

Staff Summary Report



Council Meeting Date: 4/7/2011

Agenda Item Number: _____

SUBJECT: Request approval authorizing the Mayor to execute a wired telecommunications license and right-of-way agreement between AboveNet Communications, Inc. and the City of Tempe.

DOCUMENT NAME: 20110407pwws01 ABOVENET COMMUNICATIONS, INC. (0802-17)

COMMENTS: AboveNet Communications, Inc. was granted a five-year license agreement in 2006 for use of the city's rights-of-way to provide telecommunication services. The extended license will expire on April 8, 2011, and AboveNet wishes to continue to use the right-of-way to provide its services for an additional five-year term.

PREPARED BY: Wendy Springborn, Engineering Services Administrator (x8250)

REVIEWED BY: Andy Goh, Deputy Public Works Director/City Engineer (x8896)
Dave Heck, Deputy Information Technology Director (x8777)

LEGAL REVIEW BY: Jenae Naumann, Assistant City Attorney (x8402)

DEPARTMENT REVIEW BY: Don Bessler, Public Works Director (x8205)
Ken Jones, Financial & Technology Director (x8504)

FISCAL NOTE: Most of the facilities owned by AboveNet Communications, Inc. carry intrastate telecommunications that are exempt from a right-of-way use fee under a state statute, but which are subject to transaction privilege tax. AboveNet will, however, pay any permit fees, damage fees, and reasonable costs associated with construction, maintenance, and operation of its facilities. As an offset to the arrearage fee of \$126,597.00 owed during the prior term for empty conduit occupying a route in the right-of-way and the fees owed on that and/or any non-fee -exempt services in that route for the current term, AboveNet has agreed to an in-kind payment of fibers that can then be used in City operations.

RECOMMENDATION: Authorize the Mayor to execute the Agreement.

ADDITIONAL INFO: N/A