

**GROUND LEASE
TO INSTALL, OPERATE, AND MAINTAIN
COMMUNICATIONS EQUIPMENT
AT LARSON PARK**

This Ground Lease to Install, Operate, and Maintain Communications Equipment at Larson Park (“Lease”) is made and entered into on _____ (“Effective Date”), by and between the City of Arcata (“CITY” and “Landlord”) and Vero Fiber Networks, LLC, a Colorado limited liability company authorized to do business in California (“VERO” and “Tenant”). CITY and VERO may herein be referred to individually as a “Party” and collectively as the “Parties.” There are no other parties to this Lease. This Lease is based on the following recitals of fact:

RECITALS

- I. The CITY is the owner of real property known as “Larson Park,” located at 901 Grant Avenue, Arcata, CA 95521, APN 505-051-002 (“Property”), operated as a public park that provides recreational uses by the general public.
- II. The CITY considers potential utility leases and encroachments within CITY rights-of-way and property that would provide a public benefit to the Arcata community without compromising public access.
- III. VERO desires to lease a portion of the Property to install a head-end unit and communications equipment, under the terms and conditions set forth herein.
- IV. The CITY desires to lease a portion of the Property to VERO for head-end unit and communications equipment installation, under the terms and conditions set forth herein.
- V. The installation of fiber optic infrastructure and communications equipment will help create service redundancy within the Arcata community and make progress towards creation of a new option for fiber internet and phonelines to homes and businesses. The addition of new utility service providers helps promote healthy competition for other providers of internet and phone services in the greater Arcata area.
- VI. The Parties enter into this Lease Agreement to define their respective rights and responsibilities by which VERO is allowed to install, operate, and maintain the communications equipment on the CITY-owned Property.

NOW THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

1. **Leased Premises**. CITY as Landlord leases to VERO as Tenant, and VERO as Tenant leases from CITY as Landlord, a portion of the Property, adjacent to the south side of the existing parking lot, as depicted on the “Site Plans,” attached hereto and incorporated herein as Exhibit A - Site Plans (“Leased Premises”).
2. **Use of LEASED PREMISES**. The Leased Premises shall be used for purposes of installing, operating and maintaining communications equipment, including a cabinet, generator and splice vault housed on a concrete pad, as well as ducting for power and communication lines, as more specifically described in Exhibit A, attached hereto. Installation, operations

and maintenance of said communications equipment shall be at Tenant's sole cost and expense.

A. Tenant's Obligations. At Tenant's expense, Tenant shall:

- i. Keep the Leased Premises in good order, repair, and condition, and promptly and adequately repair all damage to the Property caused by Tenant or Tenant's agents, other than ordinary wear and tear.
- ii. Perform all work under this Lease in a good workmanlike manner consistent with standards typical for the telecommunications industry.
- iii. Perform all work under this Lease in such a way as to reasonably minimize interference with the operation of the Property.
- iv. Use only appropriately skilled and experienced employees and subcontractors, properly qualified and supervised to perform the maintenance services.
- v. Prior to commencement of any work, obtain all necessary federal, state, and municipal permits, licenses, and approvals.
- vi. Maintain all regulatory approvals, authorizations, licenses, and permits needed to perform its obligations under this Lease where such regulatory approvals are the responsibility of Tenant to maintain.

B. Landlord's Obligations. At Landlord's expense, Landlord agrees to:

- i. Provide electrical power supply through consistent payments made against City's registered account with PG&E for provision of utility services on the Property. CITY shall not be responsible for PG&E utility service interruptions for any reason other than nonpayment or cancellation of CITY's account associated with the Property.
- ii. Keep the Property in good order, repair and condition.

3. Electric Utilities. VERO shall have the right to receive electrical utility services on the Leased Premises, including but not limited to, electrical facilities, appurtenances and associated equipment owned by Pacific Gas & Electric (PG&E).

A. Utility Services for the Initial Five-year Period. The Parties agree that, for the first five (5) years of the Lease, VERO may receive utility services under and through the CITY's existing account with PG&E for the Property.

- i. Compensation to CITY for Utility Services: VERO shall pay the CITY **\$217/month** as compensation for electrical power generation and delivery needed to power VERO's communications equipment on the Leased Premises. This amount is based on VERO's estimate that its communications equipment will average 500 kWh/month, delivery and generation for which currently costs \$217/month. Compensation to the CITY for VERO's electricity usage shall be in addition into the Base Rent detailed in Section 5.
- ii. True-Up Payment for Utility Services. No later than the close of the first quarter following the initial five-year period of the Lease, the Parties will

conduct a true-up of estimated electrical services costs incurred at the Property, based on the CITY's PG&E bills for the Property, and based on the following assumptions:

1. The CITY's electricity usage has averaged 317 kWh per month at the Property, and there are no anticipated changes to electrical usage by the CITY. VERO anticipates its communications equipment will average 500 kWh per month.

If the actual average monthly electricity usage at the Property over the five-year period is more than 10% above the expected combined average monthly electricity usages of the CITY (317 kWh) and VERO (500 kWh), then VERO shall compensate the CITY for the additional electricity costs above 900 kWh/month, at the current generation and delivery rates set by PG&E at the time of the true-up.

- B. Utility Services After the Initial Five-year Period. The parties agree that, before the end of the initial five-year period of the Lease, VERO shall, at its sole cost and expense, establish its own separate account and service connection with PG&E to power its communications equipment on the Property.
 - i. Once VERO's communications equipment is fully removed from the CITY's PG&E service account, VERO will no longer be responsible to compensate the CITY for electrical costs. In the event the changeover to VERO's service connection occurs mid-billing cycle on CITY's account, the final month of service shall be prorated. Compensation to the CITY for Base Rent, as detailed in Section 5, will continue throughout the duration of the Lease.

4. Term.

- A. The initial term of this Lease shall commence on the Effective Date recited above and shall continue through the end of the calendar year in which the Lease commenced, plus a period of 15 years, through December 31, 2040, or until terminated in accordance with Section 20 of this Lease.
- B. This Lease may be extended for an additional term of 15 years upon the City Council's consent thereof and the Parties' mutual agreement of extended terms and conditions. The 15-year extension may be initiated by VERO giving CITY written notice of its desire to extend the Lease at least ninety (90) days prior to the end of the original term. CITY shall provide VERO with a written response of its decision to approve or deny the Lease extension within at least thirty (30) days of VERO's request, provided VERO's notice is timely submitted.
- C. If, without objection by Landlord, Tenant holds possession of the Leased Premises after expiration of the term of this Lease, Tenant shall become a holdover tenant from month-to-month on the terms specified in this Lease, except those pertaining to term and option to extend. Each party shall give the other notice of intention to terminate the tenancy at least one (1) month prior to the date of termination of the holdover tenancy.
- D. If, over Landlord's objection, Tenant holds possession of the Leased Premises after expiration of the term of this Lease or expiration of the holdover tenancy, Tenant shall be deemed to be a tenant-at-sufferance and, without limiting the liability of Tenant for unauthorized occupancy of the Leased Premises, Tenant shall indemnify Landlord and any replacement tenant for the Leased Premises

for any damages or loss suffered by either Landlord or the replacement Tenant resulting from Tenant's failure to vacate the Premises in a timely manner.

- E. In no event shall the Term of this Lease exceed fifty-five (55) years following the Effective Date (in the year 2080), without the Parties meeting the conditions required pursuant to California Government Code §37380(b) et seq.

5. Rent.

- A. Rental Amount. The Base Rent for the Leased Premises shall be the sum of \$200 per month. Payment for electric utility services supplied through CITY for the first five years shall be in the sum of \$217 per month, per Section 3.A of this Lease. These sums shall be due payable in advance on or before the first day of each month at:

City of Arcata
Finance Department
736 F Street
Arcata, California 95521

- B. CPI Adjustment. Annually on July 1, the Base Rent shall be adjusted by the Consumer Product Index (CPI). The CPI used for such increases is the All Urban Consumers U.S. City Average, All Items, 1982-1984 = 100 annual CPI from the prior calendar year.
- C. Late Charges. If any Rent payment is not made within five (5) business days after the due date, Tenant agrees to pay as additional Rent a late fee in the amount of \$50.

- 6. **Possessory Interest Tax.** Pursuant to California Revenue and Taxation Code section 107.6, this Lease conveys to VERO a possessory interest that may be subject to property taxes and Vero may be subject to the payment of such taxes. VERO shall pay when due any and all taxes, fees and charges that may be levied against VERO's leasehold interest.

7. Hold Harmless and Indemnification.

VERO agrees to indemnify, defend and hold harmless the CITY, its Governing Board, its officers, agents, employees, and volunteers from any and all claims and losses, whatsoever, accruing or resulting from any and all subcontractors, laborers, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of VERO's roles and responsibilities as described in Section 2.A of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged as a result of the VERO, its officers, agents employees and volunteers, pertaining to VERO's performance of this Agreement.

CITY agrees to indemnify, defend and hold harmless VERO, its Governing Board, its officers, agents, employees, and volunteers from any and all claims and losses, whatsoever, accruing or resulting from the performance of CITY's roles and responsibilities as described in Section 2.B of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged as a result of the CITY, its officers, agents, employees and volunteers, pertaining to the CITY's performance of this Agreement.

8. **Insurance.** VERO shall maintain at all times during the term of the Lease, at a minimum, the insurance coverage or self-insurance coverage as set out below. Failure to maintain the required insurance shall be grounds for termination of this Lease. Said coverage shall include an endorsement to add CITY, its officers, agents and employees, as additional insureds with respect to liability arising out of or connected with the VERO-Owned communications equipment specified in Section 2 of this Lease. Additional insured coverage for the City shall not be limited to its vicarious liability. Defense costs must be paid in addition to limits. Said coverage shall additionally be endorsed to specify that the VERO's insurance is primary, and that insurance or self-insurance maintained by VERO or CITY shall not contribute with it. Said coverage shall also include a waiver of subrogation in favor of the CITY. Upon request, VERO shall furnish CITY with certificates of insurance and endorsements of all required insurance. Said documentation shall state that coverage shall not be cancelled except after thirty (30) days prior written notice has been given to CITY.
- A. **Workers' Compensation and Employers' Liability Insurance:** VERO shall provide Workers' Compensation and Employers' Liability insurance for VERO's employees and agents as required by the State of California and Employer's Liability Insurance of \$1,000,000 per accident for bodily injury or disease. The Workers Compensation policy shall include a waiver of right of recovery in favor of the CITY.
 - B. **Commercial General Liability:** VERO shall maintain commercial general liability insurance with coverage limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location, or the general aggregate limit shall be twice the required occurrence limit.
 - C. **Business Auto:** VERO shall maintain business automobile insurance coverage with limits no less than \$2,000,000 per accident for bodily injury and property damage.
 - D. **Professional Liability Insurance:** VERO shall maintain \$1,000,000 minimum professional liability insurance.
 - E. **Self-insured retentions (SIR):** All SIRs must be disclosed to the City for approval and shall not reduce the limits of liability. Policies containing any SIR shall provide or be endorsed to provide that the SIR may be satisfied by either the named insured or the City.
 - F. **Subcontractors:** Tenant shall require of all subcontractors performing work related to the work described in Section 2.A., and shall include in all such subcontracts, all insurance and indemnity requirements and provisions of the Lease that are applicable to any subcontractor's scope of work. Subcontractor's responsibility for defense and indemnity obligations shall survive the termination or completion of this Agreement for the full period of time allowed by law.
9. **Assignment.** Neither party may assign its obligations under this Lease without the prior written consent of the other.

- 10. Nondiscriminatory Employment.** In connection with the execution of the Lease, VERO and CITY shall not unlawfully discriminate against, harass, or allow harassment against any employee or applicant for employment because of sex, race, religion, color, national origin, ancestry, disability, sexual orientation, gender, gender identity, gender expression, medical condition, genetic information, marital status, age (over 40), military or veteran status, or denial of family-care leave, medical-care leave, or pregnancy-disability leave. VERO and CITY shall ensure that the evaluation and treatment of their employees and applicants for employment are free of such discrimination and harassment.
- 11. Entirety of Contract.** This Lease shall constitute the entire agreement between the parties relating to the subject matter of this agreement, and shall supersede any previous agreements, promises, representation, understanding and negotiation, whether oral or written, concerning the same subject matter. Any and all acts which may have already been consummated pursuant to the terms which are embodied in this Lease are hereby ratified.
- 12. Notices.** All notices or other communications required or permitted to be given hereunder shall be in writing and shall be deemed to have been given when delivered if personally delivered, or three (3) business days after mailing if mailed by certified mail, postage prepaid, return receipt requested, and shall be addressed as follows:
- a. City of Arcata
Merritt Perry, City Manager
736 F Street
Arcata, CA 95521
citymgr@cityofarcata.org
 - b. Vero Networks
Joseph Wicelinski, OSP Project Manager
740 E US Highway 24
Woodland Park, CO
jwicelinski@verofiber.com
- 13. Relationship of Parties.** It is understood that this Lease is by and between two independent entities and is not intended to, and shall not be construed to, create the relationship of agent, servant, employee, partnership, joint venture, or any other similar association. Each party agrees to furnish at their own expense all tools, equipment, services, labor and materials necessary to complete all roles and responsibilities of this Lease.
- 14. Compliance with Applicable Laws.** The VERO and the CITY shall comply with any and all applicable federal, state and local laws affecting the activities covered by this Lease.
- 15. Jurisdiction and Venue.** This Lease shall be construed in accordance with the laws of the State of California, and the parties hereto agree that venue shall be in Humboldt County, California.
- 16. Headings.** The headings of this Lease are for purposes of reference only and shall not limit or define the meaning of the provisions of this Lease.
- 17. Severability.** If a portion, term, condition or provision of this Lease is determined by a court to be illegal or in conflict with a law of the State of California, or is otherwise rendered

unenforceable or ineffectual, the validity of the remaining portions, terms, conditions and provisions is not affected.

18. **Waiver**. The waiver of any breach of any provision hereunder by any party hereto shall not be deemed to be a waiver of any preceding or subsequent breach hereunder.
19. **Effective Date**. This Lease becomes effective when executed by authorized representatives of both parties; the effective date shall commence on the date of the last party's signing.
20. **Term, Termination, and Amendments of the Lease**. This Lease shall remain in effect as long as any aboveground VERO-owned communications equipment remains at the Property. Ownership of the electric meter shall remain with the CITY upon termination of this Lease.
 - A. **Early Termination**. Either party may terminate this Lease at any time upon one (1) year written notice to other party. If either party initiates early termination, then within one (1) year after notice of termination is given, VERO will remove all above ground VERO-Owned communications equipment, to the satisfaction of the CITY. If early termination occurs on a day other than the last day of a calendar month, the Rent for the last month shall be prorated.
 - B. **Amendment**. The parties may amend this Lease upon mutual agreement; however, no addition to, or alteration of, the terms of this Lease shall be valid unless made in writing and signed by the parties hereto.
21. **Disputes**. If either party has reason to believe that the terms of the Lease are not being fulfilled, such party may provide written notification to the other stating the basis for the concern and providing a reasonable time to respond or remedy the situation. VERO and the CITY will make reasonable efforts to resolve the issues to all parties' satisfaction. Both parties agree to negotiate all disputes between them in good faith for a period of 60 days from the date of notice prior to invoking any procedures of this Agreement or exercising their rights under law. Prior to court action, the parties agree to pursue mediation as a means to settle any dispute.
22. **Authority to Execute**. Each person executing this Lease represents and warrants that he or she is duly authorized and has the legal authority to execute and deliver this Lease. Each party represents and warrants to the other that the execution and delivery of this Lease and the performance of such party's obligations hereunder have been duly authorized.

IN WITNESS WHEREOF, the parties have executed this Lease effective on the Effective Date set forth above.

CITY OF ARCATA, LANDLORD

By: _____
Name: Merritt Perry
Title: City Manager

Date: _____

VERO NETWORKS, TENANT

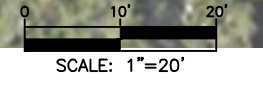
By: _____
Name: _____
Title: _____

Date: _____

EXHIBIT A - SITE PLANS



CALL BEFORE YOU DIG
811
72 HOURS NOTICE REQUIRED



SCALE: 1"=20'

REV	DATE	DESCRIPTION	BY



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DRAWN BY C. BOMAR	PROJECT FTTH	DATE 02/14/2025	SHEET 1 OF 1
DESIGN BY G. CHAPPELL	SCALE 1"=20'	MLG&W MAP	
DRAWING TITLE HEADEND FTTH			
901 GRANT AVE ARCATA, CA 95521			