

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

Meeting Date: 04/13/2015		Item Number: <u>C-10</u>	
CITY COUNCIL AGENDA ITEM: Adoption of a Resolution Approving an Encroachment Agreement with Freedom Telecommunications dba WILCON for Use of the Public Rights-of-Way on Uplander Way			
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 (04/08/15)			
Department Approval: Charles D. Herbertson (04/01/15)		City Attorney Approval: Carol Schwab (by R. Miranda) (04/06/15)	
Chief Financial Officer Approval: Jeff Muir (by M. Noller) (04/07/15)		City Manager Approval: John M. Nachbar (04/08/15)	

RECOMMENDATION:

Staff recommends that the City Council adopt a resolution approving an Encroachment Agreement with Freedom Telecommunication dba WILCON (WILCON) for a proposed installation of fiber optic telecommunication cables along Uplander Way.

BACKGROUND/ DISCUSSION:

WILCON is proposing to install new fiber optic telecommunication cables for both dark fiber (for future use) and active fiber (such as Ethernet and dedicated internet access services) for businesses in the Culver City area.

The proposed fiber optic cables will intercept existing facilities located approximately 67 feet southeast of Uplander Way where a new vault will be installed. From there, the proposed fiber optic cables will be installed underground via directional boring approximately 544 feet in an easterly direction along the south side of Uplander Way to a new vault. Then, they will continue into private property and tie into existing conduits in front of 5830 Uplander Way.

Legal Framework

Freedom Telecommunications, Inc. dba WILCON is the holder of a Certificate of Public Convenience and Necessity issued by the California Public Utilities Commission. This Certificate authorizes Freedom Telecommunications, Inc. dba WILCON to access cities' rights-of-way for the purpose of constructing and maintaining telecommunication lines and video facilities along and upon cities' public

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rights-of-way. The related federal and state laws require that municipalities allow the installation of Freedom Telecommunications, Inc. dba WILCON telecommunication facilities but also 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 Freedom Telecommunications, Inc. dba WILCON. To protect the City's interests, this agreement will contain provisions requiring that Freedom Telecommunications, Inc. dba WILCON repair any damage to City property, carry adequate liability insurance, defend the City if it is sued for damages caused by Freedom Telecommunications, Inc. dba WILCON 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. 2013-R034, the City's Fee Resolution, a fee in the amount of \$3,927 was paid on March 26, 2015.

ATTACHMENTS:

- Proposed Resolution
- System Exhibit

MOTIONS:

That the City Council:

1. Adopt a resolution approving an Encroachment Agreement with Freedom Telecommunications, Inc. dba WILCON; 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.