

## Attachment: System Specifications Checklist of Compliance

The table below summarizes the Work Requirements outlined and described in Section 2.2, the Applications and Services outlined in Section 2.3 and the Public Benefits outlined in Section 2.4 of the RFP and whether they are considered by the Committee Mandatory or Desired. Please Indicate your degree of compliance to each of the requirements listed below using the following conventions:

C=Compliant;  
 PC=Partially Compliant;  
 NC=Not Compliant

All items classified as "PC" or "NC" must have an explanation in the corresponding section of your RFP response and brief explanation in the last column of the table below. The Committee will assume all items not classified are Compliant.

Section	Requirements	Mandatory (M) or Desired (D)	Degree of Compliance (C, PC, NC)	If PC or NC, please provide Brief Explanation
<b>2.2</b>	<b>Work Requirements</b>			
<b>2.2.1</b>	<b>Network Specifications</b>			
<b>2.2.1.1</b>	<b>Open Service Provider Network</b>			
	Fair and Equal Access	M		
	Open to Multiple SPs	M		
	No Blocking of content or Ports	M		
	Wholesale Access for SPs and CPs	M		
	Innovative Ideas	D		
	Customer Support offered to SPs' customers	D		
<b>2.2.1.2</b>	<b>Wi-Fi Tier</b>			
	Standards-Based, Wi-Fi Certified	M		
	Support Multiple Wi-Fi-Certified Devices	M		
	Backhaul using WiMAX	D		
	Bandwidth to be at least 1Mbps in covered areas	M		
	Highly Available: at least 99% uptime	M		
	Coverage: Minimum as shown in Map in Appendix B	M		
	Coverage to expand in a phased approach	M		
<b>2.2.1.3</b>	<b>WiMax Network</b>			
	Standards-Based, 802.16	D		
	Fixed Wireless Offerings	M		
	Bandwidth: Multiple Service Levels	M		
	Highly Available: at least 99.9% uptime for anchor tenants	M		
	Aggregation to PoP w/o single point of failures	D		
	Equipment Upgradeable to certified WiMAX ASAP	D		
<b>2.2.1.4</b>	<b>Equipment</b>			
	Commercial Grade	M		
	Non-Intrusive	D		
	Aesthetically acceptable	D		
	Support for Alternatives for Mounting	D		
<b>2.2.1.5</b>	<b>Coverage</b>			
	High Accessible within the defined Coverage Area	M		
	Aggressive geographic expansion of Coverage Areas for the Wi-Fi and WiMAX Tiers	D		
	Gradual Growth via Phased build-out	D		
	Support for Wi-Fi Devices in all outdoor areas	M		
	Support for Vehicles with Wi-Fi Antennas	D		
	Fixed Wireless Offering throughout the city via WiMAX to support stakeholders	M		
<b>2.2.1.5.1</b>	<b>Indoor Coverage</b>			
	Best Effort for 1st and 2nd floors	M		
	Enhanced Service via Wi-Fi signal booster	D		
	Premium Service via booster and/or WiMAX	D		
<b>2.2.1.5.2</b>	<b>Outdoor Coverage</b>			
	Universal Coverage with Wi-Fi (minimum 90%)	D		
<b>2.2.1.6</b>	<b>Security</b>			
	Encryption: allow unencrypted transmissions to the Wi-Fi public, but encourage users to use SSL, VPN, and personal firewalls for their protection	M		
	Encryption: support at least AES 128-bit encryption for backhaul/WiMAX layer	M		
	Support multiple VLANs and SSIDs	M		
	Support for security standards under 802.11i	M		
	Support against Denial of Service (DOS) attacks, viruses, and other threats	D		
	Support multiple Non-Broadcast (Hidden) SSID(s)	M		
	Client-to-client isolation (a.k.a. pseudo VLANs)	D		
<b>2.2.1.7</b>	<b>Authentication, Authorization and Accounting (AAA)</b>			
	Authentication of mobile users at ingress points (Wi-Fi) using a RADIUS standard system	M		
	Authentication/Authorization of transient users	M		
	Authorization to use or block resources depending on credentials and/or location	M		
	Accounting information for billing and utilization purposes	M		

	Authentication of wireless broadband (WiMAX) CPEs	M		
	Management access to devices	M		
<a href="#">2.2.1.8</a>	<b>Quality of Service in WiMAX Tier</b>			
	Rules for management of different traffic types	M		
	Packets Prioritization	M		
	Dynamic Bandwidth Allocation	M		
<a href="#">2.2.1.8</a>	<b>Quality of Service in Wi-Fi Tier</b>			
	Rules for management of different traffic types	D		
	Packets Prioritization	D		
	Dynamic Bandwidth Allocation	D		
<a href="#">2.2.1.9</a>	<b>Bandwidth and Service Level Agreements (SLA)</b>			
	Support multiple SLAs depending on customer type	M		
	Fixed Wireless for Business/Government with multiple service levels	M		
	Fixed Wireless for Residential with multiple service levels	M		
	Mobile Users with at least 1Mbps connections	M		
	Free Access with restrictions	D		
<a href="#">2.2.1.10</a>	<b>Reliability / Redundancy</b>			
	Fault Tolerance: Mechanisms to mitigate and/or eliminate single points of failure for all key components of the System	M		
	Uptime: Guaranteed availability of at least 99.9% for the WiMAX Tier and at least 99% for the Wi-Fi Tier of the System.	M		
	Proper MTBF to meet availability requirements	D		
	Emergency Power backup for WiMAX Tier equipment for at least eight (8) hours.	M		
	PoP Backup, multiple peering points	D		
	Redundant Paths	M		
	Self Healing	D		
	RF Interference Detection and reconfiguration	D		
<a href="#">2.2.1.11</a>	<b>Scalability / Expandability / Capacity</b>			
	Scalability for geographical and user base growth	M		
	Multiple Peering Points	M		
	Ease of Expandability (Addition of Capacity)	M		
<a href="#">2.2.1.12</a>	<b>Provisioning and Customer Service</b>			
	Bi-directional Roaming	D		
	Self-Service for Wi-Fi users	M		
	Customer Service: Customer care for critical issues shall be operated continuously during the year (24/7/365), and for at least eight (8) hours per day for billing and lower priority issues. It should include: Web-based self-service and Call Center support.	M		
	Equipment Installation in < 1 week	D		
<a href="#">2.2.1.13</a>	<b>Roaming</b>			
	Seamless Roaming	D		
	Persistent Session	D		
	Continuous Connectivity	D		
	Portability/Mobility (30 mph at least)	D		
<a href="#">2.2.1.14</a>	<b>Segmentation of Network Names (SSID)</b>			
	Support for multiple SSIDs including proposed scheme	M		
	Restriction of Access to SSID-1 in Emergency Situations	D		
<a href="#">2.2.1.15</a>	<b>Back Office Systems and Operations and Support Systems (OSS)</b>			
	Preliminary design and description of back office systems and operations and support systems (OSS)	M		
<a href="#">2.2.1.16</a>	<b>Other Desirable Characteristics</b>			
	Addressing: Support for both 32 bit (IPv4) and 128 bit (IPv6) IP Addressing	D		
	Support of required standards to support the International Roaming Access Protocols (IRAP)	D		
<a href="#">2.2.2</a>	<b>Network Monitoring and Management</b>			
	Continuous, Centralized Management and Monitoring	M		
	Proper Tools to monitor health of system in real time	M		
	Logs and Reports	M		
	Alarm and Error Management	M		
	RF Management	D		
	RF Interference Detection	D		
	Asset Management	M		
	Performance/SLA Management	M		
	Prior Experience with NOCs	D		
	Holistic Security Management	M		
<a href="#">2.2.3</a>	<b>Network Operations Center (NOC) and Point of Presence (PoP)</b>			
	Based and Staffed in Oregon	D		
	Back-up Source of Energy for => 8 hrs	M		
	Proper Bandwidth and Redundancy	M		
	Multiple Peering Points for PoP	M		
<a href="#">2.2.4</a>	<b>Network Architecture and Design</b>			
	Concept Design	M		
	Plan to move from Concept Design to Detail design	M		
<a href="#">2.2.5</a>	<b>Proof of Concept / Pilot</b>			
	Minimum Area: 2 square miles	M		

	Adherence to minimum requirements	M		
<a href="#">2.2.6</a>	<b>Installation and Rollout</b>			
	Project Execution Plan	M		
	Management Plan	M		
	Expectations of Stakeholder Resources	M		
	Verification Process	M		
	Coordination plan for Installation of Equipment on Stakeholder Assets	M		
	Plan of Adherence to Regulations	M		
<a href="#">2.2.6.1</a>	<b>Timelines</b>			
	Buildout plans and timelines for Wi-Fi Tier	M		
	Buildout plans and timelines for WiMAX Tier	M		
<a href="#">2.2.6.1.1</a>	<b>Phase 1</b>			
	Wi-Fi Tier extended to minimum required Service Area within timeframe	M		
	WiMAX Tier fully operational within timeframe	M		
<a href="#">2.2.6.1.2</a>	<b>Phase 2</b>			
	Strategy for expanding Wi-Fi Tier including timeframes	D		
	Service to Priority Coverage Areas	D		
<a href="#">2.2.6.1.3</a>	<b>Full Build-Out</b>			
	In-fill strategy and timeline for extending Wi-Fi Tier coverage throughout the city	D		
<a href="#">2.2.7</a>	<b>Operations, Maintenance and Support</b>			
	Plan detailing the following key aspects: Customer Support Structure, Inventory, Warranty, System Access and Provisioning Requests, System Failures	M		
<a href="#">2.3</a>	<b>Applications and Services</b>			
	Innovative Ideas to offer and/or support multiple Applications and Services	D		
	SLAs for wholesale users, Anchor Tenants, businesses and private users	D		
<a href="#">2.3.1</a>	<b>Splash Page</b>			
	Description of Splash Page including legal disclaimers, list of SPs, Walled Garden sites	M		
<a href="#">2.3.2</a>	<b>Voice over IP (VoIP)</b>			
	Support for VoIP across the System	D		
<a href="#">2.3.3</a>	<b>Support for Anchor Tenant Applications</b>			
<a href="#">2.3.3.1</a>	City of Portland	M		
<a href="#">2.3.3.2</a>	Portland Public Schools	M		
<a href="#">2.3.3.3</a>	TriMet	M		
<a href="#">2.4</a>	<b>Public Benefits</b>			
<a href="#">2.4.1</a>	Walled Garden	M		
<a href="#">2.4.2</a>	Drinking Fountain	D		
<a href="#">2.4.3</a>	Economic and Community Development	D		

## ESRI Business Information Solutions: 2004 Updates to Census

Description	2000		2004		2009	
	#	%	#	%	#	%
<b>Total Population</b>	<b>528,750</b>		<b>537,164</b>		<b>552,513</b>	
<b>Household Population</b>	<b>513,498</b>		<b>521,891</b>		<b>537,225</b>	
<b>Family Population</b>	<b>370,799</b>		<b>358,977</b>		<b>366,738</b>	
<b>Group Quarters Population</b>	<b>14,677</b>		<b>14,677</b>		<b>n/a</b>	
<b>Total Households</b>	<b>223,615</b>		<b>226,600</b>		<b>232,407</b>	
<b>Average Household Size</b>	<b>2.3</b>		<b>2.3</b>		<b>2.31</b>	
<b>Total Family Households</b>	<b>n/a</b>		<b>118,344</b>		<b>120,035</b>	
<b>Average Family Size</b>	<b>2.91</b>		<b>2.95</b>		<b>2.96</b>	
<b>Per Capita Income</b>	<b>\$22,748</b>		<b>\$26,370</b>		<b>\$31,604</b>	
<b>Aggregate Income for Population</b>	<b>\$12,015,888,871</b>		<b>\$14,165,134,473</b>		<b>\$17,461,448,794</b>	
<b>Total Housing Units</b>	<b>237,178</b>		<b>240,904</b>		<b>246,986</b>	
Owner Occupied Housing Units	124,678	53%	122,122	51%	125,762	51%
Renter Occupied Housing Units	98,937	42%	104,479	43%	106,644	43%
Vacant Housing Units	13,565	6%	14,297	6%	14,566	6%
<b>Total Population by 5-Year Age Base</b>	<b>528,750</b>		<b>537,164</b>		<b>552,513</b>	
Total Population 0-4	32,237	6%	32,252	6%	33,148	6%
Total Population 5-9	31,140	6%	30,072	6%	28,053	5%
Total Population 10-14	30,007	6%	30,564	6%	29,929	5%
Total Population 15-19	31,821	6%	32,286	6%	32,520	6%
Total Population 20-24	40,284	8%	42,440	8%	45,056	8%
Total Population 25-29	49,742	9%	45,760	9%	46,418	8%
Total Population 30-34	47,105	9%	46,648	9%	44,059	8%
Total Population 35-39	43,622	8%	42,870	8%	40,564	7%
Total Population 40-44	42,812	8%	41,650	8%	42,476	8%
Total Population 45-49	42,840	8%	41,181	8%	41,108	7%
Total Population 50-54	35,597	7%	39,637	7%	40,113	7%
Total Population 55-59	23,259	4%	30,072	6%	37,578	7%
Total Population 60-64	16,836	3%	20,393	4%	27,542	5%
Total Population 65-69	14,001	3%	14,912	3%	17,665	3%
Total Population 70-74	14,333	3%	12,974	2%	12,842	2%
Total Population 75-79	13,728	3%	12,459	2%	11,198	2%
Total Population 80-84	10,209	2%	10,651	2%	10,371	2%
Total Population 85+	9,177	2%	10,341	2%	11,873	2%
Total Population 18+	417,417	79%	426,274	79%	443,269	80%
Total Population 21+	n/a	n/a	403,907	75%	420,552	76%
Median Age	35.7		36.5		37.6	
<b>Male Population</b>	<b>261,344</b>		<b>265,861</b>		<b>273,853</b>	
Male Population 0-4	16,460	6%	16,455	6%	16,900	6%
Male Population 5-9	15,859	6%	15,353	6%	14,321	5%
Male Population 10-14	15,447	6%	15,550	6%	15,290	6%
Male Population 15-19	15,985	6%	16,354	6%	16,347	6%
Male Population 20-24	19,775	8%	20,884	8%	22,453	8%
Male Population 25-29	25,522	10%	23,324	9%	23,494	9%
Male Population 30-34	24,821	9%	24,270	9%	22,728	8%
Male Population 35-39	22,751	9%	22,530	8%	21,226	8%
Male Population 40-44	21,810	8%	21,563	8%	22,260	8%
Male Population 45-49	21,588	8%	20,920	8%	21,136	8%
Male Population 50-54	17,787	7%	19,780	7%	20,128	7%
Male Population 55-59	11,474	4%	14,763	6%	18,432	7%
Male Population 60-64	7,995	3%	9,808	4%	13,248	5%
Male Population 65-69	6,300	2%	6,802	3%	8,194	3%
Male Population 70-74	6,121	2%	5,607	2%	5,668	2%
Male Population 75-79	5,376	2%	4,927	2%	4,527	2%
Male Population 80-84	3,606	1%	3,846	1%	3,827	1%
Male Population 85+	2,666	1%	3,124	1%	3,675	1%
Male Population 18+	204,345	78%	209,236	79%	218,098	80%
Male Population 21+	n/a	n/a	198,152	75%	206,823	76%
Median Male Age	34.8		35.6		36.7	
<b>Female Population</b>	<b>267,406</b>		<b>271,303</b>		<b>278,660</b>	
Female Population 0-4	15,776	6%	15,797	6%	16,248	6%
Female Population 5-9	15,281	6%	14,718	5%	13,732	5%
Female Population 10-14	14,560	5%	15,014	6%	14,639	5%

Description	2000		2004		2009	
	#	%	#	%	#	%
Female Population 15-19	15,836	6%	15,933	6%	16,173	6%
Female Population 20-24	20,509	8%	21,555	8%	22,603	8%
Female Population 25-29	24,220	9%	22,436	8%	22,924	8%
Female Population 30-34	22,284	8%	22,377	8%	21,331	8%
Female Population 35-39	20,871	8%	20,340	7%	19,339	7%
Female Population 40-44	21,002	8%	20,087	7%	20,216	7%
Female Population 45-49	21,251	8%	20,261	7%	19,972	7%
Female Population 50-54	17,810	7%	19,857	7%	19,985	7%
Female Population 55-59	11,786	4%	15,309	6%	19,146	7%
Female Population 60-64	8,842	3%	10,585	4%	14,294	5%
Female Population 65-69	7,701	3%	8,110	3%	9,471	3%
Female Population 70-74	8,212	3%	7,368	3%	7,174	3%
Female Population 75-79	8,352	3%	7,532	3%	6,671	2%
Female Population 80-84	6,603	2%	6,806	3%	6,544	2%
Female Population 85+	6,511	2%	7,218	3%	8,198	3%
Female Population 18+	213,072	80%	217,038	80%	225,171	81%
Female Population 21+	n/a	n/a	205,755	76%	213,729	77%
Median Female Age	36.7		37.4		38.5	
<b>Employed Civilian Population 16+ by Industry Base</b>	<b>275,748</b>		<b>267,279</b>		<b>n/a</b>	
Emp Civ Pop 16+ by Industry: Agric/Forestry/Fishing/Hunting	1,021	0.4%	795	0.3%	n/a	n/a
Emp Civ Pop 16+ by Industry: Mining	92	0.03%	33	0.01%	n/a	n/a
Emp Civ Pop 16+ by Industry: Construction	14,950	5%	12,470	5%	n/a	n/a
Emp Civ Pop 16+ by Industry: Manufacturing	34,444	12%	29,265	11%	n/a	n/a
Emp Civ Pop 16+ by Industry: Wholesale Trade	12,781	5%	10,695	4%	n/a	n/a
Emp Civ Pop 16+ by Industry: Retail Trade	31,613	11%	30,215	11%	n/a	n/a
Emp Civ Pop 16+ by Industry: Transportation/Warehousing	13,109	5%	14,397	5%	n/a	n/a
Emp Civ Pop 16+ by Industry: Utilities	2,226	1%	1,720	1%	n/a	n/a
Emp Civ Pop 16+ by Industry: Information	8,751	3%	8,837	3%	n/a	n/a
Emp Civ Pop 16+ by Industry: Finance/Insurance	12,785	5%	12,125	5%	n/a	n/a
Emp Civ Pop 16+ by Industry: Real Estate/Rental/Leasing	6,250	2%	5,576	2%	n/a	n/a
Emp Civ Pop 16+ by Industry: Prof/Scientific/Tech Services	22,251	8%	20,477	8%	n/a	n/a
Emp Civ Pop 16+ by Industry: Mgmt of Companies/Enterprises	145	0.1%	53	0.02%	n/a	n/a
Emp Civ Pop 16+ by Industry: Admin/Support/Waste Mgmt Srvc	10,627	4%	10,528	4%	n/a	n/a
Emp Civ Pop 16+ by Industry: Educational Services	21,740	8%	22,405	8%	n/a	n/a
Emp Civ Pop 16+ by Industry: Health Care/Social Assistance	32,429	12%	36,855	14%	n/a	n/a
Emp Civ Pop 16+ by Industry: Arts/Entertainment/Recreation	5,738	2%	6,848	3%	n/a	n/a
Emp Civ Pop 16+ by Industry: Accommodation/Food Services	20,243	7%	21,322	8%	n/a	n/a
Emp Civ Pop 16+ by Industry: Other Services (excl Publ Adm)	15,115	5%	11,932	4%	n/a	n/a
Emp Civ Pop 16+ by Industry: Public Administration	9,438	3%	10,731	4%	n/a	n/a
<b>Employed Civilian Population 16+ by Occupation Base</b>	<b>275,748</b>		<b>267,279</b>		<b>n/a</b>	
Emp Civ Pop 16+ by Occ: Management incl Farmers/Farm Mgrs	24,693	9%	24,175	9%	n/a	n/a
Emp Civ Pop 16+ by Occ: Business/Financial	12,866	5%	12,619	5%	n/a	n/a
Emp Civ Pop 16+ by Occ: Computer and Mathematical	8,041	3%	9,301	3%	n/a	n/a
Emp Civ Pop 16+ by Occ: Architecture/Engineering	6,785	2%	6,158	2%	n/a	n/a
Emp Civ Pop 16+ by Occ: Life/Physical/Social Science	3,341	1%	2,624	1%	n/a	n/a
Emp Civ Pop 16+ by Occ: Community/Social Services	6,148	2%	5,611	2%	n/a	n/a
Emp Civ Pop 16+ by Occ: Legal	4,406	2%	4,174	2%	n/a	n/a
Emp Civ Pop 16+ by Occ: Education/Training/Library	14,224	5%	14,780	6%	n/a	n/a
Emp Civ Pop 16+ by Occ: Arts/Design/Entert/Sports/Media	10,227	4%	11,172	4%	n/a	n/a
Emp Civ Pop 16+ by Occ: Healthcare Practitioner/Technician	11,939	4%	12,310	5%	n/a	n/a
Emp Civ Pop 16+ by Occ: Healthcare Support	4,986	2%	5,938	2%	n/a	n/a
Emp Civ Pop 16+ by Occ: Protective Service	2,818	1%	3,123	1%	n/a	n/a
Emp Civ Pop 16+ by Occ: Food Preparation/Serving Related	16,295	6%	17,486	7%	n/a	n/a
Emp Civ Pop 16+ by Occ: Building/Grounds Cleaning/Maint	8,534	3%	6,938	3%	n/a	n/a
Emp Civ Pop 16+ by Occ: Personal Care/Service	8,842	3%	8,279	3%	n/a	n/a
Emp Civ Pop 16+ by Occ: Sales/Related	30,437	11%	28,762	11%	n/a	n/a
Emp Civ Pop 16+ by Occ: Office/Administrative Support	42,575	15%	40,099	15%	n/a	n/a
Emp Civ Pop 16+ by Occ: Farming/Fishing/Forestry	704	0.3%	510	0.2%	n/a	n/a
Emp Civ Pop 16+ by Occ: Construction/Extraction	11,301	4%	9,788	4%	n/a	n/a
Emp Civ Pop 16+ by Occ: Installation/Maintenance/Repair	8,028	3%	8,838	3%	n/a	n/a
Emp Civ Pop 16+ by Occ: Production	21,843	8%	17,875	7%	n/a	n/a
Emp Civ Pop 16+ by Occ: Transportation/Material Moving	16,717	6%	16,719	6%	n/a	n/a
<b>Population by Race Base</b>	<b>528,750</b>		<b>537,164</b>		<b>552,513</b>	
Population of 1 Race: White	411,921	78%	408,302	76%	406,984	74%
Population of 1 Race: Black	35,082	7%	36,587	7%	38,467	7%
Population of 1 Race: American Indian/Alaska Native	5,590	1%	5,557	1%	5,527	1%
Population of 1 Race: Asian	33,337	6%	38,704	7%	45,961	8%
Population of 1 Race: Pacific Islander	1,980	0.4%	2,132	0.4%	2,330	0.4%
Population of 1 Race: Other Race	18,883	4%	22,641	4%	28,203	5%
Population of Two or More Races	21,958	4%	23,241	4%	25,040	5%
<b>Total Hispanic Population</b>	<b>36,265</b>		<b>43,694</b>		<b>54,638</b>	
Hispanic Population of 1 Race: White	12,959	36%	15,608	36%	19,478	36%

Description	2000		2004		2009	
	#	%	#	%	#	%
Hispanic Population of 1 Race: Black	730	2%	1,000	2%	1,432	3%
Hispanic Population of 1 Race: Amer Indian/Alaska Native	852	2%	860	2%	870	2%
Hispanic Population of 1 Race: Asian	254	1%	282	1%	312	1%
Hispanic Population of 1 Race: Pacific Islander	83	0.2%	93	0.2%	105	0.2%
Hispanic Population of 1 Race: Other Race	17,830	49%	21,589	49%	27,154	50%
Hispanic Population of Two or More Races	3,556	10%	4,263	10%	5,288	10%
<b>Households by Income Base</b>	<b>223,665</b>		<b>226,600</b>		<b>232,407</b>	
Households with Income <\$10000	22,211	10%	19,672	9%	17,635	8%
Households with Income \$10000-\$14999	14,021	6%	12,328	5%	9,454	4%
Households with Income \$15000-\$19999	14,253	6%	13,126	6%	11,754	5%
Households with Income \$20000-\$24999	15,543	7%	12,850	6%	11,388	5%
Households with Income \$25000-\$29999	15,241	7%	13,985	6%	12,465	5%
Households with Income \$30000-\$34999	15,906	7%	13,483	6%	11,865	5%
Households with Income \$35000-\$39999	14,281	6%	14,556	6%	12,012	5%
Households with Income \$40000-\$44999	13,173	6%	12,688	6%	12,426	5%
Households with Income \$45000-\$49999	11,215	5%	11,796	5%	12,067	5%
Households with Income \$50000-\$59999	21,167	9%	20,359	9%	21,106	9%
Households with Income \$60000-\$74999	23,215	10%	24,171	11%	23,753	10%
Households with Income \$75000-\$99999	20,653	9%	25,693	11%	29,294	13%
Households with Income \$100000-\$124999	9,763	4%	12,891	6%	17,953	8%
Households with Income \$125000-\$149999	4,799	2%	7,179	3%	10,560	5%
Households with Income \$150000-\$199999	3,782	2%	5,636	2%	8,914	4%
Households with Income \$200000+	4,442	2%	6,185	3%	9,762	4%
Median Household Income	\$42,601		\$47,941		\$55,675	
Average Household Income	\$52,729		\$61,310		\$73,827	
Aggregate Household Income	\$11,783,430,745		\$13,892,971,634		\$17,157,988,605	
<b>Families by Income Base</b>	<b>n/a</b>		<b>118,344</b>		<b>120,035</b>	
Families with Income <\$10000	n/a	n/a	5,832	5%	5,342	4%
Families with Income \$10000-\$14999	n/a	n/a	3,703	3%	2,664	2%
Families with Income \$15000-\$19999	n/a	n/a	4,667	4%	3,944	3%
Families with Income \$20000-\$24999	n/a	n/a	4,941	4%	4,360	4%
Families with Income \$25000-\$29999	n/a	n/a	6,163	5%	4,532	4%
Families with Income \$30000-\$34999	n/a	n/a	6,455	5%	5,165	4%
Families with Income \$35000-\$39999	n/a	n/a	6,823	6%	5,940	5%
Families with Income \$40000-\$44999	n/a	n/a	6,629	6%	6,211	5%
Families with Income \$45000-\$49999	n/a	n/a	6,857	6%	5,510	5%
Families with Income \$50000-\$59999	n/a	n/a	11,191	9%	11,701	10%
Families with Income \$60000-\$74999	n/a	n/a	15,201	13%	14,908	12%
Families with Income \$75000-\$99999	n/a	n/a	16,427	14%	17,358	14%
Families with Income \$100000-\$124999	n/a	n/a	9,777	8%	9,455	8%
Families with Income \$125000-\$149999	n/a	n/a	4,668	4%	9,307	8%
Families with Income \$150000-\$199999	n/a	n/a	4,267	4%	6,086	5%
Families with Income \$200000-\$249999	n/a	n/a	1,946	2%	2,968	2%
Families with Income \$250000-\$499999	n/a	n/a	2,267	2%	3,345	3%
Families with Income \$500000+	n/a	n/a	529	0.4%	1,239	1%
Median Family Income	n/a		\$58,576		\$67,973	
Average Family Income	n/a		\$72,891		\$88,869	
Aggregate Family Income	n/a		\$8,833,327,804		\$10,931,393,509	
<b>Households by Disposable Income Base</b>	<b>n/a</b>		<b>226,600</b>		<b>n/a</b>	
HHs with Disposable Income <\$15000	n/a	n/a	40729	18%	n/a	n/a
HHs with Disposable Income \$15000-\$24999	n/a	n/a	37270	16%	n/a	n/a
HHs with Disposable Income \$25000-\$34999	n/a	n/a	39597	17%	n/a	n/a
HHs with Disposable Income \$35000-\$49999	n/a	n/a	43982	19%	n/a	n/a
HHs with Disposable Income \$50000-\$74999	n/a	n/a	41301	18%	n/a	n/a
HHs with Disposable Income \$75000-\$99999	n/a	n/a	13361	6%	n/a	n/a
HHs with Disposable Income \$100000-\$149999	n/a	n/a	6491	3%	n/a	n/a
HHs with Disposable Income \$150000-\$199999	n/a	n/a	3870	2%	n/a	n/a
HHs with Disposable Income \$200000+	n/a	n/a	0	0%	n/a	n/a
Median Disposable Income	n/a		\$35,205		n/a	
Average Disposable Income	n/a		\$41,638		n/a	
<b>Households by Net Worth Base</b>	<b>n/a</b>		<b>226,600</b>		<b>n/a</b>	
HHs with Net Worth <\$15000	n/a	n/a	55624	25%	n/a	n/a
HHs with Net Worth \$15000-\$34999	n/a	n/a	19908	9%	n/a	n/a
HHs with Net Worth \$35000-\$49999	n/a	n/a	10252	5%	n/a	n/a
HHs with Net Worth \$50000-\$74999	n/a	n/a	15234	7%	n/a	n/a
HHs with Net Worth \$75000-\$99999	n/a	n/a	13525	6%	n/a	n/a
HHs with Net Worth \$100000-\$149999	n/a	n/a	22461	10%	n/a	n/a
HHs with Net Worth \$150000-\$249999	n/a	n/a	24380	11%	n/a	n/a
HHs with Net Worth \$250000-\$499999	n/a	n/a	32197	14%	n/a	n/a

Description	2000		2004		2009	
	#	%	#	%	#	%
HHs with Net Worth \$500000+	n/a	n/a	33021	15%	n/a	n/a

Description	2000		2004		2009	
	#	%	#	%	#	%
Median Net Worth		n/a		\$110,343		n/a
Average Net Worth		n/a		\$435,158		n/a
<b>Owner Occupied Housing Units by Value Base</b>	<b>124,672</b>		<b>122,106</b>		<b>125,744</b>	
Owner Occupied HUs with Value <\$10000	743	1%	599	0.5%	488	0.4%
Owner Occupied HUs with Value \$10000-\$14999	426	0.3%	334	0.3%	261	0.2%
Owner Occupied HUs with Value \$15000-\$19999	390	0.3%	328	0.3%	279	0.2%
Owner Occupied HUs with Value \$20000-\$24999	230	0.2%	328	0.3%	269	0.2%
Owner Occupied HUs with Value \$25000-\$29999	198	0.2%	180	0.1%	263	0.2%
Owner Occupied HUs with Value \$30000-\$34999	228	0.2%	166	0.1%	176	0.1%
Owner Occupied HUs with Value \$35000-\$39999	201	0.2%	177	0.1%	140	0.1%
Owner Occupied HUs with Value \$40000-\$49999	465	0.4%	368	0.3%	284	0.2%
Owner Occupied HUs with Value \$50000-\$59999	632	1%	374	0.3%	302	0.2%
Owner Occupied HUs with Value \$60000-\$69999	1120	1%	508	0.4%	303	0.2%
Owner Occupied HUs with Value \$70000-\$79999	1606	1%	758	1%	355	0.3%
Owner Occupied HUs with Value \$80000-\$89999	3100	2%	1249	1%	473	0.4%
Owner Occupied HUs with Value \$90000-\$99999	5508	4%	1535	1%	622	0.5%
Owner Occupied HUs with Value \$100000-\$124999	19192	15%	9359	8%	2856	2%
Owner Occupied HUs with Value \$125000-\$149999	24734	20%	15795	13%	7744	6%
Owner Occupied HUs with Value \$150000-\$174999	19752	16%	18683	15%	11718	9%
Owner Occupied HUs with Value \$175000-\$199999	12591	10%	16623	14%	14208	11%
Owner Occupied HUs with Value \$200000-\$249999	13438	11%	23747	19%	28588	23%
Owner Occupied HUs with Value \$250000-\$299999	7501	6%	10111	8%	19500	16%
Owner Occupied HUs with Value \$300000-\$399999	6563	5%	9989	8%	17361	14%
Owner Occupied HUs with Value \$400000-\$499999	2886	2%	5427	4%	8250	7%
Owner Occupied HUs with Value \$500000-\$749999	1973	2%	3140	3%	6923	6%
Owner Occupied HUs with Value \$750000-\$999999	765	1%	1323	1%	2230	2%
Owner Occupied HUs with Value \$1000000+	431	0.3%	1004	1%	2150	2%
Median Value of Owner Occupied Housing Units		\$175,697		\$215,744		\$271,369
Average Value of Owner Occupied Housing Units		\$187,134		\$231,201		\$291,971

# ATTACHMENT: Sample Facilities Use Agreement

Agreement No.  
\_\_\_\_\_

CITY OF PORTLAND, OREGON

## Facilities Use Agreement

THIS FACILITIES USE AGREEMENT (“Agreement”), dated as of \_\_\_\_\_ (the "Effective Date"), and entered into by and between the CITY OF PORTLAND, a State of Oregon municipal corporation (the "City"), and \_\_\_\_\_, a State of \_\_\_\_\_ corporation, doing business in Oregon as \_\_\_\_\_ ("Provider").

### Recitals

A. The Portland City Council has determined that a system of wireless broadband high speed communications will improve the quality of life of Portland citizens; improve government, education and transit services, and facilitate citizen access to such services; help to bridge the digital divide; create opportunities for businesses located within Portland's borders; and provide competitive and affordable network services.

B. The City of Portland seeks a partnership with private industry in general and Provider in particular, to create a City-wide wireless metropolitan area network. Provider owns, maintains, and operates, in accordance with regulations promulgated by the Federal Communications Commission (FCC), a broadband high speed communications radio network, using Radios (as defined in §1.8 below) and related equipment certified by the FCC.

C. For purpose of operating its system, Provider wishes to locate, place, attach, install, operate, and maintain Radios on or in City Facilities, or in the Municipal Right of Way (as defined in § 1.7 below) on facilities owned by the City, as well as on facilities owned by third parties therein.

### Agreement

**Now, therefore,** for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree to the following covenants, terms, and conditions:

**1. DEFINITIONS.** The following definitions shall apply generally to the provisions of this Agreement:

**1.1 Adjusted Gross Revenues.** "Adjusted Gross Revenues" means the gross dollar amount received by Provider for its Services (as defined in § 1.9 below) provided to subscribers with billing addresses in the City, excluding: (i) any utility users' tax, telecommunications tax, or similar tax or fee; (ii) local, state, or federal taxes that have been billed to the subscribers and separately stated on subscribers' bills; and (iii) revenue uncollectible from subscribers (*i.e.*, bad debts) with billing addresses in the City that was previously included in Adjusted Gross Revenues, and has been written off in tax records for the annual period in which User Fees described in §3.12 have been calculated; and (iv) receipts from sale of connection hardware needed to activate service, which is sold by Provider, at or below cost as part of its service.

**1.2 City.** "City" means the City of Portland, Oregon.

**1.3 Fee.** "Fee" means any assessment, license, charge, fee, imposition, tax, or levy of general application to entities doing business in the City lawfully imposed by any governmental body (but excluding any utility users' tax, franchise fees, telecommunications tax, or similar tax or fee).

**1.4 Installation Date.** "Installation Date" shall mean the date that the first Radio is installed by Provider pursuant to this Agreement.

**1.5 Laws.** "Laws" means any and all statutes, constitutions, ordinances, resolutions, regulations, judicial decisions, rules, tariffs, administrative orders, certificates, orders, or other requirements of the City or other governmental agency having joint or several jurisdiction over the parties to this Agreement.

**1.6 Municipal Facilities.** "Municipal Facilities" means City-owned street light poles, lighting fixtures, electroliers, buildings, or other City-owned structures, including those located within the Municipal Right of Way, and may refer to such facilities in the singular or plural, as appropriate to the context in which used.

**1.7 Municipal Right of Way.** "Municipal Right of Way" means the space in, upon, above, along, across, and over the public streets, roads, highways, lanes, courts, ways, alleys, boulevards, sidewalks, bicycle lanes, and places, including all public utility easements and public service easements as the same now or may hereafter exist, that are under the jurisdiction of the City. This term shall not include county, state, or federal rights of way or any property owned by any person or entity other than the City, except as provided by applicable Laws or pursuant to an agreement between the City and any such person or entity.

**1.8 Radio.** "Radio" means the radio equipment, whether referred to singly or collectively, to be installed and operated by Provider hereunder.

**1.9 Services.** "Services" means the broadband communications and entertainment services provided by Provider.

**2. TERM.** This Agreement shall be effective as of the Effective Date and shall extend for a term of five (5) years commencing on the Installation Date, unless it is earlier terminated by either party in accordance with the provisions herein. The term of this Agreement shall be renewed by mutual agreement for one (1) successive term of five (5) years on the same terms and conditions as set forth herein, unless either Party notifies the other Party of its intention not to renew, or to renew only upon renegotiation, not less than thirty (30) calendar days prior to commencement of the relevant renewal term.

**3. SCOPE OF AGREEMENT.** Any and all rights expressly granted to Provider under this Agreement, which shall be exercised at Provider's sole cost and expense, shall be subject to the prior and continuing right of the City under applicable Laws to use any and all parts of the Municipal Facilities and Right of Way exclusively or concurrently with any other person or entity and shall be further subject to all deeds, easements, dedications, conditions, covenants, restrictions, encumbrances, and claims of title of record which may affect the Municipal Facility or Right of Way. Nothing in this Agreement shall be deemed to grant, convey, create, or vest in Provider a real property interest in land, including any fee, leasehold interest, or easement. Any work performed pursuant to the rights granted under this Agreement shall be subject to the reasonable prior review and approval of the City.

**3.1 Attachment to Municipal Facilities.** The City hereby authorizes and permits Provider to enter upon or in Municipal Facilities or the Municipal Right of Way and to locate, place, attach, install, operate, maintain, remove, reattach, reinstall, relocate, and replace Radios in or on Municipal Facilities for the purposes of operating its network and providing Services. In addition, subject to the provisions of § 3.13 below, Provider shall have the right to draw electricity for the operation of the Radios from the power source associated with each such attachment to Municipal Facilities.

**3.2 Attachment to Third-Party Property.** Subject to obtaining the permission of the owner(s) of the affected property, the City hereby authorizes and permits Provider to enter upon the Municipal Right of Way and to attach, install, operate, maintain, remove, reattach, reinstall, relocate, and replace such number of Radios in or on poles or other structures owned by public utility companies or other property owners located within the Municipal Right of Way as may be permitted by the public utility company or property owner, as the case may be. Upon request, Provider shall furnish to the City

documentation of such permission from the individual utility or property owner responsible. City agrees to cooperate with Provider at no cost or expense to City, in obtaining where necessary the consents of third-party owners of property located in the Municipal Right of Way.

**3.3 No Interference.** Provider in the performance and exercise of its rights and obligations under this Agreement shall not interfere in any manner with the placement of any and all public and private rights of way, sanitary sewers, water mains, storm drains, gas mains, poles, aerial and underground electrical and telephone wires, electroliers, cable television, and other telecommunications equipment, utility facilities, or municipal property, without the express written approval of the owner or owners of the affected property or properties, except as permitted by applicable Laws or this Agreement. City agrees to require the inclusion of the same or a similar prohibition on interference as that stated above in all agreements and franchises City may enter into after the Effective Date with other information or communications providers and carriers.

**3.4 Compliance with Laws.** Provider shall comply with all applicable Laws in the exercise and performance of its rights and obligations under this Agreement.

**3.5 Obtaining Required Permits; Terms and Conditions.** If the attachment, installation, operation, maintenance, or location of the Radios in Municipal Facilities or the Municipal Right of Way shall require any permits, Provider shall if required under applicable City ordinances, apply for the appropriate permits and pay any standard and customary permit fees. City shall promptly respond to Provider's requests for permits and shall otherwise cooperate with Provider in facilitating the deployment of its network in the Municipal Right of Way in a reasonable and timely manner.

Location of radio equipment in or on Municipal Facilities or the Municipal Right of Way shall be subject to the terms and conditions set forth in Exhibit 1 Terms and Conditions of Use, which is attached hereto and incorporated by reference.

**3.6 Location of Radios.** The proposed locations of Provider's planned initial installation of Radios shall be provided to the City promptly after Provider's review of available street light maps and prior to deployment of the Radios. Provider shall submit monthly reports with maps identifying the number, location and types of radios planned to be installed during the following month, until the system is complete. Upon the completion of installation, Provider promptly shall furnish to the City a pole list showing the exact location of the

Radios on or in Municipal Facilities and in the Municipal Right of Way.

**3.7 Completion of Initial Project.** Provider will complete by \_\_\_\_\_ the installation of all radios and equipment necessary, to be able to provide wireless access to all occupied residences and businesses and public parks located within City limits that exist as of the effective date of this Agreement.

**3.8 Future Deployments.** As the City annexes and populates new developments, Provider shall resume monthly reporting described in §3.6 until each system addition is complete.

**3.9 Office within the City.** For the complete term of the Agreement, in recognition of the need for a local presence, Provider shall establish and maintain an office within the City at an accessible location for providing sales and administrative services, dispatching service calls, processing complaints, and other reasonably related services.

**3.9.1** To ensure that the City derives economic benefit from its assistance to Provider in establishing regional headquarters for provision of services in Oregon, Provider shall report as being received and accounted for within Portland any receipts from services provided by Provider or any of its affiliate or subsidiary entities operating within the State of Oregon.

**3.9.2** This requirement may be waived where other public entities mandate the reporting of the pertinent Oregon gross receipts taxes within their community.

**3.10 Rate Increases.** After base and tiered service rates are established, Provider shall provide notice to the City of intent to increase subscription rates, at least thirty (30) days in advance of effective date. City approval shall not be required except when a rate increase is proposed less than one (1) year after the previous rate increase. The City may not unreasonably withhold approval when rate increases are cost justified.

**3.11 Compensation; Utility Charges.** Provider shall be solely responsible for the payment of all lawful Fees in connection with Provider's performance under this Agreement, including those set forth below.

**3.12 User Fee.** In order to compensate City for Provider's entry upon and deployment on or in Municipal Facilities and within the Municipal Right of Way, Provider shall pay to the City, on a quarterly basis, an amount equal to a percentage of Adjusted Gross Revenues (the "User Fee"), from subscribers of the Services with billing addresses in the City and remitted to City as provided herein.

**3.12.1** The percentage points shall be calculated on the following schedule, based on the amount of Provider's monthly Adjusted Gross Revenues (AGR).

Percent Fee Assessed on Each Portion of Monthly AGR

__0%	Up to \$100,000
__%	Between \$100,001 and 300,000
__%	Between \$300,001 and 500,000
__%	on \$500,001 and up

**3.12.2** The User Fee shall be payable for the period commencing upon the date that Services are offered to paying subscribers within the City using Radios installed pursuant to this Agreement and ending on the date of termination of this Agreement, and shall be due on or before the thirtieth 30<sup>th</sup> day after the end of each quarter or fraction thereof. The transmittal of payment shall include a report of each month's AGR and the fees as calculated using the above schedule. Within forty-five (45) days after the termination of this Agreement, compensation shall be paid for the period since the end of the last quarter for which compensation has been paid. Provider shall furnish to the City with each payment of compensation required by this section a statement, executed by an authorized officer of Provider, showing the amount of Adjusted Gross Revenues for the period covered by the payment. If the City or Provider discovers any error in the correct amount of compensation due, the City shall be paid within thirty (30) days of discovery of the error or determination of the correct amount. Any overpayment to the City through error or otherwise shall be refunded or offset against the next payment due. Acceptance by the City of any payment due under this section shall not be deemed to be a waiver by the City of any breach of this Agreement occurring prior thereto, nor shall the acceptance by the City of any such payments preclude the City from later establishing that a larger amount was actually due or from collecting any balance due to the City.

**3.12.3 Accounting Matters.** Provider shall keep accurate books of account at its principal office in Portland for the purpose of determining the amounts due to the City under § 3.11 above. The City may request inspection of Provider's books of account relative to the City, by an independent accountant employed by the City, at any time during regular business hours on thirty (30) days' prior written notice, and may audit the books from time to time at the City's sole expense, but in each case only to the extent necessary to confirm the accuracy

of payments due under § 3.11 above.

**3.13 City Services.** Provider shall provide the City timely proposal(s), upon City request, for the provision of its services wherever and whenever applicable, and such services shall be offered at Provider's then-current, most-competitive rates, which may represent reduced cost to the City, with final terms and conditions to be determined on a per-project basis. The City may purchase necessary equipment from either Provider or its designated supplier at cost, or from a vendor of the City's choosing, in compliance with the City Procurement Code.

**3.14 Electricity Charges.** Provider shall be solely responsible for the payment of all electrical utility charges to the applicable utility company based upon the Radios' usage of electricity and applicable tariffs, or a usage formula shall be applied to calculate actual expense per unit.

**3.15 Confidentiality.** Provider acknowledges that third persons may claim that confidential information the Provider submits to the City hereunder may be, by virtue of its possession by the City, a public record and subject to disclosure pursuant to the Oregon Public Records Law. Subject to the following conditions, the City agrees not to disclose any information Provider submits to the City that includes a written request for confidentiality and specifically identifies the information to be treated as confidential:

If a third party makes a public records request for information that the Provider has submitted in confidence, the City shall notify the Provider of the request. The City agrees not to disclose any information submitted in confidence until a final unappealable order from a court or agency having authority to issue such order shall have been issued, and any such disclosure shall be the minimum necessary to comply with such order. In consideration thereof, Provider agrees to hold the City and its officers and employees harmless for the disclosure of confidential information if a court or agency orders the City to do so.

**4. RELOCATION AND DISPLACEMENT OF RADIOS.** Provider understands and acknowledges that City may require Provider to relocate one or more of its Radios, and Provider shall at City's direction relocate such Radios at Provider's sole cost and expense, whenever City reasonably determines that the relocation is needed for any of the following purposes: (a) if required for the construction, completion, repair, relocation, or maintenance of a City project; (b) because the Radio is interfering with or adversely affecting proper operation of City-owned light poles, traffic signals, or other Municipal Facilities; or (c) to protect or preserve the public health or safety. In any such case, City shall use its best efforts to afford Provider a reasonably equivalent alternate location. If Provider shall fail to relocate any Radios as requested by the City within thirty (30) days, City shall be entitled to relocate the Radios at Provider's sole cost and

expense, without further notice to Provider. To the extent the City has actual knowledge thereof, the City will attempt promptly to inform Provider of the displacement or removal of any pole on which any Radio is located.

**4.1 Relocations at Provider's Request.** In the event Provider desires to relocate any Radios from one Municipal Facility to another, Provider shall so advise City. City will use its best efforts to accommodate Provider by making another reasonably equivalent Municipal Facility available for use in accordance with and subject to the terms and conditions of this Agreement.

**4.2 Damage to Municipal Facility or Right of Way.** Whenever the removal or relocation of Radios is required or permitted under this Agreement, and such removal or relocation shall cause the Municipal Facility or Right of Way to be damaged, Provider, at its sole cost and expense, shall promptly repair and return the Municipal Facility or Right of Way in which the Radios are located to a safe and satisfactory condition in accordance with applicable Laws, normal wear and tear excepted. If Provider does not repair the site as just described, then the City shall have the option, upon fifteen (15) days' prior written notice to Provider, to perform or cause to be performed such reasonable and necessary work on behalf of Provider and to charge Provider for the proposed costs to be incurred or the actual costs incurred by the City at City's standard rates. Upon the receipt of a demand for payment by the City, Provider shall promptly reimburse the City for such costs.

**5. INDEMNIFICATION AND WAIVER.** Provider agrees to indemnify, defend, protect, and hold harmless the City, its council members, officers, and employees from and against any and all claims, demands, losses, damages, liabilities, fines, charges, penalties, administrative and judicial proceedings and orders, judgments, and all costs and expenses incurred in connection therewith, including reasonable attorney's fees and costs of defense (collectively, the "Losses") directly or proximately resulting from Provider's activities undertaken pursuant to this Agreement, except to the extent arising from or caused by the negligence or willful misconduct of the City, its council members, officers, employees, agents, or contractors.

**5.1 Waiver of Claims.** Provider waives any and all claims, demands, causes of action, and rights it may assert against the City on account of any loss, damage, or injury to any Radio or any loss or degradation of the Services as a result of any event or occurrence which is beyond the reasonable control of the City.

**6. INSURANCE.** Provider shall obtain and maintain at all times during the term of this Agreement the following:

**6.1 Commercial General Liability Insurance** protecting Provider in an amount not less than One Million Dollars (\$1,000,000) per occurrence (combined single limit), including bodily injury and property damage, and in an amount not less than

One Million Dollars (\$1,000,000) annual aggregate for each personal injury liability and products-completed operations. The Commercial General Liability insurance policy shall name the City, its council members, officers, and employees as additional insureds as respects any covered liability arising out of Provider's performance of work under this Agreement. Coverage shall be in an occurrence form and in accordance with the limits and provisions specified herein. Claims-made policies are not acceptable. Such insurance shall not be canceled, nor shall the occurrence or aggregate limits set forth above be reduced, until the City has received at least thirty (30) days' advance written notice of such cancellation or change. Provider shall be responsible for notifying the City of such change or cancellation.

**6.2 Automobile Liability Insurance** with a combined single limit of not less than \$500,000 each occurrence for bodily injury and property damage, including coverage for owned, hired, or non-owned vehicles, as applicable.

**6.3 Workers Compensation** in compliance with ORS 656.017, which requires subject employers to provide Oregon workers' compensation coverage for all their subject workers unless exempt under ORS 656.027.

**6.4 Filing of Certificates and Endorsements.** Prior to the commencement of any work pursuant to this Agreement, Provider shall file with the City the required original certificate(s) of insurance with endorsements, which shall state the following:

- (a) the policy number; name of insurance company; name and address of the agent or authorized representative; name and address of insured; project name; policy expiration date; and specific coverage amounts;
- (b) that the City shall receive thirty (30) days' prior written notice of cancellation;
- (c) that Provider's Commercial General Liability insurance policy is primary as respects any other valid or collectible insurance that the City may possess, including any self-insured retentions the City may have; and any other insurance the City does possess shall be considered excess insurance only and shall not be required to contribute said insurance; and
- (d) that Provider's Commercial General Liability insurance policy waives any right of recovery the insurance company may have against the City. The certificate(s) of insurance with endorsements and notices shall be mailed to the City at the address specified in § 7 below.

**6.5 Insurer Criteria.** Any insurance provider of Provider shall be admitted and authorized to do business in the State of and shall carry a minimum rating assigned

by *A.M. Best & Company's Key Rating Guide* of "A" Overall and a Financial Size Category of \$10,000,000 to \$25,000,000. Insurance policies and certificates issued by non-admitted insurance companies are not acceptable.

**6.6 Severability of Interest.** Any deductibles or self-insured retentions must be stated on the certificate(s) of insurance, which shall be sent to and approved by the City. "Severability of interest" or "separation of insureds" clauses shall be made a part of the Commercial General Liability policies.

**7. NOTICE.** All notices which shall or may be given pursuant to this Agreement shall be in writing and delivered personally or transmitted (a) through the United States mail, by registered or certified mail postage prepaid; (b) by means of prepaid overnight delivery service; or (c) by facsimile or email transmission, if a hard copy of the same is followed by delivery through the U. S. mail or by overnight delivery service as just described, addressed as follows:

*If to the City:*

CITY OF PORTLAND  
Attn: MATT LAMPE, DIRECTOR OF TECHNOLOGY  
SERVICES 1120 SW 5th Ave., Room 450  
PORTLAND OREGON 97204

*If to Provider:*

**7.1 Date of Notices; Changing Notice Address.** Notices shall be deemed given upon receipt in the case of personal delivery, three (3) days after deposit in the mail, or the next business day in the case of facsimile, email, or overnight delivery. Either party may from time to time designate any other address for this purpose by written notice to the other party delivered in the manner set forth above.

**8. AMENDMENT OF AGREEMENT.** This Agreement may not be amended except pursuant to a written instrument signed by both parties.

**8.1 Agreement Renegotiation.** Either Provider or City may request renegotiation of terms upon renewals as scheduled in §2 above.

**8.2 Change of Conditions.** At any time of significant change in conditions beyond either party's control that may impede the continued successful provision of Provider's service to the Community, such as changes in technology, legislation, or external economic influences, or radio frequency congestion, Provider or the City

may request a reopening of only those terms that directly address the event(s) triggering the need for consideration. The parties agree to negotiate a change of conditions in good faith.

**9. TERMINATION.** This Agreement may be terminated by either party upon forty five (45) days' prior written notice to the other party upon a default of any material covenant or term hereof by the other party, which default is not cured within forty-five (45) days of receipt of written notice of default (or, if such default is not curable within forty-five (45) days, if the defaulting party fails to commence such cure within forty-five (45) days or fails thereafter diligently to prosecute such cure to completion), provided that the grace period for any monetary default shall be ten (10) days from receipt of notice. Except as expressly provided herein, the rights granted under this Agreement are irrevocable during each term.

**10. ASSIGNMENT.** This Agreement shall not be assigned by Provider without the express written consent of the City, which consent shall not be unreasonably withheld, conditioned, or delayed. Notwithstanding the foregoing, the transfer of the rights and obligations of Provider hereunder to a parent, subsidiary, successor, or affiliate shall not be deemed an assignment for the purposes of this Agreement.

**11. MISCELLANEOUS PROVISIONS.** The provisions that follow shall apply generally to the obligations of the parties under this Agreement.

**11.1 Nonexclusive Agreement.** Provider understands that this Agreement does not provide Provider with exclusive use of the Municipal Right of Way or any Municipal Facility and that City shall have the right to permit other providers of communications services to install equipment or devices in the Municipal Right of Way and on Municipal Facilities.

**11.2 Non-interference.** In order to maximize performance and reliability of the unlicensed WiFi network and minimize any interference for private parties, the City will encourage citizens and businesses to limit use in these bands and access channels not employed by Provider in a particular area.

**11.3 New WiFi Service Providers.** New providers given access to the City Rights of Way will be required to take measures to not interfere with any existing systems and municipal facilities, including those of Provider.

**11.4 Waiver of Breach.** The waiver by either party of any breach or violation of any provision of this Agreement shall not be deemed to be a waiver or a continuing waiver of any subsequent breach or violation of the same or any other provision of this Agreement.

**11.5 Severability of Provisions.** If anyone or more of the provisions of this Agreement shall be held by a court of competent jurisdiction in a final judicial action to be void, voidable, or unenforceable, such provision(s) shall be deemed severable from the remaining provisions of this Agreement and shall not affect the legality,

validity, or constitutionality of the remaining portions of this Agreement. Each party hereby declares that it would have entered into this Agreement and each provision hereof regardless of whether anyone or more provisions may be declared illegal, invalid, or unconstitutional.

**11.6 Contacting Provider.** Provider shall be available to the staff employees of any City department having jurisdiction over Provider's activities twenty-four (24) hours a day, seven (7) days a week, to be implemented by \_\_\_\_\_ regarding problems or complaints resulting from the attachment, installation, operation, maintenance, or removal of the Radios. The City may contact by telephone the network control center operator at a local or toll-free telephone number regarding such problems or complaints.

**11.7 Governing Law; Jurisdiction.** This Agreement shall be governed and construed by and in accordance with the laws of the State of Oregon, without reference to its conflicts of law principles. If a party brings suit to this Agreement, the parties agree that trial of such action shall be vested exclusively in the courts of Multnomah County Oregon, or in the federal Court having jurisdiction over the dispute.

**11.8 Consent Criteria.** In any case where the approval or consent of one party hereto is required, requested or otherwise to be given under this Agreement, such party shall not unreasonably delay, condition, or withhold its approval or consent.

**11.9 Representations and Warranties.** Each of the parties to this Agreement represents and warrants that it has the full right, power, legal capacity, and authority to enter into and perform the parties' respective obligations hereunder and that such obligations shall be binding upon such party without the requirement of the approval or consent of any other person or entity in connection herewith, except as provided in § 3.2 above.

**11.10 Entire Agreement.** This Agreement contains the entire understanding between the parties with respect to the subject matter herein. There are no representations, agreements, or understandings (whether oral or written) between or among the parties relating to the subject matter of this Agreement which are not fully expressed herein.

In witness whereof, and in order to bind themselves legally to the terms and conditions of this Agreement, the duly authorized representatives of the parties have executed this Agreement as of the Effective Date.

*City:* CITY OF PORTLAND, an Oregon municipal corporation

By: \_\_\_\_\_

Tom Potter, Mayor of  
Portland

Date: \_\_\_\_\_

*Approved as to form:* \_\_\_\_\_

Linda Meng, City Attorney

*Provider:* \_\_\_\_\_, a corporation of the State of  
Corporation.

By: \_\_\_\_\_

Chief Executive Officer

Date: \_\_\_\_\_

2005

*Provider (as incorporated in Oregon):* \_\_\_\_\_ an  
Oregon Limited Liability Company.

By: \_\_\_\_\_

Project Manager

Date: \_\_\_\_\_, 2005

# EXHIBIT 1

## Terms and Conditions of Use

### Background

A. Landlord is the owner of a parcel of land or a structure located in the City of Portland, County of Multnomah, State of Oregon, legally described on the attached Exhibit A (the “Owned Premises”).

B. Tenant desires to utilize space in the Building (“Building”) or on the “Structure” for the installation and operation of certain telecommunications facilities, which include directional antennae, connecting cables and appurtenances (collectively, “Telecommunications Facilities”) for use in connection with its communications business being developed based on the City of Portland RFP #104112, as further described in the attached Exhibit C.

C. Landlord and Tenant have executed a Facilities Use Agreement authorizing Tenant to request use of specific resources of the Landlord.

D. Accordingly, the parties enter into this Addendum to the Facilities Use Agreement 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”) in the Building or on the Structure, as shown on the Site Plan attached as Exhibit B. 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 Telecommunications Facilities, as described more fully on the attached Exhibit C, on the Premises. Tenant may not add additional equipment and/or facilities from that shown on Exhibit C, or move to any other location in the Building or on the Structure, without the prior written approval of the Landlord.
- b) Landlord shall have the right to lease other portions of the Building or Structure to other Tenants, or to permit other portions of the Building to be used by others.

## 2. 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 Telecommunications Facilities as described on Exhibit C.
- b) Tenant's installation of its Telecommunications 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 Telecommunications 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 Telecommunications Facilities, and submit permit plans to the City of Portland, Bureau of Development Services, or other appropriate City Bureau or 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 in the Building and the estimated total cost of the work. All plans and specifications and schedules are subject to the prior written approval of Landlord. 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) The Landlord shall have the right to inspect any or all work required for the installation of the equipment. The Tenant shall reimburse the Landlord reasonable costs for such inspections.
- e) In the event emergency repairs are necessary for its Telecommunications Facilities, Tenant shall immediately notify Landlord in writing of the need for repairs. Tenant may immediately initiate emergency repairs, and shall apply for appropriate permits the next business day following discovery of the emergency. Tenant shall comply with all laws relating to construction, including payment of permit or license fees.
- f) 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.

- g) Any damage done to the Building and/or the Roof 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 Telecommunications Facilities, Tenant shall not make any penetrations of the Building without Landlord's prior written consent. All Building penetrations 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 Landlord's Building in connection with Tenant's construction, installation, repairs, relocation and/or operations of the Telecommunications Facilities.
- h) Tenant shall not overload the floors of the Building or Structure so as to cause any undue or serious stress or strain to the Building or Structure, 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 floors of the Building, or any part thereof, are being overloaded so as to cause undue or serious stress or strain on the Building or any part thereof. The decision of the engineer or architect shall be final and binding on Tenant. If in the opinion of the engineer or architect the stress or strain may endanger or injure the Building or Structure, or any part thereof, Tenant agrees to immediately relieve the stress or strain by lightening the load in a manner satisfactory to Landlord.
- i) 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, Building or the Owned Premises. Any device placed on the Premises, Building or Owned Premises 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.

### 3. Premises Access.

- a) Tenant shall have access to the Premises through the Building by means reasonably designated by Landlord in order to install, operate, and maintain its Telecommunications Facilities.
- b) 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, Building or Owned Premises, to post notices or nonresponsibility 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.

- c) Tenant shall provide Landlord with a key to any of Tenant's locks used on the Premises. If Landlord in its sole discretion issues any keys to the Owned Premises to Tenant, Tenant shall pay a reasonable key deposit to Landlord, and/or pay to Landlord the reasonable cost of rekeying, replacing and/or modifying Landlord's locks on the Owned Premises when solely required because of Tenant's use of the Premises.

#### 4. Alterations, Additions, Improvements and Equipment Upgrades.

Tenant shall not make or allow to be made any alterations, additions or improvements to or of the Premises or any part thereof without first obtaining the written consent of Landlord. If Landlord consents, all alterations, additions or improvements shall be made at Tenant's sole expense. Tenant may update or replace the Telecommunications Facilities 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 Telecommunications Facilities and that any change in their location in the Building 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. No equipment upgrade or replacement may be undertaken without an interference review and written approval of ComNet 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 Building caused by removal.

5. Within thirty (30) days after the Commencement Date, Tenant shall provide Landlord with as-built drawings of the Telecommunications Facilities and the improvements installed on the Premises, which show the actual location of all equipment and improvements consistent with Exhibit C. The "as built" drawings shall be accompanied by a complete and detailed inventory of all equipment, personal property, and Telecommunications Facilities.

#### 6. 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

Building by Landlord. Tenant shall not interfere with the use of the Building, the Building, 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, Telecommunications 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 in the Building, Tenant shall take reasonable measures at Tenant's cost to cover or protect Tenant's equipment, personal property or Telecommunications 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, Building or Premises in connection with its operations as may be necessary, including to facilitate leasing parts of the Building to others. Landlord shall have no duty to make repairs to the Owned Premises, Building 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. 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 Telecommunications 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 Telecommunications 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 Telecommunications 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 Telecommunications Facilities, all costs of removal or relocation shall be paid by

Tenant. If removal or relocation would interrupt Tenant's use of the Telecommunications 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.

7. 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.

8. 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 Telecommunications 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.

9. 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 Telecommunications 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 tenants or any existing or planned uses of the Owned Premises, and an engineering study indicating whether the Building is able to structurally support the Tenant's Telecommunications Facilities without prejudice to the Landlord's primary use of the Building.
- c) Landlord does not guarantee to Tenant subsequent noninterference with Tenant's communications operations.
- d) Tenant's use and operation of its Telecommunications Facilities shall not interfere with the use and operation of any other communication facilities in the Building which pre-existed Tenant's Telecommunications Facilities. If Tenant's Telecommunications 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 Telecommunications Facilities until the interference has been eliminated. If the interference cannot be eliminated within 30 days, Landlord may terminate this Lease.

#### 10. Building Alteration and Repair.

In the event Landlord, during the term of this Lease, is required by the City of Portland, the order or decree of any court, or any other governmental authority, to repair, alter, remove, reconstruct or improve any part of the Building, 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.

#### 11. Alteration, Damage or Destruction.

If the Building or any portion thereof is altered, destroyed or damaged so as to materially hinder effective use of the Telecommunications Facilities through no fault or negligence of Tenant, Tenant may elect to terminate this Lease upon thirty (30) days' written notice to Landlord. Tenant shall promptly remove the Telecommunications 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.

#### 12. 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, Telecommunications 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.

13. Nuisance, Waste, Hazard.

- a) Tenant shall refrain from any use which is improper, immoral, unlawful, objectionable or which is offensive, annoying or interferes with or obstructs the rights of Landlord or other tenants or owners, users or occupants of the Premises or nearby properties. Tenant shall not create or permit to be created any condition which would: constitute a fire hazard; permit any objectionable noise or odor to be emitted or escape from the premises; injure the reputation of the building; permit the premises to be used for lodging or sleeping purposes; in any manner result in defacement or injury of the building; impair the strength or durability of the structure; or be dangerous to persons or property. Tenant shall not install any power machinery on the premises except under the supervision and with the prior written consent of Landlord. Tenant shall not store gasoline or other highly combustible materials on the premises at any time. Tenant shall comply at tenant's sole cost and expense with all orders, notices, regulations or requirements of any governmental authority respecting the use of the premises.
- b) Tenant shall not use the premises in such a way or for such a purpose that the fire insurance rate on the building in which the premises are located is thereby increased or that would prevent Landlord from taking advantage of any ruling of the Insurance Services Offices of Oregon, or its successors, 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.

LANDLORD: \_\_\_\_\_

\_\_\_\_\_ Date \_\_\_\_\_

Print Name and Title \_\_\_\_\_

APPROVED AS TO FORM \_\_\_\_\_  
 Attorney

TENANT: **X**

By \_\_\_\_\_ Date: \_\_\_\_\_

Print Name and Title \_\_\_\_\_

**EXHIBIT A**

**LEGAL DESCRIPTION OF OWNED PREMISES**

**EXHIBIT B**

**SITE PLAN OF TELECOMMUNICATIONS FACILITY**

**EXHIBIT C**

**DESCRIPTION OF TELECOMMUNICATIONS FACILITIES**

# ATTACHMENT: Sample Services Contract

## CONTRACT NO.

for

**XXXXXXX**

This Contract, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between XXXXXX, a XXXXXX Corporation, hereinafter called Contractor, and **the City of Portland**, a municipal corporation of the State of Oregon, by and through its duly authorized representatives, hereinafter called City,

### WITNESSETH:

ARTICLE I. The parties hereto mutually covenant and agree to and with each other as follows:

1. **STATEMENT OF WORK:** Contractor will provide, and City will purchase, Wireless Internet Services to the City of Portland as outlined in Exhibit 1.
2. **EFFECTIVE DATE AND DURATION:** The initial term of this Contract shall begin on the date of last signature by the parties to this Contract, and shall expire on XXXXX unless terminated sooner as provided herein. The parties may agree, by mutual consent, to extend this Contract as follows: \_\_\_\_\_. The total term of this Contract shall not exceed five (5) years.
3. **CONSIDERATION:** The City agrees to pay Contractor a sum not to exceed \$\_\_\_\_\_ for access to the Contractor's Wireless Network. Payments shall be made to the contractor according to the schedule identified in Exhibit 1.
4. **INVOICING:** The Contractor shall submit invoices to the City at:  
  
City of Portland  
XXXXX, Attn: XXXXX  
XXXXX  
Portland, OR 97XXX - XXXX

Contractor is at all times solely responsible for billing accuracy and timeliness; Contractor shall provide invoices for its services to the City in paper form. Invoices will not be processed for payment until receipt of a properly completed invoice and until all invoice items are received and satisfactory performance of Contractor has been attained.

5. **INVOICE PAYMENT:** Invoices submitted for payment shall identify the period of time for which internet Wireless Services are provided and the invoice total. Additional billing details may be agreed upon between the parties. Invoicing for services shall at all times be in arrears.

No interest charges or late payment charges shall accrue for disputed charges. Revised invoices or billing adjustments shall apply only to services that can be verified by the City. Requests for such adjustments shall be submitted in writing to the City within six (6) months of acceptance of the services, shall reference the original invoice in which the error was made, and contain the level of detail defined in billing detail above. Billing adjustments shall not be submitted to the City in any form other than a paper document. The City shall pay undisputed portions of disputed or incorrect invoices where the City can easily identify the undisputed portion. Failure by the City to pay any portion of or the entire invoiced amount based on Contractor billing errors, goods and services that fail to comply with this Contract, or disputed charges shall not constitute default under this Contract. Payment of an amount less than the total amount due on all unpaid invoices shall be any particular amount or item, which is subject to any claim of error or dispute between the parties, without prior written City approval.

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## STANDARD TERMS AND CONDITIONS

1. **TIME IS OF THE ESSENCE:** Time shall be of the essence in this Contract. Contractor shall make every reasonable effort to meet established delivery dates and other deadlines. Circumstances that may delay the delivery of services from

established delivery dates and other deadlines, including excusable delays and force majeure events, shall be reported to the City immediately upon discovery. The City and Contractor shall mutually agree upon any schedule or pricing change due to excusable delays or force majeure events in writing. In the event Contractor does not meet the established delivery dates or other deadlines and Contractor has failed to cure such breach within fifteen (15) days of written notice by the City, the City may obtain the undelivered goods and/or non-performed service from another source, and no recurring charges, one-time charges, or termination charges or other penalties shall be due the Contractor. In addition, the City will be entitled to reasonable compensation as stated under REMEDIES.

**2. ASSIGNMENT AND SUBCONTRACTING:** This Contract or any interest therein shall not be assigned or subcontracted to any other party/parties without the prior written consent of the other party. In the event of transfer without prior written consent, the other party may refuse to carry out this Contract with either the transferor or the transferee and yet retain and reserve all rights of action for any breach of Contract committed by other party. The Contractor shall not subcontract its work under this Contract, in whole or in part, without the prior written approval of the City. The Contractor shall require any approved subcontractor to agree, as to the portion subcontracted, to fulfill all obligations of the Contractor as specified in this Contract. Notwithstanding City approval of a subcontractor, the Contractor shall remain obligated for full performance hereunder, and the City shall incur no obligation other than its obligations to the Contractor hereunder. The Contractor agrees that if subcontractors are employed in the performance of this Contract, the Contractor and its subcontractors are subject to the requirements and sanctions of ORS Chapter 656, Workers' Compensation.

**3. AMENDMENTS:** All changes to this Contract, including changes to the scope of work and contract amount, must be made by written amendment and approved by the Purchasing Agent to be valid. The City's Purchasing Agent is authorized to execute amendments to this Contract without further approval, provided such amendments are in writing, signed by both parties, and approved by the City Attorney's Office. Contractor understands that City employees have no actual or apparent authority to enter into amendments, except as may be specifically granted by the City Council to the Purchasing Agent, or to waive the approval of the City Attorney's office.

**4. FORCE MAJEURE:** Neither City nor Contractor shall be held responsible for performance if its performance is prevented by unforeseeable acts or events beyond the party's reasonable control including, but not limited to: acts of God; fire, flood, earthquakes or other catastrophes; strikes or other labor unrest; power failures, electrical power surges or current fluctuations; nuclear or other civil or military emergencies; or acts of legislative, judicial, executive, or administrative authorities; or any other circumstances which are not within its reasonable control.

**5. NO THIRD PARTY BENEFICIARIES:** Contractor and City are the only parties to this Contract and are the only parties entitled to enforce its terms. Nothing in this Contract gives, assigns or provides any benefit or right, whether directly, indirectly, or otherwise, to third persons unless such third persons are individually identified by name in this Contract and expressly described as intended beneficiaries of this Contract.

**6. SUCCESSORS IN INTEREST:** The provisions of this Contract shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors and approved assigns.

**7. EARLY TERMINATION OF CONTRACT:** The City and the Contractor, by mutual written agreement, may terminate the Contract at any time. The City, on thirty (30) days written notice to the Contractor, may terminate this Contract for any reason deemed appropriate in its sole discretion. Either the City or the Contractor may terminate this Contract in the event of a breach of the Contract by the other. Prior to such termination, however, the party seeking the termination shall give to the other party written notice of the breach and of the party's intent to terminate. If the party has not entirely cured the breach within thirty (30) days of the notice, then the party giving the notice may terminate the Contract at any time thereafter by giving a written notice of termination.

**8. PAYMENT ON EARLY TERMINATION:** In the event of termination under EARLY TERMINATION OF CONTRACT hereof, the City shall pay the Contractor for goods and services in accordance with the Contract prior to the termination date and delivered to City provided that such goods and services conform to Contract specifications. In the event of termination under EARLY TERMINATION OF CONTRACT hereof, by the City due to a breach by the Contractor, then the City shall pay the Contractor for goods delivered and services performed in accordance with the Contract prior to the termination date subject to set off of excess costs, as provided for in Remedies. In the event of early termination all of the Contractor's work product shall become and remain property of the City. Under no circumstances shall the City be subject to early termination penalties for recurring charges for goods or services that the City cancels during the term of this Contract.

**9. REMEDIES:** In the event of termination under EARLY TERMINATION OF CONTRACT, hereof, by the City due to a breach by the Contractor, then the City may purchase goods and services outstanding from another contractor. In the event the cost exceeds Contractor's price for the same goods and services, then the Contractor shall pay to the City the amount of reasonable excess. The City also shall be entitled to any other equitable and legal remedies that are available. Except as expressly contained in this Contract, the remedies for a breach of this Contract shall not be exclusive, or construed as a limitation on any other equitable and legal remedies that are available, including without limitation rights or remedies that are or may become available under ORS 72.7010 to 72.7250.

**10. ACCESS TO RECORDS:** The Contractor shall maintain professional accounting standards and on a current basis, and the City and its duly authorized representatives shall have access to, the books, documents, papers, and records of the Contractor which are directly pertinent to this Contract for the purpose of making audit, examination, excerpts, and transcripts for a period of three (3) years after final payment. Copies of applicable records shall be made available upon request.

**11. AUDITS:** The City, either directly or through a designated representative, may conduct financial and performance audits of the billings and services specified in this Contract at any time in the course of the Contract and during the three (3) year period established by ACCESS TO RECORDS. Audits shall be conducted in accordance with generally accepted auditing standards.

If an audit discloses that payments to the Contractor were in excess of the amount to which the Contractor was entitled, then the Contractor shall repay the amount of the excess to the City. Under no circumstances will the payment of previous invoices constitute an acceptance of the charges associated with those invoices. If any audit shows performance of services is not efficient in accordance with Government Auditing Standards, or that the program is not effective in accordance with Government Auditing Standards, the City may pursue remedies as provided under EARLY TERMINATION OF CONTRACT and REMEDIES. In addition, the Contractor agrees to abide by the standards of the Office of the Comptroller set forth in May, 2002 Office of Justice Programs (OJP) Financial Guide, including without limitation in accordance with Office of Management and Budget (OMB) Circulars A87, A-102, A-122, A-128, A-133. All financial records, supporting documents, statistical records and all other records pertinent to this grant or Contracts under this grant shall be retained by the Contractor for a minimum of five (5) years for purposes of State of Oregon or the OJP Financial Guide from the Office of the Controller and apprise itself of all rules and regulations set forth.

**12. COMPLIANCE WITH APPLICABLE LAW:** In connection with its activities under this Contract, Contractor shall comply with all applicable federal, state and local laws and regulations. All statutory, charter and ordinance provisions applicable to public contracts in the City of Portland and the State of Oregon shall be followed with respect to this Contract.

ORS Chapters 279A, 279B and 279C require every public contract to contain certain provisions. Pursuant to those chapters, the provisions in Appendix A of this Contract shall be a part of the Contract, as applicable.

**13. INDEMNITY:** Contractor shall hold harmless, defend, and indemnify the City of Portland, its officers, employees, and agents, from all claims, demands, suits, actions, losses, damages, liabilities, costs and expenses of whatsoever nature, including all attorney's fees and costs, resulting from or arising out of the activities of Contractor or its officers, employees, subcontractors, or agents including intentional acts, or of its subcontractors, agents or employees under this Contract.

**14. INSURANCE:** Work shall not commence until all insurance requirements have been met and certificates thereof have been filed with the Purchasing Agent or the Auditor.

#### Workers' Compensation Insurance

The Contractor shall provide workers' compensation insurance in compliance with ORS 656.017, which requires subject employers to provide Oregon workers' compensation coverage for all their subject workers unless exempt under ORS 656.027.

#### Public Liability and Property Damage

The Contractor shall provide and maintain general liability insurance that protects the Contractor and the City and its officers, agents and employees from any and all claims, demands, actions and suits for damage to property or personal injury, including death, arising from the Contractor's work under this Contract. The insurance shall provide coverage with a combined single limit of not less than \$1,000,000 each occurrence for bodily injury and property damage. It shall include contractual liability coverage for the indemnity provided under this Contract, and shall provide that the City of Portland, and their respective agents, officers, and employees are Additional Insureds but only with respect to the Contractor's services to be provided under this Contract.

There shall be no cancellation, material change, reduction of limits or intent not to renew the insurance coverages without thirty (30) days written notice from the Contractor or its insurer to the City. If the insurance is cancelled or terminated prior to completion of the Contract, the Contractor shall provide a new policy with the same terms. The Contractor agrees to maintain continuous, uninterrupted coverage for the duration of the Contract.

**15. NON-WAIVER:** No waiver, consent, modification, or change of terms of this Contract shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification, or change if made, shall be effective only in specific instances and for the specific purposes given. The failure of the either party to enforce any provision of this Contract shall not constitute a waiver of that or any other provision.

**16. GOVERNING LAW / VENUE:** The provisions of this Contract shall be construed in accordance with the provisions of the laws of the State of Oregon. Any action or suits involving any question arising under this Contract shall be brought in the appropriate court in Multnomah County, Oregon.

**17. JUDICIAL RULING:** If any provision of this Contract as applied to either party or to any circumstance shall be adjudged by a court to be void or unenforceable, the same shall in no way affect any other provision of this Contract or the validity or enforceability of the Contract.

**18. SEVERABILITY:** In the event that a court, government agency, or regulatory agency with proper jurisdiction determines that this Contract, or any provision of this Contract, is unlawful, this Contract, or that provision of the Contract to the extent it is unlawful, shall terminate. If a provision of this Contract is terminated but the parties can legally, commercially, and practicably continue without the terminated provision, the remainder of this Contract shall continue in effect.

**19. ENTIRE CONTRACT:** This Contract and its Attachments represent the entire Contract between the parties. This Contract is a final, complete exclusive statement of the terms thereof, and supersedes and terminates any prior Contract, understanding, or representation between the parties with respect thereto, whether written or oral.

**20. NONDISCRIMINATION:** Contractor agrees to comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations. Contractor also shall comply with the Americans With Disabilities Act of 1990 (Pub I. No. 101-336) including Title II of that Act, ORS 659.425, and all regulations and administrative rules established pursuant to those laws.

**21. INTERGOVERNMENTAL COOPERATIVE PURCHASING:** The Contractor, by submitting a proposal, agrees to extend identical prices and services under the same terms and conditions to all public agencies. Quantities stated herein reflect the City of Portland usage only. Pursuant to ORS279A and City of Portland procurement rules, other public agencies shall have the ability to purchase the awarded goods and services from the awarded Contractor(s) under terms and conditions of the resultant Contract.

Any such purchases shall be between the Contractor and the participating public agency and shall not impact the Contractor's obligation to the City of Portland. Any estimated purchase volumes listed herein do not include other public agencies and the City of Portland makes no guarantee as to their participation.

A public agency wishing to purchase goods or services will execute its own Contract with the awarded Contractor for its requirements. The successful Contractor shall provide quarterly usage reporting of the City of Portland and that of other public agencies. The Contractor has indicated by his proposal that the prices and terms of the RFP will be extended to any and/or all public agencies.

**22. EMPLOYEES NOT TO BENEFIT:** No City employee or elected official of the City shall be admitted to any share or part of this Contract or to any benefit that may arise there from; but, this provision shall not be construed to extend to this Contract if made with a corporation for its general benefit.

**23. CITY FURNISHED PROPERTY:** No materials, labor or facilities will be furnished by the City unless otherwise provided for within this Contract.

**24. PUBLICITY:** The Contractor shall not use in its external advertising, marketing programs, or other promotional efforts, any data, pictures or other representatives of the City, except with prior specific written authorization from the City.

**25. SURVIVAL:** The terms, conditions, representations, and all warranties contained in this Contract shall survive the termination or expiration of this Contract.

**26. WRITTEN NOTICE:** Any notice of change, termination, or other communication having a material effect on this Contract shall be served in one or more of the following manners:

a. Delivered in person to an authorized officer, employee, agent or other representative of the parties as follows:

<b>CITY</b>	<b>CONTRACTOR</b>
XXXXX	XXXXX
XXXXX	
XXXXX	XXXXX
XXXXX	Portland, OR 97XXX - XXXX

b. Deposited in the U.S. Mail under certified or registered handling, posted to the address(es) given in this document.

c. Delivered by courier or messenger service to the address(es) given in this document.

**27. FUNDING:** In the event the City, during the adoption of the City's annual budget, reduces, changes, eliminates, or otherwise modifies the funding for any of the projects identified herein, the Contractor agrees to abide by any such decision

including revision or termination of services.

**ARTICLE III.** It is understood and agreed by the parties hereto that:

1. Any reference in this Contract to the scope of work or specifications is intended as a convenience to the parties in administration of the Contract. Therefore, in the absence of an express statement to the contrary herein, any restatement or partial restatement in this Contract of any provision of the scope of work or specifications is not intended, nor shall be construed to change, alter, modify, amend, or delete the requirements of the scope of work or specifications.
2. All statutory, charter and ordinance provisions applicable to public contracts in the City of Portland and State of Oregon shall be followed with respect to this Contract.

IN WITNESS WHEREOF, Contractor and City have caused this contract to be executed in triplicate by their duly authorized representative(s), all on the day and year first above written.

(Affix Corporate Seal)

**XXXXX**

**BY** \_\_\_\_\_

\_\_\_\_\_  
XXXXXX  
**(Name and Title)**

Approved as to Form:

**Address:** XXXXX  
XXXXX

**Telephone No:** XXXXX  
**Fax No:** XXXXX

\_\_\_\_\_  
City Attorney

CITY OF PORTLAND  
BUSINESS LICENSE NO.

**CITY OF PORTLAND**

\_\_\_\_\_  
XXXXX

**BY** \_\_\_\_\_  
**Purchasing Agent**

## APPENDIX A

Contractor shall observe all applicable state and local laws pertaining to public contracts. ORS Chapters 279A, 279B and 279C require every public contract to contain certain provisions. Pursuant to those chapters, the following provisions shall be a part of this contract, as applicable.

Pursuant to ORS 279B.220, on every public contract, the contractor shall make payment promptly, as due, to all persons supplying to the contractor labor or material for the performance of the work provided for in the contract; shall pay all contributions or amounts due the Industrial Accident Fund from the contractor or subcontractor incurred in the performance of the contract; not permit any lien or claim to be filed or prosecuted against the state or a county, school district, municipality, municipal corporation or subdivision thereof, on account of any labor or material furnished, and; pay to the Department of Revenue all sums withheld from employees under ORS 316.167.

- Pursuant to ORS 279C.505, on public improvement contracts, the contractor shall make payments promptly, as due, to all persons supplying to such contractor labor or material for the prosecution of the work provided for in such contract. The contractor shall pay all contributions or amounts due the Industrial Accident Fund from such contractor or subcontractor incurred in the performance of the contract. The contractor shall not permit any lien or claim to be filed or prosecuted against the state, county, school district, municipality, municipal corporation or subdivision thereof, on account of any labor or material furnished. The contractor shall pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167. Contractor shall demonstrate that an employee drug-testing program is in place.

- Pursuant to ORS 279C.510(1), in every public contract for demolition, the contractor shall salvage or recycle construction and demolition debris, if feasible and cost-effective. Pursuant to ORS 279B.225 and 279C.510(3) in every public contract, and every public improvement contract, for lawn and landscape maintenance, the contractor shall compost or mulch yard waste material at an approved site, if feasible and cost-effective.

- Pursuant to ORS 279B.230(1), in every public contract, the contractor shall promptly, as due, make payment to any person, copartnership, association or corporation furnishing medical, surgical and hospital care services or other needed care and attention, incident to sickness or injury, to the employees of the contractor, of all sums that the contractor agrees to pay for the services and all moneys and sums that the contractor collected or deducted from the wages of employees under any law, contract or agreement for the purpose of providing or paying for the services.

- Pursuant to ORS 279B.230(2), in every public contract, all subject employers working under the contract are either employers that will comply with ORS 656.017 or employers that are exempt under ORS 656.126.

- Pursuant to ORS 279B.235(1), in every public contract, the contractor shall pay employees for overtime work performed under the public contract in accordance with ORS 653.010 to 653.261 and the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et.seq.)

- Pursuant to ORS 279C.515(1), on public improvement contracts, if the contractor fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to the contractor or a subcontractor by any person in connection with the public contract as such claim becomes due, the proper officer or officers representing the state, county, school district, municipality, municipal corporation or subdivision thereof, as the case may be, may pay such claim to the person furnishing the labor or services and charge the amount of the payment against funds due or to become due the contractor by reason of such contract. The payment of a claim in the manner authorized by ORS 279C.515 shall not relieve the contractor or the contractor's surety from obligation with respect to any unpaid claims.

- Pursuant to ORS 279C.515(2), on public improvement contracts, if the contractor or a first-tier subcontractor fails, neglects or refuses to make payment to a person furnishing labor or materials in connection with the public improvement contract within 30 days after receipt of payment from the contract agency or a contractor, the contractor or first-tier subcontractor shall owe the person the amount due plus interest charges commencing at the end of the 10-day period that payment is due under ORS 279C.580<sup>4</sup> and ending upon final payment, unless payment is subject to a good faith dispute as defined in ORS 279C.580. The rate of interest charged to the contractor or first-tier subcontractor on the amount due shall equal three times the discount rate on 90-day commercial paper in effect at the Federal Reserve Bank in the Federal Reserve district that includes Oregon on the date that is 30 days after the date when payment was received from the contracting agency or from the contractor, but the rate of interest may not exceed 30 percent. The amount of interest may not be waived.

- Pursuant to ORS 279C.515(3), in every public improvement contract and every contract related to the public improvement contractor, if the contractor or subcontractor fails, neglects or refuses to make payment to a person furnishing labor or materials in connection with the public improvement contract, the person may file a complaint with the Construction Contractors Board, unless payment is subject to a good faith disputed

as defined in ORS 279C.580.

- Pursuant to ORS 279C.520, no person shall be employed for more than 10 hours in any one day, or 40 hours in any one week, except in cases of necessity, emergency, or where the public policy absolutely requires it, and in such cases, except in cases of contracts for personal services as defined in ORS 279C.100, the employee shall be paid at least time and a half pay for all overtime in excess of eight hours a day or 40 hours in any one week when the work week is five consecutive days, Monday through Friday; or for all overtime in excess of 10 hours a day or 40 hours in any one week when the work week is four consecutive days, Monday through Friday; and for all work performed on Saturday and on any legal holiday specified in ORS 279C.540. The contractor shall give notice to employees who work on a public contract in writing, either at the time of hire or before commencement of work on the contract, or by posting a notice in a location frequented by employees, of the number of hours per day and days per week that the employees may be required to work. In the case of contracts for personal services as defined in ORS 279C.100, an employee shall be paid at least time and a half for all overtime worked in excess of 40 hours in any one week, except for individuals under these contracts who are excluded under ORS 653.010 to 653.261 or under 29 U.S.C. sections 201 to 209 from receiving overtime. Persons employed under contracts for services shall receive at least time and a half pay for work performed on the legal holidays specified in a collective bargaining agreement or in ORS 279C.540(1)(b)(B) to (G) and for all time worked in excess of 10 hours a day or in excess of 40 hours in a week, whichever is greater. The contractor shall give notice to employees who work on a contract for services in writing, either at the time of hire or before commencement of work on the contract, or by posting a notice in a location frequented by employees, of the number of hours per day and days per week that the employees may be required to work.
- Pursuant to ORS 279C.530(1), in every public improvement contract, the contractor shall promptly, as due, make payment to any person, co-partnership, association or corporation, furnishing medical, surgical and hospital care or other needed care and attention, incident to sickness or injury, to the employees of such contractor, of all sums which the contractor agrees to pay for such services and all monies and sums which the contractor collected or deducted from the wages of employees pursuant to any law, contract or agreement for the purpose of providing or paying for such service. In every public contract, subject to ORS 279C, all employers working under the contract are subject employers that shall comply with ORS 656.017.
- Pursuant to ORS 279C.580(3)(a), the contractor shall include in each public improvement subcontract for property or services entered into by the contractor and a subcontractor, including a material supplier, for the purpose of performing a construction contract, a payment clause that obligates the contractor to pay the subcontractor for satisfactory performance under its subcontract within 10 days out of such amounts as are paid to the contractor by the public contracting agency under such contract, and an interest penalty clause that obligates the contractor to pay to the subcontractor an interest penalty on amounts due in the case of each payment not made in accordance with the payment clause included in the subcontract pursuant to ORS 279C.580(3), for the period beginning on the day after the required payment date and ending on the date on which payment of the amount due is made, and computed at the rate specified in ORS 279C.515(2).
- Pursuant to ORS 279C.580(3), the contractor shall include in each of its subcontracts for a public improvement, for the purpose of performance of such contract condition, a provision requiring the subcontractor to include a payment clause and an interest penalty clause conforming to the standards of ORS 279C.580(B)(4) in each of its subcontracts and to require each of its subcontractors to include such clauses in their subcontracts with each lower-tier subcontractor or supplier.
- Pursuant to ORS 279C.830(2), in a public works contract subject to ORS 279C.800 to 279C.870 the Contractor shall pay the required fee to the Commissioner of the Bureau of Labor and Industries as provided in ORS 279C.825(1). The fee shall be paid to the Commissioner pursuant to the administrative rule of the Commissioner.

Revised August 22, 2005

## **EXHIBIT 1**

To provide Wireless Internet Services to the City of Portland. All work shall be performed in accordance with this Exhibit 1. The delivery schedule for the work is identified herein.

### **1. TECHNICAL OR REQUIRED SERVICES AND SCHEDULE**

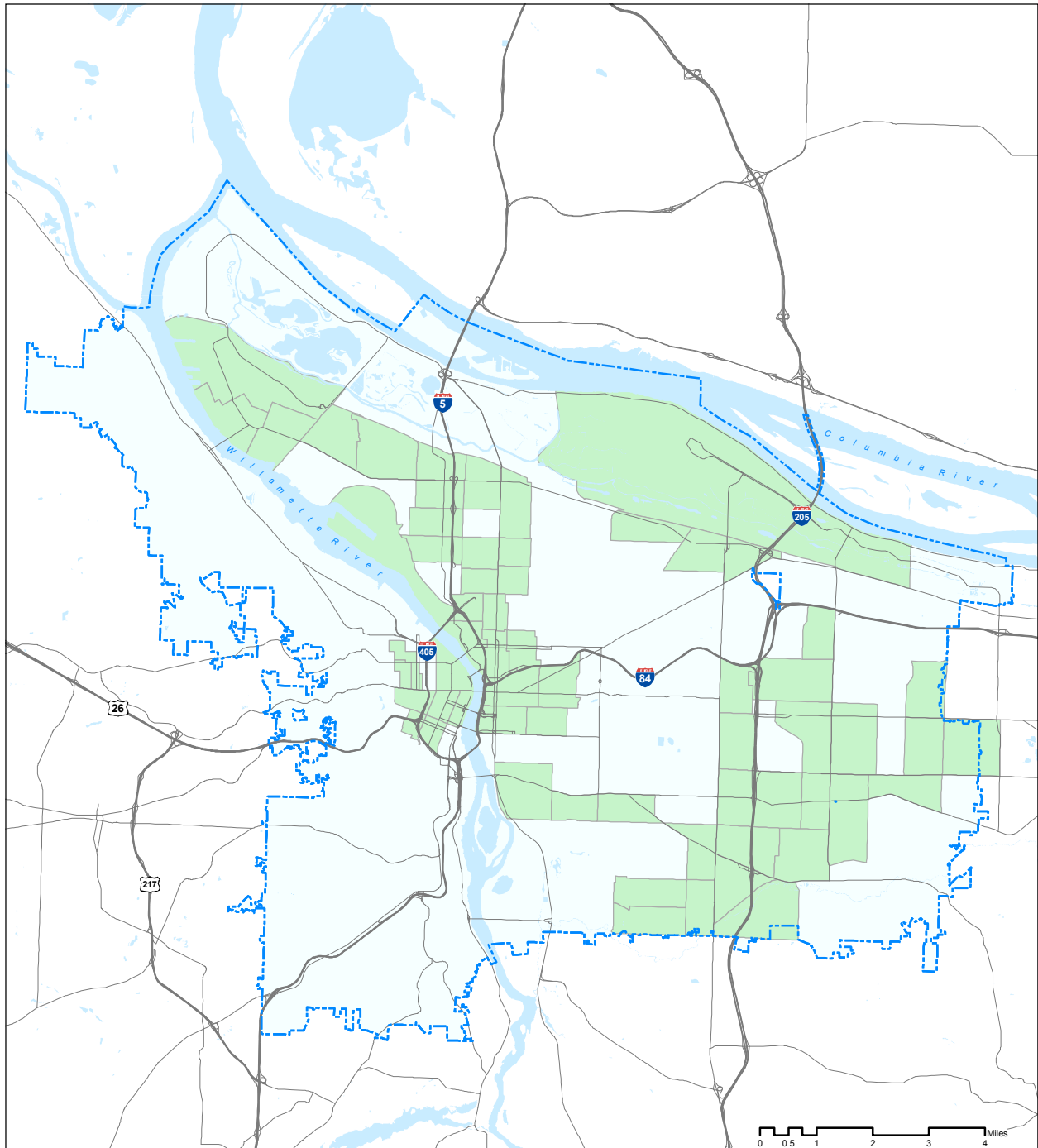
### **2. CONSIDERATION**


a. The City shall pay the Contractor for its services as follows:

b. Contractor shall submit any proposed pricing revisions in writing to the Project Manager for consideration at least thirty (30) days before the proposed effective date. All proposed price adjustments shall be calculated consistent with the methodology used to calculate the prices set forth in the Contractor's original proposal, the Contractor shall certify this in its request for price adjustments.

c. Price adjustments shall become effective thirty (30) days from the date of last signature on the contract amendment document or as otherwise stated therein. Except that no increase in price adjustments shall become effective prior to a date one year following the date of acceptance. Price adjustments will only become effective by fully executed amendments, following receipt by the Project Manager of the requested price adjustment.

# Attachment: Map of Low-Income Census Tracts



 Low-Income Census Tracts



Information Sources: Portland Development Commission Geographic Information Systems (GIS), the City of Portland of Corporate GIS and the 2000 U.S. Census. Tracts deemed low-income when meeting the following criteria: (1) Census tracts with at least 20% poverty, or (2) Census tracts where the median family income is at or below 80% of the area median family income.