



To: MAYOR AND CITY COUNCIL

Agenda Item #: IV. M.

From: Scott H. Neal, City Manager

Action

Discussion

Date: March 17, 2015

Information

Subject: Notice of Public Hearing to Consider Intent to Franchise

Action Requested:

Authorize Notice of Public Hearing to Consider Intent to Franchise.

Information / Background:

CenturyLink has requested that the City consider the grant of a cable communications franchise so CenturyLink can provide cable television services in the City. Pursuant to this request, staff has prepared the necessary documents to process the City's consideration of the grant of a competitive cable communications franchise. To that end, attached hereto please find the following:

1. Procedural Timeline Regarding the Request for a Cable Communications Franchise;
2. Notice of Intent to Franchise, required pursuant to Minn. Stat. Section 238.081, subd. 2;
3. A Request for Proposals, required pursuant to Minn. Stat. Section 238.081, subd. 4; and
4. Notice of Public Hearing.

The above referenced documents have been prepared to comply with the franchising procedure required under Minnesota state law. The documents should be reviewed by City Council and, if acceptable, the City Council should authorize staff to publish the Notice of Intent to Franchise and thereafter follow the required statutory procedural requirements.

Interested parties may obtain copies of the Request for Proposals and related franchise documentation as described in the Notice of its Intent to Franchise and the City will follow the procedure outlined in the Notice of its Intent to Franchise and Request for Proposals which is derived substantially from state law.

To the extent an application is submitted by an entity the City will then be required to assess the legal, technical and financial qualifications of the applicant(s). It is important to emphasize that at this time the City is only considering the implementation of the state statutory franchising process. There will be a public hearing before the City Council on this matter and no entity will be permitted in the City's right-of-way for the provision of cable services until the City Council considers the award of a cable communications franchise.

**PROCEDURAL TIMELINE REGARDING THE
REQUEST FOR A CABLE COMMUNICATIONS FRANCHISE
City of Edina, Minnesota**

DATE	TASK
February 2015	Meeting of Commission staff and any other interested parties to review process, law, concerns.
March 17, 2015	City considers publication of Notice of Intent to Franchise.
March - May 2015	Commission begins negotiations regarding franchise terms with prospective Applicant.
March ____, 2015 <i>and</i> March/April ____, 2015	City publishes Notice of Intent to Franchise once each week for two (2) successive weeks in local newspaper. Notice also mailed directly to existing operator (Comcast) and other prospective Applicants (CenturyLink).
April 30, 2015	Closing date for submission of Application [<i>must be <u>at least 20 days</u> from date of first publication</i>].
April/May 2015	Consideration of Application received.
April 7, 2015	City meets to call Public Hearing.
April 16, 2015	City publishes Notice of Public Hearing [<i>10 to 14 days before conduct of hearing</i>].
May 6, 2015	City conducts Public Hearing regarding Franchise Applications – considers resolution regarding qualifications.
April 2015	Preparation of report by Moss & Barnett regarding qualifications of Applicant's.
April 22, 2015	Commission meets to consider Applicant's qualifications and Moss & Barnett's report – issue recommendation to Member Cities. <i>NOTE</i> – April 22, 2015 is the Commission's next regularly scheduled meeting date.
May, 2015	Commission considers Applicant's Franchise and issues its recommendation to the Member Cities regarding adoption of the Franchise.
May/June, 2015	City Council considers award of Franchise to successful Applicant(s) [<i>must be <u>at least 7 days</u> after Public Hearing – no time limit on when action must be taken</i>].
June 2015	Successful Applicant accept franchise document and submits required closing documentation [<i>typically within 30 days of the grant of a franchise</i>].

**NOTICE BY THE CITY OF Edina, MINNESOTA
OF ITS INTENT TO CONSIDER AN APPLICATION FOR A FRANCHISE**

Notice is hereby given that it is the intent of the City Council of the City of Edina, Minnesota, to consider an application for a franchise for the purpose of operating a cable communications system to serve the City of Edina, Minnesota. This notice is given in accordance with the requirements of Minn. Stat. § 238.081.

Applications shall be submitted in response to this Notice and Request for Proposals available on request in the office of the City Manager, Edina City Hall at 4801 W. 50th Street, Edina Minnesota 55424.

- A. The deadline for submitting applications is April 30, 2015.
- B. Applications shall be in writing, notarized, in a format consistent with the Request for Proposals, and sealed with three (3) copies enclosed. Applications shall be delivered to the attention of Scott H. Neal, City Manager, City of Edina, 4801 W. 50th Street, Edina, Minnesota 55424. Two (2) additional copies shall be simultaneously submitted to the City's outside legal counsel, Brian Grogan, Moss & Barnett, 150 South Fifth Street, Suite 1200, Minneapolis, Minnesota 55402.
- C. Pursuant to Minn. Stat. § 238.081 subd. 8, Applicants will be required to reimburse the City for all necessary costs of processing a cable communications franchise. Each application shall include an application fee of Ten Thousand and No/100 Dollars (\$10,000) in the form of a certified check made payable to the City of Edina, Minnesota. Any unused portion of the application fee shall be returned to the Applicant and any additional fees required to process the application and franchise beyond the Application fee shall be assessed to the Applicant.
- D. Applicants are requested to be present at a public hearing before the City Council that is presently scheduled to be held at City Hall, beginning at 7:00 p.m. on May 6, 2015. Each applicant will be given time to summarize its application.
- E. The Request for Proposals sets forth in detail the expectations of the City of Edina, Minnesota and the requirements of the content of the franchise proposal and are made in conformance to the requirements of Minn. Stat. § 238.081, subd. 4.
- F. The services to be offered are identified in the Request for Proposals and include a system providing public, educational and governmental access channels consistent with state law; a mix, level and quality of programs and services comparable to other systems in the region serving similar sized communities and customer services and maintenance plans to ensure quality service to the subscriber. The Request for Proposals provides further details of the services to be offered.
- G. The criteria for evaluating the applications and priorities for selection are as follows:

1. The completeness of applications and conformance to Request for Proposals;
 2. Customer service policies and system testing;
 3. The legal, technical, and financial qualifications of the applicant; and
 4. The proposal for community services, including public, educational, and governmental access in accordance with state law.
- H. Applications which meet the above criteria in the opinion of the City Council shall be considered for a franchise.
- I. The applicant(s) selected by the City Council will be required to accept the franchise documents granted within thirty (30) days after adoption.
- J. All questions concerning this request should be directed to the City's outside legal counsel, Brian Grogan, Moss & Barnett, 150 South Fifth Street, Suite 1200, Minneapolis, Minnesota 55402; phone (612)877-5340.

Date: March 17, 2015

CITY OF EDINA, MINNESOTA

By: _____

Its: _____

REQUEST FOR PROPOSALS
Official Application Form

Applicants interested in submitting a proposal for a cable communications franchise shall submit the following information as required by Minnesota Statutes Section 238.081 (subd. 4) to the City of Edina, Minnesota ("City") on or before April 30, 2015.

- A. Plans for channel capacity, including both the total number of channels capable of being energized in the system and the number of channels to be energized immediately.
- B. A statement of the television and radio broadcast signals for which permission to carry will be requested from the Federal Communications Commission.
- C. A description of the proposed system design and planned operation, including at least the following items:
 - 1. The general area for location of antenna and headend, if known;
 - 2. The schedule for activating cable and two-way capacity;
 - 3. The type of automated services to be provided;
 - 4. The number of channels and services to be made available for access cable broadcasting; and
 - 5. A schedule of charges for facilities and staff assistance for access cable broadcasting.
- D. Terms and conditions under which particular service is to be provided to governmental and educational entities.
- E. A schedule of proposed rates in relation to the services to be provided and a proposed policy regarding unusual or difficult connection of services.
- F. A time schedule for construction of the entire system with the time sequence for wiring the various parts of the area requested to be served.
- G. A statement indicating the applicant's qualifications and experience in the cable communications field, if any.
- H. An identification of the municipalities (including contact information for the municipal officials in each community) in which the applicant either owns or operates a cable communications system, directly or indirectly, or has outstanding franchises for which no system has been built.
- I. Plans for financing the proposed system, which must indicate every significant anticipated source of capital and significant limitations or conditions with respect to the availability of the indicated sources of capital. This information should include:
 - 1. Current financial statements;

2. Proposed sources and uses of funds for the construction project;
 3. Financial budgets for the next three (3) years;
 4. Documentation regarding the commitment of funds; and
 5. Any other information that applicant determines would be useful in evaluating its financial qualifications.
- J. A statement of ownership detailing the corporate organization of the applicant, if any, including the names and addresses of officers and directors and the number of shares held by each officer or director, and intercompany relationship, including the parent, subsidiary or affiliated company.
- K. A notation and explanation of omissions or other variations with respect to the requirements of the proposal.

Substantive amendments may be made to a proposal after a proposal has been submitted only upon approval of the City and before the award of a franchise. All proposals must be notarized and must include responses to the above information requests, as well as the information requested in the Notice by the City of its Intent to Franchise a Cable Communications System, available from the City upon request.

Applicants are advised that Comcast currently provides cable television service throughout the City of Edina, Minnesota.

The City reserves its right to request additional information of any applicant at any time during this process.

Any questions regarding this Request for Proposals may be directed in writing to the City's outside legal counsel, Brian Grogan, Moss & Barnett, 150 South Fifth Street, Suite 1200, Minneapolis, Minnesota 55402; phone (612)877-5340.

PUBLIC HEARING NOTICE

City of Edina, Minnesota

NOTICE IS HEREBY GIVEN that the City of Edina, Minnesota will hold a hearing on May 6, 2015 at 7 p.m., or as soon thereafter as the matter may be heard, to consider the applications received for a cable communications franchise. The public hearing will be held at the City Hall in Edina, Minnesota. All interested parties are invited to attend and voice their opinions. Written statements may be submitted at or before the public hearing.

Dated this _____ day of _____, 2015.

CITY OF EDINA, MINNESOTA

By: _____

Its: _____