

MIDVALE CITY, UTAH

RESOLUTION NO. 2014-R-23

A RESOLUTION OF THE MIDVALE CITY COUNCIL TO FORMALLY RECEIVE THE MILESTONE 1 REPORT OF MACQUARIE CAPITAL UNDER THE TERMS OF THE PRE-DEVELOPMENT AGREEMENT WITH UTOPIA AND UIA; AND AUTHORIZING THE CITY'S REPRESENTATIVES TO THE BOARDS OF DIRECTORS OF UTOPIA AND UIA TO VOTE AFFIRMATIVELY IN FAVOR OF MOVING FORWARD WITH MACQUARIE INTO MILESTONE 2.

WHEREAS, the City is a member of the Utah Telecommunication Open Infrastructure Agency ("UTOPIA"), and of the Utah Infrastructure Agency ("UIA," collectively, with UTOPIA, the "Agencies"); and

WHEREAS, the Agencies have previously entered into a Pre-Development Agreement ("PDA") with Macquarie Capital ("Macquarie"); and

WHEREAS, under the PDA, Macquarie is obligated to fulfill certain steps referred to as "Milestones" to methodically investigate and propose a transaction known as a "Concession Agreement"; and

WHEREAS, Macquarie has completed its work under Milestone 1, and has provided the Agencies, and their member cities, Macquarie's Milestone 1 Report; and

WHEREAS, in the Milestone 1 Report, Macquarie proposes a 30 year transaction whereby it will provide the capital necessary to complete the full build out of the Agencies' network, and will design and build the network, provide all networking equipment, perform operations and maintenance on the network, will refresh the network over time, with a proposed utility fee of \$18-\$20 per address, and will return the asset to the Agencies at the end of the term; and

WHEREAS, Macquarie intends to partner with large companies who are willing and able to financially guarantee their performance; and

WHEREAS, in exchange for the foregoing, Macquarie will ask the participating cities to establish a fiber-optic infrastructure utility, and collect base utility fee on per address basis; and

WHEREAS, in exchange for the utility fee, each address will have access to basic Internet service and with services better than or comparable to all other products available today, at a much lower price; and

WHEREAS, under the PDA, Macquarie is obligated to bear all third-party expenses, unless and until the Agencies withdraw from advancing the PDA, in which case there will be a reimbursement obligation; and

WHEREAS, the City has determined it is in the City's best interest to proceed to Milestone 2; and

WHEREAS, in order to demonstrate the City's commitment to moving forward with Macquarie, the City is prepared to deposit into an escrow account 25% of the City's pro rata portion of the potential reimbursement obligation for Milestone 2; and

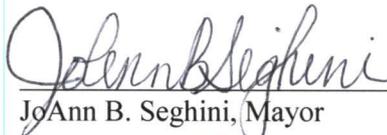
WHEREAS, the City looks forward to further analysis of the many issues which will need to be vetted and agreed upon; and

WHEREAS, the City encourages all other member cities to follow its example and affirmatively authorize their Board members to vote in favor of Milestone 2.

NOW, THEREFORE, BE IT RESOLVED THE FOLLOWING:

1. The Milestone 1 Report of Macquarie under the PDA is hereby received.
2. The City is in favor of the utility fee model as proposed, subject to additional refining future Milestones.
3. The City's representatives to the UTOPIA and UIA Boards of Directors are hereby authorized and directed to vote in favor of progressing the Agencies into Milestone 2.
4. The City hereby authorizes the deposit of 25% of its pro rata share of potential reimbursement exposure through Milestone 2 into a separate escrow account as demonstration of the City's commitment to Milestone 2.
5. The City directs its staff to cooperate with the Agencies and Macquarie toward the successful completion of Milestone 2.

Adopted by the City Council of Midvale, Utah this 20th day of May, 2014.


JoAnn B. Seghini, Mayor

ATTEST:


Rofi L. Andreason, MMC
City Recorder



Voting by the City Council:

Stephen Brown
Paul Glover
Robert Hale
Paul Hunt
Wayne Sharp

| "Aye" | "Nay" |
|-------------------------------------|-------|
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| <input checked="" type="checkbox"/> | _____ |