Request for City Council Action

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<td>December 16, 2015</td>
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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

WERAS, 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

WERAS, 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 cause 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 of 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.


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

10' x 4' both sides of wall. 80 sq ft. total

12' x 4' west side of wall. 48 sq ft. total