

AGENDA REQUEST FORM

**Return completed form and complete agenda item to the Clerk of the Board
Yakima County Commissioners' Office, Room 232**

Prepared by:
Matt Pietrusiewicz

Department: Yakima County Roads

Requested Agenda Date: 10/25/2022

Presenting: _____

Document Title:

Board of County Commissioners Record Assigned

260 - 2022

APPROVED FOR AGENDA:

Consent Regular

Board of County Commissioners Determined

In the Matter of Granting a Non-Exclusive Systemwide Franchise to Yakima MSA Limited Partnership, 8410 West Bryn Mawr Ave, Chicago, IL 60631, to Construct, Operate and Maintain Small Wireless Facilities and Support Poles In, Along, Over and Under Various Yakima County Rights-of-Way Within Yakima MSA Limited Partnership Service Area Within Yakima County, Washington

Action Requested: *Check Applicable Box*

PASS RESOLUTION EXECUTE or AMEND **AGREEMENT** CONTRACT or GRANT

ISSUE PROCLAMATION PASS ORDINANCE OTHER _____

Describe Fiscal Impact:

N/A

Background Information:

Yakima MSA Limited Partnership, has been approved for a non-exclusive systemwidefranchise to construct, operate and maintain small wireless facilities and support poles in,along, over and under various Yakima County Rights-of-Way all within the County of Yakima,State of Washington, and not within the incorporated limits of any incorporated city or town.

Summary & Recommendation:

Pass Resolution

Motion:

Department Head/ Elected Official



Signature

AGREEMENT Attached Is Approved as to Form
Corporate Counsel Initial

Late Agenda Requests Require BOCC Chairman Signature:

BOARD OF YAKIMA COUNTY COMMISSIONERS RESOLUTION

IN THE MATTER OF GRANTING A NON-EXCLUSIVE
SYSTEMWIDE FRANCHISE TO YAKIMA MSA LIMITED
PARTNERSHIP, 8410 WEST BRYN MAWR AVE,
CHIGACO, IL 60631, TO CONSTRUCT, OPERATE AND
MAINTAIN SMALL WIRELESS FACILITIES AND
SUPPORT POLES IN, ALONG, OVER AND UNDER
VARIOUS YAKIMA COUNTY RIGHTS-OF-WAY WITHIN
YAKIMA MSA LIMITED PARTNERSHIP SERVICE
AREA WITHIN YAKIMA COUNTY, WASHINGTON

260-2022

FRANCHISE NO. 01-2022

WHEREAS, the petition filed by Yakima MSA Limited Partnership, has been approved for a non-exclusive systemwide franchise to construct, operate and maintain small wireless facilities and support poles in, along, over and under various Yakima County Rights-of-Way all within the County of Yakima, State of Washington, and not within the incorporated limits of any incorporated city or town; and,

WHEREAS, it appears from the affidavit of the Yakima County Auditor filed with this Board that the County Auditor has given notice of the time and place of said hearing on _____, 2022, by publishing two (2) like notices twice in the Yakima Herald Republic, a daily newspaper of general circulation, published in Yakima County, Washington, said newspaper being the official newspaper for County printing, and it appears from said affidavit that notice published stated the name of the applicant and a description of the County roads, highways, streets, alleys and public places described in said petition and application. After hearing all persons interested in the matter of said petition, the Board deemed it in the public interest to grant the Non-Exclusive Franchise and authority so applied for; now, therefore,

BE IT HEREBY RESOLVED by the Board of County Commissioners of Yakima County, Washington:

1. There is hereby granted to Yakima MSA Limited Partnership the right, privilege and non-exclusive systemwide franchise for the term of 25 years from and after the date hereof to construct, operate, and maintain small wireless facilities and support poles in, along, over and under various Yakima County rights-of-way within Yakima MSA Limited Partnership service area within Yakima County, Washington Resolution No. ____-2022
2. This franchise is not exclusive, and the Board of County Commissioners reserves the right to grant franchises to other individuals, firms or corporations to use said County roads or any part thereof for the same purpose as herein authorized, or for any other purpose authorized by law.
3. Said County of Yakima shall in no case be liable or responsible for any damage to the said system of small wireless facilities and support poles caused by any work carried on by said County in a reasonable, careful manner and the owner(s) of Yakima MSA Limited Partnership. shall in all cases protect, indemnify and save harmless said County from any claim for damages arising out of any and all personal injury or property damage caused by the presence of such system of small wireless facilities and support poles and appurtenances upon any of said roads, or rights-of-way, excluding damages caused by the negligence or willful misconduct of County, its agents or employees.

4. All facilities shall be so constructed, operated and maintained as not to interfere with or obstruct ordinary use of travel upon said roads and in case said roads, alleys, rights-of-way, streets or public places shall be damaged or impaired in any manner thereby then and in that event, said roads, streets, alleys, rights-of-way or public places shall be repaired, and restored to as good condition as existed prior to such impairment, all by and at the expense of Yakima MSA Limited Partnership. Repairing and restoration of all such roads, streets, alleys, rights-of-way or public places shall be deemed to include but not be restricted to the reballasting, settling and resurfacing and patching of asphalt or concrete surfaces of roads and streets, restoration and resurfacing of shoulder lines; and the removal of all large rock materials from the surface where required by the County.
5. The owner(s) of Yakima MSA Limited Partnership shall, prior to any impairment of, or disturbance to said public highways, streets, roads, rights-of-way or parts thereof by reason of constructing small wireless facilities and support poles or repairing, or other operations contemplated hereunder, excepting emergency repairs, apply in writing for permit to the County Engineer of Yakima County giving notice of such intention, describing the operations, amount of trench to be left open at any one time, location and areas affected, and shall proceed with said operations, only upon permit first obtained from the County Engineer. In case of emergency repairs, as aforesaid, notice thereof within ten days after effected shall be deemed sufficient.
6. Yakima MSA Limited Partnership shall rebuild, replace and resurface all sections of the roads and highways, opened or torn up by it, by reason of operations, performed prior to or after the granting of this franchise in as satisfactory a condition as existed prior to the beginning of its excavation and operations, all under the direction of the Yakima County Engineer, and subject to final approval of the Board of County Commissioners. Should the Yakima MSA Limited Partnership fail within sixty days from commencement of such excavation operations to impairing right-of-way to restore such portions to the satisfaction of Yakima County, Yakima County may complete the work upon all, or any portion, of the restoration involved, all cost and expense of such work to be repaid by the Yakima MSA Limited Partnership to Yakima County upon demand.
7. The Board of County Commissioners reserves the right upon one hundred and twenty days (120) notice to require Yakima MSA Limited Partnership to make, at the latter's own cost and expense, such changes or change in location of any particular small wireless facility or support pole located by the company hereunder as may be necessary for the convenience or safety of the public along said roads, or rights-of-way, or when necessary for the construction, repair, improvement, alteration or relocation of all or any portion of said roads or rights-of-way.
8. The franchise hereby granted shall not be leased, transferred or otherwise alienated, without the express consent of the Board of County Commissioners of Yakima County, Washington, by written order authorizing the same; but consent is hereby given to the mortgaging of the said franchise, together with the system of small wireless facilities or support pole and facilities of the company constructed thereunder any presently outstanding or future mortgage given to secure any bond or other bona fide indebtedness of said company.
9. The franchise hereby granted may be revoked and forfeited by the Board of County Commissioners of Yakima County, Washington, in the event that Yakima MSA Limited Partnership shall fail, after reasonable notice or demand, to comply with any of the terms, conditions or obligations imposed

upon it hereunder. Notwithstanding the foregoing, this franchise shall be freely assignable, without the Board of County Commissioner's consent, to an affiliate, subsidiary, Parent Corporation or a company that controls a majority of Yakima MSA Limited Partnership's assets, whether by acquisition or merger or transfer of FCC license to operate a wireless voice/data services.

10. All expenses in connection with the posting and publishing of the notice of this hearing, as required **DONE** this ____ day of _____, 2022

Yakima MSA Limited Partnership
By: United States Cellular Operating Company of Yakima
Its: General Partner

County of Yakima, State of Washington

By: Carrie Lindenberg

By: _____

Name: Carrie Lindenberg

Name: _____

Title: Category Manager III

Title: _____

Date: August 15, 2022

Date: _____

DONE OCT 25 2022

Yakima MSA Limited Partnership Grant (Systemwide)

Attest:

Julie Lawrence, Clerk of the Board *or*
Erin Franklin, Deputy Clerk of the Board

Amanda McKinney, Chair

LaDon Linde, Commissioner

Ron Anderson, Commissioner
*Constituting the Board of County Commissioners
for Yakima County, Washington*