

Wilmington, Delaware
October 18, 2018

#4585

Sponsor:

Council
Member
Turner

WHEREAS, pursuant to Wilmington Charter Section 8-205, the City may sell or exchange any real estate belonging to the City or grant any license, easement, right-of-way, or other interest over or in such real estate with authority by general ordinance and later resolution from Council to do so; and

WHEREAS, City Code Section 2-626 provides that the Department of Public Works shall have the authority to grant licenses, easements, and/or rights-of-way as shall be necessary for the construction, installation, maintenance, repair, operation, and inspection of utilities, subject to the approval of City Council by resolution; and

WHEREAS, on April 20, 2006, City Council passed a resolution approving a license agreement (the "License Agreement") between the City and Cellco Partnership d/b/a Verizon Wireless ("Verizon") which permitted Verizon to install and operate communications antennas and related equipment on and about the City's water tower (the "Tower") located at or near 1651 Foulk Road, Wilmington, Delaware, sometimes referred to as the Foulk Road standpipe; and

WHEREAS, the License Agreement is set to expire in 2021; and

WHEREAS, the parties desire to amend the License Agreement (a copy of the amendment, in substantial form, is attached hereto as Exhibit "A") to: 1) permit Verizon to add three (3) additional panel antennas to its existing antenna arrays on the Tower; 2) increase the license fee payable by Verizon to the City under the License Agreement by \$200.00 per month from \$3,431.33 per month to \$3,631.33 per month (which is an increase of \$2,400.00 per year from \$41,175.96 per year to \$43,575.96 per year); and 3) provide

Verizon with an option to renew the License Agreement for four (4) additional terms of five (5) years after the current expiration date.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF WILMINGTON that the Council hereby authorizes and approves the "First Amendment to License Agreement" between the City of Wilmington and Cellco Partnership d/b/a Verizon Wireless ("Verizon"), a copy of which, in substantial form, is attached hereto as Exhibit "A", and the Mayor, or his designee, is hereby authorized to execute as many copies of said "First Amendment to License Agreement" as may be necessary.

Passed by City Council,

ATTEST: _____
City Clerk

SYNOPSIS: This Resolution approves the First Amendment to a License Agreement between the City and Cellco Partnership d/b/a Verizon Wireless ("Verizon"), which permits Verizon to install and operate communications antennas and related equipment on and about the City's water tower (the "Tower") located at or near 1651 Foulk Road, Wilmington, Delaware, sometimes referred to as the Foulk Road standpipe. The First Amendment will: 1) permit Verizon to add three (3) additional panel antennas to its existing antenna arrays on the Tower; 2) increase the license fee payable by Verizon to the City under the License Agreement by \$200.00 per month from \$3,431.33 per month to \$3,631.33 per month (which is an increase of \$2,400.00 per year from \$41,175.96 per year to \$43,575.96 per year); and 3) provide Verizon with an option to renew the License Agreement for four (4) additional terms of five (5) years after the current expiration date.

W0102398

EXHIBIT A

FIRST AMENDMENT TO LICENSE AGREEMENT

This First Amendment to License Agreement, hereinafter referred to as the “Amendment”, is made this _____ day of _____, 201__ (the “Effective Date”), between The City of Wilmington, a municipal corporation of the State of Delaware, with its principal place of business at 800 French Street, Wilmington, Delaware 19801, hereinafter designated “Licensor”, and Cellco Partnership, a Delaware general partnership, d/b/a Verizon Wireless, with its principal offices located at One Verizon Way, Mail Stop 4AW100, Basking Ridge, New Jersey 07920, hereinafter referred to as “Licensee”. At times, Licensor and Licensee may be referred to collectively as “the Parties”.

W I T N E S E T H

WHEREAS, Licensor is the owner in fee simple of that certain parcel of property located on or near 1651 Foulk Road, Wilmington, Delaware (the “Property”), such Property sometimes referred to as Tax Folio #060540013); and

WHEREAS, the Parties entered into that certain License Agreement dated April 27, 2005 (the “License”), whereby Licensee licensed a certain space on Licensor’s water tower (the “Tower”) that is located on the Property; and

WHEREAS, Licensee desires to make certain changes to its equipment at the Tower and to extend the term of the License, to which Licensor is amenable.

NOW, THEREFORE, in exchange for the promises hereinafter made and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Licensee shall have the right to add three (3) panel antennas to its existing antenna arrays on the Tower, leaving Licensee’s total number of allowed panel antennas at twelve (12). Such equipment addition is reflected in Exhibit B (2018 Revision) attached hereto and made a part hereof, which shall supersede Exhibit B of the License in its entirety.

2. In consideration for Licensor’s agreement to the aforementioned equipment additions, Licensee hereby agrees to increase its current License Fee by \$200.00 per month. Such increase shall be effective on the first day of the month following the date when Licensee makes the equipment changes contemplated hereunder.

3. Effective on the Effective Date, Paragraph 2.2 of the License is hereby deleted in its entirety and is replaced with and superseded by the following:

“2.2 Licensee shall have the option to renew the term for four (4) additional five (5) year terms upon the same terms and conditions set forth herein, except for the adjustment to fees that is described in paragraph 3.1 below. This License shall

automatically be renewed for each such renewal term unless Licensee gives Licensor written notice of Licensee's intent not to renew this License. Such notice must be given to Licensor at least sixty (60) days prior to the expiration of the then-current five (5) year term. Absent such notice from Licensee, the term shall automatically renew without the necessity of any notice."

4. Except as modified herein, all other terms and conditions of the License are hereby ratified and shall remain in full force and effect. All capitalized terms used and not defined herein shall have the meanings ascribed respectively thereto in the License. In the event of any conflict between the License and the provisions of this Amendment, the provisions herein shall prevail and shall supersede conflicting terms and conditions, if any.

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IN WITNESS WHEREOF, the Parties hereto have set their hands and affixed their respective seals the day and year first above written.

LICENSOR:

City of Wilmington

By: _____

Name: _____

WITNESS

Title: _____

Date: _____

LICENSEE:

Cellco Partnership d/b/a Verizon
Wireless

By: _____

Susan Peluso

WITNESS

Its: Director Network Field Engineering

Date: _____

Exhibit B (2018 Revision)

DEMOLITION NOTES		LEGEND		INSTALLATION NOTES	
A	EXISTING X7C-FR0-460 ANTENNA TO BE REMOVED (TYP. OF 1 PER SECTOR, TOTAL OF 3)	1		1	INSTALL SBNHH-1D65B ANTENNAS ON EXISTING MOUNT (TYP. OF 9; ALPHA, BETA, & GAMMA SECTORS)
B	EXISTING XP18-60-2D ANTENNAS TO BE REMOVED (TYP. OF 1 PER SECTOR, TOTAL OF 3)	2		2	INSTALL SBNHH-1D65B ANTENNAS ON NEW MOUNT (TYP. OF 3; DELTA SECTOR)
C	EXISTING AXP20-60 ANTENNAS TO BE REMOVED (TYP. OF 1 PER SECTOR, TOTAL OF 3)	3		3	INSTALL AIRSCALE DUAL RRH 4T4R B5/13 320W AHBCC ON UNISTRUT (TYP. OF 1 PER SECTOR, TOTAL OF 4)
D	EXISTING X7C-MB-434-0 ANTENNAS TO BE REMOVED (TYP. OF 1 PER SECTOR, TOTAL OF 3)	4		4	INSTALL AIRSCALE DUAL RRH 4T4R B2/66d 320W AHFC ON UNISTRUT (TYP. OF 2 PER SECTOR, TOTAL OF 8)
				5	INSTALL MAIN DISTRIBUTION BOX ON UNISTRUT (TYP. OF 1 PER SECTOR, TOTAL OF 4)
				6	INSTALL 6x12 HYBRID FIBER CABLES FOLLOWING EXISTING ROUTING ALONG EXISTING WAVEGUIDE. CONTRACTOR TO PROVIDE NEW CABLE SNAP-IN'S (TYP. OF 1 PER SECTOR, TOTAL OF 4)

