

**STATE OF NEW MEXICO
OFFICE OF BROADBAND ACCESS AND EXPANSION**

Agreement #: CPF000070a20

CONNECTIVITY TO DECLARED DISASTER AREA GRANT AGREEMENT

This grant agreement (hereinafter “**Agreement**”) constitutes a federal sub-award entered into by the State of New Mexico, Office of Broadband Access and Expansion (“**Office of Broadband**”), and Penasco Valley Telephone Cooperative, Inc.. (“**Grantee**”), collectively hereinafter referred to as the “**Parties**.”

RECITALS

WHEREAS, the State of New Mexico was the recipient of a federal award (“**Award**”) dated February 4, 2022, from the United States Department of the Treasury (“**Treasury**”) pursuant to 42 U.S.C. § 804 (the “**CPF Statute**”), as added by Section 9901 of the American Rescue Plan Act (“**ARPA**”) of 2021, Pub. L. 117-2 (March 11, 2021), to authorize payments to certain recipients from the Coronavirus Capital Projects Fund; and

WHEREAS, the New Mexico legislature appropriated \$123,066,812 from the Award to the Office of Broadband to plan, design, construct, renovate and equip broadband, including alternative and satellite broadband, statewide as set forth in the 2021 General Appropriation Act at Section 4(A) of Chapter 4 of Laws 2021 (2nd S.S.); and

WHEREAS, on behalf of the State of New Mexico, the Office of Broadband administers the Connectivity to Declared Disaster Area grants program to provide Award funds to subrecipients to bridge the digital divide and foster socio-economic progress by providing infrastructure grants for broadband deployment to unserved and underserved communities in New Mexico impacted by environmental disasters, including wildfires and floods.; and

WHEREAS, the Office of Broadband issued a Notice of Funding Opportunity (“**NOFO**”) for the Connectivity to Declared Disaster Area grant program on or about January 27, 2025 by which it sought applications from interested parties for the purpose of making subawards, as defined in 2 C.F.R. § 200.1, of Award funds to subrecipients for eligible activities; and

WHEREAS, Grantee submitted an application (“**Grantee’s Application**”) to the Connectivity to Declared Disaster Area on or about April 7, 2025, by which it sought Award funding for the broadband infrastructure project as described in Grantee’s Application; and

WHEREAS, based upon its review of Connectivity to Declared Disaster Area grant applications, the Office of Broadband notified Grantee on or about June 16, 2025, that it intended to make a subaward to Grantee on or about, subject to the execution of a binding legal agreement to be executed between the State of New Mexico and Grantee in accordance with 2 C.F.R. § 200.332, regarding the requirements for pass-through entities and subrecipients; and

WHEREAS, Grantee has registered with the System for Award Management and has been assigned Unique Entity Identifier (UEI) YJRDMV6AJMW9, in its name as stated herein; and

WHEREAS, this Agreement is intended to be the sole and exclusive agreement between the State of New Mexico and Grantee regarding the subaward of Award funds by the State of New Mexico to Grantee, and contains the entire understanding and agreement between the Parties;

NOW, THEREFORE, it is mutually agreed by the Parties as follows:

TERMS AND CONDITIONS

ARTICLE 1 – DEFINITIONS

“Award” is federal award dated February 4, 2022, from Treasury to the State of New Mexico as described in the Recitals herein.

“Budget Period” has the meaning set forth in Article 5(C) of this Agreement.

“Business Days” means Monday through Friday, except for Federal and State holidays.

“Contract Documents” has the meaning set forth in Article 2(A) of this Agreement.

“Effective Date” has the meaning set forth in Article 5(A) of this Agreement.

“Eligible Service Area” is a geographical area in which 80% of the household and business locations are either unserved and/or underserved.

“Events of Default” has the meaning set forth in Article 15(A) of this Agreement.

“Grant” or “Grant Amount” has the meaning set forth in Article 3(A) of this Agreement.

“Grantee’s Application” refers to the application identified in the Recitals herein.

“ISP” means Internet Service Provider as set forth in Article 7(A)(13) of this Agreement.

“Matching Funds” has the meaning set forth in Article 3(D) of this Agreement.

“NOFO” has the meaning set forth in the Recitals herein.

“Performance Period” has the meaning set forth in Article 5(B) of this Agreement.

“Plan” has the meaning set forth in Article 8(A) of this Agreement.

“Project” has the meaning set forth in Article 3(A) of this Agreement.

“Request for Payment” has the meaning set forth in Article 9(B) of this Agreement.

“Scope of Work” has the meaning set forth in Article 6 of this Agreement.

“SCRM Plan” has the meaning set forth in Article 8(B) of this Agreement.

“Substantial Completion” is the date for which the Project can fulfill the primary operations that it was designed to perform, delivering services to end-users. At substantial completion, service operations and management systems infrastructure must be operational and able to provide commercial services to the end-users identified in Grantee’s application.

“Third-Party Obligation” means allowable expenditures made by Grantee pursuant to the execution of binding written obligations or purchase orders with third-party contractors or vendors for the provision of services, including professional services, or the purchase of tangible personal property and real property for the Project;

“Total Project Cost” is the total cost of the Project, which is based upon the sum of the Grant Amount and the Matching Funds.

“Underserved” means a household or business has access to a wireline-based broadband connection offering at least 25 Mbps download and 3Mbps upload but less than 100 Mbps download and 20 Mbps upload.

“Unserved” means a household or business that lacks access to a wireline-based broadband connection offering at least 25 Mbps download and 3Mbps upload.

ARTICLE 2 – CONTRACT DOCUMENTS

- A. Contract Documents. The “**Contract Documents**” consist of this Agreement, any amendments to this Agreement executed in writing by the Parties, and the following exhibits, each of which is incorporated into this Agreement as though fully set forth herein:
1. Scope of Work as described in Article 6 of this Agreement (**Exhibit A**)
 2. Detailed Project Budget (**Exhibit B**)
 3. Service Area Map (**Exhibit C**)
 4. Project Schedule (**Exhibit D**)
 5. Notice of Obligation (**Exhibit E**)
 6. Request for Reimbursement (**Exhibit F**)
- B. Precedence. In the case of dispute or ambiguity arising between any of the Contract Documents, the terms and conditions set forth in the main body of this Agreement and its amendments shall take precedence.

ARTICLE 3 – GRANT AMOUNT AND USES; MATCHING FUNDS; AVAILABILITY OF GRANT FUNDS

- A. Grant Amount. Subject to the terms of this Agreement, the Office of Broadband hereby awards exclusively to Grantee a sum not to exceed **ONE MILLION DOLLARS (\$1,000,000)** (the “**Grant**” or “**Grant Amount**”) to be used for the purposes of funding the broadband infrastructure project described in the Scope of Work attached as **Exhibit A** to this Agreement (the “**Project**”). The Grant Amount is to be used only for approved eligible costs, construction and expansion of high-speed broadband infrastructure used to provide service as specified in the Scope of Work. Grantee certifies that any Project costs funded by the Grant shall not subject to reimbursement by any other state or federal funding source.
- B. Eligible Expenses. Eligible expenses for the Project shall be determined in accordance with the cost principles identified in 2 C.F.R. Part 200, Subpart E, and may only be used to cover expenses incurred during the period of performance and for allowable closeout costs incurred during the grant closeout process. The Grant shall not be used for research and development (R&D) or indirect costs. A non-exhaustive list of eligible expenses includes:
1. Data gathering, feasibility studies, community engagement, public feedback processes, digital equity assessments and planning, needs assessment;
 2. Upfront costs for rights of way, easement and condemnation, acquiring permits, costs associated with satisfying the environmental, historical and cultural assessment, reviews and mitigation;
 3. Architectural and engineering design;
 4. Costs related to the construction, improvement, and acquisition of facilities required to deploy broadband infrastructure including all required materials and labor costs, site planning work (e.g., make ready) and project management;
 5. Last-mile network facilities, including electronics necessary to deliver service to an end user including, but not limited to optical line terminal (OLT), optical network terminals (ONT), routers, switches, firewalls, wireless radio equipment, antennae, access points, and any necessary equipment shelters;
 6. Middle-mile network facilities, including electronics necessary to deliver backhaul and middle-mile services;
 7. Alternative technologies for non-terrestrial systems, including system components required to deliver broadband to unserved and underserved New Mexicans such as user terminals to receive a signal, ground segments designed to serve New Mexican communities, and core aerial network elements specific to serving New Mexican communities;
 8. Customer premise equipment placed within the premise to enable connectivity, such as routers and modems;
 9. The cost of long-term leases (for terms greater than one year) of facilities required to provide qualifying broadband service, including infeasible right-of-use (IRU) agreements and capital leases;
 10. Personnel costs, including salaries and fringe benefits for staff and consultants required for the implementation of the Project; and

11. Costs associated with the collection, monitoring, and reporting of data as required under the terms of this Agreement.
- C. Ineligible Expenses. The following non-exhaustive list of expenditures are not eligible uses of the Grant:
1. Acquisition of spectrum licenses;
 2. Operations and maintenance costs (other than grant administration costs);
 3. Short-term operating leases;
 4. Payment of interest or principal on outstanding debt instruments, or other debt service costs;
 5. Fees or issuance costs associated with the issuance of new debt;
 6. Satisfaction of any obligation arising under or pursuant to a settlement agreement, judgment, consent decree, or judicially confirmed debt restructuring plan in a judicial, administrative, or regulatory proceeding;
 7. To support or oppose collective bargaining, except that this does not affect the ability to use funds to comply with 41 C.F.R. 60-1.4;
 8. Any expense for which Grantee receives other federal or state funding or reimbursement;
 9. Expenditures related to land buildings, structures, improvements, or equipment not directly used to support the deployment of a broadband network; and
 10. Expenditures for any deliverable acquired from a contractor or other third party operating on Grantee's behalf to the extent such deliverable was not procured by Grantee in compliance with the procurement standards set forth in Article 3(F) of this Agreement.
- D. Matching Funds. Grantee is required to contribute a match towards the Project that is 36% of the Total Project Cost ("**Matching Funds**"). Matching Funds must consist of cash from Grantee in the amount of at least \$553,278 and any in-kind contributions as expressly described in the Detailed Project Budget attached as **Exhibit B** to this Agreement. Any exception to or deviation from this Matching Funds requirement must be confirmed in writing by the Office of Broadband prior to disbursement of the Grant. Upon request, Grantee shall provide the Office of Broadband with information and documentation in forms acceptable to the Office of Broadband regarding the Matching Funds. Grantee will carry the cash and/or in-kind match over the life of the grant. Exemptions to this requirement must be submitted in writing and will be reviewed by OBAE on a case-by-case basis.
- E. Availability of Grant Funds. Notwithstanding anything in this Agreement to the contrary, all obligations of the State of New Mexico hereunder, including, without limitation, the disbursement of Grant funds pursuant to this Agreement, are contingent upon the receipt of Award funds from Treasury and the availability or continued appropriation of those funds by the New Mexico State Legislature, and in no event shall the State of New Mexico be liable for any payments or disbursements hereunder in excess of such available or appropriated funds. In the event of a reduction or termination of those Award funds, the State of New Mexico shall have the right to authorize the withholding of payment until

such Award funds become available, if ever, and shall have the right to terminate this Agreement immediately upon giving Grantee written notice of such termination.

F. Procurement.

1. Pursuant to the Supplementary Broadband Guidance issued by Treasury on May 17, 2023, and in accordance with 2 CFR § 200.1, 2 CFR § 200.201(b), and 2 CFR § 200.333, this Fixed Amount SubAward was exempted from the procurement requirements found in the Uniform Guidance.
2. Grantee's procurement of all property and services under this Agreement must conform to the applicable procurement standards set forth in New Mexico Procurement Code, § 13-1-1 et seq. NMSA 1978, §1.4.1 NMAC, and § 1.12.21 NMAC.

- G. Overbudget. Grantee is responsible for performing to completion the entire Scope of Work even if the total actual expenditures exceed the amount stated in the Detailed Project Budget, and Grantee solely assumes any financial risk the Project may come in over budget.

ARTICLE 4 – NOTICE OF FEDERAL SUBAWARD

The Award from Treasury to the State of New Mexico dated February 4, 2022, bears Federal Award Identification Number ("FAIN") CPFFN0199 and was issued under CFDA number 21.029 pursuant to the CPF Statute to authorize payments to certain recipients from the Coronavirus Capital Projects Fund. This Agreement is considered a fixed amount subaward as defined in 2 C.F.R. §§ 200.1,.201(b), .333 and Treasury's May 17, 2023 SLFRF and CPF Supplementary Broadband Guidance.

ARTICLE 5 – EFFECTIVE DATE; PERIOD OF PERFORMANCE; BUDGET PERIOD

- A. Effective Date. This Agreement shall take effect upon execution by all parties ("**Effective Date**").
- B. Subaward Period of Performance Start and End Date. The period of performance shall start on the Effective Date and the Project must be completed by December 31, 2026 (hereinafter "**Performance Period**"). The Office of Broadband may extend the Performance Period on the condition Grantee demonstrates the following: (a) significant progress has been completed; (b) extenuating circumstances require an extension of time to allow the Project to be completed; and, (c) a detailed plan that will allow the Project to be completed within a reasonable period of time. In no event shall Substantial Completion be permitted to extend beyond December 31, 2026.
- C. Subaward Budget Period Start and End Date. The budget period shall start upon the Effective Date and shall end no later than December 31, 2026 (hereinafter "**Budget Period**"). The Office of Broadband will provide reimbursement for all eligible expenses incurred after the Effective Date. Costs incurred by Grantee after December 31, 2026 will not be eligible for reimbursement, and Grantee must submit to the State of New Mexico, no later than 90 calendar days (or an earlier date as agreed upon in writing by Grantee and the State of New Mexico) after the end date of the period of performance, all financial, performance, and other reports as required by the terms and conditions of the Federal award.

ARTICLE 6 – SCOPE OF WORK

Grantee's Scope of Work including all supporting documents (except for Grantee's audited financial statements and *pro forma* financials) and any written modifications or reports resulting from the review by the Office of Broadband (collectively "**Scope of Work**," attached hereto as **Exhibit A**), are incorporated into this Agreement by reference and the representations made therein are binding upon Grantee. Grantee shall engage in activities as set forth in the Scope of Work, and any changes to the Scope of Work must be approved in writing by the Office of Broadband based upon Grantee's submission of the completed template to be published by the Office of Broadband for the purpose of requesting such changes to the Scope of Work. In considering a change request by Grantee, the Office of Broadband may consider mitigating factors not caused by Grantee and/or outside Grantee's control. Any failure by Grantee to seek approval prior to making any change to the Scope of Work may be grounds for Project suspension or termination of this Agreement.

ARTICLE 7 – LEGAL COMPLIANCE

- A. Project Requirements. Grantee shall furnish all necessary management, supervision, labor, materials, tools, supplies, equipment, software, services, engineering, testing and/or any other act or thing required to perform and complete the Project in a full and diligent manner in accordance with the Scope of Work. The Project may be completed in phases or milestones so long as each fully completed phase or milestone enables broadband service to be available to a home, business or otherwise available to the public in the Eligible Service Area for the Project. Grantee's project administration requirements shall include the following:
1. Make a determination that it has the institutional, managerial and financial capability to ensure proper planning, management and completion of the Project prior to Grantee's expenditure any portion of the Grant Amount.
 2. Make available to the Office of Broadband all project plans, documents, and data, including but not limited to the Project's engineering, planning, or design activities.
 3. Install broadband infrastructure and delivering service upon reasonable request in the approved Project Area to all existing homes and businesses located in the Project Area.
 4. Ensure broadband infrastructure and associated equipment is designed to reliably deliver broadband in the approved Project Area that meets or exceeds symmetrical download and upload speeds of 100/100 megabits per second ("Mbps"); provided, however, if such speeds are not practicable because of geography, topography, or excessive costs, the Project shall be designed to deliver 100/20 Mbps download/upload speeds and be scalable to 100/100 Mbps symmetrical download/upload speeds.
 5. Ensure broadband infrastructure is completed and operable in accordance with industry construction standards and engineering best practices.

6. Procure and provide construction and installation of all necessary broadband infrastructure and equipment for the Project. Operation and maintenance of the system is the sole responsibility of Grantee.
7. Research and comply with all local, state, or federal laws, codes, or regulations applicable to the Project.
8. Research and comply with all requirements of any local, state, or federal agency or jurisdiction that regulates or governs the Project, including, but not limited to, acquiring all necessary permits, licenses, approvals, and agreements.
9. Schedule, identify, coordinate, and provide safe access for, and obtain all inspections for Grantee's work related to the Project, as required by any authorized agency or applicable code.
10. Obtain all certifications, licenses, permits, and approval necessary to operate the Project, and otherwise satisfying all requirements necessary to operate the Project.
11. To the extent identified in its Application and relied upon by Grantee in seeking the Grant, any additional efforts to increase digital literacy, support online training, and the provision of public access such as wi-fi, the provisions of such options are hereby made a part of and required by this Agreement.
12. To the extent identified in the Application and relied upon by Grantee in seeking the Grant, any partnerships with other Internet Service Provider ("ISP"), cooperatives or governmental entities, shall be identified in the Application and are made a part of and required by this Agreement.
13. Grantee affirms that it will consult with the New Mexico Department of Transportation, the Office of Broadband, and electric utilities, gas utilities, and local water/sewer utilities as to any possible efficiencies that can be achieved with a "Dig Once" approach.
14. Grantee is required to, for at least five (5) years from the date of Substantial Completion, offer a low-cost broadband service plan with typical download speeds of at least 100 Mbps and typical upload speeds of at least 20 Mbps with typical latency measurements of no more than 100 milliseconds; and not subject to data caps, surcharges imposed by Grantee, or usage-based throttling. During the five (5) year period:
 - a. Grantee shall be required to participate in any state or federal successor to the Affordable Connectivity Program in effect during the five-year period.
 - b. The low-cost broadband plan shall charge the residential end-user no more than \$50 a month inclusive of all taxes, fees, and charges, or the allowable amount under any successor Affordable Connectivity Program, whichever is lower.
 - c. End users shall be deemed eligible for the low-cost broadband service plan upon demonstrating either current enrollment in New Mexico Medicaid, SNAP, or other State of New Mexico Income Assistance Program, or an income under 200% of the Federal Poverty Level.
 - d. End users shall be eligible for no-cost upgrades if the provider later offers the low-cost plan with higher speeds.

- B. Federal CPF Requirements. Grantee acknowledges and hereby certifies that the Project shall comply with the requirements of the CPF Statute and all applicable federal statutes, regulations, executive orders and any other guidance issued by Treasury regarding the CPF Statute applicable to fixed amount subawardees.¹ Grantee may only use the Grant Amount in compliance with the CPF Statute and Treasury’s regulations implementing that section and guidance, and shall maintain records and financial documents sufficient to evidence compliance regarding its eligible uses of funds. Grantee also agrees to comply with all other applicable federal statutes, regulation and executive orders, including but not limited to applicable statutes and regulations prohibiting discrimination in programs receiving federal financial assistance and all applicable federal environmental laws and regulations, as expressly set forth in this Agreement. Federal regulations applicable to this Agreement include the following:
1. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 C.F.R. Part 200) (the “**Uniform Guidance**”) applicable to fixed amount subawardees and expressly stated in this Agreement, other than such provisions as Treasury may determine are inapplicable to the Award or to fixed amount subawards, generally, and subject to such exceptions as may be otherwise provided by Treasury, such as in Treasury’s May 17, 2023 SLFRF and CPF Supplementary Broadband Guidance.
 2. Subpart F - Audit Requirements of the Uniform Guidance, implementing the Single Audit Act, shall not apply to this Agreement. However, Grantee shall be required submit an audit or other documentation that covers multiple subawards and multiple federal programs upon request by the Office of Broadband, in its sole discretion, during the term of this Agreement. The Office of Broadband shall provide Grantee at least thirty (30) calendar days prior to any audit.
 3. Universal Identifier and SAM, 2 C.F.R. Part 25, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 25 is hereby incorporated by reference.
 4. OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement), 2 C.F.R. Part 180, including the requirement to include a term or condition in all lower tier covered transactions (contracts and subcontracts described in 2 C.F.R. Part 180, subpart B) that the Agreement is subject to 2 C.F.R. Part 180 and Treasury's implementing regulation at 31 C.F.R. Part 19.
 5. Government wide Requirements for Drug-Free Workplace, 31 C.F.R. Part 20.
 6. New Restrictions on Lobbying, 31 C.F.R. Part 21.
- C. Civil Rights Compliance. Grantee is required to meet legal requirements relating to nondiscrimination and nondiscriminatory use of federal funds. Those requirements include ensuring that entities receiving federal financial assistance from Treasury do not

¹ See “Guidance for the Coronavirus Capital Projects Fund for States, Territories & Freely Associated States” (<https://home.treasury.gov/system/files/136/Capital-Projects-Fund-Guidance-States-Territories-and-Freely-Associated-States.pdf>); “Coronavirus Capital Projects Fund Compliance and Reporting Guide for States, Territories and Freely Associated States” (<https://home.treasury.gov/system/files/136/CPF-Reporting-Guidance-for-States.pdf>); “SLFRF and CPF Supplementary Broadband Guidance” (<https://home.treasury.gov/system/files/136/SLFRF-and-CPF-Supplementary-Broadband-Guidance.pdf>).

deny benefits or services, or otherwise discriminate on the basis of race, color, national origin (including limited English proficiency), disability, age, or sex (including sexual orientation and gender identity), in accordance with the following authorities: Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. 2000d-1 et seq., and the Department's implementing regulations, 31 C.F.R. part 22; Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. 794; Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. 1681 et seq., and the Department's implementing regulations, 31 C.F.R. part 28; Age Discrimination Act of 1975, 42 U.S.C. 6101 et seq., and the Department implementing regulations at 31 C.F.R. part 23. Grantee further agrees to provide any documentation Treasury may require concerning its compliance with Title VI of the Civil Rights Act of 1964, Treasury's implementing regulations at 31 C.F.R. Part 22, and the government-wide regulations contained in 28 C.F.R. Part 42, Subparts C and F. Grantee acknowledges and agrees the Award will not be made available to Grantee for the Project and may not be used by Grantee for the Project until such time as Grantee has submitted information and documentation required by Treasury in accordance with 31 C.F.R. § 22.6 and 28 C.F.R. § 42.406, and Treasury provides notice of approval of such submission.

- D. Maintenance of and Access to Records. Grantee shall maintain records and financial documents sufficient to evidence compliance with state and federal statutes, regulations, and related guidance, the Award, and this Agreement. The Treasury Office of Inspector General, the Government Accountability Office, the Department of Finance Administration, and the Office of Broadband Access and Expansion, or their authorized representatives, shall have the right of access to records (electronic and otherwise) of Grantee in order to conduct audits or other investigations. Records shall be maintained by Grantee for a period of five (5) years after all funds have been expended or returned to Treasury, whichever is later.
- E. Conflicts of Interest. Grantee understands and agrees it must maintain a conflict-of-interest policy consistent with 2 C.F.R. § 200.318(c) and that such conflict-of-interest policy is applicable to each activity funded under this award. Grantee must disclose in writing to Treasury or the pass-through entity, as appropriate, any potential conflict of interest affecting the awarded funds in accordance with 2 C.F.R. § 200.112.
- F. False Statements. Grantee understands that making false statements or claims in connection with this award is a violation of federal law and may result in criminal, civil, or administrative sanctions, including fines, imprisonment, civil damages and penalties, debarment from participating in federal awards or contracts, and/or any other remedy available by law.
- G. Publications. Any publications produced with funds from this award must display the following language: "This project [is being] [was] supported, in whole or in part, by federal award number CPFFN0199 awarded to State of New Mexico by the U.S. Department of the Treasury."
- H. Debts Owed the Federal Government.
1. Any funds paid to Grantee (a) in excess of the amount to which Grantee is finally determined to be authorized to retain under the terms of the Award; (b) that are determined by the Treasury Office of Inspector General to have been misused; or

(c) that are determined by Treasury to be subject to a repayment obligation pursuant to sections 602(e) and 603(b)(2)(D) of the Act and have not been repaid by Grantee shall constitute a debt to the federal government.

2. Any debts determined to be owed the federal government must be paid promptly by Grantee. A debt is delinquent if it has not been paid by the date specified in Treasury's initial written demand for payment, unless other satisfactory arrangements have been made or if Grantee knowingly or improperly retains funds that are a debt as defined in the paragraph above. Treasury will take any actions available to it to collect such a debt.

I. Disclaimer.

1. Grantee acknowledges and accepts that the United States expressly disclaims any and all responsibility or liability to Grantee or third persons for the actions of Grantee or third persons resulting in death, bodily injury, property damages, or any other losses resulting in any way from the performance of this award or any other losses resulting in any way from the performance of the Award or any contract, or subcontract under the Award.
2. The acceptance of this Agreement by Grantee does not in any way establish an agency relationship among or between the United States, State of New Mexico, the Office of Broadband, and Grantee.

J. Protections for Whistleblowers.

1. In accordance with 41 U.S.C. § 4712, Grantee may not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the list of persons or entities provided below, information that the employee reasonably believes is evidence of gross mismanagement of a federal contract or grant, a gross waste of federal funds, an 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 (including the competition for or negotiation of a contract) or grant.
2. The list of persons and entities referenced in the paragraph above includes the following:
 - a. A member of Congress or a representative of a committee of Congress;
 - b. An Inspector General;
 - c. The Government Accountability Office;
 - d. A Treasury employee responsible for contract or grant oversight or management;
 - e. An authorized official of the Department of Justice or other law enforcement agency;
 - f. A court or grand jury; or
 - g. A management official or other employee of Grantee, contractor, or subcontractor who has the responsibility to investigate, discover, or address misconduct.
3. Grantee shall inform its employees in writing of the rights and remedies provided under this subsection, in the predominant native language of the workforce.

- K. Increasing Seat Belt Use in the United States. Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), Grantee is encouraged to adopt and enforce on-the-job seat belt policies and programs for its employees and contractors when operating company-owned, rented or personally owned vehicles.
- L. Reducing Text Messaging While Driving. Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Grantee should encourage its employees and contractors to adopt and enforce policies that ban text messaging while driving, and Grantee should establish workplace safety policies to decrease accidents caused by distracted drivers.
- M. Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment. The Grant may not be used to procure or obtain any covered telecommunication and video surveillance services or equipment as described in 22 C.F.R. § 200.216, including: (1) covered telecommunication and video surveillance services or equipment provided or produced by entities owned or controlled by the People’s Republic of China and telecommunications equipment produced by Hauwei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities); (2) for the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities); (3) telecommunications or video surveillance services provided by such entities or using such equipment; and, (4) telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.
- N. Domestic Preference in Procurement. To the extent practicable and consistent with applicable law under, Grantee will provide a preference for the procurement or use of goods, products or materials produced in the United States as described in 2 C.F.R. § 200.322 and Executive Order 14005 Ensuring the Future is Made in All of America by All of America’s Workers (January 25, 2021).
- O. Remedies. If the event of Grantee’s noncompliance with federal law, this Agreement other applicable laws, regulations executive orders, or any reporting or other program requirement, Treasury or the State of New Mexico may take available remedies as set forth in 2 C.F.R. § 200.339.
- P. Return of Funds. Grantee must return to the State of New Mexico any Award funds that are not expended and not obligated by December 31, 2026 as part of the closeout process set forth in 2 C.F.R. § 200.344(d).
- Q. Single Audit Requirements. If Grantee expends \$750,000 or more in Grant funds during its fiscal year, Grantee will be subject to an audit under the Single Audit Act and its implementing regulation at 2 C.F.R. Part 200, Subpart F, as applicable. Grantee may also refer to the Office of Management and Budget (OMB) Compliance Supplements for audits of federal funds and related guidance and the Federal Audit Clearinghouse to see

examples of single audit submissions.

- R. Labor. For Projects receiving \$5 million or more in funding (based on expected total cost):
1. Grantee shall comply with the Davis-Bacon Act, 40 § U.S.C 3141 *et. seq*, or the New Mexico Public Works Minimum Wage Act, NMSA 1978, §§ 13-4-10 through 13-4-17.
 2. Grantee shall provide certification that 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 or as assessed by the New Mexico Department of Workforce Solutions (NMDWS).
 3. Grantee may provide a certification that the Project includes a project labor agreement, meaning a pre-hire collective bargaining agreement consistent with section 8(f) of the National Labor Relations Act (29 U.S.C. 158(f)). If Grantee does not provide such certification, Grantee must provide a project workforce continuity plan, detailing: (a) how Grantee will ensure the Project has ready access to a sufficient supply of appropriately skilled and unskilled labor to ensure high-quality construction throughout the life of the Project, including a description of any required professional certifications and/or in-house training, registered apprenticeships or labor-management partnership training programs, and partnerships like unions, community colleges, or community-based groups; (b) how Grantee will minimize risks of labor disputes and disruptions that would jeopardize timeliness and cost-effectiveness of the Project; (c) how Grantee will provide a safe and healthy workplace that avoids delays and costs associated with workplace illnesses, injuries, and fatalities, including descriptions of safety training, certification, and/or licensure requirements for all relevant workers (e.g., OSHA 10, OSHA 30); (d) whether workers on the Project will receive wages and benefits that will secure an appropriately skilled workforce in the context of the local or regional labor market; (e) whether the Project has completed a project labor agreement; (f) whether the Project prioritizes local hires; and (g) whether the Project has a Community Benefit Agreement, including a description of any such agreement.
 4. Federal Interest and Insurance. Grantee agrees that any equipment, supplies or real property purchased or, in the case of real property, improved, using Grant funds will be used for the purpose and in the manner described in this Agreement, subject to the Uniform Guidance, the requirements of 2 C.F.R. § 200.310 (Insurance), 2 C.F.R. § 200.311 (Real Property), 2 C.F.R. § 200.313 (Equipment), 2 C.F.R. § 200.314 (Supplies), 2 C.F.R. § 200.315 (Intangible Property), as applicable, and any other restriction Treasury may impose.

ARTICLE 8 – CYBERSECURITY

- A. Risk Management Plan. Grantee hereby attests as follows:
1. Grantee has a cybersecurity risk management plan (the “**Plan**”) in place that is either: (a) operational with respect to the Project described in the Scope of Work, or (b) ready to be operationalized upon providing service from the Project described in the Scope of Work;
 2. The Plan reflects the latest version of the National Institute of Standards and Technology (NIST) Framework for Improving Critical Infrastructure Cybersecurity (currently Version 1.1) and the standards and controls set forth in Executive Order 14028 and specifies the security and privacy controls being implemented;

3. The Plan will be reevaluated and updated on a periodic basis and as events warrant; and
 4. The Plan will be submitted to the Office of Broadband prior to the final payment of Grant funds pursuant to the terms of this Agreement, and shall be resubmitted to the Office of Broadband within 30 calendar days from the date Grantee makes any substantive changes to the Plan.
- B. Supply Chain Risk Management Plan. With respect to a supply chain risk management plan (“**SCRM Plan**”), Grantee hereby attests that:
1. Grantee has a SCRM Plan in place that is either: (a) operational with respect to the Project described in the Scope of Work, or (b) ready to be operationalized upon providing service from the Project described in the Scope of Work;
 2. The SCRM Plan is based upon the key practices discussed in the NIST publication NISTIR 8276, Key Practices in Cyber Supply Chain Risk Management: Observations from Industry and related SCRM guidance from NIST, including NIST 800-161, Cybersecurity Supply Chain Risk Management Practices for Systems and Organizations and specifies the supply chain risk management controls being implemented;
 3. The SCRM Plan will be reevaluated and updated on a periodic basis and as events warrant; and
 4. The SCRM Plan will be submitted to the Office of Broadband prior to the final payment of Grant funds pursuant to the terms of this Agreement, and shall be resubmitted to the Office of Broadband within 30 calendar days from the date Grantee makes any substantive changes to the SCRM Plan.

ARTICLE 9 – DISBURSEMENT

- A. Conditions of Disbursement. The following conditions apply to the disbursement of the Grant to Grantee:
1. Grantee’s expenditures shall be made during the Budget Period and prior to the termination of this Agreement (*i.e.*, the goods and services have been delivered and accepted or title to the goods has been transferred to the Grantee and/or the services have been rendered for the Grantee);
 2. The total amount received by Grantee shall not exceed the lesser of: (a) the Grant Amount or (b) the Total Project Cost after subtracting the required Matching Funds;
 3. Grantee is in compliance with the terms and conditions of this Agreement to the satisfaction of the Office of Broadband; and
 4. Grantee has submitted a request for reimbursement consisting of all documentation required under this Article 9.
- B. Request for Reimbursement Procedures and Deadlines. Grantee shall request payment for incurred grant expenditures by submitting a request for reimbursement in the form attached hereto as **Exhibit F** (hereinafter “**Request for Reimbursement**”). Reimbursement requests are subject to the following procedures and deadlines:
1. Grantee must submit a Request for Reimbursement;
 2. Each Request for Reimbursement must contain proof of payment by Grantee or liabilities incurred by Grantee showing that the expenditures are valid or are liabilities incurred by Grantee in the form of actual invoices received by Grantee for Third-Party Obligations; provided, however, that the Grantee may be

reimbursed for unpaid liabilities only if the Office of Broadband, in its sole and absolute discretion, agrees to do so and in accordance with any special conditions imposed by the Office of Broadband.

3. Grantee may submit a Request for Reimbursement to the Office of Broadband based upon invoices received, but not yet paid, by Grantee for a Third-Party Obligation, which the Office of Broadband may process, at their discretion, if the invoices comply with the provisions of this Agreement and are a valid liability of Grantee, Grantee shall make payment in-full on those Third-Party Obligations within five (5) Business Days from the date of receiving reimbursement from the Office of Broadband or such shorter period of time as the Office of Broadband may prescribe in writing. Grantee is required to certify to the Office of Broadband proof of payment of the Third-Party Obligations within ten (10) Business Days from the date of receiving reimbursement from the Office of Broadband. Reimbursement for invoices received, but not yet paid, shall only be made at the Department's discretion.
 4. A Request for Reimbursement shall include a statement specifying the amount of cash or in-kind match contributions from the Matching Funds being applied by Grantee towards payment of the items set forth in the Request for Reimbursement. Cash or in-kind match percentage applied to Request for Reimbursement total amount will be deducted from invoiced amounts.
 5. Requests for Reimbursements on a Third-Party Obligation shall be submitted by Grantee to the Department within 30 days from the date the Third-Party Obligation was incurred as evidenced by an unpaid invoice received by the Grantee from a third-party contractor or vendor.
 6. Grantee's failure to abide by the requirements herein will result in the denial of its Request for Reimbursement or will delay the processing of its Request for Reimbursement. The Office of Broadband has the right to reject a reimbursement request for the Project unless and until it is satisfied that the expenditures in the Request for Reimbursement are for permissible purposes within the meaning of this Agreement. Further, the Office of Broadband's right to reject any Request for Reimbursement is in addition to, and not in lieu of, any other legal or equitable remedy available to the Office of Broadband due to Grantee's violation of this Agreement.
- C. Retainage of Grant Funds. The Office of Broadband will retain 10% of the Grant Amount sought by Grantee as security for Grantee's full performance of this Agreement. Retainage shall be applied to the final 10% of the allowable project expenditures. Department will release all retained amounts to Grantee upon a final site inspection by the Office of Broadband to confirm Substantial Completion of the Project and Grantee's successful Project close-out, including timely delivery of the Close-Out Report required under Article 10(B) of this Agreement, demonstrating Grantee stands in full compliance with all programmatic and regulatory obligations set forth in this Agreement. Grantee may submit a written request to the Office of Broadband to release retained funds prior to the final inspection, which shall only be granted at the Office of Broadband's discretion.

ARTICLE 10 – REPORTING REQUIREMENTS

- A. Federal Quarterly Progress Reports. No later than thirty (30) calendar days after the end of each calendar year quarter commencing on the Effective Date and ending upon Project closeout, Grantee must submit to the Office of Broadband a quarterly progress report in such form as the Office of Broadband may require. The specific data points required will be designated by the Office of Broadband in guidance to be published on the Pilot Program website. For illustration purposes, the types of data required may include the following metrics:
1. Financial information, including incurred project expenditures, the amount of grant funds received and the amount and type of Matching Funds applied;
 2. Project execution information, including progress milestones achieved with regard to network design, permits and other approvals, procurement, infrastructure deployment, equipment deployment, network testing and commercial service rollout;
 3. End-user data, including the number of premises passed and/or covered by the Project and the number of subscribers.
 4. Narrative information to provide a summary of key accomplishments, challenges, and major objectives for the following quarter; and
 5. Workforce deployment, including the number of employees and contractor personnel who provided services and work on the Project.
- B. Close-Out Report. Grantee shall deliver a close out report to the Office of Broadband no later than ninety (90) calendar days after Substantial Completion or termination of the Agreement or expenditure of all Grant funds, whichever event occurs last. The specific data points required will be designated by the Office of Broadband in guidance to be published online. For illustration purposes, the types of data required may include the following metrics:
1. Financial information, including incurred project expenditures during the Performance Period, the amount of grant funds received and the amount and type of matching Funds applied and a description of how funds were spent in comparison to the Detailed Project Budget;
 2. Network performance data, including at a minimum speed and latency test results;
 3. Wireline network coverage, including premises passed, miles deployed and segmented (e.g., last vs. middle-miles, aerial vs. buried miles), IRUs, fiber strands deployed and location of interconnection points for middle-mile projects;
 4. Wireless network coverage, including premises covered, towers deployed and leased, base stations deployed and premise-based receivers deployed
 5. Network capacity, including information about network capacity and future scalability;
 6. Cost metrics, including deployment costs (per mile, per premise) and drivers for any variances as noted in Grantee's Application;
 7. Network map, including a final network map in both PDF and KMZ forms that delineates all constructed routes, and any routes not constructed that were designated on the Service Area Map;
 8. Workforce deployment, including the number of employees and contractor personnel who provided service and work on the Project;
 9. Project accomplishments narrative, including a description of all Project achievements;

10. Project challenges narrative, including a description of problems, delays, or adverse conditions that occurred, or which affected the attainment of Project objectives identified in the Scope of Work; and
 11. Lessons learned, including a summary of key lessons learned and recommendations to the Office of Broadband that can be applied to future grant programs.
- C. Post-Completion Annual Project Update. For five (5) years commencing on the first January 31st following Substantial Completion, Grantee must submit an annual update to allow the Office of Broadband to track the Project’s impact. The specific data points required will be designated by the Office of Broadband in guidance to be published online. For illustration purposes, the types of data required may include the following metrics:
1. Last-mile customers, including the estimated number of subscribers who are using the broadband service provided in whole or in part by the Project by customer segment (e.g., residents, businesses, community institutions, farms) as of the report date and the percentage of customers being served relative to the addressable market;
 2. Middle-Mile customers, including for middle-mile projects the number of wholesale customers and interconnection agreements;
 3. Enrollment in adoption assistance programs, including the number of subscribers enrolled in an affordable connectivity program;
 4. Digital literacy, including results and outcomes related to any digital literacy, internet adoption or internet access programs and initiatives related to the project;
 5. Network performance data, including at a minimum speed and latency test results;
 6. Service offerings and pricing, including the service offerings and prices being offered in the Project’s service area;
 7. Network speed, including the maximum speed offered by the network and, if varied by location, a narrative regarding the percentage of passed (or covered) premises that can access the highest speed;
 8. Network expansions that were enabled by the Project; and
 9. Ownership changes that identify and describe any changes in ownership or control of Grantee or the Project.
- D. Map Reporting to the Federal Communications Commission. Grantee must submit broadband availability data to the Federal Communications Commission (“FCC”) as part of its Broadband Data Collection initiative. The FCC requires that data as of June 30th is due no later than the following September 1st, and that data as of December 31st is due no later than the following March 1st. The specific requirements are stated in the document posted at this website: <https://us-fcc.app.box.com/v/bdc-availability-spec>. This requirement will exist so long as the FCC requires facilities-based carriers to provide such data.
- E. Map Reporting to the Office of Broadband. Grantee must report to the Office of Broadband all data required to be reported during the term of this Agreement by facilities-based providers pursuant to NMSA 1978, § 63-9J-3(J) or any rule promulgated by the Office of Broadband.
- F. Professional Engineer Stamped Review. When required by the State of New Mexico Regulation and Licensing Department (“RLD”) or other New Mexico State law, Grantee shall provide the Office of Broadband a Professional Engineer stamped review to confirm that the Project has been completed, the design and installation of the Project conform to

the Scope of Work and any authorized changes, that the network conforms to all requirements set forth in this Agreement, and that the installed infrastructure will provide the service levels stated in Grantee's Application. This stamped plan is due no later than 90 calendar days after Substantial Completion.

- G. Reporting. Grantee shall comply with all applicable Treasury and State of New Mexico reporting requirements. Compliance includes, but is not limited to, arranging project site visits and responding to data inquiries from the Project Manager or Project Coordinator assigned by the Office of Broadband.
- H. Broadband Label: Grantee shall comply with all FCC requirements regarding the Broadband Label. Generally, the FCC requires that an ISP display, at the point-of-sale, a label that discloses to customers certain information about prices, introductory rates, data allowances, broadband speeds, and management practices, among other things.

ARTICLE 11 – LIASONS

All project management and coordination on behalf of the Office of Broadband shall be through a single point of contact designated as the Office of Broadband's liaison. Grantee shall designate a liaison that will provide the single point of contact for management and coordination of Grantee's work.

The liaisons for this Agreement are:

For the Office of Broadband:
Andy Exell
ARPA Project Coordinator
715 Alta Vista St.
Santa Fe, NM 87505
andy.exell@connect.nm.gov

For Grantee:
James Meyers
CEO
4011 W Main
Arteria, NM 88201
jmeyers@pvt.com

ARTICLE 12 – PROJECT MONITORING

The Office of Broadband or any of its authorized agents may monitor and inspect all phases and aspects of Grantee's performance to determine compliance with the Scope of Work, the proper use of funds, and other technical and administrative requirements of this Agreement, including the adequacy of Grantee's records and accounts. This section shall survive termination of this Contract.

ARTICLE 13 – NOTICE

All notices or communications required or permitted to be given by a Party under the provisions of this Agreement must be in writing and delivered to the other Party's liaison identified herein in accordance with § 1.12.21.8(D) NMAC.

ARTICLE 14 – ASSIGNMENT OF AGREEMENT; TRANSFER OF PROJECT ASSETS

Grantee may not assign or transfer any portion of this Agreement without prior written consent by both the Office of Broadband, and Treasury. Consent will be provided at the sole discretion of the

entity. In the event that any assets acquired, in whole or in part, with Grant funds are to be sold, leased, licensed to or operated by a private entity other than Grantee during the useful life of the assets, the sale, lease, license, or operating agreement must be approved before it may become effective by the applicable oversight entity (if any) in accordance with state and federal law or, if no oversight entity is required to approve the transaction, it must be approved before it may become effective by the Office of Broadband based on a determination whether the transaction complies with applicable state and federal law and this Agreement. When any assets acquired, in whole or in part, with any Grant funds are disposed of, the distribution of the proceeds must be made in accordance with 2 C.F.R. §§ 200.310 through 200.316.

ARTICLE 15 –DEFAULT, CURE, TERMINATION AND REMEDIES

- A. Default. The Office of Broadband may unilaterally terminate this Agreement for default by Grantee (“**Event of Default**”) as authorized by, and subject to the requirements of, § 1.12.21.14 NMAC.
- B. Remedies. Upon the occurrence of any Event of Default and Grantee’s failure to cure said Event of Default within the applicable cure period as provided by § 1.12.21.14 NMAC, or in the event of termination by the Office of Broadband, the Office of Broadband may, in its sole discretion, exercise any right, or pursue any remedy, authorized by state or federal law, or the terms of this agreement. Such rights and remedies may include, but are not limited to, the following actions:
 - 1. Withhold any or all payments or disbursements of the Grant to be made under this Agreement, in which event Grantee shall have no right, title, or interest in or to any of the undisbursed Grant funds;
 - 2. Disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance;
 - 3. Treat the Agreement as breached and pursue any remedies at law or in equity, or both;
 - 4. Recommend that Treasury initiate suspension or debarment proceedings as authorized under 2 C.F.R. part 180 and Treasury regulations; or
 - 5. Demand repayment of all or a portion of the Grant funds disbursed to Grantee, plus all costs and reasonable attorney’s fees incurred by the Office of Broadband in recovery proceedings.

ARTICLE 16 – CONFLICT OF INTEREST

Grantee warrants that it presently has no interest and will not acquire any interest, direct or indirect, which would conflict in any manner or degree with Grantee’s performance under this Agreement. Grantee certifies that it has followed the requirements of the Governmental Conduct Act, NMSA 1978, §§ 10-16-1 through 10-16-18, regarding contracting with a public officer, state employee or former state employee.

ARTICLE 17 – OWNERSHIP AND PUBLICATION OF MATERIALS

All reports, information, data, and other materials prepared by Grantee or any of its contractors, subcontractors, or subrecipients in furtherance of this Agreement are the property of Grantee and the Office of Broadband. Both Grantee and the Office of Broadband have the royalty-free,

nonexclusive, and irrevocable right to reproduce, publish, authorize others to use, and to otherwise use, in whole or part, such property and any information relating thereto. No material produced in whole or part under this Agreement may be copyrighted or patented in the United States or in any other country without the prior written approval of both the Office of Broadband and Grantee.

ARTICLE 18 – INSURANCE REQUIREMENTS

- A. Commercial Liability Insurance. At its sole cost and expense, Grantee shall maintain occurrence-based general liability coverage with minimum limits of \$1 million per occurrence and \$2 million aggregate per year. Grantee shall also require that any contractors performing construction services under this Agreement shall maintain the same commercial liability coverage as Grantee is required to maintain hereunder.
- B. Professional Liability Insurance. Grantee shall provide, or require any licensed agent or contractor who provides professional engineering services within the scope of his or her license to Grantee in connection with the Project to procure and maintain professional liability (errors & omissions) coverage with a limit of \$2,000,000 per claim. If this insurance is written on a “claims made” basis, then the policy shall provide “tail coverage” for claims asserted within three (3) years after the earlier of the date of Substantial Completion or the date of termination of this Agreement.
- C. General Insurance Requirements. Insurance coverages shall be provided by a company with an A.M. Best rating of A- or better. All certificates and endorsements must be received by the Office of Broadband prior to beginning any activity provided for under this Agreement. Grantee must notify the Office of Broadband immediately of any material change in insurance coverage, such as changes in limits, coverage, or change in status of policy. The Office of Broadband reserves the right to request complete copies of Grantee’s insurance policy, including endorsements, at any time.

ARTICLE 19 – DEFENSE AND INDEMNIFICATION

Grantee will defend, indemnify and hold harmless the Office of Broadband, and the State of New Mexico, and their officers, employees and agents free from all actions, proceedings, claims, demands, costs, damages, attorneys’ fees and all other liabilities and expenses of any kind from any source which may arise out of Grantee’s performance of this Agreement, which is caused, or alleged to be caused, by an act or omission of Grantee or of any agent of Grantee in the performance of this Agreement. In the event that any action, suit or proceeding related to the performance of this Agreement is brought against Grantee and/or any agent of Grantee, Grantee shall, within two (2) Business Days after Grantee receives notice thereof, notify the Office of Broadband’s liaison in writing.

ARTICLE 20 – REPRESENTATIONS AND WARRANTIES

Recognizing that the Office of Broadband is relying hereon, Grantee represents and warrants, as of the Effective Date of this Agreement, as follows:

- A. Organization; Power, Etc. Grantee: (1) is duly organized and validly existing under the laws of the State of New Mexico; (2) is duly qualified to do business and is in good standing in the State of New Mexico; (3) has legal power to own and operate its assets and to carry on its business and to enter into and perform its obligations under this Agreement; (4) has duly and lawfully obtained and maintained all material licenses, certificates, permits, authorizations and approvals necessary to conduct its business or required by applicable laws; and (5) is eligible to obtain the financial assistance from the Office of Broadband contemplated by this Agreement.
- B. Authority. The execution, delivery and performance by Grantee of this Agreement and the performance of the transactions contemplated hereby and thereby have been duly authorized by all necessary actions and do not violate any provision of law or any charter, articles of incorporation, organization documents or bylaws of Grantee or result in a breach of, or constitute a default under, any agreement, security agreement, note or other instrument to which Grantee is a party or by which it may be bound. Grantee has not received any notice from any other party to any of the foregoing that a default has occurred or that any event or condition exists that with the giving of notice or lapse of time or both would constitute such a default.
- C. Consents. No consent, approval, authorization, order, filing, qualification, license, or permit of any governmental authority is necessary in connection with the execution, delivery, performance, or enforcement of this Agreement, except such as have been obtained and are in full force and effect.
- D. Binding Agreement. Each part of this Agreement is, or when executed and delivered will be, the legal, valid, and binding obligation of Grantee, enforceable in accordance with its terms, subject only to limitations on enforceability imposed in equity or by applicable bankruptcy, insolvency, reorganization, moratorium, or similar laws affecting creditors' rights generally.
- E. Compliance with Applicable Laws. Grantee will comply with all federal, state, and local laws, rules, regulations, ordinances, codes and orders materially applicable to the performance and administration of this Agreement.
- F. Litigation. There is no pending or threatened legal, arbitration or governmental actions or proceedings to which Grantee is a party or to which any of its property is subject which, if adversely determined, could have a material adverse effect on its ability to perform its obligations hereunder.
- G. Information Submitted with Application. All information, reports, and other documents and data submitted to the Office of Broadband in connection with Grantee's Application were, at the time the same were furnished, complete, and correct in all material respects. Any financial statements or data submitted in connection with Grantee's Application present fairly, in all material respects, the financial position of Grantee and the results of its operations in conformity with standard accounting practices. Since the date thereof, there has been no material adverse change in the financial condition or operations of Grantee.

ARTICLE 21 – PURCHASES WITH GRANT FUNDS

Except as specifically authorized in writing in advance by the Office of Broadband, all facilities, materials, equipment, supplies, replacements and all other tangible real or personal property procured for the Project shall not, at the time Grantee submits a Request for Payment to the Office of Broadband for such items, be subject to any conditional sales agreement, mortgage, bailment lease or other agreement reserving to the seller any right, title or lien.

ARTICLE 22 – DEBARMENT

Grantee certifies and agrees to ensure during the term of this Agreement that neither it nor its principals, contractors, subcontractors, or subrecipient entities are debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this Agreement by any governmental department or agency.

ARTICLE 23 – FORCE MAJEURE

Neither Party will be liable for damages or have any right to terminate this Agreement for any delay or Default in performing hereunder in the event such delay or Default is caused by conditions beyond the Party's control including, but not limited to Acts of God, government restrictions (including the denial or cancellation of any export or other necessary license), war, insurrection and/or any other cause beyond the reasonable control of the Party whose performance is affected thereby.

ARTICLE 24 – GENERAL PROVISIONS

- A. Applicable Law. This Agreement will be governed and interpreted according to New Mexico law and applicable federal law. Any judicial proceeding concerning this Agreement shall be brought only in the New Mexico First or Second Judicial District Court. By executing this Agreement, Grantee acknowledges and will submit to the jurisdiction of the court as stated herein over any and all such proceedings arising hereunder.
- B. Workers' Compensation. Grantee will comply with state laws and rules applicable to workers compensation benefits for its employees.
- C. Waiver. A Party's failure to require strict performance of any provision of this Agreement will not waive or diminish that Party's right thereafter to demand strict compliance with that or any other provision. No waiver by a Party of any of its rights hereunder will be effective unless made in writing, and no effective waiver by a Party of any of its rights will be effective to waive any of its other rights, duties or obligations hereunder.
- D. Severability. The provisions of this Agreement are severable, and in the event for any reason, a clause, sentence or paragraph of this Agreement is determined to be invalid by a court, agency or commission having jurisdiction over the subject matter hereof, such invalidity will not affect the other provisions of this Agreement, which will be given effect absent the invalid provision.

- E. Headings. Any and all headings within this Agreement are inserted for convenience and ease of reference and will not be considered in the construction or interpretation of any article, section or provision of this Agreement. Numbered or lettered provisions, sections and subsections contained herein refer only to provisions, sections and subsections of this Agreement unless otherwise expressly stated.
- F. Dispute Resolution. In the event dispute arises between the Parties, either Party may send a letter to the other Party requesting the other Party to enter into a dispute resolution process, such as mediation or arbitration, in accordance with NMSA 1978, §§ 12-8A-1 through 12-8A-3.
- G. Entire Agreement. The Contract Documents comprise the entirety of the binding agreement of the parties. They supersede all prior agreements, representations, and understandings. Any amendment must be in a written agreement signed by the Parties.

WHEREFORE, the Parties' authorized representatives sign this Agreement as follows.

GRANTEE

By: DocuSigned by:
James Meyers
E88BADD1C2B7424... _____ Date: 7/23/2025
James Meyers
CEO

OFFICE OF BROADBAND ACCESS AND EXPANSION

By: Signed by:

9E75E32E1840434... _____ Date: 7/23/2025
Jeff Lopez, OBAE Director

Approved for financial sufficiency:

By: *Lisa Jennings*
9895C3FF24BE46F... _____ Date: 7/23/2025
Lisa Jennings, Mobile Chief Financial Officer

Approved for legal sufficiency:

By: DocuSigned by:
Cassandra Brulotte
C0140201B6F94E1... _____ Date: 7/23/2025
Cass Brulotte, OBAE General Counsel



Connect New Mexico Pilot Program - ARPA -CPF Funding (Wave 4)

Connectivity to Declared Disaster Areas

Exhibit A – Scope of Work

Agreement #: CPF000070a20

Sub Recipient: Penasco Valley Telephone Cooperative, Inc

Project Capitan-Ft.Stanton Fiber Project

Project Summary
A last-mile, mostly buried, fiber network spanning 14.62 miles to connect 43 locations across Ft. Stanton and Capital in Lincoln County. This project will not only provide the required broadband services to the unserved and underserved locations within the project area, but it will also provide a backhaul fiber route along US Highway 380 into the community of Capitan, NM.

Technology Metrics			
Technology Type	Wireline	Network Purpose	Last Mile
Total Fiber Miles	14.62	Aerial/Buried Fiber	Both
Number New Fiber Miles	14.62	Number Leased Fiber Miles	0

Scope of Coverage			
Names of Counties to be Served	Lincoln		
Total Units	43		
Homes	14	Businesses	28
Community Anchor Institutions	1	Farms	
Unserved	43	Underserved	0



Connect New Mexico Pilot Program - ARPA-CPF Funding (Wave 4)	
Connectivity to Declared Disaster Areas	
Exhibit B - Project Budget	
Applicant	Penasco Valley Telephone Cooperative, Inc.
Project Name	Capitan-Ft.Stanton Fiber Project

Total Budget	Total Grant	Grant %	Cash Match	Cash Match %	In Kind Match	In Kind Match %	Total Match	Total Match %
\$1,553,278	\$1,000,000	64.4%	\$423,908	27.3%	\$129,369	8.3%	\$553,278	35.6%

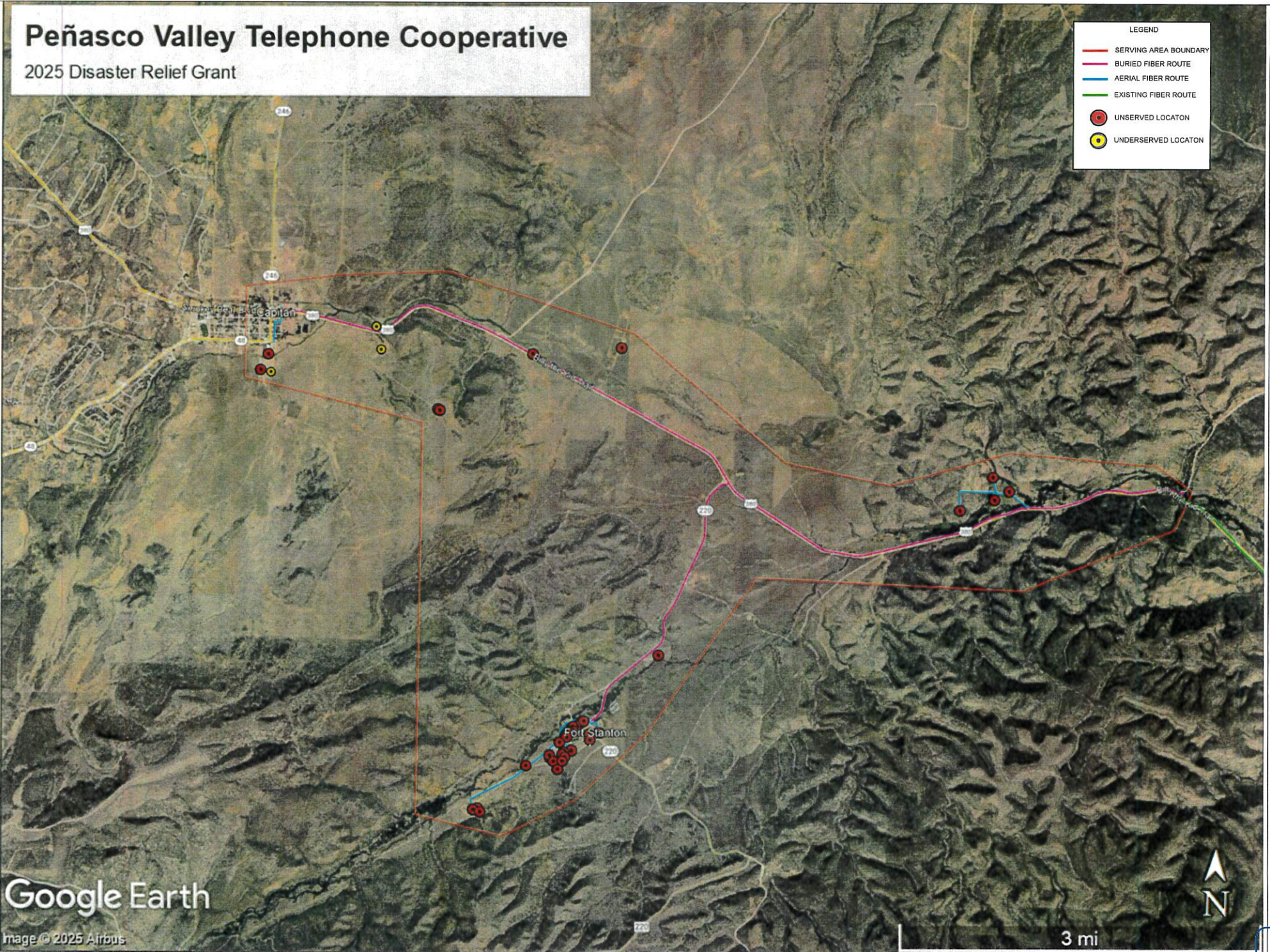
#	Categories and Eligible Cost Components	Units	Unit Price / Cost	Total Budget for Cost Component	Grant Amount Requested Per Component	Grant %	Cash Match	Cash Match %	In Kind Match	In Kind Match %	Total Match	Total Match %	Brief Narrative for Cost
1	Design and Engineering												
	OSP & Network Eng.	19.26	\$6,600	\$127,116	\$95,337	75%	\$31,779	25%	\$0	0%	\$31,779	25%	Design, staking, GPS
		0	\$0	\$0	\$0	0%	\$0	0%	\$0	0%	\$0	0%	
		0	\$0	\$0	\$0	0%	\$0	0%	\$0	0%	\$0	0%	
2	Permitting												
	Surveys	1	\$88,000	\$88,000	\$66,000	75%	\$22,000	25%	\$0	0%	\$22,000	25%	Survey's for BLM land
	Permit Fees	19.26	\$740	\$14,252	\$10,689	75%	\$3,563	25%	\$0	0%	\$3,563	25%	Fees associated with permit applications
	Pole Make-Ready	3.68	\$20,000	\$73,600	\$55,200	75%	\$18,400	25%	\$0	0%	\$18,400	25%	Pole-make ready costs
3	Build, Deploy & Test												
	Aerial Construction	3.68	\$48,000	\$176,640	\$109,549	62%	\$67,091	38%	\$0	0%	\$67,091	38%	Aerial strand/fiber construction
	Buried Construction	10.94	\$65,000	\$711,100	\$533,325	75%	\$177,775	25%	\$0	0%	\$177,775	25%	Buried conduit/fiber construction
	In-Kind Fiber	4.51	\$28,685	\$129,369	\$0	0%	\$0	0%	\$129,369	100%	\$129,369	100%	In-kind fiber required to connect network.
4	Network Equipment												(please list major equipment)
	Transport Equipment	1	\$150,000	\$150,000	\$112,500	75%	\$37,500	25%	\$0	0%	\$37,500	25%	Transport Equipment
		0	\$0	\$0	\$0	0%	\$0	0%	\$0	0%	\$0	0%	
		0	\$0	\$0	\$0	0%	\$0	0%	\$0	0%	\$0	0%	
5	CPE Equipment												Required Entry of Units / Cost per fo CPE
	ONT's	40	\$580	\$23,200	\$17,400	75%	\$5,800	25%	\$0	0%	\$5,800	25%	ONT, power supply for CPE
		0	\$0	\$0	\$0	0%	\$0	0%	\$0	0%	\$0	0%	
		0	\$0	\$0	\$0	0%	\$0	0%	\$0	0%	\$0	0%	
6	Administrative												
	Project Management	1	\$60,000	\$60,000	\$0	0%	\$60,000	100%	\$0	0%	\$60,000	100%	PM of all categories
		0	\$0	\$0	\$0	0%	\$0	0%	\$0	0%	\$0	0%	
		0	\$0	\$0	\$0	0%	\$0	0%	\$0	0%	\$0	0%	
Total				\$1,553,278	\$1,000,000	64.4%	\$423,908	27.3%	\$129,369	8.3%	\$553,278	36%	

Peñasco Valley Telephone Cooperative

2025 Disaster Relief Grant

LEGEND

- SERVING AREA BOUNDARY
- BURIED FIBER ROUTE
- AERIAL FIBER ROUTE
- EXISTING FIBER ROUTE
- UNSERVED LOCATON
- UNDERSERVED LOCATON



Google Earth

Image © 2025 Airbus

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Connect New Mexico Pilot Program - ARPA-CPF Funding (Wave 4)	
Connectivity to Declared Disaster Areas	
Exhibit D - Project Schedule	
Applicant	Penasco Valley Telephone Cooperative, Inc.
Project Name	Capitan-Ft.Stanton Fiber Project



Project Schedule Status	% Complete
Not Started	71%
In Progress	29%
Completed	0%

WBS#	Activity	Status	Start Date (MM/DD/YYYY)	End Date (MMDD/YYYY)	Duration (Days)	Comment
1	Design and Engineering	In progress	1/1/2025	8/30/2025	241	Design process started. Engineering consultant will be utilized to complete quickly once awarded.
2	Environmental Assessment & Permitting (Right of way, easements, etc)	In progress	1/1/2025	11/1/2025	304	BLM (In-progress), NMDOT, Private
3	Make Ready & Site Prep	Not started	11/1/2025	12/1/2025	30	
4	Build, Deploy & Test	Not started	11/1/2025	1/30/2026	90	
5	Service Ready, Launch and Operations	Not started	1/30/2026	1/31/2026	1	
6	Customer Installation	Not started	1/1/2025	1/1/2025	0	
7	Marketing, Sales and Adoption Campaigns	Not started	11/1/2025	3/2/2026	121	Marketing campaigns will begin as soon as construction commences

**NOTICE OF OBLIGATION TO REIMBURSE GRANTEE
EXHIBIT E**

Notice of Obligation to Reimburse Grantee # _____

DATE: _____

TO: Department Representative: _____ / _____

FROM: Grantee Entity: _____

Grantee Official Representative: _____

SUBJECT: Notice of Obligation to Reimburse Grantee

Fund / Grant Number: _____ / _____

Grant Termination Date: _____

As the designated representative of the Department for Grant Agreement number _____ entered into between Grantee and the Department, I certify that the Grantee has submitted to the Department the following third party obligation executed, in writing, by the third party's authorized representative:

Vendor or Contractor: _____

Third Party Obligation Amount: _____

Vendor or Contractor: _____

Third Party Obligation Amount: _____

Vendor or Contractor: _____

Third Party Obligation Amount: _____

Vendor or Contractor: _____

Third Party Obligation Amount: _____

Vendor or Contractor: _____

Third Party Obligation Amount: _____

Vendor or Contractor: _____

Third Party Obligation Amount: _____

**NOTICE OF OBLIGATION TO REIMBURSE GRANTEE
EXHIBIT 2**

Vendor or Contractor: _____
Third Party Obligation Amount: _____

Vendor or Contractor: _____
Third Party Obligation Amount: _____

Vendor or Contractor: _____
Third Party Obligation Amount: _____

Vendor or Contractor: _____
Third Party Obligation Amount: _____

Vendor or Contractor: _____
Third Party Obligation Amount: _____

Vendor or Contractor: _____
Third Party Obligation Amount: _____

I certify that the State is issuing this Notice of Obligation to Reimburse Grantee for permissible purposes within the scope of the project description, subject to all the terms and conditions of the above referenced Grant Agreement.

Grant Amount: _____

Total Amount of 3 rd Party Obligation	(-)	Cash Match Applied	(=)	Total Amount For This Obligation
\$ 0.00				\$ 0.00

The Total Amount of all Previously Issued Notices of Obligation: _____

The Total Amount of all Notices of Obligation to Date: **\$ 0.00**

Department Rep. Approver: _____
Title: _____
Signature: _____
Date: _____

Note: Contract amounts may exceed the total grant amount, but the invoices paid by the grant will not exceed the grant amount

STATE OF NEW MEXICO
Request for Payment Form
Exhibit F

I. Grantee Information

(Make sure information is complete & accurate)

- A. Grantee: _____
- B. Address: _____
(Complete Mailing, including Suite, if applicable)

City, State, Zip
- C. Contact Name/Phone #: _____
- D. Grant No: _____
- E. Project Title: _____
- F. Grant Expiration Date: _____

II. Payment Computation

- A. Payment Request No. _____
- B. Grant Amount: _____
- C. Funds Requested to Date: _____
- D. Total Payment Amount Requested: _____
- E. 10% Retainage Amount: _____
- F. Amount Requested this Payment _____
- G. Grant Balance: _____
- H. ARPA GF GOB STB
- I. Final Request for Payment *(if Applicable)*

III. Fiscal Year : 2026 (July 1, 2025 - June 30, 2026)
~~2027 (July 1, 2026 - June 30, 2027)~~
(The State of NM Fiscal Year is July 1, 20XX through June 30, 20XX of the following year)

IV. Reporting Certification: I hereby certify to the best of my knowledge and belief, that required reporting is up to date; to include the accuracy of expenditures and grant balance, project status, project phase, achievements and milestones; and in compliance with Articles 7 and 10 of the Grant Agreement.

V. Compliance Certification: Under penalty of law, I hereby certify to the best of my knowledge and belief, the above information is correct; expenditures are properly documented, and are valid expenditures or actual receipts; and that the grant activity is in full compliance with Article IX, Sec. 14 of the New Mexico Constitution known as the "anti donation" clause.

Grantee Fiscal Officer
or **Fiscal Agent** *(if applicable)*

Grantee Representative

Printed Name

Printed Name

Date: _____

Date: _____

(State Agency Use Only)

Vendor Code: _____ **Fund No.:** _____ **Loc No.:** _____

I certify that the State Agency financial and vendor file information agree with the above submitted information.

Division Project Manager

Date