



**CITY COUNCIL MEETING
STAFF REPORT**

<p>Meeting Date: March 20, 2023</p>	<p>Subject: Resolution No. 2989 A Resolution of the City of Wilsonville Authorizing the City Manager to Enter into a Master License and Right-of-Way Use Agreement for Small Wireless Facilities in the Public Rights-of-Way with New Cingular Wireless PCS, LLC</p> <p>Staff Member: Amanda Guile-Hinman, City Attorney</p> <p>Department: Legal</p>	
<p>Action Required</p> <p><input type="checkbox"/> Motion</p> <p><input type="checkbox"/> Public Hearing Date:</p> <p><input type="checkbox"/> Ordinance 1st Reading Date:</p> <p><input type="checkbox"/> Ordinance 2nd Reading Date:</p> <p><input type="checkbox"/> Resolution</p> <p><input type="checkbox"/> Information or Direction</p> <p><input type="checkbox"/> Information Only</p> <p><input type="checkbox"/> Council Direction</p> <p><input checked="" type="checkbox"/> Consent Agenda</p>	<p>Advisory Board/Commission Recommendation</p> <p><input type="checkbox"/> Approval</p> <p><input type="checkbox"/> Denial</p> <p><input type="checkbox"/> None Forwarded</p> <p><input checked="" type="checkbox"/> Not Applicable</p> <p>Comments: N/A</p>	
<p>Staff Recommendation: Staff recommends Council adopt the Consent Agenda.</p>		
<p>Recommended Language for Motion: I move to adopt the Consent Agenda.</p>		
<p>Project / Issue Relates To:</p>		
<p><input type="checkbox"/> Council Goals/Priorities:</p>	<p><input type="checkbox"/> Adopted Master Plan(s):</p>	<p><input checked="" type="checkbox"/> Not Applicable</p>

ISSUE BEFORE COUNCIL:

Consider whether to authorize the City Manager to enter into a Master License and Right-of-Way Use Agreement for Small Wireless Facilities in the Public Rights-of-Way with New Cingular Wireless PCS, LLC (Exhibit 1 to Resolution No. 2989) and to rely on such Master License as a template for any future master license agreement requested by any other small wireless facility provider.

EXECUTIVE SUMMARY:

The Telecommunications Act of 1996, as amended (the “Act”), provides the federal statutory framework for the deployment of telecommunications in the United States. The Act preserves the authority of local jurisdictions, including the City, to control access to and use of the rights-of-way within the City’s jurisdictional boundaries, and to require reasonable compensation for such use on a competitively-neutral and nondiscriminatory basis, so long as such compensation is disclosed. *See* 47 USC 253.

Interpretation of the Act is delegated to the Federal Communications Commission (“FCC”). When small wireless facility telecommunication technology, typically seen as antennas and related infrastructure on, within, near, and under streetlight poles, emerged, the FCC sought to interpret the Act and apply its provisions to encourage the deployment of small wireless facilities. Particularly in 2018, the FCC imposed new regulations and issued new rulings regarding the deployment of small wireless facilities and local jurisdictions’ ability to regulate such deployments.

In early 2019, the City adopted new regulations via Ordinance No. 831 and Resolution No. 2720 in light of the new FCC regulations. Since the adoption of these new federal and local regulations, the City requires small wireless facility providers seeking to deploy small wireless facilities within the public rights-of-way to enter into an overarching master license agreement that generally grants a non-exclusive right to access the public rights-of-way to install, maintain, and operate small wireless facility and related infrastructure, subject to site-specific licenses for any particular location.

New Cingular Wireless PCS, LLC seeks to enter into such a master license agreement with the City and the parties negotiated the Master License and Right-of-Way Use Agreement for Small Wireless Facilities in the Public Rights-of-Way, attached to Resolution No. 2989 as **Exhibit 1**. Staff recommends that: (1) the Council authorize the City Manager to execute the Master License and Right-of-Way Use Agreement for Small Wireless Facilities in the Public Rights-of-Way with New Cingular Wireless PCS, LLC; and (2) that Exhibit 1 serve as the template for any future master license agreements sought by small wireless facility providers.

EXPECTED RESULTS:

Standardized agreements for small wireless facility providers and coordinated deployment of future small wireless facilities in the public rights-of-way.

TIMELINE:

This is an initial step required for a small wireless facility provider to then apply to the City to deploy small wireless facilities in specific locations. Those locations are subject to a site-specific license agreement.

CURRENT YEAR BUDGET IMPACTS:

The agreement contemplates a license fee in the event that any site-specific license is sought and a fee of \$12,000 that New Cingular Wireless PCS, LLC must pay to the City prior to the City signing the Master License and Right-of-Way Use Agreement for Small Wireless Facilities in the Public Rights-of-Way.

COMMUNITY INVOLVEMENT PROCESS:

N/A

POTENTIAL IMPACTS OR BENEFIT TO THE COMMUNITY:

N/A

ALTERNATIVES:

N/A

CITY MANAGER COMMENT:

N/A

ATTACHMENTS:

- A. Resolution No. 2989
 - 1. Master License and Right-of-Way Use Agreement for Small Wireless Facilities in the Public Rights-of-Way