

*[PASTE TO PROVIDER LETTERHEAD]*

Lancaster County, Nebraska  
555 S 10th Street  
Lincoln, NE 68508  
Attn: David Derbin, Chief Administrative Officer  
Email: dderbin@lancaster.ne.gov

Re: Lancaster County Middle Mile Grant

Ladies and Gentlemen:

We understand that Lancaster County (the “**County**”) intends to submit an application for a federal broadband grant under the National Telecommunications and Information Administration (“**NTIA**”) Enabling Middle Mile Broadband Infrastructure Grant Program (the “**MMG Program**”), as authorized by the Infrastructure Investment and Jobs Act of 2021, Division F, Title IV, Section 60401, Public Law 117-58, 135 Stat. 429 (November 15, 2021) (“**Infrastructure Act**”). We understand that, if a grant is awarded, the proceeds of the grant will be used by the County to construct, improve, or acquire fiber-based middle mile infrastructure (the “**the MMG Network**”) pursuant to and in accordance with the Infrastructure Act and the MMG Program Notice of Funding Opportunity issued on May 13, 2022 (as the same may be revised or updated, the “**MMG NOFO**”).

We understand the MMG Network would be operated in combination with the County’s public conduit project, which will place an estimated 175 miles of conduit in the public right-of-way, strategically routing to and between the County’s 12 incorporated cities/villages and 10 unincorporated communities. We further understand that, within its grant application, the County will make a binding commitment to prioritize the connection of the MMG Network to last mile networks that provide or plan to provide broadband services to unserved households. Consistent with this commitment, we understand the County will offer in perpetuity interconnection with and open access to its MMG Network on a nondiscriminatory basis and on reasonable terms and conditions.

Based on our review and understanding of the information made available to-date, we believe the County’s proposal will facilitate the deployment of last mile, high-speed broadband in communities or areas where such service may otherwise be technically or financially infeasible. We intend this letter agreement to serve as a “last mile service provider letter of commitment” in support of the County’s grant application.

1. Interconnection with MMG Network. [PROVIDER NAME] (“**Provider**”) hereby expresses its interest, subject to the terms and conditions set forth herein, in interconnection with the MMG Network to provide affordable, reliable high speed broadband service to end users in one or more communities or areas within the County. Provider will utilize the MMG Network directly or indirectly through one or more subsidiaries or affiliated entities. Provider’s last mile networks that provide or plan to provide broadband services to unserved households within the County and therefore may be served by the MMG Network are as set forth on Exhibit A attached

hereto. A description of the proposed service offerings, including anticipated or estimated pricing of the services to be offered over Provider's last mile facilities are as set forth on Exhibit B attached hereto.

2. Supplemental Investment or In-Kind Support. In addition to its interest in interconnection with the MMG Network as set forth in Paragraph 1, Provider hereby commits, subject to the terms and conditions set forth herein, that it will contribute a supplemental investment (in cash or in-kind support, as determined by the County in its reasonable discretion consistent with the financial budget for the MMG Network) toward the County's satisfaction of the MMG Program's non-federal cost share requirements. Provider understands that the County's grant application calls for a non-federal cost share of 51% in the aggregate. Provider further understands that the County will allocate the private share of this investment among Provider and other last mile providers who have made similar commitments to interconnect with the MMG Network, using allocation methodologies that are fair, verifiable, consistent with governing law and regulations, and easily administered. Provider has a sustainable business plan or sufficient financial resources (including liquidity) to follow through on these commitments, including as it relates to its financial support of and intended interconnection with or access to the MMG Network.

3. Conditions. This commitment shall be subject to the County's successful receipt of a grant for construction of the MMG Network in accordance with the financial budgets and technical plans and specifications submitted with the grant application. The parties understand that this letter of commitment is non-binding and that any legally binding obligations of the County or Provider will be only as set forth in the definitive agreements governing Provider's financial contributions to the project and its access to and use of the MMG Network. Consistent with the Infrastructure Act, the County anticipates offering interconnection and access on rates, terms, and conditions that are just, reasonable, and nondiscriminatory. The parties agree to discuss and negotiate the binding terms and conditions of such agreements and arrangements in good faith.

4. Termination. This letter agreement will terminate automatically and immediately upon the earliest to occur of (a) withdrawal or denial of the County's grant application, (b) the funding in full of Provider's supplemental investment or in-kind support as contemplated under Paragraph 2, or (c) the failure of the parties to reach terms on the definitive agreements and arrangements as contemplated under Paragraph 3. For avoidance of doubt, if the MMG Network is constructed, the County's obligations to provide perpetual interconnection and open access will survive the termination of this letter agreement.

5. No Modification; Entire Agreement. This letter agreement may not be amended, modified, or supplemented except by an agreement in writing signed by the County and Provider. This letter agreement constitutes the sole and entire understanding of Provider and the County with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings, agreements, representations and warranties, both written and oral, with respect to such subject matter.

6. Parties in Interest; Third Party Beneficiaries. This letter agreement is for the sole benefit of the County and Provider and their respective successors and permitted assigns. Nothing in this letter agreement, express or implied, is intended to or shall confer upon any

person other than the County and Provider any legal or equitable right, benefit, or remedy of any nature whatsoever, under or by reason of this letter agreement.

7. Governing Law. This Agreement shall be governed by and construed in accordance with the internal laws of the State of Nebraska without giving effect to any choice or conflict of law provision or rule (whether of the State of Nebraska or any other jurisdiction) that would cause the application of laws of any jurisdiction other than those of the State of Nebraska.

8. No Assignment. Except as expressly permitted in Paragraph 1 hereof, no transfer of any rights or obligations hereunder by either party shall be permitted without the consent of the other party, which consent shall not be unreasonably withheld, conditioned, or delayed. Any purported transfer or assignment of any portion of a party's rights or obligations hereunder in contravention of this Paragraph 8 shall be null and void *ab initio*.

9. Counterparts. This letter agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this letter agreement delivered by facsimile, e-mail, or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy hereof.

10. Public Document; No Exclusivity. Provider acknowledges that this letter agreement will be submitted by the County in connection with its grant application and will be a public document. Provider further acknowledges that the County is seeking similar letters of commitment from other third party service providers and that the County's commitments relating to interconnection and open access are not exclusive to Provider.

Very truly yours,

[PROVIDER NAME]

By \_\_\_\_\_

Name:

Title:

Agreed to and accepted:

LANCASTER COUNTY, NEBRASKA

By \_\_\_\_\_

Name:

Title:

Exhibit A

Unserved or Underserved Communities

Exhibit B

Description of Proposed Service Offerings and Pricing