THE CITY OF ASHEVILLE

STAFF REPORT

Council Meeting Date: April 12, 2022

Subject: License Agreement & Fiber Optic Swap with DukeNet Communications, LLC

Staff Resources: Kevin Hymel, IT,
Jannice Ashley, Sr. Asst City Attorney
Ellen McKinnon, Real Estate Coordinator

Action Requested: Adoption of a resolution authorizing the City Manager to sign a license agreement with DukeNet Communications, LLC that involves a fiber optic swap in lieu of compensation.

Background:

- The City owns two telecommunications towers on the property at 166 Reservoir Road and the City leases antenna space on the towers and ground space for related equipment.
- The City of Asheville signed a license agreement with DukeNet Communications, LLC in 2012.
- The agreement allowed DukeNet to install, operate and maintain fiber optic equipment at the site on Reservoir Road.
- This allowed them to provide fiber optic communications between the two towers on the site.
- As consideration for the license agreement, the City has the right to use twelve (12) designated dark fibers or unlit fibers along S. Charlotte Street to Reservoir Road.
- This arrangement has allowed the City to create a no-cost link that will increase public safety network reliability for the City's radio system.
- This agreement is set to expire on June 11, 2022.
- DukeNet has been purchased by Charter Communications, but will continue to operate under the same name.
- Their agent approached the City with a request to extend the license agreement for another ten years.
- IT has confirmed that they want the arrangement to be extended and they have approved the provisions of the license agreement.

Council Goal(s):

- Connected & Engaged Community
- Well Planned & Livable Community

Committee(s):

- None

Pro(s):

- Maximize the value of the license agreement through access to DukeNet Communications, LLC's fibers.
- Maintains a link that contributes to the City of Asheville's public safety radio reliability.

Con(s):

- None

Fiscal Impact:

- Under the License Agreement, the City will not receive any revenue from DukeNet Communications, LLC; however, the City will be able to continue to receive the right to use twelve (12) designated dark or unlit fibers along S. Charlotte Street to Reservoir Road.

Suggested Motion:

- Motion to approve the resolution authorizing the City Manager to execute the license agreement with DukeNet Communications, LLC, LLC on behalf of the City of Asheville.

Attachment:

- Resolution
- Location Map
- Fiber Optic Path
- License Agreement Area

RESOLUTION NO. 22-_____

RESOLUTION AUTHORIZING A LICENSE AGREEMENT WITH DUKENET COMMUNICATIONS, LLC FOR THE PURPOSE OF OPERATING FIBER OPTIC EQUIPMENT ON CITY OWNED REAL PROPERTY AT 166 RESERVOIR ROAD

WHEREAS, the City of Asheville is the owner of real property located at 166 Reservoir Road, Asheville NC 28803, identified as PIN 9648-56-7084-00000; and

WHEREAS, DukeNet Communications, LLC has offered to enter into a license agreement in order to operate and maintain fiber optic equipment upon the property at 166 Reservoir Road; and

WHEREAS, N. C. Gen. Stat. 160A-272 authorizes the lease of City owned property for such terms and conditions as the council sees fit, for periods of up to 10 years upon resolution of the City Council adopted at a regular meeting after 10 days' public notice; and

WHEREAS, the City Clerk published a Notice of Intent in connection with the proposed license agreement on February 4, 2022, in the Asheville Citizen Times; and

WHEREAS, the term will be ten (10) years from the commencement date; and

WHEREAS, in consideration for the license agreement, DukeNet Communications, LLC will grant the City the right to use twelve (12) unlit fibers within the DukeNet Communications, LLC network from S. Charlotte Street to Reservoir Road;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ASHEVILLE THAT:

The City Manager is hereby authorized to execute a License Agreement between the City of Asheville and DukeNet Communications, LLC for the purpose of operating and maintaining fiber optic equipment at 166 Reservoir Road. In addition, the City Manager is hereby authorized to execute any and all documents necessary to give effect to this resolution, subject to approval by the City Attorney and compliance with applicable North Carolina law.

Read, approved and adopted this 12th day of April, 2022.

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City Clerk Mayor

Approved as to form:

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City Attorney