

**REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS
OF BOARD GOVERNED COUNTY SERVICE AREAS
AND RECORD OF ACTION**

March 15, 2022

FROM

TERRY W. THOMPSON, Director, Real Estate Services Department

BRENDON BIGGS, Director, Department of Public Works

SUBJECT

Revenue License Agreement with Pacific Lightwave Inc. for Use of Land and Rack Space at County Service Area 70 TV-2 Transmission Site in Morongo Valley

RECOMMENDATION(S)

Acting as the governing body of the Board Governed County Service Area 70 TV-2:

1. Find that pursuant to California Government Code Section 25212(b), and consistent with California Government Code Section 25526.6, that a five-year revenue license agreement, with two five-year options to extend the term of the license, with Pacific Lightwave, Inc., for the period of March 15, 2022 through March 14, 2027, for the non-exclusive use of approximately 200 square feet of District-owned land and one rack space within the District-owned equipment shelter for the licensee's installation, operation and maintenance of a wireless internet facility at the County Service Area 70 TV-2 transmission site in Morongo Valley, is in the public interest and that the license agreement will not substantially conflict or interfere with the District's use of the property.
2. Approve a five-year Revenue License **Agreement No. 22-167** with Pacific Lightwave, Inc. with two five-year options to extend the term of the license, for the period of March 15, 2022 through March 14, 2027, for the non-exclusive use of approximately 200 square feet of District-owned land and one rack space within the District-owned equipment shelter for the licensee's installation, operation and maintenance of a wireless internet facility at the County Service Area 70 TV-2 transmission site in Morongo Valley for total revenue in the amount of \$62,492.
3. Adopt a finding of exemption under the California Environmental Quality Act and direct the Clerk of the Board of Supervisors to post the Notice of Exemption for the project.

(Presenter: Terry W. Thompson, Director, 387-5000)

COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES

Operate in a Fiscally-Responsible and Business-Like Manner.

FINANCIAL IMPACT

Approval of this item will not result in the use of additional Discretionary General Funding (Net County Cost). The total revenue to be received by Board Governed County Service Area 70 TV-2 (District) during this five-year license agreement is \$62,492. Revenue will be deposited in the District fund (3300001774). Costs to be paid by District with this license include electrical utility cost for the rack space in the District's equipment shelter, which is considered minimal and will be paid from the District budget (3300001774) but recovered from licensee in the

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annual fees. Sufficient appropriation is included in the 2021-22 District budget and will be included in future recommended budgets. Annual revenue is as follows:

<u>Year</u>	<u>Annual Revenue</u>
March 15, 2022 – March 14, 2023	\$12,060*
March 15, 2023 – March 14, 2024	\$11,965
March 15, 2024 – March 14, 2025	\$12,384
March 15, 2025 – March 14, 2026	\$12,817
March 15, 2026 – March 14, 2027	<u>\$13,266</u>
Total Revenue	<u>\$62,492</u>

* Includes a one-time contract development fee of \$500

BACKGROUND INFORMATION

The recommended action will find that a new five-year license agreement, with two five-year options to extend the term of the license, with Pacific Lightwave, Inc. (Lightwave), for the period of March 15, 2022 through March 14, 2027, is in the public interest and the license agreement will not substantially conflict or interfere with the District's use of the property and will provide for a new five-year license agreement, with two five-year options to extend the term of the license with Lightwave, for the non-exclusive use of approximately 200 square feet of District-owned land for a ground mounted antenna array and an underground conduit and one rack space within the District-owned equipment shelter for licensee's transmission equipment, for Lightwave's installation, operation and maintenance of a wireless internet facility at the District-owned transmission site in Morongo Valley (Site).

Lightwave, a wireless internet service provider, contacted the District with a request to collocate wireless internet equipment on the District-owned TV antenna tower and use rack space within the District-owned equipment shelter at the District's Site to facilitate Lightwave's ability to provide wireless internet service to Morongo Valley residents as well as Lightwave's agreement with the Morongo Unified School District (MUSD) for virtual instruction between teachers and students during the school year.

Given Lightwave's request, the District assessed its antenna tower and determined that deferred maintenance to the tower as well as infrastructure modifications, would be needed to support Lightwave's collocation of its equipment on the tower. In the alternative, Lightwave will place a ground mounted antenna array and an underground conduit on approximately 200 square feet of District land and use one rack space at the District's equipment shelter for transmission equipment. If the District completes the deferred maintenance and infrastructure modifications to the tower during the term, the District will return to the Board for approval of an amendment to relocate Lightwave's ground-mounted antenna system to the District's antenna tower and remove its ground mounted antennas and associated conduit and retain the rack space occupied within the District's equipment shelter.

The District requested that the Real Estate Services Department (RESD) determine the market license fees for use of the licensed areas and to develop a license agreement for the proposed use. The recommended annual fee is being discounted to half the market rate (District Discounted Rate), in consideration of Lightwave providing wireless internet service to the MUSD through its equipment at the licensed areas for the term of the license at a discounted rate of half of its internet service charges (MVUSD Discounted Rate). If District completes the maintenance and infrastructure modifications to the antenna tower, the District will return to the

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Board for approval of an amendment for Lightwave's relocation of its ground-mounted antenna array to the District-owned tower; at which time, the District's Discounted Rate will be revised to reflect a 25% discount off the market rate resulting in increased revenue to the District. In the event Lightwave does not continue to offer the MVUSD Discounted Rate to MVUSD, the District Discounted Rate will be adjusted to the then comparable market rate for such use.

This new five-year license agreement with Lightwave, with two five-year options to extend the term of the license, for the period of March 15, 2022 through March 14, 2027 provides for the use of one rack space within the District-owned equipment shelter and the use of approximately 200 square feet of District-owned land, for the installation, operation and maintenance of a wireless internet facility on the District-owned Site and provides revenue in the total amount of \$62,492 to the District.

Staff has reviewed the recommended action pursuant to the California Environmental Quality Act (CEQA) and has determined it to be categorically exempt from further environmental review in accordance with section 15301 Class 1 (b) of the CEQA guidelines.

Summary of License
Terms

Licensee:	Pacific Lightwave, Inc. (Simon Bojkovsky, President)
Location:	District-owned TV transmission site in Morongo Valley
Size:	Approximately 200 square feet of District-owned land and one rack space within the District-owned equipment shelter
Term:	Five-years commencing March 15, 2022
Options:	Two five-year options to extend the term of the license
License Fee:	Annual: \$ 11,560 *Low-range for comparable sites in the Morongo Valley area per the competitive set analysis on file with RESD
Annual Increases:	3.5%
Improvement Costs:	Provided by Licensee for its equipment
Maintenance:	Provided by Licensee for Licensee's equipment; provided by District for District-owned equipment shelter
Utilities:	Electrical utility for the rack space in the District's equipment shelter provided by District but recovered in the license fee
Insurance:	The Certificate of Liability Insurance, as required by the license, is on file with RESD

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Right to Terminate: Both parties have the right to terminate with 120 days written notice

PROCUREMENT

Pursuant to California Government Code Section 25212(b), which provides that the Board may create a property interest in County service area property for the benefit of the County service area, and consistent with California Government Code Section 25526.6, the Board may grant licenses for use of any District-owned property to a public utility corporation in the manner and upon the terms and conditions as the Board determines, upon a finding by the Board that the license is in the public interest and that the license will not substantially conflict or interfere with the District's use of the property.

REVIEW BY OTHERS

This item has been reviewed by County Counsel (Agnes Cheng, Deputy County Counsel, and Aaron Gest, Deputy County Counsel, 387-5455) on February 14, 2022; Department of Public Works-Special Districts Division (Trevor Leja, Assistant Director, 386-8810) on February 9, 2022; Purchasing Department (Bruce Cole, Supervising Buyer, 387-2148) on February 11, 2022; Finance (Tom Forster, Administrative Analyst, 387-4635 and Carl Lofton, Administrative Analyst, 387-5404) on February 24, 2022; and County Finance and Administration (Diana Atkeson, Deputy Executive Officer, 387-4376) on February 25, 2022.

(KB: 677-7961)

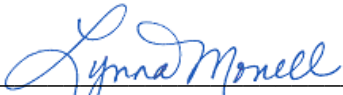
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Record of Action of the Board of Supervisors
Board Governed County Service Areas

APPROVED (CONSENT CALENDAR)

Moved: Janice Rutherford Seconded: Joe Baca, Jr.
Ayes: Col. Paul Cook (Ret.), Janice Rutherford, Dawn Rowe, Curt Hagman, Joe Baca, Jr.

Lynna Monell, CLERK OF THE BOARD

BY 
DATED: March 15, 2022



cc: BGCSA - Thompson w/agree w/CEQA & receipt
Contractor - C/O BGCSA w/agree
File - w/agree w/CEQA & receipt
CCM 03/15/2022