



Legislation Details (With Text)

File #: ID 20-00700 **Version:** 1 **Name:**

Type: Action Item **Status:** Agenda Ready

File created: 5/29/2020 **In control:** City Council

On agenda: 6/11/2020 **Final action:** 6/11/2020

Title: Actions pertaining to Master License Agreement for Small Cell Infrastructure:
1. Adopt a finding of Categorical Exemption pursuant to CEQA Guidelines Section 15301/Class 1 for the Proposed Project pursuant to the California Environmental Quality Act (CEQA);
2. Approve a revised Master License Agreement for placement of telecommunication equipment on City assets as defined by Federal Communications Commission (FCC) Order 18-133.

Sponsors: Information Services Department

Indexes:

Code sections:

Attachments: 1. Master License Agreement

Date	Ver.	Action By	Action	Result
6/11/2020	1	City Council	approved	

REPORT TO THE CITY COUNCIL

June 11, 2020

FROM: BRYON HORN, Chief Information Officer
Information Services Department

SUBJECT

Actions pertaining to Master License Agreement for Small Cell Infrastructure:

1. Adopt a finding of Categorical Exemption pursuant to CEQA Guidelines Section 15301/Class 1 for the Proposed Project pursuant to the California Environmental Quality Act (CEQA);
2. Approve a revised Master License Agreement for placement of telecommunication equipment on City assets as defined by Federal Communications Commission (FCC) Order 18-133.

RECOMMENDATION

Staff recommends that City Council approve, and allow the City Manager or designee to enter into, the attached revised Master License Agreement (MLA) with telecommunications carriers. The MLA allows third party carriers to install telecommunication equipment on City assets.

EXECUTIVE SUMMARY

Staff recommends approval of a revised MLA, and authority for the City Manager or designee to enter into such agreements. The revised MLA allows for the City to collect fees in accordance with FCC 18-133, requires the structural analysis (by a City Approved Contractor) of the pole/structure on

which telecommunications equipment is to be implemented, thereby allowing for the removal of the inspection component of the MLA.

Council previously approved an MLA on April 9, 2020, however, Staff has worked with carriers in updating and clarifying provisions in the MLA.

BACKGROUND

On April 9, 2020 Council approved the MLA that allows third party carriers to install telecommunication equipment on City assets that consisted of the following provisions:

- Initial term of 10 years, which is an industry standard.
- Assigns an annual fee of \$270 per attachment, pursuant to FCC (18-133).
- Provides a fallback annual fee of \$1,250 per pole in the event that the FCC order is vacated or invalidated.
- Allows for an annual conductor or conduit lease fee of \$400 per location for accessing the City's existing spare capacity.
- Requires carriers to pay all costs of attaching equipment.
- Offers protections for all parties to ensure that the City has the means to protect public assets.

Since March 19, 2020, the MLA has been updated to insert needed provisions for structural analysis, inspections and mitigation of City risk from use of poles for small cell deployment. The added sections of 4.A.i. and 4.A.ii. cover these provisions

The MLA was on the March 19, 2020 consent calendar to be considered for Council approval, however, it was removed by staff in order to make necessary adjustments for the City's protection. On March 18, 2020, staff received a communication from the manufacturer of the City's infrastructure that traffic and lighting structures are not designed for small cell deployments. To address concerns raised by this communication, the MLA was updated to include a structural analysis of each pole desired for small cell implementation, implement an inspection process as well as proper indemnifications further mitigating the City's risk. Those changes are reflected in this MLA with the addition of sections 4.A.i. and 4.A.ii.

On September 27, 2018, the FCC issued FCC Order 18-133 placing strict limits on state and local government's ability to manage and control government assets relating to small cell infrastructure. FCC Order 18-133 also limits the compensation cities can receive for such implementations to \$270 per pole per year. Since then, the City has been diligently working with carriers on a Master License Agreement that would meet the needs of the City as well as comply with the requirements of the FCC Order 18-133. The proposed MLA would be used by any carrier interested in installing telecommunication equipment on City assets.

ENVIRONMENTAL FINDINGS

This project falls within the Categorical Exemption set forth in CEQA Guidelines Section 15301/Class 1 because this matter pertains to the licensing of existing structures and minor alteration thereof. Further, none of the exceptions to Categorical Exemptions set forth in the CEQA Guidelines, Section 15300.2, apply to this project.

LOCAL PREFERENCE

Local preference was not considered because this item does not include a bid or award of a construction or service contract.

FISCAL IMPACT

No funds shall be expended for this agreement. The revenues from this agreement (currently estimated at \$100,000 annually) have been assumed in the General Fund five-year projections.

Attachment:
Master License Agreement