

NOTICE OF FUNDING OPPORTUNITY (NOFO) BEAD BENEFIT of the BARGAIN ROUND SUBGRANT AGREEMENT

ISSUED BY: OFFICE OF INFRASTRUCTURE POLICY AND DEVELOPMENT
International Trade Center (ITC) Building 590 S Marine Corps Drive
Ste 122 Tamuning, Guam 96913

PROPOSAL NO: NOFO-OIPD-001-2025
ISSUE DATE: July 31, 2025 **QUESTIONS**
DUE BY: August 7, 2025 **SUBMISSION**
DEADLINE: August 15, 2025

SINGLE POINT OF CONTACT:

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Ricardo J. Bordallo Governor's Complex,

513 West Marine Corps Drive,

Hagåtña, Guam 96910

NAME AND LOCATION OF PROJECT:

BROADBAND EQUITY ACCESS and DEPLOYMENT (BEAD)

BENEFIT OF THE BARGAIN ROUND

DRAFT - FOR REVIEW AND COMMENT

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

This draft Subgrant Agreement is between a chosen Subgrantee and the Office of Infrastructure Policy & Development (OIPD) of the government of Guam. It outlines how Guam's high-speed broadband infrastructure would be funded, installed, run, and maintained with federal BEAD Program monies.

In compliance with the technical, financial, and regulatory requirements specified in the Agreement and its exhibits, the Subgrantee must install and deliver reliable, high-speed internet service to unserved and underserved areas as well as qualified community anchor institutions. In addition to meeting minimal speed and affordability requirements, the project must also adhere to federal and local laws, pass labor and environmental reviews, fulfill comprehensive reporting and performance objectives, and guarantee public awareness and equitable service delivery. In addition, the Subgrantee must provide a low-cost broadband service option, uphold robust cybersecurity procedures, and take part in affordability initiatives.

The Agreement includes strict compliance, documentation, and monitoring requirements. Under the condition that the Subgrantee commit to matching funds, grant funds are awarded on a reimbursement or milestone basis. Prior to the completion of the necessary permissions, environmental assessments, and financial guarantees (like a bond or letter of credit), construction cannot start. In the event of default or noncompliance, OIPD has extensive enforcement authority, which includes the ability to end the contract, recoup money, or demand remedial measures. After a project closeout, some responsibilities, such as property management, affordability alternatives, and service maintenance, can last for up to ten years.

The requirements are intended to guarantee accountability, transparency, and universal broadband service in every Project Area. In order to attain universal broadband coverage in Guam, the Agreement places a high priority on alignment with the objectives of the BEAD Program. The conditions and obligations for installing, running, and maintaining high-speed broadband infrastructure in Guam that is supported by the federal BEAD Program are described in this draft Subgrant Agreement. Project scope, technical requirements, reporting, monitoring, enforcement, adherence to Guam and federal laws, and long-term service commitments are all covered. The conditions are intended to guarantee openness, responsibility, and advancements in universal broadband service in every Project Area.

Please direct comments and questions to:

Guam's Office of Infrastructure Policy & Development

broadband@guam.gov

This is a draft document that may be revised further as part of the BEAD subgrant selection process. Following subgrantee selection and NTIA approval, a single agreement will be completed and signed for each Project Area.

[DRAFT: VERSION 1: 8/19/25]

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DRAFT

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

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

- **Government of Guam’s Office of Infrastructure Policy & Development (OIPD)**
 - Established via Executive Order 2022-11
 - Principal place of business: Ricardo J. Bordallo Governor’s Complex, 513 West Marine Corps Drive, Hagåtña, Guam 96910
 - (hereinafter referred to as “OIPD” or “Grantor”)

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

A. DEFINITIONS

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

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

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

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

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

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

OIPD: The Guam Office of Infrastructure Policy & Development, the administering agency for the BEAD Program within the government of Guam.

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

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

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

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

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

Eligible Entity: The government of Guam, acting through OIPD.

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

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

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

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

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

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

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

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

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

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

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

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

Middle Mile Infrastructure: Any broadband infrastructure that does not connect directly to an end-user location (including CAIs), including assets such as dark fiber, transport,

backhaul, internet exchange facilities, submarine cable landing stations, and undersea cables, as further defined in the BEAD NOFO.

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

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

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

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

Priority Broadband Project: A project that provides broadband service at speeds of no less than 100 megabits per second for downloads and 20 megabits per second for uploads, has a latency less than or equal to 100 milliseconds, and can easily scale speeds over time to meet the evolving connectivity needs of households and businesses and support the deployment of 5G, successor wireless technologies, and other advanced services.

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

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

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

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

Qualifying Broadband Service: Reliable Broadband Service meeting specific speed and latency requirements as defined in the BEAD NOFO and Guam Initial Proposal: for locations other than CAIs, not less than 100 Mbps download / 20 Mbps upload and latency ≤ 100ms; for CAIs, not less than 1 Gbps symmetrical (download/upload) and latency ≤ 100ms.

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

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

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

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

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

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

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

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

USDOC: The United States Department of Commerce.

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

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

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

B. RECITALS

WHEREAS, the government of Guam, acting through the Office of Infrastructure Policy & Development (OIPD), has been designated as the Eligible Entity recipient for funding under the Broadband Equity, Access, and Deployment (BEAD) Program, authorized by the Infrastructure Investment and Jobs Act of 2021 (IIJA), Public Law 117-58, and administered by the National Telecommunications and Information Administration (NTIA) within the U.S. Department of Commerce, for the purpose of expanding reliable and affordable high-speed broadband access throughout Guam by federal funds received through Federal Award Number 66-20-B108;

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

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

WHEREAS, the Subgrantee submitted an Application in response to OIPD's competitive solicitation, proposing a Project aligned with the objectives of the BEAD Program and the Guam Initial Proposal, and was selected by OIPD through said competitive process to receive this Subaward;

WHEREAS, OIPD, as the designated Eligible Entity and administering office for the BEAD Program in Guam, possesses the authority under the IIJA, applicable Guam laws and directives, and its approved Initial Proposal, to issue subgrants to qualified Subgrantees, like the Grantee herein, to implement activities and services described in this Agreement;

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

1. Federal Award Identification

See Attachment XX for Project Description and Award Identification information.

2. General Compliance Requirements, Priority, and Defined Terms

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

- The Infrastructure Investment and Jobs Act (IIJA), Public Law 117-58, including specifically Section 60102 (codified at 47 U.S.C. § 1701 et seq.);

- The Broadband Equity, Access, and Deployment (BEAD) Program Notice of Funding Opportunity (NOFO), Funding Opportunity Number NTIA-BEAD-2022, issued May 13, 2022;
- The U.S. Department of Commerce (USDOC) Financial Assistance Standard Terms and Conditions applicable to the BEAD award;
- The General Terms and Conditions for the BEAD Program issued by NTIA applicable to the award;
- The Specific Award Conditions applicable to Guam's BEAD Award;
- The approved Guam BEAD Initial Proposal (Volumes I and II);
- The Guam BEAD Program Procedures and Guam BEAD Subgrantee Compliance and Reporting Guidance issued by OIPD;
- The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 C.F.R. Part 200, as applicable and potentially modified by the UGPN;
- All other applicable federal, government of Guam, and local laws, regulations, executive orders, and ordinances.

In the event of any conflict between the terms of this Agreement and the authorities identified above, the relevant authorities should be read and interpreted in a manner that emphasizes consistency and harmonization. Where harmonization is impossible, the Parties agree to prioritize following the language contained in these authorities in the following order (from highest to lowest priority):

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

3. Nature of Award

The primary purpose of this Subaward is to provide financial assistance to the Subgrantee for the deployment, operation, and ongoing maintenance of broadband network infrastructure capable of delivering Qualifying Broadband Service to:

1. Unserved Broadband Serviceable Locations ("BSLs"),
2. Underserved BSLs, and/or
3. Eligible Community Anchor Institutions ("CAIs") Unserved Locations
4. Eligible Community Anchor Institutions ("CAIs") Underserved Locations

as identified within the Project Funding Area(s) set forth in the Subgrantee's approved Application (Attachment XX) and in Exhibit XX – Scope of Work.

The Subgrantee shall ensure that the Project delivers Qualifying Broadband Service meeting or exceeding the following minimum technical performance standards, consistent with the BEAD Notice of Funding Opportunity (NOFO), applicable NTIA guidance, and Guam's BEAD Initial Proposal:

- A. Service to End Users (BSLs):
 - 1. Download speed: Not less than 100 Mbps.
 - 2. Upload speed: Not less than 20 Mbps.
 - 3. Latency: Less than or equal to 100 milliseconds.
- B. Service to Eligible CAIs:
 - 1. Download speed: Not less than 1 Gbps.
 - 2. Upload speed: Not less than 1 Gbps.
 - 3. Latency: Less than or equal to 100 milliseconds.

The Subgrantee shall complete a standard installation of Qualifying Broadband Service, at the standard installation charge, within ten (10) business days of receiving a valid service request from any End User or eligible CAI within the Project area(s).

Specific installation, service performance, and timeliness metrics are further detailed in Exhibit XX – Performance Measures.

The Subgrantee acknowledges and agrees that the BEAD Program is federally funded and subject to evolving technological standards, regulatory requirements, and NTIA guidance. Accordingly, performance metrics, reporting obligations, or other requirements under this Agreement may be updated or modified in accordance with applicable law, NTIA guidance, and 2 C.F.R. Part 200. The Subgrantee shall remain in full compliance with all current and future program requirements throughout the Grant Agreement Term, up to and including the Closeout Date.

Certain material obligations of the Subgrantee shall survive the Closeout Date and remain in full force during the Federal Interest Period, including but not limited to: Property standards (Section 8.02), Service availability requirements, Low-cost broadband service options (Section 6.02), Reporting requirements (Section 12), Continuity of service commitments.

In accordance with 2 C.F.R. § 200.333 and NTIA's Uniform Guidance for the BEAD Program (UGPN), BPD may structure this Subaward as a fixed-amount subaward if the Project scope includes specific, measurable performance goals and sufficient cost or pricing data exists to establish a reasonable fixed award amount. If designated as a fixed-amount subaward, the required performance-based milestones and corresponding payment triggers will be set forth in Exhibit XX – Fixed-Amount Subaward Milestones.

Regardless of subaward type, BPD retains the right to monitor, verify, and audit the Subgrantee's progress toward meeting performance requirements and to enforce all terms of this Agreement, including the withholding, suspension, or recovery of funds for noncompliance.

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

4.01 Scope:

- a. Project Definition: The scope of work for the Project funded under this Agreement encompasses the deployment of broadband infrastructure and the provision of Qualifying Broadband Service to: [Insert Number] Unserved Broadband Serviceable Locations ("BSLs"), [Insert Number] Underserved BSLs, [Insert Number/List] eligible Unserved Community Anchor Institutions ("CAIs") and [Insert Number/List] eligible Underserved Community Anchor Institutions ("CAIs") located within the designated Project Funding Area(s) ("PFA") identified as [Insert PFA Name/Identifier(s)].

A detailed description of the PFAs, including geospatial boundaries, individual BSL and CAI locations, network design specifications, and service performance parameters, is set forth in **Exhibit XX** – Scope of Work, and The Subgrantee's approved Application (**Attachment XX**).

Both documents are incorporated by reference into this Agreement and are binding on the Subgrantee.

All work performed under this Agreement shall materially conform to the plans, specifications, timelines, and performance standards established in **Exhibit XX, Attachment XX, and Exhibit XX** – Performance Measures, unless OIPD authorizes a material change in writing in accordance with Section 13.03 – Amendments. The Subgrantee shall not deviate from these requirements without prior written approval from OIPD.

- b. Conditions Precedent to Proceeding: The Subgrantee shall not initiate any activities funded under this Agreement—nor shall OIPD issue authorizations to proceed—until all conditions precedent set forth below are satisfied to the satisfaction of OIPD.
 1. Notice to Proceed with Pre-Implementation Activities (NTPPIA): Prior to commencing eligible pre-construction activities (including final design, engineering, permitting applications, securing Letters of Credit or Performance Bonds, and initiating Environmental and Historic Preservation reviews), the Subgrantee must obtain a written NTPPIA from OIPD.
 - Issuance of the NTPPIA is contingent upon OIPD's review and acceptance of:

- Required Evidentiary Materials as specified in Exhibit XX, including initial project plans, detailed budget breakdowns, and documented procurement policies.
- Verification of the Subgrantee's financial capacity, as determined during the subgrantee selection process and re-verified by OIPD if necessary.
- Cybersecurity Risk Management Plan and Supply Chain Risk Management (SCRM) Plan, meeting the requirements of Section 6.02 and Exhibit XX.
- Evidence of commitment for the required Letter of Credit (LoC) or Performance Bond from an eligible financial institution, consistent with Section 6.02 and Exhibit XX.
- Initiation of all required Environmental and Historic Preservation (EHP) reviews, consistent with Section 7.01 and the Exhibit XX series.

2. Notice to Proceed with Construction (NTPC)

Prior to commencing any physical construction or ground-disturbing activities, the Subgrantee must obtain a written NTPC from OIPD.

Issuance of the NTPC is contingent upon OIPD's review and acceptance of the following, after issuance of the NTPPIA:

- Completion and formal approval of all required EHP reviews by both OIPD and NTIA, including compliance with NEPA and NHPA Section 106.
- Final, certified engineered designs prepared under the direct supervision of a licensed Professional Engineer (P.E.) or other qualified engineer meeting OIPD requirements, consistent with Section 9.03 and Exhibits XX, XX, and XX.
- Final, executed Letter of Credit (LoC) or Performance Bond in the amount and form required by this Agreement.
- Proof of acquisition of all required federal, Guam, and local permits, licenses, easements, pole attachment agreements, and rights-of-way necessary for construction, consistent with Section 7.01 and Exhibit XX.
- Proof of UCC-1 filing documenting the federal interest in all Project Property, as required under Section 8.02 and Exhibit XX.

- c. Build America, Buy America (BABA) Compliance: The Subgrantee acknowledges that funds provided under this Agreement are subject to the Build America, Buy America (BABA) requirements of the Infrastructure Investment and Jobs Act (IIJA), which mandate a preference for domestically produced iron, steel, manufactured products, and construction materials. The Subgrantee shall comply with all BABA requirements as detailed in the BEAD NOFO and 2 C.F.R. Part 184.

1. Guam Waiver Status:

The Department of Commerce has granted a temporary, general applicability public interest waiver of BABA requirements for infrastructure projects located in the U.S. Pacific Island territories, including Guam. This waiver, originally issued on September 1, 2023, was intended to remain in effect for 18 months. While the initial expiration would have been approximately March 1, 2025, the National Telecommunications and Information Administration (NTIA) has indicated that this waiver continues to apply to all BEAD-related projects initiated during the BEAD planning phases.

Subgrantees must consult the most recent guidance from OIPD and NTIA regarding the waiver's applicability to their specific projects. OIPD will inform all Subgrantees of the current status of the waiver. Notwithstanding the waiver, Subgrantees are encouraged to prioritize domestically sourced materials whenever feasible.

2. Compliance Responsibility:

If the waiver expires or is determined not to apply to certain procurements under this Project, the Subgrantee shall be solely responsible for ensuring full compliance with BABA requirements for all procurements funded by this Agreement, including any Matching Funds.

Failure to comply may result in enforcement actions, including disallowance of costs, or recovery ("clawback") of funds from the Subgrantee.

The Subgrantee must maintain complete documentation demonstrating compliance with BABA requirements or the applicability of any waiver for all relevant procurements, and provide such documentation to OIPD upon request.

- d. Public Awareness: The Subgrantee shall conduct public awareness campaigns within the Project Funding Area(s) consistent with Section 6.02(g) of this Agreement and the BEAD NOFO.

Public awareness campaigns shall:

1. Highlight the value and benefits of broadband service, including its role in education, economic development, and public safety.
2. Provide clear information regarding the Low-Cost Broadband Service Option and any available affordability programs.
3. Be conducted in an equitable and nondiscriminatory manner, ensuring access across all communities within the Project area.
4. Utilize diverse media channels and languages appropriate to local demographics to maximize outreach and accessibility.

The Subgrantee shall document all public awareness activities and report them to OIPD as part of ongoing compliance and performance monitoring under this Agreement.

- e. The Subgrantee represents and warrants that it possesses, or will secure, personnel and/or contractors with the necessary qualifications, licenses, certifications, and experience required to perform all services under this Agreement competently and in full compliance with all applicable laws.

The Subgrantee, its employees, and any contractors or subcontractors retained to perform work under this Agreement shall:

1. Be appropriately licensed or certified pursuant to all applicable federal, Guam, and local laws, ordinances, rules, and regulations.
2. Maintain all required credentials throughout the duration of the Agreement.
3. Provide proof of such licensure, certification, or qualifications to OIPD upon request.

The Subgrantee shall ensure that personnel assigned to the Project perform their duties in accordance with professional standards and the specific technical, safety, and regulatory requirements set forth in this Agreement, including all referenced Exhibits and Attachments.

4.02 Budget:

- a. The total approved budget for the Project under this Agreement is [Insert Total Project Budget Amount], which comprises:
 1. [Insert Grant Funds Amount] in Grant Funds provided by OIPD under the BEAD Program, and
 2. [Insert Matching Funds Amount] in required Matching Funds to be provided by the Subgrantee or other eligible sources.
- b. Source and Incorporation of Budget. These amounts are derived from the Subgrantee's approved Application (**Attachment XX**) and are further detailed in **Exhibit XX** – Source of Funds Schedule (the “Budget”), which is incorporated herein by reference.
- c. Budget Detail and Monitoring
 1. The Subgrantee shall ensure the Budget provides sufficient detail, as specified in **Exhibit XX** and the Application or as subsequently requested by OIPD, to serve as a sound basis for monitoring and evaluating the Subgrantee's performance under this Agreement.
 2. The Budget must comply with all requirements of the Infrastructure Investment and Jobs Act (IIJA), the BEAD Program rules and regulations, and any other applicable federal or local standards necessary for the disbursement of Grant Funds.

3. Upon request, OIPD may require a more detailed or supplementary Budget breakdown. The Subgrantee shall provide such additional information in a timely manner, in the form and content prescribed by OIPD.

d. Davis-Bacon Act Applicability

If the Project Budget or Funding Sources detailed in Exhibit XX include federal funds beyond the BEAD award that trigger compliance with the Davis-Bacon Act, then the Project Budget must be based on wage levels required by the Davis-Bacon Act and related regulations.

e. Budget Changes and Transfer of Funds

In accordance with USDOC Standard Terms and Conditions and 2 C.F.R. § 200.308, the Subgrantee must report any deviations from the approved Budget, project scope, or objectives to OIPD. Prior written approval from OIPD is required for the following changes:

1. Any change in the scope or objectives of the Project, even without a budget revision.
2. Changes in key personnel (employees or contractors) identified by name or position in the Application or this Agreement.
3. Disengagement from the Project for more than three (3) months, or a 25% reduction in time devoted to the Project by the approved project director or principal investigator.
4. The transfer of funds budgeted for participant support costs, as defined in 2 C.F.R. § 200.1, to other budget categories.
5. Undertaking any subaward, transfer, or contracting out of work under this Agreement that was not proposed and approved in the Application, unless made in accordance with 2 C.F.R. § 200.308(c)(6).
6. The need for additional federal funding to complete the Project.
7. The transfer of funds budgeted for indirect costs to absorb increases in direct costs, or vice versa, if prior approval is required by this Agreement or applicable regulations.
8. Transferring funds between construction and non-construction work under this federal award.

The Subgrantee shall maintain accurate and complete documentation supporting all Budget allocations, expenditures, and approvals, and shall provide such

documentation to OIPD upon request for monitoring, auditing, or reporting purposes.

4.03 Performance Measures:

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

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

a. Specific Performance Metrics (See Exhibits XX & XX)

1. Deployment Milestones and Deadlines

- The Subgrantee must achieve specific, measurable deployment milestones by the dates set forth in Exhibit XX.
- Project construction must be completed, and service must be made available to all customers requesting broadband within the Project area no later than four (4) years after the Grant Date, unless a written extension is granted by OIPD and NTIA pursuant to Section 5 and BEAD NOFO requirements.
- Timely achievement of milestones is mandatory and serves as the basis for payment under this fixed-amount Subaward.

2. Broadband Service Standards

- The Subgrantee must deploy a network capable of providing, and offer, Qualifying Broadband Servicemeeting or exceeding the minimum speed and latency requirements defined in Section 3:
 - BSLs: 100/20 Mbps, ≤100ms latency
 - CAIs: 1 Gbps symmetrical, ≤100ms latency
- Compliance will be verified through speed and latency testing per protocols in Exhibit XX and consistent with FCC standards.
- Test data must be retained for the Federal Interest Period, and OIPD may request data at any time.

3. Installation Timeframes

- Standard installation of service must occur within ten (10) business days of a valid request from an End User or eligible CAI, consistent with Section 3 and Exhibit XX.

4. Network Reliability and Outages

- Network outages shall not exceed, on average, 48 hours over any 365-day period, excluding documented force majeure events.
- Compliance will be measured using metrics in Exhibit XX, which may include uptime percentages.

5. Conduit or Infrastructure Access

- For deployments involving underground or aerial infrastructure, Subgrantee must provide interspersed access points or other design features at regular intervals suitable for interconnection by unaffiliated entities, and must deploy reasonable excess capacity, consistent with BEAD NOFO and Exhibit XX.

6. Reporting

- a. The Subgrantee must submit timely and accurate reports according to Exhibit XX (Reporting Requirements List & Quarterly Project and Expenditure Report) and any additional reporting directives issued by OIPD or NTIA.

- b. Resilient Network Deployment

1. The Project must deploy broadband infrastructure designed to provide reliable, resilient service capable of withstanding local environmental conditions, including typhoons, consistent with the Subgrantee's approved Application (Attachment XX), Exhibit XX (Scope of Work), and Guam's infrastructure resilience objectives.
2. The Subgrantee recognizes the vital role Guam plays in the Pacific and in the U.S. military's overall defense. Guam's communications systems are a critical U.S. asset, and as such, the planning, implementation, and operation of broadband infrastructure provided under this Agreement must support its security, preparedness, and resilience. In order to guarantee compliance with national security directives, cybersecurity requirements, and continuity of operations planning, the Subgrantee will coordinate with relevant government of Guam departments and federal partners as needed and instructed by OIPD.
3. Any significant deviation from the deployment approach described in the Application or Exhibit XX requires prior written approval from OIPD pursuant to Section 13.03 (Modifications).
4. The Subgrantee shall maintain and operate the Project in accordance with this subsection throughout the Period of Performance and the Federal Interest Period, ensuring continuity of service that supports both civilian and defense readiness in Guam.

- c. Monitoring

1. OIPD will conduct ongoing monitoring of the Subgrantee's activities and progress toward Performance Measures and milestones.
 2. Monitoring methods may include desk reviews, site visits, inspections, financial record reviews, and requests for specific data.
 3. OIPD will provide reasonable advance notice (typically 14 days) for monitoring activities unless exigent circumstances exist.
 4. Subgrantee shall make all relevant records, data, personnel, and sites available to OIPD or its authorized representatives throughout the performance and Federal Interest Period.
- d. Inspection and Testing of Materials
1. All materials and equipment must be inspected and tested per accepted industry standards to ensure conformity with specifications and suitability for intended use.
 2. Construction methods must be technically sound, using materials that are approved, codified, recognized, or generally accepted in the design and construction industry.
 3. Documentation of inspections and testing must be cataloged and made available to OIPD upon request.
- e. Final Acceptance Inspection
1. After construction is complete, the Subgrantee's certified professional engineer has conducted a final inspection, and all deficiencies and Project Completion Criteria in Exhibit XX have been addressed, the Subgrantee shall submit written certification to OIPD requesting final acceptance.
 2. OIPD, in coordination with NTIA (if applicable), the Subgrantee, and the Subgrantee's engineer, will schedule and conduct a final inspection prior to final acceptance and closeout.
- f. Energy Efficiency
1. Where feasible, the Subgrantee shall apply design principles to reduce pollution, minimize energy costs, and optimize lifecycle costs associated with Project construction.
- g. Compliance and Enforcement

1. OIPD may take enforcement action if the Subgrantee fails to comply with any applicable requirements of this Agreement, the BEAD NOFO, governing statutes, regulations, or OIPD policies.
2. Typically, OIPD will provide written notice specifying deficiencies and a cure period (e.g., thirty (30) days).
3. If the Subgrantee fails to cure non-compliance within the specified period, OIPD may take one or more enforcement actions under Section 11.04, including:
 - a. Additional monitoring or technical assistance
 - b. Reducing, withholding, or clawing back Grant Funds
 - c. Suspension or termination of the Agreement
 - d. Prohibiting eligibility for future Guam BEAD Program funding until deficiencies are resolved.
 - e. Any remedy available under Guam law.

4.04 Implementation/Construction Measures:

- a. Notice to Proceed with Pre-Implementation Activities (NTPPIA)
 1. The Subgrantee shall not commence implementation activities, and Grant Funds for such activities will not be disbursed, until OIPD issues a written NTPPIA.
 2. Issuance of the NTPPIA is contingent upon satisfaction of the conditions outlined in Section 4.01(b), including OIPD's review and acceptance of required Evidentiary Materials (**Exhibit XX**) and confirmation that any necessary initial environmental review steps are underway.
 3. The NTPPIA authorizes the Subgrantee to begin permissible pre-construction activities, including final Project design, preparing permit applications, logistical planning, EHP consultations, and limited preliminary procurement, consistent with the BEAD NOFO and OIPD guidance.
 4. Undertaking activities beyond those permitted by the NTPPIA prior to receiving a Notice to Proceed with Construction (NTPC) is at the Subgrantee's risk and may result in disallowed costs or other enforcement actions.
- b. Changes to Project Scope
 1. Following completion of Environmental and Historic Preservation (EHP) review, the Subgrantee must seek prior written approval from OIPD for any material changes to the Project Scope or Application pursuant to Section 13.03.

2. OIPD may consult with NTIA as necessary to ensure continued compliance with BEAD Program requirements.
- c. Notice to Proceed with Construction (NTPC)
1. After NTPPIA issuance and satisfaction of all remaining conditions in Section 4.01(b), including completion of EHP reviews and submission of final engineered designs, the Subgrantee must obtain a written NTPC from OIPD before commencing any physical construction or ground-disturbing activities.
 2. To request NTPC, the Subgrantee must provide OIPD with:
 - Copies of all required permits, pole attachment agreements, finalized LoC/Bond, proof of UCC-1 filing, and easements or clearances for work outside public rights-of-way.
 3. Grant funds may only be requested for construction costs incurred after NTPC issuance.
- d. Engineered Design Requirements
1. All designs must follow OIPD guidelines and industry best practices.
 2. Designs must include certifications and checklists in Exhibits XX, XX, and XX.
 3. Final engineered designs submitted for payment requests must be:
 - Prepared under the review of a licensed Professional Engineer (P.E.) or
 - A degreed engineer whose credentials have been presented to and approved by OIPD before submission, and who has significant, verifiable experience developing broadband networks of comparable scope.
- e. Requirements During Construction
1. The Subgrantee shall ensure:
 - Adherence to Project deadlines in Exhibit XX and the four-year completion requirement.
 - Active monitoring of all grant-funded activities, including contractors/subcontractors, to ensure conformity with approved plans and standards.
 - Timely submission of progress reports as required by Exhibit XX.
 - Adequate construction inspection and quality control; obtaining and maintaining all necessary permits and clearances; coordination with relevant agencies (e.g., DEQ, DPW, GWA) as applicable.
 - Prompt payment and documentation of all eligible costs using Award Funds.

- Contractors' and subcontractors' compliance with all applicable federal, Guam, and local requirements, including safety, labor, and environmental regulations.

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

1. Resiliency and Hardening: The Subgrantee shall meet industry-standard network resiliency and risk mitigation practices appropriate for Guam, particularly regarding geographic location, typhoon preparedness and its role in the national defense of the United States of America. Network design and construction must align with Guam hazard mitigation plans, OIPD directives, and applicable national security and cybersecurity standards. Ensure redundancy and survivability of critical broadband facilities to support both civilian and defense readiness. If specific standards cannot be met, the Subgrantee must provide written justification and alternative mitigation proposals for OIPD review. Be consistent with the Subgrantee's approved Application (Attachment XX) and Exhibit XX (Scope of Work).
2. Disaster Recovery and Preventative Maintenance Plans: Prior to commencing network operation, the Subgrantee must develop, submit, and receive OIPD approval for a Disaster Recovery Plan and Preventative Maintenance Plan, identify strategies and procedures for rapid service restoration following disasters or emergencies; incorporate continuity of operations and coordination with relevant government of Guam agencies and federal partners including defense stakeholders as appropriate; establish preventative maintenance schedules, inspections, and upgrades to ensure long-term network reliability, availability, and performance; and be updated periodically as directed by OIPD or in response to significant changes in Guam's hazard mitigation or defense posture.
3. The Subgrantee shall maintain compliance with this subsection throughout the Period of Performance and the Federal Interest Period. OIPD reserves the right to require updates or modifications to resiliency, disaster recovery, and maintenance practices in light of evolving national security, defense, or hazard mitigation priorities affecting Guam.

g. Safety Compliance

1. The Subgrantee must ensure compliance with all applicable safety standards, including:
 - National Electric Code (NEC) and National Electrical Safety Code (NESC)
 - Guam-specific utility rules, including pole attachment safety guidelines issued by the Guam Power Authority (GPA) or other relevant regulatory bodies.

2. In the absence of local guidelines, the most recent NESC edition shall govern relevant work.

h. Public Notice/Acknowledgement

1. The Subgrantee is encouraged to post signage at project sites and include public acknowledgements in published materials (press releases, websites, etc.) indicating that activities are funded by the BEAD Program under the IIJA.
2. Use of the “Investing in America” emblem is recommended in accordance with federal guidelines.
3. Costs for such acknowledgements must be reasonable and limited, and recycled/recovered materials should be used for signage where feasible.

4.05 Certification - Subaward Completion:

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

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

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

4.06 Default and Termination:

a. Termination Due to Changed Circumstances:

Any significant change in Federal and/or Guam law or regulations that materially alters the Subgrantee's required activities under this Agreement, or any substantial change in the availability of funds allocated for this Agreement, shall be grounds for good faith renegotiation of the provisions affected by such change, pursuant to Section 13.03. This includes suspension, termination, or reduction by NTIA/USDOC of the BEAD grant to OIPD under which this Agreement is made. If renegotiation proves unsuccessful within a reasonable timeframe determined by OIPD, either party may terminate this Agreement upon providing thirty (30) calendar days' prior written notice to the other party.

b. Termination for Convenience:

OIPD reserves the right to terminate this Agreement, in whole or in part, for convenience (i.e., for reasons not related to Subgrantee default) at any time upon providing thirty (30) calendar days' prior written notice. Furthermore, prior to the first disbursement of Grant Funds under this Agreement, either party may terminate the Agreement, with or without cause, upon thirty (30) calendar days' prior written notice to the other party.

c. Termination for Cause (Default):

- Events of Default: The occurrence of any of the following constitutes an "Event of Default" by the Subgrantee:
 1. Failure to fulfill in a timely and proper manner any material obligation, covenant, or requirement under this Agreement, including failure to meet critical Performance Measures (Exhibit XX) or Deployment Milestones (Exhibit XX) without an approved extension;
 2. Material breach of any representation or warranty made by the Subgrantee in this Agreement or the Application (Attachment XX);
 3. Failure to comply with applicable Federal, Guam, or local laws, regulations, or grant conditions imposed by NTIA, USDOC, or OIPD;
 4. Failure to comply with a corrective action plan approved by OIPD within the specified timeframe;
 5. Failure to maintain the required Letter of Credit/Performance Bond or necessary insurance coverage;
 6. Misuse or unallowable expenditure of Award Funds;
 7. Failure to submit required reports (Exhibit XX) accurately and timely, or to maintain required records;

8. Insolvency, assignment for the benefit of creditors, or the commencement of bankruptcy proceedings by or against the Subgrantee;
 9. Failure to comply with BABA requirements (if applicable/not waived) or other material procurement standards outlined in Section 8.01; or
 10. Any other material breach of this Agreement not specifically enumerated above.
- Notice and Cure: Upon the occurrence of an Event of Default, OIPD shall typically provide the Subgrantee with a written Notice of Default specifying the nature of the default and demanding that the default be cured within thirty (30) calendar days, or a longer period if specified by OIPD (“Cure Period”).
 - Termination Procedure: If the Subgrantee fails to cure the default to OIPD’s satisfaction within the specified Cure Period, OIPD may, by written notice, terminate this Agreement in whole or in part, effective immediately upon receipt of notice or on a later date as specified. OIPD expressly reserves all other rights and remedies available at law or in equity, including those outlined in Section 11.04.
- d. Consequences of Termination and Stop-Work Orders:
1. Cessation of Work: Upon receipt of a termination notice under Sections 4.06(a), (b), or (c), the Subgrantee shall immediately cease all work under this Agreement (unless otherwise directed by OIPD), take all necessary actions to protect Project Property and records, and cancel outstanding commitments related to the terminated work.
 2. Property and Records Disposal: All Project Property (real property or equipment acquired or improved with Award Funds) and all finished or unfinished documents, data, studies, and reports prepared by the Subgrantee under this Agreement shall be accounted for and disposed of or transferred as directed by OIPD, in coordination with NTIA/USDOC and consistent with federal property management regulations (e.g., 2 C.F.R. §§ 200.311–316) and **Exhibit XX**.
 3. Final Payment: OIPD’s obligation to pay the Subgrantee is limited to allowable, eligible, and documented costs for satisfactory work performed and accepted by OIPD prior to the effective date of termination, subject to availability of funds and OIPD’s right to withhold or offset payments as described herein or in Section 9.05. OIPD shall not be liable for costs incurred after the effective date of termination, lost profits, or other consequential damages.
 4. Subgrantee Liability: Termination does not relieve the Subgrantee of liability for damages sustained by OIPD or the Government of Guam resulting from any breach or default occurring prior to or contributing to termination.

5. **Payment Withholding/Offset:** OIPD may withhold payments due to the Subgrantee under this Agreement or any other agreement with OIPD or the Government of Guam, as necessary to protect OIPD's interests, cover potential damages, or ensure compliance with closeout requirements.
6. **Other Remedies:** In the case of Termination for Cause, OIPD may pursue other remedies outlined in Section 11.04, including clawback of funds.
7. **Stop-Work Orders:** If OIPD determines that conditions exist that endanger performance or pose immediate risks, OIPD may issue a written Stop-Work Order requiring the Subgrantee to suspend all or any part of the work for a period specified by OIPD. The Subgrantee shall resume work only upon written cancellation of the Stop-Work Order. Costs incurred during a Stop-Work period are generally unallowable unless authorized in writing by OIPD.

5. Grant Agreement Term/Period of Performance

This Grant Agreement shall be effective from the Grant Date (as defined in Section A) and shall continue until OIPD's final closeout of this Subaward in accordance with Section 12.04 ("Period of Performance").

Notwithstanding the overall Period of Performance ending upon closeout, the Subgrantee must complete the physical deployment of the broadband network funded under this Agreement and begin providing Qualifying Broadband Service to customers within the Project area no later than four (4) years after the Grant Date.

Progress toward meeting this four-year deployment requirement shall be measured against the specific buildout milestones detailed in **Exhibit XX** (Fixed-Amount Subaward Milestones).

Certain obligations under this Agreement survive the Closeout Date and the end of the Period of Performance. Specifically:

1. Obligations related to the use, management, disposition, and federal interest in Project Property (as detailed in Section 8.02 and **Exhibit XX**), and
2. Certain ongoing service obligations, including the Low-Cost Broadband Service Option commitment (Section 6.02), shall remain in effect throughout the ten (10) year Federal Interest Period. The Federal Interest Period begins upon the acquisition or improvement of Project Property and concludes on December 31 of the tenth calendar year following the year in which the Closeout Date occurs.

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

6. Funding

6.01 Source of Funds:

The funding for this Subaward shall be provided as detailed in **Exhibit XX** – Source of Funds Schedule, which identifies the amounts and sources of both federal Grant Funds under the BEAD Program and any required Matching Funds to be contributed by the Subgrantee or other eligible sources.

All disbursement of Grant Funds and application of Matching Funds must comply with the terms of this Agreement, applicable federal and local laws, and OIPD policies and procedures.

6.02 Conditions for Receipt of Grant Funds/Service Obligations:

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

- a. Service Availability and Installation: The Subgrantee shall provide Qualifying Broadband Service meeting the standards set forth in Section 3 and **Exhibit XX** to all BSLs and CAIs identified in **Exhibit XX** and **Attachment XX**. Standard installation must be performed within ten (10) business days of a valid service request, as detailed in Section 4.03.
- b. Low-Cost Service Option: The low-cost option must meet speed, latency, and reliability requirements consistent with BEAD standards and must abide by the proposal set forth in the subgrant application. The price point must be affordable for low-income households, and align with NTIA guidance. Subgrantees are required to publicize this option clearly so that eligible households are aware of its availability. Compliance is verified as part of subgrant agreements and reporting requirements.
- c. Consumer Protections: No data usage caps shall be imposed on Funded Network service plans. The Subgrantee shall not use unjust or unreasonable network management practices. Compliance shall be certified via regular reporting under **Exhibit XX**.
- d. Access to Service: Broadband services must be made available to each customer within the Project area desiring service on reasonable and non-discriminatory terms.
- e. Public Notice and Awareness Campaigns: Subgrantee shall conduct public awareness campaigns highlighting broadband benefits, the Low-Cost Service Option, and federal subsidies. Materials shall be provided in languages appropriate

- to the community demographics. Upon network deployment in an area, Subgrantee must provide public notice to residents and share it with OIPD.
- f. Interconnection and Wholesale Access (Middle Mile): If Middle Mile Infrastructure is deployed with Grant Funds, Subgrantee must permit other broadband providers to interconnect at technically feasible points on reasonable, non-discriminatory rates and terms. Interconnection agreements must be negotiated in good faith, with status reported via **Exhibit XX**.
 - g. Wholesale Obligation on Default / Continuity of Service: If the Subgrantee cannot continue providing retail service over the Funded Network during the Federal Interest Period, Subgrantee shall, with OIPD and NTIA approval, either (i) sell network capacity on a wholesale basis to other providers or (ii) sell the Funded Network to a qualified provider committed to fulfilling BEAD obligations.
 - h. Cybersecurity and Supply Chain Risk Management (SCRM) Plans:
 - 1. Requirement: Subgrantee must maintain operational Cybersecurity and SCRM plans consistent with BEAD NOFO Section IV.C.2.c.vi and Guam Initial Proposal Section 2.16.4, aligning with NIST frameworks (e.g., NIST Cybersecurity Framework, NISTIR 8276, NIST SP 800-161, EO 14028).
 - 2. Submission & Updates: Plans must be submitted to OIPD for approval prior to the first Grant Funds allocation for deployment and resubmitted within 30 days of substantive changes. Periodic updates are required. Plans must be provided to NTIA upon request, with attestation via **Exhibit XX**.
 - 3. Third-Party Reliance: Subgrantee must obtain attestations from third-party network providers regarding equivalent Cybersecurity and SCRM compliance.
 - i. Financial and Operational Assurances:
 - 1. Financial Qualifications: Subgrantee certifies sufficient financial capability to meet obligations, including funding costs above Grant Funds and covering interim expenses between reimbursements, per Guam Initial Proposal Section 2.4.11.
 - 2. Letter of Credit (LoC) / Performance Bond: Prior to NTPC, Subgrantee must provide an irrevocable standby LoC or Performance Bond acceptable to OIPD, equal to 100% of total Grant Funds, consistent with NTIA waivers and Guam Initial Proposal Section 2.4.11. Eligible institutions and potential milestone-based reductions are detailed in **Exhibit XX**. Legal opinions regarding bankruptcy treatment are required for LoCs.
 - j. Recordation of Federal Interest: Subgrantee must perfect OIPD/USDOC's security interest in Project Property by filing a UCC-1 or equivalent instrument in Guam, as

detailed in Section 8.02 and Exhibit XX. Proof must be submitted to OIPD prior to disbursement for acquisition or improvement of Project Property.

- k. Other Compliance Requirements: Subgrantee must comply with all other requirements in this Agreement and Exhibits, including Labor Practices and Workforce Readiness (Section 7.02, Guam IP Section 2.8) and Procurement Standards with outreach to MBEs and WBEs (Section 8.01, Guam IP Section 2.9).

6.03 Matching Funds:

- a. Requirement: The Subgrantee shall provide non-federal Matching Funds for this Project totaling \$[Insert Match Dollar Amount], which constitutes [Insert Match Percentage]% of the total allowable Project costs specified in Section 6.01. This required match amount is detailed in Exhibit XX (Source of Funds Schedule). OIPD requires a minimum match commitment of not less than twenty-five percent (25%) of total Project costs, unless a waiver has been granted by NTIA and approved by OIPD, or a higher percentage is specified herein based on the Subgrantee's Application.
- b. Permissible Sources: Matching Funds may be provided by the Subgrantee, OIPD (as the Eligible Entity, if applicable and documented), a unit of local government, a utility company, a cooperative, a nonprofit or philanthropic organization, a for-profit company, a regional planning or governmental organization, a federal regional commission or authority, or any combination thereof, consistent with the BEAD NOFO.
- c. Permissible Types & Limitations:
 - 1. Form: Matching contributions may be provided in cash or documented in-kind contributions. In-kind contributions must represent allowable project costs and be valued in accordance with 2 C.F.R. § 200.306. However, OIPD generally requires Matching Funds to be provided in cash. In-kind contributions may be permitted only in limited circumstances (e.g., donated infeasible rights-of-use (IRUs) from utility partners) and require prior written valuation and approval from OIPD before being counted towards the match requirement.
 - 2. Federal Funding Limitations: Funds from most other federal programs, including the FCC's Universal Service Fund programs, may not be used as Matching Funds. Exceptions include funds from a federal regional commission or authority, and funds provided to the Subgrantee or OIPD for deploying broadband service under the Families First Coronavirus Response Act, the CARES Act, the Consolidated Appropriations Act, 2021, or the American Rescue Plan Act of 2021 (including State and Local Fiscal Recovery Funds (SLFRF) and Capital Projects Fund (CPF)), to the extent permitted by those laws and subject to compliance with all requirements associated with both funding sources. Loan funding from a federal agency (e.g., USDA ReConnect) may also be used as a match.

- d. **Record-Keeping and Verification:** The Subgrantee is solely responsible for accurately tracking and documenting all Matching Funds contributions. The subgrantee must maintain detailed, verifiable records supporting the source, amount, timing, and allowability of all Matching Funds (both cash and in-kind, including valuation methodology for in-kind contributions). These records must be maintained in accordance with Section 12.02 of this Agreement and applicable federal regulations (2 C.F.R. Part 200) and must be made available to OIPD, NTIA, and auditors upon request for verification purposes. OIPD will verify match contributions through reviews of reports, supporting documentation, and audits.
- e. **Applicability to Subaward Type:** The requirement to provide and document the specified Matching Funds applies in full regardless of whether this Subaward is structured as a cost-reimbursement or a fixed-amount subaward.
- f. **Fund Utilization:** Grant Funds may be reimbursed on a pro-rata basis alongside documented Matching Funds contributions for eligible expenses incurred, up to the maximum amount of the Grant Funds specified in Exhibit XX.

6.04 Maximum Amount Available:

The total Grant Funds available under this Agreement shall not exceed the amount specified in Exhibit XX. Disbursement of funds will be on a reimbursement basis, consistent with the approved budget. Any changes to the maximum amount available or budget allocations require a written amendment signed by both the Subgrantee and OIPD.

6.05 Subject to Funds Availability:

This Agreement is contingent upon the availability of federal and local funds. OIPD reserves the right to reduce or terminate funding under this Agreement upon written notice to the Subgrantee without constituting a breach of this Agreement or creating any liability for OIPD.

6.06 Program Income:

The Subgrantee may retain any program income generated from activities funded under this Agreement. However, any profits or fees derived from such income shall not be considered allowable costs for purposes of reimbursement under the Grant Funds.

7. Authorizing Statutes and Regulations

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

- a. **Applicable Laws and Agency Coordination:**
The Subgrantee acknowledges that activities funded under this Agreement are subject to the National Environmental Policy Act (NEPA), the National Historic Preservation Act (NHPA), the Endangered Species Act (ESA), and other applicable

federal and Guam environmental and cultural resource laws and regulations. The Subgrantee shall cooperate fully with OIPD and relevant federal and Guam agencies in completing all required environmental and historic preservation reviews.

b. Pre-Construction Requirements:

The Subgrantee must complete and submit to OIPD the environmental checklist and related forms provided in **Exhibit XX** (Environmental Review Forms) and provide any additional information requested by OIPD or NTIA before OIPD will consider issuing a Notice to Proceed with Construction (NTPC). No construction or ground-disturbing activities may commence prior to completion of all required reviews and issuance of the NTPC by OIPD.

c. Regulatory Compliance:

Projects or contracts funded under this Agreement exceeding \$150,000 are subject to the Clean Air Act (42 U.S.C. §§ 7401-7671q) and the Federal Water Pollution Control Act (33 U.S.C. §§ 1251-1387), as amended. The Subgrantee is responsible for ensuring compliance.

d. Guam Permitting Requirements:

The Subgrantee must comply with all applicable permitting requirements of the Government of Guam, including but not limited to permits administered by the Department of Environmental Protection, the Guam Historic Preservation Office, the Department of Public Works, and other relevant agencies. The subgrantee is encouraged to utilize any Guam permitting streamlining processes where applicable. Demonstrated compliance with applicable requirements, as outlined in **Exhibit XX** (Guam Permitting Guidelines), is required before OIPD will issue an NTPC.

e. Limitation on Construction Prior to NTPC:

The Subgrantee and its contractors/subcontractors shall refrain from any physical construction or ground-disturbing activities until OIPD has issued a written NTPC authorizing such activities.

f. Environmental Information Submission:

The Subgrantee shall provide OIPD with all available environmental information related to the Project and any additional information requested by OIPD or NTIA to support environmental reviews under NEPA, NHPA, ESA, or other applicable laws.

g. Notification of Project Changes:

The Subgrantee must promptly notify OIPD in writing of any proposed changes in Project scope or environmental conditions discovered during implementation. Such changes may include new activities, unanticipated alternatives, or discovery of environmental or cultural resources, and may require additional review prior to proceeding.

h. Eminent Domain:

The Subgrantee shall not exercise eminent domain powers to advance the economic interests of private parties in connection with this BEAD-funded Project. Any use of eminent domain to acquire land, easements, or interests in land requires prior written consent from NTIA. Unauthorized use of eminent domain may result in enforcement actions, including disallowance of costs.

- i. Flood Insurance:
For any Project activities within areas identified as having special flood hazards under the Flood Disaster Protection Act of 1973 (42 U.S.C. § 4001 et seq.), the Subgrantee must purchase and maintain flood insurance as required and provide proof to OIPD upon request.

7.02 Labor Practices:

- a. Compliance Obligation:
The Subgrantee shall comply with, and ensure that all of its contractors and subcontractors performing work on the Project comply with, all applicable federal and Guam labor and employment laws and regulations. This includes, but is not limited to, laws concerning wages, hours, overtime, workplace safety and health, non-discrimination, and collective bargaining rights.
- b. Subgrantee Selection Basis:
The Subgrantee acknowledges that its selection for this Subaward was based, in part, on its demonstrated record of past compliance with federal labor and employment laws and its plans to ensure ongoing compliance, as submitted in its Application (Attachment XX). These submissions were required and evaluated consistent with the BEAD NOFO Section IV.C.1.e and the Guam Initial Proposal Section 2.7. The Subgrantee affirms the accuracy of the information provided regarding its past compliance record (including certifications and disclosures of any violations within the preceding three years) and commits to implementing the compliance plans outlined in its Application.
- c. Ongoing Requirements:
Throughout the Period of Performance, the Subgrantee shall:
 - 1. Adhere to the plans submitted in its Application (Attachment XX) for ensuring its own compliance, and that of its contractors and subcontractors, with federal and Guam labor and employment laws.
 - 2. Ensure compliance with applicable wage scale requirements and wage and overtime payment practices for all employees directly involved in the physical construction of the broadband network funded by this Agreement. If the Project utilizes other federal funds that trigger Davis-Bacon Act requirements, the Subgrantee and its contractors/subcontractors must comply fully with those requirements.
 - 3. Implement robust workplace safety programs in compliance with the Occupational Safety and Health Act and any applicable Guam workplace safety regulations. This includes permitting workers to establish worker-led health and safety committees and ensuring management meets with such committees upon reasonable request to address concerns.

4. Utilize an appropriately skilled and credentialed workforce (including employees of contractors and subcontractors) consistent with the commitments made in its Application (Attachment XX) and the goals outlined in the Guam Initial Proposal Section 2.8 (Workforce Readiness).
 5. Take steps to prevent the misclassification of workers, ensuring employees are correctly classified under applicable federal and Guam law.
- d. Procurement Prioritization
- In procuring services from contractors and subcontractors for this Project, the Subgrantee shall prioritize, where feasible, employers with demonstrated high labor standards and a record clear of significant violations of federal or Guam labor and employment laws within the preceding three years. The Subgrantee is also encouraged to prioritize employers utilizing local Guam workers, consistent with the BEAD NOFO.
- e. Monitoring and Enforcement:
- OIPD will monitor the Subgrantee's compliance with these labor practice requirements through reporting (Exhibit XX), site visits, audits, and other methods outlined in Section 11.02. Failure to comply with the requirements of this Section 7.02 may constitute an Event of Default under Section 4.06(c) and subject the Subgrantee to remedies outlined therein and in Section 11.04.

7.03 Labor Reporting:

a. Reporting Threshold:

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

1. Davis-Bacon Compliance:

The Subgrantee must provide one of the following:

a. Certification Option: A certification that, for the Project, all laborers and mechanics employed by contractors and subcontractors in the performance of the Project are paid wages at rates not less than those prevailing, as determined by the U.S. Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code (commonly known as the "Davis-Bacon Act"), for the corresponding classes of laborers and mechanics employed on projects of a character similar to the contract work in the civil subdivision of Guam in which the work is to be performed; OR

b. Project Employment Report Option: If the Subgrantee does not provide the certification above, the Subgrantee must provide a Project employment and local impact report detailing:

- i. The number of employees of contractors and subcontractors working on the Project;
- ii. The number of employees hired directly versus through a third party;
- iii. The wages and benefits of workers on the Project by classification; and
- iv. Whether those wages meet the prevailing rates as determined under the Davis-Bacon Act.

2. Unionization / Project Labor Agreements:

The Subgrantee must provide one of the following:

a. Certification Option: A certification that the Project either will use a unionized workforce or includes a Project Labor Agreement (pre-hire collective bargaining agreement consistent with section 8(f) of the National Labor Relations Act, 29 U.S.C. § 158(f)); OR

b. Workforce Continuity Plan Option: If the certification is not provided, the Subgrantee must submit a Project workforce continuity plan detailing:

- i. Steps to ensure access to a sufficient supply of appropriately skilled and unskilled labor to complete the Project competently, including

descriptions of professional certifications, in-house training, registered apprenticeships, labor-management partnership programs, or partnerships with unions, community colleges, or community-based groups;

- ii. Steps to minimize risks of labor disputes or disruptions that could affect timeliness or cost-effectiveness;
- iii. Measures to ensure a safe and healthy workplace, including relevant training, certifications, licensure (e.g., OSHA 10/30, confined space, traffic control), and resolution of workplace safety committee issues;
- iv. Identification of any subcontracted entities performing work, and the total number of workers employed by such entities, disaggregated by job title; and
- v. Steps to ensure workers receive wages and benefits that secure an appropriately skilled workforce within Guam's labor market.

3. Recordkeeping:

The Subgrantee must maintain sufficient records to substantiate all information submitted under this Section and make such records available to OIPD or NTIA upon request.

8. Procurement and Property Standards

8.01 Procurement Standards:

The Subgrantee shall comply with all applicable federal procurement requirements and Guam laws, as well as BEAD program requirements, in executing this Agreement.

- a. Secure and Trusted Communications Networks Act: The Subgrantee, including its contractors and subcontractors, may not use BEAD grant funds to procure, obtain, extend, or renew any covered communications equipment or service that poses an unacceptable risk to national security, as defined by Section 9 of the Secure and Trusted Communications Networks Act of 2019 (47 U.S.C. § 1608) and 2 C.F.R. § 200.216. The Subgrantee shall refer to the FCC's published "Covered List" for current equipment and services.
- b. Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment: Award Funds may not be used to procure or obtain telecommunications or video surveillance services or equipment from specific entities, as detailed in 2 C.F.R. § 200.216.
- c. Prohibition Regarding the People's Republic of China: The Subgrantee and any contractors or subcontractors may not use BEAD funding to purchase or support fiber optic cable or optical transmission equipment manufactured in the People's Republic of China unless a waiver is obtained from the Assistant Secretary. This requirement is independent of Build America, Buy America (BABA) requirements.

- d. Build America, Buy America Act (BABA) Compliance: The Subgrantee must comply with BABA requirements under the IIJA and implementing regulations (including 2 C.F.R. Part 184), prioritizing domestically produced iron, steel, manufactured products, and construction materials unless a waiver is granted. Guam Subgrantees should follow guidance provided by BPD and NTIA regarding the applicability, scope, and reporting requirements of any current BABA waiver for Pacific Territories. Notwithstanding waivers, Subgrantees are strongly encouraged to use U.S.-made materials whenever feasible. Subgrantees are responsible for documenting compliance or waiver applicability and must maintain required manufacturer certifications and reporting.
- e. Contracting with Small, Minority, Women's, and Labor Surplus Area Businesses (2 C.F.R. § 200.321): The Subgrantee must take affirmative steps to ensure small businesses, minority-owned businesses, women's business enterprises (WBEs), and labor surplus area firms are included in procurement opportunities. Steps include:
 - 1. Placing qualified businesses on solicitation lists;
 - 2. Soliciting them whenever they are potential sources;
 - 3. Dividing total requirements into smaller tasks or quantities to encourage participation;
 - 4. Establishing delivery schedules that encourage participation;
 - 5. Utilizing services of the Small Business Administration and the Minority Business Development Agency; and
 - 6. Requiring contractors to follow the same affirmative steps in subcontracts.
- f. Domestic Preferences for Procurements (2 C.F.R. § 200.322): To the greatest extent practicable, the Subgrantee shall give preference to goods, products, or materials produced in the United States. This requirement is supplemental to BABA requirements and must be included in all subawards, contracts, and purchase orders.
- g. Procurement of Recovered Materials (2 C.F.R. § 200.323): The Subgrantee shall comply with section 6002 of the Solid Waste Disposal Act (42 U.S.C. § 6962), procuring items with the highest percentage of recovered materials practicable and establishing an affirmative procurement program for such materials when purchase thresholds are met.
- h. Required Contract Provisions (2 C.F.R. § 200.327): All contracts funded under this Agreement must contain applicable provisions described in Appendix II to 2 C.F.R. Part 200. The Subgrantee is responsible for determining applicability.
- i. Submission of Procurement Policies: The Subgrantee shall provide a copy of its current procurement policies and procedures with documentation submitted under

Exhibit XX, unless previously accepted by BPD during the application phase. BPD may request documentation for specific subcontractor procurements associated with the Project.

- j. Guam Public Entity Procurement: If the Subgrantee is a Guam public entity (e.g., government department, agency, public corporation, authority, instrumentality, or municipality), it must comply with all applicable Guam procurement laws, regulations, executive orders, and policies, including competitive bidding, contract approval, and bonding requirements, in addition to federal requirements.
- k. Insurance: The Subgrantee must obtain and maintain appropriate insurance coverage to address potential liabilities and risks associated with Project activities. Minimum coverage shall include Workers' Compensation as required under Guam law. BPD may require evidence of specific coverage, such as Commercial General Liability, Professional Liability/Errors & Omissions, Automobile Liability, or Builder's Risk, as specified in **Exhibit XX** or **Exhibit XX**. Subgrantee obligations under this Agreement are not diminished if losses occur that are not covered by insurance, and BPD's payments shall not increase due to uncovered losses.

8.02 Property Standards (Property, Equipment and Supplies):

- a. Procurement Standards Applicability: Pursuant to NTIA guidance, including the Uniform Guidance Policy Notice (UGPN), the Subgrantee is not required to comply with the federal Procurement Standards in 2 C.F.R. §§ 200.318–200.320 and §§ 200.324–200.326 for this BEAD broadband infrastructure deployment Subaward. All other applicable Procurement Standards detailed in Section 8.01 remain in effect.
- b. Useful Life and Federal Interest Period: The Subgrantee acknowledges that the required useful life of Project Property (real property or equipment acquired or improved with Award Funds) coincides with the Federal Interest Period. The Federal Interest Period begins upon acquisition or improvement of the Project Property and continues through the end of the tenth (10th) calendar year following the Closeout Date, unless otherwise specified by NTIA. Obligations regarding Project Property survive the Period of Performance and Closeout Date and remain in effect throughout the Federal Interest Period.
- c. Property Management, Use, and Disposition:
 - 1. Equipment Management: The Subgrantee shall follow its existing commercial practices for managing equipment acquired or improved with Award Funds, including inventory controls indicating federal interest and loss prevention procedures. If no commercial practices exist, Subgrantee must follow 2 C.F.R. § 200.313(d).
 - 2. Use and Disposition: Subgrantee must comply with the use and disposition requirements of 2 C.F.R. §§ 200.313(c)(4) and 200.313(e), as modified by NTIA guidance. Replacement equipment may be treated as a trade-in for valuation purposes, but fair market value must be recorded. The Subgrantee may sell, lease, or transfer Project Property only after:

- Securing the written agreement of the successor or transferee to comply with BEAD Program requirements and acknowledge Federal Interest; and
 - Obtaining prior written consent from the Guam Broadband Program Office (GBPO) and NTIA.
3. Recording Federal Interest: Subgrantee must record liens or other notices acceptable to GBPO and NTIA to indicate federal involvement and applicable conditions on use and disposition. Specific requirements are detailed in **Exhibit XX**. Proof of recordation must be provided to GBPO.
 4. Encumbrances: Subgrantee may encumber Project Property only with prior written notice to GBPO and NTIA and subject to USDOC receiving either a first-priority security interest (preferred) or a shared first-priority interest (pari-passu) proportional to federal contributions.
 5. Supplies and Intangible Property: Except as approved under UGPN, 2 C.F.R. §§ 200.314 (Supplies) and 200.315 (Intangible Property) generally do not apply. The Subgrantee shall follow UGPN and GBPO guidance.
 6. Property Trust Relationship: Subgrantee must hold Project Property in trust for the beneficiaries of the Guam BEAD broadband infrastructure project throughout the Federal Interest Period, consistent with 2 C.F.R. § 200.316.
 7. Insurance: Subgrantee must provide insurance coverage for Project Property equivalent to coverage for property it owns, consistent with 2 C.F.R. § 200.310. Federally-owned property need not be insured unless required by the Award.
 8. Federally-Owned Property: If any federally-owned real property or equipment is used for the Project, Subgrantee must comply with 2 C.F.R. § 200.312.

8.03 Prior Approval for Equipment & Capital Expenditures:

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

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

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

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

9. Payment Terms and Conditions

9.01 Payment Methodology:

- a. The Subgrantee must utilize the Guam Grant Disbursement Request Form (Exhibit XX) to make requests for payment under this Agreement. OIPD will customize this form for the Guam BEAD Program, and it must be accompanied by the documents that OIPD and this Agreement need. The structure of this Subaward determines the base and frequency of payments:
 1. Payments will be made to reimburse the Subgrantee for actual, allowable, documented, and reasonable costs incurred in the performance of approved Project activities during the specified period (usually requested monthly), in accordance with the approved Budget (Exhibit XX), if this Subaward is structured on a cost-reimbursement basis.
 2. For Fixed-Amount Subawards: If this Subaward is structured as a fixed-amount subaward (as potentially indicated in Section 3), payments will be contingent upon the Subgrantee's satisfactory completion and OIPD's verification of specific, measurable milestones defined in Exhibit XX (Milestone Payment Schedule). Payment requests submitted via Exhibit XX must certify the completion of the relevant milestone(s) and be accompanied by supporting documentation as required by OIPD and Exhibit XX. Payments are fixed based on milestone achievement, not actual costs incurred.

9.02 Payment of Invoice/Request:

- a. The Subgrantee must provide the necessary supporting documentation, such as PE-certified engineered designs (or equivalent approved under Section 4.04(d)), relevant to the work performed or milestone achieved, for payment requests related to construction activities (under cost-reimbursement) or certifying completion of construction-related milestones (under fixed-amount), unless OIPD waives in writing for specific non-construction related milestone payments.
- b. After reviewing and approving the submitted payment request (Exhibit XX) and accompanying documentation, OIPD will pay the Subgrantee funds available under this Agreement, ensuring that it complies with the terms of this Agreement, the approved Budget (Exhibit XX), and allowable costs (for cost-reimbursement) or verified milestone completion (for fixed-amount).

- c. Payment of an invoice or milestone request by OIPD shall not prejudice OIPD's right to object to or question any invoice, cost, or matter relating thereto at a later time. Such payment by OIPD shall not be construed as acceptance of any part of the work or service provided, nor as approval of any costs ineligible for reimbursement under the terms of this Agreement or applicable regulations.

9.03 Unallowable Costs:

Payment requests from the Subgrantee may be reduced if OIPD, NTIA, or auditors conclude that amounts contained in previous or current requests do not represent permitted expenses. The Uniform Guidance (2 C.F.R. Part 200), applicable Federal and Guam laws, programmatic rules, evaluations, monitoring, or audits carried out in compliance with this Agreement, or other governing administrative requirements, may serve as the basis for such decisions.

Any payments made for costs that are later found to be unallowable must be reimbursed to OIPD by the Subgrantee.

9.04 Deductions & Withholdings:

- a. If the Subgrantee violates any of the terms of this Agreement or other grant agreements, or if it is required to safeguard the interests of OIPD or the government of Guam, OIPD may withhold payments or deduct amounts from payments that the Subgrantee requests under this Agreement or any other agreement between the Subgrantee and OIPD or the government of Guam.
- b. At OIPD's sole discretion, funds withheld for poor performance or noncompliance with terms and conditions may be released to the Subgrantee upon satisfactory rectification of the condition or factors that led to the withholding.
- c. Retainment: Until the project is finished, OIPD has officially accepted it, and all closeout paperwork and reporting requirements under Section 12.04 have been submitted and approved by OIPD, OIPD will keep 10% of each payment due under this agreement (subject to final OIPD policy confirmation).

10. Standards for Financial Management

10.01 Financial Management System:

- a. As required by 2 C.F.R. § 200.302(b) and §§ 200.334-337, the Subgrantee's financial management system must provide for the following:
 - 1. All Federal awards received and spent, along with the Federal programs for which they were obtained, are listed. The Assistance Listings title and number (BEAD is 11.035), the Federal award identification number (FAIN), the year the Federal award was given to OIPD, the name of the Federal agency (NTIA), and

the pass-through organization (OIPD) must all be included, if appropriate, in the federal program and federal award identification.

2. Complete, accurate, and up-to-date disclosure of this Subaward's financial performance in compliance with the reporting guidelines outlined in Section 12 / **Exhibit XX** of this Agreement and 2 C.F.R. §§ 200.328, 200.329.
 3. Documents that clearly show where money is coming from and how it is being used for federally supported projects. These documents must be accompanied by source paperwork (such as invoices, timesheets, and receipts) and include information about the Subaward, authorizations, obligations, unobligated balances, assets, expenses, revenue, and interest.
 4. Accountability and efficient management of all money, assets, and property. All such assets must be sufficiently protected by the Subgrantee, who must also ensure that they are utilized only for purposes permitted by this Agreement and in accordance with 2 C.F.R. § 200.303 (Internal controls).
 5. Comparison of expenditures with budgeted amounts for this Subaward (**Exhibit XX**).
 6. Written procedures to implement the requirements of 2 C.F.R. § 200.305 (Payment).
 7. Written procedures for determining the allowability of costs in accordance with Subpart E of 2 C.F.R. Part 200 (Cost Principles) and the terms and conditions of this Subaward.
- b. The accounting and financial records of the Subgrantee related to this Agreement shall support closeout of the Subaward at the conclusion of the Period of Performance and enable correct reporting, identifying any surplus revenues above Project expenditures.

10.02 Cost Principles:

- a. The Subgrantee understands and consents that Award Funds (Grant Funds and Matching Funds) will only be used for Project implementation and operation expenses that are permitted under this Agreement and relevant cost principles.
- b. The following criteria will be used to decide if expenditures spent under this Subaward are acceptable:
 - i. The terms and conditions of this Agreement;
 - ii. The governing authorities listed in Section 2 of this Agreement; and
 - iii. The Federal cost principles applicable to the Subgrantee's organization type:

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

10.03 Eligible and Ineligible Costs:

- a. The BEAD NOFO, applicable cost principles (Section 10.02(b)), and any particular guidance offered in the Guam BEAD Program Procedures will all be taken into consideration when determining which costs are eligible and ineligible under the Guam BEAD Program.
- b. Any expenses paid with Grant Funds that OIPD, NTIA, or auditors later decide to be ineligible or unallowable must be reimbursed to OIPD by the Subgrantee. Costs that are determined to be ineligible or unallowable under the Program cannot be covered by Matching Funds.
- c. The Subgrantee accepts and understands that it bears responsibility for any Project expenses beyond the total Award Funds listed in Exhibit XX and Section 4.02(a). The Subgrantee will nonetheless be accountable for meeting its performance responsibilities under this Agreement even if the available Award Funds are not enough to cover all Project Costs.

- d. Award funds are only permitted to be utilized in addition to, not in place of, sums that the Subgrantee would otherwise make available for the uses for which they are authorized.
- e. The same cost item that has been or will be compensated by another Federal, Guam, or other funding source cannot be sought for reimbursement under this Subaward by the Subgrantee. If additional funding is obtained after the Grant Date to support any part of the Scope of Work (Exhibit XX) covered by this Agreement, the subgrantee is required to promptly notify OIPD in writing.
- f. Reimbursement will not be given for expenses that seem exorbitant, are not sufficiently justified, or are not deemed eligible by the BEAD NOFO or Guam BEAD Program Procedures.
- g. Profit or fees for the Subgrantee, monies used to support or oppose collective bargaining, and the purchase of specific covered communications equipment or services are among the specific ineligible expenditures specifically listed in BEAD NOFO Section V.H.2.

11. Audits and Monitoring

11.01 Audit Requirements:

- a. Cooperation: For any audit, review, or investigation pertaining to this Agreement or the BEAD Program, the Subgrantee will cooperate completely with OIPD, the U.S. Department of Commerce (USDOC), the National Telecommunications and Information Administration (NTIA), the USDOC Office of Inspector General (OIG), the U.S. Government Accountability Office (GAO), and Guam auditors.
- b. Public/Non-Profit Subgrantees: The Uniform Guidance at 2 C.F.R. Part 200, Subpart F – Audit Requirements applies to Subgrantees that are Guam governmental entities, non-profit organizations, or Institutions of Higher Education and spend \$750,000 or more in Federal awards (from all sources, including this Subaward) during their fiscal year. According to 2 C.F.R. § 200.514, the Subgrantee must obtain a single audit or a program-specific audit, and as mandated by 2 C.F.R. § 200.512, submit the reporting package to the Federal Audit Clearinghouse (FAC).
- c. Commercial (For-Profit) Subgrantees: 2 C.F.R. Part 200, Subpart F does not apply to commercial, for-profit subgrantees. However, the Subgrantee must submit either (1) a financial-related audit of each USDOC award or subaward conducted in accordance with Generally Accepted Government Auditing Standards (GAGAS) or (2) a program-specific audit for each award or subaward conducted in accordance with 2 C.F.R. § 200.507 each year if the Subgrantee spends \$750,000 or more in federal award funds (from USDOC sources, including this Subaward) during its fiscal year. Audits must be completed and submitted to the NTIA Federal Program Officer and the OIPD Program Manager no later than nine months following the

conclusion of the audit period or thirty calendar days after the auditor's report or reports are received.

- d. Audit Costs: The Subgrantee may budget and charge to this Subaward the allowable costs associated with required audits under this section in accordance with 2 C.F.R. § 200.425 (Audit services), provided that the approved Budget (Exhibit XX) includes the cost principles described in Section 10.02.
- e. Federal Audits: The Subgrantee agrees that this Subaward may be audited or reviewed at any time by NTIA, the USDOC OIG, GAO, or other federal agencies with the proper authorization.

11.02 Monitoring:

- a. General: In order to give reasonable assurance that the Subgrantee uses Grant Funds for authorized purposes, complies with all applicable laws and regulations, and reaches performance goals (Exhibit XX) and milestones (Exhibit XX), the Subgrantee acknowledges and agrees that OIPD and NTIA will monitor its activities under this Agreement.
- b. Cooperation and Access: In all monitoring operations, the Subgrantee must work in tandem with OIPD, NTIA, and their designated representatives. This includes, but is not limited to, giving pertinent personnel, records, documents, data (including network performance data), systems, and project sites related to the performance of this Agreement prompt access upon reasonable notice (usually 14 calendar days, unless urgent circumstances call for shorter notice).
- c. Monitoring Activities: Monitoring activities can include, but are not limited to: reviewing required reports (Exhibit XX); reviewing desk reviews; visiting sites; inspecting work, facilities, equipment, and records; reviewing financial management systems and internal controls; verifying milestone completion; requesting technical assistance; and requesting specific information or data.
- d. Corrective Action: OIPD will provide written notice to the Subgrantee outlining the issue or issues and necessary corrective action or actions, along with a deadline for completion (usually 30 calendar days, unless otherwise specified), if monitoring efforts reveal defects, errors, or areas of non-compliance. The Subgrantee consents to follow OIPD's instructions for timely and efficient corrective action. The remedies listed in Sections 4.06 and 11.04 may be applied if the necessary corrective actions are not implemented.
- e. Transparency, Accountability, and Oversight:
 - i. Training on Waste, Fraud, and Abuse: In accordance with 2 C.F.R. Part 200, OIPD or NTIA may require important Subgrantee employees in charge of

project supervision or financial management to finish government-sponsored training on preventing waste, fraud, and abuse.

- ii. Required Disclosures: In connection with this Subaward, OIPD must promptly and in writing report to the USDOC OIG any credible evidence of violations of the civil False Claims Act or federal criminal law (including fraud, conflict of interest, bribery, or gratuity). Internal controls must be put in place by the subgrantee to guarantee that any possible infractions are found and promptly notified to OIPD.
- iii. Fraud Monitoring: The Subgrantee is required to keep an eye out for common fraud schemes, such as bribery, product substitution, overcharging for time and materials, and false labor/materials claims, in both its award activities and those of its contractors and subcontractors. The Subgrantee must promptly notify (i) the OIPD point of contact listed in Exhibit XX; (ii) the designated NTIA Federal Program Officer; and (iii) the USDOC OIG Hotline (contact details are available at <https://www.oig.doc.gov/Pages/Contact-Us.aspx>) if they suspect fraud or other suspicious activity.
- iv. Whistleblower Protections: The Subgrantee acknowledges that its employees, and those of its contractors and subcontractors working on this BEAD-funded award, are subject to the whistleblower rights and remedies established under 41 U.S.C. § 4712. The Subgrantee shall not discharge, demote, or otherwise discriminate against an employee as a reprisal for disclosing information reasonably believed to be evidence of gross mismanagement, gross waste of federal funds, abuse of authority, substantial danger to public health or safety, or a violation of law, rule, or regulation related to a federal contract or grant. The Subgrantee shall inform its employees and contractors, in writing, in the predominant language of the workforce, of these rights and protections.

11.03 Failure to Comply:

In accordance with 2 C.F.R. § 200.339 and Section 11.04 herein, OIPD may take one or more corrective actions, such as disallowed costs, delayed payments, suspension of activities, or termination of this Agreement in accordance with Section 4.06, if the Subgrantee fails to comply with any of the requirements in this Agreement, including but not limited to those in this Section 11 or Section 12 (Reports and Records), or fails to promptly respond to OIPD or NTIA requests for information.

When assessing non-compliance, OIPD will use reasonable discretion and good faith.

11.04 Penalties for Non-Performance:

- a. General Authority: By enforcing penalties for non-performance, failure to satisfy material requirements, or wasteful, fraudulent, or abusive use of Award Funds, OIPD

and NTIA may enforce applicable laws, regulations, and the conditions of this Agreement.

- b. Additional Conditions: In accordance with 2 C.F.R. § 200.208, the Subgrantee may be subject to the imposition of certain additional conditions on this Subaward as a penalty for non-performance.
- c. Remedies When new Conditions Are Insufficient: OIPD or NTIA may, as appropriate, take one or more of the following measures if they conclude that non-performance cannot be sufficiently remedied by imposing new conditions:
 - i. Hold off on making payments until the shortfall is fixed or a more serious enforcement action is taken.
 - ii. Deny all or a portion of the activity's or action's noncompliant costs.
 - iii. This Agreement may be suspended or terminated in whole or in part in compliance with Section 4.06.
 - iv. As permitted by 2 C.F.R. Part 180 and USDOC regulations, suggest that NTIA or USDOC begin suspension or debarment proceedings.
 - v. Refrain from giving out any more Guam BEAD Program or OIPD/Guam awards.
 - vi. Take other remedies that may be legally available.
- d. Clawback: OIPD, at its discretion or as instructed by the Assistant Secretary, may require the Subgrantee to return (clawback) up to the full amount of the Grant Funds disbursed under this Agreement, plus potential interest, if it finds that the Subgrantee has failed to comply with any material requirement under applicable law or this Agreement (such as failure to meet deployment deadlines, service obligations, or low-cost plan requirements) and the Subgrantee is unable or unwilling to correct the violation. Corrective action, including reimbursement of funds, may be expressly triggered if the low-cost broadband service option requirement (Section 6.02(b)) is not met or if the service does not satisfy agreed-upon requirements. The Subgrantee must reimburse OIPD the full amount of the clawback if NTIA requires OIPD to return funds because of the Subgrantee's non-compliance.
- e. Reversion: At OIPD's discretion, ownership and use of the broadband infrastructure funded under this Agreement may revert to OIPD or its designee if the Subgrantee materially fails to fulfill its obligations and fails to return the entire amount required in accordance with a clawback action under subsection (d), subject to applicable law.

- f. Make Whole: Regardless of any other clause, OIPD may, at its discretion, require the Subgrantee to reimburse OIPD for the actual, reasonably incurred costs to complete the Project, as determined by OIPD in consultation with the Subgrantee, if the Subgrantee fails to complete the Project in a material respect because of an uncured default.

12. Reports and Records

12.01 Required Reports:

- a. For this Subaward, the Subgrantee attests that it will adhere to all relevant reporting obligations set forth by OIPD, NTIA, and federal law/regulation. **Exhibit XX** (Reporting Requirements List & Templates), which will be provided by OIPD and may be updated periodically, details specific reporting requirements, including content, format, frequency (e.g., semi-annual performance and financial reports consistent with BEAD NOFO Section VII.E, quarterly reports if required by OIPD, final reports), due dates, and submission methods. The reporting requirements specified in this Agreement, **Exhibit XX**, and any subsequently issued written guidance from OIPD or NTIA must be followed by the Subgrantee.
- b. Subgrantee reports must adhere to the program performance monitoring and reporting standards outlined in 2 C.F.R. §§ 200.328 and 200.329. These criteria include analyzing cost overruns or high-cost conditions and comparing actual accomplishments to the period's goals. According to **Exhibit XX**, financial reporting must adhere to 2 C.F.R. § 200.328 and utilize standard forms such as the SF-425 Federal Financial Report.
- c. The Subgrantee will give OIPD all the data it needs to fulfill its own reporting requirements to NTIA/USDOC, including information for yearly performance reports.
- d. For any infrastructure installed under this Agreement, the Subgrantee must submit OIPD final as-built network documentation in a format and manner approved by OIPD prior to final payment and closeout.

12.02 Record Retention:

- a. All financial records, supporting documentation (such as invoices, payroll records, and proof of payment), statistical records, contracts, subawards, performance data, compliance records, and other Subaward-pertinent records must be kept by the Subgrantee for a period of five (5) years from the date of submission of the final expenditure report or the final payment received under this Subaward, whichever comes first, in accordance with 2 C.F.R. § 200.334. (Note: Subject to the final OIPD/BEAD policy, the five years from the template for conservatism are kept; the federal minimum is three years).

- b. The records must be kept until all litigation, claims, or audit findings affecting the records have been settled and final action has been taken if any of these activities begin before the five-year period has passed.
- c. Records pertaining to equipment and real estate purchased with federal monies must be kept for five (5) years following the final disposition.
- d. In accordance with 2 C.F.R. § 200.329(d), the Subgrantee will assist NTIA or its designees in reviewing and evaluating the BEAD Program by collaborating with program evaluators and providing accurate and timely financial and performance data.

12.03 Access to Records:

- a. According to 2 C.F.R. § 200.337, the Subgrantee must grant timely and unfettered access to any of the Subgrantee's records (including books, documents, papers, and electronic records) that are relevant to this Subaward to OIPD, NTIA, the USDOC, the USDOC Office of Inspector General (OIG), the Comptroller General of the United States (GAO), the Guam Office of the Public Auditor, and any of their duly authorized representatives. The goal of this access is to create copies, transcripts, extracts, audits, and exams.
- b. In order to conduct interviews and have discussions on such papers and records, this right of access also includes prompt and reasonable access to the Subgrantee's employees.
- c. The access permissions outlined in this section will be valid for as long as the Subgrantee keeps the records, not only the required retention period.
- d. Except for the attorney-client privilege, which is waived where applicable and not otherwise, the Subgrantee waives all confidentiality, privacy, and proprietary defenses pertaining to audits, monitoring, or record access under this provision.

12.04 Closeout:

- a. Establishing the Closeout. When the Office of Infrastructure Policy and Development ("OIPD") concludes that the Subgrantee has fulfilled all administrative actions and all necessary work under this Subaward, in compliance with 2 C.F.R. § 200.344 and applicable NTIA BEAD Program requirements, the Subaward will close out. This determination will include a confirmation that all necessary final performance, financial, property, and other reports have been received, reviewed, and accepted by OIPD; that all monitoring, audit, and compliance findings have been resolved to the satisfaction of both OIPD and NTIA; and that all allowable costs have been paid in full.

- b. Final Reporting. No later than ninety (90) calendar days following the end of the Period of Performance as defined in Section 5, or earlier as OIPD may specify in writing, the Subgrantee must submit all final financial, performance, property, and other reports listed in Exhibit XX, as well as any other reports that OIPD may require. Reports that are not submitted on time may cause enforcement actions under Section 15 (Remedies for Noncompliance) or delay the ultimate settlement.
- c. Liquidation of Obligations. Unless an extension is authorized in writing by OIPD, the Subgrantee must settle all financial obligations incurred under this Subaward no later than 120 calendar days following the conclusion of the Period of Performance. Any remaining balance of unobligated or unapproved funds that have been advanced or paid but have not been approved by OIPD to be kept by the Subgrantee must be promptly returned to OIPD.
- d. Final Settlement. Within ninety (90) calendar days after receiving and accepting all necessary final reports, resolving all costs, and resolving any compliance issues, OIPD will either make any final settlement payments payable to the Subgrantee or pursue recovery of sums owed to OIPD. The ability of OIPD or NTIA to recoup disallowed costs discovered later is not waived or limited by the final settlement.
- e. Continuing Obligations. The closeout of this Subaward does not affect:
 - i. The authority of OIPD or NTIA to reject expenses and retrieve money in the event of a subsequent audit, monitoring, or other review (2 C.F.R. § 200.345(a));
 - ii. The obligation of the Subgrantee to reimburse any money owed as a consequence of settlements, refunds, corrections, or other later transactions (2 C.F.R. § 200.345(b));
 - iii. The Subgrantee's ongoing obligations, which continue beyond closeout (2 C.F.R. § 200.345(c)), include audits (Section 11.01), property management and disposition (Section 8.02), record preservation (Section 12.02), and compliance with the Federal Interest Period (Section 8.03).

13. Standard Terms and Conditions

13.01 Representations and Warranties:

The Subgrantee represents and warrants to the Office of Infrastructure Policy and Development (“OIPD”) that:

- a. Authority and Organization. It is properly qualified and permitted to do business in Guam, and it is legally recognized, legitimate, and in good standing under the laws of its jurisdiction of organization.

- b. Authorization and Compliance. This Agreement and all related documents required hereunder may be executed, delivered, and performed within the Subgrantee's authority, with the proper authorization from all organizational actions, with the necessary governmental and regulatory approvals, and without violating or conflicting with any law, regulation, decree, order, judgment, or contractual obligation that the Subgrantee is bound by.
- c. Binding Commitments. When properly executed and given, this Agreement and all associated documents that must be delivered under it will represent the Subgrantee's legally binding, valid, and enforceable obligations, which may be enforced against it in line with their respective conditions.
- d. Absence of Litigation. To the best of the Subgrantee's knowledge and belief, as of this Agreement's Effective Date, no court, administrative agency, or other governmental body has any ongoing or threatened actions, investigations, or proceedings that could materially impair the Subgrantee's financial situation, business operations, or capacity to fulfill its obligations under this Agreement.
- e. Project Warranty. The Project developed, and all services provided hereunder, shall:
 - i. Be devoid of significant flaws in the execution, installation, construction, and design;
 - ii. Fulfill or surpass the requirements, performance benchmarks, and service levels outlined in this agreement, including its exhibits and appendices;
 - iii. Adhere to the service requirements, coverage obligations, and performance commitments outlined in **Exhibit XX** (Performance Measures) and the Subgrantee's Application (**Attachment XX**).

The Project and its execution are specifically guaranteed by the Subgrantee for the duration of the Federal Interest Period and the Period of Performance. The Subgrantee shall, at its own cost and without further charge to OIPD, promptly correct any material defects and make all additions, modifications, or adjustments required to ensure the Project continues to operate in accordance with this Agreement until the end of the Federal Interest Period.

- f. Program and Regulatory Compliance. Additionally, the Subgrantee guarantees and certifies that it will adhere to all applicable laws of Guam, the Build America, Buy America Act, the Davis-Bacon prevailing wage requirements, NTIA's BEAD policy notices, 2 C.F.R. Part 200, and the BEAD Program.

13.02 Required Approvals:

This Subgrant Agreement shall not be binding or of any force or effect unless and until it is approved and executed by the Office of Infrastructure Policy & Development

("OIPD") on behalf of the government of Guam, and any other approvals required under applicable Guam laws, regulations, or executive directives have been obtained. No work shall commence, nor shall any Award Funds be obligated or disbursed, until such approvals and full execution of this Agreement have occurred.

13.03 Modifications:

- a. Amendments must be in writing. Any written amendment to this Subgrant Agreement, including change orders addressing significant adjustments to the terms and conditions, expenses, available funds, completion date, or scope of work, must be signed by duly authorized representatives of the Subgrantee and the Office of Infrastructure Policy and Development ("OIPD"). Oral changes won't be accepted or enforced.
- b. Notice and Documentation for Subgrantees. The Subgrantee must provide OIPD with a written statement outlining the proposed change's nature, including its effects on schedule, cost, and performance, within thirty (30) calendar days of receiving a written request for a material change from OIPD or upon determining the necessity of a material change. OIPD may authorize an alternative timeline in writing.
- c. Price Adjustments. In order for OIPD to assess allowability, allocability, and reasonableness in accordance with Guam Procurement Law (5 GCA Chapter 5) and 2 C.F.R. Part 200, the Subgrantee must submit a thorough written explanation for any proposed price changes, including cost information. Before receiving formal clearance from OIPD, the Subgrantee cannot spend any costs related to a proposed modification.
- d. Evaluation and Acceptance. After reviewing requests for changes that are timely submitted, OIPD will issue a formal change order or amendment that has been signed by both parties. Until a documented update is executed, no significant changes to the scope, cost, or schedule will take effect.
- e. Resolution of Disputes. The Parties undertake to make a sincere effort to settle any programmatic or administrative disagreements pertaining to this Agreement amicably between the specified points of contact listed in **Exhibit XX**. In the event that informal talks prove fruitless, the issue may be forwarded in writing to the Governor's Authorized Representative or the Special Assistant to the Governor for Broadband Policy and Development for evaluation and ultimate resolution of any issues falling under OIPD's administrative purview. It is possible for the parties to agree to submit disagreements to Alternative Dispute Resolution (ADR), including mediation, before seeking official legal remedies. The right of any Party to seek remedies in accordance with provision 18 (Governing Law and Venue) is unaffected by anything in this provision. Any complaints or disagreements that residents or

end users may have about the Subgrantee's performance must be addressed and resolved by the Subgrantee.

13.04 Assignment or Transfer:

- a. **Restriction on Assignment.** This Subgrant Agreement or any part of it, or any right, title, or interest herein (including through merger, acquisition, change in control, or operation of law), may not be sold, transferred, assigned, delegated, conveyed, pledged, encumbered, or otherwise disposed of by the Subgrantee without the prior, express written consent of the Office of Infrastructure Policy and Development ("OIPD"), which may be withheld at OIPD's sole discretion.
- b. **Federal Approval.** In accordance with the conditions of the BEAD Program and the federal award, the Subgrantee understands that some assignments or transfers would also need the prior written consent of the U.S. Department of Commerce and/or the National Telecommunications and Information Administration ("NTIA"). The Subgrantee must first get all necessary permits before pursuing or completing any transfer.
- c. **Void Transactions.** Any attempted transfer, assignment, or change of control that violates this clause would be deemed void and have no legal significance.
- d. **Conditions of Approved Transfers.** All terms of this Agreement, including the Subgrantee's ongoing duties throughout the Federal Interest Period, will apply to any assignment or transfer that has been approved by OIPD (and, if appropriate, NTIA). In writing, in a format that OIPD accepts, the Subgrantee shall make sure that any successor or assignee specifically assumes all obligations, liabilities, warranties, and responsibilities under this Agreement.

13.05 Subgranting:

- a. **Prohibition without Approval.** OIPD must give its prior, explicit written consent before the Subgrantee can enter into any subgrant agreement, as defined in 2 C.F.R. § 200.1, for the performance of any portion of the work under this Agreement. OIPD has the right, in its own discretion, to refuse or condition approval. Any subgrant agreement must also be executed with NTIA approval, as mandated by the BEAD federal award's terms.
- b. **Flow-down Requirements.** Any subgrant agreement that has been approved by OIPD must specifically include and bind the subrecipient to all applicable terms, conditions, and requirements of this agreement, such as the following: the Davis-Bacon prevailing wage requirements (if applicable); the Uniform Guidance at 2 C.F.R. Part 200; the Build America, Buy America Act requirements; the BEAD NOFO and NTIA policy notices; and any laws and regulations of Guam that are relevant to the work's performance.
- c. **No Limitation on Contractors.** As long as the contracts adhere to Section 8 (Procurement Standards), nothing in this section prevents the Subgrantee from entering into procurement agreements with the contractors or subcontractors required to complete the job.

- d. **Continuing Responsibility.** A subgrant agreement's approval does not absolve the Subgrantee of its principal responsibility for the Project's successful completion, for adherence to the requirements of this Agreement, or for liability to OIPD and NTIA in the event that a subrecipient fails to comply.

13.06 Completeness:

- a. **Entire Agreement.** This Subgrant Agreement, including all Exhibits and Attachments incorporated herein by reference, constitutes the complete and entire understanding between the Parties with respect to the subject matter hereof.
- b. **Supersession of Prior Agreements.** This Agreement supersedes all prior or contemporaneous understandings, representations, negotiations, or agreements, whether written or oral, between the Parties relating to the subject matter herein.
- c. **Conflict and Hierarchy of Authority.** In the event of a conflict between:
 - 1. The terms and conditions of Sections 1 through 19 of this Agreement;
 - 2. The Exhibits and Attachments (including the approved Application in Attachment XX); and
 - 3. Any representations, proposals, or commitments made by the Subgrantee during the application or award process—the terms and conditions of Sections 1 through 19 of this Agreement shall govern, except where federal law, NTIA guidance, or the BEAD NOFO require otherwise, in which case such federal authority shall control in accordance with Section 2 (Order of Precedence).

13.07 Severability:

If any term, covenant, or condition of this Agreement is held to be invalid, illegal, or unenforceable as a matter of law or public policy, such invalidity, illegality, or unenforceability shall not affect any other provision of this Agreement, and the remaining provisions shall remain in full force and effect.

To this end, the provisions of this Agreement are declared severable, and the Parties agree to negotiate in good faith to replace any invalid or unenforceable provision with a valid and enforceable provision that most closely reflects the original intent of the Parties and the requirements of the BEAD Program, applicable federal law, and Guam law.

13.08 Successors and Assigns:

Subject to the restrictions on assignment and transfer set forth in Section 13.04, this Agreement shall be binding upon, and shall ensure to the benefit of, OIPD, the Subgrantee, and their respective successors and permitted assigns.

Any successor or permitted assignee of the Subgrantee shall expressly assume in writing, in a form acceptable to OIPD, all duties, obligations, warranties, and liabilities of the Subgrantee under this Agreement. No change in ownership, merger, acquisition, or other succession shall relieve the Subgrantee or its successors from performance of

the obligations herein, including those continuing obligations that extend through the Federal Interest Period.

13.09 Waivers:

No term, covenant, or condition of this Agreement shall be deemed to have been waived, nor shall any estoppel arise against the enforcement of any provision of this Agreement, except by a written instrument signed by the Party against whom enforcement of the waiver or estoppel is sought.

No waiver by OIPD of any breach or failure by the Subgrantee to comply with any provision of this Agreement shall be construed as a waiver of any other provision, of the same provision at any other time, or of OIPD's right to enforce strict compliance thereafter.

The failure or delay of OIPD, NTIA, or any authorized governmental authority to enforce any provision of this Agreement at any time shall not be construed as a waiver of that provision or of the right to enforce it subsequently.

13.10 Terms and Conditions Conflict:

Subject to the priority of authorities established in Section 2 of this Agreement, in the event of any inconsistency, ambiguity, or conflict between the provisions of this Agreement (Sections 1-19) and any terms or conditions set forth in any Exhibit or Attachment related to the transactions contemplated herein, the provisions of Sections 1-19 of this Agreement shall control and prevail, except where an Exhibit explicitly and in writing approved by OIPD. No implied waiver, amendment, or modification of Sections 1-19 shall be inferred from any conflicting provision in an Exhibit or Attachment.

13.11 Access to Information, Software and Data:

The Subgrantee shall work with OIPD to ensure that any reports, deliverables, or other electronic documentation submitted under this Agreement are provided in a format that can be accessed, read, and utilized by OIPD using reasonably available software and standard information technology practices.

13.12 Licensure and Registrations:

- a. The Subgrantee certifies that it is registered and authorized to do business in Guam as required by Guam law.
- b. The Subgrantee, its employees, and any approved subgrantees, contractors, or subcontractors utilized in the performance of this Agreement shall obtain and maintain all applicable federal, Guam, and local licenses, permits, and registrations

required to perform the work described herein and shall provide proof of such licenses to OIPD upon request.

- c. The Subgrantee acknowledges and agrees that it must obtain and maintain an active registration in the federal System for Award Management (SAM.gov) throughout the Period of Performance and provide its Unique Entity Identifier (UEI) to OIPD.

13.13 OIPD Right of Approval (Personnel):

OIPD shall have the right, exercisable in its reasonable discretion, to refuse to permit any specific employee of the Subgrantee, or any employee of an approved agent, assignee, contractor, or subcontractor of the Subgrantee, to provide services that involve direct interaction with OIPD personnel, systems, or sensitive information under this Agreement, provided that such refusal is based on legitimate concerns regarding security, conduct, or qualifications relevant to the specific duties or interface.

13.14 Force Majeure Events:

Neither OIPD nor the Subgrantee shall be liable or deemed in default under this Agreement for any failure or delay in performing any material obligation hereunder (except for obligations to make payments when due) to the extent such failure or delay is caused by events beyond the affected party's reasonable control ("Force Majeure Event(s)"), including, without limitation:

- a. Acts of God;
- b. Flood, fire, earthquake, typhoon, tsunami, volcanic eruption, explosion, or other significant natural disasters;
- c. Pandemics, epidemics, or quarantine restrictions officially declared by the government of Guam or the U.S. government;
- d. War, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest;
- e. Government orders, laws, or actions (provided such orders, laws, or actions do not result from the impacted party's own failure to comply with existing legal requirements);
- f. Embargoes or blockades in effect on or after the effective date of this Agreement;
- g. Declared national, territorial, or regional emergencies;
- h. Strikes, labor stoppages or slowdowns, or other significant industrial disturbances affecting essential services or supply chains beyond the party's reasonable control;
- i. Shortages of adequate power, transportation, or other critical services beyond the party's reasonable control; or
- j. Other events of a similar nature beyond the reasonable control of the affected party.

14. Communications and Contacts

14.01 Contacts:

A list identifying the primary contact persons responsible for the day-to-day administration, coordination, and communication regarding this Agreement for each party is attached hereto and incorporated herein as **Exhibit XX (Contact Information)**. Each party shall promptly notify the other in writing of any changes to its designated contacts.

14.02 Notices:

Every official notification and communication needed or allowed by this agreement must be in writing, and it will be considered adequately given if it is delivered in person; sent via registered or certified mail (postage paid, return receipt requested); sent via electronic mail (email) with a receipt confirmation, or via a reputable overnight courier service (receipt asked).

Notices shall be addressed as follows:

If to OIPD:

Office of Infrastructure Policy & Development (OIPD)
Attention: [BEAD Grant Manager or Designated Official]
Office of the Governor of Guam
Ricardo J. Bordallo Governor's Complex,
513 West Marine Corps Drive,
Hagåtña, Guam 96910
Email: broadband@guam.gov

If to Subgrantee:

[Insert Full Legal Name of Subgrantee]
Attention: [Insert Subgrantee Contact Title, e.g., President, CEO, Authorized Representative]
[Insert Subgrantee Mailing Address Line 1]
[Insert Subgrantee Mailing Address Line 2 – City, State, ZIP]
Email: [Insert Official Subgrantee Notice Email Address]

Either party may change its address or email address for notice purposes by giving the other party written notice in the manner set forth above. Notices shall be deemed effective upon receipt by the addressee.

14.03 Party Changes:

Each party shall provide prompt written notice to the other party of any changes to its designated contact persons listed in **Exhibit XX** or to its official notice addresses or

email addresses listed in **Section 14.02**. Such notice shall be provided as soon as reasonably practicable and shall be effective upon receipt by the other party.

15. Independent Subgrantee

The relationship of the Subgrantee to OIPD under this Agreement shall be that of an independent grantee. No principal-agent or employer-employee relationship is created or intended by virtue of this Agreement. The Subgrantee shall be solely responsible for selecting, supervising, and compensating all individuals employed or engaged by the Subgrantee in connection with the performance of this Agreement.

Neither the Subgrantee nor any employees, contractors, or subcontractors of the Subgrantee shall be considered employees of OIPD or the Government of Guam for any purpose. The Subgrantee and its personnel shall not be eligible to participate in any benefit programs provided to employees of the Government of Guam unless such programs are specifically and separately made available to the Subgrantee or its personnel under Guam law or policy, independent of this Agreement.

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

16. Indemnification and Hold Harmless

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

The Subgrantee, at its own cost and expense, shall defend any such claim, suit, action, or proceeding commenced against OIPD or the government of Guam, provided that OIPD shall provide prompt notice of such claim and the opportunity for the Subgrantee to control the defense. OIPD and the government of Guam shall be entitled, if they so elect, to participate in the defense, and, if the Subgrantee fails to provide an adequate defense, to assume control of the defense at the Subgrantee's expense, subject to applicable law.

The Subgrantee shall pay all judgments, settlements, costs, and reasonable attorney's fees incurred in connection with any such actions, claims, proceedings, or suits defended by the Subgrantee. The obtaining of any release or discharge of liability by the Subgrantee shall not diminish or affect the rights of OIPD or the government of Guam, nor the obligations of the Subgrantee under this Section.

17. Assurances & Public Policy Requirements

17.01 Assurances (Conflicts of Interest):

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

The Subgrantee further attests that, during the term of this Agreement, it shall periodically inquire of its officers, members, and employees regarding potential conflicts of interest. Any such interest discovered shall be promptly disclosed in writing to OIPD.

The Subgrantee shall implement and maintain safeguards to prohibit its employees, officers, and agents from using their positions for purposes that constitute, or create the appearance of, a personal or organizational conflict of interest, or for personal gain.

The Subgrantee shall promptly notify OIPD if it becomes aware of any violation, or potential violation, of 2 C.F.R. §200.112 (Conflict of Interest) or this Section by the Subgrantee or its personnel, contractors, or subgrantees.

The Subgrantee shall fully disclose in writing to OIPD any affiliated business entities or relatives providing goods or services to, or working for, the Subgrantee in connection with this Agreement.

17.02 Public Policy Requirements (Debarment & Suspension):

- a. The Subgrantee certifies that, by entering into this Agreement, neither it nor its principals (as defined in 2 C.F.R. §180.995) are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in covered transactions by any federal department or agency, consistent with the requirements of 2 C.F.R. Parts 180, 1200, and 1326.
- b. The Subgrantee certifies that it will not knowingly enter into any covered transaction with a person or entity that is proposed for debarment, debarred, suspended, declared ineligible, or voluntarily excluded from participation, unless specifically authorized by USDOC/NTIA.
- c. The Subgrantee agrees to include the requirements of this Section, including the specific certification language found in **Exhibit XX** (Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion – Lower Tier Covered

- Transactions), without modification, in all lower-tier covered transactions (e.g., subcontracts, subgrants, or purchase orders expected to equal or exceed \$25,000) and in all solicitations for such transactions, and shall require all lower-tier participants to comply with 2 C.F.R. Parts 180 and 1200.
- d. The Subgrantee shall immediately provide written notice to **OIPD** if, at any time, it learns that its certification was erroneous when made or has become erroneous due to changed circumstances.

17.03 Anti-Collusion and Prohibited Communications:

The Subgrantee agrees that it has reviewed, understands, and will continue to comply with **OIPD's BEAD Program Anti-Collusion and Prohibited Communications Policy**, a copy of which is attached as **Exhibit XX**, in fulfilling its obligations under this Agreement.

The Subgrantee acknowledges that any violations of this policy, whether discovered during or after performance of this Agreement, may result in sanctions, including but not limited to ineligibility for funding, rescission of the award, or other legal or administrative action as permitted under applicable law.

17.04 Disclosure of Publicly Funded Projects:

The Subgrantee certifies that, as required during the application process and as an ongoing obligation, it has disclosed and will continue to disclose to **OIPD** information on any other applications it or its affiliates have submitted or plan to submit, and on every other broadband deployment project it or its affiliates are undertaking or have committed to undertake using public funds (federal, territorial, or local), consistent with the requirements of the BEAD NOFO Section IV.D.2.g.

Required disclosures shall include, at a minimum, the details specified in the NOFO, including but not limited to: speed, latency, geographic area, locations served, amount of public funding, consumer cost, and matching commitments.

17.05 Guam Broadband Reporting Requirements:

The Subgrantee acknowledges and agrees to comply with broadband reporting requirements established by **OIPD**. This includes, but is not limited to, providing information to **OIPD** regarding broadband service availability, subscription rates, pricing, and speeds for all networks operated by the Subgrantee within Guam, on at least an annual basis or as otherwise requested by **OIPD**.

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

17.06 Certification of a Drug-Free Workplace:

In accordance with the Drug-Free Workplace Act of 1988 (41 U.S.C. Chapter 81) and its implementing regulations (e.g., 2 C.F.R. Part 182), the Subgrantee certifies that it will provide and maintain a drug-free workplace during the performance of this Agreement by publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the workplace; establishing an ongoing drug-free awareness program; requiring employees engaged in the performance of this Agreement to abide by the policy and to notify the Subgrantee of any conviction under a criminal drug statute for a violation occurring in the workplace; promptly notifying **OIPD** of any such convictions; and imposing appropriate sanctions or requiring participation in a rehabilitation program for employees who violate the policy.

17.07 Certifications Related to Lobbying:

- a. The Subgrantee certifies that no Federal appropriated funds have been paid or will be paid, by or on behalf of the Subgrantee, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of this Federal grant, or the extension, continuation, renewal, amendment, or modification thereof (31 U.S.C. § 1352).
- b. The Subgrantee shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and other agreements) and that all subrecipients shall certify and disclose accordingly.
- c. If any funds other than Federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence the persons and actions described in paragraph (a) in connection with this Federal grant, the Subgrantee shall complete and submit **Standard Form LLL (SF-LLL), "Disclosure of Lobbying Activities,"** to **OIPD** in accordance with its instructions and 31 C.F.R. Part 21.

17.08 Program Fraud Civil Remedies Act:

The Subgrantee acknowledges the applicability of the Program Fraud Civil Remedies Act (31 U.S.C. §§ 3801–3812) and understands that submitting false claims or statements in connection with this Agreement may subject the Subgrantee and its responsible individuals to civil penalties. The authorized official signing this Agreement certifies that all statements made in connection with this award are true, complete, and accurate to the best of their knowledge.

17.09 False Claims and False Statements:

The Subgrantee acknowledges and understands that making or presenting any false, fictitious, or fraudulent statement, representation, claim, or certification in connection

with this Federal award may subject the Subgrantee and responsible individuals to criminal, civil, or administrative penalties under federal law, including the False Statements Accountability Act (18 U.S.C. § 1001), the False Claims Act (18 U.S.C. § 287), and the Civil False Claims Act (31 U.S.C. §§ 3729–3733). The Subgrantee further acknowledges its obligation under 2 C.F.R. § 200.113 to timely disclose, in writing, to **OIPD** and the USDOC Office of Inspector General (OIG) any violations of Federal criminal law involving fraud, bribery, or gratuity violations that may affect this award.

17.10 Copeland Anti-Kickback Act:

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

17.11 Whistleblower Protection:

The Subgrantee shall comply with the whistleblower rights and remedies established under 41 U.S.C. § 4712, which protect employees from reprisal for disclosing certain information. The Subgrantee shall not discharge, demote, or otherwise discriminate against an employee in retaliation for disclosing to any person or body described in the statute information that the employee reasonably believes evidences gross mismanagement of a Federal contract or grant, a gross waste of Federal funds, abuse of authority relating to a Federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a Federal contract or grant.

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

17.12 Relocation Assistance and Real Property Acquisition:

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

17.13 Hatch Act:

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

17.14 Certifications Regarding Federal Convictions, Unpaid Taxes:

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

17.15 Trafficking Victims Protection Act:

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

17.16 Lobbying Restrictions:

The Subgrantee shall comply with the lobbying restrictions set forth in 31 U.S.C. § 1352 and implementing regulations at 15 C.F.R. Part 28 (“New Restrictions on Lobbying”), as well as the cost principles regarding lobbying in 2 C.F.R. § 200.450. The Subgrantee must submit the certification required by 15 C.F.R. Part 28 regarding the non-use of Federal funds for lobbying, and, if applicable, the SF-LLL “Disclosure of Lobbying Activities” form, as detailed in Section 17.07 of this Agreement.

18. Other Terms and Conditions

18.01 Confidentiality of Records/Protected and Proprietary Information:

- a. **General:** Both parties shall maintain strict standards of confidentiality regarding sensitive information received from the other party in accordance with applicable Guam and Federal laws and the terms of this Agreement. **OIPD’s** handling and potential disclosure of information submitted by the Subgrantee under this Agreement shall be governed by applicable law, including the Guam Open Government Act (1 GCA §§ 9901–9916) and federal laws such as the Freedom of Information Act (FOIA) as applicable to federal award records.
- b. **Subgrantee Responsibility:** If a submission by the Subgrantee contains information or data the Subgrantee deems confidential, proprietary, or a trade secret that should not be publicly disclosed, the Subgrantee must clearly identify, bracket, and mark such specific information as “CONFIDENTIAL” or “PROPRIETARY” at the time of submission. Based on such markings and applicable law, **OIPD** will endeavor to protect properly marked information from public disclosure to the extent permitted by law. Information not clearly marked may be subject to public disclosure.
- c. **Safeguarding Information:** Consistent with 2 C.F.R. § 200.303(e), both **OIPD** and the Subgrantee agree to take reasonable measures to safeguard protected

personally identifiable information (PII) and other confidential or sensitive personal or business information created or obtained in connection with this Subaward.

- d. **Federal Use:** The Subgrantee acknowledges that information submitted to **OIPD** may be shared with NTIA/USDOC and used for program reviews, evaluations, and statistical purposes by authorized federal personnel and contractors under appropriate confidentiality agreements, consistent with BEAD NOFO Section IX.B.
- e. **Security-Sensitive Information:** If any submissions contain information considered law enforcement sensitive, Protected Critical Infrastructure Information (PCII), or Sensitive Security Information (SSI), the Subgrantee shall identify, bracket, and mark such information appropriately and handle it according to applicable laws and protocols.

18.02 No Waiver/Strict Performance Required:

Failure by any party to this Agreement to insist in any one or more instances upon the strict performance of any term, covenant, condition, or provision of this Agreement shall not be construed as a waiver or relinquishment of such term, covenant, condition, or provision for the future. No term or condition of this Agreement shall be deemed waived, modified, or deleted except through a written amendment signed by authorized representatives of both parties.

18.03 Titles, Tense:

In construing this Agreement, whenever appropriate, the singular tense shall be deemed to include the plural and vice versa. Titles of sections and paragraphs are provided for ease of reference only and shall not be construed to limit or otherwise affect the interpretation of any provision of this Agreement.

18.04 Guam and Federal Compliance:

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

18.05 Organization and/or Personnel Changes:

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

18.06 Taxes and Obligations:

The Subgrantee certifies that it is current on all taxes and obligations due to the federal government, the Government of Guam, and applicable local governments, or has entered into an approved plan to resolve any delinquencies. The Subgrantee is solely

responsible for determining the tax implications, if any, of receiving funds under this Agreement based on its specific legal and tax status and the nature of the activities funded. OIPD makes no representations regarding the tax treatment of these funds. The Subgrantee is advised to consult with qualified, independent tax advisors regarding compliance with all applicable federal and Guam tax laws and reporting requirements.

18.07 Information Technology Policies:

If OIPD grants the Subgrantee access to OIPD data systems, networks, or specific OIPD-hosted software applications in connection with the performance of this Agreement, and provides written IT security policies, procedures, or terms of use applicable to such access, the Subgrantee agrees to comply with those policies, procedures, and terms. Any such access shall be used solely for authorized activities directly related to the work performed under this Agreement.

18.08 Governing Law and Venue:

This Agreement and the rights and obligations of the parties hereunder shall be governed by, and construed and enforced in accordance with, the laws of the Territory of Guam and applicable federal law, without regard to conflict of law principles that would require the application of the laws of another jurisdiction. Any legal action or proceeding arising under or relating to this Agreement shall be brought exclusively in the appropriate court of Guam or, if federal jurisdiction is independently established, the U.S. District Court for the District of Guam. Nothing in this Agreement is intended to waive, nor shall it be construed as a waiver of, the sovereign immunity of the Government of Guam or OIPD.

19. Special Terms and Conditions

Any special terms and conditions required are attached as Exhibit XX. To the extent of any conflict between the terms in Exhibit XX and other provisions of this Agreement, the terms in Exhibit XX shall control, except that if any term in Exhibit XX conflicts with federal or Guam statutes, regulations, or policies, that term shall be deemed void and unenforceable.

C. SIGNATURES

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first above written.

OIPD: _____

Name:

Title:

Date:

Subgrantee: _____

Name:

Title:

Date:

D. EXHIBITS (Attachments)

Exhibit A – Scope of Work

Exhibit B – Budget and Match Requirements

Exhibit C – Milestone Payment Schedule

Exhibit D – Reporting Requirements

Exhibit E – Federal Award Identification

Attachment 1 – Project Description and Award Identification

Attachment 2 – Subgrantee Application