

MEMORANDUM

TO: The Honorable Mayor and City Council

FROM: John Duguay, Assistant City Manager

DATE: August 16, 2021

SUBJECT: **Water Tower Lease Agreement/71 Marywood Trail (Orchard Tower)/T-Mobile (CH-14324B)**

Request

City Council consideration of the T-Mobile Water Tower Lease Agreement.

Background

On April 3, 2000, the City entered into an water tower lease agreement with *Voicestream Wireless Corporation* (now *T-Mobile*) whereby they were allowed to erect, maintain and operate on the City's water tower located at 71 Marywood Trail certain communication facilities to transmit and receive signals from radio antennas. The lease commenced on September 20, 2000. The 20-year lease included three 5-year renewable terms which were executed in 2005, 2010 and 2015.

Beginning in September 2019, Staff and T-Mobile consultants/representatives engaged in dozens of discussions related to extending the agreement. T-Mobile initially offered to pay in the range of \$2,700 per month. In the end, the "best offer" from T-Mobile was \$3,400/month which was a decrease from the \$3,501/month being paid at that time and below the average water tower lease rate in the area.

Staff brought the offer to the City Council on September 8, 2020, recommending that the Council NOT authorize the execution of the Agreement and the Council agreed. Therefore, on September 20, 2020, the Agreement expired.

Discussion

Off and on, for the past 11 months, Staff and the City Attorney have continued discussions with T-Mobile. T-Mobile states they desire to keep their presence with antennas on the water tower at 71 Marywood Trail.

Our discussions in 2021 have brought Staff to a point where we are comfortable recommending the Agreement to the City Council. Specifics of the Agreement:

- 5-year term (may extend for 3 consecutive 5-year terms – 20-year total)
- Commencement date: September 20, 2020
- Monthly lease: \$4,000 (average area lease = \$3,615/month – **Exhibit A**)
- 3% annual increase on Commencement Date anniversary
- One month "Holdover" payment equaling \$3,501



Other lease agreements in the area average \$3,615/month with a 3% annual escalator. The holdover payment (200%) is the monthly maximum the City is allowed to charge per Illinois law.

Recommendation

Staff recommends the City Council authorize the execution of the Water Tower Lease Agreement (CH-14324B) with T-Mobile. Except for the lease amount and annual increase, the Lease Agreement is substantially the same as previous Agreements entered into by the City for lease of water tower space by telecommunications companies. The proposed lease payment is above the average of other leases in the area with an appropriate annual increase. Once the Agreement is signed, T-Mobile will pay the outstanding holdover amount owed.

A resolution authorizing the execution of the Lease Agreement is attached. The Agreement is on file with the City Clerk.

Area Water Tower Lease Agreements

EXHIBIT A

City	Telephone Company	Monthly Payment (2020)	Annual Payment (2020)
Downers Grove	Verizon	\$4,929	\$59,151
Downers Grove	Verizon	\$4,866	\$58,392
Downers Grove	T-Mobile	\$4,326	\$51,912
Elmhurst	Verizon	\$4,244	\$50,928
PROPOSED Wheaton	T-Mobile	\$4,000	\$48,000
Elmhurst	T-Mobile	\$4,000	\$48,000
Downers Grove	T-Mobile	\$4,000	\$48,000
Downers Grove	T-Mobile	\$3,970	\$47,640
Elmhurst	T-Mobile	\$3,897	\$46,764
Wheaton	Verizon	\$3,784	\$45,408
Wheaton	Sprint	\$3,714	\$44,568
Bloomingtondale	T-Mobile	\$3,578	\$42,938
Lisle	T-Mobile	\$3,247	\$38,964
Wheaton	T-Mobile	\$3,162	\$38,124
Lisle	Verizon	\$3,151	\$37,817
Warrenville	T-Mobile	\$2,922	\$35,062
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Warrenville	Verizon	\$2,771	\$33,247
Warrenville	Verizon	\$2,639	\$31,669
Warrenville	Verizon	\$2,570	\$30,839

RESOLUTION R-2021-

**A RESOLUTION AUTHORIZING THE EXECUTION OF THE WATER TOWER LEASE AGREEMENT
WITH T-MOBILE CENTRAL LLC
(ORCHARD WATER TOWER – 71 MARYWOOD TRAIL)**

WHEREAS, the City of Wheaton, Illinois, (“City”) is an Illinois Home Rule Municipality pursuant to the provisions of Article VII, Section 6, of the Illinois Constitution of 1970; and as such the City may exercise any power and perform any function pertaining to its government and affairs; and

WHEREAS, the subject matter of this resolution pertains to the government and affairs of the City and its residents; and

WHEREAS, the City of Wheaton owns a certain piece of property commonly known as the Orchard Water Tower located at 71 Marywood Trail; and

WHEREAS, T-Mobile Central, LLC, and the City entered into a lease agreement for installation of T-Mobile’s facilities on the Orchard Road Water Tower premises dated April 3, 2000 which was subsequently amended by a First Amendment dated October 21, 2002, by a Second Amendment dated February 4, 2014, and by a Third Amendment dated June 1, 2017; and

WHEREAS, the previous Lease Agreement between T-Mobile Central, LLC, and the City for use of the Orchard Road Water Tower expired on September 19, 2020; and

WHEREAS, T-Mobile Central LLC desires to continue leasing certain portions of the Orchard Road Water Tower site for the purpose of constructing and maintaining certain facilities associated with radio communications.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Wheaton, Illinois, that the Mayor is hereby authorized to sign and the City Clerk is hereby directed to attest to a Lease Agreement with T-Mobile Central LLC; a copy of which is on file with the City Clerk’s office as Exhibit 1 to this Resolution R-2021___ and is hereby incorporated into this Resolution as if fully set forth herein.

ADOPTED the ___ day of August 2021.

Mayor

ATTEST:

City Clerk

Roll Call Vote

Ayes:
Nays:
Absent: