

# EXECUTIVE BRIEF REGULAR MEETING

**AGENDA DATE:** August 18, 2020

**DEPARTMENT:** Electric Utility

**TITLE:**

AT&T and City of Lake Worth Beach Settlement Agreement and Joint Use Pole Attachment Agreement

**SUMMARY:**

Settlement Agreement and Joint Use Pole Attachment Agreement with AT&T for unauthorized attachments and for installation and maintenance of wireline attachments on the City's utility poles

**BACKGROUND AND JUSTIFICATION:**

The City has had Pole Attachment Agreements with communications companies referred to as franchise Utility Agency Owners (UAO's) such as ATT and Comcast, for many decades. These agreements had expired and/or were not up to date in regards to pole counts, rates, operating responsibilities, etc. In the case of ATT, City and ATT both own poles and are attached to each other's poles. A "netting" process was and is used to calculate payments owed to each other. Over a period of multiple decades both City and ATT failed to maintain accurate pole counts and notifications to each other on attachments and pole replacements. This resulted in inaccurate counts which were further exasperated by mass replacements of poles during storm recovery efforts, aged pole failures, and motor vehicles accidents.

On April 3, 2018, the City issued a Task Order to Wantman Group, Inc., (WGI) under RFQ 18-303 to complete an audit of utility poles in the City's electric utility service territory to quantify the number of UAO's attached to each pole. The results of the audit indicated that AT&T was attached to 5,955 utility poles owned by the City, and the City was attached to 1,224 poles owned by AT&T. In August of 2019, AT&T conducted its own audit of 1268 poles which they owned. Results of their findings showed that City had attached to 1260 AT&T owned poles, and of these approximately 830 poles were of undetermined ownership. The audit results and findings completed by each party were mutually shared for review and/or concurrence.

Over the past two years, the City's Electric Utility in conjunction with the City's legal team, has worked with AT&T on a Settlement Agreement and a new Joint Use Pole Attachment Agreement. Prior to 2018, invoicing was based on 4,267 City owned poles to which AT&T was attached at a rate of \$15.78 per pole and 1,362 AT&T owned poles to which City was attached at a rate of \$19.73 per pole.

Under the terms of the Settlement Agreement, the City will recover five years of pole attachment fees for the additional 1,688 unauthorized attachments, in the amount of \$79,909.92. In addition, the City will also receive \$16,000 from AT&T as reimbursement

for ATT's share of the pole audit undertaken by WGI. The one-time revenue to the City as an outcome of the settlement with AT&T is \$95,909.92.

The new Pole Attachment Agreement requires AT&T to pay the City \$16.50 per pole annually and the City to pay AT&T \$20.68 annually per pole for poles in which either party is attached. The new pole attachment rates are among the most competitive in the state based on a survey of rates charged by other municipal electric utilities conducted by the Florida Municipal Electric Association. As a result of the new pole attachment agreement with ATT, the City's net revenues from pole attachments by AT&T will increase from \$40,461 to \$57,329 annually.

The new Pole Attachment Agreement also includes: new construction standards for poles that are consistent with the City's standards for new poles under the System Hardening and Reliability Improvement Project (SHRIP), improved communication and notification processes between the parties, and well-defined emergency response roles. Agreeing on our updated construction standards will help ensure that eventually all utility poles in the City's electric service territory will be hardened to withstand Category 5 wind conditions.

**MOTION:**

Move to approve/disapprove the Settlement Agreement and Joint Use Pole Attachment Agreement with AT&T for unauthorized attachments and the new Joint Use Pole Attachment Agreement for FY 2020 in the amount \$95,909.92.

**ATTACHMENT(S):**

Fiscal Impact Analysis  
WGI Pole Attachment Audit  
Settlement Agreement  
Joint Use Agreement

**FISCAL IMPACT ANALYSIS**

**A. Five Year Summary of Fiscal Impact:**

<b>Fiscal Years</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>
Capital Expenditures	0	0	0	0	0
Operating Expenditures	0	0	0	0	0
External Revenues	\$95,909	\$57,329	\$57,329	\$57,329	\$57,329
Program Income	0	0	0	0	0
In-kind Match	0	0	0	0	0
<b>Net Fiscal Impact</b>	<b>\$95,909</b>	<b>\$57,329</b>	<b>\$57,329</b>	<b>\$57,329</b>	<b>\$57,329</b>
No. of Addn'l Full-Time Employee Positions	0	0	0	0	0

**B. Recommended Sources of Funds/Summary of Fiscal Impact:**

Account Number	Account Description	Estimated Revenue	YTD Revenue	Agenda Revenue	Balance
401-0000-341-90-90	Government chrges/Fees Misc	\$246,600	\$25,381	\$95,909	\$367,890