

**AGREEMENT BETWEEN MADISON COUNTY, MISSISSIPPI, AND
COMCAST CABLE COMMUNICATIONS, LLC, CONCERNING A
BROADBAND EXPANSION PROJECT FOR UNDERSERVED AREAS
OF MADISON COUNTY, MISSISSIPPI**

This Agreement is dated _____ between the County of Madison, Mississippi, (the “County”), and Comcast Cable Communications, LLC (“Comcast”), each a “Party”, and together, the “Parties.”

WHEREAS, the County is authorized to expend American Rescue Plan Act (“ARPA”) funds to ensure that unserved and underserved residents and businesses in the County have access to broadband in order to promote economic development and a better quality of life for residents within the County, and

WHEREAS, Comcast provided an estimate of costs to support a “Project,” as defined in item 3(a) below whereby Comcast will design, build, own, operate, manage and maintain a fiber-optic Ethernet Passive Optical Network (EPON) communications network capable of speeds up to 1 gigabit symmetrical service that will provide access to broadband internet service to certain unserved and underserved residents in the County, as described more specifically in Exhibit A, attached hereto, and

WHEREAS the County determined that the public interest is served by contracting with Comcast to bring broadband services to certain residents in the County, and

WHEREAS, Comcast proposed to expand broadband internet service to certain unserved and underserved residents in the County for a total cost of \$18,994,203 primarily based on a fiber deployment to include aerial attachments to existing utility poles, and

WHEREAS, Comcast has committed to contribute up to \$4,790,292.00 to underwrite the cost of the Project, subject to the terms of this Agreement; and

WHEREAS, the County has committed to contribute up to \$10,000,000 to underwrite the cost of the Project, subject to the terms of this Agreement; and

WHEREAS, this Project is a high priority of both parties, Comcast and County will partner to apply for additional funding as may be necessary through applicable state and federal grant programs, including all eligible programs offered by the State of Mississippi, to secure additional funding in the amount of up to \$14,203,911.

Now THEREFORE, the parties hereto do mutually agree as follows:

1. Definitions:

- a) “Required Broadband Service,” means high-speed internet service that reliably meets or exceeds 100Mbps download and at least 20 Mbps upload speeds and is scalable to a minimum of 100Mbps symmetrical for download and upload speeds based on future technology advances.
- b) “Cable Franchise Agreement”, means the grant of authority to own and operate its network in the public rights of way issued to Comcast by Madison County in

2015.

- c) "Excusable Delay Event", means a delay that results from: (1) an event described in Section 13 of this Agreement that directly impacts Comcast's ability to achieve Final Completion of the Project; or (2) make-ready work that is not completed within six (6) months of Comcast's submission of a proper application for utility pole attachments.
- d) "Final Completion", means the date certified in writing by Comcast that construction of the Network has been completed by Comcast and the Project locations have become Serviceable.
- e) "Network", means the fiber-optic Ethernet Passive Optical Network (EPON) communications network that Comcast builds in the County.
- f) "Project Area" means the residential or business addresses intended to be served by the Network funded by the Project as set forth in Exhibit A.
- g) "Serviceable", means that a premises that is located within 1000 feet of the public rights of way and passed by the Network and the occupants of such premises have access to Required Broadband Service, subject to the subscriber installation provisions outlined in any applicable Cable Franchise Agreement.

2. Term and Termination:

- a) This Agreement shall commence on September 6, 2022 (the "Effective Date") or the full execution of this Agreement, whichever comes later and shall expire upon the date of Final Completion, unless terminated sooner in accordance with the provisions of this Agreement.
- b) This Agreement may be terminated for default, at any time, for a breach of any one or more material terms of this Agreement that the breaching party fails to remedy in accordance with this section. In the event of a breach of one or more material terms of this Agreement, the non-breaching party must provide written notice of the breach(es) to the breaching party. The breaching party shall, within thirty (30) days of receipt of such written notice, a) cure such breach, b) an if such breach is not reasonably capable of cure within such thirty (30) day period, provide a written response with a detailed plan to cure the breach in a reasonable time frame beyond thirty (30) days from the receipt of the initial notice, or c) provide a written notice disputing the existence of breach of the material terms of this Agreement. In the event that the breaching party does not cure or respond to the notification of the alleged breach(es) within thirty (30) calendar days from receipt of the non-breaching party's written notice (or such longer time to which the Parties may agree), the non-breaching party may terminate this Agreement, in whole or in part.
- c) Termination of this Agreement by either Party as permitted herein shall not limit the legal rights and remedies otherwise available to either Party.

3. Project Description:

- a) Comcast shall construct a Network capable of delivering Required Broadband Service

to certain unserved premises in the County as described in Exhibit A (the "Project"). The Project Area consists of approximately 3,175 residents along 478.6 plant miles and currently lacks access to a reliable wireline connection delivering broadband internet speeds.

4. Performance of the Work:

- a) Comcast will design, build, own, operate, manage and maintain the Network that will provide access to Broadband Service in the Project Area. Upon Final Completion, Comcast will operate the Network consistent with the terms of its Cable Franchise Agreement.
- b) Comcast shall achieve Final Completion of the Project within thirty-six (36) months of the Effective Date of this Agreement. If there are delays beyond Comcast's control in obtaining permits, Comcast should notify the County so the County can assist in obtaining said permits; provided, however, that the date for Final Completion will be extended for each day of delay caused by the occurrence of an Excusable Delay Event, or by mutual written agreement by. The Parties agree that they have a shared interest in pursuing options that would expedite the construction and completion of the Project in order to accelerate access to Broadband Service in the Project Area. In furtherance of this shared interest, the Parties shall cooperate to identify appropriate mechanisms to accelerate Project performance, including, but not limited to assisting in expediting the issuance of necessary permits.
- c) Comcast acknowledges that it is solely responsible for all Project decisions, the preparation of all plans and specifications, and for developing, performing, and completing the Project as necessary to provide the Required Broadband Service to the homes and businesses in the Project Area.
- d) Upon Final Completion, Comcast will offer Required Broadband Service to approximately 3,175 unserved homes and businesses within the County.
- e) The Parties mutually agree and acknowledge that this Agreement and corresponding Project is contingent upon Comcast being able to construct the Network aerially across the Project Area, as described more specifically in Exhibit A. Neither Party hereto shall be held responsible for any delay or failure in performance hereunder caused in whole or in part by any voluntary or mandatory compliance with any governmental act or governmental or third-party regulation or request that impacts Comcast's construction of the Network. If any such contingency shall occur, this Agreement shall be deemed null and void and the duties and obligations of the Parties under the terms of this Agreement shall be forever discharged.

5. Project Personnel:

Each Party shall provide written notice to the other Party within five (5) business days of the Effective Date identifying the person serving as each Party's Project Manager to support effective communication and to report on the Project's progress. Each Party's notice shall also include the address, phone numbers, and email address for the Project Manager. In the event there is a change in a Party's Project Manager, the affected Party shall provide (a) prompt

written notice to the other Party of the change and (b) the new Project Manager's contact information.

6. Ownership of Project and Service Requirements:

- a) Comcast shall retain ownership and have exclusive use of the Network and all equipment used or deployed in connection with the Project.
- b) Comcast shall operate and maintain the Network consistent with applicable industry standards and offer Required Broadband Service to residential premises that are Serviceable in the County under terms, conditions and prices reasonably consistent with what Comcast offers to subscribers in the remainder of the County.

7. Project Funding:

- a) Comcast will underwrite Twenty-Five Percent (25%) of the Project cost up to Four Million, Seven Hundred Ninety Thousand, Two Hundred Ninety-Two Dollars (\$4,790,292.00) in the project.
- b) In consideration of Comcast's agreement to complete the Project as outlined herein, County shall pay for additional Project costs up to Ten Million (\$10MM) Dollars, once Comcast expends the Four Million, Seven Hundred Ninety Thousand, Two Hundred Ninety-Two Dollars (\$4,790,292) on the Project as referenced in Section 7(a) of this Agreement. The County hereby represents and warrants it is authorized to expend such funds and that they shall comply with any and all applicable laws related to the expenditure of such funds.
- c) Comcast and the County shall coordinate to secure additional funding from state and/or federal sources to underwrite the total Project cost up to Fourteen Million, Two Hundred Three Thousand, Nine Hundred and Eleven Dollars (\$14,203,911). In the event of receipt of such award and to the extent allowable under applicable law and the rules associated with such award, this funding will be applied to the Project costs before the obligation of the County referenced under Section 7(b) of this Agreement.
- d) Comcast is responsible for funding costs in excess of \$18,994,203 as may be reasonably necessary to complete the Project Area and to fulfill its other obligations under this Agreement. Notwithstanding the foregoing, the \$18,994,203 project cost is based upon Comcast's ability to use Entergy's private easements at no cost. Should those private easements be unavailable for Comcast's use at no cost, the parties shall renegotiate the \$18, 994, 203 project cost.

8. Invoicing and Payment:

Reporting/Payment Schedule

- a) Comcast shall submit invoices, as necessary, for payment and Project status reports to the County Project Manager.

- b) Comcast shall submit invoices and necessary, accompanied by a Project status report, with appropriate supporting documentation, to the County, no more frequently than quarterly.
- c) The County shall pay Comcast within thirty (30) days of receipt of an invoice and Project status report.

9. Confidentiality:

- a) “Confidential Information”, includes, but is not limited to, information, drawings, data, specifications, technical information, and other information or materials furnished or made available by the disclosing Party to the receiving Party that reasonably should be considered proprietary and/or confidential and/or that the disclosing Party has indicated is proprietary and/or confidential.
- b) The Parties agree that during and after the expiration or termination of this Agreement, neither Party, nor any person, firm, corporation or other entity affiliated with, owned in whole or in part by, employed by or otherwise connected with the receiving Party, shall directly or indirectly, without the express written consent of the disclosing Party, divulge, use, sell, exchange, furnish, give away, or transfer in any way the Confidential Information of the disclosing Party.
- c) The Parties agree that, during the term of this Agreement and for a period of three (3) years from the expiration or termination thereof, any Confidential Information received from the other Party:
 - i. Will only be used for the purpose of performing obligations and exercising rights under the Agreement;
 - ii. Will not be disclosed to any third party without prior written approval of the disclosing Party, except for disclosures to third parties that are expressly contemplated hereunder;
 - iii. May only be disclosed within the receiving Party’s organization to employees that have a “need-to-know” such information in connection with the performance of the receiving Party’s obligations under the Agreement and who have been advised of the obligations regarding Confidential Information under the Agreement;
 - iv. Will be treated with at least the same degree of care as the receiving Party treats its own Confidential Information, but in no event less than a reasonable degree of care;
 - v. Will be copied only to the extent necessary for the purposes of this Agreement; and

- vi. Will remain the property of the disclosing Party.
- d) In the event that the receiving Party is served with a subpoena or other validly issued administrative or judicial process demanding the Confidential Information of the disclosing Party, the receiving Party shall promptly notify the disclosing Party so that the disclosing Party may seek a protective order or other remedy. The Parties shall reasonably cooperate with each other to quash such process or otherwise to limit the scope of any required disclosure. Unless the demand shall have been timely limited, quashed, or extended, the receiving Party shall be entitled to comply with such demand to the extent permitted by law. In the event that disclosure of any Confidential Information is compelled, either Party shall seek an appropriate protective order from the court or administrative body to limit access to the Confidential Information.
- e) Upon the expiration or termination of this Agreement or upon the disclosing Party's request, the Contractor shall return all Confidential Information to the disclosing Party or at the disclosing Party's option, destroy all Confidential Information and provide, within ten (10) days of the disclosing Party's request, a written certification that all Confidential Information in all formats, including without limitation, paper, electronic and disk form, have been returned or destroyed, as the case may be.
- f) Each Party acknowledges that unauthorized disclosure or use of the other Party's Confidential Information could cause irreparable harm and significant injury to the disclosing Party that may be difficult to ascertain. Accordingly, each Party agrees that the disclosing party shall have the right to seek immediate injunctive relief from breach or threatened breach of this Agreement prohibiting any unauthorized disclosure or use of the Confidential Information, in addition to any other rights and remedies the disclosing Party may have.
- g) The confidentiality provisions of this section shall survive the termination or expiration of this Agreement.

10. Limitation of Liability:

- a) NOTWITHSTANDING ANY PROVISION IN THIS AGREEMENT TO THE CONTRARY, UNDER NO CIRCUMSTANCE OR LEGAL THEORY (TORT, CONTRACT OR OTHERWISE), SHALL COMCAST BE LIABLE TO THE COUNTY FOR INDIRECT, EXEMPLARY, SPECIAL, OR CONSEQUENTIAL DAMAGES INCLUDING, BUT NOT LIMITED TO, LOSS OF REVENUE, PROFIT OR USE OR COST OF CAPITAL OR OF SUBSTITUTE USE OR PERFORMANCE (COLLECTIVELY "CONSEQUENTIAL DAMAGES"), ARISING UNDER THIS AGREEMENT, IRRESPECTIVE OF WHETHER OR NOT THE COUNTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
- b) THE MAXIMUM LIABILITY OF COMCAST UNDER THIS AGREEMENT SHALL NOT EXCEED THE AMOUNT THE COUNTY SHALL PAY TO COMCAST IN SECTION 7(b) OF THIS AGREEMENT.

11. Changes:

In the event the County requests any change to the Project that causes an increase in the cost

or time required for performance of the Project, Comcast shall notify the County of such within thirty (30) calendar days from the date of receipt of the County's written request. If the Parties agree to such changes in writing, the funding for the Project and the Final Completion date shall be equitably adjusted to incorporate such changes. Any request for work to be performed by Comcast outside the scope of this Agreement must be addressed under a separate agreement to be executed by the Parties prior to performance.

12. Assignment; Transfer:

Neither Party may assign this Agreement in whole or in part, or delegate any of its duties or obligations thereunder, without the prior written consent of the other Party, except that without such consent Comcast (i) may assign this Agreement to a successor (by purchase, merger, operation of law, or otherwise) to all or substantially all of its business; and (ii) may assign this Agreement to an affiliate or subsidiary, provided such entity agrees in writing to be bound by the terms hereof. Any purported assignment in contravention of this section shall be null and void. Subject to the foregoing, this Agreement will bind and inure to the benefit of any permitted successors or assigns. Nothing herein is intended to limit Comcast's use of third-party consultants and contractors to perform the Project.

13. Nondiscrimination:

Comcast agrees to comply with all applicable federal, state, and local statutes, rules and regulations promoting fair employment practices or prohibiting employment discrimination and unfair labor practices. Comcast shall not discriminate in the hiring of any applicant for employment nor shall any qualified Comcast employee be demoted, discharged or otherwise subject to discrimination in the tenure, position, promotional opportunities, wages benefits or terms and conditions of their employment because of race, color, national origin, ancestry, age, sex, religion, disability, handicap, sexual orientation, gender identification, or for exercising any rights afforded by law.

14. Excusable Delay Event:

Neither party shall be liable to the other or be deemed to be in breach of this Agreement for any failure or delay in rendering performance arising out of causes beyond its reasonable control and without its fault or negligence. Such causes may include, but are not limited to, acts of God or of a public enemy, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather, supply chain disruptions, labor shortages, or delays in securing the required permits, easements, or utility pole make-ready. Notwithstanding the above, Comcast will use commercially reasonable efforts to inform the County of any Excusable Delay Events.

15. Governing Law and Venue:

This Agreement shall be interpreted and enforced in accordance with the laws of the State of Mississippi, without regard to its conflict of laws principles. Any dispute arising under this Agreement that is not settled between the Parties shall take place in any court of competent jurisdiction over Madison County, Mississippi. Each Party shall bear its respective legal costs. **TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, EACH PARTY IRREVOCABLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN CONNECTION WITH ANY LITIGATION ARISING OUT OF THIS AGREEMENT.**

16. Compliance With Laws:

The Parties agree to comply with all applicable local, state and federal laws, regulations, and ordinances in the performance of this Agreement.

17. Modification; Amendment:

This Agreement shall not be modified or amended, in whole or in part, except by written agreement signed by the Parties.

18. Survival:

The provisions of this Agreement that, by their sense and context, are intended to survive performance by either Party or the Parties shall also survive the completion, expiration, termination, or cancellation of this Agreement.

19. Headings; Exhibits:

The headings of paragraphs in this Agreement are for convenience only; they form no part of this Agreement and shall not affect its interpretation. All schedules, exhibits or attachments referred to in this Agreement shall be incorporated in and constitute a part of this Agreement.

20. Construction:

In the event that any portion of this Agreement is held to be invalid or unenforceable, the Parties shall replace the invalid or unenforceable portion with another provision that, as nearly as possible, reflects the original intention of the Parties, and the remainder of this Agreement shall remain in full force and effect.

21. Counterparts:

This Agreement may be executed and delivered in counterparts, all of which taken together shall constitute a single instrument.

22. Entire Understanding:

This Agreement constitutes the entire understanding of the parties related to the subject matter hereof, and supersedes all prior agreements, proposals, representations, statements, or understandings, whether written or oral, concerning the Project or the Parties' rights or obligations relating to the Project.

23. Waivers:

Conditions, covenants, duties and obligations contained in this Agreement may be waived only by written agreement executed by the Parties. Forbearance or indulgence in any form or manner by a Party shall not be construed as a waiver, nor in any way limit the remedies available to that Party.

24. Notice:

Any notice provided in accordance with this Agreement shall be in writing and shall be sent by either direct or electronic mail to the Project Manager with a copy to the individuals listed below.

County: County Administrator
P.O. Box 608
Canton, MS 39046-0608
greg@madison-co.com

Comcast: Vice President of External Affairs,
6200 The Corners Parkway, Suite 200,
Peachtree Corners, GA 30092
Andy_Macke@cable.comcast.com

Any notice shall be deemed delivered and received when submitted in writing in person or when delivered by any other appropriate method evidencing actual receipt by the receiving party.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by a duly authorized representative by their hands and seals, intending to be so bound, as of the day and year firstabove written.

ATTEST: _____

COMCAST CABLE COMMUNICATIONS, LLC

By: _____

Name: _____

Title: _____

ATTEST: _____

MADISON COUNTY, MISSISSIPPI

By: _____

Name: _____

Title: _____

ATTEST: _____

EXHIBIT A

PROJECT PLANS AND SPECIFICATIONS

Following execution of this Agreement, Comcast will begin the engineering walkout and design phase of the Project in the Project Area as depicted by the blue and green shaded areas in the map below. This proposed infrastructure will deliver voice, video, and data services to this area using an Ethernet Passive Optical Network (EPON) technology.

In limited instances, while building out EPON infrastructure, the most cost-effective solution to extend broadband to certain homes and businesses may be through our Hybrid Fiber-Coax (“HFC”) technology. This would principally be the case where currently unserved homes and businesses are intermingled with or adjacent to those locations that are already served by Comcast’s existing network infrastructure. HFC infrastructure employs the Data Over Cable Service Interface Specifications (“DOCSIS”) standard, which is an international telecommunications standard that permits the addition of high-bandwidth data transfer to an existing cable TV system. This would principally be the case where currently unserved homes and businesses are intermingled with or adjacent to those locations that are already served by Comcast’s existing network infrastructure.

The upgraded network will tie into Comcast’s larger network in Central Mississippi (red shaded portion within the figure below) and will deliver high-speed broadband services to an estimated 3,175 homes and businesses. This technology will be capable of providing a minimum of 100 Mbps downstream and 20 Mbps upstream including gigabit internet speeds to residential and commercial customers in the Project Area.

Comcast estimates that the Project can be completed for \$18,994,203. As part of this Project, Comcast will work with the County to jointly apply for additional funding from applicable state and federal grant programs. Comcast estimates it can complete this Project within thirty-six (36) months from the execution of this Agreement.

