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MEMORANDUM TRANSPORTATION & DEVELOPMENT DEPARTMENT MEMO TDA13-009

DATE: SEPTEMBER 13, 2012

TO: MAYOR AND CITY COUNCIL

THRU: RICH DLUGAS, CITY MANAGER *RD*
PAT MCDERMOTT, ASSISTANT CITY MANAGER
R.J. ZEDER, TRANSPORTATION & DEVELOPMENT DIRECTOR *RJZ*

FROM: MARGARET COULTER, REGULATORY AFFAIRS MANAGER *mcg*

SUBJECT: INTRODUCTION OF ORDINANCE NO. 4372 FOR AMENDMENT NO. TWO TO
THE AGREEMENT BETWEEN VERIZON WIRELESS LLC AND THE CITY OF
CHANDLER FOR WIRELESS TELECOMMUNICATIONS FACILITIES AT THE
SNEDIGAR SPORTSPLEX

RECOMMENDATION: Staff recommends introduction and tentative approval of Ordinance No. 4372 for Amendment No. Two to the Agreement between Verizon Wireless LLC and the City of Chandler for wireless telecommunications facilities at the Snedigar Sportsplex.

BACKGROUND: On July 26, 2002, the City Council approved Ordinance 3353, authorizing the City to enter into a Wireless Telecommunications Use Agreement and Encroachment Permit with Verizon Wireless to install communication facilities at the Snedigar Sportsplex. On June 28, 2007, the City Council approved Ordinance 3917 authorizing Amendment No. One to the Agreement which provided for an extension of five years as authorized pursuant to the Agreement from August 23, 2007 to August 22, 2012 and amended the lease amount in a series of annual increases that ended the Amendment No. One term at an amount of \$1,626.00 per month. This Ordinance adopts Amendment No. Two to the Agreement by extending it an additional five years and raises the new base rate to \$1,839.67. Other provisions of the Agreement remain in place.

The Police and Fire departments have determined that the extension of this Agreement will not cause any interference to the City's public safety communication systems. The Community Services Park staff has also stated that there are no outstanding issues with the tenant in terms of the City's operations or property. Staff has concluded that the proposed Amendment would be in the best interests of the City of Chandler and its citizens and would satisfy the License provisions.

FINANCIAL IMPLICATIONS: The Company will pay permit, inspection and pavement damage fees if applicable. Verizon Wireless will also pay \$1,839.67 per month rent for the Snedigar Sportsplex site with provisions for rent increases detailed in the Agreement. There will also be 2.75% privilege tax applied on any non-interstate telecommunication services.

PROPOSED MOTION: Move to approve Ordinance No. 4372 for Amendment No. Two to the Agreement between Verizon Wireless LLC and the City of Chandler for wireless telecommunications facilities at the Snedigar Sportsplex.

Attachment: Ordinance 4372, Amendment No. Two

ORDINANCE NO. 4372

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CHANDLER, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE SECOND AMENDMENT TO THE AGREEMENT BETWEEN VERIZON WIRELESS LLC AND THE CITY OF CHANDLER FOR WIRELESS TELECOMMUNICATIONS FACILITIES AT THE SNEDIGAR SPORTSPLEX

WHEREAS, the City of Chandler and Verizon Wireless (VAW) LLC, dba Verizon Wireless (hereinafter "VZW") entered into an Agreement authorized pursuant to Ordinance No. 3353 which was a wireless telecommunications use agreement; and

WHEREAS, the parties have agreed to amend the terms of the agreement to extend the term and rent;

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHANDLER, ARIZONA, AS FOLLOWS:

SECTION I: That the Mayor of the City of Chandler is herewith authorized to execute Amendment No. 2 to Agreement authorized pursuant to Ordinance No. 3353, a wireless telecommunications use agreement between VZW and the City of Chandler.

SECTION II: That the various City officers and employees be and they are hereby authorized and directed to perform all acts necessary to give effect to this Ordinance.

SECTION III: This Ordinance shall become effective thirty days from and after its final adoption: provided, however, that the agreement hereby granted shall not become effective unless and until VZW has accepted said agreement as provided herein and has carried out such other terms and conditions as may be required before said agreement shall become effective.

INTRODUCED AND TENTATIVELY ADOPTED by the City Council of the City of Chandler, Maricopa County, Arizona, this ___ day of _____, 2012.

ATTEST:

CITY CLERK

MAYOR

PASSED AND ADOPTED by the City Council of the City of Chandler, Arizona this ____ day of _____, 2012.

ATTEST:

MAYOR

CERTIFICATION

I HEREBY CERTIFY that the above and foregoing Ordinance No. 4372 was duly passed and adopted by the City Council of the City of Chandler, at a regular meeting held on the ____ day of _____, 2012 and that a quorum was present thereat.

City Clerk

Published:

APPROVED AS TO FORM:

CITY ATTORNEY G.A.B.

AMENDMENT NO. TWO

TO WIRELESS TELECOMMUNICATIONS USE AGREEMENT AND ENCROACHMENT PERMIT BETWEEN VERIZON WIRELESS (VAW), DBA VERIZON WIRELESS AND THE CITY OF CHANDLER AT SNEDIGAR SPORTSPLEX

This Amendment Number Two is to the Wireless Telecommunications Use Agreement and Encroachment Permit between Verizon Wireless (VAW) LLC, dba Verizon Wireless (hereinafter "Verizon") and the City of Chandler (hereinafter "the City") on July 26, 2002 (hereinafter "Agreement").

WHEREAS, on July 26, 2002, the City Council approved Ordinance 3353, authorizing the City to enter into a Wireless Telecommunications Use Agreement and Encroachment Permit for Verizon to install communication facilities at the Snedigar Sportsplex, and

WHEREAS, this Agreement allowed for a 5-year extension of the Agreement upon the mutual agreement of the parties, and

WHEREAS, on June 28, 2007, the City Council approved Ordinance 3917, authorizing Amendment One to this Agreement which provided for an extension of five years as authorized pursuant to the Agreement from August 23, 2007 to August 22, 2012, and amended the lease amount in a series of annual increases that ending the Amendment One term at an amount of \$1,626.00 per month, and

WHEREAS, both the City and Verizon wish to exercise the option to extend the Agreement by 5 (five) years and to establish new rates for the extended term, and

NOW THEREFORE, the parties agree as follows:

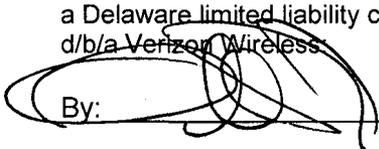
1. Section 5.1 of the Agreement is amended to provide an extension of five years as authorized pursuant to the Agreement from August 23, 2012 to August 22, 2017.
2. Section 4.3.1 of the Agreement is amended to provide an increase the current rent from One Thousand Seven Hundred Ninety Four Dollars and Eighty cents (\$1,794.80) per month to One Thousand Eight Hundred Thirty Nine Dollars and Sixty-Seven Cents (\$1,839.67) per month as of September 1, 2012. Other terms of Section 4.3.1 remain unchanged.
3. All other terms and conditions of the original Agreement shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the parties have hereunto subscribed their names this ____ day of _____, 2012.

CITY OF CHANDLER:

MAYOR

VERIZON WIRELESS (VAW) LLC,
a Delaware limited liability company,
d/b/a Verizon Wireless

By: 

Name: Walter L. Jones, Jr.
Its: Area Vice President Network
Date: 8/13/12

APPROVED AS TO FORM:

ATTEST: (If corporation)

City Attorney *GAB*

Secretary

ATTEST:

City Clerk

SEAL