

## GRANT AGREEMENT

(American Rescue Plan Act Grant Funding)

This Broadband Investment Grant Program Grant Agreement ("Agreement") is entered into by and between the State of Oklahoma by and through the Oklahoma Broadband Office (OBO) and the ("Subrecipient"), \_\_\_\_\_, a registered non-federal entity existing under the laws of Oklahoma that provides broadband service, including, but not limited to, a for-profit, a non-profit, cooperative, local government, municipality or tribal entity. The OBO has determined that this ISP is a subrecipient under 2 CFR § 200.331, and the "SLFRF and CPF Supplementary Broadband Guidance" dated May 17, 2023.

The purpose of this Agreement is to provide funding to the Subrecipient to achieve sufficient broadband level internet service in areas with an identified need, unserved and underserved. This Agreement is issued under the authority of the American Rescue Plan Act of 2021 (Public Law 117-2) ("ARPA") and Oklahoma House Bill 3363, codified at 74 O.S. § 9201 - 9210 and appropriated by Oklahoma House Bill 1011. This grant 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) ("Grant" or "Subaward").

The Subrecipient is granted a subaward for one or more ARPA SLFRF broadband portal applications to be funded from American Rescue Plan Act Coronavirus State and Local Fiscal Recovery Funds, each distributed by OBO and attached hereto from time to time in (**Exhibit A**), an "Application" and in reliance on the representations, certifications and warranties made by the Subrecipient or an Applicant acting on behalf of the Subrecipient herein and in the Applications, OBO will provide one or more restricted grants in the total grant amount. This grant amount shall not exceed \$ \_\_\_\_\_ as identified in the award notice to the Subrecipient on the terms and conditions stated herein;

Creation and Maintenance of Separate Accounting. As a prerequisite to receiving grant funding distributions, the Subrecipient shall establish and maintain separate accounting for said ARPA funds in a federally insured account.

Expenditure of money in grant account only for authorized Project purposes. The OBO shall disburse proceeds of the grant to the Subrecipient only for eligible project costs dated March 3, 2021 or after in accordance with ARPA procedures. The Subrecipient shall submit certified requests for disbursement of funds proceeds to the OBO on the forms provided by the OBO. These requests shall be accompanied by such invoices or other documentation as may be required by the OBO to demonstrate that such amounts have been or will be incurred by or on behalf of the Subrecipient for the payment of project costs.

Participation in ACP. Subrecipients certify that they participate in the Federal Communication Commission's Affordability Connectivity Program ("ACP"). If the Subrecipient's participation in ACP ends as a result of the program's end date, then at that time the Subrecipient certifies that it will otherwise provide access to a broad-based affordability program to low-income consumers in the proposed service area of the broadband infrastructure that provides benefits to households commensurate with those provided under ACP.

The Subrecipient will accept the Grant evidenced by each Application, and to thereby become a subrecipient of the ARPA Grant, on the terms and conditions stated herein and on the Notice of Funding Opportunity (NOFO) located on the OBO website. The Subrecipient additionally certifies to the State Fiscal Recovery Fund Program Assurances Issued on June 2, 2021, as identified in (**Exhibit B**).

Therefore, in consideration of the premises and the mutual covenants herein contained, the parties agree and bind themselves as follows:

## **ARTICLE I-REPRESENTATIONS OF THE SUBRECIPIENT**

Recognizing that OBO is relying hereon, the Subrecipient represents, as of the date of this Agreement, as follows:

- A. **Organization; Power, Etc.** The Subrecipient, is a registered entity existing under the laws of Oklahoma that provides broadband service, including, but not limited to, a for-profit, a non-profit, cooperative, local government, municipality or tribal entity, and has full legal right and power to authorize, execute, and deliver this Agreement, to receive each Grant, to undertake and implement the use of Grant funds described in each Application and to carry out and consummate all transactions contemplated by the foregoing (including without limitation the recordkeeping and reporting described herein).
- B. **Authority.** The Subrecipient has duly and validly authorized the execution and delivery of this Agreement and has or will have so authorized the execution of each Application, and all approvals, consents, and other governmental or corporate proceedings necessary for the execution and delivery of the foregoing or required to make this Agreement the legally binding obligation of the Subrecipient that it purports to be, in accordance with its terms, have been obtained or made. The representatives of the Subrecipient executing this Agreement have all necessary power and authority to execute this Agreement and to bind the Subrecipient to the terms and conditions herein.
- C. **No Litigation.** No action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, public board or body, other than as disclosed to OBO in writing, is pending or, to the knowledge of the authorized representatives of the Subrecipient executing this Agreement, threatened (1) seeking to restrain or enjoin the execution and delivery of this Agreement, or the undertaking of any Project (defined below) or (2) contesting or affecting the validity of this Agreement; and neither the corporate existence of the Subrecipient nor the title to office of any authorized representatives of the Subrecipient executing this Agreement, is being contested.
- D. **No Conflicts.** The authorization, execution and delivery of this Agreement, and performance by the Subrecipient of each Project and of its obligations under this Agreement, will not constitute a breach of, or a default under, any law, ordinance, resolution, agreement, indenture, or other instrument to which the Subrecipient is a party or by which it or any of its properties is bound.
- E. **SAM Registration.** Subrecipient is registered with the U.S System for Award Management (SAM) and confirms that the Data Universal Numbering System (DUNS) number or Unique Entity Identifier (UEI) listed in Exhibit A is the correct such number for the Subrecipient as of the date hereof.
- F. **Binding Agreement.** This Agreement is, or when executed and delivered will be, the legal, valid, and binding obligation of the Subrecipient, 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.
- G. **Information Submitted.** All information, reports, and other documents and data submitted to the OBO and its Representatives in connection with this Agreement (including without limitation, the Application(s) and Funding Review Packet attached hereto as of the date of execution and each other Application as well as the Funding Review Packet, if any, to be later attached and made a part hereof pursuant to the terms hereof) were, at the time the same were ( or will be) furnished, and are, as of the date hereof ( or will be as of the date the same are furnished), true, correct and complete in all material respects.

- H. Ratification. By executing this Agreement, the Subrecipient (i) affirms and ratifies all statements, representations and warranties contained in all written documents that it has submitted to OBO in connection with this Agreement (including, without limitation, this Agreement and the Application(s) attached hereto as Exhibit A as of the date hereof) and (ii) agrees that on each date, if any, that an additional Application is attached hereto and made a part hereof, it will be deemed to have affirmed and ratified all such statements, representations and warranties (including, without limitation, those contained or provided in connection with such additional Application).
- I. Competitive Bidding. All funds received by the Subrecipient herein subject to the property standards found in 2 CFR § 200.310 through 2 CFR § 200.316 if applicable, and the procurement standards found in 2 CFR §200.317 through 2 CFR §200.327. The Subrecipient acknowledges and agrees that these funds must be competitively bid or covered by an exemption as described therein. More information on those requirements can be found on the OMES website found here: <https://oklahoma.gov/omes/services/purchasing.html>.
- i. Subrecipient shall maintain, and supply to the OBO, upon request procurement-related documentation, including but not limited to:
- i. open solicitations,
  - ii. non-competitive procurement justification memos,
  - iii. cost or price analysis,
  - iv. signed and executed contracts, change orders, purchase orders,
  - v. invoices with supporting materials such as timesheets, usage logs for rented or leased equipment, and proof of receipt of materials, e.g. a bill of lading,
  - vi. where applicable, documentation that substantiates a high degree of contractor or supplier oversight such as daily or weekly logs and records of performance meetings,
  - vii. equipment and supply asset inventory, including disposition.
- J. Performance and Financial Monitoring and Reporting. All funds received by the Subrecipient herein are subject to the financial monitoring and reporting requirements found in 2 CFR§ 200.328 to 2 CFR§ 200.330 regarding oversight of information and information collection. An amendment to this Agreement will be provided by OBO at least 30 days prior to any required reporting that identifies required cadence and format for reporting. Subrecipient acknowledges that the receipt of these funds obligates the Subrecipient to provide oversight and information collection on an internal basis as well as to be the subject of external oversight and information collection as described in those regulations.
- K. Subrecipient Monitoring and Management. The Subrecipient acknowledges that OBO is acting as a pass-through entity for the ARPA Grant and the Subrecipient agrees to meet the requirements found in Sections 2 CFR §200.331 and §200.332 as a subrecipient as well as aid OBO upon request in its monitoring capacity by providing access to as well as any information requested by OBO for that purpose.
- L. Record Retention Requirements. The Subrecipient acknowledges that the funds for the ARPA Grant are subject to the requirements found in Section 2 CFR §200.334 through 2 CFR §200.338 and agrees to the meet the same. Subrecipient is required to maintain and retain records and provide access to such records are required.
- M. Audit Requirements. The Subrecipient acknowledges that the funds for the ARPA Grant are subject to the requirements found in Sections 2 CFR §200.500 through 2 CFR §200.520 and agrees to meet the same.

Subrecipient is subject to audit by Federal and State entities and agrees to be prepared to perform those responsibilities required for Auditees.

Subrecipient shall maintain and retain its financial records, supporting documents, statistical records, and all other records pertinent to this Subaward for seven (7) years from the date of submission of the Final Expenditures Report, and longer if any litigation, claims, or audit is started before the end of that seven (7) year period; in which case, records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action has been taken.

Subrecipient shall retain all records related to real property until seven (7) years after final disposition of the property.

If the U.S. Department of Treasury requests transfer of any of Subrecipient's records to it, Subrecipient must collect and transmit all required records to Treasury within the time allowed by Treasury in the request and in the format required in section 2 CFR § 200.336 of the Uniform Guidance.

## **ARTICLE II-STATE AND LOCAL FISCAL RECOVERY PROGRAM ASSURANCES**

The Grantee, as a subrecipient (hereinafter "Subrecipient") further acknowledges and agrees to the additional assurances described below.

### **A. Subaward Information to collect from Subrecipient for the State Fiscal Recovery Fund "SFRF" reporting**

- i. Project Expenditure Category
- ii. Subrecipient Name (must match SAM.gov)
- iii. Subrecipient DUNS or Unique Entity Identifier (UEI)
- iv. Subaward period of performance start and end date
- v. Total amount of federal funds obligated to this Subrecipient in this Agreement
- vi. Description of the purpose of the subaward
- vii. Other data as required by OBO to fulfill its obligations under the most recent version of the Department of Treasury's State and Local Fiscal Recovery Funds Reporting and Compliance Guidance

### **B. SLFRF Program Assurances**

A Subrecipient must attest to the following:

#### **i. Compliance with Federal Requirements**

- a. Subrecipient confirms understanding it is a Subrecipient of State Fiscal Recovery Funds, and agree to comply with applicable federal compliance, reporting, and contract requirements, including but not limited to:
  - The American Rescue Plan Act of 2021, P.L. 117-2, March 11, 2021, as amended.
  - US Department of Treasury Final Rule, Coronavirus State and Local Fiscal Recovery Funds, 87 Fed. Reg. 4338, January 27, 2022, and all other applicable federal rules, policies, guidance, procedures, and directives including Reporting and Compliance Guidance, as may be amended.

- Uniform Guidance (2 CFR Part 200), including Uniform Administrative Requirements, Cost Principles, and Audit Requirements.
  - Notice of Davis Bacon Act Requirements: The federal requirements to report and certify prevailing wage rates under the Davis Bacon Act, 40 USC §3141, et. seq., do not apply to capital projects funded solely with State and Local Fiscal Recovery Funds (SLFRF) provided under the American Rescue Plan Act, except for certain construction projects in the District of Columbia. Thus, recipients of SLFRF funds provided by the OBO for the purposes provided in this Agreement and expended for capital project(s) are not subject to Davis-Bacon requirements, provided that the SLFRF funds are the only funds expended for the capital project(s). Should any capital project(s) funded under this Agreement also receive funding from other state and/or federal sources, then the Davis-Bacon requirements may apply. Grantee is solely responsible for determining the applicability of and compliance with Davis-Bacon requirements for all capital projects funded under this Agreement.
- b. Subrecipient acknowledges that federal requirements include, but are not limited to:
- All funds expended under this award must be in compliance with the American Rescue Plan Act and applicable US Department of Treasury guidance (as may be amended from time to time).
  - The Subrecipient will be subject to a single audit or program specific audit when the subrecipient expends \$750,000 or more in a fiscal year under the Uniform Guidance subpart F if the entity is subject to Subpart F of Part 2 of the CFR. Subpart F of the Uniform Guidance applies to all non-federal entity subrecipients, including ISPs. Per the Treasury’s updated guidance dated May 17, 2023, for-profit subrecipients are not subject to Subpart F but are subject to the terms and conditions in the award between a federal awarding agency and a recipient, and, pursuant to 2 CFR 200.501(h), the OBO has an obligation to ensure compliance by for-profit subrecipients as distinguished from the single audit requirement. Under that provision, OBO will require evidence of alternative audit methods to ensure compliance for federal awards made to for-profit subrecipients, which may include pre-award audits, monitoring during the agreement, and post-award audits.
  - Subrecipient must establish and maintain effective internal control over the Federal award that provides reasonable assurance that the Subrecipient is managing the award in compliance with Federal statutes, regulations, and the terms and conditions of the award.

**ii. Subawards**

- a. Subrecipient acknowledges that any subaward issued by it to any additional subrecipients (“secondary subrecipients”) will require the secondary subrecipient to comply with all existing federal requirements described in this Agreement and the Subrecipient will be held liable for any mishandling or misuse of these funds by the secondary subrecipient.
- b. The Subrecipient acknowledges this award is subject to 2 CFR§ 200.330 regarding subrecipient monitoring and management, and the subrecipient will be subject to a risk assessment and monitoring of the secondary subrecipient’s compliance with federal requirements. Per 2 CFR § 200, monitoring of any secondary subrecipients will include:
- Reviewing financial and performance reports

- Following-up and ensuring that the secondary subrecipient takes timely and appropriate action on all deficiencies pertaining to the Federal award provided to secondary subrecipient from Subrecipient detected through audits, on-site reviews, and other means.
- Issuing a management decision for audit findings pertaining to the Federal award provided to Subrecipient from secondary Subrecipient as required by 2 CFR.§ 200.521 Management decision.
- Verifying that secondary Subrecipient is audited as required by 2 CFR Part 200 Subpart F— Audit Requirements when it is expected that Subrecipient's Federal awards expended during the respective fiscal year equaled or exceeded the threshold set forth in 2 CFR§ 200.501 Audit requirements.

### **iii. Subrecipient Compliance Monitoring**

- a. The Subrecipient agrees to undergo the monthly or quarterly monitoring schedule attached as Exhibit C, the Subrecipient Monitoring Schedule. Monitoring in accordance with (**Exhibit C**) and will provide timely and ongoing assistance and information to OBO to monitor and evaluate compliance with the terms of the award. OBO, at its discretion, may perform periodic fiscal and program monitoring reviews.
- b. The Subrecipient agrees to maintain and make available to the OBO, the State of Oklahoma and/or US Department of Treasury, upon request, all documents and financial records sufficient to establish compliance with ARPA. Records to support compliance with ARPA may include, but are not limited to, copies of the following:
  - General ledger and subsidiary ledgers used to account for (a) the receipt of SLFRF payments and (b) the disbursements from such payments to meet eligible expenses related to the public health emergency due to COVID-19;
  - Budget records;
  - Payroll, time records, human resource records to support costs incurred for payroll expenses related to addressing the public health emergency due to COVID-19;
  - Receipts of purchases made related to addressing the public health emergency due to COVID-19;
  - Contracts and subcontracts entered into using SLFRF payments and all documents related to such contracts;
  - Grant agreements and grant subaward agreements entered into using SLFRF payments and all documents related to such awards;
  - All documentation of reports, audits, and other monitoring of contractors, including subcontractors, grant subrecipients and secondary subrecipients;
  - All documentation supporting the performance outcomes of contracts, subcontracts, grant awards, and grant recipient subawards;
  - All internal and external email/electronic communications related to use of SLFRF payments; and
  - All investigative files and inquiry reports involving SLFRF payments.

### **iv. Capital Expenditures**

- a. In accordance with Section 35.6 (b)(4) of the Treasury Final Rule, Subrecipients expending \$1 million or more for capital expenditures, under this award in expenditure categories related to response to the COVID-19 public health emergency or its negative economic impacts, must provide the following written justification for the capital expenditure:
  - Description of the harm or need to be addressed. Provide a description of the specific harm or need to be addressed and why the harm was exacerbated or caused by the public health emergency. Subrecipient may provide quantitative information on the extent and the type of harm, such as the number of individuals or entities affected.
  - Explanation of why a capital expenditure is appropriate. For example, Subrecipients should include an explanation of why existing equipment and facilities, or policy changes or additional funding to pertinent programs or services, would be inadequate.

Comparison of proposed capital project against at least two alternative capital expenditures and demonstration of why the proposed capital expenditure is superior. Subrecipients should consider the effectiveness of the capital expenditure in addressing the harm identified and the expected total cost (including pre-development costs) against at least two alternative capital expenditures.

- Funding for Subrecipients expending \$1 million or more for capital expenditures under this award will not be distributed until the complete written justification for capital expenditure as detailed above is received and approved by OBO.

**v. Required Programmatic Data for Infrastructure Projects (EC 5)**

- a. The Subrecipient agrees to provide the applicable required programmatic data listed within the most recent US Department of Treasury’s State and Local Fiscal Recovery Funds Reporting and Compliance Guidance to the State of Oklahoma. An amendment to this Agreement will be provided by OBO at least 30 days prior to any required reporting that identifies the required cadence and format for reporting. For projects over \$10 million in the Water, Sewer, and Broadband expenditure categories, this includes the data elements required for the Project Employment and Local impact Report and Workforce Continuity Plan. For Broadband projects in expenditure categories 5.19 – 5.21 (Infrastructure: Broadband), Subrecipient agrees to report quarterly to the OBO specific project information, as outlined in the “Treasury Reporting Template”. The specific project information includes detailed project information and location-by-location project information. Detailed project information quarterly reporting includes the project technology type (planned/actual), total miles of fiber deployed (planned/actual), total number of funded locations served (planned/actual) broken out by speeds and the total number of funded locations served broken out by type of location (residential, business, or CAI), and the speed tiers offered with corresponding non-promotion prices, including associated fees and data allowance for each speed tier of broadband service. Location-by-location project information quarterly reporting includes the latitude/longitude at the structure where service will be installed and technology used to offer service at the location, the type of location with the speed tier at the location pre-SLFRF investment and post-SLFRF investment, and standard FCC identifiers (i.e., fabric ID # and FCC issued provider ID #).

**i. Additional Assurances**

- a. The Subrecipient acknowledges that if the Subrecipient expends more than \$750,000 in Federal awards during their fiscal year, the Subrecipient will be subject to audit under the federal Single Audit Act Amendments of 1996, Pub. L. No. 104-156, (July 5, 1996). The Subrecipient will inform the State of Oklahoma that a Single Audit will be required for the prior fiscal year and each fiscal year which will be covered pursuant to this Agreement.

- b. The Subrecipient acknowledges that the project must reach substantial completion with service operations and management systems infrastructure operational (i.e., delivering services to end-users) by October 2, 2026. All funds must be expended by December 31, 2026, and the balance of unspent funds must be returned to the State of Oklahoma.
- c. Upon identification of unallowable costs or misuse of funds, the Subrecipient is entitled to present a written application for appeal of that decision by OBO. Upon receipt of such an application, the OBO Grants Management Office will provide the Subrecipient an opportunity for a hearing on such application, pursuant to 2 CFR §200.342. OBO will invite legislative budget negotiators to the hearing. Subsequent to that hearing OBO will issue a letter approving or denying the application for appeal. If it is still determined that unallowable costs or misuse of funds did occur, corrective action will take place in accordance with OBO policies and procedures, which will be promulgated as rules/and or be made publicly available on OBO's website before any final decision has been rendered. The Subrecipient acknowledges that if the US Department of Treasury recoups funds from the State of Oklahoma based on a determination that these award funds were used in a manner not in compliance with ARPA, the Subrecipient agrees that the State of Oklahoma may recover funds from the subrecipient within twelve (12) months, including by means of the appropriations process controlled by the Oklahoma Legislature.
- d. The Subrecipient agrees to retain records and supporting documentation, including records pertinent to the compliance of all subcontractors or secondary subrecipients paid from funds under this agreement, for a period of five years after all funds have been expended or returned to US Department of Treasury, whichever is later.
- e. The Subrecipient agrees that at all times during the performance period all necessary permitting, rights-of-way, grants and easements will be in place. The OBO reserves the right to follow up with any necessary state or federal entity to ensure these are in place.
- f. The Subrecipient certifies that if at any time during the time this grant agreement is in place, if any project receives additional funding/reimbursement for any source, Subrecipient will notify the office immediately.

### **ARTICLE III—THE GRANT**

Grant Amount. OBO agrees to make, and the Subrecipient agrees to accept, on the terms and conditions stated in this Agreement, one or more Grants, in the Grant Amount(s) specified on the Application(s) attached as Exhibit A hereto. From and after the date hereof, OBO may agree to make and the Subrecipient may agree to accept, on the terms and conditions stated herein, additional Grants pursuant to additional Applications in the Grant Amount stated in each such Application; in such event, such additional Applications will be attached hereto on Exhibit A and shall become a part of this Agreement.

Grant Purpose. Each Grant is being made solely to finance the project described in the applicable Application (each, a "Project").

Grant Distribution. The Subrecipient and OBO agree that the funds will be distributed in accordance with the Subrecipient Funding Disbursement Policies (**Exhibit D**).

Grant Expenditure Schedule. The Grant will not pay any costs other than those obligated during the period from March 3, 2021 to December 31, 2024 (subject to extension in the sole discretion of OBO). All Grant proceeds that remain unexpended the later of eighteen (18) months after the date of the grant agreement or as of June 30, 2026 (or such later date to which OBO shall extend such deadline, in its sole discretion) shall be returned to OBO promptly (and in any event within ten (10) business days thereafter).



Executed Grant Agreement. OBO shall receive a duly executed original of this Agreement.

Expiration of Offer. The grant Agreement offer will terminate in the event that initiation of performance is not rendered within ninety (90) days of the project commencement date or it is not rendered in accordance with the grant expenditure schedule discussed in the above paragraph titled "Grant Expenditure Schedule".

Additional Funding. The Subrecipient shall ensure that adequate funding is in place to complete each Project. In the event that any Grant, alone, is for any reason insufficient to complete the applicable Project, the Subrecipient will obtain or make available and apply other funds (including by incurring loans in an aggregate amount necessary to ensure completion of each such Project. Any additional funding may have separate terms and restrictions that do not override these obligations.

No Existing Federal or State Funding. The Subrecipient certifies that need addressed by this subaward is not met by existing federal or state commitments, nor will this subaward be used to reimburse any federal or state funding streams.

Permitting. The Subrecipient certifies that it will at all times be in compliance with all federal and state permitting laws for the duration of their performance. If the OBO learns that the Subrecipient is not in compliance with all permitting laws, this may constitute grounds for the immediate termination of this agreement.

Recoupment of Costs. Subrecipient shall be responsible for, and hereby agrees to prompt pay or reimburse OBO for all costs incurred by OBO, its employees, officers, and agents (including without limitation, attorneys' fees) related to or arising out of such recoupment, including without limitation costs of any related investigation, audit and/or collection efforts, provided that sufficient legislative appropriations exist to pay said costs and provided that the costs are substantiated by supporting documentation.

#### **ARTICLE IV – REMEDIES FOR NON-COMPLIANCE**

OBO in its sole and absolute discretion of Subrecipient non-compliance, may impose additional conditions for compliance as described in 2 CFR §200.208. If OBO determines that noncompliance cannot be remedied by imposing additional conditions, OBO may take one or more of the following appropriate actions, in accordance with 2 CFR§ 200.339:

- a. Temporarily withhold cash payments pending correction of the deficiency by the Subrecipient or more severe enforcement action.
- b. 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.
- c. Wholly or partly suspend or terminate the grant.
- d. Recommend a proceeding be initiated with the US Department of Treasury for suspension or debarment in accordance with 2 CFR part 180.
- e. Take other remedies that may be legally available.

Notice of Remedy. OBO shall provide the Subrecipient and the Passthrough entity with written notice of required remedy(ies), setting forth the reason(s) for remedy(ies).

**ARTICLE V -AMENDMENT**

This Agreement sets out the entire agreement between OBO and the Subrecipient. It replaces all previous agreements, understandings and representations between the parties, whether oral or in writing. After execution of the Agreement by both OBO and the Subrecipient, any additional appropriation of ARPA Federal Recovery Funds made by the Oklahoma legislature to the Subrecipient for new or expanded projects, programs or services shall be added to and governed under this Agreement in the same manner as the initial appropriation referenced herein, and as described in (**Exhibit E**). Exhibit E shall be appended to this Agreement and shall consist of an amendment signed and dated by both parties identifying the amount of the additional appropriation, a description of the new or expanded projects, programs and services, and a copy of the legislation, as enacted, making the appropriation. The Subrecipient shall also append any application that gave rise to each additional appropriation to Exhibit A in the same manner as the initial Application(s).

Any other amendment to this Agreement shall only be valid if it is in writing and signed by an authorized representative of both parties.

**OKLAHOMA BROADBAND OFFICE**

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

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

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

Organization: \_\_\_\_\_

Date: \_\_\_\_\_

**SUBRECIPIENT AGENCY OR NON-FEDERAL ENTITY**

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

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

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

Organization: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT A “APPLICATION AND COMPLETED FUNDING REVIEW PACKET”**

## **EXHIBIT B STATE FISCAL RECOVERY FUND PROGRAM ASSURANCES ISSUED ON 6/2/2021**

Effective June 2, 2021, State Fiscal Recovery Fund (SFR) recipients are required to include the below list of assurances in their SFR program applications and/or awards. Agencies and departments can add to these assurances, but please do not alter or remove any of the listed assurances.

Unless noted otherwise, these assurances apply to all SFR grant/beneficiary programs.

An authorized signatory of Subrecipient must attest to the following by checking the box next to the statement and signing this document.

- 1. I have the authority to request payment from the State of Oklahoma. I am requesting payment for costs incurred in connection with section 602 of the Social Security Act, as amended by section 9901 of the American Rescue Plan Act, Public Law No. 117-2 (March 11, 2021) (“section 602”).
- 2. As required by federal law, the SFR will only be used for approved economic support or costs incurred during the period that begins on March 3, 2021 and December 31, 2024, in response to the COVID-19 public health emergency and its negative economic impacts.
- 3. Subrecipient will report on incurred expenses and/or losses, in a form and at a frequency prescribed by the OBO and will cooperate with the OBO in creating and retaining appropriate documentation to demonstrate that the proposed uses meet the requirements of section 602.
- 4. To the extent that actual expenditures or demonstrated need is less than the total award amount, Subrecipient agrees to return the balance of unspent funds to the State of Oklahoma. If the United States Department of the Treasury recoups funds from the State of Oklahoma based on a determination that these award funds were used in a manner not in compliance with section 602, Subrecipient agrees that the State of Oklahoma may recover funds from Subrecipient by reducing future funding in State budgets.
- 5. Subrecipient must repay the award or portion of the award to OBO if: any funds received were issued in error; are based on incorrect representations made to OBO; or any costs forming the basis of an award under this program have been or will be covered by other federal grants or awards or federally forgiven loans received by Subrecipient. I agree that the final determination of whether there has been a duplication of benefits and the amount to be repaid, if any, will be made by OBO.
- 6. *[Applies only to grants to subrecipients<sup>1</sup>]* Subrecipient has applied for FEMA-Public Assistance funding first for all FEMA-eligible expenses before applying to this grant. Subrecipient will only use this grant to cover expenses that are not eligible for FEMA-Public Assistance reimbursement.
- 7. Subrecipient shall maintain and make available to the State of Oklahoma and/or United States Department of the Treasury, upon request, all documents and financial records sufficient to establish compliance with section 602. Records and supporting documentation must be maintained for a period of five years after all funds have been expended or returned to Treasury, whichever is later. Records to support compliance with subsection 602 may include, but are not limited to, copies of the following:

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<sup>1</sup> For assistance in determining whether the relationship between the State, and the entity receiving the funds from the State, is a subrecipient relationship, please complete the Federal Award Classification Checklist. CFO written approval is required to classify any entities as “beneficiaries” of COVID-19 relief funding.

- a. General ledger and subsidiary ledgers used to account for (a) the receipt of SFR payments and (b) the disbursements from such payments to meet eligible expenses related to the public health emergency due to COVID-19;
  - b. Budget records;
  - c. Payroll, time records, human resource records to support costs incurred for payroll expenses related to addressing the public health emergency due to COVID-19;
  - d. Receipts of purchases made related to addressing the public health emergency due to COVID-19;
  - e. Contracts and subcontracts entered into using SFR payments and all documents related to such contracts;
  - f. Grant agreements and grant subaward agreements entered into using SFR payments and all documents related to such awards;
  - g. All documentation of reports, audits, and other monitoring of contractors, including subcontractors, and grant recipient and subrecipients;
  - h. All documentation supporting the performance outcomes of contracts, subcontracts, grant awards, and grant recipient subawards;
  - i. All internal and external email/electronic communications related to use of SFR payments; and
  - j. All investigative files and inquiry reports involving SFR payments.
- 8. To the best of my knowledge, neither Subrecipient nor Subrecipient's principals (officers, directors, owners, or partners) are presently debarred, suspended, proposed for debarment, declared ineligible or excluded from participation in Federal programs, or programs supported in whole or in part by Federal funds.
  - 9. *[Applies only to subrecipient relationships<sup>1</sup>]* Subrecipient will complete the Subrecipient Annual Report annually within 45 days after its fiscal year end, informing the State of Oklahoma whether a Single Audit is required for the prior fiscal year. If a Single Audit is required, Subrecipient will submit a copy of the audit report to the State of Oklahoma within 9 months. For fiscal years ending on or after December 25, 2015, a Single Audit is required if the subrecipient expends \$750,000 or more in Federal assistance during its fiscal year and must be conducted in accordance with 2 CFR Chapter I, Chapter II, Part 200, Subpart F.
  - 10. Subrecipient will submit reports as required by the State of Oklahoma, Agency of Administration, and/or Office.
  - 11. OBO may share the information on this federal award with other Oklahoma state agencies, and other Oklahoma agencies can share information with Office for the purpose of verifying Subrecipient's eligibility for this or another award or stimulus payment related to the COVID-19 pandemic.
  - 12. Subrecipient authorizes the State of Oklahoma to share data relevant to this award with the U.S. Department of Treasury, including but not limited to previously submitted W-9 data that is related to this award.
  - 13. All of Subrecipient's tax returns are completed and filed through the date of application filing.
  - 14. Subrecipient complies with local, state, and federal labor laws.

- 15. Subrecipient is in good standing with the Oklahoma Secretary of State.
- 16. ***[Applies only to hazard grants]*** Please certify the following:
  - a. Subrecipient has established a process to permit eligible employees to elect not to receive hazard pay funded by a grant provided pursuant to the Program and record keeping procedures to track which employees have elected not to receive a grant.
  - b. Subrecipient acknowledges and agrees that grant funds received for hazard pay will only be used to cover hazard pay for eligible employees in accordance with section 602.
- 17. ***[Applies to economic support programs]*** Subrecipient, its secondary subrecipient, or its grant beneficiaries has faced economic harm resulting from or exacerbated by the COVID-19 public health emergency. This award will support Subrecipient in addressing the economic harm brought on by the COVID-19 public health emergency.
- 18. I attest, under penalty of perjury, that all information provided on this form is true and accurate. I understand that the State of Oklahoma will rely on this certification as a material representation in making this federal award. Further, I understand that intentional misrepresentation of information is fraud and may subject me or my organization to disqualification from receiving further benefits, administrative penalties, and criminal prosecution.
- 19. Subrecipient understands that, if Federal guidance on the regulations of the State Fiscal Recovery Fund change, it may change the terms of this award.

By (signature): \_\_\_\_\_

Name (print): \_\_\_\_\_

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

Organization: \_\_\_\_\_

Date: \_\_\_\_\_

## EXHIBIT C SUBRECIPIENT MONITORING SCHEDULE

### Quarterly Project and Expenditure Report Timeline

Report	Year	Quarter	Period Covered	Due Date
1	2024	1	January 1 - March 31	4/10/24
2	2024	2	April 1 - June 30	7/10/24
3	2024	3	July 1 - September 30	10/10/24
4	2024	4	October 1 - December 31	1/10/25
5	2025	1	January 1 - March 31	4/10/25
6	2025	2	April 1 - June 30	7/10/25
7	2025	3	July 1 - September 30	10/10/25
8	2025	4	October 1 - December 31	1/09/26
9	2026	1	January 1 - March 31	4/10/26
10	2026	2	April 1 - June 30	7/10/26
11	2026	3	July 1 - September 30	10/09/26
12	2026	4	October 1 - December 31	1/08/27



## EXHIBIT D FUNDING DISBURSEMENT POLICIES

### Subrecipient Funding Disbursement Controlled Advance Grant Policy

#### Overview

Subrecipients who, based on a risk assessment, demonstrate that they maintain written procedures for minimizing time lapse between transfer of funds and distribution, and have a financial management system that meets standards for fund control and accountability, will be eligible to have funding disbursed as advance payment. Advance payments will take place on a pre-payment basis, pursuant to a draw schedule determined by OBO and the Subrecipient, and after the receipt of a budget of forecasts and expenditures that may include itemized invoices and/or such additional supporting documentation detailing each proposed expenditure. Draw requests are available to the Subrecipient for advanced funding in thirty (30) day increments up to ninety (90) days for Subrecipients with a Low Moderate risk rating and increments up to one-hundred and twenty (120) days for Subrecipients with a Low risk rating. Subsequent draw requests can be made once every thirty (30) days.

#### Controlled Advance Grant Process

##### *Draw Schedule*

- An Authorized Officer of the Subrecipient may submit a proposed draw schedule to OBO. Subrecipients should work to minimize the time between the transfer of funds and the expenditure of such funds.
  - Timing of draw schedule:
    - Subrecipients should ensure the draw schedule is limited to the minimum amount needed for the time frame requested. The draw schedule must align as closely as possible with the actual expenditure of funds.
    - Except in emergency cases, no more than one draw per month will be allowed.
    - Subrecipients may not draw funds on the end date of a U.S. Treasury reporting period.
    - If a Subrecipient determines that circumstances necessitate a change to the draw schedule, an Authorized Officer of the Subrecipient shall notify OBO in writing of such circumstances and provide a new draw schedule and supporting documentation for review and approval by OBO.
- OBO will review proposed draw schedule for compliance with state and federal laws, rules, and policy. If approved, OBO will transfer advance payments based on the draw schedule, pending review and approval of documentation discussed below for each individual draw.

##### *Documentation for Individual Draws*

- Prior to approval of an individual draw, a Subrecipient is to submit to OBO a budget of forecast expenditures and any available detailed documentation for proposed expenditures,

including copies of quotes or estimates for service providers, unpaid itemized invoices for proposed purchases, Purchase Orders, executed contracts or subaward agreements, or similar documents indicating upcoming receipt of items or services. For salaries, OBO will consider an Offer Letter as documentation, multiplying the salary by a standard benefit percentage unless the subrecipient is able to provide more detailed information. Subrecipients will also submit proof of competitive bidding and document consideration of small, minority-, women- and US-owned companies, where required.

- An advance payment will not be disbursed unless the entire amount proposed is documented as described above.
- If proposed expenditures changed after the transfer of advance funds, the Subrecipient must highlight those changes and document in the Subrecipient's next financial report.

### **Additional Considerations**

- Subrecipient will be required to submit Invoices, Purchase Orders, Payroll reports from the payroll system of record, and Bills of Lading to OBO on a quarterly basis for monitoring and eligibility review. If OBO finds that purchases made with advanced payments were non-compliant with the Grant Agreement, a dispute process may be initiated, and OBO may take action including withholding or delaying future payments of funds, rescission of the Grant Agreement, modification of funding disbursement methodology, reduction of grant award, and payback of funds to OBO.
- The Controlled Advance Grant disbursement is contingent on the continued compliance of the Subrecipient with all its financial and programmatic compliance and reporting duties. Failures or deficiencies in these activities can result in several punitive measures in response, including withholding funds, requiring more frequent reporting, terminating further funding and requesting the return of moneys transferred back to OBO.
- If the Subrecipient submits request for Controlled Advance Grant disbursement, and OBO has insufficient funds remaining from the project appropriation, the Subrecipient will obtain or make available and apply other funds necessary to ensure the completion of the project and payment to vendors or subgrantees.

## **Subrecipient Funding Disbursement Post-Payment Reimbursement Policy**

### **Overview**

Subrecipients may elect to receive funding on a reimbursement basis at their own request. Additionally, subrecipients who, based on a risk assessment, do not maintain written procedures for minimizing time lapse between transfer of funds and distribution and do not have a financial management system that meets standards for fund control and accountability, will be paid on a reimbursement basis. If a Subrecipient does not have the operating capital to operate on a reimbursement basis, the Subrecipient may request a cash advance in accordance with the **Working Capital Policy**.

### **Post-Payment Reimbursement**

- Subrecipients who provide a written election or Subrecipients who are unable to maintain written procedures for minimizing time lapse between transfer of funds and distribution and do not have a financial management system that meet standards for fund control and accountability, will be paid on a post-payment reimbursement basis.
- To receive post-payment reimbursement, the subrecipient will submit documentation showing proof of payment for expenditures, copies of invoices for purchases, and proof of receipt of goods including bills of lading. OBO will review documentation to determine compliance with the grant, and if approved, OBO will make the payment to the Subrecipient. Subrecipients will also submit proof of competitive bidding and document consideration of small, minority-, women- and US-owned companies, where required.
- If OBO finds that the purchases were non-compliant with the grant in accordance with the Grant Agreement, then the expenditure will be deemed non-compliant. If the non-compliance is not remedied via corrective action, OBO may withhold all or a portion of the payment.
- If OBO discovers that purchases were non-compliant with the Grant Agreement subsequent to a payment being reimbursed, OBO may seek to take action to offset non-compliant amount against future payments, or initiate other corrective actions including the withholding or delay of additional funding, rescission of the agreement, reduction of grant award, and payback of funds to OBO.
- If OBO initiates any of the corrective measures above, then the Subrecipient may initiate dispute resolution for recovery of funds and OBO may take action including the withholding or delay of additional funding, rescission of the agreement, reduction of grant award, and payback of funds to OBO.

### **Additional Considerations**

- If a Subrecipient does not have sufficient operating capital to operate the project on a reimbursement basis, OBO may provide a cash advance in accordance with the **Working**

**Capital Policy.** This cash advance would then position the Subrecipient to pay for expenditures with funds from the cash advance and seek reimbursement from OBO.

- Reimbursement is contingent on the continued compliance of the Subrecipient with all its financial and programmatic compliance and reporting duties. Failures or deficiencies in these activities can result in several punitive measures in response, including withholding funds, requiring more frequent reporting, terminating further funding and requesting the return of moneys transferred for expenditures deemed to be non-compliant with the grant or the terms of the Grant Agreement back to OBO.
- If the Subrecipient submits a request for reimbursement, and OBO has insufficient funds remaining from the project appropriation, the Subrecipient will obtain or make available and apply other funds necessary to ensure the completion of the project and payment to vendors or subgrantees.

## **Subrecipient Funding Disbursement Working Capital Policy**

### **Overview**

Subrecipients who do not qualify for advance payment and do not have sufficient working capital to operate the project on a reimbursement basis are eligible to receive a working capital advance. Once the working capital advance is made, the Subrecipient will convert their funding disbursement method into a reimbursement-based process, in accordance with the **Post-Payment Reimbursement Policy**; provided, however, that a Subrecipient may amend a working capital request amount as anticipated working capital needs change.

### **Working Capital Advance Process**

- Subrecipients are eligible for a working capital advance if they do not qualify for advance payment and do not have the operating capital to conduct the project on a reimbursement basis initially. To be considered for a working capital advance, the Subrecipient must submit a written request to OBO (*see “Required Documentation” below*).
- The available working capital amount will be determined by the risk category of the Subrecipient.
  - Subrecipients that qualify as high risk subrecipients will be eligible for an advance of sixty (60) days of projected project expenditures.
  - Subrecipients that qualify as moderate risk will be eligible for an advance of ninety (90) days of projected project expenditures.
- Working capital advances can be made upon OBO’s receipt of (i) documentation satisfactory to OBO detailing that the funds are expected to be expended within the applicable timeframe based on the Subrecipient’s risk category and (ii) a written request from an Authorized Officer of the Subrecipient (*see “Required Documentation” below*).
- Once the working capital advance is made, the Subrecipient will then operate on a reimbursement-based process, in accordance with the **Post-Payment Reimbursement Policy**.
- Should a subrecipient need to adjust its working capital amount, an Authorized Officer of the Subrecipient shall provide updated Required Documentation supporting the adjusted request for review by OBO.

### **Required Documentation:**

- OBO will consider the following required documentation as support for projected project expenditures:

- Purchase orders, unpaid invoices, estimates, quotes, executed contracts, subgrant agreements, or similar agreements as such documentation.
- Subrecipients may also provide a budget containing forecasted project expenditures as required documentation in a form acceptable to OBO.
- All documentation must be provided to OBO by an Authorized Officer of the Subrecipient.

### **Additional Considerations**

- The working capital advance payment is contingent on the continued compliance of the Subrecipient with all its financial and programmatic compliance and reporting duties, as required in the Grant Agreement. Failures or deficiencies in these activities can result corrective actions, including the elimination of the Subrecipient's ability to be eligible for working capital.