MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (“MOU”) is entered into by and between the Montana Department of Commerce (“Commerce”) and the Montana Department of Administration (“DOA”).

I. PURPOSE of MOU

Senate Bill 297, Laws of 2021, created the ConnectMT Act (“the Act”), the goal of which is to provide broadband services to unserved and underserved areas in Montana. In establishing the broadband infrastructure deployment program (“the Program”), Commerce recognizes that DOA’s Architecture and Engineering Division (“A&E”) has the necessary financial, procurement, human resources, and construction expertise to implement the Program. Through this MOU, Commerce therefore delegates to A&E responsibility for the administration of the Program described herein.

II. TERM

This MOU is effective when signed by both parties and continues (i) unless terminated by either party with or without cause or (ii) when the Budget Director certifies to the Code Commissioner that all funds received from the American Rescue Plan Act of 2021, Public Law, 117-2, or subsequent funding pursuant to section 3(2) of the Act allocated to Commerce have been expended, whichever (i) or (ii) is earlier.

III. COMMERCE RESPONSIBILITIES

Commerce shall:

a) pursuant to § 17-8-101(5), MCA, transfer its House Bill 632, Laws of 2021, allocation/appropriation federal special revenue authority to A&E to administer the Program consistent with the Act;

b) pursuant to § 17-8-101(5), MCA, transfer its Senate Bill 297, Laws of 2021, state special revenue appropriation authority to A&E to administer the Program consistent with the Act; and

c) provide administrative staff for the communications advisory commission provided for in House Bill 632 to assist A&E with the commission’s review and issuance of recommendations and the Governor’s approval of projects.

IV. A&E RESPONSIBILITIES

A&E shall:

a) prepare requests for proposals and any other procurement materials necessary to solicit and accept proposals for eligible broadband projects described in the Act;

b) create the scoring system that will be used to evaluate proposals;

c) make available the proposals for review in a publicly available electronic file;

d) develop a process for review of confidential trade secret and other constitutionally protected information;

e) review challenges to proposals;

f) receive and review responsive proposals and award contracts after review by the communications advisory commission provided for in House Bill 632 and the Governor’s approval;
b) This MOU does not create any right or benefit, substantive or procedural, enforceable by law or equity by persons who are not party to this MOU, against Commerce, DOA, or A&E, their employees, or any other person. This MOU neither directs nor applies to any person outside Commerce, DOA or A&E, nor provides or creates defenses for any third party to use in any litigation or arbitration.

Department of Commerce

By: W. Scott Osterman

Printed Name: W. Scott Osterman

Signature

Title: Director

Date: 6/28/21

Department of Administration

By: Misty Ann Giles

Printed Name: Misty Ann Giles

Signature: [Signature]

Title: Director

Date: 6/25/21