

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

Meeting Date: 10/24/2011		Item Number: <u>C-6</u>	
CITY COUNCIL AGENDA ITEM: Adoption of a Resolution Approving an Encroachment Agreement with AboveNet, Inc. for Use of the Public Right-of-Way along Ince Boulevard and Washington Boulevard			
Contact Person/Dept.: Lee Torres/PW		Contact Person/Dept.: Lee Torres/PW	
Fiscal Impact: Yes ☐ No ☒		Fiscal Impact: Yes ☐ No ☒	
Public Hearing: ☐		Action Item: ☐ Attachments: ☒	
Commission Action Required: Yes ☐ No ☒		Date: _____	
Public Notification: (E-Mail) Agenda and Meetings – City Council ((10/20/11), (Mail) All adjacent businesses on (10/14/10), and Culver City News on (10/20/11)			
Department Approval: Charles D. Herbertson (10/12/11)		City Attorney Approval: Carol Schwab (10/19/11)	
Chief Financial Officer Approval: Jeff Muir (by M. Noller) (10/19/11)		City Manager Approval: John M. Nachbar (10/20/11)	
<u>RECOMMENDATION:</u> Staff recommends that the City Council adopt a resolution approving an Encroachment Agreement with AboveNet, Inc. (AboveNet) to install fiber optic telecommunication cable along Ince Boulevard and Washington Boulevard. <u>BACKGROUND/DISCUSSION:</u> AboveNet is proposing to install fiber optic telecommunication cable along Ince Boulevard and Washington Boulevard to provide commercial fiber service to local businesses requiring secure, high bandwidth data transmission. The proposed fiber optic cable will tie-in to an existing vault located at the centerline of Ince Boulevard approximately 218 feet south of Washington Boulevard. From the tie-in, approximately 182 feet will be installed northerly along the east side of Ince Boulevard. Then, approximately 64 feet will be installed easterly along the south side of Washington Boulevard to an existing telecommunication vault. <u>Legal Framework</u> AboveNet is the holder of a Certificate of Public Convenience & Necessity issued by the California Public Utilities Commission. As such, Abovenet is authorized to access cities' rights-of-way for the purpose of installing its telecommunication facilities. At the same time, the related federal and state laws allow cities to impose reasonable time, place and manner regulations pertaining to accessing of the cities' 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 AboveNet. To protect the City's interests, this agreement will contain provisions requiring AboveNet to repair any damage to City property, carry adequate liability insurance, defend the City if it is sued for damages caused by AboveNet, 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 the F J S Cable Engineering Inc., Consulting Engineer, on October 4, 2011.

ATTACHMENTS:

- Proposed Resolution
- System Exhibit

MOTION:

That the City Council:

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