

CITY COUNCIL REGULAR SESSION

Resolution authorizing execution of the Telecommunications Right of Way Use Agreement with Wholesail Networks, LLC.

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EXECUTIVE SUMMARY

This Resolution authorizes execution of a Telecommunications Right of Way Use Agreement with Wholesail Networks, LLC.

RECOMMENDATION

Move to adopt Resolution No. 10118

BACKGROUND/ANALYSIS

The 1996 Telecommunications Act encourages new entrants into local telecommunications markets. The City is experiencing increased demand from telecommunication providers for access to the right-of-way as competition intensifies and companies seek to provide the City with enhanced telecommunication services.

Wholesail Networks, LLC is registered as a "Competitive Telecommunications Company" (Docket #UT-200732) with the State of Washington Utilities and Transportation Commission. Wholesail Networks, LLC will be providing commercial communications services to businesses and other communications providers using fiber optic broadband network components including fiber optic cable and electronic/optronic devices.

Obtaining a Right-of-Way Use Agreement is one of the requirements by which the City authorizes access to the right-of-way. The agreement specifies the terms and conditions under which such authority is granted. Major terms and conditions of the agreement include:

- The terms and conditions of Bellevue City Code (BCC) Chapters 6.02 and 6.04
- The term of five years that may be renewed pursuant to the provisions of BCC Sections 6.04.100 6.04.120
- The agreement is non-exclusive - the City can enter into similar agreements with other providers
- The provisions for relocation of telecommunications facilities covered in the agreement
- The provisions for working in the right-of-way under separate approved permits
- The restoration requirements after construction within the right of way

In addition, it requires all providers utilizing City rights-of-way to comply with all applicable City Ordinances, codes, regulations, standards, policies, and procedures.

Subsequent requests by Wholesail Networks, LLC for additional project installations in the right-of-way would be approved administratively by the Transportation Department per Bellevue City Code Chapter 6.04.130.

POLICY & FISCAL IMPACTS

Policy Impact

Revised Code of Washington (RCW): 35.99 Telecommunications, Cable Television Service—Use of Right-of-Way

"Master permit" means the agreement in whatever form whereby a city or town may grant general permission to a service provider to enter, use, and occupy the right-of-way for the purpose of locating facilities.

"Use permit" means the authorization in whatever form whereby a city or town may grant permission to a service provider to enter and use the specified right-of-way for the purpose of installing, maintaining, repairing, or removing identified facilities.

Bellevue City Code: Telecommunications BCC Chapter 6.04

6.04.010 Telecommunications right-of-way use agreement.

A telecommunications Right-of-Way Use Agreement shall be required of any telecommunications carrier or provider who desires to occupy or otherwise use City rights-of-way for the purpose of providing telecommunications services. (Ord. 5061 § 3, 1998.)

Right-of-Way Use Code BCC Chapter 14.30

14.30.070 Permit requirements.

Any telecommunications carrier or provider who desires to construct, install, operate, maintain, or otherwise locate telecommunications facilities in, under, over or across any right-of-way of the City for the purpose of providing telecommunications services shall first obtain authorization in the form of a telecommunications right-of-way use agreement authorizing the use of such right-of-way consistent with the requirements and conditions of such agreement.

Comprehensive Plan Policies:

UT-50: Encourage widespread, affordable, high-speed internet access, including access to competing telecommunication services and new forms of technology to provide the community with choice and to facilitate innovation.

UT-51: Maintain Bellevue's competitive advantage and attraction as a highly connected community.

Fiscal Impact

The grantee will be responsible for obtaining all necessary approvals, authorizations and agreements for the construction and operation of its telecommunications facilities. They will be responsible for paying all applicable permit fees included in the Development Services Fee Ordinance adopted by Council.

OPTIONS

1. Adopt the Resolution authorizing execution of the Telecommunications Right of Way Use Agreement with Wholesail Networks, LLC.
2. Do not adopt the Resolution and provide alternative direction to staff.

ATTACHMENTS

Proposed Resolution No. 10118

AVAILABLE IN COUNCIL LIBRARY

Telecommunications Right of Way Use Agreement