

TOWN OF PARADISE VALLEY

**Master License Agreement for Small
Wireless Facilities in the Right of Way**

Town Council Meeting

June 13, 2019

Key Question?

- Does the Town Council desire to approve the Master License Agreement for Small Wireless Facilities in the Right-of-Way?
- Does the Town Council desire to authorize the Town Manager to execute the standard MLA?

Background

- In 2017 the Legislature adopted HB 2365 governing use of the ROW for small wireless facilities
- HB 2365 requires the Town to make available its rates, fees, and terms within three months of an application for a SWF
 - Town previously adopted fees
 - Town has not received any SWF application, but has one provider interested in applying (pre-application)

Background

- For use of ROW, Town Code Requires:
 - Master License Agreement (= PV’s “terms”)
 - and
 - Permit for each SWF
 - Administrative approval process, if it meets the Town design requirements
 - Otherwise, SUP process is needed

MLA - Considerations

- “Terms” – Statute requires “competitively neutral” and “non-discriminatory”
- 2 Reference Points:
 - Existing ROW License with NewPath/Crown Castle
 - Terms common in other Maricopa County cities

Background (Cont'd)

- At its May 9th Study Session, the Council was provided with the draft Master License Agreement for Small Wireless Facilities in the Right of Way (MLA), and was asked to provide any recommended changes to the MLA
- No changes were suggested

Key Terms in MLA

- Term -10 years with one 10-year extension
- Use Fee - \$50 per SWF per year
- Construction
 - 180-day completion of each site
 - No major road closings during rush hour
 - Contract administrator available 24/7

Key Terms in MLA (cont'd)

- Operation Requirements
 - Use of ROW limited to construct/operate SWF in Use Area
 - Required to operate 24/7, except for maintenance or repair
 - Non-exclusive right to Use Area
 - Rights reserved to Town and Competing Users for Competing Activities
 - Licensee must relocate at Town's request
 - Keep in good condition and repair

Key Terms in MLA? (cont'd)

- Letter of Credit (LOC) on sliding scale
 - 1-10 SWF - \$30K
 - 11-20 SWF - \$60K
 - 21-35 SWF - \$105K
 - 36-60 SWF - \$180.
- LOC as assurance for damages from construction, maintenance, unperformed relocation or removal
- No performance bond

Key Terms in MLA? (cont'd)

- Assignability
 - Certain pre-approved assignments with notice to Town and assumption of MLA by assignee
 - Complete assignment of MLA to Qualified Operator
 - Complete assignment to affiliated entity
 - Merger or consolidation with Qualified Operator
 - Sale of publicly traded stock, regardless of quantity
 - Other assignments require consent Town

Key Terms in MLA? (cont'd)

- Other
 - Insurance - \$10M commercial general liability; \$2M/4M auto
 - Noise – comply with Town Code requirements during construction and operation; allow burglar alarm and safety devices
 - Lighting – comply with Town Code requirements
 - Other standard T&C: condemnation, record-keeping, audits, indemnity, compliance with laws

Next Steps

- Adopt Resolution No. 2019-16, approving the Master License Agreement for Small Wireless Facilities in the Right of Way (MLA) and authorizing the Town Manager to execute the License Agreements that are in conformance with the MLA

Questions