

Legislation Text

File #: BILL NO. 16-277, **Version:** 1

AN ORDINANCE APPROVING THE FIRST AMENDMENT TO LICENSE AGREEMENT FOR THE MAYBROOK SUBSTATION BY AND BETWEEN THE CITY OF LEE'S SUMMIT, MISSOURI AND GOOGLE FIBER MISSOURI, LLC AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE SAME BY AND ON BEHALF OF THE CITY.

In March and April 2016, City staff presented information to the City Council regarding the Google Fiber Community Connection at City Hall, which is necessary to broadcast LSTV to customers with Google Fiber service. The Community Connections Agreement as designed was not compatible with the City's network, and there was no ability to change the agreement to make the service function in our environment. The original intent of the Agreements was that, in exchange for a City and public benefit, Google Fiber would receive a reduced lease rate for access to City right of way and other facilities.

After providing an update to the City Council regarding the status of community connections, the City Council directed staff, at the April 14, 2016 meeting, to continue discussions and negotiations with representatives of Google Fiber to determine whether the Community Connections would be feasible, and in the event that it is not, arrange for running a dedicated line into City Hall in order to provide LSTV to customers with a Google Fiber connection, as well as a reimbursement agreement for use of City facilities in lieu of providing community connections, as originally planned.

The parties were unable to reach an acceptable solution regarding community connections. Instead, City staff was able to negotiate amendments to the license agreements for the three (3) City-owned facilities which incorporate market rate annual fees for Google Fiber's use of the City owned properties.

The Maybrook Substation will generate annual lease revenues of \$4,524.80 for years 2015 and 2016, and will be payable within 45 days of the execution of the First Amendment to License Agreement. For subsequent years, the annual lease rate will automatically escalate one and one half percent (1.5%) per year. Lease payments will be due each January.

The attached First Amendment to License Agreement for the Maybrook Substation provides the legal modifications described above and constitutes a binding agreement between the parties for years 2015 and 2016, as well as moving forward.

Key Issues:

- City of Lee's Summit and Google Fiber entered into a License Agreement on March 6, 2015 which permitted Google Fiber's use of the City owned facility for purposes of installing fiber and other related infrastructure.
- In exchange for use of the City facility, Google Fiber originally agreed to provide "community connections," or fiber service, to City owned facilities, which was also intended to provide Google Fiber customers' access to LSTV.

- Through investigation of the implementation process for community connections, City determined that it would not be feasible or cost effective for the community connections program to be implemented.
- After being provided an update regarding the infeasibility of community connections, on April 14, 2016, the City Council directed staff to begin the investigation and negotiation process to determine whether an acceptable agreement could be reached regarding community connections; if not, City staff was directed to negotiate for market rate lease agreements by Google Fiber for use of the hut stations instead of provision of the community connections.
- City staff was able to negotiate a settlement agreement which provides for annual lease payments from Google Fiber to City of \$4,524.80 for years 2015 and 2016, with annual escalators of 1.5% for each subsequent year.

Proposed City Council Motion:

First Motion: I move for second reading of AN ORDINANCE APPROVING THE FIRST AMENDMENT TO LICENSE AGREEMENT FOR THE MAYBROOK SUBSTATION BY AND BETWEEN THE CITY OF LEE'S SUMMIT, MISSOURI AND GOOGLE FIBER MISSOURI, LLC AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE SAME BY AND ON BEHALF OF THE CITY.

Second Motion: I move for approval of AN ORDINANCE APPROVING THE FIRST AMENDMENT TO LICENSE AGREEMENT FOR THE MAYBROOK SUBSTATION BY AND BETWEEN THE CITY OF LEE'S SUMMIT, MISSOURI AND GOOGLE FIBER MISSOURI, LLC AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE SAME BY AND ON BEHALF OF THE CITY.