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**CITY OF TEMPE**  
**REQUEST FOR COUNCIL ACTION**

**Council Meeting Date: 06/09/2016**  
**Agenda Item: 5A2**

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**ACTION:** Authorize the Mayor to execute a Wired Telecommunications License and Right-of-Way Use Agreement between McLeodUSA Telecommunications Services, LLC. dba Paetec Communications, LLC and the City of Tempe.

**FISCAL IMPACT:** N/A

**RECOMMENDATION:** Authorize the Mayor to execute the Agreement.

**BACKGROUND INFORMATION:** PAETEC Business Services (formerly known as [fka] McLeodUSA Telecommunications Services, Inc.) was granted a five-year license in 2011 for use of the City's rights-of-way to provide intrastate telecommunication services. This license will expire on June 8, 2016 and there has been no change in the fiber route. Paetec Business Services has become Paetec Communications, LLC, which is a subsidiary of Windstream so the name of the licensee needs to be changed. Windstream provides the letter of credit and insurance certificates to cover the McLeod/Paetec entity that will hold this telecommunications license. Under Sections 31A-10(a) and 31A-14 of the Tempe City Code, a company needs to have a license and agreement in order to continue providing services and/or do any work in the right-of-way. McLeod/Paetec's use of the right-of-way for its fiber optic network that provides local voice calls (intrastate telecommunications) and internet services is exempt from a linear foot fee right-of-way use fee under A.R.S. § 9-582(A). McLeod/Paetec will, however, be responsible for any application fees, transaction privilege taxes, permit fees, damage fees, and reasonable costs associated with construction, maintenance, and operation of its facilities under Tempe City Code, Chapter 31A, and Sec. 29-19.

**ATTACHMENTS:** Wired Telecommunications License and Right-of-Way Use Agreement and Exhibits A and B.

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