



# City of Chula Vista

## Legislation Details (With Text)

<b>File #:</b>	17-0394	<b>Name:</b>	Small Cell Master License Agreement
<b>Type:</b>	Consent Item	<b>Status:</b>	Passed
		<b>In control:</b>	City Council
<b>On agenda:</b>	12/5/2017	<b>Final action:</b>	12/5/2017
<b>Title:</b>	A. RESOLUTION NO. 2017-217 OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA APPROVING THE FORM OF A MASTER LICENSE AGREEMENT FOR WIRELESS FACILITIES ON CITY POLES IN THE RIGHT-OF-WAY		
	B. RESOLUTION NO. 2017-218 OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA AMENDING CHAPTER 2 (GENERAL GOVERNMENT FEES) OF THE CITY'S MASTER FEE SCHEDULE TO ESTABLISH ADMINISTRATIVE FEES RELATED TO MASTER LICENSE AGREEMENTS FOR WIRELESS FACILITIES ON CITY POLES IN THE RIGHT-OF-WAY		

### Sponsors:

### Indexes:

### Code sections:

**Attachments:** 1. Resolution A, 2. Resolution B, 3. Exhibit 1, 4. Exhibit 2, 5. Attachment 1 - Chula\_Vista\_Master\_License Template agenda template - clean

Date	Ver.	Action By	Action	Result
12/5/2017	1	City Council	approve	Pass

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### Recommended Action

Council adopt the resolutions.

### SUMMARY

The proposed Master License Agreement (MLA) for Wireless Facilities on City Poles in the Right-of-Way would establish an MLA between the City and various public communications companies for the installation of small cell wireless communication facilities (WCF) on City-owned poles (light and traffic). The proposed MLA includes mutually beneficial and agreed upon terms that are consistent with those provided to other wireless carriers that are subject to the City's review and approval.

### ENVIRONMENTAL REVIEW

#### Environmental Notice

The activity is not a "Project" as defined under Section 15378 of the California Environmental Quality Act State Guidelines; therefore, pursuant to State Guidelines Section 15060(c)(3) no environmental

review is required.

### **Environmental Determination**

The Development Services Director has reviewed the proposed activity, approval of an MLA, for compliance with the California Environmental Quality Act (CEQA) and has determined that the activity is not a "Project" as defined under Section 15378 of the State CEQA Guidelines; therefore, pursuant to Section 15060 (c)(3) of the State CEQA Guidelines the activity is not subject to CEQA.

### **BOARD/COMMISSION RECOMMENDATION**

Not applicable.

## **DISCUSSION**

### **Background**

Macro-cell towers were first approved by the City Council on September 16, 1999, when the City Council approved Master License Agreements (MLA) with AT&T and Cox PCS, Assets, LLC, for installation and operation of as many as 50 wireless communication sites on property owned or controlled by the City. The City also approved an MLA with Pacific Bell Wireless, LLC for as many as 25 sites in November 2002, with Cricket for as many as 35 sites in February 2006, with the New Cingular (AT&T) for as many as 25 sites in July 2007 and with T-Mobile for 25 sites in December 2007. In 1998, when the City began negotiations, City Council directed staff to negotiate rates that would provide wireless carriers an incentive to come to Chula Vista. It was City Council's desire to see Chula Vista commercial and residential consumers have the opportunity to be early adopters of the technology and benefit from the competition of multiple carriers. Staff reached out to the industry, held workshops and invited them to the City to structure "master" agreements that would provide prompt entry at below-market rates. Fifteen years later, now that the latest telecommunication technology is readily available to Chula Vista consumers, staff continues to balance the goals of ensuring that the City continues to attract state of the art, competitive service options for consumers with market rate license payments for City sites. City Council also requested that staff emphasize co-location, stealth installations and other methods of reducing visual impacts.

Additionally, over a relatively short period of time, the technology has evolved from a unique business tool, used by a few people, primarily in commercial areas, to a ubiquitous business and household convenience. The increase in sites to cover the varied topography of a growing city increases exponentially by: 1) the limitations that each site can carry during peak periods; 2) the increased demand for bandwidth use for items such as video, internet and music streaming versus the original voice and texting functions; and 3) the desire to accommodate more carriers with the expectation of fostering greater consumer choice, competition for price and service quality. The public demand for these services continues to grow and all of these issues place a greater demand on sites, particularly in residential neighborhoods. City staff has worked with industry for many years on a "Master License Agreement" approach to reduce the pressure on siting these facilities in less appropriate areas.

The template MLA provides the City with an opportunity to work cooperatively with the carriers to expedite their projects, provide the coverage needed to meet public demand, to pursue sites that have the least impact to residents and meet the aesthetic and safety goals of the community, while capturing revenue that helps the City fund public services at no additional cost to the ratepayer on a competitively neutral and nondiscriminatory basis. Above all, the wireless industry values rapid

deployment, and works with the City to accommodate the community's objectives based predominantly on our ability to demonstrate a record of timely review and construction approvals that support that goal. The City Attorney's Office, Finance, Development Services and Risk Management have provided critical assistance in developing and securing the MLA terms needed to protect the public interest while meeting the objectives of the communications industry.

The evolution of technology coupled with the demand of the public for additional bandwidth has led the communications industry to the deployment of small cell wireless facilities that can be located on light and traffic poles throughout the community. The appropriate placement of these facilities will help address the public demand for these services, particularly in residential neighborhoods, and prepare the community for the deployment of 5G. Like the development of the Macro MLAs the City has worked collaboratively with the communication industry to expedite their projects. These new small cell deployments will provide the coverage needed to meet public demand. In addition, the MLA's seek to utilize sites that have the least impact to residents and meet the aesthetic and safety goals of the community, while capturing revenue that helps the City fund public services.

**Master License Agreement:** The proposed MLA for wireless facilities on City poles in the right-of-way allows the carriers and third party providers to install small cell wireless facilities on property owned and/or controlled by the City and to operate within the scope of the MLA for a period of ten (10) years. All of applicant's construction, installation, maintenance and removal of the small cell facilities will be at their sole responsibility and cost.

The applicants are required to comply with all local, state and federal applicable laws. Each Pole License Agreement (PLA) under an MLA shall be administratively approved for each site and contain specific conditions that must be satisfied and maintained in order to use the wireless facility. The PLA will be submitted to the Engineering Department and circulated to all other appropriate departments. If the applicant causes any damage to the public right-of-way or City property, they are required to repair it promptly at their sole cost. The applicant will not be allowed to activate their site until the City signs off on final construction and the applicant obtains all necessary regulatory approvals. The original MLA and the PLA provide for a number of risk mitigation measures for the City including: indemnity; insurance requirements; limitation on remedies available to the applicant in the event of a City breach; and reservation of the City's emergency and police powers.

**Impacts on City Property:** The installation will vary depending on the particular location and technology deployed. As mentioned, all installations will be required to receive all applicable permits and carriers will work closely with Development Services and Engineering to assure that they do not interfere with City operations or facility maintenance. The installations will require maintenance and administration on a limited basis. All proposed facilities would be required to secure all necessary land use, building and engineering permits.

**Financial Benefits:** The telecommunication providers will be compensating the City for use of each site by paying an annual license fee to the City General Fund for each pole attachment installed. The annual license fee is \$1,500 dollars per pole, plus an additional fee of \$500 dollars for an additional carrier colocation. The annual fee increases by 3.5% a year. In addition, should the provider enter into agreements within San Diego County that pay a higher license fee or escalation clause they will

be required to pay this increased amount to the City, upon the City's request.

Staff will also work with carriers to implement basic facility improvements or enhancements at each site to help them compliment the facilities' function when the construction and demolition or site programming warrant it. For example, it is common for light standards to be replaced or upgraded when antennae are added. These improvements would be in addition to the license payments.

**Administrative Fees:** The proposed standard MLA requires payment of two (2) administrative fees by applicants: a Master License Preparation Fee and a Pole License Processing Fee. Both fees reflect full cost recovery of the estimated reasonable cost of providing the associated service. The cost of service associated with preparing a Master License Agreement is estimated to total \$8,000 per agreement. The cost of processing a Pole License is estimated to total \$1,000 per pole. The underlying cost of service assumptions associated with both fee calculations are provided in the table below. The hourly rates applied are the current fully burdened hourly rates in effect for each classification, as calculated in either the City's Cost Allocation Plan or the Development Services Fee Study adopted by Council in June 2017.

**Table 1 - Administrative Fee Cost of Service Analysis**

#### **Master License Preparation Fee**

<b>Classification</b>	<b>Fully Burdened Hourly Rate</b>	<b>Estimate Hours</b>	<b>Estimate Cost</b>
Director of Economic Development	\$ 263.86	10.00	\$ 2,638.60
Deputy City Attorney II	\$ 176.24	20.00	\$ 3,524.80
Senior Civil Engineer	\$ 183.60	4.50	\$ 826.20
Associate Engineer	\$ 172.86	6.00	\$ 1,037.16
<b>Total Estimated Cost of Service</b>		<b>40.50</b>	<b>\$ 8,026.76</b>
<b>Proposed Fee</b>			<b>\$ 8,000.00</b>

#### **Pole License Processing Fee**

<b>Classification</b>	<b>Fully Burdened Hourly Rate</b>	<b>Estimate Hours</b>	<b>Estimate Cost</b>
Principal Traffic Engineer	\$ 171.08	1.00	\$ 171.08
Associate Engineer	\$ 172.86	1.50	\$ 259.29
Development Services Technician	\$ 190.14	3.00	\$ 570.42
<b>Total Estimated Cost of Service</b>		<b>5.50</b>	<b>\$ 1,000.79</b>
<b>Proposed Fee</b>			<b>\$ 1,000.00</b>

#### **DECISION-MAKER CONFLICT**

Staff has reviewed the decision contemplated by this action and has determined that it is not site specific and consequently, the 500-foot rule found in California Code of Regulations section 18704.2 (a)(1) is not applicable to this decision. Staff is not independently aware, nor has staff been informed by any City Councilmember, of any other fact that may constitute a basis for a decision maker conflict.

of interest in this matter.

### **LINK TO STRATEGIC GOALS**

The City's Strategic Plan has five major goals: Operational Excellence, Economic Vitality, Healthy Community, Strong and Secure Neighborhoods and a Connected Community. This project supports the Economic Vitality goal as it seeks to increase City revenue and wireless telecommunications facilities.

### **CURRENT YEAR FISCAL IMPACT**

The current year fiscal impact is unknown because no applications have been received. Any applications received and brought on line this fiscal year will result in unanticipated funds to the General Fund.

Approval of Resolution B, amending the City's Master Fee Schedule to add administrative fees, ensures the City recovers the full cost of providing Master License preparation and Pole License processing services.

### **ONGOING FISCAL IMPACT**

The City owns approximately 9,000 light standards and traffic signals throughout the City. If the providers attach small cell wireless facilities to only ten percent (10%) of the street lights located throughout the City the General Fund would realize \$1.3 million in new annual revenue. While staff believes the ultimate deployment of small cells will exceed 900 streetlights throughout the City this will take a number of years to be realized.

### **ATTACHMENTS**

1. Chula Vista Master License Template

*Staff Contact: Eric Crockett, Director of Economic Development*