



**CITY of NOVI CITY COUNCIL**

**Agenda Item O  
November 23, 2015**

**SUBJECT:** Approval of Resolution regarding Colocation/Sublease on Ice Arena Wireless Communications Tower subject to conditions.

**SUBMITTING DEPARTMENT:**

**CITY MANAGER APPROVAL:** 

**BACKGROUND INFORMATION:**

The City entered into a Sublease with Sprint Spectrum for construction of a wireless communications tower on the Ice Arena property in 2001. The Lease allowed three collocators, because a Use Restriction on the property only allowed a wireless communications tower with a total of four wireless communications "providers." In 2006, the City agreed to an amendment of the Sublease to allow up to five collocators, but the Use Restriction itself was never amended. There are now a total of five antenna "arrays" on the tower, although the Grantor of the property has never indicated that the Use Restriction prohibits the current configuration.

Verizon Wireless wants to collocate on the tower. The attached Resolution authorizes that collocation and sublease so long as the actual appearance of the tower does not change and there are no more than five total arrays on the tower and four total different providers. The Resolution also requires the removal of the currently unused Metro PCS array as soon as practicable.

Under the terms of the main Sublease with Sprint, which is in its second renewal term (years 11 through 15) the annual rent payable to the City for the collocation of Verizon is 50% of the rent payable to Sprint, or \$8,800, whichever is greater.

**RECOMMENDED ACTION:** Approval of Resolution regarding Colocation/Sublease on Ice Arena Wireless Communications Tower subject to conditions.

	1	2	Y	N
Mayor Gatt				
Mayor Pro Tem Staudt				
Council Member Burke				
Council Member Casey				

	1	2	Y	N
Council Member Markham				
Council Member Mutch				
Council Member Wrobel				

CITY OF NOVI

COUNTY OF OAKLAND, MICHIGAN

**RESOLUTION REGARDING COLOCATION/SUBLEASE ON ICE ARENA WIRELESS COMMUNICATIONS TOWER SUBJECT TO CONDITIONS**

Minutes of a Meeting of the City Council of the City of Novi, County of Oakland, Michigan, held in the City Hall of said City on \_\_\_\_\_, \_\_\_\_\_, at \_\_\_\_ o'clock P.M. Prevailing Eastern Time.

PRESENT: Councilmembers \_\_\_\_\_

ABSENT: Councilmembers \_\_\_\_\_

The following preamble and Resolution were offered by Councilmember \_\_\_\_\_ and supported by Councilmember \_\_\_\_\_.

**WHEREAS**, The City entered into a Sublease Agreement as Landlord and owner of the Ice Arena property with Sprint Spectrum, under which Sprint was to construct a wireless communications tower and the City agreed to the collocation of "up to three (3) other wireless communications providers." The number of additional authorized providers was derived from a Use Restriction from the Grantor of the Ice Arena property to the City approved initially in 1997 and later amended in 2001 allowing the City to lease a portion of the property for the construction and use of a tower by "up to four (4) wireless communications providers" on the tower. The 2001 Sublease was amended in 2006 in a manner that purported to allow up to five (5) collocators. However, the Use Restriction was never referred to in the 2006 amended lease.

**WHEREAS**, currently there are five separate antenna "arrays" on the property, giving the appearance of potentially five communications providers. To date, the Grantor under the Use Restriction has not objected to the configuration.

**WHEREAS**, on September 10, 2015, the City received a "Notice of Subleasing" indicating that the operator of the Sublease on behalf of Sprint, GSA/Crown Castle, intended to enter into a Sublease with Verizon Wireless for tower and ground space.

**WHEREAS**, the City responded that it did not believe that any additional communications providers were permitted to locate on the tower in light of the Use Restriction.

**WHEREAS**, the providers currently using the tower are Sprint, AT&T Mobility, T-Mobile, Metro PCS, and another Sprint antenna.

**WHEREAS**, GSA/Crown Castle represents that the second Sprint antenna array is being removed, and that that is where the new Verizon array will be installed. GSA/Crown Castle also states that T-Mobile and Metro PCS have merged and are now effectively one "communications provider." GSA/Crown Castle also indicates that the Metro PCS antenna array is not currently being used and will eventually be removed.

**NOW THEREFORE, IT IS THEREFORE RESOLVED** that, because the appearance of the tower will not change (i.e., there will still be only five antenna arrays), because there are by virtue of the merger to be only four communications providers on the tower, and because GSA/Crown Castle represents that the Metro PCS array is not being used and will be removed as soon as practicable in the future, the City Council of the City of Novi approves the Collocation/Sublease for Verizon as indicated in the September 10, 2015 letter, subject to removal of the Metro PCS antenna array as soon as practicable and further subject to compliance with all other required permits and approvals.

**AYES:**

**NAYS:**

RESOLUTION DECLARED ADOPTED.

\_\_\_\_\_  
Maryanne Cornelius, City Clerk

**CERTIFICATION**

I hereby certify that the foregoing is a true and complete copy of a resolution adopted by the City Council of the City of Novi, County of Oakland, and State of Michigan, at a regular meeting held this \_\_\_\_\_ day of \_\_\_\_\_, 2015, and that public notice of said meeting was given pursuant to and in full compliance with Act No. 267, Public Acts of Michigan, 1976, and that the minutes of said meeting have been kept and made available to the public as required by said Act.

\_\_\_\_\_  
Maryanne Cornelius, City Clerk  
City of Novi