



CITY OF CARSON

Legislation Text

File #: 2022-158, Version: 1

Report to Mayor and City Council

Tuesday, April 05, 2022

Consent

SUBJECT:

CONSIDER APPROVING THE APPLE PROGRAM LICENSE AGREEMENT (CITY COUNCIL)

I. SUMMARY

In December 2021, ActiveNet was launched and officially announced as the City of Carson's platform for online registrations and reservations. Though readily accessible on any computer and search engine, Apple users are unable to download the Captivate App that would allow potential participants to view programs, register, and make payments. To provide this accessibility, staff has been working with Apple to, among many things, register with the company, create an Apple ID, and agree to the terms of the Apple Developer Program License Agreement. During negotiations with the company, the City Attorney requested the removal of Apple's indemnification clause, which if not removed, requires City to indemnify Apple in connection with various different scenarios. However, Apple does not accept changes to its License Agreement as a matter of practice. The City Council is now asked to consider approving the Apple Program License Agreement in the form Apple uses for all of its business relations. There is no cost associated with the recommendation or License Agreement, but the City Council is being asked to approve the agreement due to the indemnity clause and limited signing authority limitations of City Management for such agreements.

II. RECOMMENDATION

1. APPROVE the Apple Program License Agreement.
2. AUTHORIZE the City Manager to execute the agreement.

III. ALTERNATIVES

1. DO NOT APPROVE the Apple Program License Agreement.
2. TAKE another action the City Council deems appropriate and consistent with the

requirements of the law.

IV. BACKGROUND

Since the implementation of ActiveNet, staff has been working toward making the platform informative, user-friendly, and accessible for Carson residents. Part of pursuing this enhanced experience has been the implementation of apps that would streamline the registration/reservation process. To this end, staff has been working with Apple on the ActiveNet Captivate App for the City of Carson. This would enable Apple phone users to download the Captivate App from the App Store, and log in to view programs, register, and make payments for activities. To establish the app, Community Services will have to register with Apple, create an Apple ID and agree to the terms of the Apple Developer Program License Agreement. The agreement details the rules and regulations for developing apps and programs under the Apple platform.

During negotiations with the company, the City Attorney requested the removal of Apple's indemnification clause, which if not removed, requires City to indemnify Apple in connection with various different scenarios, including but not limited to, use of the app or third-party claim that intellectual property or proprietary rights have been infringed. However, the City was informed that the clause could not be removed, as Apple does not accept any modifications to its

License Agreement as a matter of practice; it appears that there is no room for discussion or negotiations here, and City must use Apple's standard agreement as presented. Although the \$5K delegation of City Manager purchasing authority to Directors would ordinarily apply, neither the City Manager nor any Director is authorized to bind the City to certain contract provisions such as these indemnification provisions in favor of the vendor. The City Council is now asked to consider approving the Apple Program License Agreement without modifications, and in the form Apple uses for all of its business relations.

It should be noted that the proposed Apple Program License Agreement can be used to authorize publishing of additional developer apps branded and commissioned by the City in the future; not solely those built by Active Networks.

V. FISCAL IMPACT

There is no cost associated with the recommendation, so there is no fiscal impact.

VI. EXHIBITS

1. Apple Developer Program License Agreement (pgs. 3-87)

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