

#10

SEP - 6 2007



Memorandum

CAPA COUNCIL MEMO NO. 18

DATE: AUGUST 27, 2007

TO: MAYOR AND CITY COUNCIL

THRU: W. MARK PENTZ, CITY MANAGER ^{RPD}
PAT MCDERMOTT, ASST. CITY MANAGER
NACHIE MARQUEZ, CAPA DIRECTOR ^{NM}

FROM: MARGARET COULTER, COMMUNICATIONS MANAGER ^{MC}

SUBJECT: INTRODUCTION OF ORDINANCE NO. 3937, AMENDING A WIRELESS TELECOMMUNICATIONS USE AGREEMENT BETWEEN VERIZON WIRELESS LLC, DBA VERIZON WIRELESS AND THE CITY OF CHANDLER AT FIRE STATION 2

RECOMMENDATION: Staff recommends approval of Ordinance No. 3937.

BACKGROUND: Ordinance 3937 amends Ordinance 3427 by extending the agreement an additional five years with provisions for extensions. It also raises the new base rate to \$1626 per month with provisions for annual increases. The Police and Fire departments have not had any issues with interference to the City's public safety communication systems during the first five years of Verizon Wireless's operation at this location. 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 will also pay \$1626 per month rent for the Fire Station 2 site with provisions for rent increases detailed in the Amendment. There will also be 2.75% privilege taxes applied on any non-interstate telecommunication services.

PROPOSED MOTION: Move to approve the Ordinance No. 3937, which amends the Wireless Telecommunication Use Agreement between City of Chandler, Arizona and Verizon Wireless (VAW) LLC dba Verizon Wireless (VZW) at the Fire Station 2

Attachment: Ordinance 3937, Amendment One

ORDINANCE NO. 3937

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CHANDLER, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE FIRST AMENDMENT TO THE AGREEMENT BETWEEN VERIZON WIRELESS LLC AND THE CITY OF CHANDLER FOR WIRELESS TELECOMMUNICATIONS FACILITIES AT THE FIRE STATION 2

WHEREAS, the City of Chandler and Verizon Wireless LLC, dba Verizon Wireless (hereinafter "COMPANY") entered into an Agreement authorized pursuant to Ordinance No. 3427 which was a wireless telecommunications use agreement; and

WHEREAS, the parties have agreed to amend the terms of the agreement related to extension provisions and for COMPANY to pay the City pursuant to an amended fee structure;

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. 1 to Agreement authorized pursuant to Ordinance No. 3427, a wireless telecommunications use agreement between COMPANY 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 COMPANY 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 _____, 2007.

ATTEST:

CITY CLERK

MAYOR

PASSED AND ADOPTED by the City Council of the City of Chandler, Arizona this ____ day of _____, 2007.

ATTEST:

MAYOR

CERTIFICATION

I HEREBY CERTIFY that the above and foregoing Ordinance No. 3937 was duly passed and adopted by the City Council of the City of Chandler, at a regular meeting held on the ____ day of _____, 2007 and that a quorum was present thereat.

City Clerk

Published:

APPROVED AS TO FORM:

AMENDMENT NO. ONE

TO WIRELESS TELECOMMUNICATIONS USE AGREEMENT BETWEEN VERIZON WIRELESS (VAW) LLC, DBA VERIZON WIRELESS, AND THE CITY OF CHANDLER AND ENCROACHMENT PERMIT FOR FIRE STATION #2 SITE

This Amendment Number One is to the Wireless Telecommunications Use Agreement and Encroachment Permit between Verizon Wireless (VAW) LLC, dba Verizon Wireless (hereinafter "COMPANY") and the City of Chandler (hereinafter "CITY") executed on February 21, 2003 (hereinafter "Agreement").

WHEREAS, the City Council approved Ordinance 3427, authorizing CITY to enter into a Wireless Telecommunications Use Agreement and Encroachment Permit for COMPANY to install communication facilities at Fire Station 2, 1911 N. Alma School, Chandler, AZ 85224 and

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

WHEREAS, both the CITY and COMPANY wish to exercise the option to extend the Agreement and to establish a new base rate,

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 executed on February 21, 2003. This extension will run from February 21, 2008 through February 20, 2013. This term shall automatically be extended for two (2) additional five-year terms on the anniversary date of the extension of the Agreement unless either party requests a change, in writing, to the Agreement that either party considers substantive in which case: 1) if the parties agree to change, in writing, a provision of the contract which either party considers substantive, the proposed amendment will be subject to City Council approval, or 2) if the parties cannot agree to a change, the contract will expire at the end of the then current term.
2. Section 4.2.1 of the Agreement is amended to provide an increase in the rent to One Thousand Six Hundred Twenty Six and 00/100 Dollars (\$1,626.00) per month ("Rent"), as of March 1, 2008. Other terms of Section 4.2.1 remain unchanged, including the provision in Section 4.3.1 of the original agreement that rent shall be increased at the end of each year by an amount equal to two and one-half percent (2.5%) of the rent for the previous year.
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 _____, 2007.

CITY OF CHANDLER:

MAYOR

Verizon Wireless (VAW) LLC, dba Verizon Wireless:

[Handwritten signature of Keith A. Surratt]

By: Keith A. Surratt
West Area Vice President, Network

APPROVED AS TO FORM:

City Attorney [Handwritten signature]

ATTEST

City Clerk

ATTEST:

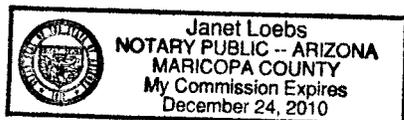
(with evidence of notary)

COMPANY ACKNOWLEDGEMENT

STATE OF ARIZONA)
) SS.
COUNTY OF MARICOPA)

On this 24th day of August, 2007, before me, the undersigned, a Notary Public in and for the State of Arizona, duly commissioned and sworn, personally appeared Keith A. Surratt, to me known (or proven to me on the basis of satisfactory evidence) to be an authorized representative of Verizon Wireless (VAW) LLC, dba Verizon Wireless, that executed the foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of Verizon Wireless (VAW) LLC, dba Verizon Wireless, for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute the said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.



Janet Loeb

Print or Type Name: JANET LOEBS
Notary Public in and for the State of AZ, residing at
MARICOPA COUNTY
My appointment expires: 12/24/2010