





## CITY OF PORTLAND, OREGON

### Office of Cable Communications and Franchise Management

Amanda Fritz, Commissioner

David C. Olson, Director

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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. Immediate direct impact: \$237,962.15 will be available to the general fund.
2. Ongoing direct impact: MCIMetro will pay franchise fees each year on an expanded revenue base, which will equate to an additional \$10,000 per year.
3. Indirect impacts: 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**