



Legislation Details (With Text)

File #: REPORT 19-0602 **Version:** 1 **Name:**
Type: Action Item **Status:** Consent Calendar
File created: 9/5/2019 **In control:** City Council
On agenda: 9/10/2019 **Final action:**
Title: REQUEST TO CONSENT TO PARTIAL ASSIGNMENT
OF FIBER OPTIC CABLE EASEMENT RIGHTS AND
OBLIGATIONS BETWEEN RTI INFRASTRUCTURE, INC.
AND PACIFIC CARRIAGE LIMITED INC.
(City Attorney Mike Jenkins)

Sponsors:

Indexes:

Code sections:

Attachments: 1. 1. August 17, 2016 Fiber Optic Cable Easement and Associated Construction Easement, 2. 2. March 8, 2019 Letter from RTI-I, 3. 3. Assignment of Easement Rights and Obligations between RTI-I and Pacific Carriage Limited.

Date	Ver.	Action By	Action	Result
9/10/2019	1	City Council		

**Honorable Mayor and Members of the Hermosa Beach City Council
Regular Meeting of September 10, 2019**

**REQUEST TO CONSENT TO PARTIAL ASSIGNMENT
OF FIBER OPTIC CABLE EASEMENT RIGHTS AND
OBLIGATIONS BETWEEN RTI INFRASTRUCTURE, INC.
AND PACIFIC CARRIAGE LIMITED INC.
(City Attorney Mike Jenkins)**

Recommended Action:

Staff recommends that the City Council:

1. Review and approve the partial assignment of the Fiber Optic Cable Easement to Pacific Carriage Limited; and
2. Direct the City Manager to execute and the City Clerk to attest to the partial assignment agreement.

Background:

RTI Infrastructure, Inc. (RTI-I), formerly known as MC Global BP4, Inc., and the City of Hermosa Beach executed a Fiber Optic Cable Easement and Associated Construction Easement recorded as document number 20160974447 on August 17, 2016 (**Attachment 1**). A partial assignment(s) was contemplated in the Easement agreement as reflected in Section 4.13 of the Easement.

On March 8, 2019, RTI-I notified the City that it had installed the terrestrial support facilities (landing pipes, underground conduit systems, etc.) to support four subsea fiber optic cable systems within the City, with one such cable system, the Southeast Asia-United States Cable System (SEA-US), installed as of the date of their letter (**Attachment 2**). RTI-I is now working on arrangements to install three other cable systems. Two of the systems will remain under RTI-I's control and authority. However, the owners of one of the proposed systems, the SX-NEXT system, require that they have direct control over their system and thus require a partial assignment of RTI-I's rights and obligations under the above referenced Easement.

In accordance with Section 4.13 of the Easement, RTI-I is providing notice to the City of Hermosa Beach of their intention to assign an undivided one quarter (1/4) interest in the Easement to the party described below:

Assignee:

Pacific Carriage Limited, with a principle place of business at:
Level 5, Resimac House, 45 Johnston Street
Wellington 6011 New Zealand

The undivided 1/4 interest is intended to cover only one cable system regardless of any potential future amendments or assignments. Attached is the Assignment of Easement Rights and Obligations (**Attachment 3**) that RTI-I intends to execute with Pacific Carriage Limited.

It is important to note that RTI-I is currently working with the City to amend the easement to allow for additional future facilities. That amendment will not be completed until well after this partial assignment is consummated. That amendment, if granted, will be exclusive of this assignment.

General Plan Consistency:

This report and associated recommendation have been evaluated for their consistency with the City's General Plan. Relevant Policies are listed below:

Infrastructure Element

- **1.5 New technologies.** When feasible, utilize emerging technologies and funding strategies that improve infrastructure efficiency, sustainability, and resiliency.
- **6.2 Below ground utilities.** Encourage the phase out and replace overhead electric lines with subsurface lines to reduce visual obstructions and the need for utility poles which can impede sidewalk accessibility.
- **6.4 Innovative and renewable technology.** Encourage the exploration and establishment of innovative and renewable utility service technologies. Allow the testing of new alternative energy sources that are consistent with the goals and policies of PLAN Hermosa and comply with all relevant regulations.
- **7.1 Accommodate future technologies.** Encourage telecommunications providers and building developments to size infrastructure and facilities to accommodate future expansion

and changes in the need for technology.

- **7.2 Appropriate siting of telecommunications infrastructure.** Design and site all facilities to minimize their visibility, prevent visual clutter, and reduce conflicts with surrounding land uses while recognizing that the entire community can have access to communication infrastructure.
- **7.3 Co-location of facilities.** Encourage telecommunications facilities located adjacent to, on, or incorporated into existing or proposed buildings, towers, or other structures.
- **7.4 Emergency services technology.** Prioritize telecommunications services used for the safety and well-being of the community.
- **7.5 Access for all.** Encourage the installation and availability of facilities that provide free telecommunication access at key activity and business centers throughout the community.

Fiscal Impact:

There are no fiscal implications to the City resulting from this action.

Attachments:

1. August 17, 2016 Fiber Optic Cable Easement and Associated Construction Easement
2. March 8, 2019 Letter from RTI-I
3. Assignment of Easement Rights and Obligations between RTI-I and Pacific Carriage Limited

Respectfully Submitted by: Mike Jenkins, City Attorney

Noted for Fiscal Impact: Viki Copeland, Finance Director

Approved: Suja Lowenthal, City Manager