



BUSINESS OF THE CITY COUNCIL CITY OF MERCER ISLAND

AB 5720
August 4, 2020
Regular Business

AGENDA BILL INFORMATION

TITLE:	AB 5720: Zayo Franchise (1 st Reading)	<input type="checkbox"/> Discussion Only
RECOMMENDED ACTION:	Set Ordinance No. 20-16 for second reading and adoption on September 1, 2020.	<input checked="" type="checkbox"/> Action Needed: <input type="checkbox"/> Motion <input checked="" type="checkbox"/> Ordinance <input type="checkbox"/> Resolution

DEPARTMENT:	Community Planning and Development
STAFF:	Patrick Yamashita, City Engineer/Interim Director
COUNCIL LIAISON:	n/a
EXHIBITS:	1. Draft Ordinance No. 20-16 – Franchise Agreement with Zayo
CITY COUNCIL PRIORITY:	n/a

AMOUNT OF EXPENDITURE	\$ n/a
AMOUNT BUDGETED	\$ n/a
APPROPRIATION REQUIRED	\$ n/a

SUMMARY

BACKGROUND

The City of Mercer Island was approached by Zayo, a fiber optic company, approximately one year ago about obtaining a franchise agreement that would generally allow Zayo the right to access the City's rights-of-way for the purpose of installing new wireline facilities (fiber optic). There were discussions for a period of time, but the City did not receive an application until January 2020. Following some revisions to the application, the City deemed the application complete in early February 2020 and began working on the draft franchise agreement.

Staff worked with Daniel Kenny (Ogden Murphy Wallace, PLLC) to negotiate this agreement with Zayo on behalf of the City. The draft agreement was prepared by Mr. Kenny, vetted by staff (Community Planning and Development, Public Works, and City Attorney), and approved by Zayo. The draft franchise agreement is provided for City Council consideration as Exhibit 1.

THE FRANCHISE

This franchise agreement is a general contractual agreement with Zayo which allows entrance and use of the right-of-way for wireline deployments as allowed by [RCW 35A.47.040](#). Zayo will still need to apply for and receive all necessary permits for any and all installations; the franchise is only the first step. Generally

speaking, all similarly situated entities should be treated with equity. Because the City has other wireline franchisees (Comcast and CenturyLink), the City should grant Zayo a franchise on an equal basis. This wireline franchise with Zayo is consistent with past City practice.

ZAYO

Zayo is a fiber optic company which proposes to initially connect several cell sites in the City with fiber lines (high speed data). Each of the cell sites are existing locations with existing wired connections. This franchise is limited to wireline deployments and does not allow any installation of small wireless facilities (5G) or other cellular antennas or installations. Zayo plans to replace the existing data lines connected to these sites with fiber lines which will increase capacity and speed for those locations. The proposed initial deployment is outlined in the exhibit attached to the franchise agreement. All work associated with the initial deployment, or any subsequent deployment, must be completed with approved permits. The franchise is only the initial, general step, and all permit applications and approvals will follow.

While this franchise does include a described initial deployment, this franchise covers all City rights-of-way and would allow additional wireline deployments during the ten-year term of the franchise with appropriate approved permits.

RECOMMENDATION

Set Ordinance No. 20-16 for second reading and adoption on September 1, 2020.