



MEMORANDUM

To: Mayor and City Councilors
From: Rich Olson, City Manager
Date: August 7, 2015
Re: Consideration – Execution of Amendment to Water Tower Attachment Agreement with Cellco Partnership d/b/a Verizon Wireless

BACKGROUND:

In March 2005, the City entered into a Water Tower Attachment Communication Site Agreement with Cellco Partnership d/b/a Verizon Wireless to place a number of cellular antennas on the Pool Street Water Tower. This agreement has been amended three times, in 2010, 2012 and 2014.

Verizon Wireless has requested to place additional equipment on the tower; and has provided our tower consultant with a structural analysis, which indicates that the additional equipment will have no detrimental effect on the tower structure.

The City also has an agreement with US Cellular to place antennas on the Pool Street tower. Annually, the City receives a total of \$71,000 in rental fees from the cell phone providers that have equipment attached to the Pool Street tower.

ANALYSIS:

The Fourth Amendment to the Water Tower Attachment Communication Site Agreement calls for Verizon to replace the existing antennas with a more modern antenna. They will also add two sector boxes and a fiber splitter box.

The following is a list of the equipment presently on the tower and the proposed replacement equipment:

Existing:

- (6) BXA-70080/8CF
- (6) BXA-171085/12
- (18) Coax lines
- (1) Fiber line
- (1) Fiber Box

- (2) sector boxes
- (3) ALU 9442 RRH2x40-AWS RRHs

Proposed:

- (3) Andrew DBXNH-8585C-VTM
- (3) Antel BXA-70080/8CF
- (6) Andrew HBXX-6517DS-A2M
- (2) Fiber Boxes
- (2) Fiber Lines
- (4) Sector Boxes
- (3) ALU B13 RRH4x30-4R RRHs
- (3) ALU 4x30 RRHs
- (3) ALU B4 RRH2x60-4R RRHs
- (18) coax lines

Since Verizon will be placing additional equipment on the tower, staff has negotiated an increase in their lease agreement of \$1,500 per year. This will be subject to the terminology in the lease agreement, which automatically increases 15% every five-year period.

A structural analysis has been performed by our water tower consultant; and he has determined that the placement of the new equipment will not have any adverse effect on the tower.

FINANCIAL:

The Finance Committee discussed this matter during their meeting of August 7, 2015. Upon motion made by Mayor Peel, seconded by Councilman Donnelly, the committee unanimously recommended approval by the City Council.

STAFF RECOMMENDATION:

By motion, authorize execution of the Fourth Amendment to Water Tower Attachment Communication Site Agreement by Mayor Joseph W. Peel with Cellco Partnership, d/b/a Verizon Wireless.

RCO/vdw

**FOURTH AMENDMENT TO
WATER TOWER ATTACHMENT
COMMUNICATION SITE AGREEMENT**

This Fourth Amendment to Water Tower Attachment Communication Site Agreement (this "Amendment") is made this ____ day of _____, 201_, by and between the **CITY OF ELIZABETH CITY**, with its principal offices located at 306 E. Colonial Avenue, Elizabeth City, North Carolina 27907, hereinafter "Owner", and **CELLCO PARTNERSHIP**, a Delaware general partnership, d/b/a Verizon Wireless, with its principal offices located at One Verizon Way, MailStop 4AW100, Basking Ridge, New Jersey 07920, hereinafter "Tenant".

WHEREAS, Owner and Tenant entered into that certain Water Tower Attachment Communication Site Agreement dated March 10, 2005 as amended by that certain First Amendment to Water Tower Attachment Communication Site Agreement dated October 29, 2010, as amended by that certain Second Amendment to Water Tower Attachment Communication Site Agreement dated April 24, 2012, as amended by that certain Third Amendment to Water Tower Attachment Communication Site Agreement dated May 14, 2014 (collectively, the "Agreement"), whereby Tenant was granted a non-exclusive right and license by Owner to install, maintain, operate and remove communications equipment and appurtenances on Owner's Water Tower and Tenant leases a portion of the Premises for construction, installation, maintenance and occupancy of an equipment shelter or building, located at 302 East Colonial Street, Elizabeth City, Pasquotank County, North Carolina, as described in the Agreement;

WHEREAS, Owner and Tenant desire to amend the Agreement in order to modify the equipment of Tenant on Owner's Water Tower;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree to be legally bound to this Amendment as follows:

1. Effective upon full execution of this Amendment by both Owner and Tenant, Tenant's equipment on the Water Tower shall be as set forth on the Equipment List on Exhibit C-4, attached hereto and made a part hereof. Exhibit C-3 is hereby deleted in its entirety and replaced and superseded with Exhibit C-4. In the event of any discrepancy between Exhibit C-3 and C-4, Exhibit C-4 shall control.
2. Commencing on the first day of the month following the date that this Amendment is fully-executed by Owner and Tenant, annual rent shall increase by \$1,500.00, partial years prorated. Thereafter, the annual rental

amount shall increase according to the terms of the Agreement, as modified herein.

3. Except as expressly set forth herein, all other terms, covenants, and conditions of the Agreement shall remain unmodified and in full force and the parties hereby confirm and ratify such terms and conditions and agree to perform and comply with the same. In the event of a conflict between the terms of the Agreement and the terms of this Amendment, the terms of this Amendment shall control.
4. The Agreement and this Amendment contain all agreements, promises or understandings between Owner and Tenant and no verbal or oral agreements, promises or understandings shall be binding upon either the Owner or Tenant in any dispute, controversy or proceeding at law, and any addition, variation or modification to the Agreement and this Amendment shall be void and ineffective unless made in writing and signed by the parties. In the event any provision of the Agreement and this Amendment is found to be invalid or unenforceable, such a finding shall not affect the validity and enforceability of the remaining provisions of the Agreement and this Amendment.
5. Owner and Tenant each hereby warrant to the other that the person executing this Amendment on behalf of the warranting party has the full right, power and authority to enter into, and execute, this Amendment on that party's behalf, and that no consent from any other person or entity is necessary as a condition precedent to the legal effect of this Amendment.
6. Capitalized terms that are used in this Amendment but not defined herein shall have the meaning given such terms in the Agreement.

(SIGNATURES TO FOLLOW)

IN WITNESS WHEREOF, the parties have set forth their hand and seal as of the date indicated above.

Attest:

OWNER:

CITY OF ELIZABETH CITY

By: _____

Name: _____

Title: _____

Date: _____

TENANT:

**CELLCO PARTNERSHIP
D/B/A VERIZON WIRELESS**

By: _____

Name: David R. Heverling

Title: Area Vice President Network

Date: _____

EXHIBIT C-4
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SITE PLAN
And
EQUIPMENT LIST

(See Tenant's Site Plan – Attached)

Equipment Shelter to house transmission cables and equipment to be located upon concrete pad located as shown on the site drawing.

Antennas: Twelve (12) total
Three (3) DBXRH-8585C-VTM
Three (3) BXA-70080/8CF
Six (6) HBXX-6517DS-A2M

Lines: Transmission lines of coaxial cable and hybrid lines

Distribution boxes: Two (2) Fiber Distribution Boxes

Sector boxes: Two (2) Sector Boxes

Remote Radio Heads:
Three (3) B4 RRH2X60-4R AWS
Three (3) RRH4x30 PCS
Three (3) B13 RRH4X30-4R LTE

Electrical power panel and cable

Telephone panel and cable

Exhibit C-4
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