

FORM APPROVED COUNTY COUNSEL
 BY: GREGORY P. PRIAMOS DATE: 6/7/16

Departmental Concurrence

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

163



FROM: Economic Development Agency

SUBMITTAL DATE:
 June 29, 2016

SUBJECT: First Amendment to Communications Site Lease Agreement with SBA Steel at Menifee Fire Station #76, Ten Year Lease, District 3, CEQA Exempt [\$0]

RECOMMENDED MOTION: That the Board of Supervisors:

1. Find the Lease Agreement to be exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301, Class 1, Existing Facilities Exemption; and Section 15061(b)(3), General Rule or "Common Sense" Exemption;
2. Approve the attached First Amendment to Communications Site Lease Agreement and authorize the Chairman of the Board to execute the same on behalf of the County;
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; and

(Continued)

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: 2021-2031

C.E.O. RECOMMENDATION:

APPROVE

BY:

Rohini Dasika

County Executive Office Signature

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Jeffries, seconded by Supervisor Ashley and duly carried, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Jeffries, Washington, Benoit and Ashley
 Nays: None
 Absent: Tavaglione
 Date: July 12, 2016
 xc: EDA, Recorder

Kecia Harper-Ihem
 Clerk of the Board
 By:
 Deputy

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

Prev. Agn. Ref.: N/A

District: 3

Agenda Number:

3-9

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

Economic Development Agency

FORM 11: First Amendment to Communications Site Lease Agreement with SBA Steel at Menifee Fire Station #76, Ten Year Lease, District 3, CEQA Exempt [\$0]

DATE: June 29, 2016

PAGE: 2 of 3

RECOMMENDED MOTION: (Continued)

- 4. Direct the Clerk of the Board to file the Notice of Exemption with the County Clerk upon approval of the project.

BACKGROUND:

Summary

There is an existing Lease Agreement for a Communications Site that is dated July 1, 2011, between the County of Riverside and SBA STEEL LLC, a Florida limited liability company, doing business as SBA Wireless (SBA) as the successor in interest to Sprint. The Lease Agreement gave SBA the authorization to operate, and maintain an existing communication facility on that certain real property located at 29950 Diamond Road, Menifee, California 92584 and identified as Assessor's Parcel Number: 340-040-008, commonly known to the County as Fire Station #76. The Economic Development Agency, Real Estate Division intends to fulfill this request as part of a larger plan, to entice SBA to establish further ground leases on County owned properties.

As a measure to compete in a highly contested market, tower companies continuously seek to extend their leases to the longest term allowable; this in turn makes their sites more attractive to the carriers. SBA has requested modification of the existing Lease Agreement, for the purpose of extending the term from the conclusion of the current expiration date of June 30, 2021. The amended term shall commence on July 1, 2021 and expire on June 30, 2031. Additionally, SBA will be awarded one option to extend the term of this lease by ten years. The Economic Development Agency, Real Estate Division intends to fulfill this request as part of a larger plan, to entice SBA to establish further ground leases on County owned properties.

The First Amendment to the Lease Agreement has been reviewed and determined to be categorically exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15061(b) (3) and Section 15301 Class 1, Existing Facility, as it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. The County's approval of the activity does not create any reasonably foreseeable physical change to the environment for this transaction.

Tenant: SBA STEEL LLC, a Florida limited liability company

Premises Location: 29950 Diamond Road, Menifee, California 92584

	<u>Current</u>	<u>New</u>
Term:	July 1, 2011 – June 30, 2021	July 1, 2021 – June 30, 2031
Option to Extend:	None	one ten year option
Monthly Rent:	\$3,080.67	Monthly rent to increase by 3% annually
Utilities:	Provided by SBA	

The rent derived from this lease minus an Administrative charge to EDA (currently 4.12%) will be directed to a dedicated public safety communications account and used to fund operation of the County's public safety communications system.

(Continued)

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

Economic Development Agency

FORM 11: First Amendment to Communications Site Lease Agreement with SBA Steel at Menifee Fire Station #76, Ten Year Lease, District 3, CEQA Exempt [\$0]

DATE: June 29, 2016

PAGE: 3 of 3

Impact on Citizens and Businesses

The revenue from this Lease Agreement is used to support Public Safety Enterprise Communications (PSEC) operations throughout the County. Citizens and Businesses benefit from the enhanced public safety benefits borne from this improved communication system.

SUPPLEMENTAL:

Additional Fiscal Information

No net County costs will be incurred and no budget adjustment is necessary.

Attachments:

First Amendment to Lease Agreement

CEQA Notice of Exemption

Aerial Image



Original Negative Declaration/Notice of Determination was routed to County Clerks for posting on.

7/14/16
Date

VB
Initial

NOTICE OF EXEMPTION

June 6, 2016

Project Name: County of Riverside, Economic Development Agency (EDA) First Amendment to Communication Site Lease, SBA-Fire Station #76, Menifee

Project Number: FM0473461000200

Project Location: 29950 Diamond (Menifee) Road; north of Newport Road, City of Menifee 92584, Riverside County, California; Assessor's Parcel Number (APN) 340-040-008 (See Attached Exhibit)

Description of Project: The County of Riverside (County) has an existing ground lease with SBA STEEL LLC, doing business as SBA Wireless (SBA) as the successor in interest to Sprint. The Lease Agreement entitles SBA to operate, and maintain an existing communication facility on that certain real property located at 29950 Diamond Road, Menifee, California and identified as Assessor's Parcel Number: 340-040-008, commonly known to the County as Fire Station #76. SBA has requested to modify the existing Lease Agreement, for the purpose of extending the term from the conclusion of the current expiration date of June 30, 2021. The amended term shall commence on July 1, 2021 and expire on June 30, 2031, with one option for a ten year extension. The revenue from the Lease Agreement will be used to fund capital improvements to the County's public safety communications system. 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 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, and SBA STEEL LLC, a Florida limited liability company, doing business as SBA Wireless

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 operation of communication services.

JUL 12 2016 3-9

www.rivcoeda.org

Administration
Aviation
Business Intelligence
Cultural Services
Community Services
Custodial

Housing
Housing Authority
Information Technology
Maintenance
Marketing

Economic Development
Edward-Dean Museum
Environmental Planning
Fair & National Date Festival
Foreign Trade
Graffiti Abatement

Parking
Project Management
Purchasing Group
Real Property
Redevelopment Agency
Workforce Development

- **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 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 amendment to the Lease Agreement is limited to a time extension and 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: 6/16/16

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

RIVERSIDE COUNTY CLERK & RECORDER

**AUTHORIZATION
TO BILL
BY JOURNAL VOUCHER**

Project Name: First Amendment to Communication Site Lease SBA-Fire Station #76,
Menifee

Accounting String: 524830-47220-7200400000- FM0473461000200

DATE: June 6, 2016

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: June 6, 2016

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 # FM0473461000200**
First Amendment to Communication Site Lease SBA Fire Station #76, Menifee

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 10th Street, Suite 400, Riverside, CA 92501

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

Attachment

cc: file

1 **FIRST AMENDMENT TO**
2 **COMMUNICATION SITE LEASE AGREEMENT**

3
4 **THIS FIRST AMENDMENT TO COMMUNICATION SITE LEASE**
5 **AGREEMENT** ("First Amendment"), dated as of July 12, 2016, is entered
6 into by and between the **COUNTY OF RIVERSIDE**, a political subdivision of the State
7 of California, ("County"), and **SBA STEEL LLC**, a Florida limited liability company,
8 herein called ("Lessee"), (collectively, the "Parties"), to use the property described
9 below upon the following terms and conditions:

10 **RECITALS**

11 A. WHEREAS, County and Cox PCS Assets, LLC, a Delaware limited
12 liability company ("Sprint/Nextel") entered into that certain ground lease dated June 27,
13 2001, for the premises located at 29950 Menifee Road, Menifee, CA (Assessor's
14 Parcel Number: 340-040-008) for the purpose of maintaining and operating facilities for
15 electronic communication equipment on County owned premises ("Prior Lease"); and

16 B. WHEREAS, Sprint/Nextel assigned all of its right, title and interest in, to
17 and under the Prior Lease to Sprint Telephony PCS, L.P., a Delaware limited
18 partnership ("Sprint Telephony"), by that certain Assignment and Assumption of
19 Ground Lease dated September 23, 2008 and recorded as Doc# 2008-0610708
20 among official records of the County of Riverside, State of California; and

21 C. WHEREAS, Sprint Telephony was acquired by and merged into TowerCo
22 Assets LLC, a Delaware limited liability company ("TowerCo"), and whereby a
23 Memorandum of Agreement recorded December 3, 2009, as Document #2009-
24 0624783 made TowerCo the successor and interest to the Prior Lease; and

25 D. WHEREAS, County and TowerCo entered into a New Lease Agreement
26 dated June 30, 2011, effective as of July 1, 2011 for an initial ten year term ("Lease");

27 E. WHEREAS, TowerCo legally changed its name to SBA 2012 TC Assets,
28 LLC, a Delaware limited liability company; and

JUL 12 2016 39

1 F. WHEREAS, a Memorandum of Assignment , recorded May 9, 2014, as
2 Document #2014-0169685, Official Records of Riverside County, California assigned
3 all rights and interest to SBA STEEL LLC, a Florida limited liability company, as the
4 current Lessee; and

5 G. WHEREAS, County and Lessee propose to amend and restate the term
6 of the Agreement as set forth below; and

7 NOW, THEREFORE, by mutual agreement of the Parties and in consideration
8 of the mutual promises, rights and obligations hereinafter set forth, the Agreement is
9 hereby amended as follows:

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

12 **2. Term of Agreement.** Paragraph 3 is hereby amended. Parties hereby
13 acknowledge and agree that the Term of the Lease shall be extended from the
14 expiration thereof, June 30, 2021, for a period of ten years expiring June 30, 2031.
15 Additionally, Lessee is hereby granted one (1) option to extend this Lease for ten (10)
16 additional years (a "Renewal Term") from the conclusion of the amended term on June
17 30, 2031 upon the same terms and conditions contained on the Lease and at the same
18 rate of increase. The Renewal Term shall commence automatically, unless Lessee
19 gives written notice of its election to not extend the term of no less than one hundred
20 twenty (120) days prior to the expiration of the then current term.

21 **3. Further Cooperation.** The Parties agree to execute such other instruments,
22 agreements and amendments to documents as may be necessary or appropriate to
23 effectuate the Lease as amended by this First Amendment.

24 **4. Interpretation.** This First Amendment, when combined with the Lease, sets
25 forth and contains the entire understanding and agreement of the Parties hereto and
26 correctly sets forth the rights, duties and obligations of each to the other as of this date.

27
28

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

3
4 COUNTY:

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

LESSEE:

7 SBA STEEL LLC
8 a Florida limited liability company

9 By: 
10 John J. Benoit, Chairman
11 Board of Supervisors

By: 

12 Dated: JUL 12 2016

Dated: 5/12/16

13 ATTEST:

14 Kecia Harper-Ihem
15 Clerk of the Board

16 By: 
17

18 APPROVED AS TO FORM:

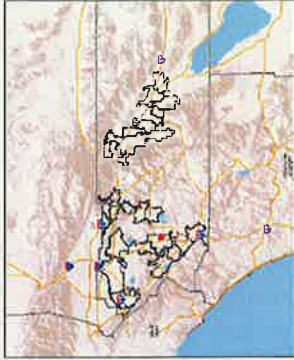
19 Gregory P. Priamos,
20 County Counsel

21 By: 
22 R. Todd Frähm
23 Deputy County Counsel

24
25
26
27 JR:ra/020216/MN002/18.085 S:\Real Property\TYPING\Docs-18.000 to 18.499\18.085.doc
28

First Amendment to Communications Site Lease Agreement – SBA

29950 Diamond Road, Menifee, California 92584



Legend

Notes
APN: 340-040-008

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.



0 222 443 Feet



REPORT PRINTED ON... 5/16/2016 4:05:06 PM

© Riverside County RCIT GIS