

## MASSACHUSETTS TECHNOLOGY COLLABORATIVE

### Grant Agreement

#### **Between Massachusetts Technology Collaborative and the Towns of Hawley, Florida, Monroe and Savoy, Massachusetts**

This Grant Agreement and any Attachments hereunder (collectively the "Agreement") is made and entered into by and between Massachusetts Technology Park Corporation d/b/a Massachusetts Technology Collaborative ("MassTech"), an independent public instrumentality of the Commonwealth of Massachusetts (the "Commonwealth") with a principal office and place of business at 75 North Drive, Westborough, Massachusetts, 01581, that administers the Massachusetts Broadband Institute ("MBI") and the related Massachusetts Broadband Incentive Fund (the proceeds of which, in whole or in part, are referred to in this Agreement as "MBI Funds") and the Towns of Hawley, Florida, Monroe and Savoy, Massachusetts, each of which is a Massachusetts municipal corporation, having a mailing address as shown in Section 16 (each a "Town" and collectively the "Towns"). MassTech and each Town is each referred to herein as a "Party" and all are referred to herein as the "Parties."

**Whereas**, MBI is charged with supporting public and private initiatives to bring broadband internet service to communities in Western Massachusetts that do not currently have access to such service through terrestrial networks;

**Whereas**, MassTech issued a notice of funding availability ("NOFA") through the targeted Flexible Grant Program, NOFA No. 2018-MBI-01, seeking creative and innovative approaches that will permit MassTech and unserved municipalities to work with private broadband providers to develop communication networks that will deliver reliable broadband access on a long-term basis to as many residents as possible based on available public funds;

**Whereas**, the Mass Tech Collaborative has MBI Funds available to support the accelerated deployment of broadband access in the Towns, which are areas of the Commonwealth currently designated to be unserved;

**Whereas**, WiValley, Inc., ("WiValley") in collaboration with CRC Communications LLC d/b/a Otelco ("Otelco"), responded to the NOFA and submitted to the Towns and MassTech the outline of a proposal, dated June 14, 2018, to design, build, own and operate a 4-town regional hybrid fiber-wireless broadband network (the "Regional Broadband Network") that will be employed to make available specified internet service to at least 96% of the premises in the Towns for a period of at least ten (10) years (the "WiValley Proposal"), of which at least 75% of premises have access to broadband service as defined in the NOFA;

**Whereas**, WiValley, MassTech and the Towns have developed and executed an Action Plan (attached hereto as Attachment 2) in response to the strong interest expressed by the Towns in moving forward and continuing to explore the WiValley Proposal;

**Whereas**, the Action Plan describes the duties and responsibilities of each Party and of WiValley and the conditions that must be satisfied to support the development and execution of the agreements that will be needed to support a grant award and the implementation of the Regional Broadband Network project; and

**Whereas**, the Towns hereby request that a portion of the MBI Funds allocated for the Towns by MassTech, as specified in the Action Plan, be aggregated and disbursed as a grant in one lump sum to the Town of Hawley, acting as the agent of the Towns (the "Lead Town"), to enable the Towns to engage technical professionals and outside legal counsel to assist the Towns with implementation of the Action Plan and, if the project receives the requisite approval, oversight of the design and construction of the Regional Broadband Network; and

**Now, therefore,** in consideration of the premises, mutual covenants and representations set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

**1. Term and Termination**

- a) The effective date of this Agreement shall commence on its execution by all Parties (the "Effective Date"). This Agreement shall terminate automatically on June 30, 2019, unless extended by a written amendment to this Agreement signed by all Parties or terminated earlier in accordance with the next subsection.
- b) This Agreement may be terminated by the Lead Town upon ten (10) days written notice. MassTech may terminate this Agreement upon thirty (30) days written notice: (1) for a material breach of the Agreement; (2) in the event of loss of availability of sufficient funds for the purposes of this Agreement; (3) in the event MassTech determines, or any one or more of the Towns informs MassTech, that (a) the WiValley Proposal or the Action Plan is no longer viable or no longer under serious consideration by all four Towns and WiValley or (b) an agreement executed in furtherance of the Action Plan has been breached or terminated; or (4) in the event of a change of law mandating immediate MassTech action inconsistent with performing its obligations under this Agreement.
- c) Upon termination of this Agreement by either the Lead Town or MassTech, MassTech's obligation to make grant payments to or for the benefit of the Towns shall cease. In the event that the Towns terminate the Agreement in order to pursue an alternative broadband solution, each Town's eligibility to receive Funds for an alternative broadband project shall be limited to the aggregate amount of the respective Town's total remaining MBI allocation that has not been disbursed by MassTech to the Town.
- d) Sections 2 through 16 of this Agreement and Attachment 1 shall survive termination.

**2. Town's Representations, Warranties and Certifications**

As of the Effective Date, each Town hereby represents, warrants and certifies as follows:

- a) The Town is duly authorized to enter into this Agreement, and the execution, delivery and performance of this Agreement will not conflict with any other agreement or instrument to which it is a party or by which it is bound and will not violate any law, regulation, order or other legal requirement by which the Town or any of its assets is bound.
- b) The Town and its Project Personnel are familiar with, and are and will remain in compliance with, and will not take any actions contrary to the provisions of, any laws, rules, regulations, ordinances, orders or requirements of the Commonwealth and other local, state or federal governmental authorities applicable to or implicated by the subject matter hereunder, including, without limitation, the statutes referenced in Sections 2(d), 6, 9 and Section 6 of Attachment 1.
- c) The Town and its employees are not employees, partners or joint-venturers of MassTech. The Town will be solely responsible for withholding and paying all applicable payroll taxes of any nature including social security and other social welfare taxes or contributions that may be due on amounts paid to its employees.
- d) The Town shall not discriminate against any qualified employee or applicant for employment because of race, color, national origin, ancestry, age, sex, religion, physical or mental handicap, or sexual orientation. The Town agrees to comply with all applicable Federal and State statutes, rules and regulations prohibiting discrimination in employment including but

not limited to: Title VII of the Civil Rights Act of 1964; the Age Discrimination in Employment Act of 1967; Section 504 of the Rehabilitation Act of 1973; the Americans with Disabilities Act of 1990; and Mass. Gen. Laws ch. 151B.

The Towns further acknowledge and agree that they will be solely responsible for evaluating the merits, risks and viability of the WiValley Proposal and that the Mass Tech Collaborative will rely on the Towns' judgment and determinations to support a decision regarding the awarding of a grant to WiValley.

Furthermore, the Towns acknowledge and agree that in the event that the Mass Tech Collaborative executes a grant agreement with WiValley to support the development of the Regional Broadband Network, the Towns, aided by an Owners Project Manager and legal counsel, will be responsible for executing and submitting to the Mass Tech Collaborative a certification to support each disbursement of grant funds to WiValley upon achievement of certain milestones (the form of Town Certification form is attached hereto as Attachment 3) and that the Mass Tech Collaborative will rely on such certifications in disbursing grant funds to WiValley.

### **3. Insurance**

Each Town shall obtain and maintain in effect through the term of this Agreement appropriate insurance coverage for its activities hereunder including, but not limited to, comprehensive general liability insurance (bodily injury and property damage). At MassTech's request, each Town will provide MassTech with copies of the certificates of insurance evidencing such coverage. MassTech shall be named an additional insured on such policy or policies, on a primary, non-contributory basis. The carrying of any of the insurance required hereunder shall not be interpreted as relieving the Town of any responsibility to MassTech. Each Town shall assist and cooperate with any insurance company in the adjustment or litigation of all claims arising under this Agreement.

### **4. Indemnification**

- a) To the fullest extent permitted by law, the Towns, jointly and severally, shall indemnify and hold harmless the Commonwealth, MassTech, and each of their respective agents, officers, directors and employees (together with the Commonwealth and MassTech, the "Covered Persons") from and against any and all liability, loss, claims, damages, fines, penalties, costs and expenses (including reasonable attorney's fees), judgments and awards (collectively, "Damages") sustained, incurred or suffered by or imposed upon any Covered Person resulting from (i) any breach of this Agreement or false representation of a Town under this Agreement, or (ii) any negligent acts or omissions or reckless misconduct of the Town. Without limiting the foregoing, each Town shall indemnify and hold harmless each Covered Person against any and all Damages that may arise out of or are imposed because of the failure to comply with the provisions of applicable law by the Town or any of its agents, officers, directors, employees or subcontractors. The foregoing notwithstanding, the Towns shall not be liable for (i) any Damages sustained, incurred or suffered by or imposed upon any Covered Person resulting from any negligent acts or omissions or reckless misconduct of MassTech, and (ii) except for liability for death or personal injury caused by the negligence or willful misconduct of a Town or for claims of infringement of a third party's intellectual property by a Town, the aggregate liability of a Town under this Agreement shall not exceed the greater of the amount of its allocated share of the Grant (as specified in Attachment 1) or the amount recovered under any applicable insurance coverage.
- b) To the fullest extent permitted by law, MassTech and/or any of its parents, subsidiaries or affiliates, predecessors, successors or assigns, shall indemnify and hold harmless the Towns and each of their respective agents, officers, directors and employees (together the "Covered Persons") from and against any and all liability, loss, claims, damages, fines, penalties, costs

and expenses (including reasonable attorney's fees), judgments and awards (collectively, "Damages") sustained, incurred or suffered by or imposed upon any Covered Person resulting from any negligent acts or omissions or reckless misconduct of MassTech. Without limiting the foregoing, MassTech shall indemnify and hold harmless each Covered Person against any and all Damages that may arise out of or are imposed because of the failure by MassTech or any its agents, officers, directors, employess or subcontractors to comply with the provisions of law directly applicable to MassTech's obligations under this Agreement. The foregoing notwithstanding, MassTech shall not be liable for (i) any Damages sustained, incurred or suffered by or imposed upon any Covered Person resulting from any negligent acts or omissions or reckless misconduct of the Towns, and (ii) except for liability for death or personal injury caused by the negligence or willful misconduct of MassTech or for claims of infringement of a third party's intellectual property by MassTech, the aggregate liability of MassTech under this Agreement shall not exceed the greater of the amount of the Grant (as specified in Attachment 1) or the amount recovered under any applicable insurance coverage.

- c) In no event shall either party be liable for any indirect, incidental, special or consequential damages whatsoever (including but not limited to lost profits or interruption of business) arising out of or related to this Agreement.
- d) Furthermore, as a condition of receipt of any award, the Towns do hereby release, remise, discharge, indemnify and hold harmless MassTech (defined for purposes of this Section 4 to include MassTech and/or any of its parents, subsidiaries or affiliates, predecessors, successors or assigns, and its respective current and/or former partners, directors, shareholders/stockholders, officers, employees, attorneys and/or agents, all both individually and in their official capacities), from any and all actions or causes of action, suits, claims, complaints, liabilities, torts, debts, damages, controversies, judgments, rights and demands, whether existing or contingent, known or unknown, suspected or unsuspected, as of the date of this Agreement.

## 5. **Assignment**

No Town shall not assign or in any way transfer any interest in this Agreement without the prior written consent of MassTech, subject to its reasonable discretion.

## 6. **Conflicts of Interest**

Each Party acknowledges that employees of MassTech and the Towns are subject to the Massachusetts Conflict of Interest statute, located at Mass. Gen. Laws ch. 268A.

## 7. **Record Keeping, Audit, and Inspection of Records**

MassTech will have the right to audit each Town's or its other agents' records to confirm the proper use of the Grant proceeds at any time from the Effective Date of this Agreement through the end of the Retention Period, as defined herein. If such audit reveals that any portion of the Grant was utilized for purposes not permitted under this Agreement, then the Town shall refund to MassTech the amount determined by such audit within thirty (30) days of the Town's receipt of such audit and demand. Each Town shall maintain books, records, and other compilations of data pertaining to the Grant payments made under this Agreement to the extent and in such detail as shall properly substantiate use of such payments. All such records shall be kept for a period of seven (7) years, starting on the first day after final payment under this Agreement (the "Retention Period"). If any litigation, claim, negotiation, audit or other action involving the records is commenced prior to the expiration of the Retention Period, all records shall be retained until completion of the audit or other action and resolution of all issues resulting therefrom, or until the end of the Retention Period, whichever is later. MassTech or the Commonwealth or any of their

duly authorized representatives shall have the right at reasonable times and upon reasonable notice, to examine and copy at reasonable expense, the books, records, and other compilations of data of the Towns which pertain to the provisions and requirements of this Grant. Such access may include on-site audits, review and copying of records.

**8. Publicity**

Each Town shall coordinate with MassTech on any press releases or events and to plan for any news conference concerning the subject matter of this Agreement.

**9. Public Records**

- a) As public entities, MassTech and each of the Towns is subject to the Massachusetts Public Records Law (set forth at Mass. Gen. Laws ch. 66) and thus documents and other materials made or received by any of the Parties and/or its employees may be subject to public disclosure. All information received by any of the Parties shall be deemed to be subject to public disclosure, except as otherwise provided by law. It is the Parties' expectation that the overwhelming percentage of documents and information it receives does not contain any information that would qualify for an exemption from disclosure under the Massachusetts Public Records Law. Each Party should assume that all documents submitted to another Party are subject to public disclosure without any prior notice to the submitting Party.
- b) If a Town wishes to have MassTech treat certain information or documentation as confidential, the Town must submit a written request to the MassTech General Counsel that details the type of information and/or documentation that the Town wishes to be treated as confidential along with a detailed explanation supporting the application of the statutory exemption(s) from the Public Records Law cited by the Town. The Town should not submit any information to MassTech that it does not want publically disclosed, but should provide enough detail about the information it requests to be treated as confidential so that the General Counsel can make a determination about the applicability of the asserted statutory exemption(s) from the Public Records Law cited by the Town.
- c) The MassTech General Counsel will issue a written determination within a reasonable period of time concerning the applicability of an exemption from disclosure under the Public Records Law. If the General Counsel determines that an exemption is applicable, the written determination will specify the method of submission of the confidential information. The MassTech General Counsel is the sole authority within MassTech for making determinations on the applicability and/or assertion of an exemption to the Public Records Law. No employee of MassTech other than the MassTech General Counsel has any authority to address issues concerning the status of "Sensitive Information" or to bind MassTech in any manner concerning MassTech's treatment and disclosure of such documents.
- d) By signing this Agreement, the Town acknowledges, understands and agrees that the procedures set forth herein are applicable to any documents submitted by the Town to MassTech and that Town shall be bound by these procedures and the determination of the MassTech General Counsel.

**10. Choice of Law**

This Agreement shall be construed under, and governed by, the laws of the Commonwealth of Massachusetts, without giving effect to its conflict of laws principles. Each Town agrees to bring any Federal or State legal proceedings arising hereunder in which the Commonwealth or MassTech is a party in a court of competent jurisdiction within the Commonwealth of Massachusetts. This Section shall not be construed to limit any other legal rights of the parties.

**11. Force Majeure**

Neither MassTech nor the Towns shall be liable to the other, or be deemed to be in breach of this Agreement for any failure or delay in rendering performance arising out of causes beyond its reasonable control and without its fault or negligence. Such causes may include, but are not limited to, acts of God or of a public enemy, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, or unusually severe weather. Dates or times of performance including the Term may be extended to account for delays excused by this Section, provided that the party whose performance is affected notifies the other promptly of the existence and nature of such delay.

**12. Waivers**

Conditions, covenants, duties and obligations contained herein may be waived only by written agreement between the parties. Forbearance or indulgence in any form or manner by a party shall not be construed as a waiver, nor in any way limit the remedies available to that party.

**13. Severability**

Each provision of this Agreement shall be treated as a separate and independent clause and any decision from a court of competent jurisdiction to the effect that any clause or provision of this Agreement is null or unenforceable shall in no way impair the validity, power or enforceability of any other clause or provision of this Agreement.

**14. Headings**

The headings and captions of the various subdivisions of this Agreement are for convenience of reference only and will in no way modify or affect the meaning or construction of any of the terms or provisions hereof.

**15. Counterparts**

This Agreement may be executed in two or more counterparts, and by different parties hereto on separate counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

**16. Entire Agreement, Amendments and Attachments**

All conditions, covenants, duties and obligations contained in the Agreement may be amended only through a written amendment signed by the Towns and MassTech unless otherwise specified in this Agreement. The Parties understand and agree that this Agreement contains the entire agreement of the Parties with respect to Grant Funds and the WiValley Proposal. This Agreement supersedes all prior communications, contracts, agreements, memoranda, letters, negotiations or understandings between the Parties, whether oral or written, regarding the matters contained herein. This Agreement can only be amended through a written document executed by the Parties. No interpretation of this Agreement shall be binding upon MassTech unless in writing and signed by MassTech's General Counsel.

- i. Attachment 1 – Statement of Work
- ii. Attachment 2 – Action Plan (To Be Attached When Executed)
- iii. Attachment 3 – Form of Town Certification

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Grant Agreement and SOW: Towns of Florida, Hawley, Monroe and Savoy

The Massachusetts Technology Park Corporation  
d/b/a Massachusetts Technology Collaborative

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Town of Florida

By: *Neil Oleson*

Name: Neil Oleson

Title: Chair, Board of Selectmen

Date: \_\_\_\_\_

Town of Hawley

By: *Hussain A. Hamdan* *Not included in Sec 8 - herein relates to publicity to which we do not currently subscribe.*

Name: Hussain A. Hamdan

Title: Chair, Board of Selectmen

Date: Sep. 27, 2018

Town of Monroe

By: *Carla Davis Little*

Name: Carla Davis Little

Title: Chair, Board of Selectmen

Date: \_\_\_\_\_

Town of Savoy

By: *John T...*

Name: John T...

Title: Chair, Board of Selectmen

Date: 9/6/18

## Attachment 1

### Statement of Work

Pursuant to the terms and conditions of the Agreement and this SOW, MassTech and the Towns agree as follows:

#### 1. Professional Assistance with Project Development and Implementation

The Towns will require technical and legal assistance, advice and support to (1) conduct a detailed review and evaluation of the WiValley Proposal; (2) negotiate the agreements referenced in the Action Plan; and (3) implement the Regional Broadband Network project through construction, including project oversight and periodic certification of satisfactory completion of work (often referred to as Owner's Project Manager services). Each Town may utilize the Grant Funds to defray fees and expenses incurred to retain consultants and outside legal counsel to assist with these activities ("Allowable Expenses").

MassTech recommends that the Towns engage professional assistance to address the issues and project considerations that are likely to arise during due diligence activities and negotiations with WiValley, Otelco and other entities including, but not limited to:

- a) The technical requirements for the Regional Broadband Network (including design, construction and acceptance testing specifications and protocols);
- b) Standards and protocols for measuring, reporting and validating compliance with all technical and performance requirements;
- c) Standards for ensuring the reliability and reasonable redundancies in the physical plant of the Regional Broadband Network;
- d) An acceptable schedule for phasing and completing the work, that specifically includes WiValley's obtaining of such permits, easements, licenses and other access required from others in order to complete the construction of the Regional Broadband Network and to operate and maintain the Regional Broadband Network after completion;
- e) An approach to substantiating WiValley's ability to deliver a reliable, competent network operator for a period of at least 10 years and a contingency plan in the event that Otelco is not successful in the FCC CAF II auction;
- f) Provisions to transfer ownership of all vertical assets (including all utility poles, antenna towers, guyed towers, etc.) to the respective Town in which each such asset is located and maintenance thereof by a network operator after transfer;
- g) Performance security acceptable to the Towns;
- h) Coverage to be achieved through the Regional Broadband Network, including development of a methodology for determining equitably the distribution among the Towns and premises therein to receive slower download and upload speeds that do not meet the current broadband standard of 25 Mbps download speeds and 3 Mbps upload speeds;
- i) Long-term broadband service agreement provisions, including, but not limited to, broadband speeds, subscriber terms and pricing, installation costs, service level agreements, network maintenance and equipment upgrades, consumer protections, and Town purchase options of network infrastructure;



- j) Compliance with legal, regulatory and approval requirements, including public procurement and public design and construction laws;
- k) Negotiation of an inter-Town agreement to formalize the relationship between and among the Towns and their respective rights and responsibilities and approach to collaboration and decision-making during due diligence, planning, design, construction, and operation of the Regional Broadband Network ("Inter-Municipal Agreement"); and
- l) Town approvals and certifications.

Technical consultants shall be procured by the Towns from a list of pre-approved consultants to be provided by MassTech.

Each Town may retain its own outside legal counsel for the purpose of negotiating the Inter-Municipal Agreement, the Towns shall be required to jointly procure technical consultant(s) and outside legal counsel (for all legal matters other than the Inter-Municipal Agreement).

## 2. Project Personnel and Notification

- a) All communications to MassTech regarding legal issues shall be mailed or delivered to the following address, or sent by facsimile or email to the following:

Massachusetts Technology Collaborative  
 75 North Drive  
 Westborough, MA 01581  
 At: General Counsel  
 508/870-0312 (phone)  
 508/898-2275 (fax)  
 holahan@masstech.org

All communications to a Town regarding legal issues shall be mailed or delivered to the following address, or sent by facsimile to the following number:

Town of Florida  
*Christine Dobbert, Town Administrator, 379 Mohawk Trail, Drury, MA 01343, ph 413-662-2448, fax 413-664-8640, townhall.floridamass@gmail.com.*

Town of Hawley  
*Kirby (Lark) Thwing, 15 Pond Rd, Hawley, MA 01339, 413-339-0124, kthwingjr@gmail.com.*

Town of Monroe  
*David Gagne, 9a Main Rd., Monroe, MA 01247, Home ph 413-424-8209, cell 413-441-7970, dgagne1954@gmail.com.*

Town of Savoy  
*John Tynan, 720 Main Rd, Savoy, MA 01256, ph 413-743-4290, fax 413-743-4291, autssf@yahoo.com.*

Any notice hereunder shall be in writing and shall be effective (i) if dispatched by facsimile or email and delivery is electronically confirmed by said media, the day such electronic confirmation is received, (ii) if sent by courier, one business day after dispatch, (iii) if sent by first class mail, five business days after its date of posting.

- b) MassTech and each Town have designated the following persons to serve as Project Manager/Representative to support effective communication between MassTech and the Towns,

and to report on the work's progress. Furthermore, the Towns have jointly designated the Town of Hawley to act as the primary point of contact between MassTech and the Towns in the administration of this Agreement.

For MassTech: Peter Larkin, [peter.larkin@state.ma.us](mailto:peter.larkin@state.ma.us), 508-870-0312 ext 220

For Florida: Christine Dobbert, [townhall.floridamass@gmail.com](mailto:townhall.floridamass@gmail.com), 413-662-2448

For Hawley: Kirby (Lark) Thwing, [ktwingin@gmail.com](mailto:ktwingin@gmail.com), 413-339-0124

For Monroe: David Gagne, [dgagne1954@gmail.com](mailto:dgagne1954@gmail.com), 413-413-424-8209

For Savoy: John Tynan, [ajtssf@yahoo.com](mailto:ajtssf@yahoo.com), 413-743-4290

### 3. The Grant

- a. In consideration of each Town's agreement to participate in the Action Plan, Mass Tech shall pay to the Lead Town in one lump sum payment the aggregated allocation amount of One Hundred Sixteen Thousand Dollars (\$116,000.00). Each Town's allocation amount that is being contributed to the Grant is listed below in the middle column, which shall be applied against each Town's approved MBI last mile allocation:

	<b>Initial, Up-Front Lump Sum Grant Disbursement</b>	Remaining Funds Available from MBI Allocation After Initial, Up-Front Lump Sum Grant Disbursement
<b>Florida</b>	<b>\$34,692</b>	\$605,308
<b>Hawley</b>	<b>\$28,187</b>	\$491,813
<b>Monroe</b>	<b>\$17,888</b>	\$312,112
<b>Savoy</b>	<b>\$35,233</b>	\$614,767

MassTech shall disburse the up-front lump sum grant payment to the Lead Town within thirty (30) days after the later of (1) the date that all Towns have executed this Agreement; or (2) the date that all Towns have executed the Action Plan. The amounts listed in the right-hand column above are **not** the subject of this Agreement but are stated for information only.

- b. The Lead Town may expend grant funds only for services provided directly by consultants and outside legal counsel retained to assist with implementation of the Action Plan.
- c. The Lead Town shall keep records of all expenditures made with Grant funds according to Generally Accepted Accounting Principles. The Lead Town shall provide copies of such records within five business days after request by MassTech.
- d. The Lead Town shall submit to MassTech on a quarterly basis, a report summarizing expenses incurred to date under this Agreement utilizing a template that shall be provided by MassTech. The quarterly report shall be accompanied by a certification signed by an appropriate Town official certifying (1) the accuracy of the quarterly report; and (2) that all grant funds expended by the Lead Town have been for actual costs incurred by the Lead Town for Allowable Expenses under this Agreement.
- e. In the event this Agreement is terminated before the Lead Town has incurred or expended the entire amount of its Initial Up-Front Grant, the Lead Town shall promptly return the excess to MassTech, to be restored to each Town's allocation.

### 4. Program Evaluation

Each Town agrees to support MassTech's program evaluation activities, and MassTech's goal to disseminate information regarding each Town's experiences. To this end, each Town agrees that its key personnel and contractors working on the project will be available at reasonable times with advance notice to be interviewed by MassTech or its authorized representatives for purposes of program evaluation or case study development.

**5. Access and Use**

Each Town agrees to license or otherwise make available to MassTech or its designee in perpetuity, without charge, all written, graphic or digital materials prepared and produced under this Agreement.

**6. Lobbying**

No Grant funds may be used to pay for or otherwise support any activities intended to influence any matter pending before the Massachusetts General Court or for activities covered by the law and regulations governing "legislative agents" or "executive agents" set forth in the Massachusetts Lobbying Law, M.G.L. c.3, §39.

**7. Amendments and Attachments**

All conditions, covenants, duties and obligations contained in this SOW and its attachments may be amended only through a written amendment signed by each Town and MassTech.

**Attachment 2**

**Action Plan**

**{TO BE ATTACHED WHEN EXECUTED}**

**Attachment 3**

**Form of Town Certification of Compliance**

The undersigned are a majority of the Board of Selectmen of the Town of \_\_\_\_\_ (the "Town").  
We hereby depose and state the following:

1. Reference is made in this Certification to that certain Grant Agreement (the "Agreement") by and between the Massachusetts Technology Collaborative and \_\_\_\_\_ (the "Provider") dated \_\_\_\_\_, 201\_. All capitalized terms not defined in this Certification have the meanings given them in the Agreement.
- 1.
2. The Town has complied with all procurement laws, and any other applicable laws and regulations required to implement the Project.
- 2.
3. The completion of  the [ \_\_\_\_\_ ] Milestone, or construction of  Phase number \_\_\_\_ or  the Project (check as appropriate) is complete and the Network or designated Phase thereof, as applicable, is fully commissioned. For the final Certification submitted by the Town – The construction of the Network has achieved Final Completion as defined in Section 2(d) of the Grant Agreement.
- 3.
4. There is no pending or contemplated litigation between the Town and the Provider.
- 4.
5. There is no pending or contemplated arbitration between the Town and the Provider.
- 5.
6. Attached is a certification signed by the Provider indicating that it has paid all subcontractors for all work performed on the project.
- 6.
7. The Town and the Provider have entered into a broadband services agreement to address the long-term relationship between the Town and the Provider, said agreement remains in full force and effect and neither party to that agreement is in breach thereof.
- 7.

Each of the undersigned acknowledges that the Massachusetts Technology Collaborative is relying on the accuracy of the statements herein and certifies and states under penalty of perjury that the foregoing statements are true and correct to the best of his or her knowledge.

\_\_\_\_\_  
(Printed Name of Selectperson / Manager)

\_\_\_\_\_  
Date:

\_\_\_\_\_  
(Printed Name of Selectperson / Manager)

\_\_\_\_\_  
Date:

\_\_\_\_\_  
(Printed Name of Selectperson / Manager)

\_\_\_\_\_  
Date:

\_\_\_\_\_  
(Printed Name of Selectperson / Manager)

\_\_\_\_\_  
Date:

\_\_\_\_\_  
(Printed Name of Selectperson / Manager)

\_\_\_\_\_  
Date: