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Discussion of Proposed Ordinance No. 939 – Authorizing Non-Exclusive Franchise to Zayo Group, LLC

August 2, 2021



Purpose of Tonight's Discussion

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- Overview of Zayo telecommunications franchise process
- Review key franchise sections
- Review franchise consideration criteria

Franchise Review Process

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- Utilities are required to have a right-of-way franchise with the City
- Current franchise expires September 9, 2021
- Franchise negotiations were completed promptly and in good faith

Renewal Terms

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- Terms are almost identical to previous franchise
- Grants a 10-year, non-exclusive franchise to Zayo
- Sections 13-19 – Cover construction and maintenance; includes how Zayo can work and operate in the City's right-of-way
- Section 22 – Indemnification language updated
- Section 28 – Liquidated Damages language consistent with other City granted franchises

Franchise Consideration

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- Applicant's past service record
- Nature and location of the proposed facilities and services
- Whether the proposal would serve public needs
- Applicant has substantially complied with the material terms of franchise
- Quality of the applicant's service, response to customer complaints, and billing practices
- Applicant has the financial, legal, and technical ability
- Applicant's proposal is reasonable to meet the future community needs

Resource/Financial Impact

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- No fiscal impact to adopting Ordinance No. 939
- Pursuant to RCW 35.21.860, the City is precluded from imposing franchise fees upon a telephone business, as defined in RCW 82.16.010
- Zayo has no end user customers within the City, therefore is not subject to the City's utility tax

Recommendation

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- Staff recommends Council discuss proposed Ord. No. 939
- Proposed Ord. No. 939 is currently scheduled to return to Council for possible adoption on August 16, 2021