



Legislation Text

File #: 20-123, Version: 1

TO: Mayor Bien-Willner and Town Council

FROM: Andrew Miller, Town Attorney

DATE: March 12, 2020

CONTACT:

AGENDA TITLE:

Consideration of First Amendment to the Right-of-Way License Agreement with Crown Castle (formerly NewPath Networks, LLC) for Installation of Additional Fiber

BACKGROUND:

On September 2, 2010, the Town entered into a Right-of-Way License Agreement with NewPath Networks, LLC (the "Agreement"). On June 14, 2013 the Town was notified of a new address for NewPath Networks, LLC, as NewPath Networks, LLC c/o Crown Castle ("NewPath") as NewPath was purchased by Crown Castle but continues to operate under the name NewPath. NewPath has now requested that the Town amend the Agreement to permit the installation of new conduit and an extension of its telecommunications fiber lines in the Town's Right-of-Way to connect new small wireless facility sites (SWF Sites) that will not be owned by NewPath, but for which NewPath is supplying the fiber backhaul.

NewPath has advised that this new conduit and fiber in the Town rights-of-way will have the following benefits for the Town:

- Allows for the rapid deployment of facilities that will improve wireless services in the Town under an existing agreement while the Town prepares a new wired and/or small wireless facility (SWF) agreement template this year that is in line with new state/federal laws.
- This fiber project that the amendment is needed for will support new SWF sites being installed by our wireless customer (AT&T) and without the fiber backhaul connections, the new SWF's will not improve wireless services in the Town.

The existing Agreement with NewPath provided for an integrated series of identified telecommunications fiber segments (the "Segments") and antenna node sites (the "Nodes") that would be owned and operated only by NewPath. The initial NewPath agreement did into anticipate the possibility that the fiber Segments might need to extend to new SWF sites not owned by NewPath. Thus, the Agreement does not provide for the extension of the fiber Segments to additional SWF sites owned by others, which in the current case would be AT&T. Maps of the 2 new Segments being requested by NewPath and the projected AT&T antenna sites the Segments will

provide backhaul service to are attached hereto (these Segments are located on the northern part of Invergordon Road and on Scottsdale Road and Vista near the Doubletree Resort area).

Because the extension of the fiber Segments will lead to better wireless services for Town residents, visitors, and businesses by connecting new SWF sites in the Town (and nearby in Scottsdale), the Town should encourage the addition of the new Segments. To provide for these added Segments the Town Council can approve a simple amendment to Section 1.1.3. of the Agreement that will allow for the addition of the new Segments and specifically approve the 2 new proposed Segments. The amended language (**in bold**) would be:

“New Segments may be added as necessary to expand Licensee’s distributed antenna system **or as otherwise approved by the Licensor’s Town Council.**”

All other provisions in the Agreement would remain the same. Staff recommends that the Council give direction to move forward with a proposed first amendment to the NewPath Agreement that will provide for the new Segments and enhance wireless services in the Town.

NEXT STEPS

It is recommended that the Council discuss the request by NewPath (Crown Castle) to extend its fiber telecommunications plant and provide direction to staff on bringing forward a first amendment to the NewPath Agreement for approval by the Council.

ATTACHMENTS:

NE Segment Map Proposed by NewPath
SE Segment Map Proposed by NewPath
Draft of First Amendment to the License Agreement