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BEA New Hampshire Department of BUSINESS AND ECONOMIC AFFAIRS

August 2, 2023

His Excellency, Governor Christopher T. Sununu
and the Honorable Executive Council
State House
Concord, NH 03301

## REQUESTED ACTION

Authorize the Department of the Business and Economic Affairs (BEA), Division of Economic Development, to enter into a contract with Mission Broadband, Inc. (VC# 458245), Bangor, Maine in the amount of $1,965,000.00 in Infrastructure Investment and Jobs Act of 2021(IIJA) Broadband Equity, Access, and Deployment (BEAD) Planning Grant Funds, administered by the US Department of Commerce, for consultation services to develop a five-year action plan, initial proposal, and final proposal, as required by the Notice of Funding Opportunity, for the State of New Hampshire, effective upon Governor and Council approval through November 30, 2027. **100% Federal Funds.**

Funds are available as follows:

| | FY 2024 | FY 2025 |
|---|---|---|
| 03-22-22-221510-36360000<br>Department of Business and Economic Affairs<br>Broadband -IIJA BEAD<br>102-500731 - Contracts for Program Services | $1,562,222.22 | $402,777.78 |

## EXPLANATION

On April 12, 2023, the Governor and Council approved the accept and expend of $2,000,000 in BEAD Planning Grant Funds for the purpose of hiring a contractor to draft New Hampshire's five-year broadband action plan, initial proposal, and final proposal as outlined in the BEAD Notice of Funding Opportunity (NOFO).

For the purposes of this federal program, BEAD refers to the plan to invest in, deploy and enable high-quality broadband access, affordability, and adoption for all New Hampshire households. Completion of the planning process, funded by the Planning Grant will enable the state to start the process of implementing the federal program.

100 North Main Street, Suite 100
Concord, New Hampshire 03301
603.271.2341
visitnh.gov nheconomy.com choosenh.com

On June 30, 2023, New Hampshire was awarded approximately $196.5 million to address unserved and underserved broadband coverage locations, underrepresented communities, and Community Anchor Institutions. Participation in this program, will provide New Hampshire citizens with universal access to affordable, high-speed broadband that will dramatically improve the quality of life.

The Department of the Business and Economic Affairs (BEA), Division of Economic Development, issued NH Broadband Equity, Access, and Deployment Grant Plan request for proposal (RFP) 2023-16 on April 24, 2023, with responses due on May 22, 2023. Notice was posted on *nheconomy.com* and *admin.state.nh.us*. Subsequently, nine vendors submitted formal written proposals on May 22, 2023.

A selection committee comprised of three BEA staff members (Schedule #2) reviewed and scored the proposals (Schedule #1). Mission Broadband, Inc. was ultimately awarded the contract. Scoring is included as Schedule #3.

For the past few years, Mission Broadband, Inc. has been providing consulting services to numerous municipalities, counties, and states to create or expand broadband infrastructure. Their mission is to bring equitable broadband access to every resident by assisting communities navigate the process of expanding and enhancing broadband connectivity. It achieves its mission through fulfilling its core principles: integrity, community focus, equity, and honesty. Mission Broadband, Inc. has numerous working relationships with New Hampshire municipal governments – including Coos and Carroll counties. As a result, Mission Broadband, Inc.is very acquainted with New Hampshire's broadband landscape. During the review process, Mission Broadband, Inc.'s proposal scored strongly in three areas. Its intimate knowledge of the state, key community stakeholder organizations, and where to obtain required broadband data is an advantage. BEA is confident that the quality of work will be at or above the requirements set forth in the RFP.

The Attorney General's office has approved this contract as to form, substance, and execution.

In the event that Federal Funds become no longer available, General Funds will not be requested to support this program.

Respectfully submitted by,

Taylor Caswell
Commissioner

Schedule #1

Department of Business and Economic Affairs
Division of Economic Development
NH Broadband Equity, Access, and Deployment Grant Plan (Infrastructure Investment and Jobs Act)
RFP Scoring Criteria

Proposals were reviewed, evaluated, and scored by an evaluation committee. Evaluation of proposals were based on the following criteria for each component. Each criterion was scored according to the degree of responsiveness present in the proposal being evaluated.

| | |
|---|---|
| • Experience and qualifications of key staff and subcontractors | (30 points) |
| • Overall strategy and approach, methodology | (30 points) |
| • Creativity/Innovation | (20 points) |
| • Ability to mobilize resources quickly to meet planning & funding deadlines | (10 points) |
| • Budget approach and cost effectiveness | (10 points) |
| **Grand Total** | (100 points) |

Schedule #2

Department of Business and Economic Affairs
Division of Economic Development
NH Broadband Equity, Access, and Deployment Grant Plan (Infrastructure Investment and Jobs Act)
RFP Scoring Committee

Matt Conserva, Broadband Program Manager
NH Department of Business and Economic Affairs
100 North Main Street, Suite 100
Concord, NH 03301
603-271-4963
matthew.e.conserval@livefree.nh.gov

Mr. Conserva has worked for the State of New Hampshire for the past three years. Prior to working for the State, Mr. Conserva spent 24 years working at Nextel Communications and then Sprint. During his career at Sprint Nextel, Mr. Conserva performed many functions from individual contributor to managing large teams. Mr. Conserva attended the University of Mass, Lowell with a focus on Business Administration.

Wayne Goulet, Broadband Business Administrator
NH Department of Business and Economic Affairs
100 North Main Street, Suite 100
Concord, NH 03301
603-271-4846
Wayne.V.Goulet@livefree.nh.gov

Mr. Goulet has worked for the State of New Hampshire for approximately two years. Prior to working for the State, Mr. Goulet spent seven plus years at Pitco Frialator Inc., where he performed many functions including, operations support, logistics, and the procurement of commodities and services. Mr. Goulet has a M.B.A. (Masters in Business Administration) and a B.S. (Bachelor of Science) in Information Technology, both from Southern New Hampshire University.

Marcus Ralston, Business Resource Specialist
NH Department of Business and Economic Affairs
100 North Main Street, Suite 100
Concord, NH 03301
Phone Number 603-271-6352
Marcus.i.ralston@livefree.nh.gov

A longtime resident and graduate of Southern New Hampshire University with a B.S in Organizational Leadership and a fourteen-year U.S. ARMY veteran, with a diploma in Chemical, biological, radiological, and nuclear defense. With over 25 years and 20,000 onsite engineering, operations, and business management consulting hours. Gaining a wealth of knowledge and experience in global sales, marketing, and product management leadership along the way.

Currently serving as a Business Resource Specialist with the Department of Business and Economic Affairs, Division of Economic Development. Focused on connecting businesses of all sizes and industries within Merrimack, Hillsborough and Belknap counties to state and community partners, who can provide a variety of subject matter expertise & resources to New Hampshire entrepreneurs to aspire to develop strategic processes to scale their businesses for rapid growth.

Schedule #3

Department of Business and Economic Affairs
Division of Economic Development
NH Broadband Equity, Access, and Deployment Grant Plan (Infrastructure Investment and Jobs Act)
RFP Scoring Results

| Company | Experience and qualifications of key staff and subcontractors **(30 points)** | Overall strategy and approach, methodology **(30 points)** | Creativity/ Innovation **(20 points)** | Ability to mobilize resources quickly to meet planning and funding deadlines **(10 points)** | Budget approach and cost effectiveness **(10 points)** | Actual Bid $ | Grand Total **(100 points)** | Rank |
|---|---|---|---|---|---|---|---|---|
| Mission Broadband, Inc. | 23.66 | 26 | 16.66 | 9 | 6.66 | $1,965,000.00 | 82 | 1 |
| McKinsey & Company, Inc. | 25.66 | 27.33 | 16 | 6 | 6.33 | $1,974,000.00 | 81 | 2 |
| Guidehouse Inc. | 22.66 | 24.33 | 16 | 9 | 7.33 | $1,942,500.00 | 79 | 3 |
| Columbia Telecommunications Corporation | 21 | 19 | 16 | 8 | 7 | $1,975,000.00 | 71 | 4 |
| Alvarez & Marsal, LLC | 20 | 21.33 | 13.33 | 5.66 | 7.66 | $1,855,000.00 | 68 | 5 |
| Innovative Emergency Management, Inc. (IEM) | 18.33 | 19 | 11.66 | 6.66 | 8.66 | $1,523,250.00 | 64 | 6 |
| V2A, LLC | 13.33 | 14 | 13.33 | 9 | 7.66 | $950,000.00 + ($150,000.00 travel) | 57 | 7 |
| Ready.net, Inc. | 16.66 | 12.33 | 14.33 | 6 | 7.33 | $1,898,590.00 | 57 | 7 |
| Tilson Technology Management, Inc. | 14.33 | 17.33 | 10.66 | 5.33 | 4 | $1,980,000.00 | 52 | 9 |

Notice: This agreement and all of its attachments shall become public upon submission to Governor and Executive Council for approval. Any information that is private, confidential or proprietary must be clearly identified to the agency and agreed to in writing prior to signing the contract.

## AGREEMENT

The State of New Hampshire and the Contractor hereby mutually agree as follows:

## GENERAL PROVISIONS

### 1. IDENTIFICATION.

| | | | |
|---|---|---|---|
| 1.1 State Agency Name<br>Department of Business and Economic Affairs | | 1.2 State Agency Address<br>100 North Main Street, Suite 100<br>Concord, NH 03301 | |
| 1.3 Contractor Name<br>Mission Broadband, Inc. | | 1.4 Contractor Address<br>145 Exchange Street, Suite 4<br>Bangor, ME 04401 | |
| 1.5 Contractor Phone Number<br>207-922-4102 | 1.6 Account Unit and Class<br>36360000 | 1.7 Completion Date<br>November 30, 2027 | 1.8 Price Limitation<br>$1,965,000.00 |
| 1.9 Contracting Officer for State Agency<br>Wayne Goulet | | 1.10 State Agency Telephone Number<br>603-271-4846 | |
| 1.11 Contractor Signature<br>Date: June 27,2023 | | 1.12 Name and Title of Contractor Signatory<br>John E. Dougherty, Vice President and General Manager | |
| 1.13 State Agency Signature<br>Date: 7/6/2023 | | 1.14 Name and Title of State Agency Signatory<br>Taylor Caswell, Commissioner | |
| 1.15 Approval by the N.H. Department of Administration, Division of Personnel *(if applicable)*<br>By: Director, On: | | | |
| 1.16 Approval by the Attorney General (Form, Substance and Execution) *(if applicable)*<br>By: On: 07/21/2023 | | | |
| 1.17 Approval by the Governor and Executive Council *(if applicable)*<br>G&C Item number: G&C Meeting Date: | | | |



Contractor Initials
Date June 27, 2023

**2. SERVICES TO BE PERFORMED.** The State of New Hampshire, acting through the agency identified in block 1.1 ("State"), engages contractor identified in block 1.3 ("Contractor") to perform, and the Contractor shall perform, the work or sale of goods, or both, identified and more particularly described in the attached EXHIBIT B which is incorporated herein by reference ("Services").

**3. EFFECTIVE DATE/COMPLETION OF SERVICES.**

3.1 Notwithstanding any provision of this Agreement to the contrary, and subject to the approval of the Governor and Executive Council of the State of New Hampshire, if applicable, this Agreement, and all obligations of the parties hereunder, shall become effective on the date the Governor and Executive Council approve this Agreement, unless no such approval is required, in which case the Agreement shall become effective on the date the Agreement is signed by the State Agency as shown in block 1.13 ("Effective Date").

3.2 If the Contractor commences the Services prior to the Effective Date, all Services performed by the Contractor prior to the Effective Date shall be performed at the sole risk of the Contractor, and in the event that this Agreement does not become effective, the State shall have no liability to the Contractor, including without limitation, any obligation to pay the Contractor for any costs incurred or Services performed.

3.3 Contractor must complete all Services by the Completion Date specified in block 1.7.

**4. CONDITIONAL NATURE OF AGREEMENT.**

Notwithstanding any provision of this Agreement to the contrary, all obligations of the State hereunder, including, without limitation, the continuance of payments hereunder, are contingent upon the availability and continued appropriation of funds. In no event shall the State be liable for any payments hereunder in excess of such available appropriated funds. In the event of a reduction or termination of appropriated funds by any state or federal legislative or executive action that reduces, eliminates or otherwise modifies the appropriation or availability of funding for this Agreement and the Scope for Services provided in EXHIBIT B, in whole or in part, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to reduce or terminate the Services under this Agreement immediately upon giving the Contractor notice of such reduction or termination. The State shall not be required to transfer funds from any other account or source to the Account identified in block 1.6 in the event funds in that Account are reduced or unavailable.

**5. CONTRACT PRICE/PRICE LIMITATION/ PAYMENT.**

5.1 The contract price, method of payment, and terms of payment are identified and more particularly described in EXHIBIT C which is incorporated herein by reference.

5.2 Notwithstanding any provision in this Agreement to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments authorized, or actually made hereunder, exceed the Price Limitation set forth in block 1.8. The payment by the State of the contract price shall be the only and the complete reimbursement to the Contractor for all expenses, of whatever nature incurred by the Contractor in the performance hereof, and shall be the only and the complete compensation to the Contractor for the Services.

5.3 The State reserves the right to offset from any amounts otherwise payable to the Contractor under this Agreement those liquidated amounts required or permitted by N.H. RSA 80:7 through RSA 80:7-c or any other provision of law.

5.4 The State's liability under this Agreement shall be limited to monetary damages not to exceed the total fees paid. The Contractor agrees that it has an adequate remedy at law for any breach of this Agreement by the State and hereby waives any right to specific performance or other equitable remedies against the State.

**6. COMPLIANCE BY CONTRACTOR WITH LAWS AND REGULATIONS/EQUAL EMPLOYMENT OPPORTUNITY.**

6.1 In connection with the performance of the Services, the Contractor shall comply with all applicable statutes, laws, regulations, and orders of federal, state, county or municipal authorities which impose any obligation or duty upon the Contractor, including, but not limited to, civil rights and equal employment opportunity laws and the Governor's order on Respect and Civility in the Workplace, Executive order 2020-01. In addition, if this Agreement is funded in any part by monies of the United States, the Contractor shall comply with all federal executive orders, rules, regulations and statutes, and with any rules, regulations and guidelines as the State or the United States issue to implement these regulations. The Contractor shall also comply with all applicable intellectual property laws.

6.2 During the term of this Agreement, the Contractor shall not discriminate against employees or applicants for employment because of age, sex, sexual orientation, race, color, marital status, physical or mental disability, religious creed, national origin, gender identity, or gender expression, and will take affirmative action to prevent such discrimination, unless exempt by state or federal law. The Contractor shall ensure any subcontractors comply with these nondiscrimination requirements.

6.3 No payments or transfers of value by Contractor or its representatives in connection with this Agreement have or shall be made which have the purpose or effect of public or commercial bribery, or acceptance of or acquiescence in extortion, kickbacks, or other unlawful or improper means of obtaining business.

6.4. The Contractor agrees to permit the State or United States access to any of the Contractor's books, records and accounts for the purpose of ascertaining compliance with this Agreement and all rules, regulations and orders pertaining to the covenants, terms and conditions of this Agreement.

**7. PERSONNEL.**

7.1 The Contractor shall at its own expense provide all personnel necessary to perform the Services. The Contractor warrants that all personnel engaged in the Services shall be qualified to perform the Services, and shall be properly licensed and otherwise authorized to do so under all applicable laws.

7.2 The Contracting Officer specified in block 1.9, or any successor, shall be the State's point of contact pertaining to this Agreement.

**8. EVENT OF DEFAULT/REMEDIES.**

8.1 Any one or more of the following acts or omissions of the Contractor shall constitute an event of default hereunder ("Event of Default"):

8.1.1 failure to perform the Services satisfactorily or on schedule;

8.1.2 failure to submit any report required hereunder; and/or

8.1.3 failure to perform any other covenant, term or condition of this Agreement.

8.2 Upon the occurrence of any Event of Default, the State may take any one, or more, or all, of the following actions:

8.2.1 give the Contractor a written notice specifying the Event of Default and requiring it to be remedied within, in the absence of a greater or lesser specification of time, thirty (30) calendar days from the date of the notice; and if the Event of Default is not timely cured, terminate this Agreement, effective two (2) calendar days after giving the Contractor notice of termination;

8.2.2 give the Contractor a written notice specifying the Event of Default and suspending all payments to be made under this Agreement and ordering that the portion of the contract price which would otherwise accrue to the Contractor during the period from the date of such notice until such time as the State determines that the Contractor has cured the Event of Default shall never be paid to the Contractor;

8.2.3 give the Contractor a written notice specifying the Event of Default and set off against any other obligations the State may owe to the Contractor any damages the State suffers by reason of any Event of Default; and/or

8.2.4 give the Contractor a written notice specifying the Event of Default, treat the Agreement as breached, terminate the Agreement and pursue any of its remedies at law or in equity, or both.

**9. TERMINATION.**

9.1 Notwithstanding paragraph 8, the State may, at its sole discretion, terminate the Agreement for any reason, in whole or in part, by thirty (30) calendar days written notice to the Contractor that the State is exercising its option to terminate the Agreement.

9.2 In the event of an early termination of this Agreement for any reason other than the completion of the Services, the Contractor shall, at the State's discretion, deliver to the Contracting Officer, not later than fifteen (15) calendar days after the date of termination, a report ("Termination Report") describing in detail all Services performed, and the contract price earned, to and including the date of termination. In addition, at the State's discretion, the Contractor shall, within fifteen (15) calendar days of notice of early termination, develop and submit to the State a transition plan for Services under the Agreement.

**10. PROPERTY OWNERSHIP/DISCLOSURE.**

10.1 As used in this Agreement, the word "Property" shall mean all data, information and things developed or obtained during the performance of, or acquired or developed by reason of, this Agreement, including, but not limited to, all studies, reports, files, formulae, surveys, maps, charts, sound recordings, video recordings, pictorial reproductions, drawings, analyses, graphic representations, computer programs, computer printouts, notes, letters, memoranda, papers, and documents, all whether finished or unfinished.

10.2 All data and any Property which has been received from the State, or purchased with funds provided for that purpose under this Agreement, shall be the property of the State, and shall be returned to the State upon demand or upon termination of this Agreement for any reason.

10.3 Disclosure of data, information and other records shall be governed by N.H. RSA chapter 91-A and/or other applicable law. Disclosure requires prior written approval of the State.

**11. CONTRACTOR'S RELATION TO THE STATE.** In the performance of this Agreement the Contractor is in all respects an independent contractor, and is neither an agent nor an employee of the State. Neither the Contractor nor any of its officers, employees, agents or members shall have authority to bind the State or receive any benefits, workers' compensation or other emoluments provided by the State to its employees.

**12. ASSIGNMENT/DELEGATION/SUBCONTRACTS.**

12.1 Contractor shall provide the State written notice at least fifteen (15) calendar days before any proposed assignment, delegation, or other transfer of any interest in this Agreement. No such assignment, delegation, or other transfer shall be effective without the written consent of the State.

12.2 For purposes of paragraph 12, a Change of Control shall constitute assignment. "Change of Control" means (a) merger, consolidation, or a transaction or series of related transactions in which a third party, together with its affiliates, becomes the direct or indirect owner of fifty percent (50%) or more of the voting shares or similar equity interests, or combined voting power of the Contractor, or (b) the sale of all or substantially all of the assets of the Contractor.

12.3 None of the Services shall be subcontracted by the Contractor without prior written notice and consent of the State.

12.4 The State is entitled to copies of all subcontracts and assignment agreements and shall not be bound by any provisions contained in a subcontract or an assignment agreement to which it is not a party.

**13. INDEMNIFICATION.** The Contractor shall indemnify, defend, and hold harmless the State, its officers, and employees from and against all actions, claims, damages, demands, judgments, fines, liabilities, losses, and other expenses, including, without limitation, reasonable attorneys' fees, arising out of or relating to this Agreement directly or indirectly arising from death, personal injury, property damage, intellectual property infringement, or other claims asserted against the State, its officers, or employees caused by the acts or omissions of negligence, reckless or willful misconduct, or fraud by the Contractor, its employees, agents, or subcontractors. The State shall not be liable for any costs incurred by the Contractor arising under this paragraph 13. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the State's sovereign immunity, which immunity is hereby reserved to the State. This covenant in paragraph 13 shall survive the termination of this Agreement.

**14. INSURANCE.**

14.1 The Contractor shall, at its sole expense, obtain and continuously maintain in force, and shall require any subcontractor or assignee to obtain and maintain in force, the following insurance:

14.1.1 commercial general liability insurance against all claims of bodily injury, death or property damage, in amounts of not less than $1,000,000 per occurrence and $2,000,000 aggregate or excess; and

14.1.2 special cause of loss coverage form covering all Property subject to subparagraph 10.2 herein, in an amount not less than 80% of the whole replacement value of the Property.

14.2 The policies described in subparagraph 14.1 herein shall be on policy forms and endorsements approved for use in the State of New Hampshire by the N.H. Department of Insurance, and issued by insurers licensed in the State of New Hampshire.

14.3 The Contractor shall furnish to the Contracting Officer identified in block 1.9, or any successor, a certificate(s) of insurance for all insurance required under this Agreement. At the request of the Contracting Officer, or any successor, the Contractor shall provide certificate(s) of insurance for all renewal(s) of insurance required under this Agreement. The certificate(s) of insurance and any renewals thereof shall be attached and are incorporated herein by reference.

**15. WORKERS' COMPENSATION.**

15.1 By signing this agreement, the Contractor agrees, certifies and warrants that the Contractor is in compliance with or exempt from, the requirements of N.H. RSA chapter 281-A *("Workers' Compensation").*

15.2 To the extent the Contractor is subject to the requirements of N.H. RSA chapter 281-A, Contractor shall maintain, and require any subcontractor or assignee to secure and maintain, payment of Workers' Compensation in connection with activities which the person proposes to undertake pursuant to this Agreement. The Contractor shall furnish the Contracting Officer identified in block 1.9, or any successor, proof of Workers' Compensation in the manner described in N.H. RSA chapter 281-A and any applicable renewal(s) thereof, which shall be attached and are incorporated herein by reference. The State shall not be responsible for payment of any Workers' Compensation premiums or for any other claim or benefit for Contractor, or any subcontractor or employee of Contractor, which might arise under applicable State of New Hampshire Workers' Compensation laws in connection with the performance of the Services under this Agreement.

**16. WAIVER OF BREACH.** A State's failure to enforce its rights with respect to any single or continuing breach of this Agreement shall not act as a waiver of the right of the State to later enforce any such rights or to enforce any other or any subsequent breach.

**17. NOTICE.** Any notice by a party hereto to the other party shall be deemed to have been duly delivered or given at the time of mailing by certified mail, postage prepaid, in a United States Post Office addressed to the parties at the addresses given in blocks 1.2 and 1.4, herein.

**18. AMENDMENT.** This Agreement may be amended, waived or discharged only by an instrument in writing signed by the parties hereto and only after approval of such amendment, waiver or discharge by the Governor and Executive Council of the State of New Hampshire unless no such approval is required under the circumstances pursuant to State law, rule or policy.

**19. CHOICE OF LAW AND FORUM.**

19.1 This Agreement shall be governed, interpreted and construed in accordance with the laws of the State of New Hampshire except where the Federal supremacy clause requires otherwise. The wording used in this Agreement is the wording chosen by the parties to express their mutual intent, and no rule of construction shall be applied against or in favor of any party.

19.2 Any actions arising out of this Agreement, including the breach or alleged breach thereof, may not be submitted to binding arbitration, but must, instead, be brought and maintained in the Merrimack County Superior Court of New Hampshire which shall have exclusive jurisdiction thereof.

**20. CONFLICTING TERMS.** In the event of a conflict between the terms of this P-37 form (as modified in EXHIBIT A) and any other portion of this Agreement including any attachments thereto, the terms of the P-37 (as modified in EXHIBIT A) shall control.

**21. THIRD PARTIES.** This Agreement is being entered into for the sole benefit of the parties hereto, and nothing herein, express or implied, is intended to or will confer any legal or equitable right, benefit, or remedy of any nature upon any other person.

**22. HEADINGS.** The headings throughout the Agreement are for reference purposes only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

**23. SPECIAL PROVISIONS.** Additional or modifying provisions set forth in the attached EXHIBIT A are incorporated herein by reference.

**24. FURTHER ASSURANCES.** The Contractor, along with its agents and affiliates, shall, at its own cost and expense, execute any additional documents and take such further actions as may be reasonably required to carry out the provisions of this Agreement and give effect to the transactions contemplated hereby.

**25. SEVERABILITY.** In the event any of the provisions of this Agreement are held by a court of competent jurisdiction to be contrary to any state or federal law, the remaining provisions of this Agreement will remain in full force and effect.

**26. ENTIRE AGREEMENT.** This Agreement, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire agreement and understanding between the parties, and supersedes all prior agreements and understandings with respect to the subject matter hereof.

## EXHIBIT A

## SPECIAL PROVISIONS

There are no special provisions of this contract.

**EXHIBIT B**
**SCOPE OF SERVICES**

## 1. INTRODUCTION

Mission Broadband, Inc. (hereinafter referred to as the "Contractor") hereby agrees to provide the State of New Hampshire (hereinafter referred to as the "State"), Department of Business and Economic Affairs, with Broadband Equity, Access, and Deployment (BEAD) Grant Plan Development Services in accordance with the proposal submission in response to State Request for Proposal # 2023-16 and as described herein.

## 2. CONTRACT DOCUMENTS

This Contract consists of the following documents ("Contract Documents"):

a. State of New Hampshire Terms and Conditions, General Provisions Form P-37
b. EXHIBIT A Special Provisions
c. EXHIBIT B Scope of Services
d. EXHIBIT C Method of Payment
e. EXHIBIT D Drug-Free Workplace
f. EXHIBIT E Lobbying
g. EXHIBIT F Debarment
h. EXHIBIT G Americans with Disabilities Act Compliance
i. EXHIBIT H Public Law 103227, Part C Environmental Tobacco Smoke
j. EXHIBIT I Office of Management and Budget Burden Disclosure Statement
k. EXHIBIT J Federal Funding Accountability and Transparency Act
l. EXHIBIT K RFP 2023-16
m. EXHIBIT L Contractor's Proposal Response

In the event of any conflict among the terms or provisions of the documents listed above, the following order of priority shall indicate which documents control: (1), Form Number P-37 as modified by EXHIBIT A "Special Provisions, (2) EXHIBIT B "Scope of Services," (3) EXHIBIT C "Method of Payment," (4) EXHIBIT K "RFP 2023-16," (5) EXHIBIT L"Contractor's Proposal Response", (6) EXHIBIT D "Drug-Free Workplace", (7) EXHIBIT E "Lobbying", (8) EXHIBIT F "Debarment", (9) EXHIBIT G " Americans with Disabilities Act Compliance", (10) EXHIBIT H "Public Law 103227, Part C Environmental Tobacco Smoke", (11) EXHIBIT I "Office of Management and Budget Burden Disclosure Statement", and (12) EXHIBIT J "Federal Funding Accountability and Transparency Act"

## 3. TERM OF CONTRACT

The term of the contract shall commence on upon approval of the Governor and Executive Council, through November 30, 2027, a period of approximately four (4) years and five (5) months.



Contractor Initials
Date June 27, 2023

## 4. SCOPE OF WORK

At the request and direction of BEA, the Contractor will write the five-year action plan, initial proposal, and final proposal on the agency's behalf. The Contractor must provide the following services specifically related to the BEAD Program Grant:

A. **Develop the Five-Year New Hampshire Broadband Action Plan: must include at least the thirteen (13) requirements as outlined in BEAD Notice of Funding Opportunity (NOFO). Contractor's deadline for five-year action plan will be August 28, 2023. The State has initiated the process of submitting a petition for extension with the Assistant Secretary at the National Telecommunications and Information Administration (NTIA). If an extension isn't granted by NTIA then the Contractor will act expeditiously to complete the work and won't be held in default.**

i. Provide details of the existing broadband program or office within the State of New Hampshire (State).
ii. Identify current funding that the State has available for broadband deployment and other broadband-related activities.
iii. Identify existing efforts funded by the federal government or the State to deploy broadband and close the digital divide.
iv. Identify the current employees of the State who will assist in implementing and administering the BEAD Program.
v. Identify known or potential obstacles or barriers to implementation and the State's corresponding plans to address them.
vi. Include an asset inventory that catalogues broadband adoption, affordability, equity, access, and deployment activities occurring within the State.
vii. Details the State's external engagement process.
viii. Incorporate available federal, State, or local broadband availability and adoption data.
ix. Identify local and regional broadband service needs and gaps within the State's boundaries.
x. Provide a comprehensive, high-level plan for providing reliable, affordable, high-speed internet service throughout the State.
xi. Identify digital equity and inclusion needs, goals, and implementation strategies.
xii. Detail alignment of the Five-Year Action Plan with other existing and planned priorities.
xiii. Describe technical assistance and additional capacity needed for successful implementation.
xiv. The Five-Year Action Plan must be made available for public comment and incorporate local coordination feedback.

B. **Develop the Initial Proposal: must include at least the nineteen (19) requirements as outlined in BEAD NOFO. Contractor's deadline for Initial Proposal will be December 1, 2023.**

i. Outline long-term objectives for deploying broadband.
ii. Identify; and outline steps to support, local, Tribal, and regional broadband planning processes.
iii. Identify existing efforts funded by the federal government or State.
iv. Certify that the State has conducted local coordination.

v. Identify each unserved location and underserved location.
vi. Describe how the State applied the statutory definition of the term "community anchor institution (CAI).
vii. Include a detailed plan to conduct a challenge process.
viii. Include a detailed plan to competitively award subgrants.
ix. Explanation of preferences for non-deployment eligible activities.
x. Describe any initiatives the State will implement without making a subgrant.
xi. Detail how the State will ensure that subgrantees, contractors, and subcontractors use strong labor standards and protections.
xii. Detail how the State will ensure an available, diverse, and highly skilled workforce.
xiii. Describe the process, strategy, and data tracking method(s) that the State will implement to ensure that minority businesses, women-owned business enterprises, and labor surplus area firms are recruited, used, and retained when possible.
xiv. Identify steps that the State will take to reduce costs and barriers to deployment.
xv. Provide an assessment of climate threats and mitigation methods.
xvi. Describe the low-cost plan(s) to be offered.
xvii. Describe the intended use of the twenty (20) percent of total funding allocation.
xviii. Disclosures around plans to waive laws that restrict public sector participation.
xix. Certify the intent of the State to comply with all applicable requirements of the Program.
xx. The Initial Proposal must be made available for public comment and incorporate local coordination feedback.

**C. <u>Develop the Final Proposal</u>: - must include at least the sixteen (16) requirements as outlined in BEAD NOFO. Contractor's deadline for Final Proposal will be December 1, 2024.**

i. A detailed plan that specifies the outcome of the State's subgrantee selection process.
ii. A timeline for implementation.
iii. Processes for oversight and accountability.
iv. Certification that the State has conducted coordination.
v. Description of the results of the challenge process.
vi. Certification that the State will provide service to all unserved and underserved locations.
vii. A detailed description of all planned uses of BEAD funding that are not last-mile broadband deployment projects.
viii. The means by which subgrantees for non-deployment eligible activities were selected.
ix. A description of efforts undertaken by the State to ensure the participation of non-traditional broadband providers (such as municipalities or political subdivisions, cooperatives, non-profits, Tribal Governments, and utilities).
x. Implementation status of plans described in the Initial Proposal.
xi. Information regarding specific commitments made by provisionally selected subgrantees to warrant a project's treatment as a Priority Broadband Project.
xii. Information regarding specific commitments made by provisionally selected subgrantees to warrant benefits.
xiii. Environmental documentation and plan to comply with applicable environmental and national historical preservation requirements.

xiv. To the extent the State 's Final Proposal includes plans to deploy broadband to Unserved Service Projects or Underserved Service Projects and Resolution of Consent for projects on Tribal Lands.
xv. A description of unsuccessful applications that was affected by laws of the State.
xvi. The Final Proposal must be made available for public comment and incorporate local coordination feedback.

**5. OBLIGATIONS AND LIABILITY OF THE CONTRACTOR**

The Contractor shall provide all services strictly pursuant to, and in conformity with, the specifications described in State RFP # 2023-16, as described herein, and under the terms of this Contract.

It is the responsibility of the Contractor to maintain this contract and New Hampshire Vendor Registration with up to date contact information.

Contract specific contact information (Sales contact, Contractor contract manager, etc.) shall be sent to the State's Contracting Office listed in Box 1.9 of Form P-37.

Additionally, all updates i.e., telephone numbers, contact names, email addresses, W9, tax identification numbers are required to be current through a formal electronic submission to the Bureau of Purchase and Property at:
https://das.nh.gov/purchasing/vendorregistration/(S(a0fzcv55ghaeqs45jpya5i45))/welcome.aspx

The Contractor shall agree to hold the State of NH harmless from liability arising out of injuries or damage caused while performing this work. The Contractor shall agree that any damage to building(s), materials, equipment or other property during the performance of the service shall be repaired at its own expense, to the State's satisfaction.

**6. DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION LOWER TIER COVERED TRANSACTIONS**

The Contractor certifies, by signature of this contract, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal Department or Agency.

**7. CONFIDENTIALITY & CRIMINAL RECORD**

If requested by the using agency, the Contractor and its employees, and Sub-Contractors (if any), shall be required to sign and submit a Confidential Nature of Department Records Form and a Criminal Authorization Records Form. These forms shall be submitted to the individual using agency prior to the start of any work.

**EXHIBIT C**
**METHOD OF PAYMENT**

## 1. CONTRACT PRICE

The Contractor hereby agrees to provide Broadband Equity, Access, and Deployment (BEAD) Grant Plan Development Services in complete compliance with the terms and conditions specified in Exhibit B for an amount up to and not to exceed a price of $1,965,000.00; this figure shall not be considered a guaranteed or minimum figure; however it shall be considered a maximum figure from the effective date through the expiration date as indicated in Form P-37 Block 1.7.

## 2. PRICING STRUCTURE

| Scope of Work Section | Description | Pricing |
|---|---|---|
| 3A | Five-Year Action plan | $ 550,000.00* |
| 3B | Initial Proposal | $ 790,000.00* |
| 3C | Final Proposal | $ 625,000.00* |
| | 3A, 3B, & 3C | **$ 1,965,000.00** |

Below are the detailed payment terms of the contract:

| Fiscal Year | Scope of Work Section | Monthly Rate ($) | Aggregate Total ($) | Notes |
|---|---|---|---|---|
| FY 2024 | 3A | $ 110,000.00 | $ 440,000.00 | Four (4) months work invoiced monthly |
| | | | $ 110,000.00 | 20% held for NTIA approval ($550,000.00) |
| | | *3A Total* | $ 550,000.00 | |
| | 3B | $ 105,333.33 | $ 632,000.00 | Six (6) months work invoiced monthly |
| | | | $ 158,000.00 | 20% held for NTIA approval ($790,000.00) |
| | | *3B Total* | $ 790,000.00 | |
| | 3C | $ 55,555.56 | $ 222,222.22 | Four (4) of the nine (9) months work invoiced monthly in FY 2024 |
| | | **FY 2024 Total** | **$ 1,562,222.22** | |
| FY 2025 | 3C | $ 55,555.56 | $ 277,777.78 | Five (5) of the nine (9) months work invoiced monthly in FY 2025 |
| | | | $ 125,000.00 | 20% held for NTIA approval ($625,000.00) |
| | | **FY 2025 Total** | **$ 402,777.78** | |
| | | **Contract Grand Total** | **$ 1,965,000.00** | |

- Any work performed by the Contractor prior to Contract being approved and signed by Governor and Executive Council is at Contractor's own risk.



Contractor Initials
Date June 27, 2023

## 3. INVOICE

All invoices must be sent to:

Matt Conserva, Broadband Program Manager
Department of Business and Economic Affairs
100 North Main Steet, Suite 100
Concord, NH 03301
Email: matthew.e.conserval@,livefree.nh.gov

Thomas R. King, Broadband Accountant
Department of Business and Economic Affairs
100 North Main Steet, Suite 100
Concord, NH 03301
Email: Thomas.R.King@livefree.nh.gov

## 4. PAYMENT

Payments may be made via Check or ACH. Use the following link to enroll with the State Treasury for ACH payments: **https://www.nh.gov/treasury**



Contractor Initials _____
Date June 27, 2023

**EXHIBIT D**
**Drug-Free Workplace**

The Grantee (aka "Campus" or "Contractor") identified in this Project Agreement agrees to comply with the provisions of Sections 5151-5160 of the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, Title V, Subtitle D; 41 U.S.C. 701 et seq.), and further agrees to have the Grantee's representative, as identified in Sections 1.11 of the General Provisions execute the following Certification:

**Certification Regarding Drug Free Workplace**

This certification is required by the regulations implementing Sections 5151-5160 of the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, Title V, Subtitle D; 41 U.S.C. 701 et seq.). The January 31, 1989, regulations were amended and published as Part II of the May 25, 1990, Federal Register (pages 21681-21691), and require certification by grantees (and by inference, sub-grantees and sub-Grantees), prior to award, that they will maintain a drug-free workplace. Section 3017.630(c) of the regulation provides that a grantee (and by inference, sub-grantees and sub-Grantees) that is a state may elect to make one certification to the Department in each federal fiscal year in lieu of certificates for each grant during the federal fiscal year covered by the certification. The certificate set out below is a material representation of fact upon which reliance is placed when the agency awards the grant. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of grants, or government wide suspension or debarment. Grantees using this form should send it to:

Department of Business and Economic Affairs
100 North Main Street, Suite 100
Concord, NH 03301

(A) The Grantee certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an ongoing drug-free awareness program to inform employees about—

(1) The dangers of drug abuse in the workplace;
(2) The grantee's policy of maintaining a drug-free workplace;
(3) Any available drug counseling, rehabilitation, and employee assistance programs; and
(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will—

(1) Abide by the terms of the statement; and
(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;



Contractor Initials
Date June 27, 2023

(e) Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted—

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, state, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

(B) The Grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant.

Place of Performance (street address, city, county, State, zip code) (list each location)

145 Exchange Street, Suite 4
Bangor, ME 04401

Check ☐ if there are workplaces on file that are not identified here.

| | |
|---|---|
| Mission Broadband, Inc. | Upon Governor & Executive Council Approval through November 30, 2027 |
| Contractor Name | Period Covered by this Certification |

John E. Dougherty, Vice President and General Manager

Name and Title of Authorized Contractor Representative

| | |
|---|---|
| | June 27, 2023 |
| Contractor Representative Signature | Date |



Contractor Initials _____
Date June 27, 2023

**EXHIBIT E**
**Lobbying**

The Grantee (aka "Campus" or "Contractor") identified in this Project Agreement agrees to comply with the provisions of Section 319 of Public Law 101-121, Government wide Guidance for New Restrictions on Lobbying, and 31 U.S.C. 1352, and further agrees to have the Grantee's representative, as identified in Sections 1.11 and 1.12 of the General Provisions execute the following Certification:

**CERTIFICATION REGARDING LOBBYING**

Programs (indicate applicable program covered): NTIA BROADBAND EQUITY, ACCESS & DEPLOYMENT PROGRAM (BEAD) INITIAL PLANNING FUNDS

Contract Period: **Upon Governor & Executive Council Approval through November 30, 2027**

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement (and by specific mention sub-grantee or sub-Grantee).

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement (and by specific mention sub-grantee or sub-Grantee), the undersigned shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying, in accordance with its instructions, attached and identified as Standard Exhibit E-I.

(3) The undersigned shall require that the language of this certification be included in the award document for sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

| | |
|---|---|
| Contractor Representative Signature | Vice President and General Manager<br>Contractor Representative Title |
| Mission Broadband, Inc.<br>Contractor Name | June 27, 2023<br>Date |



Contractor Initials
Date June 27, 2023

## EXHIBIT F
## Debarment

The Grantee (aka "Campus" or "Contractor") identified in this Project Agreement agrees to comply with the provisions of Executive Office of the President, Executive Order 12529 and 45 CFR Part 76 regarding Debarment, Suspension, and Other Responsibility Matters, and further agrees to have the Grantee's representative execute the following Certification:

### CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS - PRIMARY COVERED TRANSACTIONS

**Instructions for Certification**

(1) By signing and submitting this Contract, the Grantee is providing the certification set out below.

(2) The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. If necessary, the Grantee shall submit an explanation of why it cannot provide the certification. The certification or explanation will be considered in connection with the State determination whether to enter into this transaction. However, failure of the Grantee to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

(3) The certification in this clause is a material representation of fact upon which reliance was placed when the State determined to enter into this transaction. If it is later determined that the Grantee knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, State may terminate this transaction for cause or default.

(4) The Grantee shall provide immediate written notice to State, to whom this Contract is submitted if at any time the Grantee learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

(5) The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549: 45 CFR Part 76.

(6) The Grantee agrees by submitting this Contract that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the State.

(7) The Grantee further agrees by submitting this Contract that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions," provided by State, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

(8) A Grantee in a covered transaction may rely upon a certification of Grantee in a lower tier covered transaction that it is not debarred, suspended, ineligible, or involuntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A Grantee may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Non-procurement List (of excluded parties).

(9) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a Grantee is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

(10) Except for transactions authorized under paragraph 6 of these instructions, if a Grantee in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal government, State may terminate this transaction for cause or default.



Contractor Initials _____
Date June 27, 2023

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS - PRIMARY COVERED TRANSACTIONS, cont'd**

***Certification Regarding Debarment, Suspension, and Other Responsibility Matters - Primary Covered Transactions***

(1) The Grantee (aka "Campus" or "Contractor") certifies to the best of its knowledge and belief, that it and its principals:

(a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) have not within a three-year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or a contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) are not presently indicted for otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (I) (b) of this certification; and

(d) have not, within a three-year period preceding this Contract, had one or more public transactions (Federal, State or local) terminated for cause or default.

(2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this Contract.

| | |
|---|---|
| | Vice President and General Manager |
| Contractor Representative Signature | Contractor Representative Title |
| Mission Broadband, Inc. | June 27, 2023 |
| Contractor Name | Date |



Contractor Initials _____
Date June 27, 2023

**EXHIBIT G**
**CERTIFICATION REGARDING THE**
**AMERICANS WITH DISABILITIES ACT COMPLIANCE**

The Campus identified this Project Agreement agrees by signature of the Contractor's representative to execute the following certification:

By signing and submitting this Contract the Contractor agrees to make reasonable efforts to comply with all applicable provisions of the Americans with Disabilities Act of 1990.

| | |
|---|---|
| | Vice President and General Manager |
| Contractor Representative Signature | Contractor's Representative Title |
| Mission Broadband, Inc. | June 27, 2023 |
| Contractor Name | Date |



Contractor Initials _____
Date June 27, 2023

**EXHIBIT H**
**CERTIFICATION**
**Public Law 103-227, Part C**
**ENVIRONMENTAL TOBACCO SMOKE**

Public Law 103227, Part C Environmental Tobacco Smoke, also known as the Pro Children Act of 1994, requires that smoking not be permitted in any portion of any indoor facility routinely owned or leased or contracted for by an entity and used routinely or regularly for provision of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee.
The law does not apply to children's services provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug or alcohol treatment.
Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to $1000 per day and/or the imposition of an administrative compliance order on the responsible entity.
By signing and submitting this Contract the Grantee (aka "Contractor") certifies that it will comply with the requirements of the Act.

The Grantee further agrees that it will require the language of this certification be included in any subawards which contain provisions for the children's services and that all subgrantees shall certify accordingly.

| | |
|---|---|
| | Vice President and General Manager |
| Contractor Representative Signature | Contractor Representative Title |
| Mission Broadband, Inc. | June 27, 2023 |
| Contractor Name | Date |



Contractor Initials
Date June 27, 2023

## EXHIBIT I

## ASSURANCE OF COMPLIANCE NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS
### OMB Burden Disclosure Statement

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget (OMB), Paperwork Reduction Project (1910-0400), Washington, DC 20503.

**Mission Broadband, Inc.** (hereinafter called the "Grantee" and aka "Contractor") HEREBY AGREES to comply with Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352), Title IX of the Education Amendments of 1972, as amended, (Pub. L. 92-318, Pub. L. 93-568, and Pub. L. 94-482), Section 504 of the Rehabilitation Act of 1973 (Pub. L. 93-112), the Age Discrimination Act of 1975 (Pub. L. 94-135), Title VIII of the Civil Rights Act of 1968 (Pub. L. 90-284). In accordance with the above laws and regulations issued pursuant thereto, the Grantee agrees to assure that no person in the United States shall, on the ground of race, color, national origin, sex, age, or disability, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity in which the Grantee receives Federal assistance.

**Applicability and Period of Obligation**
In the case of any service, financial aid, covered employment, equipment, property, or structure provided, leased, or improved with Federal assistance extended to the Grantee by the State with federal IIJA funds, this assurance obligates the Grantee for the period during which Federal assistance is extended. In the case of any transfer of such service, financial aid, equipment, property, or structure, this assurance obligates the transferee for the period during which Federal assistance is extended. If any personal property is so provided, this assurance obligates the Grantee for the period during which it retains ownership or possession of the property.

**Employment Practices**
Where a primary objective of the Federal assistance is to provide employment or where the Grantee's employment practices affect the delivery of services in programs or activities resulting from Federal assistance extended by the State, the Grantee agrees not to discriminate on the ground of race, color, national origin, sex, age, or disability, in its employment practices. Such employment practices may include, but are not limited to, recruitment, advertising, hiring, layoff or termination, promotion, demotion, transfer, rates of pay, training and participation in upward mobility programs; or other forms of compensation and use of facilities.

**Subrecipient Assurance**

The Grantee shall require any individual, organization, or other entity with whom it subcontracts, subgrants, or subleases for the purpose of providing any service, financial aid, equipment, property, or structure to comply with laws and regulations cited above. To this end, the subrecipient shall be required to sign a written assurance form; however, the obligation of both recipient and subrecipient to ensure compliance is not relieved by the collection or submission of written assurance forms.

**Data Collection and Access to Records**

The Grantee agrees to compile and maintain information pertaining to programs or activities developed as a result of the Grantee's receipt of Federal assistance from the State. Such information shall include, but is not limited to the following: (1) the manner in which services are or will be provided and related data



Contractor Initials _____
Date June 27, 2023

necessary for determining whether any persons are or will be denied such services on the basis of prohibited discrimination; (2) the population eligible to be served by race, color, national origin, sex, age and disability; (3) data regarding covered employment including use or planned use of bilingual public contact employees serving beneficiaries of the program where necessary to permit effective participation by beneficiaries unable to speak or understand English; (4) the location of existing or proposed facilities connected with the program and related information adequate for determining whether the location has or will have the effect of unnecessarily denying access to any person on the basis of prohibited discrimination; and (5) the present or proposed membership by race, color, national origin, sex, age and disability in any planning or advisory body which is an integral part of the program.

The Grantee agrees to submit requested data to the State, the U.S. Department of Commerce or OMB regarding programs and activities developed by the Grantee from the use of IIJA funds extended by the State upon request. Facilities of the Grantee (including the physical plants, buildings, or other structures) and all records, books, accounts, and other sources of information pertinent to the Grantee's compliance with the civil rights laws shall be made available for inspection during normal business hours on request of an officer or employee of the State, the U.S. Department of Commerce or OMB specifically authorized to make such inspections.

This assurance is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts (excluding procurement contracts), property, discounts or other Federal assistance extended after the date hereof, to the Grantee by the State including installment payments on account after such data of application for Federal assistance which are approved before such date. The Grantee recognizes and agrees that such Federal assistance will be extended in reliance upon the representations and agreements made in this assurance, and that the United States shall have the right to seek judicial enforcement of this assurance. This assurance is binding on the Grantee, the successors, transferees, and assignees, as well as the person(s) whose signatures appear below and who are authorized to sign this assurance on behalf of the Grantee.

**Grantee Certification**

The Grantee certifies that it has complied, or that, within 90 days of the date of the grant, it will comply with all applicable requirements of 10 C.F.R. § 1040.5 (a copy will be furnished to the Grantee upon written request to the State).

| | |
|---|---|
| | Vice President and General Manager |
| Contractor Representative Signature | Contractor Representative Title |
| Mission Broadband, Inc. | June 27, 2023 |
| Contractor Name | Date |



Contractor Initials _____
Date June 27, 2023

**EXHIBIT J**

**CERTIFICATION REGARDING THE FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT (FFATA) COMPLIANCE**

The Federal Funding Accountability and Transparency Act (FFATA) requires grantees of individual Federal grants equal to or greater than $25,000 and awarded on or after October 1, 2010, to report on data related to executive compensation and associated first-tier sub-grants of $25,000 or more. If the initial award is below $25,000 but subsequent grant modifications result in a total award equal to or over $25,000, the award is subject to the FFATA reporting requirements, as of the date of the award.

In accordance with 2 CFR Part 170 (*Reporting Subaward and Executive Compensation Information*), the State must report the following information for any grant award subject to the FFATA reporting requirements:

1) Mission Broadband, Inc.
2) $1,965,000.00
3) Business & Economic Affairs (BEA)
4) NAICS code for contracts / CFDA program number for grants
5) NTIA Broadband Equity, Access & Deployment Program Initial Planning Funds Infrastructure Investment and Jobs Act of 2021
6) Broadband Equity, Access & Deployment Planning Grant Plan
7) New Hampshire
8) 145 Exchange Street. Suite 4,Bangor, ME 04401
9) SAM #
10) Total compensation and names of the top five executives if:
    a. More than 80% of annual gross revenues are from the Federal government, and those revenues are greater than $25M annually and
    b. Compensation information is not already available through reporting to the SEC.

Grantees (aka "Contractors") must submit FFATA required data by the end of the month, plus 30 days, in which the award or award amendment is made.

The Grantee identified in Section 1.3 of the General Provisions agrees to comply with the provisions of the Federal Funding Accountability and Transparency Act, Public Law 109-282 and Public Law 110-252, and 2 CFR Part 170 (*Reporting Subaward and Executive Compensation Information*), and further agrees to have one of the Grantee's representative(s), as identified in Sections 1.11 of the General Provisions execute the following Certification:

The below named Grantee agrees to provide needed information as outlined above to the State and to comply with all applicable provisions of the Federal Financial Accountability and Transparency Act.

| | |
|---|---|
| | Vice President and General Manager |
| Contractor Representative Signature | Contractor Representative Title |
| Mission Broadband, Inc. | June 27, 2023 |
| Contractor Name | Date |



Contractor Initials _____
Date June 27, 2023

**EXHIBIT J cont.**
**CERTIFICATION**

As the Grantee (aka "Campus" or "Contractor") identified in this Project Agreement, I certify that the responses to the below listed questions are true and accurate.

1. The SAM number for your entity is: CXG4U59LUDA9_____

2. In your business or organization's preceding completed fiscal year, did your business or organization receive (1) 80 percent or more of your annual gross revenue in U.S. federal contracts, subcontracts, loans, grants, sub-grants, and/or cooperative agreements; and (2) $25,000,000 or more in annual gross revenues from U.S. federal contracts, subcontracts, loans, grants, subgrants, and/or cooperative agreements?

__X__ NO _____YES

**If the answer to #2 above is NO, stop here**

**If the answer to #2 above is YES, please answer the following:**

3. Does the public have access to information about the compensation of the executives in your business or organization through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C.78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986?

_____NO _____YES

**If the answer to #3 above is YES, stop**

**If the answer to #3 above is NO, please answer the following:**

4. The names and compensation of the five most highly compensated officers in your business or organization are as follows:

Name _____ Amount: ____

Name _____ Amount: ____

Name _____ Amount: ____

Name _____ Amount: ____

Name _____ Amount: ____



Contractor Initials _____
Date June 27, 2023

**EXHIBIT K**

RFP # 2023-16 is incorporated here within.

**EXHIBIT L**

Contractor's proposal is incorporated here within.



Contractor Initials _____
Date June 27, 2023

# State of New Hampshire
# Department of State

CERTIFICATE

I, David M. Scanlan, Secretary of State of the State of New Hampshire, do hereby certify that MISSION BROADBAND, INC. is a Maine Profit Corporation registered to transact business in New Hampshire on June 23, 2023. I further certify that all fees and documents required by the Secretary of State's office have been received and is in good standing as far as this office is concerned.

Business ID: **935404**

Certificate Number : **0006253020**

IN TESTIMONY WHEREOF,

I hereto set my hand and cause to be affixed the Seal of the State of New Hampshire. this **26th** day of **June** A.D. **2023.**

David M. Scanlan

Secretary of State

mission broadband

# Certificate of Authority for Signatory

This Certificate of Authority for Signatory is made and entered into this 23rd day of June 2023 to certify that I, James E Rogers, Jr., am the president of Mission Broadband, Inc. with offices located at 145 Exchange St. Suite 4, Bangor, ME 04401. I hereby certify that John Dougherty, Vice President and General Manager of Mission Broadband, Inc. is an authorized signatory of MBI.

| | | | |
|---|---|---|---|
| Name: | James E Rogers, Jr. | Name: | John Dougherty |
| Title: | President | Title: | Vice President, General Manager |
| Signature: | | Signature: | |
| Date: | 6/23/2023 | Date: | 6/23/2023 |

Notary Public Acknowledgement

The foregoing authorization was acknowledged before this 23 day of June 2023, by James E. Rogers Jr. and John Dougherty, who have produced drivers license identification.

(Signature) (Seal)

Name: Barbara J. Dangler

Title: Notary Public Maine

Signature:

Date: June 23, 2023

Barbara J Dangler
Notary Public, State of Maine
My Commission Expires 10/10/~~2021~~ 2028

PROFINF-01 TPOMEROY

# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 6/21/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
United Insurance - Bangor
890 Hammond Street
Bangor, ME 04401

CONTACT NAME:
PHONE (A/C, No, Ext): (207) 385-2077 FAX (A/C, No): (207) 385-2078
E-MAIL ADDRESS:

| INSURER(S) AFFORDING COVERAGE | NAIC # |
|---|---|
| INSURER A : Acadia Insurance Company | 31325 |
| INSURER B : Maine Employers Mutual Insurance Co | 11149 |
| INSURER C : Underwriters at Lloyds | 32727 |
| INSURER D : | |
| INSURER E : | |
| INSURER F : | |

INSURED
Professional Information Networks DBA ProInfoNet & Healthconnect Networks & Mission Broadband, Inc.
145 Exchange Street; Suite 4
Bangor, ME 04401

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

| INSR LTR | TYPE OF INSURANCE | ADDL INSD | SUBR WVD | POLICY NUMBER | POLICY EFF (MM/DD/YYYY) | POLICY EXP (MM/DD/YYYY) | LIMITS | |
|---|---|---|---|---|---|---|---|---|
| A | X COMMERCIAL GENERAL LIABILITY | | | | | | | |
| | CLAIMS-MADE X OCCUR | | | ADV5326325-15 | 4/14/2023 | 4/14/2024 | EACH OCCURRENCE | $ 1,000,000 |
| | | | | | | | DAMAGE TO RENTED PREMISES (Ea occurrence) | $ 300,000 |
| | | | | | | | MED EXP (Any one person) | $ 10,000 |
| | | | | | | | PERSONAL & ADV INJURY | $ 1,000,000 |
| | GEN'L AGGREGATE LIMIT APPLIES PER: | | | | | | GENERAL AGGREGATE | $ 2,000,000 |
| | POLICY PRO-JECT LOC | | | | | | PRODUCTS - COMP/OP AGG | $ 2,000,000 |
| | OTHER: | | | | | | | $ |
| A | AUTOMOBILE LIABILITY | | | | | | COMBINED SINGLE LIMIT (Ea accident) | $ 1,000,000 |
| | X ANY AUTO | | | CAA5326326-15 | 4/14/2023 | 4/14/2024 | BODILY INJURY (Per person) | $ |
| | OWNED AUTOS ONLY / SCHEDULED AUTOS | | | | | | BODILY INJURY (Per accident) | $ |
| | HIRED AUTOS ONLY / NON-OWNED AUTOS ONLY | | | | | | PROPERTY DAMAGE (Per accident) | $ |
| | | | | | | | | $ |
| | UMBRELLA LIAB / OCCUR | | | | | | EACH OCCURRENCE | $ |
| | EXCESS LIAB / CLAIMS-MADE | | | | | | AGGREGATE | $ |
| | DED / RETENTION $ | | | | | | | $ |
| B | WORKERS COMPENSATION AND EMPLOYERS' LIABILITY | | | | | | PER STATUTE / OTH-ER | |
| | ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y/N | N/A | | 1810045051 | 1/5/2023 | 1/5/2024 | E.L. EACH ACCIDENT | $ 100,000 |
| | If yes, describe under DESCRIPTION OF OPERATIONS below | | | | | | E.L. DISEASE - EA EMPLOYEE | $ 100,000 |
| | | | | | | | E.L. DISEASE - POLICY LIMIT | $ 500,000 |
| C | Cyber Liability | | | W1E651230701 | 4/17/2023 | 4/17/2024 | Per Claim | 2,000,000 |
| C | Cyber Liability | | | W1E651230701 | 4/17/2023 | 4/17/2024 | Aggregate | 2,000,000 |

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER

State of New Hampshire, Department of Business and Economic Affairs
100 North Main Street, Suite 100
Concord, NH 03301

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE
Theresa Pomeroy


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TENEEMP-01 TPOMEROY

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PRODUCER
United Insurance - Bangor
890 Hammond Street
Bangor, ME 04401

CONTACT NAME:
PHONE (A/C, No, Ext): (207) 385-2077 FAX (A/C, No): (207) 385-2078
E-MAIL ADDRESS:

| INSURER(S) AFFORDING COVERAGE | NAIC # |
|---|---|
| INSURER A : MEMIC Indemnity Co | 11030 |
| INSURER B : | |
| INSURER C : | |
| INSURER D : | |
| INSURER E : | |
| INSURER F : | |

INSURED
Tenet Employment Group, Inc.
145 Exchange St. Suite 4
Bangor, ME 04401

**COVERAGES** **CERTIFICATE NUMBER:** **REVISION NUMBER:**

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| INSR LTR | TYPE OF INSURANCE | ADDL INSD | SUBR WVD | POLICY NUMBER | POLICY EFF (MM/DD/YYYY) | POLICY EXP (MM/DD/YYYY) | LIMITS | |
|---|---|---|---|---|---|---|---|---|
| | COMMERCIAL GENERAL LIABILITY | | | | | | EACH OCCURRENCE | $ |
| | CLAIMS-MADE OCCUR | | | | | | DAMAGE TO RENTED PREMISES (Ea occurrence) | $ |
| | | | | | | | MED EXP (Any one person) | $ |
| | | | | | | | PERSONAL & ADV INJURY | $ |
| | GEN'L AGGREGATE LIMIT APPLIES PER: | | | | | | GENERAL AGGREGATE | $ |
| | POLICY PRO-JECT LOC | | | | | | PRODUCTS - COMP/OP AGG | $ |
| | OTHER: | | | | | | | $ |
| | AUTOMOBILE LIABILITY | | | | | | COMBINED SINGLE LIMIT (Ea accident) | $ |
| | ANY AUTO | | | | | | BODILY INJURY (Per person) | $ |
| | OWNED AUTOS ONLY / SCHEDULED AUTOS | | | | | | BODILY INJURY (Per accident) | $ |
| | HIRED AUTOS ONLY / NON-OWNED AUTOS ONLY | | | | | | PROPERTY DAMAGE (Per accident) | $ |
| | | | | | | | | $ |
| | UMBRELLA LIAB / OCCUR | | | | | | EACH OCCURRENCE | $ |
| | EXCESS LIAB / CLAIMS-MADE | | | | | | AGGREGATE | $ |
| | DED / RETENTION $ | | | | | | | $ |
| A | WORKERS COMPENSATION AND EMPLOYERS' LIABILITY | | | | | | X PER STATUTE / OTH-ER | |
| | ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y / N (Mandatory in NH) | N / A | | 5101801405 | 10/24/2022 | 10/24/2023 | E.L. EACH ACCIDENT | $ 100,000 |
| | If yes, describe under DESCRIPTION OF OPERATIONS below | | | | | | E.L. DISEASE - EA EMPLOYEE | $ 100,000 |
| | | | | | | | E.L. DISEASE - POLICY LIMIT | $ 500,000 |

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