

This **LETTER OF INTENT (“LOI”)** is made and entered into as of the 26th day of August, 2021 (the “Effective Date”), by and between the City of Bloomington, Indiana (“Bloomington” or the “City”) and Meridiam Infrastructure North America Corp, (the “Developer” or “Meridiam”), each a “Party” and collectively the “Parties”.

WHEREAS, Bloomington has been actively seeking to find an experienced and financially stable commercial partner to construct and operate a Fiber To The Home (“FTTH”) network within the City; and Bloomington desires to enter into a partnership agreement with a developer for the construction of such network to a significant portion of the Bloomington community to include low income neighborhoods within the community; and

WHEREAS, Meridiam desires to work with Bloomington to develop and operate a fiber network that serves the Bloomington community on a long-term duration that matches or exceeds the 25-year investment horizon of Meridiam; and

WHEREAS, the Parties intend to further evaluate and explore a long-term relationship structured as a Public-Private Partnership to implement broadband and other technology related infrastructure projects and mutual objectives established as priorities by both Parties (the “Project”); and

WHEREAS, Meridiam’s core investment philosophy includes achieving the United Nations Sustainable Development Goals (“UN-SDG”), and the Parties desire to achieve such goals as part of the Project’s development;

WHEREAS, the Parties desire to agree on the terms and conditions under which the Parties will carry out the Project, including any contracts and business relationships between themselves (collectively, the “Agreement”) and with third parties (which may include additional private sector companies and public sector stakeholders); and

WHEREAS, until such time as the Parties negotiate and execute the Agreement, the Parties agree to continue under this LOI framework.

NOW, THEREFORE, the Parties hereby agree as follows:

ARTICLE I - SCOPE OF LOI

- 1.1 Capitalized terms set forth herein shall have the meanings provided for such terms in this LOI, including the recitals.
- 1.2 This LOI is an initial commitment between the Parties to agree on and document a collaborative and exclusive relationship to develop the Project.





- 1.3 The Parties intend to take the necessary steps to negotiate in good faith and execute the Agreement on or prior to December 31, 2021, to carry out the Project; provided that the Parties agree to consider in good faith extending such deadline if the Parties require further time to finalize negotiations of the Agreement.
- 1.4 This LOI grants certain exclusive rights and privileges to each Party related to the Project during the Term (as defined below). The City has not, and, during the Term, the City will not enter into any other agreement, letter of intent, understanding or a similar arrangement for the construction of a FTTH network as contemplated in this LOI with any other party, nor will the City participate in any function that would be reasonably considered competitive to this LOI.
- 1.5 Unless otherwise required by applicable law, the Parties agree not to disclose the terms of this LOI and the matters contemplated hereby to any third parties until both Parties agree as to the content thereof. The Parties may elect to enter into a non-disclosure agreement ("NDA") as part of the LOI discussions.

ARTICLE II - SCOPE OF STRATEGIC RELATIONSHIP

- 2.1 The Parties agree to explore a business relationship, potentially structured as a "Public-Private Partnership," between Meridium and Bloomington to carry out the Project. Bloomington agrees to grant to Meridium access to any of the information and resources described in Section 2.2 of this LOI reasonably necessary for the Parties to make assessments to facilitate discussions of the Project and the Agreement.
- 2.2 The Parties agree to the following foundational terms that would, upon further clarification and negotiation by the Parties, as necessary, form part of the Agreement:
 - A. Meridium will be responsible for designing, building, operating, managing, and financing the Project and, by doing so, facilitating the following outcomes (the "Primary Project Outcomes").
 - B. The Primary Project Outcomes include:
 - i. Providing substantially complete community coverage of a network that is capable of providing at least 1Gb speed to each end user/customer within the City and future annexation areas to be defined in the Agreement;
 - ii. Bridging of the digital divide and addressing digital equity issues which may include working with Federal governmental programs including, but



- not limited to the Federal Lifeline Program administered by the Universal Service Administrative Co.;
- iii. Stimulating local economic growth including creating local jobs and investments in community development programs;
 - iv. Supporting future Smart City IoT Platform and Application Services (to be defined in the Agreement);
 - v. Long-term sustainability of the Project that ensures continued connectivity to the community in the event of default or bankruptcy by the Developer;
 - vi. Transparent communication between the Parties including the sharing of performance metrics which may include establishing a Digital Infrastructure Working Group to assist in the effective roll-out of the project; and
 - vii. Operating as an Open-Access Network over the life of the Project to ensure competitive pricing for Bloomington residents. "Open Access Network" means a telecommunications network architecture whereby the owner or the manager of the network may not supply services on / access to the network on an exclusive basis, however the owner or manager of the network may enter into certain exclusive arrangements with entities for defined periods of time.
- C. The Parties agree to work together to explore available grants, subsidies and other programs to support the onboarding of lower income residents to the Project.
- D. Bloomington will grant the Developer the exclusive rights to use agreed-upon City assets determined by the Parties as essential for the Project. The City will not enter into any arrangement(s) for implementing broadband and related technology or related infrastructure projects for achieving objectives established in this LOI with other parties for a negotiated and defined period of time of not less than [25] years. Bloomington will assist the Developer with other agencies and authorities having relevant jurisdiction to secure agreements and permits to cross and/or occupy such rights of way, or to utilize its and their existing infrastructure to support the construction of the network.
- E. The parties agree to work together to minimize any material inconveniences related to building a citywide FTTH network.
- F. Bloomington will contribute to the Project certain specified City owned, managed, or abandoned telecommunications infrastructure, conduit, or available spare fibers (if needed, on a non-permanent basis) including: approximately 17 miles of conduit in the downtown core and an interstate crossing to deliver services to residents and businesses of Bloomington.







- G. Bloomington will assist and support in identifying/providing dark fiber availability options including the potential to lease from an infrastructure utility for backhaul and other critical paths. Bloomington will appoint dedicated and empowered personnel to work with the Developer to facilitate this process, including an identified point person for the Project who is a full-time employee of the City.
- H. Bloomington agrees to work with the Developer to identify telecommunication and internet requirements for their government and public service needs, including police, fire and emergency services. Bloomington will assist in facilitating discussions with the school districts.
- I. Bloomington agrees to provide to the Developer an inventory of all telecommunications and dark fiber services that the City or its agencies procure from third parties, and to give the Developer priority consideration on all in-place telecommunication and internet services (upon expiration of existing contracts) and future telecommunication and internet services. This priority consideration is based on the Developer's commitment to construct a FTTH network that will provide fiber connectivity to at least 85% of all Bloomington premises in an equitable fashion. Premises will include all in market residential and business locations except for the following: IU on campus locations, locations currently served by multiple fiber providers, locations that are not reasonably accessible via public ROW or a public easement, government or university locations that are directly served by government or university fiber, or any premise that the Developer considers unreasonably expensive and commercially impracticable to connect.
- J. Bloomington agrees to use all commercially reasonable efforts to notify the Developer of any open trench projects relating to new roads, real estate and housing developments alongside other public utilities (electric, gas, water, telecommunications, and cable providers). The Developer will be responsible for contacting the project owner to determine if there is an opportunity to join the project.
- K. Bloomington agrees to provide the Developer with City maintained and controlled geographic information system (GIS) data and any other mapping data or telecommunications infrastructure records available to the City to assist Developer with confirmatory due diligence in connection with the Project.
- L. The City will support the Developer in publicizing the network and increasing community awareness of the Project and any potential subsidies, vouchers or other incentives available to residents.

M. Developer agrees that as the leading municipal partner and facilitator, Bloomington will be prioritized for first build-out among the communities included in the overall project.

ARTICLE III – SUSTAINABLE DEVELOPMENT GOALS

3.1 Sustainable Community Investment is a fundamental tenet of Meridium’s investment philosophy, and all investment decisions are based upon the realization of these goals as measured by the United Nations Sustainable Development Goals matrix. Likewise, sustainability is an essential pillar of the City’s planning and operations, and Bloomington and Meridium jointly desire to place sustainable development goals at the core of this partnership.

3.2 The achievement of these goals is considered an objective for Meridium and Bloomington with a focus on the following goals:

	<p>Goal 4: Ensure inclusive and equitable quality education and promote lifelong learning opportunities</p>
	<p>Goal 8: Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all</p>
	<p>Goal 9: Build resilient infrastructure, promote inclusive and sustainable industrialization and foster innovation</p>
	<p>Goal 11: Make cities and human settlements inclusive, safe, resilient and sustainable</p>

ARTICLE IV - LIABILITY

4.1 Neither Party shall be liable to the other Party for any and all damages, including but not limited to special, indirect, punitive, or consequential damages or any loss of profits, loss of revenues, loss of data or loss of savings incurred by the other party and/or resulting from, arising out of or in connection with this LOI.

ARTICLE V - TERMINATION



- 5.1 This LOI is effective on the Effective Date and will automatically expire at 11:59 pm EST on December 31, 2021, unless extended per Section 1.3 above. The binding obligations set forth in this LOI may be terminated prior to December 31, 2021, by mutual written consent signed by each Party; provided, however the City may terminate the LOI as may be required to avoid third-party litigation costs or demands associated with the LOI unless such costs or demands are covered by Meridium, and the City agrees to any such arrangement.
- 5.2 Upon the termination of this LOI, except as otherwise provided in this LOI or as otherwise agreed upon by the Parties in writing, neither Party shall have any liability or obligations to the other as it relates to the binding obligations in this LOI except under Sections 6.1 and 6.8.

ARTICLE VI - MISCELLANEOUS

- 6.1 **Costs and Expenses.** Each Party shall bear any, and all costs or expenses incurred by such Party and its agents and constituents in connection with the performance of its rights and obligations under this LOI.
- 6.2 **Compliance with Laws.** Each Party and its respective agents and affiliates shall, and shall cause their respective employees to, comply at their own expense with all applicable local, national, regional, and international laws, ordinances, regulations, codes, standards, directives and international conventions and agreements to the extent that any of the foregoing have the force of law by being directly enforceable by a governmental authority, a court or other proper tribunal.
- 6.3 **Assignment.** Neither Party shall assign any of its rights, or delegate any of its obligations, under this LOI, without the prior consent of the other Party.
- 6.4 **Entire Agreement.** This LOI constitutes the entire agreement between the Parties with respect to the subject matter hereof and supersedes any and all previous oral or written understandings, communications and agreements with respect to the subject matter hereof. No modification of any provision of this LOI shall be binding upon either Party unless executed in writing by that Party with the same formality as was this LOI.
- 6.5 **Counterparts and Signatures.** The Parties may execute any number of counterparts to this LOI, each of which shall be deemed to be an original, and all of which together shall constitute one and the same agreement. A copy or facsimile of the signature on this LOI of any authorized representative of either Party shall have the same force and effect as an original thereof.
- 6.6 **Governing Law.** This Agreement shall be governed by, construed in accordance with the laws of the state of Indiana (other than its conflict of laws provisions) and that



any litigation with respect to this LOI or any dispute hereunder shall be resolved before the State and Federal courts situated in Indiana. Each of the parties hereby expressly waives its right to a jury trial with respect to or in connection with any such litigation.

6.7 **Binding Effect.** Article I, Article II, Section 2.1 and, and Articles III- VI of this LOI, shall be binding upon, and enforceable against, each of the parties to this LOI. All provisions of this LOI that are not binding on a party in accordance with the preceding sentence shall be non-binding on such party and are not intended to create or constitute a legally binding obligation of the party. No party will have any liability to another party with respect to a provision that is non-binding as to that party. Except for provisions that are binding on a party as contemplated above, the parties acknowledge and agree that (a) this LOI merely expresses the parties' preliminary intentions with respect to the Agreement, (b) this document does not describe all of the essential or material terms of the Agreement, and (c) no binding agreement shall exist between the parties unless and until a binding, Agreement is signed between the parties. The understanding of the parties regarding the non-binding nature of this LOI is intended by the parties to control over any contrary or inconsistent statement, whether written or oral and by and to whomever made, or any action, inaction or course of conduct, whether before, on or after the date of this LOI. While the concepts expressed in the LOI represent the mutual understanding of the parties to date, it is intended that the specific language of those provisions shall be negotiable, and the specific terms of the Agreement are fully subject to the mutual approval of the parties.

6.8 **Confidentiality.** The Parties each will, and each will direct its employees, accountants, consultants, auditors, attorneys and other agents and representatives ("Representatives") to maintain the confidentiality of, and not use for any purpose other than to make assessments to facilitate discussions of the Project and the Agreement, any information provided to it by the other party to this LOI, whether before, on or after the date of this LOI. This obligation shall not apply to information (a) that is already known or becomes known to the public other than by disclosure by the party seeking to rely on this exception to the confidentiality obligation under this LOI, (b) that is independently developed by a party without using any information subject to the confidentiality obligation under this LOI, (c) that is obtained from a third party that is not known to be under a confidentiality obligation to the owner of the information, or (d) that is required to be disclosed by, or in accordance with, legal procedure or other applicable law; provided, that the disclosing party shall provide the owner of the information prior notice of such disclosure. The obligations of the parties under this Section shall terminate on the date that is three years after the date of this LOI.



6.9. **Notices.** Any notice or other communication to be given hereunder shall be in writing and either be delivered personally or be mailed, certified or registered mail, postage prepaid, return receipt requested, or by telecopied transmission, as follows:

If to the City:

Rick Dietz
401 N. Morton Street
Bloomington, IN 47404

If to Meridiam:

Nick Phillips
605 Third Avenue, 36th floor
New York, NY 10158

6.10 **Other Agreements.** The LOI and any subsequent LOI supplements, agreed to in writing by the Parties, constitutes the entire agreement between the Parties relating to the subject matter hereof and supersedes any other prior agreements, written or oral, between the Parties concerning such subject matter. The effective date of the LOI and any subsequent LOI supplements is the date indicated on the first page of the LOI or any supplements.



IN WITNESS WHEREOF, the Parties have executed this LOI as of the date set forth in the introductory paragraph hereof.

City of Bloomington, Indiana

A handwritten signature in blue ink that reads "John Hamilton".

Name: JOHN HAMILTON

Date: Aug 27, 2021

Title: Mayor

Meridiam Infrastructure North America Corp.

A handwritten signature in black ink that reads "Nick Phillips".

Name: Nick Phillips

Date: August 26, 2021

Title: Investment Director

