



April 2, 2013

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

Authorize the City Manager to execute all documents necessary for Amended and Restated Lease No. 24384 with Los Angeles SMSA Limited Partnership, a California limited partnership doing business as Verizon Wireless (Verizon as "Lessee"), and the First Amendment to Use Authorization and Consent Agreement No. 32883 with American Tower Delaware Corporation, a Delaware corporation (ATC as "Sublessee") for the continued operation of a cellular tower on City-owned property within the El Dorado Park Golf Course adjacent to the San Gabriel River. (District 4)

DISCUSSION

On August 15, 1995, the City Council authorized the execution of Lease No. 24834 with Verizon for the use of City-owned property within the El Dorado Park Golf Course for the installation of a cellular antenna tower. The Lease commenced on October 1, 1995, for an initial 5-year term with two 5-year options to further extend the term. On February 6, 2001, the City Council authorized the execution of the First Amendment to modify the rent and memorialize Verizon's decision to exercise its first 5-year option extending the term through September 30, 2005. On November 13, 2001, the City Council authorized the Second Amendment to allow for the replacement of the cellular antenna tower with an eighty-foot cellular tower designed to look like a pine tree (Monopine) and capable of accommodating multiple cellular carriers as subtenants. As a result of the modification of the tower, additional rent to the City in the form of 40 percent of subtenant rents was included in the Second Amendment. Finally, the Third Amendment executed in July 2007 memorialized Verizon's decision to exercise its remaining 5-year option extending the term through September 30, 2010.

ATC manages the site on behalf of Verizon under a separate Sublease agreement. ATC is responsible for payments to the City of all subtenant percentage rent. In December 2011, the City executed Use Authorization and Consent Agreement No. 32883 with ATC to formalize this relationship.

In May 2010, the City instituted a moratorium temporarily banning the installation of new wireless communications facilities in residential and institutional areas in an effort to review and implement modifications to the City's regulations regarding wireless

telecommunications facilities (Ordinance Review). The Lease for the Monopine terminated on September 30, 2010. The City and Verizon agreed to a month-to-month holdover of the Lease to allow for the completion of the Ordinance Review in order to better understand any potential impacts to the leased premises. Modifications to Chapter 21.56 of the Municipal Code concerning wireless telecommunications facilities became effective on July 7, 2011. Shortly thereafter, City staff and Verizon commenced negotiations to extend the term of the Lease. Due to the age of the original agreement and the recent modifications to the City's regulations for wireless communications facilities, staff recommends an amended and restated agreement with Verizon in order to update its general provisions and extend the term of the Lease.

City staff and Verizon have concluded negotiations and propose Amended and Restated Lease No. 24384 containing the following major terms and provisions:

- Landlord: City of Long Beach, a municipal corporation.
- Tenant: Los Angeles SMSA Limited Partnership, a California limited partnership doing business as Verizon Wireless.
- Leased Premises: Approximately 3,600 square feet of land at El Dorado Park in the southeast corner of the El Dorado Park Golf Course adjacent to the San Gabriel River Channel.
- Use: The Leased Premises shall be used for the continued operation of an existing wireless telecommunication facility, including all related equipment and structures.
- Term: The term of the Lease shall be extended through June 30, 2022. This will provide the Tenant with an additional 10-year term (effective and retroactive to July 1, 2012) and incorporate the 21-month period of time (October 1, 2010 – June 30, 2012) in which the Lease was on a month-to-month status due to the Ordinance Review.
- Options to Extend: The Tenant shall have one option to extend the term of the Lease for one additional period of five years.
- Annual Base Rent: Effective and retroactive to July 1, 2012, the current Annual Base Rent of \$20,105 shall increase to \$40,000 for the first year; \$30,000 for the second year; and thereafter shall increase annually by three percent (3 percent) providing for \$30,900 for the third year, \$31,827 for the fourth year, etc.

If Tenant exercises its option to extend the term, then City shall have the option to renegotiate the Annual Base Rent for the extended term based on the then current market value.

- Subtenant Rent: In addition to the Annual Base Rent, the City shall receive monthly subtenant rent in an amount equal to forty percent of the rent due to the Tenant. Annual subtenant rent for FY13 is estimated at \$32,000. Annual subtenant rent has increased significantly from an annual average of \$9,000 for FY02-FY07 to an annual average of \$23,300 for FY08-FY10 due to an increase in the number of subtenants.

Accordingly, modifications to Use Authorization and Consent Agreement No. 32883 with ATC shall be reflected in its First Amendment to authorize continued subtenant rent payments directly to the City from ATC.

This matter was reviewed by Deputy City Attorney Gary J. Anderson on March 6, 2013 and Budget Management Officer Victoria Bell on March 11, 2013.

TIMING CONSIDERATIONS

City Council action is requested on April 2, 2013, in order to execute the necessary documents to formalize Verizon's continued occupancy of the leased premises.


FISCAL IMPACT

Effective and retroactive to July 1, 2012, total annual revenue of approximately \$72,000 for the first year and approximately \$62,000 for the second year shall accrue to the General Fund (GP) in the Department of Parks, Recreation and Marine (PR). Thereafter, total annual revenue increases shall be based on a 3 percent annual increase in the Annual Base Rent and any increases in the Subtenant Rents.


SUGGESTED ACTION:

Approve recommendation.

Respectfully submitted,



ARA MALOYAN
ACTING DIRECTOR OF
PUBLIC WORKS



GEORGE CHAPJIAN
DIRECTOR OF
PARKS, RECREATION AND MARINE

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APPROVED:



PATRICK H. WEST
CITY MANAGER