one and the same instrument.

SEPARATE  
COUNTERPARTS

End of Section 1

## SECTION 2 - TELECOM SPECIFIC PROVISIONS

**1. HVAC LOAD**

State communication vaults are properly sized to at a minimum accommodate the heat load generated by all STATE equipment. If in the future the HVAC is found to be inadequate to provide sufficient cooling due to added heat load from non-State tenants and/or applicants, the replacement cost and associated electrical upgrade to HVAC shall be prorated among all non-State tenants based on an analysis of heat load generated by each tenant.

**2. ROAD ACCESS AND FEES**

STATE hereby makes no representation regarding ingress and egress rights via the access road that serves the Premises. LESSEE agrees to the following terms and conditions regarding the use of said access road:

(a) LESSEE shall exercise its right personally or through its authorized agents, employees or contractors whenever it is necessary.

(b) LESSEE shall use said road at its sole risk and avoid traveling upon it to the greatest practical extent at all times when weather conditions are such that excessive damage to the road surface may result from such use, and further, LESSEE shall, at its expense, promptly repair any road damage caused by its use, including such road surface protective features as water drains, berms, or culverts.

(c) LESSEE agrees to pay, within 30 days of notice, its proportionate share of any road access fee that may be assessed upon the STATE by the owner of the road.

**3. ACCESS TO PREMISES**

Only the LESSEE, its properly qualified and authorized agents, employees, and contractors, shall have the right of ingress to and egress from said Premises. If communications equipment of LESSEE is operated or maintained by anyone other than its regular employees or authorized agents, the admission of such persons to said site shall be permitted only upon the express consent of STATE having first been obtained. STATE, through its authorized agents, shall have the right at all reasonable times to go upon the Premises. STATE shall have a key to and may enter LESSEE's portion of the Premises (except in the event of an emergency) only upon twenty-four (24) hour notice to LESSEE. In the event of an emergency STATE shall make reasonable efforts to notify LESSEE prior to entering the Premises. STATE shall determine those events which constitute an emergency permitting access without 24 hours prior notice.

**4. CHANGE IN EQUIPMENT**

LESSEE shall not cause or permit any change of any equipment installed by LESSEE in the Premises, including power outputs or changes in the use of the frequencies described in the Exhibits herein attached, except upon making a written request to STATE for each such transaction and the obtaining of STATE's prior written consent.

Such consent is subject to fees described in "Lease Modification Fees", Paragraph 2, Section 3 (Standard Provisions) and/or the "Technical Analysis Fee", Paragraph 5 below.

**5. TECHNICAL ANALYSIS FEES**

Any change in LESSEE's approved communication equipment requires technical approval from California Technology Agency, PSC, consistent with the "Elimination of Interference", Paragraph 7 of this Section 2. To initiate approval for a change of equipment, LESSEE must first contact DGS-RESD to obtain a current TD-311 application form. The LESSEE must comply with the terms of the TD-311, including payment of all fees described in the application (technical analysis and associated lease modifications).

**6. ELECTRONIC EQUIPMENT STANDARDS**

With regard to specific site standards and any other statues pertaining to the use of electronic equipment: LESSEE agrees to install, maintain, and operate its electronic equipment in accordance with all such requirements. If LESSEE was in occupation under a previous Lease, LESSEE shall have one hundred and eighty (180) days from the commencement of this Lease to conform to any new site standards. LESSEE shall display on each piece of equipment the emergency contact information.

#### **7. ELIMINATION OF INTERFERENCE**

(a) In the event LESSEE's installation, or operation, in any way hinders, obstructs, or interferes with the radio or electronic equipment of the STATE, or any pre-existing tenant at the STATE's facility, LESSEE shall, at its sole cost and expense, immediately cease the interfering installation or operation, except for intermittent testing coordinated with the State. In the event of LESSEE's inability or refusal to immediately cease such interference, STATE may at its option, immediately terminate this Lease and evict LESSEE.

(b) Any interference and compatibility testing required hereunder for radio interference with other equipment at the STATE'S facility, by such equipment installed, or by changes to said equipment, shall, be made at the sole cost of LESSEE by a qualified technical person representing LESSEE and a representative designated by STATE. If the test is satisfactory to both the technical person and the STATE representative, a certification of such test signed by both the technical person and the STATE representative will be forwarded to STATE at locations indicated in "Notices" Paragraph hereof. All reasonable and documented costs incurred by the STATE to conduct compatibility testing will be reimbursed to the STATE by LESSEE within thirty (30) days of the receipt of a bill from the STATE. Should payment not be received, STATE may at its option, immediately terminate this Lease and evict the LESSEE.

(c) Any interference with the STATE's electronic equipment during an emergency incident will require immediate cessation of operation, transmission or further use of LESSEE's equipment. Failure to do so immediately after being notified of such interference will be grounds for immediate termination of Lease and eviction of LESSEE.

#### **8. WORKMANSHIP STANDARDS**

The installation and maintenance of the electronic equipment of LESSEE shall be performed in a neat and workmanlike manner and shall conform in all respects to the fire, safety and construction standards deemed applicable to such installation by the STATE, and be satisfactory to STATE.

#### **9. RE-ALLOCATION OF SPACE**

State shall have the right at any time upon giving notice thereof to re-assign or re-allocate the amount or location of space for communications equipment for the use of LESSEE, State or anyone claiming under it. In the event that a space re-allocation is made, LESSEE shall, within sixty (60) days of receipt of notice thereof, remove or relocate its equipment in conformity with said re-allocation.

#### **10. DISPOSITION OF LESSEE'S IMPROVEMENTS**

(a) During the term of this Lease, all wires, equipment, and other personal property placed in, upon, or under the Premises by LESSEE shall remain the property of LESSEE and shall be removed by LESSEE, at its sole cost and expense within thirty (30) days after expiration or termination of LESSEE's tenancy.

(b) Should LESSEE fail to remove said equipment and personal property within thirty (30) days after expiration or termination of the Lease, STATE may do so at the risk of LESSEE. Upon written demand by STATE, LESSEE shall immediately pay all costs and expenses of the removal of LESSEE's personal property and equipment.

(c) LESSEE may, however, with written consent of STATE, abandon in place any and all of LESSEE's equipment and personal property, whereupon, as abandoned, title to said improvements will vest in STATE.

#### **11. LESSEE GUARANTEES**

LESSEE hereby guarantees any and all work or services performed by LESSEE or under LESSEE's direction, in order to accomplish the installation and/or maintenance of their communications equipment at the STATE's facilities. Should the interruption or failure of STATE's existing computer or building support

systems occur due to, or in any way be connected with LESSEE's installation and/or maintenance of LESSEE's equipment, all costs to repair or replace STATE's existing systems will be the sole responsibility of LESSEE.

**End of Section 2**

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**SECTION 3 – STANDARD PROVISIONS****1. PERMITS AND APPROVALS**

The parties agree that LESSEE's ability to use the Premises is dependent upon LESSEE obtaining all of the certificates, permits, licenses, and other approvals that may be required from any third party. STATE will cooperate with LESSEE at no expense to STATE, in LESSEE'S effort to obtain such approvals in connection with said permits, licenses or other approvals.

**2. LEASE MODIFICATION FEES**

An administration/technical review fee shall be assessed for any action originated by LESSEE requiring lease administration or technical review staff work by STATE, such as but not limited to, name changes, assignments of Lease or changes in equipment which result in an amendment to, or assignment of this Lease. To initiate such services, LESSEE must submit a written request to STATE. The administration fee will be assessed at the prevailing rate in effect at the time the request is received. LESSEE will be required to remit the administration/technical review fee to the STATE address listed in the "Notices" Paragraph of this Lease.

If the request is found to be complex and/or requires non-standard handling for administrative services, the transaction will be billed at the STATE current hourly rate for the actual additional hours required to complete the requested administrative/technical review services.

**3. DEFAULT**

LESSEE shall make all payments to the STATE without deduction, default or delay. In the event of the failure of LESSEE to do so, or in the event of a breach of any of the other terms, covenants or conditions herein contained on the part of LESSEE to be kept and performed, and if such default continues for a period of thirty (30) days after receipt of written notice from STATE to LESSEE of such default, this Lease may, at the STATE'S sole discretion, be terminated. In the event of termination of this Lease, it shall be lawful for STATE to reenter into and upon the Premises and every part thereof and to remove and store at LESSEE'S expense all property there from and to repossess and occupy the Premises.

In the event STATE terminates this Lease pursuant to this Paragraph, the STATE shall not be required to pay LESSEE any sum or sums whatsoever.

**4. INTEREST ON PAST DUE OBLIGATIONS**

STATE may charge interest, for any amount due to STATE but not paid when due, at a rate equal to the annual maximum rate allowable by law from the due date. Payment of such interest together with the amount due shall excuse or cure any default by LESSEE under the "Default" Paragraph herein.

**5. COMPLIANCE WITH LAWS**

LESSEE shall at its sole cost and expense comply with all the statutes, laws, ordinances and regulations of all municipal, state and federal authorities now in force or which may hereafter be in force pertaining to the Premises and use of the Premises as provided by this Lease.

**6. FAILURE TO PERFORM**

In the event of the failure, neglect, or refusal of LESSEE to do, or perform work, or any part thereof, or any act or thing in this Lease provided to be done and performed by LESSEE, STATE will, at its option, have the right to do and perform the same, and LESSEE hereby covenants and agrees to pay STATE the cost thereof on demand.

**7. ASSIGNMENT, SUBLETTING & CHANGE IN USE**

LESSEE shall not transfer or assign ("assign" shall include any transfer of any ownership interest in the Lease by LESSEE or by any partner, principal, or controlling stockholder, merger, sale or acquisition, as the case may be, from the original LESSEE, its partner or principal) this Lease, and shall not sublet, license, permit or suffer any use of the Premises or any part thereof, or lease space in any building or tower constructed on the land, or provide communications equipment for the use of others without first obtaining the written consent of the STATE, which consent is at the sole discretion of the STATE.

Notwithstanding the foregoing, upon prior written notice to STATE, LESSEE may assign or sublicense its rights hereunder to any subsidiary or affiliate of LESSEE or LESSEE's

**SECTION 3 – STANDARD PROVISIONS**

parent company who has an ownership interest of fifty-one percent or more.

Anytime such a change in name, partner, principal or controlling stockholder, merger, sale or acquisition shall occur, the Lease shall be open for negotiations and approval by STATE.

**8. RIGHTS RESERVED BY STATE**

(a) STATE reserves the right to use the real property involved (not including real property installed, erected or constructed by LESSEE) in any manner, including but not limited to the right to construct, place, maintain, use, operate, repair, replace, alter and move pipelines, conduits, culverts, ducts, fences, poles, electrical energy, power and communication lines, roads, bridges, subways, sidewalks, to grant easements over, across, upon and under said real property, and the continuous right of ingress to and egress from any portion or portions of said real property in such manner as not to create any unreasonable interference with the exercise of the rights granted to LESSEE.

(b) Any grant herein contained is subject to all valid and existing contracts, leases, licenses, easements, encumbrances and claims of title which may affect said facility.

(c) No priority or other rights will attach to the use of any space in STATE'S building or on said facility.

**9. PROHIBITED USES**

LESSEE shall not commit, suffer or permit any waste or nuisance on the Premises or on STATE property or any acts to be done thereon in violation of any laws or ordinances, and shall not use or permit the use of the Premises for any illegal or immoral purposes.

No dumping of refuse by LESSEE is permitted at the Premises. LESSEE agrees not to cut or remove any trees or brush thereon except as approved in writing in advance by STATE. LESSEE agrees that it shall at all times exercise due diligence in the protection of the Premises and the STATE'S property against damage or destruction by fire or other cause.

**10. FIRE AND CASUALTY DAMAGES**

STATE will not keep improvements which are constructed or installed by LESSEE under the provisions of this Lease insured against fire or

casualty, and LESSEE shall make no claim of any nature against STATE by reason of any damage to the business or property of LESSEE in the event of damage or destruction by fire or other cause, arising other than from or out of negligence or willful misconduct of agents or employees of the STATE in the course of their employment.

**11. ACTS OF NATURE**

If any of LESSEE'S improvements or equipment are destroyed by acts of nature, LESSEE may replace them with improvements or equipment of the same general type that meets or exceeds the technical specifications of the original equipment, that occupies no more physical space and that consumes no more electrical power. LESSEE shall immediately notify STATE of such items and the date the replacement is completed.

**12. HAZARDOUS WASTE**

LESSEE agrees that it shall comply with all laws, federal, state, or local, existing during the term of this Lease pertaining to the use, storage, transportation, and disposal of any hazardous substance as that term is defined in such applicable law.

(a) In the event STATE or any of its affiliates, successors, principals, employees, or agents should incur any liability, cost, or expense, including attorney's fees, as a result of LESSEE'S illegal use, storage, transportation, or disposal of any hazardous substance, including any petroleum derivative, LESSEE shall indemnify, defend, and hold harmless any of these individuals against such liability.

(b) Where LESSEE is found to be in breach of this Paragraph due to the issuance of a government order directing LESSEE to cease and desist any illegal action in connection with a hazardous substance, or to remediate a contaminated condition caused by LESSEE or any person acting under LESSEE'S direct control and authority, LESSEE shall be responsible for all costs and expenses of complying with such order, including any and all expenses imposed on or incurred by STATE in connection with or in response to such government order.

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#### 13. CONDITION OF PREMISES

(a) LESSEE is aware of the current condition of the Premises and accepts the Premises in "as is" condition. LESSEE accepts the Premises as being in good order, condition and repair, unless otherwise specified herein, and agrees that on the last day of the term, or sooner termination of this Lease, to surrender up to STATE the Premises, with any appurtenances or improvements therein, in the same condition as when received, reasonable use and wear thereof and damage by act of Nature, excepted.

(b) LESSEE shall not call on STATE to make any repairs or improvements on the Premises and LESSEE shall keep the same in good order and condition at its own expense.

#### 14. VACATING THE PREMISES

LESSEE shall, on the last day of said term or sooner termination of this Lease, peaceably and quietly leave, surrender, and yield up to STATE, the Premises in good order, condition, and repair, reasonable use and wear thereof and damage by acts of nature, excepted.

#### 15. RECOVERY OF LEGAL FEES

If action is brought by the STATE for the recovery of any rent due under the provisions hereof or for any breach hereof, or to restrain the breach of any agreement contained herein, or for the recovery of possession of said Premises, or to protect any rights given to the STATE against LESSEE, and if the STATE will prevail in such action, the LESSEE shall pay to the STATE such amount in attorney's fees in said action as the court shall determine to be reasonable, which shall be fixed by the court as part of the costs of said action.

#### 16. TAXES AND ASSESSMENTS

LESSEE agrees to pay all lawful taxes, assessments or charges that at any time may be levied upon any interest in this Lease. It is understood that this Lease may create a possessory interest subject to property taxation and LESSEE may be subject to the payment of property taxes levied on such interest.

#### 17. NON-DISCRIMINATION

(a) In the performance of this Lease, the LESSEE shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because

of race, religious creed, color, national origin, ancestry, physical disability (including HIV and AIDS), mental disability, medical condition, age (over 40), marital status, sex, sexual orientation, or use of family care leave or any other State, Federal or Local laws.

LESSEE shall insure that the evaluation and treatment of its employees and applicants for employment are free from such discrimination and harassment.

(b) Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

(c) LESSEE shall comply with the provisions of the Fair Employment and Housing Act (Government Code (GC) Section 12990 (a-f) et seq.) and the applicable regulations promulgated there under (California Code of Regulations, Title 2, Section 7285 et seq.) The applicable regulations of the Fair Employment and Housing Commission implementing GC Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Lease by reference and made a part thereof as if set forth in full. LESSEE shall give written notice of its obligations under this clause to any labor organizations with which they have collective bargaining or other agreement. Further, LESSEE shall post in conspicuous places available to employees and applicants for employment, notices to be provided by the STATE setting forth the provisions of this Fair Employment Practices Section. (GC, Section 12920-12994).

(d) Remedies for willful violations:

(1) The STATE may determine a willful violation of the Fair Employment Practices provision to have occurred upon the receipt of a final judgment having that effect from a court in an action to which LESSEE was a party, or upon receipt of a written notice from the Fair Employment Practices Commission that it has investigated and determined that the LESSEE has violated the Fair Employment Practices Act and has issued an order pursuant to the appropriate provisions of the GC.

(2) The STATE will have the right to terminate this Lease and any loss or damage sustained

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by the STATE by reason thereof will be borne and paid for by the LESSEE.

**18. INSURANCE**

(a) Prior to or at Lease execution LESSEE shall furnish to the STATE a certificate of insurance, along with all policy endorsements, with the STATE's Lease Number L-1579 indicated on the face of said certificate or endorsements, issued to the STATE with evidence of insurance as follows.

**COMMERCIAL GENERAL LIABILITY**

LESSEE shall maintain general liability coverage with limits of not less than \$1,000,000/\$2,000,000 aggregate annually per occurrence for bodily injury and property damage liability combined and Fire Legal Liability of at least \$500,000. The policy shall include coverage for liabilities arising out of Premises, operations, independent contractors, products, completed operations, personal & advertising injury, and liability assumed under an insured contract.

The policy must include State of California, and their officers, agents and employees as additional insureds, but only insofar as the operations under the Lease are concerned. The additional insured endorsement must be provided with the certificate of insurance.

**AUTOMOBILE LIABILITY**

LESSEE shall maintain motor vehicle liability with limits of not less than \$1,000,000 per accident for bodily injury and property damage. The State of California and Department of General Services are to be additional insured with respect to liability arising out of all vehicles owned, hired and non-owned. The additional insured endorsement must be provided with the certificate of insurance.

**WORKERS' COMPENSATION**

LESSEE shall maintain statutory workers' compensation and employer's liability coverage for all its employees who will be engaged in the performance of the Lease, including special coverage extensions where applicable. Employer's liability limits of \$1,000,000 shall be required, and the policy shall include a waiver of subrogation in favor of the State of California. The waiver of subrogation endorsement must be provided with the certificate of insurance.

**GENERAL REQUIREMENTS**

LESSEE shall ensure that the following general requirements are met:

a. Insurance Companies must be acceptable to Department of General Services, Office of Risk and Insurance Management.

b. Coverage needs to be in-force for complete term of this Lease. If insurance expires during the term of the Lease, a new certificate must be received by the STATE within thirty (30) days of the expiration date of the existing policy. This new insurance must still meet the terms of the original contract.

c. Lessee shall notify the State within five business days of Lessee's receipt of any notice of cancellation or non-renewal of any insurance required by this lease.

d. LESSEE is responsible for any deductible or self-insured retention contained within the insurance program.

e. In the event LESSEE fails to keep in effect at all times the specified insurance coverage, the STATE may, in addition to any other remedies it may have, terminate this Lease upon the occurrence of such event, subject to the provisions of this Lease.

f. Any insurance required to be carried shall be primary, and not excess, to any other insurance carried by the STATE.

g. If LESSEE is self-insured in whole or in part as to any of the above described types and levels of coverage, LESSEE shall provide STATE with written acknowledgment of this fact at the time of the execution of this Lease. The State may require financial information to justify LESSEE's self-insured status. If, at any time after the execution of this Lease, LESSEE abandons its self-insured status, LESSEE shall immediately notify STATE of this fact and shall comply with all of the terms and conditions of this Insurance clause pertaining to policies of insurance in regard to those types and levels of insurance.

It is agreed that STATE shall not be liable for the payment of any premiums or assessments on the required insurance coverage.

**SECTION 3 – STANDARD PROVISIONS****19. HOLD HARMLESS INDEMNIFICATION**

This Lease is made upon the express condition that the State of California is to be free from all liability and claims for damages by reason of any injury to any person or persons, including LESSEE, or property of any kind whatsoever and to whomsoever belonging, including LESSEE, from any cause or causes whatsoever while in, upon, or in any way connected with the Premises during the term of this Lease or any occupancy hereunder, holdover periods or any other occupancy of the Premises by LESSEE, except those arising out of the sole negligence or willful misconduct of STATE, its employees, agents, and invitees. LESSEE agrees to defend, indemnify, and save harmless the STATE from all liability, loss, cost or obligation on account of or arising out of any such injury or loss, however occurring.

**20. LOSSES**

STATE will not be responsible for losses or damage to personal property, equipment or materials of LESSEE and all losses shall be reported to STATE immediately upon discovery.

**21. DEBT LIABILITY DISCLAIMER**

STATE, including but not limited to the STATE's General Fund or any special self-insurance programs, is not liable for any debts, liabilities, settlements, liens or any other obligations of LESSEE or its heirs, successors or assigns. STATE and its agencies, departments and divisions will not be liable for and will be held harmless by LESSEE and for any claims or damages associated with any contract, tort, action or inaction, error in judgment, act of negligence, intentional tort, mistakes, or other acts taken or not taken by LESSEE, its employees, agents, invitees, guests or anyone acting in concert with or on behalf of LESSEE. STATE has no obligation to defend or undertake the defense on behalf of LESSEE or its heirs, successors or assigns.

LESSEE shall defend the State of California and its agencies, departments and divisions from any claims, actions, lawsuits, administrative proceedings or damages associated with any contract, tort, action or inaction, error in judgment, act of negligence, intentional tort, mistakes, or other acts taken or not taken by the LESSEE, its employees, agents, invitees, guests, or anyone acting in concert with or on behalf of the LESSEE.

**22. RELOCATION PAYMENTS**

(a) In the event that STATE terminates this Lease pursuant to its terms, Lessee acknowledges and agrees that it has no claim against the STATE for Relocation Payments, Relocation Advisory Assistance, or costs pursuant to the Government Code sections 7260 et seq., or any regulations implementing or interpreting such sections. Lessee further agrees that it has no claim in either law or equity against the STATE for damages or other relief should the Lease be terminated pursuant to its terms, and waives any such claims it may have.

(b) In the event subleasing, under the terms of this Lease, is permitted, LESSEE shall incorporate this Paragraph into the sublease. Failure to do so may obligate LESSEE for damages and costs resulting from claims for relocation payments by sublessee.

(c) The location of the Premises to be used by LESSEE for the purpose of this Lease may be changed as required by the STATE in the event of circumstances arising to warrant such a change. LESSEE agrees to accept another functionally equivalent location within the facility grounds within which to operate under the same general provisions of this Lease. In the event that new quarters are different in size from present quarters, there shall be an adjustment in rental rate on a proportionate square footage basis at the discretion of the STATE, either greater or smaller, as the case may be.

In the event the STATE is unable to relocate the SUBLESSEE within the facility grounds, the STATE, upon reasonable notice, may require the LESSEE to leave the STATE premises. Reasonable notice is defined herein as to be at least thirty (30) days.

**23. SMOKING RESTRICTIONS**

Smoking shall not be allowed inside any building, or within 20 feet of any entrance or operable window of any building.

**24. RECORDING**

LESSEE shall not record this Lease or a short form memorandum thereof. Any such recordation will, at the option of STATE, constitute a non-curable default by LESSEE hereunder.

**SECTION 3 – STANDARD PROVISIONS****25. AUTHORITY TO CONTRACT**

If Lessee is a public, private or non-profit corporation, each individual executing this Lease on behalf of said LESSEE shall provide evidence, which is acceptable to the STATE, that he/she is duly authorized to execute and deliver this Lease on behalf of said LESSEE.

**26. PARTNERSHIP DISCLAIMER**

LESSEE its agents and employees shall act in an independent capacity and not as officers or employees of STATE. Nothing herein contained will be construed as constituting the parties herein as partners.

**27. CEQA**

Any physical changes made to the improvements by Lessee or its agents shall comply with the California Environmental Quality Act (CEQA).

**28. BANKRUPTCY**

In no event shall this Lease or the leasehold estate become an asset of LESSEE in bankruptcy, receivership or other judicial proceedings. LESSEE shall be in default under this Lease and the provisions of the "Right of Entry" Paragraph hereof shall apply in the event of any of the following: (a) LESSEE becomes insolvent or makes an assignment for the benefit of creditors, (b) a petition in bankruptcy is filed by or against LESSEE, (c) a writ of execution is levied against this Lease or the leasehold estate, (d) LESSEE abandons or vacates or does not continuously occupy or safeguard the Premises.

**29. AMENDMENTS AND MODIFICATIONS**

No amendment, modification, or supplement to this Lease shall be binding on either party unless it is in writing and signed by the party to be bound by the modification.

**30. MUTUAL CONSENT**

Notwithstanding anything herein contained to the contrary, this Lease may be terminated and the provisions of the Lease may be altered, changed, or amended by mutual consent of the STATE or LESSEE hereto in writing.

**31. CORPORATE QUALIFICATIONS TO DO BUSINESS IN CALIFORNIA**

(a) When agreements are to be performed in

the State by corporations, the contracting agencies will be verifying that the Contractor is currently qualified to do business in California in order to conform to R&TC Section 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit. Although there are some statutory exceptions, LESSEE will ensure that all obligations due to the STATE are fulfilled.

(b) "Doing business" is defined in exceptions to taxation; rarely will a corporate contractor performing within the State not be subject to the franchise tax.

(c) Both domestic and foreign corporations (those incorporated outside of California) must be in good standing in order to be qualified to do business in California. Agencies will determine whether a corporation is in good standing by calling the Office of the Secretary of State.

**32. FORCE MAJEURE**

If either LESSEE or STATE will be delayed or prevented from the performance of any act required hereunder by reason of acts of Nature, governmental restrictions, regulations or controls (except those reasonably foreseeable in connection with the uses contemplated by this Lease) or other cause without fault and beyond the control of the party obligated (except financial inability), performance of such act shall be excused for the period of the delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay. Nothing in this Paragraph shall excuse LESSEE from prompt payment of any rent, taxes, insurance or any other charge required of LESSEE, except as may be expressly provided in this Lease.

**33. WAIVER**

If the STATE waives the performance of any term, covenant or condition contained in this Lease, such waiver shall not be deemed to be a waiver of that or any subsequent term, covenant or condition. Failure by STATE to enforce any of the terms, covenants or conditions of this Lease for any length of time shall not be deemed to waive or decrease STATE'S right to insist thereafter upon strict performance by LESSEE.

Waiver by STATE of any term, covenant, or condition contained in this Lease may only be made by a written document properly signed by

**SECTION 3 – STANDARD PROVISIONS**

an authorized STATE representative.

**34. ENTIRE AGREEMENT**

This Lease and its exhibits constitute the entire agreement between STATE and Lessee. No prior written or prior, contemporaneous or subsequent oral promises or representations shall be binding.

**35. PARAGRAPH HEADINGS**

All Paragraph headings contained herein are for convenience of reference only and are not intended to define or limit the scope of any provision of this Lease.

**36. SEVERABILITY**

If any term, covenant, condition, or provision of this Lease or any application thereof, to any extent, is found invalid, void, or unenforceable by a court of competent jurisdiction, the remainder of this Lease will not be affected thereby, and will be valid and enforceable to the fullest extent permitted by law.

**37. SUPERSEDURE**

This Lease supersedes and voids any prior license, lease or agreement between the STATE and the LESSEE identified in this Lease with regards to the Premises.

**38. BINDING**

The terms of this Lease and covenants and agreements herein contained shall apply to and shall bind and inure to the benefit of the heirs, representatives, assigns and successors in interest of the parties hereto.

**39. ESSENCE OF TIME**

Time is of the essence for each and all of the provisions, covenants and conditions of this Lease.

**End of Section 3**

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

**STATE OF CALIFORNIA**

**LESSEE**

DIRECTOR OF DEPARTMENT OF  
GENERAL SERVICES

COUNTY OF EL DORADO

By: \_\_\_\_\_  
**TONY PSIHOPAIDAS**, Manager  
State Owned Leasing & Development

By: \_\_\_\_\_  
**RON MIKULAKO**, Chair  
Board of Supervisors

Date Executed: \_\_\_\_\_

Date: \_\_\_\_\_

**CONSENT:**

**ATTESTS:**

CALIFORNIA HIGHWAY PATROL

By: \_\_\_\_\_  
**PATTY SLINEY**, Assistant Chief  
Administrative Services Division

By: \_\_\_\_\_  
**JAMES S. MITRISIN**, Clerk  
Board of Supervisors

**APPROVAL RECOMMENDED:**

**APPROVAL RECOMMENDED:**

DEPARTMENT OF GENERAL SERVICES  
STATE OWNED LEASING AND DEVELOPMENT

CONTRACT ADMINISTRATOR

By: \_\_\_\_\_  
**CAROL M. LEIDY**  
Associate Real Estate Officer

By:  \_\_\_\_\_  
**BRYAN GOLMITZ**, Captain  
El Dorado County Sheriff's Department



U.S. DEPARTMENT OF AGRICULTURE  
FOREST SERVICE  
COMMUNICATIONS USE LEASE  
AUTHORITY:  
FEDERAL LAND POLICY AND MGMT ACT, AS AMENDED October 21, 1976

PANELLA TRUCKING, INC. of C/O TIM MARLING P.O. BOX 5010 STOCKTON, CA 95205.

THIS LEASE, dated this 4th day of October, 2011 by and between the UNITED STATES OF AMERICA, acting through the Forest Service, Department of Agriculture (hereinafter called the "United States" or "Forest Service"), as authorized by the Act of October 21, 1976, (90 Stat. 2743; 43 U.S.C. 1761, et seq.), and PANELLA TRUCKING, INC., its agents, successors, and assigns (hereinafter called the "Lessee").

The United States and the Lessee are jointly referred to herein as the "Parties". As used herein, the "Authorized Officer" refers to the Forest Service official having the delegated authority to execute and administer this lease. Generally, unless otherwise indicated, such authority may be exercised by the Forest Supervisor or District Ranger of the Eldorado National Forest wherein the following described lands are located.

The United States, for and in consideration of the terms and conditions contained herein and the payment to the United States of a rental in advance by the Lessee, does hereby grant to the Lessee a lease for the following described communications facility in the County of EL DORADO State of CALIFORNIA, NE1/4 Sec. 33, T. 12 N., R. 14 E., MT. DIABLO MERIDIAN (hereinafter called the "property"). The Lessee accepts this lease and possession of the property, subject to any valid existing rights, and agrees not to use the property, or any part thereof, except as a site for only the construction, operation, maintenance, and termination of a Private Mobile Radio Service communications facility. Authorized facilities under this lease include:

Equipment shelter(s): 14' x 20' concrete block, single story

Antenna support structure(s): None – Tower associated with this facility is owned by the State of California.

Ancillary structure(s): 8' x 8' metal generator shed, two 500 gallon propane tanks, gravel driveway.

The location of the property is shown generally on the site management plan and/or map dated January 10, 2011 for the Big Hill Communications Site, which is attached and made part hereof as Exhibit A.

The dated and initialed exhibit(s), attached hereto, are incorporated into and made a part of this instrument as fully and effectively as if they were set forth herein in their entirety.

The parties agree that this lease is made subject to the following terms and conditions.

#### I. TENURE, RENEWAL AND TRANSFERABILITY

A. This lease shall terminate at one minute after midnight on 12/31/2030. Termination at the end of the lease term shall occur by operation of law and shall not require any addition notice or documentation by the Authorized Officer. This lease is not renewable; but the Lessee has the right to request a new lease pursuant to Paragraph "C" below.

B. The Lessee shall undertake and pursue with due diligence construction and operation that is authorized by this lease. To the extent specified in Exhibit operation shall commence on n/a. This lease shall terminate if operation does not commence by that date, unless the parties agree in writing, in advance, to an extension of the commencement date.

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

**EXHIBIT A**

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

## II. RENTAL

A. The Lessee must pay in advance an annual rental determined by the Authorized Officer in accordance with law, regulation, and policy. The annual rental will be adjusted by the Authorized Officer to reflect changes in fair market value, annual adjustments using the Consumer Price Index - Urban (CPI-U), changes in tenant occupancy, or phase-in rental, if applicable.

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

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

D. Disputed rentals are due and payable by the due date. No appeal of rentals will be considered by the Forest Service without full payment of the disputed amount.

## III. RESPONSIBILITIES OF THE LESSEE

A. The Lessee is authorized to rent space and provide other services to customers and/or tenants and shall charge each customer/tenant a reasonable rental without discrimination for the use and occupancy of the facilities and services provided. The Lessee shall impose no unreasonable restrictions nor any restriction restraining competition or trade practices. By October 15 of each year, the Lessee shall provide the Authorized Officer a certified statement listing all tenants and customers, by category of use in the facility on September 30th of that year.

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

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

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

E. The Lessee shall ensure that equipment within his or her facility (including tenant and customer equipment) operates in a manner which will not cause harmful interference with the operation of existing equipment on or adjacent to the communications site. If the Authorized Officer or authorized official of the Federal Communication Commission (FCC)

determines that the Lessee's use interferes with existing equipment, the Lessee will promptly take the necessary steps to eliminate or reduce the harmful interference to the satisfaction of the Authorized Officer or FCC official.

F. When requested by the Authorized Officer, the Lessee will furnish technical information concerning the equipment located on the property.

#### IV. LIABILITIES

A. The Lessee assumes all risk of loss to the authorized improvements.

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

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

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

E. The Lessee has an affirmative duty to protect from damage the land, property, and interests of the United States.

F. In the event of any breach of the lease by the Lessee, the Authorized Officer may, on reasonable notice, cure the breach for the account at the expense of the Lessee. If the Forest Service at any time pays any sum of money or does any act which will require payment of money, or incurs any expense, including reasonable attorney's fees, in instituting, prosecuting, and/or defending any action or proceeding to enforce the United States rights hereunder, the sum or sums so paid by the United States, with all interests, costs and damages shall, at the election of the Forest Service, be deemed to be additional rental hereunder and shall be due from the Lessee to the Forest Service on the first day of the month following such election.

#### V. OTHER PROVISIONS

A. Nondiscrimination. The Lessee shall at all times operate the described property and its appurtenant areas and its buildings and facilities, whether or not on the property, in full compliance with Title VI of the Civil Rights Act of 1964 and all requirements imposed by or pursuant to the regulations issued thereunder by the Department of Agriculture and in effect on the date this lease is granted to the end that no person in the United States shall, on the grounds of race, sex, color, religion or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any of the programs or activities provided thereon.

B. Revocation, Termination and Suspension.

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

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

"Termination" refers to the cessation of the lease under its own terms without the necessity for any decision or action by the Authorized Officer. Termination occurs automatically when, by the terms of the lease, a fixed or agreed upon condition, event, or time occurs. For example, the lease terminates at expiration. Terminations are

not appealable.

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

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

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

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

5. Any discretionary decisions or determinations by the Authorized Officer on revocation or suspension are subject to the appeal regulations at 36 CFR 251, Subpart C, or revisions thereto.

6. In the event the Authorized Officer decides not to issue a new lease, or the Lessee does not desire a new lease, the Authorized Officer and the Lessee shall, within six months prior to the termination date of this lease, agree upon a mitigation plan to restore and stabilize the site.

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

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

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

c. The Secretary of the Treasury may offset an amount due the debtor for any delinquency as provided by 31 U.S.C. 3720, et seq.).

In the event this lease is revoked for noncompliance, the Lessee shall remove all structures and improvements within 180 days, except those owned by the United States, and shall restore the site as nearly as reasonably possible to its original condition unless this requirement is otherwise waived in writing by the Authorized Officer.

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

C. Members of Congress. No member of or Delegate to Congress or Resident Commissioner shall benefit from this lease whether directly or indirectly, except when the lease provides a general benefit to a corporation.

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

1. The right to all natural resource products now or hereafter located on the property unless stated otherwise, and the right to utilize or dispose of such resources insofar as the rights of the Lessee are not unreasonably affected.

2. The right to modify the communications site plan as deemed necessary.

3. The right to enter upon the lease and inspect all facilities to assure compliance with the conditions of this lease.

4. The right of the United States to require common use of the property, and the right to authorize use of the property for compatible uses, including the subsurface and air space.

In the event of any conflict between any of the preceding printed clauses or any provisions thereof and any of the following clauses or any provision thereof, the preceding clauses shall control.

E. Noxious Weeds.

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

F. Bear Proof Waste Receptacles.

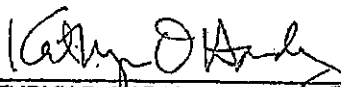
The holder shall provide only bear-proof waste receptacles within the permit area and bear-proof food storage containers inside authorized improvements to inhibit attraction by wildlife and pets. In the event that full retrofitting of the entire site is not feasible within one operating season, a phased-in schedule will be specified in the Operations Plan agreed to by the authorized officer.

ACCEPTED this 6 day of Oct, 2011, I Tim Marling, Panella Trucking, the undersigned have read, understand and accept the terms and conditions of this lease.

  
\_\_\_\_\_  
Lessee

IN WITNESS WHEREOF, the Forest Service, by its Authorized Officer, has executed this lease on the day and year first written above.

UNITED STATES OF AMERICA

  
\_\_\_\_\_  
KATHRYN D. HARDY  
Forest Supervisor

Name and Title Of Authorized Officer  
Forest Service  
Department of Agriculture

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0596-0082. The time required to complete this information collection is estimated to average one (1) hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at 202-720-2600 (voice and TDD).

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

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

**TELECOMMUNICATIONS VAULT LEASE**

Location of Leased Premises: <b>BIG HILL RADIO SITE EL DORADO COUNTY</b>
Agency: <b>CALIFORNIA HIGHWAY PATROL</b>

**Lease No.: 0571-001**

**Project No: 141612**

**SUBLESSOR: PANELLA TRUCKING, LLC**

THIS SUBLEASE, dated for reference purposes only, February 5, 2016, by and between **Panella Trucking, LLC** (a Limited Liability Company), hereinafter referred to as **LESSOR**, and the **State of California** acting by and through the Director of the **Department of General Services (DGS)** with the consent of the **California Highway Patrol (CHP)**, hereinafter collectively referred to as "**STATE**".

**RECITALS**

**WHEREAS**, the LESSOR has under its jurisdiction certain communication facilities located in the County of El Dorado, State of California, commonly known as the Big Hill Communications Site; and

**WHEREAS**, PURSUANT TO Section 14669, the Director of the Department of General Services, with the consent of the California Highway Patrol, is authorized to assist State agencies in leasing specialized facilities in privately owned space if the Director deems such leasing is in the best interests of the STATE; and

**WHEREAS**, STATE desires to renew its SUBLEASE for space in said communications facility; and

**WHEREAS**, it is in the best interests of the STATE that such a SUBLEASE be consummated between the STATE and LESSOR on the terms and conditions herein contained; and

**WHEREAS**, this SUBLEASE is subject to the certain Master Communications Use Lease, dated October 6, 2011 and expiring December 31, 2030, by and between the U.S. Department of Agriculture Forest Service (Master Lessor) and Panella Trucking, LLC, (Lessee), attached hereto and made a part hereof, marked "Exhibit A".

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

**WITNESSETH:**

**PROPERTY DESCRIPTION**

1. LESSOR does hereby Lease to STATE, and STATE hereby hires from LESSOR, all of the LESSOR-owned telecommunication's facility, with the exception and reservation of space for radio equipment consisting of approximately thirty-two (32) square feet (1-4x6 area), together with necessary antenna space on the CHP owned tower. STATE reserves the right to increase the height of the CHP's tower (the Tower Extension) by 20 feet at STATE's expense and the right to remove such extension upon termination of

this agreement. The LESSOR's Leasehold at Big Hill is located as follows:

Located in the northeast quarter of Section 33, Township 12 North, Range 14 East, M.D.B. & M., near Pacific House, California, which facility location is shown on a portion of a Forest Service Map marked "Exhibit B" and situated as shown on "Exhibit C" titled: "PROJECT: TOWER/LOCATION: BIG HILL", dated "June 8, 1970), attached hereto and by this reference made a part hereof.

USE

2. STATE is leasing the Premises for operating and using a radio relay station, together with the necessary appurtenances thereto.

MASTER  
LEASE/SUBLEASE

3. STATE and LESSOR acknowledge and agree that the LESSOR's rights are pursuant to the existing Master Lease for the Big Hill Telecommunications Site by and between the U.S. Department of Agriculture Forest Service (Master Lessor) and Panella Trucking, LLC. LESSOR and STATE agree to be bound by said Master Lease and Sublease and any site master plan, as applicable to the access and occupancy of the Communication Site. STATE and LESSOR acknowledge that the expiration date of the Master Lease coincides with the expiration date of the SUBLEASE extension period, and that both expire on December 31, 2030.

In the event that Master Lease is declared to be in default and threatened with termination by the Forest Service prior to the expiration of the Term, and the LESSOR does not cure the default, or refuses or fails to cure a default under a Master Lease upon which basis the Forest Service intends to terminate the Master Lease, or refuses to challenge the termination, then LESSOR shall notify STATE in writing and STATE shall have the right to negotiate a new Lease for the Communications Site with the Master Lessor, or cure the default under a Master Lease. In such event, the LESSOR shall assign or otherwise transfer to STATE the Master Lease and any LESSOR-owned improvements desired by STATE for the particular Communications Site in order to continue the utilization of the Communications Site for telecommunications purposes.

TERM

4. The initial term of this Lease shall be for ten years to begin March 1, 2016, and shall end February 28, 2026, with STATE having one (1) automatic extension option through December 31, 2030, which date coincides with the expiration of the Master Lease and Sub-sublease Extension Period.

EARLY  
TERMINATION

5. The STATE may terminate this Lease at any time by giving written notice to the LESSOR at least thirty (30) days prior to the date when such termination shall become effective. Unless STATE gives prior written notice within ninety (90) days of the end of the ten (10) year initial term that it will not exercise its option, the Lease will automatically extend through December 31, 2030.

RENT

6. Rent shall be paid by the STATE to LESSOR monthly, in arrears, on or before the last day of the month during the term of this Lease; the beginning sum of FOUR THOUSAND FIVE HUNDRED DOLLARS (\$4,500.00), hereinafter called "Rent". Beginning on March 1, 2017 and each year thereafter on the Commencement Date during the remaining term of the Lease, Rent shall increase by three percent (3%) annually over Rent payable in the preceding year. The Rent shall be payable as follows: with an increase by three percent (3%) annually during said term and extension period as follows:

<u>Period</u>	<u>Term</u>	<u>Monthly Payment</u>
1	3/1/2016 – 2/28/2017	\$4500.00
2	3/1/2017 - 2/28/2018	\$4635.00
3	3/1/2018 - 2/28/2019	\$4774.05
4	3/1/2019 - 2/28/2020	\$4917.27
5	3/1/2020 - 2/28/2021	\$5064.79
6	3/1/2021 - 2/28/2022	\$5216.73
7	3/1/2022 - 2/28/2023	\$5373.24
8	3/1/2023 - 2/28/2024	\$5534.43
9	3/1/2024 - 2/28/2025	\$5700.47
10	3/1/2025 - 2/28/2026	\$5871.48
<b>Extension</b>		
11	3/1/2026 - 2/28/2027	\$6047.62
12	3/1/2027 - 2/28/2028	\$6229.05
13	3/1/2028 - 2/28/2029	\$6415.92
14	3/1/2029 - 12/31/2030	\$6608.40

Payments are to be made directly to the following address:

Robert Panella  
PO Box 5010  
Stockton, CA 95205  
Telephone: (209) 943-5000  
Fax: (209) 943-0758

All notices and correspondence shall reference the tenant Agency, the Premises address, and the STATE'S File No. 0571-001. Notice of change of address, telephone or fax number shall be given by written notice in the manner described in this paragraph. STATE acknowledges that rent and past due rent shall be due and payable to LESSOR whether or not an actual invoice is sent by LESSOR or received by STATE.

**PRORATIONS**

7. Rent payable hereunder for any period of time less than one month shall be determined by prorating the monthly rent herein specified based on a 30 day month and on the actual number of days the STATE occupies the Premises.

**EXTENSION**

8. Unless STATE gives prior written notice within ninety (90) days of the end of the ten (10) year initial term that it will not exercise its option, the Lease will automatically extend through December 31, 2030.

**HOLDOVER**

9. In the event the STATE remains in possession of the Premises after the expiration of the Lease Term, or any extension thereof, this Lease shall be automatically extended on a month to month basis, subject to thirty (30) days termination by either party, and all terms and conditions of this Agreement will also convert to a month to month condition. In addition, the rental payments for the holdover period shall be subject to an annual increase of three percent (3%).



NOTICES

10. All notices and correspondence herein provided to be given, or which may be given by either party to the other, shall be deemed to have been fully given when made in writing and sent by overnight courier, registered or certified mail, or postage prepaid mail to the addresses set forth below.

**LESSOR:** Robert Panella  
**PANELLA TRUCKING, LLC**  
5000 East Fremont Street  
Stockton, CA 95215  
Phone: (209) 943-5000  
Fax: (209) 943-0753

**STATE DEPARTMENT OF GENERAL SERVICES**  
Real Estate Services Division  
State Owned Leasing and Development (0571-001)  
707 3<sup>rd</sup> Street, Fifth Floor  
West Sacramento, CA 95605  
Phone: (916) 375-4025

**With Copies to CALIFORNIA HIGHWAY PATROL**  
Telecommunications Section - Leasing  
601 N Z Street - Building C  
Sacramento, CA 95811-0208

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

INTERFERENCE

11. (a) LESSOR understands that the STATE is responsible for the STATE's existing Public Safety Network System (PSNS), used to support all types of radio, digital, microwave, and fiber optic communications of the State of California. Communication equipment installed by the LESSOR's non-government tenants subsequent to this Lease between the Lessor and the STATE shall be engineered to the STATE's existing PSNS installation to insure compatibility.

LESSOR agrees that its subsequent non-government tenants shall install, maintain, and operate their electronic equipment in accordance with the highest engineering standards prevailing in the communications industry.

(b) Whenever possible/practical the STATE agrees to cooperate with the LESSOR and any of its future tenants to minimize technical interference between the telecommunication activities of the STATE and the LESSOR and any of its future tenants.

(c) In the event the LESSOR's subsequent and/or future non-government tenants, whether from an engineering, installation, operation or maintenance of equipment, or any other cause, hinders, interferes with, or obstructs radio or electronic equipment owned or operated by the STATE to support the STATE's PSNS, the LESSOR shall at its own cost and expense remedy the interference caused by the LESSOR's subsequent and/or future non-government tenants.

**UTILITIES & SERVICES**

**12.** STATE shall provide commercial and standby electric service at no additional cost to LESSOR, to be used jointly by STATE and any other parties designated by STATE.

STATE makes no guarantee as to the reliability of the electrical services and does not represent that electric service will continue to be available to the LESSOR's Premise or that the amount of power will be sufficient to meet STATE's needs. Subject to these conditions, STATE shall supply the following:

(a) Electrical power from standard electrical service, and

(b) Emergency standby power from STATE's on-site generator during any interruptions to the standard electric service. STATE shall not, however, undertake to supply said emergency standby service except when the same shall be required for STATE's use at the facility.

**ADDITION OF SERVICES & UTILITIES**

**13.** It is mutually agreed that the STATE shall have the right to run electric lines, telephone lines and/or other communication facilities to the Premises and shall have the right of ingress and egress to and from the same over other lands owned by the LESSOR, adjacent to the Premises along the course or courses designated by the LESSOR. Cost of installation shall not be the responsibility of the LESSOR.

**ACCESS**

**14.** STATE shall have a key to the Big Hill Telecommunication Site, and all gate keys, and may, through its authorized agents, enter upon the Telecommunications Site to the Premises at any time.

**MAINTENANCE**

**15.** STATE shall maintain all radio equipment utilized for STATE purposes.

**WEED ABATEMENT**

**16.** STATE shall perform or contract for weed abatement to meet standards of the El Dorado County Fire Department and comply with generally recommended fire prevention practices subject to radio restrictions contained in this Lease. STATE shall maintain a defensible area around the Telecommunications Site.

**ROAD ACCESS**

**17.** The LESSOR, according to its privileges under the Master Lease from El Dorado National Forest hereby grants to STATE a non-exclusive right to use during the term of this Lease, the driveway, parking area and utility access that serves the telecommunications site at the Big Hill Telecommunication site. STATE shall exercise said right through its authorized agents, employees or contractors whenever it is necessary for any of them to have access to LESSOR's facilities, now or hereafter located on said telecommunications site at Big Hill.

**ROAD MAINTENANCE**

**18.** The STATE is not responsible to maintain all access roadways from the nearest public roadway to the Telecommunications Site. STATE agrees to promptly repair any abnormal or excessive road damage to such roadways solely caused by STATE's use, including such road surface protective features as water drains, berms, and culverts.

**INSPECTION**

**19.** LESSOR reserves the right to enter and inspect the Telecommunications Site and the STATE's Premises at reasonable times, with the prior written consent of the STATE.

**INSURANCE**

**20.** The LESSOR understands and agrees to the following:

(a) The State of California has elected to be insured for its motor vehicle and general

liability exposures through a self-insurance program.

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

Should any claims arise by reason of such operations or under an official contract or license agreement, they should be referred to the: Attorney General, State of California, Tort Liability Section, 1300 I Street, Sacramento, California 95814. Claims arising from operation of a State-owned vehicle should be forwarded to the: Office of Risk and Insurance Management, Auto Self-Insurance, 707 Third Street, West Sacramento, California 95605.

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

**SUBROGATION**

21. To the extent authorized by any fire and extended coverage insurance policy issued to the LESSOR on the herein described Telecommunications Site, the LESSOR hereby waives the subrogation rights of the insured, and releases the STATE from liability for any loss or damage covered by said insurance.

**HOLD HARMLESS**

22. STATE does hereby agree to indemnify and save LESSOR harmless from any damage proximately caused by STATE, or arising out of, or in any way connected with the exercise by STATE of any rights herein granted or that may arise from use of the Premises by STATE, to the extent legally permissible by Government Code Section 14662.5 et seq, except to the extent that any such damages or expenses suffered by LESSOR are the result of any persons acting under or on behalf of LESSOR except where LESSOR or STATE, as applicable, are found to have no liability by reason of any immunity arising by statute or common law.

If any party to this lease is held liable upon any judgment for damages caused to third parties by a negligent, intentional or wrongful act or omission occurring in the performance of this lease and pays excess of its pro rata share in satisfaction of such judgment, such party shall be entitled to contribution from the other party to this Lease. The pro rata share of each party shall be determined according to the comparative fault of the respective party (ies), as between them.

**SURRENDER OF POSSESSION**

23. (a) Upon termination or expiration of this Lease, STATE shall peaceably and quietly leave, surrender, and yield to the LESSOR, all and singular, the Premises in good order, condition, and repair, reasonable use and wear thereof and damage by acts of nature, excepted. Upon termination, a qualified representative of the LESSOR shall inspect the Telecommunications Site to determine that the Premises were left in accordance to the terms specified. Antenna tower, stand by power and air conditioning equipment shall remain.

(b) In the event STATE's tenancy has resulted in damage to the Premises, the STATE shall assume liability for the cost to restore the Premises to its prior condition.

The STATE shall have no duty to remove any improvements or fixtures placed by it on the land or to restore any portion of the land altered by it, except in the event the STATE elects to remove any such improvements or fixtures and such removal causes damages

or injury to the land, and then only to the extent of any such damage or injury.

**TAXES**

24. LESSOR shall pay all real property taxes assessed on the LESSOR's real property. The STATE agrees to pay all lawful taxes, assessments or charges that at any time may be levied by any public entity upon any interest in the STATE's improvements by reason of STATE's use or occupancy thereof.

**DESTRUCTION OF PREMISES**

25. If the Telecommunications Site or the building is partially or totally destroyed or damaged by fire or other casualty so that the leased area is un-tenantable as determined by STATE, STATE may terminate this lease upon thirty (30) days written notice to LESSOR and no further rental will be due. Rent to be suspended until said building or equipment is restored to normal operation, at the request of the STATE.

**SUBLET & ASSIGN**

26. The STATE shall not assign this Lease or sublet said facility to non-State users without prior written consent of the LESSOR, which consent shall not be unreasonably withheld. An assignment without the written consent of the LESSOR is void and will terminate the lease at the option of the LESSOR. LESSOR may assign their rights and interests in said Lease without STATE's permission.

**SUBSTITUTION**

27. STATE agencies are interchangeable as to this Lease. The STATE reserves the right to substitute agencies and such substitution shall not be construed as an event of assignment or subletting.

**ORAL AGREEMENTS**

28. It is mutually understood and agreed that no alterations or variations of the terms of this Lease shall be valid unless made in writing and signed by the parties hereto, and that no oral understanding or agreement not incorporated herein, shall be binding on any of the parties hereto.

**QUIET POSSESSION**

29. The LESSOR agrees that the STATE, while keeping and performing the covenants herein contained, shall at all times during the existence of this Lease, peaceably and quietly have, hold, and enjoy the Premises without suit, trouble, or hindrance from the LESSOR or any person claiming under the LESSOR.

**ALTERATIONS TO PREMISES**

30. The STATE shall have the right during the existence of this Lease, with written consent of the LESSOR, such consent not to be unreasonably withheld, to make alterations to the fixtures or personal property and erect additions, structures or signs.

**PERSONAL PROPERTY**

31. It is mutually agreed by and between the parties that the STATE and LESSOR will have the exclusive use of the STATE's tower on the Big Hill Telecommunications Site during the term of the Lease.

**BUDGET CONTINGENCY CLAUSE**

32. It is mutually agreed that if the Budget Act of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the CHP Telecommunications program, this Agreement shall be of no further force and effect.

In this event, the STATE shall have no liability to pay any funds whatsoever to LESSOR or to furnish any other considerations under this Agreement and LESSOR shall not be obligated to perform any provisions of this Agreement.

If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of the CHP Telecommunications program, the STATE shall have the option to either cancel this Agreement with no liability occurring to the STATE, or offer an agreement.

amendment to LESSOR to reflect the reduced amount.

**BINDING**

33. All terms and provisions of this Lease shall extend to and be binding upon and inure to the benefit of the heirs, executors, administrators, successors or assigns to the respective parties hereto. All parties shall be jointly and severally liable hereunder.

**ESSENCE OF TIME**

34. Time is of the essence for each and all of the terms and provisions of this Lease, which shall extend to and be binding upon and inure to the benefit of the heirs, executors, administrators, successors, and assigns to the respective parties hereto.

**SEPARATE COUNTERPARTS**

35. This Lease may be executed in separate counterparts, each of which when so executed shall be deemed to be an original. Such counterparts shall, together, constitute and be one and the same instrument.



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

STATE OF CALIFORNIA

LESSOR:

DIRECTOR OF DEPARTMENT OF  
GENERAL SERVICES

PANELLA TRUCKING, LLC

By: *Tony Psihopaidas*  
**TONY PSIHOPAIDAS**, Assistant Chief  
State Owned Leasing & Development

By: *Robert Panella*  
**ROBERT PANELLA**

Date: 2/23/16

Date: 2/25/16

**CONSENT:**  
CALIFORNIA HIGHWAY PATROL

By: *Patty Sloney*  
**PATTY SLONEY**, Assistant Chief  
Administrative Services Division

**APPROVAL RECOMMENDED:**  
DEPARTMENT OF GENERAL SERVICES  
STATE OWNED LEASING AND DEVELOPMENT

By: *Carol M. Leidy*  
**CAROL M. LEIDY**  
Associate Real Estate Officer

# EXHIBIT A

Auth ID: PAC8A  
Contact ID: PANELLA  
Expiration Date: 12/31/2030  
Use Code: 806

FS-2700-10b (10/09)  
OMB No. 0598-0082

U.S. DEPARTMENT OF AGRICULTURE  
FOREST SERVICE  
COMMUNICATIONS USE LEASE  
AUTHORITY:  
FEDERAL LAND POLICY AND MGMT ACT, AS AMENDED October 21, 1976

PANELLA TRUCKING, INC. of C/O TIM MARLING P.O. BOX 5010 STOCKTON, CA 95205.

THIS LEASE, dated this 4th day of October, 2011 by and between the UNITED STATES OF AMERICA, acting through the Forest Service, Department of Agriculture (hereinafter called the "United States" or "Forest Service"), as authorized by the Act of October 21, 1976, (90 Stat. 2743; 43 U.S.C. 1761, et seq.), and PANELLA TRUCKING, INC., its agents, successors, and assigns (hereinafter called the "Lessee").

The United States and the Lessee are jointly referred to herein as the "Parties". As used herein, the "Authorized Officer" refers to the Forest Service official having the delegated authority to execute and administer this lease. Generally, unless otherwise indicated, such authority may be exercised by the Forest Supervisor or District Ranger of the Eldorado National Forest wherein the following described lands are located.

The United States, for and in consideration of the terms and conditions contained herein and the payment to the United States of a rental in advance by the Lessee, does hereby grant to the Lessee a lease for the following described communications facility in the County of EL DORADO State of CALIFORNIA, NE1/4 Sec. 33, T. 12 N., R. 14 E., MT. DIABLO MERIDIAN (hereinafter called the "property"). The Lessee accepts this lease and possession of the property, subject to any valid existing rights, and agrees not to use the property, or any part thereof, except as a site for only the construction, operation, maintenance, and termination of a Private Mobile Radio Service communications facility. Authorized facilities under this lease include:

**Equipment shelter(s):** 14' x 20' concrete block, single story

**Antenna support structure(s):** None -- Tower associated with this facility is owned by the State of California.

**Ancillary structure(s):** 8' x 8' metal generator shed, two 500 gallon propane tanks, gravel driveway.

The location of the property is shown generally on the site management plan and/or map dated January 10, 2011 for the Big Hill Communications Site, which is attached and made part hereof as Exhibit A.

The dated and initialed exhibit(s), attached hereto, are incorporated into and made a part of this instrument as fully and effectively as if they were set forth herein in their entirety.

The parties agree that this lease is made subject to the following terms and conditions.

## I. TENURE, RENEWAL AND TRANSFERABILITY

A. This lease shall terminate at one minute after midnight on 12/31/2030. Termination at the end of the lease term shall occur by operation of law and shall not require any addition notice or documentation by the Authorized Officer. This lease is not renewable; but the Lessee has the right to request a new lease pursuant to Paragraph "C" below.

B. The Lessee shall undertake and pursue with due diligence construction and operation that is authorized by this lease. To the extent specified in Exhibit operation shall commence on n/a. This lease shall terminate if operation does not commence by that date, unless the parties agree in writing, in advance, to an extension of the commencement date.

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

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

## II. RENTAL

A. The Lessee must pay in advance an annual rental determined by the Authorized Officer in accordance with law, regulation, and policy. The annual rental will be adjusted by the Authorized Officer to reflect changes in fair market value, annual adjustments using the Consumer Price Index - Urban (CPI-U), changes in tenant occupancy, or phase-in rental, if applicable.

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

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

D. Disputed rentals are due and payable by the due date. No appeal of rentals will be considered by the Forest Service without full payment of the disputed amount.

## III. RESPONSIBILITIES OF THE LESSEE

A. The Lessee is authorized to rent space and provide other services to customers and/or tenants and shall charge each customer/tenant a reasonable rental without discrimination for the use and occupancy of the facilities and services provided. The Lessee shall impose no unreasonable restrictions nor any restriction restraining competition or trade practices. By October 15 of each year, the Lessee shall provide the Authorized Officer a certified statement listing all tenants and customers, by category of use in the facility on September 30th of that year.

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

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

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

E. The Lessee shall ensure that equipment within his or her facility (including tenant and customer equipment) operates in a manner which will not cause harmful interference with the operation of existing equipment on or adjacent to the communications site. If the Authorized Officer or authorized official of the Federal Communication Commission (FCC)



determines that the Lessee's use interferes with existing equipment, the Lessee will promptly take the necessary steps to eliminate or reduce the harmful interference to the satisfaction of the Authorized Officer or FCC official.

F. When requested by the Authorized Officer, the Lessee will furnish technical information concerning the equipment located on the property.

#### IV. LIABILITIES

A. The Lessee assumes all risk of loss to the authorized improvements.

B. The Lessee shall comply with all applicable Federal, State, and local laws, regulations, and standards, including but not limited to, the Federal Water Pollution Control Act, 33 U.S.C. 1251 et seq., the Resource Conservation and Recovery Act, 42 U.S.C. 8901 et seq., the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601 et seq., and other relevant environmental laws, as well as public health and safety laws and other laws relating to the siting, construction, operation and maintenance of any facility, improvement, or equipment on the property.

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

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

E. The Lessee has an affirmative duty to protect from damage the land, property, and interests of the United States.

F. In the event of any breach of the lease by the Lessee, the Authorized Officer may, on reasonable notice, cure the breach for the account at the expense of the Lessee. If the Forest Service at any time pays any sum of money or does any act which will require payment of money, or incurs any expense, including reasonable attorney's fees, in instituting, prosecuting, and/or defending any action or proceeding to enforce the United States rights hereunder, the sum or sums so paid by the United States, with all interests, costs and damages shall, at the election of the Forest Service, be deemed to be additional rental hereunder and shall be due from the Lessee to the Forest Service on the first day of the month following such election.

#### V. OTHER PROVISIONS

A. Nondiscrimination. The Lessee shall at all times operate the described property and its appurtenant areas and its buildings and facilities, whether or not on the property, in full compliance with Title VI of the Civil Rights Act of 1964 and all requirements imposed by or pursuant to the regulations issued thereunder by the Department of Agriculture and in effect on the date this lease is granted to the end that no person in the United States shall, on the grounds of race, sex, color, religion or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any of the programs or activities provided thereon.

B. Revocation, Termination and Suspension.

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

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

"Termination" refers to the cessation of the lease under its own terms without the necessity for any decision or action by the Authorized Officer. Termination occurs automatically when, by the terms of the lease, a fixed or agreed upon condition, event, or time occurs. For example, the lease terminates at expiration. Terminations are

not appealable.

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

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

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

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

5. Any discretionary decisions or determinations by the Authorized Officer on revocation or suspension are subject to the appeal regulations at 36 CFR 281, Subpart C, or revisions thereto.

6. In the event the Authorized Officer decides not to issue a new lease, or the Lessee does not desire a new lease, the Authorized Officer and the Lessee shall, within six months prior to the termination date of this lease, agree upon a mitigation plan to restore and stabilize the site.

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

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

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

c. The Secretary of the Treasury may offset an amount due the debtor for any delinquency as provided by 31 U.S.C. 3720, et seq.).

In the event this lease is revoked for noncompliance, the Lessee shall remove all structures and improvements within 180 days, except those owned by the United States, and shall restore the site as nearly as reasonably possible to its original condition unless this requirement is otherwise waived in writing by the Authorized Officer.

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

C. Members of Congress. No member of or Delegate to Congress or Resident Commissioner shall benefit from this lease whether directly or indirectly, except when the lease provides a general benefit to a corporation.

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

1. The right to all natural resource products now or hereafter located on the property unless stated otherwise, and the right to utilize or dispose of such resources insofar as the rights of the Lessee are not unreasonably affected.

2. The right to modify the communications site plan as deemed necessary.

3. The right to enter upon the lease and inspect all facilities to assure compliance with the conditions of this lease.

4. The right of the United States to require common use of the property, and the right to authorize use of the property for compatible uses, including the subsurface and air space.

In the event of any conflict between any of the preceding printed clauses or any provisions thereof and any of the following clauses or any provision thereof, the preceding clauses shall control.


E. Noxious Weeds.

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

F. Bear Proof Waste Receptacles.


The holder shall provide only bear-proof waste receptacles within the permit area and bear-proof food storage containers inside authorized improvements to inhibit attraction by wildlife and pets. In the event that full retrofitting of the entire site is not feasible within one operating season, a phased-in schedule will be specified in the Operations Plan agreed to by the authorized officer.

ACCEPTED this 6 day of OCT, 2011, I Tim Marling, Panella Trucking, the undersigned have read, understand and accept the terms and conditions of this lease.

  
\_\_\_\_\_  
Lessee

IN WITNESS WHEREOF, the Forest Service, by its Authorized Officer, has executed this lease on the day and year first written above.

UNITED STATES OF AMERICA

  
\_\_\_\_\_  
KATHRYN D. WARDY  
Forest Supervisor

Name and Title Of Authorized Officer  
Forest Service  
Department of Agriculture

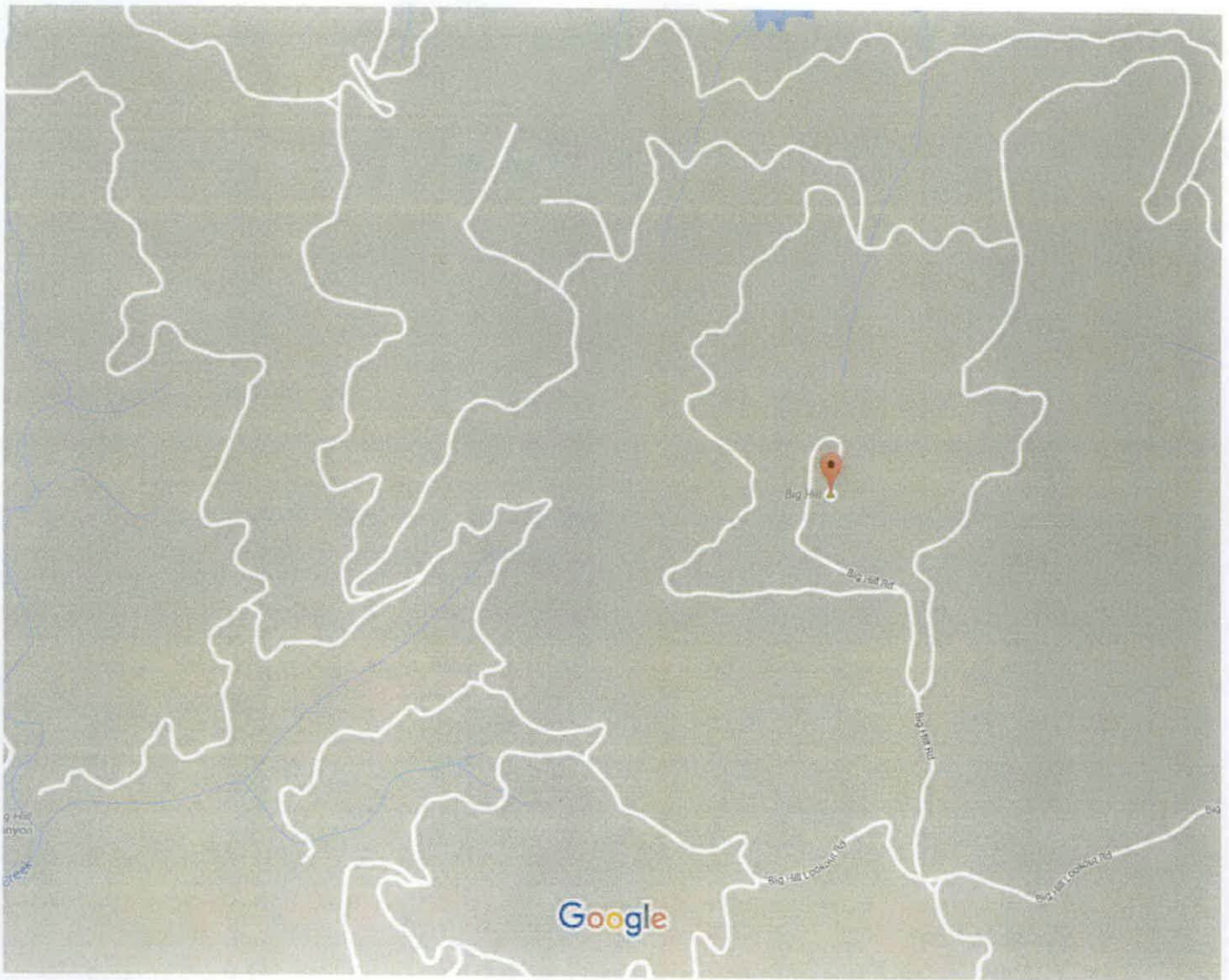
According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0593-0082. The time required to complete this information collection is estimated to average one (1) hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

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

# Google Maps Big Hill



Map data ©2016 Google 1000 ft

Big Hill  
California 95726

## EXHIBIT B

# EXHIBIT C

PROPOSED   
CDH TOWER

GEN.  
VAULT



50'  
TOWER



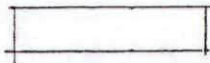
RADIO  
VAULT

50' TOWER



DRIVEWAY

PROPANE TANK



AREA TO BE FILLED  
FOR TURNAROUND

SCALE 1" = 10'-0"

PROJECT: TOWERS  
LOCATION: BIG HILL

DEPARTMENT OF THE CALIFORNIA HIGHWAY PATROL  
FACILITIES SECTION 8 JUNE 70 DR BY OKIMURA