

City of Oregon City, Oregon
Wireless Telecommunications Site Lease (Lease)

THIS LEASE ("Lease") is between The City of Oregon City, Oregon, an Oregon municipal corporation ("Landlord") and Verizon Wireless (VAW) LLC d/b/a Verizon Wireless, a Delaware limited liability company, ("Tenant").

BACKGROUND

A. Landlord is the owner of a parcel of land located in the City of Oregon City, County of Clackamas, State of Oregon commonly known as 18847 Boynton Street, Oregon City OR (APN: 32E06CB04500), legally described on the attached Exhibit A (the "Owned Premises"). A reservoir (the "Reservoir") as described on the attached Exhibit B is located on the Owned Premises.

B. Tenant desires to lease space near the top of the vertical columns on said Water Reservoir for the installation and operation of certain antennae facilities, which include directional antennae, connecting cables and appurtenances as well as portions of the Owned Premises for an equipment shelter and related equipment (collectively, "Antennae Facilities") for use in connection with its communications business.

C. Accordingly, the parties enter into this Lease on the terms and conditions set forth below.

AGREED

In consideration of their mutual covenants, the parties agree as follows:

1. Premises.

a. Landlord leases to Tenant and Tenant leases from Landlord a portion of the Owned Premises, consisting of space (the "Premises") near the top of the vertical columns on said Water Reservoir and space for an equipment shelter and cables, as shown on the Site Plan attached as Exhibit C. Tenant's signature on this Lease verifies the approximate square footage of the Premises. The Rent and any other charge provided by this Lease shall not be adjusted by reason of any claimed variation in square footage by either party. Tenant intends to locate its Antennae Facilities, as described more fully on the attached Exhibit D, on the Premises. Tenant may not add additional equipment and/or antennae from that shown on Exhibit D, or move to any other location, without the prior written approval of the Landlord, which consent shall not be unreasonably denied, conditioned or delayed.

b. Landlord shall have the right to lease other portions of the Tank to other Tenants, or to permit other portions of the Tank to be used by others.

2. Lease Not Franchise. This Lease is not a franchise, nor is it a permit to use the rights-of-way under Oregon City Code or ordinance of the City. Any franchise or permit shall be obtained separately from Landlord.

3. Term.

a. This Lease shall be effective on June 1, 2017 ("Effective Date"), at which time rental payments shall commence and be due at a monthly rental of \$800.00, to be paid in advance, to Landlord or to such other person, firm or place as Landlord may, from time to time, designate in writing at least thirty (30) days in advance of any rental payment date by notice. Landlord and Tenant acknowledge and agree that initial rental payment shall not actually be sent by Tenant until thirty (30) days after the Effective Date. The Effective Date shall expire upon the commencement of the Commencement Date as defined below.

The "Commencement Date" shall be the first day of the month after Tenant begins installation of Tenant's communications equipment or January 1, 2018, whichever occurs first. Landlord and Tenant agree that they shall acknowledge in writing the Commencement Date. This Lease shall be of an initial term of ten years from the Commencement Date. Tenant may renew this Lease for one additional ten-year term ("Renewal Term") provided Tenant has not defaulted during the initial term. This Lease shall automatically be extended for the aforementioned Renewal Term unless Tenant notifies Landlord of its intention not to renew at least thirty (30) days prior to commencement of the succeeding Renewal Term.

4. Rent.

a. Effective on the Commencement Date Tenant shall pay Landlord a monthly rent for the Premises in the sum of TWENTY FIVE HUNDRED AND 00/100 dollars (~~\$2,500.00~~) ("Rent"). Tenant shall pay the initial Rent in an amount equal to one year's Rent to the Landlord in the amount of \$30,000 on the Commencement Date. Tenant shall pay Landlord Rent annually in advance on each anniversary of the Commencement Date. Rent shall be increased annually as provided by this section. Landlord and Tenant acknowledge and agree that the initial rental payment shall not be delivered by Tenant until 45 days after the Commencement Date. Upon agreement of the Parties, Tenant may pay rent by electronic funds transfer and in such event, Landlord agrees to provide to Tenant bank routing information for such purpose upon request of Tenant.

b. As additional consideration for this Lease and the parties' negotiation thereof, Tenant shall pay to Landlord as additional rent a one-time signing bonus in the amount of \$5,000.00, such payment to be made within 60 days of full execution of the Lease.

c. Tenant shall pay Landlord a late payment charge equal to five percent (5%) of the late payment for any payment not paid when due. Any amounts not paid when due shall bear interest until paid at the rate of one percent (1%) per month. The interest rate is subject to periodic adjustment to reflect Landlord's then current interest rate charged on overdue accounts.

d. The Rent shall be increased annually effective as of each anniversary of the Commencement Date by 2%.

g. Landlord designates the following address for payment of Rent and other charges required by this Lease:

City of Oregon City, Finance Department
320 Warner Milne Road
Oregon City, OR 97045-0304

or such other location as may be designated in the future in writing by Landlord. Payment shall be made by check made payable to the City of Oregon City, Oregon, or by other mutually agreeable method.

h. If this Lease terminates at a time other than one of the specified rental periods, Rent and other charges provided by this Lease shall be prorated as of the date of termination, and in the event of termination for reasons other than the default of Tenant, all prepaid Rent and other charges shall be first paid on its account and then if any remains, refunded to Tenant. In the event of default of Tenant, any prepaid Rent and other charges shall be retained as the property of Landlord.

5. Use of Premises.

a. After obtaining at its own expense any licenses or permits required by any governmental and/or regulatory agency to operate its Antennae Facilities, Tenant shall use the Premises for the installation, operation, and maintenance of its Antennae Facilities for the transmission, reception and operation of a communications system and uses incidental thereto and for no other uses.

b. Tenant shall have the right prior to the Commencement Date to enter the Premises at reasonable times designated by Landlord to perform surveys, tests and other engineering procedures at the Premises if necessary to determine that Tenant's use of the Premises will be compatible with Tenant's engineering specifications, system design, operations and governmental approvals. Landlord agrees to reasonably cooperate with Tenant, at no cost to Landlord, where required, to allow Tenant to perform these activities.

c. Subject to the prior determination in writing from the Tenant to the Landlord that the vertical columns on said Water Reservoir can structurally support additional Antennae Facilities, Tenant may erect and operate six (6) Panel antenna and (6) 2 foot Microwave Dishes.

d. Tenant shall, at its expense, comply with all present and future federal, state, and local laws, ordinances, rules and regulations (including laws and ordinances relating to health, radio frequency emissions, other radiation and safety) in connection with the use, operation, maintenance, construction and/or installation of the Antennae Facilities and/or the Premises. Landlord agrees to reasonably cooperate with Tenant in obtaining, at Tenant's expense (including reimbursement of Landlord's reasonable attorney and administrative fees), any federal licenses and permits required for or substantially required by Tenant's use of the Premises.

Tenant shall obtain written certification from the City of Oregon City, that its Antennae Facilities on the Premises cause no interference or loss of signal of any City owned or operated communications system prior to turning up power and transmitting any signal from the Tenant's Antennae Facilities on the Premises. Tenant agrees to cooperate with the City to provide and review all technical information including engineering data on intermodulation and power output of Tenant's Antennae Facilities to allow a determination by the City of the Tenant's Antennae Facilities probable impact on City owned and operated Communications facilities. The installation, maintenance and operation of the Communication Facility will not interfere with the Landlord's communications facilities or operations within the Property. In the event Tenant's installations interfere with the communication facilities, Tenant will immediately cease such interference, after notice thereof until it is able to resolve the problem.

e. This lease does not grant any rights of access to light or air over any part of the Owned Premises. Landlord shall not be liable for interference with light and air.

6. Removal and Restoration.

a. The Tenant shall remove the Antennae Facilities from the Premises upon termination of the Lease. Removal shall be done in a workmanlike and careful manner and without interference or damage to any other equipment, structures or operations on the Premises, including use of the Premises by Landlord or any of Landlord's assignees or lessees. If, however, Tenant requests permission not to remove all or a portion of the Antennae Facilities, and Landlord consents in writing to non-removal, title to the affected Antennae Facilities shall thereupon transfer to Landlord and shall thereafter be the sole and entire property of Landlord, and Tenant shall be relieved of its duty to otherwise remove the Antennae Facilities. In the event of transfer of the affected Antennae Facilities, Tenant will execute and deliver to Landlord a Bill of Sale in a form agreed to by the parties, transferring all of Tenant's right, title and interest in and to the affected Antennae Facilities to Landlord. Landlord shall accept the affected Antennae Facilities in their then-current "AS-IS" condition, and shall specifically disclaim any warranty of workmanship or suitability for any particular purpose.

b. Upon removal of the Antennae Facilities (or portions thereof) as provided above in subsection a., Tenant will, to the extent reasonable, restore the Premises to its condition at the commencement of the Lease, reasonable wear and tear and loss by casualty or other causes beyond Tenant's control excepted.

c. All costs and expenses for the removal and restoration to be performed by Tenant pursuant to subsections a. and b. above shall be paid by Tenant.

7. Construction Standards. The Antennae Facilities shall be installed on and removed from the Premises in a good and workmanlike manner without the attachment of any construction liens. Landlord reserves the right to require Tenant to paint the Antennae Facilities in a manner consistent with the color of the Reservoir or to otherwise shield the Antennae Facilities from view.

8. Installation of Equipment.

a. Tenant shall have the right, at its sole cost and expense, to install, operate and maintain on the Premises, in accordance with good engineering practices and with all applicable FCC rules and regulations, its Antennae Facilities as described on Exhibit D.

b. Tenant's installation of its Antennae Facilities shall be done in strict compliance with all applicable building, fire, sanitary and safety codes and regulations and other applicable laws, statutes, regulations and ordinances. All construction and maintenance relating to Tenant's Antennae Facilities shall be and remain the responsibility of Tenant, regardless of who performs installation and/or construction. Tenant shall apply for and obtain all permits necessary for the installation and/or construction of its Antennae Facilities, and submit permit plans to the City of Oregon City, or other appropriate government agency within ten (10) days of obtaining Landlord's written consent to Tenant's plans and specifications. All plans for construction, alteration or changes shall be signed and sealed by an architect or engineer licensed by the State of Oregon. Tenant shall pay all applicable fees due for construction permits.

c. Prior to beginning construction, Tenant shall provide Landlord with plans and specifications, an initial written construction schedule for work on the Premises and the estimated total cost of the work. All plans and specifications and schedules are subject to the prior written approval of Landlord, which approval shall not be unreasonably denied, conditioned or delayed. Landlord's written approval of the plans and specifications and schedules shall create no responsibility or liability on the part of Landlord for the completeness, design, sufficiency or compliance with all laws, rules and regulations of government agencies or authorities.

d. In the event emergency repairs are necessary for its Antennae Facilities, Tenant shall immediately notify Landlord of the need for repairs. Tenant may immediately initiate emergency repairs and shall apply for any required permits within a reasonable time. Tenant shall comply with all laws relating to construction, including payment of permit or license fees.

e. Except in case of emergency, Tenant shall notify Landlord in advance in writing of Tenant's proposed construction, maintenance or repair activities to be performed on the Premises in order to coordinate those activities with Landlord's operations. Tenant shall obtain Landlord's written approval of its proposed activities before beginning any work. Landlord's approval shall not be unreasonably withheld. The requirement for written notification does not apply to Tenant's normal maintenance that takes place outside of the fencing for the water tank.

f. Any damage done to the Reservoir and/or the top of the vertical columns on the Reservoir during construction, installation, repairs, relocation and/or during operations shall be repaired or replaced immediately at Tenant's expense and to Landlord's sole satisfaction. In connection with the installation and operation of the Antennae Facilities, Tenant shall not make any penetrations of the top of the vertical columns on said Water Reservoir without Landlord's prior written consent. All Tank penetrations of the vertical columns on the Water Reservoir that may be permitted by Landlord shall be undertaken only under the supervision of Landlord. Tenant shall pay all costs and expenses in relation to maintaining the integrity of the Landlord's

vertical columns on said Water Reservoir in connection with Tenant's construction, installation, repairs, relocation and/or operations of the Antennae Facilities.

g. Tenant shall not overload the vertical columns on said Water Reservoir so as to cause any undue or serious stress or strain to the Reservoir, or any part thereof. Landlord shall have the right, at any time, to call upon any licensed engineer or architect of Landlord's choosing to decide whether the vertical columns on said Water Reservoir, or any part thereof, is being overloaded so as to cause undue or serious stress or strain on the Reservoir or any part thereof. The decision of the engineer or architect shall be final and binding on Tenant. Prior to the beginning of construction Tenant shall employ the services of a licensed structural engineer to perform structural analysis of the Reservoir and more specific the columns of which Tenant intends to use for antennae placement and will provide Landlord with a full structural analysis report confirming tenants occupancy will not cause undue stress or strain on the Reservoir, Tenant will have the option to propose to the Landlord recommended strengthening measures to relieve the stress or strain. The Landlord will have ultimate approval authority over any recommendations requiring strengthening modifications to the Reservoir. If in Tenant's or Landlord's opinion it is not feasible to take such measures the Lease may be terminated.

h. Tenant shall not, without Landlord's prior written consent, place any marks, signs, advertisements, notices, decorations, or any other devices or attachments in or on the Premises, Reservoir or the Owned Premises, except those required by law. Any device placed on the Premises, Reservoir or Owned Premised with Landlord's consent shall be removed by Tenant at Tenant's expense upon termination of this Lease and all damage caused by removal shall be repaired at Tenant's expense.

i. Tenant shall keep the Premises free from all liens, including mechanics liens, arising from any act or omission of Tenant or those claiming under Tenant. Tenant shall pay as due all claims for work done, and for services rendered or material furnished to the Premises at Tenant's request. If Tenant fails to pay any claims or to discharge any liens, Landlord may do so and collect all costs of discharge, including its reasonable attorney fees. Payment or discharge by Landlord shall not constitute a waiver of any right or remedy Landlord may have on account of Tenant's default. Tenant may withhold payment of any claim in connection with a good faith dispute over the obligation to pay, so long as Landlord's property interests are not jeopardized. If a lien is filed as a result of nonpayment, Tenant shall within ten (10) days after knowledge of filing of the lien, provide Landlord with an executed copy of a discharge of the lien, or deposit with Landlord cash or a sufficient corporate surety bond or other security satisfactory to Landlord in an amount sufficient to discharge the lien plus any costs, attorney fees or other charges that could accrue as a result of any foreclosure sale or sale under the lien. This Lease shall be subject and subordinate to any liens and encumbrances as are now on or as Landlord may hereafter impose on the Owned Premises or the Reservoir, and Tenant shall upon request of Landlord, execute and deliver agreements of subordination consistent with this section.

j. Within sixty (60) days after the Commencement Date, Tenant shall provide Landlord with as-built drawings of the Antennae Facilities and the improvements installed on the Premises, which show the actual location of all equipment and improvements consistent with

Exhibit D. The “as built” drawings shall be accompanied by a complete and detailed inventory of all equipment, personal property, and Antennae Facilities.

9. Alterations, Additions, Improvements and Equipment Upgrades. Tenant shall not make or allow to be made any material alterations, additions or improvements to or of the Premises located on the Tank or within the currently fenced area around the water tank, or any part thereof, without first obtaining the written consent of Landlord, which consent shall not be unreasonably withheld, denied or delayed. If Landlord consents, all alterations, additions or improvements shall be made at Tenant’s sole expense. Tenant may update or replace the Antenna Facilities, radios or other electronic equipment located on the Premises located outside the currently fenced area at any time and without prior consent. Tenant may update or replace the Antennae Facilities located on vertical columns on said Water Reservoir from time to time with the prior written approval of Landlord, provided that the replacement facilities are not greater in number or size than the existing Antennae Facilities located on the vertical columns on said Water Reservoir and that any change in their location on the vertical columns on said Water Reservoir is approved in writing by Landlord. Tenant shall submit to Landlord a detailed proposal for any replacement facilities and any supplemental materials, as may be requested, for Landlord’s evaluation and approval. As technology advances and improved antennae are developed and reasonably available, Landlord may require in its sole discretion the replacement of existing Antennae Facilities with the improved Antennae Facilities, as long as the installation and use of the improved Antennae Facilities are practical and technically feasible. No equipment upgrade or replacement of equipment located on the vertical columns on said Water Reservoir may be undertaken without an interference review and written approval of the City prior to the installation. Upon termination of this Lease, Tenant at its sole cost and expense shall remove any alterations, additions, improvements or equipment upgrades and shall repair with all due diligence and at its sole cost and expense any damage to the Premises or Reservoir caused by removal.

10. Maintenance.

a. Tenant shall, at its own expense, maintain the Premises and any equipment on or attached to the Premises in a safe condition, in good repair and in a manner suitable to Landlord so as not to conflict with the use of or other leasing of the Tank by Landlord. Tenant shall not interfere with the use of the Tank, the Reservoir, related facilities or other equipment of other tenants.

b. Tenant shall have sole responsibility for the maintenance, repair, and security of its equipment, personal property, Antennae Facilities, and leasehold improvements, and shall keep the same in good repair and condition during the Lease term.

c. Tenant shall keep the Premises free of debris and anything of a dangerous, noxious or offensive nature or which would create a hazard or undue vibration, heat, noise or interference.

d. In the event the Landlord or any other tenant undertakes painting, construction or other alterations on the Premises, Tenant shall take reasonable measures at Tenant’s cost to cover

or protect Tenant's equipment, personal property or Antennae Facilities from paint and debris fallout which may occur during the painting, construction or alteration process.

e. Landlord, at all times during this Lease, reserves the right to take any action it deems necessary, in its sole discretion, to repair, maintain, alter or improve the Owned Premises, Reservoir or Premises in connection with its operations as may be necessary, including to facilitate leasing parts of the Tank to others. Landlord shall have no duty to make repairs to the Owned Premises, Reservoir or Premises until Tenant has given written notice to Landlord of the repairs to be made or the condition to be corrected. Landlord shall have no liability for failure to make any repair required of it if the repair is completed within a reasonable time following the notice from Tenant. Landlord shall not be required to make any repair it deems uneconomic. In the event Landlord determines not to make a repair, Landlord shall notify Tenant in writing, whose sole remedy shall be termination of this Lease on thirty (30) days written notice to Landlord. Termination under this section shall be deemed an optional termination and the provisions of section 19 shall apply. Tenant waives the right to make repairs or maintain at Landlord's expense under any law, statute or ordinance now or hereafter in effect.

f. If Landlord elects to make modifications or repairs or work of any other kind to the Owned Premises, Tenant shall pay any additional cost for work caused solely by the presence of Tenant's Antennae Facilities on the Premises (Additional Cost). The Additional Cost shall be the difference between competitive bids obtained by Landlord from responsible contractors to perform the work, and bids to perform the work as though the Antennae Facilities were not present at the Premises. As an alternative to payment of Additional Cost, and with Landlord's prior written approval, Tenant may elect to temporarily remove or relocate its Antennae Facilities or any portion thereof from the Premises at no cost to Landlord. If any work proposed by Landlord requires the temporary removal or relocation of Tenant's Antennae Facilities, all costs of removal or relocation shall be paid by Tenant. If removal or relocation would interrupt Tenant's use of the Antennae Facilities, Landlord and Tenant agree to use their best efforts to negotiate an acceptable alternate solution to avoid or mitigate interruption of Tenant's use.

11. Premises Access.

a. Tenant shall have access to the Premises by means reasonably designated by Landlord, subject to notice requirements to Landlord in subsection b., below.

b. Tenant shall have reasonable access to the Premises in order to install, operate, and maintain its Antennae Facilities. Tenant shall have access to such Antennae Facilities located within the currently fenced area around the water tank or the vertical columns on said Water Reservoir only with the prior written approval of Landlord. Tenant shall request access to the Premises located within the currently fenced area around the water tank or the Tank twenty-four (24) hours in advance, except in an emergency. Tenant shall have unrestricted access to their Antenna Facilities located outside of the currently fenced area around the water tank at any time and without seeking prior approval of the Landlord.

c. Landlord shall be allowed and granted access to the Premises as Landlord may deem necessary at all reasonable times to examine and inspect the Premises for safety reasons, to

repair the Premises, Reservoir or Owned Premises, to post notices or non-responsibility or to ensure that the Tenant's covenants are being met without abatement of Rent or other charges. Landlord may erect scaffolding or other structures where reasonably required by the work to be performed providing that Tenant's use of the Premises is not unreasonably impaired. Tenant waives any claims for damages, injury or inconvenience to or interference with Tenant's business, any loss of occupancy or quiet enjoyment of the Premises, and any other loss occasioned thereby. Any entry obtained by the Landlord by any means shall not under any circumstances be construed or deemed to be forcible or unlawful entry into or detainer of the Premises, or an eviction of the Tenant from the Premises or any portion thereof. Landlord shall not be liable for admitting by passkey or refusing to admit to the Premises, Tenant, its agents, employees or other persons claiming right of entry.

12. Utilities.

a. Tenant shall, at its expense, separately meter charges for the consumption of electricity and other utilities associated with its use of the Premises and shall timely pay all costs associated therewith. Landlord will cooperate with Tenant in Tenant's efforts to obtain utilities from any location provided by Landlord or the servicing utility, however, Landlord shall not be responsible for any costs associated with Tenant's acquisition of utility services.

b. Landlord shall in no way be liable for any loss, expense or damage (whether direct or indirect) that Tenant may sustain or incur by reason of any change, failure, interference, disruption, interruption or defect in the supply or character of the electric energy furnished to the Premises, Reservoir or Owned Premises regardless of its duration, or if the quantity or character of the electric energy supplied by a service provider is no longer available or suitable for Tenant's requirements. Any change, failure, interference, disruption, interruption, defect, unavailability or unsuitability as provided by this section shall not:

- (1) Constitute an actual or constructive eviction of Tenant, in whole or in part;
- (2) Entitle Tenant to any abatement of Rent or other charges;
- (3) Relieve or release Tenant from any of its obligations under this Lease; or

Unless the defects in electricity are due to the Landlord's negligence or omissions.

13. License Fees. Tenant shall pay, as they become due and payable, all fees, charges, taxes and expenses required for licenses and/or permits required for or occasioned by Tenant's use of the Premises.

14. Approvals; Compliance with Laws. Tenant's use of the Premises is contingent upon its obtaining all certificates, permits, zoning, and other approvals that may be required by any federal, state or local authority. Tenant shall erect, maintain and operate its Antennae Facilities in accordance with site standards, statutes, ordinances, rules and regulations now in effect or that may be issued thereafter by the Federal Communications Commission or any other governing bodies.

15. Interference.

a. Tenant's installation, operation, and maintenance of its transmission facilities shall not damage or interfere in any way with Landlord's use of the Owned Premises or related repair and maintenance activities or with the activities of other tenants. Tenant agrees to cease all actions that materially interfere with Landlord's use of the Owned Premises immediately upon actual notice of interference, provided however, in that case, Tenant shall have the right to terminate the Lease.

b. Before approving the placement of Antennae Facilities, Landlord may obtain, at Tenant's expense, an interference study indicating whether Tenant's intended use will interfere with any existing communications facilities owned or operated by Landlord, or other existing tenants or any existing or planned uses of the Owned Premises, and an engineering study indicating whether the vertical ribs on said Water Reservoir is able to structurally support the Tenant's Antennae Facilities without prejudice to the Landlord's primary use of the Water Reservoir.

c. Landlord shall not permit its subsequent lessees, licensees, invitees or agents to use, any portion of the Property in any way which unreasonably interferes with the operations of Tenant. Subsequent lessee's use and operation of its Antennae Facilities shall not interfere with the use and operation of any other communication facilities on the Water Reservoir which pre-existed the subsequent lessee's installed Antennae Facilities. If the subsequent lessee's Antennae Facilities cause interference, that lessee shall take all measures reasonably necessary to correct and eliminate the interference. If the interference cannot be eliminated in a reasonable time, that lessee shall immediately cease operating its Antennae Facilities until the interference has been eliminated.

d. Tenant's use and operation of its Antennae Facilities shall not interfere with the use and operation of any other communication facilities on the Tank which pre-existed Tenant's Antennae Facilities. If Tenant's Antennae Facilities cause interference, Tenant shall take all measures reasonably necessary to correct and eliminate the interference. If the interference cannot be eliminated in a reasonable time, Tenant shall immediately cease operating its Antennae Facilities until the interference has been eliminated. If the interference cannot be eliminated with 30 days, Landlord may terminate this Lease.

16. Default and Landlord's Remedies.

a. Tenant shall be at default if it defaults in the payment or provision of Rent or any other charges to Landlord when due, and does not cure such default within twenty (20) days; or if Tenant defaults in the performance of any other covenant or condition of this Lease and does not cure the other default within thirty (30) days after written notice from Landlord specifying the default complained of; or if Tenant abandons or vacates the Premises; or if Tenant is adjudicated as bankrupt or makes any assignment for the benefit of creditors; or if Tenant becomes insolvent or Landlord reasonably believes itself to be insecure.

b. In the event of a default, Landlord shall have the right, at its option, in addition to and not exclusive of any other remedy Landlord may have by operation of law, without any further demand or notice, and without liability for damages, to re-enter the Premises and eject all persons therefrom, and either;

(1) Declare this Lease at an end, in which event Tenant shall pay Landlord a sum of money equal to the total of:

A. The amount of the unpaid Rent or other charges accrued through the date of termination;

B. The amount equal to the Rent or other charges lost during any period in which the Premises are not re-let if Landlord continuously uses reasonable efforts to re-let the Premises;

(2) Without terminating this Lease, relet the Premises, or any part thereof, for the account of Tenant upon terms and conditions as the Landlord may deem advisable, and any monies received from reletting shall be applied first to the expenses of reletting and collection, including reasonable attorneys' fees, any real estate commissions paid, and thereafter toward payment of all sums due or to become due to Landlord hereunder, and if a sufficient sum shall not be thus realized to pay such sums and other charges, Tenant shall pay Landlord any deficiency on the first day of the month following written notice of deficiency from Landlord to Tenant, notwithstanding that Landlord may have received rental in excess of the rental stipulated in this Lease. If rent received on reletting exceeds the Rent under this Lease, Tenant shall have no claim to the excess.

c. Upon default by Tenant under the above contingencies, Landlord may, if Landlord so elects, at any time thereafter, terminate this Lease and the term hereof, upon giving to Tenant [or to any trustee, receiver, non-permitted assignee or other person in charge of or acting as custodian of the assets or property of Tenant], ten (10) days' notice in writing of Landlord's intention so to do. Upon the giving of such notice, this Lease and the term hereof will end on the date fixed in such notice as if the said date was the date originally fixed in this Lease for the expiration hereof; and Landlord will have the right to remove all persons, goods, fixtures and chattels there from, by force or otherwise, without liability for damages.

d. No re-entry and taking of possession of the Premises by Landlord shall be construed as an election on Landlord's part to terminate this Lease, regardless of the extent of renovations and alterations by Landlord, unless a written notice of such intention is given to Tenant by Landlord. Notwithstanding any reletting without termination, Landlord may at any time thereafter elect to terminate this Lease for a previous breach.

e. If suit shall be brought by Landlord for recovery of possession of the Premises, for the recovery of any rent or any other charges due under the provisions of this Lease, or because of the breach of any other covenant, the Tenant shall pay to the Landlord all expenses incurred therefore, including reasonable attorney fees.

f. In the event Tenant remains in possession following default and Landlord does not elect to re-enter, this Lease shall remain in effect and Landlord may enforce all of its rights and remedies, including recovery of all unpaid Rent and other charges, and shall have the right to cure any non-monetary default and recover the cost of cure from Tenant.

g. Landlord may institute actions periodically to recover Rent, other charges or damages as they accrue throughout the lease term and no action for accrued Rent, other charges or damages shall be a bar to a later action for Rent, other charges or damages subsequently accruing. Landlord shall not be required to wait until the expiration of this Lease to institute action. Landlord may obtain a decree of specific performance requiring Tenant to pay damages as they accrue, or Landlord may elect in any one action to cover accrued damages plus damages attributable to the remaining term of the Lease equal to the difference between the Rent under this Lease and the reasonable rental value of the Premises for the remainder of the term.

h. Without limiting the remedies elsewhere provided in this Lease, Landlord's remedies shall include the removal of Tenant's trade fixtures (as defined in Oregon law), equipment, furnishings and chattels from the Premises and storage and retention of same until all damages are paid. The damages recoverable by Landlord from Tenant shall include the cost of removal of the foregoing items, repair and restoration of the Premises, transportation to storage, and storage charges, with interest on all expenses from the date of expenditure by Landlord until repaid. Upon payment of all damages, Landlord shall release the trade fixtures, equipment, furnishings and chattels to Tenant. If payment in full is not received by Landlord, Tenant's property on the Premises is subject to the lien foreclosure remedies of ORS 87.162. Tenant waives all rights or claims against Landlord as to the failure or difficulty of mitigation of damages by reason of removal and Tenant may not assert that the Premises cannot be rented to a third party because of removal of the Tenant's property.

i. The foregoing remedies shall not be exclusive but shall be in addition to all other remedies and rights provided under applicable law, and no election to pursue one remedy shall preclude resort to another consistent remedy. Tenant's liability to Landlord shall survive termination of this Lease.

17. Cure by Landlord. In the event of any default of this Lease by Tenant, the Landlord may at any time, after notice, cure the default for the account of and at the expense of the Tenant. If Landlord is compelled to pay or elects to pay any sum of money or to do any act which will require the payment of any sum of money or is compelled to incur any expense including reasonable attorney fees in instituting, prosecuting or defending any action to enforce the Landlord's rights under this Lease, the sums paid by Landlord, with all interest, costs and damages shall be deemed to be additional Rent and shall be due from the Tenant to Landlord on the first day of the month following the incurring of the respective expenses.

18. Landlord Default and Tenant's Remedy. Landlord shall not be in default unless Landlord fails to perform the obligations required of Landlord within a reasonable time. If Landlord defaults in any covenant or provision of this Lease and fails to cure or commence correction of the default within thirty (30) days of written notice by Tenant, Tenant's sole remedy shall be termination of this Lease. If more than thirty (30) days are required to cure, then Landlord shall

not be in default if Landlord commences performance within thirty (30) days of notice and diligently pursues completion.

19. Optional Termination.

a. This Lease may be terminated:

(1) By Tenant if it is unable to obtain or maintain any license, permit, or other governmental approval necessary for the construction and/or operation of the Antennae Facilities or Tenant's business, or the Premises become unacceptable for Tenant's communication system, including but not limited to signal interference, or if Tenant obtains unacceptable results in any survey or test prior to installation of Antennae Facilities on the Premises as provided in section 5.b.;

(2) Tenant may, unless otherwise stated, immediately terminate this Lease upon written notice to Landlord in the event that (i) any applications for such Government Approvals should be finally rejected; (ii) any Government Approval issued to Tenant is canceled, expires, lapses or is otherwise withdrawn or terminated by any Government Entity through no fault of Tenant; (iii) Tenant determines that such Government Approvals may not be obtained in a timely manner; (iv) Tenant and City reasonably determine that any structural analysis is unsatisfactory; or (v) at any time before the Commencement Date for any reason or no reason in Tenant's sole discretion.

(3) By Landlord if it determines, in its sole discretion and for any reason, that the Tank is structurally unsound or otherwise not suitable for Tenant's use, including but not limited to consideration of age of the structure, damage or destruction of all or part of the Tank from any source, or factors relating to the condition of the Tank;

(4) By Landlord if it determines in its sole discretion that continued use of the Tank by Tenant is in fact a threat to health, safety or welfare or violates applicable laws or ordinances or if Tenant's facilities are deemed by the Landlord to cause interference to the public safety communications system; or

(5) By Landlord, at its sole discretion, if Tenant loses its license to provide wireless communication services for any reason, including, but not limited to, nonrenewal, expiration or cancellation of its license.

b. Upon optional termination of this Lease by either party, Tenant shall remove its equipment, personal property, Antennae Facilities, and improvements from the Premises on or before the date of optional termination, and shall repair any damage to the Premises caused by Tenant's Antennae Facilities, property or improvements, normal wear and tear excepted; all at Tenant's sole cost and expense. Any improvements, equipment, property or Antennae Facilities that are not removed by the end of Lease term shall become the property of Landlord.

20. Termination. Tenant shall provide Landlord with written notice of optional termination pursuant to subsection 19.a. Notice shall be given to Landlord as provided by section 33. All

Rent and other charges paid by Tenant prior to the optional termination date shall be retained by Landlord. Upon optional termination, this Lease shall become null and void and the parties shall have no further obligations to each other except as provided by this Lease.

21. Surrender on Termination.

a. Upon expiration of the Lease term or earlier termination as provided by this Lease, Tenant shall deliver all keys to Landlord and shall surrender the Premises to Landlord in first class condition and broom clean. Depreciation and wear from ordinary use for which the Premises were leased need not be restored, but all repairs and restoration that Tenant is responsible for shall be completed prior to surrender. Tenant's obligation under this subsection shall not apply in case of termination due to destruction of the Premises.

b. Tenant's failure to remove the Antennae Facilities from the Premises shall be an abandonment of the property and Tenant shall have no further rights thereto except as provided below. Landlord may elect between the following:

(1) Retain or dispose of the property as Landlord sees fit.

(2) Following twenty (20) days written notice to Tenant, remove the property and place it in storage for Tenant's account, in which case Tenant shall be liable for the cost of removal, transportation and storage, plus interest as provided in this Lease from the date of expenditures.

c. If Tenant fails to vacate the Premises when required, Landlord's rights shall be as follows:

(1) Landlord may elect to treat Tenant as a Tenant from month to month subject to all the provisions of this Lease, except that the annual Rent shall be triple the Rent being charged when the Lease term expires, plus other charges as provided by this Lease.

(2) Landlord may elect to take legal action to eject Tenant from the Premises and to collect damages caused by Tenant's wrongful holding over.

d. Tenant's failure to remove property as required by this Lease shall constitute a failure to vacate.

e. Tenant shall be responsible for all consequential damages to Landlord as a result of Tenant's failure to surrender the Premises in accordance with this Lease, and this clause shall survive the termination of this Lease.

22. Reservoir Alteration and Repair. In the event Landlord, during the term of this Lease, is required by the City of Oregon City, the order or decree of any court, or any other governmental authority, to repair, alter, remove, reconstruct or improve any part of the Reservoir, Owned Premises, or Premises, then the repairing, alteration, removal, reconstruction or improvement

may be made by and at the expense of Landlord without interference or claim for damages by Tenant.

23. Alteration, Damage or Destruction. If the Tank or any portion thereof is altered, destroyed or damaged so as to materially hinder effective use of the Antennae Facilities through no fault or negligence of Tenant, Tenant may elect to terminate this Lease upon thirty (30) days' written notice to Landlord. In such event, the provisions of section 19 shall apply. Tenant shall promptly remove the Antennae Facilities from the Premises and shall restore the Premises to the same condition as existed prior to this Lease. This Lease (and Tenant's obligation to pay Rent and other charges) shall terminate upon Tenant's fulfillment of the obligations set forth in the preceding sentence, at which termination Tenant shall be entitled to the reimbursement of any Rent prepaid by Tenant. Landlord shall have no obligation to repair any damage to any portion of the Premises.

24. Condemnation.

a. In the event the Owned Premises are taken by eminent domain, this Lease shall terminate as of the date title to the Owned Premises vests in the condemning authority. In the event a portion of the Premises is taken by eminent domain, either party shall have the right to terminate this Lease as of the date of title transfer, by giving thirty (30) days' written notice to the other party. In the event of any taking under the power of eminent domain, Tenant shall not be entitled to any portion of the proceeds paid for the taking and the Landlord shall receive the full amount of the proceeds. Tenant shall hereby expressly waive any right or claim to any portion thereof and all damages, whether awarded as compensation for diminution in value of the leasehold or to the fee of the Premises, shall belong to Landlord. Tenant shall have the right to claim and recover from the condemning authority, but not from Landlord, such compensation as may be separately awarded or recoverable by Tenant on account of any and all damage to Tenant's business and any costs or expenses incurred by Tenant in relocating or removing its equipment, personal property, Antennae Facilities, and improvements. Tenant may claim prepaid Rent against Landlord if this Lease is terminated pursuant to this section.

b. If either party receives a notice of an intended taking affecting the Premises, or any portion thereof, any service of legal process relating to condemnation or any other notification in connection with any taking, condemnation, purchase, sale or transfer in lieu of condemnation, that party shall promptly give timely notice to the other party.

25. Indemnity and Insurance.

a. Disclaimer of Liability: Except for the negligence or willful misconduct by Landlord or any of its employees, agents, or contractors, Landlord shall not at any time be liable for injury or damage occurring to any person or property from any cause whatsoever arising out of Tenant's construction, maintenance, repair, use, operation, condition or dismantling of the Premises or Tenant's Antennae Facilities.

b. Indemnification. Tenant shall, at its sole cost and expense, indemnify, defend and hold harmless Landlord and Landlord's officers, employees and agents (hereinafter referred to as "Indemnitees"), from and against:

(1) Any and all liability, obligation, damages, penalties, claims, demands, action, suits, liens, costs, charges, losses and expenses (including, without limitation, reasonable fees and expenses of attorneys, expert witnesses and consultants), which may be imposed upon, incurred by or be asserted against the Indemnitees by reason of any negligent or willful act or omission of Tenant, its personnel, employees, agents, contractors or subcontractors, resulting in personal injury, bodily injury, sickness, disease or death to any person or damage to, loss of or destruction of tangible or intangible property, libel, slander, invasion of privacy and unauthorized use of any trademark, trade name, copyright, patent, service mark or any other right of any person, firm, or corporation, which may arise out of or be in any way connected with the negligent construction, installation, operation, maintenance, use or condition of the Premises or Tenant's Antennae Facilities or the Tenant's failure to comply with any federal, state or local statute, ordinance or regulation or the terms of this Lease.

(2) Any and all liabilities, obligations, damages, penalties, claims, demands, actions, suits, liens, costs, charges, losses and expenses (including, without limitation, reasonable fees and expenses of attorneys, expert witnesses and consultants), which are imposed upon, incurred by or asserted against the Indemnitees by reason of any claim or lien arising out of the work, services, labor, materials or supplies provided or supplied to Tenant, its contractors or subcontractors, for the installation, construction, operation, maintenance or use of the Premises or Tenant's Antennae Facilities, and, upon the written request of Landlord, Tenant shall cause such claim or lien covering Landlord's property to be discharged or bonded within thirty (30) days following such request;

(3) Any and all liability, obligation, damages, penalties, claims, demands, action, suits, liens, costs, charges, losses and expenses (including, without limitation, reasonable fees and expenses of attorneys, expert witnesses and consultants), which may be imposed upon, incurred by or be asserted against the Indemnitees by reason of any financing or securities offering by Tenant or its affiliates for violations of the common law or any laws, statutes or regulations of the State of Oregon or the United States, including those of the Federal Securities and Exchange Commission, whether by Tenant or otherwise; and

(4) Any and all liability for injury or damage to Tenant's property on the Premises unless caused by the sole negligence of Landlord.

c. Landlord shall indemnify and hold harmless Tenant, its officers, directors, employees, agents, contractors, principal, affiliates and subsidiaries from and against any and all claims, demands, liability, loss, cost, damage or expense (including but not limited to reasonable attorney's fees), arising out of, in connection with, or in any way related to the personal property conveyed to Landlord pursuant to this Lease as of the termination date. Landlord hereby releases Tenant from any liability, loss, cost, damage or expense (including but not limited to reasonable

attorney's fees) that Landlord may incur in connection with or arising from the personal property herein conveyed as of the termination date.

d. Tenant shall give Landlord prompt written notice in case of casualty or accident on the Premises.

e. Assumption of Risk. As a material part of the consideration in this Lease, Tenant undertakes and assumes for its officers, agents, affiliates, contractors and subcontractors and employees (collectively "Tenant" for the purpose of this section), all risk of dangerous conditions, if any, on or about the Owned Premises, and Tenant hereby agrees to indemnify, defend and hold harmless the Indemnitees against and from any claim asserted or liability imposed upon the Indemnitees for personal injury or property damage to any person (other than from Indemnitee's sole gross negligence) arising out of the Tenant's installation, operation, maintenance, condition or use of the Premises or Tenant's Antennae Facilities or Tenant's failure to comply with any federal, state or local statute, ordinance or regulation.

f. Defense of Indemnitees. In the event any action or proceeding shall be brought against the Indemnitees by reason of any matter for which the Indemnitees are indemnified hereunder, Tenant shall, upon notice from any of the Indemnitees, at Tenant's sole cost and expense, resist and defend the same with legal counsel mutually selected by Tenant and Landlord; provided however, that Tenant shall not admit liability in any matter on behalf of the Indemnitees without the written consent of Landlord and provided further that Indemnitees shall not admit liability for, nor enter into any compromise or settlement of, any claim for which they are indemnified hereunder, without the prior written consent of Tenant.

g. Notice, Cooperation and Expense. Landlord shall give Tenant prompt written notice of the making of any claim or the commencement of any action, suit or other proceeding covered by the provisions of this section. Nothing herein shall be deemed to prevent Landlord from cooperating with Tenant and participating in the defense of any litigation by Landlord's own counsel. Tenant shall pay all expenses incurred by Landlord in response to any actions, suits, or proceedings. These expenses shall include all out of pocket expenses such as attorney fees and shall also include the reasonable value of any services rendered by Landlord's attorney, and the actual expenses of Landlord's agents, employees, expert witnesses and consultants, and disbursements and liabilities assumed by Landlord in connection with such suits, actions or proceedings, but shall not include attorneys' fees for services that are unnecessarily duplicative of services provided Landlord by Tenant.

h. Insurance. During the term of the Lease, Tenant shall maintain, in full force and effect and at its sole cost and expense, the following types and limits of insurance:

(1) Worker's compensation insurance meeting applicable statutory requirements and employer's liability insurance with limits of One Million Dollars (\$1,000,000) for each accident/\$1,000,000 disease-each employee/\$1,000,000 disease-policy limit. Tenant, and all employers working pursuant to this Lease are subject employers under the Oregon Workers' Compensation Law and shall comply with ORS

656.017, which requires them to provide workers; compensation coverage for all their subject workers.

(2) Commercial general liability insurance of Five Million Dollars (\$5,000,000) as the combined single limit per occurrence for bodily injury and property damage and \$5,000,000 general aggregate including contractual liability independent contractors, personal and advertising injury, products/completed operations and coverage for property damage to underground utilities, commonly known as ICU coverage covering claims or losses arising out of or resulting from Tenant's use and occupancy of the premises and the activities conducted thereon shall protect Tenant and Landlord from the claims of third persons. The insurance shall be without prejudice to coverage otherwise existing.

(3) Commercial Automobile liability insurance covering all owned, hired, and non-owned vehicles with limits of One Million Dollars (\$1,000,000) combined single limit each accident for bodily injury and property damage.

(4) At the start of and during the period of any construction, builders all-risk insurance, together with an installation floater or equivalent property coverage covering cables, materials, machinery and supplies of any nature whatsoever which are to be used in or incidental to the installation of the Antennae Facilities. Upon completion of the installation of the Antennae Facilities, Tenant shall substitute for the foregoing insurance policies of fire, extended coverage and vandalism and malicious mischief insurance on the Antennae Facilities. The amount of insurance at all times shall be representative of the insurable values installed or constructed.

(5) Business interruption insurance coverage in an amount sufficient to cover such loss of revenues, for the period of time which it would take, under normal circumstances, to repair or replace that part(s) of the Antennae Facilities which is damaged and caused the loss of revenue.

i. Additional Insured. All policies, excluding business interruption, and worker's compensation and employer's liability policies, shall include Landlord and its' officers and employees as an additional insured as their respective interests may appear under this Lease. The insurance shall protect each Additional Insured in the same manner as if a separate policy had been issued to each, but nothing herein shall operate to increase the insurer's liability as set forth elsewhere in the policy beyond the amount or amounts for which the insurer would have been liable if only one person or interest had been named as insured. The coverage shall apply as to claims between Additional Insureds on the policy.

j. Evidence of Insurance. Certificates of insurance for each insurance policy required to be obtained by Tenant in compliance with this section, shall be filed initially upon execution of this Lease and maintained with Landlord annually during the term of the Lease. Tenant shall immediately advise Landlord in writing of any claim or litigation that may result in liability to Landlord.

k. Cancellation of Policies of Insurance. Upon receipt of notice from its insurer(s) Tenant shall use its best effort to provide Landlord with thirty (30) days prior written notice of cancellation.

l. Insurance Companies. All insurance shall be effected under valid and enforceable policies, insured by insurers licensed, authorized or permitted to do business by the State of Oregon or surplus line carriers on the State of Oregon's Insurance Commissioner's approved list of companies qualified to do business in the State of Oregon. All insurance carriers and surplus line carriers shall be rated A-: VII or better by A.M. Best Company.

m. Deductibles. Tenant agrees to indemnify, defend and save harmless Landlord, the Indemnitees and Additional Insureds from and against the payment of any deductible and from the payment of any premium on any insurance policy required to be furnished by this Lease.

n. Contractors. Tenant shall require that each and every one of its contractors and their subcontractors who perform work on the Premises obtain and maintain substantially the same coverage with substantially the same limits as required of Tenant.

o. Review of Limits. Once during each calendar year during the term of this Lease, Landlord may review the insurance coverage to be carried by Tenant. If Landlord determines that higher limits of coverage are necessary to protect the interests of Landlord or the Additional Insureds, Tenant shall be so notified and upon approval shall obtain the additional limits of insurance, at its sole cost and expense. However, such increases in limits shall not exceed 4% per year

p. Failure to maintain adequate, approved insurance shall be cause for immediate termination of this Lease.

26. Nuisance, Waste, Hazard.

a. Tenant shall refrain from any activity or use that would reasonably be considered unlawful, objectionable, offensive, annoying or obstructs the rights of Landlord, other tenants, user or occupants of the Owned Premises or nearby properties. Tenant shall not create or permit to be created any condition that would constitute a fire hazard, impair the strength or durability of the Reservoir, and be dangerous or hazardous to the health of persons or property. Tenant shall not install any power machinery on the Premises except as specifically allowed by this Lease. Tenant shall not store gasoline or other highly combustible materials on the Premises at any time. Tenant shall not be responsible for any Hazardous Substance existing on the Owned Property that existed on the effective date of this Lease or that otherwise did not result from the activities of Tenant.

b. Tenant shall not use the Premises in any way or for any purpose that will cause the fire insurance rate on the Owned Premises to be increased or that would prevent Landlord from taking advantage of any rulings of any agency of the State of Oregon which would allow Landlord to obtain reduced premium rates for long term fire insurance policies.

c. The term “Hazardous Substances” as used in this Lease shall have the meaning set out at ORS 465.200 (15) (1999 Edition) or as it may be amended, including asbestos.

d. Tenant, at Tenant’s own expense, shall comply with all laws regulating the use, generation, release, manufacture, refining, production, handling, processing, storage, transportation or disposal of Hazardous Substances. Tenant shall not cause or permit to occur any violation of any federal, state or local law, ordinance or regulation now or hereafter enacted, related to environmental conditions at the Premises, or arising from Tenant’s possession or use of the Premises, including but not limited to soil and groundwater conditions.

e. Tenant shall not cause or permit to occur the use, generation, release, manufacture, refining, production, handling, processing, storage or disposal of any Hazardous Substances on, under or about the Premises, or the transportation to or from the Premises of any Hazardous Substances.

f. Tenant shall, at Tenant’s sole expense, make all submissions to, provide all information required by, and comply with all requirements of all governmental authorities.

g. If any governmental authority or third party demands that a clean up plan be prepared and/or that a clean up be undertaken because of the release of any Hazardous Substances as a result of Tenant’s use or occupancy of the Premises, then Tenant shall at its own expense, prepare and implement the required plans and all financial assurances in accordance with applicable requirements.

h. Tenant shall promptly provide all information regarding the use, generation, storage, transportation, release, manufacture, refining, production, handling, processing or disposal of Hazardous Substances that is requested by Landlord. If Tenant fails to fulfill any duty imposed by this section within a reasonable time, Landlord may do so, and in that case, Tenant shall cooperate with Landlord to prepare the documents Landlord deems necessary or appropriate to determine the compliance therewith, and Tenant shall execute all documents on Landlord’s request. No action by Landlord, and no attempt by Landlord to mitigate damages under any applicable law shall constitute a waiver of any of Tenant’s obligations under this section.

i. Tenant’s obligations and liabilities under this section shall survive the expiration or termination of this Lease.

27. Hazardous Substances Indemnification. Tenant agrees to hold Landlord harmless from, defend and indemnify Landlord against any release of any Hazardous Substances and any damage, loss, or expense or liability resulting from any release including all attorneys’ fees, costs and penalties incurred as a result thereof except any release caused by the sole negligence of Landlord, its employees or agents.

28. Holding Over. Any holding over after the expiration of the term hereof, with the consent of the Landlord, shall be construed to be a tenancy from month to month at two times the Rents

herein specified (prorated on a monthly basis) and shall otherwise be for the term and on the conditions herein specified, so far as applicable. The holdover tenancy may be terminated at will at any time by Landlord. Landlord shall have the right to adjust the Rent or other charges upon thirty (30) days written notice to Tenant. In the event of holdover beyond June 30 of any year, Tenant shall be responsible for payment of real property taxes for the entire year without proration.

29. Subordination to Mortgage. Any mortgage now or subsequently placed upon the Owned Premises shall be deemed to be prior in time and senior to the rights of the Tenant under this Lease. Tenant subordinates all of its interest in the leasehold estate created by this Lease to the lien of any such mortgage. Tenant shall, at Landlord's request, execute any additional documents necessary to indicate this subordination.

31. Acceptance of Premises. By taking possession of the Premises, Tenant accepts the Premises in the "as is" condition existing as of the Commencement Date. Landlord makes no representation or warranty with respect to the condition of the Premises and Landlord shall not be liable for any latent or patent defect in the Premises. Tenant accepts the Premises subject to any and all existing permits, licenses, leases, easements, railroad or streetcar facilities, pipelines, telephone, telegraph, communications, power and signal lines or any similar facilities, together with any future installations thereof, provided future installations do not unreasonably interfere with Tenant's use of the Premises.

32. Estoppel Certificate. Tenant shall, at any time and from time to time upon not less than twenty (20) days prior request by Landlord, deliver to Landlord a statement in writing certifying that:

- a. The Lease is unmodified and in full force (or if there have been modifications, that the Lease is in full force as modified and identify the modifications);
- b. The dates to which rent and other charges have been paid; and/or
- c. So far as the person making the certificate knows, Landlord is not in default under any provisions of the Lease; and (d) such other matters as Landlord may reasonably request.

33. Notices. All notices, requests, demands, and other communications hereunder shall be in writing and shall be deemed given when actually delivered, or 72 hours after deposit in the United States mail, if personally delivered or mailed, certified mail, return receipt requested; to the following addresses which from time to time may be changed by either Landlord or Tenant upon written notice to the other:

If to Landlord, to: Lance Powlison
Oregon City Right of Way Program Manager
P.O. Box 3040
Oregon City, 97045-0304

With a copy to: John M. Lewis,
Oregon City Public Works Operations Manager
122 S. Center Street
Oregon City 97045

If to Tenant, to: Verizon Wireless (VAW) LLC d/b/a Verizon Wireless
Attn: Network Real Estate
180 Washington Valley Road
Bedminster, New Jersey 07921

34. Assignment and Subletting.

a. Tenant shall have the right to assign, sell or transfer its interest under this Lease without the approval or consent of Landlord, to a lender in connection with a financing agreement, Tenant's parent or member company or any affiliate or subsidiary of, or partner in, Tenant or its parent or member company. Tenant may not otherwise assign this Lease without Landlord's written consent, Landlord's consent not to be unreasonably withheld, conditioned or delayed. Upon the completion of such assignment, transfer or sale, Tenant will be relieved of all future performance, liabilities and obligations under this Lease. Consent of Landlord to one assignment or sublet, transfer, use or occupation shall not be deemed to be a consent to any subsequent assignment, transfer, sublet, occupation or use.

b. Any assignment, transfer, sublet, occupation or use without the prior written consent of Landlord shall be void and shall at the option of Landlord terminate this Lease. This Lease or any interest therein, shall not be assignable as to the interest of Tenant by operation of law without the prior written consent of Landlord.

c. Landlord shall not unreasonably withhold its consent to assignment, transfer, sublet, occupation or use provided the Rent and other charges paid by the assignee or sublettee is not less than the Rent and other charges required by this Lease and the proposed tenant is compatible with Landlord's normal standards for the Premises. If Tenant proposes an assignment, transfer sublet, occupation or use. Landlord shall have the option of terminating this Lease and dealing directly with the proposed third party.

d. Nothing in this Lease shall preclude Landlord from leasing other space for communications equipment to any person or entity that may be in competition with Tenant, or any other party, provided that any new lease will not interfere with Tenant's use of the Premises as described in paragraph 15 above.

35. Successors and Assigns. This Lease shall be binding upon and inure to the benefit of the parties, their respective successors, personal representatives and assigns.

36. Non-Waiver. Failure of Landlord to insist on strict performance of any of the conditions, covenants, terms or provisions of this Lease or to exercise any of its rights hereunder shall not waive such rights, but Landlord shall have the rights to enforce such rights at any time and take such action as might be lawful or authorized hereunder, either in law or equity. The receipt of

any sum paid by Tenant to Landlord after a breach of this Lease shall not be deemed a waiver of the breach unless expressly set forth in writing.

37. Taxes.

a. Tenant shall pay any personal property tax, real property tax or any other tax or fee which are directly attributable to the presence or installation of the Tenant's Antenna Facilities, only for so long as this Lease has not expired of its own terms or is not terminated by either party.

b. Tenant shall indemnify Landlord from any and all liability, obligation, damages, penalties, claims, liens, costs, charges, losses and expenses (including, without limitation, reasonable fees and expenses of attorneys, expert witnesses and consultants), which may be imposed upon, incurred by or be asserted against Tenant in relation to the taxes owed or assessed on the Premises.

c. If the methods of taxation in effect at the Commencement Date of the Lease are altered so that in lieu of or as a substitute for any portion of the property taxes and special assessments now imposed on property there is imposed a tax upon or against the rentals payable by Tenant to Landlord, Tenant shall pay those amounts in the same manner as provided for the payment of real and personal property taxes.

d. Landlord shall retain the option to pay any taxes and bill Tenant for the amount paid. Tenant shall reimburse Landlord for the amount billed within sixty (60) days of the date of billing. If multiple leases are co-located within the Owned Premises, Tenant agrees to pay a prorated amount of taxes, if the taxes are not otherwise identified for each tenant by the taxing authority. Proration shall be determined by Landlord. Landlord shall provide tax information to Tenant upon written request.

38. Attorney's Fees. If either party fails to perform any of the terms, covenants, agreements or conditions contained in this Lease and places the enforcement of this Lease, or any part thereof, or the collection of any sums due, or to become due hereunder in the hands of any attorney, or files suit upon same, the non-prevailing agrees to pay all of the prevailing party's reasonable costs associated with the same including reasonable attorneys' fees.

39. Inability to Perform. The parties shall not be in default for the nonperformance or for any interruption or delay in performance of any of the terms, covenants and conditions of this Lease if due to any labor dispute, strike, lockout, civil commotion or operation, invasion, rebellion, hostilities, military or usurped power, sabotage, governmental regulations or controls, inability to obtain labor, services or materials, or through act of God or other cause reasonably beyond the control of the parties, provided not due to willful act or neglect.

40. Miscellaneous.

a. Landlord and Tenant represent that each, respectively, has full right, power, and authority to execute this Lease. If Tenant is a corporation, each individual person executing this

Lease on behalf of the corporation shall be duly authorized to execute and deliver the Lease on behalf of the corporation, in accordance with the bylaws of the corporation, and the corporation warrants and agrees that this Lease is binding on the corporation.

b. This Lease constitutes the entire agreement and understanding of the parties and supersedes all offers, negotiations, and other agreements of any kind. There are no representations or understandings of any kind not set forth herein.

c. This Lease shall be governed by and construed in accordance with the laws of the State of Oregon.

d. Any provision of this Lease that is held by a court of competent jurisdiction to be void, illegal unenforceable or invalid shall not affect, invalidate or impair any other provision of this Lease and the remaining provisions of this Lease shall continue in full force and effect.

e. The prevailing party in any litigation arising under this Lease shall be entitled to its reasonable attorney fees and costs, including appeals, if any.

f. This lease shall not be amended or modified except by agreement in writing signed by the parties. The Director of the Bureau of Communications and Networking shall have the authority to execute amendments to this Lease on behalf of Landlord.

g. Each party agrees to cooperate with the other in executing any documents (including a Memorandum of Lease) necessary to protect its rights of use of the Premises. A Memorandum of Lease may be recorded by either party.

h. This Lease may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute a single instrument.

i. Unless specifically provided to the contrary in this Lease, no right or remedy or election provided by this Lease shall be deemed to be exclusive, but shall, whenever possible, be cumulative with all other rights and remedies of law or in equity.

j. Time is of the essence in this lease.

k. Whenever the word Tenant is used in this Lease, it relates also to the Tenant jointly and severally, if there is more than one Tenant, and to the heirs, personal representatives, successors in interest and assigns; the obligations imposed by this Lease shall be joint and several; and the pronouns used in this Lease shall be construed as the context and the sense and general purport of this Lease requires.

l. Exhibits, which are referred to in this Lease, are attached hereto and by this reference incorporated herein.

m. Whenever consent, approval or direction by Landlord is required under the provisions of this Lease, that consent, approval or direction shall be in writing from the Director of the Bureau of Communications and Networking.

n. Upon Tenant's payment of Rent and other charges required by this Lease, and Tenant's observation and performance of all the covenants, conditions and provisions on Tenant's part to be observed and performed, Tenant shall have quiet possession of the Premises for the entire term of this Lease, subject to all provisions of this Lease.

o. Section headings and capitalization in this Lease are provided to assist the reader and shall have no effect upon the construction or interpretation of this Lease.

p. Landlord and Tenant are the only parties to this Lease and are the only parties entitled to enforce its provisions. Nothing in this Lease gives or shall be construed to give or provide any benefit, direct or indirect or otherwise, to third parties, unless third parties are expressly described as intended beneficiaries of this Lease.

q. Tenant, at Tenant's expense, shall comply with all laws, rules, orders, ordinances, directions, regulations and requirements of federal, state, county and municipal authorities, now in force or which may hereafter be in force during the term of this Lease.

r. Tenant shall comply, at Tenant's sole expense, with all applicable provisions of the Americans with Disabilities Act of 1990 (ADA), as it may be amended, including any duty the ADA may impose on Landlord or Tenant as a result of Tenant's use, occupation or alteration of the Premises. Within ten (10) days after receipt, Landlord and Tenant shall advise the other party in writing, and provide the other party with copies (as applicable) of any notices alleging violation of the ADA relating to any portion of the Reservoir, the Owned Premises, or the Premises; any claims made or threatened in writing regarding noncompliance with the ADA and relating to any portion of the Reservoir, the Premises or the Owned Premises; or any governmental or regulatory actions or investigations instituted or threatened regarding noncompliance with the ADA and relating to any portion of the Reservoir, the Premises or the Owned Premises. In the event of any assignment or sublet of the Premises, Tenant and Tenant's assignee or sublettee shall agree to comply with the ADA, at their sole expense, and agree to be jointly and severally liable under this Lease for any duty the ADA may impose on Tenant or Tenant's assignee or sublettee as a result of their use, occupation or alteration of the Premises. Landlord reserves the right to withhold consent to a proposed assignment or sublet if the assignment or sublease fails to contain provisions required by this Lease to ensure ADA compliance at Tenant's or Tenant's assignee's or sublettee's sole expense. Landlord further reserves the right to withhold consent to a proposed assignment or sublet if the proposed use, occupation or alteration by the assignee or sublettee will require alterations to the Premises, Reservoir or Owned Premises to comply with the ADA which are inconsistent with Landlord's management interests.

s. Tenant agrees to comply with all rules and regulations respecting the use of the Premises that may be promulgated by Landlord from time to time and communicated to Tenant in writing. Tenant shall permit Landlord to make reasonable inspection of the premises from

time to time to determine whether Tenant is complying with Landlord's rules and regulations and the provisions of this Lease. Landlord reserves the right to change its rules and regulations in its sole discretion without prior notice to Tenant. A copy of any current applicable rules and regulations relating to the Premises is attached hereto as Exhibit E.

LANDLORD:

CITY OF OREGON CITY, OREGON

TENANT:

Verizon Wireless (VAW) LLC
d/b/a Verizon Wireless

By: _____

Tony Konkol
City Manager

Date: _____

By: _____

Name: Jim R. Creel, Jr.

Title: Director – Network Field Engineering

Date: _____

EXHIBIT A

LEGAL DESCRIPTION OF OWNED PREMISES

A tract of land in the M.M. McCarver D.L.C. No. 41 in the Southeast one-quarter of Section 1, T. 3 S., R. 1 E., of the W.M., in the County of Clackamas and State of Oregon, described as follows:

Beginning at a basalt stone in the centerline of Warner-Parrott Road, said stone being the Northwest corner of M. M. McCarver D.L.C. No. 40, said D.L.C. being in Section 6, T3 3 S., R. 2 E., of the W.M., at a point which is South 89° West, a distance of 53.99 chains (3893.34 feet) from the Northeast corner of said M. M. McCarver D.L.C. 40; thence South $0^{\circ} 22'$ East 16.23 chains (1071.18 feet) to a stone marked "X" at the southwest corner of a tract of land described in Deed to Clyde H. Cummings, et ux, recorded December 5, 1949 in Book 426, page 142, Deed Records, said stone being on the sectionline between Section 1, T. 3 S., R. 1 E., of the W.M., and Section 6, T. 3 S., R. 2 E., of the W.M. said stone being North 987.39 feet, more or less, of the Southeast corner of said Section 1, and the true point of beginning of the tract of land herein to be described.

Thence South $44^{\circ} 43' 24''$ West 176.73 feet to an iron rod; thence South $0^{\circ} 43' 36''$ East 166.03 feet to an iron rod; thence South $42^{\circ} 34' 36''$ East 184.80 feet to a stone marked "X", said stone being on the sectionline between Section 1, T. 3 S., R. 1 E., of the W.M. and Section 6, T. 3 S., R. 2 E., of the W.M. and North 559.68 feet, more or less, from the Southeast corner of said Section 1; thence along the East line of said Section 1, North $0^{\circ} 22'$ West 427.71 feet, more or less, to a stone, said stone being the true point of beginning.

EXHIBIT B

Boynton Reservoir is a steel standpipe with a total capacity of 2.0 million gallons. The reservoir has a street address of 18847 Boynton Street.

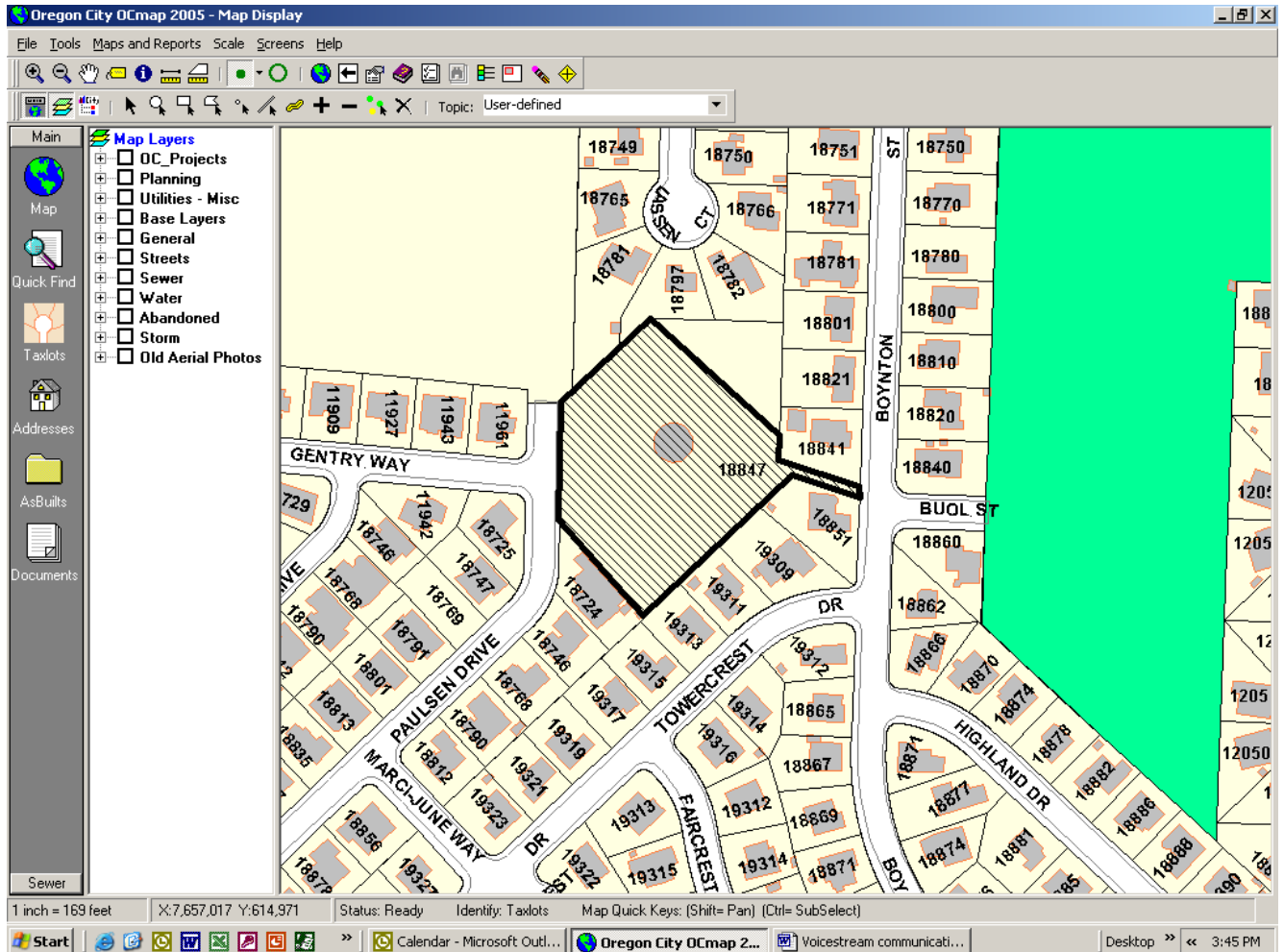


EXHIBIT C

See Verizon Project Plans

Site Name: Boynton Reservoir

Site Number: OR-POR180-A

Pan Sheets: T01, N01, C01-C04, E01, S01

EXHIBIT D

An unstaffed communications facility consisting of a three-sector antenna array with:

Items Mounted To Existing Water Tower:

(2) Antennas per sector (6 antennas total) with (12) runs of coax and associated radio units and surge suppressors to be mounted behind the antennas.

Ground Related Equipment to be placed inside fenced 22' x 12' enclosure adjacent to the existing fenced water tower.

EXHIBIT E

Project shall be constructed in accordance with Oregon City design and construction standards. Tenant is responsible for obtaining all required permits from the City of Oregon City Community Development Department. In addition, all on-site development shall be authorized and approved by the City of Oregon City Public Works Director prior to beginning construction.

K:\61231 - CITY OF OREGON CITY\001 - General 34758.00100\Agreements\Clearwire Lease.doc