

MEMORANDUM

Tues., January 17, 2006

To: **ALL COMMON COUNCIL MEMBERS**

From: Marianne C. Walsh, Fiscal Manager
Legislative Reference Bureau

Re: **FISCAL ANALYSIS OF CCFN 050889**
Resolution relating to a term sheet and a Facilities and Licenses Agreement with Midwest Fiber Networks, LLC, relating to construction of a citywide wireless network infrastructure.

Background

1. File Number 050833, adopted by the Common Council on November 11, 2005, authorized the Department of Administration to negotiate an agreement with Midwest Fiber Networks, LLC, relating to the construction of a citywide wireless network infrastructure, subject to Common Council approval.
2. On January 13, 2006, the Common Council's Public Works Committee approved Substitute 2 of File Number 05889, a resolution authorizing the Director of the Department of Administration to negotiate and enter into a Facilities Use and License Agreement relating to construction of a citywide wireless network infrastructure, with Midwest Fiber Networks, LLC, in accordance with the terms and conditions specified in the term sheet attached to the file. (A copy of Substitute 2 and the term sheet are attached to this memo.)
3. Such agreement shall be approved as to content by the City Attorney to ensure compliance with the term sheet, and shall be countersigned by the Comptroller. The final agreement does not require further action by Common Council.

Network Build

1. Midwest Fiber must build out the entire City in 18 months from the contract start date, and the system must operate to industry standards during this same timeframe.

2. The system must cover a minimum of 90% of the City's geographic area, to include all populated areas.
3. Midwest Fiber must have an anchor tenant committed in order to execute an agreement with the City. Midwest Fiber will negotiate in its anchor tenant agreement whereby the anchor tenant will take over and complete the system in the event of an uncured default by Midwest Fiber. **Midwest Fiber is currently negotiating with EarthLink to be its anchor tenant.**
4. **A demonstration area will be built first within 4 months to test and prove the overall system concept. The test area will be bounded by 10th Street to Highway 41 North, and Canal Street to Vliet Street.**
5. Network access can be provided either directly through Midwest Fiber or any full-service provider on the network.
6. Midwest Fiber will work with other organizations to enable roaming between different wireless systems across the City, to the extent technologically feasible and economically viable.

Access to City Facilities

1. Midwest Fiber must define all facility needs on an initial and on-going basis (build-out strategy), subject to expedited review by the City.
2. The agreement is in lieu of separate permits. Plans are to be generally reviewed and approved by the City within a 2-week period from submittal.
3. **Attachment to City poles will cost Midwest Fiber \$25 per pole per year. Approximately 2,000 – 3,000 poles will need to have a device the size of a 6-pack attached to them. This will generate approximately \$75,000 in pole attachment revenue per year for the City, based upon the use of 3,000 poles.**
4. **The devices attached to City poles will require electric current. Unless some type of solar-powered battery is employed, it is anticipated that the City will estimate the cost of any hard-wired power provided by the City and bill Midwest Fiber on an annual basis.**
5. Midwest Fiber's distribution towers/antennas must comply with the City's tower ordinance, and use existing structures or towers where possible. The term sheet indicates that they will generally be given the same rate as pole attachments.

Agreement Terms

1. The initial term of the agreement will be 14 years with one renewal term of 6 years.
2. The agreement has a 3-year benefit and cost mutual re-negotiation/review points; if benefits cannot be successfully re-negotiated within 180 days, the parties will determine fair benefits through mediation with the Public Service Commission of Wisconsin or such other mutually agreed upon mediator.
3. Termination by the City is allowed if major defaults occur and are not timely cured within 90 days after notice, or such longer period provided Midwest Fiber is proceeding in good faith with diligence to complete the cure.
4. Termination by Midwest Fiber is allowed if the demonstration site test area fails despite good faith efforts.
5. Termination by Midwest Fiber is allowed for lack of business subject to bond for removal of equipment by the City. "Lack of business" means (i) actual or projected failure of the network to generate annual MWFN revenues in excess of annual MWFN costs to maintain and operate the network, (ii) financial distress threatening insolvency, receivership or bankruptcy of MWFN, or (iii) technological obstacles incapable of cure in a financially viable manner.

Cost to the City of Milwaukee

1. The City bears no cost for the initial build nor any future upgrades of the system.
2. The City bears no cost for operation and maintenance of the system.

Benefits to the City of Milwaukee

Randy Gschwind, Chief Information Officer, Information & Technology Management Division – DOA, has provided the following estimate of potential benefits to the City of Milwaukee:

- **Build out entire City in 18 months from contract start date.** The value is difficult to estimate, but the City is asking the company to place facilities in locations where other companies have not seen an economic value in doing so – the economically depressed areas of the City. The City is also requiring

this to be completed in a very tight time frame. This has substantial value to the City – using the total build value of \$20 million over 20 years, this will be assigned a value of \$1,000,000 annually.

- **Walled garden – 60 govt. or non-profit web sites available for free.** Essentially provides free web access for limited uses, generally low-income information and City-related information. This will cause the company to lose a number of accounts that would otherwise generate revenue. At \$5,000 per web site, the estimated value is \$300,000 annually.
- **Vendor employment of 25% City residents per Section 309-41, Milwaukee Code of Ordinances, Residents Preference Program.** The local company that will build the network will employ local residents. If we estimate that 20 local residents will find employment, we can estimate the value at \$100,000 annually if we assume a \$5,000 value to train and employ each resident.
- **Establish a job training program.** Estimated value of \$100,000 annually to set up a curriculum to train local students/residents in telecommunications.
- **400 free accounts plus 25% discount on additional service rates.** At \$20 per month per account, the total estimated value of free accounts is \$100,000 annually. Additional account discounts will result in an estimated \$25,000 per year savings in year 3 and after.
- **Digital Divide Fund.** \$150,000 first year seed contribution for a low-income access project.
- **Priority for City Public Safety Uses.** Estimated value of \$100,000 annually for the City to be able to take over the network for public safety in an emergency.
- **City will receive a percentage of Midwest Fiber's gross revenue attributed directly to this network, both wireless and non-wireless.** This ranges from 0% in years 1-3; 1% in years 4-6; and 3% in years 7-14. If we estimate revenue from this network, once it is built and active, at \$5 million in year 4, and increasing by \$1 million per year, this would generate \$330,000 for the City by the 10th year of the contract. **Please see chart on page 5.**

Benefit Value Estimates	Entire City built in 18 mos.	Walled garden	Employ City residents	Job Training Program	400 Free City accounts	Digital Divide Fund	Public Safety Priority	% gross revenue	TOTAL ESTIMATED VALUE
Year 1	1,000,000	300,000	100,000	100,000	50,000	150,000	100,000	0	\$1,800,000
Year 2	1,000,000	300,000	100,000	100,000	100,000		100,000	0	\$1,700,000
Year 3	1,000,000	300,000	100,000	100,000	100,000		100,000	0	\$1,700,000
Year 4	1,000,000	300,000	100,000	100,000	125,000		100,000	50,000	\$1,775,000
Year 5	1,000,000	300,000	100,000	100,000	125,000		100,000	60,000	\$1,785,000
Year 6	1,000,000	300,000	100,000	100,000	125,000		100,000	70,000	\$1,795,000
Year 7	1,000,000	300,000	100,000	100,000	125,000		100,000	240,000	\$1,965,000
Year 8	1,000,000	300,000	100,000	100,000	125,000		100,000	270,000	\$1,995,000
Year 9	1,000,000	300,000	100,000	100,000	125,000		100,000	300,000	\$2,025,000
Year 10	1,000,000	300,000	100,000	100,000	125,000		100,000	330,000	\$2,055,000

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