



**MICHAEL N. FEUER**  
CITY ATTORNEY

**REPORT NO.** R 1 4 - 0 0 5 1  
FEB 10 2014

**REPORT RE:**

**RETENTION OF OUTSIDE COUNSEL  
FOR THE CITY-WIDE FREE INTERNET SERVICES PROJECT**

The Honorable City Council  
of the City of Los Angeles  
Room 395, City Hall  
200 North Spring Street  
Los Angeles, California 90012

Council File No. 13-0953

Honorable Members:

On November 5, 2013, the City Council instructed the Information Technology Agency (ITA) to take a number of actions relative to developing a citywide municipal WiFi initiative. The first of those instructions was to:

“Develop a City of Los Angeles Broadband Request for Proposal with a list of available assets and services that would entice a vendor to provide a build out of some level of free broadband service to all City residents while respecting the commercial carrier’s basic levels of service and to not significantly influence carrier competition.” (CF 13-0953)

On December 24, 2013, the City Attorney’s Office (Office) issued a Request for Proposals (RFP) for outside counsel to assist the Office during all phases of developing a City of Los Angeles Broadband Request for Proposals in addition to any legal services that might be required to implement the selected solution. Expertise in the areas of complex fiber and wireless communication transactions and related regulatory issues is required to help the City develop a legal strategy that supports effective implementation of the Citywide free Internet initiative.

Four firms submitted proposals in response to the RFP for specialized counsel: Best Best & Krieger; The Law Offices of Bergman Dacey Goldsmith in partnership with the Telecom Law Firm, P.C.; the Baller Herbst Law Group and Shulman Rogers. On January 17 and 21, 2014, the General Manager of ITA, Mr. Steve Reneker, together with Assistant City Attorneys Anne Haley and Laurel Lightner interviewed representatives of each of the firms. As set forth in greater detail below, we recommend the selection of Best Best & Krieger to assist the Office during all phases of implementing the Citywide free Internet initiative, including drafting the RFP for such services.

#### Need for Counsel and Scope of Work

The City must have a cogent legal strategy in place to support and defend the initiative because of the significant substantive and procedural issues, many of which are unique to the fields of fiber and wireless communication. The RFP provided that counsel should have expertise in the laws, rules and regulations governing implementing both fiber and wireless Internet services for public entities, including City, state and federal requirements. The recommended firm has documented extensive experience in the areas of fiber and wireless communication transactions. The City's Citywide free Internet services initiative contemplates that the selected service model will be in place for at least ten years. The nature of this project demands expertise and resources beyond those of our Office.

With the receipt of the reimbursement to the City for legal fees paid in a separate litigation matter, there will be \$300,000 available in ITA's 2013-2014 budget, which may be expended for this project. We have discussed the prospect of retaining outside counsel with the General Manager of ITA and staff within the City Administrative Office, and they are agreeable to utilizing these existing funds for the costs incurred by the City for outside counsel in this current fiscal year in support of the Citywide free Internet services initiative. The \$300,000 will likely be sufficient to fund the legal work through the end of this fiscal year. Additional funding will be needed after this fiscal year.

#### Competitive Selection and Interview Process

Firms were evaluated based on their demonstrated experience in the areas of wireless and fiber Internet regulatory matters and transactions. Firms were also evaluated on their experience developing legal strategy and assisting clients in implementing comprehensive fiber or wireless systems. Of the four firms that responded, the Best Best & Krieger firm demonstrated the best combination of experience in wireless and fiber communication transactions and competitive hourly billing rates. The firm also has long-standing working relationships with several prominent experts in the relevant fields and extensive experience in municipal law practice. All of which will serve the City well throughout the entire project implementation.

Recommendations

1. Authorize Information Technology Agency to transfer appropriation to City Attorney for cost as follows:

**From:**

<u>Fund/Account</u>	<u>Title</u>	<u>Amount</u>
342 / 32013K	Cable Franchise Oversight	\$300,000

**To:**

<u>Fund/Account</u>	<u>Title</u>	<u>Amount</u>
100 / 12 / 003040	Contractual Services	\$300,000

2. Authorize the City Attorney to enter into a contract with Best Best & Krieger for the purpose of assisting the City in developing a City of Los Angeles Broadband Request for Proposal and other related legal services including negotiating and drafting transactional documents in the event that the City selects one or more proposers, with an initial appropriation of \$300,000 to be paid out of fund 100 / 12 / 003040; and

3. Authorize the City Attorney or designee to prepare Controller instructions for any necessary technical adjustments, subject to the approval of the CAO, and authorize the Controller to implement the instructions.

If you have any questions regarding this matter, please contact Assistant City Attorney Anne Haley at (213) 978-7009. She or another member of this Office will be present when you consider this matter to answer any questions you may have.

Very truly yours,

MICHAEL N. FEUER, City Attorney

By 

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