



1. Set this matter for a public hearing on Saturday, March 16, 2024, and
2. After hearing public testimony, approve the attached five-year License Agreement with Cox and authorize the City Manager to execute the License Agreement and to take any other actions that are necessary to implement the Agreement.

**BACKGROUND:** Cox is the second largest telecommunications provider in Virginia, and has provided a broad range of telecommunications services in the City's neighboring jurisdictions such as Fairfax County, the cities of Fairfax and Falls Church and the towns of Herndon and Vienna. In March 2019, City Council approved a five-year License Agreement with Cox to install conduit and fiber optic cables in the City's public rights-of-ways to provide telecommunication services in the City (not cable television) (Attachment 2). This Agreement will expire at the end of this month. Cox seeks to extend the existing Agreement upon the same terms and conditions as the original Agreement, as amended.

Under the original Agreement, as amended, Cox constructed an approximately five (5) mile fiber optic ring to provide telecommunications services primarily to healthcare facilities in the City. In the event that Cox intends to install additional facilities in the City's rights-of-ways we will seek approval from City Council. Detailed descriptions and maps of Cox's facilities are attached to the proposed License Agreement (Attachment 1).

**DISCUSSION:** The significant provisions of the proposed Agreement are summarized below.

The term of the Agreement is for five years and will run from April 1, 2024, through March 31, 2029. It is not renewable; however, the Agreement gives Cox the right to negotiate with the City for a new license at the conclusion of the Agreement.

Second, as compensation for use of the public rights-of-ways the City receives the statutory right-of-way fee imposed under Virginia Code § 56.468.1 and City Code § 5-2-160, et seq., which is imposed on end users in the City.

Third, as discussed above, the Agreement requires Cox to submit an Annual Operations Plan to the City's Department of Transportation and Environmental Services for each of the five years covered by the Agreement. The operations plan requires Cox to describe all the activities needed to install the conduit and to pull cable that Cox intends to undertake in the public rights-of-ways during the twelve-month period covered by the plan, as well as the sites where any activity in the public rights-of-ways will occur, and a tentative timetable.

The Director of Transportation and Environmental Services must review the plan and determine whether the public rights-of-ways upon which the construction is planned are appropriate sites for the proposed activity. These operations plans are intended to enable the Department of Transportation and Environmental Services to coordinate Cox's activities, if any, with other planned construction in the City streets and public rights-of-way, thereby minimizing the disruption and inconvenience attendant to such work.

Fourth, the Agreement requires Cox to submit a plan to the Department of Transportation and Environmental Services prior to undertaking any specific project within the right-of-way, which, among other things, will (i) identify the location of the project, (ii) describe the equipment to be installed and

the techniques to be used, (iii) state the start and end dates, (iv) propose a traffic control plan and (v) verify that Cox has or will obtain all necessary approvals from other governmental entities including departments or agencies of the City.

Fifth, the Agreement provides that the City can require Cox to remove or relocate, at Cox's expense to the extent permitted by law, any conduits, cables, or other equipment when City staff has determined that the equipment interferes with or disturbs the operation, improvement, repair, or maintenance of the rights-of-way or of other utility services.

Sixth, the Agreement requires Cox to obtain permits from the City for any maintenance work and to repair all damage resulting from the work.

Seventh, the Agreement provides that, upon its termination or non-renewal, Cox will remove all of its conduits, cable, and other equipment from the City's rights-of-way.

Finally, the Agreement provides that Cox must maintain adequate insurance to protect the City and any residents against claims arising from the system or the company's work on the system.

We will be pleased to answer any questions that you may have about this matter.

**FISCAL IMPACT:** January 1, 2023, through September 20, 2023, right of way fees paid \$78. Fourth quarter fees are due February 29, 2024.

**ATTACHMENTS:**

Attachment 1: Proposed Cox License Agreement with Exhibits

Attachment 2: Existing Cox License Agreement

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