



REQUEST FOR CITY COUNCIL ACTION

MEETING DATE:

September 4, 2019

DEPARTMENT:

City Administration

DIVISION:

Administration

- ☒ Motion
- ☐ Resolution
- ☐ Ordinance - Introduction
- ☐ Ordinance - Adoption
- ☐ Public Hearing

TITLE:

Agreement: Unite Private Network, LLC Indefeasible Right of Use

SUMMARY RECOMMENDATION:

Approve an indefeasible right-of-use agreement between the City of Yuma (City) and Unite Private Network, LLC (UPN). (City Administration) (Chris Wood/Scott McCoy)

REPORT:

The City and UPN executed a License Agreement on September 18, 2013. The License Agreement required UPN, in connection with the build-out of its Yuma Communications System (System), to dedicate fibers in UPN's system to the City with an irrevocable right in favor of the City for the City's use of the dedicated fibers.

This Indefeasible Right of Use (IRU) Agreement addresses the rights of the parties with respect to the use of the dedicated City Fibers. Specifically, the IRU Agreement requires UPN to dedicate to the City six pairs of dark fiber optic cable for the City's exclusive use.

For its term, the IRU Agreement shall continue until UPN, or any successor in interest, abandons the UPN system or any part that includes a portion of the City Fibers. Additionally, the IRU Agreement may be terminated:

- (a) by the City, for any reason; or
- (b) by the Grantor, if the City is in substantial breach of its obligations under this IRU Agreement or the YumaNet Maintenance Agreement, and fails to timely cure any such Breach (the YumaNet Maintenance Agreement is a separate agreement relating to the maintenance of the City Fibers).

The dedication of the City Fibers by UPN allows the City to further the completion of the City fiber loop interconnecting City facilities.

FISCAL REQUIREMENTS	CITY FUNDS:	\$0.00	BUDGETED:	\$0.00
	STATE FUNDS:	\$0.00	AVAILABLE TO TRANSFER:	\$0.00
	FEDERAL FUNDS:	\$0.00	IN CONTINGENCY:	\$0.00
	OTHER SOURCES:	\$0.00 \$0.00 \$0.00	FUNDING FOR THIS ITEM IS FOUND IN THE FOLLOWING ACCOUNT / FUND / CIP:	
	TOTAL:	\$0.00		
	FISCAL IMPACT STATEMENT:			
ADDITIONAL INFORMATION	SUPPORTING INFORMATION NOT ATTACHED TO THE CITY COUNCIL ACTION FORM THAT IS ON FILE IN THE OFFICE OF THE CITY CLERK:			
	1. 2. 3. 4. 5.			
ADDITIONAL INFORMATION	IF CITY COUNCIL ACTION INCLUDES A CONTRACT, LEASE OR AGREEMENT, WHO WILL BE RESPONSIBLE FOR ROUTING THE DOCUMENT FOR SIGNATURE AFTER CITY COUNCIL APPROVAL?			
	<input type="radio"/> Department <input checked="" type="radio"/> City Clerk's Office <input type="checkbox"/> Document to be recorded <input type="checkbox"/> Document to be codified			
SIGNATURES	CITY ADMINISTRATOR:		DATE:	
	John D. Simonton		8/28/2019	
	REVIEWED BY CITY ATTORNEY:		DATE:	
	Richard W. Files		8/27/2019	
	RECOMMENDED BY (DEPT/DIV HEAD):		DATE:	
Chris Wood		8/19/2019		
SIGNATURES	WRITTEN/SUBMITTED BY:		DATE:	
	Scott McCoy		8/19/2019	