

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

March 28, 2023

FROM

TERRY W. THOMPSON, Director, Real Estate Services Department

JAMES JENKINS, Director, Department of Airports

SUBJECT

Revenue License Agreement with E.D.I. Media, Inc. for Use of Land for Broadcast Tower at Chino Airport

RECOMMENDATION(S)

1. Find that approval of a revenue license agreement with E.D.I. Media, Inc., for the use of land to install a Broadcast Tower in Chino is an exempt project under the California Environmental Quality Act Section 15301 - Existing Facilities (Class 1) and Section 15303 - Installation of New Small Facilities (Class 3).
2. Approve a revenue license agreement with E.D.I. Media, Inc., for approximately 40,000 square feet of ground area within Assessor's Parcel Numbers 1055-211-03 (portion), 1055-221-01(portion) and 1055-221-03, for the installation and operation of a broadcast tower at the Chino Airport, for a total revenue in the amount of \$129,992, for at the period of five years from the commencement date, with one five-year option to extend. April 1, 2023 through March 31, 2028.
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 the Department of Airports (Airports) during this five-year agreement is \$129,992. The revenue will be deposited in the Airports' Fund (6315001000). The annual revenue is as follows:

<u>Period</u>	<u>License Fee</u>
<u>April 1, 2023 — March 31, 2024</u> <u>Year 1</u>	\$24,000
<u>April 1, 2024 — March 31, 2025</u> <u>Year 2</u>	\$24,960
<u>April 1, 2025 — March 31, 2026</u> <u>Year 3</u>	\$25,958
<u>April 1, 2026 — March 31, 2027</u> <u>Year 4</u>	\$26,997
<u>April 1, 2027 — March 31, 2028</u> <u>Year 5</u>	\$28,077
Total Revenue	\$129,992

BACKGROUND INFORMATION

The proposed revenue license agreement with E.D.I. Media, Inc. (EDI), contingent upon Federal Aviation Administration (FAA) approval as well as modification, amendment, expiration or earlier termination of Lease No. CNO - 2497 with R&R Properties (a current tenant at Chino Airport), is for approximately 40,000 square feet of unimproved land for constructing, operating, repairing, and maintaining a 100-foot cellular communication broadcast tower, site, and associated equipment at the Chino Airport. EDI's installation consists of a 100-foot tower, anchored by a set of guy wires (50-foot level). There will be a total of three anchor positions, spaced at 120-degree angles. There will also be a 12 by 10-foot utility shed that will be converted into the building which houses the transmitter and other electrical gear.

On July 11, 2022, EDI requested a meeting with the Real Estate Services Department (RES D) and Airports to review the Chino Airport layout to determine if a site would be viable for the installation of a broadcast site.

On August 11, 2022, Airports requested that RES D initiate a Solicitation of Proposals (SOP) process to obtain proposals from qualified aviation and non-aviation-related users for the license of the premises. The SOP was issued on August 11, 2022, and remained open through September 8, 2022. RES D received one response from EDI.

On December 7, 2022, Airports asked RES D to prepare and negotiate a license agreement, contingent upon FAA approval as well as modification, amendment, expiration or earlier termination of Lease No. CNO - 2497 with R&R Properties, for a term of five years with one five-year option to extend the term of the license agreement. RES D negotiated a license agreement with EDI with terms and conditions that are mutually beneficial. The license terms and rent amounts are consistent with San Bernardino County (County)-approved Airport facility appraisals and reflects current broadcast tower market rates.

The project to approve a five-year revenue license agreement with EDI was reviewed pursuant to the California Environmental Quality Act (CEQA) and determined to be categorically exempt under Section 15301 - Existing Facilities (Class 1) and Section 15303 – Installation of New Small Facilities (Class 3) because there is no possibility that the leasing of the subject property or the installation of broadcast tower equipment will have a significant effect on the environment.

Summary of License Terms

Licensee:	E.D.I. Media, Inc. (James Su, President)
Location:	A portion of Assessor Parcel Numbers (APN) 1055-211-03 (portion), 1055-221-01(portion) and 1055-221-03 at Chino Airport.
Size:	Approximately 40,000 square feet of ground space
Term:	Five years, <u>commencing April 1, 2023</u>

Contingency: This License is contingent upon the later to occur of: (i) the COUNTY'sCounty's receipt of a Section 163 determination from the FAA that this license and stated use is approved or is not subject to the FAA's approval for land use purposes; and (ii) the modification, amendment, expiration or earlier termination of Lease No. —CNO - 2497 with R&R Properties for that portion of the Premises currently occupied by R&R Properties. The License Agreement shall be null and void if the contingencies

do not occur within six months of execution of this License Agreement by all parties. The License Agreement commences on the later of April 1, 2023, or the occurrence of the last contingency stated herein.

Options:	One five-year option to extend the term of the license
Rent:	Monthly: \$2,000 for ground space Annual: \$24,000 for ground space *Per Fair Market Rent Appraisal for Leasable Spaces at Chino Airport on with RESD
Annual Increases:	4% increase per year, for years 2 through 5
Improvement Costs:	Provided by Licensee
Maintenance:	Provided by Licensee for the broadcast tower; for EDI's broadcast equipment
Utilities:	Electrical provided by Licensee. No water or sewer service will be needed.
Insurance:	The Certificate of Liability Insurance, as required by the license, is on file with RESD.
Holdover:	Shall increase 150% immediately preceding the expiration or earlier termination of this L icense.
Right to Terminate:	County may terminate at any time and for any reason by providing at least 90-days' written notice; Licensee may terminate by providing at least 180 90-days' written notice only if, through no fault of Licensee, Licensee cannot secure or loses any permits necessary to operate the broadcast site or licensed space.

PROCUREMENT

On August 11, 2022, RESD issued an SOP pursuant to County Policy 12-04, Leasing County Airport Real Property to solicit proposals from qualified aviation and non-aviation-related users for the license of the Premises at Chino Airport. Only one proposal was received and evaluated according to criteria identified in the SOP including, but not limited to: proposed use, proposer's business experience, revenue to the County, terms and benefits, improvements or modifications of the existing facility, SOP package responsiveness and completeness, record of any unsatisfactory performance on contracts with the County, proposer's exceptions or deviations of the SOP requirements or the contract terms. A license based on an evaluation of the criteria set forth in the SOP and the proposal from EDI is recommended for the Board of Supervisors' approval.

REVIEW BY OTHERS

This item has been reviewed by County Counsel (John Tubbs II, Deputy County Counsel, 387-5455) on March ~~22~~27, 2023; Airports (Maureen Snelgrove, Assistant Director, 387-2591) March 17, 2023; Finance (Elias Duenas, Administrative Analyst, and Garrett Baker Administrative Analyst, 387-5423) on March 17, 2023; and County Finance and Administration (Valerie Clay, Deputy Executive Officer, 387-5423) on March 17, 2023.

(AR: 893-0002)