City of San Antonio

Agenda Memorandum

File Number:17-6130

Agenda Item Number: 15.

Agenda Date: 11/9/2017

In Control: City Council A Session

DEPARTMENT: Transportation & Capital Improvements

DEPARTMENT HEAD: Mike Frisbie, P.E.

COUNCIL DISTRICTS IMPACTED: Citywide

SUBJECT:

License agreement with Google Fiber Texas LLC for access to the City Rights-Of-Way.

SUMMARY:

An ordinance approving a license agreement with Google Fiber Texas LLC for the use of City Rights-Of-Way for the installation of a telecommunications network to provide internet-only services.

BACKGROUND INFORMATION:

Historically, telecommunications companies obtain access to the City's Rights-Of-Way (ROW) to install equipment in four ways:

1. Chapter 66 of the Utilities Code for cable/video providers;
2. Chapter 283 of the Local Government Code for telecommunication providers primarily for telephone services;
3. Chapter 284 of the Local Government Code for small-cell antenna installations; or
4. License agreements.

On August 5, 2015, Google Fiber Texas LLC (Google) announced that it would be bringing its one gigabit internet access to San Antonio. Along with the internet access, Google was to provide cable/video service thereby gaining access to the City's Rights-Of-Way (ROW) under Chapter 66 of the Utilities Code to install their equipment. For that ROW access, cable/video providers pay municipalities 5% of their gross revenues generated in a city on the cable/video service.

On October 4, 2017, Google announced a pilot project where they will only offer internet packages to the San Antonio and Louisville market and will not offer cable/video service. Google states it plans to evaluate the pilot results and may return to offering cable/video in the future. Dropping cable/video services negates the revenue stream which would have been compensated to the City for access to its ROW by Google.

ISSUE:

This item for Council consideration would establish a license agreement with Google Fiber Texas LLC for the use of City Rights-Of-Way for the installation of a telecommunications network to provide internet-only services.

Google and City Staff have been negotiating a ROW license agreement to provide reasonable compensation to the City for access to its ROW under an internet-only business model. After several offers and counter offers, Google now is offering to pay the City 3% of their gross revenues based on the broadband base charge to customers in the City.

Google developed a comparative analysis using City of Austin market data where Google provides both internet and cable/video services. Google estimates that under the internet only model with a 3% revenue share it will be paying the City approximately 10% more than it would have under the cable model.

Traditional cable/video subscribership has been declining in favor of internet based content - commonly referred to a "cord cutting". The details of Google's comparative analysis are proprietary/competitive information but are consistent with what is being seen in the industry with fewer subscribers opting for cable/video services, upon which the 5% revenue share under Chapter 66 would be calculated. Historically, cable/video providers who pay the 5% on their cable/video services do not pay the 5% on internet services provided on their network.

Published pricing information in the Austin Market is as follows:

INTERNET		INTERNET + TV	
Fiber 100	Fiber 1000	Fiber 100 + TV	Fiber 1000 + TV
$50/mo	$70/mo	$140/mo	$160/mo

Under a cable/video model, the City would receive 5% on the TV portion of the bill ($90) times the number of subscribers to the TV service and nothing on the internet portion ($50 or $70 depending on the bandwidth the customer choses).

Under the license agreement, the City would get 3% on the internet base fee ($50 or $70) times all customers subscribing to the internet service.

Generally, the economic model can be viewed as receiving 5% on a service with higher unit prices but a smaller, declining subscriber base, or 3% on a lower unit cost but larger and growing subscriber base.

Municipalities are required by law to provide access to the ROW on a competitively neutral, non-discriminatory basis. However, the communication industry is evolving faster than the legal/regulatory authority. As such there is not a regulatory framework established for an internet-only provider; therefore, the City and Google are using the license agreement option. If approved, this agreement would be a model for future similar telecommunications agreements.

FISCAL IMPACT:

The fiscal impact on the City depends on Google's success in recruiting subscribers for its services. That success is driven both by the service/price offering and the speed of building out its network to reach subscribers. To date, Google has not begun providing service in the City; therefore, subscribership is zero.

ALTERNATIVES:

The City could continue to negotiate with Google over the rate; however, a number of offers and counter offers have already occurred. Staff believes the 3% is reasonable compensation for the use of the ROW since 3% was the rate used historically for similar ROW agreement prior to the passage of Chapter 283.

RECOMMENDATION:

Staff recommends approval of this ordinance authorizing a license agreement with Google for access to the City's ROW.