



City of San Antonio

Agenda Memorandum

File Number:14-2485

Agenda Item Number: 24.

Agenda Date: 10/30/2014

In Control: City Council A Session

DEPARTMENT: ITSD

DEPARTMENT HEAD: Hugh Miller

COUNCIL DISTRICTS IMPACTED: City Wide

SUBJECT:

Indefeasible Right of Use Agreement between the City of San Antonio and CPS Energy

SUMMARY:

ITSD and CPS Energy have completed negotiations of an Indefeasible Right of Use Agreement (IRU Agreement) under which the City will have the permanent and irrevocable right to use excess dark fiber throughout San Antonio that connects present and future CPS Energy substations. The IRU Agreement will allow ITSD to enter into substantive discussions with other governmental and educational entities in the community with the goal of extending the benefits of the City's fiber network (COSANet) to other potential public partners.

BACKGROUND INFORMATION:

In 2007, the City executed a memorandum of understanding (MOU) with CPS Energy, which was approved by the City Council by Ordinance No. 2007-06-21-0714. Under the MOU, the City and CPS Energy agreed to cooperate in the development of a joint high-speed communications wide area network. Among other issues, the MOU gave the City access to four strands of excess dark fiber throughout the CPS Energy electric distribution system. The dark fiber gave the City for the first time the ability to develop a citywide fiber network (COSANet) by connecting City facilities with CPS Energy dark fiber. The MOU also established a governance structure for planning the connection of City facilities to the CPS Energy dark fiber.

In 2012, city officials called for expanding the broadband benefits of COSANet to other governmental and educational entities in the community. But there was an impediment to achieving this goal. Under the MOU, the City did not have the permanent right to the dark fiber - CPS Energy reserved the authority to withdraw the fiber. The IRU Agreement addresses this concern by granting the City the permanent and irrevocable right to use excess dark fiber at no cost, and increases the number of dark fiber strands from four to eight where available. In exchange for these benefits, the City will grant CPS Energy at no expense permanent access to its wireless towers for installation of antenna equipment and to four strands of City fiber routes. The IRU Agreement will also result in connecting seven additional City facilities to COSANet.

With the assurance of permanent and irrevocable access to dark fiber, the City will be able to enter into meaningful negotiations with other public entities interested in connecting to COSANet by covering the cost to connect, sharing in the expense of network upgrades and maintenance, and providing additional value to the City to recognize the City's original investment in the fiber network. ITSD is in dialogue with the University of Texas System to connect its three San Antonio campuses to COSANet. With approval of the IRU Agreement these exploratory discussions can proceed to contract negotiations and network implementation.

ISSUE:

Approval of the IRU Agreement will allow ITSD to enter into substantive negotiations with other governmental and educational institutions in the community interested in connecting to COSANet in order to create an intra-agency fiber network.

ALTERNATIVES:

If the IRU Agreement is not approved, the City will not be able to enter into meaningful negotiations with other public entities to widely expand fiber connectivity throughout the community.

FISCAL IMPACT:

There will not be any financial impact to the City as a result of approval of the IRU Agreement.

RECOMMENDATION:

Staff recommends approval of the proposed ordinance.