

STAFF REPORT



Meeting Date: October 21, 2020
To: Board of Directors
From: Michael J. Aho – District Administrator
Subject: Revised Lease of Cell Tower at Miller Park

I. Recommendation

Instruct the District Administrator to inform MD7 that the District is not interested in negotiating new terms for the Cell Tower Lease Agreement at Miller Park and will continue with the current lease until it expires or is canceled under the terms of the existing lease.

II. Background

The current lease agreement for the Cell Tower at Miller Park was executed on April 18, 2007 with Verizon. Sometime after April 2007 the lease was sold or transferred to American Tower. The lease allows this type of transferring or sale to occur, but all the terms and conditions of the original Lease Agreement remain the same.

The terms of the agreement are:

- Five (5) years term from execution of the Lease, which expired on April 18, 2007.
- Five (5) additional 5-year renewals which automatically happen unless three (3) months notice is given by either party of their intent to cancel the Lease. If all extensions are exercised then the Lease expires April 18, 2037.
- Rent paid to the District is \$1325 per month with a 3% yearly escalation. Current rent is \$1,889.
- All cost of equipment removal is the responsibility of American Tower if Lease is terminated or at the end of the current Lease if Lease is not renegotiated.

III. Problem /Situation/ Request

On August 25, 2020, the District received a letter from American Tower through a Lease Consultant Company (MD7) who had been retained by American Tower proposing new terms for the Miller Park Cell Tower Lease Agreement. The following terms were proposed

- One-time signing bonus \$7,000
- \$1,100 per month, rent reduction of \$789 per month.
- 3% annual escalation.
- Providing 6 terms of 5 years each, final expiration date will be March 31, 2023.
- 5-year rent Guarantee.

The reasons given for the desire to renegotiate were:

- With Industry mergers happening (AT&T and Sprint) fewer towers will be needed.
- No expansion or slower expansion of new Cell services customers (market saturation)-so companies need to lower costs to provide a market sensitive charge to consumers.
- Cellular Companies are looking for lower rents from different towers and are shopping around for lower rents which could make our tower obsolete.
- Rent needs to be competitive for our Tower to remain viable (profitable) for American Tower.

At the September 28, 2020 meeting of the Finance and Budget Committee, following a presentation from the District Administrator, recommended that the District offer MD7 the following counteroffer:

- One-time signing bonus \$5,500
- \$1460 per month
- 3% annual escalation starting
- Providing 6 terms of 5 years each, final expiration date will be March 31, 2023
- 5-year rent Guarantee

Or

- Continue with current lease until it expires.

The counter proposal was sent to MD7 and they accepted the new terms pending the Fair Oaks Recreation and Park Board authorizing the District Administrator to sign the new Lease Agreement.

While preparing this Board Report the District Administrator did some additional research and discovered new information that was not presented at the September 28 Finance and Budget Committee meeting.

The current 5-year renewal is the 3rd of 5 five-year renewals and will expire April 2022. If American Tower provides the District with a 3 month notice they could cancel the Lease on April 18, 2022. American Tower would be

required to remove all the equipment from the site at their expense. During research it was discovered that less than 1% of Cell Towers in the country have been removed due to oversaturation or too high of Lease payments. If this tower is removed it would cost American Tower an estimated \$250,000 to build a new site and that is not taking into consideration the cost of removal of the equipment or the likelihood of finding a site that meets all of the Cell Company needs. Currently there are more tower being constructed than removed.

MD7 employees work on a commission and are tasked by the Cellular Companies to reduce costs which will benefit the Cell Tower companies but not the Landlords. Numerous private property owners and Governments that have Cell Tower sites have received very similar letters and firms that negotiate Cell Tower Lease agreements representing property owners (not the Cell Companies) recommend not to renegotiate the terms.

With this additional insight staff is changing their recommendation that was provided to the Finance and Budget Committee and is requesting that the Board direct the Administrator to notify MD7 that the District is not negotiating new terms and will continue with the current lease.

IV. Financial Analysis

- If the Cell Tower Lease is canceled after April 2022 the District will no longer receive monthly payments. Monthly payments for May 2021-April 2022 will be \$1,945.67.
- If the Lease Agreement is canceled in April 2022 the District will receive \$34,682.04 in revenue from November 2020-April 2022. Average per month \$1,926.78
- If the District accepted the new terms that were presented at the September 28 Finance and Budget Meeting the first five years would net the District \$98,515.96 which includes the \$5,500 one-time payment spread equally over the 5 years. Average per month \$1,641.93
- Revenue for the next five years (April 2020-April 2025) from the current lease agreement will be \$120,325.20. Average per month \$2005.42

Respectfully Submitted,

Michael J. Aho
District Administrator