



Legislation Text

File #: 17-1128, **Version:** 1

Resolution to Approve Fiber and Conduit Use Agreements with the Ann Arbor Area Transportation Authority, the Ann Arbor District Library, and the Downtown Development Authority

The City of Ann Arbor Institutional Fiber Network (A2 I-NET) was constructed primarily to replace the City's existing Comcast Institutional Network (I-NET) and is expected to be completed in August 2017. This network will connect all existing users, for example, City-owned facilities, the Ann Arbor Area Transportation Authority (AAATA), Ann Arbor District Library (AADL), and Downtown Development Authority (DDA). Capacity was built in to meet both current and future needs of the City. Capacity is also available for existing users of the I-NET and some third parties.

With the pending completion of the network, the City needs to establish the terms and conditions under which other entities can utilize this City asset, including compensation terms. Attached to this resolution for approval are recommended Fiber and Conduit Use Agreements for the AAATA, AADL, and DDA. Although details for each entity are different, the three agreements are otherwise the same. The agreement includes general terms and conditions that govern the relationship between the City and the contracting entity, and is set up both to be tailored to each contracting entity's usage such as the number and locations of fiber strands used and to allow a contracting entity to expand its usage. The agreement defines how compensation is calculated, including both payment for any capital build out(s) necessary for a contracting entity to connect, and payment to the City for the contracting entity's use of, and for maintenance of, the contracting entity's share of the fiber optic network. Staff recommends that Council approve these agreements for the AATA, AADL, and DDA. Staff plans to pursue this same or a similar form of agreement going forward as a standard agreement for other governmental entities, public educational entities, and other third parties to use the City's fiber optic network.

Because the City will use this ring for its own internal operations and services, the City will own and maintain this important City asset. Per the agreement, the City is not providing any electronic services to any third parties; the City is merely permitting use of the installed fiber optic strands by the contracting party.

The City will use this ring for its own internal operations and services and will incur normal maintenance, operation and administrative costs associated with its operation. Because the City's maintenance and ownership benefits the fiber strands that contracting entities will be using, the contracting entities should pay for their share of those costs. The proposed agreement establishes the annual user fee to cover those costs.

The agreement also requires all new laterals (extensions to connect individual facilities to the ring) to be paid for by the third party user. Third party users will pay the full cost of the extension in advance of construction, but the City will own and maintain the facilities. Retaining City ownership and access to the cables for maintenance is critical for the City's long-term control of the asset and to ensure the security of the network. User agreement terms are expected to be between 2 to 20 years. The terms for the AAATA and AADL agreements are ten years (until June 30, 2027); the term of the DDA

agreement is 16 years (until June 30, 2033).

Staff review of pricing in the marketplace revealed pricing methods and models vary greatly. Consequently, staff recommends the following pricing model as a balance of simplicity, cost recovery, and market comparability:

- **One-Time Fee** - This fee is currently calculated as \$3,000 per fiber pair, per ring route mile (35 miles), for a total of \$105,000. This One-Time Fee represents a buy-in to the costs the City has already incurred constructing the user's share of the fiber network. The AAATA and DDA will each be using only one fiber pair; the AADL will be using three fiber pairs. However, in consideration of the public services provided in their capacity as governmental or public educational entities, and that each is primarily locally tax-funded, the AAATA, AADL, DDA, and other governmental entities will not be charged the One-Time Fee.
- **Build-out Costs** (if applicable) - If construction of new fiber or modification of existing fiber needs to be done to connect a user to the network, the City will manage the entire build out project. Funds will be placed in escrow by the third-party, to be drawn down on by the City to cover all the costs of the build out, including City staff costs. The build-out costs for AAATA total \$8,004.21; the build-out costs for the AADL total \$113,995.80; and the build-out costs for the DDA are \$72,862.00. Other locations can be added in the future, with payment of the build-out costs for those locations.
- **Annual Usage Fee** - This fee is currently calculated as \$300 per fiber pair, per ring route mile (35 miles), for a total of \$10,500 per year. Because the AAATA and DDA will each be using only one fiber pair, their Annual Usage Fee at this time is \$10,500; because the AADL will be using three fiber pairs, its Annual Usage Fee will be \$31,500. The Annual Usage Fee includes all maintenance for the main fiber ring and laterals. The Annual Usage Fee may be adjusted based on the U.S. Department of Labor Bureau of Labor Statistics' Consumer Price Index for All Urban Consumers (U.S.), effective the first July 1 following the date of adjustment. No adjustment will be made during the first year of the agreement, so no adjustment will be made before July 1, 2019.

Staff recommends Council approve the attached agreements for the AAATA, AADL and the DDA to use the City's fiber network. Staff also requests that City Council authorize the City Administrator to enter into fiber and conduit use agreements with other government entities with the same or similar terms and conditions as these three agreements without needing to return to City Council for approval. Allowing the City Administrator to approve those agreements would be consistent with how the City handles license agreements to locate cell antennae on City structures, a process that was approved due to users' time sensitive needs, and using agreements that are generally uniform (R-14-001). Staff will return to City Council for approval if any significant change to the terms and conditions in the agreement is required for a government entity user.

Staff will return to City Council in the future for City Council review and approval of use agreements for public educational entities, and possibly other third parties, although staff expects the terms and conditions of those agreements to be similar to these three agreements.

Prepared by: Tom Shewchuk, IT Director

Reviewed by: Tom Crawford, Finance and Administration Area Manager

Approved by: Howard S. Lazarus, City Administrator

Whereas, The City of Ann Arbor is nearing completion of constructing a new institutional fiber network (A2 I-NET) that will be replacing the existing Comcast Institutional Network (I-NET);

Whereas, Strands are available in the new A2 I-NET that may be utilized by these third parties;

Whereas, The City has an interest in facilitating access to and use of the City's fiber optic communications network by governmental entities, by public educational entities, and by other appropriate users, under terms and conditions established by the City;

Whereas, Existing users of the I-NET include the Ann Arbor Area Transportation Authority (AAATA), Ann Arbor District Library (AADL), and Downtown Development Authority (DDA);

Whereas, The AAATA, AADL and DDA wish to use fiber within the City's new fiber network;

Whereas, The proposed Fiber and Conduit Use Agreement establishes the terms and conditions, including compensation, for governmental entities such as the AAATA, AADL and DDA to use fiber strands in the City's network;

Whereas, The proposed Fiber and Conduit Use Agreement with the AAATA provides for the AAATA to pay the City a cost of \$8,004.21 for the capital build out to connect, and to pay the City an Annual Use Fee of \$10,500.00;

Whereas, The proposed Fiber and Conduit Use Agreement with the AADL provides for the AADL to pay the City a cost of \$113,995.80 for the capital build out to connect, and to pay the City an Annual Use Fee of \$31,500.00;

Whereas, The proposed Fiber and Conduit Use Agreement with the DDA provides for the DDA to pay the City a cost of \$72,862.00 for the capital build out to connect, and to pay the City an Annual Use Fee of \$10,500.00; and

Whereas, A resolution authorizing the City Administrator to enter into fiber and conduit use agreements with other government entities, and to enter into amendments to the agreements with the AAATA, AADL and DDA , and to future agreements with other government entities without City Council approval will streamline the approval process, and is in the interest of service to those government entities and the public they serve;

RESOLVED, That City Council approve the Fiber and Conduit Use Agreements with the AAATA, AADL and DDA;

RESOLVED, That the Mayor and City Clerk be authorized and directed to sign the agreements after approval as to substance by the City Administrator and approval as to form by the City Attorney;

RESOLVED, That all proceeds from these contracts be recorded where the A2 I-NET's operations are recorded in the Information Technology Fund;

RESOLVED, That the City Administrator be authorized to enter into fiber and conduit use agreements with other government entities with the same or similar terms and conditions as these three agreements, subject to approval as to form by the City Attorney;

RESOLVED, That the City Administrator be authorized to enter into amendments to fiber and conduit use agreements with government entities, provided they contain similar terms and conditions, and subject to approval as to form by the City Attorney;

RESOLVED, That the City Administrator authorize staff to maintain a report of all fiber and conduit use agreements, which will be available each year during the budget process; and

RESOLVED, That the City Administrator be authorized to take all necessary actions to implement this resolution.