**MASSACHUSETTS TECHNOLOGY COLLABORATIVE**

**Last Mile Broadband Grant Agreement**

This GRANT AGREEMENT (the "Agreement") dated April 13, 2021 (the "Effective Date"), is between Massachusetts Technology Park Corporation, an independent public instrumentality of the Commonwealth of Massachusetts, established, organized, and existing pursuant to Chapter 40J of the Massachusetts General Laws and doing business as the Massachusetts Technology Collaborative, 75 North Drive, Westborough, MA 01581 ("Mass Tech Collaborative") that administers the Massachusetts Broadband Institute ("MBI") and related Massachusetts Broadband Incentive Fund (the proceeds of which, in whole or in part, are referred to in this Agreement as "MBI Funds"), and Fiber Connect LLC, a Massachusetts limited liability company, having a mailing address of 445 Main Street, P.O. Box 764, Monterey, MA 01245 (the "Provider"). Mass Tech Collaborative and the Provider is each referred to herein as a "Party" and all are referred to herein as the "Parties."

WHEREAS, the Provider currently owns and operates a fiber-to-the-premise network that utilizes Gigabit Passive Optical Network utilizing GPON, NG2PON and xPON technologies to provides broadband access to a portion of the residential premises in the Towns of Egremont ("Egremont Existing Network") and Monterey ("Monterey Existing Network"), areas of the Commonwealth that were previously designated by MBI to be unserved for access to broadband service;

WHEREAS, the Provider has submitted to MBI a response to MBI's Notice of Funding Availability No. 2018-MBI-01 ("NOFA") requesting funding to extend the Existing Networks to serve residential premises in the Towns of Egremont and Monterey (each a "Town" and collectively the "Towns") that do not currently have access to broadband service;

WHEREAS, the Mass Tech Collaborative has allocated the sums of One Million Seventy Thousand Dollars ($1,070,000) of MBI Funds for the Town of Egremont and One Million One Hundred Forty Thousand Dollars ($1,140,000) for the Town of Monterey (the "MBI Allocation(s)");

WHEREAS, the Selectboard of Egremont has requested that Town of Egremont's MBI Allocation be disbursed directly to the Provider to support the design and construction of an extension of the Egremont Existing Network by the Provider (referred to as the "Egremont Project"), as described in more detail herein, including a Project Plan and Schedule, set forth in Attachment 1A (hereinafter collectively referred to as the "Egremont Project Plan");

WHEREAS, the Selectboard of Monterey has requested that Town of Monterey's MBI Allocation be disbursed directly to the Provider to support the design and construction of an extension of the Monterey Existing Network by the Provider (referred to as the "Monterey Project"), as described in more detail herein, including a Project Plan and Schedule, set forth in Attachment 1B (hereinafter collectively referred to as the "Monterey Project Plan"); and

WHEREAS, the Provider and each Town are negotiating a Network Services Agreement that sets forth a comprehensive agreement for the maintenance and operation of the applicable Extended Network and the delivery of broadband service to subscribers in each Town.

NOW THEREFORE, pursuant to the terms and conditions of this Agreement, the Parties agree as follows:

## 1. Definitions

a) "Broadband Service" means high speed internet service that meet or exceeds 250 Mbps download speeds and 50 Mbps upload speeds.

b) "Egremont Extended Network" means the Egremont Existing Network as extended by the Provider pursuant to the Project Plan that results in Residential Premises in the Town becoming Serviceable in a manner that meets or exceeds the Coverage Requirements.

c) "Final Completion" means the date certified in writing by the Provider and the Town (as evidenced by execution of the Certifications in Attachment 2) that construction of its respective Project (e.g. the Egremont Project for the Town of Egremont and the Monterey Project for the Town of Monterey) has been completed and commissioned by the Provider and the Coverage Requirements (as referenced in Section 3) have been met or exceeded.

d) "Monterey Extended Network" means the Monterey Existing Network as extended by the Provider pursuant to the Project Plan that results in Residential Premises in the Town becoming Serviceable in a manner that meets or exceeds the Coverage Requirements.

e) "Network Services Agreement" means a comprehensive broadband services agreement between a Town and the Provider that includes, among other things: (i) a commitment by Provider to offer broadband service for a minimum term of ten (10) years to Residential Premises that are Serviceable which shall be binding on the Provider and successors in interest; (ii) all terms and conditions that are consistent with generally accepted good business practices or otherwise required pursuant to State procurement statutes and regulations; (iii) the technical requirements for the Project; (iv) broadband speeds, service levels, subscriber pricing and subscriber protections; and (v) installation procedures and charges; (vi) Provider obligations to operate and maintain the Network and (vi) ownership of Network assets.

f) "Public Right of Way" means the surface of, and the space above and below, any public street, highway, freeway, bridge, land path, alley, court, boulevard, sidewalk, way, lane, drive, circle, other public right-of-way, or public "way" as the term is defined under MGL c. 90, § 1, including, but not limited to, public utility easements, dedicated utility strips, or rights-of-way dedicated for compatible uses in the Town.

g) "Residential Premise" means a single unit or multiple unit building in the Town, whether occupied or vacant, used or intended to be used primarily for dwelling purposes. A property with multiple dwelling units shall be counted as one Residential Premise.

h) "Serviceable" means that a Residential Premise has access to Broadband Service, subject to the subscriber installation provisions in the Network Services Agreement.

i) "Customer Premise Equipment (CPE)" means the Owner Operator owned equipment installed at a Subscriber's location that connects the Subscriber edge to the Network.

2. **Term and Termination**

a) This Agreement shall commence on the Effective Date and shall terminate ten (10) years after later of the Final Completion dates. Notwithstanding the foregoing, the Mass Tech Collaborative's obligations under this Agreement shall not commence with regard to a particular Town's Project until such date as the Provider satisfies the following conditions: (1) execution of a Network Services Agreement with the Town's Selectboard; (2) execution of an amendment to this Agreement that describes the Coverage Requirements as approved by the Town's Selectboard; (3) compliance with the pre-subscription requirement in Section 3(a); and (4) submission to the Mass Tech Collaborative of insurance certificates evidencing compliance with the requirements of the insurance provisions in Section 12 and Attachment 3. For the avoidance of doubt, at such time as the Provider satisfies the requirements in this Section 2(a) for a Town, the Agreement will

be effective with regard to that Town and the Provider will be eligible to receive milestone grant payments pursuant to Section 4(d) subject to the other requirements in this Agreement.

b) The Mass Tech Collaborative or Provider may terminate this Agreement upon thirty (30) days written notice for a material breach ("Material Breach Notice") of this Agreement if the material is not cured within thirty (30) days of breaching party's actual receipt of the Material Breach Notice. Any Material Breach Notice provided to a breaching party must include a detailed summary of the material breach and offer an opportunity for the breaching party to cure the breach within thirty (30) days of actual receipt of the Material Breach Notice. Any dispute, claim or controversy relative to a Notice of Material breach, a material breach alleged thereunder, or the cure of a material breach ("Dispute") shall be resolved by first attempting to resolve the dispute through informal means. If a Dispute cannot be resolved informally within thirty (30) days of the Material Breach Notice, the Dispute shall first be the subject of non-binding mediation conducted by a mediator approved by both parties from Judicial Arbitration and Mediation Service, Inc. ("JAMS"). Any mediator selected pursuant to this section shall be chosen as follows: The JAMS Administrator shall submit to the parties a list of five (5) proposed mediators who have substantial experience in disputes analogous to the Dispute. Each party to the Dispute shall have the right to strike one (1) name for the list, and the remaining names shall be ranked in order by each of the parties to the Dispute. The JAMS Administrator shall then select from the remaining persons on the list, the mediator who is ranked highest by the parties to the Dispute. Should mediation be unsuccessful in resolving the Dispute the Parties may mutually agree to submit the Dispute to an arbitrator pursuant to a process that is mutually agreed to in writing by the Parties.

c) In the event of loss of availability of sufficient funds from the Commonwealth of Massachusetts for the purposes of this Agreement, Mass Tech Collaborative shall give written notice to Provider of same within thirty (30) days of Mass Tech Collaborative becoming aware of the insufficient funding. Upon receipt of written notice of insufficient funding from Mass Tech Collaborative, Provider shall have the right to stop work in connection with the specific Project(s) identified in said notice; provided that Provider shall remain obligated to fulfill the requirements in Section 3(c) for the Extended Network as constructed at the time of said notice if the Provider has received Grant Milestone Payment #2. Subject to Section 2(b) above, upon termination of this Agreement, the Mass Tech Collaborative's obligation to make grant payments to the Provider shall cease and the Provider shall be ineligible to receive any remaining milestone grant payments for either Project; provided that, in the case of a termination based on the loss of available funding or a change in the law as referenced in Section 2(b) above, the Provider will be entitled to payment for work undertaken and materials purchased or contracted for in such work up to and including the date on which the Provider is notified of such termination, subject to the requirement that the Provider take all reasonable steps to mitigate the amount on any such claim.

**3. Performance of the Work and Coverage and Service Requirements**

a) The Provider shall submit an affidavit certification to the Mass Tech Collaborative, stating under the pains and penalties of perjury that the Provider has solicited pre-subscriptions for broadband service and has received presubscription commitments from fifty one percent (51%) or more of all potential subscribers in each Town whose premises are passed by the Existing Network or will be passed by the Extended Network in the Town; provided that the Provider may include existing broadband service subscribers toward satisfaction of this requirement and potential subscribers that make a deposit of not less than Fifty Dollars ($50). For the avoidance of doubt, the pre-subscription requirement must be satisfied separately in each Town. If Mass Tech Collaborative disputes the

affidavit elsewhere described in this Section 3(a), it shall be entitled to hire an auditor at its sole cost and expense, consistent with Sections 14 and 15, in order to confirm the accuracy of the Provider's affidavit.

b) The Provider shall complete each Project in accordance with the terms of this Agreement and the applicable Project Plan appended as Attachment 1. The Provider agrees that each Project shall result in the availability of Broadband Service to not less than ninety six percent (96%) of the Residential Premises in each Town. The Provider and each Town's Selectboard shall mutually agree on (i) the number and location of Residential Premises that are passed by the Existing Network in the Town as of the Effective Date; (ii) the number and location of additional Residential Premises that will be passed and become Serviceable in the Town as a result of the applicable Project ("Additional Residential Premises"); and (iii) the total number and percentage of Residential Premises in the Town that will be passed and will be Serviceable upon achieving Final Completion (collectively referred to as the "Coverage Requirements"). This Agreement shall be amended by adding an Attachment 4 that describes the Coverage Requirements for each Project at such time as these requirements are finalized in writing by the Provider and the Town's Selectboard.

c) For a minimum period of ten (10) years from the date of Final Completion of each Project, Provider shall operate and maintain the applicable Extended Network consistent with appropriate industry standards and offer Broadband Service to Residential Premises that are Serviceable in compliance with the terms of the applicable Network Services Agreement.

4. **Grant and Payment Terms**

a) In consideration of Grantee's agreement to complete the Egremont Project and the Monterey Project as outlined herein, Mass Tech shall pay to Grantee according to the payment schedule in Section 4(d) and subject to the requirements contained herein: (i) a Grant amount of One Million Seventy Thousand Dollars ($1,070,000) for the Egremont Project; and (ii) a Grant amount of One Million One Hundred Forty Thousand Dollars ($1,140,000) for the Monterey Project (collectively the "Grant"). Grantee is responsible for all other costs necessary to complete the Egremont Project and the Monterey Project and to fulfill its other obligations under the Agreement. In executing this Agreement, the Provider acknowledges and agrees that the Provider's receipt of the Grant does not create any rights of preference for the Provider to receive subsequent funding from the Mass Tech Collaborative for either Project or for any other purpose.

b) Costs incurred prior to the Effective Date of this Agreement and costs not associated with making the Additional Premises Serviceable are not reimbursable under the Grant.

c) Mass Tech Collaborative shall pay Grant Funds to Grantee within thirty (30) days of receipt of a request for a Grant Milestone Payment accompanied by a certification(s) utilizing the Forms of Certification in Attachment 2; a Project Status Report (for Grant Milestone #1 or #2) or a Final Report (for Grant Milestone #3); and appropriate supporting documentation. Each request for a Grant Milestone Payment, including the Project Status Report, Final Report, certification(s) and supporting documentation is subject to the Mass Tech Collaborative' s review and approval. The requirements for the Project Status Report, Final Report and supporting documentation are specified in Attachment 5. Mass Tech Collaborative shall provide written notice within fifteen (15) business days of any disputed, missing or nonconforming documentation associated with a request for a Grant Milestone Payment. If a Town's Selectboard does not (i) respond to a request by the Provider to approve the certification for Milestone #2 or Milestone #3, as applicable, within thirty (30) days, or (ii) contests the accuracy of said certification, Mass Tech Collaborative shall conduct an independent analysis, which may include a field investigation and ride out, to determine and verify the accuracy of the certification. The Provider shall fully

cooperate with the Mass Tech Collaborative on the independent analysis and verification process, including participation in a joint ride out, as requested by the Mass Tech Collaborative. In such instance, Mass Tech Collaborative's verification of the accuracy of the certification shall satisfy the requirement for certification by the Town's Selectboard.

d) Mass Tech shall disburse the Grant Milestone payments to Grantee as specified below, upon satisfaction of the grant disbursement requirements specified below:

| Grant Milestone | Disbursement Requirement | Percentage of Grant Amount Due | Payment Amount – Egremont Project | Payment Amount – Monterey Project |
|---|---|---|---|---|
| Milestone Payment #1 | Submission of all necessary pole and conduit applications and payment of make-ready estimates needed for the Project. Requires certification by Fiber Connect. Status Report also due with milestone payment request. | 25% of Grant Allocation For Each Town | $267,500 | $285,000 |
| Milestone Payment #2 – 50% of homes to be passed by network extension are serviceable. Requires certification by Fiber Connect and Town Selectboard and appropriate supporting documentation. | 50% of homes to be passed by extension of Existing Network are serviceable. Requires certification by Fiber Connect and Town Selectboard. Status Report also due with milestone payment request. | 25% of Grant Allocation For Each Town | $267,500 | $285,000 |
| Milestone Payment #3 | Construction of extension of Existing Network is complete and is fully operational. Requires certification by Fiber Connect and Town Selectboard. Final Report also due with Milestone request. | 50% of Grant Allocation For Each Town | $535,000 | $570,000 |

e) Provider shall be eligible for Milestone Payments irrespective of the order in which the Grant Milestones are achieved. For the avoidance of doubt, Provider shall be eligible to earn to all three Grant Milestone Payments for the Egremont Project even if Provider has

yet to earn a single Grant Milestone Payment under the Monterey Project. Similarly, Provider shall be eligible to earn to all three Grant Milestone Payments for the Monterey Project even if Provider has yet to earn a single Grant Milestone Payment under the Egremont Project.

f) If any representation or certification made by the Provider in connection with this Agreement shall prove to be materially false or materially inaccurate at the time made, the Mass Tech Collaborative may, in its sole discretion:

1. Terminate the Agreement; and/or
2. Take any other action the Mass Tech Collaborative determines to be necessary including, without limitation, exercising any right or remedy available herein or at law.

**5. Provider Responsibility and Acknowledgements**

a) The Provider acknowledges and affirms that:

1. The Provider is solely responsible for all Project decisions, the preparation of all plans and specifications for each Project and for completing all aspects of each Project.
2. The Provider shall be financially responsible for all costs of each Project.
3. Subject to the terms of Section 2(c) above, the Provider has not requested and is not relying on advice of or information or assistance from the Mass Tech Collaborative in its decision to proceed with the Project, and agrees to assume all legal, financial and other risks attendant thereto.

b) The Provider covenants and warrants that from the Effective Date through the later of the Final Completion dates, Provider shall not undertake any additional work involving design, make ready or construction activities other than the existing projects in the Towns of Great Barrington and New Marlborough.

c) The Provider shall offer eligible low income subscribers in each Town a fifty percent (50%) discount on standard installation charges and monthly services charges pursuant to such terms and procedures, such as eligibility criteria and verification, as shall be agreed to by the Provider and the Town in the Network Services Agreement.

**6. Security Agreement and Lien**

a) The Provider shall grant to each Town a first priority security interest in all existing and after acquired and after-acquired tangible and intangible assets that specifically and exclusively relate to and are required for ongoing operation of each Town's Extended Network, which shall include, but are not limited to, all physical network infrastructure, cable plant, pole licenses, intangible assets, Customer Premise Equipment (CPE), and head-end/routing equipment located in such Town; other equipment wherever located that specifically and exclusively relates to or is required for ongoing operation of such Town network; documentation and records relating to such Town network operations such as schematics, maps, operations documents and manuals, customer records and account information as pertains to such Town subscribers, agreements with upstream providers to the extent the same are assignable; and any other assets and materials that are reasonably required to effect transfer and facilitation of ongoing network operations in each Town (the "Monterey Security Interest" or the "Egremont Security Interest" as the case may be or the context dictates). The applicable security interest shall be released upon the earlier of: (i) the termination of this agreement as allowed for elsewhere in this Agreement by either party, or (ii) ten (10) years from the Effective Date.

b) Nothing contained in this Agreement of the security interests contemplated hereunder shall prevent the Provider from using the proceeds from Milestone Payments or other accounts receivable for general and/or ordinary business purposes.

c) Provider shall furnish to the Mass Tech Collaborative no later than sixty (60) days after execution of this Agreement: (i) date-stamped copies of UCC financing statements filed with the Secretary of the Commonwealth of Massachusetts to perfect such security interest; (ii) the Security Agreement between the Provider and each Town; and (iii) certifications executed by Provider and any assignee of Provider that all collateral was, at the time the foregoing security interests were perfected, free and clear of any lien or encumbrance superior in right to the security interests granted to each Town.

d) In the event the Provider makes an assignment of the Network Services Agreement after the delivery of such documents, the Provider shall, within sixty (60) days after such assignment, furnish the Mass Technology Collaborative with copies of items as described in paragraphs (i) through (iii) above in respect of the assignee.

e) The Provider shall diligently and promptly file continuation statements for each UCC financing statement required hereunder so as to maintain the perfection and priority thereof until all obligations of the Provider under this Grant Agreement are satisfied. The Provider shall promptly furnish to the Mass Technology Collaborative date-stamped copies thereof.

f) The term "Property," as used in the Security Agreement and UCC filing, shall mean the assets described in section 6(a), now or hereafter located in the Town as part of the Extended Network or as support to the Extended Network as more particularly described herein, together with all rights now or hereafter existing, belonging, pertaining or appurtenant thereto, to the full extent the same are assignable by the Provider.

g) Other than replacement of equipment or other actions taken in the ordinary course of business, Provider shall not effect, cause, or implement any disposition of Property (as defined in section 6(f)) that shall materially impair or diminish the Town's rights and security interest therein, including but not limited to transfer, sale, assignment, lease, license or other disposition of any part of the Property, and Provider shall not grant or permit any other claim, lien, security interest, or other encumbrance to be created in or on the Property, nor take any action that would change the nature of the Property or its availability to the Town as the secured party without the Town's prior written approval, which Town has agreed in a separate agreement with Provider shall not be unreasonably withheld or delayed.

**7. Program Evaluation**

The Provider agrees to support the Mass Tech Collaborative program evaluation activities, and the Mass Tech Collaborative's goal to disseminate information regarding the Provider's experiences.

**8. Access and Use**

The Provider agrees to license or otherwise make available to the Mass Tech Collaborative in perpetuity, without charge, all written, graphic or digital materials and deliverables in connection with the Project that are submitted to the Mass Tech Collaborative. For the avoidance of doubt, this section shall not apply to any materials provided pursuant to the Mass Tech Collaborative's audit rights in Section 15.

**9. Assignment**

a) The Provider shall not assign or in any way transfer, in whole or in part, any interest in this Agreement or any obligations thereunder without the prior written consent of the Mass Tech Collaborative and the impacted Towns, which shall not be unreasonably withheld or

delayed. Any attempted assignment that does not comply with the terms of this Section shall be null and void and the Provider shall remain fully liable for and shall not be relieved from the full performance of its obligations under this Agreement.

b) The Parties intend that this Agreement shall be binding on the Parties and their successors and permitted assigns.

10. **Sale, Transfer or Merger**

The Provider shall not execute a merger, sale, or transfer of the Provider's assets and interest in the Egremont Network and/or the Monterey Network without the prior written consent of the Mass Tech Collaborative and the impacted Town(s), who shall have the right to reject the proposed sale, merger or transfer if in the sole judgment of the Mass Tech Collaborative and/or the impacted Town(s) the proposed successor entity fails to demonstrate reasonable technical, business, and financial qualifications at least equal to those of the Provider. The Provider irrevocably agrees that any successor entity, if allowed by the Mass Tech Collaborative and the impacted Town(s), shall be bound by same terms as contained in this Agreement and any amendments hereto.

11. **Nondiscrimination**

The Provider agrees to comply with all applicable Federal and State statutes, rules and regulations promoting fair employment practices or prohibiting employment discrimination and unfair labor practices and shall not discriminate in the hiring of any applicant for employment nor shall any qualified employee be demoted, discharged or otherwise subject to discrimination in the tenure, position, promotional opportunities, wages benefits or terms and conditions of their employment because of race, color, national origin, ancestry, age, sex, religion, disability, handicap, sexual orientation, gender identity or for exercising any rights afforded by law.

**12. Insurance**

The Provider shall obtain and maintain appropriate insurance coverage for its activities under this Agreement that complies with the requirements in Attachment 3.

13. **Indemnification**

a) To the fullest extent permitted by law, the Provider shall indemnify and hold harmless the Commonwealth, the Mass Tech Collaborative, and each of their respective agents, officers, directors and employees (together with the Commonwealth and the Mass Tech Collaborative, 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 the Provider under this Agreement, or (ii) any negligent acts or omissions or reckless misconduct of the Provider. Without limiting the foregoing, the Provider 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 Provider or any of its agents, officers, directors, employees or subcontractors. The foregoing notwithstanding, the Provider 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 Mass Tech Collaborative, and (ii) except for liability for death or personal injury caused by the negligence or willful misconduct of the Provider or for claims of infringement of a third party's intellectual property by the Provider, the aggregate liability of the Provider under this Agreement shall not exceed the greater of the amount of the Grant or the amount recovered under any applicable insurance coverage.

b) In no event shall either party be liable for any indirect, incidental, exemplary, special or consequential damages whatsoever (including but not limited to lost profits or interruption of business) arising out of or related to the Provider's performance of the Project under this Agreement.

c) Furthermore, as a condition of receipt of any award, the Provider does hereby release, remise, discharge, indemnify and hold harmless the Mass Tech Collaborative (defined for purposes of this Section 13 to include the Mass Tech Collaborative 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.

## 14. Public Records

As a public entity, the Mass Tech Collaborative is subject to the Massachusetts Public Records Law (set forth at Massachusetts General Laws Chapter 66) and thus documents and other materials made or received by the Mass Tech Collaborative and/or its employees are subject to public disclosure. All information received by the Mass Tech Collaborative shall be deemed to be subject to public disclosure, except as otherwise provided herein. If the Provider wishes to have the Mass Tech Collaborative treat certain information or documentation as confidential, the Provider must submit a written request to the Mass Tech Collaborative General Counsel that precisely identifies the information and/or documentation that is the subject of the request along with a detailed explanation supporting the application of the statutory exemption(s) from the Public Records Law cited by the Provider. The Mass Tech Collaborative General Counsel will issue a written determination within a reasonable period of time upon receipt of the written request. By signing this Agreement, the Provider acknowledges, understands and agrees that the procedures set forth herein are applicable to any documents submitted by the Provider to the Mass Tech Collaborative and that the Provider shall be bound by these procedures and the determination of the Mass Tech Collaborative General Counsel. Notwithstanding the forgoing, Provider will give notice to Mass Tech Collaborative in advance of submitting any information which Provider believes to be proprietary in nature. If Provider indicates that information requested by Mass Tech Collaborative is proprietary in nature, Mass Tech Collaborative will make best efforts to request replacement information which is not proprietary. If Mass Tech Collaborative requires that proprietary information be submitted by Provider, the parties will work to reach a written understanding regarding how to protect Provider's proprietary information from dissemination to the public before Provider submits said information.

## 15. Audit

The Mass Tech Collaborative will have the right to audit the Provider's or its other agents' records to confirm the 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 Provider shall refund to the Mass Tech Collaborative the amount determined by such audit within thirty (30) days of Provider's receipt of such audit and demand. The Provider 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. The Mass Tech Collaborative 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 Provider which pertain to the provisions and requirements of this Grant. Such access may include on-site audits, review and copying of records. In the event that the Mass Tech Collaborative's audit requires the review of Provider's proprietary information, such information shall be reviewed by a third party firm selected by the Mass Tech Collaborative. Any dispute between the parties which arises as a result of a paid Grant Milestone under Section 4 or an affidavit of Provider under Section 3(a) ("Audit Dispute") shall be resolved by first attempting to resolve the dispute through informal means. If an Audit Dispute cannot be resolved informally within thirty (30) days of notice thereof, the Audit Dispute shall first be the subject of non-binding mediation conducted by a mediator approved by both parties from Judicial Arbitration and Mediation Service, Inc. ("JAMS"). Any mediator selected pursuant to this section shall be chosen as follows: The JAMS Administrator shall submit to the parties a list of five (5) proposed mediators who have substantial experience in disputes analogous to the Audit Dispute. Each party to the Audit Dispute shall have the right to strike one (1) name for the list, and the remaining names shall be ranked in order by each of the parties to the Audit Dispute. The JAMS Administrator shall then select from the remaining persons on the list, the mediator who is ranked highest by the parties to the Audit Dispute. Should mediation be unsuccessful in resolving the Audit Dispute the Parties may mutually agree to submit the Audit Dispute to an arbitrator pursuant to a process that is mutually agreed to in writing by the Parties.

16. **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. The Provider agrees to bring any Federal or State legal proceedings arising under this Grant in which the Commonwealth or the Mass Tech Collaborative 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.

17. **Force Majeure**

Neither party 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 of this Agreement 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.

18. **Waivers**

Conditions, covenants, duties and obligations contained in this Agreement 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.

19. **Notice**

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

Massachusetts Technology Collaborative
75 North Drive
Westborough, MA 01581
(508) 870-0312 (phone)
(508) 898-2275 (fax)
Attn: Michael Baldino, MBI Director and General Counsel

All communications to the Provider regarding legal issues shall be mailed or delivered to the following address, or sent by facsimile to the following number. Telephone and email address are provided for convenience only:

If to Provider:

Fiber Connect, LLC.
PO Box 764
12 Buckingham Lane
Monterey, MA 01245
413.429.4109
adam@bfcma.com

With a copy to:

Steven J. Schwartz, Esq.
Shatz, Schwartz, and Fentin, P.C.
1441 Main Street, Suite 110
Springfield, MA 01103
413.737.1131
sschwartz@ssfpc.com

Any notice shall be deemed delivered and received when submitted in writing in person or when delivered by any other appropriate method evidencing actual receipt by the Mass Tech Collaborative.

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

MBI acknowledges receipt of the agreements between Provider and towns of Monterey and Egremont for "BROADBAND FIBER NETWORK CONSTRUCTION AND OPERATION SERVICES AGREEMENT". All conditions, covenants, duties and obligations contained in the Agreement may be amended only through a written amendment signed by the Provider and the Mass Tech Collaborative unless otherwise specified in this Agreement. The Parties understand and agree that this Agreement contains the entire agreement of the Parties with respect to MBI Funds and the Project. 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 both Parties.

The following are attached and incorporated into this Agreement:

i. Attachment 1A – Project Plan and Schedule for Egremont Project
ii. Attachment 1B – Project Plan and Schedule for Monterey Project
iii. Attachment 2 – Forms of Certification of Compliance
iv. Attachment 3 - Insurance Requirements

v. Attachment 4A – Coverage Requirements for Egremont
vi. Attachment 4B – Coverage Requirements for Monterey
vii. Attachment 5 – Project Status Report, Final Report and Supporting Documentation Requirements

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

By: _____ Digitally signed by Carolyn A. Kirk DN: cn=Carolyn A. Kirk, o=Massachusetts Technology Collaborative, ou, email=kirk@masstech.org, c=US Date: 2021.04.14 11:50:34 -04'00'

Name: Carolyn A. Kirk

Title: Executive Director

Date: April 14, 2021

**Fiber Connect LLC**

By: _____

Name: Adam Chait

Title: CEO

Date: April 13, 2021

## Attachment 1A

## Project Plan and Schedule – Town of Egremont Project

Egremont Project Plan:

Upon signing agreements Fiber Connect will officially start the final phase of the construction process to complete the fiber network throughout the remainder of town.

- All necessary pole applications for the extension of the existing network have been submitted to National Grid and Verizon.
- Once applications are submitted and paid for, Fiber Connect is experiencing a typical turnaround time of 3 months to receive a Make Ready estimate from both National Grid and Verizon. This portion of the Make Ready process is out of Fiber Connect's control.
- Once Fiber Connect receives Make Ready estimates from National Grid and Verizon, Fiber Connect will review the estimates within 10 business days of receipt. If there are no issues identified by Fiber Connect with the Make Ready Estimates, invoice payments will be made by Fiber Connect to the utility within 10 business days of acceptance. If there are questions related to a particular Make Ready estimate Fiber Connect will compile evidence of concerns on a per application basis within 15 business days to submit back to the utilities. Fiber Connect will take no more than 18 months from initial receipt to resolve concerns about any contested Make Ready estimate. Resolution shall consist of (1) payment of the final Make Ready estimate amount based on negotiations between Fiber Connect and the utility; and/or (2) finalization of alternative construction approaches/routes/pathways, including any acquisition of any necessary permits, grants of location, easement rights or regulatory approvals.
- Upon completion of negotiations on any contested Make Ready estimates Fiber Connect will submit Make Ready invoice payments within 10 business days unless an appropriate alternative is finalized. In parallel with negotiations, Fiber Connect will work with the town to design and receive permissions for alternative route(s) / pathways.
- For the avoidance of doubt, Fiber Connect reiterates that it has no control over the preparation of Make Ready estimates or the performance of Make Ready and the issuance of pole licenses by the utilities. Furthermore, Fiber Connect represents that the utilities often do not provide Fiber Connect with detailed schedule information regarding Make Ready progress and completion estimates.
- Once pole licenses are issued from both pole owners for a pole application Fiber Connect will start construction within 3 months.
- Once construction starts Fiber Connect will complete the construction, splicing, testing, and have the distribution fiber lit and ready for service within 6 months.

Fiber Connect has submitted pole application sets in smaller groups that follow geographical logic so areas may be started and lit as they become available.

## Attachment 1B

**Project Plan and Schedule – Town of Monterey Project**

Monterey Project Plan:

Upon signing agreements Fiber Connect will officially start the final phase of the construction process to complete the fiber network throughout the remainder of town.

- All necessary pole applications for the extension of the existing network have been submitted to National Grid and Verizon.
- Once applications are submitted and paid for, Fiber Connect is experiencing a typical turnaround time of 3 months to receive a Make Ready estimate from both National Grid and Verizon. This portion of the Make Ready process is out of Fiber Connect's control.
- Once Fiber Connect receives Make Ready estimates from National Grid and Verizon, Fiber Connect will review the estimates within 10 business days of receipt. If there are no issues identified by Fiber Connect with the Make Ready Estimates, invoice payments will be made by Fiber Connect to the utility within 10 business days of acceptance. If there are questions related to a particular Make Ready estimate Fiber Connect will compile evidence of concerns on a per application basis within 15 business days to submit back to the utilities. Fiber Connect will take no more than 18 months from initial receipt to resolve concerns about any contested Make Ready estimate. Resolution shall consist of (1) payment of the final Make Ready estimate amount based on negotiations between Fiber Connect and the utility; and/or (2) finalization of alternative construction approaches/routes/pathways, including any acquisition of any necessary permits, grants of location, easement rights or regulatory approvals.
- Upon completion of negotiations on any contested Make Ready estimates Fiber Connect will submit Make Ready invoice payments within 10 business days unless an appropriate alternative is finalized. In parallel with negotiations, Fiber Connect will work with the town to design and receive permissions for alternative route(s) / pathways.
- For the avoidance of doubt, Fiber Connect reiterates that it has no control over the preparation of Make Ready estimates or the performance of Make Ready and the issuance of pole licenses by the utilities. Furthermore, Fiber Connect represents that the utilities often do not provide Fiber Connect with detailed schedule information regarding Make Ready progress and completion estimates.
- Once pole licenses are issued from both pole owners for a pole application Fiber Connect will start construction within 3 months.
- Once construction starts Fiber Connect will complete the construction, splicing, testing, and have the distribution fiber lit and ready for service within 6 months.

Fiber Connect has submitted pole application sets in smaller groups that follow geographical logic so areas may be started and lit as they become available.

## Attachment 2

## Forms of Certification of Compliance

**Grant Payment Request and Certification for Milestone 1 - Grant Agreement Relative to Broadband Service for the Town of _____ ("Grant Agreement")**

| | |
|---|---|
| **Name of Project:** | _____ |
| **Milestone # :** | _____ |
| **Amount of Funds Requested:** | _____ |

**Fiber Connect Certification**

I, _____, hereby certify that (1) Fiber Connect has submitted all pole and conduit applications necessary to complete the Project and has paid all make-ready estimates associated with said applications; (2) all of the Information in this grant payment request and the attached project status report, including the supporting documentation, is complete, true and accurate; (3) since the Effective Date of the Grant Agreement, Fiber Connect has been and remains in full compliance, subject to any prior breach which has been disclosed and cured, with the terms and conditions of said Grant Agreement and the Network Services Agreement between the Town and Fiber Connect to the best of my knowledge; (4) there is no pending or contemplated litigation or arbitration between Fiber Connect and the Town to the best of my knowledge; and (5) there is no material unresolved dispute between Fiber Connect and the Town to the best of my knowledge.

_____

**Authorized Signature** (Chief Executive Officer)

**Name:** _____ **Date:** _____

**Grant Payment Request and Certification for Milestone 2 - Grant Agreement Relative to Broadband Service for the Town of _____ ("Grant Agreement")**

| | |
|---|---|
| **Name of Project:** | _____ |
| **Milestone # :** | _____ |
| **Amount of Funds Requested:** | _____ |

**Fiber Connect Certification**

I, _____, hereby certify that (1) Fiber Connect has achieved coverage in the Town of _____ ("Town") that has resulted in not less than fifty percent (50%) of the Additional Residential Premises being currently Serviceable ([X#] of Additional Residential Premises are currently Serviceable out of a total of [X#] of Additional Residential Premises in the Town); (2) all of the Information in this grant payment request and the attached project status report, including the supporting documentation, is complete, true and accurate; (3) since the Effective Date of the Grant Agreement, Fiber Connect has been and remains in full compliance, subject to any prior breach which has been disclosed and cured, with the terms and conditions of said Grant Agreement and the Network Services Agreement between the Town and Fiber Connect to the best of my knowledge; (4) there is no pending or contemplated litigation or arbitration between Fiber Connect and the Town to the best of my knowledge; and (5) there is no material unresolved dispute between Fiber Connect and the Town to the best of my knowledge.

_____

**Authorized Signature** (Chief Executive Officer)

**Name:** _____ **Date:** _____

**Town Certification**

**Each of the undersigned members of the Selectboard certifies that the foregoing statements are complete, true and correct to the best of his or her knowledge.**

**Town of _____, Massachusetts**

By:_____

Name:_____

Title:_____

Date: _____

**Town of _____, Massachusetts**

By:_____

Name:_____

Title:_____

Date: _____

**Town of _____, Massachusetts**

By:_____

Name:_____

Title:_____

Date: _____

**Grant Payment Request and Certification for Milestone 3 - Grant Agreement Dated Relative to Broadband Service for the Town of _____ ("Grant Agreement")**

| | |
|---|---|
| **Name of Project:** | _____ |
| **Milestone # :** | _____ |
| **Amount of Funds Requested:** | _____ |

**Fiber Connect Certification**

I, _____, hereby certify that (1) Fiber Connect has achieved Final Completion as defined in Section 1(c) of the Grant Agreement on [insert date final completion obtained], which has resulted in [X#] of Residential Premises becoming Serviceable out of a total of [X#] of Residential Premises in the Town; which has resulted in coverage of [X] % of Residential Premises, thereby meeting or exceeding the minimum requirements in the Grant Agreement, as confirmed by the field survey jointly conducted by Fiber Connect and the Town (list of Residential Premises passed by Extended Network is attached as an exhibit to this certification); (2) all of the Information in this grant payment request and the attached project status report, including the supporting documentation, is complete, true and accurate; (3) since the Effective Date of the Grant Agreement, Fiber Connect has been and remains in full compliance, subject to any prior breach which has been disclosed and cured, with the terms and conditions of said Grant Agreement and the Network Services Agreement between the Town and Fiber Connect to the best of my knowledge; 4) there is no pending or contemplated litigation or arbitration between Fiber Connect and the Town to the best of my knowledge; and (5) there is no material unresolved dispute between Fiber Connect and the Town to the best of my knowledge.

_____

**Authorized Signature** (Chief Executive Officer)

**Name:** _____ **Date:** _____

**Town Certification**

**Each of the undersigned members of the Selectboard certifies that the foregoing statements are complete, true and correct to the best of his or her knowledge.**

**Town of _____, Massachusetts**

By:_____

Name:_____

Title:_____

Date: _____

**Town of _____, Massachusetts**

By:_____

Name:_____

Title:_____

Date: _____

**Town of _____, Massachusetts**

By:_____

Name:_____

Title:_____

Date: _____

## Attachment 3

### Insurance Requirements

1. Provider is responsible for procuring and maintaining from insurance companies authorized to do business in the Commonwealth of Massachusetts the following insurance coverages:
    a. Workers' Compensation Insurance in accordance with General Laws Chapter 152, and shall include Employers Liability Limits of not less than $500,000 per occurrence for bodily injury; $500,000 per employee for bodily injury by disease; and $500,000 aggregate for bodily injury by disease (or higher if required to satisfy the Excess/Umbrella limits of coverage). The policy shall be endorsed to waive the insurer's rights of subrogation against the Mass Tech Collaborative.
    b. Commercial General Liability Insurance (including Premises/Operations; Products / Completed Operations; Contractual; Independent Contractors; Broad Form Property Damage; and Personal Injury) with a minimum limit of $1,000,000 per occurrence, $2,000,000 aggregate. Provider shall maintain such insurance in full force and effect for a minimum period of three years after final payment of amounts earned under this Agreement and shall continue to provide evidence of such coverage to the Mass Tech Collaborative. The policy shall be endorsed to waive the insurer's rights of subrogation against the Mass Tech Collaborative.
    c. Comprehensive Automobile Liability Insurance (including owned, non-owned and hired vehicles) at limits of not less than:
        i. $ 1,000,000 Each Person for Bodily Injury;
        ii. $ 1,000,000 Each Accident for Bodily Injury; and
        iii. $ 1,000,000 Each Accident for Property Damage.
    d. Umbrella or Excess Liability coverage with $5,000,000 per occurrence and aggregate specific to this Project. Such policy shall provide excess coverage over the underlying Commercial General Liability, Comprehensive Auto and Employers Liability limits and shall be on a "follow-form" basis.
2. Provider shall obtain property insurance on the physical assets of the Extended Network.
3. All policies shall be issued by companies lawfully authorized to write that type of insurance under the laws of the Commonwealth of Massachusetts with a financial strength rating of "A" or better as assigned by A.M. Best Company, or an equivalent rating assigned by a similar rating agency acceptable to the Mass Tech Collaborative. The Mass Tech Collaborative shall be added as an additional insured on a primary, non-contributory basis on all policies except for Workers' Compensation and shall provide the Mass Tech Collaborative with evidence of such status.
4. Before commencing work on the Project, Provider shall submit to the Mass Tech Collaborative original certificates of insurance evidencing the coverage required hereunder. Certificates shall show each type of insurance, insurance company, policy number, amount of insurance, deductibles/self-insured retentions, and policy effective and expiration dates. Provider shall submit updated certificates to the Mass Tech Collaborative prior to the expiration of any of the policies referenced in the certificates so that the Mass Tech Collaborative shall at all times possess certificates indicating current coverage. Upon request, Provider shall also furnish to the Mass Tech Collaborative a complete copy of any policy required hereunder. Failure by Provider to obtain and maintain the insurance required herein, to obtain all policy renewals, or to provide the respective insurance certificates as required shall constitute a material breach of the Agreement.

5. Provider shall provide the Mass Tech Collaborative with a copy of any notice it receives of cancellation, material change or non-renewal of the coverage within 10 calendar days after receipt of such a notice. No such cancellation or material modification shall affect Provider's obligation to maintain the insurance coverages required by the Agreement. All liability insurance policies shall be written on an "occurrence" policy form. Provider shall be responsible for payment of any and all deductibles from insured claims under its policies of insurance.
6. Termination, cancellation, or material modification of any insurance required by this Agreement, whether by the insurer or the insured, shall not relieve Provider of any liability hereunder and any failure of Provider to notify the Mass Tech Collaborative thereof shall be without prejudice to the Mass Tech Collaborative's rights under such policy(ies).
7. Provider shall require by contractual obligation, and shall ensure by the exercise of due diligence, that any (sub)contractor hired in connection with its obligations under this Agreement shall obtain and maintain all insurance required by law and as may be required by subsequent agreement of Provider and the (sub)contractor.

# Attachment 4A

## Coverage Requirements – Town of Egremont

## Approval of Coverage Requirements for Massachusetts Broadband Institute Grant to Fiber Connect

The Selectboard of the Town of Egremont ("Town") and Fiber Connect hereby mutually agree to the coverage requirements for the extension of Fiber Connect's existing broadband network to be funded through a grant awarded by the Massachusetts Broadband Institute ("MBI"):

1. The Town's Principal Assessor has affirmed that the total number of Residential Premises on the Town's real estate tax rolls is 852.

2. The total number of Residential Premises passed by Fiber Connect's existing network is approximately 767, as specified in Exhibit A and as estimated by Adam Chait, CEO of Fiber Connect:

3. Fiber Connect shall extend its existing broadband network to pass and provide access to broadband service to all unserved Residential Premises in the Town on public and private roads, except as otherwise noted in paragraphs 4 and 5 below. It is the mutual understanding of Fiber Connect and the Town that there are approximately 94 unserved Residential Premises in the Town, as specified in Exhibit B, which shall be passed by the extension of Fiber Connect's existing network.

4. There are 6 unserved Residential Premises, as specified in Exhibit C, which are excluded from the coverage requirements described herein.

5. Fiber Connect and the Town's Selectboard acknowledge that they have agreed in a separate network services agreement that exceptions to the coverage requirements in paragraph 3 above shall be allowed if the buildout to certain Residential Premise(s) are subsequently determined to be infeasible. However, in no event shall the coverage achieved by Fiber Connect through the network extension be less than 96%.

6. Fiber Connect and the Town acknowledge that the number of Residential Premises Identified in Exhibits A, B and C may differ from the total number of Residential Premises on the Town's real estate tax rolls due to variations in data sources and other relevant factors.

7. Fiber Connect and the Town further acknowledge that the identification of unserved Residential Premises is based on a review of certain information, data and maps and could result in unserved Residential Premises being unintentionally omitted from the premise count and list in Exhibit B. Therefore, Fiber Connect and the Town agree to conduct a field survey, jointly conducted by one Fiber Connect representative, one Town representative, and optionally one MBI representative, within a reasonable period of time after Fiber Connect submits to MBI a grant payment request for Final Completion of the project. The purpose of the field survey shall be to determine (i) the total number of Residential Premises passed by Fiber Connect's network, as extended; and (ii) identify any remaining unserved Residential Premises, other than those

premises identified in Exhibit C ("Omitted Residential Premises"). If any Omitted Residential Premises that were on the tax rolls as of February 15, 2021, are discovered during the field survey, Fiber Connect shall be required to construct the additional network extension(s) that are needed to pass the Omitted Residential Premises as a condition of receiving the Town's certification of Final Completion of the Project.

**Fiber Connect**

By: _____
Adam Chait, Chief Executive Officer

Date: 3/5/2021

**Town of Egremont**

By: _____
George McGurn, Chair, Select Board

_____ _____
Mary Brazie, Select Board Member Lucinda Fenn-Vermeulen, Vice Chair, Select Board

Date: 3.4.2021

## Exhibit A
## Premises Passed by Fiber Connect's Existing Network

| Road | # of Homes |
|---|---|
| Baldwin Hill E/W | 22 |
| Baldwin Hill North | 7 |
| Baldwin Hill South | 39 |
| Blunt Road | 33 |
| Boice Road | 31 |
| Bott Hill Road | 5 |
| BowWow Road | 2 |
| Button Ball Lane | 5 |
| Creamery Rd from Route 23 North to Town House Hill Rd | 32 |
| Egremont Heights | 11 |
| Egremont Plain Road from McGee Road to Rowe Road | 62 |
| Farm Lane | 6 |
| Fisher Lane | 6 |
| General Knox | 5 |
| Gilbert Road | 3 |
| Greenwood Circle | 11 |
| Guilder Hollow | 5 |
| Hillsdale Road | 75 |
| Jug End Road from RT 23 to The Avenue | 44 |
| Jugg End Road Pole #99 South | 7 |
| Lakeside Drive / Second Street | 46 |

| Road | # of Homes |
|---|---|
| Main Road West of Creamery | 40 |
| McGee Road | 14 |
| Mearns Way | 4 |
| Millard Road | 14 |
| Miller View Road | 5 |
| Mountain View Road | 8 |
| Mt Washington Road | 17 |
| Ox Bow Road | 15 |
| Partridge Drive | 6 |
| Philips Road | 8 |
| Pinecrest Hill Road | 16 |
| Prospect Lake Road | 30 |
| Ridge Road | 4 |
| Sheffield Road from Pole #24 to Main Road | 22 |
| Shun Toll Road | 14 |
| Taconic Lane | 18 |
| The Avenue | 6 |
| Townhouse Hill Road | 29 |
| Undermountain Road | 18 |
| Warner Road | 9 |
| West View Road | 5 |
| Westerhook Road | 8 |
| **Total** | **767** |

**Exhibit B**
**Premises To Be Passed and Become Serviceable by Fiber Connect's Network Extension**

| Road | # of Homes |
|---|---|
| Sheffield Road from #28 to the Sheffield town line | 17 |
| Route 23 from Creamery Road to the Great Barrington town line | 4 |
| Jug End Road south of Avenue Road to the Sheffield town line | 11 |
| Brookvale/Hilltop Roads | 9 |
| Mt. Washington Road from Jug End Road to the Mt. Washington town line | 16 |
| Pumpkin Hollow Road | 4 |
| Sky Farm Road | 2 |
| Hickory Hill Road | 11 |
| Mill Road | 5 |
| Route 71 north of Rowe Road | 8 |
| Rowe Road | 7 |
| Tremont Drive | 0 |
| **Total** | **94** |

## Exhibit C
## Premises To Be Excluded From Fiber Connect's Network Extension

| Road | # of Homes |
|---|---|
| Whites Hill Road | 6 |
| **Total** | **6** |

**Attachment 4B**

**Coverage Requirements – Town of Monterey**

## Approval of Coverage Requirements for Massachusetts Broadband Institute Grant to Fiber Connect

The Selectboard of the Town of Monterey ("Town") and Fiber Connect hereby mutually agree to the coverage requirements for the extension of Fiber Connect's existing broadband network to be funded through a grant awarded by the Massachusetts Broadband Institute ("MBI"):

1. The Town's Principal Assessor has affirmed that the total number of Residential Premises on the Town's real estate tax rolls is 842.

2. The total number of Residential Premises passed by Fiber Connect's existing network is approximately 452, as specified in Exhibit A and as estimated by Adam Chait, CEO of Fiber Connect:

3. Fiber Connect shall extend its existing broadband network to pass and provide access to broadband service to all unserved Residential Premises in the Town on public and private roads, except as otherwise noted in paragraphs 4 and 5 below. It is the mutual understanding of Fiber Connect and the Town that there are approximately 334 unserved Residential Premises in the Town, as specified in Exhibit B, which shall be passed by the extension of Fiber Connect's existing network.

4. There are 9 unserved Residential Premises, as specified in Exhibit C, which are excluded from the coverage requirements described herein.

5. Fiber Connect and the Town's Selectboard acknowledge that they have agreed in a separate network services agreement that exceptions to the coverage requirements in paragraph 3 above shall be allowed if the buildout to certain Residential Premise(s) are subsequently determined to be infeasible. However, in no event shall the coverage achieved by Fiber Connect through the network extension be less than 96%.

6. Fiber Connect and the Town acknowledge that the number of Residential Premises Identified in Exhibits A, B and C may differ from the total number of Residential Premises on the Town's real estate tax rolls due to variations in data sources and other relevant factors.

7. Fiber Connect and the Town further acknowledge that the identification of unserved Residential Premises is based on a review of certain information, data and maps and could result in unserved Residential Premises being unintentionally omitted from the premise count and list in Exhibit B. Therefore, Fiber Connect and the Town agree to conduct a field survey, jointly conducted by one Fiber Connect representative, one Town representative, and optionally one MBI representative, within a reasonable period of time after Fiber Connect submits to MBI a grant payment request for Final Completion of the project. The purpose of the field survey shall be to determine (i) the total number of Residential Premises passed by Fiber Connect's network, as extended; and (ii) identify any remaining unserved Residential Premises, other than those

premises identified in Exhibit C ("Omitted Residential Premises"). If any Omitted Residential Premises that were on the tax rolls as of February 15, 2021, are discovered during the field survey, Fiber Connect shall be required to construct the additional network extension(s) that are needed to pass the Omitted Residential Premises as a condition of receiving the Town's certification of Final Completion of the Project.

**Fiber Connect**

By: _____
Adam Chait, Chief Executive Officer

Date: 2/25/2021

**Town of Monterey**

By: _____
Donald S. Coburn, Chair, Select Board

_____ _____
Steven Weisz, Member Select Board John Weingold, Member, Select Board

Date: 2/24/21

**Exhibit A**
**Premises Passed by Fiber Connect's Existing Network**

| Road | # of Homes |
|---|---|
| Cronk Road | 12 |
| Chestnut Hill | 7 |
| Main Road 680 - 335 | 106 |
| Hupi Road 280 - 3 | 53 |
| Broderick Road | 2 |
| Dowd | 10 |
| Elephant Rock / Woodlawn | 26 |
| Sylvan / Point | 55 |
| Mt Hunger 169 - 244 | 7 |
| Art School Road | 16 |
| Griswold | 5 |
| Hupi Woods Circle | 14 |
| Heron Pond | 5 |
| Tyringham Road | 40 |
| Eaton / Carls Lane | 9 |
| Sandisfield Road 4 - 54 | 8 |
| Bidwell Road | 17 |
| New Marlborough Road 12 - 22 | 4 |
| Fox Hill Road | 4 |
| Lime Rock Lane | 10 |

| | |
|---|---|
| Buckingham / Stratford | 13 |
| Riverwood Way | 5 |
| Beartown 18 - 23 | 3 |
| Beartown 72 - 118 | 9 |
| Fairview Road | 12 |
| **Total** | **452** |

**Exhibit B**
**Premises To Be Passed and Become Serviceable by Fiber Connect's Network Extension**

| Road | # of Homes |
|---|---|
| River Road from #100 to the New Marlborough town line | 3 |
| Corashire Road from #56 to the New Marlborough town line | 4 |
| Brett Road | 9 |
| Swann Road | 8 |
| Fairview Road #46 to Main Road (RT23) | 3 |
| Beartown Mountain Road from #126 to Great Barrington Border | 23 |
| Royal Hemlock Road | 3 |
| Tyringham Road North of Heron Pond to Tyringham Border | 1 |
| Mt Hunger Road from #151 East to Route 23 | 16 |
| Norwalk Estates | 9 |
| Main Road (RT23) East of Hupi Road | 1 |
| Sandisfield road from #74 to Sandisfield border | 6 |
| New Marlborough Road from #39 south to New Marlborough border | 22 |
| Wellman Road | 3 |

| | |
|---|---|
| Gould Road | 5 |
| Harmon Road | 10 |
| 400 West Otis Tyringham Road | 1 |
| Brook Lane / West Road / Pine Street / North Road / Lake Ave | 18 |
| Laurel Banks Road | 15 |
| Prescott Lane | 5 |
| Sackman Way / Herberts Cove | 12 |
| Camp Half Moon / Seven Arts / Tin Can Road | 9 |
| Northeast Cove Road | 4 |
| North Cove Road | 3 |
| Pixley Road (RT57) from RT23 to New Marlborough Border | 28 |
| Corashire Road from RT23 to #29 | 3 |
| River Road from RT23 to #49 | 9 |
| Blue Hill Road / Old Beartown Road | 30 |
| Main Road (RT23) from Fairview Road to Great Barrington Border | 71 |
| **Total** | **334** |

## Exhibit C
## Premises To Be Excluded From Fiber Connect's Network Extension

| Road | # of Homes |
|---|---|
| River Road from #100 to the New Marlborough town line | 3 |
| Corashire Road from #56 to the New Marlborough town line | 4 |
| Tyringham Road North of Heron Pond Road to Tyringham | 1 |
| 400 West Otis Tyringham Road | 1 |
| **Total** | **9** |

**Attachment 5**

**Project Status Report, Final Report and Supporting Documentation Requirements**

| Grant Milestone | Disbursement Requirement | Deliverables | Supporting Documentation |
|---|---|---|---|
| Milestone Payment #1 | Submission of all necessary pole and conduit applications and payment of make-ready estimates needed for the Project. | 1. Grant Payment Requisition and Certification for Milestone #1 signed by Fiber Connect and Town Selectboard<br>2. Project Status Report | Documentation evidencing that:<br>1. all pole and conduit applications and associated fees were submitted to utilities; and<br>2. estimated make-ready charges assessed by utilities were paid by Fiber Connect |
| Milestone Payment #2 | 50% of homes to be passed by extension of Existing Network are serviceable. | 1. Grant Payment Requisition and Certification for Milestone #2 signed by Fiber Connect and Town Selectboard<br>2. Project Status Report | List of addresses passed by extension of Existing Network |
| Milestone Payment #3 | Construction of extension of Existing Network is complete and is fully operational. | 1. Grant Payment Requisition and Certification for Milestone #3 signed by Fiber Connect and Town Selectboard<br>2. Final Project Report | Final list of addresses passed by Extended Network to be appended to Milestone #3 certification |

Each Project Status Report shall include: (i) a description of actions taken to comply with the requirements for the requested Milestone Payment disbursement; (ii) a description of Project status (including any material deviations from the Project Plan (that have occurred or are reasonably expected to occur); and (iii) the number of new subscribers that have been connected and are receiving service (if applicable), The Final Report shall include: (i) a description of the actions taken to determine that the Extended Network is fully operational and meeting the performance standards specified in this Agreement; and (ii) the total number of new subscribers that have been connected and are receiving service.