



## Recommendation for Action

**File #: 23-2527, Agenda Item #: 18.**

**8/31/2023**

### **Posting Language**

Approve second reading of the ordinance granting Google Fiber Texas, LLC, a non-exclusive franchise agreement to use the public right-of-way for the construction, operation, and maintenance of fiber optic facilities to deliver broadband services.

### **Lead Department**

Financial Services Department

### **Fiscal Note**

This item is projected to result in additional revenue of \$2.3 million in FY 2023-2024 for the General Fund.

### **Prior Council Action:**

July 20, 2023 - Council approved the first reading of the ordinance granting Google Fiber Texas, LLC, a non-exclusive franchise agreement to use the public right-of-way for the construction, operation, and maintenance of fiber optic facilities to deliver broadband services.

### **For More Information:**

Rondella M. Hawkins, Telecommunications and Regulatory Affairs Officer, 512-974-2422.

### **Additional Backup Information:**

In 2014, Google Fiber obtained a state-issued certificate of franchise authority (SICFA) from the Public Utilities Commission of Texas to allow it to use the City's public rights-of-way for a network providing video services. With the SICFA for video services, Google Fiber was authorized by Chapter 66 of the Texas Utilities Code to use the City's rights-of-way without having to obtain a city franchise for providing video or broadband services. By separate agreements with the City, Google Fiber agreed to provide free gigabit internet service connections to 102 community connection sites selected by the City.

In the Fall of 2021, Google Fiber discontinued offering video services under its SICFA, focusing its service offering to broadband internet, effectively terminating its state-granted right to use the City's public rights of way for its network. Without a state franchise under the SICFA, Google Fiber requested a municipal franchise from the City in accordance with the City Charter Article XI to continue to use the public right-of-way for its fiber optic facilities delivering broadband services.

- City staff recommends approval of an ordinance granting a right-of-way franchise to Google Fiber for its broadband network. Key terms of the non-exclusive franchise include the following:
- Initial term of 15 years, with two 5-year extension options;
- Franchise fee for use of right-of-way of three percent of gross revenues paid to City on a quarterly basis;
- Abide by City's current right-of-way permitting policies and regulations including those for street-cuts;
- Obligation to relocate network facilities necessary for public works projects;
- City's option to purchase network facilities at the end of the term;
- City's right to audit;

- City Council must approve any transfer of the franchise, and
- Company will pay the City the sum of \$814,652 as compensation for use of City right-of-way for the holdover period between the lapsed SICFA and the effective date of this franchise.

Article XI of the City Charter requires three separate readings of the franchise ordinance. The third reading is tentatively scheduled for September 14, 2023. The ordinance shall take effect 60 days after the date of final passage.