

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

May 23, 2023

FROM

**BRENDON BIGGS, Chief Flood Control Engineer, Flood Control District
TERRY W. THOMPSON, Director, Real Estate Services Department**

SUBJECT

Amend Revenue License Agreement with Spectrum Pacific West, LLC, a Delaware Limited Liability Company, for the use of Flood Control District Land in Rialto

RECOMMENDATION(S)

Acting as the governing body of the San Bernardino County Flood Control District:

1. Find that approval of Amendment No. 3 to Revenue License Agreement No. 06-455 with Spectrum Pacific West, LLC, a Delaware Limited Liability Company, for the use of San Bernardino County Flood Control District land, is an exempt project under the California Environmental Quality Act Section 15301 - Existing Facilities (Class 1).
2. Approve **Amendment No. 3 to Revenue License Agreement No. 06-455** to reflect a change in Licensee from Time Warner Cable to Spectrum Pacific West, a Delaware Limited Liability Company, extend the term of the license due to the licensee's exercise of the last five-year extension option, for the period of June 1, 2023 through May 31, 2028, following a permitted license holdover for the period of October 1, 2020 through May 31, 2023, and modify the real property square footage from 7,780 square feet to 3,900 square feet of San Bernardino County Flood Control District right-of-way, located south of Interstate 210, east of Ayala Drive, adjacent and parallel to the Cactus Channel in Rialto, for total revenue in the amount of \$53,430.
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). San Bernardino County Flood Control District (FCD) is funded by property tax revenue, fee revenue, and other local, state, and federal funding. The total revenue anticipated to be received by the FCD during the five-year Amendment, including the permitted holdover at the current rate of \$721.50 per month for 32 months, is \$53,430. Revenue will be deposited in the FCD's Zone 1 Fund (1910002518). Total Revenue is as follows:

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<u>Year</u>	<u>Annual License Fee</u>	<u>Annual Credit Amount</u>	<u>New Annual License Fee</u>
October 1, 2020 – May 31, 2023	*\$23,088	\$0.00	*\$23,088
June 1, 2023 – May 31, 2024	\$10,296	\$5,085	\$5,211
June 1, 2024 – May 31, 2025	\$10,708	\$5,085	\$5,623
June 1, 2025 – May 31, 2026	\$11,136	\$5,085	\$6,051
June 1, 2026 – May 31, 2027	\$11,582	\$5,085	\$6,497
June 1, 2027 – May 31, 2028	<u>\$12,045</u>	<u>\$5,085</u>	<u>\$6,960</u>
Total Revenue	\$78,855	\$25,425	\$53,430

*Permitted Holdover does not include Annual Credit since the credit does not take effect until June 1, 2023.

BACKGROUND INFORMATION

This Amendment to the existing Revenue License Agreement No. 06-455 (Agreement) will reflect a change in Licensee from Time Warner Cable to Spectrum Pacific West, a Delaware Limited Liability Company (Licensee), reduce the amount of real property licensed to Licensee from 7,780 square feet to 3,900 square feet due to 3,880 square feet of FCD right-of-way being sold to the California Department of Transportation (Caltrans) in April 2017, and will be extended by using an existing five-year extension option, for the period of June 1, 2023, through May 31, 2028.

There is also a permitted holdover of the license for the period of October 1, 2020, through May 31, 2023, due to verification of the sale of FCD property to Caltrans and a prolonged negotiation with Licensee. The Amendment will adjust the fee schedule to reflect a credit in the amount of \$5,085 per year for the entire five-year term due to the real property square footage being modified as stated above, for the non-exclusive use of approximately 3,900 square feet of FCD land located south of Interstate 210, east of Ayala Drive, adjacent and parallel to the Cactus Channel in Rialto.

On June 6, 2006 (Item No.52), the Board of Supervisors (Board) approved the five-year Agreement with three five-year options to extend, with Century-TCO California, LP for the non-exclusive use of 7,780 square feet of FCD right-of-way located south of Interstate 210, east of Ayala Drive, adjacent and parallel to the Cactus Channel in Rialto, for the installation, operation and maintenance of an underground 3-inch conduit for a community access television data line. The original term of the Agreement was from October 1, 2005, through September 30, 2010.

On January 11, 2011 (Item No. 60), the Board approved Amendment No. 1 approving a change of ownership to Time Warner Cable, effective August 2006, exercised the first of three five-year options to extend the term through September 30, 2015, and added provisions regarding the American Recovery and Reinvestment Act of 2009, and schedule of Expenditures of Federal Awards. On August 19, 2014 (Item No. 60), the Board approved Amendment No. 2, allowing the Licensee to exercise their second of three five-year options to extend the term through September 2020.

The project to approve this Amendment to the Agreement was reviewed pursuant to the California Environmental Quality Act (CEQA) and determined to be categorically exempt under Section 15301 - Existing Facilities (Class 1) because there is no possibility that the leasing of the subject property will have a significant effect on the environment.

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Summary of License

Terms

Licensee: Spectrum Pacific West, LLC, a Delaware Limited Liability Company

Location: South of Interstate 210, east of Ayala Drive, adjacent and parallel to the Cactus Channel in Rialto

Size: Approximately 3,900 square feet

Term: Five years commencing June 1, 2023

Options: None

Rent: Cost per square foot per month: \$0.22*
Monthly: \$858
Annual: \$10,296
*High-range for comparable facilities in the Rialto area per the competitive set analysis on file with Real Estate Services Department (RESD)

Annual Increases: 4%

Improvement Costs: None

Custodial: None

Maintenance: Provided by Licensee

Utilities: None

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

Holdover: Upon consent of FCD for a month-to-month term under the same terms and conditions under the license; rents will be the same as last rent paid

Right to Terminate: Either party may terminate with 90-days' notice

Parking: None

PROCUREMENT

Not applicable

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REVIEW BY OTHERS

This item has been reviewed by County Counsel (John Tubbs II, Deputy County Counsel, and Sophie A. Curtis, Deputy County Counsel, 387-5455) on April 25, 2023; Flood Control District (Brendon Biggs, Director, 387-7906) on April 26, 2023; Purchasing (Bruce Cole, Supervising Buyer, 387-2148) on April 28, 2023; Finance (Carl Lofton, 387-5404, and Garrett Baker, 387-3077, Administrative Analysts) on May 8, 2023; and County Finance and Administration (Paloma Hernandez-Barker, Deputy Executive Officer, 387-5423) on May 8, 2023.

(DM: 909-677-8388)

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Record of Action of the Board of Supervisors
San Bernardino County Flood Control District

APPROVED (CONSENT CALENDAR)

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

Lynna Monell, CLERK OF THE BOARD

BY *Lynna Monell*
DATED: May 23, 2023



cc: RESD - Thompson w/ agree, NOE & Rec.
Contractor c/o RESD w/ agree
File w/ agree
JLL 06/2/2023