

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

919



SUBMITTAL DATE:
March 1, 2012

FROM: Economic Development Agency / Facilities Management

SUBJECT: Public Safety Enterprise Communications Project Ground Sublease Agreement, Snow Peak

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve the attached Ground Sublease and authorize the Chairman of the Board to execute the same on behalf of the County of Riverside; and
2. Authorize the Assistant County Executive Officer/EDA, or designee, to execute any other documents and administer all actions necessary to complete this transaction; and

REVIEWED BY CIP

(Continued) Christopher Hans
Christopher Hans

Robert Field

Robert Field
Assistant County Executive Officer/EDA

FISCAL PROCEDURES APPROVED
PAUL ANGULO, CPA, AUDITOR-CONTROLLER
BY: Samuel Wong 2/22/12
SAMUEL WONG

FINANCIAL DATA	Current F.Y. Total Cost:	\$ 6,000	In Current Year Budget:	Yes
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	No
	Annual Net County Cost:	\$ 0	For Fiscal Year:	2011/12

COMPANION ITEM ON BOARD OF DIRECTORS AGENDA: No

SOURCE OF FUNDS: PSEC (years 1-2) and then RCIT (subsequent years)	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION:

APPROVE

BY: Jennifer L. Sargent
Jennifer L. Sargent

County Executive Office Signature

FORM APPROVED COUNTY COUNSEL
 BY: Sybil H. Gunzel 2-23-12 DATE
 SYNTHIA M. GUNZEL
 COUNTY CLERK
 By: Kevin Crawford 2/26/12
 Kevin Crawford, Chief Information Officer
 Riverside County Information Technology
 Dept's Recomm.: Consent Policy
 Per Exec. Ofc.: Consent Policy

Prev. Agn. Ref.: N/A

District: N/A

Agenda Number:

3.19

ATTACHMENTS FILED
WITH THE CLERK OF THE BOARD

RECOMMENDED MOTION: (Continued):

3. Find that no further environmental documentation is required because the potential environmental effects of the sublease were considered in the Program Environmental Impact Report and Addendum described herein and the sublease area will not result in any new significant environmental effects, will not substantially increase the severity of previously identified significant effects, and will not necessitate new mitigation measures

BACKGROUND:

Snow Peak is located in the San Bernardino Mountain range in the southernmost part of the San Bernardino County overlooking the cities of Banning and Beaumont. The site is located on private land owned by Snow Peak Communications.

The County of Riverside's existing law enforcement and emergency first responder voice communication network is lacking in coverage and functionality. As currently configured, the county's system of approximately 20 communication sites provides voice coverage to only about 60% of the county. The Public Safety Enterprise Communications Project (PSEC) project will construct approximately 65 new communication sites to remedy this deficiency, and will ultimately provide communication coverage to approximately 95% of the county. The new system is urgently needed to ensure the safety of the public, Sheriff's deputies, and firefighters.

The Board of Supervisors approved a Program Environmental Impact Report (PEIR) for the project on September 2, 2008. The PEIR imposed a number of standard mitigation measures that were applicable to all of the sites. However, at the time of the PEIR's adoption, certain design details and a final location for a number of the sites had not been finalized. To provide for such a contingency, the PEIR prescribed mitigation measures to be implemented if a site or its supporting components (access roads, power alignments, etc.) were to be relocated to an area that had not been assessed and/or surveyed as part of the PEIR. This programmatic approach was adopted to allow modifications and expansion of the project's design without the need for recirculation of the PEIR. Specific measures prescribed in the PEIR required the County to determine if the impacts associated with the proposed modification/addition were consistent with the analysis and findings of the PEIR. Specific performance measures were adopted to identify the analysis necessary to make this determination.

Since adoption of the PEIR in September 2008, it has been determined that an additional communication site will be required to meet emergency services communication coverage objectives in the north-central part of the County in the northern portions of the San Jacinto Mountains. This area is currently without adequate emergency services communication coverage. Even though several other communication sites are located in this area (Morongo and Ranger Peak), terrain shadowing and other features associated with the area's rugged topography make coverage in some areas difficult to achieve. The northern San Jacinto Mountains are particularly fire-prone, and SR-243 is a curvy mountain road that requires regular emergency response calls. Numerous other roads in this portion of the San Jacinto Mountains lead to private inholdings within the San Bernardino National Forest (SBNF), and several hundred homes and other properties are located amongst the hilltops and canyons of this area. Emergency responders working in this area currently do so without reliable communication coverage. Even with development of several, other nearby PSEC communication sites (Morongo and Ranger Peak), communication coverage in this area would still be inadequate.

(Continued)

BACKGROUND: (Continued)

Based on this deficiency, it was determined that an additional communication site would need to be constructed at a high elevation in the San Bernardino Mountains to provide coverage into the northern part of the San Jacinto Mountains. The addition of the Snow Peak Communication Site, was subject to an Addendum to the PEIR which was considered by the Board on July 12, 2011, is intended to supplement the coverage in this area and remedy the deficiency. The potential environmental effects of the proposed sublease were identified and discussed in the PEIR and/or the Addendum, which is incorporated herein by reference. The sublease will not result in any new significant environmental effects not identified in the PEIR, nor will it substantially increase the severity of the environmental effects identified in the PEIR. There is no new information of substantial importance which would show considerably different mitigation measures from those analyzed in the PEIR nor would any mitigation measures previously found infeasible now be feasible. Accordingly, the California Environmental Quality Act (CEQA) has been fully complied with and as such, the county undertook to implement the mitigation prescribed in the PEIR that was required in the event of site relocation and/or network expansion. Pursuant to CEQA Section 15164, an addendum to the PEIR was prepared and no further environmental documentation is required.

The Form 11 and attached sublease have been reviewed and approved by County Counsel as to legal form.

FINANCIAL DATA:

All first and second year rents and associated development costs for the Snow Peak Communications site will be fully funded through the PSEC budget. Riverside County Information Technology's (RCIT) annual budget will fund future rents and all operating costs. While the Economic Development Agency (EDA) will front the costs for the Sublease with the owners, PSEC and RCIT will reimburse EDA for all associated costs.

Attachments:
Ground Sublease

SNOW PEAK COMMUNICATIONS

GROUND SUBLEASE

This sublease is between SNOW PEAK COMMUNICATION, LLC, as sublessor, hereinafter "SPC", and COUNTY OF RIVERSIDE, a political subdivision of the State of California as sublessee, hereinafter "COUNTY".

WHEREAS, the parties recognize that SPC is the Lessee under a lease dated February 7, 2000 by and between Snow Peak Communications, LLC, and Stephen J. Mascaro and Betty D. Mascaro, as Lessor ("Master Lease"), for its communications facility and that the terms "Landlord" and "Tenant" are used interchangeably with "Lessor" and "Lessee", respectively, and are not meant to infer any exclusive property rights enforceable under Code of Civil Procedure §1161, et seq.

WHEREAS, pursuant to said Master Lease SPC owns a communications facility consisting of certain equipment, buildings and support towers, and has control over all of that certain land located in Section 31 Township 1 South, Range 2 East, S.B.B.M. County of San Bernardino, State of California, at an elevation above 7,850 feet on the southerly side of the San Gorgonio Mountains, approximately 7 miles northeast of Banning, commonly known as 11401 Raywood Flat Road, Morongo Valley, California; and

WHEREAS, said Master Lease allows subleasing without the written consent of the Lessor thereunder; and

WHEREAS, COUNTY desires to construct its own communication facility and to install and maintain certain radio equipment at said location;

NOW, THEREFORE, the parties agree as follows:

1. DESCRIPTION OF PREMISES.

1.01 SPC hereby subleases to COUNTY and COUNTY subleases from SPC on the terms, covenants and conditions set forth herein, the ground space set forth in Exhibit "D" and situated at the above indicated location.

Said premises are herein called "Premises".

2. TERM

2.01 Initial Term. The initial term (the "Initial Term") of this Sublease shall be for five (5) years commencing upon issuance of a building permit by the appropriate jurisdiction "commencement date" and ending last day of the sixtieth month following such issuance, unless sooner terminated pursuant to any provision herein. The parties agree to sign a Commencement Date letter setting forth the Commencement Date.

2.02 Early Possession. COUNTY shall have the right to enter the Premises after the full execution of this Sublease in order to perform any tests, surveys, per-construction meetings, or to install testing equipment. COUNTY hereto acknowledges that should it take early occupancy certain obligations under various articles hereof shall commence prior to the Sublease Term, including but not limited to, hold harmless, liability insurance, and the COUNTY agrees to be bound by said terms prior to commencement of the Sublease Term.

2.03 Option. COUNTY is granted three (3) consecutive options to extend the term of this Sublease for three (5) additional five year periods (each, an "Extension Term"), upon the same terms and conditions as set forth for the Initial Term, except Rent during the extension terms shall be as set forth in Section 3.05.

COUNTY may exercise the option to extend the Initial Term or Extension Term, as applicable, at any time up until ninety (90) days prior to the expiration of the Initial Term or Extension Term, as applicable. Notification shall be by registered or certified letter to the SPC's address of record and shall not be effective unless actually received by SPC.

3. RENT

3.01 COUNTY agrees to pay monthly to SPC, at such place as SPC may designate, without deduction, offset, prior notice or demand, as a minimum monthly installment of rent for the Premises the sum of One Thousand Five Hundred Dollars (\$1,500.00) plus any of the additional charges, costs, adjustments, expenses, fees, interest, payments, funds and monies as provided for in the Sublease in lawful money of the United States, payable in advance on the first day of each month during the term of this Sublease. Rent during the Initial Term shall be increased three percent (3%) per year commencing on the 13th month and on each anniversary thereafter. This minimum rental amount includes use of the Master Lease Area and Ground Space (as specified in paragraph 5), and shall be the minimum amount paid even should the amount of required usage decrease from that shown in Exhibit "D".

Rent for any period which is for less than one (1) month shall be a prorated portion of the monthly installment herein based upon a thirty (30) day month.

3.02 Additional Rent. All sums due hereunder which are not included as Rent specified in 3.01, above, are considered as Additional Rent. Such amounts include, but are not limited to Late Payments.

3.03 Deposit. The amount of One Thousand Five Hundred (\$1,500.00) shall be paid by COUNTY, to SPC, upon the execution of this Sublease, which sum shall be applied as a security deposit. The security deposit shall be held by SPC as security for the faithful performance by COUNTY of all terms, covenants, and conditions of this Sublease to be kept and performed by COUNTY. Upon termination of the Sublease,

COUNTY shall be entitled to a full refund if all obligations of this Sublease have been fulfilled and the Premises is left in substantially the same or better condition than at the commencement of the Initial Term. COUNTY shall have the right to remove all of the fixtures, improvements, equipment and other personal property placed or installed on the Premises by COUNTY. If COUNTY fails to remove any such improvements or personal property within ninety (90) days of termination, all such improvements or personal property shall become the property of the SPC.

3.04 Late Payments. COUNTY acknowledges that late payment by COUNTY to SPC of Rent or other sums due under this Sublease will cause SPC to incur costs not contemplated by this Sublease, the exact amount of which would be extremely difficult and impractical to ascertain. Such costs include, but are not limited to, processing and accounting charges, charges to prepare notices, and late charges which may be imposed on SPC by the terms of any master lease covering the property. Therefore, in the event COUNTY should fail to pay in full any installment of Rent or any sum due under this Sublease within five (5) days after that payment is past due, COUNTY shall pay to SPC, as Additional Rent, a late charge equal to five percent (5%) of each such installment or other sum due. A \$35.00 (thirty-five dollar) charge will be paid by the COUNTY to the SPC for each returned check. The parties hereby agree that such late charges and returned check fees represent a fair and reasonable estimate of the costs SPC will incur by reason of late payments and returned checks by COUNTY. Acceptance of such late charge by SPC shall in no event constitute a waiver of COUNTY's default with respect to such overdue amount, nor prevent SPC from exercising any of the other rights and remedies granted hereunder.

3.05 Extension Term Rent. Rent during the Extension Terms shall be increased three percent (3%) per year commencing on the 1st month of each option and on each anniversary thereafter.

4. USE OF PREMISES

4.01 Use Allowed. The Premises may be used and occupied only for the usual and normal installation and operation of COUNTY's equipment set forth in Exhibit "D" and only in the space(s) indicated in this Sublease as leased by COUNTY, together with such ancillary uses as are customary for such operation, and for no other purpose(s). Neither COUNTY, nor any assignee or subtenant or licensee of COUNTY, shall use or permit the Premises to be used for any other purpose or use without SPC's clear and express prior written consent as to each such use or purpose.

4.02 Other Uses Prohibited. COUNTY shall not cause, maintain or permit any nuisance in, on, or about the Premises. COUNTY shall not commit or allow to be committed any other act, conduct, or use on, in, or about the Premises that is not expressly permitted by this Sublease.

4.03 SPC reserves the right to maintain the access road for use by itself and other tenants. COUNTY shall not be liable for use of the access road by others.

5. GROUND SPACE

5.01 SPC agrees to furnish the usual and normal ground space needed for COUNTY to install & utilize, as specified in Exhibit "D".

5.02 The rental price for the use of ground space, as specified in Exhibit "D", is included in that amount set forth in paragraph 3.01, above. Any additional ground space required shall be subject to further charge to the COUNTY by SPC.

6. BUILDING SPACE (not applicable)

7. IMPROVEMENTS

COUNTY improvements and personal property shall be deemed COUNTY's equipment. Upon default or expiration of this Sublease COUNTY will have ninety (90) days to remove all improvements, after ninety (90) days all improvements made by COUNTY will become the property of SPC. Upon early termination COUNTY will have ninety (90) days to remove all improvements. During that ninety (90) day period, provided COUNTY has vacated the land, COUNTY shall pay a reduced rent in the amount of Six Hundred Dollars (\$600.00) per month until such time as COUNTY is able, using good faith efforts, to remove all such improvements. If COUNTY does remove all or part of the improvements, the same must be removed in a workmanlike manner and leave the Premises substantially as it was before the improvements were installed. If all debris is not removed with the improvements and the land left as it was before the improvements were installed, then SPC will charge COUNTY for the entire cleanup of all debris and repair of the Premises. Any additional improvements must have the written consent of SPC prior to installation.

8. ELECTRICAL

8.01 COUNTY shall supply all commercial electric power and standby power to operate the equipment authorized by this Sublease, as listed in Exhibit "D", which the parties acknowledge is not included in the Rent. SPC shall cooperate with the utility provider and grant any necessary easements, at no charge to the utility provider or COUNTY.

8.02 COUNTY will reimburse SPC for any actual costs incurred by SPC in connection with power supplied or paid by SPC with respect to the Premises. COUNTY agrees to reimburse said costs to SPC within ten (10) business days after billing by SPC. These costs shall be considered Additional Rent hereunder for all purposes except the time for payment (as billed instead of monthly)

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9. MAINTENANCE

9.01 By COUNTY. COUNTY shall install the equipment owned by COUNTY on the Premises in a workmanlike manner and shall maintain the equipment in good repair. COUNTY shall be totally responsible for the installation, operation, maintenance, repair and use of any of COUNTY's equipment or and hold SPC free and harmless there from and from any other conduct of COUNTY or its agents. COUNTY shall be responsible for maintaining complete insurance on COUNTYs equipment and other items. COUNTY will allow SPC to maintain any portion of the access road that are situated within the Subleased area.

9.02 By SPC. SPC shall be responsible to maintain the Property and access to the Premises in good and tenantable condition and repair and in compliance with all legal requirements including, but not limited to, all FCC, FAA and NHPA requirements. SPC shall not be responsible for snow removal. SPC shall be responsible for maintaining complete insurance on any buildings and related improvements owned by SPC, excluding those improvements installed or maintained by COUNTY.

10. ASSIGNMENT AND SUBLETTING

10.01 COUNTY shall not assign, transfer, mortgage, pledge, hypothecate or encumber any interest under this Sublease or any rights provided herein or related hereto, and shall not sublet or allow use of the Premises, or any part thereof, or any right or privilege appurtenant thereto, to any other person, without first obtaining the clear and express written consent of SPC.

10.02 SPC shall not lease or allow use of the new tower installed by COUNTY on the Premises, or any part thereof, or any right or privilege appurtenant thereto, to any other person without first obtaining the clear and express written consent of COUNTY.

10.03 Consent to one assignment, subletting, occupation or use by any other person shall not be deemed to be consent to any other assignment, subletting, occupation or use by the same or another person.

10.04 Under no circumstances shall consent to an assignment or subletting in any way relieve COUNTY of any liability or responsibility under this Sublease. Except as otherwise provided, such assignment or subletting without such consent shall be void, and confer no rights to any third person, and shall, at the option of the SPC, constitute a default under the terms of this Sublease. Notwithstanding the foregoing, no consent shall be required for an assignment or subletting to any entity controlled, controlling or under common control with COUNTY.

11. DEFAULT

11.01 By COUNTY. The occurrence of any one or more of the following events shall constitute a default and breach of this Sublease by COUNTY:

(a) The vacating or abandonment of the Premises by COUNTY without payment of Rent;

(b) The failure by COUNTY to make full payment of Rent or any other payments, charge, penalty, fee, cost, or any other sum required to be paid by COUNTY as Additional Rent hereunder, as and when due, where such failure shall continue for a period of fifteen (15) days after written notice thereof by SPC to COUNTY;

(c) The failure by COUNTY to observe or perform any of the non monetary covenants, conditions or provisions of this Sublease to be observed or performed by the COUNTY, other than described in (b) above, where such failure shall continue for a period of thirty (30) days after written notice thereof by SPC to COUNTY, provided, in the event such failure can not reasonably be cured within such thirty (30) day period, COUNTY shall have additional time to cure provided SPC agrees COUNTY is diligently pursuing such cure;

(d) The making by COUNTY of any general assignment or general arrangement for the benefit of creditors; or the filing by or against COUNTY of a petition to have COUNTY adjudged a bankrupt, or a petition or reorganization or arrangement under any law relating to bankruptcy (unless, in the case of a petition filed against COUNTY, the same is dismissed within one hundred twenty (120) days); or the appointment of a trustee or a receiver to take possession of substantially all of COUNTY's assets located at the Premises, the execution or judicial seizure of substantially all of COUNTY's assets located at the Premises or any such seizure of or appointment regarding COUNTY's interest in this Sublease, where such seizure or appointment is not discharged in one hundred twenty (120) days. The provisions of this paragraph shall also be applicable regarding any guarantor hereof.

(e) Assignment or Subletting of the Premises by COUNTY in violation of the terms of this Sublease.

11.02 By SPC. SPC shall be in default under the terms of this Sublease if SPC fails to perform any of the terms, provisions, covenants, or conditions to be performed (hereinafter "material provisions") or complied with by SPC pursuant to this Sublease after thirty (30) days written notice from COUNTY. If SPC defaults in the performance of any material provisions of this Sublease and SPC does not commence to cure such default with a reasonable time, if it can be cured, then COUNTY may, at COUNTY's option (among all other rights and remedies provided for by law) either terminate this Sublease, seek specific performance of the material provision, or perform the material provision, as SPC's agent; the full amount of the actual cost or the payment directly related to the performance of the material provision shall immediately be owing by SPC

to COUNTY. COUNTY may apply to have any such amount(s) owing taken as an offset against Rents or Additional Rent and if there is no reasonable dispute as to requirement of said cost or payment, then SPC shall agree to said offset. Should the reason therefore, or the amount, of the requested offset be disputed, then no offset shall be allowed until the dispute is resolved.

12. REMEDIES IN DEFAULT

12.01 In the event of any default or breach by COUNTY which is not cured within any applicable cure period, SPC may at any time thereafter, in SPC's sole discretion, and without limiting SPC in the exercise of any other rights or remedies which SPC may have by reason of such default or breach:

(a) From time to time, without terminating COUNTY's obligations under this Sublease, re-let the Premises or any part thereof for the account of COUNTY or otherwise, for any such term or terms and conditions as SPC in its sole but reasonable discretion may deem advisable with the right to make reasonable and non-material alterations and repairs to the Premises. COUNTY shall pay to SPC, as soon as notified by SPC, all damages incurred by SPC including, but not limited to, the costs of recovering possession and costs and expenses incurred by SPC in any re-letting or in making any alterations and repairs, provided such damages shall be offset by any rents or other amounts received by SPC for re-letting the Premises.

(b) Notwithstanding any such re-letting without termination, SPC may at any time elect to terminate this Sublease for such previous breach provided it has not been cured. Should SPC at any time terminate this Sublease for any breach, SPC shall be entitled to recover from COUNTY all damages incurred by SPC by reason of COUNTY's default including but not limited to, the cost of recovering possession of the Premises, expenses of re-letting, including any reasonably necessary renovation and alteration of the Premises; reasonable attorney's fees and collection costs.

(c) Maintain COUNTY's right to possession, in which case this Sublease shall continue in effect whether or not COUNTY shall have abandoned the Premises. In such event SPC shall be entitled to enforce all of SPC's rights and remedies under this Sublease, including the right to recover the Rent and any other charges and adjustments as may become due hereunder;

(d) COUNTY's Property. In the event of default, to require COUNTY forthwith to remove any or all of COUNTY's property and if COUNTY fails to do so, SPC may remove any such property and place such property in storage in a public warehouse at the cost and risk of COUNTY.

(e) SPC shall also have the right, with or without terminating this Sublease, to re-enter the Premises and remove all persons and property from the Premises; such property may be removed and stored in a public warehouse or elsewhere at the cost of and for the account of COUNTY.

13. EFFECT OF HOLDING OVER

13.01 If COUNTY should remain in possession of, or continue to utilize, ground space comprising a portion of the Premises, or fail to remove its property and equipment within the allotted time period after the expiration of the Sublease Term or the Extension Term, as applicable, without executing a new agreement, then such continued possession or utilization shall be considered "holding over" as provided for in this section.

13.02 If COUNTY holds over after the termination of the Initial Term, or the Option Term, the use shall be construed as terminable on one hundred eighty (180) days written notice and shall be subject to the same conditions, provisions, and obligations of this Sublease, except the amount of Rent shall increase to one hundred fifty percent (150%) of the Rent during the final full month of the Sublease Term (Initial or Option) in effect just prior to the holding over. COUNTY shall not be deemed as "holding over" for purposes of this Section 13.02 if the parties are negotiating or processing a new agreement and the term granted herein expires.

14. LOCKS AND KEYS

14.01 COUNTY agrees and understands that the ground leased is in a locked facility and that in order to gain access to the facility; COUNTY must have the current key access to open the locks. COUNTY agrees that SPC may change the locks or other security devices at any time, provided SPC has notified COUNTY and provided COUNTY with new keys. If SPC changes the locks SPC will provide COUNTY with four (4) new keys at no charge; however, if COUNTY loses any keys, COUNTY agrees to pay for the replacement thereof at the rate of \$20.00 per key. COUNTY agrees and understands that all locks will be relocked after each entry and exit.

14.02 COUNTY understands and agrees that any locks or security devices are provided merely for the convenience of the tenants and nothing in this Sublease or the relationship between the parties shall obligate SPC to provide a secure or safe facility nor one free from theft. COUNTY agrees that SPC is not liable for any theft or damage to any of the equipment or other items located on the Premises, and that COUNTY shall insure its equipment and items for any theft, loss or damage that might occur to the equipment.

15. INDEMNITY AND INSURANCE

15.01 Indemnification by COUNTY.

(a) COUNTY shall indemnify and hold SPC harmless against and from any claim of liability from personal injury or property damage arising from the use and occupancy of the Premises by COUNTY or its employees, invitees or agents. Liability for the acts of

customers of COUNTY, if any, is limited to such claims, liabilities and losses as may be related to or caused by the acts or omissions of COUNTY, or its employees or agents.

(b) COUNTY shall hold SPC harmless against, and from, any and all claims arising from COUNTY's conduct of its business or from any conduct, activity, work, or thing done, occurring, permitted or allowed by the COUNTY in, on, or about the Premises. Included in this provision is any damage that might occur should the installation or maintenance of COUNTY's equipment cause damage to the tower or any equipment on the tower owned by SPC or any other tenant utilizing the tower.

(c) COUNTY shall indemnify and hold SPC harmless from all damages incurred by SPC and caused by any breach or default in the performance of any obligation on COUNTY's part to be performed under the terms of this agreement.

(d) Should SPC incur expenses associated with any claims for which indemnity has been agreed, then COUNTY shall be responsible for all costs expended (including without limitation, reasonable attorneys' fees whether or not litigation is brought). COUNTY, upon notice from SPC and at SPC's sole option, shall defend the same at COUNTY's expense by counsel reasonably satisfactory to SPC.

15.02 Indemnification by SPC.

SPC shall indemnify, defend (at COUNTY's option) and hold COUNTY and its agencies, districts, special districts, departments, their respective directors, officers, employees, Board of Supervisors, elected or appointed officials, agents and representatives harmless from and against all claims, losses, liabilities, damages, judgments, liens and other reasonable and necessary costs and expenses (including without limitation, reasonable attorneys' fees whether or not litigation is brought) which may be imposed upon, incurred by or asserted against COUNTY by reason of any of the following:

(a) any misconduct or negligence on the part of SPC or its agents, employees, contractors or invitees; or

(b) any use of the Premises by SPC resulting in an injury, death, or damage to person or property occurring upon, in or about the Property (unless caused by COUNTY's negligence or willful misconduct)

15.03 Insurance.

(a) During the Initial Term of this Sublease, and any Extension Term, COUNTY shall maintain general comprehensive liability insurance of no less than \$1,000,000 (one million dollars) per occurrence and an umbrella policy of no less than \$5,000,000 (five million dollars) naming SPC as an additional insured. Proof of insurance shall be provided annually by means of delivery of a certificate of insurance evidencing the required coverage.

(b) During the Initial Term of this Sublease, and any Extension Term, SPC shall maintain general comprehensive liability insurance in an amount of one million dollars (\$1,000,000). Proof of insurance shall be provided annually upon written request by COUNTY by means of delivery of a certificate of insurance evidencing the required coverage.

16. SPC EXEMPT FROM LIABILITY

COUNTY, as a material part of the consideration to SPC, hereby agrees that SPC shall not be liable for injury to COUNTY's business or any loss of income there from or for damage to the equipment, items, goods, wares, merchandise or other property or interest of COUNTY, COUNTY's employees, invitees, or any other person in or about the Premises, or the Project of which it may be a part, or any other person related to COUNTY's use of or presence at the Premises or related areas; nor, (unless through SPC's negligence) shall SPC be liable for injury to COUNTY, COUNTY's employees, agents or contractors and invitees or any other person related to COUNTY's use or occupancy of the Premises, or Project of which it may be a part, or related areas, whether such damage or injury is caused by or results from fire, steam, electricity, gas, water or rain, or from the breakage, leakage, obstruction, theft, or other defects of pipes, sprinklers, wires, appliances, plumbing, air-conditioning or lighting fixtures, or from any other cause, except for the negligence or intentional tort of SPC, its employees, agents or contractors) whether the said damage or injury results from conditions arising upon the Premises or upon other portions of the Project of which the Premises are a part, or from any other sources or places, and regardless of whether the cause of such damage or injury or the means of repairing the same is inaccessible to SPC or COUNTY. SPC shall not be liable for any damages arising from any act, neglect, or conduct of any other tenant, if any, of the Master Lease Area in which the Premises are located.

17. INTERFERENCE

17.01 COUNTY shall ensure that any radio, television, microwave and other communications antenna or equipment installed on the Tower or the Property by COUNTY shall not interfere with any operators already located on the Property before the Commencement Date; should any interference occur, then COUNTY will be responsible for removing the interference and shall indemnify SPC for any damages which might be proximately caused by said interference.

(a) Equipment will be clearly posted with the COUNTY's name, address, telephone number, call sign and frequencies(s). A copy of the station license is acceptable for this purpose.

(b) All transmitters will be equipped with protective devices, designed into or externally installed, to prevent interference to other users. All transmitters will meet FCC type acceptance criteria.

(c) The re-radiation of intercepted signals from any unprotected transmitter and its associated antenna system will be prevented by the use of band pass filters and isolators.

(d) The direct radiation of out-of-band emissions will be reduced to a level such that they may not be identified as a source of interference as defined in the FCC Rules and Regulations.

17.02 SPC shall ensure that the SPC and/or any operator of any radio, television, microwave and other communications antenna or equipment installed on the Tower or the Property after the Commencement Date shall be proscribed from causing unreasonable interference to COUNTY's reception or transmission of any signals through the Equipment. SPC shall take all reasonable actions to enforce all non-interference provisions contained in other user leases.

18. EARLY TERMINATION

18.01 SPC recognizes that certain difficulties may arise in establishing COUNTY's site and that these difficulties may not be known at the time of execution of this Sublease. Accordingly, COUNTY may terminate this Sublease upon ninety (90) days written notice to SPC, which notice shall establish that by reason of engineering or other technical standards or causes or interference to COUNTY's operation or a lack of economic feasibility, due to causes beyond the reasonable control of COUNTY and without COUNTY's fault or negligence if any, for the ninety (90) day period and payment of the sum of One Thousand Five Hundred Dollars (\$1,500.00) to cover incidental expenses.

18.02 COUNTY may terminate this Sublease, upon not less than ninety (90) days notice where destruction or damage to the Premises prevents its use as intended. Where the destruction or damage is completely covered by insurance, COUNTY shall not be entitled to terminate the Sublease under this provision, but SPC shall cooperate in temporarily relocating the damaged equipment and abating Rent in proportion to the percentage of the Premises damaged by such event of casualty.

18.03 COUNTY may terminate this Sublease upon the taking thereof (by partial condemnation or otherwise) sufficient, in COUNTY's reasonable judgment, to adversely affect COUNTY's use of its equipment on the Premises.

19. ENVIRONMENTAL MATTERS

19.01 To the best of SPC's knowledge, there are no Environmental Hazards at the Property. Nothing in this Sublease will be construed or interpreted to require that COUNTY remediate any Environmental Hazards located thereon unless COUNTY or COUNTY's officers, employee, agents or contractors placed the Environmental Hazards at the Property. COUNTY will not bring to, or transport across the Property, or dispose thereon, any Environmental Hazards in excess of levels permitted by applicable

environmental laws. COUNTY's use of any approved substances constituting Environmental Hazards must comply with all applicable laws, ordinances and regulations governing such use. The term "Environmental Hazards" means hazardous substances, hazardous wastes, pollutants, asbestos, polychlorinated biphenyl, petroleum or other hydrocarbons (including crude oil or any fraction or derivative thereof) and underground storage tanks. The term "hazardous substances" shall be as defined in the Comprehensive Environmental Response, Compensation, and Liability Act, and any regulations promulgated pursuant thereto; the term "hazardous wastes", as in the Resource Conservation and Recovery Act, and any regulations promulgated pursuant thereto; and, the term "pollutants", as defined in the Clean Water Act, and any regulations promulgated pursuant thereto.

20. GENERAL PROVISIONS

(A) Gender. Whenever the singular number is used in this Sublease and when required by the context, the same shall include the plural, and the masculine gender shall include the feminine and neuter genders, and word "person" shall include corporation, firm, partnership, association or any other entity.

(B) Joint and Several Obligations. If there be more than one party to any side of this Sublease the obligations imposed upon each party under this Sublease shall be joint and several.

(C) Cumulative Remedies. The various rights and remedies reserved to SPC herein, including those not specifically described herein, shall be cumulative, and, said party may pursue any or all of such rights and remedies, whether at the same time or otherwise.

(D) Interest on Past-Due Obligations. Any amount due to SPC not paid within fifteen (15) business days of when due shall begin interest at the rate of 5% per annum compounded monthly, except if said rate is different than the maximum legal rate permitted by law for this Sublease, then the interest rate provided for in the Sublease shall be adjusted to the maximum rate permitted by law.

(E) Penalties Not Excuse Default. Payment of any interest, penalties or charged provided here shall not excuse or cure any default by the party being charged under this Sublease.

(F) Incorporation of Prior Leases and Amendments. This Sublease covers in full each and every Sublease of every kind or nature whatsoever between the parties hereto concerning the matter herein and all preliminary negotiations and leases whatsoever with respect thereto, are of no force or effect, except those contained herein.

(G) No Verbal Representations Valid. No verbal representation, utterance, Lease or implied covenant shall be held to vary the provisions hereof, any statute, law, or custom to the contrary notwithstanding.

(H) Amendments Must Be In Writing. No provision of this Sublease may be amended, modified or added to except by a lease in writing expressly and specifically referring to the provisions to be modified or amended and signed by all the parties hereto or their respective successors in interest.

(I) Headings and Titles. The headings or titles to paragraphs or parts of this Sublease are not part of this Sublease and shall have no effect upon the construction or interpretation of any part of this Sublease.

(J) Covenants and Conditions. Each provision of this Sublease performable by COUNTY shall be deemed both a covenant and a condition.

(K) Remainder Valid. If any term or provision of this Sublease or the application thereof to any person or circumstances shall to any extent be invalid or unenforceable, the remainder of this Sublease or the application of such term or provision to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term and provision of this Sublease shall be valid and be enforced to the fullest extent permitted by law.

(L) Not Construed Against Preparer. In construing or interpreting this Sublease, a court or competent jurisdiction shall not apply any presumption that this Sublease, or any provision herein should be construed against the interest of any party hereto on the ground that such party or its agent prepared this Sublease, it being agreed by the parties hereto that the agents of each of the parties hereto approved and are jointly responsible for the preparation of this Sublease.

(M) Waiver. The waiver by SPC or COUNTY of any breach of any term, requirement, or condition shall not be deemed or interpreted to be or act as a waiver of any subsequent breach of the same or any other term, requirement, or condition herein contained or related hereto. Said party's silence or acquiescence in any breach of any term, requirement, or condition shall not operate or be deemed to be a waiver of any such term, requirement or condition. In order for a waiver to be valid as to said party said waiver must be in writing and signed by said party and specifically delineating the matter to be waived.

(N) Accord and Satisfaction. No payment by COUNTY, or receipt by SPC, of a lesser amount than the full amount due on any payments or obligations provided for herein shall be deemed to be other than on account of such payment(s) or obligation(s), nor shall any endorsement or statement on any check or any letter accompanying any check or payment as rent be deemed an accord and satisfaction, and said party being paid may accept such check or payment without prejudice, to its right to recover the

balance of any such payment or pursue any other remedy provided for in this Sublease or at law.

(O) Binding on Heirs. The terms and provisions of this Sublease shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors, and assigns of the parties hereto, except as otherwise provided herein.

(P) Choice of Law. This Sublease shall be governed by the laws of the State of California.

(Q) Venue. Any actions or proceedings with respect to any matters arising under or growing out of this Sublease shall be instituted and prosecuted only in courts located in the County of San Bernardino, State of California, and each party hereto expressly waives its right under Part II, Title IV of the California Code of Civil Procedures, or any similar law, to cause any such actions or proceedings to be instituted or prosecuted elsewhere.

(R) Attorney's Fees/Collection Charges. In the event of any action or proceeding brought by either party against the other which is in any way connected with this Sublease, the prevailing party shall be entitled to recover for all the fees of its attorneys in such action or proceedings including costs of appeal, if any, and such costs and fees shall be deemed to have accrued on the commencement of such action and shall be paid whether or not such action is prosecuted to judgment. In addition, should it be necessary or beneficial for said party to employ legal counsel to enforce or facilitate any of the provisions or obligations related to or connected with this Sublease, the other party agrees to pay all attorney's fees, court costs and collection costs incurred.

(S) Indemnify for Lawsuit. To the extent that either party is contractually obligated to indemnify, should that party be named as a defendant in any suit brought in connection with or arising out of this Sublease or arising out of the relationship of the parties to the Sublease, the other party shall pay to said party(s) all of its costs and expenses incurred in such suit including without limitation all attorney's fees and costs incurred.

(T) Authority of Corporation. If any party hereto is a corporation, each individual executing this Sublease on behalf of said corporation represents and warrants that he is duly authorized to execute and deliver this Sublease on behalf of said corporation; in accordance with the bylaws of said corporation and that this Sublease is binding upon said corporation. If any party hereto is a partnership, each individual executing this Sublease on behalf of said partnership represents and warrants that he is fully authorized to execute and deliver this Sublease on behalf of said partnership and other partners in accordance with all the Leases of said partners and partnership and that the Sublease is binding upon said partnership and all of the partners of said partnership.

(U) Interpretation. Any rights, options, privileges or other benefits given to SPC in this Sublease shall not be construed or interpreted to give the other party any of the

same or similar rights, options, privileges or benefits. The other party shall have only such rights, options, privileges or other benefits as are (a) clearly delineated herein; and (b) are specifically granted to them hereunder.

(V) Place of Payment. All monies required to be paid by the parties hereunder shall be paid in full to SPC in lawful money of the United States of America at such place as said party may designate without deduction, offset, claim, prior notice, or demand.

(W) Binding. This Sublease shall not be effective or binding on SPC until fully executed and accepted by said party.

(X) Counterparts. This Sublease may be executed in counterparts, any of which shall be fully enforceable but all of which construed and taken together shall constitute one (1) original Sublease.

(Y) Notices. Unless otherwise provided herein, all notices, statements, demands, requests, consents, approvals, authorizations, offers, Leases, appointments, designations, or communication under this Sublease by either party to the other shall be in writing and shall be sufficiently given and served upon the other party, if sent by certified mail, return receipt requested, postage prepaid, or by a nationally recognized overnight express courier and addressed as follows:

To Sublessee:
County of Riverside
EDA/Real Estate Division
3403 10th Street, Suite 500
Riverside, CA 92501

To Sublessor at:
Snow Peak Communications
38295 Chuperosa Lane
Cathedral City CA 92234-2055
Attn: Wayne Goff

Notices shall be deemed given, on the fifth day following the date of mailing, if served by mail. Either party may change such address where notice is to be given by sending the other party notice of such change in accordance with this notice provision.

(1) Multiple Parties Notice. If more than one person or entity is named for each side in this Sublease, service of any notice on any of the persons or entities for that side shall be deemed service of all of the persons or entities to that side of the Sublease.

(2) Exhibits and Leases. The following amendments, exhibits and special provisions are made a part of this Sublease (in addition to any others specified herein):

CAUTION: READ ENTIRE CONTENTS AND ANY AMENDMENTS, EXHIBITS, ADDITIONS AND ATTACHMENTS BEFORE SIGNING.

This Sublease has been filled in for submission to your attorney for his approval. No representation or recommendation is made by SPC or any of its agents or employees or any other person as to the legal sufficiency, legal effect, or tax consequences of this Sublease or the transaction relating thereto.

IN WITNESS WHEREOF, the parties have entered into this Sublease effective as of the date first above written.

Date: _____

SUBLESSOR:

Snow Peak Communications, LLC

By: Wayne C. Goff
Name: Wayne C. Goff
Title: General Partner

SUBLESSEE:

COUNTY OF RIVERSIDE, a political subdivision of the State of California

APPROVED AS TO FORM:

Pamela J. Walls, County Counsel

By: Synthia M. Gunzel
Name: Cynthia M. Gunzel
Title: Deputy County Counsel

By: _____
Name: John Tavaglione
Title: Chairman of the Board

ATTEST:

Kecia Harper-Ihem
Clerk to the Board

By: _____
Deputy

Tax ID#: 95-6000930

EXHIBIT "A"

LEGAL DESCRIPTION OF PROPERTY

PARENT SITE LEGAL DESCRIPTION:

THE LAND REFERRED TO HEREIN IS SITUATED IN THE STATE OF CALIFORNIA, COUNTY OF SAN BERNARDINO, AND DESCRIBED AS FOLLOWS:
SECTION 31, TOWNSHIP 1 SOUTH, RANGE 2 EAST, SAN BERNARDINO BASE AND MERIDIAN, IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, ACCORDING TO OFFICIAL UNITED STATES GOVERNMENTAL TOWNSHIP PLAT THEREOF,

EXCEPT THAT PORTION CONVEYED TO SAN GORGONIO ELECTRIC CORPORATION BY GRANT DEED RECORDED DECEMBER 15, 1936, IN BOOK 1177, PAGE 266, OFFICIAL RECORDS, DESCRIBED THEREIN AS FOLLOWS:

BEGINNING AT A POINT WHICH BEARS SOUTH 30° 07' 30" EAST, A DISTANCE OF 983.64 FEET FROM THE NORTHWEST CORNER OF SAID SECTION 31; THENCE NORTH 87° 55' 30" WEST, A DISTANCE OF 14.23 FEET; THENCE SOUTH 51° 15' 30" WEST, A DISTANCE OF 90.55 FEET; THENCE SOUTH 00° 55' WEST, A DISTANCE OF 44.41 FEET; THENCE SOUTH 71° 02' EAST, A DISTANCE OF 182.00 FEET; THENCE NORTH 86° 07' EAST, A DISTANCE OF 138.00 FEET; THENCE NORTH 1° 13' EAST, A DISTANCE OF 173.76 FEET; THENCE SOUTH 78° 55' WEST, A DISTANCE OF 139.09 FEET; THENCE NORTH 87° 56' 30" WEST, A DISTANCE OF 93.37 FEET TO THE POINT OF BEGINNING.

EXHIBIT "B"

DESCRIPTION OF MASTER LEASE AREA

PARENT LEASE AREA:

THE LAND REFERRED TO HEREIN IS SITUATED IN THE STATE OF CALIFORNIA, COUNTY OF SAN BERNARDINO, AND DESCRIBED AS FOLLOWS:

THAT PORTION, EXCEEDING 7850 FEET IN ELEVATION, OF SECTION 31, TOWNSHIP 1 SOUTH, RANGE 2 EAST, SAN BERNARDINO BASE AND MERIDIAN, IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, ACCORDING TO OFFICIAL UNITED STATES GOVERNMENTAL TOWNSHIP PLAT THEREOF, TOGETHER WITH ALL IMPROVEMENTS AND FIXTURES THEREON.

Exhibit "C"

LEGAL DESCRIPTION OF COUNTY SUBLEASE AREA

COUNTY LEASE AREA LEGAL DESCRIPTION:

THE LAND REFERRED TO HEREIN IS SITUATED IN THE STATE OF CALIFORNIA, COUNTY OF SAN BERNARDINO, AND DESCRIBED AS FOLLOWS:

THAT PORTION OF SECTION 31, TOWNSHIP 1 SOUTH, RANGE 2 EAST, SAN BERNARDINO BASE AND MERIDIAN, IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, ACCORDING TO OFFICIAL UNITED STATES GOVERNMENTAL TOWNSHIP PLAT THEREOF, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 31;
THENCE S00°44'36"E A DISTANCE OF 2634.89 FEET ALONG THE WEST LINE OF SAID SECTION 31 TO THE WEST 1/4 CORNER OF SAID SECTION 31;

THENCE S68°58'25"E A DISTANCE OF 3440.85 FEET TO THE TRUE POINT OF BEGINNING;
THENCE N74°53'04"E A DISTANCE OF 40.00 FEET;
THENCE S15°06'56"E A DISTANCE OF 75.00 FEET;
THENCE S74°53'04"W A DISTANCE OF 40.00 FEET;
THENCE N15°06'56"W A DISTANCE OF 75.00 FEET TO THE TRUE POINT OF BEGINNING.

EXHIBIT "D"

DEPICTIONS OF SUBLEASE AREA

