

THE NAVAJO NATION



JONATHAN NEZ | PRESIDENT MYRON LIZER | VICE PRESIDENT

March 10, 2022

NAVAJO TRIBAL UTILITY AUTHORITY
P.O. BOX 170
FORT DEFIANCE, ARIZONA 86504

ATTENTION: WALTER W. HAASE, P.E. GENERAL MANAGER

REFERENCE: 164 Review 018143/Services Contract

Dear Mr. Haase:

Attached please find your copy of the approved Subrecipient Agreement (CO15193) with the Navajo Nation Capital Project Management Department/Division of Community Development (DCD). The Agreement has been obligated in the amount of \$28,982,874.00. The Agreement is effective March 03, 2021. Pursuant to Section 7(b), funds are to be obligated by December 31, 2024 and expended by December 31, 2026, et seq.

The above contract number must be referenced on all invoices (in accordance to Appendix C, Disbursement Schedule), documents, and correspondence as it relates to this contract.

Should you have any questions, please contact Mr. James Adakai at 928-871-6211.

Sincerely,

A handwritten signature in cursive script that reads "J Ben".

Jeremy Ben, Accounting Manager
OOC – Contract Administration

xc: James Adakai, Navajo Nation Capital Projects Management Dept./DCD
Tommy Platero, Navajo Nation Fiscal Recovery Fund Office
Jeremy Coleman, Contract Accounting/Navajo Nation Office of the Controller
Contract Folder: CO15193

NAVAJO NATION OFFICE OF THE CONTROLLER

POST OFFICE BOX 3150 · WINDOW ROCK, AZ 86515 · PHONE: (928) 871-6308 · FAX: (928) 871-6026

**SUBRECIPIENT AGREEMENT
BETWEEN
THE NAVAJO NATION AND NAVAJO TRIBAL UTILITY AUTHORITY
FOR
SUBAWARD OF AMERICAN RESCUE PLAN ACT FISCAL RECOVERY FUNDS
FOR PURPOSES OF 3.12: HOUSING SUPPORT: CONNECTING NN HOMES TO
ELECTRICITY AND HOUSEWIRING**

Name of Subrecipient Navajo Tribal Utility Authority		Phone Number (928) 729-6202
Name and Title of Person Authorized to accept funding for the Subrecipient ("Designated Official") Walter W. Haase, P.E.		Designated Official Email Address walterh@ntua.com
Subrecipient Mailing Address P.O. Box 170 Fort Defiance, AZ 86504		
Subrecipient Employer Identification Number 86-020-4662		
Subrecipient's DUNS Number 800021990		
Federal Awarding Agency U.S. Department of Treasury		
Business Unit <i>K211528 - 8785</i>	Expenditure Plan Title 3.12 HOUSING SUPPORT: CONNECTING NN HOMES TO ELECTRICITY AND HOUSEWIRING	
Period of Performance See paragraph 7 (b)	Amount Funded \$28,982,874	

This Subrecipient Agreement includes and incorporates:

1. Terms and Conditions;
2. Appendix A – Scope of Work
3. Appendix B – Budget
4. Appendix C – Disbursement Schedule
5. Appendix D – Expenditure Plan
6. Appendix E — Council Resolution Approving Expenditure Plan

A complete Subrecipient Agreement, including all Appendices, must be submitted prior to disbursement of the awarded Navajo Nation Fiscal Recovery Funds ("Subaward Funds").

TERMS AND CONDITIONS

This Subrecipient Agreement (“Agreement”) is made and entered into by and between the Navajo Nation, hereinafter called the “**NATION**” and the “Navajo Tribal Utility Authority” hereinafter called the “**SUBRECIPIENT.**” Collectively, the **NATION** and the **SUBRECIPIENT** are the “**PARTIES.**” The **PARTIES** agree as follows:

1. **Definitions.**

- a. “Disburse / Disbursement” is defined as when the Office of the Controller (“OOC”) has provided notification via email to the **SUBRECIPIENT** that a check for the Subaward Funds is available for pick-up, or when the Office of the Controller initiates the transfer of Funds into the **SUBRECIPIENT’S** account.
- b. “Expenditure Plan” is the **SUBRECIPIENT’S** Fiscal Recovery Funds Request Form and Expenditure Plan, with budget, and supporting documents, attached as **Appendix D.**
- c. “Incur” means that the **SUBRECIPIENT** has obligated the Subaward Funds. Treasury guidance in the Interim Final Rule provides that “obligation” of FRF shall have the same meaning as set forth in the Uniform Guidance. According to 2 CFR § 200.71, “obligations” means “orders placed for property and services, contracts and subawards made, and similar transactions during a given period that require payment by the non-Federal entity during the same or a future period.” FRF may be used only to cover costs incurred during the period beginning on March 3, 2021 and ending December 31, 2024.
- d. “Obligated” is defined as an order that has been placed for the delivery of goods or property, or the performance of service, that will be paid for with the Fiscal Recovery Funds (“FRF”); that a contract or subcontract has been executed promising payment with FRF; or that a similar transaction has occurred requiring payment of FRF.
- e. “Expend” is defined as when an expense is actually paid by the **SUBRECIPIENT.**

2. **Applicability of Subrecipient Agreement and Provisions.**

This Agreement, including all its Appendices, is intended to be the full and complete expression of, and shall constitute the entire agreement between the Parties. All prior and contemporaneous understandings, agreements, promises, representations, terms and conditions, whether oral or written, are superseded and replaced by this Agreement.

3. **Authorized Representative and Administrative Oversight.**

- a. The **SUBRECIPIENT** shall work with the CPMD under the Division of Community Development, and its Authorized Representative with respect to this Agreement.
- b. Each Party shall appoint an Authorized Representative who has the authority and requisite experience to manage all Agreement related matters. Notice of the appointed Authorized Representative shall be provided to each Party within five (5) calendar days of the execution of this Agreement. If either party changes its Authorized Representative or their scope of authority, they shall immediately notify the other Party pursuant to Article 10.

- c. The Program shall serve as the administrative oversight of this Agreement including the **SUBRECIPIENT's** compliance with applicable federal and Navajo Nation laws, regulations, and policies; and financial reporting.

4. **Agreement Number.**

Contract number C-_____ shall cover this Agreement, and reference to this number shall be made on request for release of Subaward Funds submitted by the **SUBRECIPIENT** to the **NATION** for payment.

5. **Effective Date.**

This Agreement is effective March 3, 2021.

6. **Amount of Subaward.**

- a. The **NATION** agrees to allocate and disburse the Subaward Funds to the **SUBRECIPIENT** for purposes specified in the **Appendix A— Scope of Work** by paying a sum not to exceed \$28,982,874 (“Subaward Funds”), per **Appendix B – Budget**.
- b. Payments of the Subaward Funds shall be made in installments according to the Disbursement Schedule in **Appendix C** to this Agreement. The **NATION** may withhold or delay disbursements if the OOC determines that the **SUBRECIPIENT** has failed to comply with its obligations under this Agreement. **SUBRECIPIENT** must provide documentation that is has obligated or expended 75% of its prior disbursement installment before OOC will release the next disbursement installment. If **SUBRECIPIENT** expends 75% of its disbursement installment prior to the end of a twelve-month period, **SUBRECIPIENT** may request that OOC release the next disbursement installment prior to the end of that twelve-month period.
- c. All payments shall be based on actual costs and supported by documentation, including but not limited to work orders, contracts, purchase orders, and invoices.
- d. No payment shall be made unless and until approved by the Navajo Nation Authorized Representative and OOC.

7. **Funds.**

- a. FRF comprising the Subaward Funds, may only be used pursuant to the American Rescue Plan Act of 2021 (“ARPA”) and all the rules, regulations, and guidance implementing the ARPA. The use of FRF must also comply with all applicable Navajo Nation laws.
- b. The period of performance shall begin on March 3, 2021. The **SUBRECIPIENT** shall be required to incur costs meaning to obligate funds by December 31, 2024, and expend funds by December 31, 2026 unless an earlier or later date is determined by the **NATION** through a resolution of the Navajo Nation Council or a Standing Committee of Council, and with written notice provided to the **SUBRECIPIENT**. The period of performance shall end upon the acceptance and approval by the Authorized Representative, OMB, and OOC of **SUBRECIPIENT's** final financial close out report and performance report.

- c. The **SUBRECIPIENT** affirms and agrees that it shall only incur costs under the Subaward and expend Subaward Funds for the purposes outlined in **Appendix A – Scope of Work**.

If any portion of Subaward Funds remain unexpended on December 31, 2026 unless an earlier or later date is determined by the **NATION** through a resolution of the Navajo Nation Council or a Standing Committee of Council, **SUBRECIPIENT** shall immediately return such portion of the Subaward Funds to the **NATION**. Upon the termination of this Agreement, the **SUBRECIPIENT** may be required to immediately return the unexpended portion of the Subaward Funds to the **NATION**.

- d. Where the **NATION** determines the **SUBRECIPIENT** expended Subaward Funds in violation of this Agreement or any applicable laws and regulations, the **SUBRECIPIENT** shall immediately return such portion of the Subaward Funds the **NATION** determined were improperly expended.
- e. If the **SUBRECIPIENT** fails to return such Subaward Funds to the **NATION** when due, the **SUBRECIPIENT** will incur a delinquent accounts receivable debt, due and owing to the **NATION**. Further, the **NATION** may offset any future payments due to the **SUBRECIPIENT** by the amount owed, and may pursue all other available legal action against the **SUBRECIPIENT**.

8. Contingency Reserve.

- a. All Subawards shall include a contingency amount. If the **SUBRECIPIENT** does not identify the contingency amount, the Nation shall reserve 1% of the **SUBRECIPIENT'S** Subaward Funds as contingency, less the 2% administrative costs, as contingency. All contingency amounts shall be placed by OOC in the contingency reserve.
- b. If the **SUBRECIPIENT** needs to access the money in the project contingency reserve, it will submit a written request to the Authorized Representative indicating the purpose of the request and the amount that is being requested.
- c. The Authorized Representative shall review the request and make a determination within five (5) working days from the date of the written request to recommend or deny the request. The Authorized Representative shall provide a written response of its determination to **SUBRECIPIENT**. If the Authorized Representative does not take any action within five (5) working days the request is deemed recommended.
- d. After a request is recommended, the Authorized Representative shall forward the request to the Contract Accounting Section of OOC for confirmation of availability of funds, then Purchasing Section of OOC shall review for final approval. OOC shall approve or deny the request within five (5) working days. If OOC fails to approve or deny the request within the five (5) working days, the request shall be deemed approved or denied as recommended by the Authorized Representative. The five (5) working day period only refers to OOC's approval or denial of the request and does not impose a deadline for OOC to obligate the Contingency Reserve funds.

9. **Administrative Costs.**

The NATION has allowed the SUBRECIPIENT to receive reimbursement for administration costs in the amount of 2% of the total award which will be paid when funds are received. SUBRECIPIENT may use funds for administering the ARPA program, including costs of consultants to support effective management and oversight, including consultation for ensuring compliance with legal, regulatory, and other requirements. Further, costs must be reasonable and allocable as outlined in 2 CFR 200.404 and 2 CFR 200.405. SUBRECIPIENT is permitted to charge both direct and indirect costs as administrative costs. If the total award is not fully expended within the terms of the Agreement, the equivalent 2% administration costs shall be included in any remaining balance of the award and returned to the Nation.

10. **Availability of Funds.**

The liability of the NATION under this Agreement is contingent upon the availability of funds pursuant to 2 N.N.C. §§ 223(A) and (B).

11. **Contact Information; Notice.**

Copies of all correspondence, reports, and notices under this Agreement shall be furnished to the Authorized Representative, with a copy to the Navajo Nation OOC and Office of Management and Budget (“OMB”) Contracts and Grants Section.

12. **Reporting Requirements.**

- a. The SUBRECIPIENT shall adhere to the following reporting requirements and provide the documentation requested on a quarterly basis, unless specified otherwise, to the Program, with a copy to OOC and OMB, within ten (10) calendar days following the end of the quarter.
- b. The NATION requires the quarterly reporting requirements listed below from the SUBRECIPIENT:
 - i. A detailed report that compares budgeted expenditures to actual expenditures for costs incurred;
 - ii. Completion of the OMB Program Performance Criteria Form;
 - iii. A narrative report providing monthly project assessment, including a summary of project activities, accomplishments with dates, impediments encountered, and impediments forecasted with planned responses; and
 - iv. Other data, records, information, and maps related to the progress of the project, that document changes made to the project since the previous monthly report.
- c. OOC and the Program shall perform a risk assessment on the SUBRECIPIENT. If OOC and the Program determine that the SUBRECIPIENT poses a moderate to high risk for noncompliance with the terms of this Agreement the NATION may require the following additional reporting:
 - i. a detailed line-item expenditure report, with General Ledger detail, for the month reported;
 - ii. supporting documentation for any individual expenditure greater than twenty-five thousand dollars (\$25,000) incurred during the month reported; and
 - iii. a reconciliation of the Subaward Funds, starting with the beginning balance, cash

received, disbursements to date, program income (if applicable), and ending balance.

- iv. The **NATION** finds that the **SUBRECIPIENT** is currently low risk. OOC and the Program may later determine that non-compliance with this Agreement by the **SUBRECIPIENT** warrant performance of a new risk assessment. If upon the performance of a new risk assessment the OOC determines the **SUBRECIPIENT** poses a moderate to high risk, this section 12(c) will apply. OOC may require additional and more frequent reporting, including requiring monthly rather than quarterly reporting.
- d. The risk assessment shall be based on **SUBRECIPIENT'S** past performance, under prior agreements with the **NATION**, to comply with reporting requirements, or on the **SUBRECIPIENT'S** failure to comply with the terms of this Agreement.
- e. The **SUBRECIPIENT** may be required to attend a training on the eligible uses of the Subaward Funds based on past experience with managing federal awards programs or on the **NATION'S** risk assessment of the **SUBRECIPIENT**.
- f. If the **SUBRECIPIENT** fails to timely submit such required reports, it shall be in default under this Agreement. The **NATION** shall not disburse any Subaward Funds until the required reports are submitted.
- g. The **SUBRECIPIENT** shall submit a final financial closeout report providing a final accounting of the uses of the Subaward Funds, which should be supported by documentation, including but not limited to receipts, invoices, and payroll records. This final report must be submitted the earlier of forty-five (45) days after December 31, 2026 unless an earlier or later date is determined by the **NATION** through a resolution of the Navajo Nation Council or a Standing Committee of Council or thirty (30) days after the completion of all projects within the scope of work of this Agreement. If, however, this Agreement is terminated, the final report is due thirty (30) days after termination of the Agreement. The **NATION** shall not release the final disbursement of Subaward Funds until the final financial closeout report is submitted to Administrative Oversight, OOC, and OMB, and is reviewed and approved by OOC. If the **SUBRECIPIENT** fails to timely submit a final financial closeout report, it shall be in default on this Agreement and shall return the Subaward Funds in full to the **NATION** within fifteen (15) days following the reporting deadline. The **SUBRECIPIENT** shall be required to return these Subaward Funds without first receiving Notices of Default or Termination from the **NATION**.
- h. The **SUBRECIPIENT** shall keep detailed and accurate records of all expenditures and receipts related to this Agreement, and shall provide the **NATION** with any requested reporting summarizing actual expenditures, including but not limited to:
 - i. Payroll records;
 - ii. General ledger;
 - iii. Cash disbursements journal;
 - iv. Vendor invoices;
 - v. Expenditure reports; and
 - vi. Debt agreements.

- i. All financial reporting and record keeping requirements shall survive the expiration and termination of this Agreement.

13. **Ownership of Work Product.**

The **SUBRECIPIENT** shall retain title and complete ownership of certain improvements, including but not limited to facilities and equipment (herein after “improvements”) installed, constructed, repaired or replaced under this Agreement. **SUBRECIPIENT** shall own all improvements up to the main disconnect or electric service connection at the meter location at each consumer’s home. All title and complete ownership over improvements beyond the main disconnect or meter service connection including but not limited to any interior house wiring, service entrance cable, service fuse box or any other improvements required to connect the consumer to the electric grid shall be retained by the consumer. In the event that NTUA contracts with other utility providers (e.g., Continental Divide Electric Cooperative, Arizona Public Service, Jemez Electric Cooperative, Socorro Electric Cooperative) to connect homes to the electric grid, the other utility provider will act as a contractor of NTUA, and the other utility providers will retain ownership of the assets constructed and connected to their respective electrical distribution system. **SUBRECIPIENT** shall have the full right to use improvements owned by **SUBRECIPIENT** for purposes of operating and maintaining **SUBRECIPIENT’S** total system. The **SUBRECIPIENT** and the consumer will be responsible for the operation and maintenance of the improvements awarded under this Agreement and will not seek additional operation and maintenance costs of the project awarded within this Agreement.

14. **The Nation’s Right to Inspect Places of Business and to Inspect and Audit Books and Records.**

- a. The **SUBRECIPIENT** agrees that the **NATION** may, at reasonable times, inspect the part of the plant or place of business and the project worksites of the **SUBRECIPIENT** that are related to the performance of this Agreement; and the **SUBRECIPIENT** further agrees that the **NATION** and its auditors, may at reasonable times and places, inspect and audit the **SUBRECIPIENT** books and records to the extent that such books and records relate to the performance of this Agreement. The **SUBRECIPIENT** shall maintain such books and records, and such books and records of any Subcontractor, for at least five (5) years from the date of final payment under this Agreement.
- b. Further, the **SUBRECIPIENT** agrees to include in any Subcontractor agreement related to this Agreement, provisions that the Subcontractor agrees (i) that the **NATION** may, at reasonable times, inspect the part of the plant or place of business of the Subcontractor that is related to the performance of this Agreement; (ii) that the **NATION** may, at reasonable times and places, inspect and audit the Subcontractor’s books and records to the extent that such books and records relate to the performance of this Agreement; and (iii) that the Subcontractor shall maintain its books and records related to the performance of this Agreement for at least five (5) years from the date of the **SUBRECIPIENT** final payment under this Agreement.

15. Debarment, Suspension, and Other Responsibility Matters.

By executing this Agreement, the **SUBRECIPIENT** states that, either in its present form or in any other identifiable capacity, including its owners, partners, officers, members, employees, officials, agents, or parties-in-interest, to the best of the Authorized Representative's knowledge:

- a. Is not debarred, suspended, or otherwise slated for debarment, ineligible and/or excluded from participation in any federal, state, or tribal government contracting opportunities;
- b. Is not presently nor has been under criminal indictment or civilly charged by a governmental entity (federal, state, or tribal government) for fraud, forgery, falsification, theft, bribery, destruction of records, receiving stolen property, or other criminal offenses in the administration of a government contract;
- c. Has not been terminated for cause or convenience by a governmental entity (federal, state, or tribal government) in the administration of a government contract;
- d. That there is no outstanding money judgment against the **SUBRECIPIENT** in favor of the **NATION** from a court of competent jurisdiction, or a valid delinquent accounts receivable debt which is due and owing to the **NATION** from the **SUBRECIPIENT**;
- e. There is no evidence of default, materially deficient business practices, or failure to meet a material contractual or financial obligation to the **NATION** under any transaction, contract, or legal relationship with the **NATION**;
- f. There has been no failure to materially comply with applicable laws, or other material delay by the **SUBRECIPIENT**, resulting in monetary damages to or other detriment to the **NATION** that remains uncured; and
- g. Has not been found to have engaged in unlawful or criminal actions or other activities which adversely reflect on the honesty and moral character of the **SUBRECIPIENT**, so as to make any dealings with the Navajo Nation undesirable.

16. Evaluation and On-Site Inspection.

- a. Progress Inspections. The Program will conduct periodic on-site monitoring to ensure efficient completion of the work.
- b. Final Inspections. Within ten (10) calendar days after completion of the project, the **SUBRECIPIENT** shall notify the Program, in writing, of completion of the work. The **SUBRECIPIENT** and the Program shall perform a final inspection no later than fifteen (15) days from the date the Program receives the completion notice.

17. Assignment.

- a. The **SUBRECIPIENT** shall not assign or otherwise transfer its rights, nor delegate any of its obligations, under this Agreement without prior written approval from the **NATION**. This Agreement is for the exclusive benefit of the **SUBRECIPIENT** and the **NATION**, and not for the benefit of any third party, including without limitation, any owner, partner,

board member, employee, or volunteer of the **SUBRECIPIENT**.

- b. The **SUBRECIPIENT** shall not pledge nor otherwise assign any monies due under this Agreement or any claim arising thereunder, to any party or parties, bank, trust company or other financial institutions.
- c. The **SUBRECIPIENT** shall immediately provide written notification to the **NATION** of any changes in the **SUBRECIPIENT'S** size or structure that would affect the **SUBRECIPIENT'S** eligibility for or ability to manage the Subaward Funds; any circumstances preventing expenditure of Subaward Funds by the **SUBRECIPIENT** for the purposes described in this Agreement; or any expenditure using Subaward Funds made for any purpose other than those for which the Agreement is intended.

18. False Statements by Subrecipient.

By acceptance of this Agreement, the **SUBRECIPIENT** makes all the statements, representations, warranties, guarantees, certifications, and affirmations contained herein. If any of the statements, representations, warranties, guarantees, certifications, and affirmations are false or if the **SUBRECIPIENT** in any other way executes the Agreement including false statements, or it is subsequently determined that the **SUBRECIPIENT** has violated any of the statements, representations, warranties, guarantees, certifications, or affirmations included in this Agreement, the **NATION** may consider such an act a default under this Agreement and may terminate or void this Agreement for cause and pursue other remedies available to the **NATION** under this Agreement and all applicable laws.

19. Conflict of Interest Safeguards.

The **SUBRECIPIENT** will establish safeguards to prohibit its officers, agents, employees, and members from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, self-dealing, or personal gain, whether for themselves or others, particularly those with whom they have family, business, or other ties. The **SUBRECIPIENT** will operate with complete independence and objectivity without potential, actual, or apparent conflict of interest with respect to its performance under this Agreement.

20. Fraud, Waste, and Abuse.

The **SUBRECIPIENT** understands that the **NATION** will not tolerate any type of fraud, waste, or misuse of Subaward Funds received from the **NATION**. The **SUBRECIPIENT** understands and agrees that misuse of Subaward Funds shall be considered an act of default under this Agreement as grounds for the **NATION** to terminate this Agreement, and may further result in a range of penalties, including suspension of current and future funds; ineligibility for, suspension, or debarment from Navajo Nation contract opportunities; recoupment and offset of monies provided under an award; and civil and/or criminal penalties. In the event the **SUBRECIPIENT** becomes aware of any allegation or a finding of fraud, waste, or misuse of funds received from the **NATION** or made against the **SUBRECIPIENT**, the **SUBRECIPIENT** shall immediately notify the **NATION** of said allegation or finding and continue to inform the **NATION** of the status of any on-going investigations into the allegations or steps being taken to remedy the finding.

21. **Taxes.**

The **SUBRECIPIENT** shall comply with all applicable Navajo Nation tax laws under Title 24 of the Navajo Nation Code and corresponding regulations as amended from time to time. The **SUBRECIPIENT** is subject to and shall be liable for payment of the Navajo Nation Sales Tax, at the prevailing rate, on gross receipts for all work performed within the territorial jurisdiction of the Navajo Nation pursuant to 24 N.N.C. § 601 *et seq.*, and the Navajo Nation Sales Tax Regulations § 6.101 *et seq.*, as amended from time to time, except that work performed within the To’Nanees’Dizi Local Government (“Tuba City Chapter”) or the Kayenta Township is subject to their respective local sales taxes as amended from time to time. In addition to being subject to Navajo Nation Sales Tax, the **SUBRECIPIENT** is subject to local sales tax on gross receipts for all work performed within a governance-certified chapter that imposes a local sales tax pursuant to a duly enacted local tax ordinance and the Uniform Local Tax Code, 24 N.N.C. § 150 *et seq.* The **SUBRECIPIENT** is solely responsible for the payment of all applicable taxes related to this Agreement, and the **NATION** is not responsible for withholding or paying any income taxes, Federal Insurance Contributions Act (FICA) taxes, unemployment taxes, or any other taxes, from any payments owed to the **SUBRECIPIENT**, nor shall the **NATION** be responsible for remitting the **SUBRECIPIENT’S** share of employment taxes to the federal or any state governments.

22. **Third Party Work.**

- a. If the **SUBRECIPIENT** utilizes a third party to complete work under this Agreement, it shall notify the **NATION**. **SUBRECIPIENT** will submit a written request to the Authorized Representative requesting the use of a third party.
- b. The Authorized Representative shall review the request and make a determination within five (5) working days from the date of the written request to approve or deny the request. The Authorized Representative shall provide a written response of its determination to **SUBRECIPIENT**.
- c. The use of all third parties is subject to advance written approval by the **NATION**.

23. **Insurance Coverage.**

The **SUBRECIPIENT** shall obtain and maintain adequate insurance coverage as recommended and verified by the Navajo Nation Risk Management Program (“RMP”). The **SUBRECIPIENT** shall provide its Verification of Insurance indicating they are in good standing with the Nation’s insurance. The **SUBRECIPIENT** shall notify the Program and the RMP, c/o The Navajo Nation, P.O. Box 1690, Window Rock, Arizona 86515 within five (5) days of any change in the insurance policy. Failure to fully comply with this provision shall render this Agreement voidable by the **NATION** discretion.

24. **Modifications.**

- a. The **NATION** and the **SUBRECIPIENT** may agree to modify the Agreement. Such modifications include, but are not limited to, modifying the Scope of Work, adding funds to previously un-awarded cost items or categories, changing funds in any awarded cost item or category, de-obligating awarded funds, or changing the **SUBRECIPIENT’S** Authorized Representative. The terms of any such modifications must be made in writing and must be signed by both the **SUBRECIPIENT** and the **NATION** to take effect.

- b. Modifications must adhere to the Fiscal Recovery Fund Procedures set forth in the Budget and Finance Committee Resolution BFS-31-21. Certain modifications may require review by the Department of Justice for an initial eligibility determination review and approval by the Navajo Nation Council. For any modification that includes a modification of the Project's budget, a Budget Revision Request form, shall be completed by the **SUBRECIPIENT** and submitted first to the Authorized Representative for review and then forwarded to the OMB for approval.

25. Remedies for Non-Compliance.

- a. If the **NATION** determines that the **SUBRECIPIENT** materially fails to comply with any term of this Agreement, whether stated in a federal or Navajo Nation statute, regulation, an assurance, legislation, a notice of award, or any other applicable requirement, the **NATION** will issue a Notice of Failure to Comply, of Suspension, or of Termination, and may take action, in its sole discretion, including but not limited to:
 - i. Temporarily withholding cash payments pending correction of the deficiency;
 - ii. Disallowing or denying use of Subaward Funds for all or part of the cost of the activity or action not in compliance;
 - iii. Disallowing claims for reimbursement;
 - iv. Wholly or partially suspending this Agreement;
 - v. Requiring return of previous reimbursements;
 - vi. Prohibiting the **SUBRECIPIENT** from applying for or receiving additional funds for other programs administered by the Navajo Nation until repayment to the **NATION** is made and any other compliance or audit finding is satisfactorily resolved;
 - vii. Reducing the allocation award maximum liability of the **NATION**;
 - viii. Imposing a Corrective Action Plan;
 - ix. Withholding further disbursements or offsetting future awards;
 - x. Terminating this Agreement; or
 - xi. Taking other enforcement action or remedies, including imposing sanctions without first requiring a Corrective Action Plan, or pursuing other legal remedies.
- b. The **SUBRECIPIENT'S** costs resulting from obligations incurred during a suspension or after termination of this Agreement will not be allowable unless the **NATION** expressly authorizes such costs in the Notice of Failure to Comply, of Suspension, or of Termination. Absent such express authorization, the **SUBRECIPIENT** shall return that portion of the Subaward Funds to the **NATION**.

26. Expiration or Termination of the Agreement.

- a. The **NATION** may, at its sole discretion, terminate this Agreement, without recourse, liability, or penalty against the **NATION**, upon Written Notice to the **SUBRECIPIENT**, without further notice to or opportunity to cure by the **SUBRECIPIENT**. Such notification of termination will be effective on the date of the notification, if no other effective date is specified in the Notice of Termination;
- b. The **NATION** and the **SUBRECIPIENT** may mutually agree to terminate this Agreement. The **NATION** in its sole discretion will determine if, as part of the agreed termination, the

SUBRECIPIENT is required to return any or all of the disbursed Subaward Funds within twenty (20) business days of termination. This determination and its terms shall be communicated in writing to the **SUBRECIPIENT**;

- c. Termination is not an exclusive remedy for the **NATION**, but will be in addition to any other rights and remedies provided in equity, at law, or under this Agreement. Following termination by the **NATION**, the **SUBRECIPIENT** shall continue to be obligated to the **NATION** for an accounting of and the return of Subaward Funds in accordance with applicable provisions of this Agreement. In the event of termination under this Section, the **NATION's** obligation to reimburse the **SUBRECIPIENT** is limited to allowable costs incurred and paid by the **SUBRECIPIENT** prior to the effective date of termination, and any costs determined by the **NATION** in its sole discretion to be allowable, reasonable, and necessary for cost-effective wind up of the allocation.
- d. Termination of this Agreement for any reason, or expiration of this Agreement shall not release the **PARTIES** from any liability or obligation set forth in this Agreement that is expressly stated to survive any such termination or expiration. The rights and obligations pertaining to the allocation, close-out, cooperation, and provision of additional information, return of funds, audit rights, records retention, public information, and any other provision implying survivability shall remain in effect after the expiration or termination of this Agreement.

27. **Disputes: No Waiver of Sovereign Immunity.**

Any and all disputes arising under, related to, or in connection with this Agreement shall be resolved first through negotiation between the **PARTIES** under the laws of the **NATION**. If negotiation does not resolve the dispute, the **NATION** may pursue legal action. Nothing herein shall be construed as a waiver of the **NATION'S** sovereign immunity.

28. **Applicable Law and Jurisdiction.**

The **SUBRECIPIENT** shall comply with all Navajo Nation laws. Failure to comply with Navajo Nation law shall be an act of default, and grounds for termination by the **NATION**. The **SUBRECIPIENT** agrees to be subject to the jurisdiction of Navajo Nation courts and tribunals.

29. **Force Majeure.**

Neither the **SUBRECIPIENT**, nor the **NATION** shall be required to perform any obligation under this Agreement or be liable or responsible for any loss or damage resulting from its failure to perform so long as performance is delayed by force majeure or acts of God, including but not limited to strikes, lockouts or labor shortages, embargo, riot, war, revolution, terrorism, rebellion, insurrection, flood, or natural disaster. The **SUBRECIPIENT** must inform the **NATION** of any force majeure events delaying performance of its obligations in writing, with proof of receipt of notice, within three (3) business days of the commencement of such force majeure or acts of God, or will otherwise waive this right as a defense.

30. **No Obligation by Federal Government.**

The **PARTIES** acknowledge and agree that the federal government is not a Party to this Agreement and is not subject to any obligations or liabilities to either Party, any third Party, or any subcontractor pertaining to any matter related to this Agreement.

31. **Compliance with Federal Law, Regulations, and Executive Orders.**

The SUBRECIPIENT will comply with all applicable federal laws, regulations, executive orders, policies, procedures, and directives.

32. **Certification Regarding Lobbying (2 CFR 200.450).**

By signing this Agreement, the Authorized Representative certifies, to the best of his/her knowledge and belief, that no federally appropriated funds have been or will be paid, by or on behalf of the SUBRECIPIENT, to any person or entity for influencing or attempting to influence an officer or employee of any agency, 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, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement in accordance with 2 CFR 200.450. If any funds other than federally appropriated funds have been paid or will be paid to any person or entity for influencing or intending to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the SUBRECIPIENT shall complete and submit Standard Form-LLL, Disclosure Form to Report Lobbying, to the NATION. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

33. **No Agency or Employment Relationship.**

In its performance of work pursuant to this Agreement, the SUBRECIPIENT, unless it is a Navajo Nation Chapter or Township, shall be an independent entity from the NATION. The SUBRECIPIENT shall not be considered an employee or agent of the NATION. Nothing in this Agreement shall be construed to create any agency or employment relationship between the SUBRECIPIENT or any of its employees and the NATION. Neither Party shall have any right, power, or authority to assume, create, or incur any expense, liability, or obligation, whether express or implied, on behalf of the other Party. Nothing in this Agreement shall be construed to create any agency or employment relation between the PARTIES, and the SUBRECIPIENT is free to make its services available to third parties. The SUBRECIPIENT is not eligible to participate in, nor eligible for coverage under, any NATION employee benefit plan or offering.

34. **Indemnification.**

Except where the SUBRECIPIENT is another Navajo Nation Governmental Entity, such as a Chapter or Township, the SUBRECIPIENT agrees to hold harmless and indemnify the NATION against any and all losses, costs, damages, claims, accident or injury to person or property including death, attorneys' fees, expenses, and other liability whatsoever (collectively, "Claims"), arising under, related to, or in connection with this Agreement, except to the extent such Claims are directly caused by the gross negligence or wanton and willful conduct of the NATION or to the extent they result from the negligence of NATION officials or employees as

provided for and in accordance with I N.N.C. § 551 *et seq.*

35. **Rights of Other Parties.**

Nothing in this Agreement shall be interpreted to create any rights in any third party that is not an entity or subdivision of the Navajo Nation government.

36. **Conflicting and Additional Terms.**

All additional terms and conditions of the **SUBRECIPIENT** are attached hereto and incorporated into this Agreement, provided however that in the event of any conflict between these Terms and Conditions and any additional terms and conditions offered by the **SUBRECIPIENT**, these Terms and Conditions shall control and govern. Any additional terms and conditions not attached to this Agreement shall have no force or effect.


37. **Severability.**

If any provision of this Agreement is held invalid by the Courts of the **NATION**, all remaining provisions which can be implemented shall remain in force and be given full force and effect.


IN WITNESS WHEREOF, we the undersigned hereby execute this Agreement:

For the SUBRECIPIENT:

For The NAVAJO NATION:



Walter W. Haase, P. E. General Manager Date 12/28/2021
Navajo Tribal Utility Authority
Post Office Box 170
Fort Defiance, AZ 86504

 03.04.2022

Jonathan Nez, President Date
The Navajo Nation
Window Rock, AZ 86515

SUBRECIPIENT AGREEMENT

Between

THE NAVAJO NATION AND The Navajo Tribal Utility Authority
FOR SUBAWARD OF NAVAJO NATION FISCAL RECOVERY FUNDS

Appendix A

Detailed Statement of Work with Timeline (“Scope of Work”)

Instructions

The Scope of Work should include information detailing the goals of the proposed project, what activities will take place, and what deliverables will be achieved at the successful completion of the project. For example, an Agreement involving Goods should indicate how many pieces of a good, and their specification, are to be delivered; and an Agreement involving Services should detail what type of service will be conducted, including but not limited the timeframe for service, milestones to be achieved during the project, and particularities for any deliverables (ex: dimensions of a building to be built or how many meals are to be prepared and delivered to a particular community.)

The Scope of Work must be developed by the Navajo Nation, and be as specific as possible.

Attachments

Appendix A must include the following Attachments:

1. The Scope of Work and Timeline that complies with the Instructions above;
- ~~2. The Navajo Nation Expenditure Plan for Subrecipient (if any); and~~
- ~~3. The Navajo Nation Council Resolution approving the Expenditure Plan and/or allocating FRF Funds to Subrecipient (if any).~~

NNFRF FUNDS

Navajo Tribal Utility Authority – House Wiring and Connecting Homes to Electricity Program

Resolution No. CJY-41-21

Scope of Work

December 23, 2021

The Navajo Tribal Utility Authority (NTUA)'s ARPA House Wiring and Connecting Homes to Electricity Program will provide power to Navajo homes located on the Navajo Nation by either connecting homes to the electric grid through powerlines or connecting Navajo homes to an off-grid solar system with a proposed budget of \$28,982,874. The projects were previously approved under Resolution No. CJY-67-20 but was later defunded. The Navajo Nation Council reallocated funds the projects under Section 6 of Resolution No. CJY-41-21. These projects fit into Expenditure Category 3.12 Housing Support: Other Housing Assistance as outlined in the Interim Final Rule issued by the United States Department of Treasury.

Connecting Navajo Homes to the Electric Grid:

NTUA estimates it can fund the connection of 829 Navajo homes to the electric grid. Depending on the location of the homes, electric grid connections may be provided by NTUA, Arizona Public Service, Continental Divide Electric Cooperative, the City of Farmington, the City of Gallup, Jemez Electric Cooperative, and Socorro Electric. Further, this plan includes funding to extend the electric utilities existing distribution system to connect 829 Navajo family homes. This plan also includes funding, as needed, to complete the interior house wiring, pole mounted meter loops, certification and recertification of house wiring, and inspections.

Scope of work includes acquiring cultural and environmental compliance forms, permits, obtaining consents of rights holders, submitting and approval for land access for the powerline projects. Scope of work also includes fieldwork to assess, design, and construct necessary equipment, and closeout the project, including purchasing material, services and other appurtenances associated with planning and connecting the homes to the NTUA or other utility provider's electric grid.

Connecting Navajo Homes to an Off-Grid Solar System:

NTUA estimates it can fund the connection of 150 Navajo homes to an off-grid solar system. The 150 off-grid solar systems comprise of the skid mounted solar unit, battery system, and an energy efficient refrigerator, and funding as needed, to complete the interior house wiring, certification and re-certification of house wiring, inspection, and a generator with an ATS switch (if medically necessary).

All powerline and solar systems projects identified will be within the territory of the Navajo Nation.

NTUA will ensure an effective work schedule is implemented for the mobilization of labor, equipment, supplies, and delivery of materials and services. All construction activities will begin once funding is received and to be completed by December 31, 2026.

12/23/2021

List includes construction completed projects, SLA approved projects and SLA pending approval projects

This list is the Scope of Work for the first Dispersment

Delegate	Chapter	Sum of Customers Served	Sihasin	Solar (Other Utilities)
Amber Kanazbah-Crotty	Beclabito	0		
	Cove	3		
	Gadiahi/To'Koi	1		
	Red Valley	3		
	Sanostee (Tse Alnaoz'tii)	6		
	Sheepsprings	1		
	Two Grey Hills/Toadlena	2		
Carl Slater	Lukachukai	12		
	Rock Point	4		
	Rough Rock (Tse Ch' Izhi)	4		
	Round Rock	6		
	Tsaile/Wheatfields	0		
Charlaine Tso	Aneth	9		
	Mexican Water	4		
	Red Mesa	12		
	Teec Nos Pos	10	23	
	To'likan (Sweetwater)	2		
Daniel Tso	Baca/Prewitt (CDEC)*			
	Casamero Lake			
	Counselor (JMEC)*			1
	Ojo Encino			3
	Pueblo Pintado			3
	Torreón			4
	Whitehorse Lake			0
Edison Wauneka	Oaksprings			
	St. Michaels	14		
Edmund Yazzie	Churchrock (CDEC)*			3
	Iyanbito (CDEC)*			
	Mariano Lake (CDEC)*			
	Pinedale (CDEC)*			
	Smith Lake (CDEC)*			2
Elmer Begay	Thoreau (CDEC)*			
	Dilkon	6		
	Greasewood Springs	1		
	Indian Wells	2		
	Teeosto	4		
	Whitecone	1		
Eugene Tso	Chinle	21		
Eugenia Charles-Newton	Shiprock	18		
Herman Daniels Jr.	Inscription Hse (Ts'ah Bii Kin)	2		
	Navajo Mountain	5		
	Oljato	5		
	Shonto	6		
Jamie Henio	Ramah (CDEC)*			1
	Alamo			
	Tohajilee (CDEC)*			
Jimmy Yellowhair	Black Mesa	1		
	Forest Lake	1		
	Hard Rock	1		
	Pinon	8		
	Whippoorwill	3		
	Blue Gap-Tachee	10		
Kee Allen Begay Jr.	Low Mountain	3		
	Many Farms	9		
	Nazlini	9		
	Tselani-Cottonwood	10		
	Crownpoint			
Mark Freeland	Standing Rock	1		
	Becenti			
	Dalton Pass (Nahodishgish)	3		
	Huerfano (JMEC)*			2
	Lake Valley			
	Nageezi (JMEC)*			5
	Whiterock			
Nathaniel Brown	Chilchinbeto		20	
	Dennehotso	5	6	
	Kayenta	8		
Otto Tso	Tuba City (To' Nanees' Dizi')	7		
Paul Begay	Bodaway/The Gap	1		
	Coppermine	5		
	Kaibeto (Kai' Bii To)	3		
	Lechee	1	1	
	Tonalea/Red Lake	12		
Pernell Halona	Coyote Canyon	4		
	Mexican Springs	1		
	Naschitti	4		
	Tohatchi	3		
	Twin Lakes (Bahastl' ah')	11		
Raymond Smith Jr.	Houck	2		
	Klagetoh	1	7	

	Lupton (Tse Si Ani)	2		
	Nahata Dził	3		
	Wide Ruins	6		
Rickie Nez	Burnham (T'istoh Sikaad)	1		
	Hogback (Tse Daa K'aan)	2		
	Nenahnezad			
	Newcomb			
	San Juan			
	Upper Fruitland	4		
Seth Damon	Manuelito (CDEC)*			2
	Rock Springs			
	Rock Springs (CDEC)*			
	Tsayatoh (CDEC)*			4
	Chichiltah (CDEC)*			1
	Breadsprings (Baahaali)(CDEC)*			
	Red Rock (CDEC)*			1
Thomas Walker Jr.	Birdsprings (Tsidii To'ii)	1		
	Cameron			
	Coalmine Mesa	1		
	Leupp	2		
	Tolani Lake	1		
Vince R. James	Cornfields	4		
	Ganado	6		
	Jeddito	1		
	Kinlichee (Kin Dah Lichii)	5	8	
	Steamboat	4		
Wilson Stewart Jr.	Crystal	1		
	Fort Defiance	7		
	Red Lake/Navajo			
	Sawmill	10	2	
	Grand Total	352	67	32

SLA Projects (352)		
	Beginning - March 2, 2021	March 3, 2021 - Current
Labor	\$ 502,077.46	\$ 1,232,718.84
Materials	\$ 118,823.79	\$ 435,524.21
Equipment	\$ 23,435.48	\$ 167,090.44
Sub Total (No OH)	\$ 644,336.73	\$ 1,835,333.49
Overhead	\$ 367,665.92	\$ 1,359,099.96
TOTAL	\$ 1,012,002.65	\$ 3,194,433.45

Other Utilities	Invoices Paid	
March 3, 2021 - Current		
CDEC	\$ 276,711.36	
JMEC	\$ 66,181.00	
TOTAL	\$ 342,892.36	

Sihasin Projects (67)		
	Beginning - March 2, 2021	March 3, 2021 - Current
Labor	\$ 240,523.90	\$ 457,377.26
Materials	\$ 101,352.46	\$ 315,641.28
Equipment	\$ 6,377.12	\$ 139,551.69
Sub Total (No OH)	\$ 348,253.48	\$ 912,570.23
Overhead	\$ 133,089.28	\$ 744,658.83
TOTAL	\$ 481,342.76	\$ 1,657,229.06

GRAND TOTAL		
Without OH	\$ 992,590.21	\$ 2,747,903.72
With OH	\$ 1,493,345.41	\$ 4,851,662.51

SUBRECIPIENT AGREEMENT

Between

THE NAVAJO NATION AND The Navajo Tribal Utility Authority
FOR SUBAWARD OF NAVAJO NATION FISCAL RECOVERY FUNDS

Appendix B

Budget

Instructions

The Subrecipient must use Navajo Nation Budget Forms (1) and (4) obtained from the FY2022 Budget Instruction Manual providing the details of all costs associated with this Agreement, including at a minimum all of the following:

1. The Navajo Nation Budget Form (1) specifying the award amount under the line item 9000 Capital Outlay.

The Line Item Budget should be developed by the Subrecipient, and its component amounts should add up to the total amount to be paid under this Agreement.

PART I. Business Unit No.: NEW **Program Title:** NINFR - NTUA Electricity and Housewiring to Homes
Prepared By: Dr. Pearl Yellowman **Phone No.:** 928-871-7182 **Email Address:** pyellowman@nndcd.org
Division/Branch: Division of Natural Resources

PART II. FUNDING SOURCE(S)		Fiscal Year /Term	Amount	% of Total	PART III. BUDGET SUMMARY			Fund Type Code	(A) NNC Approved Original Budget	(B) Proposed Budget	(C) Difference or Total
TBD		TBD	28,982,874		2001	Personnel Expenses					
					3000	Travel Expenses					
					3500	Meeting Expenses					
					4000	Supplies					
					5000	Lease and Rental					
					5500	Communications and Utilities					
					6000	Repairs and Maintenance					
					6500	Contractual Services					
					7000	Special Transactions					
					8000	Public Assistance			28,982,874		
					9000	Capital Outlay					
					9500	Matching Funds					
					9500	Indirect Cost					
					TOTAL			\$0.00	28,982,874	0	
					PART IV. POSITIONS AND VEHICLES			(D)	(E)		
					Total # of Positions Budgeted:						
					Total # of Vehicles Budgeted:						
					TOTAL:			\$28,982,874	0%		

PART V. I HEREBY ACKNOWLEDGE THAT THE INFORMATION CONTAINED IN THIS BUDGET PACKAGE IS COMPLETE AND ACCURATE.

SUBMITTED BY: Dr. Pearl Yellowman, Division Director **APPROVED BY:** Paulson Chaco, Chief of Staff
Program Manager's Printed Name Paulson Chaco, Chief of Staff **Division Director / Branch Chief's Printed Name**
Program Manager's Signature and Date _____ **Division Director / Branch Chief's Signature and Date** _____

**THE NAVAJO NATION
 PROGRAM PERFORMANCE CRITERIA**

PART I. PROGRAM INFORMATION:

Business Unit No.: NEW Program Name/Title: NNRF - NTUA Electricity and Housewiring to Homes 3.12

PART II. PLAN OF OPERATION/RESOLUTION NUMBER/PURPOSE OF PROGRAM:

The purpose and mission of this project is to provide electrical service to houses in the Navajo Nation. NTUA plans to provide electrical service to 979 homes.
 Note QTR = YR due to multi year funding of projects

PART III. PROGRAM PERFORMANCE CRITERIA:

	1st QTR		2nd QTR		3rd QTR		4th QTR	
	Goal	Actual	Goal	Actual	Goal	Actual	Goal	Actual
1. Goal Statement: To provide electrical service to houses in the Navajo Nation								
Program Performance Measure/Objective: To provide electrical service to houses in the Navajo Nation							979	
2. Goal Statement: Program Performance Measure/Objective:								
3. Goal Statement: Program Performance Measure/Objective:								
4. Goal Statement: Program Performance Measure/Objective:								
5. Goal Statement: Program Performance Measure/Objective:								

PART IV. I HEREBY ACKNOWLEDGE THAT THE ABOVE INFORMATION HAS BEEN THOROUGHLY REVIEWED.

_____ Paulson Chaco, Chief of Staff
 Dr. Pearl Yellowman, Division Director
 Program Manager's Printed Name
 _____ Division Director/Branch Chief's Printed Name
 _____ Program Manager's Signature and Date
 _____ Division Director/Branch Chief's Signature and Date

**THE NAVAJO NATION
 DETAILED BUDGET AND JUSTIFICATION**

PART I. PROGRAM INFORMATION:		Business Unit No.:	
Program Name/Title: NNFRF - NTUA Electricity and Housewiring to Homes 3.12		NEW	
PART II. DETAILED BUDGET:			
(A)	(B)	(C)	(D)
Object Code (LOD 6)	Object Code Description and Justification (LOD 7)	Total by DETAILED Object Code (LOD 6)	Total by MAJOR Object Code (LOD 4)
8000 Assistance	The Navajo Tribal Utility Authority plans to use the funds to provide electricity directly to residential homes of Navajo people who suffered disproportionately more economic harm compared to the rest of the country. These projects will get electricity to Navajo Nation homes either by electric connections to the grid or installation of solar units and will also prepare the homes to safely receive electricity in the home.		28,982,874
8780	<p>NTUA's ARPA Connecting Navajo Nation (NN) Homes to Electricity Program will connect Navajo homes located on the Navajo Nation to electricity either by connecting homes to the electric grid through powerlines or to an off-grid solar system. Powerline projects include connecting individual customers or customers that are a part of a community powerline project to the electric grid of any of the electric service providers that serve the Navajo Nation. Community projects consist of construction of a main powerline/backbone with shorter line extensions off this main powerline to connect homes to the grid. Electric service providers to the Navajo Nation include NTUA, Continental Divide Electric Cooperative (CDEC), Jemez Mountains Electric Cooperative (JMEC), Socorro Electric Cooperative (SEC), Farmington Electric Utility System, City of Gallup Joint Utilities, Arizona Public Service Company (APS). Through the CARES Act expenditure plans, NTUA established a relationship and process with CDEC, JMEC, APS, and SEC to connect Navajo homes to the electric grids of these service providers. NTUA hopes to expand this relationship with other electric service providers.</p> <p>Entities</p> <p>.8785 Entity Grants NTUA Sub-recipient</p> <p>House wiring for Electric Connections 2,975,000</p> <p>Electric Connections 5,180,655</p> <p>Housewiring for Electric Connections 1,561,000</p> <p>Electric Connections 11,766,219</p> <p>Solar System Connection 6,450,000</p> <p>House wiring for Solar Systems 1,050,000</p>	28,982,874	
TOTAL		28,982,874	28,982,874

THE NAVAJO NATION
PROJECT BUDGET SCHEDULE

PART I. Business Unit No.: <u>new</u> Project Title: <u>NNRF - NTUA Electricity and Housewiring to Homes 3.12</u> Project Description: <u>The purpose and mission of this project is to provide electrical service to houses in the Navajo Nation. NTUA plans to provide electrical service to 979 homes.</u>	PART II. Project Information Project Type: <u>Electric Power Connections</u> Planned Start Date: <u>2/1/2022</u> Planned End Date: <u>12/31/2026</u> Project Manager: <u>Dr. Pearl Yellowman</u>
Check one box: <input checked="" type="checkbox"/> Original Budget <input type="checkbox"/> Budget Revision <input type="checkbox"/> Budget Reallocation <input type="checkbox"/> Budget Modification	

PART III. List Project Task separately, such as Plan, Design, Construct, Equip or Furnish. Planning and Design Constuction	Expected Completion Date if project exceeds 8 FY Qtrs.							
	FY 2022 1st Qtr. O N D	2nd Qtr. J F M	3rd Qtr. A M J	4th Qtr. Jul A S	1st Qtr. O N D	2nd Qtr. J F M	3rd Qtr. A M J	4th Qtr. Jul A S
								979
\$	\$	\$	\$	\$	\$	\$	\$	PROJECT TOTAL
		28,982,874.00						\$28,982,874.00

Job K211528 US TREASURY- NTUA ELECTRICITY

Thru Date 2/28/2022

Project

Cost Code	Cost Type	Description	L P M	Original Budget Amt	Revised Budget Amt	Actual Amount	Open Commit Amount	Budget Balance	% Revised Spent	% Revised Remaining
1710		Program Revenue	6 B N	28,982,874.00-	28,982,874.00-			28,982,874.00-		1.00
1710		Program Revenue	6 T	28,982,874.00-	28,982,874.00-			28,982,874.00-		1.00
1705		CG Revenue	5 T	28,982,874.00-	28,982,874.00-			28,982,874.00-		1.00
1700		External C/G Revenue Source	4 T	28,982,874.00-	28,982,874.00-			28,982,874.00-		1.00
1000		Revenues	3 T	28,982,874.00-	28,982,874.00-			28,982,874.00-		1.00
8780		Entities	6 B N	28,982,874.00	28,982,874.00			28,982,874.00		1.00
8780		Entities	6 T	28,982,874.00	28,982,874.00			28,982,874.00		1.00
8700		Grants	5 T	28,982,874.00	28,982,874.00			28,982,874.00		1.00
8000		Assistance	4 T	28,982,874.00	28,982,874.00			28,982,874.00		1.00
2000		Expenses	3 T	28,982,874.00	28,982,874.00			28,982,874.00		1.00

SUBRECIPIENT AGREEMENT

Between

THE NAVAJO NATION AND The Navajo Tribal Utility Authority
FOR SUBAWARD OF NAVAJO NATION FISCAL RECOVERY FUNDS

Appendix C

Disbursement Schedule

The Navajo Nation (the Nation) will make three disbursements to the Navajo Tribal Utility Authority (NTUA), 1st Disbursement = 50% of total /4th Quarter of 2021 (December), 2nd Disbursement = 25% of total /4th Quarter of 2022, 3rd Disbursement = 25% of total /4th Quarter of 2023, in the amount of \$28,982,874 for NTUA's House Wiring and Connecting Homes to Electricity Program. The disbursement will occur upon execution of the subrecipient agreement. NTUA will provide quarterly reports (monitoring) to the Nation starting on the quarter that the disbursement occurs and ending on the date when the funds are expended or December 2026, whichever occurs first.

NAVAJO NATION
NMFRE

Navajo Tribal Utility Authority
3.12 Housing Support: Other Housing Assistance
Subrecipient Name
Business Unit
Defunded CARES Proposed Disbursement Schedule

As of 12/14/21

TREASURY CATEGORY	FUND REQUEST PROJECT DESCRIPTION	Total Amount Requested	Design				Construct				Total
			Q1	Q2	Q3	Q4	Q12	Q22	Q32	Q44	
3.12 Housing Support: Other Housing Assistance	House wiring for Electric Connections	2,575,000.00	1,487,500.00	743,750.00	743,750.00	2,975,000.00					2,975,000.00
3.12 Housing Support: Other Housing Assistance	Electric Connections	5,180,655.00	2,590,327.50	1,295,163.75	1,295,163.75	5,180,655.00					5,180,655.00
3.12 Housing Support: Other Housing Assistance	Housewiring for Electric Connections	1,581,000.00	790,500.00	395,250.00	395,250.00	1,581,000.00					1,581,000.00
3.12 Housing Support: Other Housing Assistance	Electric Connections	11,766,219.00	5,883,109.50	2,941,554.75	2,941,554.75	11,766,219.00					11,766,219.00
3.12 Housing Support: Other Housing Assistance	Solar System Connection	1,650,000.00	825,000.00	412,500.00	412,500.00	1,650,000.00					1,650,000.00
3.12 Housing Support: Other Housing Assistance	House wiring for Solar Systems	1,650,000.00	825,000.00	412,500.00	412,500.00	1,650,000.00					1,650,000.00

SUBRECIPIENT AGREEMENT

Between

THE NAVAJO NATION AND The Navajo Tribal Utility Authority
FOR SUBAWARD OF NAVAJO NATION FISCAL RECOVERY FUNDS

Appendix D

Expenditure Plan

Attachments

Appendix D must include the project's Expenditure Plan.

THE NAVAJO NATION
SIHASIN, UUF, AND CARES PROJECT DESCRIPTION FORM

- 1) This form needs to be submitted separately for each project type being proposed.
- 2) This form needs to be returned to: paulsonchaco@navajo-nsn.gov

Part 1. Identification of parties.

Entity Requesting Funds: Navajo Tribal Utility Authority
(NN Governmental Unit, Enterprise, Chapter, Etc.)

Entity Mailing Address: Post Office Box 170

Form Prepared by: Bidtah Becker phone/email: 928-728-6462/BidtahB@ntua.com

Title & type of Project:

NTUA's ARPA Connecting Navajo Nation Homes to Electricity Program & House Wiring for Navajo Nation Homes Project 3.12
Housing Support: Other Housing Assistance

Amount of FRF Funds Being Requested: \$ 28,982,874

Part 2. Project details.

(a) Describe the Program(s) and/or Project(s) to be funded, including how the funds will be used, for what purposes, the location(s) to be served, and what COVID-related needs will be addressed:

NTUA's ARPA Connecting Navajo Nation (NN) Homes to Electricity Program will connect Navajo homes located on the Navajo Nation to electricity either by connecting homes to the electric grid through powerlines or to an off-grid solar system. Powerline projects include connecting individual customers or customers that are a part of a community powerline project to the electric grid of any of the electric service providers that serve the Navajo Nation. Community projects consist of construction of a main powerline/backbone with shorter line extensions off this main powerline to connect homes to the grid. Electric service providers to the Navajo Nation include NTUA, Continental Divide Electric Cooperative (CDEC), Jemez Mountains Electric Cooperative (JMEC), Socorro Electric Cooperative (SEC), Farmington Electric Utility System, City of Gallup Joint Utilities, Arizona Public Service Company (APS). Through the CARES Act expenditure plans, NTUA established a relationship and process with CDEC, JMEC, APS, and SEC to connect Navajo homes to the electric grids of these service providers. NTUA hopes to expand this relationship with other electric service providers.

Powerline projects will have cost associated with obtaining land access from a variety of land holders. NTUA utilizes the term Right of Way (ROW) to encompass the entire process for obtaining land access and the costs include but are not limited to tree cutting services, fees for permits, biological services, archaeological and cultural services, and road crossing permits. Other costs for powerline projects include engineering, labor, equipment, and materials. The construction cost will be specific to powerline projects that would connect families to the electric grid.

For those families that are so far from a powerline that it is cost prohibitive to connect them to it, their homes are prohibited from connecting to the electric grid under the Navajo Nation's Homesite Leasing Policies, or these families do not want to be connected to the electric grid, these families can be connected to off-grid solar systems. The funds will be used to procure materials and services for off-grid solar systems for remote Navajo Nation Families. Costs include the solar system and installation of the system. In addition, all off-grid solar systems will be accompanied with an appropriately sized refrigeration unit. Costs include a gasoline powered generator for certain customers. All powerline and solar systems projects identified will be within the territory of the Navajo Nation.

NTUA's House Wiring for Navajo Nation Homes Project will complete house wiring work for homes that need house wiring. House wiring includes meter loop installations, house wiring, and house wiring certifications. The homes receiving house wiring will either receive a solar system or will be connected to the electric grid through a powerline through NTUA's ARPA Off-Grid Solar Residential Project or NTUA's ARPA Residential Powerline Project.

All powerline and solar system connections will require homes to be completely wired with a certification that house wiring meets the electrical code and they service provider has approved the service entrance for connection. The house wiring assessment could reveal house wiring needs that will require further interior house wiring work for customers to be connected to electricity. This therefore necessitates the solicitation of professional services for house wiring by certified electricians.

A document is attached showing estimated costs and proposed locations: Defunded CARES ARPA NTUA Workbook, EC 3.12.

(b) Explain how the Project will benefit the Navajo Nation, Navajo Communities, or the Navajo People:

A shockingly high number of homes on the Navajo Nation lack access to one or more of the following utilities: electricity, water, wastewater, and broadband. Residents of the United States of America require these utilities to conduct their daily lives and to live the healthiest lives possible. All of NTUA's defunded CARES Act projects will provide one or more utility service to a home that lacks it or will provide electric grid stability or will improve the water and wastewater systems to address the increased loads from connecting new homes to clean drinking water systems. All NTUA projects will assist in promoting public health and economic stimulus.

The pandemic highlighted the health disparities due to inadequate housing in Tribal communities. The number of cases and deaths among the Navajo People was disproportionately high because of overcrowding and lack of access to affordable, reliable, and safe utilities. Research conducted at the beginning of the pandemic determined that the two statistically significant reasons that COVID-19 infections were the highest in Indian Country was because of the lack of piped water to homes and the rate of English spoken in the community¹. The higher the lack of access to clean piped water, the higher the rate of COVID-19 infections. Similarly the lower the rate of spoken English, the higher the rate of COVID-19 infections.

In his testimony before the United States House of Representative Committee on Energy and Commerce titled "Addressing the Urgent Needs of Our Tribal Communities"², President Johnathan Nez testified that over 10,000 homes on the Navajo Nation lacks electricity. President Nez specifically stated:

Without electricity, these families cannot effectively fight off the spread of COVID-19. They also do not enjoy the benefits of mainstream homes who can shelter in place with air conditioning, refrigerators and internet. I say internet because without electricity, there is no internet. Indeed, without electricity, there is no water. Electricity is necessary for the pumping of water to move it across the Navajo Nation into homes.

It is critical to understand, as President Nez points out, that electricity is required for broadband and to operate water and waste water systems. The Nation cannot have water without electricity. That being recognized, under the Interim Final Rule, recipients are permitted to use the SLRF to address the economic impacts of COVID-19 by building stronger communities and by investing in housing and neighborhoods. The Interim Final Rule specifically provides that the funds can be used to alleviate "the immediate economic impacts of the COVID-19 pandemic on housing insecurity, while addressing conditions that contribute to poor public health and economic outcomes during the pandemic, namely concentrated areas with limited economic opportunity and inadequate or poor-quality housing."³ Therefore, electric capacity projects and electric grid stabilization projects are clearly necessary for public health and economic stimulus.

¹ American Indian Reservations and COVID-19: Correlates of Early Infection Rates in the Pandemic, Desi Rodriguez-Lonebear, PhD; Nicolás E. Barceló, MD; Randall Akee, PhD; Stephanie Russo Carroll, DrPH, MPH, Journal of Public Health Management & Practice, [American Indian Reservations and COVID-19: Correlates of Ear... : Journal of Public Health Management and Practice \(Iww.com\)](#)

² https://energycommerce.house.gov/sites/democrats.energycommerce.house.gov/files/documents/Testimony-Nez-Tribal%20Communities%20Hearing_070820.pdf

³ Federal Register / Vol. 86, No. 93 / Monday, May 17, 20. Pg. 26796.

Connecting homes without electricity to electricity will allow families to minimize travel to gas stations to purchase fuel for portable generators and thereby limit exposure to COVID and provide them more time to rebound from any economic disparities exacerbated by the pandemic. Connecting homes without electricity to electricity allows families to attend classes and work remotely, if broadband is available.

Broadband is necessary for telecommuting, telemedicine, in home schooling, and generally to ensure that one can safely shelter in place due to COVID-19 related quarantine, stay at home community orders, and generally for those who prefer to stay at home, rather than risking exposure to the virus that causes COVID-19.

document attached - no

- (c) Provide a prospective timeline showing the estimated date of completion of the Project and/or each phase of the Project. Disclose any challenges that may prevent you from incurring costs for all funding by December 31, 2024 and/or fully expending funds and completing the Program(s) or Project(s) by December 31, 2026:

Following are challenges that may prevent NTUA from incurring costs for all funding by December 31, 2024, fully expending funds before December 31, 2024, or completing all eligible house wiring projects before December 31, 2026:

(1) Receipt of Funding. For the most part, most NTUA projects cannot begin until funding is received. NTUA can and has self-funded up to \$4 million for all of its proposed defunded CARES Act projects, but certain projects such as installation of solar units cannot begin until NTUA has received funding. Fuller explanation on the delay in receiving funding and how it impacts off-grid solar installation is explained in (4) below. NTUA estimates that at the current rate of receiving ARPA funds, one construction season out of four has been lost. The reason is weather. Little to no construction can occur during the winter. Winter weather causes delay to supply chains, delays in the delivery of material, and delays in deploying labor. Of highest concern is that winter weather can create unsafe working conditions and NTUA will not deploy labor during unsafe conditions.

(2) Timeliness in Obtaining Land Access. This concern relates to powerline projects. NTUA must obtain permission from the Navajo Nation to access Navajo trust and fee land to lay new utilities. The timeliness, and even the ability to obtain land access, is a significant challenge. While there are many challenges in this process, there appear to be two immediate issues that need to be addressed. The first is the Navajo Nation Department of Fish and Wildlife's lack of issuance of the clearances necessary to obtain permission from the Navajo Nation to access land. The Department of Fish and Wildlife issues biological resources compliance forms (BRCF) with instructions on when and how to construct projects so that biological resources are protected. A BRCF must accompany all applications to the Navajo Nation for land access. The last time Fish and Wildlife issued a BRCF to NTUA was in February of 2021. NTUA is not able to process service line agreements (SLAs) and Tribal Access Authorizations (TAAs) that lack a BRCF. As of September 8, 2021, NTUA has 221 approved SLA and/or TAAs and 183 projects in the ROW process. Of the 183 projects in the ROW process, 42 are pending a BRCF, and NTUA will be submitting BRCF requests for an additional 58 projects. As such, NTUA is perilously close to being unable to even apply for land access to lay new utilities because they are missing the BRCF component for the application.

The second issue is the amount of people who will be departing the Navajo Nation through the retirement buy-out. It appears a significant number of seasoned employees will depart the Nation on September 30, 2021. NTUA sees this as a significant challenge, because NTUA understands that one of the reasons that Fish and Wildlife has not issued a BRCF to NTUA in over six months is because two long serving employees left the Department in February. These two employees each had over twenty of years of experience.

(3) COVID-19. NTUA does not expect the pandemic it to be of the same level of challenge that it was during 2020, because the vaccine has alleviated some of the COVID-19 challenges. The pandemic related challenges range from customers becoming sick, thereby delaying installation of house wiring and other in-home services to the home until the household members recover, to manufacturing challenges, especially of solar units, and finally supply chain challenges. That being recognized, obtaining solar units is one area that will continue to experience COVID-19 related challenges. solar companies rely on their equipment suppliers to get work started, with events as they are and COVID still very present, they are experiencing extreme material

shortages and shipping delays.

(4) Local Labor. Based on NTUA's CARES Act construction experience, there appears to be a shortage of local electricians to deploy at the same rate that NTUA can construct powerlines. There is also a shortage of archaeologists and biologists who can prepare clearance paperwork at the rate that NTUA can construct.

Documents are attached showing the estimated timelines for completing powerline projects and off-grid solar installation projects.

(d) Identify who (person within the Entity) will be responsible for implementing the Project:

_____ document attached

(e) Explain who will be responsible for operations and maintenance costs for the Project once completed, and how such costs will be funded prospectively:

Customers of NTUA are responsible for operations and maintenance costs, which is the business model for all utility companies. NTUA prioritizes the stabilization of rates so that its customers can afford them. NTUA has not raised the electric rate in over thirteen years. NTUA offers discounted rates for seniors and the disabled. In addition, two federal programs exist to help low income homes pay their utility bills. They are Low Income Housing Energy Assistance Program (LIHEAP) and Low-Income Housing Water Assistance Program (LIHWAP). NTUA is currently working with the Navajo Nation Division of Social Services to ensure that the Navajo Nation deploys the significant federal funding that it has received for these two programs. There are also other utility assistance programs run through states, religious organizations, and others.

document attached - no

(f) State which of the (66) Fiscal Recovery Fund eligibility expenditure categories in Exhibit B the proposed Project or Program falls under, and explain the reasons why:

This project title is covered under Expenditure Category 3.12. By providing electricity to homes located on the Nation, the Navajo Nation will be using the SLRF and NNFRF to address poor public health outcomes due to inadequate or poor housing quality. Under the Interim Final Rule, recipients are permitted to use the SLRF to address the economic impacts of COVID-19 by building stronger communities and by investing in housing and neighborhoods. The Interim Final Rule specifically provides that the funds can be used to alleviate "the immediate economic impacts of the COVID-19 pandemic on housing insecurity, while addressing conditions that contribute to poor public health and economic outcomes during the pandemic, namely concentrated areas with limited economic opportunity and inadequate or poor-quality housing."⁴

The Navajo Tribal Utility Authority plans to use the funds to provide electricity directly to residential homes of Navajo people who suffered disproportionately more economic harm compared to the rest of the country. These projects will get electricity to Navajo Nation homes either by electric connections to the grid or installation of solar units and will also prepare the homes to safely receive electricity in the home.

document attached - no

Part 3. Additional documents.

List here all additional supporting documents attached to this request (or indicate N/A):

⁴ Federal Register / Vol. 86, No. 93 / Monday, May 17, 20. Pg. 26796.

NTUA includes Resolutions CJY-67-20 and CN-89-20, which are the approved NTUA CARES Act expenditure plans. NTUA requests for Navajo Nation Fiscal Recovery Funds (NNFRF) to be released to complete projects that were previously approved by the Navajo Nation through resolution CJY-67-20 and resolution CN-89-20. NTUA's proposed projects all fit into respective ARPA Expenditure Categories required by the Navajo Nation and the U.S. Treasury. Importantly, NTUA is seeking NNFRF funds that will be equal to the total amount of reverted funds that NTUA was previously awarded under resolutions CJY-67-20 and resolution CN-89-20.

CJY-67-20 approved and allocated NTUA \$147,116,561. The Navajo Nation allocated \$39,581,523 under the CARES Fund Water Projects and Cistern Projects Expenditure Plans, \$39,494,831 under the Power Line Projects Expenditure Plan, \$32,847,207 under the Broadband-Telecommunications Project Expenditure Plan, and \$35,192,000 under the Solar Projects Expenditure Plan. Due to time constraints, delays in funding, anticipated weather events, non-eligible projects, and the potential to add eligible projects that could have been completed by December 30, 2020, NTUA requested to amend its projects' expenditure plans and to re-allocate funds. The Navajo Nation approved NTUA's request with resolution CN-89-20. The Navajo Nation recognized that "failure to complete projects will be a failure to provide disaster relief services and supporting direct services to the Navajo people and requires emergency action by Navajo Nation leadership." CN-89-20, Section Two (N). The Navajo Nation approved and authorized NTUA "to reallocate funds between approved projects within an Expenditure Plan when necessary to maximize the completion of projects by the CARES Act Deadline." CN-89-20, Section Three (C). NTUA voluntarily returned \$70,286,710 of CARES funding with the understanding that the Navajo Nation would use these funds to fund the CARES Act Hardship Program.

The United States Congress created the State and Local Fund (SLF) of the American Rescue Plan Act (ARPA) to assist States and Tribes with funding to address the public health and economic impacts from the COVID-19 pandemic. Thus far, the United States has provided \$1,861,554,458.43 to the Navajo Nation through. The Navajo Nation Council passed resolution CJY-41-21 and President Nez signed it into law on August 2, 2021, which created the Navajo Nation Fiscal Recovery Fund (NNFRF) which has the same effect as the ARPA SLF. The Council requires the Navajo Nation to immediately allocate NNFRF to replace CARES Act funds that were voluntarily returned. See CJY-41-21 Section 6. NTUA seeks a total NNFRF amount for its defunded CARES Act projects in the amount of \$70,286,710. NTUA has reassigned certain projects from certain CARES Act expenditure plans to align with the ARPA Expenditure Categories. Through resolutions CJY-67-20 and CN-89-20, the Council and President had allowed NTUA a certain amount of flexibility to reallocate funds without obtaining further approval. The flexibility requires that funds be reallocated for the same types of projects that have been funded.

Attachment: CARES NTUA Workbook.

Part 4. Affirmation by Funding Recipient.

Funding Recipient affirms that its receipt of Fiscal Recovery Funds and the implementation of this project shall be in accordance with Resolution No. CJY-41-21, the ARPA, ARPA Regulations, and with all applicable federal and Navajo Nation laws, regulations, and policies:

Signature of Preparer: _____

Printed Name of Preparer Bidtah Becker

SUBRECIPIENT AGREEMENT

Between

THE NAVAJO NATION AND The Navajo Tribal Utility Authority
FOR SUBAWARD OF NAVAJO NATION FISCAL RECOVERY FUNDS

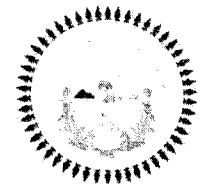
Appendix E

Council Resolution Approving Expenditure Plan

Attachments

Appendix E must include the Council Resolution Approving Expenditure Plan.

THE NAVAJO NATION



JONATHAN NEZ | PRESIDENT MYRON LIZER | VICE PRESIDENT

September 28, 2021

Walter Haase
Navajo Tribal Utility Authority
PO Box 170
Fort Defiance, AZ 86504
walterh@ntua.gov

SUBJECT: Navajo Nation Fiscal Recovery Funds (NNFRF) for Defunded CARES Act Projects

Dear Mr. Haase,

By resolution CJY-41-21, the Navajo Nation Council established Navajo Nation Fiscal Recovery Funds (NN FRF) and Expenditure Authorization Process for ARPA funding. Vice President Lizer and I signed the resolution into law on August 2, 2021. SECTION SIX of the resolution includes an immediate allocation of funds for defunded Navajo Nation CARES Fund Projects.

On September 9th, 2021, NTUA submitted project description forms for projects that had been defunded. The Department of Justice has reviewed the forms and has made a determination of eligibility. The following is a summary of their determination:

Entity Requesting FRF	Project Title	Statutory Eligibility Category	Treasury Expenditure Category	Amount of Funds
NTUA	Electric Grid Reliability Program	3	6.1	\$4,592,646
NTUA	Connecting Homes to Electricity / House Wiring Program	1	3.12	\$28,982,874
NTUA	Waste Water Collection and Conveyance	4	5.2	\$3,200,004
NTUA	Septic Systems Installation	4	5.3	\$11,105,636
NTUA	Water Distribution and Transmission	4	5.11	\$2,898,372
NTUA	Drinking Water Storage	4	5.14	\$755,486
NTUA	Cistern Systems	4	5.15	\$3,701,879
NTUA	Broadband Last Mile	4	5.16	\$5,370,432
NTUA	Broadband Other Projects	4	5.17	\$9,679,381

-kall508

The Electric Grid Reliability Program was found to be eligible under Treasury Expenditure Category 6.1. In order to utilize this category, the Nation has to document revenue loss as per the Treasury Guidance Document. We do not want to expend NNFRF funds utilizing revenue loss at this time.

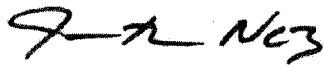
In accordance with CJY-41-21 the Nation will proceed with the other fund requests besides the Electric Grid Reliability Program.

Two of the determinations as outlined below require a formal response to our office no later than October 8th, 2021:

- 1) Broadband Last Mile Project (5.16) – Explain the connection between MHz and Mbps. Specifically, the documents provide that the project will enable towers for 600 MHz and/or EBS 2.5 GHz/CBRS 3.5 Ghz. The documents also state that the project meets the “adequate speeds”. However, it is unclear to us that the connections will deliver the 100 Mbps download speed and 20 Mbps upload speed required under Treasury’s guidance.
- 2) Broadband Middle Mile Project (5.17) – Provide information indicating that the broadband infrastructure will deliver the 100 Mbps download speed and 20 Mbps upload speed required under Treasury’s guidance.

Dr. Pearl Yellowman with the Division of Community Development (DCD) and Jason John with the Department of Water Resources (DWR) will both be in contact with you to develop their respective Subrecipient Agreements to transfer the funds to NTUA. There may be an additional \$14.7M in refunded CARES for “Cistern Systems” through DWR’s separate eligibility submittal to DOJ that may be included in the same Subrecipient Agreement with the above referenced NTUA Cistern Project. Our office will provide any updates as they become available for this additional “Cistern Systems” funding.

Sincerely,



Jonathan Nez, *President*
THE NAVAJO NATION

Distribution

cc: Department of Justice
Office of the Controller
Office of Management and Budget

THE NAVAJO NATION



JONATHAN NEZ | PRESIDENT MYRON LIZER | VICE PRESIDENT

August 2, 2021

Hon. Seth Damon
Office of the Speaker
Post Office Box 3390
Window Rock, AZ 86515


RE: *CJY-41-21, An Action Relating to Budget and Finance and Naabik'iyaati' Committees, and Navajo Nation Council: Establishing the Navajo Nation Fiscal Recovery Fund and the Expenditure Authorization Process Thereunder; Waiving Certain Provisions of the Navajo Nation Appropriations Act, Amending 12 N.N.C. § 334 to Authorize Emergency Procurements; Authorizing Reimbursement of the Shashin Fund and Undesignated Unreserved Fund Balance; Authorizing Central Support and Regulatory Cost Funding; Authorizing Funding to Complete Defunded Navajo Nation CARES Fund Expenditure Plans; Authorizing the Establishment of a Navajo Nation Fiscal Recovery Fund Office Within the Office of the President and Vice-President*

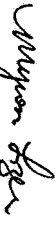
Dear Speaker Damon,

After decades of struggling with an unfinished infrastructure, a sagging economy, and an inadequate education system, the Navajo Nation is on the doorstep of changing our future for our elders, our children, and our families. Over the past year we had the financial means to respond to the coronavirus and improve the lives of our constituents; we laid the foundation for the Nation. This year, we again have the opportunity to build on what we started – water lines and wastewater systems for communities, powerlines to family homes, and an internet network to help our students, to name a few. Working together we can take a giant leap forward in giving the People the protective measures they need to continue fighting against the coronavirus and its variants.

Thank you to Delegate Carl Slater for his tenacious effort in bringing this resolution through the process. Thank you Speaker for your support and we appreciate the support of the 24th Navajo Nation Council. There is much to do over the next few years and we look forward to working with the Navajo Nation Council. We sign CJY-41-21 into law.

Sincerely,


Jonathan Nez, President
THE NAVAJO NATION


Myron Lizer, Vice President
THE NAVAJO NATION

POST OFFICE BOX 7440 | WINDOW ROCK, AZ 86515 | PHONE: (928) 871-7000 | FAX: (928) 871-4025

RESOLUTION OF THE
NAVAJO NATION COUNCIL
24th NAVAJO NATION COUNCIL – THIRD YEAR, 2021

CJY-41-21

AN ACTION

RELATING TO BUDGET AND FINANCE AND NAABIK'IYAATI' COMMITTEES, AND THE NAVAJO NATION COUNCIL; ESTABLISHING THE NAVAJO NATION FISCAL RECOVERY FUND AND THE EXPENDITURE AUTHORIZATION PROCESS THEREUNDER; WAIVING CERTAIN PROVISIONS OF THE NAVAJO NATION APPROPRIATIONS ACT; AMENDING 12 N.N.C. § 334 TO AUTHORIZE EMERGENCY PROCUREMENTS; AUTHORIZING REIMBURSEMENT OF THE SHASHIN FUND AND UNDESIGNATED, UNRESERVED FUND BALANCE; AUTHORIZING CENTRAL SUPPORT AND REGULATORY COST FUNDING; AUTHORIZING FUNDING TO COMPLETE DEFUNDED NAVAJO NATION CARES FUND EXPENDITURE PLANS; AUTHORIZING THE ESTABLISHMENT OF A NAVAJO NATION FISCAL RECOVERY FUND OFFICE WITHIN THE OFFICE OF THE PRESIDENT AND VICE-PRESIDENT

BE IT ENACTED

SECTION ONE. AUTHORITY

- A. The Navajo Nation Council is the governing body of the Navajo Nation. 2 N.N.C. § 102(A).
- B. The Naabik'iyaati' Committee is a standing committee of the Navajo Nation Council with the responsibility to hear proposed resolution(s) that require final action by the Navajo Nation Council. 2 N.N.C. § 164(A)(9).
- C. The Budget and Finance Committee is a standing committee of the Navajo Nation Council with the enumerated powers to review and recommend to the Navajo Nation Council the budgeting, appropriation, investment and management of all funds and to promulgate rules and regulations relative to contracting and financial matters. 2 N.N.C. §§ 300(B)(1) and (2).

SECTION TWO. FINDINGS

- A. The World Health Organization ("WHO") declared a Public Health Emergency of International Concern related to the outbreak of coronavirus ("COVID-19"), a highly contagious and sometimes fatal respiratory virus, on January 30, 2020; the U.S. Department of Health and Human Services declared a Public Health Emergency related to the COVID-19 outbreak on January 31, 2020; and the WHO declared a global pandemic due to COVID-19 on March 11, 2020.
- B. The Navajo Nation Commission on Emergency Management, with the concurrence of Navajo Nation President Jonathan Nez, declared

a Public Health State of Emergency on the Navajo Nation on March 11, 2020, due to the COVID-19 outbreak. See Resolution No. CEM 20-03-11 incorporated herein by reference. The Navajo Nation Department of Health has subsequently issued numerous Public Health Emergency Orders. Public Health Orders 2020-001 through 2021-014 are incorporated by reference. These Public Health Emergency Orders are available at www.ndoh.navajo-nsn.gov.

- C. The coronavirus pandemic of 2019 has caused large scale infections and loss of life throughout the world, the United States and the Navajo Nation. As of July 7, 2021, the Navajo Nation Health Command Operations Center has confirmed 31,043 COVID-19 cases and 1,374 COVID-related deaths on the Navajo Nation. COVID-19 variants have emerged that threaten to increase these numbers and continue the pandemic's assault on the Navajo People.
- D. The devastating effects of COVID-19 continue throughout the Navajo Nation, including employment losses, business closures, food and housing insecurity, and other economic disruptions.
- E. On March 11, 2021, President Biden signed the American Rescue Plan Act ("ARPA") into law. Section 9901 of ARPA established the Coronavirus State Fiscal Recovery Fund and the Coronavirus Local Fiscal Recovery Fund (together the "Fiscal Recovery Funds") by amending Title VI of the Social Security Act, which provided \$362 billion for state, local, and tribal governments, including \$20 billion designated for tribal governments.
- F. As of May 29, 2021, the United States Department of Treasury ("U.S. Treasury") allocated \$1,861,554,458.43 to the Navajo Nation under the Fiscal Recovery Funds provisions of ARPA. The Fiscal Recovery Funds are designed to build on and expand the relief provided in the Coronavirus Aid, Relief, and Economic Security Act or CARES Act.
- G. The Fiscal Recovery Funds are intended to support governmental efforts to mitigate and contain the spread of COVID-19, as well as to respond to the health, social and economic impacts of COVID-19 suffered by residents and businesses.
- H. As set forth in Central Agency Council Resolution No. CAC 07/21-11, attached as Exhibit A, the Central Agency Council of the Navajo Nation supports the establishment of a Navajo Nation Fiscal Recovery Fund and the expenditure authorization process set forth herein.

- I. Pursuant to Section 9901 of ARPA, the Fiscal Recovery Funds were specifically intended to:
- Respond to the COVID-19 public health emergency and its negative economic impacts, including assistance to households, small businesses, and non-profits; and/or aid to impacted industries such as tourism, travel, and hospitality;
 - Respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to eligible workers of the tribal government. Under this category, the Navajo Nation can provide premium pay to government workers performing essential work, and can provide grants to eligible employers that have eligible workers who perform essential work;
 - Provide government services to the extent of the reduction in Navajo Nation revenue due to the COVID-19 public health emergency, relative to revenues collected in the most recent full fiscal year prior to the emergency; and
 - Make necessary investments in water, sewer, or broadband infrastructure.
- J. Pursuant to ARPA:
- Fiscal Recovery Fund costs must be incurred by December 31, 2024, meaning the Navajo Nation must obligate funds by that date; and
 - The Fiscal Recovery Fund period of performance runs until December 31, 2026, meaning funded projects must be completed by that date.
- K. While its acceptance of the Fiscal Recovery Funds obligates the Navajo Nation to comply with ARPA and other federal laws and regulations, the Navajo Nation can and will fulfill these obligations while retaining and exercising its tribal sovereignty.
- SECTION THREE. ESTABLISHMENT OF THE NAVAJO NATION FISCAL RECOVERY FUND**
- A. There is hereby established the "Navajo Nation Fiscal Recovery Fund" ("NNFRF").
- B. The Navajo Nation hereby designates that the \$1,861,554,458.43 received by the Navajo Nation as of May 29, 2021 from the U.S.

Treasury under the Fiscal Recovery Funds provisions of ARPA, as well as any additional funds that the Navajo Nation may later receive from the United States under the Fiscal Recovery Funds provisions, shall be deposited into the NNFRF.

C. The purpose of the NNFRF is to serve as a depository into which all Fiscal Recovery Funds and investment earnings therein are deposited, and from which the Navajo Nation shall disburse funds for approved Expenditure Plans which comply with the criteria set forth in the Fiscal Recovery Funds provisions of ARPA.

D. The Fiscal Recovery Funds allocated to the Navajo Nation are limited emergency funds provided by the federal government and are not subject to the annual set-aside provisions set forth in the Navajo Nation Code.

E. The Navajo Nation Office of the Controller ("OOC"), acting upon the recommendation of the Navajo Nation Investment Committee, shall oversee investment of the NNFRF in accordance with ARPA and Fiscal Recovery Funds requirements, U.S. Treasury regulations and guidance, and applicable Navajo Nation Investment Policies; investment earnings, when realized, shall be deposited into the NNFRF.

F. Any funds deposited into the NNFRF shall only be used in compliance with ARPA and Fiscal Recovery Fund purposes and restrictions, U.S. Treasury guidance, applicable federal laws and regulations, Navajo Nation laws, regulations, and policies, and duly adopted procedures and agreements between the Navajo Nation and the federal government regarding the use of the Fiscal Recovery Funds.

G. Except as set forth in Sections Five through Seven below, expenditures of the NNFRF shall only be authorized through Expenditure Plan(s) duly adopted by a two-thirds (2/3) vote of all members of the Navajo Nation Council and approved by the President of the Navajo Nation pursuant to 2 N.N.C. § 164(A) and 2 N.N.C. §§ 1005(C)(10), (11) and (12).

H. OOC and all entities receiving NNFRF shall keep records sufficient to demonstrate that the Fiscal Recovery Funds appropriated by the U.S. Congress to the Navajo Nation have been used in accordance with the provisions of ARPA. The NNFRF shall be subject to an annual audit by the Navajo Nation's independent auditor. Either the Navajo Nation Council or the Navajo Nation President may require an audit at any time. The Controller shall be responsible for providing any and all records and financial reports required by the U.S. Treasury.

I. Within thirty (30) days of the effective date of this legislation, OOC shall set up an online accountability platform on the NNDOU website that will enable the public to observe the financial transactions conducted with NNFRF funds. To the maximum extent possible and consistent with applicable Navajo Nation and federal laws pertaining to confidential or proprietary information and documents, all checks, electronic deposits, funds transfers, contracts and contract amendments, and other documents supporting NNFRF expenditures shall be displayed on the platform and made available for public view.

SECTION FOUR. NAVAJO NATION FISCAL RECOVERY FUND EXPENDITURE PLAN ELIGIBILITY DETERMINATIONS AND APPLICATION REQUIREMENTS

A. The Office of Management and Budget ("OMB"), in consultation with OOC and Navajo Nation Department of Justice ("NNDOU"), shall develop NNFRF application and review procedures, which shall include an NNFRF Expenditure Plan template, for adoption by the Budget and Finance Committee. OMB and OOC shall post the approved NNFRF application procedures, including an NNFRF Expenditure Plan template, and instructions on their respective websites.

B. The NNDOU shall do an initial determination of whether a NNFRF funding request satisfies the legal requirements of the Fiscal Recovery Funds provisions of ARPA and applicable Navajo Nation laws, regulations, and policies and procedures.

C. Navajo Nation Divisions and Offices, non-IGA-certified Chapters, IGA-certified Chapters, Navajo Nation-owned enterprises/authorities/corporations, non-profit corporations and external entities seeking NNFRF funds shall comply with the requirements set forth in this legislation and with the requirements set forth in the NNFRF application procedures adopted by resolution of the Budget and Finance Committee ("BFC").

D. Each proposed NNFRF Expenditure Plan shall identify and designate a Responsible Entity who shall be held accountable for the compliance, implementation, monitoring, and accounting of the proposed projects, proposals, services and/or related assistance.

E. Following NNFRF Expenditure Plan approval by the Navajo Nation Council and President, the Navajo Nation, with the assistance of NNDOU, shall enter into a binding agreement, such as a grant or sub-recipient agreement, with each Responsible Entity, other than Navajo Nation divisions and offices and non-

LGA-certified chapters, to ensure that all Navajo Nation laws and regulations are followed and complied with at all times.

F. NNFRF Expenditure Plans involving construction activities shall include a contingency reserve consistent with industry standards adequate to cover projected inflation-based cost increases. The contingency reserve shall only be released by OOC to the Responsible Entity upon receipt of documented justification for the cost increase. After Expenditure Plan completion, any unused contingency funds shall be returned to the NNFRF.

G. The total funds allocated in an approved NNFRF Expenditure Plan for a non-Navajo Nation government program or office, including Navajo Nation-owned enterprises/authorities/corporations, may include an allocation for administrative costs at a rate not to exceed two percent (2%) of service or project cost to defray the costs of implementing, administering and monitoring said Expenditure Plan and its underlying services and projects.

H. Until the third quarter of 2024, NNFRF Expenditure Plans for direct financial assistance to enrolled Navajo Nation members, not including business economic relief or similar programs, shall be limited to ten percent (10%) of the total Fiscal Recovery Funds received by the Navajo Nation. After the second quarter of 2024, unallocated or unexpended NNFRF funds can be allocated for direct financial assistance to enrolled members through resolution of the Navajo Nation Council and approval of the President pursuant to 2 N.N.C. § 164(A) and 2 N.N.C. §§ 1005(C)(10), (11) and (12).

SECTION FIVE. IMMEDIATE ALLOCATION OF NAVAJO NATION FISCAL RECOVERY FUNDS TO REIMBURSE SIIHASIN FUND ALLOCATIONS AND UNRESERVED, UNDESIGNATED FUND BALANCE APPROPRIATIONS

OOC, in consultation with OMB, shall immediately reimburse the Siihasin Fund and Unreserved, Undesignated Fund Balance ("UDFB") from the NNFRF for any allocations or appropriations wherein the approving Navajo Nation Council resolution authorized such reimbursement and NNDOJ deems such reimbursement(s) legally defensible under the Fiscal Recovery Funds provisions of ARPA. OMB shall report the amount and status of such reimbursements to the Naabik'iyátlí' Committee and the Office of President and Vice-President no later than sixty (60) days after the effective date of this legislation.

SECTION SIX. IMMEDIATE ALLOCATION OF NAVAJO NATION FISCAL RECOVERY FUNDS TO DEFUNDED NAVAJO NATION CARES FUND PROJECTS

The Navajo Nation hereby immediately allocates NNFRF funds to replace the Navajo Nation CARES Fund funds that were reallocated to the Navajo Nation Hardship Assistance Expenditure Plan pursuant to Navajo Nation Council Resolution No. CJY-67-20 and Naabik'iyátlí' Committee Resolutions No. NABID-49-20 and NABID-63-20, as well as any CARES Fund funding that was voluntarily returned to the Nation because the project approved by the Navajo Nation Council could not be completed by the federal CARES Act deadline(s). OMB, with the assistance of OOC, shall report the amount and status of such allocations to the Naabik'iyátlí' Committee and the Office of President and Vice-President no later than sixty (60) days after the effective date of this legislation.

SECTION SEVEN. IMMEDIATE ALLOCATION OF NAVAJO NATION FISCAL RECOVERY FUNDS TO FUND CENTRAL SUPPORT AND REGULATORY SERVICES

A. The Navajo Nation hereby immediately allocates ten percent (10%) of all Fiscal Recovery Funds received by the Navajo Nation to fund central support service and regulatory costs.

B. The Office of the President and Vice-President shall be responsible for apportioning ninety percent (90%) of the ten percent (10%) amount amongst Executive Branch programs and offices providing central support and regulatory services, including, the Office of the President and Vice-President, Office of the Controller, Office of Management and Budget, Department of Justice, Navajo Nation Washington Office, Division of Human Resources, Division of Community Development, and other Divisions and offices providing central support and/or regulatory services.

C. The Speaker of the Navajo Nation Council, after consultation with the Naabik'iyátlí' Committee, shall be responsible for apportioning ten percent (10%) of the ten percent (10%) amount amongst Legislative Branch programs and offices providing central support services, including the Office of Legislative Services, Office of Legislative Counsel, Office of the Speaker, and Navajo Nation Council.

D. The programs and offices receiving NNFRF for central support and/or regulatory services shall use such funding to develop the legal, financial, organizational, managerial, administrative, regulatory, and reporting framework necessary to support the expeditious completion of NNFRF funded projects and the provision of NNFRF funded services.

E. The detailed budgets for the NNFRF funding allocated here for central support and regulatory services shall be processed through the executive or administrative review process

applicable to each Branch and shall not require further legislative action.

- F. Any central support and/or regulatory services funding unspent or unencumbered at the end of the second quarter of Fiscal Year 2024 shall be reallocated to the NNFRF and be available for allocation to other NNFRF projects and services.

SECTION EIGHT. AUTHORIZING THE OFFICE OF THE CONTROLLER TO DISTRIBUTE FUNDS FROM THE NAVAJO NATION FISCAL RECOVERY FUND

- A. After reimbursement of the Sinasin Fund and UUPF, allocations to the defunded Navajo Nation CARES Fund projects, and the release of the immediate disbursements provided for in this legislation, OOC shall only release and distribute NNFRF funds in conformance with duly adopted Expenditure Plans enacted by a two-thirds (2/3) vote of all members of the Navajo Nation Council and approved by the President of the Navajo Nation pursuant to 2 N.N.C. § 164(A) and 2 N.N.C. §§ 1005(C) (10), (11) and (12).

- B. Expenditure Plan funds shall not be released to IGA-certified Chapters, Navajo Nation-owned enterprises/authorities/corporations, non-profit corporations and/or external entities until a binding agreement, e.g., grant or sub-recipient agreement, has been executed between the Navajo Nation and the respective Responsible Entity.

- C. OOC shall be responsible for ensuring that withdrawals from all invested NNFRF funds are timed to balance Expenditure Plan needs with maximum investment earnings.

- D. OOC shall coordinate and collaborate with each Responsible Entity to ensure that all applicable Navajo Nation and Federal financial, accounting, and reporting laws and regulations are adhered to and strictly followed.

- E. OOC and the respective Responsible Entity shall provide a written and oral report to the Maabik'iyáti Committee and the Office of President and Vice-President on or about thirty (30) days after the end of each fiscal year quarter; such report will present an overview and status of all NNFRF funded projects, recommended modifications or adjustments to projects, and compliance challenges, if any.

SECTION NINE. APPLICABILITY AND WAIVER OF NAVAJO NATION APPROPRIATIONS ACT PROVISIONS TO NAVAJO NATION FISCAL RECOVERY FUNDS

- A. The NNFRF are externally restricted funds awarded to the Navajo Nation solely for the purposes set forth in the Fiscal Recovery Funds provisions of ARPA. Accordingly, only those provisions of the Appropriations Act, 12 N.N.C. § 800 et seq., that are expressly applicable to externally restricted funds, and any future provisions in the Budget Instructions Manual(s) expressly applicable to NNFRF, as approved by the Budget and Finance Committee, shall apply to the NNFRF and all Expenditure Plan(s) funded thereunder.

- B. NNFRF shall not be a part of, and shall not be, included in the Navajo Nation Fiscal Year Comprehensive Budget and the Navajo Nation hereby waives the application of 12 N.N.C. § 820 [Overall Budget Policies], § 830 [Budget Planning and Preparation], § 840 [Budget Approval, Adoption and Certification], § 850 [Budget Implementation, Monitoring and Control], § 860 [Capital Improvement Process], and § 870 [Local Government Improvement Funds] to the NNFRF and all Expenditure Plan(s) funded thereunder.

SECTION TEN. AMENDING 12 N.N.C. § 334 TO AUTHORIZE EMERGENCY PROCUREMENTS FOR NAVAJO NATION FISCAL RECOVERY FUND EXPENDITURES

- A. Until such time as Navajo Nation procurement laws and regulations are amended to specifically support NNFRF procurements, the Navajo Nation hereby amends 12 N.N.C. § 334 as set forth below.

Title Twelve
Fiscal Matters
Chapter 3. Navajo Nation Procurement Act
Subchapter 1. General Provisions

§ 334. Emergency Procurement

A. Notwithstanding any other provision of law, the Director, Division of Finance, Purchasing Department, the head of a purchasing agency, or a designee of either officer may make or authorize others to make emergency procurement when there exists a threat to public health, welfare, or safety under emergency conditions as defined in regulations promulgated by the Budget and Finance Committee; provided that such emergency procurement shall be made with such competition as is practicable under the circumstances. A written determination of emergency shall be made by the executive director of the affected division, in concert with the Director, Division of Finance, Purchasing Department or authorized designee, and a

representative of the Attorney General's Office (or the Office of Legislative Counsel for emergency procurements by the Legislative Branch). To the extent possible, certified entities under the Navajo Nation Business Opportunity Act, 5 N.N.C. § 201 et seq., shall receive preference in emergency procurement. The written determination and the selection of the particular contractor shall be included in the contract file. No oversight committee approval shall be required for these contracts.

B. Notwithstanding any other provision of law, procurements using Navajo Nation Fiscal Recovery Funds may be authorized and executed as Emergency Procurements at the discretion of the Procuring Party without further justification; provided that such emergency procurement shall be made with such competition as is practicable under the circumstances. To the extent possible, certified entities under the Navajo Nation Business Opportunity Act, 5 N.N.C. § 201 et seq., that are able to complete the good or service within the Fiscal Recovery Fund's strict deadlines shall receive preference in emergency procurement. No oversight committee approval shall be required for these contracts.

B. Until such time as the Budget and Finance Committee amends the Navajo Nation Procurement Rules and Regulations ("Procurement Regulations") adopted by BFD-192-03, procurements using NNFRF funds shall be deemed to satisfy the definition of EMERGENCY CONDITION set forth at Section VII (B) of the Procurement Regulations without further justification; and the written application and concurrence requirements set forth at Section VII (C) of the Procurement Regulations shall not apply to such procurements.

C. As set forth in the Navajo Business Opportunity Act, if there are no responsive and responsible Priority One or Priority Two vendors responding to the Nation's solicitation for NNFRF funded goods, services, or construction and construction related services, who are qualified and able to meet the requirements of the procurement, including the demonstrated ability to meet the ARPA and NNFRF time deadlines, the Procuring Party may contract with companies not included on the Business Source List maintained by the Business Regulatory Department, as long as such companies agree to comply with Navajo Nation laws, regulations, and policies, including the Navajo Preference in Employment Act and Navajo Business Opportunity Act.

D. Navajo citizens, Navajo-owned businesses and non-profits, Navajo business-support organizations, such as the Dineh Chamber of Commerce, and Navajo Nation-owned enterprises/authorities/corporations shall be a provided a meaningful opportunity to comment before amendments are made to Navajo Nation procurement laws and regulations.

SECTION ELEVEN. AUTHORIZING THE ESTABLISHMENT OF A NAVAJO NATION FISCAL RECOVERY FUND OFFICE WITHIN THE OFFICE OF THE PRESIDENT AND VICE-PRESIDENT

A. The Office of the President and Vice-President ("OPVP") is authorized to establish a temporary NNFRF Office within OPVP by Executive Order pursuant to 2 N.N.C. §§ 1005(A) and (C) (14).

B. The NNFRF Office shall be a clearinghouse that will, at a minimum, educate the public on NNFRF matters; coordinate, facilitate and implement NNFRF responsibilities assigned to OPVP or the Executive Branch; ensure expeditious review of NNFRF eligibility determinations and other NNFRF matters by Executive Branch programs and offices; ensure Navajo Nation compliance with Fiscal Recovery Funds provisions of ARPA and Navajo Nation laws and regulations by all entities receiving NNFRF funds; facilitate and expedite the expenditure of all NNFRF funds; ensure the completion and implementation of NNFRF authorized projects and services; and assist/support OOC in monitoring the expenditure of NNFRF funds and submitting timely and accurate ARPA reports to the federal government.

C. Prior to its opening, OPVP shall present a plan of operation or similar structural document for the NNFRF Office to the Naabik'Iya'tli Committee. On or about thirty (30) days after the end of each fiscal year quarter, OPVP shall present a report to the Naabik'Iya'tli Committee on overall NNFRF Office operations, accomplishments, and challenges, along with recommended modifications or adjustments to projects and processes.

D. OPVP and OOC shall only contract with qualified and experienced Navajo Nation-owned enterprises/authorities/corporation or Navajo-owned businesses to assist in the implementation, management, and monitoring of NNFRF funds.

E. In order to support the purposes and intent of the Navajo Nation Business Opportunity Act and Navajo Nation Preference in Employment Act, within fifty (50) days after the enactment of this legislation, the NNFRF Office shall present a plan to the Budget and Finance and Naabik'Iya'tli Committees to provide

bonding, insurance, and other needed support to grow the Navajo Nation economy through private sector contracting, using ARPA, NNFRF, and/or other Navajo Nation or external funding.

SECTION ELEVEN. EFFECTIVE DATE

This legislation shall be effective upon its approval pursuant to 2 N.N.C. § 221(B).

SECTION TWELVE. SAVING CLAUSE

Should any provision of this legislation be determined invalid by the Navajo Nation Supreme Court, or a District Court of the Navajo Nation without appeal to the Navajo Nation Supreme Court, those provisions of the legislation which are not determined invalid shall remain the law of the Navajo Nation.

SECTION THIRTEEN. DIRECTIVES

A. OMB, in consultation with OOC and DOJ, shall present proposed NNFRF application and review procedures, including an NNFRF Expenditure Plan template, to the Budget and Finance Committee within twenty (20) days after the effective date of this legislation.

B. The Division of Natural Resources and General Land Development Department shall present a proposed Plan of Operation for a "One-Stop Shop" to facilitate, review, and approval of rights-of-ways, temporary construction permits, mission site permits, leases, etc., to the Resources and Development Committee within forty-five (45) days after the effective date of this legislation.

C. The Division of Human Resources and Department of Personnel Management shall present proposed amendments to the Navajo Nation Personnel Policies Manual to, at a minimum, facilitate the expeditious hiring of personnel with NNFRF funds to the Health, Education, and Human Services Committee within sixty (60) days after the effective date of this legislation.

D. OPVP, with the assistance of the Business Regulatory Department and OOC Purchasing Section, shall present proposed amendments to the Navajo Nation's procurement and business opportunity laws and regulations to, at a minimum, expedite NNFRF procurements, to the Budget and Finance Committee within sixty (60) days after the effective date of this legislation.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the 24th Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona), at which a quorum was present and that the same was passed by a vote of 21 in Favor, and 01 Opposed, on this 22nd day of July 2021.


Honorable Seth Damon, Speaker
24th Navajo Nation Council

July 23, 2021
DATE

Motion: Honorable Paul Begay, Jr.
Second: Honorable Edison J. Wauneka
Speaker Seth Damon not voting

ACTION BY THE NAVAJO NATION PRESIDENT:

1. I, hereby, sign into law the foregoing legislation, pursuant to 2 N.N.C. § 1005 (C) (10) on this 02 day of August, 2021.


Jonathan Nez, President
Navajo Nation

2. I, hereby, veto the foregoing legislation, pursuant to 2 N.N.C. § 1005 (C) (11), on this _____ day of _____, 2021 for the reason(s) expressed in the attached letter to the Speaker.

Jonathan Nez, President
Navajo Nation



RESOLUTION OF THE CENTRAL AGENCY COUNCIL
NAVAJO NATION
CAC 07/21-11

CENTRAL AGENCY COUNCIL SUPPORTS LEGISLATION #0110-21: ESTABLISHING THE
NAVAJO NATION FISCAL RECOVERY FUND AND THE EXPENDITURE AUTHORIZATION
PROCESS.

WHEREAS:

1. The Central Agency Council is composed of 16 chapters.
2. The Navajo Nation Chapters are certified Chapters of the Navajo Nation pursuant to 2 N.N.C. § 4001 and 11 N.N.C. Part 1 § 10 having the authority to address and explore the local needs and concerns of chapter residents through participation in community planning; and
3. The Central Agency Council was established to address the needs, concerns, and general welfare of its constituents and advocate on their behalf for successful implementation of viable agency projects; and
4. The Central Agency Council supports legislation #0110-21; and
5. Legislation #0110-21 is hereby establishing the Navajo Nation Fiscal Recovery Fund; and
6. The expenditure authorization hereunder, waiving certain provisions of the Navajo Nation appropriations act; and
7. Amending 12 N.N.C. § 334 to authorize emergency procurements; and
8. Authorizing reimbursements of the Sinsain Fund and undesignated unreserved fund balance; and
9. Authorizing funding to complete defunded Navajo Nation CARES fund expenditure plan; and
10. Authorizing the establishment of a Navajo Nation Fiscal Recovery Fund Office within the Office of the President and Vice President.

NOW THEREFORE BE IT RESOLVED:

1. The Central Agency Council supports Legislation #0110-21 in establishing the Navajo Nation Fiscal Recovery Fund and process.

CERTIFICATION

We hereby certify that the foregoing resolution was duly considered by the Central Agency Council, Navajo Nation, at a duly called meeting at which time a quorum was present. A motion was made by Mae-Gillene Begay and seconded by Marius Tuiley and the same was passed by a vote of 28 in favor, 0 opposed, and 2 abstained, this 10th day of July, 2021.

Joseph Dedman Jr., President

Al Tsech, Vice President

Dr. Rosanna Jumbo-Fitch, Secretary

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NAVAJO NATION

Navajo Nation Council Summer Session

7/22/2021
03:39:41 PM

Amrd# to Amrd#

Legislation 0110-21: Establish-

PASSED

MOT Begay, P
SEC Wauneka, E

ing the Navajo Nation Fiscal
Recovery Fund and the Expenditure
Authorization Process Thereunder

Yeas : 21

Nays : 1

Excused : 0

Not Voting : 1

Yea : 21

Begay, E
Begay, K
Begay, P
Brown
Croty
Daniels

Freeland, M
Halona, P
Henio, J
James, V
Nez, R

Slater, C
Smith
Stewart, W
Tso
Tso, D

Nay : 1

Charles-Newton

Excused : 0

Not Voting : 1

Tso, C

Presiding Speaker: Damon