



City of Tualatin

CITY OF TUALATIN Staff Report

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos, City Manager

FROM: Nic Westendorf, Management Analyst II
Jeff Fuchs, Public Works Director

DATE: June 22, 2020

SUBJECT:

Consideration of Ordinance No. 1440-20 authorizing the City to enter into a Short Form Franchise Agreement with Portland General Electric (PGE).

RECOMMENDATION:

Staff recommends approval of Ordinance No. 1440-20.

EXECUTIVE SUMMARY:

The existing franchise agreement between the City and Portland General Electric (PGE) expired December 31, 2019. The City and PGE decided not to extend the previous agreement and negotiate a new agreement.

On January 13, 2020 Council approved a six-month extension of the existing agreement to allow time for the City and PGE to negotiate the terms of the new short form franchise agreement. The extension expires June 30, 2020.

This new short-form franchise agreement is intended to supplement the Tualatin Municipal Code Section 3-6. The franchise agreement addresses sections of TMC 3-6 that would not practically work for PGE. PGE is subject to TMC 3-6 except where the franchise agreement supersedes.

In 2017 the City adopted our current right of way ordinance adding Tualatin Municipal Code (TMC) Section 3-6 Utility Facilities in the Right of Way. This code update replaced franchise agreements with right of way licenses. The intention was to have a uniform agreement for all utility providers operating in the right of way. As existing franchise agreements expire utility provider's transition to a right of way licensee and are subject to the terms in TMC 3-6.

Due to the services provided by PGE in partnership with the City, staff determined a supplemental agreement is needed to modify TMC 3-6 to reflect the unique partnership between PGE and the City. PGE is the only utility provider in the right of way that shares ownership of assets with the City and maintains a large number of city owned streetlights and poles. In December of 2019, Council directed staff to begin the conversion of City streetlights to LED using a shared ownership model with PGE. This will further the uniqueness of the relationship.

An important note on asset ownership. The ability to purchase back streetlights from PGE was not included in the short form franchise agreement. It was determined that would be better suited

for a separate agreement which specifically addresses the transfer of assets between PGE and the City.

City and PGE staff have agreed on terms of the new short-form franchise agreement (Attached as Ordinance 1440-20). The key areas in the agreement are described below.

Construction and Maintenance

The short-form agreement grants PGE a programmatic permit, allowing them to conduct routine construction and maintenance without going through the full permitting process for each project. The City and PGE share ownership of over 2,500 streetlights and 2,900 poles. The intent of the programmatic permit is to allow timely replacement and repair of streetlights. The City will still require traffic control and pedestrian access plans as needed to ensure ADA access and public safety is maintained during all work within the City.

Restoration

PGE often installs utilities in coordination with or ahead of other projects. The new agreement allows PGE to schedule the installation in coordination with the rest of the project limiting the overall cost and disruption to the project area. This will prevent tearing up of roads and right of way multiple times for one project.

Relocation

The short-form franchise agreement is more detailed on utility relocation due to the unique hazards and necessity of electric services. The intent of the agreement is to provide practical requirements for relocation for an electric utility. Some of the items include electrical utility specifics for undergrounding facilities, limiting the number of times the City can request relocation of power lines at PGE's expense to once per year per facility, and requiring temporary relocations when needed to accommodate projects.

Definition of Gross Revenue

The definition of Gross Revenue has been modified from TMC 3-6 to include revenue generated from the rental or lease of poles for small cell attachments. The new definition will generate more revenue for the City once small cell antennas are installed. The extent of the revenue increase is unknown at this time and is depending on lease agreements entered into by PGE and the other providers that are attaching to their poles.

All other PGE operations in the right of way not covered in the short form agreement are subject to TMC 3-6.

OUTCOMES OF DECISION:

Portland General Electric (PGE) continues to operate under Tualatin Municipal Code 3-6 and the terms of this short-form franchise agreement.

ALTERNATIVES TO RECOMMENDATION:

The City could decline to enter into this agreement with Portland General Electric (PGE). This would result in PGE operating under the terms and requirements of Tualatin Municipal Code 3-6. Due to the unique partnership between the City and PGE this is not recommended.

FINANCIAL IMPLICATIONS:

Approval of this short-form franchise agreement may increase the right of way revenue generated from Portland General Electric (PGE) due to the inclusion of revenue generated from small cell attachments. Since there are no current attachments in the City and rates are subject to negotiation the exact amount of this revenue increase is unknown.

ATTACHMENTS:

- Ordinance No. 1440-20

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