



CITY OF NORMAN, OK STAFF REPORT

MEETING DATE: 10/08/2024

REQUESTER: Rick Knighton, Interim City Attorney

PRESENTER: Ryan J. Riddel, Assistant City Attorney

ITEM TITLE: CONSIDERATION OF APPROVAL, ACCEPTANCE, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF CONTRACT K-2425-57: BY AND BETWEEN THE CITY OF NORMAN, OKLAHOMA, AND DIRECTV, L.L.C, FOR THE PROVISION OF INTERNET PROTOCOL ENABLED VIDEO SERVICES AND THE PAYMENT OF A PROVIDER FEE TO THE CITY FOR A PERIOD OF FIVE YEARS.

BACKGROUND:

In 2007, AT&T approached the City of Norman about a new service it had developed called U-Verse. U-Verse is an Internet Protocol (IP) based service that is offered over existing telephone network facilities. The service includes high-speed internet access, IP-video features with more than 300 channels, video on demand, digital video recorders, and parental controls, in addition to other features. Unlike a traditional cable service provider, AT&T already has access to the public rights-of-way via its statewide franchise for telephone service. Since expanding into the IP service market, AT&T has been willing to negotiate a fee with cities that is similar to a franchise fee even though it already has access to public rights-of-way. The original contract (K-0708-47) was for a five (5) year period and provided that AT&T would pay to the City a fee equal to five percent (5%) of its gross revenues generated by these services (equal to the franchise fee paid by cable companies to operate in the public rights-of-way).

In July 2021, Southwestern Bell Telephone Company, LLC d/b/a AT&T Oklahoma transferred its U-verse IP-enabled Video Service to its affiliate DIRECTV, LLC. AT&T Oklahoma remains the owner of all underground cables, wires, and other such facilities used for the provision of AT&T Oklahoma's telecommunications business and for DIRECTV's U-verse IP-enabled Video Service. This agreement allows DIRECTV the ability to operate its IP-enabled Video Service via AT&T Oklahoma's cables, wires, and other such facilities that are currently located within public rights-of-way on similar terms as other video providers operating within the City.

Upon the expiration of the initial contract, Council approved Contract K-1213-128 in 2012, which expired on July 24, 2017. In 2017, Council approved K-1718-13, which expired on July 10, 2022. The agreement status with DIRECTV has been on a month-to-month basis and on the same terms as the previous contract until the passage of a subsequent agreement.

DISCUSSION:

The City Attorney's Office assisted with the drafting, updating, and negotiation of this contract. This contract describes duties and obligations between DIRECTV and the City of Norman that are updated to be comparable and substantively equivalent as similar agreements between the City and other cable or IP-enabled Video Services, and as similar agreements between DIRECTV and other municipalities in and around the State of Oklahoma.

Contract K-2425-57 is a "fee in lieu of franchise" agreement, wherein DIRECTV will pay a fee equal to 5% of its gross revenues to the City. DIRECTV will provide the capacity for up to four (4) "streams" or "channels" of noncommercial educational and governmental programming through DIRECTV's IP-enabled Video Service. The previous contract with AT&T provided for six (6) "streams" or "channels" for public, education, and government ("PEG") programming. The current contract reduced PEG access channel capacity to four (4) due to modern ease of access through current technology to "streaming" platforms for all purposes, including noncommercial educational and governmental programming, and to conform the terms of this agreement to current agreements between the City and other cable and Video Service providers. The term of the new contract is five (5) years.

RECOMMENDATION:

Staff recommends approval of Contract K-2425-57.