

**City of Culver City, California
Agenda Item Report**

Meeting Date: 06/11/2012		Item Number: <u>C-9</u>	
CITY COUNCIL AGENDA ITEM: Adoption of a Resolution Approving an Encroachment Agreement with Time Warner Cable for Use of the Public Rights-of-Way on Hayden Avenue and Higuera Street			
Contact Person/Dept.: Lee Torres/PW		Phone Number: (310) 253-5623	
Fiscal Impact: Yes ☐ No ☒		General Fund: Yes ☐ No ☒	
Public Hearing: ☐		Action Item: ☐ Attachments: ☒	
Commission Action Required: Yes ☐ No ☐		Date: _____	
Public Notification: (E-Mail) Agenda and Meetings – City Council (06/08/12); (E-Mail) Time Warner Cable (06/06/12) and Culver City News on (05/31/12 and 06/7/12)			
Department Approval: Charles D. Herbertson (06/04/12)		City Attorney Approval: Carol A. Schwab (by R. Miranda) (06/06/12)	
Chief Financial Officer Approval: Jeff Muir (by K. Marsden) (06/07/12)		City Manager Approval: John M. Nachbar (06/07/12)	

RECOMMENDATION:

Staff recommends that the City Council adopt a resolution approving an Encroachment Agreement with Time Warner Cable (Time Warner) to install fiber optic telecommunication cable along Hayden Avenue and Higuera Street.

BACKGROUND/ DISCUSSION:

Time Warner is proposing to install fiber optic telecommunication cable along Hayden Avenue and Higuera Street to provide commercial fiber service to 3520 Hayden Avenue and 8520 National Boulevard.

3520 Hayden Avenue

The proposed fiber optic cable will tie-in to an existing overhead facility on an existing utility pole located at northeast corner of Higuera Street and Helms Avenue. The proposed cable will continue easterly for approximately 300 feet overhead on the existing utility poles then go underground through an existing conduit for approximately 107 feet. The installation then continues overhead northerly on the existing utility poles for approximately 1,068 feet. The proposed fiber optic cable will then continue in an easterly direction underground in an existing conduit and also overhead on existing utility poles for approximately 234 feet, and 260 feet, respectively, until reaching the commercial property located at 3520 Hayden Avenue.

8520 National Boulevard

The proposed fiber optic cable will tie-in to an existing overhead facility on an existing utility pole located on the east side of Hayden Avenue and 548 feet south of

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the National Boulevard centerline. From the tie-in, 4 feet of new 3-inch conduit will be installed in an easterly direction to the private property line of 8520 National Boulevard.

Legal Framework

Time Warner is the holder of a statewide video franchise issued by the California Public Utilities Commission. This statewide franchise authorizes Time Warner to access cities' rights-of-way for the purpose of constructing and maintaining telecommunication lines and video facilities along and upon cities' public rights-of-way. The related federal and state laws require that municipalities allow the installation of Time Warner's telecommunication or video facilities but allow municipalities to impose reasonable time, place and manner regulations pertaining to construction of telecommunications facilities within the City's rights-of-way.

The City's time, place and manner regulations will be documented in an Encroachment Agreement between the City and Time Warner. To protect the City's interests, this agreement will contain provisions requiring that Time Warner repair any damage to City property, carry adequate liability insurance, defend the City if it is sued for damages caused by Time Warner and post a performance bond prior to commencing work on this project.

FISCAL ANALYSIS:

Per Section 11.20.025B of the Culver City Municipal Code, the City may collect an application fee as compensation for City staff time expended in reviewing telecommunication applications. Based on Resolution No. 2011-R027, the City's Fee Resolution for Fiscal Year 2011/2012, a fee in the amount of \$3,850 was paid by Cable Engineering Services, Inc., Time Warner's Consulting Engineer, on May 24, 2012.

ATTACHMENTS:

- Proposed Resolution
- System Exhibits

MOTIONS:

That the City Council:

1. Adopt a resolution approving an Encroachment Agreement with Time Warner Cable; and,
2. Authorize the City Attorney to review/prepare the necessary documents; and,
3. Authorize the City Manager to execute the documents on behalf of the City.