

INCENTIVE AGREEMENT

This Incentive Agreement is effective May, 20 21, and is entered into between the following parties:

GO TOPEKA:

GROWTH ORGANIZATION OF TOPEKA/SHAWNEE COUNTY, INC.
719 S. Kansas Ave., Suite 100,
Topeka, KS 66603
Phone: (785) 234-2644
FAX: (785) 234-8656
Contact Person/Title: Molly Howey, President of GO Topeka

MERCURY BROADBAND:

Project Gateway

Contact Person: Annette Middendorf
Phone: (800) 354-4915 EXT 508

WITNESSETH:

WHEREAS, MERCURY BROADBAND is a Kansas corporation in good standing and qualified to do business under the laws of the State of Kansas; and

WHEREAS, MERCURY BROADBAND is contemplating expanding its operations in Shawnee County, Kansas; and

WHEREAS, MERCURY BROADBAND expects to create up to an estimated One Hundred Sixty-Eight (168) new employment positions with an estimated average annual salary range of \$43,000 plus benefits; and

WHEREAS, GO TOPEKA desires to assist and promote MERCURY BROADBAND by offering up to Six Hundred Seventy-Two Thousand Dollars (\$672,000) in employment incentives, and One Hundred Sixty-Eight Thousand Dollars (\$168,000) for employee training; and

WHEREAS, MERCURY BROADBAND, acting in reliance upon the incentives set forth in this Agreement, has decided to expand its operations in Shawnee County, Kansas; and

WHEREAS, the parties wish to memorialize their understanding regarding the details of the incentive package by this legally enforceable contract.

NOW, THEREFORE, in consideration of such mutual benefits and of the mutual covenants and agreements expressed herein, the parties covenant and agree as follows:

1. **Local Employment Incentive.** GO TOPEKA agrees to provide to MERCURY BROADBAND an employment incentive (“Employment Incentive”) for new Full Time Employment Positions created and maintained by the MERCURY BROADBAND, subject to the limitations and requirements below. As of February 15, 2021, MERCURY BROADBAND employed 79 employees in Shawnee County, Kansas, so only Full Time Employment Positions in excess of that number shall qualify for an incentive hereunder. The Employment Incentive available pursuant to this Agreement is \$4000 for new Full Time Employment Positions with an average annual salary of \$43,000 when averaged against all of the new Full Time Employment Positions. The incentives payable hereunder shall be paid in 1/5th increments, with a payment over five years upon maintaining the position for each of five consecutive calendar years.

As used herein, a “Full Time Employment Position” is an employee position that includes approximately 2080 paid hours of service in Shawnee County, Kansas, during each calendar year. Notwithstanding the foregoing, if a new Full Time Employment Position is created before December 31, the position may qualify for the first incentive installment in the next year, but shall be required to be maintained for full calendar years thereafter to qualify for future incentive installments. For purposes of determining eligibility for Employment Incentives (and the amount thereof), compensation includes salary, bonuses or other cash incentives paid by MERCURY BROADBAND to the Full Time Employment Position in a calendar year, but does not include benefits. Each position shall be eligible to receive health insurance benefits, at least part of the premiums of which are paid by the MERCURY BROADBAND, and paid holiday and vacation leave. Nothing herein shall require that a Full Time Employment Position be held by the same

person, nor shall this Agreement preclude MERCURY BROADBAND from changing the title, purpose or utility of a position (as long as it meets the other requirements identified herein, including compensation). Each Full Time Employment Position must be one which has the MERCURY BROADBAND withholding and paying all federal, state and local employment taxes attributable to the employee. More than one position cannot be aggregated to qualify for an Employment Incentive.

A Full Time Employment Position shall not fail to qualify for the Employment Incentive if the position is vacated (voluntarily or otherwise) and MERCURY BROADBAND is undertaking an open and active search and such position is filled within ninety (90) days after the vacancy during the calendar year. If the position is filled within that time at a qualifying salary, the vacancy will not preclude the availability of the Employment Incentive. (If unfilled for longer than ninety (90) days during a calendar year, the position will cease to qualify as Full Time Employment Position and will not be eligible for an Employment Incentive for that year).

Notwithstanding anything to the contrary herein, a maximum employment incentive available hereunder shall not exceed One Hundred Thirty-Four Thousand Dollars (\$134,000) in any one year or Six Hundred Seventy-Two Thousand Dollars (\$672,000) in aggregate for the term of this Agreement. To qualify for the Employment Incentive, Full Time Employment Positions must be hired and receiving compensation by December 31, 2025.

Installments of the Employment Incentive shall be available to be paid beginning in 2022, for positions added after February 15, 2021. Depending when a position was added, the last possible Employment Incentive would be paid in 2030.

GO TOPEKA will endeavor to make an incentive payment within sixty (60) days after the receipt and verification of such sufficient documentation relating to employment levels.

The parties recognize there may be some turnover and fluctuations in the MERCURY BROADBAND' employment levels. Therefore, subject to the termination provision, a position may qualify for an Employment Incentive in one year after failing to qualify in a prior year.

For purposes of illustration, if MERCURY BROADBAND adds Thirty-three (33) new Full Time Employment Positions with an average salary of at least \$43,000 between February 15, 2021

and December 31, 2021, MERCURY BROADBAND would be eligible to receive an Employment Incentive installment in the amount of \$26,400 ($\$4000/5 * 33$ employees) in 2022. If, in the subsequent year, there were no changes except that there was the addition of another \$43,000 position MERCURY BROADBAND would receive \$27,200 for that year (payable in 2023).

2. **Employee Training Incentive.** MERCURY BROADBAND may earn an Employee Training Incentive in an amount not to exceed One Hundred Sixty-Eight Thousand Dollars (\$168,000.00) (the “Employee Training Incentive”). GO Topeka shall reimburse MERCURY BROADBAND for verifiable training costs for Shawnee County, Kansas-based employees including, but not limited to, tuition, registration fees, computer software for in-house training and other direct training costs incurred from 2021 to December 31, 2030, in accordance with the following provisions. MERCURY BROADBAND shall be eligible for One Thousand Dollars \$1,000 in Employee Training Incentive for each new Full Time Employment Position (as defined in Section 1 “Local Employment Incentive), up to One Hundred Sixty-Eight (168), created by MERCURY BROADBAND. An Employee Training Incentive payment may be made to MERCURY BROADBAND starting in 2022 for training costs incurred by any full time employee (new or existing) at MERCURY BROADBAND in 2021 upon proof of approved training expenses in the form of paid invoices, or other verifiable records confirming payment for approved training expenses. The amount of Employee Training Incentive available in 2022 will be based on new Full Time Employment Positions created by MERCURY BROADBAND in 2021 (for example, if MERCURY BROADBAND created five (5) new Full Time Employment Positions in 2021 MERCURY BROADBAND could receive a reimbursement of up to \$5,000 for expenses incurred to train any existing or new full time employee). Payment for training expenses incurred shall be available on a yearly basis thereafter through 2030 based on the previous year’s job creation and verifiable training costs. GO TOPEKA shall not reimburse MERCURY BROADBAND for incidental costs associated with training such as travel expenses, meals, and lodging.

3. **Employment Incentive Calculation Documentation.** When and as reasonably requested by GO TOPEKA, MERCURY BROADBAND shall provide GO TOPEKA with state and federal employment, tax return and/or other information reasonably necessary to establish

employment levels in Shawnee County, Kansas, for purposes of calculating Employment Incentives and monitoring MERCURY BROADBAND's performance hereunder. GO TOPEKA is granted the right to audit financial documents at any time during this Agreement. GO TOPEKA is granted the right to reduce payments made to the MERCURY BROADBAND by amounts found to be improper, unauthorized or unsubstantiated. GO TOPEKA shall have sole authority in this regard and shall base its decision upon information submitted, including absence of documents to substantiate expenditure.

4. **Use of Funds.** The funds received by MERCURY BROADBAND pursuant hereto shall be used for the purpose of employment or training of persons to be employed in Shawnee County, Kansas.

5. **Notices.** Any notices required or permitted to be given pursuant to this Agreement may be delivered in person or mailed, certified mail, return receipt requested, to the addresses identified above.

6. **Termination.** If MERCURY BROADBAND fails to maintain at least a minimum of _____ (new or established) Full Time Employment Positions in Shawnee County, Kansas, this Agreement shall be deemed terminated and GO TOPEKA shall not be required to make any further payments to MERCURY BROADBAND under this Agreement.

7. **Miscellaneous.** The following miscellaneous provisions shall apply to this Agreement:

a. MERCURY BROADBAND agrees to make every reasonable effort to use Shawnee County, Kansas-based vendors for the purchase or procurement of the improvements, machinery and equipment contemplated herein.

b. MERCURY BROADBAND agrees to make every reasonable effort to use, if qualified, Shawnee County residents to fill the new Full Time Employment Positions in Shawnee County, Kansas.

c. MERCURY BROADBAND agrees to make a good faith effort to provide to existing employees, and/or net new employees, information/relocation materials regarding the Topeka and Shawnee County, that support and promote residency within the

Topeka/Shawnee County limits. Annual reporting of these efforts should be provided to GO Topeka during the MERCURY BROADBAND incentivized period.

d. MERCURY BROADBAND shall provide prompt advance notice to GO TOPEKA of any material change in MERCURY BROADBAND's ownership, control or management, including issues of insolvency or bankruptcy, or other material changes that could reasonably result in a default by MERCURY BROADBAND under any agreement to which it is a party related to the matters set forth herein, or a change in the Full Time Employment Positions maintained in Shawnee County, Kansas.

e. MERCURY BROADBAND agrees to participate in a public event with GO TOPEKA in Shawnee County, Kansas, celebrating the new business and employment expansion contemplated by this Agreement. Such event would include general recognition of JEDO's and GO TOPEKA's involvement in the project.

f. This writing contains the entire agreement reached between the parties hereto with respect to the subject matter hereof, and may be amended only in writing, duly executed by all parties concerned.

g. This Agreement shall be interpreted under the laws of the State of Kansas, with venue being solely in the state District Court of Shawnee County, Kansas. In the event any provision is found to be unenforceable or unconstitutional, all other provisions shall remain in full force and effect.

h. Time is of the essence of this Agreement.

i. By signing this Agreement, the parties affirm that they have the authority of their respective companies to enter into this Agreement and bind their respective corporations.

j. This Agreement shall bind and inure to the benefit of the parties to this Agreement, their heirs, legal representatives, assignees, transferors and successors.

k. No failure by a party to insist on prompt performance by the other party of its obligations hereunder shall constitute a waiver of rights under the Agreement. Similarly,

the waiver by a party of any breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach of that same or any other provision.

l. This Agreement may be executed in counterparts, each counterpart shall be deemed an original, and, when taken together with other signed counterparts, shall constitute one agreement, which shall be binding upon and effective as to all parties.

m. The parties acknowledge and agree that MERCURY BROADBAND shall not assign, transfer, hypothecate or otherwise encumber this Agreement and its rights hereunder, without the prior written approval of GO TOPEKA.

n. Sarbanes-Oxley and similar legislation may have application to, or affect the accounting for, this Agreement by MERCURY BROADBAND.

o. GO TOPEKA makes no representation as to the taxability or tax effect of this Agreement and the incentive payments hereunder.

p. GO TOPEKA's obligations hereunder are contingent upon approval hereof by Joint Economic Development Organization ("JEDO") and the continued funding of GO TOPEKA at adequate levels through a portion of the Shawnee County retailer's sales tax and/or by JEDO. GO TOPEKA may unilaterally reduce or eliminate any payments hereunder in the event that sufficient funds are not available (taking into account GO TOPEKA's other obligations). GO TOPEKA will endeavor to give MERCURY BROADBAND advance notice of any reduction of funds when practical. MERCURY BROADBAND agrees and understands that if there are not sufficient funds appropriated or available to GO TOPEKA to continue to make any payments hereunder (taking into account GO TOPEKA's other obligations), GO TOPEKA may terminate this Agreement with written notice of termination to MERCURY BROADBAND. The reduction or elimination of any payments, and/or termination of this Agreement pursuant to this paragraph, shall not cause any penalty or damages to be charged to GO TOPEKA and MERCURY BROADBAND waives and releases any rights, causes of action or claims it may have should such insufficiency of funds occur.

q. In carrying out the terms and provisions of this agreement, MERCURY BROADBAND shall not unlawfully discriminate against any employee, applicant for employment, recipient of service or applicant to receive or provide services because of race, color, religion, sex, age, disability, national origin or any other status protected by applicable federal or state law or local ordinance.

r. Every duty, right, or obligation contained in this Agreement imposes an obligation of good faith in its performance or enforcement. For the purposes of the Agreement, "good faith" dealing means honesty in fact in the conduct or the transaction concerned.

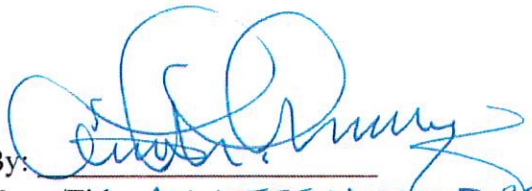
s. Nothing herein contained shall be construed or held to make any party a partner, joint venturer or associate of another party in the conduct of its business, nor shall either party be deemed the agent of the other, it being expressly understood and agreed that the relationship between the Parties hereto is and shall at all times remain contractual as provided by the terms and conditions of this Agreement.

t. The parties agree to execute and deliver such other documents, agreements or instruments as may be necessary or convenient to effect the purposes of this Agreement and to comply with any of the terms hereof.

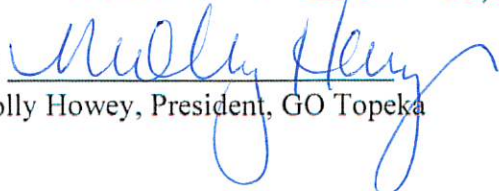
IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date and year first above written.

"MERCURY BROADBAND"

"GO TOPEKA"

By: 
Name/Title: ANNETTE MIDDENDORF
Director of HR

GROWTH ORGANIZATION OF
TOPEKA/SHAWNEE COUNTY, INC.

By: 
Molly Howey, President, GO Topeka