



COUNTY OF ERIE

MARK C. POLONCARZ
COUNTY EXECUTIVE

June 18, 2013

Erie County Legislature
92 Franklin Street – Fourth Floor
Buffalo, New York 14202

Re: Second Amendment for Lease of Space on Cell Tower at Erie Community College South Campus

Dear Honorable Members:

Attached is a proposed resolution and accompanying memorandum from Erie Community College requesting authorization to enter into a second amendment to an existing lease of space with New Cingular Wireless, PCS, LLC on the cell tower at Erie Community College South Campus. The ECC Board of Trustees at its meeting of March 27, 2013 has approved the proposed amendment. An excerpt of the meeting minutes is attached.

Thank you for your consideration of the attached. If your Honorable Body requires any further information, kindly contact William D. Reuter, Erie Community College Chief Administrative and Financial Officer.

Sincerely,

A handwritten signature in blue ink, reading "Mark C. Poloncarz".

Mark C. Poloncarz Esq.
Erie County Executive

MCP/bb
Enclosure

cc: William D. Reuter

MEMORANDUM

To: Honorable Members of the Erie County Legislature
From: William D Reuter, Chief Administrative and Financial Officer – Erie Community College
Re: Authorization to amend the existing cell tower Lease Agreement with New Cingular Wireless PCS, LLC at Erie Community College South Campus
Date: May 31, 2013

Summary

It is recommended that the Erie County Legislature authorize the County Executive to amend the existing cell tower lease agreement with New Cingular Wireless PCS, LLC at Erie Community College, South Campus, for the purpose of allowing one additional antenna on the tower and a backup generator on the ground near the tower for the transmission and reception of radio communication signals.

Fiscal Implications

The existing renewal lease with New Cingular Wireless PCS, LLC is for a term of five years, having commenced September 1, 2011, with rent of \$24,480.00 per year. The funds received from the amended lease are designated for the purpose of future capital construction at Erie Community College. Denial of the request almost certainly would significantly impact the existing lease and the potential renewal thereof.

Reasons For Recommendation

New Cingular Wireless PCS, LLC provides both a watchful eye on the tower relative to infrastructure maintenance and performs routine maintenance on the tower as a service without charge to ECC/Erie County. A New Cingular Wireless predecessor built the tower over 25 years ago, turned it over to Erie County approximately six (6) years ago and has maintained it since, without charge to the college or county. The amendment permits New Cingular Wireless PCS, LLC the addition of one new antenna on the tower and a backup generator on the ground nearby without charge recognizing the value of the services provided benefitting the College/County.

Background Information

In 1994 the Buffalo Telephone Company (now New Cingular Wireless PCS, LLC) constructed the microwave relay (cell) tower at ECC South at no cost to the County or College, for its use, and use by the College as well. Thereafter your Honorable Body authorized leases with other wireless telephone companies such as Sprint, AT&T, Cricket, Nextel, and T-Mobile, all of which continue to occupy space today on the tower.

In 1996 Erie County adopted its Policy and Procedures for Placing Commercial Antennas on County Properties in recognition of the expanding wireless communications industry. Under its policy and procedures, the County encouraged its departments and agencies to make available County Government buildings and lands for the citing of mobile services antennas, further stating that the re-use of existing towers and co-location of antennas on towers, County buildings or lands, is in the public interest and must be achieved whenever possible if the community is to avoid proliferation of tall communication towers.

Consequences of Negative Action

Failure to adopt this resolution will adversely affect a potential revenue stream for Erie Community College and may well have a negative effect on the ability to retain this lessee as a tenant going forward. Furthermore, New Cingular Wireless PCS, LLC has performed the maintenance on this cell tower since construction thereof, for the benefit of the county/college.

Steps Following Approval

Certified copies of this resolution shall be forwarded to the County Executive, President of Erie Community College, the County Division of Budget, Management and Finance, the County Comptroller and the Department of Law.



WILLIAM D. REUTER
Chief Administrative and Financial Officer
Erie Community College

ERIE COUNTY LEGISLATURE – PROPOSED RESOLUTION

**Erie Community College 2nd Amendment to Lease of Space on
South Campus Cell Tower with New Cingular Wireless**

- WHEREAS,** Erie Community College has an existing lease of space on the South Campus cell tower with New Cingular Wireless for their purpose of transmission and reception of communication systems, and
- WHEREAS,** the existing lease includes the operation of antennae and New Cingular Wireless wishes to install one new antenna on the tower and add a backup generator at the tower site, and
- WHEREAS,** the five year lease with one renewal term of five years commenced September, 2011, and denial of this request could negatively impact the annual revenue stream of \$24,000+ provided ECC thereunder,
- NOW, THEREFORE, BE IT RESOLVED,** that the Erie County Legislature hereby approves this 2nd Amendment to the New Cingular Wireless South Campus Cell Tower Lease, and be it further
- RESOLVED,** that copies of the resolution be forwarded to the Erie County Executive, the President of Erie Community College, and the Chairman of the ECC Board of Trustees.

5. Agreement of Academic Cooperation Arranged by ECC's International Students Department with the Yangtze University of China
6. Pending ECC Legal Affairs Approval:
 - a. Library recommends Amendment to Wiley Online License Contract for The Cochrane Library Edition 2013 Subscription

Motion to approve the Academic Affairs agenda items

Moved: Trustee Elmore; Second: Trustee Gallagher

Action: Motion Carried, Unanimous.

Section 2: Budget, Finance & Contracts

1. Materials Disposition List #266
2. Petty Cash – February 2013
3. Facilities Rentals BOT Policy VI-A-7 revision
4. Pending ECC Legal Affairs Approval:
5. a. Key Government Finance (CISCO Lease)
b. Sheehan Hospital Parking Lot Lease
c. CSEA Tuition Voucher Program

Motion to approve Items 1, 2, 4, and 5 a, b & c of the Budget, Finance & Contracts Agenda and to Table Item #3 for amendment and approval at the next meeting

Moved: Trustee Gallagher; Second: Trustee Lenihan

Action: Motion Carried, Unanimous.

Section 3: Student Affairs

1. Pending ECC Legal Affairs Approval:
 - a. Memorandum of Understanding between STAR Swimming, Inc. and Erie Community College

Motion to Table the Student Affairs agenda item

Moved: Trustee Murphy; Second: Trustee Boyd

Action: Motion Carried, Unanimous.

Section 4: Personnel

1. President's Personnel Agenda

Motion to amend the Personnel Agenda

Moved: Trustee Elmore; Second: Trustee Swarts

Action: Motion Carried, Unanimous.

Motion to approve the Personnel Agenda, as amended, with the exclusion of the position for the Associate Vice President for Enrollment Management and Marketing

Moved: Trustee Boyd; Second: Trustee Lenihan

Action: Motion Carried, 7-1-0

Ayes: Trustees Mertz, Gallagher, Boyd, Elmore, Lenihan, Murphy, Fairchild

Nays: Trustee Swarts

Abstained: 0

Section 5: Buildings & Grounds

1. Pending ECC Legal Affairs Approval:

- a. ECC South Campus Cell Tower Lease 2nd Amendment with New Cingular Wireless PCS, LLC.

Motion to approve the Buildings & Grounds agenda item

Moved: Trustee Boyd; Second: Trustee Lenihan

Action: Motion Carried, Unanimous.

VI. Old Business

Discussion was held regarding O'Connell and Company. Kristin Klein Wheaton reported she received a signed agreement and some of the money. She will report back at the next meeting. Bill Reuter provided an update regarding St. John's and stated we are still looking for partnerships within the City.

Trustee Gallagher stated he will schedule a final budget meeting and request a Special Meeting in May.

VII. New Business

VIII. Schedule of Next Month's Meeting

The next meeting is scheduled for Wednesday, April 24, 2013 at ECC North Campus, and will be a joint meeting with the ECC Foundation. Subcommittee meetings begin at 9:00 a.m., and the Regular Board Meeting begins at 11:00 a.m.

IX. Adjournment

There being no further business to come before this body, upon a motion made, seconded and carried the meeting was adjourned at 12:45 p.m.

Respectfully Submitted,

Stephen Boyd, Board Secretary