

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

Meeting Date: 04/08/2013		Item Number: <u>C-4</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 and National 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 (04/02/13) and Culver City News on (04/04/13)			
Department Approval: Charles D. Herbertson (03/27/13)		City Attorney Approval: Carol A. Schwab (by R. Miranda) (04/02/13)	
Chief Financial Officer Approval: Jeff Muir (04/02/13)		City Manager Approval: John M. Nachbar (04/02/13)	

RECOMMENDATION:

Staff recommends that the City Council adopt a resolution approving an Encroachment Agreement with AboveNet, Inc. (AboveNet) to install fiber optic telecommunication cable along Washington Boulevard and National Boulevard.

BACKGROUND/ DISCUSSION:

AboveNet is proposing to install fiber optic telecommunication cable underground along Washington Boulevard and National Boulevard to provide commercial fiber service to a business located at 3500 Helms Avenue requiring secure, high bandwidth data transmission.

The proposed fiber optic cable will tie-in to an existing fiber optic cable at an existing manhole on Washington Boulevard, approximately 340 feet northeast of Higuera Street. The new conduit installation will run in a northeasterly direction along the south side of Washington Boulevard approximately 1,000 feet towards National Boulevard. The proposed fiber optic cable will turn southeasterly along the south side of National Boulevard for approximately 1,190 feet towards Helms Avenue and terminate at a new manhole.

Legal Framework

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 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 FJS Cable Engineering, Inc., AboveNet's Consulting Engineer, on March 13, 2013.

ATTACHMENT:

- Proposed Resolution
- System Exhibit

MOTION:

That the City Council:

1. Adopt a resolution approving the Encroachment Agreement with AboveNet; 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.