



Legislation Text

File #: 08-0160, **Version:** 1

Resolution to Approve Revision to License Agreement with New Par, d/b/a Verizon Wireless, to Erect and use Telecommunications Equipment on the Manchester Water Tower Site

On October 15, 2007, City Council approved a License Agreement with New Par, a Delaware partnership d/b/a Verizon Wireless By: Verizon Wireless (VAW) LLC, its general partner ("Verizon"), to install antennae and related facilities on the Manchester Water Tower site. The Agreement approved at the time required an annual fee starting at \$23,289.69 for the remainder of the first year, beginning upon execution of the agreement and running through June 30, 2008, increasing to \$32,288.10 on July 1, 2008, then escalating at the rate of 4% per year starting July 1, 2009, and every July 1 thereafter. After the initial term, which ends June 30, 2012, the license agreement provides for options to renew for four additional five-year terms.

At the time, Verizon anticipated starting work in October of 2007. However, because some remaining issues between Verizon and City staff regarding design and construction were not resolved in time for the work to be done before cold weather precluded the painting that is required, Verizon has delayed the date for work to start until March of 2008. Neither the City nor Verizon executed the License Agreement as approved in October of 2007. Verizon has asked that the start date be changed from October 1, 2007, to March 1, 2008, and has asked for a commensurate reduction in the pro rated amount of the license fee for the period ending June 30, 2008, from \$23,289.69 to \$10,348.75, a reduction of \$12,940.94. Verizon also has asked for 45 days to make the first payment instead of 30 days. No other changes are requested.

As background, Verizon is the fifth provider to locate equipment on the Manchester Water Tower site. Its antennae and related facilities will be located on the water tower, with an equipment shelter at the base of the water tower. Because the existing antenna cables already were crowding the tubes inside the tower, the City needed new tubes to be installed inside the tower. Verizon has agreed to install two new tubes inside the tower, and also has agreed to paint the inside of the water tank. Verizon is reserving one third of the capacity of the tubes for its cables. One fourth of the tube capacity is reserved for the City to use. Although the City has agreed not to use its reserved capacity for a competing provider that wishes to locate on the tower for the first time, Verizon has agreed that the City may use the capacity to relocate the cables of a provider for equipment that is already located on the tower, and may use the capacity for the wires or cables of 20/20 or its successor or assign for the purpose of implementing the Wireless Washtenaw Initiative. If another provider wishes to locate on the Manchester Water Tower Site, Verizon may recoup a proportion of its costs to install the tubes, based on the tube capacity used by that provider. Staff has worked with and will continue to work with the engineers for Verizon relative to the installation of the tubes, and relative to the location and manner of attachment of the Verizon equipment so that staff will be satisfied with the final designs and plans developed by Verizon and its engineers for construction and installation.

Except for the additional provisions related to Verizon's construction of the tubes and painting of the interior of the water tank, the terms of the license agreement between the City of Ann Arbor and Verizon are similar to license agreements between the City and other telecommunications providers

that have installed antennae and related facilities on the Manchester Water Tower and Plymouth Road Water Tower sites. The license agreement governs in detail the responsibilities of Verizon on the site so as to protect the interests of the City and other licensees on the site.

Approval of the requested revision to the license agreement with New Par, a Delaware partnership d/b/a Verizon Wireless By: Verizon Wireless (VAW) LLC, its general partner, is recommended.

Prepared by: Abigail Elias, Chief Assistant City Attorney

Reviewed by: Sue F. McCormick, Public Services Area Administrator

Approved by: Roger W. Fraser, City Administrator

Whereas, New Par, a Delaware partnership d/b/a Verizon Wireless By: Verizon Wireless (VAW) LLC, its general partner ("Verizon"), asked for to install antennae and related facilities on the Manchester Water Tower site;

Whereas, Both Verizon and the City previously agreed to the terms of a license agreement that would require an annual fee starting at \$23,289.69 for the period ending June 30, 2007, increasing to \$32,288.10 on July 1, 2008, and escalating at the rate of 4% per year on July 1 of every year thereafter for a term of approximately five years, ending on June 30, 2012, with options to renew for four additional five-year terms;

Whereas, Due to circumstances that precluded Verizon from starting the work in October of 2007, Verizon has requested that the start date of the agreement and of the first payment period be changed from October 1, 2007, to March 1, 2008, with a commensurate reduction in the fee for the period ending June 30, 2008, from \$23,289.69 to \$10,348.75 and 15 additional days to make the first payment;

Whereas, Neither Verizon nor the City executed the License Agreement approved by City Council;

RESOLVED That the City Council approve the requested revision of the license agreement with New Par, a Delaware partnership d/b/a Verizon Wireless By: Verizon Wireless (VAW) LLC, its general partner, for the Manchester Water Tower site, and that the Mayor and City Clerk be authorized to sign the license agreement, subject to approval as to substance by the City Administrator and approval as to form by the City Attorney; and

RESOLVED, That the City Administrator be authorized to take any other necessary administrative actions to implement this resolution.