Nicholas County Commission Request for Proposal (RFP)

ISP/Private Partner(s) for Design Assistance, Construction, Deployment, Operation, and Maintenance of Broadband Network

Hinkle Mountain Broadband Expansion

Attn: Garrett Cole, President Nicholas County Commission 700 Main Street, Suite 7 Summersville, WV 26651 Date: June 23, 2021

REQUEST FOR PROPOSALS NICHOLAS COUNTY COMMISSION HINKLE MOUNTAIN BROADBAND EXPANSION

The Nicholas County Commission will accept sealed proposals to enable the County to identify one or more ISP (Internet Service Provider)/Private Partners interested in construction, deployment, operation and maintenance of Broadband Internet Network in the area of Hinkle Mountain, outside of the corporate limits of the City of Richwood in Nicholas County, WV as specified.

RFP documents and specifications may be downloaded from Region 4 Planning and Development Council's (PDC) web site at <u>https://www.reg4wv.org/request-for-proposals</u> and inquiries may be made by calling Cassandra Lawson of Region 4 PDC at (304) 872-4970 ext. 303, or by e-mail at <u>clawson@reg4wv.org</u>.

Sealed RFP's must be submitted to the Nicolas County Commission, 700 Main Street, Suite 7, Summersville, WV 26651 on or before **Friday, July 30, 2021 at 2:00 P.M.** (local time). All respondents are required to submit five (5) copies and an electronic copy or link of their RFP's documents at the time of submission. Electronic submissions may be provided to Cassandra Lawson of Region 4 PDC at clawson@reg4wv.org. All RFP's submitted should be enclosed in a sealed envelope and clearly marked "Broadband Expansion RFP" on the outside of the envelope. Any RFP's received after the time due will not be considered and shall be retained as documentation for the RFP file.

The Nicholas County Commission reserves the right to accept or reject any or all RFP's, to cancel this request for information and to waive technicalities in any part thereof deemed to be in the best interest of Nicholas County.

By Order of the Commission

Garrett Cole, President Nicholas County Commission

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NICHOLAS COUNTY COMMMISSION HINKLE MOUNTAIN BROADBAND EXPANSION

REQUEST FOR PROPOSALS

I. INTRODUCTION & PROJECT PURPOSE

The Nicholas County Commission ("Commission") is seeking proposals from qualified respondents interested in providing the services as described in this request for proposals ("RFP"). The primary purpose of the project is to deploy a fiber solution that will provide the businesses and residents of the project areas with broadband services of at least 25/3 Mbps.

II. PROJECT DESCRIPTION

The proposed project will bring a cost-effective broadband network into the Hinkle Mountain area, just outside the corporate limits of the City of Richwood in Nicholas County. This procurement process, as mandated by the requirements for federally funded publicly owned projects, is being completed to procure a qualified provider for the purpose of installing approximately 4.5 miles of aerial fiber to approximately 80 residential households along the project route. Additionally, there is a golf course that will be served by this project. The primary purpose of the project is to deploy a fiber solution that will provide the businesses and residents of the project area with broadband services of at least 25/3 Mbps. This project, owned by the Nicholas County Commission, will be operated, and maintained by an Internet Service Provider (ISP) selected by the Commission. A copy of draft Operation and Maintenance Agreement is included with the RFP and specification information. The project will consist of the installation of fiber along existing utility right-of-way on existing utility poles with a section of new buried right-of-way being required through United States Forest Service (USFS) lands. The proposed new route through USFS lands will parallel an existing road and waterline project to minimize impacts. Additionally, the County owns a newly installed lattice tower. Although this project will not utilize the tower, it will provide connectivity to a communications hut that services this tower. The proposed project will be serviced from this communications hut.

III. GOALS OF THIS PROCUREMENT

Funding Availability

The Commission has been awarded Housing and Urban Development Community Development Block Grant funds for this project.

Technical Goals

The Hinkle Mountain Broadband Expansion Project is proposed as a predominately aerial fiber deployment to provide service of at least 25/3 (25 MBPS upload & 3 MBPS download) to customers in the Hinkle Mountain area of Nicholas County.

Service Goals

The Commission seeks an ISP/Private Partner who will deliver broadband services that meet at minimum the current FCC definition of broadband (25Mbps/3Mbps) to any customer in unserved

areas. The Commission desires cost-effective services that are reasonably priced given the target market. The network should be neutral and non-discriminatory regarding applications, websites, type of use, and type of end-user device. The Partner should not impose caps on a user's total upload and download data capacity. The Commission desires a network that encourages increased Internet use to enable economically desirable activities such as home-based business, telework, telemedicine, and distance learning.

IV. SCOPE OF SERVICES

Proposers must submit a detailed scope of work outlining the project plan, tasks, scheduling, and milestone events. Services are expected to include, at a minimum, the following:

- Assist in provide system design
 - Thompson & Litton (T&L) has been procured to provide all design and permitting for the project. The selected firm shall work with T&L to complete the network design.
- Provide all necessary equipment including access points, antennas, cpe's, power supplies, fiber, generators, etc.
- Provide all installation services for all equipment
- Provide all operation and maintenance of the system

V. ORGANIZATION OF THE PROPOSAL

The organization of the proposed scope of work is described in this section of the Proposal guidelines. The proposal shall be limited to 10 pages, exclusive of pre-printed resumes, and similar material that the proposing firm believes will aid in determining its qualifications for the project. The following guidelines must be followed by all potential ISP/Private Partners.

A. <u>General Provisions</u>

Responses to this RFP must include the following information:

- 1. The name, address and telephone number of the proposing firm.
- 2. Identification of the individuals and/or vendors comprising the project team for this project and what specific role each will take in completing the work.
- 3. A summary of your experience completing similar projects. Please provide examples of the design, equipment and results of these projects. Also include any names, addresses and phone numbers of clients involved with these projects.
- 4. A detailed work plan describing your approach to design, installation, testing and training. The description should, at a minimum, include a listing of manufacturers, including model numbers, for proposed equipment, subcontractors, and a project schedule.
- 5. Describe your training program.
- 6. Provide detailed warranty and support information.
- 7. A detailed analysis of backhaul Internet services options available to the fiber network.
- 8. A detailed listing of fees and costs to complete the project with separate costs for equipment and labor.

B. <u>Supplemental Materials</u>

Vendors may provide any material not specifically required as supplemental information. Additional material may include the following:

- 1. Additional reports, photos and/or descriptions of similar projects you have completed.
- 2. Promotional material describing your firm and its services.
- 3. Additional references.
- 4. Manufacturer literature.

C. Introduction

A general introduction and description of the proposed approach and methodology shall be provided. The introduction should include a statement of the firm's approach to providing design assistance, achieving the require middle-mile backhaul and providing business & internet service to the end users.

D. <u>Scope of Work</u>

Describe the work program to accomplish the scope of work described above. The work program should address issues identified in the Project Description and shall provide a detailed description of the work to be accomplished. The organization of the specific work activities in the scope of work should be broken down into tasks, subtasks, and the anticipated result or output as follows:

An overview of a related group of subtasks or activities. Normally one or
two sentences.
A detailed description of the work, including the methodology to be performed. Generally, one to ten paragraphs depending upon the
complexity of the activities described in the subtask.
A description of what the result of this particular activity or subtask is. Generally, one sentence.

E. <u>Project Schedule</u>

Describe the time schedule for each proposed task and subtask described above. Proposed work periods and completion dates, as well as anticipated meeting dates should also be identified.

F. <u>Sub-consultants</u>

Provide the name and background information of each member of the firm who will perform the actual work described in the RFP and who will work with the team on a regular basis.

G. <u>Relevant Experience</u>

Provide the name and background information of each member of the firm who will perform the actual work described in the RFP and who will work with the team on a regular basis. Additionally, provide the names and background of all other professional staff that will be working as part of your project team. An organizational chart should be included as well as resumes for each participating staff person. Provide the relevant previous experience of the lead person for the project. Do not include work done by the firm that the lead person did not have a primary role in managing.

List at least three projects of a similar scope and nature to this proposal that the lead person from your firm had primary responsibilities including:

- 1. Project Address
- 2. Reference (with telephone number)
- 3. Year of Completion
- 4. Brief written description of the project

The Commission reserves the right to contact a proposing firm's previous clients at any time.

H. <u>Cost</u>

Provide the total cost to complete the services described in Section III. The cost proposal should provide a breakdown of the costs based on the sections listed in the Scope of Services. A separate cost proposal should be prepared to demonstrate the anticipate project cash flow including revenues and operation and maintenance expenses.

VI. SUBMITTAL OF THE PROPOSAL

- Respondents shall submit five (5) copies and an electronic copy or link of their RFP's documents at the time of submission. The completed proposal package must be received by the Nicholas County Commission, 700 Main Street, Suite 7, Summersville, WV 26651 by 2:00 p.m. on Friday, July 30, 2021. Faxes will not be accepted.
- B. All proposals, as well as any modifications, received at the Commission office after the hour and date specified above, will not be accepted. Postmarks are not accepted. All proposals will become the property of the Commission and will not be returned.
- C. The proposal shall be signed by an officer or officers authorized to execute legal documents on behalf of the Proposer and shall contain a statement to the effect that the proposal is a firm offer for a 60-day period.

VII. PROPOSAL ACCEPTANCE

Primary consideration will be given to the general appropriateness of the proposal for the project, the technical competence and creative ability of the ISP/Private Partner (as described in the proposal) and the firm's willingness to work closely with the Commission and project team. The Commission reserves the right to reject all proposals that are inappropriate or inadequate.

VIII. OTHER REQUIREMENTS

The contract will be awarded only to a responsible ISP/Private Partner. In order to qualify as responsible, a prospective Partner must meet the following standards, as they pertain to this Request for Proposals.

- A. The ISP/Private Partner must have adequate technical and financial resources for performance, as well as adequate equipment, or have the ability to obtain and to manage such resources and equipment as required during the performance period of the proposed contract.
- B. The ISP/Private Partner must have the necessary experience, organization, technical qualifications, skills and facilities or have the ability to obtain and to manage them (including any sub-consultant requirements).
- C. The ISP/Private Partner must be able to comply with the proposed or required performance schedule.
- D. The ISP/Private Partner must have a satisfactory record of contractual performance.
- E. The ISP/Private Partner must maintain the auditable records, documents and papers for inspection by authorized Commission representatives.
- F. Each ISP/Private Partner firm must be able to provide insurance coverage as follows in conformance with the EDA requirements:
 1) General Liability Insurance
 2) Automobile Insurance
 3) Workers Compensation Insurance
 4) Professional Errors and Omissions Insurance
 52,000,000
- G. The ISP/Private Partner must be otherwise qualified and eligible to receive an award under all applicable laws and regulations.

IX. CRITERIA FOR SELECTING AN ISP/PRIVATE PARTNER

The criteria in selecting an ISP/Private Partner will include but is not limited to:

- The firm's background and capabilities, including each firm's history and areas of specialization, or particular expertise.
- The background of the individuals who will do the actual design work and who will work with the Commission on a regular basis.
- The background of all team members on the project team who are proposed to assist in the development of this project.
- The relevant experience of the lead person for each firm on the project.
- The firm's expertise with similar projects.
- The firm's expertise in providing accurate and timely cost estimates.
- The firm's ability to provide a system design that meets the project's defined needs.
- The firm's ability to meet the project schedule.
- The firm's ability to meet minimum guaranteed performance requirements and reliability.
- The firm's design of scalability or the seamless ability to easily increase capacity and coverage areas.
- The firm's ability to maintain the system.
- Cost of the system.

X. SELECTION PROCESS

Interested ISPs are invited to schedule a voluntary pre-submittal meeting with the project team between the dates of **Wednesday, June 30, 2021 and Wednesday, June 14, 2021** by contacting Cassandra Lawson of Region 4 PDC by phone at (304) 872-4970 ext. 303, or by e-mail at clawson@reg4wv.org The meetings will provide an opportunity for vendors to ask questions. All **proposals are due on Friday, July 30, 2021 by 2:00 P.M.**

A Committee will review the Proposals and select firms to be interviewed. It is anticipated the same Committee will be present at the interview.

XI. LIMITATIONS

- A. All reports and pertinent data or materials shall be the sole property of the Commission and may not be used or reproduced in any form with the explicit written permission of the Commission.
- B. The Commission reserves the right to extend the time allotted for the proposal to examine verbally the bidder in person, and to request a best and final offer, should the Commission deem that it is in its best interests to do so.
- C. This Request for Proposals does not commit the Commission to award a contract, or to pay any costs incurred in the preparation of the proposal. The Commission reserves the right to accept or reject any or all proposals received as a result of this Request for Proposals, to negotiate with any qualified ISP/Private Partner, or to cancel this request in part or in its entirety. The Commission may require the selected ISP/Private Partner to participate in negotiations and to submit such technical, price, or other revisions to their proposal as may result from negotiations.

XII. APPENDIX I PROJECT PLANS





P: (304) 425-9555 F: (304) 425-9557

www.T-L.com

HINKLE MOUNTAIN BROADBAND EXPANSION FOR THE NICHOLAS COUNTY COMMISSION

NICHOLAS COUNTY COMMISSION SUITE #1, 700 MAIN ST, SUMMERSVILLE, WV 26651 (304)-872-7830

ISSUED FOR REVIEW PROJECT NO. 14946 FEBRUARY 14, 2020





SOURCE: GOOGLE EARTH MAPPING

FENWICK, WV



FIBER DESIGN ENGINEER'S SEA TRAFFIC MAINTENANCE PLAN ENGINEER'S SEAL

NOT FOR CONSTRUCTION



	SHEET INDEX			LEGEND	
<u>Sheet no</u>) <u>.</u>	DESCRIPTION	EXISTING	NEW	
1		COVER	——— W———		
2		OVERALL INDEX MAP			חוחב
2A		INDEX MAP	FO		WITH FIBER
2B		SHEET INDEX AND LEGEND			
2C		GENERAL NOTES			AEF
2D		EROSION & SEDIMENT CONTROL NOTES		<u> </u>	
2E		EROSION & SEDIMENT CONTROL NOTES		⊵ ≻ ≁	
3-21		PLAN – OUTSIDE PLANT DESIGN	\otimes		
22		TYPICAL DETAIL – HANDHOLE	-		
23–24		ASSEMBLY UNIT DETAIL			
24-41		CONSTRUCTION GUIDE DETAIL			
42-46		TRAFFIC CONTROL DETAILS		[###']	DISTAN
				###'	DIS
					PROPF

DESCRIPTION

WATER

CONDUITS – 1[‡]" CONDUITS ER (UNLESS OTHERWISE NOTED)

ERIAL FIBER CABLE WITH 6M STRAND

ANCHOR/GUY

POLES

BORES

HANDHOLES

NCE BETWEEN HANDHOLES

STANCE BETWEEN POLES

PROPERTY LINES/RIGHT-OF-WAY

FIRE HYDRANT

-ф-

 \bigotimes

— UT —

+100' 🕥

6M

WATER VALVE

- PROPERTY OF U.S. FOREST SERVICE
 - AERIAL STORAGE LOOP

UNDERGROUND TELEPHONE

AERIAL GUY



THOMPSON & LITTON

1105 Mercer Street Princeton, West Virginia 24740 www.T-L.com



GENERAL NOTES

- AERIAL PHOTOGRAPHY TO PROVIDE PLANIMETRIC MAPPING WAS OBTAINED FROM NAIP (2018 IMAGERY DATE). THE MAPPING WAS PREPARED IN 2019.
- 2. HORIZONTAL CONTROL IS BASED ON NORTH AMERICAN DATUM OF 1983 (NAD83) AND VERTICAL CONTROL IS BASED ON NORTH AMFRICAN VERTICAL DATUM OF 1988 (NAVD88).
- 3. PROPERTY LINES SHOWN ON THESE PLANS ARE FOR INFORMATIONAL PURPOSES ONLY. THEY WERE OBTAINED AND TRANSPOSED ONTO THESE PLANS USING EXISTING TAX MAP RECORDS AND HAVE NOT BEEN FIELD SURVEYED OR VERIFIED.
- 4. THESE PLANS DO NOT SHOW EXISTING UTILITY EASEMENTS AND/OR RIGHT-OF-WAYS.
- EXISTING UTILITY LINES SHOWN ON THESE PLANS ARE FOR INFORMATIONAL PURPOSES ONLY. THEY WERE ESTABLISHED USING 5. FIELD OBSERVATION AND EXISTING MAPPING RECORDS (WHEN AVAILABLE). THEREFORE, TYPE AND LOCATION OF ANY AND ALL UNDERGROUND UTILITIES IS NOT GUARANTEED TO BE ACCURATE OR ALL INCLUSIVE. ANY PERSON USING THESE PLANS IS RESPONSIBLE FOR MAKING THEIR OWN DETERMINATION AS TO THE LOCATION AND TYPE OF UNDERGROUND UTILITIES.
- WHILE AN EFFORT HAS BEEN MADE TO INDICATE THE PRESENCE OF UNDERGROUND FACILITIES, THERE IS NO GUARANTEE THAT THOSE SHOWN ARE LOCATED PROPERLY OR THAT THOSE SHOWN ARE ALL THAT EXIST. IT IS THE CONTRACTORS RESPONSIBILITY TO FIELD LOCATE ALL UNDERGROUND OBSTRUCTIONS AND UTILITIES PRIOR TO CONSTRUCTION. COMPLETE REPAIR OF ANY AND ALL DAMAGES INCURRED SHALL BE AT THE EXPENSE OF THE CONTRACTOR.
- 7. THE CONTRACTOR SHALL NOTIFY MISS UTILITY PRIOR TO ANY EXCAVATION.
- 8. THE CONTRACTOR SHALL BE RESPONSIBLE FOR ANY AND ALL BRACING OF EXISTING UTILITY POLES AS NEEDED TO AVOID DAMAGE DURING CONSTRUCTION.
- 9. IN ALL CASES WHERE EXCAVATION IS NECESSARY (BORE PITS, TRENCHES, ETC.), ALL BACKFILL SHALL BE AGGREGATE. EARTHFILL IS NOT AN ACCEPTABLE BACKELL MATERIAL.
- 10. THE MINIMUM DEPTH OF THE FIBER OPTIC LINE SHALL BE THIRTY (30) INCHES, UNLESS OTHERWISE NOTED.
- 11. FIBER OPTIC LINE BORED UNDER ANY WATERWAY SHALL BE A MINIMUM DEPTH OF THIRTY-SIX (36) INCHES BELOW THE DRY BOTTOM OF THE WATERWAY.
- 12. PLACEMENT OF WARNING TAPE SHALL BE A MINIMUM OF SIX (6) INCHES ABOVE THE FIBER OPTIC LINE.
- 13. HANDHOLES/VAULTS SHALL BE VEHICULAR TRAFFIC RATED (TIER 15) AT ALL LOCATIONS, EXCEPT WHERE SPECIFIED AND PROPERLY MARKED
- 14. ALL AERIAL CROSSINGS SHALL BE A MINIMUM OF 18' OVER ALL ROADS EXCEPT LIMITED ACCESS WHICH SHALL BE 21' AND RAILROADS AT 27'.
- 15. ALL HANDHOLES SHALL BE MOUNTED FLUSH.
- 16. ALL 30"X48"X24" HANDHOLES WITH +100' SHALL HAVE 100' OF SLACK LEFT FOR STORAGE.
- 17. MARKERS SHALL BE POST TYPE MARKERS WITH INFO LABEL STATING TYPE OF LINE, OWNER AND EMERGENCY PHONE NUMBER AND IN AREAS WHERE GUARDRAILS ARE PRESENT SHALL BE PLACED BEHIND THEM.
- 18. THE PLACEMENT OF EACH MARKER POST SHALL BE AT THE LOCATION OF EACH HANDHOLE AND FIELD VERIFIED BY THE CONTRACTOR/INSPECTOR. THE MARKER POSTS SHALL BE PLACED BESIDE EXISTING STRUCTURES NEAR HANDHOLES, WHERE POSSIBLE I.É. SIGNS, POLES ETC.
- 19. SEQ SEQUENCE SHALL BE PROVIDED AT ROAD, STREAM, PLACEMENT OF HANDHOLES, CULVERTS, SPLICE POINTS AND WARNING SIGNS DURING CONSTRUCTION BY THE CONTRACTOR.
- 20. ANY DEVIATIONS TO THE HANDHOLES AND POLES LOCATION AS SHOWN ON THE DRAWINGS SHALL REQUIRE PRIOR APPROVAL FROM THE ENGINEER.
- 21. ALL UNPAVED AND UNGRAVELED AREAS DISTURBED BY EXCAVATION SHALL BE SEEDED.
- 22. WHERE FENCES, TEMPORARY LIVESTOCK FENCING, SMALL SHRUBS, DECORATIVE STONES, AND ROCK OR CRIB WALLS MUST BE DISMANTLED AND REMOVED TO FACILITATE CONSTRUCTION, SUCH ITEMS ARE TO BE RESTORED TO THEIR PRE-CONSTRUCTION OR A BETTER CONDITION IN A TIMELY MANNER. COST OF SUCH RESTORATION IS TO BE INCLUDED IN THE BID PRICE OF THE CONSTRUCTION ITEM NECESSITATING THE DISTURBANCE
- 23. IN SOME LOCATIONS. PROPOSED FIBER MAY BE ILLUSTRATED IN RESIDENTIAL LAWNS. THE PROPOSED FIBER HAS BEEN PLANNED AS TO AVOID CONFLICTS WITH LARGE VARIOUS OBSTRUCTIONS AS MUCH AS POSSIBLE. THE CONTRACTOR SHALL USE EQUIPMENT AND CONSTRUCTION METHODS WHICH WILL MINIMIZE DISTURBANCE WHEN WORKING IN RESIDENTIAL LAWNS. IF THE CONTRACTOR SEES THAT ANY LARGE DECORATIVE SHRUBS, FRUIT TREES, OR EVERGREENS WILL HAVE TO BE CUT OR REMOVED AND REPLACED TO FACILITATE CONSTRUCTION, THE CONTRACTOR SHALL NOTIFY THE ENGINEER WELL IN ADVANCE OF WORKING THE AREA AND SHALL NOT PROCEED TO REMOVE THE OBSTRUCTION WITHOUT THE ENGINEER'S VERBAL APPROVAL.
- 24. ALL ROAD CROSSINGS FOR ROADS THAT ARE EITHER ASPHALT OR CONCRETE SHALL EMPLOY TRENCHLESS INSTALLATION (E.G. BORED AND JACKED, HORIZONTAL DIRECTIONAL DRILLED) METHODS UNLESS OTHERWISE SPECIFIED.
- 25. IF A ROAD IS NOT SURFACED (E.G. THE ROAD IS GRAVEL OR DIRT) THEN IT MAY BE OPEN CUT. HOWEVER, CASING PIPE MUST STILL BE USED IN ORDER TO ALLOW FOR TRENCHLESS REPLACEMENT OF THE PROPOSED FIBER IF THE ROAD IS PAVED IN THE FUTURE.
- 26. THE CONTRACTOR SHALL PROVIDE ROAD PLATES OF A TYPE AND THICKNESS ACCEPTABLE TO THE WEST VIRGINIA DIVISION OF HIGHWAYS WHEN INSTALLING THE PROPOSED FIBER BY THE OPEN CUT METHOD ACROSS ANY ROAD THEY OWN AND MAINTAIN.
- 27. A CAUSEWAY IS TO BE KEPT OPEN AT ALL TIMES ON ALL ONE LANE ROADWAYS IN THE CONSTRUCTION AREA.

- 28. PROPOSED CASING SHALL EXTEND TWO (2) FEET ON BOTH SIDES OF ANY GUARDRAIL IT MAY CROSS.
- 29. ALL WORK WITHIN WEST VIRGINIA DEPARTMENT OF TRANSPORTATION DIVISION OF HIGHWAYS (DOH) RIGHT-OF-WAY SHALL BE PERFORMED IN ACCORDANCE WITH THE LATEST EDITIONS OF THE DOH "STANDARD SPECIFICATIONS ROAD AND BRIDGE" AND "SUPPLEMENTAL SPECIFICATIONS", AS APPLICABLE.
- 30. THE CONTRACTOR SHALL BE RESPONSIBLE FOR ARRANGING FOR AND OBTAINING THEIR STAGING AREAS AND WASTE/BORROW SITES FOR THE PROJECT.
- 31. SHOULDER RE-GRADING AND REPAIRS SHALL BE PERFORMED DAILY. ALL SHOULDERS DISTURBED BY INSTALLATION OF FIBER MUST BE RE-GRADED TO SLOPE AWAY FROM THE PAVED SURFACE AT A SLOPE OF 3/4" PER FOOT AND STABILIZED WITH AGGREGATE AT 2" MINIMUM DEPTH.
- 32. THE CONTRACTOR SHALL KEEP AT THE PROJECT SITE A COPY OF THE DOH PERMITS FOR THIS PROJECT.
- 33. PRIVATE ENTRANCE DRAINAGE CULVERTS DAMAGED DURING CONSTRUCTION SHALL BE REPLACED WITH A MINIMUM 18" CULVERT.
- 34. THE INSTALLATION OF FIBER IN THE PRESENCE OF GAS SHALL BE PLACED IN ACCORDANCE WITH THE GAS COMPANY'S SPECIFICATIONS.
- 35. THE EXISTENCE AND LOCATION OF PAVED/CONCRETE ROADS SHALL BE FIELD VERIFIED BY THE CONTRACTOR AND CONSTRUCTED ACCORDINGLY.
- 36. ANY DISTURBANCE TO CONCRETE DITCHES MUST BE RESTORED TO THE ORIGINAL CONDITION PER THE APPLICABLE DOH STANDARDS.
- 37. ALL DISTURBED AREAS SHALL BE GRADED TO MAINTAIN POSITIVE DRAINAGE TO ALL DRAINAGE STRUCTURES.
- 38. THE CONTRACTOR SHALL RESTORE ALL AREAS DISTURBED BY CONSTRUCTION TO ITS ORIGINAL CONDITION.
- 39. CONTRACTOR SHALL FOLLOW THE NESC (NATIONAL ELECTRICAL SAFETY CODE) ON ALL AERIAL ROUTES.
- 40. ALL GUYS, ANCHORS, GROUNDS SHALL CONFORM TO RUS REGULATIONS. AERIAL SHALL BE GROUNDED AT CORNERS/START/END/SNOWSHOES AND ALL POWER COMPANY VERTICAL GROUNDS.
- 41. ALL AERIAL STRAND AND GUY WIRES SHALL BE 6.6M UNLESS OTHERWISE NOTED.
- 42. THE CONTRACTOR SHALL UTILIZE ALLEGHANY POWER'S EXISTING ANCHORS. IF THERE ARE NO OPEN SPACES ON THE POWER COMPANY'S EXISTING ANCHOR, THE CONTRACTOR SHALL PLACE A 12M ANCHOR TO ATTACH THE GUY WIRE.
- 43. GROUND THE LOCATE WIRE AT START/END.
- 44. PLACE A LOCATE WIRE IN DITCH WITH AERIAL CONDUITS PLACED FROM POLE TO HANDHOLE.
- 45. OWNERSHIP OF DOCUMENTS: THIS DOCUMENT, INCLUDING THE IDEAS AND DESIGNS INCORPORATED HEREIN, AS AN INSTRUMENT OF PROFESSIONAL SERVICE, IS THE PROPERTY OF THOMPSON & LITTON AND IS NOT TO BE USED IN WHOLE OR IN PART FOR ANY OTHER PROJECT WITHOUT THE WRITTEN AUTHORIZATION OF

THOMPSON & LITTON.



GENERAL EROSION AND SEDIMENT CONTROL METHODS / PROCEDURES

EROSION AND SEDIMENT CONTROL FACILITIES SHALL BE CONSTRUCTED, STABILIZED, AND FUNCTIONAL BEFORE ANY SITE DISTURBANCE BEGINS WITHIN THE TRIBUTARY AREAS OF THOSE FACILITIES

- 1. IN ALL CASES, THE SMALLEST PRACTICAL AREA OF STABLE LAND SURFACE WILL BE DISTURBED.
- AT NO TIME WILL SEDIMENT LADEN RUNOFF BE ALLOWED TO LEAVE THE SITE AND ENTER STATE WATERS WITHOUT FIRST PASSING THROUGH A SEDIMENT FILTERING DEVICE. SHOULD SITE CONDITIONS, CONSTRUCTION PROCEDURES, ETC. ALTER THE 2. APPROVED PLAN TO THE POINT WHERE SEDIMENT AND SEDIMENT LADEN RUNOFF IS NOT BEING CONTROLLED AND FILTERED BEFORE IT LEAVES THE SITE, ADDITIONAL EROSION CONTROL FACILITIES ARE TO BE IMPLEMENTED.
- 3. THE CONTRACTOR SHALL AT NO TIME HAVE MORE THAN 500 LINEAL FEET OF TRENCH OPEN AT ONE TIME.
- THE CONTRACTOR SHALL ENSURE THAT ALL BACKFILLED TRENCHES BE PERMANENTLY STABILIZED WITH 3 DAYS. ALL PERMANENT SEEDING SHALL BE PERFORMED IN ACCORDANCE THE MOST RECENT VERSION OF THE WEST VIRGINIA EROSION AND SEDIMENT CONTROL BEST MANAGEMENT PRACTICE MANUAL.
- WHERE TRENCHING ACTIVITY TAKES PLACE ALONG ANY STATE ROUTE, THE CONTRACTOR SHALL ENSURE THAT ALL MUD AND DEBRIS IS CLEANED FROM THE HIGHWAY SURFACE. THIS WILL BE DONE WITH A BROOM, STREET SWEEPER, ETC. NO WASHING OF THE PAVED SURFACE SHALL BE PERMITTED.
- 6. IN THE EVENT OF EXCESSIVE RAINWATER OR GROUNDWATER SURCHARGE, THE CONTRACTOR SHALL COORDINATE ALL DEWATERING ACTIVITES WITH THE WVDEP INSPECTOR. ALL DEWATERING SHALL DRAIN: 6.1 INTO AN APPROVED SEDIMENT TRAPPING DEVICE (SEDIMENT TRAP, ETC.) 6.2 INTO A SEDIMENT TANK OR FILTER BOX.
- 7. THE CONTRACTOR SHALL INSTALL SILT SOCK OR SILT FENCE ON THE DOWNSTREAM SIDE OF ANY EXCAVATED TRENCH WHERE IN CLOSE PROXIMITY (50 FEET OR LESS) TO A RUNNING WATERCOURSE. THE CONTRACTOR SHALL PLACE EXCAVATED MATERIAL ON THE UPSTREAM SIDE OF THE TRENCH WHERE SAFETY PERMITS AND WHEN ADHERENCE TO OSHA STANDARDS CAN BE MET.
- THE CONTRACTOR SHALL RESTORE ALL DITCH LINES BACK TO THEIR EXISTING CONDITION. 8.
- DUE TO ENVIRONMENTALLY SENSITIVE ISSUES, NO SECTION OF TRENCH SHALL REMAIN OPEN FOR MORE THAN 48 HOURS. 9. IN THE EVENT THAT A SECTION NEEDS TO REMAIN OPEN LONGER THAN 48 HOURS FOR UNSEEN CIRCUMSTANCES, THE CONTRACTOR SHALL INSTALL APPROPRIATE SEDIMENT AND EROSION CONTROL MEASURES AS DETERMINED BY THE CONSTRUCTION SUPERINTENDENT ON SITE AND DEWATER THE TRENCH IF APPLICABLE.
- 10. ALTHOUGH THE STAGING OF EARTHMOVING ACTIVITIES HAS BEEN DESCRIBED WITHIN CERTAIN AREAS, THE WORK MAY OCCUR OVER THE ENTIRE PROJECT AREA SIMULTANEOUSLY. MEASURES SHALL BE IMPLEMENTED AS NECESSARY TO CONTINUE THE INTEGRITY OF THE EROSION AND SEDIMENTATION CONTROL PLAN.
- 11. EARTH DISTURBANCE ACTIVITIES, INCLUDING MOVEMENT OF CONSTRUCTION VEHICLES, SHALL BE AVOIDED / MINIMIZED BELOW THE LOCATION OF THE PERIMETER EROSION CONTROL FACILITIES. SHOULD EARTH DISTURBANCE OCCUR BELOW THE PERIMETER EROSION CONTROL FACILITIES, PERMANENT STABILIZATION SHALL BE IMMEDIATELY APPLIED TO THOSE DISTURBED ARFAS
- 12. WASTE AND EXCESS MATERIALS SHALL BE STOCKPILED OR DISPOSED OF IN A LAWFUL MANNER ON SITE OR AT AN APPROVED FACILITY.
- 13. ALL OFFSITE BORROW AREAS, WASTE DISPOSAL AREAS, AND/OR STORAGE AREAS SHALL HAVE AN APPROVED EROSION AND SEDIMENT POLLUTION CONTROL PLAN PRIOR TO THE START OF ANY EARTHMOVING ACTIVITIES IN THESE OFFSITE AREAS.
- TOPSOIL AND EXCESS MATERIAL STOCKPILES SHALL BE SEEDED AND MULCHED IF THEY ARE TO REMAIN FOR MORE THAN 4 DAYS. STOCKPILES ARE TO BE PLACED IN A LOCATION WHERE THEY WILL NOT INTERFERE WITH CONSTRUCTION ACTIVITIES AND ARE NOT TO BE LOCATED WITHIN THE FLOW PATH OF A NATURAL OR CONSTRUCTED WATERWAY. STOCKPILE AREAS ARE 14. TO HAVE SIDE SLOPES OF 2H:1V OR FLATTER.
- 15. PERMANENT STABILIZATION IS REQUIRED AS SOON AS A DISTURBED AREA IS BROUGHT TO GRADE OR FINAL EARTH MOVING HAS BEEN COMPLETED. WHERE IT IS NOT POSSIBLE TO PERMANENTLY STABILIZE A DISTURBED AREA IMMEDIATELY AFTER THE FINAL EARTHMOVING HAS BEEN COMPLETED OR WHERE THE ACTIVITY CEASES FOR MORE THAN 4 DAYS, TEMPORARY STABILIZATION MEASURES SHALL BE IMPLEMENTED PROMPTLY.
- AREAS WHICH ARE TO BE TOPSOILED SHALL BE SCARIFIED TO A MINIMUM DEPTH OF 3 TO 5 INCHES 6 TO 12 INCHES 16 ON COMPACTED SOILS - PRIOR TO PLACEMENT OF TOPSOIL. AREAS TO BE VEGETATED SHALL HAVE A MINIMUM 4 INCHES OF TOPSOIL IN PLACE PRIOR TO SEEDING AND MULCHING. FILL OUTSLOPES SHALL HAVE A MINIMUM OF 2 INCHES OF TOPSOIL
- 17. ANY EROSION AND SEDIMENTATION CONTROL FACILITY REQUIRED OR NECESSARY TO PROTECT AREAS FROM EROSION DURING THE STABILIZATION PERIOD SHALL BE MAINTAINED UNTIL PERMANENT STABILIZATION OF THE CONTRIBUTING DRAINAGE AREA IS COMPLETED. UPON COMPLETION OF PERMANENT STABILIZATION, ALL UNNECESSARY OR UNSTABLE CONTROL MEASURES AND FACILITIES SHALL BE REMOVED. THE DISTURBED AREAS CREATED BY THIS ACTIVITY SHALL BE BROUGHT TO FINAL GRADE AND THE SOILS SHALL BE IMMEDIATELY STABILIZED.
- 18. SCHEDULE CONSTRUCTION SO THAT GRADING OPERATIONS CAN BEGIN AND END AS QUICKLY AS POSSIBLE.
- 19. CLEARLY MARK AREAS THAT ARE NOT TO BE DISTURBED BY FLAGS, SIGNS, ETC.

GENERAL MAINTENANCE / CONTRACTOR RESPONSIBILITIES

- 1. THE MAINTENANCE FOR THE PROJECT SHALL BE IN ACCORDANCE WITH THE APPROVED EROSION AND SEDIMENTATION CONTROL PLAN. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE CONTINUOUS MAINTENANCE OF ALL EROSION AND SEDIMENT MEASURES AND DEVICES FOR THE DURATION OF THE PROJECT AND UNTIL WHICH TIME THE AREA IS STABILIZED WITH A MINIMUM UNIFORM 70% PERENNIAL VEGETATIVE COVER.
- ALL FACILITIES SHALL BE INSPECTED AND REPAIRED. IF NECESSARY, AFTER EACH MEASURABLE RAINFALL EVENT AND A 2 PERIOD NOT TO EXCEED ONE WEEK. ALL PREVENTATIVE MAINTENANCE WORK, INCLUDING CLEAN OUT, REPAIR, REPLACEMENT, REGRADING, RESEEDING, REMULCHING, AND ANCHORING OF THE MULCH SHALL BE PERFORMED IMMEDIATELY. SEDIMENT COLLECTED FROM THE EROSION CONTROL STRUCTURES SHALL BE PLACED UPSTREAM OF THOSE CONTROLS AND IMMEDIATELY STABILIZED WITH SEED AND AN ANCHORED MULCH OR HAULED OFF SITE TO A DISPOSAL AREA WITH AN APPROVED EROSION AND SEDIMENT POLLUTION CONTROL PLAN.
- 3. AT NO TIME WILL SEDIMENT LADEN RUNOFF BE ALLOWED TO LEAVE THE SITE AND ENTER STATE WATERS WITHOUT FIRST PASSING THROUGH A SEDIMENT FILTERING DEVICE. IF EROSION CONTROL FACILITIES FAIL TO PERFORM AS EXPECTED, ALTERNATIVE FACILITIES OR MODIFICATIONS OF THOSE FACILITIES INSTALLED WILL BE REQUIRED.
- 4. ALL SEDIMENT CONTROL DEVICES SHALL BE INSPECTED A MINIMUM EVERY SEVEN (7) DAYS.
- 5. ALL SEDIMENT CONTROL DEVICES SHALL BE INSPECTED IMMEDIATELY AFTER EACH RAINFALL OF 0.50 INCHES OR GREATER.
- 6. ALL SEDIMENT CONTROL DEVICES SHALL BE INSPECTED AT LEAST DAILY DURING PROLONGED RAINFALL.
- 7. ANY REQUIRED REPAIRS TO SEDIMENT AND EROSION CONTROL MEASURES SHALL BE MADE IMMEDINATELY.
- 8. ALL PERMANENTLY SEEDED AREAS THAT BECOME ERODED SHALL HAVE THE TOPSOIL REPLACED, THE EROSION CONTROL MATTING REPLACED (IF APPLICABLE), THE GRASS RESOWN AND MULCH REAPPLIED AND ANCHORED. IF EROSION PERSISTS, THE AREA SHALL BE EITHER LINED WITH SOD OR STABILIZED WITH ROCK RIPRAP.
- 9. A COPY OF THE APPROVED EROSION AND SEDIMENT CONTROL PLAN SHALL BE KEPT AVAILABLE FOR INSPECTION ON THE CONSTRUCTION SITE AT ALL TIMES THROUGHOUT THE TERM OF THE PROJECT.
- 10. THE INTENT OF THIS PLAN / NARRATIVE IS TO INDICATE GENERAL MEANS OF COMPLIANCE WITH THE REQUIREMENTS OF THE RULES AND REGULATIONS OF THE WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION. IT SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR TO IMPLEMENT THESE METHODS, PLUS ADDITIONAL METHODS, AS MAY BE NECESSARY BECAUSE OF CONDITIONS CREATED BY LOCALIZED SITE CONDITIONS AND/OR CONSTRUCTION PROCEDURES IN ORDER TO ASSURE COMPLIANCE WITH APPLICABLE LAW. IT WILL FURTHER BE THE RESPONSIBILITY OF THE CONTRACTOR TO MAINTAIN ALL EROSION AND SEDIMENT CONTROL FACILITIES SO THAT THEY PERFORM AS REQUIRED BY APPLICABLE LAW.
- 11. FINES AND RELATED COSTS RESULTING FROM THE CONTRACTOR'S FAILURE TO PROVIDE ADEQUATE PROTECTION AGAINST SOIL EROSION AND FOR ANY VIOLATIONS OF THE RULES AND REGULATIONS PROMULGATED THEREUNDER SHALL BE BORNE BY THE CONTRACTOR.



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			CITY OF RICHWOOD, WEST VIRGINIA				EROSION & SEDIMENT CONTROL NOTES	
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TEMPORARY CONTROL MEASURES AND FACILITIES

- 1. GENERAL SEE PLANS AND DETAILS FOR PROPOSED LOCATIONS AND CONSTRUCTION DETAILS FOR BMP'S.
- 2. TEMPORARY VEGETATION A VEGETATIVE COVER, ANNUAL OR PERENNIAL, BUT TYPICALLY RAPID GROWING ANNUAL GRASSES, SMALL GRAINS OR LEGUMES. USED TO PROVIDE EROSION PROTECTION TO A DISTURBED AREA UNTIL ACTIVE EARTHMOVING RESUMES OR PERMANENT PROTECTION IS PROVIDED.
- 3. COMPOST FILTER SOCKS COMPOST FILTER SOCKS SHALL BE PLACED AT EXISTING LEVEL GRADE. BOTH ENDS OF THE SOCK SHALL BE EXTENDED AT LEAST 8 FEET UP SLOPE AT 45 DEGREES TO THE MAIN SOCK ALIGNMENT.
- 4. ROCK FILTER ROCK FILTERS MAY BE USED TO CONTROL RUNOFF WITHIN CONSTRUCTED CHANNELS AT THE DOWNSTREAM END OF THE CHANNEL DURING CONSTRUCTION UNTIL THE PROTECTIVE LINING IS INSTALLED OR DURING A TEMPORARY DISTURBANCE WITHIN THE CHANNEL. THEY MAY ALSO BE USED BELOW CONSTRUCTION WORK WITHIN AN EXISTING STREAM CHANNEL WHILE FLOW IS BEING DIVERTED PAST THE WORK AREA. IN SUCH CASES, THE FILTER SHOULD BE LOCATED BETWEEN THE WORK AREA AND THE DISCHARGE FROM THE BYPASS SYSTEM. ROCK FILTERS MAY NOT BE USED INSTEAD OF AN ADEQUATE PROTECTIVE LINING IN SEDIMENT BASIN EMERGENCY SPILLWAYS. THIS CAN REDUCE THE EFFECTIVE DISCHARGE CAPACITY OF THE SPILLWAY AND, IN SO DOING, INCREASE THE POSSIBILITY OF EMBANKMENT FAILURE.
- ROCK CONSTRUCTION ENTRANCE SHALL BE INSTALLED PRIOR TO EXITING THE SITE TO AVOID EXCESSIVE 5. TRACKING OF MUD ONTO A HIGHWAY. ACCESS TO THE SITE SHOULD BE LIMITED TO THE STABILIZED ENTRANCE(S)
- 6. COMPOST SOCK SEDIMENT TRAPS - SHALL BE CONSTRUCTED IN THE LOCATION SHOWN ON THE EROSION AND SEDIMENT CONTROL PLAN IN ACCORDANCE WITH THE EROSION AND SEDIMENT CONTROL PLAN DETAILS. CONSIDERATION SHOULD BE GIVEN TO HOW THE LOCATION OF ANY PROPOSED TRAP WILL BE ACCESSED. IF A PROPOSED LOCATION IS NOT EASILY ACCESSIBLE, SPECIAL ATTENTION SHOULD BE GIVEN TO ANY ACCESS ROADS ROADS THAT WILL NEED TO BE CONSTRUCTED.

PERMANENT CONTROL MEASURES AND FACILITIES

- VEGETATIVE COVER THE PERMANENT SEEDING RATES ARE LISTED ON THE STANDARD CONSTRUCTION DETAIL 1. SHEET #19.
- 2. PROVIDE LIMING RATES AS RECOMMENDED BY THE SOIL TEST RESULT. FERTILIZER SHALL BE APPLIED PER DETAILS IN DETAIL SHEET 19. WORK SOIL SUPPLEMENTS INTO SOIL OR APPLY WITH HYDROSEEDING. MULCH AREA WITH STRAW OR HAY MULCH AT 3 TONS PER ACRE. INSPECT SEEDED AREAS AFTER EACH MEASURABLE EVENT. ERODED AREAS SHALL HAVE TOPSOIL REPLACED, SEED RESOWN AND MULCH REAPPLIED AND ANCHORED. IF EROSION PERSISTS, THE AREA WILL BE EITHER LINED WITH SOD OR STABILIZED WITH ROCK RIPRAP.
- 3. MULCH OR STRAW OR HAY - MULCH SHALL BE APPLIED OVER SEEDED AREAS NO LATER THAN 48 HOURS AFTER SEEDING. SPREAD MULCH UNIFORMLY, IN A CONTINUOUS BLANKET AT A MINIMUM RATE OF 3 TONS PER ACRE. MULCH MAY BE SPREAD BY HAND OR WITH AN ACCEPTABLE MECHANICAL BLOWER. MACHINES WHICH CUT MULCH INTO SHORT PIECES WILL NOT BE PERMITTED. MULCH SHALL BE ANCHORED BY USE OF CRIMPING, NETTING, ASPHALTIC OR A NONASPHALTIC EMULSION MULCH BINDER IMMEDIATELY FOLLOWING MULCH SPREADING. IF ANY ASPHALTIC OR NONASPHALTIC EMULSION MULCH BINDER IS USED, THE NUMBER OF PASSES OVER THE MULCH AS NEEDED TO SECURE IT FIRMLY SHALL NOT EXCEED THREE PASSES WITH MAXIMUM APPLIED BINDER NOT EXCEEDING 10 GALLONS PER 1,000 SQ. FT.
- EROSION CONTROL BLANKETS EROSION CONTROL BLANKETS SHOULD BE USED ON ALL SLOPES THAT ARE 3H:1V OR STEEPER AND WHERE POTENTIAL EXISTS FOR SEDIMENT POLLUTION TO RECEIVING SURFACE WATERS. CUT SLOPES IN COMPETENT BEDROCK AND ROCK FILL SLOPES NEED NOT BE BLANKETED. EROSION CONTROL 4. BLANKETS SHOULD BE USED FOR ALL SEEDED AREAS WITHIN 50 FEET OF A SURFACE WATER - 100 FEET OF A SPECIAL PROTECTION WATER - REGARDLESS OF SLOPE.
- INSLOPED ROADWAY CUT AND FILL SLOPES SHALL BE STABILIZED IMMEDIATELY UPON COMPLETION OR 5. ROADWAY GRADING. THESE AREAS SHALL BE BLANKETED WHERE EVER THEY ARE LOCATED WITHIN 50 FEET OF A SURFACE WATER. A TOP DRESSING COMPOSED OF HARD, DURABLE STONE SHALL BE PROVIDED FOR SOILS HAVING LOW STRENGTHS. ROADSIDE DITCHES SHALL BE PROVIDED WITH ADEQUATE PROTECTIVE LINING WHERE EVER RUNOFF CAN NOT SHEET FLOW AWAY FROM THE ROADWAY. ADEQUATELY SIZED CULVERTS OR OTHER SUITABLE CROSS DRAINS SHALL BE PROVIDED AT ALL SEEPS, SPRINGS, AND DRAINAGE COURSES. DITCH RELIEF CULVERTS OR TURNOUTS SHALL BE PROVIDED AT THE INTERVALS INDICATED ON THE PLAN DRAWINGS. RIPRAP OUTLET PROTECTION HAS BEEN SIZED ACCORDING TO ANTICIPATED DISCHARGE VELOCITY.
- 6. ROADSIDE DITCHES - SIZING AND SPACING OF DITCH RELIEF CULVERTS SHOULD BE ACCORDING TO PLAN DRAWINGS. ROCK FILTERS ARE NOT REQUIRED WHERE ROADWAY SURFACE IS STABILIZED, DITCHES ARE PROVIDED WITH PROTECTIVE LINERS, AND CUT BANKS ARE STABILIZED. SUITABLE OUTLET PROTECTION SHOULD BE PROVIDED AT EACH CULVERT OUTFALL
- 7. RIPRAP APRON RIPRAP APRONS MAY BE USED TO PREVENT SCOUR AT PIPE OR CHANNEL OUTFALLS WHERE ANTICIPATED DISCHARGE VELOCITIES DO NOT EXCEED 17.0 FEET PER SECOND, THERE IS SUFFICIENT ROOM TO CONSTRUCT THE APRON, AND WHERE THE APRONS CAN BE INSTALLED ON A LEVEL GRADE. IN CASES WHERE DISCHARGE VELOCITIES EXCEED 17.0 FEET PER SECOND, A SUITABLE MEANS OF VELOCITY REDUCTION (E.G. DROP STRUCTURE) SHOULD BE USED PRIOR TO DISCHARGING SIGNIFICANT FLOWS ONTO RIPRAP APRON

EROSION & SEDIMENT STRUCTURE MAINTENANCE PROCEDURES

- 1. ROCK CONSTRUCTION ENTRANCE THE ENTRANCE SHALL BE MAINTAINED IN A CONDITION THAT WILL PREVENT TRACKING OR FLOWING OF SEDIMENT ONTO PUBLIC RIGHTS-OF-WAY. THIS MAY REQUIRE PERIODIC TOP DRESSING WITH ADDITIONAL STONE AS CONDITIONS DEMAND AND REPAIR AND/OR CLEANOUT OF ANY MEASURES USED TO TRAP SEDIMENT. ALL SEDIMENT SPILLED, DROPPED, WASHED OR TRACKED ONTO PUBLIC RIGHTS-OF-WAY MUST BE REMOVED IMMEDIATELY. WHEELS ON ALL VEHICLES SHALL BE CLEANED TO REMOVE SEDIMENT PRIOR TO ENTRANCE ONTO PUBLIC RIGHTS-OF-WAY. IF WASHING IS REQUIRED, IT SHALL BE DONE ON AN AREA STABILIZED WITH STONE AND WHICH DRAINS INTO APPROVED SEDIMENT TRAPPING DEVICE. IF THE STREET IS WASHED PRECAUTIONS MUST BE TAKEN TO PREVENT MUDDY WATER FROM RUNNING INTO WATERWAYS OR STORM
- 2. COMPOST FILTER SOCK SOCKS SHALL BE INSPECTED WEEKLY AND AFTER EACH RUNOFF EVENT. DAMAGED SOCKS SHALL BE REPAIRED ACCORDING TO MANUFACTURER'S SPECIFICATIONS OR REPLACED WITHIN 24 HOURS OF INSPECTION. ACCUMULATED SEDIMENT SHALL BE REMOVED WHEN IT REACHES HALF THE ABOVEGROUND HEIGHT OF THE SOCK AND DISPOSED IN THE MANNER DESCRIBED ELSEWHERE IN THE PLAN. POLYPROPYLENE SOCKS SHALL BE REPLACED ACCORDING TO MANUFACTURER'S RECOMMENDATIONS. UPON STABILIZATION OF THE AREA TRIBUTARY TO THE SOCK, STAKES SHALL BE REMOVED. THE SOCK MAY BE LEFT IN PLACE AND VEGETATED OR REMOVED. IN THE LATTER CASE, THE MESH SHALL BE CUT OPEN AND THE MULCH SPREAD AS A SOIL SUPPLEMENT.
- 3. COMPOST SOCK SEDIMENT TRAP ALL SEDIMENT TRAPS SHALL BE INSPECTED AT LEAST WEEKLY AND AFTER EACH RUNOFF EVENT. ACCESS FOR SEDIMENT REMOVAL AND OTHER REQUIRED MAINTENANCE ACTIVITIES SHALL BE PROVIDED. DISPOSE OF MATERIALS REMOVED FROM THE TRAP IN THE MANNER DESCRIBED IN THE E&S PLAN. CHECK EMBANKMENTS, SPILLWAYS, AND OUTLETS FOR EROSION, PIPING AND SETTLEMENT. CLOGGED OR DAMAGED SPILLWAYS AND/OR EMBANKMENTS SHALL BE IMMEDIATELY RESTORED TO THE DESIGN SPECIFICATIONS.
- 4. EROSION CONTROL BLANKET BLANKETED AREAS SHALL BE INSPECTED WEEKLY AND AFTER EACH RUNOFF EVENT UNTIL PERENNIAL VEGETATION IS ESTABLISHED TO A MINIMUM UNIFORM 70% COVERAGE THROUGHOUT THE BLANKETED AREA. DAMAGED OR DISPLACED BLANKETS SHALL BE RESTORED OR REPLACED WITHIN 4 CALENDAR DAYS.
- 5. RIPRAP APRON ALL APRONS SHALL BE INSPECTED AT LEAST WEEKLY AND AFTER EACH RUNOFF EVENT. DISPLACED RIPRAP WITHIN THE APRON SHALL BE REPLACED IMMEDIATELY.

RECYCLING AND DISPOSAL METHODS

REMOVE WASTE MATERIALS INCLUDING TRASH AND DEBRIS AND LEGALLY DISPOSE OF THEM OFF THE SITE TO A WVDEP APPROVED DUMP SITE. SEPARATE RECYCLABLE MATERIALS PRODUCED DURING SITE CLEARING FROM OTHER NON-RECYCLABLE MATERIALS. STORE OR STOCKPILE WITHOUT INTERMIXING WITH OTHER MATERIALS AND TRANSPORT THEM TO RECYCLING FACILITIES. MATERIAL TO BE REMOVED SHALL BE REMOVED DAILY AND SHALL NOT BE ALLOWED TO ACCUMULATE AT THE SITE.

SCHEDULE

- 1. THE CONTRACTOR SHALL MEET WITH THE WV DEPARTMENT OF ENVIRONMENTAL PROTECTION INSPECTOR PRIOR TO COMMENCING CONTRUCTION.
- 2. THE CONTRACTOR SHALL VISUALLY INSPECT THE SITE PRIOR TO CONSTRUCTION AND IS RESPONSIBLE FOR NOTIFYING THE ENGINEER OF ANY DISCREPANCIES BETWEEN THE EXISTING CONDITIONS AND THE DESIGN PLAN IMMEDIATELY.



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	HINKLE MOUNTAIN BROADBAND EXPANSION					EROSION & SEDIMENT CONTROL NOTES		
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- 1. THE GROUND WIRE CONNECTOR IS SUPPLIED WITH THE BURIED PLANT HOUSING, BURIED PLANT FIBER OPTIC HOUSING, AND SERVING AREA INTERFACE CABINET UNDER THE BD, BDO, AND BDS ASSEMBLY UNITS, RESPECTIVELY.
- 2. THE BONDING BRACKET IS SUPPLIED WITH THE BURIED PLANT HOUSING, BURIED PLANT FIBER OPTIC HOUSING, AND SERVING AREA INTERFACE CABINET UNDER THE BD, BDO, AND BDS ASSEMBLY UNITS RESPECTIVELY.
- 3. THE GROUND ROD SHALL BE INSTALLED IN UNDISTURBED SOIL.
- 4. ONE CLAMP MAY BE USED IF IT IS LISTED BY UNDERWRITER'S LABORATORIES (UL) OR OTHER ACCEPTABLE ORGANIZATIONS FOR CONNECTING TWO WIRES, OTHERWISE TWO UL OR OTHER ACCEPTABLE ORGANIZATION LISTED CLAMPS MUST BE USED,

BURIED SERVICE WIRE OR CABLE INSTALLATION TO POLE - MOUNTED WIRE TERMINAL NOT TO SCALE



DETAIL 951





AERIAL INSERT IN BURIED PLANT CONSTRUCTION

NOT TO SCALE

NOTES:

- 1. THE AERIAL CONSTRUCTION USED IN THIS CASE SHALL BE IN ACCORDANCE WITH THE AERIAL CONSTRUCTION PRACTICES DESCRIBED IN RUS FROM 515c ENTITLED, "SPECIFICATIONS AND DRAWINGS FOR CONSTRUCTION OF AERIAL PLANT."
- 2. THE CABLE CLAMPS SHALL BE INSTALLED AT APPROXIMATELY 18 IN. (457 MM) INTERVALS.
- 3. IF IT IS NECESSARY TO CUT THE CABLE IN MAKING AN AERIAL INSTALLATION, THE USE OF A READY-ACCESS ENCLOSURE OR SPLICE ENCLOSURE IS ACCEPTABLE.
- 4. AERIAL INSERTS EXPOSED TO POWER CONTACTS REQUIRING SPECIAL SPLICING WILL BE IDENTIFIED BY THE ENGINEER AND SHALL BE ISOLATED AS SHOWN ON DETAIL 952.
- 5. GROUND SUPPORT STRAND WHERE EXPOSED TO POWER CONTRACTS AS SPECIFIED BY THE ENGINEER ON THE CONSTRUCTION SHEETS.



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CONTACT TO AERIAL INSERTS

NOT TO SCALE

NOTES:

- 1. APPLICABLE IF EXPOSED AERIAL CABLE INSERT IS #22 AWG OR LARGER.
- 2. SPLICE A COLOR CODED #24 AWG CONDUCTOR [8 IN. (203 MM) MIN. LENGTH] IN SERIES WITH EACH CABLE CONDUCTOR APPEARING IN THE AERIAL INSERT.
- 3. SPLICE THE BURIED SERVICE, IF ANY, TO THE UNEXPOSED BURIED CABLE AT THE SAME POINT THAT THE #24 AWG CONDUCTOR IS SPLICED.

PLACEMENT OF NUMBERS AND LETTERS ON HOUSINGS

DETAIL 965

MAIN CABLE -

LATERAL CABLE

SYMBOLS -

ROUTE LETTER

NOT TO SCALE

NOTES:

- 1. FIELD INSTALLED WARNING SIGNS OR NUMBERING SYSTEMS SHOULD NOT PENETRATE OR HARM THE HOUSING SURFACE.
- 2. FOR CONVERTING ENGLISH UNITS TO METRIC UNITS USE 1 IN. = 25.4 MM.





WIRING ARRANGEMENT AT JUNCTION OF NEW AERIAL CABLE WITH BURIED CABLE OR WIRE

NOT TO SCALE

NOTES:

- 1. IF THE AERIAL CONDUCTORS ARE SMALLER THAN 22 GAUGE, SPLICE EACH AERIAL CABLE CONDUCTOR, TO BE CONNECTED, DIRECTLY TO THE MAIN BURIED CABLE OR WIRE CONDUCTOR. IF THE AERIAL CONDUCTORS ARE 22 GAUGE OR LARGE, SPLICE EACH AERIAL CONDUCTOR TO AN 8 IN. (203 MM) LONG 24 GAUGE INSULATED COPPER CONDUCTOR OF THE SAME COLOR AS THE CONDUCTOR TO BE SPLICED. SPLICE OTHER END OF THE 24 GAUGE CONDUCTOR TO THE BURIED CABLE OR WIRE CONDUCTOR OF THE MAIN LEAD.
- 2. CONNECT THE SUPPORT STRAND OF THE CABLE TO THE GROUNDING CONNECTOR IN THE HOUSING, BY MEANS OF A #6 AWG GROUND WIRE AND GROUND AS SPECIFIED BY THE ENGINEER.
- 3. BOND SHIELD OF AERIAL CABLE TO BONDING BRACKET IN THE HOUSING.

JUNCTION OF AERIAL CABLE WITH BURIED CABLE OR WIRE NOT TO SCALE

NOTES:

- 1. IF THE AERIAL CONDUCTORS ARE SMALLER THAN 22 GAUGE, SPLICE EACH AERIAL CABLE CONDUCTOR TO BE CONNECTED, DIRECTLY TO THE MAIN BURIED CABLE OR WIRE CONDUCTOR. IF THE AERIAL CONDUCTORS ARE 22 GAUGE OR LARGER, SPLICE EACH AERIAL CONDUCTOR TO AN 8 IN. (203 MM) LONG 24 GAUGE INSULATED COPPER CONDUCTOR OF THE SAME COLOR AS THE CONDUCTOR TO BE SPLICED. SPLICE OTHER END OF THE 24 GAUGE CONDUCTOR TO THE PROPER BURIED CABLE OR WIRE CONDUCTOR OF THE MAIN LEAD.
- 2. IF NECESSARY, REMOVE INSULATION FROM UNDER ONE CLAMP ON SUPPORT STRAND TO OBTAIN ELECTRICAL BOND BETWEEN FRAME OF READY-ACCESS ENCLOSURE AND SUPPORT STRAND.
- 3. IF SPECIFIED BY THE ENGINEER, INSTALL A #6 AWG BARE GROUND WIRE AND CONNECT THE GROUND WIRE TO THE GROUNDING ELECTRODE FROM THE SUPPORT DEADEND SLEEVE TO A GROUND ELECTRODE.

SLEEVE, DEADEND, AUTOMATIC CONNECTOR, GROUND WIRE

> WIRE, GROUND, BARE, #6 AWG COPPER ③

CLAMP, ONE-HOLE, OFFSET

BM80, 81 OR 82 UNIT

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TWO TURNS OF LASHING WIRE AROUND STRAND	HINKLE MOUNTAIN BROADBAND EXPANSION CITY OF RICHWOOD, WEST VIRGINIA CONSTRUCTION GUIDE DETAILS
DIAMETER FROM 0.4 TO 3.0 E WITH THE ENCLOSURE E CABLE SPACERS SHALL BE RAND AND CLEAR OF THE	Image: state

BOLTS, MACHINE, $\frac{5}{8}$ " X REQUIRED LENGTH WASHERS, CURVED $2\frac{1}{2}$ "x $2\frac{1}{2}$ "x $\frac{3}{16}$ ". $\frac{11}{16}$ " HOLE

CLAMPS, CORNER SUSPENSION

REINFORCING STRAP SHOULD BE 6M STRAND IS USED.

- POSITION OF GUY

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CLAMPS, GUY, 3-BOLT (2)

└─ CLIPS, GUY

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DETAIL 207

DETAIL 206

ELEVATION

BRANCH SUSPENSION STRAND

NOT TO SCALE

NOTES:

- 1. AN EQUIVALENT TERMINATING DEVICE RATED TO PROVIDE THE STRENGTH OF THE APPROPRIATE SUSPENSION STRAND MAY BE USED IN LIEU OF 3 -BOLT GUY CLAMPS LISTED.
- 2. REFER TO GUY ASSEMBLY DETAILS PE1-2, -3, -4: PE1-2G, -3G, -4G: PE2-2, -3, -4: AND PE3-2G, -3G, -4G FOR GUYING MATERIALS.
- 3. SIZE OF THIMBLEYE NUT IS GOVERNED BY SIZE OF THIMBLEYE BOLT USED FOR THE GUYS.
- 4. SQUARE NUT UNDER EYE NUT MAY BE OMITTED WHEN LENGTH OF BOLT THREAD EXTENDING BEYOND POLE IS SHORT ENOUGH TO PERMIT TURNING EYE NUT DOWN TO CURVED WASHER WITHOUT INTERFERING WITH THE PLACING OF STRAND.

BRANCH SUSPENSION STRAND

NOT TO SCALE

NOTES:

- 1. AN EQUIVALENT TERMINATING DEVICE RATED TO PROVIDE THE STRENGTH OF THE APPROPRIATE SUSPENSION STRAND MAY BE USED IN LIEU OF 3 - BOLT GUY CLAMPS LISTED.
- 2. REFER TO GUY ASSEMBLY DETAILS PE1-2, -3, -4: PE1-2G, -3G, -4G: PE2-2, -3, -4: AND PE3-2G, -3G, -4G FOR GUYING MATERIALS.
- 3. SIZE OF THIMBLEYE NUT IS GOVERNED BY SIZE OF THIMBLEYE BOLT USED FOR THE GUYS.
- 4. FOR CONVERTING ENGLISH UNITS TO METRIC UNITS USE 1 IN. = 25.4 MM.

- NUTS, THIMBLEYE (3) AND (4)
 - ⊢ 3 IN. (76 MM)

SUSPENSION STRAND BONDING

NOT TO SCALE

NOTES:

- 1. ON POLE LINES CARRYING TWO STRAND MOUNTED CABLES LEADS AND PARALLELING EACH OTHER, THE SUSPENSION STRANDS SHALL BE BONDED AT EACH END OF THE JOINT SECTION AND AT APPROXIMATELY $\frac{1}{4}$ - MILE (402 M) INTERVALS AS DIRECTED BY THE ENGINEER.
- 2. WHERE TWO CABLES LEADS CROSS EACH OTHER AT A POLE, THE TWO STRANDS SHALL BE BONDED AS SHOWN.

NOTES:

TYPICAL APPLICATIONS

LANDSCAPE WORK UTILITY OPERATIONS FENCING CONTRACTS AND MAINTENANCE CLEANING CULVERT

GENERAL NOTES

1. IF THE WORK OPERATION REQUIRES THAT TWO OR MORE WORK VEHICLES CROSS THE 15 FT. ZONE IN ANY ONE HOUR TRAFFIC CONTROL WILL BE IN CONFORMANCE WITH CASE A3.

2. NO SPECIAL SIGNING IS REQUIRED.

CASE A1

ARNING	SIGN	SPACING
ARINING	SIGN	SPACING

DISTANCE	BETWEEN	SIC	GN (IN FT)
			•
	•		•
	•		•
	•		•

* SPEED CATEGORY TO BE DETERMINED BY WV DOH

` H O M P S O N & LITTON

1105 Mercer Street Princeton, West Virginia 24740 www.T-L.com

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GENERAL NOTES

- 1. ALTHOUGH VEHICLE HAZARD SIGNALS CAN BE USED TO SUPPLEMENT THE ROTATING LIGHTS OR STROBE LIGHTS, THEY SHALL NOT BE USED INSTEAD OF ROTATING LIGHTS OR STROBE LIGHTS.
- 2. A SHOULDER WORK SIGN SHOULD BE PLACED ON THE LEFT SIDE OF THE ROADWAY FOR A DIVIDED OR ONE-WAY STREET ONLY IF THE SHOULDER IS AFFECTED.
- 3. THE WORKERS SYMBOL SIGNS MAY BE USED INSTEAD OF SHOULDER WORK SIGN.
- 4. THE "SHOULDER WORK AHEAD" SIGN ON AN INTERSECTING ROADWAY MAY BE OMITTED WHERE DRIVER EMERGING FROM THAT ROADWAY WILL ENCOUNTER ANOTHER ADVANCE WARNING SIGN PRIOR TO THIS ACTIVITY AREA.
- 5. FOR SHORT-DURATION OPERATIONS OF 60 MINUTES OR LESS, ALL SIGNS AND CHANNELIZING DEVICES MAY BE ELIMINATED IF A VEHICLE WITH ACTIVATED ROTATING LIGHTS OR STROBE LIGHTS IS USED.
- 6. WHEN PAVED SHOULDERS HAVING A WIDTH OF 8 FT. OR MORE ARE CLOSED, AT LEAST ONE ADVANCE WARNING SIGN SHALL BE USED. IN ADDITION, CHANNELIZING DEVICES SHALL BE USED TO CLOSE THE SHOULDER IN ADVANCE TO DELINEATE THE BEGINNING OF THE WORK SPACE AND DIRECT VEHICULAR TRAFFIC TO REMAIN WITHIN THE TRAVELED WAY.

SUGGESTED ADVANCE WARNING SIGN SPACING					
ROAD TYPE	DISTANCE	BETWEEN SIG	GN (IN FT)		
-	•	•			
•	•	•	•		
		•	•		
•	•		•		

* SPEED CATEGORY TO BE DETERMINED BY WV DOH

SPEED	L=TAPER (IN FE
25	125
30	180
35	250
40	320
45	540
50	600
50	660
55	660

EET)

GENERAL NOTES

- 1. WHEN HIGHWAY-RAIL GRADE CROSSINGS EXIST EITHER WITHIN OR IN THE VICINITY OF ROADWAY WORK ACTIVITIES, EXTRA CARE SHOULD BE TAKEN TO MINIMIZE THE PROBABILITY OF CONDITIONS BEING CREATED, EITHER BY LANE RESTRICTIONS, FLAGGING OR OTHER OPERATIONS, WHERE VEHICLES MIGHT BE STOPPED WITHIN THE HIGHWAY-RAIL GRADE CROSSING. CONSIDERED AS BEING 15 FT. ON EITHER SIDE OF THE CLOSEST AND FARTHEST RAIL.
- 2. IF THE QUELLING OF VEHICLES ACROSS ACTIVE RAIL TRACKS CANNOT BE AVOIDED, A LAW ENFORCEMENT OFFICER OR FLAGGER SHALL BE PROVIDED AT THE HIGHWAY-RAIL CROSSING TO PREVENT VEHICLES FROM STOPPING WITHIN THE HIGHWAY-RAIL GRADE CROSSING (AS DESCRIBED IN NOTE 1), EVEN IF AUTOMATIC WARNING DEVICES ARE IN PLACE.
- 3. EARLY COORDINATION WITHIN THE RAILROAD COMPANY SHOULD OCCUR BEFORE WORK STARTS. 9. LIGHTING SHOULD BE PROVIDED AS NEEDED TO
- 4. IN THE EXAMPLE DEPICTED, THE BUFFER SPACE OF THE ACTIVITY AREA SHOULD BE EXTENDED

UPSTREAM OF THE HIGHWAY-RAIL GRADE CROSSING AS SHOWN SO THAT A QUEUE CREATED BY THE FLAGGING OPERATION WILL NOT EXTEND ACROSS THE HIGHWAY-RAIL GRADE CROSSING.

- 5. THE "DO NOT STOP ON TRACKS" SIGN SHOULD BE USED ON ALL APPROACHES TO THE HIGHWAY-RAIL GRADE CROSSING WITHIN THE LIMITS OF A TEMPORARY TRAFFIC CONTROL ZONE.
- 6. FLASHING WARNING LIGHTS AND/OR FLAGS MAY BE USED TO CALL ATTENTION TO THE ADVANCE WARNING SIGNS, AS NOTED ON THE PLANS, AND/OR AS DIRECTED BY THE ENGINEER.
- 7. A "BE PREPARED TO STOP" SIGN MAY BE ADDED TO THE SIGN SERIES.
- 8. WHEN USED, THE "BE PREPARED TO STOP" SIGN SHOULD BE LOCATED BEFORE THE FLAGGER SYMBOL SIGN.
- ADEQUATELY ILLUMINATE FLAGGER STATIONS AT NIGHT.

TWO-LANE, TWO-WAY TRAFFIC DAY OR NIGHT OPERATIONS (NIGHTTIME ONLY IF APPROVED BY THE ENGINEER).

WORK IN VICINITY OF HIGHWAY-RAIL GRADE CROSSING

PAVEMENT REPAIR UTILITY OPERATIONS

SUGGESTED ADVANCE WARNING SIGN SPACING

ROAD TYPE	DISTANCE BETWEEN SIGN (IN FT)				
•	•	•	•		
•	•	•	•		
•	•	•			
•	•		•		
* SPEED CATEGORY TO BE DETERMINED BY WV DOH					

TYPICAL APPLICATIONS

XIII. APPENDIX II DRAFT SAMPLE M&OAGREEMENT

MANAGEMENT AND OPERATION AGREEMENT

THIS MANAGEMENT AND OPERATION AGREEMENT (this "<u>Agreement</u>") is entered into this _____ day of _____, 2021, by **NICHOLAS COUNTY COMMISSION** a West Virginia public corporation (the "<u>Awardee</u>"); and *, a (* state) limited liability company (the "<u>Service Provider</u>").

WITNESSETH:

WHEREAS, Awardee received a Community Development Block Grant award (the "Grant") from the U.S. Department of Housing and Urban Development (the <u>HUD</u>");

WHEREAS, the purpose of the Grant is to fund the construction of a broadband network to provide high-speed internet services for the residents of Hinkle Mountain, Nicholas County, West Virginia (the "<u>Project</u>");

WHEREAS, as a condition to receiving the Grant, the Awardee entered into an agreement (the "<u>Grant Agreement</u>") with HUD pursuant to which the Awardee received Eight Hundred Thousand and 00/100 Dollars (\$800,000.00) (the "<u>Grant Amount</u>") to construct the Project;

WHEREAS, the Project resulted in the Awardee owning certain hardware, fiber optic strands, conduit, related infrastructure, and associated equipment utilized to operate and maintain a broadband internet system for the benefit of the residents of served by the Project (the "<u>System</u>") and having the responsibility of operating, maintaining, and improving the hardware, fiber optic strands, conduit, tower equipment, electricity, and bandwidth; billing and collections; customer service; monthly financial and customer reports; and other services reasonably necessary to operate, maintain, and improve the System (collectively, the "<u>Services</u>");

WHEREAS, Awardee has authorized Region 4 Planning and Development Council., a West Virginia non-profit entity ("<u>Consultant</u>"), to assist Awardee in complying with the terms of the Grant and to support Awardee's development of the Project and operation, maintenance, and improvement of the System;

WHEREAS, the Awardee desires to procure an Internet Service Provider with experience in managing, operating, and maintaining broadband systems in West Virginia to provide the Services in the area described in the Grant Agreement (the "<u>Service Area</u>");

WHEREAS, the Awardee solicited cost proposals from qualified firms for the purposes of providing the Services;

Whereas, the Awardee accepted cost proposals, and the Awardee ranked Service Provider as the responsible low bidder to provide the Services; and

WHEREAS, the Awardee desires to retain Service Provider to provide the Services, and Service Provider desires to provide the Services, all in accordance with the terms and

conditions of this Agreement and the Grant Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and conditions set forth in this Agreement, the parties agree as follows:

1. <u>SCOPE OF SERVICES</u>. Service Provider shall, consistent with sound professional practices and industry standards, diligently and competently provide the Services, which shall include but not be limited to, the following:

a. Operate, maintain, and manage the System under the authority and jurisdiction of the Awardee;

b. Procure, install, configure, monitor, maintain, and upgrade all equipment and hardware as necessary to perform the Services whether such equipment is equipment of Service Provider, the Awardee, or any business, governmental, or residential customer of retail services served by the System (a "Subscriber") being served by the System;

c. Provide and train personnel as necessary to perform the Services, and cause such personnel to be available during all reasonable time periods, including nights, weekends, and holidays;

d. Furnish all supplies, materials, and equipment necessary to perform

the Services;

e. Procure, install, configure, monitor, maintain, and upgrade as needed any and all Subscriber equipment (such as cabling or an optical network terminal) as necessary to connect the premises to the System and deliver data transport services;

f. Pay the reasonable expenses of all utilities needed to perform the Services, including the cost, if any, necessary to access and connect or attach to poles or other assets owned by third parties;

g. Invoice, bill, and collect revenues from all Subscribers (as hereinafter defined) who access the System;

h. Conduct all Subscriber service operations for the operation and maintenance of the System; and

i. Assume responsibility for the maintenance and upkeep of any rights of way or easements or other property owned or controlled by the Awardee necessary for the operation of the System.

The Awardee and Service Provider reserve the right to adjust the Scope of Services set forth in this Section 1 as necessary. If, in the judgment of Awardee and Service Provider, an adjustment to the Scope of Services is warranted, the Parties shall execute an appropriate amendment or modification of this Agreement. Service Provider acknowledges that time is of the essence with respect to Service Provider's obligations hereunder and that prompt and timely performance of all such obligations and other requirements in this Agreement is strictly required.

2. **<u>RESPONSIBILITIES OF THE AWARDEE</u>**. The Awardee shall:

a. Work in good faith with Service Provider to facilitate Service Provider's performance of its obligations hereunder;

b. Engage and educate the public regarding the benefits and capabilities of the System;

c. Assist Service Provider's efforts to increase the efficiency and capacity of the System;

d. Permit Service Provider to use appropriate facilities and resources owned or leased by the Awardee;

e. Obtain and maintain all necessary land use agreements, license agreements, and leasehold agreements, or any amendments, modifications, or supplements to existing land use agreements, license agreements, and leasehold agreements necessary to support the Project;

f. Work in good faith with Service Provider to consider the use of public-private partnerships to strengthen and expand the System;

g. Identify and, where appropriate, apply for additional state or federal grant funding that can be used to strengthen and expand the System.

3. **<u>RESPONSIBILITIES OF SERVICE PROVIDER</u>**. Service Provider shall:

a. Satisfy the Awardee's matching funds or cost-sharing requirement under the Grant;

b. Cooperate with the Awardee and/or the Consultant to support the project and fulfill its obligations to manage and operate the System pursuant to this Agreement;

c. Promote and market the System to maximize Subscribers to the System;

d. Conduct the Services in material accordance with all applicable federal, state, and local laws and administrative procedures, and in accordance with applicable standards of care;

e. Ensure that the rates and other fees charged to Subscribers in connection with the Services are fair and reasonable;

f. Respond to service outages and Subscriber complaints in a commercially reasonable and timely manner;

g. Timely pay any and all fees required by land use agreements, license agreements, pole attachment agreements, and leasehold agreements necessary to support the Project, and any liability or insurance requirements related thereto; and

h. Procure land use agreements and lease agreements for any necessary sites for the System.

4. <u>TERM</u>.

a. This Agreement shall commence upon execution of this Agreement (the "<u>Effective Date</u>"), and shall terminate at 12:00 p.m., prevailing time, on the fifth anniversary of the Effective Date (the "<u>Initial Term</u>").

b. The Agreement may be renewed for up to three (3) additional fiveyear terms by mutual written agreement of the Awardee and Service Provider at any time prior to the end of the then-current term (each a "<u>Renewal Term</u>" and together with the Initial Term, the "<u>Term</u>"). If the Term is renewed for one or more Renewal Terms, the terms and conditions of this Agreement during each Renewal Term shall be the same as the terms and conditions in effect immediately prior to such renewal. If the Agreement is not renewed prior to the expiration of the then-current term, then this Agreement shall continue on a month-to-month basis until renewed under this Section 4 or terminated pursuant to Section 18 below.

5. <u>WARRANTIES AND REPRESENTATIONS OF THE AWARDEE.</u> The Awardee hereby warrants, represents, and covenants that, as of the Effective Date:

a. It is duly authorized and empowered to enter into and fully perform this Agreement according to its terms;

b. There is no known decree, judgment, or administrative order of any kind threatened or in existence enjoining or restraining the Awardee from taking any action required under this Agreement;

c. It is in material compliance with all applicable laws relating to this Agreement and the operation of the System;

d. It has obtained and will continue to maintain all existing necessary land use agreements, license agreements, and leasehold agreements for the operation of the System, and all such agreements are valid and in full force and effect; and

e. It has constructed and operated the System with all necessary permits and approvals and shall continue to use best efforts to assist the Service Provider with any and all permits and approvals from federal, state and local authorities to enable the Service Provider, on behalf of the Awardee, to perform the Services;

6. <u>WARRANTIES AND REPRESENTATIONS OF SERVICE</u> <u>PROVIDER.</u> Service Provider hereby warrants, represents, and covenants that, as of the Effective Date: a. It is a limited liability company duly organized, validly existing, and in good standing under the laws of the state of West Virginia;

b. It has the full right, power, and authority to enter into this Agreement, and to perform its obligations hereunder;

c. The execution, delivery, and performance of this Agreement will not violate, conflict with, require consent under, or result in any breach or default under (i) any of Service Provider's organizational documents, (ii) any applicable law, or (iii) the provisions of any contract or agreement to which Service Provider is a party or to which any of its material assets are bound;

d. This Agreement has been executed and delivered by Service Provider and constitutes the legal, valid, and binding obligation of Service Provider, enforceable against Service Provider in accordance with its terms, except as may be limited by any applicable bankruptcy, insolvency, reorganization, moratorium, or similar laws and equitable principles related to or affecting creditors' rights generally or the effect of general principles of equity;

e. It is in material compliance with all applicable laws relating to this Agreement;

f. It has obtained all required licenses, authorizations, approvals, consents, or permits required to conduct its business generally and to perform its obligations under this Agreement; and

g. It has the requisite expertise and financial ability to perform its obligations hereunder fully, completely, and satisfactorily in full compliance with applicable law.

7. <u>COMPENSATION: SYSTEM REVENUES AND EXPENSES</u>. As consideration for the Services, the parties shall observe the following requirements with respect to revenues generated from the operation and management of the System:

a. Commencing on the Effective Date and continuing the first day of each month thereafter until the expiration or termination of this Agreement, Service Provider shall pay to the Awardee [*%] of the Gross Revenues derived from the Services (the "<u>Monthly User Fee</u>").

b. All Project revenues in excess of the Monthly User Fee may be retained by Service Provider and used for any purpose Service Provider deems appropriate.

c. For purposes of this Agreement, the term "<u>Gross Revenues</u>" means the revenue derived by the Service Provider from the operation of the Project in the Service Area to provide the Services, calculated in accordance with generally accepted accounting principles, including but not limited to connection fees, monthly access fees, installation fees, and equipment rental fees, net of any bad debts. Gross Revenue shall not include advertising revenue, refundable deposits, late fees, investment income, nor any taxes, fees or assessments imposed or assessed by any governmental authority.

d. During the Term, all operating expenses associated with providing the Services and managing and operating the System, including without limitation, all utilities, attachment fees, insurance, taxes, maintenance, and repairs shall be an expense of Service Provider.

e. Service Provider shall provide a credit to any Subscriber served by the System whose services are suspended or interrupted for a period of twenty-four (24) hours or more for the per diem cost or value of the lost services.

8. **EQUITABLE ADJUSTMENT**. Beginning on the second anniversary of the Effective Date of this Agreement, and continuing every year thereafter while this Agreement remains in effect, the parties shall evaluate the Monthly User Fee provided for in Section 7.b. to determine whether the Monthly User Fee is adequate to satisfy Awardee's administrative responsibilities in complying with the Grant and operating the System. If the Parties determine that the Monthly User Fee is insufficient to meet the Awardee's administrative or operational needs with respect to the Grant, the Parties shall negotiate an equitable adjustment to the Monthly User Fee and execute an appropriate amendment or modification to this Agreement in accordance with Section 33 of this Agreement.

9. <u>LEVEL OF BROADBAND SERVICE</u>. Service Provider shall provide the greater of (i) download speeds equal to or greater than 50 megabits per second and upload speeds of 10 megabits per second, or (ii) broadband speeds which meet or exceed the prevailing broadband definition established by the Federal Communications Commission. Service Provider shall offer a speed tier of up to 1 gigabit per second to all Subscribers.

10. ADMINISTRATION.

a. The Awardee shall appoint a local government project liaison who shall act as the single point of contact for the Project (the "SPOC"). The SPOC shall assist Service Provider, as needed, to manage, operate, maintain, and improve the System and to comply with this Agreement. The parties shall meet as necessary to provide for the efficient performance of the Services. The SPOC shall be authorized to act on behalf of the Awardee and Service Provider shall be entitled to rely upon the statements and actions of the SPOC.

b. Service Provider shall consult with the Awardee before entering into any agreements in excess of twenty-five thousand dollars (\$25,000.00) to remodel, to purchase equipment or material, or to retain the services of a consultant or other service provider.

c. Service Provider may not enter into any subcontract or assignment without the express written approval of the Awardee.

11. **<u>QUARTERLY REPORTS</u>**. Service Provider shall provide written quarterly reports to the Awardee and Consultant within ten (10) days of the end of each calendar quarter regarding the operation of the System and shall include in such reports, the following: (1)

a list of Subscribers being served by the System during the previous quarter, by month, including physical address; (2) a list of Subscribers deactivated from the System during the previous quarter, by month; (3) a net Subscriber count, as of the last day of each month in the reported quarter; (4) financial reports regarding revenues and costs of the System during the previous quarter, by month; (5) reports regarding any outages in the System lasting for a period of greater than six hours; (6) reports regarding service calls involving the System; (7) notice of any applications filed by Service Provider for state or federal funding; (8) mapping of the System in GIS format; and (9) such other information deemed reasonably necessary by the Awardee and/or Consultant.

12. <u>SEMI-ANNUAL MEETINGS</u>. Service Provider shall meet with the Awardee and Consultant within thirty (30) days of the end of each one hundred eighty (180) day period while this Agreement remains in effect regarding the status and operation of the System, planned improvements to the System, and technological needs or concerns.

13. **PERSONNEL**. Service Provider shall be solely responsible for providing employees for the operation, maintenance, and improvement of the System. Service Provider shall assign personnel to perform the Services on such days and during such hours that Services are being provided, as may be reasonably required to assure a smooth and efficient operation. An authorized representative of Service Provider shall be available at reasonable times that any Services are being conducted, including nights, weekends, and holidays. Service Provider shall provide the SPOC with the names, addresses, and telephone numbers of authorized representatives who can be contacted at any time to address issues pertaining to the operation and maintenance of the System.

14. <u>ACCESSIBLITLY</u>.

a. The Awardee may inspect the System at any time if such inspections do not unreasonably interfere with performance of the Services.

b. To maintain continuity of the System, Service Provider shall include a provision in any service agreement between Service Provider and a Subscriber that the Awardee shall have the ability to access the Subscriber's property, equipment, or lateral connections to premises served by the System in the event that Service Provider is no longer the operator of the System.

15. **OWNERSHIP OF PROJECT ASSETS**.

a. During the Term, the System, and any property, equipment, repairs and replacements acquired, in whole in part, with Grant funds to support the Project, as well as any service extensions, drops, or other connections to or from the Project and any other Subscriber equipment or connections related or connected to the System (the "<u>Project Assets</u>") shall remain the property of the Awardee ("<u>Awardee Property</u>").

b. Service Provider will not in any manner sell, alienate, mortgage, or encumber the Awardee Property. The Awardee reserves the right to terminate this Agreement if Service Provider sells, alienates, mortgages, subleases, or otherwise disposes of the Awardee
Property. Service Provider shall not cause or allow any liens, encumbrances, charges, or assessments to be placed or levied upon the Awardee Property in use for the System and will promptly and fully discharge the same.

c. In consideration of the payment of Ten Dollars (\$10.00) (the "<u>Option Consideration</u>") cash in hand, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Awardee hereby grants to Service Provider the sole and exclusive right and option to purchase (the "<u>Option</u>") the Project and all Awardee Property related to the Project ("<u>Project Property</u>") for the purchase price as detailed in Section 15.c.v. of this Agreement (the "<u>Project Purchase Price</u>"); but such purchase shall only be consummated upon the satisfaction of the following conditions precedent (the "<u>Conditions to Purchase</u>") and shall not be exercised prior to the [______] anniversary of the Effective Date:

i. either (A) HUD provides written consent to Awardee to sell the Project Property to Service Provider or (B) the Grant Agreement is terminated or expires in accordance with its own terms;

ii. Service Provider provides written notice to Awardee that it wishes to exercise the Option;

iii. prior to the Option Expiration Date (as defined below), Awardee and Service Provider execute a definitive purchase agreement containing commercially reasonable and mutually acceptable terms and conditions regarding the purchase and sale of the Project Property; and

iv. Service Provider shall pay to Awardee the unpaid balance of any Monthly User Fees that would have been paid pursuant to Section 7.b. to Awardee through the date upon which the Option is exercised;

as follows:

v.

The Project Purchase Price and timing of the Option shall be

(1) If the Option to Purchase is exercised on or after the seventh anniversary of the date on which the Project Property was placed in service for use, then the Project Purchase Price shall be the amount of One Dollar (\$1.00).

(2) If the Option to Purchase is exercised before the seventh anniversary of the date on which the Project Property was placed in service for use, then Service Provider shall pay a pro rata Project Purchase Price based on a seven year useful life for the Project Property.

vi. The Option shall expire on ______, 20__ (the "<u>Option Expiration Date</u>"). For the avoidance of doubt, Awardee shall not be obligated to sell the Project Property to Service Provider until and unless all of the Conditions to Purchase are satisfied.

16. <u>TAXES, ASSESSMENTS AND FEES</u>. To the extent that the terms of this Agreement may result in the creation of one or more possessory interests in real or personal property that are or may be subject to real estate taxes, Service Provider shall be responsible for the payment of all such taxes, assessments, fines, penalties, permit and/or license fees and any other fees assessed or levied upon Service Provider by reason of the business or other activities of Service Provider hereunder during term of this Agreement; provided, that ad valorem taxes assessed on Service Provider's own equipment, machinery, tools, or similar tangible personal property are not addressed by this covenant. Service Provider shall not allow such taxes, assessments, or fees to become a delinquent lien. Nothing herein shall be deemed to prevent or prohibit Service Provider from contesting the validity or the amount of any such tax, assessment, or fee in the manner authorized by law.

17. <u>RETENTION OF AND ACCESS TO RECORDS.</u>

a. Service Provider shall maintain accounts and records, including personnel, property and financial records, adequate to identify and account for all costs pertaining to this Agreement and such other records as may be deemed necessary by the Awardee to assure proper accounting for all project funds, both federal and non-federal. Such records shall be made available for audit purposes to the Awardee or its authorized representative and shall be retained for three years after the expiration or termination of this Agreement unless permission to destroy them is granted by the Awardee.

b. Service Provider shall permit the Awardee or its authorized representatives to access any records related to the Project, the System, or the performance of the Services. Such records shall be available during normal business hours for inspection by the Awardee, the HUD, the U.S. Comptroller General, and, when required by law, the West Virginia Legislative Auditor.

c. Upon request of the Awardee, Service Provider shall provide Awardee with a status report describing the status of the Project in a format prescribed by the Awardee.

18. **<u>TERMINATION.</u>**

a. The Awardee may, in its sole discretion, declare any of the following an event a default under this Agreement (each an "Event of Default"), and terminate this Agreement without notice:

i. Any representation or warranty made by Service Provider in this Agreement, or in any response to a request for proposal or certificate or other information furnished to the Awardee under this Agreement is incorrect in any material respect.

ii. Service Provider becomes subject, voluntarily or involuntarily, to any proceeding in bankruptcy or makes an assignment for the benefit of creditors or takes advantage of any insolvency act.

iii. Service Provider materially breaches this Agreement, and such breach is incapable of cure, or with respect to a material breach capable of cure, Service Provider does not cure such breach within thirty (30) days after receipt of written notice of such breach.

b. The Awardee may terminate this Agreement at any time without cause, by providing at least thirty (30) days' prior written notice to the Service Provider.

c. The Service Provider may terminate this Agreement (i) without notice, upon Awardee's material breach of this Agreement, if such breach is incapable of cure, or with respect to a material breach capable of cure, Awardee does not cure such breach within thirty (30) days after receipt of written notice of such breach; or (ii) at any time without cause, by providing at least thirty (30) days' prior written notice to Awardee.

19. <u>EFFECT OF TERMINATION</u>.

a. Upon termination or expiration of this Agreement, Service Provider shall transfer to the Awardee any Project Assets (as hereinafter defined) at the time of such termination or expiration and any accounts receivable attributable from the use of Grant funds, including any third-party agreements necessary to maintain the operation of the System.

b. Any real property under the control of Service Provider which was acquired or improved in whole or in part with Grant funds shall constitute Project Assets.

20. **INDEMNIFICATION.**

a. Service Provider shall defend, indemnify, and hold harmless Awardee, and its officers, directors, employees, agents, successors, and permitted assigns from and against all losses, damages, liabilities, deficiencies, actions, judgments, interest, awards, penalties, fines, costs, or expenses of whatever kind, including reasonable attorneys' fees and the cost of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers (collectively, "Losses") arising out of or resulting from any third-party, (including any state or federal agency) claim, suit, action, or proceeding (each, an "Action") arising out of or resulting from:

i. bodily injury, death of any person, or damage to real or tangible, personal property resulting from the willful, fraudulent, or negligent acts or omissions of Service Provider or Service Provider personnel;

ii. failure to comply with state or federal requirements which apply to the System; and

iii. Service Provider's material breach of any representation, warranty, or obligation of Service Provider set forth in this Agreement.

b. To the extent permitted by law, Awardee shall defend, indemnify, and hold harmless Service Provider and its officers, directors, employees, agents, successors, and permitted assigns from and against all Losses arising out of or resulting from any third-party Action arising out of or resulting from:

i. bodily injury, death of any person, or damage to real or tangible, personal property resulting from the negligent or willful acts or omissions of Awardee;

ii. Awardee's use of Grant funds for ineligible purposes; and

iii. Awardee's material breach of any representation, warranty, or obligation of Awardee in this Agreement.

c. The party seeking indemnification hereunder shall promptly notify the indemnifying party in writing of any Action and cooperate with the indemnifying party at the indemnifying party's sole cost and expense. The indemnifying party shall immediately take control of the defense and investigation of such Action and shall employ counsel of its choice to handle and defend the same, at the indemnifying party's sole cost and expense. The indemnifying party shall not settle any Action in a manner that adversely affects the rights of the indemnified party without the indemnified party's prior written consent, which shall not be unreasonably withheld or delayed. The indemnified party's failure to perform any obligations under this Section 20.c. shall not relieve the indemnifying party of its obligations under this Section 20.c. except to the extent that the indemnifying party can demonstrate that it has been materially prejudiced as a result of such failure. The indemnified party may participate in and observe the proceedings at its own cost and expense.

d. Notwithstanding anything to the contrary in this Agreement, the indemnifying party is not obligated to indemnify, hold harmless, or defend the indemnified party against any claim (whether direct or indirect) if such claim or corresponding losses arise out of or result from, in whole or in part, the indemnified party's:

i. gross negligence or more culpable act or omission (including recklessness or willful misconduct); or

ii. bad faith failure to comply with any of its material obligations set forth in this Agreement.

21. <u>LIMITATION OF LIABILITY</u>. IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER OR TO ANY THIRD PARTY FOR ANY LOSS OF USE, REVENUE, OR PROFIT, OR LOSS OF DATA, OR FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, OR PUNITIVE DAMAGES WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGE WAS FORESEEABLE AND WHETHER OR NOT SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. 22. <u>INSURANCE.</u> Service Provider shall at all times maintain or cause to be maintained general liability insurance with coverage amounts that are normal and customary for similarly situated entities engaged in similar businesses; but at all times during the Term of this Agreement, Service Provider shall procure and maintain insurance in the types and amounts required of Awardee pursuant to the Grant. Service Provider shall name Awardee and its Affiliates, including, in each case, all successors and permitted assigns, as additional insureds. As evidence of compliance with the above requirements, Service Provider shall provide Awardee with copies of the certificates of insurance and policy endorsements for all insurance coverage required by this Section 22 and shall not do anything to invalidate such insurance. Awardee shall at all times maintain or cause to be maintained property insurance insuring Awardee Property.

23. <u>CONFLICT OF INTEREST</u>. Service Provider covenants that it presently has no interest and shall not acquire any interest, direct or indirect, in the Grant, the Project, or the System which would conflict in any manner or degree with the performance of the Services or the management, operation, or maintenance of the System. Service Provider further covenants that, in performing this Agreement, it shall employ no person who has any such interest.

24. **DOCUMENTS INCORPORATED BY REFERENCE.** The Awardee's application to the HUD for Grant funding, dated the _____ day of _____, 20___, and all applicable federal and state statutes and regulations are incorporated into this Agreement by this reference and are binding upon Service Provider.

25. <u>CIVIL RIGHTS ACT OF 1964</u>. Service Provider shall comply with the provisions of the Civil Rights Act of 1964 which states that under Title VI, no person may, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

26. <u>MINORITY BUSINESS ENTERPRISE</u>. Service Provider shall ensure that to the greatest extent feasible that minority businesses are used when possible as sources of supplies, equipment, construction and services and shall document all affirmative steps taken to solicit minority businesses. Upon request, Service Provider shall forward such documentation to Awardee.

27. **NONDISCRIMINATION**. Service Provider shall not discriminate against any employee or applicant for employment because of race, color, religion, creed, political ideas, sex, age, marital status, physical or mental handicap, or national origin.

28. **FORCE MAJEURE**. No party shall be liable or responsible to the other party, nor be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement and to the extent such failure or delay is caused by or results from acts beyond the impacted party's ("<u>Impacted Party</u>") reasonable control, including without limitation the following force majeure events ("<u>Force Majeure Events</u>"): (a) acts of God; (b) flood, fire, earthquake, or explosion; (c) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest; (d) government order, law, or actions; (e) epidemic; and (f) national or regional emergency; and other similar events beyond the

reasonable control of the Impacted Party. The Impacted Party shall give notice within fifteen (15) days of the Force Majeure Event to the other party, stating the period the occurrence is expected to continue. The Impacted Party shall use diligent efforts to end the failure or delay and ensure the effects of such Force Majeure Event are minimized and shall resume performance of its obligations as soon as reasonably practicable after the removal of the cause. During the Force Majeure Event, the non-affected party may similarly suspend its performance obligations until such time as the affected party resumes performance. If the affected party's failure or delay remains uncured for a period of thirty (30) days following written notice given by it under this Section 28, the other party may thereafter terminate this Agreement.

29. **INDEPENDENT SERVICE PROVIDER.** The relationship between the parties is that of independent service providers. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture, or other form of joint enterprise, employment, or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever.

30. <u>FURTHER ASSURANCES</u>. Each party shall, upon the reasonable request of the other party, promptly execute such documents and perform such acts as may be necessary to give full effect to the terms of this Agreement.

31. <u>CHOICE OF LAW AND VENUE</u>. This Agreement shall be governed by and construed in accordance with the internal laws of the State of West Virginia without giving effect to any choice or conflict of law provision or rule (whether of the State of West Virginia or any other jurisdiction) that would cause the application of laws of any jurisdiction other than those of the State of West Virginia. Any legal suit, action, or proceeding arising out of or related to this Agreement or the Services provided hereunder may be instituted exclusively in the federal court of the Northern or Southern District of West Virginia or the courts of the State of West Virginia, and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action, or proceeding. Service of process, summons, notice, or other document by certified or registered mail, return receipt requested, postage prepaid, to such party's address set forth herein shall be effective service of process for any suit, action, or other proceeding brought in any such court.

32. <u>NOTICES</u>. All notices, requests, consents, claims, demands, waivers, and other communications hereunder shall be in writing and shall be deemed to have been given (a) when delivered by hand (with written confirmation of receipt); (b) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested); (c) on the date sent by facsimile (with confirmation of transmission)/email if sent during normal business hours of the recipient, and on the next business day if sent after normal business hours of the recipient or (d) on the third day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. Such communications must be sent to the respective parties at the addresses indicated below (or at such other address for a party as shall be specified in a notice given in accordance with this Section 32.

To Awardee:

Name: Address:

	Telephone: Email:
with a copy to:	Name: Address: Telephone; Email:
To Service Provider:	Name: Address: Telephone: Email:
with a copy to:	Name: Attn: Address: Telephone: Email:

33. <u>AMENDMENT AND WAIVER</u>. This Agreement may only be amended, modified, or supplemented by an agreement in writing signed by each party hereto. No waiver by any party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the party so waiving. Except as otherwise set forth in this Agreement, no failure to exercise, or delay in exercising, any rights, remedy, power or privilege arising from this Agreement shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

34. <u>ASSIGNMENT</u>. Neither party may assign, transfer, or delegate any or all of its rights or obligations under this Agreement, including by operation of law, change of control, or merger, without the prior written consent of the other party, which consent shall not be unreasonably withheld or delayed; provided, that, upon prior written notice to the other party, either party may assign the Agreement to an affiliate of such party or to a successor of all or substantially all of the assets of such party through merger, reorganization, consolidation, or acquisition so long as the as the assignor remains liable for all of its obligations under the Agreement from and after the assignment date. No assignment shall relieve the assigning party of any of its obligations hereunder. Any attempted assignment, transfer, or other conveyance in violation of the foregoing shall be null and void. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns.

35. <u>SEVERABILITY</u>. If any term or provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such

term or provision in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal, or unenforceable, the parties hereto shall negotiate in good faith to modify this Agreement so as to affect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

36. **ENTIRE AGREEMENT**. This Agreement constitutes the sole and entire agreement of the parties to this Agreement with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings and agreements, both written and oral, with respect to such subject matter.

37. <u>COUNTERPARTS</u>. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which shall together be deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

[Signature Pages to Follow]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

*

By:	
Name:	
Title:	

NICHOLAS COUNTY COMMISSION

By:_____ Name: _____ Title: _____

XIV. APPENDIX III NEWSPAPER ADVERTISEMENT

Request for Proposals for Internet Service Provider

The Nicholas County Commission in Nicholas County, West Virginia is in the process of selecting an internet service provider (ISP) to provide high-speed broadband internet service to interested customers located in the Hinkle Mountain area of Nicholas County, just outside the municipal limits of the City of Richwood in West Virginia as part of the Hinkle Mountain Broadband Expansion Project. This project will provide approximately 4.5 miles of aerial fiber to residents and businesses along the route at a minimum broadband service level of 25 mbps download to 3 mbps upload.

All materials, maps, reports and data generated through this project shall remain the property of the Nicholas County Commission. Data will also be provided to the State of West Virginia, West Virginia Broadband Enhancement Council, in electronic and paper format.

All ISPs interested in being considered for this project must submit a proposal detailing technical expertise, management and staffing capabilities, and related prior experience to demonstrate adequate professional history.

Interested firms must submit five (5) hard copies, and 1 digital format submission of all requested information to: Nicholas County Commission, 700 Main Street, Suite 1, Summersville, WV 26651 no later than Friday, July 30, 2021 at 2:00 p.m. Should there be any questions please contact Cassandra Lawson, Region 4 Planning and Development Council, by phone at (304) 872-4970 ext. 303 between 8:30 a.m. - 4:30 p.m. M-F, or by e-mail at clawson@reg4wv.org. Electronic submissions are to be submitted to the clawson@reg4wv.org e-mail at clawson@reg4wv.org. Electronic submissions are to be submitted to the clawson@reg4wv.org e-mail address. It is the responsibility of the respondent to ensure the receipt of the proposal by the date and time specified.

RFP documents and specifications may be downloaded from Region 4 Planning and Development Council's (PDC) web site at <u>https://www.reg4wv.org/request-for-proposals</u> and inquiries may be made by calling Cassandra Lawson of Region 4 PDC at (304) 872-4970 ext. 303, or by e-mail at clawson@reg4wv.org.

Attention is directed to the fact that this project is funded through a CDBG grant, under HUD regulations for Construction of Public Improvements, 24 CFR 570.201-204. The selected ISP will be required to comply with Title VI of the Civil Rights Act of 1964, Executive Order 11246, Section 109 of the Housing and Urban Development Act of 1974, Section 3 of the Housing and Urban Development Act of 1968, Conflict of Interest Statement and Access to Records provisions and all other requirements as related to HUD-funded projects. The project will be implemented by a local project management team. Additional resources may be obtained through the West Virginia Broadband Enhancement Council and the State Office of GIS Coordination. The team will provide oversight and direction to the ISP selected. All work will be performed in accordance with the regulations issued by the previously referenced agencies and the State of West Virginia pertaining hereto.

The Nicholas County Commission will afford full opportunity for minority business enterprises to submit a show of interest in response to this invitation and will not discriminate against any interested firm or individual on the grounds of race, creed, color, sex, age, handicap or national origin in the contract award.

The Nicholas County Commission reserves the right to accept or reject any and/or all Proposals.

Garrett Cole, President Nicholas County Commission

