

**AN INTERLOCAL AGREEMENT BETWEEN THE CITY OF MILLWOOD AND THE
SPOKANE REGIONAL BROADBAND DEVELOPMENT AUTHORITY REGARDING
NECESSARY OPEN ACCESS BROADBAND INFRASTRUCTURE, SERVICES
DELIVERY ENHANCEMENTS AND DIGITAL EQUITY SOLUTIONS**

THIS INTERLOCAL AGREEMENT (this “Agreement”) is entered into this ____ day of _____, ~~2024~~ 2025 (the “Effective Date”) by and between the **CITY OF MILLWOOD**, ~~a non-charter code city by virtue of the Constitution and the laws of the State of Washington a Washington State municipal corporation~~, having offices for the transaction of business at 9103 E Frederick Ave, Spokane, WA 99206 (as the “CITY”), and the **SPOKANE REGIONAL BROADBAND DEVELOPMENT AUTHORITY BROADLINC**, a quasi-municipal corporation created pursuant to RCW 35.21.730 - .755, having offices for the transaction of business at 1026 W Broadway Ave, Spokane, WA 99201 (as “BROADLINC”), who are hereinafter referred to as the “PARTIES.”

WITNESSETH:

~~WHEREAS, the CITY OF MILLWOOD is a State of Washington first class charter CITY organized and existing under the Constitution and laws of the State of Washington; and~~

~~WHEREAS,~~

WHEREAS, Spokane County, acting through the Board of County Commissioners, approved Resolution 2022-0845 on December 13, 2022, which is attached hereto as **Exhibit A** and incorporated herein by this reference, which created the Spokane Regional Broadband Development Authority to (i) oversee the acquisition of broadband assets/infrastructure, as lead or co-applicant (where most appropriate), on behalf of member cities and towns of Spokane County, (ii) administer broadband assets/infrastructure for shared use and benefit with the participating cities, towns and areas, and (iii) insure necessary broadband infrastructure and services delivery enhancements; and

WHEREAS, Resolution 2022-0845 also adopted BROADLINC’s charter (the “Charter”), which is attached hereto as **Exhibit B** and incorporated herein by this reference, authorized the creation of corporate bylaws, and established a Board of Directors to govern its affairs; and

WHEREAS, the PARTIES recognize the need to promote digital equity and inclusion that aims to ensure all people and communities have skills, technology and capacity needed to reap the full benefits of our digital economy; and

WHEREAS, Resolution 2022-0845 and the Charter anticipate that various cities and towns will enter into interlocal agreements with BROADLINC for the sole purpose of planning, creating

and maintaining regional broadband infrastructure capacity and service delivery expansion to such entities; and

WHEREAS, Chapter 39.34 RCW (the “Interlocal Cooperation Act”) permits local governmental units to make the most efficient use of their powers by enabling them to cooperate on the basis of mutual advantage; and

WHEREAS, it is the desire of the CITY to enter into this Agreement with BROADLINC to assist the CITY in the administration, coordination, implementation, and deployment of broadband infrastructure and access. The purpose of such actions is to encourage, foster, develop, and improve affordable, quality broadband accessibility for underserved, and unserved communities and populations including those where there is demonstrated digital equity needs; as set forth in this Agreement; and

WHEREAS, the PARTIES have entered into this Agreement in consideration of the mutual benefits to be derived and to coordinate their efforts through the structure provided by the Interlocal Cooperation Act.

NOW, THEREFORE, the PARTIES hereby agree as follows:

SECTION NO. 1: **PURPOSE**

The purpose of this Agreement is to allow BROADLINC to coordinate with the CITY in the development of strategies and plans that encourage, foster, develop, and improve affordable, quality broadband accessibility for underserved, and unserved communities and populations in Spokane County.

SECTION 2: **RESPONSIBILITIES OF THE PARTIES**

2.1 **CITY’s Responsibilities:** The CITY’s obligations under this Agreement are to: (1) designate a primary point of contact for BROADLINC Executive Director; (2) coordinate the selection for the board position on the BROADLINC board from towns/cities having recorded populations under 50,000, as determined by the most recent US Census, which board membership shall be otherwise governed by BROADLINC’s Charter and bylaws; and (3) inform BROADLINC of broadband and digital equity related activities, including private internet service providers communicating with the City/Town in conjunction with the broadband efforts. The CITY, within its sole discretion, shall determine the appropriate legislative or administrative action to effectuate the foregoing commitments.

2.2 **BROADLINC’s Responsibilities:** BROADLINC’s obligations are based on the responsibilities enumerated in the Resolution 2022-0845, Charter and its bylaws, and include the following:

- a) Oversee assets of BROADLINC. Additionally, and upon mutual written agreement by the PARTIES, the CITY may convey, lease, and/or allow joint use of CITY owned broadband infrastructure to BROADLINC.
- b) Oversee and administer any grant awards in conjunction with other joint applicants and/or subrecipients.
- c) Oversee the Operating Entity for service delivery of Dark Fiber owned by BROADLINC.
- d) Oversee BROADLINC's budget and ensure Third Party Entities timely receive appropriate revenues.
- e) Pursue ongoing applicable funding, grants, and loans and other customary businesses opportunities for enhanced broadband service delivery in infrastructure enhancement and assurance of Digital Equity and Inclusion.,
- f) Oversee the expansion of BROADLINC though the inclusion of additional participating municipal corporations, public entities, or municipalities (i.e. cities, towns, municipal corporations, public utility districts, quasi-municipal corporations, and special purpose districts) via Interlocal Cooperation Agreement(s).
- g) Lead strategic direction for broadband delivery, infrastructure and enhancing for the region, with the State Broadband Office, Federal units, and private sector integrations.
- h) Participate, as appropriate, in public – private partnerships discussion, such as franchise agreements related to the broadband industry within Spokane County.
- i) BROADLINC shall submit a yearly budget, annual report of actuals and revenue proforma to CITY.

SECTION NO. 3: DURATION

This Agreement shall take effect on the Effective Date and shall continue unless one or all of the PARTIES give notice of termination as provided for in Section 9 of this Agreement, or unless BROADLINC terminates pursuant to Resolution 2022-0845, its Charter or State law

SECTION NO. 4: COMPENSATION

There shall be no direct compensation to or from either party.

SECTION NO. 5: RELATIONSHIP OF THE PARTIES

The PARTIES' relationship is set forth in the Recitals of Spokane County Resolution 2022-0845, which is attached hereto as **Exhibit A**.

SECTION NO. 6: **LIABILITY**

6.1 BROADLINC hereby agrees to indemnify and hold harmless the CITY, its officers, and employees from any and all claims, actions, causes of action, judgments, or liens occasioned by or arising out of BROADLINC's negligence or BROADLINC's failure to comply with applicable laws in BROADLINC's performance of this Agreement (except for any willful misconduct or negligence of the CITY and except for matters for which the CITY has agreed to indemnify BROADLINC hereunder) and to defend for and on behalf of the CITY, its officers and employees, at its own expense, any such claim or cause of action, and, in the event of recovery thereon, to pay any judgment or lien arising therefrom, including any and all costs as a part thereof.

6.2 The CITY hereby agrees to indemnify and hold harmless BROADLINC, its officers and employees from any and all claims, actions, causes of action, judgments or liens occasioned by or arising out of the CITY's negligence or the CITY's failure to comply with applicable laws in the CITY's performance of this Agreement (except for any willful misconduct or negligence of the CITY and except for matters for which BROADLINC has agreed to indemnify the CITY hereunder), and to defend for and on behalf of BROADLINC, its officers and employees, at its own expense, any such claim or cause of action, and, in the event of recovery thereon, to pay any judgment or lien arising therefrom, including any and all costs as a part thereof.

6.3 As BROADLINC's activities, operations, and assets change, ~~the~~ BROADLINC agrees to acquire and maintain appropriate insurance, including but not limited to public liability insurance and errors and omissions insurance, in an amount as specified by the CITY and approved by the appropriate CITY department sufficient to cover potential claims that may arise from or be related to BROADLINC's projects or activities. BROADLINC agrees to name the CITY as an additional insured on such insurance policies.

6.4 Pursuant to state law, the PARTIES expressly understand and agree that any obligation or liability arising out of and/or incurred by either party by reason of this Agreement, or the carrying out of any activity in connection therewith, shall be satisfied exclusively from the assets and credit of the party incurring such liability or obligation, and no creditor or any other person or entity shall have any recourse to any of the assets, credit, or services of the CITY or Spokane County on account of any debts, obligations, or liabilities of BROADLINC. No member of the Board, other officer, employee or agent of BROADLINC shall be individually and personally liable on any obligation assumed by BROADLINC by this Agreement, nor shall any Board member, other officer, employee or agent be individually and personally liable on any obligation assumed by the CITY by this Agreement.

SECTION NO. 7: **NOTICES**

All notices shall be in writing and served on the other party either personally or by certified mail, return receipt requested. Notices sent by certified mail shall be deemed served when deposited in the United States mail, postage prepaid.

CITY: Mayor or designee
CITY OF MILLWOOD
9103 E Frederick Ave
Spokane, WA 99206

BROADLINC: Executive Director
BROADLINC
4420 East 8th Ave
Spokane Valley, WA 99212

SECTION NO. 8: ANTI-KICKBACK

No officer or employee of either party hereto, having the power or duty to perform an official act or action related to this Agreement, shall have or acquire any interest in the Agreement, or have solicited, accepted or granted a present or future gift, favor, service or other thing of value from or to any person involved in the Agreement.

SECTION NO. 9: TERMINATION

Except as otherwise contemplated by Section 3 above, there shall be no specific termination date applicable to this Agreement. However, either party may, solely within its own discretion, terminate this Agreement with one hundred and eighty days' notice to the non-terminating party.

SECTION NO. 10: MISCELLANEOUS

- A. **NON-WAIVER:** No waiver by either party of any of the terms of this Agreement shall be construed as a waiver of the same or other rights of that party in the future.
- B. **HEADINGS:** Headings are inserted for convenience of reference only and are not to be deemed part of or to be used in construing this Agreement.
- C. **ENTIRE AGREEMENT:** This Agreement contains the entire understanding of the PARTIES. No representation, promises, or agreements not expressed herein have been made to induce either party to sign this Agreement.
- D. **MODIFICATION:** No modification or amendment to this Agreement shall be valid until put in writing and signed with the same formalities as this Agreement.
- E. **ASSIGNMENT:** This Agreement shall be binding upon the PARTIES, their successors and assigns. Neither party may assign, transfer, or subcontract its interest in this Agreement without the written approval of the other party.

- F. **SEVERABILITY**: In the event any portion of this Agreement should become invalid or unenforceable, the rest of the Agreement shall remain in full force and effect.
- G. **COMPLIANCE WITH LAWS**: The PARTIES shall observe all federal, state and local laws, ordinances and regulations, to the extent that they may be applicable to the terms of this Agreement.
- H. **NON-DISCRIMINATION**: No individual shall be excluded from participation in, denied the benefit of, subjected to discrimination under, or denied employment in the administration of or in connection with this Agreement because of age, sex, race, color, religion, creed, marital status, familial status, sexual orientation, national origin, the presence of any sensory, mental or physical disability, or use of a service animal by a disabled person.
- I. **VENUE**: This Agreement shall be under the laws Washington State. Any action at law, suit in equity or judicial proceeding regarding this Agreement, or any provision hereto, shall be instituted only in courts of competent jurisdiction within Spokane County, Washington.
- J. **COUNTERPARTS**: This Agreement may be executed in any number of counterparts, each of which, when so executed and delivered, shall be an original, but such counterparts shall together constitute but one and the same.
- H. **UNDEFINED OR CONFLICTING TERMS**: Any capitalized terms that are otherwise undefined herein shall take the meaning assigned in the attached Resolution 2022-0845 or Charter. In the event of a conflict between the terms of this Agreement and Resolution 2022-0845 or the Charter; Resolution 2022-0845 shall control, the Charter shall be second in priority followed by this Agreement.

SECTION NO. 11: RCW 39.34 REQUIRED CLAUSES

- A. **PURPOSE**: See Section No. 1 above.
- B. **DURATION**: See Section No. 3 above.
- C. **ORGANIZATION OF SEPARATE ENTITY AND ITS POWERS**: No new or separate legal or administrative entity will be created to administer the provisions of this Agreement.
- D. **RESPONSIBILITIES OF THE PARTIES**: See Section No. 2 above.
- E. **AGREEMENT TO BE FILED**: The CITY shall file this Agreement with its CITY Clerk or place it on its web site or other electronically retrievable public source.
- F. **FINANCING**: To the extent applicable, each party shall be responsible for the financing of its contractual obligations under its normal budgetary process.

G. **TERMINATION:** See Section No. 9 above.

H. **PROPERTY UPON TERMINATION:** Title to all property acquired by BROADLINC under this Agreement shall remain with BROADLINC, unless otherwise provided for in Ordinance No. 2022-0845 or as otherwise agreed to by the PARTIES.

IN WITNESS WHEREOF, the PARTIES have caused this Agreement to be executed as of the Effective Date first written above.

CITY OF MILLWOOD

By: _____
Its: _____

Attest:

Approved as to form:

CITY Clerk

Assistant CITY Attorney

BROADLINC

By: _____
Its: _____

EXHIBIT A

(Resolution 2022-0845)

DRAFT

EXHIBIT B

(PDA Charter)

DRAFT