



Legislation Details (With Text)

File #: 2022-1099
Type: Consent Calendar Item **Status:** Passed
File created: 9/23/2022 **In control:** Transportation and Public Works
On agenda: 11/8/2022 **Final action:** 11/8/2022
Title: Second Amendment to the Central Disposal Site Cell Tower Lease Agreement
Sponsors: Transportation and Public Works
Indexes:
Attachments: 1. Summary Report, 2. Attachment 1 - Second Amendment.pdf, 3. Attachment 2 - Memorandum of Second Amendment.pdf

Date	Ver.	Action By	Action	Result
11/8/2022	1	Board of Supervisors	Approved as recommended	Pass

To: Board of Supervisors

Department or Agency Name(s): Sonoma County Public Infrastructure

Staff Name and Phone Number: Johannes J. Hoevertsz, 707-565-2231

Vote Requirement: Majority

Supervisory District(s): Second

Title:

Second Amendment to the Central Disposal Site Cell Tower Lease Agreement

Recommended Action:

- A) Authorize the Chair to execute the Second Amendment of the Central Disposal Site Cell Tower Lease Agreement ("Lease Agreement"), and the Memorandum of the Second Amendment with Crown Castle International Corporation ("Crown Castle" or "Lessee") for the property located at 403 Meacham Road, Petaluma; updating payment terms, approving additional square footage of 201 feet for the installation of two (2) emergency generators, and increasing rent by \$11,736 per year with an annual inflationary adjustment of 3%.
- B) Authorize the Director of Sonoma County Public Infrastructure (formerly Transportation & Public Works/General Services) department to (1) record the Memorandum of the Second Amendment to the Lease Agreement as requested by Lessee for its records and (2) give notice as required by law.

(Second District)

Executive Summary:

The Sonoma County Public Infrastructure Department (SPI), formerly Transportation and Public Works/General Services, is requesting the Board execute the Second Amendment (Attachment #1) to the Lease Agreement, and the Memorandum of the Second Amendment (Attachment #2).

The Second Amendment to the Lease Agreement will expand the existing leased area by 201 square feet and increase annual rent to the County by \$11,736, with an annual inflationary adjustment of 3%. The additional square footage will be utilized for placing two (2) emergency generators to be used by each of the two cell towers located at the site. The Second Amendment will also update payment terms from monthly to an annual

basis.

Discussion:

Background

On February 3, 2006, the Board approved a Lease Agreement with New Cingular Wireless PCS, LLC, which was subsequently assigned to Crown Castle on February 25, 2014. The leased area was approximately 1,084 square feet for placement of two cell towers with an annual rent of \$14,000, adjusted annually by an inflationary factor of 3%. On December 13, 2016 the Board approved a First Amendment to the Lease Agreement which allowed for the relocation of one of the cell towers and increased rent by \$1,140 per month, also subject to an annual 3% inflationary increase through term end of February 2031.

This Second Amendment proposes to expand the existing leased area by a total of 201 square feet in order to accommodate the installation of two (2) emergency generators that will provide the existing cell towers with a continuous supply of power in the event of a black out or other emergency. The additional square feet will be divided into two sections, each area designated to one of the two cell towers. Lessee's intended use of the Premises to provide a backup power supply is for a limited duration to allow service of the existing uses on the Premises, and such use will not interfere or conflict with any County use of the Property.

First Additional Lease Area

The first area consisting of 113 square feet will house an emergency generator for the T-Mobile cell tower. Annual rent for this additional area is \$6,387.48.

Second Additional Lease Area

The second additional lease area consisting of 88 square feet will house an emergency generator for the AT&T cell tower. Annual rent for this additional area would be \$5,348.52.

Administrative Fee

It is acknowledged that during Fiscal Year 2021-22, the Lessee made an Administrative Fee payment in the amount of \$5,908 to the County in order to cover the County's administrative costs associated to the execution of this Second Amendment.

Update to Payment Terms

The Lessee currently pays an annual fee for the commitments from the original agreement as well as a monthly payment for the additional rent from the First Amendment. This Second Amendment will consolidate all payments including the new increases so that the County only receives one annual payment in February.

Memorandum of the Second Amendment

In addition to the Second Amendment, County staff is recommending the execution and recording of the Memorandum of Second Amendment to the Lease Agreement ("Memorandum") as requested by the Lessee. The Memorandum allows the Lessee to record a short document in the Sonoma County Recorder's Office that puts third parties on notice of leasehold rights in the property, thereby avoiding a potential situation in the future where a third party may purchase the property or lease a portion of the property, and then attempt to

avoid upholding the Lessee's leasehold interest by claiming that it had no notice of the existence of the lease. In addition to providing public notice of the lease, the recorded Memorandum can also be useful in the event any originals are lost in the future.

Staff recommends the approval of the Second Amendment to the Lease Agreement expanding the rental square footage by 201 in order to provide Crown Castle with additional area for the installation of generators. Approval of the Amendment will also provide additional rental revenue to the County and consolidate monthly payments into a single annual payment. Not approving the Amendment may leave the existing cell towers exposed to potential blackouts in the event of an emergency or disaster.

Notice

Upon approval, notice of the lease amendment will be published in accordance with Government Code section 25537 by publishing pursuant to Government Code 6061 and posting the notice in the Clerk's office.

Strategic Plan:

N/A

Prior Board Actions:

12/13/16: Board approved the First Amendment to the Central Disposal Site Cell Tower Lease Agreement and Memorandum of the First Amendment

02/18/06: Board approved a Lease Agreement with New Cingular Wireless PCS, LLC, for equipment at 403 Mechem Road, Petaluma

06/30/03: Board approved a Communication Site License Agreement with Pacific Bell Wireless, LLC for equipment at 403 Mechem Road, Petaluma

FISCAL SUMMARY

Expenditures	FY 22-23 Adopted	FY23-24 Projected	FY 24-25 Projected
Budgeted Expenses	\$0	\$0	\$0
Additional Appropriation Requested	\$0	\$0	\$0
Total Expenditures	\$0	\$0	\$0
Funding Sources			
General Fund/WA GF			
State/Federal			
Fees/Other	\$11,736	\$12,088	\$12,451
Use of Fund Balance			
Contingencies			
Total Sources	\$11,736	\$12,088	\$12,451

Narrative Explanation of Fiscal Impacts:

For Fiscal Year 2022-23 the Integrated Waste Administration Fund (41121) would receive \$11,736 in revenue

from Crown Castle resulting from the approval of this Second Amendment. For future fiscal years, the annual lease payment will be received in February and include an annual 3% inflationary increase through lease term end of February 2031. No additional expenses are anticipated with this item.

Narrative Explanation of Staffing Impacts (If Required):

None.

Attachments:

1. Second Amendment to the Lease Agreement between the County and Crown Castle International Corporation
2. Memorandum of Second Amendment to Lease Agreement.

Related Items "On File" with the Clerk of the Board:

1. Lease Agreement between the County and New Cingular Wireless PCS, LLC, dated February 7, 2006.
2. First Amendment to the Lease Agreement