



Legislation Details (With Text)

File #:	19-137	Version:	1	Name:	Staff Report for a City of San Leandro City Council Resolution to Approve a License Agreement with Common Networks for City Facility Rooftop Access and a Resolution to Approve a License Agreement with Common Networks to Access City Fibers to Build a Resid
Type:	Staff Report	Status:			Filed
		In control:			City Council
On agenda:	6/17/2019	Final action:			6/17/2019
Enactment date:		Enactment #:			
Title:	Staff Report for a City of San Leandro City Council Resolution to Approve a License Agreement with Common Networks for City Facility Rooftop Access and a Resolution to Approve a License Agreement with Common Networks to Access City Infrastructure to Assist in the Development of a Residential Broadband Service				
Indexes:					
Code sections:					
Attachments:					

Date	Ver.	Action By	Action	Result
6/17/2019	1	City Council	Received and Filed	

Staff Report for a City of San Leandro City Council Resolution to Approve a License Agreement with Common Networks for City Facility Rooftop Access and a Resolution to Approve a License Agreement with Common Networks to Access City Infrastructure to Assist in the Development of a Residential Broadband Service

SUMMARY AND RECOMMENDATIONS

Common Networks, a wireless Internet Service Provider ("ISP"), expressed interest in expanding its service coverage to San Leandro. To support this expansion and enable Common Networks to build a residential broadband network utilizing City-owned infrastructure, staff recommends that the City Council approve two separate resolutions: a License Agreement for City Facility Rooftop Access and a License Agreement to Access City Fibers.

BACKGROUND

Common Networks, a technology company based in San Francisco with operations in the City of Alameda, has developed an innovative solution to deliver high-speed Internet service via wireless connections, with a network that relies on rooftops with wide visibility, preferably on buildings connected to fiber, which can be used to create a high-speed broadband network. Recognizing the market potential in San Leandro, Common Networks expressed an interest to utilize City infrastructure to expand its services to San Leandro residents.

Analysis

In September 2018, the City Council unanimously adopted the Fiber Optic Master Plan and Smart City Strategy. As part of this comprehensive report, the City conducted a survey of residents on their broadband usage and views. Over 1,800 residents responded to the broadband survey, with responses coming from all neighborhoods and districts within the City.

The following is an excerpt from the Fiber Optic Master Plan:

“Of those expressing low overall satisfaction, 61% indicated that there were no other (internet) service options in their area and 62% were dissatisfied because the connection was slow or unreliable. These results suggest an opportunity for a provider with high-speed, reliable broadband to capture significant market share with the residential sector.”

The City has broadband infrastructure and assets that can be made available to support the creation of a wireless residential broadband network. Recognizing the opportunity, Common Networks began discussions with the City about the possibility of expanding their service to San Leandro. The discussions resulted in two separate but related agreements that would enable Common Networks to expand into San Leandro by utilizing City assets to create a citywide wireless broadband network:

- (1) License Agreement to Access Rooftops on City Facilities; and
- (2) License Agreement to License Dark Fiber from the City-owned Fiber Strands.

The key terms and conditions of the Rooftop License are:

- The agreement term would be five years and would automatically renew each year thereafter, subject to either party's right to cancel without cause upon 180 days' notice;
- Common Networks would pay the City an annual per site license fee, based on fair market value, to access rooftop space to install antennas and related equipment to support its network;
- The Agreement will govern all site licenses. The terms of the site licenses would run concurrently;
- The Agreement will be non-exclusive; and
- Common Networks must ensure non-interference with other City-owned wireless facilities, such as public Wi-Fi.

The key terms and conditions of the Fiber License include the following:

- The term would be five years and would automatically renew each year thereafter, subject to either party's right to cancel without cause upon 180 days' notice;
- Common Networks would pay the City a rate per foot, per month, per strand (charged annually) to access City owned fibers;

Where available, Common Network's antennas on City rooftops would connect to City fibers; and

- The License Agreement will be non-exclusive.

The City would benefit through earning a return on its broadband infrastructure investment. The City also benefits through the introduction of a new cutting-edge ISP to directly benefit City residents and households.

Based on comments by the City Council Facilities & Transportation Committee at its May 8 meeting, the agreements include a local workforce development effort adapted from the City's existing local business inclusion policy.

Staff recommends that the City Council approve the attached resolutions for a License Agreement for City Facility Rooftop Access and a Fiber License Agreement to Access City Fibers.

Fiscal Impacts

Fiber License Agreement - Payment for access and use of the Licensed Fiber will be \$0.03 per linear foot per strand per month for a total of \$4,251.05 per month (\$51,012.72 annually) paid by Common to the City for the term of this Agreement. The agreement will increase by 3% each year and has a five-year initial term.

Rooftop License Agreement - Payment for access and usage of City facility rooftop sites is expected to generate \$5,150.00 per month (\$61,800.00 annually) paid by Common to the City for the term of this Agreement. The agreement will increase by 3% each year and has a five-year initial term.

The combined payment to the City is expected to be approximately \$112,000.00 for the first year, and proceeds shall be recorded in the Information Technology Fund revenue account 688-3518. Doing so will ensure that revenues will be reinvested into future broadband and fiber related projects.

Current Agency Policies

- Advance projects and programs promoting sustainable economic development, including transforming San Leandro into a center for innovation.
- Maintain and enhance San Leandro's infrastructure.

Previous Council Actions

- At the September 17, 2018 City Council meeting, the Council unanimously adopted the Fiber Optic Master Plan & Smart City Strategy.

Committee Review and Actions

- January 9, 2019 City Council Facilities and Transportation Committee meeting update from staff on preliminary discussions with Common Networks.
- Presentation at the May 8, 2019 City Council Facilities and Transportation Committee meeting.

The agreements incorporate comments by the Committee, including: indemnification for the City against any damages relating to radiofrequency (RF) emissions; and the creation of a local workforce development that includes good faith efforts to hire local.

Applicable General Plan Policies

- Policy CSF-4.1 Telecommunications. Collaborate with telecommunication service providers, the business community, and investors to foster access to emerging information and communication technology.

Attachment(s) to Staff Report

- License Agreement Between the City of San Leandro and Common Networks, Inc. for Access to City Dark Fiber Network.
- Master License Agreement for Access to City Facility Rooftops.

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