



BUSINESS OF THE CITY COUNCIL CITY OF MERCER ISLAND

AB 5745
September 1, 2020
Regular Business

AGENDA BILL INFORMATION

TITLE:	AB 5745: Zayo Group, LLC. Franchise Agreement (Ord. No. 20-16; 2nd Reading and Adoption)	<input type="checkbox"/> Discussion Only <input checked="" type="checkbox"/> Action Needed:
RECOMMENDED ACTION:	Adopt Ordinance No. 20-16, approving a franchise agreement with Zayo Group, LLC.	<input checked="" 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. Ordinance No. 20-16 – Franchise Agreement with Zayo Group, LLC.
CITY COUNCIL PRIORITY:	n/a

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

SUMMARY

EXECUTIVE SUMMARY

On August 4, 2020, the City Council conducted its first reading of an ordinance that would authorize a franchise 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 all installations; the franchise is only the first step. Following City Council review, Council requested that staff bring back the ordinance for a second reading on September 1, 2020.

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); however, 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.

FIRST READING DISCUSSION AND CHANGES TO THE FRANCHISE AGREEMENT

The City Council held a first reading of Ordinance No. 20-16 on August 4, 2020 (see [AB 5720](#)). The current draft agreement includes minor revisions that were requested in the following sections:

- **Section 7.5** – the term “grantee” has been revised to state “franchisee.”
- **Section 18.3(f)** - the term “grantee” has been revised to state “franchisee.”
- **Section 19.1** – The final sentence was revised to clarify that franchisee is responsible for all costs associated with removing its facilities and restoring the right-of-way.

“Franchisee shall be solely responsible for all costs associated with removing its Facilities and restoring the Right-of-Way.”

A few questions were asked following the first reading, but none resulted in additional revisions to the draft agreement.

The updated draft franchise agreement is provided for City Council consideration as Exhibit 1.

RECOMMENDATION

Adopt Ordinance No. 20-16, approving a franchise agreement with Zayo Group, LLC.