

Attachment 1

WASHINGTON STATE
DEPARTMENT OF NATURAL RESOURCES

COMMUNICATIONS SITE FACILITY LEASE

Agreement No. 52-08515

Lessee's Reference No. PM #240127-1-202

PREAMBLE

GOLD MOUNTAIN

BY THIS LEASE between the STATE OF WASHINGTON, DEPARTMENT OF NATURAL RESOURCES, hereinafter called the "State," and the CITY OF SEATTLE, a municipal corporation of the State of Washington, acting by and through its CITY LIGHT DEPARTMENT, hereinafter called the "Lessee," the State grants to Lessee a lease for space for equipment within an existing State communications building and space on an existing State communications tower at the Gold Mountain Communication Site located in Kitsap County, Washington, hereinafter referred to as the Premises. The legal description is attached as "Exhibit A" and the location of the equipment is illustrated on "Exhibit A1" which by this reference are made a part hereof.

This lease is subject to any and all easements, rights of way, or leases of record with State or county including but not limited to such rights described in "Exhibit B."

SECTION 1 OCCUPANCY

1.01 Term. The term of this lease is for 10 years. The lease shall (commence/be made effective) on January 1, 2010, (Commencement Date) and end on December 31, 2019 (Termination Date).

1.02 Non-Default Termination. This lease is subject to termination by State upon three hundred and sixty (360) days written notice to Lessee that State desires to change the use of the land or to exchange or sell the land. In the event State terminates the lease as authorized in this subsection, rent shall be prorated to the date of termination.

1.03 No Warranty of Quiet Enjoyment. State makes no warranty of quiet enjoyment of Premises.

1.04 No Warranty of Non-interference. State will provide no interference protection during the term of this lease.

1.05 Condition of Premises. Lessee has had an opportunity to inspect Premises and enters into this lease solely in reliance on Lessee's own examination and not by reason of any representation by State. Premises are accepted in its present condition "AS IS WHERE IS." No reliance shall be placed on any opinion, material, or information provided by or through State, and Lessee does so at its own risk, cost and expense.

1.06 Lessee's Right to Terminate Agreement. Lessee may terminate this Lease at any time upon three hundred and sixty (360) days' notice and by submitting a Lease Termination and Surrender Agreement to State substantially in the form attached as "Exhibit J," provided Lessee has no outstanding rent or other charges due State, and has removed all equipment authorized under this Lease from the Premises. Rent shall be prorated to the date of termination.

SECTION 2 USE OF SITE

2.01 Permitted Use. The non-exclusive use of Premises shall be to install, maintain, repair and operate electronic equipment as described in approved technical data sheet(s), attached as "Exhibit C."

2.02 Reservation by State.

1. **Inspection.** Lessee shall permit State and its agents to enter Premises and any improvements thereon at all reasonable times for the purpose of inspecting the installations, equipment or units, provided that, except in case of an emergency, State shall provide Lessee at least twenty-one (21) calendar days prior written notice to enable Lessee to arrange to accompany State to protect the integrity of its equipment. This clause shall not be construed to impose a duty to inspect.

2. **Compatible Uses.** State reserves for itself, its successors and assigns, the right at all times for any purpose to cross and recross the underlying land ("Land") at any place or grade, to grant easements/licenses over or leases to the Land, to sell, lease, or otherwise dispose of minerals, coal, oil, timber, gas, or other valuable materials from the Land insofar as such uses are compatible with Lessee's operation. Such reserved rights shall be exercised in a manner that does not unreasonably interfere with Lessee's operation.

SECTION 3 PAYMENT

3.01 Payment. Payments made hereunder will be as follows:

1. **Rent.** Rent is based on a combination of equipment installed and space occupied in a DNR building and space occupied on a DNR tower. Lessee shall pay in advance the rent of \$16,536.00 for the period of January 1, 2010 to December 31, 2010, and \$16,536.00 annually on January 1st thereafter for the remaining term of this lease, subject to adjustment as set forth in Section 3 - 3.02. The parties agree and acknowledge that rent, power, and road use fee are to be paid for the five month

interval from July 31, 2009 (expiration of prior lease) and January 1, 2010, (start date for new lease) extended at the same rates as for the expired lease, equal to: rent of \$2,730.00, power of \$166.67, and road use fee of \$41.67.

2. Leasehold Tax. Should a leasehold tax be imposed on this Agreement or any interest therein, Lessee shall pay to State, the leasehold tax as set forth in RCW Chapter 82.29A - Leasehold Excise Tax as may be amended. The tax shall be due and payable at the same time the rental charged herein is due and payable. Lessee may be assessed leasehold tax directly from the Washington State Department of Revenue. In this instance, Lessee must submit to State a written request, with supporting documentation from the Washington State Department of Revenue, to end leasehold tax billing.

3. Road Use Fee. Lessee shall pay in advance the required road use fee of \$2,800.00 for the period of January 1, 2010 to December 31, 2010, and \$2,800.00 annually on January 1st thereafter for the remaining term of this lease, subject to adjustment as set forth in Section 3 - 3.02.

4. Power Service Fee. The Lessee shall pay in advance the required power service fee of \$561.00 for the period of January 1, 2010 to December 31, 2010, and \$561.00 annually on January 1st thereafter for the remaining term of this lease. The power service fee may be annually adjusted by the State.

3.02 Adjustment.

1. Periodic Adjustment.

a. Rent Adjustment. On January 1, 2014 and at intervals of Five years thereafter (Adjustment Date), a new annual rent will be established to be effective as of the Adjustment Date. Failure on the part of State to establish a new annual rent by the Adjustment Date shall not preclude State from doing so then or thereafter, and the adjusted rent shall be retroactive to the Adjustment Date, unless otherwise provided by State. At State's option, the new annual rent will be established using one of the following two methods of adjustments:

(1) For electronic equipment covered by the State's "Communication Program Rent Schedule", the Lessee's rent will be adjusted based on said State's "Communication Program Rent Schedule" in effect at the Adjustment Date. At a minimum, the Rent Schedule will be adjusted annually on July 1 based on an annual 3% increase or the preceding calendar year's "Consumer Price Index, All Urban Consumers, US City Average," (CPI) whichever is higher. In the event the CPI ceases to be published, State may substitute such other comparable cost of living index as then may be in publication by a comparable governmental agency.

OR

(2) For other electronic equipment not covered by the State's "Communication Program Rent Schedule", including but not limited to cellular or PCS, and TV or FM translators or broadcasters, the Lessee's rent will be adjusted to reflect market rent (by referencing comparable facilities at comparable locations). If Lessee does not agree with State's adjusted market rent, Lessee may submit to State an appraisal of market rent performed by an independent and licensed appraiser at Lessee's expense for State's consideration. Such appraisals must be submitted within 30 calendar days of notification of the adjusted rent, or State's determination of market rent is final with no right of appeal with rent due as set forth in State's initial notice. If Lessee timely submits an appraisal, State shall notify Lessee in writing whether State accepts or rejects Lessee's appraisal of market rent. State's decision shall be final, subject only to challenge in the manner as provided under RCW 79.02.030. Lessee shall pay the adjusted rent within 10 calendar days of receipt of notice of whether Lessee's appraisal is accepted or rejected. If the court rules that State's determination of rent was more than market rent, Lessee shall receive a credit toward future rents for any overpayment. If the court rules that State's determination of rent was less than market rent, Lessee shall pay such underpayment to State within 10 calendar days of entry of judgment.

b. Road Use Fee. The road use fee may be adjusted annually on the anniversary of the Commencement Date. The new annual road use fee will be based on State's estimate of Lessee's use of road system and that of any authorized sublessee.

2. Change in Operations. Rent will be adjusted when frequencies, equipment or units are added or removed from Premises according to the "Communication Program Rent Schedule" then in effect. For other electronic equipment not covered by the State's "Communication Program Rent Schedule", including but not limited to cellular or PCS, and TV or FM translators or broadcasters, the Lessee's rent will be adjusted to reflect market rent in a manner set forth in Section 3.02 l.a.(2). When authorized frequencies, equipment, or units are removed from Premises, there will be no refund of rent payments, and the rent will be adjusted at the next billing date. When authorized frequencies, equipment, or units are added, the rent will be increased on a prorated basis from the date of installation at Premises to the next billing date.

3.03 Place of Payment. All payments shall be accompanied by a reference to the lease number and paid to State Region office at the address shown on the signature page.

3.04 Non-waiver. Acceptance of rent or any other payment after the date it is due shall not be deemed a waiver regarding the obligations to make future payments on time, nor shall acceptance of rent after any breach by Lessee be construed as a waiver of any such breach or any other breach.

3.05 Taxes. Lessee shall pay all real and personal taxes imposed on Premises and improvements thereon during the term of the lease.

3.06 Assessments. Lessee shall pay its pro rata share of assessments charged against Premises. State will send a written notice with a detailed explanation of any assessments pertaining to Premises to Lessee. Lessee shall pay assessment within thirty (30) days of receipt of written notice from State.

3.07 Failure to Pay. If State must pay any tax, assessment, penalty, or interest because of the failure of Lessee to pay such taxes, assessments, penalties, or interest, such obligations shall be considered a debt to State.

3.08 Late Charge. In the event Lessee fails to make any payment of rent or any other payments due hereunder upon the date due, State shall be entitled to collect from Lessee a late charge equal to six percent (6%) of the amount of the delinquent payment.

3.09 Interest Charge. Failure to pay rent or any other payments due under the lease on the date due shall be subject to interest at the rate of twelve percent per annum.

SECTION 4 SPECIAL REQUIREMENTS

4.01 Electronic Standards. Lessee shall comply with the standards in the “Minimum Communication Site Standards,” attached as “Exhibit D.” State reserves the right to amend the standards set forth in “Exhibit D.” Lessee shall be informed of such amendments and given six (6) months to comply after receipt of written notice.

4.02 Compliance with Laws. Lessee shall conform to applicable laws and regulations of public authority affecting Premises and the use thereon and assume, at Lessee's sole expense, any costs of such compliance including any fines or penalties. Lessee shall obtain all federal, state, and local permits and licenses necessary to operate under this lease.

4.03 Fire. To the extent possible, Lessee shall protect Premises from fire and shall report any fires on Premises to State, by phone, as soon as possible, and to the Region office at the phone number shown on the signature page.

4.04 Debris. Lessee shall not allow debris or refuse to accumulate on Premises.

4.05 Frequency Interference. Lessee, upon written or verbal notification by State, shall immediately take remedial action to eliminate interference with other operators at this location caused by Lessee's operations. In the event Lessee fails to eliminate the interference within 48 hours of State contacting Lessee, State will have the right to disconnect power to any transmitters causing interference. If the interference affects emergency services or public safety, State shall have a right to disconnect power to any transmitter causing interference immediately upon contacting Lessee. For the purposes of this section, State shall be deemed to have contacted Lessee when State places a call to Rob Collins @ (206) 684-4970 . It shall be the responsibility of Lessee to ensure that messages can be taken at this phone number. LESSEE HEREBY WAIVES ANY CLAIMS THAT MAY ARISE OUT OF STATE DISCONNECTING POWER AS PROVIDED IN THIS SECTION. _____ [LESSEE INITIALS]

4.06 Technical Data Sheets. Lessee's installations shall conform to the approved and signed Technical Data Sheet(s) attached as "Exhibit C." New or amended Technical Data Sheets may be added to "Exhibit C" upon written approval by State.

4.07 New Equipment/Frequencies. Lessee shall not change or add frequencies, equipment or units without submitting new or amended Technical Data Sheets for State's written approval. If Lessee fails to comply with this requirement, State shall have the option to declare Lessee in material breach and exercise the rights set forth under Section 6 Default, or to authorize the equipment to remain subject to the rent provisions set forth hereinafter. When Lessee changes or adds frequencies, upon written approval by State, the priority rights for the new frequencies will be the date of approval shown on the new approved Technical Data Sheet. A new Lessee operation shall not interfere electronically or physically with an existing Lessee's operations.

If State allows the unauthorized frequencies, equipment or units to remain on Premises, Lessee shall be liable to pay State double rent for each previously unauthorized frequency, equipment or unit according to the "Communication Program Rent Schedule" in effect on the date of discovery from the period of installation or operation, whichever comes first, to the date of discovery by State. After the date of discovery, should State authorize the frequency, equipment, or unit, Lessee shall be liable for single rent for such frequency, equipment, or unit based on the rent schedule then in effect. Back rent shall be due at the end of the billing cycle during which discovery was made.

4.08 Effective Radiated Power. Lessee shall not raise effective radiated power (ERP) beyond that authorized by the approved Technical Data Sheets.

4.09 FCC License. Lessee shall operate its equipment and units in compliance with the rules and regulations of the Federal Communications Commission or Lessee's license authority. Within thirty (30) days of the beginning of operation and any subsequent renewals, Lessee shall furnish State with a copy of its current license and subsequent renewals to the Region office address as shown on the signature page.

4.10 Hazardous, Toxic, or Harmful Substances.

1. Deleterious Material. Lessee shall not make, or suffer to be made, any filling in of Premises or any deposit of rock, earth, ballast, refuse, garbage, waste matter, chemical, biological, or other wastes, hydrocarbons, any other pollutants, or other matter within or upon Premises, except as approved in writing by State. If Lessee fails to remove all non-approved fill material, refuse, garbage, wastes, or any other of the above materials from Premises, Lessee agrees that State may, but is not obligated to, remove such materials and charge Lessee for the cost of removal and disposal.

2. Hazardous, Toxic, or Harmful Substances.

a. Lessee shall not keep on or about Premises, any substances now or

hereinafter designated as or containing components now or hereinafter designated as hazardous, toxic, dangerous, or harmful (and/or which are subject to regulation as hazardous, toxic, dangerous, or harmful) by any federal, state, or local law, regulation, statute, or ordinance (hereinafter collectively referred to as "Hazardous Substances") unless such are necessary to carry out Lessee's permitted use under Subsection 2.01 and unless Lessee fully complies with all federal, state, and local laws, regulations, statutes, and ordinances now in existence or as subsequently enacted or amended.

b. Lessee shall immediately notify State of any of the following:

- (1) all spills or releases of any Hazardous Substance in, on, or adjacent to Premises,
- (2) all failures to comply with any federal, state, or local law, regulation, or ordinance, as now enacted or as subsequently enacted or amended,
- (3) all inspections of Premises by, or any correspondence, orders, citations, or notifications from any regulatory entity concerning Hazardous Substances affecting Premises,
- (4) all regulatory orders or fines, or all response or interim cleanup actions taken by or proposed to be taken by any government entity or private party concerning Premises.

Also, on request, Lessee shall provide copies to State of any and all correspondence, pleadings, and/or reports received by or required of Lessee or issued or written by Lessee or on Lessee's behalf with respect to the use, presence, transportation, or generation of Hazardous Substances in, on, about, or adjacent to Premises.

c. Lessee shall be fully and completely liable to State, and, to the extent permitted by law, shall indemnify, defend, and save harmless State and its employees, officers, and agents with respect to any and all damages, costs, fees (including attorney's fees and costs), penalties (civil and criminal), and cleanup costs assessed against or imposed as a result of Lessee's use, disposal, transportation, generation, and/or sale of Hazardous Substances or that of Lessee's employees, agents, assigns, sublessees, contractors, subcontractors, licensees, or invitees and for any breach of this Subsection 4.10.

4.11 Non-Ionizing Electromagnetic Radiation (NIER). Lessee shall comply with standards or requirements in effect for non-ionizing electromagnetic radiation levels as established by the Environmental Protection Agency (EPA) or other local governing agencies.

4.12 Equipment Location. The State reserves the right to designate placement or relocation of the following:

1. Antennas on tower
2. Equipment and units in building
3. Other users at the Premises

The Lessee will make such placements or relocations at their expense. In the event a combiner system is installed, the Lessee, at a time specified by the State, shall be required to connect to the system using such devices and techniques as the State shall prescribe. In addition to the yearly rent for space(s) on the tower, the State shall charge a one-time rent for the use of State's combiner system. This charge shall be based on the State's Rent Schedule.

4.13 Habitat Conservation Plan (HCP). Premise is located within an area that is subject to State's Habitat Conservation Plan adopted in connection with Incidental Take Permit No. PRT-812521 (ITP) as supplemented by Permit No. 11 68 (Collectively "ITP"). As long as the Habitat Conservation Plan remains in effect, Lessee and all persons acting under Lessee shall comply with the terms and conditions set forth in Exhibit G while operating on Premises. State shall have the right to modify these terms and conditions from time to time to comply with the Habitat Conservation Plan, the ITP, the Endangered Species Act, the implementing regulations, and amendments thereto, or the requirements of the federal agencies administering these laws.

SECTION 5 ASSIGNMENT, INSURANCE, INDEMNITY

5.01 Assignment. Lessee shall not hypothecate, mortgage, assign, sublease, transfer, or otherwise alienate this lease ("Assignment"), or any interest therein, without the prior written consent of State, which consent shall be at the sole discretion of State, except that State will not withhold consent in the event of an assignment to a related entity when such assignment is to facilitate Lessee's business plans or organization. In granting any such consent under this clause State shall be entitled to consider, among other items, the proposed assignee's, sublessee's or transferee's financial condition, business reputation, business, and such other factors as may reasonably bear upon the suitability of the assignee, sublessee, or transferee as an operator at the Premises. If Lessee is a corporation, partnership, or other association, (1) the transfer of more than fifty percent (50%) of the ownership interest in such entity, or (2) the sale of all or substantially all of the assets of Lessee shall be deemed to constitute an "assignment" of this lease which requires consent of State. The consent of State to any one assignment shall not constitute a waiver of State's right to consent to subsequent assignments, nor shall consent of State to any one assignment relieve any party previously liable as Lessee from any obligations under this lease. The acceptance by State of the payment of rent following an assignment shall not constitute consent to any assignment and State's consent shall be evidenced only in writing.

Name Change. If during the term of this Agreement Lessee changes its name, Lessee shall provide State with documentation legally supporting the name change within 60 days of the effective date of the change. Lessee may contact State's South Puget Sound Region office in Enumclaw, WA for a list of acceptable documentation.

5.02 Lessee's Assumption of Liability, and Liability and Casualty Insurance

1. Assumption of Liability. State shall have no responsibility or control with respect to any aspect of Premises or any activity conducted thereon from and after the Commencement Date. Lessee shall indemnify and save State harmless from any and all liability, damage, expense (including attorney fees and costs), cause of action, suits, claims, or judgments by any reason whatsoever caused or arising out of the use, occupation, and control of Premises by Lessee, its sublessees, invitees, agents, employees, licensees, or permittees except as may arise solely out of the willful act or gross negligence of State or State's officers, agents, or employees. To the extent that RCW 4.24.115 is applicable to any indemnification provision of this Lease, State and Lessee agree that this provision shall not require Lessee to indemnify and save State harmless from State's sole or concurrent negligence, if any. Lessee waives its immunity under Title 51 RCW to the extent it is required to indemnify, defend, and hold harmless State and its agencies, officials, agents, and employees.

2. General Insurance Requirements.

a. Lessee shall, at all times during the term of the lease at its cost and expense, buy and maintain insurance of the types and amounts listed below. Failure to buy and maintain the required insurance may result in the termination of the lease at State's option.

b. All insurance and surety bonds should be issued by companies admitted to do business within the State of Washington and have a rating of A-, Class VII or better in the most recently published edition of Best's Report. Any exception shall be reviewed and approved by DNR's Risk Manager, or the Risk Manager for the State of Washington, before the lease is accepted. If an insurer is not admitted, all insurance policies and procedures for issuing the insurance policies must comply with Chapter 48.15 RCW and 284-15 WAC.

c. State (DNR) shall be provided written notice before cancellation or non-renewal of any insurance referred to therein, in accord with the following specifications:

(1) Insurers subject to 48.18 RCW (Admitted and Regulated by the Insurance Commissioner): The insurer shall give the State 45 days advance notice of cancellation or non-renewal. If cancellation is due to non-payment of premium, the State shall be given 10 days advance notice of cancellation.

(2) Insurers subject to 48.15 RCW (Surplus lines): The State shall be given 20 days advance notice of cancellation. If cancellation is due to non-payment of premium, the State shall be given 10 days advance notice of cancellation.

- d. Before beginning operation, Lessee shall furnish State (DNR) with a certificate(s) of insurance, executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements specified in this Lease.
- e. Lessee shall include all sublessees as insureds under all required insurance policies, or shall furnish separate certificates of insurance and endorsements for each sublessee. Sublessee(s) must comply fully with all insurance requirements stated herein. Failure of sublessee(s) to comply with insurance requirements does not limit Lessee's liability or responsibility.
- f. The State, (DNR), its elected and appointed officials, agents and employees shall be named as an additional insured on all general liability, excess, umbrellas and property insurance policies.
- g. All insurance provided in compliance with this Lease shall be primary as to any other insurance or self-insurance programs afforded to or maintained by State.
- h. Lessee waives all rights against State for recovery of damages to the extent these damages are covered by general liability or umbrella insurance maintained pursuant to this agreement.
- i. If Lessee is self-insured, evidence of its status as a self-insured entity shall be provided to State. If requested by State, Lessee must describe its financial condition and the self-insured funding mechanism.
- j. By requiring insurance herein, State does not represent that coverage and limits will be adequate to protect Lessee, and such coverage and limits shall not limit Lessee's liability under the indemnities and reimbursements granted to State in this Lease.
- k. The limits of insurance, which may be increased by State (DNR), as deemed necessary, shall not be less than as follows:

(1) **Commercial General Liability (CGL) Insurance.** Lessee must purchase and maintain CGL on an Insurance Services Office (ISO) form CG 00 01 or equivalent form, covering liability arising from Premises, operations, independent contractors, personal injury, and liability assumed under an insured contract. Such insurance must be provided on an occurrence basis. Insurance must include liability coverage with limits not less than those specified below:

<u>Description</u>	
General Aggregate Limit	\$2,000,000
Each Occurrence Limit	\$1,000,000

(2) Business Auto Policy (BAP) Insurance (required for all contracts).
The Lessee shall maintain business auto liability and, if necessary, commercial umbrella liability insurance with a limit not less than \$1,000,000 per accident. Such insurance shall cover liability arising out of “Any Auto.”

Business auto coverage shall be written on ISO form CA 00 01, or substitute liability form providing equivalent coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage and cover a “covered pollution cost or expense” as provided in the 1990 or later editions of CA 00 01.

The Lessee waives all rights against the State for the recovery of damages to the extent they are covered by business auto liability or commercial umbrella liability insurance.

(3) Workers Compensation and Employer's Liability Insurance:
Lessee must purchase and maintain insurance covering obligations imposed by Federal and State statutes having, jurisdiction of its employees in the performance of work, including

Employer's Liability Insurance. Evidence of “Qualified Self-Insurance Status” will suffice to meet the requirements of this section.

<u>Description</u>	<u>Each Employee By Accident</u>	<u>Policy Limit By Disease</u>
Bodily Insurance	\$1,000,000	\$1,000,000

(4) **Property Insurance.** Lessee shall buy and maintain property insurance covering all real property and fixtures, equipment and Lessee improvements and betterments. Such insurance shall be written on an all risks basis and, at a minimum, cover the perils insured under ISO special causes of loss form CP 10 30, and cover the full replacement cost of the property insured. Such insurance may have commercially reasonable deductibles.

1. Self-Insurance. In lieu of the coverages required under Section 5.02-4 “Minimum Coverage Requirements” State at its sole discretion, may accept evidence of self-insurance by Lessee, provided Lessee provides the following:

i. Lessee shall provide a statement by a CPA or actuary, satisfactory to State that demonstrates Lessee's financial condition is satisfactory to self-insure any of the required insurance coverages.

ii. State may require Lessee to provide the above from time to time to ensure Lessee's continuing ability to self-insure. If at any time Lessee does not satisfy the self-insurance requirement, Lessee shall immediately purchase insurance as set forth under this Section 5.02-4 entitled “Minimum Coverage Requirements.”

iii. Aside from any “self-insurance” guaranteed by the Lessee, it is the responsibility of Lessee to ensure that its contractors, concessionaires, agents, employees, guests, invitees, sub-lessees, or affiliates in, on, under, or above Premises, any adjoining property, or any other property subject to use by Lessee in conjunction with its use of Premises, meet minimum insurance requirements described above.

Any coinsurance requirement in the policy shall be waived.

State shall be included as an insured and a loss payee under the property insurance policy.

SECTION 6 DEFAULT

6.01 Breach by Lessee. In the event of any breach of any provision of this Lease by Lessee, the breach, whether material or not, shall be deemed a default entitling State to cancel this lease and seek any other remedies set forth in this Lease or otherwise available at law or equity, after State has delivered to Lessee notice of the breach and a demand that the same be remedied immediately; provided Lessee shall not be in default if the breach pertains to the payment of money and Lessee cures the breach within twenty (20) days of receipt of the notice, or if the breach pertains to a matter other than the payment of any monies due under this lease, and Lessee shall after receipt of the notice promptly commence to cure the breach and shall cure the breach within forty-five (45) days after receipt of the notice; provided, however, if such breach is non-monetary in nature, and, as determined by State, is not reasonably susceptible of being

cured in said forty-five (45) days (provided that the lack of funds, or the failure or refusal to spend funds, shall not be an excuse for a failure to cure), Lessee shall commence to cure such breach within said period and diligently pursue such action with continuity to completion. If Lessee fails to cure a default, all Lessee owned improvements shall at the option of State, be removed by Lessee, be removed by State at the cost to Lessee, or become the property of State.

6.02 Reentry. In the event of any default by Lessee, State shall have the right, with or without canceling the Lease, to reenter the Premises and remove all persons and property from Premises and take whatever actions may be necessary or advisable to relet, protect or preserve the Premises. Any property so removed may be stored in a public warehouse or other suitable place or otherwise disposed of in State's discretion at the expense and for the account of Lessee. State shall not be responsible for any damages or losses suffered by Lessee as a result of such reentry, removal, storage or other disposition, and no such action shall be construed as an election to terminate this Lease unless a written notice of termination is given to Lessee.

6.03 Termination of Agreements. Whether or not the State elects to terminate this lease on account of any default by Lessee and subject to any non-disturbance and attornment agreements, if any, State shall have a right to terminate any and all subleases, licenses, concessions or other arrangement for possession affecting Premises. Alternatively, State, in its sole discretion, may succeed to Lessee's interest in such sublease, license, concession or arrangement, and Lessee shall have no further right to or interest in the rent or other consideration receivable thereunder.

6.04 Right to Cure. If Lessee fails to perform any undertaking or promise contained herein, State shall have the right but not the obligation to make such performance thirty (30) days after expiration of the notice to cure defaults stated above. State's expenditures to correct Lessee's failure to perform shall be reimbursed by Lessee together with interest at the rate provided in Section 3.

6.05 Remedies Cumulative. The specified remedies to which State or Lessee may resort under the terms of this lease are cumulative and are not intended to be exclusive of any other remedies or means of redress to which State or Lessee may lawfully be entitled in case of any breach or threatened breach by State or Lessee of any provision of this lease.

6.06 Insolvency. If a receiver or trustee is appointed to take possession of all or substantially all of the assets of Lessee; or if any action is taken or suffered by Lessee pursuant to an insolvency, bankruptcy or reorganization act; or if Lessee makes a general assignment for the benefit of its creditors; and if such appointment, action or assignment continues for a period of thirty (30) days, it shall, at State's option, constitute a material breach by Lessee.

SECTION 7 ACCESS ROADS AND ROAD MAINTENANCE

7.01 Access. Provisions for access to Premises are as follows:

1. Non State Land. Access to Premises includes use of existing roads across private or other government owned land. Lessee recognizes and agrees to comply with all the terms and conditions of the easements entered into by and between State and Pope & Talbot dated September 10, 1965 filed under Application No. 55-000495, and between State and City of Bremerton dated March 22, 1972 filed under Application No. 55-000496, and between State and West Tacoma Newsprint Co. dated October 31, 1967 filed under Application No. 55-000497 attached hereto as “Exhibit F.”

7.02 Road Repair. Lessee shall repair or cause to be repaired at its sole cost and expense that damage to said road(s) occasioned by it which is in excess of that which it would cause through normal and prudent usage of said road(s). Within fifteen (15) days of the damage, Lessee shall meet with State and provide a plan of operation for the repairs.

7.03 Improvements. Lessee shall construct no improvements to roads where access has been provided by State without the prior written consent of State, which shall not be unreasonably withheld. Unless State agrees to share in the cost of the improvement in writing, the improvements shall be at the sole cost of the improver.

7.04 Insurance. The provisions under Section 5 Insurance/Indemnity, shall apply to Lessee's use of roads authorized herein.

SECTION 8 IMPROVEMENTS

8.01 Utilities. Prior to excavation, clearing, or construction, Lessee will employ a utility locator service, at no cost to State, to check the lease area for buried utilities.

8.02 Unauthorized Improvements. Lessee shall not construct any improvements unless authorized in writing by State. All improvements made on Premises without the written consent of State are unauthorized and shall, at the option of State, be removed by Lessee, be removed by State at the cost to Lessee, or become the property of State.

8.03 Maintenance and Repair of Improvements. Lessee shall maintain and repair all improvements owned by Lessee, at its own cost.

8.04 Removal of Improvements. Lessee shall remove all Lessee owned improvements, including fixtures, from Premises within sixty (60) days from the Termination Date unless otherwise provided herein. In the event State authorizes Lessee owned improvements to remain past the sixty-day period, Lessee shall pay to State the contract rent then in effect from the Termination Date until the improvements are removed. If Lessee fails to remove the improvements at the end of the sixty day period where no extension has been granted or at the end of such other period authorized by State, Lessee shall be in trespass, and such improvements shall be deemed unauthorized improvements subject to disposition as set forth in

Section 8.02.

SECTION 9 MISCELLANEOUS

9.01 No Partnership. State is not a partner nor a joint venturer with Lessee in connection with the business carried on under this lease and shall have no obligation with respect to Lessee's debts or other liabilities.

9.02 Non-Waiver. Waiver by either party of strict performance or any provisions of this lease shall not be a waiver of nor prejudice the party's right to require strict performance of the same provision in the future or of any other provision.

9.03 Attorney Fees and Venue. Each party shall be responsible for their own attorney fees in the event of a dispute arising out of this lease except as set forth in Sections 4.10, 5.02, and 9.06. Venue for resolving such disputes shall be in Thurston County Superior Court.

9.04 Interpretation and Numbering. This lease has been submitted to the scrutiny of all parties hereto and their counsel if desired, and shall be given a fair and reasonable interpretation in accordance with the words hereof, without consideration or weight being given to its having been drafted by any party hereto or its counsel. Section numbers or titles are not to be considered in interpreting this lease.

9.05 Notices.

1. Any notice given under this lease shall be deemed received when delivered by hand or three (3) days after deposit in the United States mail with first class postage affixed addressed as follows: At the address given by each party in the signature block of this lease. Changes of address may be given in accordance with this section.
2. Lessee shall notify State within fourteen (14) calendar days of any change of address, business name, contact person's name or other changes that may affect the lease.

9.06 Liens. Lessee shall not suffer nor permit any lien to be filed against Lessee's leasehold interest in Premises or any improvement thereon by reason of work, labor, services or materials performed or supplied to Lessee or anyone holding Premises or any part thereof under the lease. If any such lien is filed against Lessee's leasehold interest or any improvements thereon, Lessee shall cause the same to be discharged of record within thirty (30) days after the date of filing the same unless other arrangements are authorized in writing by State. Lessee shall indemnify State for any costs, damages or expenses (including attorneys' fees) incurred as a result of the filing of such liens or in obtaining their discharge whether such costs, damages or expenses were incurred prior or subsequent to lease termination.

9.07 Force Majeure. State's or Lessee's failure to perform any of its obligations under this lease shall be excused if due to causes beyond its control and without the fault or negligence of State or Lessee, including but not restricted to acts of God, acts of the public enemy, acts of any government, vandalism, fires, lightning, floods, epidemics or labor strikes.

9.08 Preservation of Markers. Any legal land subdivision survey comers, reference points or monuments are to be preserved. If such are destroyed or disturbed by Lessee, Lessee shall reestablish them by a licensed land surveyor in accordance with U. S. General Land Office standards at their own expense. Comers, reference points or monuments that must necessarily be disturbed or destroyed in the process of carrying out the operations allowed by this lease must be adequately referenced and/or replaced in accordance with RCW 58.24.040 (8). Such references must be approved by State prior to removal of said corners, reference points or monuments.

9.09 Condemnation. If all of Premises is taken by any public authority under the power of eminent domain, this lease shall terminate as of the date possession was taken by said public authority pursuant to such condemnation. If any part of Premises is so taken and, in the opinion of either State or Lessee, it is not economically feasible to continue this lease in effect, either party may terminate this lease. Such termination by either party shall be made by notice to the other given not later than thirty (30) days after possession is so taken, the termination to be effective as of the later of thirty (30) days after said notice or the date possession is taken. If part of Premises is so taken and neither State nor Lessee elects to terminate this lease, or until termination is effective, as the case may be, the rental shall be abated in the same proportion as the portion of Premises so taken bears to the whole of Premises. All damages awarded for the taking or damaging of all or any part of Premises, or State-owned improvements thereon, shall belong to and become the property of State and Lessee hereby assigns to State any and all claims to such award. However, State shall not claim any interest in or to personal property or authorized improvements belonging to Lessee.

9.10 Proprietary Information/Public Disclosure. Materials or information submitted as required in this Agreement shall become public records within the meaning of RCW Chapter 42.56.

Any submitted materials or information that the Lessee claims as exempt from disclosure under the provisions of RCW 42.56.210 must be clearly designated. The page must be identified and the particular exemption from disclosure upon which the Lessee is making the claim must be identified by the RCW citation number.

The State will consider a Lessee's request for exemption from disclosure; however, the State will make an independent decision on the applicability of any claimed exemption consistent with applicable laws. The portion of a document claimed as exempt must qualify for exempt status as identified in RCW 42.56. Marking the entire submitted materials or information exempt from disclosure cannot be honored. If a public records request is made regarding materials that the Lessee has requested as exempt, the affected Lessee will be given notice of the request and allowed ten business days to seek a court injunction against the requested disclosure prior to the State fulfilling the public records request.

9.11 Exhibits. This lease is subject to the terms and conditions of exhibits referenced herein, which are attached hereto and by this reference, made a part hereof.

List of Exhibits

Exhibit A	Legal Description
Exhibit A-1	Location of Equipment
Exhibit B	Encumbrances (Subject to Leases)
Exhibit C	Technical Data Sheet
Exhibit D	Communication Site Standards
Exhibit E	Road Access Map
Exhibit F	Other Easement Agreements
Exhibit G	Requirements of the Incidental Take Permit (ITP) and Requirements of the Habitat Conservation Plan (HCP)
Exhibit J	Lease Termination and Surrender Agreement

CITY OF SEATTLE
DEPARTMENT OF LIGHTING
UBI 000050035

Signed this ____ day of _____, 20 ____.

By: _____

Printed Name: _____

Title: _____

Address: P.O. Box 34023
700 – 5th Avenue, Suite #3200
Seattle, WA 98124-9871

Phone: (206) 684-0400

STATE OF WASHINGTON
DEPARTMENT NATURAL RESOURCES

Signed this ____ day of _____, 20 ____.

By: _____

Printed Name: _____

Title: _____

Standard Communications Site Lease
Approved as to Form March 7, 2002
By James Schwartz
Assistant Attorney General
State of Washington

Revised as to Form September 13, 2007
By Roger Braden
Assistant Attorney General
State of Washington

**NOTARIAL CERTIFICATE
ACKNOWLEDGMENT IN A REPRESENTATIVE CAPACITY**

STATE OF _____)
) ss.
COUNTY OF _____)

I certify that I know or have satisfactory evidence that _____
_____ [name(s)] (is / are) the person(s) who appeared before
me, and said person(s) acknowledged that (he / she / they) signed this instrument, on oath stated
that (he / she / they) (was / were) authorized to execute the instrument, and acknowledged it as
the _____ [office(s) or title(s)] of _____
_____ (business name of the Lessee) to be the free and
voluntary act of such party(ies) for the uses and purposes mentioned in the instrument.

DATED: _____

NOTARY PUBLIC in and for the
State of _____
My appointment expires _____

(Seal or Stamp)

