



Midpeninsula Regional  
Open Space District

R-11-105  
Meeting 11-29  
October 26, 2011

## AGENDA ITEM 5

### AGENDA ITEM

Authorization to Execute Amendment to Communications Site Lease and Access License with C&C Equipment Company, Inc. (C&C) to change the Lease Term

### GENERAL MANAGER'S RECOMMENDATION

1. Authorize the General Manager to execute an amendment to the Communications Site Lease and Access License with C&C to change the lease term.

### SUMMARY

C&C is seeking approval from the District to amend their Communications Site Lease and Access License to alter their existing lease term as outlined in the table below to:

	<b>Initial Term</b>	<b>Additional Term Options</b>	<b>Total Years</b>
<b>Existing Lease Term</b>	10-year	one 10-year one 5-year	25 years
<b>Proposed Lease Term</b>	5-year	four 5-year	25 years

The existing lease term was included in the original 25 year lease to coincide with the National Park Service/Golden Gate National Recreation Area's (NPS/GGNRA) 20 year sublease with C&C for their new tower located at the C&C Communications Facility at Black Mountain. After approaching NPS/GGNRA with this proposed change, NPS/GGNRA is in agreement to change the existing lease term to the proposed lease term indicated above.

### DISCUSSION

Since October 1990, C&C has been an excellent communications lessee at Black Mountain and cooperative in housing the District's radio system at no rental cost to the District (Board Report R-90-113). At its August 12, 2009 Board meeting, the Board approved a new 25 year Communications Site Lease and Access License with C&C (Board Report R-09-86). The existing lease term was as follows:

	<b>Initial Term</b>	<b>Additional Term Options</b>	<b>Total Years</b>
<b>Existing Lease Term</b>	10-year	one 10-year one 5-year	25 years

This lease term was structured this way to coincide with NPS/GGNRA's sublease with C&C which included the installation of a new tower for NPS/GGNRA's communication radio system. As part of this lease arrangement with C&C and NPS/GGNRA, the District would install new antennas on the new tower and equipment cabinets in the C&C building as the hub of the District's new radio communication system at no rental cost to the District. Additionally, the District signed an Estoppel Certificate at the time C&C and NPS/GGNRA entered into the sublease, which warranted C&C's status as a lessee in good standing with the necessary authority to sublease. The Estoppel Certificate also confirmed that in the event C&C vacates the facility prior to the lease termination date, the District would continue management of the C&C Communication Facility until a new master lessee is authorized by the Board.

C&C has requested that the District and NPS/GGNRA change the lease term options from ten years to five years with a maximum term continuing to be 25 years to be consistent with the District's standard communication lease agreements with all communication tenants at Black Mountain, Russian Ridge and Pulgas Ridge Open Space Preserves as shown in the table below:

	<b>Initial Term</b>	<b>Additional Term Options</b>	<b>Total Years</b>
<b>Proposed Lease Term</b>	5-year	four 5-year	25 years

NPS/GGNRA has agreed to the proposed changes to the lease term even though it would not coincide with its sublease.

C&C continues to be very cooperative Lessee with the District. The current District-wide Radio System is housed at C&C's Communication Facility, and C&C is currently working with the District's Operation's Department to install the next generation of the District's Radio System in their north building at no cost to the District.

Staff is proposing the District amend the lease to reflect the proposed changes to the lease term as noted above and that the attached Amendment to Communications Site Lease and Access License with C&C be approved.

## **CEQA COMPLIANCE**

The activity authorized is not a project for purposes of the California Environmental Quality Act (Guidelines Section 15378) because the proposed change to the Lease and option terms does not have the potential to result in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.

## TERMS AND CONDITIONS

Staff is proposing the District amend the lease to reflect the proposed changes to the lease term as set forth in the table below.

	<b>Initial Term</b>	<b>Additional Term Options</b>	<b>Total Years</b>
<b>Existing Lease Term</b>	10-year	one 10-year one 5-year	25 years
<b>Proposed Lease Term</b>	5-year	four 5-year	25 years

## BUDGET CONSIDERATIONS

There are no costs associated with entering into the Amendment to Communications Site Lease and Access License with C&C.

## PUBLIC NOTICE

Public notice was provided as required by the Brown Act. No additional notice is required.

## NEXT STEPS

If the Amendment to Communications Site Lease and Access License with C&C is approved by the Board of Directors, staff will notify C&C of the Board's approval of this item.

Attachments:

1. Amendment to Communications Site Lease and Access License

Prepared by:

Elaina Cuzick, Real Property Specialist

Contact person:

Elaina Cuzick, Real Property Specialist

**FIRST AMENDMENT TO COMMUNICATIONS SITE LEASE AND ACCESS LICENSE**

This First Amendment to Communications Site Lease and Access License (“First Amendment”) is entered into as of \_\_\_\_\_, 2011 (“Effective Date”) between Midpeninsula Regional Open Space District (“District”), a California special district (“Landlord”) and C&C Equipment Company, Inc. (“Lessee”).

**RECITALS**

A. Landlord and Lessee desire to now amend said Lease to modify the Lease term, as more specifically described herein.

NOW THEREFORE, for good and valuable consideration received, Landlord and Lessee agree as follows:

**1. Term.**

Section 2a is hereby deleted and shall be replaced with the following:

Initial Term. The term of this Lease shall commence on September 1, 2009 and shall expire five (5) years thereafter, unless sooner terminated in accordance with the provisions hereof, or unless extended pursuant to an option to extend the Lease term expressly granted herein.

The first sentence of Section 2b is hereby deleted and shall be replaced with the following:

Options to Extend Term. District hereby grants to Lessee options (“Option”) to extend the term of this Lease for four (4) additional periods of five (5) years each upon expiration of the proceeding term so that the maximum term of this Lease, including the initial five (5) years of this Lease, shall be for a total of twenty-five (25) years.

**2. No Additional Modification.**

Except as specifically set forth herein, the Lease shall remain unmodified.

LANDLORD and LESSEE, by their execution below, indicate their consent to the terms of this Amendment.

**C&C Equipment Company, Inc.**

\_\_\_\_\_  
Gayle Corbin, President

Date: \_\_\_\_\_

**MIDPENINSULA REGIONAL OPEN SPACE DISTRICT**

APPROVED AND ACCEPTED:

By: \_\_\_\_\_  
Stephen E. Abbors, General Manager

Date: \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_  
Michelle Radcliffe, District Clerk

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Susan M. Schectman, General Counsel