

[ISSUING BANK OR CREDIT UNION LETTERHEAD]

IRREVOCABLE STANDBY LETTER OF CREDIT No. [NUMBER]

[ISSUING BANK OR CREDIT UNION NAME]

[ISSUING BANK OR CREDIT UNION ADDRESS]

[ISSUE DATE]
[DOLLAR AMOUNT]
[EXPIRATION DATE]

North Dakota Information Technology
Attn: State Broadband Program Office
4201 Normandy Street
Bismarck, ND 58503

[LETTER OF CREDIT PROVIDER]

[APPLICANT NAME]

[APPLICANT ADDRESS]

Dear Sir/Madam:

We hereby establish, at the request and for the account of [APPLICANT NAME], in your favor, as required under the Broadband Equity, Access, and Deployment (BEAD) Program's Notice of Funding Opportunity, issued by the National Telecommunications and Information Administration (NTIA) of the U.S. Department of Commerce (DOC) on May 13, 2022, and the State of North Dakota's Initial Proposal Volume 2 approved by NTIA, our Irrevocable Standby Letter of Credit No. [NUMBER], in the amount of [STATE AMOUNT OF LETTER OF CREDIT IN WORDS AND FIGURES].

This Letter of Credit shall automatically renew for one (1) year periods from the then current Expiration Date unless [ISSUING BANK OR CREDIT UNION] gives written notice of non-renewal to North Dakota Information Technology (NDIT) by a nationally recognized overnight delivery service with a copy to the NTIA, 1401 Constitution Avenue, NW, Washington, DC, 20230, at least sixty (60) days but not more than ninety (90) days prior to the expiry thereof, or such earlier date as the Letter of Credit is terminated by NDIT (the "Expiration Date"). Capitalized terms used herein but not defined herein shall have the meanings accorded such terms in the Order.

Funds under this Letter of Credit are available to you against your draft in the form attached hereto as Annex A, drawn on our office described below, and referring thereon to the number of this Letter of Credit, accompanied by your written and completed certificate signed by you substantially in the form of Annex B attached hereto.

Such draft and certificates shall be dated the date of presentation or an earlier date, which presentation shall be made at our office located at [ISSUING BANK OR CREDIT UNION ADDRESS] and shall be effected either by personal delivery or delivery by a nationally recognized overnight delivery service. We hereby commit and agree to accept such presentation at such office, and if such presentation of documents appears on its face to comply with the terms and

conditions of this Letter of Credit, on or prior to the Expiration Date, we will honor the same not later than the first banking day after presentation thereof in accordance with your payment instructions. Payment under this Letter of Credit shall be made by [CHECK/WIRE TRANSFER OF FUNDS] to the payee and for the account you designate, in accordance with the instructions set forth in a draft presented in connection with a draw under this Letter of Credit. Partial drawings are not permitted under this Letter of Credit. This Letter of Credit is not transferable or assignable in whole or in part.

This Letter of Credit shall be canceled and terminated upon receipt by us of the NDIT's certificate purportedly signed by two authorized representatives of NDIT in the form attached as Annex C.

This Letter of Credit sets forth in full the undertaking of the Issuer, and such undertaking shall not in any way be modified, amended, amplified or limited by reference to any document, instrument or agreement referred to herein, except only the certificates and the drafts referred to herein and the ISP (as defined below); and any such reference shall not be deemed to incorporate herein by reference any document, instrument or agreement except for such certificates and such drafts and the ISP.

This Letter of Credit shall be subject to, governed by, and construed in accordance with, the International Standby Practices 1998, International Chamber of Commerce Publication No. 590 (the "ISP"), which is incorporated into the text of this Letter of Credit by this reference, and, to the extent not inconsistent therewith, the laws of the State of North Dakota, including the Uniform Commercial Code - Letters of Credit, in Title 41, Chapter 5, of the North Dakota Century Code. Communications with respect to this Letter of Credit shall be addressed to us at our address set forth below, specifically referring to the number of this Letter of Credit.

[NAME OF ISSUING BANK OR CREDIT UNION]

[BANK OR CREDIT UNION SIGNATURE]

ANNEX A
FORM OF DRAFT

To: [ISSUING BANK OR CREDIT UNION]

DRAWN ON LETTER OF CREDIT No: _____

AT SIGHT

PAY TO THE ORDER OF NORTH DAKOTA INFORMATION TECHNOLOGY BY [CHECK/WIRE TRANSFER]

FUNDS TO: _____

Account (_____)

AS NORTH DAKOTA BEAD REPAYMENT

[AMOUNT IN WORDS] DOLLARS AND NO/CENTS

\$ [AMOUNT IN NUMBERS]

North Dakota Information Technology

By: _____

Name:

Title:

ANNEX B

DRAW CERTIFICATE

The undersigned hereby certifies to [ISSUING BANK OR CREDIT UNION] (the “Bank”), with reference to (a) Irrevocable Standby Letter of Credit No. [NUMBER] (the “Letter of Credit”) issued by the Bank in favor of the North Dakota Information Technology Department (NDIT) and (b) Section IV.D.2.a.ii of the Broadband Equity, Access, and Deployment (BEAD) Program Notice of Funding Opportunity, issued by the National Telecommunications and Information Administration (NTIA) of the U.S. Department of Commerce (DOC) on May 12, 2022, and the State of North Dakota’s Initial Proposal Volume 2 approved by NTIA (the BEAD Program Requirements), pursuant to which [SUBRECIPIENT] (the “Provider”) has provided the Letter of Credit (all capitalized terms used herein but not defined herein having the meaning stated in the BEAD Program Requirements), that:

[The [SUBRECIPIENT] has [EVENT THAT TRIGGERS THE DRAW], and is evidenced by a letter signed by the Chief Information Officer of the North Dakota Information Technology Department or his designee, dated __, 20__, a true copy of which is attached hereto. Accordingly, a draw of the entire amount of the Letter of Credit No. _____ is authorized.

OR

NDIT certifies that given notice of non-renewal of Letter of Credit No. _____ and failure of the account party to obtain a satisfactory replacement thereof, pursuant to the BEAD Program Requirements, NDIT is entitled to receive payment of \$ _____ representing the entire amount of Letter of Credit No. _____.]

IN WITNESS WHEREOF, the undersigned has executed this certificate as of [TIME OF DAY] on the ____ day of _____, 20__.

North Dakota Information Technology Department

By: _____

Name:

Title:

ANNEX C

CERTIFICATE REGARDING TERMINATION OF LETTER OF CREDIT

The undersigned hereby certifies to **[ISSUING BANK OR CREDIT UNION]** (Bank), with reference to (a) Irrevocable Standby Letter of Credit No. **[NUMBER]** (Letter of Credit) issued by the Bank in favor of the North Dakota Information Technology Department (NDIT), and (b) the requirements established in the Broadband Equity, Access, and Deployment (BEAD) Program's (BEAD) Notice of Funding Opportunity, issued by the National Telecommunications and Information Administration (NTIA) on May 12, 2022, (the BEAD Program Requirements) and the State of North Dakota's Initial Proposal Volume 2 approved by NTIA, (all capitalized terms used herein but not defined herein having the meaning stated or described in the BEAD Program Requirements), that:

(1) **[INCLUDE ONE OF THE FOLLOWING CLAUSES, AS APPLICABLE]**

(a) The BEAD Program Requirements have been fulfilled in accordance with the provisions thereof; or

(b) **[SUBRECIPIENT]** has provided a replacement letter of credit satisfactory to NDIT.

(2) By reason of the event or circumstance described in paragraph (1) of this certificate and effective upon the receipt by the Bank of this certificate (countersigned as set forth below), the Letter of Credit is terminated.

IN WITNESS WHEREOF, the undersigned has executed this certificate as of the ____ day of _____, 20__.

North Dakota Information Technology Department

By: _____

Name:

Title:

By: _____

Name:

Title: