

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

119



FROM: Economic Development Agency and Riverside County Information Technology

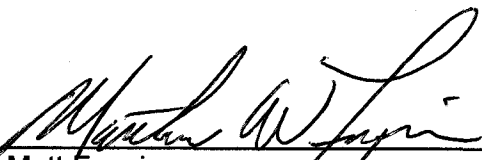
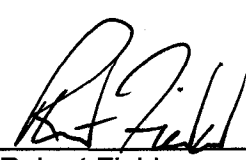
SUBMITTAL DATE:
May 21, 2009

SUBJECT: Public Safety Enterprise Communications Project Ground Leases, Jurupa Community Services District

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve the attached Ground Leases for the Glen Avon and Sunnyslope Public Safety Enterprise Communications sites and authorize the Chairman of the Board to execute the same on behalf of the County.

BACKGROUND: (Commences on Page 2)

 Matt Frymire Chief Information Officer	 Robert Field Assistant County Executive Officer/ EDA
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FINANCIAL DATA	Current F.Y. Total Cost:	\$105,000	In Current Year Budget:	Yes
	Current F.Y. Net County Cost:	\$105,000	Budget Adjustment:	No
	Annual Net County Cost:	\$ -0-	For Fiscal Year:	08/09

SOURCE OF FUNDS: PSEC Budget	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION: APPROVE

BY: 
 Elizabeth J. Olson

County Executive Office Signature

FORM APPROVED COUNTY COUNSEL
 BY:  DATE: 6-2-09
 SYNTHIA M. GUNZEL
 Departmental Concurrence

Dept't Recomm.: Consent Policy
 Per Exec. Ofc.: Consent Policy

Prev. Agn. Ref.: 3.37, 12/18/07; 3.52, District: 2 Agenda Number: **3.27**
 9/2/08
 ATTACHMENTS FILED WITH THE CLERK OF THE BOARD

BACKGROUND:

The Public Safety Enterprise Communications (PSEC) project utilizes long term ground leases in situations where the site owner will not sell the small land parcel required for the wireless communication site. The Glen Avon and Sunnyslope PSEC sites are located within the Jurupa Community Services District (JCSD) water tank sites where a land sale is not feasible. The two leaseholds include access road and power line rights of way. The tank areas have been disturbed by development, so new environmental impact is minor. The lease and subsequent construction was covered by a Final Environmental Impact Report (FEIR) certified by the Board on September 2, 2008.

The proposed leases offer microwave and radio coverage for the Jurupa area along the 60 Freeway in the Western County. The JCSD ground leases are at no cash rent to the County.

The Ground Lease is summarized below:

Locations:	Glen Avon Leasehold located on a portion of Assessor's Parcel Number 173-030-009 Sunnyslope Leasehold located on a portion of Assessor's Parcel Number 183-240-027
Lessor:	Jurupa Community Services District
Size:	Each parcel is approximately 3,000 square feet plus a non-exclusive utility and vehicular access easement
Term:	Commencement upon the date that the Ground Lease is fully executed and runs for 50 years
Rent:	For each site; \$2,500 per year plus lump sums of \$50,000 upon execution, \$50,000 on or after July 1, 2011 and \$25,000 on or after July 1, 2012
Utilities:	By County
Interior/Exterior Maintenance:	By County

The attached Ground Leases have been reviewed and approved by County Counsel as to legal form.

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Public Safety Enterprise Communications Project Ground Leases, Jurupa Community
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FINANCIAL DATA:

All associated costs for this Ground Lease will be fully funded through the PSEC budget. Riverside County Information Technology's (RCIT) annual budget will carry operating costs plus the annual rents and lump sum payments. Economic Development Agency (EDA) will front the utility costs for this lease in FY 2009/2010. RCIT will reimburse EDA for all associated lease costs.

1 **COMMUNICATIONS SITE LEASE**

2 This Lease is made this ___ day of _____, 2009, (hereafter, the "Commencement
3 Date") by and between **JURUPA COMMUNITY SERVICES DISTRICT**, a Special Services
4 District California Municipal Water District operating under the California Water District Law
(Water Code Section 34000, Et Seq.) (hereinafter "Lessor"), and the **COUNTY OF
RIVERSIDE**, a political subdivision of the State of California (hereinafter "Lessee").

5 **RECITALS**

6 A. Lessor is the owner of that certain real property (hereinafter "the Property") situated
7 in the County of Riverside, State of California, known as Assessor's Parcel Number 173-030-
8 009, more particularly depicted on **Exhibit "A"** (assessor's parcel map), attached hereto and
incorporated herein.

9 B. Lessor desires to lease a portion of the Property to Lessee as shown on **Exhibit
"B"** attached hereto (the "Premises").

10 C. Lessee desires to lease such portion of the Property from Lessor, for the purpose
11 of constructing, installing, operating, and maintaining a communications facility, tower and
related equipment and structures to house such facilities and equipment ("the Facility").

12 NOW, THEREFORE, the Parties agree as follows:

13 1. Recitals. The Recitals set forth hereinabove are an integral part of this Lease and
14 they are therefore incorporated herein by this reference thereto.

15 2. Premises. Subject to the following terms and conditions, Lessor hereby leases to
16 Lessee the Premises, including such rights-of-way as may be needed for utilities and access
to the Premises.

17 3. Term. The Term of this Lease shall be for a period of fifty (50) years, commencing
on the date of execution as shown on the signature page, or July 1, 2009, whichever is earlier.
18 Any holding over by Lessee after the expiration of the Term shall be deemed a year-to-year
tenancy upon the same terms and conditions in this Lease, except that the Installment Rent
19 Adjustment in paragraph 5.C below shall be increased by 6%.

20 4. Option(s) to Extend. None.

21 5. Rent. Rent shall be due and payable as follows:

22 A. Lump Sums. Within 30 days after the Commencement Date but no later than
July 31, 2010, Lessee shall pay to Lessor a non-refundable lump sum of \$50,000.00. On
23 or before July 31, 2011, Lessee shall pay to Lessor a non-refundable lump sum of
\$50,000.00. On or before July 31, 2012, Lessee shall pay to Lessor a non-refundable
24 lump sum of \$25,000.00.

25 B. Annual Installment Rent. In addition to the sums paid pursuant to paragraph
5.A above, commencing on the Commencement Date, and on every anniversary

1 thereafter, Lessee shall pay annually to Lessor, in advance, non-refundable rent of
2 \$2,500.00.

3 C. Installment Rent Adjustment. The amount of the Annual Installment Rent due
4 and payable under paragraph 5.B above shall be increased annually by an amount that
5 is 3% greater than the amount paid in the immediately preceding year. Thus, for
6 example, the rent in the second year of the Term shall be \$2,575.00, and the rent in the
7 third year of the Term shall be \$2,652.25, and so on.

8 6. Use. The Premises shall be used by Lessee for the purpose of installing and
9 operating a mobile/wireless communications tower and antenna with appurtenant electric gear,
10 emergency power generator and above-ground diesel fuel tank (collectively, the "Facility"), for
11 operating electronic communication equipment by the Riverside County Information
12 Technology Department (RCIT) and any other governmental agency or quasi-governmental or
13 non-commercial users working in conjunction with RCIT, such as the Riverside County Fire
14 Department and/or County Sheriff. Lessee shall have exclusive possession of the Premises
15 together with appropriate non-exclusive access along and across Lessor's Property to the
16 Premises, including any required utility corridors. All utilities shall be undergrounded in
17 locations approved by Lessor.

18 7. Utility Charges. Lessee shall pay, or cause to be paid, all charges for power, heat,
19 air-conditioning, and other services used, rented or supplied to Lessee in connection with its
20 use of the Premises, and any costs of installation thereof.

21 8. Acceptance of Premises. Lessee accepts the Premises "as is" and acknowledges
22 that Lessor has made no representation whatever concerning the fitness of the Premises for
23 the use intended by Lessee. Lessee agrees to keep the Premises free of hazardous materials
24 contamination and shall store and use fuels, lubricants, batteries and other similar materials in
25 a safe and code compliant manner and assumes full responsibilities for such materials use
within the Premises.

9. Improvements by Lessee. All of Lessee's construction and installation work shall
be performed at Lessee's sole cost and expense and in a good and workmanlike manner. In
the event any paved surface is damaged, Lessee shall repair the damage and resurface the
entire width of roadway in the area so damaged. Prior to construction, Lessee shall present
detailed construction drawings and specifications to Lessor for review and approval. Lessor
shall have twenty (20) business days to provide comments in writing to Lessee. If no
response has been received by Lessor within twenty (20) days, drawings and design will be
deemed acceptable to Lessor. Lessee shall prepare and submit a timetable for the
construction phase for the Facility and appurtenances, for review and approval by Lessor.

Any subsequent minor alterations, minor improvements and/or minor addition of fixtures
shall not require prior written consent of Lessor. Lessee may install additional radio or
electronic equipment in its structure, on the Premises or on its tower without consent of the
Lessor provided that such additional radio and electronic equipment do not interfere with
Lessor's or Lessor's tenants' radio or electronic equipment. All alterations and improvements
made and fixtures installed by Lessee shall remain Lessee's property and shall be removed by
Lessee at or prior to the expiration of this Lease unless the parties agree otherwise; provided,
however, that such removal does not cause injury or damage to the Premises, or in the event
it does, Lessee shall restore the Premises to good condition.

1 10. Access. Lessee shall have vehicular access to the Facility 24 hours a day, 7
2 days a week in a location approved by Lessor. Lessee's construction and maintenance
3 activities shall not interfere with Lessor's ability to access its adjacent water storage and
4 pumping facilities. Lessor shall maintain the access roadway from the nearest public roadway
5 to the site in a manner sufficient to allow access, but if Lessee causes any damage, Lessee
6 shall promptly repair that damage at its sole cost and expense.

7 11. Security & Repairs. Lessor shall not be responsible for the security of the Facility
8 nor for repairs to security fencing or equipment. Lessee shall ensure that its officials,
9 employees, agents, contractors and subcontractors do not breach the security of Lessor's
10 reservoir and pumping facilities.

11 12. Insurance. Lessee is a local government entity created under the laws of the State
12 of California, and is self-insured against any third party liability loss. Lessee shall maintain its
13 self-insurance program in full force during the term of this lease, insuring both Lessee and
14 Lessor for any damage, injury or death that may arise out of, be occasioned by, or result from
15 Lessee's exercise of its rights under this Lease.

16 13. Hold Harmless. Lessee agrees to indemnify, defend and hold Lessor, its officers,
17 directors, employees, contractors and agents harmless from and against any loss, liability,
18 claim, damage or expense (including attorneys' fees) arising from or in any manner related to
19 the use or occupancy of the Premises or the access thereto, to the extent such loss, liability,
20 claim, damage or expense is caused by the acts or omissions of Lessee, its officials,
21 employees, contractors or agents. Lessee shall indemnify and hold Lessor harmless, to the
22 fullest extent permitted by law, for any damage, injury or death that may arise out of, be
23 occasioned by or result from Lessee's exercise of its rights under this Lease.

24 14. Termination. This Lease shall automatically terminate without further notice or
25 liability, if Lessee fails to timely pay any sum due hereunder.

 Lessee shall have the option to immediately terminate this Lease if the Facility is
destroyed or damaged to the extent that it cannot be repaired, or with ninety (90) days written
notice for any other reason at any time during the term of this Lease or any extension of this
Lease. If Lessee terminates this Lease in accordance with this provision, Lessee, at its sole
cost, shall remove all improvements from the Premises and leave the site in good condition,
neat, clean and free of debris. All rent due or paid to Lessor prior to the date of termination
shall be retained by Lessor and shall not be refundable or refunded.

 15. Interference. Lessee shall operate the Facility in compliance with all Federal
Communications Commission ("FCC") requirements and in a manner that will not cause
interference to Lessor or other lessees or licensees of the Property, provided that any such
installations predate that of Lessee. Subsequent to the operation of Lessee's Facility, Lessor
will not, and will not permit its lessees or licensees to, install new equipment on or make any
alterations to the Premises or the property contiguous thereto owned or controlled by Lessor, if
such modifications are likely to cause interference with Lessee's operations. In the event
interference occurs Lessor agrees to use best efforts to eliminate such interference within a
reasonable time period. Lessor's failure to comply with this paragraph shall be material
breach of this Lease.

1 16. Taxes. If personal property taxes are assessed, Lessee shall pay any portion of
2 such taxes directly attributable to Lessee's facilities. Lessor shall pay all real property taxes,
3 assessments and deferred taxes on the property, if any.

4 17. Notices. Any notices required or desired to be served by either party upon the
5 other shall be addressed to the respective parties as set forth below or to such other
6 addresses as from time to time shall be designated by the respective parties:

7	Lessee:	Lessor:
8	Director of Facilities Management	General Manager
9	County of Riverside	Jurupa Community Services District
10	Department of Facilities Management	11201 Harrel Street
11	3133 Mission Inn Avenue	Mira Loma, California 91752
12	Riverside, California 92507-4199	(951) 685-7434

13 18. Quiet Enjoyment. Lessor covenants that Lessee shall at all time during the term of
14 this Lease peaceably and quietly have, hold and enjoy the use of the leased Premises so long
15 as Lessee shall fully and faithfully perform the terms and conditions that it is required to
16 perform under this Lease.

17 19. Binding on Successors. The terms and conditions herein contained shall apply to
18 and bind the heirs, successors in interest, executors, administrators, representatives and
19 assigns all of the parties hereto. Either party may assign its interest in the Lease.

20 20. Severability. The invalidity of any provision in this Lease as determined by a court
21 of competent jurisdiction shall in no way affect the validity of any other provision hereof.

22 21. Venue. Any action at law or in equity brought by either of the parties hereto for the
23 purpose of enforcing a right or rights provided for by this Lease shall be tried in a court of
24 competent jurisdiction in the County of Riverside, State of California, and the parties hereto
25 waive all provision of law providing for a change of venue in such proceedings to any other
county.

 22. Attorneys' Fees. In the event of any litigation or arbitration between Lessor and
Lessee to enforce any of the provisions of this Lease or any right of either party hereto, the
unsuccessful party to such litigation or arbitration agrees to pay to the successful party all
costs and expenses, including reasonable attorney's fees, incurred therein by the successful
party, all of which shall be included in and as a part of the judgment rendered in such litigation
or arbitration.

 23. Lessee's Representative. Lessee hereby appoints the Director of Facilities
Management as its authorized representative to administer this Lease.

 24. Entire Lease. This Lease is intended by the parties hereto as a final expression of
their understanding with respect to the subject matter hereof and as a complete and exclusive
statement of the terms and conditions thereof and supersedes any and all prior and
contemporaneous leases, agreements and understandings, oral or written, in connection
therewith. This Lease may be changed or modified only upon the written consent of the
parties hereto.

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25 Interpretation. The parties hereto have negotiated this Lease at arms length and with advice of their respective attorneys, and no provision contained herein shall be construed against either party solely because it prepared this Lease in its executed form.

26. Approval of Respective Boards. Anything to the contrary notwithstanding, this Lease shall not be binding or effective until its approval and execution by the Chairman of the Riverside County Board of Supervisors and the President of the District's Board of Directors.

JURUPA COMMUNITY SERVICES DISTRICT

By: _____
President, Board of Directors

Dated: _____

ATTEST
Kecia Harper-Ihem
Clerk of the Board

By: _____
Deputy

COUNTY OF RIVERSIDE

By: _____
Jeff Stone, Chairman
Board of Supervisors

Dated: _____

APPROVED AS TO FORM:
Pamela J. Walls
County Counsel

By: Synthia M. Gunzel
Synthia M. Gunzel
Deputy County Counsel

JRF:ra
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