AGENDA
CITY OF BLOOMINGTON

ECONOMIC DEVELOPMENT COMMISSION

Tuesday, June 14, 2022, 4:00 pm

Join Zoom Meeting
https://bloomington.zoom.us/j/88094360941?pwd=TmJ6a01wY1RFNy94N3V5UWw3SVZrQT09
Meeting ID: 918 4005 2157
Passcode: 760061
One tap mobile
+13017158592,,91840052157# US (Washington D.C)
+13126266799,,91840052157# US (Chicago)

Or attend in person in the McCloskey Conference Room, 135, City Hall, 401 N Morton St.

1. Call to Order
2. Roll Call
3. Minutes
4. Old Business
5. New Business
    a. Resolution 22-03 Meridiam TIF request
    b. Annual EDC Activity and Tax Abatement Compliance Report
6. For the Good of the Order
7. Adjournment Next Meeting: Tuesday, July 19, 2022, 4:00 p.m.

Auxiliary aids for people with disabilities are available upon request with adequate notice. Please call 812-349-3429 or e-mail human.rights@bloomington.in.gov.

CITY OF
BLOOMINGTON

June 2022

June, 2022 / Draft Presentation

Meridiam TIF Request

- Overview
- About Meridiam
- About the Meridiam / Bloomington Project
- About this TIF Request
- Summary

Overview: Current State

- Broadband as defined at 25/3Mbps is not adequate.
- Homework gap impacts low income students with low-speed connections
- High speed internet is increasingly a work requirement including remote work
- Current providers subsidy programs are not attracting users

Overview: What is Fiber

- Fiber optic cable is the premiere world class delivery mechanism for internet services. Scalable for future high-speed needs. Capacity limited by electronics at both ends.
- Fiber optic cables contain strands of glass to move information. Strands combined into bundles which form a fiber optic cable with one to many stands. (The City’s fiber optic cable is 96 strands for instance.)
- Installed underground and aerially on utility poles.
- Basis for modern future-looking networks like we are discussing here.

Overview

- TIF: Meridiam has requested and the City supports the creation of an allocation area to cover personal business property of Meridiam as they install their fiber infrastructure and network equipment throughout the City.
- Meridiam will invest more than $50M in building the network, as well as establishing an office, hiring staff, etc.
- Taxes collected in the TIF would be rebated to Meridiam by the City. This is desired to facilitate the build and to achieve the objectives of Meridiam and City.

About Meridiam

- International public infrastructure developer, investor, manager
  - Based in France, US Headquarters in NYC
- Mission-driven firm - Benefit Corporation
  - Environmental, Social and Corporate Governance (ESG)
  - UN Sustainable Development Goals (SDG)
- Focal areas: Transportation, Energy Transformation, and Fiber
- Uniquely good fit with Bloomington's fiber goals, digital equity strategic plan, and community values.

Why are we here?

- City has long sought partner(s) to ensure Bloomington residents and businesses have ubiquitous / affordable high-speed fiber connectivity
- Secure the benefits of modern technology for all – education, healthcare, jobs, entertainment, personal engagement and more – regardless of income and neighborhood.
- Bridge the digital divide and address digital equity gaps.
- Enhance Bloomington’s competitiveness as a leading innovative community.

Goals

City’s goals have been consistent throughout this project

- **Community-Wide –** No parts of Bloomington left behind
- **Community Benefits –** Our community has an interest in an open, competitive, fairly priced network. We should have a say.
- **Financially Sustainable –** Network operates with sustainable business model
- **Bridging Digital Divide –** Addressing digital equity issues

Backstory (Super Condensed)

- **Request for Information (RFI) Released – April 1, 2016** (21,12,6,4,2,1)
- **Axia – Aug, 2016 – April 20, 2017 –** Axia Negotiation dissolves
- **Other Parties: Carlyle, Yomura, Allo, Ting, Metronet**
- **Metronet – May-Oct, 2018 –** Metronet negotiation dissolves
- **Local Incumbent Providers (Smithville, AT&T, Comcast) – 2016 to 2020+ –** Not pursuing Citywide FTTP actively or aligned with City goals
- **COVID-19 – Mar, 2020 - Present –** Shutdown/continuing global pandemic
- **Digital Equity Survey & Strategic Plan – 2020 –** DE Strategic Plan released
- **Wyyerd – Sep, 2020 to Mar, 2021 –** Wyyerd negotiation dissolves (sort of)

Backstory

- **Meridiam – Mar, 2021**– Friendly facilitated handoff from Wyyerd to Meridiam after Wyyerd purchase by Carlyle Group results in change of market targets.
- **Meridiam – Aug 27, 2021 –** Letter of Intent signed by both parties.
- **Meridiam – Aug 2021 to Present –** Work on master agreement, digital equity initiative, City conduit asset inventory, site visits, etc.

The Meridiam Project

- Gigabit speed fiber optic network
- Open-access network–Meridiam is not an ISP. After a time-limited exclusive period with a new ISP, the network will be open to other ISPs
- Greater than $50M investment, including new jobs
- Full community coverage (85%+)
- Cost of ISP service competitive
- Robust Digital Equity initiative…

Project Elements: Digital Equity Initiative

- 250 Mbps up & down
- Essentially $0: $30/month - $30 Affordable Connectivity Program (ACP) subsidy
- Simple eligibility for DE program: if eligible for SNAP, TANF, IN Dept of Ed free/reduced meals, SSI OASDI.
- No connection fees

Joanne Hovis, President CTC Technology & Energy and CEO of the Coalition for Local Internet Choice (CLIC)

“Bloomington has developed one of the most innovative broadband public-private collaborations in the country, a model for other cities. Bloomington’s partnership with Meridiam will lead to considerable private investment in fiber-to-the-premises throughout the City, with the promise of world-class broadband service and competition available to all. Just as significantly, both parties made extraordinary commitments to fund digital equity programs and achieve digital inclusion goals. Low-income households in Bloomington will now have access to the best digital equity product in the country -- internet service at a symmetrical 250 megabit per second -- at an effective zero cost. Kudos to Mayor Hamilton and the Bloomington team for their drive and perseverance to reach this singular outcome.”

Project Elements

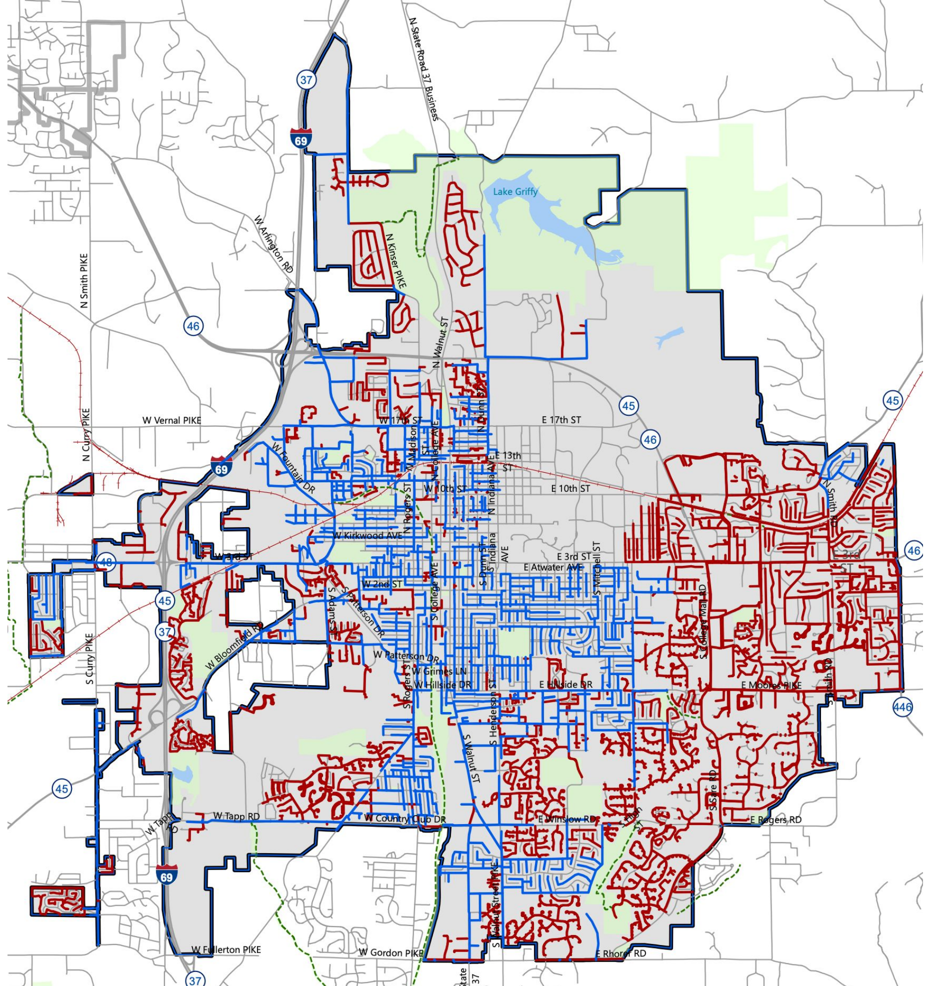
- Network Neutrality
- Protection of City's interests / Voice at the table
- Regional impact beyond Bloomington
- Build will start this year, conclude in 3 years or less

TIF District Request

- Public Tax Increment Finance process through Redevelopment Commission, Plan Commission, EDC, and City Council.
- Meridiam has requested and the City supports creating an allocation area to cover business personal property of Meridiam as they install their fiber infrastructure and network equipment throughout the City.
- Business Personal Property includes conduit, fiber optic cable, electronics, computers, equipment/tools, etc.
- This kind of TIF (when applied to telecom infrastructure) is sometimes referred to as a “spider TIF” because it follows the network.
- Total TIF across 20 years is approximately $14.4M minus any administrative fees.

TIF District Request

- TIF project boundary (City boundary)
- Proposed network path (Not final, subject to change as design progresses)



TIF District Request

- Why TIF for this Project?
  - Necessary to support the project – wouldn't happen without it.
- No tax increase to the Public from this TIF. No drop in funding for other taxing units. Plus new revenue from employment, other taxes, property purchase/rental, etc.
- Why Business Personal Property Tax TIF?
  - Transparent process (multiple boards), City visibility into tax amounts, capture 5% for city admin costs.

TIF District Request

- Other places in Indiana this Business Personal Property Tax TIF Districts have been created in the last few years…
  - West Lafayette (Rolls-Royce), Wabash (Hello Nature), Greendale (Catalent Pharma Solutions), Montpelier (Norfolk Southern), Fishers (Stevanato Group), Monticello (Twin Lakes Solar); Goshen (Last Dance), Mooresville (Nice-Pak), Franklin (Energizer Manufacturing), Muncie (Spartech Polycom), Vermillion County (Elanco), Jackson County (Rumpke of Indiana), Shelby County (Blue Star Redi Mix), Crawford County (Simco of Southern Indiana) Dearborn County (Odette), Posey County (BWXT Technologies), and Montgomery County (Tempur Sealy)
- Other places in Indiana for TIF District established for telecom infrastructure in the last few years…
  - Crawfordsville, Wabash, Lafayette, Franklin, Huntington, Lebanon, and Manchester

In Summary

- Digital Equity Impacted Recommendations (partial or complete impact)
    - 3.1 Expand Digital Equity Fund
    - 3.3 Establish DE Navigator position(s)
    - 3.5 Remove economic barriers to adoption (DE Program)
    - 3.1.1.1 - 4 Recruit new fiber broadband providers, consider public private partnerships, build fiber to BHA public housing, expand public wifi in Parks and other areas.

In Summary

- Community-wide Gigabit FTTP network (Open access after exclusivity period)
- Built by unique partner, Meridiam, a benefit corporation committed to sustainability and equity.
- Ground-breaking digital equity program – 250Mbps up/down, no startup fees, $0/month (with applied ACP Affordable Connectivity Program funding). Real impact on digital divide in our community.
- No tax increase using TIF, negligible impact to other taxing units
- Attract high-tech company, $50+ million local investment, including local jobs
- Thank you for considering this transformational project!

Blair Levin, Executive Director of the 2010 National Broadband Plan and Nonresident Senior Fellow at the Brookings Metropolitan Policy Program

"When the history of how the United States transitioned from the single digit broadband speeds a decade ago to gigabit networks is written, it will be clear that cities played a key catalytic role. Bloomington's announcement, with its elements of an open access next generation network and digital equity, will likely deserve its own chapter. Progress requires bold experiments that chart new paths, exactly what Bloomington is doing."

THANK YOU.

Meridiam

CITY OF
BLOOMINGTON

RESOLUTION NO. 22-03
OF THE
ECONOMIC DEVELOPMENT COMMISSION
OF THE
CITY OF BLOOMINGTON, INDIANA

A RESOLUTION APPROVING AND AUTHORIZING CERTAIN ACTIONS AND PROCEEDINGS WITH RESPECT TO A CERTAIN PROPOSED CONDITIONAL PROJECT EXPENDITURE AGREEMENT

WHEREAS, the City of Bloomington, Indiana (the “City”), is authorized by I.C. 36-7-11.9 and I.C. 36-7-12 (collectively, the “Act”), to issue obligations for the financing of economic development facilities, and provide the proceeds of the obligations to another entity to finance or refinance the acquisition, construction, renovation, installation and equipping of said facilities; and

WHEREAS, Hoosier Networks, LLC (the “Company”), desires to finance the building, constructing and/or installing fiber optic cable and related equipment to provide high-speed internet services by the Company located in the City (the “Project”); and

WHEREAS, the Company will complete the Project in an area that is in the Meridiam Economic Development Area that is also an allocation area (the “Allocation Area”); and

WHEREAS, the Company has advised the Bloomington Economic Development Commission (the “Commission”), and the City that it proposes that the City enter into a Conditional Project Expenditure Agreement (the “Expenditure Agreement”) in an amount equal to ninety-five percent (95%) of the available tax increment in the Allocation Area relating to the Project each year for a period of twenty (20) years under the Act (the “Applicable TIF Revenues”), and provide the proceeds of such Expenditure Agreement to the Company for the purpose of financing the Project; and

WHEREAS, the Commission has studied the Project and the proposed financing of the Project and their effect on the health and general welfare of the City and its citizens; and

WHEREAS, the completion of the Project results in the diversification of industry, the creation of approximately 10 new jobs, with a payroll of approximately $1,100,000, and the creation and retention of business opportunities in the City; and

WHEREAS, pursuant to I.C. § 36-7-12-24, the Commission published notice of a public hearing (the “Public Hearing”) on the proposed Expenditure Agreement to finance the Project; and

WHEREAS, the Commission held the Public Hearing on the Project on June 14, 2022.

NOW, THEREFORE, BE IT RESOLVED BY THE BLOOMINGTON ECONOMIC DEVELOPMENT COMMISSION AS FOLLOWS:

SECTION 1. The Commission hereby finds, determines, ratifies and confirms that the diversification of industry, the retention of business opportunities and the retention of opportunities for gainful employment within the jurisdiction of the City is desirable, serves a public purpose, and is of benefit to the health and general welfare of the City; and that it is in the public interest that the City take such action as it lawfully may to encourage the diversification of industry, the retention of business opportunities, and the retention of opportunities for gainful employment within the jurisdiction of the City.

SECTION 2. The Commission hereby determines that the Project will not have a material adverse competitive effect on any similar facilities already constructed or operating in or near the City.

SECTION 3. The Commission hereby approves the report with respect to the Project presented at this meeting. The Secretary of this Commission is directed to submit such report to the executive director or chairman of the plan commission of the City.

SECTION 4. The Commission finds, determines, ratifies and confirms that the entering into of the Expenditure Agreement in an aggregate amount equal to the Applicable TIF Revenues, and providing the proceeds of the Expenditure Agreement to the Company for the financing of the Project, will be of benefit to the health and general welfare of the City, will serve the public purposes referred to above in accordance with the Act, and fully comply with the Act.

SECTION 5. The financing of the Project through the issuance of the Expenditure Agreement, in an aggregate amount equal to the Applicable TIF Revenues, is hereby approved.

SECTION 6. The Commission hereby approves the terms of the following documents in the form presented at this meeting: (i) a Financing Agreement between the City and the Company; (ii) the Expenditure Agreement; and (iii) an Ordinance of the Common Council.

SECTION 7. Any officer of the Commission is hereby authorized and directed, in the name and on behalf of the Commission, to execute any and all other agreements, documents and instruments, perform any and all acts, approve any and all matters, and do any and all other things deemed by him to be necessary or desirable in order to carry out and comply with the intent, conditions and purposes of this Resolution (including the preambles hereto and the documents mentioned herein), the Project and the entering into of the Expenditure Agreement, and any such execution, performance, approval or doing of other things heretofore effected be, and hereby is, ratified and approved.

SECTION 8. The Secretary of this Commission shall transmit this Resolution, together with the forms of the documents approved by this Resolution, to the Common Council of the City.

SECTION 9. This Resolution shall be in full force and effect upon adoption.

Adopted this 14th day of June, 2022.

BLOOMINGTON
ECONOMIC DEVELOPMENT
COMMISSION

____
President

____
Secretary

____
Member

DMS RCS 22860738.1

CITY OF BLOOMINGTON, INDIANA
CONDITIONAL PROJECT EXPENDITURE AGREEMENT

No. R-1

ORIGINAL DATE	**FINAL DISBURSEMENT DATE**
___________ __, 2022	Year 20 of Payments

MAXIMUM EXPENDITURE AMOUNT: NINETY-FIVE PERCENT (95%) OF PERSONAL PROPERTY TAX INCREMENT GENERATED BY THE PROJECT EACH YEAR

EXPENDITURE PAYEE: **HOOSIER NETWORKS, LLC**

The City of Bloomington, Indiana (the "City"), a municipal corporation organized and existing under the laws of the State of Indiana, for value received, hereby promises to disburse in lawful money of the United States of America to the Expenditure Payee listed above, but solely from the payments on the Applicable TIF Revenues hereinafter referred to pledged and assigned for the payment hereof, the Maximum Expenditure Amount that is unpaid set forth above on or before the Final Disbursement Date or such lesser amount as has been advanced and remains unpaid on the Final Disbursement Date specified above, until the Maximum Expenditure Amount that is drawn upon is paid in full. The unpaid principal amount of this Conditional Project Expenditure Agreement (the "Agreement") shall be the total amounts advanced by the Expenditure Payee from time to time, less any prior payment of principal by maturity. There shall be no interest paid under this Agreement. This Agreement is issued pursuant to an ordinance adopted by the Common Council of the City on the 15th day of June, 2022 (the "Ordinance").

The Maximum Expenditure Amount of this Agreement is payable at the office of the Controller of the City (the "Controller"). All payments of the Maximum Expenditure Amount hereon will be made by the Controller by check mailed one business day prior to each February 1 and August 1 beginning the first year Applicable TIF Revenues are available at the address shown on the registration books of the Controller as maintained by the Controller, as registrar. The Expenditure Payee shall be entitled to receive payments by wire transfer by providing written wire instructions to the Controller for such payment.

This Agreement is subject to a Financing Agreement duly executed and delivered by the City and the Expenditure Payee, dated as of ____________ 1, 2022 (the "Financing

Agreement"). This Agreement is given pursuant to and in full compliance with the Constitution and laws of the State of Indiana, particularly Indiana Code, Title 36, Article 7, Chapters 11.9 and 12 (the "Act"), and by appropriate action duly taken by the City which authorizes the execution and delivery of the Agreement and the Financing Agreement. This Agreement has been given in conformity with the provisions, restrictions and limitations of the Act.

The Bloomington Redevelopment Commission (the "Redevelopment Commission") has pledged the Applicable TIF Revenues (as defined in the hereinafter defined Pledge Resolution) to the payment of the Maximum Expenditure Amount under this Agreement pursuant to its Pledge Resolution, adopted by the Redevelopment Commission as Resolution No. __________, on July 5, 2022 (the "Pledge Resolution").

The City may deem and treat the Expenditure Payee hereof as the absolute owner hereof for the purpose of receiving payment of or on account of Maximum Expenditure Amount hereof and for all other purposes and the City shall not be affected by any notice to the contrary.

This Agreement shall not represent or constitute a debt of the City, the State of Indiana, or any political subdivision or taxing authority thereof within the meaning of the provisions of the constitution or statutes of the State of Indiana or a pledge of the faith and credit of the City, the State of Indiana, or any political subdivision or taxing authority thereof. This Agreement is not a general obligation or liability of the City, the State of Indiana, or of any political subdivision or taxing authority thereof, but is a special limited obligation of the City and is payable solely and only from the Applicable TIF Revenues pledged and assigned for its payment in accordance with this Agreement. Neither the faith and credit nor the taxing power of the City, the State of Indiana or any political subdivision or taxing authority thereof is pledged to the payment of the Maximum Expenditure Amount. This Agreement does not grant the owners or holders thereof any right to have the City, the State of Indiana or its General Assembly, or any political subdivision or taxing authority of the State of Indiana, levy any taxes or appropriate any funds for the payment of the Maximum Expenditure Amount. The City has no taxing power with respect to this Agreement. No covenant or agreement contained in this Agreement shall be deemed to be a covenant or agreement of any member, director, officer, agent, attorney or employee of the Bloomington Economic Development Commission (the "Economic Development Commission"), the Redevelopment Commission or the City in his or her individual capacity, and no member, director, officer, agent, attorney or employee of the Economic Development Commission, the Redevelopment Commission or the City executing this Agreement shall be liable personally on this Agreement or be subject to any personal liability or accountability by reason of the issuance of this Agreement.

It is hereby certified that all conditions, acts and things required to exist, happen and be performed under the laws of the State of Indiana precedent to and in the issuance of this Agreement exist, have happened and have been performed, and that the issuance, authentication and delivery of this Agreement has been duly authorized by the City.

IN WITNESS WHEREOF, the City of Bloomington, Indiana, has caused this Agreement to be executed in its name and on its behalf by the manual or facsimile signatures of its Mayor and its corporate seal to be hereunto affixed manually or by facsimile and attested to by the manual or facsimile signature of its Controller.

CITY OF BLOOMINGTON, INDIANA

By: ____________________________
John Hamilton, Mayor

____
Jeffrey Underwood, Controller

CERTIFICATE OF AUTHENTICATION

This Conditional Project Expenditure Agreement is the one issued and delivered pursuant to the provisions of the within-mentioned Ordinance.

By___________________________________
Jeffrey Underwood, Controller

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto ____________________________________ (insert name and address) the within bond and all rights thereunder, and hereby irrevocably constitutes and appoints attorney to transfer the within bond on the books kept for the registration thereof with full power of substitution in the premises.

Dated: ________________________

____

NOTICE: The signature to this assignment must correspond with the name as it appears on the face of the within bond in every particular, without alteration or enlargement or any change whatsoever.

Signature Guarantee:

____

NOTICE: Signature(s) must be guaranteed by a broker-dealer or a commercial bank or trust company.

FINANCING AGREEMENT

BETWEEN

HOOSIER NETWORKS, LLC

AND

THE CITY OF BLOOMINGTON, INDIANA

Dated as of July 1, 2022

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FINANCING AGREEMENT

This FINANCING AGREEMENT, dated as of July 1, 2022 (the "Financing Agreement") between HOOSIER NETWORKS, LLC, a Delaware limited liability company (the "Company"), and THE CITY OF BLOOMINGTON, INDIANA (the "City"), a municipal corporation duly organized and validly existing under the laws of the State of Indiana.

PRELIMINARY STATEMENT

WHEREAS, Indiana Code, Title 36, Article 7, Chapters 11.9 and 12, as supplemented and amended (collectively, the "Act"), authorizes and empowers the City to issue revenue bonds and enter into agreements with companies to allow companies to construct economic development facilities and vests the City with powers that may be necessary to enable it to accomplish such purposes; and

WHEREAS, after giving notice in accordance with the Act and IC 5-3-1, the Bloomington Economic Development Commission held a public hearing and the City, upon finding that the Project (as defined herein) and the proposed financing of the acquisition, construction, equipping, installation and improvement thereof will retain employment opportunities in the City; will benefit the health and general welfare of the citizens of the City and the State of Indiana; and will comply with the purposes and provisions of the Act, adopted an ordinance approving the proposed financing; and

WHEREAS, the City intends to enter into this Financing Agreement and issue its Conditional Project Expenditure Agreement to the Company to finance the installation of new high-speed internet fiber of the Company located in the City (the "Project"); and

WHEREAS, this Financing Agreement provides for the use of the financing by the Company through the issuance by the City of its Conditional Project Expenditure Agreement; and

WHEREAS, the Conditional Project Expenditure Agreement is be payable solely from ninety-five percent (95%) of the personal property increment generated from the Project located in the Meridiam Economic Development Allocation Area (the "Applicable TIF Revenues"), beginning at such time the Applicable TIF Revenues are available as "Year 1," and continuing each year for a total of twenty (20) years thereafter.

In consideration of the premises, and other good and valuable consideration, the receipt of which is hereby acknowledged, the Company and the City hereby further covenant and agree as follows:

ARTICLE I

DEFINITIONS AND EXHIBITS

Section 1.1. Terms Defined. Capitalized terms used in this Financing Agreement that are not otherwise defined herein, shall have the meanings provided for such terms in the Conditional Project Expenditure Agreement. As used in this Financing Agreement, the following terms shall have the following meanings unless the context clearly otherwise requires:

"Act" means, collectively, Indiana Code 36-7-11.9 and 36-7-12.

"Allocation Area" means the Meridiam Economic Development Allocation Area established as an allocation area by the Redevelopment Commission, all in accordance with IC 36-7-14-39 for the purposes of capturing incremental personal property taxes of the Company levied and collected in such allocation area.

"Applicable TIF Revenues" means ninety-five percent (95%) of the real property increment generated from the Project located in the Economic Development Area and deposited into the Allocation Fund.

"City" means the City of Bloomington, Indiana.

"Company" means Hoosier Networks, LLC, or any successors thereto permitted under Section 3.3 hereof.

"Conditional Project Expenditure Agreement" means the agreement from the City to the Company evidencing the payment of the Applicable TIF Revenues.

"Economic Development Area" means the Meridiam Economic Development Area.

"Pledge" means the pledge of the Applicable TIF Revenues by the Redevelopment Commission pursuant to its resolution adopted on July 5, 2022.

"Project" means the building, constructing and/or installing fiber optic cable and related equipment to provide high-speed internet services by the Company located in the City and the Allocation Area.

"Redevelopment Commission" means the Bloomington Redevelopment Commission.

"State" means the State of Indiana.

Section 1.2. Rules of Interpretation. For all purposes of this Financing Agreement, except as otherwise expressly provided, or unless the context otherwise requires:

(a) "This Financing Agreement" means this instrument as originally executed and as it may from time to time be supplemented or amended pursuant to the applicable provisions hereof.

(b) All references in this instrument to designated "Articles," "Sections" and other subdivisions are to the designated Articles, Sections and other subdivisions of this instrument as originally executed. The words "herein," "hereof" and "hereunder" and other words of similar import refer to this Financing Agreement as a whole and not to any particular Article, Section or other subdivision.

(c) The terms defined in this Article have the meanings assigned to them in this Article and include the plural as well as the singular and the singular as well as the plural.

(d) All accounting terms not otherwise defined herein have the meanings assigned to them in accordance with generally accepted accounting principles as consistently applied.

(e) The terms defined elsewhere in this Financing Agreement shall have the meanings therein prescribed for them.

(End of Article I)

ARTICLE II

REPRESENTATIONS

Section 2.1. Representations by City. City represents and warrants that:

(a) The City is a municipal corporation organized and existing under the laws of the State. Under the provisions of the Act, the City is authorized to enter into the transactions contemplated by this Financing Agreement and to carry out its obligations hereunder. The City has been duly authorized to execute and deliver this Financing Agreement. The City agrees that it will do or cause to be done all things within its control and necessary to preserve and keep in full force and effect its existence.

(b) The City shall issue its Conditional Project Expenditure Agreement to provide financing to the Company for the costs associated with the Project, subject to the consideration of the execution and delivery of this Financing Agreement, all for the benefit of the holders of the Conditional Project Expenditure Agreement, to expand employment opportunities in the City, Indiana and to benefit the health and general welfare of the citizens of the City and the State of Indiana.

Section 2.2. Representations by Company. Company represents and warrants that:

(a) It is a Delaware limited liability company validly existing under the laws of the state of Indiana, is authorized to do business in Indiana, is not in violation of any laws in any manner material to its ability to perform its obligations under this Financing Agreement, and has full power to enter into and by proper action has duly authorized the execution and delivery of this Financing Agreement.

(b) The provision of financial assistance to be made available to it under this Financing Agreement from the proceeds of the Conditional Project Expenditure Agreement and the commitments therefor made by the City have induced the Company to undertake the Project and such project will increase jobs and employment opportunities within the boundaries of the City.

(c) Neither the execution and delivery of this Financing Agreement, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of this Financing Agreement, conflicts with or results in a breach of the terms, conditions or provisions of the Company's Operating Agreement or any restriction or any agreement or instrument to which the Company is now a party or by which it is bound or to which any of its property or assets is subject or (except in such manner as will not materially impair the ability of the Company to perform its obligations hereunder) of any statute, order, rule or regulation of any court or governmental agency or body having jurisdiction over the Company or its property, or constitutes a default under any of the foregoing, or results in the creation or imposition of any lien, charge or encumbrance whatsoever upon any of the property or assets of the Company under the terms of any instrument or agreement, except as set forth in this Financing Agreement.

(d) There are no actions, suits or proceedings pending, or, to the knowledge of the Company, threatened, before any court, administrative agency or arbitrator which, individually or in the aggregate, might result in any material adverse change in the financial condition of the

Company or might impair the ability of the Company to perform its obligations under this Financing Agreement.

(e) No event has occurred and is continuing which with the lapse of time or the giving of notice would constitute an event of default under this Financing Agreement.

(End of Article II)

ARTICLE III

PARTICULAR COVENANTS OF THE CITY AND COMPANY

Section 3.1. Payment of Principal/Payment of Taxes. The Conditional Project Expenditure Agreement is payable solely and only from Applicable TIF Revenues (to the extent the Company has made personal property tax payments and there are any Applicable TIF Revenues) as pledged to the City by the Redevelopment Commission pursuant to the Pledge. Under no circumstances shall the Company be liable for making any payments due under the Conditional Project Expenditure Agreement. In accordance with the Pledge, the City shall transfer to the Controller of the City for deposit in the Allocation Fund, on or before each January 15 and July 15, all of the available Applicable TIF Revenues for the payment of the Conditional Project Expenditure Agreement on the immediately succeeding February 1 or August 1.

Section 3.2. Maintenance of Existence. The Company agrees that it will maintain its existence as a corporation, will not dissolve or otherwise dispose of all or substantially all of its assets, and will not consolidate with or merge into another entity, or permit one or more other corporations to consolidate or merge with it; provided, that the Company may, without violating the agreement contained in this Section, consolidate or merge with another entity, permit one or more other entities to consolidate or merge into it, or transfer to another entity organized under the laws of one of the states of the United States all or substantially all of its assets as an entirety and thereafter dissolve provided (a) the surviving, resulting or transferee entity, as the case may be, is organized under the laws of one of the states of the United States, and (b) such entity assumes in writing all of the obligations of the Company herein, including the obligations of the Company under this Financing Agreement.

Section 3.3. Indemnity The Company will pay, and protect, indemnify and save the City (including members, directors, officials, officers, agents, attorneys and employees thereof), harmless from and against, all third party liabilities, losses, damages, costs, expenses, causes of actions, suits, claims, demands and judgments of any nature directly arising from or directly relating to:

(a) Any material violation by the Company of any material agreement or material condition of this Financing Agreement;

(b) Any material violation of any material contract, agreement or restriction by the Company relating to the Project, or a part thereof;

(c) Any material violation of any material law, ordinance or regulation by the Company arising out of the ownership, occupancy or use of the Project, or a part thereof; and

(d) Any negligent act, failure to act, or material misrepresentation by the Company, or any of the Company's agents, contractors, servants, employees or licensees.

The foregoing shall not be construed to prohibit the Company from pursuing its remedies against the City for damages to the Company resulting from personal injury or property damage caused by the intentional misrepresentation or misconduct of the City.

Section 3.4. Completion and Use of Project.

(a) Company agrees that it will, within 36 months of the closing of the Conditional Project Expenditure Agreement, make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions with any other persons, firms or corporations and in general do all things reasonably within its power, all for the acquisition, construction, expansion, equipping and improvement of the Project and, upon completion, the Company will operate and maintain the Project in such manner as reasonably within Company's power so as to conform with all applicable zoning, planning, building, environmental and other applicable governmental regulations and so as to be consistent with the Act.

(End of Article III)

ARTICLE IV

EVENTS OF DEFAULT AND REMEDIES THEREFOR

Section 4.1. Events of Default.

(a) It shall be an Event of Default upon the failure of the Company to perform any covenant, condition or provision hereof and to remedy such default within 30 days after notice thereof from the City to the Company.

(b) During the occurrence and continuance of any event of default hereunder, the City shall have the rights and remedies hereinafter set forth, in addition to any other remedies herein or by law provided. The City may, in its discretion, proceed to protect and enforce its rights by a suit or suits in equity or at law, whether for damages or for the specific performance of any covenant or agreement contained in this Financing Agreement or in aid of the execution of any power herein granted, or for the enforcement of any other appropriate legal or equitable remedy, as the City shall deem most effectual to protect and enforce any of its rights or duties hereunder. If after any event of default occurs and prior to the City exercising any of the remedies provided in this Financing Agreement, the Company will have completely cured such default, and shall have provided the City with evidence thereof to the reasonable satisfaction of the City, then in every case such default will be waived, rescinded and annulled by the City by written notice given to the Company. No such waiver, annulment or rescission will affect any subsequent default or impair any right or remedy consequent thereon.

(c) Notwithstanding anything herein to the contrary, during the occurrence and continuance of an event of default by the Company arising from a breach of representations as set forth in Section 2.2 hereof, or the filing of a voluntary or involuntary petition in bankruptcy under the United States Bankruptcy Code, or proceeding under any other applicable laws concerning insolvency, reorganization or bankruptcy by or against the Company, the City may in its discretion, proceed to protect and enforce its rights under this Agreement by a suit or suits in equity or at law, whether for damages or for the specific performance.

Section 4.2. Remedies Cumulative. No remedy herein conferred upon or reserved to the City is intended to be exclusive of any other remedy or remedies, and each and every such remedy shall be cumulative, and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute.

Section 4.3. Delay or Omission Not a Waiver. No delay or omission of the City to exercise any right or power accruing upon any event of default shall impair any such right or power, or shall be construed to be a waiver of any such event of default or an acquiescence therein; and every power and remedy given by this Financing Agreement to the City may be exercised from time to time and as often as may be deemed expedient by the City.

(End of Article IV)

ARTICLE V

IMMUNITY

Section 5.1. Extent of Covenants of the City; No Personal Liability. No recourse shall be had for the payment of the Conditional Project Expenditure Agreement or for any claim based thereon or upon any obligation, covenant or agreement contained in the Conditional Project Expenditure Agreement or this Financing Agreement against any past, present or future member, director, officer, agent, attorney or employee of the City, or any incorporator, member, director, officer, employee, agent, attorney or trustee of any successor thereto, as such, either directly or through the City or any successor thereto, under any rule of law or equity, statute or constitution or by the enforcement of any assessment or penalty or otherwise, and all such liability of any such incorporator, member, director, officer, employee, agent, attorney or trustee as such is hereby expressly waived and released as a condition of and consideration for the execution of this Financing Agreement (and any other agreement entered into by the City with respect thereto) and the issuance of the Conditional Project Expenditure Agreement.

Section 5.2. Liability of City. Any and all obligations of the City under this Financing Agreement are special, limited obligations of the City, payable solely out of the Applicable TIF Revenues and the other revenues and income derived under this Financing Agreement and as otherwise provided under this Financing Agreement. The obligations of the City hereunder shall not be deemed to constitute an indebtedness or an obligation of the City, the State or any political subdivision or taxing authority thereof within the purview of any constitution limitation or provision, or a pledge of the faith and credit or a charge against the credit or general taxing powers, if any, of the City, the State or any political subdivision or taxing authority thereof.

(End of Article VII)

ARTICLE VI

SUPPLEMENTS AND AMENDMENTS TO THIS FINANCING AGREEMENT

Section 6.1. Supplements and Amendments to this Financing Agreement. The Company and the City may from time to time enter into such supplements and amendments to this Financing Agreement as to them may seem necessary or desirable to effectuate the purposes or intent hereof.

(End of Article VI)

ARTICLE VII

MISCELLANEOUS PROVISIONS

Section 7.1. Financing Agreement for Benefit of Parties Hereto. Nothing in this Financing Agreement, express or implied, is intended or shall be construed to confer upon, or to give to, any person other than the parties hereto, their successors and assigns, any right, remedy or claim under or by reason of this Financing Agreement or any covenant, condition or stipulation hereof; and the covenants, stipulations and agreements in this Financing Agreement contained are and shall be for the sole and exclusive benefit of the parties hereto, their successors and assigns, and the City.

Section 7.2. Severability. In case any one or more of the provisions contained in this Financing Agreement shall be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein and therein shall not in any way be affected or impaired thereby.

Section 7.3. Addresses for Notice and Demands. All notices, demands, certificates or other communications hereunder shall be sufficiently given when received or your first refusal thereof and mailed by registered or certified mail, postage prepaid, or sent by nationally recognized overnight courier with proper address as indicated below. The City and the Company may, by written notice given by each to the others, designate any address or addresses to which notices, demands, certificates or other communications to them shall be sent when required as contemplated by this Financing Agreement. Until otherwise provided by the respective parties, all notices, demands, certificates and communications to each of them shall be addressed as follows:

To the City:	The City of Bloomington, Indiana Attention: Corporation Counsel 401 N. Morton Street, Suite 220 Bloomington, Indiana 47404
To the Company:	Hoosier Networks, LLC ____________________________ ____________________________ ____________________________

Section 7.4. Successors and Assigns. Whenever in this Financing Agreement any of the parties hereto is named or referred to, the successors and assigns of such party shall be deemed to be included and all the covenants, promises and agreements in this Financing Agreement contained by or on behalf of the Company, or by or on behalf of the City, shall bind and inure to the benefit of the respective successors and assigns, whether so expressed or not. Provided, however, subject to Section 3.3 hereof, the Company may not assign its rights or obligations under this Financing Agreement without the consent of the City.

Section 7.5. Counterparts. This Financing Agreement is being executed in any number of counterparts, each of which is an original and all of which are identical. Each counterpart of this Financing Agreement is to be deemed an original hereof and all counterparts collectively are to be deemed but one instrument.

Section 7.6. Governing Law. It is the intention of the parties hereto that this Financing Agreement and the rights and obligations of the parties hereunder shall be governed by and construed and enforced in accordance with, the laws of Indiana.

(End of Article VII)

IN WITNESS WHEREOF, the City and the Company have caused this Financing Agreement to be executed in their respective names, all as of the date first above written.

"THE COMPANY"

HOOSIER NETWORKS, LLC

By: ___________________________________

Printed: _________________________________

Title: ___________________________________

"THE CITY"

BLOOMINGTON, INDIANA

By:_______________________________________
John Hamilton, Mayor

ATTEST:

____
Clerk

[SIGNATURE PAGE OF THE FINANCING AGREEMENT]

REPORT OF BLOOMINGTON ECONOMIC DEVELOPMENT COMMISSION CONCERNING THE PROPOSED FINANCING OF ECONOMIC DEVELOPMENT FACILITIES FOR HOOSIER NETWORKS, LLC

The Bloomington Economic Development Commission (the “Commission”) proposes to recommend to the Common Council that it provide payments of a certain Conditional Project Expenditure Agreement to Hoosier Networks, LLC (the “Applicant”) for the financing of certain economic development facilities in Bloomington, Indiana (the “City”).

In connection therewith, the Commission hereby reports as follows:

A. The proposed economic development facilities consist of financing the building, constructing and/or installing fiber optic cable and related equipment to provide high-speed internet services by the Company located in the City (the “Project”) which will be located in the City’s Meridiam Economic Development Area.

B. The Commission estimates that no public works or services, including public ways, schools, water, sewer, street lights and fire protection, will be made necessary or desirable by the Projects, because any such works or services already exist or will be provided by the Project or by Applicant or other parties.

C. The Commission estimates that the total cost of financing the Projects will be approximately $50,000,000, of which the City portion will not exceed the aggregate amount of ninety-five percent (95%) of the available tax increment relating to the Project each year for a period of twenty (20) years.

D. The Commission estimates that the Project in the near term will create approximately 10 new jobs with an estimated annual payroll of approximately $1,100,000, and in the longer term will result in the creation and retention of more jobs in the City.

E. The Commission finds that the Project will not have a material adverse competitive effect on similar facilities already constructed or operating in the City.

Adopted this 14th day of June, 2022.

/s/ Secretary, Bloomington
Economic Development Commission

CITY OF BLOOMINGTON
Economic and Sustainable Development

Memorandum

To: City of Bloomington Common Council
From: Jane Kupersmith, Asst. Director Small Business Development
Cc: Stephen Lucas, City Council Administrator/Attorney
Larry Allen, Asst. City Attorney
Alex Crowley, Director, Economic & Sustainable Development
Don Griffin, Deputy Mayor
Kurt Zorn, President, Economic Development Commission
Date: June 10, 2022

Re: 2022 Economic Development Commission Abatement and Annual Activity Report

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Executive Summary

Attached please find the Economic Development Commission's 2021 Abatement Activity Summary and summary of other EDC activity. This report analyzes each of the active tax abatements granted by the City and is based on the annual Compliance with Statement of Benefits (CF-1) filings that an abatement recipient is required to file with the City. These filings are due May 15, and the Common Council has 45 days from the date the filing is submitted to the Common Council to take any necessary action, including rescinding an abatement, that might be warranted for failure to comply with the terms of the abatement.[1]

The Economic Development Commission (EDC) reviewed and approved this report on June 14. Staff recommends a finding of substantial compliance for all projects in this report.

There is no recommendation to rescind any of the projects currently receiving a tax abatement, but the presentation of the Report next week would allow, if necessary, for such action. If council members are interested in the history of any particular tax abatement contained in the Report, please reach out to either council staff or to the Assistant Small Business Director Jane Kupersmith.

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[1] See Ind. Code § 6-1.1-12.1-5.9

CITY OF BLOOMINGTON
Economic and Sustainable Development

Economic Development Commission (EDC)

The Bloomington Economic Development Commission has five members whose terms last four years. The first three members listed below are mayoral appointments, and the final two were appointed by the Monroe County Council and the Bloomington Common Council respectively. Membership at the writing of this memo is as follows:

- Kurt Zorn, President
- Vanessa McClary, Vice President (2021)
- Malcolm Webb, Secretary
- Geoff McKim, County Council Representative
- Kate Rosenbarger (2021), Matt Flaherty (2022), Bloomington Common Council Representative

City of Bloomington staff who support the Commission are:

- Alex Crowley, Director of Economic & Sustainable Development
- Jane Kupersmith, Assistant Director, Small Business Development
- Larry Allen, Assistant City Attorney

In addition to the statutory responsibilities, duties, power, and authorities set out by Indiana Code 36-7-12, the EDC makes recommendations to the Bloomington Common Council regarding applications for tax abatement.

Tax Abatements

Tax abatements are a reduction of tax liability on real or personal property that applies to increased assessed valuation due to new investment.[2] The Common Council has adopted Tax Abatement Program General Standards, which Council recently amended in Resolution 21-06. These standards supplement the requirements outlined in State law and attach to those projects approved after the local standards went into effect.

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[2] The kinds of investments in real and personal property that may be eligible for tax abatements are largely found in I.C. § 6-1.1-12.1-0.3, *et seq.*, which, along with the ones typically authorized by the City, also include ones for distressed residential properties and vacant buildings.

Prior to awarding a tax abatement, the Common Council, upon recommendation of the Economic Development Commission (EDC), must make a determination that the site would not develop under normal market conditions and designate the area an Economic Revitalization Area (ERA) or, for certain uses, an Economic Development Target Area (EDTA).

Upon determining that a site is distressed per an ERA designation, State statute and Local Standards require the Council to find that the benefits asserted by the petitioner are reasonable and probable and justify, in totality, the granting of the abatement. According to State law, those benefits are set forth in a Statement of Benefits (SB-1) and include the estimated cost of the project, number of persons employed, and payroll, along with any locally identified benefits.

For real property abatements period of abatement may run from 1 to 10 years and the amount of the abatement is generally determined by a sliding scale which runs from 100% to 0% over the period of abatement. For personal business property, the Council has discretion to grant either a ten-year abatement schedule or a twenty-year enhanced abatement schedule.[3] All tax abatements must be accompanied by a schedule which specifies the percentage for each year of the abatement.[4]

Based on phased-in assessed valuation rates governed by State law, the Bloomington EDC recommends a term of abatement for each project, which requires the Council's authorization. With respect to abatements on new construction and on personal property, the Council may also choose to limit the dollar amount of the deduction.

Standard of Review and Process

The Common Council reviews active abatement projects under a statutory process that focuses on the CF-1s, which compare benefits committed to by the applicant in the Statement of Benefits (SB-1) with the actual benefits delivered by the project. In reviewing the CF-1s (which are available upon request), the Common Council determines whether the projects are in "substantial compliance" with the commitments made at the time the abatement was granted. If the Council determines that a recipient of an abatement is not in "substantial compliance" and that the failure to substantially comply was not caused by factors beyond the control of the abatement recipient (such as declines in demand for the recipient's products or services), it has 45

[3] I.C. §§ 6-1.1-12.1-17, -18

[4] Id.

days from the receipt of the CF-1 to mail a written notice of the finding to the abatement recipient.

The written notice must include an explanation of the Council's determination, and the date, time, and place of a hearing to be conducted by the Council to further consider the recipient's compliance. The hearing must occur within 30 days of the date the notice is mailed to the abetment recipient and could result in the termination of the deduction.

The decision to terminate the tax deduction should be made only if the Council concludes that the taxpayer has not made reasonable efforts to meet its commitments and was not prevented from complying with the terms of the abatement due to factors beyond its control.[5]

Recommendation

ESD staff recommend a finding of substantial compliance for all projects in this year's report.

[5] I.C. § 6-1.1-12.1-5.9. Also, please note that the local General Standards give the following examples of grounds for terminating a tax abatement: 1) Failure to comply with any terms set forth in the Memorandum of Agreement; 2) An incomplete, inaccurate, or missing CF-1; 3) Petitioner vacates the City of Bloomington during the term of abatement; 4) Fraud on the part of petitioner; and 5) Initiation of litigation with the City of Bloomington.