

HABERSHAM COUNTY BOARD OF COMMISSIONERS

EXECUTIVE SUMMARY

SUBJECT: Build Agreement for Broadband Funds through the ARPA Grant - Revision

DATE: January 13, 2025

RECOMMENDATION

POLICY DISCUSSION

BUDGET INFORMATION:

STATUS REPORT

ANNUAL-

OTHER

CAPITAL-

COMMISSION ACTION REQUESTED ON: January 21, 2025

PURPOSE: Consider/Approve Private-Public Partnership Build Agreement Revision with Windstream for utilization of GA State Fiscal Recovery Fund (SFRF) Grant to Expand Broadband Within the County.

BACKGROUND / HISTORY: Habersham County was awarded \$5,669,126 in Georgia State and Local Fiscal Recovery Funds in the spring of 2022 to expand broadband areas and speed throughout the County in partnership with Windstream Standard, LLC. Originally, Windstream would be providing the match funds for the grant. Habersham County Board of Commissioners approved a Build Agreement for Broadband Funds through the ARPA grant on October 17, 2022.

In June 2023, an amended Terms and Conditions was received and signed by Habersham County staff which increased the award amount to \$6,236,039 and changed the structure of the grant from a reimbursable grant to a fixed award grant. Basically, this revision took out the “match” requirement from the grant that Windstream was going to have to provide as part of the program and stated that the grant amount was now a set amount not to exceed. Windstream is still required to follow their presented plan and any funding outside of the grant funds is solely Windstream’s responsibility.

In December 2024, an amendment to the Build Agreement between the counties and vendors was drafted for grant recipients to present to their Boards for approval.

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- a. This PPP Build Agreement is a requirement of the ARPA funding policies to officially recognize the amended award amount and change in structure of the grant from a reimbursable grant to a fixed award grant.
 - b. It officially spells out the project and terms of how the funding will be requested from the State and then disbursed to reimburse Windstream.
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OPTIONS:

- 1) Approve
 - 2) Deny
 - 3) Commission defined alternative.
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RECOMMENDED SAMPLE MOTION: Move to approve the amended Build Agreement to recognize the amended award amount and change the structure of the grant.

DEPARTMENT:

Prepared by:

Director _____

**ADMINISTRATIVE
COMMENTS:** _____

DATE: _____

County Manager

**FIRST AMENDMENT TO BUILD AGREEMENT BETWEEN
HABERSHAM COUNTY, GEORGIA AND WINDSTREAM
STANDARD, LLC AND GEORGIA COMMUNICATIONS, LLC**

THIS AMENDMENT ("Amendment") is dated _____, 202__ and is by and between **HABERSHAM COUNTY, GEORGIA** (hereinafter "**County**") and **WINDSTREAM STANDARD, LLC and GEORGIA COMMUNICATIONS, LLC** (collectively hereinafter "**WIN**").

WHEREAS, the County and WIN are parties to a Build Agreement, dated October 17, 2022, pursuant to which the County agreed to utilize the proceeds of a Georgia State and Local Fiscal Recovery Fund (SLFRF) Grant awarded to the County by the Georgia Office of Planning and Budget ("**OPB**") for the purpose of enabling WIN to develop valuable broadband facilities for community residents, and

WHEREAS, the parties acknowledge that they entered into this Build Agreement prior to the United States Treasury's ("**Treasury**") updated SLFRF Supplementary Broadband Guidance published May 17, 2023, and

WHEREAS, the parties acknowledge that pursuant to this updated Treasury guidance, OPB amended its Terms and Conditions with the County concerning the OPB's administration of its SLFRF grant program to reflect the updated Treasury guidance and to designate the County's SLFRF grant as a Fixed Amount Subaward.

NOW THEREFORE, the parties agree that the Grant Funds awarded to WIN by the County, as a pass-through entity, are classified as a Fixed Amount Subaward, exempt from cost principles and procurement practices of the Uniform Guidance and that the updated Treasury guidance regarding the application of the Uniform Guidance to broadband infrastructure projects and the designation of Grant Funds as a Fixed Amount Subaward applies to this Build Agreement.

IN WITNESS WHEREOF, this Amendment has been duly executed by the authorized representatives of the parties.

County

WIN

By: _____
Name: Ty Akins
Title: Chairman, Habersham County
Board of Commissioners

By: _____
Name: _____
Title: _____