



STATE OF NEW HAMPSHIRE
DEPARTMENT OF INFORMATION TECHNOLOGY
27 Hazen Dr., Concord, NH 03301
Fax: 603-271-1516 TDD Access: 1-800-735-2964
www.nh.gov/doit

Denis Goulet
Commissioner

May 24, 2019

Charles M. Arlinghaus, Commissioner
Department of Administrative Services
State of New Hampshire
25 Capitol Street
Concord, NH 03301

Dear Commissioner Arlinghaus,

This letter represents formal notification that the Department of Information Technology (DoIT) has approved your agency's request to enter into a contract with FirstLight Fiber, LLC. as described below and referenced as DoIT No. 2019-083.

The purpose of this contract is to provide the State with six (6) cable segments as follows:
45 South Fruit Street to the cable vault at the Manchester Street and Old Turnpike Road,
12 Hills Avenue, 50 Storrs Street, 64 South Street, and Pole T-31/E-99 North State Street,
as well as complete installation between 110 Smokey Bear Boulevard to 27 Hazen Drive.

The amount of the contract is not to exceed \$108,000.00, and shall become effective January 1, 2020 or upon the date of Governor and Executive Council approval, whichever is later, through June 30, 2024.

A copy of this letter should accompany the Department of Administrative Services submission to the Governor and Executive Council for approval.

Sincerely,

Denis Goulet

DG/kaf
DoIT # 2019-083
cc: Joseph Luna, Telecom Manager
Rebecca Bolton, IT Manager, DoIT

Subject: Dark Fiber Facilities Services

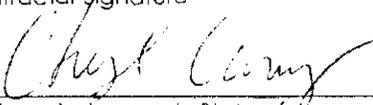
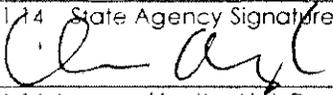
Notice: This agreement and all of its attachments shall become public upon submission to Governor and Executive Council for approval. Any information that is private, confidential or proprietary must be clearly identified to the agency and agreed to in writing prior to signing the contract.

AGREEMENT

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

GENERAL PROVISIONS

I. IDENTIFICATION.

1.1 State Agency Name Department of Administrative Services		1.2 State Agency Address State House Annex 25 Capitol Street Concord, NH 03301	
1.3 Contractor Name FirstLight Fiber, Inc		1.4 Contractor Address 41 State St, 10 th Floor Albany, NY 12207	
1.5 Contractor Phone Number 603-832-4976	1.6 Account Number Various	1.7 Completion Date 6/30/2024	1.8 Price Limitation \$108,000.00
1.9 Contracting Officer for State Agency Ryan Aubert, Purchasing Agent		1.10 State Agency Telephone Number 603-271-0580	
1.11 Contractor Signature 		1.12 Name and Title of Contractor Signatory Cheryl Carney SVP SALES	
1.13 Acknowledgement: State of _____, County of _____ On _____, before the undersigned officer, personally appeared the person identified in block 1.12, or satisfactorily proven to be the person whose name is signed in block 1.11, and acknowledged that s/he executed this document in the capacity indicated in block 1.12.			
STATE OF MAINE - COUNTY OF _____			
Subscribed and sworn (or affirmed) before me this this <u>13th</u> day of <u>August</u> , 20 <u>19</u>			
1.13.1 Signature of Notary Public or Justice of the Peace (Seal)		by 	
1.13.2 Name and Title of Notary or Justice of the Peace <u>Personally Known</u> <input checked="" type="checkbox"/> OR Produced Identification <input type="checkbox"/> Type of Identification _____			
1.14 State Agency Signature 		PAUL BADEAU, Notary Public My Commission Expires <u>July 18, 2024</u> Date <u>8/20/19</u>	
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: _____ Director, On: _____			
1.17 Approval by the Attorney General (Form, Substance and Execution) (if applicable) By: <u>Takumiha Kakuwata</u> On: <u>8/22/2019</u>			
1.18 Approval by the Governor and Executive Council (if applicable) By:  DEPUTY SECRETARY OF STATE			

SEP 18 2019

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

3. EFFECTIVE DATE/COMPLETION OF SERVICES.
3.1 Notwithstanding any provision of this Agreement to the contrary, and subject to the approval of the Governor and Executive Council of the State of New Hampshire, if applicable, this Agreement, and all obligations of the parties hereunder, shall become effective on the date the Governor and Executive Council approve this Agreement as indicated in block 1.18, unless no such approval is required, in which case the Agreement shall become effective on the date the Agreement is signed by the State Agency as shown in block 1.14 ("Effective Date").

3.2 If the Contractor commences the Services prior to the Effective Date, all Services performed by the Contractor prior to the Effective Date shall be performed at the sole risk of the Contractor, and in the event that this Agreement does not become effective, the State shall have no liability to the Contractor, including without limitation, any obligation to pay the Contractor for any costs incurred or Services performed. Contractor must complete all Services by the Completion Date specified in block 1.7.

4. CONDITIONAL NATURE OF AGREEMENT.
Notwithstanding any provision of this Agreement to the contrary, all obligations of the State hereunder, including, without limitation, the continuance of payments hereunder, are contingent upon the availability and continued appropriation of funds, and in no event shall the State be liable for any payments hereunder in excess of such available appropriated funds. In the event of a reduction or termination of appropriated funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate this Agreement immediately upon giving the Contractor notice of such termination. The State shall not be required to transfer funds from any other account to the Account identified in block 1.6 in the event funds in that Account are reduced or unavailable.

5. CONTRACT PRICE/PRICE LIMITATION/ PAYMENT.
5.1 The contract price, method of payment, and terms of payment are identified and more particularly described in EXHIBIT B which is incorporated herein by reference.
5.2 The payment by the State of the contract price shall be the only and the complete reimbursement to the Contractor for all expenses, of whatever nature incurred by the Contractor in the performance hereof, and shall be the only and the complete compensation to the Contractor for the Services. The State shall have no liability to the Contractor other than the contract price.

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

5.4 Notwithstanding any provision in this Agreement to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments authorized, or actually made hereunder, exceed the Price Limitation set forth in block 1.8.

6. COMPLIANCE BY CONTRACTOR WITH LAWS AND REGULATIONS/ EQUAL EMPLOYMENT OPPORTUNITY.
6.1 In connection with the performance of the Services, the Contractor shall comply with all statutes, laws, regulations, and orders of federal, state, county or municipal authorities which impose any obligation or duty upon the Contractor, including, but not limited to, civil rights and equal opportunity laws. This may include the requirement to utilize auxiliary aids and services to ensure that persons with communication disabilities, including vision, hearing and speech, can communicate with, receive information from, and convey information to the Contractor. In addition, the Contractor shall comply with all applicable copyright laws.

6.2 During the term of this Agreement, the Contractor shall not discriminate against employees or applicants for employment because of race, color, religion, creed, age, sex, handicap, sexual orientation, or national origin and will take affirmative action to prevent such discrimination.

6.3 If this Agreement is funded in any part by monies of the United States, the Contractor shall comply with all the provisions of Executive Order No. 11246 ("Equal Employment Opportunity"), as supplemented by the regulations of the United States Department of Labor (41 C.F.R. Part 60), and with any rules, regulations and guidelines as the State of New Hampshire or the United States issue to implement these regulations. The Contractor further agrees to permit the State or United States access to any of the Contractor's books, records and accounts for the purpose of ascertaining compliance with all rules, regulations and orders, and the covenants, terms and conditions of this Agreement.

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

7.2 Unless otherwise authorized in writing, during the term of this Agreement, and for a period of six (6) months after the Completion Date in block 1.7, the Contractor shall not hire, and shall not permit any subcontractor or other person, firm or corporation with whom it is engaged in a combined effort to perform the Services to hire, any person who is a State employee or official, who is materially involved in the procurement, administration or performance of this Agreement. This provision shall survive termination of this Agreement.

7.3 The Contracting Officer specified in block 1.9, or his or her successor, shall be the State's representative. In the event of any dispute concerning the interpretation of this Agreement, the Contracting Officer's decision shall be final for the State.

8. EVENT OF DEFAULT/REMEDIES.

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

- 8.1.1 failure to perform the Services satisfactorily or on schedule;
- 8.1.2 failure to submit any report required hereunder; and/or
- 8.1.3 failure to perform any other covenant, term or condition of this Agreement.

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

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

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

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

8.2.4 treat the Agreement as breached and pursue any of its remedies at law or in equity, or both.

9. DATA/ACCESS/CONFIDENTIALITY/ PRESERVATION.

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

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

9.3 Confidentiality of data shall be governed by N.H. RSA chapter 91-A or other existing law. Disclosure of data requires prior written approval of the State.

10. TERMINATION. In the event of an early termination of this Agreement for any reason other than the completion of the Services, the Contractor shall deliver to the Contracting Officer, not later than thirty (30) days after the date of termination, a report ("Termination Report") describing in detail all Services performed, and the contract price earned, to and including the date of termination. The form, subject matter, content, and number of copies of the Termination Report shall be identical to those of any Final Report described in the attached EXHIBIT A.

- If Customer cancels under this clause, Customer agrees to pay FirstLight, subject to Paragraph 4 of Form P-37:
 - (i) 100% of any service charges incurred and not yet paid;

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

12. ASSIGNMENT/DELEGATION/SUBCONTRACTS. The Contractor shall not assign, or otherwise transfer any interest in this Agreement without the prior written notice and consent of the State. None of the Services shall be subcontracted by the Contractor without the prior written notice and consent of the State.

13. INDEMNIFICATION. To the extent permitted by applicable law, the Contractor shall defend, indemnify and hold harmless the other Party, its officers and employees, from and against any and all direct losses suffered by the indemnified Party, its officers and employees, due to the intentional misconduct or negligence of the indemnifying party except to the extent of the intentional misconduct or negligence of the indemnified Party. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby reserved to the State. This covenant in paragraph 13 shall survive the termination of this Agreement.

14. INSURANCE.

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

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

14.1.2 special cause of loss coverage form covering all property subject to subparagraph 9.2 herein, in an amount not less than 80% of the whole replacement value of the property.

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

14.3 The Contractor shall furnish to the Contracting Officer identified in block 1.9, or his or her successor, a certificate(s) of insurance for all insurance required under this Agreement. Contractor shall also furnish to the Contracting Officer identified in block 1.9, or his or her successor, certificate(s) of insurance for all renewal(s) of insurance required under this Agreement no later than thirty (30) days prior to the expiration date of each of the insurance policies. The certificate(s) of insurance and any renewals thereof shall be attached and are incorporated herein by reference. Each certificate(s) of insurance shall contain a clause requiring the insurer to provide the Contracting Officer identified in block 1.9, or his or her successor, no less than thirty (30) days prior written notice of cancellation or modification of the policy.

15. WORKERS' COMPENSATION.

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

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

16. WAIVER OF BREACH. No failure by the State to enforce any provisions hereof after any Event of Default shall be deemed a waiver of its rights with regard to that Event of Default, or any subsequent Event of Default. No express failure to enforce any Event of Default shall be deemed a waiver of the right of the State to enforce each and all of the provisions hereof upon any further or other Event of Default on the part of the Contractor.

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

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

19. CONSTRUCTION OF AGREEMENT AND TERMS. This Agreement shall be construed in accordance with the laws of the State of New Hampshire, and is binding upon and inures to the benefit of the parties and their respective successors and assigns. The wording used in this Agreement is the wording chosen by the parties to express their mutual intent, and no rule of construction shall be applied against or in favor of any party.

20. THIRD PARTIES. The parties hereto do not intend to benefit any third parties and this Agreement shall not be construed to confer any such benefit.

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

22. SPECIAL PROVISIONS. Additional provisions set forth in the attached EXHIBIT C are incorporated herein by reference.

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

24. ENTIRE AGREEMENT. This Agreement, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire Agreement and understanding between the parties, and supersedes all prior Agreements and understandings relating hereto.

**EXHIBIT A
SCOPE OF SERVICES**

1. INTRODUCTION

FirstLight Fiber, Inc. (hereinafter referred to as the "Contractor") hereby agrees to provide the State of New Hampshire (hereinafter referred to as the "State") with Dark Fiber Facilities Services in accordance with the bid submission in response to State Request for Bid # 2193-19 and as described herein.

2. CONTRACT DOCUMENTS

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

- a. State of New Hampshire Terms and Conditions, General Provisions Form P-37
- b. EXHIBIT A Scope of Services
- c. EXHIBIT B Payment Terms
- d. EXHIBIT C Special Provisions
- e. EXHIBIT D RFB 2193-19

In the event of any conflict among the terms or provisions of the documents listed above, the following order of priority shall indicate which documents control: (1) EXHIBIT C "Special Provisions," (2) Form Number P-37, (3) EXHIBIT B "Payment Terms," (4) EXHIBIT A "Scope of Services," and (5) EXHIBIT D "RFB 2193-19."

3. TERM OF CONTRACT

This Contract shall commence on January 1, 2020, or upon the approval of Governor and Executive Council, whichever is later and shall terminate on June 30, 2024, a period of approximately fifty-four (54) months, unless extended for additional terms.

4. SCOPE OF WORK

Contractor shall supply all labor, tools, transportation, materials, equipment and permits as necessary and required to perform services as described herein.

The Contractor shall be responsible for all services, facility configuration, development and implementation of fiber. The Contractor shall provide overall support and coordination, interfacing/integrating with State equipment, testing, and support.

The Contractor shall not commence work until a conference is held with each agency, at which representatives of the Contractor and the State are present. The conference will be arranged by the requesting agency (State).

Cooperation with Incumbent: The Contractor shall fully cooperate with incumbent and future vendors for the replacement of services at the initiation and termination of Contract to ensure service transfer with a minimum interruption of service.

Interfacing with Other Contractors: During and after installation, Contractor shall contact alternate State vendors to resolve problems if they occur. The State will mediate in the event of unresolved

conflicts. Contractor shall attend any meetings called by the State to resolve such conflicts without additional charges being imposed on the State.

Maintenance/Service Hours: Contractor shall repair support/ service restoration 24 hours per day, 7 days per week, 52 weeks per year. Reports shall be accepted via a toll free Contractor supplied number and e-mail reporting. Any call to the Contractor shall be returned within 15 minutes of initial request. Contractor shall pursue a solution to service issues within two (2) hours of request. Failure issues not resolved within four (4) hours of request shall become critical to the State, and require continued work to satisfy maintenance issues under Emergency Maintenance requirements. Contractor shall not limit daily work to eight (8) hours per day when addressing maintenance issues, requiring the Contractor to continue work beyond business hours until circuit connectivity is restored.

Routine Maintenance Requirements: The Contractor shall provide routine maintenance for those services designated by the State as routine maintenance services. Such services shall include, but are not limited to broken cable lashing, unprotected riser, or any physical insulation or support structure not placing cable in immediate jeopardy. Any routine maintenance may be escalated to Emergency Maintenance at any time requested by the State.

Installation Details: The Contractor shall provide information identifying installations in agreed upon State required table formats. Tables shall contain physical cable lay, aerial and underground pathways, terminating points, terminating equipment, cable manufacturer and part number, and any other information required to locate, troubleshoot or replace fiber. Details shall be provided within thirty (30) days of complete installation of cable.

Post Implementation Review: The State shall be allowed thirty (30) days after Contractor installation to review and accept complete installation to insure performance within the specifications defined herein.

Test Plans: The Contractor shall provide complete test plans defining how the Contractor will test fiber installations and provide written documentation on the test results for each fiber strand. The Contractor is solely responsible to troubleshoot cable problems. The State's final test will deem the final acceptance of service.

Service Access Levels: Service access will be provided and guaranteed at 99.99% or better availability (24hrs/day by 7days/week), at the throughput rate provisioned, through the end of this contract. Service access is defined as all services that are provided by the Contractor which are, directly or indirectly, related to the connectivity to the State Agency's network router from the Contractor at the availability and throughput defined above.

Dependability: All services shall be maintained at a 99.99% dependability factor, reflecting that service access is available for use 99.99% of the time based upon a thirty (30) day time period. If a service becomes intermittent in connection or transport, and repeatedly fails, the State, at its sole discretion, may choose to terminate service at that location and seek replacement service from another Contractor, or pursue any or all remedies as set forth in Form Number P-37 Agreement.

Service Interface: Contractor shall provide fiber to the doorstep utilizing standard connectivity as is currently available from the incumbent contractor for all locations. Contractor shall utilize standard policy UPC fusion splice with LC duplex connector pigtails and appropriate LIU where required (unless otherwise approved by the State).

Quality of Work: The State shall require correction of defective work or damages to any part of a building or its appurtenances when caused by the Contractor's employees, equipment or supplies. The Contractor shall replace in satisfactory condition all defective work and damages rendered thereby or any other damages incurred. Upon failure of the Contractor to proceed promptly with the necessary corrections, the State may withhold any amount necessary to correct all defective work or damages from payments to the Contractor.

The work staff shall consist of qualified persons completely familiar with the products and equipment they shall use. The Contracting Officer may require the Contractor to dismiss from work such employees as deems incompetent, careless, insubordinate, or otherwise objectionable, or whose continued employment on the work is deemed to be contrary to the public interest or inconsistent with the best interest of security and the State.

Premise Access: Contractor will be granted access to premise during standard State work hours unless repair and maintenance projects require expanded timeframes. Contractor shall request access outside of the normal State business hours of 8:00 A.M. to 4:30 P.M., 48 hours prior to arrival. Consideration will be made for reduced timeframes in the occurrence of emergency situations. The Contractor is highly encouraged to perform all installation and maintenance during normal State working hours.

Confidential Information: The Contractor agrees that all discussions or information gained during an engagement shall be considered confidential and that no information gathered by the Contractor shall be released without prior consent of the State.

END POINT LOCATIONS AND PATHWAYS: The Contractor shall provide dark fiber facilities within the city of Concord. The Contractor shall include all facilities and equipment necessary to install terminated fiber strands of dark fiber connecting each location noted below.

CABLE SEGMENT	FROM	TO	ESTIMATED CABLE DISTANCE IN KM/MILE	REQUIRED FIBER STRAND COUNT
1	TOBEY BUILDING 45 SO. FRUIT STREET	CABLE VAULT MANCHESTER STREET & OLD TURNPIKE ROAD	3.06/2.2	12
2	TOBEY BUILDING 45 SO. FRUIT STREET	GRAPHIC SERVICES 12 HILLS AVENUE	2.6/1.6	4
3	TOBEY BUILDING 45 SO. FRUIT STREET	NH LIQUOR COMMISSION 50 STORRS STREET	2.6/1.6	4
4	TOBEY BUILDING 45 SO. FRUIT STREET	64 SO. STREET	1.5/0.9	4
5	TOBEY BUILDING 45 SO. FRUIT STREET	POLE T-31/E-99 NORTH STATE STREET	4.5/2.8	4
6	IPOC 110 SMOKEY BEAR BLVD	DOIT 27 HAZEN DRIVE	5.8/3.6	6

Cable Path: The State does not intend to define fiber pathways. The Contractor may use any pathway available to them with the following paths excluded from consideration: Pleasant Street, Regional Drive and Pembroke Road. Contractor shall provide graphic map identifying proposed pathway. It is the responsibility of the Contractor to obtain required permits and access to utility poles or conduit. The Contractor shall be responsible for all cable pathways, obtaining required rights-of-way, utility make ready, conduit, conduit installation, cable provisioning, all related equipment and installation logistics.

State Conduit: Contractor may install cable in any available State owned conduit, not exceeding 70% conduit fill capacity after Contractor installation. Contractor shall be responsible to install conduit to access vaults containing state conduit. The Contractor may use installed conduit pull-string, but shall replace said pull string, resulting in an unused available pull string after Contractor cable installation.

Private Conduit: All conduits other than that described above are privately owned. Contractor shall make arrangements with private parties to obtain access as necessary to install fiber.

Ownership: The Contractor shall be responsible to obtain and maintain pathways, conduit, permits, pole access, fiber cable, inner-duct, vaults and any item related to the project. Contractor permits shall include licensing by the City of Concord through the Poles and Wires Committee of Community Development. The service shall be provided in a turnkey fashion, with the Contractor responsible to provide insurance, place conduit, manage make ready proposals; provide traffic details or any other installation or maintenance items. The service shall include the relocation of poles, fiber or other service items for any reason including street or highway expansion and relocation throughout the term of this Contract.

Contractor shall retain ownership of all Contractor-supplied cable and equipment throughout the term of this Contract.

Fiber Utilization: The State shall retain the right to utilize dedicated fiber as it sees fit. The Contractor shall at no time dictate use or limit fiber operation.

Termination Equipment: The Contractor shall install fiber between each location with a minimum of 48 strand fiber count. The 48 strands shall be dedicated to State use. Termination shall include building penetration with cable extended to existing computer rooms and demarc(s). Existing building pathways shall be used. Contractor shall install rack mounted Optical Line Interface Units (OLIU) terminating into SC (or current connector type noted at location) connectors.

Penetrations: Vault and building penetrations shall be watertight. Incoming and outgoing conduits must be sealed for water penetration. Damage to any existing conduit, cable or facilities within the vault due to Contractor access shall be repaired at Contractor's expense.

Vault Equipment: Any equipment installed in a vault, inclusive of cable, racks, splice cases, attachments and ancillary items shall be designed for vault installation and be water tight, meeting National Electrical Manufacturer's Association (NEMA) requirements. All equipment shall be properly grounded, inclusive of cable if a metallic tracer is used within the cable.

Cable Characteristics: The service shall be provided via single mode 8.0 to 9.5 μm fiber with 125 μm clad strand loose tube cable with the proper casing characteristics and environmental requirements meeting industry standards for the installation environment. Cable shall be low water peak, with minimum wavelength distortion. If required, only fusion splices shall be accepted.

Cable Loss Measurements: Contractor cable shall not exceed a loss level of .5 dB per kilometer including all splices, testing with a 1550 nm optical source. The cable shall pass performance standards with temperatures within the range of -30°F to 120°F (-34°C to 50°C). In-building connector loss shall be .1 dB or less per splice, not to exceed of 1 db maximum connector allowance per end to end cable run. Contractor's cable loss testing shall be compliant TIA/EIA 526-7 Measurement of Optical Power Loss of Installed Single Mode Fiber Cable Plant.

Transport Limitations: Contractor facilities shall not limit State transport capabilities. Contractor shall not filter or in any way inhibit light transport or arrival from launch location to receiver location. Contractor shall not filter or firewall communication, reformat content or restrict communication or content in any way.

Facility Maintenance: Contractor shall be responsible to insure continuous operation of services. Contractor shall monitor all facilities to insure integrity, initiating routine repairs as necessary to prohibit extended outages.

Power Provisioning: It is expected that all Contractor equipment will be passive, not requiring power. In the event that any active devices are installed by the Contractor, services shall not be placed in jeopardy by relying solely on domestic power. In all cases, services shall be provided independent of local power, UPS backed or otherwise, ensured for emergency readiness, independent of all in building systems.

Service Availability: The Contractor shall make service available 24 hours per day, seven (7) days per week, (52) fifty-two weeks per year. The Contractor shall be responsible to implement appropriate maintenance. The Contractor shall have in his employ a sufficient number of trained personnel to ensure that emergency calls shall be answered promptly, 24 hours a day.

Response to Trouble Calls: Contractor shall respond to trouble calls within two (2) hours of trouble report by the State. "Response" to a trouble call requires that the Contractor have qualified technicians, suitably equipped to troubleshoot service, arrive at the trouble location and commence troubleshooting procedures. The Contractor shall notify the State within four (4) business hours of reinstated service, the cause of the failure and corrective action taken.

Critical Maintenance and Escalation: The Contractor shall provide critical level maintenance for all services. If services are not restored within 24 hours, the State may request upon written notification an investigation and/or services from an alternate vendor. All charges for such services shall be forwarded to the Contractor.

Dependability: Services shall be maintained at a 99.99% dependability factor, reflecting that service access is available for use 99.99% of the time based upon a thirty (30) day time period. If a service becomes intermittent in connection or transport and repeatedly fails, the State at its sole discretion, may choose to terminate service at that location and seek replacement from another vendor, or pursue any or all remedies as set forth herein. Network availability measurements will exclude service outage for scheduled maintenance or upgrades, or caused by Customer, Customer's equipment, or Customer agreements with other parties.

Fiber Security: The Contractor shall insure fiber integrity and security, by mitigating any effort to detect information flow or tapping by any unauthorized individuals. The Contractor shall take all steps necessary in either its facilities or its subcontractor's facilities, to ensure that State leased fiber is protected from unauthorized access and any attempt at extracting information from the data stream.

Installation Standards: Installations shall be in compliance with TIA/EIA 568-3 Optical Fiber Cabling Component Standards and National Electrical Code standards.

Financial Representative: The Contractor shall provide dedicated financial representatives knowledgeable in the Contractor invoicing systems, associated input, and corrective activities to resolve billing, call detail, equipment programming, and data discrepancies. The Financial Representative will cooperate with the State to resolve billing, payment or report and invoice accuracy problems that may occur during the course of the contract. The Contractor shall provide within five (5) working days, any corrective data requested by the State. This is inclusive of itemized balances and credits owed the State. The Contractor shall provide daily reports indicating the completion or continuation of any service requested by the State.

As-Built Drawings: The Contractor shall provide a complete set of as-built hard and soft drawings defining the complete lay/path of all fiber optic cable, splices, terminations, vaults and pull boxes.

Installation Information: The Contractor shall provide information identifying installations in agreed upon State required table formats. Tables shall contain physical terminating points, terminating equipment, and any other information required to locate, troubleshoot or replace fibers. Information shall be provided within thirty (30) days of complete installation.

Additional Requirements: The Contractor shall not commence work until a conference is held with each agency, at which representatives of the Contractor and the State are present. The conference shall be arranged by the requesting agency (State).

The work staff shall consist of qualified persons completely familiar with the products and equipment they shall use. The Contracting Officer may require the Contractor to dismiss from the work such employees as deems incompetent, careless, insubordinate, or otherwise objectionable, or whose continued employment on the work is deemed to be contrary to the public interest or inconsistent with the best interest of security and the State.

The Contractor or their personnel shall not represent themselves as employees or agents of the State.

While on State property, employees shall be subject to the control of the State, but under no circumstances shall such persons be deemed to be employees of the State.

All personnel shall observe all regulations or special restrictions in effect at the State Agency.

The Contractor's personnel shall be allowed only in areas where services are being performed. The use of State telephones is prohibited.

If **sub-contractors** are to be utilized, please include information regarding the proposed sub-contractors including the name of the company, their address, contact person and three references for clients they are currently servicing. Approval by the State must be received prior to a sub-contractor starting any work.

WARRANTY REQUIREMENTS: Contractor shall be required to warranty all of the equipment awarded to Contractor for a period of not less than the term of this contract or the manufacturer's standard period of time, whichever is greater, from the date the items are received, inspected, installed and accepted by the State of New Hampshire. The warranty shall cover 100% of all parts, shipping, labor, travel, lodging and expenses.

Disclaimer of Warranties. FirstLight MAKES NO WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED, EITHER IN FACT OR BY OPERATION OF LAW, STATUTORY OR OTHERWISE, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE, EXCEPT THOSE EXPRESSLY SET FORTH IN ANY APPLICABLE SERVICE LEVELS STATED HEREIN BELOW. FIRSTLIGHT DOES NOT WARRANT THAT THE PROFESSIONAL SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE. EQUIPMENT PROVIDED BY FIRSTLIGHT IN CONJUNCTION WITH ANY SERVICE IS PROVIDED ON AN 'AS IS' BASIS. FIRSTLIGHT DOES NOT AUTHORIZE ANYONE TO MAKE A WARRANTY OF ANY KIND ON ITS BEHALF AND CUSTOMER SHOULD NOT RELY ON ANYONE MAKING SUCH STATEMENTS. CUSTOMER AGREES THAT ANY EQUIPMENT OR SOFTWARE PROVIDED TO CUSTOMER UNDER THESE STANDARD TERMS AND CONDITIONS WILL CARRY THE WARRANTY CARRIED BY THE MANUFACTURER, OR DEVELOPER, IF ANY, AND FIRSTLIGHT MAKES NO INDEPENDENT WARRANTY WITH RESPECT TO SUCH PRODUCTS.

5. TERMINATION

The State of New Hampshire has the right to terminate the contract at any time by giving the Contractor thirty (30) days advance written notice. If Customer cancels under this clause, Customer agrees to pay FirstLight:

- (ii) 100% of any service charges incurred and not yet paid;

6. OBLIGATIONS AND LIABILITY OF THE CONTRACTOR

The Contractor shall perform all the work and furnish all the materials, tools, equipment and safety devices necessary to perform in the manner and within the time hereinafter specified. Contractor shall complete the entire work to the satisfaction of the State and in accordance with the specifications herein mentioned, at the price herein agreed upon and fixed therefore. All the work, labor and equipment to be done and furnished under this contract(s), shall be done and furnished strictly pursuant to, and in conformity with the specifications described herein, and the reasonable directions of the State representatives as given from time to time during the progress of the work, under the terms of this contract(s) and also in accordance with contract drawings.

The Contractor shall take responsibility for performing the work under the contract using their best efforts. The work under this contract; for the protection of the work; and for preventing injuries to persons and damage to property and utilities on or about the work. Contractor shall in no way be relieved of their responsibility by any right of the State to give permission or issue orders relating to any part of the work; or by any such permission given on orders issued or by failure of the State to give such permission or issue such orders. Absent negligence or willful misconduct on the part of the State, the Contractor shall bear all losses resulting to him or to the Owner on account of the amount or character of the work, or because of the nature of the area in or on which the work is done is differed from what was estimated or expected, or account of the weather, elements or other causes.

The Contractor agrees that any damage or injury to buildings, materials, and equipment or to other property caused by Contractor in the performance of this service shall be repaired at their own expense.

No Special Damages: Notwithstanding any other provision hereof (other than the Indemnification obligations herein), neither party shall be liable under any circumstance for any indirect, incidental, special, consequential, exemplary or punitive damages (including, without limitation, damages for lost profits, lost revenues or the cost of purchasing replacement services) arising out of the performance or failure to perform under this Agreement or any Customer Order.

Limitation. Notwithstanding anything to the contrary herein, except for applicable Service Level Credits, FirstLight shall have no liability of any nature whatsoever, for any type of damage, claim or cause of action, to Customer or any other person, in the absence of negligence or willful and reckless misconduct. Additionally, FirstLight's liability shall be limited to the total amount of monthly service charges paid by customer to FirstLight in the preceding twelve months.

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

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

8. INSURANCE

Certificate of insurance amounts must be met and maintained throughout the term of the contract and any extensions as per the P-37, section 14 and cannot be cancelled or modified until the State receives a 10 day prior written notice.

9. CONFIDENTIALITY & CRIMINAL RECORD

If Applicable, by the using agency, the Contractor shall have signed by each of employees or its approved sub-contractor(s), if any, working in the office or externally with the State of New Hampshire records a Confidentiality form and Criminal Record Authorization Form. These forms shall be returned to the individual using agency prior to the start of any work.

**EXHIBIT B
PAYMENT TERMS**

1. CONTRACT PRICE

The Contractor hereby agrees to provide Dark Fiber Facilities services in complete compliance with the terms and conditions specified in Exhibit A for an amount up to and not to exceed a price of \$1,08,000.00; this figure shall not be considered a guaranteed or minimum figure; however it shall be considered a maximum figure from the effective date through the expiration date as indicated in Form P-37 Block 1.7.

2. PRICING STRUCTURE

CABLE SEGMENT	FROM	TO	LEASED FIBER, PRICE PER MONTH
1	45 So. Fruit Street	Manchester Street & Old Turnpike Road	\$653.40
2	45 So. Fruit Street	12 Hills Avenue	\$158.40
3	45 So. Fruit Street	50 Storrs Street	\$158.40
4	45 So. Fruit Street	64 So. Street	\$89.10
5	45 So. Fruit Street	Pole T-31/E-99 North State Street	\$277.20
6	110 Smokey Bear Blvd	27 Hazen Drive	\$460.35

3. INVOICE

Invoices shall be submitted monthly, beginning January 1, 2020. Payment shall be paid within thirty (30) days after receipt of invoice and acceptance to the State's satisfaction.

All billing shall be inclusive of the first day of the calendar month through the last day of the calendar month. Invoices shall be forwarded to:

Department of Information Technology
Statewide Telecommunications
Room 300
27 Hazen Drive
Concord, NH 03305

Or alternate address provided by the State. Complete billing information shall arrive at the State no later than the tenth (10th) of the month following the billing period.

5. PAYMENT

Payment method (ACH). Payments shall be made via ACH unless otherwise specified by the state of New Hampshire. Use the following link to enroll with the State Treasury for ACH payments:
<https://www.nh.gov/treasury/state-vendors/index.htm>.

**EXHIBIT C
SPECIAL PROVISIONS**

There are no special provisions of this contract.

EXHIBIT D

RFB #2193-19 is incorporated here within.

Contractor Initials CC
Date 2013/11



OFFICER'S CERTIFICATE

I, Bruce Skellie, Chief Accounting Officer & Treasurer, FirstLight Fiber, Inc, a Delaware Corporation and each of its subsidiaries ("FirstLight"), hereby certify that under the Delegation of Authority governance rules for FirstLight, Cheryl Carney, Senior Vice President, Enterprise Sales is authorized to execute contractual documents for the provision of Dark Fiber by FirstLight to the State of New Hampshire, Bid 2193-19 Dark Fiber Facilities Services.

WHEREOF, I hereunto affix my signature this 13th day of August 2019.



Bruce Skellie, Chief Accounting Officer & Treasurer

Corporate Seal

State of New Hampshire

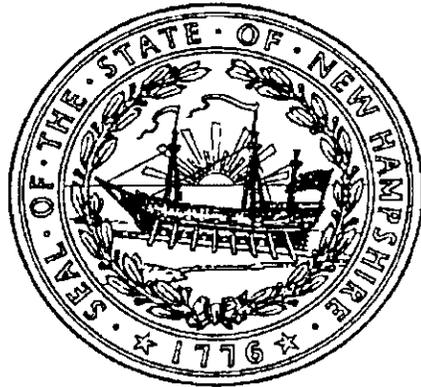
Department of State

CERTIFICATE

I, William M. Gardner, Secretary of State of the State of New Hampshire, do hereby certify that FIRSTLIGHT FIBER, INC. is a Delaware Profit Corporation registered to transact business in New Hampshire on June 21, 2012. I further certify that all fees and documents required by the Secretary of State's office have been received and is in good standing as far as this office is concerned.

Business ID: **673181**

Certificate Number: **0004517844**



IN TESTIMONY WHEREOF,

I hereto set my hand and cause to be affixed
the Seal of the State of New Hampshire,
this 20th day of May A.D. 2019.

A handwritten signature in black ink, appearing to read "William M. Gardner".

William M. Gardner
Secretary of State

