

Staff Report 43

APPLICANT:

AT&T Corporation

PROPOSED ACTION:

Issuance of a General Lease – Right-of-Way Use

AREA, LAND TYPE, AND LOCATION:

4.41 acres, more or less, of State-owned indemnity land within Sections 4 and 10, Township 11 South, Range 10 East, SBM, west of the Salton Sea, Imperial County.

AUTHORIZED USE:

Use and maintenance of an existing buried 0.5-inch diameter fiber optic communications cable.

TERM:

20 years, beginning August 1, 2020.

CONSIDERATION:

\$503 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

- Liability insurance in an amount no less than \$1,000,000 per occurrence; Lessee may satisfy all or part of the insurance requirement through maintenance of a staff-approved self-insurance program as specified in the lease.

STAFF ANALYSIS AND RECOMMENDATION:

Authority: Public Resources Code sections 6005, 6216, 6217.5, 6301, 6501.1, 6503, and 6503.5, and 8701; California Code of Regulations, title 2, sections 2000 and 2003.

STATE'S BEST INTERESTS:

On August 22, 1990, the Commission authorized Lease No. PRC 7428, a General Lease – Right-of-Way Use, to American Telephone and Telegraph Company ([Item 20, August 22, 1990](#)). On April 13, 1999, the Commission authorized the sale and issuance of a patent to the California Department of Parks and Recreation which included Section 28, 30, and 34, of Township 10 South, Range 9, East, SBM ([Item 72, April 13, 1999](#)). The Commission retained interest in Section 4 and 10. On February 2, 2006, the Commission authorized the assignment of the lease from American Telephone and Telegraph Company to AT&T Corporation ([Item 32, February 9, 2006](#)). The lease expired on July 31, 2020. The Applicant has submitted an application for the continued use of the fiber optic communications cable.

The proposed lease is limited to a 20-year term, does not alienate the State's fee simple interest, and does not grant the lessee exclusive rights to the lease premises. The lease requires the Applicant to insure and indemnify the State for any liability incurred as a result of the lessee's activities on the lease premises and to maintain the buried fiber optic communications cable at its sole expense. The lease also requires the payment of annual rent, which generates revenue for the California State Teachers' Retirement System, consistent with Public Resources Code section 6217.5.

CLIMATE CHANGE:

As stated in *Safeguarding California Plan: 2018 Update* (California Natural Resources Agency 2018), climate change is projected to increase the frequency and severity of natural disasters related to flooding, drought, and storms. The lease area consists of open lands with moderate to low vegetation fuels, which are vulnerable to the above events, including dust storms and flash flooding from thunderstorms, and to a lesser extent, wildland fires. The lease premises and surrounding land may be vulnerable to these weather events; however, these projected climate change effects are not expected to affect the use of the leased land for the existing communication lines. The Lease does include a provision that the Lessee shall take all reasonable and necessary actions to prevent, suppress, and control fires on lease premises.

CONCLUSION:

For the reasons stated above, staff believes issuance of this lease is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. Approval or denial of the application is a discretionary action by the Commission. Each time the Commission approves or rejects a use of school land, it exercises legislatively delegated authority and responsibility as trustee of the State's school lands as authorized by law. If the Commission denies the application, the Applicant has no right to a lease. Upon expiration or prior termination of the lease, the lessee also has no right to a new lease or to renewal of any previous lease.
2. This action is consistent with the "Leading Climate Activism" Strategic Focus Area of the Commission's 2021-2025 Strategic Plan.
3. Staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (CEQA) as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300 and California Code of Regulations, title 2, section 2905.

EXHIBITS:

- A. Land Description
- B. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a categorically exempt project, Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

STATE'S BEST INTERESTS:

Find that the proposed lease is in the best interests of the State.

AUTHORIZATION:

Authorize issuance of a General Lease – Right-of-Way Use to the Applicant beginning August 1, 2020, for a term of 20 years, for the use and maintenance of an existing buried 0.5-inch diameter fiber optic communications cable, as described in Exhibit A and shown on Exhibit B (for reference purposes only), attached and by this reference made a part hereof; annual rent in the amount of \$503, with an annual Consumer Price Index adjustment; and liability insurance in the amount no less than \$1,000,000 per occurrence; Applicant may satisfy all or part of the insurance requirement through maintenance of a staff-approved self-insurance program as specified in the lease.

EXHIBIT A

LEASE 7428

LAND DESCRIPTION

Two twenty (20) foot wide strips of State School Lands, located in Sections 4 and 10, Township 11 South, Range 10 East, San Bernardino Meridian, as shown on that Official Township Survey Plat approved June 9, 1856, County of Imperial, State of California, lying ten (10) feet on each side of the following described centerline:

PARCEL 1

COMMENCING at the Northeast corner of said Section 4; thence along the north line of said section North $89^{\circ} 57' 24''$ West 1673.80 feet to a point on the centerline of the fiber optic cable and POINT OF BEGINNING; thence leaving said section line, and along said centerline of the fiber optic cable South $31^{\circ} 16' 50''$ East 3,247.67 feet to a point on the east line of said section and point of TERMINUS, said point bears South $00^{\circ} 15' 28''$ East 2,774.33 feet more or less from the Northeast corner of said Section 4.

The sidelines of said strip to be lengthened or shortened so as to terminate at the north and east lines of said Section 4.

PARCEL 2

COMMENCING at the Northwest corner of said Section 10; thence along the north line of said section North $89^{\circ} 40' 06''$ East 1599.36 feet to a point on the centerline of the fiber optic cable and POINT OF BEGINNING; thence leaving said section line, and along said centerline of the fiber optic cable South $31^{\circ} 15' 24''$ East 6,367.47 feet to a point on the east line of said section and point of TERMINUS, said point bears South $89^{\circ} 36' 01''$ West 457.09 feet more or less from the Southeast corner of said Section 10.

The sidelines of said strip to be lengthened or shortened so as to terminate at the north and east lines of said Section 10.

END OF DESCRIPTION

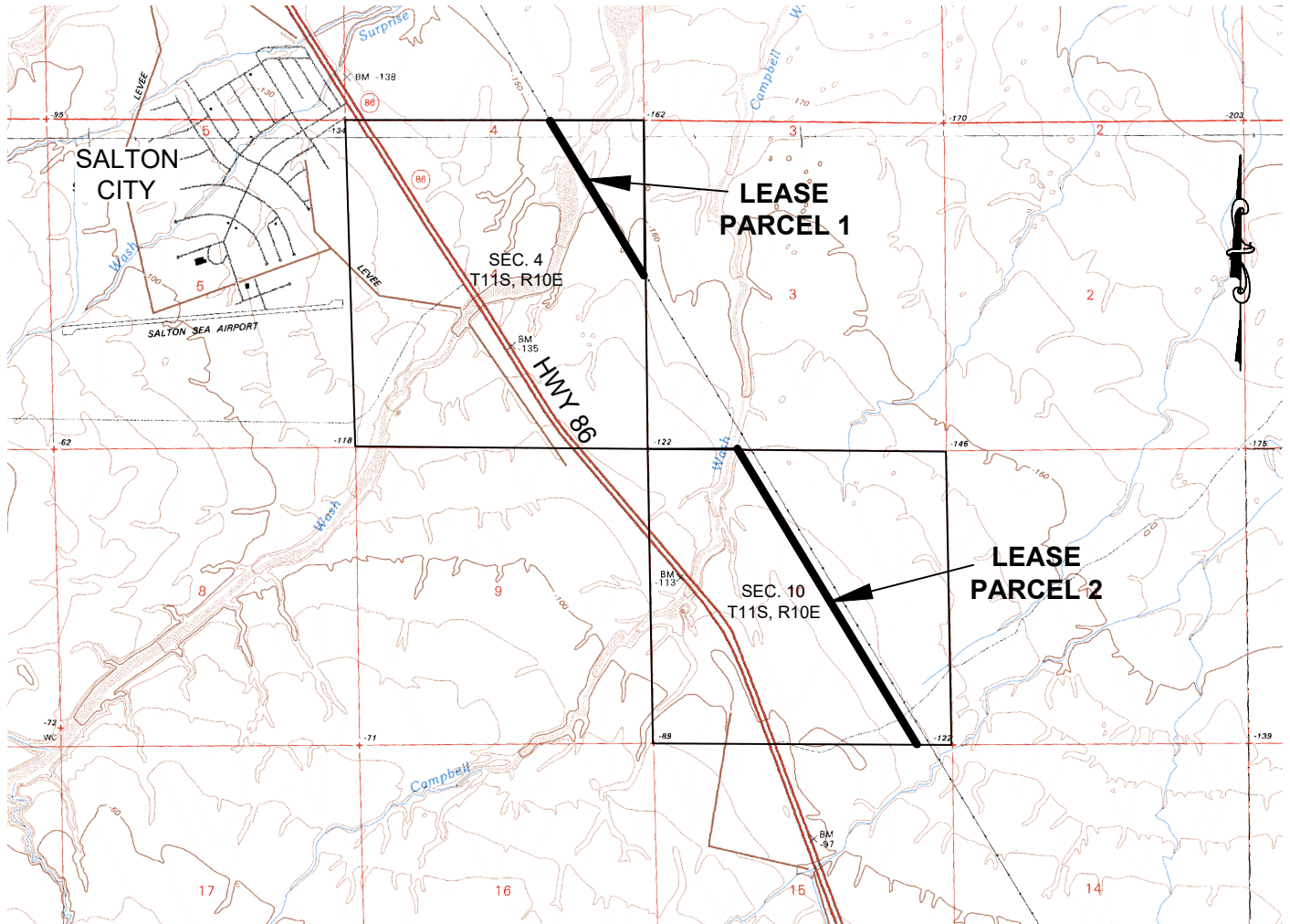


Michael A. Forkert, P.L.S. 5662

Dated this 6 day of June, 2020

NO SCALE

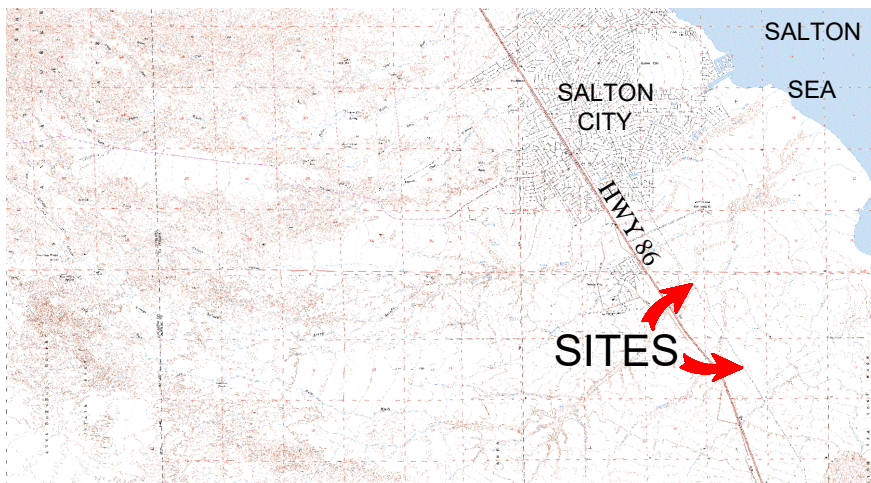
SITE



EXISTING FIBER OPTIC CABLE IN SECTIONS 4 & 10 T.11S., R.10E., SBM

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

Exhibit B

LEASE 7428
AT&T CORPORATION
GENERAL LEASE -
RIGHT-OF-WAY USE
IMPERIAL COUNTY



TS 06/03/2020