

REQUESTED COMMISSION ACTION:

Consent Ordinance Resolution Consideration Workshop

SHORT TITLE OR MOTION: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, APPROVING AND AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE A SPECIAL CONSTRUCTION AGREEMENT BETWEEN THE CITY OF POMPANO BEACH AND COMCAST OF FLORIDA/GEORGIA/ILLINOIS/MICHIGAN, LLC; PROVIDING AN EFFECTIVE DATE (\$101,081.42).

Summary of Purpose and Why:

Burkhardt Construction, Inc., was awarded the construction contract for Briny Avenue Undergrounding and Streetscape Improvements in March 2016. Burkhardt will be installing the underground conduit however their scope does not include the cable installations through these conduits and final cable connections or removal of existing overhead utilities owned by Comcast. These services are required to be completed by Comcast. Please find the attached Agreement to be executed between City and Comcast for these services.

Accomplishing this item supports achieving Initiative 2.3, Objective 2.3.4 "Undergrounding Utility Lines on Briny" identified in the City's Great Places Strategy.

QUESTIONS TO BE ANSWERED BY ORIGINATING DEPARTMENT:

- (1) Origin of request for this action: Engineering
(2) Primary staff contact: John Sfiropoulos, PE / Horacio Danovich Ext 7044 / 7834
(3) Expiration of contract, if applicable: N/A
(4) Fiscal impact and source of funding: \$101,081.42, CIP 12-208, Account No. 302-7486-530-6511

Table with 3 columns: DEPARTMENTAL COORDINATION, DATE, DEPARTMENTAL RECOMMENDATION, DEPARTMENTAL HEAD SIGNATURE. Rows include Engineering, City Attorney, Finance, and Budget, all with 'APPROVE' recommendations and signatures.

Advisory Board
Development Services Director
X City Manager (with signature)

Denise W. Beard (with signature)

ACTION TAKEN BY COMMISSION:

Table with 4 columns: Ordinance, Resolution, Consideration, Workshop. Rows for 1st and 2nd Reading, with 'Results:' labels under Consideration and Workshop.



City Attorney's Communication #2016-859

June 1, 2016

TO: John Sfiropoulos, P.E., City Engineer
FROM: Mark E. Berman, City Attorney
RE: Resolution – Special Construction Agreement

Pursuant to your memorandum dated May 24, 2016, Engineering Department Memorandum No. 16-81, I have prepared and attached the following form of Resolution:

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, APPROVING AND AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE A SPECIAL CONSTRUCTION AGREEMENT BETWEEN THE CITY OF POMPANO BEACH AND COMCAST OF FLORIDA/GEORGIA/ILLINOIS/MICHIGAN, LLC; PROVIDING AN EFFECTIVE DATE.

Please feel free to contact me if I may be of further assistance.



MARK E. BERMAN

/jrm
l:cor/engr/2016-859

Attachment

CITY OF POMPANO BEACH
Broward County, Florida

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, APPROVING AND AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE A SPECIAL CONSTRUCTION AGREEMENT BETWEEN THE CITY OF POMPANO BEACH AND COMCAST OF FLORIDA/GEORGIA/ILLINOIS/MICHIGAN, LLC; PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA:

SECTION 1. That an Agreement between the City of Pompano Beach and Comcast of Florida/Georgia/Illinois/Michigan, LLC., a copy of which Agreement is attached hereto and incorporated by reference as if set forth in full, is hereby approved.

SECTION 2. That the proper City officials are hereby authorized to execute said Agreement between the City of Pompano Beach and Comcast of Florida/Georgia/Illinois/Michigan, LLC.

SECTION 3. This Resolution shall become effective upon passage.

PASSED AND ADOPTED this _____ day of _____, 2016.

LAMAR FISHER, MAYOR

ATTEST:

ASCELETA HAMMOND, CITY CLERK



SPECIAL CONSTRUCTION AGREEMENT_

Project Number: Comcast muid_6873_B

Customer Name: City of Pompano Beach, Fl

Aerial to Underground Conversion

John Sfiropoulos P.E. / City Engineer

Authority: Comcast Regional Design &
Construction Center (RDCC)

Customer Number: 12-208

Comcast Contact: Leonard Maxwell-Newbold

Work Site Address: Briny Ave, between, just n/o SE
2nd Street, and south to just s/o SE 8th Street in Pompano
Beach

Telephone Number: 954-447-8405

This Special Construction Agreement ("Agreement") is entered into by and between [Comcast of Florida / Georgia / Illinois/ Michigan, LLC] ("Comcast") and the City of Pompano Beach ("Customer"). Comcast and Customer hereby agree to the following terms and conditions:

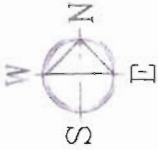
- 1. Construction Specifications and Requirements Terms and Conditions.** This Agreement is subject to and controlled by the provisions of Comcast's Construction Specifications and Requirements Terms and Conditions, attached here as Exhibit I, which are incorporated herein by reference as applicable and all such revisions to said documents as may be made from time to time. The parties shall coordinate the logistics and scheduling of the Special Construction contemplated herein in a mutually agreeable manner. The foregoing shall not be construed to mean that Comcast has an obligation to perform the Special Construction under any particular schedule identified by Customer, and Comcast shall not be responsible to the Customer for any alleged delays in performing the Special Construction.
- 2. Special Construction.** This Agreement is for the special construction as further described on Exhibit I, attached hereto and incorporated herein by this reference ("Special Construction"). As consideration for the Special Construction, Customer shall pay to Comcast [**\$101,081.42**] ("Special Construction Charges"). Payment in full is required within thirty days after Comcast issues an invoice to the Customer for the Special Construction Charges.
- 3. Early Termination.** Should Customer terminate or cancel this Agreement prior to the completion of construction, Customer shall remain liable for the Special Construction Charges. Customer acknowledges and agrees Comcast shall incur substantial up-front costs in connection with its performance under this Agreement and that damages in the event of such early termination or cancellation are not readily ascertainable and that in such event of early termination payment of the Special Construction Charges is reasonable. Customer further acknowledges and agrees that it hereby waives any right to contest such payment of the Special Construction Charges for any reason, including, but not limited to reasonableness of the charges, quality of the work, or timeliness of the work. Customer shall not be required to pay more than special construction charges; amount for the Special Construction (as it is defined on Exhibit I).
- 4. Limitation of Liability.** Comcast's maximum liability arising in, out of or in any way connected to this Agreement shall be as set forth in the Comcast's Construction Specifications and Requirements Terms and Conditions and in no event shall exceed Special Construction Charges paid by Customer to Comcast.
- 5. Severability.** Any provision of this Agreement held by a court of competent jurisdiction to be invalid or unenforceable shall not impair or invalidate the remainder of this Agreement and the effect thereof shall be confined to the provision so held to be invalid or unenforceable.



6. **Successors and Assigns.** This Agreement is binding upon and shall inure to the benefit of the parties and their respective successors and assigns.
7. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which when so executed shall be deemed to be an original, but all of which when taken together shall constitute one and the same instrument.
8. **Effect of Waiver.** No consent or waiver, express or implied shall be deemed a consent to or waiver of any other breach of the same or any other covenant, condition or duty.
9. **Headings.** The headings, captions, and arrangements used in this Agreement are for convenience only and shall not affect the interpretation of this Agreement.
10. **Modification.** This Agreement constitutes the entire agreement between the parties and can only be changed in a writing or writings executed by both of the parties. Each of the parties forever waives all right to assert that this Agreement was the result of a mistake in law or fact.
11. **Interpretation.** The parties agree that this Agreement shall not be interpreted in favor or against either any party. The parties further agree that they entered into this Agreement after conferring with legal counsel, or after having a reasonable opportunity to confer with legal counsel.
12. **Applicable Law.** This Agreement shall be governed and interpreted in accordance with the laws of the State of Florida, without regard to Florida's conflict of law principles.
13. **Attorneys' fees.** If either party materially breaches this Agreement and should the non-breaching party seek to enforce its rights through legal action, the prevailing party shall recover from the other party all costs and expenses incurred, including, but not limited to, reasonable attorneys' fees.
14. **Authority.** The signatories to this Agreement represent and warrant that they are duly authorized to execute this Agreement.
15. **No Precedent.** Except for the matters resolved and released herein, this Agreement is of no value and shall not be considered precedent for resolving any dispute that may arise in the future.
16. **No Waiver of Sovereign Immunity.** Nothing herein is intended to serve as waiver of sovereign immunity by the customer of any rights or limits to liability existing under Section 168.28, Florida Statutes, if and to the extent applicable. This section shall survive the termination of all performance or obligations under this agreement.
17. **Final Agreement.** THIS AGREEMENT REPRESENTS THE ENTIRE AND FINAL EXPRESSION OF THE PARTIES WITH RESPECT TO THE SUBJECT MATTER HEREOF. THIS AGREEMENT MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS BETWEEN THE PARTIES; THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES. NO MODIFICATION, RESCISSION, WAIVER RELEASE OR AMENDMENT OF ANY PROVISION OF THIS AGREEMENT SHALL BE MADE, EXCEPT BY A WRITTEN AGREEMENT SIGNED BY BOTH PARTIES.

Attachment A - Work Area

BRINY AVENUE



NOT TO SCALE

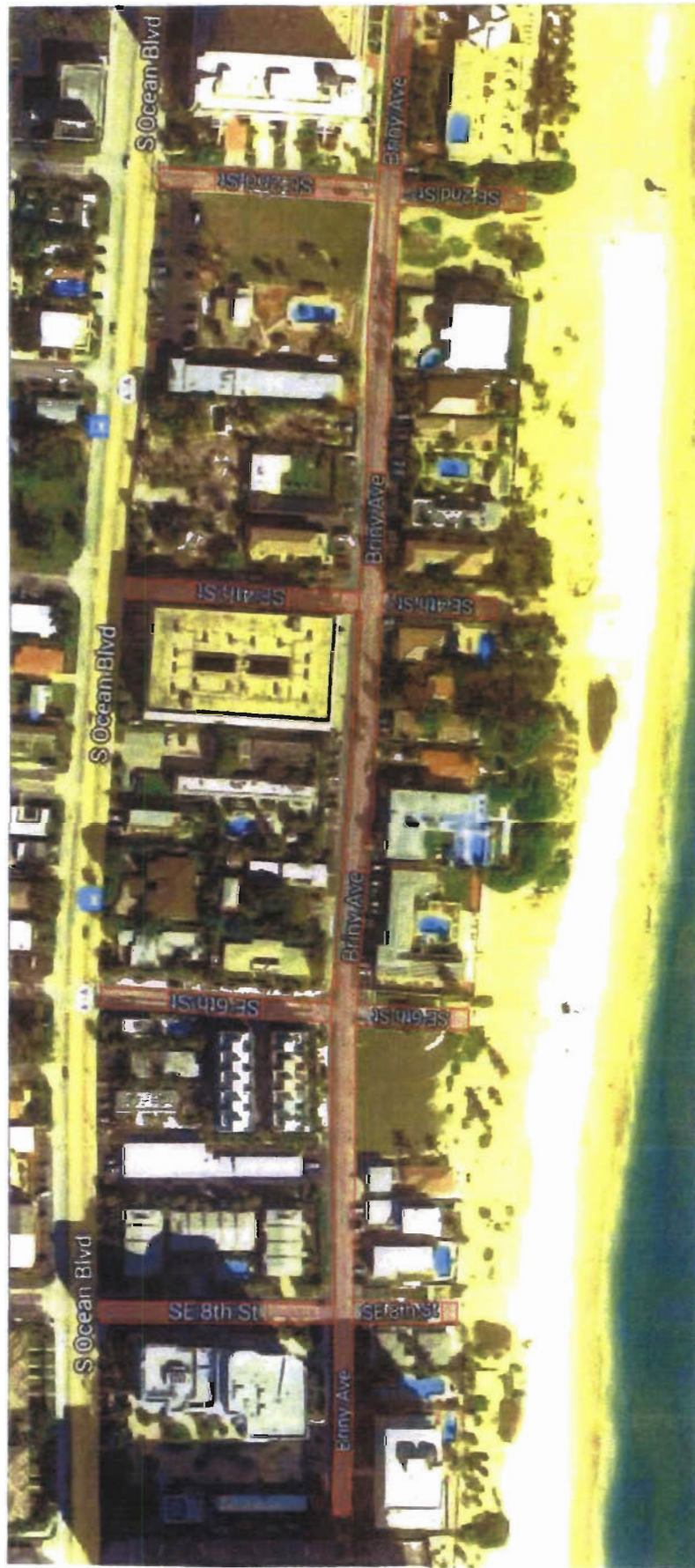




EXHIBIT 1

DESCRIPTION OF SPECIAL CONSTRUCTION

[Comcast muid_6873_B]

The scope of this project will consist of the aerial to subgrade conversion of Comcast existing aerial facilities, within the limits of this project.

The Legal Limits of this project are: Briny Ave, between a point, just n/o SE 2nd Street and south to a point just s/o SE 8th Street, to include SE 2nd Street, SE 4th Street, SE 6th Street and SE 8th Street, e/o Briny Ave and w/o Briny Ave to the S. Ocean Blvd R/W, all within the limits of Pompano Beach, Fl

To accommodate this relocation effort, specific plant, by design, may need to extend beyond the legal limits of this subject project, to accommodate and achieve continuity to the existing Comcast Network.

New subgrade facilities shall be installed per design to include cables, pedestals, handholds, power supplies, and drop installation etc...



2601 SW 145th Avenue Suite #100
Miramar, FL 33027
Phone 954-447- 8484

DATE May 9, 2016

Bill To: City of Pompano Beach
Contact Name John Sfiropoulos
Street Address
City, ST ZIP Code
Phone 954-545-7009
Email john.sfiropoulos@copbfl.com

Quotation valid until: June 8, 2016
Prepared by: John Matonti

Comments or special instructions:

This quote is for aerial removal and relocation of Comcast facilities for Briny Ave Streetscaping

Description	Unit	Per	Quantity	AMOUNT
Construction Labor	Unit	#REF!	1	\$ 80,176.24
Construction Materials	Unit	#REF!	1	\$ 20,905.18
Other				\$ -
Total Cost of project				\$ 101,081.42
Balance due from				

If you have any questions concerning this quotation, contact

Please make check payable to:
Comcast of South Florida II, Inc.
2601 SW 145 Ave Suite # 100
Miramar, FL 33027



Job Proposal

Date	Estimate #
4/1/2016	2428

570 S.W. 16th Terrace, Bldg. #1500
 Pompano Beach, Florida 33069
 Phone: 954-782-8740
 Fax: 954-782-1919
 office@usicable.com

Customer Name/ Address		Project		
Comcast Cable Communications 2601 SW 145th Avenue Miramar, FL 33027		BRINY AVE POMPANO BCH, FL		
Item	Description	Qty	Rate	Total
A-3	Install Down Guy to Existing Anchor	2	8.32	16.64
A-4	Place Guy Guard	8	3.00	24.00
A-5	Place 6" Screw Anchor	6	14.50	87.00
A-8	Pole Transfer- Simple	6	44.00	264.00
A-19	Aerial Wreckout	6,200	0.15	930.00
A-20	Install Riser Guard	12	20.00	240.00
A-21	Aerial Coax Construction Set-up	9	118.00	1,062.00
A-24	Resag Strand	6	23.00	138.00
M-1	Install Self Support Cable < 150'	10	75.00	750.00
M-19	Drop Activation in Lockbox	58	5.00	290.00
M-15	Wreckout Old Cables	58	5.00	290.00
M-21	Relocate	4	17.00	68.00
M-23	Install Molding	800	1.40	1,120.00
MDU037	Prime & Paint Molding	800	0.75	600.00
MDU041	Drill Concrete Wall	25	15.00	375.00
A-3	Install Down Guy to Existing Anchor	5	8.32	41.60
U-6	Install Pedestal (Tap/Splitter)	18	10.00	180.00
U-7	Install Pedestal (LEIDAIMB)	9	20.00	180.00
U-9	Bond	31	3.00	93.00
U-22	4" Directional Bore	1,600	10.00	16,000.00
U-10	Remove/Replace Sod	1,600	0.90	1,440.00
U-24	Pull Coax (Separate Trip)	8,000	1.00	8,000.00
U-26	Install Pull Rope	10,000	0.60	6,000.00
U-28	Dig & Repair	20	250.00	5,000.00
O-1	Asphalt Cut with Restoration	600	12.00	7,200.00
O-2	Concrete Cut with Restoration	600	15.00	9,000.00
O-3	Pass Through Charge (MOT Setup & Breakdown)	1	5,000.00	5,000.00
O-7	Rock Trenching	1,600	3.00	4,800.00
S-2	Cold Splice	8,000	0.30	2,400.00
S-4	Cold Splice Activation	8,000	0.09	720.00
S-10	Forward/Reverse Sweep	8,000	0.17	1,360.00
S-8	Splice Active Mini Bridger	12	99.00	1,188.00
F-3	Overlash Fiber	1,400	0.49	686.00
F-7	Splice Fiber (Per Fusion 1-96)	48	27.00	1,296.00
F-10	Fiber Enclosure	2	105.00	210.00
F-11	Fiber Rearrangement	1,400	0.68	952.00
Any questions regarding this proposal? Please give Blaze a call at (954)782-8740.		Total		



Job Proposal

Date	Estimate #
4/1/2016	2428

570 S.W. 16th Terrace, Bldg. #1500
 Pompano Beach, Florida 33069
 Phone: 954-782-8740
 Fax: 954-782-1919
 office@usicable.com

Customer Name/ Address		Project		
Comcast Cable Communications 2601 SW 145th Avenue Miramar, FL 33027		BRINY AVE POMPANO BCH, FL		
Item	Description	Qty	Rate	Total
F-12	Lash Storage Loops Aerial	2	75.00	150.00
F-14	Pull Innerduct/ Fiber Cable	2,000	0.85	1,700.00
F-17	Install Splice Enclosure	1	115.00	115.00
F-13	Storage Loops Underground	6	35.00	210.00
	Subtotal			80,176.24
Materials	Materials	1	20,905.18	20,905.18
	City to Install All Conduits In Right Of Way			
Any questions regarding this proposal? Please give Blaze a call at (954)782-8740.			Total	\$101,081.42



IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representative on the dates set forth below. This quote is only valid for 60 days from the date of this letter.

COMCAST

Steve Lencse
Printed Name

[Signature]

Authorized Signature

Title: Sr Manager Construction

Date: 05/10/2016

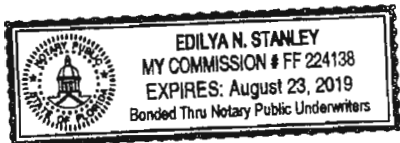
STATE OF FLORIDA

COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this 10th day of May, 2016 by Steve Lencse, as Sr Man. Construc: of Comcast, on behalf of the corporation. He/she is personally known to me or has produced _____ (type of identification) as identification.

[Signature]
NOTARY PUBLIC, STATE OF FLORIDA

NOTARY'S SEAL:



Edilya N. Stanley
(Name of Acknowledger Typed, Printed or Stamped)

FF224138

Commission Number

"CITY":

Witnesses:

CITY OF POMPANO BEACH

By: _____
LAMAR FISHER, MAYOR

By: _____
DENNIS W. BEACH, CITY MANAGER

Attest:

ASCELETA HAMMOND, CITY CLERK

(SEAL)

Approved As To Form:

MARK E. BERMAN, CITY ATTORNEY

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this _____ day of _____, 2016 by **LAMAR FISHER**, as Mayor, **DENNIS W. BEACH** as City Manager and **ASCELETA HAMMOND**, as City Clerk of the City of Pompano Beach, Florida, a municipal corporation, on behalf of the municipal corporation, who are personally known to me.

NOTARY'S SEAL:

NOTARY PUBLIC, STATE OF FLORIDA

(Name of Acknowledger Typed, Printed or Stamped)

Commission Number

