



San Bernardino County

Legislation Text

File #: 7919, Agenda Item #: 48

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

May 9, 2023

FROM

TERRY W. THOMPSON, Director, Real Estate Services Department

JAKE CORDOVA, Interim Chief Information Officer, Innovation and Technology Department

SUBJECT

License Agreements with Mobile Relay Associates, LLC for Rack and Antenna Space

RECOMMENDATION(S)

1. Find that a License Agreement for Rack and Antenna Space at the Sunset Ridge Communication Site near Upland and a Revenue License Agreement for Rack and Antenna Space at the Bertha Peak Communication Site near Big Bear with Mobile Relay Associates, LLC are exempt projects under the California Environmental Quality Act Guidelines, Section 15301 - Existing Facilities (Class 1).
2. 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 procure a License Agreement with Mobile Relay Associates, LLC, for a term of five years, commencing on the first day of the month following full execution of the license agreement, projected to be for the period of June 1, 2023, through May 31, 2028, for the County's use of rack and antenna space at the licensor-controlled Sunset Ridge Communication Site near Upland for the Innovation and Technology Department.
3. Approve a five-year License Agreement with Mobile Relay Associates, LLC, commencing on the first day of the month following full execution of the license, projected to be for the period of June 1, 2023, through May 31, 2028, for San Bernardino County's use of rack space and antenna space at the Sunset Ridge Communication Site near Upland for the Innovation and Technology Department in the total amount of \$150,732.
4. Approve a five-year revenue License Agreement with Mobile Relay Associates, LLC, commencing on the first day of the calendar month following full execution of the license, projected to be for the period of June 1, 2023, through May 31, 2028, for the licensee's use of rack and antenna space at the County-owned Bertha Peak North Communication Site near Big Bear for the licensee's operation of a wireless communication facility for total revenue in the amount of \$151,232.
5. Direct the Clerk of the Board of Supervisors to maintain the confidentiality of Exhibit B and C to the License Agreement with Mobile Relay Associates, LLC. for rack space and antenna space at the Sunset Ridge Communication Site near Upland, pursuant to California Government Code Section 6254.19.
6. Direct the Clerk of the Board of Supervisors to file and post the Notices of Exemption for the projects 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 cost of the five-year license agreement (SR License) with Mobile Relay Associates, LLC (MRA) for San Bernardino County's (County) use of rack and antenna space at the MRA-controlled Sunset Ridge Communications Site (SR Site) near Upland is \$150,732. Sufficient appropriation for the SR License is included in the 2022-23 Innovation and Technology Department (ITD) Telecommunication Services budget and will be included in future recommended budgets. Annual license costs for the SR License are displayed in the License Cost Chart below.

The total revenue to be received by the County during the five-year revenue license agreement (BP License) with MRA for MRA's use of rack and antenna space at the County-owned Bertha Peak Communication Site (BP Site) near Big Bear is \$151,232, which includes a one-time \$500 contract administration charge. Other costs associated with the BP License are maintenance of the County's equipment shelter and antenna structure, and electrical utility services, which will be paid from the ITD Telecommunication Services budget.

The monthly rents under each license are equivalent and, provided that both agreements are in full force and effect and that both the County and MRA are able to use their respective licensed spaces, each party's monthly rent due under its respective license as a licensee shall be entirely offset by the monthly rent said party would receive as a licensor. Should either license be terminated prior to the other, the licensee under the continuing license shall not receive any offset credit and monthly rent shall be paid in accordance with the continuing license.

<u>Year</u>	<u>Annual Cost for SR License</u>	<u>Annual Revenue for BP License</u>
Year 1	\$28,392	\$28,892*
Year 2	\$29,244	\$29,244
Year 3	\$30,120	\$30,120
Year 4	\$31,020	\$31,020
Year 5	<u>\$31,956</u>	<u>\$31,956</u>
Total Cost	\$150,732	Total Revenue \$151,232

* Includes a one-time contract administration charge of \$500

BACKGROUND INFORMATION

The new five-year SR License with MRA, commencing on the first day of the month following full execution, projected to be June 1, 2023, through May 31, 2028, will provide for County's use of rack space within MRA's controlled equipment shelter and antenna space on the MRA-controlled antenna tower located at the SR Site near Upland for ITD, in support of radio and data communication coverage provided by the County's Public Safety Communication System in the Mt. Baldy area. The new five-year revenue BP License agreement with MRA, commencing on the first day of the month following full execution, projected to be June 1, 2023, through May 31, 2028, will allow for MRA's use of rack space within the County-owned equipment shelter and antenna space on the County-owned antenna structure located at the BP Site near Big Bear for MRA to operate a wireless communication facility.

ITD requested that the Real Estate Services Department (RESA) negotiate a license agreement with MRA for the County's use of antenna and rack space at the SR Site. MRA controls the use of the antenna tower space and equipment shelter space at the SR Site under the provisions of its sublease agreement with Sunset Ridge, LLC, (Sunset LLC), the owner of the tower and shelter and the ground lessee of SR pursuant to a Communication Use Lease with the United States of America, acting through the United States Forest Service (USFS). The SR Site is one of two sites investigated by ITD to enhance the radio coverage in the Mt. Baldy

area and will supplement the County's facility at Sunset Hill, which was established pursuant to License Agreement No. 22-1089 with Estrella Media, Inc. and approved by the Board of Supervisors (Board) on November 15, 2022 (Item No. 76). The SR License will support ITD's public safety radio system and microwave network by providing radio and microwave coverage to the Mt. Baldy area, a popular hiking and snow sports area. Terrain impediments in the Mt. Baldy area hamper the propagation of radio communication signals, impacting the County's desired level of communication coverage for Mt. Baldy, and the surrounding mountain region. County Fire, EMS, and law enforcement responders frequently respond to emergency calls in the Mt. Baldy area, including extended operations to locate and evacuate injured skiers, lost hikers, and to render first aid along the many public use areas and trails in the area. To maintain optimal radio connectivity during emergency responses, these essential services require specific physical locations with desired line of sight characteristics to maintain system connectivity.

Two sites were investigated in the mountains above Upland to provide a link to the County's equipment in the West Valley area, and to provide strong radio signal coverage in the Mt. Baldy area. Analysis and testing confirmed the SR Site, controlled by MRA, provides improved radio signal coverage of Mt. Baldy. The SR Site also provides a line of sight for microwave service at the location. ITD's equipment installation and operation at the SR Site will improve system availability and reliability, providing improved radio coverage for law enforcement, fire, and emergency medical services communications necessary to support emergency responses throughout the area.

While RESD initially investigated taking over Sunset LLC's Communications Use Lease with the USFS, this option is not feasible at this time due to the timing and the process necessary to terminate not only MRA's agreement with Sunset LLC, but also the existing licenses that MRA has with other users at the SR Site, and to obtain USFS approval for a transfer. However, this option can be revisited in the future when the opportunity to achieve that goal is more easily obtainable. No privately-owned land is available in the area or at the same elevation that would provide coverage into the Mt. Baldy area.

RESD requests the Board protect the confidentiality of Exhibit B and C of the SR License to provide security for the location details of County equipment from targeted vandalism and radio frequency interference to the County system.

MRA requested ITD consider a proposal to place radio equipment within, and antennas on top, of the County-owned equipment shelter at the BP Site. ITD requested RESD to negotiate a license agreement for MRA's use of the County-owned facility. During negotiations regarding the terms of the BP revenue license agreement and the SR license agreement, RESD suggested applying an offsetting credit for both license fees.

The projects to approve the SR License and the BP License were reviewed pursuant to the California Environmental Quality Act (CEQA) and determined to be categorically exempt under Section 15301 Class 1 because approval of license agreements for existing facilities is an exempt activity under CEQA and there is no possibility that the licensing of the subject properties will have a significant effect on the environment.

Summary of SR License

Terms

Licensor: Mobile Relay Associates, LLC (Mark Abrams, Member)

Location: Sunset Ridge Communication Site near Upland

Size: Rack and Antenna Space

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Term: Five years, commencing the first day of the month following full execution of the license, projected to be June 1, 2023 through May 31, 2028

Options: None

Rent: Fee Per Rack Space, including Antenna Space: \$1,183* Two Rack Spaces Monthly: \$2,366
Annual: \$28,392
*Low-range for comparable communication sites in the Upland area per the competitive set analysis on file with RESD

Annual Increases: 3%

Improvement Costs: Provided by County for County's equipment

Maintenance: Provided by Licensor for Licensor's equipment shelter and antenna tower; provided by County for County's equipment

Utilities: Provided by Licensor

Insurance: The Certificate of Liability Insurance, as required by the license, is on file with RESD

Right to Terminate: Both the County and Licensor have the right to terminate with 120 days' prior written notice; the County has the right to terminate the license agreement with 60 days' notice if the rent payable by the County under this license is not offset more than three times per calendar year.

Summary of BP Revenue
License Terms

Licensee: Mobile Relay Associates, LLC (Mark Abrams, Member)

Location: Bertha Peak Communication Site near Big Bear

Size: Rack and Antenna Space

Term: Five years, commencing the first day of the month following full execution of the license, projected to be June 1, 2023 through May 31, 2028

Options: None

Rent: Fee Per Rack Space, including Antenna Space: \$1,183* Two Rack Spaces Monthly: \$2,366*
Annual: \$28,392

*Low-range for comparable communication sites in the Big Bear area per the competitive set analysis on file with RESD

Annual Increases: 3%

Improvement Costs: Provided by Licensee for Licensee's equipment

Maintenance: Provided by County for County's equipment shelter and antenna structure; provided by Licensee for Licensee's equipment

Utilities: Provided by County

Insurance: The Certificate of Liability Insurance, as required by the license, is on file with RESD

Right to Terminate: Both the County and Licensor have the right to terminate with 120 days' prior written notice; the County has the right to terminate the license agreement with 60 days' notice if the rent payable by the Licensee under this license is not offset more than two times per calendar year.

PROCUREMENT

The SR License agreement was procured in accordance with County Policy 12-02 - Leasing Privately Owned Real Property for County Use (Policy 12-02), using an alternative procedure. Policy 12-02 provides that the Board may approve the use of an alternative procedure in lieu of a Formal Request for Proposals (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.

RESD, acting in its approved capacity as the County Administrative Office designee to review proposed real property agreements under Policy 12-02, completed a competitive analysis of the area and found the negotiated rental rate to be competitive, and the SR Site meets the technological requirements required by ITD and will supplement ITD's Public Safety Communication System by alleviating some of the terrain impediments in the Mt. Baldy area. RESD requests the Board approve the use of an alternative procedure in lieu of a Formal RFP to procure the SR License.

The BP License agreement was procured pursuant to San Bernardino County Code of Ordinances, Section 18.0103, given that the duration does not exceed five years, the monthly rental does not exceed \$5,000, and the license agreement is not renewable.

REVIEW BY OTHERS

This item has been reviewed by County Counsel (Agnes Cheng, Deputy County Counsel, and Bonnie Uphold, Supervising Deputy County Counsel, 387-5455) on March 30, 2023; Innovation and Technology (Tim Trager, Chief Public Safety Communications Division, 388-5501) on April 14, 2023; Purchasing (Bruce Cole, Supervising Buyer, 387-2148) on April 14, 2023; Finance (Ivan Ramirez, Administrative Analyst, 387-4020, and Garrett Baker, Administrative Analyst, 387-5423) on April 19, 2023; and County Finance and Administration (Valerie Clay, Deputy Executive Officer, 387-5423) on April 21, 2023.

(KB: 677-7961)