



Legislation Text

File #: 11-1434, **Version:** 1

Resolution to Approve Agreement between the City of Ann Arbor and the Regents of the University of Michigan for Right-of-Way Occupancy by Chilled Water Facilities within Tappan Street **(8 Votes Required)**

In March of 2011 the City and the University of Michigan reached agreement on an interim license agreement for the University to place chilled water facilities within Tappan Street to service Lorch Hall, located at 611 Tappan Street. The interim license agreement was drafted with the same terms and conditions that the City and University had been using for a period of years while they negotiated the terms and conditions of a long term agreement that could be used for all such installations. Thereafter, the City and University were able to finalize and reach agreement on the provisions of a long term occupancy agreement to be used both to supersede the interim agreements and for new installations in City rights-of-way.

The University has insisted that the occupancy agreement be processed as a document that grants it an interest in land, even if it doesn't. The City does not believe that the occupancy agreement grants to the University any interest in land. As drafted, it grants to the University an interest in land only to the extent it grants the University, by its terms, an interest in land. Nevertheless, in accordance with the University's request, but with agreeing that the agreement grants an interest in land, the document is being submitted to City Council for approval with a requirement of 8 votes as if it granted an interest in land.

The attached Agreement between the City of Ann Arbor and the Regents of the University of Michigan for Right-of-Way Occupancy by Chilled Water Facilities within Tappan Street is the first of these long term agreements to be presented to City Council for approval. Others will be brought to Council in the future. We have approximately 10 interim license agreements for which superseding long term occupancy agreements will need to be approved.

The University has already paid all fees required for the review and approval of the installation of the chilled water facilities in Tappan Street, and for all permits required for the construction. The agreement provides for the University to reimburse the City its costs and expenses incurred by the City while the University is constructing, maintaining, repairing and/or removing the chilled water facilities, to the extent necessitated by that work. In addition, if the City performs work in Tappan Street, the agreement also requires the University to reimburse the City any additional costs the City incurs for that work due to the University's chilled water facilities in that location.

Approval of this right-of-way occupancy agreement is recommended.

Prepared by: Abigail Elias, Chief Assistant City Attorney

Reviewed by: Sue F. McCormick, Public Services Area Administrator

Whereas, The University of Michigan previously requested permission to place chilled water facilities within Tappan Street to service its property at 611 Tappan Street and entered into an interim license agreement for the placement of those facilities pending agreement with the City on a long-term agreement to allow said facilities to be located and maintained in the City's right-of-way; and

Whereas, City and University staff reached agreement on and recommend the terms and conditions of a long-term occupancy agreement to be used to govern the placement and maintenance of these and other University facilities within the City's rights-of-ways;

RESOLVED, That City Council approves the Agreement between the City of Ann Arbor and the Regents of the University of Michigan for Right-of-Way Occupancy by Chilled Water Facilities within Tappan Street;

RESOLVED, That the Mayor and City Clerk be authorized and directed to execute said Agreement after approval as to form by the City Attorney and approval as to substance by the City Administrator; and

RESOLVED, That the City Administrator be authorized to take the necessary administrative actions to implement this resolution.