

Return Address
Walla Walla County Commissioners
PO BOX 1506
Walla Walla, WA 99362

Document Titles (i.e.: type of document)

Antenna Co-Location Agreement re: Wallula Site

Auditor File Number(s) of document being assigned or released:

Grantor

1. **Walla Walla County Commissioners**
- 2.
- 3.

Additional names on page ____ of document.

Grantee

1. **City of Richland**
- 2.
- 3.

Additional names on page ____ of document.

Legal description (i.e.: lot and block or section township and range)

S-T-R 6-6-32

Additional legal is on page __8__ of document.

Assessors Parcel Numbers

n/a

Additional parcel number is on page ____ of document.

The Auditor/Recorder will rely on the information provided on this form. The staff will not read the document to verify the accuracy or completeness of the indexing information provided herein. Please type or print the information. This page becomes part of document.



ANTENNA CO-LOCATION AGREEMENT

Re: Wallula Site

THIS ANTENNA CO-LOCATION LEASE AGREEMENT (the "Agreement") is effective May 1, 2020 (the "Effective Date") and entered into by and between the **City of Richland**, a Washington municipal corporation ("Lessee"), and the County of Walla Walla, a political subdivision of the State of Washington ("Lessor"). References in this Agreement to Walla Walla County include the Walla Walla County Board of Commissioners and Walla Walla County's designated public safety communications management entity, WESCOM, managed by the City of Walla Walla. Lessee and Lessor are referred to individually herein as a "Party" and collectively as the "Parties."

I. RECITALS

Whereas, Lessor leases the real property located in Walla Walla County, State of Washington, as described and depicted in **Exhibit A** to this Agreement (the "Property"); and

Whereas, Lessor has the right to sublease the Property to Lessee with consent of the Landlord, the Whitman College Board of Trustees; and

Whereas, Lessee operates a Transmitter system that serves the area in which the Property is located, and desires to construct upon a portion of the Property a radio communication antenna facility, including but not limited to a base station, antennas, transmitters, associated communication equipment and utilities as described in **Exhibits B** in this Agreement (the "Facility"); and

Whereas, Lessor and Lessee desire to enter this Agreement for the purpose of permitting Lessee to construct, operate, and maintain the Facility, and for conducting any other lawful activities on that portion of the Property which is subject to this Agreement; and

Whereas, the Parties may review additional opportunities to co-locate radio facilities in the future, with additional agreements being executed on a case-by-case basis.

Now, therefore, in consideration of the mutual covenants and promises contained herein, the Parties hereby agree as follows:

II. AGREEMENT

1. LEASE ACCESS.

1.1 Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, on the terms and conditions of this Agreement that portion of the Property which is occupied by Lessee to include a location on the Property to install, maintain and replace the Facilities.

1.2 Lessor hereby grants to Lessee during the term of this Agreement, including any



renewals of this Agreement, an access license over the Property for use by Lessee for motor vehicle access to the Property for the purposes of installing, operating, maintaining and repairing the Facilities.

1.3 Lessee shall have, as appurtenant to the Premises, right to use the common areas relating to the Premises (“Common Areas”) throughout the Initial Term or any Extended Term. The uses to be made of the Common Areas shall, unless otherwise agreed by the Parties, conform to the uses made of such Common Areas prior to the commencement of the Agreement Term. Lessee agrees not to utilize Common Areas as storage facilities or an overnight parking area.

2. TERM, COMMENCEMENT AND EXPIRATION.

This Agreement shall commence on the Effective Date first identified above, and the term of this Agreement shall be governed by the underlying lease between Walla Walla County and Whitman College Board of Trustees which expires October 31, 2023 (the “Lease Term”). So long as authorized by the underlying lease, this Agreement may be renewed in writing with similar terms and a rental fee adjustment. Any extension or modifications to the underlying lease may be executed at the sole option of the County. This Agreement may be terminated by either Party with upon twelve (12) months’ written notice.

3. RENT.

3.1 In consideration of Lessee’s rent, Lessee shall be entitled to the use of the Property at the Wallula Tower Site. Lessee’s rent shall be \$2,250 per year for the Agreement term. Rent for the upcoming year shall be paid on or before October 1 for the Term of the Agreement. Rent for the months of June, July, August and September 2020 shall be prorated at \$187.50 per month, and due on October 1, 2020 in addition to the one-year payment.

3.2 In the event that a substantial change in either Party’s antennae design, operating frequencies or power output occurs, a computer analysis by an engineering consultant may be necessary. The Party proposing the antennae design change is solely responsible for commissioning the analysis and paying all related expenses.

3.3 Lessor will provide Lessee with sufficient space on the Tower and on the Transmitter Site to install necessary base station radio cabinet(s) and to accommodate microwave equipment used by Lessee in the operation of its radio equipment.

4. POSSESSION.

If Lessor is unable to deliver possession of the Property at the commencement of this Agreement, Lessee shall not be liable for any rent until possession is delivered. Lessee may immediately terminate this Agreement if possession is not delivered within ninety (90) days of the Effective Date hereof.



5. CLEAN-UP.

Lessee shall maintain the Property it occupies in a clean and neat condition.

6. LESSOR'S RIGHT OF ENTRY.

Lessor agrees to permit Lessee and Lessee's agents and representatives to enter upon the Property at reasonable times for the purpose of inspecting the same.

7. USES.

7.1 The Property is to be used only in connection with operation of Lessee's communications equipment and for no other business or purpose without the prior written consent of Lessor. Lessee agrees not to occupy or use, or permit any portion of the Property to be used, for any purpose which is unlawful or deemed to be hazardous.

7.2 Lessee shall install and operate transmission equipment (the "Transmission Equipment") as described in **Exhibit B**. Lessee shall update **Exhibit B** as and when there are changes in transmission equipment installation configuration. Updated **Exhibit B** lists shall be mailed to Lessor.

7.3 The Parties mutually agree to comply with all laws, ordinances, orders, rules and regulations (municipal, county, state, and federal) relating to the use, condition or occupancy of the Property.

8. ENVIRONMENTAL MATTERS.

8.1 Lessor represents that it is not aware of any release of Hazardous Substances (as defined below) on the Property. Lessor will indemnify, protect, defend and hold harmless Lessee from and against all claims, suits, actions, causes of action, assessments, losses, penalties, costs, including clean-up costs, damages and expenses, including, without limitation, reasonable attorney's fees, sustained or incurred by Lessee pursuant to any federal, state or local laws, implementing regulations, common law or otherwise, relating to the release by Lessor or its agents, employees or contractors of any hazardous substances, toxic substances and/or contamination of any type whatsoever (collectively, Hazardous Substances) in, upon or beneath the Property.

8.2 With the exception of Hazardous Substances that are legally used in the normal course of its business, neither Lessor nor Lessee will bring to, transport across or dispose of any Hazardous Substances on the Property without the other's prior written approval, which approval will not be unreasonably withheld, except Lessee may keep on the Property substances used in back-up power units (such as batteries and diesel generators) commonly used in the wireless communications industry. Lessees' use of any approved substances constituting Hazardous Substances must comply with all applicable laws, ordinances and regulations governing such use.

9. INSURANCE; INDEMNIFICATION.

Lessee agrees to provide and maintain general liability and property damage coverage, which shall include motor vehicle liability and property damage coverage, with limits of not less than \$2,000,000 per occurrence. Lessee shall provide a letter from its insurer documenting the particulars of this process. Said coverage shall not be discontinued or reduced without thirty (30) days prior written notice to Lessor. Lessee is obligated to defend, indemnify and hold Lessor harmless from all liabilities resulting from its use of the Property and work performed by Lessee or persons performing under Lessee's direction and authority at this Property.

10. ASSIGNMENT AND SUBLETTING.

Lessee may not assign this Agreement without prior written consent of Lessor. Lessee will not sublease any portion of the Property.

11. SURRENDER OF PREMISES.

Within thirty (30) days of expiration or termination of this Agreement, Lessee shall, at its expense: (i) remove its Facilities located at the Property; and (ii) quit and deliver up the Property to Lessor peaceably and quietly in as good order and condition as the same was on the date hereof, ordinary wear and tear excepted. Lessee shall repair any damage to the Site resulting from the removal of Lessee's property.

12. QUIET ENJOYMENT.

Lessor covenants that Lessee shall, and may peacefully have, hold and enjoy the Property, subject to the provisions of this Agreement, provided Lessee pays the Rent herein recited and performs all of Lessee's covenants and agreements herein contained.

13. COSTS AND ATTORNEYS FEES.

If by reason of any default on the part of Lessee it becomes necessary for Lessor to employ an attorney, or in case Lessor shall bring suit to recover any Rent due hereunder, or for breach of any provision of this Agreement or to recover possession of the Property, or if Lessee shall bring any action for any relief against Lessor, declaratory or otherwise, arising out of this Agreement, then the non-prevailing Party in such action shall pay the other Party's reasonable attorney's fees and all reasonable costs incurred by it in connection with such default or action.

14. DEFAULT.

If Lessee defaults in the payment of Rent, or defaults in the performance of any other covenants or conditions hereof, Lessor may give Lessee written notice of such default and if Lessee does not cure any such default within thirty (30) days (or commence reasonable efforts to cure), then Lessor may treat such occurrence as a breach of this Agreement.

15. INTERFERENCE.

15.1 Lessee shall not cause, by its transmission or activities at the Property, interference of any kind whatsoever to the activities or facilities of Lessor or others who have entered into an Agreement with Lessor prior to the execution of this Agreement (unless the other party has modified its transmission or activities after Lessee has executed the Agreement). If such interference occurs and cannot be reduced to levels reasonably acceptable to Lessor, Lessee must immediately cease such transmissions from the Property upon notice from Lessor until such interference is eliminated. If such interference cannot be eliminated within a reasonable time as shall be reasonably established by Lessor’s consulting engineer, which shall not be less than ten (10) business days, then Lessor may elect to terminate this Agreement by giving ten (10) days prior written notice to Lessee. As used in this Agreement, “interference” means a condition existing which causes degradation of a transmission signal or otherwise constitutes interference within the meaning of the provisions of the recommended practices of the Electronics Industries Association and the rules and regulations of the FCC then in effect.

15.2 Lessee shall be afforded, and Lessor shall provide, the same interference protection described in 15.1 from any party that becomes a Lessee after execution of this Lease.

16. NOTICES.

Except as otherwise specifically set forth herein, any demand, request or notice which either Party hereto desires, or may be required to make or deliver to the other, shall be in writing and shall be deemed given when personally delivered, or when delivered by private courier service that customarily delivers on the next business day and issues receipts (such as Federal Express), or three (3) days after being deposited in the United States mail, in registered or certified form, return receipt requested, addressed as follows:

To Lessor:

Walla Walla County
Clerk of the Board
314 West Main Street
Room 203
Walla Walla, WA 99362

To Lessee:

City Manager
City of Richland
625 Swift Boulevard, MS-04
Richland, WA 99352

And to:

City Manager
City of Walla Walla
15 N. Third Avenue
Walla Walla, WA 99362

or to such other address, and/or person as either Party may communicate to the other by like written notice.



17. MISCELLANEOUS.

17.1 Binding Effect. This Agreement shall be binding upon and inure to the benefit of Lessor, its successors and assigns, and shall be binding upon and inure to the benefit of Lessee, its successors and assigns.

17.2 Severability. Lessor and Lessee intend for this Agreement to comply with FCC rules, regulations and policies, the applicable state and local laws and regulations, and any covenants or restrictions of record. If any term of this Agreement is found to be void or invalid, such invalidity shall not affect the remaining terms of this Agreement, which shall continue in full force and effect. The Parties agree that if any provisions are deemed unenforceable, they shall be deemed modified to the extent necessary to make them enforceable.

17.3 Authorized Signatories. The persons who have executed this Agreement represent and warrant that they are duly authorized to execute this Agreement in their individual or representative capacity as indicated.

17.4 Law and Venue. The terms hereof shall be construed according to the laws of Washington State. Venue shall be Walla Walla County.

17.5 Captions. The captions in the Agreement are for convenience only and are not part of this Agreement.

17.6 Counterparts. This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute one and the same instrument.

17.8 Authority. Lessor covenants that it has the authority to enter into this Agreement, and agrees to pay rents due to Lessor hereunder.

17.9 Electronic Signatures. Consistent with Chapter 19.360 RCW as amended or recodified, execution of this Agreement may be by electronic signature, and the fact of such execution shall in no way negate or otherwise affect the Agreement's enforceability.

18. COMPLETE AGREEMENT.

This Agreement represents the entire agreement between Lessor and Lessee with respect to the subject matter addressed herein. No representations have been made by either Party that are not fully contained herein.

[Signature pages to follow]

LESSEE: City of Richland, WA

By: Cindy Reents ^{HOK}
Cindy Reents, Richland City Manager

Landlord Consent:

Peter Harvey
Peter Harvey, Chief Financial Officer
Whitman College Board of Trustees

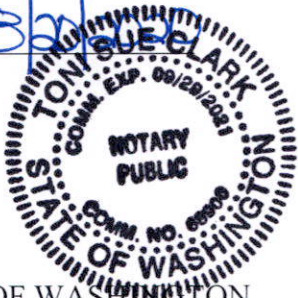
LESSOR: County of Walla Walla, WA

By: Gregory A. Tompkins
~~Todd L. Kimball, Chair~~ Gregory A. Tompkins
Walla Walla Board of County Commissioners

ACKNOWLEDGEMENTS

STATE OF WASHINGTON)
) ss.
COUNTY OF BENTON)

I certify that I know or have satisfactory evidence that **Cynthia D. Reents, Richland City Manager**, personally appeared before me and acknowledged that she signed this instrument and acknowledged it as her free and voluntary act for the uses and purposes mentioned in the instrument.

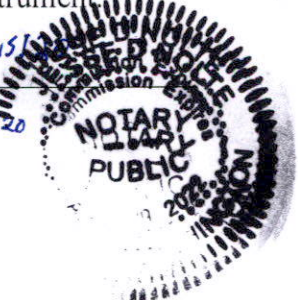
Dated: 8/20/20


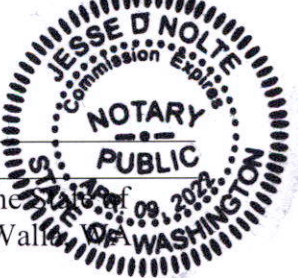
Toni Sue Clark
Printed Name: Toni Sue Clark
NOTARY PUBLIC in and for the State of
Washington, residing in Richland, WA

STATE OF WASHINGTON)
) ss.
COUNTY OF WALLA WALLA)

Gregory A. Tompkins

I certify that I know or have satisfactory evidence that ~~Todd L. Kimball~~, **Chair of the Walla Walla County Commission**, personally appeared before me and acknowledged that he signed this instrument and acknowledged it as his free and voluntary act for the uses and purposes mentioned in the instrument.

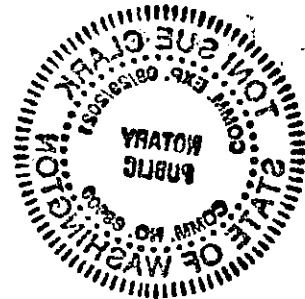
Dated: 9/15/20
9/15/20


Jesse Nolte
Printed Name: Jesse Nolte
NOTARY PUBLIC in and for the State of
Washington, residing in Walla Walla




**EXHIBIT A
DESCRIPTION OF PROPERTY**

The premises referenced in the November 5, 1998 lease between the City of Walla Walla and the Whitman College Board of Trustees, which was assigned to Walla Walla County on May 24, 2011. The Premises is described as: A 50' by 50' piece of property in the Northwest Quarter of Section 6, Township 6 North, Range 32 E W.M., in Walla Walla County, State of Washington.



**EXHIBIT B
WALLULA SITE EQUIPMENT**

- 1ea 19" Equipment rack with cable management.
- 2ea Harris Mastr III Receiver chassis.
- 1ea Daniels rack mount chassis with 2 receivers. (initially, may expand to two chassis.)
- 1ea Astron rack mount 12VDC power supply and fuse distribution rack.
- 1ea Seismic support for rack.

All radio cabinet equipment will be installed in the 19" rack.

Tower Equipment:

- 1ea Multi-antenna mount. Currently holds 1ea VHF antenna and 2ea 900 MHz Enclosed Radome antennas. Will eventually have 3ea 900MHz antennas
- 4ea Antenna coax feed lines to antennas. (Initial coax count)

