



WILLMAR CITY COUNCIL WORK SESSION

MONDAY, JANUARY 22, 2024 @ 6:00 PM

WILLMAR MUNICIPAL UTILITIES

700 LITCHFIELD AVE SW, WILLMAR, MN 56201

AGENDA

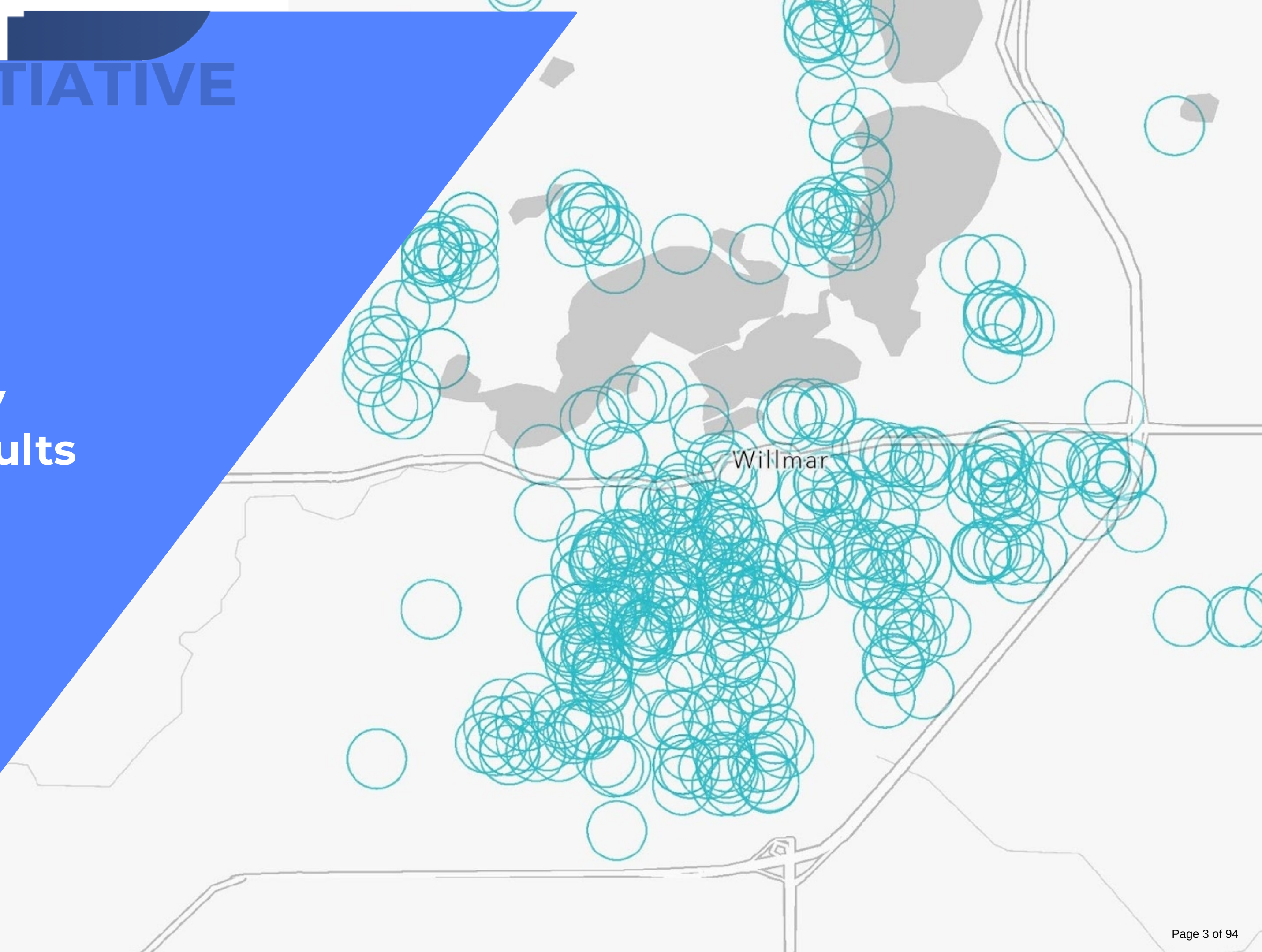
1. Call Meeting to Order
2. Roll Call
3. Pledge of Allegiance
4. Proposed Additions or Deletions to Agenda
5. Regular Business
 - A. Willmar Broadband Project Update
6. Adjourn

Community

Preliminary Survey Results

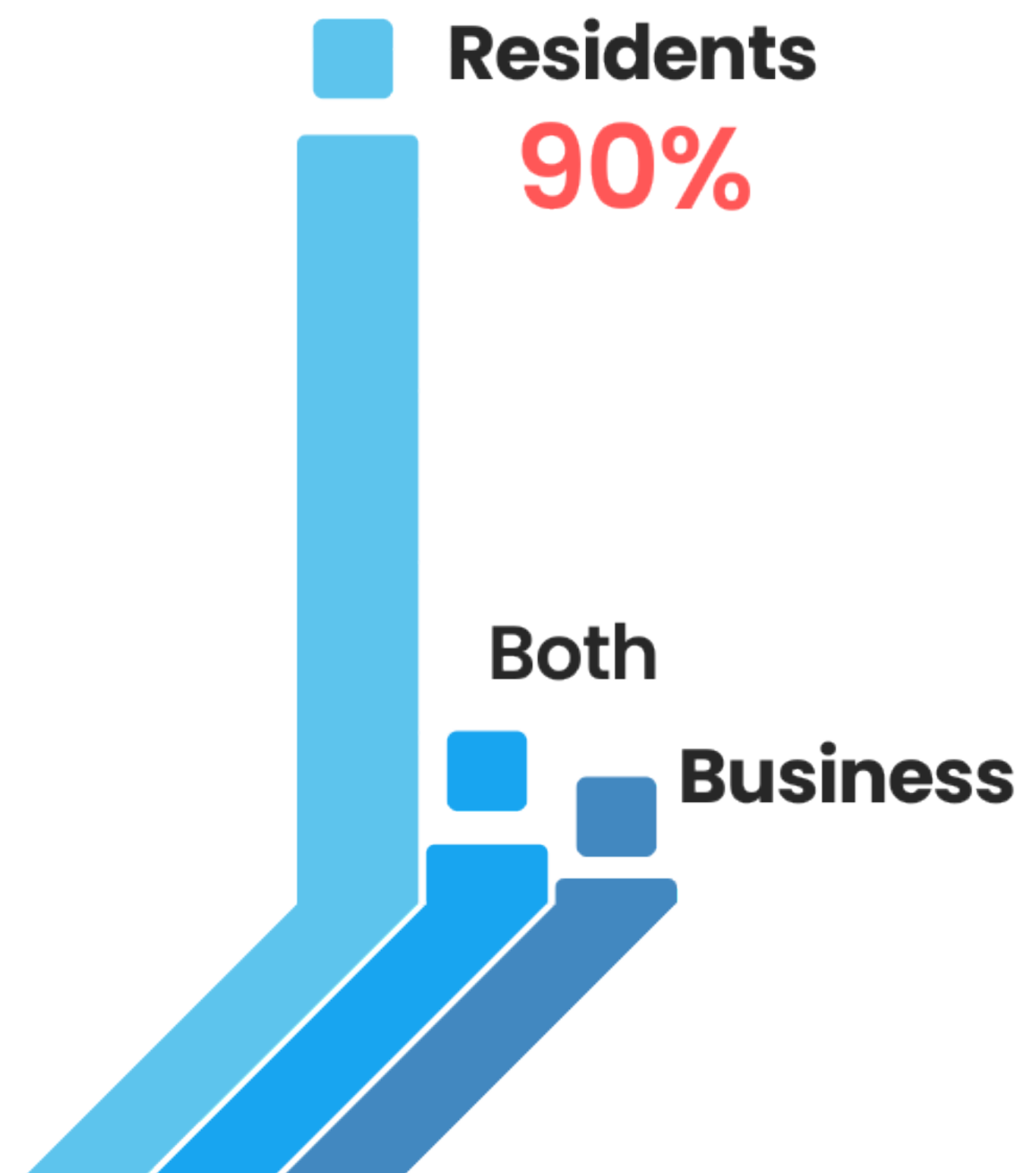


Preliminary Survey Results



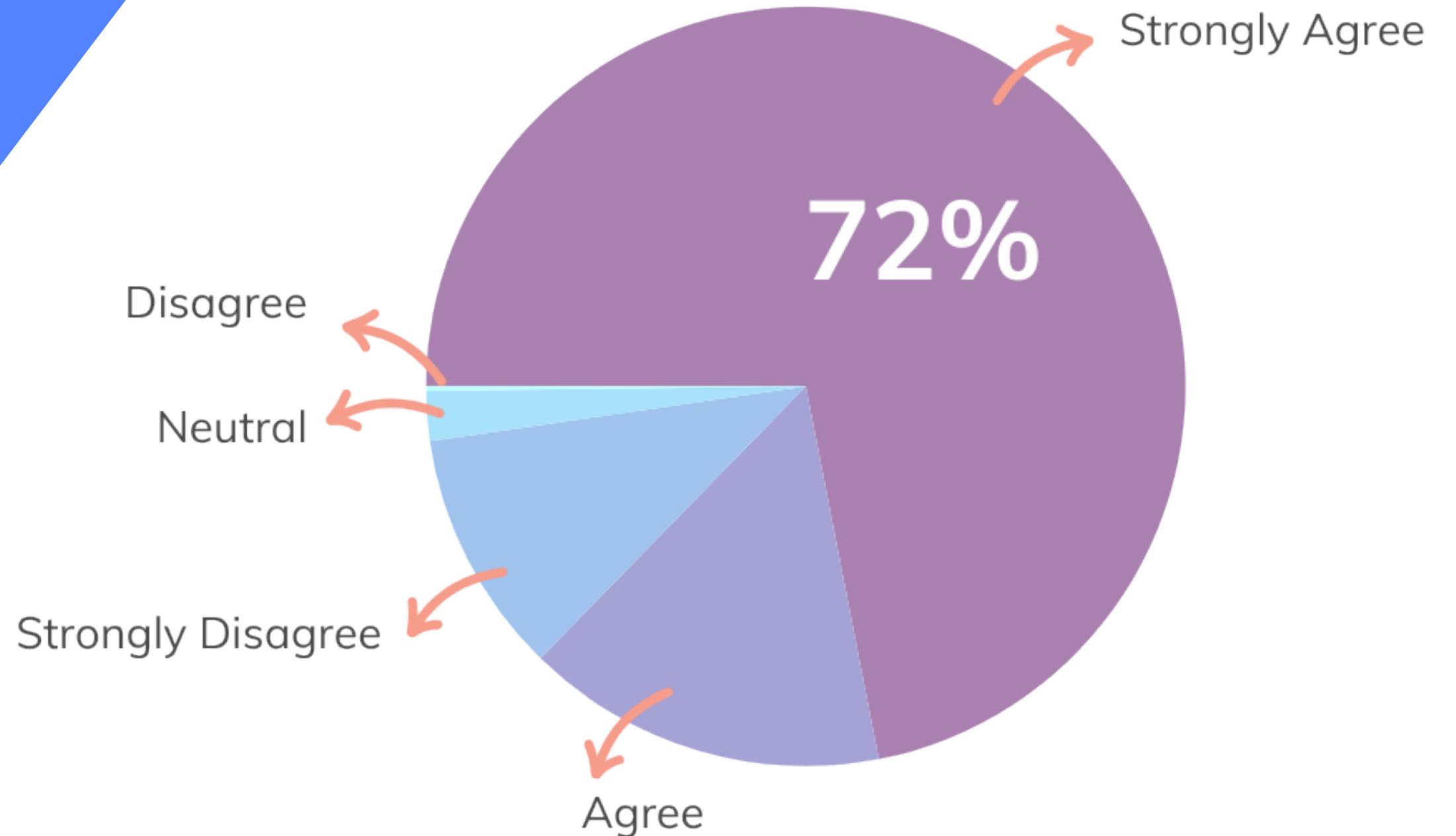
Preliminary Survey Results

PARTICIPANTS



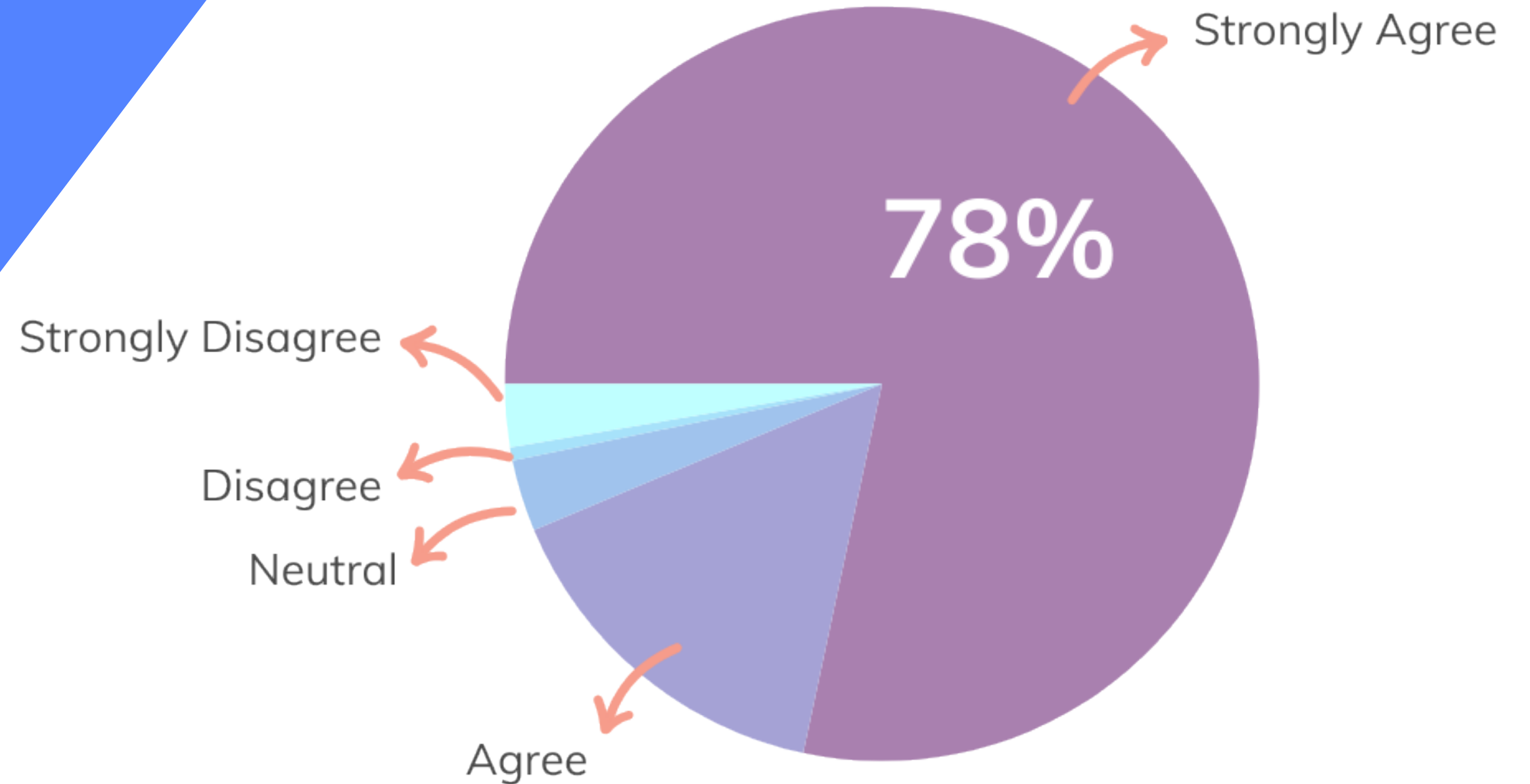
Preliminary Survey Results

Internet is Important as Water and Electricity



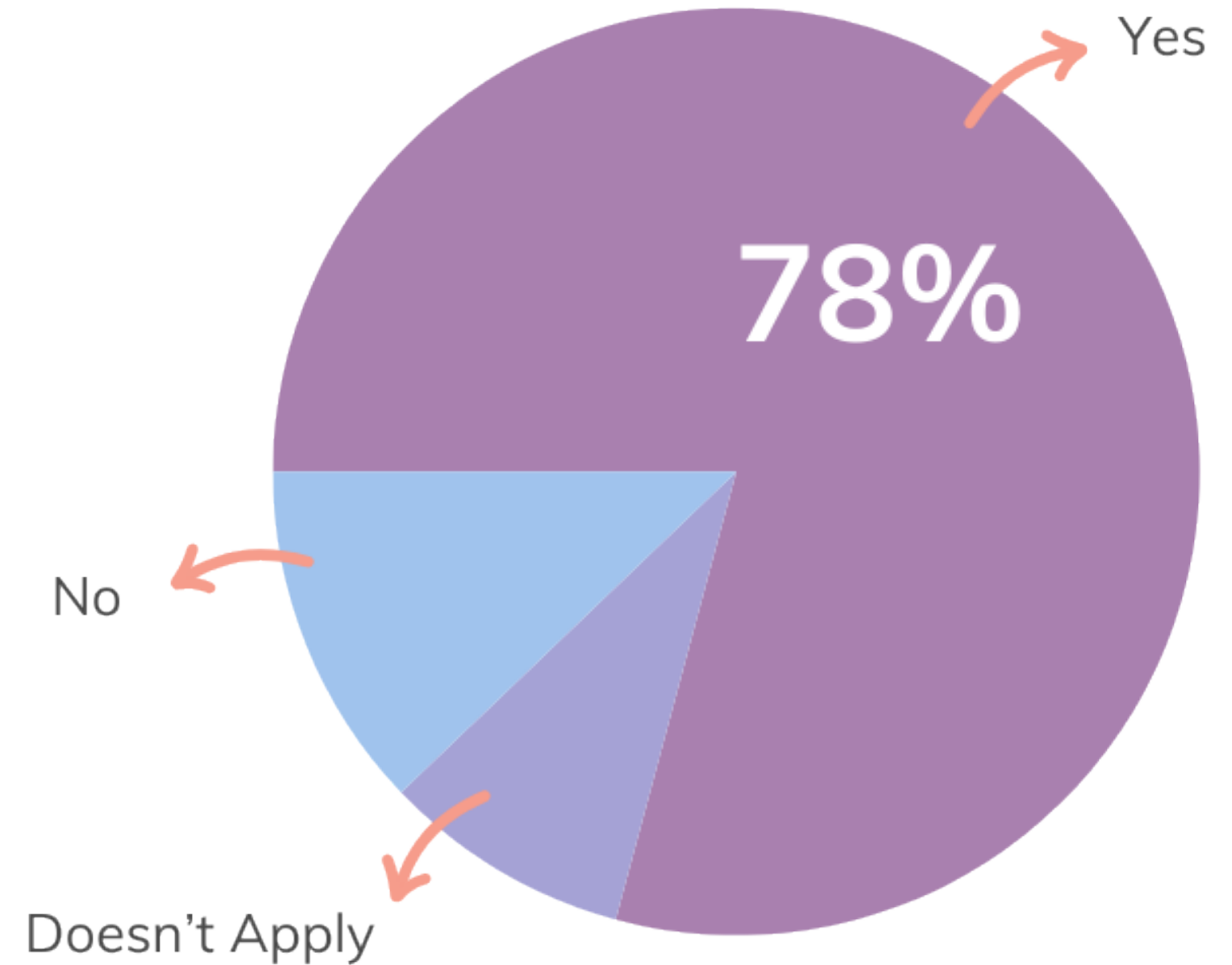
Preliminary Survey Results

Internet is Important to Willmar's Future



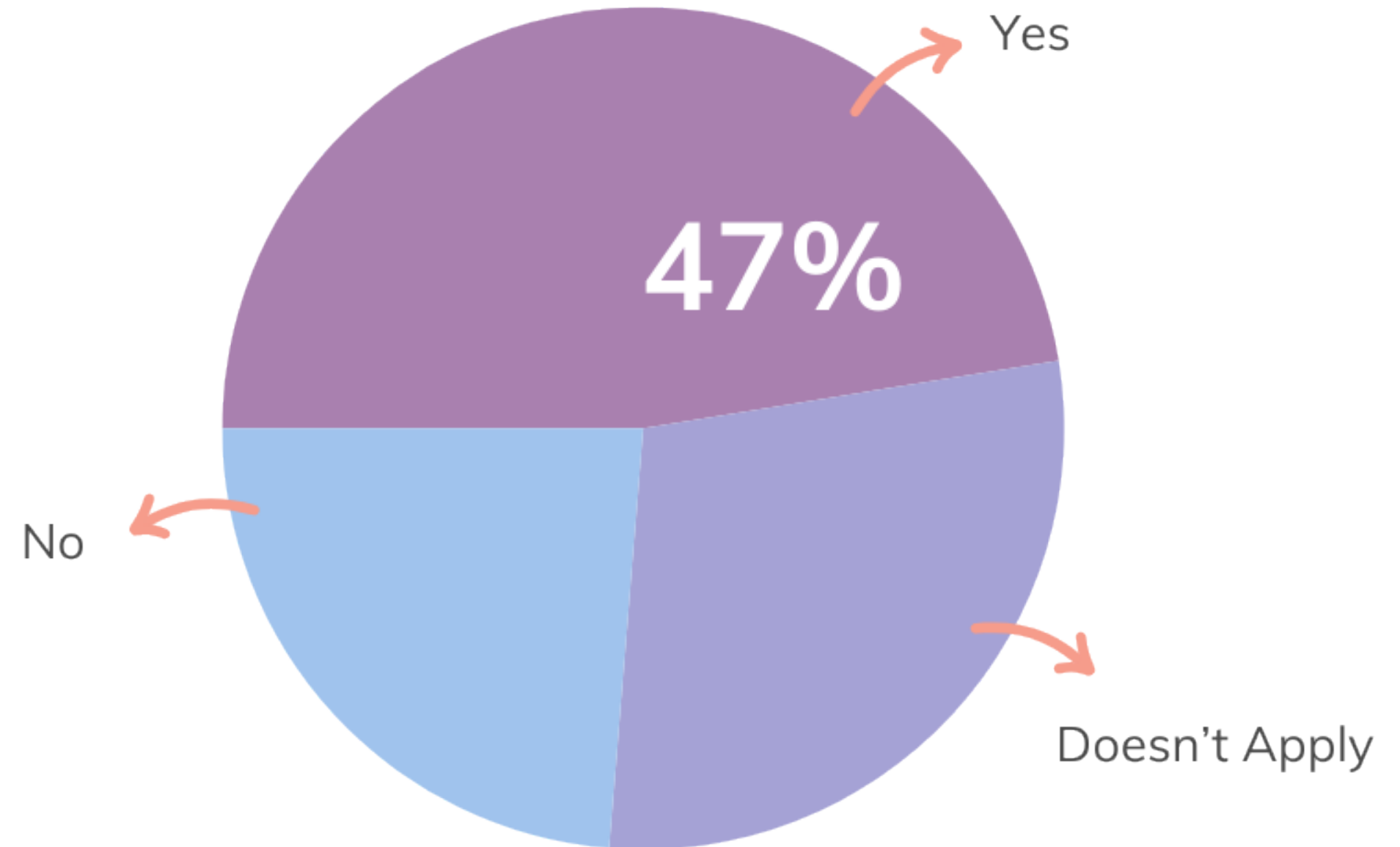
Preliminary Survey Results

Improve Quality of Life



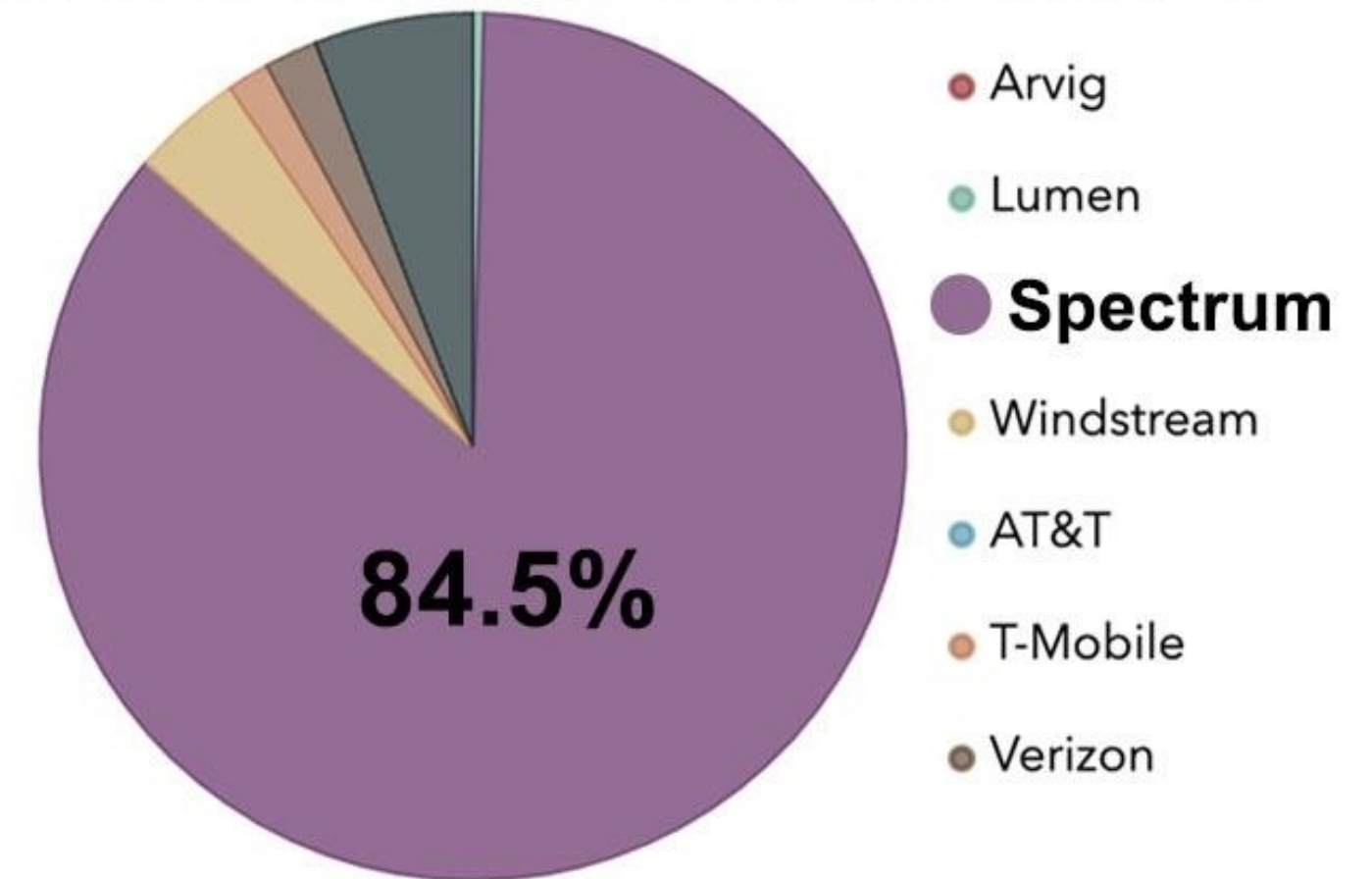
Preliminary Survey Results

Improve Ability to Earn



Preliminary Survey Results

Current Providers



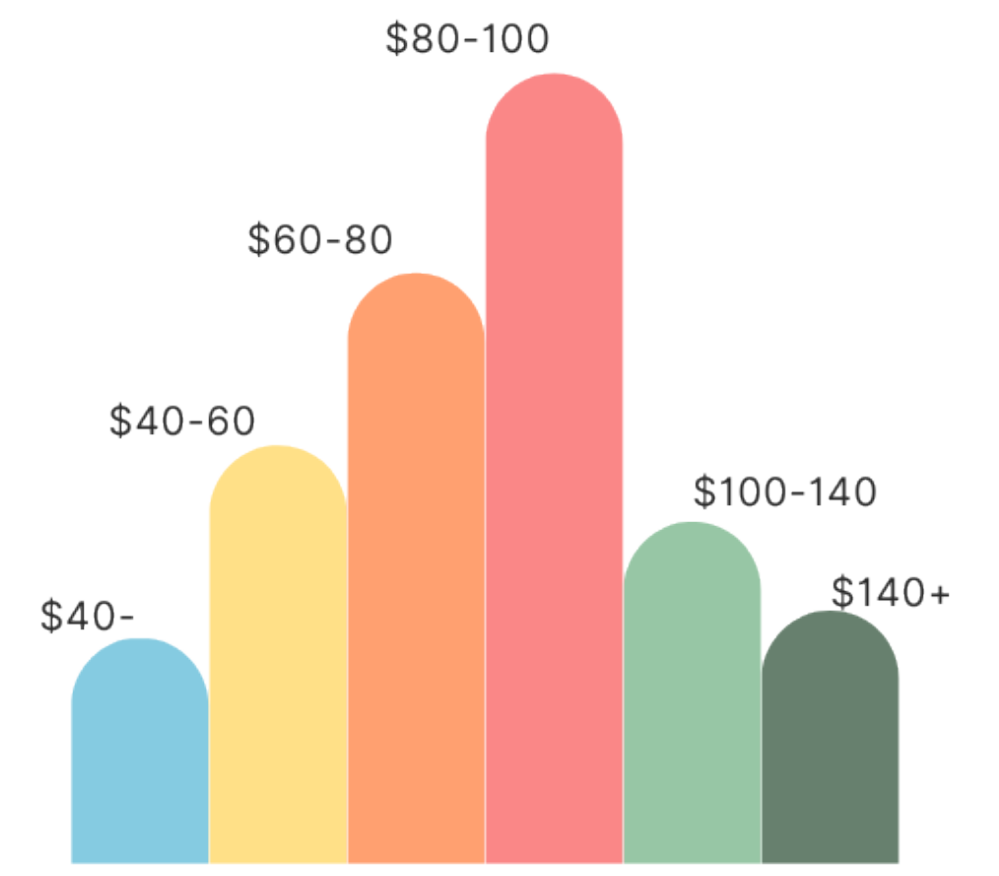
Average Internet Download Speed

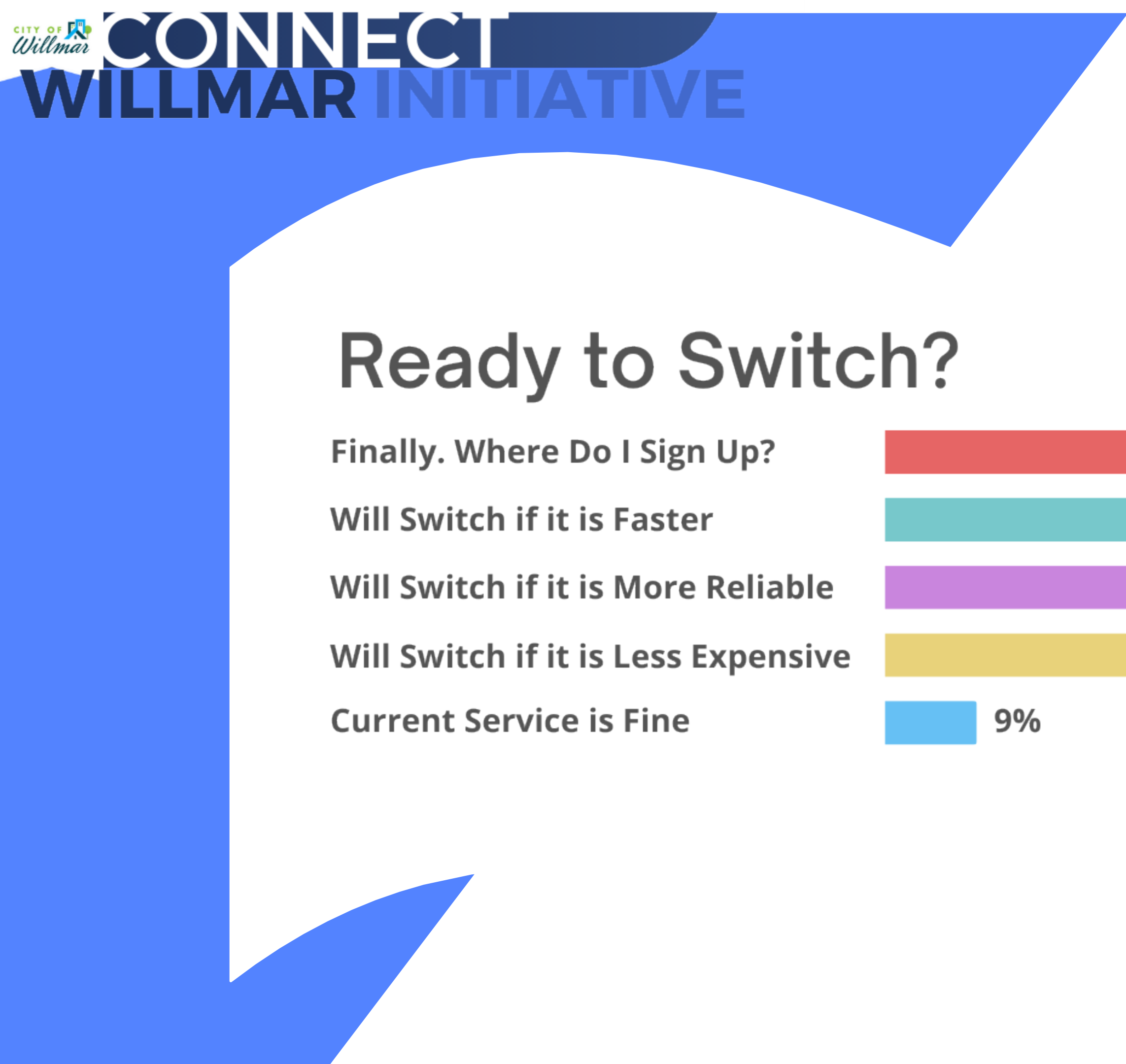


Preliminary Survey Results

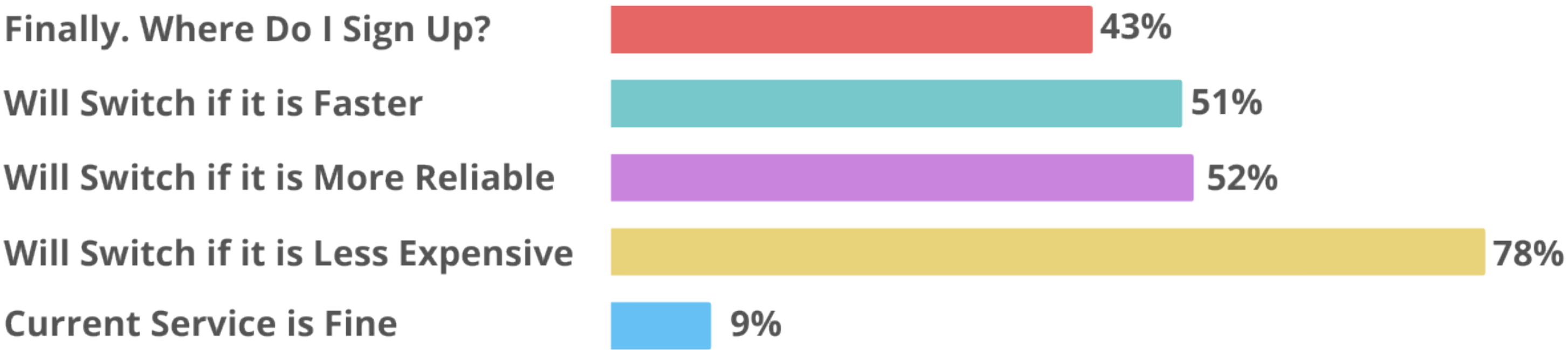
AVERAGE PRICE

Respondents are paying
\$80-100 per month



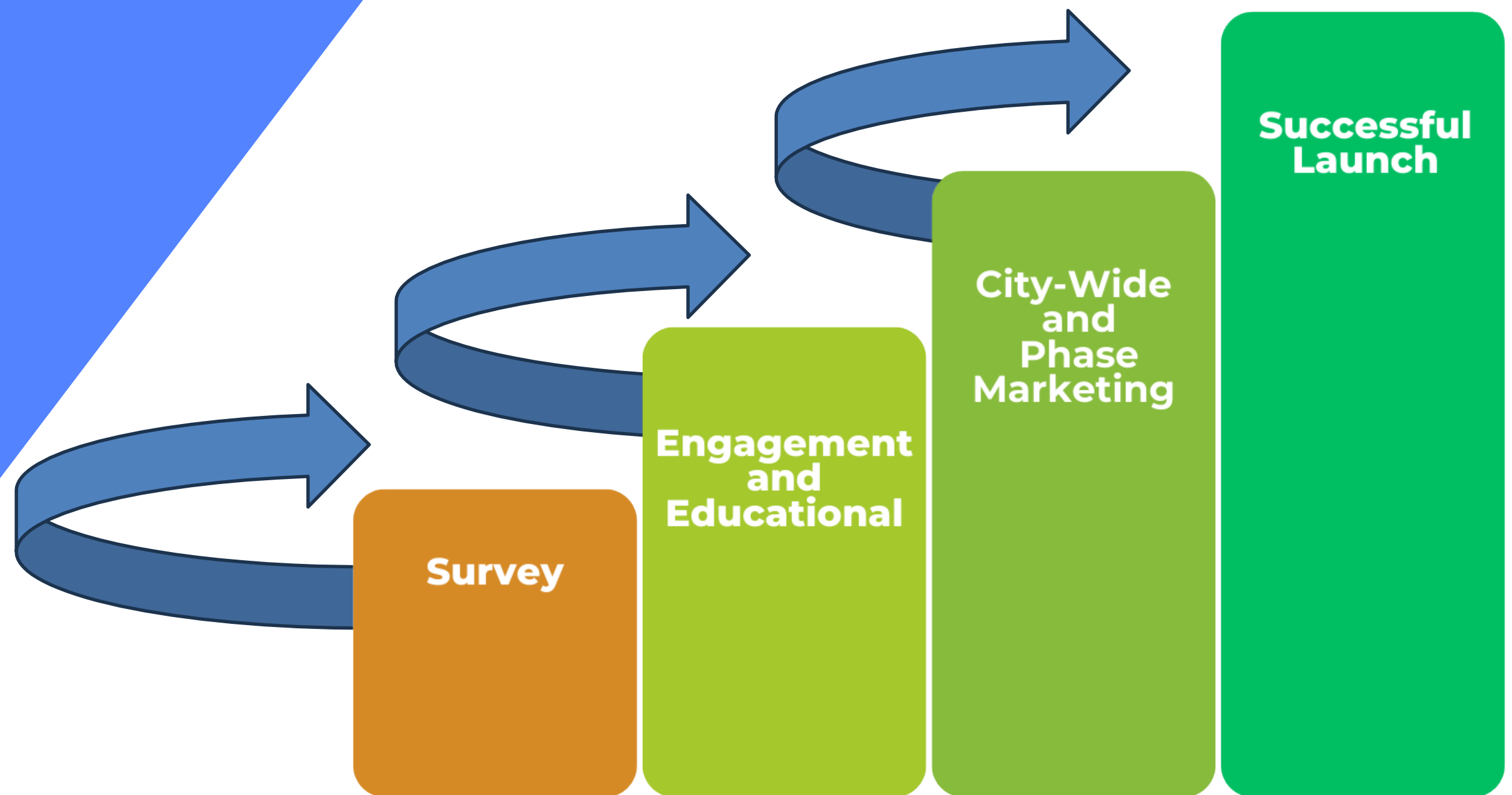


Ready to Switch?



CONNECT WILLMAR INITIATIVE

Progress



Thank You



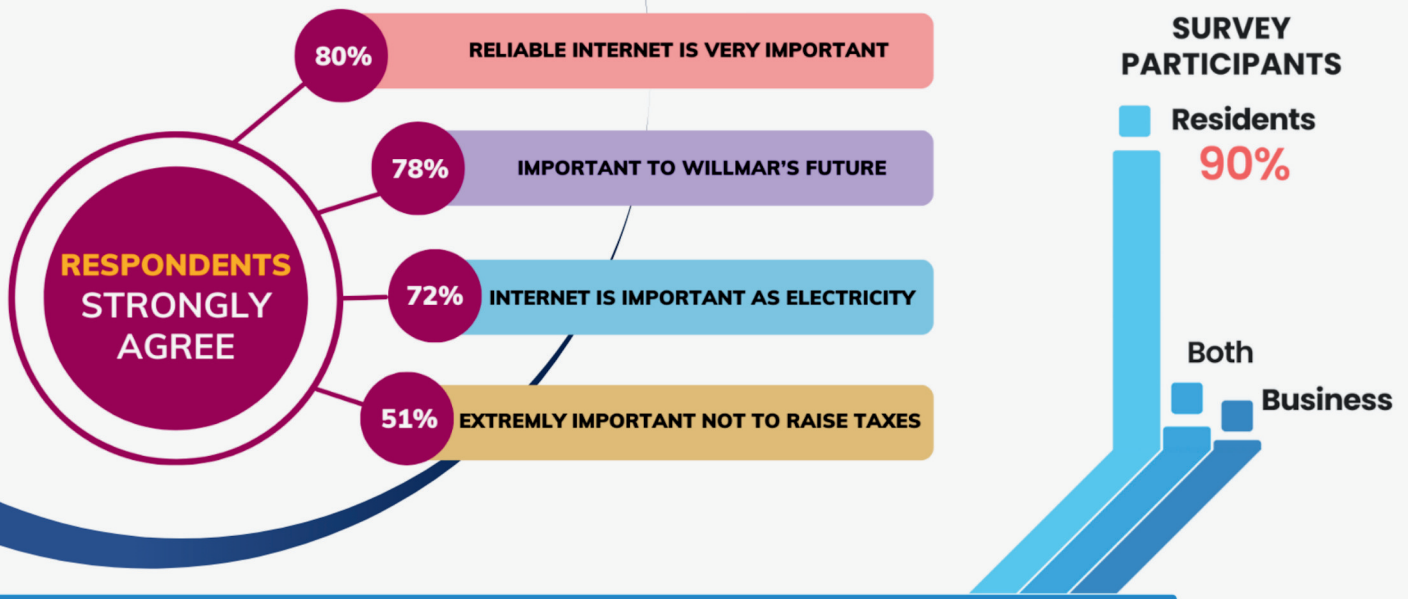
Marlena Pfeiffer



HOMETOWN FIBER

CONNECT **WILLMAR INITIATIVE**

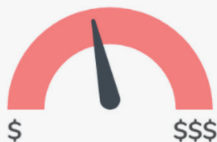
Survey Results Overview



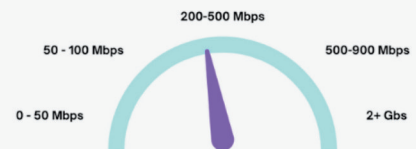
25% responded they cant afford the internet service they want or need

AVERAGE PRICE

Respondents are paying
\$80-100 per month

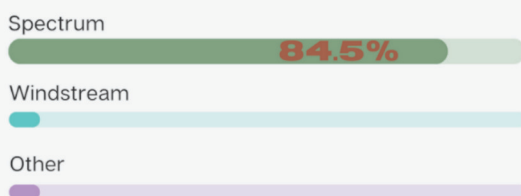


Average Internet Download Speed



Participants responded that **\$51.00** is a fair price to pay for internet

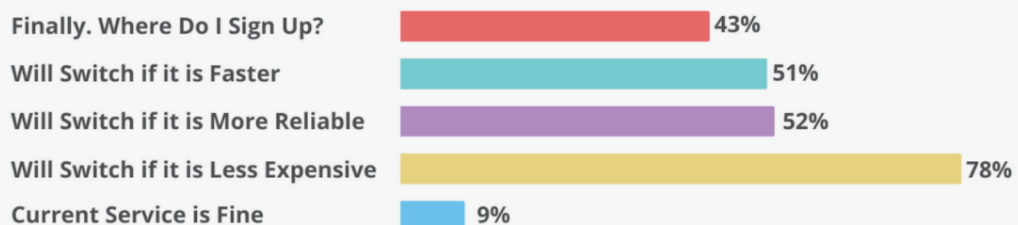
CURRENT INTERNET PROVIDERS A MAJORITY OF RESPONDENTS HAVE SPECTRUM



80% responded reliable internet is very important

47% responded their current internet is mostly reliable

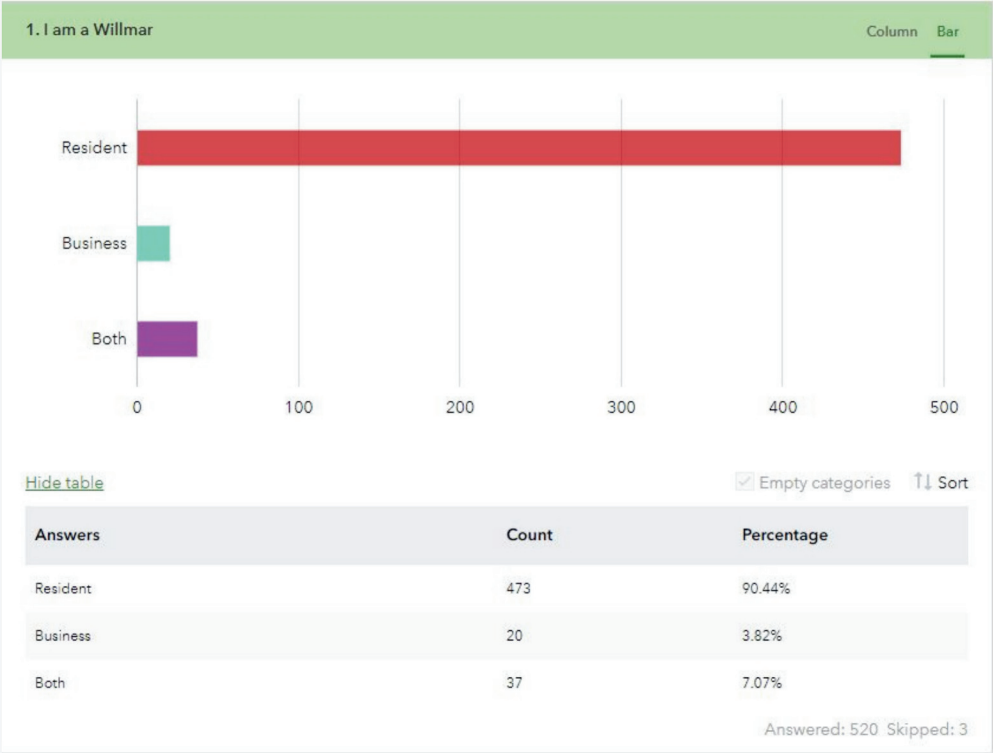
Ready to Switch?



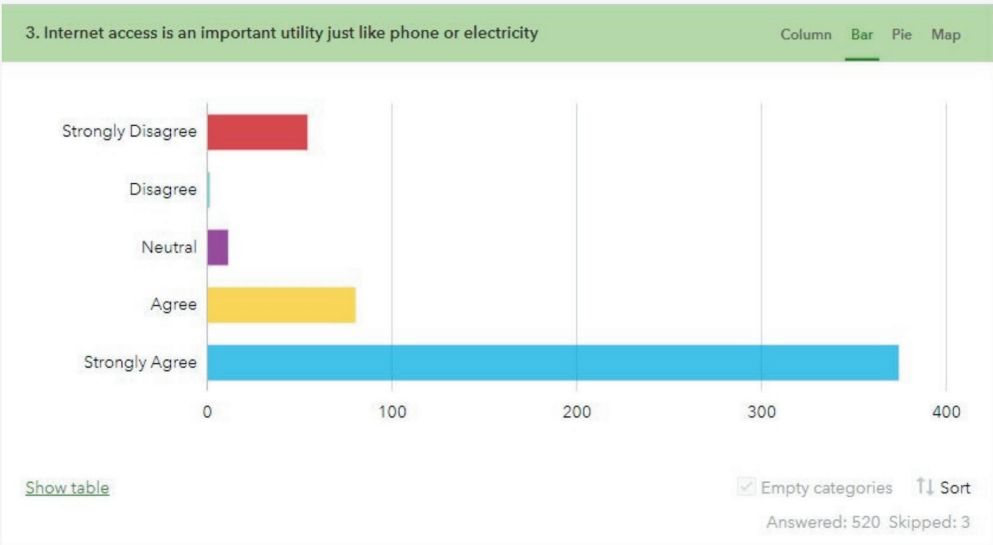
CONNECT

WILLMAR INITIATIVE

Survey Results, as of Jan 12, 2024

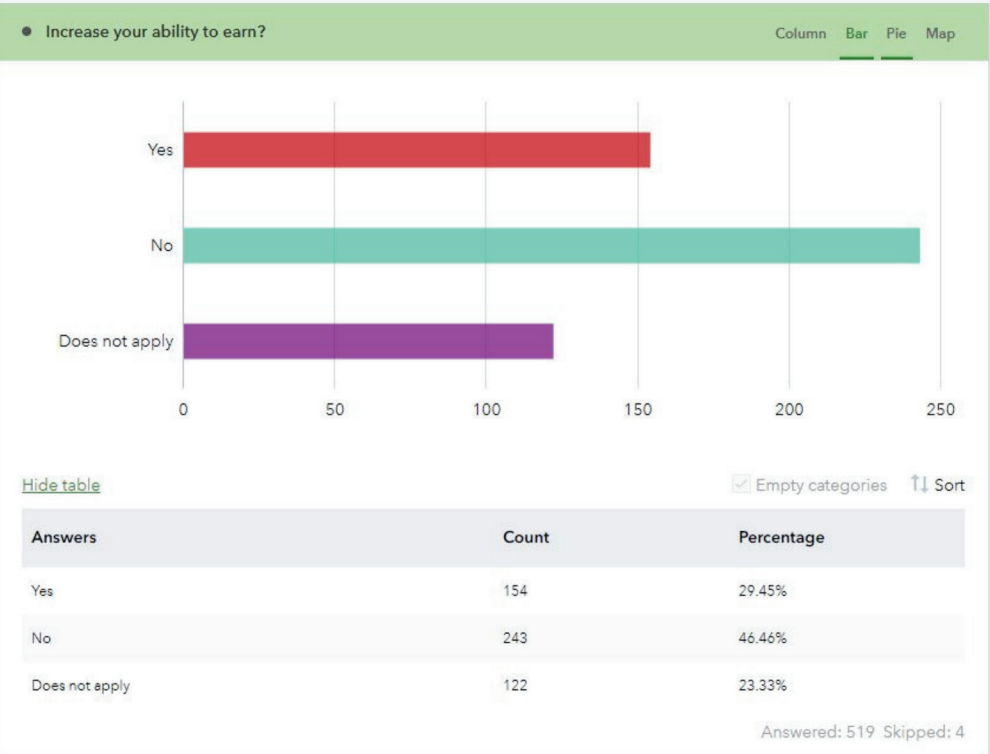


2. What is your Address



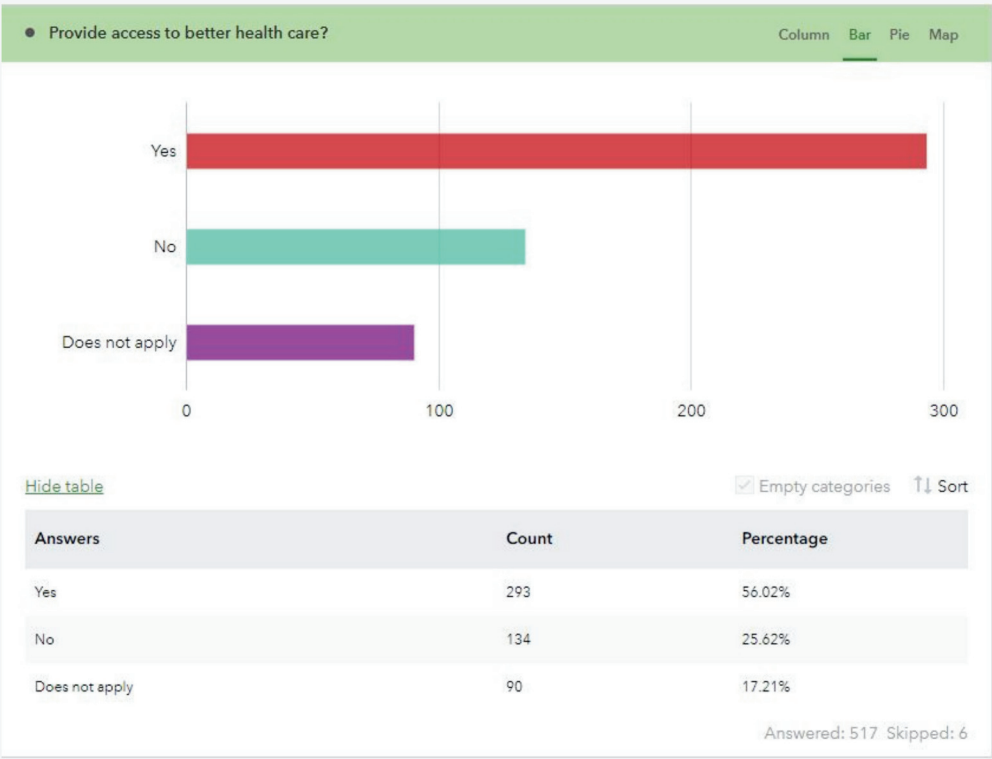
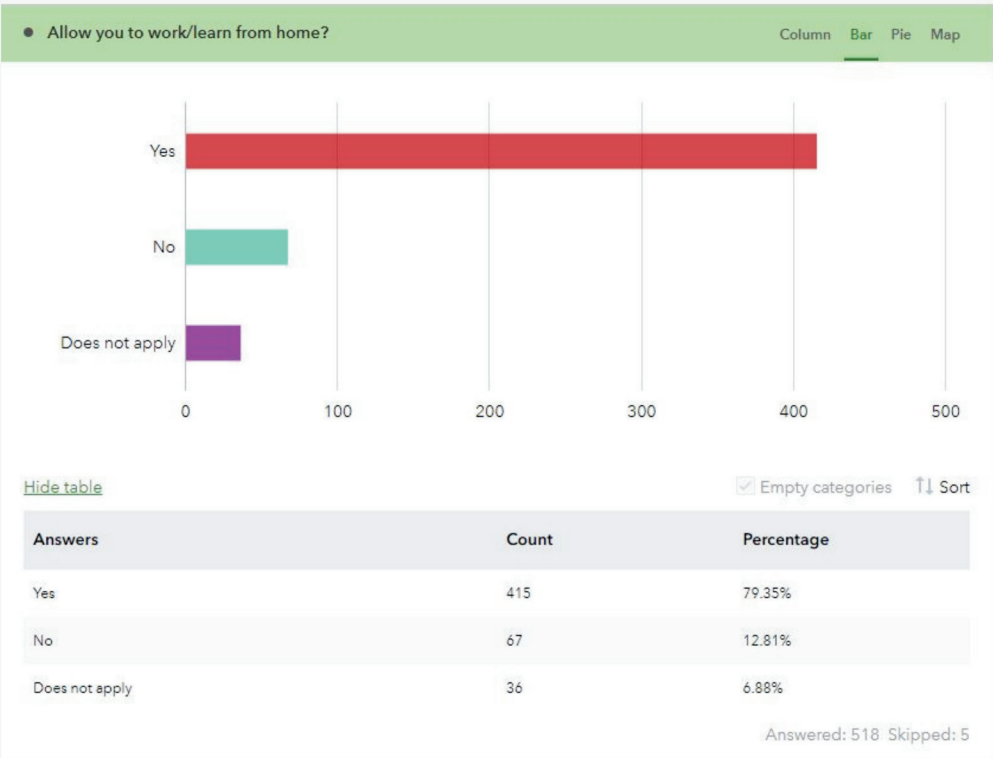
Survey Results, as of Jan 12, 2024

4. Will access to reliable, affordable high-speed internet:



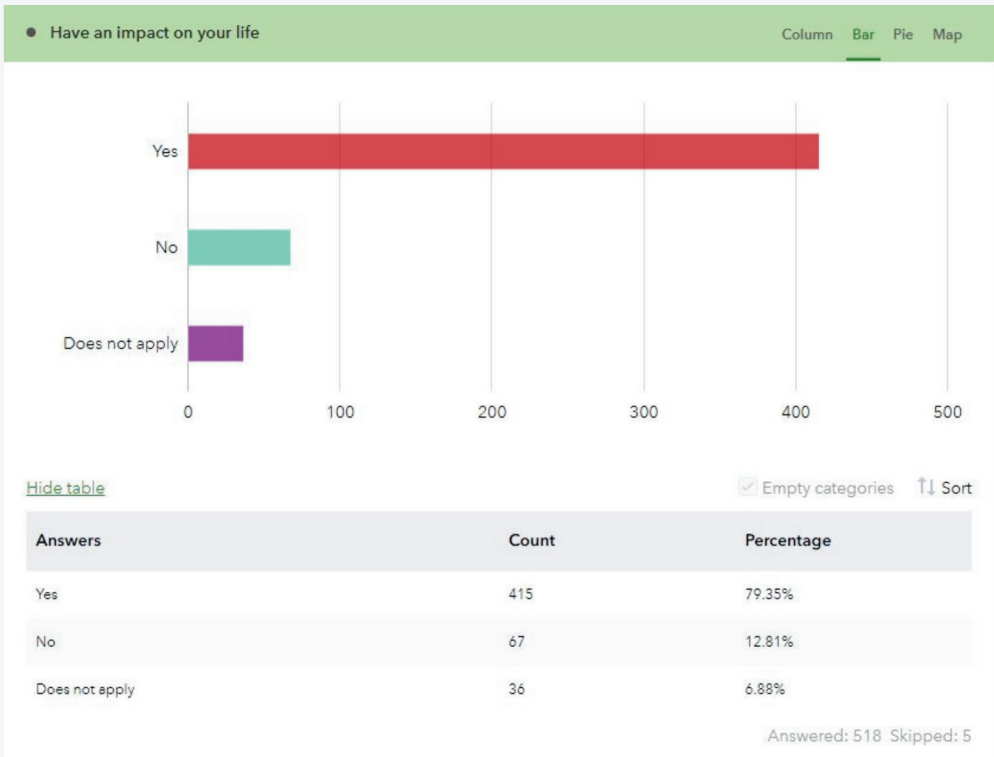
Survey Results, as of Jan 12, 2024

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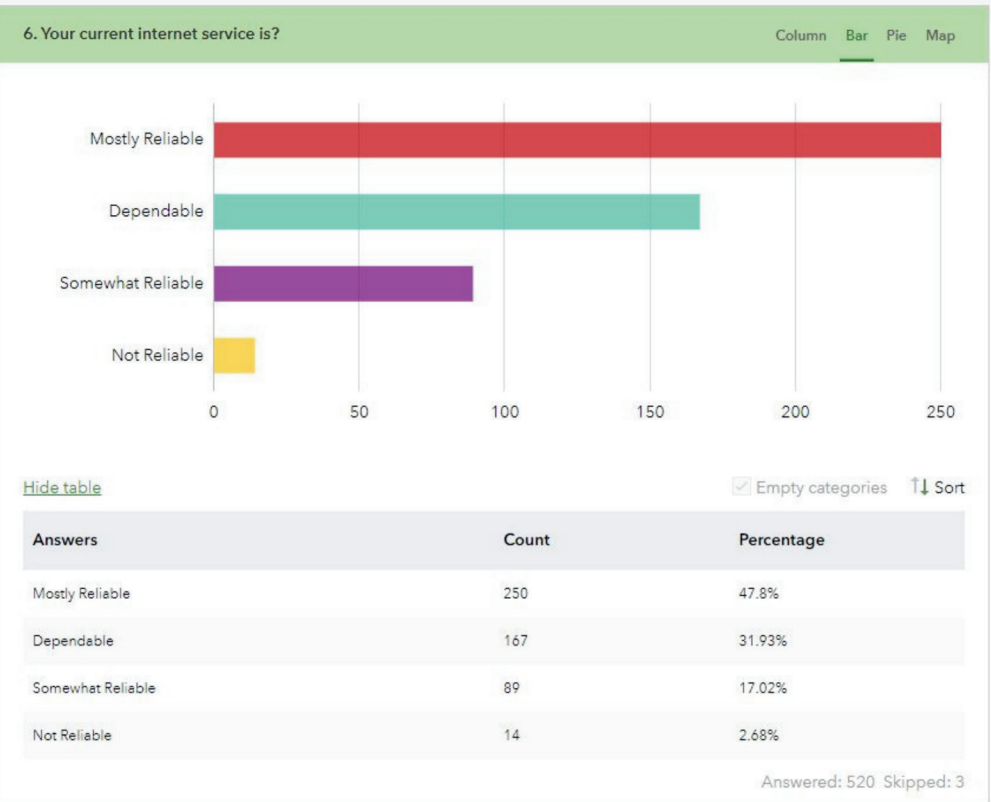
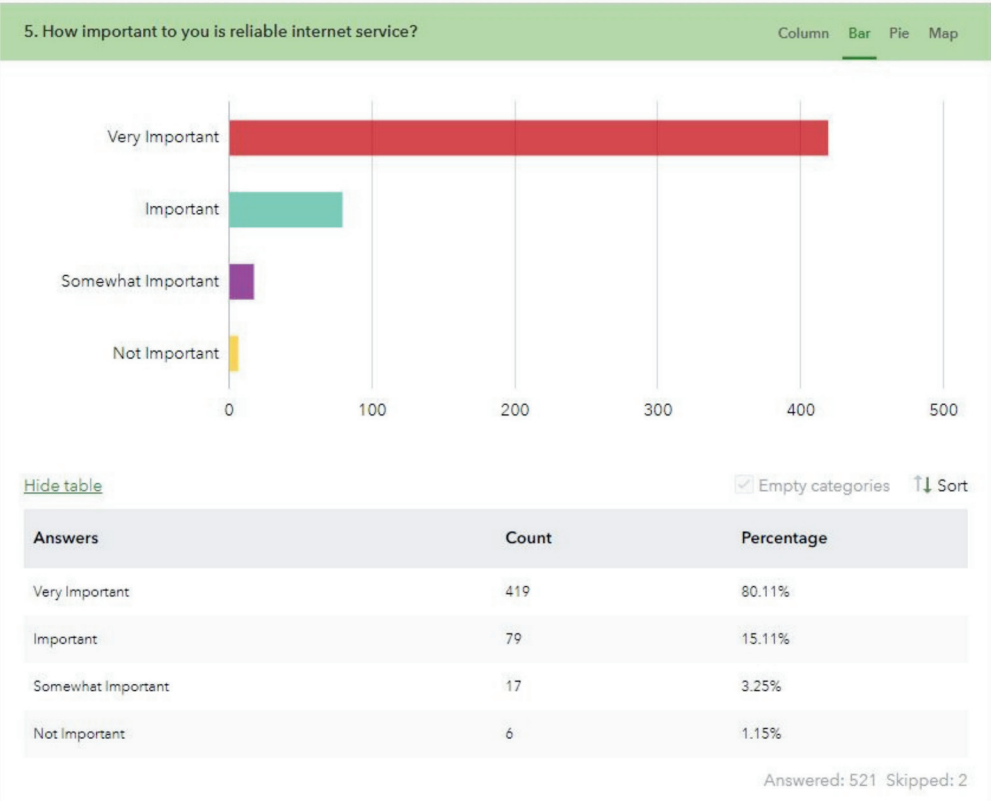


Survey Results, as of Jan 12, 2024

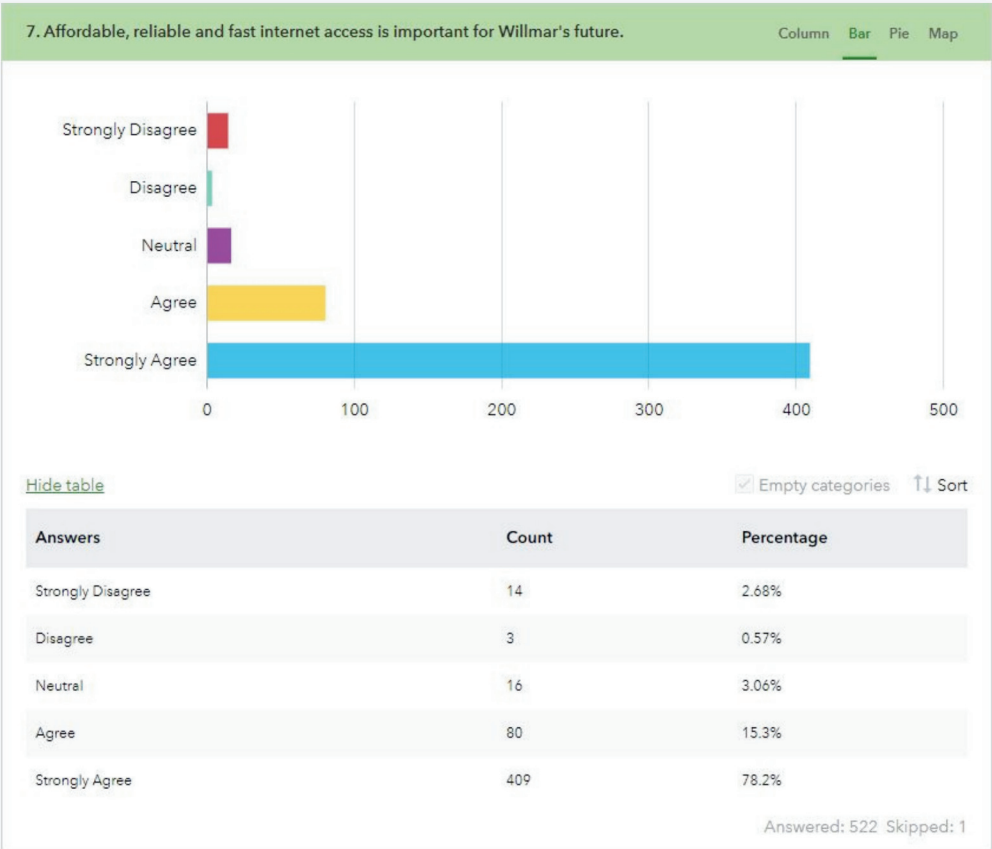
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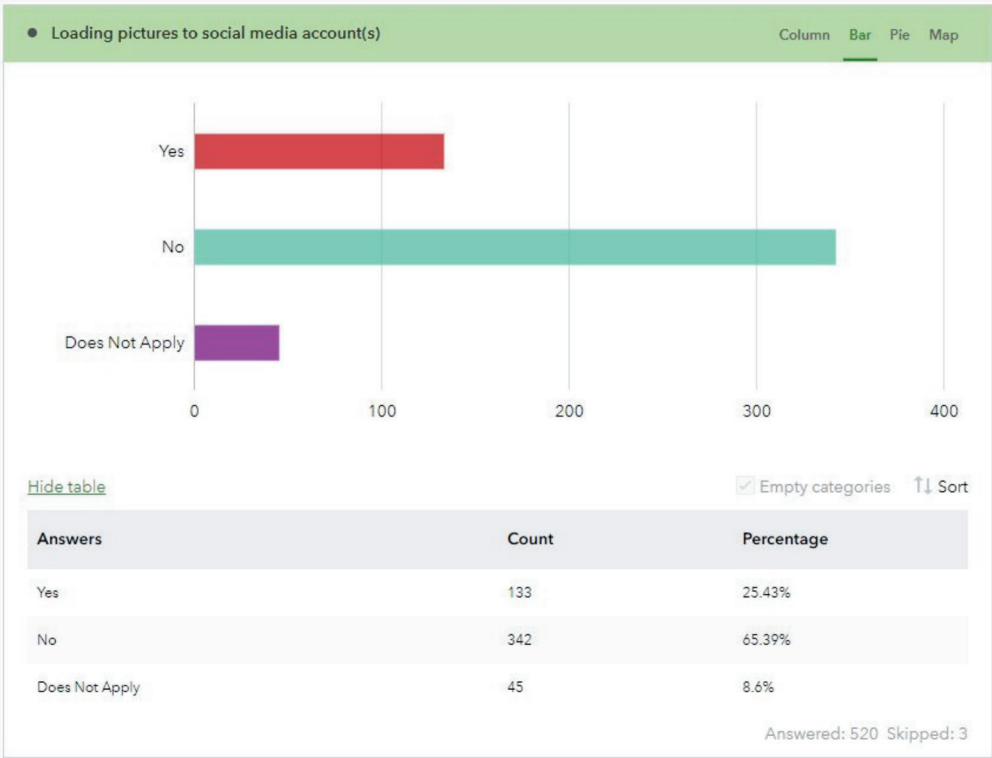
Survey Results, as of Jan 12, 2024



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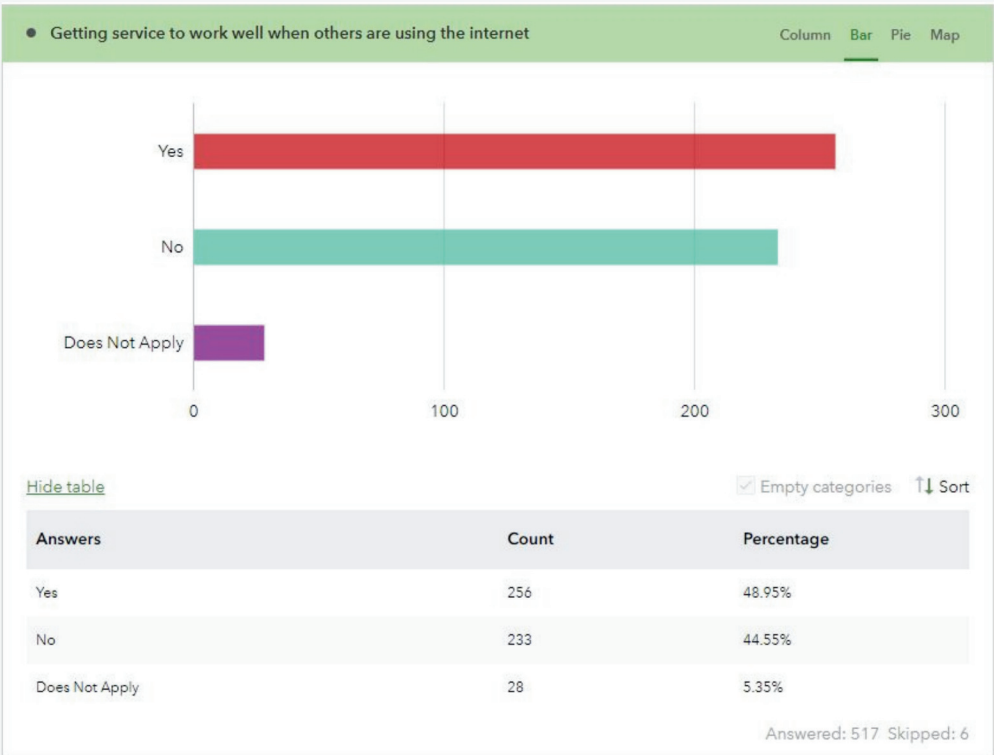
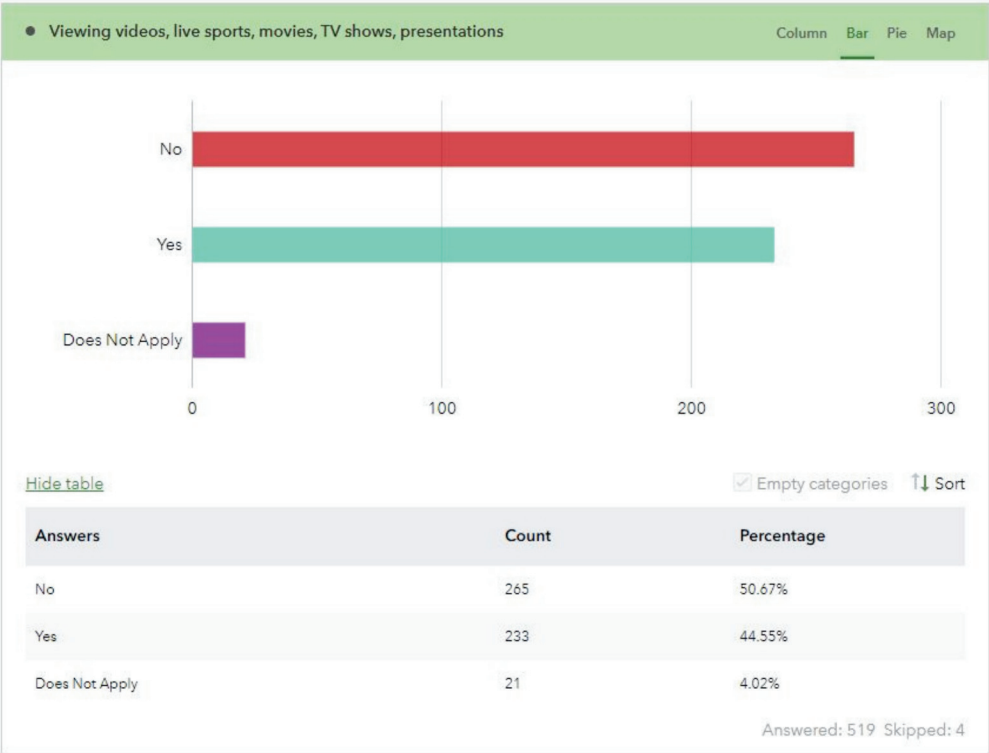


8. When using your home/business internet service, do you have trouble:



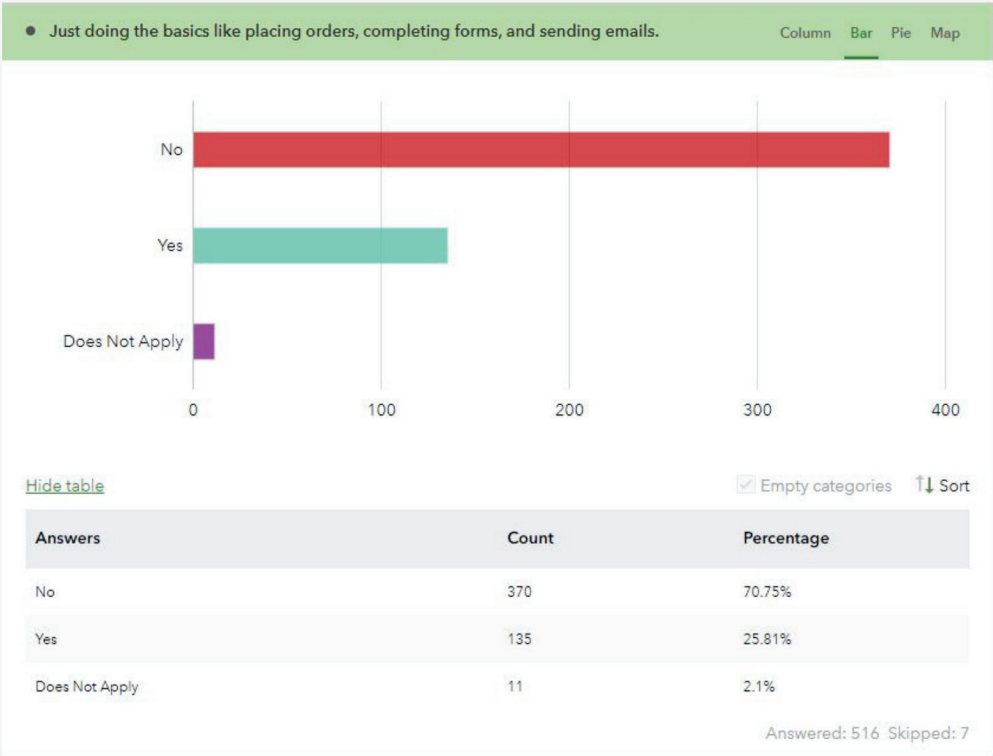
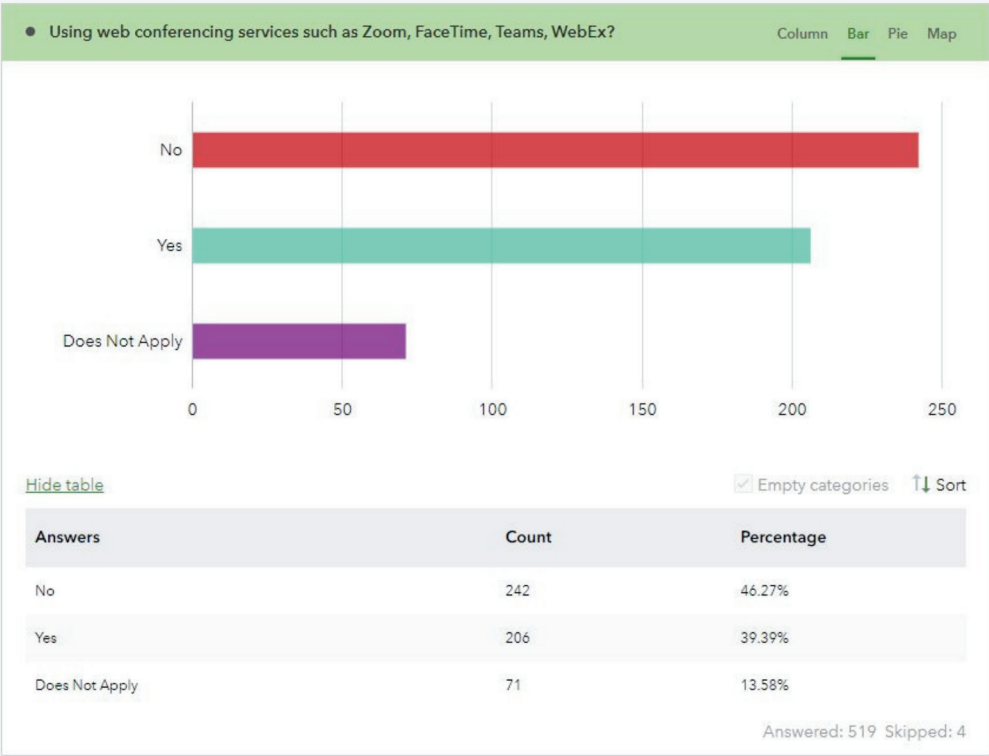
Survey Results, as of Jan 12, 2024

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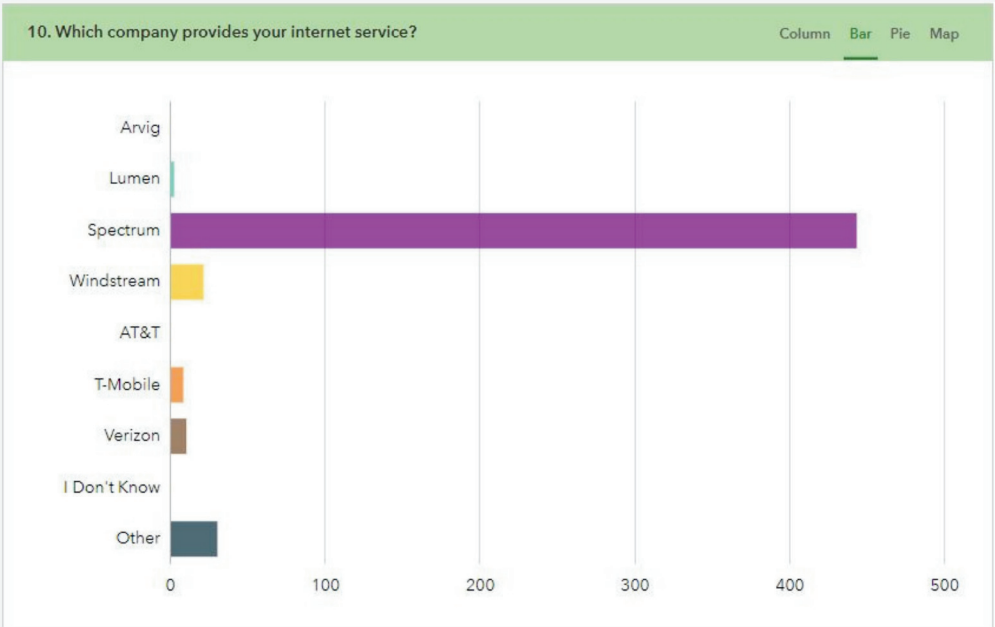


Survey Results, as of Jan 12, 2024

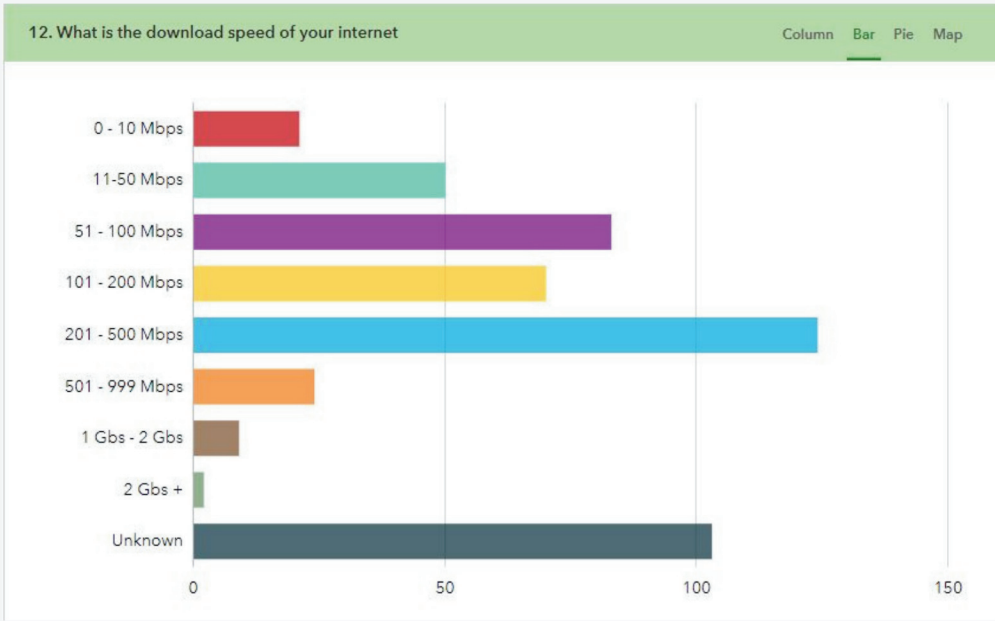
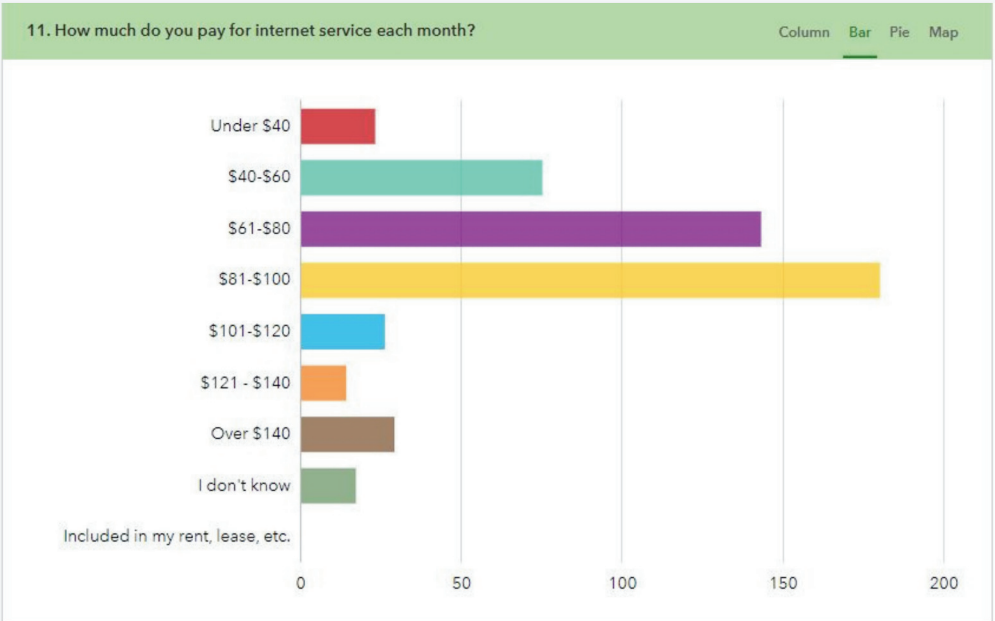
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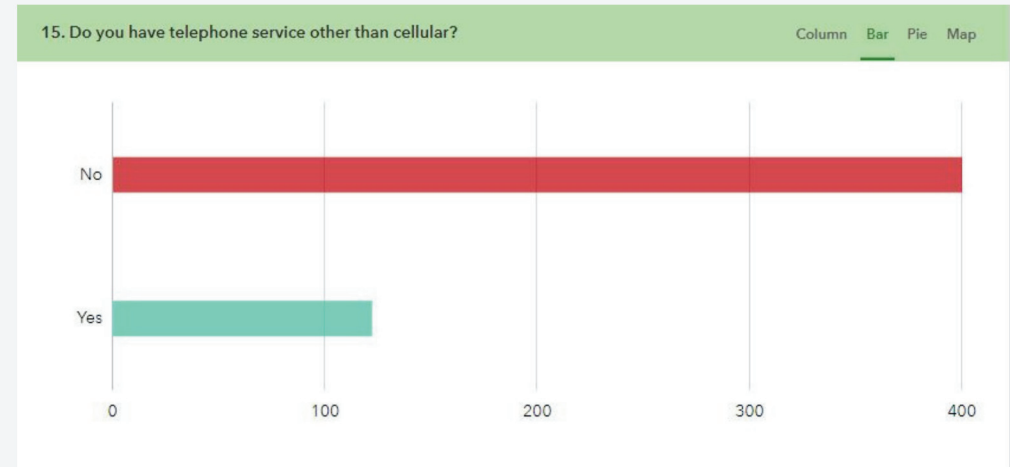
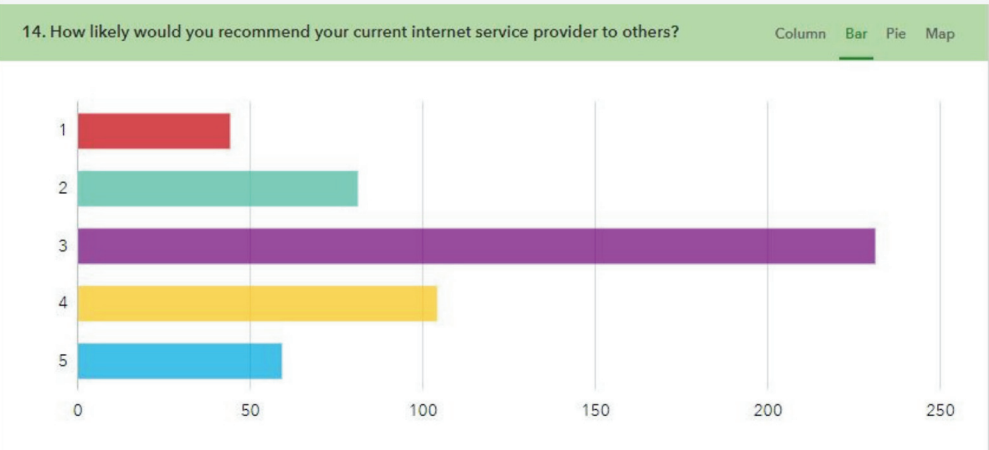
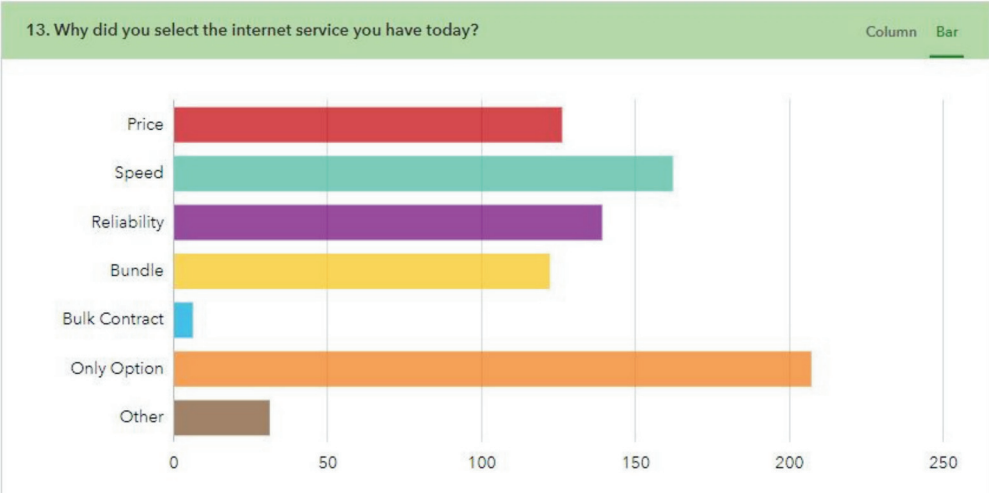
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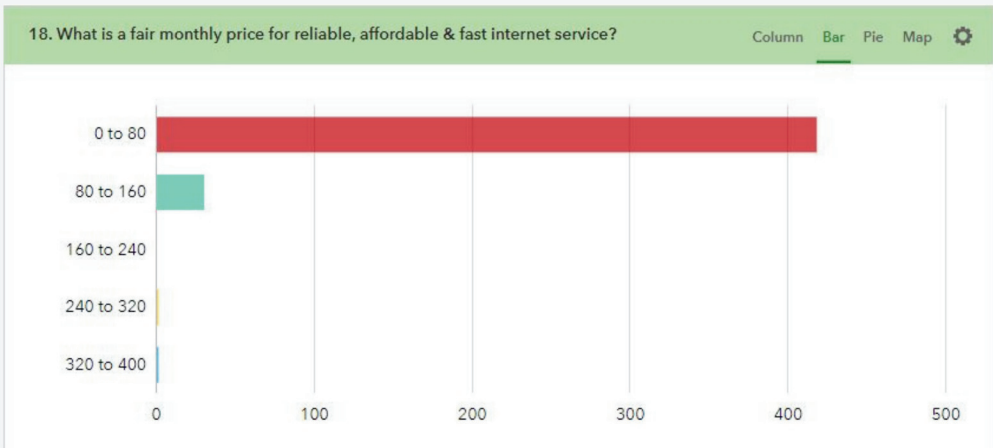
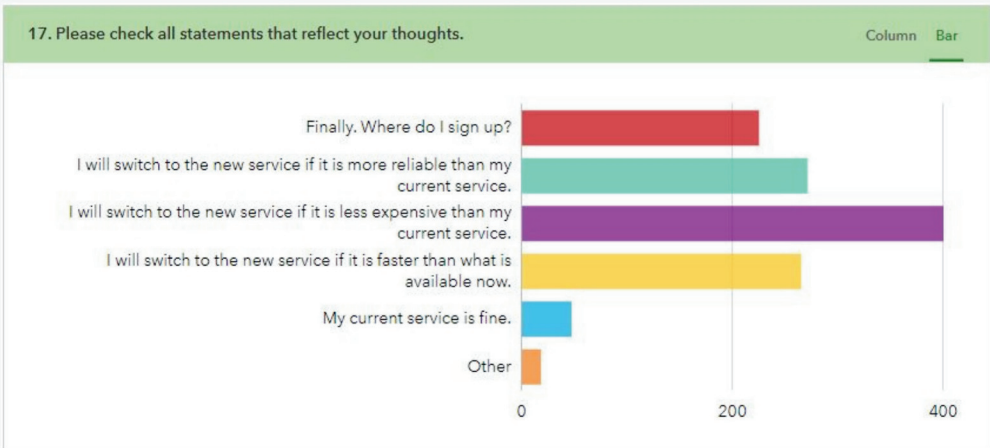
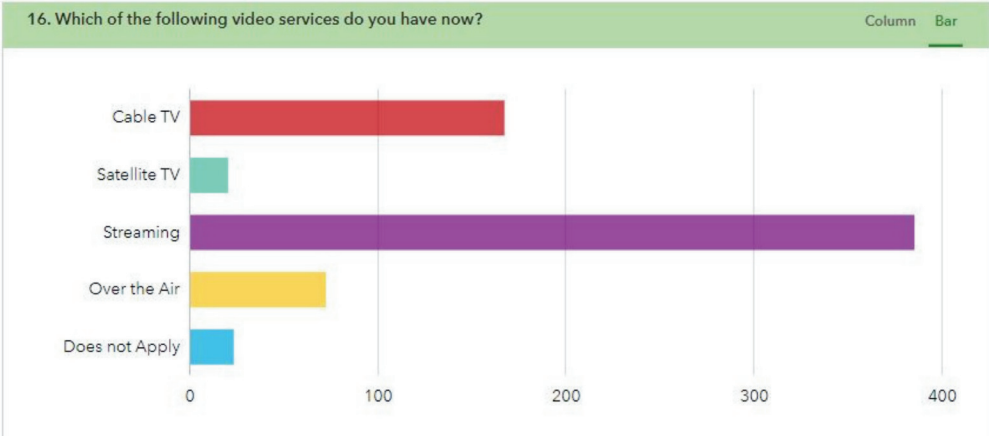
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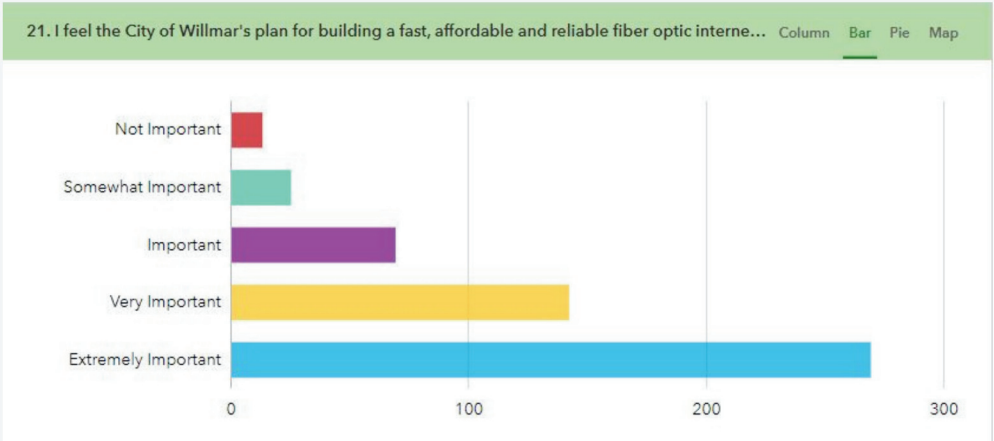
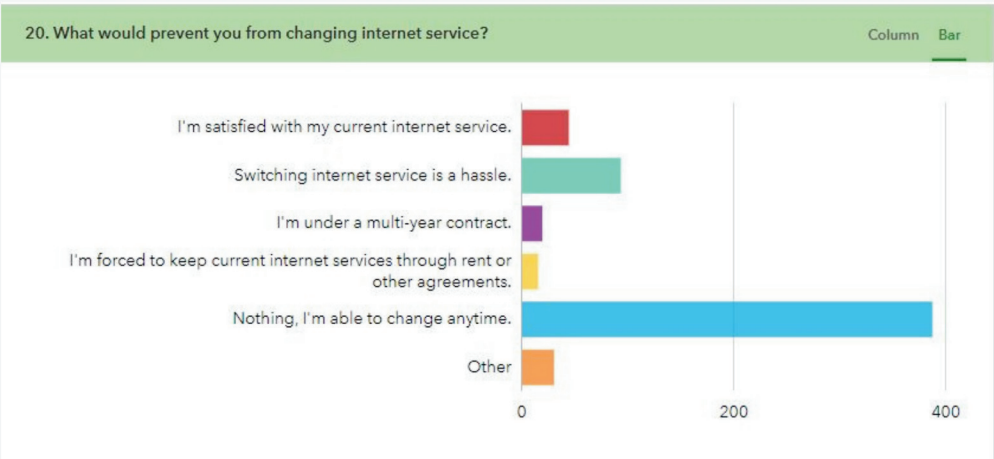
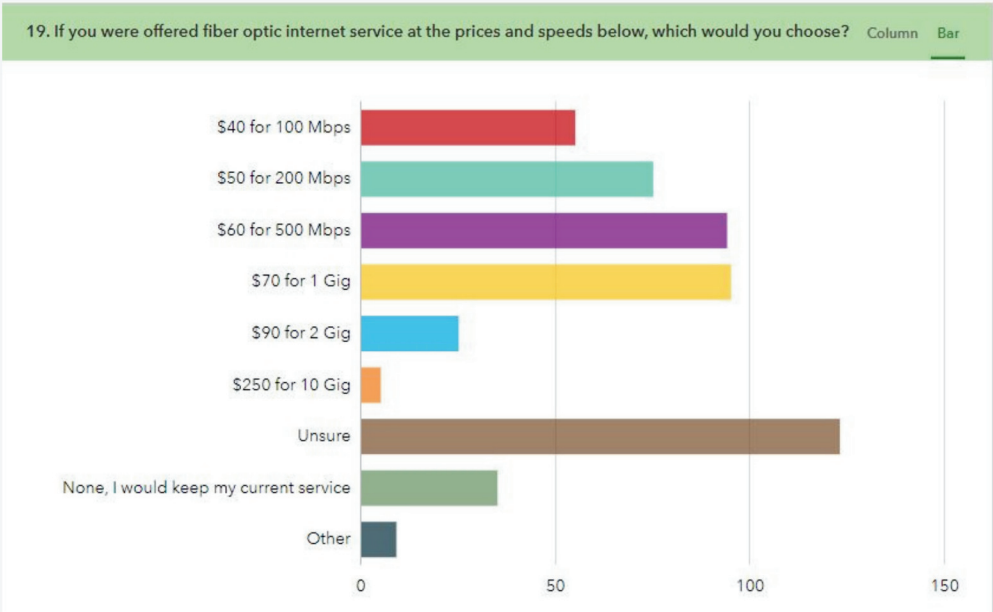
Survey Results, as of Jan 12, 2024



Survey Results, as of Jan 12, 2024



Survey Results, as of Jan 12, 2024





CONNECT WILLMAR INITIATIVE

Sample of the Survey Comments

While I have reliable internet, my downloads are typically only at 40 mbps. This is too slow in a world where we have 1 tb files.

When I was originally looking for high speed internet cable was the only real option in town. I look forward to leaving spectrum.

We are a business that Currently has 2 circuits for our needs, however, both of those circuits are fed from the same Fiber out of the cities and I have lost both because of a up-line cut. We are a medical facility and I need the redundancy that does not include a shared point of failure.

To have another option for internet and any other service Charter Spectrum has would be great! They run a monopoly in town and something needs to change.

This is huge. It is so hard to get reliable decent internet. My mother does not heavily use the internet but needs a reliable connection. No provider does this except Spectrum. The problem is that Spectrum's price is so high for speeds she will never use. Decent reliable internet at a low cost to help people like her would be very beneficial to Willmar and the community.

The access we have now is sufficient to provide us with the access we need to be residents, business owners, employees, and students in our household. However, we believe fiber is the golden standard when it comes to safety, reliability, and pricing. We will switch even though we have the access we need.

Please do this. Creating an option for fiber internet is exactly what this community needs. Internet is a vital component of my life and work. If we can bring down the cost of internet utility prices, our community will prosper. My wife and I are 76 years old and retired. Not sure how it will affect our lives but we understand it is moving forward. Planning for the future is what we need to do. GO FOR IT, WILLMAR!



CONNECT WILLMAR INITIATIVE

Sample of the Survey Comments

I been waiting for the optical fiber internet in our town, we deserve this and be on top of new technologies in our city

An open, affordable FTTH network is the way the entire country needs to move. It is nice to see Willmar on the front-burner with this service. It allows competition, which in turn drives the rates and service levels to be competitive. A proper, high speed, symmetric connection is extremely important for mostly online businesses that rely on (for example in my case) video and photo upload. Please include businesses and other city owned properties in this if able - the airport will see at least 5 subscribers if service is provided.

A more affordable, fast internet service would be great for the community. Schools, work and healthcare all rely on this service.

Thank you for your work on this project to provide us options.

Thank you for your forward thinking/planning. Good Government!!!

Sample of the Survey Comments

Comments Requesting more Education

We would enjoy a meeting which would explain this option.

You need to keep the public aware of when they can have the service for their house, other than checking this website. More info needs to be sent out when they are in a certain area of town.

Price and installation price will be huge factor. I also am very suspicious of this company coming into Willmar .

thought the precursor to Windstream built a partially fiber network. Couldn't that infrastructure be added to?

I don't see how it is possible without raising taxes.

I don't believe the City can do it cheaper than the current provider. And I wouldn't pay more. This sounds good but don't believe it will make our lives better.

How far out of Willmar are they going?

Government should stay out of this Utility & just charge a access fee to the companies using the right ways

Your current example question hinting at a pricing structure isn't any more affordable than the HIGH PRICED Spectrum monopoly.

This will bankrupt the city, who pays for and maintains the fiber when it gets cut, how does service get from an isp all the way to the customer without issues when there are multiple isps already going to the fiber tap. How does the fiber get mixed with all the isps without causing an issue or is there just going to be multiple isps on the same fiber?



Community Outreach and Educational Program

To Promote, Educate and Raise Awareness



To Promote, Educate and Raise Awareness

Objectives:

-  To introduce benefits and raise awareness of the city's plan to bring fiber optic internet to the community.
-  To cultivate business and resident support for the initiative by highlighting its reliability, affordability, speed, and sustainability both financially and otherwise.
-  To develop the City of Willmar's public image as a technologically advanced and innovative place to live and work.



To Promote, Educate and Raise Awareness

Who, What, When Where, Why



To Promote, Educate and Raise Awareness

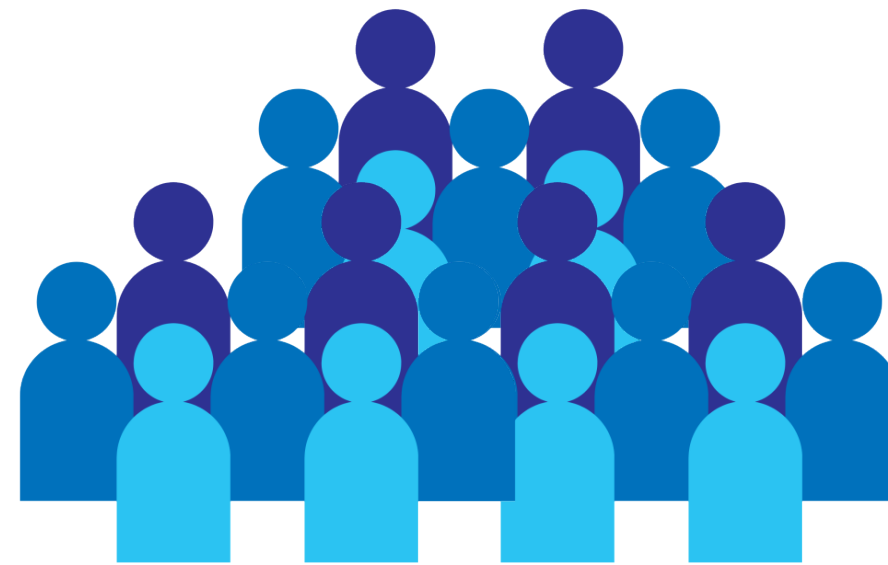
- ✓ Public Relations
- ✓ Community Awareness
- ✓ Targeted Education and Engagement
- ✓ Marketing Material Creation and Distribution



To Promote, Educate and Raise Awareness



Tier 1



Tier 2



Tier 3

To Promote, Educate and Raise Awareness

Deliverable Overview

Website content.

Educational content for brochures, postcards, and flyers.

Email marketing campaigns.

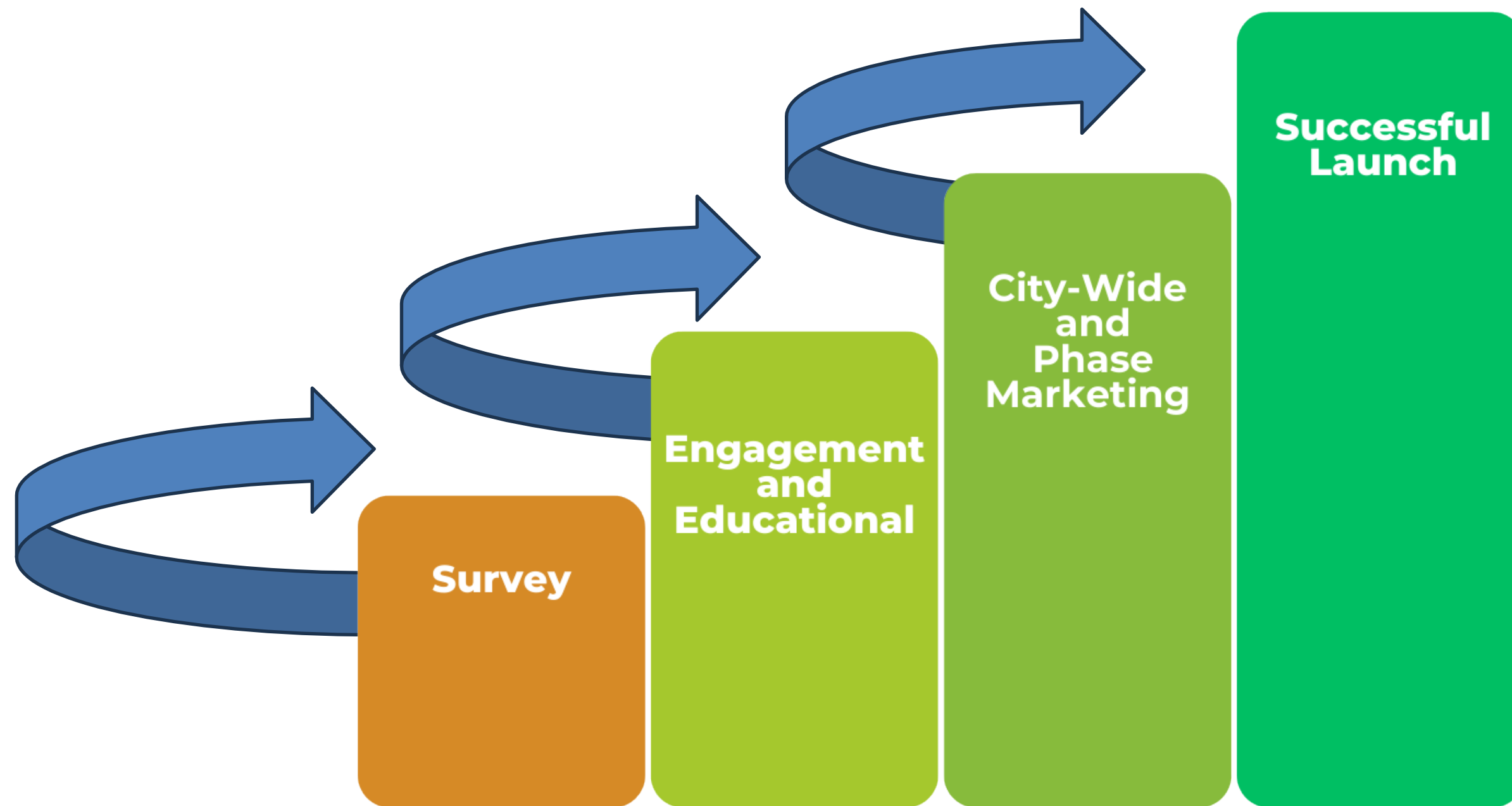
Social media content

Paid advertising

In-person/virtual events and information sessions.

Contact and gather letters of support from businesses and anchor institutions within Willmar.





Thank You



Marlena Pfeiffer





Community Outreach & Education to Promote the Connect Willmar Initiative

Submitted To

Kyle Box
City Operations Director
City of Willmar

Date

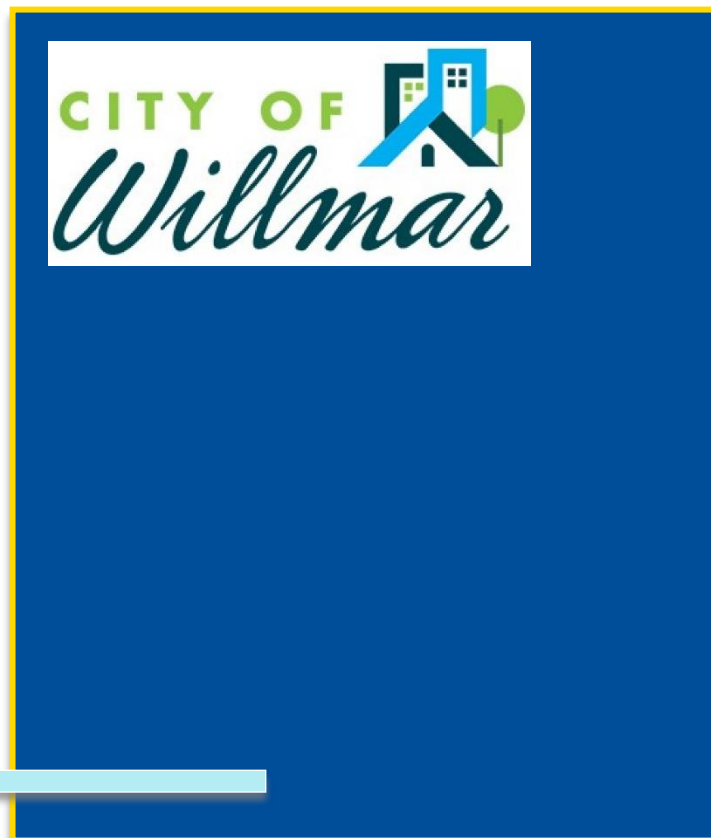
January 17, 2024

Version

V0.R3

Submitted By

Marlena Pfeiffer
Principal Consultant
Hometown Fiber



Community Outreach and Education

to Promote the *Connect Willmar Initiative*

Hometown Fiber is pleased to submit to the City of Willmar this proposal for the development and implementation of a community-focused promotion of the citywide fiber optic initiative to all its residents, businesses, and anchor institutions.

Our dedication to collaboration with city leaders remains unwavering as we provide essential information to empower informed decision-making. This program fosters awareness, partnership, and support within the community of Willmar as it allows leaders to hear the community's voice.

GOAL:

To create awareness, maximize support and create substantial commitment to the *Connect Willmar Initiative* among residents, business owners, and stake holders in Willmar, Minn.

Objectives:

1. To introduce benefits and raise awareness of the city's plan to bring fiber optic internet to the community.
2. To cultivate businesses and resident support for the initiative by highlighting its reliability, affordability, speed, and sustainability both financially and otherwise.
3. To develop the City of Willmar's public image as a technologically advanced and innovative place to live and work.

WHY IT'S IMPORTANT:

The significance of community education and outreach cannot be overstated. This infrastructure will be owned by the City; community support and involvement will play a pivotal role in ensuring its success. To generate excitement and create momentum, this promotion offers transparency, creates trust, and solidifies support to give community leaders the ability to move forward with full confidence in the success of the initiative.

Community Outreach and Engagement Strategy

Outreach and Engagement focus is on educating and gaining community support necessary for the success of the city-wide plans. This is a multi-faceted approach to achieve the above objectives. Hometown Fiber has created three different tiers for the council's choice. These tiers offer three levels of impact for the outreach program. The cost of each represents the amount of desired personal interaction with community members and leaders, event planning and implementation, as well as the frequency of communication with the community.

Proposed Marketing Strategies:

- 1. Public Relations Management**
- 2. Community Awareness Promotion**
- 3. Education and Engagement**
- 4. Marketing Material Creation and Distribution**

Public Relations Management

Hometown Fiber will engage multiple media communication channels. Here we create, manage, and maintain the consistency of the initiative's narrative. This is done by organizing and hosting in-person or virtual meetings, creating social media posts, collaborating with local media to generate interest and excitement, designing community bulletin boards, writing and distributing informational newsletters, as well as recording radio spots.

Community Education and Engagement:

Personal connection is the most powerful conduit we have to build relationships, create loyalty, and spark conversation. The community education and engagement portion focuses on just that. By being an active part of the community, Hometown Fiber will showcase the *Connect Willmar Initiative* in an interactive form. Our representatives will personally collaborate and meet with local businesses and anchor institutions to gain support and secure commitment. We will highlight the benefits throughout the community by hosting informational sessions, town hall meetings, and educational seminars. These events will be in-person or in a virtual setting depending upon tier selection. Hometown Fiber will also create and host a public question-and-answer forum where people can have their questions answered quickly and precisely.

Creation of Marketing Content and Graphics:

Print media fosters a high level of credibility and longevity among consumers. Consistent distribution creates top-of-mind awareness, as well as brand loyalty. Hometown fiber will create, design, and manage distribution of brochures, flyers, and postcards to provide an overview of the Initiative, its benefits, and how it will positively affect the community. Printed messages have been proven effective in any marketing strategy. Digital Marketing is used to reach large, targeted audiences. Keeping the initiative's benefits and progress in front of community members consistently will maintain momentum and guarantee continued attention from the public. This portion will include digital marketing material creation, social media campaign launches, email marketing campaigns tailored to specific audiences, and website development.

How this helps

Social Media:

Social media platforms such as Facebook, Twitter, and Instagram can be used to create awareness about the initiative and engage with the community. Social media can be used to share updates and information on the initiative, and encourage people to share their thoughts, support, and experiences.

Email:

Email campaigns can provide a more personalized contact and be used to create awareness, keep the community informed about the initiative progress and encourage further engagement through other platforms.

Direct Mail:

A direct mail campaign can be a very personal touch for those who may not use or prefer online platforms. It can create awareness, provide updates, and encourage people to follow and support the initiative.

Web Presence:

A website can become the main hub for the network and can be used to provide detailed information; share updates, photos, maps, and answers to frequently asked questions, and engage people by creating a place for them to share comments.

Paid Advertisement:

Advertisement can be used to help reach the community outside of social media and other online venues.

Engage Local Influencers:

Identify, collaborate with, and gather the support of influential figures and organizations within the community.

Host Community Events—In-person and Virtual

Organize events, workshops, or seminars to raise awareness, educate, and directly engage with the community. Provide opportunities for the community to ask questions, share feedback, and make personal connections.

Leverage Existing Community Networks:

Partner with local organizations, schools, businesses, and community groups to leverage their existing influence in the community. Seek endorsements or collaborations to enhance support and credibility.

Collect and Showcase Support:

Share success stories and testimonials from community members who will benefit from the initiative.

Encourage Two-Way Communication:

Create channels for questions, feedback, and input from the community.

Respond promptly to inquiries and actively engage in conversations.

Maintain a consistent presence to ensure ongoing awareness and support.

Deliverables, Costs and Timelines

Deliverables (based on Tier selection)

- Create and provide website content to align with comparable media content.
- Design visually appealing and educational content for printed materials, brochures, postcards, and flyers.
- Design and create targeted print media for distribution. Creating material specifically for residents, small businesses, and large businesses and anchor institutions.
- Hire and direct a print house to execute marketing materials.
- Strategically disperse/mail printed materials throughout the city of Willmar.
- Create content and conduct up to three individual email marketing campaigns tailored individually for residents, small businesses, and large businesses and anchor institutions.
- Create email lists, pulling from multiple resources in preparation for email campaigns.
- Create social media content for all major social media platforms the city uses.
- Create paid advertising content to be used for print and electronic media.
- Create and manage paid advertisements.
- Conduct in-person/virtual events and information sessions.
- Contact businesses in Willmar to provide educational/informational media and meetings.
- Provide educational/informational media and meetings directly to Willmar's anchor institutions.
- Gather letters of support from businesses and anchor institutions within Willmar.

Tier One	Tier Two	Tier Three
Website Content Creation	Website Content Creation	Website Content Creation
Marketing Content/Graphics	Marketing Content/Graphics	Marketing Content/Graphics
3 Targeted Educational Brochures	3 Targeted Educational Brochures	1 General Educational Brochure
2 Informational Postcards	1 Informational Postcard	N/A
3 Community Mailings	2 Community Mailings	1 Community Mailing
3 Targeted Email Content Dev	3 Targeted Email Content Dev	General Email Content Development
3 Email Campaigns	2 Email Campaigns	1 Email Campaign
3 Social Media Content Creations	2 Social Media Content Creations	1 Social Media Content Creation
3 Paid Advertisements	2 Paid Advertisements	N/A
3 In-Person Informational Events	1 In-Person Informational Events	N/A
3 Virtual Informational Session	2 Virtual Informational Session	1 Virtual Informational Session
Event Coordination and Advertisement	Event Coordination and Advertisement	Event Coordination and Advertisement
Contact Businesses/Anchor Institutes	Contact Businesses/Anchor Institutes	Contact Businesses/Anchor Institutes
In-person meetings with Businesses	Virtual Meetings with Businesses	Virtual meetings upon request
Collect letters of Support	Collect Letters of Support	Collect Letters of Support
Cost for Tier One is \$85,900.00	Cost for Tier Two is \$55,900.00	Cost for Tier Three is \$29,900.00

Timeline: The Community Engagement and Educational above commences upon approval and shall continue through tier engagement completion on or before April 30, 2024.

Conclusion: Hometown Fiber is committed to working collaboratively with the City of Willmar to transform its digital landscape and position its leaders to have the full support of the community. We believe this comprehensive awareness and educational plan will drive the widespread adoption of this citywide fiber initiative, benefiting residents, businesses, and the community.

We appreciate the opportunity to submit this proposal and look forward to contributing to Wilmar's growth and prosperity. Should you have questions or concerns, please contact Hometown Fiber.

Remember, creating community awareness is an ongoing process that requires dedication, consistency, and a genuine commitment to building relationships within the community.

Thank you for considering Hometown Fiber for this important step in achieving the successful launch of the city's broadband future.

Sincerely,

Marlena Pfeiffer



CONNECT WILLMAR INITIATIVE

Bringing Willmar into the Future of Connectivity

Transforming Connectivity for Businesses and Anchor Institutes

The Connect Willmar Initiative is not just about connectivity;
it's about redefining the standards of

Reliability, Security, and Performance.

Discover more about this initiative and the advantages

- ✓ **Maximum Uptime**
- ✓ **High Availability**
- ✓ **Redundancy**
- ✓ **Reliability**
- ✓ **Security**

Join the movement toward a future where businesses and anchor institutes thrive on seamless, resilient connectivity.

This open-access fiber optic infrastructure is not just a cable in the ground – it's a lifeline to our future.



CONNECT WILLMAR INITIATIVE

Business and Anchor Institutions

What is the Connect Willmar Initiative

Access to high-speed internet has become a crucial component for the economic and social development of communities. Recognizing this need, Willmar is taking a significant step forward by introducing a city-wide open-access fiber optic network through a public-private partnership with Hometown Fiber.

The Need for Fiber Optic Connectivity:

In today's interconnected world, reliable and fast internet is vital for various aspects of daily life, including remote work, online education, healthcare, and entertainment. A robust internet infrastructure is the backbone of a thriving community. As the demands for high-speed internet continue to grow, traditional broadband infrastructure often falls short of meeting the needs of a modern, digitally connected community.

The Fiber Optic Solution:

To address this challenge, Willmar is turning to fiber optic technology. Fiber optic networks use thin strands of glass or plastic to transmit data using pulses of light, providing faster and more stable internet connections compared to traditional copper-based networks.

What makes the Willmar initiative even better is its commitment to an open-access model.

The Open-Access Advantage:

One of the key features of the proposed fiber optic network is its open-access nature. Open access means that multiple service providers can operate on the same infrastructure, fostering healthy services and giving residents and businesses a choice in their internet service providers. This model encourages innovation, and affordability, and ensures that consumers have access to a variety of services tailored to their specific needs.

What does this mean to you?

Faster, more reliable, and affordable internet. Provides you with a choice of services and service providers to meet your needs. Creates the digital connectivity that will allow growth in the community

Your support in this initiative moves the vision closer to the reality of a connected and thriving community.

What are the Key Benefits to Businesses and Anchor Institutes

Point to Point Connectivity

Point-to-point (P2P) connections in fiber internet offer several benefits, making them a preferred choice for various applications. Here are some key advantages:

- ✓ **High Bandwidth:** P2P connections over fiber-optic cables provide high bandwidth capabilities. This enables the transmission of large amounts of data at high speeds, making it suitable for applications that require substantial data transfer rates.
- ✓ **Low Latency:** Fiber-optic cables have low latency compared to traditional copper cables. P2P connections over fiber result in minimal signal delay, making them ideal for applications where low latency is critical, such as real-time communication and online gaming.
- ✓ **Security:** Fiber-optic communication is inherently more secure than traditional copper-based systems. P2P connections using fiber are less susceptible to electromagnetic interference and eavesdropping, enhancing the overall security of data transmission.
- ✓ **Reliability:** Fiber-optic cables are known for their reliability. They are less prone to signal degradation over long distances, and the robust nature of optical fibers makes them resistant to environmental factors like electromagnetic interference and harsh weather conditions.
- ✓ **Symmetric Upload and Download Speeds:** Fiber-optic P2P connections typically offer symmetric upload and download speeds, meaning that data can be transmitted at similar rates in both directions. This is advantageous for applications that require balanced upload and download speeds.
- ✓ **Scalability:** Fiber-optic P2P connections are highly scalable. As data demands increase, organizations can easily upgrade their bandwidth to accommodate higher data transfer requirements without significant changes to the physical infrastructure.

What are the Key Benefits to Businesses and Anchor Institutes

Point to Point Connectivity

- ✓ **Long Distances:** Fiber-optic P2P connections can cover longer distances without signal degradation compared to copper-based connections. This makes them suitable for applications requiring connectivity over extended geographical areas.
- ✓ **Immunity to Electromagnetic Interference (EMI):** Fiber-optic cables are not susceptible to electromagnetic interference, which is a common issue with copper cables. This makes P2P connections using fiber more reliable in environments with high levels of EMI.
- ✓ **Future-Proofing:** Fiber-optic technology is considered future-proof as it has the potential to support increasing bandwidth demands for years to come. Investing in P2P connections over fiber ensures a technology infrastructure that can adapt to evolving data requirements.
- ✓ **Dedicated Connection:** P2P connections provide a dedicated link between two points, ensuring that the bandwidth is consistently available for the connected devices. This can be important for applications that require a reliable and dedicated connection, such as point-to-point communication for businesses.
- ✓ **Resistance to Weather Conditions:** Fiber-optic cables are not affected by weather conditions, such as rain or snow, in the same way that copper cables may be. This makes P2P connections using fiber more resilient in adverse weather.

Overall, point-to-point connections in fiber internet offer a combination of high performance, reliability, and security, making them well-suited for various applications ranging from business connectivity to critical infrastructure and telecommunications.

What are the Key Benefits to Businesses and Anchor Institutes

High Availability and Redundancy

High availability in the context of fiber internet refers to a network connection that is designed and configured to provide maximum uptime and reliability. The goal of a high availability circuit is to minimize downtime and ensure that internet connectivity remains consistent even in the face of unexpected events or failures. Redundancy refers to the implementation of backup systems and pathways in a fiber-optic network to ensure continuous and reliable internet connectivity. Redundancy is crucial in telecommunications to minimize the risk of service disruptions caused by various factors such as equipment failures, fiber cuts, or other unforeseen events.

-  **Multiple Fiber Routes:** Establishing multiple physical routes for fiber-optic cables helps ensure that if one route is compromised (due to construction, accidents, or natural disasters), data can still flow through alternative paths.
-  **Diverse Entry Points:** Fiber-optic cables entering a building or a data center through different entry points provide additional redundancy. This helps safeguard against issues like cable damage outside the building affecting all incoming connections.
-  **Redundant Hardware:** Using redundant network hardware, such as switches, routers, and other critical components, ensures that if one piece of equipment fails, another can seamlessly take over, minimizing downtime.
-  **Automatic Failover:** High availability circuits are designed to detect failures in real-time. When an issue is detected, the circuit automatically switches to the redundant path or hardware without requiring manual intervention. This quick failover mechanism minimizes downtime.
-  **Geographical Diversity:** Building fiber-optic infrastructure in geographically diverse locations adds another layer of redundancy. This can protect against regional disasters or outages that might impact a specific area.

What are the Key Benefits to Businesses and Anchor Institutes

High Availability and Redundancy

- ✓ **Power Redundancy:** Ensuring power backup systems, such as uninterruptible power supplies (UPS) or generators, can prevent service interruptions during power outages.
- ✓ **Monitoring and Management:** Continuous monitoring of the circuit's performance is essential. Network administrators use tools to track the health of the circuit, identify potential issues, and proactively address them before they impact service.
- ✓ **Service Level Agreements (SLAs):** Providers of high availability circuits often offer SLAs that specify the guaranteed level of uptime. These agreements outline the commitment to maintaining a certain percentage of availability over a given period.

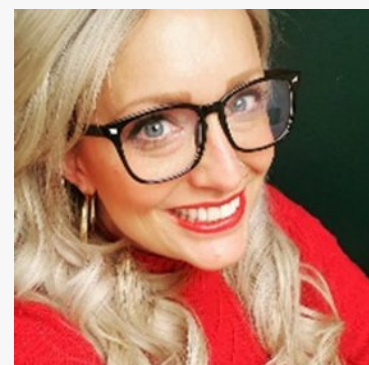
Overall, fiber internet redundancy is about designing and implementing a network infrastructure in such a way that it can continue to function even if some components or pathways experience issues. This enhances the reliability and availability of internet services for businesses and consumers.

Want to Learn more...

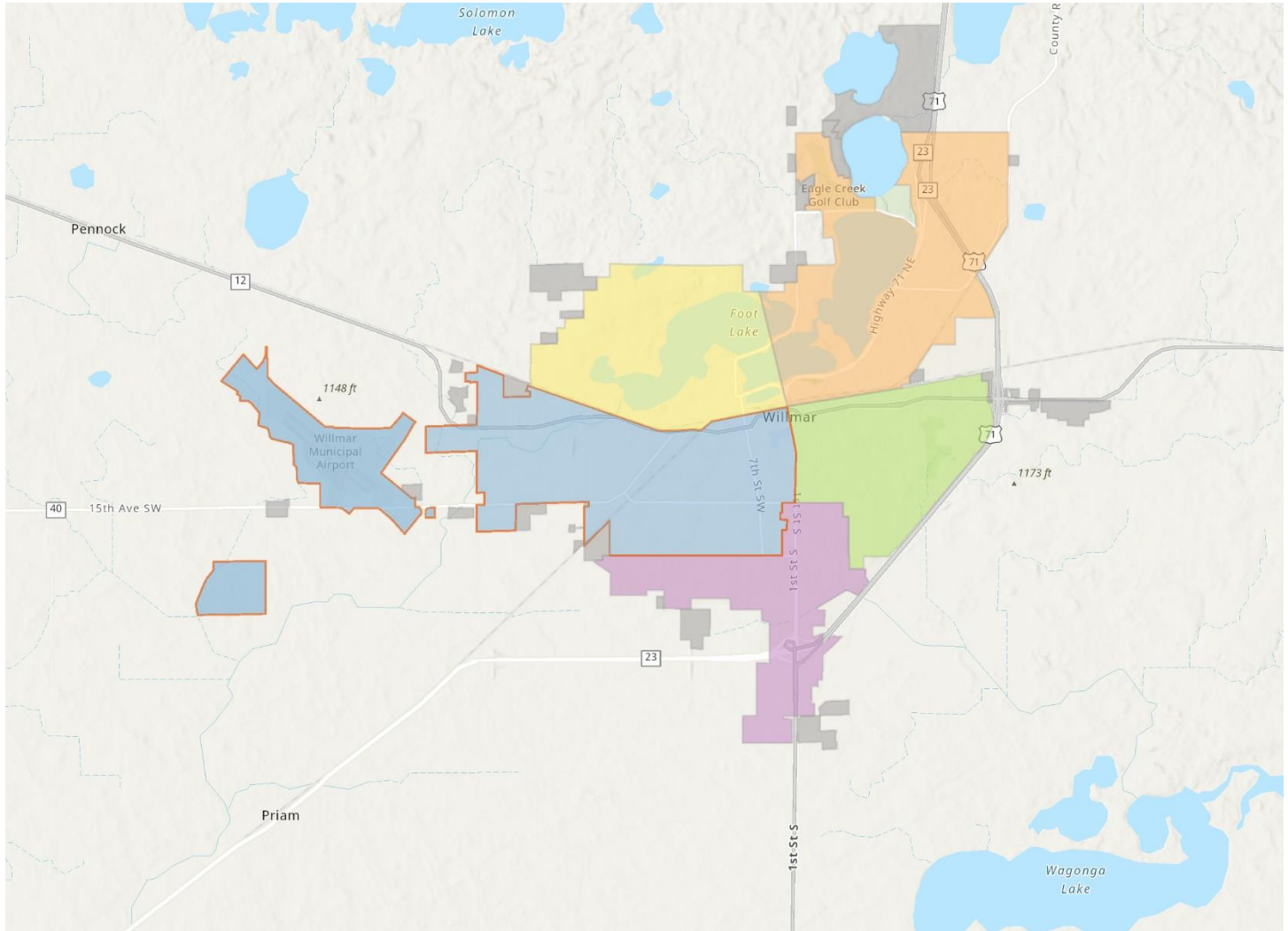
Have Questions?

Contact

Marlena Pfeiffer
Broadband Specialist
marlena@yourhometownfiber.com
[612-778-8574](tel:612-778-8574)
[Schedule a Meeting](#)



Preliminary Phase Boundaries



WILLMAR BROADBAND FIBER PROJECT UPDATE AND OVERVIEW OF FINANCE PLAN



January 22, 2024

PREVIOUS FINANCE PLAN

- ④ Issue Non-Rated Fiber System Revenue Bonds
- ④ Debt was to be secured by the net revenues generated from the users of the broadband system.
- ④ From the outset of this plan we discussed that under this structure the City would need to provide about 30% of the funding as an “equity” / “skin in the game” piece to facilitate the financing.
- ④ After providing a written summary of various ways the City might be able to meet the ‘equity’ requirement it resulted in further discussion, and staff modified its recommendation to support the issuance of General Obligation Bonds to build the broadband project.

GENERAL OBLIGATION (GO) BONDS

- ⓘ Because GO bonds provide the backing of the City's full faith and credit to the bondholder, the risk to the bondholder decreases dramatically.
- ⓘ Bonds will become investment grade rated.
- ⓘ Results in the broadband project now being funded at the lowest rates of interest.
- ⓘ With GO bonds there is no need to fund a debt service reserve fund which also provides a cost savings
- ⓘ **Critical to understand that the finance plan is still to utilize broadband revenues to repay the GO debt service.**

SUMMARY COMPARISON

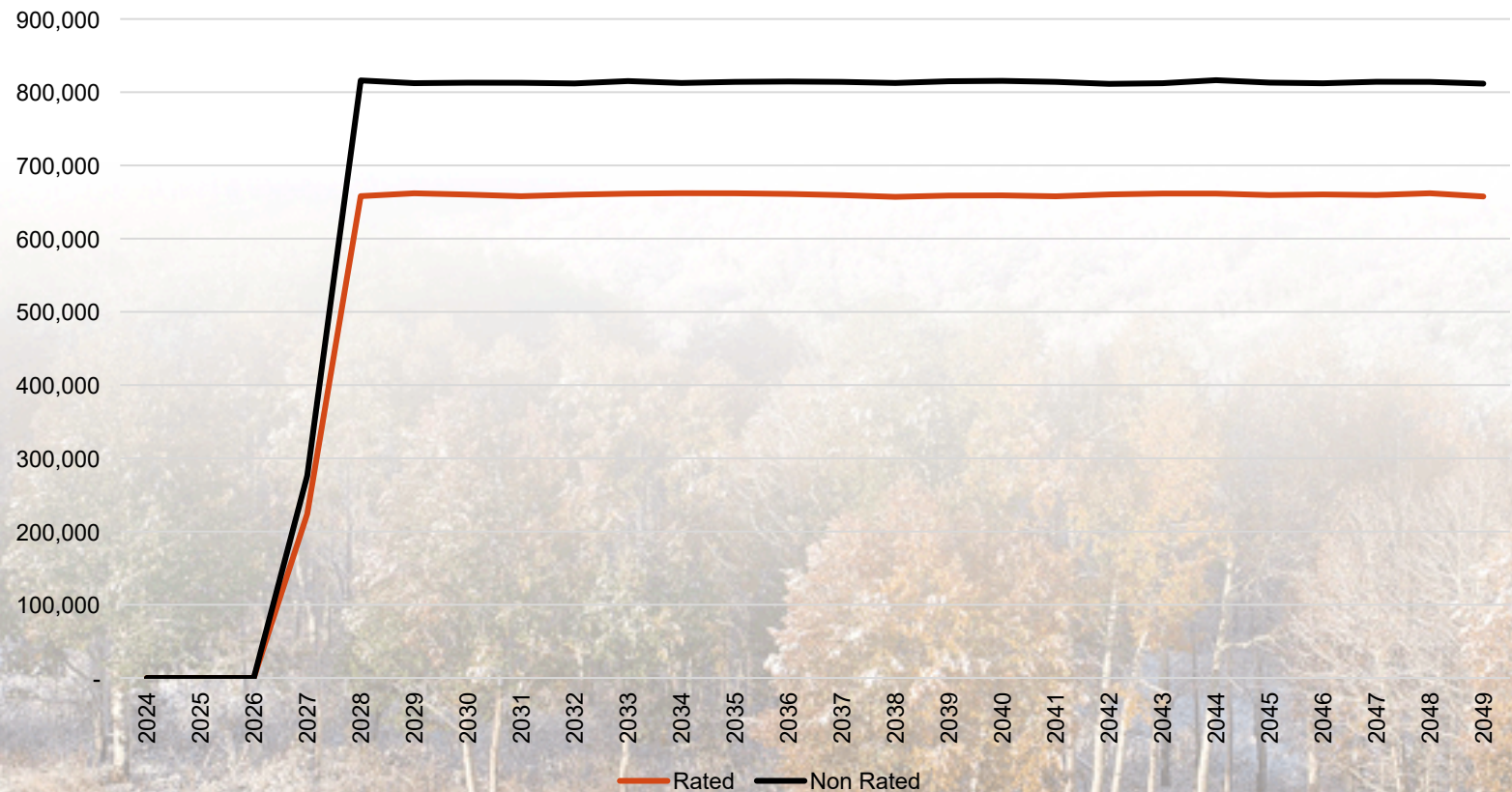
Construction of First Phase ~ \$8M Construction Budget

Item	Rated	Non-Rated
Par Amount	8,570,000	10,565,000
Premium		145,417
Construction Fund	8,000,000	8,000,000
Costs of Issuance	177,488	233,051
Capitalized Interest	1,345,313	1,658,475
Debt Service Reserve	-	816,406
True Interest Cost ("TIC")	4.342%	5.247%
Average Annual Debt Service	659,972	813,591

SUMMARY COMPARISON

Construction of First Phase ~ \$8M Construction Budge

DEBT SERVICE COMPARISON



SUMMARY COMPARISON

Construction of First Phase ~ \$8M Construction Budget

Fiscal Year	Rated	Non Rated	Difference
2024	-	-	-
2025	-	-	-
2026	-	-	-
2027	224,219	276,413	52,194
2028	658,063	816,075	158,013
2029	661,938	812,325	150,388
2030	660,188	812,950	152,763
2031	657,938	812,825	154,888
2032	660,063	811,950	151,888
2033	661,438	815,200	153,763
2034	662,063	812,575	150,513
2035	661,938	814,075	152,138
2036	661,063	814,575	153,513
2037	659,438	814,075	154,638
2038	657,063	812,575	155,513
2039	658,813	814,950	156,138
2040	659,069	815,463	156,394
2041	657,806	814,081	156,275
2042	660,363	811,388	151,025
2043	661,606	812,250	150,644
2044	661,538	816,406	154,869
2045	659,513	813,063	153,550
2046	660,363	812,175	151,813
2047	659,563	814,225	154,663
2048	661,975	814,075	152,100
2049	657,600	811,725	154,125

BENEFITS & DRAWBACKS OF THE GENERAL OBLIGATION FINANCE PLAN

Benefits

- Interest rates will be lower
- No debt service reserve fund is required
- Debt Service is significantly lower
- Increases the likelihood that broadband system revenues will be able to repay the debt

Drawbacks

- City assumes greater risk related to system revenues repayment of debt service
- Potential Impact on Statutory Debt Limits – potential impact to funding other projects
- Possible constituent concerns

POINTS WORTH CONSIDERING

- ④ Not everyone in every community benefits from all public projects that are funded using GO bonds.
 - Some use libraries – some don't
 - Some use recreation facilities – some don't
 - Etc.
- ④ High-speed, cost-effective broadband is necessary to promote economic development
- ④ Open access networks increase competition which is better for all consumers
- ④ Open access networks provide a means for incumbents to utilize the fiber system, if they choose to do so.
- ④ Lower cost debt aids the broadband finance plan by reducing debt payments.

CONTACT INFORMATION

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LRB Public Finance Advisors, Inc.

Email: laura@lrbfinance.com

Phone: (801) 201-6842



FIBER COMMUNICATIONS OPERATION CONTRACT

Dated as of _____, 2023

between

HOMETOWN FIBER

and

CITY OF WILLMAR, MINNESOTA

FIBER COMMUNICATIONS OPERATION CONTRACT

This Fiber Communications Operation Contract (the “Contract”) is made and entered into as of [____], 2023, by and between Hometown Fiber LLC, a Minnesota limited liability company (the “Manager”), and the City of Willmar, Minnesota (the “City”), a municipal corporation and a political subdivision of the State of Minnesota (the Manager and the City are sometimes referred to individually as a “Party” and collectively as “Parties” herein).

RECITALS

1. Pursuant to Minnesota Statute § 429.021, subd. 1(19), cities may improve, construct, extend, and maintain facilities for Internet access and other communications purposes, including fiber optic communications networks.

2. The City now desires to cause to be constructed and maintained an advanced fiber optic communications network to serve residents of the City (the “City Network”) through the undertaking of the improvements contemplated (as more fully described herein, the “Improvements”) and desires further that the Manager operate the City Network on its behalf.

3. The City Council finds that its construction and operation of the City Network by the Manager pursuant to this Agreement is necessary to make available Internet access in a quality and reliability that will not be available through other providers or the private market in the reasonably foreseeable future, and that the City Network will be open to private internet service providers on equal terms and thus will not compete with services provided by private entities.

4. The City will finance the City Network as a public improvement through abatement bonds issued pursuant to Minnesota Statutes § 469.1814.

5. The City will acquire, install, construct, and complete the City Network in a multi-phase construction project.

6. The Manager has substantial experience and expertise in operating fiber optic communications networks and in marketing to, and coordinating with, Internet Service Providers to provide internet services to consumers.

7. The City has determined that the Manager possesses the personnel and resources to assist the City in carrying out the Governmental Program by managing and operating the City Network.

8. The City will at all times own the City Network in its entirety and provide the Manager with access to and use of the City Network only as necessary to operate and manage the City Network for the benefit of the public on the City’s behalf as contemplated in this Contract.

9. The Parties understand that they are entering into this Contract for the operation of the City Network prior to the City’s final determination regarding the feasibility of the construction of the City Network, the City’s determination regarding the funding of such City

Network, and the actual construction of the City Network, and have included provisions to account for these future uncertainties in this Contract.

10. The Parties understand that execution of this Contract is necessary even before the City makes a final determination regarding the funding, feasibility, and construction of the City Network so that the roles and obligations of each Party may be sufficiently agreed upon and defined and to allow the Manager to timely perform its obligations under this Contract and under the Parties' separate Consultant Services Agreement (the "Consultant Agreement").

11. It is the intention of the Parties that the City will pay or cause to be paid certain charges to the Manager for the services to be provided under this Contract, which charges will be calculated in accordance with this Contract.

12. The City will be required, as a condition of funding the project through the sale of abatement bonds, to carry out the Governmental Program by continuing to use and operate the City Network for the benefit of the public.

AGREEMENT

In consideration of the terms and conditions of this Contract, the City and the Manager agree as follows:

ARTICLE I

DEFINITIONS

In addition to the terms defined in the recitals and elsewhere in this Contract, the following terms, whether in the singular or in the plural, when used herein and in the exhibits hereto, shall have the meanings set forth below:

1.1 "Alterations" shall mean any alterations, additions, modifications or improvements to the City Network beyond ordinary maintenance that do not constitute Capital Improvements.

1.2 "Broadband Committee" means a Committee established by the City and with members appointed by the City pursuant to Willmar City Charter Section 4.01.

1.3 "Capital Improvements" shall mean any material alterations or substantial improvements made to the City Network, and any non-recurring improvements to extend the useful life of the City Network. Capital Improvements shall not include ordinary maintenance, emergency repairs or repairs completed to restore the City Network to its preexisting condition without extending its useful life.

1.4 "City" means the City of Willmar, Minnesota.

1.5 “City Network” means fiber optic lines, connection lines and related improvements owned by the City, including the Mainline System, Telecom Shelters, Telecom Rooms, Residential Installations and Non-Residential Installations, together with the acquisition of access rights and capacity in other networks.

~~1.6 “City Network Final Plans” means the engineering plans and specifications for the construction of the City Network, and once completed, the “as-built” plans and specifications for the City Network.~~

1.7 “Connection Services” means the ~~wholesale~~ services provided by the Manager to the City pursuant to this Contract whereby End Users within the City have access to the City Network and the ability to contract with private Internet Services Providers to receive fiber-optic broadband internet services through the City Network. The term Connection Services is more particularly described in Exhibit A attached hereto and incorporated herein.

1.8 “Consultant Agreement” means the Consultant Services Agreement entered into between the Parties on 10/23/2023 which addresses other services provided by Manager to the City related to the planning for and engineering design of the City Network and which constitutes a separate agreement from this Contract.

1.9 “Contract” means this Fiber Communications Operation Contract dated as of [], 2024, as it may be amended from time to time in accordance with Section 14.14 herein.

1.10 “Drop Installation” means residential and business drop cable installations to subscribed locations and End Users within the City Network as described in Subsection 4.2.14.

1.11 “End User” means those Residential and Non-Residential users of the City Network within the City of Willmar to be provided services pursuant to this Contract.

1.12 “Effective Date” means the date on which this Contract becomes fully executed.

1.13 “Expiration Date” means the earlier of:

(a) Five (5) years after the Operational Date; or

(b) December 31, 2033.

1.14 [~~“Fiber Hut”~~ “Telecom Shelter” means the building or room, electronics, switches, routers, fiber terminations, conduits, cables, racking, generator, UPS units, cooling systems, and other support systems to support the Mainline System and other future potential interconnects.]

1.15 “Field Technician Services” means . . . Technician(s) that handle on-site servicing, diagnostics and repairs for the City Network.

1.16 “Governmental Program” means the City’s establishment of fiber-optic broadband infrastructure for use by the residents of the City as End Users through End User

contracts with ISPs, as supported by the day-to-day operation, management, maintenance and use of the City Network by the Manager for the benefit of the public.

1.17 “Improvements” means those facilities, improvements, and access, lease, use and/or capacity rights acquired, constructed, and/or installed, operated and maintained by the City or the Manager within the City, or specifically undertaken for the benefit of the City, to provide Connection Services to and within the City to the End Users pursuant to this Contract, as more fully described in Exhibit B attached hereto, and incorporated herein.

1.18 “Internet Services” means services for accessing, using, managing, or participating in the internet as well as any other service which End Users may contract to be provided by Internet Service Providers through the City Network.

1.19 “Internet Service Providers” means private companies with which End Users may contract to receive internet access and services through the City Network.

1.20 “Mainline System” means all of the newly installed fiber, conduits, handholes restorations and other materials along the roads and within the City limits as depicted in Exhibit C hereto.

1.21 “Major City Network Repairs” means any unplanned maintenance or repair of the City Network, or unplanned replacement of any portion of the City Network, necessitated by damage to the City Network, which results in costs of \$5,000.00 or more. Major City Network Repairs shall not include day-to-day maintenance or any repairs or maintenance which cost less than \$5,000.00.

1.22 “Manager” means Hometown Fiber LLC, a Minnesota limited liability company.

1.23 “Membership Fee” means the flat, monthly fee, to be negotiated by the City, the Manager, and the ISPs, which the ISPs will pay to the City for the ability to provide fiber-optic broadband internet services to End Users through the City Network.

1.24 “Network Operations Center” or “NOC” means a centralized location where computer, telecommunications or other network systems are monitored and managed.

1.25 “Operating Contingency” means an unplanned event or circumstance, a series of events or circumstances, or any restriction or condition imposed by any governmental authority which reduces and materially adversely affects access to the City Network.

1.26 “Operational Date” means the date to be subsequently established by agreement of the Parties and will be the earlier of:

- (a) The date that the construction of first phase of the City Network is completed such that any portion of the City Network is able to be operated as anticipated and described in this Contract; or
- (b) January 1, 2029.

1.27 “Renewal Term” shall have the meaning set forth in Section **Error! Reference source not found.** below.

1.28 “Retail fee” means the monthly fee paid by each End User to the City for use of the City Network, and which will be retained by the City and collected together with all other fees the End User pays for internet services and products provided by the ISP.

1.29 “Term” has the meaning ascribed to such term in 2.2 hereof.

1.30 “Uncontrollable Forces” means any cause beyond the control of the Party affected, including, but necessarily limited to: acts of God, failure of facilities other than the City Network operated and maintained pursuant to this contract, fire or other casualty, earthquake, hurricane, tornadoes, named storms, flood, war, riot, intervention by civil or military authorities of government, insurrection or other civil commotion, governmental action, material shortages, Work Stoppages, or any other similar or like event or occurrence beyond the reasonable control of a Party hereto, that causes such Party to be delayed or hindered in, or prevented from, the performance of any covenant or obligation hereunder. Unavailability of funds shall not constitute Uncontrollable Forces.

ARTICLE II

GRANT OF RIGHTS AND TERM

2.1 Grant.

2.1.1 The City, for and in consideration of the payments and agreements of the Manager contained herein, hereby grants to the Manager and its agents, the exclusive right to use the City Network for the purpose of assisting the City in operating and managing the City Network after the Operational Date and for the duration of the Term, subject to the terms, conditions and provisions of this Contract.

2.1.2 The Manager shall have no rights to use the City Network other than those rights specifically granted in this Contract. The City does not relinquish the right of access to the City Network; provided, however, that such access by the City shall not unreasonably interfere with the use of the City Network by the Manager or Manager’s agents, or the ISPs, pursuant to this Contract. A reservation by the City of some specific right in this Contract shall not be construed as granting to the Manager any rights not mentioned or not specifically reserved by the City in this Contract.

2.1.3 The Manager, having reviewed the City Network Construction Drawings and Specifications, hereby represents as of the date of this Contract that nothing has come to their attention to cause them to believe that the City Network will not be, as of the Operational Date, in all material respects fit for their intended purposes and reasonably suitable for use hereunder assuming that the City Network is properly constructed in substantial accordance with the City Network Final Plans.

2.2 Term The term of this Contract shall commence upon the Effective Date and shall continue for a period of five (5) years beginning on the Operational Date and ending on the Expiration Date (the "Term"), unless either; (a) earlier terminated pursuant to the provisions of Section 2.4, or (b) renewed as provided in Section 2.3.

2.3 Renewal. This Contract may be renewed for up to three (3) successive five (5) year term(s) (each a "Renewal Term") and the Expiration Date shall be adjusted accordingly for the Renewal Term(s), upon the Manager making written application for such a renewal term to the City no later than 180 days in advance of the Expiration Date, and provided that the City determines, in its sole discretion pursuant to Article VII herein, that (1) the Manager has the means and resources to and will continue to manage and operate the City Network in furtherance of the Governmental Program; and (2) the City wants the Manager to continue to manage and operate the City Network in furtherance of the Governmental Program. The City shall notify the Manager in writing of its approval or denial of an application for a renewal term no later than 90 days in advance of the Expiration Date. In the event that (a) the Manager fails to deliver to the City such renewal notice prior to the final 180-day period of the Contract; or (b) City does not respond to such timely renewal notice 90 days prior to the Expiration Date, then this Contract shall be deemed terminated. Nothing herein shall require the City to renew this Contract beyond the initial term; the City may, at its sole option and discretion, allow this Contract to expire at the end of the Term or any Renewal Term as applicable, and thereafter directly manage and operate the City Network as it would be operated by the Manager under this Contract, or contract with some other entity or entities to do so, as a part of the Governmental Program. Unless agreed otherwise by the Parties, the Contract shall terminate on the Expiration Date.

2.4 Termination. Notwithstanding any provisions to the contrary contained in this Contract, the above initial Term or any Renewal Term or extensions thereof shall be for a period terminating upon the date of (a) the Expiration Date, (b) the Manager's failure to carry out the Governmental Program through its management and operation of the City Network for the benefit of the residents of the City pursuant to this Contract, (c) the termination of the Governmental Program or change in the Governmental Program that no longer allows the City to own the City Network and/or operate the Governmental Program thereon; or (d) the City's sale of the City Network to a third party as allowed by law.

ARTICLE III

CITY NETWORK AND IMPROVEMENTS: OWNERSHIP AND USE

3.1 Suitability for Use

3.1.1 The Manager hereby stipulates and agrees that the City Network will be, as of the Operational Date, in all material respects fit for its intended purposes and reasonably suitable for use hereunder if the City Network has been constructed in accordance with City Network Construction Drawings and Specifications.

3.1.2 The City shall own and control the City Network, subject to the rights of the Manager under this Contract.

3.2 Ownership of Improvements. It is agreed and understood that all real and personal property constituting the Improvements and the City Network shall be owned by the City.

3.3 Manager's Permitted Use. The Manager shall have the right to operate and manage the City Network and provide Connection Services using the City Network. The Manager shall use reasonable efforts consistent with industry standards to not allow any activity that is unlawful, creates any nuisance or fire hazard, or will damage or otherwise have a deleterious effect upon the City Network or the reputation of the City. The Manager shall use the City Network in compliance with all applicable Laws.

3.4 City's Reserved Rights.

3.4.1 City Access.

(a) City staff and its agents shall have reasonable access at all times to all premises upon which physical components of the City Network are installed during Manager's use thereof as determined by the Director of the Public Works Department of the City.

(b) At any time during Manager's use of the City Network, the City may take any and all measures necessary or desirable for the operation, safety, protection or preservation of the City Network, including Emergency Repairs, alterations, additions or improvements. The City may exercise any or all of the foregoing rights without being deemed guilty of disturbing the Manager's use and without being liable in any manner to the Manager or its agents, and without affecting the Manager's obligations hereunder.

(c) The Manager and the City shall ensure that no City personnel or elected officials are compensated with free or reduced Connection Services or internet services provided by ISPs for which service is charged to the general public.

3.4.2 City Connections. The City shall receive a minimum of twelve (12) strands of dark fiber optic cable between each City building and the nearest Network Wire Center. The City shall purchase all of its Internet Services from one or more of the participating ISPs operating the City Network.

3.4.3 City Facilities and City Network. The City shall be responsible for and have full control over the portion of the City Network which services the City's own facilities.

3.4.4 Outside Funding. The City shall have the right to solicit and accept donations and grants to support the City Network.

3.4.5 Capital Improvements and Alterations. The City reserves for itself the right to make Capital Improvements to the City Network in its sole discretion. The City may allow the Manager to make Capital Improvements or other Alterations to the City Network at the Manager's expense pursuant to the procedure set forth in Section 129.23.

3.4.6 City Network Operation. If, at any time, the City determines that the Manager is not operating the City Network in compliance with this Contract and has terminated this Contract pursuant to Section 2.4, the City shall retain the right to operate the Network and perform any and all functions necessary to continue the operation of the Governmental Program, including directing End User traffic between ISPs as required.

ARTICLE IV

OPERATIONS AND MANAGEMENT

4.1 City Responsibilities.

4.1.1 Acquisition, Installation, and Construction. Subject to the condition that the City first determines that the Governmental Program and construction and operation of the City Network are feasible, the City shall acquire, install, and construct, or cause to be acquired, installed, or constructed, the City Network and take all actions necessary to make the City Network operational for the purposes of this Contract.

4.1.2 End User Billing. The City shall be responsible for billing End Users for the total cost of the Internet Services provided through their use of the City Network, including ISP Service Fees and associated Retail Fees.

4.1.3 ISP Service Fees. The City shall be responsible for paying to each ISP the ISP Retail Fees which the City Collects from End Users subscribed to each ISP on a monthly basis pursuant to Paragraph 5.1.4. The City shall not be responsible for ISP Retail Fees which the City does not receive from an End User.

4.1.4 Cost Reimbursement.

(a) Operational Costs. In addition to payment of Manager Compensation pursuant to Section 5.3 herein, the City shall be responsible for operational costs such as power, gas, and other utilities realized for operating the City Network, as well as software licensing, hardware, and data archival expenses incurred by the Manager.

(b) Maintenance Costs. The City shall reimburse the Manager for expenses related to preventative and regular maintenance and other tasks needed to keep the City Network in working condition.

4.1.5 Broadband Committee.

(a) Establishment. The City shall establish a Broadband Committee, the members of which will be appointed pursuant to Willmar City Charter Section 4.01.

(b) Manager Oversight. The Broadband Committee will have oversight authority pursuant to Section 7.9 of this Contract.

(c) ISP Performance Oversight. The Broadband Committee shall hear and receive complaints from End Users regarding the performance of ISPs and ISP-provided Internet Services on the City Network. The Broadband Committee shall provide reports of such complaints to the Manager and direct the Manager to address these complaints with the ISPs to the extent of Manager's authority, up to and including redirecting End User Internet Services from one ISP to another ISP.

4.1.6 Imposition and Collection of Fees. The City shall cause to be charged all End Users within the City Retail Fees for each connection to the City Network in consideration for the Connection Services and other communications services provided by the City. The City shall establish such enforcement procedures as may be necessary to collect such fees.

4.1.7 Major City Network Repairs. The City shall be responsible for the cost of all Major City Network Repairs. In the event that another party is responsible for the damage, including but not limited to traffic accidents, construction, and relocations, the City will pursue compensation from the responsible party. In the event that repair/replacement costs are not recoverable from a third party, including but not limited to vandalism, Uncontrollable Forces, or inability to identify responsible party, the City will be responsible for non-recovered costs.

4.1.8 IT Systems. The City will be responsible for procuring software licensing necessary for managing the City Network including device monitoring, billing software, configuration management, and automated provisioning systems. The City will be responsible for the costs of such items.

4.1.9 Access to City Network. The City will provide the Manager with access to the City Network so that Manager can perform its obligations under this Contract.

4.1.10 Disposition at Termination. After this Contract has expired, in accordance with its terms, unless otherwise agreed to by the Parties, all revenues generated under this Contract shall belong solely to the City. Upon Termination, the City shall continue to own all Network, all Improvements, and all infrastructure related to the operation of the City Network. The Manager shall have no claim to revenue or the previously described infrastructure upon termination.

4.2 Manager Responsibilities.

4.2.1 Connection Services.

(a) The Manager shall provide to and within the City, and the City shall receive from the Manager, Connection Services sufficient to allow the End Users benefitting from the Improvements within the City to connect to the City Network.

(b) The Manager will have exclusive use of the City Network for purposes of providing services as described in Exhibit A, including Connection Services, in furtherance of the Governmental Program, except for the rights reserved by the City to such City Network. Third parties may only utilize the Network in partnership with the Manager and/or the City.

(c) The Manager shall provide continuous Connection Services barring only emergency or scheduled downtime, curtailments, and Operating Contingencies.

4.2.2 Operations of the City Network. The Manager, as the technical representative of the City shall provide day-to-day operation of the City Network.

4.2.3 Consultant Services. The Manager shall provide services to the City as agreed to and described in the separate Consultant Agreement.

4.2.4 End User Information. The Manager shall provide all End User information, including (1) agreements between each End User and the ISP with which the End User has contracted for Internet Services, or (2) other such information sufficient to permit the City to bill each End User for the monthly ISP Service Fees and Retail Fees which each End User must pay for use of the City Network.

4.2.5 Maintenance and Repair of City Network.

(a) City Network Repairs. The Manager will be technically responsible for repairing or replacing any conduit, fiber, central offices, handholes or other outside plant systems that become damaged or defective from normal wear and use of City Network assets to the extent that they do not constitute Major Repairs pursuant to subsection 4.1.7. The Manager, as the City's technical representative, will perform the day-to-day operations and coordinate any repairs to ensure service restoration is completed in a timely and cost effective manner.

(b) Preventative Maintenance. The Manager, as a technical representative of the City, shall provide preventative maintenance to the support system including cabinet, battery backup systems, generator, transfer switches, and air conditioners.

(c) Field Technician Services. Field Technician Services will be provided by the Manager during the term of this Contract. Such services include dispatch and resolution services.

4.2.6 Utility Locating. The Manager shall provide utility locating services directly or via sub-contractor for the City Network through the duration of this Contract.

4.2.7 Internet Service Providers. The Manager will make the City Network available to all of its contracted ISPs. Internet Service providers will be governed under a separate contract.

4.2.8 Charges; ISP Agreements. The Manager, in conjunction with the ISPs and the City, shall establish reasonable charges to be paid by the End Users receiving services from the City Network in furtherance of the Governmental Program, including charges for all optional services to which each End User agrees with an ISP.

4.2.9 Network Operations Center (NOC) Services. The Manager agrees to provide monitoring of the City Network on a 24/7 basis from its NOC. This includes device monitoring, outage notifications, configuration of devices, diagnostics, repair dispatch, and other services as generally provided by the NOC.

4.2.10 Customer Service. The Manager shall staff a customer service contact center for information and for other miscellaneous issues End Users may encounter during their use of the City Network and the operation of the Governmental Program by Manager.

4.2.11 Marketing Services. The Manager shall perform marketing services to garner public support for the Governmental Program prior to the construction of the City Network so that the requisite number of potential End Users in the City opt into participating in the Governmental Program.

4.2.12 Staffing. The Manager shall employ sufficient persons of sufficient expertise, training, and qualification necessary to carry out the Governmental Program safely, effectively, and efficiently, and manage, operate, and maintain the City Network.

4.2.13 Geographic Information System (GIS). The Manager will be responsible for maintaining GIS data for the City Network, including any software licensing, hardware, and data archival expenses. The City will be responsible for the costs of such items. The Manager shall make available to the City and its engineer(s) the GIS data at all times.

4.2.14 Technical Support.

(a) The Manager is responsible for providing technical support for the connection from the nearest network central office or cross connection point to the demarcation point at each home or business.

(b) The Manager does not provide technical support for customer routers, in-home wiring, computers, or in-home Wi-Fi. Such services are expected to be handled by the contract ISP based on their terms of service with each End User. For outages, technical support, issues regarding the costs of their Internet Services, End Users are generally expected to call their contracted ISP. In the

event an ISP determines the issue is related to problems with the City Network and not the ISP or in-home equipment, then the ISP may refer the issue to the Manager. If the City receives calls from the public, the City shall report all incidents to the Manager for technical resolution.

4.2.15 Post-Construction Drop Installations. If an End User of the City Network fails or elects not to opt-in to the Governmental Program during the phase of construction of the City Network which would have allowed that End User to receive complimentary installation of all required fiber network equipment from their property to the Mainline System, the City may later allow such End User to request access to the City Network through post-construction drop installations for a fee in an amount to-be-determined. The Manager will provide technical assistance to the City when the City or the City's designated agent performs such post-construction drop installations.

4.3 Standard of Care. Services provided by Manager under this Contract will be conducted in a manner consistent with that level of care and skill ordinarily exercised by members of the broadband or fiber optic communications network profession or industry in operating fiber optic communications networks. The Manager shall be liable to the fullest extent permitted under applicable law, without limitation, for any injuries, loss, or damages proximately caused by Manager's breach of this standard of care. The Manager shall put forth reasonable efforts to complete their respective duties in a timely manner. The Manager shall not be responsible for delays caused by factors beyond their control or that could not be reasonably foreseen at the time of execution of this Contract. The Manager shall each be responsible for costs, delays or damages arising from unreasonable delays in their performance of their respective duties.

ARTICLE V

FINANCIAL PROVISIONS

5.1 Revenue Distribution and Fees.

5.1.1 ISP Service Fees. The Internet Service Providers (the "ISPs") will receive fees from each End User based upon the amount and the types of products and services delivered to the End User in accordance with the ISPs product catalog. These fees shall be collected by the City and transferred by the City to the Manager for payment to the ISPs.

5.1.2 Retail Fees. The City will receive Retail Fees from each End User for the use of the City Network in the amount of \$ 19 _____ per End User.

5.1.3 Membership Fees. The ISPs will pay an annual Membership Fee to the City for the ability to provide services to End Users through the City Network.

5.1.4 Collection and Distribution of Fees. The City will enter into agreements with the ISPs to charge and collect the fees outlined in paragraph 5.1.1.

5.2 Internet Service and Product Pricing.

(1) Any ~~wholesale~~ pricing offered to End Users that varies more than 10% from the schedule set forth in the ISPs product catalog must be approved in advance by the Manager. The Manager is not responsible for any changes in the retail pricing from its ISPs. Retail pricing is subject to change at any time. ~~The ISPs' wholesale prices are subject to change according to its then-current product catalog.~~ The Manager agrees that it will not allow an increase of the ISPs' ~~wholesale~~ prices for the same product beyond the Consumer Price Index (CPI) for telecommunications without advanced written approval from City. The Manager shall allow the ISPs to introduce additional products and different wholesale pricing at its discretion.

5.3 Manager Compensation.

5.3.1 The City agrees to compensate the Manager, a private entity, for its role in carrying out the Governmental Program for the benefit of the public.

5.3.2 The Manager, as a technical representative of the City, will manage the day-to-day operations of the City Network and receive the following compensation:

(1) Base Fee of \$ 21,773 .00 per month, paid monthly to the Manager by the City. The above Base Fee represents the total Base Fee amount which the City will pay to the Manager upon services being provided to one or more subscribers. ~~the competition of the construction of the City Network.~~

(2) ~~Until the City Network is completed in accordance with the City Network Final Plans, the City will be obligated to pay the portion of the Base Fee to the Manager which is proportionate to the percentage of the City Network which has been constructed.~~

(3) The portion of the Base Fee the City shall be obligated to pay to the Manager shall be evaluated every ~~six (6) months~~, year but shall at no time be less than \$ 21,773 .00. per month.

(a) In addition to the Base Fee, Manager Fee totaling \$ 8.25 per month, per End User of The Network, shall be paid to the Manager by the City. This fee covers the increased management services directly proportional to the number of subscribers.

(b) Both the Base Fee and Manager Fee shall receive Cost-Of-Living Adjustments (COLA). The COLA will be increased once per year beginning March 1st of each year. COLA is equal to the percentage increase in the CPI-W as calculated by the Bureau of Labor Statistics.

(c) The City shall pay to Manager a one-time fee of \$.00 for marketing services as described under subsection 4.2.11.

5.4 City's Payment Obligation. The City's payment obligations hereunder to the Manager for technical representation, day-to-day operations of the City Network, Connection Services, and other services hereunder shall be conditioned upon the following:

- (1) the City's determination that the Governmental Program and construction of the City Network is feasible;
- (2) that Manager has entered into agreements with (received letters of intent for) at least 1 ISPs to operate on the City Network;
- (3) a percentage of potential End Users equal to or greater than % have opted into participating in the Governmental Program on or before [DATE]; and
- (4) the sale of the [General Obligation] bonds occurring on or before November 18, 2024.

ARTICLE VI

Defaults and Remedies

6.1 Manager Default. If the Manager shall default in the payment of any sum required to be paid by the Manager under this Contract and such default shall continue for fifteen (15) days after written notice to the Manager, or if the Manager shall default in the observance or performance of any other covenants or conditions in this Contract, which the Manager is required to observe or perform, and such default shall continue for thirty (30) days after written notice to the Manager, or if a default involves a hazardous condition and is not cured by the Manager immediately upon written notice to the Manager, or if the interest of the Manager in this Contract shall be levied upon under execution or other legal process, or if any voluntary petition in bankruptcy or for corporate reorganization or any similar relief shall be filed by the Manager, or if any involuntary petition in bankruptcy shall be filed against the Manager under any federal or state bankruptcy or insolvency act and shall not have been dismissed within thirty (30) days following the filing thereof, or if a receiver shall be appointed for the Manager or any of the property of the Manager by any court and such receiver shall not be dismissed within thirty (30) days from the date of appointment, or if the Manager shall make an assignment for the benefit of creditors, or if the Manager shall abandon or vacate the City Network or Improvements, then the City may treat the occurrence of any one or more of the foregoing events as a breach of this Contract and thereupon at its option may, without notice or demand of any kind to the Manager or any other person, terminate this Contract and immediately resume exclusive possession, maintenance, and operation of the City Network and Improvements, in addition to all other rights and remedies provided at law or in equity.

6.2 City Default. If the City shall default in the payment of any sum required to be paid by the City to the Manager under this Contract, or if the City shall default in the observance or performance of any of the other covenants, obligations or conditions in this Contract, which the City is required to observe or perform, and such default shall continue for thirty (30) days after written notice to the City, then the Manager may treat the occurrence of any one or more of

the foregoing events as a breach of this Contract and thereupon at its option may terminate this Contract, in addition to all other rights and remedies provided at law or in equity.

6.3 Successive Proceedings. The Manager or its designee shall have the right from time to time to begin and maintain successive proceedings against the City for the recovery of all City's payment obligations required to be made under this Contract by the City and to recover the same upon the liability of the City herein provided. Nothing herein contained shall be deemed to require the Manager to defer commencement of any such proceeding until the end of the term of this Contract.

6.4 Dispute Resolution. The Broadband Committee will be the first step in Dispute Resolution. If the dispute cannot be resolved within the Broadband Committee, the parties will agree to Mediation to resolve the matter in dispute. Both parties will agree on a Mediator and equally share the cost of Mediation. Each party will work in good faith and do everything possible in the Dispute Resolution process for a period of thirty (30) days from the date of notice prior to proceeding to formal dispute resolution or exercising their rights under law.

6.5 Remedies. Manager or its designee may take whatever action at law or in equity may appear necessary or desirable to collect the amounts payable by the City hereunder, then due and thereafter to be come due, or to enforce performance and observance of any obligation, agreement or covenant of the City under the provisions of this Contract. Such action may include but is not limited to, suspension or termination of services to the City pursuant to Section 6.2. The City may take whatever action at law or in equity may appear necessary or desirable to enforce performance and observance of any obligation, agreement, or covenant of the Manager under the provisions of this Contract. Such action may include but is not limited to, suspension or termination of this Contract pursuant to Section 6.1.

6.6 No Exclusive Remedy. No right or remedy herein conferred upon or reserved to the Manager or its designee or the City is intended to be exclusive of any other right or remedy, and each and every right and remedy shall be cumulative and in addition to any other right or remedy given hereunder, or now or hereafter legally existing. The failure of the Manager or its designee or the City to insist at any time upon the strict observance or performance by the other parties to this Contract of any of the provisions of this Contract, or to exercise any right or remedy provided for in this Contract, shall not impair any such right or remedy nor be construed as a waiver or relinquishment thereof for the future. Receipt by the Manager or its designee of any payments required to be made under this Contract with knowledge of the breach of any provisions of this Contract, shall not be deemed a waiver of such breach. In addition to all other remedies provided in this Contract, the Manager or its designee or the City shall be entitled, to the extent permitted by applicable law, to injunctive relief in case of the violation, or attempted or threatened violation, of any of the provisions of this Contract, or to a decree concerning performance of any of the provisions of this Contract, or to any other remedy legally allowed. If any proceeding shall be brought for the enforcement of any right or remedy provided for in this Contract in which it shall be determined that the City shall have failed and continued to fail to make a payment of any sum due under this Contract at the time of commencement thereof, the City shall pay the Manager or its designee all expenses incurred in connection therewith including, without limitation, reasonable attorneys' fees and expenses. In like manner, if it should become necessary for the City to bring legal proceedings against the Manager or its

designee to enforce any right or remedy provided for in this Contract given it hereunder, the City shall have the right, if it is successful in such proceedings, to the payment by the Manager of all expenses incurred in connection therewith including, without limitation, reasonable attorneys' fees, and expenses.

ARTICLE VII

GOVERNMENTAL PROGRAM MANAGEMENT AND OVERSIGHT

7.1 Provision of Services. At all times during the Term of this Contract, including any Renewal Term, the Manager shall be authorized to and responsible for carrying out the Governmental Program by managing, operating, and maintaining the City Network for the benefit of the residents of the City in accordance with this Contract. The Manager shall provide these services in a timely manner, in according with the standards and norms of the broadband or fiber-optic communications network profession, and in accordance with the Initial Report and Annual Budgets submitted to the City pursuant to Sections 7.2 and 7.3 below. The Manager shall provide competent and adequate instruction, training, and supervision of all the services provided by the Manager or those providing such services on the Manager's behalf in carrying out the Governmental Program.

7.2 Initial Report. The Manager shall provide the City with an initial program evaluation report summarizing the Manager's planned use of and activities with respect to the City Network in furtherance of the Governmental Program, including all projected revenues and expenses for each year of the Term and such other information as may reasonably be requested by the City, prior to the Operational Date.

7.3 Annual Budgets. The Manager shall provide to the Broadband Committee annual proposed budgets for their management and operation of the City Network in furtherance of the Governmental Program on or before July 1st, preceding any year during the Term or any Renewal Term. Following review and comment by the Broadband Committee, the annual proposed budget will be provided to the City. The annual proposed budget shall list all projected revenues and expenses by category, with such detail as the City may reasonably require. The annual proposed budget shall reflect all revenues projected to be received with respect to the City Network, specifically including all revenues to be collected and retained by the Manager pursuant to this Contract. If the City objects in writing to the proposed annual budget or any part thereof, the Manager shall respond promptly to each such objection and work with the City to resolve any differences in a manner reasonably acceptable to all Parties. A final annual budget will be submitted by the Manager to the City prior to December 1st each year for the approval of the City's governing body. The Manager shall assume responsibility for the management and operation of the City Network as requested by the City as provided in this Contract, and shall not incur expenses in excess of the approved annual budget, except as the approved annual budget may be revised.

7.4 Annual Financial Reports. Within ninety (90) days after the conclusion of any year during the Term or any Renewal Term under this Contract, the Manager shall provide to the City financial statements detailing the Manager's financial performance and the Manager's use

of the City Network to carry out the Governmental Program for that year that includes at least the following information:

- (a) Detailed statement of the total number of End Users served for such year;
- (b) Detailed statement of the total amount of expenses incurred and paid by the Manager under this Contract for such year;
- (c) Detailed statement of the revenues and revenue sources for such year under this Contract; and
- (d) Detailed statement of the income for such year related to this Contract.

7.5 Annual Status Reports. The Manager shall deliver to the City, within ninety (90) days after the end of each calendar year during the Term or any Renewal Term, a report detailing the Manager's use of and activities related to the City Network in furtherance of the Governmental Program during the preceding year, together with true and correct financial statements of the Manager's financial condition and operations prepared according to generally accepted accounting principles for similar facilities for the preceding calendar year and supporting documentation reasonably requested by the City, including but not limited to:

- (a) names and addresses of the Manager's Board of Directors;
- (b) documentation that the Manager continues to be organized as corporation, active and in good standing under the laws of Minnesota and registered with the Minnesota Secretary of State;
- (c) restrictions, if any, relating to persons eligible to benefit from Governmental Program programming operated, managed or produced by the Manager;
- (d) names and addresses of all of the Manager's respective employees providing services related to the Governmental Program and/or City Network;
- (e) number of End Users to whom internet services were provided by the Manager through the ISPs pursuant to the Governmental Program for the preceding calendar year, and to the extent possible, the addresses of the End Users;
- (f) report on the physical condition of the City Network and an itemization of needed repairs and improvements;
- (g) statement of fees and charges applicable to the Connections Services provided by the Manager in furtherance of the Governmental Program; and
- (h) explanation of any Connection Services sub-contracted by the Manager in furtherance of the Governmental Program.

7.6 Determination of Continued Governmental Use. The Manager shall provide any additional records or other information reasonably requested by the City in order to allow the City to annually determine that the Manager is using and conducting their activities with respect to the City Network in furtherance of the Governmental Program and for no other purpose.

7.7 Audit. The City may audit the financial statements delivered by the Manager to City pursuant to this Contract, either on an independent basis or in conjunction with the City's annual audit. As determined by the City in its reasonable discretion, and upon written notice to the Manager of such determination, the City will retain a reputable auditing firm, acceptable to the City, to conduct an audit of the Manager's financial statements related to the City Network at the City's expense. The audit report shall include the following information:

- (a) the financial condition of the Manager, and their ability to perform their obligations under this Contract;
- (b) the status of all Manager services related to the Governmental Program;
- (c) the status of all subcontracts to which the Manager is a party relative to the Governmental Program; and
- (d) such other matters relating to the Manager's revenues and expenses relative to the Governmental Program, which may affect the interests of the City, and such other information as the City may require.

7.8 Notice to City. The Manager shall inform the City of unbudgeted single transactions or circumstances of which the Manager has knowledge having or which may have a material effect on the Governmental Program or the operation of the City Network. Such notice by the Manager to the City shall be in writing and provided to the City within thirty (30) days of the Manager's determination that a material issue or circumstance exists that requires disclosure to the City. For purposes of this Contract, an issue having a "material effect on the Governmental Program or the operation of the City Network" includes matters which will have a cost impact of Five Thousand Dollars (\$5,000.00) or more.

7.9 Broadband Committee Oversight. The Manager shall provide all the reports and budgets under this Article to the Broadband Committee, who will provide the same to the City Council. The Broadband Committee shall have the authority to request additional records or other information it deems necessary and related to the operation of the Governmental Program.

7.10 Compliance as to Bonds.

- (a) If interest on any bonds issued by the City for the Project is intended to be excludable from gross income for federal income tax purposes ("Tax-Exempt Bonds") and if the City determines, based upon the written notice of nationally recognized bond counsel, that any action under this Contract creates a significant risk that interest on any Tax-Exempt Bonds will not be excludable from gross income for federal income tax purposes, the Parties shall negotiate in good faith to agree on alternative action to avoid

such a result. In no event shall the foregoing agreement require any Party to amend or modify any material term of this Contract.

(b) The Manager irrevocably waives any claim for depreciation or investment credit with respect to the City Network.

ARTICLE VIII

SUBCONTRACTING AND ASSIGNMENT

8.1 Assignment. The Manager shall not assign their responsibilities under this Contract to any third party without first obtaining the written consent of the City to such assignment.

8.2 Subcontracting. The City acknowledges that as a part of its management and operating responsibilities, the Manager is required to contract with ISPs or third-party designees for purposes of providing Connection Services. Such contracting and provision of products and services shall be in accordance with the terms of this Contract.

8.3 Third-Party Beneficiary. The City shall be a third-party beneficiary of any assignment, license, or subcontract entered into by the Manager with respect to the Governmental Program and/or the City Network.

8.4 Subordination of Third-Party Contracts. Any assignment, license or subcontract entered into by the Manager with respect to the Governmental Program or the City Network shall be subject to the terms of this Contract. This Contract shall prevail.

ARTICLE IX

Alterations and Capital Improvements

9.1 No Representations. The City has made no promise to alter, remodel, repair or improve the City Network after the completion of the City Network as depicted and described in the City Network Construction Drawings and Specifications and has made no representation of the condition of the City Network or the suitability of the City Network for the purpose stated herein other than what is contained in this Contract.

9.2 Capital Improvements. The City shall have the right to make Capital Improvements to the City Network pursuant to Section 3.4.5, provided that the City will not unreasonably interfere with the use and operation of the City Network or the Improvements in performing any such Capital Improvement and the provisions of this Contract.

9.3 Other Alterations. The Manager shall not make any Capital Improvements or Alterations to the City Network without the written consent of the City. Consent shall be obtained by submitting a written description to the City of the proposed alteration, including its location, size, proposed use, funding source, and any other information that may be required by the City. The City

may approve, disapprove, require more information, or require certain modifications to the proposed alteration in its sole judgment and discretion. The Manager's final written proposal including a clear indication of the City's assent and signed by the City shall constitute written consent of the City. Unless otherwise agreed by both Parties, approved Alterations under this Section shall be at the sole expense of the Manager. Nothing herein shall limit the Manager's ability to make temporary or other minor alterations that will not alter the City Network in a permanent way or affect the ongoing operation of the Governmental Program.

9.4 Insurance and Security. The Manager shall require appropriate insurance, faithful performance bonds, and labor and material bonds for all contractors who work on the City Network, and shall allow no mechanic's liens to be incurred or filed against the City Network or Improvements.

9.5 Lien Waivers. The Manager shall provide lien waivers to the City from any contractors or subcontractors furnishing material, service or labor to any alteration or improvement, which the City may, in its discretion, require in advance of approving the alteration or improvement.

9.6 Protection from Liens. The Manager shall promptly pay for all Alterations and improvements that are requested by the Manager and approved by the City under this Contract, and shall promptly pay all laborers employed and all subcontractors furnishing material or services to the Manager for such Alterations and Capital Improvements. The Manager hereby covenants and agrees that the Manager will not permit or allow any mechanics' or materialmen's liens to be placed on the City's interest in the City Network or Improvements during the term hereof. Notwithstanding the previous sentence, however, in the event any such lien shall be so filed against the City's interest, the Manager shall take all steps necessary to remove it within 120 days of its being filed. The Manager may contest any such mechanic's liens and prosecute all proceedings for the purpose of such contest pursuant to Minn. Stat. § 514.01, *et seq.* provided the Manager first posts a surety bond, in favor of and insuring the City, in an amount equal to 125% of the amount of any such lien, or otherwise protect the City from foreclosure of the City Network or Improvements.

9.7 Improvements Property of the City. Any Capital Improvements or Alterations made to the City Network shall become a part thereof and remain the property of the City and be surrendered to the City without compensation to the Manager on the Expiration Date.

ARTICLE X

REPRESENTATIONS AND WARRANTIES

10.1 Representations and Warranties of the City.

(a) The City represents and warrants that the City is a municipal corporation organized and existing under and by virtue of and pursuant to the laws of the State of Minnesota and has the power to enter into this Contract and carry out its obligation hereunder.

(b) On the conditions that the City is able to secure funding through the sale of abatement bonds and any required matching funds from other sources to fund the Governmental Project, the City shall undertake reasonable efforts to construct the City Network in accordance with the City Network Final Plans.

10.2 Representations and Warranties of the Manager.

(a) The Manager represents and warrants that the Manager is organized as a limited liability company, active and in good standing under the laws of Minnesota, and registered with the Minnesota Secretary of State, and has the power and authority to enter into this Contract and to perform its obligations hereunder and is not in violation of the laws of the State of Minnesota or any other State.

(b) The Manager shall maintain its status as a limited liability company, active and in good standing under the laws of Minnesota, and registered with the Minnesota Secretary of State, at all times from and after the Effective Date while the Term or any Renewal Term is in effect.

(c) Neither the execution and delivery of this Contract, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of this Contract is prevented, limited by or conflicts with or results in a breach of, the terms, conditions or provision of any contractual restriction, evidence of indebtedness, agreement or instrument of whatever nature to which the Manager is now a party or by which it is bound, or constitutes a default under any of the foregoing.

(d) The Manager will cooperate with the City with respect to any litigation commenced with respect to the City Network or Governmental Program, so long as the Manager is not an adverse party to such litigation.

(e) Whenever any Event of Default occurs and if the City shall employ attorneys or incur other expenses for the enforcement of performance or observance of any obligation or agreement on the part of the Manager under this Contract, and the City prevails in such action, the Manager agrees that it shall, within thirty (30) business days of written demand by the City, pay to the City the reasonable fees of such attorneys and such other expenses so incurred by the City.

(f) The Manager shall promptly advise the City in writing of all litigation or claims affecting any part of the City Network or Governmental Project and all written complaints and charges made by any governmental authority materially affecting the City Network or Governmental Project or materially affecting the Manager or its activities.

(g) The Manager has the resources and capability to satisfy its obligations under this Contract to operate and manage the City Network and provide Connection Services, including all services described in Exhibit A, as required herein.

(h) The Manager shall not create any lien, encumbrance, easement, license, right-of-way, covenant, condition or restriction that would encumber the title to the City Network without the prior written approval of the City, to be granted or withheld in its sole discretion.

(i) The Manager acknowledges the City's contributions to the City Network and Governmental Project and to maintaining the City Network during the Term and any Renewal Term as otherwise specified in this Contract, and further warrants that the Manager will not to seek subsidies or other financial assistance from the City to cover any expenses made the responsibility of the Manager hereunder except as otherwise specified in this contract.

ARTICLE XI

INDEMNIFICATION

11.1 Indemnification of the City. The Manager shall indemnify, protect, save, hold harmless and insure the City, and its respective officers, employees and members and agents, from and against any and all claims and demands for, or litigation with respect to, all damages which may arise out of or be caused by the Manager or its agents, employees, contractors or subcontractors with respect to the Manager's performance of its obligations under this Contract or its use of the City Network, or that of the Manager's employees, members, board, officers, agents, volunteers, clients and invitees. The Manager shall defend the City against the foregoing, or litigation in connection with the foregoing, at the Manager's expense, with counsel reasonably acceptable to the City. The City, at its expense, shall have the right to participate in the defense of any Claims or litigation and shall have the right to approve any settlement, which approval shall not be unreasonably withheld. The indemnification provision of this Section shall not apply to damages or other losses proximately caused by or resulting from the negligence or willful misconduct of the City. All indemnification obligations shall survive termination, expiration or cancellation of this Contract.

11.2 Indemnification of the Manager. The City shall indemnify, protect, save, hold harmless and insure the Manager, and its respective officers, employees and members and agents, from and against any and all claims and demands for, or litigation with respect to, all damages which may arise out of or be caused by the City or its agents, employees, contractors or subcontractors with respect to the City's performance of its obligations under this Contract or its construction of or use of the City Network, or that of City's employees, members, board, officers, agents, volunteers, clients and invitees. The City shall defend the Manager against the foregoing, or litigation in connection with the foregoing, at the City's expense, with counsel reasonably acceptable to the Manager. The manager, at its expense, shall have the right to participate in the defense of any Claims or litigation and shall have the right to approve any settlement, which approval shall not be unreasonably withheld. The indemnification provision of this Section shall not apply to damages or other losses proximately caused by or resulting from the negligence or willful misconduct of the Manager. All indemnification obligations shall survive termination, expiration or cancellation of this Contract.

11.3 Assumption of Risk. The Manager knows, understands, and acknowledges the risks and hazards associated with using the City Network for the purposes stated herein and hereby assumes any and all risks and hazards associated therewith. Except for the City's negligence, willful acts, and indemnification obligations set forth above, the Manager hereby irrevocably waives any and all claims against the City or any of its officials, employees or agents for any bodily injury (including death), loss or property damage incurred by the Manager as a result of the Manager's use of the City Network, and hereby irrevocably releases and discharges the City and any of its officials, employees or agents from any and all claims of liability.

11.4 No Third-Party Right of Action. Nothing contained in this Contract shall create a contractual relationship with or a cause of action in favor of a third-party against the City or the Manager. The Manager's services under this Contract are being performed solely for the City's benefit, and no other entity shall have any claim against the Manager because of this Contract, or the performance or nonperformance of services provided hereunder.

ARTICLE XII

COMPLIANCE WITH LAWS, ORDINANCES, AND REGULATIONS

12.1 Throughout the Term of this Contract, the Manager, at its sole cost and expense, shall promptly comply with all present and future laws, ordinances, orders, rules, opinions, directives, regulations, and requirements of all federal, state, county, and other local governments.

12.2 The Manager shall likewise observe and comply with, or shall cause to be observed and complied with, all the requirements of all policies of comprehensive general liability, fire and other insurance at any time in force with respect to the City Network.

ARTICLE XIII

INSURANCE

13.1 City's Required Insurance. The City shall maintain property insurance on the City Network. The City shall name the Manager as an additional insured.

13.2 Manager's Required Insurance. The Manager shall maintain, at the Manager's expense, insurance on the Manager's personal property associated with the City Network, and shall assume the risk of loss to such property. The Manager shall further maintain, at the Manager's expense, the following insurance policies in the listed amounts:

Worker's Compensation	Statutory Limits
Professional Liability/Errors and Omissions Policy	\$2,000,000 per occurrence \$3,000,000 aggregate

Employer's Liability	\$500,000 each accident \$500,000 disease policy limit \$500,000 disease each employee
Comprehensive General Liability	\$2,000,000 property damage and bodily injury per occurrence \$3,000,000 general aggregate \$3,000,000 Products – Completed Operations Aggregate \$2,000,000 fire legal liability each occurrence
Comprehensive Automobile Liability	\$1,000,000 combined single limit each accident (shall include coverage for all owned, hired and non-owned vehicles)
Umbrella or Excess Liability	\$1,000,000

All policies listed above shall be written on an "occurrence" form ("claims made" and "modified occurrence" forms are not acceptable) and shall apply on a "per project" basis.

With the exception of the Worker's Compensation and Professional Liability/Errors and Omissions policies, all policies listed above shall insure the defense and indemnity obligations assumed by the Manager under this Contract and shall name the City as an additional insured under the policy.

All policies listed above shall contain a provision that coverages afforded thereunder shall not be canceled or non-renewed, nor shall coverage limits be reduced by endorsement, without thirty (30) days prior written notice to the City.

13.3 Certificates of Insurance. True, accurate, and current certificates of insurance, showing evidence of the required insurance coverages, shall be provided to the City by the Manager prior to the Effective Date of this Contract and will be attached hereto as **Exhibit ____**.

13.4 Effect of Failure to Provide Insurance. If Manager fails to provide the specified insurance or to require the specified insurance from subcontractors, as applicable, then Manager will defend, indemnify and hold harmless the City and the City's officials, agents, and employees from any loss, claim, liability, and expense (including reasonable attorney's fees and expenses of litigation) to the extent necessary to afford the same protection as would have been provided by the specified insurance. The stated indemnity continues until all applicable statutes of limitation have run.

If a claim arises within the scope of the stated indemnity, the City may require the Manager to:

- a. Furnish and pay for a surety bond, satisfactory to the City, guaranteeing performance of the indemnity obligation; or
- b. Furnish a written acceptance of tender of defense and indemnity from the Manager's insurance company.

Manager will take the action required by the City within fifteen (15) days of receiving notice from the City.

Notwithstanding the foregoing, the City reserves the right to immediately terminate this Contract pursuant to Article VI in the event that insurance requirements are not maintained or required as provided herein during the term of this Contract.

ARTICLE XIV

GENERAL PROVISIONS

14.1 Voluntary and Knowing Action. The Parties, by executing this Contract, state that they have carefully read this Contract and understand fully the contents thereof; that in executing this Contract they voluntarily accept all terms described in this Contract without duress, coercion, undue influence, or otherwise, and that they intend to be legally bound thereby.

14.2 Acquisition and Construction of the Improvements. The City represents that it will acquire or cause to be acquired all permits, licenses, rights and privileges, structures, equipment, and facilities with respect to the acquisition and construction of the Improvements necessary for the performance by the Manager of its obligations under this Contract. The Manager shall maintain and defend such permits, licenses, and rights and privileges and shall not voluntarily permit any change therein that would result in impairment of the performance by the Manager of its obligation under this Contract.

14.3 Relationship of Parties. With respect to the Manager's management and operating responsibilities under this Contract, the Manager at all times and for all purposes hereunder, shall be an independent contractor and is not an employee of the City for any purpose. No statement contained in this Contract shall be construed so as to find the Manager to be an employee of the City, and the Manager shall not be entitled to any of the rights, privileges, or benefits of employees of the City, including but not limited to, workers' compensation, health/death benefits, and indemnification for third-party personal injury/property damage claims.

The Manager shall comply with the applicable provisions of all Federal and State tax laws.

The Manager shall at all times be free to exercise initiative, judgment and discretion as to how to best perform or provide services identified herein.

The Manager is responsible for hiring sufficient workers to perform the services/duties required by this Contract, withholding their taxes and paying all other employment tax obligations on their behalf.

The authority of the Manager with respect to the City Network shall be limited to those matters which are specifically addressed in this Contract.

14.4 Risk of Loss. Each Party is solely responsible for the risk of loss of, or damage to, equipment of that Party (regardless of where located), unless the loss or damage results from the negligence or fault of the other Party.

14.5 Several Obligations. Except where specifically stated in this Contract to be otherwise, the duties, obligations, and liabilities of the Parties are intended to be several and not joint or collective. Nothing contained in this Contract shall ever be construed to create an association, trust, partnership, or joint venture or impose a trust or partnership duty, obligation, or liability on or with regard to either Party. Each Party shall be individually and severally liable for its own obligations under this Contract and shall not be liable for any obligation of the other.

14.6 Liability Dedication. Nothing in this Contract shall be construed to create any duty to, any standard of care with reference to, or any liability to any person not a party to this Contract.

14.7 Relationship to Other Instruments. It is recognized that the Manager must comply with all licenses, permits and regulatory approvals, if any, necessary for the operation of the City Network, and it is, therefore, agreed that this Contract is made subject to the terms and provisions of such licenses, permits and regulatory approvals, except that the City shall not be bound by any term or provision of any license, permit, or regulatory approval, which may contradict or vary the terms hereof unless it expressly consents in writing to be so bound.

14.8 Liabilities. The City, its officers, designees, and employees, or any of them, shall not be liable for any claims, demands, costs, losses, causes of action, damages or liability of whatsoever kind or nature arising out of or resulting from the operation by the Manager of the City Network. The Manager, its officers, designees, and employees, or any of them, shall not be liable for any claims, demands, costs, losses, causes of action, damages or liability of whatsoever kind or nature arising out of or resulting from the performance by the City under this Contract.

14.9 No Waiver. Any Party's failure in any one or more instances to insist upon strict performance of any of the terms and conditions of this Contract or to exercise any right herein conferred shall not be construed as a waiver or relinquishment of that right or of that Party's right to assert or rely upon the terms and conditions of this Contract. Any express waiver of a term of this Contract shall not be binding and effective unless made in writing and properly executed by the waiving Party.

14.10 Furnishing Service to Others. The Manager, by entering into this Contract, does not hold itself out to provide the Improvements or similar service to any other person or entity within the boundaries of the City.

14.11 Uncontrollable Forces. The Parties shall each be excused from performance under this Contract while and to the extent that either of them are unable to perform, if prevented from performing such obligation by reason of an Uncontrollable Force. In the event either Party is rendered unable wholly or in part by force majeure to carry out its obligations under this Contract then the Party affected by force majeure shall give written notice with explanation to the other party immediately. Any portion of the Manager Compensation owed for the period the Uncontrollable Force should prevent Manager from performing its obligations under this agreement shall be abated in its entirety. If a Party is rendered unable to fulfill any obligation by reason of an Uncontrollable Force such Party shall exercise due diligence to remove such inability with all reasonable dispatch and shall keep the other Parties fully informed of changes and conditions as far in advance as possible.

14.12 Interest by City Officials. No elected or appointed official, officer, or employee of the City or the City shall during his or her tenure or employment and for one year thereafter, have any interest, direct or indirect, in this Contract or the proceeds thereof.

14.13 Entire Agreement. This Contract constitutes the entire agreement among the Parties with respect to the subject matter hereof. All prior understandings, letters of intent, discussions and agreements are merged in the governing terms of this Contract, which is a complete and final written expression of the intent of the Parties. Every warranty or representation binding upon the City is set forth in this Contract. The City makes no further warranties or representations and the Manager has not relied on any other warranties or representations, express or implied, relative to the condition of the City Network, the Governmental Program, or the terms of this Contract. In the event of a conflict or inconsistency between the terms of this Contract and those of any other agreement between the Parties, the terms of this Contract shall govern. No change, variation, termination, or attempted waiver of any of the provisions of this Contract shall be binding on the Parties unless executed in writing by the other Party. This Contract shall not be modified, supplemented, or otherwise affected by course of dealing.

14.14 Modification/Amendment. Any alterations, variations, modifications, amendments or waivers of the provisions of this Contract shall only be valid when they have been reduced to writing, and signed by an authorized representative of the City and the Manager and approved by the Commissioner.

14.15 Notice. Any notice, demand, or request provided for in this Contract shall be in writing and shall be deemed properly served, given, or made if delivered in person or sent by registered or certified mail, postage prepaid, to the persons specified below:

To Manager:

Hometown Fiber
18457 Gladstone Blvd N
Maple Grove, MN 55311
Attn: President

To City:

City of Willmar
333 6th St SW
Willmar, MN 56201
Attn: City Administrator

14.16 Third-Party Beneficiaries. The terms and provisions of this Contract shall be binding upon and inure to the benefit of the Parties hereto, and their respective successors and assigns, and is made for their benefit. No other person shall have any rights, interest, or claims hereunder or be entitled to any benefits under or on account of this Contract as a third-party beneficiary or otherwise.

14.17 Governing Law. This Contract shall be interpreted, governed by, and construed under the laws of the State of Minnesota.

14.18 Nondiscrimination. Manager shall not discriminate against any employee, applicant for employment, or user or participant in the Governmental Program. Manager and its employees and agents shall not discriminate because of race, religion, color, creed, age, disability, sex, national origin, sexual orientation, or status with regard to public assistance, or as otherwise prohibited by state or federal law, against any person by refusing to furnish such person any service or privilege offered to or enjoyed by the general public, nor shall Manager or its employees and agents publicize the facilities provided under this Contract in any manner that would directly or inferentially reflect on the acceptability of the patronage of any person because of race, religion, color, creed, age, disability, sex, national origin, sexual orientation, status with regard to public assistance, or other protected status as described in state or federal law. The provisions of any applicable law or ordinance relating to civil rights and discrimination shall be considered part of this Contract as if fully set forth herein.

14.19 Data Practices. The parties acknowledge that this Contract is subject to the requirements of Minnesota's Government Data Practices Act, Minnesota Statutes, Section 13.01 *et seq.*

14.20 Records—Availability and Retention. Pursuant to Minn. Stat. § 16C.05, subd. 5, the Manager agrees that the City, the State Auditor, or any of their duly authorized representatives at any time during normal business hours and as often as they may reasonably deem necessary, shall have access to and the right to examine, audit, excerpt, and transcribe any books, documents, papers, records, etc., which are pertinent to the accounting practices and procedures of the Party and involve transactions relating to this Contract. The Manager agrees to maintain these records for a period of six years from the Expiration Date.

14.21 Authorized Signatories. The Parties each represent and warrant to the other that (1) the persons signing this Contract are authorized signatories for the entities represented, and (2) no further approvals, actions or ratifications are needed for the full enforceability of this Contract against it; each Party indemnifies and holds the other harmless against any breach of the foregoing representation and warranty.

14.22 Execution in Counterparts. This Contract may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. The signature of any Party to the counterpart shall be deemed a signature to the Contract, and may be appended to, any other counterpart. Facsimile and email transmissions of executed signature pages shall be deemed as originals and sufficient to bind the executing Party.

14.23 Severability. If any provision of this Contract shall be held or be deemed to be or shall, in fact, be illegal, inoperative, or unenforceable, the same shall not affect any other provisions herein contained or render the same invalid, inoperative, or unenforceable to any extent whatsoever.

14.24 Headings, Captions and Recitals. Headings and captions contained in this Contract are for convenience only and are not intended to alter any of the provisions of this Contract and shall not be used for the interpretation of the validity of the agreement or any provision hereof. The recitals set forth at the beginning of this Contract are a part of this Contract.

14.25 Survivability. All covenants, indemnities, guarantees, releases, representations and warranties by any Party or Parties, and any undischarged obligations of the City or the Manager arising prior to the expiration of this Contract (whether by completion or earlier termination), shall survive such expiration.

14.26 Exhibits. The exhibits attached to this Contract are considered an integral part of it as if fully set forth within it.

[Signature pages to follow]

IN WITNESS WHEREOF, the PARTIES have hereunto executed this document the day and year first above written.

HOMETOWN FIBER, LLC

By: _____

Date: _____ (Signature

Title: _____ Print Name: _____

DRAFT

CITY OF WILLMAR

By: _____

Date: _____ (Signature

Title: _____ Print Name: _

By: _____

Date: _____ (Signature

Title: _____ Print Name: _

DRAFT