

RESOLUTION NO. 4558
(Sonata Park Cell Site Lease)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HENDERSON, CLARK COUNTY, NEVADA, EXPRESSING ITS INTENT TO LEASE APPROXIMATELY 1,200 SQUARE FEET OF REAL PROPERTY FOR CONSTRUCTION AND OPERATION OF A MULTI-USER TELECOMMUNICATIONS FACILITY LOCATED ON ASSESSOR'S PARCEL NUMBER 191-02-711-001, IN THE SOUTHEAST QUARTER (SE 1/4) OF SECTION 2, TOWNSHIP 23 SOUTH, RANGE 61 EAST, M.D.M., CITY OF HENDERSON, CLARK COUNTY, NEVADA, LOCATED AT SONATA PARK.

- WHEREAS, the City of Henderson is the owner of approximately 12.35 acres of real property, identified as Assessor's Parcel Number 191-02-711-001, currently zoned PS (Public/Semipublic) and located in the Southeast Quarter (SE 1/4) of Section 2, Township 23 South, Range 61 East, M.D.M. (the "City Property"); and
- WHEREAS, the City desires to lease approximately 1,200 square feet, more or less, of the City Property (the "Lease Area") for the purpose of the construction and operation of a stealth multi-user telecommunications facility that complies with the design standards and requirements of the Henderson Municipal Code and as further approved by the Director of Public Works; and
- WHEREAS, interest has been expressed for a lease of the Lease Area; and
- WHEREAS, there is no proposed current City use for the Lease Area; and
- WHEREAS, the Lease Area has been appraised by two independent appraisers pursuant to the requirements of NRS 268.059, and, based upon the average of the two appraisals, the minimum acceptable bid of Two Thousand Five Hundred Sixty-Two and 00/100 Dollars (\$2,562.00) per month has been established for the Lease Area; and
- WHEREAS, the rental rate for each additional user approved by the City has been established at One Thousand Six and 00/100 Dollars (\$1,006.00) per month, based upon the value determined by such independent appraisers; and
- WHEREAS, the Lease Area is to contain a stealth cell tower and an equipment compound designed to accommodate the collocation of additional telecommunications users; and
- WHEREAS, the City Council deems the lease of the Lease Area to be in the best interest of the public; and
- WHEREAS, pursuant to Sec. 2.320 of the City Charter, the City Council may attach any condition to the lease as appears to the City Council to be in the best interests of the City; and

WHEREAS, pursuant to Sec. 2.320 of the City Charter, following the adoption of a resolution to lease real property, the City Council shall cause a notice of its intention to lease the real property to be published once in a newspaper qualified pursuant to the provisions of chapter 238 of NRS, which notice must be published at least 30 days before the date set by the City Council for the sale; and

WHEREAS, in accordance with NRS 268.061(1)(b), before the City may lease the Lease Area, it must post copies of this Resolution in three public places in the City and cause a notice to be published at least once a week for three successive weeks in a newspaper qualified under chapter 238 of NRS that is published in the county in which the Property is located, which notice must set forth, (i) a description of the real property proposed to be leased in such a manner as to identify it; (ii) the minimum price, if applicable, of the real property proposed to be leased; and (iii) the places at which this Resolution has been posted pursuant to NRS 268.061(1), and any other places at which copies of such resolution may be obtained; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Henderson, Nevada that:

SECTION 1. The City Council finds that the lease of the Lease Area in the manner set forth in this Resolution and the Notice of Lease attached hereto as Exhibit A, consisting of two (2) pages, which is hereby made a part of this Resolution, will be in the best interest of the City.

SECTION 2. The minimum price for which the Lease Area may be leased is hereby designated as Two Thousand Five Hundred Sixty-Two and 00/100 Dollars (\$2,562.00) per month, and an additional One Thousand Six and 00/100 Dollars (\$1006.00) per month for each additional user.

SECTION 3. The lease of the Lease Area shall be subject to those additional terms and conditions set forth in the Terms and Conditions of Lease attached hereto as Exhibit B, consisting of two (2) pages, which is hereby made a part of this Resolution.

SECTION 4. A description of the Lease Area is attached hereto as Exhibit C, consisting of two (2) pages, which is hereby made a part of this Resolution.

SECTION 5. A special public meeting to receive and consider the bid proposals and possibly accept a bid for the lease of the Lease Area is hereby set for February 20, 2024, at 4:30 p.m. or as soon thereafter as practicable, in the City Council Chambers, 240 Water Street, Henderson, Nevada 89015.

SECTION 6. The City Clerk is hereby authorized and directed to post this Resolution in at least three designated public places within the City not less than 30 days prior to the date of auction and to publish the Notice of Lease at least once a week for

three successive weeks and not less than 30 days prior to auction in accordance with NRS 268 and the requirements of the City Charter and city, state, and federal law.

SECTION 7. A copy of this Resolution and Notice of Lease can be obtained in the Office of the City Clerk, 240 Water Street, Henderson, Nevada.

SECTION 8. This resolution is effective upon adoption unless stated otherwise in the notice.

PASSED, ADOPTED, AND APPROVED THIS 19th DAY OF DECEMBER, 2023, BY THE FOLLOWING ROLL-CALL VOTE OF COUNCIL.

Those voting aye:
Michelle Romero, Mayor
Councilmembers:
Carrie Cox
Jim Seebock
Dan H. Stewart

Those voting nay: None
Those abstaining: None
Those absent: Dan K. Shaw

Michelle Romero, Mayor

ATTEST:

Jose Luis Valdez, CMC, City Clerk

EXHIBIT A
NOTICE OF LEASE
OF CITY OWNED PROPERTY
(Sonata Park Cell Site)

NOTICE IS HEREBY GIVEN that the City of Henderson, Nevada, a municipal corporation, intends to lease approximately 1,200 square feet of land (the "Lease Area") constituting a portion of certain real property consisting of approximately 12.35 acres of City-owned property, identified as Assessor's Parcel No. 191-02-711-001, (the "Property") located in the Southeast Quarter (SE 1/4) of Section 2, Township 23 South, Range 61 East, M.D.M., City of Henderson, Clark County, Nevada, zoned PS (Public/Semipublic), to the highest qualified bidder, subject to zoning regulations, reservations for public purposes, easements, restrictions of record, and further subject to the following:

TIME, DATE, PLACE AND REQUIREMENTS FOR SUBMISSION OF BIDS TO LEASE

Bid packages consisting of an Offer to Lease letter, the Affidavit for Oral Bids, and Affidavit for Written/Oral Bids agreeing to comply with the conditions of the Lease and a copy of the form of the Lease Agreement to be entered into by the successful bidder will be available in the Department of Public Works, Administration, located at 240 Water Street – Third Floor, Henderson, Nevada, Monday through Thursday, 7:30 a.m. to 5:30 p.m. The bid package is also available on the City's website: www.cityofhenderson.com.

All bids must be accompanied by a deposit equal to one month's rent at the average appraised value of the Lease Area for a single user; said deposit is Two Thousand Five Hundred Sixty-Two and 00/100 Dollars (\$2,562.00). All deposits must be in the form of a certified check or cashier's check made out to the "City of Henderson or [Name of Bidder]". The bidder's name must be included on the check.

Written bids to lease the subject Lease Area will be accepted only at the office of the City Clerk located at 240 Water Street, Henderson, Nevada, during regular business hours commencing 7:30 a.m., December 20, 2023, and continuing thereafter until 5:00 p.m., February 19, 2024. All written bids must be in writing, sealed, and accompanied by the duly signed Offer to Lease letter, duly signed Affidavit for Written/Oral Bids, and the required deposit. The bid envelope shall reference the name and address of the submitting bidder, the resolution number, and name of lease as set forth in the resolution. Submittal of a written bid in accordance with these requirements will automatically register a bidder for the oral bidding process.

Persons who do not submit a written bid and who desire to participate in the oral bidding process must submit the signed Affidavit for Oral Bids and the required deposit to the City Clerk no later than 3:00 p.m. on the day of the auction.

Bids that do not comply with these requirements will not be considered and will be returned to the bidder. Deposits will be returned to the unsuccessful bidders.

Bid placards will be distributed in the City Clerk's Office between 2:00 p.m. and 3:00 p.m. the night of the meeting. It is each bidder's responsibility to pick up a bid placard.

At the Special City Council meeting on February 20, 2024, the date designated by resolution of the City Council for receiving and considering bids, the written bids shall be opened, examined, and declared to be in conformance with the resolution and conditions of sale, and the City Council shall then call for oral bids. The first oral bid must exceed the highest written bid by five (5) percent. Bids will be considered in accordance with NRS 268.062. The City Council may, at the meeting at which bids are opened and considered or an adjourned session of the same meeting, accept the highest bid made by a responsible bidder pursuant to the terms and conditions of the lease or reject all bids and withdraw the Lease Area from lease.

Resolution No. 4558 and this Notice of Lease shall be posted at the Henderson Multigenerational Center, 250 S. Green Valley Parkway; City Hall, 240 Water Street, 1st Floor Lobbies; Whitney Ranch Recreational Center, 1575 Galleria Drive; and Fire Station No. 86, 1996 East Galleria Drive. Any interested party may obtain copies of the resolution and notice in the Office of the City Clerk, 240 Water Street, Henderson, Nevada.

INSPECTION

To arrange inspection of the Property, contact Public Works - Property Management Division at (702) 267-1300 Monday through Thursday, 7:30 a.m. to 5:30 p.m. No person may enter upon the Property without the prior approval of the Property Management Division.

DATE, TIME, AND PLACE FOR OPENING AND ACTION UPON BID OFFERS

The written bids shall be opened, examined, and declared by the City Council at 4:30 p.m., or as soon thereafter as practical, on February 20, 2024, in a special public session of the City Council. The City Council shall then call for oral bids, the first of which must be at least 5 percent more than the highest written bid. The City Council may then accept the highest bid, reject all bids and withdraw the Lease Area from lease, or continue the consideration of such actions to an adjourned session of the same meeting to be held within 21 days.

THIS NOTICE IS GIVEN pursuant to and subject to Section 2.320 of the Charter of the City of Henderson, Nevada and NRS 268.061 and 268.062.

For more information, contact the City Clerk's Office at 240 Water Street, P.O. Box 95050, Henderson, Nevada 89009-5050.

DATED this 19th day of December, 2023.

JOSE LUIS VALDEZ, CMC, CITY CLERK

EXHIBIT B
TERMS AND CONDITIONS OF LEASE

1. The lease shall be for approximately One Thousand Two Hundred (1,200) square feet of land for the purpose of constructing and operating a multi-user stealth cell tower and related telecommunications equipment facilities designed and constructed in compliance with the Henderson Municipal Code and as further approved by the Director of Public Works.
2. The minimum acceptable bid is Two Thousand Five Hundred Sixty-Two and 00/100 Dollars (\$2,562.00) per month, with an additional One Thousand Six and 00/100 Dollars (\$1,006.00) for each additional user, both subject to three and one-half percent (3.5%) annual escalation. Bidding and bidding increments shall be based on the monthly base rent and not the additional user rent.
3. A deposit of Two Thousand Five Hundred Sixty-Two Dollars (\$2,562.00) is required with the bid. The deposit will be applied to the first month's rent. If, after the acceptance of bid for the lease by the City Council, the City refuses or is unable to consummate the lease, the deposit will be refunded to the successful bidder. If, after the acceptance of bid for the lease by the City Council, the successful bidder refuses or is unable to consummate the lease, in each case, a "default," the City will retain the deposit. The successful bidder acknowledges that the deposit shall constitute the liquidated damages to the City in the event of default by the successful bidder.
4. The successful bidder ("Lessee") shall execute a Lease Agreement between Lessee and the City upon the terms and conditions set forth herein, which shall be presented to City Council for approval. Lessee's deposit will be applied to the first month's rent.
5. The initial Lease term is ten (10) years with one (1) ten- (10-) year option to extend, subject to the mutual agreement of the City and the Lessee to such extension.
6. Commencing upon approval of an additional user by the City, the rental payment shall automatically increase by the bid amount for additional users, which in no event shall be less than One Thousand Six and 00/100 Dollars (\$1,006.00) per month, or if additional users are added after the first year of the term, the rent shall automatically increase to the bid amount for additional users, which in no event shall be less than One Thousand Six Dollars (\$1,006.00) plus any annual rent escalation percentage applicable at the time a new user is added.
7. Monthly rent for the tower and rent for additional users shall be subject to annual escalation of three and one-half percent (3.5%) over the previous year's monthly rent. Upon the completion of the initial term, if Lessee elects to exercise the option to extend for an additional ten (10) year term, the Lease shall be reappraised by an independent appraiser selected by the City to establish the base rent for any additional terms. The Lessee shall pay all appraisal costs.
8. Lessee shall reimburse City for costs of appraisals, preliminary title reports, and publication for the initial term and any extension term.
9. The City Council reserves the right to reject any and all bids.

10. The initial lease period shall commence on the first day of the month following the date of City Council's approval of the Lease Agreement.
11. The lease of City-owned property does not constitute an endorsement or approval of any development plans or a commitment or guarantee for water or sanitary sewer service. Provision of these services is administered pursuant to Title 14 and 19 of the Henderson Municipal Code. Lessee understands the Lease Area will be subject to requirements for development per the Henderson Municipal Code.
12. Lessee acknowledges that the City, its employees, agents, and representatives have made no representations or warranties, written or oral, express or implied, with respect to the Lease Area. Lessee is relying upon its own expertise and upon its own investigation of the Lease Area with respect to its suitability for Lessee's intended use. Lessee shall acquire the Lease Area AS IS, WHERE IS, and WITH ALL FAULTS.
13. If the City approves a lease for this site, the successful bidder must construct a stealth cell tower in conformance with the Henderson Municipal Code, which design shall be approved in writing by the City of Henderson Department of Public Works.
14. The successful bidder must comply with all conditions of approval required as a result of the land use entitlements or as required by the City of Henderson Department of Public Works.
15. Use of the Lease Area must be in conformance with the current zoning of the Lease Area, which is PS (Public/ Semipublic).

EXHIBIT C

DESCRIPTION OF PROPERTY FOR LEASE

Approximately 1,200 square foot portion of Lot D Park, as shown in Plat Book 73, Page 32, Official Records, Clark County, Nevada, located in the Southeast Quarter (SE 1/4) of Section 2, Township 23 South, Range 61 East, M.D.M., Clark County, Henderson, Nevada. This Lease Area is graphically depicted on Attachment 1.

Attachment 1 to
Exhibit C

