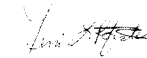
		<b>Agenda Sheet for City Council Meeting of:</b>		<b>Date Rec'd</b>	5/2/2023
		05/08/2023		<b>Clerk's File #</b>	OPR 2023-0490
				<b>Renews #</b>	
<b>Submitting Dept</b>	COMMUNITY AND ECONOMIC		<b>Cross Ref #</b>		
<b>Contact Name/Phone</b>	ERIC FINCH X6455		<b>Project #</b>		
<b>Contact E-Mail</b>	EFINCH@SPOKANECITY.ORG		<b>Bid #</b>		
<b>Agenda Item Type</b>	Contract Item		<b>Requisition #</b>		
<b>Agenda Item Name</b>	0750 - SPOKANE COUNTY AND STATE BROADBAND ACTION TEAM ILA				
<b>Agenda Wording</b>					
AN INTERLOCAL AGREEMENT BETWEEN THE CITY OF SPOKANE AND THE SPOKANE REGIONAL BROADBAND DEVELOPMENT AUTHORITY REGARDING NECESSARY OPEN ACCESS BROADBAND INFRASTRUCTURE, SERVICES, DELIVERY ENHANCEMENTS, AND DIGITAL EQUITY SOLUTIONS					
<b>Summary (Background)</b>					
The City of Spokane has been working with Spokane County and the Broadband Action Team, led by Ariane Schmidt, to submit a report to the state to obtain funding for expansion of fiber/broadband in Spokane County and City. The County has formed the broadband regional public development authority, BROADLINC. BROADLINC was created to focus on the expansion of broadband access and digital equity regionwide, including within the City of Spokane.					
Lease?	NO	Grant related?	NO	Public Works?	NO
<b>Fiscal Impact</b>			<b>Budget Account</b>		
Neutral	\$			#	
Select	\$			#	
Select	\$			#	
Select	\$			#	
<b>Approvals</b>			<b>Council Notifications</b>		
<b>Dept Head</b>	MACDONALD, STEVEN		<b>Study Session\Other</b>	Finance &	
<b>Division Director</b>	MACDONALD, STEVEN		<b>Council Sponsor</b>	CMs Cathcart &	
<b>Finance</b>	ORLOB, KIMBERLY		<b>Distribution List</b>		
<b>Legal</b>	SZAMBELAN, TIMOTHY		efinch@spokanecity.org		
<b>For the Mayor</b>	KIRK, JESSICA		smacdonald@spokanecity.org		
<b>Additional Approvals</b>			Signer: AESCHMIDT@spokanecounty.org (Ariane)		
<b>Purchasing</b>			joe@joepoire.com		
			chris.walker@noanet.net		
			sbishop@spokanecity.org		

Approved by Spokane City Council on: 5/8/2023



City Clerk



## Continuation of Wording, Summary, Budget, and Distribution

### Agenda Wording

### Summary (Background)

If approved, the City of Spokane will have a seat on the BROADLINC Board and operational efforts near-term will focus on planning and capturing digital equity information for a statewide report for the Federal Government as a pre-requisite to funding availability later this year. BROADLINC will then facilitate grant proposal response, implementation of additional digital infrastructure to provide pathways for unserved and underserved populations as well as the ability to leverage currently available City of Spokane broadband assets. This will result in additional revenue source for the City of Spokane and Economic Development PDAs (\$3R3, NEPDA and UD).

### Fiscal Impact

Select     \$

Select     \$

### Budget Account

#

#

### Distribution List


## Committee Agenda Sheet

### Finance & Administration Committee

<b>Submitting Department</b>	Community and Economic Development, Innovation and Technology
<b>Contact Name</b>	Steve MacDonald, Eric Finch, Ariane Schmidt (County/BROADLINC)
<b>Contact Email &amp; Phone</b>	efinch@spokanecity.org
<b>Council Sponsor(s)</b>	CM Cathcart, CM Wilkerson
<b>Select Agenda Item Type</b>	<input checked="" type="checkbox"/> Consent <input type="checkbox"/> Discussion    Time Requested: 10-15 min
<b>Agenda Item Name</b>	Spokane County and State Broadband Action Team update and ILA
<b>Summary (Background)</b>  *use the Fiscal Impact box below for relevant financial information	<p>Update from Ariane Schmidt, Acting Executive Director for the broadband regional public development authority, BROADLINC and Spokane Broadband Action Team (BAT)Lead regarding potential membership of the City of Spokane in the PDA. BROADLINC was created to focus on the expansion of broadband access and digital equity regionwide including within the City of Spokane. This is related to the briefing done by Steve MacDonald a few weeks ago on the broadband grant opportunities with one goal of highlighting the joint planning and process the County, City of Spokane, and other jurisdictions regionally are doing.</p> <p>The City of Spokane will have a seat on the BROADLINC Board and operational efforts near-term will focus on planning and capturing digital equity information for a statewide report for the Federal Government as a pre-requisite to funding availability later this year. BROADLINC will then facilitate grant proposal response, implementation of additional digital infrastructure to provide pathways for unserved and underserved populations as well as the ability to leverage currently available City of Spokane broadband assets. This will result in additional revenue source for the City of Spokane and Economic Development PDAs (S3R3, NEPDA and UD)</p>
<b>Proposed Council Action</b>	Approval of the BROADLINC member city ILA and support of the regional planning process and participation in helping define the digital equity needs for our community. Upon support, would request being able to fast track ILA council approval at the April 24 <sup>th</sup> meeting to allow CITY member to be part of May PDA board sessions.
<b>Fiscal Impact</b> Total Cost: <u>TBD</u> Approved in current year budget? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input checked="" type="checkbox"/> N/A No cost to join PDA. Costs seen to be grant funded with new future revenue or grant opportunities, with more information to be presented in May/June. Funding Source <input type="checkbox"/> One-time <input type="checkbox"/> Recurring Specify funding source: Federal and State grants  Expense Occurrence <input type="checkbox"/> One-time <input type="checkbox"/> Recurring N/A Other budget impacts: (revenue generating, match requirements, etc.)	
<b>Operations Impacts</b> (If N/A, please give a brief description as to why)	

What impacts would the proposal have on historically excluded communities?

Primary focus is on digital equity and access, to provide quality internet access for all. Specifically targets unserved and underserved populations.

How will data be collected, analyzed, and reported concerning the effect of the program/policy by racial, ethnic, gender identity, national origin, income level, disability, sexual orientation, or other existing disparities?

Public information from the federal, state, and local level will be used in a de-identified manner to ensure the most accurate understanding of all internet connection points in our area, the level of access and choice, and the relative equity and economic geographic data to help develop a map of areas that are unserved, underserved, and have digital equity challenges that help support the need for grant funding.

How will data be collected regarding the effectiveness of this program, policy or product to ensure it is the right solution?

Measurements are defined by the National Telecommunications and Information Administration (NTIA) and Broadband Equity, Access and Deployment (BEAD) program requirements that include, but are not limited to the increase of choices to unserved, underserved, increase of participation in existing programs for internet access, increase in average bandwidth available, and cost.

Describe how this proposal aligns with current City Policies, including the Comprehensive Plan, Sustainability Action Plan, Capital Improvement Program, Neighborhood Master Plans, Council Resolutions, and others?

This program can lead to significant new grant investment, and new revenues from publicly owned broadband assets, to increase digital equity and access, lower cost for consumers, facilitate remote needs for employment, tele-health, and education, and provide future opportunity for economic development.

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

**THIS INTERLOCAL AGREEMENT** (this “Agreement”) is entered into this 8<sup>th</sup> day of May, 2023 (the “Effective Date”) by and between the **CITY OF SPOKANE**, a Washington State municipal corporation, having offices for the transaction of business at 808 West Spokane Falls Blvd. Spokane, WA 99201(as the “CITY”), and the **SPOKANE REGIONAL BROADBAND DEVELOPMENT AUTHORITY** , a quasi-municipal corporation created pursuant to RCW 35.21.730 - .755, having offices for the transaction of business at 1026 W Broadway Ave, Spokane, WA 99201 (as “BROADLINC”), who are hereinafter referred to as the “PARTIES.”

**WITNESSETH:**

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

WHEREAS,

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

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

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

WHEREAS, Resolution 2022-0845 and the Charter anticipate that various cities and towns will enter into interlocal agreements with BROADLINC for the sole purpose of planning, creating and maintaining regional broadband infrastructure capacity and service delivery expansion to such entities; and

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

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

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

**NOW, THEREFORE,** the PARTIES hereby agree as follows:

**SECTION NO. 1:    PURPOSE**

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

**SECTION 2:        RESPONSIBILITIES OF THE PARTIES**

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

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

- a)    Oversee assets of BROADLINC. Additionally, and upon mutual agreement by the PARTIES, the CITY may convey, lease, and/or allow joint use of CITY owned broadband infrastructure to BROADLINC.

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

**SECTION NO. 3: DURATION**

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

**SECTION NO. 4: COMPENSATION**

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

**SECTION NO. 5: RELATIONSHIP OF THE PARTIES**

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

**SECTION NO. 6: LIABILITY**

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

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

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

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

## **SECTION NO. 7: NOTICES**

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

**CITY:** Mayor or designee  
CITY OF SPOKANE



808 West Spokane Falls Blvd  
Spokane, Washington 99201

**BROADLINC:** Executive Director  
BROADLINC Public Development  
1116 West Broadway Ave  
Spokane, WA 99260

**SECTION NO. 8: ANTI-KICKBACK**

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

**SECTION NO. 9: TERMINATION**

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

**SECTION NO. 10: MISCELLANEOUS**

- A. **NON-WAIVER:** No waiver by either party of any of the terms of this Agreement shall be construed as a waiver of the same or other rights of that party in the future.
- B. **HEADINGS:** Headings are inserted for convenience of reference only and are not to be deemed part of or to be used in construing this Agreement.
- C. **ENTIRE AGREEMENT:** This Agreement contains the entire understanding of the PARTIES. No representation, promises, or agreements not expressed herein have been made to induce either party to sign this Agreement.
- D. **MODIFICATION:** No modification or amendment to this Agreement shall be valid until put in writing and signed with the same formalities as this Agreement.
- E. **ASSIGNMENT:** This Agreement shall be binding upon the PARTIES, their successors and assigns. Neither party may assign, transfer, or subcontract its interest in this Agreement without the written approval of the other party.
- F. **SEVERABILITY:** In the event any portion of this Agreement should become invalid or unenforceable, the rest of the Agreement shall remain in full force and effect.
- G. **COMPLIANCE WITH LAWS:** The PARTIES shall observe all federal, state and local laws, ordinances and regulations, to the extent that they may be applicable to the terms of this Agreement.

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

#### **SECTION NO. 11: RCW 39.34 REQUIRED CLAUSES**

- A. **PURPOSE:** See Section No. 1 above.
- B. **DURATION:** See Section No. 3 above.
- C. **ORGANIZATION OF SEPARATE ENTITY AND ITS POWERS:** No new or separate legal or administrative entity will be created to administer the provisions of this Agreement.
- D. **RESPONSIBILITIES OF THE PARTIES:** See Section No. 2 above.
- E. **AGREEMENT TO BE FILED:** The CITY shall file this Agreement with its City Clerk or place it on its web site or other electronically retrievable public source.
- F. **FINANCING:** To the extent applicable, each party shall be responsible for the financing of its contractual obligations under its normal budgetary process.
- G. **TERMINATION:** See Section No. 9 above.
- H. **PROPERTY UPON TERMINATION:** Title to all property acquired by BROADLINC under this Agreement shall remain with BROADLINC, unless otherwise provided for in Ordinance No. 2022-0845 or as otherwise agreed to by the PARTIES.

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



CITY OF SPOKANE

By: *Yvonne Steward*  
Its: Mayor

Attest:

*Lera H. H. H.*  
CITY Clerk

Approved as to form:

*[Signature]*  
Assistant CITY Attorney

BROADLINC

By: *Mary L. Koney*  
Its: Chair of Broadline

**EXHIBIT A**

(Resolution 2022-0845) *SMUC*

*Exhibit B*

*(PDA Charter) muk*

*Addendum C muk*

**EXHIBIT B**

(PDA Charter) *mic*

Addendum C  
(as attached)

*mic*

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

**ADDENDUM C**

**THIS ADDENDUM TO THE INTERLOCAL AGREEMENT** is entered into this 8<sup>th</sup> day of May, 2023 (the "Effective Date") by and between the **CITY OF SPOKANE**, a Washington State municipal corporation, having offices for the transaction of business at 808 West Spokane Falls Blvd. Spokane, WA 99201 (as the "CITY"), and the **SPOKANE REGIONAL BROADBAND DEVELOPMENT AUTHORITY**, a quasi-municipal corporation created pursuant to RCW 35.21.730 - .755, having offices for the transaction of business at 1026 W Broadway Ave, Spokane, WA 99201 (as "BROADLINC"), who are hereinafter referred to as the "PARTIES."

WHEREAS, the parties entered into an interlocal agreement regarding necessary open access broadband infrastructure, services delivery enhancement and digital equity solution and desire to add an addendum to the agreement as set forth below.

NOW, THEREFORE, the Parties hereby agree to add this addendum to the interlocal agreement as follows:

**SECTION NO. 1: EXECUTIVE SUMMARY**

**CITY OF SPOKANE BENEFITS AND VALUE FOR PARTICIPATION IN BROADBAND INFRASTRUCTURE AND DIGITAL EQUITY AS PART OF REGIONAL EFFORT**

A. The City of Spokane has a significant opportunity to be a primary partner and assist in making major investments in fiber infrastructure to better influence and solve the digital divide in our communities, better connect community facilities, organizations, and operational infrastructure, facilitate large-scale third-party fiber investment, positively influence the digital infrastructure environment to encourage economic development, and provide large scale 100GB+ internet bandwidth into the region for current and future community needs.

B. The City of Spokane's goals match the regional efforts, and we are well positioned to mutually benefit from ongoing partnership with the BROADLINC PDA:

- Promote affordable high speed broadband access and equity
- Continues multi-agency partnership for economic and workforce development
- Builds community digital resiliency to ensure education, employment, healthcare, public and private sector services can be responsive and always available

- Put Spokane “on the digital map” for digital infrastructure and broadband service capability to be seen as a digital leader in the Pacific Northwest

C. The City of Spokane’s digital strategy last updated in 2021 is to guide and inform investment and partnership in these areas:

- Connect current and future partner services including public safety, justice, transportation, healthcare, workforce development, and other public services
- Position the City of Spokane as a peer partner in digital infrastructure to enable connections at lower cost while minimizing new street disruption
- Leverage conduit and fiber assets to provide revenue to maintain and expand
- Become a critically needed tool for economic development and business attraction in our Public Development Authorities (PDAs) and Citywide
- Facilitate significantly more high-speed bandwidth into the region
- Create resiliency in our digital infrastructure by providing three routes out of region including eastward to ensure high availability

D. The City of Spokane has an extensive physical network of over 240 miles of conduit and fiber with these characteristics:

- Over 10 active and planned lease agreements to telecommunications providers and other government, education, non-profit, and quasi-government partners generating revenue or in-kind exchange of services.
- Active Tier 2 internet service provider with an active internet exchange point since 2018 that can provide connection services today up to 10GB
- Active programs targeting digital divide, access, and literacy through our Library
- Active programs and staff committed to ongoing digital infrastructure investment
- Ongoing planning and investment in digital infrastructure development including for our Public Development Authorities
- Advocated for greater regional broadband access and investment including economic development needs since 2017.

E. The City of Spokane, in leveraging it’s current digital assets, staff, and expertise for a regional approach advocates an enduring board position from the City of Spokane (or any large-scale asset provider) as a primary contributor and planner of digital infrastructure and broadband assets in the region and specifically for the City of Spokane, Urban Growth Area (UGA), Utility Service Area, and any joint Public Development Authorities (PDAs) where significant involvement in utility infrastructure already exists or is planned.

RESOLUTION NO. **22 - 0845**

**A RESOLUTION CREATING SPOKANE REGIONAL BROADBAND DEVELOPMENT AUTHORITY (BROADLINC); APPROVING A CHARTER THEREFOR; ESTABLISHING A BOARD TO GOVERN THE AFFAIRS OF BROADLINC; PROVIDING HOW BROADLINC SHALL CONDUCT ITS AFFAIRS; AND OTHER MATTERS RELATING THERETO.**

**WHEREAS**, pursuant to the Constitution and laws of the State of Washington, Spokane County, Washington is a class A county duly organized and existing (“Spokane County”); and

**WHEREAS**, pursuant to the provisions of the Revised Code of Washington (“RCW”) 36.01.030, the powers of Spokane County can only be exercised through the Board of County Commissioners of Spokane County, Washington (“Board of County Commissioners”); and

**WHEREAS**, pursuant to the provisions of RCW 36.32.120(6), Spokane County, acting through the Board of County Commissioners has the care of county property and the management of county funds and business; and

**WHEREAS**, pursuant to the provisions RCW 43.330.530 through RCW43.330.538, Spokane County may coordinate with local governments, tribes, public and private entities, nonprofit organizations, and consumer-owned and investor-owned utilities to develop strategies and plans promoting deployment of broadband infrastructure and greater broadband access, while protecting proprietary information. The purpose of such actions being to encourage, foster, develop, and improve affordable, quality broadband accessibility for underserved, and unserved communities and populations in Spokane County; and

**WHEREAS**, the Spokane County recognizes that Digital Equity Act provides \$2.75 billion to establish three grant programs that promote digital equity and inclusion which aim to ensure that all people and communities have the skills, technology, and capacity needed to reap

the full benefits of our digital economy. The Act is a necessary component of broadband access for constituents within incorporated and unincorporated areas of the Spokane County; and

**WHEREAS**, Spokane County, acting through the Board of County Commissioners, desires to create a public development authority that will (i) oversee acquisition of broadband assets/infrastructure, as lead or co-applicant (where most appropriate), on behalf of member cities and towns of Spokane County, (ii) administer broadband assets/infrastructure for shared use and benefit with the participating cities, towns and areas, and (iii) insure necessary broadband infrastructure and services delivery enhancements are available; and

**WHEREAS**, Spokane County anticipates that various cities and towns will enter into interlocal cooperation act agreements with the Public Development Authority created by this document for the sole purpose of regional broadband infrastructure capacity and services delivery expansion to such entities; and

**WHEREAS**, the Board of County Commissioners of Spokane County, Washington, is desirous of considering the creation of a public development authority as authorized under RCW 35.21.730 through RCW 35.31.759 for the hereinabove purposes and finds the adoption of this Resolution will further the general public health, safety, welfare and economic development opportunity.

**NOW, THEREFORE, BE IT ORDERED AND RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF SPOKANE COUNTY, STATE OF WASHINGTON, PURSUANT TO THE PROVISIONS OF RCW 35.21.730 THROUGH RCW 35.21.759 AS FOLLOWS:**

A new chapter hereby added to the Spokane County Code to read as follows:

**SPOKANE REGIONAL BROADBAND PUBLIC DEVELOPMENT AUTHORITY**



**SECTION NO. 1: Purpose.**

As authorized by RCW 35.21.730 through RCW 35.21.759, a public authority, to be known as "SPOKANE REGIONAL BROADBAND DEVELOPMENT AUTHORITY (hereinafter (BROADLINC)", is hereby created exclusively to undertake, assist with, and otherwise facilitate the public function of providing broadband infrastructure and services delivery enhancements, including but not limited to, terrestrial middle-mile and last-mile access, wireless relay points, satellite connection and other associated known and future technologies, as well as performing any other public function relating to providing such infrastructure services, delivery enhancements, including but not limited to:

1. Own, contract for the operation and management of and oversee assets of BROADLINC.
2. Oversee and administer any grant awards in conjunction with other joint applicants and/or subrecipients.
3. Contract with and oversee the Operating Entity for service delivery of Dark Fiber owned by BROADLINC.
4. Enter into agreements under the ILA with Member Entities to provide broadband infrastructure and services within the jurisdictional boundaries of such entities.
5. Oversee BROADLINC's budget and ensure Member Entities timely receive appropriate revenues.
6. Pursue ongoing applicable funding, grants, and loans and other customary businesses opportunities for enhanced broadband service delivery in infrastructure enhancement and assurance of Digital Equity and Inclusion.
7. Oversee the expansion of BROADLINC through the inclusion of additional participating municipal corporations, public entities, or municipalities (*i.e.* cities, towns, municipal

corporations, public utility districts, quasi-municipal corporations, and special purpose districts).

8. Lead strategic direction for broadband delivery, infrastructure and enhancing for the region, with the State Broadband Office, Federal units and private sector integrations.
9. Participate, as appropriate, in public – private partnerships discussion, such as franchise agreements related to the broadband industry within Spokane County.

For the purpose of receiving the same immunities or exemptions from taxation as that of the County, BROADLINC constitutes a public agency and a creation of the County (within the meaning of Article VII, § I of the Constitution of the state of Washington and within the meaning of those terms in regulations of the United States Treasury and rulings of the Internal Revenue Service prescribed pursuant to Section 103 of the Internal Revenue Code of 1986, as amended).

**SECTION NO. 2: Definitions.**

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

- (1) "BROADLINC Governing Board" or "Board" means the governing body of BROADLINC.
- (2) "Bylaws" means the rules adopted for the regulation or management of the affairs of BROADLINC and all subsequent amendments thereto.
- (3) "Operating Entity" means the entity performing the operational services to maintain broadband assets and services including the use of Dark Fiber strands.
- (4) "ISP" means private sector Internet Services Provider that provides the ability for a user to send information to and receive information from the internet for business and personal use.
- (5) "Middle-Mile" means the segment of internet connectivity that connects the global internet

network to the last mile. It is often delivered via high-speed fiber. Middle-mile networks service as a backbone for a specific region.

(6) "Digital Equity and Inclusion" means the Broadband Equity, Access, and Deployment ("BEAD") program as part of the Infrastructure Investment and Jobs Act ("IIJA").

(7) "Charter" means the charter as the governing document of BROADLINC adopted by this chapter and all subsequent amendments thereto.

(8) "County" means Spokane County.

(9) "Clerk" means the clerk of the Board of County Commissioners or a person authorized to act on such officer's behalf.

(10) "Final action" of the BROADLINC Board means a collective positive or negative decision or an actual vote by a vote of a majority of voting members of the BROADLINC Board.

(11) "Property" shall have the same meaning as in Article VII, § 1 of the Washington State Constitution, and includes real and personal property, equipment and furnishings, cash, accounts receivable, and anything tangible or intangible that is capable of being owned or controlled to produce value or generate cash flow.

(12) "Public authority" or "authority" means the authority created under this chapter.

(13) "Public agency" means any agency, political subdivision, or unit of local government of the State including, but not limited to, municipal corporations, quasi municipal corporations, special purpose districts, and local service districts; any agency of the State government; any agency of the United States; any Indian tribe recognized as such by the federal government.

(14) "Resolution" means a final action of a quorum of the Board, evidenced by a written instrument signed by the chair of the Board.

(15) "State" (when used as a noun) shall mean the State of Washington.

(16) “Dark Fiber” means fiber optical cable that is not provisioned with lit services for fiber optic communication.

(17) “Monthly Reoccurring Charge” or “MRC” means the monthly fee charged to access BROADLINC dark fiber by a telecommunications provider.

(18) “Interlocal Cooperation Act” or “ILA” means chapter 39.34 RCW, as it may be amended from time to time.

(19) “Net Operating Revenue” means the excess funds BROADLINC has remaining for allocation back to eligible Member Entities after (i) paying the Operating Entity, (ii) paying for BROADLINC operating expenses, and (iii) paying for capital uses and establishment of a capital reserve or as otherwise determined appropriate by the BROADLINC Board.

(20) “Member Entities” means special purpose district, municipal corporation, political subdivisions, or other public or private entities or organizations, with an executed ILA with BROADLINC.

(21) “Broadband Action Team” or “BAT” means the unique group established for Spokane County with the Washington State University Extension and Washington State Broadband Office for community engagement to discuss broadband challenges and opportunities, which lead to local capacity building through increased broadband awareness, access and adoption need and highest demand.

**SECTION NO. 3: General powers.**

Except as limited by the Constitution of the State, laws, regulations, charter, or this chapter, BROADLINC shall have and may exercise all lawful powers necessary or convenient to affect the purposes for which BROADLINC is organized, including the powers listed in this section.

(1) Acquire, construct, own, sell, lease, exchange, encumber, improve, use, transfer, or

grant security interest in real, personal and intellectual property.

(2) Contract with public and private entities.

(3) Employ and terminate (with or without cause) an Executive Director and personnel and contract for personnel and services with public and private entities.

(4) Accept transfers, gifts, or loans of funds or property.

(5) Sue and be sued.

(6) Incur indebtedness and issue bonds and other instruments evidencing indebtedness with prior approval of the County.

(7) Transfer funds, property, property interests, or services.

(8) Exercise any other powers that are consistent with the purpose for which BROADLINC is organized, and are within the express, or implied authority granted by the County subject to the limitation in Section 5 hereinafter including but not limited to:

(a) creation of a strategic plan from which all operational activities flow,

(b) determining how allocated revenues, if any, from the Board of County Commissioners, as well as other revenues collected and/or administered by BROADLINC are expended,

(c) approval of operational and capital budgets for broadband infrastructure and service delivery, and other services provided by BROADLINC paid for in whole or part by revenue sources collected and/or administered by BROADLINC, and

(d) establish a Dark Fiber lease rate and other related assessments or Monthly Reoccurring charge (MRC), and

(9) Make direct operational decisions with respect to the assets owned and service contracts to operate and utilize such assets.

**SECTION NO. 4: Liability.**

BROADLINC is an independent legal entity exclusively responsible for its own debts, obligations and liabilities. All liabilities incurred by BROADLINC shall be satisfied exclusively from the assets and property of BROADLINC. No creditor or other person shall have any recourse to the assets, credit, or property of the County or other entity on account of any debts, obligations, liabilities, acts, or omissions of BROADLINC, unless otherwise expressly agreed to in writing by the County or other entity.

**SECTION NO. 5: Limitation of powers.**

In all activities and transactions, BROADLINC shall be limited as provided in this section.

(1) BROADLINC shall have no power of eminent domain or any power to levy taxes or special assessments.

(2) BROADLINC shall have no power to incur or create any liability that permits recourse by any party or member of the public to any assets, services, resources, or credit of the County or any parties under contract with BROADLINC. All liabilities incurred by BROADLINC shall be satisfied exclusively from the assets and property of BROADLINC, and no creditor or other person shall have any recourse to the assets, credit, or property of the County or any party under contract with BROADLINC on account of any debts, obligations, liabilities, acts or omissions of BROADLINC, unless expressly agreed to in writing by the County or party. The powers, authorities, or rights expressly or impliedly granted to BROADLINC shall not be less than and shall be subject to the County's expressed or implied powers.

(3) BROADLINC is subject to all general laws regulating the County and its officers and officials, including, but not limited to:

- (a) Audits by the State Auditor and accounting requirements in chapter 43.09 RCW;
- (b) Open public record requirements in chapter 42.56 RCW;

- (c) Open public meetings and other public process laws in chapter 42.30 RCW;
- (d) Preservation and destruction of public records in chapter 40.14 RCW;
- (e) Public works requirements in chapter 39.04 RCW;
- (f) Competitive bidding and prevailing wage laws in chapter 39.04 RCW;
- (g) Local government whistleblower laws in chapter 42.41 RCW;
- (h) The prohibition on using public facilities for campaign purposes in chapter 42.17A RCW;
- (i) The Code of Ethics for Municipal Officers-Contract Interests in chapter 42.23 RCW;
- (j) Payments and Advancements in chapter 42.24 RCW;
- (k) The provisions of chapter 4.96 RCW for actions against BROADLINC and its Board, officers, employees, and volunteers; and
- (l) Sale or encumbrance of any real property transferred by the County to the BROADLINC in RCW 35.21.747.

**SECTION NO. 6: Charter.**

The Charter of BROADLINC is attached hereto as Exhibit A. The Charter shall be issued in duplicate originals, each bearing the signatures of a majority of the members of the Board of County Commissioners and attested by the Clerk. One original shall be filed with the Clerk with this resolution; a duplicate original shall be provided to BROADLINC.

**SECTION NO. 7: Effect of issuance of Charter.**

BROADLINC shall commence its existence effective upon issuance of its Charter. Except as against the State or the County in a proceeding to cancel or revoke the Charter, delivery of a duplicate original Charter shall conclusively establish that BROADLINC has been established in compliance with the procedures of this chapter. A copy of the Charter, and any amendments

thereto, shall be provided to the State Auditor.

**SECTION NO. 8: BROADLINC Governing Board / Subcommittees.**

All corporate powers of BROADLINC shall be exercised by or under the authority of the BROADLINC Governing Board (the "Board"); and the business, property and affairs of BROADLINC shall be managed under the supervision of the Board, except as may be otherwise provided by law, this chapter, or the Charter.

(1) The members of the Board shall be as provided in the Charter. The Board shall be composed as follows:

- a) One (1) Spokane County Commissioner
- b) Spokane County Chief Executive Officer
- c) Spokane County Public Works Director
- d) One (1) Elected Representative appointed jointly from the towns and/or cities having recorded populations under 50,000, as determined by the most recent US Census, and having executed an Interlocal Cooperation Act Agreement with BROADLINC for services
- e) One (1) Elected Representative appointed jointly from the cities having a recorded population over 50,000, as determined by the most recent US Census, and having executed an Interlocal Cooperation Act Agreement with BROADLINC for services

All Board members shall serve without compensation from BROADLINC.

(2) The following two (2) Working Subcommittees shall be established by the Board which shall have the following corresponding membership, responsibilities and voting principles where identified:

<b>Working Subcommittee</b>	<b>Membership on Working Subcommittee</b>	<b>Duties of Working Subcommittee</b>
Broadband Action Team	• BROADLINC Executive Director	Monthly Meetings



(BAT)	<ul style="list-style-type: none"> <li>Members listed in the BAT Team</li> </ul>	<ul style="list-style-type: none"> <li>Community and Stakeholder Engagement</li> <li>Community and Stakeholder Communication and Feedback</li> <li>Work with other Washington State BAT Teams</li> </ul>
Finance Committee	<ul style="list-style-type: none"> <li>BROADLINC Executive Director</li> <li>Spokane County Senior Director, Finance and Administration (or representative)</li> <li>BROADLINC Board Member appointed by the Board</li> </ul>	<ul style="list-style-type: none"> <li>Yearly Budget</li> <li>Grant Scope and Budget Responses</li> <li>Dark Fiber Lease and/or MRC Recommendation</li> <li>Update on services contracts</li> </ul>

**SECTION NO. 9: Quorum.**

At all meetings of the Board, a majority of voting members of the Board shall constitute a quorum.

**SECTION NO. 10: Meetings of the Board.**

The Board shall meet as provided in the Charter, but not less than quarterly. Notice of meetings shall be provided as required by chapter 42.30 RCW. Minutes shall be kept in accordance with chapter 42.30 RCW. Members of the Board may participate in a regular or special meeting through the use of any means of remote participation as authorized by law. Any Board member participating in a meeting by such means is deemed to be present in person at the meeting for all purposes including, but not limited to, establishing a quorum.

**SECTION NO. 11: Bylaws.**

Within thirty (30) days after issuance of the Charter, the Board shall hold an organizational meeting, appoint a chair and vice chair, and adopt Bylaws. The Bylaws shall be consistent with the Charter. In the event of a conflict between the Bylaws, this resolution, and the Charter, this resolution shall control, the Charter shall be second in priority, followed by the Bylaws. The power to alter, amend, or repeal the Bylaws or adopt new ones shall be vested in the Board except as otherwise provided in the Charter.

**SECTION NO. 12: Board review and approval of required items.**

- (1) At least quarterly, the Board shall review monthly statements of income and

expenses which compare budgeted expenditures to actual expenditures. The Board shall review all such information at regular meetings, the minutes of which shall specifically note such reviews and include such information.

(2) Review and approval of the Board by resolution shall be necessary for any of the following transactions:

- (a) Transfer or conveyance of an interest in real estate other than release of a lien or satisfaction of a mortgage after payment has been received and execution of a lease.
- (b) Contracting of debts, issuance of notes, debentures or bonds, and mortgaging or pledging of BROADLINC assets or credit to secure the same.
- (c) Donation of money, property, or other assets belonging to BROADLINC.
- (d) Action by BROADLINC as a surety or guarantor.
- (e) Adoption of an annual budget and a separate capital budget, and amendments thereto.
- (f) Certification of annual reports and statements by the state auditor, as required under chapter 43.09 RCW, to be filed with the clerk as true and correct in the opinion of the Board and of its members except as noted.
- (g) Adopting and amending the Bylaws.
- (h) Consistent with chapter 4.96 RCW, adoption of policies and procedures for managing actions against BROADLINC, the Board, officers, employees, and volunteers.
- (i) Instituting legal proceedings in BROADLINC's name.
- (j) Dissolution of BROADLINC, upon approval by two thirds of the entire Board.

- (k) Amending Dark Fiber Lease and/or Monthly Reoccurring Charge (MRC).
- (l) Recommending amendments to the Charter.

**SECTION NO. 13: Charter amendments.**

(1) Proceedings Preliminary to Recommending Amendments to the Charter. Any Board member may propose a Charter amendment(s) (subject to prior approval by the Board as provided in this section) to the County. Final action by resolution of the Board is necessary to consider recommending proposed amendment(s) to the Charter. If the Board approves consideration of a proposed amendment(s) to the Charter, information about the proposed Charter amendment(s), including a copy of the proposed amendment(s) in a format that strikes over material to be deleted and underlines new material and a statement of the amendment's purpose and effect, shall be provided to each member of the Board at least thirty (30) days prior to the meeting at which a vote will be taken on a resolution recommending to the County amending the Charter.

(2) Action Amending the Charter. After the preliminary proceedings described in subsection (1) of this section have occurred, final action upon approval by two thirds of the entire Board may be taken recommending to the County amending the Charter. If the amendment(s) differs materially from the original proposed amendment(s) considered during preliminary proceedings, then the preliminary proceedings described in subsection (1) of this section shall be repeated. After final action recommending amending the Charter, the amended Charter recommendation shall be forwarded to the County for action. The County shall consider any recommendation of the Board received under this Section and either approve, disapprove or modify the recommendation as the County deems appropriate. Any amendment to the Charter shall be issued in duplicate originals, each bearing the signature of

the Chair of the Board of County Commissioners. One original shall be filed with the clerk and a duplicate original shall be forwarded to and retained by BROADLINC. PROVIDED, however this Section shall not in any way limit the ability of the County to amend or modify the Charter at any time without processing an amendment with the Board.

**SECTION NO. 14: Treasurer.**

The Board shall appoint the Spokane County Treasurer to administer a special fund designated "Operating fund of BROADLINC." The appointed treasurer shall be responsible for handling BROADLINC's accounts and finances. The Board shall file a fidelity bond in an amount determined by the Board to be adequate and appropriate covering the actions and omissions of the Treasurer.

**SECTION NO. 15: Funding.**

Funding of BROADLINC operations and activities shall come substantially from: (1) grants, and (2) Dark Fiber Lease and/or Monthly Reoccurring Charge (MRC). BROADLINC shall use all revenues solely as provided for in the Section No. 1 of this Resolution.

**SECTION NO. 16: Audits, inspections, and reports.**

Local government accounting laws, and RCW 43.09.200 through 43.09.2855, shall apply to BROADLINC, and copies of all reports filed with the State Auditor shall be filed contemporaneously with the Clerk. At any reasonable time and as often as the County or State Auditor deem necessary, BROADLINC shall make available for inspection, examination, auditing, and copying all of its records, including but not limited to contracts, invoices, payrolls, personnel records, inventories, and financial records and other relevant records. Consistent with RCW 35.21.745(1), the County shall retain the right to control and oversee BROADLINC's operations and funds in order to correct any deficiency and to assure that its purpose is being

accomplished. This responsibility shall not create any liability for the County. BROADLINC shall honor any request by the County in conjunction with its meeting this statutory responsibility.

**SECTION NO. 17: Insurance.**

BROADLINC shall maintain in full force and effect public liability insurance in an amount sufficient to cover potential claims for bodily injury, death, or disability and for property damage, which may arise in connection with the acts or omissions of BROADLINC naming the County as an additional insured (or equivalent under the terms of the policy/policies).

**SECTION NO. 18: Trusteeship.**

The County may, after a public hearing with notice to BROADLINC, petition the superior court to impose a trusteeship over BROADLINC. Any trustee appointed by the superior court shall take such actions as necessary during the trusteeship to achieve the object thereof as reasonable, including suspend and/or remove BROADLINC officials, manage the assets and affairs of BROADLINC, exercise any and all BROADLINC powers as necessary or appropriate to fulfill outstanding obligations, restore the capability of BROADLINC, and, if so authorized by the superior court, to oversee its dissolution in accordance with RCW 35.21.750.

**SECTION NO. 19: Dissolution.**

(1) The Board may propose to the County that BROADLINC be dissolved. Such proposal must be made by resolution adopted by two-thirds of the entire Board at a regular or special meeting of which thirty (30) days advance written notice was given to each Board member, the Clerk and every Member Entity receiving services by BROADLINC at the time. Information about the proposed dissolution, including the grounds for dissolution and distribution of BROADLINC property, shall be provided to each member of the Board, the

Clerk and every Member Entity of BROADLINC at the time at least fourteen (14) days prior to the meeting at which a vote will be taken on the resolution. Within thirty days of adoption of a resolution approving dissolution of BROADLINC, a copy of the resolution shall be delivered to the Clerk. The County may, after a public hearing, dissolve BROADLINC. Upon dissolution, all BROADLINC property, net of all outstanding liabilities, shall be distributed as set forth in an agreed plan of distribution adopted by a two-thirds of the entire Board.

(2) Upon the action taken under Section 19 (1), the County may, after a public hearing with notice to BROADLINC, petition the superior court to dissolve BROADLINC in accordance with RCW 35.21.750. Upon dissolution of BROADLINC and the winding of its affairs, and as determined by order of the Court, any remaining rights, assets, and property may be transferred to a qualified public entity or entities which will fulfill the purposes for which BROADLINC was chartered. Otherwise, all remaining rights, assets, and property shall vest in the County. Upon completion of dissolution proceedings, the Clerk shall indicate such dissolution by inscription of "charter cancelled" on the Charter of BROADLINC, and the existence of BROADLINC shall cease. The Clerk shall give notice thereof to the State Auditor and to other persons as provided in the dissolution statement.

(3) In the event of the insolvency or dissolution of BROADLINC, the superior court of the county in which BROADLINC is or was operating shall have jurisdiction and authority to appoint trustees or receivers of corporate property and assets and supervise such trusteeship or receivership: Provided, that all liabilities incurred by BROADLINC shall be satisfied exclusively from the assets and properties of BROADLINC and no creditor or other person shall have any right of action against the County on account of any debts, obligations, or liabilities of such public corporation, commission, or authority.

**SECTION NO. 20: Construction and order of precedence.**

This chapter shall be liberally construed so as to effectuate its purposes and the purposes of RCW 35.21.730 through RCW 35.21.759. In the event of an inconsistency between the Charter and this chapter, the inconsistency shall be resolved by giving precedence to this chapter.

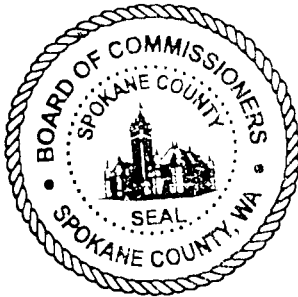
**SECTION NO. 21: Severability.**

If any provision of this resolution or its application to any person or circumstance is held invalid or unconstitutional, the remainder of the resolution or its application to other persons or circumstances shall not be affected.

**SECTION NO. 22: Effective Date.**

This resolution shall be effective upon adoption and passage by the Board of County Commissioners.

**PASSED AND ADOPTED** this 13th day of Dec., 2022.



BOARD OF COUNTY COMMISSIONERS  
OF SPOKANE COUNTY, WASHINGTON

**ABSENT**  
\_\_\_\_\_  
Mary L. Kuney, Chair

*Al French*  
\_\_\_\_\_  
Al French, Vice-chair

ATTEST:

*Ginna Vasquez*  
\_\_\_\_\_  
Ginna Vasquez  
Clerk of the Board

*Josh Kerns*  
\_\_\_\_\_  
Josh Kerns, Commissioner

## **EXHIBIT A**

### **CHARTER OF THE SPOKANE REGIONAL BROADBAND DEVELOPMENT AUTHORITY**

#### **ARTICLE I: NAME**

The name of the Authority shall be SPOKANE REGIONAL BROADBAND DEVELOPMENT AUTHORITY, also known as BROADLINC.

#### **ARTICLE II: AUTHORITY AND LIMIT ON LIABILITY**

**Section II.01. Authority.** BROADLINC is a public corporation organized pursuant to RCW 35.21.730 through 35.21.759, and Resolution No. 22-\_\_\_\_\_ (hereinafter "Resolution") of Spokane County, Washington (the "County").

**Section II.02. Limit on Liability.** All liabilities incurred by BROADLINC shall be satisfied exclusively from the assets and properties of BROADLINC, and no other creditor or other person shall have any right of action against or recourse to the County or any of the parties under contract with BROADLINC, their assets, credit or property on account of any debts, obligations, liabilities or acts or omissions of BROADLINC, unless expressly agreed to in writing by the County or party.

The following disclaimer shall be printed or stamped on all contracts and other documents that evidence any debt by BROADLINC. Failure to display, print or stamp the statement required by this section shall not be taken as creating any liability for any entity other than BROADLINC.

The Spokane Regional Broadband Development Authority ("BROADBAND") is organized pursuant to Resolution No. 22-\_\_\_ of the Board of County Commissioners of Spokane County, Washington (the "County"), as existing or as hereinafter amended, and RCW 35.21.730 through 35.21.755. All liabilities incurred by BROADLINC shall be satisfied exclusively from the assets and properties of BROADLINC and no creditor or other person shall have any right of action against the County or any other entity on account of any debts, obligations, or liabilities of BROADLINC unless expressly agreed to in writing by the County or entity.

RCW 35.21.750 provides as follows: "[A]ll liabilities incurred by such public corporation, commission, or authority shall be satisfied exclusively from the assets and properties of such public corporation, commission, or authority and no creditor or other person shall have any right of action against the city, town, or county creating such corporation, commission, or authority on account of any debts, obligations or liabilities of such public corporation, commission, or authority."

#### **ARTICLE III: DEFINITIONS**

The words and phrases in this Charter shall have the same meanings as defined in the Resolution.

#### **ARTICLE IV: DURATION**

The duration of BROADLINC shall be perpetual except as provided in the Resolution.

#### **ARTICLE V: PURPOSE**



As authorized by RCW 35.21.730 through RCW 35.21.759, BROADLINC is established exclusively to undertake, assist with, and otherwise facilitate the public function of providing broadband infrastructure and services delivery enhancements, including but not limited to, terrestrial middle-mile and last-mile access, wireless relay points, satellite connection and other associated known and future technologies, as well as performing any other public function relating to providing such infrastructure services, delivery enhancements, including but not limited to:

1. Own, contract for the operation and management of and oversee the assets of BROADLINC.
2. Oversee and administer any grant awards in conjunction with other joint applicants and/or subrecipients.
3. Contract with and oversee the Operating Entity for service delivery of Dark Fiber Access owned by BROADLINC by ISPs.
4. Enter into agreements under the ILA with Member Entities to provide broadband infrastructure and services within the jurisdictional boundaries of such entities.
5. Oversee BROADLINC's budget and ensure Member Entities timely receive appropriate revenues.
6. Pursue ongoing applicable funding, grants, and loans and other customary businesses opportunities for enhanced broadband service delivery in infrastructure enhancement and assurance of Digital Equity, also called DDI.
7. Oversee the expansion of BROADLINC through the inclusion of additional participating municipal corporations, public entities, or municipalities (i.e. cities, towns, municipal corporations, public utility districts, quasi-municipal corporations, and special purpose districts).
8. Lead strategic direction for broadband delivery, infrastructure and enhancing for the region, with the State Broadband Office, Federal units and private sector integrations.
9. Participate, as appropriate, in public – private partnerships discussion, such as franchise agreements related to the broadband industry within Spokane County.

For the purpose of receiving the same immunities or exemptions from taxation as that of the Spokane County, BROADLINC constitutes a public agency and a creation of Spokane County (within the meaning of Article VII, § I of the Constitution of the state of Washington and within the meaning of those terms in regulations of the United States Treasury and rulings of the Internal Revenue Service prescribed pursuant to Section 103 of the Internal Revenue Code of 1986, as amended).

## **ARTICLE VI: POWERS AND RESPONSIBILITIES**

**Section VI.01. Powers.** BROADLINC shall have and may exercise all lawful powers conferred by State laws, the Resolution, this Charter and its Bylaws. BROADLINC in all of its activities and transactions shall be subject to the powers, procedures subject to the limitations contained in the Resolution.

**Section VI.02. Provision of Services.** BROADLINC shall provide broadband infrastructure and

services to Member Entities desiring the same pursuant to one or more agreements under the ILA. Member Entities receiving such services shall pay a Dark Fiber Lease and/or MRC as established by the BROADLINC Governing Board ("Board").

**Section VI.03. Actions against BROADLINC, the Board, Officers, Employees and Volunteers.** The provisions of chapter 4.96 RCW shall apply to actions against BROADLINC, its directors, officers, employees and volunteers.

## **ARTICLE VII: GOVERNING BOARD**

**Section VII.01. Authority and Responsibilities of the Board.** The Board shall have the authority and responsibilities to provide policy oversight and legislative direction for BROADLINC and its administration and assure the purposes described in the Resolution and this Charter are reasonably accomplished.

**Section VII.02. Board Composition.** The Board shall consist of \_\_\_\_ ( ) persons as follow:

1. One (1) Spokane County Commissioner
2. Spokane County Chief Executive Officer
3. Spokane County Public Works Director
4. One (1) Elected Representative appointed jointly from the towns and/or cities having recorded populations under 50,000, as determined by the most recent US Census, and having executed an Interlocal Cooperation Act Agreement with BROADLINC for services
5. One (1) Elected Representative appointed jointly from the cities having a recorded population over 50,000, as determined by the most recent US Census, and having executed an Interlocal Cooperation Act Agreement with BROADLINC for services

**Section VII.03. Conditions.** A member of the Board may only serve for such a time that he or she is the duly appointed and acting in the capacity they represent. All members of the Board serve without compensation from BROADLINC.

**Section VII.04. Quorum.** At all meetings of the Board, a majority of voting members shall constitute a quorum.

**Section VII.05. Committees.** The Board may have Working Subcommittees as provided for in the Resolution.

**Section VII.06. Voting.** The Board shall strive to operate by consensus. Each individual member of the Board shall be a voting member. Any resolution or motion authorizing or approving an action shall require an affirmative vote of a majority of the Board members voting on the issue, unless otherwise provided for in the Resolution or this Charter. Proxy voting shall not be allowed.

**Section VII.07. Officers.** The Board shall have two officers, a Chair and Vice-Chair. Appointment, removal and term of office shall be established in the Bylaws.

**Section VII.08. Actions Requiring Approval by Resolution of the Board.** Review and approval of Board by resolution shall be necessary for any of the following actions:

1. Transfer or conveyance of an interest in real estate other than release of a lien or

satisfaction of a mortgage after payment has been received and execution of a lease.

2. Contracting of debts, issuance of notes, debentures or bonds, and mortgaging or pledging of BROADLINC assets or credit to secure the same.
3. Donation of money, property, or other assets belonging to BROADLINC.
4. Action by BROADLINC as a surety or guarantor.
5. Adoption of an annual budget and a separate capital budget, and amendments thereto.
6. Certification of annual reports and statements by the state auditor, as required under chapter 43.09 RCW, to be filed with the Clerk as true and correct in the opinion of the Board and of its members except as noted.
7. Adopting and amending the Bylaws.
8. Consistent with chapter 4.96 RCW, adoption of policies and procedures for managing actions against BROADLINC, the Board, officers, employees, and volunteers.
9. Instituting legal proceedings in BROADLINC's name.
10. Dissolution of BROADLINC, upon approval by two-thirds of the entire Board.
11. Amending Dark Fiber Lease and/or Monthly Reoccurring Charge (MRC).
12. Recommending amendments to this Charter.

#### **ARTICLE VIII: MEETINGS**

**Section VIII.01. Frequency of Meetings.** The Board shall meet as established in the Bylaws, but not less than quarterly. Special meetings of the Board may be called as provided in the Bylaws.

**Section VIII.02. Open Public Meetings.** The Open Public Meetings Act, chapter 42.30 RCW, shall apply to all meetings of the Board or any committee or working committee thereof when the committee acts on behalf of the Board, conducts hearings or takes testimony or public comment. Members of the Board may participate in a regular or special meeting through the use of any means of remote participation as authorized by law. Any Board member participating in a meeting by such means is deemed to be present in person at the meeting for all purposes including, but not limited to, establishing a quorum.

**Section VIII.03. Parliamentary Authority.** The most current version of Robert's Rules of Order Newly Revised shall guide meetings where they are consistent with this Charter or Bylaws.

**Section VIII.04. Minutes.** The Board shall cause minutes to be kept of all regular and special meetings of the Board. Minutes shall include a record of individual votes on all matters requiring approval of the Board. Minutes shall be kept in accordance with chapter 42.32 RCW.

#### **ARTICLE IX: BYLAWS**

The Board shall review, approve and amend Bylaws for all matters related to the governance of BROADLINC. The Bylaws provide rules governing BROADLINC and its activities consistent with the laws of the State, the Resolution and this Charter. In the event of a conflict between the Bylaws, the

Resolution, and this Charter, the Resolution shall control, this Charter shall be second in priority, followed by the Bylaws. Any amendments to the Bylaws (which may consist of an entirely new set of Bylaws) shall be approved by resolution of the Board.

#### **ARTICLE X: AMENDMENTS OF CHARTER AND BYLAWS**

Amendments to this Charter shall be as provided in the Resolution. Amendments to the Bylaws shall be as provided in Article IX of this Charter and be amended by majority vote of the BROADLINC Governing Board.

#### **ARTICLE XI: ADOPTION OF FISCAL YEAR AND BUDGET**

**Section XI.01. Fiscal Year.** The fiscal year shall coincide with the calendar year.

**Section XI.02. Funding.** Funding for BROADLINC operations and activities include but are not limited to funds distributed to BROADLINC from grants and Dark Fiber Lease and/or Monthly Reoccurring Charge (MRC). The Board shall determine any Dark Fiber Lease and/or Monthly Reoccurring Charge (MRC).

**Section XI.03. Budget Process.** Within the timelines prescribed in the Bylaws, the Director shall provide to the Board a preliminary budget approved by the Finance Committee for the ensuing fiscal year.

**Section XI.04. Budget Adoption.** Within the timelines prescribed in the Bylaws, the Director shall provide to the Board for review and approval of a final budget for the ensuing fiscal year. This budget shall include: proposed service levels, baseline operations budget, any proposed enhancements, recommended capital equipment/facility acquisition and proposed financing methodologies. No increase or decrease to the final budget shall occur without the approval of the Board.

**Section XI.05. Accounting, Budgeting and Reporting.** BROADLINC shall be subject to the Budgeting Accounting & Reporting System (BARS) applicable local government and shall comply with local government accounting laws, including but not limited to chapter 43.09 RCW.

#### **ARTICLE XII: DIRECTOR AND OPERATIONS**

The Board may appoint, designate, employ, contract for and remove a Director of BROADLINC and such other personnel as determined to be necessary for its operations. The Director and other personnel shall be responsible to the Board for the administration of the affairs of BROADLINC as may be authorized from time to time by resolution of the Board. The Director may be authorized or delegated by BROADLINC to: (i) supervise and be responsible for the effective management of the administrative affairs of BROADLINC; (ii) sign documents and contracts on behalf of BROADLINC; and (iii) perform such other duties as delegated or assigned by the Board.

#### **ARTICLE XIII: REGISTERED AGENT, CLAIMS AND SERVICES**

**Section XIII.01. Registered Agent.** The registered agent for BROADLINC is its Director. The identity of the agent and the address where he/she may be reached during normal business hours must be recorded with the County Auditor. A statement of the registered agent designation, executed by the Chair of the Board shall be filed with the Secretary of State.

**Section XIII.02. Claims.** Claims made for the damages made under chapter 4.96 RCW shall be

filed with the Director. The identity of the agent and the address where he/she may be reached during normal business hours must be recorded with the County Auditor.

**Section XIII.03. Service of Process.** Service of process under RCW 4.28.080 shall be by delivering a copy of the summons and complaint to the Director. The identity of the agent and the address where he/she may be reached during normal business hours must be recorded with the County Auditor.

**Section XIII.04. Filing.** Within thirty (30) days of receipt of the filings described in this Article XIII, BROADLINC shall file copies with the Clerk.

#### **ARTICLE XIV: MISCELLANEOUS**

##### **Geographic Limitation.**

BROADLINC may conduct activities outside of the County, subject, however, to the applicable limitations set forth in RCW 35.21.740.

##### **Nonexclusive Charter.**

This Charter is nonexclusive and does not preclude the granting by the County of other charters to establish additional public corporations pursuant to action of the Board of County Commissioners.

#### **ARTICLE XV: COMMENCEMENT**

BROADLINC shall commence its existence effective upon the issuance of its Charter, as sealed and attested by the Clerk.

#### **ARTICLE XVI: DISSOLUTION**

Dissolution of BROADLINC shall be in the form and manner required by State law and the Resolution.

#### **ARTICLE XVII: ORDER OF PRECEDENCE**

In the event of an inconsistency between the Charter and the Resolution, the inconsistency shall be resolved by giving precedence to the Resolution.

#### **ARTICLE XVIII: APPROVAL OF CHARTER**

This Charter was APPROVED by Resolution No. \_\_\_ - \_\_\_\_\_ adopted by the Board of County Commissioners of Spokane County, Washington of the \_\_\_\_\_ day of \_\_\_\_\_ 2022.

BOARD OF COUNTY COMMISSIONERS  
OF SPOKANE COUNTY, WASHINGTON

\_\_\_\_\_  
MARY L. KUNEY, Chair

ATTEST:

AL FRENCH , Vice- chair

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Ginna Vasquez  
Clerk of the Board

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JOSH KERNS, Commissioner



# Spokane County Broadband Public Development Authority (PDA)

## BROADLINC

### *Executive Summary of Formation*

#### Purpose

BROADLINC (a Public Development Authority of Spokane County) will be created exclusively to undertake, assist with, and otherwise facilitate the public function of providing broadband infrastructure and services delivery enhancements, including but not limited to, terrestrial middle-mile and last-mile access, wireless relay points, satellite connection and other associated known and future technologies, as well as performing any other public function relating to providing such infrastructure services, delivery enhancements noted below:

1. Oversee assets of BROADLINC.
2. Oversee and administer any grant awards in conjunction with other joint applicants and/or subrecipients.
3. Oversee the Operating Entity for service delivery of Dark Fiber owned by BROADLINC.
4. Oversee BROADLINC's budget and ensure Third Party Entities timely receive appropriate revenues.
5. Pursue ongoing applicable funding, grants, and loans and other customary businesses opportunities for enhanced broadband service delivery in infrastructure enhancement and assurance of Digital Equity and Inclusion.,
6. Oversee the expansion of BROADLINC through the inclusion of additional participating municipal corporations, public entities, or municipalities (i.e. cities, towns, municipal corporations, public utility districts, quasi-municipal corporations, and special purpose districts) via Interlocal Cooperation Agreement(s).
7. Lead strategic direction for broadband delivery, infrastructure and enhancing for the region, with the State Broadband Office, Federal units, and private sector integrations.
8. Participate, as appropriate, in public – private partnerships discussion, such as franchise agreements related to the broadband industry within Spokane County.

#### Board Construct

The BROADLINC Board shall be composed as follows:

- a) Spokane County Commissioner
- b) Spokane County Chief Executive Officer
- c) Spokane County Public Works Director
- d) One (1) Elected Representative appointed jointly from the towns and/or cities having recorded populations under 50,000, as determined by the most recent US Census, and having executed an Interlocal Cooperation Act Agreement with BROADLINC for services
- e) One (1) Elected Representative appointed jointly from the cities having a recorded population over 50,000, as determined by the most recent US Census, and having executed an Interlocal Cooperation Act Agreement with BROADLINC for services

The following two (2) Working Subcommittees shall be established by the Board:

- a) Broadband Action Team (BAT) that includes the BROADLINC Executive Director who participates/facilitates in the monthly meetings for community and stakeholder engagement.



- b) Finance Committee that includes the BROADLINC Executive Director, Spokane County Senior Director, Finance and Administration (or representative) and a Board Member appointed by the BROADLINC Board to oversee the yearly budget, grant scope/budget responses, dark fiber lease and/or Monthly Reoccurring Charges (MRC) fee recommendation, and update on services contracts

### Shared Revenues Between PDA and Third Party/Member Entities

Revenues are expected from BROADLINC owned Dark Fiber, or fiber optical cable that is not provisioned with lit services. The Dark Fiber will be leased to telecommunications providers (Private ISPs and others – Fire Dist, School Dist) through a Monthly Reoccurring Charge (MRC).

The Net Operating Revenue will be the excess funds BROADLINC has remaining for allocation back to eligible Third Party/Member Entities after

- (i) paying the Operating Entity,
- (ii) paying for BROADLINC operating expenses, and
- (iii) paying for capital uses and establishment of a capital reserve or as otherwise determined appropriate by the BROADLINC Board.

*Example: Dark Fiber Lease charged to ISP per drop is \$20. Operator takes 15% (\$3). The remainder goes to PDA expenses, CIP and then back to Member Entities as revenue*

### Interim MOU

A recommendation for a short-term MOU between Spokane County and BROADLINC for interim legal, financial and other administrative services until BROADLINC Board membership and bylaws are finalized and able to make decisions regarding the Executive Director selection and other contracted services are established.

### Bylaws

Upon formation, the BROADLINC Board, with the Executive Director will construct and adopt the PDA Bylaws.