



SIREPA

SOUTHEAST IOWA REGIONAL
ECONOMIC & PORT AUTHORITY

November 1, 2023

Meeting of the Board of Directors
3:00pm – 4:00pm

Via Zoom

Call-In: (312) 626-6799 Meeting ID: 793 665 7959

<https://us02web.zoom.us/j/7936657959>

Agenda

I. Call to Order, Chair (Hickey):

Roll Call:

- a. Director Mike Hickey, Chair
- b. Director, Bob Dodds, Vice-Chair
- c. Director, Bruce Hardy, Secretary/Treasurer
- d. Director Michael Dunn
- e. Director Denise Boyer
- f. Director Jack Smith
- g. Ex-Officio, Garry Seyb, Lee County Supervisor
- h. Ex-Officio, Tom Schultz, Lee County Supervisor
- i. Ex-Officio, Matt Larson, State Treasurer's Office

II. Agenda of November 1, 2023 Meeting (Board Action)

III. July 26, 2023 Meeting Minutes (Board Action)

IV. Financial Report

V. Lee County Broadband Expansion Contract Documents with Danville Mutual Telephone Company (Board Action)

VI. Matters from the Floor

VII. Adjourn (Board Action)



SIREPA

SOUTHEAST IOWA REGIONAL ECONOMIC & PORT AUTHORITY

Minutes of the SIREPA Board of Directors
Wednesday, July 26, 2023, 1:00 p.m.
In-Person at KL Megla Building or via Zoom
2495 280th St, Montrose, IA

I. **Call to Order** at 1:01 p.m. by Mike Hickey, Vice-Chair

Roll Call:

Members Present: Director Denise Boyer (Chair); Director Mike Hickey (Vice Chair); Director Michael Dunn (Secretary/Treasurer); Director Bob Dodds; Director Bruce Hardy; Garry Seyb, Ex-Officio; Rick Larkin, Ex-Officio; Matt Larson, Ex-Officio via Zoom

Members Absent: Director Jack Smith

SEIRPC Staff Present: Mike Norris; Zach James and Sherri Jones via Zoom

Guest(s) Present: Chuck Vandenberg, Pen City Current; Tim Fencl, Danville Mutual Telephone Company; Kay Sackville, Alliant Energy, via Zoom

II. **Consider Approval of Agenda (Board Action):**

Hardy made a motion to approve the July 26, 2023, meeting agenda, second by Dunn. Motion carried.

III. **Consider Election of Officers (Board Action):**

Dunn made a motion to approve officer slate of Chair – Hickey, Vice-Chair – Dodds, Secretary – Hardy, second by Hardy. Motion carried.

IV. **Consider Consent Agenda (Board Action):**

Hickey asked members address consent agenda items separately for discussion. Dunn made a motion to approve the December 1, 2022 meeting minutes, second by Hardy. Motion

carried. Norris discussed his memo and financial status of SIREPA with respect to fund balance, accounts payable, accounts receivable and management contract status. Smith motioned to receive financial report, second by Dodds. Motion carried.

V. Lee County Broadband Expansion Project Modification (Board Action):

Norris reviewed his memo about the background of the broadband project, and changes revolving around the NOFO 6 grant, received by Danville Telco. Due to cost inflation, the grant award was no longer enough to satisfy the project design. The updated project to accommodate the cost environmental would complete a shorter backbone and move the to-the-address-services to the ITQ Area 1 near Wever, IA. Fencil added detail on cost structure, Danville Telco investment, and communications with the state. Hardy made a motion to approve the project modification as presented, second by Dunn. Motion carried.

VI. SEIRPC Payable and Administration Contract Amendment (Board Action):

Norris reviewed his memo on SEIRPC administration of SIREPA, enabled by Contract No. 2013-416, which has been automatically renewed annually. The charge rate at that time was \$53/hr and now SEIRPC charges \$65/hr. Dunn made a motion to approve the administration invoice in the amount of \$8,241.50 for services between September 25, 2021 and June 30, 2023, second by Hardy, motion carried. Dunn made a motion to approve the administration amendment as presented increasing the charge rate to \$65/hr and lifting \$5,000 cap on administrative expenses, second by Hickey, motion carried.

VII. SIREPA Building/Career Advantage Center Update (Board Information):

Dennis Fraise reviewed the activities in the Career Advantage Center, including hosting all 8th grade students in Lee County, and select high school students for career experiences in the center.

VIII. Matters from the Floor:

IX. Adjourn

Boyer made a motion to adjourn at 2:19 p.m., second by Dodds. All ayes, motion carried.

Bruce Hardy, Secretary/Treasurer

Date: _____

Southeast Iowa Regional Economic and Port Authority
Financial Summary
August 31, 2023

PROFIT & LOSS ALL CLASSES	
	8/31/2023
TOTAL REVENUES :	21,012
TOTAL EXPENSES :	21,754
Excess of revenues over expenditures- note this is accrual basis	(742)

BALANCE SHEET	
Connection Bank as of 8/31/2023	27,115
Building	1,000,000
Note Payable	(1,001,534)

ACCOUNTS RECEIVABLE BALANCE				
	1-45	46-90	>90	TOTAL
none	-	-	-	-

ACCOUNTS PAYABLE BALANCE				
	1-45	46-90	>90	TOTAL
none	-	-	-	-

CASH RECEIPTS - <i>life to date</i> (accrual basis)			
Alliant Energy	12/2/2013	FY14	5,000
State of Iowa	7/24/2014	FY15	2,500
Lee County Auditor	4/25/2016	FY16	1,000
City of Keokuk	8/29/2016	FY16	1,000
Connection Bank -refund service fees	10/31/2017	FY18	39
Lee County Auditor	9/26/2019	FY19	2,000
City of Fort Madison	9/26/2019	FY19	2,000
City of Fort Madison	10/24/2019	FY13/FY16	3,000
City of Keokuk	10/10/2019	FY19	2,000
Alliant Energy	10/28/2019	FY20	2,000
Lee County Auditor	2/21/2020	FY20	2,000
City of Keokuk	6/19/2020	FY20	2,000
City of Fort Madison	8/13/2020	FY20	2,000
City of Keokuk	10/30/2020	FY21	2,000
City of Fort Madison	10/30/2020	FY21	2,000
Lee County Auditor	10/22/2020	FY21	2,000
Connections Bank	8/2/2021	FY22	24,701
Lee County Economic Group	8/4/2021	FY22	9,984
City of Fort Madison	8/31/2021	FY22	2,000
City of Keokuk	9/22/2021	FY22	2,000
Lee County Auditor	9/29/2021	FY22	2,000
Lee County Auditor	6/22/2022	FY22	704,013
Transfer In	7/13/2022	FY23	11,775
Lee County Auditor	12/14/2022	FY23	2,000
City of Keokuk	12/21/2022	FY23	2,000
City of Fort Madison	12/30/2022	FY23	2,000
Transfer In	7/20/2023	FY24	13,512
City of Keokuk	7/12/2023	FY24	3,500
City of Fort Madison	8/10/2023	FY24	2,000
Lee County Auditor	8/16/2023	FY24	2,000

CASH DISBURSEMENTS - <i>life to date</i> (accrual basis)			
SEIRPC	7/25/2014	#1001	5,000
University of Iowa	7/25/2014	#1002	2,500
Deluxe	8/6/2014	electronic	131
SEIRPC	6/30/2015	#1003	2,694
service fee	10/31/2016	electronic	4
service fee	11/30/2016	electronic	4
service fee	12/31/2016	electronic	4
SEIRPC	4/12/2017	#1004	5,080
service fees	Jan - June 2017	electronic	26
service fees	July - Sept 2017	electronic	12
SEIRPC	12/4/2019	#1005	7,662
Closing costs	8/2/2021	-	1,534
ICAP	8/4/2021	#1006	9,984
Lee County Treasurer	11/1/2021	#1007	11,601
SEIRPC - admin (net of expenses)	12/17/2021	#1100	5,790
Lee County Treasurer	3/24/2022	#1101	11,601
Brown Winick Law	5/5/2022	#1102	1,425
James F. Dennis Law Firm	5/19/2022	#1103	1,075
Danville Telephone Company	6/29/2022	#1104	700,000
ICAP	7/18/2022	#1105	11,775
void		#1106	-
ICAP	7/19/2023	#1107	13,512
SEIRPC - admin	8/2/2023	#1108	8,242



SIREPA

SOUTHEAST IOWA REGIONAL
ECONOMIC & PORT AUTHORITY

Memo

To: SIREPA Board of Directors
From: Mike Norris, Administrator
Date: November 1, 2023
Re: Lee County Broadband Expansion Final Contract Documents

In April, 2022, SIREPA board reviewed and approved the ARPA funding agreement with Lee County Board of Supervisors and a broadband agreement with Danville Mutual Telephone Co. (Danville).

Since that time, the broadband project has been modified and approved by both SIREPA and Lee County. The final contract documents for discussion and approval today reflect the previously approved project changes and update language. The broadband subgroup (Mike Hickey and Bruce Hardy) have reviewed the documents and recommend them to the board. Please forward any comments.

The changes are shown in the document as red markup, and are summarized in the memo.

*The state OCIO grant language was removed and another project description added.

*Danville will cover all costs to implement the Middle Mile System aka fiber backbone and approximately 120 services above the SIREPA-supplied county ARPA funds. This increases their potential investment beyond \$557,000 as previously discussed. Danville now has about \$1.6 million in the backbone already (net \$900,000 with the first SIREPA payment of \$700,000)

*If Danville merges or is acquired by another company, the entire Middle Mile System investment by SIREPA is due minus any previous payments made to SIREPA (as compared to the lease agreement where SIREPA receives half of the cost back over 10 years).

Notes:

*Middle Mile System should be completed online by the end of the year

*Lease payments are due December 1 of each year. The first payment would be 12 months after completion of the Middle Mile System is completed - at this point, looking at December, 2024 as estimate. We will know the total cost of Middle Mile System after it's completed, and SIREPA receives half of that cost back over 10 years.

FUNDING AGREEMENT

Public-Private Fiber Construction, Fiber Lease and Network Maintenance and Operations

Parties and Contact Information	
Southeast Iowa Regional Economic and Port Authority (“SIREPA”)	Danville Mutual Telephone Company (“Danville Telecom”)
Primary Contact: Mike Norris, Administrator	Primary Contact: Tim Fencl, General Manager & CEO
Phone: 319-753-4310	Phone: (319) 392-4251
Email: mnorris@seirpc.com	Email: tfencl@danvilleteleco.net
Address: 211 N Gear Ave, Suite 100 West Burlington, IA 52655	Address: 102 S. Main Street, PO Box 158 Danville, IA 52623

Contract Terms

<p>1. Contract Structure</p>	<p>SIREPA has accepted Danville Telecom’s proposal for a public-private partnership to provide middle-mile fiber infrastructure (the “Middle Mile System”) to support Danville Telecom’s deployment of last-mile fiber infrastructure and high speed (estimated at gigabit speeds or higher) broadband services to identified Tier 1 (unserved or underserved) locations in rural Lee County, Iowa (the “Last Mile System”). The purpose and intent of the parties is that the Projects would provide service to Tier 1 unserved or underserved households, or businesses at speeds at or above 100 mbps up and download, to meet federal highspeed broadband thresholds and sufficient to enable users to generally meet household needs, including the ability to support the simultaneous use of work, education, and health applications, and also sufficiently robust to meet increasing household demands for bandwidth.</p> <p>This Funding Agreement (this “Agreement”) is intended to be a definitive, legally binding agreement, setting forth certain rights and responsibilities as it relates to the parties’ initial Project any future Projects completed pursuant to or in accordance with the current or any future similar proposals.</p>
<p>2. Project Details</p>	<p><i>Project Name:</i> Lee County Fiber to <u>Underserved Tier 1 Customers</u> Project (the “Project”)</p> <p><i>Project Description:</i> <u>Construct a 14-mile Middle Mile System between approximately Keokuk and Argyle and serve approximately 120 unserved or underserved locations in and around the Wever, IA, area with fiber to the location at or above 100mbps up and download.</u></p> <p>The Project is as described in Danville Telecom’s successful application to the Iowa Office of Chief Information Officer (“OCIO”) Broadband Grants Program—Empower Rural Iowa Notice of Funding Availability #006 (“NOFA #006”). The Project will be funded in part by OCIO Grant No. 416413 and shall be subject to the terms, conditions, and requirements set forth in the NOFA #006 Grant Agreement between Danville Telecom and OCIO, dated 10/19/2021 and attached hereto as Attachment 1 (the “Grant Agreement”).</p> <p><i>Project Map:</i> See <u>Exhibit A</u></p>

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	<p><i>Project Assets:</i> See <u>Exhibit B</u></p> <p><i>Fiber Specifications:</i> Fiber specifications shall be as set forth in the Grant Agreement consistent with USDA RUS standards and specifications under which Danville Telecom is already working.</p> <p><i>Construction Specifications:</i> Construction specifications shall be as set forth in the Grant Agreement consistent with USDA RUS standards and specifications under which Danville Telecom is already working.</p> <p><i>Project Fee Schedule to lease Fiber Backbone from SIREPA:</i> See <u>Exhibit C</u></p> <p><i>Engineering:</i> Project engineering will be completed by a Danville Telecom-contracted engineering firm for the joint design of the Project.</p> <p><i>Assistance with Bidding:</i> Project construction bidding will be completed by a Danville Telecom-contracted engineering firm.</p> <p><i>Danville Last-Mile Commitment:</i> As part of the Project, and during the 10-year term of the Project Lease, Danville Telecom, at its expense, shall construct distribution fiber and deploy broadband services over last mile facilities consistent with the scope of the Project as contained in the Grant Agreement described in Project Details section.</p>
<p>3. Project Financing</p>	<p><i>State Grant Program:</i> OCIO has awarded Danville Telecom up to \$3,549,250.00 in state grant funding to finance construction of the Project. The Project as approved by OCIO includes \$1,912,750.00 in funding from SIREPA (the "Funding Commitment"), sourced from Lee County, Iowa, Fiscal Recovery Funds. The Project and the obligations of the parties under this Agreement are subject to the terms, conditions, and requirements set forth in the Grant Agreement and Funding Agreement.</p> <p><i>SIREPA Funding:</i> SIREPA will contribute the Funding Commitment in two Project phases, based on the following schedule:</p> <p><i>Phase 1:</i> Phase 1 shall include environmental review, site staking, engineering, bill of materials and electronics for the Middle Mile System. Approximately thirty (30) days prior to the scheduled commencement of Phase 1, SIREPA shall release to Danville Telecom an amount equal to the estimated costs of the Phase 1 activities (anticipated to be \$700,000.00) to fund the Phase 1 activities.</p> <p><i>Phase 2:</i> Phase 2 shall include construction of the Middle Mile System. Approximately thirty (30) days prior to the scheduled commencement of Phase 2, SIREPA shall release to Danville Telecom an amount equal to the remaining balance of the County Funding Commitment following the Phase 1 payment (anticipated to be \$1,212,750.00) to fund the Phase 2 activities.</p>

	<p><i>Danville Telecom Funding:</i></p> <p>Danville Telecom will fund 557,000 of total project expenses and all Project costs in excess of the County Funding Commitment of \$1,912,750.00. Danville Telecom may recover a portion of such costs from the State of Iowa OCIO pursuant to and in accordance with the Grant Agreement.</p> <p><i>Ordinary and Extraordinary Costs:</i></p> <p>During the initial 10-year term, Danville Telecom shall perform and be responsible, at its sole cost, for all ordinary operating expenses and routine maintenance for the Middle Mile System constructed as part of the Project. This includes, without limitation, scheduled maintenance as contemplated under Section 6.2 of the Project Lease Terms. In the event of a relocation of all or any portion of the Middle Mile System in connection with road construction or a another publicly-sponsored project such costs shall be shared equally, 50% by Danville Telecom and 50% by SIREPA.</p> <p><i>Option to Purchase:</i></p> <p>At the expiration of the initial 10-year term of the Project Lease, Danville Telecom shall have the option to purchase the Middle Mile System for the Option Price set forth in the Project Fee Schedule, except if Danville Telecom is acquired or merges with another corporation, at which time of merger or acquisition the full amount of the Middle Mile system investment is due to SIREPA, minus payments already made.</p>
4. Contract Documents	<p>The terms of the Grant Agreement are incorporated herein by reference. The terms applicable to the construction, lease and network maintenance and operation of the Project shall be substantially as set forth in Attachment 2: Project Lease Terms, which is incorporated herein by reference (the “Project Lease Terms”). The Project Lease Terms are incorporated herein by reference.</p>
5. Term	<p>The term of the initial Project shall be the term of the Project Lease. This Agreement shall remain in effect until expiration or termination of the Project Lease in accordance with its terms.</p>
6. Default and Remedies	<p>A party shall be in default under this Agreement if (a) such party makes a general assignment for the benefit of its creditors, files a voluntary petition in bankruptcy or any petition or answer seeking, consenting to, or acquiescing in reorganization, arrangement, adjustment, composition, liquidation, dissolution or similar relief; (b) an involuntary petition in bankruptcy or other insolvency action is filed against such party and is not dismissed within one hundred and twenty (120) days; (c) such party fails to observe and perform the terms and provisions of this Agreement and such failure continues for a period of sixty (60) days after written notice from the other party (or if such failure is not susceptible of a cure with such sixty (60) day period, cure has not been commenced and diligently pursued thereafter).</p> <p>In the event of a default by one party, the non-defaulting party may: (i) terminate this Agreement, in whole or in part, in which event the non-defaulting party shall have no further duties or obligations hereunder, or (ii) pursue any legal remedies it may have under applicable law or principles of equity relating to such default, including an action for damages, specific performance or injunctive relief.</p>
7. Confidentiality	<p>Except as to the extent required by law, no party to this Agreement will disclose or use, and will direct its representatives not to disclose or use to the detriment of the other party, any Confidential Information (as defined below) with respect to the</p>

	<p>other party furnished, or to be furnished, by the other party, or its representatives at any time or in any manner other than in connection with its evaluation of Projects or as necessary or appropriate in making any filing or obtaining any consent or approval required for the performance and completion of the Project contemplated hereby.</p> <p>For purposes of this Agreement, “Confidential Information” means trade secrets or similar confidential or proprietary information of whatever nature or form relating to the disclosing party and its affiliates (including any customer of or supplier or lender to the disclosing party and its affiliates) regardless of whether the information was communicated orally, in writing or by electronic transmission, including costs, pricing, names, finances, marketing plans, business opportunities, forecasts, orders, personnel names or information, organizational structure, customer information, research, development, designs, specifications, drawings, maps, blueprints, diagrams, third party confidential information and other similar technical, financial or business information; provided, however, that Confidential Information shall not include (a) information that was already in the possession of the receiving party prior to disclosure and was not acquired or obtained from the disclosing party or its representatives; (b) information that was in the public domain (as evidenced by printed documentation of a date earlier than the date of disclosure) or that becomes part of the public domain through no fault of the receiving party or its representatives; (c) information rightfully obtained by the receiving party from an independent source, not known by the receiving party or its representatives to be bound by a confidentiality agreement with or other continuing legal or fiduciary obligation of confidentiality to the disclosing party; or (d) information that is independently developed by the receiving party or its representatives without use of or reference to any Confidential Information.</p> <p>Any Confidential Information which the receiving party, in the reasonable opinion of its legal counsel, is required by federal or state law or regulation (including the Iowa Open Records Law, Iowa Code Chapter 22), governmental request, court order, subpoena, regulation or other process of law to disclose, may be disclosed in accordance with such requirement provided that the receiving party shall have promptly notified the disclosing party prior to any such intended disclosure and provided further that the receiving party and its representatives shall have cooperated with the disclosing party in all reasonable efforts to protect the Confidential Information from such disclosure, including seeking an appropriate protective order. Upon the written request of the disclosing party, the non-disclosing party will promptly return to the disclosing party or destroy any Confidential Information in its possession and certify in writing to the disclosing party that it has done so.</p> <p>The provisions of this Paragraph shall survive expiration or termination of this Agreement.</p>
<p>8. Indemnity</p>	<p><i>Mutual Indemnification</i></p> <p>To the extent permitted by law, each party, on behalf of itself and its affiliates, directors, officers, employees, agents, successors, and assigns (as applicable “Indemnitor”) agrees to indemnify, defend, protect and hold the other party and its directors, officers, directors, employees, agents, successors, and assigns (collectively, “Indemnified Persons”) harmless from and against any demand, claim, suit, settlement, judgment, award, loss, liability, action or causes of action, assessment, damage, obligation, fine, refund of monies, injury, taxes, penalty, charge, deficiency, diminution in value, cost and expense, including interest, investigation expenses, and reasonable fees and disbursements of counsel,</p>

	<p>accountants, consultants, vendors and other experts (collectively, “Losses”) (i) arising out of the Indemnitor’s performance or nonperformance under this Agreement; (ii) arising out of the performance or nonperformance of any subcontractor retained by Indemnitor; or (iii) incurred by reason of any act of commission or omission directly or indirectly attributable to any of Indemnitor’s undertakings and obligations under this Agreement, except to the extent such Losses are due to the negligence or more culpable conduct of the Indemnified Persons.</p> <p><i>Conditions and Limitations</i></p> <p>The indemnification obligations of each party shall be subject to the following:</p> <p>(a) The Indemnified Person shall provide the Indemnitor prompt written notice of any Losses that are the subject of the indemnification obligation.</p> <p>(b) The Indemnified Person shall give the Indemnitor full information and assistance in connection with such Losses.</p> <p>(c) Where a Loss is the result of the concurrent acts of the parties, each shall be liable under this Agreement on equitable basis, to the extent of its fault or liability therefor.</p> <p>(d) Except as otherwise specified herein, neither party shall consent to the entry of any judgment or enter into any settlement of a Loss without the other party’s prior written consent, which shall not be unreasonably withheld, conditioned or delayed.</p> <p>(e) All indemnification obligations shall survive termination or expiration of this Agreement.</p>
<p>9. Force Majeure</p>	<p>Notwithstanding any other provision of this Agreement, neither SIREPA nor Danville Telecom shall be liable for any failure or delay in performing its obligations, or for any loss or damage, resulting from any event or circumstance beyond the reasonable control of the affected party and that was not reasonably foreseeable, or if foreseeable could not have been prevented or avoided by the affected party through the exercise of due diligence, including but not limited to an earthquake, tornado, hurricane, derecho, fire, flood, lightning, sinkhole or other forces of nature, acts of war, terrorism (including cyberterrorism), or civil unrest, national or industry-wide strikes, lockouts or other labor unrest, epidemics, pandemics or actions of a governmental authority that were not requested, promoted, caused by or imposed as a result of actions of failures to act of the affected party (each a “Force Majeure Event”). A Force Majeure Event shall not include economic hardship, changes in market conditions, labor availability (except national or industry-wide strikes, lockouts or other labor unrest); late delivery or shortage of materials, consumable, equipment or utilities; adverse climatic conditions or non-performance or delay by any contractor, unless such event is otherwise caused by a Force Majeure Event.</p> <p>A party whose performance is impacted by a Force Majeure Event shall provide immediate notice to the other party of the circumstances giving rise to a claim of a Force Majeure Event and shall act diligently and make commercially reasonable efforts to minimize the impact of the Force Majeure Event on its performance. Each party shall bear its own costs and expenses incurred in connection with a</p>

	<p>Force Majeure Event (including for any efforts to mitigate the effect or impact of the Force Majeure Event), and neither shall seek recovery of such costs or expenses from the other party.</p> <p>The deadline by when a party must perform an obligation under this Agreement, other than payment of money, shall be postponed by the period of time by which the party's ability to perform that obligation is materially prevented or interfered with by a Force Majeure Event. A Force Majeure Event shall under no circumstances excuse a party from failure to honor its indemnity obligations as set forth above.</p>
10. Notices	<p>Any notice or communication required or permitted to be given hereunder shall be in writing and may be delivered by hand, deposited with a nationally recognized overnight courier, sent by confirmed facsimile, or mailed by registered or certified mail, return receipt requested, postage prepaid, in each case to the address of the receiving party indicated above, or to such other address as either party may notify the other in writing from time to time.</p>
11. Limits of Liability	<p>Notwithstanding any other provisions of this Agreement, except in cases of fraud, willful misconduct or intentional misrepresentation or for obligations under Paragraph 7 (Confidentiality), in no event shall either party be liable hereunder for Losses that are consequential, indirect, incidental, special, reliance or punitive, including, but not limited to, lost profits, loss of opportunity, loss of goodwill or other economic damages (except to the extent payable to a third person).</p> <p>NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS AGREEMENT, THE PARTIES MAKE NO REPRESENTATIONS OR WARRANTIES OF ANY NATURE WHATSOEVER WITH RESPECT TO SERVICES PROVIDED HEREUNDER, INCLUDING, WITHOUT LIMITATION, THAT ANY SERVICES WILL BE UNINTERRUPTED OR ERROR FREE. ALL EXPRESS, IMPLIED AND STATUTORY WARRANTIES, INCLUDING, WITHOUT LIMITATION, THE WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ARE EXPRESSLY DISCLAIMED TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW.</p>
12. Insurance	<p>During the term of this Agreement, each party shall maintain a policy of comprehensive general liability insurance, including independent contractors, operations, contractual liability, public liability, bodily injury, and property damage, written by a carrier licensed to do business in the State of Iowa, covering use and activity contemplated by this Agreement with combined single limits of no less than One Million Dollars (\$1,000,000.00) per occurrence and Two Million Dollars (\$2,000,000.00) aggregate. Each party shall maintain motor vehicle liability insurance, including coverage for owned/leased, non-owned or hired motor vehicles in the following amounts: (i) bodily injury liability with limits of not less than Five Hundred Thousand Dollars (\$500,000.00) each person and a limit of at least One Million Dollars (\$1,000,000.00) each accident; (ii) property damage liability with a limit of not less than Five Hundred Thousand Dollars (\$500,000) per occurrence and One Million Dollars (\$1,000,000.00) in the aggregate. Each party shall name the other party, including its officers, employees, and agents, as additional insureds on these liability policies for the said purpose and use of this Agreement. Each party shall also maintain Workers' Compensation insurance if applicable to meet the requirements of applicable law, and employer's liability with a limit of at least One Million Dollars (\$1,000,000) each accident. Certificates of insurance evidencing such insurance coverage shall be provided by one party to the other party upon such party's reasonable request. In the event a party fails to</p>

	<p>maintain the required insurance coverage and a claim is made or suffered, the defaulting party shall indemnify and hold harmless the other party from any and all claims for which the required insurance would have provided coverage.</p> <p>The indemnity provisions of this Paragraph shall survive expiration or termination of this Agreement.</p>
13. Representations and Warranties	<p>By execution of this Agreement, each party represents and warrants to the other that: (a) the party is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization; (b) the party has full right and authority to enter into, execute, deliver and perform this Agreement in accordance with the terms hereof and thereof; (c) the party's execution, delivery, and performance of this Agreement will not conflict with, violate or result in a breach of (i) any law, regulation, order, writ, injunction, decree, determination or award of any governmental authority or agency or any arbitrator, applicable to such party, (ii) any of the terms, conditions or provisions of its charter, bylaws, or other governing documents of such party, (iii) any material agreement to which it is a party, or (iv) any instrument to which such party is or may be bound or to which any of its material properties or assets is subject; (d) the party's execution, delivery and performance of this Agreement has been duly authorized by all requisite corporate action; (e) that the signatories for such party are authorized to sign this Agreement; (f) there are no actions, suits, proceedings or investigations pending, or to the knowledge of the party, threatened against or affecting the party of any of its properties, assets or businesses in any court or before or by any governmental authority or agency that could, if adversely determined, reasonably be expected to have a material adverse effect on the party's ability to perform its obligations under this Agreement; and (g) the party has not previously been and is not currently, debarred, suspended, or proposed for debarment, declared ineligible, voluntarily excluded from transactions by any federal or state department or agency, or subject to any inquiry, investigation, or proceeding regarding the foregoing.</p>
14. Taxes	<p>Each party shall be responsible for paying its own federal, state or local sales, use, excise, value-added, personal property, income or other taxes or charges assessed on or levied against any transaction or event arising from the performance of this Agreement.</p>
15. Points of Contact	<p>Each party will have a single point of contact designated in its organization at all times to oversee the coordination of all operational issues under this Agreement (the "Primary Contact"). The Primary Contacts for each party as of the date of this Agreement are as set forth above. The Primary Contact of a party can be changed by such party at any time upon notice to the other party. The Primary Contact will manage and monitor issues with respect to any operational issues relating to this Agreement. All information provided by either party to the other party shall be used solely for the purposes contemplated by this Paragraph and shall be treated as Confidential Information under this Agreement.</p>
16. Dispute Resolution	<p><i>Escalation Procedure.</i></p> <p>All disputes between the parties are to first be discussed for a potential mutually acceptable resolution by the Primary Contacts. In connection with any dispute, each party will cooperate in good faith to provide the other party with documents and other information relevant to the matter in dispute and reasonably requested by such party. To the extent the Primary Contacts are unable to resolve the dispute on mutually acceptable terms within twenty (20) business days from the date either party first notifies the other party's Primary Contact in writing of a dispute, either</p>

party may then invoke the arbitration provisions pursuant to this Paragraph (to resolve the dispute.

Arbitration.

Disputes between the parties not resolved by the Primary Contacts shall be resolved by binding arbitration in accordance with the expedited procedures of the Commercial Arbitration Rules of the American Arbitration Association (the “**AAA Rules**”).

Arbitration Procedures.

For disputes submitted to binding arbitration, arbitration shall be initiated by either party by giving written notice to the other party of intention to arbitrate, which notice shall contain a statement setting forth the nature of the dispute, the names and addresses of all other parties, the amount involved, if any, the remedy sought, and the hearing locale requested. The arbitration shall be heard by a panel of three third party arbitrators. Each party shall select one arbitrator within fifteen (15) days of such notice of arbitration and the two arbitrators shall select the third arbitrator within ten (10) days thereafter. The hearings shall be held at a mutually agreed upon location within the State of Iowa, unless otherwise agreed by both parties, at which the parties may present evidence (including, without limitation, witnesses and documentation) and argument in support of their respective positions. If the parties cannot agree upon an arbitration location, the arbitration shall be conducted in Des Moines, Iowa. All hearings shall be conducted in English, unless otherwise agreed by both parties. Arbitration shall be held and concluded within sixty (60) days following selection of the last arbitrator. The arbitrators shall have the power and authority, consistent with applicable law, to compel attendance of witnesses and production of documents at hearing. Except where contrary to the provisions set forth in the Agreement, the AAA Rules shall be applied to all matters of procedure; provided, however, that the arbitration shall not be conducted under the auspices of the AAA and the fee schedule of the AAA shall not apply.

Limited Discovery.

The party initiating arbitration (the “**Movant**”) will provide to the other party (the “**Respondent**”) a list of witnesses it expects in good faith to testify at the hearing and a copy of all documents that it expects to present at the hearing within fifteen (15) days after the notice of arbitration, and the Respondent will provide to the Movant a list of witnesses it expects in good faith to testify at the hearing and a copy of all documents that it expects to present at the hearing within fifteen (15) days after the date such list and copies are provided by Movant. The parties agree that in any arbitration proceeding a party may reasonably request, and the arbitrators may order the other party to comply with such request, a limited number of documents or other information in the possession of such requested party, to the extent such documents and information are directly germane and relevant to the dispute that is the subject of such arbitration. Except as provided in the preceding sentence, there shall be no other pre-hearing discovery between the parties (including, without limitation, requests for documents and/or information or depositions) and the arbitrators shall have no power or authority to order such pre-hearing discovery between the parties.

Limits on Arbitration.

The arbitrators shall have no power or authority to relieve the parties from their agreement hereunder to arbitrate. The arbitrators shall be limited to interpreting the

	<p>applicable provisions of this Agreement, the facts presented to them, and shall have no authority or power to alter, amend, modify, revoke or suspend any condition or provision of this Agreement; or to create, draft or form a new agreement between the parties; or to render an award which, by its terms, has the effect of altering or modifying any condition or provision hereof; or to terminate this Agreement or any other agreement between the parties.</p> <p>Notwithstanding anything herein to the contrary, to the extent the arbitrators consider the performance of the parties pursuant to this Agreement, in the event the arbitrators determine that there is such a breach, the arbitrators shall be strictly limited to determining whether a breach of the applicable provisions occurred, and the parties shall have all remedies available under this Agreement, as may be applicable, for such breach(es).</p> <p><i>Expenses of Arbitration.</i></p> <p>The parties will each bear their own expenses of the arbitration and will share equally the expenses of the arbitrators.</p> <p><i>Arbitrators' Award.</i></p> <p>The arbitrators shall make an award which may include an award of damages (but may not include attorneys' fees) and said award shall be in writing setting forth the facts to support their conclusions and decision. The decision rendered by the arbitrators will be final, conclusive, and binding upon the parties, and any judgment thereon may be entered and enforced in any court of competent jurisdiction.</p> <p><i>Continuation of Performance Pending Arbitration.</i></p> <p>Except where this Agreement permits a party to terminate or suspend performance, in whole or in part, the parties will continue to provide all services and honor all other commitments under this Agreement, including, without limitation, making payments in accordance with this Agreement during the course of resolution of disputes and arbitration pursuant to this Agreement.</p> <p><i>Defense.</i></p> <p>Failure to comply with the arbitration requirements of this Paragraph shall be a complete defense to any suit, action or proceeding instituted in any federal, state or local court with respect to any controversy or dispute relating performance or non-performance under this Agreement.</p>
<p>17. No Partnership</p>	<p>The relationship between the parties shall not be that of partners, agents, or joint venturers of or for one another, and nothing contained in this Agreement shall be deemed to constitute a partnership or agency agreement between them for any purposes, including but not limited to federal income tax purposes. Neither party will have any responsibility or liability of any kind to any subcontractors or third parties providing services to or for the benefit of the other party. Except as otherwise specified herein, each party will be free to manage and control its business and communications network and systems as it sees fit, without the management, control or assistance of the other party.</p>
<p>18. Cooperation</p>	<p>Upon each party's acceptance of this Agreement, the parties agree to work in good faith expeditiously toward the successful planning, funding and completion of the Project. Each party agrees that it will not at any time voluntarily engage, directly or indirectly, in any actions intended to frustrate the purpose and intent of the</p>

	parties to move forward with the Project or to make the Project less desirable to the other party. Without limiting the foregoing, each party shall take all commercially reasonable action necessary to remain eligible for, and each agrees to cooperate with the other to qualify for and obtain financial assistance for the Project under, available state and federal programs.
19. Compliance with Laws	The parties shall comply with, conform to, and abide by all applicable and valid laws, regulations, rules and orders of all governmental agencies and authorities, and agree that the Agreement is subject to such laws, regulations, rules and orders. Without limitation, each party shall comply, at its own expense, with the provisions of all applicable federal, state and municipal laws, regulations, and requirements applicable to them as an employer.
20. Governing Law	This Agreement shall be governed by and construed in accordance with the laws of the State of Iowa without giving effect to any choice or conflict of law provision (whether in the State of Iowa or any other jurisdiction) that would cause the application to this Agreement of the laws of any jurisdiction other than the State of Iowa.
21. Binding Effect; Assignment	This Agreement and all of the provisions hereof shall be binding upon and inure to the benefit of the parties and their respective successors and permitted assigns; provided, however, that a party may not assign this Agreement nor assign or delegate any of its rights, interests or obligations hereunder, without the written consent of the other party, which consent shall not be unreasonably withheld, conditioned or delayed.
22. Severability	If any provision of this Agreement or the application thereof to any person or circumstance shall, for any reason, be held by any court or governmental agency or authority of competent jurisdiction to be invalid or unenforceable to any extent, the remainder of this Agreement and the application of such provision to other persons or circumstances shall not be affected thereby and shall be enforced to the greatest extent permitted by law, but only as long as the continued validity, legality and enforceability of such provision or application does not materially (a) alter the terms of this Agreement, (b) diminish the benefits of this Agreement or (c) increase the burdens of this Agreement, for either party. Upon determination that any provision of this Agreement is invalid or unenforceable, the parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in an acceptable manner to the end that the transactions contemplated hereby are fulfilled to the greatest extent possible.
23. Survivability	The respective obligations of the parties that by their nature would continue beyond the termination or expiration of this Agreement will survive such termination or expiration.
24. Integration	This Agreement and the addenda and exhibits constitute the entire agreement between the parties with respect to the subject matter of this Agreement, and supersede all previous understandings, commitments or representations, whether oral or written, concerning the subject matter. Each party acknowledges that the other party has not made any representations other than those that are contained herein. This Agreement may not be amended or modified in any way except by a writing signed by the authorized representatives of the parties. The parties may propose updates to the addenda and exhibits of this Agreement from time to time. Upon written approval of a proposed update to an addendum or exhibit by the other party, the updated addendum or exhibit shall replace and supersede the existing addendum or exhibit.

25. Waiver	The failure of either party to insist upon a strict performance of any of the terms or provisions of this Agreement or to exercise any option, right or remedy herein contained or available pursuant to applicable law, shall not be construed as a waiver or relinquishment of such term, provision, option, right or remedy, but the same shall continue and remain in full force and effect. No waiver by either party of any term or provision hereof shall be deemed to have been made unless expressed in writing and signed by such party.
26. Expenses	Except as otherwise expressly set forth this Agreement, the parties will each be responsible for and bear all of their own costs and expenses (including construction costs and any legal, accounting, consulting, engineering or other fees and expenses) incurred at any time in connection with evaluating, pursuing or completing the Project.
27. Counterpart Signatures	This Agreement and any and all exhibits or attachments hereto may be executed in one or more counterparts, each of which shall be an original. Any such counterpart, to the extent delivered by means of a facsimile machine or by .pdf, .tif, .gif, .jpeg or similar attachment to an electronic mail message, shall be treated in all manner and respects as an original executed counterpart and shall be considered to have the same binding legal effect as if it were the original signed version thereof delivered in person.

The parties, intending to be legally bound, are signing this Agreement as of the date set forth below:

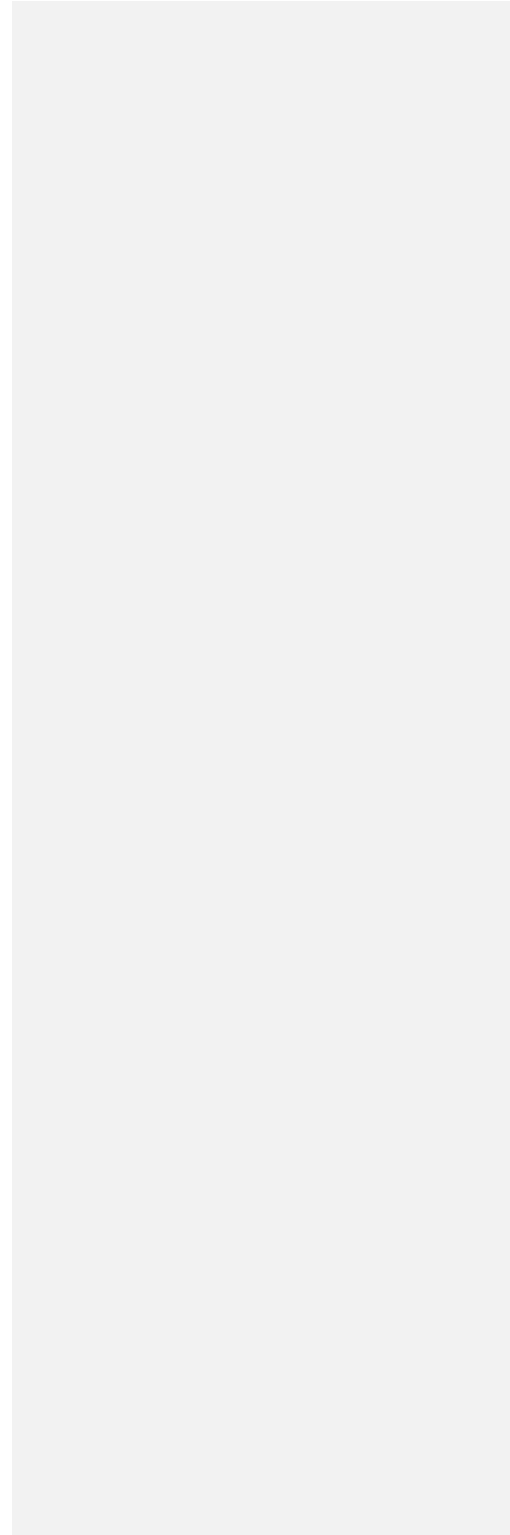
SIREPA: SOUTHEAST IOWA REGIONAL ECONOMIC AND PORT AUTHORITY	Danville Telecom: DANVILLE MUTUAL TELEPHONE COMPANY
Signature:	Signature:
Print Name: Denise Boyer Mike Hickey	Print Name: Tim Fencl
Title: Board Chair	Title: General Manager & CEO
Date:	Date:

Attachment 1

Grant Agreement

Exhibit A

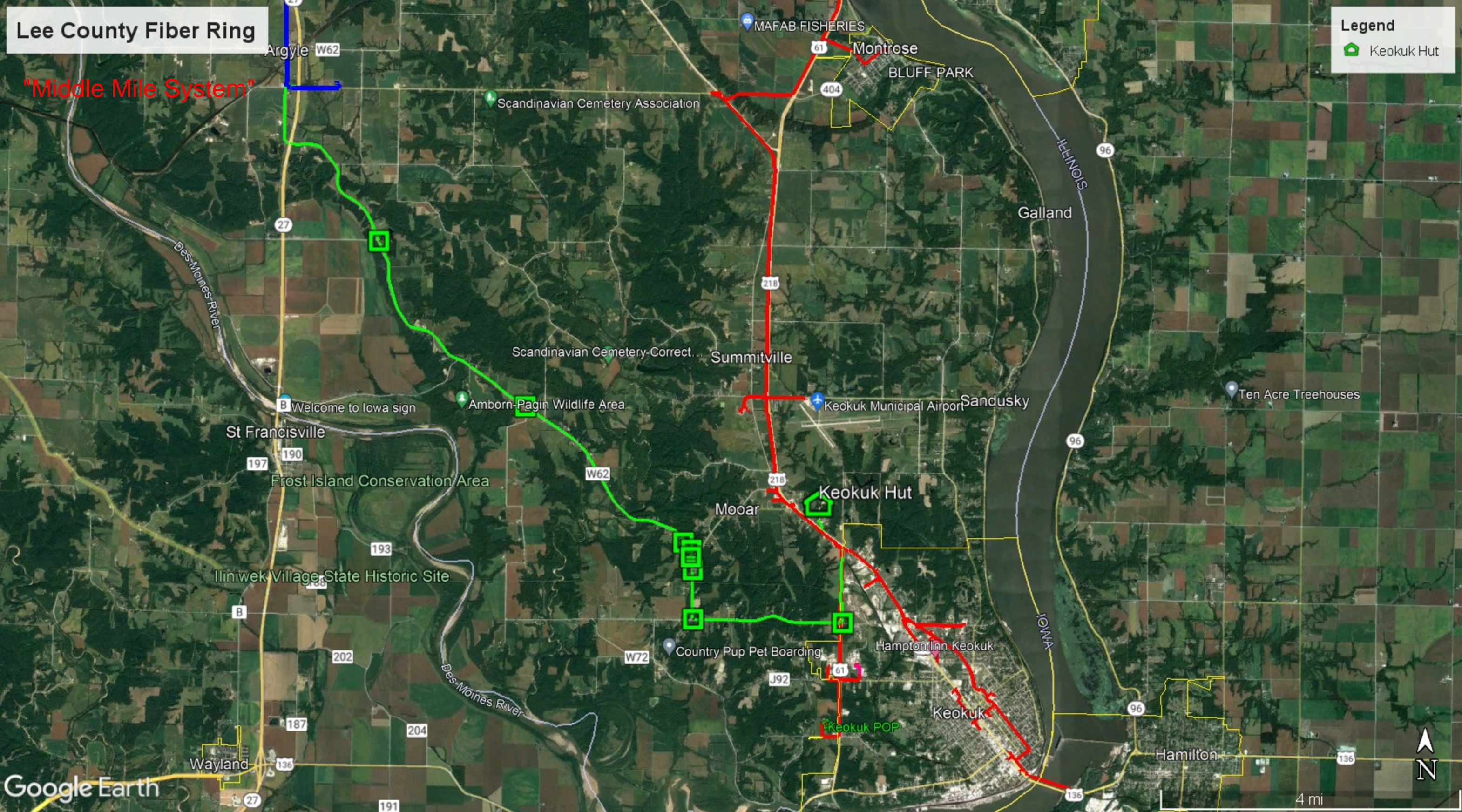
Project Map



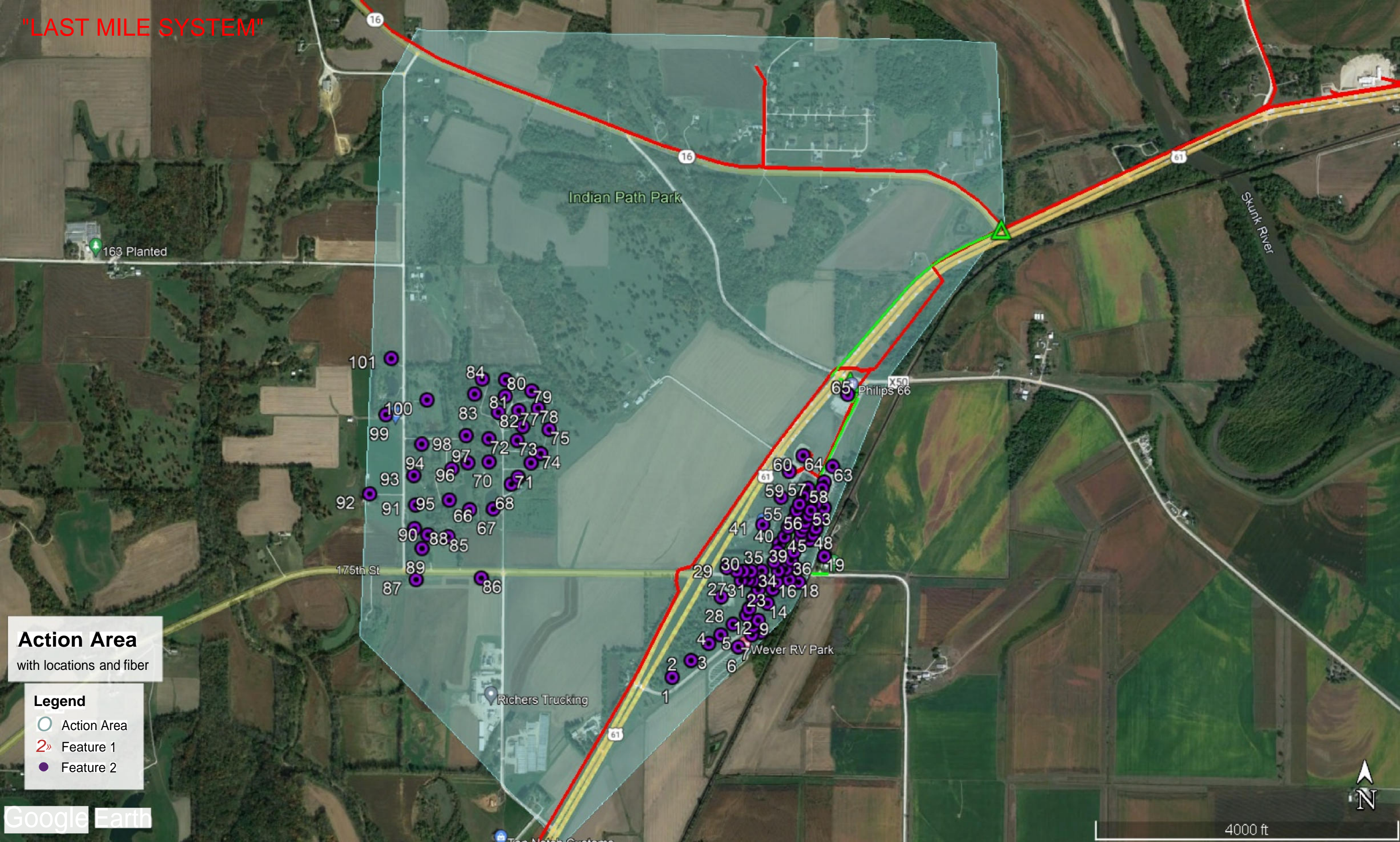
Lee County Fiber Ring

"Middle Mile System"

Legend
Keokuk Hut



"LAST MILE SYSTEM"



Action Area
with locations and fiber

- Legend**
- Action Area
 - 2» Feature 1
 - Feature 2



Wever Locations

Legend

- Fiber Build locations



Exhibit B

Project Assets

Middle Mile System:

Identified from as-built information supplied by project engineer. Described generally as approximately 14 miles of specified fiber optic cable installation and operation between Keokuk, IA, and Argyle, IA.

*to the extent the costs of the Middle Mile System exceed the County Funding Commitment, Danville Telecom shall be solely responsible for the excess costs. In no event shall SIREPA be responsible for Project funding in any amount above the County Funding Commitment.

Last Mile System:

Identified from as-built information supplied by project engineer.

Exhibit C

Project Fee Schedule

Project Lease Payments:

Nonrecurring Charges	\$95,637.50 Estimated to be \$35,000
Annual Recurring Charges	An amount equal to 50% of the County Funding Commitment <u>Middle Mile System Cost</u> , paid in ten (10) equal annual installments during the initial ten-year term. Payments shall begin on December 1, 2023, or 12 months after construction of the MMS is completed, whichever is later. Thereafter, payments shall be made on or before December 1 of each year until 10 payments are made.

Option Price:

Provided Danville Telecom performs its material obligations under the Project Lease, and does not merge with or is acquired by another corporation, including without limitation the timely construction and launch of commercial service using the Middle Mile System and the timely payment of all monthly recurring charges during the initial ten-year term, the Option Price shall be: \$100.00. If Danville Telecom does merge with or is acquired by another corporation, the total cost of Middle Mile System Cost ~~the Middle Mile System~~ minus any annual payments made is due to SIREPA, before the date of merger or acquisition.

Other Fees and Charges:

N/A

Attachment 2

Project Lease Terms

These Project Lease Terms are attached to, incorporated within and made part of that certain Funding Agreement - Public-Private Fiber Construction, Fiber Lease and Network Maintenance and Operations, dated as _____, 202~~23~~ (the “**Agreement**”) between SOUTHEAST IOWA REGIONAL ECONOMIC AND PORT AUTHORITY (“**SIREPA**”), and DANVILLE MUTUAL TELEPHONE COMPANY (“**Danville Telecom**”).

1. **Defined Terms.**

Whenever used in the Agreement, including in any schedules, addenda or exhibits, the following terms shall have the meaning ascribed to them below. Other capitalized terms used in this Agreement are defined in the context in which they are used and shall have the meanings ascribed therein.

“**Agreement**” is as defined in the introductory paragraph and includes any and all exhibits and attachments thereto and any other addenda, exhibits or written amendments thereto to which the parties may agree from time to time.

“**Construction Specifications**” means the construction specifications for the Middle Mile System, as identified in the Agreement.

“**Fiber Specifications**” means the fiber and conduit specifications for the Middle Mile System, as identified in the Agreement.

“**Last Mile System**” and “**LMS**” means the fiber optic communications facilities (including fiber optic cable, conduit and related fiber optic infrastructure) owned and installed by Danville Telecom in connection with the Project, as specifically identified and described in the Agreement.

“**Leased Lit Fiber**” means fiber optic cable and related infrastructure which is “lit” or activated for the transport of data over the facilities.

“**Leased Fiber**” means identified, dedicated Leased Lit Fiber comprising the Middle Mile System, as set forth in the Agreement.

“**Legal and Regulatory Requirements**” means any provision of any federal, state, local, or other constitution, statute, treaty, ordinance, rule, regulation, regulatory or administrative guidance, principle of common law or equity, order, award, decision, injunction, judgment, ruling, decree, charge, writ, subpoena or verdict entered, issued, made or rendered by any governmental authority or agency, including, as applicable, any Required Rights.

“**Middle Mile System**” and “**MMS**” means the fiber optic communications facilities (including fiber optic cable, conduit and related fiber optic infrastructure) owned by SIREPA in connection with the Project, as specifically identified and described in the Agreement.

“**Project**” means a public-private project to provide fiber infrastructure and high speed (gigabit speeds or higher) broadband services to identified unserved or underserved locations in Lee County, as more specifically described and identified in the Agreement.

“**Project Lease**” means the contractual arrangement (including these Project Lease Terms, and applicable provisions of the Project Agreement) by which Danville Telecom leases Leased Fiber from SIREPA.

“**Project Fee Schedule**” means the financial terms of the Project Lease as set forth in the fee schedule contained in the Agreement.

“**Required Rights**” means the permissions a party must have to perform its obligations under the Agreement, which may include franchises; licenses; permits; zoning approvals; variances; exemptions; grants of authority to use rights of way, easements or facilities; agreements to make attachments to poles, ducts, conduits, towers, buildings, rooftops, manholes, and the like; and any other approval of a governmental agency or authority or third persons with respect to (a) the construction, installation, repair, maintenance, operation or use of tangible or intangible property, as the case may be, or (b) any requirement by a governmental authority for the engagement in a business or enterprise.

“**Rights Fees**” means all rights, licenses, permits, authorizations, rights-of-way, easements, pole attachments, franchises, encroachments, or license fees, charges or assessments of any kind relating to a party’s execution of its obligations under the Agreement, whether imposed by a governmental authority or agency or a private entity.

2. **Project Construction.**

2.1. MMS Construction. Danville Telecom will arrange financing, develop engineering plans and contract for construction of the MMS, of which the Leased Fiber shall be a part. Danville Telecom shall deliver to SIREPA, the initial owner of the MMS, complete documentation regarding the as-built condition of the MMS after completion of the construction. Danville Telecom’s failure to complete construction of the MMS or to otherwise maintain and operate the MMS portion of the Project shall be a material breach of the Agreement.

2.2. LMS Construction. Danville Telecom will arrange financing, develop engineering plans and contract for construction of the LMS. Danville Telecom’s failure to complete construction of the LMS or to otherwise maintain and operate the LMS portion of the Project shall be a material breach of the Agreement.

2.3. Required Rights and Rights Fees. Danville Telecom shall obtain and maintain throughout the term of the Project Lease, at its expense, all applicable Required Rights, and shall pay all Rights Fees, relating to the construction and ownership of the MMS including the Leased Fiber. Danville Telecom shall obtain and maintain throughout the term of the Project Lease, at its expense, all applicable Required Rights, and shall pay all Rights Fees, relating to the construction and ownership of the LMS.

3. **Lease of Fiber.**

3.1. Lease. Subject to the provisions of the Agreement, SIREPA shall lease the Leased Fiber to Danville Telecom on a dedicated basis, including rights of exclusive access to and uninterrupted use of the Leased Fiber for the term of the Project Lease. In addition to its other rights and remedies under this Agreement, Danville Telecom may, during the term of the Project Lease, enjoin SIREPA from any attempt to, assign, sell, resell, sublease, license, transfer, grant an indefeasible right of use or other similar right or interest in the Leased Fiber to any third party.

3.2. Leased Lit Fiber. For the avoidance of doubt, the Leased Fiber shall consist of Leased Lit Fiber. Notwithstanding the preceding, SIREPA’s obligations extend only to middle-mile or “backbone”

transport to support Danville Telecom's deployment and operation of the LMS. Danville Telecom shall be solely responsible for the configuration and operation of the LMS, including the provision of all distribution facilities, interconnection facilities, lateral facilities, network equipment, testing equipment and procedures, maintenance and other facilities, equipment, arrangements or actions necessary for Danville Telecom to use the Leased Fiber in connection with its operation of the LMS.

3.3 Lease Term. The term of the Project Lease shall commence on the Completion Date (as defined in Section 4.4) and shall continue for a term of ten (10) years from the Completion Date.

3.4 Lease Payments. In exchange for the lease of the Leased Fiber, Danville Telecom agrees to pay SIREPA certain nonrecurring and monthly recurring charges as set forth in the Project Fee Schedule.

3.5 Access. SIREPA shall provide Danville Telecom with reasonable access to the Leased Fiber at appropriate connection points. The parties shall cooperate in good faith to make and maintain such splicing, re-arrangements and installations as necessary to interconnect their facilities for the operation of the Project(s) as provided in this Agreement. All connections shall be performed in accordance with mutually approved specifications and applicable operating procedures. The costs of all such interconnection, together with the costs of splicing, shall be the sole responsibility of Danville Telecom.

3.6 Representations and Warranties concerning Leased Fiber. Danville Telecom represents and warrants that the Leased Fiber is designed, engineered, installed, and constructed in accordance with the terms and provisions of this Agreement, including (a) the Fiber Specifications, (b) the Construction Specifications and (c) any and all applicable Legal and Regulatory Requirements; Danville Telecom shall notify SIREPA in writing of its discovery of a deviation from the specifications set forth herein which Danville Telecom reasonably determines is likely to materially adversely affect the operation or performance of the Leased Fiber (which notice shall be given within thirty (30) days of such discovery), the affected portion of the Leased Fiber shall be repaired to such specification by Danville Telecom at Danville Telecom sole cost and expense.

EXCEPT AS SET FORTH IN THE PRECEDING SUBSECTION, SIREPA MAKES NO WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE LEASED FIBER, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE, AND ALL SUCH WARRANTIES ARE HEREBY EXPRESSLY DISCLAIMED.

4. Testing and Completion of Leased Fiber.

4.1 Specifications. To the extent not already constructed and installed, Danville Telecom shall design, engineer, construct and install each segment of the MMS containing any Leased Fiber substantially in accordance with the Construction Specifications and Fiber Specifications, in a workmanlike manner and otherwise in accordance with ordinary industry standards and applicable Legal and Regulatory Requirements.

4.2 Construction Activities. Danville Telecom shall have the exclusive right to control all activities concerning construction of the MMS, including installation and splicing of the Leased Fiber. Danville Telecom acknowledges and agrees that SIREPA is not responsible for performing any construction or installation work other than as specified in the Agreement. To the extent any portion of the MMS is being constructed during the term of the Agreement, SIREPA shall have the right, but not the obligation, at SIREPA's sole expense and with reasonable prior notice to Danville Telecom, to inspect the construction of the MMS, including splicing and testing of the Leased Fiber; provided that no inspection or failure to inspect by SIREPA shall impair, modify or amend any of the representations, warranties or agreements between the parties as set forth herein.

4.3 Testing. Where applicable, Danville Telecom shall test the Leased Fiber in accordance with procedures and standards set forth in the Fiber Specifications or otherwise mutually agreed by the parties (“**Acceptance Testing**”). Acceptance Testing may be performed span-by-span along each segment of the Leased Fiber route as cable splicing progresses so that test results may be reviewed in a timely manner. SIREPA shall have the right (but not the obligation), at SIREPA’s sole expense, to be present and observe Acceptance Testing.

4.4 Acceptance. When Danville Telecom has completed Acceptance Testing and reasonably determines the Leased Fiber is installed and operating substantially in accordance with the Fiber Specifications, Danville Telecom shall provide notice of the same to SIREPA. SIREPA shall, within ten (10) business days of receipt of the completion notice, either accept or reject the completion notice. SIREPA shall be permitted to reject a completion notice, only if SIREPA specifies a material failure of the Leased Fiber to comply with the Fiber Specifications, by delivery of written notice to Danville Telecom. In the event SIREPA rejects a completion notice, Danville Telecom shall promptly, and at no cost to SIREPA, commence to remedy the defect or failure specified in SIREPA’s notice. Thereafter Danville Telecom shall again give SIREPA a completion notice with respect to such fiber. The foregoing procedure shall apply again and successively thereafter until Danville Telecom has remedied all defects or failures specified by SIREPA. Any failure by SIREPA to timely reject a completion notice shall be deemed to constitute acceptance for purposes of this Agreement, and SIREPA shall be deemed to have delivered a notice of acceptance on the tenth (10th) business day after delivery of the completion notice. For purposes of this Agreement, the “**Completion Date**” shall be the date on which SIREPA has accepted a completion notice for all segments of Leased Fiber.

5. **Project Operation.**

5.1 Operational Services. Except as otherwise expressly provided herein or in the Agreement, (a) SIREPA will own the MMS. Danville Telecom will operate, maintain, and will incur all operating expenses related thereto related to the MMS; and (b) Danville Telecom will own, operate and maintain the LMS and will incur all operating expenses related thereto. Danville Telecom shall also provide power, management, engineering support and monitoring of the MMS and LMS and shall bear all responsibility and expense in providing and maintaining the switching facilities and all other necessary equipment and services to light and operate the Leased Fiber.

5.2 Network Facilities. Neither party shall have any limitations on the types of electronics or technologies employed to use the Leased Fiber, and a party may make additions, enhancements or substitutions to its facilities and equipment, provided that any facilities or equipment actually deployed shall not materially interfere with the performance of the other party’s facilities or network, or the respective rights of the parties under the Agreement, and provided that the costs of making or accommodating any additions, enhancements or substitutions are borne solely by the party responsible for making or requiring such additions, enhancements or substitutions. All facilities and equipment deployed by the parties shall be maintained in good repair and shall meet ordinary industry standards for the transport of voice, video and data traffic. Without limiting the preceding, all facilities and equipment shall be installed and maintained in accordance with ordinary industry standards and all applicable Legal and Regulatory Requirements.

5.3 Permitted Use.

(a) The Leased Fiber will be used solely for the transport of Internet-protocol enabled services, including voice, video and data traffic.

(b) Danville Telecom shall use the Leased Fiber in accordance with all applicable Legal and Regulatory Requirements.

(c) Danville Telecom shall have no right to assign, license, sublease, sell or resell capacity, or otherwise grant any other person any access to or rights of use of the Leased Fiber, except with the consent of SIREPA, which consent shall not be unreasonably withheld, conditioned or delayed.

6. Project Maintenance.

6.1 Network Operations Center. Danville Telecom shall operate and maintain a Network Operations Center capable of receiving MMS-related alarms twenty-four (24) hours a day, seven (7) days a week and shall monitor the MMS twenty-four (24) hours a day, seven (7) days a week. Danville Mutual's maintenance personnel shall be available for dispatch twenty-four (24) hours a day, seven (7) days a week.

6.2 Scheduled Maintenance. Routine maintenance and repair of the MMS will be performed as necessary to keep the Project in good operating condition, at SIREPA's reasonable request or in Danville Mutual's reasonable discretion, all at Danville Mutual's expense. Scheduled maintenance will commence upon the Completion Date, and will include without limitation (a) inspection of the MMS, including the Leased Fiber, on a regularly scheduled basis, which shall be no less than once each calendar quarter; (b) appropriate routine preventative maintenance on the MMS, in accordance with standard industry practices; (c) performance of all required cable locates and participation in Iowa One Call for all locations along the MMS; (d) maintenance of an inventory of spare cable and other equipment, together with maintenance equipment, at strategic locations to facilitate timely restoration of the MMS; and (e) non-routine maintenance, repair and replacement of the MMS arising out of the negligent or more culpable action or inaction of Danville Telecom or Danville Telecom's personnel.

6.3 Unscheduled Maintenance. Non-routine maintenance and repair of the MMS which is not included as scheduled maintenance will be performed by or under the direction of Danville Telecom and at Danville Telecom's expense. Unscheduled maintenance will commence upon the Completion Date and shall include maintenance in response to: (a) notification by any third party of any failure, interruption or impairment in the operation of the MMS, or any event imminently likely to cause the failure, interruption or impairment in the operation of the MMS; or (b) any potential service-affecting situation to prevent any failure, interruption or impairment in the operation of the MMS, each to the extent the same is not included in the definition of scheduled maintenance.

6.4 Cooperation and Coordination.

(a) The parties shall use Danville Telecom's escalation list and escalation procedures, as updated from time to time, to report and seek immediate initial redress of exceptions noted in the performance of Danville Telecom in meeting maintenance service objectives and regarding all other aspects applicable to MMS maintenance and operations.

(b) All maintenance shall be in accordance with ordinary industry standards and comply with this Agreement and all applicable Legal and Regulatory Requirements. The precautions to be taken by Danville Telecom will include notifications to SIREPA upon service interruption. In the event that any scheduled maintenance or unscheduled maintenance requires a truck roll or reconfiguration involving the MMS, then Danville Telecom shall, make such personnel of Danville Telecom available as may be necessary in order to accomplish such maintenance.

(c) Danville Telecom represents and warrants, that maintenance work performed by Danville Telecom on the MMS will not normally result in interruptions or defects. Scheduled maintenance

which is reasonably expected to produce any signal discontinuity or jeopardize the use of the MMS in any material respect generally will be scheduled after midnight and before 5:00 a.m. local time. Major system work, such as fiber rolls and hot cuts, will be scheduled for scheduled maintenance weekends as mutually agreed by the parties.

(d) Danville Telecom will use commercially reasonable efforts to notify SIREPA at least ten (5) days prior to the date of any scheduled maintenance that may result in an outage or degradation in the use of the MMS, and as soon as possible, but in no event later than eight (8) hours after becoming aware of the need for unscheduled maintenance. SIREPA may be present during the performance of any scheduled maintenance or unscheduled maintenance so long as this right or the exercise thereof does not interfere with Danville Telecom's ability to perform its obligations under this Agreement. In the event that scheduled maintenance is canceled or delayed for whatever reason as previously notified, Danville Telecom will use commercially reasonable efforts to notify SIREPA at the earliest opportunity, but in no event less than forty-eight (48) hours after cancellation, and will comply with the above-provisions for any re-scheduled activity.

6.5 Response and Restoration. Danville Telecom will respond to any interruption of service or a failure of the MMS as quickly as possible, but in no event later than four (4) hours after Danville Telecom became actually aware of the failure or interruption, in accordance with the procedures set forth herein. Danville Telecom shall address the problem by working diligently to enable restored service as soon as technically practical and commercially reasonable, in accordance with the procedures set forth herein. In order to accomplish such objective, SIREPA acknowledges that such repairs may be temporary in nature. In such event, within twenty-four (24) hours after completion of any such unscheduled maintenance, Danville Telecom will commence its planning for permanent repair, and thereafter promptly notify SIREPA of such plans, and shall use commercially reasonable efforts to implement such permanent repair as soon as possible thereafter. In performing permanent repairs, Danville Telecom shall comply with any applicable Fiber Specifications or Construction Specifications. Danville Telecom shall provide to SIREPA any modifications to these specifications as may be necessary or appropriate in any particular instance for SIREPA's approval, which approval shall not be unreasonably withheld, conditioned or delayed.

6.6 Subcontracting. Danville Telecom may subcontract any of the maintenance services hereunder; provided that Danville Telecom shall require the subcontractor(s) to perform in accordance with the requirements and procedures set forth herein. The use any such subcontractor shall not relieve Danville Telecom of any of its obligations hereunder. For clarity, a subcontractor is required to perform in accordance with the requirements set forth herein only for the maintenance task they are subcontracted to perform and Danville Telecom is responsible for all other obligations hereunder.