



June 3, 2015

TO: Programs & Administration Committee
FROM: Gary Wolff, Executive Director
BY: Brian Mathews, Senior Program Manager
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SUBJECT: Property Update - Renewal of Leases on WMA Property

BACKGROUND

The WMA owns approximately 1,600 acres of real property (Property) in eastern Alameda County (see map in Exhibit A). Primary access is from Interstate 580 via North Flynn Road, South Flynn Road and Patterson Pass Road. The WMA manages seven agreements for use of the property including a wind power easement, a residential tenant lease, two memoranda of agreement with government agencies (Bay Area Air Quality Management District, and the East Bay Regional Communication System Authority), a grazing license, and two leases with telecommunications companies.

WMA Ordinance 2000-01, Alternative Leasing Ordinance, specifies a public notice and selection process which is to be followed for leases and licenses with private entities. Leases and licenses also must meet the following conditions:

- A term of 10 years or less, and;
- The monthly rental income is less than \$5,000, and;
- The lease or license is not automatically renewable (meaning the procurement process outlined by the ordinance must be followed to renew), and;

The following three agreements are with private entities and are approaching the end of their terms.

- **Grazing License (Master) Agreement** (Paulo Farms; expires 10/31/2015)
- **Electrical Trench Lease** (Sprint Spectrum LLC, hereafter “Sprint”; expires 10/16/2016)
- **Communications Site Lease** (T-Mobile; expires 7/31/2015)

To facilitate the renewal of these agreements the requirements of WMA Ordinance 2000-01 were followed. A public notice was posted on April 9, 2015 with submittals due on May 7, 2015. Applicants were requested to submit a monetary bid for rent, a statement that they agree to the current terms of the agreement and can meet the insurance requirements described within. Agency staff hosted an optional property tour on April 29, 2015 from 11am-1pm as part of the public bid process.

DISCUSSION

Grazing License Agreement

The WMA currently has a Master Grazing License with Paulo Farms for cattle grazing on all of its property in the Altamont Hills in northeastern Alameda County. Staff received two bid responses to the

solicitation. The non-responsive bid did not agree to the draft license agreement we provided, as required in the public notice. The responsive bid was from Paulo Farms.

All operations must be consistent with the Range Management Plan (March 2005) (“RMP”) adopted by the WMA which provides that Animal Unit Month (AUM) carrying capacity will be regulated seasonally, and will vary depending on environmental conditions, including the amount of rainfall and forage available for livestock, riparian and wetland conditions, and rangeland plant diversity. The new Master Grazing License will be for a term of five years with an option by the WMA to extend another five years. The new grazing rent will be calculated in the same manner as the current grazing license. The rent during the first November to October grazing cycle will be the actual AUM’s allowed under the Range Management Plan multiplied by \$27.10/ AUM, adjusted by the ratio of the June 2015 Cattle Index to the June 2014 Cattle Index. The payment will be adjusted annually based on the ratio of the two prior year June Cattle Index values, and an adjusted number of AUMs based on site conditions. The maximum AUMs allowable in the RMP under current drought conditions is 1270 per year, but the WMA may restrict AUM to a lower number as necessary to meet the conditions in the Range Management Plan for residual dry matter at the end of the spring grazing season (measured in June). Under the average grazing conditions and current \$/AUM, the rent will not exceed \$5,000/month.

Staff is seeking authorization to finalize a new grazing license with the current lease holder under essentially the same terms as the current license, subject to approval as to form by legal counsel. We will ensure that the new license is consistent with the possibility of future conservation easements.

Electrical Trench Lease

In 2006 the WMA entered into an electrical trench lease which allows the lessor (Sprint) to access power from a source on WMA property. The trench traverses the WMA property (Assessor Parcel Numbers 99A-1810-001, 99A-1780-001-04, and 99A-1790-003) from a PG&E power pole and delivers power to a telecommunication facility on property neighboring the WMA property.

A responsive bid was not received as a result of the bid process for this lease. However, staff was in communication with a representative of the current lease holder during and after the process. After no response was received, staff contacted the representative who expressed some confusion concerning the requirements of the bid process. Their understanding was the solicitation was for other companies to bid on the lease they held and therefore they did not need to respond. There was also some confusion on the financial terms, which once clarified, were acceptable to Sprint.

Staff is seeking authorization to finalize a new lease with the current lease holder under the following financial terms:

- 10 year lease term.
- Annual rent escalation based on CPI.
- The initial rental amount upon renewal will be \$7,914.88/quarter as adjusted upward by the April 2016 Consumer Price Index.
- Contractual terms consistent with the existing lease agreement and approved to form by WMA Counsel.

Communications Site Lease

In July of 2000, by Resolution, the WMA Board entered into a land lease with Pacific Bell Wireless LLC for a cellular communication site. Through a succession of acquisitions and consolidations in the telecommunication industry, the lease was renewed in 2010 for 5 years with T-Mobile.

A completely responsive bid was not received as a result of the bid process for the communication site lease. However, staff was in communication with a representative (Crown Castle who provides property management service to the telecommunication industry) of the current lease holder during and after the process and a good faith effort was made to provide documents meeting the public notice deadline.

Through-out the process Crown Castle indicated T-Mobile's desire to continue the lease. The primary issue that has caused the delay is that T-Mobile lost its source of power to the cell site due to the NextEra repowering project. To supply power to the cellular towers, T-Mobile has installed a temporary solar panel array, which they would like to make permanent, which would require additional leased space.

Staff is seeking authorization to finalize a new lease with the current lease holder under the following terms:

- 10 year lease term.
- Annual rent escalation at 3%.
- The initial rental amount upon renewal will be for approximately 1,128 sq.ft. at a blended \$/sq.ft. rate of \$4.34/sq.ft. for the cell tower installation (area covered in the current lease), and \$2.17/sq.ft for the power supply installation (additional area to be included in the new lease).
- Contractual terms consistent with the existing lease agreement and approved to form by WMA legal counsel.

Other Considerations

Additional key considerations for the renewal of these agreements are that they:

- Maintain all necessary conditional use permits from the County for their operations as needed. This is especially relevant to the T-Mobile agreement, where a new power supply is involved.
- Not impede any potential future use of the land for "reserve landfill capacity," a composting facility, or conservation easements.
- Indemnification language in each of the agreements will be updated to meet the current indemnification requirements.
- Not interfere with other agreement holders, including the windfarm and residential tenant.

RECOMMENDATION

Staff recommends that the P&A Committee recommend to the WMA Board that it authorize the Executive Director to enter into renewals of leases with Paulo Farms, Sprint, and T-Mobile, per the terms described in the staff report, subject to approval as to form by legal counsel.

Exhibit A: Map of WMA Property

