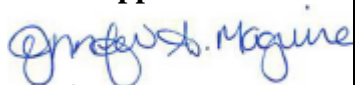


CITY COUNCIL ACTION REQUEST

Department(s): Economic Development	CEQA: Not a Project, File No. PP17-003, Agreements/ Contracts (New or Amended) resulting in no physical changes to the environment.	Coordination: CAO, Planning, CMO – Budget Office, Public Works	Dept. Approval: /s/ Nanci Klein
Council District(s): Citywide			CMO Approval:  3/30/2021

SUBJECT: FIRST AMENDMENT TO THE MOUNT CHUAL ANTENNA SITE LEASE SCHEDULE

RECOMMENDATION:

Adopt a resolution authorizing the City Manager, or his designee, to negotiate and execute a First Amendment to the Antenna Site Lease Schedule dated August 29, 2001 between the City of San José and ComSites West, LLC, a California limited liability company to extend the lease term from May 1, 2021, to April 30, 2036, for a total of 15 years for a total cost of approximately \$540,000, with two additional five-year options to renew for a total cost of approximately \$759,000 if one option term is exercised and \$1,000,000 if both option terms are exercised, subject to the appropriation of funds.

BASIS FOR RECOMMENDATION:

The City's Mount Chual antenna facility is the site of a telecommunications monopole serving the City's public police and fire safety dispatch and emergency telephone answering system ("911").

On October 1, 1990, the City's current 911 system became operational. The design of the system requires the licensing of several remote locations for communications receivers and transmitters. One of these locations is the Mount Chual facility, located in South San Jose near Mount Chual Spur Road (see Exhibit A, Aerial Map of Site). The City has leased space for communications antenna placement and corresponding rack space since construction of the facility in 1991.

The City entered into the Antenna Site Lease Schedule dated August 29, 2001 ("Original Lease") with Pinnacle Towers, Inc., a Delaware corporation. Pinnacle Towers, Inc., a Delaware limited liability company was converted pursuant to Delaware law to Pinnacle Towers LLC, a Delaware limited liability company ("Crown Castle"), which subleased the space from ComSites West, LLC, a California limited liability company ("CSW"), the owner of the property. The Original Lease ran for a period of 20 years and the City is currently paying \$2,822.76 per month for the lease on a holdover, month-to-month basis as of February 28, 2021.

Public Works Radio Shop staff have determined that this facility is currently an important radio site and is necessary for the backup operation of the City's public safety radio communications as well as ongoing conventional radio channels for all other City staff not on the Silicon Valley Regional Communications System.

On February 23, 2021, staff was notified that Crown Castle was unable to renew their sublease that expired February 28, 2021 with CSW, thereby nullifying their ability to execute any additional agreements with the City. Likewise, on March 4, 2021 CSW notified staff that they will assume the Original Lease from Crown Castle and would work with staff to negotiate terms of a lease extension.

Staff negotiated a First Amendment to the Original Lease (“First Amendment”) to extend the lease term for an additional 25 years (“Extension Term”), which includes a 15-year initial term with two automatic five-year options to renew. The Extension Term will commence May 1, 2021 and will expire on April 30, 2036 if the two five-year automatic renewal terms aren’t exercised. Staff negotiated a reduction in both the monthly rent and annual escalator for the Extension Term. The rent for Year 1 of the Extension Term will be reduced from \$2,822.76 to \$2,600 per month (\$31,200 per year). The annual escalator will be reduced from 4% to 2% per annum for the years thereafter. All other terms in the Original Lease will remain in full force and effect.

Climate Smart San Jose:

The recommendation in this memo has no effect on Climate Smart San José energy, water, or mobility goals.

Commission Recommendation/Input:

No commission recommendation or input is associated with this action.

COST AND FUNDING SOURCE:

The first year’s rent for this agreement totals \$31,200 and shall increase by 2% per annum for a total cost of approximately \$540,000 for the initial 15-year term, approximately \$759,000 if one five-year option term is exercised, and approximately \$1,000,000 if both five-year option terms are exercised. The Original Lease also allows the Landlord to pass through the prorate cost of any increase in electrical rates to the site; this provision will remain unchanged. Funding for Fiscal Year 2020-2021 is available in the City-Wide Property Leases appropriation (APPN 2064) and is subject to annual appropriations.

FOR QUESTIONS CONTACT: Kevin Ice, Senior Manager, Real Estate Services at kevin.ice@sanjoseca.gov.

Exhibit A
Aerial Map of Site

