

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

May 18, 2021

FROM

TERRY W. THOMPSON, Director, Real Estate Services Department

LARRY AINSWORTH, Chief Information Officer, Innovation and Technology Department

SUBJECT

Amendment No. 2 to Lease Agreement with Western Summit Enterprises, Inc. for Antenna Space for the Innovation and Technology Department at the Turquoise Mountain Communication Site near Baker

RECOMMENDATION(S)

1. Approve the Real Estate Services Department's use of an alternative procedure in lieu of a Formal Request for Proposals as allowed per County Policy 12-02 – Leasing Privately Owned Real Property for County Use to amend Lease Agreement No. 04-1263 with Western Summit Enterprises, Inc. to add one antenna with additional lease fees to commence on the earlier of antenna installation or June 1, 2021, extend the term of the lease for five years for the period of June 1, 2021 through May 31, 2026, following a permitted holdover for the period of December 1, 2020 through May 31, 2021, adjust the rental rate schedule for the extended term, and add two five-year options to extend the term of the lease at the Turquoise Mountain Communications Site near Baker (an aggregate term of 31 years if all extension options are exercised).
2. Approve Amendment No. 2 to Lease Agreement No. 04-1263 with Western Summit Enterprises, Inc. to add one antenna with additional lease fees to commence on the earlier of antenna installation or June 1, 2021, extend the term of lease for five years for the period of June 1, 2021 through May 31, 2026, following a permitted holdover for the period of December 1, 2020 through May 31, 2021, adjust the rental rate schedule for the extended term, and add two five-year options to extend the term of the lease for the Innovation and Technology Department at the Turquoise Mountain Communication Site near Baker in the total amount of \$283,279.
3. Direct the Clerk of the Board of Supervisors to maintain the confidentiality of Exhibit C to the Amendment No. 2 to the Antenna Site Lease Agreement with Western Summit Enterprises, Inc. pursuant to California Government Code Section 6254.19.

(Presenter: Terry W. Thompson, Director, 387-5252)

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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.

FINANCIAL IMPACT

Approval of this item will not result in the use of Discretionary General Funding (Net County Cost). The total cost of this five-year amendment is \$283,279, reflecting an increase of \$300 per month in lease fees for the additional antenna, commencing on the earlier of antenna installation or June 1, 2021, holdover rent, and rent during the extended term with a 3% annual escalation. Rents will be paid by the Innovation and Technology Department (ITD). Sufficient appropriation is available in the ITD Telecommunication Services 2020-21 budget and will be included in future recommended budgets. Annual lease costs are as follows:

<u>Period</u>	<u>Lease Cost</u>
December 1, 2020 – May 31, 2021	\$ 22,133
June 1, 2021 – May 31, 2022	\$ 49,188
June 1, 2022 – May 31, 2023	\$ 50,664
June 1, 2023 – May 31, 2024	\$ 52,184
June 1, 2024 – May 31, 2025	\$ 53,749
June 1, 2025 – May 31, 2026	\$ 55,361
Total Cost:	\$283,279

BACKGROUND INFORMATION

The recommended action will amend an existing lease agreement with Western Summit Enterprises, Inc., (Western) to: provide for upgrades to modify installed equipment by adding an additional microwave dish antenna on the Western-owned antenna tower located near Baker with additional lease fees to commence on the earlier of equipment installation or June 1, 2021; extend the term of the lease five years for the period of June 1, 2021 through May 31, 2026, following a permitted six-month holdover for the period of December 1, 2020 through May 31, 2021; adjust the lease fees for the extended term, and; add two five-year options to extend the term of the lease.

On December 14, 2004 (Item No. 41), the Board of Supervisors (Board) approved a 15-year Lease Agreement, No. 04-1263, with Western for antenna, rack, and generator space at the Turquoise Mountain Communication Site near Baker. The original term of the lease was for the period of December 1, 2005 through November 30, 2020. In the 16 years since the lease was originally approved, the Board has approved one amendment to modify equipment at the site and adjust the rental rate.

<u>Amendment No.</u>	<u>Approval Date</u>	<u>Item No.</u>
1	December 19, 2017	49

ITD requested that the Real Estate Services Department (RES D) negotiate an amendment to the lease to provide for the modification of installed equipment with the addition of one six-foot microwave dish antenna to facilitate improved emergency responder radio coverage in the extreme northwest area of the County, negotiate a five-year extension of the term, and add two five-year extension options. Due to protracted negotiations the lease went into a permitted holdover on December 1, 2020. This site best meets the technical and programmatic needs of the department in providing the connectivity necessary to deliver improved radio coverage.

Amendment No. 2 to Lease Agreement No. 04-1263 will provide for the modification of installed equipment with the addition of one six-foot microwave dish antenna on the Western-owned antenna tower located near Baker, with additional lease fees of \$300 per month to commence on the earlier of antenna installation or June 1, 2021, the extension of the term of the lease five years for the period of June 1, 2021 through May 31, 2026, following a permitted six-month holdover for the period of December 1, 2020 through May 31, 2021, the adjustment of the rental rate schedule for the extended term, and the addition of two five-year options to extend the term of the lease at the Turquoise Mountain Communication Site near Baker.

RES D requests the Board protect the confidentiality of Exhibit "C-" of the lease documents to provide security for the frequencies used by ITD and the location details of the County equipment protecting the Public Safety Communication System at this communication site from targeted vandalism and interference of the technical capabilities of the County system.

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Staff has reviewed the recommended action pursuant to the California Environmental Quality Act (CEQA) and has determined that it does not constitute a project. Accordingly, no further action is required under CEQA.

Summary of Lease Terms

Licensor:	Western Summit Enterprises, Inc., a California corporation d.b.a. Mountain Investments (Chris Killian, President)
Location:	Turquoise Mountain Communication Site near Baker
Size:	Antenna, rack, and generator space
Term:	Five years, commencing June 1, 2021, following a permitted month-to-month holdover for the period of December 1, 2020 through May 31, 2021
Options	Two five-year options to extend the term
Rent:	\$49,188 for the first full year
Annual Increases:	3%
Improvement Costs:	Provided by County
Maintenance:	Provided by County for antennas, radio equipment and generator
Utilities:	Provided by County
Insurance:	The Certificate of Liability Insurance, as required by the lease, is on file with RESD
Right to Terminate:	The County has the right to terminate with 90-days' notice

PROCUREMENT

On December 14, 2004 (Item No. 41), the Board approved a 15-year Lease Agreement, No. 04-1263, procured according to County Policy 12-02 – Leasing Privately Owned Real Property for County Use (Policy 12-02) using an alternative procedure process in lieu of a Formal Request for Proposals (RFP) process as provided in the Policy.

Extending the term of the lease for five years and adding two five-year options to extend the term of the lease would normally require a Formal RFP. However, Policy 12-02 also provides that the Board may approve the use of an alternative procedure to the requirement for a formal RFP process whenever the Board determines that compliance with the formal RFP requirements would unreasonably interfere with the financial or programmatic needs of the County or when the use of an alternative procedure would otherwise be in the best interest of the County. Policy 12-02 also requires a thorough and detailed review by the County Administrative Office or designee to validate the need for and provide a competitive analysis of a lease with a term of more than 20 years. Extending the term by five years will result in an aggregate term of 21 years and three months. If the two five-year options to extend the term of the lease are exercised, the aggregate term of the lease will be 31 years and three months.

RESO, acting in its approved capacity as the CAO designee to review proposed real property leases under Policy 12-02, completed a competitive analysis of the market and found the current rent to be competitive. In addition, Turquoise Mountain is the only communication site north of Baker that links with the County's public safety communication system and therefore best meets the technical requirements and programmatic needs of the department to provide reliable signal transmission and reception extending to other areas of the county. The Turquoise Communication Site was recertified as part of the 800MHz project upgrade on December 17, 2013. Therefore, RESO requests the Board's approval to extend the term of the lease five years for the period of June 1, 2021 through May 31, 2026, following a permitted six month holdover for the period of December 1, 2020 through May 31, 2021 and add two five-year options to extend the term of the lease without the use of a formal RFP process.

REVIEW BY OTHERS

This item has been reviewed by County Counsel (Agnes Cheng, Deputy County Counsel and Bonnie Uphold, Deputy County Counsel, 387-5455) on ~~May 17~~^{arch-29}, 2021; Innovation and Technology Department (Tim Trager, Chief, Public Safety Communications Division, 388-5563) on March 11, 2021; Purchasing Department (Bruce Cole, Supervising Buyer, 387-2148) on March 18, 2021; Finance (Monique Amis, Administrative Analyst, 387-4883 and Carl Lofton, Administrative Analyst, 387-5404) on April 5, 2021; and County Finance and Administration (Matthew Erickson, County Chief Financial Officer, 387-5423) on April 5, 2021.

(JAG: 677-8210)