**COVENANT OF PURPOSE, USE AND OWNERSHIP**

THIS COVENANT OF PURPOSE, USE AND OWNERSHIP dated this \_\_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 202\_\_ (hereinafter referred to as the “Covenant”), by and between\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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whose address is\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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(hereinafter with its successors and assigns called the “[Subrecipient][Contractor]” or “ISP”); and the **DEPARTMENT OF THE TREASURY**, whose address is 1500 Pennsylvania Avenue NW, Washington, DC 20220 (“Treasury”).

**RECITALS**

WHEREAS, the [Recipient] (the “Recipient”) received an allocation from the Coronavirus Capital Projects Fund (“CPF”) as established by Section 604 of the Social Security Act, as added by Section 9901 of the American Rescue Plan Act of 2021;

WHEREAS, Treasury executed a financial assistance agreement on [Date] with Recipient (“Grant Agreement”) pursuant to which Recipient agreed that its CPF award was subject to certain terms and conditions, including the requirements of 2 C.F.R. part 200 (“Uniform Guidance”) as in effect on the date of the Grant Agreement;

WHEREAS, Treasury approved Recipient’s program plan, designated as [Program Plan Number], making available $[Program Plan Amount] under the Grant Agreement for project costs related to the projects conducted under the program plan;

WHEREAS, pursuant to the program plan, Recipient has opted to use a portion of its CPF award by providing a subaward to the Subrecipient to [provide description of the project from the Program Plan] (the “Project”);

WHEREAS, the Project includes real property or equipment acquired or improved under the CPF award described in Exhibit “A” attached hereto and incorporated herein (the “Project Property”);

WHEREAS, the Subrecipient is subject to the provisions of the Uniform Guidance as modified, to the extent applicable, by the requirements set forth in the supplementary broadband guidance on May 17, 2023 (“Supplementary Guidance”) pursuant to which the Subrecipient must use the Project Property for the authorized purposes of the Project until December 31, 2034 (“Federal Interest Period”);

WHEREAS, the Subrecipient as owner of all or part of the real property described in Exhibit “A,” attached hereto, agreed to record this Covenant in the appropriate office for the recording of public records affecting real property so as to constitute notice to all persons of any and all restrictions on title to and use of the real property constituting Project Property described in Exhibit “A;” and

WHEREAS, the­­­ ­­­­­­­­­­­­\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

located at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

is the proper office to record this Covenant.

NOW THEREFORE, in consideration of financial assistance rendered and/or to be rendered by Treasury and of other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, and to assure that the benefits of the Project will accrue to the public and be used as intended by Treasury, the Subrecipient hereby covenants and agrees as follows:

1. The Federal Interest is that portion of the fair market value of the Project Property at the time of disposition that is equal to Treasury’s percentage contribution to total Project costs.
2. The Subrecipient agrees that for the duration of the Federal Interest Period,
	1. The Subrecipient holds its interest in the Project Property in trust to carry out the public purposes of the Project;
	2. The Subrecipient will use the Project Property for the authorized purposes of the Project in the same manner as it uses comparable real property and equipment within its networks in the ordinary course of their business;
	3. The Subrecipient will ensure that internet service is provided to the service areas and at the standard initially agreed upon by the Subrecipient and the Recipient;
	4. The Subrecipient will ensure that it participates in federal programs that provide low-income consumers with subsidies on broadband internet access services;
	5. The Subrecipient will comply with the requirements of 2 CFR 200.310 (Insurance), which may be satisfied by adequate self-insurance;
	6. The Subrecipient will comply with the use and management requirements for equipment in 2 CFR 200.313(c)(4) and 200.313(d), which may be satisfied by applying customary commercial practices for meeting such requirements in the normal course of business (e.g., commercial inventory controls, loss prevention procedures, etc.), provided that such inventory controls indicate the Federal Interest;
	7. The Subrecipient will maintain records of real property constituting Project Property that include an indication of the Federal Interest;
	8. The Subrecipient may dispose of Project Property in the ordinary course of business when no longer needed to operate the network, such as in order to upgrade equipment and improve facilities, provided that at least the same level of service is maintained and there is no material interruption to service and that such upgraded property is subject to the same requirements provided in the Supplementary Guidance as other Project Property;
	9. The Subrecipient may otherwise sell or transfer Project Property only after provision of notice to Treasury that identifies the successor or transferee and after securing the agreement of the successor or transferee to comply with these requirements and the acknowledgement of the Federal Interest by the successor or transferee;
	10. The Subrecipient may only encumber Project Property if Treasury has entered into an intercreditor agreement with the creditor providing that the creditor and Treasury share a first priority lien in the Project Property on a *pari passu* basis, and Treasury is entitled to the Federal Interest as described in Section 1 hereto; and
	11. The Subrecipient will notify the Recipient and Treasury upon the filing of a petition under the Bankruptcy Code, whether voluntary or involuntary, with respect to itself or any of its affiliates.
3. The Subrecipient further agrees that during the Federal Interest Period it will repay the Federal Interest to Treasury in the event the Subrecipient does not comply with Section 2.
4. The Subrecipient further agrees that, as a condition to accepting the disbursement of any portion of the CPF award, the Subrecipient shall (a) execute and place on record against the Project Property this Covenant and provide Treasury with evidence of such recordation; and (b) provide Treasury an opinion of counsel that the Covenant is valid and enforceable according to its terms, that there is no lien or other encumbrance superior to or pari passu with, the Covenant, and that the Covenant has been properly recorded.
5. It is stipulated and agreed that the terms hereof constitute a reasonable restraint on alienation of use, control, and possession of or title to the Project Property given the Federal Interest expressed herein.
6. This Covenant shall run with the land.

IN WITNESS WHEREOF, the Subrecipient has hereunto set their hand as of the day and year first above written by their duly authorized officer. A completed duly recorded copy of this Covenant shall be forwarded to Treasury.

(The appropriate acknowledgment must be included for recording in the Subrecipient’s jurisdiction.)

SUBRECIPIENT: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Print Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

STATE OF \_\_\_\_\_\_\_\_\_\_\_\_\_

COUNTY OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_

On this \_\_\_\_\_\_\_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ in the year \_\_\_\_\_\_\_\_, before me, the undersigned notary public, personally appeared\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, known to me to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged that he/she/they executed the same for the purposes therein contained.

In witness whereof, I hereunto set my hand and official seal.

[Seal]

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Notary Public (Signature)

Print Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

My commission expires:\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature Page to Covenant of Purpose, Use and Ownership

**EXHIBIT A**

**Legal Description of Project Property**