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TO: Charles Cox, Farmers Branch City Manager
FROM: Alexis G. Allen, NJDHS
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SUBJECT: Senate Bill 1004

During this year's regular session, the Texas Legislature approved Senate Bill 1004, which adopts a new Chapter 284 of the Local Government Code. In adopting this chapter, the Legislature provided a state-wide regulatory scheme concerning the installation of wireless network equipment in the public right-of-way. This legislation greatly limits the ability of individual cities to further regulate this type of equipment.

The wireless network equipment addressed by the bill primarily includes "network nodes", which is equipment that enables wireless communications between the communications network and the user's equipment, and related equipment. The provisions of Chapter 284 apply to both the "wireless service provider", who provides the service directly to the public, and to "network providers", which are entities who do not provide service to the end-user, but whom build the equipment on behalf of a wireless service provider.

The bill, which is effective September 1st, provides some regulations concerning size and location of the equipment, as well as maximum fees which can be charged. The bill does not allow cities to prohibit the installation of this equipment in the City, and prevents cities from denying network providers access to city service poles (i.e. traffic signal poles, signage, light poles), although the City can require a collocation agreement for such connections. However, the bill does allow some restrictions concerning the ability to install equipment in parks and residential areas. It also authorizes the city to impose heightened aesthetic and camouflaging requirements, as detailed in the City's Design Manual, if the equipment is located in an area designated by the City as a design or historic district.

Since the bill was signed by the governor earlier this summer cities throughout the state have been working together diligently to determine what changes need to be made to implement the provisions of SB 1004. After consulting with legal counsel, staff has determined that the best way to protect the interests of the city, in light of this legislation, is to amend the City's Right-of-Way ordinance provisions, amend the Master Fee schedule to provide for the new fees related to the installation of this equipment, and to designate Design Districts and adopt a Design Manual. Because the effective date of the bill is September 1st, these items will need to be approved by August 31st. Accordingly, staff will be presenting two ordinances during the August 15th City Council meeting, in order to effectuate the necessary amendments.