

**FIRST AMENDMENT TO AGREEMENT
No. 1016**

This First Amendment to Agreement ("Amendment"), dated for reference purposes only as of July 1, 2006 is by and between ATC HOLDING, INC., ("ATC"), and the COUNTY OF SAN MATEO, a political subdivision of the State of California ("County").

Recitals

A. As authorized by San Mateo County Resolution No. 64673, ATC and County entered into an Agreement for Right of Way and Power Services dated for reference purposes as of August 14, 2001 (the "Agreement") for the County to utilize road access and electrical power supply for the operation of a communications site near the North Peak of Montara Mountain, in unincorporated San Mateo County, California.

B. ATC and County wish to further amend the Agreement to extend the term by an additional five years, and to grant County the option to further extend the term of the Agreement for one additional five-year period as herein set forth.

Agreement

For good and valuable consideration as hereinafter set forth, the sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Road Maintenance and Repair.** Section 2b. (Road Maintenance and Repair) is hereby modified to delete the third option for County ("Terminate this Agreement upon six (6) months written notice to ATC".)
2. **Term.** Section 7 (Term) of the Agreement is hereby deleted in its entirety and replaced with the following:
 7. **TERM.** The term of this Agreement shall be for ten (10) years commencing on the 1st day of August 2001 and expiring on the 31st day of July 2011.
 - a. **OPTION TO EXTEND TERM.** Provided County is not in default and breach of this Agreement, County shall have the option to renew this Agreement for one (1) additional five (5) year period commencing on the 1st day of August 2011 on the same terms and conditions by giving notice to ATC on or before April 30, 2011.
2. **Termination.** Section 8 (Option to Terminate) of the Agreement is hereby deleted in its entirety.
3. **Payments.** Any references to the Payments of the Lease notwithstanding; effective August 1, 2006, the Monthly Payment shall be \$900.00 per month,

subject to an annual increase as described in section 9 (Payments) of the Agreement.

3. **Effective Date; Approval.** This First Amendment shall become effective (the "Effective Date") when the County Board of Supervisors adopts a resolution authorizing the execution of this First Amendment, and the First Amendment is duly executed by the County and executed by ATC.

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS AMENDMENT, ATC ACKNOWLEDGES AND AGREES THAT NO OFFICER OR EMPLOYEE OF COUNTY HAS AUTHORITY TO COMMIT COUNTY HERETO UNLESS AND UNTIL THE COUNTY BOARD OF SUPERVISORS HAS ADOPTED A RESOLUTION AUTHORIZING THE EXECUTION OF THIS FIRST AMENDMENT TO THE AGREEMENT. THEREFORE, ANY OBLIGATIONS OR LIABILITIES OF COUNTY HEREUNDER ARE CONTINGENT UPON ADOPTION OF SUCH A RESOLUTION, AND THIS AMENDMENT SHALL BE NULL AND VOID UNLESS THE BOARD OF SUPERVISORS ADOPTS A RESOLUTION AUTHORIZING THE EXECUTION OF THIS FIRST AMENDMENT. APPROVAL OF THIS AMENDMENT BY ANY DEPARTMENT, COMMISSION OR AGENCY OF COUNTY SHALL NOT BE DEEMED TO IMPLY THAT SUCH RESOLUTION WILL BE ADOPTED, NOR WILL ANY SUCH APPROVAL CREATE ANY BINDING OBLIGATIONS ON COUNTY.

4. **Counterparts.** This Amendment may be executed in two or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.
5. **No Further Amendments; Conflicts.** All the terms and conditions of the Agreement remain in full force and effect except as expressly amended herein. The Agreement as amended by this Amendment constitutes the entire agreement between ATC and County and may not be modified except by an instrument in writing duly executed by the parties hereto. In the event of any conflict between the terms of the Agreement and the terms of this First Amendment, the terms of this First Amendment shall control.

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ATC and County have executed this First Amendment as of the date first written above.

ATC HOLDING, INC.

COUNTY OF SAN MATEO, a political
subdivision of the State of California

BY: _____

BY: _____

ITS: _____

Jerry Hill
President, Board of Supervisors

Attest:

Clerk of the Board

Resolution No. _____