

# City of Philadelphia



(Bill No. 100289)

## AN ORDINANCE

Authorizing the Division of Technology to enter into an agreement with Network Acquisition Company, LLC (“NAC”) for the purchase of certain equipment and other assets comprising a wireless communications network, and authorizing the Chief Technology Officer and the Commissioner of Public Property to enter into an agreement with the Philadelphia Authority for Industrial Development (“PAID”) pursuant to which PAID will, at the City’s direction, assume on the City’s behalf certain long term leases and licenses of sites on which are located facilities necessary for the wireless network and sublease or sublicense such facilities to the City, as well as, at the City’s option, certain agreements for the provision of fiber optic communications circuits and/or support services for the wireless network; all under certain terms and conditions.

WHEREAS, Wireless technology presents the opportunity to reduce the costs and increase efficiency of City communications facilities necessary for the effective delivery of services to the citizens of Philadelphia; and

WHEREAS, NAC owns a wireless communications network (the "Network") acquired from EarthLink, Inc. in or about June, 2008; and

WHEREAS, NAC desires to sell the Network to the City of Philadelphia, and the City desires to purchase the Network from NAC for the purpose of enhancing the City's communications infrastructure; and

WHEREAS, The City and PAID desire that PAID, as directed by the City, take assignment from NAC of certain long term leases and licenses of sites on which are located communications facilities essential for the operation of the Network (“Facilities Leases”), and certain long term agreements for the provision of fiber optic communications circuits and/or services supporting the Network (“Support Contracts”); and

WHEREAS, The City will not assume from NAC, but instead will direct that PAID assume, all Facilities Leases and Support Contracts which have a term of four years or greater; now, therefore

*THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:*

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SECTION 1. The Division of Technology (“DoT”), by and through the City’s Chief Technology Officer, is hereby authorized to enter into an agreement with Network Acquisition Company, LLC (“NAC”) for purchase of certain assets comprising a wireless communications network (the “Network”), such agreement to be in substantially the form set forth in Exhibit “A” hereto, with such changes as the City Solicitor deems necessary or appropriate to protect the interest of the City.

SECTION 2. The Commissioner of Public Property and the Chief Technology Officer are hereby authorized to enter into an agreement with the Philadelphia Authority for Industrial Development (“PAID”) pursuant to which PAID will, as directed by the City, take assignment from NAC of certain long term agreements for the provision of fiber optic communications circuits and/or services supporting the Network (“Support Contracts”) and certain long term leases and licenses of sites on which are located communications facilities essential for the operation of the Network (the “Facilities Leases”), and PAID will sublease or sublicense (as applicable) to the City the premises which are the subject of such Facilities Leases, and maintain the Support Contracts for network use; such agreement to be in substantially the form set forth in Exhibit “B” hereto, with such changes as the City Solicitor deems necessary or appropriate to protect the interest of the City.

SECTION 3. The Commissioner of Public Property and the Chief Technology Officer 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 appropriate to protect the interest of the City.

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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.

[Note: Exhibits to this Bill are on file in the Office of the Chief Clerk.]

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CERTIFICATION: This is a true and correct copy of the original Bill, Passed by the City Council on June 10, 2010. The Bill was Signed by the Mayor on June 23, 2010.



Michael A. Decker  
Chief Clerk of the City Council