EXHIBIT NO. 1 7 5-20-06 16 5-9-06

City of Alexandria, Virginia

MEMORANDUM

DATE: MAY 4, 2006

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: JAMES K. HARTMANN, CITY MANAGER

SUBJECT: ORDINANCE SOLICITING FRANCHISE PROPOSALS TO USE THE PUBLIC RIGHT-OF-WAY TO PROVIDE FREE WIRELESS INTERNET ACCESS SERVICE IN THE CITY

ISSUE: Consideration of an ordinance to provide for the advertising and receipt of proposals for the granting of a franchise to install and maintain equipment to operate a citywide commercial wireless broadband Internet service, and to establish a process for granting said franchise.

RECOMMENDATION: That City Council pass the ordinance (Attachment) on first reading and schedule it for public hearing, second reading and final passage on Saturday, May 20, 2006.

DISCUSSION: In April 2005, as a pilot project, the City of Alexandria became the first jurisdiction in the Washington, D.C. metropolitan area to offer free public Internet access in a key commercial/pedestrian area of the City (Potomac River Waterfront to Washington Street). To date the public reaction, national and regional media attention, and use has been almost all uniformly positive. As information technology communication (wireless multifunction phones, PDA's, laptops, etc.) becomes more mobile and more robust, and as the public adapts and embraces a more mobile information technology lifestyle, the demand for wireless services has increased exponentially in a very short time period. As a result, both the demand and the technology appear to be at the point that the commercial sector would be willing to entirely fund and invest in a citywide wireless system which would provide a fee-based broadband service to the public across the entire City. Such a service would entail both indoor and outdoor access to a wireless system.

The City desires a citywide wireless network, in order to increase the availability and lower the cost of mobile applications and devices for its residents and businesses. Enabling additional competition in the marketplace beyond the traditional hard-wired Internet connections (dial-up, DSL, or fiber-based broadband) would create more choice, and create more price competition. In addition, by moving now the City would maintain a leadership position in the deployment of information technology. In addition to the benefits the public would gain, there would be potential benefits to the City in its public safety operations and other City field operations. Computer applications have moved increasingly to mobile applications with computers now installed in most City police and fire vehicles.

After reviewing the experiences of other localities, staff recommends that the City pursue a model in which a private firm, or group of firms, builds a citywide network at their expense. In exchange for the right to mount equipment on public structures in the right of way (such as on traffic lights) and on public property (such as the roofs of City buildings), the City would seek to have the selected franchise provide free network access to the City for municipal use. This not only would provide the City new capability, but also potentially create substantial communications operating budget savings.

While the level of public benefit would be determined by the competitive franchise awarding process, one additional City goal in the franchise process which will be sought would be to obtain free wireless Internet for ninth grade and high school students (grades 9-12) with Alexandria City Public School-issued laptops to the School system's computer and Internet access system. This would greatly expand the usefulness of the School-issued laptops by allowing access from home or anywhere else in the City (this would not be full Internet access, but the restricted access that School policy has established). It appears that wireless technology can create both a general public (unrestricted) Internet access, as well as a School system designed (restricted) Internet access. What is not known is whether or not any of the prospective wireless vendors will be able and willing to offer this School related access, or at what cost (if any). The City's goal is to obtain free School laptop access through the wireless franchise provider.

Additionally, during the competitive franchise process the City would also be seeking the successful wireless provider to offer free access to the public in certain pedestrian areas of the City, and free or reduced-price access to some number of low-income residents. The firms would then sell retail access to residential and business customers at market rates, and wholesale access to other Internet service providers. The City would not regulate the rates charged to the general public, except that the City would seek to obtain a first year retail residential account price guarantee.

To promote a fair and equitable market for Internet services, in which both businesses and consumers receive the most benefit, the City will not offer an Internet product or service to the public in competition with a private provider. While there will be only one franchise award under this process, at a later date the City could also award additional wireless franchises.

Since firms are expected to need a contract term of at least five years in order to realize a sufficient return on their substantial upfront investment, state law requires the use of the franchise process instead of a request for proposals (RFP) process. Under this franchise process, the proposed ordinance (Attachment) is adopted to advertise the draft of a second ordinance (contained within the proposed ordinance) and related conditions included, and also the ordinance would invite proposals for a franchise. Using the State-mandated franchise law, bids would be received and then announced in open Council session at the June 27 legislative meeting, and referred to the City Manager, or his designee, for evaluation and negotiation during Council's summer recess. The City Manager would make a recommendation for award as early

as September, and Council would then adopt the second ordinance soon thereafter with the terms of the negotiated agreement included as part of Council's approval of the franchise award. We expect that construction and configuration of the network would take six to nine months, with the network becoming operational in the first half of 2007.

FISCAL IMPACT: The franchise is expected to have a positive fiscal impact, since the wireless business model described above will not result in the expenditure of City funds to build or operate the network. In addition, depending on proposals received and the outcome of negotiations, the City has the potential to save the City monies by being able to access the wireless system at no cost. Also, there would be a positive impact on the City as a whole since competition for wireless broadband service will increase (and therefore influence market prices), as well as wireless citywide coverage will be of economic benefit to the City, its residents and businesses. There would be no franchise fee paid to the City as the new state telecommunications tax law which the General Assembly has just passed (and which goes into effect January 1, 2007) prohibits local franchise fees for telecommunications franchises, but there would be a 5% tax paid by system customers to the State. These tax funds would be pooled and remitted to localities by formula.

ATTACHMENT: Ordinance to Provide for Advertising and Receipt of Bids for Wireless Franchise

STAFF:
Mark Jinks, Deputy City Manager
Mike Herway, Director, Information Technology Services
Craig Fifer, E-Government Manager, Information Technology Services

EXHIBIT NO. 2

Introduction and first reading:	5/09/06
Public hearing:	5/20/06
Second reading and enactment:	5/20/06

INFORMATION ON PROPOSED ORDINANCE

Title

AN ORDINANCE to initiate and establish the process for granting a franchise by the City of Alexandria, Virginia, to use the public right-of-way and other public places to provide a citywide wireless network for internet access and other purposes.

Summary

The proposed ordinance initiates the City of Alexandria's solicitation of bids, and negotiation and grant of a franchise, for a citywide wireless network to provide internet access and other service, for the benefit of residents, businesses and government in the City.

Sponsor

Department of Information Technology Services

Staff

Mark Jinks, Deputy City Manager
Mike Herway, Director of Information Technology Services
Craig Fifer, E-Government Manager
Suellen Savukas, Project Planning and Management Officer
Karen S. Snow, Assistant City Attorney

Authority

15.2-2100, et seq., of the Code of Virginia (1950), as amended

Estimated Costs of Implementation

None

Attachments in Addition to Proposed Ordinance and its Attachments (if any)

None

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EXHIBIT NO. 3

ORDINANCE NO. _____

AN ORDINANCE to initiate and establish the process for granting a franchise by the City of Alexandria, Virginia, to use the public right-of-way and other public places to provide a citywide wireless network for internet access and other purposes.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That the City of Alexandria proposes to grant a franchise, in the manner prescribed by law, permitting the design, construction, maintenance, and operation of a citywide wireless network in the public right-of-way and on other public property, as set forth in the following proposed franchise ordinance:

ORDINANCE NO. _____

AN ORDINANCE to grant to _____, its successors and assigns, a franchise, under certain conditions, permitting the grantee to use the public right-of-way and on other public property in the City of Alexandria, for the design, construction, maintenance, and operation of a citywide wireless network for internet access and other purposes, for the benefit of residents, businesses and government in the City.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That this Franchise is hereby granted to _____, hereinafter referred to as "Grantee," its successors and assigns, to permit the Grantee to design, construct, maintain, and operate a citywide wireless network for internet access and other purposes, using the public right-of-way and other public property in the City.

Section 2. That the said Franchise is awarded to the Grantee after public notice and invitation for bids, as required by law, pursuant to Section 2 of Ordinance No. ___, and after the invitation for bids was duly closed and all bids were fully and carefully investigated and evaluated.

Section 3. That the Grantee be, and hereby is, granted a Franchise for ___ years to design, construct, maintain, and operate a citywide wireless network for internet access and other purposes, for the benefit of residents, businesses and government in the City. The Grantee shall strictly comply with the terms of this Ordinance and with the Franchise Agreement attached hereto and incorporated fully herein by reference, together with all applicable laws and regulations of the City of Alexandria, the Commonwealth of Virginia and the United States, and any regulatory agency

having jurisdiction, including, without limitation, with the following conditions:

1. Each year an updated map of all facilities within the City, existing and proposed, showing locations, scheduled construction and service dates, and such additional information as the city manager may specify in his reasonable discretion, shall be filed with the city's department of transportation and environmental services.

2. All necessary permits shall be obtained for each and every excavation or installation, including but not limited to boring in and/or under a public right-of-way or other public place.

3. In the event the relocation, construction, reconstruction, maintenance or repair by the City, the Commonwealth of Virginia or the Washington Metropolitan Area Transit Authority of any facilities or services is necessary or desirable, and it is necessary to alter or relocate, either permanently or temporarily, any of the Grantee's property in the public right-of way or other public property in order to accomplish same, the Grantee will, after reasonable notice, move, alter or relocate its property at its own cost and expense, and should the Grantee fail to comply with such notice, its property may be removed, altered or relocated by the City, state or Washington Metropolitan Area Transit Authority at the cost of the Grantee and without liability for any resulting damage. The Grantee will do everything reasonably necessary, in a timely manner, to prevent any delays in construction projects of the City, the state or the Washington Metropolitan Area Transit Authority.

4. This Franchise may be assigned or transferred; provided, however, that no such assignment or transfer shall be effective without the prior written consent of the City, which consent will not be unreasonably withheld.

5. The Grantee will obtain liability insurance to the satisfaction of the city attorney, which insurance shall name the City as an additional insured.

6. The Grantee will not use the privileges granted by this Franchise to provide the functional equivalent of a cable system or cable service as defined in sections 9-3-17 and 9-3-18 of the Alexandria City Code.

7. In exchange for the privileges granted by this Franchise, the City shall have free use of the network for municipal governmental purposes.

8. In exchange for the privileges granted by this Franchise, the general public shall have free use of the network for wireless internet access in the outdoor areas and public facilities in the City designated in the Franchise Agreement.

9. At such time as the City may require underground installation of existing overhead facilities in any area covered by this Franchise, the Grantee will, at its sole cost and expense, relocate its facilities underground in accordance with the provisions of the City's underground utilities ordinance, to the extent underground location of such facilities is technically feasible.

10. The Grantee shall protect all property of the City or any other person during any work of designing, constructing, maintaining, or operating its system in or adjacent to the public right-of-way or other public place, and shall fully restore, in kind, any property damaged or destroyed during any such work. In the event the Grantee and any property owner are unable to agree on a remedy, the Grantee agrees to abide by the determination of the City as to compensation or restoration.

11. That nothing in this Franchise shall be construed to obligate the City to continue its franchise with any other franchisee who owns or uses the poles to be used by the Grantee, nor shall this Franchise increase or strengthen the rights that other franchisees may have. The City shall have no liability to the Grantee for exercising any rights the City may have in general or under its franchises with other franchisees, regardless of the effect of such exercise on the Grantee.

12. The Grantee shall remove its property at its own expense at the expiration or termination of this Franchise or any extension hereof.

Section 4. That the city manager be and hereby is authorized to execute such documents as may be required to effectuate the Franchise hereby granted.

Section 5. That the city clerk be and hereby is authorized to attest the execution of said documents and to affix thereon the official seal of the City of Alexandria, Virginia.

Section 2. That as soon as this ordinance has been finally passed, the city clerk shall cause to be advertised once a week for four successive weeks in a newspaper published in the City of Alexandria, a descriptive notice of the proposed ordinance contained in Section 1 of this ordinance, and, in addition thereto, shall by such advertisement invite bids for the Franchise proposed to be granted by such proposed ordinance, by publishing with the descriptive notice of such ordinance a notice which shall be in substantially the following form:

NOTICE

BIDS ARE INVITED BY THE CITY OF ALEXANDRIA, VIRGINIA, FOR THE GRANT OF A FRANCHISE PERMITTING THE FRANCHISEE TO USE THE PUBLIC RIGHT-OF-WAY AND OTHER PUBLIC PLACES IN THE CITY FOR THE DESIGN, CONSTRUCTION, MAINTENANCE, AND OPERATION OF A CITYWIDE WIRELESS NETWORK FOR INTERNET ACCESS AND OTHER PURPOSES, FOR THE BENEFIT OF RESIDENTS, BUSINESSES AND GOVERNMENT IN THE CITY. DETAILED CONDITIONS AND SPECIFICATIONS FOR THE FRANCHISE ARE ON FILE IN THE OFFICE OF THE DIRECTOR OF INFORMATION TECHNOLOGY SERVICES, 123 NORTH PITT STREET, SECOND FLOOR, ALEXANDRIA VIRGINIA 22314. ALL DOCUMENTS RELATING TO THIS FRANCHISE ARE ALSO AVAILABLE FOR REVIEW AT:

www.wirelessalexandria.com

A PRE-BID CONFERENCE, WHICH SHALL NOT BE MANDATORY, SHALL BE HELD AT THE FOLLOWING TIME AND PLACE [To be determined by city manager]:

_____

_____

THE TERM OF THE FRANCHISE IS NEGOTIABLE, BUT IT SHALL BE FOR A MINIMUM OF FIVE YEARS.

ALL BIDS ARE TO BE SUBMITTED IN WRITING AND DELIVERED TO MICHAEL HERWAY, DIRECTOR, OFFICE OF INFORMATION TECHNOLOGY SERVICES, 123 NORTH PITT STREET, SECOND FLOOR, ALEXANDRIA VIRGINIA 22314, ON OR BEFORE JUNE 23, 2006 AT 3:00 PM. EASTERN TIME. AT THAT TIME BIDS SHALL BE PUBLICLY OPENED AND BIDDERS IDENTIFIED.

IN ADDITION, IDENTIFICATION OF THE BIDDERS SHALL BE ANNOUNCED IN OPEN SESSION OF THE CITY COUNCIL OF THE CITY OF ALEXANDRIA IN THE COUNCIL'S CHAMBER, CITY HALL, 301 KING STREET, SECOND FLOOR, ALEXANDRIA, VIRGINIA 22314, ON JUNE 27, 2006, AT 7:00 P.M. AT THAT TIME, THE MAYOR SHALL REFER THE BIDS RECEIVED TO THE CITY MANAGER TO EVALUATE, REVIEW AND CONSIDER IN THE MANNER PRESCRIBED BY LAW, INCLUDING THE SELECTION OF, AND NEGOTIATION OF A FRANCHISE AGREEMENT WITH, A PREFERRED BIDDER. AS SOON THEREAFTER AS PRACTICABLE, THE CITY MANAGER WILL RECOMMEND THE SUCCESSFUL BIDDER, AND PRESENT THE NEGOTIATED FRANCHISE AGREEMENT, FOR CONSIDERATION AND APPROVAL BY CITY COUNCIL.

THE CITY RESERVES THE RIGHT IN THE CITY MANAGER'S SOLE DISCRETION TO REJECT ANY AND ALL BIDS; TO TERMINATE NEGOTIATIONS AT ANY STAGE OF THE SELECTION PROCESS, AND TO REISSUE THE REQUEST FOR BIDS WITH OR WITHOUT MODIFICATION.

THE DESCRIPTIVE NOTICE OF THE PROPOSED FRANCHISE ORDINANCE IS AS FOLLOWS:

> The proposed ordinance will grant a franchise, under certain conditions, permitting the grantee to use the public right-of-way and on other public property in the City of Alexandria, for the design, construction, maintenance, and operation of a citywide wireless network for internet access and other purposes, for the benefit of residents, businesses and government in the City. (Complete text of ordinance available in office of the city clerk.)

Section 3. That this ordinance shall become effective on the date and at the time of its final passage.

WILLIAM D. EUILLE,
Mayor

Introduction: 5/9/06
First Reading: 5/9/06
Publication:
Public Hearing:
Second Reading:
Final Passage:

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5-20-06

Jackie Henderson/Alex
05/22/2006 08:34 AM

To Gloria Sitton/Alex@Alex
cc
bcc
Subject Fw: COA Contact Us: City-wide wireless Internet access

for the after item from saturday.

Jackie M. Henderson
City Clerk and Clerk of Council
City of Alexandria, Virginia

----- Forwarded by Jackie Henderson/Alex on 05/22/2006 08:34 AM -----

<michelle.ryan@comcast.net>

05/11/2006 05:21 PM

Please respond to
<michelle.ryan@comcast.net>

To <alexvamayor@aol.com>, <delpepper@aol.com>, <council@joycewoodson.net>, <councilmangaines@aol.com>, <council@krupicka.com>, <macdonaldcouncil@msn.com>, <paulcsmedberg@aol.com>, <rose.boyd@alexandriava.gov>, <jackie.henderson@alexandriava.gov>, <tom.raycroft@alexandriava.gov>
cc
Subject COA Contact Us: City-wide wireless Internet access

Time: [Thu May 11, 2006 17:21:35] IP Address: [68.34.30.3]

Response requested: []

First Name:	Michelle
Last Name:	Ryan
Street Address:	3027 Bryan Street
City:	Alexandria
State:	VA
Zip:	22302
Phone:	703-751-6483
Email Address:	michelle.ryan@comcast.net
Subject:	City-wide wireless Internet access

I support all efforts to bring city-wide wireless access to Alexandria. Either through private or

Comments: public means, it doesn't matter to me, but I do think having wireless access is important and I am pleased to hear that City Council is working in that direction. Thanks.

ORDINANCE NO. 4447

AN ORDINANCE to initiate and establish the process for granting a franchise by the City of Alexandria, Virginia, to use the public right-of-way and other public places to provide a citywide wireless network for internet access and other purposes.

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having jurisdiction, including, without limitation, with the following conditions:

1. Each year an updated map of all facilities within the City, existing and proposed, showing locations, scheduled construction and service dates, and such additional information as the city manager may specify in his reasonable discretion, shall be filed with the city's department of transportation and environmental services.

2. All necessary permits shall be obtained for each and every excavation or installation, including but not limited to boring in and/or under a public right-of-way or other public place.

3. In the event the relocation, construction, reconstruction, maintenance or repair by the City, the Commonwealth of Virginia or the Washington Metropolitan Area Transit Authority of any facilities or services is necessary or desirable, and it is necessary to alter or relocate, either permanently or temporarily, any of the Grantee's property in the public right-of way or other public property in order to accomplish same, the Grantee will, after reasonable notice, move, alter or relocate its property at its own cost and expense, and should the Grantee fail to comply with such notice, its property may be removed, altered or relocated by the City, state or Washington Metropolitan Area Transit Authority at the cost of the Grantee and without liability for any resulting damage. The Grantee will do everything reasonably necessary, in a timely manner, to prevent any delays in construction projects of the City, the state or the Washington Metropolitan Area Transit Authority.

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10. The Grantee shall protect all property of the City or any other person during any work of designing, constructing, maintaining, or operating its system in or adjacent to the public right-of-way or other public place, and shall fully restore, in kind, any property damaged or destroyed during any such work. In the event the Grantee and any property owner are unable to agree on a remedy, the Grantee agrees to abide by the determination of the City as to compensation or restoration.

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Section 3. That this ordinance shall become effective on the date and at the time of its final passage.

WILLIAM D. EUILLE,
Mayor

Final Passage: May 20, 2006

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