

## **STAFF ATTACHMENT**

Senate Bill 1004, which will be codified as Chapter 284 of the Local Government Code, passed in the 85<sup>th</sup> Regular Session, pre-empts municipal authority over the right-of-way in regard to network nodes (which you may have also heard referred to as “small cell” or “distributed antenna systems” or “DAS”). The new legislation, which takes effect September 1, 2017, requires that we allow network nodes to locate in the right-of-way. In addition, and for the first time, the legislation requires that we allow location on city facilities, such as city poles, street lights, traffic signals and other vertical facilities.

The legislation does not extend beyond location in the right-of-way.

The legislation still allows the City to retain right-of-way management authority.<sup>1</sup> If the City wants to exercise that authority, any ordinances that address the placement of network nodes need to be in place on or before the effective date of the legislation. The legislation expressly forbids a moratorium.

This ordinance seeks to address important right-of-way considerations, including:

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<sup>1</sup> Although 284.101(b) states that entry to the right-of-way is subject to right-of-way management ordinances (“(b) network provider taking an action authorized by Subsection (a) is subject to applicable codes, including applicable public right-of-way management ordinances”); Section 284.002 Definitions “(19)“Public right-of-way management ordinance” means an ordinance that complies with Subchapter C”) arguably limits that authority to the extent it complies with Chapter 284.

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