



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Katy Allen

SUBJECT: SEE BELOW

DATE: 08-02-06

Approved

Date

8/10/06

COUNCIL DISTRICT: City-Wide

SUBJECT: APPROVAL OF A STANDARDIZED NON-EXCLUSIVE MULTI-SITE TELECOMMUNICATION ANTENNA INSTALLATION AND PROPERTY USE AGREEMENT AND RELATED REVISIONS TO STANDARD RATE SCHEDULES

RECOMMENDATION

- a) 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.
- b) 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: Exempt, File No. PP06-114.

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.

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, outlines 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 governmental entities. The single site agreement does not allow companies to simultaneously contract with the City for multiple sites under the same contract.

In September 2006, Omnipoint Communications, dba T-Mobile, came to the City requesting a new agreement allowing T-Mobile to contract for multiple City-owned property sites for installation of telecommunication equipment under one agreement. From those discussions, staff has determined there is a need to add another standardized agreement to provide telecommunications providers an opportunity of contracting for multi sites under one agreement. The multi-site agreement would allow these companies, subject to City review and approval of each site, to locate their facilities on multiple City-owned sites while committing them to pay the City for those sites upon execution of the contract. Other than the ability to use multi sites under one Property Use Agreement and discounts for multiple sites and up-front payments as indicated on the rate schedule attached to this memo, all terms and conditions of the contract are the same as the Council has previously approved for single site contracts.

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 for fiscal year 05-06. 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.

Staff is not recommending changes to the previously approved standard single site agreements.

ANALYSIS

The proposed multi site agreement has the same terms and conditions as the currently Council approved standardized, single site agreement modified to provide for multiple sites under one agreement and related rate structure. The agreement has a five-year initial term with one five-year option period for use of City-owned properties to install, maintain and repair telecommunications facilities subject to application for and City review and approval of individual locations. Use charges may be made yearly or as a one-time, up front payment. The rate for the option period when making one-time up front payments will increase by the greater of 4% per annum (which would be a minimum increase 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, a 30% discount for contracting for nine or more sites, additional discounts for up front one-time payments, 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.

Approval of the proposed multi-site agreement provides incentive to telecommunication companies, both in reduction of agreement processing time and use charges, for installing equipment and antenna on multiple City-owned properties. The City will benefit by increasing the overall income to the City from telecommunication leases.

POLICY ALTERNATIVES

Alternative: Continue to use only the current standardized agreements

Pros: Continue to provide income to the City from telecommunications on City-owned property.

Cons: Will prevent City from being able to offer financial incentive for multiple sites; takes more processing time to execute single site agreements;

Reason for not recommending: This alternative will not allow for multiple sites under one agreement that would be a financial gain for the City. Staff does not recommend this alternative.

PUBLIC OUTREACH/INTEREST

- Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

This requires no special outreach as it is an administrative action. The actual installation of telecommunication equipment and antenna on City-owned property 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 Department approval. Permits are required on all antenna facilities external to City facilities on City-owned property.

HONORABLE MAYOR AND CITY COUNCIL

08-02-06

Subject: Approval of a Standardized Non-Exclusive Multi-Site Telecommunication Antenna Installation and Property Use Agreement and Related Revisions to Standard Rate Schedules

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COORDINATION

This agreement and memorandum have been coordinated with the Information Technology Department, City Attorney's Office and the City Manager's Budget Office.

FISCAL/POLICY ALIGNMENT

Not applicable.

COST SUMMARY/IMPLICATIONS

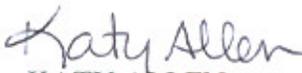
Not applicable.

BUDGET REFERENCE

Not applicable.

CEQA

CEQA: Exempt, File No. PP06-114.


KATY ALLEN
Director, Public Works

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

ds:ns:jd:rlc

ATTACHMENT

ANNUAL PAYMENTS (number of sites)	SITE DESCRIPTION*	STANDARD USE CHARGES (annual payment per site)
1-4	A	\$23,021.00
	B	\$27,627.00
	C	\$33,150.00
5-8 (20% reduction from annual payments)	A	\$18,416.80
	B	\$22,101.60
	C	\$26,520.00
9+ (30% reduction from annual payments)	A	\$16,114.70
	B	\$19,338.90
	C	\$23,205.00

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	\$92,084.00
	B	\$110,508.00
	C	\$132,600.00
5-8 (20% reduction of onetime payment)	A	\$73,667.20
	B	\$88,406.40
	C	\$106,080.00
9+ (30% reduction of onetime payment)	A	\$64,458.80
	B	\$77,355.60
	C	\$92,820.00

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

* The rates noted below are for Fiscal Year 2006-2007 ending June 30, 2007; rates increase annually by the greater of four percent (4%) or the change in the Consumer Price Index (All Items, Base 1982-84 = 100) as published by the United States Department of Labor, Bureau of Labor Statistics for All Consumers for the San Francisco-Oakland-San Jose Metropolitan area (hereinafter "CPI"). The CPI rose less than 4% for the 12 month period ending April 2006.