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#10

JAN 24 2013

MEMORANDUM Transportation & Development Department Memo No. TDA13-066

DATE: JANUARY 24, 2013

TO: MAYOR AND CITY COUNCIL

THRU: RICH DLUGAS, CITY MANAGER *RD*
PAT MCDERMOTT, ASSISTANT CITY MANAGER *[Signature]*
R.J. ZEDER, TRANSPORTATION AND DEVELOPMENT DIRECTOR *[Signature]*

FROM: MARGARET COULTER, REGULATORY AFFAIRS MANAGER *MC*

SUBJECT: RESOLUTION NO. 4664 CONSENTING TO THE ASSIGNMENT OF AN EXISTING TELECOMMUNICATION ENCROACHMENT PERMIT TO T-MOBILE TOWER WEST LLC, AND CONSENTING TO THE MANAGEMENT AND OPERATION OF THE SITE BY CROWN CASTLE INTERNATIONAL CORPORATION

RECOMMENDATIONS: Staff recommends approval of Resolution No. 4664 consenting to the assignment of an existing Telecommunication Encroachment Permit for a Site at the Police Property and Evidence Yard to T-Mobile Tower West LLC, and consenting to the management and operation of the Site by Crown Castle International Corporation under a Master Agreement with T-Mobile USA, Inc.

BACKGROUND: On November 24, 2003, Council granted VoiceStream PCS III Corporation, a subsidiary of T-Mobile USA, Inc., a use agreement and encroachment permit to house facilities to provide wireless telecommunication services at the City's Police Property and Evidence Yard at 576 West Pecos Road in Chandler (Site). Council consented to the transfer of the agreement and permit to T-Mobile USA, Inc. on October 26, 2006 by Resolution No. 4013 after a restructuring to reduce the total number of T-Mobile subsidiaries occurred. At this time, T-Mobile is requesting to transfer its interests in the agreement and permit to T-Mobile West Tower LLC as another corporate restructuring move (Exhibit 1). This resolution also consents to Crown Castle International Corp. assuming the management and operation of the Site under a Master Agreement with T-Mobile USA, Inc. (Exhibit 2). The consent of these transfers is allowed by Council resolution.

FINANCIAL IMPLICATIONS: None. The same financial obligations remain in place.

PROPOSED MOTION: Move to approve Resolution No. 4664 consenting to the assignment of an existing Telecommunication Encroachment Permit for a Site at the Police Property and Evidence yard to T-Mobile Tower West LLC, and consenting to the management and operation of the Site by Crown Castle International Corporation under a Master Agreement with T-Mobile USA, Inc.

ATTACHMENTS: Resolution No. 4664; Exhibit 1-Memorandum of Assignment and Assumption; Exhibit 2-T-Mobile Consent of Transfer Letter-Dated October 12, 2012

RESOLUTION NO. 4664

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHANDLER, MARICOPA COUNTY, ARIZONA, CONSENTING TO THE ASSIGNMENT OF AN EXISTING TELECOMMUNICATION ENCROACHMENT PERMIT FOR A SITE AT THE POLICE PROPERTY AND EVIDENCE YARD TO T-MOBILE TOWER WEST LLC; AND CONSENTING TO THE MANAGEMENT AND OPERATION OF THE SITE BY CROWN CASTLE INTERNATIONAL CORPORATION UNDER A MASTER AGREEMENT WITH T-MOBILE USA, INC.

WHEREAS, pursuant to Ordinance No. 3487, the City of Chandler (the "City") entered into a written agreement, dated November 24, 2003, which, in part, granted an telecommunication encroachment permit (the "Encroachment Permit") to VoiceStream PCS III Corporation ("VoiceStream"), a subsidiary of T-Mobile USA ("T-Mobile"), for the construction and operation of a wireless telecommunication facility on property at 576 West Pecos Road, Chandler, AZ, the City's Police Property and Evidence Yard, a/k/a T-Mobile Site #PH30537D-1 (the "Site"); and

WHEREAS, pursuant to Resolution No. 4013, dated October 26, 2006, the City consented to the internal transfer of VoiceStream's interest in the permit to T-Mobile, as part of a corporate restructuring; and

WHEREAS, T-Mobile has advised in writing that it has entered into a Master Agreement with Crown Castle International Corp. ("Crown") for Crown to manage and operate T-Mobile's tower portfolio, including the wireless telecommunication facility at the Site, and that T-Mobile will transfer and/or assign its interest in the Site arising under the Encroachment Permit to a different entity, T-Mobile Tower West LLC ("Tower West"); and

WHEREAS, under paragraph 13.1 of the agreement with the City, as approved by Ordinance No. 3487, the transfer and/or assignment of the Encroachment Permit to Tower West, as well as the authorization for Crown to manage and operate T-Mobile's tower facility on the Site, require the "express written consent of CITY by resolution passed by the City Council"; and

WHEREAS, the City of Chandler believes that it is in the City's best interest to consent to these matters.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Chandler, Arizona, as follows:

Section 1. The City Council consents to the transfer and/or assignment of T-Mobile's interest in the Encroachment Permit for the Site to Tower West, subject to the terms and conditions set out in that certain written agreement dated November 24, 2003, which was authorized pursuant to Ordinance No. 3487.

Section 2. The City Council consents to Crown's management and operation of T-Mobile's tower facility on the Site, in accordance with the above-referenced Master Agreement, subject to the terms and conditions set out in that certain written agreement dated November 24, 2003, which was authorized pursuant to Ordinance No. 3487.

Section 3. The Mayor of the City of Chandler, Arizona is hereby authorized to sign on behalf of the City all documents required confirming the transfer of the agreement.

PASSED AND ADOPTED by the City of Council of the City of Chandler, Arizona, this _____ day of _____, 2013.

ATTEST:

City Clerk

Mayor

CERTIFICATION

I HEREBY CERTIFY that the above and foregoing Resolution No. 4664 was duly passed and approved by the City Council of the City of Chandler, Arizona, at a regular meeting held on the _____ day of _____, 2013, and that a quorum was present thereat.

City Clerk

APPROVED AS TO FORM:

City Attorney GAB

Exhibit 1



T-Mobile USA, Inc.
12920 SE 38th Street, Bellevue, WA 98006

October 12, 2012

SENT BY CERTIFIED MAIL

City of Chandler
P.O. Box 4008
Mail Stop 604
Chandler, AZ 85244-4008

City Attorney
P.O. Box 4008
Mail Stop 602
Chandler, AZ 85224-4008

City of Chandler
250 East Chicago Street
Chandler, AZ 85225

Real Estate Services
P.O. Box 4008
Mail Stop 916
Chandler, AZ 85244-4008

T-Mobile Site ID: PH30537D

Re: The lease for the premises located at or about 576 West Pecos, Chandler, AZ 85255 (the "Lease"), and the transfer of the Lease to T-Mobile Tower West LLC

Dear Landlord:

On September 28, 2012, T-Mobile USA, Inc., ("T-Mobile") entered into a Master Agreement ("Master Agreement") with Crown Castle International Corp., ("Crown") regarding Crown's management and operation of the T-Mobile tower portfolio, which your site is a part of.

T-Mobile expects this transaction with Crown to close approximately at the end of November, 2012. Pursuant to the terms of the Master Agreement, T-Mobile will, at closing, transfer the Lease to T-Mobile Tower West LLC. T-Mobile Tower West LLC will grant Crown the right to manage and operate the site at the above premises by entering into a master lease (basically a sublease). T-Mobile Tower West LLC will remain the owner of the rights, title and interest in and to this site. Additionally, T-Mobile will continue to maintain its communications facilities on the site.

This letter asks that you please confirm your consent to the assignment of the Lease to T-Mobile Tower West LLC and to the master lease (basically a sublease) by signing this letter and returning it in the enclosed self-addressed envelope. In the near future you will also receive additional documentation pursuant to the Lease. This information is being prepared and will be provided to you as it becomes available.

T-Mobile/Crown will send you a follow-up letter with additional details around closing. Thank you for your prompt attention to this matter. If you have any questions about this request, please e-mail us at propertymanagement@t-mobile.com.

Sincerely,



Allan Tantillo
Director, Titan Towers

Acknowledged and Consented:

By: _____
Authorized Signatory

Print Name: _____

Date: _____

APPROVED AS TO FORM


CITY ATTORNEY

Exhibit 2

MEMORANDUM OF ASSIGNMENT AND ASSUMPTION AGREEMENT

This MEMORANDUM OF ASSIGNMENT AND ASSUMPTION AGREEMENT is entered into this 26th day of November, 2012, by and between T-Mobile West LLC, a Delaware limited liability company ("*Assignor*") and T-Mobile West Tower LLC, a Delaware limited liability company ("*Assignee*"). Initially capitalized terms used but not defined in this Memorandum of Assignment and Assumption Agreement have the meanings given to them in that certain Master Agreement entered into by and among T-Mobile USA, Inc. and its subsidiaries named therein and Crown Castle International Corp and its subsidiary named therein, dated September 28, 2012.

1. Assignment and Transfer. As of the date hereof, Assignor sells, conveys, assigns, transfers and delivers to Assignee, Assignor's interest in and to the to the ground lease, sublease, easement, license, permit or other agreement described on Exhibit A attached hereto and incorporated herein (the "Ground Lease").
2. Acceptance of Assignment; Assumption of Liabilities. As of the date hereof, Assignee accepts the sale, conveyance, assignment, transfer and delivery of Assignor's interest in and to the Ground Lease and assumes and agrees to pay, perform and discharge, when and as due, any and all Post-Closing Liabilities with respect to such Ground Lease.

IN WITNESS WHEREOF, Assignors and Assignee have executed this Memorandum of Assignment and Assumption Agreement as of the date first written above.

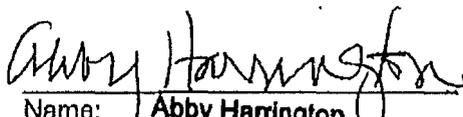
ASSIGNOR:

ASSIGNEE:

T-MOBILE WEST LLC

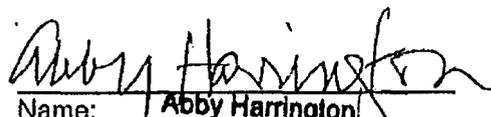
T-MOBILE WEST TOWER LLC

By:

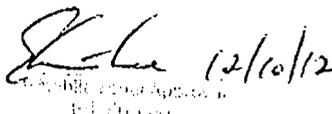


Name: Abby Harrington
Title: Director, National Siting Policy

By:



Name: Abby Harrington
Title: Director, National Siting Policy


12/10/12