



Legislation Details (With Text)

**File #:** 23-1250      **Version:** 1

**Type:** Ordinance      **Status:** Agenda Ready

**File created:** 10/30/2023      **In control:** City Council

**On agenda:** 11/7/2023      **Final action:**

**Title:** Pass the ordinance approving the second amendment to the lease agreement between the City and New Cingular Wireless PCS, LLC for use of space on the cellular tower located at 1800 S. Washington Street

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. New Cingular Extension Ordinance, 2. 10074775 - Second Amendment to Lease Agreement - EXECUTABLE

Date	Ver.	Action By	Action	Result
11/7/2023	1	City Council	passed	Pass

**CITY COUNCIL AGENDA ITEM**

**ACTION REQUESTED:**

Pass the ordinance approving the second amendment to the lease agreement between the City and New Cingular Wireless PCS, LLC for use of space on the cellular tower located at 1800 S. Washington Street

**DEPARTMENT:** Legal Department

**SUBMITTED BY:** Jennifer Bonner, Senior Assistant City Attorney

**BACKGROUND:**

On June 30, 1998, the City of Naperville (“City”) entered into a lease agreement with Cingular Wireless PCS, LLC (AT&T Wireless) for use of space on the cellular tower located at 1800 S. Washington Street. The agreement spanned 25 years, with automatic renewals occurring every five years subject to the party’s approval.

On September 17, 2013, City Council approved a first amendment to the lease agreement. The first amendment provided for an increase in monthly rent, a 15% increase in rent every five years during renewal periods, and updated contact information for the parties.

On August 31, 2023, the lease expired, and negotiations ensued regarding a second amendment to the lease.

**DISCUSSION:**

For the lease period expiring August 31, 2023, New Cingular Wireless (AT&T) PCS, LLC paid \$3,450 per month in rent. However, the City is required to split the rent equally with Verizon, because it constructed the cellular tower. The City’s agreement with Verizon regarding construction of the

cellular tower expires on January 18, 2026, and at that time, the City will receive the entire rent.

The second amendment gives an increased rent of \$4,000 per month for the initial lease renewal period (September 1, 2023 - August 31, 2028) and provides for automatic renewals for up to up to five additional five-year terms, unless New Cingular (AT&T) Wireless PCS, LLC notifies at least 60 days in advance of the expiration of the term that it intends not to renew.

The second amendment also provides a 15% increase in rent every five years during renewal periods, updated contact information for the parties, the ability to terminate the lease, and allows New Cingular (AT&T) Wireless PCS, LLC to add, modify and/or replace equipment to be compliant with any current or future federal, state, or local laws. A copy of the second amendment is attached.

**FISCAL IMPACT:**

Continued receipt of corresponding rent.