



City of Arts & Innovation

City Council Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL DATE: AUGUST 16, 2022

FROM: GENERAL SERVICES DEPARTMENT WARDS: ALL

SUBJECT: AMENDMENTS TO THE SCHEDULES OF LICENSED PROPERTY FOR CELL TOWER LICENSES AT THREE LOCATIONS TO PROVIDE CONSENT TO SUBLICENSES TO SPRINT AND VERIZON AND AMEND THE SUBLICENSE REVENUE SHARING PROVISIONS

ISSUE:

Approve amendments to the Schedules of Licensed Property for cell tower licenses at three locations to provide consent to sublicenses to Sprint and Verizon and amend the sublicense revenue sharing provisions.

RECOMMENDATIONS:

That the City Council:

1. Approve the First Amendment to Schedule of Licensed Property with SBA Steel, LLC for Site number CA-6758C (Nichols Park) to consent to sublicensee and revise sublicense revenue sharing;
2. Approve the First Amendment to Schedule of Licensed Property with SBA Towers VIII, LLC for Site number CA7247C (Castlview) to consent to sublicensee and revise sublicense revenue sharing;
3. Approve the First Amendment to Schedule of Licensed Property with SBA 2012 TC Assets, LLC for Site number RV03XC020(F) (Villegas Park) to consent to sublicensee and revise sublicense revenue sharing; and
4. Authorize the City Manager, or designee, to execute the First Amendments to Schedule of Licensed Property, including making minor and non-substantive changes.

BACKGROUND

City and SBA Communications Corporation and its subsidiaries, through its predecessor, Nextel of California, Inc., entered into the Master Communications Site License (Master Agreement) dated December 30, 1998 to license property within the City for the purposes of constructing and

operating telecommunications equipment, commonly referred to as cell towers. When the Master Agreement was initially executed, the City Manager was authorized to administratively manage individual Schedules of Licensed Property within the terms and conditions of the Master Agreement. Per the Master Agreement, the City was entitled to a 90% revenue share for any sublicenses/colocations that occur on a licensed site.

Sublicensing was discovered at three locations without the City's prior consent, CA7247C Castlevew/Ross Reservoir, CA6758 Nichols Park, and RV03XC020 Villegas Park. Castlevew was sublicensed to Verizon, and Nichols Park and Villegas Park were sublicensed to Sprint.

Settlement was ultimately reached by the parties to provide the City's consent to the sublicenses to Verizon and Sprint, revise the sublicensing revenue sharing percentage to align with current market practices, and provide compensation for past revenue not paid to the City. In order to effectuate the settlement, the parties need to execute the First Amendments to the Schedules of Licensed Property for each location.

DISCUSSION:

Staff negotiated with SBA Communications Corporation and agreed-upon 55% of any consideration the Licensee receives from the initial sublicensee and 60% for any additional sublicenses. The City will also receive a one-time fee of \$65,000, through a Settlement Agreement with SBA Communications Corporation.

Subject to City Council approval, the City Manager, or designee, will continue negotiating terms, conditions, and minor and non-substantive changes to current Communication Site Licenses. Anything outside the previously approved terms will be subject to City Council review and approval.

STRATEGIC PLAN ALIGNMENT:

The Communication Site License update contributes to **Strategic Priority 5 - High Performing Government** and **Goal 5.4** – Achieve and maintain financial health by addressing gaps between revenues and expenditures and aligning resources with strategic priorities to yield the greatest impact.

This also aligns with each of the Cross-Cutting Threads as follows:

1. **Community Trust** – Review of this Lease Amendment by the City Council ensures transparency and demonstrates the City's commitment to the community by making sound business decisions.
2. **Equity** - The City Cell Tower Program benefits the entire community of the City of Riverside. This update will continue to ensure reliable cellular service for residents and fair and equitable rate setting for all our cell tower tenants.
3. **Fiscal Responsibility** – Approval of this Lease Amendment demonstrates the importance placed on the Cell Tower Leasing Program's fiscal responsibility and helps to ensure that all cell tower tenants are abiding by the terms of their Agreements.

4. **Innovation** – Approval of this Lease Amendment will ensure all cell tower tenants are governed by the same financial responsibilities.
5. **Sustainability and Resiliency** – Approval of this request will allow the City to align our colocation fees consistent with current market value.

FISCAL IMPACT:

The estimated fiscal impact of this action is \$19,957.42. The revenue received as a course of this action will be deposited into the appropriate Cell Tower Revenue accounts reflected in the following table:

Fund	Site	Account	Amount
Water Fund	CA7247C Castlevue / Ross Reservoir	0000520-373102	\$7,906.98
General Fund	CA6758 Nichols Park	0000720-373102	\$2,634.48
	RV03XC020 Villegas Park	0000720-373102	\$9,415.96

Prepared by: Carl Carey, General Services Director
 Certified as to
 Availability of funds: Edward Enriquez, Interim Assistant City Manager/Chief Financial Officer/City Treasurer
 Approved by: Kris Martinez, Assistant City Manager
 Approved as to form: Phaedra A. Norton, City Attorney

Attachments:

1. First Amendment to Schedule of Licensed Property – Villegas Park
2. First Amendment to Schedule of Licensed Property – Nichols Park
3. First Amendment to Schedule of Licensed Property – Castlevue Park