



DWS Contract #: _____

TOWER SITE LEASE AGREEMENT

This Tower Site Lease Agreement (hereinafter referred to as "Agreement") is entered into and effective as of this 17th day of September, 2021 (hereinafter "Commencement Date"), by and between Day Management Corporation dba Day Wireless Systems (hereinafter "LESSOR") and Whatcom Transportation Authority, a Washington state Public Transportation Benefit Area (hereinafter "LESSEE").

1. **Lease of Site:** LESSOR authorizes LESSEE to install, operate and maintain at LESSOR's Communications Site (hereafter referred to as "Premises") as described on Exhibit 1, at LESSEE's sole expense and risk, communications equipment along with associated other electronic equipment and mounting structures designated on Exhibit 1 of this Agreement ("Equipment"), at places designated by LESSOR and installed by LESSOR or a pre-approved contractor. Any change or addition to the Equipment must be pre-approved by LESSOR and may be subject to additional charges at LESSOR's sole discretion. LESSEE shall, at all reasonable times, have the unrestricted right to enter or leave the Premises where LESSEE's Equipment is located unless restrictions are specified in Exhibit 1. LESSEE agrees to take, at LESSEE's own expense, all measures and precautions necessary to render LESSEE's Equipment inaccessible to unauthorized persons. LESSOR agrees that it will not give unauthorized persons access to the Equipment. LESSEE shall maintain Equipment in good working order and in accordance with the installation standards in section 17 and as listed in Exhibit 1. LESSEE its employees, and all LESSOR pre-approved subcontractors (authorized pursuant to the terms in section 9) shall have ingress and egress to the Premises during the Term of this Agreement and any renewals thereof. Access does not extend to any portion of the Property or other real property which is not under LESSOR's authority or control. The right of access is not guaranteed when weather conditions, road conditions and other elements outside of LESSOR's control might affect LESSEE's ability to enter the Premises.

2. **Term:** The initial term of this Agreement shall be one (1) year commencing on September 17, 2021 ("Initial Term"). After the Initial Term of this Agreement expires, this Agreement shall automatically renew for four (4) successive additional periods of one (1) year (each a "Renewal Term", collectively the Initial Term and Renewal Terms are referred to as "Term"). The Premises may be subject to terms and provisions of an underlying lease executed by and between LESSOR as tenant or site manager and other parties as landlord and/or site owner. LESSEE hereby agrees to abide by such terms and provisions in addition to those identified in this Agreement, unless any term or condition makes the Premises unsuitable for LESSEE to use for its intended purpose. Either party may terminate this Agreement at the end of any Term with thirty (30) days prior written notice. In any event, this Agreement will terminate when LESSOR's underlying lease terminates, if applicable.

3. **Rent:** Rent for the first year of the Initial Term shall be \$12,120 per year (hereinafter "Rent"), payable in equal monthly installments of \$1,010.00, in advance without invoice, to Day Wireless Systems, P.O. Box 22169, Milwaukie, OR 97269-2169. Commencing on the first anniversary of the Commencement Date and on each anniversary throughout the Term thereafter, rent shall increase by 4% annually.

DWS Site Reference: Sumas Mountain
Customer Site Reference:

4. **Agreement Fees:** In the event payment of Rent or other fees payable under this Agreement is not received in full when due, LESSEE agrees to pay a finance charge at the rate of two percent (2%) per month which is an annual rate of 24% on all unpaid Rent and any other fees payable under this Agreement over ten (10) days due. If LESSEE disputes any account balances, invoices, credits, or statements, LESSEE must provide written notice to LESSOR within thirty (30) days of the above-received document that is being disputed. No action will be taken for disputed account balances, invoices, credits, or statements beyond thirty (30) days unless prior written notice has been received.

5. **Other Fees:** LESSEE may be required to pay all, a portion of, or the increase in any LESSEE fees, regular or special use fees, assignment fees, permit fees, road use fees, charges and taxes (municipal, state, and federal) which may now or hereafter be imposed upon LESSEE and/or LESSOR arising from the presence or operation of the Equipment on the Premises. LESSEE'S electrical consumption is not included as part of the Rent.

6. **Hold Over Fee:** In the event this Agreement is terminated pursuant to Paragraphs (2) or (14) hereof, and so long as the Equipment remains on the Premises (even if it has been disconnected), LESSEE shall pay to LESSOR a hold-over fee equal to one hundred percent (100%) of the then effective total Rent, prorated from the effective date of termination to the date the Equipment is removed in its entirety from the Premises. LESSOR shall have the right (but not the obligation) to disconnect and remove the Equipment from the Premises. If LESSOR disconnects and removes the Equipment, LESSEE shall pay LESSOR upon demand one hundred fifty percent (150%) of the disconnection, removal and storage expenses incurred by or on behalf of LESSOR. If LESSEE does not reclaim such Equipment within forty-five (45) days, LESSOR has the right to sell the Equipment and deduct therefrom any amounts due under this Agreement. Should LESSEE fail to vacate the Premises pursuant to the terms of this Agreement, LESSOR may at its sole discretion, charge LESSEE a fee equivalent to two (2) times the Agreement Rent that LESSEE is paying at the time of termination plus compounded interest at two percent (2%) per month. Such sums will be pro-rated on a daily basis until such time that LESSEE vacates the Premises.

7. **Condition of Site:** LESSEE takes the Premises as-is and LESSOR shall have no responsibility for its condition, or damage suffered by the LESSEE or any other person due to such condition. Upon expiration or termination of this Agreement, LESSEE will remove all Equipment from the Premises, which was placed there by LESSEE and will restore the Premises to its original condition, reasonable wear and tear notwithstanding.

8. **Liability:** Except for its own acts, the parties shall not be liable to the other party or to any other person for any loss or damage, including incidental, consequential or special damages, regardless of cause. Specifically, but without limiting the generality of the foregoing, LESSOR shall have no liability for any loss or damage due to personal injury, property damage, libel or slander, or imperfect or unsatisfactory communications experienced by the LESSEE for any reason whatsoever. The parties will indemnify and hold other party harmless from any loss, damage, or liability, consequential or otherwise, occasioned by, growing out of, or arising, or resulting in connection with this Agreement or any act or failure to act by the other party, its agents, or employees.

9. **Installation and Interference:** LESSEE will install, operate and maintain its Equipment in accordance with applicable laws and regulations, including but not limited to FCC rules, and so as not to cause interference with any other transmitting or receiving Equipment whether located on the Premises or not. In the event LESSOR finds the Equipment causes such interference, at its sole cost and expense, LESSEE shall take all steps necessary to correct and eliminate such

interference. If said interference cannot be eliminated within forty-eight (48) hours, LESSOR has the right to disconnect and remove any Equipment not in compliance with this paragraph.

Prior to any construction or installation activities, LESSEE will obtain a Notice to Proceed ("NTP") from LESSOR and will reasonably comply with LESSOR's NTP process:

a. All installations of antennas and other apparatus upon the Premises shall be made by LESSOR or a pre-approved contractor, and all repair and maintenance of such antennas and other apparatus on said tower shall be performed solely by LESSOR or a pre-approved contractor.

b. Installation of Equipment and apparatus within the building located on the Premises shall be performed by LESSOR or with LESSOR's consent and LESSOR shall have the right to restrict LESSEE regarding the place of installation of Equipment, type, and amount of equipment installed – and as to the condition of said equipment and any appurtenance.

c. LESSOR at its sole discretion may authorize approved installation contractors but will require a \$2,000.00 installation inspection fee.

10. **Personal Lease:** This Agreement is personal to LESSEE and no assignment or sublease in whole or part shall be valid without the written consent of LESSOR, which shall not be unreasonably withheld. LESSOR may assign its rights under this Agreement to any other party.

11. **Insurance:** LESSEE shall carry during the term of this Agreement public liability and property damage insurance with respect to the Equipment and activities in the amounts detailed below.

Within five (5) days after the execution of this Agreement, LESSEE shall provide LESSOR with certificates of insurance evidencing required coverage in force for the Premises with a thirty (30) day notice to LESSOR requirement for cancellation, non-renewal, or material change. Each certificate must be Premises specific and name LESSOR as an "additional insured" on each policy, except workers compensation insurance policies. LESSEE will cause each insurance policy it obtains to provide that the insurance company waives all right of recovery by way of subrogation against LESSOR in connection with any damage covered. All insurance shall be maintained during the term of the applicable Agreement in companies legally qualified to transact business in the state where the applicable Premises is located, or the Washington State Transit Insurance Pool. The property insurance coverage may be maintained pursuant to master policies of insurance covering the specific Premises, but coverage shall not be reduced at the Premises by activities at LESSEE's other property.

LESSEE shall insure its Equipment and the property of others for which LESSEE is responsible, against all loss or damage, including business interruption, in an amount no less than full replacement value. LESSOR shall not provide any such insurance and assumes no responsibility for damage occurring to LESSEE's equipment, or that of LESSEE's Contractor's and/or subcontractor's, including business interruption.

- **Business Automobile Liability:** LESSEE shall obtain and maintain Bodily Injury and Property Damage Liability insurance on all owned, hired and non-owned vehicles with minimum limits of:

1. Combined Single Limit \$1,000,000.00

• **Commercial General Liability:** LESSEE shall obtain and maintain bodily injury liability, property damage liability, products and completed operations liability, broad form property damage liability and personal injury liability coverage in the following amounts:

1.	Policy Form	Occurrence
2.	General Aggregate Limit	\$2,000,000.00
3.	Products & Completed Operations Limit	\$2,000,000.00
4.	Personal Injury & Advertising Injury Limit	\$1,000,000.00
5.	Each Occurrence Limit	\$1,000,000.00
6.	Damage to Premises	\$ 100,000.00
7.	Medical Expense Limit	\$ 5,000.00

12. **Notice Address:** All notices, requests, claims, demands, and other communications hereunder shall be by written notification and shall be delivered to the respective parties at the addresses first written below, and as may be amended from time to time. Any such notice may be hand delivered (provided the deliverer provides proof of delivery) or sent by a nationally-established overnight courier that provides proof of delivery, or certified or registered mail (postage prepaid, return receipt requested). Notice shall be deemed received on the date of delivery as demonstrated by the receipt of delivery.

LESSOR: Day Management Corporation dba Day Wireless Systems
Tower Sites Division
4700 SE International Way
Milwaukie, OR 97222

dwssites@daywireless.com
(503) 659-1240

LESSEE: Whatcom Transportation Authority
4011 Bakerview Spur
Bellingham, WA 98274

procurement@ridewta.com
(360)788-9332

Email and phone listed above are for informational purposes only.

13. **Prior Negotiations:** This Agreement constitutes the entire agreement of the parties hereto and shall supersede all prior offers, negotiations and agreements. No revision of this Agreement shall be valid unless made in writing and signed by authorized agents of both LESSOR and LESSEE.

14. **Default:** Time is of the essence. The following shall be events of default: (a) Failure to pay fees or Rent when due in accordance with Section 3; or (b) failure to comply with any term or condition of this Agreement, other than payment of fees or Rent, within thirty (30) days after written notice specifying the nature of the non-compliance. In the event of default by the LESSEE, LESSOR may terminate this Agreement without further notice to LESSEE.

15. **Applicable Law and Venue:** LESSEE agrees that all transactions arising hereunder shall be governed and interpreted by the laws of the state in which the Premises resides. LESSEE

agrees that venue of any action to enforce this Agreement shall be the Superior Court for the State of Washington, Whatcom County.

16. **Attorneys' Fees:** In any action to interpret or enforce this Agreement, the prevailing party shall be entitled to recover its attorneys' fees and costs from the other party.

17. **System and Installation Standards:** LESSEE shall comply with the following:

- a. All in-building equipment will be labeled with Lessee's name, the name and phone number of a technical contact, an emergency contact, operating frequencies, transmit power, and ERP. Lessee will post a copy of Lessee's valid FCC License(s) for all licensed frequencies.
- b. Antennas must be mounted with only approved mounts or other specified mount. Antennas and microwave dishes that require stabilizing arm(s) must use required devices.
- c. Appurtenance's that require a mounting surface larger than the tower leg provides requires a face type mount incorporating any ancillary items for that antenna (stiff arm, ice shield).
- d. All mounting devices and hardware must be hot-dip galvanized or stainless steel.
- e. Welding, drilling, or structure modifications of any kind are not permitted without prior written approval of DWS.
- f. All radio equipment needs to attach to internal grounding halo (if provided).
- g. All penetrations must be weather and pest sealed.
- h. All lines must be routed down to equipment in an orderly fashion. Lines must also route in cable management system (if provided). If there isn't a cable management system then lines must be tied at intervals no greater than three (3) feet. All lines shall be tied to cable ladder (if provided) in a manner not to impede future use or damage other lines.
- i. All lines must be marked via colored tape pattern at antenna, tower base, both sides of cable entry to facility, and at internal equipment. If lease authorizes "spare" lines, they must be marked, terminated with proper load, and weatherproofed. Lessee may not use a color pattern currently in use. Lessee must denote the color pattern used and placed with contact information.
- j. All conductors and coax type lines need lightning arrestors at entry to facility. Approved arrestors include: Poly Phaser, Gas, MOV, and Silicone Avalanche Diode.
- k. All lines must be grounded in a minimum of three (3) places: the top and bottom of the vertical cable run, and at the entry to facility. Please make change request prior to installation.
- l. All line entries into facility must be sealed upon completion of install.
- m. When possible, lines need to be installed with a "drip loop" in the line after leaving the tower en route to the facility. All transmission lines must be secured using stacking, cushion, butterfly, or stack block type hangers.
- n. Lessee must cooperate in a timely fashion with DWS and other parties, including tenants of other sites, when called upon to investigate a source of interference, whether or not it can be proven that their equipment is involved.
- o. Upon termination of the Agreement ALL equipment will be removed from site within thirty (30) days, unless prior arrangements have been authorized by DWS. If Lessee replaces equipment then ALL old equipment that is no longer part of the Agreement will be removed from the Site within thirty (30) days, unless prior arrangements have been authorized by DWS. If any such equipment is not

removed as specified above DWS will continue to charge rent in thirty (30) day periods until Lessee provides proof that said equipment is removed.

- p. Filters, cavities, and circulators, isolators, combiners, and multi couplers are required as industry standard. Special site requirements should be noted in Exhibit 1.
- q. Transmitters, receivers, combiners, multi couplers, and antennas must meet manufacturer's specifications in operation and mounting.
- r. Cabinets must be bolted to the floor and or braced to the ceiling and grounded.
- s. No later than 15 days beyond substantial completion of installation, Lessee will return the provided site drawing delivering the as built condition is in accordance with authorized equipment and locations. Lessee will also submit the completed installation documents including installation photographs as verification installation standards are met along with any permits, studies, determinations, licenses, or authorizations in copy needed in the course of installation.
- t. If DWS is operating the Site via an underlying land lease or site management agreement Lessee agrees to abide by any additional technical standards required by any said land owner. These additional standards are available upon request.
- u. Lessee agrees to abide by additional specifications in a timely manner if DWS provides notification of an update to the System and Installation Standards.
- v. All tower installations and modifications will require a structural analysis at Lessee's expense.

IN WITNESS WHEREOF, the Lessor and LESSEE have executed this Agreement as of the latter signature date below.

LESSOR:

Day Management Corporation
dba DAY WIRELESS SYSTEMS

B. Dandon
By:

Its: Contracts Manager

Date: 9/20/2021

LESSEE:

Les Reardanz
By: Les Reardanz,

Its: General Manager

Date: 9/16/21

Exhibit 1
Page 1 of 2

Attn: Tower Sites Division
4700 SE International Way
Milwaukie, OR 97222
(503) 659-1240



DWS Credit Application

DWSites@DayWireless.com

Date: 8/20/2021 Version: 1

Customer Information

Customer Name	Whatcom Transportation Authority	Primary Contact Name	R. Josh Nylander
Customer Address	4011 Bakerview Spur	Primary Contact Phone	360-788-9341
Customer Address		Primary Contact Email	joshn@ridewta.com
City	Bellingham	Secondary Contact Name	Levi Brerly
State	WA	Secondary Contact Phone	360-788-9342
Zip	98226	Secondary Contact Email	levib@ridewta.com
Emergency Phone	360-788-9340	Consultant Contact Name	
Emergency Email	helpdesk@ridewta.com	Consultant Contact Phone	
Billing Contact	Tiffany Rich	Consultant Contact Email	
Billing Phone	360-788-9347	Consulting Firm	
Billing Email	itbuying@ridewta.com		

Site Information

DWS Site Name	Sumas Mt	Latitude (NAD 83)	
ASR		Longitude (NAD 83)	
FCC ID			
Customer Site Name	Sumas Mt	County	
Customer Site Number		State	
Tower Type		Tower Height	

Installation Information

Installation Type	Modification	Desired Installation Date	Wednesday, September 1, 2021
Type of Service	Government		

Project Summary

* Attach Construction Drawings

Taking over existing installation of 800 Mhz NXDN network from Wiztronics Inc.

Radio Installation Contractor		Maintenance Contractor	
Tower Installation Contractor		Antenna Mount Make & Model	

Antenna / Feedline Information

Existing customers: Add all existing and proposed equipment

☐ Not Applicable

*Attach Cut Sheets

	Antenna #1	Antenna #2	Antenna #3	Antenna #4	Antenna #5	Antenna #6
Existing/New/Remove	Existing	Existing	Existing			
Type of Antenna	Omni	Omni	Omni			
Quantity	1	1	1			
Manufacturer	Telewave	Telewave	Telewave			
Model *Attach Cut Sheets	Ant 850F6	Ant 850F6	Ant 850F6			
Desired Mounting Height	SW trip Cell Mt	SW trip Cell Mt	SW trip Cell Mt			
Length (feet)	5	5	5			
Weight (lbs)	22	22	22			
Azimuth(s)	omni	omni	omni			
Tower Leg	south	south	south			
Feedline Count	1	1	1			
Size of Feedline	7/8"	7/8"	7/8"			

Interior Space Information				☐ Not Applicable	
Rackspaces (Customer Provided or Comm. Rack)	One	Additional Space Requirements		Length	Width
Rack Units (Comm. Rack Only)		Batteries	☐		
Radio Model (Comm. Rack Only)		Combining	☐		
		UPS	☐		
Voltage		Cabinet	☐		
Estimated kw/month consumption		HVAC	☐		
		Wall Mounted	☐		
Radio Equipment Information				☐ Not Applicable	
	Radio #1	Radio #2	Radio #3	Radio #4	Radio #5
Existing/New/Remove	Existing	Existing	Existing		
Class of Service	Licensed	Licensed	Licensed		
FCC Call Sign	WNPS655	WNPS655	WNPS655		
Manufacturer	Kenwood	Kenwood	Kenwood		
Model Number	NXR-900	NXR-900	NXR-900		
TX Frequency	862.45625	862.46875	863.80625		
RX Frequency	817.45625	817.46875	818.80625		
Channel Width (Mhz)	0.00625	0.00625	0.00625		
Channel Center	862.4625	862.4625	863.8125		
TX Power	65	65	65		
ERP	65	65	65		
Disclaimers					
All installations and modifications must meet federal, state, and local requirements as well as Day Wireless installation standards. NEPA, SHPO, structural analysis, geotechnical investigation, building permit, land use application, special use permit, and/or easements may be required. Pre-payment is required when a structural analysis is needed. Installations must be performed by Day Wireless and/or certified and approved installation contractors via NTP. A \$500 application fee is required at colocation application submission.					