

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

November 19, 2024

FROM

TERRY W. THOMPSON, Director, Real Estate Services Department

SUBJECT

Amendment to Revenue License Agreement with BNSF Railway Company for Land in Devore

RECOMMENDATION(S)

1. Find that approval of Amendment No. 1 to Revenue License Agreement No. 19-415 with BNSF Railway Company, for the non-exclusive use of land, is an exempt project under the California Environmental Quality Act Guidelines Section 15304 – Class 4 Minor Alterations to Land.
2. Approve **Amendment No. 1** to Revenue License **Agreement No. 19-415** with BNSF Railway Company, for the non-exclusive use of approximately 5,908 square feet of San Bernardino County-owned land for access to and the maintenance of a slope in connection with railway operations, located in Devore near Glen Helen Regional Park, Assessor's Parcel Number 0349-191-10-0000, for the period of December 1, 2024, through November 30, 2029, following a permitted holdover for the period of July 1, 2024, through November 30, 2024, for an increase of \$3,380, for a new total revenue amount of \$6,500.
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.

Pursue County Goals and Objectives by Working with Other Agencies and Stakeholders.

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 the County for Amendment No. 1 (Amendment) to Revenue License Agreement No. 19-415 (Revenue License) during this five-year agreement is \$3,380, which includes the holdover cost of \$260 for the period of July 1, 2024, through November 30, 2024. Revenue will be deposited in the general fund (1161161000) as a lump sum payment for this five-year Revenue License.

BACKGROUND INFORMATION

The recommended action will extend the Revenue License with BNSF Railway Company (BNSF) for the non-exclusive use of approximately 5,908 square feet of Assessor's Parcel Number (APN) 0349-191-10-0000, in Devore near the Glen Helen Regional Park (Licensed Area) for access to and the maintenance of a slope thereon in connection with BNSF's railway operations, conducted on a property adjacent to the County land.

**Amendment to Revenue License Agreement with BNSF Railway
Company for Land in Devore
November 19, 2024**

On July 14, 2009 (Item No. 36), the Board of Supervisors (Board) approved License Agreement No. 09-703 (License), with BNSF for the use of approximately 5,908 square feet of County-owned land in Devore near Glen Helen Regional Park for access to and the maintenance of a slope in connection with BNSF's adjacent railway operations. The original term of the License was for the period from July 14, 2009, through June 30, 2014. BNSF performed an appraisal for the License to determine the value of the Licensed Area. The appraised value was determined to be \$3,000, which was approved by the Board as a lump sum payment for the License. On April 22, 2014 (Item No. 48), the Board approved a new license agreement, License Agreement, No. 14-237, for a five-year period from July 1, 2014, through June 30, 2019, for total revenue in the amount of \$3,000.

On June 25, 2019 (Item No. 48), the Board approved the Revenue License with BNSF for a new license agreement, License Agreement, No. 19-415, to allow BNSF continued use of the Licensed Area for access to and the maintenance of a slope thereon in connection with BNSF's railway operations, conducted on a property adjacent to the County-owned land. The Revenue License was for the period from July 1, 2019, through June 30, 2024, for total revenue in the amount of \$3,120. BNSF accesses and maintains the slope at its own expense. The County has no obligation, monetary or non-monetary, to improve, maintain, or repair the Licensed Area. On July 1, 2024, the Revenue License went into a permitted holdover due to license negotiations with BNSF and the time required for BNSF leadership to process and review the license terms. During the holdover period, BNSF has continued to access the Licensed Area and abide by the terms. This Amendment extends the term for the period of December 1, 2024, through November 30, 2029, for a cost of \$3,120 plus the holdover amount of \$260, for a new total revenue amount of \$6,500, allows for either party to terminate the lease with a written 30-day notice, and updates standard license agreement language. All other terms and conditions of the Revenue License remain unchanged.

The project to approve the Revenue License was reviewed pursuant to the California Environmental Quality Act (CEQA) and determined to be categorically exempt under Section 15304 – Class 4 Minor Alterations to Land, because the Revenue License does not involve the removal of healthy, mature or scenic trees. The Revenue License is to allow for continued minor slope grading to protect the existing railroad track bed.

Summary of License
Terms

Licensee:	BNSF Railway Company Kirby Cone, Portfolio Manager
Location:	APN 0349-191-10-0000
Size:	Approximately 5,908 square feet
Term:	December 1, 2024, through November 30, 2029
Options:	None
Revenue:	One lump sum payment of \$3,120. Licensee has paid the monthly holdover rate of \$52 on a monthly basis.
Maintenance:	Provided by Licensee

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Insurance: The Certificate of Liability Insurance, as required by the License, is on file with the Real Estate Services Department

Holdover: Upon the end of the term, if permitted by Licensee the Revenue License shall continue on a month-to-month term upon the same terms and conditions which existed at the time of expiration

Right to Terminate: Either party has the right to terminate with 30-days' notice

PROCUREMENT

Not applicable.

REVIEW BY OTHERS

This item has been reviewed by County Counsel (John Tubbs II, Deputy County Counsel, 387-5455) on October 21, 2024; Purchasing (Ariel Gill, Supervising Buyer, 387-2070) on October 22, 2024; Finance (Garrett Baker, Administrative Analyst, 387-3077) on October 31, 2024; and County Finance and Administration (Valerie Clay, Deputy Executive Officer, 387-5423) on November 1, 2024.

(YG: 665-0268)

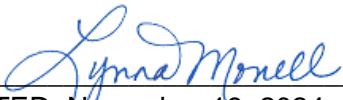
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Record of Action of the Board of Supervisors
San Bernardino County

APPROVED (CONSENT CALENDAR)

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

Lynna Monell, CLERK OF THE BOARD

BY 
DATED: November 19, 2024



cc: Real Estate - Thompson w/agree
 Contractor - c/o Real Estate w/agree
 File - w/agree
MBA 11/25/2024