

COMMUNICATION TOWER AND EQUIPMENT STORAGE LEASE AGREEMENT
BETWEEN
THE TEHAMA COUNTY SHERIFF'S OFFICE
AND DUCOR TELEPHONE COMPANY DBA VARCOMM

THIS COMMUNICATION TOWER AND EQUIPMENT STORAGE LEASE AGREEMENT (hereinafter "LEASE" is entered into between the County of Tehama, through its Sheriff's Office ("Lessee") and Ducor Telephone Company, dba Varcomm ("Lessor") for the purpose of leasing the "Portion of part of the Premises" of the real property referred to as the Ducor Telephone Company, dba Varcomm, Inc. Tower Site ("Site"), Rancho Tehama, CA.



1. LEASED PREMISES-LESSOR hereby leases to and for LESSEE'S use, space on a communication tower ("Communication Tower") for antennae and, additionally, use of an equipment storage shed ("Shed") near the base of the Communication Tower for LESSEE to store radio communication equipment, both of which are situated at the premises of the **Ducor Telephone Company, dba Varcomm, Tower Site, Rancho Tehama, Ca**, in the County of Tehama, (hereinafter "Premises"). The antennae and radio communication equipment (collectively, hereinafter the "Equipment") are listed in Exhibit "A", attached hereto and incorporated herein by this reference, and stored at the Premises.

2. TERM- The initial term of this LEASE shall commence on January 1, 2020 and end on December 31, 2025 (hereinafter "Term").

3. RENTS- Lessor shall be paid in the amount of \$729.99 for the first year, thereafter the yearly flat fee will be increased annually on each anniversary of the Effective date in an amount not to exceed Four Percent (4%), for the use and occupancy of the Premises, Communication Tower, and shed in accordance with this LEASE. The maximum Compensation payable under this Lease shall not exceed \$4,000.00. Upon reaching the 5 year anniversary of this lease, Lessee has the right to renew two (2) additional 5 year terms. Should County Funds cease to fund this agreement the Lessee has the right to terminate the agreement with a 90 day written notice to Lessor. Lessor shall not be entitled to payment or reimbursement for any tasks or services performed except as specified herein. Lessor shall not be paid any compensation or reimbursement beyond the Yearly, flat fee amount set forth above, and Lessor agrees that Lessee has no obligation, whatsoever, to compensate or reimburse Lessor for any expenses, direct or indirect costs, expenditures, or charges of any nature by Lessor that exceed the flat fee amount set forth above. Should Lessor receive any such payment it shall immediately notify Lessee and shall immediately repay all such funds to the Lessee. This provision shall survive the expiration or other termination of this agreement.

4. BILLING AND PAYMENTS - Lessor shall submit an invoice to Lessee within thirty (30) days after service has been completed to the reasonable satisfaction of Lessee. Lessee shall make payment of all undisputed billing amounts within thirty (30) days of receipt of Lessor's invoice.

5. USE - LESSEE shall use the Communication Tower and Shed to operate the Equipment thereon. LESSEE agrees to comply with all applicable federal and state laws, rules and regulations, and all applicable local ordinances and regulations, in connection with its use of the Premises, including the Communication Tower and Shed. LESSOR covenants that the Premises are suitable for LESSEE'S intended use. LESSOR further covenants to LESSEE that the Premises, including the Communication Tower and Shed, is in compliance with all federal, state and local laws, rules and regulations including, but not limited to, health and safety laws and regulations, federal aviation laws, rules and regulations, federal communication laws, rules, and regulations, and building codes and ordinances, and that the Premises, including the Communications Tower and Shed, shall remain in such compliance throughout the Term of this LEASE. LESSEE acknowledges that other persons and entities (hereinafter, each a "Third Party User"), as of the effective date of this LEASE, have equipment installed and attached to the Communication Tower and Shed. LESSOR reserves the right to lease and/or authorize Third Party users to attach, install, and operate equipment on or nearby the Communication Tower and Shed, provided that (a) such additional equipment does not unreasonably interfere with the operation of LESSEE'S use of the Premises, including the Communication Tower, and LESSEE'S proportional use of the Shed, and LESSEE'S operation of LESSEE'S Equipment and (b) LESSEE shall not be required to move or alter the location or orientation of LESSEE'S Equipment which has been installed on/or at the Communication Tower and Shed.

6. LESSEE COMMUNICATION EQUIPMENT- LESSEE shall, at its sole cost, install, operate and maintain the Equipment, including any and all related or required environmental documentation, permits and licenses, in a manner consistent with all (federal, state and local) legal and regulatory requirements and this LEASE. LESSEE may request to install additional equipment by providing thirty (30) days prior written notice to LESSOR, which approval shall not be unreasonably withheld.

7. OWNERSHIP OF PROPERTY- Except as specifically provided in this LEASE, nothing contained in this LEASE shall be interpreted to grant to LESSEE any rights of ownership to or interest in the Premises, Communication Tower and Shed. LESSEE shall retain ownership of its Equipment (including associated lines, hardware, software, and related equipment or fixtures) notwithstanding the fact that LESSEE has attached or installed any such items of Equipment to or on the Premises. LESSOR shall not cause or otherwise allow LESSEE'S Equipment to be encumbered by any third party encumbrances, claims, or liens. LESSEE is responsible for the licensing, operation and maintenance of its Equipment.

8. MAINTENANCE OF COMMUNICATION TOWER, SHED AND PREMISES

a) LESSOR shall be responsible for the structural condition of the Communication Tower and Shed on which LESSEE'S Equipment is installed, and for all exterior and interior maintenance, including but not limited to the (Shed) roof, all painting, and electrical panels for the Communication Tower and Shed.

b) LESSOR shall provide the Premises with locks and/or other security entry devices that will permit only LESSOR, LESSEE and its authorized technicians, and third parties authorized by LESSOR to access the Premises, including the Communication Tower and Shed.

c) LESSOR shall be responsible for and reasonably repair any damage that LESSOR, any Third Party User, or their respective representatives, cause to the Premises, including the Communication Tower, Shed, or Equipment of LESSEE. LESSEE shall be responsible for and reasonably repair any damage it causes to the Communication Tower, Shed or Premises, or the communication systems or property of LESSOR, or any Third Party User. LESSOR shall permit LESSEE access to the Communication Tower and Shed to make repairs to the LESSEE'S Equipment. LESSEE shall use an independent licensed contractor to install or repair the antennas or equipment located on the Communication Tower. LESSEE shall provide prior notice to LESSOR of any work to be done on the Communication Tower or in the Shed by an independent contractor and LESSOR shall approve the contractor prior to the work being done, provided however, LESSOR shall not unreasonably withhold such approval.

d) In the event that any repair or maintenance work to be performed by LESSOR on/or around the Communication Tower and/or Shed will interrupt and/or disrupt LESSEE'S use of the Equipment, LESSOR will coordinate any such work with LESSEE in order to minimize the disruption and/or interruption to LESSEE'S use of the Equipment

e) At any time LESSEE or its agents or contractors need to make entry into the property for repairs, maintenance or other reasons, it must be done so with the permission and in the presence of the LESSOR or its designee.

f) LESSOR shall, upon written request, provide LESSEE the names of all persons that have access to the Tower, Shed or Equipment.

9. ELECTRIAL POWER INTERRUPTION- LESSOR, shall at its sole cost, provide electrical power to the Premises, including the Communication Tower and Shed. However, LESSOR will not be responsible to LESSEE for any monetary loss

and/or damage to the Equipment installed by LESSEE that may result from the loss of electrical power to the Communication Tower, Shed or Premises, which is not the fault of LESSOR, or any Third Party User.

10. ELIMINATION OF INTERFERENCE- In the event LESSEE'S Equipment or operation in any way hinders, obstructs, or interferes with the communication systems or electronic equipment of the LESSOR or any Third Party User, LESSEE, at its sole cost and expense, upon receipt of written notification by LESSOR, and within thirty (30) days thereof (or immediately in the event of an emergency or where public safety requires), shall forthwith cease the interfering installation or operation. If such hindrance, interference or obstruction does not fully cease within said period, LESSOR, in addition to its rights/remedies otherwise available under this LEASE and controlling laws, may take reasonable action to correct or eliminate the interference at the sole cost of LESSEE.

11. GOVERNMENTAL COMPLIANCE AND SITE INSPECTION- LESSOR and LESSEE shall each comply with all applicable federal and state laws, rules, and regulations, and all applicable local ordinances and regulations, in connection with its use of the Premises, including the Communication Tower and Shed, as provided in this LEASE. LESSEE covenants that it has inspected the Premises, including the Communication Tower and Shed, prior to entering into this LEASE and accepts them as suitable for the LESSEE'S intended uses hereunder. The communication operations by LESSEE in connection with this LEASE shall meet with all applicable rules and regulations of the Federal Communications Commission (FCC), Federal Aviation Agency (FAA), and any other applicable federal, state or local government codes and regulations, and this LEASE.

12. BREACH OF OBLIGATION TO MAINTAIN- In the event LESSOR materially breaches its obligation to maintain or cause legal compliance of the Premises, including the Communication Tower and Shed, as provided in this LEASE, LESSEE shall give written notice to LESSOR within fifteen (15) days of the discovery of the material breach. LESSOR shall then have thirty (30) days from the date of such notice to cure its material breach, provided, however, that if the item of maintenance or compliance is of such a nature that it requires more than thirty (30) days to complete, then LESSOR shall have such additional time as is necessary to complete such maintenance or compliance as long as (a) LESSOR commences work on such maintenance or compliance within said thirty (30) day period and diligently prosecutes such maintenance to completion, and (b) such additional time does not adversely affect LESSEE'S right to use the Premises, including the Communication Tower and Shed. Subject to the foregoing, if the period for cure expires and if LESSOR has failed to cure, the LESSEE may at its election:

- a) Terminate this LEASE as hereinafter provided in Section 14; or
- b) With at least five (5) business day's prior written notice given to

LESSOR, cure LESSOR'S material breach and invoice LESSOR for the cost of the repairs, including reasonable administrative costs.

LESSEE'S decision to cure LESSOR'S material breach shall not constitute a waiver of any rights or remedies that LESSEE may have arising from this LEASE or by operation of law.

13. DESTRUCTION OR DAMAGE FROM CASUALTY- If the Premises, including the Communication Tower or Shed, or any part thereof is damaged or destroyed as a result of fire, earthquake, act of God, or any other identifiable event of a sudden, unexpected, or unusual nature (hereinafter "Casualty"), then LESSOR shall either promptly and diligently repair the damage at its own cost, or terminate this LEASE as hereinafter provided in Section 14.

a) Election to Repair: If LESSOR elects to repair the Casualty damage to the Premises, including the Communication Tower and Shed, or any part thereof, then LESSOR shall within thirty (30) days after the date of Casualty provide written notice (hereinafter "Notice of Repair") to LESSEE indicating the anticipated time required to repair. LESSOR shall bear the cost of all repairs to the Premises, including the Communication Tower and Shed, and LESSEE shall bear the cost of all repairs to the Equipment and any alteration to fixtures installed at or attached to the Communication Tower and Shed or located on the Premises by LESSEE. Such repairs by LESSOR shall restore the Premises, including the Communication Tower and Shed, to substantially the same condition as that existing at the commencement of this LEASE. All repairs shall also be made in compliance with all applicable federal and state laws and regulations, and all local building codes, ordinances, and regulations. LESSOR shall not be liable to LESSEE for compensation or consequential damages for any loss of business, or any inconvenience or annoyance arising from repair of the Communication Tower and Shed and/or Premises as a result of Casualty. LESSEE shall be responsible at its sole cost and expense for the replacement or repair of the Equipment and any of its personal property damaged or destroyed by such Casualty.

b) LESSOR'S Election to Terminate Due to Casualty: LESSOR may only elect to terminate this LEASE due to Casualty if: the Communication Tower, Shed and Premises have been completely destroyed or substantially destroyed by said Casualty; or the estimated time to repair the Premises, Communication Tower and Shed, exceeds sixty (60) days from the date the Casualty occurred. LESSOR shall provide LESSEE with written notice of LESSOR'S election to terminate this LEASE hereinafter provided in Section 14.

c) LESSEE'S Election to Terminate Due to Casualty: If LESSEE does not receive a Notice of Repair from LESSOR within thirty (30) days after the date a Casualty occurred, or if the anticipated period of repair contained in the Notice of Repair exceeds sixty (60) days,

then LESSEE may elect to terminate this LEASE as hereinafter provided in Section 14.

14. TERMINATION — This LEASE may be terminated if any of the following occur:

- a) If pursuant to the terms provided herein, either LESSOR or LESSEE has an election to terminate under this LEASE and LESSOR or LESSEE so elects;
- b) LESSEE may terminate this LEASE if LESSOR has materially breached any obligation stated in this LEASE;
- c) LESSOR may terminate this LEASE if LESSEE has materially breached any obligation of LESSEE stated in this LEASE.
- d) Either party to this LEASE may terminate this LEASE, if a governmental regulatory agency prohibits or substantially restricts the use and operation of the Communication Tower and Shed through no fault of either the parties to this LEASE.
- e) LESSEE may terminate this LEASE in accordance with Section 17 of this LEASE.

In the event either LESSOR or LESSEE chooses to terminate this LEASE as provided herein, then:

- a) written notice of such termination shall be provided to the other party, and
- b) where required by this LEASE, such notice shall specify the reason for termination and,
- c) unless otherwise provided in this LEASE, such notice shall have an effective date of termination of not less than sixty (60) days from the date of said notice.

In case of any termination of the LEASE by LESSEE, the County Administrative Officer or the Tehama County Sheriff, or one of their designees, is authorized to provide such notice to terminate this LEASE.

15. Hold Harmless- LESSOR agrees to indemnify, save, hold harmless, and at LESSEE'S request, defend the LESSEE, its officers, agents, and employees from any and all costs and expenses including attorneys' fees and costs, damages, liabilities, claims, and losses occurring or resulting to LESSEE in connection with the performance, or failure to perform, by LESSOR, its officers, agents, or employees under this LEASE, and from any and all costs and expenses including attorneys' fees and costs, damages, liabilities, claims, and losses occurring or resulting to any person, firm, or corporation who may be injured or damaged by the performance, or failure to perform of LESSOR, its

officers, agents, or employees under this LEASE, and from any and all costs and expenses including attorneys' fees and costs, damages, liabilities, claims, and losses occurring or resulting to LESSEE in connection with any acts or omissions by any Third Party User, or their respective officers, agents, or employees.

LESSEE agrees to indemnify, save, hold harmless for all damages to any person or property occurring in, on, or about the Premises and arising out of LESSEES'S use and occupation of said Premises, except that LESSOR shall be liable to LESSEE and shall hold LESSEE harmless for damage resulting from acts or omissions of LESSOR or its officers, agents, or employees. The parties acknowledge that as between LESSOR and LESSEE, each is responsible for acts or omissions of its own officers, agents, employees and invitees, and that LESSOR also is responsible for the acts or omissions of any Third Party User, or their respective officers, agents, employees and invitees.

The provisions of this Section 15 shall survive the termination of this LEASE.

16. INSURANCE- Without limiting the indemnification of each party as stated in Section 15 above, it is understood and agreed that LESSOR and LESSEE shall each maintain, at their sole expense, insurance policies or self-insurance programs to fund their respective liabilities throughout the Term of this LEASE. Coverage shall be provided for comprehensive general liability, automobile liability, and workers' compensation exposure. Evidence of Insurance, Certificates of Insurance or other similar documentation shall not be required of either party under this LEASE but shall be provided upon the request of the other party.

17. NON-FUNDING TERMINATION- This LEASE is contingent on the approval of funds by the appropriating governmental agency, Notwithstanding the termination provisions of Section 14, should funds not be allocated by the County of Tehama Board of Supervisors, this LEASE may be terminated by the LESSEE by giving at least thirty (30) days prior written notice to LESSOR.

18. SURRENDER OF POSSESSION- Upon the expiration or termination of this LEASE, LESSEE will remove the Equipment and surrender LESSEE'S use of the Communication Tower and Shed to LESSOR in such condition as existing at the commencement of this LEASE less reasonable wear and tear, less the effects of any Casualty as herein defined, less any repair or work of improvement by LESSOR, and less the effects of any material breach of LESSOR'S covenant to maintain and cause legal compliance of the Premises, including Communication Tower and Shed.

19. MODIFICATION- Any matter of this LEASE may be modified from time to time during the Term, or its extension, by written amendment to this LEASE signed by the LESSOR and LESSEE, without in any way, affecting the remainder.

20. NON-ASSIGNMENT- Neither LESSOR or LESSEE shall assign or transfer this LEASE or its rights or duties under this LEASE, nor shall LESSOR or

LESSEE delegate its duties under this LEASE, without the prior written consent of the other party to this LEASE.

21. GOVERNING LAW- Venue for any action arising out of or relating to this LEASE shall only be in Tehama County, California. The rights and obligations of each party and all interpretation and performance of this LEASE shall be governed in all respects by the laws of the State of California.

22. NOTICES- All notices, demands, requests, exercises, and other communications under this LEASE by either party shall be in writing and:

a) Sent by the United States Certified Mail, return receipt requested, in which case notice shall be deemed delivered three (3) business days after deposit, postage prepaid in the United mail, or

b) Sent by a nationally recognized overnight courier, in which case notice shall be deemed delivered one (1) business day after deposit with that courier, as follows:

LESSEE:

County of Tehama
Dave Hencratt
Sheriff-Coroner
22840 Antelope Blvd
P.O. Box 729
Red Bluff, Ca. 96080
530 529-7950
530-529-7933

LESSOR:

Ducor Telephone Company dba Varcomm
Eric N. Votaw
President & CEO
9950 W. Van Buren St., Suite 135
Avondale, AZ 85338
530-585-2211

Notices given hereunder shall not be amendments or modifications to this LEASE.

23. INDEPENDENT CONTRACTORS- In performance of this LEASE mutually understood and agreed that the parties, including and all of their officer, agents, and employees, will at all times be acting and performing as an independent contractor, and shall act in an independent capacity and not as an officer, agent, servant, employee, joint venturer, partner, or associate of the other party.

24. AUTHORITY TO EXECUTE LEASE- Each party to this LEASE represents and warrants to the other party to this LEASE that the individual signing this LEASE on behalf such party has been duly authorized to execute this LEASE on behalf of such party, and will, by signing this LEASE on behalf of such party, legally bind such party to the terms and conditions of this LEASE. Each party to this LEASE further represents and warrants to the other party that no other officer, agency, or board, as applicable, is required to give its approval or consent to this LEASE in order for such party to authorize, enter into, and perform its obligations under this LEASE or that if such approval or consent to this LEASE is required, that such approval or consent has been duly obtained.

25. SEVERABILITY- In the event any provisions of this LEASE are held by a court of competent jurisdiction to be invalid, void, or unenforceable, the parties to this LEASE will use their best efforts to meet and confer to determine how to mutually amend such provisions with valid and enforceable provisions, and the remaining provisions of this LEASE will nevertheless continue in force and effect without being impaired or invalidated in any way.

26. NO THIRD PARTY BENEFICIARIES- Notwithstanding anything to the contrary in the LEASE, the provisions of this LEASE are only for the benefit of the LESSOR and the LESSEE, and there are no intended third party beneficiaries of this LEASE, including any Third Party Users.

27. ENTIRE LEASE- This LEASE constitutes the entire agreement between the LESSOR and LESSEE with respect to the subject matter hereof and supersedes all prior agreements, negotiations, proposals, commitments, writings, advertisements, publications, and understandings of any nature whatsoever unless expressly referenced in this LEASE.

This LEASE shall be binding on and inure to the benefit of LESSOR'S and LESSEE'S heirs, successors and assigns.

IN WITNESS WHEREOF, the parties hereto have caused this LEASE to be executed as of the date first herein written.

IN WITNESS WHEREOF, County and Contractor have executed this agreement on the day and year set forth below.

COUNTY OF TEHAMA

Date: MAY - 5 2020

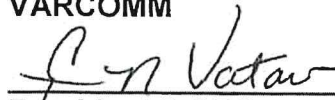

Chairman

Date: 030920


Sheriff-Coroner

**DUCOR TELEPHONE COMPANY, DBA
VARCOMM**

Date: 12-March 2020


President & CEO

E-Contract Review
Approval as to Form

Department Name: Sheriff

Vendor Name: Varcomm.

Contract Description: Lease agreement between the County and Varcomm for the purpose of the Repeater site location for the Southside of the County in Rancho Tehama.

APPROVED AS TO FORM:

A handwritten signature in black ink, appearing to read 'R. Stout', with a long horizontal flourish extending to the right.

Date: 02/28/2020

Office of the Tehama County Counsel
Richard Stout, County Counsel

0505 2 - YAM

E-Contract Review
Approval as to Form

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Vendor Name: Varcomm.

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APPROVED AS TO FORM:

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Date: 02/28/2020

Office of the Tehama County Counsel
Richard Stout, County Counsel

MINUTE ORDER
BOARD OF SUPERVISORS
COUNTY OF TEHAMA, STATE OF CALIFORNIA

C O N S E N T A G E N D A

RESULT: **ADOPTED [UNANIMOUS]**
MOVER: Dennis Garton, Supervisor - District 3
SECONDER: Steve Chamblin, Supervisor - District 1
AYES: Chamblin, Garton, Williams, Bundy, Carlson

10.SHERIFF'S DEPARTMENT

- a) AGREEMENT - Approval and authorization for the Chairman to sign the Communication Tower and Equipment Storage Lease Agreement with Ducor Telephone Company dba Varcomm for the lease of a portion of part of the Premises of the real property referred to as Ducor Telephone Company dba Varcomm Site in Rancho Tehama, CA in the amount of \$729.99 for the first year; thereafter the fee will be increased by an amount not to exceed 4% yearly, in the maximum amount not to exceed \$4,000, effective 1/1/20 and ends on 12/31/25.
(Miscellaneous Agreement #2020-112)

STATE OF CALIFORNIA)
) ss
COUNTY OF TEHAMA)

I, JENNIFER VISE, County Clerk and ex-officio Clerk of the Board of Supervisors of the County of Tehama, State of California, hereby certify the above and foregoing to be a full, true and correct copy of an order adopted by said Board of Supervisors on the 5th day of May, 2020.

DATED: May 19, 2020

JENNIFER A. VISE, County Clerk and
Ex-officio Clerk of the Board of Supervisors
of the County of Tehama, State of California

Deputy:

