

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

June 23, 2020

FROM

**TERRY W. THOMPSON, Director, Real Estate Services Department
BRENDON BIGGS, Interim Director, Department of Public Works**

SUBJECT

Amendment No. 3 to Revenue Lease Agreement with NCWPCS MPL 24 – Year Sites Tower Holdings LLC for County-owned Land in Fontana

RECOMMENDATION(S)

Approve **Amendment No. 3** to Lease **Agreement No. 12-738** with NCWPCS MPL 24 – Year Sites Tower Holdings LLC, as tenant, to confirm the tenant's automatic exercise of the first of its three five-year options to extend the term of the lease for the period November 1, 2018 through October 31, 2023, reflect the tenant's concurrent early exercise of the second and third of its three five-year options to extend the term of the lease for the period of November 1, 2023 through October 31, 2033, confirm the existing rent schedule from November 1, 2018 through June 30, 2020, adjust the rental schedule from July 1, 2020 through October 31, 2033, and update standard lease agreement language for a portion of County-owned land, Assessor Parcel Number (APN) 0234-231-03, in Fontana for the Department of Public Works-Transportation for revenue in the amount of \$822,100.
(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 Public Works – Transportation (DPW-T) (6650002004) during the period of the proposed amendment is \$822,100. Annual lease revenue, which confirms the existing rent from November 1, 2018 through June 30, 2020 and adjusts the rent from July 1, 2020 through October 31, 2033 as follows:

<u>Period</u>	<u>Annual Lease Revenue</u>
November 1, 2018 to October 31, 2019	\$ 20,820
November 1, 2019 to June 30, 2020	\$ 16,040
July 1, 2020 to October 31, 2020	\$ 14,852
November 1, 2020 to October 31, 2021	\$ 46,332
November 1, 2021 to October 31, 2022	\$ 48,180
November 1, 2022 to October 31, 2023	\$ 50,112
November 1, 2023 to October 31, 2024	\$ 52,116
November 1, 2024 to October 31, 2025	\$ 54,204
November 1, 2025 to October 31, 2026	\$ 56,376

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<u>Period</u>	<u>Annual Lease Revenue</u>
November 1, 2026 to October 31, 2027	\$ 58,656
November 1, 2027 to October 31, 2028	\$ 60,972
November 1, 2028 to October 31, 2029	\$ 63,408
November 1, 2029 to October 31, 2030	\$ 65,940
November 1, 2030 to October 31, 2031	\$ 68,580
November 1, 2031 to October 31, 2032	\$ 71,328
November 1, 2032 to October 31, 2033	\$ 74,184
Total Revenue	\$822,100

BACKGROUND INFORMATION

The recommended action will amend an existing revenue lease agreement with NCWPCS MPL 24 – Year Sites Tower Holdings LLC (PCS), as tenant, to confirm the tenant's automatic exercise of the first of its three five-year options to extend the term of the lease for the period November 1, 2018 through October 31, 2023, reflect the tenant's concurrent early exercise of the second and third of its three five-year options to extend the term of the lease for the period of November 1, 2023 through October 31, 2033, confirm the existing rent schedule from November 1, 2018 through June 30, 2020, adjust the rental schedule from July 1, 2020 through October 31, 2033, and update standard lease agreement language for a portion of County-owned land, APN 0234-231-03, in Fontana.

On September 15, 2009 (Item No. 37), the Board of Supervisors (Board), with the City of Fontana's (City) consent, adopted Resolution No. 2009-206 declaring the segment of Cherry Avenue between Slover Avenue and Valley Boulevard within the City limits as a County Highway (Project), and approved Cooperative Agreement No. 09-868, which details the contractual obligations between the County and the City for the Project. This Board action gave the County the authority necessary to act as the lead agency and the legal authority to acquire right-of-way for the Project in the County's name. Upon completion of the Project, this segment of Cherry Avenue will cease to be a County Highway and all the right-of-way acquired in the name of the County and needed for improvements to Cherry Avenue will be deeded to the City.

In the County's capacity as lead agency for the Project, on March 2, 2010 (Item No. 41), the Board authorized the Real Estate Services Department (RESA) to acquire the right-of-way needed for the Project. One such acquisition was the property located at 14605 Washington Drive in Fontana (a portion of APN 0234-232-46; now APN 0234-232-49) from David C. Jones, Trustee of the David C. Jones Separate Property Trust dated September 10, 1997 (DCJ Trust), as successor-in-interest to the original property owner, which included a ground lease and a first amendment with NCWPCS MPL 24 – Year Sites Tower Holdings LLC, as successor-in-interest to the original tenant, for land for cell tower use.

The Project required the cell tower to be relocated from 14605 Washington Drive because it was located in the alignment for the Cherry Avenue/Interstate 10 Interchange. After extensive examination of possible re-location sites, the owner of the cell tower selected a neighboring site that was also acquired by the County for the Project. The relocation site is the northerly portion of one parcel (APN 0234-231-03) located in Fontana. Amendment No. 2 to the ground lease, which was approved by the Board, reflects the new location of the County-owned land for the cell tower plus the change in landlord on the ground lease from DCJ Trust to the County.

<u>Amendment No.</u>	<u>Approval Date</u>	<u>Item No.</u>
2	September 25, 2012	48

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Amendment No. 3 confirms the tenant's automatic exercise of the first of its three five-year options to extend the term of the lease for the period November 1, 2018 through October 31, 2023, reflects the tenant's concurrent early exercise of the second and third of its three five-year options to extend the term of the lease for the period of November 1, 2023 through October 31, 2033, confirms the existing rent schedule from November 1, 2018 through June 30, 2020, adjusts the rental schedule from July 1, 2020 through October 31, 2033, and updates standard lease agreement language for an existing cell tower located on a portion of County-owned land, APN 0234-231-03, in Fontana. All other terms and conditions of the lease agreement remain the same.

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

Lessee:	NCWPCS MPL 24 – Year Sites Tower Holdings LLC
Location:	Northerly portion of one parcel (APN 0234-231-03)
Size:	Land for One Cell Tower
Term:	Existing term expires on October 31, 2023, extended term for 10 years, commencing November 1, 2023
Options	None
Rent:	Monthly: \$2,005 (11/1/19 – 6/30/20); \$3,713 (7/1/20 – 10/31/20) Annual: \$30,892 *Mid-range for comparable facilities in the Fontana area per the competitive set analysis on file with RESD
Annual Increases:	4%, commencing November 1, 2020
Improvement Costs:	None
Maintenance:	Provided by Lessee for the tower and equipment
Utilities:	Provided by Lessee
Insurance:	The Certificate of Liability Insurance, as required by the lease, is on file with RESD
Right to Terminate:	Either party may terminate upon default by the other party

PROCUREMENT

Not applicable.

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REVIEW BY OTHERS

This item has been reviewed by County Counsel (Agnes Cheng, Deputy County Counsel and Suzanne Bryant, Deputy County Counsel, 387-5455) on April 22, 2020; DPW/T (Brendon Biggs, Interim Director, Transportation, 387-5907) on April 14, 2020; Finance (Wen Mai, Principal Administrative Analyst, 387-4020 and Jessica Trillo, Administrative Analyst, 387-4222) on April 29, 2020; and County Finance and Administration (Matthew Erickson, County Chief Financial Officer, 387-5423) on May 4, 2020.

(PN 677-8321)

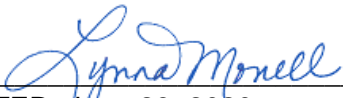
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Record of Action of the Board of Supervisors
County of San Bernardino

APPROVED (CONSENT CALENDAR)

Moved: Josie Gonzales Seconded: Robert A. Lovingood
Ayes: Robert A. Lovingood, Janice Rutherford, Dawn Rowe, Curt Hagman, Josie Gonzales

Lynna Monell, CLERK OF THE BOARD

BY 
DATED: June 23, 2020



cc: RESD- Thompson w/agree
Contractor- C/O RESD w/agree
File- w/agree
la 07/1/2020