Vermont Community Broadband Board
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Board Packet Executive Summary
September 11, 2023
Christine Hallquist, Executive Director
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Statement regarding the Lamoille FiberNet and Otter Creek Construction Grant requests

Lamoille FiberNet and Otter Creek CUD have both filed letters to comply with the Board's request for those CUDs to agree to adhere to future policies of the Board. Those letters are included in the packet. Staff believes that this written commitment, approved by the CUDs' governing Boards and counsel, sufficiently addresses the Board's concern.

After the Board approved the Southern Vermont application, the Board made it clear that the next application would need to have more accountability built into the agreement. Lamoille and Otter Creek heard that message and did a thorough and excellent job of meeting the Board's intent at that time. Based on the materials submitted in the original grant application for the Board's August meeting, as well as the letter from each CUD submitted today, staff believes that these CUDs have addressed each of the requirements put forward by the Board and recommends approval of these grants at the September 11 meeting.

Lamoille FiberNet Grant Request

Staff recommends the Board approve the Lamoille Fiber Construction Grant request of $13,588,636 for the towns of Belvidere, Cambridge, Eden, Elmore, Hyde Park, Johnson, Morristown, Stowe, Waterville, Wolcott. This request covers 550 miles and 7869 passings (4170 eligible addresses) with Fidium taking all the risk related to the business case. The total cost of the Project is $23.7 Million with Fidium contributing $9.8 Million or 41% of the cost (VCBB share is 59%). This Grant Request has been reviewed by CTC (VCBB's contract engineering firm) who has determined that the request complies with VCBB Outside Plant Requirements.

Otter Creek Grant Request

Staff recommends the Board approve the Construction Grant request of $9,952,273 for the towns of Benson, Brandon, Castleton, Chittenden, Fair Haven, Goshen, Hubbardton, Pawlet, Pittsford, Poultney, Sudbury, Wells, West Haven. This request covers 356 miles and 4135 passings (2316 eligible addresses) with Fidium taking all the risk related to the business case. The total cost of the Project is $14.3 Million with Fidium contributing $4.3 Million or 30% of the cost (VCBB share is 70%). The total Universal Service Plan cost is $19.0 million of which the VCBB is contributing $9.9 million which would be a VCBB share of 48% and Fidium share of 52%. This Grant Request has

been reviewed by CTC (VCBB's contract engineering firm) who has determined that the request complies with VCBB Outside Plant Requirements.

BEAD Initial Proposal Volume 1

Staff will present the overall timeline required by the NTIA and how the VCBB timelines align. Staff will then present the final version of Volume 1 to the Board for approval and submission to the NTIA. Staff has included input from Board members as well as made the relevant changes that were provided during the public comment period.

BEAD Initial Proposal Volume 2

Staff will present the Draft Proposed Volume 2 for Board input. The public comment period will commence on September 15

Ex Parte Discussions

The proposed policy for Ex Parte discussions is included in the packet. Staff supports the policy and met two weeks ago to develop staff protocols to ensure compliance with this policy.

Government Affairs

This item was placed on the agenda by the Board.

Vermont Community Broadband Board Meeting
Monday, September 11, 2023, 12:00pm – 4:00pm
AGENDA

Meeting is being held virtually.
[Click here to join the meeting](#)
Join by Phone; +1 802-828-7667, 347345584#
Note: there may be executive sessions as needed

12:00 1) Meeting Call to Order, Roll Call, Approval of Agenda

12:05 2) Approve Minutes for 08/14 and 08/25

12:10 3) Lamoille Fibernet Construction Grant Application – Christine Hallquist & Lisa Birmingham

12:40 4) Otter Creek Construction Grant Application – Christine Hallquist & Laura Black

1:10   5) BEAD Initial Proposal Volume 1 - Board approval – Lucy Rogers

1:40   6) BEAD Initial Proposal Volume 2 - Board review – Lucy Rogers

2:40   7) Ex Parte Communications- Patty Richards

2:55   8) Governmental Affairs

3:10   9) VCUDA Update – Rob Vietzke

3:25   10) Public Comment

3:40   11) Parking Lot – *Christine Hallquist*

3:50   12) New Staff Introductions – *Christine Hallquist*

3:55   13) Confirm Next Special meeting 9/?? and Regular Meeting 10/9, & Motion to Adjourn

Press inquiries: please contact Herryn Herzog, herryn.herzog@vermont.gov (802) 522-3396.

Vermont Community Broadband Board Meeting
Monday, August 14th, 2023, 12:00pm – 4:00pm

Draft Minutes

I.   Meeting Call to Order, Roll Call, & Approval of Agenda
Patty Richards called the meeting to order at 12:05 and completed roll call. Patty would like to meet new staff at the September meeting.

- Patty Richards, Chair (Remote)
- Laura Sibilia (Remote)
- Brian Otley – (not present – family emergency)
- Holly Groschner (Remote) *Arriving late @ 12:10*
- Dan Nelson (Remote) *leaving at 1:30*
- Christine Hallquist - Staff (Remote)
- Robert Fish – Staff (Remote)
- Toni Clithero – Staff (Remote)
- Steven Zubkoff – Staff (Remote)
- Herryn Herzog – Staff (Remote)
- Lucy Rogers – Staff (Remote)
- Chance Payette – Staff (Remote)

Patty Richards made a motion to approve the agenda Seconded by Dan. No further discussion. *Unanimously approved by Patty, Laura, and Dan.*

II.   Approval of Minutes (June 12, July 18, July 28)
Patty Richards made the motion to approve all three sets of minutes, June 12, July 18, and July 28th, seconded by Laura. Discussion and agreement that the language in the minutes concerning the NEK and Maple Construction Grant amendments in item VII (NEK) (subject to VCBB policies including future policies) and VIII (Maple) (subject to being consistent or subject to VCBB current and future policy) in the July 18 draft minutes did not require revision. *Voted unanimously by Patty, Laura, Dan, and Holly.*

III.   State of Vermont Emergency Board Decision Regarding Match Appropriation
Will Anderson, from the Department of Finance and Management, discussed the State of Vermont's Emergency Board's decision to reallocate $20 million of the $30 million allocated to the VCBB from the General Fund as match funds under Act 145, Section B (a)(28) based upon the understanding that these matching funds were not currently being used and would be returned in the 2024 Budget Adjustment Act in time for use by the VCBB in the BEAD program in mid-2024. Will expressed confidence that the amount will be available given the current revenue forecast, which anticipates a $78.4 million surplus. Will agreed to report back to the Board concerning the status of the remaining $10 million allocated by Act 145 and on which other appropriations had been considered when the Emergency Board determined to allocate the VCBB appropriation.

The Board indicated it would prepare a letter to the Chairs of the House and Senate Appropriations Committees concerning the VCBB's interest in the prompt reallocation of these match funds, which is to be added to next month's agenda and to the Parking Lot.

IV.   Lamoille FiberNet Construction Grant Application

Staff and CTC recommended approval of both the Pre-Construction and the Construction Grants. Lisa Birmingham, Chairperson of Lamoille FiberNet (LFN), presented the applications and, along with VCBB's consultant, CTC Technology and Energy (CTC), addressed questions from the Board. The discussion concerned the enforceability of an agreement to the retroactive application of future Board policies. LFN could not agree to the same at the meeting, and the Board agreed to postpone its consideration of LFN's Construction Grant application until the next Board meeting. Holly requested staff to provide a redacted copy of CCI and Lamoille FiberNet's agreement in hopes of helping create/drive policy discussions moving forward.

Holly made a motion to grant Lamoille FiberNet's Pre-Construction Grant without caveat in the amount of $1,369,478 seconded by Patty. No further discussion. Voted unanimously by Patty, Laura, Holly, and Dan.

V.   Otter Creek Construction Grant Application

Given the commonalities between the Lamoille and Otter Creek (OCCUD) Construction Grant applications and OCCUD's indication that it would also need to postpone its agreement to the applicability of future Board policies, OCCUD agreed to present its construction grant application at the next Board meeting.

Dan left the meeting at 1:55 pm.

Patty asked if Otter Creek would like to go through their Pre-Construction application. Laura Black explained they were applying for an amendment to their Pre-Construction grant from June of 2022.

Holly Groschner made a motion to approve the Pre-Construction Grant for Otter Creek CUD in the amount of $1,314,650 without the contingency regarding the accountability policy. Seconded by Patty. No further discussion. Voted unanimously by Patty, Laura and Holly.
Patty noted that the construction grant is tabled, if the CUD would agree to the policy provision, it could be voted on later.

VI.   ECFiber Construction Grant Application

Discussion concerning whether Holly should recuse herself given that she previously served on ECFiber's Board, resolved to be unnecessary. F.X. Flinn presented the application and agreed to the application of future Board policies.
Discussion concerned whether applicant had considered what percentage of operating surplus would be put toward construction or lowering costs for consumers, which the applicant considers addressed by the business plan requirement for sustainability rather than surpluses. Holly cautioned that VCBB grant funds should not be used for elevated capacity.

Patty made a motion to approve the construction grant for ECFiber in the amount of $13,227,657 subject to future policies being developed by VCBB related to accountability. Seconded by Laura. No further discussion. Unanimously approved by Patty, Laura, and Holly.

VII.   VCUDA Updates
Moved after VIII
Rob Vietzke introduced their new Program Manager Andrew Tarley. Rob had a constructive comment to have the Board and staff map out what the next few months look like as this policy is developed and provide some predictability. Rob commented about the Emergency Board's decision and how to move forward. VCUDA has filed comments on the Five-Year Action plan. As far as Volume II, one month does feel a little tight for public comment.

VIII. **BEAD Update & Intro to Needs based program to Boost the Ability of Potential Sub-Grantees to Participate in BEAD**

Rob Fish discussed the needs-based program originally called the CUD Assistance Program. It is open to all applicants with financial needs to conform with the neutrality requirements on the BEAD program. Technical Assistance must be provided to all applicants including small telecom companies, CUDs, and individual Towns. VCUDA is supportive of this program. Would ask for a competitive versus first come first served basis. *No action is needed as the VCBB heard a proposal from staff to change the $1,000.000 CUD assistance program to a non-restricted application, open to anyone in the state with a bidding process and an RFP process. This was a change directed by the federal funding Agency, not the VCBB.*

Lucy Rogers discussed the BEAD Five-Year Plan. Public comment period has closed. Lucy asked if there were any further questions from the VCBB, they come to her in the next couple days as the Board will be voting on the Five-Year Plan at the next scheduled Special Meeting. The Five-Year Plan is a high-level review of the State's plan. Initial Plan Volume II is where more of the details would be included. Initial Plan Volume I, public comment period closes on Friday of this week. The intent is to have Board and public comment available at the regular September Board meeting. Holly asked that these large documents coming forward not be included in the Board packet, just a link provided to the documents.

IX. **Public Comment**

Irv Thomae wanted to thank the Board for their support and also wanted to thank F.X. and all the ECFiber Board members for their work. Irv mentioned he believes the BEAD process will not be timely and flow well due to the bureaucratic process.

Lisa Birmingham would like to thank the board for approving their pre-construction grant and would like to schedule their Construction Grant

Laura Black also thanked the Board for its approval of the OCCUD preconstruction grant and requested the opportunity to present its construction grant application at the next Board meeting.

X. **Parking Lot**

Sub-Committee Assignments.

VCUDA will come back with a list of which CUD members would like to participate and on which sub-committees. Christine will get a list of names of Staff that should be listed on the sub-committees as well. Patty will pull all names from VCUDA and Christine and circulate this list hopefully on Monday, challenging committee members to get a meeting scheduled by the end of next week. Holly mentioned Rob Vietzke's request to have a timeline and Holly was hoping Patty could set some benchmarks to help move everything forward. Patty mentioned she has been working on the ex parte communication policy in consultation with Toni for the next Board meeting. Holly mentioned on that note, she received an email with information on the Otter Creek application from GoNet.

XI. **Executive Session**

Holly made the motion to enter executive session referencing 1 VSA § 313 a(3).
Staff members Christine Hallquist, Toni Clithero, and Rob Fish are invited to discuss. Patty seconded. Vote was unanimous by Patty, Laura, and Holly. Meeting is adjourned and entered Executive session at 3:35. No action was taken.

XII. **Confirm Special Meeting Date and Regular Meeting 9/11 & Motion to Adjourn**

Confirming the special meeting for Friday August 25 from 12:00 to 1:00 for approval of the Five-Year Plan for BEAD. September 11 will be the next regularly scheduled VCBB Board Meeting.

Vermont Community Broadband Board Meeting
Monday, August 25th, 2023, 12:00pm – 1:00pm
Draft Minutes

I. **Meeting Call to Order, Roll Call, & Approval of Agenda**
    Patty Richards called the meeting to order at 12:07 and completed roll call.

    - Patty Richards, Chair (Remote)
    - Laura Sibilia (Remote)
    - Brian Otley – (Remote)
    - Holly Groschner (Remote)
    - Dan Nelson (Not present)
    - Christine Hallquist - Staff (Remote)
    - Robert Fish – Staff (Remote)
    - Toni Clithero – Staff (Remote)
    - Steven Zubkoff – Staff (Remote)
    - Herryn Herzog – Staff (Remote)
    - Lucy Rogers – Staff (Remote)
    - Chance Payette – Staff (Remote)

    Patty Richards made a motion to approve the agenda, seconded by Holly. Holly asked about addressing the sub-committees. Patty mentioned that if time allowed, discussion for the sub-committee would take place at the end of the meeting. Christine informed the board that Public Comment is a requirement, and it was not included in the Agenda. Patty amended her motion to include a discussion on sub-committees and time for public comment. *Unanimously approved by Patty, Laura, Holly, and Brian.*

II. **Consideration of BEAD 5-Year Plan for submission to NTIA**
    Lucy summarized the BEAD 5-Year Plan and took comments and questions from the Board. Patty opened comments with her appreciation of the work that went into the creation of a well-designed and easy-to-read plan. Page 24, table 7 discusses the state match. Patty asked if there is a need for a footnote regarding the 20 million dollars that was used for flood recovery? Potentially a footnote informing the Feds of the situation and adding the commitment to recommend replacing the funding borrowed. Holly asked about page 23 regarding affordability including $34 million for affordability. Where does this money exist? Lucy explained that the format of the report requires inclusion of funding from the federal government that we at the State of Vermont do not have influence over. Reporting to the Legislature would have to explain the annualized projection of the 34 million dollars for ACP. Laura pointed out on page 87, definitions from the NTIA, that "reliable broadband service" is defined by what the broadband data maps show. What is staff's interpretation of the maps? Lucy explained that the BEAD Initial Proposal Volume 1 will dive into this information more in depth. There are several different types of maps, Vermont did a great job challenging the FCC map. We will still attempt to use the BEAD state challenge process to further improve the mapping. We are also proposing treating wireless the same as DSL for the sake of BEAD funding and are working with the NTIA to find a solution. Holly mentioned that the Plan is not our state broadband policy, it is our broadband policy for BEAD, a particular federal program. Also mentioned removing the subtitle "internet for all," however this is not a Vermont term, it is the federal title. Lucy added that the contractor has done the graphic design and accessibility check, and any changes would require a new accessibility check to be conducted may not be worth it if there were only small changes or footnotes. Christine pointed out that the Board could add to their resolution approving

the plan. The Board could make it clear that this is to meet the BEAD requirement and was only a subset of the work being done here. Patty confirmed that unless it was super important, the recommendation would be to not make changes at this time. Patty made a motion to approve the Bead 5-Year Plan as written to meet the BEAD requirements, seconded by Brian. *Voted unanimously by Patty, Holly, Laura, and Brian.*

III. **Public Comment**
Kim Gates, Franklin Telephone. One of the big challenges are the line extension costs for companies, any opportunity that the Board can include the line extension program would be helpful.

IV. **Policy committee assignments**
Christine began the discussion describing the process that she and Patty had worked on creating the list of committees, with Board members, staff, VCUDA, and CUD members.
Holly asked for clarification on the process. Patty responded that no formal process had been discussed but would hope that all policies would be developed by the end of the year. They are working with VCUDA and all the CUDs to create policy that works. Laura also feels a great sense of urgency and thinks the end of the year is too far away and would like to see October 1st as a deadline. There was discussion to make the deadline for policy creation the beginning of October, but no later than the end of October. Christine and staff will help to get meeting scheduled quickly. Rob Vietzke commented that BEAD Volume 2 is very significant in size. BEAD Volume 1 needs to be reviewed and approved in the next couple weeks and then on to Volume 2. Rob mentioned this will be a tremendous workload for VCUDA, CUDs and the Board and would require triple the efforts to complete everything. Holly asked for clarification regarding the due dates and who set them. Christine responded that the NTIA is who set the dates and it is set by legislation. Laura asked if staff could be tasked with helping to schedule meetings, including extra meetings in September and October. The Board will reach directly to Chance a for board technical support.

V. **Confirm Meeting 9/11 & Motion to Adjourn**
Patty made a motion to adjourn at 1:09. Seconded by Holly. Voted unanimously by Patty, Holly, Laura, and Brian.

September 1, 2023

Hon. Patty Richards, Chair
Vermont Community Broadband Board
12 State ST.
Montpelier, VT 05620-2601

Re: LFCUD Construction Grant Application – Clarification and Commitments

Dear Chair Richards and VCBB Board members:

Lamoille FiberNet Communications Union District ("LFCUD") looks forward to continuing and hopefully concluding consideration of our Construction Grant Application ("Application") at the VCBB's September 11th meeting. Grant approval this month is critical for Phase 1 (85% of LFCUD's unserved and underserved addresses) to be built in 2024. Like many commercial infrastructure companies, Consolidated's capital budget cycle is underway. If we miss the 2024 budget cycle, our communities may have to wait another year without broadband.

To facilitate the Board's consideration, the LFCUD Governing Board has authorized me to submit this letter, which addresses and recommends solutions to the two open issues.

1. <u>Commitment to Current and Future VCBB Policies</u>. After meeting and multiple discussions with Board staff and others, LFCUD now understands that it is not being asked to waive rights it may have. Accordingly, LFCUD's Governing Board voted to 1) support VCBB's authority to develop policies to implement Act 71, 2) actively support the development of those policies by participating in working groups and meetings and 3) reiterate our CUD's commitment to adhere to current and future lawful VCBB policies and Act 71 as may be amended.

2. <u>Sustainability and Succession Planning - Adherence to Public Interests</u>. As a CUD, Lamoille FiberNet fully appreciates our role in public accountability and improving access to affordable, reliable broadband to our neighbors. As noted in our preconstruction amendment application, Lamoille has begun exploring shared services and partnerships with other CUD and regional resources to secure expertise and stretch our funding. As reflected in our Term Sheet exhibit, and more easily displayed on page 7 of our August 14 Presentation, LFCUD and Consolidated have agreed to a continuity plan in case of change of ownership, asset transfers, nonrenewal of the 20-year agreement, or default. That said, we know there is more work to do.

Accordingly, Lamoille would propose a grant condition to develop a strategic long-term plan that addresses the sustainability of the CUD's long-term mission. That plan will include 1) governance and succession planning 2) compliance and oversight 3) revenue opportunities and 4) program planning (adoption, digital equity support). Satisfaction of this condition can be easily documented through reporting milestones.

Based on the above, I respectfully offer for your consideration a recommended Board motion for approval as follows:

The VCBB Board approve LFCUD's Construction Grant Application conditioned on the representations and recommendations in LFCUD's letter of September 1, 2023, which includes commitments to adhere to current and future lawful VCBB policies and a grant condition to develop of a comprehensive sustainability plan.

Thank you for your consideration.

Respectfully,

Lisa Nolen Birmingham

Lisa Nolen Birmingham
Interim Executive Director
Lamoille FiberNet Communications Union District

c.
J. Tilton, Chair LFCUD Governing Board
C. Hallquist, VCBB
R. Fish, VCBB
L. Rogers, VCBB
T. Clithero, Esq., VCBB
E. Garr, CCI
S. Davis, Esq., CCI
E. Emerson, Esq.
A. Fischel, Esq.

ACT 71 Construction Grant Review Sheet – Lamoille Fiber 081423

SUMMARY SHEET

PLAN
Total Estimated Cost of Universal Service Plan: $23.7 M
Total Miles Required: 632
Cost/mile = $37,500
Total # of passings: 9050
Total # of eligible addresses: 4833

PROJECT
Cost of proposed project (amount of grant): $13,588,636
Miles to be constructed: 550
Grant Cost/mile: $24,707
Total # of passings: 7869
Total # of eligible addresses: 4170
Total Addresses served: N/A Fidium assumes risk
Overall Take rate assumption: N/A Fidium assumes risk
Towns with addresses to be served this phase: Belvidere, Cambridge, Eden, Elmore, Hyde Park, Johnson, Morristown, Stowe, Waterville, Wolcott

Public Ownership: No

CHECKLIST

Business Plan
Note: The business plan is a stand-alone document. Do not refer to documents elsewhere.

Is the Plan Act 71 Compliant?   (PASS/FAIL)

   Does the business plan include a Universal Service Plan? _X_Yes __No
   Does the business plan include the following?

   High-level design plans _X_ Yes __No __Conversion of Existing Network
   Market analysis   _X_ Yes __No   __N/A   __Existing ISP

Take-rate assumptions __ Yes __No N/A _X_
Cash flow positive date (as relevant) __ Yes __No _X_Not Applicable
Expected loan payoff date(s) __ Yes __No _X_Not Applicable
Financing models _X_ Yes __No __Not Applicable
Pro forma financial projections _X_ Yes __No _X_Not Applicable
Estimated construction costs _X_ Yes __No
Ideal operational models __ Yes __No _X_Existing Model

Does the Business Plan evaluate the following risks:

Labor needs and availability _X_ Yes __No
Supply-chain contingencies for equipment and materials _X_ Yes __No
Make-ready work _X_ Yes __No
Additional other relevant capital and operational expenses. X__ Yes __No
Contract management including safety/house-keeping _X_ Yes __No _X_Existing Record

What is expected for a HLD? A high-level design consists of a route map. Addresses passed and interconnection points for backhaul. The HLD should also show the planned phases of construction. We understand that these phases may adjust over time.

High Level Design Route Map

- Proposed Construction Phases
- OLT/Distribution Areas (DA)
- Span Routes
    o Backbone Route (that can be part of the span route)
- Passings by Type – (underserved or served/ not on grid)
    o ESite ID, E911 Address, Current level of Service, Phase
- Interconnection Points for Backhaul
    o Location

What is necessary for the spreadsheet: All addresses in the plan with the current level of service. Must include ESite ID, E911 address, Phase

Overview:
Provided an estimated cost for Universal Service Plan: _X_ Yes __No
Provided cost breakdown for proposal project within that plan: _X__Yes __No
Community Match: _X__ Yes __ No __ How much? $50,000
Estimate Ratio of VCBB funding to other funding – Universal Service Plan - (Goal – minimum 60/40 for private) ___43/57__
Grant Cost per passing (this amendment) to be constructed or upgraded for addresses included Universal Service Plan: $1727
Certification of Acceptance of Conditions: _X_ Yes __No
Provided list of subcontracts: __ Yes __No _X_Not Applicable
Act 71 Compliant Business Plan: _X_ Yes __No

Universal Service Plan: (PASS/FAIL)

Demographics of community: _X_Yes __No
Map showing the phases of the universal service plan: _X_Yes __No
Who owns the infrastructure __ public _X_private
Does the applicant account for all underserved addresses? _X_ Yes _No
Will they serve them all directly? _X_Yes __No
  If not, did they include letters of commitment or other supporting materials for the remaining addresses? __ Yes __No
Will all addresses in a community be served via this proposal? _X_Yes __No
Are there other funding sources? _X_Not Applicable
Evidence of Community Engagement and Support? _X_Yes __No

Project Description
Narrative and map showing the project proposed for funding. The map should show the route and current level of wireline service at each address (showing cable lines or fiber lines is acceptable) to be served in the phase to be funded with this grant proposal.
Retail Price: _$85 250/250; $55 50/50 Concerns?_None
Reasonably detailed budget: __X_Yes __No
Plan for monitoring the network: _X__Yes __No
Spreadsheet detailing all locations (ESite ID, E911 Address, Current level of Service, Phase (if applicable), and overbuild rationale for any addresses currently served. __Yes _No _X_Not Applicable

Act 71 Criteria
Evidence of collaboration? __X_Yes __No
Steps to address resiliency and ensure redundancy? __X_Yes __No
Is the project designed to provide service to unserved and underserved? Incidental overbuild is at or under 20% and the proposal passes the overbuild "tests" - __X_Yes __No
Sustainability – If more than a single phase, does the business plan support achieving universal service? __X_Yes __No
Affordability – Has the applicant certified it is participating in the Affordable Connectivity Program or the equivalent? _X__Yes __No
Technical and Security Approach _X__Yes __No

Attachments:

Act 71 Compliant Business Plan _X _Yes __No
Letters of Support _X_Yes __No _X_
Documentation of Community Match _X_Yes __No __Not applicable
Response to Service Quality Complaints: _X_Yes __No __Not applicable
Operating agreements: _X_Yes _No Term sheet
Maps, Spreadsheets and High-Level Network Design: _X_Yes _No

ctc technology & energy

engineering & business consulting

To: Alissa Matthews, *Special Projects and Implementation Manager*
Vermont Community Broadband Board
Lucy Rogers, *Rural Broadband Technical Assistance Specialist*

From: Teles Fremin, P.E., *Deputy Chief Technology Officer*

Re: Evaluation of construction grant application from Lamoille FiberNet

Date: August 4, 2023

At the request of the Board, this memo provides a review of the business plan and additional documentation provided by Lamoille FiberNet Communications Union District (LFCUD). Based on our review, LFCUD's construction grant application meets the specifications put forth in the Board's Application Requirements.

LFCUD is proposing a fiber-to-the-premises (FTTP) deployment in two phases consisting of 632 miles of fiber that would connect approximately 9,050 addresses—4,900[1] of which are unserved and underserved—within the 10 member towns.[2] The total estimated cost for both phases is $30,731,695. The current grant application focuses on Phase 1, which consists of 549.7 miles of fiber that would connect 7,869 total addresses, including 4,170 eligible addresses. The total cost of Phase 1 is $25,403,670, or $6,092 per un/underserved passing.

LFCUD is partnering with Consolidated Communications, Inc. (CCI), which will allow LFCUD to reduce the total cost of the project by approximately 30 percent. CCI has agreed to contribute $9,814,755 of the total project cost. Seven towns are also contributing local American Rescue Plan Act (ARPA) funds of $275,800 as a match. The remaining $15,313,115 is being funded by LFCUD through grant funds, $1,724,479 of which will come from LFCUD preconstruction grant funds. LFCUD is requesting the remaining balance of $13,588,636 from VCBB.

Under the partnership, CCI will build, operate, and maintain Phase 1 of the network. LFCUD will own all infrastructure funded by the grant, excluding core infrastructure, while CCI will own all

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[1] The total eligible addresses increased by 780 that were not included in VCBB's eligible address list based on supporting evidence documented in Address Reconciliation.pdf.
[2] Member towns are Belvidere, Cambridge, Eden, Hyde Park, Johnson, Morristown, Stowe, Waterville, Elmore, and Wolcott.

portions of the network built using CCI's own funding. LFCUD will continue to employ staffing including an executive director and a construction manager in addition to additional organization support such as accountants, legal support, and communications and marketing resources. The responsibilities of LFCUD staff and board include oversight of partnerships including communities and contractors (such as CCI) to ensure all requirements of the contract are being met. Additionally, LFCUD will be engaged in community outreach to promote adoption and digital equity initiatives. The term sheet also outlines performance measures that LFCUD has negotiated with CCI to mitigate risk.

LFCUD plans for construction to begin in early 2024 with completion of Phase 1 by the end of 2025.

LFCUD has not identified a funding source for Phase 2, which consists of 663 eligible addresses. CCI has agreed to build Phase 2 once funding has been secured, potentially including Broadband Equity, Access, & Deployment (BEAD) program funding. Additionally, LFCUD has reserved the right to partner with other providers to complete Phase 2 in the event that another partnership(s) would be more cost effective and reduce overbuild.

The attached checklist was used to evaluate the application, business plan, and network design.

Attachment A: Application review checklist

State of Vermont Act 71 Application Review Checklist

Applicant: Lamoille FiberNet

Eligibility

Act 71 Construction Program RFP "Eligible Provider"

Y	N	Question	Notes
☒	☐	*Is the applicant a Communications Union District?*	
☐	☒	*Is the applicant a small communications carrier?*	
☐	☒	*Is the applicant an Internet Service Provider working with a CUD?*	
☐	☒	*Is the applicant a Municipality?*	

Required Documents

Y	N	Question	Notes
☒	☐	*Business Plan Included?*	*LFCUD 2023 Business Plan*
☒	☐	*Universal Service Plan Included?*	*LFCUD 2023 Universal Service Plan*
☒	☐	*Maps / KMZ files included?*	*LFCUD Universal Service Plan*
☒	☐	*Subcontract(s) if applicable*	
☒	☐	*Transmittal letter*	*Lamoille FiberNet_Form Responses_07-31-2023*
☒	☐	*Applicant Certification*	*VCBB__Applicant Attestation_updated LFCUD Birmingham 2023.07.31*
☒	☐	*Other necessary documents*	

Proposal Details
Act 71 Construction Program RFP P14 "Step 2: Full Proposal (By invitation Only)

1. Transmittal Letter and Proposal Overview

Y	N	Question	Notes
		Does the transmittal letter and proposal overview contain the following information:	
☒	☐	*Full contact information for the applicant and any collaborators?*	*Includes the CUD contact but not who the main contact at CCI will be.*
☒	☐	*Preferred Application Process*	
☒	☐	*Total Estimated Cost to Complete the Universal Service Plan*	
☒	☐	*"Estimated Cost" for the Universal Service Plan project to be completed in the next 24 months (or in a 24-month period)*	
☒	☐	*Community matched funds or other funds to be contributed to the project*	

2. Applicant Certification

Y	N	Question	Notes
☒	☐	*Has the applicant certified in writing all conditions contained in the construction program RFP?*	*VCBB__Applicant Attestation_updated LFCUD Birmingham 2023.07.31*
General Information			
Y	**N**	**Question**	**Notes**
☒	☐	*Does the applicant intend to use subcontractors?*	*LFCUD is partnering with CCI*
☒	☐	*Are the subcontractor terms included?*	*LFCUD CCI Term Sheet - Exhibit C Draft 07.31.2023*
☐	☒	*Are there copies of the subcontract(s) included with the proposal?*	*LFCUD has not executed a contract with CCI*
☒	☐	*Is there an attached ACT 71 compliant business plan?*	*LFCUD 2023 Business Plan*

☒	☐	*Are there supporting documents for the business plan?*	

3. Universal Service Plan

3.1 Proposed Universal Service Plan

Y	N	Question	Notes
☒	☐	*Does the application contain a proposed Universal Service Plan?*	*LFCUD 2023 Universal Service Plan*
☒	☐	*Has the applicant detailed the area(s) in which they propose to provide universal service per the requirements in the RFP?*	*The phases are broken out in the attached KMZ labeled "LFCUD Universal Service Plan".*
☒	☐	*Has the applicant provided a map showing the current coverage in the proposed USP and the total number of qualifying locations?*	*In the attached KMZ labeled "LFCUD Universal Service Plan" the applicant broke out the addresses into served and unserved locations.*
☒	☐	*Has the applicant described who will own the resulting infrastructure?*	*Per the USP "Under our partnership structure, the CUD will own all infrastructure funded by the grant, excluding core infrastructure, while Consolidated will own all portions of the network built using Consolidated's own funding." Further details are provided.*
☒	☐	*Are any of the planned service areas members of a CUD?*	*LFCUD's service area includes all of Lamoille County except a portion of Elmore and Wolcott served by Hardwick Electric, which will be served by NEK Broadband. LFCUD's USP also includes approximately 10 unserved addresses in Fletcher, which are fed from Cambridge pole lines. LFCUD has collaborated with neighboring CUDs to reconcile addresses and ensure coverage.*
☒	☐	*If so, has the applicant provided a letter of support from the district and documentation explaining the relationship?*	

3.2 Universal Service Plan

Y	N	Question	Notes
☒	☐	*Does the USP provide 100/100 Mpbs service to all qualified locations?*	*Service offerings range from 50 Mbps to 2 Gbps*
☐	☒	*Is the applicant serving all locations directly?*	*CCI will be serving all locations through the partnership*
☒	☐	*If yes, have they presented a phased approach for serving all locations?*	*2 Phases, with Phase 1 as the focus of the current grant application.*
☐	☐	*If not, have they explained how the qualified locations will be served broadband service?*	
☒	☐	*If yes, is there an included timeline showing each phase?*	*Phase 1 is broken out in the document labeled "LFCUD CCI Timeline" and they state that Phase 2 still needs to be funded before the timeline is completed.*
☒	☐	*Have they provided an overview of obstacles?*	*LFCUD 2023 Business Plan*
☒	☐	*Are there any commitment letters from other providers?*	*LFCUD Combined Letters of Support for Construction Grant 2023.07.31*
☐	☒	*Is this a joint application?*	
☒	☐	*Is there a timeline for achieving universal service?*	*Phase 1 is broken out in the document labeled "LFCUD CCI Timeline" and they state that Phase 2 still needs to be funded before the timeline is completed.*
☒	☐	*Are there any attached documents supporting the applicant's commitment to universal service?*	*"Address Reconciliation" details the work LFCUD did to better understand the addresses being served in their area.*

3.3 Estimated Total Cost to Serve

Has the applicant provided the following information?			
Y	N	Question	Notes
☒	☐	*Total cost estimate for serving all qualified locations encompassed by the USP*	Phase 1 total cost $25,403,670 Phase 2 total cost $5,328,025

☒	☐	*The number of such locations*	*9,050 total addresses, 4,900 eligible addresses*
☒	☐	*A description of how the estimate was derived and factors that will influence the final cost*	*LFCUD 2023 Business Plan*

3.4 Other Funding Sources

Y	N	Question	Notes
☒	☐	*Are there details of known or reasonably anticipated additional financial support to the USP*	*Phase 2 will need to be funded by either a future VCBB grant using BEAD funding or an alternative funding source.*

3.5 Community Engagement

Y	N	Question	Notes
☒	☐	*Detail of efforts to engage the local municipality or area subject to the grant proposal*	*Document labeled "History, Community Outreach and Demographic Detail"*

4. Project Description

Y	N	Question	Notes
Does the project description contain the following information?			

4.1 Eligible Locations to be Served

☒	☐	*All eligible locations to be served.*	

4.2 Not to Exceed or Estimated Price

☒	☐	*Not to exceed price or estimated price for the project*	*Not to exceed for Phase 1*
☒	☐	*Phased price estimate (Phased projects only)*	
☒	☐	*Figure specifies if drops are included or not in the price*	*Consolidated is fully funding the cost of drops and installation to all addresses.*
☒	☐	*Amount dedicated to drops is consistent with feasibility plan*	*LFCUD has reserved $175,000 of Local ARPA Match to cover drops for any addresses within the CUD that fall outside of Consolidated's standard policies.*

4.3 Timeline

☒	☐	*Detailed timeline for this project and additional phases of the USP*	*Phase 1 is broken out in the document labeled "LFCUD CCI Timeline" and they state that Phase 2 still needs to be funded before the timeline is completed.*

4.4 Retail Pricing

☒	☐	*Is there a list of determined pricing?*	*LFCUD 2023 Business Plan*
☒	☐	*If yes, is there a list of all proposed retail prices for service including additional fees (such as equipment rentals)*	*Fidium Price and Service Offerings*
☐	☐	*If no, is there detail on how pricing will be determined and demonstrate how the network will be self-sufficient?*	

☐	☒	*Does the applicant currently provide symmetrical services to other areas at a lower rate?*	
☐	☐	*If so, is there an explanation of the price difference?*	

4.5 Additional Services

☒	☐	*Description of additional services*	*Fidium Price and Service Offerings*

4.6 Detailed Project Budget

☒	☐	*Has the applicant provided a detailed project budget outlining line-item estimates for each activity?*	*LFCUD Detailed Project Budget*

4.7 Network Performance and Monitoring

☒	☐	*Plan for network performance and monitoring to identify congestion, maximize throughput and improve network performance.*	*Schedule D - Draft for VCBB 2023.07.27*

4.8 Other Information

☒	☐	*Any other relevant information included demonstrating the technical, financial, and economic feasibility of the project and qualifications of the project team.*	*Additional attachments folder included many supporting documents.*

5. Act 71 Considerations

Y	N	Question	Notes

5.1 Collaboration and Coordination

		Does this project include collaboration with any of the following?	
☒	☐	*Other CUDs or municipalities that were not part of a CUD on June 1, 2021.*	*Cooperation with NEK in areas of joint district membership*
☐	☒	*Utilities serving the area of the USP*	
☒	☐	*Telephone, cable providers or other ISPs*	*Consolidated Communications Enterprise Services, Inc.*
☐	☒	*Other entities*	

5.2 Resiliency and Redundancy

☒	☐	*Does the project detail steps taken to provide resiliency and redundancy?*	
☒	☐	*Does it provide interconnection locations?*	
☒	☐	*Does it comply with Outside Plant Requirements?*	*Details provided in spreadsheet labeled "OSP Requirements Notes".*

5.3 Incidental Overbuild

☒	☐	*Does the project detail incidental overbuild locations?*	
☒	☐	*Included percentage of addresses to be served that already have access to speeds of at least 25/3*	
☐	☐	*Is the proposed incidental overbuild addresses less than 20% of the total number of addresses passed?*	*N/A*

5.4 Sustainability

☒	☐	*Does the project detail how it plans to fulfil its USP within the required timeframe?*	*The business plan talks about USP in Phase 1 in the required timeline*
☒	☐	*Does the project describe how this grant is consistent with their existing business plan*	

5.5 Affordability

☒	☐	*Will the applicant be participating in the Communications Commission's Affordable Connectivity Program (ACP)*	*LFCUD 2023 Business Plan*
☒	☐	*Will the applicant provide access to a broad-based affordability program to low-income consumers commensurate with those provided under the ACP?*	*LFCUD 2023 Business Plan*

5.6 Technical and Security Approach

		Does the project include or consider the following?	
☒	☐	*Network operation, including tools or techniques in a manner that ensures reliable communications*	*Lamoille FiberNet_Form Responses_07-31-2023*
☒	☐	*How to assess operational performance of the network and use the gathered information to optimize the network and services*	*Lamoille FiberNet_Form Responses_07-31-2023*
☒	☐	*A summary of the information exchange interfaces for communicating devices*	*Lamoille FiberNet_Form Responses_07-31-2023*
☒	☐	*A summary of how the project will provide openly available and proprietary aspects of the interface specifications and how legacy devices and systems will be integrated into the project.*	*Lamoille FiberNet_Form Responses_07-31-2023*
☒	☐	*A summary of how response to failure and device upgrade scenarios will be handled so that overall system impact is mitigated*	*Lamoille FiberNet_Form Responses_07-31-2023*
☒	☐	*A summary of how the project will support compatibility with cyber security framework and protocols*	*Lamoille FiberNet_Form Responses_07-31-2023*
☒	☐	*A summary of cyber security risks and how they will be mitigated (Focused on vulnerabilities and impact)*	*Lamoille FiberNet_Form Responses_07-31-2023*

☒	☐	*A summary of the cyber security criteria utilized for vendor and device selection*	*Lamoille FiberNet_Form Responses_07-31-2023*
☒	☐	*A summary of relevant cyber security standards or best practices*	*Lamoille FiberNet_Form Responses_07-31-2023*
☒	☐	*A summary of how emerging security standards will be supported*	*Lamoille FiberNet_Form Responses_07-31-2023*

6. Attachments

☒	☐	*Act 71 compliant business plan*	*LFCUD 2023 Business Plan*
☒	☐	*Letters of support including letters of support from municipality to be served if applicant is a non-CUD applicant.*	*LFCUD Combined Letters of Support for Construction Grant 2023.07.31*
☒	☐	*Documentation of commitment of community matching funds*	
☒	☐	*Does the letter state the amount of funds and detail the intended use of the funds in support of the project?* **Act 71 Construction Program RFP P4 Funding Available, Section 2*	*LFCUD 2023 Business Plan*
☒	☐	*Response to service quality complaints*	
☒	☐	*Operating agreements and other partnership agreements*	
☒	☐	*USP Map*	
☒	☐	*Link to GIS shapefile*	*KMZ files provided*
☒	☐	*Accompanying spreadsheet showing addresses, E-Site IDs, current level of service and expected service date*	
☒	☐	*Request for confidentiality memo*	

ACT 71 Compliant Business Plan
Act 71 Construction Program RFP P2 Definitions and Explanations

General

Y	N	Question	Notes
☐	☒	*Were the business plans produced via a PSD Broadband Innovation Grant?*	*No indication*
		Who produced the business plan?	
☐	☒	*Has it been independently signed off on by a financial institution?*	
☐	☒	*Has it been updated since?*	
☒	☐	*Does the business plan include a Universal service plan?*	

Required Data

		Does the business plan include the following?	
☒	☐	*High level engineering and design plans*	
☒	☐	*Market analysis*	
☒	☐	*Take rate assumptions*	
☐	☒	*Cash flow positive date*	*Partnership with CCI*
☒	☐	*Loan payoff date*	*No loan*
☐	☒	*Financing Models*	*CCI includes 10K*
☐	☒	*Pro forma financial projections*	
☒	☐	*Estimated construction costs*	

☒	☐	*Ideal operational models*	*CCI will operate and maintain the network*

Risk Evaluation

		Does the business plan evaluate the following risks?	
☒	☐	*Labor needs and availability*	*LFCUD 2023 Business Plan*
☒	☐	*Supply chain contingencies*	*LFCUD 2023 Business Plan*
☒	☐	*Make ready work*	*LFCUD 2023 Business Plan*
☒	☐	*Other relevant operational expenses*	*LFCUD 2023 Business Plan*

Project Prioritization

Act 71 Construction Program RFP P8 Definitions and Explanations			
Y	**N**	**Question**	**Notes**
☒	☐	*Does the project leverage existing resources and assets?*	
☒	☐	*Does the applicant demonstrate project readiness and have community support?*	
☒	☐	*Does the project support low-income or disadvantaged communities?*	
☒	☐	*Does the project promote geographic diversity of fund allocations?*	
☒	☐	*Does the project provide consumers with affordable service options and/or commit to participate in a program that supports low-income consumers?*	
☒	☐	*Does the project Include public broadband assets that can be shared by multiple service providers and that can support a variety of public purposes?*	
☒	☐	*Does the project provide a network design that is scalable, addresses redundancy and will result in high reliability and resiliency?*	

OSP Design Requirements
VCBB Outside Plant Design Requirements

Part 1

Y	N	Question	Notes: *some items are not applicable based on approved modified OSP requirements*
		Does the design include standards that cover the following:	
☒	☐	*Fiber sparing and reservation recommendations*	*Details provided in spreadsheet labeled "OSP Requirements Notes".*
☐	☐	*No less than 3 tubes of spares between hubs*	*Details provided in spreadsheet labeled "OSP Requirements Notes".*
☐	☐	*1 spare tube between the OLT and splitter*	*Details provided in spreadsheet labeled "OSP Requirements Notes".*
☒	☐	*Included loss budgets*	*Details provided in spreadsheet labeled "OSP Requirements Notes".*
☒	☐	*Accountability for future / unplanned growth including public safety and wireless*	*Details provided in spreadsheet labeled "OSP Requirements Notes".*
☒	☐	*No middle-mile cable size less than 48F*	*Details provided in spreadsheet labeled "OSP Requirements Notes".*
☒	☐	*Power supply and back up requirements for active locations*	*Details provided in spreadsheet labeled "OSP Requirements Notes".*

Part 2

☒	☐	*Pre-assigned PON splitter and OLT port for every identified E-911 address*	
☐	☐	*Estimated drop distances and routes for demand points*	*Not applicable at this stage*
☐	☐	*Slack budgets and identification of slack points*	*Not applicable at this stage*

Part 3

		Question	**Notes:** *some items are not applicable based on approved modified OSP requirements*
Y	**N**		
☐	☐	*Detailed planned optical loss calculations*	
☐	☐	*Loss testing results in accordance with ANSI/TIA/EIA 526-7*	

Table header: Prior to Closeout Design Deliverables

Commented [AS1]: Missing check

Commented [AS2R1]: I added your header in here too if this is n/a

Part 4

☐	☐	*Prior to closeout splice diagrams in GIS format*	*Not applicable at this stage*

Part 5

		Recommended integration locations that consider the following:	
☒	☐	*Geographic redundance*	
☐	☒	*Connections with adjacent CUD networks*	
☒	☐	*Connections with private networks*	
☒	☐	*Future redundancy options*	

Part 6

		Prior to close-out design mapping deliverables: Not applicable at this stage	
☐	☐	*Online and downloadable field engineering data*	
☐	☐	*Online and downloadable detailed construction maps*	

☐	☐	*Bills of materials linked to locations*	
☐	☐	*GIS network diagram that reflects what was built out*	

Part 7

☒	☐	*Equipment and materials must comply with the domestic content requirements of the American Rescue Plan Act*	*Consolidated currently abides by federal requirements for other federally funded programs and will meet the domestic content requirements for this grant as interpreted by VCBB. If VCBB provides a list of specific criteria they have used with other CUD's or more generally with regards to this requirement we can provide more detailed information.*

VIA Email

September 2, 2023

Hon. Patty Richards, Chair
Vermont Community Broadband Board 12 State St.
Montpelier, VT 05620-2601

Re: OCCUD Construction Grant Application – Clarification and Commitments

Dear Chair Richards,

Otter Creek Communications Union District ("OCCUD") looks forward to continuing and hopefully concluding consideration of our Construction Grant Application ("Application") at the VCBB's September 11th meeting. Grant approval this month is critical in order for the first phase of OCCUD's unserved and underserved addresses to be built in 2024-2025. Like many commercial infrastructure companies, Consolidated's capital budget cycle is underway. If we miss the 2024 budget cycle, our communities may very well have to wait another year without broadband.

To facilitate the Board's consideration, the OCCUD Executive Committee has authorized me to submit this letter, which addresses and recommends solutions to two issues raised at the August 14 VCBB meeting.

1. <u>Commitment to Current and Future VCBB Policies</u>. After meeting and multiple discussions with Board staff and others, OCCUD now understands that it is not being asked to waive rights it may have. Accordingly, OCCUD's Governing Board voted to 1) support VCBB's authority to develop policies to implement Act 71, 2) actively support the development of those policies by participating in working groups and meetings and 3) reiterate our CUD's commitment to adhere to current and future lawful VCBB policies and Act 71 as may be amended.

2. <u>Sustainability and Succession Planning - Adherence to Public Interests</u>. Otter Creek CUD board appreciates that the VCBB has emphasized the importance of the long-term sustainability of the CUD beyond the term of the grant-funded construction years. To that end, the OCCUD board has begun this discussion in recent months. We intend to continue seeking additional funding opportunities to secure necessary financial support for ongoing operational expenses, legal fees, and community engagement initiatives. We are already fostering potential partnerships with regional organizations and with other

CUD's; the goals being to reduce or eliminate operating costs and share resources while continuing our CUD's volunteer membership board. As noted in our pre-construction grant amendment application, we intend to immediately hire an executive director whose scope will include seeking funding sources, establishing support networks, and establishing a sustainable management structure in order to continue OCCUD's mission to provide affordable reliable broadband to our constituents.

As to the succession of our contract with Consolidated, our term sheet (line 5) describes that our 20-year contract has an auto-renewal as well as accommodation for termination and transition of the network assets to different ownership should default occur. (See the 8/14 Lamoille Fiber CUD presentation slide for detailed description of the Continuity agreement between OCCUD and Consolidated Communications).

OCCUD hereby proposes a grant condition to develop a strategic long-term plan that addresses the sustainability of the CUD's long-term mission. That plan will include 1) governance and succession planning 2) compliance and oversight 3) funding opportunities and 4) program planning (adoption, digital equity support).

Based on the above two issues, I respectfully request that the Board consider OCCUD's Construction Grant Application and presentation on September 11th along with the representations and recommendations in this letter, which includes commitments to adhere to current and future lawful VCBB policies and a grant condition to develop a comprehensive sustainability plan.

Thank you for your consideration.

Respectfully,

Laura Black
Chair Otter Creek CUD Governing Board

c.
L. Courcelle, Vice Chair OCCUD Governing Board
C. Hallquist, VCBB
R. Fish, VCBB
L. Rogers, VCBB

T. Clithero, Esq., VCBB
E. Garr, CCI
S. Davis, Esq., CCI
E. Emerson, Esq.

ACT 71 Construction Grant Review Sheet – Otter Creek 081423

SUMMARY SHEET

PLAN
Total Estimated Cost of Universal Service Plan: $19.0 M
Total Miles Required: 474
Cost/mile = $40,084
Total # of passings: 5412
Total # of eligible addresses: 2920

PROJECT
Cost of proposed project (amount of grant): $9,952,273
Miles to be constructed: 356
Grant Cost/mile: $27,956
Total # of passings: 4135
Total # of eligible addresses: 2316
Total Addresses served: N/A Fidium assumes risk
Overall Take rate assumption: N/A Fidium assumes risk
Towns with addresses to be served this phase: Benson, Brandon, Castleton, Chittenden, Fair Haven, Goshen, Hubbardton, Pawlet, Pittsford, Poultney, Sudbury, Wells, West Haven

Public Ownership: No

CHECKLIST

Business Plan
Note: The business plan is a stand-alone document. Do not refer to documents elsewhere.

Is the Plan Act 71 Compliant?   (PASS/FAIL)

     Does the business plan include a Universal Service Plan? _X_Yes __No
     Does the business plan include the following?

High-level design plans _X_ Yes __No __Conversion of Existing Network
Market analysis   _X_ Yes __No __N/A __Existing ISP
Take-rate assumptions __ Yes __No N/A _X_
Cash flow positive date (as relevant) __ Yes __No _X_Not Applicable
Expected loan payoff date(s)   __ Yes __No _X_Not Applicable
Financing models   _X_ Yes __No __Not Applicable
Pro forma financial projections   _X_ Yes __No _X_Not Applicable
Estimated construction costs _X_ Yes __No
Ideal operational models __ Yes __No   _X_Existing Model

Does the Business Plan evaluate the following risks:

Labor needs and availability _X_ Yes __No
Supply-chain contingencies for equipment and materials _X_ Yes __No
Make-ready work _X_ Yes __No
Additional other relevant capital and operational expenses. X__ Yes __No
Contract management including safety/house-keeping _X_ Yes __No _X_Existing Record

What is expected for a HLD? A high-level design consists of a route map. Addresses passed and interconnection points for backhaul. The HLD should also show the planned phases of construction. We understand that these phases may adjust over time.

High Level Design Route Map

- Proposed Construction Phases
- OLT/Distribution Areas (DA)
- Span Routes
    o Backbone Route (that can be part of the span route)
- Passings by Type – (underserved or served/ not on grid)
    o ESite ID, E911 Address, Current level of Service, Phase
- Interconnection Points for Backhaul
    o Location

What is necessary for the spreadsheet: All addresses in the plan with the current level of service. Must include ESite ID, E911 address, Phase

Overview:
Provided an estimated cost for Universal Service Plan: _X_ Yes __No
Provided cost breakdown for proposal project within that plan: _X__Yes __No
Community Match: ___ Yes _X_ No __ How much? $
Estimate Ratio of VCBB funding to other funding – Universal Service Plan - (Goal – minimum 60/40 for private) ___52/48__
Grant Cost per passing (this amendment) to be constructed or upgraded for addresses included Universal Service Plan: $2407
Certification of Acceptance of Conditions: _X_ Yes __No
Provided list of subcontracts: __ Yes __No _X_Not Applicable

Act 71 Compliant Business Plan: _X_ Yes __No

Universal Service Plan: (PASS/FAIL)

Demographics of community: _X_Yes __No
Map showing the phases of the universal service plan: _X_Yes __No
Who owns the infrastructure   __ public   _X_private
Does the applicant account for all underserved addresses? _X_ Yes _No
Will they serve them all directly?   _X_Yes __No
   If not, did they include letters of commitment or other supporting materials for the remaining addresses? __ Yes __No
Will all addresses in a community be served via this proposal? _X_Yes   __No
Are there other funding sources?   _X_Not Applicable
Evidence of Community Engagement and Support?   _X_Yes __No

Project Description
Narrative and map showing the project proposed for funding. The map should show the route and current level of wireline service at each address (showing cable lines or fiber lines is acceptable) to be served in the phase to be funded with this grant proposal.
Retail Price: _$85 250/250; $55 50/50 Concerns?_None
Reasonably detailed budget: __X_Yes __No
Plan for monitoring the network: _X__Yes __No
Spreadsheet detailing all locations (ESite ID, E911 Address, Current level of Service, Phase (if applicable), and overbuild rationale for any addresses currently served. __Yes _No _X_Not Applicable

Act 71 Criteria
Evidence of collaboration? __X_Yes __No
Steps to address resiliency and ensure redundancy? __X_Yes __No
Is the project designed to provide service to unserved and underserved? Incidental overbuild is at or under 20% and the proposal passes the overbuild "tests" - __X_Yes __No
Sustainability – If more than a single phase, does the business plan support achieving universal service? __X_Yes __No
Affordability – Has the applicant certified it is participating in the Affordable Connectivity Program or the equivalent? _X__Yes __No
Technical and Security Approach _X__Yes __No

Attachments:

Act 71 Compliant Business Plan   _X _Yes __No
Letters of Support _X_Yes __No _X_
Documentation of Community Match _X_Yes __No __Not applicable
Response to Service Quality Complaints: _X_Yes   __No __Not applicable
Operating agreements: _X_Yes _No Term sheet
Maps, Spreadsheets and High-Level Network Design: _X_Yes _No

ctc technology & energy
engineering & business consulting

To:	Alissa Matthews, *Special Projects and Implementation Manager* Vermont Community Broadband Board Lucy Rogers*, Rural Broadband Technical Assistance Specialist* Vermont Community Broadband Board
From:	Teles Fremin, P.E., *Deputy Chief Technology Officer*
Re:	Evaluation of construction grant application from Otter Creek
Date:	August 8, 2023

At the request of the Board, this memo provides a review of the business plan and additional documentation provided by Otter Creek Communications Union District (OCCUD). Based on our review, OCCUD's construction grant application meets the specifications put forth in the Board's Application Requirements.

OCCUD has proposed a fiber-to-the-premises (FTTP) deployment in four phases to reach its 2,920[1] eligible addresses within the 18 member towns.[2] Phase 1, including 38 unserved locations, was completed and fully financed by Consolidated Communications, Inc (CCI). The remaining 2,882 addresses are separated into three additional phases. OCCUD estimates the costs for Phases 2 and 3 to total $19,400,131, consisting of 474 miles of fiber to serve 2,715 eligible locations. OCCUD has not yet estimated the cost for Phase 4. The current grant application focuses on Phase 2, which consists of 356 miles of fiber that would connect 4,135 total addresses, including 2,316 eligible addresses. The total cost of Phase 2 is $14,655,482, or $6,328 per un/underserved passing.

OCCUD is partnering with CCI, and CCI has agreed to contribute $4,343,210 of the total project cost for Phase 2. OCCUD noted that it will also utilize Act 71 (H.360) pre-construction grant funds of $360,000 to support the project through the construction period. OCCUD is requesting the remaining balance of $9,952,272 for Phase 2 from VCBB.

---

[1] The total eligible addresses increased by 170 that were not included in VCBB's eligible address list, consisting of 39 addresses that OCCUD believes are unserved and 131 that it confirms were receiving service below 25/3 Mbps.
[2] Member towns are Benson, Brandon, Castleton, Chittenden, Fair Haven, Goshen, Hubbardton, Mendon, Pawlet, Pittsford, Poultney, Rutland City, Rutland Town, Shrewsbury, Sudbury, Wells, West Haven, and West Rutland.

Under the partnership, CCI will build, operate, and maintain Phase 2 and 3 of the network. OCCUD will own all infrastructure funded by the grant, excluding core infrastructure, while CCI will own all portions of the network built using CCI's own funding. As part of OCCUD's pre-construction grant request, OCCUD will be funding contractors and staff in support of its efforts over an eighteen-month period. Among their various responsibilities, the contractors and staff will have direct oversight and the ability to monitor the construction of CCI. OCCUD will also be engaged in community outreach to promote adoption. The term sheet also outlines performance measures that OCCUD has negotiated with CCI to mitigate risk.

OCCUD plans for construction to begin in early 2024 with completion of Phase 2 by the end of 2025.

OCCUD has not identified a funding source for Phase 3 or 4, which consists of 400 eligible addresses. CCI has agreed to build Phase 3 once funding has been secured, potentially including Broadband Equity, Access, & Deployment (BEAD) program funding. Additionally, OCCUD has reserved the right to partner with other providers to complete Phase 3 and 4 in the event that another partnership(s) would be more cost effective.

The checklist used to evaluate the application, business plan, and network design is provided in Attachment A.

Attachment A: Application review checklist

State of Vermont Act 71 Application Review Checklist

Applicant: **Otter Creek CUD**

Eligibility

Act 71 Construction Program RFP "Eligible Provider"

Y	N	Question	Notes
☒	☐	*Is the applicant a Communications Union District?*	
☐	☒	*Is the applicant a small communications carrier?*	
☐	☒	*Is the applicant an Internet Service Provider working with a CUD?*	
☐	☒	*Is the applicant a Municipality?*	

Required Documents

Y	N		Notes
☒	☐	*Business Plan Included?*	*1_OCCUD Business Plan*
☒	☐	*Universal Service Plan Included?*	*OCCUD Universal Service Plan*
☒	☐	*Maps / KMZ files included?*	*OCCUD Universal Service Plan.kmz*
☒	☐	*Subcontract(s) if applicable*	*OCCUD CCI Term Sheet - Exhibit C Draft 07.31.2023*
☒	☐	*Transmittal letter*	*1_OCCUD Form Responses_07-31-2023*
☒	☐	*Applicant Certification*	*1_OCCUD Form Responses_07-31-2023*

☒	☐	*Other necessary documents*	*Folder labeled "Otter Creek CCI Additional Attachments"*

Proposal Details

*Act 71 Construction Program RFP P14 "Step 2: Full Proposal (By invitation Only)

1. Transmittal Letter and Proposal Overview

Y	**N**	**Question**	**Notes**
		Does the transmittal letter and proposal overview contain the following information:	
☒	☐	*Full contact information for the applicant and any collaborators?*	
☒	☐	*Preferred Application Process*	
☐	☒	*Total Estimated Cost to Complete the Universal Service Plan*	*OCCUD estimated the cost for Phase 2 (focus of application) and Phase 3 but not for Phase 4*
☒	☐	*"Estimated Cost" for the Universal Service Plan project to be completed in the next 24 months (or in a 24-month period)*	*Estimated cost for Phase 2*
☐	☒	*Community matched funds or other funds to be contributed to the project*	

2. Applicant Certification

Y	**N**	**Question**	**Notes**
☒	☐	*Has the applicant certified in writing all conditions contained in the construction program RFP?*	*VCBB__Applicant Attestation_updated_OCCUD*
		General Information	

Y	**N**	**Question**	**Notes**
☒	☐	*Does the applicant intend to use subcontractors?*	*OCCUD is partnering with CCI*
☒	☐	*Are the subcontractor terms included?*	*OCCUD CCI Term Sheet - Exhibit C Draft 07.31.2023*
☐	☒	*Are there copies of the subcontract(s) included with the proposal?*	*OCCUD has not executed a contract with CCI*

Y	N		Notes
☒	☐	*Is there an attached ACT 71 compliant business plan?*	*1_OCCUD Business Plan*
☒	☐	*Are there supporting documents for the business plan?*	

3. Universal Service Plan

3.1 Proposed Universal Service Plan

Y	N	Question	Notes
☒	☐	*Does the application contain a proposed Universal Service Plan?*	*OCCUD Universal Service Plan*
☒	☐	*Has the applicant detailed the area(s) in which they propose to provide universal service per the requirements in the RFP?*	*The routes for the phases are broken out in the attached KMZ labeled "OCCUD Universal Service Plan".*
☒	☐	*Has the applicant provided a map showing the current coverage in the proposed USP and the total number of qualifying locations?*	*In the attached KMZ labeled "Existing Service and Address Data" the applicant broke out the addresses into served and unserved locations.*
☒	☐	*Has the applicant described who will own the resulting infrastructure?*	*Per the business plan "Consolidated Communications will own assets built using its own funding (e.g., drops, CPE). The CUD will own assets built using grant funding or any other funding provided by the CUD, excluding any core infrastructure built with this funding." Further details are provided.*
☐	☒	*Are any of the planned service areas members of a CUD?*	*All members of OCCUD*
☐	☒	*If so, has the applicant provided a letter of support from the district and documentation explaining the relationship?*	*n/a*

3.2 Universal Service Plan

Y	N	Question	Notes
☒	☐	*Does the USP provide 100/100 Mpbs service to all qualified locations?*	*Service offerings range from 50 Mbps to 2 Gbps*
☐	☒	*Is the applicant serving all locations directly?*	*CCI will be serving all locations through the partnership*
☒	☐	*If yes, have they presented a phased approach for serving all locations?*	*4 Phases, with Phase 2 as the focus of the current grant application and Phase 1 completed with private funding*
☐	☐	*If not, have they explained how the qualified locations will be served broadband service?*	
☒	☐	*If yes, is there an included timeline showing each phase?*	*Phase 1 is complete and Phase 2 is broken out in the document labeled "OCCUD CCI Timeline" and they state that Phase 3 & 4 still needs to be funded before the timeline is completed.*
☒	☐	*Have they provided an overview of obstacles?*	*1_OCCUD Business Plan*
☐	☒	*Are there any commitment letters from other providers?*	
☐	☒	*Is this a joint application?*	
☒	☐	*Is there a timeline for achieving universal service?*	*Phase 1 is complete and Phase 2 is broken out in the document labeled "OCCUD CCI Timeline" and they state that Phase 3 & 4 still needs to be funded before the timeline is completed.*
☒	☐	*Are there any attached documents supporting the applicant's commitment to universal service?*	*Universal service plan*

3.3 Estimated Total Cost to Serve

Has the applicant provided the following information?			
Y	**N**	**Question**	**Notes**
☒	☐	*Total cost estimate for serving all qualified locations encompassed by the USP*	Phase 1 completed (paid for by CCI) Phase 2 total cost $14,655,482 Phase 3 total cost $4,744,649 Phase 4 total cost not provided
☒	☐	*The number of such locations*	*2,920 eligible unserved addresses across all phases*
☒	☐	*A description of how the estimate was derived and factors that will influence the final cost*	*1_OCCUD Business Plan*

3.4 Other Funding Sources

☒	☐	*Are there details of known or reasonably anticipated additional financial support to the USP*	*Phase 3 & 4 will need to be funded by either a future VCBB grant using BEAD funding or an alternative funding source.*

3.5 Community Engagement

☒	☐	*Detail of efforts to engage the local municipality or area subject to the grant proposal*	

4. Project Description

Y	**N**	**Question**	**Notes**
Does the project description contain the following information?			

4.1 Eligible Locations to be Served

☒	☐	*All eligible locations to be served.*	

4.2 Not to Exceed or Estimated Price

☒	☐	*Not to exceed price or estimated price for the project*	*Not to exceed included for Phase 2 ($10,331,393.00)*
☒	☐	*Phased price estimate (Phased projects only)*	
☒	☐	*Figure specifies if drops are included or not in the price*	*Consolidated is fully funding the cost of drops and installation to all addresses.*
☐	☐	*Amount dedicated to drops is consistent with feasibility plan*	*N/A*

4.3 Timeline

☒	☐	*Detailed timeline for this project and additional phases of the USP*	*Phase 2 is broken out in the document labeled "OCCUD CCI Timeline" and they state that Phase 3 & 4 still needs to be funded before the timeline is completed.*

4.4 Retail Pricing

☒	☐	*Is there a list of determined pricing?*	*1_OCCUD Business Plan*
☒	☐	*If yes, is there a list of all proposed retail prices for service including additional fees (such as equipment rentals)*	*Fidium Price and Service Offerings*
☐	☐	*If no, is there detail on how pricing will be determined and demonstrate how the network will be self-sufficient?*	
☐	☒	*Does the applicant currently provide symmetrical services to other areas at a lower rate?*	
☐	☐	*If so, is there an explanation of the price difference?*	

4.5 Additional Services

☒	☐	*Description of additional services*	*Fidium Price and Service Offerings*

4.6 Detailed Project Budget

☒	☐	*Has the applicant provided a detailed project budget outlining line-item estimates for each activity?*	*OCCUD Detailed Project Budget*

4.7 Network Performance and Monitoring

☒	☐	*Plan for network performance and monitoring to identify congestion, maximize throughput and improve network performance.*	*Schedule D - Draft for VCBB 2023.07.27*

4.8 Other Information

☒	☐	*Any other relevant information included demonstrating the technical, financial, and economic feasibility of the project and qualifications of the project team.*	*Additional attachments folder included many supporting documents.*

5. Act 71 Considerations

Y	N	Question	Notes

5.1 Collaboration and Coordination

		Does this project include collaboration with any of the following?	
☒	☐	*Other CUDs or municipalities that were not part of a CUD on June 1, 2021.*	*Cooperation with other CUD initiated but not completed.*
☐	☒	*Utilities serving the area of the USP*	
☒	☐	*Telephone, cable providers or other ISPs*	*Consolidated Communications Enterprise Services, Inc.*
☐	☒	*Other entities*	

5.2 Resiliency and Redundancy

☒	☐	*Does the project detail steps taken to provide resiliency and redundancy?*	
☒	☐	*Does it provide interconnection locations?*	
☒	☐	*Does it comply with Outside Plant Requirements?*	*Details provided in spreadsheet labeled "OSP Requirements Notes".*

5.3 Incidental Overbuild

☒	☐	*Does the project detail incidental overbuild locations?*	
☒	☐	*Included percentage of addresses to be served that already have access to speeds of at least 25/3*	
☐	☐	*Is the proposed incidental overbuild addresses less than 20% of the total number of addresses passed?*	*N/A*

5.4 Sustainability

☒	☐	*Does the project detail how it plans to fulfil its USP within the required timeframe?*	*Phase 2 timeline provided and high level details for other phases provided.*
☒	☐	*Does the project describe how this grant is consistent with their existing business plan*	

5.5 Affordability

☒	☐	*Will the applicant be participating in the Communications Commission's Affordable Connectivity Program (ACP)*	*1_OCCUD Business Plan*
☒	☐	*Will the applicant provide access to a broad-based affordability program to low-income consumers commensurate with those provided under the ACP?*	*1_OCCUD Business Plan*

5.6 Technical and Security Approach

Does the project include or consider the following?			
☒	☐	*Network operation, including tools or techniques in a manner that ensures reliable communications*	*1_OCCUD Form Responses_07-31-2023*
☒	☐	*How to assess operational performance of the network and use the gathered information to optimize the network and services*	*1_OCCUD Form Responses_07-31-2023*
☒	☐	*A summary of the information exchange interfaces for communicating devices*	*1_OCCUD Form Responses_07-31-2023*
☒	☐	*A summary of how the project will provide openly available and proprietary aspects of the interface specifications and how legacy devices and systems will be integrated into the project.*	*1_OCCUD Form Responses_07-31-2023*
☒	☐	*A summary of how response to failure and device upgrade scenarios will be handled so that overall system impact is mitigated*	*1_OCCUD Form Responses_07-31-2023*
☒	☐	*A summary of how the project will support compatibility with cyber security framework and protocols*	*1_OCCUD Form Responses_07-31-2023*
☒	☐	*A summary of cyber security risks and how they will be mitigated (Focused on vulnerabilities and impact)*	*1_OCCUD Form Responses_07-31-2023*
☒	☐	*A summary of the cyber security criteria utilized for vendor and device selection*	*1_OCCUD Form Responses_07-31-2023*
☒	☐	*A summary of relevant cyber security standards or best practices*	*1_OCCUD Form Responses_07-31-2023*
☒	☐	*A summary of how emerging security standards will be supported*	*1_OCCUD Form Responses_07-31-2023*

6. Attachments

☒	☐	*Act 71 compliant business plan*	*1_OCCUD Business Plan*
☐	☒	*Letters of support including letters of support from municipality to be served if applicant is a non-CUD applicant.*	*Letters of Support not provided.*
☐	☒	*Documentation of commitment of community matching funds*	
☒	☐	*Does the letter state the amount of funds and detail the intended use of the funds in support of the project?* **Act 71 Construction Program RFP P4 Funding Available, Section 2*	*1_OCCUD Business Plan*
☒	☐	*Response to service quality complaints*	
☒	☐	*Operating agreements and other partnership agreements*	
☒	☐	*USP Map*	
☒	☐	*Link to GIS shapefile*	*KMZ files provided*
☒	☐	*Accompanying spreadsheet showing addresses, E-Site IDs, current level of service and expected service date*	
☒	☐	*Request for confidentiality memo*	

ACT 71 Compliant Business Plan

Act 71 Construction Program RFP P2 Definitions and Explanations

General

Y	N	Question	Notes
☐	☒	*Were the business plans produced via a PSD Broadband Innovation Grant?*	*No indication*
		Who produced the business plan?	
☐	☒	*Has it been independently signed off on by a financial institution?*	*CCI Form 10k included*

☐	☒	*Has it been updated since?*	
☒	☐	*Does the business plan include a Universal service plan?*	

Required Data

Does the business plan include the following?			
☒	☐	*High level engineering and design plans*	
☒	☐	*Market analysis*	
☒	☐	*Take rate assumptions*	
☐	☒	*Cash flow positive date*	*Partnership with CCI*
☒	☐	*Loan payoff date*	*No loan*
☐	☒	*Financing Models*	*CCI included their 10K information.*
☐	☒	*Pro forma financial projections*	
☒	☐	*Estimated construction costs*	
☒	☐	*Ideal operational models*	*CCI will operate and maintain the network*

Risk Evaluation

Does the business plan evaluate the following risks?			
☒	☐	*Labor needs and availability*	*1_OCCUD Business Plan*
☒	☐	*Supply chain contingencies*	*1_OCCUD Business Plan*

☒	☐	*Make ready work*	*1_OCCUD Business Plan*
☒	☐	*Other relevant operational expenses*	*1_OCCUD Business Plan*

Project Prioritization

Act 71 Construction Program RFP P8 Definitions and Explanations			
Y	**N**	**Question**	**Notes**
☒	☐	*Does the project leverage existing resources and assets?*	*The CCI network is being leveraged*
☒	☐	*Does the applicant demonstrate project readiness and have community support?*	
☒	☐	*Does the project support low-income or disadvantaged communities?*	*CCI offers ACP and OCCUD will help promote addoption*
☒	☐	*Does the project promote geographic diversity of fund allocations?*	*The funds being requested are to be used for Phase 2 only*
☒	☐	*Does the project provide consumers with affordable service options and/or commit to participate in a program that supports low-income consumers?*	*ACP*
☐	☒	*Does the project Include public broadband assets that can be shared by multiple service providers and that can support a variety of public purposes?*	
☒	☐	*Does the project provide a network design that is scalable, addresses redundancy and will result in high reliability and resiliency?*	

OSP Design Requirements

VCBB Outside Plant Design Requirements

Part 1

		Question	**Notes:** *some items are not applicable based on approved modified OSP requirements*
Y	**N**		
Does the design include standards that cover the following:			
☒	☐	*Fiber sparing and reservation recommendations*	*Details provided in spreadsheet labeled "OSP Requirements Notes".*

☐	☐	*No less than 3 tubes of spares between hubs*	*Details provided in spreadsheet labeled "OSP Requirements Notes".*
☐	☐	*1 spare tube between the OLT and splitter*	*Details provided in spreadsheet labeled "OSP Requirements Notes".*
☒	☐	*Included loss budgets*	*Details provided in spreadsheet labeled "OSP Requirements Notes".*
☒	☐	*Accountability for future / unplanned growth including public safety and wireless*	*Details provided in spreadsheet labeled "OSP Requirements Notes".*
☒	☐	*No middle-mile cable size less than 48F*	*Details provided in spreadsheet labeled "OSP Requirements Notes".*
☒	☐	*Power supply and back up requirements for active locations*	*Details provided in spreadsheet labeled "OSP Requirements Notes".*

Part 2

☒	☐	*Pre-assigned PON splitter and OLT port for every identified E-911 address*	
☐	☐	*Estimated drop distances and routes for demand points*	*Not applicable at this stage*
☐	☐	*Slack budgets and identification of slack points*	*Not applicable at this stage*

Part 3

		Prior to Closeout Design Deliverables	
			Notes: *some items are not applicable based on approved modified OSP requirements*
☐	☐	*Detailed planned optical loss calculations*	
☐	☐	*Loss testing results in accordance with ANSI/TIA/EIA 526-7*	*Loss figures used for budget calculations are detailed in the attached "OSP Requirements Notes" document.*

Part 4

☐	☐	*Prior to closeout splice diagrams in GIS format*	*Not applicable at this stage*

Part 5

Recommended integration locations that consider the following:		
☒	☐	*Geographic redundance*	
☐	☒	*Connections with adjacent CUD networks*	
☒	☐	*Connections with private networks*	
☒	☐	*Future redundancy options*	

Part 6

Prior to close-out design mapping deliverables: Not applicable at this stage		
☐	☐	*Online and downloadable field engineering data*	
☐	☐	*Online and downloadable detailed construction maps*	
☐	☐	*Bills of materials linked to locations*	
☐	☐	*GIS network diagram that reflects what was built out*	

Part 7

☒	☐	*Equipment and materials must comply with the domestic content requirements of the American Rescue Plan Act*	*Consolidated currently abides by federal requirements for other federally funded programs and will meet the domestic content requirements for this grant as interpreted by VCBB. If VCBB provides a list of specific criteria they have used with other CUD's or more generally with regards to this requirement we can provide more detailed information.*

Memorandum

To:	Vermont Community Broadband Board (VCBB) – Dan Nelson (Vice Chair), Holly Groschner, Brian Otley, Laura Sibilia
From:	Patty Richards (Chair)
Date:	August 31, 2023
RE:	VCBB Board Practice Proposal Untimely Documents and Agenda Item Changes

Background

At the July VCBB meeting, we discussed the issue of documents being sent out after a Board packet was circulated. Based on a review of online material as well as discussions with VCBB legal counsel (Toni Clithero), adding new information to Board meetings is allowable but should be done with care and due consideration. In general, sending out information and documents after a board packet has been circulated is discouraged. Changes to the agenda may be made but action items requiring a vote should be avoided unless it is an emergency or necessary situation.

Toni has noted the following in her research of this matter:

> With respect to documents, neither Vermont's Open Meeting Law (OML) or Roberts Rules of Order specifically address the issue of which documents may be considered during a public meeting. As a result, the OML does not prohibit the Board from considering documents added after the agenda has been posted as long as those documents fairly relate to an item on the agenda. Likewise, the OML does not prohibit the Board from instituting a practice concerning its consideration of additional documents.

> It should be noted that such practice should distinguish between documents submitted by staff and those the public seeks to introduce during a meeting. Whereas it is not unreasonable for the Board to limit late staff submissions to an emergency meeting notification standards (addressed below), submissions of additional documents by the public should be allowed where the documents both concern issues noticed on the agenda and are considered necessary to express the opinion of the member of the public seeking to introduce them. *See* 1 V.S.A. 312(h) (requiring public bodies to provide the public with a "reasonable opportunity to express its opinion on matters considered" during the meeting). In either case, the Board may alternatively postpone consideration of any such additional documents to an adjourned meeting, as long as the time and place for the adjourned meeting is announced before the meeting is adjourned. 1 V.S.A. §312(c)(4).

It is my opinion, based on the past several decades of serving in a public body capacity, untimely documents may lead to imbalance of information; some people may see it and others may not. If material is considered paramount and should be reviewed by the VCBB Board, we should strive to take up the matter at the next regularly scheduled meeting. Allowing material to be submitted after the packet is circulated should be reserved for exceptional or emergency situations.

Toni also opined on changes to the agenda:

> With respect to agenda items, Vermont's Open Meeting Law (OML) allows for the addition and deletion of agenda items. 1 V.S.A. § 312(d)(3). Under the OML, public entities may add or delete items from an agenda after it has been posted to the public if the addition or deletion is conducted as the first act of business at the meeting (1 V.S.A. § 312(d)(3).

> My recommendation is that the Board avoid adding agenda items unless it is necessary and is consistent with the recommendations of the Vermont Secretary of State's Office (SOSO). (*See A Guide to Open Meetings*, rev. 2019, at p. 6) (attached). The SASO cautions that "last-minute agenda items, especially those requiring board action, be added at a meeting only in an emergency" and that the better practice is "to handle items that were not included on the posted agenda at the next regular meeting or, if necessary, to call a special meeting so that the public gets notice of the item and has an opportunity to attend and participate." *Id*. The OML allows public notice "as soon as possible before the meeting" where an emergency meeting is necessary to respond to an "unforeseen occurrence or condition"." 1 V.S.A. § 312(c)(3). Thus, a practice to limit the addition of agenda items to circumstances where it is necessary to respond to an unforeseen issue constitutes an appropriate Board practice.

As noted by various online sources relative to this matter, there are occasions where items need action or attention after an agenda is posted or a board packet is published. [1] Some items can require quick action due to the nature of the matter. However, as a public body we should assure first there is a **need** for **immediate** action. Second, we became aware **after** the agenda and board packet was publicized

Recommended Practice

In general, I recommend that we avoid sending out documents after the Board packet is posted. Having all the material in one central place (board packet) assures all Board members and

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[1] [Public Agency Board Meeting Agendas: Adding an Item After the Agenda Has Been Posted | Lagerlof](#)

stakeholders have the opportunity to review relevant information being considered and discussed.

Also, it is recommended to avoid adding agenda items at the last minute, if possible, but noting there are times it may be necessary. To add an agenda item, it will take a majority of Board members present to revise the agenda. In addition, the item must meet a standard of needing immediate action such as an unforeseen emergency

I look forward to discussing this recommendation at our upcoming meeting.

#	Priority	Item	Date entered	Assigned to	Resolution and date
35	1	Patty Richards to lead the Board in a response to the auditor's report	04/10/23	Board	
36	1	Determine what restrictions exist for ex parte communications	07/18/23	Patty Richards	
37	1	Develop Construction Standards[1]	07/18/23	Dan Nelson/Christine Hallquist	
38	1	Annual Report Submission List[2]	07/18/23	Holly Groschner/Christine Hallquist	
39	1	Develop Grantee agreement that VCBB will operate the system in the event of failure to comply	07/18/23	Christine Hallquist	
40	1	Develop Lien for the VCBB funded network and components[3]	07/18/23	Christine Hallquist	
41	1	Policy for certification of Grantee compliance to Performance and Operating Standards	07/18/23	Patty Richards/Christine Hallquist	

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[1] Include open architecture policy, safety, reporting process on compliance and detailed description for each attribute. Staff process required for compliance to Board policy.

[2] Identify all criteria, including how to address affordability, geographic diversity, Universal Service, operating standards, and reliability. Staff process required for compliance to Board policy.

[3] Include sunset provision for the Lien

26	1	Establish policy to address issue of enforceability with any of the partners and the CUDs.	8/22/22	CH	Policy discussion to be held at 4/10/23 meeting. This is now part of the Board Policy discussions related to the Auditor's report.
29		Include placeholder for budget update, dashboards, and policy and goals discussion to all Board Meeting Agendas	11/03/22	CH	Budget and Dashboards addressed at January and February Board Meetings Christine will confirm with Patty what Board expectations are for the policy and goals discussion
24	1	Invite to the Federal Delegation to future Board Meeting	8/8/22	CH	Delegation will be invited to the January Board meeting
22	3	VCBB's approach to mapping and strategy for challenging the FCC.	6/14/22	CH	Presented initial strategy 12/12/22. A Federal Program Officer at the NTIA will be needed to work on this with and that has finally been announced as Clay Purvis from the Public Service Department. He will be invited to January meeting.
28		Finalize subsequent overbuild policy and data policy.	10/31/22		This is addressed in the VCBB Data and Overbuild Policy submitted to the Board for continued discussion at the 12/12/22 meeting.
32		Alignment of VCBB Mission Statement based on Act 71	11/14/22		Patty Richards to lead this 12/12/22.
25	2	Host workshop for the CUDs on Uniform Guidance	8/8/22	CH	Completed December 7th
30		Adjust timing of Board Packet to at least 5 business days before the Board Meeting	11/03/22		Plan to start new schedule in January
33		Create a Communication Procedure Plan for Board notifications of updates	11/14/22		Completed in the November 28 Board meeting.

		from Staff (press releases, legislative presentations,			
34		Discussion regarding development of a separate website			Staff recommends we continue with the current website which follows state protocols.
27		Board requested that a grant agreement template be shared	10/31/22		Item closed – agreement was shared
23	1	Define audit criteria and post award grant reporting and review process for grantees/CUDs	8/8/22	CH	Item Closed - Compliance Recommendation Memo presented October 31st. Additional reporting requirements will be shared once the new form is updated and staff will create a dashboard for tracking.
18	1	Signature Authority of Executive Director	03/28/22	CH	Closed. Approved in July.
19	1	Policy around hiring staff	03/28/22	CH	Closed. Approved in July.
21	1	Invite to Doug Farnum to future Board Meeting	6/14/22	CH	Attended August 8th meeting.
20	3	Recommendation for designation of an entity for Digital Equity & Affordability Office	03/28/22	CH	Closed. This is being addressed by the Governor's office per a directive from the NTIA. This falls into the responsibility of the VCBB as a subset of the IIJA program.
8	2	Policy on "Material Default" see §8086(c)(2)	11/1/21	board	Closed. Issue has been resolved through legislation.
5	3	VCBB Dashboard – to be shared monthly to show progress. What are the milestones?	11/1/21	CH	Closed. Stone Environmental has presented its proposal and the software platform meets the needs.
16	1	Provide Board with impact of Commitment letter	02/14/22	CH	Closed with material pre-purchasing proposal.
17	2	Statewide marketing collaboration with VCUDA	02/14/22	CH	Closed. VCUDA is not interested.

15	2	Provide Benchmarks for what telecom companies spend on Marketing	02/14/22	CH	Will research and present back on 3/14/22 Board meeting
1	1	Budget	10/18/21	CH	Completed. 2021 budget approved. 2022 will be presented in March.
2	1	Overbuild – what is the standard (20% of total served?)	11/1/21	CH	Completed. See Construction RFP Definition
3	2	Business Plans – what is the scope? Will they be updated before construction grants?	11/1/21	CH	Completed. The updated business plans will be included in the Construction RFP responses.
6	3	Fiber purchase – VCBB involvement? authorization? Status?	11/1/21	CH	Completed
7	1	Make Ready Construction – policy: part of §8085 grants or not?	11/1/21	board	Policy established. Make ready construction will be part of the construction grant program.
9	2	Revisiting timeline for VCBB – construction RFP & reporting timelines	11/22/21	RF	Completed. Part of the construction RFP. RFP approved by the Board on 01/03/22
10	2	Sequence assumptions for preconstruction and construction & reporting timelines	11/22/21	CH	Completed. Part of the Construction RFP. RFP approved by the Board on 01/03/22
11	2	DPS 2021 Map – Unserved	11/1/21	CH& board (LS)	Completed
12	1	Confidentiality. Grant Agreement Art 5 (state standard). Is the product of a grant a "public document" – e.g. will we post construction plans?	11/1/21	CH/Legal	The RFP and construction schedules will be public.

13	2	USP & contiguous CUD construction- policy	11/22/21	Board LS/HG	Completed. Addressed in the Construction RFP.
14		Legislative Consideration – Purchase of consolidated services/goods	11/29/21		Not needed.