

BEAD MODEL LETTER OF CREDIT
SAMPLE LETTER OF CREDIT, FORM OF DRAFT, AND CERTIFICATE OF
TERMINATION OF LETER OF CREDIT

IRREVOCABLE STANDBY LETTER OF CREDIT

No. 123

To be placed on Bank Letterhead

[Name of Issuing Bank or Credit Union]

[Address of Issuing Bank or Credit Union]

Date of Issuance: _____

Amount: _____

Expiration Date: _____

BENEFICIARY

Massachusetts Technology Collaborative (“MassTech”)

Attn: BEAD Deployment Grant

75 North Drive

Westborough, MA 01581

LETTER OF CREDIT PROVIDER

[Formal Name of Winning Bidder / Applicant]

Address

Address

Dear Sir/Madam:

We hereby establish, at the request and for the account of *[Winning Bidder/Applicant]*, in your favor, as required under the Broadband Equity, Access, and Deployment Program Notice of Funding Opportunity at 72, § IV.D.2.a.ii (“BEAD NOFO”) issued by the National Telecommunications and Information Administration (“NTIA”) on May 12, 2022, and the Commonwealth of Massachusetts’ Initial Proposal Volume 2 approved by the NTIA, (together, the “BEAD Program Requirements”) our Irrevocable Standby Letter of Credit No. **123** in the amount of *[state amount of Letter of Credit in words and figures]*.

This Letter of Credit shall automatically renew for one (1) year periods from the then current Expiration Date unless *[Issuing Bank]* gives written notice of non-renewal to MassTech by a nationally recognized overnight delivery service with a copy to the Executive Office of Economic Development (“EOED”) at 1 Ashburton Place, Room 2101, Boston, MA 02108, at least sixty (60) days but not more than ninety (90) days prior to the expiry thereof, or such earlier date as the Letter of Credit is terminated by MassTech (the “Expiration Date”). Capitalized terms used herein but not defined herein shall have the meanings accorded such terms in the BEAD Program Requirements.

Funds under this Letter of Credit are available to you against your draft in the form attached hereto as Annex A, drawn on our office described below, and referring to the number of this Letter of Credit, accompanied by your written and completed certificate signed by you substantially in the form of Annex B, attached hereto. Such draft and certificate shall be dated the date of presentation or an earlier date, which presentation shall be made at our office located at Issuing Bank Address and shall be effected either by personal delivery or delivery by a nationally recognized overnight delivery service. We hereby commit and agree to accept such presentation at such office, and if such presentation of documents appears on its face to comply with the terms and conditions of this Letter of Credit, on or prior to the Expiration Date, we will honor the same not later than one (1) banking day after presentation thereof in accordance with your payment instructions. Payment under this Letter of Credit shall be made by [*check or wire transfer of funds*] to the payee and for the account you designate, in accordance with the instructions set forth in a draft presented in connection with a draw under this Letter of Credit. Partial drawings are not permitted under this Letter of Credit. This Letter of Credit is not transferable or assignable in whole or in part.

This Letter of Credit shall be canceled and terminated upon receipt by the undersigned of MassTech's certificate purportedly signed by two (2) authorized representatives of MassTech and countersigned by EOED's authorized signatory in the form attached as Annex C.

This Letter of Credit sets forth in full the undertaking of the Issuer, and such undertaking shall not in any way be modified, amended, amplified or limited by reference to any document, instrument or agreement referred to herein, except only the certificates and the drafts referred to herein and the ISP (as defined below); and any such reference shall not be deemed to incorporate herein by reference any document, instrument or agreement except for such certificates and such drafts and the ISP.

This Letter of Credit shall be subject to, governed by, and construed in accordance with, the International Standby Practices 1998, International Chamber of Commerce Publication No. 590 (the "ISP"), which is incorporated into the text of this Letter of Credit by this reference, and, to the extent not inconsistent therewith, the laws of the Commonwealth of Massachusetts, including the Uniform Commercial Code as in effect in the Commonwealth of Massachusetts. If this Letter of Credit is issued by a United States Credit Union, the Credit Union must be insured by the National Credit Union Administration; and (b) have a credit union safety rating issued by Weiss Ratings of B- or better to in order to provide a Letter of Credit.

Communications with respect to this Letter of Credit shall be addressed to us at our address set forth below, specifically referring to the number of this Letter of Credit.

Signature

Name of Signatory:

Title of Signatory:

Name of Bank or Credit Union:

ANNEX A

Form of Draft

To: [Bank or Credit Union]

DRAWN ON LETTER OF CREDIT No: 123

AT SIGHT,

PAY TO THE ORDER OF THE MASSACHUSETTS TECHNOLOGY COLLABORATIVE
("MASSTECH") BY [CHECK OR WIRE TRANSFER]

FUNDS TO: _____

Account (_____)

AS MASSACHUSETTS BEAD PROGRAM REPAYMENT.

[AMOUNT IN WORDS] DOLLARS AND NO/CENTS

\$(AMOUNT IN NUMBERS)

Massachusetts Technology Collaborative

By: _____
Carolyn A. Kirk, Chief Executive Officer

ANNEX B

Draw Certificate

The undersigned hereby certifies to [*Name of Issuing Bank/Credit Union*] (the “Bank”), with reference to (a) Irrevocable Standby Letter of Credit No. 123 (the “Letter of Credit”) issued by the Bank in favor of the Massachusetts Technology Collaborative (“MassTech”) and (b) the Broadband Equity, Access, and Deployment Program’s Notice of Funding Opportunity at 72, § IV.D.2.a.ii (“BEAD NOFO”), issued by the National Telecommunications and Information Administration (“NTIA”) on May 12, 2022, and the Commonwealth of Massachusetts’ Initial Proposal Volume 2, approved by the NTIA (together, the “BEAD Program Requirements”), pursuant to which Name of Winning Bidder / Applicant (the “Provider”) has provided the Letter of Credit that:

[*Name of Winning Bidder / Applicant*] has [describe the event that triggers the draw], which is evidenced by a letter signed by the Chief Executive Officer of MassTech or [his/her] designee, dated _____, 20____, a true and correct copy of which is attached hereto. Accordingly, a draw of the entire amount of the *Letter of Credit No. 123* is authorized.

OR

MassTech certifies that given notice of non-renewal of Letter of Credit No. 123 and failure of the account party to obtain a satisfactory replacement thereof, pursuant to the BEAD Program Requirements, MassTech is entitled to receive payment of \$_____, representing the entire amount of Letter of Credit No. 123.

IN WITNESS WHEREOF, the undersigned has executed this certificate as of [specify time of day] on the ____ day of _____, 20__.

Massachusetts Technology Collaborative

By: _____
Carolyn A. Kirk, Chief Executive Officer

ANNEX C

Certificate Regarding Termination of Letter of Credit

The undersigned hereby certifies to [*Name of Bank or Credit Union*] (the “Bank”), with reference to (a) Irrevocable Standby Letter of Credit No. 123 (the “Letter of Credit”) issued by the Bank in favor of the Massachusetts Technology Collaborative (“MassTech”), and (b) the requirements set forth in the Broadband Equity, Access, and Deployment Program’s Notice of Funding Opportunity (“BEAD NOFO”), issued by the National Telecommunications and Information Administration (“NTIA”) on May 12, 2022, and the Commonwealth of Massachusetts’ Initial Proposal Volume 2, approved by the NTIA (together, the “BEAD Program Requirements”), that:

1. [include one of the following clauses, as applicable]

- (a) The BEAD Program Requirements have been fulfilled in accordance with the provisions thereof; or
- (b) [*Winning Bidder / Applicant*] has provided a replacement letter of credit satisfactory to the MassTech.

2. By reason of the event or circumstance described in paragraph (1) of this certificate and effective upon receipt by the Bank of this certificate (countersigned as set forth below), the Letter of Credit is terminated.

IN WITNESS WHEREOF, the undersigned has executed this certificate as of the ____ day of _____, 20__.

Massachusetts Technology Collaborative

By: _____
Carolyn A. Kirk, Chief Executive Officer

By: _____
Name: _____
Title: _____

COUNTERSIGNED:

Massachusetts Executive Office of Economic Development

By:

Name:

Its Authorized Signatory