



Legislation Details (With Text)

**File #:** 19-703  
**Type:** Consent Calendar                      **Status:** Passed  
**File created:** 6/11/2019                      **In control:** City Council/Public Financing Authority  
**On agenda:** 7/1/2019                      **Final action:** 7/1/2019  
**Title:** Approve and authorize the Second Amendment to the Small Cell License Agreement between the City and new Cingular Wireless PCS, LLC, dba, AT&T Mobility on City-owned street lights; and, authorize the City Manager to increase up to ten percent and substitute pole locations on an as-needed basis  
**Attachments:** 1. Att#1 AT&T Small Cell License Agmnt dtd.4/16/2018, 2. Att#2 AT&T First Amendment dtd 10/15/2018, 3. Att#3 AT&T Second Amendment Small Cell pdf

Date	Ver.	Action By	Action	Result
7/1/2019	1	City Council/Public Financing Authority	approved	

**REQUEST FOR CITY COUNCIL ACTION**

**SUBMITTED TO:** Honorable Mayor and City Council Members

**SUBMITTED BY:** Dave Kiff, Interim City Manager

**PREPARED BY:** Kellee Fritzal, Deputy Director of Economic Development

**Subject:**

**Approve and authorize the Second Amendment to the Small Cell License Agreement between the City and new Cingular Wireless PCS, LLC, dba, AT&T Mobility on City-owned street lights; and, authorize the City Manager to increase up to ten percent and substitute pole locations on an as-needed basis**

**Statement of Issue:**

The City Council is asked to approve and authorize the execution of the Second Amendment to Small Cell License Agreement (“Agreement”) between the City of Huntington Beach and New Cingular Wireless PCS, LLC doing business as AT&T Mobility (“AT&T”) to allow the installation of an additional thirteen (13) wireless attachments on City-owned street lights.

**Financial Impact:**

The total revenue generated by the Agreement and Amendments will be approximately \$68,000 annually upon full deployment. Revenues will be placed into the General Fund. Full deployment is contingent upon all issuance of City permits and power design approval by Southern California Edison (SCE).

**Recommended Action:**

A) Approve the “Second Amendment to the Small Cell License Agreement” between the City of Huntington Beach and new Cingular Wireless PCS, LLC, doing business as AT&T Mobility; and,

B) Approve and authorize the City Manager to execute the Second Amendment on behalf of the City; and,

C) Authorize City Manager to increase up to 10% and substitute pole locations on an as needed basis.

**Alternative Action(s):**

Do not approve Second Amendment to the Agreement and direct staff accordingly.

**Analysis:**

On August 7, 2017, the City Council adopted Zoning Text Amendment (ZTA) No. 17-003 to amend the Huntington Beach Zoning and Subdivision Ordinance (HBZSO) Section 230.69 which revised the review process in which pole mounted small cell sites are reviewed in accordance with City design standards and approved with the issuance of a Site Permit.

The City finalized its acquisition of the nearly 11,000 street lights from Southern California Edison, upon which carriers will mount their small cell sites. The ZTA streamlined the process in which small cell sites are deployed on non-City owned utility poles and City-owned street light poles. The ZTA requires that any wireless carrier interested in mounting a small cell facility on a City-owned street light must enter into a separate Small Cell License Agreement with the City.

**AT&T**

On April 16, 2018, the City Council approved an Agreement with AT&T to allow the installation of up to 16 small cell wireless attachments on City-owned street lights, in accordance with the City's Wireless Ordinance. On October 15, 2018 the First Amendment to the Agreement was approved and executed, which allowed an additional five (5) street light locations to be added to the Agreement in order to address gaps in wireless coverage within the City.

AT&T is requesting an additional thirteen (13) street light locations to be added in the proposed second amendment, for a total of 34 street light locations.

The terms of the Agreement and Amendments are summarized below:

- Base Monthly Rent: \$2,000/pole/year
- Increases: 3% annually
- Term: Initial Term of ten (10) years with one (1) additional five (5) year period.

**September 2018 FCC Action**

In late September 2018, the FCC (Federal Communications Commission) acted to (among other things) speed up local government approvals for small cell and related infrastructure, as well as to limit what local governments could charge for pole rentals. For example, in regards to fees, the September 2019 regulations:

- Reaffirm that federal codes limit state and local governments to “charging fees that are no greater than a reasonable approximation of objectively reasonable costs for processing

applications and for managing deployments in the rights-of-way”; and

- Identifies specific fee levels for small wireless facility deployments that presumably comply with the relevant standards (generally, these fees are capped at \$274/year per pole, plus a \$100 one-time application fee);

Additionally, two new “shot clocks” were announced:

- Local governments must review and approve permits for small cell placement within 60 days for a collocated site; and
- Local governments must review and approve permits for small cell placement within 90 days for “new builds”

While the City maintains a higher rental amount in this second amendment to the agreement with AT&T, the City believes that its good faith negotiations with AT&T in this matter, as well as the high data use in our urbanized area, warrant the \$2,000/year charges.

**Environmental Status:**

Not Applicable

**Strategic Plan Goal:**

Strengthen long-term financial and economic sustainability

**Attachment(s):**

1. Small Cell License Agreement between the City of Huntington Beach and AT&T
2. First Amendment to Small Cell License Agreement with AT&T
3. Second Amendment to Small Cell License Agreement with AT&T