



# City of San Antonio

## Legislation Details (With Text)

**File #:** 16-5104

**Type:** Miscellaneous Item

**In control:** City Council A Session

**On agenda:** 10/20/2016

**Title:** An Ordinance approving license agreements with Mobilitie Management, LLC, a Delaware Limited Liability Company for the use of city rights-of-way for the installation of small cell equipment on utility and traffic light poles and the installation and maintenance of fiber optic cable, conduit, and related facilities in city rights-of-way to support small cell equipment installation Citywide. [Ben Gorzell, Chief Financial Officer; Hugh Miller, Director, Information Technology Services]

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Small Cell Agreement - Mobilitie Management, 2. Photo - Mobilitie Management, 3. Fiber Agreement - Mobilitie Management LLC, 4. Draft Ordinance, 5. Ordinance 2016-10-20-0825

Date	Ver.	Action By	Action	Result
10/20/2016	1	City Council A Session	Motion to Approve	Pass

**DEPARTMENT:** ITSD

**DEPARTMENT HEAD:** Hugh Miller

**COUNCIL DISTRICTS IMPACTED:** City Wide

**SUBJECT:**

License agreements with Mobilitie Management, LLC for small cell equipment and fiber optic cable installation.

**SUMMARY:**

The License agreements with Mobilitie Management, LLC, a Delaware Limited Liability Company ("Mobilitie Management") for the use of city rights-of-way for the installation of small cell equipment on utility and traffic light poles and the installation and maintenance of fiber optic cable, conduit, and related facilities in city rights-of-way to support small cell equipment installation Citywide.

**BACKGROUND INFORMATION:**

Mobilitie Management is looking to small cell antenna technology as a less intrusive way (compared to towers) to address network gaps and improve broadband capacity for its wireless provider customers throughout San Antonio. Mobilitie Management approached ITSD with a request for accessing city traffic light poles and worked with ITSD and the Office of City Attorney to develop a legal framework to achieve this goal. Mobilitie now requires a license agreement for the use of city rights-of-way to install small cell equipment on utility and traffic light poles. Mobilitie Management also requires a license agreement with the City to connect these small cell installations to their customer networks using fiber optic cabling/conduit.

### **Small Cell License Agreement**

Under the License Agreement, Mobilitie Management would pay the City an annual license fee of \$1,500 for every small cell antenna installation on a pole located in city ROW, regardless of pole ownership. The license fee will increase by 3% annually. The License Agreement would give Mobilitie Management access to city traffic light poles. In addition, Mobilitie Management would have access to utility poles owned by CPS Energy pursuant to a separately negotiated agreement.

At each small cell antenna site, Mobilitie Management will receive a license for the use of a thirty six (36) square feet area to accommodate the dimensions of the equipment and entry of personnel to install, operate, and maintain the equipment on a pole. The License Agreement is for a twenty five (25) year term, subject to the right of either party to amend the License Agreement by providing the other party ninety (90) day notice prior to the fifth (5<sup>th</sup>) anniversary of the Effective Date and every five (5) years thereafter. Increase of the annual license fee will be based on comparable licensing fees paid by Licensee in other Texas cities or based on local fair market value conditions. The License Agreement also includes flexibility to adopt new wireless technology without the need to amend contractual terms.

Although Mobilitie Management has not disclosed the extent of its small cell antenna deployment plans, it could be voluminous requiring significant processing time from ITSD personnel. Each proposed small cell site will be subject to an application review process that will require coordination between several City departments. To account for the administrative expense of this program, Mobilitie Management has agreed to pay an application processing fees of \$700 per small cell application.

Consistent with the FY 2017 budget, the annual license and application fees will be deposited to benefit ITSD in order to cover the expense of additional personnel necessary for administration of the small cell site applications, technical review of engineering design documents, development of an online application processing tool, and contract administration. The remaining funds will be allocated to meet outstanding technology priorities.

Other significant provisions of the License Agreement call for Mobilitie Management to comply with historic preservation regulations, respect the aesthetics of the downtown commercial district, comply with ROW management regulations, pay applicable ROW permitting fees, coordinate its installation activities with appropriate city departments and with CPS Energy, and indemnity protection for the City.

### **Fiber License Agreement**

Under this fiber license agreement, Mobilitie Management would pay the City a one-time processing fee of \$3,500 for every fiber/conduit license issued in city ROW. In addition, Mobilitie Management will pay an annual license fee for each fiber/conduit license issued based on the fair market value of the Rights-of-Way used by Mobilitie Management using a cost formula identified in Chapter 37-21(b) of the City's Municipal Code. At the discretion of the Chief Information/Technology Officer, the City may negotiate a discount off the

total licensing fee in exchange for in-kind contributions of equivalent value.

Other significant provisions of the License Agreement call for Mobilitie Management to comply with historic preservation regulations, respect the aesthetics of the downtown commercial district, comply with ROW management regulations including all regulations related to trenching or boring in the ROW, pay applicable ROW permitting fees, coordinate its installation activities with appropriate city departments and with CPS Energy, and indemnity protection for the City.

## **ISSUE:**

Approval of the Small Cell License Agreement will make available to Mobilitie Management City ROW for the installation of small cell antennas on poles in order to address network gaps and improve the delivery of broadband data service to its wireless provider customers throughout San Antonio in a manner that is less intrusive compared to towers. Mobilitie Management will also compensate the City for access to ROW and traffic light poles.

Approval of the Fiber Optic License Agreement will make available to Mobilitie Management City ROW for the installation of fiber and conduit to support small cell equipment installations in order to address network gaps and improve the delivery of broadband data service to its wireless provider customers throughout San Antonio in a manner that is less intrusive compared to towers. Mobilitie Management will also compensate the City for access to ROW.

## **ALTERNATIVES:**

If the License Agreements are not approved, Mobilitie Management will not be able to access City ROW for installation of small cell antenna and fiber and conduit to support small cell antenna deployments and will likely turn to private property and traditional towers to try to meet its wireless provider customers network capacity needs. It will also result in the City passing on a revenue opportunity.

## **FISCAL IMPACT:**

This ordinance approves license agreements with Mobilitie Management to install small cell antenna and fiber and conduit to support small cell equipment on City ROW. Revenue generated from the annual license fees and processing fees will be deposited into the Information Technology Services Fund.

## **RECOMMENDATION:**

Staff recommends approval of the License Agreements.