



ARLINGTON COUNTY, VIRGINIA

<p>County Board Agenda Item Meeting of June 17, 2008</p>

DATE: May 20, 2008

SUBJECT: Settlement Agreement between the County Board and EarthLink, Incorporated (“EarthLink”) to Terminate the Agreement of EarthLink to Provide a Wireless Broadband Network in Arlington County.

C. M. RECOMMENDATION:

- 1) Approve the attached Settlement Agreement, and authorize the County Manager, on behalf of the County Board, to execute the Settlement Agreement, and all other related documents following the approval of all such documents as to form by the County Attorney.
- 2) Appropriate \$120,000 in FY 2009 from the EarthLink settlement to the technology contingent (101.420812.91102.0000.0000.0000).

ISSUES: EarthLink is exiting the municipal wireless market and is requesting that the County Board terminate the Public Access Wireless System Agreement (“Agreement”) between the County Board and EarthLink to provide wireless broadband service in Arlington.

SUMMARY: EarthLink has asked to terminate its Agreement with the County Board dated May 8, 2007, to construct a County-wide wireless broadband network. In exchange for terminating the Agreement, EarthLink has agreed to make a settlement payment to the County of \$120,000.

BACKGROUND: On April 21, 2007, the County Board approved an Agreement between the County Board and EarthLink. The Agreement permitted EarthLink to construct, operate, manage and maintain a wireless broadband network, in order to provide EarthLink’s wireless service to customers, and to improve wireless coverage and capacity in the County. EarthLink represented in the Agreement that the system would be completed by May 2008.

DISCUSSION: In November 2007, EarthLink advised County staff that EarthLink would not be able to construct the network in Arlington. Soon afterwards, the company announced that it would not make any further investments in municipal wi-fi systems. EarthLink is looking to exit the municipal wireless market and is attempting to sell its existing municipal wireless networks.

<p>County Manager: _____</p>

<p>County Attorney: _____</p>

<p>Staff: LaTanya Blackman, Department of Technology Services</p>

EarthLink was to provide a number of amenities to the County, including free wireless access at more than 25 County facilities, free accounts to a limited number of non-profit providers, and a \$40,000 annual payment over a ten year period. If EarthLink had remained in the wireless market and constructed the broadband network in the County, the estimated benefits to the County during the ten-year term would have been at least \$745,460.00. In addition to the payment by EarthLink of \$120,000 to the County, the County and EarthLink, by the Settlement Agreement, release each other from contractual obligations under the Agreement and agree not to assert claims against the other party, except to enforce the Settlement Agreement.

FISCAL IMPACT: In exchange for terminating the Agreement, EarthLink has agreed to pay to the County \$120,000 which will be appropriated to the technology contingent in Non-Departmental.