

Attachment C

Overview of Small Cell Wireless

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Small Cell Wireless Overview

Over the last several decades, with the invention of new technologies like smartphones, tablets, and smartwatches, connectivity for wireless devices drove telecommunications companies to deploy new equipment to allow for the transmission of more data. Wireless data demand continues to grow, outpacing the capacity of the existing telecommunications infrastructure.

Small cell technology, like that proposed, is now being deployed across the country as a new solution to increase data speed and capacity and to make coverage more reliable. In contrast to traditional macro wireless sites (i.e., cell towers), small cells advance a signal over a smaller radius by the means of minimal equipment on existing infrastructure. The result is more limited visual intrusion and enhanced wireless network capacity, which helps to meet the demands of residents, businesses, and visitors.

The City of Newport Beach's (City) regulatory review of wireless telecom siting is limited by three federal laws: (1) The Communications Act of 1934; (2) the Telecommunications Act of 1996 (Telecommunications Act); and (3) a provision of the Middle-Class Tax Relief and Job Creation Act of 2012 (Spectrum Act). Together, these laws aim to facilitate wireless infrastructure development and restrict certain aspects of local authority in review and permitting of wireless telecommunications facilities. On January 14, 2019, Federal Communications Commission (FCC) Declaratory Ruling and Order FCC 18-133 (Order) became effective. This directive removed barriers to wireless infrastructure deployment related to small cell and established accelerated timelines for processing small cell applications at the local level. It also limited the City's rights as a property owner, restricting the type and amount of fees that can be collected for private use of public property.

On February 12, 2019, the City Council authorized execution of a Master License Agreement (MLA) (Contract No. C-8584-1) with New Cingular Wireless PCS, LLC (AT&T). The MLA authorized non-exclusive use of City-owned streetlights in the public right-of-way to install telecommunications equipment for small cell facilities. The MLA approved conceptual designs, as well as fee and rent assessment. AT&T is responsible for all resultant construction, installation, maintenance, and repair of the small cell facilities, including all related costs and expenses. Further, AT&T is responsible for complying with all laws, statutes, ordinances, rules, and regulations that may be required for their projects.

As the local regulatory agency, the City assesses wireless service facilities under local permitting protocol and ensures sites adhere to responsible regulatory practices, including safety, accessibility, environmental impact, land use, and aesthetics. However, Section 332(c)(7)(B)(iv) of U.S. Code Title 47 (Telecommunications) reads, "no state or local government may regulate wireless telecommunication facilities on the basis of the perceived health effects of radio frequency (RF) emissions to the extent that the proposed

facilities comply with FCC regulations concerning emissions.” Submitted RF materials from the Applicant demonstrate the proposal would conform with FCC Rules and Regulations. Condition of Approval No. 25 requires the Applicant to comply with all applicable provisions of U.S. Code Title 47 (Telecommunications) rules and regulations, including those related to radio frequency emissions.

Under the new FCC Order, wireless providers are not required to demonstrate a significant coverage gap, a qualification previously required by local jurisdictions in order to support an application. Pursuant to the Order, the City cannot “materially [inhibit] the introduction of new services or the improvement of existing services.” Moreover, pursuant to Section 332(c)(7)(B)(i)(II) of U.S. Code Title 47 (Telecommunications), the City may “not regulate the placement, construction or modification of wireless service facilities in a manner that prohibits the provision of personal wireless services.” Although not required, the Applicant produced a coverage map for the project. This map indicates the proposed facility would boost the capacity and coverage in the vicinity.