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MEMORANDUM

TO: Mayor and City Councilmembers

THRU: Darin Atteberry, City Manager 
Kelly DiMartino, Senior Assistant City Manager 

FROM: Tyler Marr, Policy and Project Manager 

DATE: May 21, 2019

RE: Agenda Item No. 11 - Master Lease Agreement with Zayo

A minor edit was made to Resolution 2019-061, adding "proposed" to two whereas clauses. The changes reflect that final Master Lease Agreement (MLA) terms have yet to be reached with Zayo, who has not expressed acceptance of the draft staff sent them on May 13, 2019. Staff is not anticipating substantial changes for the final MLA but wanted City Council to be aware of the status of the agenda item as of tonight's meeting.

RESOLUTION 2019-061
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AUTHORIZING THE CITY MANAGER TO SIGN A MASTER LICENSE AGREEMENT
WITH ZAYO GROUP LLP FOR SPRINT SMALL WIRELESS COMMUNICATION
EQUIPMENT ATTACHMENTS ON CITY FACILITIES IN PUBLIC RIGHTS-OF-WAY

WHEREAS, the City operates through the Electric Utility Enterprise light poles located in public rights-of-way throughout the City; and

WHEREAS, federal and state telecommunication laws require the City to permit the attachment of small wireless telecommunication (i.e., cellular) devices on municipally owned infrastructure in public rights-of-way (“municipal facilities”); and

WHEREAS, Chapter 23 of the City Code and Article 3 of the City Land Use Code establish requirements for permitting, siting and installing, and design of small wireless telecommunication facilities and equipment within the City’s municipal boundaries; and

WHEREAS, pursuant to Section 23-177(d) of the City Code, carriers applying for permits to attach small wireless devices to municipal facilities must enter into a license agreement with the City to address general conditions and site-specific aspects of each attachment; and

WHEREAS, in 2019 Zayo Group, LLC (“Zayo”) approached the City, on behalf of Zayo’s cellular service provider client, Sprint Wireless, to secure rights to attach to municipal facilities; and

WHEREAS, City Engineering, Planning, and Electric Utility staff, and Zayo have negotiated license terms applicable to the Zayo attachments, and reduced those terms to a proposed Master License Agreement, as attached hereto as Exhibit “A” (the “MLA”); and

WHEREAS, the purpose of the MLA is to allow Zayo to attach network equipment to municipal facilities in compliance with City Code and Land Use Code and certain design parameters, and to establish criteria for Zayo to replace municipal facilities or install new structures in order to operate small wireless communication networks; and

WHEREAS, Section 23-113(b)(1) and Section 23-140 of the City Code authorize the City Manager to lease or license any and all interests in property owned in the name of the City and to establish such rules and regulations governing the use of facilities owned or operated by the City, if the City Council first finds that the lease or license is in the best interests of the City; and

WHEREAS, the MLA is a City Code requirement for access to public rights-of-way in the City and allows the City to comply with federal and state telecommunication laws, while maintaining reasonable control over use of municipal facilities; and

WHEREAS, the license of access to attach to City light poles pursuant to the MLA will provide specific benefits to residents of the City and Electric Utility ratepayers by generating revenues to offset maintenance, operation, and replacement of such utility-operated facilities; and

WHEREAS, the Engineering, Planning, and Utility Services Departments support the conditions established in the proposed MLA, which will allow the City and Zayo to improve local availability of wireless communication services in furtherance of City goals.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That the City Council hereby finds that the license of access to attach to municipal facilities in public rights-of-way as provided herein is in the best interests of City residents and Electric Utility ratepayers.

Section 3. That the City Manager is hereby authorized to execute a Master License Agreement in substantially the form attached hereto as Exhibit "A", and incorporated herein by this reference, to license access by Zayo Group, LLC to municipal facilities, including light poles, in public rights-of-way on terms and conditions consistent with this Resolution, together with such additional terms and conditions as the City Manager, in consultation with the City Attorney, determines are necessary or appropriate to protect the interests of the City, as long as such changes do not materially increase the size or change the character of the property to be licensed.

Passed and adopted at a regular meeting of the Council of the City of Fort Collins this 21st day of May, A.D. 2019.

Mayor

ATTEST:

Chief Deputy City Clerk