

APPROVED  
JUN 15 2011

REPORT OF GENERAL MANAGER

NO. 11-185

DATE June 15, 2011

C.D. All

BOARD OF RECREATION  
and PARK COMMISSIONERS

BOARD OF RECREATION AND PARK COMMISSIONERS

SUBJECT: PARK PROPERTY - INSTALLATION OF CELLULAR  
TELECOMMUNICATION EQUIPMENT

R. Adams	_____	K. Regan	_____
H. Fujita	_____	*M. Shull	<u><i>MShull</i></u>
V. Israel	_____	N. Williams	_____

*[Signature]*  
General Manager

Approved \_\_\_\_\_

Disapproved \_\_\_\_\_

Withdrawn \_\_\_\_\_

RECOMMENDATIONS:

That the Board:

1. Approve the attached "Procedures and Guidelines" (Exhibit A) regulating the conditions for the installation of telecommunications equipment on Department of Recreation and Parks (Department) 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 the Mayor and the City Council and the City Attorney as to form;
3. Direct the Board Secretary to forward the policies, guidelines, Master Lease Agreement and Site Lease Agreement to the Mayor and the City Attorney for approval as to form; and,
4. Authorize the Department's Chief Accounting Employee to establish a 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 (Board) 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) at least 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, the Department receives many requests for telecommunication placements. In spite of the 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 Site Lease Agreement tailored to meet the Department's needs.

In 1998, 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 Department 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.

On May 4, 2011, staff presented several options regarding lease pricing and flexibility. The Commission approved several of those options, directing staff to revise the policies, guidelines, master and site lease agreements accordingly.

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Any entity seeking to install telecommunication equipment on Department 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 procedures, guidelines and lease agreements will provide for a consistent application, review and approval process.

An applicant wishing to install telecommunications equipment on Department property will be required to pay certain application fees and rents. A site application fee of \$2,000 for each 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 schedule of rents incorporated into the Master Lease Agreement. These rents vary based upon geographic location recognizing that certain areas of the City are more desirable for the installation of cellular equipment than others. Rents for fiscal year 2011-2012 range from \$2,200 to \$3,100 per month depending on which Area Planning Commission region the facility is located within. Rents will be due annually as detailed in the Master Lease Agreement. Rents will be subject to either a 3% increase or an increase identical to the Los Angeles area Consumer Price Index (CPI) annually, whichever is higher. In order to maintain competitiveness, should rental increases be identical to CPI that increase will be capped at 6%. 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.

Approved telecommunication installations will be a revenue generating use through the collection of rents as included in each approved Site Lease Agreement.

### FISCAL IMPACT STATEMENT:

Although the exact amount is unknown, the installation of cellular telecommunications equipment on park property is expected to be revenue generating for the Department, providing a minimum of \$2,200 per month per installation. In addition, the application fees for individual Site Lease Agreements is expected to be sufficient to cover staff costs for review.

**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 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 Site Lease Agreement approved by both the Board of Recreation and Park Commissioners 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 as to form 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 as to form, and if applicable, the City Council.

2. Upon application for each SLA 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 Board. 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 SLA.
3. Upon application for a SLA, 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 Neighborhood Council shall take place.
5. The Board will do an initial review of the proposed SLA. 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 (as described in Guidelines (2) below) and the Conditional Use Permit process completed by the City of Los Angeles, City Planning Department (Planning) which includes completion of CEQA.
7. A "Notice-to-Proceed" must be issued by RAP's, Planning, Construction and Maintenance 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 MLA will be five years and will 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 will 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's 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 SLA 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, Construction and Maintenance Division of RAP. The plans will then be presented to the Board prior to the issuance of any 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. 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 will 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 SLA 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 Office 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 three (3) 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 2011-2012 depending on geographical location within the City. There will be an annual increase of either three percent (3%) or an increase identical to the Consumer Price Index for the Los Angeles area (CPI), whichever is higher, on July 1<sup>st</sup> of each subsequent year. Should the rent increase be identical to the CPI that increase shall be capped at 6%.

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 additional 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.