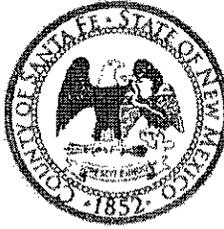


**NO PACKET MATERIAL
FOR THIS ITEM**

Daniel "Danny" Mayfield
Commissioner, District 1

Virginia Vigil
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

MEMORANDUM

Date: December 13, 2011

To: Santa Fe County Board of County Commissioners
Daniel Mayfield, District 1 Kathy Holian, District 4
Virginia Vigil, District 2 Liz Stefanics, District 5
Robert A. Anaya, District 3

From: Agnes Lopez, Projects Specialist, Projects & Facilities Division, Public Works Department

Via: Mark Hogan, Projects & Facilities Division Director *MHT*

Re: Resolution 2011 – A resolution requesting an increase to the State Special Appropriations Fund (318) to budget available cash for improvements to the Cundiyo Community Center /\$106,243. (PW/Projects & Facilities)

Background

Santa Fe County received state appropriations for the Cundiyo Community Center in the amount of \$268,697. The center has been completed and a balance of the appropriation has been reserved to address site issues. These site issues include parking, playground and drainage. The small site area currently allows for 2 ADA parking spaces. The community center needs an additional 12 to 15 parking spaces and driveway improvements that have been delayed until an adequate site area can be developed.

Projects & Facilities Division will be hiring a surveyor to locate adjoining property boundaries and topography to develop an area for parking, access and to provide space for a small playground. Staff has been communicating with the representative from the Santo Domingo de Cundiyo Land Grant and adjacent property owners to acquire additional area. Once the corners are located and a site plan is approved, staff will move forward with the acquisition of easements and construction of the parking lot with the remaining funds. Adjacent property owners have expressed a willingness to negotiate an easement on their property for the purpose of providing parking for the center.

Action Requested:

The Projects & Facilities Division requests approval of the Budget Resolution Increase for the Cundiyo Community Center parking lot in the amount of \$106,243.

SANTA FE COUNTY

RESOLUTION 2011 - _____

A RESOLUTION REQUESTING AUTHORIZATION TO MAKE THE BUDGET ADJUSTMENT DETAILED ON THIS FORM

Whereas, the Board of County Commissioners meeting in regular session on Dec. 13, 2011, did request the following budget adjustment:

Department / Division: Public Works/Projects & Facilities

Fund Name: State Special Appropriations Fund (318)

Budget Adjustment Type: Budget Increase

Fiscal Year: 2012 (July 1, 2011 - June 30, 2012)

BUDGETED REVENUES: (use continuation sheet, if necessary)

FUND CODE XXX	DEPARTMENT/DIVISION XXXX	ACTIVITY BASIC/SUB XXX	ELEMENT/OBJECT XXXX	REVENUE NAME	INCREASE AMOUNT	DECREASE AMOUNT
318	0789	385	0600	Budgeted Cash	\$106,243.00	
TOTAL (if SUBTOTAL, check here)					\$106,243.00	

BUDGETED EXPENDITURES: (use continuation sheet, if necessary)

FUND CODE XXX	DEPARTMENT/DIVISION XXXX	ACTIVITY BASIC/SUB XXX	ELEMENT/OBJECT XXXX	CATEGORY / LINE ITEM NAME	INCREASE AMOUNT	DECREASE AMOUNT
318	0789	481	8001	Capital Purchases/Buildings & Structures	\$106,243.00	
TOTAL (if SUBTOTAL, check here)					\$106,243.00	

Requesting Department Approval: _____ Title: _____

Finance Department Approval: _____ Date: 12/20/11

County Manager Approval: _____ Date: 12-5-11

Date: 11-8-11

Entered by: _____ Date: _____

Updated by: _____ Date: _____

SANTA FE COUNTY

RESOLUTION 2011 - _____

ATTACH ADDITIONAL SHEETS IF NECESSARY.

DEPARTMENT CONTACT: Name: Agnes Lopez Dept/Div: Public Works/Projects & Facilities Phone No.: 955-6516

DETAILED JUSTIFICATION FOR REQUESTING BUDGET ADJUSTMENT (If applicable, cite the following authority: State Statute, grant name and award date, other laws, regulations, etc.):

- 1) Please summarize the request and its purpose.

The County Receive funds in October of 2008 to complete the addition of a Community Center in the Cundiyo Community. The Community Center is complete however the staff would like to install an irrigation system for the Center and make improvements to the entrance of the driveway.

a) Employee Actions

Line Item	Action (Add/Delete Position, Reclasse, Overtime)	Position Type (permanent, term)	Position Title

b) Professional Services (50-xx) and Capital Category (80-xx) detail:

Line Item	Detail (what specific things, contracts, or services are being added or deleted)	Amount
8001	Improvements to the Cundiyo Community Center including an irrigation system and property improvements	\$106,243.00

- 2) Is the budget action for RECURRING expense _____ or for NON-RECURRING (one-time only) expense X _____

SANTA FE COUNTY

RESOLUTION 2011 - _____

ATTACH ADDITIONAL SHEETS IF NECESSARY.

DEPARTMENT CONTACT:

DEPARTMENT CONTACT: Name: Agnes Lopez Dept/Div: Public Works/Projects & Facilities Phone No.: 955-6516

DETAILED JUSTIFICATION FOR REQUESTING BUDGET ADJUSTMENT (If applicable, cite the following authority: State Statute, grant name and award date, other laws, regulations, etc.):

Resolution 2008-170 budgeted \$200,000 for the construction of the Cundiyo Community Center. Staff is asking that the remaining amount of \$106,243.00 be budgeted in the 2012 Fiscal year for improvements to the Community Center site.

- 3) Does this request impact a revenue source? If so, please identify (i.e. General Fund, state funds, federal funds, etc.), and address the following:

These funds were originally budgeted from general fund and place in a special fund category (318) to supplement the state grants for the Center.

- a) If this is a state special appropriation, YES X NO _____
If YES, cite statute and attach a copy.
- b) Does this include state or federal funds? YES _____ NO X
If YES, please cite and attach a copy of statute, if a special appropriation, or include grant name, number, award date and amount, and attach a copy of a award letter and proposed budget.
- c) Is this request is a result of Commission action? YES _____ NO X
If YES, please cite and attach a copy of supporting documentation (i.e. Minutes, Resolution, Ordinance, etc.).
- d) Please identify other funding sources used to match this request.

SANTA FE COUNTY

RESOLUTION 2011 - _____

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Santa Fe County that the Local Government Division of the Department of Finance and Administration is hereby requested to grant authority to adjust budgets as detailed above.

Approved, Adopted, and Passed This 13th Day of December, 2011.

Santa Fe Board of County Commissioners

Virginia Vigil, Chairperson

ATTEST:

Valerie Espinoza, County Clerk

SANTA FE COUNTY INTEROFFICE MEMORANDUM

TO: BOARD OF COUNTY COMMISSIONERS
FROM: DUNCAN SILL 
SUBJECT: SANTA FE REGIONAL TELECOM COALITION (SFRTC) MOA AMENDMENT
ONE TO INCLUDE THE SANTA FE INDIAN SCHOOL AND THE INSTITUTE OF
AMERICAN INDIAN ARTS AS PARTIES TO THE COALITION
DATE: 11/30/2011
CC: JACK KOLKMEYER, SFRTC FILE

Background:

In March of 2009, the County of Santa Fe, the City of Santa Fe and the Santa Fe Community College entered into a Memorandum of Agreement to formally establish the Santa Fe Regional Telecommunications Coalition ("SFRTC"). The SFRTC was created to focus primarily on the following areas related to telecommunications issues in the greater region of Santa Fe County:

- Establish Planning Organization
- Development of priority telecommunications projects
- Obtain funding for projects
- Establish telecommunications infrastructure

During the 2008 NM State Legislative session, a House Memorial (32) was passed to endorse the efforts of the SFRTC as a model for regional telecommunication infrastructure development.

Current Issue:

Parties of the SFRTC have been meeting and working closely since the execution of the MOA. In an effort to broaden the Coalition, the SFRTC has also invited the active participation of the Santa Fe Indian School (SFIS) and the Institute of American Indian Arts (IAIA). Both SFIS and IAIA wish to become parties to the SFRTC and an amendment to the MOA is necessary for this inclusion.

Recommended Action:

Approve Amendment No. 1 To Memorandum Of Agreement Formalizing The Establishment Of The Santa Fe Regional Telecommunications Coalition

Thanks for your prompt attention and assistance and please contact me at 995-2728 if you have questions or need additional information.

**AMENDMENT NO. 1
TO MEMORANDUM OF AGREEMENT
Formalizing the Establishment of the
SANTA FE REGIONAL TELECOMMUNICATIONS COALITION**

THIS AMENDMENT is made and entered into as of this ____ day of ____, 20__, by and among the SANTA FE COMMUNITY COLLEGE (“SFCC”), the CITY OF SANTA FE (the “City”), the COUNTY OF SANTA FE (the “County”), the SANTA FE INDIAN SCHOOL (the “SFIS”), and the INSTITUTE OF AMERICAN INDIAN ARTS (the “IAIA”), individually, a “Party” and collectively, “the Parties”) to formalize the establishment of the Santa Fe Regional Telecommunications Coalition (“SFRTC” and “Coalition”). The Governing Board, Council or Commission of each Party will approve this Agreement.

This amendment describes the rights and responsibilities of the Parties, the areas of collaboration, the bases for providing for sharing of resources, and the expectations regarding the working relationships among the Parties.

RECITALS:

WHEREAS, The State of New Mexico, through a consortium of State research Universities and select executive agencies, has established a membership and participation in the National LambdaRail fiber telecommunications infrastructure, providing access to an ultra-high-speed national digital network through a state central gateway in Albuquerque. The NM LambdaRail network and its membership is managed by the University of New Mexico;

WHEREAS The Parties have engaged in a series of discussions outlining the importance of working together to make the Santa Fe region a connected community, with unlimited access for all to information resources that improve the quality of life, economic development opportunities, sustainability, education and training, and the provision of health and government services. For purposes of this Agreement, the Santa Fe region is defined to mean the geographic boundaries of Santa Fe County. The Parties recognize that specific priorities and plans for the development of telecommunications infrastructure still need to be developed and propose to use the Coalition for this purpose;

WHEREAS, membership in NM LambdaRail, or its equivalent, has been considered as necessary to meeting these goals, with an objective of providing network connectivity from Santa Fe to Albuquerque, and of constructing a local network loop that would serve all of the Parties and their constituent interests. The Coalition has sought and been granted membership in NM LambdaRail and intends to fulfill the conditions of that membership pursuant to this Agreement;

WHEREAS, each Party is currently engaged in the advancement of community and economic development projects, educational and workforce development programming that rely on the existence of high-speed telecommunications networks. Santa Fe County (the “County”) has entered into agreement with Santa Fe Studios to develop the Santa Fe County Media Park, providing land and funding for its establishment. The City of Santa Fe (the “City”) is invested in various economic developing projects that meet the Angelou plan to stimulate local business

development. The Santa Fe Community College (“SFCC”) has developed two new facilities, its Health and Sciences Building and its Trades and Advanced Technology Center, promoting workforce development and distance learning. SFCC is a Santa Fe location for connection to the New Mexico Computing Applications Center; The Santa Fe Indian School (“SFIS”) has enhanced on-campus infrastructure to serve as a distance learning and telehealth gateway to Native American communities as well as higher education partners. The Institute of American Indian Arts (“IAIA”) is growing its Distance Learning program, has an ever-increasing demand for programs offered by the Center for Lifelong Education and growing bandwidth requirements for the Institutes New Media Arts program; IAIA expects to participate in the State of New Mexico Computing Applications Center Gateway project. The Santa Fe Public Schools (“SFPS”) has also been involved actively with the Parties of the SFRTC in planning and related activities.

WHEREAS, the governing bodies of each Party have passed prior resolutions or have taken similar actions to endorse the creation and continuing collaboration of the SFRTC. The Legislature in its 2008 Session passed House Memorial 32, endorsing SFRTC efforts as a model for regional telecommunication infrastructure development, and requesting Executive agencies to support SFRTC activities toward attaining its goals;

WHEREAS, the Parties desire to formalize the establishment of the SFRTC and to set forth the methods and means by which the purpose of this Amendment No. 1 will be achieved.

NOW, THEREFORE, IT IS MUTUALLY AGREED AS FOLLOWS:

I. SCOPE OF AGREEMENT

The Parties agree to:

A. Establish Planning Organization To establish the organizational structure of the SFRTC for planning of the telecommunications infrastructure and its expanded use over a longer term and with possible new partnerships.

1. Establish working relationships among the Parties to share information, to review and deliberate issues relative to technology, infrastructure needs, connectivity, open access, carriers, and network providers, including NM LambdaRail, to establish planning objectives, and to define project relationships to infrastructure goals.

2. Provide for development of analytical reports and recommendations defining direction for implementation of the infrastructure network, for integration of individual project plans, for development of estimates and funding requirements, and for reporting of Coalition accomplishments and progress in completion of projects and network.

3. Establish a master plan for development of the telecommunications infrastructure for the region, including definition of short and longer term development projects, expansion of participating partners, and timelines for completion of development efforts. As appropriate, develop organizational assignments for continuing management of the SFRTC effort and for update of plans and supporting materials.

4. Collaborate in contracting for planning support, including possible shared hiring of consultants, cooperative staffing of analytical projects, coordinated lobbying, and solicitation of project funding.

5. Provide ongoing reporting of progress against the master plan based on accumulated information derived from monitoring of projects and completion of the networks.

B. Complete Development of Priority Projects To support each Party and enable it to complete development of its priority projects and programming.

1. Collaborate in developing priority listings of projects to be included in the execution of the infrastructure master plan, including defining funding requirements, project schedules, supporting documentation, and underlying justifications for inclusion of the projects in the regional plan.

2. To the extent required for each project, provide cooperative support, testimony, shared resources, and allocated funding consistent with individual project sponsorship agreements.

3. Provide for ongoing addition of projects as these are included in the master plan and as they attain implementation priority status.

C. Obtain Funding for Projects To provide a basis for continuing collaboration in seeking and attaining funding for infrastructure projects subject to each Party's agreement.

1. Collaborate with other Parties to develop funding proposals for legislative funding, federal appropriations, and private grants, and to provide ongoing testimony and lobbying support as required to assist in obtaining of final appropriations.

2. Where appropriate, provide collaborative proposals and documentation in support of bonding, special elections, and allocations of public revenues.

3. Provide collaboration in supporting public/private partnerships and development of new funding sources for added participants in the local region.

4. Establish fiscal responsibility among the Parties for any funding received by the SFRTC.

D. Complete Telecommunications Infrastructure. To establish a telecommunications infrastructure that will serve the interests of the individual Parties toward promoting economic and workforce development within the region.

1. Develop detailed engineering and technical studies to outline and define the needed telecommunications infrastructure for the Santa Fe region. Include components of the infrastructure that would support needs of the Parties and needs of other entities within the region and service area.

2. Develop projects to complete telecommunication infrastructure linkages between Santa Fe and Albuquerque, including LambdaRail, within the projects defined among the Parties to this Agreement, and within the local region to include other participants as may be defined and included.

3. Establish shared monitoring mechanisms for promoting completion of segments of the telecommunications network and infrastructure. Provide reporting and statistics to demonstrate progress and to measure completion of planned segments of the entire network. As appropriate, develop documentation and schematics defining the completed segments.

II. THE COALITION

The activities of the SFRTC shall be carried out by representatives of each Party, who shall be provided necessary responsibility and authority to actively participate in the planning deliberations of the SFRTC. Any representative must be a full-time employee of the Party he or she represents. SFRTC members shall work by consensus and may call and convene such meetings as may be necessary to address such organizational matters as may be necessary and convenient. Membership on the Coalition may be expanded to include other public entities upon approval of SFCC, the City, SFIS, IAIA and the County, and by amendment to this Agreement.

III. EFFECTIVE DATE AND TERM

This Agreement shall become effective when approved by all parties, and shall remain in effect until terminated pursuant to Paragraph IV, below, or by amendment to this Agreement.

IV. TERMINATION

This Agreement shall terminate at the end of any Fiscal Year for which a majority of the Parties serve written notice of intent to terminate this Agreement. Any Party may terminate its involvement in the Coalition upon thirty (30) days' written notice to the other Parties. Parties withdrawing from the Coalition shall remain responsible for complying with any obligations made prior to the date of termination.

V. AMENDMENT

This Agreement shall not be altered, changed, or amended except by an instrument in writing executed by the Parties.

VI. LIABILITY

A. No Party shall be responsible for liability incurred as a result of another Party's acts or omissions in connection with this Agreement. Any liability incurred in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, Sections 41-4-1 through 41-4-29 NMSA 1978.

B. Each Party shall be solely responsible for fiscal or other sanctions, penalties or fines occasioned as a result of its own violation or alleged violation of requirements applicable to

the performance of this Agreement. Each Party shall be liable for its acts or failure for act accordance with this Agreement subject to the immunities and limitations of the New Mexico Tort Claims Act, Sections 41-4-1 through 41-4-29 NMSA 1978.

VII. MERGER

This Agreement incorporates all of the agreements, covenants and understandings between the Parties concerning the subject matter hereof, and all such covenants, agreements and understandings have been merged into this written Agreement. No prior agreements or understandings, verbal or otherwise, of the Parties or their agents shall become valid or enforceable unless embodied in this Agreement.

VIII. APPROPRIATIONS

A. Each Party's obligations under this Agreement are contingent upon sufficient appropriation and authorization being granted to that Party to support the activities of the SFRTC. If sufficient appropriation or authorization is not granted to a Party, that Party's participation in this Agreement shall terminate upon written notice from that Party to the remaining Parties. The decision as to whether sufficient appropriations are available to any Party shall be in the sole discretion of that Party and shall be final, binding, and accepted by the Parties.

B. Notwithstanding any other provision of this Agreement, no Party shall be obligated to commit any funds or other resources to SFRTC activities unless that Party specifically agrees in writing to such commitment.

C. The Parties agree that they shall use any State, federal, tribal, local and private funds received for projects developed by the Coalition in accordance with applicable State and federal laws and regulations.

IX. NOTICE

The contact persons for the performance of this Agreement shall be:

A. Santa Fe Community College

Sheila Ortego

President

6401 Richards Avenue, Santa Fe, NM 87508

Telephone: (505) 428-1201 Facsimile: (505) 428-1296

B. City of Santa Fe

Robert Romero

City Manager

P.O. Box 909, Santa Fe, NM 87501-0909

Telephone: (505) 955-6848 Facsimile: (505) 955-6683

C. Santa Fe County

Katherine Miller
County Manager
102 Grant Avenue, Santa Fe, NM 87501-2061
Telephone: (505) 986-6200 Facsimile: (505) 995-2740

D. Santa Fe Indian School

Everett Chavez
Superintendent
1501 Cerrillos Road
Santa Fe, NM 87502
Telephone: (505) 989-6302 Facsimile: (505) 989-6343

E. Institute of American Indian Arts

Dr. Robert Martin
President
83 Avan Nu Po, Santa Fe, NM 87508
Telephone: (505) 424-2301 Facsimile: (505) 424-0050

X. BINDING EFFECT

This Agreement is binding on, and the benefits inure to the Parties hereto, their successors and transferees.

XI. APPLICABLE LAW

This Agreement is governed by the laws of the State of New Mexico.

IN WITNESS WHEREOF, the Parties have herein below set their hand.

SANTA FE COMMUNITY COLLEGE

By: _____
 Sheila Ortego, President

Date: _____

SANTA FE INDIAN SCHOOL

By: _____
 Everett Chavez, Superintendent

Date: _____

INSTITUTE OF AMERICAN INDIAN ARTS

By: _____
Dr. Robert Martin, President

Date: _____

CITY OF SANTA FE

By: _____
David Coss, Mayor

DATE: _____

ATTEST:

YOLANDA Y. VIGIL, CITY CLERK

APPROVED AS TO FORM:

GENO ZAMORA, CITY ATTORNEY

DATE: _____

SANTA FE COUNTY

By: _____
Virginia Vigil, Chair

DATE: _____

ATTEST:

VALERIE ESPINOZA, COUNTY CLERK

APPROVED AS TO FORM:

Stephen C. Ross

STEPHEN C. ROSS, COUNTY ATTORNEY

DATE: _____

Santa Fe Regional Telecommunications Coalition

Memorandum of Agreement

Previously Executed 2009

MEMORANDUM OF AGREEMENT
Formalizing the Establishment of the
SANTA FE REGIONAL TELECOMMUNICATIONS COALITION

THIS MEMORANDUM OF AGREEMENT ("Agreement") is made and entered into by and among the **SANTA FE COMMUNITY COLLEGE** ("SFCC"), the **CITY OF SANTA FE** (the "City"), and **SANTA FE COUNTY** (the "County"), (individually, a "Party" and collectively, "the Parties") to formalize the establishment of the **Santa Fe Regional Telecommunications Coalition** ("SFRTC" and "Coalition"). The Governing Board/Council/Commission of each Party will approve this Agreement.

This Agreement describes the rights and responsibilities of the Parties, the areas of collaboration, the bases for providing for sharing of resources, and the expectations regarding the working relationships among the Parties.

RECITALS:

1. The State of New Mexico, through a consortium of State research Universities and select executive agencies, has established a membership and participation in the National LambdaRail fiber telecommunications infrastructure, providing access to an ultra-high-speed national digital network through a state central gateway in Albuquerque. The NM LambdaRail network and its membership is managed by the University of New Mexico.
2. The Parties have engaged in a series of discussions outlining the importance of working together to make the Santa Fe region a connected community, with unlimited access for all to information resources that improve the quality of life, economic development opportunities, sustainability, education and training, and the provision of health and government services. For purposes of this Agreement, the Santa Fe region is defined to mean the geographic boundaries of Santa Fe County. The Parties recognize that specific priorities and plans for the development of telecommunications infrastructure still need to be developed and propose to use the Coalition for this purpose.
3. Membership in NM LambdaRail or its equivalent has been considered as necessary to meeting these goals, with an objective of providing network connectivity from Santa Fe to Albuquerque, and of constructing a local network loop that would serve all of the Parties and their constituent interests. The Coalition has sought and been granted membership in NM LambdaRail and intends to fulfill the conditions of that membership pursuant to this Agreement.
4. Each Party is currently engaged in the development of economic development projects and workforce development programming that rely on the existence of high-speed telecommunications networks. Santa Fe County (the "County") has entered into agreement with Santa Fe Studios to develop the Santa Fe County Media Park, providing land and funding for its establishment. The City of Santa Fe (the "City") is invested in various economic developing projects that meet the Angelou plan to stimulate local business development. The Santa Fe Community College ("SFCC") is developing two

new facilities, its Health and Sciences Building and its Trades and Advanced Technology Center, promoting workforce development and distance learning. SFCC has also been identified as a potential Santa Fe location for connection to the New Mexico Computing Applications Center.

5. The governing bodies of each Party have passed prior resolutions endorsing the creation and continuing collaboration of the SFRTC. The Legislature in its 2008 Session passed House Memorial 32, endorsing SFRTC efforts as a model for regional telecommunication infrastructure development, and requesting Executive agencies to support SFRTC activities toward attaining its goals.
6. The Parties desire to formalize the establishment of the SFRTC and to set forth the methods and means by which the purpose of this Agreement will be achieved.

UNDERSTANDINGS AND AGREEMENTS:

I. SCOPE OF AGREEMENT

The Parties agree to:

A. Establish Planning Organization To establish the organizational structure of the SFRTC for planning of the telecommunications infrastructure and its expanded use over a longer term and with possible new partnerships.

1. Establish working relationships among the Parties to share information, to review and deliberate issues relative to technology, infrastructure needs, connectivity, open access, carriers, and network providers, including NM.LambdaRail, to establish planning objectives, and to define project relationships to infrastructure goals.
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4. Collaborate in contracting for planning support, including possible shared hiring of consultants, cooperative staffing of analytical projects, coordinated lobbying, and solicitation of project funding.
5. Provide ongoing reporting of progress against the master plan based on accumulated information derived from monitoring of projects and completion of the networks.

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1. Develop detailed engineering and technical studies to outline and define the needed telecommunications infrastructure for the Santa Fe region. Include components of the infrastructure that would support needs of the Parties and needs of other entities within the region and service area.

2. Develop projects to complete telecommunication infrastructure linkages between Santa Fe and Albuquerque, including LambdaRail, within the projects defined among the Parties to this Agreement, and within the local region to include other participants as may be defined and included.

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II. THE COALITION

The activities of the SFRTC shall be carried out by representatives of each Party, who shall be provided necessary responsibility and authority to actively participate in the planning deliberations of the SFRTC. Any representative must be a full-time employee of the Party he or she represents. SFRTC members shall work by consensus and may call and convene such meetings as may be necessary to address such organizational matters as may be necessary and convenient. Membership on the Coalition may be expanded to include other public entities upon approval of SFCC, the City, and the County, and by amendment to this Agreement.

III. EFFECTIVE DATE AND TERM

This Agreement shall become effective when approved by all parties, and shall remain in effect until terminated pursuant to Paragraph IV, below, or by amendment to this Agreement.

IV. TERMINATION

This Agreement shall terminate at the end of any Fiscal Year for which a majority of the Parties ~~serve written notice of intent to terminate this Agreement.~~ Any Party may terminate its involvement in the Coalition upon thirty (30) days' written notice to the other Parties. Parties withdrawing from the Coalition shall remain responsible for complying with any obligations made prior to the date of termination.

V. AMENDMENT

This Agreement shall not be altered, changed, or amended except by an instrument in writing executed by the Parties.

VI. LIABILITY

A. No Party shall be responsible for liability incurred as a result of another Party's acts or omissions in connection with this Agreement. Any liability incurred in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, Sections 41-4-1 through 41-4-29 NMSA 1978.

B. Each Party shall be solely responsible for fiscal or other sanctions, penalties or fines occasioned as a result of its own violation or alleged violation of requirements applicable to the performance of this Agreement. Each Party shall be liable for its acts or failure for act accordance with this Agreement subject to the immunities and limitations of the New Mexico Tort Claims Act, Sections 41-4-1 through 41-4-29 NMSA 1978.

VII. MERGER

This Agreement incorporates all of the agreements, covenants and understandings between the Parties concerning the subject matter hereof, and all such covenants, agreements and understandings have been merged into this written Agreement. No prior agreements or understandings, verbal or otherwise, of the Parties or their agents shall become valid or enforceable unless embodied in this Agreement.

VIII. APPROPRIATIONS

A. Each Party's obligations under this Agreement are contingent upon sufficient appropriation and authorization being granted to that Party to support the activities of the SFRTC. If sufficient appropriation or authorization is not granted to a Party, that Party's participation in this Agreement shall terminate upon written notice from that Party to the remaining Parties. The decision as to whether sufficient appropriations are available to any Party shall be in the sole discretion of that Party and shall be final, binding, and accepted by the Parties.

B. Notwithstanding any other provision of this Agreement, no Party shall be obligated to commit any funds or other resources to SFRTC activities unless that Party specifically agrees in writing to such commitment.

C. The Parties agree that they shall use any State, federal, tribal, local and private funds received for projects developed by the Coalition in accordance with applicable State and federal laws and regulations.

IX. NOTICE

The contact persons for the performance of this Agreement shall be:

- A. Santa Fe Community College
(name) Sheila Ortego
(title) President
(address) 6401 Richards Avenue, Santa Fe, NM 87508
Telephone: (505) 428-1201 Facsimile: (505) 428-1296
- B. City of Santa Fe
(name) Galen Buller
(title) City Manager
(address) P.O. Box 909, Santa Fe, NM 87501-0909
Telephone: (505) 955-6848 Facsimile: (505) 955-6683
- C. Santa Fe County
(name) Roman Abeyta
(title) County Manager
(address) 102 Grant Avenue, Santa Fe, NM 87501-2061
Telephone: (505) 986-6200 Facsimile: (505) 995-2740

X. BINDING EFFECT

This Agreement is binding on, and the benefits inure to the Parties hereto, their successors and transferees.

XI. APPLICABLE LAW

This Agreement is governed by the laws of the State of New Mexico.

IN WITNESS WHEREOF, the Parties have herein below set their hand.

SANTA FE COMMUNITY COLLEGE

By: Sheila Ortego
Sheila Ortego, President

Date: _____

CITY OF SANTA FE

By: David Coss
David Coss, Mayor

DATE: 3/9/09

ATTEST:

Yolanda Y. Vigil
YOLANDA Y. VIGIL, CITY CLERK
Cmnty 01/11/09

APPROVED AS TO FORM:

Frank D. Katz
FRANK D. KATZ, CITY ATTORNEY

DATE: 3/9/09

SANTA FE COUNTY

By: Roman Abeyta
Roman Abeyta, County Manager

DATE: 2/20/09

ATTEST:

Valerie Espinoza
VALERIE ESPINOZA, COUNTY CLERK

APPROVED AS TO FORM:

Stephen C. Ross
STEPHEN C. ROSS, COUNTY ATTORNEY

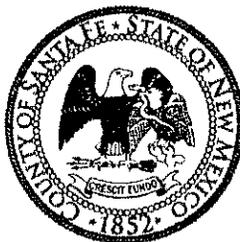
DATE: 20 February 2009

**NO PACKET MATERIAL
FOR THIS ITEM**

Daniel "Danny" Mayfield
Commissioner, District 1

Virginia Vigil
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

Memorandum

Date: December 13, 2011

To: Board of County Commissioners

From: Jack Kolkmeier, Growth Management Director JK

Via: Penny Ellis Green, Deputy County Manager
Stephen Ross, County Attorney

Subject: Public Hearing for An Ordinance Suspending On A Case By Case Basis Provisions of Article V Of The Land Development Code Concerning Expiration Of Master Plans, Preliminary Plats and Final Plats Upon A Finding Of Economic Necessity.

A request was submitted by Karl Sommer on September 30, 2011 to take forward a request for an ordinance suspending code sections related to the expiration of master plans, preliminary plats and final plats for those subdivisions whose approvals have expired.

The proposed Ordinance would allow the BCC to approve a Resolution allowing this process on a case by case basis. The proposed Ordinance and attendant Resolution are attached for your review and consideration.

If the Ordinance and Resolution are approved by the BCC, then a Subdivider may come in front of the Board to request that this apply to them.

Request to Publish Title and General Summary was approved by the BCC on October 11, 2011.

Notice for the Proposed Ordinance was published on November 29, 2011.

Requested Action

Public Hearing on Proposed Ordinance and Resolution.

Summary of Ordinance Related to Expired Development Approvals

Background

During the last three to four years, Santa Fe County has suffered a severe economic downturn that has had a serious and adverse affect on the job market, personal income and the well being of the people and businesses located in Santa Fe County. As result, building activity has diminished considerably and the building trades and construction market has been among the hardest hit. The willingness and the ability of business to continue their investment and construction activities has likewise decreased significantly. Many development approvals have expired during this period of economic downturn, and the investment of firms in those approvals has been wasted because of the inability to move forward on various projects.

In an effort to spur the economic development activity in the area, the City of Santa enacted an ordinance that allowed the City Council to revive certain expired approvals by resolution. The City has twice extended their resolutions under its ordinance, and the measure has shown some success in helping firms to initiate economic investment.

The County is situated similarly to the City in that its Land Development Code has provisions for the expiration of development approvals. The County is in a good position to help provide avenues for firms with expired development approvals to restart and continue their investment in Santa Fe County, which in turn provides jobs and incomes for those employed in the building trades.

The draft ordinance is modeled on the successful enactment of the City of Santa Fe, although it has been tailored to better suit the needs of the County.

SOMMER, KARNES & ASSOCIATES, LLP

Mailing Address

Post Office Box 2476
Santa Fe, New Mexico 87504-2476

Street Address

200 West Marcy Street, Suite 142
Santa Fe, New Mexico 87501

Telephone: (505) 989.3800

Facsimile: (505) 982.1745

September 30, 2011

Karl H. Sommer, Attorney at Law

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Magdalena Babuljak, Legal Assistant

mpb@sommer-assoc.com

VIA HAND DELIVERY

Ms. Penny Ellis Green
Deputy County Manager
Santa Fe County
102 Grant Avenue
Santa Fe, New Mexico 87501

Re: Ordinance and Resolution Related to Expired Development Approvals

Dear Penny:

This letter is our request to forward to the Board of County Commissioners the enclosed Draft Ordinance for its consideration to publish title and general summary. It has been vetted by the Land Use Director and County Attorney for legal sufficiency.

Thank you for your attention to this matter.

Sincerely,


Karl H. Sommer

THE BOARD OF COUNTY COMMISSIONERS OF
SANTA FE COUNTY

ORDINANCE NO. 2011-__

AN ORDINANCE SUSPENDING ON A CASE-BY-CASE BASIS PROVISIONS OF
ARTICLE V OF THE LAND DEVELOPMENT CODE CONCERNING EXPIRATION OF
MASTER PLANS, PRELIMINARY PLATS AND FINAL PLATS UPON A FINDING OF
ECONOMIC NECESSITY

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF THE
COUNTY OF SANTA FE:

Section 1. Suspension of Expiration. A new paragraph of Article V of the Santa Fe
County Land Development Code is enacted, as follows:

The Board of County Commissioners may approve, by resolution, temporary retroactive suspension of enforcement of Article V, Sections 5.2.7, 5.3.6 and 5.4.6 of this Code concerning expiration of master plans, preliminary plans and final plats for any development located within the unincorporated lands of Santa Fe County and within the extraterritorial planning and platting jurisdiction as described in NMSA 1978, Sections 3-20-5 (1965) and 3-21-2 (1965), upon a finding that severe economic conditions justify such a suspension either for a particular project or for a described class of projects. Any such resolution shall not suspend enforcement of Article V, Sections 5.2.7, 5.3.6 or 5.4.6 more than three (3) years, nor apply to a master plan, preliminary plan and final plat expiring more than three (3) years prior to the effective date of this ordinance. For purposes of this section "severe economic conditions" are present when the Conference Board Leading Economic Index® for the United States is less than 100 for any quarter, and for three years following any such event.

PASSED, APPROVED and ADOPTED THIS ___ DAY OF ____, 2011.

THE BOARD OF COUNTY COMMISSIONERS OF
SANTA FE COUNTY

By: _____
Virginia Vigil, Chair

ATTEST:

Valeria Espinoza, County Clerk

APPROVED AS TO FORM:

Stephen C. Ross, County Attorney

**THE BOARD OF COUNTY COMMISSIONERS OF
SANTA FE COUNTY**

ORDINANCE NO. 2011-__

**AN ORDINANCE SUSPENDING ON A CASE-BY-CASE BASIS PROVISIONS OF
ARTICLE V OF THE LAND DEVELOPMENT CODE CONCERNING EXPIRATION OF
MASTER PLANS, PRELIMINARY PLATS AND FINAL PLATS UPON A FINDING OF
ECONOMIC NECESSITY**

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PASSED, APPROVED and ADOPTED THIS ___ DAY OF ____, 2011.

**THE BOARD OF COUNTY COMMISSIONERS OF
SANTA FE COUNTY**

By: _____
Virginia Vigil, Chair

ATTEST:

Valeria Espinoza, County Clerk

APPROVED AS TO FORM:



Stephen C. Ross, County Attorney

THE BOARD OF COUNTY COMMISSIONERS OF
SANTA FE COUNTY

RESOLUTION NO. 2011-___

A RESOLUTION

FINDING THE EXISTENCE OF SEVERE ECONOMIC CONDITIONS AND
SUSPENDING ENFORCEMENT OF SPECIFIED PROVISIONS OF ARTICLE V
OF THE LAND DEVELOPMENT CODE THAT CONCERN EXPIRATION OF
MASTER PLANS, PRELIMINARY PLATS AND FINAL PLATS PURSUANT TO
ORDINANCE NO. 2011-_____.

WHEREAS, Article V, Sections 5.2.7, 5.3.6 and 5.4.6 of the Santa Fe County Land Development Code ("the Code") and the former Extraterritorial Zoning Ordinance contain expiration dates for certain development approvals such as master plans, preliminary plats and final plats;

WHEREAS, Article V, Sections 5.2.7, 5.3.6 and 5.4.6 require an applicant to apply for an extension of these approvals and precludes an extension should the approval expire;

WHEREAS, the national, state and local economies have experienced a severe downturn in recent years which has heavily affected the housing sector, and signs of an economic recovery are ambiguous at best; and

WHEREAS, pursuant to Ordinance No. 2011-_____, the Board of County Commissioners ("the Board") may suspend provisions of Article V, Sections 5.2.7, 5.3.6 and 5.4.6 of the Code upon a finding of economic necessity, which is defined in terms of a score of 100 or less on the Conference Board's Leading Economic Index® for the United States for any quarter, and for three years following any such event, and the Board recognizes that these conditions are present and desires to temporarily suspend the enforcement of those sections of Article V that set forth expiration of master plans, preliminary plats and final plats for two years pending an economic recovery.

NOW, THEREFORE, BE IT RESOLVED as follows:

1. Pursuant to Ordinance No. 2011-_____, The enforcement of Article V, Sections 5.2.7, 5.3.6 and 5.4.6 and related policies and procedures of the Land Use Department whereby master plans, preliminary plats and final plats expire are hereby suspended until approval of a subsequent resolution of this Board for those developments located within the unincorporated lands of Santa Fe County and those areas within the extraterritorial planning and platting jurisdiction as described in NMSA 1978, Sections 3-20-5 (1965) and 3-21-2 (1965), *so long as* an order approving the specific suspension for the development in question is approved by the Board.

2. Any suspension of enforcement of Article V, Sections 5.2.7, 5.3.6 and 5.4.6 granted by the Board pursuant to paragraph 1 herein shall be valid for a period of two (2) years from the date suspension is authorized.

ADOPTED THIS ___ DAY OF _____, 2011.

**THE BOARD OF COUNTY COMMISSIONERS OF
SANTA FE COUNTY**

By: _____
Virginia Vigil, Chair

ATTEST:

Valeria Espinoza, County Clerk

APPROVED AS TO FORM:



Stephen C. Ross, County Attorney

**SANTA FE COUNTY
MEMORANDUM**

DATE: December 13, 2011

TO: Board of County Commissioners

FROM: Duncan Sill



RE: JOINT POWERS AGREEMENT FOR MANAGEMENT OF THE REDI MIDDLE-MILE BROADBAND NETWORK BY AND AMONG THE NORTH CENTRAL NEW MEXICO ECONOMIC DEVELOPMENT DISTRICT, THE INCORPORATED COUNTY OF LOS ALAMOS, SANTA FE COUNTY, THE CITY OF ESPANOLA, RIO ARRIBA COUNTY, OHKAY OWINGEH, THE PUEBLO OF SANTA CLARA, THE PUEBLO OF POJOAQUE AND THE PUEBLO OF TESUQUE

Cc: REDI Net file; Penny Ellis-Green,, Deputy County Manager; Jack Kolkmeier, Growth Management

Background:

A regional grant was awarded in August 2010 for \$10.6 million in support of the development of a middle mile broadband infrastructure network with North Central New Mexico jurisdictional and tribal government partners that include Rio Arriba County, Los Alamos County, Santa Fe County, City of Espanola, Ohkay Owingeh, the Pueblo of Santa Clara, the Pueblo of Pojoaque, the Pueblo of Tesuque and North Central New Mexico Economic Development District (NCNMEDD) who is the lead agency and primary grant recipient.

The BCC approved via Resolution 2010-46 to authorize Santa Fe County to serve as a sub-recipient of federal financial assistance through the Broadband Technology Opportunities Program (BTOP), National Telecommunications and Information Administration, U.S. Department of Commerce.

The BCC previously approved a Joint Powers Agreement (JPA) for the management of REDI NET on 12/14/10 and on 06/28/11. The approved JPA has not been fully executed at this point as DFA submitted comments back to NCNMEDD for changes (see NCNMEDD memo).

Current Issue:

Since the prior approval of the JPA by the BCC, several items need to be addressed as changes to the document and include the following (please refer to DFA review memo):

1) Previous version: The JPA contains no signature sheet for the Department of Finance Secretary's signature. (New version: Signature Page for DFA has been added.)

2) Previous version: Section 15 of the Agreement would add San Ildefonso Pueblo as a party to the JPA without approval by DFA. (New version: approval by DFA reinstated)

3) Previous version Section 4, subparagraph E contemplates the granting of rights-of-way and/or easements. (Note: DFA stated that it has, in the past, viewed such rights-of-way and easements to be a transfer of property or, at the least, rights in property, which may raise implications within the jurisdiction of the Board of Finance. DFA suggested adding some language to this clause such as: "... provided, however, that the provision of all such rights-of-way or easements must be approved by the New Mexico Board of Finance or Department of Finance Local Government Division, to the extent required by law.") (New version: DFA suggestions included)

The above three changes are minor in nature and do not alter the intent and scope of work as originally approved in the JPA. DFA has also reviewed this latest version of the JPA and indicated that the changes are acceptable. The other REDI Net local parties are taking or have taken this JPA for respective approval in late October and early November.

Recommendation

Approve Joint Powers Agreement for Management of the REDI Middle-Mile Broadband Network by and among the North Central New Mexico Economic Development District, the Incorporated County of Los Alamos, Santa Fe County, the City of Espanola, Rio Arriba County, Ohkay Owingeh, the Pueblo of Santa Clara, the Pueblo of Pojoaque and the Pueblo of Tesuque

Please feel free to contact me at 995-2728 or email me at dsill@santafecounty.org if you have questions or require additional information. Thank you for your prompt assistance and attention.

REDI Net
JPA

NMEDD memo



NORTH CENTRAL NEW MEXICO

ECONOMIC DEVELOPMENT DISTRICT

Memorandum

To: REDI Net Partners
From: Tim Armer, Executive Director
Date: October 17, 2011
Subject: REDI Net JPA Amendments

As you know, the parties to REDI Net signed a Joint Powers Agreement (JPA) in the winter of 2010. Late this summer, we received three minor comments on the JPA that need to be addressed before the New Mexico Department of Finance and Administration (DFA) can sign off on the document.

Simultaneously, we have been in discussions with the Pueblo de San Ildefonso about having the Pueblo sign the JPA and become a formal partner on the project. To date, the Pueblo leadership and legal counsel has proposed various changes to the JPA with the intent of signing it at a later date. These changes have been incorporated into the document and reviewed and approved by the representatives each of you appointed to the REDI Net Board of Directors.

We therefore ask that each party to REDI Net present and approve the attached amendments to the JPA at its earliest convenience. This will enable us to seat the REDI Net Board and begin the process of adopting rate schedules, service level agreements, and other essential policies for the operation of REDI Net.

Please note that the Pueblo de San Ildefonso does not intend to sign this JPA until Jemez Mountains Electric Cooperative (JMEC) utility infrastructure that is currently in trespass on Pueblo lands is brought into compliance. While discussions are underway between the Pueblo and JMEC, it is unlikely that this issue will be settled before December 2011 or January 2012. During its review of the proposed amendments, DFA has indicated through e-mail that once the REDI Net Board is formally established, the Board can approve the amendment to the JPA that adds the Pueblo of San Ildefonso as a party.

REDI Net
JPA

DFA review memo

TO: Tim Armer

DATE: 8/23/11

AGENCY: North Central New Mexico Economic Development Distric

From

PAUL KIPPERT

ATTORNEY-AT-LAW

DFA/ASD/CONTRACTS REVIEW BUREAU (CRB)

ROOM. 314 BATAAN MEMORIAL BUILDING

SANTA FE, NEW MEXICO 87503

TELEPHONE # 827-3951/FAX# 827-4330

COMMENTS: Please note the attached JPA between the Incorporated County of Los Alamos, Santa Fe County, City of Espanola, Rio Arriba County, Ohkay Owingeh, the Pueblo, Santa Clara Pueblo, Pueblo of Pojoaque, Pueblo of Tesuque, and the North Central New Mexico Economic Development District is being rejected for the following reasons.

- 1) The JPA contains no signature sheet for the Department of Finance Secretary's signature.
- 2) Section 15 of the Agreement would add San Ildefonso Pueblo as a party to the JPA without any Amendment. We find this problematic. While we have no issue with the addition of any party to the Agreement, such additions must be done via the amendment process with a written document signed by all the parties and DFA since any such addition inevitably changes the terms and conditions of the Agreement, even if only in the limited way set forth in the clause.
- 3) Section 4, subparagraph E contemplates the granting of rights-of-way and/or easements. DFA has, in the past, viewed such rights-of-way and easements to be a transfer of property or, at the least, rights in property, which may raise implications within the jurisdiction of the Board of Finance. We would respectfully suggest adding some language to this clause such as: “; provided, however, that the provision of all such rights-of-way or easements must be approved by the New Mexico Board of Finance or Department of Finance Local Government Division, to the extent required by law.”

Please address the issues set forth above and return the document directly to my attention so that I might expedite its processing at that point.

If you have any questions, please feel free to contact me directly.

THANK YOU – PAUL KIPPERT



REDI Net
JPA

Clean Copy

JOINT POWERS AGREEMENT
FOR MANAGEMENT OF THE REDI MIDDLE-MILE BROADBAND NETWORK
BY AND AMONG THE NORTH CENTRAL NEW MEXICO ECONOMIC
DEVELOPMENT DISTRICT, THE INCORPORATED COUNTY OF LOS ALAMOS,
SANTA FE COUNTY, THE CITY OF ESPANOLA, RIO ARRIBA COUNTY, OHKAY
OWINGEH, THE PUEBLO OF SANTA CLARA, THE PUEBLO OF POJOAQUE,
AND THE PUEBLO OF TESUQUE

THIS JOINT POWERS AGREEMENT (the "Agreement") is entered into by and among the Incorporated County of Los Alamos, New Mexico, Santa Fe County, New Mexico, the City of Espanola, New Mexico, Rio Arriba County, New Mexico, Ohkay Owingeh, the Pueblo of Santa Clara, the Pueblo of Pojoaque and the Pueblo of Tesuque (each a "Local Party" and together, the "Local Parties"), and the North Central New Mexico Economic Development District (hereinafter "NCNMEDD" and, together with the Local Parties, the "Parties").

WHEREAS, NCNMEDD is a Council of Governments formed in 1967 under the authority of the Joint Powers Agreement Act, Section 4-22-1 to 4-22-7, New Mexico State Statutes Annotated, 1953 Compilation;

WHEREAS, the Incorporated County of Los Alamos, New Mexico, Santa Fe County, New Mexico, the City of Espanola, New Mexico, Rio Arriba County, New Mexico are each New Mexico municipalities or counties, created and existing pursuant to the Constitution and laws of the State of New Mexico (the "State"); and

WHEREAS, Ohkay Owingeh, the Pueblo of Santa Clara, the Pueblo of Pojoaque and the Pueblo of Tesuque are each Federally Recognized Tribes, existing as independent and self-governing sovereigns; and

WHEREAS, northern New Mexico currently lacks affordable, high-speed broadband services to support economic development, education and distance learning, health care and telemedicine, and advanced public safety and energy applications required to improve the quality of life and ensure the health, safety and welfare of the region's residents; and

WHEREAS, NCNMEDD applied for and was awarded federal funds from the Broadband Technology Opportunities Program ("BTOP"), National Technology and Information Administration ("NTIA"), US Department of Commerce (the "BTOP Grant"), for the REDI Middle-Mile Network (hereinafter "REDI Net"), a high-speed, open access broadband network to be deployed within the jurisdictional boundaries of the Local Parties in northern Santa Fe County, Los Alamos County and southern Rio Arriba County, New Mexico; and

WHEREAS, the construction cost of REDI Net is estimated to be \$13,391,443.00, which will be paid with federal funds in the amount of \$10,565,792.00, and \$2,825,651.00 in cash and in-kind match contributed by the Local Parties and other regional entities as described in Section 3 below; and

WHEREAS, as the BTOP Grant recipient, NCNMEDD, is directly responsible for assuring that the expenditure of BTOP Grant funds in connection with the design, construction and implementation of REDI Net complies with the Federal Requirements; and

WHEREAS, REDI Net consists of approximately 150 miles of fiber optic cable and associated equipment which crosses the jurisdictional boundaries of the Local Parties and will be installed primarily on existing electric utility poles; and

WHEREAS, subject to the availability of sufficient annual appropriations, the Local Parties will be responsible for securing necessary easements and rights of way, for construction, permitting and other construction-related activities and oversight, and have direct interests in assuring that the design, construction and implementation of REDI Net will meet their local needs and requirements, within the framework of the BTOP Grant provisions and the Federal Requirements as that term is defined in Section 1 below; and

WHEREAS, based on their respective interests and responsibilities, NCNMEDD and the Local Parties recognize that they should collectively manage the design, construction, implementation, and operation of REDI Net in a manner that enables NCNMEDD, as BTOP Grant recipient, to monitor and assure compliance with all BTOP Grant and the Federal Requirements; and

WHEREAS, NCNMEDD shall act as the fiscal agent for REDI Net and shall be responsible for all reporting and assuring compliance required by the BTOP grant; and

WHEREAS, the Parties share common powers with respect to providing infrastructure and promoting economic development, education and public safety for the benefit of their residents ;

WHEREAS, the Parties are authorized by the Joint Powers Agreements Act, Sections 11-1-1 through 11-1-7 NMSA 1978 (the "Act"), to create a joint powers authority for the purpose of exercising powers common to the Parties; and

WHEREAS, the Parties desire to create a joint powers authority pursuant to the Act for the purposes described in, and subject to the requirements of, this Agreement.

NOW THEREFORE, the Parties hereby agree as follows:

Section 1. Compliance with Grant Funding Requirements. The Parties shall construct, implement and manage REDI Net in compliance with the American Recovery and Reinvestment Act of 2008 ("ARRA") and all federal regulations promulgated in

relation thereto; the requirements of BTOP, including the Notice of Federal Funding Opportunity ("NOFA") and the grant agreement and conditions; and the purposes for which the BTOP grant was made, and all Federal Communications Commission requirements now in effect or as may become effective during this Agreement (collectively, the "Federal Requirements"). Changes to the grant agreement for REDI Net, including but not limited to engineering design, organizational model, business plan, service offerings, rate structure, and disposal or transfer of all or part of REDI Net's physical assets may require approval from the NTIA, and the United States Department of Commerce. The Parties hereby affirm the core purposes and operational details of REDI Net:

A. Open Access Network: REDI Net shall offer wholesale bandwidth to all qualified service providers within the range of its network at reasonable rates and, where practicable, below-market rates as an open access network intended to encourage competition, improve service, increase customer choice and reduce costs to the end user;

B. Community Institutions and Rates: REDI Net shall provide high-speed broadband services to community anchor institutions within the range of its network, which shall include government buildings, schools, libraries, medical and healthcare providers, public safety entities, community colleges and other institutions of higher education, and other community support organizations and agencies that provide outreach, access, equipment and support services to facilitate the greater use of broadband service by vulnerable populations, including low-income, unemployed and senior citizens, at affordable rates determined by reference to prevailing market rates;

C. Reinvestment of Revenues: As required by the BTOP Grant, all revenues generated by the network shall be reinvested by the REDI Net Board ("REDI Net Board" as further described in Section 2 of this Agreement) in expansion, operation and maintenance of the network, and shall not be distributed to the Parties or any individual Party; and

D. Public-Private Partnerships: REDI Net shall employ the private sector partnerships identified in the BTOP grant application, including in-kind network management by Kit Carson Telecom for three (3) years, and long-term outside plant operation and maintenance by Jemez Mountains Electric Cooperative and the Los Alamos County Utility Department; and

E. Applicable Policy: BTOP Grant and project implementation for REDI Net shall follow the adopted policies of NCNMEDD, including but not limited to procurement and accounting policies, the NCNMEDD code of conduct and the Federal Code of Conduct, as required by the BTOP grant. In executing this agreement, each party acknowledges and agrees that it has received and read each of the above-referenced policies and agrees to be bound by the terms of the policies in the REDI Net project implementation and management.

Section 2. Governance of REDI Net. REDI Net will be governed by the Parties through the REDI Net Board pursuant to the following conditions:

A. Membership: The REDI NET Board shall be composed of one representative from each Local Party, appointed by the governing body of each Party, and one representative of NCNMEDD appointed by its governing body.

B. Qualifications: REDI NET Board members should have expertise, professional experience and/or education in telecommunications, engineering, finance and/or business management.

C. Responsibility: Each REDI NET Board member shall provide regular updates to its governing body on REDI Net activities and decisions, and shall request governing body guidance and input on REDI Net activities and decisions, as required.

D. Terms: There is no maximum term for service on the REDI NET Board. Each member shall be appointed by the governing body of the Local Party it represents for at least one (1) year. The governing body of a Local Party may appoint a new member to the REDI NET Board at any time after the initial one-year term, provided however, that any member may be terminated by its governing body in its sole discretion with or without cause. To ensure full participation of all Parties in REDI Net decisions, each Local Party's governing body is responsible for ensuring that its representative or an alternative representative attends REDI Net Board meetings regularly.

E. Purpose of the REDI NET Board and Common Powers of the Parties: The REDI NET Board is established to oversee construction, implementation, and long-term management of REDI Net. The REDI NET Board shall have the following powers:

(i) To adopt bylaws, procedures, processes or criteria for the conduct of its affairs as it deems necessary or convenient.

(ii) To make all decisions relating to REDI Net's construction, operation and maintenance during the three (3) year grant period, including but not limited to:

(a) Contracts for professional services, construction and any other contracts needed during the three (3) year grant period;

(b) Identification of a long-haul transport provider; and

(c) Additional private sector partnerships not contemplated in the BTOP grant application for infrastructure and/or services.

(iii) To manage REDI Net's long-term operation, management and maintenance, including but not limited to:

- (a) Entering into contracts for marketing, network operations, service-provider recruitment and all other contracts;
- (b) Entering into agreements with Local Parties and third parties for the provision of broadband service ("Service Agreements");
- (c) Making other contractual or administrative arrangements for REDI Net management, which may include, without limitation, contracting with a third party or parties for management services, delegating management responsibility to one or more Parties, or entering into other legally permissible agreements or arrangements for management of REDI Net;
- (d) Forming partnerships, agreements or business arrangements to the extent that the Parties are permitted by law to do so;
- (e) Developing and approving an annual budget, to include projecting sufficient revenue for operations and maintenance on a multi-year basis;
- (f) Formulating Network expansion plans;
- (g) Establishing criteria for revenue reinvestment;
- (h) Establishing revenue reinvestment capital improvements plan; and
- (i) Making reasonable and customary changes and improvements to the network and its equipment, including Point of Presence facilities, provided that permitting requirements and other applicable regulations are met.

F. Meetings: Meetings of the REDI NET Board shall be held at least quarterly and at such additional times and in such locations as the REDI NET Board or NCNMEDD determines. It is anticipated that meetings will occur more frequently during the BTOP Grant period.

G. Meeting Protocol: REDI NET Board meetings shall be held in compliance with the New Mexico Open Meetings Act, Sections 10-15-1 through 10-15-4 NMSA 1978. NCNMEDD shall keep minutes of all REDI NET Board meetings. As provided in the bylaws or other procedures adopted by the REDI Net Board,

each REDI NET Board member shall be entitled to cast one vote in connection with any action to be taken by the REDI NET Board.

Section 3. Financial Contributions of the Local Parties. The Local Parties shall provide the contributions described in this Section to fulfill the required cash and in-kind match requirements for the BTOP grant with twenty percent (20%) non-federal funds (the "Local Match Requirement"). In no event shall the aggregate amount of the contributions by the Local Parties fall below the Local Match Requirement.

A. Los Alamos County shall deposit \$400,000 in cash into NCNMEDD's interest-bearing project account for REDI Net no later than December 31, 2010;

B. Rio Arriba County shall deposit at least \$50,000.00 in cash into NCNMEDD's interest-bearing account for REDI Net each month for fourteen (14) months, or until \$700,000.00 is deposited in the account, beginning July 31, 2011;

C. REDI Net shall dedicate \$170,000.00 in cash from program income during or before the last three months of network construction;

D. Los Alamos County shall provide existing conduit, fiber, and a secondary Point of Presence facility, together valued at \$625,000.00, as an in-kind contribution which shall be incorporated into REDI Net;

E. The City of Espanola shall provide \$20,000.00 in existing fiber optic infrastructure as an in-kind contribution which shall become part of REDI Net; and

F. Other cash and in-kind contributions governed by separate agreements are hereby incorporated by reference:

(i) Los Alamos National Security, LLC: Cash contribution of \$170,000.00;

(ii) Northern New Mexico College: In-kind contribution valued at \$5,000.00 to provide a fiber operation and maintenance training program for electric utility linemen; and

(iii) Jemez Mountains Electric Cooperative: In-kind contribution of pole attachment fees valued at \$686,000.00.

G. Contributions of tribal land for this project are hereby recognized as substantial financial contributions to REDI Net, although their value was not calculated for the BTOP grant. Recognizing tribal infrastructure ownership in REDI Net and REDI Net's status as a publically-owned network that relies on reinvestment, the Local Parties that are tribal governments have established

valuations of their lands to record their initial contributions to REDI Net; provided, that these valuations shall apply for the purposes of this agreement only and are not intended to reflect fair market value of any easements or rights-of-way. The valuations below represent estimates based on a per-acre cost negotiated with each tribal government and multiplied by the estimated number of miles of fiber optic cable running through tribal lands and the width of the corresponding electric utility easement. These valuations will be recalculated and recorded in Exhibit A, based on precise boundaries and acreage for tribal ownership determined by final engineering for REDI Net.

Ohkay Owingeh: \$727,273.00

Pojoaque: \$575,757

Santa Clara Pueblo: \$509,091

Tesuque Pueblo: \$424,242

H. Additional contributions of cash or rights-of-way, easements and land made by the a Local Party after the effective date of this Agreement and before the end of the BTOP Grant period will be valued at an amount agreed upon by that Local Party the REDI Net Board and will be counted toward the initial financial contribution of the Local Parties.

Section 4. Roles and Responsibilities of the Parties. The Parties commit to the following roles and responsibilities, subject to the Federal Requirements:

A. REDI NET Board Membership: Each Party shall appoint a representative to and actively participate as a member of the REDI NET Board.

B. Commitment to Purchase Service: Unless prohibited or otherwise limited by any existing service contracts or service arrangements, and subject to the provisions of Section 11 of this Agreement, each Local Party shall purchase services for its community anchor institutions from REDI Net for a minimum of five (5) years from the Service Agreement date, either exclusively from REDI Net or from a REDI Net qualified service provider if during this initial five (5) year period REDI Net is not able to meet the service or quality demands of a Local Party, at the service level that REDI Net can provide to that Local Party. Following the expiration of the five-year Service Agreement term, it is anticipated that the Local Parties will continue to purchase services from REDI Net or a REDI Net qualified service provider, at a level that will, in the reasonable determination of the REDI Net Board, enable REDI Net to avoid operating losses and will promote open access, sustainability and expansion of REDI Net to serve existing and anticipating demand for services.

C. Procurement of Services During Construction: The procurement decisions of the REDI Net Board during the BTOP Grant period shall be monitored, and to the extent required by the BTOP Grant conditions, ratified or approved by NCNMEDD, provided that such ratification or approval shall not be withheld

except to the extent necessary, in the reasonable discretion of NCNMEDD, to assure its compliance with the Federal Requirements.

D. Infrastructure Installation: Each Local Party shall allow the installation of fiber optic cable and associated network equipment upon, through or over its lands without imposing fees, taxes or any other charges on REDI Net or NCNMEDD. No Local Party shall impose fees, taxes or charges of any other kind to any third party owner of utility lines in connection with the installation of fiber optic cable or other improvements to be incorporated into REDI Net. Nothing in this Agreement shall be construed as preventing any Local Party from receiving its appropriate share of gross receipts taxes payable by any person or entity for goods or services provided in connection with the construction or installation of fiber optic cable and associated network equipment under the terms of this Agreement or the provision of broadband services by REDI Net qualified service providers once the network is operational.

E. Installation and Connection of Service to Community Anchor Institutions: REDI Net shall install and activate all initial connections for the BTOP grant to the community anchor institutions identified in a Service Level Agreement between REDI Net and the Local Party, without charge to the Local Party or the community anchor institutions. This includes the fiber optic cable, equipment at the drop points, all labor costs, and activation of the service between the network and community anchor institutions of the Local Party. Beyond these initial connections, REDI Net shall provide future connections to community anchor institutions of the Local Parties as funding becomes available, and subject to REDI Net's revenue reinvestment capital improvements plan.

F. Rights-of-Way and Easements: Subject to the provisions of this Agreement each Local Party shall provide rights-of-way or easements for installation of fiber optic cable and associated network equipment and operation and maintenance of the network without imposing fees, taxes or any other charges to REDI Net or NCNMEDD, provided, however, that the provision of all such rights-of-way or easements on non-tribal land must be approved by the New Mexico Board of Finance or Department of Finance Local Government Division, to the extent required by law. This does not prevent a Local Party from imposing fees, taxes or other charges for any rights-of-way or easements that may be required by qualified REDI Net service providers and it shall be the responsibility of these service providers to obtain such rights-of-way or easements from the Local Party.

G. Infrastructure Ownership and Federal Security Interest: Each Local Party that is a county government shall own that portion of REDI Net infrastructure situated within its jurisdictional boundaries with the following exceptions: 1) Local Parties that are tribal governments shall own REDI Net infrastructure within their tribal lands, and 2) the City of Espanola shall own existing fiber optic infrastructure which it has committed as an in-kind match to REDI Net in Section

3E of this Agreement. Infrastructure ownership by the Local Parties is subject to the following provisions:

(i) In areas where land ownership is in question and REDI Net infrastructure is installed in an existing highway or utility right-of-way, land ownership boundaries shall be substantially consistent with the surveys of the highway department or the public utility.

(ii) An ownership map showing the acreage owned by each Local Party shall be produced during final engineering and shall be incorporated into this Agreement as Exhibit A.

(iii) Infrastructure ownership shall be subject to a Federal Security Interest, established through the Covenant of Purpose, Use and Ownership, which shall be recorded, in the form attached hereto as Exhibit B, in the real property records of Santa Fe, Rio Arriba and Los Alamos Counties, or in the case of Local Parties that are tribal governments, in the land records of each respective tribal government.

(iv) Notwithstanding proportional ownership of infrastructure by each Local Party as described above, the REDI Net Board shall be solely responsible for operating all infrastructure owned by each of the Parties subject to NCNMEDD's oversight responsibility as described in Section 7 below.

Section 5. Exercise of Powers. The REDI NET Board is hereby authorized to exercise any and all of the common powers described in Section 2E of this Agreement without further authorization or ratification by the governing body of each Party.

Section 6. Effective Date, Term and Termination.

A. This Agreement shall be effective upon approval by the New Mexico Department of Finance and Administration ("DFA").

B. The term of this Agreement shall be 20 years, which is the useful life of the project, as provided in the United States Department of Commerce's Covenant of Purpose, Use and Ownership.

C. If REDI Net remains suitable for operation beyond the initial 20 year term, the Parties, by mutual consent, may renegotiate an extension of the Agreement at the end of the 20 year term with such negotiations to begin no later than the 18th year of the Agreement term.

Section 7. Appointment of Fiscal Agent; Strict Accountability of all Receipts and Disbursements. NCNMEDD shall act as Fiscal Agent in connection with the administration, disbursement, reporting and monitoring of the BTOP Grant and shall be

strictly accountable for all receipts and disbursements thereunder and under this Agreement until construction of REDI Net, transfer of REDI Net assets to the Local Parties have been completed and NCNMEDD has verified that its responsibilities as BTOP Grant recipient have been satisfied. Following expiration of the BTOP Grant Period (as defined in the BTOP Grant requirements), REDI Net Board shall either extend the term of NCNMEDD as fiscal agent, or appoint a new fiscal agent, which in either case shall be strictly accountable for all receipts and disbursements hereunder.

Section 8. Disposition of Property Acquired Pursuant to this Agreement.

A. The Parties anticipate that REDI Net assets will be conveyed to that Local Party as shown in Exhibit A. The Parties anticipate that they will contribute funds or make in-kind contributions as provided in this Agreement, each from sources designated by the governing body of that Local Party or otherwise approved.

B. As provided by the BTOP Grant, surplus funds generated by REDI Net are to be reinvested in REDI Net to upgrade technology and infrastructure of REDI Net, and the parties do not anticipate that other surplus property or funds will remain at the time this Agreement is terminated. Notwithstanding, any surplus property or funds which may remain at the time this Agreement is terminated shall be returned to each Local Party and to NCNMEDD, in proportion to the cash and in-kind contributions made by that Local Party or NCNMEDD; provided that any such distribution of property or funds shall comply with the Federal Requirements.

Section 9. Severability. If any provision, clause, section, subsection or article of this Agreement is found to be invalid, illegal, unenforceable for any reason, the invalidity, illegality or enforceability of such provision, clause, section, subsection or article shall not affect the remaining provisions of the Agreement.

Section 10. Privileges and Immunities. All of the privileges and immunities from liability, exemptions from laws, ordinances and rules, all pension, relief, disability, workers' compensation and other benefits which apply to the activity of officers, agents or employees of any such public agency when performing their respective functions within the territorial limits of their respective public agencies, shall apply to them to the same extent while engaged in the performance of any of their functions and duties extraterritorially under the provisions of the Act, as provided in Section 11-1-6 NMSA 1978.

Section 11. Obligations Conditioned on Sufficient Annual Appropriations. The obligations of the Local Parties under this Agreement are conditioned upon the availability of sufficient annual appropriations by the governing bodies of the Local Parties.

Section 12. Governing Law. This Agreement shall be governed by the laws of the State of New Mexico; provided that, with respect to any Local Party that is a tribal

government, it is hereby recognized that the powers and status of such Party, as a tribal government, is subject to the laws of the United States.

Section 13. Alternative Dispute Resolution. Disputes among Parties arising in connection with this Agreement shall be submitted to mediation, arbitration, or other alternative dispute resolution process, as determined by the REDI Net Board, and to the extent that such process is permissible under the governing law applicable to the disputing Parties.

Section 14. Counterparts. This Agreement may be executed in counterpart originals.

Section 15. Amendment; Addition of Parties in the Future. This Agreement shall not be altered, changed, extended or amended except by instrument in writing executed by the Parties and approved by the DFA. The Pueblo de San Ildefonso may, at its election, become a Local Party to this Agreement, and this Agreement, shall be amended accordingly and shall include a description of the financial and/or in-kind contribution to be made by the Pueblo de San Ildefonso.

Section 16. Entire Agreement. This Agreement constitutes the entire agreement and understanding of the Parties with respect to the subject matter hereof.

SIGNATURE PAGE

To

North Central New Mexico Economic Development District
REDI Net Middle Mile Broadband Network Joint Powers Agreement

Dated as of _____

NEW MEXICO DEPARTMENT OF FINANCE AND ADMINISTRATION

Secretary Tom Clifford

SIGNATURE PAGE

To

North Central New Mexico Economic Development District
REDI Net Middle Mile Broadband Network Joint Powers Agreement

Dated as of _____

OHKAY OWINGEH

Governor Ron Lovato

SIGNATURE PAGE

To

North Central New Mexico Economic Development District
REDI Net Middle Mile Broadband Network Joint Powers Agreement

Dated as of _____

CITY OF ESPANOLA

Alice Lucero, Mayor

SIGNATURE PAGE

To

North Central New Mexico Economic Development District
REDI Net Middle Mile Broadband Network Joint Powers Agreement

Dated as of _____

RIO ARRIBA COUNTY

Alfredo Montoya, County Comission Chair

SIGNATURE PAGE

To

North Central New Mexico Economic Development District
REDI Net Middle Mile Broadband Network Joint Powers Agreement

Dated as of _____

PUEBLO OF TESUQUE

Governor Mark Mitchell

SIGNATURE PAGE

To

North Central New Mexico Economic Development District
REDI Net Middle Mile Broadband Network Joint Powers Agreement

Dated as of _____

LOS ALAMOS COUNTY

Sharon Stover, Council Chair

SIGNATURE PAGE

To

North Central New Mexico Economic Development District
REDI Net Middle Mile Broadband Network Joint Powers Agreement

Dated as of _____

PUEBLO DE SAN ILDEFONSO

Governor Perry Martinez

SIGNATURE PAGE

To

North Central New Mexico Economic Development District
REDI Net Middle Mile Broadband Network Joint Powers Agreement

Dated as of _____

PUEBLO OF SANTA CLARA

Governor Walter Dasheno

SIGNATURE PAGE

To

North Central New Mexico Economic Development District
REDI Net Middle Mile Broadband Network Joint Powers Agreement

Dated as of _____

SANTA FE COUNTY

Virginia Vigil, County Commission Chair

SIGNATURE PAGE

To

North Central New Mexico Economic Development District
REDI Net Middle Mile Broadband Network Joint Powers Agreement

Dated as of _____

SANTA FE COUNTY

Virginia Vigil, County Commission Chair

Approved as to form
Santa Fe County Attorney

By: _____

Date: 11-3-11

-so long as memorandum of agreement concerning section 4(B) is executed

SIGNATURE PAGE

To

North Central New Mexico Economic Development District
REDI Net Middle Mile Broadband Network Joint Powers Agreement

Dated as of _____

NORTH CENTRAL NEW MEXICO ECONOMIC DEVELOPMENT DISTRICT

Nick Salazar, Chairman of the Board

SIGNATURE PAGE

To

North Central New Mexico Economic Development District
REDI Net Middle Mile Broadband Network Joint Powers Agreement

Dated as of _____

PUEBLO OF POJOAQUE

Governor George Rivera

EXHIBIT "A"

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EXHIBIT “B” – SAMPLE COVENANT OF PURPOSE, USE AND OWNERSHIP FORM

Covenant of Purpose, Use and Ownership

THIS COVENANT OF PURPOSE, USE AND OWNERSHIP (hereinafter called “Covenant”) dated this ___ day of _____, 20___, by and between _____, whose address is _____ (hereinafter with its successors and assigns called “Recipient”); and the National Telecommunications and Information Administration, U.S. Department of Commerce, whose address is 1401 Constitution Avenue, N.W., Room 4812, Washington, D.C. 20230 (hereinafter with successors and assigns called “NTIA”).

RECITALS

WHEREAS, Recipient submitted an application to NTIA for financial assistance under the Broadband Technology Opportunities Program (“BTOP”), pursuant to the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, 123 Stat. 115 (Feb. 17, 2009) (hereinafter the “Act”); and

WHEREAS, by Offer of Award, dated _____, NTIA offered to Recipient a financial assistance award designated as Award No. _____ (the “Award”) in the amount of \$ _____ (hereinafter called “Award Amount”) to assist in financing _____ (hereinafter called “Project”); and

WHEREAS, to execute such Project, Recipient has acquired or improved real property in whole or in part with funds made available through the Award [or applicable real property interest] described in Exhibit “A” attached hereto and incorporated herein (hereinafter with all improvements called the “Property”); and

WHEREAS, on _____, Recipient accepted the Award by signing Form CD-450 (together with all documents attached thereto or incorporated therein, the “Award Agreement”) issued in connection with the Project and pertaining to the Award Number, thereby binding itself and making itself subject to the terms and conditions contained in the Award Agreement including, without limitation, the applicable requirements of 15 Code of Federal Regulations (C.F.R.), Parts 14 or 24, as applicable, and the terms of the First Notice of Funds Availability, 74 Fed. Reg. 33104 (Jul. 9, 2009) or the Second Notice of Funds Availability, 75 Fed. Reg. 3792 (January 22, 2010), as applicable; and

WHEREAS, the Award Agreement provides the purposes for which the Award Amount may be used and provides, inter alia, that Recipient holds title to the Property in trust for the public purposes of the Project, and may not sell, lease, transfer, convey, hypothecate, mortgage, or otherwise alienate any right to or interest in the Property, or use the Property for purposes other than, and different from, those purposes set forth in the Award Agreement and the application made by Recipient therefore (hereinafter called

“Project Purposes”), such alienation and use being prohibited by 15 C.F.R. Parts 14 or 24, as applicable, and the Award Agreement, without the prior written approval of the BTOP Grants Officer, or his /her designee or successor (hereinafter called the “Grants Officer”); and

WHEREAS, under the authority of the Act and the Award Agreement, Recipient may not use the Property for purposes other than Project Purposes and may not lease, sell, transfer, convey, mortgage or hypothecate or otherwise alienate the Property to any party without prior written approval from the Grants Officer, unless NTIA is repaid its Federal Interest in the Property, as defined and more particularly described herein; and

WHEREAS, Recipient, as owner of all or part of the Property, agreed to record this Covenant in the appropriate office for the recording of public records affecting real property in the jurisdiction where the Property is located so as to constitute notice to all persons of the restrictions contained herein on title to and use of the Property for the benefit of the public purposes of the Project; and

WHEREAS, the _____
located at _____
is the proper office to record this Covenant:

NOW THEREFORE, in consideration of financial assistance rendered and/or to be rendered by NTIA and of other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, and to assure that the benefits of the Project will accrue to the public and be used as intended by both NTIA and Recipient, Recipient hereby covenants and agrees as follows:

1. For purposes of this Covenant, the useful life of the Property is set forth in Exhibit A, as determined by the BTOP Schedule of the Useful Life of Property, attached as Exhibit B hereto.
2. Recipient agrees that for the useful life set forth above, Recipient will not lease, sell, transfer, convey, hypothecate, mortgage, or otherwise alienate any interest in the Property, nor shall Recipient use the Property for purposes other than the Project Purposes without the prior written approval of the Grants Officer. However, such approval may be withheld until such time as Recipient first pays to NTIA the Federal Interest (as hereinafter defined) in the Property as provided in 15 C.F.R. Part 14 or Part 24, as applicable. The Federal Interest is that percentage of the then current fair market value of the Property attributable to the NTIA participation in the Project (after deducting actual and reasonable selling and fix-up expenses, if any, incurred to put the property into condition for sale). The Federal share excludes that value of the Property attributable to acquisition or improvements before or after NTIA’s participation in the Project and not included in Project costs. As of the date of this Covenant, it is hereby agreed that NTIA’s percentage participation in the Project is [this percentage is equal to the federal share ratio under the BTOP award (XX%) percent.

3. Recipient further covenants that in the event NTIA permits the Property to be used for purposes other than the Project Purposes, or if the Property is sold, leased, transferred, conveyed, hypothecated, mortgaged, or otherwise alienated, Recipient will compensate the Federal Government for the Federal Interest in the Property. Such Federal Interest shall be and is hereby made a charge and lien of the first priority against the Property until fully satisfied.
4. Recipient further agrees that, as a condition of accepting the disbursement of any portion of the Award Amount, Recipient shall provide NTIA with evidence that it has executed and placed on record against the Property, this Covenant and shall provide the Grants Officer with evidence of such recording. NTIA will in its sole discretion determine whether this Covenant is satisfactory and may require an opinion of counsel for the Recipient that: (i) the Covenant is valid and enforceable according to its terms; (ii) the Covenant has been properly recorded; and (iii) that there is no lien or encumbrance on or pertaining to the Property superior to the Covenant.
5. Recipient further agrees that whenever the Property is sold, leased, or otherwise conveyed, Recipient or the transferor shall add to the instrument of conveyance, pursuant to the requirement of 15 C.F.R. Part 14, a covenant of purpose, use and ownership. NTIA will, in its sole discretion, determine whether such covenant is satisfactory. In connection with any such transfer, NTIA may require an opinion of counsel for the Recipient or for the transferor that the covenant is valid and enforceable according to its terms and has been properly recorded.
6. It is stipulated and agreed that the terms hereof constitute a reasonable restraint on alienation of use, control, and possession of or title to the Property given the Federal Interest expressed herein.
7. This Covenant shall run with the land.
8. This Covenant shall be construed in a manner consistent with the terms and conditions of the Award Agreement and applicable regulations; provided, however, that if there is a conflict, the terms and conditions of the Award Agreement shall control.

IN WITNESS WHEREOF, the recipient has hereunto set their hand as of the day and year first above written by their duly authorized officer. A completed duly recorded copy of this Covenant shall be forwarded to NTIA. (The appropriate acknowledgment must be included for recording in Recipient's jurisdiction.)

Recipient:

By: _____

Title: _____

ATTEST:

By: _____

Title: _____

Exhibit A (Legal Description of the Property)

Exhibit B (BTOP Schedule of the Useful Life of Property)

REDI JPA

Previously Approved by BCC June 28, 2011

JOINT POWERS AGREEMENT
FOR MANAGEMENT OF THE REDI MIDDLE-MILE BROADBAND NETWORK
BY AND AMONG THE NORTH CENTRAL NEW MEXICO ECONOMIC
DEVELOPMENT DISTRICT, THE INCORPORATED COUNTY OF LOS ALAMOS,
SANTA FE COUNTY, THE CITY OF ESPANOLA, RIO ARRIBA COUNTY, OHKAY
OWINGEH, THE PUEBLO OF SANTA CLARA, THE PUEBLO OF POJOAQUE,
AND THE PUEBLO OF TESUQUE

THIS JOINT POWERS AGREEMENT (the "Agreement") is entered into by and among the Incorporated County of Los Alamos, New Mexico, Santa Fe County, New Mexico, the City of Espanola, New Mexico, Rio Arriba County, New Mexico, Ohkay Owingeh, the Pueblo of Santa Clara Pueblo, the Pueblo of Pojoaque and the Pueblo of Tesuque (each a "Local Party" and together, the "Local Parties"), and the North Central New Mexico Economic Development District (hereinafter "NCNMEDD" and, together with the Local Parties, the "Parties").

WHEREAS, NCNMEDD is a Council of Governments formed in 1967 under the authority of the Joint Powers Agreement Act, Section 4-22-1 to 4-22-7, New Mexico State Statutes Annotated, 1953 Compilation;

WHEREAS, the Incorporated County of Los Alamos, New Mexico, Santa Fe County, New Mexico, the City of Espanola, New Mexico, Rio Arriba County, New Mexico are each New Mexico municipalities or counties, created and existing pursuant to the Constitution and laws of the State of New Mexico (the "State"); and

WHEREAS, Ohkay Owingeh, the Pueblo of Santa Clara Pueblo, the Pueblo of Pojoaque and the Pueblo of Tesuque are each Federally Recognized Tribes, existing as independent and self-governing sovereigns ; and

WHEREAS, northern New Mexico currently lacks affordable, high-speed broadband services to support economic development, education and distance learning, health care and telemedicine, and advanced public safety and energy applications required to improve the quality of life and ensure the health, safety and welfare of the region's residents; and

WHEREAS, NCNMEDD applied for and was awarded federal funds from the Broadband Technology Opportunities Program ("BTOP"), National Technology and Information Administration ("NTIA"), US Department of Commerce (the "BTOP Grant"), for the REDI Middle-Mile Network (hereinafter "REDI Net"), a high-speed, open access broadband network to be deployed within the jurisdictional boundaries of the Local Parties in northern Santa Fe County, Los Alamos County and southern Rio Arriba County, New Mexico; and

WHEREAS, the construction cost of REDI Net is estimated to be \$13,391,443.00, which will be paid with federal funds in the amount of \$10,565,792.00, and \$2,825,651.00 in cash and in-kind match contributed by the Local Parties and other regional entities as described in Section 3 below; and

WHEREAS, as the BTOP Grant recipient, NCNMEDD, is directly responsible for assuring that the expenditure of BTOP Grant funds in connection with the design, construction and implementation of REDI Net complies with the Federal Requirements; and

WHEREAS, REDI Net consists of approximately 150 miles of fiber optic cable and associated equipment which crosses the jurisdictional boundaries of the Local Parties and will be installed primarily on existing electric utility poles; and

WHEREAS, subject to the availability of sufficient annual appropriations, the Local Parties will be responsible for securing necessary easements and rights of way, for construction, permitting and other construction-related activities and oversight, and have direct interests in assuring that the design, construction and implementation of REDI Net will meet their local needs and requirements, within the framework of the BTOP Grant provisions and the Federal Requirements as that term is defined in Section 1 below; and

WHEREAS, based on their respective interests and responsibilities, NCNMEDD and the Local Parties recognize that they should collectively manage the design, construction, implementation, and operation of REDI Net in a manner that enables NCNMEDD, as BTOP Grant recipient, to monitor and assure compliance with all BTOP Grant and the Federal Requirements; and

WHEREAS, NCNMEDD shall act as the fiscal agent for REDI Net and shall be responsible for all reporting and assuring compliance required by the BTOP grant; and

WHEREAS, the Parties share common powers with respect to providing infrastructure and promoting economic development, education and public safety for the benefit of their residents ;

WHEREAS, the Parties are authorized by the Joint Powers Agreements Act, Sections 11-1-1 through 11-1-7 NMSA 1978 (the "Act"), to create a joint powers authority for the purpose of exercising powers common to the Parties; and

WHEREAS, the Parties desire to create a joint powers authority pursuant to the Act for the purposes described in, and subject to the requirements of, this Agreement.

NOW THEREFORE, the Parties hereby agree as follows:

Section 1. Compliance with Grant Funding Requirements. The Parties shall construct, implement and manage REDI Net in compliance with the American Recovery and Reinvestment Act of 2008 ("ARRA") and all federal regulations promulgated in

relation thereto; the requirements of BTOP, including the Notice of Federal Funding Opportunity ("NOFA") and the grant agreement and conditions; and the purposes for which the BTOP grant was made, and all Federal Communications Commission requirements now in effect or as may become effective the during of this Agreement (collectively, the "Federal Requirements"). Changes to the grant agreement for REDI Net, including but not limited to engineering design, organizational model, business plan, service offerings, rate structure, and disposal or transfer of all or part of REDI Net's physical assets may require approval from the NTIA, and the United States Department of Commerce. The Parties hereby affirm the core purposes and operational details of REDI Net:

- A. Open Access Network: REDI Net shall offer wholesale bandwidth to all qualified service providers within the range of its network at reasonable rates and, where practicable, below-market rates as an open access network intended to encourage competition, improve service, increase customer choice and reduce costs to the end user;
- B. Community Institutions and Rates: REDI Net shall provide high-speed broadband services to community anchor institutions within the range of its network, which shall include government buildings , Schools, libraries, medical and healthcare providers, public safety entities, community colleges and other institutions of higher education, and other community support organizations and agencies that provide outreach, access, equipment and support services to facilitate the greater use of broadband service by vulnerable populations, including low-income, unemployed and senior citizens, at affordable rates determined by reference to prevailing market rates;
- C. Reinvestment of Revenues: As required by the BTOP Grant, all revenues generated by the network shall be reinvested by the REDI Net Board ("REDI Net Board" as further described in Section 2 of this Agreement) in expansion, operation and maintenance of the network, and shall not be distributed to the Parties or any individual Party; and
- D. Public-Private Partnerships: REDI Net shall employ the private sector partnerships identified in the BTOP grant application, including in-kind network management by Kit Carson Telecom for three (3) years, and long-term outside plant operation and maintenance by Jemez Mountains Electric Cooperative and the Los Alamos County Utility Department; and
- E. Applicable Policy: BTOP Grant and project implementation for REDI Net shall follow the adopted policies of NCNMEDD, including but not limited to procurement and accounting policies,

the NCNMEDD code of conduct and the Federal Code of Conduct, as required by the BTOP grant. In executing this agreement, each party acknowledges and agrees that it has received and read each of the above-referenced policies and agrees to bound by the terms of the policies in the REDI Net project implementation and management.

Section 2. Governance of REDI Net. REDI Net will be governed by the Parties through the REDI Net Board pursuant to the following conditions:

- A. Membership: The REDI NET Board shall be composed of one representative from each Local Party, appointed by the governing body of each Party, and one representative of NCNMEDD appointed by its governing body.
- B. Qualifications: REDI NET Board members should have expertise, professional experience and/or education in telecommunications, engineering, finance and/or business management.
- C. Responsibility: Each REDI NET Board member shall provide regular updates to its governing body on REDI Net activities and decisions, and shall request governing body guidance and input on REDI Net activities and decisions, as required.
- D. Terms: There is no maximum term for service on the REDI NET Board. Each member shall be appointed by the governing body it represents for at least one (1) year. The governing body may appoint a new member to the REDI NET Board at any time after the initial one-year term, provided however, that any member may be terminated by its governing body in its sole discretion with or without cause. If any member misses three (3) consecutive meetings, the governing body shall appoint a new member to the REDI NET Board no later than the next meeting of the REDI Net Board .
- E. Purpose of the REDI NET Board and Common Powers of the Parties: The REDI NET Board is established to oversee construction, implementation, and long-term management of REDI Net. The REDI NET Board shall have the following powers:
 - (i) To adopt bylaws, procedures, processes or criteria for the conduct of its affairs as it deems necessary or convenient.
 - (ii) To make all decisions relating to REDI Net's construction, operation and maintenance during the three (3) year grant period, including but not limited to:

- (a) Contracts for professional services, construction and any other contracts needed during the three (3) year grant period;
 - (b) Identification of a long-haul transport provider; and
 - (c) Additional private sector partnerships not contemplated in the BTOP grant application for infrastructure and/or services.
- (iii) To manage REDI Net's long-term operation, management and maintenance, including but not limited to:
- (a) Entering into contracts for marketing, network operations, service-provider recruitment and all other contracts;
 - (b) Entering into agreements with Local Parties and third parties for the provision of broadband service ("Service Agreements");
 - (c) Making other contractual or administrative arrangements for REDI Net management, which may include, without limitation, contracting with a third party or parties for management services, delegating management responsibility to one or more Parties, or entering into other legally permissible agreements or arrangements for management of REDI Net;
 - (d) Forming partnerships, agreements or business arrangements to the extent that the Parties are permitted by law to do so;
 - (e) Developing and approving an annual budget, to include projecting sufficient revenue for operations and maintenance on a multi-year basis;
 - (f) Formulating Network expansion plans;
 - (g) Establishing criteria for revenue reinvestment; and
 - (h) Establishing revenue reinvestment capital improvements plan.

F. Meetings: Meetings of the REDI NET Board shall be held at least quarterly and at such additional times and in such locations as the REDI NET Board or NCNMEDD determines. It is anticipated that meetings will occur more frequently during the BTOP Grant period.

G. Meeting Protocol: REDI NET Board meetings shall be held in compliance with the New Mexico Open Meetings Act, Sections 10-15-1 through 10-15-4 NMSA 1978. NCNMEDD shall keep minutes of all REDI NET Board meetings. As provided in the bylaws or other procedures adopted by the REDI Net Board, each REDI NET Board member shall be entitled to cast one vote in connection with any action to be taken by the REDI NET Board.

Section 3. Financial Contributions of the Local Parties. The Local Parties shall provide the contributions described in this Section to fulfill the required cash and in-kind match requirements for the BTOP grant with twenty percent (20%) non-federal funds (the "Local Match Requirement"). In no event shall the aggregate amount of the contributions by the Local Parties fall below the Local Match Requirement.

A. Los Alamos County shall deposit \$400,000 in cash into NCNMEDD's interest-bearing project account for REDI Net no later than December 31, 2010;

B. Rio Arriba County shall deposit at least \$50,000.00 in cash into NCNMEDD's interest-bearing account for REDI Net each month for fourteen (14) months, or until \$700,000.00 is deposited in the account, beginning July 31, 2011;

C. REDI Net shall dedicate \$170,000.00 in cash from program income during or before the last three months of network construction;

D. Los Alamos County shall provide existing conduit, fiber, and a secondary Point of Presence facility, together valued at \$625,000.00, as an in-kind contribution which shall be incorporated into REDI Net;

E. The City of Espanola shall provide \$20,000.00 in existing fiber optic infrastructure as an in-kind contribution which shall become part of REDI Net; and

F. Other cash and in-kind contributions governed by separate agreements are hereby incorporated by reference:

(i) Los Alamos National Security, LLC: Cash contribution of \$170,000.00;

(ii) Northern New Mexico College: In-kind contribution valued at \$5,000.00 to provide a fiber operation and maintenance training program for electric utility linemen; and

(iii) Jemez Mountains Electric Cooperative: In-kind contribution of pole attachment fees valued at \$686,000.00.

G. Contributions of tribal land for this project are hereby recognized as substantial financial contributions to REDI Net, although their value was not calculated for the BTOP grant. Recognizing tribal infrastructure ownership in REDI Net and REDI Net's status as a publically-owned network that relies on reinvestment, the Local Parties that are tribal governments have established valuations of their lands to record their initial contributions to REDI Net; provided, that these valuations shall apply for the purposes of this agreement only and are not intended to reflect fair market value of any easements or rights-of-way. The valuations below represent estimates based on a per-acre cost negotiated with each tribal government and multiplied by the estimated number of miles of fiber optic cable running through tribal lands and the width of the corresponding electric utility easement. These valuations will be recalculated and recorded in Exhibit A, based on precise boundaries and acreage for tribal ownership determined by final engineering for REDI Net.

Ohkay Owingeh: \$727,273.00

Pojoaque: \$575,757

Santa Clara Pueblo: \$509,091

Tesuque Pueblo: \$424,242

H. Additional contributions of cash or rights-of-way, easements and land made by the a Local Party after the effective date of this Agreement and before the end of the BTOP Grant period will be valued at an amount agreed upon by that Local Party the REDI Net Board and will be counted toward the initial financial contribution of the Local Parties.

Section 4. Roles and Responsibilities of the Parties. The Parties commit to the following roles and responsibilities, subject to the Federal Requirements:

A. REDI NET Board Membership: Each Party shall appoint a representative to and actively participate as a member of the REDI NET Board.

B. Commitment to Purchase Service: Unless prohibited or otherwise limited by any existing service contracts or service arrangements, and subject to the provisions of Section 11 of this Agreement, each Local Party shall purchase services for its community anchor institutions from

REDI Net for a minimum of five (5) years from the Service Agreement date, either exclusively from REDI Net or, if REDI Net is not able to meet the service demands of a Local Party, at the service level that REDI Net can provide to that Local Party. Following the expiration of the five-year Service Agreement term, it is anticipated that the Local Parties will continue to purchase services from REDI Net at a level that will, in the reasonable determination of the REDI Net Board, enable REDI Net to avoid operating losses and will promote open access, sustainability and expansion of REDI Net to serve existing and anticipating demand for services.

C. Procurement of Services During Construction: The procurement decisions of the REDI Net Board during the BTOP Grant period shall be monitored, and to the extent required by the BTOP Grant conditions, ratified or approved by NCNMEDD, provided that such ratification or approval shall not be withheld except to the extent necessary, in the reasonable discretion of NCNMEDD, to assure its compliance with the Federal Requirements.

D. Infrastructure Installation: Each Local Party shall allow the installation of fiber optic cable and associated network equipment upon, through or over its lands without imposing fees, taxes or any other charges on REDI Net or NCNMEDD. No Local Party shall impose fees, taxes or charges of any other kind to any third party owner of utility lines in connection with the installation of fiber optic cable or other improvements to be incorporated into REDI Net. Nothing in this Agreement shall be construed as preventing any Local Party from receiving its appropriate share of gross receipts taxes payable by any person or entity for goods or services provided in connection with the construction or installation of fiber optic cable and associated network equipment under the terms of this Agreement.

E. Rights-of-Way and Easements: Subject to the provisions of Section 11 of this Agreement, where required, each Local Party shall provide rights-of-way or easements for installation of fiber optic cable and associated network equipment without imposing fees, taxes or any other charges to REDI Net or NCNMEDD.

F. Infrastructure Ownership and Federal Security Interest. Each Local Party that is a county government shall own that portion of REDI Net infrastructure situated within its jurisdictional boundaries with the following exceptions: 1) Local Parties that are tribal governments shall own REDI Net infrastructure within their tribal lands, and 2) the City of Espanola shall own existing fiber optic infrastructure which it has committed as an in-kind match to REDI Net in Section 3F of this

Agreement. Infrastructure ownership by the Local Parties is subject to the following provisions:

(i) Due to complex land tenure patterns among tribal and local government jurisdictions, boundaries for tribal land ownership shall be substantially consistent with the tribal lands identified by Jemez Mountains Electric Cooperative for electric rights-of-way.

(ii) An ownership map showing the acreage owned by each Local Party shall be produced during final engineering and shall be incorporated into this Agreement as Exhibit A.

(iii) Infrastructure ownership shall be subject to a Federal Security Interest, established through the Covenant of Purpose, Use and Ownership, which shall be recorded, in the form attached hereto as Exhibit B, in the real property records of Santa Fe, Rio Arriba and Los Alamos Counties, or in the case of Local Parties that are tribal governments, in the land records of each respective tribal government.

(iv) Notwithstanding proportional ownership of infrastructure by each Local Party as described above, the REDI Net Board shall be solely responsible for operating all infrastructure owned by each of the Parties subject to NCNMEDD's oversight responsibility as described in Section 7 below.

Section 5. Exercise of Powers. The REDI NET Board is hereby authorized to exercise any and all of the common powers described in Section 2E of this Agreement without further authorization or ratification by the governing body of each Party.

Section 6. Effective Date, Term and Termination.

A. This Agreement shall be effective upon approval by the New Mexico Department of Finance and Administration ("DFA").

B. The term of this Agreement shall be 20 years, which is the useful life of the project, as provided in the United States Department of Commerce's Covenant of Purpose, Use and Ownership, and may be extended by mutual consent of the Parties at the end of this term.

C. If REDI Net remains suitable for operation beyond the initial 20 year term and some but not all the Parties desire to extend the term of this Agreement, a Local Party may terminate its status as a party to this Agreement but hereby agrees to permit the ongoing use of REDI Net fiber lines and other broadband infrastructure within its jurisdictional boundaries for operation of the network. The terms of such arrangement shall be negotiated by the withdrawing Local Party and the REDI Net Board, and may include, without limitation, purchase or lease of the infrastructure by the REDI Net Board

from the withdrawing Local Party, at reasonable rates determined in reference to the operating budget of REDI Net and in consideration of past improvements made to the infrastructure. The withdrawing Local Party shall not refuse to permit REDI Net's ongoing use of the REDI Net infrastructure within that Local Party's jurisdictional boundaries in a manner that prevents REDI Net's ongoing operation.

Section 7. Appointment of Fiscal Agent; Strict Accountability of all Receipts and Disbursements. NCNMEDD shall act as Fiscal Agent in connection with the administration, disbursement, reporting and monitoring of the BTOP Grant and shall be strictly accountable for all receipts and disbursements thereunder and under this Agreement until construction of REDI Net, transfer of REDI Net assets to the Local Parties have been completed and NCNMEDD has verified that its responsibilities as BTOP Grant recipient have been satisfied. Following expiration of the BTOP Grant Period (as defined in the BTOP Grant requirements), REDI Net Board shall either extend the term of NCNMEDD as fiscal agent, or appoint a new fiscal agent, which in either case shall be strictly accountable for all receipts and disbursements hereunder.

Section 8. Disposition of Property Acquired Pursuant to this Agreement.

A. The Parties anticipate that REDI Net assets will be conveyed to that Local Party as shown in Exhibit A. The Parties anticipate that they will contribute funds or make in-kind contributions as provided in this Agreement, each from sources designated by the governing body of that Local Party or otherwise approved.

B. As provided by the BTOP Grant, surplus funds generated by REDI Net are to be reinvested in REDI Net to upgrade technology and infrastructure of REDI Net, and the parties do not anticipate that other surplus property or funds will remain at the time this Agreement is terminated. Notwithstanding, any surplus property or funds which may remain at the time this Agreement is terminated shall be returned to each Local Party and to NCNMEDD, in proportion to the cash and in-kind contributions made by that Local Party or NCNMEDD; provided that any such distribution of property or funds shall comply with the Federal Requirements.

Section 9. Severability. If any provision, clause, section, subsection or article of this Agreement is found to be invalid, illegal, unenforceable for any reason, the invalidity, illegality or enforceability of such provision, clause, section, subsection or article shall not affect the remaining provisions of the Agreement.

Section 10. Privileges and Immunities. All of the privileges and immunities from liability, exemptions from laws, ordinances and rules, all pension, relief, disability, workers' compensation and other benefits which apply to the activity of officers, agents or employees of any such public agency when performing their respective functions within the territorial limits of their respective public agencies, shall apply to them to the same extent while engaged in the performance of any of their functions and duties extraterritorially under the provisions of the Act, as provided in Section 11-1-6 NMSA 1978.

Section 11. Obligations Conditioned on Sufficient Annual Appropriations. The obligations of the Local Parties under this Agreement are conditioned upon the availability of sufficient annual appropriations by the governing bodies of the Local Parties.

Section 12. Governing Law. This Agreement shall be governed by the laws of the State of New Mexico; provided that, with respect to any Local Party that is a tribal government, it is hereby recognized that the powers and status of such Party, as a tribal government, is subject to the laws of the United States.

Section 13. Alternative Dispute Resolution. Disputes among Parties arising in connection with this Agreement shall be submitted to mediation, arbitration, or other alternative dispute resolution process, as determined by the REDI Net Board, and to the extent that such process is permissible under the governing law applicable to the disputing Parties.

Section 14. Counterparts. This Agreement may be executed in counterpart originals.

Section 15. Amendment; Addition of Parties in the Future. This Agreement shall not be altered, changed, or amended except by instrument in writing executed by the Parties and approved by the DFA; provided, that the Pueblo de San Ildefonso may, at its election, become a Local Party to this Agreement, and this Agreement, shall be amended accordingly and shall include a description of the financial and/or in-kind contribution to be made by the Pueblo de San Ildefonso. So long as no other provision of this Agreement is amended, the foregoing modifications to this Agreement shall not require approval by DFA.

Section 16. Entire Agreement. This Agreement constitutes the entire agreement and understanding of the Parties with respect to the subject matter hereof.

SIGNATURE PAGE

To

North Central New Mexico Economic Development District
REDI Net Middle Mile Broadband Network Joint Powers Agreement

Dated as of _____

OHKAY OWINGEH

Governor Ron Lovato

SIGNATURE PAGE

To

North Central New Mexico Economic Development District
REDI Net Middle Mile Broadband Network Joint Powers Agreement

Dated as of _____

CITY OF ESPANOLA

Alice Lucero, Mayor

SIGNATURE PAGE

To

North Central New Mexico Economic Development District
REDI Net Middle Mile Broadband Network Joint Powers Agreement

Dated as of _____

RIO ARRIBA COUNTY

Alfredo Montoya, County Commission Chair

SIGNATURE PAGE

To

North Central New Mexico Economic Development District
REDI Net Middle Mile Broadband Network Joint Powers Agreement

Dated as of _____

PUEBLO OF TESUQUE

Governor Frederick Vigil

SIGNATURE PAGE

To

North Central New Mexico Economic Development District
REDI Net Middle Mile Broadband Network Joint Powers Agreement

Dated as of _____

LOS ALAMOS COUNTY

Michael E. Wismer, Council Chair

SIGNATURE PAGE

To

North Central New Mexico Economic Development District
REDI Net Middle Mile Broadband Network Joint Powers Agreement

Dated as of _____

PUEBLO DE SAN ILDEFONSO

Governor Perry Martinez

SIGNATURE PAGE

To

North Central New Mexico Economic Development District
REDI Net Middle Mile Broadband Network Joint Powers Agreement

Dated as of _____

PUEBLO OF SANTA CLARA

Governor Walter Dasheno

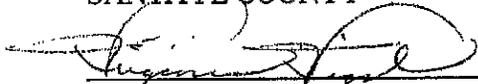
SIGNATURE PAGE

To

North Central New Mexico Economic Development District
REDI Net Middle Mile Broadband Network Joint Powers Agreement

Dated as of _____

SANTA FE COUNTY



Virginia Vigil, County Commission Chair

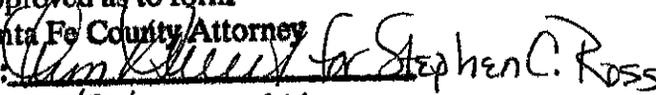
ATTEST:



VALERIE ESPINOZA
COUNTY CLERK

Approved as to form

Santa Fe County Attorney

By:  for Stephen C. Ross

Date: 10 June 2011



SIGNATURE PAGE

To

North Central New Mexico Economic Development District
REDI Net Middle Mile Broadband Network Joint Powers Agreement

Dated as of _____

NORTH CENTRAL NEW MEXICO ECONOMIC DEVELOPMENT DISTRICT

Nick Salazar, Chairman of the Board

SIGNATURE PAGE

To

North Central New Mexico Economic Development District
REDI Net Middle Mile Broadband Network Joint Powers Agreement

Dated as of _____

PUEBLO OF POJOAQUE

Governor George Rivera

EXHIBIT "A"

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EXHIBIT "B"

COVENANT OF PURPOSE, USE AND OWNERSHIP

THIS COVENANT OF PURPOSE, USE AND OWNERSHIP dated this _____ day of _____, 2010, by and between _____

whose address is _____

(hereinafter with its successors and assigns called "Recipient"); and the BROADBAND TECHNOLOGY OPPORTUNITIES PROGRAM, NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION, UNITED STATES DEPARTMENT OF COMMERCE, UNITED STATES OF AMERICA, whose address is 1401 Constitution Avenue NW, Washington, DC 20230 (hereinafter with its successors and assigns called "BTOP").

RECITALS:

WHEREAS, the North Central New Mexico Economic Development District submitted an application, designated as BTOP Project No. NT 10BIX5570116, for financial assistance pursuant to the American Recovery and Reinvestment Act of 2008, (hereinafter the "Act"); and

WHEREAS, by offer of the Award, dated August 1, 2010, BTOP offered to the North Central New Mexico Economic Development District a financial assistance award in the amount of \$10,565,792.00 (hereinafter called "Award Amount") to assist in financing the REDI Middle Mile Broadband Network (hereinafter called "Project"); and

WHEREAS, said Project included acquisition of and/or specifically improving real property described in Exhibit "A" attached hereto and incorporated herein (hereinafter with all improvements thereon called "Property"); and

WHEREAS, on _____, Recipient accepted the Offer of Award (hereinafter called "Award Agreement") subject to certain terms and conditions, pursuant to which Recipient covenanted and agreed to comply with the applicable requirements of 13 Code of Federal Regulations, Part 314; and

WHEREAS, the Award Agreement provides the purposes for which the Award Amount may be used and provides, inter alia, that Recipient will not sell, lease, mortgage, or otherwise alienate any right to or interest in the Property, or use the Property for purposes other than, and different from, those purposes set forth in the Award Agreement and the application made by Recipient therefore (hereinafter called "Project Purposes") such alienation and use being prohibited by 13 CFR Part 314 and 15 CFR Part 24, and 15 CFR Part 14; and

WHEREAS, under the authority of the Act, BTOP is not authorized to permit Recipient to use the Property for purposes other than the Project Purposes or to lease transfer, convey, mortgage, or hypothecate the Project to any party without prior approval from BTOP, unless BTOP is repaid its share of the market value of the Project, as set forth below;

WHEREAS, Recipient, as owner of all or part of the real property described in Exhibit "A," attached hereto, agreed to record this Covenant in the appropriate office for the recording of public records affecting real property so as to constitute notice to all persons of any and all restrictions on title to and use of the Project and all or part of the real property described in Exhibit "A" and attached hereto; and

WHEREAS, the _____
located at _____
is the proper office to record this Covenant;

NOW THEREFORE, in consideration of financial assistance rendered and/or to be rendered by BTOP and of other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, and to assure that the benefits of the Project will accrue to the public and be used as intended by both BTOP and Recipient, Recipient hereby covenants and agrees as follows:

1. The estimated useful life of the Project is 20 years as determined by BTOP.
2. Recipient agrees that for the estimated useful life set forth above, Recipient will not sell, transfer, convey, or mortgage any interest in the real property acquired or improved in whole or in part with the funds made available through this Award, nor shall Recipient use the Property for purposes other than the Project Purposes without the prior written approval of the Assistant Secretary, National Telecommunications and Information Administration or his or her successor. Such approval may be withheld until such time as Recipient first pays to BTOP the amount of the award funds disbursed or, at the option of BTOP, the federal government's share of the Property as provided in the Code of Federal Regulations, Title 13, Part 314. The federal government's fair share of the Property shall be the amount computed by multiplying the percentage of the federal participation in the total cost of the grant program to the fair market value of the Property at the time of the unauthorized use or conveyance of the Property.
3. Recipient further covenants that in the event the Property is used for purposes other than the Project Purposes, or is sold, leased, transferred, conveyed or mortgaged without the prior written approval of the Assistant Secretary, Recipient will compensate the federal government in the amount of the grant funds disbursed or at the option of the federal government, the federal government's fair share of the Property as described above.

4. Pursuant to 13 CFR 314, Recipient further agrees that, as a prerequisite to accepting the disbursement of any award funds by BTOP, Recipient shall execute and place on record against the property acquired or improved in whole or in part with the funds made available through this Award, this Covenant of Purpose, Use and Ownership. Recipient further agrees that whenever the Property is sold, leased or otherwise conveyed pursuant to the Code of Federal Regulations, Title 13, Part 314, Recipient or the transferor shall add to the document conveying such interest a Covenant of Purpose, use and Ownership. BTOP will in its sole discretion determine whether the Covenant is satisfactory. BTOP may require an opinion of counsel for Recipient that the Covenant is valid and enforceable according to its terms and has been properly recorded.

5. It is stipulated and agreed that the terms hereof constitute a reasonable restraint on alienation of use, control, and possession of or title to the Property given the federal interest expressed herein.

6. This Covenant shall run with the land.

IN WITNESS WHEREOF, the Recipient has herunto set their hand as of the day and year first above written by their duly authorized officer. A completed duly recorded copy of this Covenant shall be forwarded BTOP. (The appropriate acknowledgment must be included recording in Recipient's jurisdiction).

Recipient

By _____
Title

ATTEST:

By _____

Title _____

**SANTA FE COUNTY
MEMORANDUM**

DATE: December 13, 2011

TO: Board of County Commissioners

FROM: Duncan Sill 

RE: Request Approval of Memorandum of Agreement Between Santa Fe County and REDI Net Middle-Mile Broadband Network

Cc: REDI Net file; Penny Ellis-Green, Deputy County Manager; Jack Kolkmeier, Growth Management; Stephen Ross, County Attorney

Background:

A regional grant was awarded in August 2010 for \$10.6 million in support of the development of a middle mile broadband infrastructure network with North Central New Mexico jurisdictional and tribal government partners that include Rio Arriba County, Los Alamos County, Santa Fe County, City of Espanola, Ohkay Owingeh, the Pueblo of Santa Clara, the Pueblo of Pojoaque, the Pueblo of Tesuque and North Central New Mexico Economic Development District (NCNMEDD) who is the lead agency and primary grant recipient. A Joint Powers Agreement (JPA) for the management of REDI NET is being formally established.

Current Issue:

While all the other partner parties are agreeable with exclusivity as it relates to Section 4B (Commitment to Purchase Services) of the REDI Net JPA, this section is inapplicable in its entirety to Santa Fe County and its community anchor institutions (“CAIs”). In addition, REDI Net currently cannot provide services to Santa Fe County except for two CAIs—Pojoaque Fire Station and Arroyo Seco Fire Station. Therefore, it is necessary to clarify the above conditions via a memorandum of agreement between Santa Fe County and REDI Net.

Recommendation

Approve Memorandum of Agreement Between Santa Fe County and REDI Net Middle-Mile Broadband Network

Please feel free to contact me at 995-2728 or email me at dsill@santafecounty.org if you have questions or require additional information. Thank you for your prompt assistance and attention.

**MEMORANDUM OF AGREEMENT
BETWEEN SANTA FE COUNTY
AND
REDI NET MIDDLE-MILE BROADBAND NETWORK**

THIS MEMORANDUM OF AGREEMENT (hereinafter "MOA") is entered on this _____ day of _____, 2011 by and between Santa Fe County (hereinafter "County"), a New Mexico political subdivision, and REDI Net Middle-Mile Broadband Network (hereinafter "REDI Net").

RECITALS

WHEREAS, the County wishes to execute this MOA with Redi Net to provide for the County's exception from certain provision of the 2011 Joint Powers Agreement regarding broadband service to be provided by REDI Net.

THEREFORE, IT IS MUTUALLY AGREED BETWEEN THE PARTIES AS FOLLOWS:

1. Section 4.B (Commitment to Purchase Service) of the JPA is inapplicable in its entirety to Santa Fe County and its community anchor institutions.
2. Santa Fe County will designate two community anchor institutions and include additional community anchor institutions when REDI Net is capable of providing service as provided in the JPA and as deemed necessary by the County.

IN WITNESS WHEREOF the parties have duly executed this Agreement as of the dates written below.

SANTA FE COUNTY:

Virginia Vigil, Chair
Santa Fe Board of County Commissioners

Date

ATTEST:

Valerie Espinoza, Santa Fe County Clerk

Date

APPROVED AS TO LEGAL FORM:



Stephen C. Ross, County Attorney

12/5/11

Date

REDI Net Middle-Mile Broadband Network



(signature and title) Exec. Director NCNMEBO

12/5/11

Date