

RESOLUTION NO. 10-0919

**RESOLUTION ESTABLISHING A PUBLIC-PRIVATE PARTNERSHIP TO FACILITATE THE
DEPLOYMENT OF AFFORDABLE, RELIABLE, HIGH-SPEED INTERNET
SERVICES THROUGHOUT THE COUNTY**

WHEREAS, access to affordable, reliable, high-speed broadband services, including for residential, commercial, and governmental use, provides enhanced educational possibilities, furthers workforce development opportunities, and stimulates economic development within the County; and

WHEREAS, the County's residents increasingly depend on their ability to access affordable, reliable, high-speed broadband services to improve their economic and financial position, to enhance their social networking capabilities, and to meet their basic consumer needs; and

WHEREAS, the County's businesses rely on their ability to access affordable, reliable, high-speed broadband services to effectively compete in a global economy; and

WHEREAS, the County's ability to timely deliver cost-effective governmental services to its residents, including emergency medical services and law enforcement protection, is enhanced by its ability to access affordable, reliable, high-speed broadband; and

WHEREAS, the County, along with its residents and businesses, desire expanded access to affordable, reliable, high-speed broadband services to effectively deliver basic services to its residents, to more fully engage in commerce, and to better compete in a global economy; and

WHEREAS, the County's topography and population density has made it cost-prohibitive for private sector development of a reliable, affordable, high-speed broadband network throughout the County; and

WHEREAS, as a result, many areas of the County have limited or no access to affordable, reliable, high-speed broadband services; and

WHEREAS, the County desires to develop and implement a plan to facilitate the provision of reliable, affordable, high-speed broadband services to residents and businesses throughout the County; and

WHEREAS, the County believes that cooperation with private-sector partners is necessary for the development of a county-wide broadband network that meets the needs of the County, its residents, and its businesses; and

WHEREAS, Hilbert Communications, LLC is an ISP with experience providing reliable, affordable, high-speed broadband services to underserved and unserved communities throughout Wisconsin for commercial, governmental, and emergency response purposes; and

WHEREAS, Hilbert Communications, LLC is able to and desires to assist the County with the development of a plan to facilitate the deployment of reliable, affordable, high-speed broadband services throughout the County; and

WHEREAS, the County believes that the economic activity and public benefits likely to occur as a result of the development and deployment of a reliable, affordable, high-speed broadband network throughout the County constitutes a valid public purpose; and

WHEREAS, the Parties desire to work together for the mutual benefit of the County's residents, businesses, government, and emergency responders by jointly developing a plan to facilitate the provision of reliable, affordable, high-speed broadband services throughout the County.

NOW, THEREFORE, BE IT RESOLVED, the Iowa County Board of Supervisors authorizes and directs the Chairman of the Board of Supervisors, or his designee, to execute a Memorandum of Understanding ("MOU"), attached as **Exhibit A**, with Hilbert Communications, LLC expressing the parties' desire and intent to develop a plan to construct, develop, and deploy high-speed internet infrastructure to facilitate the provision of affordable, reliable, high-speed internet services throughout the County.

BE IT FURTHER RESOLVED, the Iowa County Board of Supervisors authorizes and directs staff to immediately enter into negotiations with Hilbert Communications, LLC to develop a comprehensive plan, including all necessary agreements and other documentation, setting forth all relevant aspects necessary for the parties to jointly, or in partnership, construct, develop, and deploy high-speed internet infrastructure throughout the County.

BE IT FURTHER RESOLVED, the Iowa County Board of Supervisors authorizes and directs staff to immediately develop and prepare a complete Broadband Expansion Grant Application, including all necessary agreements and other documentation, in partnership with Hilbert Communications LLC, for joint submission to the Public Service Commission of Wisconsin not later than December 19, 2019.

BE IT FURTHER RESOLVED, all plans, applications, and Agreements referenced herein shall not become effective unless and until each has received approval by the Board of Supervisors in accordance with Iowa County's General Code of Ordinances and/or as otherwise required by law.

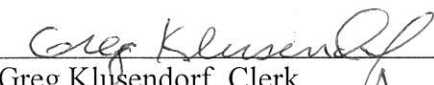
Respectfully submitted by the Executive Committee.

Adopted by the Iowa County Board of Supervisors this 17th day of September, 2019.



John M. Meyers, Chairman
Iowa County Board of Supervisors

Attest:



Greg Klusendorf, Clerk

EXHIBIT A

MEMORANDUM OF UNDERSTANDING BETWEEN IOWA COUNTY, WISCONSIN AND HILBERT COMMUNICATIONS, LLC ESTABLISHING A PUBLIC-PRIVATE PARTNERSHIP TO FACILITATE THE DEPLOYMENT OF AFFORDABLE, RELIABLE, HIGH-SPEED INTERNET THROUGHOUT THE COUNTY

This MEMORANDUM OF UNDERSTANDING ("MOU") is made and entered into this ____ day of September, 2019, by and between IOWA COUNTY, WISCONSIN (the "County"), a political subdivision of the State of Wisconsin with its principal office located at 222 North Iowa Street, Dodgeville, Wisconsin, 53533 and HILBERT COMMUNICATIONS, LLC ("Hilbert") a Wisconsin corporation with its principal office located at 130 East Walnut Street, Suite 301, Green Bay, Wisconsin, 54301 (collectively, the "Parties").

RECITALS

WHEREAS, the County seeks to promote the development of affordable, reliable, high-speed broadband service within its boundaries for the public purpose of supporting its residents' desired quality of life and its businesses' need to compete in a global economy; and

WHEREAS, the County believes that the economic activity and public benefits likely to be generated by studying, analyzing, developing, and, ultimately, providing reliable, affordable, high-speed broadband services throughout the County constitutes a valid public purpose; and

WHEREAS, the County has areas that are underserved or unserved by affordable, reliable, high-speed broadband service; and

WHEREAS, the County desires to expand its residents' and businesses' access to affordable, reliable, high-speed broadband service; and

WHEREAS, the County has requested Hilbert to partner with it to produce and implement a plan that will result in the development and deployment of affordable, reliable, high-speed broadband service throughout the County (the "Project"); and

WHEREAS, Hilbert is an ISP with experience providing reliable, affordable, high-speed broadband access to underserved and unserved communities throughout Wisconsin for commercial, governmental, and emergency response purposes; and

WHEREAS, the parties intend that the County, with Hilbert as its private-sector partner, will develop and submit a complete Broadband Expansion Grant Application to the Public Service Commission of Wisconsin (the "PSC") in furtherance of the expansion of broadband service throughout the County not later than December 19, 2019; and

WHEREAS, the County desires to enter into exclusive negotiations with Hilbert to develop and implement a plan to provide affordable, high-speed broadband service throughout the County (the "Broadband Expansion Plan"), subject only to those limitations under the County's ordinances and Wisconsin and federal law; and

WHEREAS, the Parties acknowledge that this MOU is merely a representation of the Parties' desire to develop, construct and provide broadband services throughout the County and does not constitute an authorization, express or otherwise, for the County to construct, own, or operate any facility for providing video service, telecommunications service, or broadband service, directly or indirectly, to the public; and

WHEREAS, the Parties acknowledge that the terms of this MOU may be subject to modification in order to assure compliance with the County's ordinances, state regulatory agencies' guidance and rules, and Wisconsin and federal law.

The Parties to this MOU acknowledge the foregoing recitals and agree to participate in and perform the following actions:

GENERAL PROVISIONS

- I. Preliminary Agreement. This MOU is a preliminary agreement between the Parties and, unless expressly stated otherwise, is not intended to create a binding agreement to finance, provide, maintain, develop, construct, or otherwise obligate the Parties to build or operate a broadband network within the County.
- II. Parties' Support for the Project. Notwithstanding any law, rule, guidance, ordinance, or conflicting provision contained herein, the Parties do hereby express support for the provisions contained within this MOU. The Parties acknowledge that the Project may not materialize despite their best efforts.
- III. Good Faith Negotiations. The Parties agree to identify and pursue all reasonable alternatives to effect the intent of this MOU and, where possible, take affirmative steps to implement those alternatives. The Parties further agree to voluntarily comply with the provisions of this MOU and, upon approval of the Broadband Expansion Plan by both Parties' respective governing bodies, negotiate in good faith to finalize and adopt a Final Broadband Expansion Plan Agreement that is separate and distinct from this MOU and which authorizes the Parties to construct and operate an affordable, reliable, high-speed broadband network throughout the County.
- IV. Preliminary Costs. The Parties agree that unless otherwise expressly agreed to in writing, each Party will be responsible for its own expenses incurred in furtherance of this MOU.
- V. Public Purpose. The Parties acknowledge that the expansion of broadband service throughout the County will provide a public benefit to the County, its residents, and its businesses. Accordingly, the Parties agree to cooperate with one another, and diligently undertake all reasonable actions and execute all reasonable efforts to secure funding to advance the Project.

OBLIGATIONS OF THE PARTIES

- VI. Preliminary Preparations. The Parties shall make all reasonable efforts to independently and collaboratively engage all stakeholders necessary to study, analyze, and execute the provisions of this MOU, including, but not limited to, the PSC, industry stakeholders, telecommunications providers, financial advisors, legal counsel, and other professionals, as necessary to realize the Project.
- VII. Broadband Expansion Grant Application. The Parties agree to work collaboratively to jointly prepare a complete Broadband Expansion Grant Application with the intent to submit the completed Broadband Expansion Grant Application (the "Application") to the PSC no later than December 31, 2019.
- VIII. Broadband Expansion Plan. The Parties shall make all reasonable efforts to develop a comprehensive Broadband Expansion Plan, the purpose of which shall be to develop and deploy reliable, affordable, high-speed broadband service throughout the County. The Parties agree to work together to jointly develop the Broadband Expansion Plan and the Application.
- IX. Broadband Expansion Plan Approval. After developing and finalizing the Broadband Expansion Plan and Application, the Parties shall submit the Broadband Expansion Plan and Application to their respective governing bodies for consideration and approval.
- X. Broadband Expansion Plan Agreement. Should both Parties' respective governing bodies approve the Broadband Expansion Plan and Application, the Parties shall submit the Application to the PSC. Should the PSC award the Parties' the requested grant amount, the Parties shall use reasonable efforts to negotiate the specific terms of the Broadband Expansion Plan in a Broadband Expansion Plan Agreement. Development, approval, and execution of the Broadband Expansion Plan Agreement shall be separate and distinct from this MOU and shall be subject to and conditioned upon successful negotiations between the Parties and approval by both Parties' respective governing bodies.
- XI. Costs. Parties acknowledge that all costs borne by the Parties in executing this MOU shall be the sole liability of the Party that incurred the costs, unless otherwise agreed to in writing.

MISCELLANEOUS PROVISIONS

- XII. Duration and Termination. The Parties are entitled to terminate this MOU immediately upon written notice to the other Party. Unless one or both Parties, or a court of law, terminates or invalidates this MOU, this MOU shall remain in full force and effect until the Parties' obligations described hereunder are completed.

- XIII. Non-Binding Effect. The Parties acknowledge that unless expressly stated otherwise, this MOU is not a binding agreement and the obligations and rights of the Parties are yet to be negotiated and memorialized through the adoption of the Broadband Expansion Plan Agreement. The Broadband Expansion Plan Agreement shall not become effective unless and until it is approved by both Parties' respective governing bodies.
- XIV. Disclaimer. The Parties acknowledge that this MOU does not obligate either Party to provide, construct, finance, or develop a broadband network within the County or to execute a Broadband Expansion Plan Agreement. The Parties further acknowledge that the provisions of this MOU shall not be relied upon nor construed as an inducement for either party to take any action(s) or incur any costs not explicitly set forth by this MOU.
- XV. Representations and Warranties. The Parties acknowledge that this MOU does not create a financial obligation between the Parties. The Parties further acknowledge that this MOU does not guarantee completion of the Broadband Expansion Plan or execution of a Broadband Expansion Plan Agreement. Nor does this MOU represent a financing guarantee between a potential lender and a potential buyer. Any financing terms referenced in this MOU shall become effective only upon the development and ratification of the Broadband Expansion Plan Agreement by both Parties' respective governing bodies. The Parties acknowledge that the Broadband Expansion Plan Agreement is separate and distinct from this MOU.
- XVI. Confidentiality. Because of the competitive nature of the broadband industry, the County acknowledges that certain information Hilbert provides to the County may be proprietary and, if specified as such, should be treated by the County as confidential and shall not be disclosed to third parties unless required by law.
- XVII. Amendments. This MOU may not be amended or modified, except in writing, by mutual agreement of the Parties.
- XVIII. Governing Law. This MOU is intended to be performed in the State of Wisconsin and shall be construed and enforced by the laws of the State of Wisconsin.
- XIX. Counterparts. This MOU may be executed in one or more counterparts, each of which shall be an original, and all of which together shall be one and the same instrument.

IN WITNESS WHEREOF, the Parties hereto have caused the execution of this MOU by the authority of their respective governing bodies and/or authorized signatory as an expression of the Parties' formal intent.

[Signature pages follow.]

IOWA COUNTY

The undersigned Iowa County officials have executed this Agreement pursuant to duly adopted Resolution No. _____ dated: _____, 2019.

John M. Meyers, Chairman
Iowa County Board of Supervisors

Attest:

County Clerk

STATE OF WISCONSIN)
)
COUNTY OF IOWA)

Personally came before me on _____, 2019, the above named _____, to me known to be the persons who executed the foregoing instrument and acknowledge same.

Notary Public, State of Wisconsin
My Commission expires: _____

HILBERT COMMUNICATIONS, LLC

Authorized Signatory

Date

Attest:

Notary Public

STATE OF WISCONSIN)
)
COUNTY OF BROWN)

Personally came before me on _____, 2019, the above named
_____, to me known to be the persons who executed the
foregoing instrument and acknowledge same.

Notary Public, State of Wisconsin
My Commission expires: _____