



## **Sub - Ground Lease**

LOS GATOS - M.O. EMPLOYEE PARKING (054542-002)  
15 MONTEBELLO WAY, LOS GATOS, CA 95030-9998



# Ground Lease

Facility Name/Location

LOS GATOS - M.O. EMPLOYEE PARKING (054542-002)  
15 MONTEBELLO WAY, LOS GATOS, CA 95030-9998

County: Santa Clara

Lease: QU0000559704

This Lease made and entered into by and between TOWN OF LOS GATOS hereinafter called the Landlord, and the United States Postal Service, hereinafter called the Postal Service:

In consideration of the mutual promises set forth and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties covenant and agree as follows:

1. The Landlord hereby leases to the Postal Service and the Postal Service leases from the Landlord the following premises, hereinafter legally described in paragraph 7, in accordance with the terms and conditions described herein and contained in the 'General Conditions to USPS Ground Lease,' attached hereto and made a part hereof:  
Exclusive Use Parking Lot, approximately 35 parking spaces

**Total Site Area:** 10,800.00 Sq. Ft.

2. RENTAL: The Postal Service will pay the Landlord an annual rental of: \$46,332.00 (Forty Six Thousand Three Hundred Thirty Two and 00/100 Dollars) payable in equal installments at the end of each calendar month. Rent for a part of a month will be prorated.

Rent checks shall be payable to:

TOWN OF LOS GATOS  
FINANCE DEPARTMENT  
P O BOX 697  
LOS GATOS, CA 95031-0697

3. TO HAVE AND TO HOLD the said premises with their appurtenances for the following term:  
FIXED TERM: The term becomes effective May 01, 2024 with an expiration date of April 30, 2029, for a total of 5 Years.

4. RENEWAL OPTIONS: None

5. TERMINATION:

The Postal Service may terminate this Lease at any time after year 2 by giving 180 days written notice to the Landlord.

6. OTHER PROVISIONS: The following additional provisions, modifications, riders, layouts, and/or forms were agreed upon prior to execution and made a part hereof:

See Attached Addendum.

See Attached Exhibit A - Site Plan

See Attached Exhibit B - Master Lease Agreement

See Attached Exhibit C - LANDLORD CONSENT, RECOGNITION AND NON-DISTURBANCE AGREEMENT

7. LEGAL DESCRIPTION:

10,800 SQ FT identified on Exhibit A as United States Postal Service, 35 Parking Spaces (existing), a portion of the parking facility located at 15 Montebello Way, Los Gatos CA. See Attached Exhibit A.

## Facility Name/Location

LOS GATOS - M.O. EMPLOYEE PARKING (054542-002)  
15 MONTEBELLO WAY, LOS GATOS, CA 95030-9998

County: Santa Clara

8. Landlord leases the Premises and the Property from Verizon California, Inc., a California corporation, now known as Frontier California Inc., a California corporation ("Master Landlord") under the terms of that certain Master Lease dated 5/28/2002, as amended by that certain First Amendment to Master Lease dated 3/17/2003, and as further amended by that certain Second Amendment to Master Lease dated 10/10/2006, and as further amended by that certain Third Amendment to Master Lease dated 11/13/2009, and as further amended by that certain Fourth Amendment to Master Lease dated 7/19/2018, and as further amended by that certain Fifth Amendment to Master Lease dated 01/16/2024, by and between Landlord and Master Landlord. With respect to the Master Lease, Landlord represents, warrants, and agrees as follows:

- a. The Premises described in the Master Lease includes the entire Premises described in this Lease and Landlord has all of the rights to all appurtenances, easements and joint use or common areas shown on the Exhibits of this Lease.
- b. The current term of the Master Lease terminates on 04/30/2029.
- c. The Master Lease permits the Premises to be used for any lawful purpose.
- d. If required by the Master Lease, Landlord has obtained the prior written consent of Master Landlord to this Lease in accordance with the terms of the Master Lease.
- e. If required by the Master Lease, Landlord has obtained the prior written consent of Master Landlord in accordance with the terms of the Master Lease prior to completing any alterations to the Premises in connection with this Lease.
- f. If Landlord has the right to terminate the Master Lease without cause, Landlord agrees that it will not exercise this right during the term of this Lease.
- g. Landlord will promptly provide the Postal Service with copies of all notices it sends to or receives from the Master Landlord under or with respect to the Master Lease, but in no event less than 5 business days following the sending or receipt of any such notice.
- h. The Postal Service acknowledges receipt of a copy of the Master Lease; however, the Postal Service will only be responsible to carry out Landlord's obligations thereunder that are specifically transferred under this Lease to the Postal Service, but not for either (1) those obligations which must remain with Landlord, including but not limited to payment of rent to the Master Landlord, maintaining insurance, constructing the premises, etc., or (2) those obligations Landlord has agreed to keep under this Lease, including but not limited to its obligations under the Maintenance Rider of this Lease.

9. The Postal Service shall be responsible for maintenance of the parking lot. The Postal Service may perform such maintenance at such time and in such manner as it considers necessary. Landlord shall be responsible for all other maintenance not listed above that is necessary to keep the Premises in good and tenable condition.

10. The parties agree that if the signature(s) of either Landlord or the Postal Service on this Lease or any amendments, addendums, assignments, or other records associated with this Lease is not an original but is an electronic signature, scanned signature or a digitally encrypted signature, then such electronic signature, scanned signature or digitally encrypted signature shall be as enforceable, valid and binding as, and the legal equivalent to, an authentic original wet signature penned manually by its signatory. Signatures required under this Lease, or any amendments, addendums, assignments, or other records associated therewith, may be transmitted by email or by fax and, once received by the party to whom such signatures were transmitted, shall be binding on the party transmitting its signatures as though they were an original signature of such party.

EXECUTED BY LANDLORD this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

**GOVERNMENTAL ENTITY**

By executing this Lease, Landlord certifies that Landlord is not a USPS employee or contract employee (or an immediate family member of either), or a business organization substantially owned or controlled by a USPS employee or contract employee (or an immediate family member of either).

Name of Governmental Entity: Town of Los Gatos

Name + Title: \_\_\_\_\_

Name + Title: \_\_\_\_\_

Name + Title: \_\_\_\_\_

Name + Title: \_\_\_\_\_

Landlord's Address: FINANCE DEPARTMENT P O BOX 697  
LOS GATOS, CA 95031-0697

Landlord's Telephone Number(s): \_\_\_\_\_

Federal Tax Identification No.: XX-XXX1435

Witness \_\_\_\_\_

Witness \_\_\_\_\_

- a. Where the Landlord is a governmental entity or other municipal entity, the Lease must be accompanied by documentary evidence affirming the authority of the signatory(ies) to execute the Lease to bind the governmental entity or municipal entity for which he (or they) purports to act.
- b. Any notice to Landlord provided under this Lease or under any law or regulation must be in writing and submitted to Landlord at the address specified above, or at an address that Landlord has otherwise appropriately directed in writing. Any notice to the Postal Service provided under this Lease or under any law or regulation must be in writing and submitted to "Contracting Officer, U.S. Postal Service" at the address specified below, or at an address that the Postal Service has otherwise directed in writing.

**ACCEPTANCE BY THE POSTAL SERVICE**

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

Terrence P Brennan

Contracting Officer

\_\_\_\_\_  
Signature of Contracting Officer

Western FSO 7500 E 53RD PL RM 1108, DENVER, CO 80266-9918

Address of Contracting Officer



# General Conditions to USPS Ground Lease

## 1. CHOICE OF LAW

This Lease shall be governed by federal law.

## 2. RECORDING

Not Required

## 3. MORTGAGEE'S AGREEMENT

If there is now or will be a mortgage on the property which is or will be recorded prior to the recording of the Lease, the Landlord must notify the contracting officer of the facts concerning such mortgage and, unless in his sole discretion the contracting officer waives the requirement, the Landlord must furnish a Mortgagee's Agreement, which will consent to this Lease and shall provide that, in the event of foreclosure, mortgagee, successors, and assigns shall cause such foreclosures to be subject to the Lease.

## 4. ASSIGNMENTS

a. The terms and provisions of this Lease and the conditions herein are binding on the Landlord and the Postal Service, and all heirs, executors, administrators, successors, and assigns.

b. If this contract provides for payments aggregating \$10,000 or more, claims for monies due or to become due from the Postal Service under it may be assigned to a bank, trust company, or other financing institution, including any federal lending agency, and may thereafter be further assigned and reassigned to any such institution. Any assignment or reassignment must cover all amounts payable and must not be made to more than one party, except that assignment or reassignment may be made to one party as agent or trustee for two or more parties participating in financing this contract. No assignment or reassignment will be recognized as valid and binding upon the Postal Service unless a written notice of the assignment or reassignment, together with a true copy of the instrument of assignment, is filed with:

1. the contracting officer; and
2. the surety or sureties upon any bond.

c. Assignment of this contract or any interest in this contract other than in accordance with the provisions of this clause will be grounds for termination of the contract for default at the option of the Postal Service.

d. Nothing contained herein shall be construed so as to prohibit transfer of ownership of the demised premises, provided that:

1. such transfer is subject to this Lease agreement;
2. both the original Landlord and the successor Landlord execute the standard *Certificate of Transfer of Title to Leased Property and Lease Assignment and Assumption* form to be provided by the USPS Contracting Officer.

## 5. APPLICABLE CODES AND ORDINANCES

The Landlord, as part of the rental consideration, agrees to comply with all codes and ordinances applicable to the ownership and operation of the parcel on which the premises are situated and to obtain all necessary permits and related items at no cost to the Postal Service. When the Postal Service or one of its contractors (other than the Landlord) is performing work at the premises, the Postal Service will be responsible for obtaining all necessary and applicable permits, related items, and associated costs.

## 6. SUBLEASE

The Postal Service may sublet all or any part of the premises or assign this lease but shall not be relieved from any obligation under this lease by reason of any subletting or assignment.

## 7. ALTERATIONS

The Postal Service shall have the right to make alterations, attach fixtures and erect additions, structures or signs in or upon the premises hereby leased (provided such alterations, additions, structures, or signs shall not be detrimental to or inconsistent with the rights granted to other tenants on the property on which said premises are located); which fixtures, additions or structures so placed in, upon or attached to the said premises shall be and remain the property of the Postal Service and may be removed or otherwise disposed of by the Postal Service.

## 8. CLAIMS AND DISPUTES

a. This contract is subject to the Contract Disputes Act of 1978 (41 U.S.C. 601-613) ("the Act").

b. Except as provided in the Act, all disputes arising under or relating to this contract must be resolved under this clause.

c. "Claim," as used in this clause, means a written demand or written assertion by one of the contracting parties seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to this contract. However, a written demand or written assertion by the Landlord seeking the payment of money exceeding \$100,000 is not a claim under the Act until certified as required by subparagraph d below. A voucher, invoice, or other routine request for payment that is not in dispute when submitted is not a



## General Conditions to USPS Ground Lease

claim under the Act. The submission may be converted to a claim under the Act by complying with the submission and certification requirements of this clause, if it is disputed either as to liability or amount or is not acted upon in a reasonable time.

d. A claim by the Landlord must be made in writing and submitted to the contracting officer for a written decision. A claim by the Postal Service against the Landlord is subject to a written decision by the contracting officer. For Landlord claims exceeding \$100,000, the Landlord must submit with the claim the following certification:

"I certify that the claim is made in good faith, that the supporting data are accurate and complete to the best of my knowledge and belief, that the amount requested accurately reflects the contract adjustment for which the Landlord believes the Postal Service is liable, and that I am duly authorized to certify the claim on behalf of the Landlord."

The certification may be executed by any person duly authorized to bind the Landlord with respect to the claim.

e. For Landlord claims of \$100,000 or less, the contracting officer must, if requested in writing by the Landlord, render a decision within 60 days of the request. For Landlord-certified claims over \$100,000, the contracting officer must, within 60 days, decide the claim or notify the Landlord of the date by which the decision will be made.

f. The contracting officer's decision is final unless the Landlord appeals or files a suit as provided in the Act.

g. When a claim is submitted by or against a Landlord, the parties by mutual consent may agree to use an alternative dispute resolution (ADR) process to assist in resolving the claim. A certification as described in subparagraph d of this clause must be provided for any claim, regardless of dollar amount, before ADR is used.

h. The Postal Service will pay interest on the amount found due and unpaid from:

1. the date the contracting officer receives the claim (properly certified if required); or
2. the date payment otherwise would be due, if that date is later, until the date of payment.

i. Simple interest on claims will be paid at a rate determined in accordance with the Act.

j. The Landlord must proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under the contract, and comply with any decision of the contracting officer.

### 9. HAZARDOUS/TOXIC CONDITIONS CLAUSE

"Asbestos containing building material" (ACBM) means any material containing more than 1% asbestos as determined by using the method specified in 40 CFR Part 763, Subpart E, Appendix E. "Friable asbestos material" means any ACBM that when dry, can be crumbled, pulverized, or reduced to powder by hand pressure.

The Landlord must identify and disclose the presence, location and quantity of all ACBM or presumed asbestos containing material (PACM) which includes all thermal system insulation, sprayed on and troweled on surfacing materials, and asphalt and vinyl flooring material unless such material has been tested and identified as non-ACBM. The Landlord agrees to disclose any information concerning the presence of lead-based paint, radon above 4 pCi/L, and lead piping or solder in drinking water systems in the building, to the Postal Service.

Sites cannot have any contaminated soil or water above applicable federal, state or local action levels or undisclosed underground storage tanks. Unless due to the act or negligence of the Postal Service, if contaminated soil, water, underground storage tanks or piping or friable asbestos material or any other hazardous/toxic materials or substances as defined by applicable Local, State or Federal law are subsequently identified on the premises, the Landlord agrees to remove such materials or substances upon notification by the U. S. Postal Service at Landlord's sole cost and expense in accordance with EPA and/or State guidelines. If ACBM is subsequently found which reasonably should have been determined, identified, or known to the Landlord, the Landlord agrees to conduct, at Landlord's sole expense, an asbestos survey pursuant to the standards of the Asbestos Hazard Emergency Response Act (AHERA), establish an Operations and Maintenance (O&M) plan for asbestos management, and provide the survey report and plan to the Postal Service. If the Landlord fails to remove any friable asbestos or hazardous/toxic materials or substances, or fails to complete an AHERA asbestos survey and O&M plan, the Postal Service has the right to accomplish the work and deduct the cost plus administrative costs, from future rent payments or recover these costs from Landlord by other means, or may, at its sole option, cancel this Lease. In addition, the Postal Service may proportionally abate the rent for any period the premises, or any part thereof, are determined by the Postal Service to have been rendered unavailable to it by reason of such condition.

The Landlord hereby indemnifies and holds harmless the Postal Service and its officers, agents, representatives, and employees from all claims, loss, damage, actions, causes of action, expense, fees and/or liability resulting from, brought for, or on account of any violation of this clause.

The remainder of this clause applies if this Lease is for premises not previously occupied by the Postal Service.

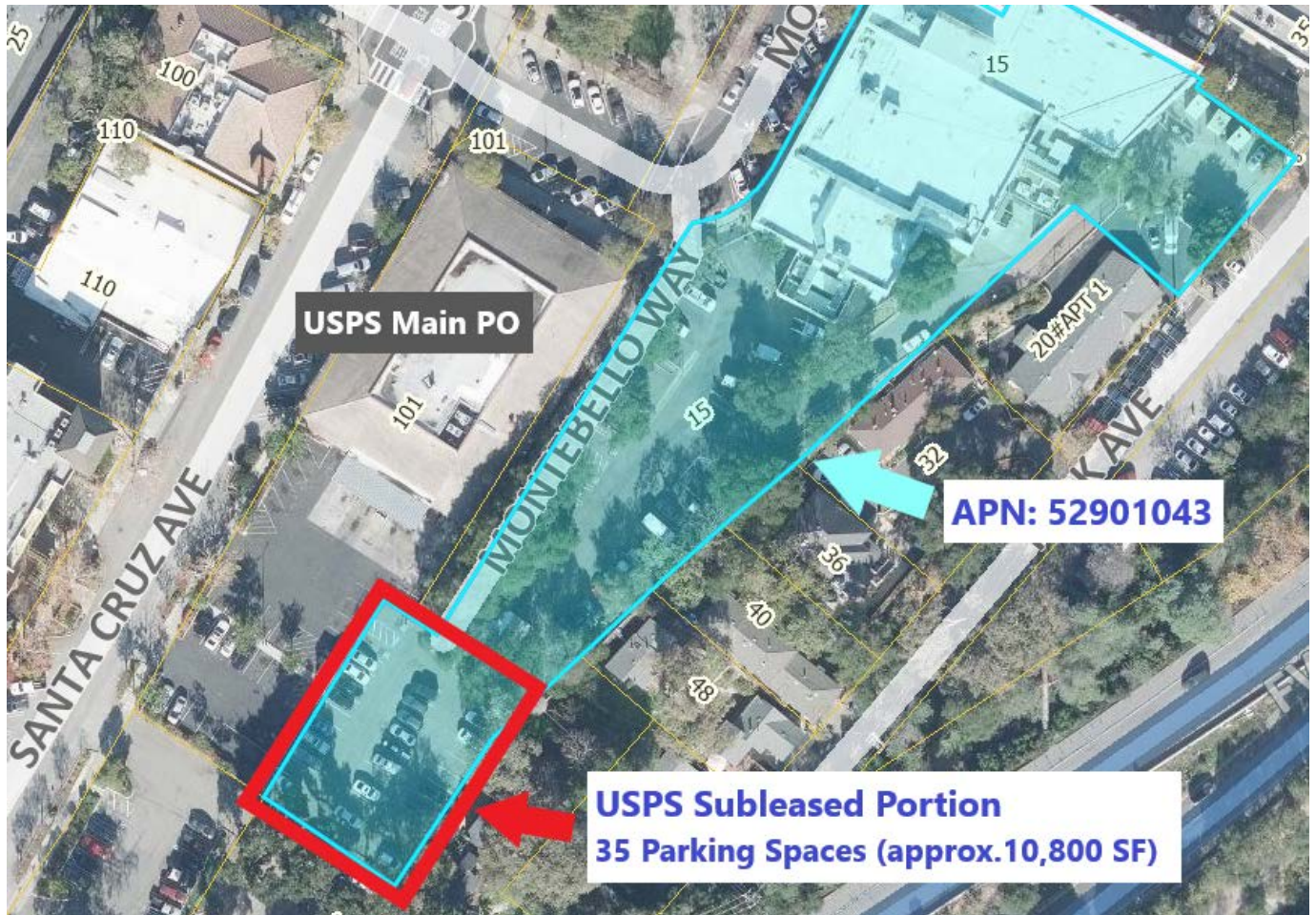
By execution of this Lease the Landlord certifies:

a. the property and improvements are free of all contamination from petroleum products or any hazardous/toxic or unhealthy materials or substances, including friable asbestos materials, as defined by applicable State or Federal law;

Facility Name/Location  
LOS GATOS - M.O. EMPLOYEE PARKING (054542-002)  
15 MONTEBELLO WAY, LOS GATOS, CA 95030-9998

County: Santa Clara  
Lease: QU0000559704

**Exhibit A  
Site Plan**





### Exhibit B: Master Lease

#### FIFTH AMENDMENT TO PARKING LOT LEASE

THIS FIFTH AMENDMENT TO PARKING LOT LEASE is dated for identification this 16<sup>th</sup> day of January, 2024 and amends that certain lease dated November 13, 2009, made by and between the Town of Los Gatos ("Tenant") and Frontier California Inc. (formerly Verizon) ("Landlord").

#### RECITALS

- A. Landlord and Tenant entered into a Parking Lot Lease dated May 28, 2002, as amended by that certain First Amendment to Parking Lot Lease dated March 17, 2003, that certain Second Amendment to Parking Lot Lease dated October 10, 2006, that certain Third Amendment dated November 13, 2009, and that certain Fourth Amendment dated November 13, 2009 (as amended, the "Lease") for a portion of the property located at 15 Montebello Way, Los Gatos, California.

#### AMENDMENT

- 1. This amendment to the agreement shall extend the term of the Lease for five (5) years. The term of the Lease extension shall be May 1, 2024 to April 30, 2029. The annual rental amount shall be \$68,400.00 per year, to be paid in equal monthly installments for the term of the Lease. The rental rate shall be subject to a three percent (3%) annual increase over the term.
- 2. All other terms and conditions of the Lease remain in full force and effect.

IN WITNESS WHEREOF, the Landlord and Tenant have executed this Fifth Amendment as of the date indicated above.

Town of Los Gatos

Frontier California Inc.

DocuSigned by:  
 By: Laurel Prevetti 2/5/2024  
833FEEAZEB39470...  
 Laurel Prevetti, Town Manager

By: Kelley Stewart 2/8/2024  
 Kelley Stewart, DIR-Real Estate and Facilities

Approved as to Form:

Attest:

DocuSigned by:  
Gabrielle Whelan 2/5/2024  
EF08738A5534428...  
 Gabrielle Whelan, Town Attorney

DocuSigned by:  
Wendy Wood 2/6/2024  
BF6EBCBEZC214F8...  
 Wendy Wood, CMC, Town Clerk

AGR 18.155  
11/11

**FOURTH AMENDMENT TO PARKING LOT LEASE**

This Fourth Amendment to Parking Lot Lease ("Amendment") dated for reference purposes only, November 13, 2009, is made by and between by Verizon California Inc., a California corporation, now known as Frontier California Inc., a California corporation ("Landlord") and Town of Los Gatos, a municipal corporation ("Tenant").

**RECITALS**

- A. Landlord and Tenant entered into a Parking Lot Lease dated May 28, 2002, as amended by that certain First Amendment to Parking Lot Lease dated March 17, 2003, and as further amended by that certain Second Amendment to Parking Lot Lease dated October 10, 2006, and Third Amendment dated November 13, 2009 (as amended, the "Lease") for a portion of the property located at 15 Montebello Way, Los Gatos, California.

NOW THEREFORE, in consideration of the mutual covenants herein expressed and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Tenant and Landlord agree as follows:

- 1. Rent. Commencing upon May 1, 2019, the Base Rent set forth in Paragraph 2(a) of the Lease (as modified by Paragraph 2 of the 3<sup>rd</sup> Amendment) shall be amended to read as follows:

<u>Period</u>	<u>Monthly Base Rent</u>
05/01/2019-04/30/2024	\$5,700

- 2. Notices. Landlord's notice address contained in Paragraph 15 of the Lease (as modified by Paragraph 3 of the 3<sup>rd</sup> Amendment) is hereby deleted in its entirety and replaced with the following:

Notice to Landlord:

Frontier California Inc.  
21 West Avenue  
Spencerport, NY 14559

Copies to:

Jones Lang LaSalle Americas, Inc.  
c/o Frontier California Inc.  
260 Forbes Ave., Suite 1300  
Pittsburgh, PA 15222

And:

Frontier Communications Corporation  
805 Central Expressway South  
Allen, TX 75013  
Attn: Director Real Estate Services

3. Patriot Act Compliance. Each party shall take any actions that may be required to comply with the terms of the USA Patriot Act of 2001, as amended, any regulations promulgated under the foregoing law, Executive Order No. 13224 on Terrorist Financing, any sanctions program administered by the U.S. Department of Treasury's Office of Foreign Asset Control or Financial Crimes Enforcement Network, or any other laws, regulations, executive orders or government programs designed to combat terrorism or money laundering, or the effect of any of the foregoing laws, regulations, order of programs, if applicable, on this Lease. Each party represents and warrants to the other party that it is not an entity named on the List of Specially Designated Nationals and Blocked Persons maintained by the U.S. Department of Treasury, as last updated prior to the date of this Lease.
4. Effectiveness of Lease. All terms and provisions of the Lease shall remain in full force and effect, except as expressly amended or modified hereby, and are hereby ratified and reaffirmed. In the event of any inconsistency between the provisions of this Amendment and the provisions of the Lease, the provisions of this Amendment shall control.
5. Counterparts and Facsimile. This Amendment may be executed in one or more counterparts, each of which shall be deemed an original but all of which taken together shall constitute one and the same instrument. The parties acknowledge the validity of signatures by facsimile.

IN WITNESS WHEREOF, Landlord and Tenant have duly executed this Amendment as of the day and year first above written.

**LANDLORD:**

FRONTIER CALIFORNIA INC.,  
a California corporation

By: Mark Nielsen  
MARK NIELSEN  
Title: EVP., CHIEF LEGAL OFFICER

**TENANT:**

TOWN OF LOS GATOS,  
a municipal corporation

By: J. Prewett  
Title: Town Manager  
~~By: \_\_\_\_\_~~  
~~Title: \_\_\_\_\_~~

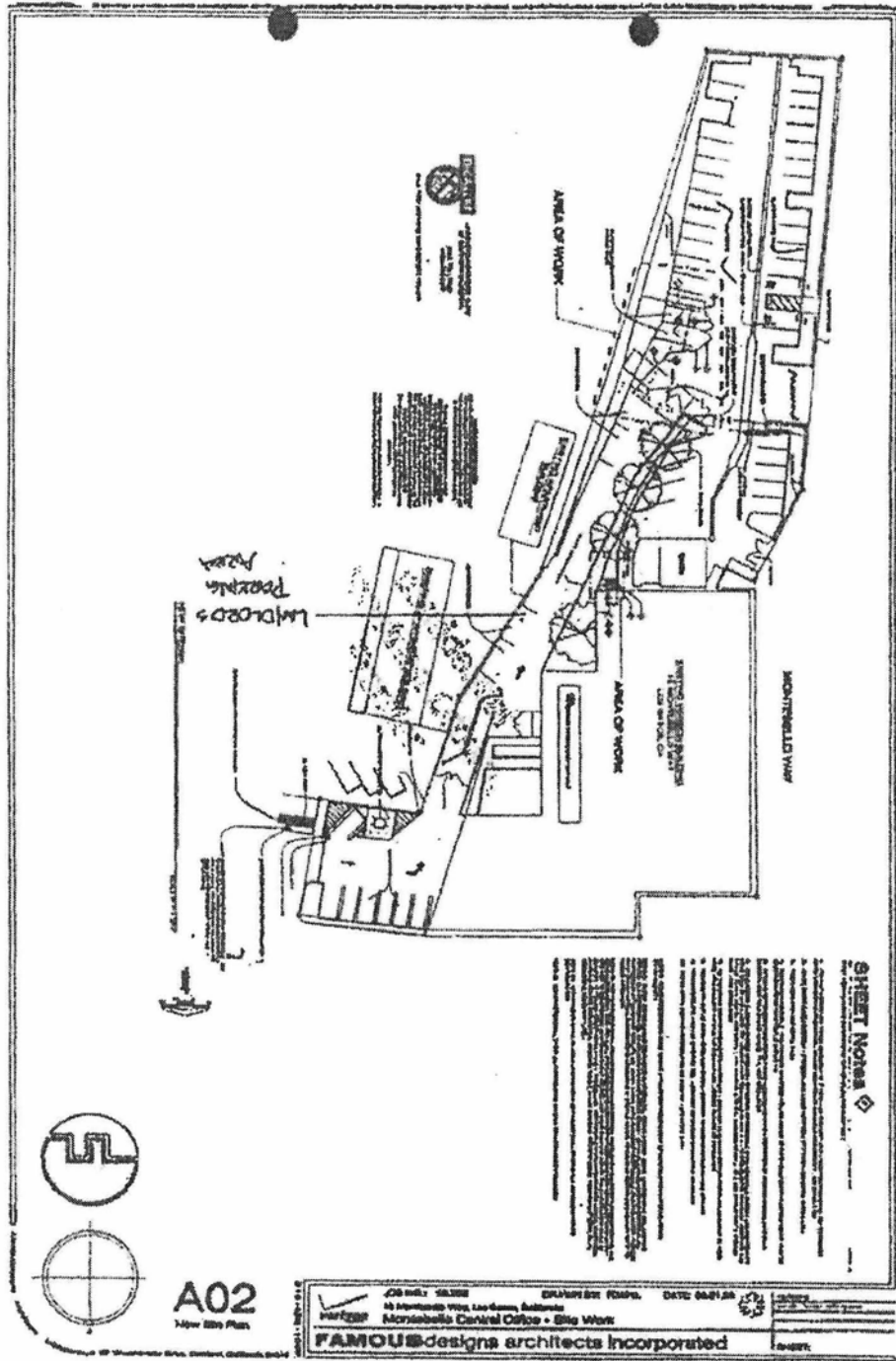
**ATTEST:**

Shirley Davis  
7/19/18, Clerk Administrator

**APPROVED AS TO FORM:**

By: Robert Schultz  
Robert Schultz, Town Attorney





**A02**  
New Site Plan

	420 WEST 42ND STREET MONTBELLO WAY, LOS ANGELES, CALIFORNIA MONTBELLO CENTRAL OFFICE - SITE WORK	DRAWN BY: FDM/MS DATE: 06/12/18	SHEET NO. 02 OF 02
<b>FAMOUSdesigns architects incorporated</b>			1/8" = 1'-0"

CLERK DEPARTMENT  
 AGR 09.267  
 IHH 09.14 x 6/10  
 ORD \_\_\_\_\_  
 REC \_\_\_\_\_  
 RESO \_\_\_\_\_

**THIRD AMENDMENT TO PARKING LOT LEASE**

This Third Amendment to Parking Lot Lease ("Amendment") dated for reference purposes only, November 13, 2009, is made by and between by and between Verizon California Inc., a California corporation ("Landlord") and Town of Los Gatos, a municipal corporation ("Tenant").

**RECITALS**

A. Landlord and Tenant entered into a Parking Lot Lease dated May 28, 2002, as amended by that certain First Amendment to Parking Lot Lease dated March 17, 2003, and as further amended by that certain Second Amendment to Parking Lot Lease dated October 10, 2006 (as amended, the "Lease") for a portion of the property located at 15 Montebello Way, Los Gatos, California.

B. The parties are now entering into this Amendment to reduce the number of parking spaces leased by Tenant from sixty-four (64) parking spaces to sixty-one (61) parking spaces and to make certain additional modifications to the Lease as set forth herein. All capitalized terms not defined herein shall have the same meaning they are given in the Lease.

NOW, THEREFORE, in consideration of the mutual covenants herein expressed and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Tenant and Landlord agree as follows:

1. Landlord's Parking Area: Premises. The parties acknowledge and agree that effective as of December 1, 2009, Landlord's Parking Area shall be modified to include three (3) additional parking spaces and the number of Tenant's parking spaces contained in the Premises shall be reduced by three (3) parking spaces, which parking spaces shall be reserved for Landlord's exclusive use. Accordingly, as of December 1, 2009, (i) the number of Tenant's parking spaces within the Premises shall be reduced from sixty-four (64) parking spaces to sixty-one (61) parking spaces, (ii) Exhibit "A" (Depiction of Premises) attached to the Lease shall be replaced and superseded with Exhibit "A" attached to this Amendment, and (iii) Exhibit "B" (Depiction of Landlord's Parking Area) attached to the Lease (as modified by Exhibit "B" attached to the Second Amendment to Parking Lot Lease (the "2<sup>nd</sup> Amendment")) shall be replaced and superseded with Exhibit "B" attached to this Amendment. Tenant shall not make any modifications to the Premises, including, without limitation, striping of parking spaces, without Landlord's prior written consent.

2. Rent. Commencing upon December 1, 2009, the Base Rent set forth in Paragraph 2(a) of the Lease (as modified by Paragraph 3 of the 2<sup>nd</sup> Amendment) shall be amended to read as follows:

<u>Period</u>	<u>Monthly Base Rent</u>
12/01/2009 – 04/30/2014	\$4,293.81
05/01/2014 – 04/30/2019	\$4,937.87

110140643.2

EXHIBIT E  
 TO 4TH AMENDMENT

3. Notices. Landlord's notice address contained in Paragraph 15 of the Lease (as modified by Paragraph 4 of the 2<sup>nd</sup> Amendment) is hereby deleted in its entirety and replaced with the following:

Jones Lang LaSalle Americas, Inc.  
c/o Verizon California Inc.  
2200 West Airfield Drive, Dock E  
Dallas/Fort Worth Airport, TX 75261

4. Patriot Act Compliance. Each party shall take any actions that may be required to comply with the terms of the USA Patriot Act of 2001, as amended, any regulations promulgated under the foregoing law, Executive Order No. 13224 on Terrorist Financing, any sanctions program administered by the U.S. Department of Treasury's Office of Foreign Asset Control or Financial Crimes Enforcement Network, or any other laws, regulations, executive orders or government programs designed to combat terrorism or money laundering, or the effect of any of the foregoing laws, regulations, orders or programs, if applicable, on this Lease. Each party represents and warrants to the other party that it is not an entity named on the List of Specially Designated Nationals and Blocked Persons maintained by the U.S. Department of Treasury, as last updated prior to the date of this Lease.

5. Effectiveness of Lease. All terms and provisions of the Lease shall remain in full force and effect, except as expressly amended or modified hereby, and are hereby ratified and reaffirmed. In the event of any inconsistency between the provisions of this Amendment and the provisions of the Lease, the provisions of this Amendment shall control.

6. Counterparts and Facsimile. This Amendment may be executed in one or more counterparts, each of which shall be deemed an original but all of which taken together shall constitute one and the same instrument. The parties acknowledge the validity of signatures by facsimile.

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IN WITNESS WHEREOF, Landlord and Tenant have duly executed this Amendment as of the day and year first above written.

**LANDLORD:**

VERIZON CALIFORNIA INC.,  
a California corporation

By: [Signature]  
Title: Director, VSO Real Estate

**TENANT:**

TOWN OF LOS GATOS,  
a municipal corporation

By: [Signature] (PS)  
Title: Greg Larson, Town Manager

By: \_\_\_\_\_

Title: \_\_\_\_\_

**APPROVED AS TO FORM  
McGUIREWOODS LLP**

By: [Signature]  
Date: 11/12/2009

**ATTEST:**

[Signature]  
Jackie Rose, Clerk Administrator

**APPROVED AS TO FORM:**

By: [Signature]  
Orry P. Korb, Town Attorney

CLERK DEPARTMENT  
 AGR 000-134  
 IHH \_\_\_\_\_  
 ORD \_\_\_\_\_  
 REC \_\_\_\_\_  
 RESO \_\_\_\_\_

**SECOND AMENDMENT TO PARKING LOT LEASE**

THIS SECOND AMENDMENT TO PARKING LOT LEASE ("this Amendment"), made as of the 10th day of October, 2006, between Verizon California Inc. ("Landlord") and Town of Los Gatos ("Tenant").

**RECITALS:**

A. Landlord and Tenant are parties to a Parking Lot Lease (the "Original Lease") dated May 28, 2002, as amended by that certain First Amendment to Parking Lot Lease (the "First Amendment") dated March 17, 2003 (the Original Lease and the First Amendment are hereinafter referred to as the "Lease"), pursuant to which Landlord leases to Tenant and Tenant hires from Landlord certain property located at 15 Montebello Way, Los Gatos, California (the "Premises"), containing a total of seventy-one (71) parking spaces, thirty-seven (37) of which have been subleased by Tenant to the U.S. Postal Service.

B. The parties desire to amend the Lease in the manner hereinafter set forth.

NOW; THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. All terms used herein, but not defined herein, shall have the meanings ascribed to such terms in the Lease.

2. Paragraph 3(a) of the Original Lease and Paragraph 1 of the First Amendment are hereby deleted in their entirety and replaced with the following: "Initial Term. The term of this Lease (the "Term") shall commence on May 1, 2004 (the "Commencement Date"), and shall end on April 30, 2019 (the "Termination Date"), unless sooner terminated pursuant to any provision hereof, subject to the terms of Paragraph 3(b) below."

3. The Base Rent set forth in Paragraph 2(a) of the Original Lease shall be amended to read as follows:

<u>Period</u>	<u>Monthly Base Rent</u>
5/1/04 - 10/31/06	\$4,345.84
11/1/06 - 4/30/09	\$3,917.38
5/1/09 - 4/30/14	\$4,504.98
5/1/14 - 4/30/19	\$5,180.72

4. The address for notices from Tenant to Landlord contained in Paragraph 15 of the Original Lease is hereby changed is hereby changed to: Verizon Corporate Real Estate, 750 Canyon Drive, Mail Code: SV1E5143, Coppell, TX 75019, Attn: Lease Administration.

EXHIBIT D  
 to 4th AMENDMENT

5. Landlord's Parking Area (as defined in the Original Lease and depicted on Exhibits A and B attached to the Original Lease) shall be modified to include seven (7) additional parking spaces, as well as the driveway connecting the lower and upper parking lots. Exhibit B attached to the Original Lease is hereby deleted and replaced with Exhibit B attached to this Amendment, and the first sentence inside of the quotation marks in Paragraph 6 of the First Amendment is hereby deleted and replaced with the following: "Landlord's Parking Area shall consist of the shaded area depicted on Exhibit B."

6. Subject to the provisions contained in Paragraph 3 of the First Amendment, Landlord shall, at its sole cost and expense, install and maintain additional gates on the Premises, as shown on Exhibit B.

7. Landlord and Tenant represent and warrant to each other that they have not negotiated with any broker in connection with this Agreement. Landlord and Tenant agree that should any claim be made against the other for a broker's commission, finder's fee or similar compensation by reason of the acts of such party, the party upon whose acts such claim is predicated shall indemnify and hold the other party harmless from all losses, costs, damages, claims, liabilities and expenses in connection therewith (including, but not limited to, reasonable legal fees and the cost of enforcing this indemnity).

8. Each of the parties hereto represents and warrants to the other that the person executing this Agreement on behalf of such party has the full right, power and authority to enter into and execute this Agreement on such party's behalf and that no consent from any other person or entity is necessary as a condition precedent to the legal effect of this Agreement.

9. All prior understandings and agreements between the parties with respect to the subject matter of this Agreement are merged within this Agreement, which alone fully and completely sets forth the understanding of the parties with respect thereto. This Agreement may not be changed or modified nor may any of its provisions be waived orally or in any manner other than by a writing signed by the party against whom enforcement of the change, modification or waiver is sought.

10. Except as herein provided, the Lease and all of its terms, covenants and conditions remain in full force and effect.

11. The terms, covenants and conditions contained herein are binding upon and inure to the benefit of the parties hereto and their heirs, executors, administrators, successors and assigns.

[SIGNATURES APPEAR BELOW]

IN WITNESS WHEREOF, the parties have duly executed this Amendment as of the date first above written.

LANDLORD:

VERIZON CALIFORNIA INC.

By: [Signature]  
Name: Jim Lavigne  
Title: Manager Transactions

TENANT:

TOWN OF LOS GATOS

By: [Signature]  
Name: SCOTT R. SEAMAN  
Title: CHIEF OF POLICE

RECOMMENDED:

By: [Signature]  
Name: Debra J. Payne  
Title: Town Manager

APPROVED AS TO FORM:

By: [Signature]  
Name: Scott R. Kold  
Title: Town Attorney

ATTEST:

By: [Signature]  
Name: JACKIE ROSE  
Title: clerk administrator

OFFICE OF THE TOWN CLERK

AGR 03.032

IHH \_\_\_\_\_

ORD \_\_\_\_\_

FIRST AMENDMENT TO PARKING LOT LEASE

REC X REF: 02.113

This First Amendment to Parking Lot Lease ("First Amendment") is entered into this 17th day of March, 2003 (the "Effective Date") by and between Verizon California Inc. ("Landlord") and Town of Los Gatos ("Tenant").

RECITALS

A. Landlord and Tenant entered into a Parking Lot Lease (the "Lease") dated May 28, 2002 for the property located at 15 Montebello Way, Los Gatos, California (the "Premises"), as more specifically shown on Exhibit "A" attached to the Lease.

B. The parties are now entering into this First Amendment ("First Amendment") to Lease to modify the Lease as set forth herein. All capitalized terms not defined herein shall have the same meaning they are given in the Lease.

NOW, THEREFORE, in consideration of the mutual covenants herein expressed and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Tenant and Landlord agree as follows:

1. **Term.** The first sentence of Section 3(a) of the Lease is hereby deleted and replaced with the following: "The term of this Lease (the "Term") shall commence on the date that occurs sixty (60) days after notice from Tenant to Landlord that Tenant is prepared to commence construction of the Tenant Improvements (as defined in Paragraph 4 below), but in no event shall the Lease Term commence on a date later than December 1, 2003 (the "Commencement Date")."

2. **Sublease.** Notwithstanding Section 7 of the Lease to the contrary, Tenant shall be permitted to sublease the Premises with Landlord's prior written consent, which shall not be unreasonably withheld, conditioned or delayed. In the event of any sublease, whether or not with Landlord's consent, Tenant shall not be released or discharged from any liability, whether past, present or future. Tenant's liability shall remain primary, and in the event of default by any subtenant of Tenant in performance or observance of any of the covenants or conditions of the Lease, Landlord may proceed directly against Tenant without the necessity of exhausting remedies against said subtenant.

3. **Landlord's Parking Area.** Tenant is permitted to open the gate to and make use of Landlord's Parking Area for special events, including the Sunday Farmer's Market and Montebello Way road closures, without Landlord's consent; however, upon notice from Landlord to Tenant to cease and desist use of Landlord's Parking Area, Tenant shall immediately cease and desist from using Landlord's Parking Area. Landlord may give Tenant notice to cease and desist utilizing Landlord's Parking Area in Landlord's sole discretion. When Tenant is utilizing Landlord's Parking Area, Tenant shall be responsible for Landlord's Parking Area as if such area were part of the Premises.

4. **Effectiveness of Lease.** All terms and provisions of the Lease shall remain in full force and effect, except as expressly amended or modified hereby, and are hereby ratified and

reaffirmed. In the event of any inconsistency between the provisions of this Amendment and the provisions of the Lease, the provisions of this Amendment shall control.

5. **Counterparts and Facsimile.** This Amendment may be executed in one or more counterparts, each of which shall be deemed an original but all of which taken together shall constitute one and the same instrument. The parties acknowledge the validity of signatures by facsimile.

6. **Exhibit C.** Section 1 of the Lease entitled Minimum Criteria for New Parking Improvements is hereby deleted and replaced with the following: "As shown on Exhibit A and Exhibit B, the Landlord's Parking Area shall consist of the area located within the boundary of the Landlord's Parking Area as shown on said Exhibits. The number of conforming parking spaces will be adjusted and constructed within the boundary based on specifications and direction provided by the Landlord."

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the 17th day of March, 2003.

**LANDLORD:**  
VERIZON CALIFORNIA, INC., by:

By: [Signature]  
Title: Manager - Transactions (West)

By: \_\_\_\_\_  
Title: \_\_\_\_\_

Business Address \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**TENANT:**  
TOWN OF LOS GATOS, by:

[Signature]  
Debra J. Figone, Town Manager

**RECOMMENDED BY:**

[Signature]  
Scott R. Seaman, Chief of Police

**APPROVED AS TO FORM:**

[Signature]  
Gary P. Korb, Town Attorney

**ATTEST:**

[Signature]  
Marian V. Losgrove, Town Clerk 3/25/03  
Town of Los Gatos

**APPROVED AS TO FORM**  
**TROY & GOULD**

By: [Signature]  
Date: 3/13/03

*[Handwritten mark]*

OFFICE OF THE TOWN CLERK

AGR 02.113

IHH \_\_\_\_\_

**PARKING LOT LEASE**

ORD \_\_\_\_\_

REC \_\_\_\_\_

This Parking Lot Lease ("Lease") is entered into this 28th day of May, 2002 (the "Effective Date") by and between Verizon California Inc. ("Landlord") and Town of Los Gatos ("Tenant").

1. Lease: Landlord hereby leases to Tenant and Tenant hereby leases from Landlord, for the term, at the rental, and upon all of the conditions set forth herein, the property located at 15 Montebello Way, Los Gatos, California (the "Premises"), as more specifically shown on Exhibit "A" attached hereto. Notwithstanding anything contained herein to the contrary, Landlord reserves for its use and for the use of its assignees, the parking area shown on Exhibit "B" attached hereto and incorporated herein by this reference (the "Landlord's Parking Area") and the Premises shall not include Landlord's Parking Area. Landlord shall have use of and access to Landlord's Parking Area twenty-four hours a day, seven days a week. The Premises and Landlord's Parking Area shall be collectively referred to herein as the "Property."

2. Rent.

(a) Initial Term. On the first day of each month, Tenant shall pay Landlord, as rent for the rights and privileges granted in the Lease, the following amount ("Base Rent"):

Lease Years 1 through 5:	\$4,345.84 per month
Lease Years 6 through 10:	\$4,997.71 per month
Lease Years 11 through 15:	\$5,747.36 per month.

All costs and expenses which Tenant assumes, agrees or is obligated to pay to Landlord under this Lease shall be deemed additional rent (which, together with the Base Rent is sometimes referred to as the "Rent"). Rent shall be payable in lawful money of the United States to Landlord at the address stated in the Paragraph 16 hereof, or to such other persons or at such other places as Landlord may designate in writing.

(b) Administrative Fee. Upon mutual execution of this Lease, Tenant shall pay Landlord an administrative reimbursement fee equal to Six Thousand Dollars (\$6,000.00).

(c) Utilities. Throughout the Term, Tenant shall pay directly for all utilities and services supplied to the Premises, including but not limited to water, gas, electricity, telephone, security and cleaning of the Premises, together with any taxes thereon.

(d) Payment of Taxes. The real property taxes applicable to the Premises shall be paid by Landlord to the taxing authority. Tenant shall pay prior to delinquency all taxes assessed against and levied upon Tenant's fixtures, furnishings and all personal property of Tenant contained on the Premises.

(e) Late Payment Penalties: If Tenant fails to make timely payment of any sum it is obligated to pay to Landlord in accordance with the terms and conditions of this Lease, Landlord, at its option and after fifteen (15) days' prior written notice to Tenant, may forthwith terminate this Lease and all rights of Tenant hereunder. Any late payment of the Rent will result

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in additional administrative and processing costs being incurred by Landlord, the exact amount of which would be extremely difficult to determine, and it is agreed that with respect thereto a late fee of ten percent (10%) of the overdue amount is a reasonable estimate thereof and will be payable by Tenant with regard to any Rent not paid after fifteen (15) days' prior written notice to Tenant that such amount is overdue. Additionally, Tenant shall pay Landlord interest at the lower of the highest rate permitted by law or eighteen percent (18%) per annum on the amount of any Rent or any other amounts not paid by Tenant, when due, from the date due and payable. Tenant shall also pay Landlord such interest on the amount of any payment made, and on the amount of any expenses including reasonable attorneys' fees, incurred by Landlord in connection with the taking of any action to cure any default by Tenant, from the date of making any such payment or the advancement of such expenses by Landlord. Notwithstanding anything contained herein to the contrary, in no event shall Landlord be entitled to terminate this Lease for Tenant's non-payment of Rent the first time any such payment is late in any twelve (12) month period so long as Tenant pays such Rent within thirty (30) days of receipt of written notice from Landlord that such Rent is overdue.

### 3. Term.

(a) **Initial Term.** The term of this Lease (the "Term") shall commence on the date that occurs sixty (60) days after notice from Tenant to Landlord that Tenant is prepared to commence construction of the Tenant Improvements (as defined in Paragraph 4 below), but in no event shall the Lease Term commence on a date later than December 1, 2002 (the "Commencement Date"). The Lease shall terminate on that date that occurs fifteen years after the Commencement Date (the "Termination Date"), unless sooner terminated pursuant to any provision hereof, and subject to the terms of Paragraph 3(b) below.

(b) **Extension Option.** Notwithstanding anything contained in Paragraph 3(a) to the contrary, Tenant shall have one option to extend the Term for a period of five years. No later than three months prior to the Termination Date, Tenant shall give Landlord written notice that it is exercising its option to extend the Lease Term. The Rent for the Extension Option shall be equal to the fair market rent for comparable space in the Town of Los Gatos, California.

(c) **Termination Option.** Either party may elect to terminate this Lease effective anytime after the sixtieth (60<sup>th</sup>) month of the Term by providing no less than one hundred and eighty (180) days prior written notice to the other party.

4. **Tenant Improvements.** At Tenant's sole cost and expense, on the Commencement Date, Tenant shall commence construction of new parking improvements on the Property in accordance with the terms and conditions of this Lease and per the diagram attached hereto as Exhibit "B" and incorporated herein by this reference (the "Tenant Improvements"). The Tenant Improvements being constructed on Landlord's Parking Area shall be completed by Tenant no later than two (2) months after the Commencement Date. The Tenant Improvements being constructed on the Premises shall be completed no later than six (6) months after the Commencement Date.

(a) **Procedures for Improvements.** Tenant shall construct and build out the new parking improvements on the Property at its sole cost and expense. Tenant shall conduct its own bidding process and shall use its selected construction manager, general contractor, and subcontractors to coordinate and manage the demolition and construction process. Landlord shall have no obligations to perform any work or provide any services in the construction of the Tenant Improvements. Tenant's construction shall be made (a) in accordance with plans and specifications prepared by Tenant and approved in writing by Landlord in accordance with Paragraph 4(b) below; (b) in a diligent and good, workmanlike manner, with all new materials; and, (c) in accordance with all applicable laws, rules, regulations, ordinances, directives, covenants, easements, zoning and land use regulations, and restrictions of record, permits, building codes, and the requirements of any applicable fire insurance underwriter or rating bureau, now in effect or which may hereafter come into effect (including, without limitation, the Americans with Disabilities Act and laws regulating Hazardous Materials) (collectively "Laws"). At a minimum, Tenant's plans and specifications must include the criteria set forth on Exhibit "C," attached hereto and incorporated herein by this reference.

(b) **Plans and Specifications.** Prior to commencing the construction of the Tenant Improvements, Tenant shall submit to Landlord for approval copies of the Tenant's plans and specifications for such Tenant Improvements. Landlord shall review the plans and specifications within twenty (20) days after receipt from Tenant and shall either (a) advise Tenant of its approval, or (b) advise Tenant of its disapproval specifying the required changes or modifications to the plans and specifications. Landlord shall not unreasonably withhold its approval. Tenant shall make any changes or modifications reasonably required by Landlord and submit the modified plans and specifications to Landlord for approval. Landlord's approval of the plans and specifications shall be evidenced by Landlord's initials on each page of the final plans and specifications. No modifications or revisions to the plans and specifications, except changes or modifications required by an authorized public official to bring the Tenant Improvements in compliance with applicable Laws, shall be made without Landlord's prior written approval. Landlord's approval of the plans and specifications shall not (a) be deemed or construed as its approval of engineering design or integrity; or (b) create any responsibility or liability on the part of the Landlord for their completeness, design sufficiency or compliance with all Laws or this Lease.

(c) **Ownership of Tenant Improvements.** Upon completion of the Tenant Improvements, ownership of such Tenant Improvements shall pass to Landlord without any lien of any kind. Tenant shall execute any and all documents reasonably requested by Landlord to confirm Landlord's ownership of such Tenant Improvements.

(d) **Liens.** Tenant shall not allow on or permit to be enforced against the Property or Tenant Improvements or any part thereof any mechanic's, materialmen's, contractor's or subcontractor's liens arising from any work of construction, repair, restoration, replacement or improvement on the Property, including the initial making of the Tenant Improvements. Tenant shall pay or cause to be paid all such liens, claims or demands before any action is brought to enforce them against the Property. Tenant agrees to indemnify and hold Landlord and the Property free and harmless from all liability for all such liens, claims and

demands, together with reasonable attorneys' fees and costs, incurred by Landlord in negotiating, settling, defending, and otherwise protecting against such liens, claims, and demands.

(e) **Temporary Parking.** At all time periods during the construction of the new parking improvements on the Property, Tenant shall provide Landlord with no less than eleven (11) reserved parking spaces on the Property in a location that is safe from construction debris and damage.

5. **Compliance with Law.** Tenant shall, at Tenant's sole expense, comply promptly with all federal, state and local statutes, ordinances, rules, regulations, orders, and requirements, as well as all covenants and restrictions of record in effect during the Term, including any restrictions imposed by any governmental agency having jurisdiction over the Property and any recorded covenants, conditions, and restrictions or easements regulating the use or occupancy by Tenant, or any other party, of the Premises or the Tenant Improvements, or the undertaking of any Tenant Improvements (collectively, the "Laws").

6. **Condition of the Premises/Maintenance.** The Premises are being delivered to Tenant in their current, "AS IS" condition without representation or warranty of any kind by Landlord or any agent or employee of Landlord. Throughout the Term of this Lease, Tenant shall maintain the Premises, including every part thereof, and all building systems servicing the Premises in good order, condition and repair and in compliance with all Laws.

7. **Rights Non-Transferable.** This Lease and the rights granted herein are personal to Tenant and Tenant shall not assign, convey, or otherwise transfer said Lease or any of the rights granted herein in any manner whatsoever without Landlord's prior written consent. Any attempt by Tenant to do so shall be null and void and, at Landlord's election, shall constitute a material default hereunder.

8. **Tenant Indemnification.** Except to the extent such claims arise out of Landlord's gross negligence or intentional misconduct, Tenant shall indemnify, defend and hold harmless Landlord and its parent, subsidiaries, affiliates and each of their respective directors, officers, agents, servants and employees (the "Landlord Parties") from and against any and all claims arising from or in connection with (a) the Premises or of any business therein or any work or thing whatsoever done, or any condition created in, on or about the Premises during the Term or during the period of time, if any, prior to the Commencement Date that Tenant may have been given access to the Premises; (b) any act, omission or negligence of Tenant or any of its agents, employees or invitees or its or their partners, joint venturers, directors, officers, agents, employees or contractors; (c) any accident, injury or damage occurring in the Premises; and (d) any breach or default by Tenant in the full and prompt payment and performance of Tenant's obligations under this Lease. Tenant's obligation to indemnify shall also include all costs, expenses and liabilities incurred in or in connection with each such claim or action or proceeding brought thereon, including without limitation, all attorney's fees, expert fees and expenses. In case any action or proceeding is brought against the Landlord Parties or any of them by reason of such claim, Tenant upon notice from Landlord shall resist and defend such action or proceeding by counsel reasonably satisfactory to Landlord.

9. **Release.** Except in the event of Landlord's gross negligence or intentional misconduct, Landlord and the Landlord Parties shall not be liable to or responsible for, and Tenant hereby releases Landlord and the Landlord Parties from all liability and responsibility to Tenant and any person claiming by, through or under Tenant, by way of subrogation, for any injury, loss or damage to any person or property in the Premises or to Tenant's business irrespective of the cause of such injury, loss or damage. Nothing herein shall be construed to impose any other or greater liability upon Landlord than would have existed in the absence of this provision.

10. **Hazardous Materials.**

(a) **Reportable Uses Require Consent.** The term "Hazardous Material" as used in this Lease shall mean any product, substance, chemical, material or waste whose presence, nature, quantity or intensity of existence, use, manufacture, disposal, transportation, spill, release or effect, either by itself or in combination with other materials present on or expected to be on the Premises, is: (i) potentially injurious to the public health, safety or welfare, the environment, or the Premises; (ii) regulated or monitored by any governmental authority; or (iii) a basis for potential liability of Landlord to any governmental agency or third party under any applicable statute or common law theory. Hazardous Material shall include, but not be limited to, hydrocarbons, petroleum, gasoline, asbestos, crude oil or any products or by-products thereof.

(b) **Environmental Indemnities.** Landlord agrees to indemnify, defend and hold Tenant harmless from and against any and all claims, judgments, damages, penalties, fines, costs, liabilities or losses (including, without limitation, diminution in value of the Premises, and sums paid in settlement of claims, reasonable attorneys' fees, consultant fees and expert fees) (collectively, "Claims") that arise as a result of the presence of any Hazardous Material in, on, under or about the Premises to the extent that such Claims result from the presence of any Hazardous Material that was introduced onto the Premises by Landlord. Tenant agrees to indemnify, defend and hold Landlord harmless from and against any and all Claims which arise as a result of the presence of any Hazardous Material in, on, or under or about the Premises to the extent that such Claims result from the presence of any Hazardous Material that was introduced onto the Premises by Tenant or during the Term of this Lease. The parties agree that this Paragraph shall survive the termination of this Lease.

11. **Insurance.**

(a) **Liability Insurance.** Tenant shall obtain and keep in force during the Term of this Lease a Commercial General Liability policy of insurance protecting Tenant, Landlord and any Lender(s) whose names have been provided to Tenant in writing (as additional insureds) against claims for bodily injury, personal injury and property damage based upon, involving or arising out of the ownership, use, occupancy or maintenance of the Premises and all areas appurtenant thereto. Such insurance shall be on an occurrence basis providing single limit coverage in an amount not less than \$2,000,000 per occurrence. The policy shall not contain any intra-insured exclusions as between insured persons or organizations, but shall include coverage for liability assumed under this Lease as an "Insured Contract" for the performance of Tenant's indemnity obligations under this Lease. The limits of said insurance required by this Lease or as

carried by Tenant shall not, however, limit the liability of Tenant nor relieve Tenant of any obligation hereunder.

(b) **Property Insurance.** Tenant shall obtain and keep in force during the Term of this Lease a policy or policies in the name of Tenant, with loss payable to Landlord, insuring against loss or damage to the structures, including, but not limited to, the Tenant Improvements, on the Property. Such insurance shall be for the full replacement cost, as the same shall exist from time to time. Tenant's policy or policies shall insure against all risks of direct physical loss or damage (except the perils of flood and earthquake unless included in the Base Premium), including coverage for any additional costs resulting from debris removal and reasonable amounts of coverage for the enforcement of any ordinance or law regulating the reconstruction or replacement of any undamaged sections of any structure required to be demolished or removed by reason of the enforcement of any building, zoning, safety or land use laws as the result of a covered loss, but not including plate glass insurance. Said policy or policies shall also contain an agreed valuation provision in lieu of any co-insurance clause, waiver of subrogation, and inflation guard protection causing an increase in the annual property insurance coverage amount by a factor of not less than the adjusted U.S. Department of Labor Consumer Price Index for All Urban Consumers for the city nearest to where the Premises are located.

(c) **Insurance Policies.** Insurance required hereunder shall be in companies duly licensed to transact business in the state where the Premises are located, and maintaining during the policy term a "General Policyholders Rating" of at least B+, V, as set forth in the most current issue of 'Best's Insurance Guide.' Tenant shall not do or permit to be done anything which shall invalidate the insurance policies referred to in this Paragraph. Tenant shall cause to be delivered to Landlord, within thirty (30) days after the Commencement Date, certificates evidencing the existence and amounts of, the insurance required under Paragraph. No later than (30) days after the expiration of the policies, Tenant shall furnish Landlord with evidence of renewals, or Landlord may order such insurance and charge the cost thereof to Tenant, which amount shall be payable by Tenant to Landlord upon demand. Notwithstanding anything contained herein to the contrary, Tenant shall be permitted to provide the insurance coverage required in this Lease via a self-insurance pool of municipalities (the "ABAG Plan") so long as the ABAG Plan has a net worth equal to or greater than \$10,000,000.

(d) **Waiver of Subrogation.** Without affecting any other rights or remedies, Tenant and Landlord each hereby release and relieve the other, and waive their entire right to recover damages (whether in contract or in tort) against the other, for loss or damage to their property arising out of or incident to the perils required to be insured against under Paragraph. The effect of such releases and waivers of the right to recover damages shall not be limited by the amount of insurance carried or required or by any deductibles applicable thereto. Landlord and Tenant agree to have their respective insurance companies issuing property damage insurance waive any right to subrogation that such companies may have against Landlord or Tenant, as the case may be, so long as the insurance is not invalidated thereby.

12. **Interruption of Use:** Except in the event of Landlord's gross negligence or intentional misconduct, Landlord shall not be liable to Tenant for any interruption of Tenant's use of the rights granted hereunder resulting from any cause.

13. **Default and Remedies.**

(a) **Default.** The occurrence of any one or more of the following events shall constitute a default and breach of this Lease by Tenant:

- (1) If Tenant abandons or vacates the Premises; or
- (2) If Tenant fails to pay any Rent or any other charges required to be paid by Tenant under this Lease and such failure continues for ten (10) days after such payment is due and payable; or
- (3) If Tenant fails to promptly and fully perform any other covenant, condition or agreement contained in this Lease and such failure continues for thirty (30) days after written notice thereof from Landlord to Tenant; or
- (4) If a writ of attachment or execution is levied on this Lease or on any of Tenant's property; or
- (5) If Tenant makes a general assignment for the benefit of creditors, or provides for an arrangement, composition, extension or adjustment with its creditors; or
- (6) If Tenant files a voluntary petition for relief or if a petition against Tenant in a proceeding under the federal bankruptcy laws or other insolvency laws is filed and not withdrawn or dismissed within forty-five (45) days thereafter, or if under the provisions of any law providing for reorganization or winding up of corporations, any court of competent jurisdiction assumes jurisdiction, custody or control of Tenant or any substantial part of its property and such jurisdiction, custody or control remains in force unrelinquished, unstayed or unterminated for a period of forty-five (45) days; or
- (7) If in any proceeding or action in which Tenant is a party, a trustee, receiver, agent or custodian is appointed to take charge of the Premises or Tenant's property (or has the authority to do so) for the purpose of enforcing a lien against the Premises or Tenant's property.

Any written notice of default based upon Tenant's failure to pay Rent or any other charges under the Lease which is given by Landlord pursuant to this Paragraph shall also constitute a notice to pay rent or quit pursuant to any applicable unlawful detainer statute, provided that such notice is served in accordance with the provisions of any such statute.

(b) **Remedies.** In the event of Tenant's default hereunder, then in addition to any other rights or remedies Landlord may have under any law, Landlord shall have the right, at Landlord's option, without further notice or demand of any kind to do the following:

(1) Terminate this Lease and Tenant's right to possession of the Premises and reenter the Premises and take possession thereof, and Tenant shall have no further claim to the Premises or under this Lease; or

(2) Continue this Lease in effect, reenter and occupy the Premises for the account of Tenant, and collect any unpaid Rent or other charges which have or thereafter become due and payable; or

(3) Reenter the Premises under the provisions of subparagraph 2, and thereafter elect to terminate this Lease and Tenant's right to possession of the Premises.

If Landlord reenters the Premises under the provisions of subparagraphs 2 or 3 above, Landlord shall not be deemed to have terminated this Lease or the obligation of Tenant to pay any Rent or other charges thereafter accruing, unless Landlord notifies Tenant in writing of Landlord's election to terminate this Lease. In the event of any reentry or retaking of possession by Landlord, Landlord shall have the right, but not the obligation, to remove all or any part of Tenant's property in the Premises and to place such property in storage at a public warehouse at the expense and risk of Tenant. If Landlord elects to relet the Premises for the account of Tenant, the rent received by Landlord from such reletting shall be applied as follows: first, to the payment of any indebtedness other than Rent due hereunder from Tenant to Landlord; second, to the payment of any costs of such reletting; third, to the payment of the cost of any alterations or repairs to the Premises; fourth to the payment of Rent due and unpaid hereunder; and the balance, if any, shall be held by Landlord and applied in payment of future Rent as it becomes due. If that portion of rent received from the reletting which is applied against the Rent due hereunder is less than the amount of the Rent due, Tenant shall also pay to Landlord, as soon as determined, any costs and expenses incurred by Landlord in connection with such reletting or in making alterations and repairs to the Premises, which are not covered by the rent received from the reletting.

Should Landlord elect to terminate this Lease under the provisions of subparagraph 1 or 3 above, Landlord may recover as damages from Tenant the following:

(1) Past Rent. The worth at the time of the award of any unpaid Rent which had been earned at the time of termination; plus

(2) Rent Prior to Award. The worth at the time of the award of the amount by which the unpaid Rent which would have been earned after termination until the time of award exceeds the amount of such rental loss that Tenant proves could have been reasonably avoided; plus

(3) Rent After Award. The worth at the time of the award of the amount by which the unpaid Rent for the balance of the Term after the time of award exceeds the amount of the rental loss that Tenant proves could be reasonably avoided; plus

(4) Proximately Caused Damages. Any other amount necessary to compensate Landlord for all detriment proximately caused by Tenant's failure to perform its obligations under this Lease or which in the ordinary course of things would be likely to result therefrom, including, but not limited to, any costs or expenses (including attorneys' fees), incurred by Landlord in (a) retaking possession of the Premises, (b) maintaining the Premises after Tenant's default, (c) preparing the Premises for reletting to a new tenant, including any repairs or alterations, and (d) reletting the Premises, including broker's commissions.

"The worth at the time of the award" as used in subparagraphs (1) and (2) above, is to be computed by allowing interest at the rate of ten percent (10%) per annum. "The worth at the time of the award" as used in subparagraph (3) above, is to be computed by discounting the amount at the discount rate of the Federal Reserve Bank situated nearest to the Premises at the time of the award plus one percent (1%).

The waiver by Landlord of any breach of any term, covenant or condition of this Lease shall not be deemed a waiver of such term, covenant or condition or of any subsequent breach of the same or any other term, covenant or condition. Acceptance of Rent by Landlord subsequent to any breach hereof shall not be deemed a waiver of any preceding breach other than the failure to pay the particular Rent so accepted, regardless of Landlord's knowledge of any breach at the time of such acceptance of Rent. Landlord shall not be deemed to have waived any term, covenant or condition unless Landlord gives Tenant written notice of such waiver. No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.

14. Signage. Tenant may install signage on the Premises, at its sole costs and expense, subject to Landlord's prior written approval (not to be unreasonably withheld) of the drawings, plans and specifications for such signage. Notwithstanding the foregoing to the contrary, Tenant shall only be entitled to install signage on the Premises that complies with all Laws.

15. Real Estate Brokers. The following brokerage relationship exists in this transaction and is approved by the parties: Cushman & Wakefield of California represents Landlord exclusively ("Landlord's Broker"). Upon complete execution of this Lease by the parties, Landlord shall pay Tenant's Broker a commission based upon a separate agreement between Landlord's Broker and Landlord for brokerage services rendered by Landlord's Broker in connection with this transaction. Tenant and Landlord each represent and warrant to the other that it has had no dealings with any person, firm, broker or finder other than the Landlord's Broker in connection with the negotiation of this Lease and the consummation of the transaction contemplated hereby, and that no broker or other person, firm or entity other than the Landlord's Broker is entitled to any commission or finder's fee in connection with said transaction. Tenant and Landlord do each hereby agree to indemnify, protect, defend and hold the other harmless from and against liability for compensation or charges which may be claimed by any such unnamed broker, finder or other similar party by reason of any dealings or actions of the indemnifying party, including any costs, expenses, and attorneys' fees reasonably incurred with respect thereto.



16. **Notices.** All notices required or permitted by this Agreement shall be in writing and may be delivered in person (by hand or by messenger or courier service) or may be sent by regular, certified or registered mail or U.S. Postal Service Express Mail, with postage prepaid, or by facsimile transmission during normal business hours, and shall be deemed sufficiently given if served in a manner specified in this Paragraph. The following address shall be used for notices to Landlord: Verizon California Inc., c/o Corporate Real Estate, 112 Lakeview Canyon, Mailcode: CA500CW, Thousand Oaks, CA 91362. The following address shall be used for notices to Tenant: Town Manager, 110 E. Main Street, P.O. Box 949, Los Gatos, CA 95031. Any notice sent by registered or certified mail, return receipt requested, shall be deemed given on the date of delivery shown on the receipt card, or if no delivery date is shown, the postmark thereon. If sent by regular mail, the notice shall be deemed given forty-eight (48) hours after the same is addressed as required herein and mailed with postage prepaid. Notices delivered by United States Express Mail or overnight courier that guarantees next day delivery shall be deemed given twenty-four (24) hours after delivery of the same to the United States Postal Service or courier. If any notice is transmitted by facsimile transmission or similar means, the same shall be deemed served or delivered upon telephone or facsimile confirmation of receipt of the transmission thereof, provided a copy is also delivered via delivery or mail. If notice is received on a Saturday or a Sunday or a legal holiday, it shall be deemed received on the next business day.

17. **No Right To Holdover.** Tenant has no right to retain possession of the Premises or any part thereof beyond the expiration or earlier termination of this Lease unless the parties are negotiating a new lease or lease extension in good faith. In the event that the parties are not in the process of negotiating a new lease or lease extension in good faith, Tenant holds over in violation of this Paragraph 17 then the Base Rent then in effect payable from and after the time of the expiration or earlier termination of this Lease shall be increased to two hundred percent (200%) of the Base Rent applicable during the month immediately preceding such expiration or earlier termination.

18. **Attorneys' Fees.** If any party brings an action or proceeding to enforce the terms hereof or declare rights hereunder, the Prevailing Party in any such proceeding, action, or appeal thereon, shall be entitled to reasonable attorneys' fees. Such fees may be awarded in the same suit or recovered in a separate suit, whether or not such action or proceeding is pursued to decision or judgment. The term "Prevailing Party" shall include, without limitation, a party who substantially obtains or defeats the relief sought, as the case may be, whether by compromise, settlement, judgment, or the abandonment by the other party of its claim or defense. The attorneys' fee award shall not be computed in accordance with any court fee schedule, but shall be such as to fully reimburse all attorneys' fees reasonably incurred.

19. **PUC Approval.** Notwithstanding anything to the contrary contained in the Lease, the Lease shall not commence until and shall be contingent upon obtaining final approval of the Lease by the California Public Utilities Commission ("PUC") on terms acceptable to Landlord in Landlord's sole discretion ("PUC Approval"). Until such time, if any, that the PUC Approval is obtained, the Lease shall not be deemed to grant, demise, transfer or otherwise convey to Tenant any right, title or interest whatsoever to any portion of the Premises.

20. **Interpretation and Modification.** Any conflict between the printed provisions of this Lease and the typewritten or handwritten provisions shall be controlled by the typewritten or handwritten provisions. Preparation of this Lease by either Landlord or Tenant or Landlord's agent or Tenant's agent and submission of same to Tenant or Landlord shall not be deemed an offer to lease. This Lease is not intended to be binding until executed and delivered by all parties hereto. This Lease may be modified only in writing, signed by the parties in interest at the time of the modification. This Lease was drafted by both parties to the transaction; therefore, neither party shall be construed as the drafter or author of this Lease for purposes of interpreting any provision hereof. Except as otherwise expressly provided herein, if more than one person or entity is named herein as either Landlord or Tenant, the obligations of such multiple parties shall be the joint and several responsibility of all persons or entities named herein as such Landlord or Tenant. The captions, headings and titles in this Lease are solely for convenience of reference and shall not affect its interpretation. The invalidity of any provision of this Agreement, as determined by a court of competent jurisdiction, shall in no way affect the validity of any other provision hereof.


21. **Authority.** If any signatory hereto is a corporation, trust, general or limited partnership or other legal entity, each individual executing this Lease on behalf of such entity represents and warrants that he or she is duly authorized to execute and deliver this Lease on its behalf.

22. **Binding Effect; Choice of Law.** This Lease shall be binding upon the parties, their personal representatives, successors and assigns and be governed by the laws of the State of California. Any litigation between the parties hereto concerning this Lease shall be initiated in the county in which the Premises are located and be governed by the laws of the State of California.

23. **Entire Agreement.** This Lease, together with its exhibits, contains all agreements of the parties to this Lease and supersedes any previous negotiations. There have been no representations made by either party or understandings made between the parties other than those set forth in this Lease and its exhibits. This Lease may not be modified except by a written instrument duly executed by the parties to this Lease.

LANDLORD:

TENANT:

By:   
Michael J. Baumann  
TITLE: Director-Real Estate Portfolio Management

By: \_\_\_\_\_  
TITLE: \_\_\_\_\_

By:   
TITLE: \_\_\_\_\_

By: \_\_\_\_\_  
TITLE: \_\_\_\_\_

Before executing this document, please  
review littr details  
5/30/02

APPROVED AS TO FORM

TROY & GOULD

01107/0153 60606.4

By: 

Date: 5/30/02

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AK

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the 3rd day of July, 2022

**LANDLORD:**  
VERIZON CALIFORNIA, INC., by:

**TENANT:**  
TOWN OF LOS GATOS, by:

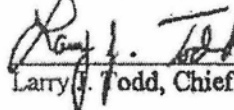
By: \_\_\_\_\_

  
Debra J. Egohe, Town Manager

Title: \_\_\_\_\_

**RECOMMENDED BY:**

By: \_\_\_\_\_

  
Larry J. Todd, Chief of Police

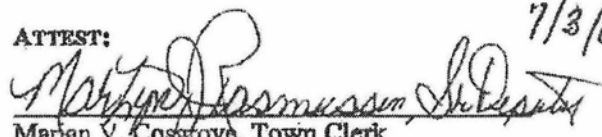
Title: \_\_\_\_\_

**APPROVED AS TO FORM:**

Business Address \_\_\_\_\_

  
City P. Korb, Town Attorney

\_\_\_\_\_

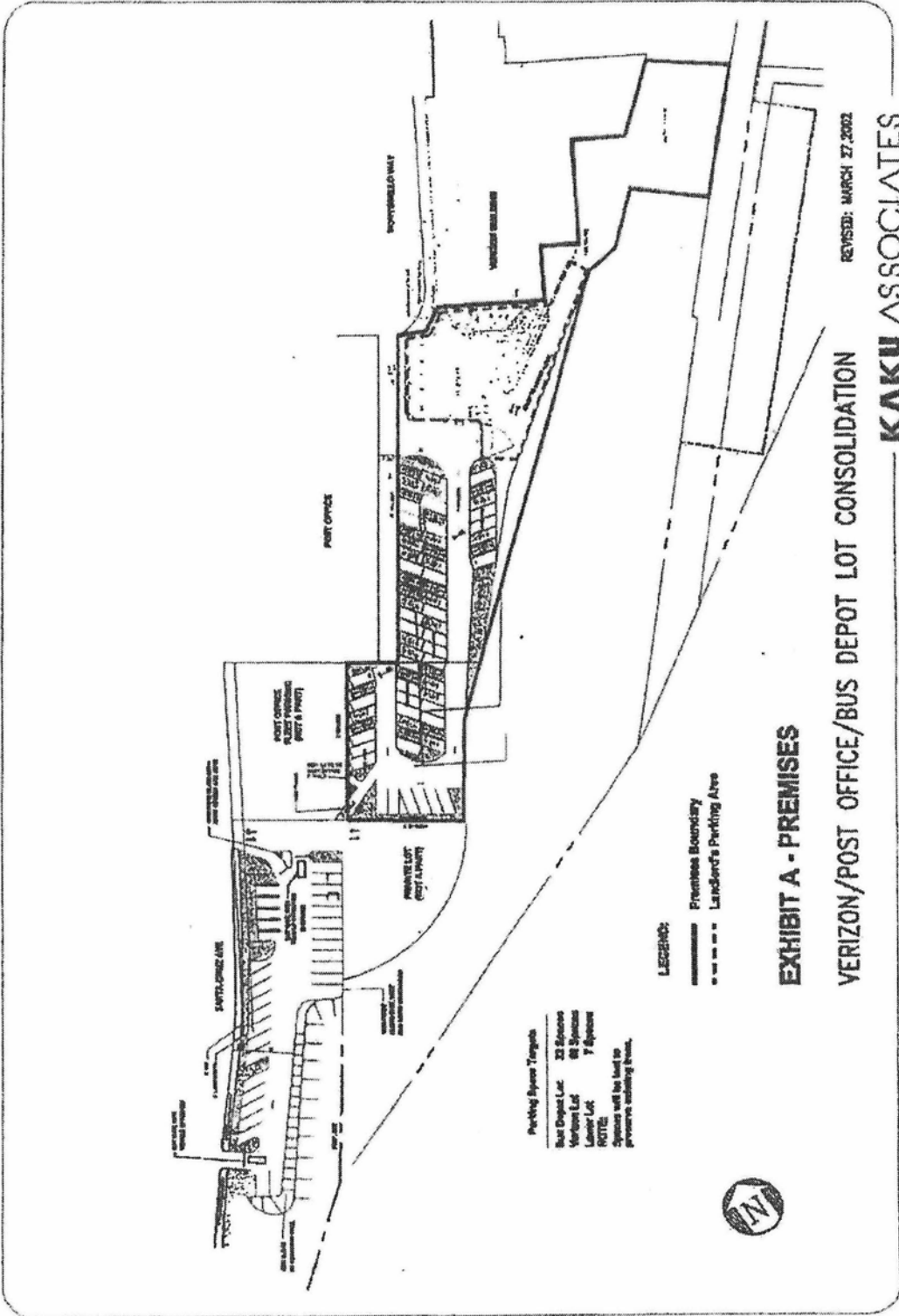
**ATTEST:**  
 7/3/02  
Marian V. Cosgrove, Town Clerk  
Town of Los Gatos

\_\_\_\_\_

\_\_\_\_\_

**EXHIBIT A**  
**THE PREMISES**

See attached.



**Parking Space Targets**  
 Bus Depot Lot 22 Spaces  
 Verizon Lot 48 Spaces  
 Lower Lot 7 Spaces  
 RTTE  
 Spaces will be used to preserve existing lot.

**LEGEND:**

- Premises Boundary
- - - - Landlord's Parking Area

**EXHIBIT A - PREMISES**

**VERIZON/POST OFFICE/BUS DEPOT LOT CONSOLIDATION**

REVISED: MARCH 27, 2002

**KAKU ASSOCIATES**

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**EXHIBIT B**

**DIAGRAM OF NEW PARKING IMPROVEMENTS TO BE  
CONSTRUCTED BY TENANT**

See attached.

*h*



## EXHIBIT C

### MINIMUM CRITERIA FOR NEW PARKING IMPROVEMENTS

1. As shown on Exhibit A, Landlord's Parking Area shall, at a minimum, consist of the following: (a) two (2) fifteen foot oversized parking spaces; (b) one (1) ADA compliant parking space; (c) eight (8) standard ten foot parking spaces; (d) a loading zone; and (e) an area for a trash dumpster.
2. Tenant shall construct a six-foot (6') high fence enclosing Landlord's Parking Area.
3. Tenant shall construct two gates to provide ingress / egress to Landlord's Parking Area, consisting of, at a minimum:
  - A. One 6-foot high "Roller Gate" and
  - B. One motorized 6-foot high and 15-foot wide main gate on Montebello Way.
4. Tenant shall install a vehicle detector on or near the interior portion of the main gate located on Montebello Way for exiting vehicles.
5. Tenant shall install a card reader on or near the exterior portion of the main gate located on Montebello Way to allow admission of vehicles entering the parking area.
6. Tenant shall install (a) a 5-foot "Pedestrian Gate" will be installed on Montebello Way; and (b) a 24-foot "New Gate" to limit access to the Ramp to Lower Level.
7. Tenant shall relocate the existing Verizon telephone/card reader currently located at the front entrance of the Verizon-owned building to an area near the Pedestrian Gate on Montebello way.
8. Tenant shall install and maintain, at Tenant's sole cost and expense, new landscaping and irrigation systems for the Premises.
9. Tenant shall install and maintain, at Tenant's sole cost and expense, all necessary and required lighting associated with the Premises.



## Exhibit C

### **LANDLORD CONSENT, RECOGNITION AND NON-DISTURBANCE AGREEMENT**

This Landlord Consent, Recognition and Non-Disturbance Agreement is made by and among \_\_\_\_\_, a \_\_\_\_\_, with an address of \_\_\_\_\_ (“**Prime Landlord**”), \_\_\_\_\_, a \_\_\_\_\_ (“**Landlord**”), and the United States Postal Service, an independent establishment of the Executive Branch of the government of the United States (“**USPS**”).

WHEREAS, Prime Landlord, as lessor, and Landlord, as lessee, entered into that certain Lease dated March 28, 2002, a copy of which is attached hereto as Exhibit B (the “**Prime Lease**”) for the lease of 35 exclusive parking spaces located at 15 Montebello Way, as more particularly described therein (the “**Premises**”) owned by Prime Landlord.

WHEREAS, Landlord desires to lease the Premises to USPS, and requests that Prime Landlord consent to and recognize such lease and provide non-disturbance protection to USPS.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Prime Landlord agrees as follows:

1. Recognition and Consent. Prime Landlord hereby consents to the lease between Landlord and USPS, a copy of which is attached hereto as Sub - Ground Lease and incorporated herein by this reference (the “**USPS Lease**”). Prime Landlord’s recognition of, and consent to, the USPS Lease shall not release Landlord of its obligations under the Prime Lease or alter the primary liability of Landlord to pay the rent and perform and comply with all of its other obligations under the Prime Lease.
2. Non-Disturbance. Notwithstanding anything to the contrary contained in the Prime Lease, in the event of (i) a termination or cancellation of the Prime Lease for any reason (including without limitation non-renewal of the Prime Lease for any reason during the term of the Prime Lease), (ii) the surrender of the Prime Lease, whether voluntary, involuntary or by operation of law, or (iii) the rejection of the Prime Lease in any bankruptcy action by Landlord prior to the expiration date of the Prime Lease, including any exercised extensions and renewals of the Prime Lease, then, Prime Landlord shall recognize and keep in effect the USPS Lease for the unexpired balance of the term of the USPS Lease and for any renewal term or terms exercised by the USPS under the USPS Lease pursuant to the USPS Lease, and shall assume all obligations of Landlord thereunder, so as to establish direct privity of estate and contract as between Prime Landlord and USPS with the same force and effect and relative priority in time and right as though the USPS Lease was originally made directly between Prime Landlord and USPS, and upon receipt of proper documentation from Prime Landlord, including, without limitation, an IRS Form W9, USPS will make the rent and other payments due under the USPS Lease thereafter directly to Prime Landlord as if Prime Landlord were Landlord thereunder, and USPS will make full and complete attornment to Prime Landlord for the balance of the remaining term under the USPS Lease.
3. Cross Default. A default by either Landlord or Prime Landlord under the Prime Lease or under this Agreement shall be considered a default by Landlord under the USPS Lease and a

default by Landlord under the USPS Lease shall be deemed to be a default by Landlord under the Prime Lease, and USPS shall have all of the rights and remedies with respect to such default available to USPS under the USPS Lease and such rights and remedies shall be exercisable against the Prime Landlord and Landlord, jointly or severally. Prime Landlord and Landlord agree to notify USPS in writing of any default that occurs under the Prime Lease and to permit USPS sufficient time to exercise its rights under the USPS Lease with respect to such default prior to terminating the Prime Lease due to such default. USPS shall have the right, but not the obligation, to cure defaults by Landlord or Prime Landlord under the Prime Lease. In the event that USPS exercises its right to perform any obligations of Landlord or Prime Landlord under the Prime Lease, Landlord and Prime Landlord each acknowledges and agrees that USPS may withhold the cost of such cure plus any administrative cost and/or interest, from rental payments due or to become due under the USPS Lease. In the event that USPS exercises its right to perform any obligations of Landlord under the USPS Lease, Prime Landlord acknowledges and agrees that USPS may withhold the cost of such cure plus any administrative cost and/or interest, from rental payments due or to become due under the USPS Lease which may ultimately have been payable to Prime Landlord under the terms of the Prime Lease. Nothing herein shall require USPS to cure any default of Landlord or Prime Landlord under the Prime Lease, the USPS Lease or under this Agreement.

4. Recourse of USPS. Without limiting the foregoing consent and recognition, Prime Landlord expressly acknowledges and agrees that Prime Landlord has read or had an opportunity to read the USPS Lease attached hereto and understands that, at such time as Prime Landlord becomes the landlord under the USPS Lease with respect to the Premises, Prime Landlord shall be bound by the terms thereof, and shall be subject to the rights and remedies of USPS thereunder. By way of example, and not in limitation, Prime Landlord agrees and recognizes that in addition to any rights and remedies available under applicable law, USPS has (i) the right to proportionately abate the rent for any period the leased premises under the USPS Lease, or any part thereof, are determined by USPS to have been rendered untenable, or unfit for use and occupancy, by reason of a condition requiring maintenance, repair or replacement; (ii) the right to perform any maintenance, repair or replacement that landlord fails to timely complete and withhold the cost of performance plus any administrative cost and/or interest, from rental payments due or to become due under the USPS Lease; and (iii) the right to cancel the USPS Lease if the leased premises under the USPS Lease are determined to be untenable or unfit for use or occupancy. Prime Landlord further agrees that USPS shall have the right to seek recourse directly against Prime Landlord regarding any breach of the Prime Lease by Prime Landlord where such breach adversely effects the rights of USPS under the USPS Lease.

5. Certifications with respect to Prime Lease; Amendments to the Prime Lease. Prime Landlord and Landlord hereby jointly represent and warrant as follows: (a) the copy of the Prime Lease attached hereto as Exhibit A is a true, correct and complete copy of the Prime Lease; and (b) neither Prime Landlord nor Landlord are in default under the Prime Lease nor does there exist any facts or circumstances which, with the passage of time or the giving of notice, would constitute a default under the Prime Lease. Prime Landlord and Landlord hereby agree that they will not amend or otherwise modify the terms of the Prime Lease without notice to, and the prior written consent of USPS, which shall not be unreasonably withheld, conditioned or delayed. Any such amendment or modification must be provided to USPS not less than 120 days prior to the date such amendment or modification is to take effect. Prime Landlord will not

terminate the Prime Lease without prior written notice to USPS and no such termination will effect in any way the rights of USPS under the USPS Lease with respect to the portion of the leased premises that is included in the Prime Lease.

6. Term of the Prime Lease. In the event that the current term of the Prime Lease expires before the end of the initial term of the USPS Lease, this Agreement shall constitute an exercise of any renewal options available under the Prime Lease necessary to extend the expiration of the Prime Lease beyond the expiration of the initial term of the USPS Lease. Thereafter, Landlord covenants and agrees that, if USPS exercises any renewal option(s) set forth in Section 4 of the USPS Lease, then Landlord will exercise any renewal option(s) set forth in the Prime Lease that are necessary to extend the term of the Prime Lease beyond the expiration of such renewal term of the USPS Lease and Prime Landlord covenants and agrees that it will accept such exercise, whether or not it is made in accordance with the terms of the Prime Lease.

7. Notices. All notices or other written communications hereunder shall be deemed to have been properly given if delivered in accordance with the delivery methods under the USPS Lease, addressed to USPS and Landlord at the addresses identified in the USPS Lease and addressed to Prime Landlord at the address first set forth above.

8. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the respective heirs, personal representatives, successors and assigns of the parties hereto.

9. No Oral Modifications. This Agreement can be modified only in writing duly executed by all parties.

10. Severability. The invalidity of any provision of this Agreement, as determined by a court of competent jurisdiction, shall in no way affect the validity of any other provision hereof.

11. Waivers. No waiver by any party of any provision hereof shall be deemed a waiver of any other provision hereof and no waiver of any breach hereunder by any party shall be deemed a waiver of any subsequent breach by that party of the same or any other provision. A party's consent to or approval of any act shall not be deemed to render unnecessary obtaining such party's consent to or approval of any subsequent act. No waiver shall be effective unless it is in writing, executed on behalf of all parties.

12. Choice of Law; Claims and Disputes. This Agreement shall be governed and interpreted in accordance with Federal law, however if there is no applicable Federal law then the law of the state where the leased premises are located shall be applied. The parties agree that Section 8 of the USPS Lease (Claims and Disputes) shall govern any disputes between the parties with respect to this Agreement.

13. Interpretation. Section headings are not a part hereof and shall not be used to interpret the meaning of this Agreement. This Agreement shall be interpreted in accordance with the fair meaning of its words and both parties certify they either have been or have had the opportunity to be represented by their own counsel and that they are familiar with the provisions of this Agreement, which provisions have been fully negotiated, and agree that the provisions hereof are not to be construed either for or against either party as the drafting party.

14. Duplicated Originals; Counterparts. This Agreement may be executed in any number of duplicate originals and each duplicate original shall be deemed to be an original. This Agreement may be executed in several counterparts, each of which counterparts shall be deemed an original instrument and all of which together shall constitute a single Agreement. The failure of any party hereto to execute this Agreement, or any counterpart hereof, shall not relieve the other signatories from their obligations hereunder.

15. Conflict with Prime Lease. In the event of any conflict between the terms hereof and the terms of the Prime Lease, this Agreement shall control. In the event of any conflict between the Prime Lease and the USPS Lease, the USPS Lease shall control.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties have executed this Landlord Consent, Recognition and Non-Disturbance Agreement and it is effective as of the date set forth below the signature of USPS below.

**PRIME LANDLORD:**

\_\_\_\_\_,  
a \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**LANDLORD:**

\_\_\_\_\_,  
a \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**USPS:**

United States Postal Service

By: \_\_\_\_\_  
Name: Terrence Brennan  
Title: Contracting Officer  
Date: \_\_\_\_\_