



Agenda Report

October 28, 2019

TO: Honorable Mayor and City Council
FROM: Department of Information Technology
SUBJECT: AMENDMENT TO FIBER LEASE AGREEMENT 17,090-1 WITH TIME WARNER TELECOM

RECOMMENDATION:

It is recommended that the City Council:

1. Find that the following proposed action is exempt from the California Environmental Quality Act ("CEQA") pursuant to State CEQA Guidelines Section 15301(c) (Existing Facilities); and
2. Authorize the City Manager to amend fiber lease agreement 17,090-1 with Time Warner Telecom of California, LLP to extend the term of the agreement for one year, and to update the lessee name to Level 3 Telecom LLC.

BACKGROUND:

In 1999, following the completion of the City's original fiber optic backbone, the City leased a significant portion of the fiber in the backbone to GST Telecom, Inc ("GST"). The fiber lease, which resulted from a competitive Request for Proposals process, was designed to recoup the City's cost of installing the fiber network and to bring competitive telecommunications services to the local business market. The original lease agreement, City Agreement 17,090, had a twenty year term with an option for one ten year renewal term, and generated revenue to the City of over \$4.8 million.

GST was subsequently purchased by Time Warner Telecom of California, LLP ("Time Warner Telecom"). The original fiber lease agreement was amended and restated as City Agreement 17,090-1, with the same 20 year term and lease payment schedule. The 20 year term of the fiber lease agreement will expire on November 15, 2019.

Over the past several years, there has been significant corporate restructuring and merger and acquisition activity in the telecommunications industry. Time Warner

Telecom became TW TELECOM LLC in 2014, and subsequently changed its name to Level 3 Telecom, LLC ("Level 3") in 2016, which is now a subsidiary of CenturyLink, Inc.

This summer, Level 3 (doing business as CenturyLink) notified the City of its interest in exercising the optional 10 year renewal of the fiber lease agreement. The current lease agreement provides for renewal at Lessee's option, upon agreement by the City and Lessee on the fair market value of the rent to be paid for the leased fiber. Level 3 subsequently identified desired changes to the number of strands to be leased, and to the lease fee. Concurrently, City staff identified that a variety of terms in the agreement related to operating and maintenance procedures should be updated to reflect current network operations practices.

Staff recommends the proposed one-year extension to the agreement under the current terms and conditions to allow for discussion between Level 3 and the City during the coming months on modification of lease agreement terms, while ensuring that ongoing use of the fiber is covered under a valid lease agreement.

The one year extension will also update the lessee name to Level 3 Telecom, LLC, the current CenturyLink entity associated with this lease of Pasadena fiber.

COUNCIL POLICY CONSIDERATION:

Extension of this agreement supports the City Council Strategic Goal to "Support and promote the quality of life and the local economy", leveraging the fiber optic network to help meet the data communications needs of local institutions and businesses. Additionally, the agreement supports the City Council Strategic Goal to "Maintain fiscal responsibility and stability", by generating revenue that will facilitate ongoing operation of the fiber optic network as a self-sustaining activity.

ENVIRONMENTAL ANALYSIS:

The proposed agreement extension is exempt from the California Environmental Quality Act (CEQA) in accordance with Section 15301(c) Existing Facilities which exempts actions relating to existing facilities or structures where there is negligible or no expansion of the use. The proposed action relates to lease of fiber that is already installed in existing conduit systems.

FISCAL IMPACT:

This action will generate revenue to the Telecommunications Fund from the lease fee of \$240,662 during the one year extension of the agreement. Additional revenue may be generated if Level 3 requests that the City perform work on the leased strands.

The anticipated impact to other operational programs or capital projects as a result of this action will be minimal.

Respectfully submitted,


PHILLIP LECLAIR
Chief Information Officer
Department of Information Technology

Prepared by:


Lori B. Sandoval
Telecommunications & Regulatory
Administrator

Approved by:


STEVE MERMELL
City Manager

Attachment A -- TPA