

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

October 22, 2024

FROM

TERRY W. THOMPSON, Director, Real Estate Services Department

SUBJECT

Revenue License Agreement with APC Towers, LLC, for a Cellular Communications Site in San Bernardino

RECOMMENDATION(S)

1. Find that approval of a Revenue License Agreement with APC Towers, LLC, a Delaware Limited Liability Company, for a cellular communications site is an exempt project under the California Environmental Quality Act Guidelines Section 15303 - New Construction or Conversion of Small Structures (Class 3) and Section 15061(b)(3) common sense exemption.
2. Approve a five-year Revenue License **Agreement No. 24-985**, with four five-year options to extend the term of the license, with APC Towers, LLC, a Delaware Limited Liability Company, commencing on the earlier of (i) January 1, 2025; or (ii) the commencement of Licensee's construction of the Licensee's authorized equipment, for the use of approximately 816 square feet of San Bernardino County-owned land located at 780 E. Gilbert Street in San Bernardino, for the construction and operation of a cellular communications site for total revenue in the amount of \$230,346.
3. Direct the Real Estate Services Department to file the Notice of Exemption in accordance with 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 of this five-year Revenue License Agreement (Agreement) is \$230,346. Revenue will be deposited into the Real Estate Services Department (RESD) Rents budget (7810001000). The annual revenue is as follows:

<u>Year</u>	<u>Revenue</u>
January 1, 2025 - December 31, 2025	\$ 42,955
January 1, 2026 - December 31, 2026	\$ 44,459
January 1, 2027 - December 31, 2027	\$ 46,015
January 1, 2028 - December 31, 2028	\$ 47,625
<u>January 1, 2029 - December 31, 2029</u>	<u>\$ 49,292</u>
Total Revenue	\$230,346

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BACKGROUND INFORMATION

On January 2, 2024, RESD released a Request for Proposals (RFP) pursuant to County Code section 18.0101 for the license of approximately 816 square feet of County-owned vacant land, located at 780 E. Gilbert Street in San Bernardino (Premises), for use as a wireless communication facility. The Premises shall include a new build-to-suit communication shelter, a monopole of appropriate height not to exceed 100 feet, camouflaged to match the existing natural trees in the adjacent area and shall include such additional structures as necessary to provide emergency back-up power by generator or solar panel generation of electrical power. The site shall be enclosed by a perimeter concrete masonry fence line of eight feet in height.

On April 12, 2024, APC Towers, LLC a Delaware Limited Liability Company (APC Towers), was awarded the proposal as the sole proposer to construct and operate the new cellular communications lattice tower. The proposed tower would increase cellular service in San Bernardino and surrounding communities. Approval of this Agreement will allow APC Towers to move forward with the planning and development of the proposed cellular communications facility on County-owned land, pending all additional regulatory and licensing requirements to construct the proposed facility.

This Agreement is for a period of five years with four five-year options to extend the term. The Premises, once constructed, will consist of a 75 foot monopole antenna with eucalyptus tree coverings; a total of six antennas, an equipment cabinet on a concrete pad, two live eucalyptus trees with irrigation, a 25 kilowatt diesel generator, one electrical transformer, and a concrete masonry perimeter wall around the equipment. The County will receive revenue in the amount of \$42,955 for the first year with 3.5% annual escalations thereafter.

The use of the County-owned land pursuant to the Agreement was reviewed pursuant to the California Environmental Quality Act (CEQA) and determined to be categorically exempt under Section 15303 - New Construction or Conversion of Small Structures (Class 3) and Section 15061(b)(3) common sense exemption.

Summary of License Terms

Licensee:	APC Towers
Location:	780 E. Gilbert Street, San Bernardino
Size:	816 square feet total area of unimproved land
Term:	Five Years commencing the earlier of (i) January 1, 2025; or (ii) the commencement of Licensee's construction of the Licensee's authorized equipment and associated commercial electrical service
Options:	Four five-year options to extend the term
Revenue:	Annual: \$42,955* *Mid-range for comparable facilities in the San Bernardino City area per the competitive set analysis on file with RESD

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Annual Increases:	3.5%
Improvement Costs:	Provided by Licensee
Maintenance:	Provided by Licensee
Utilities:	Provided by Licensee
Insurance:	The Certificate of Liability Insurance, as required by the Agreement, is on file with RESD
Holdover:	Upon the end of the term, if permitted by the County, the Licensee shall continue on a month-to-month term upon the same terms and conditions which existed at the time of expiration except that the license fee shall be increased to 150% of the rent due at the time of expiration
Right to Terminate:	Licensee or County may terminate this Agreement at any time and for any reason by giving the other Party written notice of any termination pursuant to this paragraph of at least one years' notice prior to the date of termination; County has the right to terminate upon Licensee's default

PROCUREMENT

California Government Code section 25537 authorizes an alternative bidding procedure for the licensing of County property as prescribed by County Code section 18.0101. Pursuant to County Code section 18.0101, the Real Property Manager, RESD, is authorized to call for bids by posting and publishing a description and minimum acceptable terms for the property to be licensed. APC Towers submitted the sole proposal received for the proposed license in response to the RFP and met the minimum acceptable terms.

REVIEW BY OTHERS

This item has been reviewed by County Counsel (John Tubbs II, 387-5455) on September 18, 2024; Purchasing (Ariel Gill, Supervising Buyer, 387-2070) on September 12, 2024; Finance (Garrett Baker, Administrative Analyst, 387-3077) on September 30, 2024; and County Finance and Administration (Valerie Clay, Deputy Executive Officer, 387-5423) on October 1, 2024.

(BR: 531-2674)

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Record of Action of the Board of Supervisors
San Bernardino County

APPROVED (CONSENT CALENDAR)

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

Lynna Monell, CLERK OF THE BOARD

BY 
DATED: October 22, 2024



cc: Real Estate - Thompson w/agree
Contractor - c/o Real Estate w/agree
File - w/agree
MBA 10/22/2024