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May 12, 2021

**DELIVERY BY E-MAIL**

Honorable Mayor and City Council  
Calabasas City Hall  
100 Civic Center Way  
Calabasas, CA 91302

**Re: City of Calabasas Resolution No. 2021-1732  
Wireless Facilities Fee Schedule Update**

Dear Mayor Bozajian and Council Members:

I am writing on behalf of New Cingular Wireless PCS, LLC (“AT&T”) in response to the proposed amendments to City’s wireless fee schedule in the captioned Resolution (“Resolution 1732”), which is scheduled for adoption by the Council on May 12, 2021. AT&T respectfully objects to the new fees, as well as reiterates prior objections to the existing fees as they are contrary to federal law with respect to small cells.

As you may know, the FCC issued its small cell deployment order and associated rules, which went into effect on January 14, 2019. *Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment*, Declaratory Ruling and Third Report and Order, FCC 18-133, (September 27, 2018) (“Infrastructure Order”). Under the Infrastructure Order, the FCC established the standard for lawful small cell review fees that may be imposed by a local government, requiring: “(1) the fees are a reasonable approximation of the state or local government’s costs, (2) only objectively reasonable costs are factored into those fees, and (3) the fees are no higher than the fees charged to similarly-situated competitors in similar situations.” In establishing this basis, the FCC’s recognized that review fees charged by local governments to providers for installing small cell equipment, when looking at the aggregate effect across all relative jurisdictions, can effectively prohibit deployment if they are not controlled. Thus, only objectively reasonable costs that are recovered on a nondiscriminatory basis can be included in a city’s review fees. *See Id.* at ¶¶ 43-56.

Unfortunately, the fees in Resolution 1732 do not meet this threshold. There is no rational basis to establish the review fees for small cell applications; they are excessive for a small cell and will cost carriers approximately \$3,800 *per node*. Second, the outside consultant’s review fee plus the City’s 15% mark-up of this fee violates the FCC’s Infrastructure Order since the fees are clearly not related to the limited scope and review of a small cell facility: it’s a flat fee *regardless* of the type of facility proposed (small cell or a large macro site). Small cells are designed as a much

smaller scale than macro facilities but require many more to cover the same area. Third, the post construction annual compliance review fee is unnecessary, excessive and is certainly not based upon the actual cost to the City.

These review fees will have the effect of prohibiting deployment of small cell technology in the City at a time when consumer demand for data is growing exponentially. AT&T has witnessed a 580,000 percent increase in mobile data traffic since 2007. It will continue to grow as mobile video streaming becomes even more prominent. This increase in data use requires an increase in wireless network density; otherwise, service quality could be disrupted or decline. So, to keep up with these surging demands, providers like AT&T must continually evolve their network architectures to efficiently use spectrum, the lifeblood of wireless networks. The best path forward is network densification, which means strategically located traditional macro sites supplemented with small cells. Small cells help bolster network density, which better meets surging consumer and business demand for more data and faster connectivity. It also helps prepare our network for next generation technologies and services like 5G, the Internet of Things and Smart Cities.

In light of the above, we respectfully request that the Council table the adoption of Resolution 1732 and revise its fee schedule to comply with federal law. Thank you for your consideration of these comments. We would welcome the opportunity to discuss this further with AT&T's representatives.

Very truly yours,



Christopher Quinn