



Legislation Details (With Text)

File #: 23-429 **Version:** 1 **Name:** Approve Lease Agreement with bandwidth IG, LLC for Fiber Optic Cable submerged in San Francisco Bay

Type: Staff Report **Status:** Filed

On agenda: 9/18/2023 **In control:** City Council

Enactment date: **Final action:** 9/18/2023

Enactment #: 2023-131

Title: Adopt a Resolution to Independently Consider the Mitigated Negative Declaration (MND) After Evaluating the Environmental Impacts Associated with the Agreement and Project, (1) Concluding That the MND Complies with CEQA Guidelines, (2) Conclude That the MND is Adequate to Support the City’s Approval of the Lease for the Project, and (3) Imposes Mitigation Measures as a Condition of the City’s Approval of the Lease for the Project and Approving a Lease Agreement Between the City of San Leandro and Bandwidth IG, LLC for Installation, Maintenance, and Use of Fiber Optic Cable in Submerged San Francisco Bay Lands and Terrestrial Lands Within Jurisdiction of San Leandro

Indexes:

Code sections:

Attachments: 1. A - Resolution for bandwidth IG lease, 2. B - Bandwidth Lease Agreement 091423

Date	Ver.	Action By	Action	Result
9/18/2023	1	City Council	Received and Filed	Pass

Adopt a Resolution to Independently Consider the Mitigated Negative Declaration (MND) After Evaluating the Environmental Impacts Associated with the Agreement and Project, (1) Concluding That the MND Complies with CEQA Guidelines, (2) Conclude That the MND is Adequate to Support the City’s Approval of the Lease for the Project, and (3) Imposes Mitigation Measures as a Condition of the City’s Approval of the Lease for the Project and Approving a Lease Agreement Between the City of San Leandro and Bandwidth IG, LLC for Installation, Maintenance, and Use of Fiber Optic Cable in Submerged San Francisco Bay Lands and Terrestrial Lands Within Jurisdiction of San Leandro

COUNCIL PRIORITY

- Infrastructure
- Sustainability & Resiliency
- Community & Business Development

SUMMARY AND RECOMMENDATIONS

Staff recommends that the City Council approve the proposed Resolution considering and approving the MND and granting the City Manager the authority to enter into a Lease Agreement, subject to the City Attorney’s approval as to form, with Bandwidth IG, LLC (“Bandwidth”) for submerged San Francisco Bay land and terrestrial land located within the City of San Leandro’s jurisdiction, for a term of twenty-five (25) years.

BACKGROUND

The demand for faster and more broadband intensive data transmission has grown consistently for several years and will continue to grow in the future. Data transferring infrastructure, such as fiber optic cables, needs to be upgraded to keep up with technical advancements to transmit uninterrupted data. Virtually all communications and data transmissions are converted to digital data and transmitted across fiber optic cables.

Bandwidth, a telecommunications provider based in Sunnyvale, California, has embarked on a project to install a new submarine fiber optic cable system which consists of two 2-inch-diameter buried fiber optic cables and one 8-inch diameter high-intensity polyethylene (HDPE) conduit across the San Francisco Bay in submerged lands from Brisbane in San Mateo County to San Leandro in Alameda County, as well as a portion of terrestrial land located in San Leandro.

The project will install large capacity, fiber optic cables, connecting to existing and proposed fiber optic cable infrastructure operated by Bandwidth and located within the City of San Leandro. This fiber optic cable infrastructure will be leased to carriers, commercial entities, and enterprises throughout the region to greatly enhance telecommunications connectivity and operations.

Bandwidth has an approved lease and/or is in the process of leasing submerged lands owned by the California State Lands Commission, the City of South San Francisco, and City of San Leandro ("City").

The land contemplated in the lease encompasses both submerged lands and terrestrial land for supporting equipment on the shore and through City owned properties. A legal description describing the proposed easement alignment for the proposed fiber optic cables in the City parcels are included as Exhibit A of the Lease Agreement.

Analysis

The term of the agreement under the proposed lease is twenty-five (25) years, with an option to extend at the City's discretion. The rental rate for the submerged land is \$5.00 per linear foot.

The amount of \$5.00 per linear foot was derived from a rent comparison conducted by the State Lands Commission ("SLC") for leasing the State of California's portion of submerged land for the project. The SLC utilized historical data and surveyed rental rates of other state agencies for submerged fiber optic cable. Based on the survey, rental rates were found to range from \$0.14 per linear foot to as high as \$20.52 per linear foot. The rental rate of \$5.00 per linear foot, which was the previous amount used by SLC, was found by the SLC to still be a reasonable and a rational rental rate.

For the terrestrial portion of the lease, a formal appraisal could not be completed in time so a prior appraisal for a comparable fiber optic cable lease from 2013 was used to provide a base rent. The appraisal consists of valuation of industrial, commercial, and residential land and for the purpose of estimating the highest and best use for the lease, the average value of an industrial and commercial land was used. The value was then escalated using the shelter component of the Consumer Price Index (CPI) to determine the approximate value of the lease today. Using this analysis, the rental rate

was determined to be \$8.00 per linear foot.

The City and Bandwidth agree that a formal appraisal within the next twelve (12) months for the terrestrial land lease is still the best option. Once a formal appraisal is completed, the City and Bandwidth will meet and confer, and come to agreement on the appraisal value and associated rent increase, if any.

Additionally, under the proposed lease, Bandwidth has agreed to install city conduits and vaults along Lewelling Boulevard and Wicks Boulevard valued at \$549,334.50. These conduits are identified in the Smart City Strategy for fiber expansion and will complete gaps in the Fiber Optic Master Plan. This alignment is represented as segments 7 and 8 of the attached Exhibit B of the Lease Agreement. The addition of these conduits will provide the infrastructure for future high speed fiber connection to underserved communities in the south area of the City, Woodroe Woods School, and city controlled traffic signals.

Additional requirements under the Lease Agreement include pollution control liability coverage, workers compensation, and commercial general liability insurance with a limit of \$5 million per occurrence during construction and \$2 million per occurrence during ongoing operations and maintenance.

Current Agency Policies

- Place San Leandro on a firm foundation for long-term fiscal sustainability.
- Advance projects and programs promoting sustainable economic development, including transforming San Leandro into a center of innovation.
- Maintain and enhance San Leandro's infrastructure.

Applicable General Plan Policies

- **Policy LU-2.1 (Land Use) - Complete Neighborhoods.** Strive for “complete neighborhoods” that provide an array of housing choices; easy access to retail stores, commercial services, and medical care; quality public schools, great parks and open spaces, affordable transportation options; and civic amenities.
- **Policy ED-1.10 Tax Revenues.** Encourage development that generates sales tax, property tax, and other revenues that sustain municipal services.
- **Policy ED-2.1. Business-Friendly City.** Maintain a collaborative and supportive relationship between the City and the private sector that emphasizes the ease of doing business in San Leandro.
- **Policy ED-3.2 (Economic Development) - Business Infrastructure**
Develop the infrastructure necessary to transform San Leandro into a center for innovation and creativity, including high-speed communications, sustainable energy systems, high performing utilities, and convenient access to business networks and support services.
- **Policy ED-3.4 (Economic Development) - Lit San Leandro Expansion**
Evaluate opportunities for further expansion of the Lit San Leandro fiber optic network to those parts of the city that are currently not served, including schools, public facilities, neighborhood business districts, residences, and hospitals.

Environmental Review

A Mitigated Negative Declaration (MND) was adopted by the State Lands Commission, the lead agency of the project, on June 5th, 2023. The City is a responsible agency. The associated draft resolution makes the necessary findings related to the MND under Guidelines section 15096 for purposes of the City's action on the lease. The MND adequately addresses all environmental impacts associated with the project and the City's action.

Board/Commission Review and Actions

On September 6, 2023, the City Council Facilities and Transportation Committee received a presentation from Bandwidth on the proposed project and terms of the lease agreement.

Legal Analysis

The subject Agreement was reviewed and approved as to form by the City Attorney.

Fiscal Impacts

In the initial year, the City will receive revenue in the amount of \$47,584 for the submerged and terrestrial land lease. For the second and subsequent years, the revenue will increase based on adjustments to the CPI for the remaining term of the Agreement and an adjustment to the rental rate of the terrestrial land after the conclusion of a future appraisal. In addition, the City will save on the installation of conduits and vaults valued at \$549,334.50 to complete the gap in the City Fiber Master Plan.

ATTACHMENTS

- Attachment A: Resolution
- Attachment B: Lease Agreement

PREPARED BY:

Erwin Ching, Engineering Manager, Engineering & Transportation Department