

**DEPARTMENT:** Information Technology Services Department

**DEPARTMENT HEAD:** Ben Gorzell

**COUNCIL DISTRICTS IMPACTED:** Citywide

**SUBJECT:**

License agreement with Gigabit Communications, LLC, for communication equipment installation in the City Rights-Of-Way. Revenue generated by this ordinance is estimated at \$20,000.00 annually, the revenue generated will be deposited into the Information Technology Services Department Fund in accordance with the FY 2020 Adopted Budget.

**SUMMARY:**

Ordinance approving a license agreement with Gigabit Communications, LLC (“GIGABIT”) for the use of city rights-of-way for the installation of a communications network. Revenue generated by this ordinance is estimated at \$20,000.00 annually, the revenue generated deposited into the Information Technology Services Department Fund in accordance with the FY 2020 Adopted Budget. Installations are proposed to begin in the Medical Center area and in the downtown area along North Main Street, expanding later to other areas of the city.

**BACKGROUND INFORMATION:**

Local Government Code Chapters 283 and 284 grant access to the City’s rights-of-way (ROW) for communication 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 communications companies are installing equipment beyond the scope of Chapters 283 or 284, for which the City receives no compensation under state law. Examples of these services include data center collocation, Ethernet and cloud services.

City Staff negotiated a non-exclusive license agreement with GIGABIT to provide compensation of 3% of gross revenues for those services not addressed by Chapters 283 or 284. The compensation amount agreed to by GIGABIT is identical to that previously agreed to by Zayo, Google Fiber, and Unite Private Networks. 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 terms. 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.

**ISSUE:**

Approval of the License Agreement will provide a mechanism for communications 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 communications companies will continue to exist.

**FISCAL IMPACT:**

This ordinance authorizes a license agreement with Gigabit Communications, LLC (“GIGABIT”) for the use of city rights-of-way for the installation of a communications network. In exchange for non-exclusive use of the city’s right-of-way, GIGABIT will pay the City 3% of gross revenues for those services not addressed by Local Government Code Chapters 283 or 284. The revenue generated by this agreement is estimated at \$20,000.00 annually and will be deposited into the Information Technology Services Department Fund in accordance with the FY 2020 Adopted Budget. The agreement provides a mechanism for compensation as new technologies develop and deployed in the ROW.

**RECOMMENDATION:**

Staff recommends approval of the license agreement.

**FISCAL ORDINANCE LANGUAGE:**

**Section 1:** Funds generated by this ordinance will be deposited into Fund 74001000 Internal Order 209000000045 and General Ledger Account 4202410.

**Section 2:** The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director of Finance may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific SAP Fund Numbers, SAP Project Definitions, SAP WBS Elements, SAP Internal Orders, SAP Fund Centers, SAP Cost Centers, SAP Functional Areas, SAP Funds Reservation Document Numbers, and SAP GL Accounts as necessary to carry out the purpose of this Ordinance.