



Legislation Details (With Text)

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Title: Resolution to Direct Re-Negotiation of Occupancy Agreement for University of Michigan Facilities within City Public Rights of Way

Sponsors: Jane Lumm, Marcia Higgins

Indexes:

Code sections:

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Resolution to Direct Re-Negotiation of Occupancy Agreement for University of Michigan Facilities within City Public Rights of Way

Whereas, Representatives of the Public Services Service Area and of the City Attorney’s Office negotiated with representatives of the University of Michigan (“University”) and its Office of General Counsel a template for use as an occupancy agreement to allow the University to place University facilities on, under or over the City’s public rights of way for the purpose of serving one or more University structures;

Whereas, The negotiated language of the Occupancy Agreement was intended by the University to preserve for it its position that the Occupancy Agreement grants and must grant to it an interest in the real estate occupied by their facilities and covered by the Occupancy Agreement and was intended by the City to preserve for it its position that the City cannot grant and is not granting to the University an interest in real estate within City public rights of way but is granting the University rights in the nature of a license to use the public right of way for its facilities;

Whereas, Other entities that place facilities within City public rights of way do so under grants of license or pursuant to permits, each of which is for specified terms or for the life of a served structure and none of which grants or may be interpreted to grant the licensee or permittee any interest in real estate within City public rights of way; and

Whereas, The City Council believes the University should use or occupy City public rights of way for University facilities under the same or similar license agreements and permits that are used for, and under the same or similar terms and conditions that apply to, other entities that use or occupy City public rights of way for their facilities;

Whereas, The City Council does not believe the University should have or be able to claim any interest in real estate in City public rights of way under any agreement, grant or permit from the City

unless explicitly agreed to and allowed by City Council;

Whereas, Representatives of the Public Services Service Area and the City Attorney's Office also negotiated with representatives of the University and its Office of General Counsel a template to use for grants of easement either by the City to the University for facilities the University wishes to place on, under or over City lands other than public rights of way, or by the University to the City for facilities the City wishes to place on, under or over University lands other than public rights of way; and

Whereas, The template for grants of easement does not raise the same concerns that the occupancy agreement does and City Council will continue to use that template for easements it grants to the University for facilities the University wishes to place on, under or over City lands other than public rights of way and trusts the University will continue to use that template for easements it grants to the City for facilities the City wishes to place on, under or over University lands other than public rights of way;

RESOLVED, That the City Council directs the City Administrator and City Attorney to re-negotiate with appropriate representatives of the University of Michigan and its Office of General Counsel an appropriate template for a license agreement for University facilities the University wishes to place on, under or over City public rights of way in accordance with the direction provided in this resolution.

Sponsored by Councilmembers Jane Lumm and Marcia Higgins