



## CITY OF BUNKER HILL VILLAGE

### CITY COUNCIL

#### Agenda Request

**Agenda Date:** June 29, 2022

**Agenda Item No:** III

**Subject/Proceeding:** **CONSIDERATION AND POSSIBLE ACTION TO AUTHORIZE THE MAYOR TO APPROVE AN AMENDMENT TO THE EXISTING CONTRACT WITH AMERICAN TOWER FOR THE CELL TOWER AT CITY HALL AS RECOMMENDED BY THE TECHNOLOGY COMMITTEE**

**Exhibits:** Proposed Amendment to Lease Agreement

**Clearance:** Karen Glynn, City Administrator  
Steve Smith, Public Works Director/Building Official

### Executive Summary

The City has received a requested amendment to the existing lease for the cell tower site at City Hall. The amendment is requesting authorization to add antennas for Dish Network onto the tower. The City would be compensated an additional \$400.00 per month to the \$15,984.00 annual payment the City receives or a total of \$20,784 per year. The current agreement expires in 2024.

The amendment proposal was circulated to the members of the Technology Committee for their comments and recommendations. All members who responded recommended accepting the proposed amendment. One member recommended that the City request an annual escalation factor on the \$400.00. In addition, staff has recommended requiring American Tower to fence the site to delineate the leased space and to shield the view of the tower equipment. These requests have been sent to American Tower and it is under consideration.

This item would authorize the Mayor to sign the amendment to the existing lease agreement with these provisions.

RECEIVED MAY 31 2022



L Y L E

The Lyle Company  
3140 Gold Camp Dr., Suite 30  
Rancho Cordova, CA 95670



AMERICAN TOWER

May 27, 2022

City of Bunker Hill Village TX  
Karen Glynn - City Administrator  
11977 Memorial Drive  
Houston, TX 77024

**Site # 410749 - 6-TX0340-16105 TX - Project #13669003**

Dear Ms. Glynn:

Enclosed are the documents for the **Second Amendment to License Agreement** as we discussed. Handwritten changes are not allowed. Please contact me directly should you need to discuss this Amendment. Please return the signed documents to me as soon as possible.

**Please use the blue ink pen enclosed to sign the documents.**

**When signing the documents, please be sure they are signed as in the example below:**

*As an example:*

LICENSOR:

The City of Bunker Hill Village,  
a municipal corporation

Signature: *Karen Glynn* - (docs must be signed exactly like this)

Print Name: **Karen Glynn**

Title: City Administrator

Date: MM/DD/YY or Month Date, Year

I have enclosed a prepaid FedEx envelope for you to return your signed documents to me.

Thank you for your prompt attention. I will be in touch to review these documents and answer any questions you may have.

Sincerely,

*Carolyn Srabian*

The Lyle Company Lease Consultant  
Authorized Vendor of American Towers, LLC and its subsidiaries and affiliates  
3140 Gold Camp Drive, Suite #30  
Rancho Cordova, CA 95670  
Phone: 817-431-4383 | Mobile: 817-637-0145  
Email: csrabian@lyleco.com

## THE SECOND AMENDMENT TO LICENSE AGREEMENT

THIS SECOND AMENDMENT TO LICENSE AGREEMENT ("**Second Amendment**") is entered into as of the \_\_\_ day of \_\_\_\_\_, 2022 ("**Effective Date**"), by and between **The City of Bunker Hill Village**, a municipal corporation, ("**Licensor**") and **GTE Mobilnet South Texas LP d/b/a Verizon Wireless** ("**Licensee**") (Licensor and Licensee each being a "**Party**" and being collectively referred to herein as the "**Parties**").

### W I T N E S S E T H:

- A. The Licensor is the owner of that certain parcel of land described in Exhibit A (the "**Land**") located in the County of Harris, State of Texas; and
- B. The Licensor and Licensee entered into that certain License Agreement dated March 15, 1994, as amended by that certain Amendment to License Agreement Regarding Communications Center dated July 19, 1994 (collectively, the "**Lease**"), whereby the Licensor leases a portion of the Land, together with easements for ingress and egress and the installation and maintenance of utilities, all as set forth in the Lease (hereinafter collectively the "**Premises**"); and
- C. Licensee, Verizon Communications Inc., a Delaware corporation, and other parties identified therein, entered into a Management Agreement and a Master Prepaid Lease, both with an effective date of March 27, 2015 and both with ATC Sequoia LLC, a Delaware limited liability company ("**American Tower**"), pursuant to which American Tower subleases, manages, operates and/or maintains, as applicable, the Leased Premises, all as more particularly described therein; and
- D. Licensee has granted American Tower a limited power of attorney (the "**POA**") to, among other things, prepare, negotiate, execute, deliver, record and/or file certain documents on behalf of Licensee, all as more particularly set forth in the POA; and
- E. Pursuant to Texas state law, Licensee is required to obtain Licensor's consent to sublease the Premises and pursuant to Section 4(c) of the Lease, Licensee is required to obtain Licensor's consent prior to its subtenant altering all or any part of Licensor's real or personal property; and
- F. Licensee desires that Licensor consent to and approve of Licensee subleasing , licensing, or otherwise permitting the use of a portion of the Premises (the "**Sublease**") to DISH Wireless L.L.C., and/or its successors, assigns, parents, affiliates, and subsidiaries ("**DISH**"); and
- G. Licensee desires that Licensor consent to and approve of the alteration of part of the Premises (the "**Alterations**") as set forth in this Second Amendment; and
- H. Licensor and Licensee desire to amend the terms of the Lease as provided herein.

**NOW, THEREFORE**, in consideration of the mutual covenants set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

Second Amendment to License Agreement

Site Name: 6-TX0340-16105 TX  
Site #: 410749  
Project #: 13669003 (MB)

1. **Licensor Consent.** Licensor hereby consents to and approves of the Sublease by Licensee and of the Alterations by DISH. DISH shall be entitled to install equipment and improvements within the Premises, including but not limited to, antennas, dishes, cabling, additional storage buildings or equipment shelters. This consent shall only apply to the Alterations by DISH and shall not constitute consent to future alterations by other parties on the Premises. As consideration therefore, Licensee agrees to pay Licensor four hundred and 00/100 dollars (\$400.00) per month by Licensee from DISH under and pursuant to the terms and provisions of the Sublease with DISH ("***Consent Fee***"). If at any time, DISH ceases its use of the Premises, the Consent Fee shall cease to be due and owing. Payment of the Consent Fee will commence within thirty (30) days following the date a written 'Notice to Proceed' is issued by Licensee to DISH to install its equipment within the Premises.
2. **Electronic Signatures.** The Parties agree that a scanned or electronically reproduced copy or image of this Second Amendment bearing the signatures of the Parties hereto shall be deemed an original and may be introduced or submitted in any action or proceeding as competent evidence of the execution, terms and existence of this Second Amendment notwithstanding the failure or inability to produce or tender an original, executed counterpart of this Second Amendment and without the requirement that the unavailability of such original, executed counterpart of this Second Amendment Second be proven.
3. **Ratification/Estoppel.** Licensor represents and warrants that, as of the Effective Date, Licensee is not in default in the payment or performance of its obligations under the Lease and, to the best of Licensor's current knowledge, there is no existing condition that, although not presently a default, may result in a default under the Lease. Except as modified herein, the Lease and all the covenants, agreements, terms, provisions and conditions thereof remain in full force and effect and are hereby ratified and affirmed. If any inconsistency exists or arises between the terms of the Lease and the terms of Second Amendment, the terms of this Second Amendment shall prevail.
4. **Entirety; Amendment; Counterparts.** This Second Amendment, together with the Lease, constitutes the entire agreement among the undersigned parties hereto. Any modification to this Second Amendment must be in writing and signed and delivered by authorized representatives of the affected parties in order to be effective. This Second Amendment will be governed by the laws of the state in which the Premises is situated without regard to the State's conflict of laws provisions. This Second Amendment may be executed in any number of counterparts, each of which shall be an original, which may be delivered via facsimile, but all of which taken together shall constitute one instrument.

[SIGNATURES APPEAR ON THE NEXT PAGE]  
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**IN WITNESS WHEREOF**, Licensor and Licensee have each executed this Second Amendment as of the Effective Date written above

**LICENSOR:**

**The City of Bunker Hill Village,**  
a municipal corporation

Signature: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

[SIGNATURES CONTINUE ON THE NEXT PAGE]

**LICENSEE:**

**GTE Mobilnet South Texas LP**  
d/b/a Verizon Wireless

By: ATC Sequoia LLC, a Delaware limited liability company  
Title: Attorney-in-Fact

Signature: \_\_\_\_\_  
Print Name: Richard P. Palermo  
Title: Senior Counsel  
Date: \_\_\_\_\_

## EXHIBIT A

### Land

All that certain tract or parcel of land containing 2.093 acres of land, more or less, out of the John D. Taylor League, Abstract No. 72, in Harris County, Texas, being a part of that certain 10-acre tract conveyed to Mrs. Catherine Shanahan by deed from T. E. Ferguson dated May 27, 1939, recorded in Vol. 1128 Page 544 of the Deed Records of Harris County, Texas, and being more particularly described as follows:

Beginning at a pipe for corner in the West line of Memorial Drive, the same being the Northeast corner of that certain 4.903 acre tract of land conveyed to James Waldron Reed and wife, Helen T. Reed by deed from Mrs. Catherine Shanahan and husband, Bryan Shanahan, dated August 18, 1945, recorded in Vol. 1385 Page 662 of the Deed Records of Harris County, Texas, the same also being the Northeast corner of the tract of land herein described;

Thence South along the West line of Memorial Drive a distance of 228.26 feet to a point for corner, the Northeast corner of that certain 2-acre tract of land conveyed to Elizabeth Shuey by deed from James Waldron Reed and wife, Helen T. Reed, dated August 9, 1946, recorded in Vol. 1485 Page 656 of the Deed Records of Harris County, Texas, the same being the Southeast corner of the tract of land herein described;

Thence West with the North line of said Shuey 2-acre tract of land, a distance of 554 feet to a point for corner in the West line of said Taylor Survey, the same being the northwest corner of the Shuey 2-acres, also being the Southwest corner of the tract of land herein described;

Thence North with the West line of the Taylor Survey and the West line of the 4.903 acre tract a distance of 228.26 feet to a point for corner, the same being the Northwest corner of said 4.903 acre tract of land and also being the Northwest corner of the tract of land herein described;

Thence East with the North line of the 4.903 acre tract a distance of 554 feet to the place of beginning.

Parcel ID#: 0410280010050

This being the same property conveyed to The City of Bunker Hill Village, a municipal corporation from Florana M. Hansberry, Trustee, in a deed dated May 13, 1959 and recorded May 18, 1959, in Book 3703 Page 479, Harris County, Texas.