

**ATTACHMENT A**

 	<b>Application Form for Broadband Planning Assistance Grant</b>
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<b>Project Name</b>	Singing Wires <u>Rural Electrification: "Singing Wires" circa 1951 Farm Journal - YouTube</u>
<b>Project Sponsor (Town, Municipal Light Plant (MLP) or MLP Cooperative)</b>	Town of Leyden
<b>Application Date</b>	July 13, 2016
<b>Amount of Grant Requested: in words</b>	Five Thousand dollars
<b>In Numerals</b>	\$5,000

**Application**

To assist the evaluation process, please submit information and documents in accordance with the item numbers on this application form. All responses should reflect the Applicant's most current information.

Before completing this Application, the Applicant should review thoroughly the submission instructions, eligibility criteria, and evaluation process and criteria.

1. Applicant Information
  - 1.1 Applicant name: Town of Leyden
  - 1.2 Applicant type [check one]
    - a Town
    - Town MLP
    - MLP Cooperative (list all MLP's involved)
  - 1.3 Address: 16 West Leyden Road, Leyden, MA 01337

1.4 Contact information for the individual within the Applicant that will be the principal point of contact for the Applicant during the Project:

1.4.1 Name: Bob Ryan

1.4.2 Phone number: (413) 624-0225

1.4.3 Fax number: (413) 772-0146

1.4.4 E-mail: rryan99@verizon.net

1.5 The Applicant is considering a last-mile deployment project to provide affordable, high-speed broadband access in the Town(s).

yes

no

If you have checked No, provide a written explanation for the Applicant's purpose in submitting this Application.

1.6 Check the boxes below that best describe the type(s) of Project you are considering (check all that apply):

.1 Fiber to the Premises (FTTP) using Mass Tech's design and engineering specifications and construction procured and managed by Mass Tech

.2 Fiber to the Premises (FTTP) using an independent design and engineering specifications and construction independent of Mass Tech's design and construction process

.3 Fiber to an end point short of each premise (attach a description of the proposed project)

.4 Wireless

.5 Other – (attach a description of the proposed project)

1.7 Does the Applicant have a current preference regarding the entity that would serve as the network operator for your Project:

Yes. Please identify:

One of three: (I) City of Greenfield, (II) Crocker Communication, and (III) WiredWest.

No. MBI will contact you to determine your interest in obtaining MBI's assistance..

1.8 Does the Applicant have a current preference regarding the entity that would be the service provider for your Project:

Yes. Please identify:

One of three: (I) City of Greenfield, (II) Crocker Communication, and (III) WiredWest.

No. MBI will contact you to determine your interest in obtaining MBI's assistance.

1.9 The Applicant is willing to execute the Grant Agreement in the form attached as Attachment C.

yes

no

If you have checked No, state in detail any proposed changes to the form of Agreement

In the table below, describe each type of planning assistance the Applicant has previously procured and received and for which it is seeking reimbursement from MBI under this Solicitation. For each such type of assistance identify the firms or professionals providing the service and the amount incurred and the amount remaining to be incurred for such service. Inclusion of any item in this section shall constitute a certification that the procurement of the services was conducted in compliance with all applicable laws, regulations and by-laws.

	Type of Services	Service provider (Name, address, URL for service provider's website)	Amount previously incurred	Amount remaining to be incurred
a			0	
b				
c				
d				
e				
f				

1.10 Describe each type of planning assistance the Applicant intends to obtain and, for each type of assistance, estimate the cost to be incurred and, if possible, identify at

least 2 firms or professionals the Applicant is considering engaging to provide each type of assistance.

	Type of Services	Names and addresses of 2 or more potential service providers for each type of services	Estimated cost
a	For planning purposes: a legal review of the Town's Appropriation Vote, its Debt Exclusion Vote and its MLP creation votes and management structure in order to determine the Town's readiness to proceed with its proposed broadband build out.	<p>Ferriter &amp; Ferriter John Ferriter, Esquire 1669 Northampton St Holyoke MA 01040 <u>:: Legal Law Agency ::</u>  </p> <p>KP Law 101 Arch Street Boston, MA 02110 <u><a href="http://www.k-plaw.com/">http://www.k-plaw.com/</a></u></p>	<p>\$2,000 to \$4,000</p> <p>\$1,500 to \$4,000</p>
b	Legal services by Bond Counsel to review the Town's charter, bylaws, votes and whatever other due diligence necessary to make sure there are no impediments to the Town's qualification for a "Green Light" letter from bond counsel.	<p>Locke Lord LLP Richard Manley, Esquire 111 Huntington Ave Boston. MA 02199 <u>Locke Lord :: Boston</u></p> <p>KP Law 101 Arch Street Boston, MA 02110 <u><a href="http://www.k-plaw.com/">http://www.k-plaw.com/</a></u></p>	<p>\$2,500</p> <p>Attorney Joel Bard said his firm does not do bond counsel work and recommended Locke Lord.</p>
c	Planning with the Leyden Town Accountant and Treasurer as to what MLP financial processes will have to be established, what form of financial reporting will need to be developed for the Town and DPU and what training assistance will be necessary.	<p>Goulet, Salvidio &amp; Associates, P.C. James Goulet, Partner 324 Grove St., Worcester, MA 01605 <u><a href="http://gsamycpa.com/">http://gsamycpa.com/</a></u> (Referred by Peter d'Errico Leverett Selectboard, Chair.)</p> <p>Scanlon and Associates Accountants for the Town of Leyden 8 Tina Drive, Deerfield, MA 01373 <u><a href="http://scanlon-cpa.com/">http://scanlon-cpa.com/</a></u></p>	<p>Not to exceed \$3,000</p> <p>Leyden Town Accountant who said they would not bid but recommended James Goulet</p>

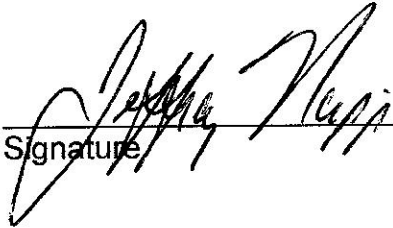
d			
e			
f			

1.11 State the number of weeks or months you expect to need in order to finalize the engagement(s) and receive the required assistance (note that the Grant Agreement provides that the grant will expire one (1) year from the date of the Agreement):

Ten months maximum.

Certification

The undersigned hereby certifies under the pains and penalties of perjury that all answers and all information contained in this application are, to the best of my knowledge, true and correct and that the Applicant has read and understood the submission instructions and the minimum requirements applicable to this Application. **(Submit one for each participating Town.)**



Signature



Date

Jeffrey Neipp

Town of Leyden

Chair, Leyden Board of Selectmen

**ATTACHMENT B-1**

**MASSACHUSETTS TECHNOLOGY COLLABORATIVE  
AUTHORIZED APPLICANT'S SIGNATURE AND ACCEPTANCE FORM**

The undersigned is a duly authorized representative of the Applicant listed below. The Applicant has read and understands the SOLICITATION requirements. The Applicant acknowledges that all of the terms and conditions of the SOLICITATION are mandatory, and that Applicant's response is compliant with such requirements.

The Applicant understands that, if selected by the Mass Tech Collaborative, the Applicant and the Mass Tech Collaborative will execute written agreements specifying the mutual requirements of participation. The undersigned has either (*please check one*):

specified exceptions and counterproposals to the terms and conditions of the General Terms & Conditions; or

agrees to the terms and conditions set forth therein.

The undersigned acknowledges and agrees that the failure to submit exceptions and counterproposals with this response shall be deemed a waiver, and the General Terms & Conditions shall not be subject to further negotiation.

I certify that Applicant is in compliance with all corporate filing requirements and State tax laws.

I further certify that the statements made in this response to the RFP, including all attachments and exhibits, are true and correct to the best of my knowledge.

Applicant: Town of Leyden

By:

  
\_\_\_\_\_  
(Signature of Authorized Representative)

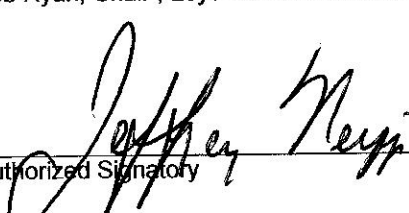
Name: Jeffrey Neipp

Title: Chair, Leyden Board of Selectmen

Date:

7/13/16

**ATTACHMENT B-2**  
**Response Cover Sheet**

Name of Applicant :			
Town of Leyden			
Mailing Address	City/Town	State	Zip Code
16 West Leyden Road	Leyden	MA	01337
Telephone	Fax	Web Address	
(413) 774-4111	(413) 772-0146	<u>Town of Leyden, MA</u>	
Primary Contact for Clarification		Primary Contact E-mail Address	
Bob Ryan, Chair , Leyden Broadband Committee		ryan99@verizon.net	
 Authorized Signatory		Authorized Signatory E-mail Address	
Jeffrey Neipp - Chair, Board of Selectmen		antlerjhd@verizon.net	
Legal Status/Jurisdiction (e.g., a Massachusetts corporation)			
A town existing under the Laws of the Commonwealth of Massachusetts.			



**ATTACHMENT B-3**

**MASSACHUSETTS TECHNOLOGY COLLABORATIVE  
TOWN'S CONFIRMATION OF CONSENT TO GRANT APPLICATION BY  
DELEGATED MLP COOPERATIVE**

**NOT APPLICABLE**

**[SUBMIT ONE ATTACHMENT B-3 FOR EACH TOWN IN THE COOPERATIVE WHOSE GRANT IS  
PART OF THIS APPLICATION]**

The undersigned are a majority of the \_\_\_\_\_ board of selectmen / manager of the Town of \_\_\_\_\_ (the "Town"). We hereby depose and state the following:

1. The Town, through its own MLP is a member in good standing of the Municipal Light Plant Cooperative called \_\_\_\_\_ (the "MLP Coop").
2. We have read and consented to the foregoing Grant Application to be submitted by the MLP Coop on behalf of the Town, for a share of the grant funds potentially allocable to the Town as described in the Grant Solicitation issued by Massachusetts Technology Collaborative.
3. We hereby confirm that the Town has taken all steps required by the Town's by-laws and other applicable governance to delegate, and has delegated, to the MLP Cooperative the Town's right to apply for such a Grant and, if received, to administer the Grant funds in accordance with the plans described in the foregoing Grant Application and such Grant Agreement as the MLP Cooperative may enter with the Massachusetts Technology Collaborative in connection with such Grant.

Each of the undersigned certifies that the foregoing statements are true and correct to the best of his or her knowledge.

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

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

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

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

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

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

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

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

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

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

**ATTACHMENT C**

Mass Tech Collaborative Grant Designation:

[Mass Tech Grant Designation]

**BROADBAND PLANNING ASSISTANCE GRANT AGREEMENT**

dated as of July 13, 2016

between

TOWN OF LEYDEN

as Grantee

and

THE MASSACHUSETTS TECHNOLOGY COLLABORATIVE

as Grantor

## BROADBAND PLANNING ASSISTANCE GRANT AGREEMENT

THIS BROADBAND PLANNING ASSISTANCE GRANT AGREEMENT (the "Agreement,") dated as of July 13, 2016 ("Effective Date"), by and between the **TOWN OF LEYDEN** ("Grantee,") a town existing under the laws of the Commonwealth of Massachusetts, and **MASSACHUSETTS TECHNOLOGY PARK CORPORATION d/b/a Massachusetts Technology Collaborative**, 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, together with its successors and assigns, ("Mass Tech").

WHEREAS, the Grantee has applied to Mass Tech for financial assistance (the "Application") to obtain grant funding for planning and other preliminary assistance to be procured by the Grantee with a view to possible participation by the Grantee in a subsequent project providing infrastructure for last mile broadband service at the Broadband Grant Speed, as defined herein, in the town(s) of [Town(s)] (the "Town") as described in the Application, and any revisions thereto, all as approved in writing by Mass Tech and set forth in Schedule 1, hereinafter "Schedule 1");

WHEREAS, Mass Tech is willing to extend financial assistance in the form of a grant (the "Grant") to the Grantee on the terms and conditions stated herein; and

WHEREAS, the Grantee is willing to fulfill its obligations to Mass Tech on the terms stated herein.

THEREFORE, for and in consideration of the premises and the mutual covenants herein contained, the parties agree and bind themselves as follows:

### ARTICLE I - DEFINITIONS

The terms defined herein include both the plural and the singular.

"Application" shall have the meaning as defined in the first recital hereof.

"Disbursement" or "Disbursements" shall mean a payment or payments made by Mass Tech pursuant to this Agreement.

"Schedule 1" shall have the meaning as defined in the first recital hereof.

### ARTICLE II - REPRESENTATIONS AND WARRANTIES OF THE GRANTEE

Recognizing that Mass Tech is relying hereon, the Grantee hereby represents and warrants, as of the date of this Agreement, as follows:

- (a) *Eligibility.* The Grantee is eligible to obtain the financial assistance from Mass Tech contemplated by this Agreement.
- (b) *Authority.* The execution, delivery and performance by the Grantee of this Agreement and the performance of the transactions contemplated hereby and thereby have been duly authorized by all necessary action and do not violate any provision of law or any charter, articles of incorporation, organizational documents or bylaws of the Grantee or result in a breach of, or constitute a default under, any agreement or other instrument to which the Grantee is a party or by which it may be bound. The Grantee has not received any notice from any other party to any of the foregoing that a default has occurred or that any event or condition exists that with the giving of notice or lapse of time or both would constitute such a default.

- (c) *Compliance with Laws.* The Grantee is in compliance in all material respects with all federal, state and local laws, rules, regulations, ordinances, codes and orders (collectively, "Laws").
- (d) *Information Submitted with Application.* All information, reports, and other documents and data submitted to Mass Tech in connection with the Application were, at the time the same were furnished, complete, and correct in all material respects.
- (e) *Ratification.* By executing this Agreement, the Grantee affirms and ratifies all statements, representations and written documents that it has submitted to Mass Tech in connection with this Grant.

### **ARTICLE III - THE GRANT**

#### **3.1 Grant Amount and Expiration Date**

- (a) *Grant Amount.* Mass Tech agrees to make and the Grantee agrees to accept, on the terms and conditions stated in this Agreement, a Grant, in the maximum amount specified in Schedule 1 hereto.
- (b) *Expiration Date.* The Grant, and the obligation of Mass Tech to disburse the Grant, or any portion thereof, shall expire no later than one (1) year from the date hereof (the "Expiration Date.") No portion of the Grant will be disbursed by Mass Tech to the Grantee after the Expiration Date. Mass Tech, in its sole discretion, may approve extensions of the Expiration Date, provided that the Grantee notifies Mass Tech, in writing at least sixty (60) days prior to the Expiration Date, of the reasons and need for an extension, together with a suggested, revised Expiration Date.

#### **3.2 Purpose**

The Grant has been made solely to finance the professional services specifically described in the Schedule 1 to or for the benefit of the Town(s).

### **ARTICLE IV - CONDITIONS OF FUNDING**

#### **4.1 General Conditions**

In connection with the execution and delivery of this Agreement, each of the following conditions shall be satisfied (all documents, certificates and other evidence of such conditions are to be satisfactory to Mass Tech in its discretion):

- (a) *Executed Grant Agreement.* Mass Tech shall receive duly executed originals of this Agreement;
- (b) *Articles of Incorporation, Charter, Bylaws and Organizational Documents.* If the Grantee is a MLP or an MLP cooperative, Mass Tech shall have received copies of the Grantee's articles of incorporation or charter and bylaws; and
- (c) *Authorizations.* Mass Tech shall have received evidence satisfactory to it that all documents and proceedings of the Grantee necessary for duly authorizing the execution, delivery and performance of this Agreement have been obtained and are in full force and effect.

## **4.2 Conditions to Disbursements**

The obligations of Mass Tech to approve any Disbursement of the Grant is subject to the satisfaction of each of the following conditions precedent on or before the date of such Disbursement (all documents, certificates and other evidence of such conditions precedent are to be satisfactory to Mass Tech in its discretion):

- (a) *Continuing Representations and Warranties.* That the representations and warranties of the Grantee contained in this Agreement be true and correct on and as of the date of such Disbursement as though made on and as of such date.
- (b) *Requests for Disbursement and Supporting Documentation.* All Disbursements shall either be provided on a reimbursement basis if authorized by Mass Tech in its sole discretion, supported by documentation, including, but not limited to, paid third-party invoices and receipts, or based on unpaid third-party invoices for eligible grant purposes to be paid from the current Disbursement. All requests for a Disbursement must be made using the form attached as Attachment 1.
- (c) *Compliance with Agreement.* That Grantee is in material compliance with this Agreement.
- (d) *Payment Terms.* Mass Tech shall make any approved Disbursement meeting the requirements of this Agreement within thirty (30) days after receipt of a properly documented Request for Disbursement, unless Mass Tech should determine that any such payment or any part thereof is otherwise not properly payable pursuant to the terms of this Agreement.

## **ARTICLE V - AFFIRMATIVE COVENANTS**

### **5.1 Generally**

Unless otherwise agreed to in writing by Mass Tech, while this Agreement is in effect, the Grantee shall duly observe each of the affirmative covenants contained in this Article V -.

### **5.2 Use of Disbursements**

- (a) The Grantee shall expend the Grant funds only for approved purposes as set forth in Schedule 1 in accordance with this Agreement. The Grant shall not be expended to cover any costs incurred prior to the date of receipt by Mass Tech of the Application except for costs specifically listed in Schedule 1, if any.

### **5.3 Allowable charges for the above costs consist of:**

1. Charges for professional services provided and reasonable and customary expenses incurred by Grantee's consultants or consultants identified in Schedule 1 and engaged for Grantee's benefit by its delegated agent, at the actual cost paid for Project services which shall not exceed the amount set forth in the Project Budget; and
2. Such other types of costs as may be set forth explicitly in Schedule 1.

### **5.4 Impermissible charges**

- (a) Salaries, benefits or payroll costs for employees of the Grantee; and

- (b) If the Grantee has designated a Municipal Light Plant Cooperative as its agent to engage the professionals providing the services identified in Schedule 1, charges of the Cooperative for the salaries or hourly compensation and benefits of its employees are not permissible charges under the Grant.

#### **5.5 Unused and Disallowed Disbursements**

- (a) The Grantee shall return to Mass Tech forthwith all or any disbursed portion of the Grant not expended by the Grantee for the purposes set forth in Schedule 1.
- (b) The Grantee shall reimburse Mass Tech for any disbursed funds whose original expenditure has been disallowed by a Mass Tech compliance review. Disallowances shall be satisfied, as directed by Mass Tech, by either administrative offset against requests for Disbursements or repaying the disallowed amount directly to Mass Tech.

#### **5.6 Financial Books**

The Grantee shall maintain, at its premises, such books, documents, papers, or other records and supporting documents, including, but not limited to, third-party invoices, receipts, timesheets, and bills of sale, adequate to identify the purposes for which and the manner in which Grant and other funds were expended. The Grantee shall maintain all such records and copies of forms or financial reports for three years from the date the Grantee submits its final report.

#### **5.7 Financial Audits**

Mass Tech Collaborative will have the right to audit Grantee's or its other agents' records to confirm the use of the Grant proceeds at any time from the Effective Date until seven (7) years after the final Grant payment (the "Retention Period"). If such audit reveals that any portion of the Grant was utilized for purposes not permitted hereunder, then Grantee shall refund to Mass Tech Collaborative the amount determined by such audit within thirty (30) days of Grantee's receipt of such audit and demand. Grantee shall maintain books, records, and other compilations of data pertaining to the Grant payments made for the entire Retention Period.

#### **5.8 Final Report**

The Grantee shall provide Mass Tech with a final report which will be due no more than thirty (30) days after completion of the activities in Schedule 1, or upon the expiration date if earlier, summarizing the results of the planning process and, if requested by Mass Tech, copies of any work product of the Grantee's consultants. The final report must indicate which, if any, option or options for broadband the Grantee is considering as of the date of the final report, from among the following:

- 1 Fiber to the Premises (FTTP) using Mass Tech's design and engineering specifications and construction procured and managed by Mass Tech
- 2 Fiber to the Premises (FTTP) using an independent design and engineering specifications and construction independent of Mass Tech's design and construction process
- 3 Fiber to an end point short of each premise (attach a description of the proposed project)
- 4 Wireless
- 5 Other – (attach a description of the proposed project)

## **5.9 Obligations with Respect to Procuring Planning Services**

- (a) *Procurement Requirements.* The Grantee shall conduct all procurements for professional services to be paid, in whole or in part, with Grant proceeds, regardless of whether by sealed bids or by negotiation, in a manner that provides maximum open and free competition and otherwise complies with all applicable laws and regulations.
- (b) *General Insurance Requirements.* The Grantee shall require that all service providers engaged to perform any part of the activities in Schedule 1 take out, maintain and document the existence of professional errors and omissions insurance and commercial general liability insurance in amounts satisfactory to Mass Tech. The Grantee shall be named as an additional insured on the service provider's commercial general liability insurance.

## **5.10 Compliance with Laws**

The Grantee will comply with all applicable federal, state and local statutes, regulations, codes, by-laws, ordinances and other requirements that govern the Application, the Project, procurements conducted for services to be paid, in whole or in part, with Grant proceeds, and use of Grant funds for this Grant, as well as the provisions contained herein. Grantee acknowledges that all Mass Tech employees are subject to the Massachusetts Conflict of Interest statute, located at Massachusetts General Laws Chapter 268A. No Grant funds may be used to pay for or otherwise support any activities intended to influence any matter pending before the Massachusetts General Court or for activities covered by the law and regulations governing "legislative agents" or "executive agents" set forth in the Massachusetts Lobbying Law, M.G.L. c.3, §39.

## **5.11 Nondiscrimination**

The Grantee 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, or for exercising any rights afforded by law.

## **ARTICLE VI - TERMINATION, SUSPENSION AND OTHER REMEDIES**

### **6.1 Termination of the Grant by Mass Tech**

- (a) *Termination of the Grant by Mass Tech.* Mass Tech, in its sole discretion, may terminate the Grant, in whole or in part:
  - (i) if Mass Tech does not receive this Agreement, duly executed on behalf of the Grantee, within thirty (30) days from the date hereof;
  - (ii) if all conditions to the Grant, and all conditions to disbursement stated herein are not satisfied within one hundred twenty (120) days from the date hereof;
  - (iii) if the Grantee has materially breached of any term of this Agreement;
  - (iv) if any representation or warranty made by the Grantee in the Application, this Agreement, any certification, or other supporting documentation thereunder shall prove to be incorrect in any material respect at the time made;

- (v) if the Grantee fails to expend, or fails to provide Mass Tech with evidence satisfactory to Mass Tech that it has spent, Grant funds in accordance with Schedule 1 and Generally Accepted Accounting Principles, and the Request(s) for Disbursement submitted to Mass Tech prior to the disbursement of funds;
  - (vi) if a court having proper jurisdiction shall enter a decree or order for relief with respect to the Grantee in an involuntary case under any applicable bankruptcy, insolvency, or other similar law now or hereafter in effect: (A) appointing a receiver, liquidator, assignee, custodian, trustee, sequestrator, or similar official or (B) ordering the winding up or liquidation of its affairs; or the Grantee shall commence a voluntary case under any applicable bankruptcy insolvency or other similar law now or hereafter in effect, or consent to the appointment or taking possession by a receiver, liquidator, assignee, custodian or trustee, of a substantial part of its property, or make any general assignment for the benefit of creditors;
  - (vii) upon the dissolution or liquidation of the Grantee, or upon the filing for dissolution or liquidation by the Grantee; or
  - (viii) in the event of loss of availability of sufficient funds for the purposes of this Agreement or in the event of an unforeseen public emergency or other change of law mandating immediate Mass Tech action inconsistent with performing its obligations under this Agreement.
- (b) *Notice of Termination.* Mass Tech shall provide the Grantee with written notice of termination of the Grant as provided in Section 7.2 hereof, setting forth the reason(s) for termination. The termination of the Grant shall be effective as of the date of receipt of such notice of termination by the Grantee.

## **6.2 Effect of Termination of the Grant**

Upon termination of the Grant pursuant to Section 6.1 hereof: (1) the Grantee shall not incur any new obligations after the effective date of the termination with respect to the Grant, (2) the Grantee shall cancel as many outstanding obligations as possible, and seek to mitigate the costs of any outstanding obligations, and (3) any undisbursed portion of the Grant not required for the Project shall not be available for disbursement by Mass Tech and any disbursed portion of the Grant not required by the Grantee for completion of the Project shall be immediately returned to Mass Tech.

## **6.3 Failure to Document Grant Expenditures and Misappropriation**

- (a) Upon a determination by Mass Tech that the Grantee did not document Grant expenditures for allowable costs, as required in the Generally Accepted Accounting Principles, or that the Grantee did not utilize the Grant in the manner and exclusively for the Project as approved by Mass Tech, Mass Tech may, in its sole discretion:
  - (i) Disallow all or a part of the expenditures and disbursements of the Grant and require the Grantee to deposit such funds into a separate account to be applied toward other approved Project purposes or to reimburse Mass Tech;
  - (ii) Terminate the Grant; and/or
  - (iii) Take any other action Mass Tech determines to be necessary including, without limitation, exercising any right or remedy available herein or at law.



- (b) If any representation or warranty made by the Grantee in the Application, this Agreement, any certification, or other supporting documentation thereunder shall prove to be incorrect in any material respect at the time made, Mass Tech may, in its sole discretion:
- (i) Require the Grantee to reimburse Mass Tech for all or any part of the Grant;
  - (ii) Terminate the Grant; and/or
  - (iii) Take any other action Mass Tech determines to be necessary including, without limitation, exercising any right or remedy available herein or at law.

## **ARTICLE VII - MISCELLANEOUS**

### **7.1 Insurance**

Grantee shall obtain and maintain in effect through the Term of this Agreement appropriate insurance coverage for its activities under this Agreement, including, but not limited to, comprehensive general liability insurance (bodily injury and property damage) and, if the Grantee's Schedule 1 includes professional services of any kind, errors and omissions liability insurance for the professionals providing such services.

### **7.2 Notices**

All notices, requests and other communications provided for herein including, without limitation, any modifications of, or waivers, requests or consents under, this Agreement shall be given or made in writing (including, without limitation, by telecopy) and delivered to the intended recipient at the "Address for Notices" specified below; or, as to any party, at such other address as shall be designated by such party in a notice to each other party. Receipt of all such communications shall be deemed to have occurred when transmitted by telecopier or personally delivered or, in the case of a mailed notice, upon receipt, in each case given or addressed as provided for herein. The Addresses for Notices of the respective parties are as follows:

<u>Mass Tech</u>	<u>Grantee</u>
Mass Broadband Institute 75 North Drive Westborough, MA 01581 Attention: Elizabeth A. Copeland Fax: (508) 898-9226	See Schedule 1
<u>With a copy to:</u>	<u>With a copy to:</u>
See Schedule 1	See Schedule 1

### **7.3 No Waiver**

No failure or forbearance on the part of Mass Tech to exercise, and no delay in exercising, any right hereunder shall operate as a waiver thereof nor shall any single or partial exercise by Mass Tech of any right hereunder preclude any other or further exercise thereof or the exercise of any other right. Conditions, covenants, duties and obligations contained in this Agreement may be waived only by written agreement between the parties.

#### **7.4 Governing 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 Grantee agrees to bring any Federal or State legal proceedings arising under this Grant in which the Commonwealth or 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.

#### **7.5 Successors and Assigns**

This Agreement shall be binding upon and inure to the benefit of the Grantee and Mass Tech and their respective successors and assigns, except that the Grantee may not assign or transfer its rights or obligations hereunder without the prior written consent of Mass Tech.

#### **7.6 Complete Agreement; Waivers and Amendments**

All conditions, covenants, duties and obligations contained in the Agreement may be amended only through a written amendment signed by the Grantee and Mass Tech Collaborative unless otherwise specified in this Agreement. The parties understand and agree that this Agreement supersedes all other verbal and written agreements and negotiations by the parties regarding the matters contained herein. Mass Tech Collaborative's Sensitive Information Policy and Procedures is attached and incorporated into this Agreement.

#### **7.7 Headings**

The headings and sub-headings contained in the titling of this Agreement are intended to be used for convenience only and do not constitute part of this Agreement.

#### **7.8 Severability**

If any term, provision or condition, or any part thereof, of this Agreement shall for any reason be found or held invalid or unenforceable by any governmental agency or court of competent jurisdiction, such invalidity or unenforceability shall not affect the remainder of such term, provision or condition nor any other term, provision or condition, and this Agreement shall survive and be construed as if such invalid or unenforceable term, provision or condition had not been contained therein.

#### **7.9 Schedules, Attachments, and Counterparts**

Each Schedule and Attachment hereto and referred to herein is each an integral part of this Agreement. Moreover, this Agreement may be executed in several counterparts, each of which shall be deemed to be an original.

#### **7.10 Authority of Representatives of Mass Tech**

In the case of any consent, approval or waiver from Mass Tech that is required under this Agreement, such consent, approval or waiver must be in writing and signed by an authorized Mass Tech representative to be effective. As used in this Section, "authorized Mass Tech representative" means the Administrator of Mass Tech, and also means a person to whom the Administrator has officially delegated specific or general authority to take the action in question.

#### **7.11 No Third Party Beneficiary**

This Agreement is exclusively between Mass Tech and the Grantee, and does not nor is intended to create any privity of contract with any other party not a party hereto, nor to imply a contract in law or fact. Any funds disbursed by Mass Tech to the Grantee are intended to finance the professional services

procured by the Grantee. Any approvals given by Mass Tech to the Grantee are solely for the benefit of Mass Tech. Mass Tech is not obligated to disburse grant funds on any contract, or otherwise, between the Grantee and any other party, nor intends to assume, at any time, direct obligations for payment for work, goods, or other performance under such contracts. The obligation to pay any amounts due under such contracts is solely the responsibility of the Grantee. Nothing herein, express or implied, is intended to, or shall confer upon, any other person any right, benefit, or remedy of any nature whatsoever under or by reason of the Grant Agreement between Mass Tech and the Grantee.

**7.12 Term**

This Agreement shall remain in effect until one of the following events has occurred:

- (a) One year from the date of this Agreement; or
- (b) This Agreement has been terminated pursuant to the provisions of Article VI - hereof.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be duly executed as of the day and year first above written.

**TOWN OF LEYDEN**

By: Jeffrey Neipp 7/13/16  
Name: Jeffrey Neipp

Title: Chair, Leyden Board of Selectmen

(Seal)

Attested to by: Elizabeth Johnson, Town Clerk  
Secretary

**MASSACHUSETTS TECHNOLOGY PARK CORPORATION, d/b/a Massachusetts Technology Collaborative**

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

**SCHEDULE 1**  
**[Article references are to Agreement]**

Article II - Representations and Warranties

1. Paragraph (g) Grantee's address: 16 West Leyden Road, Leyden, MA 01337

Article III - The Grant

2. The amount of the Grant is \$5,000..
3. The Grant is to fund the following types of professional services:

Service Type	Estimated Amount to be incurred	Amount previously incurred
Legal - KP Law	\$1,500 to \$4,000	0
Legal - Locke Lord	\$2,500	0
Financial - Goulet Salvidio & Associates PC	Not to Exceed \$3,000	0

Article IV - Conditions of Funding

- 1.

Additional Conditions: [ \_\_\_\_\_ ]

Article VII -Miscellaneous

1. Section 7.2 Grantee's address for purposes of notification:  
Bob Ryan, Chair Leyden Broadband Committee  
16 West Leyden Road, Leyden, MA 01337  
Copy to: Selectboard at: leydenselectboard@crocker.com
2. Section 7.2 Mass Tech's address for purposes of notifications:  
MBI Broadband Planning assistance Grants Solicitation  
Solicitation No 2015-MBI-0!  
Massachusetts Technology Collaborative  
75 North Drive  
Westborough, MA 01581-3340  
  
Copy to: Bob Ryan at: rryan99@verizon.net

3. Project Administrator: Bob Ryan at: rryan99@verizon.net
4. Project Manager for Mass Tech: John Furey
5. Project Manager for Applicant: Bob Ryan at: rryan99 @verizon.net
6. If the Grantee is an MLP Cooperative, each Town shall sign its consent acknowledgement and ratification in the form of Schedule 2.

**SCHEDULE 2**

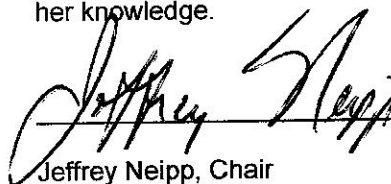
**Town's Consent, Acknowledgement and Ratification**

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

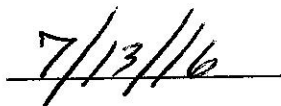
1. We have read and consented to the foregoing Grant Agreement with Massachusetts Technology Collaborative.

2.. The Board hereby consents to, acknowledges and ratifies the Grant Agreement, including each covenant and representation therein as if made by the Town directly.

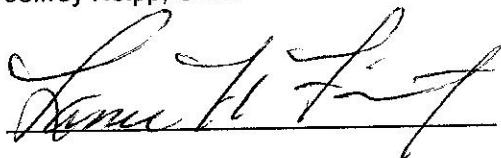
Each of the undersigned certifies that the foregoing statements are true and correct to the best of his or her knowledge.

  
\_\_\_\_\_

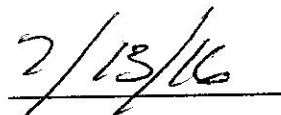
Jeffrey Neipp, Chair

  
\_\_\_\_\_

Date:

  
\_\_\_\_\_

Lance Fritz, Selectman

  
\_\_\_\_\_

Date:

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

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

**ATTACHMENT 1 to Grant Agreement**

**Mass Tech Collaborative's Form of Request for Disbursement of Grant Funding**

<b>Grantee:</b>
<b>Project Name:</b>
<b>Grant #:</b>

**Massachusetts  
Technology Collaborative  
Request for  
Disbursement of Grant Funding**

<b>Request #</b>
<b>Date:</b>

**Cost Support**

<b>Cost Category</b>	<b>Payee</b>	<b>Invoice date</b>	<b>Invoice description or explanation</b>	<b>Funding source</b>	<b>Invoice amount</b>	<b>MassTech approval</b>

The Grantee hereby certifies that all amounts requested in this Request for Disbursement are eligible expenses or obligations under the Grant that the Grantee is in full compliance with the terms of the Grant Agreement and that all procurements for which expenses or obligations have been incurred were conducted in compliance with applicable laws, regulations, and by-laws.

**TOWN OF LEYDEN**

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

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