

**NOTICE OF CALL OF SPECIAL MEETING
TO THE MEMBERS OF THE SUSANVILLE CITY COUNCIL:**

You are hereby notified that a SPECIAL MEETING of the Susanville City Council will be held in the Council Chambers of City Hall in the City of Susanville at 66 North Lassen Street, Susanville, California on **Wednesday, November 28, 2018 at 4:30 p.m.** to transact the following business:

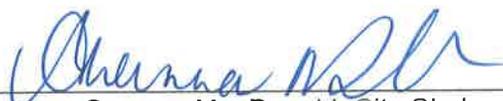
Call Meeting to Order
Roll Call of City Councilmembers

- 1 **APPROVAL OF THE AGENDA:**
- 2 **PUBLIC COMMENT:** Members of the public may address the Council concerning **any item on the agenda** prior to closed session.
- 3 **CLOSED SESSION:**
PUBLIC EMPLOYEE APPOINTMENT: - pursuant to Government Code Section 54957:
 1. City Administrator
- 4 **SCHEDULED MATTERS:**
A Consider **Resolution No. 18-5595** approving Colocation Lease Agreement with CalNeva Towers
- 5 **ADJOURNMENT:**



Kevin Stafford, Mayor

ATTEST:



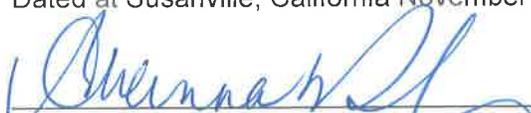
Gwenna MacDonald, City Clerk

AFFIDAVIT OF MAILING NOTICE

I, the undersigned employee of the City of Susanville, California do hereby certify that an original of the **NOTICE OF CALL OF SPECIAL MEETING Wednesday, November 28, 2018 at 4:30 p.m.** was delivered to each and every person set forth on the list contained herein on November 26, 2018. A copy of said Notice is attached hereto.

I declare under penalty of perjury that the foregoing is true and correct.

Dated at Susanville, California November 26, 2018.



Gwenna MacDonald, City Clerk

Kevin Stafford	Electronic Mail
Joseph Franco	Electronic Mail
Brian Moore	Electronic Mail
Brian Wilson	Electronic Mail
Mendy Schuster	Electronic Mail

Reviewed by: Dn Interim City Administrator

- Motion only
- Public Hearing
- Resolution
- Ordinance
- Information

Submitted by: Heidi Whitlock, Assistant to the City Administrator

Action Date: November 28, 2018

CITY COUNCIL AGENDA ITEM

SUBJECT: Resolution No. 18-5595, approving Colocation Lease Agreement with CalNeva Towers.

PRESENTED BY: Dan Newton, Interim City Administrator

SUMMARY: Staff was contacted by Elizabeth Castro with Startouch requesting a colocation agreement to share the tower currently used by T-Mobile at the Memorial Ball Park. Per Section 5 of the lease the City has with T-Mobile, the tenant (T-Mobile) has the right to collocate additional parties on the existing light pole. However, the second party must first enter into a lease with the City. Staff have contacted Michael Canon of T-Mobile and have confirmed that they are looking at CalNeva Towers (a subsidiary of Startouch) to provide ethernet service to T-Mobile so that their customers will have increased speeds and better internet access from their mobile devices.

CalNeva Towers will pay the City per the terms of the Agreement, \$250.00 per month, to be increased annually by 4%. Those funds will be placed in the Memorial Park CIP fund, with a current balance of \$41,077 for projects to be completed.

FISCAL IMPACT: \$250.00 per month, to be increased 4% annually.

ACTION

REQUESTED: Motion to adopt Resolution No. 18-5595, approving Colocation Lease Agreement with CalNeva Towers.

ATTACHMENTS: Resolution No. 18-5595
Colocation Lease Agreement with CalNeva Towers
Memorial Ballpark CIP Fund

RESOLUTION NUMBER 18-5595
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SUSANVILLE
APPROVING COLOCATION LEASE AGREEMENT
WITH CALNEVA TOWERS AT MEMORIAL BALL PARK

WHEREAS, the City of Susanville (City) owns all facilities located at Memorial Park, 1200 North Street; and

WHEREAS, in 2009 a cell tower and ancillary equipment for Omnipoint Communications (T-Mobile) was installed behind the outfield fence of the baseball field; and

WHEREAS, the Agreement between Omnipoint Communications and the City states that the tenant (Omnipoint) shall have the right to collocate additional parties on the pole; and

WHEREAS, CalNeva Towers has contacted the City to request a colocation agreement; and

WHEREAS, City staff has verified the request with Omnipoint Communications; and

WHEREAS, City staff has negotiated with CalNeva's representative and have agreed to CalNeva paying the City \$250.00 per month, to include 4% increases annually, for a term of 5 years; and

NOW, THEREFORE BE IT RESOLVED, that the City of Susanville City Council approves the Colocation Agreement with CalNeva and authorizes the Mayor to sign; and

NOW, THEREFORE, BE IT FURTHER RESOLVED, that all revenues derived from said lease shall be deposited in a restricted fund to be solely used for the repair and upgrading of facilities associated with Memorial Ballpark.

Dated: November 28, 2018

Approved: _____
Kevin Stafford, Mayor

Attest: _____
Gwenna MacDonald, City Clerk

The foregoing Resolution 18-5595 was adopted at a special meeting of the City Council of the City of Susanville held on the 28th day of November, 2018 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAINING:

Gwenna MacDonald, City Clerk

Approved as to form:

Jessica Ryan, City Attorney

CALNEVA TOWERS

4690 Longley Lane #17
Reno, NV 89502

Lease Agreement for Broadband Collocation

This Lease agreement, entered into the _____ day of _____, 201_, by and between **CalNeva Towers**, a subsidiary of StarTouch, Inc., having its principle place of business at 454 W Stuart Road, Bellingham, WA 98226 (Hereinafter referred to as "Tenant"), and **City of Susanville** (Hereinafter referred to as "Landlord") with the subject property being the property located at 1200 North Street, Susanville, CA 96127 (Hereinafter referred to as "Site or Premises").

WITNESSETH:

WHEREAS, Tenant desires to set up and operate an RF communications site with equipment on Landlord's property in accordance with the terms and conditions set forth herein: and

WHEREAS, Landlord desires to Lease to Tenant specific ground-space, or building attachment, and Commercial Power on Landlord's property in accordance with the terms and conditions set forth herein: and

NOW THEREFORE, in consideration of the covenants and agreements hereinafter set forth to be performed by the parties hereto, it is agreed by and between Landlord and Tenant as follows:

- 1. Term.** The Term of the Lease shall be for five (5) years, starting on the commencement date identified. The commencement date will be identified by the authorized Tenant representative signature date of this contract. "**Commencement date is the date that tenant completes construction of their equipment on the premises, and is able to provide service to its customer(s), or no later than 90-days from the agreement date on this document**". Tenant shall have the right to extend the Term of this Lease agreement for two (2) successive periods of five (5) years each ("Renewal Term") on the same terms and conditions as are set forth herein upon approval of both parties. This agreement shall automatically be extended for each successive Renewal Term unless Tenant notifies Landlord, or Landlord notifies Tenant of its intention not to extend the Term at least 60 days prior to the commencement of the next Renewal Term. At the expiration of the final term, Tenant will remove its equipment and repair any damage which may be caused to the Premises as a result of such removal, reasonable wear and tear expected.
- 2. Premises; Permitted Use.** Tenant shall use the Premises only for the purpose of installing, maintaining, and operating equipment and uses incidental thereto for providing radio and wireless telecommunication services which Tenant is legally authorized to provide to the public. Tenant's communications equipment shall consist of antennas, mast/tower, cabinets/shelters, electronics, cables, and additional tower/mast parts that may be required for additional height located on the Landlord's existing tower. Any equipment to be located on the tower must meet with approval from the City of Susanville prior to installation on the tower, building, or other Landlord-approved location, along with cable and appurtenances connected to the equipment including a UPS or battery backup system for backup power. All additions to the site or to the Tower must be approved in writing prior to any installation by the City of Susanville. Power from existing outlet or Fuse/Breaker Panel on Site will be utilized by Tenant for its use to energize its equipment located on the property. For the purpose of this agreement Tenant will obtain its commercial power needs directly from T-Mobile, and will not seek commercial power. Tenant will be collocating their equipment on the said tower where T-Mobile's equipment is currently collocated. Landlord shall provide a dedicated circuit/electrical source for use by Tenant. Tenant shall be allowed 24X7X365 access to its equipment unimpeded, but will make every effort to contact Landlord prior to arrival at the premise. Should Commercial Power be unavailable at any time, Landlord grants permission to Tenant to utilize Generators, subject to approval from the City, unless there is an Emergency in nature. Tenant will only utilize small generators under 5500 Watts and they will remove any such generator once the Emergency has subsided, or other power sources available to Tenant to keep their equipment operational 24 hours a day.
- 3. Construction; Maintenance; Access.** Tenant's equipment shall be installed in such a way as to minimize physical harm to the Premises and shall be of adequate strength to give reasonable and normal support. Said construction and Tenant's subsequent maintenance of the equipment shall be at Tenant's sole risk and cost and shall be in compliance with all applicable laws and ordinances. Tenant and its agents shall have the right to enter and inspect, or work on the Premises and the equipment at all times. Tenant does not have the right to enter any existing structures on the Property, except as authorized in advance by Landlord.
- 4. Tenant Responsibilities- Installation and Operation of Equipment.**

CALNEVA TOWERS

4690 Longley Lane #17
Reno, NV 89502

- A.** Tenant agrees to install and maintain in good working order the equipment at the site. Tenant reserves the right to modify, add, change, update, or remove their equipment as needed on the site to maintain quality signal strength, or other conditions as needed to service their customers.
- B.** The equipment shall remain the exclusive property of the Tenant.
- C.** Should Tenant be unable to operate the equipment in an economically viable manner, or for whatever reason Tenant decides to vacate premises, Tenant may terminate this lease agreement with 30 (thirty) days written notice to Landlord with no further obligation of payment or other conditions as provided by Lease. The Lease is cancelled effective that date and the parties will have no further obligation to each other under the Lease.

5. Landlord Responsibilities.

- A.** Landlord will take reasonable precautions to protect Tenant's property from damage, vandalism, theft or hazardous conditions and promptly report any damage, vandalism, theft, service failure or hazardous condition to Tenant.
- B.** Landlord to notify **StarTouch Network Operations Center (888-733-0203 option 2)** with any power outages that may occur, if Landlord is aware of any pending outages.
- C.** Landlord understands that Tenant requires a clear line of sight path for the RF antennas. Tenant shall be responsible for keeping the area in front of antennas clear from obstruction and Landlord will notify Tenant of any work to be performed in and or around the antenna location, and agrees not to block antenna paths.
- D.** Landlord will not knowingly permit the installation of any type of equipment or other items on the Premises that will interfere with the reception of signals by Tenant's equipment and agrees to act in good faith to immediately remove or disable said equipment upon Tenant's notification of conflict. Any equipment installed by Tenant shall be fully Licensed and protected by the FCC. Tenant will agree to work with any current or future tenant and the City should any Interference at the site be reported.
- E.** Landlord agrees to provide non-exclusive rights to Tenant for the purpose of providing wireless high speed Internet services/RF signal from Landlord's property.
- F.** Landlord is not responsible for the Tenant's equipment or cables.

6. Rent. Tenant shall provide Landlord –City of Susanville - UPON COMMENCEMENT DATE:

⇒ \$250.00 per month with a 4% annual increase. Rent is to be paid by the 10th of the month. Should this contract start after the 10th of the month, the rent shall be pro-rated for that month.

7. Indemnity of Landlord. Tenant shall indemnify and hold harmless against and from any and all loss, costs, damages, and claims to the extent of such damage arises from Tenant's negligence or wrongful acts or from any activity, work, or thing done, or permitted by the Tenant in the Premises and shall further indemnify and hold harmless Landlord against and from any and all loss, costs, damages, and claims to the extent such damages arises from Tenant's negligence or wrongful acts arising from any breach or default in the performance of any obligation on Tenant's part to be performed under the terms of this lease, or arising from any act or negligence of the Tenant, or of its agents, contractors, servants, invitees, or employees, and from and against all costs, attorneys' fees, expenses and liabilities incurred or paid in connection with any such claim or any action or proceeding brought against Landlord by reason of Tenant's use of the Premises.

8. Insurance. Tenant shall obtain and keep in force during the Term of this Lease a commercial General Liability policy of insurance protecting Tenant and Landlord (as additional insured) against claims for bodily injury, personal injury, and property damage based upon, involving or arising out of the use, occupancy or maintenance of the Premises and all areas appurtenant thereto. Such insurance shall be on an occurrence basis providing single limit coverage in an amount not less than \$1,000,000 per occurrence. The limits of said insurance required by this Lease or as carried by Tenant shall not, however, limit the liability of Tenant nor relieve Tenant of any obligation hereunder. All insurance to be carried by Tenant shall be primary to and not contributory with any similar insurance carried by Landlord, whose insurance shall be considered excess insurance only.

9. Assignment and Subletting. Tenant shall not sublet or grant access to the Premises by any part thereof or assign this Lease, or permit any businesses to be operated in or from the Premises by any person, firm, or corporation other than Tenant without the prior written consent of Landlord, which consent shall not be unreasonably withheld or denied.

10. Defaults. A failure by Tenant to observe and perform any other provision of this lease where such failure continues for 30 days after written notice thereof by Landlord shall constitute an event of default of this lease. If an event of default shall occur, Landlord may, at any time thereafter, at Landlord's option, exercise any or all rights at law or in equity, which are permitted by Washington State Law. At no time shall Landlord interfere with Tenants Commercial Power or Tenants equipment in a direct manner, which would impact or impede Tenants ability to provide services to its customers. If a failure (other than payment) is not able to be cured after 30-days written notice, but Tenant is

CALNEVA TOWERS

4690 Longley Lane #17
Reno, NV 89502

diligently working to cure such default, Landlord agrees to work with Tenant in a reasonable manner to afford Tenant extra time to cure such default, but no longer than 6-months to have such default cured.

- 11. Attornment.** Tenant agrees that, in the event of a sale, transfer, or assignment of the Landlord's interest in the property or any part thereof, including the Premises, Tenant will attorn to and recognize such transferee, purchaser, ground or underlying lessor or mortgagee as Landlord under this lease.
- 12. Notices.** All notices with regards to the terms of this contract, to either party, shall be sent in writing to their respective addresses provided herein – sent either US Postal Service, FedEx, or UPS with Signature required.
- 13. Entire Agreement.**
- A.** This lease, the Exhibits and addenda, if any, attached hereto set forth all of the covenants, promises, agreements, conditions and understanding, between the parties.
 - B.** All prior conversations or writings between the parties hereto or their representatives are merged herein and extinguished.
 - C.** This Lease shall not be modified, except by a writing subscribed to by the party to be charged or be canceled by Tenant or the Premises surrendered except with the prior express written authorization of Landlord, unless in accordance with paragraph 1 or as otherwise specifically provided herein.
- 14. Successors and Assigns.** Except as otherwise provided in this lease, all of the conditions, covenants, and agreements of this Lease shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, personal representative, successors and assigns. Each provision of this lease to be performed by Tenant shall be construed as both a covenant and a condition, and if there shall be more than one Tenant, they shall be bound, jointly and severally, by the provisions of this Lease.
- 15. Governing Law.** This agreement shall be governed by the laws of the State of Washington and any such disputes, causes of action or claims shall be brought in Lassen County, and the parties hereto consent to the jurisdiction of such Court. In the event that either party should bring suit because of the breach of any provision of this lease, or for any other relief hereunder, then all costs and expenses, including reasonable attorneys fees, shall be paid to the prevailing party by the other.
- 16. Termination by Tenant for unsuccessful installation:** Should tenant not be able to finish or complete its initial construction, or not be able to service its customer(s) for any reason, this agreement shall become null and void with no fees or other considerations owed to landlord, written notification shall be sent to Landlord.

Dated this ____ day of _____, 201__.

LANDLORD

STARTOUCH, INC, TENANT

By: _____

By: _____

Name/Title: _____

Name/Title: **Keith Scheffer, CEO**

Date: _____

Commencement Date: _____

Notice Address & Phone Number:

Notice Address & Phone Number:

454 W Stuart Rd
Bellingham, WA 98226
360-543-5679

ATTACHMENTS:

“A” Site Sketch --- Approved location on premise for Startouch equipment installation

CalNeva Towers a subsidiary of *StarTouch, Inc.*
4690 Longley Lane #17 ~ Reno, NV 89502
360-543-5679 ~ www.calnevatowers.com

fileshare/debi/fixedassets/memorial park cip
11/8/2018 15:11

Revenues from T-Mobile Rent

Beginning Balance 6/30/09	6,357.14
less expenses	<u>(1,221.29)</u>
Restrict at year end.	5,135.85

Beginning Balance 7/1/09	5,135.85
Net Rev/Exp @ 6/30/10	<u>4,434.78</u>
Restrict at year end.	9,570.63

Beginning Balance 7/1/10	9,570.63
Net Rev/Exp @ 6/30/11	<u>821.95</u>
Restrict at year end.	10,392.58

Beginning Balance 7/1/11	10,392.58
Net Rev/Exp @ 6/30/12	<u>11,428.42</u>
Restrict at year end.	21,821.00

Beginning Balance 7/1/12	21,821.00
Net Rev/Exp @ 6/30/13	<u>(7,055.35) Scoreboard</u>
Restrict at year end.	14,765.65

Beginning Balance 7/1/13	14,765.65
Net Rev/Exp @ 6/30/14	<u>2,300.20</u>
Restrict at year end.	17,065.85

Beginning Balance 7/1/14	17,065.85
Net Rev/Exp @ 6/30/15	<u>14,088.36</u>
Restrict at year end.	31,154.21

Beginning Balance 7/1/15	31,154.21
Net Rev/Exp @ 6/30/16	<u>12,081.17</u>
Restrict at year end.	43,235.38

Beginning Balance 7/1/16	43,235.38
Net Rev/Exp @ 6/30/17	<u>8,466.88</u>
Restrict at year end.	51,702.26

Beginning Balance 7/1/17	51,702.26
Net Rev/Exp @ 6/30/18	<u>(10,625.25)</u>
Restrict at year end.	41,077.01