



Legislation Text

File #: 19-0262, Version: 1

Resolution Authorizing the Renewal of a Franchise to Crown Castle Fiber, LLC, Successor in Interest to NewPath Networks, LLC, to Occupy and Use the Streets, Alleys, Public Places and Rights of Way of the City of Hampton, Virginia Within Its Corporate Limits to Install, Maintain, Upgrade, Repair, and Remove Poles, Cable, Optical Fibers, Wires, Electrical Conductors, Conduits, Subways, Manholes, and Other Equipment and Fixtures of a Telecommunications System in the Corporate Limits of the City of Hampton, Virginia

PURPOSE/BACKGROUND:

UPDATE FOR OCTOBER 9, 2019, CITY COUNCIL MEETING: On September 11, 2019, staff requested that City Council defer this item until October 9, 2019, as additional information was needed from Crown Castle. It was anticipated that this would be received in time for Council to reconsider on October 9, 2019, however that is not the case. Staff is requested that Council defer this item indefinitely and staff will place it back upon the agenda when all materials have been received and the item is ready for Council consideration.

The City of Hampton, on October 8, 2014, adopted an ordinance granting a franchise to NewPath Networks, LLC (NewPath), a subsidiary of Crown Castle, to use and occupy the streets, alleys, public places, and rights of way of the City for the purpose of constructing, maintaining, and repairing Crown Castle's telecommunications system (as defined in the Oct. 8, 2014 franchise ordinance). Founded in 1994, Crown Castle is a large independent owner and operator of shared wireless infrastructure. It owns, operates, builds, and leases towers, rooftops, and Distributed Antenna Systems ("DAS") in prime markets for wireless communications. Crown Castle's Small Cell Division is a registered public utility in the Commonwealth of Virginia, formerly operating as NewPath Networks, LLC, but through a corporate restructuring effective January 1, 2019, NewPath was consolidated into Crown Castle Fiber, LLC. This division exclusively uses the public right-of-way to provide its competitive local exchange carrier telecommunications services. As much as feasible, it utilizes existing utility infrastructure and attaches its equipment to those facilities. Each pole location, also referred to as a "node," then is connected via fiber installation back to a central equipment hub. Crown Castle and its subsidiaries have master joint use and pole attachment agreements with the current electric and telephone providers in the area.

The existing franchise between the City and Crown Castle and its subsidiaries has a renewal provision that grants Crown Castle the option, subject to City approval and without unreasonable delay, to renew the existing franchise for four (4) consecutive renewal terms of fifty-nine (59) months each, provided that Crown Castle is not in default under the terms of the franchise and that Crown Castle notify the City of its desire to exercise such renewal option at least six (6) months in advance of the expiration date. Crown Castle gave sufficient notice to the City of desire to renew by letter to Mary Bunting, City Manager, dated January 25, 2019. There is no information indicating that Crown Castle is in default under the terms of the existing franchise.

Crown Castle Fiber, LLC desires to renew the existing franchise with the City in order to

continue to provide enhanced telecommunication infrastructure availability to its customers. Those customers, in turn, are able to deliver advanced wireless and long-term evolution services to users in the City.

City staff has reviewed this proposal and recommends renewal of the franchise ordinance. This matter was properly advertised in accordance with Virginia Code § 15.2-1813.

Discussion:

See Purpose/Background above.

Impact:

See Purpose/Background above.

Recommendation:

Conduct a public hearing and approve the Resolution to authorize the renewal of the Franchise.

WHEREAS, pursuant to Virginia Code §§ 15.2-2100 through 15.2-2108, the City of Hampton (the “City”) has the authority to grant franchises and other authorizations for the use and occupancy of the “Streets” (as defined in the Oct. 8, 2014 franchise ordinance between City and Crown Castle and its subsidiaries) of the City;

WHEREAS, the Streets of the City are a valuable public resource that have required and will continue to require substantial investment by the City;

WHEREAS, Crown Castle Fiber, LLC, successor in interest to NewPath Networks, LLC, (the “Grantee”) requests the renewal with the City of their franchise for another term of 59 months per that certain franchise ordinance adopted by the City on October 8, 2014, to use and occupy the streets, alleys, public places, and rights of way of the City for the purpose of constructing, maintaining, and repairing Crown Castle’s telecommunications system (as defined in the Oct. 8, 2014 franchise ordinance);

WHEREAS, the City intends to exercise its authority with respect to the regulation of the occupation and use of the Streets in connection with the construction, maintenance, and repair of a Telecommunications System to the fullest extent permitted by applicable federal, state, and local law;

WHEREAS, consistent with applicable law, and as amended, the City desires to minimize inconvenience and disruption to the public, provide for the orderly and efficient use of the Streets now and in the future, and preserve adequate capacity for existing and future uses of the Streets; and

WHEREAS, the said franchise ordinance adopted by the City on October 8, 2014, should be renewed for a renewal term of fifty-nine (59) months, and such renewal shall be deemed effective September 8, 2019.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hampton, Virginia as follows:

1. That it approves the renewal of the franchise ordinance adopted by the City on October 8, 2014, between the City and Crown Castle Fiber, LLC, formerly NewPath Networks, LLC, for a renewal term of fifty-nine (59) months, with its effective date being September 8, 2019; and
2. That the City Manager or her Authorized Designee is hereby authorized to execute and deliver any document(s) necessary to carry out the renewal of the franchise ordinance adopted

by the City on October 8, 2014, between the City and Crown Castle Fiber, LLC, formerly NewPath Networks, LLC, subject to approval by the City Attorney.