



Request for City Council Action

Title:	South Central Communications Antenna Site Lease Agreement		
Meeting Date:	December 16, 2015	Agenda Item Number:	
Agenda Section:	<input type="checkbox"/> Consent <input type="checkbox"/> Public Hearings <input type="checkbox"/> Old Business <input checked="" type="checkbox"/> New Business <input type="checkbox"/> Other	Action:	<input checked="" type="checkbox"/> Motion <input type="checkbox"/> Resolution <input type="checkbox"/> Ordinance
Originating Department:	Administration	Supporting Documents:	
Prepared By:	City Manager	Presented By:	City Manager
Reviewed By:	City Manager	Approved By:	City Manager
Proposed Action:	Motion to introduce Resolution 1152-15 by title only. Motion to adopt Resolution 1152-15		

BACKGROUND: South Central Communications has requested a lease agreement to construct and install telecommunications equipment to provide a transmission site at the Page Public Library for Wireless Internet.

The request includes approximately 1½ square feet of interior space and for a power supply box and approximately one hundred twenty eight (128) square feet of space on the walls protruding above the roofline as shown in Exhibit A, for the placement of telecommunications facilities, including antennas, transmission and utility wires, cables, fiber, conduit, pipes, radios, electronic equipment. There will be no roof penetrations.

BUDGET IMPACT: The lease calls for a \$150 monthly lease payment. Lease requires the City to pay for electricity for the battery backup.

STAFF RECOMMENDATION:

- Motion to introduce Resolution 1152-15 by title only
- Motion to adopt Resolution 1152-15.

RESOLUTION NO. 1152-15

A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE CITY OF PAGE, COCONINO COUNTY, ARIZONA, PERTAINING TO THE LEASE OF ROOFTOP SPACE ON THE CITY LIBRARY FOR ANTENNAS TO PROVIDE A WIRELESS INTERNET TRANSMISSION SITE; AND AUTHORIZING THE MAYOR TO EXECUTE SAID LEASE.

WHEREAS, Section 3-5-5, Code of the City of Page, provides that the City of Page may lease, pursuant to negotiation, real property of the City of Page; and

WHEREAS, South Central Communications, Inc. has agreed to lease rooftop space on the City of Page Library building for the purposes of providing a wireless internet transmission site, pursuant to the terms and conditions set forth in the "Antenna Site Lease Agreement" negotiated by the parties.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COMMON COUNCIL OF THE CITY OF PAGE, COCONINO COUNTY, ARIZONA:

That the Mayor and Common Council of the City of Page hereby approve the "Antenna Site Lease Agreement," subject to the terms and conditions as set forth therein, which Agreement is attached hereto and incorporated herein by reference.

PASSED AND ADOPTED BY THE MAYOR AND COMMON COUNCIL OF THE CITY OF PAGE, COCONINO COUNTY, ARIZONA this ____ day of _____, 2015, by the following vote:

Ayes _____
Nays _____
Abstentions _____
Absent _____

CITY OF PAGE

By _____
Mayor

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

**South Central Communications
Antenna Site Lease Agreement**

This agreement made and entered into as of the ____ day of _____, 20__ made by and between SOUTH CENTRAL COMMUNICATIONS, INC. (“South Central Communications” or “LESSEE”) whose address is 45 N. 100 W. Escalante, UT 84726, and City of Page, Arizona (hereinafter referred to as “LESSOR”), whose address is P.O. Box 1180 Page, AZ, 86040.

RECITALS

WHEREAS, South Central Communications desires to construct and install telecommunications facilities to provide a Wireless Internet Transmission Site on property owned by the LESSOR as more particularly described below; and

WHEREAS, LESSOR is willing and able to lease space for the LESSEE’s facilities and provide power to South Central Communications; and

NOW, THEREFORE, in consideration of the premises recited above and the respective promises, covenants and conditions contained herein, the parties hereto agree as follows:

1. **Premises.** LESSOR currently owns a parcel of land (“Land”) at 479 S. Lake Powell Blvd, upon which LESSOR owns and operates a public library (“Owner’s Facilities”) in the city of Page, County of Coconino, State of Arizona (the Land and the Owner’s Facilities are collectively the “Property”). Subject to the terms and conditions herein, LESSOR agrees to lease to LESSEE, and LESSEE agrees to lease from LESSOR, approximately 1 ½ square feet of interior space and for a power supply box and approximately one hundred twenty eight (128) square feet of space on the walls protruding above the roofline as shown in Exhibit A, attached hereto, for the placement of telecommunications facilities, including but not limited to: antennas, transmission and utility wires, cables, fiber, conduit, pipes, radios, electronic equipment, (“LESSEE’s Facilities”). The space leased to LESSEE shall be referred to as the “Premises”.
2. **Construction.** LESSOR grants to LESSEE the right to erect, install, construct, maintain, and operate LESSEE’s Facilities on the Property. In connection therewith, LESSEE has the right to do all work necessary to prepare, maintain and alter the Premises for LESSEE’s business operations, including but not limited to installing transmission lines connecting the antennas to the transmitters and receivers. LESSEE agrees to obtain approval from LESSOR prior to performing any work on or alterations to the Premises and to abide by all construction requirements imposed by LESSOR. Title to LESSEE’s Facilities shall be held by LESSEE. LESSEE’s Facilities shall remain LESSEE’s personal property and are not fixtures. LESSEE has the right to remove all LESSEE’s Facilities at its sole expense at any time.

3. **Access.** LESSEE, including its employees, agents, and subcontractors may access the exterior property to access LESSEE's Facilities without notice to LESSOR, twenty-four (24) hours per day, seven (7) days per week, every day of the year for the purpose of constructing, installing, operating, maintaining, or repairing LESSEE's Facilities.
4. **Power.** LESSOR shall provide all power required by LESSEE at the Premises to LESSEE at no cost to LESSEE.
5. **Term.** The term of this Agreement shall be two (2) years commencing on the date of this Agreement ("Commencement Date"). This agreement shall automatically renew for additional one (1) year periods ("Renewal Term(s)") on the same terms and conditions as set forth herein, unless either party notifies the other of its intention not to renew at least thirty (30) days prior to expiration of the current term.
6. **Rent.** Within fifteen (15) business days of the Commencement Date and on the first day of each month of the Term or Renewal Term, South Central Communications shall pay to LESSOR the amount of \$150 per month as rent ("Rent"). The Rent for any fractional month at the beginning or end of the Term or Renewal Term shall be prorated. Rent shall be payable at:

P.O. Box 1180
Page, AZ 86040

7. **Maintenance.** Each party shall be responsible for maintaining its own system. Each party shall use its best efforts not to interrupt nor do anything that would cause damage to the other parties' system. Neither party shall be liable for damage to the property or system of the other unless said damage is caused by gross negligence of the party or its employees or agents.
8. **Non-Interference.** LESSOR agrees that the LESSEE's use of the Premises do not, and will not, interfere with LESSOR's use of the Property. If any measurable adverse interference is caused by LESSOR or anyone now or in the future holding a property interest from or under LESSOR, LESSOR agrees to the extent within LESSOR's reasonable control, to cause the elimination of such interference in a prompt and timely manner, not to exceed twenty-four (24) hours.
9. **Termination.** This Agreement may be terminated without further liability as follows: (a) by either party on thirty (30) days prior written notice upon a default of any covenant or term hereof the other party, which default is not cured within thirty (30) days of receipt of written notice of default, provided that the grace period for any monetary default is ten (10) days from receipt of written notice, and, provided further, that any non-monetary default which cannot be cured

within such thirty (30) day period shall not be a default hereunder so long as such defaulting party diligently pursues to cure such default upon receipt of notice thereof; or (b) by LESSEE for any reason or for no reason. Upon termination, LESSOR shall remove its equipment and restore the premises back to its condition prior to this Agreement.

10. **Insurance.** The LESSEE shall carry during the term of this Agreement, at its own cost and expense, the following insurance: (i) "All Risk" property insurance which insures the insuring party's property for its full replacement cost; and (ii) comprehensive general liability insurance with a commercial general liability endorsement having a minimum limit of liability of \$1,000,000, with a combined limit for bodily injury and/or property damage for any one occurrence, and (iii) excess/umbrella coverage of \$1,000,000.

11. **Miscellaneous Provisions.**

- a. Interpretation. The agreement shall be deemed to be made, to be exercised and performed according to its terms and conditions, and shall be construed in accordance with the laws of the State of Arizona. Whenever the context of this agreement so requires, the singular shall include the plural, the plural shall include the singular and the whole shall include any part of thereof and all genders. All terms defined in the agreement shall have such defined meanings when used herein. The paragraph and subparagraph headings contained herein are for the convenience and reference and reference only and are not intended to define or limit the scope of any provision of this agreement.
- b. No Waiver. No Covenant, term or condition of this agreement shall be deemed waived unless it is in writing, signed by the parties to be charged.
- c. Indemnification. Each party (the "Indemnifying Party") will indemnify, defend and hold harmless the other party ("Indemnified Party") from and against any loss, cost, claim, liability, damage, expense (including reasonable attorney's fees) to the third parties, relating to or arising out of gross negligence or willful misconduct by the Indemnifying Party in the performance of this Agreement, except in cases arising from the negligent or other tortuous misconduct of the Indemnified Party or the Indemnified Party's employees, agents or invitee.
- d. Representations and Warranties. There are no representations or warranties between the parties except as are expressly set forth in this agreement.
- e. Severability. The provisions of this agreement shall be deemed independent and severable, and the invalidity or partial invalidity or

unenforceable of any one provision or portion thereof shall not affect the validity or enforceability of any other provision or part thereof.

- f. Assignment; Successors in Interest. LESSEE may assign or transfer all or any part of its interest in this Agreement or in the Premises to its parent company, any subsidiary or affiliate, or any successor in interest. This Agreement shall be binding on and inure to the benefit of the successor and permitted assignees of the respective parties.
- g. Counterparts. This Agreement may be excused in any number of counterparts; each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute only one instrument.
- h. Notice. Any notice or demand required to be given herein shall be made by certified or regular mail, or recognized overnight courier to the addresses listed below:

LESSEE:

South Central Communications, Inc.
P.O. Box 555
Escalante, UT 84726

LESSOR:

City of Page, Arizona
P.O. Box 1180
Page, AZ 86040

- i. Costs of Enforcement. In the event either party initiates legal action to enforce the terms and conditions of this Agreement, the prevailing party, as determined by the court, shall be entitled to recover its costs and expenses of such legal action, including reasonable attorney's fees, from the other party, in addition to such other relief to which it may be entitled.
- j. Applicable Laws. LESSOR shall comply with all applicable Federal, State, and local laws, rules and regulations. This Agreement is subject to cancellation for a conflict of interest pursuant to A.R.S. §38-511, the pertinent provisions of which are incorporated herein by reference.

[Remainder of page intentionally left blank]

DATED this _____ day of _____, 20____.

SOUTH CENTRAL COMMUNICATIONS, INC.
Michael East
Chief Executive Officer

CITY OF PAGE, ARIZONA
William R. Diak
City Mayor

ATTEST: Kim Larson, City Clerk



APPROVED AS TO FORM: City Attorney

Exhibit A

