



# CITY OF SANTA BARBARA

## COUNCIL AGENDA REPORT

**AGENDA DATE:** November 24, 2009

**TO:** Mayor and Councilmembers

**FROM:** Public Works, Engineering Division

**SUBJECT:** Introduction Of Ordinance For Amendment To Vic Trace Reservoir Communications Site Lease

**RECOMMENDATION:** That Council:

- A. Introduce and subsequently adopt, by reading of title only, An Ordinance of the Council of the City of Santa Barbara Approving Amendment No. 1 to the Lease Agreement No. 17,461 Between the City of Santa Barbara and Santa Barbara Cellular Systems, Ltd., Located on a Portion of the Vic Trace Reservoir Property (Assessor's Parcel No. 035-033-013), to Allow Lessee the Right to Sublease Upon Written Consent from the City of Santa Barbara, and Authorizing the Public Works Director to Execute the Required Lease Amendment; and
- B. Increase appropriations and estimated revenues by \$65,000 in the Intra-City Services Fund for the costs associated with the removal of an underground storage tank and placement of an above-the-ground storage tank funded from a one-time fee from Santa Barbara Cellular Systems in consideration of the amendment of the lease agreement.

**DISCUSSION:**

In 1994, Agreement No. 17,461 (Lease), as approved by Ordinance No. 4876, established the existing communications site on the City's property commonly known as the Vic Trace Reservoir on La Vigia Hill at 740 Delores Drive bordered by Delores Drive and La Coronilla Drive, and exclusive lease with Santa Barbara Cellular Systems, Ltd. (currently known as AT&T and hereinafter referred to as Lessee), and the City of Santa Barbara, effective July 1, 1994. The initial term of the Lease was for five years, with the right given to the Lessee to renew the Lease for five additional five-year periods.

As provided by applicable permits, the leased premises include an antenna structure area occupied by an approximately 45-foot tall lattice tower with antennas, coaxial cables and microwave dishes. The premises also include an area occupied by a pre-fabricated rock aggregate building that houses electronic radio equipment, and additional ground space improved with an enclosure containing electrical conduit that connects the radio equipment in the shelter to the antennas on the structure.

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In November 2008, the Lessee exercised its most recent right to renew the Lease for an additional five-year period, effective May 2009, extending the Lease until April 2014, by notifying the City in writing. The Lessee also has the right to two additional lease extension options, potentially extending the Lease until 2024, assuming no termination rights are enforced.

In March 2008, the Lessee submitted an application to seek the City's preparation and approval of an amendment to the Lease proposed. This would grant the Lessee the right to sublease a portion of the leased premises to other communications service providers desiring to co-locate at the site. The existing exclusive Lease does not allow for this without approval by the City with an amendment to the Lease.

As a result of negotiations with the City, the Lessee is agreeing to a one-time fee of \$65,000, payable after the City's acceptance of the Lease Amendment, as consideration to the City for the grant of right to sublease, and prior to the subleasing rights becoming effective. The fee will be used by the Facilities Division of the Public Works Department to pay for the costs associated with the removal of an existing underground fuel storage tank (UST), and replacement with an above ground storage tank (AST). There are no known defects to the UST at present. It is being replaced per City policy established in 2006 directing that certain USTs be removed completely or replaced with ASTs. The Facilities Maintenance Division will be overseeing this work, and handling all environmental compliance associated with the replacement work.

The \$65,000 fee was derived from the original cost bid given to the City in 2007. The fee is appropriate to recover the full cost of the work performed. Without this fee the City would be paying directly out of budget for this work.

AT&T has no direct liability for the UST. The UST was installed by the City on City property long before the AT&T communications site was constructed in order to supply fuel for the back up power supply to the existing communications site serving several users including police, fire, and the Amateur Radio Emergency Services since the mid 1950s. The AT&T communications tower and equipment site (formerly known as Santa Barbara Cellular) was established in 1994.

The Lessee's right to sublease and allow joint use of its facilities is anticipated primarily for its antenna tower, as the lease premises on the ground are fully occupied by their existing equipment shelter and conduit chase. Also, the tower is structurally limited as to the capacity of equipment it can accommodate. Provided applicable permits are obtained by potential joint users, two sub-lessees may potentially be added; however, this is dependent on the size and type of antenna equipment to be placed on the tower.

The estimated value of a sublease is dependent on the user and type of antennas and equipment necessary. A complete communications site lease including a tower and equipment shelter requiring approximately 400 to 600 square feet would currently lease for \$1500 per month. Since the sub-lessees anticipated at this location will only be utilizing the tower space for antennas, the rent would be roughly half of a complete site

lease (\$750/month). For purposes of comparison assuming the City could negotiate a 50% revenue share with the Lessee, an estimate of \$750 per month received by the City for potentially two sub-lessees would represent 7.2 years of rent being paid upfront by the \$65,000 fee, also eliminating the associated administrative, handling, and accounting costs.

Additionally, the City will not be limited to the one time non-refundable advance payment of \$65,000 for the grant of subleasing rights. Due to the lack of unoccupied space within the area leased by the Lessee, any potential sub-lessees proposing to mount additional antennas on the tower will need to obtain permits and negotiate leases with the City for additional ground space for their ancillary radio equipment and any required shelters. This may provide potential ongoing future revenue to the City. Depending upon the size of any new equipment and shelters that may be necessary, a range of \$500 to \$1,500 per month is estimated as potential lease rates for new users of unoccupied City land, as available. Based on the above estimate of two new sub-lessees being added to the site, this would represent an additional \$1,000 to \$3,000 per month in leasing fees to the City.

The current demand for new service providers to utilize the existing communications site is relatively weak, and has been for sometime. Most of the major service providers have established networks, and are looking for "infill" sites located at lower elevations and within specific residential and commercial areas of the City rather than on higher elevation locations such as Vic Trace.

Given the City's interest in minimizing new communication site facility structures, AT&T's interest in subleasing space on its existing tower and the financial benefits to the City, staff recommends Council adopt the proposed ordinance to allow for subleasing by the existing Lessee.

**BUDGETARY/FINANCIAL INFORMATION:**

The \$65,000 to be paid to the City in consideration for allowing the Lessee to sublease its facilities will be used to fund the cost of removing the UST and placement of an AST. Staff is recommending that these revenues be appropriated to the Intra-City Services Fund where the costs will be incurred.

**ATTACHMENT(S):** 1. Vicinity Map of communications site  
2. Existing Lease Premises Exhibit

**PREPARED BY:** Pat Kelly, Assistant Public Works Director/City Engineer/DT/mj

**SUBMITTED BY:** Christine F. Andersen, Public Works Director

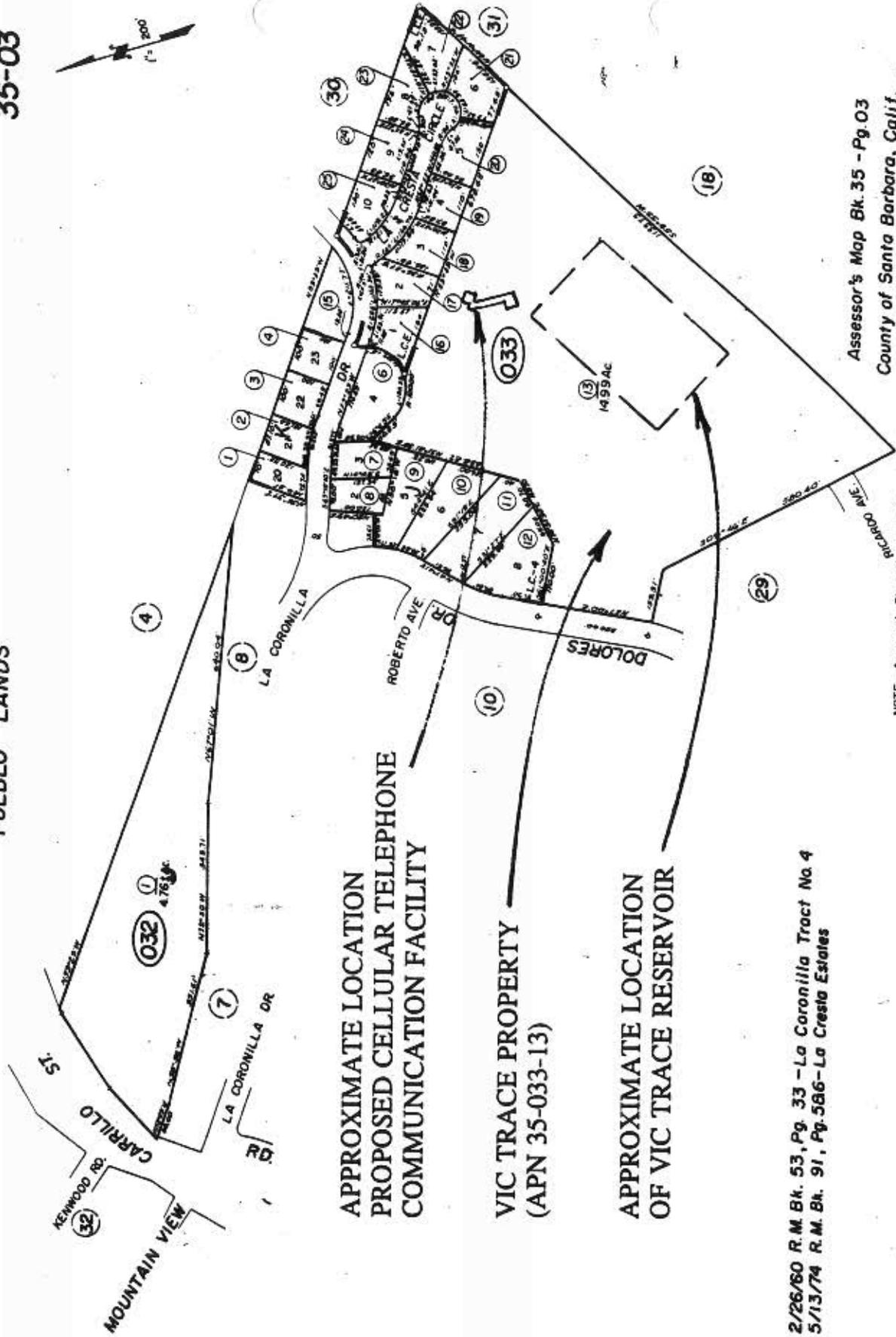
**APPROVED BY:** City Administrator's Office

Vic Trace Reservoir communications site; 740 Delores Dr



PUEBLO LANDS

35-03



Assessor's Map Bk. 35 - Pg. 03  
 County of Santa Barbara, Calif.  
 3/1/76  
 4/1/76  
 6/1/76

NOTE - Assessor's Block Numbers Shown in Ellipses  
 Assessor's Parcel Numbers Shown in Circles

2/26/60 R.M. Bk. 53, Pg. 33 - La Coronilla Tract No. 4  
 5/13/74 R.M. Bk. 91, Pg. 586 - La Cresta Estates

# EXHIBIT 1

