AGENDA REPORT

Meeting Date: May 23, 2013

Item Number: F-2

To: Honorable Mayor & City Council

From: Mahdi Aluzri, Assistant City Manager
David Snowden, Police Chief
David Schirmer, Chief Information Officer

Subject: REVIEW OF QUESTIONS AND RESPONSES REGARDING THE APPROVED MASTER LICENSE AGREEMENT (MLA) WITH **AT&T** FOR INSTALLATION AND USE OF TELECOMMUNICATIONS ANTENNAS AND SUPPORTING EQUIPMENT ON LIGHT STANDARDS AND POLES.

Exhibits:

1. Master License Agreement
2. Project Description with Attachments
3. Proposed Equipment and Antenna Type and Location on Pole
4. Pre and Post Coverage Maps
5. CEQA Document

RECOMMENDATION

Staff recommends the City Council review the information provided in response to the questions raised by members of the public regarding the AT&T oDAS project approved by the City Council at their regular meeting of April 11, 2013.

INTRODUCTION

At the May 7, 2013 City Council meeting, members of the public addressed the City Council and raised several questions and concerns over the process by which the

subject project was reviewed and processed by the City. In addition concerns were raised about the scope of the project and its impact on the adjacent property owners. The Master License Agreement (Exhibit #1) was approved by the City Council at their April 11, 2013 regular meeting and has been fully executed by both the City and AT&T.

It should be noted that the majority of the questions raised at the May 7, 2013 City Council meeting were already responded to and addressed in the staff report presented to the City Council on April 11 during their consideration of this item.

DISCUSSION

The following provides comprehensive responses to the May 7 questions together with additional information where appropriate.

1. What is the real scope of the project and how many "towers and boxes" are proposed? Were there any independent analysis conducted on the project?

The attached project description (Exhibit #2) provides a complete overview of the scope of the project and is an integral part of the Master License Agreement (MLA) that was included as Exhibit #1 with the staff report that was presented to the City Council at the April 11, 2013 meeting. This information is also provided in "Proposed Equipment" and "Antenna Type and Location on Pole" (Exhibit #3) which was also included as Exhibits #11 and 12 to April's staff report. The proposed equipment includes a) a total of 75[1] city-owned poles with a DAS antenna attachment; b) 78 wireless equipment cabinets 23"D x 27"W x63"H and c) 5 additional power cabinets 23" x 25" x 64".

The proposed nodes are not "towers". They are replacement light, banner, stop, street parking, street name sign, wooden utility and/or free-standing poles; which at 59 locations have an extension neck above the light fixture (in the case of streetlight poles) of between 4.5 feet and 13.5 feet high for mounting the antennas. These oDAS nodes which are much smaller in configuration than a typical Macro "tower"; are typically installed on public light standards, accompanied by a nearby equipment cabinet. The number of nodes 76 was determined by an extensive engineering study based on several factors including but not limited to, distance between nodes and other existing sites, geography of the area (including topography, roadway configuration, foliage and adjacent buildings), antenna configuration (height, direction, tilt, etc.), low power emission levels and access to backhaul. City staff did not conduct an independent study on the need for the suggested number of nodes to accomplish the desired coverage. AT&T provided staff with coverage maps for both current conditions and for how they anticipate coverage will increase after the oDAS project completion (Exhibit # 4)

[1] The project entails 76 nodes however, one node is on an AT&T owned pole

2. **Were CEQA regulations properly followed? How were the categorical exemptions determined?**

The MLA was reviewed in accordance with the requirements of the California Environmental Quality Act ("CEQA"). Under the State CEQA Guidelines, 14 C.C.R. §§ 15000-15387, certain classes of projects are categorically exempt from CEQA review. Planning staff determined in this case that approval of the MLA was categorically exempt from CEQA and prepared a Categorical Exemption (See Exhibit #5), which was included as Exhibit 2 to the April 11, 2013 report to the City Council. As explained in that document, the project was covered by four categorical exemptions: Class 1, 2, 3, and 4.

The Class 1 categorical exemption includes minor alterations to existing facilities. (14 C.C.R. § 15301.) AT&T's DAS project will include modifications to existing public rights-of-way, street lights, and utility poles to accommodate wireless antennas, and also involves connecting the system to existing electrical infrastructure and underground fiber networks. Because the project includes modifications to existing facilities, it qualifies for a Class 1 categorical exemption.

The Class 2 categorical exemption includes the replacement or reconstruction of existing facilities. (14 C.C.R. § 15302.) In addition to utilizing existing street lights and utility poles, AT&T's DAS project will result in the replacement of some of these existing facilities with facilities that will be similar in nature and integrated into the City's existing utility systems. Because the project includes the replacement of existing facilities, it qualifies for a Class 2 categorical exemption.

The Class 3 categorical exemption includes the construction of new, small structures, including utility extensions. (14 C.C.R. § 15303.) AT&T's DAS project includes the installation of new equipment cabinets within the public right-of-way to serve the pole-mounted antennas. The cabinets are similar in size to other utility cabinets located within the public right-of-way, and do not require expansion of the right-of-way in order to be accommodated. These cabinets will tie into the existing utility infrastructure. Because the project includes the construction of new, small structures and utility extensions, it qualifies for a Class 3 categorical exemption.

The Class 4 categorical exemption includes minor trenching and backfilling of land when the surface is restored. (14 C.C.R. § 15304.) Installation of the equipment cabinets and underground connections to the existing utility infrastructure will result in the need for trenching and backfilling within the right-of-way. Once completed, the surface will be restored to its original condition. Because the project includes minor trenching and surface restoration, it qualifies for a Class 4 categorical exemption.

3. **How many "towers and boxes" are sufficient to address Police concerns, and how many in excess of that amount are for AT&T's commercial purposes?**

According to the studies provided by AT&T all 76 oDAS nodes are necessary to provide the needed coverage in those areas where there currently is no wireless connectivity for any of the wireless devices utilized by public safety and local government. None of the node locations are considered "excess". This design was provided by AT&T to meet their customers' needs. Since the City (Police/Fire) is one of AT&T's many customers, it's not possible to segregate the City's needs from AT&T's commercial purposes.

4. **Could the proposed "towers and boxes" be placed in the alleys? The explanation provided by the City was vague and incomplete. Did AT&T consider using SCE poles in the alley**

The coverage span of an individual oDAS node is relatively small and therefore must be within close proximity of the service traffic area, especially in residential areas. Alleys are not where coverage needs to be focused. Not only are city alleys congested with refuse containers, Edison poles and other underground utilities (such as sewer, water and gas) but the configuration of our alleys is not conducive to the purpose of an oDAS node.

In addition there are constraints on using SCE poles. Each wooden utility pole would have to be identified as either a a)transmission or b)distribution pole. It should be noted that Edison does not allow any attachments to their transmission poles. The following are Edison's minimum requirements regarding attaching anything to a distribution pole:

The attached SCE "Distribution Overhead Construction Standard" DC220 for "Typical Poleheads/Clearances for Third Party Antennas" has to be adhered to when third party antennas are attached to joint use wood utility poles. A minimum clearance of 16 feet required between the alley paved surface and the lowest portion of the installed antenna. The state mandated clearance above travel roadways or alleys is 18' minimum (*G.O. No.95;1998*).

A *typical* pole in a Beverly Hills alley has primary power at the top (750V +), secondary power (0-750V) 6-8' below the primary lines, telephone cable 4-6 ' below secondary lines and a cable TV cable 1' below the telephone cable. The TV and CATV cables are typically placed between 19 and 23 feet above the ground resulting in a typical alley pole height of 45' (Top of Pole typically has a 3-6 foot freeboard above primary power line). If AT&T proposed using a distribution pole for their DAS antenna installations, they would not be permitted to install their antenna panels in the 4-6 foot space between Edison's secondary power lines and the telephone cable unless they replaced the existing 45 foot high pole with a 55 foot high pole (providing the minimum 6' required clearance between the secondary power lines and the top of the proposed antenna and the minimum 2' required clearance between the bottom of the antenna and the top of the telephone cable. AT&T oDAS antenna panels are 4 foot high. Consequently; the clear distance between the secondary lines and the telephone cable would need to be at least 12 feet. Replacing the existing 45 foot high pole with a 55' high pole would result in the top of AT&T's proposed antenna panel being at 32 foot above ground which would be lower than a number of the adjacent larger homes, apartment buildings and foliage; consequently seriously impacting the desired and anticipated coverage. Additionally, replacing the existing pole with one 10 foot taller would require the removal and replacement of the existing poles on either side of the "antenna pole" with higher poles to prevent a "Teepee" effect on the power lines.

An alternative approach would be to install the AT&T antennas below the cable TV cable. However, the support arms for the antennas would require 2 foot minimum clearance below the TV cable, placing them at approximately 20 feet above the ground. Because the antennas would have to hang down, their underside would end up at 16 feet above the ground which violates state overhead clearance standards (which require 18 feet minimum) causing them to be continuously hit by trash trucks and/or any other large vehicles.

Additionally; a substantial number of the poles in Beverly Hills alleys have power, telephone and CATV risers (conduit) running up the side of the poles providing residents with their connections. These existing risers would make it extremely difficult for AT&T to find room to install additional risers needed to feed their antenna.

With respect to placing the proposed cabinets in the alleys; they just physically would not fit. The required clearances around these cabinets is 3 feet in each direction and Edison require that a safety bollard be installed adjacent to all cabinets in alleyways. In a typical 15 foot wide alley with a 2 foot deep cabinet that would leave 14' - (3'+3'+2') = 6 foot wide travel way.

It should also be noted that the project description part of the MLA includes the following requirements with respect to the proposed cabinets in the parkways: "Where requested by City staff and feasible, cabinets will be screened with drought-resistant plant material. DAS nodes north of Santa Monica Boulevard and south of Sunset Boulevard will be screened with landscaping subject to approval of the City's Urban Forester. The attachments to the project description show the irrigation plan and plant options for screening. In any location where the City has an existing irrigation system at the site or immediately adjacent to the site, AT&T Mobility will, upon request, extend the City's system to cover the planting area. AT&T will ensure that plants are properly planted by replacing any plants that die within six months of planting."

5. **Are there any health safety issues with these "towers and boxes" located 15' or so from homes?**

AT&T submitted an engineering report on the RF emissions from the proposed oDAS network that showed compliance with the Federal Communications Commission's emissions limit. The FCC's RF emission limits include site specific RF emissions as well as the cumulative exposure to RF emissions from other wireless service facilities in the surrounding area. The engineering firm of Hammett and Edison studied the RF emissions from the proposed oDAS network and the surrounding RF emissions and found that the RF emissions are below those allowed by the FCC. AT&T has provided the city with additional background materials - the FCC Consumer Facts sheet and a hand out discussing AT&T's commitment to compliance with FCC standards. These materials provide general information on RF emissions and include many web links to other information sources.

As an extra precaution, the City requested and AT&T voluntarily agreed to maintain a minimum of 250 feet separation between oDAS installations and school entrances and playgrounds but not because it was not based on RF emissions. The report submitted by AT&T proves that the facilities comply with all RF emission limits at all locations, both in residential locations and near schools. Should an independent study be desired staff can research options for firms that specialize in these studies and bring back a scope and cost for Council consideration.

6. **Did AT&T or the City approach owners of some of the larger buildings along Wilshire and major roads where there are opportunities to install "macro" of the roofs instead of the location proposed by the project?**

The gaps in coverage as illustrated on AT&T maps offered for public display during the outreach process by the City are mostly in the residential areas of the City especially in the flats and north of Sunset. Major roadways such as Wilshire, Beverly Drive and Santa Monica Blvd. do not need additional nodes because coverage along these routes is adequate.

Working with public safety staff, AT&T identified a service coverage gap within the city. To close this service coverage gap and provide sufficient service coverage for AT&T's customers in the affected area, AT&T initially came to the city in 2010 with a plan for 14 macro sites. AT&T and city staff investigated multiple commercial and 36 city-owned properties. Due to the residential nature of the topology, only a few locations were identified as potential candidates for marco cell sites. Of those locations, only 6 were available (i.e., willing landlord), and AT&T is placing a macro site at each of these locations. This hybrid approach (6 macros and 76 nodes) has reduced the total number of oDAS nodes needed to 76. Due to the lack of other viable macro site candidates, the city and AT&T worked cooperatively over the past two years to develop an oDAS system that utilizes city-owned light standards. This collaborative process has resulted in a solution that allows AT&T to close a majority of the existing service coverage gap in a manner consistent with the city's aesthetic values.

7. **Was there any study done on the possible impact of the project on property values? Would a resident whose home is next to one of these have to disclose it and the electrical issues on a Transfer Disclosure Statement when selling the home? Did the City consult with a realtor and an expert on property values?**

Staff contacted a Los Angeles based real estate agent who specializes in completing comparative studies for communities on the value of real estate around cell towers. Essentially, his method of research involves retrieving relevant data on real estate prices in specified areas before and after the installation of adjacent cell sites and comparing these properties to others in the surrounding area. The cost to prepare such a study and present to the City is estimated at around $1,500 to complete should the City Council direct staff to engage the services to conduct the study. Anecdotal information suggests that areas with better coverage could in fact improve property values.

8. **Was there an independent professional review of these (and other issues) related to the project?**

Psomos, an engineering firm, was hired by the City (paid for by AT&T) to study the antenna and cabinet site locations Staff and the consultant walked each site, multiple times, to find the best location for the cabinets and antennas for aesthetic purposes and to find the least intrusive placement of the cabinets and antennas and still meet the coverage requirements. AT&T provided the funding for the consulting services but the City independently chose the company without AT&T input. Many adjustments were made to proposed height and pole location to minimize visual impact.

An independent technology engineering or health study was not done. The engineering firm Hammet and Edision, an engineering firm for broadcast and wireless, completed the

health and noise study to ensure the RF emissions meet Federal requirements and the noise met federal and local standards.

Please see the Fiscal Impact section of the report regarding the scope and cost of an independent study.

9. Would any AT&T wireless services be extended, enhanced or otherwise affected outside Beverly Hills after the project's implementation?

The oDAS system is designed to close an existing service coverage gap within the city of Beverly Hills. Due to the radio signal propagation characteristics of the proposed oDAS, only incidental coverage may spill over into the immediately surrounding cities, such as West Hollywood. This may result in some incidental coverage on roads leading into the city. This is the same as the existing propagation or enhancement that is enjoyed by AT&T customers within the city from sites outside the city.

10. Was this issue vetted by the Health and Safety Commission?

The project was presented to the Health and Safety Commission on September 24, 2012 and on a follow-up meeting on October 22, 2012. The Commission is an advisory commission and does not vote on policy issues or City projects. The Commission can consider health and safety related items, but do not get involved in police and fire response capacity matters. After the project presentation comments and input were made on a variety of relating topics including the coverage, noise, health ramifications, aesthetics, cabinets locations, and back-up power. The commission asked for a follow-up on the noise and health issues.

At the October 22, 2012 meeting, the commission was provided with additional information including the noise and health studies and cell phone safety. The commission then asked further questions and provided further input. These meetings can be reviewed on City of Beverly Hills at:

http://www.beverlyhills.org/citygovernment/commissions/healthandsafetycommission/

The RF emissions from the proposed oDAS network comply with the Federal Communications Commission's emissions limits, which are based on extensive study by the FCC. The FCC's RF emission limits include site specific RF emissions as well as the cumulative exposure to RF emissions from other wireless service facilities in the surrounding area. The engineering firm of Hammett and Edison studied the RF emissions from the proposed oDAS network and the surrounding RF emissions and found that the RF emissions are below those allowed by the FCC. The City's Technology Committee also heard this issue and provided input multiple times.

11. Does AT&T have the right to place poles in the public right away?

Under state law, telephone companies have the right to install new facilities in the public right-of-way subject to the City's reasonable control. AT&T therefore could have asked for permission to install its antennas on new poles without the need to negotiate a

license agreement. By accommodating AT&T's antennas on the City's existing poles through a license agreement, the City is able to prevent the proliferation of new poles that AT&T might otherwise seek to build in the right-of-way.

12. Why can't the City change their carrier?

Over the past several years the City has actively addressed the cellular coverage issue for Public Safety mobile data exchange. During this time, a number of side-by-side tests were conducted to compare coverage by the various wireless carriers. The resulting coverage maps revealed that each of the carriers provided reasonable coverage in some parts of the City, but no single carrier provided ubiquitous coverage throughout the City.

Wireless coverage for a given geographic region tends to be somewhat dynamic. That is to say, carriers have the potential to 'tune' their systems at a regional level that may result is differing coverage levels over time. Additionally, carriers are adding and removing transmitters, which also significantly impacts coverage.

Recent advances in mobile data technology have enabled multiple wireless carriers to be seamlessly used within a single computing environment. The City has piloted this technology with promising results and plans to standardize on a multi-carrier mobile platform for critical vehicles. This same multi-carrier technology, however, is not readily available for voice data, and as such, there remains a need for ubiquitous coverage across the City.

13. Why were notices sent on Dec. 24?

The community workshop was scheduled for January 10. The letters were sent on Dec. 24 as staff wanted to provide ample time before the January 10 meeting for residents to plan on attending. Staff worked diligently to print, label and stuff envelopes to be sent to over 2500 residents, those living within 150 feet from a site. In addition, an invitation to attend the workshop was offered at the Homeowner's Association meeting with the City Manager the day before on January 9, 2013.

FISCAL IMPACT

There are no anticipated costs at this time unless the City Council directs engaging the services of independent consultants to restudy the project.

To quantify potential costs, the City requested a proposal from a telecommunications consulting firm with a background in conducting similar analyses. Included in the proposal were the following high-level focus areas:

- An analysis of the current operational environment and identification of surrounding issues
- An analysis of the AT&T proposal in terms of suitability to achieve desired goals

- Modeling the performance of the proposed system and mapping the signal strength
- Developing a comprehensive report of the findings and presenting as appropriate.

The work could be performed within a four-week timeframe and is estimated to cost roughly $18,200.

Don Rhoads	Jeffrey Kolin
Finance Approval	Approved By