



Folsom City Council Staff Report

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| MEETING DATE: | 9/8/2020 |
| AGENDA SECTION: | Consent Calendar |
| SUBJECT: | Resolution No. 10520 – A Resolution Authorizing the City Manager to Execute Amendment No. 1 to the Communications Site License Agreement with Sacramento Valley Limited Partnership, a Delaware Limited Partnership, d/b/a Verizon Wireless at Low Howard Park |
| FROM: | Parks and Recreation Department |

RECOMMENDATION / CITY COUNCIL ACTION

Move to approve Resolution No. 10520 – A Resolution Authorizing the City Manager to Execute Amendment No. 1 to the Communications Site License Agreement with Sacramento Valley Limited Partnership, a Delaware limited partnership, d/b/a Verizon Wireless at Low Howard Park.

BACKGROUND / ISSUE

In 1991 PacTel Cellular, which was subsequently purchased by Verizon Wireless, entered into a 20-year term Ground Lease Agreement with the City of Folsom at Low Howard Park. In 2000, Verizon Wireless subleased the tower site to American Tower Corporation who now manages the tower.

In September 2007 under the 1991 Ground Lease Agreement, the City consented to allow co-location equipment, resulting in Clearwire, who was later acquired by Sprint, to both co-locate at the existing site. The 1991 Agreement did not provide for additional rent to the City as a result of the co-location. In 2012 the City entered into a new thirty-year Site License Agreement with Sacramento Valley Limited Partnership d/b/a Verizon Wireless expiring on December 31, 2041. The 2012 agreement set the annual rent at \$39,600 with a 3% annual escalator, taking into account that this site had two co-locators. By way of background, newer Communications Site License agreements usually include a base rent for the primary licensee and additional rents for co-locators.

In March of 2020, American Tower, who subleases and manages this tower, contacted the City of Folsom regarding a rent reduction for this site due to the loss of both of their co-locators. Since Sprint, who acquired Clearwire, merged with T-Mobile, neither Sprint nor Clearwire needed to co-locate on this tower. With the loss of that co-location revenue, Verizon Wireless now has negative margins on this site and cannot sustain the current rates that they were able to pay when they had the two co-locators.

In a letter dated April 21, 2020, American Tower proposed an amendment to the current agreement reducing their future rent payments. Their next annual rent payment with the current 3% escalator would have been \$51,669.02 due January 1, 2021. While we typically would not support a rent reduction, it is quite likely that without a reduction, Verizon would terminate this agreement completely, thus resulting in a \$1.48 million loss to the city over the next 21 years. This amendment would reduce their annual payment due January 1, 2021 to \$42,000 with the annual 3% escalator to remain for future payments. This annual rent is comparable to rents for a single licensee of other towers within our parks. In addition, their proposal included a one-time signing bonus of \$8,500. Staff negotiated an increase to the signing bonus, agreeing to a one-time \$20,000 payment within 30 days of the effective date of the proposed amendment which more than covers the first year's reduction. If approved, the proposed future rent schedule for the next 10 years is shown below:

| | |
|-----------------|--------------------|
| January 1, 2021 | \$42,000.00 |
| January 1, 2022 | \$43,260.00 |
| January 1, 2023 | \$44,557.80 |
| January 1, 2024 | \$45,894.53 |
| January 1, 2025 | \$47,271.37 |
| January 1, 2026 | \$48,689.51 |
| January 1, 2027 | \$50,150.20 |
| January 1, 2028 | \$51,654.70 |
| January 1, 2029 | \$53,204.34 |
| January 1, 2030 | \$54,800.47 |

POLICY / RULE

The City Manager shall receive City Council authority to execute contracts in excess of \$62,014.

ANALYSIS

The proposed terms for Amendment No. 1 to the Communications Site License Agreement at Lew Howard Park include the following:

1. The annual rent would be reduced to \$42,000 commencing Jan. 1, 2021, with an annual 3% escalator
2. This annual rent is comparable to rents for a single licensee of other towers within our parks.
3. A signing bonus of \$20,000 within 30 days of execution of the new agreement.
4. The new agreement has the potential for future co-location fees.

5. Without a reduction in rent, Verizon is likely to terminate their contract completely resulting in a loss of \$1.48 million over the next 21 years.

FINANCIAL IMPACT

The amendment provides an additional \$20,000 of revenue within 30 days of signing, but an overall reduction in future rent of \$277,273 over the remaining 21 years. The per year reduction is approximately \$10,000 per year for the next 5 years and increases up to approximately \$17,000 in year 30.

ENVIRONMENTAL REVIEW

Environmental review is not required pursuant to section 15301 of the CEQA Guidelines (related to Existing Facilities) and section 15303 of the CEQA Guidelines (related to new construction or conversion of small structures). Based on staff's analysis, none of the exceptions in Section 15300.2 of the CEQA Guidelines apply to the use of the categorical exemptions in this case.

ATTACHMENTS

Resolution No. 10520 – A Resolution Authorizing the City Manager to Execute Amendment No. 1 to the Communications Site License Agreement with Sacramento Valley Limited Partnership, a Delaware Limited Partnership, d/b/a Verizon Wireless at Lew Howard Park

Submitted,

Lorraine Poggione, Parks & Recreation Director

RESOLUTION NO. 10520

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AMENDMENT NO. 1 TO THE COMMUNICATIONS SITE LICENSE AGREEMENT WITH SACRAMENTO VALLEY LIMITED PARTNERSHIP, A DELAWARE LIMITED PARTNERSHIP, D/B/A VERIZON WIRELESS AT LEW HOWARD PARK

WHEREAS, PacTel Cellular, which was subsequently purchased by Verizon Wireless, entered into a Ground Lease Agreement in December 1991 for development of a wireless communications facility at Lew Howard Park; and

WHEREAS, in September 2007 the City consented to additional improvements and/or equipment resulting in Clearwire and Sprint both co-locating their equipment at the site; and

WHEREAS, the City entered into a new thirty-year Site License Agreement with Sacramento Valley Limited Partnership d/b/a Verizon Wireless in December 2012; and

WHEREAS, Sacramento Valley Limited Partnership d/b/a Verizon Wireless has granted American Tower a limited power of attorney to, among other things, prepare, negotiate, execute, deliver, record and/or file certain documents on behalf of Licensee; and

WHEREAS, Sprint has terminated their co-location agreement and Clearwire has given their termination notice at this site; and

WHEREAS, American Tower has reported negative margins on this site since losing the two co-locators and has requested a reduction in rent; and

WHEREAS, American Tower will pay a one-time conditional signing bonus of \$20,000 within 30 days of full execution of this agreement; and

WHEREAS, the City has agreed to a reduction in rent from \$51,669.02 due January 1, 2021 to \$42,000.00 due January 1, 2021 with a 3% annual escalator; and

WHEREAS, any future co-locators would be required to enter into a separate license agreement with the City resulting in additional revenue; and

WHEREAS, the agreement will be in a form acceptable to the City Attorney;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Folsom authorizes the City Manager to execute Amendment No. 1 to the Communications Site License Agreement with Sacramento Valley Limited Partnership, a Delaware limited partnership, d/b/a Verizon Wireless at Lew Howard Park.

PASSED AND ADOPTED this 8th day of September 2020, by the following roll-call vote:

AYES: Council Member(s):
NOES: Council Member(s):
ABSENT: Council Member(s):
ABSTAIN: Council Member(s):

Sarah Aquino, MAYOR

ATTEST:

Christa Freemantle, CITY CLERK

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