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OAKLAND  
2013 JUL 11 PM 4:03

# AGENDA REPORT

TO: DEANNA J. SANTANA  
CITY ADMINISTRATOR

FROM: Ahsan Baig  
Acting Director, IT

SUBJECT: Fiber Optics Network Master Plan

DATE: June 08, 2013

City Administrator  
Approval

Date

7/9/13

COUNCIL DISTRICT: City Wide

## RECOMMENDATION

Staff recommends that City Council approve a resolution authorizing the City Administrator or her designee to: 1) negotiate and execute a professional services agreement with Kimley-Horn Associates for engineering services to develop a Citywide Fiber Optic Communications Master Plan in an amount not to exceed \$50,000; 2) negotiate and execute a professional services agreement with Tellus Venture to assist the City in the development of negotiating rights agreements, framework and process to provide access to city-owned facilities for public/private partnerships and other professional services for an amount not to exceed \$25,000; 3) negotiate and enter into a twelve month non-exclusive negotiating rights agreement with LightUP Oakland for development of a comprehensive broadband implementation strategy; 4) negotiate and enter into a twelve month non-exclusive lease agreement with LightUP Oakland to install fiber optic within the City of Oakland's existing conduit in the proposed Pilot project area; and, 5) waive the competitive bidding, advertising, and the request for proposal process and delegate authority to the City Administrator or her designee to negotiate and execute contracts.

## EXECUTIVE SUMMARY

Broadband infrastructure plays an important role in job growth particularly in technology, digital media and other innovation economy sectors, educational enhancements, public safety services delivery, and improving the quality of life by supporting improved Internet access at lower cost to residents and businesses. Private companies have approached the City with proposals to build high capacity fiber optic networks, partly by using City-owned facilities such as conduit, right-of-way, cables, and buildings. Compensation to the City could include City ownership of a portion of the networks, which could then be used to improve and expand the City's services and resources.

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The City needs to develop a fiber optic communications network master plan to help define a strategy for expanding the City fiber-optic network. Strategic enhancements will improve connectivity and support current and future communications infrastructure for the City. Staff proposes to hire Kimley-Horn Associates to provide the necessary engineering services to develop a comprehensive citywide fiber optic master plan. In parallel, City also needs to develop a framework and process that will provide access to City-owned facilities and resources and undertake other public/private partnerships for the purpose of building a broadband fiber optic network. Staff proposes to hire Tellus Venture Associates to develop this framework and process for developing any future agreements with private parties.

Therefore, staff recommends that Council authorize the City Administrator or her designee to enter into professional services agreements with Tellus Venture Associates for an amount not to exceed \$25,000 and Kimley-Horn Associates for an amount not exceed \$50,000.

Staff also recommends that the Council authorize the City Administrator or her designee to enter into negotiations on a non-exclusive, non-discriminatory basis with LightUP Oakland, a private enterprise, which is interested in investing in a Pilot Fiber Project in the Airport Business District. LightUP Oakland seeks to build a defined route of fiber optic cable as the principal component of a pilot project within the underserved Airport-Coliseum district of Oakland, specifically the Oakland Airport Business Park, through a collaborative public-private partnership that includes stakeholder public agencies and a multi-disciplined private sector executive team. LightUP Oakland proposes to facilitate technology infrastructure enhancements that serve to feed the pilot area, with high-speed broadband service in support of fostering its emerging economy, modernizing its industrial and commercial base, attracting and retaining companies that might otherwise go elsewhere, and improving reliability of a critical Oakland emergency response system component. Access to the speed and capacity only fiber can provide is vital to the continued economic development of the business park. Its proximity to San Leandro's now-operational fiber ring presents a unique opportunity to deploy high speed broadband on a regional basis in keeping with the stated goals of the East Bay Broadband Consortium, organized to improve broadband deployment, access and adoption in Alameda, Contra Costa and Solano counties through a collaborative regional approach. A proposal submitted by LightUP Oakland is attached to the report, and as a result of these negotiations, the proposed agreement would be submitted to the Council for final approval.

### OUTCOME

New and upgraded broadband infrastructure would be built and operated by private companies at their own cost and risk, using City-owned facilities where available and appropriate. These facilities could include conduit, buildings, right of ways and other encroachments on City property, as well as existing broadband infrastructure, such as towers or fiber optic lines.

Compensation to the City could include the use or ownership of a portion of the new or upgraded infrastructure as well as cash payments.

Before moving forward, staff is seeking guidance from the Council regarding the appropriate way to address this sort of proposal.

### **BACKGROUND/LEGISLATIVE HISTORY**

Two private companies, Pacific Thomas Capital (PTC) and Lit San Leandro (LSL), have inquired about the possibility of leasing space in City-owned conduit in order to build high speed, high capacity fiber optic broadband facilities in the Airport, Edgewater, Fruitvale, Jack London Square and Downtown areas. These two companies have teamed together to form LightUP Oakland consortium. A collaborative, public-private driven effort that includes support from Bay Area Rapid Transit (BART) and the Port of Oakland to bring high speed broadband infrastructure to Oakland. LightUP Oakland's stated goal is to promote investment, attract and retain business, improve public safety, and support City of Oakland strategic economic development objectives through the development of fiber infrastructure that delivers affordable and reliable high speed broadband to end users in Oakland's major commercial corridors, Coliseum to City Hall.

Lit San Leandro (LSL), and its sister company San Leandro Dark Fiber, negotiated an agreement in 2011 to lease space in approximately 11 miles of conduit owned by the City of San Leandro. The resulting network provides fast Internet service to businesses and commercial properties in downtown San Leandro that previously lacked it. Since its public launch a year ago, 25 paying customers have signed up for service from LSL, primarily small businesses that previously lacked affordable and reliable high speed Internet access. As part of the agreement, the City of San Leandro received ownership of 10% of the network's total capacity for its own purposes, including public safety, library service and economic development. In addition, the City of San Leandro expects to generate incremental tax revenue resulting from increased business activity and, in future years, receive cash payments from the LSL venture based on the then-current market rate for conduit leases.

The new infrastructure being proposed would extend the LSL network into Oakland, connecting to an international telecommunications hub in Jack London Square and to other competitive local fiber optic networks, including Port of Oakland, City and County of San Francisco, Corporation for Education Network Initiatives in California (CENIC) and the one operated by BART. Businesses and real estate along its path would gain a competitive advantage from lower cost, higher capacity Internet access.

Although details for the Oakland projects haven't been discussed, the City of San Leandro's agreement has been offered by LSL and PTC as a template for negotiations with the City of Oakland. To date, that agreement has functioned as intended and has not encountered any significant problems or been the subject of litigation or meaningful challenges.

Staff requests that Council waive the advertising and competitive bidding requirements in accordance with Oakland municipal code. OMC Section 2.04.050 requires formal advertising and competitive bidding when the city purchases services, supplies or combination thereof required by the City which exceeds \$50,000. However, OMC Section 2.04.050 1.5 permits the Council to waive these requirements upon a finding and determination that it is in the best interests of the City to do so. Additionally, OMC section 2.04.51 A requires the City to conduct a request for proposal or request for Qualifications, competitive selection process ("RFP/RFQ") prior to the purchase of professional services unless this requirement is waived under OMC Section 2.04.51 B upon a finding by the City Council or its designee that it is in the best interest of the City to do so.

The City currently pay thousands of dollars a month in recurring costs to provide connectivity to the 911 center, Municipal services and other City owned properties. Rapid implementation of this network can provide the city with significant cost savings by leveraging the connectivity that LightUP Oakland will provide. The ability to waive bidding and advertising requirements will allow the City to be flexible and enter into agreements quickly with business entities in a streamlined fashion that will promote economic development.

Staff recommends that the Council pursuant to OMC Section 2.04.50 1.5 and Section 2.04.51 B, respectively, finds and determines that is in the best interests of the City to waive the formal advertising, competitive bidding, and the RFP/RFQ requirements and authorize the City Administrator, or her designee, to negotiate and enter into a professional services agreement with Kimley-Horn Associates for engineering services to develop a Citywide Fiber Optic Communications Master Plan and with Tellus Venture to assist the City in the development of negotiating rights agreements, framework and process to provide access to city-owned facilities for public/private partnerships. Kimley-Horn Associates has been working with the Oakland Public Works Agency, Transportation Division to develop the Master Plan for the Oakland Intelligent Transportation System. Kimley-Horn Associate has work with the Department of Information Technology in the deployment of Fiber Optic connectivity between the City and Port of Oakland the for the Domain Awareness Center Project. Kimley-Horn Associate has been hired by the Port of Oakland to develop a Security Fiber Optic network plan. Similarly, Tellus Venture was hired by the City of Oakland, authorized by Council 80692 C.M.S. to perform a thorough broadband need analysis and make recommendation for deploying a citywide broadband network. Tellus Venture was hired by the City of San Leandro to provide professional assistance in negotiating and developing a License Agreement between LitSan Leandro and City of San Leandro. Through these projects Kimley-Horn Associates and Tellus Venture have demonstrated the necessary professional expertise, qualifications and capabilities to perform the requested services.

## ANALYSIS

### *Fiber Optics Network Master Plan and Broadband Strategy:*

Broadband access is increasingly considered to be a basic utility that is essential to the wellbeing of all City residents. Experience in neighboring cities – San Leandro, Alameda and Berkeley – has shown that increased competition between service providers and the availability of independently owned broadband infrastructure leads to improved service and more options for consumers, businesses and public agencies alike.

The City of Oakland owns or controls resources that can support the construction and operation of new and upgraded broadband infrastructure. Private companies have expressed interest in using these facilities to build broadband networks that can support specific economic development and revitalization initiatives as well as generally improving Internet availability and encouraging its adoption throughout Oakland. Overall in Alameda County, 78% of homes subscribe to broadband service. But data from the California Public Utilities Commission shows that Oakland has many neighborhoods where the adoption rate is below 45%, and sometimes even less than 30%.

The City needs to upgrade its own emergency and public safety networks, and continue to build out projects, such as the Intelligent Transportation System initiative, that depend on improved broadband connectivity. Creative solutions and new sources of funding are necessary to complete this work. Leveraging the value of the City's existing investment in telecommunications and related facilities to, in effect, pay for the new infrastructure required is exactly that.

Kimley-Horn Associates has been working with Transportation Division in Public Works Agency, developing the Master Plan for Intelligent Transportation System in Oakland. This plan includes significant amount of work related to transportations needs and communication dependency on the fiber optics infrastructure. In addition, Kimley-Horn Associates is also hired by Port of Oakland to develop the Security Fiber Optic network plan. Kimley-Horn has recently worked with Department of Information Technology in deploying the Fiber Optic connectivity between the City and Port, for the Domain Awareness Center project. This fiber optic connectivity links the two networks, City DAC and Port Camera Security system, enabling real-time video availability at the Oakland EOC.

Tellus Venture was hired by the City of Oakland, authorized by the Council 80692 C.M.S. to perform a thorough broadband need analysis and make recommendations for deploying a citywide broadband network.

LightUP Oakland Proposed Pilot Project:

The proposed LightUP Oakland Pilot Project area (See Attachment A) would make it possible for the City to provide far faster connections at a lower cost to the 911 Center, the Police Administration Building, the Emergency Operations Center, the Domain Awareness Center being developed with the Port of Oakland, and other critical locations. Expanded City access to fiber optic networks in the Downtown area and, possibly, the Eastmont Police Station, would further increase the performance and survivability of internal networks and support improvements in the vital services that depend on them. Next Generation 911 systems, in particular, will need robust, high speed connectivity to support the growing range of Internet-based emergency services offered to the public. Access to broadband service – fast, reliable, high quality links to the Internet and internal networks – is a basic competitive requirement of twenty-first century economies. Broadband availability is one of the first criteria assessed when businesses consider relocating or expanding. It is considered to be a non-negotiable resource that is necessary for businesses to operate and to keep pace with global competitors.

This private sector interest is an opportunity for the City. Broadband facilities – particularly high capacity fiber optic lines – have useful lives that are measured in decades. If agreements can be negotiated that meet the needs of both private investors and the City, the new infrastructure that results will provide long term benefits to all.

Independent fiber optic projects typically start when a company develops new connectivity needs. In the course of solving that problem, other opportunities are frequently discovered and pursued. The LSL project, for example, began when a major local employer, OSI Soft, was planning a second facility in San Leandro. It was a short term opportunity to leverage the investment that had been made to solve the immediate problem.

There is an advantage to encouraging investors to bring proposals to the City at any time, and to respond quickly and constructively when they do. It's possible that a competitor might value a particular opportunity even more highly and would be willing to offer greater compensation to the City if given the opportunity to make a counter proposal. However, requiring entrepreneurs to put their ideas out to bid would likely prevent them from approaching the City in the first place.

Periodically issuing Requests for Proposals could also generate proposals that might not otherwise be presented. However, large incumbent telecommunications carriers are the likeliest to respond on a scheduled basis. It is very possible that their primary interest would be to obtain an option on City assets in order to prevent new competition from gaining a foothold. The result would be a continuation of the status quo, with no new infrastructure built.

Nevertheless, it is in the City's interest to ensure that potential investors in broadband infrastructure know they can work cooperatively with the City to develop projects in Oakland.

Therefore, staff recommends maintaining an ongoing outreach program to maintain industry-wide awareness of the broadband resources and opportunities available in Oakland.

Staff further recommends accepting proposals on an ongoing, open and non-exclusive basis rather than periodically issuing formal Requests for Proposals. Private sector economic development opportunities do not occur on a reliable schedule, and often are available for only a limited amount of time at specific locations. Care must be taken to ensure that proper due diligence and evaluation of proposals is conducted but, consistent with that need, it is in the City's best interest to respond quickly and flexibly.

#### Actions Required of Council

The following actions are requested of the City Council:

1. Authorize the City Administrator or designee to negotiate and execute a professional services agreement with Kimley-Horn Associates for engineering services to develop a Citywide Fiber Optic Communications Network Master Plan in an amount not to exceed \$50,000
2. Authorize the City Administrator or designee to negotiate and execute a professional services agreement with Tellus Venture for professional services to assist the City in the development of negotiating rights agreements, framework and process to provide access to city-owned facilities for public/private partnerships and other professional services for an amount not to exceed \$25,000;
3. Authorize the City Administrator or her designee to negotiate a twelve month non-exclusive negotiating rights agreement with LightUP Oakland for development of a comprehensive broadband implementation strategy.
4. Authorize the City Administrator or her designee to negotiate a twelve month non-exclusive lease agreement with LightUP Oakland to install fiber optic within the City of Oakland's existing conduit in the proposed Pilot project area
5. Waive the competitive bidding, advertising, and the request for proposal process and delegate authority to the City Administrator to award contracts related to professional services.

#### PUBLIC OUTREACH/INTEREST

In 2010, the City of Oakland completed an extensive study regarding broadband needs and opportunities. A comprehensive stakeholder assessment process gathered extensive comment from members of the public, local businesses and non-profits, City staff and other government

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agencies. This research included district-based focus groups, a town hall meeting, workshops, meetings, written staff surveys, and inbound and outbound telephone and email contact.

The study concluded that “enabling entrepreneurial opportunities for local businesses on a pay-as-you-go, public-private partnership basis is...backed by Oakland stakeholders.” It also found that residents and other stakeholders prefer that private companies, and not the City, bear the financial risk of providing commercial telecommunication services, but the City should pursue opportunities to own and operate its own institutional infrastructure when doing so can result in cost savings and improved efficiency.

### COORDINATION

The Department of Information Technology has primary responsibility for the current discussions. Coordination has taken place with the City Attorney’s Office, Department of Economic and Workforce Development, Budget Office, Public Works Agency, including the Transportation Services Division, Police Department; Fire Department, and with the City Administrator’s office.

### COST SUMMARY/IMPLICATIONS

Developing and negotiating these agreements will require staff time and other City resources. Construction and overall operating costs, including mitigation of impacts on City property and resources, would be the responsibility of the private companies implementing the resulting projects. Acquisition of new broadband facilities for City use will offer significant cost savings, reduce future costs and immediately enable improved support for City operations and services.

Although direct revenue is not likely to be a large sum, the City will realize more substantial indirect financial benefits from the increased economic activity and well being these agreements will make possible. There is a cost to the City associated with operating and maintaining any network infrastructure it owns, but it is significantly lower than the current cost of buying service on a monthly basis from third party vendors.

Source of funding for KHA and Tellus contracts GPF 1010-46231-54919.0000000.IP62.

### SUSTAINABLE OPPORTUNITIES

**Economic:** The first and primary goal of improved high speed broadband infrastructure is to enable local businesses to expand and compete in a global, connected market, to provide resources and an environment conducive to new ventures and to attract existing companies to relocate or expand to Oakland. Pursuing cooperative broadband development projects should help to improve Oakland’s economy by reversing high unemployment rates, increasing business activity and, as a result, generate additional tax revenue for the City.

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Encouraging the development of open, independent broadband networks also levels the playing field for small companies that need to buy services or want to enter the telecommunications business themselves. Telecommunications service is largely regulated at the state and federal level. Pursuing local infrastructure development opportunities is a way for the City of Oakland to balance that trend and create competitive advantages for residents.

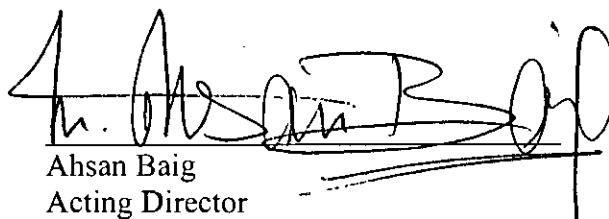
**Environmental:** Improved telecommunications facilities reduce the need for physical trips, both within and to and from the City. The high technology jobs and increased capital investment enabled by improved broadband infrastructure will reduce reliance on older industries, modernize commercial real estate inventories and establish a greener development path for the City's economy.

**Social Equity:** An extensive broadband study conducted for the City of Oakland in 2010 and research conducted in 2013 for the East Bay Broadband Consortium shows that the benefits of twenty first century technology and economic growth and innovation are not equally available to all. There are distinct gaps in broadband service availability within the community and stark differences in the adoption rate of the digital services that are increasingly the gateway to prosperity for all. Improving both broadband infrastructure and the City's ability to deliver high quality services to residents will directly address this divide.

#### CEQA

Use of existing utility facilities, such as telecommunications conduit, should be categorically exempt per CEQA Guidelines Section 15304(b). Construction of new facilities in existing right of ways, such as public streets, should not affect sensitive environmental resources and would be categorically exempt per CEQA Guidelines Section 15304(f).

Respectfully submitted,



Ahsan Baig  
Acting Director  
Department of Information Technology

Prepared by:  
Terry Allen, Division Manager  
Networking and Telecommunication  
Department of Information Technology

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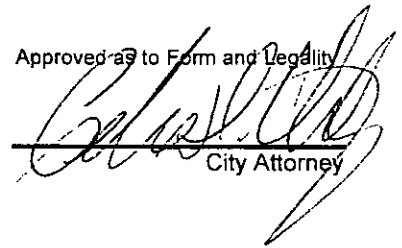
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OAKLAND

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# OAKLAND CITY COUNCIL

RESOLUTION No. \_\_\_\_\_ C.M.S.

Approved as to Form and Legality



City Attorney

**RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO: 1) NEGOTIATE AND EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH KIMLEY-HORN ASSOCIATES FOR ENGINEERING SERVICES IN AN AMOUNT NOT TO EXCEED \$50,000; AND, 2) WAIVE THE COMPETITIVE BIDDING, ADVERTISING, AND THE REQUEST FOR PROPOSAL PROCESS AND DELEGATE AUTHORITY TO THE CITY ADMINISTRATOR TO AWARD CONTRACT RELATED TO ENGINEERING SERVICES.**

**WHEREAS**, the Broadband infrastructure is a crucial requirement for public safety services delivery, innovative hubs creation, job growth, educational enhancements, and improving the quality of life; and

**WHEREAS**, the fiber optics is the only medium to offer Broadband infrastructure to support media rich applications, new social media platforms, emerging technologies, high speed connectivity, and next generation 911 services;

**WHEREAS**, Next Generation 911 systems, in particular, requires robust, high speed connectivity to support the growing range of Internet-based emergency services offered to the public; and

**WHEREAS**, OMC Section 2.04.050 requires formal advertising and competitive bidding when the city purchases services, supplies or combination thereof required by the City which exceeds \$50,000. However, OMC Section 2.04.050 1.5 permits the Council to waive these requirements upon a finding and determination that it is in the best interests of the City to do so; and

**WHEREAS**, OMC section 2.04.51 A requires the City to conduct a request for proposal or request for Qualifications, competitive selection process ("RFP/RFQ") prior to the purchase of professional services unless this requirement is waived under OMC Section 2.04.51 B upon a finding by the City Council or its designee that it is in the best interest of the City to do so; and

**WHEREAS**, the Department of Information Technology (DIT) has determined that Kimley-Horn Associates has demonstrated the necessary professional expertise, qualifications and capabilities to perform the requested services; and

**WHEREAS**, the City currently pay thousands of dollars a month in recurring costs to provide connectivity to the 911 center, Municipal services and other City owned properties; and

**WHEREAS**, rapid implementation of this network can provide the city with significant cost savings by leveraging the connectivity that a fiber optic infrastructure will provide; and

**WHEREAS**, the ability to waive bidding and advertising requirements will allow the City to be flexible and enter into agreements quickly with business entities in a streamlined fashion that will promote economic development; and

**WHEREAS**, Kimley-Horn Associates is currently working with Transportation Division in Public Works Agency, developing the Master Intelligent Transportation System (ITS) Plan, including the Fiber Optics needs; and

**WHEREAS**, Kimley-Horn Associates is recently hired through a competitive bid process by the Port of Oakland to develop a Security Fiber Optic Network Expansion and Redundancy Project Design; and

**WHEREAS**, Kimley-Horn Associates is actively involved in deploying the City and Port Joint Domain Awareness Center system for Situation Awareness; and

**WHEREAS**, some of the proposed fiber infrastructure deployments would make it possible for the City to provide far faster connections at a lower cost to the 911 Center, the Police Administration Building, the Emergency Operations Center, and the joint Domain Awareness Center being developed with the Port of Oakland, and other critical locations;

**WHEREAS**, expanded City access to fiber optic networks in the Downtown area and, possibly, the Eastmont Police Station, would further increase the performance and survivability of internal networks and support improvements in the vital services that depend on them; now, therefore be it

**RESOLVED**, that the City Council hereby authorizes the City Administrator or her designee to negotiate and execute an engineering services agreement with Kimley-Horn Associates for development of a comprehensive Master Fiber Optic plan; and be it

**RESOLVED**, that the City Council hereby authorizes the City Administrator or her designee to negotiate and award contract to Kimley-Horn Associates for engineering services in an amount not to exceed \$50,000; and be it

**FURTHER RESOLVED**: That pursuant to OMC sections 2.04.050.1. and 2.04.051.B , the City Council hereby finds and determines that it is in the best interest of the City to waive the competitive request for proposal/qualifications process for engineering services to develop a Citywide Fiber Optic Communications Master Plan based on the reasons set forth above in this resolution; and be it

**FURTHER RESOLVED**: That the City Council finds and determines based on the above determinations of the City Administrator, that the goods and services provided pursuant to the agreements authorized hereunder are of a professional, scientific, or technical and temporary nature, and shall not result in a loss of employment or salary by any person having permanent status in the competitive service process; and be it

**FURTHER RESOLVED**, that funds to complete this project will be drawn from 1010-46231-54919.000000.IP62; and be it.

**FURTHER RESOLVED**, that the contracts shall be reviewed and approved by the City Attorney and placed on file in the Office of the City Clerk.

**FURTHER RESOLVED**, that the City Attorney shall review and approve any such agreements

**FURTHER RESOLVED**, that any agreements reached would be non-exclusive, compliant with city policies and subject to approval by the city council.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_, 20\_\_\_\_

PASSED BY THE FOLLOWING VOTE:

GIBSON-McELHANEY, REID, KALB, GALLO, BROOKS, KAPLAN, SCHAAF, and PRESIDENT KERNIGHAN

NOES-

ABSENT-

ABSTENTION-

ATTEST: \_\_\_\_\_

LaTonda Simmons  
City Clerk and Clerk of the  
Council of the City of Oakland, California

**OAKLAND CITY COUNCIL**

2013 JUL 11 PM 4:03

City Attorney

**RESOLUTION No. \_\_\_\_\_ C.M.S.**

**RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO: 1) NEGOTIATE AND EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH TELLUS VENTURE FOR PROFESSIONAL SERVICES IN AN AMOUNT NOT TO EXCEED \$25,000; AND, 2) WAIVE THE COMPETITIVE BIDDING, ADVERTISING, AND THE REQUEST FOR PROPOSAL PROCESS AND DELEGATE AUTHORITY TO THE CITY ADMINISTRATOR TO AWARD CONTRACTS RELATED TO PROFESSIONAL SERVICES.**

**WHEREAS**, the Broadband infrastructure is a critical requirement for public safety services delivery, innovative hubs creation, job growth, educational enhancements, and improving the quality of life; and

**WHEREAS**, the fiber optics is the only medium to offer Broadband infrastructure to support media rich applications, new social media platforms, emerging technologies, high speed connectivity, and next generation 911 services;

**WHEREAS**, Next Generation 911 systems, in particular, requires robust, high speed connectivity to support the growing range of Internet-based emergency services offered to the public; and

**WHEREAS**, OMC Section 2.04.050 requires formal advertising and competitive bidding when the city purchases services, supplies or combination thereof required by the City which exceeds \$50,000. However, OMC Section 2.04.050 1.5 permits the Council to waive these requirements upon a finding and determination that it is in the best interests of the City to do so; and

**WHEREAS**, OMC section 2.04.51 A requires the City to conduct a request for proposal or request for Qualifications, competitive selection process ("RFP/RFQ") prior to the purchase of professional services unless this requirement is waived under OMC Section 2.04.51 B upon a finding by the City Council or its designee that it is in the best interest of the City to do so; and

**WHEREAS**, the City currently pay thousands of dollars a month in recurring costs to provide connectivity to the 911 center, Municipal services and other City owned properties; and

**WHEREAS**, rapid implementation of this network can provide the city with significant cost savings by leveraging the connectivity that a fiber optic infrastructure will provide; and

**WHEREAS**, the ability to waive bidding and advertising requirements will allow the City to be flexible and enter into agreements quickly with business entities in a streamlined fashion that will promote economic development; and

**WHEREAS**, Tellus Venture Associates was hired by the City of Oakland, authorized by the Council 80692 C.M.S. to perform a thorough broadband need analysis and make recommendations for deploying a citywide broadband network; and

**WHEREAS**, Tellus Venture was hired by the City of San Leandro to provide professional assistance in negotiating and developing a License Agreement between LitSan Leandro and City of San Leandro; and

**RESOLVED**, that the City Council hereby authorizes the City Administrator or her designee to negotiate and execute a consulting services agreement with Tellus Venture Associates for assistance in negotiations; and be it

**RESOLVED**, that the City Council hereby authorizes the City Administrator or her designee to negotiate and award contract to Tellus Venutre Associates for professional services in an amount not to exceed \$25,000; and be it

**FURTHER RESOLVED**: That pursuant to OMC sections 2.04.050.1. and 2.04.051.B , the City Council hereby finds and determines that it is in the best interest of the City to waive the competitive request for proposal/qualifications process for professional services to assist the City in the development of negotiating rights agreements, framework and process to provide access to city-owned facilities for public/private partnerships and other professional services ; based on the reasons set forth above in this resolution and be it

**FURTHER RESOLVED**: That the City Council finds and determines based on the above determinations of the City Administrator, that the goods and services provided pursuant to the agreements authorized hereunder are of a professional, scientific, or technical and temporary nature, and shall not result in a loss of employment or salary by any person having permanent status in the competitive service process; and be it

**FURTHER RESOLVED**, that funds to complete this project will be drawn from 1010-46231-54919.0000000.IP62; and be it.

**FURTHER RESOLVED**, that the contracts shall be reviewed and approved by the City Attorney and placed on file in the Office of the City Clerk.

**FURTHER RESOLVED**, that the City Attorney shall review and approve any such agreements

**FURTHER RESOLVED**, that any agreements reached would be non-exclusive, compliant with city policies and subject to approval by the city council.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_, 20\_\_\_\_\_

PASSED BY THE FOLLOWING VOTE:

GIBSON-McELHANEY, REID, KALB, GALLO, BROOKS, KAPLAN, SCHAAF, and PRESIDENT KERNIGHAN

NOES-

ABSENT-

ABSTENTION-

ATTEST: \_\_\_\_\_

LaTonda Simmons  
City Clerk and Clerk of the

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OFFICE OF THE CITY CLERK  
OAKLAND

Approved as to Form and Legality

  
City Attorney

0813 JUL 11 PM 4:03 OAKLAND CITY COUNCIL

RESOLUTION No. \_\_\_\_\_ C.M.S.

**RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO: 1) ENTER INTO A TWELVE MONTH NON-EXCLUSIVE NEGOTIATING RIGHTS AGREEMENT WITH LIGHTUP OAKLAND FOR DEVELOPING A COMPREHENSIVE BROADBAND IMPLEMENTATION STRATEGY; AND 2) A TWELVE MONTH NON-EXCLUSIVE NEGOTIATING RIGHTS AGREEMENT WITH LIGHTUP OAKLAND TO LEASE CITY OF OAKLAND CONDUIT TO INSTALL FIBER OPTIC INCLUDING THE PROPOSED PILOT PROJECT AREA; AND RETURN TO THE COUNCIL FOR AUTHORIZATION.**

**WHEREAS**, the broadband infrastructure is a crucial requirement for public safety services delivery, innovative hubs creation, job growth, educational enhancements, and improving the quality of life;

**WHEREAS**, the fiber optics is the only medium to offer broadband infrastructure to support media rich applications, new social media platforms, emerging technologies, high speed connectivity, and next generation 911 services;

**WHEREAS**, next generation 911 systems, in particular, requires robust, high speed connectivity to support the growing range of Internet-based emergency services offered to the public;

**WHEREAS**, private enterprise have approached the City with proposals to build high capacity fiber optic networks, partly by using City-owned facilities such as conduit, right-of-way, cables, buildings, etc.;

**WHEREAS**, Pacific Thomas Capital (PTC) and Lit San Leandro (LSL), have enquired about the possibility of leasing space in City-owned conduit in order to build high speed, high capacity fiber optic broadband facilities in the City, including without limitation the Airport Business District Area (Pilot Project Area);

**WHEREAS**, LSL, and its sister company San Leandro Dark Fiber, have developed similar agreements to lease space in approximately 11 miles of conduit owned by the City of San Leandro;

**WHEREAS**, the City contemplates contracting with service providers such as and/or similar to PTC and LSL for developing and implementing fiber optic broadband facilities; now, therefore be it

**RESOLVED**, that the City Council hereby authorizes the City Administrator or her designee to enter in to a 12 month non-exclusive negotiating rights agreement with LightUP Oakland for developing a comprehensive broadband implementation strategy; and be it

**RESOLVED**, that the City Council hereby authorizes the City Administrator or her designee to

enter in to a 12 month non-exclusive negotiating rights agreement with LightUP Oakland for the purpose of installing fiber optic within the City of Oakland’s existing conduit including the Pilot Project Area, but not limited to such area; and be it

**FURTHER RESOLVED:** That the City Council finds and determines based on the above determinations of the City Administrator, that the goods and services provided pursuant to the agreements authorized hereunder are of a professional, scientific, or technical and temporary nature, and shall not result in a loss of employment or salary by any person having permanent status in the competitive service process; and be it

**FURTHER RESOLVED,** that the contracts shall be reviewed and approved by the City Attorney and placed on file in the Office of the City Clerk.

**FURTHER RESOLVED,** that the City Attorney shall review and approve any such agreements

**FURTHER RESOLVED,** that any agreements reached would be non-exclusive, compliant with city policies and subject to approval by the city council.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_, 20\_\_\_\_\_

PASSED BY THE FOLLOWING VOTE:

GIBSON-McELHANEY, REID, KALB, GALLO, BROOKS, KAPLAN, SCHAAF, and PRESIDENT KERNIGHAN

NOES-

ABSENT-

ABSTENTION-

ATTEST: \_\_\_\_\_

LaTonda Simmons  
City Clerk and Clerk of the  
Council of the City of Oakland, California