



## Legislation Text

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Staff Report for a Resolution Approving a Standard Agreement and Rate Schedule for the Installation and Use of Telecommunication Facilities on City Property

### **SUMMARY AND RECOMMENDATIONS**

Staff recommends that the Council approve the proposed standardized agreement for telecommunication facilities and establish a rate schedule that telecommunication ("telecom") companies must pay for the use of City property.

### **BACKGROUND**

The City of San Leandro (the "City") is approached periodically by telecom companies interested in placing facilities on City property. Each of these telecom companies has an individual agreement the City is requested to sign. Negotiating these agreements can take months and the cost of staff time and legal fees associated with processing these agreements can be high. To reduce costs to the City, ensure consistent and fair negotiation, and offer telecom companies a streamlined process, staff proposes that the City do the following: 1) establish a standard agreement for the use of City property by telecom companies; and 2) establish a City rate schedule for the use of City property by telecom companies. Having these items established in advance will put the City in a stronger position for handling future requests from telecom companies.

In addition to these rates, in a separate action the City requested Council approval of an application processing fee that will be included in the City Fee Schedule commencing with the schedule for 2012-13. This fee will cover the cost of staff time and legal review that currently goes unrecovered.

### **Analysis**

In early 2011, City staff conducted a survey of other local agencies to determine how each agency processes requests from telecom companies to install facilities on agency property. The survey showed a lack of consistency in process, agreements, and fees charged. In addition, few agencies knew the fees charged by other agencies and how other agencies were handling telecom company requests. Many agencies allow the telecom companies to lead the negotiations.

Agencies with a lot of experience with telecom companies have streamlined their processes by having standard agreements and established rates in place in advance. For example, the City of San Jose established two standard agreements and a rate schedule that was approved by its City Council. This allows San Jose to offer telecom companies an efficient process that takes much less time and provides an incentive to telecom companies to use city land due to tight time frames for facilities installation. This approach gives San Jose a stronger negotiating position with telecom companies.

City staff collected various agency telecom agreements and rate schedules. It is from these documents that staff, working with the City Attorney, developed the proposed standard agreement and rate schedule for the City. The proposed rates are on the upper end of the agency fees surveyed, but they are competitive since the City is able to offer telecoms a swift processing time.

### **Current Agency Policies**

- Zoning Code Section 4-1686 B. 2 exempts telecommunication applications on City-owned properties from formal Planning Department approvals.
- Practice has required administrative approval of proposed project plans by the Public Works Department prior to submittal of building permits.

### **Committee Review and Actions**

On June 13, 2012, the Facilities and Transportation Committee reviewed the proposed agreement and rate schedule.

### **Applicable General Plan Policies**

The following General Plan Policy is applicable to telecom structures within the City:

**Goal 7.08 Telecommunication Infrastructure** - Coordinate with the School Districts, the private sector, and local business organizations to upgrade and expand telecommunications infrastructure in San Leandro, including fiber optics, cable, DSL, and other emergency forms of information technology.

The proposed agreement and fee structure is consistent with this General Plan goal.

### **Permits and/or Variances Granted**

Each application will be reviewed administratively by Public Works staff to ensure that the proposed facilities can be adequately accommodated on City property without interference to on-site and surrounding existing uses.

### **Environmental Review**

No environmental review is required.

### **Legal Analysis**

The City Attorney and staff worked together to draft the standardized telecommunication company lease agreement.

### **Fiscal Impacts**

The amount of revenue is unknown at this time. Once a fee is established for the processing of these requests, there will be no unrecoverable staff costs.

**PREPARED BY:** Tara Peterson, Administrative Services Manager, Engineering and Transportation Department