



Item No. 14 Town of Atherton

CITY COUNCIL STAFF REPORT – CONSENT AGENDA

**TO: HONORABLE MAYOR AND CITY COUNCIL
GEORGE RODERICKS, CITY MANAGER**

FROM: ROBERT OVADIA, PUBLIC WORKS DIRECTOR

DATE: JANUARY 20, 2021

**SUBJECT: APPROVAL OF A CONDUIT LEASE AGREEMENT WITH
ATHERTON FIBER FOR THE USE OF STREETLIGHT
CONDUITS IN THE LINDENWOOD NEIGHBORHOOD; AND
AUTHORIZATION FOR THE CITY ATTORNEY TO PREPARE
AND CITY MANAGER TO EXECUTE THE AGREEMENT ON
BEHALF OF THE TOWN**

RECOMMENDATION

Approve a lease agreement with Atherton Fiber/Open 5g for the use of existing streetlight conduits in the Lindenwood neighborhood; and authorize the City Attorney to prepare and the City Manager to Execute the agreement.

BACKGROUND

Atherton Fiber has been expanding their installation of fiber optic cables and service throughout the Town. The Lindenwood neighborhood is predominantly served with underground utilities. Due to cost concerns related to installing new underground conduits throughout the neighborhood with an uncertain subscriber rate, Atherton Fiber/Open 5g (Atherton Fiber) approached the Town regarding the potential use the Town's existing underground streetlight conduits to facilitate deployment of fiberoptic services to the neighborhood.

ANALYSIS

Atherton Fiber expressed concern that based on their assessment of the connection rate, without the ability to reduce installation costs, they could not make the financial commitment to serve the residents in the Lindenwood neighborhood. To reduce costs of deployment, Atherton Fiber requested consideration from the Town to allow them to use the existing streetlight conduit network within the Lindenwood neighborhood for their deployment. Staff reviewed Atherton Fiber/Open 5g's request and was concerned about the potential impact to the existing streetlight

system. Understanding the desire to expand internet service offerings to our residents, the idea was presented to the Council IT Subcommittee for consideration.

The Council IT Subcommittee understood and agreed with staff's concerns regarding the streetlights and considered the opportunity to allow Atherton Fiber to use the conduits to facilitate a faster deployment of fiberoptic service in the Lindenwood neighborhood. The use of existing streetlight conduits would potentially be less disruptive to the neighborhood than an alternative underground installation.

The Town expressed that there are no guarantees regarding the condition of the existing network and its ability to support shared use. Atherton Fiber would be responsible for all investigations required to ascertain feasibility of use and to repair any streetlight conduits and conductors impacted by their installation and use of the conduits.

Staff's initial research indicated that conduit lease rates ranged from \$0.42 per linear foot per year for non-exclusive uses (AT&T) to \$2.45 per linear foot per year for exclusive use (PG&E 2016). The City of Palo Alto's E-16 Rate Schedule (2016) included conduit lease rates of \$0.97 per linear foot per year for non-exclusive use and \$1.94 per foot per year for exclusive use, plus any processing fees. Atherton Fiber outlined their concerns regarding the staff's rate assessment and indicated that with their anticipated take rate, it would not be economically feasible to pay such a rate.

With the input of the Council IT Subcommittee, the Town and Atherton Fiber agreed on an initial rate of \$0.30 per foot per year for use of the streetlight conduit. The rate would increase on a per subscriber basis once Atherton Fiber secured 75 customers within the Lindenwood neighborhood. The rate would be capped at \$1.00 per foot and, upon reaching 250 connections or 10 years (whichever is earlier), would be adjusted annually with CPI. Additionally, Atherton Fiber will be required to repair any damage to the streetlight conduits and conductors associated with their work and would be responsible to cover any Town costs associated with the preparation of the agreement and for normal permitting charges for investigation of the existing conduits for potential use and for the installation of their fiberoptic system. The term sheet associated with the agreement is provided as an attachment to this report. There is approximately 11.9 miles of conduit (62,832 lineal feet).

As the Town cannot favor one provider over another, there is the potential that another service provider may desire a similar agreement. This is a non-exclusive use agreement.

POLICY FOCUS

The Council's policy discussion should focus on the desire to facilitate fiberoptic installation via the use of existing streetlight conduits.

FISCAL IMPACT

The fiscal impact associated with the lease is limited. Atherton Fiber will be responsible to reimburse the Town for direct costs associated with preparation of the lease and for all associate

permit fees. Income from the lease would depend on the outcome of their conduit assessment, the amount of conduit used, and ultimately the number of subscribers secured within the Lindenwood neighborhood.

Assuming that Atherton Fiber uses all the available conduit (62,832 lineal feet) to expand their network, at 75 customers, the annual lease revenue would be \$18,946.60. As the customer count increases, the lease amount increases until it reaches \$1 per lineal foot at 250 customers - \$62,832 per year, adjusted by the CPI thereafter. There are just under 500 homes in Lindenwood.

COMMISSION/COMMITTEE FEEDBACK/REFERRAL

This item ___ has or X has not been before a Town Committee or Commission.

- ___ Audit/Finance Committee (meets every other month)
- ___ Bicycle/Pedestrian Committee (meets as needed)
- ___ Civic Center Advisory Committee (meets as needed)
- ___ Environmental Programs Committee (meets every other month)
- ___ Park and Recreation Committee (meets each month)
- ___ Planning Commission (meets each month)
- ___ Rail Committee (meets every other month)
- ___ Transportation Committee (meets every other month)
- ___ Tree Committee (meets each month)

ATTACHMENTS

1. Streetlight Conduit Occupancy Term Sheet
2. Streetlight Conduit Occupancy Rate Escalator Table

Streetlight Conduit Occupancy Term Sheet

Location: Lindenwood Neighborhood, Atherton, CA
Bounded by Marsh Middlefield Road, Middlefield Road, Ringwood Avenue, and Bay Road – approximately 500 parcels

Conduits contemplated: Street Light Conduits on interior, neighborhood streets
Approximately – 11.9 Miles

Term: 20 Years

Renewal Terms: up to two (2), 5-year extensions upon mutual agreement

Dark Fiber: Atherton Fiber is to provide 10 percent of fiber capacity of each bundle as dark fiber for Town use, at no cost to Town. Fiber to be connected to the overall connections provided to Town Hall. Additional connection points along the dark fiber runs to be determined based on actual installation routes and Town needs and may include access pints at Emergency Assembly points, cameras, traffic management devices, cameras, smart city connected devices and other or any other use.

Town Costs: Atherton Fiber shall reimburse Town for all costs associated with preparation and execution of the lease agreement, including legal costs by Town legal Counsel as a special project.
Atherton Fiber shall secure all necessary permits prior to installation and shall reimburse Town for all costs associated with plan review, installation, inspection, restoration, and resident/property owner coordination.

Initial Lease Rate: \$0.30/ft/year 0 – 75 connections

Take Rate Escalator: Initial linear conduit lease rate shall be set for the initial 75 connections
The linear conduit lease rate is to be increased at the rate of \$0.004/ft/yr for each connection made above the initial 75 connections (see attached table)

Lease Rate Cap: The linear conduit lease rate to be capped at \$1.00/ft/yr until either 250 connections are made or year 10 of the lease, whichever is earlier

- CPI Lease Rate Escalator:** Upon reaching 250 connections or Years 10, whichever is earlier:
Annual adjustment of the linear conduit lease rate shall be based on CPI – US Department of Labor, Bureau of Labor Statistics Consumer Price Index (CPI), October Release for the San Francisco-Oakland-Hayward Area
- Assignment:** Assignability will be subject to the Town’s Reasonable consent.
Upon assignment, the linear lease rate will be \$1.00/ft/yr or the escalated lease linear conduit rate, whichever is greater. The linear conduit lease rate shall be escalated annually based on US Department of Labor, Bureau of Labor Statistics Consumer Price Index (CPI), October Release for the San Francisco-Oakland-Hayward Area
- Damage:** Atherton Fiber shall be responsible to repair any damage to the existing streetlight electrical system associated with the shared use of the streetlight conduit. Town shall not be responsible to repair any fiber optic lines that may be damaged associated with the shared use of streetlight conduits or maintenance of the streetlighting system.
- Approval Level:** Approval of final terms and agreement for the Town will be at the City Council level.

Streetlight Conduit
Rate Escalator Table

Lease Amount/LF	Customer Count		Lease Amount/LF	Customer Count		Lease Amount/LF	Customer Count		Lease Amount/LF	Customer Count
\$ 0.300	75		\$ 0.500	125		\$ 0.700	175		\$ 0.900	225
\$ 0.304	76		\$ 0.504	126		\$ 0.704	176		\$ 0.904	226
\$ 0.308	77		\$ 0.508	127		\$ 0.708	177		\$ 0.908	227
\$ 0.312	78		\$ 0.512	128		\$ 0.712	178		\$ 0.912	228
\$ 0.316	79		\$ 0.516	129		\$ 0.716	179		\$ 0.916	229
\$ 0.320	80		\$ 0.520	130		\$ 0.720	180		\$ 0.920	230
\$ 0.324	81		\$ 0.524	131		\$ 0.724	181		\$ 0.924	231
\$ 0.328	82		\$ 0.528	132		\$ 0.728	182		\$ 0.928	232
\$ 0.332	83		\$ 0.532	133		\$ 0.732	183		\$ 0.932	233
\$ 0.336	84		\$ 0.536	134		\$ 0.736	184		\$ 0.936	234
\$ 0.340	85		\$ 0.540	135		\$ 0.740	185		\$ 0.940	235
\$ 0.344	86		\$ 0.544	136		\$ 0.744	186		\$ 0.944	236
\$ 0.348	87		\$ 0.548	137		\$ 0.748	187		\$ 0.948	237
\$ 0.352	88		\$ 0.552	138		\$ 0.752	188		\$ 0.952	238
\$ 0.356	89		\$ 0.556	139		\$ 0.756	189		\$ 0.956	239
\$ 0.360	90		\$ 0.560	140		\$ 0.760	190		\$ 0.960	240
\$ 0.364	91		\$ 0.564	141		\$ 0.764	191		\$ 0.964	241
\$ 0.368	92		\$ 0.568	142		\$ 0.768	192		\$ 0.968	242
\$ 0.372	93		\$ 0.572	143		\$ 0.772	193		\$ 0.972	243
\$ 0.376	94		\$ 0.576	144		\$ 0.776	194		\$ 0.976	244
\$ 0.380	95		\$ 0.580	145		\$ 0.780	195		\$ 0.980	245
\$ 0.384	96		\$ 0.584	146		\$ 0.784	196		\$ 0.984	246
\$ 0.388	97		\$ 0.588	147		\$ 0.788	197		\$ 0.988	247
\$ 0.392	98		\$ 0.592	148		\$ 0.792	198		\$ 0.992	248
\$ 0.396	99		\$ 0.596	149		\$ 0.796	199		\$ 0.996	249
\$ 0.400	100		\$ 0.600	150		\$ 0.800	200		\$ 1.000	250
\$ 0.404	101		\$ 0.604	151		\$ 0.804	201			
\$ 0.408	102		\$ 0.608	152		\$ 0.808	202			
\$ 0.412	103		\$ 0.612	153		\$ 0.812	203			
\$ 0.416	104		\$ 0.616	154		\$ 0.816	204			
\$ 0.420	105		\$ 0.620	155		\$ 0.820	205			
\$ 0.424	106		\$ 0.624	156		\$ 0.824	206			
\$ 0.428	107		\$ 0.628	157		\$ 0.828	207			
\$ 0.432	108		\$ 0.632	158		\$ 0.832	208			
\$ 0.436	109		\$ 0.636	159		\$ 0.836	209			
\$ 0.440	110		\$ 0.640	160		\$ 0.840	210			
\$ 0.444	111		\$ 0.644	161		\$ 0.844	211			
\$ 0.448	112		\$ 0.648	162		\$ 0.848	212			
\$ 0.452	113		\$ 0.652	163		\$ 0.852	213			
\$ 0.456	114		\$ 0.656	164		\$ 0.856	214			
\$ 0.460	115		\$ 0.660	165		\$ 0.860	215			
\$ 0.464	116		\$ 0.664	166		\$ 0.864	216			
\$ 0.468	117		\$ 0.668	167		\$ 0.868	217			
\$ 0.472	118		\$ 0.672	168		\$ 0.872	218			
\$ 0.476	119		\$ 0.676	169		\$ 0.876	219			
\$ 0.480	120		\$ 0.680	170		\$ 0.880	220			
\$ 0.484	121		\$ 0.684	171		\$ 0.884	221			
\$ 0.488	122		\$ 0.688	172		\$ 0.888	222			
\$ 0.492	123		\$ 0.692	173		\$ 0.892	223			
\$ 0.496	124		\$ 0.696	174		\$ 0.896	224			