

PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement (this "Agreement") is made effective as of June 26, 2024 (the "Effective Date"), and is entered into between Catalyst Public Policy Advisors, LLC ("Consultant"), an Oregon limited liability company, whose address is 205 Valley View Drive, John Day, Oregon 97845, and Gilliam County, a political subdivision of the State of Oregon ("County"), whose address is 221 S. Oregon St., Condon, OR 97823.

RECITAL:

County was awarded Broadband Technical Assistance Program Grant Agreement No. BTAP2406 (the "BTAP Grant") to expand high-speed fiber optic internet and other broadband-related services (the "Project").

Consultant desires to contract with County to perform certain consulting services pertaining to Project. Subject to the terms and conditions contained in this Agreement, Consultant will perform the Services (as defined below) for and on behalf of County.

AGREEMENT:

NOW, THEREFORE, in consideration of the parties' mutual obligations contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. Consultant Services.

1.1 Services; Standards. Subject to the terms and conditions contained in this Agreement, Consultant will perform the following services for and on behalf of County concerning or related to the Project (collectively, the "Services"): (a) those services identified in Consultant's proposal dated June 19, 2024, attached hereto as Exhibit A (the "Proposal"); and (b) all other necessary or appropriate services customarily provided by Consultant in connection with its performance of those services identified in the Proposal. Consultant will (x) consult with and advise County on all matters concerning the Services reasonably requested by County, (y) communicate all matters and information concerning the Services to County's Judge, and (z) devote such time and attention to performance of the Services as County and Consultant mutually and reasonably deem necessary or appropriate. County acknowledges and agrees that Consultant may provide services that are the same or similar to the Services provided by Consultant under this Agreement to other persons during the term of this Agreement.

1.2 Additional Services. Notwithstanding anything contained in this Agreement to the contrary, County may, in County's sole discretion, direct Consultant to perform the grant writing tasks described in the Proposal. Consultant will not provide the Additional Services unless and until County provides Consultant written notice that the Additional Services are requested (which notice will identify the specific Additional Services requested and schedule for completing the Additional Services). Consultant will timely provide any Additional Services requested by County subject to and in accordance with this Agreement.

1.3 Schedule of Services; Coordination. Consultant will prosecute completion of the Services diligently, continuously, and in accordance with the Schedule identified in the Proposal. County acknowledges and agrees that the Schedule is based on information and documentation known to Consultant as of the Effective Date. Notwithstanding anything contained in this Agreement to the contrary, if Consultant requires additional time to complete all or any portion of the Services, Consultant will provide County written notice (the "Notice of Extension") no later than five days prior to the "due date" of the identified Services. Consultant will be provided the additional time requested in the Notice of Extension provided the additional time is reasonable and appropriate under the circumstances and does not exceed the BTAP Grant application deadline. Notwithstanding anything contained in this Agreement to the contrary, Consultant will not be liable for any damages, costs, and/or expenses suffered by County (or any other person) if the Services are not completed in accordance with the Schedule.

1.4 Communication and Coordination. County acknowledges and agrees that Consultant's ability to timely and properly complete the Services requires County to maintain adequate communication and coordination

concerning the Project and Services. Notwithstanding anything contained in this Agreement to the contrary, County will maintain adequate communication and coordination with Consultant, including, without limitation, promptly providing Consultant any information and/or documentation Consultant may request from time to time to perform the Services.

2. Compensation.

2.1 Compensation. Subject to the terms and conditions contained in this Agreement, in consideration of Consultant's performance of the Services, County will pay Consultant for the Services at the hourly rate of \$225. Consultant will submit monthly invoices to County concerning the Services performed by Consultant (each an "Invoice"). Subject to the terms and conditions contained in this Agreement, County will pay the amount due under the Invoice within thirty (30) days after Consultant's issuance of the Invoice. Notwithstanding anything contained in this Agreement to the contrary, total compensation payable by County under this Agreement for performance of the Services will not exceed \$8,000 and for the Additional Services \$9,000.

2.2 No Benefits; No Reimbursement. County will not provide any benefits to Consultant, and Consultant will be solely responsible for obtaining Consultant's own benefits, including, without limitation, insurance, medical reimbursement, and retirement plans. Consultant will provide, at Consultant's cost and expense, all materials, equipment, and supplies necessary or appropriate to perform the Services. County will not reimburse Consultant for any expenses Consultant incurs to perform the Services.

3. Relationship.

3.1 Independent Contractor. Consultant is an independent contractor of County. Consultant is not an employee of County. Consultant will be free from direction and control over the means and manner of performing the Services, subject only to the right of County to specify the desired results. This Agreement does not create an agency relationship between County and Consultant and does not establish a joint venture or partnership between County and Consultant. Consultant does not have the authority to bind County or represent to any person that Consultant is an agent of County. Consultant has the authority to hire other persons to assist Consultant in performing the Services (and has the authority to fire such persons).

3.2 Taxes; Licenses. County will not withhold any taxes from any payments made to Consultant, and Consultant will be solely responsible for paying all taxes arising out of or resulting from Consultant's performance of the Services, including, without limitation, income, social security, workers' compensation, and employment insurance taxes. Consultant will be responsible for obtaining all licenses, approvals, and certificates necessary or appropriate to perform the Services.

4. Representations; Warranties; Covenants.

In addition to any other Consultant representation, warranty, and/or covenant made in this Agreement, Consultant represents, warrants, and covenants to County as follows:

4.1 Authority; Binding Obligation; Conflicts. Consultant is duly organized, validly existing, and in good standing under applicable Oregon laws. Consultant has full power and authority to sign and deliver this Agreement and to perform all Consultant's obligations under this Agreement. This Agreement is the legal, valid, and binding obligation of Consultant, enforceable against Consultant in accordance with its terms. The signing and delivery of this Agreement by Consultant and the performance by Consultant of all Consultant's obligations under this Agreement will not (a) breach any agreement to which Consultant is a party, or give any person the right to accelerate any obligation of Consultant, (b) violate any law, judgment, or order to which Consultant is subject, or (c) require the consent, authorization, or approval of any person, including, without limitation, any governmental body.

4.2 Quality of Services. Consultant will perform the Services diligently, in good faith, in a professional manner, consistent with the level of care and skill ordinarily exercised by consultants practicing under similar circumstances at the time the Services are performed. The Services will be performed subject to and in accordance with the Laws (as defined below). Consultant will make all decisions called for promptly and without unreasonable delay.

4.3 Insurance. During the term of this Agreement, Consultant will obtain and maintain, in addition to any other insurance required under this Agreement, the following minimum levels of insurance: (a) general liability insurance for any and all losses or claims arising out of or related to Consultant's performance of its obligations under this Agreement (including, without limitation, damages as a result of death or injury to any person or destruction or damage to any property) with limits of no less than \$1,000,000 per occurrence, \$2,000,000 in the aggregate; and (b) if necessary under the Laws, workers' compensation insurance in form and amount sufficient to satisfy the requirements of applicable Oregon law. If Consultant fails to maintain insurance as required under this Agreement, County will have the option, but not the obligation, to obtain such coverage with costs to be reimbursed by Consultant immediately upon County's demand.

4.4 Compliance With Laws. Consultant will comply and perform the Services in accordance with the Laws. Prior to the Effective Date, Consultant obtained all licenses, approvals, and/or certificates necessary or appropriate to perform the Services. For purposes of this Agreement, the term "Law(s)" means all applicable federal, state, and local laws, regulations, restrictions, orders, codes, rules, and ordinances concerning the Services, all as now in force and/or which may hereafter be amended, modified, enacted, or promulgated.

4.5 Assignment; Records. Consultant will assign all studies, reports, data, documents, and/or materials of any kind produced under this Agreement (individually and collectively, the "Materials") to County upon the earlier of County's request or the termination of this Agreement. All Materials provided to County will become the property of County who may use them without Consultant's permission. Consultant will not be liable to County for any damages County sustains arising out of or related to County's modification and use of the Materials for purposes other than the Project (i.e., uses or purposes unrelated to the Project or purposes for which the Services were performed).

5. Term; Termination.

5.1 Term of Agreement. Subject to the terms and conditions contained in this Agreement, the term of this Agreement commenced on the Effective Date and will remain in full force and effect until the completion of the Services, unless sooner terminated as provided in this Agreement. Notwithstanding anything contained in this Agreement to the contrary, this Agreement may be terminated (a) at any time by the mutual written agreement of County and Consultant, and/or (b) subject to Section 5.2, by either party if the other party breaches and/or otherwise fails to perform the party's representations, warranties, covenants, and/or obligations contained in this Agreement.

5.2 Prior Notice of Default. Prior to any party's termination of this Agreement for cause under Section 5.1(b), the non-defaulting party will provide the alleged defaulting party prior written notice of the alleged default (the "Default Notice"), which Default Notice will specify with reasonable particularity the default the non-defaulting party believes exists. Commencing on the alleged defaulting party's receipt of the Default Notice, the alleged defaulting party will have ten (10) days within which to cure or remedy the alleged default(s) (the "Cure Period"); provided, however, if the nature of the default(s) is such that it cannot be completely remedied or cured within the Cure Period, there will not be a default by the alleged defaulting party under this Agreement if the alleged defaulting party begins correction of the default within the Cure Period and thereafter proceeds with reasonable diligence to effect the remedy as soon as practicable. Notwithstanding anything contained in this Agreement to the contrary, (a) a non-defaulting party is not required to provide, and the alleged defaulting party is not entitled to receive, a Default Notice upon the alleged defaulting party's commitment of a default under this Agreement for which the alleged defaulting party has previously received a Default Notice, and (b) no Default Notice is required to be provided by Consultant if County fails to timely pay the compensation required under this Agreement. Termination of this Agreement will not constitute a waiver or termination of any rights, claims, or causes of action the non-defaulting party may have against the defaulting party.

5.3 Consequences of Termination. If this Agreement is terminated under Section 5.1, County will pay Consultant, within ten (10) days after the date of termination, for all Services performed through the date of termination. Within a reasonable period of time after termination of this Agreement (but in no event later than ten (10) days after termination), Consultant will deliver to County all materials and documentation produced by Consultant related to or concerning the Services.

5.4 Remedies. If a party breaches and/or otherwise fails to perform any of its representations, warranties, covenants, and/or obligations under this Agreement, the non-defaulting party may, in addition to any other remedy provided to the non-defaulting party under this Agreement, pursue all remedies available to the non-defaulting party at law or in equity. All available remedies are cumulative and may be exercised singularly or concurrently.

6. Miscellaneous.

6.1 Severability; Assignment; Binding Effect. Each provision contained in this Agreement will be treated as a separate and independent provision. The unenforceability of any one provision will in no way impair the enforceability of any other provision contained herein. Any reading of a provision causing unenforceability will yield to a construction permitting enforcement to the maximum extent permitted by applicable law. Consultant may assign or subcontract with other persons to complete certain portions of the Services. Subject to the immediately preceding sentence, this Agreement will be binding on the parties and their respective heirs, personal representatives, successors, and permitted assigns, and will inure to their benefit. This Agreement may be amended only by a written agreement signed by each party.

6.2 Attorney Fees; Dispute Resolution. If any arbitration or litigation is instituted to interpret, enforce, and/or rescind this Agreement, including, without limitation, any proceeding brought under the United States Bankruptcy Code, the prevailing party on a claim will be entitled to recover with respect to the claim, in addition to any other relief awarded, the prevailing party's reasonable attorney fees and other fees, costs, and expenses of every kind, including, without limitation, costs and disbursements specified in ORCP 68 A(2), incurred in connection with the arbitration, the litigation, any appeal or petition for review, the collection of any award, or the enforcement of any order, as determined by the arbitrator or court. If any claim, dispute, or controversy arising out of or related to this Agreement occurs (a "Dispute"), County and Consultant will exert their best efforts to seek a fair and prompt negotiated resolution of the Dispute and will meet at least once to discuss and seek a resolution of the Dispute. If the Dispute is not resolved by negotiated resolution, either party may initiate a suit, action, arbitration, or other proceeding to interpret, enforce, and/or rescind this Agreement.

6.3 Governing Law; Venue. This Agreement is governed by the laws of the State of Oregon, without giving effect to any conflict-of-law principle that would result in the laws of any other jurisdiction governing this Agreement. Any action or proceeding arising out of this Agreement will be litigated in courts located in Grant County, Oregon. Each party consents and submits to the jurisdiction of any local, state, or federal court located in Grant County, Oregon.

6.4 Attachments; Further Assurances; Notices. Any exhibits, schedules, instruments, documents, and other attachments referenced in this Agreement are part of this Agreement. If any provision contained in an attached exhibit, schedule, instrument, document, and/or other attachment (including, without limitation, the Proposal) conflicts with this Agreement, the provisions of this Agreement will control. The parties will sign other documents and take other actions reasonably necessary to further effect and evidence this Agreement. All notices or other communications required or permitted by this Agreement must be in writing, must be delivered to the parties at the addresses set forth above, or any other address that a party may designate by notice to the other party, and are considered delivered upon actual receipt if delivered personally, by fax or email transmission (with electronic confirmation of delivery), or by a nationally recognized overnight delivery service, or at the end of the third business day after the date of deposit if deposited in the United States mail, postage pre-paid, certified, return receipt requested.

6.5 Waiver; Entire Agreement. No provision of this Agreement may be modified, waived, or discharged unless such waiver, modification, or discharge is agreed to in writing by County and Consultant. No waiver of either party at any time of the breach of, or lack of compliance with, any conditions or provisions of this Agreement will be deemed a waiver of other provisions or conditions hereof. This Agreement contains the entire agreement and understanding between the parties with respect to the subject matter of this Agreement and contains all the terms and conditions of the parties' agreement and supersedes any other oral or written negotiations, discussions, representations, or agreements. County has not relied on any promises, statements, representations, or warranties except as set forth expressly in this Agreement.

6.6 Person; Interpretation; Execution. For purposes of this Agreement, the term “person” means any natural person, corporation, limited liability County, partnership, joint venture, firm, association, trust, unincorporated organization, government or governmental agency or political subdivision, and/or any other entity. All pronouns contained herein and any variations thereof will be deemed to refer to the masculine, feminine, or neutral, singular or plural, as the identity of the parties may require. The singular includes the plural and the plural includes the singular. The word “or” is not exclusive. The words “include,” “includes,” and “including” are not limiting. The titles, captions, or headings of the sections herein are inserted for convenience of reference only and are not intended to be a part of or to affect the meaning or interpretation of this Agreement. The parties may execute this Agreement in separate counterparts, each of which when executed and delivered will be an original, but all of which together will constitute one and the same instrument.

IN WITNESS WHEREOF, the undersigned have caused this Agreement to be binding and effective for all purposes as of the Effective Date.

COUNTY:
Gilliam County,
an Oregon political subdivision

CONSULTANT:
Catalyst Public Policy Advisors, LLC,
an Oregon limited liability County

By: Cris Patnode, Judge

By: Nicholas Green, Member

Dated:

Dated:

Tax ID No. _____

Tax ID No. 88-2145989

Exhibit A
Proposal

[attached]



Broadband Technical Assistance Program (BTAP) Implementation Services Proposal

June 19, 2024

FIRM OVERVIEW

Nick Green, founder of Catalyst, is a veteran policy analyst and program manager with over 20 years of experience in public sector management and consulting. Our firm manages each project engagement and client to the highest standards in the consulting industry. We have refined our craft to deliver the highest quality services for your agency. We specifically focus on achieving enduring results for our customers within the boundaries of our industry's ethical and regulatory frameworks.

PROJECT BACKGROUND

Catalyst developed and assisted Gilliam County to submit a Broadband Technical Assistance Program (BTAP) grant application to the Oregon Broadband Office under a prior professional services agreement executed in January 2024. Gilliam County has now been awarded the grant of \$150,000, with a required \$8,000 match.

The Project will develop preliminary designs for the northern half of Gilliam County, including updating the preliminary engineering, cost analysis, pole data collection, conduit surveying, and expenses associated with permitting. Gilliam County intends to contract with LS Networks to perform the preliminary engineering and with Catalyst to assist in planning and developing the Project in preparation for the County to apply for construction funding through the Oregon Broadband Office.

DETAILED SCOPE OF WORK

Services. Catalyst will work with LS Networks to provide the following grant implementation services for Gilliam County using the \$8,000 matching funds required for the Project:

- Prepare two (2) quarterly progress reports per grant requirements, submitted by October 15, 2024 and January 15, 2025.
- Prepare closeout report NLT January 31, 2025.
- Compile a digital file of all project records and final deliverables for Gilliam County to archive for the six-year hold period.
- Facilitate coordination between LS Networks and Columbia Basin Electric Cooperative (CBEC) to assist with route planning, pole survey, permitting, and coordination with neighboring Morrow County for potential cross-connects with their BTAP grant and route planning.
- Assist LS Networks with network design and planning by providing initial Fabric ID Numbers for potential customers to serve within the BTAP design area. LS Networks will incorporate these data into their GIS systems to prepare a prioritized list of route segments for design.

Additional Services. Catalyst estimates the cost to prepare these route segments for application to the Oregon Broadband Office for BEAD and Digital Equity (DE) funding to be \$4,500 per application. Gilliam County may elect to authorize these additional grant-writing services under the scope of this agreement when the County is ready to apply for construction funds. Neither program is currently open for applications, but applicants are encouraged to begin preparing now, as both programs are expected to open early in 2025.

TIMELINE

Catalyst will provide all services under this agreement within 90 days of completion of the Project or January 31st, whichever comes first. Additional services will be completed based on written authorization by County on an agreed upon timeline when the services are requested.

PROPOSED FEE

We propose a \$225 hourly rate for these services, billed monthly. Services related to the BTAP grant implementation will not exceed the \$8,000 matching funds requirements. Additional services will be billed at the hourly rate subject to written approval from Gilliam County and will not exceed \$9,000.

CONFLICT OF INTEREST DISCLOSURE

The Oregon Government Ethics Commission (OGEC) and Oregon Revised Statutes Chapter 244 – Government Ethics requires disclosure of actual or potential conflicts of interest when public officials have potentially conflicting public responsibilities by virtue of their positions as public officials and as members of the boards and commissions. The State’s policy is that holding such offices does not constitute holding incompatible offices unless expressly stated in the enabling legislation (per ORS 244.010).

Nick Green is a Public Official as defined in ORS 244.020(15) due to serving as an appointed Oregon Broadband Advisory Council (OBAC) member from May 27, 2022 – Present and the Statewide Interoperability Executive Council from May 1, 2023 – Present. These are gubernatorial appointments to state commissions that are voluntary, unpaid positions. We do not anticipate any actual or potential conflicts of interest for Nick or Catalyst resulting from these appointments.

The OBAC has appointed a Grant Application Review Committee, and Nick is not a committee member. He does not review or provide recommendations to the Council regarding the BTAP application scoring, award criteria, or final award decisions. Mr. Green has declared a potential conflict of interest and did not volunteer to serve on this sub-committee.

At various times, Nick and/or Catalyst has also represented public agencies in planning, project management, and financial administration activities, including under various professional services agreements with public and private entities that may do business with Gilliam County.

In the event of a future conflict, we will work closely with Gilliam County to ensure any potential conflicts associated with the tasks outlined in this proposal are disclosed and mitigated correctly in accordance with the methods for handling conflicts prescribed in ORS 244.120.