

DISCLAIMER: The **DRAFT** BEAD Program Broadband Deployment Low Earth Orbit (LEO) Capacity GRANT AGREEMENT provided in this document is a DRAFT to be used for planning purposes and information for eligible BEAD applicants. The Wisconsin Broadband Office reserves the right to modify or update this document as necessary to effectuate the goals of the BEAD program and remain compliant with State, Federal or NTIA requirements or for any other reason to administer the BEAD program.

This draft grant agreement was updated on 8/8/2025 to reflect the required changes as a result of the June 6, 2025 BEAD Restructuring Policy Notice.

Consistent with the policy notice, due to the differences between LEO deployments and other broadband technologies that subrecipients will employ, Wisconsin will use this agreement for LEO Capacity Grants for any projects that use a LEO network to deliver last mile broadband service will use a this grant agreement.

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DRAFT BEAD Program Broadband Deployment LEO Capacity Subgrant AGREEMENT

**Between the
PUBLIC SERVICE COMMISSION OF WISCONSIN
and
[RECIPIENT]**

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] (collectively “Parties”) as of Month, DATE, 2025 and shall continue for up to fourteen years which includes 4 years to certify the availability of service followed by a ten year extended period of performance (the “Period of Performance”) for the XX Project (“Project”).

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 Period of Performance 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 Subrecipient and the Commission and contains the entire understanding between the Parties;

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

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

- 1) Terms and Conditions Applicable to BEAD Grant Awards
- 2) Attachment A: BEAD Network Deployment, Performance and Service Requirements; Related remedies and penalties; Reporting Requirements
- 3) Attachment B: Environmental and Historic Preservation Review and General NEPA Compliance
- 4) Attachment C: Project Scope of Work
- 5) Attachment D: Project Budget

[SUBRECIPIENT]

PUBLIC SERVICE COMMISSION OF WISCONSIN

BY: _____
[SIGNATURE]
[TYPE NAME]

BY: _____
[SIGNATURE]
Joe Fontaine

TITLE: [TITLE]

TITLE: Administrator, Division of Digital Access,
Consumer and Environmental Affairs

ADDRESS: [ADDRESS]

ADDRESS: North Tower, 6th Floor
Hill Farms State Office Building
4822 Madison Yards Way
Madison, WI 53705
(608) 266-5481

DATE: _____
[DATE]

DATE: _____
[DATE]

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BEAD FEDERAL SUBAWARD REQUIRED INFORMATION

2 CFR 200.332(a)(1) Federal Award Identification.	
(i) Subrecipient name (which must match the name associated with its unique entity identifier);	[Subrecipient name]
(ii) Subrecipient's unique entity identifier;	UIN Number or CAGE Code: [UIN, CAGE]
(iii) Federal Award Identification Number (FAIN);	
(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;	Federal Awarding Agency: United States Department of Commerce National Telecommunications Information Administration Eligible Entity: Public Service Commission of Wisconsin Eligible Entity Contact Information: Joe Fontaine, Administrator Division of Digital Access, Consumer, and Environmental Affairs email: Joe.Fontaine@wisconsin.gov phone: (608) 266-0910
(xii) Assistance Listing Number and Title;	Assistance Listing Number and Title: 11.035
(xiii) Identification of whether the award is R&D; and	This award does not support research and development (R&D).
(xiv) Indirect cost rate for the Federal award (including if the de minimis rate is charged per §200.414 Indirect (F&A) costs).	N/A

TERMS AND CONDITIONS APPLICABLE TO BEAD GRANT AWARDS

1. **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 this request for grant applications.
- 1.4. **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.

Broadband Service for the purpose of BEAD is service that meets the following criteria: 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. 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.

- 1.5. **Community Anchor Institution** "the term '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. Per the NTIA FAQ version 12, 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.
- 1.6. **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](#).
- 1.7. **Contractor** means a dealer, distributor, merchant 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 (vendor) is provided in [2 CFR § 200.331](#).

- 1.8. **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).
- 1.9. **Cooperative** means an entity incorporated under Chapter 185 of Wisconsin Statutes.
- 1.10. **Eligible Costs** mean those costs incurred and previously paid by Subrecipient for the project that are not covered by any other federal or state funding, can be audited by the Commission, are directly attributable to activities identified in Attachment D-Project Scope of Work, and are identified in Attachment E-Project Budget, subject to any Amendments to this Agreement. All Eligible Costs must be reasonable, necessary, allocable, and allowable for the proposed project or other eligible activity and conform to generally accepted accounting principles. Costs may be incurred starting August 1, 2024, but are limited to eligible costs and must be compliant with National Environmental Policy Act (NEPA) allowable costs. A Subrecipient may not incur implementation costs prior to NEPA review.
- 1.11. **Execution Date** means the date of the last signature when all parties have executed this Agreement.
- 1.12. **Fixed Amount Subaward** means a type of grant under which the Federal Awarding Agency or pass-through entity 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 [“BEAD Policy Notice of Part 200 Exceptions”](#))
- 1.13. **Grant Agreement** means the BEAD Program Broadband Deployment agreement between the Public Service Commission and [Recipient].
- 1.14. **Grant Award** means the funds awarded to Subrecipient for the Project identified in Attachment D – Project Scope of Work, including any specified other terms and conditions that apply to a specific awarded Grant Application. 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 may specify an award amount and other terms and conditions that are different from, or in addition to, those proposed in the Grant Application, including modifications proposed by a Subrecipient during a comment period.
- 1.15. **Grantee, Subrecipient, Grant Recipient or Awardee** means an entity that has entered into a Grant Agreement with the Commission. The entity is considered a subrecipient under 2 CFR § 200.
- 1.16. **Subrecipient Personnel** means employees, agents, or any other staff or personnel acting on behalf of or at the direction of Subrecipient or any Subrecipient Contractor performing or providing the Project under this Agreement.
- 1.17. **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.”
- 1.18. **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.

- 1.19. **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 Broadband Equity Access and Deployment (BEAD) Program to be analyzed for potential environmental impacts before infrastructure deployment can begin.
- 1.20. **National Telecommunications and Information Administration (NTIA)** is the entity within the United States Department of Commerce that administers the BEAD Program grant.
- 1.21. **Period of Performance** means the period of performance in the Grant Agreement. LEO Capacity Subgrants require a Period of Performance that includes up to four years to certify service followed by ten years of performance. The period of performance concludes ten years from the date upon which Commission accepts the certifications by the subgrantee that broadband is available to every location covered by the project. Recipients of LEO Capacity Subgrants must continue to offer access to broadband service to each BSL served by the project throughout the period of performance.
- 1.22. **Performance Standards** means the obligations for Subrecipients deploying network projects as outlined in the BEAD NOFO and BEAD Restructuring Policy Notice (<https://www.ntia.gov/sites/default/files/2025-06/bead-restructuring-policy-notice.pdf>).
- 1.23. **Protected Personally Identifiable Information (Protected 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.
- 1.24. **Project** means the project or activities described in Attachment D – Project Scope of Work.
- 1.25. **Project Unit** means a group of BSLs completed together as part of a project. The assignment of BSLs to project units is determined by the Commission.
- 1.26. **Real Property** means land, including land improvements, structures, and appurtenances thereto, but excludes moveable machinery and equipment.
- 1.27. **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.
- 1.28. **Served** means a location that can receive a 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 including for subscribers that do not wish to self install.
- 1.29. **State** means the State of Wisconsin and includes the Public Service Commission.
- 1.30. **Subsidiary** is an entity in which another entity (example, a parent or holding company) has a controlling share.
- 1.31. **Total Award** means the total dollar amount approved for the Grant Award.

- 1.32. **Underserved locations** are locations that lack a reliable broadband service offering of speeds of 100 Mbps download and 20 Mbps upload from a wireline or fixed wireless technology.
- 1.33. **Unservd 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. 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. Build America, Buy America

- 3.1. Congress passed the Build America, Buy America Act (BABA) on November 15, 2021, as part of the Infrastructure Investment and Jobs Act, Pub. L. 117-58, 135 Stat. 429, 70901-70927. BABA established domestic content procurement preference requirements for Federal financial assistance projects for infrastructure, including the BEAD Program, consistent with Section 70912(2) of the Infrastructure Act.
- 3.2. Subrecipient shall comply with BABA consistent with applicable legal authorities, such as the Infrastructure Act, Executive Order 14005, 2 CFR Part 184, 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>.

4. Documentation of Evidence of Costs

- 4.1. 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 “Policy Notice: Tailoring the Application of 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 in Section 5.2.
- 4.2. The Disbursement milestones may be modified by amending this Grant Agreement.
- 4.3. Eligible costs can be incurred as early as August 1, 2024, through the end of the Period of Performance.

- 4.4. No Grant Award funds 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.
- 4.5. No Grant funds will be disbursed for any implementation activities prior to all necessary environmental and historic review approvals related to NEPA Compliance (Attachment B).
- 4.6. No Grant funds will be disbursed to recover costs to comply with the regulatory burdens eliminated in the June 6, 0225 BEAD Restructuring Policy Notice.
- 4.7. The Grant Award is exclusive funding and will be used only for the Project indicated in the project scope. The Subrecipient must not apply funds authorized by the Grant Agreement to activities authorized under other grant awards.
- 4.8. The Subrecipient must prepare and submit to the Commission Evidence of Costs using the PSC Grants System or other means as directed by the Commission.
- 4.9. Each submission submitted through the PSC Grants System will contain an attestation certifying the evidence is accurate and in compliance with federal and state law.
- 4.10. Grant recipient must complete a certification form for each affiliate/subsidiary that has planned eligible, allocable and allowable costs for the work outlined in a grant agreement scope of work.
- 4.11. Upon satisfaction by Commission of the requirements this grant agreement, the Commission will disburse funds to Subrecipient for Eligible Costs in a total amount not to exceed the Total Award.
- 4.12. Only Eligible Costs as determined by the Commission may be reimbursed.
- 4.13. The Subrecipient must submit evidence of costs, that document actual costs paid.
 - 4.13.1. The invoice or other written support, specified by the Commission, will document the actual purchase price of the Eligible Cost item. Reimbursement will only be granted up to and including the actual paid purchase price of the item. Any Evidence of Costs must be accompanied by written support of Eligible Costs, including internal accounting records or contracts, as appropriate or when requested by the Commission. A Request for Payment must provide an independent and auditable basis for the actual purchase price of each Eligible Cost item.
 - 4.13.2. 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 contributed by employee class (e.g., engineer, construction worker, instructor, IT support, or assistive technology expert) that worked on the project, the date(s) that the work was done, and the total labor expense reported. Labor expense is limited to actual payroll and fringe benefit costs. 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.
 - 4.13.3. For Eligible Cost items that do not have a transaction invoice or record and do not fall under the labor expenses addressed in Section 4.11.2 above, Subrecipient must, with prior

authorization from the Commission, submit a narrative description of the Eligible Cost along with any relevant documentation in lieu of an invoice.

- 4.13.4. For Eligible Cost items incurred by Subrecipient Contractors, an executed contract that includes pricing, scope of work, signature(s) and date must be provided to the Commission upon request. The Commission may refuse payment for contractual costs incurred without an executed contract.
- 4.14. The Commission may delay payment until sufficient documentation of costs and achievement of the project milestone, project status reporting, geospatial data, or other project information as determined by the Commission is provided by Subrecipient.
- 4.15. The Subrecipient must submit all required documentation to the Commission within 60 days of completion of Period of Performance.
- 4.16. 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 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 of facilities in the performance bond.
- 4.17. 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. 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.
- 4.18. 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:
 - 4.18.1. 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.)
 - 4.18.2. A profit, fee, or other incremental charge above actual cost incurred by an 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.

- 4.18.3. Prohibition on Use of Grant Funds to Support or Oppose Collective Bargaining. The Subrecipient may not use grant funds, whether directly or indirectly, to support or oppose collective bargaining.

Disbursement Milestones Table

Milestone	Description	Disbursement (percent of award)	Maximum Cumulative Disbursement (percent of award)
1	Subrecipient and Commission enter into a fully executed Grant Agreement which includes approval of scope of work, project budget, network design, details on the low cost service option and any timelines AND Subrecipient provides evidence of actual project costs that equal or exceed 10% of the total award.	10%	10%
2	Subrecipient provides proof that all required permits have been applied for, that substantial and timely progress has been made towards NEPA review and approval AND Subrecipient provides evidence of actual project costs that equal or exceed 20% of the total award.	10%	20%
3	Subrecipient has received NEPA approval and is authorized to begin implementation and documents that implementation has begun AND Subrecipient provides evidence of actual project costs that equal or exceed 30% of the total award AND Subrecipient provides documentation of 25% of the required matching funds.	10%	30%
4	Subrecipient submits certification request to the Commission that it can initiate broadband service within 10 business days to every covered BSL in the project area with no charges or delay attributable to the extension of service including for subscribers that do not wish to self install AND Subrecipient provides evidence of actual project costs that equal or exceed 40% of the total award AND Subrecipient provides documentation of 50% of required matching funds.	10%	40%
5	Commission reviews and approves the request to certify, including the completion of any initial performance monitoring or network performance testing AND Subrecipient provides evidence of actual costs that equal or exceed 50% of the total award AND Subrecipient provides documentation of 75% of required matching funds.	10%	50%
6	Subrecipient provides documentation that 10% of the BSLs in the project area have subscribed to service after the date that the subrecipient submitted their request to certify the project AND Subrecipient provides evidence	10%	60%

	of actual costs that equal or exceed 60% of the total award.		
7	Subrecipient provides documentation that 20% of the BSLs in the project area have subscribed to service after the date that the subrecipient submitted their request to certify the project AND Subrecipient provides evidence of actual costs that equal or exceed 70% of the total award.	10%	70%
8	Subrecipient provides documentation that 25% of the BSLs in the project area have subscribed to service after the date that the subrecipient submitted their request to certify the project AND Subrecipient provides evidence of actual costs that equal or exceed 80% of the total award.	10%	80%
9	Subrecipient provides documentation that 40% of the BSLs in the project area have subscribed to service after the date that the subrecipient submitted their request to certify the project AND Subrecipient provides evidence of actual costs that equal or exceed 90% of the total award AND Subrecipient provides documentation of 100% of required matching funds.	10%	90%
10	Subrecipient provides documentation that 50% of the BSLs in the project area have subscribed to service after the date that the subrecipient submitted their request to certify the project AND Subrecipient provides evidence of actual costs that equal or exceed 100% of the total award AND period of performance is complete AND all grant close out reports have been submitted.	10%	100%

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

- 5.1. Per the BEAD Notice of Funding Opportunity (NOFO) Section IVD.2.a.ii page 72 and consistent with the NTIA Notice of Programmatic Waiver issued on October, 23, 2023 titled “BEAD Letter of Credit Waiver” the Commission shall require all Subrecipients prior to entering into the grant agreement to obtain an irrevocable standby letter of credit using a model provided by the Commission or a performance bond and in compliance with BEAD NOFO and waiver that is equal to or exceeding 10 percent of the total award amount in the grant agreement.
- 5.2. 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.
- 5.3. The Subrecipient may reduce its Letter of Credit or performance bond by 50% at the point of certification that service is available to each location in the project area (Milestone 4). The Letter of Credit can be reduced by an additional 25% of the original amount after the subscription rate reaches at least 25% of all locations in the project area (Milestone 8) and may be closed out once the subscription rate reaches 50 percent (Milestone 10).
- 5.4. Regardless of the subscription rate, the Letter of Credit may be terminated four years after the LEO Capacity Subgrantee certifies that it can initiate broadband service within 10 business days

of a request with no charges or delays attributable to the extension of the network of the provider including for subscribers that do not wish to self install, to any covered BSL in the project area.

- 5.5. Subrecipient must request and receive Commission certification of service requirements for reduction and termination of Letter of Credit prior to pursuing reductions or termination.

6. Audit Requirement

- 6.1. 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 issues 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 as defined by 2 CFR § 200.501 (currently \$750,000 or more in expenditures) during the non-federal Subrecipient's fiscal year in Federal awards 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 Commission following the same timeline outlined in 2 CFR § 200.512(a)(1), unless waived by the Commission.
- 6.2. All other Subrecipients (including commercial entities) shall submit an audit of the Grant Award in accordance with the Wisconsin State Single Audit Guideline requirements upon request from the Commission.
- 6.3. Methods to ensure compliance for Federal awards made to Subrecipients may include pre-award audits, risk assessments, monitoring during the agreement, post- award audits, and any other methods deemed necessary by the Commission.
- 6.4. The Subrecipient must submit an agreed upon procedures audit upon request from the Commission. 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 requirements.
- 6.5. For Subrecipients required to comply with the Single Audit Act Amendments of 1996, submit one copy of the audit to the email address PSCBEADGrants@wisconsin.gov within 90 days of the date of the audit. Additionally, Subrecipient must submit responses and corrective actions to be taken by management regarding any findings or comments issued by the auditor. If Subrecipient has had an audit at any point outside of the Commission Grant Award, Subrecipient must share the results of that audit with the Commission to the email address PSCBEADGrants@wisconsin.gov along with any corrective actions to be taken, and any findings or comments issued by the auditor.

7. Recordkeeping, Examination of Records, Inventory and Facilities

- 7.1. 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 Subrecipient involving activities relating to a Grant Award, including any agreements or memoranda of understanding with any partners or Subrecipient Contractors related to the project or fiscal management of the award. The Commission or a contractor of the Commission will have access at any time 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.

- 7.2. 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 computer file as may be requested by the Commission.
- 7.3. Subrecipient must retain such records and files for the duration of the Performance Period in the project.
- 7.4. Subrecipient is responsible for any charges for copies provided by Subrecipient to the Commission of books, documents, papers, records, computer files or computer printouts.
- 7.5. The Commission retains the right to request information regarding BEAD-funded property at any time during the Period of Performance to monitor that property use is in compliance with the terms and conditions in the grant agreement.
- 7.6. The minimum acceptable financial records for a Grant Award consist of:
 - 7.6.1. Documentation of employee time and compensation;
 - 7.6.2. Documentation of all equipment, materials, contracted labor, supplies and travel expenses, including purchasing records and procedures;
 - 7.6.3. Inventory records and supporting documentation for allowable equipment purchased to carry out the project scope, as may be amended;
 - 7.6.4. Documentation and justification of methodology used in any in-kind contributions;
 - 7.6.5. Rationale supporting allocation of space charges;
 - 7.6.6. Documentation of agreement services and materials; and
 - 7.6.7. Any other records that support charges to a Grant Award.
- 7.7. 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.
- 7.8. The Commission will schedule a final inspection for each broadband infrastructure project and other construction activities when all construction has been completed, the architect/engineer has conducted its own final inspection, and any deficiencies have been corrected. Representatives of the Commission, the architect/engineer, and the Subrecipient and/or contractor(s) will attend the Commission's final inspection for each project. The PSC is required to give NTIA reasonable advance notice of each final inspection so that a representative of NTIA may participate.

8. Compliance with Law, Guidance, Rules, and Regulations

- 8.1. 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.

- 8.2. 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.
- 8.3. Subrecipient shall require any Subrecipient Contractor and Subrecipient Personnel used by Subrecipient in the performance of the Agreement to certify, agree to, and be subject to and bound by each of the following requirements listed below. Within 15 working days after the Execution Date, Subrecipient must submit an attestation to the Commission, attesting compliance with Sections 8.3.1, 8.3.2, and 8.3.3 of the Agreement, in the format specified by the Commission.
 - 8.3.1. 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.
 - 8.3.2. 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.
 - 8.3.3. OSHA. 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.
- 8.4. 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 C.F.R. provisions relating to internal controls, subrecipient monitoring and management, and audit requirements that apply to the Commission and thereby Subrecipients or contractors 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:

- 8.4.1. [Infrastructure Investment Act of 2021](#) also known as the Bipartisan Infrastructure Law.
- 8.4.2. [General BEAD guidance](#), including any FAQs, updates or changes thereto ("BEAD Guidance").
- 8.4.3. [BEAD Notice of Funding Opportunity](#).
- 8.4.4. [BEAD Award Terms and Conditions](#).
- 8.4.5. [BEAD Restructuring Policy Notice](#).
- 8.4.6. Department of Commerce Financial Assistance [Standard Terms and Conditions](#).

9. Insurance Requirements

- 9.1. 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.
 - 9.1.1. The Subrecipient shall maintain Worker's Compensation as required by Wisconsin Statutes, for all employees engaged in work.
 - 9.1.2. The Subrecipient shall maintain commercial liability, bodily injury and property damage insurance against all claim(s) which might occur in carrying out this Agreement. Minimum coverage shall be one million dollars liability for bodily injury and property damage including products liability and completed operations.
 - 9.1.3. The Subrecipient shall maintain motor vehicle insurance for all owned, non-owned and hired vehicles that are used in carrying out this Agreement. Minimum coverage shall be one million dollars per occurrence combined single limit for automobile liability and property damage.

10. Indemnification

- 10.1. 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. 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 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.

- 10.2. The Subrecipient must also hold the Commission harmless for any audit disallowance irrespective of whether the audit is ordered by federal or state agencies or by the courts. If an audit is required by federal law and if the Subrecipient is also the recipient of Commission funds under the same or a separate contract program, then the Commission-funded programs must also be included in the scope of the federally required audit.

11. Severability

- 11.1. 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.

12. Sovereign Immunity

- 12.1. 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.

13. Attorney's Fees and Expenses

- 13.1. 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.

14. Disclosure

- 14.1. If a state public official (Wis. Stat. § 19.42), a member of a state public official's immediate family, or any organization in which a state public official or member of the official's immediate family owns or controls a ten percent interest, is a party to this Agreement, and if this Agreement involves payment of more than \$3,000 within a 12-month period, this contract is voidable by the state unless appropriate disclosure is made according to Wis. Stat. § 19.45(6), before signing this Agreement. Disclosure must be made to the State of Wisconsin Ethics Board, 44 East Mifflin Street, Suite 601, Madison, Wisconsin 53703 (Telephone 608-266-8123).

15. Vendor Tax, Commission Assessment Delinquency or Unpaid Commission Fines

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

16. Conflicts of Interest

- 16.1. 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, Subrecipient must maintain written standards of conduct covering conflicts of interest in terms of the selections, award, and administration of contracts as provided below.

- 16.2. No Subrecipient employee, officer, or agent may participate in the selection, award, or administration of a contract supported by this Grant Award if he or she has a real or apparent conflict of interest with the Subrecipient that would receive the contract. The officers, employees, and agents of Subrecipient may neither solicit nor accept gratuities, favors, or anything of monetary value from Subrecipient Contractors or parties to subcontracts. However, Subrecipient may set standards for situations in which the financial interest is not substantial, or the gift is an unsolicited item of nominal value.
- 16.3. If Subrecipient has a parent, affiliate, or subsidiary organization that is not a State, local government, or Indian tribe, 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, Subrecipient is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization.

17. Suspension

- 17.1. For cause, and upon notice to 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.

18. Waiver

- 18.1. 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.

19. Assignment and Delegation

- 19.1. The Subrecipient shall not assign its rights hereunder without prior written consent of the Commission and NTIA. Notwithstanding the foregoing, 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 shall provide evidence to the reasonable satisfaction of the Commission of the Affiliate's ability to satisfy the obligations of Subrecipient hereunder.

20. Amendments to the Agreement

- 20.1. 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.
- 20.1.1. Subrecipients must notify the Commission of any proposed changes to the scope, budget, technology, approved design, locations, network performance, or marketing plans as soon as practicable and may only make such changes if the Commission signs an amendment authorizing and memorializing a change. A change in scope may require additional NEPA compliance and review.
- 20.1.2. Any change in the list of expense types as described in the budget.

- 20.1.3. Any change in the project activities, design, technology, scope or performance.
- 20.1.4. Any transfer of funds among cost categories that exceeds or is expected to exceed 10 percent of the approved Award Budget.
- 20.1.5. Any signification changes to the disbursement milestones or timeline.
- 20.1.6. Any request to extend the Performance Period.

21. Change in Funding/Right to Review and Amend

- 21.1. Subrecipient must notify the Commission within 10 days of any change in project funding from local, state, tribal, or federal sources that would overlap with the approved project scope, duplicate, or supplement the cost of construction of any project locations, modify the financing structure, or materially change the scope of the project. The Commission reserves the right to review, amend, or terminate the Agreement should any change in funding occur.

22. Suspension and Debarment

- 22.1. 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.
- 22.2. In the event that Subrecipient becomes aware that a contractor or subcontractor has been debarred, the Subrecipient shall immediately notify the Commission and cease all work with the subcontractor. The Commission retains the right to withhold payments or claw back funds if the Contractor knowingly contracts with a subcontractor that has been debarred.
- 22.3. The Subrecipient asserts that it is not contracting or assigning work subject to this Agreement to any subcontractor that:
 - 22.3.1. Is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal, State, or local department or agency;
 - 22.3.2. Has not 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.
 - 22.3.3. Is not 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 Section 22.3; and has not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or

default. In the event that the Subrecipient becomes aware that a 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 subcontractor. The Commission retains the right to withhold reimbursements or claw back funds if the Subrecipient contracts with a subcontractor that has been debarred or otherwise violates the provisions listed above. The Commission bears no responsibility for subcontractor compliance, performance, or dispute resolution hereunder.

23. Grant Agreement Information and Notices

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

23.2. Any 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

24. Signage and Public Acknowledgements

24.1. Subrecipient is encouraged to post signage and to include public acknowledgements in published and other collateral materials (e.g., press releases, marketing materials, webpages, plaques) satisfactory to the Commission, NTIA and NIST that identifies grant funded activities and indicates that those activities are “funded by the Infrastructure Investment and Jobs Act.” Costs associated with signage and public acknowledgements must be reasonable and limited. Signs or public acknowledgements should not be produced, displayed, or published if doing so results in unreasonable cost, expense, or Subrecipient burden.

25. 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 Subrecipient’s finances and overseeing any contractors, sub-contractors 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 Subrecipient detect any fraud schemes or any other suspicious activity, Subrecipient must contact (a) the Commission point of contact designated this Agreement and (b) the assigned NTIA Federal Program Officer and the Department of Commerce, Office of Inspector General Hotline, as indicated at, as soon as possible.

25.3. Additionally, in accordance with 2 CFR § 200.113, 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 Federal award. 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. Additional Federal Requirements

26.1. Pursuant to the Department of Commerce Financial Assistance Standard Terms and Conditions. Section F.05 states that 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 C.F.R. Part 170, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 170 is hereby incorporated by reference.

26.3. Governmentwide Requirements for Drug-Free Workplace, 31 C.F.R. Part 20.331.

26.4. New Restrictions on Lobbying, 31 C.F.R. Part 21.

26.5. Increasing Seat Belt Use in the United States. Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), Contractor should encourage its contractors to 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. Reducing Text Messaging While Driving. Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Contractor should encourage its employees, Subrecipients, and contractors to adopt and enforce policies that ban text messaging while driving, and Contractor should establish workplace safety policies to decrease accidents caused by distracted drivers.

- 26.7. 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.

27. 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. 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 recoupment 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. Subrecipient Contractors and Subrecipient Personnel 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. 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, Subrecipient must take affirmative action to ensure equal employment opportunities. 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. Contracts 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 Execution Date, Subrecipient must submit all required Affirmative Action paperwork to the Commission, unless compliance eligibility is current as determined by the Commission. Subrecipient shall also submit applicable affirmative action documentation for each Subrecipient Contractor. 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. Grant Recipient 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 C.F.R. Part 5).

28. 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) except for a broadband service providers trade secret and proprietary information, and certain personally identifiable information (PII).
- 28.2. The Subrecipient must submit information including the above exceptions as requested by the Commission. In order 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. The Subrecipient agrees that the Commission determines the final interpretation of what records qualify for an exemption from Public Records Law.

29. 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, 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 Subrecipient wishes to cancel the Project, Subrecipient may submit a written request in the docket underlying the award.
- 29.4. If the Commission grants the request, 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 timely return grant funds, the Commission reserves the right to recover such funds by any other legal means including withdrawing funds from the letter of credit or performance bond.

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, 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

1. Network Capabilities and Access Requirements

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.

- 1.1. Per section Iv.C.2.a.i page 64 of the BEAD NOFO, subrecipients' Funded Networks must deliver 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 to fall at or below 100 milliseconds round trip time.
- 1.2. Per section Iv.C.2.a.i page 64 of the BEAD NOFO, in order to demonstrate continued compliance with standards, subgrantees 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 for a Commission-designated IXP.
- 1.3. Per section IV.C.2.a.ii page 65 of the BEAD NOFO, 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.
- 1.4. 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.
- 1.5. Per Section IV.C.2.c.v of the BEAD NOFO, subrecipients must ensure that their Middle Mile Infrastructure networks funded by BEAD are designed to allow interconnection with other service providers at just, reasonable, and nondiscriminatory rates. Upon Commission request the terms, condition and rates for any interconnection or wholesale access agreements will be required to be submitted to the Commission for review.
- 1.6. Subrecipient must reserve capacity to deliver broadband service that meets the BEAD Performance Standards and technical requirements to each BSL in the project area.
- 1.7. Subrecipient must offer access to broadband service to each BSL served by the project throughout the Period of Performance.

2. Deployment Requirements

Broadband infrastructure deployed or improved with this grant award must meet the following procedural and operational standards for broadband deployment:

- 2.1. 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 subgrant, meeting interim buildout milestones established by the Commission to ensure progress.

- 2.2. 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.
- 2.3. The maximum installation fee charged to a customer getting served through a LEO BEAD funded capacity grant 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. The fee must be the same whether or not the customer elects to self-install or requests professional installation.
- 2.4. The subrecipient must provide all necessary Consumer premises equipment (CPE) at no cost as part of the standard installation for each new subscriber at the BEAD-funded locations throughout the Period of Performance. If the same subscriber requests additional CPE after installation, the LEO Capacity Subgrantee may charge customary rates unless the request is made due to equipment malfunction or damage caused by a weather event.
- 2.5. The standard installation may not require subscribers to make modifications to their own or surrounding property or charge fees for the same in connection with installation of broadband services funded by the BEAD program.

3. Service and Marketing Obligations

Broadband infrastructure deployed or improved with this grant award must meet the following commitments to consumer protection and service accessibility:

- 3.1. 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.
- 3.2. Per Section IV.C.2.c.iv of the BEAD NOFO 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) the Commission retains the right to request subgrantee public notices, campaign or marketing materials, and data related to applications and locations to which broadband service has been provided.

4. BEAD Low-Cost Service Offer (LCSO) Requirements

- 4.1. Per 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. An eligible subscriber means any household seeking to subscribe to broadband internet access service that is eligible for the FCC's Lifeline Program. The LCSO plan must be available to all eligible households in locations reached by the BEAD funded network for the entire Period of Performance 10 years.
- 4.2. The LCSO plan must offer speeds of at least 100/20 Mbps and provide typical latency measurements of no more than 100 milliseconds.
- 4.3. The LCSO plan must be included in public awareness campaigns. The Commission retains the right to request data related to available LCSO plan subscription and enrollment rates during the Period of Performance.

5. Cybersecurity and Supply Chain Risk Management Requirements

- 5.1. Per Section IV.C.2.c.vi – page 70 of the BEAD NOFO Subrecipients must attest to having cybersecurity and supply chain risk management plans in place, that reflect the National Institute of Standards and Technology (NIST) cybersecurity and supply chain risk management framework.
- 5.2. Upon request of the Commission, copies of the Cybersecurity and/or the Supply Chain Risk Management plan will be required to be submitted to the Commission for review.
- 5.3. Subrecipient must submit new versions of these plans to the Commission within 30 days of any updates made by the subgrantee.
- 5.4. The Commission retains the right to require these plans be reevaluated on a periodic basis and/or updated as warranted.

BEAD Reporting and Measurement Requirements

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 in [Draft Performance Measures for BEAD Last-Mile Networks Policy Notice](#) or any successor regulation, for broadband infrastructure projects.

1. **Project Status Reports.** Per BEAD NOFO VII(E)(2) subrecipient must submit semiannual Project Status Reports to the Commission for the duration of the project. Additional reporting requirements may be forthcoming.
 - 1.1. All semiannual status reports must be submitted to the Commission via the Grants Management System using the schedule, templates and questions provide by the Commission.
 - 1.2. All semiannual reports must include an SF-425, Federal Financial Report and meet the requirements described in the Department of Commerce Financial Assistance Standard Terms and Conditions (dated November 12, 2020), Section A.01 for Financial Reports;
 - 1.3. Each report shall describe the project status and/or other eligible activities carried out using the subgrant responding to the questions provided by the Commission and must be certified by the subgrantee that the information in the report is accurate.
 - 1.4. Subgrantees must comply with any other reasonable reporting requirements determined by the Commission to meet the reporting requirements established by the Assistant Secretary;
 - 1.5. Failure to file timely reports may result in required curing, termination of the award and clawback of funds up to the Total Award amount.
2. **Measurement Requirements**
 - 2.1. All subgrantees must collect measurements twice a year during the period of performance and the subsequent Period of Performance.

- 2.2. Every last-mile subgrantee must test a random sample of their active subscribers at the BEAD grant supported customer locations every six months for one week in each committed speed tier and reported to the Commission.
- 2.3. Performance metrics are measured by active measurements devices or software sending packets to servers at the edge of the provider network and must comply with the NTIA performance measurement guidance or subsequent guidance developed by the Commission.
- 2.4. The Commission may require additional testing, may request testing for specific locations, or may require an external firm, contractor or entity selected by the Commission complete the testing or review the testing.
- 2.5. Providers shall report the network reliability or uptime for each technology and speed tier and shall report the violated interval ratio (VIR).
- 2.6. Providers shall supply a count of locations that experienced continuous outage exceeding 8 hours.
3. **Performance Milestone Documentation. Additional requirements will be forthcoming.**
4. **Final Project Status Report. Additional reporting requirements will be forthcoming.**
5. **Post Close status reports. Additional reporting requirements will be forthcoming.**

Remedies and Penalties

1. BEAD Penalties for Non-Performance / Non-Compliance

- 1.1. 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, or delays in reporting, wasteful, fraudulent, or abusive expenditure of award as determined by the Commission. Penalties can include but are not limited to additional award or reporting requirements, required curing, reduction in award amount, suspension of payments, de-obligation or clawback of funds, and debarment from future Commission awards by the entity.
- 1.2. Penalties for Non-performance may extend through the Period of Performance in the BEAD project, 10 years after the certification of service.
- 1.3. 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 provided in the priority broadband project template and included 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.

- 1.4. 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 cost to build or three times the cost per location in the project whichever is greater and reduce the award by the result.
- 1.5. In the case where the funded network fails meet a required speed or latency network standards the subrecipient will be required to improve the network until the minimum performance standards are met or up to the entire award will be forfeited.
- 1.6. In the case where the funded network fails to meet the design, equipment or performance specifications in the priority broadband project template and included 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 to the satisfaction of the Commission or up to the entire award will be forfeited.
- 1.7. Penalties may be waived, altered or increased based on the specific circumstances of the performance or compliance issue.

2. Clawback

- 2.1. 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 Funds 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.

3. Force Majeure

- 3.1. Subrecipient is not required to forfeit the amount of a grant received 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

General NEPA Compliance

1. Subrecipient will not commence implementation and implementation funds will not be disbursed until any and all necessary environmental reviews are complete and NTIA has approved any necessary decision document, except for the limited permissible activities identified below. The following activities must be complete and approved prior to implementation:
 - 1.1. 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;
 - 1.2. 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;
 - 1.3. 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
 - 1.4. Upon request, demonstration of compliance with all other applicable federal, state, county and local environmental laws and regulations.
 - 1.5. 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
 - 1.6. Subrecipient must provide a milestone schedule identifying specific deadlines and describing how 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 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.
 - 1.7. Submit all documents 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).

National Historic Preservation Act Compliance

2. To ensure the timely completion of historic preservation review for all BEAD-funded activities, Subrecipient shall provide the following information to the Commission:
 - 2.1. A detailed project description containing sufficient information. The project description should include the following:
 - 2.1.1. What is being constructed.
 - 2.1.2. A description of where the project is proposed (i.e., address, Township, Range, Section, Latitude/Longitude), and a physical description of the site/route and surrounding area (developed land vs. open space, adjacent natural resources, such as rivers, wetlands, or forests; and any protected lands).
 - 2.1.3. A detailed description of how the project will be implemented, which includes necessary ground disturbance, connected actions, pre-construction preparations, and follow-up activities following the completion of construction.
 - 2.1.4. Project metrics (dimensions, areas, distances, depths, thicknesses, etc.) as applicable.
 - 2.1.5. Any mitigation actions the Subrecipient knows will need to occur to accomplish the project.
 - 2.1.6. Any known permits the Subrecipient will need to acquire prior to beginning project implementation.
 - 2.1.7. If applicable, a decommissioning or maintenance plan regarding the construction project.
 - 2.1.8. A project map showing project boundaries, sites, routes, and activities highlighted and clearly marked per the specifications required by the Commission.
 - 2.1.9. Ground-level photos summarizing the site or route of implementation, key areas of interest, and the topography of the project area.

Further Environmental and Historic Preservation Review Guidance

3. The Parties acknowledge that NTIA will issue further implementation guidance regarding the Commission's and Subrecipient's responsibilities under this condition. 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. 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. 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 described above.

Uses of Award Funds Prior to Implementation

4. 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.
 - 4.1. Pre-construction planning, including collecting information necessary to complete environmental reviews;
 - 4.2. Applications for environmental permits;
 - 4.3. Studies including, but not limited to, Environmental Assessments (EA), wetland delineations, biological assessments, archaeological surveys, and other environmental reviews and analyses;
 - 4.4. Administrative costs;
 - 4.5. Pre-award application costs;
 - 4.6. Activities supporting consultations required under the NHPA, the Endangered Species Act, and the Clean Water Act; and/or
 - 4.7. 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).
5. 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.
6. 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 SHPO, Tribal Historic Preservation Office (THPO), or other consulting party or the USFWS; or notices of noncompliance received from consulting authorities or regulatory agencies.
7. The Parties acknowledge that any change to the approved scope of grant funded activities 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 NTIA and will be re-evaluated for compliance with applicable requirements.

Archaeological Resources

8. 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 are considered confidential data and shall not be shared publicly per Wis. Stat. § 157.70(2)(a) and Wis. Stat. § 44.48(1)(c). 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, 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 and NTIA.

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ATTACHMENT C – PROJECT SCOPE

Documents submitted during the LOI will be incorporated into the scope and statement of work.

Commitments made in the application process including information submitted in the priority broadband project template will be included in the scope. This includes BSLs, technology, network design, listed equipment and performance, low-cost service offering plan details.

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ATTACHMENT D – PROJECT BUDGET

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