

Broadband Equity, Access and Deployment Program Grant Agreement

Between the

**PUBLIC SERVICE COMMISSION OF WISCONSIN**

and

**[SUBRECIPIENT]**

**THIS AGREEMENT** is made and entered into by and between the Public Service Commission of Wisconsin (the “Commission”), representing the State of Wisconsin (“State”), and **[SUBRECIPIENT]** (“Subrecipient”) (collectively “Parties”) as of **Month, DATE, 2026 and shall continue** for four years (the “Performance Period”) for the **XX Project** (“Project”). **(NTIA Project ID)**.

**WHEREAS**, the Commission on behalf of the State, received funds as an Eligible Entity (“Recipient”) through the Infrastructure Investment and Jobs Act (“IIJA” or “Infrastructure Act”) authorized by the Infrastructure Investment and Jobs Act of 2021, Division F, Title I, Section 60102, Public Law 117-58, 135 Stat. 429 (November 15, 2021) also known as the Bipartisan Infrastructure Law, for the purposes of broadband expansion as part of the Broadband Equity, Access and Deployment Program (“BEAD Program”), funded through the United States Department of Commerce (“USDOC”) and administered by the National Telecommunications and Information Administration (“NTIA”).

**WHEREAS**, on behalf of the State, the Commission administers the BEAD Grant Program (“Program”) to provide funds for eligible activities; and

**WHEREAS**, the terms and conditions of this Agreement shall survive the Performance Period and shall continue in full force and effect until Subrecipient has completed and is in compliance with all the requirements of this Agreement; and

**WHEREAS**, this Agreement is exclusive of and is distinguished from all previous agreements between the Subrecipient and the Commission and contains the entire understanding between the Parties; and

**WHEREAS**, it is the intent of the Parties that this Agreement in all other respects is a “subaward” as defined in 2 CFR § 200.201 and that Subrecipient is a “subrecipient” as defined in 2 CFR § 200.201 and as evaluated under 2 CFR § 200.331; and

**WHEREAS**, this award is a “fixed amount subaward” as defined in 2 CFR § 200.201 where the major purpose of the subaward is a broadband infrastructure project and will be administered by the Commission pursuant to the Uniform Guidance Policy Notice published by NTIA on December 26, 2023, titled “Policy Notice: Tailoring the Application of Uniform Guidance to the BEAD Program”.

**NOW, THEREFORE**, in consideration of the mutual promises and dependent authorizations, the Parties agree as follows:

**THIS AGREEMENT**, including its Attachments and any amendments, shall constitute the entire agreement between the parties and no other terms and conditions in any document, acceptance, or acknowledgment shall be effective or binding unless expressly agreed to in writing by the Commission.

This Grant Agreement must be signed by the authorized organization representative and returned to the Commission within 60 days of the initial offer of the Grant Agreement. The Commission may unilaterally withdraw the Award if a signed Grant agreement is not returned within this timeframe.

The following documents are incorporated and made part of this Agreement:

**Attachment A:** BEAD Network Deployment, Performance and Service Requirements; Related Remedies and Penalties; Reporting Requirements.

**Attachment B:** National Environmental and Historic Preservation Act Review and General Compliance.

**Attachment C:** Property Standards and Specific Requirements to Document the Federal Interest in Project Property.

**Attachment D:** Project Scope of Work.

**Attachment E:** Project Budget and Match Requirement.

**[SUBRECIPIENT]**

**PUBLIC SERICE COMMISSION OF  
WISCONSIN**

**BY:** \_\_\_\_\_  
                  **[SIGNATURE]**  
                  **[TYPE NAME]**

**BY:** \_\_\_\_\_  
                                  **[SIGNATURE]**  
                                  Joe Fontaine

**TITLE:** **[TITLE]**

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4822 Madison Yards Way  
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(608) 266-5481

**DATE:** \_\_\_\_\_  
                                  **[DATE]**

**DATE:** \_\_\_\_\_  
                                  **[DATE]**

**BEAD FEDERAL SUBAWARD INFORMATION**

<b>2 CFR 200.332(a)(1) Federal Award Identification.</b>	
(i) Subrecipient name (which must match the name associated with its unique entity identifier);	[Subrecipient name]
(ii) Subrecipient's unique entity identifier;	UEI Number or CAGE Code: [UEI, CAGE]
(iii) Federal Award Identification Number (FAIN);	55-20-B091-2
(iv) Federal Award Date;	[Date]
(v) Subaward Period of Performance Start and End Date;	
(vi) Subaward Budget Period Start and End Date;	
(vii) Amount of Federal Funds Obligated by this action by the Eligible Entity (Commission) to the Subrecipient;	[\$ grant amount]
(viii) Total Amount of Federal Funds Obligated to the subrecipient by the Eligible Entity (Commission) including the current obligation;	[\$ grant amount]
(ix) Total Amount of the Federal Award committed to the Subrecipient by the Eligible Entity;	[\$ grant amount]
(x) Federal award project description, as required to be responsive to the Federal Funding Accountability and Transparency Act (FFATA);	BEAD
(xi) Name of Federal awarding agency, Eligible Entity, and contact information for awarding official of the Eligible Entity;	<p><b>Federal Awarding Agency:</b> United States Department of Commerce National Telecommunications Information Administration  <b>Eligible Entity:</b> Public Service Commission of Wisconsin  <b>Eligible Entity Contact Information:</b> Joe Fontaine, Administrator  Division of Digital Access, Consumer, and Environmental Affairs  email: <a href="mailto:Joe.Fontaine@wisconsin.gov">Joe.Fontaine@wisconsin.gov</a>  phone: (608) 266-0910</p>
(xii) Assistance Listing Number and Title;	<b>Assistance Listing Number and Title:</b> 11.035
(xiii) Identification of whether the award is R&D; and	This award does not support research and development (R&D).

# Contents

- 1.0. **Definitions. The following terms are given the stated meaning: .....7**
- 2.0. **Interpretation .....11**
- 3.0. **Build America, Buy America .....11**
- 4.0. **Protecting the BEAD Program from Defaults Certification.....12**
- 5.0. **Ensuring Timely and Effective Deployment of BEAD Projects .....13**
- 6.0. **Documentation of Evidence of Costs.....13**
- 7.0. **Disbursement Milestones Table.....16**
- 8.0. **Letter of Credit / Performance Bond Requirement.....17**
- 9.0. **Audit Requirement .....18**
- 10.0. **Recordkeeping, Examination of Records, Inventory and Review and Certification of Facilities 19**
- 11.0. **Compliance with Law, Guidance, Rules, and Regulations .....20**
- 12.0. **Insurance Requirements .....21**
- 13.0. **Indemnification .....22**
- 14.0. **Severability .....22**
- 15.0. **Sovereign Immunity.....22**
- 16.0. **Attorney’s Fees and Expenses.....23**
- 17.0. **Vendor Tax, Commission Assessment Delinquency or Unpaid Commission Fines .....23**
- 18.0. **Conflicts of Interest.....23**
- 19.0. **Suspension .....23**
- 20.0. **Waiver .....23**
- 21.0. **Assignment and Delegation .....23**
- 22.0. **Amendments to the Agreement .....24**
- 23.0. **Suspension and Debarment.....24**
- 24.0. **Grant Agreement Information and Notices .....25**

25.0.	Prevention of Waste, Fraud and Abuse .....	25
26.0.	Additional Federal Requirements .....	26
27.0.	Civil Rights and Non-Discrimination Law Compliance and Affirmative Action Requirements.....	27
28.0.	Confidential, Protected and Proprietary Information .....	28
29.0.	Termination and Cancellation .....	29

**ATTACHMENT A – BEAD NETWORK DEPLOYMENT, PERFORMANCE AND SERVICE REQUIREMENTS; RELATED REMEDIES AND PENALTIES; REPORTING REQUIREMENTS.....30**

<i>A1.0.</i>	<i>Network Capabilities and Access Requirements.....</i>	<i>30</i>
<i>A2.0.</i>	<i>Inspection and Testing of Materials.....</i>	<i>30</i>
<i>A3.0.</i>	<i>Deployment Requirements .....</i>	<i>30</i>
<i>A4.0.</i>	<i>Pre-Construction Utility Meeting or Communication .....</i>	<i>31</i>
<i>A5.0.</i>	<i>Service and Marketing Obligations.....</i>	<i>31</i>
<i>A6.0.</i>	<i>BEAD Low-Cost Service Offer (LCSO) Requirements.....</i>	<i>32</i>
<i>A7.0.</i>	<i>Cybersecurity and Supply Chain Risk Management Requirements.....</i>	<i>32</i>
<i>A8.0.</i>	<i>Project Status Reports and Final Project Status Report.....</i>	<i>33</i>
<i>A9.0.</i>	<i>Measurement Requirements.....</i>	<i>33</i>
<i>A10.0.</i>	<i>Permitting Obligations and Reporting.....</i>	<i>34</i>
<i>A11.0.</i>	<i>BEAD Penalties for Non-Performance / Non-Compliance .....</i>	<i>35</i>
<i>A12.0.</i>	<i>Claw Back.....</i>	<i>35</i>
<i>A13.0.</i>	<i>Force Majeure.....</i>	<i>36</i>

**ATTACHMENT B – ENVIRONMENTAL AND HISTORIC PRESERVATION REVIEW .....37**

<i>B1.0.</i>	<i>Pre-Implementation Requirements .....</i>	<i>37</i>
<i>B2.0.</i>	<i>Further Implementation Guidance .....</i>	<i>38</i>
<i>B3.0.</i>	<i>Allowable use of Award Funds: Pre-Implementation.....</i>	<i>38</i>
<i>B4.0.</i>	<i>De-Obligation .....</i>	<i>38</i>
<i>B5.0.</i>	<i>Notifying the Commission .....</i>	<i>38</i>
<i>B6.0.</i>	<i>Changes to the Scope of Work.....</i>	<i>39</i>
<i>B7.0.</i>	<i>NEPA Areas.....</i>	<i>39</i>
<i>B8.0.</i>	<i>Archeological and Burial Sites .....</i>	<i>39</i>

**ATTACHMENT C – PROPERTY STANDARDS AND SPECIFIC REQUIREMENTS TO FOR THE RECORDATION OF THE FEDERAL INTEREST IN BEAD FUNDED PROPERTY .....40**

<b>C1.0.</b>	<b><i>Managing Equipment</i></b> .....	<b>40</b>
<b>C2.0.</b>	<b><i>Use and Equipment Disposition Requirements</i></b> .....	<b>40</b>
<b>C3.0.</b>	<b><i>Liens and Other Notice Records</i></b> .....	<b>40</b>
<b>C4.0.</b>	<b><i>Project Property</i></b> .....	<b>40</b>
<b>C5.0.</b>	<b><i>Property Standards</i></b> .....	<b>41</b>
<b>C6.0.</b>	<b><i>Beneficiaries</i></b> .....	<b>41</b>
<b>C7.0.</b>	<b><i>Federally Owned Real Property or Equipment</i></b> .....	<b>41</b>
<b>C8.0.</b>	<b><i>Covenant of Purpose, Use and Ownership</i></b> .....	<b>41</b>
<b>C9.0.</b>	<b><i>UCC-1 Filing &amp; Attorney’s Certification</i></b> .....	<b>41</b>
<b>ATTACHMENT D – PROJECT SCOPE</b> .....		<b>43</b>
<b>ATTACHMENT E – PROJECT BUDGET</b> .....		<b>43</b>

## TERMS AND CONDITIONS APPLICABLE TO BEAD GRANT AWARDS

### 1.0. **Definitions.** The following terms are given the stated meaning:

- 1.1. **Affiliate** means a person or entity that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another person or entity. For the purposes of this definition, the term “own” means to own an equity interest (or the equivalent thereof) of more than 10 percent.
- 1.2. **Agency or Commission** means the Public Service Commission of Wisconsin.
- 1.3. **Applicant** means an individual or organization submitting an application in response to the request for grant applications for BEAD grant funds.
- 1.4. **Authorized Organization Representative (AOR)** means a designated individual for the entity (subrecipient) who is entrusted with the authority to commit the entity to binding grant related obligations.
- 1.5. **BEAD** means Broadband Equity, Access and Deployment authorized by the Infrastructure Investment and Jobs Act of 2021, Division F, Title I, Section 60102, Public Law 117-58, 135 Stat. 429 (November 15, 2021) (Infrastructure Act or Act) also known as the Bipartisan Infrastructure Law.
- 1.6. **Broadband Service for the purpose of BEAD**, the term “broadband” or “broadband service” has the meaning given the term “broadband internet access service” in 8.1(b) of title 47, Code of Federal Regulations, or any successor regulation, meaning it is a mass-market retail service by wire or radio that provides the capability to transmit data to and receive data from all or substantially all internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service, but excluding dial-up internet access service; provides actual speeds of not less than 100 Mbps for downloads; provides actual speeds of not less than 20 Mbps for uploads; and latency less than or equal to 100 milliseconds. This term also encompasses any service that the Commission finds to be providing a functional equivalent of the service described in the previous sentence or that is used to evade the protections set forth in this part.
- 1.7. **Build America, Buy America Act (BABA)** means the Act enacted as part of the Infrastructure Investment and Jobs Act on November 15, 2021, BABA established a domestic content preferences for BEAD projects. This means things like iron, steel, manufactured products, and construction materials used in BEAD infrastructure projects need to come from the United States.
- 1.8. **Community Anchor Institution** means an entity such as a school, library, health clinic, health center, hospital or other medical provider, public safety entity, institution of higher education, public housing organization, or community support organization that

facilitates greater use of broadband service by vulnerable populations, including low-income individuals, unemployed individuals, and aged individuals. For BEAD purposes, a "community support organization" is an organization located in a government-owned facility that provides publicly accessible Internet service and currently offers digital skills training.

- 1.9. **Contract** means, for the purpose of federal financial assistance, a legal instrument by which a Subrecipient purchases property or services needed to carry out the project or program under a federal award. For additional information on subrecipient and contractor determinations, see 2 CFR § 200.331.
- 1.10. **Contractor or Subrecipient Contractor** means a dealer, distributor, merchant, vendor or other seller providing goods or services that are required to implement a federal program (see 2 CFR § 200.1). These goods or services may be for an organization's own use or for the use of the beneficiaries of the federal program. Additional guidance on distinguishing between a subrecipient and a contractor is provided in 2 CFR § 200.331.
- 1.11. **Closeout Date** means the date that the Commission determines the Subrecipient has satisfied all state and federal reporting requirements related to the Project and completes close out of this award pursuant to 2 CFR § 200.344, as signified by an official closeout letter posted to the Commission's Electronic Records Filing system (ERF).
- 1.12. **Cooperative** means an entity incorporated under Chapter 185 of Wisconsin Statutes.
- 1.13. **Eligible Costs** mean those costs incurred and paid by the Subrecipient after August 1, 2024, that can be audited by the Commission, and are directly attributable to activities identified in Attachment D-Project Scope of Work. All Eligible Costs must be reasonable, necessary, allocable, and allowable for the proposed project or other eligible activity, comply with requirements such as complying with the Build America, Buy America Act (BABA), 2 CFR 200 Subpart E – Cost Principles, National Environmental Policy Act (NEPA) and conform to generally accepted accounting principles (GAAP). Implementation costs for a project or sub-project prior to a complete NEPA review and an NTIA approved decision document are not eligible for reimbursement.
- 1.14. **Execution Date** means the date of the last signature when all parties have executed this Agreement.
- 1.15. **Federal Interest Period** means the period during which Subrecipient will hold in trust for the beneficiaries of the BEAD Program all Real Property and equipment acquired or improved in connection with this Agreement. The Federal interest in all Real Property or equipment acquired or improved as part of a subgrant for which the major purpose is a broadband infrastructure project will continue for 10 years after the year in which that subgrant has been closed out in accordance with 2 CFR § 200.344. For example, if this award is closed out in 2027, regardless of the month, the Federal Interest Period will last until December 31, 2037.

- 1.16. **Fixed Amount Subaward** means a type of grant under which the Federal Awarding Agency (NTIA) or pass-through entity (the Commission) provides a specific level of support. For additional information on Fixed Amount Subawards, see 2 C.F.R. § 200.201 and the U.S. Department of Commerce’s Tailoring the Application of the Uniform Guidance to the BEAD Program.
- 1.17. **Grant Agreement** means the BEAD Program Grant Agreement including attachments and amendments between the Public Service Commission and Subrecipient.
- 1.18. **Grant Award** means the funds awarded by the Commission to the Subrecipient for the Project identified in Attachment D Project Scope of Work of this Agreement, including any specified other terms and conditions that apply to a specific awarded BEAD Project. The Grant Award supersedes any representations, commitments, conditions, or agreements made orally or in writing prior to the issuance of the Grant Award. The Grant Award and this Grant Agreement may specify an award amount and other terms and conditions that are different from, or in addition to, those proposed in the Grant Application, during negotiation, and including modifications proposed by a Subrecipient during a comment period.
- 1.19. **Grantee, Subrecipient, Grant Recipient** or **Subawardee** means an entity that has received a Grant Award, has entered into a Grant Agreement with the Commission and is eligible to receive reimbursement payments from the Commission. The entity is considered a Subrecipient under 2 CFR § 200.
- 1.20. **Letter of Credit** means a document issued by a bank or credit union authorizing the bearer to draw upon a specified amount from that bank or credit union or its agent, including a letter or similar statement extending credit up to a given amount. The bank or credit union guarantees payment will be made to the party according to the terms of the agreement.
- 1.21. **Location** or **“Broadband Serviceable Location (BSL)”** means “a business or residential location in the United States at which mass market fixed broadband internet access service is, or can be, installed.”
- 1.22. **Matching Funds** means cash or in-kind contributions provided by Subrecipient or third-party contributions to meet the BEAD Program’s non-federal match requirement. All matching funds must meet the requirements of Eligible Costs.
- 1.23. **National Environmental Policy Act (NEPA)** requires activities or decisions subject to federal control and responsibility, including federally funded actions, to be assessed for ecological, aesthetic, historic, cultural, economic, social or health effects, whether direct, indirect, or cumulative. Consequently, NTIA requires projects funded under the BEAD Program to be analyzed for potential environmental impacts before infrastructure deployment can begin.

- 1.24. **National Telecommunications and Information Administration (NTIA)** is the entity within the United States Department of Commerce that administers the federal BEAD Program grant.
- 1.25. **Performance Bond** means a document provided by a financial institution (surety) provided to the Beneficiary (Commission) ensuring against the other party's Principal (Subrecipient) failure to meet the terms of the agreement. If the Subrecipient fails to meet contractual terms the performance bond compensates the beneficiary for damages as detailed in the agreement.
- 1.26. **Performance Standards** means the obligations for Subrecipients deploying network projects as outlined in the BEAD Notice of Funding Opportunity (NOFO) and BEAD Restructuring Policy Notice and BEAD Obligations for Subrecipients Deploying Network Projects
- 1.27. **Period of Performance** or **Performance Period** means the period of performance in this Grant Agreement including any amendments.
- 1.28. **Personally Identifiable Information (PII)** means an individual's first name or first initial and last name in combination with any one or more of types of information, including, but not limited to, social security number, passport number, credit card numbers, clearances, bank numbers, biometrics, date and place of birth, mother's maiden name, criminal, medical and financial records, educational transcripts. This does not include PII that is required by law to be disclosed.
- 1.29. **Pre-award** or **Pre-subgrant Costs** are those eligible costs incurred before the start date of the Grant Agreement and incurred directly pursuant to the negotiation and in anticipation of the Grant Agreement. The Commission may consider these Eligible Costs based on the definition in this Agreement and allows Subrecipients to charge these costs only if the costs would have been allowed if incurred after the start date of the subgrant and are necessary for efficient and timely performance of the project. A Subrecipient may not incur implementation costs for a project or sub-project prior to a complete NEPA review and NTIA has approved any necessary decision document.
- 1.30. **Project** means the project or activities described in Attachment D – Project Scope of Work of this Agreement.
- 1.31. **Real Property** means land, including land improvements, structures, and appurtenances thereto, but excludes moveable machinery and equipment.
- 1.32. **Request for Payment** means a complete request submitted, by Subrecipient, in the format and the timeframe specified by the Commission for payment of funds from a Grant Award.

- 1.33. **Served** means a location that can receive standard installation of broadband services within 10 business days of a request with no charges or delays attributable to the extension of the network of the provider.
- 1.34. **State** means the State of Wisconsin and includes the Public Service Commission.
- 1.35. **Subrecipient Personnel** means employees, agents, or any other staff or personnel acting on behalf of or at the direction of Subrecipient performing or providing services relating to the scope of work under this Grant Agreement.
- 1.36. **Subsidiary** is an entity in which another entity (example, a parent or holding company) has a controlling share.
- 1.37. **Total Award** means the total dollar amount approved for the Grant Award.
- 1.38. **Underserved locations** are locations that lack a reliable broadband service offering speeds of 100 Mbps download and 20 Mbps upload from a wireline or fixed wireless technology.
- 1.39. **Unserved locations** are locations with no broadband service or that lack a reliable broadband service offering speeds below 25 Mbps download and 3 Mbps upload.

## 2.0. **Interpretation**

- 2.1. The Commission retains jurisdiction over the interpretation of the Commission Order and this Agreement, including these Terms and Conditions Applicable to Grant Awards (Terms and Conditions) and any other Attachments to this Agreement. Regardless of which of the Parties is responsible for the drafting of the Agreement between the Parties, all terms will be construed in favor of the Commission. By executing this Agreement, the signatories in no way bind the Commission other than for purposes of funding the Grant Awards as authorized by the Commission.

## 3.0. **Build America, Buy America**

- 3.1. Subrecipient shall comply with Build America, Buy America Act (BABA) consistent with applicable legal authorities, such as the Infrastructure Act, Executive Order 14005, 2 CFR Part 184, federal Office of Management and Budget (OMB) Memo M-24-02, and any applicable waivers issued by the Department of Commerce or NTIA, to include the National Telecommunications and Information Administration Limited General Applicability Nonavailability Waiver of the Buy America Domestic Content Procurement Preference as Applied to Recipients of Broadband Equity, Access, and Deployment Program, effective February 22, 2024. All waivers applicable to BEAD will be posted on the Build America, Buy America page maintained by the Department of Commerce Office of Acquisition Management at <https://www.commerce.gov/oam/build-america-buy-america>.
- 3.2. Subrecipient is responsible for determining whether a product is subject to BABA, and for ensuring adequate documentation of BABA compliance. Subrecipients must ensure all of their

subrecipients, contractors, and vendors comply with the Buy America Preference for work on this project described in the scope of work.

- 3.3. Subrecipients should include the Buy America Preference requirements in all solicitations, requests for proposals, agreements, contracts, sub-agreements and similar materials.
- 3.4. Subrecipients should ensure that products delivered to the project site properly document BABA compliance.
- 3.5. Subrecipients must provide BABA compliance documentation at the request of the Commission for anything purchased for the project whether the materials are purchased with grant funds or matching funds.
  - 3.5.1. Commission may request BABA compliance documentation at any time, and the Commission may do so as part of standard monitoring practices including desk and site reviews.
  - 3.5.2. Failure to provide necessary BABA compliance documentation could result in a violation of the terms and conditions of this Grant Agreement.
  - 3.5.3. Corrective action for this and other BABA violations may entail removing and replacing improperly purchased foreign-manufactured goods, reducing the amount of the Grant Award, or withholding future funds and terminating this Grant Agreement. In cases of fraud, it could result in criminal investigation and prosecution.

#### **4.0. Protecting the BEAD Program from Defaults Certification**

- 4.1. The Subrecipient must provide a certification document within 15 days of executing this Grant Agreement that indicates its application did not rely on the prospect of receiving speculative additional federal funding to fulfill its BEAD obligation and that it will not need or accept such additional federal broadband funds to serve its BEAD-funded locations. The certification may be published by NTIA or the Commission.
  - 4.1.1. No payments will be made without a “Protecting the BEAD Program from Defaults Certification”
- 4.2. The certification must incorporate the following language: [Subrecipient] and any of its affiliates will not require or accept any additional federal funds to support a BEAD project during the BEAD subgrant agreement’s period of performance, extended period of performance, or federal interest period; and [Subrecipient] and any of its affiliates will not require or accept any additional Federal broadband service subsidies for the project(s) and/or Broadband Serviceable Location(s) (BSL(s)) to be served by the subgrant during the BEAD subgrant agreement’s period of performance, extended period of performance, or federal interest period, other than any such subsidies that were committed prior to the BEAD subgrant agreement. This includes, but is not limited to, new operating expenses for any BEAD project(s) or BSL(s).

The Certification must meet the following requirements:

- 4.2.1. The certification must be a standalone machine-readable PDF document on official Subrecipient letterhead.
- 4.2.2. Be signed and dated by the Authorized Organization Representative signing the Grant Agreement.
- 4.2.3. Include the Subrecipient contact information

**5.0. Ensuring Timely and Effective Deployment of BEAD Projects**

- 5.1. The Commission, and any agency, instrumentality, or subdivision thereof, agrees not to enforce any law, regulation, executive order, contracting requirement, or other enforceable obligation that directly or indirectly regulates in any way the rates, terms, and conditions of broadband internet service, whether on a retail, wholesale, or network basis, or imposes net neutrality rules, open access, or other utility-style rules on broadband internet service, against the Subrecipient or its affiliates anywhere it provides service within the Commission’s jurisdiction, while that Subrecipient has any Grant Agreement that is still within its period of performance, extended period of performance, or Federal Interest Period. For purposes of this provision, a “net neutrality rule” is any law, order, contracting requirement, or other enforceable obligation by the Grantee that prohibits internet service providers from, among other things, blocking content, throttling speeds, imposing data caps, or engaging in paid prioritization, or that imposes a general conduct or similar standard upon internet service providers.

**6.0. Documentation of Evidence of Costs**

- 6.1. This Grant Award is a “fixed amount subaward” as defined in 2 CFR § 200.201 where the major purpose of the subaward is a broadband infrastructure project and will be administered by the Commission pursuant to the Uniform Guidance Policy Notice published by NTIA on December 26, 2023, titled *Tailoring the Application of the Uniform Guidance to the BEAD Program*. Subrecipients will be required to both submit evidence of actual costs and meet specific performance milestones as outlined in the Disbursements Milestone Table below.
- 6.2. The disbursement milestones may be modified by amending this Grant Agreement.
- 6.3. Eligible Costs can be incurred as early as August 1, 2024, through the end of the Period of Performance.
- 6.4. No Grant Award funds for Eligible Costs will be disbursed without completion of (or in the absence of completion, proof of significant progress toward) a milestone, and evidence of actual costs that equal or exceed the disbursement amount.
- 6.5. No Grant Award funds will be disbursed while there is an open Corrective Action Plan (CAP) or other requirement(s) are unmet (required certification, reporting, annual performance measurement, expense documentation, attestations, financial audit, or other as required by Commission).
- 6.6. No Grant Award funds for Eligible Costs will be disbursed for any implementation activities prior to all necessary environmental and historic review approvals are obtained related to NEPA compliance for a given project area or sub-project area. Attachment B.

- 6.7. No Grant funds will be disbursed to recover costs to comply with the requirements eliminated in the June 6, 2025, BEAD Restructuring Policy Notice.
- 6.8. The Grant Award is exclusive funding and will be used only for the Project indicated in Attachment D - the project scope. The Subrecipient must not apply funds authorized by this Grant Agreement to activities authorized under other grant awards.
- 6.9. The Subrecipient must prepare and submit to the Commission required evidence of costs using the PSC Grants System or by other means as directed by the Commission.
- 6.10. Each submission submitted through the PSC Grants System will contain an attestation certifying the cost or match evidence is accurate and in compliance with federal and state law.
- 6.11. The Subrecipient must complete a certification form for each affiliate/subsidiary that has planned eligible, allocable and allowable costs for the work outlined in this Grant Agreement scope of work.
- 6.12. Upon satisfaction by the Commission of the requirements in this Grant Agreement, the Commission will disburse funds to the Subrecipient for Eligible Costs in a total amount not to exceed the Total Award.
- 6.13. Only Eligible Costs as determined by the Commission may be considered to reach a milestone.
- 6.14. The Subrecipient must submit evidence of Eligible Costs that document actual costs paid.
  - 6.14.1. The invoice or other written support, specified by the Commission, will document the actual purchase price of the Eligible Cost item. Payments will only be granted up to and including the actual paid purchase price of the item. Evidence of Costs must be accompanied by written support of the Eligible Costs, including internal accounting records or contracts, as appropriate or when requested by the Commission. Documentation of costs must provide an independent and auditable basis for the actual purchase price of each Eligible Cost item.
  - 6.14.2. For Eligible Cost items that do not have a transaction invoice, such as employee labor expenses, the Subrecipient must provide documentation showing the total hours and total amount paid. Upon the request of the Commission, Subrecipient must also provide a list of actual hours worked and the specific wage for each employee that worked on a Project, and any payroll documentation or other similar evidence that the Commission might request.
  - 6.14.3. For Eligible Cost items that do not have a transaction invoice or record and do not fall under the labor expenses addressed above, the Subrecipient must submit a narrative description of the Eligible Cost along with any relevant documentation in lieu of an invoice.
  - 6.14.4. For Eligible Cost items incurred by Contractors of the Subrecipient, an executed contract that includes pricing, scope of work, signature(s) and date(s) must be provided to the Commission upon request. The Commission may refuse payment for contractual costs

incurred without an executed contract or other sufficient documentation. These requirements also apply to independent entities affiliated with the Subrecipient.

- 6.14.5. Subrecipients may consolidate procurement across multiple BEAD projects to improve efficiency and reduce administrative overhead. When a single procurement supports more than one BEAD project, costs must be assigned using standard cost allocation practices so that each BEAD project is charged only for its allocable and allowable share.
- 6.14.6. The Commission may delay payment until sufficient documentation of Eligible Costs and achievement of the project milestone(s), project status reporting, geospatial data, or other project information as determined by the Commission is provided by the Subrecipient.
- 6.15. The Subrecipient must submit all evidence of costs that have been paid at least every six months in alignment with the semi-annual reporting period and must promptly request review of any completed milestone not later than 30 days of achieving the milestone.
- 6.16. The Subrecipient must submit all required documentation to the Commission within 60 days of completion of the Performance Period.
- 6.17. The Subrecipient is responsible for reimbursement to the Commission for any disbursed Grant Award funds that are determined by the Commission to be ineligible, misused, misappropriated, and/or inadequately documented. If the Commission determines that any provision of the Grant Agreement has been breached by the Subrecipient, the Commission may require and be entitled to reimbursement of any or all funds under the Grant Award. Any reimbursement of funds that is required by the Commission, with or without termination of this Agreement, will be due within 30 days after giving written notice to the Subrecipient. The Commission also reserves the right to recover such funds by any other legal means, including litigation and drawing the funds in the letter of credit or facilities or funds indicated in the performance bond.
  - 6.17.1. The Subrecipient must indemnify and hold harmless the Commission for all suits, actions, claims and the reasonable attorneys' fees and legal expenses incurred in recovering such funds, irrespective of whether the funds are recovered.
- 6.18. The Subrecipient must promptly refer to the Commission any credible evidence that a Subrecipient Contractor or Subrecipient Personnel or other person has either: 1) submitted a false claim for grant funds as that term is used under any False Claims Act or other similar law, whether state or federal; or 2) committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving grant funds.
- 6.19. Ineligible costs include those costs that are unallowable under the applicable federal guidance. The following costs are specifically identified as prohibited under the BEAD Program:
  - 6.19.1. Prohibition on use of grant funds for covered communications equipment or services under the Secure and Trusted Communications Networks Act of 2019. Award funds may not be used to procure or obtain any covered telecommunication and video surveillance services or equipment as described in 2 C.F.R. § 200.216, including covered telecommunication and video surveillance services or equipment provided or produced by entities owned or controlled by the People's Republic of China and telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

6.19.2. A profit, fee, or other incremental charge above actual cost incurred by a Subrecipient is not an allowable cost under this Program. This prohibition does not extend to program income, which Subrecipient may retain without restriction, including retaining program income for profit.

6.19.3. The Subrecipient may not use grant funds, whether directly or indirectly, to support or oppose collective bargaining.

**7.0. Disbursement Milestones Table**

<b>Milestone Number</b>	<b>Description</b>	<b>Allowable Disbursement (Percent of Total Award)</b>	<b>Maximum Cumulative Disbursement (Percent of Total Award)</b>
1	Subrecipient and Commission enter into an executed Grant Agreement which includes: approved scope of work, project budget, network design, details on the low-cost service option, and deployment schedule(s); And Subrecipient submits required Protecting the BEAD Program from Default certification, required Affirmative Action paperwork, Commission Onboarding Questionnaire and documentation and, if applicable, required Tribal Consent; And Subrecipient has a letter of credit or performance bond accepted by the Commission; And Subrecipient provides evidence of actual Eligible Costs that equal or exceed 10% of the Total Award.	10%	10%
2	Subrecipient has submitted the BEAD Environmental Impacts and Documentation Screening Packet and required GIS files to the Commission for the project or one or more sub-project(s); Subrecipient attests that all required permits have been applied for or that the permit needs to be applied for closer to the planned construction;  And Subrecipient provides evidence of actual Eligible Costs that equal or exceed 20% of the Total Award.	10%	20%
3	Subrecipient has received a NEPA Decision Memo for the entire project or at least one NEPA sub-project and is authorized to begin all or some implementation; And Subrecipient provides evidence of a pre-construction meeting or meeting invitation; And Subrecipient provides evidence of actual Eligible Costs that equal or exceed 30% of the Total Award.	10%	30%
4	Subrecipient provides documentation that at least 25% of project construction is complete (customers are not required to have service to meet this milestone);	10%	40%

Milestone Number	Description	Allowable Disbursement (Percent of Total Award)	Maximum Cumulative Disbursement (Percent of Total Award)
	And Subrecipient provides evidence of actual Eligible Costs that equal or exceed 40% of the Total Award; and Subrecipient provides documentation of 25% of required matching funds.		
5	Subrecipient provides evidence that 25% of the total number of BSLs within the project scope of work have completed construction with these customers able to subscribe and connect to broadband service; And Subrecipient provides evidence of actual Eligible Costs that equal or exceed 55% of the Total Award	15%	55%
6	Subrecipient provides evidence that 50% of the total number of BSLs within the project scope of work have completed construction with these customers able to subscribe and connect to broadband service; And if applicable Subrecipient provides evidence of NEPA approval for all sub-projects; And Subrecipient provides evidence of actual Eligible Costs that equal or exceed 70% of the Total Award; And Subrecipient provides documentation of 50% of total required matching funds.	15%	70%
7	Subrecipient provides evidence that 75% of the total number of BSLs within the project scope of work have completed construction with these customers able to subscribe and connect to broadband service; and Subrecipient provides evidence of actual Eligible Costs that equal or exceed 85% of the Total Award; and Subrecipient provides documentation of 75% of total required matching funds.	15%	85%
8	Subrecipient provides evidence that 100% of the scope of work is completed and all required BSLs within the project scope of work have completed construction with all customers able to subscribe and connect to broadband service; And Subrecipient provides evidence of actual Eligible Costs that equal or exceed 100% of the Total Award; And Subrecipient provides documentation of 100% of total required matching funds; and Subrecipient has submitted all grant close out reports, evidence of all required inspections, and evidence of complete and approved networks performance testing.	15%	100%

**8.0. Letter of Credit / Performance Bond Requirement**

- 8.1. Per the BEAD Notice of Funding Opportunity (NOFO) Section IVD.2.a.ii and consistent with the NTIA Notice of Programmatic Waiver issued on October, 23, 2023 titled *BEAD Letter of Credit Waiver* (updated January, 2026), all Subrecipients must obtain and submit either a letter of credit or a performance bond. The letter of credit must be obtained and submitted to the Commission prior to the execution of the Grant Agreement. The performance bond must be obtained and submitted to the Commission within 60 days of the execution of the Grant Agreement. The letter of credit or performance bond must be equal to 10 percent of the Total Award or higher as indicated in the letter of intent approval. Failure to submit a timely, complete performance bond will result in termination of the executed Grant Agreement. No funds will be paid until the performance bond is submitted.
- 8.2. The Subrecipient must retain the letter of credit or performance bond until the final milestone in the Disbursement Milestone Table is achieved and confirmed complete by the Commission.

## **9.0. Audit Requirement**

- 9.1. All governmental and non-profit Subrecipient (non-federal entities) that are required to comply with the Single Audit Act Amendments of 1996, Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards, and the State Single Audit Guidelines issued by the Wisconsin Department of Administration must ensure that funds awarded by the Commission are included in the audit report. A non-federal Subrecipient that reaches or exceeds the single audit threshold amount of all federal funds expended as defined by 2 CFR § 200.500 Subpart F (\$1 million or more in expenditures) during the non-federal Subrecipient's fiscal year must have a single or program-specific audit conducted for that year in accordance with the provisions 2 CFR parts 200.500 through 200.521. A non-federal Subrecipient must submit audit reports to the Federal Audit Clearinghouse and to the Commission following the same timeline outlined in 2 CFR § 200.512(a)(1) or by the due date indicated by the Commission whichever is later.
- 9.2. Subrecipients that are not subject to 2 CFR 200 Subpart F (e.g., commercial entities) that expend \$1,000,000 or more in BEAD grant funds during their fiscal year must submit to the Commission either:
  - 9.2.1. A financial related audit of each Commission awarded BEAD program grant or subgrants in accordance with Generally Accepted Government Auditing Standards; or
  - 9.2.2. A program-specific audit for each Commission-awarded BEAD program grant or subgrants in accordance with the requirements contained in 2 CFR 200.507.
  - 9.2.3. Audited financial statements of a publicly traded parent company may be sufficient to meet the BEAD Program audit requirements if the statements meet all relevant requirements in the BEAD NOFO, 2 CFR Part 200, and the BEAD General Terms and Conditions.
- 9.3. Subrecipients may be required to obtain and submit a pre-award audit, and will be subject to risk assessments, monitoring during the performance period, post- award audits, and/or any other methods to monitor and verify compliance as deemed necessary by the Commission.

- 9.4. Upon the request of the Commission, Subrecipients must submit an agreed upon procedures audit. This audit will consist of procedures and questions requested by the Commission and may expand beyond the scope of that provided for under the Wisconsin State Single Audit Guideline or other audit requirements.
- 9.5. Subrecipients must submit responses and corrective actions to be taken by management regarding any findings or comments issued by the auditor. Subrecipients must share the results relating to corrective actions to be taken in response to audit finding with the Commission when requested.

**10.0. Recordkeeping, Examination of Records, Inventory and Review and Certification of Facilities**

- 10.1. The Commission will have access to and the right at any time during normal business hours to examine, audit, excerpt, transcribe, and copy any records and files of the Subrecipient involving activities relating to a Grant Award, including any agreement or memoranda of understanding with any partners or Contractors of the Subrecipient related to the project or fiscal management of the award. The Commission or its Contractor will provide 24-hour notice and then have access during normal business hours to examine, audit, test and analyze any and all items purchased or constructed in whole or in part using funds provided by the Commission as part of a Grant Award, including inspection by a professional engineer.
- 10.2. If any of the above records and files are held in an automated format, the Subrecipient must provide copies of these records and files in the automated format, or such a file format as requested by the Commission.
- 10.3. Subrecipient must retain such records and files for the duration of the Performance Period and for four years after the Close of the Project.
- 10.4. Subrecipient is responsible for any charges for copies provided by Subrecipient to the Commission of books, documents, papers, records, computer files or computer printouts.
- 10.5. The Commission retains the right to request information regarding BEAD-funded property or equipment at any time during the Federal Interest Period to monitor for compliance with the terms and conditions in the Grant Agreement.
- 10.6. The minimum acceptable financial records for a Grant Award consist of:
  - 10.6.1. Documentation of employee time and compensation;
  - 10.6.2. Documentation of all equipment, materials, contracted labor, supplies and travel expenses, including purchasing records and procedures;
  - 10.6.3. Inventory records and supporting documentation for allowable equipment purchased to carry out the project scope;
  - 10.6.4. Documentation and justification of methodology used in the calculation of any in-kind contributions;
  - 10.6.5. Rationale supporting the allocation of space charges;

- 10.6.6. Documentation of project services and materials; and
- 10.6.7. Any other records that support charges to a Grant Award.
- 10.6.8. Documentation which provides adequate evidence of BABA compliance for all costs related to the project in the scope of work including both federal and non-federal funds.
- 10.7. The Subrecipient must maintain reasonably prudent, as determined by the Commission, segregation of project accounting records from accounting records relating to other projects or programs.
- 10.8. The Commission or their representative may schedule one or more mid-construction inspections for each broadband infrastructure project. The Commission or its Contractor will provide 24-hour notice and then have access during normal business hours to the broadband infrastructure project. The Subrecipient must make available all facilities deployed, and equipment purchased, built or leased with BEAD funding. The Commission may inspect, test or review any part of the project in the Grant Agreement scope of work.
- 10.9. The Commission will schedule a final inspection for each broadband infrastructure project and other construction activities when all construction in the scope of work has been completed. Representatives of the Commission, and the Subrecipient and/or Contractor(s) will attend the Commission's final inspection for each project. The Commission is required to give NTIA reasonable advance notice of each final inspection so that a representative of NTIA may participate. The Subrecipient will be required to correct any deficiencies found during the inspection before a project is approved for closeout.

**11.0. Compliance with Law, Guidance, Rules, and Regulations**

- 11.1. The Subrecipient and its agents and representatives, including all Subrecipient Contractors and Subrecipient Personnel, must at all times comply with and observe all federal, state, and local laws, ordinances, and regulations that in any manner affect or apply to the Project, including, without limitation, applicable NTIA guidance, all rules and regulations promulgated to implement BEAD, and any other federal or state laws applicable to this Agreement. The Subrecipient shall provide such compliance provisions with other parties in any agreements it enters into relating to the Terms and Conditions of this Agreement. Subrecipient must maintain oversight to ensure that its Subrecipient Contractors perform in accordance with the terms, conditions, and specifications of their subcontract agreement and all applicable Grant Agreements, state law, and federal law requirements.
- 11.2. This Agreement shall be governed by the laws of the State of Wisconsin and the United States. Any legal action regarding this Agreement, as amended, or its provisions shall be subject to Wisconsin Statute Chapter 227. Any Chapter 227 proceeding or dispute or controversy arising under this Agreement must be brought in a court of competent jurisdiction in Dane County, Wisconsin Circuit Court or the Federal District Court for the Western District of Wisconsin. The Parties consent to the jurisdiction of such court and waive any objections to such jurisdiction.
- 11.3. The Subrecipient shall require any Subrecipient Contractor and Subrecipient Personnel used by Subrecipient in the performance of this Agreement to agree to, and be subject to and bound by, each of the following requirements listed below.

- 11.3.1. One-Call and Diggers Hotline. The Subrecipient and its Subrecipient Contractors and Subrecipient Personnel agree to comply with Wisconsin’s one-call requirements under Wis. Stat. § 182.0175 in performing the grant project, which include, but are not limited to, providing advance notice of at least three business days to the one-call system prior to nonemergency excavation. The Commission retains the right to withhold reimbursement or claw back funds from the Subrecipient and their Contractors if either the Subrecipient or its Contractors fails to comply with a Commission enforcement action, which may include, but not limited to, failing to pay a fine or complying with other required terms of an enforcement action.
- 11.3.2. Authorization to Transact Business. The Subrecipient attests that it and its Subrecipient Contractors, Affiliates, and if applicable, Subrecipient Personnel, are authorized or registered to transact business in this state by the Department of Financial Institutions in compliance with Wis. Stat. chs. 178, 179, 180, 181, 183, 185, and any other applicable Wisconsin laws related to the authorization to transact business in Wisconsin.
- 11.3.3. Subrecipient and its agents and representatives, including all Subrecipient Contractors, Affiliates, and Subrecipient Personnel, agree to comply with all safety requirements under Wisconsin law and all applicable Occupational Safety and Health Administration (OSHA) standards.
- 11.4. BEAD requirements are incorporated by reference as if fully set forth herein and are deemed to be contractual obligations of the Subrecipient. The BEAD NOFO, BEAD Restructuring Policy Notice, Grant Award Terms & Conditions, Guidance (including any subsequent guidance) issued by Department of Commerce or NTIA and related Frequently Asked Questions, BEAD Obligations for Subrecipient Deploying Network Guidance, Department of Commerce Financial Assistance Standard Terms & Conditions, guidance as to the applicable CFR provisions relating to internal controls, subrecipient monitoring and management, and audit requirements that apply to the Commission and thereby Subrecipients and Contractors of Subrecipients receiving such funds through this Agreement. These requirements are therefore considered legally binding and enforceable under this Agreement. Subrecipient’s obligations in regard to BEAD requirements include but are not necessarily limited to:
  - 11.4.1. Infrastructure Investment Act of 2021 also known as the Bipartisan Infrastructure Law.
  - 11.4.2. General BEAD guidance, including any FAQs, updates or changes thereto (“BEAD Guidance”).
  - 11.4.3. BEAD Notice of Funding Opportunity.
  - 11.4.4. General Terms and Conditions for NTIA BEAD Program.
  - 11.4.5. BEAD Restructuring Policy Notice.
  - 11.4.6. Department of Commerce Financial Assistance Standard Terms and Conditions.

**12.0. Insurance Requirements**

- 12.1. The Subrecipient shall provide upon request and maintain in full force and effect at no cost to the Commission the following insurance coverage with limits as indicated, which may be revised by the Commission if required by state or federal law, at all times during the term of this Agreement. The certificate of insurance will be required upon request.
  - 12.1.1. The Subrecipient shall maintain Worker's Compensation as required by Wisconsin Statutes, for all employees engaged in work related to the Grant Agreement.
  - 12.1.2. The Subrecipient shall maintain commercial liability, bodily injury and property damage insurance against all claim(s) which might occur in carrying out this Grant Agreement. Minimum coverage shall be one million dollars liability for bodily injury and property damage including products liability and completed operations.
  - 12.1.3. The Subrecipient shall maintain motor vehicle insurance for all owned, non-owned and hired vehicles that are used in carrying out this Grant Agreement. Minimum coverage shall be one million dollars per occurrence combined single limit for automobile liability and property damage.
  - 12.1.4. The Subrecipient must comply with 2 CFR § 200.310, to "provide the equivalent insurance coverage for real property and equipment acquired or improved with Federal funds as provided to property and equipment owned by the recipient or subrecipient" and with 2 CFR § 200.312 as applicable.

### **13.0. Indemnification**

- 13.1. The Subrecipient assumes all liability for any and all injuries, damages, or claims in any way associated with the Grant Award and/or the Project. The Subrecipient must indemnify and hold harmless the Commission and all its officers, agents, and employees, all suits, actions or claims of any character brought for or on account of any injuries or damages received by any persons or property resulting from or in any way associated with the Grant Award and/or the Project, including reasonable attorneys' fees and costs for enforcement. Subrecipient must indemnify and hold harmless the Commission and all its officers, agents and employees from all suits, actions or claims of any character brought for or on account of any obligations arising out of agreements between itself and Subrecipient Contractors and Subrecipient Personnel to perform services or otherwise supply products or services.
- 13.2. The Subrecipient must also hold the Commission harmless for any audit disallowance irrespective of whether the audit is required by this Agreement, ordered by federal or state agencies or by the courts.

### **14.0. Severability**

- 14.1. If any provision of this Agreement, or the application thereof to any person or circumstance, is found to be invalid, then the remainder of this Agreement, or the application of such provision to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected thereby.

### **15.0. Sovereign Immunity**

- 15.1. The Commission does not waive any immunity defenses (including sovereign immunity, governmental immunity, immunity based on U.S. Constitutional amendment XI, or otherwise) or any other defenses available to either by entering into this Agreement and specifically retains and reserves all immunity defenses.

**16.0. Attorney's Fees and Expenses**

- 16.1. In the event Subrecipient defaults on any of its obligations under this Agreement, Subrecipient shall pay to the Commission all costs and expenses (including the reasonable value of time of Commission attorneys, the Attorney General's Office, and the costs, expenses and attorney fees of other counsel retained by or on behalf of the Commission) incurred by the Commission in enforcing this Agreement or any of its rights and remedies with respect thereto.

**17.0. Vendor Tax, Commission Assessment Delinquency or Unpaid Commission Fines**

- 17.1. Subrecipients that have delinquent Wisconsin tax and/or Commission assessment liability or unpaid fines may have their payments offset by the State of Wisconsin.

**18.0. Conflicts of Interest**

- 18.1. Private and non-profit corporations are bound by Wis. Stat. §§ 180.0831, 180.1911(1), and 181.0831, regarding conflicts of interest by directors in the conduct of state contracts. In addition, the Subrecipient must maintain written standards of conduct covering conflicts of interest in terms of the selections, award, and administration of contracts as provided below.
- 18.2. If the Subrecipient has a parent, affiliate, or subsidiary organization that is not a State, local government, or Indian tribe. The Subrecipient must also maintain written standards of conduct covering organizational conflicts of interest. Organizational conflicts of interest means that because of relationships with a parent company, affiliate, or subsidiary organization, the Subrecipient is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization.

**19.0. Suspension**

- 19.1. For cause, and upon notice to the Subrecipient, the Commission may suspend payments and direct the Subrecipient to halt construction or continue construction at their own cost. Any costs directly attributable to activities incurred upon such notice will cease to be Eligible Costs unless otherwise authorized by the Commission.

**20.0. Waiver**

- 20.1. Failure or delay on the part of the Commission to exercise any power under the Commission Order or this Agreement will not constitute a waiver thereof.

**21.0. Assignment and Delegation**

- 21.1. The Subrecipient shall not assign its rights hereunder without prior written consent of the Commission and to the extent required by NTIA. Notwithstanding the foregoing, the Subrecipient may assign its rights hereunder to any entity that is an Affiliate without prior consent of the Commission provided that such Affiliate shall assume all obligations of Subrecipient hereunder in writing in a manner reasonably acceptable to the Commission. Subrecipient will give the Commission at least 45 business days prior written notice of any such permitted assignment hereunder. No such assignment shall release Subrecipient from its liability hereunder unless Subrecipient provides evidence to the reasonable satisfaction of the Commission of the Affiliate's ability to satisfy the obligations of Subrecipient hereunder.

## **22.0. Amendments to the Agreement**

- 22.1. This Agreement may be amended at any time by written mutual consent of the Parties. Amendments must be documented in writing, dated, and signed by the Parties.
- 22.2. Subrecipients must notify the Commission of any proposed changes to the project activities, scope of work, budget, technology, network design, locations, network performance, sources of match funding, any significant changes to deployment milestones or plans, any significant changes to public awareness plans, any request to extend the Period of Performance or any changes or transfer of the ownership of the network or planned services to the customers as soon as practicable and may only make such changes if the Commission signs an amendment authorizing and memorializing a change. A change in project scope may require additional NEPA compliance and review.

## **23.0. Suspension and Debarment**

- 23.1. In executing this Agreement, the Subrecipient certifies that it is not suspended or debarred from receiving federally funded contracts. The Subrecipient is subject to the debarment and requirements in 2 CFR Part 180, which implements Executive Orders 12549 and 12689, "Debarment and Suspension". These regulations restrict awards, sub-awards and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in federal assistance programs and activities.
- 23.2. The Subrecipient certifies that it is not contracting or assigning work to this Grant Agreement to any Contractor or Subcontractor that:
  - 23.2.1. Is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal, State, or local department or agency;
  - 23.2.2. Has within a three-year period preceding this agreement been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statement, or receiving stolen property.
  - 23.2.3. Is presently indicted for or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses enumerated in

this Section; and has not within a three-year period preceding this Grant Agreement had one or more public transactions (federal, state, or local) terminated for cause or default.

23.2.4. In the event that the Subrecipient becomes aware that a Contractor or Subcontractor or any Subrecipient Personnel has been debarred or violates any of the provisions listed above, the Subrecipient shall immediately notify the Commission and cease all work with the Contractor or Subcontractor. The Commission retains the right to withhold reimbursements or claw back funds if the Subrecipient contracts with a Contractor or Subcontractor that has been debarred or otherwise violates the provisions listed above.

23.2.5. The Commission bears no responsibility for Contractor or Subcontractor compliance, performance, or dispute resolution hereunder.

#### **24.0. Grant Agreement Information and Notices**

24.1. The Subrecipient agrees to periodically review and update contact information in the PSC Grants System for this Grant Award. Subrecipient consents to the authorized organization representative as the entity held solely responsible for receipt of, and response to, Commission communications regarding the Grant Award.

24.2. Any official notice, demand, request, consent, approval, or communication that either Party desires or is required to give to the other shall be in writing to the address below and a copy delivered electronically (via ERF, email or if possible, within the PSC Grant Management System). If to Subrecipient, using the primary contact information maintained for the award in the PSC Grants System.

If to the Commission:  
Public Service Commission of Wisconsin  
Attention: DACEA Administrator  
P.O. Box 7854  
Madison, WI 53707-7854  
[PSCBeadGrants@wisconsin.gov](mailto:PSCBeadGrants@wisconsin.gov)

#### **25.0. Prevention of Waste, Fraud and Abuse**

25.1. Consistent with the principles in 2 CFR part 200, at any time(s) during the grant period of performance, the Commission or NTIA may direct a member or members of Subrecipient's key personnel to take a government-provided training on preventing waste, fraud and abuse. Key personnel include those responsible for managing the Subrecipient's finances and overseeing any Contractors, Subcontractors or Subrecipients (for financial matters and/or general oversight related to the grant). NTIA or the Commission will provide instructions on when and how to take such training(s), and costs incurred by Subrecipient relative to the training (e.g., staff time) are eligible for reimbursement pursuant to this Agreement.

25.2. The Subrecipient must monitor award activities for common fraud schemes, including but not limited to: false claims for materials and labor; bribes related to the acquisition of materials and labor; product substitution; mismarking or mislabeling on products and materials; and time and materials overcharging. Should the Subrecipient detect any fraud schemes or any other

suspicious activity, the Subrecipient must contact the Commission point of contact designated this Agreement.

- 25.3. Additionally, in accordance with 2 CFR § 200.113, the Subrecipient must disclose, in a timely manner, in writing to the Commission all violations of federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Grant Award. The Subrecipient is required to report certain civil, criminal, or administrative proceedings to SAM.gov. Failure to make required disclosures can result in any of the remedies described in 2 CFR § 200.339. (See also 2 CFR Part 180, 31 USC § 3321, and 41 USC § 2313.)
- 25.4. The Subrecipient should use the Waste, Fraud and Abuse hotline established by the Commission at 1-800-225-7729 or 1-608-266-2001 (local).

## **26.0. Additional Federal Requirements**

- 26.1. Pursuant to the Department of Commerce Financial Assistance Standard Terms and Conditions each award is subject to the whistleblower protections afforded by 41 USC § 4712 (enhancement of contractor protection from reprisal for disclosure of certain information).
  - 26.1.1. Subrecipients and Contractors under federal awards and subgrants must inform their employees in writing of the rights and remedies provided under 41 USC § 4712, in the predominant native language of the workforce.
  - 26.1.2. A person that believes they have been the subject of retaliation for protected whistleblowing can contact the Department of Commerce, Office of Inspector General Hotline, as indicated at <https://www.oig.doc.gov/Pages/Hotline.aspx>, or the U.S. Office of Special Counsel, toll free at 1-800-872-9855.
- 26.2. Reporting Subaward and Executive Compensation Information. 2 CFR Part 170, pursuant to which the award term set forth in Appendix A to 2 CFR Part 170 is hereby incorporated by reference.
- 26.3. The Subrecipient must comply with governmentwide requirements for Drug-Free Workplace, 31 CFR Part 20.
- 26.4. The Subrecipient must comply with New Restrictions on Lobbying, 31 CFR Part 21.
- 26.5. The Subrecipient must comply with Increasing Seat Belt Use in the United States. Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), the Subrecipient should adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented or personally owned vehicles.
- 26.6. The Subrecipient must comply with Reducing Text Messaging While Driving. Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), the Subrecipient should adopt and enforce policies that ban text messaging while driving and establish workplace safety policies to decrease accidents caused by distracted drivers.
- 26.7. The Subrecipient is not required to comply with the Procurement Standards set forth in 2 CFR §§ 200.318-320 and 200.324-326. All other Procurement Standards, i.e., 2 CFR §§ 200.317, 200.321-200.323, and 200.327, remain as requirements.

26.8. The Subrecipient shall apply where feasible design principles for the purposes of reducing pollution and energy costs and optimizing lifecycle costs associated with construction.

**27.0. Civil Rights and Non-Discrimination Law Compliance and Affirmative Action Requirements**

27.1. No person in the United States may, on the ground of actual or perceived race, color, national origin, sex, gender identity, sexual orientation, age, disability, or handicap, be excluded from participation in, be denied the benefits of, or be subject to discrimination under, any program or activity receiving federal financial assistance. The Subrecipient hereby agrees to abide by the non-discrimination requirements set forth in the following legal authorities, to the extent applicable, and acknowledges that failure to do so may result in cancellation of this Agreement and/or clawback of funds already disbursed:

27.1.1. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and the Department of Commerce’s implementing regulations, published at 15 C.F.R. Part 8, which prohibit discrimination on the grounds of race, color, or national origin under programs or activities receiving federal financial assistance;

27.1.2. Title IX of the Education Amendments of 1972 (20 U.S.C. §§ 1681 et seq.) which prohibits discrimination on the basis of sex under federally assisted education programs or activities;

27.1.3. The Americans with Disabilities Act of 1990 (42 U.S.C. §§ 12101 et seq.) which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by Subrecipient and local governments or instrumentalities or agencies thereto, as well as public or private entities that provide public transportation;

27.1.4. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), and Department of Commerce implementing regulations published at 15 C.F.R. Part 8b, which prohibit discrimination on the basis of handicap under any program or activity receiving or benefiting from federal assistance;

27.1.5. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Department of Commerce implementing regulations published at 15 C.F.R. Part 20, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance;

27.1.6. Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e et seq., which provides that it is an unlawful employment practice for an employer to discharge any individual or otherwise to discriminate against an individual with respect to compensation, terms, conditions, or privileges of employment because of such individual’s race, color, religion, sex, or national origin. Note in this regard that Title VII, 42 U.S.C. § 2000e-1(a), expressly exempts from the prohibition against discrimination based on religion “a religious corporation, association, educational institution, or society with respect to the employment of individuals of a particular religion to perform work connected with the carrying on by such corporation, association, educational institution, or society of its activities;” and

27.1.7. Any other applicable non-discrimination law(s). Application requirements, award terms, and conditions do not impose civil rights and nondiscrimination law compliance requirements on Indian Tribes or Native Entities beyond what would otherwise apply under federal law.

27.2. The Subrecipient and its Contractors shall not discriminate in employment and hereby certify that it will not discriminate against any employee or applicant for employment on the basis of age, race, religion, color, handicap, sex, physical condition, developmental disability as defined in Wis. Stat. § 51.01(05), sexual orientation as defined in Wis. Stat. § 111.32(13m), or national origin. This includes, but is not limited to, employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Subrecipient shall state in all solicitations or advertisements for employees placed by it or on its behalf that all qualified applicants shall receive consideration for employment without regard to age, race, religion, color, handicap, sex, or physical condition, developmental disability as defined in Wis. Stat. § 51.05(5), sexual orientation as defined in Wis. Stat. § 111.32(13m), or national origin.

27.2.1. Except with respect to sexual orientation, The Subrecipient must take Affirmative Action to ensure equal employment opportunities. The Subrecipient must post in conspicuous places, available for employees and applicants for employment, notices required by law setting forth the provisions of the nondiscrimination clause.

27.3. Grant Awards estimated to be over \$50,000 require the submission of Affirmative Action documentation by the Subrecipient as specified by Wis. Stat. § 16.765 and Wis. Admin. Code § ADM 50. This may include the submission of a full Affirmative Action Plan and related documentation, or the submission of an exemption statement and related documentation. (See Department of Administration Form 3024, or its successor, for a listing of all applicable exemptions.) Within 15 working days after the Grant Agreement Execution Date, the Subrecipient must submit all required Affirmative Action paperwork to the Commission, unless compliance eligibility is current as determined by the Commission. The Subrecipient shall also submit applicable Affirmative Action documentation for each of its Contractors with payments estimated to be over \$50,000. Failure to comply with the conditions in this clause may result in the declaration of Subrecipient ineligibility, the termination of this Agreement, or the withholding of funds.

27.4. The Subrecipient must comply with the Contract Work Hours and Safety Standards Act, 40 U.S.C. § 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5).

27.5. Consistent with 47 U.S.C. § 1702(g)(2)(C), the Subrecipient must distribute funds in an equitable and nondiscriminatory manner.

## **28.0. Confidential, Protected and Proprietary Information**

28.1. The Subrecipient agrees that all records related to the BEAD Program are public records as provided by Wisconsin's Public Records Law (Wis. Stat. §§19.31 to 19.39). Trade secret and proprietary information as defined under Wis. Stat. § 134.90(1)(c) or certain personally identifiable information (PII) may be exempt from disclosure under the Wisconsin Public Record Law. However, the Public Record Custodian at the Commission makes the final interpretation of which records qualify for an exemption from Wisconsin Public Records Law.

- 28.2. The Subrecipient must submit information including the above exceptions as requested by the Commission. To maintain the confidentiality of this information, it must be submitted via the Confidential Uploads module within the PSC Grants System, or an alternative method approved by the Commission.
- 28.3. Subrecipients are expected to support Program reviews and evaluations by submitting required financial and performance information and data in an accurate and timely manner, and by cooperation with the Department of Commerce and external program evaluators. In accordance with 2 CFR § 200.303(e), subrecipients are reminded that they must take reasonable measures to safeguard protected PII and other confidential or sensitive personal or business information created or obtained in connection with this Grant Award.

#### **29.0. Termination and Cancellation**

- 29.1. The Subrecipient understands and agrees that the Commission may at a later time determine that the Subrecipient is not in compliance with the terms of this Agreement. In such case, the Commission may terminate the Grant Award. Upon termination, the Subrecipient shall return up to the entire amount of the Grant Award funds previously disbursed (regardless of whether spent) within 30 days of the written notice of termination, and the Commission shall exercise the remedies described in this Agreement. The amount of Grant Award funds that must be returned is at the sole discretion of the Commission.
- 29.2. Grant funded activities with significant impacts to environmental or historic resources may face de-obligation and termination of funding if impacts cannot be avoided, minimized, or mitigated.
- 29.3. If the Subrecipient wishes to cancel the Grant Agreement, the Subrecipient may submit a written request signed by an Authorized Organization Representative in the docket underlying the Grant Award.
- 29.4. If the Commission grants the cancellation request, the Subrecipient shall return up to the entire amount of the Grant Award funds previously disbursed. Funds must be returned within 30 calendar days of the Commission's approval of the termination. The amount of the Grant Award funds that must be returned is at the sole discretion of the Commission.
- 29.5. If the Subrecipient fails to return grant funds timely, the Commission reserves the right to recover such funds and related fees to recover the funds by any other legal means including withdrawing funds from the Letter of Credit or Performance Bond.
- 29.6. The Commission reserves the right to terminate the Grant Award at any time regardless of compliance if there is a change to the federal funding or its availability, which may include, but not limited to, a change in federal funding requirements, guidance, or laws which authorize the funding or changes to the availability of funding or if the award no longer serves the purposes of the federal program.

**ATTACHMENT A – BEAD NETWORK DEPLOYMENT, PERFORMANCE AND SERVICE  
REQUIREMENTS; RELATED REMEDIES AND PENALTIES; REPORTING  
REQUIREMENTS**

**A1.0. Network Capabilities and Access Requirements**

- A1.1. Broadband infrastructure and networks deployed or improved with this Grant Award must meet the following technical requirements, including performance measurements and resilience against network outages.
- A1.2. Per section Iv.C.2.a.i page 64 of the BEAD NOFO, Subrecipients' Funded Networks must deliver actual speeds of not less than 100 Mbps for downloads and 20 Mbps for uploads for broadband serviceable locations; speeds of not less than one Gigabit symmetrical for CAIs; and 95 percent of latency measurements during testing windows must fall at or below 100 milliseconds roundtrip time.
- A1.3. Per section Iv.C.2.a.i page 64 of the BEAD NOFO and the [Performance Measures Policy Notice](#) in order to demonstrate continued compliance with standards, Subrecipients must perform speed and latency tests from the customer premises of an active subscriber to a remote test server at an end-point consistent with the requirements from a Commission-designated Internet Exchange Point (IXP).
- A1.4. Per section IV.C.2.a.ii page 65 of the BEAD NOFO and the [Performance Measures Policy Notice](#), Subrecipients must have protocols in place to ensure each Funded Network's outages do not exceed, on average, 48 hours over any 365-day period except in the case of natural disasters or other force majeure occurrence.
- A1.5. Upon Commission request, Subrecipients may be required to submit plans related to regular preventative maintenance of funded networks and document their rapid response protocol for recovery from service disruptions.

**A2.0. Inspection and Testing of Materials**

- A2.1. The Subrecipient shall ensure that all materials and equipment used in the completion of the work shall be subject to adequate inspection and testing in accordance with accepted standards. Materials of construction, particularly those upon which the strength and durability of any structure may depend, shall be subject to inspection and testing to establish conformance with specifications and suitability for intended uses. The Subrecipient shall ensure that documentation of same is cataloged and retained.

**A3.0. Deployment Requirements**

- A3.1. Broadband infrastructure deployed or improved with this Grant Award must meet the following procedural and operational standards for broadband deployment:
- A3.2. Per Section IV.C.2.b.i of the BEAD NOFO, Subrecipients must deploy Funded Networks and start service to each customer that desires it no later than four years after receiving

the Grant Award, unless an extension of time is approved, and meet interim build-out milestones established by the Commission to ensure progress.

- A3.3. Subrecipient must be able to initiate broadband service within 10 business days of a customer request without additional charges or delays attributable to the extension of the service to every location in the scope of work.
- A3.4. Per Section IV.C.2.b.ii of the BEAD NOFO, underground network deployments must include excess conduit capacity and regular conduit access points for interconnection by others.
- A3.5. The maximum installation fee charged to a customer getting served through a wireline BEAD funded network must be the lesser of 1) \$150 for the first 1/8 mile and \$1 per additional foot or 2) the standard installation fee charged to customers receiving service from the provider within the State of Wisconsin through non-BEAD funded networks.
- A3.6. The maximum installation fee charged to a customer getting served through a fixed wireless BEAD funded network must be the lesser of 1) \$200; or 2) the standard installation fee charged to customers receiving service from the provider within the State of Wisconsin through non-BEAD funded networks.
- A3.7. A subscriber may not be required to make modifications to their own or surrounding property or be charged fees for the same in connection with the installation of broadband services funded by the BEAD Program.

#### **A4.0. Pre-Construction Utility Meeting or Communication**

- A4.1. The Subrecipient must convene preconstruction meeting(s) with utility owners within the project area to facilitate utility locating, eliminate unnecessary costs, maintain construction timelines, and ensure safe and timely locating of facilities. Consistent with Wis. Stat. § 182.0175, affected utilities include, but are not limited to, gas, transmission, electric, water, telecommunications and any other facility described under Wis. Stat. § 182.1075(1)(c).
- A4.2. At least 30 days before submitting any request for utility locating services related to the Project area via the One Call System, the Subrecipient must provide notice to utility owner(s) of intent to initiate construction in the vicinity of their facility and request a meeting. The meeting request must include: a primary point of contact for the Subrecipient, a map of the project construction area, and a timeline for construction.
- A4.3. If a utility owner accepts, Subrecipient shall convene a meeting to discuss the project construction area, deployment timeline and intended locating request, and provide any other information to the utility owner necessary to facilitate locating. The Subrecipient must provide proof of this meeting to meet milestone requirements.
- A4.4. If a utility owner declines a meeting or does not respond, Subrecipient shall report to the Commission prior to commencing work. The Subrecipient must maintain documentation of requested meetings and provide to the Commission to meet milestone requirements.

#### **A5.0. Service and Marketing Obligations**

- A5.1. Broadband infrastructure deployed or improved with this Grant Award must meet the following commitments to consumer protection and service accessibility:
- A5.2. Per Section IV.C.2.c.iii of the BEAD NOFO Subrecipients are required to provide consumers of BEAD-funded networks with reasonable and non-discriminatory terms and conditions.
- A5.3. Per Section IV.C.2.c.iv of the BEAD NOFO and section 32 of the BEAD General Terms and Conditions, Subrecipients are required to conduct public awareness campaigns aimed at increasing broadband adoption in the area where BEAD funded networks are deployed. Campaigns must include details on the low-cost service option and be conducted in a non-discriminatory manner. Subrecipients must utilize a variety of communications media (e.g., online, print, radio) to provide public notice of the value and benefits of the broadband service and low-cost broadband service options for eligible subscribers. The Commission retains the right to request marketing plans, Subrecipient public notices, campaign or marketing materials, and data related to subscription rates and locations to which broadband service has been provided in the BEAD project area.

#### **A6.0. BEAD Low-Cost Service Offer (LCSO) Requirements**

- A6.1. Per Section IV.C.2.c.i, pg. 66-68 of the NOFO and Section 7 of the BEAD Restructuring Policy Notice, the Subrecipient must offer not less than one low-cost broadband service option for eligible subscribers as proposed by the provider in its application and as included in Project Scope.
- A6.2. An eligible subscriber means any household seeking to subscribe to broadband internet access service that is eligible for the FCC's Lifeline Program.
- A6.3. The LCSO plan must be available to all eligible households in locations reached by the BEAD funded network for the entire Performance Period and subsequent Federal Interest Period (10 years).
- A6.4. The LCSO plan must offer speeds of at least 100/20 Mbps and provide typical latency measurements of no more than 100 milliseconds.
- A6.5. The Commission retains the right to request data related to available LCSO plan subscription and enrollment rates during the Performance Period and subsequent Federal Interest Period.

#### **A7.0. Cybersecurity and Supply Chain Risk Management Requirements**

- A7.1. Per Section IV.C.2.c.vi – page 70 of the BEAD NOFO Subrecipients must provide cybersecurity and supply chain risk management plans, that reflect the National Institute of Standards and Technology (NIST) cybersecurity and supply chain risk management framework.
- A7.2. The Subrecipient must submit new versions of these plans to the Commission within 30 days of any updates made by the Subrecipient.
- A7.3. The Commission retains the right to require these plans be re-evaluated on a periodic basis and/or updated as warranted.

#### **A8.0. Project Status Reports and Final Project Status Report**

- A8.1. Per BEAD NOFO VII(E)(2) the Subrecipient must submit semiannual Project Status Reports to the Commission for the duration of the project. Additional reporting requirements may be forthcoming.
- A8.2. All semiannual status reports must be submitted to the Commission via the PSC Grants System using the schedule, templates and questions provided by the Commission.
- A8.3. Subrecipients will be required to submit at minimum two semi-annual reports (twice per year) for performance periods January 1 through June 30 and July 1 through December 31.
- A8.4. Each report shall describe the Project status and/or other eligible activities carried out by responding to the questions provided by the Commission and must be certified by the Subrecipient that the information in the report is accurate.
- A8.5. Subrecipients must comply with any other reasonable reporting requirements determined by the Commission to meet the reporting requirements established by NTIA or the Department of Commerce;
- A8.6. Failure to file timely reports may result in required curing, termination of the Grant Award and the claw back of funds up to the Total Award amount.

#### **A9.0. Measurement Requirements**

- A9.1. Subrecipients are required to comply with reporting requirements found in 2 C.F.R. Part 200 and in support of federal agency obligations under the ACCESS BROADBAND Act, 47 USC § 1307, and Infrastructure Act § 60105.10, as well as NTIA NOFO, BEAD Restructuring Policy Notice, FCC Performance Measures Order, as modified Performance Measures for BEAD Last-Mile Networks Policy Notice or any successor regulation, for broadband infrastructure projects.
- A9.2. Subrecipients are required to complete network performance tests every year during the Period of Performance when the Subrecipient has locations served by BEAD funded networks, and again prior to closeout. The Commission may withhold financial payment to the Subrecipient until performance testing data has been submitted.
- A9.3. Measurement collection, sample size, methodology and submission must happen in accordance with guidelines specified in the *BEAD Program: Performance Measures for BEAD Last-Mile Networks Policy Notice* or subsequent NTIA and Commission guidance documents.
- A9.4. The Commission may require an external firm, contractor or entity selected by the Commission to review or verify the testing.
- A9.5. Subrecipients cannot delete, trim, edit, or otherwise exclude any test measurements. If a subrecipient knows or suspects that the testing infrastructure has failed or has negatively impacted test results, the Subrecipient must still submit the results and may also submit

evidence of the test infrastructure failure with sufficiently detailed information to the Commission.

- A9.6. Subrecipients shall supply a count and list of locations that experienced a continuous outage exceeding eight hours within the prior 365 days.
- A9.7. A Subrecipient is non-compliant if it fails to meet any one of the four testing thresholds: download, upload, latency or availability. Additionally, a Subrecipient is non-compliant if it fails to use a compliant methodology, fails to submit the report on time or fails to comply with transparency requirement. Subrecipients are responsible for reporting any non-compliance to the Commission within 15 days of completing the measurement cycle or failing to meet the availability benchmarks.
- A9.8. The Commission may require additional or enhanced network performance testing in response to any non-compliant results.
- A9.9. The measurement report, including the methodology, standards, parameters, and data, must include an official certification of the accuracy of the information reported signed by the Subrecipient's AOR.

#### **A10.0. Permitting Obligations and Reporting**

- A10.1. Wisconsin is committed to helping ensure that BEAD projects are carried out in a timely and effective manner. Consistent with any relevant legal and statutory requirements and authorities Wisconsin has established procedures and technical assistance to streamline permitting processes.
- A10.2. The Subrecipient must provide timely information and reporting regarding any permitting-related delays attributable to state or local government, including:
  - A10.2.1. The date the fully completed permit application was submitted and to which state or local government authority.
  - A10.2.2. Any requests that the Subrecipient received for additional information, the date of the request and the date the Subrecipient responded to the request.
  - A10.2.3. The date the permit was approved or denied.
  - A10.2.4. Notify the Commission of permits that exceed 90 days in review.
  - A10.2.5. Permitting-related costs that are unreasonable or higher than the fees charged to similarly situated competitors in similar situations.
  - A10.2.6. Submit complaints and supporting information for permitting-related issues that are not resolved through the regular established state and local government process and request that a Permitting Roundtable be convened.
- A10.3. To the extent that Permitting Roundtables or similar working groups are formed for the purpose of meeting Wisconsin's BEAD permitting obligation, impacted BEAD Subrecipients

must attend the meetings to identify and facilitate resolution of any delays or disputes related to deploying BEAD-funded facilities.

#### **A11.0. BEAD Penalties for Non-Performance / Non-Compliance**

- A11.1. The Commission may enforce applicable rules and the terms of this agreement by imposing penalties for: nonperformance, noncompliance, failure to meet Grant Agreement requirements, non-responsiveness, delays in reporting, or wasteful, fraudulent, or abusive expenditure of BEAD funds as determined by the Commission. Penalties can include but are not limited to additional award or reporting requirements, required curing, reduction in Grant Award amount, suspension of payments, de-obligation or claw back of funds, and debarment from future Commission awards.
- A11.2. Penalties for non-performance may extend through the Federal Interest Period of the BEAD Project, 10 years after the close of the Project.
- A11.3. Grant performance includes meeting all the terms and conditions in the Grant Agreement including but not limited to constructing the network consistent with or exceeding the design, equipment and project information in the scope of work; providing qualifying, reliable broadband service to every BSLs in the scope of work, maintaining service quality and reliability of the network, sufficiently marketing the broadband service, maintaining the BEAD low-cost service offering, and adhering to all permitting and NEPA requirements.
- A11.4. In the case where a Subrecipient fails to provide service to a required BSL in their scope of work the Commission may use three times the modeled greenfield cost to build or three times the cost per location in the project whichever is greater and reduce the Grant Award by the result.
- A11.5. In the case where the funded network fails to meet a required speed, the latency network standards, or the reliability (uptime) requirement, the Subrecipient will be required to improve the network until the minimum performance standards are met or up to the entire Grant Award will be forfeited.
- A11.6. In the case where the funded network fails to meet the design, equipment or performance specifications in the scope of work the Subrecipient will be required to improve or amend the network to meet or exceed the technical network specifications in the scope of work until the network meets the satisfaction of the Commission or up to the entire Grant Award will be forfeited.
- A11.7. Penalties may be waived, altered or increased based on the specific circumstances of the performance or compliance issue.

#### **A12.0. Claw Back**

A12.1. If the Commission or NTIA determine that Subrecipient has failed to comply with any material requirement under applicable law or this Agreement and Subrecipient cannot or will not remedy such failure, the Commission may require Subrecipient to return up to the entire amount of the Grant Award to the Commission. If the Subrecipient fails to timely return all grant funds, the Commission will initiate collection efforts which include, but are not limited to, withdrawing funds from the letter of credit or performance bond.

**A13.0. Force Majeure**

A13.1. The Subrecipient is not required to forfeit the amount of a Grant Award if the Subrecipient fails to perform due to natural disaster, an act of God, a force majeure, a pandemic, the failure to obtain access to private or public property or such other occurrence over which the Subrecipient has no control. The Commission has the discretion and final authority to determine whether or not a Subrecipient's failure to perform is due to an occurrence over which the Subrecipient has no control.

## ATTACHMENT B – ENVIRONMENTAL AND HISTORIC PRESERVATION REVIEW

### **B1.0. Pre-Implementation Requirements**

The Subrecipient will not commence implementation of a project or sub-project and implementation funds will not be disbursed until any and all necessary environmental reviews are complete and NTIA has approved any necessary decision document and issued a Final NEPA Decision Memo, except for the limited permissible activities. The following activities must be complete and approved prior to project or sub-project implementation:

- B1.1. The completion of any review required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321, et seq.) (NEPA), and issuance, as required, of a Categorical Exclusion (Cat Ex) determination, Record of Environmental Consideration (REC), Finding of No Significant Impact (FONSI), Record of Decision (ROD) (hereinafter “decision documents”) that meets the requirements of NEPA;
- B1.2. The completion of reviews required under Section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. 470, et seq.) (NHPA), including any consultations required by federal law, to include consultations with the State Historic Preservation Office and Federally recognized Native American Tribes;
- B1.3. The completion of consultations with the U.S. Fish and Wildlife Service (USFWS) or the National Marine Fisheries Service (NMFS), as applicable, under Section 7 of the Endangered Species Act (16 U.S.C. 1531, et seq.), and/or consultations with the U.S. Army Corps of Engineers (USACE) under Section 404 of the Clean Water Act (33 U.S.C. 1251, et seq.), as applicable; and
- B1.4. Upon request, demonstration of compliance with all other applicable federal, state, county and local environmental laws and regulations.
- B1.5. The Subrecipient must timely prepare any required NEPA documents and obtain any required permits, and must adhere to any applicable statutory deadlines as described in 42 U.S.C. 4336g(a); and
- B1.6. The Subrecipient must provide a milestone schedule ‘Pre-Construction NEPA and Permitting Timeline’ identifying specific deadlines and describing how the Subrecipient proposes to meet these timing requirements including, as required, the completion of consultations, the completion of NEPA and Section 106 reviews, and the submission of any required Environmental Assessments (EAs) or Environmental Impact Statements (EISs). The Subrecipient will coordinate EAs and EISs with the Commission, and will consult the Programmatic EIS and its incorporated updates as part of the drafting process, per the Commission’s Final Proposal.
- B1.7. Submit all documents and geospatial information that are requested in the Commission’s Environmental Impacts and Document Screening Packet—including any supporting environmental documentation required or requested by NTIA—to the Commission for review. The Commission will provide these materials to NTIA via the Environmental Screening and Permitting Tracking Tool (ESAPTT).

**B2.0. Further Implementation Guidance**

NTIA may issue further implementation guidance regarding the Subrecipient’s responsibilities under this relating to NEPA. The Subrecipient shall ensure that implementation (site preparation, demolition, construction, ground disturbance, fixed installation, or any other implementation activities) does not begin prior to the completion of the above activities. The Subrecipient must comply with all conditions placed on the grant funded activities as the result of NEPA or consultation processes—e.g., best management practices, additional surveys, or other measures necessary to reduce environmental impacts. The Subrecipient shall provide any related information requested by the Commission or by NTIA (directly or through the Commission) to ensure both initial and ongoing compliance with all requirements.

**B3.0. Allowable use of Award Funds: Pre-Implementation**

The allowable use of Award Funds prior to beginning implementation includes, but is not limited to, activities necessary for the completion of the following, beginning no earlier than August 1, 2024. Those expenditures must always be Eligible Costs. Reasonable, permissible non-construction activities such as completing studies, surveys, and other reviews necessary to apply for environmental permits or preliminary procurement such as the purchase or lease of equipment are generally permitted. Subrecipients may also allow Contractors to claim reimbursement for pre-subgrant costs in certain circumstances in accordance with 2 CFR 200.458. The following pre-implementation costs are allowed:

- B3.1. Pre-construction planning, including collecting information necessary to complete environmental reviews;
- B3.2. Applications for environmental permits;
- B3.3. Studies including, but not limited to, EAs, wetland delineations, biological assessments, archaeological surveys, and other environmental reviews and analyses;
- B3.4. Certain administrative costs;
- B3.5. Certain pre-award application costs;
- B3.6. Activities supporting consultations required under the NHPA, the Endangered Species Act, and the Clean Water Act; and/or
- B3.7. Limited, preliminary procurement, including the purchase or lease of equipment (including fiber), or entering into binding contracts to do so; the purchase of applicable or conditional insurance; and/or funds used to secure land or building leases (including right-of-way easements).

**B4.0. De-Obligation**

Grant funded activities with significant impacts to environmental or historic resources may face de-obligation of funding if impacts cannot be avoided, minimized, or mitigated.

**B5.0. Notifying the Commission**

The Subrecipient shall notify the Commission within 24 hours upon receipt of any Section 106 notices of foreclosure; notices requesting continuing or supplemental consultation received from the State Historical Preservation Office (SHPO), Tribal Historic Preservation Office (THPO), or

other consulting party or the USFWS; or notices of noncompliance received from consulting authorities or regulatory agencies.

**B6.0. Changes to the Scope of Work**

The Parties acknowledge that any change to the approved scope of work proposed after the completion of environmental and historic preservation review that has the potential for altering the nature or extent of environmental or historic preservation impacts must be brought to the attention of the Commission and will be re-evaluated for compliance with applicable requirements.

**B7.0. NEPA Areas**

If a BEAD project scope of work includes NEPA sub-project areas, construction-related activities (including ground-disturbing activities) can begin for a NEPA sub-project area after NTIA has issued a Final NEPA decision memo for that NEPA sub-project area, and the Subrecipient has sufficient documentation of separate allocable costs for each sub-projects. Upon request of the Commission the Subrecipient must submit a sub-project cost allocation plan that shows how construction related costs are delineated by sub-project and date.

**B8.0. Archeological and Burial Sites**

Burial sites, human remains, and funerary objects are subject to the requirements of all applicable Federal, Tribal, state, and local laws and protocols, such as the Native American Graves Protection and Repatriation Act (NAGPRA), in addition to Section 106 of the NHPA. The Subrecipient acknowledges that mapped archeological sites and human buried remains are considered confidential data and shall not be shared publicly per Wis. Stat. § 157.70(2)(a) and Wis. Stat. § 44.48(1)(c). The Subrecipient must notify the Commission of inadvertent discoveries and potential impacts to these resources and identify and follow all applicable laws or protocols. If any potential archeological resources or buried human remains are discovered during construction, the Subrecipient must immediately stop work in that area, secure that area, and keep information about the discovery confidential, except to notify the Commission, and the interested SHPO, THPO, and potentially affected Tribes. Such construction activities may then only continue with the written approval of the Commission.

## **ATTACHMENT C – PROPERTY STANDARDS AND SPECIFIC REQUIREMENTS TO FOR THE RECORDATION OF THE FEDERAL INTEREST IN BEAD FUNDED PROPERTY**

### **C1.0. Managing Equipment**

The Subrecipient must follow its existing commercial practices for managing equipment in the normal course of business and must use inventory controls indicating the applicable federal interest and loss prevention procedures. This requirement is in lieu of the requirements contained in 2 CFR § 200.313(d), pursuant to an exception from United States Office of Management and Budget (OMB).

- C1.1. If Subrecipient does not have existing commercial practices for managing equipment in the normal course of business, it must comply with 2 CFR § 200.313(d).

### **C2.0. Use and Equipment Disposition Requirements**

The Subrecipient must comply with the use and equipment disposition requirements of 2 CFR §§ 200.311 or 200.313 as applicable:

- C2.1. If the Subrecipient acquires replacement equipment under 2 C.F.R. § 200.313(c)(4), the Subrecipient may treat the equipment to be replaced as “trade-in” even if the Subrecipient elects to retain full ownership and use over equipment. As with trade-ins that involve a third-party, the Subrecipient must record the fair market value of the equipment being replaced in its Tangible Personal Property Status Reports (as specified by the Federal Department of Commerce (DOC)) to ensure adequate tracking of the federal percentage of participation in the cost of the grant funded activities. The Subrecipient will also be responsible for tracking the value of the replacement equipment, including both the federal and non-federal share.
- C2.2. The Subrecipient may sell, lease, or transfer Project Property only after (a) securing the agreement of the successor or transferee to comply with these requirements and the acknowledgement of the successor or transferee of the federal interest in the subject Project Property, and (b) obtaining consent to the sale or transfer from NTIA. NTIA will provide additional information concerning the review and approval process for transactions involving Project Property in subsequent guidance.
- C2.3. The Subrecipient must notify the Commission upon the filing of a petition under the U.S. Bankruptcy Code, whether voluntary or involuntary, with respect to the Subrecipient or any affiliate that would impact the Subrecipient’s ability to perform in accordance with its Grant Award.

### **C3.0. Liens and Other Notice Records**

Subrecipients must record liens or other appropriate notices of record, acceptable in form and substance to the Commission, to indicate that Project Property related to this Grant Award and that use, and disposition conditions apply to the property.

### **C4.0. Project Property**

The Subrecipient may encumber Project Property only after provision of notice to the Commission, and subject to a requirement that the DOC receives either a first priority security interest (preferred) or a shared first priority security interest in the Project Property such that, if the Project Property were foreclosed upon and liquidated, the DOC would be entitled to receive,

on a *pari-passu* basis with other first position creditors, the portion of the current fair market value of the property that is equal to the DOC's percentage of contribution to the project costs. NTIA will address the notice requirement for encumbrances in future guidance. The Commission retains the right to request and monitor information regarding encumbrances at any time.

**C5.0. Property Standards**

Pursuant to exceptions approved by the Commission via the OMB as described in the UGPN, the property standards set forth in 2 CFR §§ 200.314 and 315 for supplies and intangible property, respectively, shall not apply to this Agreement.

**C6.0. Beneficiaries**

The Subrecipient must comply with 2 CFR § 200.316. Pursuant to this section and in recognition that the BEAD Program is being executed for the benefit of the public being served by the broadband infrastructure projects, for the duration of the Federal Interest Period, the Subrecipient must hold Project Property in trust for the beneficiaries of the BEAD broadband infrastructure project.

**C7.0. Federally Owned Real Property or Equipment**

The Subrecipient must comply with 2 CFR § 200.312 to the extent any federally owned Real Property or equipment is used by the Subrecipient.

**C8.0. Covenant of Purpose, Use and Ownership**

- C8.1. To document the federal interest in BEAD-funded Real Property, the Subrecipient must prepare and properly record a "Covenant of Purpose, Use and Ownership" (Covenant). The Covenant differs from a traditional mortgage lien in that it does not establish a traditional creditor relationship requiring the periodic repayment of principal and interest to the Commission or NTIA. Rather, pursuant to the Covenant, the Subrecipient acknowledges that it holds title to the BEAD-funded property in trust for the public purposes of the BEAD Grant Award and agrees, among other commitments, that it will repay the federal interest if it disposes of or alienates an interest in the BEAD-funded property, or uses it in a manner inconsistent with the public purposes of the BEAD Grant Award, during the useful life of the BEAD-funded property. The Covenant must be properly recorded in the Real Property records in the jurisdiction in which the Real Property is located in order to provide public record notice to interested parties that there are certain restrictions on the use and disposition of the BEAD-funded property during its useful life and that NTIA retains an undivided equitable reversionary interest in the BEAD-funded property during the Federal Interest Period.

**C9.0. UCC-1 Filing & Attorney's Certification**

- C9.1. Pursuant to 2 C.F.R. § 200.316, after acquiring all or any portion of the equipment under this award, the Subrecipient shall properly file a UCC-1 with the appropriate state office where the equipment will be located in accordance with the state's Uniform Commercial Code (UCC). This security interest shall be executed in advance of any sale or lease and not later than closeout of the Grant Award. The UCC filing(s) must include the below or substantively similar language providing public notice of the federal interest in the equipment acquired

with BEAD funding. Also, a clear and accurate inventory of the subject equipment must be attached to and filed with the UCC-1.

- C9.2. In addition, within 15 calendar days following the required UCC filing(s), the Subrecipient shall provide the Commission with complete and certified copies of the filed UCC forms and attachments for the equipment acquired with BEAD funds, along with a certification from legal counsel, licensed by the state within which the filings were made.
- C9.3. During the estimated useful life of the Project Property, the Subrecipient shall timely file any necessary UCC-3 continuation statements (or other filings) for the subject equipment consistent with the requirements set forth by the Commission or NTIA. Copies of all filed UCC continuation statements, together with an attorney's certification, must be submitted to the Commission within 15 calendar days following each such filing. The UCC filing(s) and the accompanying attorney's certification(s) must be acceptable in form and in substance to the Commission and NTIA.

**ATTACHMENT D – PROJECT SCOPE**

**ATTACHMENT E – PROJECT BUDGET**