



# MEDINA, WASHINGTON

## AGENDA BILL

Monday, October 14, 2024

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**Subject:** Approval of American Towers Franchise Agreement – Second Public Hearing

**Category:** Public Hearing

**Staff Contacts:** Stephen R. Burns, City Manager and Tripp May, Shareholder and Managing Partner, Telecom Law Firm, PC

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### **Summary:**

ATC Outdoor DAS LLC (“ATC”) seeks a franchise from the City of Medina (“City”) to provide telecommunications services via the City’s public rights-of-way (“ROW”). ATC currently operates 10 small wireless facilities on wood utility poles in the ROW under a prior franchise that expired in December 2020. ATC must obtain a new franchise to continue its operations.

Staff recommends the City Council approve Ordinance No. 1034 (**Attachment 1**), which would approve a new franchise agreement between the City and ATC (the “Proposed Franchise”) (**Exhibit A to Attachment 1**) for 10 years.

The Proposed Franchise would largely maintain the status quo with additional protections for the City against potential liabilities that could arise from the agreement. Like the expired franchise agreement, the Proposed Franchise would: (1) require ATC to reimburse the City for all its costs; (2) not exempt ATC from any licenses, permits or other regulatory authorizations needed to conduct business, deploy new wireless facilities or expand existing wireless facilities in the City; and (3) preserve the City’s police powers to implement new ordinances in the future and require ATC’s compliance with such new ordinances.

### **Background:**

Pursuant to Medina Municipal Code Section 15.06.030, the City Council must conduct at least one public hearing before it may adopt the Proposed Franchise at a subsequent regular City Council meeting. On September 9, 2024, staff first introduced the Proposed Franchise as a discussion item for the City Council’s consideration (see **Attachment 2**). On September 23, 2024, the City Council held the first public hearing to consider the Proposed Franchise (see **Attachment 3**). Accordingly, the City Council may now vote on whether to adopt the Proposed Franchise at this meeting.

Staff’s prior reports to the City Council are comprehensive and the material facts related to the Proposed Franchise have not changed since the September 23rd City Council meeting. The prior reports, with their attachments, and the staff PowerPoint presentation from September 23rd are attached to this Agenda Bill for reference.

**Recommendation:**

Staff recommends that the City Council adopt Ordinance No. 1034 and approve the Proposed Franchise.

**Attachments:**

1. **Proposed Franchise** – Ordinance No. 1034 – AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MEDINA, WASHINGTON, GRANTING TO ATC OUTDOOR DAS LLC THE RIGHT, PRIVILEGE AND AUTHORITY FOR A NON-EXCLUSIVE TELECOMMUNICATIONS FRANCHISE IN, ACROSS, OVER, ALONG, UNDER, THROUGH AND BELOW THE PUBLIC RIGHTS-OF-WAY OF THE CITY OF MEDINA, WASHINGTON, PROVIDING FOR SEVERABILITY AND CORRECTIONS, AND ESTABLISHING AN EFFECTIVE DATE.
2. **September 9, 2024, Agenda Bill with Attachments**
3. **September 23, 2024, Agenda Bill with Attachments and PowerPoint Slides**

**Budget/Fiscal Impact:** Various.

**Recommendation:** Receive informational presentation from staff, take public testimony and adopt Ordinance No. 1034 approving the franchise agreement .

**City Manager Approval:**



**Proposed Council Motion:** “I move to adopt Ordinance No. 1034, granting to ATC Outdoor DAS LLC the right, privilege and authority for a non-exclusive telecommunications franchise in, across, over, along, under, through and below the public rights-of-way of the City of Medina, Washington, providing for severability and corrections, and establishing an effective date.”

Time Estimate: 15 minutes