



## Legislation Details (With Text)

**File #:** ID17-846      **Version:** 1      **Name:**

**Type:** Action Item      **Status:** Passed

**File created:** 6/1/2017      **In control:** City Council

**On agenda:** 6/15/2017      **Final action:** 6/15/2017

**Title:** Approve the amended and restated Wireless Marketing Agreement with 5 Bars Communities a dba of XG Communities, LLC., allowing 5 Bars to actively market wireless service infrastructure for City designated sites and authorize the City Manager or designee to execute related documents.

**Sponsors:** Information Services Department

**Indexes:**

**Code sections:**

**Attachments:** 1. 5 Bars XG Communities Wireless Marketing and License Agreement COUNCIL 060717.pdf

Date	Ver.	Action By	Action	Result
6/15/2017	1	City Council	approved	Pass

## REPORT TO THE CITY COUNCIL

**June 15, 2017**

**FROM:** BRUCE RUDD, City Manager

**BY:** BRYON HORN, Chief Information Officer  
Information Services Department

## SUBJECT

Approve the amended and restated Wireless Marketing Agreement with 5 Bars Communities a dba of XG Communities, LLC., allowing 5 Bars to actively market wireless service infrastructure for City designated sites and authorize the City Manager or designee to execute related documents.

## RECOMMENDATION

Staff recommends that City Council authorize the City Manager or designee to sign the amended and restated Wireless Marketing Agreement between the City of Fresno (City) and 5 Bars Communities a dba of XG Communities, LLC. (5 Bars).

## EXECUTIVE SUMMARY

Staff is recommending the terms of the Wireless Marketing Agreement and the License Agreement be revised to an initial term of five years, with four five-year renewals subject to written mutual consent and includes a 60-day notice for termination. Additionally, staff is recommending revisions to

the default provisions in both the Wireless Marketing Agreement and License Agreement to ensure the default provisions are the same in each agreement. The revised language will provide a shorter termination period and greater protections for the duration of the agreement. This agreement can be renewed at the end of the stated terms.

## BACKGROUND

On May 25, 2017, Council approved the Wireless Marketing Agreement with 5 Bars allowing them to actively market wireless service infrastructure for City designated sites. 5 Bars was chosen as the first qualified provider from the City of Fresno's RFQ Bid File 3503 for a Gigabit Wireless and/or Wired/Fiber System released in October 2016. The City solicited qualified interested parties to recommend solutions on how they would best use the City's assets in providing broadband connectivity to the constituents of the City of Fresno. During the process, several respondents submitted various proposals and 5 Bars was chosen as the first qualified provider to offer services that would benefit the City as a whole. 5 Bars' response was a unique business model that would produce revenue through the use of the City's assets.

After review and consideration, the terms of the Wireless Marketing Agreement and the License Agreement have been revised to an initial term of five years, with four five-year renewals, subject to written mutual consent, and now include a 60-day notice for termination. Additionally, staff revisions to the default provisions in both the Wireless Marketing Agreement and License Agreement have been made to provide a shorter termination period and greater protections for the duration of the agreement. Both agreements can be renewed at the end of the each initial term.

## ENVIRONMENTAL FINDINGS

The approval of this agreement is not a project for the purposes of the California Environmental Quality Act.

## LOCAL PREFERENCE

Local preference was not utilized as the Consultant selection is based on the most qualified and not fee based.

## FISCAL IMPACT

No funds shall be expended for this agreement. This project is projected to generate \$2.6 million over 5 years. Breakdown is as follows:

	Year 1	Year 2	Year 3	Year 4	Year 5	Totals
Revenue	\$286,875	\$392,063	\$482,237	\$617,866	\$844,417	\$2,623,458

These projections are based upon the leasing of assets to carriers for wireless (cell) coverage.

Attachments:  
Wireless Marketing Agreement