

**REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS
OF SAN BERNARDINO COUNTY
AND RECORD OF ACTION**

September 12, 2023

FROM

TERRY W. THOMPSON, Director, Real Estate Services Department
BRENDON BIGGS, Director, Department of Public Works - Solid Waste Management

SUBJECT

Amendment to Revenue License Agreement with One Internet America, LLC for Use of San Bernardino County-Owned Land in Ontario

RECOMMENDATION(S)

1. Find that approval of Amendment No. 3 to Revenue License Agreement No. 18-86 with One Internet America, LLC for the use of San Bernardino County-owned land in Ontario is an exempt project under the California Environmental Quality Act Guidelines Section 15301 – Existing Facilities (Class 1).
2. Approve **Amendment No. 3 to Revenue License Agreement No. 18-86** with One Internet America, LLC to extend the term of the Revenue License Agreement for the period of October 1, 2023 through September 30, 2026, which expired on February 28, 2022, and has since continued on a permitted month-to-month holdover period, conditioned upon full payment of any and all fees in arrears by the commencement date, and adjust the license fee for the use of approximately 100 square feet of San Bernardino County-owned land located at 2050 South Milliken Avenue in Ontario, for revenue in the amount of \$16,112.
3. Direct the Clerk of the Board of Supervisors to file and post the Notice of Exemption for the project as required under the California Environmental Quality Act.

(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 Discretionary General Funding (Net County Cost). The total revenue to be received by San Bernardino County (County) during this three-year amendment is \$16,112. Revenue will be deposited in the Department of Public Works – Solid Waste Management Division (SWMD) fund (6701004250) and the annual revenue is as follows:

<u>Year</u>	<u>Annual Fee Revenue</u>
*March 1, 2022 – February 28, 2023	\$3,459
**March 1, 2023 – September 30, 2023	\$1,959
October 1, 2023 – September 30, 2024	\$3,460
October 1, 2024 – September 30, 2025	\$3,564
October 1, 2025 – September 30, 2026	<u>\$3,670</u>
Total	\$16,112

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- * Holdover Period includes \$100 late fee
- ** Holdover Period

BACKGROUND INFORMATION

Amendment No. 3 to Revenue License Agreement No. 18-86 (License) with One Internet America, LLC (OIA) would extend the contract period from October 1, 2023 through September 30, 2026, conditioned upon full payment of any and all fees in arrears by the commencement date. The amendment will adjust the annual fee schedule for the use of approximately 100 square feet for the Milliken Sanitary Landfill (Milliken Landfill), on County-owned land located at 2050 South Milliken Avenue, Ontario, CA 91761 (Premises), to maintain and operate a wireless internet data transmission facility.

On February 13, 2018 (Item No. 51), the Board of Supervisors (Board) approved the License with OIA, as the licensee, for the period of March 1, 2018 through February 29, 2020, with the right for OIA to request two one-year extensions of the term, subject to County's approval in its sole discretion, for OIA's use of approximately 100 square feet of County-owned land located at the Milliken Landfill, to maintain and operate a wireless internet transmission facility for total revenue in the amount of \$6,000. The facility consists of a mast-mounted two-foot microwave antenna, a two-foot sector antenna (mounted on a non-operational weather station pole), and a weatherproof equipment cabinet containing the radio transmission equipment powered by a solar cell array mounted on the top of the equipment cabinet. The facility provides a link in OIA's system serving internet clients in the Ontario area.

On January 28, 2020 (Item No. 40), the Board approved Amendment No. 1 with OIA to extend the term of the License by one year for the period of March 1, 2020 through February 28, 2021, and adjust the annual fee for OIA's use of approximately 100 square feet of the Premises for use as a wireless internet data transmission facility.

On February 9, 2021 (Item No. 49), the Board approved Amendment No. 2 with OIA to extend the term of the License for one year for the period of March 1, 2021 through February 28, 2022, added the right for licensee to request two additional one-year extensions of the term, subject to County's approval in its sole discretion, and adjusted the fee for the licensee's use of approximately 100 square feet of the Premises for use as a wireless internet data transmission facility.

In 2022, OIA requested a renewal with a three-year extension of the License and SWMD requested that the Real Estate Services Department (RESO) prepare an amendment to extend the term of the License for the period of October 1, 2023 through September 30, 2026, following a permitted 19-month holdover for the period of March 1, 2022 through September 30, 2023. Negotiations with OIA regarding the fee at renewal and the term of the License have delayed the renewal process and on February 28, 2022, the License expired, but licensee was permitted to continue its use of the Premises until negotiations were finalized. The County may terminate the License by giving the OIA 180 days' prior written notice. All other terms and conditions of the License remain the same.

The project to approve the proposed Amendment No. 3 to the License with OIA was reviewed pursuant to the California Environmental Quality Act and determined to be categorically exempt under Guidelines Section 15301 – Existing Facilities (Class 1) because there is no possibility that the licensing of the subject property will have a significant effect on the environment.

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Summary of Lease Terms

Lessee:	One Internet America, LLC (Leisser Barrera, Member)
Location:	Milliken Sanitary Landfill 2050 South Milliken Avenue, Ontario, CA 91761 Assessor's Parcel Number: 0463-372-49-000
Size:	Approximately 100 square feet of land
Term:	Three years, October 1, 2023 through September 30, 2026
Options:	None, but Licensee has the right to request two additional one-year extension terms, subject to County's approval at its sole discretion
Rent:	Revenue per square foot per month: \$2.88* Monthly: \$288.00 Annual: \$3,460.00 *Mid-range for comparable facilities in the Ontario area per competitive set analysis on file with RESD
Annual Increases:	3%
Improvement Costs:	None
Maintenance:	Provided by Licensee
Utilities:	Provided by Licensee
Insurance:	The Certificate of Liability Insurance, as required by the License, is on file with RESD
Holdover:	Month-to-month basis upon the same provisions of the License
Right to Terminate:	County may terminate with 180-days' notice

PROCUREMENT

Pursuant to California Government Code Section 25526.6, the Board may grant licenses for use of any County-owned property to the state, or to any county, city, district, or public agency or corporation, or to any public utility corporation in the manner and upon the terms and conditions as the Board determines, upon a finding by the Board that the licenses are in the public interest and that the licenses will not substantially conflict or interfere with the County's use of the property.

REVIEW BY OTHERS

This item has been reviewed by County Counsel (John Tubbs II, Deputy County Counsel, and Maria Insixiangmay, Deputy County Counsel, 387-5455) on August 1, 2023; Solid Waste Management (Darren Meeka, Deputy Director, 386-8703) on August 8, 2023; Purchasing

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(Michelle Churchill, Supervising Buyer, 387-2070) on August 4, 2023; Finance (Carl Lofton, Administrative Analyst, 387-5404, and Garrett Baker, Administrative Analyst, 387-3077) on August 16, 2023; and County Finance and Administration (Valerie Clay, Deputy Executive Officer, 387-5423) on August 23, 2023.

(LD: 453-5349)

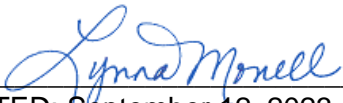
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Record of Action of the Board of Supervisors
San Bernardino County

APPROVED (CONSENT CALENDAR)

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

Lynna Monell, CLERK OF THE BOARD

BY  _____
DATED: September 12, 2023



cc: RESD - Thompson w/agree w/CEQA & receipt
Contractor - c/o RESD w/agree
File - w/agree w/CEQA & receipt
CCM 09/28/2023