

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

Meeting Date: 11/12/2012		Item Number: <u>C-5</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 Washington Boulevard between Keystone and Mentone Avenues			
Contact Person/Dept.: Sammy Romo/PW		Phone Number: (310) 253-5619	
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 (11/08/12) and Culver City News on (11/08/12)			
Department Approval: Charles D. Herbertson (11/01/12)		City Attorney Approval: Carol A. Schwab (by R. Miranda) (11/05/12)	
Chief Financial Officer Approval: Jeff Muir (by M. Noller) (11/07/12)		City Manager Approval: John M. Nachbar (11/08/12)	
<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 a portion of Washington Boulevard between Keystone and Mentone Avenues. <u>BACKGROUND/ DISCUSSION:</u> AboveNet is proposing to install fiber optic telecommunication cable along Washington Boulevard to provide commercial fiber service to a local business requiring secure, high band-width data transmission. The Culver City portion of the fiber optic cable (465 linear feet) will begin at the southerly intersection of Washington Boulevard and Keystone Avenue and head east on Washington Boulevard, then turn north, onto Mentone Avenue, where it will continue its run into City of Los Angeles right-of-way. The work is proposed to be conducted by underground directional boring to minimize excavation to the street and sidewalk. <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			

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reasonable time, place and manner regulations pertaining to accessing of the cities' rights-of-way.

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 that AboveNet 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. 2012-R035, the City's Fee Resolution for Fiscal Year 2012/2013, a fee in the amount of \$3,927 was paid by the applicant.

ATTACHMENTS:

- Proposed Resolution
- System Exhibit

MOTIONS:

That the City Council:

1. Adopt a resolution approving the Encroachment Agreement with AboveNet for the use of the public right-of-way along Washington Boulevard between Keystone and Mentone Avenues; 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.