



CITY OF MARTINEZ

CITY COUNCIL AGENDA

April 2, 2014

TO: Mayor and City Council

FROM: Tim Tucker, City Engineer
John A. Abaci, Assistant City Attorney

SUBJECT: Consideration and Approval of Agreement with T-Mobile West LLC for Harbor View Reservoir property during construction

DATE: March 27, 2014

RECOMMENDATION:

Adopt resolution authorizing the Interim City Manager to enter into an agreement between the City of Martinez and T-Mobile West LLC relating to the demolition of the water tank reservoir and reconstruction of the water reservoir at the Harbor View Reservoir property owned by the City and leased for use of wireless facilities on the property by T-Mobile West LLC, subject to approval as to form by the City Attorney.

BACKGROUND

The City has requested that the City Attorney's office prepare and negotiate an agreement with T-Mobile West LLC to establish the terms and conditions relating to the City construction project that is scheduled to begin in April 2014 which would involve the temporary relocation and re-establishment of wireless facilities owned and operated by T-Mobile West LLC on the Harbor View Reservoir property under a Communications Site Lease Agreement dated May 30, 1996. The project will consist of the demolition of the water tank reservoir and wireless facilities and the reconstruction of the water reservoir property.

As of the date of this report the agreement between the City and T-Mobile is in the process of being negotiated. If an agreement is not ready at the time of the meeting, deal points to an agreement in a form that may be approved by the Interim City Manager will be presented to the Council. More information will be provided regarding the terms of the agreement at the time of the council meeting.

FISCAL IMPACT:

The total fiscal impact to the City if the agreement is approved is the not to exceed amount of costs to T-Mobile set forth by the agreement (which amount has not been agreed upon at the time of this staff report). However, the City would only be required to reimburse T-Mobile for those costs that it supports having been paid with invoices and other appropriate documentation. The "not to exceed" amount in the agreement is based upon a costs spreadsheet submitted by T-Mobile which itemizes costs expected to be incurred in an amount not to exceed \$246,098. Staff

is negotiating with another cell carrier to place their facilities on the site also. Staff is negotiating with this carrier to pay the City and/or construct some of the improvements that would accommodate both carriers. This is anticipated to off-set some of the costs associated with the T-Mobile work. There is currently \$100,000 in the project budget for the T-Mobile temporary relocation. Until these negotiations have been settled, it is uncertain if additional fund allocations will be needed to cover the T-Mobile work.

ACTION:

Adopt resolution authorizing the Interim City Manager to enter into an agreement between the City of Martinez and T-Mobile West LLC relating to the demolition of the water tank reservoir and reconstruction of the water reservoir at the Harbor View Reservoir property owned by the City and leased for use of wireless facilities on the property by T-Mobile West LLC in a specified not to exceed amount, subject to approval as to form by the City Attorney.

Attachments:
Resolution

APPROVED BY:


Interim City Manager

RESOLUTION NO. -14

ADOPT RESOLUTION AUTHORIZING THE INTERIM CITY MANAGER TO ENTER INTO AN AGREEMENT BETWEEN THE CITY OF MARTINEZ AND T-MOBILE WEST LLC RELATING TO THE DEMOLITION OF THE WATER TANK RESERVOIR AND RECONSTRUCTION OF THE WATER RESERVOIR AT THE HARBOR VIEW RESERVOIR PROPERTY OWNED BY THE CITY AND LEASED FOR USE OF WIRELESS FACILITIES ON THE PROPERTY BY T-MOBILE WEST LLC IN A SPECIFIED NOT TO EXCEED AMOUNT, SUBJECT TO APPROVAL AS TO FORM BY THE CITY ATTORNEY

WHEREAS, T-MOBILE currently owns and operates wireless communications facilities on a property with an aging water reservoir facility which is owned by the CITY and is identified as Contra Costa County Assessor's Parcel Number 376-010-005 commonly known as the Harborview Reservoir ("Property"); and

WHEREAS, T-MOBILE occupies that portion of the Property that is identified in Exhibit "B" to that "Communications Site Lease Agreement" dated May 30, 1996, subject to which conditions T-MOBILE leases the Property for mobile wireless communications purposes from the CITY; and

WHEREAS, the water reservoir facility on the Property is in immediate need of being removed from the Property due to health and safety concerns; and

WHEREAS, the CITY will commence construction on the Property to demolish the water tank and rebuild the reservoir and that portion of the Property where T-MOBILE's wireless facilities are located (the "Project"). That construction will entail the necessary removal of the wireless facilities and vacation of T-MOBILE from the Property until such time as the Project is fully completed and accepted by the CITY; and

WHEREAS, the period during which the Project is anticipated to continue until it is accepted by the CITY (hereafter referred to as the "Construction Period") is roughly and generally estimated to be 12 to 18 months, but cannot be known with certainty at the time of the drafting of this Agreement; and

WHEREAS, as a result of the inability of T-MOBILE to use the Property in the manner contemplated by the Communications Site Lease Agreement, T-MOBILE shall incur costs generally for its removal, temporary operations off the Property, and anticipated relocation onto the Property in an amount that has been partially incurred and cannot be fully known at this time; and

WHEREAS, in order for the CITY to redress the costs being claimed by T-MOBILE and go forward with the Project at the same time, T-MOBILE will need to fully and finally release the CITY of any and all legal claims related to the inability of T-MOBILE to occupy and use the Property as described by the Communications Site Lease Agreement during the Construction Period.

NOW THEREFORE, IT BE RESOLVED that the City Council of the City of Martinez authorizes the Interim City Manager to enter into an agreement between the City of Martinez and T-Mobile West LLC relating to the demolition of the water tank reservoir and reconstruction of the water reservoir at the Harbor View Reservoir property owned by the City and leased for use of wireless facilities on the property by T-Mobile West LLC in an amount not to exceed that which is specified by the agreement, subject to approval as to form by the City Attorney.

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I HEREBY CERTIFY that the foregoing is a true and correct copy of a resolution duly adopted by the City Council of the City of Martinez at a Regular Meeting of said Council held on the 2nd day of April, 2014 by the following vote:

AYES:

NOES:

ABSENT:

RICHARD G. HERNANDEZ, CITY CLERK
CITY OF MARTINEZ