

Grant Disbursement Agreement
For
The Maryland Department of Housing and Community Development Broadband Expansion Grant Program

This Grant Disbursement Agreement (“Agreement”) for the Department of Housing and Community Development Broadband Expansion Program is made by and between County Commissioners of Charles County, Maryland (“County”) and Comcast of Maryland, LLC (“Comcast”). The County and Comcast are each a “Party,” and may be collectively referred to as the “Parties.”

WHEREAS, the Maryland Department of Housing and Community Development (“DHCD”) through its Broadband Expansion Program (the “Program”) issued a Request for Proposal on November 4, 2020 to invite proposals for broadband deployment projects; and

WHEREAS, Pursuant to the Program guidelines and statutory authority, the primary objective of the Program is to provide financial contribution to supplement construction costs by private sector broadband providers in partnership with local units of government to extend broadband internet service to areas presently unserved by any broadband provider; and

WHEREAS, the County filed an application dated January 15, 2021 proposing a partnership with Comcast to deploy broadband within the Waverly Point area of the Charles County (Project); and

WHEREAS, the County affirms its authority to invest in partnership with Comcast in the Program; and

WHEREAS, DHCD awarded the County a grant in the amount of EIGHTY NINE THOUSAND SEVEN HUNDRED TWENTY SIX DOLLARS (\$89,726) to fund the project; and

WHEREAS, DHCD and the County executed a Memorandum of Understanding (the “DHCD Memorandum”) dated September 27, 2021, and the parties wish to outline the roles of each party now that the grant has been awarded;

NOW, THEREFORE, in consideration of the mutual commitments made herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. Definitions.
 - a) “Broadband Service” means high speed internet service that reliably meets or exceeds 100 Mbps download and at least 20 Mbps upload speeds, and be scalable to a minimum of 100 Mbps symmetrical for download and upload speeds based on future technology advances.
 - b) “Cable Franchise Agreement” means the cable franchise agreement executed between the County and Comcast dated July 18, 2019.
 - c) "Excusable Delay Event" means a delay that results from: (1) an event described in Section 11 that directly impacts the schedule for Comcast to achieve Final Completion; or (2) make-ready work that is not completed within six (6) months of Comcast's submission of a proper application for utility pole attachments.
 - d) “Final Completion” means the date certified in writing by Comcast that construction of the Network has been completed by Comcast and the Project locations are Serviceable.
 - e) “Network” means the hybrid fiber coaxial cable communications network deploying DOCSIS 3.1 modems, or higher, that Comcast builds in the County.

f) "Serviceable" means that a premise is passed by Network and the occupants of such premise have access to Broadband Service.

2. Term and Termination.

a) This Agreement shall commence on November 15, 2021 ("the Effective Date") and shall expire on the date of Final Completion.

b) This Agreement may be terminated by Grantee or County at any time for a material breach of this Agreement, after written notice and opportunity to cure has been provided to the other Party.

c) Termination of this Agreement by either Party as permitted herein shall not limit the legal rights and remedies otherwise available to the terminating Party.

3. Performance of the Work.

a) The Parties mutually agree and acknowledge that this Agreement is principally intended to address access to and provision of Broadband Service over the same Network that will deliver cable television service in the County. In consideration of the Project funds and in accordance with the terms of this Agreement, Comcast shall undertake and complete the Project, which shall require Comcast to design, build, own, operate, manage and maintain the Network that will provide access to Broadband Service in the County. Upon Final Completion, Comcast will operate the infrastructure funded under this Agreement consistent with the terms of the Cable Franchise Agreement.

b) Comcast shall submit a bi-monthly progress update every 60 days until Project completion and assume the responsibility for the delivery of all updates in a timely and efficient manner to the County.

c) Comcast will, upon completion of the Project, certify that all addresses included in the Project description have access to broadband service, that reliably meets or exceeds 100 Mbps download and at least 20 Mbps upload speeds, and be scalable to a minimum of 100 Mbps symmetrical for download and upload speeds based on future technology advances as required under the Program.

d) Comcast shall achieve Final Completion of the Project by December 31, 2022; provided, however, that the date for Final Completion will be extended for each day of delay caused by the occurrence of an Excusable Delay Event.

e) Comcast acknowledges that it is solely responsible for all Project decisions, the preparation of all plans and specifications, and for developing and completing the Project.

f) Upon Final Completion, Grantee will offer Broadband Service to 21 unserved locations within the County such that those locations become Serviceable. Exhibit A contains a description of the Project area. Upon Final Completion, Comcast will provide the County a list of addresses included in and made Serviceable under the Project.

4. Project Costs

a) The total estimated cost for the Project as described in Exhibit A is ONE HUNDRED FORTY NINE THOUSAND FIVE HUNDRED FORTY FOUR DOLLARS (\$149,544).

b) The County affirms its authority to invest in partnership with Comcast in the Project. The County further affirms the appropriation of funds and commits TWENTY SIX THOUSAND NINE HUNDRED SIXTY TWO DOLLARS (\$26,962) to the Project.

c) The County will also contribute grant funds awarded by DHCD in an amount of EIGHTY NINE THOUSAND SEVEN HUNDRED TWENTY SIX DOLLARS (\$89,726).

d) Comcast will invest up to THIRTY TWO THOUSAND EIGHT HUNDRED FIFTY SIX DOLLARS (\$32,856) to the Project.

5. Project Personnel.

Each party shall provide a written notice to the other party within five (5) business days of the Effective Date identifying persons to serve as Project Managers to support effective communication and to report on the Project's progress. The notice shall include the address, phone, and email address for the Project Manager. Each party shall provide prompt written notice of a change in the Project Manager.

6. Ownership of Project and Service Requirements.

a) Comcast shall retain ownership and have exclusive use of all plant and equipment constructed and deployed in connection with the Project.

b) Comcast shall operate and maintain the Network consistent with appropriate industry standards and offer Broadband Service to Residential Premises and commercial properties that are Serviceable in the County under terms, conditions and prices reasonably consistent with what Comcast offers to subscribers in the remainder of the County.

7. Payment and Invoicing.

a) In consideration of Comcast's agreement to complete the Project as outlined herein, County shall pay to Comcast an amount of ONE HUNDRED SIXTEEN THOUSAND SIX HUNDRED EIGHTY EIGHT DOLLARS (\$116,688) payable as set forth in Section 4. Comcast is responsible for all other costs necessary to complete the Project and to fulfill its other obligations under this Agreement.

b) Reporting/Payment Schedule

i. Comcast shall address payment requests and Project status reports to the County Project Manager.

ii. Comcast shall submit invoices, accompanied by a Project status report, with appropriate supporting documentation, to County, no more frequently than quarterly.

iii. County shall pay Comcast within thirty (30) days of receipt of a request for payment accompanied by a Project status report, with appropriate supporting documentation, describing and certifying to completion of the relevant construction work.

c) The Parties agree that they have a shared interest in pursuing options that would expedite the construction and completion of the Project, in order to accelerate access to Broadband Service in the County. In furtherance of this shared interest, the Parties shall cooperate to identify appropriate mechanisms to accelerate the Project, including but not limited to assisting in expediting necessary permits.

8. Records Review and Retention.

County will have the right to examine Comcast's records relating to the Project at reasonable intervals to confirm Comcast's compliance with the requirements of this Agreement, including but not limited to, completion of the Project. Comcast shall maintain books and records related to the Project for a period of three (3) years starting on the first day after final payment under this Agreement (the "Retention Period"). If any litigation, claim, negotiation, audit or other action involving the records is commenced prior to the expiration of the Retention Period, all records shall be retained until completion of the audit or other action and resolution of all issues resulting therefrom, or until the end of the Retention Period, whichever is later.

9. Nondiscrimination.
Comcast agrees to comply with all applicable federal and state statutes, rules and regulations promoting fair employment practices or prohibiting employment discrimination and unfair labor practices and shall not discriminate in the hiring of any applicant for employment nor shall any qualified employee be demoted, discharged or otherwise subject to discrimination in the tenure, position, promotional opportunities, wages benefits or terms and conditions of their employment because of race, color, national origin, ancestry, age, sex, religion, disability, handicap, sexual orientation, gender identification, or for exercising any rights afforded by law.
10. Indemnification.
To the fullest extent permitted by law, Comcast shall indemnify and hold harmless the County from and against any and all liability, loss, claims, damages, fines, penalties, costs and expenses (including reasonable attorney's fees), judgments and awards (collectively, "Damages") sustained, incurred or suffered by the County resulting from (i) any breach of this Agreement or false representation of Comcast under this Agreement, or (ii) any negligent acts or omissions or reckless misconduct of Comcast. Without limiting the foregoing, Comcast shall indemnify and hold harmless County against any and all Damages that may arise out of or are imposed because of the failure to comply with the provisions of applicable law by Comcast or any of its agents, officers, directors, employees or subcontractors arising from the performance of its obligations under this Agreement. The foregoing notwithstanding, Comcast shall not be liable for (i) any Damages sustained, incurred or suffered by or imposed upon the County resulting from any negligent acts or omissions or reckless misconduct of the County, and (ii) except for liability for death or personal injury caused by the negligence or willful misconduct of Comcast or for claims of infringement of a third party's intellectual property by Comcast, the aggregate liability of Comcast under this Agreement shall not exceed the greater of the amount of the Project funds or the amount recovered under any applicable insurance coverage.
11. Force Majeure.
Neither party shall be liable to the other or be deemed to be in breach of this Agreement for any failure or delay in rendering performance arising out of causes beyond its reasonable control and without its fault or negligence. Such causes may include, but are not limited to, acts of God or of a public enemy, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, or unusually severe weather.
12. Waivers.
Conditions, covenants, duties and obligations contained in this Agreement may be waived only by written agreement between the parties. Forbearance or indulgence in any form or manner by a party shall not be construed as a waiver, nor in any way limit the remedies available to that party.
13. Notice.
Any notice provided in accordance with this Agreement shall be in writing and shall be sent by electronic mail to the Project Manager with a copy sent to the individuals listed below. Any notice shall be deemed delivered and received when submitted in writing in person or when delivered by any other appropriate method evidencing actual receipt by the receiving party.

If for the County, to:

Evelyn H. Jacobson
Chief Information Officer
Charles County Government

200 Baltimore Street
La Plata, MD 20646
With courtesy email to: jacobsoe@charescountymd.gov

and

Wes Adams, Esq.
County Attorney
Charles County Government
200 Baltimore Street
La Plata, MD 20646
With courtesy email to: adamsw@charlescountymd.gov

14. Certification

Comcast shall execute the Certification Prohibiting the Use of Federal Funds for Lobbying attached as Exhibit B, as required by the DHCD Memorandum.

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

COMCAST

COUNTY COMMISSIONERS OF CHARLES COUNTY



Name: Kevin Broadhurst

Name: Reuben B. Collins, II, Esq.

Title: Vice President, Government Affairs

Title: President, Charles County Board of Commissioners

Date: January 14, 2022

Date: Feb 3, 2022

Waverly Point Project Addresses

13600 WAVERLY POINT RD
13625 WAVERLY POINT RD
13650 WAVERLY POINT RD
13655 WAVERLY POINT RD
13700 WAVERLY POINT RD
13750 WAVERLY POINT RD
13755 WAVERLY POINT RD
13785 WAVERLY POINT RD
13800 WAVERLY POINT RD
13805 WAVERLY POINT RD
13820 WAVERLY POINT RD
13825 WAVERLY POINT RD
13850 WAVERLY POINT RD
13855 WAVERLY POINT RD
13870 WAVERLY POINT RD
13875 WAVERLY POINT RD
13890 WAVERLY POINT RD
13920 WAVERLY POINT RD
13940 WAVERLY POINT RD
13945 WAVERLY POINT RD
13970 WAVERLY POINT RD

**CERTIFICATION PROHIBITING THE USE OF FEDERAL FUNDS
FOR LOBBYING**

Grantee hereby certifies that to the best of its knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. Undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any persons who fail to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each failure.

Comcast of Maryland, LLC
Full Name of Entity Making this Certification



Authorized Signature for Entity

Date 10/26/21

Kevin C. Broadhurst, Vice President
Government and Regulatory Affairs



August 5, 2021

Kenrick M. Gordon, P.E.
Director, Governor's Office of Rural Broadband
Maryland Department of Housing and Community Development
7800 Harkins Road
Lanham, MD 20706

Project Title: "Charles County Rural Projects" (Banks O'Dee Road; Belle Ridge, Cameron Ridge, Oaks Road; Serenity Woods; and Waverly Point Road projects)
Local Jurisdiction Partner: Charles County, MD

Dear Mr. Gordon:

This is to certify, to the best of undersigned's knowledge, professional experience, and belief, that the above-referenced broadband investment project cannot practically deliver service speeds of 100 Mbps down and 100 Mbps up, by reason of the following (*select at least one*):

- Geography
- Topography
- Excessive Costs

Rationale:

The Charles County Rural Projects includes 151 locations. The project cost and the associated deployment timeline, developed prior to the change in the funding source, is based on an extension of the adjacent hybrid fiber coax plant. Under these circumstances, it is not practicable, because of the cost of the substantial and excessive plant modifications that would be needed to facilities outside of the project area, to deliver the speeds referenced above in the project area at the estimated cost or on schedule. The infrastructure being deployed will exceed the 100 Mbps and 20 Mbps referenced below and is scalable to achieve the required speeds based over time. Comcast understands that if granted an exemption from the 100/100 standard, this project will nonetheless be expected to be designed to deliver, upon project completion, service that reliably meets or exceeds 100 Mbps download and at least 20 Mbps upload speeds, and be scalable to a minimum of 100 Mbps symmetrical for download and upload speeds based on future technology advances.

Comcast further acknowledges that this certification is a material representation of fact upon which reliance was placed by the State of Maryland in approving the above-referenced Local Jurisdiction Partner's application for funding regarding this project.

Sincerely,

A handwritten signature in blue ink, appearing to read "K. Broadhurst", is centered on the page. The signature is fluid and cursive.

Kevin Broadhurst
Vice President, Government Relations
Comcast, Beltway Region