

TOLLING AGREEMENT

This Tolling Agreement (“Agreement”), dated as of January 15, 2019, is made and entered into by and between GTE MobilNet of California Limited Partnership, a California limited partnership dba Verizon Wireless (“Verizon Wireless”) and the County of Contra Costa (“County”).

RECITALS

A. Verizon Wireless has filed an application for a permit to authorize Verizon Wireless to construct a wireless telecommunications facility in the public right-of-way in Contra Costa County, California. On December 17, 2018, the County Zoning Administrator approved the Verizon Wireless application under County File WA17-0016 (near 279 Smith Road) (the “Application”). The County Planning Commission will hear an appeal of the Zoning Administrator’s determination on the Application on February 13, 2019. The Planning Commission’s determinations may be further appealed to the County Board of Supervisors.

B. On November 18, 2009, the Federal Communications Commission (the “FCC”) released a Declaratory Ruling clarifying Section 332(c)(7) of the Communications Act. *See In Re: Petition for Declaratory Ruling to Clarify Provisions of Section 332(c)(7)(B) to Ensure Timely Siting Review, Etc.*, FCC 09-99 (FCC November 18, 2009) (the “Ruling”). The Ruling permits a wireless service provider whose application has been pending for a period of 90 days for collocation applications, and 150 days for all other applications, to seek judicial review within 30 days on the basis that a state or local permitting authority failed to act on the application within “a reasonable time.” Ruling, ¶ 45. The Ruling further permits the period for review of an application to be extended by mutual consent. Ruling, ¶ 49.

C. In order to allow the County to act on the Verizon Wireless Application in an orderly manner, without either party risking the loss of important rights, the parties wish to enter into a tolling agreement.

NOW, THEREFORE, the parties agree as follows:

1. The parties agree that the time period within which the Planning Commission may act on the appeal of the Zoning Administrator determination on the Application, under both California and federal law, shall be extended through February 15, 2019. The parties further agree that the time period within which the Board of Supervisors may act on any appeal of Planning Commission determination on the Application shall be extended through April 18, 2019, and that no limitations period under California or federal law for any claim by Verizon Wireless of unreasonable or unlawful delay in processing the Applications shall commence to run before April 18, 2019.

2. If the Planning Commission has not acted on appeals of the Applications by February 15, 2019, or if the Board of Supervisors has not acted on any appeals of Planning Commission determinations by April 18, 2019, this Agreement shall not be construed as an admission by the County that such failure to act is unreasonable or unlawful, nor shall it be construed to waive or otherwise impair the rights of Verizon Wireless with respect to any such claim. In addition, this Agreement shall not be

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construed to waive any claims by the County regarding the validity or applicability of the requirements and deadlines established in the Ruling.

3. This Agreement may be executed in counterparts and facsimile, each of which shall be deemed an original. The individuals whose signatures appear below on behalf of each party are authorized to execute this Agreement on behalf of the respective parties, and to bind them to the terms thereof.

COUNTY OF CONTRA COSTA

By: _____

Printed name: _____

Title: _____

**GTE MOBILNET OF
CALIFORNIA LIMITED
PARTNERSHIP DBA VERIZON
WIRELESS**

By: 

Paul Albritton
Counsel to Verizon Wireless