

OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
333 West Ocean Boulevard, 11th Floor
Lona Beach, CA 90802-4664

AGREEMENT
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THIS AGREEMENT is made and entered, in duplicate, as of July 12, 2018, for reference purposes only, pursuant to a minute order adopted by the City Council of the City of Long Beach at its meeting on June 12, 2018, by and between THE BROADBAND GROUP, a Nevada corporation ("Consultant"), with a place of business at 900 South Pavilion Center Drive, Suite 155, Las Vegas, Nevada 89144, and the CITY OF LONG BEACH, a municipal corporation ("City").

WHEREAS, City requires specialized services requiring unique skills to be performed in connection with Citywide fiber network implementation planning ("Project"); and

WHEREAS, City has selected Consultant in accordance with City's administrative procedures and City has determined that Consultant and its employees are qualified, licensed, if so required, and experienced in performing these specialized services; and

WHEREAS, City desires to have Consultant perform these specialized services, and Consultant is willing and able to do so on the terms and conditions in this Agreement;

NOW, THEREFORE, in consideration of the mutual terms, covenants, and conditions in this Agreement, the parties agree as follows:

1. SCOPE OF WORK OR SERVICES.

A. Consultant shall furnish specialized services more particularly described in Exhibit "A", attached to this Agreement and incorporated by this reference, in accordance with the standards of the profession, and City shall pay for these services in the manner described below, not to exceed Three Hundred Twenty Thousand Dollars (\$320,000), at the rates or charges shown in Exhibit "B".

B. The City's obligation to pay the sum stated above for any one fiscal year shall be contingent upon the City Council of the City appropriating the

1 necessary funds for such payment by the City in each fiscal year during the term of
2 this Agreement. For the purposes of this Section, a fiscal year commences on
3 October 1 of the year and continues through September 30 of the following year. In
4 the event that the City Council of the City fails to appropriate the necessary funds
5 for any fiscal year, then, and in that event, the Agreement will terminate at no
6 additional cost or obligation to the City.

7 C. Consultant may select the time and place of performance for
8 these services; provided, however, that access to City documents, records and the
9 like, if needed by Consultant, shall be available only during City's normal business
10 hours and provided that milestones for performance, if any, are met.

11 D. Consultant has requested to receive regular payments. City
12 shall pay Consultant in due course of payments following receipt from Consultant
13 and approval by City of invoices showing the services or task performed, the time
14 expended (if billing is hourly), and the name of the Project. Consultant shall certify
15 on the invoices that Consultant has performed the services in full conformance with
16 this Agreement and is entitled to receive payment. Each invoice shall be
17 accompanied by a progress report indicating the progress to date of services
18 performed and covered by the invoice, including a brief statement of any Project
19 problems and potential causes of delay in performance, and listing those services
20 that are projected for performance by Consultant during the next invoice cycle.
21 Where billing is done and payment is made on an hourly basis, the parties
22 acknowledge that this arrangement is either customary practice for Consultant's
23 profession, industry or business, or is necessary to satisfy audit and legal
24 requirements which may arise due to the fact that City is a municipality.

25 E. Consultant represents that Consultant has obtained all
26 necessary information on conditions and circumstances that may affect its
27 performance and has conducted site visits, if necessary.

28 F. CAUTION: Consultant shall not begin work until this

1 Agreement has been signed by both parties and until Consultant's evidence of
2 insurance has been delivered to and approved by City.

3 2. TERM. The term of this Agreement shall commence at midnight on
4 June 12, 2018, and shall terminate at 11:59 p.m. on June 12, 2019, unless sooner
5 terminated as provided in this Agreement, or unless the services or the Project is
6 completed sooner. The term may be extended for one (1) additional one-year period, at
7 the discretion of the City Manager.

8 3. COORDINATION AND ORGANIZATION.

9 A. Consultant shall coordinate its performance with City's
10 representative, if any, named in Exhibit "C", attached to this Agreement and
11 incorporated by this reference. Consultant shall advise and inform City's
12 representative of the work in progress on the Project in sufficient detail so as to
13 assist City's representative in making presentations and in holding meetings on the
14 Project. City shall furnish to Consultant information or materials, if any, described
15 in Exhibit "D", attached to this Agreement and incorporated by this reference, and
16 shall perform any other tasks described in the Exhibit.

17 B. The parties acknowledge that a substantial inducement to City
18 for entering this Agreement was and is the reputation and skill of Consultant's key
19 employee, named in Exhibit "E" attached to this Agreement and incorporated by this
20 reference. City shall have the right to approve any person proposed by Consultant
21 to replace that key employee.

22 4. INDEPENDENT CONTRACTOR. In performing its services,
23 Consultant is and shall act as an independent contractor and not an employee,
24 representative or agent of City. Consultant shall have control of Consultant's work and the
25 manner in which it is performed. Consultant shall be free to contract for similar services to
26 be performed for others during this Agreement; provided, however, that Consultant acts in
27 accordance with Section 9 and Section 11 of this Agreement. Consultant acknowledges
28 and agrees that (a) City will not withhold taxes of any kind from Consultant's compensation;

1 (b) City will not secure workers' compensation or pay unemployment insurance to, for or
2 on Consultant's behalf; and (c) City will not provide and Consultant is not entitled to any of
3 the usual and customary rights, benefits or privileges of City employees. Consultant
4 expressly warrants that neither Consultant nor any of Consultant's employees or agents
5 shall represent themselves to be employees or agents of City.

6 5. INSURANCE.

7 A. As a condition precedent to the effectiveness of this
8 Agreement, Consultant shall procure and maintain, at Consultant's expense for the
9 duration of this Agreement, from insurance companies that are admitted to write
10 insurance in California and have ratings of or equivalent to A:V by A.M. Best
11 Company or from authorized non-admitted insurance companies subject to Section
12 1763 of the California Insurance Code and that have ratings of or equivalent to A:VIII
13 by A.M. Best Company, the following insurance:

14 i. Commercial general liability insurance (equivalent in
15 scope to ISO form CG 00 01 11 85 or CG 00 01 10 93) in an amount not less
16 than \$1,000,000 per each occurrence and \$2,000,000 general aggregate.
17 This coverage shall include but not be limited to broad form contractual
18 liability, cross liability, independent contractors liability, and products and
19 completed operations liability. City, its boards and commissions, and their
20 officials, employees and agents shall be named as additional insureds by
21 endorsement (on City's endorsement form or on an endorsement equivalent
22 in scope to ISO form CG 20 10 11 85 or CG 20 26 11 85 or both CG 20 10
23 07 04 and CG 20 37 07 04 or both CG 20 33 07 04 and CG 20 37 07 04),
24 and this insurance shall contain no special limitations on the scope of
25 protection given to City, its boards and commissions, and their officials,
26 employees and agents. This policy shall be endorsed to state that the insurer
27 waives its right of subrogation against City, its boards and commissions, and
28 their officials, employees and agents.

1 ii. Workers' Compensation insurance as required by the
2 California Labor Code and employer's liability insurance in an amount not
3 less than \$1,000,000. This policy shall be endorsed to state that the insurer
4 waives its right of subrogation against City, its boards and commissions, and
5 their officials, employees and agents.

6 iii. Professional liability or errors and omissions insurance
7 in an amount not less than \$1,000,000 per claim.

8 iv. Commercial automobile liability insurance (equivalent in
9 scope to ISO form CA 00 01 06 92), covering Auto Symbol 1 (Any Auto) in
10 an amount not less than \$500,000 combined single limit per accident.

11 B. Any self-insurance program, self-insured retention, or
12 deductible must be separately approved in writing by City's Risk Manager or
13 designee and shall protect City, its officials, employees and agents in the same
14 manner and to the same extent as they would have been protected had the policy
15 or policies not contained retention or deductible provisions.

16 C. Each insurance policy shall be endorsed to state that coverage
17 shall not be reduced, non-renewed or canceled except after thirty (30) days prior
18 written notice to City, shall be primary and not contributing to any other insurance
19 or self-insurance maintained by City, and shall be endorsed to state that coverage
20 maintained by City shall be excess to and shall not contribute to insurance or self-
21 insurance maintained by Consultant. Consultant shall notify City in writing within
22 five (5) days after any insurance has been voided by the insurer or cancelled by the
23 insured.

24 D. If this coverage is written on a "claims made" basis, it must
25 provide for an extended reporting period of not less than one hundred eighty (180)
26 days, commencing on the date this Agreement expires or is terminated, unless
27 Consultant guarantees that Consultant will provide to City evidence of uninterrupted,
28 continuing coverage for a period of not less than three (3) years, commencing on

1 the date this Agreement expires or is terminated.

2 E. Consultant shall require that all subconsultants or contractors
3 that Consultant uses in the performance of these services maintain insurance in
4 compliance with this Section unless otherwise agreed in writing by City's Risk
5 Manager or designee.

6 F. Prior to the start of performance, Consultant shall deliver to City
7 certificates of insurance and the endorsements for approval as to sufficiency and
8 form. In addition, Consultant shall, within thirty (30) days prior to expiration of the
9 insurance, furnish to City certificates of insurance and endorsements evidencing
10 renewal of the insurance. City reserves the right to require complete certified copies
11 of all policies of Consultant and Consultant's subconsultants and contractors, at any
12 time. Consultant shall make available to City's Risk Manager or designee all books,
13 records and other information relating to this insurance, during normal business
14 hours.

15 G. Any modification or waiver of these insurance requirements
16 shall only be made with the approval of City's Risk Manager or designee. Not more
17 frequently than once a year, City's Risk Manager or designee may require that
18 Consultant, Consultant's subconsultants and contractors change the amount, scope
19 or types of coverages required in this Section if, in his or her sole opinion, the
20 amount, scope or types of coverages are not adequate.

21 H. The procuring or existence of insurance shall not be construed
22 or deemed as a limitation on liability relating to Consultant's performance or as full
23 performance of or compliance with the indemnification provisions of this Agreement.

24 6. ASSIGNMENT AND SUBCONTRACTING. This Agreement
25 contemplates the personal services of Consultant and Consultant's employees, and the
26 parties acknowledge that a substantial inducement to City for entering this Agreement was
27 and is the professional reputation and competence of Consultant and Consultant's
28 employees. Consultant shall not assign its rights or delegate its duties under this

1 Agreement, or any interest in this Agreement, or any portion of it, without the prior approval
2 of City, except that Consultant may with the prior approval of the City Manager of City,
3 assign any moneys due or to become due Consultant under this Agreement. Any
4 attempted assignment or delegation shall be void, and any assignee or delegate shall
5 acquire no right or interest by reason of an attempted assignment or delegation.
6 Furthermore, Consultant shall not subcontract any portion of its performance without the
7 prior approval of the City Manager or designee, or substitute an approved subconsultant
8 or contractor without approval prior to the substitution. Nothing stated in this Section shall
9 prevent Consultant from employing as many employees as Consultant deems necessary
10 for performance of this Agreement.

11 7. CONFLICT OF INTEREST. Consultant, by executing this Agreement,
12 certifies that, at the time Consultant executes this Agreement and for its duration,
13 Consultant does not and will not perform services for any other client which would create
14 a conflict, whether monetary or otherwise, as between the interests of City and the interests
15 of that other client. Consultant further certifies that Consultant does not now have and shall
16 not acquire any interest, direct or indirect, in the area covered by this Agreement or any
17 other source of income, interest in real property or investment which would be affected in
18 any manner or degree by the performance of Consultant's services hereunder. And,
19 Consultant shall obtain similar certifications from Consultant's employees, subconsultants
20 and contractors.

21 8. MATERIALS. Consultant shall furnish all labor and supervision,
22 supplies, materials, tools, machinery, equipment, appliances, transportation and services
23 necessary to or used in the performance of Consultant's obligations under this Agreement,
24 except as stated in Exhibit "D".

25 9. OWNERSHIP OF DATA. All materials, information and data
26 prepared, developed or assembled by Consultant or furnished to Consultant in connection
27 with this Agreement, including but not limited to documents, estimates, calculations,
28 studies, maps, graphs, charts, computer disks, computer source documentation, samples,

1 models, reports, summaries, drawings, designs, notes, plans, information, material and
2 memorandum ("Data") shall be the exclusive property of City. Data shall be given to City,
3 and City shall have the unrestricted right to use and disclose the Data in any manner and
4 for any purpose without payment of further compensation to Consultant. Copies of Data
5 may be retained by Consultant but Consultant warrants that Data shall not be made
6 available to any person or entity for use without the prior approval of City. This warranty
7 shall survive termination of this Agreement for five (5) years.

8 10. TERMINATION. Either party shall have the right to terminate this
9 Agreement for any reason or no reason at any time by giving fifteen (15) calendar days
10 prior written notice to the other party. In the event of termination under this Section, City
11 shall pay Consultant for services satisfactorily performed and costs incurred up to the
12 effective date of termination for which Consultant has not been previously paid. The
13 procedures for payment in Section 1.B. with regard to invoices shall apply. On the effective
14 date of termination, Consultant shall deliver to City all Data developed or accumulated in
15 the performance of this Agreement, whether in draft or final form, or in process. And,
16 Consultant acknowledges and agrees that City's obligation to make final payment is
17 conditioned on Consultant's delivery of the Data to City.

18 11. CONFIDENTIALITY. Consultant shall keep all Data confidential and
19 shall not disclose the Data or use the Data directly or indirectly, other than in the course of
20 performing its services, during the term of this Agreement and for five (5) years following
21 expiration or termination of this Agreement. In addition, Consultant shall keep confidential
22 all information, whether written, oral or visual, obtained by any means whatsoever in the
23 course of performing its services for the same period of time. Consultant shall not disclose
24 any or all of the Data to any third party, or use it for Consultant's own benefit or the benefit
25 of others except for the purpose of this Agreement.

26 12. BREACH OF CONFIDENTIALITY. Consultant shall not be liable for
27 a breach of confidentiality with respect to Data that: (a) Consultant demonstrates
28 Consultant knew prior to the time City disclosed it; or (b) is or becomes publicly available

1 without breach of this Agreement by Consultant; or (c) a third party who has a right to
2 disclose does so to Consultant without restrictions on further disclosure; or (d) must be
3 disclosed pursuant to subpoena or court order.

4 13. ADDITIONAL COSTS AND REDESIGN.

5 A. Any costs incurred by City due to Consultant's failure to meet
6 the standards required by the scope of work or Consultant's failure to perform fully
7 the tasks described in the scope of work which, in either case, causes City to request
8 that Consultant perform again all or part of the Scope of Work shall be at the sole
9 cost of Consultant and City shall not pay any additional compensation to Consultant
10 for its re-performance.

11 B. If the Project involves construction and the scope of work
12 requires Consultant to prepare plans and specifications with an estimate of the cost
13 of construction, then Consultant may be required to modify the plans and
14 specifications, any construction documents relating to the plans and specifications,
15 and Consultant's estimate, at no cost to City, when the lowest bid for construction
16 received by City exceeds by more than ten percent (10%) Consultant's estimate.
17 This modification shall be submitted in a timely fashion to allow City to receive new
18 bids within four (4) months after the date on which the original plans and
19 specifications were submitted by Consultant.

20 14. AMENDMENT. This Agreement, including all Exhibits, shall not be
21 amended, nor any provision or breach waived, except in writing signed by the parties which
22 expressly refers to this Agreement.

23 15. LAW. This Agreement shall be construed in accordance with the laws
24 of the State of California, and the venue for any legal actions brought by any party with
25 respect to this Agreement shall be the County of Los Angeles, State of California for state
26 actions and the Central District of California for any federal actions. Consultant shall cause
27 all work performed in connection with construction of the Project to be performed in
28 compliance with (1) all applicable laws, ordinances, rules and regulations of federal, state,

1 county or municipal governments or agencies (including, without limitation, all applicable
2 federal and state labor standards, including the prevailing wage provisions of sections 1770
3 *et seq.* of the California Labor Code); and (2) all directions, rules and regulations of any fire
4 marshal, health officer, building inspector, or other officer of every governmental agency
5 now having or hereafter acquiring jurisdiction.

6 16. PREVAILING WAGES.

7 A. Consultant agrees that all public work (as defined in California
8 Labor Code section 1720) performed pursuant to this Agreement (the "Public
9 Work"), if any, shall comply with the requirements of California Labor Code sections
10 1770 *et seq.* City makes no representation or statement that the Project, or any
11 portion thereof, is or is not a "public work" as defined in California Labor Code
12 section 1720.

13 B. In all bid specifications, contracts and subcontracts for any
14 such Public Work, Consultant shall obtain the general prevailing rate of per diem
15 wages and the general prevailing rate for holiday and overtime work in this locality
16 for each craft, classification or type of worker needed to perform the Public Work,
17 and shall include such rates in the bid specifications, contract or subcontract. Such
18 bid specifications, contract or subcontract must contain the following provision: "It
19 shall be mandatory for the contractor to pay not less than the said prevailing rate of
20 wages to all workers employed by the contractor in the execution of this contract.
21 The contractor expressly agrees to comply with the penalty provisions of California
22 Labor Code section 1775 and the payroll record keeping requirements of California
23 Labor Code section 1771."

24 17. ENTIRE AGREEMENT. This Agreement, including all Exhibits,
25 constitutes the entire understanding between the parties and supersedes all other
26 agreements, oral or written, with respect to the subject matter in this Agreement.

27 18. INDEMNITY.

28 A. Consultant shall indemnify, protect and hold harmless City, its

1 Boards, Commissions, and their officials, employees and agents (“Indemnified
2 Parties”), from and against any and all liability, claims, demands, damage, loss,
3 obligations, causes of action, proceedings, awards, fines, judgments, penalties,
4 costs and expenses, arising or alleged to have arisen, in whole or in part, out of or
5 in connection with (1) Consultant’s breach or failure to comply with any of its
6 obligations contained in this Agreement, including any obligations arising from the
7 Project’s compliance with or failure to comply with applicable laws, including all
8 applicable federal and state labor requirements including, without limitation, the
9 requirements of California Labor Code section 1770 *et seq.* or (2) negligent or willful
10 acts, errors, omissions or misrepresentations committed by Consultant, its officers,
11 employees, agents, subcontractors, or anyone under Consultant’s control, in the
12 performance of work or services under this Agreement (collectively “Claims” or
13 individually “Claim”).

14 B. In addition to Consultant’s duty to indemnify, Consultant shall
15 have a separate and wholly independent duty to defend Indemnified Parties at
16 Consultant’s expense by legal counsel approved by City, from and against all
17 Claims, and shall continue this defense until the Claims are resolved, whether by
18 settlement, judgment or otherwise. No finding or judgment of negligence, fault,
19 breach, or the like on the part of Consultant shall be required for the duty to defend
20 to arise. City shall notify Consultant of any Claim, shall tender the defense of the
21 Claim to Consultant, and shall assist Consultant, as may be reasonably requested,
22 in the defense.

23 C. If a court of competent jurisdiction determines that a Claim was
24 caused by the sole negligence or willful misconduct of Indemnified Parties,
25 Consultant’s costs of defense and indemnity shall be (1) reimbursed in full if the
26 court determines sole negligence by the Indemnified Parties, or (2) reduced by the
27 percentage of willful misconduct attributed by the court to the Indemnified Parties.

28 D. The provisions of this Section shall survive the expiration or

1 termination of this Agreement.

2 19. AMBIGUITY. In the event of any conflict or ambiguity between this
3 Agreement and any Exhibit, the provisions of this Agreement shall govern.

4 20. NONDISCRIMINATION.

5 A. In connection with performance of this Agreement and subject
6 to applicable rules and regulations, Consultant shall not discriminate against any
7 employee or applicant for employment because of race, religion, national origin,
8 color, age, sex, sexual orientation, gender identity, AIDS, HIV status, handicap or
9 disability. Consultant shall ensure that applicants are employed, and that
10 employees are treated during their employment, without regard to these bases.
11 These actions shall include, but not be limited to, the following: employment,
12 upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or
13 termination; rates of pay or other forms of compensation; and selection for training,
14 including apprenticeship.

15 B. It is the policy of City to encourage the participation of
16 Disadvantaged, Minority and Women-Owned Business Enterprises in City's
17 procurement process, and Consultant agrees to use its best efforts to carry out this
18 policy in its use of subconsultants and contractors to the fullest extent consistent
19 with the efficient performance of this Agreement. Consultant may rely on written
20 representations by subconsultants and contractors regarding their status.
21 Consultant shall report to City in May and in December or, in the case of short-term
22 agreements, prior to invoicing for final payment, the names of all subconsultants
23 and contractors hired by Consultant for this Project and information on whether or
24 not they are a Disadvantaged, Minority or Women-Owned Business Enterprise, as
25 defined in Section 8 of the Small Business Act (15 U.S.C. Sec. 637).

26 21. EQUAL BENEFITS ORDINANCE. Unless otherwise exempted in
27 accordance with the provisions of the Ordinance, this Agreement is subject to the
28 applicable provisions of the Equal Benefits Ordinance (EBO), section 2.73 et seq. of the

1 Long Beach Municipal Code, as amended from time to time.

2 A. During the performance of this Agreement, the Consultant
3 certifies and represents that the Consultant will comply with the EBO. The
4 Consultant agrees to post the following statement in conspicuous places at its place
5 of business available to employees and applicants for employment:

6 “During the performance of a contract with the City of Long Beach, the
7 Consultant will provide equal benefits to employees with spouses and its
8 employees with domestic partners. Additional information about the City of
9 Long Beach’s Equal Benefits Ordinance may be obtained from the City of
10 Long Beach Business Services Division at 562-570-6200.”

11 B. The failure of the Consultant to comply with the EBO will be
12 deemed to be a material breach of the Agreement by the City.

13 C. If the Consultant fails to comply with the EBO, the City may
14 cancel, terminate or suspend the Agreement, in whole or in part, and monies due or
15 to become due under the Agreement may be retained by the City. The City may
16 also pursue any and all other remedies at law or in equity for any breach.

17 D. Failure to comply with the EBO may be used as evidence
18 against the Consultant in actions taken pursuant to the provisions of Long Beach
19 Municipal Code 2.93 et seq., Contractor Responsibility.

20 E. If the City determines that the Consultant has set up or used its
21 contracting entity for the purpose of evading the intent of the EBO, the City may
22 terminate the Agreement on behalf of the City. Violation of this provision may be
23 used as evidence against the Consultant in actions taken pursuant to the provisions
24 of Long Beach Municipal Code Section 2.93 et seq., Contractor Responsibility.

25 22. NOTICES. Any notice or approval required by this Agreement shall
26 be in writing and personally delivered or deposited in the U.S. Postal Service, first class,
27 postage prepaid, addressed to Consultant at the address first stated above, and to City at
28 333 West Ocean Boulevard, Long Beach, California 90802, Attn: City Manager, with a copy

1 to the City Engineer at the same address. Notice of change of address shall be given in
2 the same manner as stated for other notices. Notice shall be deemed given on the date
3 deposited in the mail or on the date personal delivery is made, whichever occurs first.

4 23. COPYRIGHTS AND PATENT RIGHTS.

5 A. Consultant shall place the following copyright protection on all
6 Data: © City of Long Beach, California _____, inserting the appropriate year.

7 B. City reserves the exclusive right to seek and obtain a patent or
8 copyright registration on any Data or other result arising from Consultant's
9 performance of this Agreement. By executing this Agreement, Consultant assigns
10 any ownership interest Consultant may have in the Data to City.

11 C. Consultant warrants that the Data does not violate or infringe
12 any patent, copyright, trade secret or other proprietary right of any other party.
13 Consultant agrees to and shall protect, defend, indemnify and hold City, its officials
14 and employees harmless from any and all claims, demands, damages, loss, liability,
15 causes of action, costs or expenses (including reasonable attorney's fees) whether
16 or not reduced to judgment, arising from any breach or alleged breach of this
17 warranty.

18 24. COVENANT AGAINST CONTINGENT FEES. Consultant warrants
19 that Consultant has not employed or retained any entity or person to solicit or obtain this
20 Agreement and that Consultant has not paid or agreed to pay any entity or person any fee,
21 commission or other monies based on or from the award of this Agreement. If Consultant
22 breaches this warranty, City shall have the right to terminate this Agreement immediately
23 notwithstanding the provisions of Section 10 or, in its discretion, to deduct from payments
24 due under this Agreement or otherwise recover the full amount of the fee, commission or
25 other monies.

26 25. WAIVER. The acceptance of any services or the payment of any
27 money by City shall not operate as a waiver of any provision of this Agreement or of any
28 right to damages or indemnity stated in this Agreement. The waiver of any breach of this

1 Agreement shall not constitute a waiver of any other or subsequent breach of this
2 Agreement.

3 26. CONTINUATION. Termination or expiration of this Agreement shall
4 not affect rights or liabilities of the parties which accrued pursuant to Sections 7, 10, 11,
5 17, 19, 22 and 28 prior to termination or expiration of this Agreement.

6 27. TAX REPORTING. As required by federal and state law, City is
7 obligated to and will report the payment of compensation to Consultant on Form 1099-
8 Misc. Consultant shall be solely responsible for payment of all federal and state taxes
9 resulting from payments under this Agreement. Consultant shall submit Consultant's
10 Employer Identification Number (EIN), or Consultant's Social Security Number if
11 Consultant does not have an EIN, in writing to City's Accounts Payable, Department of
12 Financial Management. Consultant acknowledges and agrees that City has no obligation
13 to pay Consultant until Consultant provides one of these numbers.

14 28. ADVERTISING. Consultant shall not use the name of City, its officials
15 or employees in any advertising or solicitation for business or as a reference, without the
16 prior approval of the City Manager or designee.

17 29. AUDIT. City shall have the right at all reasonable times during the
18 term of this Agreement and for a period of five (5) years after termination or expiration of
19 this Agreement to examine, audit, inspect, review, extract information from and copy all
20 books, records, accounts and other documents of Consultant relating to this Agreement.

21 30. THIRD PARTY BENEFICIARY. This Agreement is not intended or
22 designed to or entered for the purpose of creating any benefit or right for any person or
23 entity of any kind that is not a party to this Agreement.

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Lona Beach, CA 90802-4664

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IN WITNESS WHEREOF, the parties have caused this document to be duly executed with all formalities required by law as of the date first stated above.

July 27, 2018

THE BROADBAND GROUP, Nevada corporation

By [Signature]
Name Thomas A. Reiman
Title President

July 27 2018

By [Signature]
Name Cynthia A. Reiman
Title Chief Financial Officer

Tom Modica
Assistant City Manager

"Consultant"

EXECUTED PURSUANT
TO SECTION 301 OF
THE CITY CHARTER

CITY OF LONG BEACH, a municipal corporation

8/23/ 2018

By [Signature]
City Manager

"City"

This Agreement is approved as to form on 8-1, 2018.

CHARLES PARKIN, City Attorney

By [Signature]
Deputy

EXHIBIT “A”

Scope of Work



April 10, 2018

City of Long Beach
Attn: Mr. Cason Lee
Bureau Manager, Technology Infrastructure Services
333 West Ocean Boulevard, 12th Floor
Long Beach, CA 90802

**Re: Implementation Planning for Fiber Master Plan (Public-Private Partnerships)
City of Long Beach, California**

Dear Cason,

The Broadband Group ("TBG") is pleased to submit this proposal to support the continued planning for implementation of the City's Fiber Master Plan (Public-Private Partnerships), presented on July 24, 2017.

During the development of the Fiber Master Plan, TBG established a relationship with Southern California Edison/Edison Carrier Solutions ("Edison"), which now presents as a potential opportunity to advance a partnership between the City and Edison (described as a Public-Private Partnership within the Master Plan). While an Edison Public-Private Partnership opportunity will be assessed, it is important to note and acknowledge that additional partnerships with qualified Service Providers/telecom entities should be encouraged and may mature during the term of this engagement.

Through this proposal, TBG will provide the City expertise and consultation to develop a strategy for the most efficient potential implementation of Public-Private Partnership(s), including:

1. A Request for Information (RFI) will be developed, circulated to potential qualified Partners, and responses will be evaluated based on the following criteria:
 - a. Facilities and engineering evaluation of appropriate network design considerations.
 - b. Financial analysis and scenario testing related to a Public-Private Partnership structure.

We appreciate the opportunity to advance the strategic implementation of the Master Plan's core elements, directly supporting the City's stated *Technology and Connectivity* agenda.

Yours truly,
THE BROADBAND GROUP

A handwritten signature in black ink, appearing to read "Thomas A. Reiman", is written over the printed name below.

Thomas A. Reiman
President

SCOPE OF SERVICES

IMPLEMENTATION PLANNING FOR FIBER MASTER PLAN (PUBLIC-PRIVATE PARTNERSHIPS) CITY OF LONG BEACH, CALIFORNIA

Advancing Public-Private Partnerships

Public-Private Partnership Structure

Description: In cooperation with City leadership, TBG will assess Public-Private Partnership structure(s) for the provisioning of existing and expanded fiber within City boundaries. Development of a City issued Request for Information (RFI), circulation to potential Partners, and evaluation of responses will be conducted.

As described in the Master Plan, the Public-Private Partnership structure might enable the expansion of Broadband services to Business and Residential subscribers through utilization of an identified Partner's fiber assets. This approach could reduce Capital and Operating Costs to the City, promoting increased services and competition citywide, while meeting Long Beach's internal connectivity objectives.

Facilities & Engineering Planning

Network Deployment Planning & Management

Design & Engineering Specifications

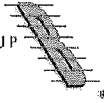
Description: TBG will review Provider's submitted RFI design and engineering specifications. Recommendations will be provided regarding the most qualified Provider to compliment and expand the City's connectivity objectives.

Financial Analysis & Scenario Testing

Financial Modeling

Description: Utilizing the submitted RFI responses, TBG will incorporate assumptions into a Public-Private Partnership Financial Model relative to engineering metrics and business case inputs. Financial impacts and returns for initial Public-Private Partnership options will be modeled. The City's communication and explanation of analysis will be supported in the following manner:

- Assessing strategic and financial impacts from potential implementation scenarios.
- Communicating Public-Private Partnership options to Stakeholders (internal and external).



April 10, 2018

City of Long Beach
Attn: Mr. Cason Lee
Bureau Manager, Technology Infrastructure Services
333 West Ocean Boulevard, 12th Floor
Long Beach, CA 90802

**Re: Implementation Planning for Fiber Master Plan (Scenario #1)
City of Long Beach, California**

Dear Cason,

The Broadband Group ("TBG") is pleased to submit this proposal to support the continued planning for implementation of the City's Fiber Master Plan (Scenario #1), presented on July 24, 2017.

Scenario #1 of the Fiber Master Plan explored and detailed the foundational operational, financial, and technical components required to serve the *internal* connectivity needs of the City of Long Beach. The Plan was designed as a tool to guide the City's planning priorities related to expansion of fiber infrastructure. Effective implementation will require careful considerations and industry experience to guide appropriate budgeting, network design/construction priorities, wired and wireless service provider coordination (e.g. Small Cell pricing and placement strategy), and potential partnership development.

Through this proposal, TBG will provide the City continued expertise and consultation to develop a strategy for the most efficient implementation of Scenario #1 of the Master Plan, including:

- Overall technology planning to advance City connectivity objectives and implementation strategies.
- Business and network strategic planning to define the appropriate Business Case for the City.
- Support of the City's "Dig Once Committee" through guidance and review of related policies and impacted initiatives or projects.
- Financial analysis and scenario testing related to City budget planning (e.g. FY18 approved budget funds and FY19 budget preparation).
- Continued design efforts to verify City building property ownership and validation of existing building locations.
- Development, circulation, review, and ranking of Request for Information (RFI) to relevant service providers.

We appreciate the opportunity to advance the strategic implementation of the Master Plan's core elements, directly supporting the City's stated *Technology and Connectivity* agenda.

Yours truly,
THE BROADBAND GROUP

Thomas A. Reiman
President

SCOPE OF SERVICES

IMPLEMENTATION PLANNING FOR FIBER MASTER PLAN (SCENARIO #1) CITY OF LONG BEACH, CALIFORNIA

Overall Technology Planning

Description: The Fiber Master Plan, as presented on July 24, 2017, represented the vision of how fiber infrastructure might impact, advance, and improve the quality of life for the neighborhoods, buildings, offices, and Community Anchor Institutions within the City of Long Beach. **However, it is only that – a Plan.**

This Plan now requires strategic consideration of the various implementation scenarios, which were designed to place the control of connectivity needs firmly in the hands of City leadership and constituents.

This going forward implementation planning engagement will focus on:

- Implementation strategy and support of preferred fiber deployment scenario(s);
- Timing and implementation processes relative to the City's budget and operational priorities;
- Assessment of costs and engineering issues relative to City budget allocation (over a single or multiple years) approvals.

In drafting the Fiber Master Plan, a significant amount of data, internal research, and recommendations were provided to the City. In this regard, the tools for execution have been identified and now await phased implementation. Moving from *planning* to *action* will be an important deliverable during this engagement. Relevant considerations will include:

- What are the rankings of connectivity priorities within City departments and buildings?
- What are the contractual and obligating inputs that might impede or enhance the opportunities for adoption?
- What additional research and detail might be necessary to implement Scenario #1?
- What additional training, staffing, or resource modifications will be needed?

Development of Request for Information (RFI)

Description: Once network design and engineering requirements are verified, TBG will develop (in collaboration with the City) an RFI to be circulated among qualified providers. The purpose of the RFI will be to establish an understanding as to the interest level of a private sector entity to implement the envisioned Scenario #1. It is noted that this would be to gather information only, and not a guarantee of a City granted award or contract with any organization or business. TBG would assist in the development, circulation, review, and ranking of received responses.

Business & Network Strategic Planning

Strategic Planning

Project Leadership, Management, & Implementation

Description: The Broadband Group (TBG) will guide the framework, strategy, and identification of infrastructure elements supporting the deployment of broadband facilities through direct City investment to meet internal connectivity needs (reference Fiscal Year 2018 approved fiber program). A primary focus will be to develop a strategy for the most efficient implementation of Scenario #1 of the Fiber Master Plan. Additionally, TBG will review and provide consultation on incorporating newly installed fiber that will be owned by the City (i.e. Civic Center Fiber Loop and Crown Castle Fiber) into the overall objectives of the City's Fiber Master Plan.

Facilities & Engineering Planning

Network Deployment Planning & Management

Design & Engineering Specifications

Description: TBG will assist the City in prioritizing expanded fiber routes, developing network analysis of available City infrastructure and expansion/interconnection recommendations. TBG will oversee engineering activity and expansion plans to ensure network design efficiently meets City connectivity needs and Industry Standards.

Network Deployment Oversight

Description: Testing standards and network "handoff" requirements will be developed to ensure network integrity and quality. TBG will provide guidelines for network completion inspections to ensure compliance with outlined requirements.

"Dig Once"

Description: To promote cost effective and timely installation of fiber/conduit infrastructure, TBG will support and advise the to-be-formed "Dig Once Committee" in defining related policy development and best practices for installation during planned infrastructure construction within the City. TBG will participate in scheduled forums with relevant City departments (e.g. Water, Gas, Public Works) to establish a productive interaction pattern which oversees Dig Once policy recommendations, practice, and project management efforts, as well as identifies affected construction plans and initiatives.

Financial Analysis & Scenario Testing

City Budget Preparation – Fiscal Year 2019

Description: TBG will provide support for fiber project financial forecasting related to 2019 Fiscal Year budget planning. Operational and Capital requirements will be determined and appropriately conveyed through a Business Case/Financial Model which may be used for submission for City Council review and approval.

Financial Modeling

Description: TBG will review and revise the Master Plan Financial Model relative to engineering metrics and business case assumptions. Financial impacts and returns for Scenario #1 will be confirmed and modeled. The City's communication and explanation of analysis will be supported in the following manner:

- Assessing strategic and financial impacts from potential implementation changes and opportunities.
- Communicating Master Plan findings and merits with Stakeholders (internal and external).

EXHIBIT “B”

Rates or Charges

PROFESSIONAL FEES SUMMARY
PUBLIC-PRIVATE PARTNERSHIPS
CITY OF LONG BEACH, CALIFORNIA
Six (6) Month Term

PROFESSIONAL RESOURCE ESTIMATE

**Appendix A: Breakdown of Projected Monthly Hours*

**Appendix B: Breakdown of Projected Monthly Fees*

TASK	BUDGET
1. Facilities & Engineering Planning	\$14,400
2. Financial Analysis & Scenario Testing	\$12,000
3. Advancing Public-Private Partnerships	\$15,900
4. Project Administration & Product Development	\$3,600
TOTAL	\$45,900

*This term and budget may be extended or modified by mutual agreement of the parties.
All figures are estimates only and are based on variable workflow timelines.*

REIMBURSABLE EXPENSES

DESCRIPTION	COST
Travel Estimate*	\$10,000

**Travel expenses submitted only as costs are incurred. Major Deliverables to be billed as costs are incurred (including Term Ending Summary Reports).*

TOTAL

DESCRIPTION	COST
Professional Resource Estimate	\$45,900
Reimbursable Expenses	\$10,000
TOTAL	\$55,900

TERM: Six (6) Months from Contract Execution

PROFESSIONAL FEES

RESOURCE	RATE	RESOURCE	RATE
Principal	\$330/hour	Business & Network Planning	\$265/hour
Principal Engineering/Financial Analysis	\$300/hour	Operations	\$150/hour

Appendix A: Breakdown of Projected Monthly Hours

Work Tracks & Resource Type	Rate	Month 1	Month 2	Month 3	Month 4	Month 5	Month 6	Total Hours
1. Facilities & Engineering Planning								
Principal	\$330							-
Principal Engineering/Financial Analysis	\$300	8	8	8	8	8	8	48
Business & Network Planning	\$265							-
Operations	\$150							-
2. Financial Analysis & Scenario Testing								
Principal	\$330							-
Principal Engineering/Financial Analysis	\$300		8	8	8	8	8	40
Business & Network Planning	\$265							-
Operations	\$150							-
3. Advancing Public-Private Partnerships								
Principal	\$330							-
Principal Engineering/Financial Analysis	\$300							-
Business & Network Planning	\$265	12	12	12	12	12		60
Operations	\$150							-
4. Project Administration & Product Development								
Principal	\$330							-
Principal Engineering/Financial Analysis	\$300							-
Business & Network Planning	\$265							-
Operations	\$150	4	4	4	4	4	4	24
TOTAL HOURS		24	32	32	32	32	20	172

*This term and budget may be extended or modified by mutual agreement of the parties.
All figures are estimates only and are based on variable workflow timelines.*

Appendix B: Breakdown of Projected Monthly Fees

Work Tracks & Resource Type	Rate	Month 1	Month 2	Month 3	Month 4	Month 5	Month 6	Total Cost
1. Facilities & Engineering Planning								
Principal	\$330							\$0
Principal Engineering/Financial Analysis	\$300	\$2,400	\$2,400	\$2,400	\$2,400	\$2,400	\$2,400	\$14,400
Business & Network Planning	\$265							\$0
Operations	\$150							\$0
2. Financial Analysis & Scenario Testing								
Principal	\$330							\$0
Principal Engineering/Financial Analysis	\$300		\$2,400	\$2,400	\$2,400	\$2,400	\$2,400	\$12,000
Business & Network Planning	\$265							\$0
Operations	\$150							\$0
3. Advancing Public-Private Partnerships								
Principal	\$330							\$0
Principal Engineering/Financial Analysis	\$300							\$0
Business & Network Planning	\$265	\$3,180	\$3,180	\$3,180	\$3,180	\$3,180		\$15,900
Operations	\$150							\$0
4. Project Administration & Product Development								
Principal	\$330							\$0
Principal Engineering/Financial Analysis	\$300							\$0
Business & Network Planning	\$265							\$0
Operations	\$150	\$600	\$600	\$600	\$600	\$600	\$600	\$3,600
Travel Estimate - to be billed at cost								\$10,000
TOTAL Cost		\$6,180	\$8,580	\$8,580	\$8,580	\$8,580	\$5,400	\$55,900

*This term and budget may be extended or modified by mutual agreement of the parties.
All figures are estimates only and are based on variable workflow timelines.*

PROFESSIONAL FEES SUMMARY:
SCENARIO #1 IMPLEMENTATION STRATEGY

CITY OF LONG BEACH, CALIFORNIA

Six Month Term

PROFESSIONAL RESOURCE ESTIMATE

**Appendix A: Breakdown of Projected Monthly Hours*

**Appendix B: Breakdown of Projected Monthly Fees*

TASK	BUDGET
1. Overall Technology Planning	\$24,600
2. Business & Network Strategic Planning	\$19,080
3. Facilities & Engineering Planning	\$28,800
4. Financial Analysis & Scenario Testing	\$12,000
5. Project Administration & Product Development	\$4,500
TOTAL	\$88,980

This term and budget may be extended or modified by mutual agreement of the parties.

All figures are estimates only and are based on variable workflow timelines.

REIMBURSABLE EXPENSES

DESCRIPTION	COST
Travel Estimate*	\$10,000

**Travel expenses submitted only as costs are incurred. Major Deliverables to be billed as costs are incurred (including Term Ending Summary Reports).*

TOTAL

DESCRIPTION	COST
Professional Resource Estimate	\$88,980
Reimbursable Expenses	\$10,000
TOTAL	\$98,980

TERM: Six (6) Months from Contract Execution

PROFESSIONAL FEES

RESOURCE	RATE	RESOURCE	RATE
Principal	\$330/hour	Business & Network Planning	\$265/hour
Principal Engineering/Financial Analysis	\$300/hour	Operations	\$150/hour

Appendix A: Breakdown of Projected Monthly Hours

Work Tracks & Resource Type	Rate	Month 1	Month 2	Month 3	Month 4	Month 5	Month 6	Total Hours
1. Overall Technology Planning								
Principal	\$330	6	6	6	6	6	6	36
Principal Engineering/Financial Analysis	\$300							-
Business & Network Planning	\$265	8	8	8	8	8	8	48
Operations	\$150							-
2. Business & Network Strategic Planning								
Principal	\$330							-
Principal Engineering/Financial Analysis	\$300							-
Business & Network Planning	\$265	12	12	12	12	12	12	72
Operations	\$150							-
3. Facilities & Engineering Planning								
Principal	\$330							-
Principal Engineering/Financial Analysis	\$300	16	16	16	16	16	16	96
Business & Network Planning	\$265							-
Operations	\$150							-
4. Financial Analysis & Scenario Testing								
Principal	\$330							-
Principal Engineering/Financial Analysis	\$300		8	8	8	8	8	40
Business & Network Planning	\$265							-
Operations	\$150							-
5. Project Administration & Product Development								
Principal	\$330							-
Principal Engineering/Financial Analysis	\$300							-
Business & Network Planning	\$265							-
Operations	\$150	5	5	5	5	5	5	30
TOTAL HOURS		47	55	55	55	55	55	322

*This term and budget may be extended or modified by mutual agreement of the parties.
All figures are estimates only and are based on variable workflow timelines.*

Appendix B: Breakdown of Projected Monthly Fees

Work Tracks & Resource Type	Rate	Month 1	Month 2	Month 3	Month 4	Month 5	Month 6	Total Cost
1. Overall Technology Planning								
Principal	\$330	\$1,980	\$1,980	\$1,980	\$1,980	\$1,980	\$1,980	\$11,880
Principal Engineering/Financial Analysis	\$300							\$0
Business & Network Planning	\$265	\$2,120	\$2,120	\$2,120	\$2,120	\$2,120	\$2,120	\$12,720
Operations	\$150							\$0
2. Business & Network Strategic Planning								
Principal	\$330							\$0
Principal Engineering/Financial Analysis	\$300							\$0
Business & Network Planning	\$265	\$3,180	\$3,180	\$3,180	\$3,180	\$3,180	\$3,180	\$19,080
Operations	\$150							\$0
3. Facilities & Engineering Planning								
Principal	\$330							\$0
Principal Engineering/Financial Analysis	\$300	\$4,800	\$4,800	\$4,800	\$4,800	\$4,800	\$4,800	\$28,800
Business & Network Planning	\$265							\$0
Operations	\$150							\$0
4. Financial Analysis & Scenario Testing								
Principal	\$330							\$0
Principal Engineering/Financial Analysis	\$300		\$2,400	\$2,400	\$2,400	\$2,400	\$2,400	\$12,000
Business & Network Planning	\$265							\$0
Operations	\$150							\$0
5. Project Administration & Product Development								
Principal	\$330							\$0
Principal Engineering/Financial Analysis	\$300							\$0
Business & Network Planning	\$265							\$0
Operations	\$150	\$750	\$750	\$750	\$750	\$750	\$750	\$4,500
Travel Estimate - to be billed at cost								\$10,000
TOTAL Cost		\$12,830	\$15,230	\$15,230	\$15,230	\$15,230	\$15,230	\$98,980

*This term and budget may be extended or modified by mutual agreement of the parties.
All figures are estimates only and are based on variable workflow timelines.*

EXHIBIT “C”

City’s Representative:

Cason Lee, Manager

(562) 570-5553

EXHIBIT “D”

Materials/Information Furnished: None

EXHIBIT “E”

Consultant’s Key Employee:

Heather Duke