

**U.S. Government
Lease for Real Property
(Short Form)**

DATE: _____

**LEASE NO. DACW67-5-11-145
TAX ID NO. 916001356
DUNS NO. 084604016**

Subject Lease Supersedes and Replaces Lease No. DACW67-5-06-41

The **LESSOR, PACIFIC COUNTY, DEPARTMENT OF PUBLIC WORKS**, leases to the **UNITED STATES OF AMERICA**, hereinafter called the **GOVERNMENT**, the following described premises on the terms stated herein, including the General Provisions attached hereto.

1. LOCATION OF LEASED PREMISES: a parcel of land in Section 4, Township 14 North, Range 11 West, W.M. and further described as follows: Beginning at the NW corner of Section 4, thence North 89°32'27" East 1332.87 feet along the North line of Section 4 to the West 1/16 corner of said Section; thence South 00°48'28" East 994.18 feet to the point of beginning, being the Northeast corner of Lot 4-B of the unrecorded plat of Willapa Heights; thence continuing South 00°48'18" East 60 feet; thence South 88°32'27" West 55 feet; thence North 00°48'18" West 60 feet; thence North 88°03'27" East 55 feet to said point of beginning. A 60 foot strip of land in the Northwest Quarter of the Northwest Quarter of Section 4, Township 14, Range 11, W.W.M, Pacific County, Washington, the centerline of which is described as follows: Commencing at the Northwest corner of said Northwest Quarter of the Northwest Quarter; thence North 89°32'27" East along the North line thereof a distance of 327.91 feet to the True Point of Beginning; thence South 0°27'33" east a distance of 402.63 feet; thence South 27°00'38" East a distance of 127.69 feet; thence South 5°07'36" West a distance of 273.08 feet; thence South 32°12'27" East a distance of 95.79 feet; thence South 52°08'56" West a distance of 136.86 feet.

2. DESCRIPTION OF LEASED PREMISES: Space on tower for a 14-17 foot fiberglass encased 6dB antenna; space in shelter for a Newmar "Base-Com 12" regulated AC (110 volt) to DC (12 volt) power supply, a Pacific Crest data radio modem, and a 35 watt amplifier; adequate space for a 130 foot coaxial cable connecting the equipment to the antenna; and power hookup and ingress and egress over a 60 foot strip.

3. TERM. To have and to hold for the term beginning **May 1, 2011 through September 30, 2011**, subject to termination and renewal rights as may be hereinafter set forth. This lease shall be automatically renewed from year to year without further notice unless and until the Government shall give notice of termination in accordance with condition 4, provided that adequate appropriations are available from year to year for the payment of rentals; and provided further, that this lease shall in no event extend beyond **April 30, 2016**.

4. TERMINATION. The Government may terminate this lease at any time by giving at lease thirty (30) days written notice to the Lessor. Said notice shall be computed commencing with the day after the date of mailing.

5. RENTAL. The Government shall pay the Lessor annual rent of **\$1161.00** in arrears, beginning with payment due April 30, 2012. Rent for a lesser period shall be prorated. All payments by the Government shall be made payable to the Lessor as shown in the Central Contactor Registration Database (CCR), identified as DUNS #084604016 via electronic funds transfer by the U.S. Army Corps of Engineers, Finance Center, 5722 Integrity Drive, Millington, TN 38054-5005."

SERVICES AND UTILITIES TO BE PROVIDED BY LESSOR AS PART OF THE LEASE: Electrical power

SPECIAL OR OTHER PROVISIONS:

a. Rental Consideration: The Lessor hereby agrees that the rental consideration specified herein is the only consideration to be received for the demised premises and includes payment for all utilities, maintenance, and services which are specified herein. No other remuneration will be paid to the Lessor by the Government occupant, or any other person on his or her behalf.

b. Restoration: The Government will be liable for any damages, above normal fair wear and tear, which is evident upon termination of this lease. The damages will be determined by the Lessor and the Government by utilizing the walk-through inspection report performed prior to move-in, and any other additional agreements written as to the condition of the premises upon date of occupancy. Any agreements referencing the condition of the premises will be signed by the Lessor and the Government and/or their duly authorized representative.

c. Termination by the Lessor: The Lessor may terminate this lease if the Government fails to timely cure an Event of Default under Condition d of this lease. In addition, the Lessor may terminate this agreement on any anniversary date by giving the Government at least thirty (30) days written notice prior to the anniversary date.

d. Events of default, Notice & Opportunity to Cure: If either party fails to comply with a covenant made by such party in this lease, or fails to abide by a condition binding on such party contained in this lease, or if the Government fails to make a payment hereunder when due, (each individually, and "Event of Default"), then the other party shall deliver notice of such Event of Default to the defaulting party, who shall be permitted to cure the same within ten (10) days of delivery of such notice. If such Event of Default cannot reasonably be cured within such ten day period, then the defaulting party shall be deemed to have cured the same if it takes all reasonable steps to do so within such ten day period and thereafter diligently proceeds to effect such cure; provided, that, such cure is actually and fully effected within thirty (30) days of delivery of the notice delivered pursuant hereto.

e. Indemnity: The Lessor shall not be responsible for damages to property or injuries to persons which may arise from or be incident to the exercise of the privileges herein granted, or for damages to the property of the Government, or for damages to the property or injuries to the person of the Government's offices, agents, or employees or others who may be on the premises at their invitation or the invitation of any one of them. This provision shall not apply to damages due to the fault or negligence of the Lessor or its contractors. The Government shall not be responsible for damages to property or injuries to persons which may arise from or be incident to the exercise of the privileges herein granted, or for damages to the property of the Lessor, or for damages to the property or injuries to the person of the Lessor's office, agents, or employees or others who may be on the premises at their invitation or the invitation of any one of them, if such damage or injury is not due to the negligence or fault of the Government, its officers, agents, contractors and employees.

f. Equipment

1) The Government shall install and maintain equipment using good communication practices, and in accordance with all applicable codes. Antenna-feeds shall be ½" or larger jacketed solid sheathed transmission line.

- 2) Cable shall be clamped to cable trays in accordance with existing methods.
- 3) Equipment shall be bonded to existing ground grid in accordance with applicable codes.

g. Interference:

1) The Government shall provide all necessary equipment to eliminate any interference to existing site users from the installation of its communications system. Such equipment shall include, but not limited to, filters, cavities, isolators, combiners, amplifiers, and splitters.

2) Should subsequent site users find it necessary to install interference mitigating devices on the Government's equipment, the Government shall cooperate; however, the Government shall not be required to bear the financial cost.

3) Equipment installed at the site interferes with equipment previously installed at the site by another user, then the equipment first installed shall have priority over the equipment subsequently installed. If technical conflicts between items of equipment cannot be resolved, then the equipment first installed shall remain operational and the other equipment causing the interference shall be modified or removed.

4) The County shall retain final authority regarding what equipment can be installed and what interference mitigation methods must be employed. The County has approved the equipment described in Condition No. 2 of this lease.

5) The County retains the right to terminate transmissions by the Government should its equipment cause interference. The Government agrees to correct any such malfunctions or interference causing problems prior to resuming transmissions as described above.

h. Security & Maintenance: The County shall provide reasonable security for the premises and electrical power throughout the term of this lease at no additional charge to the Government. The County, at its expenses, shall maintain the tower, building, security fences, and all related facilities in good order and condition and in accordance with all applicable laws and regulations throughout the term of this lease. The Government shall be responsible for maintenance of its facilities and equipment. In the event that the County fails to maintain the tower with respect to any FCC/FAA regulations, the Government shall notify the County of such default and request cure within ten (10) days.

i. Improvements: All construction, improvements and or alterations of the facility at any time whatsoever shall be subject to County's prior approval, which shall not be unreasonably withheld.

j. Ownership of Equipment: All transmitting and receiving equipment, shelters and support facilities installed at the site by the Government shall remain the property of the Government and may be removed or replaced by the Government at any time from time to time, provided that the Government repairs any damage caused in conjunction with such removal and replacement.

k. Assignment and Subletting: It is agreed that this lease may be assigned by either party with the prior approval of the other party, which consent shall not be unreasonably withheld. The assignee or transferee shall have the right to assume this lease with all its terms and conditions for the remaining lease term.

l. Authority: Each party warrants to the other that it has authority to enter into and perform this lease and its has taken all action required to authorize execution of this lease.

m. Notices: Any Notice under the terms of this lease shall be given in writing signed by a duly authorized representative of the party giving such notice, and if given by the Government shall be addressed to the Lessor at: Pacific County, Department of Public Works, Attn: Mr. John Dunsmore, Post Office Box 66, South Bend, Washington 98586-0066, whose telephone number is (360) 875-9444; and if given by the Lessor shall be addressed to: Commander, Department of the Army, Seattle District, Corps of Engineers, Attn: CENWS-RE-RO, Post Office Box 3755, Seattle, Washington 98124-3755, whose telephone number is (206) 316-4376.

n. All Writings Contained Herein: This lease contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this lease shall be deemed to exist or to bind the parties hereto.

**LESSOR: PACIFIC COUNTY
DEPARTMENT OF PUBLIC WORKS**

UNITED STATES OF AMERICA

BY _____

BY _____
PATRICIA FATHERREE
Chief, Realty Operations Branch
Real Estate Contracting Officer
Seattle District, Corps of Engineers

GENERAL PROVISIONS

1. MAINTENANCE OF PREMISES

The Lessor shall maintain the premises and property furnished under this lease in good repair and tenable condition during the continuance of this lease, except in case of damage arising from the act or negligence of the Government's agents or employees. For the purpose of so maintaining said premises and property, the Lessor may, at reasonable times approved by the Government, enter and inspect the same and make any necessary repairs thereto.

2. DAMAGE BY FIRE OR OTHER CASUALTY

If the said premises be destroyed by fire or other casualty this lease shall immediately terminate. In case of partial destruction or damage, so as to render the premises untenable, as determined by the Government, the Government may terminate the lease by giving written notice to the Lessor within fifteen (15) days thereafter; if so terminated no rent shall accrue to the Lessor after such partial destruction or damage; and if not so terminated the rent shall be reduced proportionately by supplemental agreement hereto effective from the date of such partial destruction or damage.

3. OFFICIALS NOT TO BENEFIT

No Member of or Delegate to Congress, or Resident Commissioner shall be admitted to any share or part of this lease contract, or to any benefit that may arise therefrom; but this provision shall not be construed to extend to this lease contract if made with a corporation for its general benefit.

4. APPLICABLE CODES AND ORDINANCES

The Lessor, as part of the rental consideration, agrees to comply with all codes and ordinances applicable to the ownership and operation of the building in which the leased space is situated and, at his own expense, to obtain all necessary permits and related items.

5. LESSOR'S SUCCESSORS

The terms and provisions of this lease and the conditions herein shall bind the Lessor, and the Lessor's heirs, executors, administrators, successors, and assigns.

6. COVENANT AGAINST CONTINGENT FEES

The Lessor warrants that no person or selling agency has been employed or retained to solicit or secure this lease upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Lessor for the purpose of securing business. For breach or violation of this warranty the Government shall have the right to annul this lease without liability or in its discretion to deduct from the rental price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage or contingent fee. (Licensed real estate agents or brokers having listings on property for rent, in accordance with general business practice, and who have not obtained such licenses for the sole purpose of effecting this lease, may be considered as bona fide employees or agencies within the exception contained in this clause.)

7. EXAMINATION OF RECORDS

(NOTE: This provision is applicable if this lease was negotiated without advertising.)

(a) The Lessor agrees that the Comptroller General of the United States or any of his duly authorized representatives shall, until the expiration of 3 years after final payment under this lease, have access to and the right to examine any directly pertinent books, documents, papers, and records of the Lessor involving transactions related to this lease.

(b) The Lessor further agrees to include in all his subcontracts hereunder a provision to the effect that the subcontractor agrees that the Comptroller General of the United States or his representatives shall, until the expiration of 3 years after final payment under this lease with the Government, have access to and the right to examine any directly pertinent books, documents, papers, and records of such subcontractor involving transactions related to the subcontract.

8. GRATUITIES TO GOVERNMENT EMPLOYEES

(a) The Government may, by written notice to the Lessor, terminate the right of the Lessor to proceed under this lease if it is found, after notice and hearing, by the Secretary of the Army or his duly authorized representative, that gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by the Lessor, or any agent or representative of the Lessor, to any officer or employee of the Government with a view toward securing a lease or securing favorable treatment with respect to the awarding or amending, or the making of any determinations with respect to the performing, of such leases; provided, that the existence of facts upon which the Secretary of the Army or his duly authorized representative makes such findings shall be in issue and may be reviewed in any competent court.

(b) In the event this lease is terminated as provided in paragraph (a) hereof, the Government shall be entitled (1) to pursue the same remedies against the Lessor as it could pursue in the event of a breach of the lease by the Lessor, and (2) as a penalty in addition to any other damages to which it may be entitled by law, to exemplary damages in an amount (as determined by the Secretary of the Army or his duly authorized representative) which shall be not less than three nor more than ten times the costs incurred by the Lessor in providing any such gratuities to any such officer or employee.

(c) The rights and remedies of the Government provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this lease.

9. INSTRUCTIONS

Whenever the lease is executed by an attorney, agent, or other person, or corporation on behalf of the Lessor, the name of the Lessor shall appear above the signature of the person signing.