CITY OF SALINAS
COUNCIL STAFF REPORT

DATE: **JUNE 22, 2021**

DEPARTMENT: **OFFICE OF THE CITY MANAGER**

FROM: **ANDREW MYRICK, SR ECONOMIC DEVELOPMENT MGR**

TITLE: **ENRA WITH UNDERLINE INFRASTRUCTURE SERVICES LLC**

RECOMMENDED MOTION:

A motion to approve the attached Resolution entering into an Exclusive Negotiating Rights Agreement with Underline Infrastructure Services LLC for the development of an open-access fiber broadband system within the City of Salinas.

RECOMMENDATION:

Staff recommends that the City Council approve the attached Resolution.

EXECUTIVE SUMMARY:

In order to identify partners to provide broadband service to the City of Salinas, the City issued a Request for Proposals (RFP) to identify partners. City staff and a City consultant have reviewed the responses and recommend that the City enter into an Exclusive Negotiating Rights Agreement with Underline Infrastructure Services LLC in order to conduct necessary due diligence to execute its proposal.

BACKGROUND:

Benefits of Broadband Networks and Barriers to Access

The City Council has identified the development of a broadband network to serve the needs of its residents and businesses as one of its priorities. In February 2020 (prior to the COVID-19 pandemic), the Metropolitan Policy Program at Brookings Institution stated the following with regards to broadband networks in its Report entitled "Digital Prosperity: How Broadband Can Deliver Health and Equity to All Communities"[1]:

> *From economic stability, to education, to social supports, to civic agency, broadband and the digital services it enables are intrinsically tied to collective health and equity outcomes. Broadband delivers economic benefits to both individuals and communities. Broadband makes it easier for job seekers to search for jobs, apply for them, and to keep looking for longer. In turn, businesses reap benefits from e-*

[1] https://www.brookings.edu/wp-content/uploads/2020/02/20200227_BrookingsMetro_Digital-Prosperity-Report-final.pdf

recruiting, which makes it less expensive to access a larger pool of candidates. And having a digitally fluent workforce brings productivity gains to firms, who can then reward employees with higher wages. Taking a macro lens, other researchers have found that higher levels of broadband adoption lead to economic growth, higher incomes, and lower unemployment.

Broadband also plays an important role in improving social outcomes, including health. Broadband democratizes access to education, offering a wide supply of free and open education platforms, courses, and resources. It can also help people foster social supports and stay in contact with a broader social network. For traditionally marginalized groups who are prone to social isolation, access to the internet allows them to connect to others anonymously. Though education and social support both have indirect health benefits, telehealth—the use of telecommunications to deliver health services and education—can directly improve health outcomes, especially for those who otherwise lack access to medical providers.

The Metropolitan Policy Program further identified three systemic barriers to broadband access: **physical access** (particularly in rural areas, where the high cost of installing network infrastructure often has the impact of preventing ISPs from accessing the market), **digital skills** (some residents lack the technical skills to fully take advantage of the benefits provided by broadband), and **pricing** (costs for broadband services may be priced beyond the reach of some residents and businesses, or costs for the most basic services may be very high). In other words, in order to access broadband, a resident or business must be able to physically access the system, they must know how to use it, and they must be able to afford it.

Given these three criteria, there is no single measurement tool that can be used to determine whether a community suffers significant barriers to broadband access (for example, a community could enjoy universal physical access but still not have affordable service). However, in communications and interactions with the community, it appears that there are significant portions of the community that remain underserved. Based on data supplied by the Central Coast Broadband Consortium (CCBC), it appears that the majority of the City, and nearly all residential areas, already have physical access to 100/20MB (ie 100 MB downstream, 20 MB upstream) service. However, simply because a service is physically available does not mean that it is affordable or that it can be readily accessed by all residents or businesses. A recent analysis by CalMatters[2] shows that access to high-speed broadband, even by low-income households, may be out of reach even when physical coverage is provided. This was demonstrated on a national level by an August 2020 photo (and subsequent news coverage) showing two young girls sitting outside a Salinas Taco Bell in order to access the restaurant's Wi-Fi service to attend their school's Zoom classes. Although physical access is available, clearly for many residents the status quo is not satisfactory.

To support the development of network infrastructure, the Council has taken several concrete actions, including the adoption of a Dig-Once Ordinance, policies regarding the leasing of City-owned facilities, policies relating to the deployment of small-cell antennas within the right-of-way, and approval of construction of City-owned fiber-optic cable and conduit connecting City Hall and the new Public Safety Building to the Crown Castle middle-mile fiber network. The overall goal for these efforts is to introduce **competition** to the marketplace. It has been generally observed that competition for business among companies forces those companies to modify their operations

[2] https://calmatters.org/projects/california-broadband-student-access/

so that they can win customers by offering the best service for the lowest price. An example of this was presented in a recent investigation by Ars Technica, which examined a market in Rochester, New York, and found that the local cable company provided faster speeds at lower rates on streets where they were competing against a competing fiber broadband provider than on those not served by fiber.[3] Therefore, in order to promote affordable broadband service in the City of Salinas, enabling competition by providing interested Internet Service Providers (ISPs) with access to customers via fiber would benefit the community. The City can play a vital role in making this happen.

In order to leverage the City's prior efforts and other assets, the City issued an RFP in March 2021 to identify a partner to help provide quality, affordable broadband services within the City. The City received five responses, which were reviewed and scored by City staff and a City consultant. While there were several proposals which could be seriously considered by the City, the reviewers are recommending the proposal put forth by Underline Infrastructure Services LLC. This is due to the following reasons (more details on all of these may be found in Underline's proposal, attached to this Staff Report as Exhibit A of the ENRA):

1) Scope of Project: Underline proposes to construct a complete fiber network in the City, serving every residence and business, including those in disadvantaged neighborhoods.

2) Network Access: Underline would not operate as an ISP. Essentially, Underline would construct the fiber network, and then would contract with ISPs to provide internet services over their network. Underline would be able to specify the pricing under this model.

3) Cost of Project: Underline has not requested that the City pay for any portion of the project – the estimated cost of $103 million would be privately financed. They would recoup the cost of their investment through fees for the use of their network.

4) Time of Construction: Underline believes that it would be able to complete the network in 3-4 years.

5) Affordability: Underline has proposed a competitive pricing structure, with residents able to obtain synchronous 500/500 service for $49 per month. Low-Income households would be able to obtain this service level for $25 or $15 per month, depending on income levels. Faster speeds would also be available. Underline has indicated a willingness to commit to this pricing.

6) Infrastructure: Underline has not proposed any deviations from City-approved construction or installation techniques.

Underline is proposing a privately-held network. This would be different from a City-owned network, with the chief difference being that the City does not directly control privately-owned networks. However, Underline's proposal would accomplish much of the same goals. Further,

[3] https://arstechnica.com/tech-policy/2021/05/charter-charges-more-money-for-slower-internet-on-streets-with-no-competition/

the City is not responsible for the ongoing costs to maintain and operate a privately-held network. If the network is deployed as represented, then this arrangement may prove to be more favorable to the City than a publicly-owned network would. This would be a matter for discussion between the City and Underline during the term of the ENRA.

It is also worth noting that Underline is a relatively new entity, and while it has begun working with some other public agencies, it has not yet completed any projects. However, Underline does include as partners several established and well-known companies that would handle the actual construction and operations. Further, the staff at Underline is very experienced and in interviews with City staff they were able to present their plans, respond to detailed questions, and ultimately address many concerns regarding the feasibility of the project.

Both the City and Underline believe the next appropriate step would be for the parties to enter into an ENRA. Underline would need to invest tens of thousands of dollars in order for it to complete its due diligence on the project and desires some assurance from the City that the City will not enter into an agreement with a competitor as it conducts its due diligence. Further, City staff also desires evidence that Underline has conducted the appropriate due diligence and has obtained the necessary funding and partners to execute its proposal prior to entering into any long-term agreement.

Underline believes that its analysis will take 3-4 months to complete. This analysis will be undertaken at the sole cost of Underline – no financial contribution from the City is requested. Based on this, the ENRA has a term of four months, which can be extended by the City Manager up to eight months. As there is no cost to the City, the term is short, and the proposal, if executed, has the potential to dramatically expand broadband access in the City, staff recommends that the Council approve the attached Resolution.

CEQA CONSIDERATION:

Not a Project. The proposed ENRA is not a project as defined by the California Environmental Quality Act (CEQA) (CEQA Guidelines Section 15378) as it includes only the collection and analysis of information. In addition, CEQA Guidelines Section 15061 includes the general rule that CEQA applies only to activities which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Because the proposed action and this matter have no potential to cause any effect on the environment, or because it falls within a category of activities excluded as projects pursuant to CEQA Guidelines section 15378, this matter is not a project. Because the matter does not cause a direct or foreseeable indirect physical change on or in the environment, this matter is not a project. Any subsequent discretionary projects resulting from this action will be assessed for CEQA applicability.

STRATEGIC PLAN INITIATIVE:

Developing the City's broadband infrastructure and/or increasing the number of service providers within the City furthers the Council's goal of Investment Strategies/Risk Management by supporting consumer choice and lower prices for broadband services. It also contributes towards the Council's goal of Operational Efficiencies as it will make additional fiber available for the City's internal communications.

DEPARTMENTAL COORDINATION:

The Economic Development Division has coordinated with the City's Public Works Department in the development of this project. The City has also received significant assistance from its consultant Stephen Blum of Tellus Venture Associates.

FISCAL AND SUSTAINABILITY IMPACT:

The proposed ENRA is not expected to have any fiscal impact upon the City.

ATTACHMENTS:

Proposed Resolution, including the following Exhibit:
- Exhibit "A": Exclusive Negotiating Rights Agreement, including the following Exhibit:
  - Exhibit "A": Proposal by Underline