

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

Meeting Date: 02/06/2012		Item Number: <u>C-4</u>	
CITY COUNCIL AGENDA ITEM: Adopt a Resolution Approving an Encroachment Agreement with AboveNet, Inc. for Use of the Underground Public Right-of-Way on Bristol Parkway (at Slauson Avenue).			
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 (02/03/12) and Culver City News (02/02/12)			
Department Approval: Charles D. Herbertson (02/01/12)		City Attorney Approval: Carol Schwab (by R. Miranda) (02/01/12)	
Chief Financial Officer Approval: Jeff Muir (02/01/12)		City Manager Approval: John M. Nachbar (02/03/12)	
<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 Bristol Parkway. <u>BACKGROUND/ DISCUSSION:</u> AboveNet is proposing to install fiber optic telecommunication cable along Bristol Parkway, near Slauson Avenue, to provide commercial fiber service to a local business located at 800 Corporate Pointe that requires secure, high bandwidth data transmission. The proposed fiber optic cable will tie-in to an existing vault located on the westerly side of Bristol Parkway approximately 5 feet from the sidewalk. From the tie-in, approximately 15 feet of fiber optic cable will be installed to a telecommunication vault located on private property. <u>Legal Framework</u> AboveNet is the holder of a Certificate of Public Convenience and 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 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. 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., AboveNet's Consulting Engineer, on January 6, 2012.

ATTACHMENT:

- Proposed Resolution
- System Exhibit

MOTIONS:

That the City Council:

1. Adopt a resolution approving the Encroachment Agreement with AboveNet for the installation of Fiber Optic cable as shown on the attached System Exhibit;
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.