



TO: Elizabeth Pauli, City Manager
FROM: William C. Fosbre, City Attorney, City Attorney's Office *W.F.*
COPY: City Council and City Clerk
SUBJECT: Resolution - Approving an agreement between Tacoma Power and Rainier Connect to negotiate formal partnership contracts related to the operation and use of the Click! Network – March 26, 2019
DATE: March 19, 2019

SUMMARY:

Approving the execution of an agreement between the Department of Public Utilities, Light Division (d.b.a. "Tacoma Power"), and Rainier Connect to negotiate in good faith formal partnership contracts related to the operation and use of the Click! Network; setting a time frame for negotiations; and authorizing a conditional extension of that time frame.

STRATEGIC POLICY PRIORITY:

- Encourage and promote an efficient and effective government, which is fiscally sustainable and guided by engaged residents.

BACKGROUND:

In July 2018, the City Council and Public Utility Board directed CTC Technology & Energy to negotiate with Rainier Connect, Wave Broadband, and Yomura Fiber to develop formal partnership proposals regarding the operation and use of the Click! Network that furthered the City's 12 policy goals. In late 2018, as part of the negotiation process, the City also began a formal process of outreach to seek feedback from community members, Click! customers, employees, ratepayers, businesses, and current Click! Network business partners on the policy goals.

CTC Energy & Technology, with representatives from Tacoma Power, City Attorney's Office, and Office of Media and Communications, spent extensive time with the prospective partners to discuss and negotiate term sheet proposals. Negotiations with Yomura Fiber ended due to incompatibility regarding control of fiber used by Tacoma Power and current federal security regulations. Negotiations with Wave Broadband and Rainier Connect led to completed term sheets, which were presented to the Council and Board at a Joint Study Session on March 5, 2019. Although both term sheets meet and exceed the policy goals and represent optimal market outcomes, the Rainier Connect proposal offers higher compensation and better terms than the Wave Broadband proposal. As a result, CTC recommends that TPU and the City negotiate a formal partnership arrangement with Rainier Connect to operate and use the Click! Network. The Public Utility Board conducted public meetings on March 13, 2019, and March 18, 2019, seeking input from all interested parties on the partnership proposals and recommendation.

The City Council and Board have diligently reviewed the proposals and comments from interested parties, and believe it is in the best interests of Tacoma Power ratepayers and customers of Click! Network to negotiate a formal partnership arrangement with Rainier Connect. By adoption of Public Utility Board Resolution No. U-11070 at its Special Meeting of March 18, 2019, the proposed negotiations between Tacoma Power and Rainer Connect were approved, pending confirmation from the City Council.

This resolution will also set a time frame for negotiations between Tacoma Power and Rainier Connect, and will allow for a conditional extension of the time frame, if necessary, if requested jointly by the Director of Utilities and City Manager.



ISSUE:

Whether the agreement between Tacoma Power and Rainier Connect, to negotiate in good faith formal partnership contracts related to the operation and use of the Click! Network, should be approved.

ALTERNATIVES:

The City Council could recommend that the Board select Wave Broadband over Rainier Connect, could decline to make a recommendation to the Board, or could recommend that the Board take a different course of action. Concurrence with the Board's recommendation is the preferred option because it is consistent with Consultant CTC's determination that the Rainier Connect term sheet more strongly meets the 12 policy goals of the City Council and Public Utility Board than the Wave Broadband term sheet.

RECOMMENDATION:

The City Attorney's Office concurs with the Public Utility Board, and recommends approval of the agreement between Tacoma Power and Rainier Connect to negotiate formal partnership contracts related to the operation and use of the Click! Network.

FISCAL IMPACT:

There is no fiscal impact.