

City of Culver City, California
City Council Agenda Item Report

Meeting Date: 06/09/08		Item Number: <u>A-2</u>	
AGENDA ITEM: Adoption of a Resolution Approving an Encroachment Permit Agreement with Level 3 Communications, LLC for Use of the Public Rights-of-Way on Venice Boulevard, Prospect Avenue, Girard Avenue and West Washington Boulevard.			
Contact Person/Dept.: Andy O'Connell/PW Dept. Roland Miranda/City Attorney's Ofc.		Phone Number: (310) 253-5606 (310) 253-5660	
Fiscal Impact: Yes ☐ No ☒		General Fund: Yes ☐ No ☒	
Public Hearing: ☐		Action Item: ☒ Attachments: ☒	
Public Notification: Master Notification List (06/04/08); Eric Erwin, Level 3 Communications, LLC Authorized Representative, via email on May 13, 2008			
Department Approval: Carol Schwab (by R. Miranda) (06/02/08) Charles Herbertson (06/02/08)		City Attorney Approval: Carol Schwab (by R. Miranda) (06/02/08)	
Chief Financial Officer Approval: Jeff Muir (by M. Noller) (06/04/08)		City Manager Approval: Jerry B. Fulwood (06/04/08)	
<u>RECOMMENDATION:</u> Staff recommends the City Council adopt a resolution approving an Encroachment Permit Agreement with Level 3 Communications, LLC (Level 3) and authorize the Public Works Director to sign this agreement on behalf of the City of Culver City. <u>BACKGROUND:</u> Level 3 has submitted two applications to the City for the installation of fiber optic cable, to provide telecommunication service to NFL Studios (at 10950 Washington Boulevard) and to Sony Studios (at 10202 Washington Boulevard). Since these applications involve the same applicant and since the proposed projects are located within 0.75 miles of each other, it was decided to process these two applications as part of the same encroachment permit. Culver City Municipal Code (CCMC) Chapter 11.20 ("Telecommunications Regulatory Requirements") provides that an encroachment permit must be obtained by entities installing and operating telecommunications facilities in the City's public rights-of-way. Pursuant to CCMC Section 11.20.025.D, the City Council has the authority to approve such encroachment permits. Telecommunications carriers, such as Level 3, are subject to regulation by the California Public Utilities Commission (PUC) and the Federal Communications Commission. The related federal and state laws require that cities allow the			

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installation of these types of telecommunication facilities and allow cities to impose reasonable time, place and manner regulations.

DISCUSSION:

The project being proposed by Level 3 for NFL Studios involves installing one 4" and three 1¼" inner ducts, with fiber optic cable, beginning at existing Level 3 facilities located on Venice Boulevard, between Prospect and Girard Avenues. The alignment extends southerly on both Prospect Avenue and Girard Avenue to Washington Boulevard, and then easterly and westerly on Washington Boulevard to the NFL Studios at 10950 Washington Boulevard. The route for this proposed project is depicted in Attachment 3. This alignment covers approximately 3,316 linear feet. Along with the conduits, there will be three 4'(W)x4'(L)x4'(D) manholes that will be constructed within the roadway along this route. This work will involve directional boring.

The work being proposed by Level 3 for Sony Studios involves installing one 1¼" quad duct beginning at an existing Level 3 facility located on Jasmine Avenue northerly of Washington Boulevard. The alignment continues southerly on Jasmine Avenue to Washington Boulevard, then easterly on Washington Boulevard to approximately 60 feet easterly of Jean Place to Sony Studios, at 10202 Washington Boulevard. The route for this proposed project is depicted in Attachment 4. The alignment covers approximately 494 linear feet. Along with the installation of the quad duct, one 4'(W)x4'(L)x4'(D) manhole will be constructed in the roadway along this route. This work will also involve directional boring.

The PUC has issued a Certificate of Public Convenience & Necessity to Level 3. This PUC certificate authorizes Level 3 to access cities' rights-of-way. The City cannot prohibit or inhibit such access. The City does have a right to impose reasonable time, place and manner regulations on Level 3's access to the City's rights-of-way.

The City's time, place and manner regulations are documented in the Encroachment Permit Agreement, which the City Council is considering tonight. To protect the City's interests, the agreement contains provisions requiring that Level 3 repair any damage to City property, carry adequate liability and automobile insurance, defend the City if it is sued for damages caused by Level 3 and post a performance bond prior to commencing work on this project.

The provisions included in this Encroachment Permit are consistent with those recently approved by the City Council and issued to Above Net and MCIMetro.

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FISCAL ANALYSIS:

Per CCMC Section 11.20.025.B, the City may collect an application fee as compensation for City staff time expended in reviewing telecommunications applications. These fees, in the amount of \$4,950, were calculated in accordance with the provisions of Resolution No. 2007-R024. These fees will be collected by Public Works staff prior to issuance of the involved construction permit.

ATTACHMENTS:

1. Encroachment Permit Agreement, Proposed
2. Proposed Resolution
3. NFL Studios Project Map
4. Sony Studios Project Map

MOTIONS:

That the City Council

1. Adopt the resolution approving the Encroachment Permit Agreement with Level 3; and,
2. Authorize the Public Works Director to sign this agreement on behalf of the City.