



# San Bernardino County

## Legislation Text

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**File #: 7993, Agenda Item #: 70**

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

**May 23, 2023**

#### **FROM**

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

#### **SUBJECT**

Termination of Revenue License Agreement with T-Mobile West, LLC for Rack and Antenna Space in San Bernardino

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

Authorize the Director of the Real Estate Services Department to terminate the License, effective August 18, 2023, by delivering to T-Mobile West, LLC a notice of termination during the month-to-month license holdover, as provided for in Revenue License Agreement No.14-297 for rack and antenna space located on the rooftop at 172 W. 3rd Street in San Bernardino.

(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 collected by San Bernardino County (County) for the holdover period of April 1, 2023, through the projected termination date of August 18, 2023, is \$29,965.36, which will be deposited in the Real Estate Services Department (RES D) Rents budget (7810001000). The license fee during the holdover period increased to 150% of the license fee at the expiration of the current term. Upon the termination date and return of the premises, no further revenue will be due from T-Mobile West, LLC (T-Mobile).

#### **BACKGROUND INFORMATION**

This item requests the Board of Supervisors (Board) delegate authority to the Director of RESD to terminate Revenue License Agreement No. 14-297 (License) by delivering a notice of termination in accordance with Section 20. NOTICES, of the amended License, effective August 18, 2023, to T-Mobile for rack and antenna space located on the rooftop of the County-owned building at 172 W. Third Street in San Bernardino (Building).

On May 6, 2014 (Item No. 52), the Board approved a five-year revenue License with one three-year option to extend the term of the License with T-Mobile for the use of antenna and rack space on the rooftop of the Building for the continued operation and maintenance of a cellular communication facility. The original term of the License was for the period of April 1, 2014, through March 31, 2019. In the five years since the License was originally approved, the Board approved two amendments, extending the license three years for the period of April 1, 2019 through March 31, 2022, adjusting the license fee schedule, permitting T-Mobile to add

remote radio heads to five antenna mounts, exchanging three existing antennas with larger antennas and updating standard license agreement language.

<u>Amendment No.</u>	<u>Approval Date</u>	<u>Item No.</u>
1	April 19, 2016	56
2	March 12, 2019	44

In 2021, T-Mobile contacted RESD with a request to increase the number of antennas authorized under the License and to add an additional equipment shelter to the facility located within the licensed area on the rooftop of the Building. Negotiations ensued and on April 1, 2022, the fixed term expired, and the License went into a month-to-month holdover period. T-Mobile has continued to occupy the space and abide by the terms and provisions of the License.

On June 19, 2022, a fire occurred on the fourth floor of the Building which spread to the fifth and sixth floors and disabled the utility services to the Building. Under direction from the County Administrative Office, RESD advised T-Mobile the site could remain operational through March 31, 2023, while the County explored options for the future disposition of the Building. Due to the impending demolition of the Building by the County, RESD returned the annual license fee for the holdover period of April 1, 2023 through March 31, 2024 to T-Mobile. T-Mobile has provided temporary power to their communication equipment on the rooftop subsequent to June 19, 2022, and will provide temporary power through May 31, 2023, during the permitted holdover period.

On June 1, 2023, the County will assume the cost of providing temporary power through the earlier of (i) the date T-Mobile actually vacates the rooftop space or (ii) August 18, 2023. It has been recently determined that the best course of action is to demolish the building and proceed with development plans for the property. The Project and Facilities Management Department has requested that T-Mobile complete removal of their equipment no later than August 18, 2023, in order to proceed with the demolition of the Building. The fixed term of the License has expired and during the holdover period the term of the License is month-to-month, thus requiring only a 30-day notice to terminate the occupancy. Per the License T-Mobile is required to vacate the premises immediately upon termination of the License. Delivery of the notice of termination will occur as soon as possible, but not later than July 17, 2023, and will provide sufficient time for T-Mobile to remove its equipment prior to demolition of the Building.

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 License Terms

Licensee:	T-Mobile West, LLC
Location:	172 W. Third Street, San Bernardino
Size:	Antenna and rack space for six antennas and two wall-mounted equipment cabinets roof mounted.
Term:	Month-to-month during permitted holdover period
Options:	None
Rent:	Annual: \$78,501* (150% holdover rent) *High-range for comparable facilities in the San Bernardino area per the competitive set analysis on file with RESD.

Annual Increases:	N/A
Improvement Costs:	None
Maintenance:	Provided by Licensee for Licensee's equipment; Provided by County for the Building.
Utilities:	Provided by County prior to June 19, 2022; temporary power has been provided by T-Mobile and will be provided through May 31, 2023. Effective June 1, 2023, the County will provide temporary power to T-Mobile's equipment until the earlier of: (i) T-Mobile's equipment is removed or (ii) August 18, 2023.
Insurance:	The Certificate of Liability Insurance, as required by the License, is on file with the RESD.
Holdover:	Upon the end of the term, if permitted by Lessor, the Revenue Lease shall continue on a month-to-month term upon the same terms and conditions, with the license fee at 150% of the fee which existed at the time of expiration.
Right to Terminate:	Both the County and Licensee have the right to terminate with 30-days' notice during permitted holdover.

**PROCUREMENT**

Not applicable.

**REVIEW BY OTHERS**

This item has been reviewed by County Counsel (John Tubbs II, Deputy County Counsel, 387-5455) on April 24, 2023; RESD (Lyle Ballard, Manager-Leasing, 387-5000) on April 28, 2023; Purchasing (Bruce Cole, Supervising Buyer, 387-2148) on April 27, 2023; Finance (Garrett Baker, Administrative Analyst, 387-5423) on May 4, 2023; and County Finance and Administration (Valerie Clay, Deputy Executive Officer, 387-5423) on May 8, 2023.

(KB: 677-7961)