ATTACHMENT A

CONTRACT

FOR

BROADBAND PLANNING FACILITATION AND TRAINING

BETWEEN

THE COMMONWEALTH OF KENTUCKY

COMMONWEALTH OFFICE OF BROADBAND OUTREACH AND DEVELOPMENT

AND

CONNECTED NATION EXCHANGE (CNX)

MA 758 16000000518

VENDOR CONTACT INFORMATION:

Brian Mefford
Connected Nation Exchange (CNX)
1900 Three Springs Rd
Bowling Green, KY 42102
Phone: 866-881-9425
Email: brm@cnx.io

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This Master Agreement ("Contract", "Award" or "Agreement") is entered into, by and between the Commonwealth of Kentucky, Community Broadband Planning and Training Service Providers ("the Commonwealth" or "Customer") and Connected Nation Exchange, CNX, ("Contractor" or "Vendor") as the Prime Vendor.

The Commonwealth and Contractor agree to the following:

I. Scope of Contract

To provide broadband planning, facilitation and training services statewide on behalf of the **Commonwealth's Office of Broadband Outreach and Development (OBOD).**

II. Negotiated Items

Each Scope of Work will be negotiated separately between the using agency and the Vendor.

III. Terms and Conditions (Per Section 30-50 of RFP-758-1600000022)

SECTION 30 – COMMONWEALTH OFFICE OF TECHNOLOGY (COT) REQUIREMENTS

30.1 **Commonwealth Information Technology Policies and Standards**
The Vendor and any subcontractors shall be required to adhere to applicable Commonwealth policies and standards related to technology use and security.

30.2 **Compliance with Commonwealth IT Enterprise Architecture and Standards**
The Commonwealth IT Enterprise Architecture and Standards reflect a set of principles for information, technology, applications, and organization. These standards provide guidelines, policies, directional statements and sets of standards for information technology. It defines, for the Commonwealth, functional and information needs so that technology choices can be made based on business objectives and service delivery. The Vendor shall stay knowledgeable and shall abide by these standards for all related work.

http://technology.ky.gov/governance/Pages/architecture.aspx

30.3 **Compliance with Commonwealth Security Standards**
The software deployment and all Vendor services shall abide by security standards as outlined in the Commonwealth's Enterprise Information Technology Policies.

Enterprise Policies
http://technology.ky.gov/ciso/Pages/InformationSecurityPolicies,StandardsandProcedures.aspx

Finance and Administration Cabinet Commonwealth Office of Technology Enterprise IT Policies
http://finance.ky.gov/services/policies/Pages/default.aspx

30.4 **Compliance with Industry Accepted Reporting Standards Based on Security Controls and Trust Principles** The vendor must employ a comprehensive risk and threat management approach based on defined industry standards for service organizations such as the Statement on Standards for Attestation Engagements (SSAE 16). The vendor must undergo annual controls reviews based on these standards and have the ability to demonstrate compliance through the applicable reporting mechanisms associated with these reviews. This shall include providing access to any publicly available reports (i.e. SSAE 16 SOC 3) as well as on site reviews of reports available specifically for business partners (i.e. SSAE 16 SOC 2).

30.5 **System Vulnerability and Security Assessments**
The Commonwealth reserves the right to conduct external non-invasive vulnerability and security assessments of the software and infrastructure used to provide services prior to implementation and periodically thereafter. Upon completion of these assessments, the Commonwealth will communicate any findings to the vendor for action. Any cost relating to the alleviation of the findings will be the responsibility of the vendor. Mitigations will be subject to re- evaluation after completion. In cases where direct mitigation cannot be achieved, the vendor shall communicate this and work closely with the Commonwealth to identify acceptable compensating controls that will reduce risk to an acceptable and agreed upon level. An accredited third party source may be selected by the vendor to address findings, provided they will acknowledge all cost and provide valid documentation of mitigation strategies in an agreed upon timeframe.

30.6 **Privacy, Confidentiality and Ownership of Information**
The Commonwealth Office of Technology (COT) is the designated owner of all data and shall approve all access to that data. The Vendor shall not have ownership of Commonwealth data at any time. The Vendor shall be in compliance with privacy policies established by governmental agencies or by state or federal law. Privacy policy statements may be developed and amended from time to time by the Commonwealth and will be appropriately displayed on the Commonwealth portal (Ky.gov). The Vendor should provide sufficient security to protect the Commonwealth and COT data in network transit, storage, and cache. **All sensitive data, as defined in Enterprise Standards, must be encrypted in-transit.**

30.7 **Software Development**
Source code for software developed or modified by the Vendor specifically for the Commonwealth shall become property of the Commonwealth. This is not meant to include minor modifications to the vendor software to configure the software for Commonwealth use. This is meant to include software written to add functionality to the vendor product specifically to meet the requirements of the Commonwealth where the Commonwealth bears the entire cost of creating that functionality.

30.8 **License Agreements**
Software provided by the Vendor to the Commonwealth should contain a provision for perpetual licensing with all upgrade options. License agreements should also contain a provision for the Commonwealth to maintain a version of the software in escrow in the event the Vendor is unable to continue business for financial or other business reasons.

30.9 **Software Version Requirements**

All commercially supported and Commonwealth approved software components such as Operating system (OS), Database software, Application software, Web Server software, Middle Tier software, and other ancillary software must be kept current. In the event that a patch interferes with the solution, the vendor must present a plan for compliance to the Commonwealth outlining the constraints and an appropriate plan of action to bring the solution in to compliance to allow this patch to be applied in the shortest timeframe possible, not to exceed three months, unless otherwise negotiated with the Commonwealth.

The vendors shall keep software in compliance with industry standards to support third party dependencies such as Java, Adobe Flash, Internet Explorer, Mozilla Firefox, etc. at currently supported version, release, and patch levels. In the event that a third party dependency interferes with the solution, the vendor must present a plan for compliance to the Commonwealth outlining the constraints and an appropriate plan of action to bring the solution into compliance to allow this third party dependency to be updated in the shortest timeframe possible, not to exceed three months, unless otherwise negotiated with the Commonwealth.

30.10 **Section 508 Compliance**

All user interfaces to the solution(s) provided, shall be warranted by the vendor to comply with Section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d) and the World Wide Web Consortium's (W3C) Web Content Accessibility Guidelines (WCAG) 1.0, conformance level Double-A or greater.

30.11 **No Surreptitious Code Warranty**

The Contractor represents and warrants that no copy of licensed Software provided to the Commonwealth contains or will contain any Self-Help Code or any Unauthorized Code as defined below. This warranty is referred to in this Contract as the "No Surreptitious Code Warranty".

As used in this Contract, "Self-Help Code" means any back door, time bomb, drop dead device, or other software routine designed to disable a computer program automatically with the passage of time or under the positive control of a person other than the licensee of the software. Self-Help Code does not include Software routines in a computer program, if any, designed to permit an owner of the computer program (or other person acting by authority of the owner) to obtain access to a licensee's computer system(s) (e.g. remote access) for purposes of maintenance or technical support.

As used in this Contract, "Unauthorized Code" means any virus, Trojan horse, spyware, worm or other Software routines or components designed to permit unauthorized access to disable, erase, or otherwise harm software, equipment, or data; or to perform any other such actions. The term Unauthorized Code does not include Self-Help Code.

In addition, Contractor will use up-to-date commercial virus detection software to detect and remove any viruses from any software prior to delivering it to the Commonwealth.
The Vendor shall defend the Commonwealth against any claim, and indemnify the Commonwealth against any loss or expense arising out of any breach of the No Surreptitious Code Warranty.

30.12 **Applicable Security Control Framework Compliance**

The vendor must have an awareness and understanding of the NIST Special Publication 800-53 Security Control Framework and employ safeguards that meet or exceed the moderate level controls as defined within the standard. These controls must provide sufficient safeguards to provide reasonable protections around the Commonwealth's data to ensure that the confidentiality, integrity, and availability are maintained at an appropriate level. These include but are not limited to:

- *Access Control*
  The vendor must employ policy and process that provide for stringent control to limit physical and logical access to systems that house Commonwealth data to a need to know basis and provide clear separation of duties.
- *Awareness and Training*
  The vendor must provide the appropriate role specific training for staff to ensure that there is awareness and understanding of roles and responsibilities as they relate to the protections around the Commonwealth's data.
- *Audit and Accountability*
  There must be sufficient auditing capability to ensure that actions are tracked and there is individual accountability for all actions taken by vendor staff.
- *Configuration Management*
  The vendor must work within established baselines that provide minimal functionality needed to ensure service delivery without exposing unnecessary risk. The vendor must also employ structured change control processes that provide a level of coordination with the client agreed upon in a Service Level Agreement (SLA).
- *Contingency Planning*
  The vendor must employ contingent planning policy and procedures that ensure service delivery based on agreed SLA levels while maintaining all Commonwealth data within the continental Unites States.
- *Identification and Authorization*
  The vendor must employ appropriate identity and access management policies and procedures to ensure that access is appropriately authorized and managed at a level to ensure that access is provisioned and de-provisioned in a timely and efficient manner.
- *Incident Response*
  The vendor must employ policy and procedures to ensure that an appropriate response to all identified security incidents are addressed in a timely manner and are reported to the appropriate parties in an agreed upon SLA timeframe. The vendor must also ensure that all staff are sufficient trained to ensure that they can identify situations that are classified as security incidents.
- *Maintenance*
  The vendor must employ policy and procedures that ensure that all maintenance activities are conducted only by authorized maintenance staff leveraging only authorized maintenance tools.
- *Media Protection*
  The vendor must employ policy and procedure to ensure that sufficient protections exist to protect Commonwealth data on all storage media throughout the media lifecycle and maintain documentation from media creation through destruction.
- *Physical and Environmental Controls*
  The vendor must employ physical and environmental policies and procedures that ensure that the service and delivery infrastructure are located in a physically

secure and environmentally protected environment to ensure the confidentiality, integrity, and availability of Commonwealth data.

- *Personnel Security*
  The vendor must employ policies and procedures to ensure that all staff that have access to systems that house, transmit, or process Commonwealth data have been appropriate vetted and have been through a background check at the time of hire and periodically thereafter.
- *System and Communications Protections*
  The vendor must employ physical and logical protection that protect system communications and communication media from unauthorized access and to ensure adequate physical protections from damage.

SECTION 40 – PROCUREMENT REQUIREMENTS

40.1 Procurement requirements are listed under **"Procurement Laws, Preference, Regulations and Policies"** and **"Response to Solicitation"** located on the eProcurement Web page at http://eprocurement.ky.gov and http://finance.ky.gov/services/eprocurement/Pages/VendorServices.aspx respectively. The Vendor must comply with all applicable statutes, regulations and policies related to this procurement.

40.2 **Contract Components and Order of Precedence**
The Commonwealth's acceptance of the Contractor's offer in response to the Solicitation, indicated by the issuance of a Contract Award by the Office of Procurement Services, shall create a valid Contract between the Parties consisting of the following:

1. Any written Agreement between the Parties;
2. Any Addenda to the Solicitation; **RFP-758-1600000022**
3. The Solicitation **RFP-758-1600000022** and all attachments
4. Procurement Statutes, Regulations and Policies
5. Any Best and Final Offer;
6. Any clarifications concerning the Contractor's proposal in response to the Solicitation; **RFP-758-1600000022**
7. The Contractor's proposal in response to the Solicitation **RFP-758-1600000022**

In the event of any conflict between or among the provisions contained in the Contract, the order of precedence shall be as enumerated above.

40.3 **Final Agreement**
The Contract represents the entire agreement between the parties with respect to the subject matter hereof. Prior negotiations, representations, or agreements, either written or oral, between the parties hereto relating to the subject matter hereof shall be of no effect upon this Contract.

40.4 **Contract Provisions**

If any provision of this Contract (including items incorporated by reference) is declared or found to be illegal, unenforceable, or void, then both the Commonwealth and the Contractor shall be relieved of all obligations arising under such provision. If the remainder of this Contract is capable of performance, it shall not be affected by such declaration or finding and shall be fully performed.

40.5 **Type of Contract**

This Contract shall be on the basis of a **firm fixed unit price.**

40.6 **Contract Usage**

The contractual agreement with the selected Vendor will in no way obligate the Commonwealth of Kentucky to purchase any services or equipment under this contract. The Commonwealth agrees, in entering into any contract, to purchase only such services in such quantities as necessary to meet the actual requirements as determined by the Commonwealth.

40.7 **Addition or Deletion of Items or Services**

The Office of Procurement Services reserves the right to add new and similar items, by issuing a Contract Modification, to this Contract with the consent of the Vendor. Until such time as the Vendor receives a Modification, the Vendor shall not accept Delivery Orders from any agency referencing such items or services.

40.8 **Changes and Modifications to the Contract**

Pursuant to KRS 45A.210 (1) and 200 KAR 5:311, no modification or change of any provision in the Contract shall be made, or construed to have been made, unless such modification is mutually agreed to in writing by the Contractor and the Commonwealth, and incorporated as a written amendment to the Contract and processed through the Office of Procurement Services and approved by the Finance and Administration Cabinet prior to the effective date of such modification or change pursuant to KRS 45A.210(1) and 200 KAR 5:311. Memorandum of understanding, written clarification, and/or correspondence shall not be construed as amendments to the Contract.

If the Contractor finds at any time that existing conditions made modification of the Contract necessary, it shall promptly report such matters to the Commonwealth Buyer for consideration and decision.

40.9 **Changes in Scope**

The Commonwealth may, at any time by written order, make changes within the general scope of the Contract. No changes in scope are to be conducted except at the approval of the Commonwealth.

40.10 **Contract Conformance**

If the Commonwealth Buyer determines that deliverables due under the Contract are not in conformance with the terms and conditions of the Contract and the mutually agreed-upon project plan, the Buyer may request the Contractor to deliver assurances in the form of additional Contractor resources and to demonstrate that other major schedules will not be affected. The Commonwealth shall determine the quantity and quality of such additional resources and failure to comply may constitute default by the Contractor.

40.11 **Assignment**
The Contract shall not be assigned in whole or in part without the prior written consent of the Commonwealth Buyer.

40.12 **Payment**
The Commonwealth will make payment within thirty (30) working days of receipt of Contractor's invoice or of acceptance of goods and/or services in accordance with KRS 45.453 and KRS 45.454.

Payments are predicated upon successful completion and acceptance of the described work, services, supplies, or commodities, and delivery of the required documentation. Invoices for payment shall be submitted to the Agency Contact Person or his representative.

40.13 **Contractor Cooperation in Related Efforts**
The Commonwealth of Kentucky may undertake or award other contracts for additional or related work, services, supplies, or commodities, and the Contractor shall fully cooperate with such other contractors and Commonwealth employees. The Contractor shall not commit or permit any act that will interfere with the performance of work by any other contractor or by Commonwealth employees.

40.14 **Contractor Affiliation**
"Affiliate" shall mean a branch, division or subsidiary that is effectively controlled by another party. If any affiliate of the Contractor shall take any action that, if done by the Contractor, would constitute a breach of this agreement, the same shall be deemed a breach by such party with like legal effect.

40.15 **Commonwealth Property**
The Contractor shall be responsible for the proper custody and care of any Commonwealth-owned property furnished for Contractor's use in connections with the performance of this Contract. The Contractor shall reimburse the Commonwealth for its loss or damage, normal wear and tear excepted.

40.16 **Confidentiality of Contract Terms**
The Contractor and the Commonwealth agree that all information communicated between them before the effective date of the Contract shall be received in strict confidence and shall not be necessarily disclosed by the receiving party, its agents, or employees without prior written consent of the other party. Such material will be kept confidential subject to Commonwealth and Federal public information disclosure laws.

Upon signing of the Contract by all Parties, terms of the Contract become available to the public, pursuant to the provisions of the Kentucky Revised Statutes.

The Contractor shall have an appropriate agreement with its Subcontractors extending these confidentiality requirements to all Subcontractors' employees.

40.17 **Confidential Information**
The Contractor shall comply with the provisions of the Privacy Act of 1974 and instruct its employees to use the same degree of care as it uses with its own data to keep confidential information concerning client data, the business of the Commonwealth, its financial affairs, its relations with its citizens and its employees, as well as any other information which may

be specifically classified as confidential by the Commonwealth in writing to the Contractor. All Federal and State Regulations and Statutes related to confidentiality shall be applicable to the Contractor. The Contractor shall have an appropriate agreement with its employees, and any subcontractor employees, to that effect, provided however, that the foregoing will not apply to:

A. Information which the Commonwealth has released in writing from being maintained in confidence;
B. Information which at the time of disclosure is in the public domain by having been printed an published and available to the public in libraries or other public places where such data is usually collected; or
C. Information, which, after disclosure, becomes part of the public domain as defined above, thorough no act of the Contractor.

40.18 **Advertising Award**
The Contractor shall not refer to the Award of Contract in commercial advertising in such a manner as to state or imply that the firm or its services are endorsed or preferred by the Commonwealth of Kentucky without the expressed written consent of the Agency Technical Contact person listed in this Contract. (Section 50.5).

40.19 **Patent or Copyright Infringement**
The Contractor shall report to the Commonwealth promptly and in reasonable written detail, each notice of claim of patent or copyright infringement based on the performance of this Contract of which the Contractor has knowledge. The Commonwealth agrees to notify the Contractor promptly, in writing, of any such claim, suit or proceeding, and at the Contractor's expense give the Contractor proper and full information needed to settle and/or defend any such claim, suit or proceeding.

If, in the Contractor's opinion, the equipment, materials, or information mentioned in the paragraphs above is likely to or does become the subject of a claim or infringement of a United States patent or copyright, then without diminishing the Contractor's obligation to satisfy any final award, the Contractor may, with the Commonwealth's written consent, substitute other equally suitable equipment, materials, and information, or at the Contractor's options and expense, obtain the right for the Commonwealth to continue the use of such equipment, materials, and information.

The Commonwealth agrees that the Contractor has the right to defend, or at its option, to settle and the Contractor agrees to defend at its own expense, or at its option to settle, any claim, suit or proceeding brought against the Commonwealth on the issue of infringement of any United States patent or copyright or any product, or any part thereof, supplied by the Contractor to the Commonwealth under this agreement. The Contractor agrees to pay any final judgment entered against the Commonwealth on such issue in any suit or proceeding defended by the Contractor.

If principles of governmental or public law are involved, the Commonwealth may participate in the defense of any such action, but no costs or expenses shall be incurred for the account of the Contractor without the Contractor's written consent. The Contractor shall have no liability for any infringement based upon:

A. the combination of such product or part with any other product or part not furnished to the Commonwealth by the Contractor

B. the modification of such product or part unless such modification was made by the Contractor

C. the use of such product or part in a manner for which it was not designed

40.20 **Permits, Licenses, Taxes and Commonwealth Registration**
The Contractor shall procure all necessary permits and licenses and abide by all applicable laws, regulations, and ordinances of all Federal, State, and local governments in which work under this Contract is performed.

The Contractor shall maintain certification of authority to conduct business in the Commonwealth of Kentucky during the term of this Contract. Such registration is obtained from the Secretary of State, who will also provide the certification thereof.

The Contractor shall pay any sales, use, and personal property taxes arising out of this Contract and the transaction contemplated hereby. Any other taxes levied upon this Contract, the transaction, or the equipment or services delivered pursuant hereto shall be borne by the Contractor.

40.21 **EEO Requirements**
The Equal Employment Opportunity Act of 1978 applies to All State government projects with an estimated value exceeding $500,000. The Contractor shall comply with all terms and conditions of the Act.

http://finance.ky.gov/services/eprocurement/Pages/VendorServices.aspx.

40.22 **Provisions for Termination of the Contract**
This Contract shall be subject to the termination provisions set forth in 200 KAR 5:312.

40.23 **Bankruptcy**
In the event the Contractor becomes the subject debtor in a case pending under the Federal Bankruptcy Code, the Commonwealth's right to terminate this Contract may be subject to the rights of a trustee in bankruptcy to assume or assign this Contract. The trustee shall not have the right to assume or assign this Contract unless the trustee (a) promptly cures all defaults under this Contract; (b) promptly compensates the Commonwealth for the monetary damages incurred as a result of such default, and (c) provides adequate assurance of future performance, as determined by the Commonwealth.

40.24 **Conformance with Commonwealth & Federal Laws/Regulations**
This Contract is subject to the laws of the Commonwealth of Kentucky and where applicable Federal law. Any litigation with respect to this Contract shall be brought in state or federal court in Franklin County, Kentucky in accordance with KRS 45A.245.

40.25 **Accessibility**
Vendor hereby warrants that the products or services to be provided under this Contract comply with the accessibility requirements of Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794d), and its implementing regulations set forth at Title 36, Code of Federal Regulations, part 1194. Vendor further warrants that the products or services to be provided under this Contract comply with existing federal standards

established under Section 255 of the Federal Telecommunications Act of 1996 (47 U.S.C. § 255), and its implementing regulations set forth at Title 36, Code of Federal Regulations, part 1193, to the extent the Vendor's products or services may be covered by that act. Vendor agrees to promptly respond to and resolve any complaint regarding accessibility of its products or services which is brought to its attention.

40.26 **Access to Records**
The contractor, as defined in KRS 45A.030 (9) agrees that the contracting agency, the Finance and Administration Cabinet, the Auditor of Public Accounts, and the Legislative Research Commission, or their duly authorized representatives, shall have access to any books, documents, papers, records, or other evidence, which are directly pertinent to this contract for the purpose of financial audit or program review. Records and other prequalification information confidentially disclosed as part of the bid process shall not be deemed as directly pertinent to the contract and shall be exempt from disclosure as provided in KRS 61.878(1) (c). The contractor also recognizes that any books, documents, papers, records, or other evidence, received during a financial audit or program review shall be subject to the Kentucky Open Records Act, KRS 61.870 to 61.884.

In the event of a dispute between the contractor and the contracting agency, Attorney General, or the Auditor of Public Accounts over documents that are eligible for production and review, the Finance and Administration Cabinet shall review the dispute and issue a determination, in accordance with Secretary's Order 11-004 (See Attachment E).

40.27 **Prohibitions of Certain Conflicts of Interest**
In accordance with KRS 45A.340, the contractor represents and warrants, and the Commonwealth relies upon such representation and warranty, that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its services. The contractor further represents and warrants that in the performance of the contract, no person, **including any subcontractor, having any such interest shall be employed.**

40.28 **No Contingent Fees**
No person or selling agency shall be employed or retained or given anything of monetary value to solicit or secure this contract, excepting bona fide employees of the Offeror or bona fide established commercial or selling agencies maintained by the Offeror for the purpose of securing business. For breach or violation of this provision, the Commonwealth shall have the right to reject the proposal or cancel the contract without liability.

40.29 **Intentionally Left Blank**

40.30 **Contract Claims**
The Parties acknowledge that KRS 45A.225 to 45A.290 governs contract claims.

40.31 **Limitation of Liability**
The liability of the Commonwealth related to contractual damages is set forth in KRS 45A.245.

40.32 **Discrimination (Effective April 8, 2015)**
Discrimination (because of race, religion, color, national origin, sex, sexual orientation, gender identity, age, or disability) is prohibited. This section applies only to contracts utilizing federal funds, in whole or in part. During the performance of this contract, the

contractor agrees as follows:

1. The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, national origin, sex, sexual orientation, gender identity, or age. The contractor further agrees to comply with the provisions of the Americans with Disabilities Act (ADA), Public Law 101-336, and applicable federal regulations relating thereto prohibiting discrimination against otherwise qualified disabled individuals under any program or activity. The contractor agrees to provide, upon request, needed reasonable accommodations. The contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, religion, color, national origin, sex, sexual orientation, gender identity, age or disability. Such action shall include, but not be limited to the following; employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensations; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.

2. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor; state that all qualified applicants will receive consideration for employment without regard to race, religion, color, national origin, sex, sexual orientation, gender identity, age or disability.

3. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice advising the said labor union or workers' representative of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance.

4. The contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965 as amended, and of the rules, regulations and relevant orders of the Secretary of Labor.

5. The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, as amended, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

6. In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations or orders, this contract may be cancelled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further government contracts or federally-assisted construction contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, as amended, and such other sanctions may be imposed and remedies invoked as provided in or as otherwise provided by law.

7. The contractor will include the provisions of paragraphs (1) through (7) of section 202 of Executive Order 11246 in every subcontract or purchase order unless exempted by

rules, regulations or orders of the Secretary of Labor, issued pursuant to section 204 of Executive Order No. 11246 of September 24, 1965, as amended, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

40.33 **Minimum Wage for the Commonwealth's Service Providers** (Effective July 1, 2015)
The offeror shall pay to any worker directly performing a service called for in the contract, and to any person who provides a service ancillary thereto for at least 20% of his or her working time in any given work week, a minimum of $10.10 per hour, or $4.90 per hour for tipped employees, for those hours worked in connection with the contract

SECTION 50 – SCOPE OF WORK

50.1 **Agencies to Be Served**

This contract shall be for use by the Finance and Administration Cabinet and with prior approval by the secretary of the Finance and Administration Cabinet, it will be made available for use by all Agencies of the Commonwealth as defined in 45A.605.

50.2 **Extending the Contract Use to Other Agencies**

The Finance and Administration Cabinet reserves the right, to offer the Master Agreement to other state agencies and stakeholders.

Commonwealth Community Planning Methodology
Kentucky Promise Zone
Kentucky Wired Program and Network
Commonwealth Office of Technology
Kentucky Information Highway – Existing Connectivity Contract
Kentucky Education Network (KEN)
State Government Environments and the KIH3 Contract
Center for Rural Development
KEWS – Statewide Towers and Emergency Warning Radio System
Higher Education Networks
Council on Postsecondary Education (CPE)
Kentucky Community and Technical Colleges
Association of Independent Kentucky Colleges and Universities
First Responders, Public Safety and FirstNet
Commercial Mobile Radio Services – Emergency Telecommunications Board
Kentucky Educational TV

Kentucky Department of Education and Kentucky School Districts
Kentucky Library System

50.3 **Term of Contract and Renewal Options**

The initial term of Contract(s) shall be for a period of four (4) years from the effective date of the Award of each Contract.

The Contract(s) may be renewed at the completion of the initial Contract period for two (2) additional one (1) year periods upon the mutual agreement of the Parties. Such mutual agreement shall take the form of a Contract Modification as described in Section 40.8 of this Contract.

At the end of the contract, the vendor shall provide all agency data in a form that can be converted to any subsequent system of the agency's choice. The vendor shall cooperate to this end with the vendor of the agency's choice, in a timely and efficient manner.

The Commonwealth reserves the right not to exercise any or all renewal options. The Commonwealth reserves the right to extend the contract for a period less than the length of the above-referenced renewal period if such an extension is determined by the Commonwealth Buyer to be in the best interest of the Commonwealth.

The Commonwealth reserves the right to renegotiate any terms and/or conditions as may be necessary to meet requirements for the extended period. In the event proposed revisions cannot be agreed upon, either party shall have the right to withdraw without prejudice from either exercising the option or continuing the contract in an extended period.

50.4 **Basis of Price Revisions**

PRICE ADJUSTMENTS: Unless otherwise specified, the prices shall remain firm for the contract period subject to the following:

A: Price Increases: A price increase shall not occur during the first twelve (12) months of the contract. A vendor may request a price increase after twelve (12) months of the contract, which may be granted or denied by the Commonwealth. Any such price increase shall be based on industry wide price changes. The Contract holder must request in writing a price increase at least thirty (30) days prior to the effective date, and shall provide firm proof that the price increase(s) is justified. The Office of Procurement Services may request additional information or justification. If the price increase is denied, the Contract holder may withdraw from the Contract without prejudice upon written notice and approval by the Office of Procurement Services. Provided, however, that the vendor must continue service, at the Contract prices, until a new Contract can be established (usually within sixty (60) days).

B: Price Decreases: The Contract price shall be reduced to reflect any industry wide price decreases. The Contract holder is required to furnish the

Office of Procurement Services with notice of any price decreases as soon as such decreases are available.

C: Extended Contract Periods: If the Contract provides for an optional renewal period, a price adjustment may be granted at the time the Contract is renewed, subject to price increase justification as required in Paragraph A "Price Increases" as stated above.

50.5 **Notices**

After the Award of Contract, all programmatic communications with regard to day-to-day performance under the contract are to be made to the Agency technical contact(s) identified below:

Brian Kiser, Executive Director
Office of Broadband Outreach and Development
Room 456, Capitol Annex
Frankfort, KY 40601
Phone: 502-564-1635
Email: BrianE.Kiser@ky.gov

After the Award of Contract, all communications of a contractual or legal nature are to be made to the Commonwealth Buyer identified below:

Sheila Durham
Commonwealth of Kentucky
Finance and Administration Cabinet
Office of Procurement Services
702 Capitol Avenue, Room 096
Frankfort, KY 40601
Phone: (502) 564-6524
Email: sheila.durham@ky.gov

50.6 **Subcontractors**

The Contractor is permitted to make subcontract(s) with any other party for furnishing any of the work or services herein. The Contractor shall be solely responsible for performance of the entire Contract whether or not subcontractors are used. The Commonwealth shall not be involved in the relationship between the prime contractor and the subcontractor. Any issues that arise as a result of this relationship shall be resolved by the prime contractor. All references to the Contractor shall be construed to encompass both the Contractor and any subcontractors of the Contractor.

IV. Pricing

Table 1 - Pricing Schedule for the Promise Zone Broadband Planning Engagement

Cost Bid (U. S. Dollars)

Promise Zone Community Fixed Cost Pricing Propose Fully Loaded Project Costs	Costs
Project Management Services	$38,191.
Orientation and Facilitation Services	$17,740.
Plan Preparation and Administrative Support	$24,258.
Planning, Training and Facilitation Services	$30,014.
Total Promise Zone Engagement – Fixed Cost	**$110,203.**

Table 2 - Pricing Schedule for Future Community Broadband Planning Engagements

Cost Bid (U. S. Dollars)

Professional Services Schedule Fully Loaded Hourly Rates	Costs
Program/Project Management Services	$152.
Planning Facilitation Services	$97.
Planning Methodology Training Services	$69.
Service Delivery Support/Administrative Services	$38.

Fully loaded means the total hourly rate to the Commonwealth to include travel.

V. Approvals

This Contract is subject to the terms and conditions as stated. By executing this Contract, the parties verify that they are authorized to bind this agreement and that they accept the terms of this agreement.

This Contract may be executed electronically in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same Contract.

This Contract is invalid until properly approved and executed by the Finance and Administration Cabinet.

1st Party: Connected Nation Exchange, CNX, as Contracting Agent ("Contractor" or "Vendor")

Brian R. Mefford	Chief Executive Officer
Printed name	Title
Brian R. Mefford	November 5, 2015
Signature	Date

2nd Party: Community Broadband Planning and Training Service Providers, ("the Commonwealth" or "Customer")

Brian E. Kiser	Exec Dir OBOD
Printed name	Title
B. E. Kiser	11-10-15
Signature	Date

Approved by the Finance and Administration Cabinet
Office of Procurement Services

Donald R. Speer	Executive Director
Printed name	Title
Donald R. Speer	11/10/15
Signature	Date

Attachments

ATTACHMENT A – This Document
ATTACHMENT B – Omitted Intentionally
ATTACHMENT C – Omitted Intentionally
ATTACHMENT D – Omitted Intentionally
ATTACHMENT E – Secretary's Order 11-004
ATTACHMENT F – Omitted Intentionally
ATTACHMENT G - Minimum Wage Executive Order 2015-370
ATTACHMENT H – The Protection of Personal Information Security and Breach Investigation Procedures and Practice Act (KRS 61.931)

ATTACHMENT E
SECRETARY'S ORDER 11-004

FINANCE AND ADMINISTRATION CABINET

Vendor Document Disclosure

WHEREAS, in order to promote accountability and transparency in governmental operations, the Finance and Administration Cabinet believes that a mechanism should be created which would provide for review and assistance to an Executive Branch agency if said agency cannot obtain access to documents that it deems necessary to conduct a review of the records of a private vendor that holds a contract to provide goods and/or services to the Commonwealth; and

WHEREAS, in order to promote accountability and transparency in governmental operations, the Finance and Administration Cabinet believes that a mechanism should be created which would provide for review and assistance to an Executive Branch agency if said agency cannot obtain access to documents that it deems necessary during the course of an audit, investigation or any other inquiry by an Executive Branch agency that involves the review of documents; and

WHEREAS, KRS 42.014 and KRS 12.270 authorizes the Secretary of the Finance and Administration Cabinet to establish the internal organization and assignment of functions which are not established by statute relating to the Finance and Administration Cabinet; further, KRS Chapter 45A.050 and 45A.230 authorizes the Secretary of the Finance and Administration Cabinet to procure, manage and control all supplies and services that are procured by the Commonwealth and to intervene in controversies among vendors and state agencies; and

NOW, THEREFORE, pursuant to the authority vested in me by KRS 42.014, KRS 12.270, KRS 45A.050, and 45A.230, I, Lori H. Flanery, Secretary of the Finance and Administration Cabinet, do hereby order and direct the following:

I. Upon the request of an Executive Branch agency, the Finance and Administration Cabinet ("FAC") shall formally review any dispute arising where the agency has requested documents from a private vendor that holds a state contract and the vendor has refused access to said documents under a claim that said documents are not directly pertinent or relevant to the agency's inquiry upon which the document request was predicated.

II. Upon the request of an Executive Branch agency, the FAC shall formally review any situation where the agency has requested documents that the agency deems necessary to conduct audits, investigations or any other formal inquiry where a dispute has arisen as to what documents are necessary to conclude the inquiry.

III. Upon receipt of a request by a state agency pursuant to Sections I & II, the FAC shall consider the request from the Executive Branch agency and the position of the vendor or party opposing the disclosure of the documents, applying any and all relevant law to the facts and circumstances of the matter in controversy. After FAC's review is complete, FAC shall issue a Determination which sets out FAC's position as to what documents and/or records, if any, should be disclosed to the

requesting agency. The Determination shall be issued within 30 days of receipt of the request from the agency. This time period may be extended for good cause.

IV. If the Determination concludes that documents are being wrongfully withheld by the private vendor or other party opposing the disclosure from the state agency, the private vendor shall immediately comply with the FAC's Determination. Should the private vendor or other party refuse to comply with FAC's Determination, then the FAC, in concert with the requesting agency, shall effectuate any and all options that it possesses to obtain the documents in question, including, but not limited to, jointly initiating an action in the appropriate court for relief.

V. Any provisions of any prior Order that conflicts with the provisions of this Order shall be deemed null and void.

ATTACHMENT G

2015-370

June 8, 2015

MINIMUM WAGE FOR STATE EMPLOYEES AND THE COMMONWEALTH'S SERVICE PROVIDERS

WHEREAS, it is indisputable that all citizens and residents of the Commonwealth of Kentucky have the inherent and inalienable rights to enjoy their lives and liberty and to seek and pursue their safety and happiness; and

WHEREAS, the current required minimum wage of $7.25 per hour for hourly workers and $2.13 for tipped employees as established by state and federal law for all the employers in the Commonwealth is no longer sufficient to provide workers the means to achieve those inherent and inalienable rights; and

WHEREAS, studies consistently and overwhelmingly show that an increase in the minimum wage does not negatively impact collective employment, but instead results in faster job growth; and

WHEREAS, minimum wage workers are not typically teenagers working part- time but are adults trying to make ends meet — statistics show that 87.5% of minimum wage workers are adults over the age of 20 and that nearly the same percentage work at least 20 hours a week; and

WHEREAS, the Commonwealth of Kentucky commits significant resources to its employees and to the acquisition of services to be performed under contract; and

WHEREAS, it is the policy of this administration to increase efficiency and cost savings in work performed for the Commonwealth of Kentucky; and

WHEREAS, requiring a higher wage to be paid to those working for and on behalf of the Commonwealth of Kentucky will lead to increased morale, productivity, and quality of the work performed and an accompanying decrease in turnover, training, and supervisory costs; and

WHEREAS, increasing the pay of the lowest-paid workers will enable them to be more self-sufficient and to move toward realizing the dream of a better life which is too often unachievable with their current wages; and

WHEREAS, economic forces necessitate a more competitive wage to attract and retain the best workers in the improved Kentucky job market; and

WHEREAS, Federal contracting rules now require that workers under certain federally funded state contracts be paid a minimum wage of $10.10 per hour and $4.90 per hour for tipped workers; and

WHEREAS, all individuals providing services to the Commonwealth should be paid the same minimum wage regardless of the identity of his or her employer:

NOW, THEREFORE, I, Steven L. Beshear, Governor of the Commonwealth of Kentucky, by virtue of the authority vested in me by Sections 69 and 81 of the Constitution of Kentucky and by Chapter 12 of the Kentucky Revised Statutes, do hereby DECLARE, ORDER and DIRECT that:

1. As of the effective date of this order, all Executive Branch employees shall be paid no less than $10.10 per hour, or $4.90 per hour for those workers who are "tipped employees" as defined by KRS 337.010(2)(d).
2. All contracts entered into or renewed by Executive Branch agencies with effective dates on or after the effective date of this order shall provide for a minimum wage of

A. $10.10 per hour for ordinary workers; and

B. $4.90 per hour for workers who are "tipped employees" as defined by KRS 337.010(2)(d).

3. The increased minimum wage requirements of this order shall apply to any worker directly performing the service called for in a contract and shall also apply to any person who spends at least 20% of his or her working time in a given work week providing a service ancillary to the services called for in a contract.

4. Nothing in this order shall excuse noncompliance with any other Federal or State law, including prevailing wage laws, or any applicable law or municipal ordinance establishing a minimum wage higher than the minimum wage established under this order.

5. This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the Commonwealth of Kentucky, its agencies, officers, or employees, and is not applicable to public universities.

6. All employers in the Commonwealth, both public and private, are strongly encouraged to implement policies consistent with the terms of this order.

7. All Executive Branch agencies, in conjunction with the Governor's Executive Cabinet, shall take all steps necessary to implement this order.

This order is effective July 1, 2015.

ATTACHMENT H

PERSONAL INFORMATION SECURITY AND BREACH INVESTIGATION PROCEDURES AND PRACTICES ACT (KRS 61.931, ET SEQ.)

Vendors that receive Personal Information as defined by and in accordance with Kentucky's Personal Information Security and Breach Investigation Procedures and Practices Act, KRS 61.931, et seq., (the "Act"), shall secure and protect the Personal Information by, without limitation, complying with all requirements applicable to non-affiliated third parties set forth in the Act.

"Personal Information" is defined in accordance with KRS 61.931(6) as "an individual's first name or first initial and last name; personal mark; or unique biometric or genetic print or image, in combination with one (1) or more of the following data elements:

a) An account, credit card number, or debit card number that, in combination with any required security code, access code or password, would permit access to an account;
b) A Social Security number;
c) A taxpayer identification number that incorporates a Social Security number;
d) A driver's license number, state identification card number or other individual identification number issued by an agency;
e) A passport number or other identification number issued by the United States government; or
f) Individually Identifiable Information as defined in 45 C.F.R. sec. 160.013 (of the Health Insurance Portability and Accountability Act), except for education records covered by the Family Education Rights and Privacy Act, as amended 20 U.S.C. sec 1232g."

As provided in KRS 61.931(5), a "non-affiliated third party" means "any person or entity that has a contract or agreement with the Commonwealth and receives (accesses, collects or maintains) personal information from the Commonwealth pursuant to the contract or agreement."

The vendor hereby agrees to cooperate with the Commonwealth in complying with the response, mitigation, correction, investigation, and notification requirements of the Act.

The vendor shall immediately notify as soon as possible, but not to exceed seventy-two (72) hours, the contracting agency, the Office of Procurement Services, the Commonwealth Office of Technology and the NG-KIH Program Office of a determination of or knowledge of a breach, unless the exception set forth in KRS 61.932(2)(b)2 applies and the vendor abides by the requirements set forth in that exception.

The vendor hereby agrees that the Commonwealth may withhold payment(s) owed to the vendor for any violation of the Identity Theft Prevention Reporting Requirements.

The vendor hereby agrees to undertake a prompt and reasonable investigation of any breach as required by KRS 61.933.

Upon conclusion of an investigation of a security breach of Personal Information as required by KRS 61.933, the vendor hereby agrees to an apportionment of the costs of the notification, investigation, and mitigation of the security breach.

In accordance with KRS 61.932(2)(a) the vendor shall implement, maintain, and update security and breach investigation procedures that are appropriate to the nature of the information disclosed, that are at least as stringent as the security and breach investigation procedures and practices established by the Commonwealth Office of Technology:

http://technology.ky.gov/ciso/Pages/InformationSecurityPolicies,StandardsandProcedures.aspx