

CITY OF SAN LEANDRO / REDEVELOPMENT  
AGENCY OF THE CITY OF SAN LEANDRO

**STAFF REPORT**

**DATE:** June 6, 2011

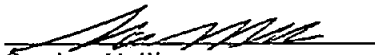
**TO:** Stephen Hollister, City Manager/Executive Director

**FROM:** Luke Sims, Community Development Director *LS*

**VIA:** Cynthia Battenberg, *CB* Business Development Manager

**BY:** Jeff Kay, Business Development Analyst *JK*

APPROVED AND  
FORWARDED  
TO CITY COUNCIL /  
REDEVELOPMENT  
AGENCY

  
Stephen Hollister  
City Manager/Executive Director

**SUBJECT PROJECT/PROJECT DESCRIPTION:**

MATTER OF APPROVAL OF A CONSULTING SERVICES AGREEMENT WITH TELLUS VENTURES AND AN EXCLUSIVE NEGOTIATING RIGHTS AGREEMENT WITH OSISOFT, INC. RELATING TO THE INSTALLATION OF FIBER OPTIC FACILITIES TO IMPROVE BROADBAND CONNECTIVITY

**SUMMARY AND RECOMMENDATION**

Staff recommends that the Redevelopment Agency approve the attached resolution authorizing a consulting services agreement with Tellus Venture Associates for development of a broadband strategy and assistance negotiating a license agreement for installation of fiber optic facilities. Staff also recommends that the City Council approve the attached resolution authorizing an Exclusive Negotiating Rights Agreement with OSISOFT, Inc. for the purpose of negotiating a license agreement to install fiber optic facilities within the City's existing conduit.

**BACKGROUND**

**Analysis**

Increasingly, fast and reliable internet service is becoming a requirement for successful business enterprises. Although this need was once restricted to businesses in "high-tech" sectors, broadband service that facilitates fast transfers of large quantities of data is now a prerequisite for almost every industry. Given these trends, the City recognizes that enhancement of our broadband infrastructure can be an effective tool for business development. The U.S. Department of Commerce has estimated that communities that gain access to broadband service experience an employment increase of 1-1.4 percentage points and an increase in rental values of up to 6 percentage points. High-speed connections have also been proven to reduce a business' carbon footprint by facilitating off-site communications and telecommuting.

Although almost all parts of San Leandro presently have access to some level of broadband service via cable and telecom service providers, significant shortcomings in speed, cost, and reliability exist in some areas, particularly in industrial locations. In these cases, businesses are often left with limited options for slow service at comparatively high costs. Without improvements to our broadband infrastructure, these areas will struggle to attract and retain businesses, particularly those in emerging industries.

This report covers two recommended actions that are related to internet connectivity issues. First is approval of a Consulting Services Agreement with Tellus Venture Associates for development of a broadband strategy. Second is approval of an Exclusive Negotiating Rights Agreement (ENRA) with OSIsoft, Inc. for the purposes of negotiating a licensing agreement to install fiber optic facilities in the City's existing conduit.

### **Broadband Strategy**

Recognizing the importance of broadband infrastructure, the Redevelopment Advisory Committee recommended that the facilitation of technology infrastructure enhancements to underserved business areas be identified as a priority project for all project areas. This recommendation was incorporated in the 2010-14 Redevelopment Agency Implementation Plan. Toward that goal, staff has initiated development of a broadband strategy to accomplish the following:

- Assess current conditions and identify shortcomings in the availability of broadband to industrial and commercial businesses;
- Identify and assess options for addressing service shortcomings, including negotiations with current service providers, identification of new service providers, and potential for infrastructure improvements to improve service levels; and
- Develop a comprehensive strategy to ensure that high-quality broadband service is available at reasonable costs to as many businesses as possible.

Staff has already begun meeting with service providers and reaching out to businesses to gain a better understanding of current conditions. Development of a full strategy, however, will require additional technical expertise. After discussions with staff from several other cities in California, staff solicited proposals from three firms. Tellus Venture Associates is recommended for this service because the firm has extensive experience providing comprehensive connectivity studies and assisting with broadband system management for public agencies. San Leandro can capitalize on Tellus' experience to take advantage of best practices and lessons learned from similar efforts undertaken in other cities.

Tellus' proposed scope of services includes development of a broadband strategy and assistance negotiating a license agreement for installation of fiber optic facilities (see following section). Work would be completed for both tasks – development of a broadband strategy and assistance negotiating a licensing agreement – on a time and materials basis for a not-to-exceed cost of \$45,000.

### **ENRA with OSIsoft, Inc.**

OSIsoft, Inc., a San Leandro-based software company, has approached the City with a proposal, called "Lit San Leandro," to run fiber optic cable through an existing City conduit loop. As shown in Attachment A, the loop runs through Downtown San Leandro, west along Davis Street, through the City's industrial areas, and back to Downtown along East 14<sup>th</sup> Street. The loop currently houses fiber optic cable that is used for data communications between City facilities, transferring of police and law enforcement data, and for the operation of a traffic signal system.

Under the OSIsoft proposal, the company or a newly formed entity would enter into a license agreement with the City for use of excess conduit capacity to run new fiber that is independent of the City's existing system. This new fiber would then be connected to the outside world (the internet and data centers) via leased fiber on a regional line owned by BART. OSIsoft is also considering constructing a data center, or "server farm," in San Leandro although that possibility would not be covered by the ENRA.

The purpose of the proposed fiber loop is to provide adequate capacity for data-intensive businesses in San Leandro. Most immediately, the loop would provide additional broadband capacity for OSIsoft as the company plans an expansion. The loop would also enhance business development efforts, because it would provide a mechanism for any business within reasonable proximity of the loop to tap into a high-capacity system. OSIsoft has indicated to the City that their intent would be to minimize connection costs, emphasizing the system's ability to attract businesses over its potential to generate profits.

Access to this loop would be most attractive to businesses with extremely high data needs, such as those involved in any form of "cloud" storage. At present the City's ability to attract these types of businesses is limited.

After an initial review, staff believes that the OSIsoft proposal holds great potential to allow OSIsoft to continue growing in San Leandro and to attract new businesses with high data needs that cannot be met in most traditional markets. However, numerous details would need to be worked out prior to execution of a full license agreement for use of the City's conduit. The recommended approval of an ENRA would grant OSIsoft the exclusive right to negotiate for the use of the conduit for a period of twelve months. This approach allows the City to be responsive to the Lit San Leandro proposal while still providing adequate time to negotiate a licensing agreement that provides maximum benefits while protecting the City's interests.

Details to be negotiated include, but are not limited to:

- Procedures for ensuring the security of City data on the existing fiber lines.
- Term of the agreement.
- Price paid to the City, if any, for licensing of the conduit.
- The nature of the business entity that will construct and operate the loop. So far, OSIsoft and the City have begun to review models such as a private corporation, a non-profit, or a public private partnership.
- Potential for the City to reserve some share of the new fiber for City data needs.
- Potential for the operating entity or the City to reserve some share of the new fiber for use by internet service providers to offer services to smaller customers in areas not immediately adjacent to the loop.

- Guidelines for determining price structures and policies governing how businesses could connect to the loop.
- Method of distributing profits, should any be generated, after OSIsoft recoups its initial capital investment.
- Options for installing new fiber in areas where the existing conduit does not have sufficient capacity.

The Lit San Leandro project has the potential to provide high-capacity data connections to businesses that are close to the fiber loop. In this sense, it can be considered a component of the larger need to improve broadband connectivity citywide.

One of the tasks in the Consulting Services Agreement with Tellus Venture Associates is assistance with negotiation of the license agreement. Tellus will assist the City by providing technical expertise as well as information on how other cities have handled similar arrangements.

An alternative to the recommended ENRA would be to approach a wider array of businesses and service providers to assess their interest in partnering with the City for development of a fiber loop. Given that OSIsoft is a locally based company, with plans for expansion within San Leandro, and has taken the initiative to devise the Lit San Leandro proposal, staff recommends negotiating exclusively with them at this time. Comparative data from other cities and the experience of Tellus will be used to ensure that the terms of a licensing agreement are fair for both parties.

#### **Current City Council/Redevelopment Agency Policy**

The San Leandro Redevelopment Agency 2010-14 Implementation Plan listed the following as a priority project for all redevelopment project areas:

“Facilitate technology infrastructure enhancements, including but not limited to high-speed internet services, to underserved business districts in order to support business operations and to attract new business to the City.”

#### **City Council Committee Review and Action**

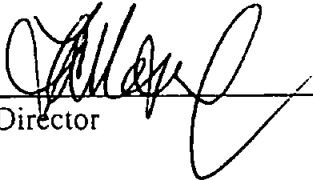
These items were reviewed at the May 12, 2011 meeting of the Business and Housing Development Committee, and the Committee recommended forwarding them to the City Council for approval.

#### **Fiscal Impact**

The Consulting Services Agreement with Tellus Venture Associates is based on a not-to-exceed cost of \$45,000, which will be funded by a new appropriation from the available fund balance of the West San Leandro/MacArthur Boulevard Redevelopment Project Area. The ENRA with OSIsoft will not have any direct fiscal impact. Any fiscal impact resulting from a future licensing agreement will be subject to Council review prior to adoption.

#### **Budget Authority**

Execution of the Consulting Services Agreement with Tellus Venture Associates requires an appropriation of \$45,000 from the available fund balance of the West San Leandro/MacArthur Boulevard Redevelopment Project Area (964-82-001-5120).

  
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Tracy, Vesely, Finance Director

**Attachments**

Attachment A: Map of existing, City-owned fiber optic loop.

**CONCLUSION**

Staff recommends that the Redevelopment Agency approve the attached resolution authorizing a consulting services agreement with Tellus Venture Associates for development of a broadband strategy and assistance negotiating a license agreement for installation of fiber optic facilities. Staff also recommends that the City Council approve the attached resolution authorizing an exclusive negotiating rights agreement with OSIsoft, Inc. for the purpose of negotiating a license agreement to install fiber optic facilities within the City's existing conduit.

Attachment A:



IN THE CITY COUNCIL OF THE CITY OF SAN LEANDRO

RESOLUTION NO. 2011-

RESOLUTION APPROVING EXCLUSIVE NEGOTIATING RIGHTS AGREEMENT WITH  
OSISOFT, INC. FOR DEVELOPMENT OF  
LICENSE AGREEMENT TO INSTALL FIBER OPTIC FACILITIES

An Exclusive Negotiating Rights Agreement between the City of San Leandro and OSISOFT, Inc., a copy of which is attached, has been presented to this Council.

The Council is familiar with the contents thereof.

The City Manager has recommended approval of said agreement.

NOW, THEREFORE, the City Council of the City of San Leandro does RESOLVE as follows:

That said Exclusive Negotiating Rights Agreement is hereby approved and execution thereof is hereby authorized.

Introduced by Councilmember  
day of June, 2011 by the following called vote:

and passed and adopted this 6<sup>th</sup>

Members of the Council:

AYES:

NOES:

ABSENT:

ATTEST: \_\_\_\_\_  
Marian Handa, City Clerk