



MEMORANDUM

TO: City Council

FROM: Whitney McDonald, City Manager
Timothy J. Carmel, City Attorney

SUBJECT: Consideration of First Amendment to the Communications Site Lease Agreement ("Lease") with T-Mobile West, LLC ("T-Mobile"), for the Operation of a Telecommunications Facility Located at Branch Mill Road (Reservoir 4)

DATE: September 27, 2022

SUMMARY OF ACTION:

Approve the First Amendment to the Communications Site Lease Agreement ("Lease") with T-Mobile West, LLC ("T-Mobile"), successor in interest to Cingular Wireless, for the operation of a telecommunications facility located at Branch Mill Road, commonly known as the Reservoir 4 site.

IMPACT ON FINANCIAL AND PERSONNEL RESOURCES:

T-Mobile currently pays \$30,643.80 per year under the Lease, with an automatic adjustment of three percent (3%) annually. The proposed Amendment will increase the annual revenue by \$8,120.28 per year, which will continue to escalate automatically on the anniversary of the commencement date by three percent (3%) of the rent for the previous year. The Amendment will extend the term for an additional twenty years.

RECOMMENDATION:

Approve the First Amendment to the Communications Site Lease Agreement ("Lease") with T-Mobile West, LLC ("T-Mobile"), successor in interest to Cingular Wireless, for the operation of a telecommunications facility located at Branch Mill Road, commonly known as the Reservoir 4 site.

BACKGROUND:

On January 14, 2004, the City entered into a Lease with Cingular Wireless for the installation, maintenance and operation of telecommunications facilities on City-owned property, contained within a 510 square foot area located on Branch Mill Road (Reservoir 4). The Lease had an initial five-year term commencing December 16, 2003, which automatically extended for three additional five-year terms. The Lease will expire on December 16, 2023.

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In 2020, T-Mobile submitted a permit application to expand the leased area and update their equipment. They also requested an extension of the Lease term. Negotiations resulted in consensus on the following terms for an amended Lease:

- The leased premises is expanded by 135 square feet;
- The initial term shall be for seven years from the effective date of the amendment (this recaptures the time remaining from the original Lease), with three automatic five-year term extensions, unless T-Mobile provides notice that it will not renew at least sixty day prior to the commencement of the renewal term;
- Monthly rent of \$3,230.34 (increased to account for the additional leased area);
- Automatic rent increases in the amount of 3% every year;
- Reservoir maintenance provisions; and
- \$1,000 administrative fee.

T-Mobile has approved and executed the amendment, a copy of which is attached.

ANALYSIS OF ISSUES:

The Amendment would provide revenue of \$1,183,730.19 over the next 22 years, assuming that the Lease is not terminated early and there are no reductions in rent. If the lease is allowed to expire, the City can only expect to receive \$49,618.02 for the remainder of the current term. While most of the telecommunications site leaseholders are trying to negotiate significant rent reductions, T-Mobile has agreed to maintain their current rent (prorated to account for the additional square footage) and annual escalation, has invested heavily in upgraded equipment and has been a good tenant; all of which indicate a good faith commitment to maintaining their tenancy in the long-term.

The Amendment also contains important maintenance provisions not currently included in the Lease. This is important, as Reservoir 4 is scheduled to be recoated in the near future.

ALTERNATIVES:

The following alternatives are presented for consideration:

1. Approve the Amendment and authorize the Mayor to execute it on behalf of the City;
2. Reject the Amendment;
3. Direct staff to negotiate alternate terms with regard to the Amendment; or
4. Provide other direction to staff.

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ADVANTAGES:

Cell tower leases represent a significant and important revenue source to the City. Therefore, it is in the best interest of the City to approve the amendment to ensure this revenue stream for potentially 22 more years.

DISADVANTAGES:

No disadvantages are identified.

ENVIRONMENTAL REVIEW:

No environmental review is required for this item.

PUBLIC NOTIFICATION AND COMMENTS:

The Agenda was posted at City Hall and on the City’s website in accordance with Government Code Section 54954.2.

Attachments:

1. Proposed First Amendment to Communications Site Lease Agreement
2. Communications Site Lease Agreement