

W. 5. F. 1.

ABBREVIATED CONSENT CALENDAR FORMAT

Memorandum Date: May 23, 2011

Order Date: June 8, 2011

TO: Board of County Commissioners

DEPARTMENT: Sheriff's Office

PRESENTED BY: Captain Bill Thompson

AGENDA ITEM TITLE: IN THE MATTER OF APPROVAL OF AMENDMENT NO. 3
TO A LEASE WITH GARFIELD ASSOCIATES FOR A
COMMUNICATIONS SITE AT CASTLE ROCK, TO EXTEND
THE AGREEMENT TO JUNE 30, 2021 AND TO DELEGATE
AUTHORITY TO COUNTY ADMINISTRATOR TO SIGN
CONTRACT DOCUMENTS

I. **MOTION** Move to approve Amendment #3 to a Communications Site Lease on Castle Rock with Garfield Associates, to extend the agreement to June 30, 2021, and delegate authority to the County Administrator to sign contract documents.

II. **DISCUSSION**

A. **Background / Analysis**

Garfield Associates owns land on Castle Rock which the Lane County Sheriff's Office has used as a communications site since 1980. The original agreement for the site was established in 1980, and amended in 1995. A second amendment was executed in August 1999. This site has been used primarily by the Sheriff's Office for telecommunications equipment as part of its law enforcement communications network, and is now an important component to the larger Lane Regional interoperability project (LRIG).

This agreement expands the leased area to include real property located adjacent to and to the north of the original leased area. It also increases the monthly lease amount by over \$1,200 per month. This additional cost will have to be absorbed by the Sheriff's Office as it is part of the ongoing cost of radio and communication equipment.

A large number of state and local public agencies depend on this site for communications including the Lane County Sheriff's Office and Lane County Public Works. The current amendment (Amendment No. 3) to the original communications site lease also extends the lease period through 2021. The Board is being asked to approve the execution of the Amendment No. 3 which will become effective on July 1, 2011.

This lease is required in order to maintain this site as one component of the larger communications network used by Lane County and other agencies.

B. Recommendation

It is recommended that the Board approve Amendment No. 3 to the Communications Site Lease at Castle Rock with Garfield Associates and approve extension of the Lease to June 30, 2021. It is further recommended that the Board delegate authority to the County Administrator to sign contract documents.

III. ATTACHMENTS

- 1) Third Amendment to Lease with Garfield Associates for Castle Rock site
- 2) Board Order

THE BOARD OF COUNTY COMMISSIONERS, LANE COUNTY, OREGON

ORDER: IN THE MATTER OF APPROVAL OF AMENDMENT NO. 3 TO A
) LEASE WITH GARFIELD ASSOCIATES FOR A
) COMMUNICATIONS SITE AT CASTLE ROCK AND TO EXTEND
) THE AGREEMENT TO JUNE 30, 2021.

WHEREAS, the Board of Commissioners approved entering into a Communications Site Lease with Garfield Associates related to the use of the Castle Rock Communications Site in 1980,

WHEREAS, that agreement has been amended in 1995 and 1999; and

WHEREAS, it is in the interests of the County and Garfield Associates to amend the agreement a third time,

WHEREAS, Amendment No. 3 to the Castle Rock Site Lease expands the area included in the agreement and increases the monthly lease amount; and

WHEREAS, Board approval is required for any agreement that exceed three years in length and Amendment No. 3 to the Castle Rock Lease Agreement extends the agreement through June 30, 2021;

NOW THEREFORE, IT IS HEREBY ORDERED, that the Board of County Commissioners approves the execution of Amendment No. 3 to the Castle Rock Site Lease.

BE IT FURTHER ORDERED, that the County Administrator is delegated authority to execute Amendment No. 3 to the Castle Rock Site Lease.

Effective date: 8th day of June, 2011

APPROVED AS TO FORM
Date 5/25/11 lane county
[Signature]
OFFICE OF LEGAL COUNSEL

Faye Stewart, Chair
Lane County Board of County Commissioners

THIRD AMENDMENT TO LEASE

BETWEEN: Garfield Associates ("Landlord")
AND: Lane County
through the Lane County Sheriff's Office ("Tenant")
EFFECTIVE DATE: April _____, 2011

RECITALS

- A. Garfield Associates is the successor in interest to Giustina Timber Co. and owner of Landlord's interest, and by virtue of Assignment and Assumption of Lease dated January 25, 2005, Lane County, through the Lane County Sheriff's Office, is the owner of Tenant's interest in that certain Lease Agreement and Grants of Easement dated January 1, 1980, as extended by an arbitration letter dated March 7, 1991, First Amendment to Lease Agreement and Grants of Easement dated March 31, 1995, Second Amendment to Lease Agreement and Grants of Easement dated August 13, 1999, and Amended and Restated Grant of Easements dated August 13, 1999, and hereinafter collectively referred to as the "Lease" for a portion of Landlord's land located in the NE1/4 of the SE1/4, of Section 11, Township 20 South, Range 2 West, Willamette Meridian, in Lane County, Oregon, commonly known as Parcel A and more particularly defined in the Lease ("Leased Premises" and "Original Premises").
- B. The parties wish to amend the Lease according to the following terms and conditions.

AGREEMENT

1. Term. The Lease shall be extended to expire on June 30, 2021 ("Extended Term").
2. Leased Premises. Commencing July 1, 2011, the Leased Premises will be expanded to include that certain real property and improvements located adjacent to, and to the north of, the Original Premises as more particularly shown on the attached Exhibit A – Site Plan ("Expansion Premises"), which shall thereafter be collectively and commonly referred to as the "Leased Premises".
3. Monthly Base Rent. The Rental, hereinafter "Monthly Base Rent" during the Extended Term will be adjusted as follows:

<u>Period Covered</u>	<u>Monthly Installments</u>
July 1, 2011 – June 30, 2016	\$3,000.00
July 1, 2016 – June 30, 2021	\$3,300.00

Tenant shall pay Monthly Base Rent in advance, without offset, deduction or prior demand, and without abatement except as specifically allowed herein, on or before the first day of each calendar month during the term, including any Extended Term, of this Lease.

4. Option to Terminate. Tenant shall have the option to terminate the Lease under either of the following conditions:

- 4.1 Due to a natural disaster event (e.g., flood, tornado, landslide), Tenant loses power to the Leased Premises and it is reasonably determined that it will cost Tenant greater than \$60,000.00 to restore electrical power to the Leased Premises; or
- 4.2 (a) Tenant is not in default under the terms of the Lease; and (b) Tenant provides written notice to Landlord not less than 150, nor more than 210, days prior to June 30, 2016 of its intent to terminate. The Option to Terminate under this Section 4.2 shall be null and void after June 30, 2016.
5. Insurance. The Lease shall hereinafter be amended to include the following:
- "Tenant is self-insured under provisions of ORS 30.260 through 30.300 for liabilities, including personal injury and property damage."
6. Indemnity. The Lease shall hereinafter be amended to include the following:
- "Except for its own acts, neither party shall be held liable to the other or to any other party for any loss or damage, regardless of cause. Specifically, but without limiting the generality of the foregoing, the parties shall have no liability for any loss or damage due to personal injury, property damage, libel, slander, or imperfect or unsatisfactory communications experienced by the other for any reason whatsoever. Notwithstanding anything to the contrary herein, but subject to the limitations of the Oregon Tort Claims Act and the Oregon Constitution, Tenant will indemnify and hold harmless Landlord from any loss, damage or liability, consequential or otherwise, occasioned by, growing out of, or arising or resulting from acts of negligence by Tenant, its agents and employees."
7. Notices. Tenant's address for all notices under the Lease is:
- Notices/Correspondence/Billing Address
County Administrator
125 E. 8th Avenue
Eugene, OR 97401
- Landlord's address for all notices under the Lease is:
- Notices/Correspondence/Payment Address
Garfield Associates
PO Box 529
Eugene, OR 97440
- Overnight Delivery/Courier Address
Garfield Associates
388 Pearl Street
Eugene, OR 97401
8. Confirmation. All other terms and conditions of the Lease that are not herein changed or modified shall remain unchanged. In the event of a conflict between this Amendment and the original Lease, the provisions of this Amendment shall prevail.
9. Tenant's Offer. Execution of this Amendment by Tenant constitutes an offer which shall not be deemed accepted by Landlord until Landlord has executed this Amendment and delivered a duplicate original thereof to Tenant.

LANDLORD
GARFIELD ASSOCIATES

X _____

By: Dan Giustina

Its: Managing Partner

Date: _____

TENANT
LANE COUNTY
through the Lane County Sheriff's Office

X _____

By: Lane County Sheriff

Date: _____

X _____

By: County Administrator

Date: _____

EXHIBIT A -- SITE PLAN

Garfield Associates
Third Amendment to Lease

