

COMMUNICATIONS SITE LEASE AGREEMENT

This Communications Site Lease Agreement made as of Thurston, May 18, 2006, between **the Thurston County Department of Communications (CAPCOM)** whose address is; 2703 Pacific Ave. SE, Suite A, Olympia, WA 98501 (herein known as "Lessor") and **Intercity Transit**, 526 Pattison St, SE, Olympia, WA 98501 (herein known as "Lessee").

WITNESSETH

WHEREAS, Lessee wishes to lease the following and WHEREAS, Lessor has the full power and authority to lease equipment floor space, communications tower space, radio tower space and T1 telecommunications circuit for the requirements of the Lessee.

1. NOW THEREFORE, Lessor and Lessee do hereby covenant and agree as follows to the Description and the **Scope of Lease**. During the term of this lease, Lessor hereby leases to Lessee:

- A. Equipment Floor Space at the CAPCOM Remote Radio Site located on Crawford Mountain located at the Department of Natural Resource (DNR) property leased to CAPCOM at North 46-50-33.0, West 122-45-50 and; to lease space on the above listed Crawford Mountain Site Communications tower:

- 1) Three 7'0" high, 19 inches wide relay racks, shown on **Attachment 2** – Installation Floor Plan, in Crawford Mountain Building #1, for the purpose of providing a radio communications site to serve lessee's public transportation operation. Said relay racks will be provided with one 240 VAC 50 amp circuit, which is connected to the Crawford Mountain Site Emergency Alternator Back-up Power System. This leased space shall contain a maximum of four transmitters and receivers (transceivers).
- 2) Space on the Communications Tower, shown on **Attachment 3**- Antenna Placement drawing, at 104 feet (above ground) mid-span between the North and East legs, and at 144 feet (above ground) mid-span between the North and East legs for the Lessee's UHF transmitting and receiving antennas. Tower space shall be provided to route the antennas feed lines from the antenna locations into Building #1 where the Lessee's equipment is located. Attaching feed lines or other cables to Building #1 infrastructure or the Tower shall be accomplished with hardware of high quality stainless steel construction.
- 3) Crawford is sublet from Washington State Department of Natural Resources (DNR) and as such any telecommunications or radio equipment housed installed by the Lessee at that site must comply with the minimum communications standards as outlined by DNR; see Attachment #4.

- B. Radio Tower Space at the **CAPCOM ESC Radio Site** located on property at 2703 Pacific Ave. SE, Olympia, WA 98501, and; to lease space for equipment shelter located directly under the Tower located at the CAPCOM ESC Radio Site located on property at 2703 Pacific Ave SE, Olympia, WA 98501:

- 1) Tower space to support two microwave dish type antennas for the purpose of establishing a primary communications path between Intercity Transit dispatch (Pattison Street Site) and Intercity Transit buses and vehicles. Also tower space to support two UHF base / control station antenna for the purpose of establishing a Back-up Site for Intercity Transit dispatch at this locations address. Tower space shall be provided to route the antenna

feed line(s) from the antenna(s) into the Outdoor Equipment Building at the base of said tower. Attaching feed lines or other cables to the CAPCOM Tower infrastructure shall be accomplished with hardware of high quality stainless steel construction. Refer to Attachment 1 for Lessee antenna placement and installation detail on the CAPCOM Tower.

- 2) Space under the Communications Tower for Lessee erection of an 8' X 8' Outdoor Equipment Building and one 240 Volt AC, 40 Amp circuits (Back-up AC Generator protected) for Lessee use. The Outdoor Equipment Building will be installed on a concrete slab foundation as per the design by VFP Inc. provided by Lessee. The connections to the CAPCOM AC power source, inside the Emergency Services Center (ESC) basement, will be the responsibility of Lessee. Refer to **Attachment 1** for Outdoor Equipment Building location and installation detail.
- 3) To recognize the possibility of a loss of communications capability at the primary Intercity Transit dispatch office, back-up communications console space is allotted within Room #118 within the Thurston County Emergency Services Center for a secondary dispatch console. This space is limited to 3' in width, 2' in depth and 6' in height. Intercity Transit personnel shall be granted emergency access by CAPCOM by contacting the Dispatch Center Supervisor at 704-2749, 24 hours per day, 7 days per week.

C. **One T1 telecommunications circuit** from the Lessor, the Thurston County Department of Communications (hereby known as CAPCOM). The T1 circuit shall route between the ESC Location (known as the '**A**' location), whose address is 2703 Pacific Avenue SE, Suite A, Olympia, WA 98501 to the Lessee's leased space in Building-1 at the CAPCOM Crawford Mountain site (known as the '**Z**' location), located on property at North 46-50-33.0, West 122-45-50.0 (known as Crawford Mountain), County of Thurston, State of Washington:

- 1) One T1 circuit from the **A to Z** locations (as shown above) on Lessor's Microwave Network for the purpose of providing bandwidth for the Lessee's use to transport two-way radio audio signals. The T1 circuit shall consist of: A Non Path Protected (on CAPCOM's Microwave Network), Non Pre-empted, 1.554 MHz, B8ZS Line Coding. Transmission levels will be 0 dBm, +/- two dB.

The 'A' T1 Circuit Termination shall consist of: A 66 style cross connect block location at a service pedestal within the ESC tower compound.

The 'Z' T1 Circuit Termination shall consist of: One cable, containing the lessee's T-1 circuit dropped down into the Lessee's radio equipment rack at the CAPCOM communications site, Building-1, at Crawford Mountain.

The Lessee will provide their own T1 Tie Cable from Lessee's Outdoor Equipment Building (located at the base of the CAPCOM ESC Radio Tower) at a service pedestal within the ESC tower compound.

The Lessee will provide Channel Service Units (CSU) to properly terminate the T1 circuit at the ESC end of the T-1 circuit and at the Crawford Mountain end of the T-1 circuit. The CSU will provide network protection, give CAPCOM access to trouble shoot its portion of the entire T-1 circuit, and will ensure the Lessee is in compliance with FCC rules.

2. **Term.** To have and hold the Leased Premises and the Leased T1 Circuit for a term of five (5) years commencing on the first day of the month which Lessee's equipment is installed on the Leased Premises, but in no event later than (90) ninety days after Lease execution by both parties. Lessor and Lessee will execute a letter confirming the commencement date when it has become established. This lease shall automatically renew for up to three (3) additional five (5) year terms (each an "Extension Term"), upon the same terms and conditions as set forth in this Lease unless Lessee notifies Lessor in writing of the Lessee's intention not to renew this Lease at least ninety (90) days prior to expiration of the then current Term_or Extension Term. If Lessee's Federal Communications Commission authorization to operate transmitter facilities at Lessor's location or State of Washington, DNR easement/lease is terminated, Lessee may terminate this lease on thirty (30) days' notice to Lessor.

3. **One Time Charges.** The Lessee shall pay the Lessor one time installation charges for the following:

- A. Crawford Radio Site: **\$4000.00** to cover Lessor's initial site preparation and **\$12,500.00** for costs to fabricate and install tower horizontal bracing (depicted on Attachment 5).
- B. Emergency Services Center Site: **\$3,252.00** for Electrical installation to tower * and **\$1,000.00** for final and site preparation costs.
- C. T-1 Circuit between Crawford and the ESC: **\$800** for the Circuit engineering and installation.

The One Time charges are approximate costs and shall be adjusted based on actual costs and shall be paid with the first month's rental payment or upon completion of work.

4. **Monthly Charges.** The Lessee shall pay the Lessor an annual rental fee for the following:

- A. Crawford Site: In the amount of **\$12,000.00** to be paid in twelve (12) monthly installments of **\$1000.00** beginning on the commencement date of the lease term.
- B. Emergency Services Center Site: In the amount of **\$10,800.00** to be paid in twelve (12) monthly installments of **\$900.00** beginning on the commencement date of the lease term
- C. T1 Telecommunications Circuit: In the amount of **\$3,600.00** to be paid in twelve (12) monthly installments of **\$300.00** beginning on the commencement date of the lease term.

The Monthly Charges are set charges for the first calendar year and will begin on the commencement date of the lease term. At the beginning of each renewal term, the Lessor will increase the monthly rent charge by 5 percent.

5. **Installation and Maintenance.**

Crawford Site and ESC Site: The Lessee shall be responsible for insuring installation of all equipment meets the minimum site standards as established in the attached document, State of Washington, DNR Minimum Communication Site Standards (**Attachment 4**). The equipment shall not radiate signals in excess of -150dbW on any frequency in the 144-164 MHz bands. In addition, the equipment final amplifier filters shall provide a minimum of 60 dB of attenuation in the 144-164 MHz frequency bands.

This communications location is responsible for the majority of public safety communications in Thurston County, including police, fire and emergency medical services. Therefore the Lessee shall be responsible for taking whatever steps may be necessary, as specified above, to prevent any interference or spurious radiation affecting the radio, telephone or electronic facilities of Lessor or others presently on Lessor's Premises up to and including discontinuance of service if requested by the Lessor.

The Lessor shall be responsible for taking such steps as may be necessary to prevent any interference or spurious radiation affecting the radio, telephone or electronic facilities of the Lessee caused by the Lessor or others who subsequently install equipment at the site or who presently installed equipment malfunctions. Such interference with Lessee's communications operations shall be deemed a material breach by Lessor, and Lessor shall have the responsibility to promptly terminate said interference. In the event any such interference does not cease promptly, the parties acknowledge that continuing interference shall cause irreparable injury to Lessee, and therefore, Lessee shall have the right to terminate the Lease immediately upon notice to Lessor. Notwithstanding the foregoing, Pre-existing communications, operating in the same manner as on the commencement date shall not be deemed interference.

The Lessor will grant the Lessee access to the Lessor's Premises and permit the Lessee to install antenna, feed line, telephone lines, and associated equipment agreed to in this lease at any time subsequent to the signing of this lease.

The Lessor will afford the Lessee 24-hour access to the Premises for the purposes of constructing, operating, maintaining and modifying Lessee's facilities on the Lessor's tower and/or floor space. Any substantial modifications from the original design that forms the basis for this agreement must be provided in writing to the CAPCOM Technical Services Manager for review and approval prior to commencing any work on said modifications, such approval shall not be unreasonably withheld.

If the Federal Aviation Administration, Federal Communications Commission or any other legal authority requires at any time during the term of this lease, or any renewal or extension thereof, that the Lessor's antenna support structure be painted and/or lighted, Lessor will assure that the paint and lights are installed, maintained, and operated in conformance with all applicable laws and regulations at all times. Lessor will be responsible for, and pay on demand, any and all fines or damages levied against Lessee that result from Lessor's failure to conform to said laws and regulations.

T1 Telecommunications Circuit: The Lessor shall be responsible for insuring installation of the T-1 circuit, up to the demarcation point, inside of the Lessee's location at Crawford Mountain (circuit 'Z' location) and for the cross-connection of the Lessee's tie cable at CAPCOM's ESC tower location service pedestal.

T1 Network Availability. The Lessor will provide a T-1 Network Availability of **99 %** as calculated by the formula: Total Minutes in Measurement Period – (minus) minutes of outage / (divided by) Total Minutes of Measurement Period X (times) 100 percent. **[Note: 1% down time=4.5 hrs per year]** The **Measurement Period** shall start at the first day of the month and end on the last day of the month. The **Bit Error Rate** of (BER) of the Lessor provided T-1 circuit shall be 1×10^{-6} or better.

Mean Time to Respond. The Lessor will maintain a maximum response time of 12 hours upon receipt of trouble report.

Mean time to Repair. The Lessor will commit to maintain to a maximum of 24-hour repair time for service problems experienced by the Lessee, provided the circuit or equipment problem resides within CAPCOM's Microwave / T-1 network or facility.

The Lessor will grant the Lessee access to the Lessor's Emergency Services Center Tower Yard Area and permit the Lessee to install associated T1 circuit equipment agreed to in this lease subsequent to the signing of this lease. However, the Lessee must make prior arrangements with the CAPCOM Technical Services Manager to gain access to the Tower Yard Area.

6. **Approved Vendors.** The Lessee will utilize vendors approved by the CAPCOM Technical Services Manager when the Lessee installs antenna, feed-line, telephone lines, or any associated equipment on the Lessor's Premises.

Approved vendors will comply with CAPCOM security requirements including criminal history checks for all personnel accessing the sites; the checks will be conducted by CAPCOM and must be submitted prior to accessing either the ESC or Crawford Mountain sites. In addition, the following security and access requirements are required:

ESC Site:

For access to the Pacific Ave site, they are to proceed to the East gate. Push the button for access and advise the dispatch center person of the names of each worker being brought on site. They will check the names against pre-approved workers and open the gate. Exiting the site can be done through the East or West gate. The vehicle should proceed to the gate, and it will automatically open to allow your workers to exit.

Crawford Mountain radio site:

For access to the Crawford Mountain radio site, CAPCOM Technical Services Manager is to be contacted prior to site entry at 704-2736 as that site is alarmed. One key for gates leading to the site, and one site key will be issued at the time of contract execution for the contract agency to utilize at this site

7. **Lessor's Right to Lease.** Lessor covenants that it has the right to make this lease. Lessor further agrees that it will use reasonable efforts to prevent unauthorized persons from gaining access to Lessee's facilities.

Lessor warrants that it solely owns Lessor's Premises. Lessor further warrants that Lessee shall have quiet enjoyment of the Premises during the Term of this Lease or any Extension Term.

8. **Lessor's Service.** Lessor shall maintain the leased Premises and the leased services circuit in good condition and repair during the term of this lease. If Lessee detects trouble with leased services from CAPCOM then the Lessee shall report the trouble to a designated trouble report number.
9. **Tower Damage/Facility or Equipment Damage.** If the Premises of Lessor's Property is destroyed or damaged so as in Lessee's judgment, to hinder its effective use of Lessor's Property, Lessee may elect to terminate this Lease as of the date of the damage or destruction by so notifying Lessor no more than thirty (30) days following the date of damage or destruction. In such event, all rights and obligation of the parties that do not survive the termination of this lease shall cease as of the date of the damage or destruction.
10. **Indemnification of Lessor.** Lessee agrees to hold Lessor, its agents and employees, harmless from all losses, liabilities, damages, costs and expenses (including reasonable attorney's fees), arising out of or occasioned by Lessee's use or occupancy of the lease space and/or arising out of or occasioned by Lessee's negligent or wrongful conduct which causes harm to Lessor, its customers, vendors, agents or employees; or damages to Lessor's equipment, except as herein below provided; or which causes harm to Lessor's T-1 circuit and Microwave Network.
11. **Indemnification of Lessee.** Lessor agrees to hold Lessee, its agents and employees, harmless from all losses, liabilities, damages, costs and expenses (including reasonable attorneys' fees) arising out of or occasioned by Lessor's negligent or wrongful conduct which causes harm to Lessee, its customers, vendors, agents or employees; or damages to Lessee's equipment, except as herein below provided; or which causes harm to Lessor's T-1 and Microwave Network.

12. **Termination.** This Lease may be terminated without further liability on thirty (30) days prior written notice as follows:
- A. by either party upon a default of any covenant, condition, or term hereof by the other party, which default is not cured within thirty (30) day of receipt of written notice of default;
 - B. by Lessee for any reason, provided Lessee delivers written notice of termination to Lessor prior to the Commencement Date;
 - C. by Lessee if it does not obtain or maintain licenses, permits or other approvals necessary to the construction or operation of Lessee's Facilities; or
 - D. by Lessee if Lessee is unable to occupy or utilize the Premises due to a ruling or any directive of the FCC or other governmental or regulatory agency, including, but not limited to, a take back of channels or change in frequencies; or due to the Lessor's failure to comply with any FCC, FAA or other federal, state or local regulation; or
 - E. by Lessee if Lessee determines that the Premises and/or the T-1 circuit are not appropriate for its operation for economic, environmental, or technological reasons (including without limitation, signal strength or interference); or
 - F. by Lessor, if Lessor determines for technological reasons that Lessee's use of Lessor's Premises and/or Lessee's use of Lessor's T-1/Microwave Network operation interferes with Lessor's operations.
13. **Taxes and Fees.** State, county and local ad valorem and use taxes or fees applicable to this lease as of the commencement date are included in the rental payable hereunder.
14. **Waiver; Amendment.** Any waiver by either party of any default or the performance of any condition by the other party must be in writing and shall not constitute a waiver of any other default or other non-performance of any condition by either party. This lease may be amended only by a written instrument signed by both parties.
15. **Proration of Rent.** In the event this lease or any renewal thereof is terminated for any reason, or the Lessee first occupied the Premise after the first day of the month that the lease commences, the annual rent shall be prorated.
16. **Lessee's Facilities.** Title to Lessee's Facilities and any equipment placed on the Premises by Lessee shall be held by Lessee. All of Lessee's Facilities shall remain the property of Lessee and are not fixtures of the Premises. Upon termination of this lease for any reason, Lessee shall remove all of its equipment and shall surrender the Premises to Lessor in good order and condition, excepting ordinary wear and tear, damage by fire, the elements, and casualty arising from Lessor's actions.
17. **Repairs.** Lessee shall be required to make any repairs to the Lessor's Premises for damages to the Lessor's Premises beyond ordinary wear and tear caused by Lessee and/or its employees, agents, contractors and/or other representatives.
18. **Environmental.** Lessor represents that the Premises have not been used for the generation, storage, treatment or disposal of hazardous materials, hazardous substances or hazardous wastes. In addition, Lessor represents that no hazardous materials, hazardous substances, hazardous wastes, pollutant, asbestos polychlorinated biphenyl's ("PCBs"), petroleum or other fuels (including crude oil or any fraction or derivative thereof) or underground storage tanks are or will be located on or near the Lessor's Premises. Notwithstanding any other provision of this lease, Lessee relies upon the representation stated herein as a material inducement for entering into the lease

19. **Mutual Cooperation.** During the Term of the Lease, Lessor and Lessee hereby agree to cooperate with each other to reasonably assist the other in complying with applicable Federal, state and local laws, statutes and regulations including but not limited to those imposed by the Federal Communications Commission. Lessor further agrees that it shall in good faith cooperate with Lessee in executing such other instruments reasonably requested by Lessee to resolve any adverse regulatory matters without further consideration. The cooperation required under this paragraph shall not obligate the cooperating party to expend any sums beyond those otherwise required under this Agreement.

20. **Notices.** Any notice, request, demand or other communication required or permitted under this lease shall be in writing and either served personally or sent by prepaid first-class, return receipt requested, mail,. Any such communication that either Lessor/Lessee desires or is required to give the other party shall be addressed to the other party at the address set forth above, or at such other address as either party may notify the other in writing of change of address.

21. **Integration.** This agreement with **Attachments 1 – 5:**

- A. **Attachment 1** – Intercity Transit construction documents for site construction at the “ESC” communications site;
- B. **Attachment 2** – Crawford Mountain Radio Site Building #1 floor plan;
- C. **Attachment 3** – Intercity Transit Crawford Mountain radio site antenna installation and placement detail;
- D. **Attachment 4** – Washington State Department of Natural Resources radio communications sites; minimum site standards;
- E. **Attachment 5** – Crawford Tower bracing specifications;

constitutes the entire agreement between the parties pertaining to the subject contained herein, and supersedes all prior and contemporaneous agreements, representations, and understandings of the parties.

22. **Insurance.** Lessee shall maintain policies of Comprehensive General Liability Insurance insuring against liability for injury or death to persons or damage to property arising from Lessee’s activities on, in or about the leased Premises in an amount not less than \$1,000,000.00. Lessee will supply Lessor with a Certificate of Insurance verifying such coverage. Each party waives any rights of recovery against the other for injury or loss due to hazards covered by their property insurance and each party shall require such insurance policies to contain an express waiver of recovery by way of subrogation against the other in connection with any damage covered by such insurance policies.

23. **Assignment.** Lessee may not assign this lease without Lessor’s consent, which will not be unreasonably withheld. Upon such assignment and the assumption by such assignee of the obligations of Lessee, Lessee shall be released from any further obligations hereunder. Notwithstanding the foregoing, this lease may be assigned to any entity which acquires the Lessee’s business which utilizes the leased Premises, provided that this lease is not in default, and such assignee assumes the Lessee’s obligations hereunder by a written instrument. Any such assignment shall not release Lessee from its obligations hereunder.

24. **Choice of Law, Jurisdiction, and Venue.** This Agreement has been and shall be construed as having been made and delivered within the State of Washington and it is agreed by each party hereto that this Agreement shall be governed by the laws of the State of Washington, both as to its interpretation and performance.

25. Miscellaneous.

The Lessor will not incur any of the Lessee's tenant improvement costs.

The Lessor is willing to oversee the installation of the Lessee's UHF Transmitter / Receiver Antenna, Feed Line, Lightning Arrestor and/or Relay Racks if Lessee prefers. Charges for this installation may be negotiated at a later time.

The Lessor will oversee the installation of the Lessee's T1 circuit within the CAPCOM A location facility.

The Lessee shall abide by the rules and regulations of the current edition of the National Electrical Code and NFPA-70.

The Lessee shall install and maintain their equipment using good workmanship practices.

The Lessee shall observe and abide by safe working practices.

The Lessee shall be mindful and respectful of other owner's equipment located within the same facility.

If Lessee terminates this lease, Lessee shall remove their equipment, feed line and antenna, and restore the elements of Lessor's building and tower impacted by Lessee's use to its condition at the beginning of the lease, normal wear and tear excepted.

This Lease shall be binding on and inure to the benefit of the successors and permitted assignees of the respective parties.


This lease shall be governed under the laws of the State of Washington, County of Thurston, where the Crawford Mountain Radio Site and Thurston County Emergency Service Center are located without regard to conflicts of law.

The substantially prevailing party in any legal proceedings (including any appeals) arising hereunder shall be entitled to its reasonable attorney's fees and court costs if any.

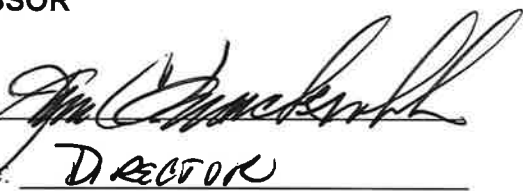
Terms and condition of this Lease that by their sense and context survives the termination, cancellation or expiration of this Lease shall so survive.

IN WITNESS WHEREOF, the parties hereto have executed the Communications Site Lease Agreement, the day and year first above written, between the Thurston County Department of Communications and Intercity Transit.

LESSEE

By: 
Rhodetta Seward
Title: Executive Services Director
Date: May 18, 2006

LESSOR

By: 
Title: DIRECTOR
Date: MAY 18, 2006

ATTACHMENT

1

INTERCITY TRANSIT CONSTRUCTION DOCUMENTS FOR SITE CONSTRUCTION AT THE 'E.S.C.' COMMUNICATIONS SITE