

City of Culver City, California
City Council Agenda Item Report

Meeting Date: 09/10/07		Item Number: <u>A-1</u>
AGENDA ITEM: Adoption of a Resolution Approving an Encroachment Permit Agreement With AT&T for Installation of Telecommunication Facilities in the City's Public Rights-of-Way.		
Contact Person/Dept.: Roland Miranda, City Attorney's Office / Andy O'Connell, Public Works		Phone Number: (310) 253-5600 / (310) 253-5660
Fiscal Impact: Yes ☒ No ☐		General Fund: Yes ☒ No ☐
Public Hearing: ☐	Action Item: ☒	Attachments: ☒
Public Notification: Master Notification List via email on 09/05/07; Notice Published in Culver City News on 08/30/07 and 9/06/07; Mailed Notices to Affected Residents & Businesses on 08/25/07; Hand-Delivered Notices to Multi-Unit Complexes on 08/27/07; Mailed Notices to Multi-Unit Complexes on 08/28/07 and 08/29/07.		
Department Approval: Carol A. Schwab (by H. Iker) (09/04/07); Charles Herbertson (08/30/07)		City Attorney Approval: Carol Schwab (by H. Iker) (09/04/07)
City Controller Approval: Marlee Chang (09/04/07)		City Manager Approval: Jerry B. Fulwood (09/05/07)

RECOMMENDATION:

Staff recommends the City Council adopt a resolution approving an encroachment permit agreement with AT&T.

BACKGROUND:

Under California law, as a telephone corporation, AT&T is authorized to construct and maintain telecommunication lines and facilities along and upon the City's public rights-of-way (PROW). Additionally, in March, 2007, the California Public Utilities Commission issued a statewide franchise to AT&T. This statewide franchise authorizes AT&T to provide video services in the City. AT&T has requested that the City permit installation of facilities, which AT&T refers to as Lightspeed cabinets, which will allow AT&T to offer video services as well as voice and higher-speed internet service.

While the City cannot prohibit the installation of these facilities, it does have the right to regulate the time, place and manner of the installation of these telecommunications facilities. The City has exercised this right by requiring that encroachments into the PROW be authorized by the City Council, by way of approval of an encroachment agreement. City staff has negotiated such an encroachment agreement with representatives of AT&T during the last several months. The encroachment agreement before the City Council is intended to

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impose the time, place and manner regulations allowed under applicable law. The City Council is being asked to adopt a resolution approving such an encroachment agreement with AT&T and authorizing the Public Works Director to execute this agreement.

DISCUSSION:

AT&T's Lightspeed Cabinets

AT&T's Project Lightspeed will involve upgrading AT&T's existing copper wire telephone network. This upgrade will allow AT&T to compete with the cable television industry, allowing AT&T to offer its subscribers bundled services (i.e. voice, video and data services) in the near future. This upgrade requires AT&T to install the proposed Lightspeed cabinets in the PROW. Each of the Lightspeed cabinets must be paired-up with (i.e. placed next or close to) existing AT&T cabinets. AT&T is currently implementing Project Lightspeed in various communities throughout the state.

Initially, AT&T has identified 42 existing cabinets in Culver City next to which it is anticipating installing Lightspeed cabinets. Under the proposed encroachment permit agreement, however, AT&T will be authorized to install such cabinets at a maximum of 53 existing locations throughout Culver City. The Lightspeed cabinets will be installed primarily on sidewalks or parkways, in both residential and non-residential areas. The proposed Lightspeed cabinets come in four different sizes: 63" x 43.5" x 20.8" (h x w x d); 48" x 43.5" x 20.8" (h x w x d); 48" x 50" x 26" (h x w x d); or, 63" x 43.5" x 41.1" (h x w x d). AT&T has provided City staff with pictures (See Attachment 3) of the tallest and the shortest of these cabinets. AT&T will be working with the City's Public Works staff to locate the boxes as unobtrusively as possible.

Municipal Regulation

Since the City has the right to regulate the time, place and manner of these installations, the related encroachment agreement is intended to impose time, place and manner regulations which will protect the City's interests in that regard. For that reason, the related encroachment agreement requires that AT&T:

1. Repair any damage it may cause when it installs Project Lightspeed;
2. Return all City property to the same condition it was in prior to installation of Project Lightspeed;

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3. Indemnify the City for any damage and/or losses arising from Project Lightspeed;
4. Install any Project Lightspeed cabinets only pursuant to utility permits issued by the Public Works Department;
5. Notify all affected properties of its plans prior to the City issuing the related utility permits;
6. Promptly remove graffiti; and,
7. Make efforts to minimize impacts on neighboring properties.

Environmental Determination

Pursuant to the California Environmental Quality Act (CEQA) guidelines, this project has been determined to be categorically exempt. Section 15303 of the CEQA Guidelines, Class 3 (New Construction or Conversion of Small Structures) and Section 15305 of the CEQA Guidelines, Class 5 (Minor Alterations in Land Use Limitations). Because this project involves the maintenance of existing facilities and/or the new construction or installation of a limited number of small structures, facilities or equipment, this project is categorically exempt under CEQA.

Notices

Notice of this agenda item was mailed and hand-delivered to the occupants of properties situated next to or across the street from the existing cabinets next to which AT&T is anticipating installing Lightspeed cabinets. Notice of this agenda item was also published in the Culver City News.

Staff has asked AT&T to have at least one representative at tonight's City Council hearing in case City Council members have any questions which staff cannot answer.

FISCAL ANALYSIS:

Staff has billed AT&T the \$3,000 Public Right-of-Way/Property Encroachment Permit fee authorized under the 2007-2008 Fee Schedule. In addition, the Public Works Department will collect the applicable utility permitting fees for each cabinet installed by AT&T.

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ATTACHMENTS:

1. Proposed Resolution
2. Proposed Encroachment Permit Agreement
3. Photos of Project Lightspeed Cabinets
4. Mailed or Hand-Delivered Notice
5. Notice Published in the Culver City News
6. AT&T's Map of the 53 Proposed Locations [This over-sized attachment can be viewed in the City Clerk's Office and on the City's website]

MOTIONS:

That the City Council:

1. Adopt the resolution approving the encroachment permit agreement with AT&T; and
2. Authorize the Public Works Director to execute the agreement on behalf of the City of Culver City.