



Legislation Text

File #: ID 15-0459, **Version:** 1

Resolution to Approve the Settlement and Release Agreement Between the City of Greensboro and Level 3 Communications in the Amount of \$255,674.50 for Level 3's Installations in the City's Rights-Of-Way and Approve Level 3's Franchise and Franchise Fees

Department: Executive
Council District: All

Public Hearing: No
Advertising Date/By: N/A

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PURPOSE:

To approve the Settlement and Release Agreement between the City of Greensboro and Level 3 Communications in the amount of \$255,674.50 for Level 3's installations in the City's rights-of-way and to approve the Level 3 franchise and franchise fees.

BACKGROUND:

Level 3 and the City of Greensboro entered into a Franchise Agreement dated April 18, 2000. Subsequently Level 3 purchased various affiliates: WilTel Communications, LLC, TelCove Operations, LLC, and tw telecom of north carolina l.p (tw). Each affiliate entered valid Franchise Agreements with the City prior to being purchased by Level 3.

A dispute arose between the City and Level 3 regarding the franchise fees and other charges for which the City invoiced the Affiliates under the Affiliate Franchise Agreements. Level 3 has authority to act on behalf of all Affiliates to resolve the dispute over the past-due franchise fees.

The City and Level 3 agree that Level 3 shall pay the City the amount of \$255,674.50 for the past-due fees, and that Level 3 will pay a yearly franchise fee to the City based on Level 3's total linear foot occupation of the City's rights-of-way.

The settlement amount of \$255,674.50 consists of \$55,674.50 which represents amounts owed by Level 3 for the franchise fees for the 2014-2015 fiscal year and \$200,000 which represents past Franchise Fees owed by tw.

As for franchise fees, Level 3 will renew its franchise agreement with the City and will pay a per linear foot fee based on Level 3's linear footage in the City's rights-of-way. Currently, Level 3 has 98,450 linear feet of installations in the City rights-of-way and the corresponding fee will be \$29,535.00. Level 3 will complete its payment for the 2015-2016 fiscal year by paying \$8,249.68. Then, Level 3 will prepay the 2016-2017 fee by paying \$29,535.00. Thereafter, Level 3 will pay annual fees based on Level 3's linear footage in the City's

rights-of-way, which is projected to be \$29,535.00 per year.

BUDGET IMPACT:

The City will receive \$255,674.50 from Level 3 for Level 3's use of the City's rights-of-way and will receive franchise fees based on Level 3's linear footage in the City's rights-of-way. The proceeds of this settlement have been incorporated into the current fiscal year budget. The proceeds of the franchise agreement have been incorporated into the current fiscal year budget.

RECOMMENDATION / ACTION REQUESTED:

It is recommended that City Council approve the Settlement and Release Agreement between the City and Level 3 Communications and approve the Level 3 franchise and franchise fees.