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| Subject: Resolution to Approve Declaration of No Further Need: Disposition of Darnestown Telecommunications Tower |
| Purpose: To receive testimony/final action - vote expected |
| Analyst: Linda McMillan, Sr. Legislative Analyst Committee: Directly to Council |
| Keywords: Executive Order 23-19 |

EXPECTED ATTENDEES

Greg Ossont, Deputy Director, Department of General Services (for action item)

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATIONS

Action to approve the Declaration of No Further Need so that the Executive may execute a contract with Verizon to lease space on the existing telecommunications tower and adjacent land for a base station at 12100 Darnestown Road, the site of Rockville Fire Station #31.

Because this is a continuation of a fair-market contractual relationship that has been in place since 1997, the Council President agreed that action could be scheduled without a GO Committee worksession. At the time of this memo, no one had signed-up to testify at the public hearing. If the Council receives additional information and determines a GO Committee session is needed, the Council will need to adopt a resolution to extend the time for consideration.

DESCRIPTION/ISSUE

The Property Disposition law requires the Council approve a Declaration of No Further Needs for the sale of property or for leases of two years or more, with certain exceptions. On April 16, 2019, the Council received Executive Order 23-19, Disposition of Darnestown Telecommunication Tower, which is the Declaration of No Further Need.

SUMMARY OF KEY DISCUSSION POINTS

- On February 12, 2019, the Council received the Executive's material terms for this disposition. On April 16, 2019, the Executive sent his Declaration of No Further Need (Executive Order 23-19).
- Verizon Wireless has occupied space on the existing telecommunications tower since 1997. This is the 8th amendment to this license agreement, but the first since the Property Disposition law became effective.
- Verizon Wireless will lease space on the tower and use of land for a 2,000 square foot base station.
- The term is 5 years with an option for one 5-year term renewal/extension.
- The fee is a fair market fee of \$42,000 in the first year with a 3% increase in each subsequent year.
- The resolution to approve the Declaration of No Further Need was introduced on April 30, 2019.

This report contains:

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| Approval Resolution | © #1-2 |
| April 16, 2019 memo from CE | © #3 |
| Executive Order 23-19, Disposition of County Property: Darnestown Telecommunications Tower | © #4-5 |
| February 8, 2019 memo from CE | © #6 |

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Resolution No.: _____
Introduced: _____
Adopted: _____

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND**

Lead Sponsor: County Council

SUBJECT: Approval of Declaration of No Further Need; Disposition of County Property;
Darnestown Telecommunications Tower

Background

1. Montgomery County Code §11B-45 requires the Council to approve a Declaration of No Further Need before the Executive can dispose of real property that has more than nominal value. Prior to seeking Council approval of a Declaration of No Further Need, the Executive must:
 - (a) submit all material terms of the proposed disposition and any appraisal the Executive relied on in setting the property's market value to the Council; and
 - (b) publish a declaration in the County Register and post a notice on the County website that the County has no further need for the property.If the Council, by resolution, approves the Executive's Declaration of No Further Need, the Executive may dispose of the property for fair market value.
2. On February 12, 2019 County Executive Elrich transmitted the material terms for the disposition of space on the telecommunications tower located at 12100 Darnestown Road and use of land for a 2,000 square foot base station. The Executive recommends a five year lease with one five-year option for renewal/extension. The fee is a fair market price of \$42,000 in the first year with a 3% increase in each subsequent year.
3. On April 16, 2019, the Council received County Executive Elrich's recommendation and Declaration of No Further Need to dispose of the property under the previously transmitted material terms.
4. A public hearing was held on June 11, 2019.

Action

The County Council for Montgomery County, Maryland approves the following resolution:

The Declaration of No Further Need for space on the telecommunications tower located at 12100 Darnestown Road and adjacent land to house a 2,000 square foot base station may be disposed of as described in the material terms provided to the Council on April 16, 2019, and in Executive Order 23-19, Disposition of County Property: Darnestown Telecommunications Tower. The disposition is a fair market value transaction.

This is a correct copy of Council action.

Megan Davey Limarzi, Esq.,
Clerk of the Council




OFFICE OF THE COUNTY EXECUTIVE
ROCKVILLE, MARYLAND 20850

Marc Elrich
County Executive

MEMORANDUM

April 16, 2019

TO: Nancy Navarro, President
Montgomery County Council

FROM: Marc Elrich
Montgomery County Executive 

SUBJECT: Executive Order 23-19, Disposition of Darnestown Telecommunications Tower

On January 29, 2019, I sent material terms to Council and provided notice that I intended to enter into a long-term license for the telecommunications tower located at 12100 Darnestown Road, on the site of Rockville Fire Station #31. The telecommunications tower already exists and Verizon Wireless has been occupying the tower since 1997. The previous license and subsequent amendments will expire in 2019. The disposition will allow the County to enter into a long-term license with Verizon Wireless to continue using the telecommunications tower.

In accordance with the provisions of Section 11B-45, attached please find Executive Order 23-19, which was published in the March 2019 County Register to give notice of my intent to proceed with a license of the tower to Verizon Wireless. The required advertisement period of the material terms has now concluded without any comments or questions being received from the public.

I hope this information is helpful. If you have any questions, please contact Greg Ossont, Deputy Director, Department of General Services, at 240.777.6192 or greg.ossont@montgomerycountymd.gov.

Attachment: Executive Order 23-19

CC: Fariba Kassiri, Deputy Chief Administrative Officer
Greg Ossont, Deputy Director, Department of General Services
Catherine Matthews, Director, Upcounty Regional Services Center



MONTGOMERY COUNTY EXECUTIVE ORDER

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

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| Disposition of County Property: Darnestown Telecommunications Tower | Executive Order No. 23-19 | Subject Suffix |
| Montgomery County Department of General Services | Department No. | Effective Date 1/30/19 |

BACKGROUND

WHEREAS, the Darnestown Telecommunications Tower is located at 12100 Darnestown Road, on the site of Rockville Fire Station #31; and

WHEREAS, Verizon Wireless has been occupying space on the Tower at elevation 102 feet and using adjoining land for a 2,000 square foot base station since 1997 (the Tower space and land are referred to as the "Property").

WHEREAS, the Verizon facilities have a separate tax identification number; and

WHEREAS, the County and Washington D.C. SMSA Limited Partnership entered into a License Agreement dated February 19, 1997 for the use of the Property (the "Agreement"), an Amendment to License Agreement dated February 25, 2002 (the "First Amendment"), a Second Amendment to License Agreement dated August 26, 2003 (the "Second Amendment"), a Third Amendment to License Agreement dated November 21, 2006 (the "Third Amendment"), a Fourth Amendment to License Agreement dated September 17, 2009 (the "Fourth Amendment"), a Fifth Amendment to License Agreement dated October 6, 2011 (the "Fifth Amendment"), a Sixth Amendment to License Agreement dated July 30, 2014 (the "Sixth Amendment"), and a Seventh Amendment to License Agreement dated August 21, 2018 (the "Seventh Amendment") (the Agreement, First Amendment, Second Amendment, Third Amendment, Fourth Amendment, Fifth Amendment, Sixth Amendment and Seventh Amendment hereafter referred to as the "License"); and

WHEREAS, CELLCO PARTNERSHIP d/b/a Verizon Wireless (the "Licensee") herein is the successor in interest to Washington D.C. SMSA Limited Partnership; and

WHEREAS, the County and the Licensee desire to extend the term of the License, and to adjust the fee, pursuant to the terms of this Eighth Amendment; and

WHEREAS, the term of the License extension shall be five years with an option for one five-year term renewal extension; and

WHEREAS, the annual fee would be the fair market value of \$42,000 for the first year with a three percent increase for each subsequent year; and



MONTGOMERY COUNTY EXECUTIVE ORDER

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

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|---|---------------------------|---------------------------|
| Disposition of County Property: Darnestown Telecommunications Tower | Executive Order No. 23-19 | Subject Suffix |
| Montgomery County Department of General Services | Department No. | Effective Date 1/30/19 |

WHEREAS, the County Executive has determined the property is no longer needed for County use and should be licensed to the Licensee through a long-term license agreement; and

WHEREAS, the material terms of the license agreement are as stated above; and

WHEREAS, in accordance with the provision of Montgomery County Code Section 11B-45, Disposition of Real Property, the County Executive must issue an Executive Order declaring that County owned or controlled real property is no longer needed for County use.

ACTION

In consideration of the above recitals, the County Executive hereby declares that the Property is no longer needed for County use and is available for disposition through a five-year license agreement with an optional renewal to CELLCO PARTNERSHIP d/b/a Verizon Wireless in the manner described in this Executive Order.

Approved as to Form and Legality
Office of the County Attorney

By: *Clifford Royalty*
Date: *1/29/19*

APPROVED

Fariba Kassiri
Fariba Kassiri
Assistant Chief Administrative

Officer

Distribution:

- County Council
- County Attorney
- Department of General Services



OFFICE OF THE COUNTY EXECUTIVE
ROCKVILLE, MARYLAND 20850

Marc Elrich
County Executive

MEMORANDUM

February 8, 2019

TO: Nancy Navarro, President
Montgomery County Council

FROM: Marc Elrich *ME*
Montgomery County Executive

SUBJECT: Material Terms, Disposition of Darnestown Telecommunications Tower

This memorandum provides the material terms related to the long-term license agreement with Verizon Wireless for the telecommunications tower located at 12100 Darnestown Road, on the site of Rockville Fire Station #31. The telecommunications tower already exists and Verizon Wireless has been occupying space on the tower at elevation 102 feet and using adjoining land for a 2,000 square foot base station since 1997. The previous license and subsequent amendments will expire in 2019. The disposition will allow the County to enter a long-term license with Verizon Wireless to continue using the telecommunications tower. The Verizon facilities have a separate Tax ID Number from the Rockville Fire Station #31 property.

In accordance with the provisions of Section 11B-45, Disposition of Real Property, before seeking County Council approval of a declaration of no further need, the County Executive must submit to the Council all material terms of the disposition, including lease/license terms. An Executive Order will be published in the February County Register.

Accordingly, the following is a summary of the material terms:

- This amendment represents the eighth amendment to the license agreement.
- The license term would be five years with an option for one five-year term renewal extension.
- The annual fee would be for the fair market value of \$42,000 for the first year with a three-percent increase for each subsequent year.

I hope this information is helpful. If you have any questions, please contact Greg Ossont, Deputy Director, Department of General Services, at 240.777.6192 or greg.ossont@montgomerycountymd.gov.

Attachment: Executive Order 23-19

cc: Fariba Kassiri, Assistant Chief Administrative Officer
Greg Ossont, Deputy Director, DGS
Cathy Matthews, Director, Upcounty RSC