

**DEPARTMENT:** Information Technology Service Department

**DEPARTMENT HEAD:** Craig Hopkins

**COUNCIL DISTRICTS IMPACTED:** Citywide

**SUBJECT:** License agreement with Zayo Group, LLC for telecommunication equipment installation in the City Rights-Of-Way. [Ben Gorzell, Jr. Chief Financial Officer]

**SUMMARY:**

An ordinance approving a license agreement with Zayo Group, LLC, a Delaware Limited Liability Company (“Zayo”) for the use of city rights-of-way for the installation of telecommunications network.

**BACKGROUND INFORMATION:**

Local Government Code Chapters 283 and 284 grant access to the City’s rights-of-way (ROW) for telecommunication companies to install equipment for local exchange telephone service and small-cell networks respectively. Those chapters proscribe regulatory and compensation methodologies for that ROW access. However, some telecommunications companies are installing equipment beyond the scope of Chapters 283 or 284, for which the City received no compensation. Examples of these services include data center collocation, Ethernet and cloud services. To Staff’s knowledge, no Texas municipality has created a mechanism to address the gap in the regulatory structure.

City Staff negotiated a non-exclusive license agreement with Zayo to provide compensation of 3% of gross revenues for those services not addressed by Chapters 283 or 284. The compensation amount agreed to by Zayo is identical to that previously agreed to by Google Fiber. The agreement includes an audit provision and provides for compliance with City’s ROW Management Ordinance and Excavation Manual.

The term of the agreement is twenty (20) years with two successive five (5) year renewal periods. Each party may request amendment to the agreement on the 5<sup>th</sup> anniversary of the agreement and each subsequent five (5) year period within the term.

**FISCAL IMPACT:**

Staff anticipates the license agreement will generate approximately \$20,000 annually, but provides a mechanism for compensation as new technologies develop and are deployed in the ROW.

**ISSUE:**

Approval of the License Agreement will provide a mechanism for Telecommunications Companies to provide compensation for services not currently addressed in the Local Government Code.

**ALTERNATIVES:**

If the license agreement is not approved, a gap in the ROW compensation structure for Telecommunications Companies will continue to exist.

**RECOMMENDATION:**

Staff recommends approval of the license agreement.