



AGENDA REPORT

Meeting Date: August 5, 2014

Item Number: D-4

To: Honorable Mayor & City Council

From: Mark Cuneo, City Engineer
Anne Garvey-Zaworski, Principal Civil Engineer

Subject: APPROVAL OF AMENDMENT NO. 1 TO AN AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND NEW CINGULAR WIRELESS PLC, LLC (dba AT&T MOBILITY) FOR ALTERATIONS TO AN EXISTING AT&T MACRO INSTALLATION ON OLYMPIC BOULEVARD AT PECK DRIVE

Attachments:

1. New Cingular Wireless Signed Amendment to Existing Agreement No. 353-06
2. Categorical Exemption Dated June 19, 2014
3. Original Agreement No. 353-06
4. Radio Frequency-Electromagnetic Energy (RF-EME) Report Dated July 18, 2014
5. Photo Simulation Identifying Existing and Proposed Antenna
6. Notice Regarding City Council Meeting Date Sent To Residents Within 500 Foot Radius of MACRO Site
7. Spreadsheet of Payments Made To City To Date For Existing Macro Site
8. City-Approved Certificate of Insurance For Existing MACRO Site

RECOMMENDATION

Staff recommends that the City Council move to approve an Amendment to the *existing* Agreement No. 353-06 between the City of Beverly Hills and NEW CINGULAR WIRELESS PLC, LLC (DBA "AT&T Mobility") for the upgrading of the existing antennas/radome on the existing light pole at the southwest corner of Olympic Boulevard and S. Peck Drive.

INTRODUCTION

AT&T Mobility is proposing to upgrade their *existing* MACRO site on the southwest corner of Olympic Boulevard and S. Peck Drive, by replacing the existing two (two foot high) panel antennas inside the existing two foot diameter radome with two new LTE

capable (four foot high) panel antennas inside a new two and a half foot diameter radome.

Discussions regarding this permit application were first initiated on December 3, 2013 by AT&T's Representative Ericsson Inc. when they advised staff of the capacity issues (blocked calls, disconnects, slow internet and uploads, no streaming) that the community has been experiencing in the surrounding residential and commercial areas.

The Agreement Amendment, if approved by Council, will be the vehicle that permits the City to a) issue a Utility/Street Use permit for the removal/replacement/installation of the antenna/radome and b) enforce project conditions that AT&T will have to adhere to for the life of the agreement including a new annual encroachment permit fee of \$5,910 plus CPI adjustments.

DISCUSSION

In 2006, the City Council approved a nonexclusive and revocable encroachment permit to "Cingular", to construct, install, operate, maintain, upgrade and repair wireless telecommunications antennas on a light standard at 403 South Peck Drive, Beverly Hills (southwest corner of Olympic and Peck) and install associated vaults for supporting equipment at this location. Construction of this MACRO site was completed in January 2008. Their annual encroachment permit fee is \$2,955.10 (with annual CPI increases).

In 2012, AT&T Mobility deployed it's LTE (Long Term Evolution) a mobile broadband that provides internet capability to AT&T cell phone consumers. This technology is also considered 4G or 4th Generation and is for data-heavy usage typically experienced in tablets and laptops. AT&T have stated that they require this antenna replacement at Olympic/Peck as part of the upgrades to all of their existing cell sites to handle 4G capability using the new LTE capable antennas in addition to addressing existing capacity issues directly related to this site.

There are currently four (4) other City-approved MACRO sites on City-owned streetlights along Sunset Boulevard at Beverly, Foothill, Greenway and Hillcrest in addition to five (5) City-approved MACRO sites on City-owned property (Former Chamber Building at 239 S. Beverly Drive, Fire Stations 2 and 3, Police Department (PD) at 464 N. Rexford Drive and Greystone. Additionally, there are at least three MACRO sites on privately-owned buildings at 9045 & 9301 Wilshire Boulevard and 490 Foothill Road.

AGREEMENT AMENDMENT PROVISIONS

The primary provisions of this amended agreement are:

The term of this Amendment is the same as the original Agreement (which commenced in January 2008) and shall be for twenty (20) years (Initial Term of 5 years and three (3) separate and successive five (5) year periods/Extended Terms). The effective date commences ninety (90) days after approval by City Council and at which time increased permit fee payments shall commence. The term may be extended at the discretion of the City Manager for two (2) separate and successive five (5) year periods.

AT&T shall pay to the City an increased annual permit fee for this upgraded installation as indicated in the fiscal section of this report.

A 10% late payment penalty shall be assessed by the City if the lease payment is not made within 10 days of the due date.

DESCRIPTION OF PROPOSED EQUIPMENT:

The new antenna which has ultimately been determined as vital by AT&T to the success of their 4G technology will be located within the public ROW on the existing street light pole at the southwest corner of Olympic Boulevard and S. Peck Drive.

The existing antenna panels are two feet high and housed within a two foot diameter by three foot high radome. The new LTE-capable antenna panels will be four feet high and housed within a two and a half foot diameter by five foot high radome (both are depicted in the Photo Sim Attachment No. 5 as Existing and Proposed).

When the antenna/radome is replaced, the bottom of the new radome will remain at its existing height which is twenty-nine (29) feet above the sidewalk. However, the top of the new radome will be two feet higher than the top of the existing radome. There will be no significant increase in RF emissions as a result of any changes to the existing equipment on the city pole. It should be noted that AT&T builds and maintains its cell sites in accordance with FCC rules for human exposure to radio frequency (RF) fields.

PUBLIC NOTIFICATION:

On July 18, 2014, City staff mailed out a Notice to all of the three hundred and fifty (350) residents on Olympic Boulevard (within two full blocks) and on S. Bedford, S. Camden, S. Peck, S. Rodeo and S. Roxbury Drive who are within 500 feet (or at end of two blocks along Olympic Boulevard) of this existing MACRO site; advising them of the date and time of this City Council meeting at which the proposed Amendment to the existing Agreement would be voted upon by City Council (Attachment No. 6).

CONSTRUCTION SCHEDULE:

AT&T plans to apply for utility/street use permit within one month of approval of attached Amendment. City staff will provide all required permit plan review and construction-related inspection services during the four week construction period; services for which the City will be fully reimbursed by AT&T on permit application. One of the permit conditions will be that residents/businesses adjacent to the MACRO site will be provided a notice of construction letter, indicating the scope of work and its traffic impact on the area at least two weeks prior to commencement of the antenna replacement.

ENVIRONMENTAL ASSESSMENT

Under Public Utility Commission (PUC) Section 7901.1; utility companies can “access a city’s right-of-way in aesthetically benign ways” and the city can “exercise reasonable controls as to time, place and manner” of all installations. (Ninth Circuit: 10.14.2009)

On June 19, 2014, the City’s Community Development Department advised that this proposed upgrade project qualifies for an exemption from CEQA and that this exemption should be adopted by City Council in conjunction with the approval of this Agreement Amendment.

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Attached is a categorical exemption (Class 1 and 2) prepared by Community Development staff.

FISCAL IMPACT

The proposed annual license fee for this upgrade to the existing MACRO site, will be added to the existing annual permit fee (prorated for the current year) and be paid by AT&T to the City's General Fund

Original Annual Fee.....	\$2,594 (+ Annual C.P.I.)
Annual Fee as of August 2013	\$2,898.17 (+ \$56.93)
Proposed Annual Fee	\$5,910 (+ Annual C.P.I.)

The above fees to be paid to the City will automatically increase each and every year of this Agreement upon the anniversary of the Agreement Amendment Approval Date by the percentage increase in the CPI.

David E. Lightner 
Approved By