

**WOODBURY COUNTY BOARD OF SUPERVISORS AGENDA ITEM(S) REQUEST FORM**

**#8**

Date: 08-26-19 Weekly Agenda Date: 09-03-19

**ELECTED OFFICIAL / DEPARTMENT HEAD / CITIZEN:** Glenn Sedivy, Communications Director

**WORDING FOR AGENDA ITEM:**

Set Public Hearing Date for September 17, 2019 at 4:40 pm for 2nd Amendment to a Tower Lease Agreement for a Starcomm tower located at 2290 Platte Road, Homer Nebraska

**ACTION REQUIRED:**

- |  |   |  |
|--|---|--|
| Approve Ordinance <input type="checkbox"/> | Approve Resolution <input type="checkbox"/>   | Approve Motion <input checked="" type="checkbox"/> |
| Public Hearing <input type="checkbox"/>    | Other: Informational <input type="checkbox"/> | Attachments <input type="checkbox"/>               |

**EXECUTIVE SUMMARY:**

The Starcomm Executive Board recommends to the County Supervisors to set a public hearing for September 17, 2019, to amend a Tower Lease Agreement with New Cingular Wireless PCS

**BACKGROUND:**

Woodbury County (STARCOMM) currently owns and operates a tower located at 2290 Platte Road, Homer Nebraska. A public hearing is requested to be set for September 17, 2019 at 4:40 pm during the regular County Board of Supervisors meeting. New Cingular Wireless PCS, LLC, currently leases tower space on this tower and has requested to enter into a 2nd amendment to the current lease.

**FINANCIAL IMPACT:**

The rent will increase from \$2,502.50 to \$2,977.50 per month as new revenue to the Starcomm Operating budget

**IF THERE IS A CONTRACT INVOLVED IN THE AGENDA ITEM, HAS THE CONTRACT BEEN SUBMITTED AT LEAST ONE WEEK PRIOR AND ANSWERED WITH A REVIEW BY THE COUNTY ATTORNEY'S OFFICE?**

Yes  No

**RECOMMENDATION:**

Set Public Hearing

**ACTION REQUIRED / PROPOSED MOTION:**

Set Public Hearing for September 17, 2019 at 4:40 pm

## NOTICE OF PUBLIC HEARING

Governmental Body: The Board of Supervisors of Woodbury County, Iowa  
Date of Meeting: September 17, 2019  
Time of Meeting: 4:40 p.m.  
Place of Meeting: Boardroom, Woodbury County Courthouse, 620 Douglas Street,  
Sioux City, Iowa

Pursuant to the requirements of Sections 331.301(10)(d) and 331.443 of the Code of Iowa, the Woodbury County Board of Supervisors will hold a public hearing on the date, time and place set forth above. The purpose of the public hearing will be for a 2<sup>nd</sup> amendment of a current tower lease with New Cingular to allow to them to operate on a Starcomm Communications radio tower located at 2290 Platte Road, Homer Nebraska. The amendment will increase the current lease amount by \$475.00 per month with a total amount of \$2,977.50 per month. This funding will provide new revenue to be applied towards the Starcomm operating budget. Any resident or property owner of Woodbury County may present oral or written objections at the public hearing.

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Patrick F. Gill,  
Auditor of Woodbury County, Iowa

## AMENDMENT #2 TO SITE LEASE AGREEMENT

It is agreed between the Woodbury County Board of Supervisors, c/o Starcomm Public Safety Board, the City of Sioux City, Iowa ("Lessors") and New Cingular Wireless PCS, LLC, a Delaware limited liability company, having a mailing address of Suite 13-F West Tower, 575 Morosgo Drive NE, Atlanta, GA 30324 ("**Lessee**") as follows:

WHEREAS, Lessor and Lessee (or their respective predecessors-in-interest) entered into a Site Lease Agreement between the parties signed on or about September 5<sup>th</sup>, 2006 and went into effect on September 29, 2006 when the building permit was issued, with respect to a cell tower located at 2290 Platte Road, Homer, NE; and

WHEREAS, the parties amended the Site Lease Agreement on October 21, 2014; and

WHEREAS, Lessor and Lessee, in their mutual interest, wish to amend the Agreement for a second time as set forth below accordingly.

NOW THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Lessor and Lessee agree as follows:

1. Exhibit A- ("Site Plan") is modified and replaced as set forth in Exhibit A-2 of this Amendment
2. Section 6 of the Amendent to Site Lease agreement is hereby deleted in its entirety and replaced with the following:

**Renewal Term Rent** Lessee shall pay Woodbury County, Iowa, administrator of funds of Starcomm Public Safety Board, "Rent," for each month of the Five (5) years for Renewal Terms as listed below in this paragraph. Each monthly Rent payment shall be due to Woodbury County, Iowa on or before the first day of each month. In addition, Lessee shall be responsible for all utility service payments with the exception of telephone service used exclusively by Lessors.

- a. First Renewal Term (years 6 through 10) Rent shall be increased by 10% of the highest amount paid during the initial term.
- b. Second Renewal Term (years 11 through 15) Rent shall be increased by 10% of the highest amount paid during the First Renewal Term. On August 1, 2019, Rent shall be increased to two thousand nine hundred and seventy-seven dollars and fifty cents (\$2,977.50) per month for the remainder of the Second Renewal Term. It is understood by the Parties that this increase in monthly rent is in consideration for allowing Lessee to update their equipment on the tower as identified in Exhibit A-2.
- c. Third Renewal Term (years 16 through 20) Rent shall be increased by 10% of the highest amount paid during the Second Renewal Term.
- d. Fourth Renewal Term (years 21 through 25) Rent shall be increased by 10% of the highest amount paid during the Third Renewal Term.

3. Notices. Section 12 of the Agreement is hereby deleted in its entirety and replaced with the following:

**NOTICES.** All notices, requests, demands and communications hereunder will be given by first class certified or registered mail, return receipt requested, or by a nationally recognized overnight courier, postage prepaid, to be effective when properly sent and received, refused or returned undelivered. Notices will be addressed to the parties as follows.

If to Lessee:                   New Cingular Wireless PCS, LLC  
                                      Attn: Network Real Estate Administration  
                                      Re: Cell Site #:DESMNEU1754  
                                      Cell Site Name: Homer-LLW-NESC  
                                      FA No: 13169481  
                                      Suite 13-F West Tower  
                                      575 Morosgo Drive NE  
                                      Atlanta, GA 30324

With a copy to: New Cingular Wireless PCS, LLC  
                                      Attn: Legal Department  
                                      Re: Cell Site #:DESMNEU1754  
                                      Cell Site Name: Homer-LLW-NESC  
                                      FA No: 13169481  
                                      208 S. Akard Street  
                                      Dallas, TX 75202-4206

The copy sent to the Legal Department is an administrative step which alone does not constitute legal notice.

If to Lessors:   Woodbury County, Iowa  
                                      Board of Supervisors  
                                      620 Douglas Street, Suite 104  
                                      Sioux City, Iowa 51101  
  
                                      Starcomm Public Safety Board  
                                      P.O. Box 447  
                                      Sioux City, Iowa 51102  
                                      ATTN: Glenn Sedivy

In all other respects, the original Site Lease Agreement, Amendment to Site Lease Agreement dated September 5, 2006 Agreement and Amendment #1 to Site Lease Agreement dated October 21, 2014 are unchanged.

Dated \_\_\_\_\_, 2019

LESSORS:

Attest:

Woodbury County, Iowa

By:

\_\_\_\_\_  
Patrick Gill  
County Auditor

By:

\_\_\_\_\_  
Keith Radig  
Chairman  
Woodbury County Board of Supervisors

Date:

\_\_\_\_\_

LESSEE:

Attest:

New Cingular Wireless PSC, LLC  
By: AT&T Mobility Corporation  
Its: Manager

By:

\_\_\_\_\_  
\_\_\_\_\_  
[Print Name]

By:

\_\_\_\_\_  
\_\_\_\_\_  
[Print Name]

Title:

\_\_\_\_\_  
\_\_\_\_\_  
[Print Title]

Title:

\_\_\_\_\_  
\_\_\_\_\_  
[Print Title]

Date:

\_\_\_\_\_

**CONSENT TO SUBLEASE AMENDMENT**

On this \_\_\_\_\_ day of \_\_\_\_\_, 2019, The City/County Law Enforcement Center of South Sioux City/Dakota County, State of Nebraska as Landlord and pursuant to Paragraph 9 of the Lease – Business Property dated April 14, 2009 hereby consents to the Sublease Amendment between Starcomm, Woodbury County, Iowa, and New Cingular Wireless PSC, LLC.

The City/County Law Enforcement Center  
Of South Sioux City/Dakota County

By:

\_\_\_\_\_

Print Name:

\_\_\_\_\_

Title:

\_\_\_\_\_