

DEPARTMENT: Information Technology Services Department

DEPARTMENT HEAD: Craig Hopkins

COUNCIL DISTRICTS IMPACTED: Citywide

SUBJECT:

License Agreement with Bluebonnet Fiber, LLC for the installation of fiber optic cable facilities in the City Rights-Of-Way to provide broadband internet access service.

SUMMARY:

Ordinance approving a non-exclusive license agreement with Bluebonnet Fiber, LLC (Bluebonnet) for use of City Rights-Of-Way (“ROW”) to install, own, operate and maintain fiber optic cable facilities to provide broadband internet access services. Revenue generated by this agreement is estimated to be \$0.00 in FY 2025 and \$157,500.00 annually thereafter which will be deposited into the Information Technology Services Fund.

BACKGROUND INFORMATION:

State law generally provides a comprehensive regulatory framework that grants access to municipal ROW for the installation of facilities relating to cable and telecommunications services. However, broadband internet access services are considered by federal and state law to be “information services” that are not subject to public utility style regulation according to the rulings of the Federal Communications Commission. Therefore, the City has created a permitting process for handling requests for use of the City ROW for broadband internet access service that is informed by federal guidance and best practices in the broadband industry.

Bluebonnet provides broadband internet access service, with a focus on underserved communities and new residential developments working with builders to install fiber infrastructure. Bluebonnet is privately owned and headquartered in San Antonio, Texas.

City Staff negotiated a non-exclusive license agreement with Bluebonnet to provide compensation of 3% of gross revenues. The compensation rate is identical to previous license agreements for similar services. The agreement includes an audit provision and provides for compliance with the City’s ROW Management Ordinance and Excavation Manual. The initial term of the agreement is twenty (20) years with automatic

successive five (5) year renewal terms unless one party provides six (6) months prior notice of their intent not to renew or unless the agreement is earlier terminated.

ISSUE:

Approval of the License Agreement will provide a mechanism for Bluebonnet 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 communication companies will continue to exist and residents of the certain subdivisions who were to receive service, will have to find an alternative provider of internet service.

FISCAL IMPACT:

This ordinance authorizes a license agreement with Bluebonnet for the use of city ROW for the installation of facilities for broadband internet access service. In exchange for the non-exclusive use of the city's right-of-way, Bluebonnet will pay the City 3% of gross revenues. The revenue generated by this agreement is estimated at \$0.00 for FY2025 and \$157,500 annually thereafter which will be deposited into the Information Technology Services Fund.

RECOMMENDATION:

Staff recommends approval of the license agreement.