



MEETING DATE: 11/6/06

ITEM NO:

5

COUNCIL AGENDA REPORT

DATE: October 17, 2006

TO: MAYOR AND TOWN COUNCIL

FROM: DEBRA J. FIGONE, TOWN MANAGER

SUBJECT: ADOPT RESOLUTION AUTHORIZING THE TOWN MANAGER TO EXECUTE THE SECOND AMENDMENT TO THE AGREEMENT FOR PARKING LOT LEASE BETWEEN THE TOWN OF LOS GATOS AND VERIZON CALIFORNIA, INC. TO:

- A. ALLOW VERIZON CALIFORNIA, INC'S PARKING AREA (AS DEFINED IN THE ORIGINAL LEASE AND DEPICTED ON EXHIBITS A AND B ATTACHED TO THE ORIGINAL LEASE) TO BE MODIFIED TO INCLUDE SEVEN (7) ADDITIONAL PARKING SPACES (REDUCING THE NUMBER OF SPACES AVAILABLE FOR PUBLIC PARKING BY 7), AS WELL AS THE DRIVEWAY CONNECTING THE LOWER AND UPPER PARKING LOTS.
- B. ALLOW VERIZON CALIFORNIA, INC. TO CONSTRUCT TWO (2) NEW GATES, ONE AT THE ENTRANCE TO THEIR PARKING AREA AND ONE AT THE EXIT TO THEIR PARKING AREA.

RECOMMENDATION:

Authorize the Town Manager to negotiate and execute the second amendment of the Parking Lot Lease between the Town of Los Gatos and Verizon California, Inc. to:

1. Allow Verizon California, Inc's, parking area (as defined in the original lease and depicted on exhibits A and B attached to the original lease) to be modified to include seven (7) additional parking spaces (reducing the number of spaces available for public parking by 7), as well as the driveway connecting the lower and upper parking lots.
2. Allow Verizon California, Inc. to construct two (2) new gates, one at the entrance to their parking area and one at the exit to their parking area.

PREPARED BY:

SCOTT R. SEAMAN
Chief of Police

Reviewed by: PS Assistant Town Manager W Town Attorney
____ Clerk Administrator ____ Finance ____ Community Development

BACKGROUND:

On June 17, 2002, Council adopted a resolution authorizing the Town Manager to execute a 15 year lease agreement with Verizon California, Inc., for the use of their parking lot located at 15 Montebello Way. The Town currently uses this lot for public all day parking. The agreement allowed a small number of parking spaces to be reserved for Verizon's exclusive use within a designated boundary near the Montebello entrance to the lot.

Due to the fact that Verizon recently added new employees to their facility at that location, they contacted the Town, requesting that the Town release 7 spaces back to Verizon for their exclusive use. These 7 spaces are located adjacent to Park Avenue, and are separate from the main parking lot. Verizon proposes to prorate the price of the 7 spaces, which would reduce the amount of monthly rent the Town currently pays for the lot. Verizon intends to separate those 7 spaces from the rest of the public lot with gates, in order to maintain it exclusively for their employees.

DISCUSSION:

The Town of Los Gatos currently pays Verizon \$4,345.84 per month for use of their parking lot located at 15 Montebello Way. While this lot contains a total of 71 spaces, the Town subleases 37 spaces to the Post Office for their exclusive use. This leaves a remainder of 34 parking spaces designated for public use. Seven (7) of these parking spaces are located in the lower portion of the lot, located adjacent to Park Avenue. Losing these 7 spaces would reduce the total spaces available for public parking to 27. The original agreement allowed for Verizon to construct a fence between the main lot and the Park Avenue portion of the lot to separate the lots and discourage through traffic between the two areas. Although part of the original agreement, this gate was never constructed.

Because of recently added staff to their facility, Verizon has proposed installing this gate now, and installing a separate gate at the Park Avenue entrance to the 7 parking space area, in order to allow for exclusive use of those 7 spaces by their employees. Verizon would keep the gates open on weekends, and allow the public's use of the lot during Town special events. This continues a provision in the existing lease and is a benefit to residents and visitors.

Based on the current lease amount, the Town is paying the equivalent of approximately \$61.20 per parking space per month. Verizon's proposal is to regain the 7 parking spaces, and subsequently reduce the lease amount to the Town by \$428.46 per month. This would result in annual savings to the Town in the amount of \$5,141.52.

The original agreement has a clause that allows either party to terminate the entire agreement after the sixtieth (60th) month of the agreement with 180 days written notice to the other party. This date is April 30, 2009.

This modification of the lease will reduce the Town's available inventory of parking spaces in the downtown business district from 1,089 to 1,082. Although all day parking spaces are a valuable commodity in the Downtown Business District, and parking lot counts indicate that the spaces in the Verizon lot, including the 7 spaces in question, stay full through most of the day, it is important for the Town to maintain a good working relationship with Verizon, who will continue to lease the remaining 64 spaces, with a new net of 27 spaces for public use.

In an effort to keep the local business owners informed of the impact on parking in the Montebello area, the Town will, through the use of its Community Service Officers and Volunteers in Policing, distribute handouts in the immediate area notifying the businesses of the parking changes.

CONCLUSION:

Staff is recommending that Council adopt a resolution authorizing the Town Manager to execute the second amendment to the agreement for the parking lot lease between the Town of Los Gatos and Verizon California, Inc.

ENVIRONMENTAL ASSESSMENT:

Is not a project defined under CEQA, and no further action is required.

FISCAL IMPACT:

The expense for the Verizon Parking lot lease is paid out of account # 2207-69301.

The contract contains a graduated increase in lease costs of 15% each 5 year period. The next increase will occur on 5/1/09.

While the rent reduction figure is based on a current per space lease cost multiplied by 7 spaces, this figure will increase each 5 years as the pricing structure is adjusted.

The overall reduction in costs for the life of this lease due to the transferring of 7 additional spaces to Verizon California, Inc. is estimated to be \$76,416.48.

ATTACHMENT:

Resolution authorizing the Town Manager to execute the second amendment to the Agreement for the Parking lot lease between the Town of Los Gatos and Verizon California, Inc.

DISTRIBUTION:

Verizon, Inc.

RESOLUTION

RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS AUTHORIZING THE TOWN MANAGER TO NEGOTIATE AND EXECUTE THE SECOND AMENDMENT TO THE AGREEMENT FOR THE PARKING LEASE BETWEEN THE TOWN OF LOS GATOS AND VERIZON CALIFORNIA, INC.

WHEREAS, on June 17, 2002, the Los Gatos Town Council adopted a resolution to execute a fifteen year lease agreement with Verizon California, Inc. to use a portion of the lot located at 15 Montebello Way, Los Gatos for public parking, and

WHEREAS, on December 2, 2002, both parties amended the lease agreement to, in part, limit the number of landlord's parking spaces to be constructed within the premises boundary, and

WHEREAS, Verizon California, Inc. now desires to enter into a second amendment (attached) of the lease to further reduce parking spaces leased to the Town of Los Gatos by seven (7), with a commensurate, prorated reduction in the lease cost, and install two new gates.

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Los Gatos in the County of Santa Clara, State of California, that the Town Manager is authorized, and is hereby directed to negotiate and execute the Second Amendment to the agreement for Parking Lot Lease with Verizon California, Inc.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Los Gatos, California, held on the _____ day of November, 2006 by the following vote:

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED: _____
MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

ATTEST:

CLERK OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

SECOND AMENDMENT TO PARKING LOT LEASE

THIS SECOND AMENDMENT TO PARKING LOT LEASE ("this **Amendment**"), made as of the 10th day of October, 2006, between Verizon California Inc. ("**Landlord**") and Town of Los Gatos ("**Tenant**").

RECITALS:

A. Landlord and Tenant are parties to a Parking Lot Lease (the "**Original Lease**") dated May 28, 2002, as amended by that certain First Amendment to Parking Lot Lease (the "**First Amendment**") dated March 17, 2003 (the Original Lease and the First Amendment are hereinafter referred to as the "**Lease**"), pursuant to which Landlord leases to Tenant and Tenant hires from Landlord certain property located at 15 Montebello Way, Los Gatos, California (the "**Premises**"), containing a total of seventy-one (71) parking spaces, thirty-seven (37) of which have been subleased by Tenant to the U.S. Postal Service.

B. The parties desire to amend the Lease in the manner hereinafter set forth.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. All terms used herein, but not defined herein, shall have the meanings ascribed to such terms in the Lease.

2. Paragraph 3(a) of the Original Lease and Paragraph 1 of the First Amendment are hereby deleted in their entirety and replaced with the following: "**Initial Term**. The term of this Lease (the "**Term**") shall commence on May 1, 2004 (the "**Commencement Date**"), and shall end on April 30, 2019 (the "**Termination Date**"), unless sooner terminated pursuant to any provision hereof, subject to the terms of Paragraph 3(b) below."

3. The Base Rent set forth in Paragraph 2(a) of the Original Lease shall be amended to read as follows:

<u>Period</u>	<u>Monthly Base Rent</u>
5/1/04 - 10/31/06	\$4,345.84
11/1/06 - 4/30/09	\$3,917.38
5/1/09 - 4/30/14	\$4,504.98
5/1/14 - 4/30/19	\$5,180.72

4. The address for notices from Tenant to Landlord contained in Paragraph 15 of the Original Lease is hereby changed is hereby changed to: Verizon Corporate Real Estate, 750 Canyon Drive, Mail Code: SV1E5143, Coppell, TX 75019, Attn: Lease Administration.

5. Landlord's Parking Area (as defined in the Original Lease and depicted on Exhibits A and B attached to the Original Lease) shall be modified to include seven (7) additional parking spaces, as well as the driveway connecting the lower and upper parking lots. Exhibit B attached to the Original Lease is hereby deleted and replaced with Exhibit B attached to this Amendment, and the first sentence inside of the quotation marks in Paragraph 6 of the First Amendment is hereby deleted and replaced with the following: "Landlord's Parking Area shall consist of the shaded area depicted on Exhibit B."

6. Subject to the provisions contained in Paragraph 3 of the First Amendment, Landlord shall, at its sole cost and expense, install and maintain additional gates on the Premises, as shown on Exhibit B.

7. Landlord and Tenant represent and warrant to each other that they have not negotiated with any broker in connection with this Agreement. Landlord and Tenant agree that should any claim be made against the other for a broker's commission, finder's fee or similar compensation by reason of the acts of such party, the party upon whose acts such claim is predicated shall indemnify and hold the other party harmless from all losses, costs, damages, claims, liabilities and expenses in connection therewith (including, but not limited to, reasonable legal fees and the cost of enforcing this indemnity).

8. Each of the parties hereto represents and warrants to the other that the person executing this Agreement on behalf of such party has the full right, power and authority to enter into and execute this Agreement on such 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 Agreement.

9. All prior understandings and agreements between the parties with respect to the subject matter of this Agreement are merged within this Agreement, which alone fully and completely sets forth the understanding of the parties with respect thereto. This Agreement may not be changed or modified nor may any of its provisions be waived orally or in any manner other than by a writing signed by the party against whom enforcement of the change, modification or waiver is sought.

10. Except as herein provided, the Lease and all of its terms, covenants and conditions remain in full force and effect.

11. The terms, covenants and conditions contained herein are binding upon and inure to the benefit of the parties hereto and their heirs, executors, administrators, successors and assigns.

[SIGNATURES APPEAR BELOW]

IN WITNESS WHEREOF, the parties have duly executed this Amendment as of the date first above written.

LANDLORD:

VERIZON CALIFORNIA INC.

By: _____
Name: _____
Title: _____

TENANT:

TOWN OF LOS GATOS

By: _____
Name: _____
Title: _____

RECOMMENDED:

By: _____
Name: _____
Title: _____

APPROVED AS TO FORM:

By: _____
Name: _____
Title: _____

ATTEST:

By: _____
Name: _____
Title: _____

LANDLORD'S PARKING AREA

