



**WIRELESS CO-LOCATION AGREEMENT**

This WIRELESS CO-LOCATION AGREEMENT (“Agreement”), is made and entered into this **1st** day of **January, 2020**, by and between **Richfield City**, (“Lessor”) and **InfoWest, Inc.**, (“Lessee”), a Utah corporation. WITNESSETH

WHEREAS, Lessor owns the property located at **38.775375, -112.103043** (“Property”); and

WHEREAS, Lessee desires to provide publicly available wireless internet access in the surrounding areas; and

WHEREAS, Lessor desires to permit Lessee the exclusive right to provide such service under the terms and conditions hereinafter set forth;

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

**1. USE OF PREMISES:**

- a. Lessee shall have the right and privilege to place equipment solely for the purpose of operating an internet business. Lessee may install and maintain equipment at the above mentioned property and engage only in those activities which are enumerated herein and no other without the prior written permission of Lessor. Lessee agrees that it will not make any permanent modifications to the property without the prior approval of Lessor.
- b. Lessor and Lessee agree that keys to open any doors leading to Lessee equipment shall be provided allowing for Lessee’s 24 hour access.

**2. EQUIPMENT LOCATION:** Lessee shall locate its wireless access point hardware on a tower which will be installed and owned by Lessee. The wireless access points and the use thereof shall not interfere with the use of any other communication equipment of any kind and nature owned or operated by Lessor. Immediately upon notification by Lessor of such

interference, Lessee shall immediately take such action as is necessary to alleviate such interference.

3. **TERM:** The term of this Agreement shall commence as of the date of this agreement, and remain in effect for **ten (10)** years, unless sooner canceled or terminated as hereinafter provided. At the end of the initial term of the Agreement, it will automatically renew for successive five-year periods. This agreement shall automatically be extended for successive renewal term unless lessee notifies lessor of its intention not to renew ninety (90) days prior to commencement of the succeeding renewal term.
4. **FEES:** As consideration for the opportunity to provide wireless internet access points on the above property, Lessee covenants and agrees to provide **Two (2) FREE High Speed Internet Services (Maximum Wireless PTMP Business Rate available on Connecting Tower) within lessee's coverage area** commencing on the date of this agreement.
5. **UTILITIES:** Lessor shall provide electrical service for Lessee's equipment at no cost. Any required telephone service, connections, installation and equipment shall be the sole responsibility and expense of Lessee.
6. **ASSIGNMENT:** Lessee shall not assign, transfer, mortgage or pledge its rights in this Agreement, nor grant any concession hereunder, in whole or in part, without the prior written consent of Lessor provided however, that Lessee may, without such consent, assign the agreement and its rights and obligations hereunder to a purchaser of all or substantially all of the assets of Lessee. Should Lessor sell or move from Property this agreement may be assigned to the new property owners and remain in full force with owner's approval.
7. **COMPLIANCE WITH LAWS:** Lessee covenants that it will use the Lessor Property in accordance with all applicable federal, state and local laws and ordinances.
8. **CANCELLATION AND TERMINATION:** In the event of any default hereunder which is not corrected within **Thirty (30) days of written notice** to Lessee of the nature and extent of the default, Lessor may terminate this Agreement. Lessee may terminate this agreement with **Thirty (30) days written notice** without cause at any time during the term of the Agreement.
9. **TAXES, LICENSES, DEBTS:** Lessee covenants and agrees to pay promptly all valid taxes, excises, license fees, permit fees, bills, debts, and obligations incurred by it in connection with its operations on the above mentioned property, and not permit the same to become

delinquent and to suffer no lien, mortgage, judgment, or execution to be filed against Lessor or improvements made thereon which will in any way be an impairment to the rights of Lessor under this Agreement.

**10. Interference:**

- a. Lessee shall operate the Lessee Facilities in a manner that shall not cause interference to Lessor and other lessees or licensees of the Land, provided that their installations predate that of the Lessee Facilities. All operations by Lessee shall be in compliance with all Federal Communications Commission ("FCC") requirements.
- b. Lessor does not grant Lessee exclusive rights, however, subsequent to the installation of the Lessee Facilities, Lessor shall not permit itself, or its other licensees to install new equipment on the Land or property contiguous thereto owned or controlled by Lessor, if such equipment is likely to cause interference with Lessee's operations. Such interference shall be deemed a material breach by Lessor. In the event interference occurs, Lessor agrees to take all reasonable steps necessary to eliminate such interference, in a reasonable time period.

**11. INDEMNIFICATION AGAINST CLAIMS OF PERSONAL INJURY OR**

**PROPERTY DAMAGE:** Lessee shall defend, indemnify, and hold Lessor harmless from and against any claim, loss, expense or damage to any person or property in or upon the Property or any area allocated to or used exclusively by Lessee or its agents, employees, or invitees arising out of Lessee's use or occupancy of said premises, or any act or neglect of Lessee or Lessee's servants, employees or agents, or any change, alteration or improvement made by Lessee on the Property. Lessee shall assume full responsibility and pay for any damage caused by Lessee employees or equipment to the property. In the event Lessee moves its equipment from the property Lessee shall restore property to its original condition. Lessor acknowledges that reasonable wear and tear is to be expected.

**12. WAIVERS:** No waiver or default by Lessor of any of the terms, covenants or conditions hereof to be performed, kept and observed by Lessee shall be construed as, or operate as, a waiver by Lessor of any subsequent default of any of the terms, covenants or conditions herein contained to be performed, kept and observed by Lessee.

**13. NOTICES:** Any notices required or given hereunder shall be given by first class mail addressed to the respective agents addressed below, or other such addresses as may be specified in writing from time to time:

**Lessor**

Richfield City  
75 E Center St.  
Richfield Utah, 84701

**Lessee**

Kelly Nyberg  
435 E. Tabernacle  
St. George Utah, 84770

14. **SECURITY:** Lessor shall not be responsible for any theft or vandalism or damage to any equipment or other items of Lessee's on the Property.

15. **OTHER AGREEMENTS:**

A.) **Declaration of Governing Law:** This Agreement shall be governed by, construed, and enforced in accordance with the laws of the State of Utah.

B.) **Plural, Singular, Gender to be Read in Context:** Any word contained in the text of this Agreement shall be read as the singular or the plural and as the masculine, feminine or neuter gender as may be applicable in the particular context.

D.) **Binding Effect of Parties, Representatives, Successors, and Assigns:** The provisions of this Agreement shall be binding on and inure to the benefit of the parties, their legal representatives, successors and permitted assigns.

E.) **Parties Have Relationship of Landlord and Tenant - Not Principal-Agent, Partners or Joint Ventures:** Nothing contained in this Agreement shall be deemed or construed to create the relationship of principal and agent or of partnership or of joint venture of any association whatsoever between Lessor and Lessee, it being expressly understood and agreed that neither the computation of any rent nor any other provisions contained in this Agreement nor any act or acts of the parties hereto shall be deemed to create any relationship between Lessor and Lessee other than the relationship of landlord and tenant.

F.) **Captions for Convenience- Not Part of Agreement- Not to Limit or Amplify Agreement:** The captions of this Agreement are for convenience only, are not a part of this Agreement, and do not in any way limit or amplify the terms and provisions hereof.

H.) **Prior Representations Incorporated Into Agreement - No Representations, Warranties, or Promises by Landlord, Agents or Representatives:** All negotiations, considerations, representations, and understandings between the parties are incorporated in this Agreement and Lessee acknowledges that Lessor, its agents and representatives, have made no representations, warranties, or promises with respect to the building, or the surrounding land, except as may be expressly set forth herein.

I.) Entire Agreement - Modification in Writing, Signed and Delivered by Both Parties: This Agreement contains all of the agreements and representations between the parties. None of the terms of this Agreement shall be waived or modified to any extent, except by a written instrument signed and delivered by both parties.

J.) Severability of Invalid or Unenforceable Clause - Remainder of Agreement Enforceable Clause Applicable to Other Persons and Circumstances: If any clause, phrase, provision or portion of this Agreement or the application thereof to any person or circumstance shall be invalid, or unenforceable under applicable law, such event shall not affect, impair or render invalid or unenforceable the remainder of this Agreement, nor any other clause, phrase, provision or portion hereof, nor shall it affect the application of any clause, phrase, provision or portion hereof to other persons or circumstances.

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

LESSOR:

\_\_\_\_\_  
Mayor David Ogden

LESSEE:

  
\_\_\_\_\_  
Kelly Nyberg - President