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LICENSE AGREEMENT

THIS LICENSE AGREEMENT entered into on December 28, 1999, by the **PORT OF GRAYS HARBOR**, a municipal corporation of the State of Washington, as Licensor, hereinafter referred to as "Owner," and the **CITY OF WESTPORT**, as Licensee, hereinafter referred to as "Licensee";

WHEREAS, the Port is the owner of certain real estate at Westport, Washington, upon which there has been constructed a public viewing platform, and

WHEREAS, Licensee desires to install, operate and maintain a video camera for weather purposes on such platform,

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions herein contained, the parties hereto agree as follows:

1. AGREEMENT OF LICENSE: The Owner does hereby grant to the Licensee, a license to use that portion of the property of the Owner as outlined on the attached map designated Schedule "A" and incorporated by this reference, and which property is located in Westport, Washington.

2. TERM: The term of this license shall be from the date of the execution hereof to December 31, 2000. This License Agreement shall be automatically renewed from year-to-year thereafter unless either party notifies the other on or before December 1 of any year of its desire not to so renew. If such notice were given, this License Agreement shall expire at midnight on the 31st of December immediately following the giving of such notice.

3. FEE: Licensee shall pay to Owner in advance the sum of \$1.00 plus the leasehold excise tax as required by Revised Code of Washington 82.29A, or as the same may be amended annually on or before January 1 of each year.

4. USE OF PREMISES: The Licensee shall use the licensed premises for the purpose of mounting a video camera and maintenance thereof, and other purposes reasonably related thereto, and shall not use the premises for any other purpose without the prior written approval of the Owner.

5. POSSESSION: The parties hereto understand that a prerequisite to the validity of this License Agreement is the provision for insurance, as required in the paragraph entitled "ACCIDENT AND LIABILITY INSURANCE." Anything to the contrary notwithstanding, the Licensee shall not be entitled to the possession of the herein licensed premises until it shall have complied with said paragraph.

6. ACCEPTANCE OF PREMISES: Licensee accepts said premises in their present condition and agrees it will not demand that Owner make any improvements thereon or maintenance thereof, other than as specifically agreed to herein.

7. DISCLAIMER OF WARRANTY: The Owner makes no representation nor warranty, expressed nor implied, as to the condition, merchantability, or fitness of any use of the above referenced premises. Such premises are licensed in a "where is/as is" condition.

8. COMPLIANCE WITH LAWS & REGULATIONS: The Licensee shall comply with all applicable federal, state, county, city and municipal laws, ordinances, directions and regulations.

9. INGRESS AND EGRESS: Owner does herewith grant to Licensee, its employees, agents and invitees the right of ingress and egress to the herein-licensed premises.

10. RE-DELIVERY OF PREMISES: Licensee shall, at the termination of this License, peacefully deliver possession of the premises to the Owner in as good a condition as when received, except for reasonable wear and tear.

11. ACCESS BY OWNER: The Owner reserves to itself, its agents or assigns, the right to enter the premises at any reasonable time for the purpose of inspecting the same. The foregoing shall not be construed to require the Owner to inspect the premises and shall impose no liability on the Owner for failure to so inspect.

12. INDEMNIFICATION: The Licensee shall defend, indemnify, and hold harmless the Owner, its officers, officials, employees and volunteers from and against any and all claims, suits, actions, or liabilities, for injury or death of any person, or for loss of damage to property, which arises out of Licensee's use of the portion of the property designated on attached Schedule A, or from the conduct or Licensee's business, or from any activity, work or thing done, permitted or suffered by the Licensee in or about the Premises, except only such injury or damage as shall have been occasioned by the sole negligence of the Owner.

13. DAMAGE TO OWNER'S PROPERTY: Licensee shall pay for all damages to Owner's property resulting directly or indirectly from the activities contemplated on the licensed premises.

14. ACCIDENT AND LIABILITY INSURANCE: The Licensee shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the Licensee's operation and use of the licensed premises. The insurance shall have coverage limits of \$1,000,000 and evidence of coverage shall be delivered to the Owner indicating such insurance is in effect. The Licensee's membership in the Washington Cities Insurance Authority shall fulfill the insurance requirements of this License Agreement.

15. LICENSEE'S RESPONSIBILITY FOR ESCAPED PRODUCTS: Licensee hereby expressly assumes all responsibility for petroleum or any other products spilled or released from tanks, containers or vehicles used by the Licensee or its agents or placed on the licensed premises by the licensee or its agents, or present on the licensed premises at Licensee's request or convenience. Licensee shall hold Owner harmless from all liability, damages, suits, fines or penalties resulting from the escape of such petroleum or petroleum products.

16. LITTER REMOVAL: The Licensee shall keep the licensed premises and adjacent property free of any refuse or litter caused by the operation or maintenance of the video camera and related equipment.

17. ASSIGNMENT: The Licensee shall not assign all or any portion of its interest herein, nor shall this License or any interest hereunder be assignable or transferable by operation of law, or by any process or proceeding of any Court or otherwise.

18. NON-WAIVER OF BREACH: The failure of the Owner to insist upon the strict performance of any of the covenants or conditions of this Agreement in any one or more instances shall not be construed to be a waiver thereof.

19. ATTORNEY FEES: In the event either party shall be required to bring any action to enforce any of the provisions of this License Agreement or shall be required to defend any action brought by the other with respect to this License, the prevailing party in such action shall be entitled to reasonable attorney's fees in addition to costs and necessary disbursements.

20. ENTIRE AGREEMENT: This Agreement constitutes the whole agreement between the Owner and the Licensee. There are no terms; obligations, covenants or conditions other than those contained herein. No modification or amendment of this agreement shall be valid and effective unless evidenced by an agreement in writing.

21. INTERPRETATION OF LICENSE. This License Agreement and all its terms shall be construed according to the laws of the State of Washington. The venue of any litigation between the parties relating to this License Agreement shall be the Superior Court of Grays Harbor County, Washington.

22. TERMINATION FOR CAUSE. If Licensee shall fail to correct any defaults of any terms of this License Agreement, the Owner reserves the right to terminate this License Agreement upon giving Licensee ten (10) days' notice in writing.

23. CAPTIONS. The captions in this License Agreement are for convenience, only, and do not in any way limit or amplify the provisions of this License Agreement.

24. INVALIDITY OF PARTICULAR PROVISIONS. If any term or provision of this License Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this License Agreement or the application of such term of the provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and shall continue in full force and effect.

25. NOTICES. All notices hereunder shall be delivered or mailed. If mailed, they shall be sent by certified or registered mail to the Owner at its address set forth below its signature. Notices may be so mailed to the Licensee at its address set forth below its signature. Such notices may be sent to other addresses of either party hereto as they may advise from time to time in writing. Notices sent by mail shall be deemed to have been given when properly mailed and the postmark affixed by the United States Post Office shall be conclusive evidence of the mailing thereof.

26. BINDING EFFECT: This License Agreement is binding upon each of the parties hereto, their successors and assigns.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed the day and year first above written.

PORT OF GRAYS HARBOR

By Mary M. Nelson
Executive Director, *ACTING*

"PORT"
P.O. Box 660
111 S. Wooding
Aberdeen, WA 98520

CITY OF WESTPORT

By Berkley Barker
Berkley Barker, Mayor

"LICENSEE"
P.O. Box 505
506 North Montesano
Westport, WA 98595