
DRAFT – FOR REVIEW AND COMMENT

CNMI Broadband Equity, Access, and Deployment (BEAD) Program Subgrant Agreement

About This Document

This draft Subgrant Agreement is between the CNMI Broadband Policy and Development Office (BPD) and a selected Subgrantee. It sets out the terms for funding, deploying, operating, and maintaining high-speed broadband infrastructure in the Commonwealth of the Northern Mariana Islands using federal BEAD Program funds.

The Subgrantee is required to install and provide high-speed, reliable broadband service to unserved and underserved locations, as well as eligible community anchor institutions, in accordance with technical, financial, and regulatory standards outlined in the Agreement and its exhibits. The project must comply with federal, CNMI, and local laws; meet minimum speed and affordability standards; undergo environmental and labor reviews; satisfy detailed reporting and performance milestones; and ensure public awareness and equitable service delivery. The Subgrantee must also participate in affordability programs (such as the Affordable Connectivity Program), maintain strong cybersecurity practices, and offer a low-cost broadband service option.

The Agreement includes strict compliance, documentation, and monitoring requirements. Grant funds are provided on a reimbursement or milestone basis, subject to matching fund commitments from the Subgrantee. Construction cannot begin until all required permits, environmental reviews, and financial assurances (such as a letter of credit or bond) are in place. BPD retains broad enforcement powers in case of default or non-compliance, including the right to terminate the agreement, recover funds, or require corrective action. Certain obligations—like maintaining service, affordability options, and property management—extend for up to ten years after project closeout.

The terms are designed to ensure transparency, accountability, and progress toward universal broadband coverage and digital equity in each PFA. The Agreement prioritizes alignment with BEAD Program goals to achieve universal broadband coverage and digital equity in CNMI. This draft Subgrant Agreement outlines the requirements and responsibilities for deploying, operating, and maintaining high-speed broadband infrastructure funded by the federal BEAD Program in the Commonwealth of the Northern Mariana Islands. It covers project scope, technical standards, compliance with federal and CNMI laws, affordability, reporting, monitoring, enforcement, and long-term service obligations. The terms are designed to ensure transparency, accountability, and progress toward universal broadband coverage and digital equity in each PFA.

Request for Comments

All potential subgrantees and stakeholders are encouraged to review this draft carefully. You may:

- Point out issues or areas of concern
- Recommend changes or clarifications
- Request additional information

Your feedback is welcome and will help BPD finalize a clear, effective agreement for all parties.

Please direct comments and questions to:

CNMI Broadband Policy and Development Office
cnmi.bpd@gmail.com

This document is a draft and subject to further revision during the BEAD subgrant selection process. One agreement will be finalized and signed for each of the 21 PFAs after subgrantee selection is complete and approved by the NTIA.

[DRAFT : VERSION 1 : 4/23/2025]

CNMI Broadband Equity, Access, and Deployment (BEAD) Program Subgrant Agreement

This Subgrant Agreement ("Agreement") is entered into as of this ____ day of _____, 20____, by and between:

- **CNMI Broadband Policy and Development Office (BPD)**
 - Established under the laws of the Commonwealth of the Northern Mariana Islands
 - Principal place of business: _____
 - (hereinafter referred to as "BPD" or "Grantor")

- **[Subgrantee Name]**
 - Principal place of business: _____
 - (hereinafter referred to as "Subgrantee" or "Grantee").

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A. DEFINITIONS

Unless otherwise specified, the following terms shall have the meanings set forth below for purposes of this Agreement:

Assistant Secretary: The Assistant Secretary of Commerce for Communications and Information and NTIA Administrator.

Award Funds: The total of Grant Funds and Matching Funds associated with this Agreement.

BABA: The Build America, Buy America Act, part of the Infrastructure Investment and Jobs Act, Pub. L. 117-58, establishing domestic content procurement preferences.

BEAD Program: The Broadband Equity, Access, and Deployment Program, authorized by the Infrastructure Investment and Jobs Act of 2021, Division F, Title I, Section 60102, Public Law 117-58.

BEAD NOFO: The BEAD Program Notice of Funding Opportunity issued by NTIA on May 13, 2022 (Funding Opportunity Number NTIA-BEAD-2022).

BPD: The CNMI Broadband Policy and Development Office, the administering agency for the BEAD Program within the Commonwealth of the Northern Mariana Islands.

Broadband; Broadband Service: Has the meaning given the term "broadband internet access service" in 47 C.F.R. § 8.1(b) or any successor regulation.

Broadband DATA Maps: The maps created by the Federal Communications Commission under Section 802(c)(1) of the Communications Act of 1934 (47 U.S.C. § 642(c)(1)).

BSL (Broadband Serviceable Location): A business or residential location in the United States at which fixed broadband Internet access service is, or can be, installed, consistent with the definition used for the Broadband DATA Maps.

CAI (Community Anchor Institution): An entity such as a school, library, health clinic, health center, hospital or other medical provider, public safety entity, institution of higher education, public housing organization, or community support organization that facilitates greater use of broadband service by vulnerable populations, including low-income individuals, unemployed individuals, children, the incarcerated, and aged individuals. BPD may designate additional types of CAIs consistent with the BEAD NOFO and the approved CNMI Initial Proposal.

Closeout Date: The date when BPD determines the Subgrantee has satisfied all Commonwealth and federal reporting and programmatic requirements related to the Project and completes close out of this award pursuant to 2 C.F.R. § 200.344.

Commission: The Federal Communications Commission (FCC).

CNMI: Commonwealth of the Northern Mariana Islands.

Eligible Community Anchor Institution: A CAI that lacks access to Gigabit-level broadband service.

Eligible Entity: The Commonwealth of the Northern Mariana Islands (CNMI), acting through BPD.

Eligible Subscriber: A household meeting the criteria defined in the BEAD NOFO Section I.C(j), including qualification for the Affordable Connectivity Program (ACP) or meeting other specified income or program participation criteria.

End User: A BSL included within the scope of Subgrantee's Application.

Extremely High Cost Per Location Threshold: A BEAD subsidy cost per location, established by BPD in its approved Initial Proposal, above which BPD may decline to select a proposal if use of an alternative technology meeting the BEAD Program's technical requirements would be less expensive.

Federal Interest Period: The period during which the Subgrantee will hold in trust for the beneficiaries of the BEAD Program all Project Property. This period starts upon acquisition or improvement of the property and continues through the end of the tenth (10th) year after the Closeout Date.

Funded Network: Any broadband network deployed and/or upgraded with BEAD Program funds.

Grant Date: The date of the last signature when all Parties have fully executed this Agreement.

Grant Funds: The federal BEAD Program funding awarded by BPD to the Subgrantee for this Project as identified in Attachment 1.

High-Cost Area: An unserved area, as defined in the BEAD NOFO, in which the cost of building out broadband service is higher, as determined by the Assistant Secretary, based on factors including remoteness, population density, topography, poverty rate, or other identified factors. (Note: CNMI Initial Proposal states almost all of CNMI is designated high-cost).

IIJA (Infrastructure Investment and Jobs Act): Public Law 117-58, also known as the Bipartisan Infrastructure Law, which authorized the BEAD Program.

Initial Proposal: BPD's BEAD Initial Proposal, Volumes I and II, as approved by NTIA, detailing CNMI's plan for using BEAD funds.

Location; Broadband-Serviceable Location (BSL): A business or residential location in the United States at which fixed broadband Internet access service is, or can be, installed, consistent with the definition used for the Broadband DATA Maps.

Matching Funds: The required non-federal contribution provided by the Subgrantee or other eligible sources towards the total project costs, as specified in Exhibit B.

Middle Mile Infrastructure: Any broadband infrastructure that does not connect directly to an end-user location (including CAIs), including assets such as dark fiber, transport, backhaul, internet exchange facilities, submarine cable landing stations, and undersea cables, as further defined in the BEAD NOFO.

NEPA: The National Environmental Policy Act of 1969 (42 U.S.C. § 4321, et seq.).

NHPA: The National Historic Preservation Act of 1966 (54 U.S.C. § 300101 et seq.).

NIST: The National Institute of Standards and Technology, the entity within USDOC that administers BEAD Program grants.

NTIA: The National Telecommunications and Information Administration, the entity within USDOC responsible for implementing the BEAD Program.

Pass-through Entity (PTE): BPD, as the Eligible Entity recipient of the BEAD award, providing a subaward to the Subgrantee.

Priority Broadband Project: A project designed to provide service via end-to-end fiber-optic facilities to each end-user premises.

Program: The Broadband Equity, Access, and Deployment (BEAD) Program.

Program Income: Income directly generated by a supported activity or earned as a result of the federal award during the period of performance. For fixed amount subawards whose major purpose is a broadband infrastructure project, Subgrantees may retain program income without restriction, but profit/fees cannot be claimed as allowable costs.

Project: The planned and actual installation of broadband facilities and the provision of Qualifying Broadband Service as described in Subgrantee's Application (Attachment 2) and Exhibit A.

Project Property: Real property or equipment acquired or improved using Award Funds.

Qualifying Broadband Service: Reliable Broadband Service meeting specific speed and latency requirements: for locations other than CAIs, not less than 100 Mbps

download / 20 Mbps upload and latency \leq 100ms; for CAIs, not less than 1 Gbps symmetrical (download/upload) and latency \leq 100ms.

Reliable Broadband Service: Broadband service that the Broadband DATA Maps show is accessible to a location via: (i) fiber-optic technology; (ii) Cable Modem/Hybrid fiber-coaxial technology; (iii) digital subscriber line (DSL) technology; or (iv) terrestrial fixed wireless technology utilizing entirely licensed spectrum or using a hybrid of licensed and unlicensed spectrum. Locations served exclusively by satellite or entirely unlicensed fixed wireless are not considered reliably served.

Subaward: An award provided by a pass-through entity (BPD) to a subrecipient (Subgrantee) for the subrecipient to carry out part of a federal award received by the pass-through entity, as defined in 2 C.F.R. § 200.1.

Subgrantee/Subrecipient: The entity identified in this Agreement that receives Grant Funds from BPD to carry out the Project.

Territory: For the purposes of the BEAD Program, includes the Commonwealth of the Northern Mariana Islands (CNMI).

Underserved Location: A BSL that is not an unserved location and lacks access to Reliable Broadband Service offered with speeds of at least 100 Mbps download / 20 Mbps upload and latency \leq 100ms, as shown on the Broadband DATA Maps.

Underserved Service Project: A project in which not less than 80 percent of BSLs served by the project are unserved locations or underserved locations.

Uniform Guidance: The Office of Management and Budget's Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards set forth at 2 C.F.R. Part 200.

Unserved Location: A BSL that the Broadband DATA Maps show as having no access to broadband service, or lacking access to Reliable Broadband Service offered with speeds of at least 25 Mbps download / 3 Mbps upload and latency \leq 100ms.

Unserved Service Project: A project in which not less than 80 percent of BSLs served by the project are unserved locations.

USDOC: The United States Department of Commerce.

USDOC Financial Assistance Standard Terms and Conditions: The Department of Commerce Financial Assistance Standard Terms and Conditions (currently dated Nov. 12, 2020, or successor version) applicable to the BEAD award to BPD.

UGPN (Uniform Guidance Policy Notice): The policy notice published by NTIA on December 26, 2023, titled "Policy Notice: Tailoring the Application of the Uniform Guidance to the BEAD Program," or any successor notice.

Capitalized terms not otherwise defined herein shall have the same meaning ascribed thereto in the BEAD NOFO or the approved CNMI BEAD Initial Proposal.

B. RECITALS

WHEREAS, the Commonwealth of the Northern Mariana Islands (CNMI), acting through the Broadband Policy and Development Office (BPD), has been designated as the Eligible Entity recipient for funding under the Broadband Equity, Access, and Deployment (BEAD) Program, authorized by the Infrastructure Investment and Jobs Act of 2021 (IIJA), Public Law 117-58, and administered by the National Telecommunications and Information Administration (NTIA) within the U.S. Department of Commerce, for the purpose of expanding reliable and affordable high-speed broadband access throughout the CNMI;

WHEREAS, BPD developed, and NTIA subsequently approved, the CNMI BEAD Initial Proposal, which outlines the CNMI's comprehensive strategy and plan for the utilization of BEAD Program funds to achieve universal broadband coverage and digital equity goals within the Commonwealth;

WHEREAS, BPD conducted a fair, open, and competitive process, consistent with the BEAD NOFO and the approved CNMI Initial Proposal, to solicit applications from qualified entities for the deployment of broadband infrastructure and services;

WHEREAS, the Subgrantee submitted an Application (defined herein and attached as Attachment 2) in response to BPD's competitive solicitation, proposing a Project aligned with the objectives of the BEAD Program and the CNMI Initial Proposal, and was selected by BPD through said competitive process to receive this Subaward; and

WHEREAS, BPD, as the designated Eligible Entity and administering office for the BEAD Program in the CNMI, possesses the authority under the IIJA, applicable CNMI laws and directives (including Directive 2023-003), and its approved Initial Proposal, to

issue subgrants to qualified Subgrantees, like the Grantee herein, to implement activities and services described in this Agreement;

NOW, THEREFORE, in consideration of the mutual promises, covenants, and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, BPD and Subgrantee agree as follows:

1. Federal Award Identification

See Attachment 1 for Project Description and Award Identification information.

2. General Compliance Requirements, Priority, and Defined Terms

The Subgrantee must perform its obligations under this Agreement in a manner that complies, and enables BPD to comply, with all requirements contained in the following authorities, as applicable and as may be amended:

- The Infrastructure Investment and Jobs Act (IIJA), Public Law 117-58, including specifically Section 60102 (codified at 47 U.S.C. § 1701 et seq.);
- The Broadband Equity, Access, and Deployment (BEAD) Program Notice of Funding Opportunity (NOFO), Funding Opportunity Number NTIA-BEAD-2022, issued May 13, 2022;
- The U.S. Department of Commerce (USDOC) Financial Assistance Standard Terms and Conditions applicable to the BEAD award;
- The General Terms and Conditions for the BEAD Program issued by NTIA applicable to the award;
- The Specific Award Conditions applicable to the CNMI's BEAD Award (as identified in the federal award documentation provided to BPD by NTIA/USDOC);
- The approved CNMI BEAD Initial Proposal (Volumes I and II);
- The CNMI BEAD Program Procedures and CNMI BEAD Subgrantee Compliance and Reporting Guidance issued by BPD;
- The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 C.F.R. Part 200, as applicable and potentially modified by the UGPN;
- All other applicable federal, Commonwealth of the Northern Mariana Islands (CNMI), and local laws, regulations, executive orders, and ordinances.

In the event of any conflict between the terms of this Agreement and the authorities identified in the preceding sentence, the relevant authorities should be read and interpreted in a manner that emphasizes consistency and harmonization.

Where harmonization is impossible, the Parties agree to prioritize following the language contained in these authorities in the following order (from highest to lowest priority):

- Applicable federal statutes, including 47 U.S.C. § 1702;
- The Specific Award Conditions applicable to the CNMI's BEAD Award;
- The General Terms and Conditions for the BEAD Program;
- The BEAD NOFO;
- The USDOC Financial Assistance Standard Terms and Conditions;
- Applicable provisions of 2 C.F.R. Part 200 (Uniform Guidance), as modified by the UGPN;
- The CNMI BEAD Program Procedures and Guidance;
- The approved CNMI BEAD Initial Proposal;
- Other applicable CNMI laws and regulations.

Capitalized terms used in this Agreement shall have the meanings ascribed to them in Section A (Definitions) herein.

If not defined in Section A, capitalized terms shall have the meanings ascribed thereto in the BEAD NOFO or the approved CNMI BEAD Initial Proposal, unless the context clearly requires otherwise.

3. Nature of Award

The primary purpose of this Subaward is to provide funding to the Subgrantee to deploy, operate, and maintain broadband network infrastructure capable of providing Qualifying Broadband Service to the specific unserved Broadband Serviceable Locations (BSLs), underserved BSLs, and/or eligible Community Anchor Institutions (CAIs) identified within the Project Funding Area(s) detailed in the Subgrantee's approved Application (Attachment 2) and Exhibit A (Scope of Work).

This Project must provide Qualifying Broadband Service meeting the following minimum technical standards, consistent with the BEAD NOFO and the CNMI BEAD Initial Proposal, to all BSLs and CAIs identified in the Application:

- For End Users (BSLs):
 - Reliable Broadband Service with (i) a speed of not less than 100 Mbps for downloads; (ii) a speed of not less than 20 Mbps for uploads; and (iii) latency less than or equal to 100 milliseconds.
- For eligible Community Anchor Institutions (CAIs):

- Reliable Broadband Service with (i) a speed of not less than 1 Gbps for downloads and 1 Gbps for uploads; and (ii) latency less than or equal to 100 milliseconds.

The Subgrantee shall perform a standard installation of Qualifying Broadband Service at a standard installation charge within ten (10) business days after the date on which a service request is submitted by an End User or eligible CAI located within the Project area(s) covered by this Agreement.

Specific performance metrics related to installation and service provision are further detailed in Exhibit R - Performance Measures.

It is understood and agreed by the parties that, because the CNMI BEAD Program involves federal funding and evolving technological standards, certain requirements, such as reporting obligations or performance metrics, may change over time consistent with NTIA guidance and applicable law.

The Subgrantee shall remain obligated to comply with the current and future requirements of the BEAD Program and this Agreement throughout the Grant Agreement Term, including through the Closeout Date.

Furthermore, certain obligations, including but not limited to those related to property standards (Section 8.02), service availability, low-cost broadband service options (Section 6.02), reporting (Section 12), and ensuring continuity of service, shall survive closeout and remain in force during the Federal Interest Period.

BPD may, consistent with 2 C.F.R. § 200.333 and NTIA guidance (including the UGPN), structure this Subaward as a fixed-amount subaward if the Project scope has specific measurable performance goals and adequate cost, historical, or unit pricing data is available to establish a fixed amount award based on a reasonable estimate of actual cost.

If this Subaward is designated as a fixed-amount subaward, the specific performance-based milestones that the Subgrantee must achieve to earn payments will be detailed in Exhibit S - Fixed-Amount Subaward Milestones.

BPD retains the right to monitor progress towards these milestones regardless of the subaward type.

4. Subgrantee Responsibilities to Deploy Broadband Infrastructure and Provide Broadband Service

4.01 Scope:

- a. **Project Definition:** The scope of work for the Project funded under this Agreement involves the deployment of broadband infrastructure and the provision of Qualifying Broadband Service to [Insert Number] Unserved Broadband Serviceable Locations (BSLs), [Insert Number] Underserved BSLs, and [Insert Number/List] eligible Community Anchor Institutions (CAIs) located within the designated Project Funding Area(s) (PFA) identified as [Insert PFA Name/Identifier(s)]. A detailed description of the PFA(s), specific locations, CAIs, network design, and service parameters is provided in Exhibit A (Scope of Work) and the Subgrantee's approved Application (Attachment 2), both of which are incorporated herein by reference. All work performed under this Agreement shall materially conform to the plans, specifications, timelines, and performance standards set forth in Exhibit A, Attachment 2, and Exhibit R (Performance Measures), unless BPD approves a material change in writing in accordance with Section 13.03 of this Agreement.
- b. **Conditions Precedent to Proceeding:** The Subgrantee shall not commence activities funded under this Agreement, and BPD shall not issue authorizations to proceed, until the following conditions precedent have been met to BPD's satisfaction.
 - o **Notice to Proceed with Pre-Implementation Activities (NTPPIA):** Before commencing eligible pre-construction activities (such as final design, engineering, permitting applications, securing LoC/Bond, EHP reviews), the Subgrantee must receive a written NTPPIA from BPD.

Issuance of the NTPPIA is contingent upon BPD's review and acceptance of:

- Required Evidentiary Materials as outlined in Exhibit C, including initial project plans, budget details, and procurement policies.
- Verification of Subgrantee's financial capacity as determined during the subgrantee selection process and potentially re-verified by BPD.
- Submission and BPD approval of the Subgrantee's Cybersecurity Risk Management Plan and Supply Chain Risk Management (SCRM) Plan consistent with Section 6.02 and Exhibit K.

- Evidence of commitment for the required Letter of Credit (LoC) or Performance Bond from an eligible institution, as detailed in Section 6.02 and Exhibit C.
 - Initiation of required Environmental and Historic Preservation (EHP) reviews as outlined in Section 7.01 and Exhibit D series.
- Notice to Proceed with Construction (NTPC): Before commencing any physical construction or ground-disturbing activities, the Subgrantee must receive a written NTPC from BPD.

Issuance of the NTPC is contingent upon BPD's review and acceptance of the following, subsequent to the issuance of the NTPPIA:

- Completion and approval by BPD and NTIA of all necessary EHP reviews (NEPA, NHPA Section 106, etc.).
 - Submission and BPD acceptance of final, certified engineered designs prepared under the review of a licensed Professional Engineer (P.E.) or qualified engineer as per BPD requirements (consistent with Section 9.03 and Exhibits O, P, Q).
 - Submission and BPD acceptance of the final, executed Letter of Credit (LoC) or Performance Bond.
 - Proof of acquisition of all necessary federal, CNMI, and local permits, easements, pole attachment agreements, and rights-of-way required for construction (consistent with Section 7.01 and Exhibit E).
 - Proof of UCC-1 filing documenting the federal interest in Project Property, as required by Section 8.02 and Exhibit M.
- c. Build America, Buy America (BABA) Compliance: The Subgrantee acknowledges that funds provided under this Agreement are subject to the BABA requirements of the IIJA, which mandates a preference for domestically produced iron, steel, manufactured products, and construction materials. The Subgrantee must comply with BABA requirements as detailed in the BEAD NOFO and 2 C.F.R. Part 184.
 - CNMI Waiver Status: Please note that the Department of Commerce granted a temporary general applicability public interest waiver of the BABA requirements for infrastructure projects located in the U.S. Pacific Island territories, including the Commonwealth of Northern Mariana Islands (CNMI).

This waiver, issued on September 1, 2023, had an original effective period of 18 months.

While the original expiration date would have been around March 1, 2025, the National Telecommunications and Information Administration (NTIA) has indicated that this waiver will remain in effect for all BEAD-related projects since it was implemented during the BEAD planning phases.

Subgrantees should consult the most recent guidance from BPD and NTIA regarding the applicability of the BABA waiver to their specific projects.

The BPD will inform all subgrant awardees of the current status of the Pacific Territories waiver.

However, subgrantees are still encouraged to make every effort to Build America, Buy America whenever possible.

- Compliance Responsibility: If the waiver expires or is deemed inapplicable to certain procurements under this Project, the Subgrantee shall be fully responsible for ensuring compliance with BABA requirements for all procurements using Award Funds (including Matching Funds).

Failure to comply may result in enforcement actions, including disallowance of costs or clawback of funds.

The Subgrantee must maintain documentation demonstrating compliance or the applicability of the waiver for all relevant procurements.

- d. Public Awareness: The Subgrantee shall conduct public awareness campaigns within the Project Funding Area(s) consistent with the requirements outlined in Section 6.02(g) of this Agreement and the BEAD NOFO. These campaigns shall highlight the value and benefits of broadband service, provide information regarding the Low-Cost Broadband Service Option and available affordability programs (such as the Affordable Connectivity Program or its successor), and be conducted in an equitable and nondiscriminatory manner, utilizing various media and languages appropriate for the community demographics.
- e. Personnel Qualifications: The Subgrantee represents that it has or will secure personnel and/or contractors with the necessary qualifications, licenses, and

experience required to perform the services under this Agreement competently and in compliance with all applicable laws. The Subgrantee, its employees, and its contractors/subcontractors shall be licensed pursuant to all applicable federal, CNMI, and local laws, ordinances, rules, and regulations and shall provide proof of such licensure to BPD upon request.

4.02 Budget:

- a. Total Project Budget: The total approved budget for the Project under this Agreement is [Insert Total Project Budget Amount]. This amount comprises:
 - o [Insert Grant Funds Amount] in Grant Funds provided by BPD under the BEAD Program, and
 - o [Insert Matching Funds Amount] in required Matching Funds to be provided by the Subgrantee or other eligible sources.
- b. These amounts are derived from the Subgrantee's approved Application (Attachment 2) and are detailed further in Exhibit B (Source of Funds Schedule), which is incorporated herein by reference ("Budget").
- c. Budget Detail and Monitoring
 - o The Subgrantee shall ensure the Budget provides sufficient detail (as specified in Exhibit B and the Application, or as subsequently requested by BPD) to serve as a sound basis for BPD to effectively monitor the Subgrantee's performance under this Agreement.
 - o The Budget must also meet the requirements of the IIJA and the BEAD Program rules and regulations necessary for the disbursement of Grant Funds.
 - o If necessary and upon request, BPD may require a more detailed or supplementary Budget breakdown.
 - o The Subgrantee shall provide such detailed or supplementary Budget information in a timely fashion in the form and content prescribed by BPD.
- d. Davis-Bacon Act Applicability
 - o If the Project Budget and Funding Sources detailed in Exhibit B include another source of federal funds (beyond BEAD) that requires compliance with the Davis-Bacon Act, then the Project Budget must be based upon wage levels required by the Davis-Bacon Act and associated regulations.

e. Budget Changes and Transfer of Funds

In accordance with the USDOC Standard Terms and Conditions and the Uniform Guidance at 2 C.F.R. § 200.308, the Subgrantee must report deviations from the approved Budget, project scope, or objectives to BPD.

The Subgrantee must request prior written approval from BPD for the following program- and budget-related changes:

- Any change in the scope or objective of the Project, even if there is no associated budget revision.
- Changes in key personnel (employees or contractors) identified by name or position in the Application or this Agreement.
- The disengagement from the Project for more than three (3) months, or a 25% reduction in time devoted to the Project, by the approved project director or principal investigator.
- The transfer of funds budgeted for participant support costs, as defined in 2 C.F.R. § 200.1, to other budget categories.
- Undertaking any subaward, transferring, or contracting out of any work under this Agreement that was not proposed and approved in the Application, unless made in accordance with 2 C.F.R. § 200.308(c)(6).
- The need for additional federal funding to complete the Project.
- The transfer of funds budgeted for indirect costs to absorb increases in direct costs, or vice versa, if prior approval is required by the terms of this Agreement or applicable regulations.
- Transferring funds between construction and non-construction work under this federal award

4.03 Performance Measures:

Achievement and compliance with the performance measures for this Project will be evaluated based upon the goals and objectives outlined in the Subgrantee's approved Application (Attachment 2), the Scope of Work (Exhibit A), the specific metrics detailed in Exhibit R (Performance Measures), and, given the fixed-amount nature of this Subaward, the successful completion of milestones defined in Exhibit S (Fixed-Amount Subaward Milestones).

Failure to substantially meet these Performance Measures may result in actions outlined in Section 4.03(g) and Section 11.04 of this Agreement.

- a. Specific Performance Metrics (See Exhibits R & S): The specific, measurable performance metrics, Key Performance Indicators (KPIs), Quality of Service (QoS) standards, and associated reporting requirements against which the Subgrantee's performance will be measured are detailed in Exhibit R (Performance Measures).

These metrics include, but are not limited to:

1. Deployment Milestones and Deadline: The Subgrantee must achieve specific, measurable deployment milestones by the dates set forth in Exhibit S (Fixed-Amount Subaward Milestones).

These milestones correspond to key phases of Project implementation.

Critically, the Subgrantee agrees that it shall complete Project construction and begin providing service to each customer that desires broadband service within the Subgrantee's Project area not later than four (4) years after the Grant Date, unless an extension is granted in writing by BPD and NTIA pursuant to Section 5 and BEAD NOFO requirements.

Timely achievement of milestones in Exhibit S is mandatory and is the basis for payment under this fixed-amount Subaward.

2. Broadband Service Standards: The Subgrantee must deploy a network capable of providing, and must offer, Qualifying Broadband Service meeting or exceeding the minimum speed and latency requirements defined in Section 3 of this Agreement (100/20 Mbps, ≤ 100 ms for BSLs; 1 Gbps symmetrical, ≤ 100 ms for CAIs) to all locations specified in Exhibit A and Attachment 2.

Compliance will be verified through speed and latency testing conducted by the Subgrantee according to protocols outlined in Exhibit R and consistent with FCC standards, with results reported to BPD as required.

BPD reserves the right to request speed and latency data at any time.

Subgrantee must retain test data for the Federal Interest Period.

3. Installation Timeframes: The Subgrantee must perform standard installation of service within ten (10) business days of a valid service

request from an End User or eligible CAI within the served Project area, as stated in Section 3 and potentially further detailed in Exhibit R.

4. Network Reliability and Outages: The funded network must meet reliability standards, including that network outages shall not exceed, on average, 48 hours over any 365-day period, excluding documented force majeure events.

BPD will utilize metrics outlined in Exhibit R (which may include specific uptime percentages) to measure compliance once the network is operational.

5. Conduit Access: For any Project work involving laying fiber-optic cables or conduit underground or along a roadway, the Subgrantee must include interspersed conduit access points at regular intervals suitable for interconnection by unaffiliated entities and must deploy a reasonable amount of excess conduit capacity, consistent with BEAD NOFO requirements and as potentially further specified in Exhibit R.
 6. Reporting: The Subgrantee must submit timely and accurate reports according to the schedule, content requirements, and formats specified in Exhibit G (Reporting Requirements List & Quarterly Project and Expenditure Report) and any other reporting mandates issued by BPD or NTIA.
- b. Climate-Hardened Underground Fiber Deployment: Consistent with the Application (Attachment 2), Exhibit A, and CNMI's climate resilience objectives, the performance measures herein assume and require that the Project involves the deployment of a climate-hardened, primarily underground, end-to-end fiber optic network designed to withstand local environmental conditions, including typhoons.

Any significant deviation from underground deployment requires prior written approval from BPD via a formal modification under Section 13.03.

- c. Monitoring: BPD will conduct ongoing monitoring of the Subgrantee's activities and progress towards meeting the Performance Measures and milestones herein.

Monitoring methods may include desk reviews of reports, site visits, inspections,

review of financial records, and requests for specific data.

BPD will provide reasonable advance notice of monitoring activities (typically 14 days, unless exigent circumstances exist).

The Subgrantee acknowledges and agrees that BPD retains the right to monitor performance and compliance for all subawards, including this fixed-amount subaward (consistent with 2 C.F.R. § 200.333(b)), throughout the performance period and Federal Interest Period, and not solely upon the completion of milestones detailed in Exhibit S. BPD reserves the right to revise its monitoring approach as needed [see cite: 511 for general monitoring rights].

The Subgrantee shall make all relevant records, data, personnel, and sites available to BPD or its authorized representatives upon request for monitoring purposes.

- d. Inspection and Testing of Materials: All materials and equipment used in the completion of the Project shall be subject to adequate inspection and testing by the Subgrantee in accordance with accepted industry standards to establish conformance with specifications and suitability for intended uses.

The Subgrantee shall ensure that construction methods are technically sound and utilize materials that are approved, codified, recognized, meet standard or acceptable levels of practice, or are otherwise determined to be generally acceptable by the design and construction industry.

Documentation of such inspections and testing shall be cataloged and retained by the Subgrantee and made available to BPD upon request.

- e. Final Acceptance Inspection: When (i) all construction has been completed, (ii) the Subgrantee's certified professional engineer has conducted a final inspection and any identified deficiencies have been corrected, and (iii) all Project Completion Criteria outlined in Exhibit J have been met, the Subgrantee shall submit written certification to BPD that the Project was placed into service and request final acceptance.

BPD, potentially in coordination with NTIA representatives, the Subgrantee's engineer, and the Subgrantee, will schedule and conduct a final inspection of the Project work before final acceptance and closeout.

- f. Energy Efficiency: The Subgrantee, where feasible, shall apply design principles for the purpose of reducing pollution and energy costs and optimizing lifecycle costs associated with the Project's construction.
- g. Compliance and Enforcement: BPD may take enforcement action against the Subgrantee if the Subgrantee fails to comply with any applicable requirement contained in this Agreement, the BEAD NOFO, governing statutes and regulations, or BPD policies.

If the Subgrantee fails to substantially comply, BPD will typically provide written notice specifying the deficiency and providing a cure period (e.g., thirty (30) days, or other reasonable timeframe specified in the notice).

If the Subgrantee fails to cure the non-compliance within the specified period, BPD shall have the discretion to take one or more enforcement actions as detailed in Section 11.04 of this Agreement, which may include, but are not limited to: requiring additional monitoring or technical assistance; reducing, withholding, or requiring repayment (clawback) of Grant Funds; suspension or termination of the Agreement; and/or prohibiting the Subgrantee from eligibility for future CNMI BEAD Program funding until the deficiency is resolved.

4.04 Implementation/Construction Measures:

- a. Notice to Proceed with Pre-Implementation Activities (NTPPIA): The Subgrantee shall not commence implementation activities, and Grant Funds designated for such activities will not be disbursed, until BPD issues a written NTPPIA.

Issuance of the NTPPIA is contingent upon satisfaction of the conditions outlined in Section 4.01(b) of this Agreement, including BPD's review and acceptance of required Evidentiary Materials (Exhibit C) and confirmation that any necessary initial environmental review steps are underway.

The NTPPIA authorizes the Subgrantee to begin permissible pre-construction activities, such as final Project design, preparing permit applications (including utilizing the CNMI One-Start Permitting process where applicable), logistical planning, EHP consultations, and limited preliminary procurement as allowed by the BEAD NOFO and BPD guidance.

Undertaking activities beyond those permitted by the NTPPIA prior to receiving a Notice to Proceed with Construction (NTPC) is at the Subgrantee's own risk and

may result in disallowed costs or other enforcement actions.

- b. Changes to Project Scope: Following the completion of Environmental and Historic Preservation (EHP) review, the Subgrantee shall seek prior written approval from BPD for any material change to the Project Scope or Application, pursuant to Section 13.03 of this Agreement.

BPD shall consult with NTIA as necessary regarding such changes to ensure continued compliance with BEAD Program requirements.

- c. Notice to Proceed with Construction (NTPC): After issuance of the NTPPIA and satisfaction of all remaining conditions precedent outlined in Section 4.01(b), including completion of EHP reviews and submission of final engineered designs, the Subgrantee must obtain a written NTPC from BPD before commencing any physical construction or ground-disturbing activities.

To request an NTPC, the Subgrantee must provide BPD with copies of all required permits (including those obtained via the CNMI One-Start process or other relevant CNMI/federal agencies, such as DEQ, CRM, HPO, DFW, etc.), pole attachment agreements, finalized LoC/Bond, proof of UCC-1 filing, and evidence of any necessary easements or clearances for work outside public rights-of-way.

The Subgrantee acknowledges that grant funds may only be requested for construction costs incurred after receiving the NTPC from BPD.

- d. Engineered Design Requirements: The Subgrantee shall follow all BPD guidelines and industry best practices for the specifications and preparation of its network designs.

Designs must include the certifications and checklists provided in Exhibit O (Network Design Certification form), Exhibit P (Design Project Checklist), and Exhibit Q (Detailed Design Checklist).

All final engineered designs submitted to BPD for payment requests related to construction must be prepared under the review and certification of a licensed Professional Engineer (P.E.) in a relevant discipline, or a degreed engineer possessing substantial, verifiable experience in designing fiber optic networks of similar scope and complexity whose credentials (including resume and project history) are submitted to and accepted by BPD in writing prior to design

submission.

e. Requirements During Construction: Throughout the construction phase of the Project, the Subgrantee shall be responsible for, at minimum:

- Ensuring adherence to all Project deadlines established in Exhibit S (Fixed-Amount Subaward Milestones) and the overall four-year completion requirement;
- Actively monitoring the progress of all grant-funded activities, including the work of any contractors and subcontractors, to ensure work conforms to the approved plans and standards;
- Submitting timely and accurate progress reports to BPD as required by Exhibit G (Reporting Requirements List & Quarterly Project and Expenditure Report);
- Providing for adequate construction inspection and quality control; obtaining and maintaining all required construction permits and clearances, utilizing the CNMI One-Start Permitting process and coordinating with relevant agencies (e.g., DEQ, DPW, CUC) as applicable;
- Promptly paying all eligible costs incurred for grant-funded activities using Award Funds and documenting such payments; and
- Monitoring its contractors' and subcontractors' compliance with all applicable federal, CNMI, and local requirements, including safety, labor, and environmental regulations.

f. Network Resiliency, Hardening, Disaster Recovery, and Maintenance:

- Network Resiliency and Hardening: The Subgrantee shall comply with and meet industry-standard network resiliency, hardening, and risk mitigation practices appropriate for the CNMI environment, particularly concerning typhoon preparedness and climate resilience, with respect to the constructed network.

This includes adherence to relevant standards such as the Telcordia Blue Book (SR-1421) Manual of Construction Procedures and applicable FEMA guidance (e.g., FEMA P-348, P-2181) regarding protection from flood and other hazards.

The network design and construction must align with CNMI-specific hazard mitigation plans and BPD directives aimed at ensuring a climate-hardened infrastructure.

If the Subgrantee cannot meet specific BPD-mandated standards, it must provide a clear written explanation and propose alternative mitigation measures for BPD's review and approval.

- Disaster Recovery and Preventative Maintenance Plans: Prior to commencing network operation, the Subgrantee must develop, submit to BPD, and receive written approval for both a comprehensive Disaster Recovery Plan and a detailed Preventative Maintenance Plan.

These plans must be developed in accordance with CNMI BEAD Program Procedures and outline strategies for service restoration after disruptions and routine upkeep to ensure network longevity and reliability.

- g. Safety Compliance: The Subgrantee must comply with, and ensure that its contractors and subcontractors comply with, all applicable safety standards.

This includes, but is not limited to, adherence to the current editions of the National Electric Code (NEC) and the National Electrical Safety Code (NESC).

Subgrantee must also comply with any applicable CNMI-specific utility rules, including any pole attachment safety guidelines issued by the Commonwealth Utilities Corporation (CUC) or other relevant CNMI regulatory bodies.

If specific CNMI utility safety guidelines are unavailable, the Subgrantee and its contractors shall follow the most recent published edition of the NESC guidelines for relevant work (e.g., pole attachments).

- h. Public Notice/Acknowledgement: The Subgrantee is encouraged to post signage at project sites and include public acknowledgements in published materials (press releases, websites, etc.) indicating that activities are funded by the BEAD Program under the Infrastructure Investment and Jobs Act, using the official "Investing in America" emblem where appropriate and in accordance with federal guidelines.

Costs associated with such acknowledgements must be reasonable and limited, and recycled/recovered materials should be used for signs where feasible.

4.05 Certification - Subaward Completion:

Pursuant to federal requirements outlined in 2 C.F.R. § 200.201(b)(4) and NTIA guidance (including the Policy Notice on Tailoring the Uniform Guidance to the BEAD Program), the Subgrantee must certify in writing to BPD at the end of the Subaward's Period of Performance that the broadband infrastructure project funded under this Subaward was completed and placed into service.

Accordingly, upon meeting all Project Completion Criteria as defined in Exhibit J (Project Completion Criteria), the Subgrantee shall certify to BPD that the broadband infrastructure project funded herein was placed into service, as defined in 47 U.S.C. § 1702(h)(4)(C) for last-mile broadband deployment projects, by the end of the established Period of Performance for this Subaward.

This certification is a prerequisite for Project closeout under Section 12.04.

4.06 Default and Termination:

- a. Termination Due to Changed Circumstances: Any significant change in Federal and/or CNMI law or regulations which materially alters the Subgrantee's required activity under this Agreement, or any substantial change in the availability of funds allocated for this Agreement, shall be grounds for good faith renegotiation of the provisions of this Agreement affected by such change, pursuant to Section 13.03.

This includes suspension, termination, or reduction by NTIA/USDOC of the BEAD grant to BPD under which this Agreement is made.

If such renegotiation proves unsuccessful within a reasonable timeframe as determined by BPD, either party may terminate this Agreement upon providing thirty (30) calendar days' prior written notice to the other party.

- b. Termination for Convenience: BPD reserves the right to terminate this Agreement, in whole or in part, for convenience (i.e., for reasons not related to Subgrantee default) at any time upon providing thirty (30) calendar days' prior written notice to the Subgrantee.

Furthermore, prior to the first disbursement of Grant Funds under this Agreement, either party may terminate this Agreement, with or without cause,

upon thirty (30) calendar days' prior written notice to the other party.

c. Termination for Cause (Default):

- Events of Default: The occurrence of any one or more of the following shall constitute an "Event of Default" by the Subgrantee:
 1. Failure to fulfill in a timely and proper manner any material obligation, covenant, or requirement under this Agreement, including failure to meet critical Performance Measures (Exhibit R) or Deployment Milestones (Exhibit S) without an approved extension;
 2. Material breach of any representation or warranty made by the Subgrantee in this Agreement or the Application (Attachment 2);
 3. Failure to comply with applicable Federal, CNMI, or local laws, regulations, or grant conditions imposed by NTIA, USDOC, or BPD;
 4. Failure to comply with a corrective action plan approved by BPD within the timeframe specified therein;
 5. Failure to maintain the required Letter of Credit/Performance Bond or necessary insurance coverage;
 6. Misuse or unallowable expenditure of Award Funds;
 7. Failure to submit required reports (Exhibit G) accurately and timely, or failure to maintain required records;
 8. Insolvency, assignment for the benefit of creditors, or the commencement of bankruptcy proceedings by or against the Subgrantee;
 9. Failure to comply with BABA requirements (if applicable/not waived) or other material procurement standards outlined in Section 8.01; or
 10. Any other material breach of this Agreement not specifically enumerated above.
- Notice and Cure: Upon the occurrence of an Event of Default, BPD shall typically provide the Subgrantee with a written Notice of Default specifying the nature of the default and demanding that the default be cured within thirty (30) calendar days from the date of the notice, or such longer period as BPD may specify in the notice ("Cure Period").
- Termination Procedure: If the Subgrantee fails to cure the default to BPD's satisfaction within the specified Cure Period, BPD may, by providing

written notice to the Subgrantee, terminate this Agreement in whole or in part, effective immediately upon receipt of notice or on such later date as specified in the notice.

BPD expressly reserves all other rights and remedies available at law or in equity in the event of default, including those outlined in Section 11.04.

- Consequences of Termination:
 1. Cessation of Work: Upon receipt of a notice of termination under Section 4.06(a), (b), or (c), the Subgrantee shall immediately cease all work under this Agreement (unless otherwise directed by BPD), take necessary actions to protect Project Property and records, and cancel outstanding commitments relating to the terminated work.
 2. Property and Records Disposal: All Project Property (real property or equipment acquired or improved with Award Funds) and finished or unfinished documents, data, studies, and reports prepared by the Subgrantee under this Agreement shall be accounted for and disposed of or transferred as directed by BPD, in coordination with NTIA/USDOC and consistent with federal property management regulations (e.g., 2 C.F.R. §§ 200.311-316) and the requirements of Exhibit M.
 3. Final Payment: BPD's obligation to pay the Subgrantee shall be limited to the allowable, eligible, and documented costs for satisfactory work performed and accepted by BPD prior to the effective date of termination, subject to the availability of funds and BPD's right to offset or withhold payments as described below or in Section 9.05.

In no event shall BPD be liable for costs incurred after the effective date of termination, lost profits, or other consequential damages.

4. Subgrantee Liability: Termination of this Agreement shall not relieve the Subgrantee of liability for any damages sustained by BPD or the CNMI resulting from any breach of this Agreement or default by the Subgrantee occurring prior to or contributing to the termination.

5. **Payment Withholding/Offset:** BPD reserves the right to withhold payments due to the Subgrantee under this Agreement, or any other agreement between the Subgrantee and BPD or CNMI, as may be necessary to protect BPD's interests, cover potential damages, or ensure compliance with closeout requirements.
 6. **Other Remedies:** In the case of Termination for Cause, BPD may also pursue other remedies outlined in Section 11.04, including clawback of funds.
- d. **Stop-Work Orders:** If BPD determines that conditions exist which endanger the performance of this Agreement or pose immediate risks, BPD may issue a written notice detailing the conditions.

If, after such notice, the Subgrantee fails to remedy the conditions within the time specified by BPD (which may be less than 30 days if circumstances warrant immediate action), BPD may issue a written Stop-Work Order directing the Subgrantee to immediately suspend all or any part of the work for a period specified by BPD.

The Subgrantee shall resume work only upon written cancellation of the Stop-Work Order by BPD.

BPD may subsequently lift the Stop-Work Order, terminate the Agreement for cause or convenience, or negotiate a modification to the Agreement.

Costs incurred by the Subgrantee during a Stop-Work Order period are generally unallowable unless specifically authorized in writing by BPD.

5. Grant Agreement Term/Period of Performance

This Grant Agreement shall be effective for the period commencing on the Grant Date (as defined in Section A) and ending upon BPD's final closeout of this Subaward in accordance with Section 12.04 ("Period of Performance").

Notwithstanding the overall Period of Performance ending upon closeout, the Subgrantee agrees and is required by the BEAD Program to complete the physical deployment of the broadband network funded hereunder and begin providing Qualifying Broadband Service to customers within the Project area not later than four (4) years after the Grant Date.

Progress towards meeting this four-year deployment deadline shall be governed by the specific buildout milestones detailed in Exhibit S (Fixed-Amount Subaward Milestones).

Furthermore, certain obligations under this Agreement shall survive the Closeout Date and the end of the Period of Performance.

Specifically, obligations related to the use, management, disposition, and federal interest in Project Property (as detailed in Section 8.02 and Exhibit M), as well as certain ongoing service obligations (such as the Low-Cost Broadband Service Option commitment in Section 6.02), shall remain in effect throughout the ten (10) year Federal Interest Period.

The Federal Interest Period commences upon the acquisition or improvement of Project Property and concludes on December 31st of the tenth calendar year following the year in which the Closeout Date occurs.

Time is of the essence with respect to the Subgrantee's performance of its obligations and achievement of milestones under this Grant Agreement.

6. Funding

6.01 Source of Funds:

Per Exhibit B - Source of Funds Schedule detailing federal and matching funds sources

6.02 Conditions for Receipt of Grant Funds/Service Obligations:

Receipt and continued disbursement of Grant Funds under this Agreement are conditioned upon the Subgrantee's ongoing compliance with all terms of this Agreement, including the following service obligations and requirements, which shall apply throughout the Period of Performance and, where specified, the Federal Interest Period:

- a. **Service Availability and Installation:** The Subgrantee shall provide Qualifying Broadband Service meeting the standards set forth in Section 3 and Exhibit R to all BSLs and CAIs identified in Exhibit A and Attachment 2.

Subgrantee must perform standard installation within ten (10) business days of a valid service request, as detailed further in Section 4.03.

- b. **Affordability - ACP Participation and Low-Cost Service Option:**

- ACP Participation: Subgrantee must participate in the Federal Communications Commission's (FCC) Affordable Connectivity Program (ACP) (47 C.F.R. Part 54, Subpart S) or any successor program for the duration of the Federal Interest Period, allowing Eligible Subscribers to apply the benefit to any service plan offered over the Funded Network.
- Low-Cost Broadband Service Option: Consistent with Section 60102(h)(4)(B) of the IIJA and the CNMI Initial Proposal Section 2.12, the Subgrantee shall offer at least one Low-Cost Broadband Service Option to Eligible Subscribers within the Project service area(s) for the duration of the Federal Interest Period.

This option must meet the following minimum requirements, as approved by BPD and NTIA:

- Price: Costs \$30.00 per month or less, inclusive of all taxes, fees, and charges.

Modifications to this rate, up to a maximum of \$75.00 per month (inclusive of all taxes, fees, and charges), may be requested from BPD based on documented evidence demonstrating that the \$30 rate is financially unsustainable for the specific project area, subject to BPD and NTIA approval.

The approved rate becomes the maximum allowable price for the Low-Cost Option for the duration of the Federal Interest Period.

- ACP Applicability: Allows Eligible Subscribers to apply any ACP subsidy (or successor program subsidy) toward the service price.

The required price point must be maintained even if the ACP program ends.

- Speed & Latency: Provides download speeds of at least 100 Mbps, upload speeds of at least 20 Mbps, and latency of no more than 100 milliseconds.

- Usage Limits & Fees: Is not subject to data caps, surcharges, usage-based throttling, or non-recurring installation/initiation fees.

It is subject only to the same acceptable use policies applicable to the Subgrantee's other residential broadband plans.

- Upgrades: Permits Eligible Subscribers to upgrade to any subsequently offered low-cost plan with more advantageous technical specifications at no additional upgrade cost.
- c. Middle-Class Affordability: Subgrantee shall support the goals of the CNMI Initial Proposal Section 2.13 (Middle-Class Affordability Plan) by offering reasonably priced high-quality broadband services to all households within the BEAD-funded network's service area.

BPD's evaluation of affordability, including the scoring of the Low-Cost Option provided herein during subgrantee selection (Section 2.4.2 of CNMI Initial Proposal), aims to ensure reasonable pricing.

Drop and standard installation costs are eligible project expenses and shall not be passed on to the consumer for BEAD-funded projects.

- d. Consumer Protections: The Subgrantee shall not impose data usage caps on any service plans offered over the Funded Network.

Furthermore, the Subgrantee shall not employ any unjust or unreasonable network management practices.

The Subgrantee shall certify compliance with this requirement through its regular reporting obligations under Exhibit G.

- e. Access to Service: The Subgrantee shall provide access to broadband services offered over the Funded Network to each customer within the Project area desiring service on terms and conditions that are reasonable and non-discriminatory.
- f. Public Notice and Awareness Campaigns: The Subgrantee shall conduct effective public awareness campaigns in the Project service area(s) designed to highlight the value and benefits of broadband service and promote adoption.

Campaigns must include clear information about the Low-Cost Broadband Service Option and federal subsidy programs like the ACP (and any successor programs).

Campaigns must be conducted equitably and non-discriminatorily, utilize diverse communication media (online, print, etc.), and provide materials in languages other than English as appropriate for community demographics.

Upon network deployment completion in an area, the Subgrantee must provide public notice of service availability to residents and share such notice with BPD.

- g. Interconnection and Wholesale Access (Middle Mile): If this Project includes the deployment of Middle Mile Infrastructure using Grant Funds, the Subgrantee shall permit other broadband service providers to interconnect with the funded Middle Mile Infrastructure at any technically feasible point on reasonable, non-discriminatory rates, terms, and conditions, consistent with BEAD NOFO requirements.

The Subgrantee must negotiate interconnection agreements in good faith with requesting parties and report on the status of interconnection requests via reporting under Exhibit G.

- h. Wholesale Obligation on Default / Continuity of Service: If, at any time during the Federal Interest Period, the Subgrantee is unable or unwilling to continue providing retail broadband service over the Funded Network, the Subgrantee must, after consultation with and as approved by BPD and NTIA, take remedial action to ensure continuity of service.

This may include (i) selling network capacity on a wholesale basis at reasonable, non-discriminatory rates to other providers, or (ii) selling the Funded Network in its entirety to a qualified provider who commits to fulfilling all BEAD Program obligations associated with this Agreement.

- i. Cybersecurity and Supply Chain Risk Management (SCRM) Plans:

- Requirement: The Subgrantee must have and maintain operational (or ready-to-be-operationalized upon service commencement) Cybersecurity Risk Management and SCRM plans that meet the requirements specified in the BEAD NOFO Section IV.C.2.c.vi and referenced in the CNMI Initial Proposal Section 2.16.4.

These plans must align with current NIST standards and frameworks (e.g., NIST Cybersecurity Framework, NISTIR 8276, NIST SP 800-161,

Executive Order 14028).

- Submission & Updates: The Subgrantee must submit both plans to BPD for review and acceptance prior to the first allocation of Grant Funds for deployment activities.

Subgrantee must resubmit plans to BPD within thirty (30) days of making any substantive changes.

The plans must be reevaluated and updated periodically and as events warrant.

Subgrantee must provide plans to NTIA upon request.

Attestation of compliance is required via Exhibit K.

- Third-Party Reliance: If relying on network facilities owned or operated by a third party, Subgrantee must obtain attestations from that provider regarding their compliance with equivalent Cybersecurity and SCRM practices.

j. Financial and Operational Assurances:

- Financial Qualifications: Subgrantee certifies, as attested in its Application (Attachment 2) and consistent with CNMI Initial Proposal Section 2.4.11, that it possesses the financial capability to meet its obligations under this Agreement, including covering all Project costs exceeding the Grant Funds amount and having sufficient resources to cover costs between reimbursements.
- Letter of Credit (LoC) / Performance Bond: Prior to BPD issuing an NTPC, the Subgrantee must provide and maintain an irrevocable standby Letter of Credit or a Performance Bond acceptable to BPD, in an amount equal to one-hundred percent (100%) of the total Grant Funds amount, consistent with the NTIA waiver provisions and CNMI Initial Proposal Section 2.4.11.

Requirements for eligible issuing institutions (banks or credit unions per Weiss rating, or surety per Treasury Circular 570) and the potential for reduction upon meeting milestones are detailed in Exhibit C and CNMI

BEAD Program Procedures.

If providing an LoC, Subgrantee must also provide the required legal opinion regarding bankruptcy treatment.

- k. Recordation of Federal Interest: As a condition for the disbursement of Grant Funds related to the acquisition or improvement of Project Property, the Subgrantee must properly perfect BPD's/USDOC's security interest and record the Federal Interest in such property by filing a UCC-1 financing statement or equivalent instrument acceptable to BPD in the appropriate CNMI office, as detailed further in Section 8.02 and Exhibit M.

Proof of filing must be provided to BPD.

- l. Other Compliance Requirements: Subgrantee must comply with all other applicable requirements detailed elsewhere in this Agreement and its Exhibits, including but not limited to those concerning Labor Practices and Workforce Readiness (Section 7.02, referencing CNMI IP Sec 2.8), and Procurement Standards, including outreach to Minority Business Enterprises (MBEs) and Women's Business Enterprises (WBEs) (Section 8.01, referencing CNMI IP Sec 2.9).

6.03 Matching Funds:

- a. Requirement: The Subgrantee shall provide non-federal Matching Funds for this Project totaling **[\$[Insert Match Dollar Amount]**, which constitutes **[Insert Match Percentage]**% of the total allowable Project costs specified in Section 4.02(a).

This required match amount is detailed in Exhibit B (Source of Funds Schedule).

Consistent with the CNMI Initial Proposal, BPD requires a minimum match commitment of not less than twenty-five percent (25%) of total Project costs, unless a waiver has been granted by NTIA and approved by BPD, or a higher percentage is specified herein based on the Subgrantee's Application.

- b. Permissible Sources: Matching Funds may be provided by the Subgrantee, BPD (as the Eligible Entity, if applicable and documented), a unit of local government, a utility company, a cooperative, a nonprofit or philanthropic organization, a for-profit company, a regional planning or governmental organization, a federal regional commission or authority, or any combination thereof, consistent with the

BEAD NOFO.

c. Permissible Types & Limitations:

- Form: Matching contributions may be provided in the form of cash or documented in-kind contributions.

In-kind contributions must represent allowable project costs and be valued in accordance with 2 C.F.R. § 200.306.

However, BPD generally requires Matching Funds to be provided in cash.

In-kind contributions may be permitted only in limited circumstances (e.g., donated indefeasible rights-of-use (IRUs) from utility partners) and require prior written valuation and approval from BPD before being counted towards the match requirement.

- Federal Funding Limitations: Funds from most other Federal programs, including the FCC's Universal Service Fund programs, may not be used as Matching Funds.

Exceptions include funds from a federal regional commission or authority, and funds provided to the Subgrantee or BPD for deploying broadband service under the Families First Coronavirus Response Act, the CARES Act, the Consolidated Appropriations Act, 2021, or the American Rescue Plan Act of 2021 (including State and Local Fiscal Recovery Funds (SLFRF) and Capital Projects Fund (CPF)), to the extent permitted by those laws and subject to compliance with all requirements associated with both funding sources.

Loan funding from a federal agency (e.g., USDA ReConnect) may also be used as match.

d. Record-Keeping and Verification: The Subgrantee is solely responsible for accurately tracking and documenting all Matching Funds contributions.

Subgrantee must maintain detailed, verifiable records supporting the source, amount, timing, and allowability of all Matching Funds (both cash and in-kind, including valuation methodology for in-kind contributions).

These records must be maintained in accordance with Section 12.02 of this Agreement and applicable federal regulations (2 C.F.R. Part 200) and must be made available to BPD, NTIA, and auditors upon request for verification purposes.

BPD will verify match contributions through reviews of reports, supporting documentation, and audits.

- e. Applicability to Subaward Type: The requirement to provide and document the specified Matching Funds applies in full regardless of whether this Subaward is structured as a cost-reimbursement or a fixed-amount subaward.
- f. Fund Utilization: Grant Funds may be reimbursed on a pro-rata basis alongside documented Matching Funds contributions for eligible expenses incurred, up to the maximum amount of the Grant Funds specified in Exhibit B.

6.04 Maximum Amount Available:

Not to exceed amount specified in Exhibit B paid on reimbursement basis consistent with approved budget; changes require written amendment signed by both parties.

6.05 Subject to Funds Availability:

This Agreement contingent on availability of federal/state funds; BPD reserves right to reduce/terminate funding upon notice without breach liability.

6.06 Program Income:

Subgrantees may retain program income generated from funded activities; profit/fees not allowable costs under grant funds.

7. Authorizing Statutes and Regulations

7.01 Environmental, Cultural, and Right of Way Review Responsibilities; Notice to Proceed with Construction (NTPC):

- a. The Subgrantee acknowledges that activities funded under this Agreement are subject to the National Environmental Policy Act (NEPA), the National Historic Preservation Act (NHPA), the Endangered Species Act (ESA), and other related federal and CNMI environmental and cultural resource laws and regulations.

The Subgrantee is obligated to cooperate fully with BPD and relevant federal and CNMI agencies in completing all required environmental and historic preservation reviews.

The Subgrantee must complete and submit to BPD the environmental checklist and related forms provided in Exhibit D (Environmental Review Forms) and provide any additional information requested by BPD or NTIA before BPD will consider issuing a Notice to Proceed with Construction (NTPC).

No construction or ground-disturbing activities may commence prior to the completion of all required reviews and issuance of the NTPC by BPD.

- b. Projects or contracts funded under this Agreement costing in excess of \$150,000 are subject to the Clean Air Act (42 U.S.C. §§ 7401-7671q) and the Federal Water Pollution Control Act (33 U.S.C. §§ 1251-1387), as amended.

Subgrantee shall ensure compliance.

- c. The Subgrantee is responsible for complying with all applicable permitting requirements of the CNMI government, including but not limited to those administered by the Bureau of Environmental and Coastal Quality (DEQ/BECQ), the Division of Coastal Resources Management (CRM), the Department of Public Works (DPW), the Department of Public Lands (DPL), and relevant municipal authorities.

Subgrantee is encouraged to utilize the CNMI One-Start Permitting process where applicable to streamline coordination among agencies.

Subgrantee is obligated to demonstrate compliance with applicable requirements as outlined in Exhibit E (CNMI Permitting Guidelines) before BPD will issue an NTPC.

- d. The Subgrantee is obligated to consult and coordinate with the CNMI Historic Preservation Office (HPO) regarding the applicability of Section 106 of the National Historic Preservation Act (NHPA) to the Project.

Subgrantee must submit any information required by HPO and NTIA for the Section 106 review process and must receive communication indicating completion of the process or that no further action is required before BPD will

issue an NTPC for the relevant Project activities.

- e. The Subgrantee shall refrain from undertaking any physical construction or ground-disturbing activities related to the Project until the Subgrantee has submitted all applicable permits and clearances to BPD and BPD has issued a written NTPC authorizing such activities.

This limitation applies to the Subgrantee and any of its contractors or subcontractors.

- f. The Subgrantee agrees to provide BPD with all available environmental information pertaining to the Project and any additional information which BPD or NTIA may request in connection with the conduct and preparation of environmental reviews required under NEPA, NHPA, ESA, or other applicable laws.
- g. The Subgrantee agrees to promptly advise BPD in writing of any proposed change in the scope of the Project or any change in environmental conditions discovered during implementation, including substantial changes in the nature, magnitude, extent, or location of the Project; the addition of new activities not anticipated; the selection of an alternative not previously reviewed; or new circumstances or environmental conditions (such as discovery of unexpected cultural resources or endangered species habitat) which may affect the Project or its environmental impact.

Such changes may require additional environmental review before work can proceed.

- h. Eminent Domain: The Subgrantee agrees that it shall not use any power of eminent domain available to it for the purpose of advancing the economic interests of private parties in connection with this BEAD-funded Project.

Furthermore, the Subgrantee acknowledges that any use of the power of eminent domain to acquire land, easements, or interests in land in connection with this grant requires prior written consent from NTIA.

Any use of eminent domain without such prior written consent constitutes an unauthorized activity and may subject the Subgrantee to enforcement actions, including the disallowance of costs.

- i. Flood Disaster Protection Act: In accordance with the Flood Disaster Protection Act of 1973 (42 U.S.C. § 4001 et seq.), if any part of the Project involves acquisition or construction within an area identified as having special flood hazards, the Subgrantee shall purchase and maintain flood insurance as required.

Subgrantee must provide proof of required flood insurance to BPD upon request.

7.02 Labor Practices:

- a. Compliance Obligation: The Subgrantee shall comply with, and ensure that all of its contractors and subcontractors performing work on the Project comply with, all applicable federal and CNMI labor and employment laws and regulations.

This includes, but is not limited to, laws concerning wages, hours, overtime, workplace safety and health, non-discrimination, and collective bargaining rights.

- b. Subgrantee Selection Basis: The Subgrantee acknowledges that its selection for this Subaward was based, in part, on its demonstrated record of past compliance with federal labor and employment laws and its plans to ensure ongoing compliance, as submitted in its Application (Attachment 2).

These submissions were required and evaluated consistent with the BEAD NOFO Section IV.C.1.e and the CNMI Initial Proposal Section 2.7.

The Subgrantee affirms the accuracy of the information provided regarding its past compliance record (including certifications and disclosures of any violations within the preceding three years) and commits to implementing the compliance plans outlined in its Application.

- c. Ongoing Requirements: Throughout the Period of Performance, the Subgrantee shall:
 - Adhere to the plans submitted in its Application (Attachment 2) for ensuring its own compliance, and that of its contractors and subcontractors, with federal and CNMI labor and employment laws.
 - Ensure compliance with applicable wage scale requirements and wage and overtime payment practices for all classes of employees directly involved in the physical construction of the broadband network funded by this Agreement.

If the Project utilizes other federal funds that trigger Davis-Bacon Act requirements, the Subgrantee and its contractors/subcontractors must comply fully with those requirements.

- Ensure the implementation of robust workplace safety programs that comply with the Occupational Safety and Health Act and any applicable CNMI safety regulations.

This includes permitting workers engaged on the Project to create worker-led health and safety committees and ensuring management meets with such committees upon reasonable request to address concerns.

- Utilize an appropriately skilled and credentialed workforce (including employees of contractors and subcontractors) consistent with the commitments made in its Application (Attachment 2) and the goals outlined in the CNMI Initial Proposal Section 2.8 (Workforce Readiness).
 - Take steps to prevent the misclassification of workers, ensuring employees are correctly classified under applicable federal and CNMI law.
- d. Procurement Prioritization: In procuring services from contractors and subcontractors for this Project, the Subgrantee shall prioritize, where feasible, employers with demonstrated high labor standards and a record clear of significant violations of federal or CNMI labor and employment laws within the preceding three years.

Subgrantee is also encouraged to prioritize employers utilizing local workers, consistent with the BEAD NOFO.

- e. Monitoring and Enforcement: BPD will monitor the Subgrantee's compliance with these labor practice requirements through reporting (Exhibit G), site visits, audits, and other methods outlined in Section 11.02.

Failure to comply with the requirements of this Section 7.02 may constitute an Event of Default under Section 4.06(c) and subject the Subgrantee to remedies outlined therein and in Section 11.04.

7.03 Labor Reporting:

- a. Subgrantees for BEAD-funded projects with an expected total cost greater than \$5 million are subject to the following requirements as part of their regular reporting obligations (submitted at minimum quarterly, or as otherwise specified in Exhibit G):
 - The Subgrantee must provide one of the following:
 1. A certification that, for the Project, all laborers and mechanics employed by contractors and subcontractors in the performance of the Project are paid wages at rates not less than those prevailing, as determined by the U.S. Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code (commonly known as the "Davis-Bacon Act"), for the corresponding classes of laborers and mechanics employed on projects of a character similar to the contract work in the civil subdivision of the Commonwealth of the Northern Mariana Islands (CNMI) in which the work is to be performed; OR
 2. If the Subgrantee does not provide the certification in 7.03(1)(A) above, the Subgrantee must provide a Project employment and local impact report detailing:
 - The number of employees of contractors and sub-contractors working on the Project;
 - The number of employees on the Project hired directly and hired through a third party;
 - The wages and benefits of workers on the Project by classification; and
 - Whether those wages are at rates less than those prevailing (as determined by the US Secretary of Labor in accordance with the Davis-Bacon Act).
 - In addition, the Subgrantee must provide one of the following:
 1. A certification that the Project either will use a unionized project workforce or includes a project labor agreement (meaning a pre-hire collective bargaining agreement consistent with section 8(f) of the National Labor Relations Act (29 U.S.C. 158(f))); OR

2. If the Subgrantee does not provide the certification in 7.03(2)(A) above, the Subgrantee must provide a Project workforce continuity plan, detailing:
 - Steps taken and to be taken by the Subgrantee to ensure the Project has ready access to a sufficient supply of appropriately skilled and unskilled labor to ensure construction is completed in a competent manner throughout the life of the Project (as required in the BEAD NOFO, Section IV.C.1.e), including a description of any required professional certifications and/or in-house training, Registered Apprenticeships or labor-management partnership training programs, and partnerships with entities³ such as unions, community colleges, or community-based groups;
 - Steps taken and to be taken by the Subgrantee to minimize risks of labor disputes and disruptions that would jeopardize timeliness and cost-effectiveness of the Project;
 - Steps taken and to be taken by the Subgrantee to ensure a safe and healthy workplace that avoids delays and costs associated with workplace illnesses, injuries, and fatalities, including descriptions of safety training, certification, and/or licensure requirements for all relevant workers (e.g., OSHA 10, OSHA 30, confined space, traffic control, or other training required of workers employed by contractors), including issues raised by workplace safety committees and their resolution;
 - The name of any subcontracted entity performing work on the Project, and the total number of workers employed by such entity, disaggregated by job title; and
 - Steps taken and to be taken by the Subgrantee to ensure that workers on the Project receive wages and benefits that will secure an appropriately skilled workforce in the context of the local or regional labor market.

 3. The Subgrantee must maintain sufficient records to substantiate all information submitted under this Section upon request by BPD or NTIA.
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8. Procurement and Property Standards

8.01 Procurement Standards:

- a. Secure and Trusted Communications Networks Act: The Subgrantee acknowledges and understands that the Subgrantee (including any contractors or subcontractors of the Subgrantee) may not use BEAD grant funds awarded under this Agreement to procure or obtain, extend or renew a contract to procure or obtain, or enter into a contract (or extend or renew a contract) to procure or obtain any covered communications equipment or service identified as posing an unacceptable risk to national security, as defined by Section 9 of the Secure and Trusted Communications Networks Act of 2019 (47 U.S.C. § 1608) and 2 C.F.R. § 200.216.

The Subgrantee shall refer to the Federal Communications Commission's (FCC) published list ("Covered List") for the current listing of covered equipment and services, available at <https://www.fcc.gov/supplychain/coveredlist>.

- b. Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment: The Subgrantee acknowledges and agrees that Award Funds may not be used to procure or obtain certain telecommunications and video surveillance services or equipment produced or provided by specific entities, as detailed in 2 C.F.R. § 200.216.
- c. Prohibition Regarding People's Republic of China: Pursuant to the IIJA, the Subgrantee acknowledges and agrees that the Subgrantee and any contractors or subcontractors of the Subgrantee may not use BEAD funding to purchase or support fiber optic cable and optical transmission equipment manufactured in the People's Republic of China, unless a waiver of this requirement is received from the Assistant Secretary.

This requirement is independent of the Build America, Buy America Act requirements.

- d. Build America, Buy America Act (BABA) Compliance: The Subgrantee acknowledges that funds provided under this Agreement are subject to the BABA requirements of the IIJA and implementing regulations (including 2 C.F.R. Part 184), which mandate a preference for domestically produced iron, steel, manufactured products, and construction materials for infrastructure projects.

- General Requirement: The Subgrantee must comply with BABA requirements unless a waiver is granted by the Secretary of Commerce.

Subgrantee shall consult the definitions and standards in the Build America, Buy America Act (Pub. L. 117-58, §§ 70911-70917) and OMB guidance M-22-11.

- CNMI Waiver Status: Please note that the Department of Commerce granted a temporary general applicability public interest waiver of the BABA requirements for certain infrastructure projects located in U.S. Pacific Island territories, including the Commonwealth of Northern Mariana Islands (CNMI).

This waiver, issued on September 1, 2023, had an original effective period of 18 months.

While the original expiration date would have been around March 1, 2025, the National Telecommunications and Information Administration (NTIA) has indicated that this waiver will remain in effect for all BEAD-related projects since it was implemented during the BEAD planning phases.

Subgrantees must consult the most recent guidance from BPD and NTIA regarding the applicability, scope, duration, and any reporting requirements associated with the BABA waiver for their specific projects.

BPD will inform subgrant awardees of the current status of the Pacific Territories waiver.

- Encouraged Compliance: Notwithstanding any current waiver, the Subgrantee is strongly encouraged to make every effort to Build America, Buy America whenever possible, prioritizing the purchase, acquisition, or use of goods, products, or materials produced in the United States.
- Compliance Responsibility & Documentation: If the waiver expires or is deemed inapplicable to certain procurements under this Project, the Subgrantee shall be fully responsible for ensuring compliance with BABA requirements for all procurements using Award Funds (including Matching Funds).

Failure to comply may result in enforcement actions, including

disallowance of costs or clawback of funds.

The Subgrantee must maintain documentation demonstrating compliance or the applicability of the waiver for all relevant procurements, including any required manufacturer certifications.

Subgrantee shall consult NTIA published lists of manufacturers certifying compliance where available.

Subgrantee must comply with any BABA-related reporting required by BPD or NTIA, potentially including tracking waived electronic components.

- e. Contracting with Small and Minority Businesses, Women's Business Enterprises, and Labor Surplus Area Firms (2 C.F.R. § 200.321): The Subgrantee acknowledges and agrees that, consistent with BPD's commitment under the CNMI Initial Proposal Section 2.9, when procuring property and services under this federal award, the Subgrantee must take all necessary affirmative steps to assure that minority businesses, women's business enterprises (WBEs), and labor surplus area firms are used when possible.

Affirmative steps must include:

- Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
 - Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
 - Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
 - Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
 - Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the United States Department of Commerce; and
 - Requiring its contractors to take the affirmative steps listed in paragraphs (e)(1) through (5) of this section in relation to subcontracts.
- f. Domestic Preferences for Procurements (2 C.F.R. § 200.322): As required by 2 C.F.R. § 200.322, the Subgrantee should, to the greatest extent practicable

under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products).

The requirements of this section must be included in all subawards, contracts and purchase orders under this award.

This requirement is distinct from and supplemental to the BABA requirements in subsection (d).

- g. Procurement of Recovered Materials (2 C.F.R. § 200.323): The Subgrantee must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (42 U.S.C. § 6962).

The requirements include procuring only items designated in EPA guidelines at 40 C.F.R. Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, when the purchase price exceeds \$10,000 or the value of the quantity acquired in the preceding fiscal year exceeded \$10,000; procuring solid waste management services to maximize resource recovery; and establishing an affirmative procurement program for recovered materials.

- h. Required Contract Provisions (2 C.F.R. § 200.327): The Subgrantee agrees that its contracts funded under this Agreement must contain the applicable contract provisions described in Appendix II to 2 C.F.R. Part 200 ("Contract Provisions for Non-Federal Entity Contracts Under Federal Awards").

The Subgrantee is responsible for determining the applicability of each provision.

- i. Submission of Procurement Policies: The Subgrantee shall provide a copy of its current procurement policies and procedures as part of the required documentation submitted under Exhibit C, unless already provided and accepted by BPD during the application phase.

BPD may request documentation of the procedures used to procure any specific subcontractors associated with the Project.

- j. CNMI Public Entity Procurement: If the Subgrantee is a public entity of the CNMI (e.g., a government department, agency, public corporation, authority,

instrumentality, or municipality), the Subgrantee must comply with all applicable CNMI procurement laws, regulations, executive orders, and policies, including those related to competitive bidding, contract approval, and bonding requirements, in addition to the federal requirements set forth in this Agreement.

- k. Insurance: The Subgrantee is responsible for obtaining and maintaining appropriate types and levels of insurance coverage sufficient to cover potential liabilities and risks associated with the Project activities performed under this Agreement.

This shall include, at a minimum, Workers' Compensation insurance as required by CNMI law.

BPD may require evidence of specific coverages (such as Commercial General Liability, Professional Liability/Errors & Omissions, Automobile Liability, Builder's Risk, etc.) appropriate to the scope of work, as specified in Exhibit C or Exhibit I. The Subgrantee's obligations under this Agreement shall not be diminished if a loss affecting the Project is not covered by its insurance policies, and BPD's payments shall not be increased due to such uncovered losses.

8.02 Property Standards (Property, Equipment and Supplies):

- a. Procurement Standards Applicability: Pursuant to guidance issued by NTIA (including the Uniform Guidance Policy Notice - UGPN), the Subgrantee is not required to comply with the specific federal Procurement Standards set forth in 2 C.F.R. §§ 200.318 through 200.320 and §§ 200.324 through 200.326 for this BEAD broadband infrastructure deployment Subaward.

All other applicable Procurement Standards detailed in Section 8.01 herein remain in effect.

- b. Useful Life and Federal Interest Period: For purposes of this Agreement, the Subgrantee acknowledges and agrees that the required useful life of Project Property (real property or equipment acquired or improved with Award Funds) shall coincide with the Federal Interest Period.

The Federal Interest Period commences upon the acquisition or improvement of the Project Property and continues through the end of the tenth (10th) calendar year following the calendar year of the Closeout Date, unless otherwise specified by NTIA.

Obligations described in this section regarding Project Property shall survive the Period of Performance and Closeout Date and remain in force throughout the Federal Interest Period.

c. Property Management, Use, and Disposition: Title to Project Property acquired or improved under this Subaward vests in the Subgrantee upon acquisition, subject to the following conditions which apply throughout the Federal Interest Period:

- Equipment Management: Subgrantee must follow their existing commercial practices for managing equipment (acquired or improved with Award Funds) and use inventory controls indicating the applicable federal interest and loss prevention procedures.

If the Subgrantee does not have existing commercial practices, it must comply with the equipment management requirements set forth in 2 C.F.R. § 200.313(d).

- Use and Disposition: Subgrantee must comply with the use and equipment disposition requirements of 2 C.F.R. § 200.313(c)(4) and § 200.313(e), as potentially modified by NTIA guidance.

If Subgrantee acquires replacement equipment under 2 C.F.R. § 200.313(c)(4), it may treat the equipment being replaced as "trade-in" for valuation purposes, even if retaining ownership, but must record the fair market value appropriately.

The Subgrantee may sell, lease, or otherwise transfer Project Property only after (i) securing the written agreement of the successor or transferee to comply with all applicable BEAD Program requirements and acknowledge the Federal Interest, and (ii) obtaining prior written consent for the sale or transfer from BPD and NTIA.

Subgrantee must notify BPD and NTIA immediately upon the filing of any bankruptcy petition that could impact its ability to perform under this Subaward.

- Recording Federal Interest: The Subgrantee must record liens or other appropriate notices of record, acceptable in form and substance to BPD and NTIA, to indicate that Project Property has been acquired or improved with a Federal award and that the use and disposition conditions

described herein apply to the property.

Specific requirements for documenting and recording the federal interest are detailed in Exhibit M (Documentation of Federal Interest in BEAD-Funded Property).

Proof of such recordation must be provided to BPD as required.

- Encumbrances: The Subgrantee may encumber Project Property only after providing prior written notice to BPD and NTIA, and subject to the requirement that the USDOC receives either a first priority security interest (preferred) or a shared first priority security interest (on a pari-passu basis with other first position creditors) in the Project Property, such that upon liquidation, USDOC would be entitled to receive its pro-rata share based on the percentage of federal contribution to the project costs.
- Supplies and Intangible Property: Pursuant to exceptions approved under the UGPN, the property standards set forth in 2 C.F.R. §§ 200.314 (Supplies) and 200.315 (Intangible Property) generally do not apply to this BEAD Subaward.

Subgrantee should consult the UGPN and BPD guidance for specifics.

- Property Trust Relationship: The Subgrantee must comply with 2 C.F.R. § 200.316.

Throughout the Federal Interest Period, the Subgrantee must hold Project Property in trust for the beneficiaries of the BEAD Program broadband infrastructure project for which the property was acquired or improved.

- Insurance: The Subgrantee must comply with the insurance requirements of 2 C.F.R. § 200.310, providing insurance coverage for Project Property equivalent to that provided for property owned by the Subgrantee.

Federally-owned property need not be insured by the Subgrantee unless required by award terms.

- Federally-Owned Property: To the extent any Federally-owned real property or equipment is used by the Subgrantee for this Project, the Subgrantee must comply with 2 C.F.R. § 200.312.

8.03 Prior Approval for Equipment & Capital Expenditures:

Consistent with federal cost principles (2 C.F.R. § 200.439), capital expenditures for general purpose equipment, special purpose equipment, buildings, land, and improvements that materially increase the value or useful life of capital assets are generally unallowable as direct costs under this Subaward, except with the prior written approval of BPD.

Any such proposed capital expenditures must be explicitly identified and justified in the Subgrantee's Application (Attachment 2) and included as a distinct line item(s) in the approved Project Budget (Exhibit B).

The Subgrantee must obtain specific written approval from BPD before incurring any costs for capital expenditures that were not included in the approved Budget or before making changes to approved capital expenditures.

Furthermore, the Subgrantee shall be bound by any special terms, conditions, or restrictions regarding the acquisition, use, or disposition of capital expenditures for property and equipment as may be disclosed in Exhibit I (Special Terms and Conditions) of this Agreement.

9. Payment Terms and Conditions

9.01 Payment Methodology:

- a. Payments under this Agreement shall be made based on requests submitted by the Subgrantee using the CNMI Grant Disbursement Request Form (Exhibit F), which shall be tailored by BPD for use in the CNMI BEAD Program, and supported by documentation as required by BPD and this Agreement.

The basis and cadence for payments depend on the structure of this Subaward:

- For Cost-Reimbursement Subawards: If this Subaward is structured on a cost-reimbursement basis, payments will be made to reimburse the Subgrantee for actual, allowable, documented, and reasonable costs incurred in the performance of approved Project activities during the specified period (typically requested monthly), consistent with the approved Budget (Exhibit B).
- For Fixed-Amount Subawards: If this Subaward is structured as a fixed-amount subaward (as potentially indicated in Section 3), payments

will be contingent upon the Subgrantee's satisfactory completion and BPD's verification of specific, measurable milestones defined in Exhibit S (Fixed-Amount Subaward Milestones).

Payment requests submitted via Exhibit F must certify the completion of the relevant milestone(s) and be accompanied by supporting documentation as required by BPD and Exhibit S.

Payments are fixed based on milestone achievement, not actual costs incurred.

9.02 Payment of Invoice/Request:

- a. For payment requests related to construction activities (under cost-reimbursement) or certifying completion of milestones involving construction (under fixed-amount), Subgrantee must submit required supporting documentation, including PE-certified engineered designs (or equivalent approved under Section 4.04(d)) relevant to the work performed or milestone achieved, unless waived in writing by BPD for specific non-construction related milestone payments.
- b. BPD shall pay to the Subgrantee funds available under this Agreement based upon review and approval of the submitted payment request (Exhibit F) and supporting documentation, confirming consistency with allowable costs (for cost-reimbursement) or verified milestone completion (for fixed-amount), the approved Budget (Exhibit B), and the terms of this Agreement.
- c. Payment of an invoice or milestone request by BPD shall not prejudice BPD's right to object to or question any invoice, cost, or matter relating thereto at a later time.

Such payment by BPD shall not be construed as acceptance of any part of the work or service provided, nor as approval of any costs ineligible for reimbursement under the terms of this Agreement or applicable regulations.

9.03 Unallowable Costs:

The Subgrantee's payment requests shall be subject to reduction for amounts included in any current or prior request which are determined by BPD, NTIA, or auditors not to constitute allowable costs.

Such determinations may be based on reviews, monitoring, or audits conducted in accordance with this Agreement, applicable Federal and CNMI laws, programmatic regulations, the Uniform Guidance (2 C.F.R. Part 200), or other governing administrative requirements.

Subgrantee shall be liable to repay BPD for any payments made for costs subsequently determined to be unallowable.

9.04 Deductions & Withholdings:

- a. BPD may deduct amounts from payments or withhold payments requested by the Subgrantee under this Agreement, or any other agreement between the Subgrantee and BPD or the CNMI, if the Subgrantee fails to comply with any requirements of this Agreement or other grant agreements, or if necessary to protect the interests of BPD or the CNMI government.
- b. Funds withheld due to unsatisfactory performance or failure to comply with terms and conditions may be released to the Subgrantee upon satisfactory correction of the condition(s) that caused the withholding, at BPD's sole discretion.
- c. Retainage: (Subject to final BPD policy confirmation) BPD will retain ten percent (10%) of each payment due under this Agreement until the Project is fully completed, BPD has formally accepted the Project, and all closeout documents and reporting requirements under Section 12.04 have been submitted and approved by BPD.

10. Standards for Financial Management

10.01 Financial Management System:

- a. As required by 2 C.F.R. § 200.302(b) and §§ 200.334-337, the Subgrantee's financial management system must provide for the following:
 - Identification of all Federal awards received and expended and the Federal programs under which they were received.

Federal program and Federal award identification must include, as applicable, the Assistance Listings title and number (BEAD is 11.035), Federal award identification number (FAIN), year the Federal award was issued to BPD, and the name of the Federal agency (NTIA) and

pass-through entity (BPD).

- Accurate, current, and complete disclosure of the financial results of this Subaward in accordance with the reporting requirements set forth in 2 C.F.R. §§ 200.328, 200.329, and Section 12 / Exhibit G of this Agreement.
- Records that adequately identify the source and application of funds for federally-funded activities.

These records must contain information pertaining to the Subaward, authorizations, obligations, unobligated balances, assets, expenditures, income and interest, and be supported by source documentation (e.g., invoices, timesheets, receipts).

- Effective control over, and accountability for, all funds, property, and other assets.

The Subgrantee must adequately safeguard all such assets and assure they are used solely for authorized purposes under this Agreement and consistent with 2 C.F.R. § 200.303 (Internal controls).

- Comparison of expenditures with budgeted amounts for this Subaward (Exhibit B).
 - Written procedures to implement the requirements of 2 C.F.R. § 200.305 (Payment).
 - Written procedures for determining the allowability of costs in accordance with Subpart E of 2 C.F.R. Part 200 (Cost Principles) and the terms and conditions of this Subaward.
- b. The Subgrantee's financial and accounting records pertaining to this Agreement must allow for accurate reporting and must support closeout of the Subaward at the end of the Period of Performance, identifying any excess revenues over expenditures for the Project.

10.02 Cost Principles:

- a. The Subgrantee acknowledges and agrees that Award Funds (Grant Funds and Matching Funds) shall be used solely for costs incurred for the implementation and operation of the Project that are allowable under the terms of this Agreement

and applicable cost principles.

- b. The allowability of costs incurred under this Subaward shall be determined in accordance with:
- The terms and conditions of this Agreement;
 - The governing authorities listed in Section 2 of this Agreement; and
 - The Federal cost principles applicable to the Subgrantee's organization type:
 - For CNMI governmental entities, non-profit organizations, and institutions of higher education: 2 C.F.R. Part 200, Subpart E – Cost Principles.
 - For commercial (for-profit) organizations: 48 C.F.R. Part 31, Contract Cost Principles and Procedures (Federal Acquisition Regulation - FAR), unless BPD or NTIA has provided written notification that 2 C.F.R. Part 200, Subpart E applies.
- c. To be allowable, costs must be reasonable, necessary for the performance of the Project, allocable to this Subaward, incurred during the approved Period of Performance (except for approved pre-award costs), adequately documented, treated consistently, and conform to the limitations or exclusions set forth in the applicable cost principles, federal regulations, the BEAD NOFO, and this Agreement.
- Costs must also be determined in accordance with generally accepted accounting principles (GAAP), except as otherwise provided for in the Uniform Guidance.
- d. Costs associated with pre-implementation activities are subject to the restrictions outlined in Section 4.04(a) and related BPD/NTIA guidance regarding NTPPIA.
- e. The Subgrantee shall perform all necessary efforts to assist BPD in verifying for the benefit of CNMI and Federal auditors that Award Funds have been expended in a manner consistent with all applicable requirements.

10.03 Eligible and Ineligible Costs:

- a. Specific eligible and ineligible costs under the CNMI BEAD Program shall be determined based upon the authorities cited in Section 2, including the BEAD NOFO, applicable cost principles (Section 10.02(b)), and any specific guidance provided in the CNMI BEAD Program Procedures.
- b. The Subgrantee shall refund to BPD any expenditures paid with Grant Funds that are subsequently determined by BPD, NTIA, or auditors to be ineligible or unallowable.

Matching Funds may not be used to pay for costs deemed ineligible or unallowable under the Program.

- c. The Subgrantee acknowledges and agrees that it is responsible for any Project costs that exceed the total Award Funds specified in Section 4.02(a) and Exhibit B.

If the available Award Funds are insufficient to satisfy all Project Costs, the Subgrantee shall nevertheless remain responsible for fulfilling its performance obligations under this Agreement.

- d. Award Funds may only be used to supplement, and not supplant, amounts that the Subgrantee would otherwise make available for the purposes for which these funds may be used.
- e. The Subgrantee must not seek reimbursement under this Subaward for the same cost item that has been or will be reimbursed by another Federal, CNMI, or other funding source.

Subgrantee must immediately provide written notice to BPD if other financial assistance is received after the Grant Date to fund any portion of the Scope of Work (Exhibit A) covered by this Agreement.

- f. Costs that appear excessive, are not adequately justified, or are not considered eligible under CNMI BEAD Program Procedures or the BEAD NOFO will not be reimbursed.
- g. Specific ineligible costs explicitly identified in the BEAD NOFO Section V.H.2 include, but are not limited to: procurement of certain covered communications

equipment or services, profit or fees for the Subgrantee, and funds used to support or oppose collective bargaining.

11. Audits and Monitoring

11.01 Audit Requirements:

- a. Cooperation: The Subgrantee shall cooperate fully with BPD, the U.S. Department of Commerce (USDOC), the National Telecommunications and Information Administration (NTIA), the USDOC Office of Inspector General (OIG), the U.S. Government Accountability Office (GAO), and CNMI auditors with respect to any audit, review, or investigation relating to this Agreement or the BEAD Program.
- b. Public/Non-Profit Subgrantees: If the Subgrantee is a CNMI governmental entity, non-profit organization, or Institution of Higher Education, and expends \$750,000 or more in Federal awards (from all sources, including this Subaward) during its fiscal year, the Subgrantee is subject to the audit requirements contained in the Uniform Guidance at 2 C.F.R. Part 200, Subpart F – Audit Requirements.

The Subgrantee must procure either a single audit or a program-specific audit conducted in accordance with 2 C.F.R. § 200.514 and submit the reporting package to the Federal Audit Clearinghouse (FAC) as required by 2 C.F.R. § 200.512.

- c. Commercial (For-Profit) Subgrantees: If the Subgrantee is a commercial, for-profit entity, it is not subject to 2 C.F.R. Part 200, Subpart F. However, if the Subgrantee expends \$750,000 or more in federal award funds (from USDOC sources, including this Subaward) during its fiscal year, the Subgrantee shall submit, annually, either: (1) a financial-related audit of each USDOC award or subaward conducted in accordance with Generally Accepted Government Auditing Standards (GAGAS); OR (2) a program-specific audit for each award or subaward conducted in accordance with 2 C.F.R. § 200.507.

Audits must be completed and submitted to the BPD Program Manager and the NTIA Federal Program Officer within the earlier of 30 calendar days after receipt of the auditor's report(s), or nine months after the end of the audit period.

- d. Audit Costs: In accordance with 2 C.F.R. § 200.425 (Audit services), the Subgrantee may budget and charge to this Subaward the allowable costs

associated with required audits under this section, subject to the cost principles outlined in Section 10.02 and inclusion in the approved Budget (Exhibit B).

- e. Federal Audits: The Subgrantee acknowledges that NTIA, the USDOC OIG, GAO, or other authorized federal agencies may conduct an audit or review of this Subaward at any time.

11.02 Monitoring:

- a. General: The Subgrantee acknowledges and agrees that its activities under this Agreement are subject to monitoring by BPD and NTIA to provide reasonable assurance that the Subgrantee uses Grant Funds for authorized purposes, complies with all applicable laws, regulations, and the terms of this Agreement, and achieves performance goals (Exhibit R) and milestones (Exhibit S).
- b. Access and Cooperation: The Subgrantee shall fully cooperate with BPD, NTIA, and their authorized representatives in all monitoring activities.

This includes, but is not limited to, providing timely access upon reasonable notice (typically 14 calendar days unless exigent circumstances warrant shorter notice) to relevant personnel, records, documents, data (including network performance data), systems, and project sites related to the performance of this Agreement.

- c. Monitoring Activities: Monitoring may include, but is not limited to: review of required reports (Exhibit G); desk reviews; site visits; inspection of work, facilities, equipment, and records; review of financial management systems and internal controls; verification of milestone completion; technical assistance; and requests for specific information or data.
- d. Corrective Action: If monitoring efforts identify deficiencies, errors, or areas of non-compliance, BPD shall notify the Subgrantee in writing, specifying the issue(s) and required corrective action(s), along with a timeframe for completion (typically 30 calendar days, unless otherwise specified).

The Subgrantee agrees to take prompt and effective corrective action as directed by BPD.

Failure to implement required corrective actions may lead to remedies specified in Sections 4.06 and 11.04.

e. Transparency, Accountability, and Oversight:

- Waste, Fraud, and Abuse Training: Consistent with 2 C.F.R. Part 200, BPD or NTIA may direct key personnel of the Subgrantee responsible for financial management or project oversight to complete Government-provided training on preventing waste, fraud, and abuse.
- Required Disclosures: BPD is obligated to timely disclose to the USDOC OIG, in writing, any credible evidence of violations of federal criminal law (involving fraud, conflict of interest, bribery, or gratuity) or the civil False Claims Act in connection with this Subaward.

The Subgrantee shall establish internal controls to ensure potential violations are identified and reported to BPD promptly.

- Monitoring for Fraud: The Subgrantee must monitor its award activities and those of its contractors/subcontractors for common fraud schemes (e.g., false claims for labor/materials, product substitution, time/materials overcharging, bribes).

Should the Subgrantee detect potential fraud or other suspicious activity, the Subgrantee must immediately contact: (i) the BPD point of contact designated in Exhibit H; (ii) the assigned NTIA Federal Program Officer; and (iii) the USDOC OIG Hotline (contact information available at <https://www.oig.doc.gov/Pages/Contact-Us.aspx>).

- Whistleblower Protections: The Subgrantee acknowledges that its employees, and those of its contractors and subcontractors working on this BEAD-funded award, are subject to the whistleblower rights and remedies established under 41 U.S.C. § 4712.

The Subgrantee shall not discharge, demote, or otherwise discriminate against an employee as a reprisal for disclosing information reasonably believed to be evidence of gross mismanagement, gross waste of federal funds, abuse of authority, substantial danger to public health or safety, or a violation of law, rule, or regulation related to a federal contract or grant.

The Subgrantee shall inform its employees and contractors, in writing, in the predominant language of the workforce, of these rights and protections.

11.03 Failure to Comply:

The Subgrantee's failure to comply with any requirements within this Agreement, including but not limited to those in this Section 11 or Section 12 (Reports and Records), or failure to respond timely to BPD or NTIA requests for information, may result in BPD taking one or more remedial actions consistent with 2 C.F.R. § 200.339 and Section 11.04 herein, including disallowed costs, delayed payments, suspension of activities, or termination of this Agreement pursuant to Section 4.06.

BPD shall exercise good faith and reasonable discretion in determining non-compliance.

11.04 Penalties for Non-Performance:

- a. **General Authority:** BPD and NTIA may enforce applicable rules, laws, and the terms of this Agreement by imposing penalties for non-performance, failure to meet material obligations, or wasteful, fraudulent, or abusive expenditure of Award Funds.
- b. **Additional Conditions:** Penalties for non-performance by the Subgrantee may include the imposition of specific additional conditions on this Subaward, as described in 2 C.F.R. § 200.208.
- c. **Remedies When Additional Conditions Insufficient:** If BPD or NTIA determines that non-performance cannot be remedied adequately by imposing additional conditions, BPD or NTIA may take one or more of the following actions, as appropriate:
 - Temporarily withhold payments pending correction of the deficiency or more severe enforcement action.
 - Disallow all or part of the cost of the activity or action not in compliance.
 - Wholly or partly suspend or terminate this Agreement in accordance with Section 4.06.
 - Recommend the initiation of suspension or debarment proceedings by NTIA or USDOC as authorized under 2 C.F.R. Part 180 and USDOC regulations.
 - Withhold further CNMI BEAD Program awards or other BPD/CNMI awards.
 - Take other remedies that may be legally available.
- d. **Clawback:** If BPD or NTIA determines that the Subgrantee has failed to comply with any material requirement under applicable law or this Agreement (including

failure to meet deployment deadlines, service obligations, or low-cost plan requirements) and the Subgrantee cannot or will not remedy such failure, BPD, at its discretion or as directed by the Assistant Secretary, may require the Subgrantee to return (clawback) up to the entire amount of the Grant Funds disbursed under this Agreement, plus potential interest.

Failure to comply with the low-cost broadband service option requirement (Section 6.02(b)) or provide service meeting agreed-upon standards may specifically trigger corrective action, including recoupment of funds.

If BPD is required by NTIA to return funds due to the Subgrantee's non-compliance, the Subgrantee shall reimburse BPD in an amount equal to the clawback.

- e. Reversion: Subject to applicable law, if the Subgrantee fails to perform its obligations materially and fails to return the full amount required pursuant to a claw back action under subsection (d), ownership and use of the broadband infrastructure funded under this Agreement may, at BPD's discretion, revert to BPD or its designee.
- f. Make Whole: Notwithstanding any other provision, if the Subgrantee fails to complete the Project in a material respect due to an uncured default, the Subgrantee may, at BPD's discretion, be required to reimburse BPD the actual costs reasonably incurred to complete the Project, as determined by BPD in consultation with the Subgrantee.

12. Reports and Records

12.01 Required Reports:

- a. The Subgrantee certifies that it will comply with all applicable reporting requirements established by BPD, NTIA, and federal law/regulation for this Subaward.

Specific reporting requirements, including content, format, frequency (e.g., semi-annual performance and financial reports consistent with BEAD NOFO Section VII.E, quarterly reports if required by BPD, final reports), due dates, and submission methods are detailed in Exhibit G (Reporting Requirements List & Templates), which will be provided by BPD and may be updated periodically.

The Subgrantee must adhere to the reporting requirements outlined in Exhibit G, this Agreement, and any subsequent written guidance from BPD or NTIA.

- b. Subgrantee reports must comply with the requirements for monitoring and reporting program performance found in 2 C.F.R. §§ 200.328 and 200.329, including the comparison of actual accomplishments to the objectives established for the period and analysis of cost overruns or high-cost conditions.

Financial reporting must comply with 2 C.F.R. § 200.328 and use standard forms like the SF-425 Federal Financial Report as specified in Exhibit G.

- c. The Subgrantee shall provide BPD with all necessary information required for BPD to satisfy its own reporting obligations to NTIA/USDOC, including data for annual performance reports.
- d. Prior to final payment and closeout, the Subgrantee shall provide BPD final as-built network documentation for any infrastructure deployed under this Agreement, in a manner and format approved by BPD.

12.02 Record Retention:

- a. Consistent with 2 C.F.R. § 200.334, the Subgrantee shall retain all financial records, supporting documents (e.g., invoices, payroll records, proof of payment), statistical records, contracts, subawards, performance data, compliance records, and all other Subaward-pertinent records for a period of five (5) years from the date of submission of the final expenditure report or final payment received under this Subaward, whichever is later.

(Note: Federal minimum is 3 years; 5 years retained from template for conservatism, subject to final BPD/BEAD policy).

- b. If any litigation, claim, or audit is started before the expiration of the five-year period, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken.
- c. Records for real property and equipment acquired with Federal funds must be retained for five (5) years after final disposition.
- d. The Subgrantee shall support BEAD Program reviews and evaluations by NTIA or its designees by submitting required financial and performance information

and data accurately and timely, and by cooperating with program evaluators, consistent with 2 C.F.R. § 200.329(d).

12.03 Access to Records:

- a. Pursuant to 2 C.F.R. § 200.337, the Subgrantee shall provide BPD, NTIA, the USDOC, the USDOC Office of Inspector General (OIG), the Comptroller General of the United States (GAO), the CNMI Office of the Public Auditor, and any of their duly authorized representatives the right of timely and unrestricted access to any of the Subgrantee's records (including books, documents, papers, electronic records) that are pertinent to this Subaward.

This access is for the purpose of making audits, examinations, excerpts, transcripts, and copies.

- b. This right of access also includes timely and reasonable access to the Subgrantee's personnel for the purpose of interviews and discussion related to such documents and records.
- c. The rights of access in this section are not limited to the required retention period but shall last as long as records are retained by the Subgrantee.
- d. The Subgrantee waives any confidentiality, privacy privilege, or proprietary defenses regarding audits, monitoring, or access to records under this section, excluding only the attorney-client privilege where applicable and not otherwise waived.

12.04 Closeout:

- a. Subaward closeout will occur when BPD determines, in accordance with 2 C.F.R. § 200.344, that all applicable administrative actions and all required work of the Subaward have been completed by the Subgrantee.

This determination includes confirming that BPD has received and accepted all required final performance and financial reports; that all monitoring and audit findings related to the Subaward have been resolved; and that final payment/settlement has been made.

- b. The Subgrantee must submit all final financial, performance, and other reports required by Exhibit G and BPD for closeout within ninety (90) calendar days after the end date of the Period of Performance specified in Section 5, or such earlier

date as BPD may require.

- c. The Subgrantee must liquidate all financial obligations incurred under this Subaward no later than 120 calendar days after the end date of the Period of Performance, unless extended by BPD.

The Subgrantee must promptly refund to BPD any balances of unobligated cash that BPD advanced or paid and that is not authorized by BPD to be retained by the Subgrantee.

- d. BPD will make any final settlement payments due to the Subgrantee or seek recovery of amounts due from the Subgrantee within a reasonable period (e.g., typically within 90 days) after receipt and acceptance of all required final reports and determination of the final allowable costs and settlement amount.
- e. The closeout of this Subaward does not affect:
 - BPD's or NTIA's right to disallow costs and recover funds based on a later audit or other review (2 C.F.R. § 200.345(a));
 - The Subgrantee's obligation to return any funds due as a result of later refunds, corrections, or other transactions (2 C.F.R. § 200.345(b));
 - The Subgrantee's obligations regarding audits (Section 11.01), property management and disposition (Section 8.02), and record retention (Section 12.02), which extend beyond the closeout date (2 C.F.R. § 200.345(c)).

13. Standard Terms and Conditions

13.01 Representations and Warranties:

The Subgrantee represents and warrants that:

- a. It is duly organized, validly existing, and authorized to do business in the Commonwealth of the Northern Mariana Islands (CNMI);
- b. The making and performance of this Agreement and each and every other document required to be delivered hereunder are within the Subgrantee's powers, have been duly authorized by all necessary organizational action, have received all necessary approvals, and do not contravene any law, regulation,

decree, or any contractual restriction binding on the Subgrantee;

- c. This Agreement and each and every other document required to be delivered hereunder, when duly executed and delivered, will constitute the legal, valid, and binding obligations of the Subgrantee, enforceable against the Subgrantee in accordance with their respective terms;
- d. To the best of the Subgrantee's knowledge, as of the Grant Date, there are no pending or threatened actions or proceedings before any court or administrative agency which may materially adversely affect the financial condition or operation of the Subgrantee or its ability to perform its obligations under this Agreement; and
- e. The Project developed and services provided hereunder shall be free from material defects in design and implementation, shall meet the specifications agreed to in this Agreement (including Exhibits and Attachments) throughout the Period of Performance, and the Subgrantee warrants the specific operating performance characteristics stated in its Application (Attachment 2) and Exhibit R (Performance Measures).

Until the Closeout Date, the Subgrantee shall, without additional charge to BPD, correct any such defects and make such additions, modifications, or adjustments as may be necessary to keep the Project operating as specified.

13.02 Required Approvals:

This Grant Agreement is not binding until it is approved and signed by the appropriate BPD and/or other authorized CNMI officials in accordance with applicable CNMI laws and regulations.

13.03 Modifications:

- a. Grant Agreement modifications and change orders addressing material changes including, but not limited to, the terms and conditions, costs, available funding, time of completion, or scope of work included under this Grant Agreement, must be made in writing and signed by authorized representatives of both BPD and the Subgrantee.
- b. As soon as possible after receipt of a written request for a material change from BPD, or upon identifying the need for a material change itself, but in no event more than thirty (30) calendar days thereafter (unless a different timeframe is

agreed upon), the Subgrantee shall provide BPD a written statement verifying the impact of the change, including any price impact.

- c. If there is a price change associated with the modification, the Subgrantee shall provide a detailed justification for the price increase or decrease involved, which must be reviewed and approved in writing by BPD prior to the change becoming effective or costs being incurred against the change.
- d. BPD agrees to review and execute an approved change order or amendment, if applicable, within a reasonable timeframe following receipt and acceptance of the Subgrantee's written change documentation and justification.

No material changes in scope are authorized or are to be implemented by the Subgrantee until a written change order or amendment is fully executed by both parties.

- e. Dispute Resolution: The parties agree to attempt to resolve any disputes concerning administrative and programmatic matters arising under this Agreement informally through good faith consultation and discussion between the designated points of contact (Exhibit H).

If informal resolution is unsuccessful, the matter may be escalated in writing to the Special Assistant to the Governor for Broadband Policy and Development or Governor's Authorized Representative for review and a final determination on questions of policy or fact falling under BPD's administrative authority related to this Agreement.

The parties are encouraged, by mutual agreement, to consider Alternative Dispute Resolution (ADR) methods, such as mediation, to resolve disputes prior to pursuing formal legal action.

This administrative dispute resolution process does not limit either party's right to pursue any legal remedies available under applicable law, consistent with Section 18.08 (Governing Law and Venue).

Complaints or disputes received from citizens or end-users regarding the Subgrantee's performance or actions relative to the Project are the responsibility of the Subgrantee to address.

13.04 Assignment or Transfer:

The Subgrantee shall not modify, convey, sell, transfer, assign, delegate, or otherwise dispose of this Grant Agreement or any portion thereof, or of any right, title, or interest therein (including changes in control), without the prior, express written consent of BPD, which may be withheld at its discretion.

Furthermore, Subgrantee acknowledges that any assignment or transfer may also be subject to prior written approval from NTIA and/or NIST.

Any attempted assignment or transfer without such required consent(s) shall be void.

Any assignment or transfer approved by BPD shall remain subject to all provisions of this Agreement.

13.05 Subgranting:

The Subgrantee shall not enter into a subgrant agreement (as defined in 2 C.F.R. § 200.1) for any of the work to be performed under this Agreement without obtaining the prior written approval of BPD.

Any subgrant agreements approved by BPD shall be subject to the applicable terms and flow-down requirements of this Grant Agreement and federal law.

(This does not restrict procurement contracts with contractors/subcontractors necessary to perform the work, which are governed by Section 8).

13.06 Completeness:

- a. This Agreement, including all Exhibits and Attachments referenced herein, constitutes the complete and entire understanding between the parties relating to the subject matter hereof.
- b. This Agreement supersedes all prior understandings, representations, negotiations, and agreements between the parties, whether written or oral, relating to this subject matter.
- c. In the event of a conflict between any of the terms specified in Sections 1 through 19 of this Agreement and the approved Application (Attachment 2) or other Exhibits, the terms of Sections 1 through 19 of this Agreement shall generally govern, subject to the overall priority of authorities established in Section 2.

13.07 Severability:

If any term or condition of this Agreement is held to be invalid or unenforceable as a matter of law, the remaining terms and conditions shall not be affected thereby and shall remain in full force and effect.

To this end, the terms and conditions of this Agreement are declared severable.

13.08 Successors and Assigns:

Subject to the restrictions on assignment in Section 13.04, this Agreement shall be binding upon and inure to the benefit of BPD and the Subgrantee and their respective successors and permitted assigns.

13.09 Waivers:

No term or condition of this Agreement shall be deemed to have been waived, nor shall there be any estoppel against the enforcement of any provision of this Agreement, except by written instrument signed by the party charged with such waiver or estoppel.

No waiver at any time of any provision of this Agreement shall be construed as a waiver of any other provision or of the same provision at any other time.

13.10 Terms and Conditions Conflict:

Subject to the priority of authorities established in Section 2 of this Agreement, in the event of any conflict between the terms and conditions stated herein (Sections 1-19) and any terms or conditions set forth in any Exhibit or Attachment relating to the transactions contemplated by this Agreement, the terms and conditions set forth in Sections 1-19 of this Agreement shall generally prevail unless expressly stated otherwise in an Exhibit approved by BPD.

13.11 Access to Information, Software and Data:

The Subgrantee shall work with BPD to ensure that any reports or other electronic documentation submitted by the Subgrantee as required by this Agreement are provided in a format that can be accessed and read by BPD using reasonably available software.

13.12 Licensure and Registrations:

- a. The Subgrantee certifies that it is registered and authorized to do business in the Commonwealth of the Northern Mariana Islands (CNMI) as required by CNMI

law.

- b. The Subgrantee, its employees, and any approved subgrantees, contractors, or subcontractors utilized in the performance of this Agreement shall obtain and maintain all applicable federal, CNMI, and local licenses, permits, and registrations required to perform the work described herein and shall provide proof of such licenses to BPD upon request.
- c. The Subgrantee acknowledges and agrees that it must obtain and maintain an active registration in the federal System for Award Management (SAM.gov) throughout the Period of Performance and provide its Unique Entity Identifier (UEI) to BPD.

13.13 BPD Right of Approval (Personnel):

BPD shall have the right, exercisable in its reasonable discretion, to refuse to permit any specific employee of the Subgrantee, or employee of an approved agent, assignee, contractor or subcontractor of the Subgrantee, to provide services directly interfacing with BPD personnel or systems pursuant to this Grant Agreement, provided such refusal is based on legitimate concerns regarding security, conduct, or qualifications relevant to the specific interface.

13.14 Force Majeure Events:

Neither BPD nor the Subgrantee shall be liable or responsible to the other, nor be deemed to have defaulted under or breached this Grant Agreement, for any failure or delay in fulfilling or performing any material term of this Grant Agreement (except for obligations to make payments when due), when and to the extent such failure or delay is caused by or results from acts beyond the impacted party's reasonable control, including, without limitation, the following force majeure events ("Force Majeure Event(s)"): (a) acts of God; (b) flood, fire, earthquake, typhoon, tsunami, volcanic eruption, explosion, or other significant natural disaster; (c) pandemics, epidemics, or quarantine restrictions officially declared by the CNMI or U.S. government; (d) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest; (e) government order, law, or action (provided such order, law, or action is not the result of the impacted party's own failure to comply with existing legal requirements); (f) embargoes or blockades in effect on or after the Grant Date; (g) declared national, Commonwealth, or regional emergency; (h) strikes, labor stoppages or slowdowns, or other significant industrial disturbances affecting essential services or supply chains (beyond the party's reasonable control); (i) shortage of adequate power or

transportation services (beyond the party's reasonable control); or (j) other similar events beyond the reasonable control of the impacted party.

BPD shall determine, in its reasonable discretion, whether the Subgrantee's failure to perform is due to a qualifying Force Majeure Event.

The party whose performance is affected by a Force Majeure Event shall give notice to the other party within seven (7) business days of the Force Majeure Event, stating the period of time the occurrence is expected to continue.

The impacted party shall use diligent efforts to end the failure or delay and ensure the effects of such Force Majeure Event are minimized, and shall resume the performance of its obligations as soon as reasonably practicable after the removal of the cause.

14. Communications and Contacts

14.01 Contacts:

A list identifying the primary contact persons responsible for day-to-day administration and communication regarding this Agreement for each party is attached hereto and incorporated herein as Exhibit H (Contact Information).

14.02 Notices:

All formal communications and notices required or permitted under this Agreement shall be in writing and shall be deemed sufficiently given when delivered personally, sent by certified or registered mail (return receipt requested, postage prepaid), sent by a recognized overnight courier service (receipt requested), or sent by electronic mail (email) with confirmation of receipt, addressed as follows:

If to BPD:

CNMI Broadband Policy and Development Office (BPD)

Attention: BEAD Grant Manger

Office of the Governor

[Insert BPD Mailing Address Line 1]

Saipan, MP 96950

Email: cnmi.bpd@gmail.com

If to Subgrantee:

[Insert Full Legal Name of Subgrantee]

Attention: [Insert Subgrantee Contact Title, e.g., President, CEO, Authorized Representative]

[Insert Subgrantee Mailing Address Line 1]

[Insert Subgrantee Mailing Address Line 2 - City, State Zip]

Email: [Insert Official Subgrantee Notice Email Address]

Either party may change its address or email address for notice purposes by giving the other party written notice of the new address or email address in the manner set forth above.

Notices shall be deemed effective upon receipt by the addressee.

14.03 Party Changes:

Each party shall provide prompt written notice to the other party of any changes in its designated contact persons listed in Exhibit H or its official notice addresses or email addresses listed in Section 14.02.

15. Independent Subgrantee

Relationship:

- The relationship of the Subgrantee to BPD under this Agreement shall be that of an independent grantee.

No principal-agent relationship or employer-employee relationship is contemplated or created by the parties by virtue of this Agreement.

- The Subgrantee shall be responsible for selecting, supervising, and compensating individuals employed by the Subgrantee pursuant to the terms of this Agreement.
- Neither the Subgrantee nor any employees or contractors of the Subgrantee shall be deemed to be employees of BPD or the CNMI government for any

purposes whatsoever.

Neither the Subgrantee nor any employees or contractors of the Subgrantee shall be eligible to participate in any benefit program provided to employees of the CNMI government unless such program is specifically and separately made available to the Subgrantee or its personnel by CNMI law or policy, independent of this Agreement.

- The Subgrantee shall be exclusively responsible for the payment to its employees and contractors of all wages and salaries, taxes, withholding payments, penalties, fees, fringe benefits, compliance with wage and hour laws, and all other requirements of applicable employment laws.

16. Indemnification and Hold Harmless (Subject to CNMI Legal Counsel Review/AGO):

To the extent permitted by the laws of the Commonwealth of the Northern Mariana Islands, the Subgrantee shall indemnify, defend, and hold harmless BPD, the Commonwealth of the Northern Mariana Islands (CNMI), its officers, agents, and employees from and against any and all losses, damages, liabilities, claims, demands, suits, actions, proceedings, costs, and expenses (including reasonable attorney's fees) arising from bodily injury, including death, sustained by any person (including employees of the Subgrantee or its subcontractors or agents), and from any damages to property (including loss of use thereof and including property of BPD or the CNMI), caused by or arising out of or claimed to have been caused by or to have arisen out of an act or omission of the Subgrantee or its agents, employees, or subcontractors in connection with the performance of this Agreement, or caused by or arising out of or claimed to have been caused by or to have arisen out of the concurrent negligence of the Subgrantee, its agents, employees, or subcontractors in connection with the performance of this Agreement; provided, however, that the foregoing indemnification obligation shall not extend to any loss, damage, liability, claim, or expense arising solely from the negligence or willful misconduct of BPD, the CNMI, or their respective officers, agents, or employees.

The Subgrantee shall, at its own cost and expense, defend any such claim, suit, action, or proceeding commenced against BPD or the CNMI, provided that BPD/CNMI shall provide prompt notice of such claim and the opportunity to control the defense.

BPD and the CNMI shall be entitled, if they so elect, to participate in the defense thereof and, if the Subgrantee fails to provide adequate defense, to control the defense thereof, potentially at the Subgrantee's expense subject to applicable law.

The Subgrantee shall pay all judgments, settlements, costs, and attorney's fees which may be recovered or incurred in connection with any such actions, claims, proceedings, or suits defended by the Subgrantee.

The obtaining by the Subgrantee of a release or discharge of liability running to the Subgrantee shall not diminish nor affect the rights of BPD/CNMI or the obligation of the Subgrantee under this Section.

17. Assurances & Public Policy Requirements

17.01 Assurances (Conflicts of Interest):

The Subgrantee attests that it, its officers or members, employees, or subgrantees presently have no interest and shall not acquire any interest, direct or indirect, which would conflict or compromise in any manner the performance of services or work to be performed in connection with the Project that is the subject matter of this Agreement.

The Subgrantee further attests that during the performance of the Agreement, the Subgrantee shall periodically inquire of its officers, members and employees concerning such interests.

Any such interest discovered shall be promptly presented in detail to BPD.

The Subgrantee will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

The Subgrantee, as applicable, will promptly notify BPD should it become aware of any violation or potential violation of 2 C.F.R. Part 200.112 (Conflict of interest) or this section by the Subgrantee or its personnel/contractors.

Subgrantee shall fully disclose in writing to BPD any affiliated business entities or relatives supplying goods/services to or working for Subgrantee in relation to this Agreement.

17.02 Public Policy Requirements (Debarment & Suspension):

- a. The Subgrantee certifies, by entering into this Agreement, that neither it nor its principals (as defined in 2 C.F.R. § 180.995) are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in covered transactions by any Federal department or agency, consistent with the requirements of 2 C.F.R. Parts 180, 1200, and 1326.
- b. The Subgrantee certifies that it will not knowingly enter into any covered transaction with a person or entity that is proposed for debarment, debarred, suspended, declared ineligible, or voluntarily excluded from participation, unless authorized by USDOC/NTIA.
- c. The Subgrantee agrees to include the requirements of this section, including the specific certification language found in Exhibit L (Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions), without modification, in all lower tier covered transactions (subcontracts, subgrants, etc., expected to equal or exceed \$25,000) and in all solicitations for such transactions, and will require lower tier participants to comply with 2 C.F.R. Parts 180 and 1200.
- d. The Subgrantee agrees to immediately provide written notice to BPD if at any time it learns that its certification was erroneous when made or has become erroneous by reason of changed circumstances.

17.03 Anti-Collusion and Prohibited Communications:

The Subgrantee agrees that it has reviewed, complied with, and will continue to comply with BPD's BEAD Program Anti-Collusion and Prohibited Communication Policy, a copy of which is attached as Exhibit N, in fulfilling its obligations under this Grant Agreement.

The Subgrantee acknowledges that violations discovered at any point may result in sanctions including ineligibility for funding, rescission of award, or other legal action.

17.04 Disclosure of Publicly Funded Projects:

The Subgrantee certifies that, as required during the application process and as an ongoing obligation, it has disclosed and will continue to disclose to BPD information on any other applications it or its affiliates have submitted or plan to submit, and every other broadband deployment project it or its affiliates are undertaking or have committed

to undertake using public funds (federal, CNMI, or local), consistent with the requirements of the BEAD NOFO Section IV.D.2.g.

Required disclosures include details specified in the NOFO, such as speed, latency, geographic area, locations served, public funding amount, consumer cost, and matching commitment.

17.05 CNMI Broadband Reporting Requirements:

The Subgrantee acknowledges and agrees to comply with broadband reporting requirements established by BPD.

This includes, but may not be limited to, providing information to BPD about broadband service availability, subscription rates, pricing, and speeds for all networks operated by the Subgrantee within the CNMI, on at least an annual basis or as otherwise requested by BPD.

Subgrantee shall provide data in the format requested by BPD, which may include address-level detail, and BPD intends to coordinate these requests with the FCC's Broadband Data Collection (BDC) requirements where feasible to minimize reporting burdens.

17.06 Certification of a Drug-Free Workplace:

In accordance with the Drug-Free Workplace Act of 1988 (41 U.S.C. Chapter 81) and implementing regulations (e.g., 2 C.F.R. Part 182), the Subgrantee certifies it will provide and maintain a drug-free workplace during the performance of this Agreement by: publishing a statement notifying employees about prohibitions; establishing an ongoing drug-free awareness program; requiring employees engaged in the performance of the grant to abide by the policy and notify the employer of any criminal drug statute conviction for a violation occurring in the workplace; notifying BPD of such convictions; and imposing sanctions or requiring participation in rehabilitation for convicted employees.

17.07 Certifications Related to Lobbying:

- a. The Subgrantee certifies that no Federal appropriated funds have been paid or will be paid, by or on behalf of the Subgrantee, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of this Federal grant, or the extension,

continuation, renewal, amendment, or modification thereof (31 U.S.C. § 1352).

- b. The Subgrantee shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, etc.) and that all subrecipients shall certify and disclose accordingly.
- c. If any funds other than Federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence the persons and actions described in paragraph (a) in connection with this Federal grant, the Subgrantee shall complete and submit Standard Form LLL (SF-LLL), "Disclosure of Lobbying Activities," to BPD in accordance with its instructions and 31 C.F.R. Part 21.

17.08 Civil Rights:

The Subgrantee agrees to comply with all applicable Federal and CNMI civil rights laws and regulations prohibiting discrimination.

This includes, but is not limited to: Title VI of the Civil Rights Act of 1964 (prohibiting discrimination based on race, color, national origin); Title IX of the Education Amendments of 1972 (sex); Section 504 of the Rehabilitation Act of 1973 (disability); the Age Discrimination Act of 1975 (age); the Americans with Disabilities Act of 1990 (disability); Executive Order 11246 (Equal Employment Opportunity); Executive Order 13166 (Limited English Proficiency); and all other applicable non-discrimination statutes and regulations ensuring equal opportunity and access to programs and activities funded under this Agreement.

The Subgrantee shall include appropriate flow-down provisions in its subcontracts and subawards.

BPD will account for and satisfy authorities relating to civil rights and nondiscrimination in the selection and oversight of subgrantees.

17.09 Program Fraud Civil Remedies Act:

The Subgrantee acknowledges the applicability of the Program Fraud Civil Remedies Act (31 U.S.C. §§ 3801-3812) and understands that submitting false claims or statements can subject the Subgrantee and individuals to civil penalties.

The authorized official signing this Agreement certifies that statements made in connection with this award are true, complete, and accurate to the best of their knowledge.

17.10 False Claims and False Statements:

The Subgrantee acknowledges and understands that the making or presenting of any false, fictitious, or fraudulent statement, representation, claim, or certification in connection with this federal award may subject the Subgrantee and individuals to criminal, civil, or administrative penalties under federal law, including the False Statements Accountability Act (18 U.S.C. § 1001), the False Claims Act (18 U.S.C. § 287), and the Civil False Claims Act (31 U.S.C. §§ 3729-3733).

Subgrantee further acknowledges its obligation under 2 C.F.R. § 200.113 to disclose, in a timely manner, in writing to BPD and the USDOC OIG, all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting this award.

17.11 Copeland Anti-Kickback Act:

The Subgrantee agrees that it shall comply, and ensure its contractors and subcontractors comply, with the Copeland Anti-Kickback Act (18 U.S.C. § 874 and 40 U.S.C. § 3145), which prohibits inducing any person employed in the construction, prosecution, completion, or repair of public work financed in whole or part by Federal funds to give up any part of the compensation to which they are otherwise entitled.

17.12 Whistleblower Protection:

The Subgrantee shall comply with the whistleblower rights and remedies established under 41 U.S.C. § 4712 (Enhancement of contractor protection from reprisal for disclosure of certain information).

The Subgrantee shall not discharge, demote, or otherwise discriminate against an employee as a reprisal for disclosing to a person or body described in the statute information that the employee reasonably believes is evidence of gross mismanagement of a Federal contract or grant; a gross waste of Federal funds; an abuse of authority relating to a Federal contract or grant; a substantial and specific danger to public health or safety; or a violation of law, rule, or regulation related to a Federal contract or grant.

The Subgrantee shall inform its employees and contractors working on this Subaward, in writing, in the predominant language of the workforce, of these employee whistleblower rights and protections.

17.13 Relocation Assistance and Real Property Acquisition:

The Subgrantee agrees that it shall comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4601 et seq.) and implementing regulations (e.g., 49 C.F.R. Part 24 and any applicable USDOC regulations), which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or Federally-assisted programs.

17.14 Hatch Act:

To the extent applicable (primarily to state and local government employees), the Subgrantee acknowledges and agrees that it shall comply with the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7326), which limits certain political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

17.15 Certifications Regarding Federal Convictions, Unpaid Taxes:

The Subgrantee acknowledges and understands that, as required by federal appropriations law and policy, its authorized representative may be required to periodically provide certifications to BPD/USDOC regarding federal felony convictions, federal criminal tax convictions, unpaid federal tax assessments, and delinquent federal tax returns.

17.16 Trafficking Victims Protection Act:

The Subgrantee acknowledges and agrees to comply with the requirements of the Trafficking Victims Protection Act of 2000, as amended (22 U.S.C. § 7104(g)), and the implementing regulations at 2 C.F.R. Part 175, which prohibit grant recipients and their employees, contractors, and agents from engaging in severe forms of trafficking in persons during the period of the award.

17.17 Lobbying Restrictions:

The Subgrantee shall comply with the lobbying restrictions set forth in 31 U.S.C. § 1352 and implementing regulations at 15 C.F.R. Part 28 ("New Restrictions on Lobbying"), as well as the cost principles regarding lobbying costs in 2 C.F.R. § 200.450.

Subgrantee must submit the certification required by 15 C.F.R. Part 28 (regarding non-use of federal funds for lobbying) and, if applicable, the SF-LLL "Disclosure of Lobbying Activities" form as detailed in Section 17.07 of this Agreement.

18. Other Terms and Conditions

18.01 Confidentiality of Records/Protected and Proprietary Information:

- a. General: Both parties shall maintain strict standards of confidentiality regarding sensitive information received from the other party in accordance with applicable CNMI and Federal laws and the terms of this Agreement.

BPD's handling and potential disclosure of information submitted by the Subgrantee under this Agreement shall be governed by applicable law, including the CNMI Open Government Act (1 CMC §§ 9901-9916) and federal laws such as the Freedom of Information Act (FOIA) as applicable to federal award records.

- b. Subgrantee Responsibility: In the event that a submission by the Subgrantee contains information or data the Subgrantee deems to be confidential commercial or financial information, proprietary information, or a trade secret that should not be publicly disclosed, the Subgrantee must clearly identify, bracket, and mark such specific information as "CONFIDENTIAL" or "PROPRIETARY" at the time of submission.

Based on such markings and applicable law, BPD will endeavor to protect properly marked information from public disclosure to the extent permitted by law.

Unmarked information may be subject to public disclosure.

- c. Safeguarding Information: Consistent with 2 C.F.R. § 200.303(e), both BPD and the Subgrantee agree to take reasonable measures to safeguard protected personally identifiable information (PII) and other confidential or sensitive personal or business information created or obtained in connection with this Subaward.
- d. Federal Use: Subgrantee acknowledges that information submitted to BPD may be shared with NTIA/USDOC and used for program reviews, evaluations, and statistical purposes by authorized federal personnel and contractors under appropriate confidentiality agreements, consistent with BEAD NOFO Section IX.B.
- e. Security Sensitive Information: If any submissions contain information considered law enforcement sensitive, Protected Critical Infrastructure Information (PCII), or Sensitive Security Information (SSI), the Subgrantee shall identify, bracket, and

mark such information appropriately and handle it according to applicable laws and protocols.

18.02 No Waiver/Strict Performance Required:

Failure by any party to this Agreement to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, or provisions of this Agreement shall not be construed as a waiver or relinquishment for the future of any such term, covenant, condition, or provision.

No term or condition of this Agreement shall be deemed to have been waived, modified, or deleted except by a written amendment signed by authorized representatives of both parties.

18.03 Titles, Tense:

In construing this Agreement, whenever appropriate, the singular tense shall be deemed to mean the plural and vice-versa.

Titles of sections and paragraphs used herein are for the purpose of facilitating ease of reference only and shall not be construed to limit or otherwise affect the interpretation of any provision hereof.

18.04 CNMI and Federal Compliance:

The Subgrantee shall comply with all applicable CNMI and Federal laws, regulations, executive orders, ordinances, and the terms of this Agreement in the performance of its obligations hereunder.

18.05 Organization and/or Personnel Changes:

The Subgrantee agrees to inform BPD in writing of any significant changes in its organizational structure or key personnel identified in the Application (Attachment 2) or designated for the management of this Project, reasonably in advance of such changes taking effect or as soon as practicable.

18.06 Taxes and Obligations:

- a. The Subgrantee certifies it is current on all taxes and obligations due the federal government, the CNMI government, and applicable local governments, or has entered into an approved plan to resolve any such delinquencies.

- b. Taxability of Grant Funds: The Subgrantee is solely responsible for determining the tax implications, if any, of receiving funds under this Agreement based on its specific legal and tax status and the nature of the activities funded.

BPD makes no representations regarding the tax treatment of these funds.

Subgrantee is advised to consult with qualified, independent tax advisors regarding compliance with all applicable federal and CNMI tax laws and reporting requirements.

18.07 Information Technology Policies:

If BPD grants the Subgrantee access to BPD data systems, networks, or specific BPD-hosted software applications in connection with the performance of this Agreement, and provides specific written BPD IT security policies, procedures, or terms of use applicable to such access, the Subgrantee agrees to comply with those policies, procedures, or terms.

Any such access granted shall be used solely for authorized activities directly related to the work performed under this Agreement.

18.08 Governing Law and Venue:

This Agreement and the rights and obligations of the parties hereunder shall be governed by, and construed and enforced in accordance with, the laws of the Commonwealth of the Northern Mariana Islands and applicable federal law, without regard to conflict of law principles that would require the application of the laws of another jurisdiction.

Any legal action or proceeding arising under or relating to this Agreement shall be brought exclusively in the appropriate court of the Commonwealth of the Northern Mariana Islands or, if federal jurisdiction is independently established, the U.S. District Court for the Northern Mariana Islands.

Nothing in this Agreement is intended to waive, nor shall it be construed as a waiver of, the sovereign immunity of the Commonwealth of the Northern Mariana Islands or BPD.

19. Special Terms and Conditions

Any special terms and conditions required are attached as Exhibit I.

If these conflict with other terms herein, Exhibit I controls.

If Exhibit I terms conflict with federal/CNMI statutes, regulations, or policies, the special terms are void.

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C. SIGNATURES

FOR CNMI BROADBAND POLICY AND DEVELOPMENT OFFICE (BPD):

By: _____

Name: _____

Title: _____

Date: _____

FOR [SUBGRANTEE NAME]:

By: _____

Name: _____

Title: _____

Date: _____

(Appropriate notary blocks would follow if required by CNMI law/policy)

D. EXHIBITS (Attachments)

All Exhibits need to be created or adapted with CNMI-specific content, forms, guidelines, and templates. Exhibit E (Permitting) needs specific revision for CNMI One-Start

- Exhibit A: Project Description and Scope of Work
- Exhibit B: Source of Funds Schedule
- Exhibit C: Evidentiary Materials List including Procurement Policies
- Exhibit D: Environmental Review Forms
- Exhibit E: Permitting Guidelines (Including CNMI One-Start Process details)
- Exhibit F: Grant Disbursement Request Form
- Exhibit G: Reporting Requirements List & Quarterly Reports Templates
- Exhibit H: Contact Information
- Exhibit I: Special Terms and Conditions
- Exhibit J: Project Completion Criteria
- Exhibit K: Cybersecurity and Supply Chain Risk Management Attestation
- Exhibit L: Certification Regarding Debarment/Suspension
- Exhibit M: Documentation of Federal Interest in Property
- Exhibit N: Anti-Collusion Policy
- Exhibit O: Network Design Certification Form
- Exhibit P: Design Project Checklist
- Exhibit Q: Detailed Design Checklist

- Exhibit R: Performance Measures
- Exhibit S: Fixed-Amount Subaward Milestones
- Attachment 1: Create a CNMI-specific Attachment 1 containing all required federal award identification information as specified in the BEAD NOFO and Uniform Guidance (2 CFR 200.332), including Subgrantee name, UEI, Federal Award Identification Number (FAIN) for the CNMI award, Federal Award Date, Period of Performance, Amount of Federal Funds Obligated, Total Amount of Federal Funds Obligated, Total Amount of the Federal Award, CFDA Number and Name (11.035, BEAD), Name of Federal Agency (NTIA), Name of Pass-through Entity (CNMI BPD), etc.
- Attachment 2: Approved Subgrantee Application