

RESOLUTION NO. 13342-20

A RESOLUTION AUTHORIZING AND DIRECTING THE CITY MANAGER TO EXECUTE AND THE CITY CLERK TO ATTEST, ON BEHALF OF THE CITY OF NEWPORT NEWS, VIRGINIA, THAT CERTAIN FIRST AMENDMENT TO LAND LEASE AND MEMORANDUM OF AMENDMENT TO LAND LEASE, BOTH BY AND BETWEEN THE CITY OF NEWPORT NEWS, VIRGINIA, AND CELLCO PARTNERSHIP D/B/A VERIZON WIRELESS AND DATED THE 11TH DAY OF AUGUST, 2020, RELATING TO CITY-OWNED PROPERTY LOCATED AT 700 RICHNECK ROAD IN YORK COUNTY, VIRGINIA.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Newport News:

1. That it hereby authorizes and directs the City Manager to execute and the City Clerk to attest, on behalf of the City of Newport News, Virginia, that certain First Amendment to Land Lease and Memorandum of Amendment to Land Lease, both by and between the City of Newport News, Virginia, and Cellco Partnership d/b/a Verizon Wireless and dated the 11th day of August, 2020, relating to city-owned property at 700 Richneck Road in York County, Virginia.
2. That a copy of the said First Amendment to Land Lease and Memorandum of Amendment to Land Lease are attached hereto and made a part hereof.
3. That this resolution shall be in effect on and after the date of its adoption, August 11, 2020.

PASSED BY THE COUNCIL OF THE CITY OF NEWPORT NEWS ON AUGUST 11, 2020

Mabel Washington Jenkins, MMC
City Clerk

McKinley L. Price, DDS
Mayor

A true copy, teste:

City Clerk

**FIRST AMENDMENT TO
LAND LEASE**

This First Amendment to Land Lease (this “Amendment”) is made this 11th day of August, 2020, by and between the **CITY OF NEWPORT NEWS, VIRGINIA**, a municipal corporation in the Commonwealth of Virginia, hereinafter “Lessor,” and **CELLCO PARTNERSHIP**, a Delaware general partnership **d/b/a Verizon Wireless**, with its principal offices located at One Verizon Way, Mail Stop 4AW100, Basking Ridge, New Jersey 07920, hereinafter “Lessee.”

WHEREAS, Lessor and Lessee entered into a Land Lease dated August 11, 2015 (the “Lease”), whereby Lessee leases from Lessor an interest in land located at 700 Richneck Road, in York County, Virginia, as more fully described in the Lease; and

WHEREAS, the initial term of the Lease expires on September 30, 2020, and the parties hereto desire to renew the Lease for an additional five (5) year term, and to make certain amendments thereto, as set forth herein.

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. Lessor and Lessee agree to renew the lease for a five (5) year renewal term, to commence on October 1, 2020 and expire on September 30, 2025 (the “Renewal Term”).
2. Commencing October 1, 2020, the annual rent paid to the Lessor by Lessee for the first year of the Renewal Term shall be Ten Thousand Five Hundred and No/100ths (\$10,500.00) Dollars. Rent shall continue to be paid annually in advance in accordance with the Lease. Thereafter, the rent shall increase annually by an amount equal to three percent (3%) of the rent for the prior lease year.
3. Section 12 of the Lease is hereby deleted in its entirety and amended and restated to read as follows:

12. Taxes: During the Term of this Lease, the Lessee shall pay and discharge any taxes, assessments, duties, or impositions assessed, charged, or imposed upon the Lessee's leasehold interest in the Premises and all improvements and equipment installed or constructed by the Lessee thereon, and any taxes imposed upon the Lessor as a result of the Lessee's leasehold. The Lessee shall not be required to pay any portion of any taxes, assessments, duties or impositions resulting from the value of the Property, or from the value of new buildings or improvements constructed on the Property or on adjacent lands by the Lessor or by any other party which are not owned by the Lessee.

4. Section 20 of the Lease is hereby amended to read as follows:

20. Lessee's Obligation to Insure: Upon the commencement of this Lease, and during the entire Term thereof, the Lessee, at its sole cost and expense, and for the mutual benefit of the Lessor and Lessee, shall procure and maintain, from a company legally qualified to do business in Virginia, with an A.M. Best rating of A or better, commercial general liability insurance insuring the Lessee and including the Lessor as an additional insured as its interests may appear under this Agreement against liability for bodily injury or property damage occurring on or about the Premises or arising out of the ownership, maintenance, use, or occupancy thereof. The liability limits under such insurance shall be Five Million Dollars (\$5,000,000.00) per occurrence for bodily injury and property damage and Five Million Dollars (\$5,000,000.00) general aggregate. All policies of insurance shall include the Lessor as an additional insured as its interest may appear under this Agreement excluding workers' compensation and employer's liability. The Lessee shall have the privilege of procuring and obtaining all of such insurance through its own sources and shall provide proof of such coverage to the Lessor upon the commencement of this Lease.

Upon the commencement of the Lease, and during the entire Term thereof, the Lessee shall also procure and maintain worker's compensation insurance in compliance with the statutory requirements of the Commonwealth of Virginia for all employees of the Lessee. The Lessee shall provide the Lessor with a certificate

of insurance as proof of such coverage prior upon the Commencement Date of this Lease.

The Lessee may not occupy the Premises, and may not perform any work thereon, until all of the above requirements are met.

The Lessor and the Lessee agree that the Lessee, at its option, and in lieu of the general liability insurance requirements set forth above in this paragraph, may self-insure as to any risk or loss that could be insured with customary Commercial General Liability insurance, provided that Lessee can verify to the reasonable satisfaction of the Lessor that its net assets, upon its undertaking to self-insure, exceed the sum of Ten Million Dollars (\$10,000,000.00) as confirmed by audited financial statements.

5. Lessor and Lessee 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. All remaining provisions of the Lease, that are not inconsistent herewith, shall remain in full force and effect and shall remain binding on the parties hereto.
7. The Lease and this Amendment contain all agreements, promises or understandings between Lessor and Lessee, and no verbal or oral agreements, promises or understandings shall be binding upon either the Lessor or Lessee in any dispute, controversy or proceeding at law, and any addition, variation or modification to the Lease and/or this Amendment shall be void and ineffective unless made in writing and signed by the parties. In the event any provision of the Lease and/or 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 Lease and/or this Amendment.

(SIGNATURES TO FOLLOW)

Lessee Site Name: Richneck / 268773

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

Lessor:

CITY OF NEWPORT NEWS

Attest:

City Clerk

By: _____
Name: Cynthia D. Rohlf
Title: City Manager
Date: _____

Approved as to form:

City Attorney

Lessee:

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

WITNESS

By: _____
Name: _____
Title: _____
Date: _____

Lessee Site Name; Richneck / 268773

AFTER RECORDING RETURN TO:

ROGERS LEWIS JACKSON MANN & QUINN, LLC
P.O. BOX 11803
COLUMBIA, S.C. 29211

STATE OF VIRGINIA)
)
COUNTY OF YORK)

THE RECORDATION TAX ON THIS INSTRUMENT IS \$75.00 PURSUANT TO SECTION 58.1-807F OF THE CODE OF VIRGINIA, AS AMENDED, AS IT IS A LEASE OF A COMMUNICATIONS TOWER SITE

MEMORANDUM OF AMENDMENT TO LAND LEASE

This Memorandum of Amendment to Land Lease (“Memorandum”) is made this 11th day of August, 2020, between **CITY OF NEWPORT NEWS, VIRGINIA**, a municipal corporation in the Commonwealth of Virginia, hereinafter “Lessor”, and **CELLCO PARTNERSHIP**, a Delaware general partnership d/b/a **Verizon Wireless**, with its principal offices located at One Verizon Way, Mail Stop 4AW100, Basking Ridge, New Jersey 07920, hereinafter “Lessee”.

WHEREAS, Lessor and Lessee entered into a Land Lease dated August 11, 2015 (the “Lease”), whereby Lessee leases from Lessor an interest in land located at 700 Richneck Road, in York County, Virginia, as more fully described in the Lease; and

WHEREAS, the parties entered into a First Amendment to Land Lease (“First Amendment”) to document an additional extension term; and

WHEREAS, this Memorandum is not intended to supersede, replace, or release Lessee’s rights under any prior recorded Memorandum;

1. The Property leased by Lessor to Lessee pursuant to the Agreement, as amended, is further described on Exhibit 1 attached hereto. The Agreement includes the non-exclusive appurtenant rights for ingress and egress, and utility purposes over, under or along an existing right of way extending from the nearest public right of way.
2. Lessor and Lessee agree to renew the Lease for a five (5) year renewal term, to commence on October 1, 2020 and expire on September 30, 2025 (the “Renewal Term”).

3. The terms, covenants and provisions of the Lease and First Amendment of which this is a Memorandum, shall extend to and be binding upon the respective executors, administrators, heirs, successors and assigns of Lessor and Lessee.

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

Lessor:

CITY OF NEWPORT NEWS

Attest:

City Clerk

By: _____
Name: Cynthia D. Rohlf
Title: City Manager
Date: _____

Approved as to form:

City Attorney

STATE OF VIRGINIA)
)
COUNTY OF YORK)

ACKNOWLEDGEMENT

I, _____, a Notary Public for said County and State, do hereby certify that Cynthia D. Rohlf personally came before me this day and acknowledged that she is the City Manager of **CITY OF NEWPORT NEWS**, and that she, being authorized to do so, executed the foregoing Instrument on its behalf.

WITNESS my hand and official Notarial Seal, this ___ day of _____, 2020.

Notary Public

My Commission Expires:

Lessee:

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

WITNESS

By: _____
Name: _____
Title: _____
Date: _____

STATE OF _____)
)
COUNTY OF _____)

ACKNOWLEDGMENT

I, _____, a Notary Public for said County and State, do hereby certify that _____ personally came before me this day and acknowledged that s/he is the _____ of **Cellco Partnership d/b/a Verizon Wireless**, and that s/he, as _____, being authorized to do so, executed the foregoing **instrument** on behalf of **Cellco Partnership d/b/a Verizon Wireless**.

WITNESS my hand and official Notarial Seal, this ___ day of _____, 2020.

Notary Public

My Commission Expires:

Exhibit "1"

Description of Property:

TAX MAP PARCEL NUMBER: 23-14H

ALL that certain parcel or tract of land located off Richneck Road in York County, Virginia, more particularly described on Lease Exhibit for Richneck site, prepared by Clark-Nexsen Architecture & Engineering, dated September 25, 2013, last revised May 23, 2014.

BEING a portion of Parcel 22 conveyed to City of Newport News, Virginia, a municipal corporation, by deed from Newport News Light and Water Company, a Virginia corporation, and The Old Dominion Land Company, a Virginia corporation, dated June 30, 1926, recorded August 21, 1926 in the Clerk's Office of the Circuit Court of York County, Virginia, in Deed Book 41, page 137, and recorded July 7, 1926 in the City of Newport News, Virginia, in Deed Book 51, page 2.