



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Katy Allen

SUBJECT: SEE BELOW

DATE: 06-05-06

Approved

Date

6/13/06

COUNCIL DISTRICT: City-Wide

SUBJECT: APPROVAL OF A NON-EXCLUSIVE MULTI-SITE TELECOMMUNICATION ANTENNA INSTALLATION AND PROPERTY USE AGREEMENT WITH OMNIPOINT COMMUNICATIONS, INC., DBA T-MOBILE AND APPROVAL OF STANDARDIZED NON-EXCLUSIVE MULTI-SITE AGREEMENTS AND RELATED REVISIONS TO STANDARD RATE SCHEDULES

RECOMMENDATION

1. Approval of a Non-Exclusive Multi-Site Telecommunication Antenna Installation and Property Use Agreement with Omnipoint Communications, Inc., dba T-Mobile for five antenna sites for a period of five years with one five-year option including application by the company and review/approval by the City of individual locations, in the amount of \$425,024 which includes a 20% discount for contracting for 5 sites simultaneously.
2. Adoption of a resolution approving a standard form Non-Exclusive Multi-Site Telecommunication Antenna Installation and Property Use Agreement for use with telecommunication companies for a five year term with one five-year option and authorizing the City Manager to execute those agreements.
3. Adoption of a resolution revising the rate schedule previously approved in Resolution No. 70538 adopted August 7, 2001, to include a standard rate schedule for the standard multi-site agreement with annual use fee increases of 4% or the annual increase of the Consumer Price Index, whichever is highest, and a 20% discount in rates for multiple sites.

CEQA: TBD

OUTCOME

Currently the Council approved standard contract for placement of telecommunication equipment on City-owned property is for "one site at a time". Council approval of a standardized multi-site agreement will allow staff to solicit and companies to commit to multiple sites simultaneously, while retaining City review and approval of individual locations.

Approval of the agreement with T-Mobile will provide a one-time payment to the City of \$425,024 for the initial five-year term and a second payment of not less than \$517,106.64 if the one five-year option is exercised.

BACKGROUND

In 1996, Council approved City Council Policy 7-10, which established guidelines for placing wireless facilities on City-owned property. In August 2001, Council adopted Resolution No. 70538 setting rates, approving standardized, single site, Non-Exclusive Property Use Agreement and authorizing the City Manager to execute the agreement.

The standardized use agreement is for a five year term with one five-year option. It provides scheduled use rates depending upon the number of antenna and required equipment area, requires processing of plans for permits, outlined insurance requirements and gives the City the ability to cancel the agreement upon 180 days notice. The agreements also require companies to pay the City a higher use rate if they negotiate higher use rates with other local municipalities. The single site agreement does not allow companies to simultaneously contract with the City for multiple sites under the same contract.

The current process for determining a site for telecommunication equipment begins upon notification by a telecommunication company of their interest in a particular City-owned property. The company, accompanied by City staff, conducts initial site inspections and, upon acceptance of the standardized City agreement, they provide the Public Works Real Estate section with preliminary plans for the site. Copies of the plans are forwarded by Real Estate to the department overseeing the City-owned property and the IT Department to approve or disapprove the plan.

Once the oversight department and IT provide their approval, the company will draft plans and specifications to present to the Planning Department for review. All plans must go through a hearing either with the Planning Director or Planning Commission. All properties proximate to the proposed site are notified of the hearing and depending upon specific location notification of properties within a defined distance (such as 300 feet) are additionally notified. During the Planning Hearing the public is allowed to express any concerns about the site and telecommunication project. Only upon final planning approval may placement of the telecommunications antenna/facilities commence.

Equipment and antenna facilities are generally designed to be hidden from view or “stealthed”, to provide limited visual distraction to the City facility. Cabinets, generally 5-6 feet tall, the size of a regular sized refrigerator, are hidden behind fences, walls and landscape. Antennas are generally about three feet tall, twelve inches wide, and are built into flag poles, fake trees, cabanas and rooftop structures.

T-Mobile desires to enter an agreement which will allow them, subject to City review and approval of each site, to locate their facilities on up to five City-owned sites while committing them to pay the City for the equivalent of five sites upon execution of the contract. Other than the ability to use up to five sites under one Property Use Agreement and related rate structure, all terms and conditions of the contract are the same as the Council has previously approved for single site contracts.

Staff additionally requests the Council to adopt a standard multi-site agreement, as an addition, to the standard contracts and rate schedules previously approved by Council, so as to be able to market multiple site agreements. Staff is not recommending changes to the previously approved standard single site agreements.

ANALYSIS

The agreement with T-Mobile is the standardized, single site agreement modified to provide for multiple sites under one agreement. Staff has negotiated a five-year multiple-site use agreement, with one five-year option, with T-Mobile for the right to use five City-owned properties to install, maintain and repair telecommunications facilities subject to application for and City review and approval of individual locations. T-Mobile has elected to make a one-time, upfront payment. This one-time payment will cover the use charge for the initial five-year term. The rate for the option period will increase by the greater of 21.7% (based on a compounded rate increase of 4% per annum), or the total increase in the Consumer Price Index All Urban Consumers for the San Francisco-Oakland Metropolitan Area from the execution date to the date beginning the five-year option term. With the exception of a 20% discount for contracting for five sites simultaneously rather than a single site, all terms and conditions of the contract are the same as the standardized agreement and rate structure authorized by Council Resolution No. 70538. The 20% discount is equal to the discount for making a one-time payment for a five year term, as provided for in the current standardized agreement and rate schedule.

The proposed multi site contract will contain the same terms and conditions as the single site contracts previously approved by Council with the only exception being the inclusion of multiple sites under one contract and related rate structure.

The City currently licenses, exclusive of the airport, 23 sites to telecommunication companies (including light poles, fire stations, the convention center, municipal golf course, etc.) which currently provide the City annual revenue of approximately \$385,000. Of those 23 sites, three

were contracted for this fiscal year providing \$80,575 of the nearly \$385,000 annual revenue from use of City-owned properties by telecommunication companies.

ALTERNATIVES

An alternative would be to continue with only single site agreements. This alternative limits the City's ability to simultaneously market multiple City-owned properties and have telecommunication companies commit financially to pay the City as the right to place equipment on multiple sites, each subject to permit, upon approval of the agreement by the City.

PUBLIC OUTREACH

Planning requires notification of owners within a certain number of feet of the project, depending on the project and location, as part of the permit process and Planning approval. Permits are required on all antenna facilities external to City facilities on City-owned property.

COORDINATION

This agreement and memorandum have been coordinated with the City Attorney's Office, Planning, Building and Code Enforcement Department and the City Manager's Budget Office.

CEQA

CEQA: TBD.



KATY ALLEN
Director, Public Works Department

For questions please contact DAVID SYKES, ASSISTANT DIRECTOR, at (408) 535-8300.

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ANNUAL PAYMENTS (number of sites)	SITE DESCRIPTION*	STANDARD USE CHARGES (annual payment per site)
1-4	A	\$22,136.00
	B	\$26,564.00
	C	\$31,875.00
5-8 (20% reduction from annual payments)	A	\$17,708.80
	B	\$21,251.20
	C	\$25,500.00
9+ (30% reduction from annual payments)	A	\$15,495.20
	B	\$18,594.80
	C	\$22,312.50

First payment is due upon agreement execution. There is a minimum yearly increase of 4% or CPI, whichever is greater.

ONETIME PAYMENT UPFRONT (20% discount) (number of sites)	SITE DESCRIPTION*	STANDARD USE CHARGES (per site)
1-4	A	\$88,544.00
	B	\$106,256.00
	C	\$127,500.00
5-8 (20% reduction of onetime payment)	A	\$70,835.20
	B	\$85,004.80
	C	\$102,000.00
9+ (30% reduction of onetime payment)	A	\$61,980.80
	B	\$74,379.20
	C	\$89,250.00

Payment for first five years is due upon lease execution. Optional 5-year term lease rate will be charged at the greater increase of CPI or 4% per year from original execution date.

- *A 1-4 antennae and/or foundation/surface area containing equipment or cabinet is less than 150 square feet.
- B 5-8 antennae and/or foundation/surface area containing equipment or cabinet is 150 to 499 square feet.
- C 9 or more antennae and/or foundation/surface area containing equipment or cabinet is 500+ square feet, but not more than 16 antennas and 2,000 square feet.