

RESOLUTION NO. R2015.83

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA WAIVING THE REQUIREMENT TO UNDERGROUND THE INSTALLATION OF FIBER BY GOOGLE FIBER ARIZONA, LLC.

WHEREAS, Google Fiber Arizona, LLC (“Google”) has applied for a license for a video services system and right-of-way use agreement (“Agreement”) with the City of Tempe (“City”) that among other things will authorize Google to provide video services in the City in accordance with federal and state law and Chapter 10 of the City Code; and,

WHEREAS, certain provisions in Article VII of Chapter 25 of the City Code would, if strictly applied, prevent Google from installing aerial fiber lines to provide video and Internet access services in areas of the City where there are existing overhead lines, thereby requiring Google to incur additional expenses to underground such facilities that would exceed the cost to install such aerial facilities in areas of existing overhead lines; and;

WHEREAS, under Section 25-125 of the City Code, Google has submitted to the City an alternate plan, limited in geographic scope, to seek a waiver of the undergrounding requirement only in such areas; and,

WHEREAS, Google has demonstrated in the alternate plan that allowing the installation of overhead fiber provides greater public benefit than would be accomplished by a strict application of Article VII of Chapter 25 of the City Code;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, that:

1. The City Council finds under Section 25-125 of the City Code that the information submitted by Google Fiber on June 25, 2015 demonstrates that authorizing Google to proceed under its alternate plan provides greater public benefit than would be accomplished by a strict application of Article VII of Chapter 25 of the City Code, for the following reasons:

a. By following existing infrastructure and using aerial facilities where they already are present, Google will be able to construct or otherwise deploy its network at a lower cost and at a faster pace than if it were required to bury all equipment underground in those areas.

b. Allowing such aerial facilities would enhance the speed of Google’s network build and, all else being equal, enable Google to serve Tempe residents more quickly than would be possible without the grant of the waiver.

c. The ability to use existing aerial facilities will significantly reduce construction in and disruption to City streets that results from underground work.

d. Google will ensure that all aerial installations comply with applicable permitting and other City requirements.

e. To the extent that Google attaches to existing aerial infrastructure, Google will cooperate with any future efforts to move such infrastructure underground.

2. The alternate plan is hereby approved, and the provisions of Article VII of Chapter 25 of the City Code that would otherwise prevent Google Fiber Arizona, LLC from installing aerial fiber in areas of the City where there are existing overhead lines are hereby waived.

3. Upon termination of a license for a video services system and right-of-way use agreement between Google and the City, the waiver herein will expire.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, this ____ day of _____, 2015.

Mark W. Mitchell, Mayor

ATTEST:

Brigitta M. Kuiper, City Clerk

APPROVED AS TO FORM:

Judith R. Baumann, City Attorney