



Legislation Details (With Text)

File #: ID 22-1547 **Version:** 1 **Name:**

Type: Action Item **Status:** Adopted as Amended

File created: 10/3/2022 **In control:** City Council

On agenda: 10/20/2022 **Final action:** 10/20/2022

Title: Actions pertaining to the use of Parking Garage 7:
 1. Adopt a finding of Categorical Exemption pursuant to Section 15301 (Existing Facilities) of the California Environmental Quality Act (CEQA) Guidelines.
 2. Approve the Second Amendment to the License Agreement between the City of Fresno, and T-Mobile West, LLC., to license use of certain real property, together with access and utility rights located at the Fresno City Parking Garage 7 (801 Van Ness Avenue, Fresno, CA 93721) for four (4) five-year terms and total contract revenue of \$436,920 (District 3)

Sponsors: Planning and Development Department

Indexes:

Code sections:

Attachments: 1. Second Amendment to License Agreement T-Mobile, LLC., 2. First Amendment to License Agreement T-Mobile, LLC., 3. License Agreement, 4. T-Mobile Site Summary.pdf, 5. DPR Primary Record Form for 801 Van Ness Avenue, 6. Supplement 1-H (22-1547) PowerPoint and letters to Mayor and Council

Date	Ver.	Action By	Action	Result
10/20/2022	1	City Council	APPROVED AS AMENDED	Pass

REPORT TO THE CITY COUNCIL

FROM: JENNIFER CLARK, Director
Planning & Development Department

BY: CHERIE VICK, Executive Assistant to the Director
Planning & Development Department

SUBJECT

Actions pertaining to the use of Parking Garage 7:

1. Adopt a finding of Categorical Exemption pursuant to Section 15301 (Existing Facilities) of the California Environmental Quality Act (CEQA) Guidelines.
2. Approve the Second Amendment to the License Agreement between the City of Fresno, and T-Mobile West, LLC., to license use of certain real property, together with access and utility rights located at the Fresno City Parking Garage 7 (801 Van Ness Avenue, Fresno, CA 93721) for four (4) five-year terms and total contract revenue of \$436,920 (District 3)

RECOMMENDATION

Staff recommends that the City Council approve and allow the Planning & Development Director, or designee, to enter into the Second Amendment to the License Agreement between the City of Fresno, through the Planning & Development Department and T-Mobile West, LLC., for use of City property at the Fresno Parking Garage 7. The Second Amendment of the License Agreement will allow the City to license premises at the Garage 7 for the purpose of the placement of T-Mobile West wireless communications equipment, including without limitation, transmission, and the reception of radio communication signals on various frequencies and the construction, maintenance, and operation of related communications facilities.

EXECUTIVE SUMMARY

The current License between the City of Fresno and T-Mobile West, LLC., expires October 27, 2022; the City and Licensee mutually agree to amend the License. The Second Amendment will start October 28, 2022, with annual revenue of \$17,500, and automatically renew for 20 years [four (4) five-year terms] expiring October 27, 2042, for a total contract revenue of \$436,920.30. The revenue escalation is 15% over the previous term plus one-time \$10,000 non-refundable contract renewal fee. These terms are comparable to a similar license agreement between the City and another major carrier.

BACKGROUND

The City of Fresno and Pacific Bell Wireless, LLC., d/b/a Cingular Wireless entered into a License Agreement dated November 1, 2002, for use of the property at Fresno Parking Garage 7 the placement of wireless communications equipment, including without limitation, transmission, and the reception of radio communication signals on various frequencies and the construction, maintenance, and operation of related communications facilities. T-Mobile West, LLC., a Delaware limited liability company, formerly known as T-Mobile West Corporation, as successor-in-interest to TMO CA/NC LLC., formerly known as Pacific Bell Wireless, LLC., a Nevada limited liability company, d/b/a Cingular Wireless, is currently the licensee under the License as successor in interest to the Original Licensee. The License had an original term that commenced on November 1, 2002. However, the License provided for three extensions of five years each, all of which were exercised by Licensee resulting in the License expiring on October 27, 2022.

The License is for a period of twenty (20) years in total, four (4) automatically renewing terms of five (5) years each. The License provides for a rent escalation of 15% per five (5) year term commencing October 28, 2022. The License increases the base rent to \$17,500 per year from \$12,814.45, paid annually effective November 2022. A one-time signing payment of \$10,000 shall also be made available to City within 60 days of the effective date.

Staff identified a comparative license agreement the City of Fresno has with AT&T at Garage 7 executed in 2017 for \$12,000/year for a total of 25 years [five (5) five-year terms]. Rent increase occurs at term renewal for 7.5% over previous term.

In August 2014, City of Fresno additionally granted AT&T rights to lease a portion of roof top on Spiral Garage #7 for an area approximately 475 square feet including the airspace. This lease will expire August 2029. The initial term was 5 years with four (4) additional five (5) year term(s) (each five (5) year term shall be defined as an "Extension Term"), upon the same terms and conditions unless Tenant notifies Landlord in writing of Tenant's intention not to renew this Agreement at least sixty (60) days prior to the expiration of the Initial Term or then-existing extension Term. The City of Fresno receives One Thousand and Dollars (\$1,000.00) each month. In year one (1) of each Extension Term, the monthly Rent will increase by (7 ½) seven and one-half percent over the Rent paid during the previous five (5) year term.

Revenue from Parking Services Division Cell tower leases from AT&T and T- Mobile are booked in the general fund. The activities being paid for through the general fund constitute the core administrative and operational tasks.

Information Services Division, PARCS and Planning and Development carry Cell Tower carry similar lease agreements.

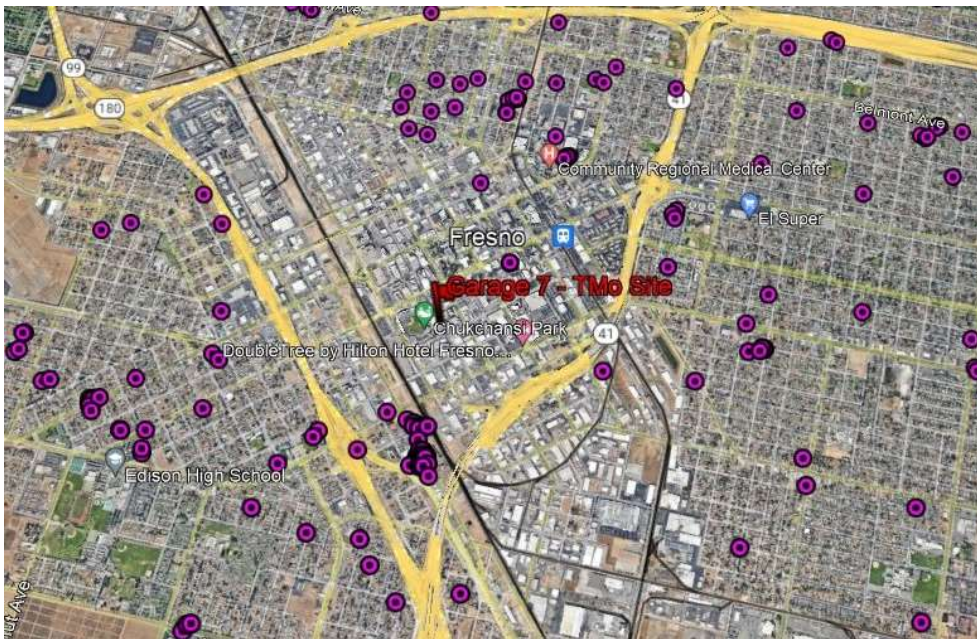
Department	Occupant Name	Property Address	Property Description	Property Use	Active/Inactive	Lease Start Date	Lease Expiration Date	FY	Date Expired?	Comments	Annual Cost Amount
ISD	Fresno County	2245 N First St	Radio Communications Facility	Park	Active	9/1/2005	n/a		No		no rent c
ISD	T-Mobile	2245 N. First St (fka 233 N. First St)	Radio Communications Facility	Park	Active	12/1/1999	2025	2025	No		\$ 15,00
ISD	XG Communities	Various	Light Pole	Infrastructure	Active	6/23/2017	n/a		No		vari
PARCS	AT&T	745 N. First St (Romaine Plaza)	Cell Tower	Cell Tower	Active	3/26/1999	3/25/2020	2020	Yes	Currently in negotiations	\$10,1
PARCS	AT&T	7775 N. Friant (Woodward Park)	Cell Tower	Cell Tower	Active	3/29/2000	3/28/2026	2026	No	Signing bonus	\$0k 60,2
PARCS	Goldenstate Tower	7775 N. Friant (Woodward Park)	Cell Tower	Cell Tower	Active	12/11/1998	12/10/2025	2025	No	Increases ea Ma CPI	\$ 10,1
Planning Develop	AT&T	801 Van Ness	Garage #7	Cell Phone Tower	Active	8/5/2012	8/5/2029	2029	No	5 yrs @ \$12,00 renewal 4 tir	\$ 12,00
Planning Develop	T-MOBILE	801 Van Ness	Garage #7	Cell Phone Tower	Active	11/01/02	11/1/2022	2022	No	5 yrs @ \$9,000 renewal 4 tir	\$ 12,81

According to [Cell Tower Lease Rates In 2022 - Steel in The Air <https://www.steelintheair.com/cell-tower-lease-rates/>](https://www.steelintheair.com/cell-tower-lease-rates/) report, City of Fresno's lease rates fall within rates paid by other metropolitan cities.

METROPOLITAN AREA	2022 POPULATION (ESTIMATED)	AVERAGE CELL TOWER LEASE RATE (Month)	Average cell tower lease (annual)
New York	19.2 M	\$ 1,900	\$ 22,800
Los Angeles	13.2 M	\$ 1,500	\$ 18,000
Chicago	9.5 M	\$ 1,300	\$ 15,600
Dallas	7.6 M	\$ 1,000	\$ 12,000
Houston	7.1 M	\$ 1,000	\$ 12,000
Washington DC	6.3 M	\$ 1,750	\$ 21,000
Miami	6.2 M	\$ 1,750	\$ 18,000
Philadelphia	6.1 M	\$ 1,400	\$ 16,800
Atlanta	6.0 M	\$ 1,400	\$ 16,800
Phoenix	4.9 M	\$ 1,300	\$ 15,600
San Francisco	4.7 M	\$ 2,500	\$ 30,000

The rate is not determined by the market but is based on a formula. For example, Radio Tower's potential site rent calculation is below:

Weighted Radio Tower potential site rent calculation.	
Disclaimer: This is intended for making estimates. Allowances need to be made for sites in unique situations. This is only intended for sites with at least two colocation sites.	
Equation:	
$P = \frac{0.06449428(.35a + .30b + .35c)}{\ln(x)}$	
Variables:	Inputs:
The population in a 2.5 mile radius	103677
The number of households in a 2.5 mile radius	26995
The median income in a 2.5 mile radius	28635
The number of colocation sites within a 2.5 mile Radius that are a dual stack or less. (Input must be ≥2)	11
Monthly Rent output	1463.361
Annual Rent output	17560.33
Census data utilized for population, household numbers, and median income	
FCC Antenna Structur Registration Website; https://wireless2.fcc.gov/UlsApp/AsrSearch/asrRegistrationSearch.jsp	

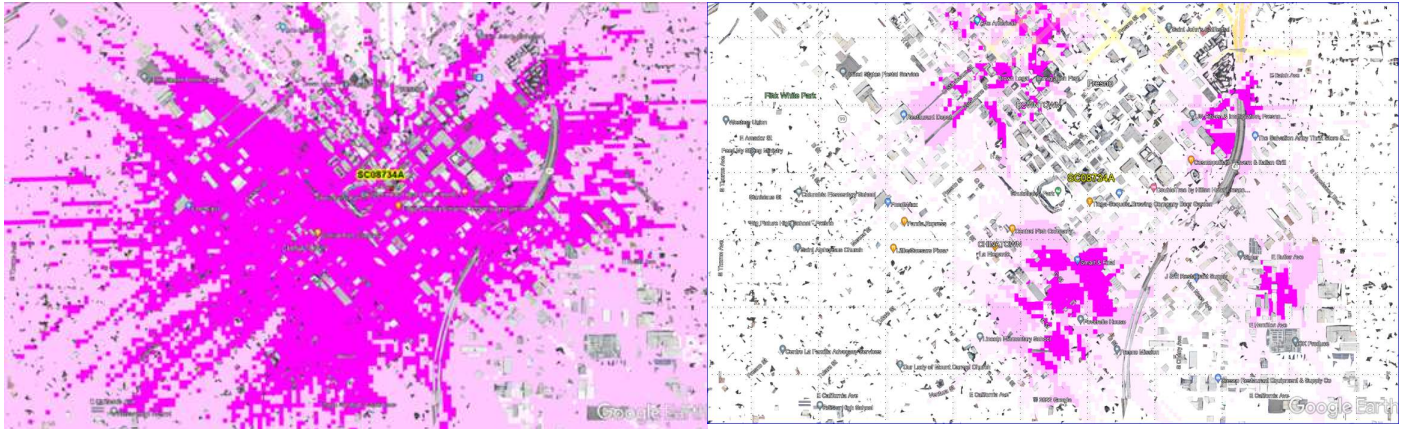


T-Mobile holds a service agreement with Fresno Unified School District. Coverage is necessary for the program to provide better broadband access to students. The map below shows a summary map of student usage, grouped by 20-40 users, for the 2021-22 school year. Precise point information is not available due to confidentiality. Removal of the facility would reduce student access to broadband.

Cell tower leases provide of better phone reception for coverage gaps. Benefits of extending the lease will place less risk of dropped cell phone calls and provides a sense of safety and secure

communication with constituents with the covered area. Coverage in this area for customers of T-Mobile will be negatively impacted if the antennae are removed.

An attached PowerPoint from T-Mobile shows the change in coverage, the maps below demonstrate the difference if the facility is removed.



The Spiral Garage was evaluated in April 2011 by Historic Resources Group; at that time it was determined that the property was not eligible for listing on the National Register of Historic Places. While the Fulton Corridor Specific Plan found that the building could be a contributor to a potential local district, no district has been adopted in the Fresno Local Register of Historic Places. The property is not individually listed on the Local Register of Historic Places.

ENVIRONMENTAL FINDINGS

This Agreement falls within the Class 1 Categorical Exemption for Existing Facilities set forth in CEQA Guidelines, Section 15301 for existing facilities, as it involves no alteration of existing facilities, with no expansion of use, and will not result in any significant negative effects relating to traffic, noise, air quality or water quality. Furthermore, none of the exceptions to Categorical Exemptions set forth in the CEQA Guidelines, Section 15300.2 apply to this project.

LOCAL PREFERENCE

Local preference is not applicable to this item because this is an amendment to an existing agreement.

FISCAL IMPACT

This will add revenue to the General Fund as a result of approving this Agreement.

Attachments:

Second Amendment to License Agreement T-Mobile, LLC.,
First Amendment to License Agreement T-Mobile, LLC.,

License Agreement
T-Mobile Site Summary
DPR Primary Record Form for 801 Van Ness Avenue