

KITITITAS COUNTY
DEPARTMENT OF PUBLIC WORKS

AGENDA STAFF REPORT

AGENDA DATE: November 16, 2010

ACTION REQUESTED: Approve & Sign Addendum to Lease for Kittcom.

BACKGROUND: On October 6, 1998, Kittcom entered into a lease for County land located within the Bowers Field Airport Industrial Area. Kittcom built an Emergency 911 Center. Kittcom is requesting an Addendum to Lease which would allow them to sublease a portion of their building and tower to the Washington State Department of Transportation. Kittcom's original lease does allow for sub-lease with the approval of the lessee.

INTERACTION: Public Works; Prosecutor's Office; Kittcom

RECOMMENDATION: Move to Approve & Sign Addendum to Lease with Kittcom to sublease to WSDOT.

HANDLING: Return 2 originals to Public Works

ATTACHMENTS: Lease Addendum; Original Lease

LEAD STAFF: Kelly Carlson
Airport Manager

This ADDENDUM TO AGREEMENT is made and dated this _____ day of November by and between KITTCOM, hereinafter called the "Lessee", and Kittitas County, State of Washington, a municipal corporation, hereinafter called the "County",

WITNESSETH:

That the Lessee and County entered into a Lease dated October 6, 1998, and an Addendum to Agreement dated 7 April, 2009, copies which are attached hereto and by this reference incorporated herein.

That the term of the Lease was amended to allow the Lessee to Sub-Lease a portion of their building and tower to the Washington State Department of Transportation.

That the Lessee and the County mutually consent to:

1. Allow the Lessee to Sub-Lease a portion of their building and tower to the Washington State Department of Transportation.
2. That all other terms and conditions of the aforementioned Agreement shall remain the same.

IN WITNESS WHEREOF, the Lessee and County have signed their names and affixed their seals the day and year first above written.

LESSEE:

Theodore A. Barkley

KITTCOM Administrative Board Chairman

Darlene A. Mainwaring

ATTEST: KITTCOM Board Secretary

Date Signed: ____ November 2010

BOARD OF COUNTY COMMISSIONERS:

Printed Name: Mark McClain

Chair

Printed Name: Paul Jewell

Vice-Chair

Printed Name: Alan Crankovich

Commissioner

Date signed: _____

Approved as to form:

Prosecuting Attorney

WSBA#: _____



ADDENDUM TO LEASE

THIS ADDENDUM TO LEASE is made and dated this 17th day of FEBRUARY, 2004, by and between Kittitas County, a municipal corporation in the State of Washington, hereinafter referred to as the LESSOR, and KITTCOM, hereinafter referred to as the LESSEE.

WITNESSETH:

WHEREAS, LESSOR and LESSEE entered into a Lease on October 6, 1998, a copy of which is attached hereto and by this reference incorporated herein; and

WHEREAS, according to Paragraph 3 "Adjustment of Rental", it states "beginning March 1, 2004, the rental rate shall be re-adjusted and fixed by the Board of County Commissioners every five years as required by RCW 36.34.180.";

NOW, THEREFORE, IT IS HEREBY AGREED by and between the parties to a change in rental rates and contract terms as follows:

- 1) "Paragraph #2 – Rent" – Rental Rates for 3/01/04 thru 2/28/09 Term.

<u>3/01/04 – 2/28/09</u> <u>Term</u>	<u>Rental Rate (\$.06</u> <u>per Sq Ft)</u>	<u>Leasehold Tax</u>	<u>Total Per Year</u>
3/01/04 – 2/28/05	\$ 3,894.26	Exempt	\$3,894.26
3/01/05 – 2/28/06	\$ 3,894.26	Exempt	\$3,894.26
3/01/06 – 2/28/07	\$ 3,894.26	Exempt	\$3,894.26
3/01/07 – 2/28/08	\$ 3,894.26	Exempt	\$3,894.26
3/01/08 – 2/28/09	\$ 3,894.26	Exempt	\$3,894.26
2/28/09	Renegotiate		Renegotiate

2) "Paragraph #5 – Fire Protection Assessment" – will read as follows:

In addition to any rental herein provided, the Lessee shall pay a fee which shall be in lieu of taxes for fire protection services. The annual rate shall be based upon the annual fire assessment determined by the Kittitas County Assessor and Fire District #2 to be calculated on January 1st of the current year. The assessment shall be due and payable concurrently with the lease payment or through Personal Property Taxes.

All other terms and conditions of the aforementioned lease shall remain the same

IN WITNESS WHEREOF, the Lessor and Lessee have signed their names and affixed their seals the day and year first above written.



[Signature]
Clerk of the Board

Approved as to Form:

James Hurson 11/18/03
Prosecuting Attorney
WSBA# 12686

LESSOR:

BOARD OF COUNTY COMMISSIONERS
KITITAS COUNTY, WASHINGTON

[Signature]

Perry D. Huston, Chairperson

[Signature]

Bruce Coe, Vice-Chair

[Signature]

Max A. Golladay, Commissioner

LESSEE:

[Signature]
Theodore A. Barkley, City of Ellensburg/Kittcom

[Signature]
Administrative Board Chairman

THIS ADDENDUM TO AGREEMENT is made and dated this 9th day of November, 1999, by and between the Consolidated Communications Agency for Kittitas County "Kittcom", hereinafter called the "Lessee", and Kittitas County, State of Washington, a municipal corporation, hereinafter called the "County",

WITNESSETH:

That the Lessee and County entered into a Lease dated October 6, 1998, and an Addendum to Agreement dated November 9, 1999, copies which are attached hereto and by this reference incorporated herein.

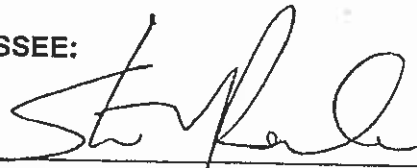
That the term of the Lease was amended to allow the Lessee to Sub-Lease a portion of their tower to a company known as Voicestream.

That the Lessee and the County mutually consent to:

1. Allow the Lessee to Sub-Lease a portion of their tower to Voicestream
2. That all other terms and conditions of the aforementioned Agreement shall remain the same.

IN WITNESS WHEREOF, the Lessee and County have signed their names and affixed their seals the day and year first above written.

LESSEE:



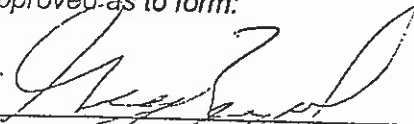
Kittcom

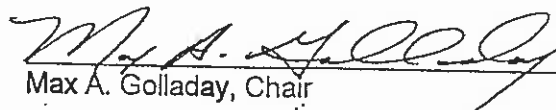
Date Signed:

11/16/1999

BOARD OF COUNTY COMMISSIONERS:

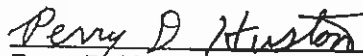
Approved as to form:


Prosecuting Attorney
WSBA # 99125


Max A. Golladay, Chair

["ABSENT"]

William R. Hinkle, Vice-Chair


Perry D. Huston, Commissioner

Date Signed: 11/16/99

ORIGINAL

Kittitas County Airport

Addendum to Lease

This ADDENDUM TO AGREEMENT is made and dated this 7th day of ~~September~~ OCTOBER by and between KITTCOM, hereinafter called the "Lessee", and Kittitas County, State of Washington, a municipal corporation, hereinafter called the "County",

WITNESSETH:

That the Lessee and County entered into a Lease dated October 6, 1998, and an Addendum to Agreement dated 7th ~~September~~ OCTOBER, 2003, copies which are attached hereto and by this reference incorporated herein.

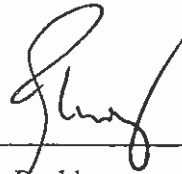
That the term of the Lease was amended to allow the Lessee to Sub-Lease a portion of their tower to a company known as Alamosa PCS (Washington Oregon Wireless Properties, LLC.).

That the Lessee and the County mutually consent to:

1. Allow the Lessee to Sub-Lease a portion of their tower to Alamosa PCS.
2. That all other terms and conditions of the aforementioned Agreement shall remain the same.

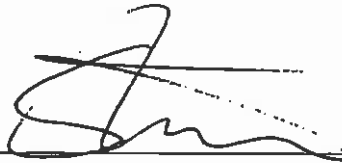
IN WITNESS WHEREOF, the Lessee and County have signed their names and affixed their seals the day and year first above written.

LESSEE:



Theodore A. Barkley

KITTCOM Administrative Board Chairman

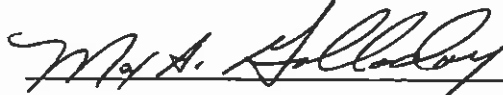


Steven N. Reinke

ATTEST: KITTCOM Board Secretary

Date Signed: 18 September 2003

BOARD OF COUNTY COMMISSIONERS:



Printed Name: Max A. Golladay

Chair



Printed Name: Perry D. Huston

Vice-Chair

ABSENT

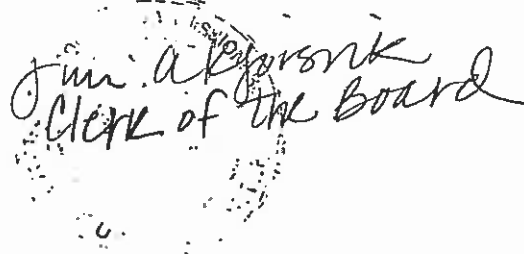
Printed Name: Bruce Coe

Commissioner

Date signed: 10/7/03

Approved as to form:

ATTEST:


Clerk of the Board

Prosecuting Attorney

WSBA#: _____

KITTITAS COUNTY AIRPORT
DEPARTMENT OF PUBLIC WORKS**LEASE**

THIS LEASE made and dated this 6th day of October, 1998, is by and between the COUNTY OF KITTITAS, Washington, the Lessor hereinafter referred to as the "County", and CONSOLIDATED COMMUNICATIONS AGENCY FOR KITTITAS COUNTY "KITTCOM", the Lessee, hereinafter referred to as the "Lessee".

The County herewith agrees to let unto Lessee and Lessee herewith agrees to lease from the County the following described real property, situated in Kittitas County, Washington, to-wit:

A PORTION OF BLOCK 1200:

64,904.4 sq feet (see Exhibit "A" attached hereto)

This lease is made in accordance with the provisions of RCW 36.34.

TERM. The term of this lease shall be for thirty-five (35) years and will commence on the 1st day of March, 1999, and shall terminate on the last day of February, 2034.

RENT. Rent shall be paid in advance for each year and shall be as follows: plus leasehold tax and fire protection.

March 1, 1999 - February 28, 2000	\$1,947.13
March 1, 2000 - February 28, 2001	\$1,947.13
March 1, 2001 - February 28, 2002	\$3,894.26
March 1, 2002 - February 28, 2003	\$3,894.26
March 1, 2003 - February 28, 2004	\$3,894.26

RENTAL RATE ADJUSTMENT: The rental rate adjustment beginning March 1, 2001, to 6 cents per square foot is contingent upon water and sewer utilities to the airport industrial park. The rental rate shall only be increased from 3 cents per square foot to 6 cents per square foot upon completion of the water and sewer utilities to the airport industrial park.

Beginning with the year March 1, 2004, the rental rate shall be re-adjusted and fixed by the Board of County Commissioners every five years as required in RCW 36.34.180. In the event that the lessee and the Board cannot agree upon the rentals for said five year period, the lessee shall submit to have the disputed rentals for the subsequent period adjusted by arbitration. The lessee shall pick one arbitrator and the board one, and the two so chosen shall select a third.

LEASEHOLD TAX. Unless exempt from the requirement to pay leasehold taxes, the Lessee shall pay to the County, the leasehold tax as set forth by the State of Washington, in Chapter 61, Laws of 1976, Second Executive Session (RCW 82.29A) or as amended. The tax shall be due and payable at the same time the rental charged herein is due and payable.

FIRE PROTECTION ASSESSMENT. In addition to any rental herein provided, the Lessee shall pay a fee which shall be in lieu of taxes for fire protection services, a sum equal to \$1.00 (plus any special levies of the Fire District which has received voter approval) per \$1,000.00 of appraised value of land and improvements of the leased premises. The value of the leased premises shall be determined by the Kittitas County Assessor. This fee shall be due annually each and every year during the term and shall be due and payable on the 1st day of July of each year. In the event the premises are leased for only a portion of a year, the amount shall be prorated. Any rental payment and any fees paid in lieu of fire protection services which are past due shall accrue a delinquency fee of eighteen percent (18%) per annum.

MAINTENANCE. The Lessee covenants, promises, and agrees that it will perform all routine maintenance on said premises hereby demised so as to keep the same in as good as condition as the same now exists. Damage by fire, acts of God and reasonable wear, tear, and usage are excepted.

The Lessee further agrees that it will not commit waste, and that it will keep said premises and grounds, including those owned by the Lessee in a safe, sanitary and orderly condition and in general shall comply with all the applicable governmental rules, ordinances and regulations as may be required or imposed by such authorities on said premises hereby demised, and shall comply with any direction pursuant to law of any public officer or officers who shall be empowered to enforce all local, state, and federal rules, regulations and ordinances upon the Lessee with respect to the demised premises or the use, occupancy, or control thereof, or the conduct of any business therein, and shall not suffer any improper or offensive use of said premises.

The Lessee shall at all times comply with the rules and regulations relative to noxious weeds of the Weed District in which said leased premises is located. Lessee shall maintain the grounds in a neat and clean condition. This shall include mowing or spraying of grass and weeds. All herbicides or other materials used for the control or nurturing of grass and weeds shall be used in strict accordance with all federal, state and local statutes, rules and regulations.

The Lessee shall have the right to install or place signs or posters anywhere on or about the leased premises which are not in violation of law, rules or regulation and which do not produce a hazard for the County or other lessees or persons at the airport. All such installations shall be approved by the Airport Manager and shall be at the expense of the Lessee and shall be within the public liability coverage.

The Lessee shall not construct any buildings nor alter any existing facilities without first having the written consent of the County herein, which consent shall not be unreasonably withheld.

The County will make its best efforts contingent upon circumstances, availability of resources and equipment, emergencies, acts of God and other obligations, and according to

its own best judgment to maintain the runways and taxiways, including snow removal, landing and obstruction lights, beacon, tetrahedron, roads, and water and sewer systems beyond the limits of the leased premises.

PURPOSE. Lessee may use the premises for the following permitted uses:

- a. Emergency 911 center
- b. Any other use for which there is express prior written consent by the County.

RULES AND REGULATIONS. The Lessee agrees to comply with all the pertinent rules and regulations of the federal, state and local governments, as well as the rules, regulations, ordinances and the Minimum Standards for Aeronautical Activities at the Kittitas County Airport (Bowers Field) (including, but not limited to, the regulations of the D.O.E, F.A.A., and E.P.A., relating to agricultural aerial spray operations and hazardous waste disposal) as are presently in effect and may in the future be adopted. The Lessee acknowledges receipt of the Minimum Standards for Aeronautical Activities approved by the Board of County Commissioners.

ENVIRONMENTAL PROTECTION. Lessee agrees to comply with all applicable federal, state, and local laws and regulations governing environmental pollution control in effect on the date of execution of this lease.

INSPECTION. Lessee agrees that the County and its employees, and agents from the Department of Ecology, Environmental Protection Agency, and any other governmental agency involved in environmental protection, have the right to make inspections any time during normal operating hours, without notice. If it is determined that Lessee has violated federal or state environmental control laws or regulations, upon ten (10) days written notice, must immediately commence and diligently pursue a permanent solution to the satisfaction of federal, state or local agencies, or vacate the premises (as specifically provided for in the Default Section herein). All costs required to remedy the problem shall be at the expense of the Lessee.

UTILITIES. The Lessee shall pay for all utility services supplied or available to the premises.

LEASEHOLD IMPROVEMENTS. Any buildings and any future improvements (except for fencing, surfacing, utility lines) upon the leased premises shall belong to the Lessee and shall be removed within thirty (30) days at the expiration of the term or any subsequent term of this lease. Failure to so remove shall cause said improvements to become the property of the Lessor. Upon removal, the premises shall be left in a neat and orderly condition, without debris and shall be graded level.

Should the Lessee desire to construct any new improvements on the above described parcel, Lessee agrees that he shall submit to the Lessor and the Kittitas County Building Inspector for approval, detailed plans and specifications for all of the proposed leasehold improvements. Lessor agrees that it shall either approve the plans and specifications as

submitted, or transmit proposed revisions to Lessee within thirty (30) calendar days of receipt of the plans and specifications from the Lessee.

In the event that Lessor requires revisions of the original plans and specifications, Lessee shall have thirty (30) calendar days from the date of receipt of the proposed revisions to resubmit the plans and specifications shall not be withheld unreasonably. No construction shall commence until written approval is received from the Kittitas County Director of Public Works and the Kittitas County Building Inspector.

Upon receiving final County approval of the plans and specifications, Lessee shall engage one or more qualified individuals to begin the improvements as proposed. Construction shall commence within sixty (60) calendar days of Lessee's receipt of Lessor's final approval of the plans and specifications and shall be scheduled for completion not later than one year after commencement of improvements. It is agreed and understood that leasehold improvements undertaken pursuant to this provision shall become the property of Lessor upon final completion thereof. Any work anticipated on the leased premises shall be in accordance with the current Uniform Building, Plumbing and Electrical Codes as administered by the Kittitas County Building Inspector's Office. It will be the Lessee's responsibility to obtain all necessary building permits and licenses to perform any work anticipated on the leased premises.

COUNTY'S LIABILITY. The County shall not be liable for any damage occasioned by failure to keep said premises in good repair and shall not be liable for any damage done or occasioned by plumbing, water, or sewage, or the breaking, leaking or running of any cistern, tank, water closet, water faucets, or waste pipes in or above or on or about said buildings or premises, nor for damage occasioned by water, snow or ice being upon or coming through the roof, skylight, trapdoor, or otherwise, nor for any damage arising from the accident or neglect of the Lessee or any of its members or any Lessees or occupants of adjacent or continuous property.

ASSIGNMENT. The Lessee shall not assign this lease nor any portion thereof nor sublet the premises nor any portion thereof, without the written consent of the County, however, the County shall not unreasonably withhold such consent.

HOLD HARMLESS. The Lessee shall indemnify and save the County, its officers and employees harmless from all loss, damage, liability, or expense (including expense of litigation) arising out of or resulting from the actual injury to, or death of, any person, or from any actual loss of or damage to property belonging to any person upon or incident to the leased premises.

INSURANCE. The Lessee shall carry and maintain for the mutual benefit of the County and the Lessee, general public liability insurance against claims for bodily injury, death, or property damage occurring on, in or about the premises hereinabove described.

The limits of liability of said premises liability coverage in an amount not less than \$100,000.00 - bodily injury; \$300,000.00 - property damage; \$300,000.00 - each occurrence, throughout the term of this lease. The County shall also be named as additional insured. The Lessee shall provide the County a certificate of insurance as evidence of proper

insurance coverage at the time of the execution of this lease, and upon each anniversary date of any insurance coverage. The County shall be notified not less than thirty (30) days in advance by a written notice of cancellation, or any change in the insurance policy.

DESTRUCTION BY FIRE. In the event that the demised premises shall be damaged by fire or other casualty to such an extent that the same are untenable, then this lease shall, at the option of either the County or the Lessee, be immediately terminated and shall be of no further force and effect; provided, however, that the rental shall be prorated for the portion of the time that the Lessee is able to occupy the premises and all unused rent paid in advance shall be returned. To the extent of any proceeds from fire insurance provided on the demised premises by Lessee, the same shall be used to restore the lot and remove all debris.

INSPECTION. At all times during the term of this lease or any extension thereof, the County shall have the right to enter into and upon the demised premises during reasonable business hours for the purpose of examining and inspecting the same and determining whether the Lessee shall have complied with all of its obligations hereunder in respect to the care and maintenance of the premises and all other terms and conditions thereof.

AIRPORT TRAFFIC. It is understood and agreed that the Lessee's use of the leased premises shall not in any manner interfere or restrict the use of aircraft landings, takeoffs, or storage of aircraft as presently constructed. Lessee shall comply with all rules and regulations of the Federal Aviation Administration and the Minimum Standards for Aeronautical Activities of Kittitas County.

RIGHT OF U.S. GOVERNMENT. The County holds title to the property herein leased, partially by virtue of a deed from the United States Government. A copy of said deed is available for inspection at the office of the Kittitas County Department of Public Works, hereto and made a part of this instrument as though fully set forth herein. Lessee agrees that it will do nothing which will cause the Lessor to be in violation of the terms of said deed. Lessee furtherwith agrees that it has had ample opportunity to review said deed and is aware of all of the terms and conditions therein.

BANKRUPTCY. It is further agreed and understood that in case of the insolvency or bankruptcy of the Lessee or any assignment for the benefit of creditors or the appointment of a receiver for the Lessee, this lease shall be immediately forfeited and shall be of no further force and effect and that the Trustee in Bankruptcy, Receiver, or Assignee for the benefit of creditors shall not have any rights whatsoever in the demised premises.

AFFIRMATIVE ACTION. The Lessee assures that it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E., to insure that no person shall, on the grounds of race, creed, color, national origin, or sex be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. The Lessee assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this subpart. The Lessee assures that it will require that its covered suborganizations provide assurance to the County that they similarly

will undertake affirmative action programs and that they will require assurances from their suborganizations, as required by 14 CFR 152, Subpart E., to the same effect.

DEFAULT. In the event that the Lessee shall violate this lease, or any of its conditions or terms as herein stated, the Lessor may terminate this lease by giving thirty (30) days written notice of the conditions or terms being violated and if said violations are not corrected within the thirty-day period, the lease may be canceled, and the County shall be entitled to peaceably retake possession of the premises, provided the Lessee shall have the right to remove improvements as herein provided. **NOTICES.** Any notice given by one party to the other in connection with this agreement shall be in writing and shall be sent by certified or registered mail, return receipt requested, as follows:

1. If to Lessor, addressed to: Kittitas County Department of Public Works, 205 West 5th, Room 108, Ellensburg, WA 98926, Attention: Airport Manager.
2. If to Lessee, addressed to: _____

Notice shall be deemed to have been received on the date of receipt as shown on the return receipt.

ATTORNEY FEES. In case Lessor shall bring suit to recover any rent due hereunder, or for breach of any provision of this lease, or to recover possession of the leased premises, or if Lessee shall bring any action for any relief against Lessor, declaratory or otherwise, arising out of this lease, the prevailing party shall recover reasonable attorney's fees which shall be determined and taxed by the court as part of the costs of such action. That all covenants, agreements, terms and conditions contained in this lease shall apply to and be binding upon Lessor and Lessee and their respective heirs, executors, administrators, successors and assigns.

VENUE. In the event there is any litigation between lessor and lessee arising out of this lease, the venue for such action shall lie in Kittitas County, notwithstanding any contrary provision of the Revised Code of Washington.

IN WITNESS WHEREOF, the Lessor and Lessee have signed their names and affixed their seals the day and year first above written.

LESSOR

BOARD OF COUNTY COMMISSIONERS




Mary Seubert, Chairperson



LESSEE

Approved as to form:


Prosecuting Attorney
WSBA # 1725

KITTCOM

Address: KITTCOM
100 N. PEARL STREET
ELLENBURG, WA 98926Telephone: 509/925-8530Federal I.D. 91-1510669

EXHIBIT "E"

THIS ADDENDUM TO AGREEMENT is made and dated this 9th day of November, 1999, by and between the Consolidated Communications Agency for Kittitas County "Kittcom", hereinafter called the "Lessee", and Kittitas County, State of Washington, a municipal corporation, hereinafter called the "County",

WITNESSETH:

That the Lessee and County entered into a Lease dated October 6, 1998, and an Addendum to Agreement dated November 9, 1999, copies which are attached hereto and by this reference incorporated herein.

That the term of the Lease was amended to allow the Lessee to Sub-Lease a portion of their tower to a company known as Voicestream.

That the Lessee and the County mutually consent to:

1. Allow the Lessee to Sub-Lease a portion of their tower to Voicestream
2. That all other terms and conditions of the aforementioned Agreement shall remain the same.

IN WITNESS WHEREOF, the Lessee and County have signed their names and affixed their seals the day and year first above written.

LESSEE:



Kittcom

Date Signed: _____

11/16/1999


BOARD OF COUNTY COMMISSIONERS:

Approved as to form:


Prosecuting Attorney

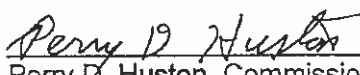
WSBA #

49125


Max A. Golladay, Chair


"ABSENT"

William R. Hinkle, Vice-Chair


Perry D. Huston, Commissioner

Date Signed:

11/16/99

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- That the Lessee and County consent to:
1. Allow the Lessee to Sub-Lease their tower to Voicestream
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LESSEE:

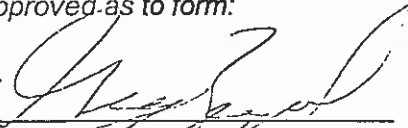

Kittcom

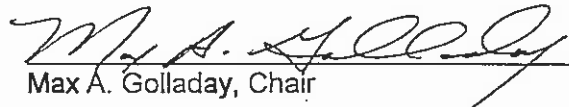
Date Signed:

11/16/1999

BOARD OF COUNTY COMMISSIONERS:

Approved as to form:


Prosecuting Attorney
WSBA # 99125


Max A. Golladay, Chair

["ABSENT"]

William R. Hinkle, Vice-Chair


Perry D. Huston, Commissioner

Date Signed: 11/16/99



KITTITAS COUNTY AIRPORT
DEPARTMENT OF PUBLIC WORKS

LEASE

THIS LEASE made and dated this 6th day of October, 1998, is by and between the COUNTY OF KITTITAS, Washington, the Lessor hereinafter referred to as the "County", and CONSOLIDATED COMMUNICATIONS AGENCY FOR KITTITAS COUNTY "KITTCOM", the Lessee, hereinafter referred to as the "Lessee".

The County herewith agrees to let unto Lessee and Lessee herewith agrees to lease from the County the following described real property, situated in Kittitas County, Washington, to-wit:

A PORTION OF BLOCK 1200:

64,904.4 sq feet (see Exhibit "A" attached hereto)

This lease is made in accordance with the provisions of RCW 36.34.

TERM. The term of this lease shall be for thirty-five (35) years and will commence on the 1st day of March, 1999, and shall terminate on the last day of February, 2034.

RENT. Rent shall be paid in advance for each year and shall be as follows: plus leasehold tax and fire protection.

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RENTAL RATE ADJUSTMENT: The rental rate adjustment beginning March 1, 2001, to 6 cents per square foot is contingent upon water and sewer utilities to the airport industrial park. The rental rate shall only be increased from 3 cents per square foot to 6 cents per square foot upon completion of the water and sewer utilities to the airport industrial park.

Beginning with the year March 1, 2004, the rental rate shall be re-adjusted and fixed by the Board of County Commissioners every five years as required in RCW 36.34.180. In the event that the lessee and the Board cannot agree upon the rentals for said five year period, the lessee shall submit to have the disputed rentals for the subsequent period adjusted by arbitration. The lessee shall pick one arbitrator and the board one, and the two so chosen shall select a third.

LEASEHOLD TAX. Unless exempt from the requirement to pay leasehold taxes, the Lessee shall pay to the County, the leasehold tax as set forth by the State of Washington, in Chapter 61, Laws of 1976, Second Executive Session (RCW 82.29A) or as amended. The tax shall be due and payable at the same time the rental charged herein is due and payable.

FIRE PROTECTION ASSESSMENT. In addition to any rental herein provided, the Lessee shall pay a fee which shall be in lieu of taxes for fire protection services, a sum equal to \$1.00 (plus any special levies of the Fire District which has received voter approval) per \$1,000.00 of appraised value of land and improvements of the leased premises. The value of the leased premises shall be determined by the Kittitas County Assessor. This fee shall be due annually each and every year during the term and shall be due and payable on the 1st day of July of each year. In the event the premises are leased for only a portion of a year, the amount shall be prorated. Any rental payment and any fees paid in lieu of fire protection services which are past due shall accrue a delinquency fee of eighteen percent (18%) per annum.

MAINTENANCE. The Lessee covenants, promises, and agrees that it will perform all routine maintenance on said premises hereby demised so as to keep the same in as good as condition as the same now exists. Damage by fire, acts of God and reasonable wear, tear, and usage are excepted.

The Lessee further agrees that it will not commit waste, and that it will keep said premises and grounds, including those owned by the Lessee in a safe, sanitary and orderly condition and in general shall comply with all the applicable governmental rules, ordinances and regulations as may be required or imposed by such authorities on said premises hereby demised, and shall comply with any direction pursuant to law of any public officer or officers who shall be empowered to enforce all local, state, and federal rules, regulations and ordinances upon the Lessee with respect to the demised premises or the use, occupancy, or control thereof, or the conduct of any business therein, and shall not suffer any improper or offensive use of said premises.

The Lessee shall at all times comply with the rules and regulations relative to noxious weeds of the Weed District in which said leased premises is located. Lessee shall maintain the grounds in a neat and clean condition. This shall include mowing or spraying of grass and weeds. All herbicides or other materials used for the control or nurturing of grass and weeds shall be used in strict accordance with all federal, state and local statutes, rules and regulations.

The Lessee shall have the right to install or place signs or posters anywhere on or about the leased premises which are not in violation of law, rules or regulation and which do not produce a hazard for the County or other lessees or persons at the airport. All such installations shall be approved by the Airport Manager and shall be at the expense of the Lessee and shall be within the public liability coverage.

The Lessee shall not construct any buildings nor alter any existing facilities without first having the written consent of the County herein, which consent shall not be unreasonably withheld.

The County will make its best efforts contingent upon circumstances, availability of resources and equipment, emergencies, acts of God and other obligations, and according to

its own best judgment to maintain the runways and taxiways, including snow removal, landing and obstruction lights, beacon, tetrahedron, roads, and water and sewer systems beyond the limits of the leased premises.

PURPOSE. Lessee may use the premises for the following permitted uses:

- a. Emergency 911 center
- b. Any other use for which there is express prior written consent by the County.

RULES AND REGULATIONS. The Lessee agrees to comply with all the pertinent rules and regulations of the federal, state and local governments, as well as the rules, regulations, ordinances and the Minimum Standards for Aeronautical Activities at the Kittitas County Airport (Bowers Field) (including, but not limited to, the regulations of the D.O.E, F.A.A., and E.P.A., relating to agricultural aerial spray operations and hazardous waste disposal) as are presently in effect and may in the future be adopted. The Lessee acknowledges receipt of the Minimum Standards for Aeronautical Activities approved by the Board of County Commissioners.

ENVIRONMENTAL PROTECTION. Lessee agrees to comply with all applicable federal, state, and local laws and regulations governing environmental pollution control in effect on the date of execution of this lease.

INSPECTION. Lessee agrees that the County and its employees, and agents from the Department of Ecology, Environmental Protection Agency, and any other governmental agency involved in environmental protection, have the right to make inspections any time during normal operating hours, without notice. If it is determined that Lessee has violated federal or state environmental control laws or regulations, upon ten (10) days written notice, must immediately commence and diligently pursue a permanent solution to the satisfaction of federal, state or local agencies, or vacate the premises (as specifically provided for in the Default Section herein). All costs required to remedy the problem shall be at the expense of the Lessee.

UTILITIES. The Lessee shall pay for all utility services supplied or available to the premises.

LEASEHOLD IMPROVEMENTS. Any buildings and any future improvements (except for fencing, surfacing, utility lines) upon the leased premises shall belong to the Lessee and shall be removed within thirty (30) days at the expiration of the term or any subsequent term of this lease. Failure to so remove shall cause said improvements to become the property of the Lessor. Upon removal, the premises shall be left in a neat and orderly condition, without debris and shall be graded level.

Should the Lessee desire to construct any new improvements on the above described parcel, Lessee agrees that he shall submit to the Lessor and the Kittitas County Building Inspector for approval, detailed plans and specifications for all of the proposed leasehold improvements. Lessor agrees that it shall either approve the plans and specifications as

submitted, or transmit proposed revisions to Lessee within thirty (30) calendar days of receipt of the plans and specifications from the Lessee.

In the event that Lessor requires revisions of the original plans and specifications, Lessee shall have thirty (30) calendar days from the date of receipt of the proposed revisions to resubmit the plans and specifications shall not be withheld unreasonably. No construction shall commence until written approval is received from the Kittitas County Director of Public Works and the Kittitas County Building Inspector.

Upon receiving final County approval of the plans and specifications, Lessee shall engage one or more qualified individuals to begin the improvements as proposed. Construction shall commence within sixty (60) calendar days of Lessee's receipt of Lessor's final approval of the plans and specifications and shall be scheduled for completion not later than one year after commencement of improvements. It is agreed and understood that leasehold improvements undertaken pursuant to this provision shall become the property of Lessor upon final completion thereof. Any work anticipated on the leased premises shall be in accordance with the current Uniform Building, Plumbing and Electrical Codes as administered by the Kittitas County Building Inspector's Office. It will be the Lessee's responsibility to obtain all necessary building permits and licenses to perform any work anticipated on the leased premises.

COUNTY'S LIABILITY. The County shall not be liable for any damage occasioned by failure to keep said premises in good repair and shall not be liable for any damage done or occasioned by plumbing, water, or sewage, or the breaking, leaking or running of any cistern, tank, water closet, water faucets, or waste pipes in or above or on or about said buildings or premises, nor for damage occasioned by water, snow or ice being upon or coming through the roof, skylight, trapdoor, or otherwise, nor for any damage arising from the accident or neglect of the Lessee or any of its members or any Lessees or occupants of adjacent or continuous property.

ASSIGNMENT. The Lessee shall not assign this lease nor any portion thereof nor sublet the premises nor any portion thereof, without the written consent of the County, however, the County shall not unreasonably withhold such consent.

HOLD HARMLESS. The Lessee shall indemnify and save the County, its officers and employees harmless from all loss, damage, liability, or expense (including expense of litigation) arising out of or resulting from the actual injury to, or death of, any person, or from any actual loss of or damage to property belonging to any person upon or incident to the leased premises.

INSURANCE. The Lessee shall carry and maintain for the mutual benefit of the County and the Lessee, general public liability insurance against claims for bodily injury, death, or property damage occurring on, in or about the premises hereinabove described.

The limits of liability of said premises liability coverage in an amount not less than \$100,000.00 - bodily injury; \$300,000.00 - property damage; \$300,000.00 - each occurrence, throughout the term of this lease. The County shall also be named as additional insured. The Lessee shall provide the County a certificate of insurance as evidence of proper

insurance coverage at the time of the execution of this lease, and upon each anniversary date of any insurance coverage. The County shall be notified not less than thirty (30) days in advance by a written notice of cancellation, or any change in the insurance policy.

DESTRUCTION BY FIRE. In the event that the demised premises shall be damaged by fire or other casualty to such an extent that the same are untenable, then this lease shall, at the option of either the County or the Lessee, be immediately terminated and shall be of no further force and effect; provided, however, that the rental shall be prorated for the portion of the time that the Lessee is able to occupy the premises and all unused rent paid in advance shall be returned. To the extent of any proceeds from fire insurance provided on the demised premises by Lessee, the same shall be used to restore the lot and remove all debris.

INSPECTION. At all times during the term of this lease or any extension thereof, the County shall have the right to enter into and upon the demised premises during reasonable business hours for the purpose of examining and inspecting the same and determining whether the Lessee shall have complied with all of its obligations hereunder in respect to the care and maintenance of the premises and all other terms and conditions thereof.

AIRPORT TRAFFIC. It is understood and agreed that the Lessee's use of the leased premises shall not in any manner interfere or restrict the use of aircraft landings, takeoffs, or storage of aircraft as presently constructed. Lessee shall comply with all rules and regulations of the Federal Aviation Administration and the Minimum Standards for Aeronautical Activities of Kittitas County.

RIGHT OF U.S. GOVERNMENT. The County holds title to the property herein leased, partially by virtue of a deed from the United States Government. A copy of said deed is available for inspection at the office of the Kittitas County Department of Public Works, hereto and made a part of this instrument as though fully set forth herein. Lessee agrees that it will do nothing which will cause the Lessor to be in violation of the terms of said deed. Lessee furtherwith agrees that it has had ample opportunity to review said deed and is aware of all of the terms and conditions therein.

BANKRUPTCY. It is further agreed and understood that in case of the insolvency or bankruptcy of the Lessee or any assignment for the benefit of creditors or the appointment of a receiver for the Lessee, this lease shall be immediately forfeited and shall be of no further force and effect and that the Trustee in Bankruptcy, Receiver, or Assignee for the benefit of creditors shall not have any rights whatsoever in the demised premises.

AFFIRMATIVE ACTION. The Lessee assures that it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E., to insure that no person shall, on the grounds of race, creed, color, national origin, or sex be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. The Lessee assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this subpart. The Lessee assures that it will require that its covered suborganizations provide assurance to the County that they similarly

will undertake affirmative action programs and that they will require assurances from their suborganizations, as required by 14 CFR 152, Subpart E., to the same effect.

DEFAULT. In the event that the Lessee shall violate this lease, or any of its conditions or terms as herein stated, the Lessor may terminate this lease by giving thirty (30) days written notice of the conditions or terms being violated and if said violations are not corrected within the thirty-day period, the lease may be canceled, and the County shall be entitled to peaceably retake possession of the premises, provided the Lessee shall have the right to remove improvements as herein provided. NOTICES. Any notice given by one party to the other in connection with this agreement shall be in writing and shall be sent by certified or registered mail, return receipt requested, as follows:

1. If to Lessor, addressed to: Kittitas County Department of Public Works, 205 West 5th, Room 108, Ellensburg, WA 98926, Attention: Airport Manager.
2. If to Lessee, addressed to: _____

Notice shall be deemed to have been received on the date of receipt as shown on the return receipt.

ATTORNEY FEES. In case Lessor shall bring suit to recover any rent due hereunder, or for breach of any provision of this lease, or to recover possession of the leased premises, or if Lessee shall bring any action for any relief against Lessor, declaratory or otherwise, arising out of this lease, the prevailing party shall recover reasonable attorney's fees which shall be determined and taxed by the court as part of the costs of such action. That all covenants, agreements, terms and conditions contained in this lease shall apply to and be binding upon Lessor and Lessee and their respective heirs, executors, administrators, successors and assigns.

VENUE. In the event there is any litigation between lessor and lessee arising out of this lease, the venue for such action shall lie in Kittitas County, notwithstanding any contrary provision of the Revised Code of Washington.

IN WITNESS WHEREOF, the Lessor and Lessee have signed their names and affixed their seals the day and year first above written.

LESSOR


BOARD OF COUNTY COMMISSIONERS




Mary Seubert, Chairperson

LESSEE

Approved as to form:


Prosecuting Attorney
WSBA # 1425

KITTCOM

Address: KITTCOM
100 N. PEARL STREET
ELLENBURG, WA 98926Telephone: 509/925-8530Federal I.D. 91-1510669