



AGENDA ITEM FORM

SUBJECT: First Amendment to Land Lease Agreement with Verizon Wireless

SUMMARY:

- Des Moines Water Works (DMWW) entered into a Land Lease Agreement with Verizon Wireless on October 3, 2011, to locate wireless communication equipment on the Morris K. Tenny Standpipe site in the 4000 block of Merle Hay Road.
- The land space described in the Land Lease Agreement with Verizon Wireless conflicted with an existing license that had been previously granted to another communication provider, AT&T Mobility. AT&T Mobility objected to this conflict which has forced Verizon Wireless to revise the location of their proposed facilities. This has required an amendment to the Land Lease Agreement with Verizon Wireless.
- An amendment to the Land Lease Agreement with Verizon Wireless has been prepared to describe the new location of the land space leased by Verizon Wireless. Other provisions that will be added to the Land Lease Agreement by this first amendment include:
 1. The ability for the DMWW to recover reasonable administrative and legal costs, up to a maximum of \$5,000 per new project, for future work undertaken by Verizon Wireless to modify or upgrade their facilities at the Tenny Standpipe site.
 2. Identification of Verizon Wireless as the responsible party to coordinate the construction of any improvements or additions to Verizon Wireless' facilities with other entities or agencies at the Tenny Standpipe site.
 3. Payment of \$2,000 to DMWW for reimbursement of legal and administrative costs associated with preparing and executing this first amendment.
- A Memorandum of First Amendment to Land Lease Agreement will be recorded at the Office of the Polk County, Iowa Recorder after the amendment is executed by DMWW and Verizon Wireless.
- The First Amendment to Land Lease Agreement and the Memorandum of First Amendment to Land Lease Agreement have both been reviewed by staff and legal counsel.

FISCAL IMPACT:

- DMWW will recover reasonable administrative and legal costs, up to a maximum of \$5,000 per new project, for future work undertaken by Verizon Wireless to modify or upgrade their facilities at the Tenny Standpipe site.
- DMWW will receive payment of \$2,000 for reimbursement of legal and administrative costs associated with preparing and executing this first amendment.

RECOMMENDED ACTION:

Approve and authorize the Chairperson and CEO and General Manager to execute the First Amendment to Land Lease Agreement and the Memorandum of First Amendment to Land Lease Agreement with Verizon Wireless at the Morris K. Tenny Standpipe site.

BOARD REQUIRED ACTION:

Motion to approve and authorize the Chairperson and CEO and General Manager to execute the First Amendment to Land Lease Agreement and the Memorandum of First Amendment to Land Lease Agreement with Verizon Wireless at the Morris K. Tenny Standpipe site.

_____ / _____ Vern Rash, P.E., L.S. (date) Project Manager	_____ / _____ Gary L. Benjamin, P.E. (date) Assistant GM and Dir. of Eng. Serv.	_____ / _____ William G. Stowe (date) CEO and General Manager
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DRAFTED BY
AND RETURN TO:
Moss & Barnett (AAD)
4800 Wells Fargo Building
90 South Seventh Street
Minneapolis, MN 55402-4129
(Site Name: **DESC Merle Hay**)
(Prepared by Suzanne Schaeffbauer, Telephone No. (612) 877-5366)

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

MEMORANDUM OF FIRST AMENDMENT TO LAND LEASE AGREEMENT

THIS MEMORANDUM OF FIRST AMENDMENT TO LAND LEASE AGREEMENT (“Memorandum”) dated _____, 2013, was entered into by and between Board of Water Works Trustees of the City of Des Moines, Iowa, with its address for notice located at 2201 George Flagg Parkway, Des Moines, Iowa 50321 (“LESSOR”) and Verizon Wireless (VAW) d/b/a Verizon Wireless, with its address for notice located at 180 Washington Valley Road, Bedminster, New Jersey 07921 (“LESSEE”).

LESSOR and LESSEE, or their predecessors in interest, originally entered into a Land Lease Agreement with an effective date of October 3, 2011 (the “Agreement”), a memorandum of which was recorded on October 14, 2011, in Book 14009, Page 426-429, as amended by the First Amendment to Land Lease Agreement dated _____, 2013 (the “Amendment”), for a portion of LESSOR’S certain real property located at 4006 Merle Hay Road, County of Polk, State of Iowa, described on Exhibit “A” attached hereto and made a part hereof. The Amendment provides for revised premises.

IN WITNESS WHEREOF, LESSOR and LESSEE have duly executed this Memorandum as of the day and year written below.

LESSOR:

Board of Water Works Trustees of the City of
Des Moines, Iowa

By: _____
Graham Gillette
Its: Chairperson

Attest: _____
William G. Stowe
CEO and General Manager

Date: _____

LESSEE:

Verizon Wireless (VAW) LLC
d/b/a Verizon Wireless

By: _____
Lynn Ramsey
Its: Area Vice President Network

Date: _____

Acknowledgments on following page

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ACKNOWLEDGMENTS

LESSOR ACKNOWLEDGMENT

STATE OF IOWA)
) ss:
COUNTY OF POLK)

On this _____ day of _____, 2013, before me, a Notary Public in and for the State of Iowa, personally appeared Graham Gillette and William G, Stowe, to me personally known, and, who being by me duly sworn, did say that they are the Board Chairperson and the Chief Executive Officer/General Manager of the Board of Water Works Trustees of the City of Des Moines, Iowa, that no seal has been procured by the entity; that the instrument was signed on behalf of the entity by authority of its Board as contained in the resolution adopted by the Board on the _____ day of _____, 2013, and that Graham Gillette and William G, Stowe acknowledged the execution of the instrument to be the voluntary act and deed of the Board of Water Works Trustees of the City of Des Moines, Iowa, by it and by them voluntarily executed.

Notary Public in and for Polk County, Iowa

LESSEE ACKNOWLEDGMENT

STATE OF ILLINOIS)
) ss.
COUNTY OF COOK)

On this _____ day of _____, 2013, before me, the undersigned, a Notary Public in and for the State of Illinois, duly commissioned and sworn, personally appeared Lynn Ramsey, to me known to be the Area Vice President Network of Verizon Wireless (VAW) LLC d/b/a 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 d/b/a Verizon Wireless, for the uses and purposes therein mentioned.

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

Print or Type Name: _____
Notary Public in and for the State of Illinois
My appointment expires: _____

Exhibit "A"

(Legal Description)

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Beginning at a point on the North line of the South fifty (50) acres of the East Half (E1/2) of the Southeast Quarter (SE1/4) of Section 24, Township 79 North, Range 25 West of the 5th P.M., Iowa, thirty-three (33) feet west of the East line of said Section 24; thence West on the North line of said tract three hundred sixty (360) feet; thence South three hundred sixty (360) feet; thence East three hundred sixty (360) feet to a point thirty-three (33) feet West of the East line of said Section 24; thence North three hundred sixty (360) feet to the point of beginning, now included in and forming a part of the City of Des Moines, Iowa, subject to easements for roads and highways. In the event streets are established on any margin of said tract of land, the City of Des Moines, Iowa will contribute one-half (1/2) the width thereof from said land.

Now known as Lot 4, Merle Hay-Aurora Place, according to the Plat thereof recorded in Book R, Page 114, Polk County, Iowa.