

MEMORANDUM

DATE: May 12, 2011
TO: City Council
FROM: Paul Samuelson, Mayor
RE: WHIDBEY TELECOM WI-FI HOTSPOT AGREEMENT

The Mayor's Office has been working with George Henny, Whidbey Telecom, over the past two years to develop public access to Wi-Fi services in the Langley business district. Attached is an agreement with Whidbey Telecom for their use of mutually agreeable locations on city property to install, operate and maintain a Wi-Fi Resource. The service area is expected to reach from First Street to Sixth Street in the downtown core.

The agreement provides for the Wi-Fi Resources to connect to the city's electrical power source. The estimated total monthly expense is \$.13 per month with the system being used at full capacity.

The agreement has been reviewed by City Attorney, Grant Weed, and Director of Public Works, Challis Stringer.

RECOMMENDED ACTION

Approve the Wi-Fi Hotspot Agreement with Whidbey Telecom.

WI-FI HOTSPOT AGREEMENT

THIS WI-FI HOTSPOT AGREEMENT ("Agreement") is entered into as of _____, 20____, between _____ ("Grantor"), and Whidbey Telephone Company, dba Whidbey Telecom Internet & Broadband ("Whidbey Telecom.")

In consideration for the benefits Grantor and Whidbey Telecom will obtain from this Agreement and for the undertakings of Grantor and Whidbey Telecom set forth below, Grantor and Whidbey Telecom agree as follows:

Agreement

1. Whidbey Telecom's Right to Install and Operate Wi-Fi Resources.

(a) Grantor hereby grants to Whidbey Telecom on the terms of this Agreement the right to install, operate and maintain equipment, wiring and Internet broadband services (the "Wi-Fi Resources") at the Business. Whidbey Telecom shall operate the Wi-Fi Resources to provide wireless Internet service at and in vicinity of the Business.

(b) Except as provided in Section 1(c) below, Whidbey Telecom shall install, operate and maintain the Wi-Fi Resources at its sole expense in a location at the Business mutually agreeable to Grantor and Whidbey Telecom. All work done by Whidbey Telecom shall be done in a first class manner.

(c) Grantor shall allow Whidbey Telecom to connect the Wi-Fi Resources to a suitable electrical power source at the Business. Whidbey Telecom shall connect the Wi-Fi Resources to the electrical power source at its sole expense, and Grantor shall provide the electrical power required by the Wi-Fi Resources at Grantor's sole expense.

(d) Whidbey Telecom's personnel shall have reasonable access to the Business and the Wi-Fi Resources during Grantor's normal business hours.

(e) Grantor shall not be liable for damage that may occur to the Wi-Fi Resources or to other property of Whidbey Telecom located at the Business unless the damage is caused by the willful, intentional, malicious, reckless, or grossly negligent acts of Grantor or its agents.

2. Term .

(a) Subject to Section 2(b) below, the initial term of this Agreement shall be five (5) years commencing on the date set forth above. After the end of the initial term, this Agreement shall continue for additional one (1) year terms until terminated as provided in Section 2(b) below.

(b) Grantor may terminate this Agreement at any time upon sixty (60) days written notice to Whidbey Telecom. Whidbey Telecom may terminate this Agreement at any time.

(c) Upon termination of this Agreement, Whidbey Telecom shall have the right and the obligation to remove the Wi-Fi Resources from the Business.

3. Taxes and Laws.

(a) Whidbey Telecom shall comply with all applicable laws and regulations related to the installation, operation and maintenance of the Wi-Fi Resources and shall be liable for all taxes on property owned or placed by it at the Business and for all license fees and permits related to the installation, operation and maintenance of the Wi-Fi Resources.

(b) Grantor shall be liable for all real property taxes and assessments and taxes which may be levied upon the Business or Grantor's property.

4. Hazardous Substances.

(a) Grantor has no knowledge of any substance, chemical, or waste at the Business that is identified as hazardous, toxic, or dangerous in any applicable federal, state, or local law or regulation.

(b) Whidbey Telecom shall not introduce or use any hazardous substance on the Property in the violation of any applicable law.

5. No Representations or Warranties. Neither Grantor nor Whidbey Telecom make any representations or warranties to the other of any kind, including the suitability of the Business for Whidbey's use in installing or operating the Wi-Fi Resources or the suitability or availability of services provided by Whidbey Telecom through the Wi-Fi Resources.

GRANTOR:

By: _____
Its: _____
Date: _____

Name and Address of the Business:

WHIDBEY TELEPHONE COMPANY

By: _____
Its: _____
Date: _____

14888 SR 525
Langley, WA 98260