

City of Philadelphia



(Bill No. 060160)

AN ORDINANCE

For the purpose of creating a citywide wireless broadband Internet access system, to bridge the digital divide, to increase the efficiency and reduce costs of government, and to promote economic development and tourism, authorizing the Managing Director, on behalf of the City of Philadelphia, to enter into a Management and Service agreement with Wireless Philadelphia, a Pennsylvania not-for-profit corporation, pursuant to which Wireless Philadelphia will provide management services relating to a citywide wireless broadband Internet access system and will develop and implement programs to bridge the digital divide, and to enter into an agreement with the Philadelphia Authority for Industrial Development granting the Authority certain rights for the authorization of the placement of wireless communications equipment on certain municipally-owned street light fixtures; all under certain terms and conditions.

WHEREAS, wireless technology offers broader access to affordable, reliable, high-speed Internet service for residents of all income levels, as well as the City's many small businesses, to facilitate their progress and prosperity in a technology-driven world; and

WHEREAS, wireless technology offers an opportunity to make the Internet accessible to people and neighborhoods that are being left behind because of the "digital divide;" and

WHEREAS, a wireless network alone is insufficient to afford full computing technology accessibility to low income residents; rather programs focusing on hardware and software availability as well as education and training are also necessary; and

WHEREAS, pervasive, accessible, mobile, affordable high-speed wireless Internet access will promote economic development and tourism; and

WHEREAS, wireless technology offers an opportunity to reduce the costs and increase efficiency of government; and

WHEREAS, for all of these reasons, the City has determined that the safety, general welfare, economic development, and prosperity of the people of Philadelphia are dependent upon the accelerated delivery of wireless technology in the City and the accessibility of wireless technology and computing technology to the broadest segment of the population; and

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WHEREAS, Wireless Philadelphia is a Pennsylvania not-for-profit corporation incorporated by Mayor John F. Street on March 30, 2005, to establish a citywide wireless broadband Internet access system and to create affordable, reliable, high-speed access to the Internet for City residents of all income levels and small businesses, which purposes support the mission of the City; and

WHEREAS, Wireless Philadelphia determined that establishment of a city-wide wireless network could best be realized through private-public cooperation with EarthLink, Inc., a for-profit corporation with substantial business expertise as an Internet service provider and as a developer of municipal wireless networks; and

WHEREAS, to support this business model, the City desires to grant to the Philadelphia Authority for Industrial Development (“PAID”) the right to authorize certain attachments for the purpose of attaching wireless communications equipment to certain municipally-owned street light fixtures, which authorization will be extended by PAID to EarthLink, Inc.; and

WHEREAS, PAID has agreed to provide assistance in establishing the wireless network pursuant to its powers under the Economic Development Financing Law, as amended, of the Commonwealth of Pennsylvania, to promote the installation and use of the most efficient means of communication, public and private infrastructure, and economic development in the City; and

WHEREAS, in consideration for the use authorization, the City will receive street light use fees, funding for certain costs, free and discounted service rights, all through PAID, and Wireless Philadelphia will receive portions of the revenues generated by EarthLink for the operation and management of its programs to lower the cost of Internet access and to provide citizens of Philadelphia with the knowledge, training, and equipment to benefit from the area-wide network;

NOW, THEREFORE,

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. The Managing Director, on behalf of the City, is hereby authorized to enter into a Street Light Use Agreement with the Philadelphia Authority for Industrial Development (“PAID”), in substantially the form set forth in Exhibit “A” hereto, authorizing PAID to use certain municipally-owned street light fixtures for the sole purpose of PAID’s authorizing EarthLink, Inc., to use such street light fixtures for the placement, use and operation of wireless communications equipment.

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SECTION 2. The Managing Director, on behalf of the City, is hereby authorized to enter into a Management and Service Agreement with Wireless Philadelphia, a Pennsylvania non-profit corporation, in substantially the form set forth in Exhibit “B” hereto, pursuant to which Wireless Philadelphia will provide management services relating to management of the wireless broadband Internet access system and will develop and implement programs to forward its mission of spurring economic development and bridging the digital divide.

SECTION 3. The Managing Director, Streets Commissioner, and other City employees are hereby authorized to take any actions necessary to effectuate and perform the terms of this Ordinance and the agreements authorized hereunder.

SECTION 4. The City Solicitor is hereby authorized to include in said agreements such other terms and conditions as he or she deems necessary or desirable to protect the interest of the City. The City Solicitor may make technical changes and amendments to the agreements to conform with technical or legal requirements, to the extent such changes or amendments have no material financial impact on the City and no material impact on the relationships between or among the parties; other amendments of the agreements may be made only if prior to execution such an amendment is approved in writing by the President of City Council; provided, however, that if the President of City Council believes (and such President’s determination in this regard shall be final and conclusive) that any such proposed amendment would materially adversely affect the rights, powers or financial obligations of the City, or materially diminish the obligations of any party to the City, then such amendment must be approved by ordinance prior to execution.

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SECTION 5. The Chief Clerk of City Council shall keep on file the documents referred to as Exhibit “A” and Exhibit “B” and shall make them available for inspection by the public during regular office hours.

SECTION 6. This Ordinance shall take effect immediately.

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CERTIFICATION: This is a true and correct copy of the original Bill, Passed by the City Council on May 11, 2006. The Bill was Signed by the Mayor on May 25, 2006.

A handwritten signature in black ink that reads "Patricia Rafferty". The signature is written in a cursive, flowing style.

Patricia Rafferty
Chief Clerk of the City Council