

**CAPITAL PROJECTS FUND
GRANT ATTESTATION AND AGREEMENT**

This federal subaward Attestation and Agreement is hereby executed by _____, (hereinafter “Grantee” or “Subrecipient”), _____ (Unique Entity Identifier Number), existing under the laws of _____ (State), for the purpose of receiving federal funds awarded by the Nebraska Public Service Commission (“Commission”), which has been delegated the authority to determine and monitor grant awards for the American Rescue Plan Act (“ARPA”) Coronavirus Capital Projects Fund (“CPF”) in Congressional Districts One and Three, pursuant to a Memorandum of Understanding executed between the Commission and the Nebraska Department of Economic Development (“DED”).

Section 1. Purpose

The purpose of this Attestation and Agreement is to provide conditions for funding awarded (“Grant Award”) to the Subrecipient named herein for the purpose of deploying broadband service in unserved and underserved areas as defined by Neb. Rev. Stat. § 86-1302, and where households are without sufficient access to broadband service which meets the desired minimum broadband speeds as set forth by the U.S. Treasury (“Treasury”) and Neb. Rev. Stat. § 86-1304.

Section 2. Acknowledgement of Federal Subaward

The State of Nebraska was awarded federal funds under ARPA, on August 30, 2022, by the U.S. Department of Treasury (“Treasury”) under Federal Award Identification Number (FAIN) CPFFN0183. The Subrecipient named herein filed an application for a grant award with the Commission which was subsequently approved in a Commission Order entered on _____, 2023 (“Award Date”). In whole or in part, the funding source for the Grant Award¹ is from the CPF. As such, the Grant Award is considered a Subaward as defined in 2 CFR § 200.1 and federal financial assistance in relation to the Single Audit Act Amendments of 1996 (31 U.S.C. 7501-7507). The term “Subaward” means an award provided by a pass-through entity to a Subrecipient for the Subrecipient to carry out part of a federal award received by the pass-through entity

Section 3. Scope and Term

The scope of this Grant Award is the deployment of and provision of services as described in Subrecipient’s Application filed with the Commission (“Project”) which is hereby incorporated by reference into this Attestation and Agreement.²

¹ The terms “Grant Award” and “Subaward” may be used interchangeably herein.

² The Grant Award does not include funds for research and development. *See* 2 C.F.R. § 200.211.

The term of the Grant Award (the “Term”) shall begin on the date signed by Subrecipient below (the “Effective Date”) and continue until the Commission has reimbursed Subrecipient for all allowable expenditures for the Commission-approved Project unless otherwise terminated by the Commission at an earlier date.

Section 4. Amount of Federal Award

The total federal share of the Grant Award made to Subrecipient is: \$ _____.

Section 5. Period of Performance

Subrecipient must fully finish the Project(s) approved by the Commission on _____ by _____ (Date of Completion).

Section 6. Acceptance of Subaward Requirements

In accepting the Grant Award from the Commission, Subrecipient hereby agrees to comply with all applicable local, state, and federal laws, and rules, regulations and guidance now in effect or as may be amended during the term of this Grant Award. Subrecipient further certifies and agrees to the following:

1. Subrecipient agrees to comply with the requirements of ARPA, including but not limited to, regulations adopted by the Treasury pursuant to Section 604 of ARPA and guidance issued by Treasury.
2. Subrecipient certifies that the use of grant funds for the Project is eligible under ARPA and applicable guidance.
3. Subrecipient agrees that any grant funds received under this Grant Award are subject to federal and state laws, rules and regulations, and Treasury guidance, and that Subrecipient shall comply in all material respects with all applicable laws and regulations whether or not such laws or regulations are expressly referenced herein.
4. Subrecipient agrees to repay to the Commission any grant funds provided to Subrecipient which Subrecipient expends in violation of the terms, conditions, or guidance with respect to the CPF and the terms and conditions described herein. This repayment obligation does not limit any other remedies the Commission may have under its statutory authority, properly promulgated rules and regulations, or orders.
5. Subrecipient agrees to promptly report any criminal or civil litigation or any credible threat of such litigation or investigation by any governmental entity with respect to Subrecipient, or any officer or shareholder of Subrecipient, for violations of state or federal law involving fraud, bribery, misappropriation of funds, breaches of fiduciary duty or other actions bearing on the trustworthiness, credibility, or responsibility of such person where such litigation or credible threat of litigation may have a material impact on the completion of the Project.

Section 7. Grant Reimbursement

1. Subrecipient certifies that it will only seek reimbursement for eligible costs under the Grant Award.
2. To the extent applicable, in addition to any other terms, conditions, restrictions, or limitations applicable to eligible costs or reimbursable expenses established by the Commission, costs or expenses charged, paid, or reimbursed under the Grant Award shall be determined as allowable under the cost principles detailed in 2 CFR 200 Subpart E – Cost Principles. To the extent that indirect costs qualify as allowable expenditures and Subrecipient does not have a federally approved indirect cost rate, the subrecipient may seek to have a negotiated indirect cost rate, request application of the de minimis rate, or otherwise waive indirect costs. Subrecipient should reference the Commission’s program guidance regarding the application of indirect cost rates.³
3. If the Commission determines that Subrecipient has failed to satisfactorily carry out its responsibilities under the Grant Award, in addition to other remedies at law, the Commission may withhold reimbursement to the Subrecipient until such time as the Commission and the Subrecipient can agree on a plan to remedy the deficiency.
4. Subrecipient acknowledges and understands that the Commission will be required to provide public reports detailing the status and expenses of all grant awards.

Section 8. Reporting Requirements

1. *Quarterly Report*- No later than fifteen (15) calendar days⁴ after the end of each calendar year quarter during the period in which allocation funds are available for expenditure, Subrecipient must submit to the Commission, using the forms provided by the Commission, the following information:
 - a. the status of each Project;
 - b. the amount of each Grant spent on the applicable Project during the quarter;
 - c. the cumulative total amount of each Grant funds spent on the applicable Project since inception;

³ Subrecipient shall notify the Commission no later than July 6, 2023, if it has an existing approved federally recognized indirect cost rate or if it seeks to have a negotiated indirect cost rate pursuant to 2 CFR § 200.332(a)(4).

⁴ For example, for the period covering January 1 through March 31, the quarterly report will be due to the Commission on or before April 15. For all quarterly reports where the 15th falls on a weekend, the report will be due the Friday before. All report information should be submitted on the template provided by the Commission on its website and to the following address: psc.broadband@nebraska.gov. Reported data will be public information and will be made available on the Commission’s website.

- d. the amount, if any, of each Grant that has been obligated for spending on the applicable Project that have not yet been expended;
- e. a certification that of such reporting date, and at all times since the previous reporting date, the Subrecipient is and has been in full compliance with all terms of this Attestation and Agreement, including, without limitation, compliance with Title VI of the Civil Rights Act and all other applicable anti-discrimination laws; and
- f. such other items the Commission shall reasonably request related to the Grant Award and/or the Project.

Subrecipient understands that it may be required to provide other reports concerning its financial condition, use of grant funds, or operations as requested by the Commission.

2. *Annual Performance Report*- No later than July 1 each year for three years following the receipt of the Grant Award, Subrecipient must submit the following information:
 - a. existing network service improvements and facilities upgrades, as well as new equipment purchased and deployed, capacity enhancements that support broadband access for educational institutions, health care providers, and public safety service providers;
 - b. the estimated number of end users who are currently using or forecasted to use the new or enhanced infrastructure;
 - c. the progress towards fulfilling the objectives for which the assistance was allocated;
 - d. the speed and average price of the most subscribed tier of the Subrecipient's broadband service in the project area; and
 - e. a map showing the areas where construction has been completed and the geospatial location of residences and business that are capable of receiving the newly deployed or enhanced broadband service.
3. *ARPA Reporting*- Subrecipient shall comply with any Treasury or additional Commission reporting requirements necessary to comply with ARPA.
4. *Final Close-out Report*-No later than sixty (60) days following the completion of the Project or termination of the Grant Award or expenditure of all award funds, whichever occurs later, Subrecipient shall file, on forms prescribed by the Commission, a Close-out Report which addresses the following:
 - a. a description of the accomplishments of the objectives set forth in the Subrecipient's application;
 - b. a description of any problems, delays or adverse conditions that occurred, or which impacted the overall Project objectives, caused any missed deadlines, or precluded the Subrecipient's ability to achieve the desired outcomes of the Project.

- c. a comparison of how grant funds were spent against the original budget submitted to the Commission and approved in Subrecipient's application; and
- d. a map indicating that all construction has been completed as proposed in the application. If there was a portion of the proposed project area that was not constructed Subrecipient acknowledges and agrees that the Commission may require a portion of the Grant Award to be rescinded or refunded.

Additionally, as the Close-out Report forms have not been made available to the Commission as of the date of this Attestation and Agreement, the Subrecipient will comply with any request for additional data not specified herein, but which the Commission determines is necessary to comply with Treasury reporting requirements.

Section 9. Grant Close-out

Unless the Commission authorizes an extension, Subrecipient will liquidate all obligations incurred under the federal award not later than seventy-five (75) calendar days after the end date of the period of performance as specified in this Attestation and Agreement, Subrecipient will promptly refund any balances of unobligated cash that the federal awarding agency or pass-through entity paid in advance or paid and that is not authorized to be retained for use in other projects.

Subrecipient will account for any real and personal property acquired with federal funds received from the Commission.

Section 10. Access to and Retention of Records

Subrecipient shall maintain records and financial documents sufficient to evidence compliance with Treasury's regulations and guidance regarding the eligible uses of funds. Subrecipient shall permit and shall require its agents and employees to permit the Commission or its authorized representative to inspect all work, materials, payroll, records of personnel, invoices of materials, and other relevant data and records; and to audit the books, records, and accounts of the Subrecipient pertaining to the Grant Award and the Project. Where an independent audit is conducted in its normal course of business, Subrecipient shall submit one copy of any such audit to the Commission or its designated representative within thirty (30) days of receipt of such audit.

Subrecipient agrees to create and maintain records supporting its activities and services covered by the Grant Award, including but not limited to, financial records, supporting documents, and such other records as are required by federal or state law or regulations, for a period of five (5) years after either the termination date of the Grant Award as provided in the Close-out Notice provided by the Commission, or the conclusion of any claim, litigation or exception relating to the Grant Award, whichever is later. These records will be kept in Subrecipient's offices.

Subrecipient shall provide to the Department of Legislative Auditor, the Office of the Inspector General of the US Treasury, and the Government Accountability Office, through their representatives, a reasonable opportunity to inspect, during its normal business hours and upon prior notice, its records in relation to the Grant Award, and any other property encumbered by the Grant Award terms and conditions, and any and all books, records, accounts, including electronic books, records, accounts, and electronic mail messages, regardless of physical form or characteristics, invoices, contracts, leases payroll records, canceled checks, statements, and other documents and papers of any kind pertaining to the Project and the Grant Award.

Section 11. Project Monitoring

The Commission or any of its authorized agents may monitor and inspect all phases and aspects of Subrecipient's performance to determine compliance with its Grant Award, and the proper use of grant funds. This may include on-site visits in addition to requests for written documentation. The Commission may advise Subrecipient of any specific areas of concern and provide Subrecipient a reasonable opportunity to take corrective actions acceptable to the Commission. If correction actions are not taken, depending on the severity of the area of concern, the Commission may take further action consistent with 2 C.F.R. § 200.339 including, but not limited to, temporarily withholding award payments pending correction of the deficiency, disallowing any applicable match credit for all or part of the cost of the activity not in compliance, termination of the Grant Award in whole or in part, withholding further federal awards for the Project or program, and/or taking any other remedies that may be legally available.

Section 12. Assignment

The rights to any grant funds awarded hereunder may not be assigned, transferred, or conveyed in whole or in part without the prior written consent of the Commission. For purposes of construing this clause, a transfer of a controlling interest in Subrecipient, a merger, sale or consolidation of Subrecipient, or a sale of substantially all of Subrecipient's assets shall be considered an assignment. Subrecipient agrees that it shall provide the Commission with the earliest possible advance notice of any proposed sale or transfer or any controlling interest in or substantial assets of Subrecipient and of any proposed merger, sale, or consolidation of Subrecipient. Subrecipient agrees that it shall not use this Grant Award, or any portion thereof, for collateral or to otherwise secure any financial obligation of Subrecipient or any affiliate thereof without the prior written consent of the Commission. Subrecipient further agrees that it may not assign, pledge as collateral, grant a security interest in, create a lien against, or otherwise encumber any payments that may or will be made to Subrecipient under this Grant Award.

Section 13. Conflicts of Interest

Subrecipient 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 Grant Award. Subrecipient must disclose in writing to the Commission or Treasury, as appropriate, any potential conflict of interest affecting the awarded funds in accordance with 2 C.F.R. § 200.112.

Section 14. Compliance with Applicable Laws

1. Subrecipient agrees to comply with the requirements of Section 604 of ARPA and any guidance and regulations adopted by Treasury regarding ARPA.
2. The Grant Award funds allocated in connection with the Agreement are considered to be federal financial assistance subject to the Single Audit Act (31 U.S.C. §§ 7501-7507) and the related provisions of the Uniform Guidance, 2 C.F.R. § 200.303 regarding internal controls, §§ 200.330 through 200.332.
 - a. To the extent required to comply with 2 C.F.R. 200, Subpart F - Audit Requirements, Grantee shall complete an audit at the end of the Grantee's fiscal year ending after December 30 each year.
 - b. Grant funds awarded hereunder count toward the \$750,000 or more threshold applicable to federal awards spent during the fiscal year, which triggers 2 C.F.R. part 200, subpart F regarding audit requirements for nonprofits or governmental entities.
 - c. Nonprofit and local government subrecipients that expend \$750,000 or more in a year in federal awards (from all sources) shall have a single audit conducted for that year in accordance with the provisions of the OMNI Circular, OMB Uniform Guidance: Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 C.F.R. 200.
 - d. These audit requirements do not generally apply to for-profit business; however, the Commission remains responsible for ensuring compliance with Treasury requirements through the implementation of audit and monitoring controls pursuant to 2 C.F.R. 200.501(h). Accordingly, the requirements of this Section shall apply to Subrecipient and Subrecipient's Contractors. Subrecipient shall require and cause any Subrecipient Contractor or subgrantee or subrecipient used by Subrecipient in connection with the Grant Award to agree to and be subject to and bound by such terms and provisions.
3. Subrecipient agrees to comply with federal rules and regulations applicable to this Grant Award including but not limited to the following:
 - a. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200, other than such provisions as Treasury may determine are inapplicable to this Grant Award and subject to such exceptions as may be otherwise provided by Treasury. Audit Requirements of the Uniform Guidance, implementing the Single Audit Act, shall apply to this award.
 - b. Obtaining and Maintaining a Unique Entity Identifier (UEI) in the System for Award Management (SAM), 2 C.F.R. Part 25, as set forth in Appendix A to 2

C.F.R. Part 25 is hereby incorporated by reference. The Commission will require all subrecipients to obtain a UEI and to provide corresponding account information before any payments will be made under a Grant Award.

- c. Developing appropriate internal control procedures consistent with 2 C.F.R. § 200.303.
- d. Reporting Subaward and Executive Compensation Information, 2 C.F.R. Part 170, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 170 is hereby incorporated by reference.
- e. OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (not procurement), 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 Grant Award is subject to 2 C.F.R. Part 180 and Treasury's implementing regulation at 31 C.F.R. Part 19.
- f. Subrecipient Integrity and Performance Matters, pursuant to which the award term set forth in 2 C.F.R. Part 200, Appendix XII to Part 200 is hereby incorporated by reference.
- g. Governmentwide Requirements for Drug-Free Workplace, 31 C.F.R. Part 20.
- h. New Restrictions on Lobbying, 31 C.F.R. Part 21. These regulations require certification by Subrecipients (and Subrecipient Contractors) that they have not engaged in prohibited lobbying activities and/or have filed any required disclosures in accordance with applicable laws. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code; any person who fails to file the required certification may be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure. In accordance with these Applicable Laws, Subrecipient certifies the following:
 - i. No federal funds have been paid or will be paid by, or on behalf of Subrecipient, to any person for influencing or attempting to influence an officer or employee of the Commission, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, or the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
 - ii. If any funds other than federal funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of the Commission, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with any federal contract, grant, loan, or cooperative agreement, Subrecipient

must complete and submit Standard Form-LLL, “Disclosure Form to Report Lobbying” in accordance with its instructions.

- i. Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. §§ 4601-4655) and implementing regulations.
- j. The Davis-Bacon Act (40 U.S.C. §§ 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 C.F.R. part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”), where applicable.
- k. Generally applicable federal environmental laws and regulations.⁵
- l. Contract provisions for non-federal entity contracts under federal awards (Appendix II, 2 C.F.R. Part 200). All contracts entered into by Subrecipients must comply with the following:
 - i. All prime construction contracts in excess of \$10,000 must address termination for cause and for convenience by a non-federal entity, the manner in by which it will be effected, and the basis for settlement.
 - ii. All federally assisted construction contracts must contain an Equal Employment Opportunity provision in accordance with Executive Order 11246 (30 FR 12319, 12935, 3 C.F.R. Part 1964-1965 Comp. p. 339) as amended by Executive Order 11375 and implementing regulations at 41 C.F.R. part 60 “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”
 - iii. When required by federal program legislation, all prime construction contracts greater than \$2,000 must include a provision for compliance with the Davis-Bacon Act and the Copeland “Anti-Kickback” Act.
 - iv. It is prohibited to procure or renew contracts on telecommunications and video surveillance services or equipment from Huawei Technologies or ZTE Corporation, including any subsidiary or affiliate of these entities
 - v. Contracts and subgrants in excess of \$150,000 must contain a provision of compliance with the Clean Air Act and the Federal Water Pollution Control Act.
 - vi. Contractors in contracts in excess of \$100,000 must file the required certification in accordance with the Byrd Anti-Lobbying Amendment.
 - vii. If the federal award meets the definition of “funding agreement”, contracts entered into with small business firms or nonprofit organizations for the purpose of experimental, developmental, or research work must include provisions of “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements”

⁵ See <https://home.treasury.gov/system/files/136/CPF-Environmental-Questionnaire.pdf> for a checklist of environmental laws that may apply. Where applicable, subrecipients will need to retain records, permits and documentation necessary to demonstrate compliance with federal environmental requirements.

- viii. All contracts in excess of \$100,000 that employ mechanics or laborers must include a provision for compliance with Contract Work Hours and Safety Standards Act.
 - ix. No contract shall be awarded to a contractor in violation of 2 C.F.R. § 200.215 and regulations implementing Never Contract with the Enemy in 2 C.F.R. part 183.
 - x. No contract shall be awarded to a contractor included on the federally debarred bidder's list. The list of entities that are not allowed to do business with the federal government can be found at <https://sam.gov/content/exclusions>.
 - m. Pursuant to 2 C.F.R. 200.321, Subrecipient shall take all necessary affirmative steps to assure that minority owned businesses, women's business enterprises, and labor surplus area firms are used when possible.
4. Subrecipient agrees to fully comply with all applicable federal, state, or local laws, rules, regulations, and executive orders including but not limited to:
- a. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d *et seq.*) and Treasury's implementing regulations at 31 C.F.R. Part 22, which prohibits discrimination on the basis of race, color, or national origin under programs or activities receiving financial assistance;
 - b. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 36012 *et seq.*) which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability;
 - c. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance;
 - d. The Age Discrimination Act of 1975, as amended (42 U.S.C. §6101 *et seq.*), and Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibits discrimination on the basis of age in programs or activities receiving financial assistance;
 - e. Title II of the Americans with Disabilities Act of 1990 (42 U.S. Code § 12101 *et seq.*) which prohibits discrimination on the basis of disability under programs and activities and services provided or made available by state and local governments or instrumentalities or agencies thereto;
 - f. The Architectural Barriers Act of 1968, as amended (42 U.S.C. § 4151 *et seq.*);
 - g. The Uniform Federal Accessibility Standards (UFAS), as published by the United States Access Board;
 - h. The Council on Environmental Quality Regulations for Implementing the Procedural Provisions of NEPA and certain related federal environmental laws, statutes, regulations, and Executive Orders found in 7 C.F.R. 1970;

- i. The Native American Graves Protection and Repatriation Act (25 USC 3001 *et seq.*, 43 C.F.R. § 10.4); (ix) the Communications Act of 1934, as amended, (47 U.S.C. § 151 *et seq.*);
 - j. The Clean Air Act and the Federal Water Pollution Control Act;
 - k. The Telecommunications Act of 1996, as amended (Pub. L. 104-104, 110 Stat. 56 (1996)); and the Communications Assistance for Law Enforcement Act (47 U.S.C. § 1001 *et seq.*); and
 - l. Governor Pillen’s Executive Order No. 23-05, issued on February 22, 2023, which prohibits state agencies from awarding grant funding designated for broadband deployment to recipients using or deploying communications equipment and services listed on the Covered List (“prohibited equipment”).
5. Subrecipient and its contractors, subcontractors and subrecipients are the employer for the purpose of providing healthcare benefits and paying any applicable penalties, fees and taxes under the Patient Protection and Affordable Care Act [P.L. 111-148, 124 Stat. 119].
 6. Subrecipient agrees that the hiring of persons to perform work on the Project will be made on the basis of merit and qualifications and there will be no discrimination based on race, color, sex, pregnancy, childbirth or medical conditions related to pregnancy or childbirth, political or religious affiliation or ideas, culture, creed, social origin or condition, genetic information, sexual orientation, gender identity or expression, national origin, ancestry, age, disability, military service or veteran status, or marital status.
 7. Subrecipient shall comply with the provisions of Nebraska Workers Compensation Act (Neb. Rev. Stat. § 48-101 *et seq.*).
 8. If and when applicable, Subrecipient shall comply with applicable state prevailing wage laws.
 9. Subrecipient shall comply with the provisions of the Historic Sites Act of 1935 and the National Historic Preservation Act of 1966, where applicable. Subrecipient will not, without the prior written consent of the Commission, use any portion of the Grant Award to construct any facility which shall involve any district, site, building, structure or object which is included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior.
 10. In the event of Subrecipient’s noncompliance with section 604 of the Act, or any other applicable laws, Treasury’s implementing regulations, guidance, or any reporting or any other program requirements, Treasury and the Commission may impose additional conditions on the receipt of grant reimbursement or any future grant funding, if any, or take any other available remedies as set forth in 2 C.F.R. § 200.339. Funding provided may be subject to recoupment, in whole or in part as and any additional payments may be subject to withholding.

Section 15. Prohibition on Certain Telecommunications and Video Surveillance Services and Equipment

Subrecipient acknowledges and certifies that it will not expend grant funds to 1) procure and obtain; 2) extend or renew a contract to procure or obtain; or 3) enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that use covered telecommunications equipment or services as a substantial or essential component of any system or as critical technology as part of any system consistent with the provisions of 2 C.F.R. § 200.216.

Section 16. Insurance

1. *General Requirements.* Subrecipient must maintain-- and assure that its contractors, subcontractors and subrecipients maintain-- for the duration of the Project, at their own cost and expense, primary liability insurance against claims for injuries (including death) to persons or damages to property, including contractual liability, that may arise from or in connection with the performance of the duties and obligations in the Grant Award by Subrecipient, its agents, employees, assigns, contractors, or subcontractors. This insurance must cover such claims as may be caused by any negligent act or omission.
2. *Primary Insurance.* Subrecipient's insurance coverage must be primary insurance with respect to the State of Nebraska, its elected or appointed officials, employees, or volunteers and the State's insurance will not contribute with it.
3. *General Provisions.* The Commission reserves the right to request complete copies of the Subrecipient's insurance policy, including endorsements, at any time. Insurance coverage limits do not limit Subrecipient's liability under this Agreement.

Section 17. Sovereign Immunity

Neither the Commission nor the State of Nebraska waives any immunity defenses (including sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States, or otherwise) or any other defenses available to either and specifically retains and reserves all immunity defenses.

Section 18. Representations and Warranties

1. Subrecipient certifies that there is no pending or threatened legal, arbitration or governmental actions or proceedings to which Subrecipient is a party or to which any of its property is subject which, if adversely determined, could have a material adverse effect on the Subrecipient's ability to complete the Project or the Grant Award.
2. Subrecipient represents and warrants that it is not in arrears with respect to the payment of any monies due and owing the State of Nebraska or any department, agency, office, or any other governmental entity, unit, or subdivision thereof, including but not limited to the payment of taxes and employee benefits. Subrecipient represents that its accounting system is adequate to comply with this Attestation and Agreement.

3. Subrecipient certifies that it is not presently debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority. Subrecipient agrees to immediately notify the Commission if it is debarred, suspended or otherwise ineligible under statutory or regulatory authority to receive federal grant funding.

Section 19. Protection for Whistleblowers

1. In accordance with 41 U.S.C. § 4712, Subrecipient 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 Subrecipient, contractor, or subcontractor who has the responsibility to investigate, discover, or address misconduct.
3. Subrecipient shall inform its employees in writing of the rights and remedies provided under this section, in the predominant native language of the workforce.

Section 20. Disclaimer

1. The United States expressly disclaims any and all responsibility or liability to Subrecipient or third persons for the actions of Subrecipient 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 this award or any contract, or subcontract of this award.
2. The acceptance of this award by Subrecipient does not in any way establish an agency relationship among or between the United States, the State of Nebraska, the Commission, DED, and Subrecipient.

Section 21. Notices

Notices pertaining to this Attestation and Agreement and Grant Award shall be in writing and delivered to:

To the Commission:
Cullen Robbins
Director--NUSF/Telecommunications
Nebraska Public Service Commission
1200 N Street; Suite 300
PO Box 94927
Lincoln, Nebraska 68509
psc.broadband@nebraska.gov

To Subrecipient:

The effective date for any notice shall be the date of delivery of such notice (not the date of mailing) which may be affected by certified U.S. Mail return receipt requested with postage prepaid thereon or by recognized overnight delivery service, such as Federal Express or UPS. Each such notice shall be deemed to have been provided:

- At the time it is actually received in the case of electronic mail or hand delivery;
- Within one (1) day in the case of overnight delivery, courier or services such as Federal Express with guaranteed next-day delivery; or
- Within five (5) days after it is deposited in the U.S. Mail.

Section 22. Increasing Seat Belt Use in the United States

Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), Subrecipient should encourage its contractors to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented or personally owned vehicles.

Section 23. Reducing Text Messaging While Driving

Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Subrecipient should encourage its employees, subrecipients, and contractors to adopt and enforce policies that ban text messaging while driving, and Subrecipient should establish workplace safety policies to decrease accidents caused by distracted drivers.

Section 24. False Statements

Subrecipient understands that making false statements or claims in connection with this Grant 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.

Section 25. Publications

Any publications produced with funds from this Grant Award must display the following language: "This project [is being] [was] administered through the Nebraska Broadband Bridge Program, supported in whole or part by the American Rescue Plan Act Coronavirus Capital Projects Fund, award number CPFFN0183, a federal award granted to the State of Nebraska by the U.S. Department of the Treasury."

By executing this Attestation and Agreement, Subrecipient agrees to abide by all the terms and conditions set forth herein.

Dated this _____ day of _____, 2023.

Signature

Printed Name

Title

Company

Address

City, State, Zip

Telephone Number

Email Address

Unique Entity Identifier

Civil Rights Compliance Attestation and Agreement

The undersigned Subrecipient hereby attests to its current compliance and provides assurance of its future compliance with Title VI of the Civil Rights Act of 1964, as amended, which prohibits exclusion from participation, denial of the benefit of, or subjection to discrimination under programs and activities receiving federal financial assistance, of any person in the United States on the ground of race, color, or national origin (42 U.S.C. § 2000d *et seq.*), as implemented by the Department of the Treasury Title VI regulations at 31 CFR Part 22 and other pertinent executive orders such as Executive Order 13166, directives, circulars, policies, memoranda, and/or guidance documents.

Subrecipient understands that denying a person access to its programs, services, and activities because of Limited English Proficiency (“LEP”) is a form of national origin discrimination prohibited under Title VI of the Civil Rights Act of 1964 and the Department of the Treasury's implementing regulations. Accordingly, Subrecipient shall initiate reasonable steps, or comply with the Department of the Treasury's directives, to ensure that LEP persons have meaningful access to its programs, services, and activities. Subrecipient understands and agrees that meaningful access may entail providing language assistance services, including oral interpretation and written translation where necessary, to ensure effective communication in Subrecipient's programs, services, and activities. Subrecipient agrees to consider the need for language services for LEP persons when Subrecipient develops applicable budgets and conducts programs, services, and activities. Subrecipient acknowledges and agrees that compliance with the assurances constitutes a condition of continued receipt of federal financial assistance and is binding upon Subrecipient and its successors, transferees, and assignees for the period in which such assistance is provided.

Subrecipient agrees to comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color or national origin (42 U.S. C. § 2000d *et seq.*), as implemented by the Department of Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this attestation and agreement. Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d *et seq.*, as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made a part of this attestation and agreement. Subrecipient further acknowledges and agrees that it will require any sub-grantees, contractors, subcontractors, successors, transferees, and assignees to comply with Title VI of the Civil Rights Act of 1964, and effectively monitor compliance, consistent with the assurances provided herein.

Subrecipient agrees that it will maintain a complaint log and inform the Commission and the Department of the Treasury of any complaints of discrimination on the grounds of race, color, or national origin, and limited English proficiency covered by Title VI of the Civil Rights Act of

1964 and implementing regulations and provide, upon request, a list of all such reviews or proceedings based on the complaint, pending or completed, including outcome. Subrecipient also must inform the Commission and the Department of the Treasury if Subrecipient has received no complaints under Title VI.

Subrecipient agrees to cooperate in any enforcement or compliance review activities by the Department of the Treasury of the aforementioned obligations. Enforcement may include investigation, arbitration mediation, litigation, and monitoring of any settlement agreements that may result from these actions. Subrecipient shall comply with information requests, on-site compliance reviews and reporting requirements.

Subrecipient agrees to provide to the Commission upon request documentation of an administrative agency's or court's findings of Subrecipient's non-compliance of Title VI and efforts to address the non-compliance, including any voluntary compliance or other agreements between Subrecipient and the administrative agency that made the finding. If Subrecipient settles a case or matter alleging such discrimination, Subrecipient must provide documentation of the settlement.

Under penalty of perjury, the signing official(s) on behalf of Subrecipient certifies that he/she has read and understood its obligations as herein described, that any information submitted in conjunction with this assurance document is accurate and complete, and that Subrecipient is in compliance with the aforementioned nondiscrimination requirements.

Executed on this _____, day of _____, 2023.

By: _____
Signature

Printed Name

Title

Entity Name