

Legislation Text

File #: BILL NO. 22-161, **Version:** 1

An Ordinance approving a License Agreement between the City of Lee's Summit and Google Fiber Missouri, LLC to use City right-of-way, and authorizing the City Manager to execute the same on behalf of the City.

(Note: First read by City Council on August 9, 2022. Passed by unanimous vote.)

Issue/Request:

Google desires to enter into a license agreement with the City to continue using City right-of-way to provide internet services to its customers.

Background/Key Issues:

The City of Lee's Summit, Missouri (the "City") has jurisdiction over the public rights-of-way ("ROW") within the City. Google Fiber Missouri, LLC ("Google") owns, maintains, operates, and controls a fiber-optic infrastructure network within the ROW, which was previously used to operate video services and internet services pursuant to the Missouri Services Providers Act.

Google stopped providing video services throughout the Kansas City metro, including Lee's Summit earlier this year and therefore the Missouri Video Service Provider's Act no longer applies. Google, however, desires to continue to use the ROW to provide internet services and desires to enter into a license agreement to compensate the City for use of the right-of-way.

Under the proposed license agreement, Google may use the ROW solely to construct, install, operate, and maintain facilities to provide internet services in the City. Google must also comply with all of the provisions applicable to right-of-way users set forth in Chapter 26 of the Code of Ordinances

Google has agreed to pay the City a license fee of 1% of Google's gross revenues derived from its internet services within the City boundaries, and such fee is due quarterly. The City may audit Google once per year at the City's expense to confirm compliance with the terms of the license. If the audit shows Google underpaid the City by more than 5%, Google must cover the cost of the audit.

The initial term of license is 20 years, and it can be renewed in 5-year increments if both parties agree to such renewal in writing. The City may terminate the license if Google materially breaches the terms of the license and fails to cure the breach within 90 days, and Google may terminate for any reason with 180 days' notice.

The City anticipates the license fee will generate an average of \$130,000 per year the license is in effect.

Proposed First Read Motion:

I move to adopt an Ordinance approving a License Agreement between the City of Lee's Summit and Google Fiber Missouri, LLC to use City right-of-way, and authorizing the City Manager to execute the same on behalf of the City.

Proposed Second Read Motion:

I move for adoption an Ordinance approving a License Agreement between the City of Lee's Summit and Google Fiber Missouri, LLC to use City right-of-way, and authorizing the City Manager to execute the same on behalf of the City.

Dan White, Chief Counsel of Management and Operations

Recommendation:

Staff recommends the approval of an Ordinance approving a License Agreement between the City of Lee's Summit and Google Fiber Missouri, LLC to use City right-of-way, and authorizing the City Manager to execute the same on behalf of the City.