

**City of Culver City, California
Agenda Item Report**

Meeting Date: 09/24/12		Item Number: <u>C-1</u>	
CITY COUNCIL AGENDA ITEM: Approval of a Real and Personal Property Transfer Agreement, Bill of Sale, and Termination of Lease Agreement with Time Warner Cable Related to the Antenna Tower and Appurtenances Located in Culver City Park			
Contact Person/Dept.: Martin R. Cole, Assistant City Manager		Phone Number: (310) 253-6000	
Fiscal Impact: Yes ☒ No ☐ General Fund: Yes ☒ No ☐			
Public Hearing: ☐		Action Item: ☐ Attachments: ☐	
Public Notification: Meetings and Agendas – City Council (09/20/12)			
Department Approval: Martin R. Cole (09/19/12)		City Attorney Approval: Carol Schwab (by H. Baker) (09/19/12)	
Chief Financial Officer Approval: Jeff Muir (09/19/12)		City Manager Approval: John M. Nachbar (09/19/12)	
<u>RECOMMENDATION:</u> Staff recommends the City Council approve a Real and Personal Property Transfer Agreement, Bill of Sale, and Termination of Lease Agreement (the “Transfer Agreement”) related to the antenna tower and appurtenances located in Culver City Park. <u>BACKGROUND:</u> In 1987, the City and American Cablesystems of California (the predecessor in interest of Time Warner Cable – TWC) entered into a lease agreement which enabled TWC to construct and maintain a communications tower and appurtenances on a parcel of land owned by the City located in Culver City Park (the “Lease Agreement”). In 2010, TWC notified the City of its intent to terminate the Lease Agreement as its needs for the communications tower had changed since the Lease Agreement was initiated. As part of the Lease Agreement termination, TWC indicated it would remove the communications tower and the appurtenant building from the site. At that time, the City reviewed the terms of the Lease Agreement and alleged that TWC had miscalculated the rent due under the Lease Agreement. The City informed			

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TWC of this miscalculation and requested TWC remit the correct amount due under the Lease Agreement.

As a result, negotiations ensued amongst the parties to resolve two main issues: (1) the alleged back rent owed the City and (2) the desire of the City to take title to the communications tower and appurtenant buildings as both had value to the City.

DISCUSSION:

Staff and TWC have reached a tentative agreement which resolves both of the main issues with the following major points:

1. TWC has made monthly rental payments (and shall continue to make such payments until September 30, 2012) despite the communications tower having little value to TWC since early 2011;
2. TWC has agreed to transfer title to the City of the communications tower and appurtenant building in an AS IS condition at no cost to the City;
3. In consideration of the above two items, the City withdraws its claim for back rent and accepts title of the communications tower and appurtenances
4. The City grants TWC a Right of Entry for a period of ten years to access certain under and above ground facilities which will remain after the termination of the lease.

Should the City Council approve the Transfer Agreement this evening, it is expected the transfer of title will occur on October 1, 2012.

FISCAL ANALYSIS:

The City received approximately \$3,200 in monthly rent during the term of the Lease Agreement. Upon termination of the Lease Agreement, the final rental payment will be for the month of September, 2012. However, approval of this Transfer Agreement allows the City to take title to the communications tower and appurtenances. In the case TWC were to remove the communications tower/appurtenances, the City would likely have incurred hundreds of thousands of dollars to reconstruct the tower or to find an alternative location for the City communications facilities now present on the tower. Approval of the Transfer Agreement avoids these costs to the City. Also, there may be opportunities for the City (as owner of the tower) to lease space on the tower to third parties which could generate lease income to the General Fund.

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ATTACHMENTS:

None.

MOTION:

That the City Council:

1. Approve a Real and Personal Property Transfer Agreement, Bill of Sale, and Termination of Lease Agreement with Time Warner Cable; and,
2. Authorize the City Attorney to review/prepare the necessary documents; and,
3. Authorize the City Manager to execute such documents on behalf of the City.