

C-14

October 3, 2023

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

Authorize the City Manager, or designee, to execute all documents necessary for a new Communications Site Lease with Dish Wireless LLC, a Colorado limited liability company (Dish Wireless), for a new utility-mounted wireless telecommunications facility on City-owned property within a Southern California Edison Company, a California Corporation (SCE) Right of Way Transmission Easement, located at 7250 Carson Boulevard, commonly known as the Long Beach Towne Center, Walmart store parking lot; and,

Authorize the City Manager, or designee, to execute all documents necessary for an Agreement of Consent to License between the City, Dish Wireless, and SCE to memorialize the City's and SCE's mutual consent to the new utility-mounted wireless telecommunications facility on City-owned property within an SCE Right of Way Transmission Easement. (District 4)

DISCUSSION

Southern California Edison Company, a California corporation (SCE), maintains a Right-of-Way Transmission Easement (Transmission Easement), which encumbers a portion of City of Long Beach (City)-owned property located at 7250 Carson Boulevard, commonly known as the Long Beach Towne Center, Walmart store parking lot (Premises - Attachment). In 2022, agents for Dish Wireless, LLC, a Colorado limited liability company (Dish Wireless), reached out to the City regarding the placement of a new utility-mounted wireless telecommunications facility (WTCF) within the Transmission Easement to improve its broadband wireless network in the area. Dish Wireless has proposed a new WTCF consisting of utility-mounted antennas on an SCE-owned transmission tower (Tower) and a 150-square-foot accessory equipment enclosure, which shall be built directly underneath the Tower. Although the WTCF would be on City-owned property, it would lie within an area that SCE maintains and encumbers via the Transmission Easement, which orients north to south and bisects the Walmart store parking lot; thus, SCE's formal consent would be required. SCE has provided the City with a Letter of Authorization dated October 10, 2022, which authorizes the City and Dish Wireless to negotiate and execute a new Agreement and any associated regulatory approvals for the WTCF. To that end, staff negotiated a new Communications Site Lease (Lease) with Dish Wireless for the use of City-owned property within the Transmission Easement and a separate Agreement of Consent to License between SCE, Dish Wireless, and the City (Consent Agreement) to memorialize the City's and SCE's mutual consent of the WTCF.

A new Communications Site Lease has been negotiated with the following Terms and Conditions:

- Lessor: The City of Long Beach, a municipal corporation.
- Lessee: Dish Wireless, L.L.C., a Colorado limited liability company.
- Consent: SCE has authorized Dish Wireless to apply for regulatory approvals and a License Agreement from the City for the new WTCF. However, at the request of SCE, after the execution of the Lease, the City, Dish Wireless, and SCE will execute a standalone Agreement of Consent to License to facilitate the City's Leasing of City-owned property within the Transmission Easement, which SCE will then record.
- Premises: Utility-mounted wireless telecommunications equipment and a 150-square-foot accessory equipment ground enclosure on City-owned property located at 7250 Carson Boulevard, commonly known as the Long Beach Towne Center, Walmart store parking lot.
- Initial Term: The Initial Term will be for five (5) years, commencing upon the date of issuance of a Certificate of Occupancy by Lessor acting in its regulatory capacity or January 1, 2024, whichever comes first (Commencement Date), and terminating on the fifth (5th) anniversary of the Commencement Date.
- Renewal Options: The Licensee will have four (4) consecutive five (5)-year renewal options.
- Annual Rent: Within 30 days of the Commencement Date, the Lessee will pay the City an initial Annual License Fee of \$30,000.
- Annual License Fee Adjustments: On the second anniversary of the Commencement Date and yearly thereafter, the Annual License Fee will increase by three percent (3%) annually.
- Collocation: No collocation will be allowed under this License Agreement.

The Planning Commission granted the WTCF a Conditional Use Permit (CUP) on March 2, 2023, and CE22-174 was accepted as the CEQA environmental clearance document for the Project.

This matter was reviewed by Principal Deputy City Attorney Richard F. Anthony on September 11, 2023 and by Budget Management Officer Nader Kaamouch on September 12, 2023.

TIMING CONSIDERATIONS

City Council action is requested on October 3, 2023, to allow the Lessee to enter into a Communications Site Lease with the City and execute SCE's Consent Agreement so that it may continue its planning and construction activities in connection with the WTCF.

LEVINE ACT

This item is subject to the Levine Act. The Mayor, Councilmembers, and Commissioners who have received a contribution of more than \$250 within 12 months prior from a party, participant, or their representatives involved in this proceeding may do either of the following: (1) disclose the contribution on the record and recuse themselves from this proceeding; OR (2) return the portion of the contribution that exceeds \$250 within 30 days from the time the elected official knew or should have known about the contribution and participate in the proceeding.

All parties, participants, and their representatives must disclose on the record of this proceeding any contribution of more than \$250 made to the Mayor or any Councilmembers within 12 months prior to the date of the proceeding. The Mayor, Councilmembers, and Commissioners are prohibited from accepting, soliciting, or directing a contribution of more than \$250 from a party, participant, or their representatives during a proceeding and for 12 months following the date a final decision is rendered.

FISCAL IMPACT

Beginning in Fiscal Year 2024, the Lessee will pay the City an annual rent of \$30,000. Subsequent annual rent payments will be subject to automatic rent escalators of three percent. All revenues derived from rent payments will accrue to the General Fund Group in the Economic Development Department. This recommendation has no staffing impact beyond the normal budgeted scope of duties and is consistent with existing City Council priorities. The recommended action will increase local jobs in several trades arising from the construction of the WTCF, but the exact number and types of jobs are unknown at this time.

SUGGESTED ACTION:

Approve recommendation.

Respectfully submitted,



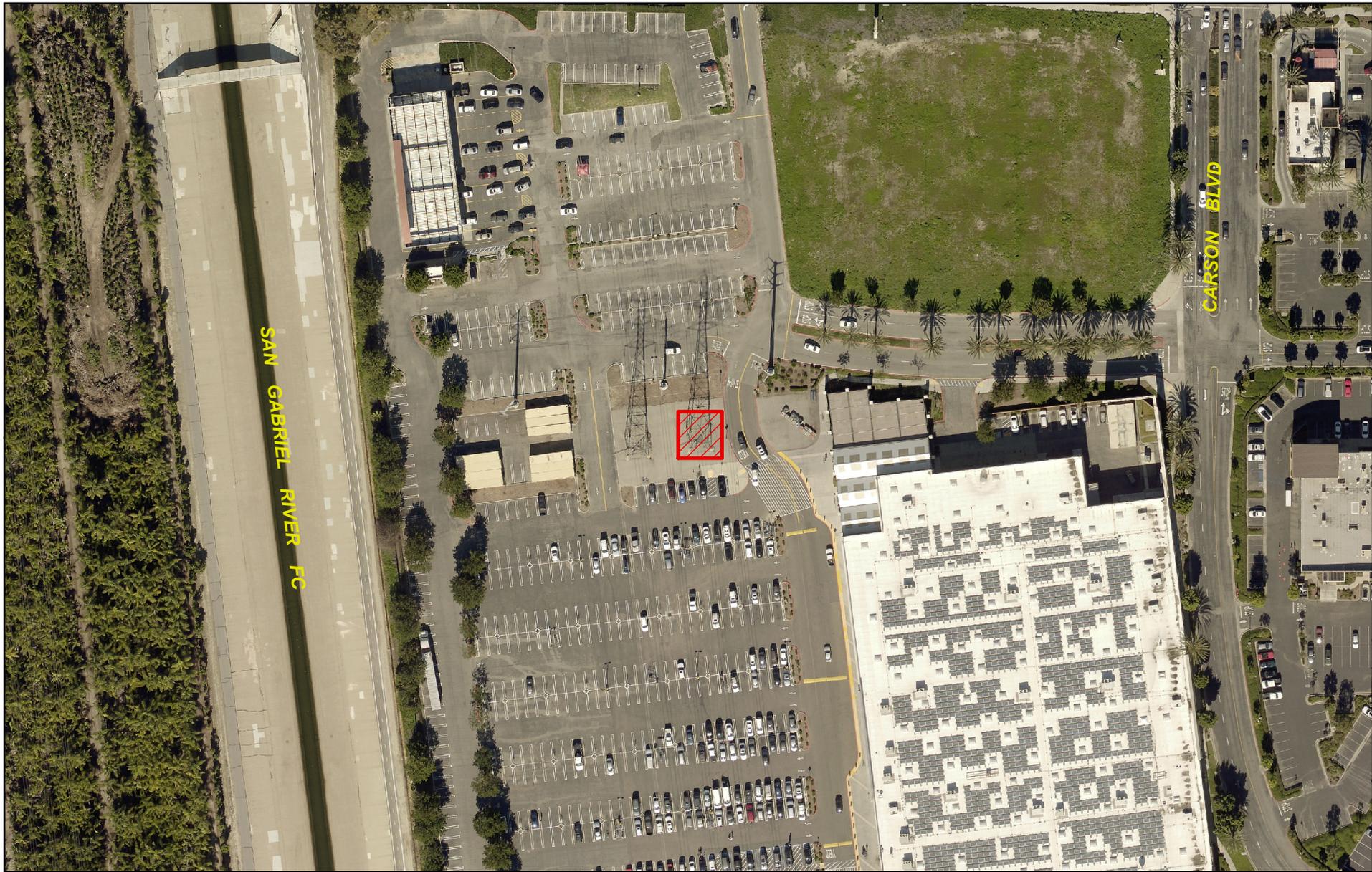
BO MARTINEZ
DIRECTOR OF
ECONOMIC DEVELOPMENT

APPROVED:



THOMAS B. MODICA
CITY MANAGER

ATTACHMENT: PREMISES



Subject Property:
7250 Carson Blvd
Council District : 4

Attachment



LEVINE ACT DISCLOSURE STATEMENT

California Government Code Section 84308, commonly referred to as the "Levine Act," prohibits any Long Beach City Councilmember, the Mayor, and Commissioner ("City Officer") from participating in any action related to a proceeding if they receive any political contributions totaling more than \$250 within the previous twelve months, while a proceeding is pending, and for 12 months following the date a final decision in a proceeding concerning a license, permit, entitlement, franchise or, contract (collectively "license, permit, or contract") has been made, from the person or company awarded the said license or contract. The Levine Act also requires a City Officer that has received such a contribution to disclose the contribution on the record of the proceeding.

City Officers are listed at the following sites:

- The Mayor and Councilmembers - <https://www.longbeach.gov/officials/>
- Harbor Commissioners - <https://polb.com/commission>
- Water Commissioners - <https://lbwater.org/about-us/current-water-commissioners/>
- Planning Commissioners - <https://www.longbeach.gov/mayor/action/commissions/>
- Parks and Recreation Commissioners - <https://www.longbeach.gov/mayor/action/commissions/>
- Board of Examiners, Appeals, and Condemnation - <https://www.longbeach.gov/mayor/action/commissions/>
- Cultural Heritage Commission - <https://www.longbeach.gov/mayor/action/commissions/>
- Long Beach Community Investment Company - <https://www.longbeach.gov/lbds/hn/lbcic/>

Proposers are responsible for accessing these links to review the names prior to answering the following questions.

1. Have you or your company, or any agent on behalf of you or your company, made any political contributions of more than \$250 to any City Officer in the 12 months preceding the date of the submission of your proposals or the anticipated date of any City Council, Board, or Commission action related to this license, permit, or contract?

YES

NO

If yes, please identify the City Officer(s):

2. Do you or your company, or any agency on behalf of you or your company, anticipate or plan to make any political contribution of more than \$250 to any City Officer in the 12 months following any City Council, Board, or Commission action related to this license, permit, or contract?

YES

NO

If yes, please identify the City Officer(s):

Answering yes to either of the two questions above does not preclude the City of Long Beach from awarding a license, permit, or contract to your firm or any taking any subsequent action related to the said license, permit, or contract. It does, however, preclude the identified City Officers from participating in any actions related to this license, permit, or contract.

8.30.23
Date



Signature of authorized individual

George Ghantous
Regional Vice President
West Region

Type or write name of authorized individual

Type or write name of company