



## Legislation Text

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File #: 20-147, Version: 1

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**TO: Mayor Bien-Willner and Town Council**

**FROM: Jill Keimach, Town Manager  
Andrew Miller, Town Attorney**

**DATE: March 26, 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**

**RECOMMENDATION:**

Approve the First Amendment to the Right-of-Way License Agreement with Crown Castle 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"). 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 so that it may connect new small wireless facility sites (SWF Sites) to the newly installed fiber. These new SWF sites will not be owned by NewPath, but instead owned by AT&T wireless. NewPath will be supplying the "fiber backhaul" that AT&T needs for effective and speedy wireless telecommunications services.

NewPath has also 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 AT&T; and without the fiber backhaul connections the new SWF Sites 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 not 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 planned AT&T antenna site locations that the Segments will provide backhaul service to are attached (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 approve the 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 approve the amendments to the NewPath Agreement and the addition of the two new Segments to the official NewPath Segment Map.

### **ATTACHMENTS:**

2 Segment Maps Proposed by NewPath  
First Amendment to the License Agreement