

City of Scottsbluff, Nebraska

Monday, July 17, 2023

Regular Meeting

Item Reports2

Council to discuss and consider action on the First Amendment to Land Lease Agreement between the City and Cellco Partnership d/b/a Verizon Wireless and authorize the Mayor to sign the Agreement.

Staff Contact: Kevin Spencer, City Manager

FIRST AMENDMENT TO LAND LEASE AGREEMENT

This First Amendment to Land Lease Agreement (“First Amendment”) is made, and shall be effective, as of the last date of the signatures below (“Effective Date”), between The City of Scottsbluff, Nebraska (“LESSOR”), and Cellco Partnership d/b/a Verizon Wireless (“LESSEE”). LESSOR and LESSEE (or their predecessors in interest) entered into that certain Land Lease Agreement dated September 5, 2014, as may have been previously amended and/or assigned, (the “Agreement”), pursuant to which LESSEE is leasing or licensing from LESSOR a portion of that certain property located at Hwy 92 and County Road 19, in the City of Scottsbluff, County of Scotts Bluff, State of Nebraska, as more particularly described in the Agreement. LESSOR and LESSEE may be referenced in this First Amendment individually as a “Party” or collectively as the “Parties.”

In consideration of the mutual covenants and promises contained in this First Amendment, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Parties, the Parties agree to amend the Agreement as follows:

1. Term. Notwithstanding anything contained in the Agreement to the contrary, the Agreement shall expire on November 30, 2023. Commencing on December 1, 2023, the Agreement shall be extended for 5 years (“Initial Extension Term”). The term of the Agreement shall thereafter automatically extend for 6 additional terms of 5 years each (each, an “Additional Extension Term”), unless LESSEE terminates the Agreement by giving LESSOR notice of such termination at least 30 days prior to the expiration of the Initial Extension Term or then-current Additional Extension Term.

2. Rent. Commencing on December 1, 2023, the annual rent during the Initial Extension Term shall be \$10,500.00, to be paid in equal monthly installments on the first day of the month in advance to LESSOR or such other person as LESSOR may designate in writing at least 30 days in advance of any rental payment date. Thereafter, commencing on December 1, 2028, annual rent for each Additional Extension Term shall increase by 15.00% upon commencement of each Additional Extension Term.

3. Rent Credit. This First Amendment provides for a reduction in rent, effective December 1, 2023. The Parties acknowledge and agree that LESSEE shall be entitled to a credit in the event of any overpayment of rent resulting from said reduction in rent. Such credit shall be applied against LESSEE’s rent due under the Agreement.

4. Continued Effect. Except as amended hereby, all of the other terms and conditions of the Agreement shall remain in full force and effect. In the event of a conflict between any term and provision of the Agreement and this First Amendment, the terms and provisions of this First Amendment shall control. In addition, except as otherwise stated in this First Amendment, all initially capitalized terms shall have the same respective defined meaning stated in the Agreement. All captions are for reference purposes only and shall not be used in the construction or interpretation of this First Amendment.

5. Ratification and Reaffirmation. LESSOR and LESSEE do hereby ratify, reaffirm, adopt, contract for and agree to be, or continue to be, bound by all of the terms and conditions of

the above-referenced Agreement. Except as modified by this First Amendment, all of the terms and conditions of the Agreement are incorporated by reference herein as if set forth at length. It is acknowledged and agreed that the execution of this First Amendment by the Parties is not intended to and shall not constitute a release of either Party from any obligation or liability which said Party has to the other pursuant to the Agreement.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the authorized representatives of the Parties hereto execute this First Amendment below, intending to be bound.

LESSOR:

The City of Scottsbluff, Nebraska

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

LESSEE:

Cellco Partnership d/b/a Verizon Wireless

By: _____
Name: Sergei Mislevy
Title: Executive Director-Network Engineering/Real Estate
Date: _____