



CITY OF SALINAS COUNCIL STAFF REPORT

DATE: AUGUST 13, 2019

DEPARTMENT: OFFICE OF THE CITY MANAGER

FROM: ANDREW MYRICK, ECONOMIC DEVELOPMENT MANAGER

TITLE: LICENSE OF CITY FACILITIES FOR SMALL CELL SITES

RECOMMENDED MOTION:

A motion to approve the attached Resolution authorizing the Mayor to sign a Master License Agreement with AT&T for the installation of Small Wireless Facilities within the right-of-way.

RECOMMENDATION:

Staff recommends that the Council approve the attached Resolution and Agreement.

BACKGROUND:

Small Wireless Facilities/Small Cells

Devices making use of wireless telecommunications networks have proliferated in recent years and are now a part of everyday life. Most urban areas, including the entirety of the City of Salinas, are now served by one or more of these networks. To support these networks, the companies that provide them maintain antennas, dishes, and other equipment (referred to generically as “wireless telecommunications facilities” throughout this report) to broadcast and transmit signals. Most recently, these companies have begun to deploy Small Wireless Facilities (also known as “small cells” or “SWFs”), which generally include small antennas mounted on existing structures, rather than the larger antennas that are mounted onto dedicated towers.

SWFs are currently being deployed to enhance existing 4G networks and are expected to be essential to the deployment of 5G networks in the near future. The number of antennas necessary to accomplish the development of this network, however, would result in dozens, if not hundreds, of new antennas in Salinas alone. Because of this scale, wireless telecommunications companies favor the use of street lights and other City-owned infrastructure for the deployment of SWFs – this allows for negotiation with a single property owner, as well as uniformity of design for the facilities.

Prior City Council Actions

In April 2018, the Council adopted a policy (Resolution 21369) indicating the City's desire to facilitate the development of these networks, and established priorities and goals for the leasing of street lights and other City facilities, requiring that all companies wishing to install SWFs on City facilities enter into a Master Agreement with the City, as well as establishing three primary City goals for network deployment: economic development, quality of life, and equity.

The implementation of this policy was greatly complicated when the Federal Communications Commission (FCC) issued an Administrative Order that severely curtailed the ability of local government to regulate the installation of these facilities on City-owned infrastructure within the right-of-way. This Order has been challenged in court – however, the courts have declined to stay the Order while the process plays out, and thus the City is currently operating under the Order's requirements.

More details on the specific limitations imposed by the Order, as well as information on Design Regulations and a permitting process established by the City Council in response to the Order, may be found in the attached City Council Staff Report dated April 2, 2019.

Proposed License Agreement

While the City may no longer require that applicants enter into a Master Agreement as a condition of approval, thus far providers have continued to express an interest in doing so. Due to the fact that Order is being challenged in court, it is unknown whether the current limitations will be temporary or permanent. The Agreement has thus been structured so that both parties can support the Agreement terms regardless of what happens with regards to the FCC Order.

The terms of this Agreement with AT&T may be summarized as follows:

Applicability – The Agreement would cover SWFs mounted on City-owned infrastructure within the right-of-way. Facilities that are not SWFs, are not mounted on City-owned infrastructure (such as poles owned by PG&E), and/or are not located in the right-of-way are not covered by this Agreement.

Term – The primary term of the Agreement is ten years; the Agreement would automatically renew for one additional five-year term (15 years total) unless the City elects to terminate the Agreement after the initial ten-year term. Either way, AT&T would be allowed to maintain its facilities for five years beyond the expiration of the Agreement in order to amortize its investment. The City otherwise retains the ability to terminate the Agreement early for cause.

License Payments – The FCC Order prohibits Cities from requiring License Payments. However, in the event that this prohibition is lifted during the term of this Agreement, Annual License Payments would be due to the City. This amount would be \$750 per year initially and would thereafter increase by 2.5% per year.

Permitting/Design – Facilities allowed under this Agreement would still be required to obtain all required Permits and must meet the standards specified in the City's adopted Design Standards.

Additionally, AT&T would have the option of submitting “standard plans,” allowing for the reuse of pre-approved designs across multiple applications. This has the advantage of reducing the need to review individual facility designs and will save time for both AT&T and City staff.

Other Requirements – The Agreement provides standards for site maintenance, operation, removal, and insurance.

Although it is not defined, AT&T has indicated that its current plans are to construct 49 new facilities in Salinas over the next year. A full map is not available for publication at this time, as the information would be valuable to AT&T’s competitors. However, AT&T has shared that, of those 49 facilities, 2 (4%) are located in the 93901 Zip Code, 42 (86%) are located in the 93905 Zip Code, and 5 (10%) are located in the 93906 Zip Code.

CEQA CONSIDERATION:

The proposed Agreement is exempt from the California Environmental Quality Act (CEQA) per Section 15302 and 15303 (Class 2 and Class 3) of the CEQA Guidelines, as the FCC has already deemed the installation of SWFs in the ROW to be approved, and as the Agreement does not permit any activity beyond those already permitted by the FCC and City regulations, there is no potential for these regulations to cause a significant effect on the environment.

DEPARTMENTAL COORDINATION:

This Agreement was negotiated with the assistance of staff in the Public Works and Community Development Departments.

FISCAL AND SUSTAINABILITY IMPACT:

Under the current FCC Order, the Agreement is revenue neutral: while it would entail some costs to the City to implement its provisions, these costs would be covered through the collection of fees which have been previously established by the City. In the event that the FCC Order is rescinded or overturned, and the City is able to collect License Payments in the future, this Agreement would result in positive City revenues estimated to be between \$25,000 and \$75,000 per year, depending on the number of SWFs installed.

ATTACHMENTS:

Proposed RESOLUTION, including Exhibit A

Exhibit A – Proposed Lease Agreement, including Exhibits 1-5

Exhibit 1 – Definitions

Exhibit 2 – Licensor’s Current Design Regulations

Exhibit 3 – Current Licensor Fees

Exhibit 4 – Required Permit Information

Exhibit 5 – Form of Site License

City Council Staff Report dated April 2, 2019