

## **FIBER ACCESS AND USE AGREEMENT**

This Agreement is made by and between the City of Othello (hereinafter the "City"), a non-charter code city, and Saddle Mountain Wireless, Inc, a corporation organized under the laws of the state of Washington, located and doing business at 18400 Road 24 SW, Mattawa, WA 99349, (hereinafter "Saddle Mountain").

### **Recitals:**

1. In 2008 the City and Saddle Mountain entered into a Lease for Services and Use of City Facilities for Personal Communication System Facilities (hereinafter the "Prior Agreement"). The Prior Agreement relates to the use of certain City facilities by Saddle Mountain to provide wireless internet access to its customers.

2. The Prior Agreement further relates to the City receiving from Saddle Mountain free internet access at City facilities in exchange for the use of City facilities by Saddle Mountain as specified in the Prior Agreement.

3. There is now available within limited portions of the City dark fiber which can be brought into City Hall by Noel Communications, who has provided a bid to the City and Saddle Mountain Wireless.

4. Both the City and Saddle Mountain desire to cooperatively obtain access to such dark fiber to the benefit of both parties as set forth in this Agreement.

In consideration of the mutual promises herein contained, it is agreed by and between the parties as follows:

Extension of Dark Fiber to City Hall. The City and Saddle Mountain agree to share one-half each the cost of extending the dark fiber presently available on Seventh Avenue, Othello, WA, to the Othello City Hall at 500 E. Main St, Othello, WA. Based upon the bid from Noel Communications each party would pay \$2900 for their portion of the costs. The parties shall jointly plan such extension of the dark fiber in a secure, efficient manner with due regard to costs as well as the finished installation, its durability, serviceability and appearance. When the parties have agreed upon a method of extension of the dark fiber to City Hall, either of both of them shall cause such work to be performed as previously agreed between the parties as part of the plan for extension of the dark fiber from Seventh Avenue.

The dark fiber shall terminate within City Hall in the area designated by the City computer information services coordinator.

Shared Space. The area in City Hall where the dark fiber terminates shall be a shared secure area under the control of the City computer information services coordinator. Saddle Mountain shall be provided sufficient space for a rack, wires and cables. This rack will permit Saddle Mountain to provide fiber internet and network service to the City for use in City Hall and other City locations as well as allowing Saddle Mountain to extend the fiber service to its wireless facility located as described in the Prior Agreement.

Saddle Mountain will have reasonable access to the shared space containing its rack and equipment. That access will be controlled by the City to insure the security of City electronic equipment, networks, data and facilities.

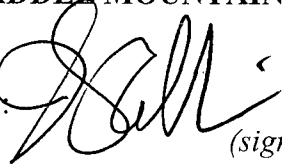
Exchange for Value. The City shall receive full fiber service for its internal network and

to access the internet for City Hall and other City facilities. The City is responsible to supply fiber to those other facilities. Saddle Mountain will be the City's internet service provider. The City shall supply electrical power of 120 volts to power the equipment of Saddle Mountain placed into the rack at City Hall described above. The City will receive use of the lighted fiber for the uses described herein at no charge to the City. The City will continue to be able to use the Saddle Mountain wireless internet service as a backup in the event of a failure of the fiber, all at no charge to the City. Saddle Mountain will be permitted use of the secure space in City Hall to provide the lighted fiber service to the City as well as for its own needs at no cost in return for the free services provided by Saddle Mountain to the City.

**The parties below execute this Agreement, which shall become effective on the last date entered below.**

**SADDLE MOUNTAIN WIRELESS, INC:**

By:

  
(signature)

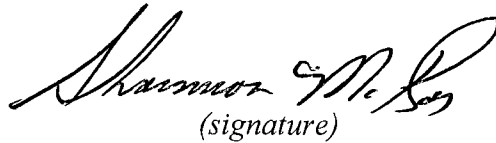
Jef Gallacci

Its: Vice President

DATE: ~~May~~ July 15, 2009.

**CITY OF OTHELLO:**

By:

  
(signature)

Shannon McKay

Its: Mayor

DATE: ~~May~~ July 13, 2009.

**NOTICES TO BE SENT TO:**

**SADDLE MOUNTAIN WIRELESS, INC:**

Jef Gallacci  
Vice Preseident  
18400 Road 24 SW  
Mattawa, WA 99349

509-932-5088 (telephone)  
509-932-4692 (facsimile)  
smwireless@smwireless.net (email)

**NOTICES TO BE SENT TO:**

**CITY OF OTHELLO:**

Mayor  
City of Othello  
500 E Main St  
Othello WA 99344

509-488-5686 (telephone)  
509-488-0102 (facsimile)  
esheldon@othellowashington.us (email)