



**KING COUNTY**

1200 King County Courthouse  
516 Third Avenue  
Seattle, WA 98104

**Signature Report**

**September 20, 2010**

**Ordinance 16930**

**Proposed No. 2010-0453.1**

**Sponsors Lambert**

1                   AN ORDINANCE approving two radio antenna leases for  
2                   the radio communication services section of the office of  
3                   information resource management.

4                   BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

5                   SECTION 1. Findings:

6                   A. The King County radio communication services section provides essential  
7                   emergency radio communication networks including the King County Regional  
8                   Emergency Radio System.

9                   B. The radio communication services section needs to continue the antenna lease  
10                  with KCTS Television in Seattle ("KCTS") and lease antenna, equipment connections,  
11                  and related storage space from the city of Marysville ("Marysville") to support the  
12                  emergency radio communication networks.

13                  C. The King County executive has negotiated and executed leases to provide  
14                  locations for radio communication services section facilities to provide essential  
15                  emergency communication networks. These leases are:

- 16                  1. KCTS Television Tower Site - Seattle, Washington; and  
17                  2. City of Marysville Water Tank Communications Site - Marysville,  
18                  Washington.

19 C. In accordance with K.C.C. 4.04.040, the King County council may adopt an  
20 ordinance permitting the county to enter into contracts requiring the payment of funds  
21 from the appropriation of subsequent fiscal years. These leases are subject to K.C.C.  
22 4.04.040.

23 SECTION 2. The appropriate county officials, agents and employees are hereby  
24 authorized to take all actions necessary to implement these leases and all actions up to  
25 now taken by county officials, agent and employees consistent with the terms and  
26 purposes of the lease agreement are hereby ratified, confirmed and approved.

27 SECTION 3. If any one or more of the covenants or agreements provided in this  
28 ordinance to be performed on the part of the county is declared by any court of competent  
29 jurisdiction to be contrary to law, then such covenant or covenants, agreement or  
30 agreements are null and void and shall be deemed separable from the remaining  
31 covenants and agreements of this ordinance and in no way affect the validity of the other  
32 provisions of this ordinance or of the lease.

33 SECTION 4. The leases at the following locations, executed by the King County  
34 executive, are hereby approved:

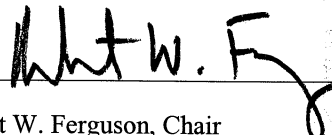
35 A. KCTS Television Tower Site, Attachment A to this ordinance; and

36 B. City of Marysville Water Tank Communications Site, Attachment B to this  
37 ordinance.  
38

Ordinance 16930 was introduced on 8/23/2010 and passed by the Metropolitan King County Council on 9/20/2010, by the following vote:

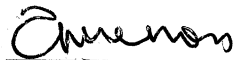
Yes: 8 - Ms. Drago, Mr. Phillips, Mr. Gossett, Ms. Hague, Ms. Patterson, Ms. Lambert, Mr. Ferguson and Mr. Dunn  
No: 0  
Excused: 1 - Mr. von Reichbauer

KING COUNTY COUNCIL  
KING COUNTY, WASHINGTON

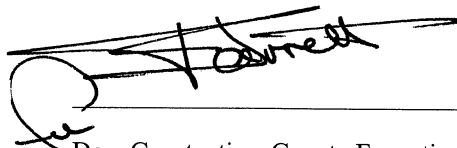
  
\_\_\_\_\_  
Robert W. Ferguson, Chair

2010 SEP 30 PM 4: 26  
RECEIVED  
CLERK  
KING COUNTY COUNCIL

ATTEST:

  
\_\_\_\_\_  
Anne Noris, Clerk of the Council

APPROVED this 30<sup>th</sup> day of September, 2010.

  
\_\_\_\_\_  
Dow Constantine, County Executive

**Attachments:** A. Lease Agreement--KCTS Transmission Site and Tower, B. Nonexclusive Communication Site Sublease

16930

2010-453  
ATTACHMENT A

# LEASE AGREEMENT

KCTS TRANSMISSION SITE & TOWER

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## LEASE AGREEMENT

This Lease is made and entered into this 26<sup>th</sup> day of February, 2010, by and between KCTS Television, a Washington corporation ("Lessor"), and King County, a municipal corporation and political subdivision of the State of Washington ("Lessee").

WHEREAS, Lessor is the owner of a communications tower ("Tower"), building ("Building") and real property located at 1611 18<sup>th</sup>, Seattle, WA; (referred to herein collectively as the "Site").

WHEREAS, Lessee holds licenses issued by the FCC to operate communication facilities in the Seattle area;

WHEREAS, Lessor desires to lease to Lessee and Lessee desires to rent from Lessor: space on the Tower to operate a six-foot (6') diameter microwave dish for a communication facility, including transmission lines and related equipment as described in section 4.5 below. Use of building and electrical power is not a part of this agreement as this is supplied by the City of Seattle as part of their occupancy of the site for the regional Emergency Radio System.

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual covenants contained herein, the sufficiency of which are hereby acknowledged, Lessor and Lessee do hereby agree as follows:

### 1. Use

a. Lessor agrees to lease to Lessee space on the Tower at the approximate height of: one hundred ninety feet (195') above ground on the Tower's northwest leg, for a six-foot (6') diameter microwave dish. The exact location shall be identified in and determined by Exhibit A and/or approved plans. Lessor also will make available to Lessee space on the Tower for Lessee's waveguide and/or coaxial transmission line. Lessor agrees to lease to Lessee space on the Site as shown in Exhibit A. The spaces on Site to be leased by Lessee, as described herein, are referred to collectively as the "Premises".

b. Lessee shall use the Premises solely for the purpose of radio operations for communications to and within the King County Emergency Radio Services system and in accordance with all applicable zoning, FCC and FAA regulations, and shall not use or permit the use of the Premises or any equipment thereon for any other purpose whatsoever. Lessee shall not permit the Premises or any such equipment to be occupied or subleased by anyone other than Lessee, except as otherwise provided under this Lease.

c. Lessee shall not install, operate or maintain at the Premises any item of equipment except as described herein, or strip, overload, damage or deface the Premises.

d. Lessee shall not use any equipment on or occupy the Premises, or permit any such equipment to be used or the Premises to be occupied in violation of any applicable laws, regulations or governmental orders ("Legal Requirements"). If any governmental authority shall find that the Premises are being used for a purpose which is in violation of any Legal Requirements and orders discontinuance of such use, Lessee shall, upon five (5) days'

written notice from Lessor, immediately discontinue such use of the Premises. However, the foregoing does not require Lessee to waive its right to contest such order of the governmental authority. Furthermore, Lessor shall provide Lessee prompt notice if it becomes aware of any investigation or proceeding regarding any illegal use of the Premises. If, after ordering discontinuance, the governmental authority asserting such violation threatens, commences or continues proceedings against Lessor for Lessee's failure to discontinue such use, in addition to any and all rights, privileges and remedies of Lessor hereunder, Lessor shall have the right to terminate this Lease immediately.

## 2. Term

a. The term of this Lease shall be for a period of five (5) years, commencing on January 1, 2010 and ending on December 31, 2014 ("Initial Term"), unless terminated earlier as otherwise provided under this Lease.

b. This Lease shall renew automatically for three (3) additional terms of five (5) years (each a "Renewal Term"), upon the terms and conditions contained herein unless Lessee provides Lessor with written notice of its intention not to renew this Lease at least six (6) months prior to the expiration of the Initial Term or Renewal Term then in effect.

## 3. Rent Commencement

Lessee covenants and agrees to pay Lessor rent (the "Rent") on the first day of each month during the Initial Term and any Renewal Term. Rent Commencement shall be defined as the first day Lessee's contractor begins installation of the microwave dish on the Tower. Rent for the first twelve months of the Initial Term shall be **Ten Thousand Six Hundred Twenty Dollars (\$10,620.00)**, payable in equal monthly installments of **Eight Hundred Eighty Five Dollars (\$885.00)**, to be increased on January 1<sup>st</sup> of each year thereafter that this Lease is in effect by the lesser of four percent (4%) or the increase in the National Consumer Price Index for all urban consumers (the "Index") published by the United States Bureau of Labor Statistics. In the event the Index decreases, the rate will never decrease. In that instance the rate will remain the same as the previous year until the next annual increase date.

If Rent Commencement occurs on a date other than the first day of a month, the rent for that month will be pro-rated and calculated at a rate per day equal to 1/365<sup>th</sup> of the annual rent for the first twelve months of the Initial Term.

## 4. Installation of Equipment

a. Prior to installation of any equipment, Lessee shall provide Lessor with a copy of all required FCC documentation.

b. Lessor shall have final approval over construction and/or installation of improvements, which approval shall not be unreasonably withheld, delayed or denied. To this end, Lessee shall submit appropriate plans and descriptions of the proposed construction and installations, including any modifications required by Lessee for power entry. Lessor shall have final approval over Lessee's choice of tower contractors, which approval shall not be unreasonably withheld, delayed or denied. The work shall comply with any conditions

Lessor may reasonably deem necessary or appropriate (including without limitation the requirement that employees of Lessor be present) and shall otherwise comply with all other obligations of Lessee under this Lease.

c. No person shall enter upon the Tower without the prior written consent of Lessor (which consent shall not be unreasonably withheld, delayed or denied).

d. Lessee shall at its sole cost and expense be responsible for all construction permits and operating licenses required by any city, county, state or federal agency relating to the installation and operation of Lessee's equipment and compliance with all existing laws, statutes, ordinances, rules and regulations imposed by any government body with jurisdiction over Lessee's operations. Lessee's equipment shall be installed in a good and workmanlike manner without causing damage to or weakening of the Building or the Tower and in no event shall attachment of any equipment be made by any method involving the drilling of the Tower nor shall the attachment be made with other than galvanized or stainless steel materials. Lessee shall be responsible for any structural analysis on the Tower necessary to ensure that Lessee's antennas can be mounted safely on the Tower. Lessor shall have final approval over acceptance of any structural analysis.

e. Installation of the Andrew Corporation VHLP6-11 microwave dish by Lessee will be at approximately the 195' foot level of the Northwest tower leg of Lessor's tower. As part of the installation, Lessee will modify the feed to the existing dual use microwave dish with ATC and the feedline for that dish will need to be moved from the Lessee's rack to the ATC rack located in the common area just inside Lessor's Building. This move will be coordinated with ATC and performed when the lessee's microwave equipment is decommissioned.

All work for the install of the new microwave dish and the modification of the feed to the ATC dish will be coordinated with Lessor's engineers. Any access to the tower above 385' requires coordination with additional users and will have time of day restrictions. All contractors used by Lessee must be properly insured and must perform work complying with OSHA and WOSHA requirements. The site must remain secure while Lessee's contractors are on site. Lessor will work with other users during Lessee's construction time to ask that they limit access to the site for emergency purposes only.

## **5. Costs**

It is understood and agreed by the parties that Lessor shall bear no new or additional costs as a result of the installation, maintenance or use of any equipment or improvements made by Lessee under this Lease. Lessee shall bear all costs associated with its microwave dish and related equipment.

## **6. Utilities**

Lessee shall, at its expense, provide for separately metered commercial electric service for its equipment, or where not possible to separately meter the electrical service for its equipment, Lessee shall pay a pro-rata share of the electrical service throughout the Initial Term and any Renewal Term based on 70% of the nameplate power requirements of Lessee's equipment, as updated from time to time, or as mutually agreed upon by the parties. Lessee shall be responsible for furnishing and paying for any and all other utilities and services



utilized by it, and where practicable such utilities and services shall be separately metered and/or billed directly to Lessee.

## **7. Taxes**

It shall be the responsibility and obligation of Lessee to pay or reimburse Lessor for any state or local taxes of any kind when due, imposed upon, or assessed with respect to, Lessee's operations, system, facilities, installations, equipment, any attachments thereto, and any other equipment, fixtures or improvements placed in or added to the Premises by Lessee in accordance with the terms of this Lease.

## **8. Liens**

a. Lessee shall not allow any lien or encumbrance to be placed against the Lessor or Lessor's property for any action or inaction of Lessee, including failure to pay any tax or for failure to pay any other claim or debt claimed due by any person, whether or not such person be a taxing authority or any other creditor. Lessee's failure to discharge, or otherwise satisfy in any manner authorized by law, any such lien or encumbrance in a timely manner may be declared by Lessor to constitute a default under this Lease by Lessee.

b. As a condition precedent to Lessee's making any repairs, alterations, additions or improvements which might in any way subject the interest of Lessor to claims of mechanics' liens, Lessee shall give written notice to Lessor, not less than ten (10) days before commencement of the work, of Lessee's intention to cause same to be done. Lessor shall have the right to place and maintain such signs and notices on the Site as may be necessary to protect it against loss from mechanics' liens or otherwise. Lessee shall keep the Premises free from any liens arising out of any work performed, material furnished or obligations incurred by Lessee, and shall upon Lessor's request post a lien and completion bond in an amount and with a surety agreed upon by both parties.

## **9. Interference**

a. Lessee will conduct its activities in accordance with applicable requirements of the FCC and sound electronic and engineering practice and will cooperate with Lessor and other lessees of the Site so as to prevent interference to the operations or equipment of Lessor and such other lessees. If any engineering statement presented to or by Lessor confirms that Lessee's operation, transmission or other activities on or around any portion of the Premises are causing, or are reasonably expected to cause, interference to the operation, transmission or other activities of Lessor or any other lessees of the Site, Lessee shall, at its sole expense, promptly correct the conditions causing such interference. If the interference is egregious and not remedied promptly, Lessor may require Lessee to suspend operations. If Lessee is unable to cure such interference within thirty (30) days after such engineering statement is presented to or by Lessee, Lessor at its option may terminate this Lease or make such corrections itself.

b. Lessee shall provide Lessor with written notice if unreasonable interference with the quality of Lessee's communications service occurs. If such interference is not cured or mitigated by the offending third-party communication provider(s) at no expense to the Lessee or Lessor within forty-eight (48) hours of receipt of such notice, Lessor shall make reasonable

efforts, but shall not be obligated to commence legal proceedings, to cause such other provider(s) to immediately cease use of its communication facilities, or portion thereof, causing such interference until such time as the interference is cured. If such interference is not cured within thirty (30) days, Lessee, at its option, may terminate this Lease.

c. As used herein, interference to an operation, transmission or other similar activity shall mean a condition or anticipated condition which constitutes or would constitute interference within the meaning of the provisions of the rules and regulations of the FCC then in effect.

## **10. RF Radiation**

Lessee shall, at Lessee's sole expense, take all actions required to ensure that Lessee's operation, alone or in combination with other emitters, does not expose workers or the general public to levels of radio frequency radiation ("RF radiation") in excess of the FCC's RF radiation guidelines. In this regard, Lessee shall cooperate fully with Lessor in preparing any submissions which the FCC may require concerning RF radiation, and in ensuring compliance with applicable FCC and other governmental standards concerning RF radiation, including without limitation participating in joint measurements and adopting procedures for repairs to and installation of equipment.

## **11. Ingress and Egress**

The duly authorized representatives of Lessee shall have the reasonable right of ingress and egress to and over the Site, subject to approval of Lessor and along routes designated by Lessor from time to time, for the purpose of installing, operating, maintaining, repairing or removing Lessee's equipment.

## **12. Maintenance and Repairs**

a. Lessee agrees that it will keep all and every part of the Premises in the same good state of repair as they now are or may later be put, and in a clean and wholesome condition, free from dirt and accumulation of waste, reasonable use thereof excepted.

b. Lessee, at its sole expense, shall maintain its equipment in accordance with reasonable engineering standards to assure that at all times Lessee's equipment and operations are in compliance with the requirements of the FCC and all other public authorities with jurisdiction over Lessee and do not cause or result in any violation of such rules by Lessee or any other tenant located on the Site.

c. Lessor shall have exclusive authority over and sole responsibility for the operation of equipment and other facilities provided by Lessor hereunder. Lessor shall make any repairs, additions or improvements whatsoever in, to, or about Lessor's equipment, the Building and the Tower to maintain the Tower in good condition and in compliance with good engineering practices, provided, however, that Lessee shall be solely responsible for the maintenance and repair of equipment owned by Lessee, and shall do so at its own expense, without damage, or threat of damage, to Lessor's property or the property of other lessees of the Site. Lessor agrees to maintain the Tower so as to comply with existing rules and regulations imposed by any governmental authority having jurisdiction over its operation,

including without limitation the FCC and the FAA. In the event that Lessor's operations are in any manner affected by the need for repair or maintenance of Lessee's equipment, Lessee shall immediately upon demand by Lessor perform such repairs or maintenance. If such repair or maintenance is not performed by Lessee within thirty (30) days after such demand is made, then Lessor shall have the right at its sole option, without further notification to Lessee, to undertake such repair or maintenance at Lessor's convenience.

d. Lessee shall pay or immediately reimburse Lessor for all costs and expenses incurred by Lessor in performing any work and services under the terms of this section relating to any part of the equipment, system, facilities, and/or any attachments thereto, of Lessee.

e. In the event that the installation, maintenance or repair of Lessee's equipment requires that the transmission of Lessor's or its other lessees' broadcast or other communications signals be interrupted for any period of time, such installation, maintenance or repair shall be performed only at such times as is approved by Lessor.

f. It is understood and agreed that in order to allow Lessor or other lessees to install, remove, maintain and repair their facilities located on the Site, it may be necessary from time to time for Lessor to request that Lessee temporarily cease transmission activities, to turn off electrical power, and/or to make other adjustments to its equipment, system, facilities and/or operations. Lessor agrees to use reasonable efforts to schedule such work so as to cause minimum disruption to the operations of Lessee or any other lessee located on the Site. Lessee agrees to cooperate with Lessor and to comply with and honor Lessor's requests for the temporary cessation of transmission activities, and in pursuance thereof, to turn off the electrical power, and/or to make such other adjustments to its equipment or operations, as may be necessary in order to allow the orderly performance and carrying out of any such work.

g. Lessee shall clearly label its equipment with the following information: (1) the name of Lessee; (2) the name and telephone number of the responsible person(s) to contact in the event of equipment malfunction; and (3) a copy of current Federal Communications Commission authorization for the equipment.

h. Lessee shall not bring any equipment containing PCB's onto the Premises. Lessee shall not bring any other hazardous or controlled substances to the Premises without prior consent of Lessor, which consent shall not be unreasonably withheld, delayed or denied.

i. No work on the Premises, other than emergency repair, may be performed on Sunday. All repair or maintenance work (except for emergencies) is to be performed between the hours of 8:00 a.m. and 5:00 p.m. Lessee shall notify Lessor in advance if it is necessary to perform work on the Tower, provided however that a best effort to notify Lessor during emergency repairs will be deemed adequate notification. While working at the Premises, Lessee's workmen shall not: (i) play radio or other musical devices excessively loud while working outside; and (ii) express or engage in any obscene utterances, gestures or conduct.

### **13. Emergency Work**

In the event that circumstances occur, or threaten to occur, from which Lessor may reasonably conclude that damage is likely to occur to the property of Lessee, Lessor, any other lessee, or any other person, or that a substantial threat to life will exist before agents of Lessee can be advised and respond, Lessor, without notice to Lessee, may repair, maintain, de-energize, disconnect or dismantle any or all equipment and/or facilities, or any other equipment or facilities on the Site and take any other action which, in Lessor's reasonable judgment, may appear necessary or appropriate with respect to the property of Lessee, or of Lessor, without liability of any kind on the part of Lessor for any damage which such action may cause, unless it is the result of gross negligence.

### **14. Alterations**

No alterations, additions, or improvements of any character shall be made in or to the Premises by Lessee, without the written consent of Lessor first having been secured, which consent shall not be unreasonably withheld, delayed or denied. All such alterations, additions or improvements so made shall be the property of Lessor and shall remain upon and be surrendered with the Premises upon the termination of this Lease, unless otherwise provided in such consent. All work performed by Lessee shall be performed in a good and workmanlike manner without damage to the Premises, and in accordance with all Legal Requirements. Nothing provided hereinabove shall prevent Lessee from installing transmitting and receiving equipment and antenna(s) as specified in this Lease, and the same may be removed at any time before the termination of this Lease if the Premises shall not be damaged by such removal, or provided that Lessee repairs any such damage to Lessor's satisfaction.

### **15. Damage or Destruction**

a. Lessor will not be liable to Lessee for any loss or damage sustained by Lessee as a result of loss, damage or destruction of the Tower, the Building or any equipment thereon, unless caused by Lessor's negligence or gross negligence.

b. Lessee shall immediately restore at its sole cost and expense any damage caused by Lessee or its agent to any transmitters, the antenna, the Tower, the Building or any associated equipment in connection with the installation, operation, repair or removal of Lessee's equipment.

c. Lessor shall take all commercially reasonable steps to restore at its sole cost and expense any damage caused directly by Lessor, its agent or any other tenant on the Site to Lessee's equipment, the radios, the antennas, the Tower, the Building or any associated equipment.

d. If the Premises or any equipment thereon is partially damaged by fire, windstorm or other casualty, this Lease shall remain in full force and effect and the damage to the equipment used by Lessee shall be repaired by Lessee and the damage to the Premises shall be repaired by Lessor in a timely manner, in all cases within thirty (30) days unless otherwise

agreed to by the Parties. If the Premises cannot be repaired without dismantling any of Lessor's or Lessee's equipment, Lessor may remove such equipment and interrupt communications transmissions activity as long as reasonably necessary to repair the Premises.

e. If the Site is destroyed or made unfit for use by fire, windstorm or other casualty, and such destruction could not reasonably be repaired within thirty (30) days from the happening of such destruction, Lessor may elect to either:

i. terminate this Lease as of the date when the Site is so made unfit for use, by written notice to Lessee within thirty (30) days after the occurrence of said destruction; or

ii. repair, restore or rehabilitate the Site, excepting any equipment used solely by Lessee. If Lessor elects so to repair, restore, or rehabilitate the Tower, this Lease shall remain in full force and effect, except Lessee's obligation to pay rent shall abate during any period the Premises are not in working order. In the event that the Premises or Lessee's equipment or any portion thereof are substantially damaged or destroyed so as to hinder effective use of the Premises or Lessee's equipment for Lessee's communication purposes, Lessee may elect to terminate this Lease, upon thirty (30) days' written notice to Lessor.

f. Upon Lessee's request, Lessor shall make a good faith effort to allow Lessee to relocate its communication facility to a temporary location on the Site in order for Lessee to continue to operate during any period of repair or interruption under this section, provided however, that Lessee obtains any permits required by the local jurisdiction for such relocation.

## 16. Representations and Warranties

a. Lessee represents that it will obtain any construction permits required for the purpose of modifying the Premises.

b. Lessor represents and warrants to Lessee that (i) Lessor has full corporate power and authority to enter into and perform this Lease and the transactions contemplated hereby, (ii) the execution, delivery and performance of this Lease by Lessor have been duly and validly authorized by all necessary action on the part of Lessor, and (iii) this Lease has been duly executed and delivered by Lessor and constitutes its valid and binding obligation enforceable in accordance with its terms.

c. Lessee represents and warrants to Lessor that (i) Lessee has full power and authority to enter into and perform this Lease and the transactions contemplated hereby, (ii) the execution, delivery and performance of this Lease by Lessee have been duly and validly authorized by all necessary action on the part of the Lessee, and (iii) this Lease has been duly executed and delivered by Lessee and constitutes its valid and binding obligation enforceable in accordance with its terms.

d. Any and all representations, warranties and covenants contained in this Lease shall survive the execution of this Lease and shall continue in full force and effect during the Initial Term and any Renewal Term.

## 17. Eminent Domain

If all or any part of the Premises shall be taken or condemned for public or quasi-public use, either Lessee or Lessor may terminate this Lease in its sole discretion. All compensation awarded upon such condemnation or taking shall go to the party entitled to such compensation as determined by the appropriate governmental jurisdiction.

## 18. Insurance

The Lessee, at its cost, shall maintain commercial general liability insurance or self insurance or any combination of arrangements, with a liability limit of \$5,000,000 per occurrence and \$5,000,000 aggregate, insuring against: (i) liability of the Lessee and its officers, employees and agents including liability for compensable injuries suffered by third parties in connection with the Lessee's use of the Premises; and (ii) liability arising from the Lessee's operations and activities on or in connection with the Premises, including but not limited to any damages or loss to the Premises, including equipment and any other improvements made thereon. Lessee agrees to provide Lessor with at least thirty (30) days' prior written notice of any change in Lessee's self-insured status and will provide Lessor with the letter of self-insurance as adequate proof of insurance.

Throughout the Initial Term and any Renewal Term of this Agreement, the Lessee shall cause any independent contractors retained by the Lessee to perform work on the Premises to procure workman's compensation insurance and commercial general liability insurance complying with the terms of the above paragraph. The Lessee shall furnish KCTS with a copy of such insurance policies prior to the commencement of any work by an independent contractor.

## 19. Indemnification

a. Lessee hereby agrees to and shall indemnify and hold harmless Lessor, its officers, directors, employees and/or agents, and each of them, from and against any and all claims, demands, suits and proceedings which may be made or commenced against any of them by any party for the recovery of damages for personal injury or for damages to property, or for any other loss or damage of any kind including, without limitation, any and all damages, expenses, losses, attorneys' fees or court costs that may be suffered or incurred by Lessor, or any of its officers, directors, employees and/or agents, as a result of any such claim, demand, suit or proceeding, caused by, or resulting from, or arising out of, (i) the use by Lessee, its agents, servants, employees or invitees ("Lessee's Agents") of the Tower or any other part of the Site; (ii) the performance by, or carrying out by, Lessee, or any of Lessee's Agents, of any of the terms and conditions in this Lease; (iii) the failure to perform any term, covenant or condition required to be performed by Lessee under this Lease; (iv) any damage or injury that may occur as a result of a nuisance, an unsafe condition, or of any negligent installation, maintenance or removal of Lessee's equipment or facilities; or (v) Lessee's failure to comply with any applicable statute, rule, regulation, order, or other standard or condition, including, without limitation, any imposed by Lessor, pertaining to the installation, use, maintenance or removal of Lessee's system, equipment and/or facilities. Lessee agrees to take all necessary action to make this indemnification binding upon its insurance carriers so that such carriers

specifically waive all right of subrogation, if any, that such carriers might otherwise have against Lessor and its officers, directors, employees, agents, servants, contractors or invitees.

b. Lessor hereby agrees to and shall indemnify and hold harmless Lessee, its officers, directors, employees and/or agents, and each of them, from and against any and all claims, demands, suits and proceedings which may be made or commenced against any of them by any party for the recovery of damages for personal injury or for damages to property, or for any other loss or damage of any kind including, without limitation, any and all damages, expenses, losses, attorneys' fees or court costs that may be suffered or incurred by Lessee, or any of its officers, directors, employees and/or agents, as a result of any such claim, demand, suit or proceeding, caused by, or resulting from, or arising out of, (i) the use by Lessor, its agents, servants, employees or invitees ("Lessor's Agents") of the Tower or any other part of the Site; (ii) the performance by, or carrying out by, Lessor, or any of Lessor's Agents, of any of the terms and conditions in this Lease; (iii) the failure to perform any term, covenant or condition required to be performed by Lessor under this Lease; (iv) any damage or injury that may occur as a result of a nuisance, an unsafe condition, or of any negligent installation, maintenance or removal of Lessor's equipment or facilities; or (v) Lessor's failure to comply with any applicable statute, rule, regulation, order, or other standard or condition, including, without limitation, any imposed by Lessee, pertaining to the installation, use, maintenance or removal of Lessor's system, equipment and/or facilities. Lessor agrees to take all necessary action to make this indemnification binding upon its insurance carriers so that such carriers specifically waive all right of subrogation, if any, that such carriers might otherwise have against Lessee and its officers, directors, employees, agents, servants, contractors or invitees.

## 20. Risk of Loss

a. Lessee shall bear the full risk of loss from any cause other than Lessor's negligence or gross negligence for any and all of its operations, system, facilities, equipment and any attachments thereto located or installed in, on or around the Tower or any other portion of the Site.

b. Lessor shall have no responsibility, and shall not be liable for, any damage or destruction to any of such operations, system, facilities, equipment or any attachments thereto, or for any loss resulting from any such damage or destruction, or for any damage, cost, compensation, or claim arising out of any act or omission resulting in inconvenience, annoyance, interruption of transmission or loss of revenue, profit, or decrease in property value arising out of, or claimed to have arisen out of, Lessee's inability to use the Tower or any other portion of the Site, unless such loss is caused by Lessor's negligence or gross negligence.

## 21. Loss of Use

Lessee shall bear the full risk of any loss of transmission time or loss of use of any of its operations, system, facilities, equipment or any attachments thereto, and Lessee hereby waives, releases, relieves and discharges Lessor from any claim for damages or losses, including but not limited to lost revenues, profits, or decrease in property value, resulting

from, or claimed to have resulted from, Lessee's inability to transmit, unless caused by Lessor's negligence or gross negligence.

## **22. Reserved Rights**

Lessor reserves the right to use the Tower and the Building in any manner consistent with the provisions of this Lease and to install additional equipment of any kind thereon for any purpose including the right to install its own or another's television, radio or other communications transmitting antennas or receiving devices, so long as such installation does not interfere with Lessee's use of the Premises as provided hereunder.

## **23. Default**

The occurrence of any of the following events shall constitute an "Event of Default" by Lessee under the terms of this Lease.

a. If Lessee shall desert or abandon the Premises and such desertion or abandonment shall continue for a period of thirty (30) days after notice to Lessee of desertion or abandonment; or

b. If Lessee shall fail to pay within ten (10) days of the time prescribed, the Rent or any other amount or amounts which may become due and payable to Lessor in accordance with the terms of this Lease, and does not cure such failure within thirty (30) days of a notice by Lessor of such failure; or

c. If Lessee shall fail to comply with any other agreement, term, covenant or condition of this Lease and such default shall continue for a period of thirty (30) days following notice by Lessor specifying the claimed default, and Lessee shall not, in good faith, have commenced within said thirty (30) day period to remedy such default and diligently and continuously proceed therewith.

Upon the occurrence of an Event of Default Lessor may, at its option, either: (i) elect to terminate this Lease and in such event Lessor may recover from Lessee all amounts due and owing under this Lease, plus interest pursuant to Section 24 hereof on all such amounts, or (ii) elect not to terminate this Lease, and in such event Lessor may enforce all of its rights and remedies under this Lease, including without limitation the right to recover the Rent as it becomes due, together with interest thereon pursuant to Section 24 hereof. If Lessor elects to terminate this Lease, it shall provide written notice of termination to Lessee, whereupon this Lease shall terminate as of the date such notice is received. Within five (5) business days of its receipt of said notice of termination, Lessee shall cease transmission and the use and operation of its equipment and facilities in, on and around the Premises.

## **24. Interest on Delinquencies**

Any payment of Rent or other amounts provided for herein not paid when and as due shall bear interest at the prime rate, as hereinafter defined, until paid, which interest shall also be deemed additional rent hereunder. The acceptance by Lessor of any such delinquent



payment without the applicable interest thereon shall not be deemed a waiver of Lessor's right to recover such interest at any later time. As used herein, the term "prime rate" means the prime rate charged by United States banks, as published from time to time in the Wall Street Journal listing of "Money Rates."

## 25. Cancellation

Lessor or its assignee shall have the option to terminate this Lease if the Site ceases to be used for communication purposes and the Tower is removed and not replaced, provided that if such option is exercised, Lessor or its assignee shall provide Lessee with at least one (1) year's prior written notice.

## 26. Termination

This section is in addition to any other provision of this Lease authorizing or otherwise relating to early termination of said Lease.

a. **Failure to appropriate:** The Lessee's obligations to Lessor, if any, that extend beyond the current calendar year are contingent upon approval of the Lease by the King County Council or appropriation by the King County Council of sufficient funds to pay such obligations. Should such approval or appropriation not occur, this Lease and all of Lessee's obligations hereunder shall terminate at the end of the calendar year in which such approval or appropriation expires.

b. **Design Specifications:** Upon 120 days' written notice by Lessee to Lessor, Lessee may terminate this Lease if the Premises or the communication facility is, or becomes, unacceptable in relation to Lessee's design or engineering specifications for the communications network to which the communication facility is intended to connect. If Lessee elects to terminate this Lease pursuant to this provision, it shall provide written notice of termination to Lessor, whereupon this Lease shall terminate 120 days after such notice is received.

c. At the expiration of the Initial Term or any Renewal Term hereof, or upon any other termination of this Lease, Lessee agrees to quit the Premises, and to restore the Premises to Lessor in as good condition as upon delivery of possession to Lessee, reasonable use and wear thereof accepted. All property which Lessee is entitled to remove from the Premises under the terms of this Lease shall be removed by Lessee at its expense on or before the fifth business day after the termination of this Lease, otherwise it shall at Lessor's option be deemed and shall become the property of Lessor at such termination, or may be removed and disposed of by Lessor and Lessee shall reimburse Lessor for the costs of removal and disposition thereof upon demand. Upon expiration of the Initial Term or any Renewal Term of the Lease, or upon any other termination of this Lease, Lessee will be responsible for returning the site to the condition prior to the installation of any antennas or microwave dishes installed at all levels of the Tower, including removal of the antennas and microwave dishes, and removal of mounts and feedlines and any other Lessee owned equipment.

## **27. Loss of License**

If Lessee shall have its authorization revoked or canceled by the FCC or the renewal thereof denied by the FCC, and shall be finally ordered to cease operations of its Microwave facilities, this Lease shall remain in effect for the remainder of the term, provided however, Lessee will have the option to terminate the lease prior to the expiration of the term then in effect, upon providing ninety (90) days advance written notice to Lessor. Notwithstanding the foregoing, rent will continue to be due and payable to Lessor until such time as Lessee removes its equipment from the Premises.

## **28. Holding Over**

If Lessee or anyone claiming under Lessee shall remain in possession of the Premises or any part thereof after the expiration of the Initial Term or any Renewal Term without any agreement in writing between Lessor and Lessee with respect thereto, prior to acceptance of Rent by Lessor, the party remaining in possession shall be deemed a tenant at sufferance, and, after acceptance of Rent by Lessor, the party remaining in possession shall be deemed a tenant from month to month, subject to the provisions of this Lease.

## **29. Subordination**

It is understood and agreed that this Lease is secondary and subordinate to any mortgages, deeds of trust, or other liens which now cover, or may in the future cover, the Site. Lessee will, upon request of Lessor, promptly execute or cause to be executed such writings as may be necessary to evidence the fact that any rights given Lessee under this Lease are subordinate to any such mortgages, deeds of trust, or other liens; provided, however, that every such mortgage shall recognize the validity of this Lease in the event of foreclosure of Lessor's interest and Lessee's right to remain in occupancy of and have access to the Premises as long as Lessee is not in default of this Lease beyond any cure period. Nothing provided herein shall be construed to give Lessee any rights in the Premises other than the limited right to use the Premises as expressly provided in Section 1 of this Lease.

## **30. Estoppel Certificates**

Lessee shall at any time and from time to time, upon not less than ten (10) days prior written notice from Lessor, execute, acknowledge and deliver to Lessor a statement in writing certifying that this Lease is unmodified and in full force and effect (or, if modified, stating the nature of such modification and certifying that this Lease as so modified, is in full force and effect) and the date to which the Rent and other charges are paid in advance if any, and acknowledging that there are not, to Lessee's knowledge, any uncured defaults if any are claimed. Any such statement may be conclusively relied upon by any prospective purchaser or encumbrancer of the Site. Lessee's failure to deliver such statement within such time shall be conclusive upon Lessee that this Lease is in full force and effect, without modification except as may be represented by Lessor, that there are no defaults in Lessor's performance, and that not more than one month's Rent has been paid in advance.

### **31. Sublease, Assignment or Transfer**

a. Lessee may not assign this Lease or sublease any portion of the Premises without the prior written consent of Lessor which shall not be unreasonably withheld, delayed or denied. Lessee shall require any assignee or sublessee to enter into a written assumption or sublease agreement, respectively, with Lessee under which the assignee or sublessee shall agree to perform and comply with all the obligations and liabilities of Lessee as provided for under this Lease. Any other assignment or transfer of this Lease shall be void.

b. Lessor may freely assign this Lease without the consent of Lessee. The term "Lessor" as used in this Lease means only the owner, or mortgagee in possession, for the time being of the Site, and in the event of any transfer or transfers of Lessor's interest in such Site, other than a transfer for security purposes only, the transferor shall be automatically relieved of any and all obligations and liabilities on the part of the Lessor hereunder accruing from and after the date of such transfer, it being intended hereby that the covenants and obligations contained in this Lease on the part of Lessor shall be binding on Lessor, its successors and assigns, only during and in respect of their respective successive periods of ownership. Lessee agrees to look solely to Lessor's ownership interest in the site for the satisfaction of Lessee's remedies for the collection of a judgment (or other judicial process) requiring the payment of money to the Lessee in the event of any default by the Lessor hereunder. Provided there shall be no limit to remedies or sources of payment of a judgment (or other judicial order) from any and all of Lessor's successors and assigns to this agreement.

c. Subject to the provisions and conditions set forth above in this section, the terms, conditions and covenants contained in this Lease shall apply to, inure to the benefit of, and be binding upon, the parties hereto and their respective legal representatives, successors and assigns.

### **32. Waiver**

No waiver of any default or breach of any covenant by Lessee shall be implied from any omission by Lessor to take action on account of such default if such default persists or is repeated; and no express waiver shall affect any default other than the default specified in the waiver, and said waiver shall be operative only for the time and to the extent therein stated. The waiver by Lessor of any breach hereof shall be limited to that particular instance, and shall not constitute a waiver of any other breach, past or future. The subsequent acceptance of any Rent by Lessor shall not be deemed to be a waiver of any preceding breach by Lessee of any term, covenant, or condition of this Lease, other than the failure of Lessee to pay the particular Rent so accepted, regardless of Lessor's knowledge of such preceding breach at the time of acceptance of such Rent unless the parties agree otherwise in writing. The consent or approval by Lessor of any act or thing requiring its consent or approval shall not be deemed to waive or render unnecessary Lessor's consent to or approval of any subsequent similar acts.

### 33. Notices

All notices, demands, requests, or other communications made pursuant to, under or by virtue of this Lease, must be in writing personally delivered, or mailed to the party to which the notice, demand, or request is being made by certified or registered mail, return receipt requested, postage prepaid, as follows:

If to Lessor:

*Executive Director of Engineering and Technical Planning*  
KCTS Television  
401 Mercer Street  
Seattle, WA 98109

With a copy to: (which shall not constitute notice)

*Legal Affairs Manager*  
KCTS Television  
401 Mercer Street  
Seattle, WA 98109

If to Lessee: King County Real Estate Services  
500 4<sup>th</sup> Avenue, Room 500  
Seattle, Washington 98104

With copies to: (which shall not constitute notice)

King County Radio Services  
201 South Jackson Street,  
Seattle, Washington 98104-3856

All communications given pursuant to this section shall be deemed given upon delivery. Any party hereto may designate a change of address by notice to the other party given at least five (5) days before such change of address is effective.

### 34. Entire Agreement

This Lease contains all of the terms agreed upon between the parties with respect to the subject matter hereof, and may not be changed, modified, or terminated, except by written instrument executed by a duly authorized officer of each of the parties hereto.

### 35. Partial Invalidity

If any term or provision of this Lease or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Lease or

the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby, and shall be valid and enforced to the fullest extent permitted by law.

### **36. Headings**

The headings of the sections of this Lease are for the purpose of convenience only, are not part of this Lease, and shall not be deemed to modify, explain, or restrict in any manner any of the provisions of this Lease.

### **37. Governing Law**

This Lease shall be governed by the laws of the State of Washington, without regard to the choice of law provisions thereof, as well as by applicable laws of the United States of America.

### **38. Consent to Jurisdiction**

THE PARTIES AGREE THAT THIS AGREEMENT SHALL BE GOVERNED BY THE LAWS OF THE STATE OF WASHINGTON OTHER THAN ITS CONFLICTS OF LAWS RULES, AND, TO THE EXTENT APPLICABLE, THE FEDERAL LAWS OF THE UNITED STATES. FOR THE PURPOSES OF ANY DISPUTE ARISING FROM THIS AGREEMENT, THE PARTIES HEREBY IRREVOCABLY SUBMIT TO THE JURISDICTION AND VENUE OF THE COURTS OF COMPETENT JURISDICTION SITTING IN KING COUNTY, WASHINGTON. BY EXECUTION AND DELIVERY OF THIS AGREEMENT, EACH PARTY IRREVOCABLY SUBMITS TO THE JURISDICTION OF SUCH COURTS FOR ITSELF AND IN RESPECT OF ITS PROPERTY WITH RESPECT TO SUCH ACTION. THE PARTIES IRREVOCABLY AGREE THAT VENUE WOULD BE PROPER IN SUCH COURT, AND HEREBY WAIVE ANY OBJECTION THAT SUCH COURT IS AN IMPROPER OR INCONVENIENT FORUM FOR THE RESOLUTION OF SUCH ACTION.

### **39. Counterparts**

This Lease may be executed in multiple counterparts, each of which shall be deemed an original and all of which taken together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Lease as of the date first set forth above.

Lessor KCTS Television

Lessee \_\_\_\_\_

King County, Washington

By: [Signature]  
Name: Maxine "Max" Breshahan  
Title: President & CEO  
Legal

By: [Signature]  
Name: Stephen F. Salter  
Title: Manager, Real Estate Services

aj 2/20/10  
KCTS

APPROVED AS TO FORM ONLY:

By: [Signature]  
Tim Barnes, Deputy Prosecuting Attorney  
King County, Washington

Date: 2/4/10

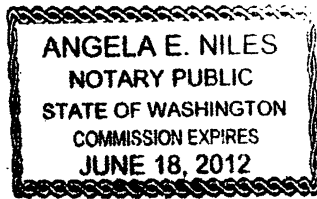
STATE OF WASHINGTON )  
 ) ss  
COUNTY OF KING )

I certify that MAURICE BRESNAHAN signed this instrument, on oath stated that he was authorized by KCTS TELEVISION to execute the instrument and acknowledged it as the PRESIDENT AND CEO to be the free and voluntary act of said KCTS TELEVISION for the uses and purposes mentioned in the instrument.

Date: 3/2/10

Angela E. Niles  
NOTARY PUBLIC

ANGELA E. NILES



(printed name)  
in and for the State of Washington  
residing at KIRKLAND, WA  
My appointment expires  
6/18/12.

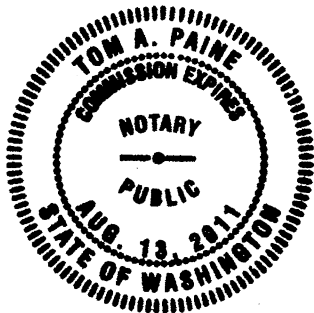
STATE OF WASHINGTON )  
 ) ss  
COUNTY OF KING )

I certify that Stephen L. Salyer signed this instrument, on oath stated that he was authorized by the King County Executive to execute the instrument and acknowledged it as the Manager of Real Estate Services, King County, Washington, to be the free and voluntary act of said County for the uses and purposes mentioned in the instrument.

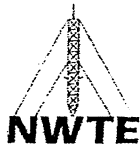
Date: 2/24/10

Tom Paine  
NOTARY PUBLIC

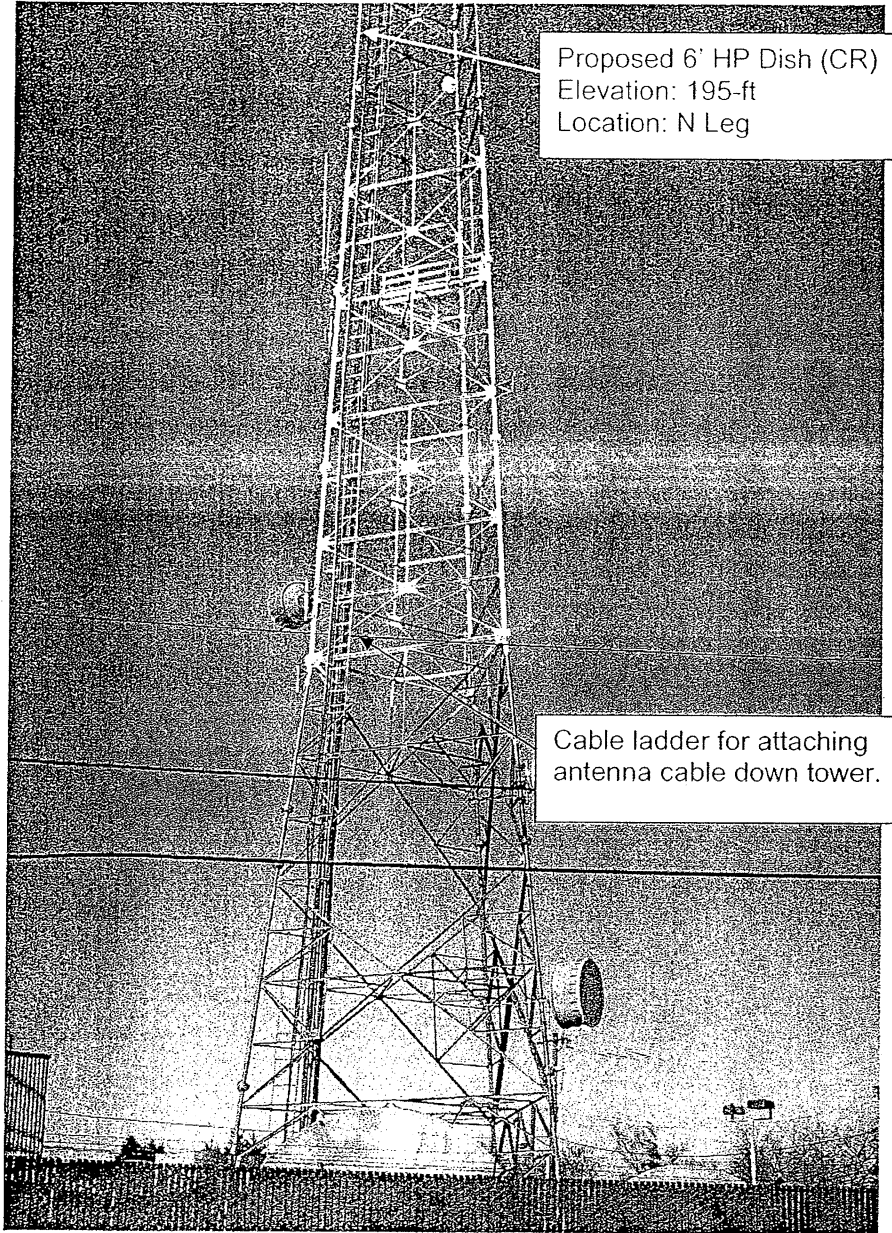
TOM PAINE



(printed name)  
in and for the State of Washington  
residing at SEATTLE  
My appointment expires  
8/13/11.



# NorthWest Tower Engineering



Proposed 6' HP Dish (CR)  
Elevation: 195-ft  
Location: N Leg

Cable ladder for attaching  
antenna cable down tower.

One Andrew UHX6-59K RF Microwave Antenna at 195 feet with an azimuth of 348.9 degrees

One Andrew ew63 Transmission line from shelter to 195 level, connected to antenna.



**NONEXCLUSIVE COMMUNICATION SITE SUBLEASE**

THIS NONEXCLUSIVE COMMUNICATION SITE SUBLEASE (this "Sublease") is made by and between the City of Marysville, a municipal corporation and political subdivision of the State of Washington (hereinafter sometimes called "the City" or "Sublessor"), and King County, Washington, a political subdivision of the State of Washington (hereinafter sometimes called "the County" or "Sublessee") this 12<sup>TH</sup> day of May, 2010.

**RECITALS**

- I. The City has entered into a Communication Site Lease (the "Master Lease") with Snohomish County Emergency Radio System ("SERS"), a Washington Interlocal non-profit corporation.
- II. Under the Master Lease SERS has constructed a Communication Facility consisting of an antenna and related structures on the premises.
- III. Under the Master Lease, the City has the exclusive right to enter into sublease agreements with third-party co-locators.
- IV. City and Sublessee have entered into a Marysville Tank Communications Site Installation Agreement and Sublessee desires to enter into a sublease with the City on the terms and conditions of this Sublease for the equipment installed.

**AGREEMENT**

In consideration of the mutual covenants contained in this Sublease, the parties agree as follows:

**1. RECOGNITION AND ACKNOWLEDGMENT OF MASTER LEASE.**

Unless specifically provided otherwise herein, Sublessee hereby recognizes, acknowledges and agrees to be fully bound to the terms of the Master Lease and all exhibits, schedules, General Terms and Conditions and Site Standards, Conditions and Interference Mitigation Requirements referenced in, attached to or incorporated into the Master Lease.

**2. WARRANTY OF CITY.** The City hereby warrants that the Master Lease is in full force and effect and the City is not in default thereof as of the execution date of this Sublease. The City agrees to continue to perform in accordance with the terms and conditions of the Master Lease. Except for the foregoing warranty, the City makes no warranty to Sublessee, either express or implied, concerning the Master Lease, the premises, or the suitability of the premises and improvements for Sublessee's intended use.

**3. NONEXCLUSIVE.** This is a nonexclusive Sublease and Sublessee

acknowledges and agrees that the site will be used by SERS as a communication facility and that the City may sublease the site and improvements to other sublessees to co-locate upon and use the premises and improvements for communications.

4. **PRECONDITIONS.** The City's performance under this Sublease is expressly preconditioned upon any preconstruction interference study conducted by or delivered to the City show that Sublessee's agreed equipment will cause interference as the City may determine, then at the option of the City, the City may declare this Sublease null and void and of no force and effect. There are no preconditions to Sublessee's payment and performance under this lease. Except as to any preconditions recognized by this paragraph, the parties shall be fully bound to this Sublease upon the stated effective date and sublessee shall fully pay all rents and other charges due and perform all obligations of Sublessee from and after the commencement date.

5. **PREMISES.** The City agrees to sublease to Sublessee and Sublessee agrees to lease from the City, upon the terms and conditions set forth herein, those areas and locations on the antenna, those related connectors, equipment, conduits and lines, and those storage areas described in detail on **Exhibit A** ("the connection and storage areas" or the "premises"). The connection and storage areas are located on premises depicted in an Area Map and Site Plans with legal description set out in detail in **Exhibit A** hereto (the "Site"). The connection and storage areas are part of an antenna and structures on the site described in detail in **Exhibit A** (the "Equipment and Structures List"). By taking possession of the premises, Sublessee accepts the premises in their existing condition. The City makes no representation or warranty with respect to the condition of the premises and site and the City shall not be liable for any latent or patent defect in the premises or the site.

6. **TERM.**

The initial term shall be for five (5) years and shall commence on December 1, 2009 and end on November 30, 2014. The term may be extended as permitted under the terms of this Sublease for one (1) additional five (5) year term.

7. **EXERCISE OF OPTION TO EXTEND.** So long as the same is not prohibited by the Master Lease, the City has not exercised any rights to terminate this Sublease, and Sublessee has faithfully and fully performed all terms and conditions of this Sublease, Sublessee shall have the right to extend this Sublease on the following terms and conditions:

a. **Notice.** Between one hundred eighty (180) days before and one hundred fifty (150) days before the termination date, Sublessee shall give the City written notice of its intent to extend this Sublease. Said notice shall be addressed and mailed in accordance with paragraph 31a of this Sublease.

b. **Rate Study.** Upon receipt of the notice, the City shall cause a rate study

to occur to determine the fair market rental for the extended term of the lease. The results of the said study shall determine the rental for the extended period of the lease. If there are costs associated with said study, Sublessee shall reimburse the City's costs.

c. **Terms and Conditions.** Except for the rental rate determined by the rate study, the remaining terms and conditions of this Sublease shall be in full force and effect during the extension period.

8. **EQUIPMENT TO BE ATTACHED.** Sublessee may attach to the antenna and structures only the equipment, connectors conduits and line expressly set out in **Exhibit A** (the "agreed equipment"). Said agreed equipment shall be installed in accordance with the plans and specifications set out in **Exhibit A**. The City may require that Sublessee submit an interference study to the City demonstrating that the agreed equipment will not cause interference with existing and contemplated equipment to use the premises. Sublessee may not use the premises for any other purpose.

9. **FACILITY FEE; RENT; ADDITIONAL RENT; OTHER CHARGES.** Sublessee agrees to pay the City, and where indicated third parties, fees, rent, additional rent and other charges as follows:

a. **SERS Siting Fee.** Unless waived or modified by SERS, Sublessee agrees to pay a siting fee to SERS in an amount set out in the General Terms and Conditions to the Master Lease. As currently drafted the General Terms and Conditions limit said fee to not exceed \$12,500. Said fee shall be paid upon execution of this Sublease.

b. **City Siting Fee.** Because Sublessee is another Washington State governmental unit, City waives any City siting fee.

c. **Security Deposit.** Because Sublessee is another Washington State governmental unit, City waives any security deposit.

d. **Annual Base Rent.** Sublessee shall pay the City annual base rent in the amount of \$4,084.00. Annual base rent for the first year shall be due and payable on the commencement date. Annual base rent for subsequent years of this Sublease shall be due and payable on the anniversary of the commencement date. Should the City allow Sublessee to add to or change the equipment to be attached, any agreement addressing the addition to or change of equipment shall address adjustment of the annual base rent and any pro-rata to account for additions or changes in the middle of a lease year. At the option of Sublessee, the annual rent may be paid in 12 equal payments, the first due on December 1, 2009 with subsequent payments due on the first day of each succeeding month.

e. **Adjustment of Annual Base Rent.** The annual base rent shall be

adjusted 3 % per year beginning with the lease year commencing on the first anniversary of the commencement date.

f. **Insurance Cost.** If as a direct result of this Sublease the City's cost for any insurance shall increase, the City shall invoice Sublessee for the increased cost on the anniversary of the commencement date. Sublessee shall pay the City's invoice within thirty (30) days of the postmark on the City's mailing of the invoice. Said reimbursement shall be deemed to be additional rent. The City and Sublessee agree to challenge any insurance cost increase deemed unreasonable or outside prudent risk management practices.

g. **Utilities Cost.** If all of the utilities to Sublessee's equipment and facilities are not separately metered and billed to Sublessee, but the said utility is billed to the City and increases the City's cost for utilities, the City shall invoice Sublessee for the increased cost on the anniversary of the commencement date. Sublessee shall pay the City's invoice within thirty (30) days of the postmark on the City's mailing of the invoice. Said reimbursement shall be deemed to be additional rent.

h. **Tax Imposed on the City.** Should any tax be imposed on the City for or on account of this Sublease, or the City's receipt of payments under this Sublease, upon the City's payment of said tax, the City shall invoice sublessee for the tax imposed upon the City. Sublessee shall pay the City's invoice within thirty (30) days of the postmark on the City's mailing of the invoice. Said reimbursement shall be deemed to be additional rent.

i. **No Offset.** All charges under this lease are charges for rent. Tenant shall pay all rent under this lease without offset.

10. **LATE PAYMENTS; INTEREST.**

a. **Late Charge.** If any rent, additional rent or other charge is not received by the City from Sublessee within ten (10) days of its due date, Sublessee shall immediately pay the City a late charge equal to five percent (5%) of the amount of the rent, additional rent or other charge. Payment of a late charge shall not be construed as a waiver of any other rights that the City may have under this Sublease.

b. **Interest.** In addition to all other charges, Sublessee shall pay to the City interest at the rate of one percent (1%) per month, or the maximum legal rate of interest, whichever is less, on any rent, additional rent, or other charge from any after the 10th day after the amount is due.

11. **TAXES.** Sublessee shall timely pay all taxes, real, personal or otherwise, if any which become due and payable for or on account of this Sublease or location of the agreed

equipment on the premises. Upon request, evidence of all such payments shall be provided to the City. Sublessee shall insure that no lien is imposed upon the premises and agrees to indemnify the City from any and all liability, obligation, damages, penalties, claims, liens, costs, charges, losses and expenses (including without limitation reasonable fees and expenses of attorneys, expert witnesses, and consultants) which may be imposed upon, or incurred by City to address taxes owed by sublessee.

**12. USE OF THE CONNECTION AND STORAGE AREAS.**

a. **Installation.** Sublessee may use the connection and storage areas to install, maintain and operate the agreed equipment. This use shall be nonexclusive. Installation shall be done under the supervision of the City or its designee. The City may forbid installation of any material, even if part of the agreed equipment, if in the City's sole judgment, reasonably exercised, the material will damage the property or interfere with the rights of SERS, the City, or any present or prospective co-locator. All expenses of installation of Sublessee's equipment shall be at the sole cost and expense of Sublessee. Sublessee shall paint the color of its facilities as the City may direct.

b. **Compliance With Law; Waste.** Sublessee shall, at its expense, comply with all present and future federal, state and local laws, ordinances, rules and regulations (including laws and ordinances relating to health, radio frequency emissions, other radiation and safety) in connection with the use, operation, maintenance, construction and/or installation of equipment and use of the premises. Sublessee shall not permit, and shall not cause waste upon the premises.

c. **Removal.** The Sublessee shall remove its equipment and materials from the premises upon the termination of this Sublease at its own expense. Such removal shall be done in a workmanlike and careful manner and without interference or damage to any other equipment, structures or operations on the premises, including that of SERS, the City or any co-locator. If, however, Sublessee requests permission not to remove all or a portion of its equipment and materials, and the City consents to such non-removal, title to the affected equipment and materials shall thereupon transfer automatically as of the date of the request to the City and the same shall thereafter be the sole and entire property of the City and Sublessee shall be relieved of the duty to otherwise remove the same. If Sublessee is required to remove its materials and equipment, Sublessee shall restore the affected area of the premises to the reasonable satisfaction of the City. All costs and expenses of removal and restoration shall be borne by Sublessee and Sublessee shall hold the City harmless from any portion thereof.

**13. EQUIPMENT AND MATERIALS UPGRADE.** Sublessee may not replace or alter its materials, installation and equipment without the agreement of the City, including any required agreement for the adjustment of the annual base rent.

14. **MAINTENANCE.**

a. Sublessee shall, at its own expense, maintain any equipment on or attached to the premises in a safe condition, in good repair and in a manner suitable to the City so as not to conflict with the use of or other leasing of the premises by the City. Sublessee shall not interfere with the use of the antenna, the premises, related facilities or other equipment of SERS and any co-locators.

b. Sublessee shall have sole responsibility for the maintenance, repair and security of its equipment and personal property and sub-leasehold improvements and shall keep the same in good condition and repair during the sublease term.

c. Sublessee shall keep the premises free of debris and anything of a dangerous, noxious or offensive nature or which would create a hazard or undue vibration, heat, noise or interference.

d. Should the City, SERS or a co-locator undertake painting, construction or other alterations on the antenna, Sublessee shall take reasonable measures at Sublessee's sole cost to cover and/or protect Sublessee's equipment, personal property or materials.

15. **LIENS.** Sublessee acknowledges that the City and the premises may not, and shall not, be subject to claims for liens for labor and materials, and shall keep the premises and any other property of the City free from any liens for work, labor, materials or services delivered to Sublessee, or claimed by or through Sublessee. Sublessee shall indemnify, defend and hold the City harmless from and against any such claims or liens and the City's attorney's fees and costs incurred in connection therewith.

16. **PREMISES ACCESS.**

a. Sublessee at all times during this Sublease, subject to notice requirements to the City as set out below, and subject to rules that SERS and/or the City may from time to time implement and issue, shall have vehicle access through existing gates and driveways to the antenna and premises.

b. Sublessee shall request access to the premises twenty-four (24) hours in advance, except in an emergency.

c. The City may at all times enter upon those portions of the premises occupied by Sublessee to examine and inspect the premises for safety and to ensure that the Sublessee is complying with the provisions of this Sublease.

17. **UTILITIES.** Unless separate metering is not available, Sublessee shall arrange for separate metering of its utilities associated with its use as permitted by this Sublease.

Sublessee shall pay all costs associated with arranging for said metering and Sublessee shall pay all utility charges as and when they come due. Sublessee may not install an emergency power generator or alternate power system on the premises without the consent of the City. The City in its sole discretion may refuse to grant consent. Should the City consent, and an emergency generator or alternate power system is installed by Sublessee, the system shall conform to all fire prevention regulations of the fire district, all requirements of the Public Utility District No. 1 of Snohomish County, and all regulations of any other agency with jurisdiction. The City shall not be liable for the interruption of utility services or failure of emergency power or any damages or losses resulting from such interruption or failure.

18. **LICENSE FEES.** Sublessee shall pay, as they become due and payable, all fees, charges, taxes and expenses required for licenses and permits required for or occasioned by Sublessee's use of the premises.

19. **INTERFERENCE.** Sublessee's installation, operation, and maintenance of the agreed equipment shall not damage or interfere in any way with SERS's operations, the City's operations or the operation of other co-locators. Sublessee agrees to immediately cease upon actual notice activities which materially interfere with other operations. The City at all times during this Sublease reserves the right to take any action it deems necessary in its sole discretion to repair, maintain, alter or improve the premises.

The City may at any time, at Sublessee's expense, obtain an interference study to determine if Sublessee's activities interfere with the use and operation of other communication facilities on the antenna which pre-existed Sublessee's agreed equipment. If Sublessee's agreed equipment causes interference, Sublessee shall take all measures reasonably necessary to correct and eliminate the interference. If the interference cannot be eliminated in a reasonable time, Sublessee shall immediately cease operating its equipment until the interference has been eliminated. If the interference cannot be eliminated within thirty (30) days, the City may terminate this Sublease.

The City may receive requests to sublease to co-locators. If after installation of Sublessee's agreed equipment the City proposes to enter into a sublease with a co-locator, the City will advise Sublessee of the proposal, and the City will supply Sublessee with such information as the third party will provide for review for noninterference. Sublessee shall have thirty (30) days to review and comment on the information supplied. If Sublessee does not object in writing within the said thirty (30) days, then Sublessee shall be deemed to have consented to the co-location and shall be conclusively deemed to have agreed that the proposal will not cause interference with Sublessee's agreed equipment and operation. If Sublessee timely objects, and the City verifies the objection, the City will not proceed with the proposal, unless the proposal is reasonably modified to avoid interference.

Notwithstanding the provisions of the previous paragraph, the City does not guarantee to Sublessee subsequent noninterference with Sublessee's agreed equipment. Further, regardless of

the provisions of the previous paragraph, the City itself, SERS, or any governmental unit may be allowed to operate or place facilities on the antenna regardless of actual or potential interference with Sublessee's use. In such event, Sublessee may terminate this sublease on thirty (30) days notice to the City.

## 20. **INSURANCE.**

a. Sublessee shall procure and maintain during the duration of this Sublease insurance against claims for injuries to persons or damage to property which may arise from or in connection with Sublessee's operation and use of the subleased premises in an acceptable form, at least as broad as, and not less than the following:

i. Commercial General liability insurance in the minimum combined single limit of \$5,000,000. Said insurance shall be written on Insurance Services Office (ISO) occurrence form CG 00 01 and shall cover premises and contractual liability.

ii. Property insurance covering the full value of Sublessee's property and improvements with no co-insurance provisions. Property insurance shall be written on an all risks basis.

b. The Commercial General Liability Insurance shall specify that Sublessee's insurance is primary insurance as respect the City. Any insurance, self-insurance or insurance pool coverage of the City shall be excess coverage to the Sublessee's insurance and shall not contribute with it. Sublessee's insurance shall be endorsed to state that coverage will not be cancelled by either party, except after thirty (30) days prior written notice by certified mail, return receipt requested has been give to the City. Insurance is to be placed with insurers with a current A.M. Best rating of not less that A: VII. Sublessee shall provide the City with evidence of insurance including certificates of insurance as the City may from time to time request.

c. Sublessee may satisfy the insurance obligations by maintaining a self insurance program. Sublessee maintains a fully funded self-insurance program as provided in King County Code 4.12 for the protection and handling of the Sublessee's liabilities including injuries to persons and damage to property. City acknowledges, agrees and understands that the Sublessee is self-funded for all of its liability exposures. Sublessee agrees, at its own expense, to maintain, through its self-funded program, coverage for all of its liability exposures for this Sublease. The Sublessee agrees to provide the City with at least 30 days prior written notice of any material change in the Sublessee's self-funded program and will provide the City with a certificate of self-insurance as adequate proof of coverage. City further acknowledges, agrees and understands that the Sublessee does not purchase Commercial General Liability insurance and is a self-insured governmental entity; therefore the Sublessee does not have the ability to add the City as an additional insured.



Should the Sublessee elect cease self-insuring its liability exposures and purchase Commercial General Liability insurance, Sublessee agrees to add the City as an additional insured.

d. The City and Sublessee hereby release and discharge each other from all claims, losses and liabilities arising from or caused by any hazard covered by property insurance on or in connection with the premises. This release shall apply only to the extent that such claim, loss or liability is covered by insurance.

21. **INDEMNIFICATION.** Except for the sole negligence of the indemnitees, Sublessee shall, at its sole cost and expense, indemnify and hold harmless the City, its elected officials, Council members, employees and agents. (collectively "Indemnitees") from and against:

a. Any and all liability, damages, penalties, claims, liens, costs, charges, losses and expenses (including without limitation reasonable fees and expenses of attorneys, expert witnesses and consultants) which may be imposed upon, incurred by or be asserted against the Indemnitees by reason of any negligent act or omission of Sublessee, its personnel, employees, agents, contractors or subcontractors, resulting in personal injury, bodily injury, sickness, disease or death to any person or damage to, loss of or destruction of tangible and intangible property, libel, slander, invasion of privacy and unauthorized use of any trademark, trade name, copyright, patent, service mark or any other right of any person, firm or corporation, which may arise out of or be in any way connected with the construction, reconstruction, remodel, revision, installation, operation, maintenance, use of, condition of the premises, Sublessee's agreed equipment, or Sublessee's failure to comply with any federal, state, or local statute, ordinance or regulation.

b. Any and all liabilities, damages, penalties, claims, liens, costs, charges, losses and expenses (including, without limitation reasonable fees and expenses of attorneys, expert witnesses and other consultants) which are imposed upon, incurred by or asserted against the Indemnitees by reason of any claim or lien arising out of work, labor, materials or supplied provided to or supplied to Sublessee, its contractors or subcontractors for the installation, construction, operation, maintenance or use of the premises or Sublessee's agreed equipment, and upon request of City sublessee shall immediately cause any claim against the premises to be released and discharged. Sublessee may alternatively simultaneously contest any aforementioned lien and post with the City a bond in lieu of satisfaction of the contested lien in accordance with RCW 60.04.161.

The indemnity provided for herein shall remain in full force and effect despite the negligence of the Indemnitees. Sublessee shall have no obligation to defend and/or indemnify the City for the sole negligence of the Indemnitees. This indemnity shall survive any termination

of this Sublease.

Sublessee hereby waives, as to the City only, the immunity of the Industrial Insurance Provisions of RCW Title 51, but only for the sole purpose and only to the extent necessary to indemnify the City as provided for in this paragraph 21. This waiver has been mutually negotiated by the parties.

22. **RELEASE OF CLAIMS.** Except for damages arising out of the negligent maintenance of the premises, Sublessee hereby releases the City for all claims for property damage which may arise from defects in the antenna and related structures on the premises, or which may arise from the existing or future water storage tank and appurtenances on the premises, or for damage by storm, rain, leakage or any natural occurrence.

23. **HAZARDOUS MATERIALS AND ENVIRONMENTAL COMPLIANCE.**

a. **Definitions.** "Hazardous Materials" as used in this Sublease shall mean:

i. Any toxic substances or waste, sewage, petroleum products, radioactive substances, heavy metals, medical, corrosive, noxious, acidic, bacteriological or disease producing substances; or

ii. Any dangerous waste or hazardous waste as defined in:

(a) Washington Hazardous Waste Management Act as now existing or hereafter amended (RCW Ch. 70.105);

(b) Resource Conservation and Recovery Act as now existing or hereafter amended (42 U.S.C. Sec. 6901 et seq); or

iii. Any hazardous substance as defined in:

(a) Comprehensive Environmental Response, Compensation and Liability Act as now existing or hereafter amended (43 U.S.C. Sec. 9601 et seq); or

(b) Washington Model Toxics Control Act as now existing or hereafter amended (RCW Ch. 70.105D); or

iv. Any pollutants, contaminants or substances posing a danger or threat to public health, safety or welfare or to the environment, which are regulated or controlled as such by applicable federal, state or local laws or regulations as now existing or hereafter amended.

**b. Environmental Compliance.**

i. In the use and occupancy of the Premises, the Sublessee shall, at the Sublessee's own expense, comply with all federal state and local laws and regulations now or hereafter in effect related to hazardous materials and the environment which are applicable to the premises, Sublessee's business or any activity or condition on or about the premises (the "environmental laws"). The Sublessee warrants that its business and all its activities to be conducted or performed in, or about the premises shall comply with all of the environmental laws. The Sublessee agrees to change, reduce, or stop any noncomplying activity or install necessary equipment, safety devices, pollution control systems or other installations as may be necessary at any time during the term of this sublease to comply with the environmental laws.

ii. The Sublessee shall not, without first obtaining the City's prior written approval, use generate, release, handle, spill, store, treat, deposit, transport, sell or dispose of any hazardous materials in, on or about the premises. In the event, and only in the event, that the City approves any of the foregoing, the Sublessee agrees that such activity shall occur safely and in compliance with the environmental laws.

iii. The Sublessee shall not cause or permit to occur any violation of the environmental laws on, under, or about the premises, or arising from the Sublessee's use or occupancy of the premises.

iv. The Sublessee, at its own expense, in a timely manner shall make all reports, including self reports, and supply all submissions required to comply with all environmental laws. If the Sublessee shall fail to fulfill this duty, at its option the City may fulfill such reporting requirements, and bill the cost thereof to Sublessee as if the same was additional rent, or the City may employ the default provisions of this Sublease. All of the City's remedies shall be cumulative, and the exercise of one remedy shall not be deemed to be a waiver or release of any other remedy. Sublessee's environmental obligations shall survive a termination of this Sublease.

v. Should any governmental or regulatory authority demand that a cleanup or remediation plan be prepared and that a cleanup or remediation by undertaken because of any action of Sublessee whereby a deposit, spill, discharge or other release of hazardous materials occurs during the term of this Sublease, then Sublessee shall, in a timely manner and at the Sublessee's own expense, prepare and submit the required plans and all related bonds and other financial assurances and Sublessee shall then carry out all such cleanup and remediation plans at its own expense. Any such cleanup and remediation plans are subject the

City's prior written approval. Although the City reserves the right to review and approve such cleanup and remediation plans, the City assumes no responsibility for such plans or their compliance with the environmental laws.

c. **Environmental Indemnity.** The Sublessee shall be fully and completely liable to the City for, and shall fully save and indemnify the City from, any and all cleanup and/or remediation costs and expenses and any and all other charges, expenses, fees, penalties (civil and criminal) imposed by any governmental or regulatory authority arising out of the Sublessee's use, disposal, transportation, generation, release, handling, spillage, storage, treatment, deposit and/or sale of hazardous materials on or about the premises. In addition, Sublessee shall indemnify and save the City harmless from any and all claims, liabilities, lawsuits, damages and expenses, including reasonable attorney's fees for injuries to persons or death, property damage, loss or costs caused by the Sublessee's use, disposal, transportation, generation, release, handling, spillage, storage, treatment, deposit and/or sale of hazardous materials by the Sublessee. For the purposes of this paragraph, "Sublessee" shall be construed to mean Sublessee, or any of its agents, representatives, employees or contractors. This indemnity shall survive the termination of this Sublease.

d. **Remediation on Lease Termination.** Upon expiration or earlier termination of this Sublease, Sublessee shall remove, remediate or clean up any hazardous materials on or emanating from the premises, occasioned by Sublessee, and Sublessee shall undertake whatever other action may be necessary to therefore bring the premises into full compliance with environmental laws. Sublessee shall submit its plan of cleanup to the City for review and approval. Notwithstanding review and approval by the City, the City assumes no responsibility for any plan of cleanup, or for Sublessee's compliance with environmental laws. If Sublessee does not timely proceed with a plan of cleanup, the City may supply Sublessee with a notice of default, and if within the deadline specified in the notice, Sublessee does not make reasonable progress, the City thereafter may proceed with cleanup as necessary and bill all of the City's costs, including costs of investigation and reporting, to Sublessee.

24. **NON-DISCRIMINATION.** The City and Sublessee shall not discriminate on the basis of race, color, sex, religion, nationality, creed, age or the presence of any sensory, mental or physical disability in the employment or application for employment in the administration or delivery of services or any other benefits associated with this Sublease. The parties shall, to the extent applicable, comply with all laws against discrimination including but not limited to Chapter 49.60 RCW and Titles VI and VII of the Civil Rights Act of 1964.

25. **SIGNS.** No advertising shall be permitted on the premises except as required by law or regulation. Sublessee may post its name, address and an emergency number on a painted sign, provided the design, size and location meet applicable codes and the sign is approved in advance in writing by the City.

26. **DEFAULT AND TERMINATION FOR DEFAULT.** It shall be a default if Sublessee shall fail to fully and timely make any payment under this Sublease or fail to fully and timely perform as required by this Sublease. In the event of a default, the City may give Sublessee a notice of default as follows:

- a. for nonpayment of rent, a ten (10) day notice to pay or vacate;
- b. for any other nonperformance under the lease a twenty (20) day notice to comply or vacate, except where the cure necessitates more than twenty (20) days in which case Sublessee's failure to initiate the cure within the notice period and prosecute such cure to completion shall constitute a default hereunder.

If Sublessee does not pay or cure its performance within the deadline specified by the notice the City, at its option, may without further notice re-enter the premises and eject Sublessee from the premises. At its option, the City may also (1) declare in writing the sublease terminated, in which event Sublessee shall immediately remove the agreed equipment from the premises and pay the City a sum of money equal to the total amount of unpaid rent accrued through the date of termination, the amount of rent remaining to be paid on the Sublease reduced by that amount the Sublessee proves could have been reasonably mitigated, and the City's costs, including reletting costs and reasonable attorney's fees, or (2) without terminating this Sublease, relet the premises, or any part thereof, for the account of the Sublessee upon such terms as the City deems advisable, and if a deficiency remains compared to the reserved rent and the City's reletting costs and reasonable attorney's fees, and invoice and collect the shortage from sublessee, or (3) pursue any other remedy permitted at law or in equity.

No re-entry and taking possession of the premises by the City shall be construed as an election on the City's part to terminate this Sublease, regardless of the extent of renovation or alterations by the City, unless the City declares in writing that this Sublease is terminated. Notwithstanding any reletting without termination, the City may at any time thereafter elect to terminate this Sublease for such previous breach.

27. **COSTS AND ATTORNEY'S FEES.** If a legal or equitable action is instituted by reason of any default or breach of this Sublease, or because of a dispute concerning the terms and provisions of this Sublease, the prevailing party shall be entitled to recover all of its legal costs, expert witness and consultant fees, and reasonable attorney's fees.

28. **VENUE AND CHOICE OF LAW.** This Sublease shall be governed by and construed in accordance with the laws of the State of Washington. The venue of any action brought under the terms of this Sublease shall be in the Snohomish County Superior Court.

29. **OPTIONAL RIGHTS TO TERMINATE.** Even though no party may be in default under the terms of this Sublease, the City and Sublessee, upon giving notice as specified,

shall have optional rights to terminate this Sublease as follows:

- a. **Failure of Precondition.** Without any notice, that party for whom a precondition is specified elsewhere in this Sublease, and the remedy of termination is granted, may declare this Sublease null and void for the failure of a precondition in its favor.
- b. **Damage or Destruction.** Upon thirty (30) days written notice, one to the other, in the event that the antenna, or Sublessee's agreed equipment, is substantially damaged or destroyed, either party may declare this sublease terminated.
- c. **Insolvency.** Without notice, upon Sublessee being the subject of a bankruptcy filing, the City may declare this Sublease terminated.
- d. **Passage of Law or Regulation.** Should the State or Federal government by statute, regulation or decision require the City, because it has entered into this Sublease, to allow other co-locators on the antenna and premises, then the City upon thirty (30) days written notice to Sublessee may declare this Sublease terminated.
- e. **Antenna Unsound.** Upon thirty (30) days written notice from the City to Sublessee, in the event that the antenna, as determined by the City in its sole discretion, is determined to be structurally unsound or otherwise not suitable for Sublessee's use.
- f. **Redevelopment.** Upon thirty (30) days written notice from the City to Sublessee, in the event that the City determines, in its sole discretion, that the property should be redeveloped.
- g. **Health Hazard.** Upon thirty (30) days written notice from the City to Sublessee, in the event that the City determines, in its sole discretion, that the continued use of the antenna and related equipment is in fact a threat to the health, safety or welfare of local community.
- h. **King County Council Approval.** Sublessee's obligations to the City, if any, are contingent upon approval of this Sublease by the King County Council or appropriation by the King County Council at the time of execution of sufficient funds to pay such obligations. Should such approval not occur, Tenant shall have the unconditional right to terminate this Sublease for convenience with no further obligations hereunder.
- i. **Any Other Provision.** Upon such notice, and under such circumstances as other provisions of this Sublease set out.

**30. ASSIGNMENT OR SUBLEASE.**

a. **Prohibited Without Consent.** Sublessee shall not assign or transfer this Sublease or any interest or rights therein, nor delegate its duties under this Sublease, nor sub-sublease the whole or any part of the premises, nor grant an option for assignment, delegation, transfer or sub-sublease for the whole or any part of the premises, nor shall this Sublease or any interest thereunder be assignable, delegable or transferable by operation of law, or by any process or proceeding of any court or otherwise without obtaining the prior written consent of the City. If the City gives its consent to any assignment, delegation, sub-sublease or other transfer, the same shall not be a waiver, and this paragraph shall nevertheless continue in full force and effect, and no further assignment, delegation, sub-sublease or other transfer shall be made without the City's consent. All prohibited events under this paragraph are hereinafter referred to as "transfers," or "transfer."

b. **Notice by Sublessee — Production of Records.** If Sublessee desires to transfer this Sublease, Sublessee shall notify the City in writing of said desire to transfer at least ninety (90) days prior to the effective date of the proposed transfer. The notice shall specify the date of the proposed transfer, the identity of the transferee, and the terms of the proposed transfer, including all consideration of any kind to be received by the sublessee. Upon request by City, sublessee shall provide:

- i. a full and complete financial statement of the proposed transferee;
- ii. a copy of the proposed transfer instrument;
- iii. an affidavit from the transferee that it has examined the Master Lease, and all accompanying schedules and exhibits, and has examined this Sublease, has had an opportunity to consult with legal counsel, and understands the terms and conditions under which a transfer will be undertaken; and
- iv. any other information the City reasonably requests.

c. **Decision by the City.** The City shall review the request to transfer and respond with either an approval or disapproval not later than sixty (60) days prior to the effective date of the proposed transfer. Disapproval shall be final and binding on the Sublessee and shall not be subject to litigation or appeal. The City shall charge Sublessee a reasonable fee for administrative costs for the review and processing of a transfer. Said fee shall be due and payable upon invoice from the City to Sublessee.

d. **Effect of Transfer.** Should the City consent to a transfer, the transferee shall be fully bound to this Sublease and the Master Lease. Despite consent by the City and a permitted transfer, Sublessee and any subsequent transferor shall not be released,

but shall also be fully bound to and obligated to payment and performance under this Sublease.

31. **NOTICES.** Except for notices required under Chapter 59.12 RCW, notices required under this Sublease shall be given in writing to the following respective addresses, effective as of the postmark time and date, or to such other place as may hereafter be designated by either party in writing:

a. if to City, to:

The Chief Administrative Officer  
City of Marysville  
1049 State Avenue  
Marysville WA 98270

b. if to sublessee, to

King County Radio Communications Services Manager  
6452 South 144<sup>th</sup> Street  
Tukwila, WA 98168

32. **HOLDING OVER.** If Sublessee holds over after the expiration of the term of this Sublease or any extension thereof, Sublessee, if the Master Lease has not expired, shall become a subtenant from month to month upon the terms of this Sublease as applicable. Acceptance by the City of rent after such expiration or early termination shall not result in a renewal of this Sublease, or waiver of any early termination, and shall not affect the City's right of reentry or any other rights the City may have. If Sublessee fails to surrender possession of the premises upon expiration of this Sublease, despite demand to do so, as provided for by law, Sublessee shall pay two (2) times the rent herein specified (prorated on a monthly basis), interest, attorney's fees and costs as specified in this Sublease.

33. **NO PRESUMPTION AGAINST DRAFTER.** Sublessee and City agree that this Sublease has been freely negotiated by the parties, and in the event of any dispute concerning the meaning or interpretation of the terms and conditions of this Sublease, there shall be no inference, presumption or conclusion drawn against the City for or on account that the City or its legal counsel have prepared this Sublease.

34. **CAPTIONS.** The captions of this Sublease are for convenience only and do not in any way limit or amplify the provisions of this Sublease.

35. **AUTHORITY.** Sublessee covenants and represents that it has full authority and power to execute this Sublease, and that by execution of this Sublease it will not violate any provision of law or contract and that Sublessee will be fully bound to full payment and



performance under the terms of this Sublease.

36. **CUMULATIVE REMEDIES.** No provision of this Sublease shall preclude the City from pursuing any other remedies the City may have for or on account of Sublessee's failure to perform its obligations.

37. **NONWAIVER.** The failure of the City to insist upon strict performance of the terms of this Sublease shall not be construed as a waiver by the City of strict performance. Waiver of a particular default shall not be deemed to be a waiver of any subsequent breach or default.

38. **SURRENDER OF PREMISES.** At the end of the term of this Sublease, besides performance of specific removal and remediation covenants provided for elsewhere in this Sublease, and subject to those covenants, Sublessee shall peaceably deliver up to the City possession of the premises in the same condition as received, except for ordinary wear and tear.

39. **INTEGRATION; FULL AGREEMENT.** This Sublease is intended as a full and final expression of the agreement between the parties. All prior discussions, statements, representations, and warranties are integrated and merged into this agreement. There are no agreements between the parties, and there are no representations on which either party relies except as set forth in this Sublease.

DATED: \_\_\_\_\_

DATED: 5/22/10

CITY OF MARYSVILLE

SUBLESSEE:

By Dennis L Kendall  
DENNIS KENDALL, Mayor  
ATTEST:

By John W. Sabe  
Its Manager, Real Estate Services

By Joan Jeff  
\_\_\_\_\_, City Clerk

Approved as to form:

Approved as to form:

By Grant K. Weed  
GRANT K. WEED, City Attorney

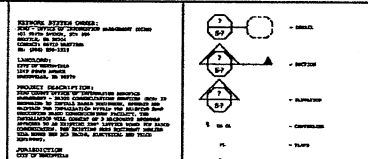
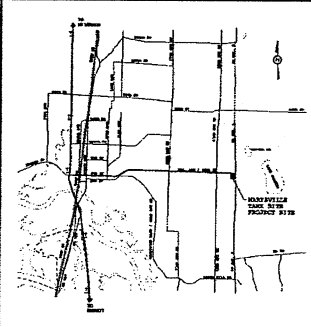
By [Signature]  
5/22/10, Attorney

# OIRM/RCS

## KING COUNTY OFFICE OF INFORMATION RESOURCE MANAGEMENT - RADIO COMMUNICATIONS SERVICES (RCS) MARYSVILLE TANKS 8812 64TH ST NE SR-528\64TH ST NE & HWY 9 LATITUDE: N 48°03'8" LONGITUDE: W 122°06'42"



**NORTHWEST  
TOWER ENGINEERING**  
2510 HUNTER AVE., SUITE 200  
SEASIDE, WA 98138-1977  
PHONE: 360-336-1270  
FAX: 360-336-4369



**NOTICE TO CONTRACTOR**  
THIS DRAWING IS THE PROPERTY OF NORTHWEST TOWER ENGINEERING. IT IS TO BE USED ONLY FOR THE PROJECT AND SITE SPECIFICALLY IDENTIFIED HEREIN. IT IS NOT TO BE REPRODUCED, COPIED, OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF NORTHWEST TOWER ENGINEERING.

PROJECT INFORMATION	LEGEND	LEGAL DESCRIPTION
<p>7-1 = TITLE SHEET 8-1 = GENERAL NOTES 8-2 = KING COUNTY NOTIFICATION 8-3 = OVERALL SITE PLAN 8-4 = INCLUDED SITE PLAN 8-5 = ELEVATIONS AND DETAILS 8-6 = ANTENNA INFORMATION</p>	<p>TOWER ENGINEERING 2510 HUNTER AVE., SUITE 200 SEASIDE, WA 98138-1977 PHONE: 360-336-1270 FAX: 360-336-4369</p>	
<b>VICINITY MAP</b>	<b>SHEET INDEX</b>	<b>CONTRACTOR LIST</b>
		<b>NOT USED</b>

DATE	REV.

**DESCRIPTION**  
PROJECT NO. 020142.03  
DRAWN BY P.S.F.  
CHECKED BY P.S.F.  
DATE 08-13-09  
SCALE 1/8"=1'-0"

### GENERAL NOTES

1. ALL MEASUREMENTS, DISTANCES, AND DIMENSIONS SHALL BE TO THE FACE UNLESS OTHERWISE NOTED.

2. ALL WORK SHALL BE DONE IN ACCORDANCE WITH THE SPECIFICATIONS OF KING COUNTY.

3. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPLICABLE AGENCIES.

4. THE CONTRACTOR SHALL MAINTAIN ACCESS TO ALL UTILITIES AND ADJACENT PROPERTIES AT ALL TIMES.

5. THE CONTRACTOR SHALL BE RESPONSIBLE FOR PROTECTING ALL EXISTING UTILITIES AND STRUCTURES.

6. ALL MATERIALS AND WORKMANSHIP SHALL BE SUBJECT TO INSPECTION AND APPROVAL BY THE ENGINEER.

7. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL ADJACENT PROPERTIES AND UTILITIES.

8. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING UTILITIES AND STRUCTURES.

9. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL ADJACENT PROPERTIES AND UTILITIES.

10. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING UTILITIES AND STRUCTURES.



**NORTHWEST  
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SEASIDE, WA 98138-1977  
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GENERAL	CONCRETE	SPECIAL INSPECTION
<p>1. ALL CONCRETE SHALL BE CAST AND FINISHED TO THE SPECIFICATIONS OF KING COUNTY.</p> <p>2. ALL CONCRETE SHALL BE CAST AND FINISHED TO THE SPECIFICATIONS OF KING COUNTY.</p> <p>3. ALL CONCRETE SHALL BE CAST AND FINISHED TO THE SPECIFICATIONS OF KING COUNTY.</p>	<p>1. ALL REINFORCEMENT SHALL BE INSTALLED AND TIED AS SHOWN ON THE DRAWINGS.</p> <p>2. ALL REINFORCEMENT SHALL BE INSTALLED AND TIED AS SHOWN ON THE DRAWINGS.</p> <p>3. ALL REINFORCEMENT SHALL BE INSTALLED AND TIED AS SHOWN ON THE DRAWINGS.</p>	<p>1. ALL SPECIAL INSPECTIONS SHALL BE CONDUCTED AT THE TIMES AND PLACES SPECIFIED ON THE DRAWINGS.</p> <p>2. ALL SPECIAL INSPECTIONS SHALL BE CONDUCTED AT THE TIMES AND PLACES SPECIFIED ON THE DRAWINGS.</p> <p>3. ALL SPECIAL INSPECTIONS SHALL BE CONDUCTED AT THE TIMES AND PLACES SPECIFIED ON THE DRAWINGS.</p>
APPLICABLE CODES AND STANDARDS	STEEL REINFORCEMENT	MASONRY
<p>1. ALL WORK SHALL BE DONE IN ACCORDANCE WITH THE SPECIFICATIONS OF KING COUNTY.</p> <p>2. ALL WORK SHALL BE DONE IN ACCORDANCE WITH THE SPECIFICATIONS OF KING COUNTY.</p> <p>3. ALL WORK SHALL BE DONE IN ACCORDANCE WITH THE SPECIFICATIONS OF KING COUNTY.</p>	<p>1. ALL REINFORCEMENT SHALL BE INSTALLED AND TIED AS SHOWN ON THE DRAWINGS.</p> <p>2. ALL REINFORCEMENT SHALL BE INSTALLED AND TIED AS SHOWN ON THE DRAWINGS.</p> <p>3. ALL REINFORCEMENT SHALL BE INSTALLED AND TIED AS SHOWN ON THE DRAWINGS.</p>	<p>1. ALL MASONRY SHALL BE CONSTRUCTED TO THE SPECIFICATIONS OF KING COUNTY.</p> <p>2. ALL MASONRY SHALL BE CONSTRUCTED TO THE SPECIFICATIONS OF KING COUNTY.</p> <p>3. ALL MASONRY SHALL BE CONSTRUCTED TO THE SPECIFICATIONS OF KING COUNTY.</p>
DESIGN CRITERIA	STRUCTURAL STEEL	LIGHTING
<p>1. ALL DESIGN CRITERIA SHALL BE AS SHOWN ON THE DRAWINGS.</p> <p>2. ALL DESIGN CRITERIA SHALL BE AS SHOWN ON THE DRAWINGS.</p> <p>3. ALL DESIGN CRITERIA SHALL BE AS SHOWN ON THE DRAWINGS.</p>	<p>1. ALL STRUCTURAL STEEL SHALL BE INSTALLED AND WELDED AS SHOWN ON THE DRAWINGS.</p> <p>2. ALL STRUCTURAL STEEL SHALL BE INSTALLED AND WELDED AS SHOWN ON THE DRAWINGS.</p> <p>3. ALL STRUCTURAL STEEL SHALL BE INSTALLED AND WELDED AS SHOWN ON THE DRAWINGS.</p>	<p>1. ALL LIGHTING SHALL BE INSTALLED AND WIRING AS SHOWN ON THE DRAWINGS.</p> <p>2. ALL LIGHTING SHALL BE INSTALLED AND WIRING AS SHOWN ON THE DRAWINGS.</p> <p>3. ALL LIGHTING SHALL BE INSTALLED AND WIRING AS SHOWN ON THE DRAWINGS.</p>
FOUNDATIONS	WELDING	LIGHTING PROTECTION GROUNDING
<p>1. ALL FOUNDATIONS SHALL BE CONSTRUCTED TO THE SPECIFICATIONS OF KING COUNTY.</p> <p>2. ALL FOUNDATIONS SHALL BE CONSTRUCTED TO THE SPECIFICATIONS OF KING COUNTY.</p> <p>3. ALL FOUNDATIONS SHALL BE CONSTRUCTED TO THE SPECIFICATIONS OF KING COUNTY.</p>	<p>1. ALL WELDING SHALL BE DONE IN ACCORDANCE WITH THE SPECIFICATIONS OF KING COUNTY.</p> <p>2. ALL WELDING SHALL BE DONE IN ACCORDANCE WITH THE SPECIFICATIONS OF KING COUNTY.</p> <p>3. ALL WELDING SHALL BE DONE IN ACCORDANCE WITH THE SPECIFICATIONS OF KING COUNTY.</p>	<p>1. ALL LIGHTING PROTECTION GROUNDING SHALL BE INSTALLED AND WIRING AS SHOWN ON THE DRAWINGS.</p> <p>2. ALL LIGHTING PROTECTION GROUNDING SHALL BE INSTALLED AND WIRING AS SHOWN ON THE DRAWINGS.</p> <p>3. ALL LIGHTING PROTECTION GROUNDING SHALL BE INSTALLED AND WIRING AS SHOWN ON THE DRAWINGS.</p>

DATE	REV.

**DESCRIPTION**  
PROJECT NO. 020142.03  
DRAWN BY P.S.F.  
CHECKED BY P.S.F.  
DATE 08-13-09  
SCALE 1/8"=1'-0"

