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From: Vigilia, Michael

Sent: Wednesday, January 18, 2017 7:43 PM

To: Duran, Steve Cc: Bernal, Ron; mrgaaw; Daniels, Sharon

Subject: RE: Alternate Tower Site

Steve-

We have reviewed the lease for the American Tower site at 4701 Vista Grande with the assistance of outside counsel. The terms of the lease allow the City to install specified equipment on the tower at no charge to the City. It is my understanding that the City has installed that equipment on the tower.

Additionally, the lease does not allow the City to sublease the space provided to it for City equipment. The lease allows American Tower to enter into subleases with the City's consent and licenses without the City's consent.

At this point, it does not appear that we can provide any assistance to Mr. Ponsano since the City is prevented from subleasing and is using all of the space that was allotted to it. I will leave it to you to communicate the above information to the Mayor.

Based on my conversation with the Mayor on this subject, he is under the impression that there is unused space on the tower that could be utilized for Mr. Ponsano's radio station. That is not accurate. There is no available space at the City's disposal.

Additionally, the Mayor proposed that the City undertake to operate it's own radio station and "sub-contract" with Mr. Ponsano, as a way to get around the sub-leasing restriction. The terms of the lease specifies the number and type of equipment that the City is allowed to mount, which must have been mounted within a specified time of the tower being constructed. The terms of the lease do not allow this type of arrangement and would require the City to negotiate an amendment to the existing lease. The City is currently in the process of negotiating a new lease with American Tower for this site.

Attempting to amend the existing lease to allow Mr. Ponsano's use could jeopardize the City's bargaining position with respect to the new lease negotiations.

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