

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

Meeting Date: 10/08/2012		Item Number: <u>C-5</u>	
CITY COUNCIL AGENDA ITEM: Adoption of a Resolution Approving an Encroachment Agreement with XO Communications for Use of the Public Right-of-Way Along Adams Boulevard, Washington Boulevard and La Cienega Boulevard			
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 (10/04/12)			
Department Approval: Charles D. Herbertson (09/27/12)		City Attorney Approval: Carol A. Schwab (by R. Miranda) (10/04/12)	
Chief Financial Officer Approval: Jeff Muir (by M. Noller) (10/04/12)		City Manager Approval: John M. Nachbar (10/04/12)	

RECOMMENDATION:

Staff recommends that the City Council adopt a resolution approving an Encroachment Agreement with XO Communications to install fiber optic telecommunication cables along Adams Boulevard, Washington Boulevard, and La Cienega Boulevard.

BACKGROUND/ DISCUSSION:

XO Communications is requesting to install fiber optic telecommunication cables along Adams Boulevard, Washington Boulevard, and La Cienega Boulevard via aerial and underground installation in order to provide commercial fiber service to 9050 Washington Boulevard.

Aerial Installation:

XO Communications proposes aerial installation of new fiber optic cable on existing utility poles located along the north side of Adams Boulevard and Washington Boulevard. The fiber optic cable would begin at the northeast corner of Adams Boulevard and Fairfax Avenue and head westerly along existing utility poles for approximately 1,060 feet to an existing utility pole located on the northeast corner of Washington Boulevard and La Cienega Boulevard.

Underground:

XO Communication proposes to continue the installation of the new fiber optic telecommunication cable underground via directional boring across the intersection of Washington Boulevard and La Cienega Boulevard. The underground segment will begin at the northeast corner of Washington Boulevard and La Cienega Boulevard and head in a southeasterly direction across Washington Boulevard along the eastside of La Cienega Boulevard for approximately 215 feet. This line will terminate at an existing manhole located on the sidewalk at the southeast corner of

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Washington Boulevard and La Cienega Boulevard. This new line will be connected to existing fiber optic cables already in place completing service to the customer located at 9050 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 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. 2012-R035, the City's Fee Resolution for Fiscal Year 2012/2013, a fee in the amount of \$3,927 was paid by the Cable Engineering Services, Inc., XO Communication's Consulting Engineer, on September 19, 2012.

ATTACHMENT:

- 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.