

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

Meeting Date: 09/10/2012		Item Number: <u>C-5</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 Cardiff Avenue and Culver Boulevard			
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 (09/05/12) and Culver City News on (08/30/12)			
Department Approval: Charles D. Herbertson (08/31/12)		City Attorney Approval: Carol A. Schwab (by R. Miranda) (9/5/12)	
Chief Financial Officer Approval: Jeff Muir (09/05/12)		City Manager Approval: John M. Nachbar (09/05/12)	

RECOMMENDATION:

Staff recommends that the City Council adopt a resolution approving an Encroachment Agreement with Time Warner Cable (Time Warner) for a proposed fiber optic telecommunication cable along Cardiff Avenue and Culver Boulevard.

BACKGROUND/ DISCUSSION:

Time Warner is proposing to install a fiber optic telecommunication cable on Cardiff Avenue and Culver Boulevard to provide commercial fiber service to 3859 Cardiff Avenue.

The proposed fiber optic cable will tie-in to an existing conduit located along Culver Boulevard approximately 32 feet north of the street centerline. The new line will then continue in a northwesterly direction across Culver Boulevard and onto Cardiff Avenue for approximately 148 feet. The proposed fiber optic cable will turn westerly on the alley for approximately 30 feet and terminate at a new vault adjacent to the private property at 3859 Cardiff Avenue.

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.

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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. 2012-R035, the City's Fee Resolution for Fiscal Year 2012/2013, a fee in the amount of \$3,850 was paid by Cable Engineering Services, Time Warner's Consulting Engineer, on August 20, 2012.

ATTACHMENT:

- Proposed Resolution
- System Exhibit

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.