



**CITY OF LODI
COUNCIL COMMUNICATION**

AGENDA TITLE: Adopt Resolution Authorizing Amendment to Lease Agreement with Verizon Wireless for Land Use at 114 N. Main Street, Lodi

MEETING DATE: July 7, 2010

PREPARED BY: Deputy City Manager

RECOMMENDED ACTION: Adopt resolution authorizing amendment to lease agreement with Verizon Wireless for land use at 114 N. Main Street, Lodi.

BACKGROUND INFORMATION: The City entered into an agreement with Verizon Wireless on July 21, 1999 for the lease of approximately 400 square feet of ground space and water tower space at 114 N. Main Street for use in its communication business.

Verizon Wireless is requesting an amendment to the lease to add an additional 205 square feet of ground space for the placement of an enclosed emergency generator. City staff has reviewed and approved the plans for the site and construction of the enclosure. Verizon would be required to obtain all appropriate permits for the enclosure construction once the amendment is approved.

Verizon Wireless currently pays the City of Lodi \$1,036.17 per month in lease rent, increased annually by 4 percent. The amendment calls for an additional \$250 per month for the added ground space.

FISCAL IMPACT: If approved, an additional \$3,000 per year will be received into the General Fund.

FUNDING AVAILABLE: Not applicable.

Jordan Ayers
Deputy City Manager/Internal Services Director

Prepared by Susan Bjork, Management Analyst

Attachments

Cc: Charles Swimley, Public Works

APPROVED:

Konradt Bartlam, Interim City Manager

FIRST AMENDMENT TO LEASE AGREEMENT

This FIRST AMENDMENT TO LEASE AGREEMENT ("Amendment") is made this ____ day of _____, 20__, by and between the City of Lodi, a municipal corporation ("Landlord"), and Sacramento-Valley Limited Partnership d/b/a Verizon Wireless ("Tenant"), with reference to the facts set forth in the Recitals below:

RECITALS

A. Landlord and Tenant, or their predecessors in interest, are parties to a Lease Agreement dated on or about July 8, 1999 ("Lease"), whereby Landlord has leased a portion of Landlord's Owned Premises (as defined in the Lease) to Tenant to construct, operate and maintain Antennae Facilities.

B. Landlord and Tenant desire to (i) expand the size of Tenant's Premises, and (ii) provide for an increase in the Base Rent payable to Landlord under the Lease.

AGREEMENT

NOW, THEREFORE, in consideration of the facts contained in the Recitals above, the mutual covenants and conditions below, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. LEASE PREMISES. The first paragraph of Section 1 of the Lease shall be deleted in its entirety and replaced with the following:

"Landlord leases to Tenant and Tenant leases from Landlord a portion of the Owned Premises, consisting of space on the Tower and approximately six hundred five (605) square feet on the ground, comprised of a four hundred (400) square foot parcel for a communications facility and a two hundred five (205) square foot parcel for an emergency generator, together with such additional space for the installation, operation and maintenance of wires, cables, conduits and pipes running between and among Tenant's leased parcels and Tenant's tower space and to all necessary electrical and telephone utility sources as shown on the Site Plan attached as Exhibit B (collectively, the "Premises"). Tenant understands that Landlord may lease space (other than the Premises) on the Tower and the surrounding area to other persons or entities subject to Section 12 of this Lease."

2. EXHIBIT "B" and EXHIBIT "C". Exhibit "B" of the Lease shall be deleted in its entirety and replaced with Exhibit " B attached hereto and incorporated herein by this reference. Exhibit "C" of the Lease is hereby deleted in its entirety.

3. RENT. Commencing upon the first day of the month following the date Tenant begins installation of the emergency generator on the Premises (the "Rental Increase Date"), the Base Rent shall increase by the amount of Two Hundred and Fifty and 00/100 Dollars (\$250.00) per month. Tenant and Landlord agree that they shall acknowledge in writing the Rental Increase Date. Tenant and Landlord acknowledge and agree that the initial rent increase payment shall not actually be sent by Tenant until thirty (30) days after written acknowledgement confirming the Rental Increase Date.

4. ASSIGNMENT. The second sentence of subsection 26.a, of the Lease shall be deleted in its entirety and replaced with the following:

"Notwithstanding the foregoing, however, this Lease may be sold, assigned or transferred by the Tenant without any approval or consent of the Landlord to the Tenant's principal, affiliates, subsidiaries of its principal or to any entity which acquires all or substantially all of Tenant's assets in the market defined by

the Federal Communications Commission in which the Owned Premises is located by reason of a merger, acquisition or other business reorganization. No change of stock ownership, partnership interest or control of Tenant or transfer upon partnership or corporate dissolution of Tenant shall constitute an assignment hereunder.”

5. CONTINUED EFFECT. Except as specifically modified by this Amendment, **all** of the **terms** and conditions of the Lease shall remain in full force and effect. In the event of a conflict between any term and provision of the Lease and this Amendment, the terms and provisions of this Amendment shall control. In addition, except **as** otherwise stated in this Amendment, all initially capitalized terms will have the same respective defined meaning stated in the Lease. All captions are for reference purposes only and shall not be used in the construction or interpretation of this Amendment.

IN **WITNESS** WHEREOF, Landlord and Tenant have caused this **FIRST AMENDMENT TO LEASE AGREEMENT** to be executed by each party’s duly authorized representative effective as of the date first above written.

LANDLORD:

TENANT:

City of Lodi, a municipal corporation

Sacramento-Valley Limited Partnership
d/b/a Verizon Wireless

By: _____
Name: Konradt Barltam
Title: Interim City Manager
Date: _____

By: _____
Name: Walter L. Jones, Jr.
Title: Area Vice President Network
Date: _____

ATTEST:

Randi Johl
City Clerk
Date: _____

Approved as to form _____
City Attorney


EXHIBIT " B

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

Sacramento-Valley Limited Partnership
d/b/a Verizon Wireless
2785 Mitchell Drive
Walnut Creek, CA 94598
Attn: Network Real Estate
(Site Name: Central Lodi)

(Space above this line for Recorder's use.)

MEMORANDUM OF FIRST AMENDMENT TO LEASE AGREEMENT

THIS MEMORANDUM OF FIRST AMENDMENT TO LEASE AGREEMENT is made this ____ day of _____, 20__, between City of Lodi, a municipal corporation, with a mailing address of P.O. **Box** 3006, Lodi, CA 95241, hereinafter referred to as "Landlord", and Sacramento-Valley Limited Partnership d/b/a Verizon Wireless, with its principal office located at One Verizon Way, Mail Stop 4AW100, Basking Ridge, New Jersey 07920, hereinafter referred to as "Tenant". Landlord and Tenant are at times collectively referred to hereinafter as the "Parties" or individually as the "Party".

1. Landlord and Tenant entered into a Lease Agreement (the "Agreement") on July 8, 1999, for an initial term of ten (10) years, commencing on the Commencement Date. Tenant has one (1) option to extend the term of the Agreement for an additional five year period by giving Landlord written notice of its intention to do so at least ninety (90) days prior to the date that the then-current term would otherwise end. If Tenant and Landlord fail to agree to subsequent extension of the term of the Agreement, this Agreement shall continue in force upon the same terms and conditions for a further term of one (1) year and for one (1) year terms thereafter until terminated by either Party by giving to the other written notice of its intention to so terminate at least one (1) year prior to the end of such term. The Agreement was recorded on October 8, 1999 as Document No. 99127749 in the Official Records of the County Recorder of San Joaquin County, California. Landlord and Tenant now enter into a First Amendment to Lease Agreement (the "Amendment"), dated _____. The Amendment provides, among other matters, that the size of the Premises shall be expanded.

2. Landlord hereby leases to Tenant a portion of that certain space on the Landlord's Tower, located at 114 North Main Street, as shown on the Tax Map of the County of San Joaquin as a portion of Assessor's Parcel No. 043-084-11 (the entirety of Landlord's property is referred to hereinafter as the "Property"), together with a parcel of property containing 605 square feet, comprised of a four hundred (400) square foot parcel for a communications facility and a two hundred five (205) square foot parcel for an emergency generator, together with such additional space for the installation, operation and maintenance of wires, cables, conduits and pipes running between and among Tenant's leased parcels and Tenant's tower space and to all necessary

electrical and telephone utility sources (collectively the "Premises"). The Premises are described in Exhibit A attached hereto and made a part hereof, and as shown on the plat of survey attached hereto and incorporated herein as Exhibit B.

3. The Commencement Date of the Agreement, of which this is a Memorandum, is July 1, 1999.

4. The terms, covenants and provisions of the Agreement, the terms of which are hereby incorporated by reference into this Memorandum, shall extend to and be binding upon the respective executors, administrators, heirs, successors and assigns of Landlord and Tenant.

IN WITNESS WHEREOF, hereunto and to a duplicate hereof, Landlord and Tenant have caused this Memorandum to be duly executed on the date first written hereinabove.

LANDLORD:

City of Lodi, a municipal corporation

By: _____
Name: Konradt Barltam
Title: Interim City Manager
Date: _____

ATTEST:

Randi Johl
City Clerk

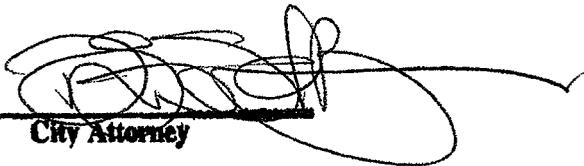
Date: _____

TENANT:

Sacramento-Valley Limited Partnership
d/b/a Verizon Wireless
By AirTouch Cellular, Its General Partner

By: _____
Name: Walter L. Jones, Jr.
Title: Area Vice President Network
Date: _____

Approved as to form



City Attorney

EXHIBIT "A"

**[WRITTEN METES AND BOUNDS OF THE PREMISES
AND INGRESS/EGRESS AND UTILITY EASEMENT]**

All those certain lots, pieces or parcels of land situate, lying and being in the City of Lodi, County of San Joaquin, State of California, described and designated as Lot No. 1 and that part of Lot No. 2 lying west of the Quarter Section line between the Southeast Quarter and the Southwest Quarter of Section 1, Township 3 North, Range 6 East, Mount Diablo Base and Meridian, both said lots being in Block 29, according to the official map or plat of the said City of Lodi.

Central Lodi

1022690.2

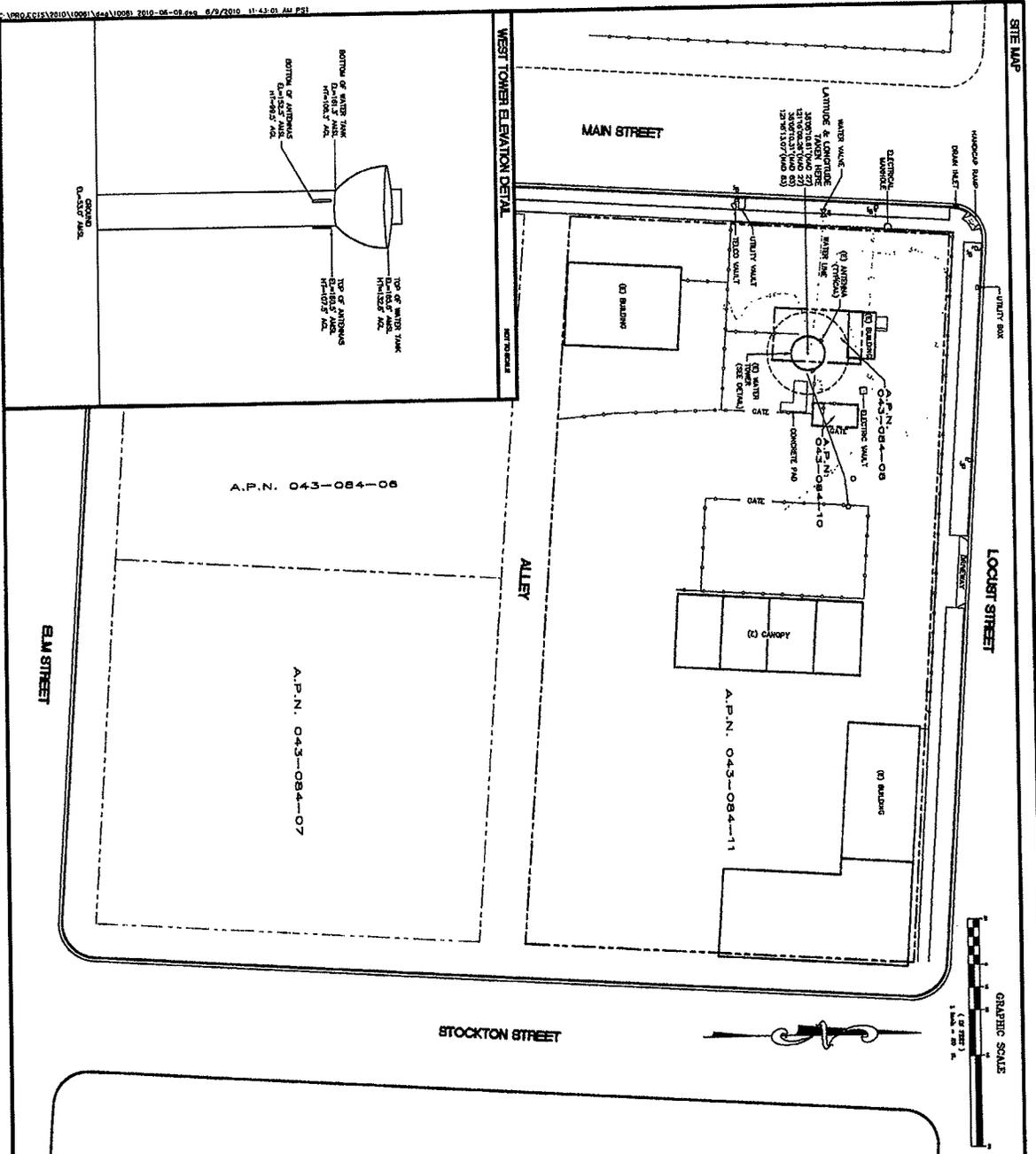
Initial A Dare

EXHIBIT B
[BOUNDARY SURVEY OF THE PREMISES
AND INGRESS/EGRESS AND UTILITY EASEMENT]

Central Lodi

1022690.2

Initial & Date



GENERAL NOTES

PROPERTY INFORMATION

LESSOR'S LEGAL DESCRIPTION

TITLE REPORT

BASIS OF BEARING

BENCHMARK

FLOOD ELEVATION

SAFETY DATE

UTILITY NOTES

LEGEND

WOOD
Land Surveying Professionals

115446
CENTRAL LODI
114 NORTH MAIN STREET
LODI, CA 95240

DATE: 08/09/10
SHEET NO: C-1

REVISIONS

NO.	DATE	DESCRIPTION
1	06/09/10	ISSUED FOR REVIEW

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California)
)
County of Orange)

On _____, 20____, before me, _____,
Notary Public, personally appeared Walter L. Jones, Jr., who proved to me on the basis of
satisfactory evidence to be the person whose name is subscribed to the within instrument and
acknowledged to me that he executed the same in his authorized capacity, and that by his
signature on the instrument the person, or the entity upon behalf of which the person acted,
executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the
foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public

Place Notary Seal Above

State of _____)
County of _____) ss.

On _____ before me, _____,
personally appeared _____ who proved to me on the basis of
satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and
acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by
his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted,
executed the instrument.

I certify under penalty of perjury under the laws of the State of California that the foregoing paragraph is
true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

Central Lodi

1022690.2

RESOLUTION NO. 2010-108

A RESOLUTION OF THE LODI CITY COUNCIL
APPROVING AMENDMENT TO LEASE AGREEMENT
WITH VERIZON WIRELESS

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NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby approve an amendment to the lease agreement with Verizon Wireless for ground space at 114 N. Main Street, Lodi with the following provisions:

1. An additional 205 square feet of ground space will be included for the placement of an emergency generator.
2. Verizon will be required to construct an enclosure for the generator on the additional leased ground space.
3. Verizon will pay an additional \$250 per month for the lease of the additional ground space, subject to an annual 4% increase.

BE IT FURTHER RESOLVED that all other terms and conditions of the lease shall remain the same.

Dated: July 7, 2010

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I hereby certify that Resolution No. 2010-108 was passed and adopted by the City Council of the City of Lodi in a regular meeting held July 7, 2010, by the following vote:

AYES: COUNCIL MEMBERS – Hansen, Johnson, Mounce, and
Mayor Katzakian

NOES: COUNCIL MEMBERS – None

ABSENT: COUNCIL MEMBERS – Hitchcock

ABSTAIN: COUNCIL MEMBERS – None


RANDI JOHL
City Clerk