City of Portland, Oregon

184363

FINANCIAL IMPACT STATEMENT For Council Action Items

1. Name of Initiator		Telephone No		2. Bureau/Office/Dept.	
Mary Beth Henry		3-5414		OCCFM	
5a. To be filed (date) January 12, 2011		Calendar (Check One)3. Date Submitted to Budgular Consent 4/5thsAnalyst: January 4, 201		U	

1) Legislation Title: *Authorize Franchise Fee Settlement with MCIMetro Access Transmission Services, LLC (Ordinance)

<u>2)</u> Purpose of the Proposed Legislation:</u> Settle a franchise fee audit which will immediately bring \$237,962.15 into the City's general fund.

3) Revenue:

Will this legislation generate or reduce current or future revenue coming to the City? If so, by how much? If new revenue is generated please identify the source.

The settlement will immediately bring \$237,962.15 into the City's general fund.

4) Expense:

What are the costs to the City as a result of this legislation? (*Please include costs in the current fiscal year as well as costs in future years*) (*If the action is related to a grant or contract please include the local contribution or match required*) There are no costs directly associated with this ordinance.

Staffing Requirements:

5) Will any positions be created, eliminated or re-classified in the current year as a result of this legislation? (If new positions are created please include whether they will be part-time, full-time, limited term or permanent positions. If the position is limited term please indicate the end of the term.) No.

6) Will positions be created or eliminated in *future years* as a result of this legislation? No.

7) Change in Appropriations (Please reflect the dollar amount to be appropriated by this legislation. Include the appropriate center codes and accounts that are to be loaded by accounting. Indicate "new" in Center Code column if new center needs to be created. Use additional space if needed.) N/A.

Fund	Center Code	Account	Amount	Project Fund	Project No.
					U.

APPROPRIATION UNIT HEAD (Typed name and signature)

Jan Oce

David C. Olson, Director, Office of Cable Communications and Franchise Management

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CITY OF PORTLAND, OREGON

Office of Cable Communications and Franchise Management Amanda Fritz, Commissioner David C. Olson, Director 1120 S.W. Fifth Ave., Room 1305 • Portland, OR 97204 Phone: 503-823-0039 • Fax: 503-823-5370 • TDD: 503-823-6868 www.portlandonline.com/cable

City Council Agenda Item Staff Supplemental Report

TO:	Commissioner Amanda Fritz
THROUGH:	Office of Cable Communications and Franchise Management
FROM:	David C. Olson, Director Contact Person: Mary Beth Henry, Deputy Director, 823-5414
DATE:	January 4, 2011
RE:	*Authorize Franchise Fee Settlement with MCIMetro Access Transmission Services, LLC (Ordinance)

Requested Placement Date: Regular Agenda on January 12, 2011

I. RECOMMENDATION

The Office of Cable Communications and Franchise Management recommends that Council authorize the Franchise Fee Settlement with MCIMetro as a reasonable resolution of this matter.

Staff recommends Council accept this settlement:

(1) \$237,962.15 will immediately be available to the general fund.

(2) MCIMetro has agreed to pay its franchise fees on an expanded revenue base for the remainder of the term of the franchise.

II. BACKGROUND

In 1997 the City Council granted MCIMetro a ten-year franchise to own and operate telecommunications facilities in city streets. The franchise has been extended to 2011. As part of the compensation for MCIMetro's use of the streets, the franchise requires it to pay the city 5% of its gross revenues on a quarterly basis.

The City recently performed a routine audit of franchise fees paid by MCIMetro for the period January 1, 2006 through June 30, 2010. The auditor discovered MCIMetro had not been paying franchise fees on Network Access Surcharges or Carrier Access Charges, and that it had underpaid its franchise fees by approximately \$237,962.15 from 2006-2010.

Following the audit determination, staff began discussions with MCIMetro regarding the audit findings. MCIMetro has accepted the audit findings and agreed to pay franchise fees on an expanded franchise fee base going forward. The representatives of both parties now believe that they have achieved a mutually acceptable settlement for a total payment by MCIMetro of about \$237,962.15.

III. FINANCIAL IMPACT

- 1. <u>Immediate direct impact:</u> \$237,962.15 will be available to the general fund.
- 2. <u>Ongoing direct impact</u>: MCIMetro will pay franchise fees each year on an expanded revenue base, which will equate to an additional \$10,000 per year.
- 3. <u>Indirect impacts:</u> The settlement will provide certainty to the City and both parties avoid litigation.

IV. LEGAL ISSUES

With this settlement, all real and potential legal issues are resolved as all claims, known or unknown, are waived by both the City and MCIMetro for the franchise fee period ending June 30, 2010.

V. CONTROVERSIAL ISSUES: N/A

VI. LINK TO CURRENT CITY POLICIES

This settlement supports City Goals in the Adopted Budget.

VII. CITIZEN PARTICIPATION: N/A

- VIII. OTHER GOVERNMENT PARTICIPATION: N/A
- IX. IF THIS IS A CONTRACT, DOES CONTRACTOR HAVE A CURRENT BUSINESS LICENSE? Yes
 WHAT IS ITS BUSINESS LICENSE NUMBER? 415078
 IS THE ACCOUNT WITH THE CITY CURRENT? Yes
 IF NOT, HOW MUCH IS OWING? N/A