

## SUBLEASE

This sublease is executed on \_\_\_\_\_, 2002 by and between City of Belmont, a municipal corporation (the "Sublessor"), whose address is 1070 Sixth Avenue, Suite 300, Belmont, California 94002, and San Mateo County, a political subdivision of the State of California (the "Sublessee"), whose address is 455 County Center, 5<sup>th</sup> Floor, Redwood City, California 94063.

## **RECITALS**

Mid-Peninsula Water District, as Master Lessor, and City of Belmont, as Master Lessee, executed a lease on \_\_\_\_\_ (the "Master Lease"), which was recorded on \_\_\_\_\_ as Instrument No. \_\_\_\_\_ in Book \_\_\_\_\_, Page \_\_\_\_\_, Official Records of \_\_\_\_\_ County, California, and is attached to this sublease as Exhibit A and incorporated into this Sublease by reference at Paragraph 7;

Sublessor desires to sublease to Sublessee the property currently occupied by Sublessor under the terms of the Master Lease, and Sublessee desires to lease that property from Sublessor; and

The Lessor under the Master Lease has consented to this sublease per paragraph 11.1 of the Master Lease.

THEREFORE, Sublessor and Sublessee agree as follows:

### **1. LEASING AND DESCRIPTION OF PROPERTY**

1.1 Subject to the terms, conditions, and covenants set forth in this sublease, Sublessor hereby leases to Sublessee, and Sublessee hereby leases from Sublessor, the property located in Belmont, San Mateo County, California, described as follows: a portion of the Buckland Water Tank Site, in Belmont, California, consisting of approximately 140 square feet of ground space upon which Sublessor shall maintain a structure to contain transmitting and receiving equipment and associated telecommunications equipment, including an emergency generator and an antenna with related foundation, guide lines and lights, all as more particularly shown and described in the project plans approved pursuant to the terms and conditions of the Master Lease, which are attached hereto and incorporated herein by this reference as Exhibit A (hereinafter referred to as the "Premises"). Said Premises consist of equipment rack space in the equipment structure and space for one (1) receiver on the existing pole at the site.

### **2. TERM**

2.1 This sublease shall commence ("Commencement Date") on \_\_\_\_\_ and shall end on the date on which the Master Lease terminates ("Termination Date"), unless terminated upon a thirty (30) day written notice by either party. This sublease termination may be accomplished without good cause and without specification of any reason for termination.

### **3. RENT**

3.1 As full consideration of its rights under this sublease, Sublessee shall pay to Sublessor as rent for the subleased premises a rental of \$150.00 per month payable yearly in advance on the first day of July, commencing July 1, 2002. For the initial rental period January 1, 2002 to July 1, 2002, Sublessee shall pay \$900.00 due upon execution of this Lease. Rent shall be paid to Sublessor at 1070 Sixth Avenue, Suite 300, Belmont, California 94002, or at any other place designated in writing by Sublessor. The installment rent payable for any portion of a year shall be a pro rata portion of the installment payable for a full year. Sublessee shall also pay, on July 1<sup>st</sup> of each year, its share of actual utility costs for the preceding year. The payment due on July 1, 2002 shall include actual utility costs for the period January 1, 2002 to July 1, 2002.

3.2 Annual Adjustments. During the entire term of this Lease, including the renewal terms if the renewals go into effect, the rental charges shall be adjusted annually and said adjustment shall be effective on each anniversary of the Commencement Date. The annual rental adjustment shall be based on the one-year period ending on the last day of the month of the most recent monthly inflation statistics available on the anniversary date reported in the Consumer Price Index (All Urban Consumers/All Items) issued by the Bureau of Labor Statistics of the United States Department of Labor for the San Francisco - Oakland - San Jose, California area.

3.3 Sublessee shall also, upon execution of this Sublease, pay a one time fee of \$777.00 required by the Mid Peninsula Water District to cover its legal costs in negotiating and drafting the Master Lease and Subleases.

### **4. USE OF PREMISES**

4.1 Sublessee shall use the (subleased) Premises for the purposes enumerated in the Master Lease, Section 4, attached hereto as Exhibit A and incorporated by this reference. Sublessee understands and agrees that Sublessor and additional sublessees shall also have the right to use the Premises for like purposes.

### **5. QUIET ENJOYMENT**

5.1 Sublessor covenants that Sublessee shall be entitled to quiet enjoyment of the premises, provided that Sublessee complies with the terms of this sublease.

### **6. CONDITION OF PREMISES**

6.1 Sublessee agrees that Sublessee's act of taking possession will be an acknowledgment that the subleased premises are in a tenantable and good condition. Sublessee will, at Sublessee's own expense, maintain the subleased premises in a thorough state of repair and in good and safe condition.

## **7. APPLICABILITY OF MASTER LEASE**

7.1 Except as provided for in Section 9 below, this Sublease is subject and subordinate to the terms and conditions of the Master Lease. Further, the Master Lease is hereby incorporated by reference.

## **8. ASSUMPTION**

8.1 Except as provided for in Section 9 below, Sublessee expressly assumes and agrees to perform and comply with all the obligations required to be kept or performed by the Sublessor under the provisions of the Master Lease identified in Paragraph 7 of this sublease, to the extent that they are applicable to the subleased premises.

## **9. VARIATIONS FROM MASTER LEASE**

9.1 As between Sublessee and Sublessor, the terms and conditions of the Master Lease are modified as stated below in this Section 9.

- (a) Despite anything to the contrary stated in Section 2 or 3 of the Master Lease, the term of this sublease and rent are as stated in Section 2 and 3 above.
- (b) The following mutual hold harmless provisions apply to this sublease and Section 6 of the Master Lease is hereby deleted:

## **10. INDEMNITY AND INSURANCE**

### **10.1 Mutual Hold Harmless**

- (a) It is agreed that Sublessee shall defend, hold harmless and indemnify Sublessor, its officers, agents and/or employees from any and all claims for injuries to persons and/or damage to property which result from the negligent acts or omissions of Sublessee, its officers, agents and/or employees, in the performance of this Agreement.
- (b) It is further agreed that Sublessor shall defend, hold harmless and indemnify Sublessee, its officers, agents and/or employees from any and all claims for injuries to persons and/or damage to property which result from the negligent acts or omissions of Sublessor, its officers, agents and/or employees, in the performance of this Agreement.
- (c) In the event of the concurrent negligence of Sublessee, its officers, agents and/or employees, and Sublessor, its officers, agents and/or employees, then the liability for any and all claims for injuries or damages which arise out of the performance of the terms and conditions of this agreement shall be

apportioned under "California's Theory of Comparative Negligence" as presently established, or as may be hereafter modified.

## 10.2 Insurance.

- (a) Workers' Compensation. Sublessee shall procure and maintain at all times during the term of this Sublease and any holdover tenancy thereof Workers' Compensation Insurance in conformance with the laws of the State of California and Federal laws where applicable. Employers' Liability Insurance shall not be less than One Million Dollars (\$1,000,000) per accident. Prior to commencement of the term of the Sublease, Sublessee shall deliver to Sublessor a Certificate of Insurance which shall stipulate that thirty (30) days' advance written notice of cancellation or material change shall be given to Sublessor.
- (b) Bodily Injury, Death and Property Damage Liability Insurance. Sublessee shall also procure and maintain at all times during the term of this Sublease and any holdover tenancy thereof comprehensive broad form Commercial General Liability and Automobile Liability insurance, or self-insurance or a combination thereof, covering Sublessee for any liability arising out of the use of or occurring in, on, or about the Premises. Sublessee may provide the insurance required herein under its self-insurance program. The policy(ies) shall include coverage for any vehicles, licensed or unlicensed, on or off the Premises, used by or on behalf of Sublessee during the term of this lease or holdover tenancy thereof. The policy(ies) (or self-insurance coverage) shall be subject to a limit for each occurrence of Two Million Dollars (\$2,000,000) naming as an additional insured, under the Commercial General Liability Policy, the Mid Peninsula Water District and Sublessor, its directors, officers, employees and agents. The Insurer(s) shall agree that its policy(ies) is(are) Primary Insurance and that it shall be liable for the full amount of any loss up to and including the total limit of liability without right of contribution from any other insurance covering Sublessor.

Inclusion of the Mid Peninsula Water District and Sublessor as an additional insured shall not in any way affect their rights as respects to any claim, demand, suit or judgment made, brought or recovered against Sublessee.

Prior to commencement of the term of the Sublease, Sublessee shall deliver to Sublessor a Certificate of Insurance which shall indicate compliance with the insurance requirements of this paragraph and shall stipulate that thirty (30) days' advance written notice of cancellation or material change shall be given to Sublessor.

- (c) Fire and Extended Coverage Insurance. Sublessee shall maintain a policy of

standard fire and extended coverage insurance, self-insurance or a combination thereof, on its Improvements (if any) to the Premises.

## **11. SUBLESSEE'S RIGHTS REGARDING CONTINUING POSSESSION**

11.1 Sublessee shall have the right at any time, at Sublessee's expense, to take any action required to be taken, but not timely taken, by Sublessor, that may be necessary to prevent a default under the terms of the Master Lease. If Sublessor is provided with the right, under the terms of the Master Lease, to terminate the Master Lease before the expiration of its term, Sublessee rather than Sublessor shall have the right to make that decision. Nothing contained in this sublease shall be construed so as to deprive Sublessee of Sublessee's right to surrender or otherwise terminate this Sublease as provided by law.

## **12. OBLIGATIONS OF SUBLESSOR**

12.1 Sublessor agrees to maintain the Master Lease during the entire term of this Sublease, subject, however, to any earlier termination of the Master Lease without the fault of Sublessor. Sublessor also agrees to pay all rentals as provided for in the Master Lease in accordance with its terms, and to comply with or perform all obligations of the Lessor under the Master Lease that Sublessee has not assumed under this sublease. Further, Sublessor agrees not to modify or surrender the Master Lease without the prior consent of Sublessee. Any modification or surrender made without that consent shall be null and void and shall have no effect on the rights of Sublessee under this sublease.

Sublessor further agrees to assume and to perform all of those obligations required to be kept or performed by the Lessor under the Master Lease to the extent that they apply to the subleased premises under the terms of this Sublease.

## **13. TERMINATION OF MASTER LEASE**

13.1 If the Master Lease is terminated, this Sublease shall terminate simultaneously and the Sublessor and Sublessee shall thereafter be released from all obligations under this Sublease, and Sublessor shall refund to Sublessee any unearned rent paid in advance.

**14. PRIOR AGREEMENTS**

14.1 This Sublease and any exhibits attached hereto contain all of the agreements of the parties hereto with respect to any matter covered or mentioned in this Sublease, and no prior agreements or understanding pertaining to any such matters shall be effective for any purpose. No provision of this Sublease may be amended or added to except by an agreement in writing signed by the parties hereto or their respective successors in interest. This Sublease shall not be effective or binding on any party until fully executed by both parties hereto.

Executed at \_\_\_\_\_, California, on the date specified in the first paragraph of this Sublease.

SUBLESSOR

SUBLESSEE

\_\_\_\_\_  
City of Belmont  
By: Jere A. Kersnar  
Its: City Manager

\_\_\_\_\_  
President, Board of Supervisors

ATTEST:

\_\_\_\_\_  
Clerk of the Board

Resolution No. \_\_\_\_\_

## CONSENT OF LESSOR

The undersigned is the Lessor under the Master Lease described in the foregoing sublease and hereby consents to the sublease of the premises described in this sublease to San Mateo County. In granting this consent, the undersigned does not waive any of the Lessor's rights under the Master Lease as to the Lessee or under the sublease as to the Sublessee.

LESSOR

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