

August 1, 2016

CITY COUNCIL AGENDA MEMORANDUM

SUBJECT

Resolution authorizing execution of a Right of Way Use Agreement with Astound Broadband, LLC; and ratifying the Right of Way Use Agreement previously entered into with Astound Broadband, LLC dated April 20, 2015.

FISCAL IMPACT

Under the Right of Way Use Agreement, Astound Broadband, LLC is required to pay an annual fee to the City. The annual fee is increased by the Consumer Price Index for Urban Consumers (CPI-U) as published in January of each year, or at a rate of 1.5%, whichever is greater. The 2016 fee amount is \$2,000.00.

STAFF CONTACTS

David Berg, Director, 452-6438

Mark Poch, Asst. Director, 452-6137

Tony Cezar, Construction and Right of Way Manager, 452-7835

Transportation Department

POLICY CONSIDERATION

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.
B. 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.

BACKGROUND

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

Astound Broadband is a provider of video, internet and phone services on the West Coast, serving customers in communities in Washington, Oregon, and California. Astound Broadband was founded in 2003 and is part of Wave Division Holdings, LLC. Wave Division Holdings is headquartered in Kirkland, Washington.

Right of Way Use Agreements are the vehicle by which the City authorizes entry of telecommunication providers into the City's rights of way. The agreement specifies the terms

and conditions under which such authority is granted. In addition, it requires all providers utilizing City rights of way to comply with all applicable City ordinances, codes, regulations, standards, policies, and procedures. Also, it outlines procedures in the event that it becomes necessary to relocate any of their facilities. Transportation has recently updated its right of way use agreement template to ensure consistency and uniformity when negotiating with utility companies. The new agreement with Astound Broadband will update the existing agreement to incorporate changes for installation of conduit, fiber optic cable and other telecommunication equipment in the rights of way. It was discovered that the previous agreement with Astound Broadband in 2015 was not properly executed. This resolution will include the ratification of the existing agreement to cover the work done and the new agreement. Subsequent requests for additional installations in the rights of way will be approved administratively by the Transportation Department through the right of way permit process.

EFFECTIVE DATE

If approved, this Resolution will become effective immediately upon Council adoption.

OPTIONS

1. Approve the Resolution authorizing execution of a Right of Way Use Agreement with Astound Broadband, LLC; and ratifying the Right of Way Use Agreement previously entered into with Astound Broadband, LLC dated April 20, 2015.
2. Do not approve Resolution and provide alternative direction to staff.

RECOMMENDATION

Option No. 1.

MOTION

Move to adopt Resolution No. 9129 authorizing execution of a Right of Way Use Agreement with Astound Broadband, LLC; and ratifying the Right of Way Use Agreement previously entered into with Astound Broadband, LLC dated April 20, 2015.

ATTACHMENTS

Proposed Resolution No. 9129

AVAILABLE IN COUNCIL DOCUMENT LIBRARY

Agreements

Insurance Certificate