



CITY OF UTQIAGVIK

Farthest North Incorporated City

Introduced by:	Asisaun Toovak, Mayor
Date:	October 26, 2023
Public Hearing:	
Action:	
Vote:	

CITY OF UTQIAGVIK, ALASKA

ORDINANCE #9-2023

AN ORDINANCE APPROVING A GROUND LEASE OF CITY LAND AND A COLOCATION AGREEMENT WITH THE ALASKA WIRELESS NETWORK, LLC

WHEREAS the City of Utqiagvik (“City”) owns the real property located at 1807 Momegana Street, Utqiagvik, Alaska 99723, further described in Exhibit A to this Ordinance (the “Property”);

WHEREAS The Alaska Wireless Network (“AWN”) is a commercial telecommunications company that currently owns and operates a 60-foot telecommunications transmission tower (the “Old Tower”) and leases telecommunication equipment storage and operational space in a residential home (the “Old Shelter”) currently situated on the Property;

WHEREAS AWN (as successor to GCI Communication Corporation) and the City were parties to that certain Lease Agreement dated May 1, 2009, amended as of September 1, 2015 (the “Original Lease”), pursuant to which AWN leased a portion of the Old Shelter and the Property under the Old Tower from the City;

WHEREAS on April 23, 2019, AWN sent the City a letter stating its intent to exercise its option to renew the Original Lease for 5 additional years until April 30, 2024, pending approval by the City, which the City never provided;

WHEREAS in order to replace the expired Original Lease, AWN and the City desire to enter into a new ground lease pursuant to which AWN will lease a portion of the Property depicted on Exhibit B of this Ordinance (the “Leased Premises”);

WHEREAS the terms and conditions of the proposed ground lease between the City and AWN for the Leased Premises are attached as Exhibit C to this Ordinance (the “Ground Lease”);

WHEREAS following the execution of the Ground Lease, AWN desires to demolish the Old Tower, remove the telecommunications equipment and cable from the Old Shelter, and construct a new 70-foot telecommunications transmission tower (the “New Tower”) and a new adjacent communications shelter (the “New Shelter” collectively with the New Tower, the “New Facility”);

WHEREAS concurrently with the execution of the Ground Lease, AWN and the City desire to enter into a colocation agreement for AWN's use and access to the Old Shelter on the Property, until the completion of the New Shelter and turn-up of equipment therein by AWN;

WHEREAS the terms and conditions of the proposed colocation agreement between the City and AWN for a portion of the Old Shelter are attached as Exhibit D to this Ordinance (the "Colocation Agreement"); and

WHEREAS the rent to be charged to AWN for the Leased Premises contemplated in the Ground Lease is the fair rental value and current market value of the Property, including for AWN's temporary use of the Old Shelter to operate telecommunications equipment under the Colocation Agreement.

BE IT ORDAINED by the City Council of Utqiagvik, Alaska, that:

SECTION 1. Classification. This ordinance is not permanent or general in nature and shall not be placed in the City of Utqiagvik Code of Ordinances ("Code").

SECTION 2. Inapplicability of Code Provisions. The requirement for an appraisal in Sections 13.12.020(A) of the Code, and the requirement for a lease auction in Section 13.12.060 of the Code shall not apply to the Ground Lease and Colocation Agreement as the parcel has been assessed by a tax assessor during the year in which the property is being leased and used, consistent with Section 13.12.020(B) of the Code.

SECTION 3. Council Approval. In accordance with Sections 13.12.010, 13.12.030(A) and (B), and 13.12.050 of the Code, (1) the City Council finds that the Ground Lease charges a fair rental value for both the Ground Lease and the Colocation Agreement, based upon the pro-rata percentage that the Leased Premises and the equipment space in the Old Shelter comprise of the Property and current market values, and (2) the City Council hereby authorizes the terms and conditions of the Ground Lease and the Colocation Agreement and authorizes the Mayor to execute the Ground Lease and Colocation Agreement and further authorizes the Mayor to approve modifications to the Ground Lease and Colocation Agreement as to the term, length of term, scope, conditions of use, access rights, square footage, and other terms of the Ground Lease and Colocation Agreement as may best effectuate the intent of this ordinance and is in the best interest of the City prior to execution.

SECTION 4. Effective Date. This ordinance shall become effective immediately upon adoption and shall have retroactive effect back to the first date that the City administration began to negotiate the terms and conditions of the Ground Lease and Colocation Agreement with AWN.

ENACTED THIS 2nd DAY OF NOVEMBER, 2023, by a vote of ___ in favor and ___ opposed.

Asisaun Toovak, Mayor

ATTEST:

Mary V. Patkotak, City Clerk

Exhibit A
Property Description

Exhibit B
Leased Premises Depiction

**Exhibit C
Copy of Ground Lease**

[Attach]

Exhibit D
Copy of Colocation Agreement

[Attach]