

**City of Culver City, California
Agenda Item Report**

Meeting Date: 06/11/2012		Item Number: <u>C-10</u>	
CITY COUNCIL AGENDA ITEM: Adoption of a Resolution Approving an Encroachment Agreement with XO Communications for Use of the Public Right-of-Way on Overland Avenue			
Contact Person/Dept.: Lee Torres/PW		Phone Number: (310) 253-5623	
Fiscal Impact: Yes ☐ No ☒		General Fund: Yes ☐ No ☒	
Public Hearing: ☐		Action Item: ☐	Attachments: ☒
Commission Action Required: Yes ☐ No ☒		Date: _____	
Public Notification: (E-Mail) Agenda and Meetings – City Council (06/08/12) and Culver City News on (05/31 and 6/7/12)			
Department Approval: Charles D. Herbertson (06/04/12)		City Attorney Approval: Carol A. Schwab (by R. Miranda) (06/06/12)	
Chief Financial Officer Approval: Jeff Muir (by K. Marsden) (06/07/12)		City Manager Approval: John M. Nachbar (06/07/12)	

RECOMMENDATION:

Staff recommends that the City Council adopt a resolution approving an Encroachment Agreement with XO Communications to install fiber optic telecommunication cable along Overland Avenue.

BACKGROUND/ DISCUSSION:

XO Communications is requesting to install fiber optic telecommunication cable along Overland Avenue from the northerly City limits at Venice Boulevard to approximately 80 feet south of Washington Boulevard in order to provide commercial fiber service to 10202 Washington Boulevard (Sony Pictures).

XO Communications proposes to install one 4-inch PVC conduit along southbound Overland Avenue utilizing both directional boring and open trenching. The proposed fiber optic cable will tie-in to an existing facility located on Venice Boulevard north of the city limits and will continue in a southeasterly direction approximately 917 feet south of Washington Boulevard. The conduit will then cross to the east side of Overland Avenue in a northeasterly direction into the private property at 10202 Washington Boulevard.

Legal Framework

XO Communications operates pursuant to a Certificate of Public Convenience & Necessity issued by the California Public Utilities Commission. This certificate authorizes XO Communications to access cities' rights-of-way. The related federal and state laws require that municipalities allow the installation of telecommunication

City of Culver City, California
Agenda Item Report

facilities by the holder of a Certificate of Public Convenience & Necessity while allowing municipalities to impose reasonable time, place, and manner regulations pertaining to construction in and use of the public rights-of-way.

The City's time, place and manner regulations will be documented in an Encroachment Agreement between the City and XO Communications. To protect the City's interests, this agreement will contain provisions requiring that XO Communications repair any damage to City property, carry adequate liability insurance, defend the City if it is sued for damages caused by XO Communications and post a performance bond prior to commencing work on this project.

FISCAL ANALYSIS:

Per Section 11.20.025B of the Culver City Municipal Code, the City may collect an application fee as compensation for City staff time expended in reviewing telecommunication applications. Based on Resolution No. 2011-R027, the City's Fee Resolution for Fiscal Year 2011/2012, a fee in the amount of \$3,850 was paid by Cable Engineering Services, Inc., XO Communication's Consulting Engineer, on May 24, 2012.

ATTACHMENTS:

- Proposed Resolution
- System Exhibits

MOTIONS:

That the City Council:

1. Adopt a resolution approving an Encroachment Agreement with XO Communications; and,
2. Authorize the City Attorney to review/prepare the necessary documents; and,
3. Authorize the City Manager to execute such documents on behalf of the City.