

CITY COUNCIL MEETING

AGENDA ITEM XII



**CITY OF FRANKLIN
COUNCIL AGENDA REPORT**

April 27, 2015

From: Brian Sullivan, Municipal Services Director
Judie Milner, Finance Director

Subject: Sprint Lease Amendment #1

Recommendation:

We recommend the Council approves the lease amendment #1 with Independent Wireless One Leases Realty Corporation (Sprint).

Suggested Motion:

May 4, 2015

Councilor moves, **“I move that the Franklin City Council approves amendment #1 of the current lease with Independent Wireless One Leases Realty Corporation and authorize the City Manager to sign the amendment.”**

Discussion. Mayor calls for vote.

Discussion:

The City of Franklin, as landlord, entered into the original cell tower lease agreement with Independent Wireless in January of 2000. The original lease included language that gave the City 6 phones with 100 minutes per month free service. As the usage of cell phones has increased, the City does not have any users with 100 minutes or under of utilization per month. Therefore, the 6 phones were not benefiting the City. In addition, Independent Wireless no longer offers these barter plans. In order to compensate the City for the expiring and obsolete barter agreement, Director Sullivan negotiated additional rental fees of \$150 per month. In addition, the City will receive a payment of \$16,500 representing the additional rental fees retroactively to April 1, 2006.

Concurrences:

The Council approved the 25 year original lease agreement beginning in January 2000. Paul Fitzgerald has reviewed and approved the amendment.

Fiscal Impact:

The amendment will increase the revenue to the City by \$1800 per year commencing June 1, 2015.

Alternatives:

Not approve the amendment and continue status quo.

Attachments/Exhibits:

Independent Wireless Leased One Realty Corporation Lease Amendment #1.

AMENDMENT NO. 1 TO PCS SITE LEASE AGREEMENT

This Amendment No. 1 (“Amendment # 1”), effective as of the date last signed below (“Effective Date”), amends a certain PCS Site Lease Agreement between Independent Wireless One Leased Realty Corporation, a Delaware corporation (“Tenant”) and The City of Franklin (“Landlord”), dated January 15, 2000 (the “Agreement”).

BACKGROUND

Tenant and Landlord desires to amend various terms contained in the Agreement.

AGREEMENT

In consideration of the mutual promises between the parties and for other good and valuable consideration the receipt and sufficiency of which is acknowledged, Landlord and Tenant agree as follows:

1. Paragraph 4 Rent, Section (b): The existing language shall be deleted in its entirety and replaced with the following: Tenant shall pay Landlord a lump sum of Sixteen Thousand Five Hundred Dollars and 00/100s (\$16,500.00) to address all past unissued Barter Credit within 15 business days of receipt of both a fully executed Amendment #1 and a current IRS approved W-9. Effective June 1st, 2015, the current monthly Rent will be increased by One Hundred and Fifty Dollars and 00/100s (\$150.00), replacing the value of the Barter Credits.

2. Paragraph 16 Notice: The existing language shall be deleted in its entirety and replaced with the following: All notices must be in writing and are effective only when deposited in the U.S. mail, return receipt requested and postage prepaid or when sent via overnight delivery service. Notices to Landlord are to be sent to: The City of Franklin, 316 Central Street, Franklin, NH 03235, Attn: City Manager. Notices to Tenant are to be sent to: Sprint/Nextel Property Services, Mailstop KSOPHT0101-Z2650, 6391 Sprint Parkway, Overland Park, Kansas 66251-2650, with a mandatory copy to: Sprint/Nextel Law Department, Mailstop KSOPHT0101-Z2020, 6391 Sprint Parkway, Overland Park, Kansas 66251-2020, Attn.: Real Estate Attorney.

3. General Terms and Conditions.

(a) All capitalized terms used in this Amendment, unless otherwise defined herein, will have the same meaning as the terms contained in the Agreement.

(b) In case of any inconsistencies between the terms and conditions contained in the Agreement and the terms and conditions contained in this Amendment, the terms and conditions herein will control. Except as set forth below, all provisions of the Agreement are ratified and remain unchanged and in full force and effect.

(c) This Amendment may be executed in duplicate counterparts, each of which will be deemed an original.

(d) Each of the parties represent and warrant that they have the right, power, legal capacity and authority to enter into and perform their respective obligations under this Amendment.

*****SIGNATURES ON FOLLOWING PAGE*****

The parties have executed this Amendment as of the Effective Date.

Landlord:
City of Franklin

Tenant:
Independent Wireless One Leased Realty Corporation, a Delaware corporation

By: _____

By: _____

Name: _____

Name
: _____

Title: _____

Title: _____

Date: _____

Date: _____