



# San Bernardino County

## Legislation Text

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**File #: 3650, Agenda Item #: 53**

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

**February 9, 2021**

#### **FROM**

**TERRY W. THOMPSON, Director, Real Estate Services Department**

**LARRY AINSWORTH, Chief Information Officer, Department of Innovation and Technology**

#### **SUBJECT**

License Agreement with Lake Havasu City, Arizona for Antenna Space and Radio Rack Space for the Department of Innovation and Technology in Lake Havasu, Arizona.

#### **RECOMMENDATION(S)**

Approve a 10-year license agreement with Lake Havasu City, Arizona, with two five-year options to extend the term of the license, commencing upon full execution, for radio rack space and antenna space located at the Lake Havasu City, Arizona police department headquarters for the Department of Innovation and Technology in exchange for installation, operation, and maintenance of a portion of the County's public safety radio system, and free access to the County's public safety radio system through two County-provided control stations and ten City-provided radios.

(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). There is no cost associated with this 10-year license agreement. License fees and utility costs are entirely offset by in-lieu credits given by Lake Havasu City, Arizona (City) in return for access to the County's Public Safety Communications System (System), accessed with two County-provided control stations and 10 digital radio subscriber units for City-provided radio equipment, for which the Department of Innovation and Technology will provide ongoing programming services.

#### **BACKGROUND INFORMATION**

The recommended action will approve a new, 10-year license agreement, with two five-year options to extend the term of the license for radio rack space and antenna space, commencing upon full execution, located in the City-owned police headquarters, thereby providing inter-operative communications during joint emergency response operations around the Lake Havasu area and to enhance the County's radio coverage along the Colorado River corridor (River). Due to the topography of the land surrounding the River, public safety radio coverage is often sporadic. The license agreement will provide increased reliability and better quality coverage in this area along the River. Department of Innovation and Technology's (IT) microwave network transports the emergency responder radio communications in addition to voice and high-speed data information supporting the County's enterprise telephone network and the County's Wide Area Network.

These essential services require microwave connectivity with a high level of availability and reliability.

In April 2020, IT requested the Real Estate Services Department (RES D) negotiate an agreement for the use of radio rack space within the server room of the City police department headquarters and antenna space on the roof of the building. Negotiations with the City have resulted in a 10-year license agreement, with two five-year options to extend the term of the license, commencing upon full execution, for radio equipment space in the City's server room and antenna space on the roof of the City's police headquarters located in Lake Havasu City, Arizona. In lieu of monetary fees and utility costs, the City acknowledges that the cost of the installation by the County represents a public benefit to the City as a partial offset and along with the two County-provided control stations linked to the System and afforded radio access units for 10 City-provided radios as a complete rent and utility costs offset. The radios will be reprogrammed to link to the County's Public Safety Communications, for use during cooperative routine and emergency response operations. It is also noted that the agreement is subject to Arizona state law (for example termination rights in the license summary), and the venue for any legal dispute will be Arizona.

As part of a County initiative to identify the potential to control existing communications sites and attract co-locators for income streams, RES D took the opportunity to investigate this location. Under certain circumstances, gaining control of a communications site is feasible and favorable from an operational and financial standpoint. However, in this instance, the communications site is an established municipal police station in the state of Arizona, and is not available for transfer, ownership, or management rights. Acquiring and operating a communications site outside the boundaries of the County is contrary to its mission. Therefore, it is not recommended to pursue an acquisition of the facilities, but to proceed with the License Agreement.

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

#### Summary of License Terms

Licensors:	Lake Havasu City, Arizona (Cal Sheehy, Mayor)
Location:	2360 North McCulloch Boulevard in Lake Havasu City, Arizona
Size:	Antenna and rack space
Term:	10 years, commencing upon full execution
Options	Two five-year options
Rent:	None (rent entirely offset by in-lieu consideration)
Improvement Costs:	To be provided by County
Maintenance:	Provided by Licensors for the building; Provided by County for antennas and radio equipment
Utilities:	Provided by Licensors
Insurance:	Both Parties are self-insured public entities

Right to Terminate: The County and the City have the right to terminate with one year written notice. The City has the right to terminate under Arizona Revised Statute 38-511, within three years of execution, if any person involved in the transaction on behalf of the City is an employee, agent or consultant to the County regarding the license.

The License Agreement includes terms that differ from the standard County contract and omits certain County standard contract terms. The non-standard and missing terms include the following:

1. Governing law is State of Arizona.
  - The County standard contract requires California governing law.
  - Potential Impact: The contract will be interpreted under Arizona State law. Any questions, issues or claims arising under this contract will require the County to hire outside counsel competent to advise on Arizona State law, which may result in fees that exceed the total contract amount.
2. Venue is in Mojave County, Arizona.
  - The County standard contract requires venue for disputes in Superior Court of California, County of San Bernardino, San Bernardino District.
  - Potential Impact: Having a venue in Mojave, Arizona may result in additional expenses that exceed the amount of the contract.

#### **PROCUREMENT**

This license agreement is exempt from the requirements for procurement under County Policy 12-02 - Leasing Privately Owned Real Property for County Use, as the premises are owned by another governmental agency.

#### **REVIEW BY OTHERS**

This item has been reviewed by County Counsel (Robert Messinger, Principal County Counsel and Bonnie Uphold, Deputy County Counsel, 387-5455) on December 22, 2020; IT (Tim Trager, Chief, Public Safety Communications Division, 388-5563) on December 7, 2020; Purchasing Department (Bill Brock, Buyer II, 387-2464) on December 17, 2020; Finance (Monique Amis, Administrative Analyst, 387-4883 and Carl Lofton, Administrative Analyst, 387-5404) on January 8, 2021; and County Finance and Administration (Matthew Erickson, County Chief Financial Officer, 387-5423) on January 8, 2021.

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