

**VILLAGE OF DOWNERS GROVE
REPORT FOR THE VILLAGE COUNCIL MEETING
MAY 10, 2011 AGENDA**

SUBJECT:	TYPE:	SUBMITTED BY:
Agreement with Verizon Wireless	✓ Resolution Ordinance Motion Discussion Only	Judy Buttny Finance Director

SYNOPSIS

A resolution has been prepared to enter into an agreement with Verizon Wireless for mobile phone services for approximately \$60,000 per year.

STRATEGIC PLAN ALIGNMENT

The goals for 2011-2018 identified *Exceptional Municipal Organization*.

FISCAL IMPACT

The FY 11 budget includes approximately \$72,000 in the General Fund for this service.

RECOMMENDATION

Approval on the May 10, 2011 consent agenda.

BACKGROUND

The Village currently uses Sprint/Nextel for mobile phone services at an annual cost of approximately \$72,000. The Sprint/Nextel contract does not offer free phone replacement and the Village has experienced poor customer service and communication with Sprint/Nextel.

In December 2010, the Village sought proposals from mobile phone providers that offer the services required by the Village. Verizon responded and offered a proposal to provide mobile phone services under the existing State of Illinois contract. The proposal will reduce costs to approximately \$60,000 and will provide new phones every 10 months at no additional cost in addition to a warranty for all phones. The Village anticipates improved customer service under the new contract with Verizon.

ATTACHMENTS

Resolution
Agreement

RESOLUTION NO. ____

**A RESOLUTION AUTHORIZING EXECUTION OF AN
AGREEMENT BETWEEN THE VILLAGE OF DOWNERS GROVE
AND VERIZON WIRELESS**

BE IT RESOLVED by the Village Council of the Village of Downers Grove, DuPage County, Illinois, as follows:

1. That the form and substance of a certain Agreement (the “User Agreement”), between the Village of Downers Grove (the “Authorized User”) and Verizon Wireless (“Verizon Wireless”), for wireless communication services, as set forth in the form of the Agreement submitted to this meeting with the recommendation of the Village Manager, is hereby approved.

2. That the Village Manager and Village Clerk are hereby respectively authorized and directed for and on behalf of the Village to execute, attest, seal and deliver the Agreement, substantially in the form approved in the foregoing paragraph of this Resolution, together with such changes as the Manager shall deem necessary.

3. That the proper officials, agents and employees of the Village are hereby authorized and directed to take such further action as they may deem necessary or appropriate to perform all obligations and commitments of the Village in accordance with the provisions of the Agreement.

4. That all resolutions or parts of resolutions in conflict with the provisions of this Resolution are hereby repealed.

5. That this Resolution shall be in full force and effect from and after its passage as provided by law.

Mayor

Passed:

Attest: _____

Village Clerk

Verizon Wireless Local Government Entity Authorized User Agreement

Verizon Wireless and the State of Illinois, Department of Central Management Services, ("Customer") have entered into Master Services Agreement #PBC #08-33559, IPB Ref. #22016963 (Master Contract Number CMS033559P) for Statewide Wireless Services (the "Master Agreement") with an effective date beginning on March 9, 2010, and any and all attachments, amendments and/or addenda thereto. Pursuant to the terms and conditions of the Master Agreement, the Customer has designated the following government entity as an "Authorized User" and by execution of this Local Government Entity Authorized User Agreement ("User Agreement") the Authorized User is made a part thereof. This User Agreement is made by and between Cellco Partnership, a Delaware General Partnership, having its principal place of business at One Verizon Way, Basking Ridge, NJ 07920-1097, on behalf of itself and its controlled and/or managed affiliates doing business as Verizon Wireless (collectively "Verizon Wireless") and Authorized User (identified below) (each a "Party" or jointly the "Parties") and becomes effective on the date executed by Verizon Wireless.

Authorized User			Verizon Wireless	
Government Agency Name: Village of Downers Grove			TO: Verizon Wireless 200 Allegheny Drive Warrendale, PA 15086 Attention: Midwest Area Contracts	CC: Verizon Wireless Legal & External Affairs Dept. 1515 E. Woodfield Road, Suite 1400 Schaumburg, IL 60173 Attention: Midwest Area Legal – B2B Contract Administration
Government Agency Address: 801 Burlington				
City: Downers Grove	State: IL	ZIP: 60515		
Fed. Tax ID #: 36-6005857			Authorized User's Authorized Contact(s)	
Address for Legal Notices (if different from above)			Name: Judy Buttny	
Name:			Address:	
Address:			Title: Finance Director Phone: (630) 434-5528	
			E-mail: jbuttny@downers.us	
			Name: Steve Sanderson	
City:	State:	ZIP:	Address:	
State of Illinois Joint Purchasing Program Number (Required For Participation): L1510-00			Title: Budget Officer	Phone: (630) 434-5523
			E-mail: ssanderson@downers.us	

In accordance with the definitions, terms and conditions set forth in the Master Agreement, Authorized User, as a designated government entity, may purchase wireless services and products under the terms, conditions, and pricing established by the Master Agreement for Authorized User participation. Participation is further subject to any and all applicable local and/or municipal purchasing statutes and ordinances. The Authorized User states, acknowledges and agrees, as follows:

- (1) It is an Authorized User as defined under the terms of the Master Agreement;
- (2) It is eligible and desires to purchase wireless services and products from Verizon Wireless pursuant to the terms and conditions of the Master Agreement and this User Agreement and any and all addenda and schedules as the Customer may specify from time to time;
- (3) It will provide documentation and substantiate Authorized User status as appropriate and as requested from time to time by Verizon Wireless;
- (4) It will ensure that this User Agreement will be used only in support of government business;
- (5) The undersigned is designated and granted authority to act on behalf of the Authorized User for any and all matters contemplated by Authorized User; and
- (6) The undersigned is duly authorized by the Authorized User to designate the above listed individual(s) (the "Authorized Contact(s)") who is (are) authorized to take action with respect to the account with Verizon Wireless to purchase equipment, add lines of service, cancel lines of service and make changes to the account that financially bind the Authorized User to the terms and conditions of this User Agreement, the Master Agreement, and execute Verizon Wireless Customer Agreements for lines of wireless service, subject to the additional terms and conditions included therein.

VERIZON WIRELESS LOCAL GOVERNMENT ENTITY AUTHORIZED USER AGREEMENT SIGNATURES

Each Party represents and warrants to the other that: (a) it is in good standing under the laws of the state of its formation; (b) the execution, delivery and performance of this User Agreement have been duly authorized by all necessary governmental action to the extent applicable; and (c) the person signing this User Agreement on its behalf is duly authorized to bind it to this User Agreement. Authorized User further represents and warrants that it shall not sell or resell Verizon Wireless service to any third party unless it does so under a separate written agreement with Verizon Wireless. **AUTHORIZED USER ACKNOWLEDGES THAT UPON ACTIVATION OR CHANGE OF WIRELESS SERVICE OR EQUIPMENT, NOW OR IN THE FUTURE, THE CALLING PLAN, FEATURE, SERVICE AND EQUIPMENT TERMS, CONDITIONS AND PRICING APPLICABLE AT THE TIME OF ACTIVATION OR CHANGE SHALL APPLY TO ANY SUCH ACTIVATIONS OR CHANGES.**

AUTHORIZED USER		VERIZON WIRELESS	
Signature: Electronically Accepted	Date: 11/19/2010	Signature:	Date:
Name: Judy Buttny		Name:	
Title: Finance Director		Title:	

ANY CHANGES TO THIS USER AGREEMENT MUST BE AGREED TO BY ALL PARTIES IN WRITING.

VERIZON WIRELESS USE ONLY BELOW

Sales Force ID	Master Contract #	CMS033559P	Version #	#20 – 06-18-2010
Sales Office ID	ECPD Profile ID #		PBC #08-33559, IPB Ref. #22016963 Statewide Wireless Services	
Sales Rep. Name	Contract ID #	680486360-00001		
Sales Mobile #	Existing Authorized User Acct. #:			

MUTUAL NONDISCLOSURE AGREEMENT

This Agreement, effective when executed by both Parties, is made between Error! Reference source not found. ("Authorized User"), with offices located as specified on the face of the Verizon Wireless Local Government Entity Authorized User Agreement, as executed between the parties, and Celco Partnership d/b/a Verizon Wireless, a Delaware general partnership, having an office and principal place of business at One Verizon Way, Basking Ridge, NJ 07920 ("Verizon Wireless"), to protect Confidential Information (hereinafter defined) to be disclosed by the Parties to each other respecting a matter of mutual interest described as proprietary material as well as material subject to and protected by state or federal laws regarding secrecy of communications or trade secrets, and may include information acquired by the disclosing Party from a third party under an obligation of confidentiality (the "Purpose"), please refer to section 1 below for further details.

1. To facilitate discussions, meetings and the conduct of business between the Parties respecting the Purpose, the Parties may disclose Confidential Information to each other. "Confidential Information" means information (in written, graphic, oral or other tangible or intangible form) concerning the disclosing Party's business, customers, products, services, trade secrets and personnel, and designated as confidential by the disclosing Party (if tangible information) by conspicuous markings or (if oral information) by announcement at the time of initial disclosure and written documentation thereof within 30 days thereafter, or if not so marked or announced and documented should reasonably have been understood as being confidential information of the disclosing Party either because of other legends or markings, the circumstances of disclosure or the nature of the information itself. Confidential Information may include proprietary material as well as material subject to and protected by state or federal laws regarding secrecy of communications or trade secrets, and may include information acquired by the disclosing Party from a third party under an obligation of confidentiality. To the extent not inconsistent with applicable law, information that is marked proprietary and confidential by Verizon Wireless, under an exception to the Freedom of Information ("FOI") laws, shall be considered Confidential Information and protected under this Agreement and applicable statutes.

2. Unless terminated earlier by written notice, the term of this Agreement shall be for three (3) years. The obligations hereunder respecting any Confidential Information shall extend for three (3) years following the date of disclosure of that Confidential Information, except that information disclosed by Verizon Wireless concerning its customers shall remain confidential forever. All such obligations hereunder shall survive any expiration or termination of this Agreement.

3. Each Party acknowledges and agrees as follows:

a. That all Confidential Information shall be and shall remain the exclusive property of the disclosing Party;

b. To inform the receiving Party, in advance of any disclosure of Confidential Information, in non-confidential terms, of the nature of the proposed disclosure, and to afford the receiving Party the option of declining to receive the Confidential Information;

c. Information which is disclosed orally shall not be considered Confidential Information unless it is reduced to writing or to a written summary which identifies the specific information to be considered as Confidential Information, and such writing is provided to the receiving Party at the time of disclosure or within thirty (30) days;

d. To receive in confidence any Confidential Information; to use such Confidential Information only for purposes of performing work, services or analysis related to the Purpose and for other purposes only upon terms as may be agreed upon by the Parties in writing;

e. To limit access to Confidential Information to a Party's employees, contractors, and agents who (i) have a need to know

the Confidential Information in order to participate in the Purpose; and (ii) have entered into a written agreement with the receiving Party that provides the same or greater protections to any Confidential Information as provided hereunder. Upon request, Authorized User shall provide a copy of each such agreement to Verizon Wireless; and

f. At the disclosing Party's request, to return promptly to the disclosing Party or to destroy any tangible copies of such Confidential Information, and make commercially reasonable efforts to erase all electronic or other intangible copies, and provide to the disclosing Party a list of all such material destroyed; provided, however, the receiving Party may retain Confidential Information as may reasonably form a part of the governance record of the receiving Party, and as necessary to comply with legal requirements pertaining to the retention of documents.

4. These obligations do not apply to Confidential Information that, as shown by reasonably documented proof:

a. Was in the other Party's possession prior to receipt from the disclosing Party;

b. Was received by one Party in good faith from a third party not subject to a confidential obligation to the other Party;

c. Is or becomes publicly known without any breach of a confidential obligation by the receiving Party;

d. Was developed by the receiving Party without its having access to any of the other Party's Confidential Information;

e. Is authorized in writing by the disclosing Party to be released or is designated in writing by that Party as no longer being confidential or proprietary; or

f. Is required to be disclosed by subpoena or other legal process, limited to the extent required by the terms of such subpoena or other legal process.

5. Authorized User agrees that Verizon Wireless may disclose Confidential Information to an Affiliate, subject to the terms and conditions set forth herein. "Affiliate" means (i) an entity that controls, is controlled by, or is under common control with Verizon Wireless; and (ii) Vodafone Group PLC, its affiliates and partner networks.

6. Other than as required by law or as set forth in Section 3(e), neither Party, without the other Party's prior written consent, shall disclose to any person, or make a public announcement of, the existence of this Agreement or any of its terms, or discussions or negotiations relating to the Purpose or any Confidential Information.

7. If a Party ("Ordered Party") receives a request to disclose any Confidential Information of the other Party, whether pursuant to a valid subpoena or an order issued by a court or regulatory body, governmental body or any political subdivision thereof ("Ordering Party"), or a request under applicable FOI laws, and on advice of legal counsel that disclosure is required by law, then prior to disclosure, the Ordered Party shall (i) notify the other Party of the terms of such request and advice, (ii)

cooperate with the other Party in taking lawful steps to resist, narrow, or eliminate the need for such disclosure, and (iii) if disclosure is nonetheless required, work with the other Party to take into account the other Party's reasonable requirements as to its timing, content and manner of making or delivery and use best efforts to obtain a protective order or other binding assurance from the Ordering Party that confidential treatment shall be afforded to such portion of the Confidential Information as is required to be disclosed. The foregoing is without limitation of the other Party's ability to seek a protective order or other relief limiting such disclosure; in such a case, the Ordered Party shall cooperate in such efforts with the other Party.

8. All disclosures of Confidential Information between the Parties pursuant to this Agreement shall be made by or under the supervision of an Authorized Contact (s) or Designated Coordinator for each Party. Such Authorized Contact(s) or Designated Coordinators for the Parties are as indicated on the face of the Verizon Wireless Local Government Entity Authorized User Agreement, as executed between the Parties.

Each Party may change its Authorized Contact(s) or Designated Coordinator at any time during the term of this Agreement by notifying the Authorized Contact(s) or Designated Coordinator for the other Party in writing.

9. It is agreed that a violation of this Agreement may cause irreparable harm to the non-violating Party and that Party shall be entitled, in addition to any other rights and remedies it may have at law or in equity, to seek an injunction enjoining the violating Party from doing or continuing to do any such act and any other violations or threatened violations of this Agreement. Absent a showing of willful violation of this Agreement, neither Party shall be liable to the other, whether in contract or in tort or otherwise, for special, indirect, incidental or consequential damages, including lost income or profits of any kind, even if such Party has been advised of the possibility thereof. In no event shall either Party be liable to the other for punitive or exemplary damages.

10. Neither disclosure of Confidential Information nor this Agreement shall be construed as a license to make, use or sell the Confidential Information or derived products, or as an agreement, promise or representation by either Party to do business with the other or to do anything except as set out specifically in this Agreement.

11. This Agreement shall be governed by, and construed in accordance with the laws of the State of Illinois without regard to any choice of law or conflicts of law principles, and both Parties consent to the exclusive jurisdiction of the federal or state courts in Illinois.

12. If any provision of this Agreement shall be invalid or unenforceable, the remaining provisions shall remain in full force and effect.

13. This Agreement may be executed originally or by facsimile, and in counterparts, each of which shall be deemed an original, and such counterparts together shall constitute one and the same instrument. When so executed and delivered by each Party to the other, this Agreement shall become binding.

14. This Agreement is the entire agreement between the Parties, and supersedes all prior agreements and understandings, with respect to use and nondisclosure of Confidential Information pertaining to the Purpose. This Agreement may be amended only by a writing executed by both Parties, shall not be assigned or transferred by either Party

without the prior written consent of the other, and shall be binding on successors and permitted assigns of the Parties.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives.

AUTHORIZED USER	
By:	Electronically Accepted
Name:	Judy Buttny
Title:	Finance Director
Date:	11/19/2010

CELLCO PARTNERSHIP d/b/a VERIZON WIRELESS	
By:	
Name:	
Title:	
Date:	