

to the public or to such classes of users as to be effectively available directly to the public regardless of the facilities used, but not including cable services.

RECOMMENDATION: That City Council:

1. Consider the proposed Ordinance on first reading and;
2. Schedule it for public hearing, second reading and final passage on Saturday June 15, 2024.

BACKGROUND: The initiation of the franchise process was requested by Crown Castle. Crown Castle currently has a five-year license agreement with the City that expires in October 2027. The licensee also holds a Telecom Facilities Franchise Agreement (2021) with the City, which authorizes the licensee to install and operate its wireless communication equipment in the City. Currently, Crown Castle has deployed approximately 12 miles of fiber throughout the City. Crown Castle's wireless equipment is attached to utility poles in the City and therefore, the fiber is necessary to connect the equipment.

Crown Castle acts as an intermediary for wireless carriers and transports other carriers' signals over its systems. However, every time Crown Castle has a new client or requires a new deployment of fiber or equipment it must seek an amendment to its existing license agreement. A franchise will allow it to deploy its equipment and fiber throughout the City subject to the terms of the attached franchise agreement and other permitting requirements.

As you may recall, generally, under the law, the franchise process operates similar to an invitation to bid. This initial ordinance will be advertised publicly and therefore will seek responses from not only Crown Castle but other companies who may respond by the dates set forth in the ordinance. Once City staff receives the responses, the responses will be announced at a City Council meeting and then Council usually refers the responses back to staff to negotiate a franchise agreement along the lines of the proposed franchise agreement attached to the Ordinance. After a franchise agreement has been negotiated with one or more successful responders, the City's staff will return to the City Council, and a final ordinance will be adopted awarding the franchise.

The significant terms of the proposed franchise are the following:

1. The term of the franchise is 15 years and there is the ability for the City and the franchisee to negotiate two subsequent five (5) year renewals for a total possible term of 25 years. This is consistent with the terms of other franchises in the City, i.e. the Ting broadband franchise agreement.
2. The franchisee will be required to remove its equipment at the end of the franchise term.
3. The compensation for the franchise will be the state right of way fee. Upon adoption of the final franchise ordinance and negotiation of a final franchise agreement or agreements beginning as of July 1, 2024, that fee will be \$1.88 per access line.
4. The franchise also requires that the franchisee provides a surety bond of \$500,000 and an additional general surety bond of \$250,000. The franchisee will also be required to maintain commercial general liability insurance, auto liability insurance and workers' compensation insurance.

FISCAL IMPACT: The successful franchisee will be required to pay the City proposed right-of-way fees of \$1.88 per access line as of July 1, 2024, through June 30, 2025.

ATTACHMENTS:

Attachment 1: Cover sheet and Proposed Franchise Ordinance

Attachment 2: Proposed Right of Way Franchise Agreement

STAFF:

Emily A. Baker, Deputy City Manager

Tarrence Moorer, Assistant Director, Strategic Management Services, T&ES

Lalit Sharma, Deputy Director, Development and Right-of-Way Services, T&ES

Vanetta Pledger, CIO Director, Department of Information Technology Services, ITS

Alex Boulden, Division Chief, T&ES

Kim Merritt, Civil Engineer, T&ES

Cheran Ivery, City Attorney

Karen Snow, Senior Assistant City Attorney