



REPORT TO CITY COUNCIL

To: Honorable Mayor and Members of the City Council

From: Grant Yates, City Manager

Prepared by: Jason Simpson, Assistant City Manager
Barbara Leibold, City Attorney

Date: October 8, 2019

Subject: Phoenix Tower International Cell Tower Leases Prepayment on Existing Leases and Payment for Additional Ground Equipment at McVicker Park (APN 394-310-011)

Recommendation

Approve and authorize the City Manager to execute:

- 1) First Amendment to Communications Site Lease Agreement for US-CA-1056 for \$288,000, in the form attached and in such final form as approved by the City Attorney;
- 2) First Amendment to Communications Site Lease Agreement for US-CA-1190 for \$288,000, in the form attached and in such final form as approved by the City Attorney;
- 3) Communications Site Lease Agreement for Additional Ground Equipment location space for the co-location of AT&T for \$142,000, and condition AT&T to repaint the pole once ground equipment is operational in the form attached final form as approved by the City Attorney.

Background

In 1996, Centex Homes entered into the attached Communication Site Lease Agreement ("Tower Facility Lease") with Pacific Bell Mobile Services for a cell tower facility in McVicker Park. The City assumed the rights as Lessor under the Tower Facility Lease upon dedication of McVicker Park to the City. The Tower Facility Lease provides for an initial 5-year term (1996-2001) with five additional 5-year extension terms, for a full maximum term through 2026. Rent for the initial term was \$1,000/month with a 15% increase for each successive term to ultimately \$2,011 monthly.

In 2009, the City entered into the attached Communication Site Lease Agreement with Royal Street Communications ("Light Pole Lease"). The Light Pole Lease provides for an initial 5-year term (2009 – 2014) with four additional 5-year extension terms, for a full maximum term through

2032. Rent for the initial term was \$1,500/month with a 15% increase for each successive term to ultimately \$2,624 monthly.

Phoenix Tower International assumed the Leases in 2016.

Discussion

Phoenix Tower International submitted a Letter of Intent in May 2019 to the City proposing to:

- 1) Expand the leased area to include additional ground space as depicted in the attached map and enter into a new Lease Agreement for the expanded space;
- 2) Extend the lease term under the existing Tower Facility Lease and the Light Pole Lease and the ground space to November 2049;
- 3) Prepay rent for both leases in a total amount of \$718,000 to be paid \$576,000 for the existing leases upon closing and \$142,000 when AT&T's site is live and operational in consideration for the additional ground space. Also, AT&T will repaint the pole one color matching other poles.

The expanded area consists of approximately 20 feet x 20 feet section immediately east of the existing cell tower for AT&T's ground equipment to upgrade the existing facility. The City Council directed staff to proceed with real property negotiations consistent with the terms of the attached Letter of Intent (LOI) to allow the parties to negotiate the definitive Lease amendment/agreement. Phoenix International has also submitted the attached Letter of Authorization for the City to sign as the property owner to allow Phoenix Tower International to commence the entitlement process for AT&T's additional ground equipment.

Fiscal Impact

For the prepayment to extend the existing leases and to allow for additional ground equipment, the City will receive a total amount of \$718,000 to be paid \$576,000 for the existing leases upon closing and \$142,000 when AT&T's site is live and operational in consideration for the additional ground space.

Exhibits

- A – First Amendment to Communications Site Lease Agreement for US-CA-1056
- B – First Amendment to Communications Site Lease Agreement for US-CA-1190
- C – Communications Site Lease Agreement for Additional Ground Equipment location for the co-location of AT&T
- D – Original US-CA-1056 Agreement
- E – Original US-CA-1190 Agreement
- F – Letter of Authorization
- G – Letter of Intent
- H - Map of McVicker Park Cell Site
- I – Plans Submitted for Cell Tower Improvements