

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE)	RESOLUTION NO. 06-3732
CHIEF OPERATING OFFICER TO ENTER INTO)	
A TELECOMMUNICATIONS LEASE WITH)	Introduced by Chief Operating Officer
LCW WIRELESS, LLC FOR NON-PARK USE)	Michael J. Jordan, with the concurrence of
WITHIN THE GLENDOVEER GOLF COURSE)	Council President David Bragdon

WHEREAS, Metro owns the Glendoveer Golf Course in northeast Portland; and

WHEREAS, LCW Wireless, LLC is requesting a telecommunications lease and associated construction and maintenance access to locate a communications facility for the transmission and reception of radio communication signals, including the construction, installation, operation, maintenance, repair, removal or replacement of related facilities, antennas, equipment shelters and/or cabinets and related activities on and adjacent to the Glendoveer Golf Course water tank; and

WHEREAS, LCW Wireless, LLC has agreed to pay Metro's cost and expenses to process this lease request and the fair market rent value for the leased area; and

WHEREAS, the Metro Regional Parks and Greenspaces Department has determined that this lease request has met the criteria in Resolution No. 97-2539B, "For the Purpose of Approving General Policies Related to the Review of Easements, Right of Ways, and Leases for Non-Park Uses Through Properties Managed by the Regional Parks and Greenspaces Department," adopted by the Metro Council on November 6, 1997 (the "Easement Policy"), as identified in Attachment 1 to the Staff Report to this resolution, and can be accommodated with minimal impact to natural resources, cultural resources, recreational resources, recreational facilities, recreational opportunities or their operation and management; now therefore

BE IT RESOLVED that the Metro Council authorizes the Chief Operating Officer to enter into a lease with LCW Wireless, LLC for installation and maintenance of a telecommunications facility on and adjacent to the Glendoveer Golf Course water tower, as depicted in Exhibit A and on terms acceptable to the Metro Attorney substantially as set forth in the Lease Agreement attached as Exhibit B to this Resolution.

ADOPTED by the Metro Council this 26th day of October, 2006.


David Bragdon, Council President

Approved as to Form:

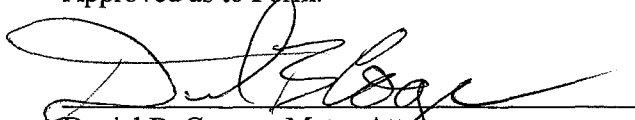

Daniel B. Cooper, Metro Attorney



Exhibit A
Resolution No. 06-3732
Depiction of PacifiCorp's Permanent Aerial, Construction and Maintenance Easement

PLACEHOLDER

Exhibit A to Resolution No. 06-3732

Depiction of LCW Wireless, LLC Communications Facility

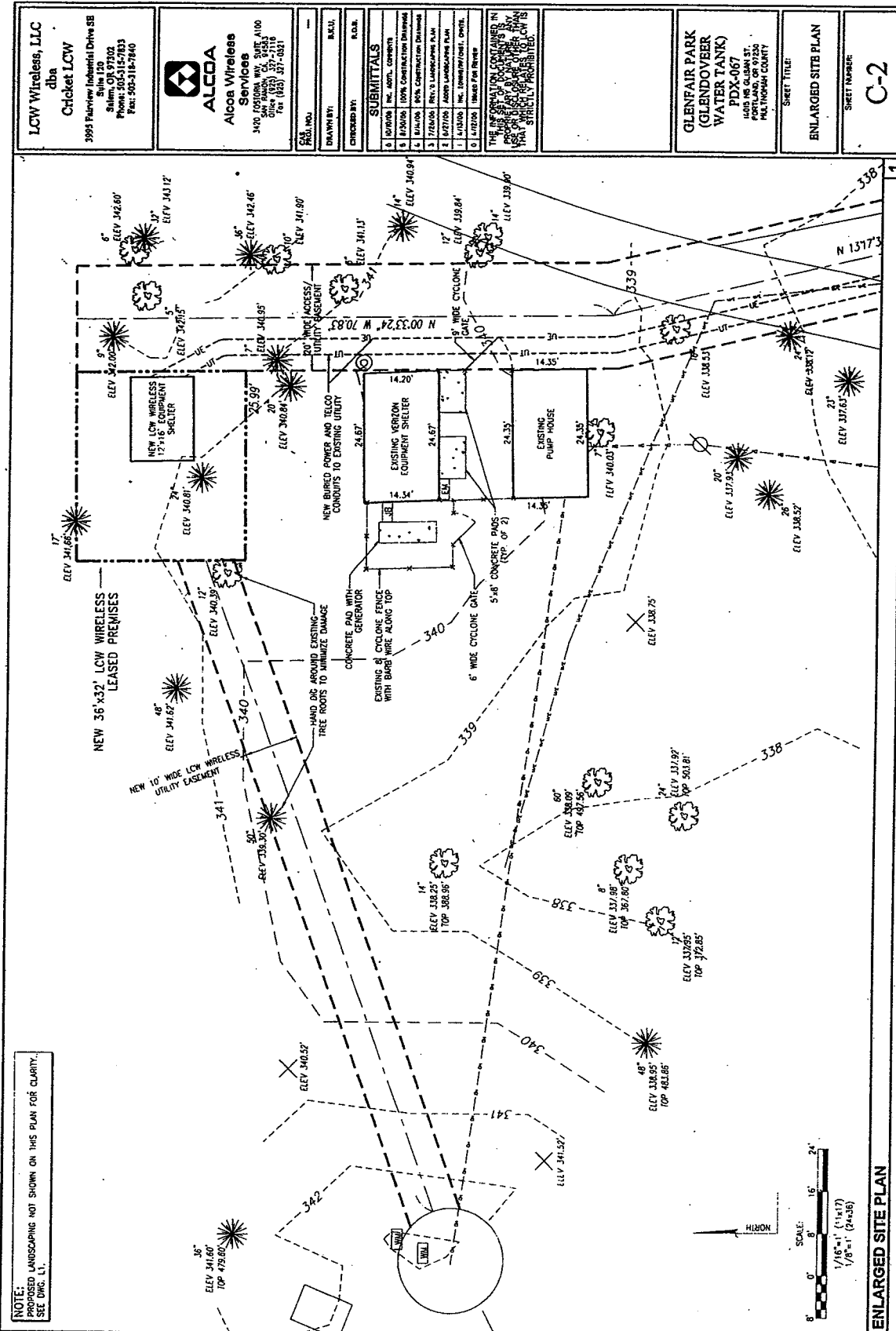


Exhibit B
Resolution No. 06-3732
PacifiCorp's Permanent Aerial, Construction and Maintenance Easement

PLACEHOLDER

CRICKET License Site Identifier: PDX-067 Glen Fair Park

SITE LEASE

THIS SITE LEASE ("Lease") is entered into this ____ day of _____ 200__ ("Effective Date") by and between Metro, a Municipal Corporation established pursuant to Oregon law, the Metro Charter ("Lessor") and LCW Wireless Operations, LLC, a Delaware Limited Liability Company, dba Cricket ("Lessee").

1. Lease of Premises; Approvals.

(a) Lessor owns or controls the real property located at 1331 NE Glisan, commonly known as Tax Lot 00100, Township 1 North, Range 2 East, Section 36B, Multnomah County, State of Oregon, and located at 13931 NE Glisan Street, Portland, Oregon, and more particularly described in the attached Exhibit A (the "Property"). Lessor leases to Lessee a certain portion of the Property including space on the side of the Glendoveer Golf Course Water Tank for the attachment of antennas and approximately one hundred eighty eight (188) square feet of ground surface adjacent to the tank (as defined below), together with access and utilities, as generally described and depicted in the attached Exhibit B (collectively referred to hereinafter as the "Premises") on the terms and conditions set forth herein.

(b) Lessor agrees to cooperate with Lessee in obtaining, at Lessee's expense, all licenses and permits or authorizations required for Lessee's use of the Premises from all applicable government and/or regulatory entities (including, without limitation, zoning and land use authorities, and the Federal Communication Commission ("FCC") (the "Governmental Approvals"), including appointing Lessee as agent for all land use and zoning permit applications, and Lessor agrees to cooperate with and to allow Lessee, at no cost to Lessor, to obtain a title report, zoning approvals and variances, and land-use permits, and Lessor expressly grants to Lessee a right of access to the Property to perform surveys, soils tests, and other engineering procedures or environmental investigations on the Property, necessary to determine that Lessee's use of the Premises as defined below will be compatible with Lessee's engineering specifications, system design, operations and Governmental Approvals.

2. Term. The initial term of the Lease shall be ten (10) years commencing on the Effective Date and terminating at midnight on the last day of the initial term (the "Initial Term").

3. Permitted Use. The Premises may be used by Lessee for the transmission and reception of radio communication signals and for the construction, installation, operation, maintenance, repair, removal or replacement of related facilities, antennas, equipment shelters and/or cabinets and related activities, as more particularly set forth below.

4. Rent.

(a) Lessee shall pay Lessor, as rent, ONE THOUSAND EIGHT HUNDRED DOLLARS (\$1,800.00) per month ("Rent") during the first year of the Initial Term. Rent shall increase three percent (3%) annually on the anniversary date of the first Rent payment hereunder. Rent shall be payable on the first day of the first month following the date Lessee commences construction of the Communications Facility and thereafter Rent will be payable monthly to Lessor at the address specified in Section 12 below.

(b) Lessee recognizes that late payment of the Rent due under this Lease will result in administrative expense to Lessor, the extent of which additional expense is extremely difficult and economically impractical to ascertain. Lessee therefore agrees that if Rent is not paid when due and payable pursuant to this Lease, a late charge shall be imposed in an amount equal to six percent (6%) of the unpaid Rent. The amount of the late charge to be paid by Lessee shall be reassessed and added to Lessee's obligations for each successive month until paid.

5. Renewal.

(a) Lessee shall have the right to extend this Lease for four (4) additional five (5) year terms ("Renewal Term"). Each Renewal Term shall be on the same terms and conditions as set forth herein, except that Rent shall be increased by three percent (3%) of the Rent paid over the preceding term, and the Rent shall increase 3% annually thereafter.

(b) This Lease shall automatically renew for each successive Renewal Term unless Lessee notifies Lessor, in writing, of Lessee's intention not to renew this Lease, at least sixty (60) days prior to the expiration of the Initial Term or any applicable Renewal Term. If Lessee shall remain in possession of the Premises at the expiration of this Lease or any Renewal Term without a written agreement executed by Lessor and Lessee, such tenancy shall be deemed a month-to-month tenancy under the same terms and conditions of this Lease.

6. Interference. This Lease is non-exclusive, and Lessee shall not use the Premises in any way which interferes with the use of the Property by Lessor, or lessees or licensees of Lessor, with rights in the Property prior in time to Lessee's (subject to Lessee's rights under this Lease, including without limitation, non-interference). Similarly, Lessor shall not use, nor shall Lessor permit its lessees, licensees, employees, invitees or agents to use, any portion of the Property in any way which interferes with the Lessee's rights, hereunder. Such interference shall be deemed a material breach by the interfering party, who shall, upon written notice from the other, be responsible for terminating said interference. In the event any such interference does not cease promptly, the parties acknowledge that continuing interference may cause irreparable injury and, therefore, the injured party shall have the right, in addition to any other rights that it may have at law or in equity, either to bring a court action to enjoin such interference or to terminate this Lease immediately upon written notice.

7. Improvements; Utilities; Access.

(a) Lessee shall have the right, at its expense, to install, erect, repair and maintain on the Premises improvements, personal property and facilities necessary to operate its communications system, including, without limitation, radio transmitting and receiving antennas, equipment shelters and/or cabinets and related cables and utility lines (collectively the "Communications Facility"). The Communications Facility shall be configured as set forth in the attached Exhibit C (the "Initial Plans"). All in-ground utilities shall be installed by boring a minimum of 36 inches below the surface; no open trench installation is permitted. Lessee shall have the right to replace or make routine modifications to the Communications Facility at any time during the term of this Lease without Lessor's consent. However, any changes which require additional space, antennas, or materially alter the appearance of the Communication Facility shall require Lessor's prior review and approval. Lessee shall cause all construction to occur lien-free and in compliance with all applicable laws and ordinances. The Communications Facility shall remain the exclusive property of Lessee. Lessee shall have the right to remove the Communications Facility at any time during and upon termination of this Lease. If Lessee removes the Communications Facility, Lessee must grade and revegetate the Premises to Lessor's

reasonable satisfaction, returning the Premises to Lessor in a condition at least equivalent to its pre-lease condition.

(b) The final plans and precise location of the Communications Facilities (the "Final Plans") shall be subject to approval by Lessor, which shall not be unreasonably withheld, conditioned or delayed. Lessor's approval will be deemed to have been given when Lessor signs and returns a copy of the Final Plans to Lessee. Lessor agrees to provide such approval within five (5) business days after the Final Plans are delivered to Lessor.

(c) Lessee, at its expense, must restrict access to the water tower by construction of a cage around the water tower ladder sufficient to secure the water tower against unauthorized access, in accord with the terms and specifications set forth in Exhibit E attached hereto.

(d) Lessee shall, at Lessee's expense, keep and maintain the Communications Facility now or hereafter located on the Premises in commercially reasonable condition and repair during the term of this Lease, normal wear and tear and casualty excepted. Upon termination or expiration of this Lease, the Communications Facility must be removed and the Premises graded and revegetated to Lessor's reasonable satisfaction. The Premises shall be returned to Lessor in its pre-lease condition or better..

(e) Lessee shall have the right to install subsurface utilities, across the Property at Lessee's expense, and to improve the present utilities on the Property (including, but not limited to, the installation of emergency power generators) reasonably necessary to provide service to the Communications Facility. Lessor agrees to use reasonable efforts to assist Lessee to acquire such utility service. Lessee shall, wherever practicable, install separate meters for utilities used on the Property. In the event separate meters are not installed, Lessee shall pay the periodic charges for all utilities attributable to Lessee's use. Lessor shall diligently correct any variation, interruption or failure of utility service.

(f) Lessee shall have the right to ingress and egress across the Property for access (including access for the purposes described in Section 1) to the Premises adequate to install and maintain utilities, which include, but are not limited to, the installation of power and telephone service cable, and to service the Premises and the Communications Facility at all times during the Initial Term of this Lease or any Renewal Term. Ordinary maintenance access and operations access for vehicles shall be reasonably provided. Damage to the Property and Premises resulting from Lessee's ingress and egress access shall be promptly repaired and revegetated to Lessor's reasonable satisfaction.

(g) Lessee shall have 24-hours-a-day, 7-days-a-week access to the Premises at all times during the Initial Term of this Lease and any Renewal Term.

(h) Sound associated with and resulting from the Communications Facility must be contained by Lessee within an enclosed equipment shelter and must not be discernibly louder than the sound made by the neighboring Verizon telecommunications operations.

(i) Lessee must provide landscaping on the Premises satisfactory to Lessor in its sole discretion and must maintain said landscaping during the Initial Term and any renewal terms. The Landscaping set forth on Initial Plans is deemed satisfactory to Lessor. The Lessee and Lessor acknowledge that the Communications Facility will be placed in close proximity to several mature trees, such that said trees could be damaged or killed during the installation of the Communications Facility or its operations hereunder. In the event that said trees die within the first five years of the initial term,

Lessee must pay Lessor for said loss in an amount equal to the reasonable value of each tree as established by Lessor's arborist.

Lessee agrees to provide for the preparation and painting of the sides of the water tank, such that the graffiti on the tank is completely covered, to Lessor's reasonable satisfaction ("Painting"). The paint used must match the existing paint coat in color and quality. The costs for the Painting will initially be paid by Lessee, as follows: Lessee will obtain three competitive bids for the Painting. Lessor will select one of the three bids, and Lessee must contract with the bidder selected by Lessor. Lessee will provide Lessor with a copy of paid invoices evidencing the actual fees and costs of the Painting.. Lessee will receive a rent credit from Lessor in an amount equal to the bid selected by Lessor, or the total actual cost of Painting, whichever is less.

8. Termination. Except as otherwise provided herein, this Lease may be terminated, without any penalty or further liability as follows:

(a) Upon thirty (30) days written notice by Lessor if Lessee fails to cure a default for payment of amounts due under this Lease within that thirty (30) day period;

(b) Upon thirty (30) days written notice by either party if the other party commits a non-monetary default and fails to cure or commence a cure of such default within that thirty (30)-day period and diligently pursues such cure, or such longer period as may be reasonably required to diligently complete a cure commenced within that thirty (30)-day period;

(c) Immediately if Lessee notifies Lessor of unacceptable results of any title report, environmental or soil tests prior to Lessee's installation of the Communications Facility on the Premises, or if Lessee is unable to obtain, maintain, or otherwise forfeits or cancels any license (including, without limitation, an FCC license), permit or Governmental Approval necessary to the installation and/or operation of the Communications Facility or Lessee's business;

(d) upon thirty (30) days written notice by Lessee, and payment of a termination fee equivalent to one year's rent, if it determines that the Premises are not appropriate or suitable for its operations for economic, environmental or technological reasons;

(e) Immediately upon written notice by Lessee if it is unable to occupy and utilize the Premises due to a ruling or directive of the FCC or other governmental or regulatory agency, including, without limitation, a take back of channels or change in frequencies;

(f) Immediately upon written notice by Lessee if the Premises or the Communications Facility are destroyed or damaged so as in Lessee's reasonable judgment to substantially and adversely affect the effective use of the Communications Facility. In such event, this Lease shall terminate as of the date the Communications Facility is removed in accord with Section 7(a), above, and Lessee shall be entitled to the reimbursement of any Rent prepaid by Lessee. If said damage or destruction is caused by Lessor and Lessee elects to continue this Lease, then all Rent shall abate until the Premises and/or Communications Facility are restored to the condition existing immediately prior to such damage or destruction; or

(g) At the time title to the Property transfers to a condemning authority, pursuant to a taking of all or a portion of the Property sufficient in Lessee's determination to render the Premises unsuitable for Lessee's use. Lessor and Lessee shall each be entitled to pursue their own separate awards

with respect to such taking. Sale of all or part of the Property to a purchaser with the power of eminent domain in the face of the exercise of the power shall be treated as a taking by condemnation.

9. Taxes. Lessee shall pay any personal property taxes assessed on, or any portion of such taxes directly attributable to, the Communications Facility. Lessor shall pay all other taxes and assessments attributed to the Property, if any.

10. Insurance and Subrogation.

(a) Lessee shall provide Commercial General Liability Insurance from a company with a Best's rating of "A" or better, on an occurrence basis, in an aggregate amount of One Million and No/100 Dollars (\$1,000,000.00) including Lessor as additional insured. Lessee may satisfy this requirement by obtaining the appropriate endorsement to any master policy of liability insurance Lessee may maintain.

(b) Lessor and Lessee hereby mutually release each other (and their successors or assigns) from liability and waive all right of recovery against the other for any loss or damage covered by their respective first-party property insurance policies for all perils insured thereunder. In the event of such insured loss, neither party's insurance company shall have a subrogated claim against the other.

11. Hold Harmless. Lessee hereby agrees to indemnify, defend and hold Lessor and its agents, contractors, employees, officers, and directors, harmless from and against any and all claims, damages, losses and expenses, including but not limited to attorneys' fees and disbursements, arising out of or resulting from any claim, action or other proceeding (including without limitation any claim, action or proceeding by any of Lessee's employees, agents or contractors) that is based upon (a) Lessee's breach of this Lease, (b) the conduct or actions of Lessee, its employees, agents or contractors within or outside the scope of this Lease, or (c) any negligent act or omission or willful misconduct of Lessee, its employees, agents or contractors. Likewise, Lessor hereby agrees that, to the extent legally permissible under the Oregon Tort Claims Act, ORS Chapter 30, and Article XI, Section 9 of the Oregon Constitution, Lessor shall indemnify, defend and hold Lessee and its agents, contractors, employees, officers, and directors, harmless from and against any and all claims, damages, losses and expenses, including but not limited to attorneys' fees and disbursements, arising out of or resulting from any claim, action or other proceeding (including without limitation any proceeding by any of Lessor's employees, agents or contractors) that is based upon (a) Lessor's breach of this Lease, (b) the conduct or actions of Lessor within or outside the scope of this Lease, or (c) any negligent act or omission or willful misconduct of Lessor.

12. Notices. All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed given if personally delivered or mailed, certified mail, return receipt requested, or sent by for next-business-day delivery by a nationally recognized overnight carrier to the following addresses:

<u>If to Lessee, to:</u>	<u>With a copy to:</u>	<u>If to Lessor, to:</u>
LCW Wireless Operations, LLC 1750 NW Naito Parkway, Suite 250 Portland, Oregon 97209 Attention: Neil Grubb, CEO	LCW Wireless Operations, LLC c/o Cricket Communications, Inc. 10307 Pacific Center Court San Diego, CA 92121 Attn: Legal Department	Metro Office of Metro Attorney 600 NE Grand Avenue Portland, Oregon 97232-2736

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13. Quiet Enjoyment, Title and Authority. Lessor covenants and warrants to Lessee that (i) Lessor has full right, power and authority to execute this Lease; (ii) it has good and unencumbered title to the Property free and clear of any liens or mortgages, except those of record; and (iii) execution and performance of this Lease will not violate any laws, ordinances, covenants, or the provisions of any mortgage, lease, or other agreement binding on Lessor. Lessor covenants that at all times during the term of this Lease, Lessee's quiet enjoyment of the Premises or any part thereof shall not be disturbed as long as Lessee is not in default beyond any applicable grace or cure period.

14. Environmental Laws – Hazardous Substances Use and Indemnity. Lessor represents that it has no knowledge of any hazardous wastes or materials, toxic wastes or materials, or other similar substances, petroleum products or derivatives identified as hazardous or toxic in any applicable federal, state or local law or regulation, that are on the Premises (collectively "Hazardous Substances"). Lessor, its agents and contractors, shall not handle, use, store, release or dispose of any Hazardous Substances on, under, or about the Premises. Lessee agrees that Lessee, its agents and contractors, shall not handle, use, store, release or dispose of any Hazardous Substances on, under, or about the Premises, without Lessor's prior written consent, provided that Lessee may handle, store, and use of products containing small quantities of Hazardous Substances, which products are of a type customarily found in the telecommunications industry (such as aerosol cans containing lubricants and degreasers, paints, paint remover, and the like), provided further that Lessee shall handle, store and use any such Hazardous Substances in a safe and lawful manner and shall not allow such Hazardous Substances to contaminate the Premises, the Property or the environment. Lessor shall be responsible for, and shall promptly conduct any investigation and remediation as required by any applicable environmental law, with respect to any release of a Hazardous Substance not caused by Lessee or resulting from Lessee's, its agents' or contractors' activities on the Premises and Property, that have occurred or which may occur on the Premises or Property. Lessee must reimburse, defend, indemnify and hold Lessor harmless from and against any and all claims, losses, liabilities, damages, costs and expenses, including without limitation, loss of rental income, loss due to business interruption, and attorney's fees and costs, arising out of or in any way connected with Lessee's, its agents' or contractors' activities on the Premises and Property and with the use, storage, release or disposal of Hazardous Substances by Lessee, its agents or contractors on, under or about the Premises or the Property, including, without limitation, the costs of any required or necessary investigation, repair, cleanup or detoxication and the preparation of any closure or other required plans in connection herewith, whether voluntary or compelled by governmental authority. The indemnity obligations of Lessee under this clause shall survive any termination of the Lease. No disturbance of Lessee's use of the Premises resulting from activities conducted pursuant to this Section shall constitute an actual or constructive eviction of Lessee from the Premises. In the event that such cleanup extends beyond the termination of the Lease, Lessee's obligation to pay Rent shall continue until such cleanup is completed and any certificate of clearance or similar document has been delivered to Lessor.

15. Assignment and Subleasing.

(a) Lessee may assign this Lease upon 30 days written notice to Lessor accompanied by evidence of the creditworthiness of the Assignee reasonably satisfactory to Lessor, and payment of a fee equal to one (1) month's Rent (the "Assignment Fee"). Upon such assignment, Lessee shall not be relieved of all liabilities and obligations hereunder, but shall guarantee the performance of any assignee.

(b) Lessee may sublease the Premises, upon 30 days written notice to Lessor, but shall not be relieved of all liabilities and obligations hereunder;

(c) In the event that Lessee sublets, assigns or transfers this Lease, Lessee shall pay to Lessor as additional rent an amount equal to one hundred percent (100%) of any Increased Rent (as defined below), when and as such Increased Rent is received by Lessee As used in this Section, "Increased Rent" shall mean the excess of (i) all rent and other consideration which Lessee is entitled to receive by reason of any sale, sublease, assignment or other transfer of this Lease, over (ii) the rent otherwise payable by Lessee under this Lease at such time. For purposes of the foregoing, any consideration received by Lessee in form other than cash shall be valued at its fair market value as determined by Lessor in good faith.

(d) Lessee may assign or sublease this Lease at any time to Lessee's parents, partners or affiliates, or to any entity which acquires all or substantially all of Lessee's assets in the market defined by the Federal Communications Commission in which the Property is located by reason of a merger, acquisition or other business reorganization upon written notice to Lessor, and without payment of said Assignment Fee.

(e) Notwithstanding the above Section 15(a), Lessee may, upon notice to Lessor, mortgage or grant a security interest in this Lease and the Communications Facility, and may assign this Lease and the Communications Facility to any mortgagees or holders of security interests, including their successors or assigns without Lessor's consent and paying the Assignment Fee, provided such Mortgagees interests in this Lease are subject to all of the terms and provisions of this Lease. In such event, Lessor shall execute such consent to leasehold financing as may reasonably be required by Mortgagees. Lessor agrees to notify Lessee and Lessee's Mortgagees simultaneously of any default by Lessee and to give Mortgagees the same right to cure any default as Lessee or to remove any property of Lessee or Mortgagees located on the Premises, except that the cure period for any Mortgagees shall not be less than thirty (30) days after its receipt of the default notice, as provided in Section 8 of this Lease. All such notices to Mortgagees shall be sent to Mortgagees at the address specified by Lessee. Failure by Lessor to give Mortgagees such notice shall not diminish Lessor's rights against Lessee, but shall preserve all rights of Mortgagees to cure any default and to remove any property of Lessee or Mortgagees located on the Premises as provided in Section 17 of this Lease.

16. Successors and Assigns. This Lease and the Easement granted herein shall run with the land, and shall be binding upon and inure to the benefit of the parties, their respective successors, personal representatives and assigns.

17. Waiver of Lessor's Lien. Lessor hereby waives any and all lien rights it may have, statutory or otherwise concerning the Communications Facility or any portion thereof which shall remain Lessee's personal property for the purposes of this Lease, whether or not the same is deemed real or personal property under applicable laws, and Lessor gives Lessee and Mortgagees the right to remove all or any portion of the same from time to time, whether before or after a default under this Lease, in Lessee's and/or Mortgagee's sole discretion and without Lessor's consent, so long as the Property and Premises are promptly repaired and revegetated to Lessor's reasonable satisfaction, returning the Premises and Property to its pre-lease condition.

18. Miscellaneous.

(a) Each party agrees to furnish to the other, within twenty (20) days after request, such truthful estoppel information about the Lease as the other may reasonably request.

(b) This Lease constitutes the entire agreement and understanding of the parties, and supersedes all offers, negotiations and other agreements. There are no representations or understandings

of any kind not set forth herein. Any amendments to this Lease must be in writing and executed by both parties.

(c) Each party agrees to cooperate with the other in executing any documents (including a Memorandum of Lease in substantially the form attached as Exhibit D) necessary to protect its rights or use of the Premises. The Memorandum of Lease may be recorded in place of this Lease by either party. In the event the Property is encumbered by a mortgage or deed of trust, Lessor agrees, upon request of Lessee, to obtain and furnish to Lessee a non-disturbance and attornment agreement for each such mortgage or deed of trust, in a form and content reasonably acceptable to Lessor and Lessee. Lessee may obtain title insurance on its interest in the Premises. Lessor agrees to execute such documents as the Title Company may reasonably require in connection therewith.

(d) This Lease shall be construed in accordance with the laws of the state of Oregon.

(e) If any term of this Lease is found to be void or invalid, such finding shall not affect the remaining terms of this Lease, which shall continue in full force and effect. The parties agree that if any provisions are deemed not enforceable, they shall be deemed modified to the extent necessary to make them enforceable. Any questions of particular interpretation shall not be interpreted against the draftsman, but rather in accordance with the fair meaning thereof.

(f) The persons who have executed this Lease represent and warrant that they are duly authorized to execute this Lease in their individual or representative capacity as indicated.

(g) This Lease may be executed in any number of counterpart copies, each of which shall be deemed an original, but all of which together shall constitute a single instrument.

(h) All Exhibits referred herein and any Addenda are incorporated herein for all purposes. The parties understand and acknowledge that Exhibit A (the legal description of the Property), Exhibit B (the Premises location within the Property), and Exhibit C (Description of Communications Facility), may be attached to this Lease and the Memorandum of Lease, in preliminary form. Accordingly, the parties agree that upon the preparation of final, more complete exhibits satisfactory to Lessor, in its sole discretion, Exhibits A, B or C, as the case may be, which may have been attached hereto in preliminary form, may be replaced by Lessee with such final, more complete exhibit(s). The terms of all Exhibits are incorporated herein for all purposes.

(i) Lessor and Lessee each represents and warrants to the other that it has not used or engaged a real estate broker in connection with this Lease or the transaction contemplated by this Lease. In the event any person or entity asserts a claim for a broker's commission or finder's fee against one of the parties to this Lease, then Lessee shall indemnify, hold harmless, and defend Lessor from and against any such claim if based on any action, agreement, or representations made by Lessee; and Lessor shall indemnify, hold harmless, and defend Lessee from and against any such claim if based on any action, agreement, or representations made by Lessor.

LESSOR: Metro, a Municipal Corporation established pursuant to Oregon law, the Metro Charter
Tax Identification Number: _____

By: _____

Printed Name: Michael J. Jordan

Its: Chief Operating Officer

Date: _____

LESSEE:

LCW Wireless Operations, LLC, a Delaware Limited Liability Company

By: _____

Printed Name: Neil Grubb

Its: President and CEO

Date: _____

EXHIBIT A
LEGAL DESCRIPTION OF LESSOR'S PROPERTY

To the Site Lease dated _____, 200__, between Metro, a Municipal Corporation established pursuant to Oregon law, the Metro Charter (Metro) as Lessor, and LCW Wireless Operations, LLC, a Delaware Limited Liability Company, as Lessee.

City: Portland

State: Oregon

County: Multnomah

The Property of which the Premises are a part is legally described as follows:

EXHIBIT B
DESCRIPTION OF PREMISES

To the Site Lease dated _____, 200__, between Metro, a Municipal Corporation established pursuant to Oregon law, the Metro Charter (Metro) as Lessor, and LCW Wireless Operations, LLC, a Delaware Limited Liability Company, as Lessee.

The location of the Premises within the Property together with access, ingress, egress, and utilities are more particularly depicted as follows:

Lessor _____
Lessee _____

EXHIBIT C

DESCRIPTION OF COMMUNICATIONS FACILITIES

To the Site Lease dated _____, 200__, between Metro, a Municipal Corporation established pursuant to Oregon law, the Metro Charter (Metro) as Lessor, and LCW Wireless Operations, LLC, a Delaware Limited Liability Company, as Lessee.

Site Plan and Equipment

Approximately one hundred eighty-eight (188) square feet of ground space of that Property described in Exhibit A including, but not limited to the following:

- Six PCS antennas
- Five BTS Radio Equipment cabinets
- One power panel
- One telco box

EXHIBIT D

MEMORANDUM OF LEASE

To the Site Lease dated _____, 200__, between Metro, a Municipal Corporation established pursuant to Oregon law, the Metro Charter (Metro) as Lessor, and LCW Wireless Operations, LLC, a Delaware Limited Liability Company, as Lessee.

NOTES: Note that the first Memorandum is the exhibit. The second one attached below should be signed as a separate recordable document.

AFTER RECORDING, PLEASE RETURN TO:
JODY FETCHER
CRICKET COMMUNICATIONS
WESTERN REGION PROPERTY MANAGER
9730 SW HILLMAN COURT, SUITE 600
WILSONVILLE, OR 97070

Memorandum of Lease

Between Metro, a Municipal Corporation established pursuant to Oregon law, the Metro Charter (Metro)
("Lessor")
and LCW Wireless Operations, LLC, a Delaware Limited Liability Company ("Lessee")

A Site Lease ("Lease") by and between Metro, a Municipal Corporation established pursuant to Oregon law, the Metro Charter (Metro) ("Lessor") and LCW Wireless Operations, LLC, a Delaware Limited Liability Company ("Lessee") was made regarding a portion of the following property:

See Attached Exhibit "A" incorporated herein for all purposes.

The Lease is for a term of ten (10) years and will commence on the date as set forth in the Lease and shall terminate at midnight on the last day of the month in which the tenth (10th) anniversary of the commencement date shall have occurred. Lessee shall have the right to extend this Lease for Four (4) additional Five (5) year terms.

IN WITNESS WHEREOF, the parties hereto have executed this memorandum effective as of the date of the last party to sign.

LESSOR: Metro, a Municipal Corporation established pursuant to Oregon law, the Metro Charter
(Metro)

By: _____

Printed Name: Michael J. Jordan

Its: Chief Operating Officer

LESSEE: LCW Wireless Operations, LLC, a Delaware Limited Liability Company

By: _____

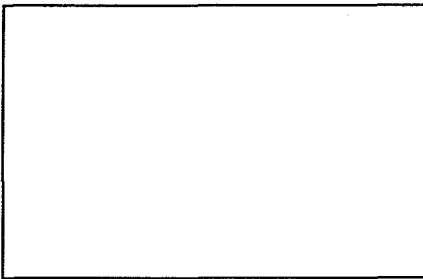
Printed Name: Neil Grubb

Its: President and CEO

Date: _____

STATE OF _____)
) ss.
COUNTY OF _____)

I certify that I know or have satisfactory evidence that Michael J. Jordan is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Chief Operating Officer of Metro, an Oregon municipal corporation, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

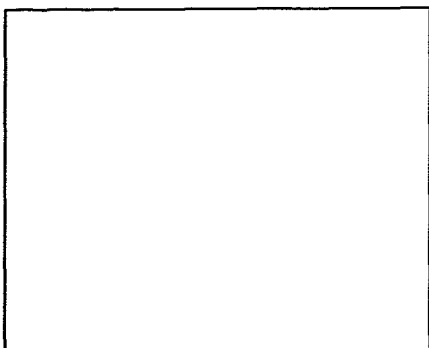


Notary Public
Print Name _____
My commission expires _____

STATE OF OREGON)
) ss.
COUNTY OF MULTNOMAH)

I certify that I know or have satisfactory evidence that Neil Grubb is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the President and CEO of LCW Wireless Operations, LLC, a Delaware Limited Liability Company, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____.



Notary Public
Print Name _____
My commission expires _____

**EXHIBIT A
Legal Description**

The Property is legally described as follows:

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 06-3732 FOR THE PURPOSE OF AUTHORIZING THE CHIEF OPERATING OFFICER TO ENTER INTO A TELECOMMUNICATIONS LEASE WITH LCW WIRELESS, LLC FOR NON-PARK USE WITHIN THE GLENDOVEER GOLF COURSE

Date: October 26, 2006

Prepared by: William Eadie

BACKGROUND

The Metro Regional Parks and Greenspaces Department occasionally receives requests for easements, leases and right-of-ways across property that is owned by Metro. These requests are reviewed and analyzed per guidance and policy established via Resolution No. 97-2539B, "For the Purpose of Approving General Policies Related to the Review of Easements, Right of Ways, and Leases for Non-Park Uses Through Properties Managed by the Regional Parks and Greenspaces Department," adopted by the Metro Council on November 6, 1997 (the "Easement Policy").

Metro has received and reviewed a non-exclusive lease application from LCW Wireless, LLC, which meets all criteria set forth in the Easements, Right of Ways, and Leases for Non-Park Uses Policy as set forth in Attachment 1 to this Staff Report. LCW Wireless, LLC proposes to lease approximately 188 square feet of ground space and space on the existing water tank at Glendoveer Golf Course for the placement and construction of a wireless communication facility. The applicant will construct an equipment shelter designed to match the existing shelters on site to house their electronics equipment, and they will run underground cables to the existing water tank and mount six (6) panel antennas to the existing water tank.

Approval of the lease shall be conditional upon certain conditions being met:

- The new equipment shelter will be located within a wooded area adjacent to two (2) other existing equipment shelters in order to minimize the visual impact of the new shelter. No trees will be removed, and the applicant will agree to landscape and restore the vegetation around the shelter to Metro Parks' satisfaction;
- The necessary underground utility cables will be installed by boring 36' under the ground to avoid damaging the root systems of the surrounding conifers. In the event that any of the surrounding trees die within five (5) years after execution of the lease, the applicant will be responsible for compensating Metro for the full replacement value of the trees;
- The new antennas on the existing water tank will be located directly below the existing Verizon antennas and will be attached to the water tank with adhesive;
- The lease rate that the applicant will pay will be established by a fair market rent study of leases at comparable facilities

ANALYSIS/INFORMATION

1. **Known Opposition:** No known opposition.

2. **Legal Antecedents:** Resolution No. 97-2539B, “For the Purpose of Approving General Policies Related to the Review of Easements, Right of Ways, and Leases for Non-Park Uses Through Properties Managed by Regional Parks and Greenspaces Department,” adopted by the Metro Council on November 6, 1997.
3. **Anticipated Effects:** Will allow for the applicant to use the premises for the transmission and reception of radio communication signals.
4. **Budget Impacts:** Legacy Wireless, LLC will reimburse Metro for staff costs associated with processing this request and the market rent as established by the fair market rent study.

RECOMMENDED ACTION

The Chief Operating Officer recommends that the Metro Council approve the lease as requested and the adoption of Resolution No. 06-3732.

ATTACHMENT 1
Resolution No. 06-3732

Metro Easement Policy Criteria and Staff Findings

- 1) Provide for formal review of all proposed easements, right of ways, and leases for non-park, uses by the Regional Parks and Greenspaces Advisory Committee, the Regional Facilities Committee and the full Council. Notwithstanding satisfaction of the criteria set forth herein, the final determination of whether to approve a proposed easement, right of way, or lease is still subject to the review and approval by the full Metro Council.**

Staff Finding: Criterion has been satisfied through a review and approval process that includes formal application and approval from the Regional Parks staff. The full Council will hear the request.

- 2) Prohibit the development of utilities, transportation projects and other non-park uses within corridors or on sites that are located inside of Metro owned or managed regional parks, natural areas, and recreational facilities except as provided herein.**

Staff Finding: The applicant proposes to lease approximately 188 square feet of ground space and space on the existing water tank at Glendoveer Golf Course for the placement and construction of a wireless communication facility. The applicant will construct a shelter designed to match the existing shelters on site to house their electronics equipment, and they will run underground cables to the water tank and mount six (6) panel antennas to the existing water tank.

- 3) Reject proposals for utility easements, transportation right of ways and leases for non-park uses which would result in significant, unavoidable impacts to natural resources, cultural resources, recreational facilities, recreational opportunities or their operation and management.**

Staff Finding: The lease will have a minor impact on park or natural resource values. If approved, the new equipment shelter will be located within a wooded area adjacent to two (2) other existing equipment shelters, and the design of the shelter will match the design of the other existing shelters. Several smaller shrubs will be required to be removed, but no trees will be removed. The applicant will agree to landscape and restore the vegetation around the shelter to Metro's satisfaction. The necessary underground utility cables will be installed by boring 36' under the ground to avoid damaging the root systems of the surrounding conifers. No surface trenching will be allowed. In the event that any of the surrounding trees die within five (5) years after execution of the lease, the applicant will be responsible for compensating Metro for the full replacement value of the trees. The new antennas on the existing water tank will be located directly below the existing Verizon antennas and will be attached to the tank with adhesive. The applicant will pay for and complete the painting of the sides of the water tank and will be allowed to recover the cost of painting through reduced rent. The applicant will pay for and install a metal barrier on the water tank to prevent vandals from climbing the tower.

- 4) Accommodate utility easements, transportation right of ways or other non-park uses when the Regional Parks and Greenspaces Department (the Department) determines that a proposed easement, right of way or non-park use can be accommodated without significant impact to**

natural resources, cultural resources, recreational facilities, recreational opportunities or their operation and management; and that the impacts can be minimized and mitigated.

Staff Finding: Meets criteria – see No. 3 above

- 5) Require full mitigation and related maintenance, as determined by the Department, of all unavoidable impacts to natural resources, recreational facilities, recreational opportunities or their operation and management associated with the granting of easements, right of ways, or leases to use Metro owned or managed regional parks, natural areas or recreational facilities for non-park uses.**

Staff Finding: Approval of the lease shall be conditional upon certain conditions being met as detailed in No. 3 above.

- 6) Limit rights conveyed by easements, right of ways, and leases for non-park uses to the minimum necessary to reasonably accomplish the purpose of any proposal.**

Staff Finding: The dimensions and terms of the lease are limited to accommodate the installation of the equipment shelter, underground cables, and antennas. These rights are not transferable or assignable without certain conditions being met or with Metro Council approval.

- 7) Limit the term of easements, right of ways and leases to the minimum necessary to accomplish the objectives of any proposal.**

Staff Finding: The leased space represents the minimum necessary to accomplish the project while minimizing impact on Metro property.

- 8) Require "reversion", "non-transferable" and "removal and restoration" clauses in all easements, right of ways and leases.**

Staff Finding: The lease will include these terms.

- 9) Fully recover all direct costs (including staff time) associated with processing, reviewing, analyzing, negotiating, approving, conveying or assuring compliance with the terms of any easement, right of way, or lease for a non-park use.**

Staff Finding: Metro staff assigned to this application has documented time and costs spent on this application and informed the applicant of the policy requiring reimbursement. Execution of the lease is subject to satisfaction of all expenses.

- 10) Receive no less than fair market value compensation for all easements, right of ways, or leases for non-park uses. Compensation may include, at the discretion of the Department, periodic fees or considerations other than monetary.**

Staff Finding: The market value of the lease has been established by an independent market rent study. The initial term of the proposed lease will be ten (10) years, and the initial lease rate will be established by a fair market rent study of leases at comparable facilities. The lessee will have

the right to extend the lease for four (4) additional five (5) year terms on the same terms and conditions except that the rent shall be increased by fifteen percent (15%) of the rent paid over the preceding term.

- 11) Require full indemnification from the easement, right of way or lease holder for all costs, damages, expenses, fines or losses related to the use of the easement, right of way or lease. Metro may also require appropriate insurance coverage and/or environmental assurances if deemed necessary by the Office of General Counsel.**

Staff Finding: The lease will include indemnification and insurance provisions.

- 12) Limit the exceptions to this policy to: grave sales, utilities or transportation projects which are included in approved master/management plans for Metro regional parks, natural areas and recreational facilities; projects designed specifically for the benefit of a Metro regional park, natural area, or recreational facility, or interim use leases as noted in the Open Spaces Implementation Work Plan.**

Staff Finding: No exception requested.

- 13) Provide for the timely review and analysis of proposals for non-park uses by adhering to the following process:**

- A. The applicant shall submit a detailed proposal to the Department which includes all relevant information including but not limited to: purpose, size, components, location, existing conditions, proposed project schedule and phasing, and an analysis of other alternatives which avoid the Metro owned or managed regional park, natural area or recreational facility which are considered infeasible by the applicant. Cost alone shall not constitute infeasibility.**

Staff Finding: The applicant has submitted a detailed proposal including all required information.

- B. Upon receipt of the detailed proposal, the Department shall determine if additional information or a Master Plan is required prior to further review and analysis of the proposal. For those facilities which have master plans, require that all proposed uses are consistent with the master plan. Where no master plan exists all proposed uses shall be consistent with the Greenspaces Master Plan. Deficiencies shall be conveyed to the applicant for correction.**

Staff Finding: No additional information is needed.

- C. Upon determination that the necessary information is complete, the Department shall review and analyze all available and relevant material and determine if alternative alignments or sites located outside of the Metro owned or managed regional park, natural area, or recreational facility are feasible.**

Staff Finding: No reasonable alternative for alignment outside the Metro property is feasible.

- D. If outside alternatives are not feasible, the Department shall determine if the proposal can be accommodated without significant impact to park resources, facilities or their operation and management. Proposals which cannot be accommodated without significant impacts shall be rejected. If the Department determines that a proposal could be accommodated without significant impacts, staff shall initiate negotiations with the applicant to resolve all issues related to exact location, legal requirements, terms of the agreement, mitigation requirements, fair market value, site restoration, cultural resources, and any other issue relevant to a specific proposal or park, natural area or recreational facility. The Department shall endeavor to complete negotiations in a timely and business-like fashion.**

Staff Finding: No significant negative impact on Metro property will occur.

- E. Upon completion of negotiations, the proposed agreement, in the appropriate format, shall be forwarded for review and approval as noted in item "1" above. In no event shall construction of a project commence prior to formal approval of a proposal.**

Staff Finding: Construction is contingent upon approval.

- F. Upon completion of all Metro tasks and responsibilities or at intervals determined by the Department, and regardless of Metro Council action related to a proposed easement, right of way or lease for a non-park use, the applicant shall be invoiced for all expenses or the outstanding balance on expenses incurred by Metro.**

Staff Finding: Metro costs have been documented and applicant will be billed for reimbursement.

- G. Permission from Metro for an easement or right of way shall not preclude review under applicable federal, state or local jurisdiction requirement.**

Staff Finding: Criterion satisfied.