

RESOLUTION # 100 - 2022

Resolution to provide approval of an initial resolution approving revenue bond financing for Bug Tussel 1, LLC

Resolved by the Board of Supervisors of Oneida County, Wisconsin:

WHEREAS, Section 66.1103 of the Wisconsin Statutes (the "Act") authorizes municipalities to authorize the issuance and sale of bonds to construct, equip, re-equip, acquire by gift, lease or purchase, install, reconstruct, rebuild, rehabilitate, improve, supplement, replace, maintain, repair, enlarge, extend or remodel industrial projects; and

WHEREAS, Bug Tussel 1, LLC, a Wisconsin limited liability company, Bug Tussel 2, LLC, a Wisconsin limited liability entity yet to be created, or a related limited liability entity to be formed (the "Company"), and/or one or more of its affiliates (including, without limitation, Bug Tussel Wireless, LLC, Hilbert Communications, LLC and Cloud 1, LLC), whether existing on the date hereof or to be formed and whether owned directly or indirectly by the Company, desires to finance a project consisting of the acquisition, construction and installation of certain telecommunications infrastructure that includes, among other things (i) acquisition of tower sites by purchase or lease of land and equipping such sites with towers and electronics to provide broadband, high speed cellular, emergency communications and point to point (P2P) data communications; (ii) constructing fiberoptic data transmission facilities (cable and electronics) between towers, key community facilities, businesses and residential aggregation points; (iii) where appropriate, connecting individual premises into the broadband network including the cost of Consumer Premise Equipment (CPE); (iv) payment of capitalized interest; (v) funding of a debt service reserve fund; (vi) payment of such project costs located in Oneida County in an amount not to exceed \$18,000,000; and (vii) payment of professional fees (collectively, the "Project"), all of which will be for the purpose of providing wireless internet and telephone communications services to businesses, governmental units and residents of rural communities where such service is currently unavailable or is prohibitively expensive; and

WHEREAS, Oneida County, Wisconsin is a political subdivision of the State within whose boundaries a portion of the Project is located; and

WHEREAS, pursuant to Sections 66.1103 and 66.0301 of the Wisconsin Statutes, individual counties or two or more counties, each a "Participating County", acting pursuant to an Intergovernmental Agreement may serve as the conduit issuer for such financing; and

WHEREAS, Fond du Lac County, Wisconsin (the "Issuing County") acting pursuant to intergovernmental powers adopted an initial resolution on August 17, 2021 (the "2021 Authorization") to authorize the issuance of taxable revenue bonds to be issued in one or more series in an aggregate principal amount not to exceed \$240,000,000 and (i) the Issuing County has heretofore on December 16, 2021, issued the first tranche of conduit revenue bonds to finance a portion of the multi-jurisdictional Project, in the aggregate amount of \$70,000,000, (ii) the Issuing County has heretofore on August 16, 2022, issued the second tranche of conduit revenue bonds to finance a portion of the multi-jurisdictional Project, in the aggregate amount of \$92,900,000, and (iii) the Issuing County has authority under the 2021 Authorization to issue the remaining \$77,100,000 aggregate principal of conduit revenue bonds to finance a portion of the multi-jurisdictional Project (the "Third Tranche"); and

WHEREAS, it is yet to be determined if the Project located in Oneida County in an amount not to exceed \$18,000,000 will (i) be included in the Third Tranche as part of the 2021 Authorization or

52 (ii) be included in a new taxable bond issue pursuant to a new initial resolution to be adopted by
53 the Issuing County on such date yet to be determined which would authorize the issuance of
54 additional taxable or tax-exempt revenue bonds to be issued in one or more series in an aggregate
55 principal amount not to exceed \$240,000,000 to finance a portion of the multi-jurisdictional Project
56 (the "New Bond Issue"); and

57
58 **WHEREAS**, Section 66.1103(3)(f) of the Wisconsin Statutes provides that a municipality also may
59 finance an industrial project which is located entirely outside the geographic limits of the municipality,
60 but only if the revenue agreement for the project also relates to another project of the same eligible
61 participant, part of which is located within the geographic limits of the municipality; and

62
63 **WHEREAS**, the Project includes necessary infrastructure for essential services by and for Oneida
64 County and local units of government in Oneida County and is in furtherance of the public purposes
65 set forth in the Act; and

66
67 **WHEREAS**, the proposed Project is a multi-jurisdictional project which is located in multiple counties
68 to be identified, and the Company has requested that each of the Participating Counties approve
69 an initial resolution (the "Initial Resolution") providing for the financing of the Project in an aggregate
70 amount not to exceed \$240,000,000 to be included in the Third Tranche or the New Bond Issue (the
71 "Bonds"); and

72
73 **WHEREAS**, pursuant to the Intergovernmental Agreement, Fond du Lac County shall be the Issuing
74 County of said revenue Bonds, and it shall be determined at a future date which county or counties
75 shall be Participating Counties; and

76
77 **WHEREAS**, the Company has requested that Oneida County and other Participating Counties
78 who will directly benefit from the Project to each provide a limited guaranty (each a "Guaranty")
79 to enhance the collateral position of the Company in an amount equal to the pro rata portion of
80 the Project costs incurred and essential services benefits derived in such Participating County
81 (such pro rata portion is referred to herein as the "Oneida County Bond Proceeds"); and

82
83 **WHEREAS**, the Company will have the primary obligation to make all scheduled principal and
84 interest payments when due on the Bonds, and Oneida County's Guaranty will apply only in the
85 event that the Company does not make the required payments due on the Bonds; and

86
87 **WHEREAS**, in return for Oneida County's Guaranty, Oneida County shall receive an annual
88 guaranty fee of 40 basis points (0.40%) (based upon the amount of its Guaranty), and the Company
89 will pay all costs to Oneida County and all expenses by Oneida County related to the bond issue;
90 and

91
92 **WHEREAS**, at the option of the Company, bond insurance may be purchased with respect to the
93 Bonds which will require approval by subsequent resolution of Oneida County; and

94
95 **WHEREAS**, the Company shall enter into a Reimbursement Agreement (the "Reimbursement
96 Agreement") with Oneida County agreeing to reimburse Oneida County for any payment required
97 under Oneida County's Guaranty and to indemnify Oneida County for any and all costs, expenses
98 and liabilities related to the Bonds; and

99
100 **WHEREAS**, the Reimbursement Agreement and related documentation shall require Oneida
101 County's approval for distribution of the Oneida County Bond Proceeds and any portion of the Oneida
102 County Bond Proceeds not spent on the portion of the Project located in Oneida County shall be

103 applied to repay a portion of the Bonds and to reduce Oneida County's Guaranty; and

104
105 **WHEREAS**, as security for the Reimbursement Agreement, Oneida County shall receive a first
106 mortgage on all land, buildings, and improvements of the Company located in Oneida County which
107 are financed with proceeds of the Bonds; and

108
109 **WHEREAS**, as additional support for the Reimbursement Agreement, Oneida County shall receive
110 (i) from Hilbert Communications, LLC, a first lien pari passu with the other Participating Counties on
111 the membership interests of the Company, and (ii) a guaranty from Hilbert Communications, LLC
112 and/or one or more of its affiliates (including, without limitation, Bug Tussel Wireless, LLC and
113 Cloud 1, LLC).

114
115 **NOW, THEREFORE, BE IT RESOLVED** by the Oneida County Board of Supervisors as follows:

116
117 1. Oneida County hereby approves that Fond du Lac County, as the Issuing County,
118 acting pursuant to the Intergovernmental Agreement, shall:

119
120 (a) Finance the Project in an aggregate amount not to exceed \$240,000,000 to
121 be included in the Third Tranche or the New Bond Issue which includes Project costs located
122 in Oneida County in an amount not to exceed \$18,000,000; and

123
124 (b) Acting pursuant to the Intergovernmental Agreement by and among one or
125 more Participating Counties, Fond du Lac County shall issue industrial development revenue
126 bonds in one or more issues or series of tax-exempt or taxable bonds in an aggregate amount
127 not to exceed \$240,000,000 as part of the 2021 Authorization or the New Bond Issue in order
128 to finance costs of the Project located in the Participating Counties, pursuant to Section
129 66.1103(3)(f) of the Wisconsin Statutes.

130
131 2. The aforesaid plan of financing contemplates, and is conditioned upon, the following:

132
133 (a) The Bonds shall be limited obligations of the Issuing County, acting pursuant
134 to the Intergovernmental Agreement, and are payable solely from revenues provided by the
135 Company and are secured in part by the limited Guaranty of Oneida County;

136
137 (b) The Bonds shall never constitute an indebtedness of Oneida County, the
138 Issuing County or the Participating Counties within the meaning of any state constitutional
139 provision or statutory limitation;

140
141 (c) The Project shall be subject to property taxation in the same amount and to
142 the same extent as though the Project were not financed with industrial development revenue
143 bonds;

144
145 (d) The Company shall find a purchaser for all of the Bonds; and

146
147 (e) All out-of-pocket costs, including but not limited to legal fees, incurred by
148 Oneida County in connection with the issuance and sale of the Bonds shall be paid by the
149 Company, whether or not the Issuing County or another Participating County ultimately
150 issues the Bonds; and

151
152 (f) Oneida County shall be paid an annual guaranty fee of 40 basis points
153 (0.40%) (based upon the amount of Oneida County's Guaranty).

154
155 3. The aforesaid plan of financing shall not be legally binding upon Oneida County nor
156 be finally implemented unless and until:
157

158 (a) The details and mechanics of the bond financing are authorized and
159 approved by a further resolution of Fond du Lac County, as the Issuing County, by a vote of
160 at least three-fourths of the members-elect (as defined in Section 59.001(2m) of the
161 Wisconsin Statutes) of the Board of Supervisors. Such approval shall be solely within the
162 discretion of the Issuing County, acting pursuant to the Intergovernmental Agreement and
163 approval of the Board of Supervisors of the Issuing County;
164

165 (b) Said approval and Guaranty are further conditioned upon terms and
166 conditions of one or more written agreements between Oneida County and the various
167 parties involved, ensuring that all of the proceeds from the sale of the Bonds shall be
168 administered by a duly appointed independent trustee, that the bond proceeds shall be used
169 exclusively for the development of the Project and for no other purpose, and that the project
170 funds shall be paid over to the Company by the trustee only as they become needed for
171 completion of the Project;
172

173 (c) The County Clerk of Oneida County shall cause notice of adoption of this
174 Initial Resolution, in the form attached hereto as Exhibit A, to be published once in a
175 newspaper of general circulation in Oneida County, and the electors of Oneida County shall
176 have been given the opportunity to petition for a referendum on the matter of the aforesaid
177 bond issue, all as required by law;
178

179 (d) Either no such petition shall be timely filed or such petition shall have been
180 filed and said referendum shall have approved the bond issue;
181

182 (e) The county clerks of Oneida County and the Participating Counties shall each
183 have received an employment impact estimate issued under Section 238.11 of the
184 Wisconsin Statutes;
185

186 (f) The Bonds shall be limited obligations of the Issuing County, acting pursuant
187 to the Intergovernmental Agreement and are payable solely from revenues provided by the
188 Company and secured in part by a limited guaranty of each Participating County;
189

190 (g) All Participating Counties have entered into the Intergovernmental
191 Agreement and identified Fond du Lac County as the Issuing County;
192

193 (h) All Participating Counties shall approve their respective guaranties by a vote
194 of at least three-fourths of the members-elect of their respective County Board of
195 Supervisors; such subsequent approval shall be solely within the discretion of each
196 Participating County; and
197

198 (i) All documents required to consummate the financing have been duly
199 authorized and delivered and the Bonds are issued and sold not later than December 31,
200 2023.
201

202 4. Pursuant to the Act, all requirements that the Project be subject to the contracting
203 requirements contained in Section 66.1103 are waived, the Company having represented that it is
204 able to negotiate satisfactory arrangements for completing the Project and that Oneida County's

205 interests are not prejudiced thereby.

206
207 5. The County Clerk of Oneida County is directed following adoption of this Initial
208 Resolution (i) to publish notice of such adoption not less than one time in the official newspaper of
209 Oneida County, such notice to be in substantially the form attached hereto as Exhibit A and (ii) to
210 file a copy of this Initial Resolution, together with a statement indicating the date the Notice to Electors
211 was published, with the Wisconsin Economic Development Corporation within twenty (20) days
212 following the date of publication of such notice.

213
214 6. This Initial Resolution is an "initial resolution" within the meaning of the Act and official
215 action toward issuance of the Bonds. Furthermore, it is the reasonable expectation of Oneida
216 County that proceeds of the Bonds may be used to reimburse expenditures made on the Project
217 prior to the issuance of the Bonds. The maximum principal amount of debt expected to be issued
218 for the Project on the date hereof is \$240,000,000.

219
220 7. Oneida County Officers and Corporation Counsel shall forthwith negotiate and confer
221 with all interested parties, draft, edit, or approve and deliver the contracts or other documents
222 necessary to carry out the provisions of this Initial Resolution; provided, however, that such Officers
223 and Corporation Counsel shall present the same to the Board of Supervisors for the Board's final
224 review, ratification, and approval of all of the specific terms and conditions contained in said
225 documents prior to the issuance of the Bonds on behalf of the Company. Such subsequent approval
226 shall be solely within the discretion of Oneida County and its Board of Supervisors, notwithstanding
227 this Initial Resolution.

228
229
230
231 Vote Required: Majority = _____ 2/3 Majority = _____ 3/4 Majority = ✓ _____

232
233 The County Board has the legal authority to adopt: Yes ✓ No _____ as reviewed
234 by the Corporation Counsel, September 27, Date:
235 7.22.2022

236
237
238 Offered and passage moved by: Tom Kelly
239 Supervisor

240
241 Seconded by _____

- 242
243
244 _____ Ayes
245
246 _____ Nays
247
248 _____ Absent
249
250 _____ Abstain
251
252 _____ Adopted

253
254 by the County Board of Supervisors this 27th day September, 2022.
255

256 _____ Defeated

257

258

259

260

Tracy Hartman, County Clerk

Scott Holewinski, County Board Chair

261

EXHIBIT A

NOTICE TO ELECTORS OF ONEIDA COUNTY, WISCONSIN

TAKE NOTICE that the Board of Supervisors of Oneida County, Wisconsin ("Oneida County"), at a meeting held at the Oneida County Courthouse, 1 South Oneida Avenue, Rhinelander, Wisconsin, on _____, 2022, adopted an initial resolution (the "Initial Resolution") pursuant to Section 66.1103 of the Wisconsin Statutes, as amended, expressing the intention to approve Fond du Lac County (the "Issuing County"), acting pursuant to an intergovernmental agreement, to issue not to exceed \$240,000,000 of industrial development revenue bonds (the "Bonds") on behalf of Bug Tussel 1, LLC, a Wisconsin limited liability company, Bug Tussel 2, LLC, a Wisconsin limited liability yet to be created, or a related limited liability company to be formed (the "Company"), and/or one or more of its affiliates (including, without limitation, Bug Tussel Wireless, LLC, Hilbert Communications, LLC and Cloud 1, LLC), to finance a project consisting of the acquisition, construction and installation of certain telecommunications infrastructure that includes, among other things (i) acquisition of tower sites by purchase or lease of land and equipping such sites with towers and electronics to provide broadband, high speed cellular, emergency communications and point to point (P2P) data communications; (ii) constructing fiberoptic data transmission facilities (cable and electronics) between towers, key community facilities, businesses and residential aggregation points; (iii) where appropriate, connecting individual premises into the broadband network including the cost of Consumer Premise Equipment (CPE); (iv) payment of capitalized interest; (v) funding of a debt service reserve fund; (vi) payment of project costs located in Oneida County in an amount not to exceed \$18,000,000; and (vii) payment of professional fees (collectively, the "Project"), all of which will be for the purpose of providing wireless internet and telephone communications services to businesses, governmental units and residents of rural communities. The Company has represented that the net number of full-time equivalent jobs which will be created in Oneida County is 2.

Pursuant to the terms of Section 66.1103 of the Wisconsin Statutes, all requirements that the Project be subject to the contracting requirements

contained in Section 66.1103 are waived, the Company having represented that it is able to negotiate satisfactory arrangements for completing the Project and that Oneida County's interests are not prejudiced thereby.

THE BONDS SHALL NEVER CONSTITUTE AN INDEBTEDNESS OF ONEIDA COUNTY, NOR SHALL THE BONDS GIVE RISE TO ANY PECUNIARY LIABILITY OF ONEIDA COUNTY, NOR SHALL THE BONDS BE A CHARGE AGAINST THE GENERAL CREDIT OR TAXING POWERS OF ONEIDA COUNTY. RATHER, THE BONDS SHALL BE PAYABLE SOLELY FROM THE REVENUES AND OTHER AMOUNTS TO BE DERIVED PURSUANT TO THE REVENUE AGREEMENT RELATING TO SAID PROJECT TO BE ENTERED INTO BETWEEN THE ISSUING COUNTY AND THE COMPANY.

The Initial Resolution may be inspected in the office of the Oneida County Clerk at 1 South Oneida Avenue, Rhinelander, Wisconsin, during business hours.

TAKE FURTHER NOTICE THAT THE ELECTORS OF ONEIDA COUNTY MAY PETITION FOR A REFERENDUM ON THE QUESTION OF THE BOND ISSUE. Unless within thirty (30) days from the date of the publication of this Notice a petition signed by not less than five percent (5%) of the registered electors of the Oneida County is filed with the County Clerk requesting a referendum on the question of the issuance of the Bonds, the Issuing County will issue the Bonds without submitting the proposition for the electors' approval. If such petition is filed as aforesaid, then the Bonds shall not be issued until approved by a majority of the electors of Oneida County voting thereon at a general or special election.

Tracy Hartman, County Clerk
Oneida County, Wisconsin