

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**")
- SubgranteeName
 - 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 (defined narrowly as an organization located in a government-owned facility that provides publicly accessible Internet service and currently offers digital skills training, or plans to do so within four years) that facilitates greater use of broadband service by vulnerable populations, consistent with 47 U.S.C. § 1702(a)(2)(E) and the Restructuring Policy Notice.
- **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 subscriber who meets the eligibility criteria for the Federal Communications Commission's (FCC) Lifeline Program (or any successor program).
- **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.
- **Fixed Amount Subaward:** A type of subaward used by BPD, as defined in 2 C.F.R. § 200.1, where the total payment amount is based on a reasonable estimate of actual cost, and payments are tied to verifiable milestones. This type of subaward for broadband infrastructure projects is exempted from the Cost Principles (2 C.F.R. Subpart E) and certain Procurement Standards (2 C.F.R. §§ 200.318–320 and 200.324–326), provided the major purpose of the subaward is a broadband infrastructure project (more than 50% of estimated costs).
- **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, regardless of the technology employed, that satisfies the requirements for being classified as a PBP by meeting the specific standards for Performance, Scalability, Reliability & Resilience, and National Security/SCRM as defined in the CNMI BPD's NTIA-approved PBP Checklist and selection methodology.
- **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 ≤ 100 ms; for CAIs, not less than 1 Gbps symmetrical (download/upload) and latency ≤ 100 ms.
- **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.
- **Restructuring Policy Notice (RPN):** The NTIA Broadband Equity, Access, and Deployment (BEAD) Restructuring Policy Notice of June 6, 2025, which modifies and eliminates specific non-statutory burdens contained within the BEAD NOFO.
- **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).
- **Tribal Lands:** Defined according to the BEAD NOFO, Section I.C(y).
- **Tribal Government:** Defined according to the BEAD NOFO, Section I.C(z).

- **Underrepresented Communities:** Groups systematically denied full opportunity to participate in economic, social, and civic life, including low-income households, aging individuals, incarcerated individuals, veterans, persons of color, Indigenous persons, members of ethnic and religious minorities, women, LGBTQI+ persons, persons with disabilities, persons with limited English proficiency, persons who live in rural areas, and persons otherwise adversely affected by persistent poverty or inequality. (Note: CNMI Initial Proposal states all CNMI residents belong to one or more covered population groups).
- **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 ≤ 100 ms, 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 ≤ 100 ms.
- **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 IJJA, 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:

1. The **Infrastructure Investment and Jobs Act (IIJA)**, Public Law 117-58, including specifically Section 60101 (codified at 47 U.S.C. § 1701 et seq.);
2. The **Specific Award Conditions** applicable to the CNMI's BEAD Award (as identified in the federal award documentation provided to BPD by NTIA/USDOC);

3. The **General Terms and Conditions for the BEAD Program** issued by NTIA applicable to the award;
4. The **Broadband Equity, Access, and Deployment (BEAD) Program Notice of Funding Opportunity (NOFO)**, Funding Opportunity Number NTIA-BEAD-2022, issued May 13, 2022;
5. The U.S. Department of Commerce (USDOC) Financial Assistance Standard Terms and Conditions applicable to the BEAD award;
6. Applicable provisions of 2 C.F.R. Part 200 (Uniform Guidance), **as modified by the NTIA Uniform Guidance Policy Notice (UGPN) for fixed amount subawards**;
7. The approved **CNMI BEAD Initial Proposal** (Volumes I and II) and **CNMI BEAD Final Proposal**;
8. The **CNMI BEAD Program Procedures and CNMI BEAD Subgrantee Compliance and Reporting Guidance** issued by BPD;
9. All other applicable federal, Commonwealth of the Northern Mariana Islands (CNMI), and local laws, regulations, executive orders, and ordinances.

In the event of any irreconcilable conflict, inconsistency, or ambiguity among the documents comprising this Agreement, the following order of precedence shall apply, with the highest priority document prevailing:

1. Applicable federal statutes, including the IJA (47 U.S.C. § 1702).
2. The Specific Award Conditions applicable to the CNMI's BEAD Award.
3. The General Terms and Conditions for the BEAD Program.
4. The NTIA Restructuring Policy Notice (RPN) of June 6, 2025.
5. The BEAD NOFO (only where requirements have not been modified or eliminated by the RPN or statute).
6. Applicable provisions of 2 C.F.R. Part 200 (Uniform Guidance), as modified by the NTIA Uniform Guidance Policy Notice.
7. The NITA approved CNMI BEAD Initial Proposal (Vol 1 and 2) and Final Proposal.
8. The CNMI BEAD Program Procedures and Guidance.
9. This Subgrant Agreement.
10. The Exhibits and Attachments to this Subgrant Agreement.
11. 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** (symmetrical); 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:

1. **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

InsertNumber

Unserved Broadband Serviceable Locations (BSLs),

InsertNumber

Underserved BSLs, and

InsertNumber/List

eligible Community Anchor Institutions (CAIs) located within the designated Project Funding Area(s) (PFA) identified as

InsertPFAName/Identifier(s)

A detailed description is provided in **Exhibit A (Scope of Work)** and the Subgrantee's approved **Application (Attachment 2)**. All work must 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.

2. **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.
 - a. **Notice to Proceed with Pre-Implementation Activities (NTPPIA):** Required before commencing eligible pre-construction activities (such as final design, engineering, permitting applications, securing LoC/Bond, EHP reviews). Issuance is contingent upon BPD's review and acceptance of:
 - i. Required Evidentiary Materials as outlined in **Exhibit C**, including initial project plans, budget details, and procurement policies.
 - ii. Verification of Subgrantee's financial capacity.
 - iii. 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**.

- iv. 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.
 - v. Initiation of required **Environmental and Historic Preservation (EHP) reviews** as outlined in Section 7.01 and **Exhibit D** series.
 - b. **Notice to Proceed with Construction (NTPC):** Required before commencing any physical construction or ground-disturbing activities. Issuance is contingent upon BPD's review and acceptance of the following (subsequent to NTPPIA):
 - i. Completion and approval by BPD and NTIA of all necessary **Environmental and Historic Preservation (EHP) reviews** (NEPA, NHPA Section 106, etc.).
 - ii. Submission and BPD acceptance of the Subgrantee's operational Cybersecurity Risk Management Plan and Supply Chain Risk Management (SCRM) Plan. The **Cybersecurity Plan must be ready to be operationalized upon providing service**. This submission must be completed prior to the first allocation of Grant Funds for deployment activities.
 - iii. 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**).
 - iv. Submission and BPD acceptance of the final, executed Letter of Credit (LoC) or Performance Bond.
 - v. 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**).
 - vi. Proof of **UCC-1 filing** documenting the federal interest in Project Property, as required by Section 8.02 and **Exhibit M**.
- 3. **Build America, Buy America (BABA) Compliance:** Funds are subject to BABA requirements for domestically produced iron, steel, manufactured products, and construction materials (IIJA, 2 C.F.R. Part 184).
 - a. **CNMI Waiver Status:** The Department of Commerce granted a temporary general applicability public interest waiver of the BABA requirements for infrastructure projects in U.S. Pacific Island territories, including the CNMI. This waiver, issued September 1, 2023, was originally for 18 months, but NTIA has indicated it will remain in effect for all BEAD-related projects implemented during the planning phases. Subgrantees must consult the most recent BPD and NTIA guidance on the waiver's applicability and will be informed of its current status by BPD.
 - b. **Encouraged Efforts:** Subgrantees are still encouraged to make every effort to **Build America, Buy America** whenever possible.
 - c. **Compliance Responsibility:** If the waiver expires or is inapplicable, the Subgrantee is fully responsible for ensuring compliance for all procurements using Award Funds (including Matching Funds). Failure to comply may result in enforcement actions or disallowance of costs. Subgrantee must maintain documentation demonstrating compliance or waiver applicability.

4. **Public Awareness:** The Subgrantee shall conduct public awareness campaigns consistent with Section 6.02(g) and the BEAD NOFO. Campaigns must highlight the value of broadband, information on the **Low-Cost Broadband Service Option** and affordability programs (like **ACP**), and be conducted equitably, non-discriminatorily, and in appropriate languages.
5. **Personnel Qualifications:** The Subgrantee must secure personnel and/or contractors with the necessary qualifications, licenses, and experience. Subgrantee, its employees, and its contractors/subcontractors must be licensed under all applicable laws and provide proof to BPD upon request.

4.02 Budget:

1. **Total Project Budget:** The total approved budget is InsertTotalProjectBudgetAmount, comprising:
 - a. InsertGrantFundsAmount

in **Grant Funds** provided by BPD under the BEAD Program, and

- b. InsertMatchingFundsAmount

in required **Matching Funds** to be provided by the Subgrantee or other eligible sources.

2. These amounts are from the approved Application (Attachment 2) and detailed in

Exhibit B (Source of Funds Schedule) ("Budget").

3. **Budget Detail and Monitoring:** The Subgrantee must ensure the Budget (Exhibit B) provides sufficient detail for BPD to monitor performance and meet BEAD Program rules for disbursement of Grant Funds. BPD may require more detailed information in a timely fashion.
4. **Davis-Bacon Act Applicability:** If the Budget includes another source of federal funds (beyond BEAD) requiring Davis-Bacon Act compliance, the Project Budget must be based upon the required wage levels.
5. **Budget Changes and Transfer of Funds:** Subgrantee must report deviations and request prior written approval from BPD for program- and budget-related changes per the USDOC Standard Terms and Conditions and Uniform Guidance (2 C.F.R. § 200.308), including:
 - a. Any change in the scope or objective of the Project.
 - b. Changes in key personnel.
 - c. Disengagement or a 25% reduction in time devoted to the Project by the approved project director or principal investigator.
 - d. Transfer of funds budgeted for participant support costs to other categories.
 - e. Undertaking any subaward, transferring, or contracting out of work not approved in the Application, unless made in accordance with 2 C.F.R. § 200.308(c)(6).
 - f. The need for additional federal funding.
 - g. Transfer of funds budgeted for indirect costs to absorb increases in direct costs, or vice versa, if prior approval is required.

- h. Transferring funds between construction and non-construction work.

4.03 Performance Measures:

Achievement and compliance will be evaluated based on the Application (Attachment 2), Scope of Work (Exhibit A), metrics in **Exhibit R (Performance Measures)**, and completion of milestones in **Exhibit S (Fixed-Amount Subaward Milestones)**. Failure to substantially meet these measures may result in enforcement actions (Section 4.03(g), Section 11.04).

1. **Specific Performance Metrics (See Exhibits R & S):**

- **Deployment Milestones and Deadline:** Must achieve specific milestones by the dates set forth in Exhibit S.
- **Mandatory Project completion (construction and service provision)** must occur not later than **four (4) years after the Grant Date**, unless BPD/NTIA grant an extension. Timely achievement of Exhibit S milestones is the basis for payment under a fixed-amount Subaward.
- **Broadband Service Standards:** Network must be capable of, and Subgrantee must offer, **Qualifying Broadband Service** meeting or exceeding the minimum speed and latency requirements (100/20 Mbps, ≤100ms for BSLs; 1 Gbps symmetrical, ≤100ms for CAIs) to all specified locations. Compliance shall be verified through Subgrantee speed and latency testing, conducted annually during the Period of Performance, pursuant to the methodology detailed in **Exhibit R (Performance Measures)**. **To achieve compliance, at least eighty percent (80%) of all measured download speeds must be at or above eighty percent (80%) of the required download speed, and eighty percent (80%) of all measured upload speeds must be at or above eighty percent (80%) of the required upload speed.** Additionally, **ninety-five percent (95%) of latency measurements during testing windows must fall at or below 100 milliseconds** round-trip time. Data, including detailed per-location files, must be reported to BPD and retained for the Federal Interest Period.
- **Installation Timeframes:** Standard installation must be performed within **ten (10) business days** of a valid service request (Section 3, Exhibit R).
- **Network Reliability and Outages (Availability):** The Subgrantee shall ensure network availability such that **network outages shall not exceed, on average, forty-eight (48) hours over any 365-day period** (corresponding to 99.45% annual uptime), except in the case of natural disasters or other force majeure occurrences. This calculation shall **exclude standing maintenance windows** published on the Subgrantee's Network Management Practices page and scheduled maintenance announced to affected customers in advance. Compliance is measured annually via metrics detailed in **Exhibit R (Performance Measures)** once the network is operational.
- **Conduit Access:** Projects involving underground fiber/conduit must include interspersed **conduit access points** and deploy a reasonable amount of **excess conduit capacity** for unaffiliated entities, consistent with BEAD NOFO.

- **Reporting:** Subgrantee must submit timely and accurate reports per **Exhibit G (Reporting Requirements List & Quarterly Project and Expenditure Report)** and BPD/NTIA mandates.
2. **Climate-Hardened Underground Fiber Deployment:** Performance measures require the deployment of a **climate-hardened, primarily underground, end-to-end fiber optic network** designed to withstand local environmental conditions (e.g., typhoons), consistent with the Application and Exhibit A. Any significant deviation requires prior written modification approval (Section 13.03).
 3. **Monitoring:** BPD will conduct ongoing monitoring (desk reviews, site visits, inspections, record review) of the Subgrantee's activities and progress towards Performance Measures and milestones. BPD provides reasonable advance notice (typically 14 days). Subgrantee must make all relevant records, data, personnel, and sites available upon request. BPD retains the right to monitor performance and compliance throughout the performance period and Federal Interest Period, even for fixed-amount subawards.
 4. **Inspection and Testing of Materials:** Materials/equipment must undergo adequate inspection and testing by the Subgrantee to industry standards. Construction methods must be technically sound and utilize approved materials. Documentation must be retained and made available to BPD.
 5. **Final Acceptance Inspection:** Upon (i) construction completion, (ii) correction of deficiencies identified by the certified professional engineer, and (iii) meeting all **Project Completion Criteria** (Exhibit J), the Subgrantee submits written certification and requests final acceptance. BPD, potentially with NTIA, will conduct a final inspection before final acceptance and closeout.
 6. **Energy Efficiency:** Subgrantee shall apply design principles, where feasible, to reduce pollution, energy costs, and optimize lifecycle costs.
 7. **Compliance and Enforcement:** Failure to comply with any requirement may result in enforcement action. BPD will typically provide written notice and a **cure period** (e.g., thirty (30) days). Failure to cure gives BPD discretion to take enforcement actions as detailed in Section 11.04, including: requiring additional monitoring/assistance; reducing, withholding, or requiring repayment (**clawback**) of Grant Funds; suspension/termination; and/or prohibiting future CNMI BEAD Program eligibility.
 8. **Mandatory Non-Compliance Reporting:** The Subgrantee shall be responsible for reporting any non-compliance with the performance standards set forth in **Exhibit R** (including download speed, upload speed, latency, or availability thresholds) to BPD **within fifteen (15) days** of completing the measurement cycle or failing to meet the availability benchmarks. This report must detail the nature of the non-compliance and outline the Subgrantee's proposed remediation plan, which BPD may approve or modify.

4.04 Implementation/Construction Measures:

1. **Notice to Proceed with Pre-Implementation Activities (NTPPIA):** Required before Subgrantee commences implementation activities or Grant Funds are disbursed for such activities. Contingent upon meeting Section 4.01(b) conditions (Exhibit C, initial EHP steps underway).

NTPPIA authorizes pre-construction activities (e.g., final design, permitting, EHP consultations). Undertaking activities beyond those permitted, prior to NTPC, is at Subgrantee's own risk.

2. **Changes to Project Scope:** Following EHP review, any **material change** requires prior written approval from BPD (Section 13.03). BPD will consult with NTIA as necessary.
3. **Notice to Proceed with Construction (NTPC):** Required *after* NTPPIA and satisfaction of all remaining conditions (Section 4.01(b)) before commencing any **physical construction or ground-disturbing activities**. Requesting an NTPC requires providing BPD copies of all required permits (including those via CNMI One-Start), pole attachment agreements, finalized LoC/Bond, proof of UCC-1 filing, and evidence of necessary easements.

Grant funds may only be requested for construction costs incurred *after* receiving the NTPC.

4. **Engineered Design Requirements:** Designs must follow BPD guidelines and industry best practices and include certifications/checklists (**Exhibits O, P, Q**). Final designs submitted for construction payment requests must be prepared under the review and certification of a licensed **Professional Engineer (P.E.)** or a qualified degreed engineer accepted by BPD.
5. **Requirements During Construction:** Subgrantee responsibilities include:
 - a. Ensuring adherence to deadlines (**Exhibit S**, four-year completion).
 - b. Actively monitoring progress (including contractors/subcontractors) to ensure conformance to plans/standards.
 - c. Submitting timely and accurate progress reports (**Exhibit G**).
 - d. Providing for adequate inspection/quality control; obtaining/maintaining permits and clearances (utilizing CNMI One-Start).
 - e. Promptly paying all eligible costs using Award Funds.
 - f. Monitoring contractors'/subcontractors' compliance with all applicable requirements (safety, labor, environmental).
6. **Network Resiliency, Hardening, Disaster Recovery, and Maintenance:**
 - a. **Network Resiliency and Hardening:** Subgrantee must comply with industry-standard practices appropriate for the CNMI environment, particularly regarding **typhoon preparedness and climate resilience**. This includes adherence to standards like Telcordia Blue Book and applicable FEMA guidance. The network design must align with CNMI-specific hazard mitigation plans and BPD directives. Any inability to meet BPD-mandated standards requires a clear written explanation and alternative mitigation proposal for BPD approval.
 - b. **Disaster Recovery and Preventative Maintenance Plans:** Prior to network operation, the Subgrantee must develop, submit, and receive BPD written approval for a comprehensive **Disaster Recovery Plan** and a detailed **Preventative Maintenance Plan**, per CNMI BEAD Program Procedures.
7. **Safety Compliance:** Subgrantee must ensure compliance with all applicable safety standards, including current editions of the **National Electric Code (NEC)** and the **National Electrical Safety Code (NESC)**. Subgrantee must also comply with any CNMI-specific utility rules, including CUC pole attachment safety guidelines; if unavailable, NESC guidelines must be followed.

8. **Public Notice/Acknowledgement:** Encouraged to post signage at project sites and include public acknowledgements (using the "Investing in America" emblem where appropriate) that activities are funded by the BEAD Program under the IIJA.

4.05 Certification - Subaward Completion:

The Subgrantee must certify in writing to BPD at the end of the Period of Performance that the broadband infrastructure project was **completed and placed into service** (as defined in 47 U.S.C. § 1702(h)(4)(C)) by the end of the established Period of Performance, pursuant to federal requirements (2 C.F.R. § 200.201(b)(4)) and NTIA guidance. This certification is a prerequisite for Project closeout (Section 12.04).

4.06 Default and Termination:

1. **Termination Due to Changed Circumstances:** Significant changes in Federal/CNMI law or regulations, or in the availability of funds (including NTIA/USDOC suspension/termination of the BEAD grant to BPD), are grounds for good faith renegotiation (Section 13.03). If renegotiation is unsuccessful, either party may terminate upon **thirty (30) calendar days' prior written notice**.
2. **Termination for Convenience:** BPD may terminate, in whole or in part, for convenience upon **thirty (30) calendar days' prior written notice** to the Subgrantee. Prior to the first disbursement of Grant Funds, either party may terminate, with or without cause, upon **thirty (30) calendar days' prior written notice**.
3. **Termination for Cause (Default):**
 - a. **Events of Default:** Include, but are not limited to:
 - i. Failure to fulfill in a timely and proper manner any material obligation, covenant, or requirement, including failure to meet critical **Performance Measures (Exhibit R)** or **Deployment Milestones (Exhibit S)** without an approved extension.
 - ii. Material breach of any representation or warranty.
 - iii. Failure to comply with applicable Federal, CNMI, or local laws, regulations, or grant conditions.
 - iv. Failure to comply with an approved corrective action plan.
 - v. Failure to maintain the required Letter of Credit/Performance Bond or necessary insurance coverage.
 - vi. Misuse or unallowable expenditure of Award Funds.
 - vii. Failure to submit required reports accurately and timely, or failure to maintain required records.
 - viii. Insolvency or commencement of bankruptcy proceedings.
 - ix. Failure to comply with **BABA** requirements (if applicable/not waived) or other material procurement standards.
 - x. Any other material breach of this Agreement.

- b. **Notice and Cure:** Upon a default, BPD typically provides a written **Notice of Default** specifying the nature of the default and demanding a cure within **thirty (30) calendar days** ("Cure Period"), or a longer period as specified by BPD.
- c. **Termination Procedure:** If the Subgrantee fails to cure within the specified Cure Period, BPD may terminate the Agreement in whole or in part, effective immediately upon receipt of notice or on a specified later date. BPD reserves all other rights and remedies (Section 11.04).
- d. **Consequences of Termination:**
 - i. **Cessation of Work:** Subgrantee must immediately cease work (unless directed otherwise), protect Project Property, and cancel outstanding commitments.
 - ii. **Property and Records Disposal:** Project Property and prepared documents/records must be accounted for and disposed of/transferred as directed by BPD, consistent with federal property management regulations (2 C.F.R. §§ 200.311-316) and **Exhibit M**.
 - iii. **Final Payment:** BPD's payment obligation is limited to the allowable, eligible, and documented costs for satisfactory work performed and accepted prior to termination, subject to funds availability and BPD's right to offset/withhold payments. BPD is not liable for costs incurred after termination, lost profits, or consequential damages.
 - iv. **Subgrantee Liability:** Termination does not relieve Subgrantee of liability for damages sustained by BPD/CNMI resulting from the breach or default.
 - v. **Payment Withholding/Offset:** BPD may withhold payments due to Subgrantee under this or any other agreement with BPD/CNMI to protect BPD's interests or ensure compliance.
 - vi. **Other Remedies:** Termination for Cause may trigger other remedies (e.g., clawback) outlined in Section 11.04.
- 4. **Stop-Work Orders:** BPD may issue a written **Stop-Work Order** if conditions endanger performance or pose immediate risks, directing the Subgrantee to immediately suspend work for a specified period if conditions are not remedied after notice. Subgrantee resumes work only upon written cancellation by BPD. Costs incurred during a Stop-Work Order are generally unallowable unless specifically authorized by BPD.

5. Grant Agreement Term / Period of Performance

This Grant Agreement is effective from the **Grant Date** (Section A) until BPD's final closeout of this Subaward in accordance with Section 12.04 ("**Period of Performance**").

The Subgrantee must **complete Project construction and begin providing Qualifying Broadband Service** to customers in the Project area not later than **four (4) years after the Grant Date**, unless an extension is granted. Progress is governed by milestones in **Exhibit S**.

Certain obligations survive the Closeout Date and Period of Performance, specifically those related to:

- **Project Property** use, management, disposition, and federal interest (Section 8.02 and **Exhibit M**).
- Ongoing **service obligations** (e.g., the **Low-Cost Broadband Service Option** commitment in Section 6.02).

These surviving obligations remain in effect throughout the **Federal Interest Period**, which commences upon 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 for the Subgrantee's performance and milestone achievement.

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 are conditioned upon ongoing compliance with all Agreement terms, including the following service obligations and requirements, which apply throughout the Period of Performance and, where specified, the **Federal Interest Period**:

1. **Service Availability and Installation:** Subgrantee shall provide **Qualifying Broadband Service** (Section 3, Exhibit R standards) to all BSLs and CAIs (Exhibit A, Attachment 2). Standard installation must occur within **ten (10) business days** of a valid service request (Section 4.03).
2. **Affordability - ACP Participation and Low-Cost Service Option:**
 - a. **ACP Participation:** Subgrantee must participate in the FCC's **Affordable Connectivity Program (ACP)** or any successor program for the duration of the **Federal Interest Period**, allowing Eligible Subscribers to apply the benefit to any service plan over the Funded Network.
 - b. **Low-Cost Broadband Service Option:** 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 minimum requirements:
 - i. **Speed & Latency:** Provides speeds of at least **100 Mbps download / 20 Mbps upload** and latency ≤ 100 ms.

- ii. **Usage Limits & Fees:** Is **not subject to data caps**, surcharges, usage-based throttling, or non-recurring installation/initiation fees. Subject only to the same acceptable use policies as other residential plans.
 - iii. **Upgrades:** Permits Eligible Subscribers to upgrade to any subsequently offered low-cost plan with better technical specifications at no additional cost.
- 3. **Middle-Class Affordability:** Subgrantee must support middle-class affordability goals by offering reasonably priced high-quality services.
- 4. **Drop and standard installation costs** are eligible project expenses and **shall not be passed on to the consumer** for BEAD-funded projects.
- 5. **Consumer Protections:** Subgrantee shall not impose **data usage caps** on any service plans offered over the Funded Network. Shall not employ any unjust or unreasonable network management practices. Compliance certification is required via Exhibit G.
- 6. **Access to Service:** Subgrantee shall provide access to services offered over the Funded Network on **reasonable and non-discriminatory** terms and conditions to each customer desiring service.
- 7. **Public Notice and Awareness Campaigns:** Must conduct effective campaigns highlighting the value of broadband, the Low-Cost Option, and federal subsidy programs (like ACP). Campaigns must be equitable, non-discriminatory, utilize diverse media, and provide materials in appropriate languages. Upon network deployment completion, Subgrantee must provide and share public notice of service availability with BPD.
- 8. **Interconnection and Wholesale Access (Middle Mile):** If the Project includes Middle Mile Infrastructure, the Subgrantee shall permit other providers to **interconnect** at any technically feasible point on **reasonable, non-discriminatory rates, terms, and conditions**, consistent with BEAD NOFO. Subgrantee must negotiate in good faith and report on requests via Exhibit G.
- 9. **Wholesale Obligation on Default / Continuity of Service:** If Subgrantee is unable or unwilling to continue providing retail service during the Federal Interest Period, it must take remedial action, approved by BPD/NTIA, to ensure **continuity of service**. This may include (i) selling wholesale network capacity at reasonable, non-discriminatory rates, or (ii) selling the Funded Network to a qualified provider who commits to fulfilling all BEAD Program obligations.
- 10. **Cybersecurity and Supply Chain Risk Management (SCRM) Plans:**
 - a. **Requirement:** Subgrantee must have and maintain operational Cybersecurity Risk Management and SCRM plans that meet BEAD NOFO (Section IV.C.2.c.vi) and CNMI Initial Proposal (Section 2.16.4) requirements, aligning with current **NIST standards and frameworks**.
 - b. **Submission & Updates:** Both plans must be submitted to BPD for review and acceptance **prior to the first allocation of Grant Funds for deployment activities**. Substantive changes require resubmission within thirty (30) days. Plans must be periodically reevaluated and updated. Compliance attestation is required via **Exhibit K**.
 - c. **Third-Party Reliance:** If relying on third-party network facilities, Subgrantee must obtain attestations from that provider regarding equivalent Cybersecurity and SCRM practices.
- 11. **Financial and Operational Assurances:**

- a. **Financial Qualifications:** Subgrantee certifies it possesses the financial capability to meet obligations, including covering costs between reimbursements.
 - b. **Letter of Credit (LoC) / Performance Bond:** Prior to NTPC, Subgrantee must provide and maintain an irrevocable standby **LoC or Performance Bond** acceptable to BPD, in an amount equal to at least **ten percent (10%) of the total Grant Funds amount** (or higher if in Exhibit C), consistent with NTIA waiver and CNMI Initial Proposal (Section 2.4.11). Requirements for eligible institutions and potential for reduction are detailed in Exhibit C and CNMI BEAD Program Procedures. An LoC requires a legal opinion regarding bankruptcy treatment.
12. **Recordation of Federal Interest:** As a condition for disbursement of Grant Funds for acquisition or improvement of Project Property, Subgrantee must properly perfect BPD's/USDOC's security interest and record the Federal Interest by filing a **UCC-1 financing statement** or equivalent instrument (Section 8.02, **Exhibit M**). Proof of filing must be provided to BPD.
13. **Other Compliance Requirements:** Compliance with all other requirements, including Labor Practices (Section 7.02) and Procurement Standards (Section 8.01, including outreach to MBEs/WBEs).

6.03 Matching Funds:

1. **Requirement:** Subgrantee must provide non-federal **Matching Funds** totaling
- InsertMatchDollarAmount
- , which is
- InsertMatchPercentage
- % of total allowable Project costs (Section 4.02(a)). This is detailed in **Exhibit B**. CNMI Initial Proposal requires a minimum match commitment of **not less than twenty-five percent (25%) of total Project costs**, unless a waiver is granted, or a higher percentage is specified herein.
2. **Permissible Sources:** Match may be provided by the Subgrantee, BPD (if applicable/documented), local government, utility, cooperative, nonprofit, for-profit company, or other eligible sources, consistent with the BEAD NOFO.
3. **Permissible Types & Limitations:**
- a. **Form:** May be provided in the form of **cash** or documented **in-kind contributions** (valued per 2 C.F.R. § 200.306). BPD generally requires **cash**. In-kind contributions (e.g., donated IRUs) are only permitted in limited circumstances and require **prior written valuation and approval from BPD**.
 - b. **Federal Funding Limitations:** Funds from most other Federal programs (including FCC's Universal Service Fund programs) may **not** be used as Matching Funds. Exceptions include funds from a federal regional commission or authority, and certain

funds from COVID-relief acts (e.g., SLFRF, CPF), to the extent permitted by those laws.

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

4. **Record-Keeping and Verification:** Subgrantee is solely responsible for accurately tracking and documenting all Matching Funds (cash and in-kind) and maintaining detailed, verifiable records for verification by BPD, NTIA, and auditors. Records must comply with Section 12.02 and 2 C.F.R. Part 200.
5. **Applicability to Subaward Type:** The match requirement applies regardless of whether the Subaward is fixed-amount or cost-reimbursement.
6. **Fund Utilization:** Grant Funds may be reimbursed on a **pro-rata basis** alongside documented Matching Funds contributions for eligible expenses, up to the maximum Grant Funds amount.

6.04 Maximum Amount Available:

Not to exceed amount specified in Exhibit B, paid on a reimbursement basis consistent with the approved budget; changes require written amendment.

6.05 Subject to Funds Availability:

This Agreement is contingent on the availability of federal/state funds; BPD reserves the 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 are 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):

1. The Subgrantee acknowledges that activities 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. Subgrantee must cooperate fully with BPD and relevant agencies in completing all required reviews. Subgrantee must complete and submit the environmental checklist and forms in **Exhibit D** and any additional information required.

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

2. Projects costing in excess of \$150,000 are subject to the **Clean Air Act** and the **Federal Water Pollution Control Act**. Subgrantee shall ensure compliance.
3. The Subgrantee is responsible for complying with all applicable **CNMI permitting requirements** (e.g., DEQ/BECQ, CRM, DPW, DPL, municipal authorities). Subgrantee is encouraged to utilize the **CNMI One-Start Permitting process**. Compliance with requirements in **Exhibit E** is mandatory before BPD issues an NTPC.
4. Subgrantee must consult and coordinate with the **CNMI Historic Preservation Office (HPO)** regarding Section 106 of the NHPA. Subgrantee must receive communication indicating the completion of the Section 106 review process before BPD issues an NTPC.
5. Subgrantee shall refrain from undertaking any physical construction or ground-disturbing activities until all applicable permits and clearances have been submitted to BPD and BPD has issued a written **NTPC**.
6. Subgrantee agrees to provide BPD with all available environmental information and any additional information requested by BPD or NTIA for environmental reviews.
7. Subgrantee agrees to promptly advise BPD in writing of any proposed change in the Project scope or any change in environmental conditions discovered during implementation (e.g., discovery of unexpected cultural resources or endangered species habitat). Such changes may require additional environmental review.
8. **Eminent Domain:** Subgrantee shall **not use eminent domain** for the purpose of advancing the economic interests of private parties. Any use of eminent domain requires **prior written consent from NTIA**. Use without consent is unauthorized and may result in enforcement actions.
9. **Flood Disaster Protection Act:** If the Project involves acquisition or construction within a special flood hazard area, the Subgrantee shall purchase and maintain required **flood insurance** and provide proof to BPD upon request.

7.02 Labor Practices:

1. **Compliance Obligation:** Subgrantee shall comply, and ensure all contractors and subcontractors comply, with all applicable federal and CNMI **labor and employment laws** (wages, hours, overtime, safety, non-discrimination, collective bargaining rights). The Subgrantee acknowledges the elimination of non-statutory labor preferences but shall: adhere to compliance plans submitted in the Application; and **ensure compliance with applicable Federal labor and employment laws**, including all Federal wage scale requirements for employees directly involved in physical construction if applicable.
2. **Subgrantee Selection Basis:** Subgrantee acknowledges its selection was based, in part, on its demonstrated record of past compliance and its plans for ongoing compliance (BEAD NOFO Section IV.C.1.e, CNMI Initial Proposal Section 2.7), and affirms the accuracy of its submissions.
3. **Ongoing Requirements:** Subgrantee shall:
 - a. Adhere to compliance plans submitted in the Application.

- b. Ensure compliance with applicable **wage scale requirements** for employees directly involved in physical construction. If other federal funds trigger the **Davis-Bacon Act**, full compliance is mandatory.
- c. Ensure robust

workplace safety programs (OSHA, CNMI regulations), including permitting workers to create worker-led health and safety committees.

- d. Utilize an appropriately

skilled and credentialed workforce consistent with the Application and CNMI Initial Proposal Section 2.8 (Workforce Readiness).

- e. Take steps to prevent the **misclassification of workers**.
4. **Procurement Prioritization:** Subgrantee shall prioritize, where feasible, employers with demonstrated **high labor standards** and a record clear of significant labor law violations within the preceding three years. Subgrantee is also encouraged to prioritize employers utilizing local workers.
 5. **Monitoring and Enforcement:** BPD will monitor compliance through reporting, site visits, and audits. Failure to comply may constitute an Event of Default (Section 4.06(c)) and subject Subgrantee to remedies (Section 11.04).

7.03 Labor Reporting:

Subgrantees for BEAD-funded projects with an expected total cost greater than **\$5 million** are subject to the following requirements as part of regular reporting (**quarterly minimum, or as specified in Exhibit G**):

1. Subgrantee must provide **one** of the following:
 - a. A **certification** that 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 the **Davis-Bacon Act** (subchapter IV of chapter 31 of title 40, United States Code);
 - OR**
 - b. A **Project employment and local impact report** detailing:
 - i. Number of employees (contractors and sub-contractors) working on the Project.
 - ii. Number of employees hired directly and through a third party.
 - iii. Wages and benefits by classification.
 - iv. Whether those wages are at rates less than those prevailing (Davis-Bacon Act).
2. In addition, the Subgrantee must provide

one of the following:

- a. A **certification** that the Project either will use a **unionized project workforce** or includes a **project labor agreement** (a pre-hire collective bargaining agreement consistent with section 8(f) of the NLRA);

OR

- b. A **Project workforce continuity plan**, detailing:
 - i. Steps taken to ensure a sufficient supply of **appropriately skilled and unskilled labor** (including required certifications, training programs, and partnerships).
 - ii. Steps taken to **minimize risks of labor disputes and disruptions**.
 - iii. Steps taken to ensure a **safe and healthy workplace** (including descriptions of safety training and resolution of issues raised by workplace safety committees).
 - iv. The name of any subcontracted entity and the total number of workers employed, disaggregated by job title.
 - v. Steps taken to ensure that workers receive **wages and benefits that will secure an appropriately skilled workforce** in the local or regional labor market.
3. The Subgrantee must maintain sufficient records to substantiate all information submitted under this Section.

8. Procurement and Property Standards

8.01 Procurement Standards:

1. **Secure and Trusted Communications Networks Act:** Award Funds (Grant Funds and Matching Funds) **may not be used** to procure, obtain, or extend a contract for any **covered communications equipment or service** identified as posing an unacceptable risk to national security (Section 9 of the Act, 2 C.F.R. § 200.216). Subgrantee must refer to the FCC's published "Covered List."
2. **Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment:** Award Funds may not be used to procure certain telecommunications and video surveillance services or equipment from specific entities, as detailed in 2 C.F.R. § 200.216.
3. **Prohibition Regarding People's Republic of China:** Pursuant to the IIJA, BEAD funding **may not be used to purchase or support fiber optic cable and optical transmission equipment manufactured in the People's Republic of China**, unless a waiver is received from the Assistant Secretary. This is independent of BABA.

4. **Build America, Buy America Act (BABA) Compliance:** Funds are subject to BABA requirements for domestically produced iron, steel, manufactured products, and construction materials for infrastructure projects.
 - a. **General Requirement:** Subgrantee must comply with BABA unless a waiver is granted. Subgrantee shall consult the Act and OMB guidance M-22-11.
 - b. **CNMI Waiver Status:** The temporary general applicability public interest waiver for U.S. Pacific Island territories (including CNMI, issued Sept 1, 2023) is in effect, and NTIA has indicated it will remain in effect for all BEAD-related projects implemented during the planning phases. Subgrantees must consult the most recent guidance from BPD and NTIA.
 - c. **Encouraged Compliance:** Notwithstanding any waiver, the Subgrantee is strongly encouraged to make every effort to **Build America, Buy America** whenever possible.
 - d. **Compliance Responsibility & Documentation:** If the waiver expires or is inapplicable, the Subgrantee is fully responsible for compliance for all procurements using Award Funds (including Matching Funds). Failure to comply may result in enforcement actions. Subgrantee must maintain documentation demonstrating compliance or the applicability of the waiver.
5. **Contracting with Small and Minority Businesses, Women's Business Enterprises, and Labor Surplus Area Firms (2 C.F.R. § 200.321):** 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, consistent with CNMI Initial Proposal Section 2.9. Affirmative steps include placing them on solicitation lists, soliciting them, dividing requirements into smaller tasks, establishing suitable delivery schedules, using SBA/MBDA assistance, and requiring contractors to take the same steps.
6. **Domestic Preferences for Procurements (2 C.F.R. § 200.322):** To the greatest extent practicable, the Subgrantee should provide a preference for the purchase, acquisition, or use of goods, products, or materials **produced in the United States**. This requirement must be included in all subawards, contracts, and purchase orders and is distinct from BABA.
7. **Procurement of Recovered Materials (2 C.F.R. § 200.323):** Subgrantee must comply with section 6002 of the Solid Waste Disposal Act (42 U.S.C. § 6962), including procuring items designated in EPA guidelines containing the highest percentage of recovered materials practicable, when the purchase price or annual value exceeds \$10,000.
8. **Required Contract Provisions (2 C.F.R. § 200.327):** Contracts funded under this Agreement must contain the applicable contract provisions described in Appendix II to 2 C.F.R. Part 200. Subgrantee is responsible for determining applicability.
9. **Submission of Procurement Policies:** Subgrantee must provide a copy of its current procurement policies and procedures as part of the required documentation in **Exhibit C**, unless already provided and accepted.
10. **CNMI Public Entity Procurement:** If the Subgrantee is a public entity of the CNMI, it must comply with all applicable CNMI procurement laws in addition to federal requirements.
11. **Insurance:** Subgrantee is responsible for obtaining and maintaining appropriate types and levels of insurance, including, at a minimum, **Workers' Compensation** insurance as required

by CNMI law. BPD may require evidence of specific coverages as specified in **Exhibit C or Exhibit I**.

8.02 Property Standards (Property, Equipment and Supplies):

1. **Procurement Standards Applicability:** Pursuant to the 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 (Section 8.01) remain in effect.
2. **Useful Life and Federal Interest Period:** 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 continues through the end of the **tenth (10th) calendar year following the calendar year of the Closeout Date**. Obligations survive the Period of Performance.
3. **Property Management, Use, and Disposition:** Title vests in the Subgrantee, subject to the following conditions which apply throughout the Federal Interest Period:
 - a. **Equipment Management:** Subgrantee must follow their existing commercial practices for managing equipment (including inventory controls and loss prevention procedures); otherwise, 2 C.F.R. § 200.313(d) applies.
 - b. **Use and Disposition:** Must comply with 2 C.F.R. § 200.313(c)(4) and § 200.313(e). Subgrantee may sell, lease, or transfer Project Property only after securing the successor/transferee's written agreement to comply with BEAD requirements and obtaining **prior written consent** from **BPD and NTIA**. Subgrantee must notify BPD/NTIA immediately of any bankruptcy petition.
 - c. **Recording Federal Interest:** Subgrantee must record liens or other appropriate notices (e.g., a **UCC-1 filing**) to indicate the Federal Interest in Project Property. Specific requirements are in **Exhibit M**. Proof of recordation must be provided to BPD.
 - d. **Encumbrances:** Subgrantee may encumber Project Property only after 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** (pari-passu basis) in the Project Property, entitling USDOC to a pro-rata share upon liquidation.
 - e. **Supplies and Intangible Property:** Pursuant to the UGPN, property standards for Supplies (2 C.F.R. § 200.314) and Intangible Property (2 C.F.R. § 200.315) generally **do not apply** to this Subaward.
 - f. **Property Trust Relationship:** Subgrantee must comply with 2 C.F.R. § 200.316 and hold Project Property **in trust for the beneficiaries** of the BEAD Program throughout the Federal Interest Period.
 - g. **Insurance:** Subgrantee must comply with 2 C.F.R. § 200.310, providing insurance coverage for Project Property equivalent to that for property owned by the Subgrantee.
4. **Federally-Owned Property:** If Federally-owned real property or equipment is used, Subgrantee must comply with 2 C.F.R. § 200.312.

8.03 Prior Approval for Equipment and other Capital Expenditures:

Capital expenditures for general purpose equipment, special purpose equipment, buildings, land, and improvements are generally **unallowable as direct costs without the prior written approval of BPD** (consistent with 2 C.F.R. § 200.439). Any such expenditure must be explicitly identified and justified in the Application (Attachment 2) and included as a distinct line item in the approved **Project Budget (Exhibit B)**. Subgrantee must obtain specific written approval from BPD before incurring costs for capital expenditures not in the approved Budget or before making changes to approved ones. Special terms/restrictions may be disclosed in **Exhibit I**.

9. Payment Terms and Conditions

9.01 Payment Methodology:

Payments will be made based on requests submitted by the Subgrantee using the

CNMI Grant Disbursement Request Form (Exhibit F), supported by documentation. The basis depends on the Subaward structure:

- **For Cost-Reimbursement Subawards:** Payments reimburse the Subgrantee for **actual, allowable, documented, and reasonable costs incurred**, consistent with the approved Budget (Exhibit B).
- **For Fixed-Amount Subawards:** Payments are contingent upon the Subgrantee's **satisfactory completion and BPD's verification of specific, measurable milestones** defined in **Exhibit S**. Payment requests (Exhibit F) must certify milestone completion and include supporting documentation.

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

9.02 Payment of Invoice/Request:

1. For payment requests related to construction (under either structure), Subgrantee must submit required supporting documentation, including **PE-certified engineered designs** (or equivalent approved under Section 4.04(d)) relevant to the work/milestone, unless waived by BPD.
2. BPD pays upon review and approval of the submitted request (Exhibit F) and supporting documentation, confirming consistency with allowable costs/verified milestone completion, the approved Budget (Exhibit B), and Agreement terms.
3. Payment by BPD does not prejudice BPD's right to object to or question any cost or matter later. It is not construed as acceptance of work/service or approval of ineligible costs.

9.03 Unallowable Costs:

Payment requests are subject to reduction for amounts determined by BPD, NTIA, or auditors not to constitute **allowable costs**. Subgrantee is liable to repay BPD for any payments made for subsequently determined unallowable costs.

9.04 Deductions & Withholdings:

1. BPD may **deduct amounts from payments or withhold payments** requested by the Subgrantee under this or any other agreement with BPD/CNMI if the Subgrantee fails to comply with any requirements or if necessary to protect BPD's interests.
2. Withheld funds may be released upon satisfactory correction of the condition, at BPD's sole discretion.
3. **Retainage:** (Subject to final BPD policy) BPD will retain **ten percent (10%) of each payment due** until the Project is fully completed, formally accepted by BPD, and all closeout documents and reporting requirements (Section 12.04) have been submitted and approved.

10. Standards for Financial Management

10.01 Financial Management System:

1. 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:
 - a. **Identification of all Federal awards received and expended** and the Federal programs under which they were received. This identification must include 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).
 - b. **Accurate, current, and complete disclosure of the financial results** of this Subaward in accordance with the reporting requirements (2 C.F.R. §§ 200.328, 200.329, and Section 12 / **Exhibit G**).
 - c. **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).
 - d. **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 (consistent with 2 C.F.R. § 200.303, Internal controls).
 - e. **Comparison of expenditures with budgeted amounts** for this Subaward (Exhibit B).
 - f. **Written procedures to implement the requirements** of 2 C.F.R. § 200.305 (Payment).

3. The Subgrantee is responsible for any **Project costs that exceed the total Award Funds** specified in Section 4.02(a) and Exhibit B. If Award Funds are insufficient, the Subgrantee must still fulfill its performance obligations.
4. Award Funds may only be used to **supplement, and not supplant**, amounts the Subgrantee would otherwise make available.
5. The Subgrantee must not seek reimbursement under this Subaward for the **same cost item that has been or will be reimbursed by another 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.
6. Costs that appear excessive, are not adequately justified, or are not considered eligible will not be reimbursed.
7. 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.
8. **Prohibition on Supplantation of Funds**. Consistent with 47 U.S.C. § 1702(l) and BEAD NOFO Section V.H.2, Grant Funds awarded under this Agreement shall be used to supplement, and not supplant, the amounts that the Subgrantee or Eligible Entity would otherwise make available for the purposes for which the grant funds may be used.

11. Audits and Monitoring

11.01 Audit Requirements:

1. **Cooperation:** The Subgrantee shall cooperate fully with BPD, USDOC, 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.
2. **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 **Single Audit** requirements in the Uniform Guidance (2 C.F.R. Part 200, Subpart F). The reporting package must be submitted to the Federal Audit Clearinghouse (FAC).
3. **Commercial Subgrantee Audit Compliance:** For Subgrantees designated as commercial entities, the Subgrantee is not subject to the single audit requirement of 2 C.F.R. § 200.501(f), but remains subject to 2 C.F.R. § 200.501(g) and the specific audit requirements stipulated in this Subgrant Agreement. The Subgrantee shall cooperate fully with BPD to ensure adequate monitoring, pre-award audits, and post-award audits are conducted to meet the Grantee's responsibility for subgrantee audit compliance.
4. **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 it 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/subaward conducted in accordance with **Generally Accepted Government Auditing Standards (GAGAS)**; OR (2) a **program-specific audit** for each award/subaward conducted in accordance with 2 C.F.R. § 200.507. Audits must be completed and submitted to BPD and the NTIA Federal Program Officer within the earlier of 30 calendar days after receipt of the report(s), or nine months after the end of the audit period.

5. **Audit Costs**: Allowable costs associated with required audits may be budgeted and charged to this Subaward (2 C.F.R. § 200.425), subject to the cost principles and inclusion in the approved Budget (Exhibit B).
6. **Federal Audits**: 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:

1. **General**: Subgrantee activities are subject to monitoring by **BPD and NTIA** to ensure Grant Funds are used for authorized purposes, compliance with laws and Agreement terms, and achievement of performance goals (Exhibit R) and milestones (Exhibit S).
2. **Access and Cooperation**: Subgrantee shall fully cooperate with BPD, NTIA, and their representatives, providing timely access (typically **14 calendar days' notice** unless exigent circumstances) to relevant personnel, records, documents, data (including network performance data), systems, and project sites.
3. **Monitoring Activities**: May include: review of reports (**Exhibit G**), desk reviews, **site visits**, inspection of work/facilities/equipment/records, review of financial management systems, verification of milestone completion, and requests for specific data.
4. **Corrective Action**: If deficiencies are identified, BPD shall notify the Subgrantee in writing, specifying the issue and required corrective action, along with a timeframe for completion (typically **30 calendar days** unless otherwise specified). Failure to implement required corrective actions may lead to remedies specified in Sections 4.06 and 11.04.
5. **Transparency, Accountability, and Oversight**:
 - a. **Waste, Fraud, and Abuse Training**: BPD or NTIA may direct key personnel to complete Government-provided training on preventing waste, fraud, and abuse.
 - b. **Required Disclosures**: BPD is obligated to disclose to the **USDOC OIG** any credible evidence of violations of federal criminal law (fraud, conflict of interest, bribery) or the **civil False Claims Act** in connection with this Subaward. Subgrantee must establish internal controls to ensure potential violations are reported promptly to BPD.
 - c. **Monitoring for Fraud**: Subgrantee must monitor its activities and those of its contractors/subcontractors for common fraud schemes. Potential fraud must be immediately reported to: (i) the BPD point of contact (Exhibit H); (ii) the assigned NTIA Federal Program Officer; and (iii) the **USDOC OIG Hotline**.
 - d. **Whistleblower Protections**: Employees of the Subgrantee, contractors, and subcontractors are subject to the **whistleblower rights and remedies** established under 41 U.S.C. § 4712. The Subgrantee shall inform its workforce of these rights in writing, in the predominant language of the workforce.

11.03 Failure to Comply:

Failure to comply with any requirements (Sections 11 or 12) or failure to respond timely to requests may result in BPD taking one or more remedial actions (consistent with 2 C.F.R. § 200.339 and Section 11.04), including disallowed costs, delayed payments, suspension, or termination (Section 4.06).

11.04 Penalties for Non-Performance:

1. **General Authority:** BPD and NTIA may enforce applicable rules and the terms of this Agreement by imposing penalties for non-performance or failure to meet material obligations.
2. **Additional Conditions:** Penalties may include the imposition of specific **additional conditions** (2 C.F.R. § 200.208).
3. **Remedies When Additional Conditions Insufficient:** BPD or NTIA may take one or more of the following actions:
 - a. Temporarily **withhold payments**.
 - b. **Disallow** all or part of the cost of the activity not in compliance.
 - c. Wholly or partly **suspend or terminate** this Agreement (Section 4.06).
 - d. Recommend the initiation of **suspension or debarment** proceedings by NTIA or USDOC.
 - e. **Withhold further CNMI BEAD Program awards** or other BPD/CNMI awards.
 - f. Take other remedies legally available.
4. **Clawback:** If the Subgrantee fails to comply with any **material requirement** (e.g., failure to meet deployment deadlines, service obligations, or low-cost plan requirements) and cannot remedy the failure, BPD, as directed by the Assistant Secretary, may require the Subgrantee to return (clawback) **up to the entire amount of the Grant Funds disbursed**, plus potential interest. If BPD is required by NTIA to return funds, the Subgrantee shall reimburse BPD.
5. **Reversion:** If the Subgrantee fails to perform materially and fails to return the full clawback amount, ownership and use of the funded infrastructure may, at BPD's discretion, **revert to BPD** or its designee.
6. **Make Whole:** If the Subgrantee fails to complete the Project materially due to an uncured default, BPD may require the Subgrantee to reimburse BPD the actual costs reasonably incurred to complete the Project.

12. Reports and Records

12.01 Required Reports:

1. The Subgrantee certifies it will comply with all applicable reporting requirements established by BPD, NTIA, and federal law/regulation. Specific requirements (content, format, frequency, due

dates) are detailed in **Exhibit G (Reporting Requirements List & Templates)**, which may be updated periodically.

2. Subgrantee reports must comply with requirements for monitoring and reporting program performance (2 C.F.R. §§ 200.328 and 200.329), including comparing actual accomplishments to objectives and analyzing cost overruns. 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**.
3. Annually, for the duration of the Subgrant and throughout the Period of Performance, the Subgrantee must submit the following to BPD:
 - a. **Performance Measurement Documentation:** A detailed report documenting the methodology, standards, parameters, software, systems, and protocols used to measure the performance of the Funded Networks, including a change log noting any material changes from the previous submission.
 - b. **Detailed Per-Location Files:** Submission of detailed per-location files for each round of performance testing conducted.
 - c. **Availability/Reliability Report:** An annual report of network outages, detailing any outages that exceeded the cumulative 48-hour threshold over the 365-day measurement period, including the number of locations exceeding the requirement and an explanation for the failure.
4. 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.
5. Prior to final payment and closeout, the Subgrantee shall provide BPD **final as-built network documentation** in a format approved by BPD.

12.02 Record Retention:

1. Consistent with 2 C.F.R. § 200.334, the Subgrantee must retain all financial records, supporting documentation (e.g., invoices, payroll), statistical records, contracts, performance data, and compliance records, **including all subgrantee network designs, diagrams, project costs, build-out timelines and milestones for project implementation, and capital investment schedules submitted as a part of the application process**, for a period of at least three (3) years from the date of submission of the subgrant's final expenditure report or final payment received under this Subaward, whichever is later.
2. If any litigation, claim, or audit is started before the expiration of the five-year period, records must be retained until all findings involving the records have been resolved and final action taken.
3. Records for **real property and equipment** acquired with Federal funds must be retained for **five (5) years after final disposition**.
4. The Subgrantee shall cooperate with BEAD Program reviews and evaluations by NTIA or its designees by submitting required information and cooperating with evaluators (2 C.F.R. § 200.329(d)).

12.03 Access to Records:

1. Pursuant to 2 C.F.R. § 200.337 , the Subgrantee shall provide BPD, NTIA, the USDOC, the USDOC OIG, the Comptroller General (GAO), the CNMI Office of the Public Auditor, and their 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, for the purpose of making audits, examinations, excerpts, transcripts, and copies.
2. This right of access also includes timely and reasonable access to the Subgrantee's personnel for interviews and discussion.
3. These rights of access are not limited to the required retention period but shall last as long as records are retained by the Subgrantee.
4. 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.

12.04 Closeout:

1. Subaward closeout occurs when BPD determines (in accordance with 2 C.F.R. § 200.344) that all applicable administrative actions and required work have been completed. This includes confirming acceptance of all required final reports, resolution of all monitoring/audit findings, and final payment/settlement.
2. 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, or such earlier date as BPD may require.
3. The Subgrantee must **liquidate all financial obligations** 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 any unobligated cash balances.
4. BPD will make any final settlement payments or seek recovery of amounts due 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.
5. Closeout of this Subaward **does not affect**:
 - a. 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)).
 - b. 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)).
 - c. The Subgrantee's obligations regarding **audits (Section 11.01), property management (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:

1. It is duly organized, validly existing, and authorized to do business in the CNMI.
2. The making and performance of this Agreement are within its powers, duly authorized, and do not contravene any law, regulation, decree, or contractual restriction binding on the Subgrantee.
3. This Agreement, when executed, will constitute the legal, valid, and binding obligations of the Subgrantee, enforceable in accordance with its terms.
4. As of the Grant Date, there are no pending or threatened actions or proceedings that may materially adversely affect its financial condition, operation, or ability to perform.
5. The Project developed and services provided shall be **free from material defects** in design and implementation, shall meet the specifications (including Exhibits/Attachments) throughout the Period of Performance, and the Subgrantee warrants the specific operating performance characteristics stated in the Application (Attachment 2) and Exhibit R. Until the Closeout Date, the Subgrantee shall, without additional charge to BPD, correct any such defects.

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.

13.03 Modifications:

1. Modifications and change orders addressing **material changes** (e.g., terms, costs, funding, time of completion, or scope of work) must be made **in writing** and signed by authorized representatives of both BPD and the Subgrantee.
2. The Subgrantee must provide BPD a written statement verifying the **impact of the change**, including any price impact, within thirty (30) calendar days of receiving a request or identifying the need for a change.
3. If there is a price change, the Subgrantee must provide a detailed justification for the price increase or decrease, which must be reviewed and approved in writing by BPD prior to the change becoming effective.
4. **No material changes in scope are authorized or to be implemented until a written change order or amendment is fully executed by both parties.**
5. **Dispute Resolution:** Parties agree to attempt to resolve administrative and programmatic disputes informally. If unsuccessful, the matter may be escalated to the Special Assistant to the Governor for Broadband Policy and Development or Governor's Authorized Representative for a final determination on matters under BPD's administrative authority. Parties are encouraged to

consider Alternative Dispute Resolution (ADR) (e.g., mediation). This process does not limit either party's right to pursue legal remedies (Section 18.08).

13.04 Assignment or Transfer:

The Subgrantee shall not modify, convey, sell, transfer, assign, delegate, or otherwise dispose of this Agreement or any portion thereof, or 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. Any assignment or transfer may also be subject to prior written approval from **NTIA and/or NIST**. Any attempted transfer without required consent(s) shall be void.

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 without obtaining the **prior written approval of BPD**. Approved subgrant agreements shall be subject to applicable flow-down requirements. (This restriction does not apply to procurement contracts with contractors/subcontractors, which are governed by Section 8) .

13.06 Completeness:

1. This Agreement, including all Exhibits and Attachments, constitutes the **complete and entire understanding** between the parties.
2. It supersedes all prior understandings, representations, negotiations, and agreements relating to this subject matter.
3. In the event of a conflict between Sections 1 through 19 of this Agreement and the approved Application (Attachment 2) or other Exhibits, the terms of Sections 1 through 19 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, the remaining terms and conditions shall not be affected and shall remain in full force and effect.

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, except by

written instrument signed by the party charged with such waiver. A waiver at any time of one provision shall not 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 in Section 2, in the event of any conflict between the terms and conditions stated in Sections 1-19 and any terms or conditions set forth in any Exhibit or Attachment, the terms in Sections 1-19 shall generally prevail unless expressly stated otherwise in an Exhibit approved by BPD.

13.11 Access to Information, Software and Data:

The Subgrantee shall ensure that any electronic reports or documentation submitted are provided in a format that can be accessed and read by BPD using reasonably available software.

13.12 Licensure and Registrations:

1. The Subgrantee certifies that it is **registered and authorized to do business in the CNMI** as required by CNMI law.
2. The Subgrantee, its employees, and any approved subgrantees, contractors, or subcontractors must obtain and maintain all applicable federal, CNMI, and local **licenses, permits, and registrations** to perform the work, and provide proof to BPD upon request.
3. The Subgrantee 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 has the right, exercisable in its reasonable discretion, to refuse to permit any specific employee of the Subgrantee (or its agent/contractor/subcontractor) to provide services directly interfacing with BPD personnel or systems, based on legitimate concerns regarding security, conduct, or qualifications.

13.14 Force Majeure Events:

Neither party shall be liable or responsible to the other, nor deemed to have defaulted, for any failure or delay in fulfilling material terms (except for payment obligations when due) caused by or resulting from acts beyond the impacted party's reasonable control ("**Force Majeure Event(s)**"). Examples include acts of God, typhoons, pandemics, war, government order (if not caused by non-compliance), strikes affecting essential services, or shortage of adequate power/transportation. BPD shall determine, in its reasonable discretion, whether the failure to perform is due to a qualifying Force Majeure Event. The

impacted party must give notice within **seven (7) business days** and use diligent efforts to minimize and end the delay.

14. Communications and Contacts

14.01 Contacts:

Primary contact persons for day-to-day administration and communication are listed in **Exhibit H (Contact Information)**.

14.02 Notices:

Formal communications and notices must be in writing and are deemed sufficiently given when delivered personally, sent by certified/registered mail (return receipt requested), sent by a recognized overnight courier service (receipt requested), or sent by **electronic mail (email) with confirmation of receipt**. Notices shall be 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: [email address removed]

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 by giving the other party written notice. Notices are deemed effective upon receipt by the addressee.

14.03 Party Changes:

Each party shall provide prompt written notice of any changes in its designated contact persons (Exhibit H) or its official notice addresses/email addresses (Section 14.02).

15. Independent Subgrantee

15.01 Relationship:

1. The relationship of the Subgrantee to BPD is that of an **independent grantee**. No principal-agent relationship or employer-employee relationship is contemplated or created.
2. The Subgrantee is responsible for selecting, supervising, and compensating its employees.

3. Neither the Subgrantee nor its employees or contractors are considered employees of BPD or the CNMI government for any purposes whatsoever. They are not eligible to participate in CNMI government benefit programs unless specifically made available by law or policy, independent of this Agreement.
4. The Subgrantee is exclusively responsible for the payment of all wages, salaries, taxes, withholding payments, fees, fringe benefits, and compliance with all applicable employment laws for its employees and contractors.

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

16.01 Indemnification and Hold Harmless:

To the extent permitted by CNMI laws, the Subgrantee shall **indemnify, defend, and hold harmless BPD, the 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) or damage to property** caused by or arising out of, or claimed to be 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 the **concurrent negligence** of the Subgrantee, its agents, employees, or subcontractors. This 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. The Subgrantee shall pay all judgments, settlements, costs, and attorney's fees which may be recovered or incurred.

17. Assurances & Public Policy Requirements

17.01 Assurances (Conflicts of Interest):

The Subgrantee attests that it, its officers, members, employees, or subgrantees presently have **no interest and shall not acquire any interest, direct or indirect, which would conflict or compromise** the performance of services under this Agreement. Any discovered interest must 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 will promptly notify BPD of any violation or potential violation of 2 C.F.R. Part 200.112 (Conflict of interest) or this section. Subgrantee must fully disclose 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):

1. The Subgrantee certifies that neither it nor its principals (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 (2 C.F.R. Parts 180, 1200, and 1326).
2. The Subgrantee certifies it will not knowingly enter into any covered transaction with a person or entity that is debarred, suspended, or excluded, unless authorized by USDOC/NTIA.
3. The Subgrantee agrees to include the requirements of this section, including the certification language in **Exhibit L (Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions)**, in all lower tier covered transactions (subcontracts, subgrants, etc., expected to exceed **\$25,000**) and solicitations for such transactions.
4. The Subgrantee agrees to immediately provide written notice to BPD if 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 to review, comply with, and continue to comply with BPD's **BEAD Program Anti-Collusion and Prohibited Communication Policy (Exhibit N)**. Violations may result in sanctions, including ineligibility for funding or rescission of the award.

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 BEAD NOFO Section IV.D.2.g.

17.05 CNMI Broadband Reporting Requirements:

The Subgrantee agrees to comply with broadband reporting requirements established by BPD, including providing information 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. BPD intends to coordinate these requests with the FCC's Broadband Data Collection (BDC) requirements where feasible to minimize 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, the Subgrantee certifies it will provide and maintain a drug-free workplace during the performance of this Agreement by: publishing a statement; establishing an awareness program; requiring employees to abide by the policy and notify the employer of workplace drug convictions; notifying BPD of such convictions; and imposing sanctions or requiring rehabilitation for convicted employees.

17.07 Certifications Related to Lobbying:

1. The Subgrantee certifies that **no Federal appropriated funds have been paid or will be paid** to any person for influencing or attempting to influence a Federal officer, employee of any Federal agency, Member of Congress, etc., in connection with the awarding of this Federal grant (31 U.S.C. § 1352).
2. The Subgrantee shall require that the language of this certification be included in the award documents for all subawards at all tiers.
3. If any **non-Federally appropriated funds** have been or will be paid for such influencing activities, the Subgrantee shall complete and submit **Standard Form LLL (SF-LLL), "Disclosure of Lobbying Activities,"** to BPD (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 (race, color, national origin); Title IX (sex); Section 504 (disability); Age Discrimination Act; Americans with Disabilities Act; Executive Order 11246 (Equal Employment Opportunity); and Executive Order 13166 (Limited English Proficiency).

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.

17.10 False Claims and False Statements:

The Subgrantee acknowledges 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) and the False Claims Act/Civil False Claims Act (18 U.S.C. § 287, 31 U.S.C. §§ 3729-3733). Subgrantee acknowledges its obligation (2 C.F.R. § 200.113) to disclose, in a timely manner, 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 to 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 of public work financed by Federal funds to give up any part of their compensation.

17.12 Whistleblower Protection:

The Subgrantee shall comply with the **whistleblower rights and remedies** established under 41 U.S.C. § 4712. The Subgrantee shall not 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 must inform its employees and contractors in writing, in the predominant language of the workforce, of these rights and protections.

17.13 Relocation Assistance and Real Property Acquisition:

The Subgrantee agrees to comply with the **Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970** (42 U.S.C. § 4601 et seq.), which provides for fair and equitable treatment of displaced persons or those whose property is acquired as a result of Federally-assisted programs.

17.14 Hatch Act:

To the extent applicable (primarily to state and local government employees), the Subgrantee agrees to 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 that 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 agrees to comply with the requirements of the **Trafficking Victims Protection Act of 2000** and implementing regulations (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 (15 C.F.R. Part 28), 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 and, if applicable, the SF-LLL "Disclosure of Lobbying Activities" form as detailed in Section 17.07.

18. Other Terms and Conditions

18.01 Confidentiality of Records / Protected and Proprietary Information:

1. **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 (including the CNMI Open Government Act and Federal FOIA as applicable) and the terms of this Agreement.
2. **Subgrantee Responsibility and Public Disclosure:** If a submission contains information the Subgrantee deems to be confidential commercial or financial information, proprietary information, or a trade secret, the Subgrantee **must clearly identify, bracket, and mark such specific information as "CONFIDENTIAL" or "PROPRIETARY" at the time of submission**. The Subgrantee explicitly acknowledges that BPD is required to maintain transparency, including by publicly posting the Final Proposal, application materials, and selection outcomes (including reviewer memos and BEAD outlay data). BPD will endeavor to protect properly marked information from public disclosure to the extent permitted by applicable law, **including the CNMI Open Government Act (1 CMC §§ 9901 – 9916)** and federal statutes. **Information not properly marked may be subject to immediate public disclosure upon posting of the Final Proposal or award announcements.**
3. **Safeguarding Information:** 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 (2 C.F.R. § 200.303(e)).
4. **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.
5. **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 insist upon the **strict performance** of any terms shall not be construed as a **waiver** or relinquishment for the future of that term. No term shall be deemed waived, modified, or deleted except by a **written amendment signed by authorized representatives of both parties**.

18.03 Titles, Tense:

The singular tense shall be deemed to mean the plural and vice-versa whenever appropriate. Titles of sections and paragraphs are for ease of reference only and shall not limit or affect interpretation.

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 or as soon as practicable.

18.06 Taxes and Obligations:

1. 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.
2. **Taxability of Grant Funds:** The Subgrantee is **solely responsible** for determining the tax implications of receiving funds under this Agreement. BPD makes no representations regarding tax treatment. Subgrantee is advised to consult with qualified, independent tax advisors.

18.07 Information Technology Policies:

If BPD grants the Subgrantee access to BPD data systems, networks, or specific BPD-hosted software applications, 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**. Access shall be used solely for authorized activities.

18.08 Governing Law and Venue:

This Agreement 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**. 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.

C. Signatures

FOR CNMI BROADBAND POLICY AND DEVELOPMENT OFFICE (BPD):

By: _____ Name: _____ Title: _____
Date: _____

FOR

SUBGRANTEENAME

:

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 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