



Legislation Text

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City of Alexandria, Virginia

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MEMORANDUM

**DATE:** SEPTEMBER 25, 2019

**TO:** THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

**FROM:** MARK B. JINKS, CITY MANAGER /s/  
JOANNA C. ANDERSON, CITY ATTORNEY

**DOCKET TITLE:**

Consideration of a Five-Year Telecommunications Facility License Agreement with New Cingular Wireless PCS, LLC. ("AT&T") to Permit New Cingular Wireless PCS, LLC. to install Small Cell Facilities on Approved Third-Party owned poles in the City of Alexandria's Public Rights-of-Ways.

**ISSUE:** Consideration of a Five-Year Telecommunications Facility License Agreement with New Cingular Wireless PCS, LLC. ("AT&T") to Permit New Cingular Wireless PCS, LLC. to install Small Cell Facilities on Approved Third-Party owned poles in the City of Alexandria's Public Rights-of-ways.

**RECOMMENDATION:** That City Council hold a public hearing on October 19, 2019, and after hearing public testimony approve the attached five-year license agreement with New Cingular Wireless PCS LLC. ("AT&T") and authorize the City Manager to execute the license agreement and to take any other actions that are necessary to implement the agreement.

**BACKGROUND:** As you aware in 2017, the General Assembly enacted legislation to address the growing demand for wireless service and to facilitate telecommunications companies to efficiently deploy small cell communication facilities throughout the Commonwealth. ([City Council meeting 2/26/2019, item #10](https://alexandria.legistar.com/LegislationDetail.aspx?ID=3868166&GUID=2851081A-A56E-4D0D-BD60-6117592C0657) [6117592C0657](https://alexandria.legistar.com/LegislationDetail.aspx?ID=3868166&GUID=2851081A-A56E-4D0D-BD60-6117592C0657)) Since this time, the City has been working closely with telecommunication providers and Dominion Virginia Power (the owner of poles in the City) to comply with recently enacted federal and state laws and to collaboratively reach an agreement that meets federal and state legal requirements for companies to deploy small cell facilities. In addition, as required by federal law, the City adopted Interim Wireless Facility Aesthetic Guidelines to govern the placement and general design of wireless infrastructure and associated facilities within the City. <https://www.alexandriava.gov/>

**DISCUSSION:** The significant provisions of the proposed agreement are summarized below.

1. **Term of Agreement:** The term of the agreement is for five years and will run from the date that the parties sign the agreement. Under state law, AT&T is entitled to obtain an agreement for a term of ten (10) years, however, for City Council to grant any agreement with a term greater than five (5) years would require the initiation of the franchise process under Virginia Code §15.2-2100, et. seq. This process is more involved than the granting of a license agreement and AT&T intends to seek a franchise in early 2020. In other words, the terms of the proposed license agreement will be replaced by a franchise agreement with a term of ten years.
2. **Equipment/Poles Governed by Proposed Agreement:** This agreement grants AT&T the right to attach to 22 Dominion poles that are listed on Exhibit A to agreement. Of these 22 sites, six sites are still under review by City staff. The approved facilities' design is also set forth on Exhibit A to the Agreement.
3. **Compensation:** Under state law the City will receive a one-time administrative fee of \$750 for staff time in reviewing applications. With regard to the approved poles and equipment AT&T submitted 26 applications, the City received a total fee of \$2,450.
4. **Removal/Relocation of Facilities:** The City has the ability to require AT&T to remove, relocate or reconfigure its facilities in order to protect the public health safety and welfare. If this determination is made, AT&T is required to make any such changes at its expense. In addition, if AT&T determines that it no longer using the facilities it is to remove the facilities from the City's rights-of-ways at its own expense.
5. **Insurance:** AT&T is required to maintain adequate insurance to protect the City and its residents against claims arising from the installation and deployment of the facilities.

**FISCAL IMPACT:** A one-time administrative fee of \$750 and total application fees of \$2,450.

**ATTACHMENT:** New Cingular Wireless PCS, LLC. Telecommunications Facility License Agreement

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