

MASTER LICENSE AGREEMENT SMALL WIRELESS FACILITIES

Work Study Session

May 9, 2019

Key Question?

Q. Prior to the May 23 meeting, does the Town Council seek any changes to the draft Master License Agreement for Small Wireless Facilities in the Right-of-Way?

SWF's in ROW

- A.R.S. § 9-592 (E) requires Town to make available its rates, fees, and terms within three months of an application for a SWF
- Town Code Requires:
 - Master License Agreement for use of ROW (= PV's "terms") and
 - Permit for each SWF
 - Administrative approval process, if meets requirements
 - Otherwise, SUP process

Current Status of SWF Applications?

- One - AT&T
 - Currently in pre-app
 - Formal application expected
 - Location: 5401 N. Scottsdale Road
 - North of Chaparral Road in front of DoubleTree Resort

AT&T Proposed Site

Location/Current
Condition

Proposal

- Replace light pole

- Add antennas and
ground equipment



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

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)

- 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

- Council action to approve the MLA and authorize TM to execute the “standard” MLA in the future as requested by wireless providers
- Negotiation allowed – Statute specifically allows provider to request “different or additional terms”
 - Parties must “negotiate in good faith”
 - Council action required on any negotiated License

Questions