

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

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| Meeting Date: 12/07/09                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |  | Item Number: <u>C-5</u>                                                                           |  |
| <b>CITY COUNCIL AGENDA ITEM: Adoption of a Resolution Approving an Encroachment Permit Agreement with XO Communications for Use of the Public Right-of-Way at Slauson Avenue Between 600 Corporate Pointe and the Easterly City Limits and at Overland Avenue between 10202 Washington Boulevard and the City Limit Located on the North Edge of the Intersection of Overland Avenue and Washington Boulevard.</b>                                                                                                                                                                                                                                                                                                                                                                                                                               |  |                                                                                                   |  |
| Contact Person/Dept.: Lee Torres/Public Works Department                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |  | Phone Number: (310) 253-5623                                                                      |  |
| Fiscal Impact: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |  | General Fund: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>                 |  |
| Public Hearing: <input type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |  | Action Item: <input checked="" type="checkbox"/> Attachments: <input checked="" type="checkbox"/> |  |
| Commission Action Required: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |  | Date: _____                                                                                       |  |
| Public Notification: (E-Mail) Agenda and Meetings – City Council (12/02/09); (Mail) All adjacent property owners, residents, and businesses on (11/23/09) and Culver City News on (12/03/09)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |  |                                                                                                   |  |
| Department Approval:<br>Charles D. Herbertson (11/24/2009)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |  | City Attorney Approval:<br>Carol A. Schwab (by R. Miranda) (11/30/09)                             |  |
| Chief Financial Officer Approval:<br>Mark Scott (by M. Noller) (12/01/09)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |  | City Manager Approval:<br>Mark Scott (12/02/09)                                                   |  |
| <p><b><u>RECOMMENDATION:</u></b></p> <p>Staff recommends that the City Council adopt a resolution approving an Encroachment Permit Agreement with XO Communications.</p> <p><b><u>BACKGROUND:</u></b></p> <p>XO Communications is proposing to construct fiber optic telecommunication cables and underground vaults to provide new service to 600 Corporate Pointe and 10202 Washington Boulevard, both properties of Sony Studios Entertainment.</p> <p><b><u>DISCUSSION:</u></b></p> <p>The work being proposed by XO Communications involves two locations:</p> <ol style="list-style-type: none"><li>1. Slauson Avenue, from 600 Corporate Pointe to the Culver City-Los Angeles County Limits:<ol style="list-style-type: none"><li>a) Install CATV vault on the south side of Slauson Avenue at 600 Corporate Pointe;</li></ol></li></ol> |  |                                                                                                   |  |

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

- b) Install CATV vault on the north side of Slauson Avenue (approximately 400 feet east of Bristol Parkway);
- c) Install CATV vault on the north side of Slauson Avenue (300 feet east of Buckingham Parkway);
- d) Construct a 205 foot long 4-inch diameter conduit by directional boring and installing fiber optic cable (connecting the vault described in 1a, above, to the vault described in 1b, above);
- e) Install approximately 1,421 feet of fiber optic cable on existing utility poles along Slauson Avenue (from vault described in 1b to 1c, above); and
- f) Construct a 143 foot long 4-inch conduit by directional boring and installing fiber optic cable (starting at the vault described in 1c, above, and continuing to the Culver City-Los Angeles County boundary).

2. Overland Avenue, from 10202 Washington Boulevard to the Culver City-Los Angeles City Limits:

- a) Construct a 187 foot long 4-inch conduit by directional boring from 10202 Washington Boulevard to the Culver City-Los Angeles City Limits located on the northern edge of the intersection of Overland Avenue and Washington Boulevard.

XO Communications operates pursuant to a Certificate of Public Convenience and 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 facilities by the holder of a Certificate of Public Convenience & Necessity but allow municipalities to impose reasonable time, place, and manner regulations pertaining to accessing of the public rights-of-way.

The City's time, place and manner regulations will be documented in an Encroachment Permit Agreement between the City and XO Communications. To protect Culver City's interests, this agreement will contain provisions requiring that XO Communications repair any damage to City property, carry adequate liability and automobile 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.

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

**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 the telecommunication applications and preparing the item for City Council consideration. Based on Resolution No. 2009-R029, adopted on May 11, 2009 (the City's Fee Resolution), a fee in the amount of \$3,700 was paid by XO Communications on November 23, 2009. Should the encroachment permit be granted by the City Council, a plan check and construction permit fee will also be charged.

**ATTACHMENT:**

1. Resolution, Proposed
2. System Exhibit

**MOTIONS:**

That the City Council:

1. Adopt a resolution approving the Encroachment Permit Agreement with XO Communications;
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.