

2. Schedule the ordinance for second reading, public hearing, and final approval on November 13, 2021.

BACKGROUND: The City has worked for several years to address the ever-growing demand for more broadband options for the community. With the primary goals of the City's municipal broadband initiative to connect the government facilities and to support broadband competition and access for all of our community, the City has continued to explore options for leveraging city assets and partnering with the private sector. For government and school facilities, the City continues to make progress constructing the City's municipal fiber optic network to connect 90 City facilities, including schools and libraries.

As staff continued outreach to potential partners, a number of internet service providers and broadband infrastructure companies have reached out to the City to express new or renewed interest in providing additional broadband services to City residents, businesses and other organizations.

DISCUSSION: Staff met with various providers to learn about service offerings and to explore possible partnership opportunities. Vendors provided multiple options for the City to consider for how to leverage City assets and private interest to provide additional services. The primary impediment that has limited interest in expanding access relates to the cost. Constructing a citywide fiber network in the City using traditional means of constructing by digging several feet into the ground is cost prohibitive to undertake citywide given the age and complexity of the City's right of way of the City. In the past decade, newer construction technologies that could allow for more cost-effective construction on of a City-wide fiber network has provides renewed interest in partner with the City by some vendors. Allowing potential vendors to use this technology called microtrenching could reduce this cost barrier for vendors who have not been able to justify the cost to construct a city-wide fiber network in the City. In addition to cost of construction, this technology which has been utilized successfully in Europe and has been utilized in the United States more frequently in the last ten years could decrease the time that streets are subject to construction as well.

Based on these discussions with vendors, the community and City Council, there are a number of criteria that a potential broadband partner would need to provide in order to achieve the City's goal of increase consumer choice and seeking better equity in the digital offerings available in the City including:

- A three percent franchise fee-based on gross revenues as payment to the City for use of its right-of-way.
- Providing equitable digital services that
 - Ensures the network physically passes all public residential and business addresses that can be accessed by the public right-of-way,
 - Provides dedicated funding and services to a large number of the City's affordable housing units,
 - Provides access to community partners who provide assistance to residents in who have limited or no access to broadband, and
 - Provides Wi-Fi in City parks where broadband services may be limited.
- Use of microtrenching for a significant portion of the construction as a way to minimize street and traffic disruptions that complies with City, state and federal standards currently used by the City for construction and materials,
- Willingness to make a significant investment of financial resources for construction
- Defining a standard for how assets will be maintained,
- Providing a comprehensive community communication plan that ensures residents are notified of construction,
- A fixed franchise term of 20 years with three five-year renewal options,
- Providing a minimum speed of 1 gigabit upload and download for basic broadband service,
- Providing a plan and standards for 24/ 7 customer support,

- Providing a construction plan with 6 months of franchise execution and timeline for completion, and
- A provision for damages or payments for non-completion.

It is recommended that a franchise proposal process be utilized to provide a formal path for potential vendors to propose how they would use the City’s right of way to work with the City to build and provide broadband services to City residents. This right of way franchise would be for fiber optic cable primarily used for streaming and providing internet access.

This right of way franchise path provides the City the chance to induce the private sector to provide broadband access for critical city services, and to support hybrid work and school instruction. In order to ensure that the City proposals align closely with the community’s goals for broadband, staff have developed criteria to evaluate which of these providers would be the most viable for the City to pursue. The City is not limited to approving only one right of way franchise, any franchise proposal received must meet the criteria set by the City in order to be considered for possible franchise negotiation and must include a significant upfront financial investment from the provider. The City will also need to ensure it has the staff and external resources available to monitor progress, construction, access and communication to ensure that construction meets City standards, that permitting processes are efficient and that there is sufficient community engagement. An independent review of key construction milestones will also be needed to ensure that the City’s right of way is maintained and that the network assets are sustainable.

FRANCHISE AWARD TIMETABLE:

In order to solicit proposals for a possible partner to provide broadband services via a franchise agreement, the City would issue an invitation to bid on a franchise through an ordinance. In accordance with State law, the invitation would be advertised. Once responses to the City’s invitation for franchise awards are received, staff would evaluate each proposal based on the City’s criteria. If one or more proposals meet the criteria, staff will bring back one or more franchise agreements for City Council consideration. The City has the right to reject any and all bids. The process dates are:

November 9, 2021	Ordinance: First Reading
November 13, 2021	Ordinance: Second Reading, Public Hearing and Adoption
December 30, 2021	Proposals Due
January 11, 2022	Submitted Proposals Announced
January/February 2022	Franchise(s) Recommended and Council Award

FISCAL IMPACT: In order to ensure that any proposal to build fiber has to agree to pay the City a fee for use of the right of way over term of the agreement based on revenue earned. Staffing costs of up to \$1 million during the multi-year construction period includes permitting reviews, community engagement, network to ensure the network is completed in accordance with City standards and community expectations. Because of the revenue replacement opportunity coupled with a focus on providing equitable access, these costs could be considered for ARPA funding. This consideration will be based on the outcome of the franchise solicitation process, and the FY 2023 City Budget process.

STAFF:

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ATTACHMENTS:

1. Broadband Ordinance
2. Terms and Specifications/Franchise Proposal Instructions