

443



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

FORM APPROVED COUNTY COUNSEL  
BY: GREGORY P. PRAMOS DATE: 1/13/16  
Department of Information Technology

**FROM:** Economic Development Agency

**SUBMITTAL DATE:**  
January 13, 2016

**SUBJECT:** First Amendment to Licensing Agreement- PSTV Communications Site-10 Year Extension, District 4, CEQA Exempt [\$0]

**RECOMMENDED MOTION:** That the Board of Supervisors:

1. Find that the project is exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15301, Class 1 Existing Facilities Exemption and 15061 (b)(3) "Common Sense" Exemption, and direct the Clerk of the Board to file the Notice of Exemption;
2. Approve the attached First Amendment to Lease and authorize the Chairman of the Board to execute the same on behalf of the County; and
3. Authorize the Assistant County Executive Officer of the Economic Development Agency, or his designee, to execute any other documents and administer all actions necessary to complete or memorialize this transaction.

**BACKGROUND:**

Summary  
(Commences on Page 2)

Robert Field  
Assistant County Executive Officer/EDA

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost:	POLICY/CONSENT (per Exec. Office)
COST	\$ 0	\$ 0	\$ 0	\$ 0	Consent <input type="checkbox"/> Policy <input checked="" type="checkbox"/>
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0	

**SOURCE OF FUNDS:** N/A Revenue Lease

**Budget Adjustment:** No

**For Fiscal Year:** 2016/17-28/27

**C.E.O. RECOMMENDATION:**

APPROVE  
BY: Rohini Dasika  
Rohini Dasika

County Executive Office Signature

## MINUTES OF THE BOARD OF SUPERVISORS

BY: Steve Reneker  
Steve Reneker, Chief Information Officer  
Riverside County Informational Technology

- A-30
- 4/5 Vote
- Positions Added
- Change Order

Prev. Agn. Ref.:

District: 4

Agenda Number:

# 3-14

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

Economic Development Agency

**FORM 11:** First Amendment to Licensing Agreement- PSTV Communications Site-10 Year Extension, District 4, CEQA Exempt [\$0]

**DATE:** January 13, 2016

**PAGE:** 2 of 3

**BACKGROUND:**

**Summary**

On December 1, 2006 the County entered into a License Agreement with PSTV PARTNERS, LLC, dba Desert Cities Public Television for the purpose of maintaining and operating communication equipment on County owned property. The property is situated on the crest of the Santa Rosa Mountain within District 4. The existing term for this site is set to expire on November 30, 2016, and at this point PSTV PARTNERS has proposed to extend the term of this license agreement.

As negotiated by the Real Estate Division, the agreement will be amended with a ten year extension, commencing on December 1, 2016 and concluding on November 30, 2026. At the commencement of the amended license agreement, the monthly rent will increase by three percent, from \$1,696.20 to \$1,747.09. Additionally, the rent will continue to increase at a rate of three percent annually, following each anniversary date, beginning with December 1, 2017.

There is no commercial power available at the site, so in addition to the rent, there is a supplemental monthly fuel charge associated with the communication facility. The negotiated rate of increase for the fuel is also three percent annually, taking place each December 1<sup>st</sup>. The current fuel charge is \$1,266.77, and at the commencement of the amended agreement it shall escalate to \$1,304.77.

The income generated by this license agreement is directed toward public safety, into a fund that is controlled by RCIT. RCIT has consented to this extension of the existing tenancy and has reviewed and approved the amended license agreement as to form and content.

**Impact on Citizens and Businesses**

There will be no change to the current communications facility. The negotiated revenue from this facility will continue to help fund and pay for public safety communications which will benefit both businesses and residents alike.

**SUPPLEMENTAL:**

**Additional Fiscal Information**

There are no costs associated with this Form 11.

Licensee: PSTV PARTNERS, LLC

Premises Location: Santa Rosa Mountain Road  
Coachella, California 92236

	<u>Current</u>	<u>New</u>
Term:	December 1, 2006 – November 30, 2016	December 1, 2016 – November 30, 2026
Option to Extend:	None	None
Monthly Rent:	\$1,696.20	\$1,747.09
Fuel Charge:	\$1,266.77	\$1,304.77

(Continued)

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

Economic Development Agency

**FORM 11:** First Amendment to Licensing Agreement- PSTV Communications Site-10 Year Extension, District 4, CEQA Exempt [\$0]

**DATE:** January 13, 2016

**PAGE:** 3 of 3

**SUPPLEMENTAL:**

**Additional Fiscal Information**

(Continued)

Annual Rent Adjustment      Three Percent

Annual Fuel Adjustment      Three Percent

**Attachments:**

First Amendment to Lease Agreement

CEQA Notice of Exemption

Aerial Image

1 **FIRST AMENDMENT TO**  
2 **LICENSING AGREEMENT**

3  
4 **THIS FIRST AMENDMENT TO COMMUNICATION SITE LICENSE**  
5 **AGREEMENT** ("First Amendment"), dated as of \_\_\_\_\_, 2016, is entered  
6 into by and between the **COUNTY OF RIVERSIDE**, a political subdivision of the State  
7 of California, ("County"), and between the **PSTV PARTNERS, LLC**, dba Desert Cities  
8 Public Television, herein called ("Licensee"), (collectively, the "Parties"), to use the  
9 property described below upon the following terms and conditions:

10 **RECITALS**

11 A. WHEREAS, the Licensee and the County entered into that certain  
12 License Agreement dated November 27, 2006 ("Agreement"), for the purpose of  
13 maintaining and operating facilities for electronic communication equipment on County  
14 owned premises situated on the crest of Santa Rosa Mountain within Section 21,  
15 Township 21, Range 5 East, San Bernardino Base and Meridian; and

16 B. WHEREAS, the Agreement commenced effective as of December 1,  
17 2006 for an initial ten (10) year term; and

18 C. WHEREAS, County and Licensee propose to extend the term of the  
19 Agreement as set forth below; and

20 D. NOW, THEREFORE, by mutual agreement of the Parties and in  
21 consideration of the mutual promises, rights and obligations hereinafter set forth, the  
22 Agreement is hereby amended as follows:

23 **1. Defined Terms.** Any capitalized terms used in this First Amendment that are  
24 not defined herein shall have the meanings given those terms in the Agreement.

25 **2. Term of Agreement.** Paragraph 4 is hereby amended. Parties hereby  
26 acknowledge and agree that the Term of the Agreement shall be extended ten (10)  
27 years from December 1, 2016 to November 30, 2026.  
28

1       **3. License Fees.** Paragraph 5 of the Original License is hereby amended by the  
2 following:

3           a. Commencing December 1, 2016, Licensee shall pay one thousand,  
4 seven-hundred, and forty-seven dollars and 09/100 cents (\$1,747.09) monthly to the  
5 County of Riverside, as the License Fee for the licensed equipment and antenna  
6 space.

7           b. Beginning on December 1, 2017, the monthly License Fee shall be  
8 increased by three percent (3%), and shall increase three percent (3%) each December  
9 1st during the term of this license, and during any extension thereof.

10  
11       **4. Further Cooperation.** The Parties agree to execute such other instruments,  
12 agreements and amendments to documents as may be necessary or  
13 appropriate to effectuate the License Agreement as amended by this First  
14 Amendment.

15       **5. Interpretation.** This First Amendment, when combined with the License  
16 Agreement, sets forth and contains the entire understanding and agreement of the  
17 Parties hereto and correctly sets forth the rights, duties and obligations of each to the  
18 other as of this date.

19       **6. Waivers; Amendments.** All waivers of the provisions of this First Amendment  
20 and all amendments hereto must be in writing and signed by the appropriate authorities  
21 of County and Licensee.

22       **7. Effectiveness of License Agreement; First Amendment to Prevail.** Except  
23 as modified and amended by this First Amendment all other terms and conditions of  
24 the License Agreement remain unmodified and in full force and effect. The provisions  
25 of this First Amendment shall prevail over any inconsistency or conflicting provisions of  
26 the License Agreement.

27       **8. Severability.** If any term or provision of this First Amendment shall be held by a  
28 court of competent jurisdiction to be invalid or unenforceable, the remainder of this First

1 Amendment shall not be affected thereby and each other term and provision of this  
2 First Amendment shall be valid and enforceable to the fullest extent permitted by law.

3 **9. Effective Date.** The effective date of this First Amendment is the date the  
4 Parties execute this First Amendment. If the Parties execute this First Amendment on  
5 more than one date, then the last date this First Amendment is executed by a party  
6 shall be the Effective Date.

7  
8 [Signatures on Following Page]

9  
10 [Remainder of Page Intentionally Blank]

1 IN WITNESS WHEREOF, the Parties have executed this First Amendment as of  
2 the dates written below.

3  
4 COUNTY

LICENSEE

5 COUNTY OF RIVERSIDE, a political  
6 a subdivision of the State of California

PSTV PARTNERS, LLC

7  
8 By: \_\_\_\_\_  
9 John J. Benoit, Chairman  
Board of Supervisors

By:   
\_\_\_\_\_ Mitchell Sussman,  
Managing Partner

10 Dated: \_\_\_\_\_

Dated: 12-15-15

11  
12 ATTEST:

13 Kecia Harper-Ihem  
14 Clerk of the Board

15 By: \_\_\_\_\_

16  
17 APPROVED AS TO FORM:

18 Gregory P. Priamos,  
19 County Counsel

20  
21 By:   
22 Todd Frahm,  
Deputy County Counsel

23  
24  
25  
26  
27 JR:tg/112315/CO010/17.969 S:\Real Property\TYPING\Docs-17.500 to 17.999\17.969.doc



## NOTICE OF EXEMPTION

December 14, 2015

**Project Name:** County of Riverside, Economic Development Agency (EDA) First Amendment to Communication Site Lease, Santa Rosa Mountain

**Project Number:** FM047165001000

**Project Location:** north of Forest Route 7S02; approximately 2.2 miles south of Palms to Pines Highway 74; Unincorporated Riverside County, California; Assessor's Parcel Number (APN) 636-210-010 (See Attached Exhibit)

**Description of Project:** The County of Riverside (County) has an existing ground lease with PSTV Partners doing business as Desert Cities Public Television that entitles PSTV Partners to maintain and operate a communication facility on County-owned property. The property is situated on the crest of the Santa Rosa Mountain within District 4, north of Forest Route 7S02 on APN 636-210-010. There is no commercial power available at the site, so the Lease Agreement includes a supplemental monthly fuel charge associated with the communication facility in addition to the rent. The term of the existing Lease Agreement expires November 30, 2016 and PSTV Partners is proposing to extend the Lease. The first amendment to the Lease will be extended for a ten-year term, commencing on December 1, 2016 and concluding on November 30, 2026. The First Amendment to the Lease is identified as the Project under the California Environmental Quality Act (CEQA). The use of the site under the First Amendment to the Lease would occur in the same manner as with the existing use. The operation of the facility will continue to provide public safety communications services and will not result in a change or an expansion of existing use. No additional direct or indirect physical environmental impacts are anticipated.

**Name of Public Agency Approving Project:** County of Riverside, Economic Development Agency

**Name of Person or Agency Carrying Out Project:** County of Riverside, Economic Development Agency

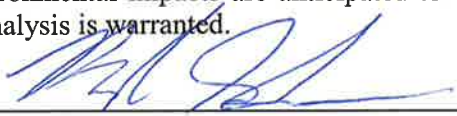
**Exempt Status:** State CEQA Guidelines, Section 15301, Class 1, Existing Facilities Exemption; Section 15061(b) (3), General Rule or "Common Sense" Exemption, Codified under Title 14, Articles 5 and 19, Sections 15061 and 15300 to 15301.

**Reasons Why Project is Exempt:** The proposed Project is categorically exempt from the provisions of CEQA specifically by the State CEQA Guidelines as identified below. The Project will not result in any specific or general exceptions to the use of the categorical exemption as detailed under State CEQA Guidelines Section 15300.2. The Project will not cause an impact to an environmental resource of hazardous or critical concern nor would the Project include a reasonable possibility of having a significant effect on the environment due to unusual circumstances. The Project would not result in impacts to scenic highways, hazardous waste sites, historic resources, or other sensitive natural environments, or have a cumulative effect to the environment. No significant environmental impacts are anticipated to occur with the Lease which includes the maintenance and operation of communication services.



- **Section 15301 – Class 1 Existing Facilities Exemption:** This categorical exemption includes the operation, repair, maintenance, leasing, or minor alteration of existing public or private structures or facilities, provided the exemption only involves negligible or no expansion of the previous site’s use. The Project, as proposed, is limited to the Lease that includes operation and maintenance of communication services. The use of the site would continue in the same manner as under the current lease and would not require any expansion of service or facilities; therefore, the Project is exempt as the Project meets the scope and intent of the Class 1 Exemption identified in Section 15301, Article 19, Categorical Exemptions of the CEQA Guidelines.
- **Section 15061 (b) (3) – “Common Sense” Exemption:** In accordance with CEQA, the use of the Common Sense Exemption is based on the “general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment.” State CEQA Guidelines, Section 15061(b) (3). The use of this exemption is appropriate if “it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.” *Ibid*. This determination is an issue of fact and if sufficient evidence exists in the record that the activity cannot have a significant effect on the environment, then the exemption applies and no further evaluation under CEQA is required. See *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal. 3d 68. The ruling in this case stated that if a project falls within a category exempt by administrative regulation or 'it can be seen with certainty that the activity in question will not have a significant effect on the environment', no further agency evaluation is required. With certainty, there is no possibility that the Project may have a significant effect on the environment. The proposed Lease will not result in any direct or indirect physical environmental impacts. The use and operation of the facility will be substantially similar to the existing use and will not create any new environmental impacts to the surrounding area. No alterations and no impacts beyond the ongoing, existing use of the site would occur. Therefore, in no way, would the Project as proposed have the potential to cause a significant environmental impact and the Project is exempt from further CEQA analysis.

Based upon the identified exemptions above, the County of Riverside, Economic Development Agency hereby concludes that no physical environmental impacts are anticipated to occur and the Project as proposed is exempt under CEQA. No further environmental analysis is warranted.

Signed:  Date: 12/14/15

Mike Sullivan, Senior Environmental Planner  
County of Riverside, Economic Development Agency

**RIVERSIDE COUNTY CLERK & RECORDER**

**AUTHORIZATION  
TO BILL  
BY JOURNAL VOUCHER**

Project Name: Santa Rosa Mountain First Amendment to Communication Site Lease

Accounting String: 524830-47220-7200400000- FM047165001000

DATE: December 14, 2015

AGENCY: Riverside County Economic Development Agency

THIS AUTHORIZES THE COUNTY CLERK & RECORDER TO BILL FOR FILING AND HANDLING FEES FOR THE ACCOMPANYING DOCUMENT(S).

NUMBER OF DOCUMENTS INCLUDED: One (1)

AUTHORIZED BY: Mike Sullivan, Senior Environmental Planner, Economic Development Agency

Signature:  \_\_\_\_\_

PRESENTED BY: Jose Ruiz, Real Property Agent I, Economic Development Agency

-TO BE FILLED IN BY COUNTY CLERK-

ACCEPTED BY: \_\_\_\_\_

DATE: \_\_\_\_\_

RECEIPT # (S) \_\_\_\_\_



Date: December 14, 2015

To: Mary Ann Meyer, Office of the County Clerk

From: Mike Sullivan, Senior Environmental Planner, Project Management Office

Subject: **County of Riverside Economic Development Agency Project # FM047165001000**  
Santa Rosa Mountain First Amendment to Communication Site Lease

The Riverside County's Economic Development Agency's Project Management Office is requesting that you post the attached Notice of Exemption. Attached you will find an authorization to bill by journal voucher for your posting fee.

**After posting, please return the document to:**

**Mail Stop #1330**

**Attention: Mike Sullivan, Senior Environmental Planner,**

**Economic Development Agency,**

**3403 10<sup>th</sup> Street, Suite 400, Riverside, CA 92501**

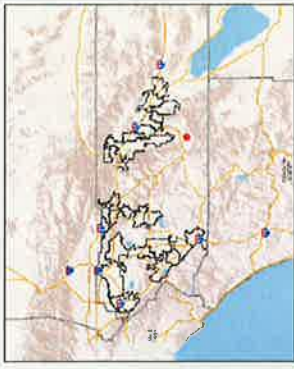
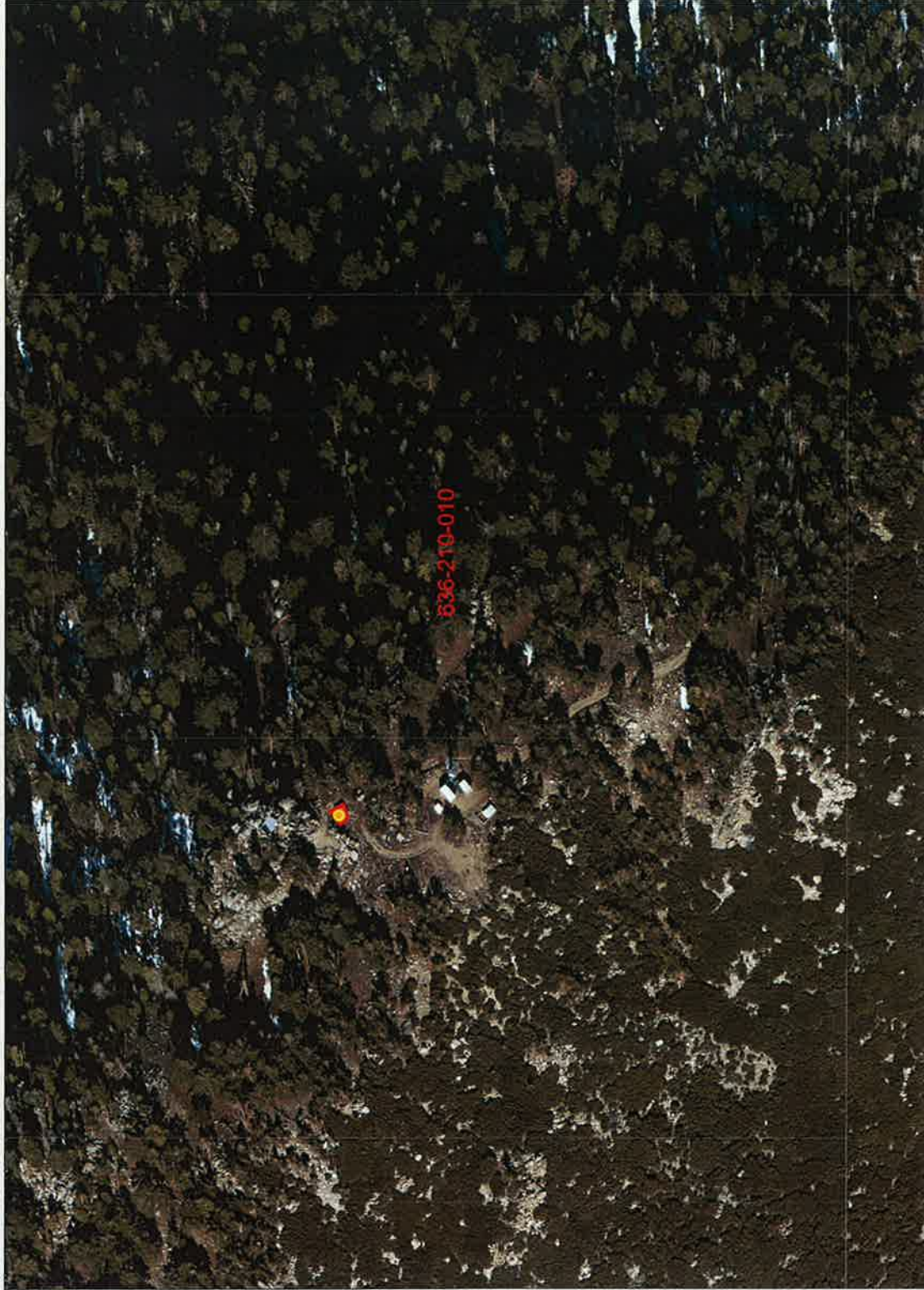
**If you have any questions, please contact Mike Sullivan at 955-8009.**

Attachment

cc: file

# First Amendment to Licensing Agreement- PSTV Commsite

Santa Rosa Mountain Road, Coachella CA, 92236



## Legend

- Display Parcels
- City Boundaries
- Cities
- World Street Map



**\*IMPORTANT\*** Maps and data are to be used for reference purposes only. Map features are approximate, and are not necessarily accurate to surveying or engineering standards. The County of Riverside makes no warranty or guarantee as to the content (the source is often third party), accuracy, timeliness, or completeness of any of the data provided, and assumes no legal responsibility for the information contained on this map. Any use of this product with respect to accuracy and precision shall be the sole responsibility of the user.

REPORT PRINTED ON... 12/8/2015 10:18:40 AM

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## Notes

APN#: 636-210-010