

REPORT OF GENERAL MANAGER

NO. 11-028

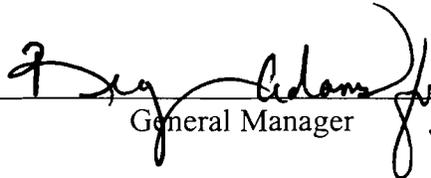
DATE January 19, 2011

C.D. All

BOARD OF RECREATION AND PARK COMMISSIONERS

SUBJECT: PARK PROPERTY - INSTALLATION OF CELLULAR TELECOMMUNICATION EQUIPMENT

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S. Huntley	_____		



 General Manager

APR 06 2011

Approved _____ Disapproved _____ Withdrawn _____

RECOMMENDATIONS:

That the Board:

1. Approve the attached policies and revised guidelines regulating the conditions for the installation of telecommunications equipment on Department of Recreation and Parks (RAP) property;
2. Approve a proposed Master Lease Agreement and Site Lease Agreement, substantially in the form on file in the Board Office, subject to the approval of Mayor and City Council;
3. Authorize the Board Secretary to forward the policies, guidelines, Master Lease Agreement and Site Lease Agreement to the City Attorney for approval as to form; and,
4. Authorize the Department's Chief Accounting Employee to establish a RAP fund and account number for the receipt of the funds from application fees for Site Lease Agreements and the rents subsequently collected from any such Agreements approved by the Board.

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SUMMARY:

The Board of Recreation and Parks Commissioners has long recognized the need for policies and guidelines to consistently direct the installation of cellular telecommunication equipment on park property. As evidenced by the 2007 fire in Griffith Park, a lack of cellular facilities can disrupt rescue and fire-fighting efforts, becoming a public safety issue. Hikers and general park users within larger City parks may be unable to communicate in the case of an emergency. Despite attempts to develop citywide regulations regarding these installations, (Mayoral Executive Directive No. 2001-38, issued on May 10, 2001) only two Departments, the Department of Public Works, Bureau of Engineering (BOE) and the Department of Water and Power (DWP), have developed policies on the granting of permits in various right-of-ways.

Like BOE and DWP, RAP receives many requests for telecommunication placements. In spite of a previous call for a coordinated, uniform City policy that would protect the interests of all City entities, it may be prudent for the Board to approve procedures and guidelines for telecommunication placements as well as a Master Lease Agreement and a Site Lease Agreement tailored to meet the Department's needs. However, RAP will continue to work closely with other City Departments toward the goal of a uniform policy.

The Board has recognized the need for comprehensive guidelines since at least 1998. In that year the Board approved a set of guidelines or regulations applicable to telecommunication service providers but acknowledged that further action would be needed to implement a fully-developed policy (Report No. 410-98). The approved Report raised several issues including the desirability of incorporating antennas into a building's façade or on a utility pole or water tank as opposed to a free-standing installation. The design plans of firms were to be reviewed and input obtained from the affected Council Office and nearby community. As for fees, it was recommended that both rent and staff administrative time be charged and that the agreement contain renewal options which, when exercised, would allow for rate increases.

In approving the 1998 Report, the Board directed that the guidelines be amended to take into account comments made during the meeting by both the public and the Commissioners. In response to this directive and the realization that the RAP needed to clarify certain wording, the guidelines were revised in May 2001. This version was not presented to the Board because the Mayor's Executive Directive, which called for a Citywide policy, had just been issued. Staff later revised those guidelines in October 2002 and presented them to the Board in November 2002 (Board Report No. 02-401). Neither the May 2001 nor the October 2002 guidelines included specifics on a fee structure for applications or rents, nor a clear process for the approval of telecommunication installation requests.

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Staff has developed procedures for the review and processing of telecommunication installation applications as well as made slight modifications to the guidelines for the approval of said installations. The procedures are intended to give clear direction to potential applicants. These procedures and guidelines are attached to this Report at Exhibit A.

Any entity seeking to install telecommunications equipment on Recreation and Park property will have to enter into a Master Lease Agreement with the Department. This revocable lease agreement clearly assigns responsibilities to both the applicant and the Department, however it does not authorize the installation of any specific equipment. A supplemental application, known as a Site Lease Agreement, would have to be made for each individual installation and would be subject to the approval of the Commission. It is intended that the proposed procedures, guidelines and lease agreements will provide for a consistent application, review and approval process.

An applicant wishing to install telecommunications equipment on RAP property will be required to pay certain application fees and rents. A site application fee of \$2,000 for each discrete installation (Site Lease Agreement) will cover staff review, initial report to the Board of Commissioners, community outreach, site visit, and other necessary expenditures for project application review. This application fee does not guarantee approval of the Site Lease Agreement. Approved site installations will be charged rents according to the ten-year schedule of rents incorporated into the Master Lease Agreement. These rents vary based upon geographic location, acknowledging that certain areas of the City are more desirable for the installation of cellular equipment. Rents range from \$2,200 to \$3,100 per month depending on which Area Planning Commission region the facility is located within, each with a 3% increase per annum. Rents will be due annually as detailed in the Master Lease Agreement. Rents charged for installations will possibly offset general fund obligations. Applicants will also be fiscally responsible for any and all increase in utility charges that result from the installation of telecommunications equipment.

Staff has determined that the procedures, guidelines and lease agreements are tools for guiding future telecommunication installation projects, which does not make a commitment to any specific project that may result in physical environmental impacts. Therefore, each adopted Site Lease Agreement will require an individual review under the CEQA process. The CEQA review process will be completed through the Conditional Use Permit application process.

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FISCAL IMPACT STATEMENT:

There shall be no fiscal impact to the Department's General Fund as the application fees for individual Site Lease Agreements shall be sufficient to cover staff costs for review. Approved telecommunication installations shall be a revenue generating use through the collection of rents as included in each approved Site Lease Agreement.

This Report was prepared by Melinda Gejer, City Planning Associate, Planning and Construction.

**DEPARTMENT OF RECREATION AND PARKS
PROCEDURES AND GUIDELINES
FOR THE
INSTALLATION OF CELLULAR EQUIPMENT
ON
PARK PROPERTY**

In November 1998 the Board of Recreation and Park Commissioners (Board) adopted guidelines concerning the placement, installation, maintenance and dismantling of wireless or other telecommunication and ancillary equipment on Department of Recreation and Parks (RAP) property. The Board also approved the incorporation of certain additions to the guidelines, which have since been added to this revised version. Applicants seeking to place telecommunication equipment on Department of Recreation and Parks (RAP) property are required to adhere to the ten sets of regulations listed below as well as to any requirements set forth by other affected agencies, by federal or state regulators and by other City of Los Angeles entities.

These revised guidelines do not constitute a Lease Agreement and cannot be construed in any manner as granting permission to install telecommunication equipment on RAP property. Permission for such installation will be granted by way of a fully executed Lease Agreement approved by both the Board of Recreation and Park Commissioners (Board) and the City Attorney as to form after all of the following conditions have been met to the satisfaction of the Department. It is understood that Lease Agreements in excess of three-years duration as defined by the Los Angeles Administrative Code Section 10.5(b) are subject to the approval of the City Council.

PROCEDURES

1. Any installation of cellular equipment on RAP property will require:
 - a. A fully executed Master Lease Agreement (MLA), approved by both the Board and the City Attorney and, if applicable, the City Council.
 - b. A fully executed Site Lease Agreement (SLA) for each individual installation, approved by both the Board and the City Attorney, and if applicable, the City Council.
2. For each Site Lease Agreement a fee of \$2,000 will be paid by the applicant. \$1,000 will be due upon initial application and \$1,000 will be due upon conceptual approval by the Recreation and Parks Board of Commissioners. This fee will cover staff review, initial report to the Board, community outreach, site visit, and other necessary expenditures for project application review. This application fee does not guarantee approval of the Site Lease Agreement.

3. Upon application for a Site Lease Agreement, the following information will be provided by the applicant:
 - a. Photographs or photo simulations;
 - b. Architectural renderings;
 - c. Site development and construction plans;
 - d. Site mitigation measures;
 - e. Installation time frame;
 - f. Analysis of all existing infrastructure including, but not limited to, mounting of equipment and power supply/feed modifications.
4. Initial consultation with the Mayor's Office, the Council District, and the community including, but not limited to, the Park Advisory Board and/or Neighborhood Council shall take place.
5. The Board will do an initial review of the proposed Site Lease Agreement. All information contained in procedures numbers 1-4 shall be presented to the Board for consideration of the concept.
6. If the Board approves the concept, a final Report to the Board will be made following the community outreach process, and Conditional Use Permit process completed by the Department of City Planning which includes completion of California Environmental Quality Act (CEQA).
7. A "Notice-to-Proceed" must be issued by RAP, Planning and Construction Division to permit construction to begin.

GUIDELINES

1. Agreement Type and Duration:

Telecommunication Lease Agreements will be both conditional and revocable. The maximum initial term of the Master Lease Agreement will be five years and may automatically renew for successive one-year (1) periods unless Tenant notifies Landlord of Tenant's intention not to renew at least ninety (90) days prior to commencement of a successive one-year (1) renewal period; provided, however, that this Agreement will in any event remain in effect with respect to each fully executed SLA for so long as said SLA remains in effect. Exercise of the initial term and each option will require Board approval.

The term of each SLA shall be five (5) years. The SLA may be extended for three (3) additional and successive five (5) year periods on the same terms and conditions unless Tenant notifies Landlord of Tenant's intention not to renew at least one hundred eighty (180) days prior to commencement of the succeeding Renewal Term, subject to approval by Landlord.

2. Community/Public Comments:

In considering the placement of telecommunication equipment, RAP must remain sensitive to the wishes of the community. RAP will notify and solicit comments from affected groups and individuals, where applicable, when there is a reasonable possibility that telecommunication equipment will be placed on RAP property. RAP may also require the applicant to initiate and conduct the notifications. Examples of affected groups and individuals are as follows:

- a. Volunteer Neighborhood Oversight Committee(s) [VNOC];
- b. Park Advisory Board (PAB);
- c. Neighborhood Councils;
- d. Park User Groups (Little League, senior citizen associations, etc.);
- e. Community groups active at the RAP facility selected for the proposed installation; and,
- f. Residents/property owners and businesses located within 500 feet of the outer rim of the proposed placement site.

The applicant, under RAP supervision, will post a RAP-approved public notice in a conspicuous location at the RAP facility intended for the proposed placement. The notice will generally describe the applicant's proposal; the notice will also include a phone number where additional information may be obtained and a RAP address to which comments and recommendations may be mailed. Written comments received by RAP will be summarized and presented to the Board for consideration.

The applicant will be responsible for arranging and conducting public meetings or hearings.

The City Planning Department holds a variety of hearings as part of the normal approval process for a Conditional Use Permit (CUP); these hearings assist the City to remain informed of community opinion. RAP, not being a telecommunications applicant, will not be involved with any related CUP hearings except to report to the Board any issues relevant to the telecommunications request being made by the applicant. These issues shall be included in any report recommending final approval by the Board.

3. Costs and Expenses:

Upon obtaining all necessary approvals, the applicant will be fully responsible for all costs and expenses associated with the construction, installation, operation, upgrading, ongoing service or maintenance and, as applicable, the replacement, dismantling or removal of telecommunications equipment at the site.

4. Design Requirements:

Design elements will be obtained from the applicant and distributed to the Council Office, PAB, and other interested groups. Comments from these groups will be presented to the Board and other interested City entities before any Site Lease Agreement is approved.

The applicant will take all appropriate measures to minimize the size of the proposed telecommunication installation and to screen or disguise the presence of the equipment at the RAP site. These measures include but are not limited to the following element designs: planting natural, vegetative screening; using artificial structures aimed at disguising or lessening the visual impact of the installation; and attaching or visually blending the telecommunication equipment to existing structures. Each application must first analyze the feasibility of existing infrastructure for mounting of equipment. A good example of existing infrastructure which may be utilized in this way is sportsfield lighting. The applicant must include an analysis of the feasibility of utilizing these existing infrastructures prior to requesting installation of freestanding telecommunication equipment.

The applicant will, when first presenting a proposal, incorporate the telecommunication industry's best design practices that will minimize the size and amount of equipment to be installed and minimize the visual impact of the installation.

The general appearance or plan of the proposed installation will be reviewed by the Planning and Construction Division of RAP. The plans will then be presented to the Board prior to the issuance of final approval.

5. General Requirements:

Permission to grant the applicant's request is contingent upon whether the proposed telecommunication use is compatible with any specific trust or dedication upon which the site was acquired, is currently leased by or otherwise permitted to RAP. Permission is also contingent upon RAP finding that the installation will not in any material respect or degree be detrimental to the purposes for which the property was acquired or is now devoted. RAP shall also consider comments received from the public. All telecommunication equipment installed under a RAP-approved Lease Agreement shall be upgraded as technology advances; installed equipment and structures will be removed in a timely fashion at the applicant's sole cost when no longer needed at the licensed site or when the Site Lease Agreement is terminated.

6. Health and Safety Concerns:

All telecommunication installations approved by RAP will conform to federal, state and local requirements concerning construction codes and safety requirements concerning electromagnetic energy.

7. Other Requirements:

Any Lease Agreement will be limited in its ability to be assigned and contain the standard indemnification and insurance requirements established by the City Administrative Officer and the City Risk Manager.

8. Location of Telecommunication Site:

Applicants will not be permitted to develop cellular sites at or near highly visible locations on RAP's property, namely, at or near play or sitting areas, walkways, community gardens, etc. In addition, the public's ability to fully use the park facilities must not be materially affected by the proposed placement site.

Where two or more telecommunication service providers desire to locate equipment at or close to the same site, the applicant must agree to the co-location of antennas and other equipment if such is technologically feasible. The applicant also agrees to cooperate fully with the City's Information Technology Agency in assisting them to determine if co-location is feasible.

Every applicant's initial design must take into account the potential co-location of up to two (2) additional carriers.

9. Fees and Rent:

An application fee of two thousand dollars (\$2,000) is due for each individual Site Lease Agreement.

Rental fees are due annually and will range from twenty-two hundred (\$2,200) to thirty-one hundred (\$3,100) dollars per month for fiscal year 2010-2011. There will be a three percent (3%) increase beginning on July 1st of each subsequent year.

Lessee will be responsible for payment for the electricity it consumes in its operation at the rate charged by the servicing utility company. If a separate electrical meter cannot be installed at a particular site, Lessee shall pay RAP the sum of \$1,800, annually in advance, based on estimated annual consumption. Should Lessee want to audit their actual use, Lessee may sub-meter at their expense and submit an actual usage report for comparison against the estimated use.

10. Permits:

All telecommunication applicants will be solely responsible for obtaining any governmentally imposed licenses, permits or approvals and will pay all associated fees. The General Manager of RAP will have the authority after Board approval in concept, to issue a temporary permit or authorization if such is needed by the applicant in order to obtain governmentally imposed licenses, permits or approvals or to allow the applicant to perform preconstruction studies and related activities.