



Legislation Text

File #: 1296-2009, **Version:** 1

BACKGROUND:

This ordinance authorizes and directs the Director of the Department of Technology to enter into contract with Columbus Fibernet, LLC to purchase a portion of the conduit system known as Fibernet. The portion of the conduit system to be purchased consists of one (1) point nine inch (1.9") duct with a ninety-six (96) strand single mode fiber installed therein.

Columbus City Council seeks to work with the Department of Technology in conjunction with the Department of Development to utilize the conduit and fiber as an economic development asset that can be integrated into an overall strategy to assist current businesses and attract new ones. The conduit and fiber will be used as an economic development incentive to bring high-tech companies to Columbus by providing an existing "telecommunications pathway" within the City's business district, allowing these prospective businesses to avoid the costs associated with constructing their own conduits.

The Department of Technology also will utilize the conduit and fiber to further build out the City of Columbus' existing fiber-optic network, while making the network more robust and redundant. Acquisition of these conduits and fiber will enhance service ability to the City's citizenry by providing the Department of Technology with alternate pathways for future fiber-optic connectivity to City agencies, partner agencies and businesses within the downtown business district. This conduit can provide access points for fiber-optic backhaul to future wireless networks, or fiber-to-the-premise networks.

This legislation authorizes the Director of the Department of Technology, on behalf of the City of Columbus, to enter into a Contract of Sale for Fiber and Underground Conduit with Columbus Fibernet, LLC to acquire the rights and interests in the conduit and fiber. This contract is a sole source contract, as obtaining access to the Fibernet conduit system may only be obtained through contractual arrangement with Columbus Fibernet, LLC and expansion of the City's existing fiber-optic network through other means would be an endeavor much more costly than the fiscal impact for entering into the arrangement contemplated by this ordinance.

This ordinance also authorizes the transfer of \$250,000.00 from the Special Income Tax Fund to the Department of Technology Capital Improvement Fund - Fiber Project.

Fiscal Impact: This project was funded in the original 2009 Capital Improvement Budget. Bonds have yet to be sold for the whole project, necessitating a certification of \$250,000.00 against the Special Income Tax Fund. Upon sale of bonds, this will be reimbursed.

CONTRACT COMPLIANCE: Vendor Name: Columbus Fibernet, LLC Contract Compliance Number: 31-1762185 Expiration Date: 9/30/2011

To authorize and direct the Director of the Department of Technology to enter into a contract of sale for fiber and underground conduit with Columbus Fibernet, LLC, to acquire within the conduit system known as Fibernet, one point nine inch duct with a ninety-six strand single mode fiber installed therein in accordance with sole source procurement provisions of the Columbus City Codes; to authorize and direct the City Auditor to transfer \$250,000.00 from the Special Income Tax Fund to the Department of Technology Capital Improvement Fund; to authorize the City Auditor to appropriate \$250,000.00 within the Department of Technology Capital Improvement Fund; and to authorize the expenditure of \$250,000.00 from the Department of Technology Capital Improvement Fund. (\$250,000.00)

WHEREAS, the City of Columbus desires to purchase conduit and fiber for greater connectivity and stronger network capabilities for the betterment of government service delivery and the citizens of Columbus; and

WHEREAS, broadband access is viewed as being vital to government and business in order to remain competitive in a global economy; and

WHEREAS, broadband infrastructure is an asset that can be used by the City of Columbus to attract high-tech companies and encourage economic development; and

WHEREAS, fiber and conduit were identified within the City-wide connectivity plan as assets that the City should buy, build or lease; and

WHEREAS, entering into agreement shall assist in maintaining the integrity of the public right-of-way by reducing access to right-of-way, pavement openings, and street and sidewalk disruption and closures; and

WHEREAS, the Agreement is a sole source contract, as obtaining access to the Fibernet conduit system may only be obtained through contractual arrangement with Columbus Fibernet, LLC and expansion of the City's existing fiber-optic network through other means would be an endeavor much more costly than the fiscal impact for entering into the arrangement contemplated by this ordinance; and

WHEREAS, it is necessary to transfer funds from the Special Income Tax Fund to this project; and

WHEREAS, the City will sell notes or bonds to fund this project and will reimburse the Special Income Tax Fund; and

WHEREAS, this transfer should be considered as a temporary funding method; and

WHEREAS, the aggregate principal amount of obligations which the City will issue to finance this purchase is presently expected not to exceed \$250,000.00; and

WHEREAS, the City anticipates incurring certain Original Expenditures (as defined in Section 1.150-2(c) of the Treasury Regulations (the "Treasury Regulations") promulgated pursuant to the Internal Revenue Code of 1986, as amended) with respect to the project described in this ordinance (the "Project"); now, therefore:

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:

SECTION 1. That the Director of the Department of Technology is hereby authorized and directed to enter into contract with Columbus Fibernet, LLC to purchase fiber and underground conduit.

SECTION 2. The sum of \$250,000.00 be and is hereby appropriated from the unappropriated balance of the Special Income Tax Fund, Fund 430, and from all monies estimated to come into said fund from any and all sources and unappropriated for any other purpose during the fiscal year ending December 31, 2009 to the City Auditor, Department 22-01, Object Level One 10, OCA Code 902023, Object Level Three 5502.

SECTION 3. That the City Auditor is hereby authorized to transfer said funds to the Department of Technology Capital Improvement Fund 514, at such time as is deemed necessary by the City Auditor, and to expend said funds, or so much thereof as may be necessary.

SECTION 4. That the amount of \$250,000.00 is hereby transferred and appropriated to the Department of Technology, 47-02, , Fund 514 Subfund 002, Fiber Optics - 470046-100001, Object Level One Code 06 , Object Level Three Code 6655, OCA 470041.

SECTION 5. That upon obtaining other funds for the acquisition of fiber the City Auditor is hereby authorized and directed to repay the Special Income Tax Fund the amount transferred under Section 2.

SECTION 6. That the City Auditor is authorized to establish proper accounting project numbers, and to make any accounting changes to revise the funding source for any contract or contract modification associated with the expenditure of funds transferred in Section 2, above.

SECTION 7. That the City intends that this ordinance constitute an "official intent" for purposes of Section 1.150-2(e) of the

Treasury Regulations, and that the City reasonably expects to reimburse itself for certain Original Expenditures incurred with respect to the Project from the proceeds of obligations to be issued by the City in a principal amount currently estimated to be \$250,000.00 (the "Obligations").

The City intends to make a reimbursement allocation on its books for the Original Expenditures not later than eighteen months following the later to occur of the date of the Original Expenditure to be reimbursed or the date the Project for which such Original Expenditures were made is "placed in service" within the meaning of the Treasury Regulations Section 1.150-2(c). Upon the issuance of the Obligations, the proceeds of such Obligations shall be used to reimburse the fund from which the advance for costs of the Project will be made.

SECTION 8. All funds necessary to carry out the purpose of this ordinance are hereby deemed appropriated.

SECTION 9. That the expenditure of \$250,000.00, or so much thereof as may be necessary in regard to the action authorized in SECTION 1, be and is hereby authorized and approved as follows:

Division: 47-02
Fund: 514 Subfund 002
OCA Code: 470041
Object Level 1: 06
Object Level 3: 6655
Project: 470046-100001 Fiber Optics
Amount \$250,000.00

SECTION 10. The Agreement is in accordance with sole source procurement provisions of the Columbus City Codes Section 329.07 (e).

SECTION 11. That the City Auditor is authorized to make any accounting changes to revise the funding source for all contract or contract modifications associated with this ordinance.

SECTION 12. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.