

ORDINANCE NO. 17-170-01

AN ORDINANCE OF THE CITY OF JOHN DAY, OREGON RATIFYING CREATION OF THE GRANT COUNTY DIGITAL NETWORK COALITION IN ACCORDANCE WITH ORS 190.085.

WHEREAS, ORS 190.010 provides that units of local government may enter into agreements for the performance of any functions and activities that any party to the agreement, or its officers or agents, has the authority to perform; and

WHEREAS, under ORS 190.085, each party to an intergovernmental agreement creating an intergovernmental entity must enact an ordinance ratifying the creation of the intergovernmental entity prior to the effective date of the intergovernmental agreement; and

WHEREAS, the Council desires to (a) declare its intent to create an intergovernmental entity by intergovernmental agreement, and (b) ratify creation of the intergovernmental entity.

NOW, THEREFORE, the City of John Day ordains as follows:

1. Findings. The above-stated findings are hereby adopted.
2. Short Title. This Ordinance No. 17-170-01 may be referred to as the “Grant County Digital Network Coalition Ratifying Ordinance” and will be cited and referred to herein as this “Ordinance.”
3. Definitions. For purposes of this Ordinance, the following terms and phrases have the meanings assigned to them below:

“Agency” means the Grant County Digital Network Coalition.

“Agreement” means the intergovernmental agreement between the parties creating the Agency.

“Board” means Agency’s then appointed board of directors.

“Council” means the John Day City Council.

“Law(s)” mean all federal, state, and local laws, statutes, ordinances, and/or regulations directly or indirectly affecting the Network, including, without limitation, the Americans with Disabilities Act of 1990 (and the rules and regulations promulgated thereunder) and ORS chapter 190, all as now in force and/or which may hereafter be amended, modified, enacted, or promulgated.

“Network” means the broadband infrastructure necessary to establish and operate a digital network, including, without limitation, wireless infrastructure, fiber optic infrastructure, and all fiber connections to the premises constructed, operated by, or controlled by the Agency.

“Party(ies)” means, as of the date of this Ordinance, City of John Day, City of Seneca, and Grant County, individually and collectively.

4. Intent; Effective Date. The Council hereby declares its intent to create the intergovernmental entity (Agency) to be known as the Grant County Digital Network Coalition by intergovernmental agreement. The effective date of the Agreement is January 1, 2018.

5. Public Purposes. Agency's public purposes include, without limitation, the following: (a) plan for and study the best method(s) to design, construct, own, operate, and/or maintain the Network and future telecommunications infrastructure for the benefit of the Parties and their respective citizens, other governmental entities, and public and private health and safety organizations; (b) own, manage, control, and operate the Network (and any digital system obtained by Agency) and all associated Network traffic, software management, maintenance costs, and connections to public buildings; (c) provide a forum for communication and consultation among the Parties and provide an opportunity for a cooperative and equitable sharing of expenses, data, expertise, experience, and plans of each unit of local government; (d) modernize telecommunications infrastructure within the jurisdictions of each Party to ensure sufficient and efficient capacity, speed, resilience, scalability, and access to Agency's residents; (e) receive funds necessary to manage and operate the Network and Agency; (f) acquire such additional tangible and intangible assets as are deemed necessary or appropriate to fulfill the other purposes of Agency; and (g) carry out such other necessary and/or appropriate responsibilities and functions as provided by the Parties.

6. Agency Powers; Duties; Functions. Agency will have the authority to act in the interest of the Parties to oversee and direct operation of the Network and such other responsibilities as may be assigned by the Parties from time to time. Without otherwise limiting the generality of the immediately preceding sentence, Agency will have the following general powers: (a) adopt, through action of the Board, such bylaws, rules, regulations, and policies necessary to carry out the purposes and duties under the Agreement; (b) perform and exercise all powers pursuant to the Laws, including, without limitation, the principal acts of the Parties and ORS chapter 190, which are necessary and/or appropriate to design, construct, own, operate, and/or maintain the Network for the benefit of the Parties and their respective citizens; (c) purchase, own, hold, appropriate, and/or condemn land, property, facilities, and/or right-of-way either in Agency's name or in the name of individual Parties in furtherance of the construction, ownership, operation, and/or maintenance of the Network for the benefit of the Parties and their respective citizens; (d) enter into agreements with other public and/or private entities for the purpose of design, construction, ownership, operation, and/or maintenance of the Network; (e) issue, sell, and/or otherwise dispose of bonds, securities, and/or other forms of indebtedness, including, without limitation, the power to raise revenue bonds under ORS chapter 287A; and (f) exercise all powers pursuant to the Laws, including, without limitation, the principal acts of the Parties and ORS chapter 190, which are necessary and/or appropriate to carry out the purposes of the Agreement.

7. Severability; Corrections. All pronouns contained in this Ordinance 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. Any reference to a particular law, statute, rule, regulation, code, or ordinance includes the law, statute, rule, regulation, code, or ordinance as now in force and hereafter amended. If any section, subsection, sentence, clause, and/or portion of this Ordinance is for any reason held invalid, unenforceable, and/or unconstitutional, such invalid, unenforceable, and/or unconstitutional section, subsection, sentence, clause, and/or portion will (a) yield to a construction permitting enforcement to the maximum extent permitted by applicable law, and (b) not affect the validity, enforceability, and/or constitutionality of the remaining portion of this Ordinance. This Ordinance may be corrected by order of the Council to cure

editorial and/or clerical errors. This Ordinance will become effective thirty (30) days after its passage by the Council and approval by the mayor.

This Ordinance was PASSED and ADOPTED by the Council by a vote of ___ for and ___ against and APPROVED by the mayor on _____, 2017.

By: _____
Its: _____

ATTEST:

By: _____
Its: _____