

Administering Agency: Nevada County – County Executive Office

Grant Award Allocation No. _____

Description: Coronavirus Relief Fund (CRF) “Community Broadband Accessibility” Program

GRANT AWARD RECIPIENT AGREEMENT

THIS AGREEMENT is made at Nevada City, California, as of _____, 20__ by and between the County of Nevada, ("County"), and Race Telecommunications Inc. dba Race Communications ("Grant Recipient"), who agree as follows:

1. **Use of Funds:** Grant Recipient agrees to use the Coronavirus Relief Fund (CRF) “Community Broadband Accessibility” Program funds (“CRF Funds”) provided to cover only those costs identified in the submitted 2020 CARES Act Project (“Project”) proposal – Attachment A. Eligible uses of award funds include the cost of projects expected to increase capacity for distance learning, telemedicine, communication/enforcement of public health orders, and telework capabilities in eligible rural areas without sufficient access to broadband as necessary due to the COVID-19 public health emergency during the period that begins on March 1, 2020 and ends on December 30, 2020, in accordance with federal guidance, as specified here:
<https://home.treasury.gov/system/files/136/Coronavirus-Relief-Fund-Frequently-Asked-Questions.pdf>.

Grant Recipient shall ensure that all expenditures of grant funding pursuant to this agreement comply with CARES Act requirements, and Grant Recipient shall reimburse County for any expenditures by Grant Recipient under this Agreement that are deemed by federal or state officials to be unauthorized.

Grant Recipient agrees to comply with the all CRF Fund expenditure requirements.

2. **Grant Fund Allocation** County shall allocate CRF Funds designated specific to the Community Broadband Accessibility Program (“CBA Program”) in support of the Project in the time and in the amount set forth herein. The allocation specified in herein shall be the total payment made to Grant Recipient for the CBA Program pursuant to this Agreement. **The amount of the CRF Funding shall not exceed One Million Dollars (\$1,000,000.00).**
3. **Term** This Agreement shall commence on _____, 20__. All CRF Funds provided by this Agreement shall be expended before December 30, 2020 and reported on per the requirements stated in Section 11. **Agreement Termination Date** of: January 31, 2021.
4. **Exhibits** All exhibits referred to herein and attached hereto are incorporated herein by this reference.
5. **Electronic Signatures** The parties acknowledge and agree that this Agreement may be executed by electronic signature, which shall be considered as an original signature for all purposes and shall have the same force and effect as an original signature. Without limitation, “electronic signature” shall include faxed or emailed versions of an original signature or electronically scanned and transmitted versions (e.g., via pdf) of an original signature.
6. **Time for Performance** Time is of the essence. Failure of Grant Recipient to expend any allocated funding prior to December 30, 2020 shall constitute a return of unspent funds to the County as of the termination date. Grant Recipient shall devote such time to the CBA Program pursuant to this Agreement. Grant Recipient’s unauthorized expenditure of CRF Funds shall constitute a material breach of this Agreement, and in addition to any other remedy available at

law, shall serve as a basis upon which the County may elect to immediately suspend CRF Fund payments, or terminate this Agreement, or both without notice.

7. **Hold Harmless and Indemnification Agreement** To the fullest extent permitted by law, each Party (the "Indemnifying Party") hereby agrees to protect, defend, indemnify, and hold the other Party (the "Indemnified Party"), its officers, agents, employees, and volunteers, free and harmless from any and all losses, claims, liens, demands, and causes of action of every kind and character resulting from the Indemnifying Party's negligent act, willful misconduct, error or omission, or material breach of this Agreement, including, but not limited to, the amounts of judgments, penalties, reimbursements, interest, court costs, legal fees, and all other expenses incurred by the Indemnified Party arising in favor of any party, including claims, liens, debts, personal injuries, death, or damages to property (including employees or property of the Indemnified Party) and without limitation, all other claims or demands of every character occurring or in any way incident to, in connection with or arising directly or indirectly out of, the Agreement and the expenditures of the CRF funding. The Indemnifying Party agrees to investigate, handle, respond to, provide defense for, and defend any such claims, demand, or suit at the sole expense of the Indemnifying Party, using legal counsel approved in writing by Indemnified Party. Indemnifying Party also agrees to bear all other costs and expenses related thereto, even if the claim or claims alleged are groundless, false, or fraudulent. This provision is not intended to create any cause of action in favor of any third party against either Party or to enlarge in any way either Party's liability but is intended solely to provide for indemnification of the Indemnified Party from liability for damages, or injuries to third persons or property, arising from or in connection with Indemnifying Party's performance pursuant to this Agreement. This obligation is independent of, and shall not in any way be limited by, the minimum insurance obligations contained in this agreement. These Hold Harmless and Indemnification provisions shall survive the termination of this Agreement.
8. **Insurance** Director and Officers (D&O) Liability Insurance covering breach of fiduciary duty, misrepresentation of company assets, misuse of company funds, fraud, failure to comply with workplace laws, theft of intellectual property, and lack of corporate governance with limit no less than \$1,000,000 per occurrence or claim, \$2,000,000 aggregate. Grant Recipient shall furnish the County with original Certificates of Insurance including all required amendatory endorsements (or copies of the applicable policy language effecting coverage required by this clause) to County before funds are allocated.
9. **Drug-Free Workplace** Senate Bill 1120, (Chapter 1170, Statutes of 1990), requires recipients of state grants to maintain a "drug-free workplace". Every person or organization awarded a contract for the procurement of any property or services shall certify as required under Government Code Section 8355-8357 that it will provide a drug-free workplace.
10. **Political Activities** Grant Recipient shall in no instance expend funds or use resources derived from this Agreement on any political activities.
11. **REPORTING REQUIREMENTS:** Grant Recipient shall report CBA Program "costs incurred" during the "covered period" (the period beginning on March 1, 2020 and ending on December 30, 2020). Grant Recipient shall report data according to these requirements.

11.1 County-required Reporting

A "mid-term" report will be due October 31, 2020, and a final report will be due by January 31, 2021.

Data required to be reported includes, but is not limited to, the following:

1. the total amount of CRF Fund payments received from County;
2. the amount of CRF Funds received that were expended or obligated for each project or activity;

3. a detailed list of all projects or activities for which funds were expended or obligated, including:
 - a. the name of the project or activity;
 - b. a description of the project or activity;
 - c. detailed information on any loans issued; contracts and grants awarded; transfers made to other entities; and direct payments made by the recipient that are greater than \$50,000.

11.2 Records of Support

Records to support compliance may include, but are not limited to, copies of the following:

1. general ledger and subsidiary ledgers used to account for (a) the receipt of CRF Fund payments and (b) the disbursements from such payments to meet eligible expenses related to the public health emergency due to COVID-19;
2. budget records for 2020 and 2021;
3. payroll, time records, human resource records to support costs incurred for payroll expenses related to addressing the public health emergency due to COVID-19;
4. receipts of purchases made related to addressing the public health emergency due to COVID-19;
5. contracts and subcontracts entered into using CRF Fund payments and all documents related to such contracts;
6. grant agreements and grant subaward agreements entered into using CRF Fund payments and all documents related to such awards;
7. all documentation of reports, audits, and other monitoring of contractors, including subcontractors, and grant recipient and subrecipients;
8. all documentation supporting the performance outcomes of contracts, subcontracts, grant awards, and grant recipient subawards;
9. all internal and external email/electronic communications related to use of CRF Fund payments; and
10. all investigative files and inquiry reports involving Coronavirus Relief Fund payments.

Records shall be maintained for a period of five (5) years after grant award is made using CRF Fund monies. These record retention requirements are applicable to all prime recipients and their grantees and subgrant recipients, contractors, and other levels of government that received transfers of CRF Fund payments from prime recipients.

12. **Conflict of Interest** Grant Recipient certifies that no official or employee of the County, nor any business entity in which an official of the County has an interest, has been employed or retained to solicit or aid in the procuring of this agreement. In addition, Grant Recipient agrees that no such person will be employed in the performance of this agreement unless first agreed to in writing by County. This includes prior Nevada County employment in accordance with County Personnel Code.
13. **Entirety of Agreement** This Agreement contains the entire agreement of County and Grant Recipient with respect to the subject matter hereof, and no other agreement, statement, or promise made by any party, or to any employee, officer or agent of any party, which is not contained in this Agreement, shall be binding or valid.
14. **Alteration** No waiver, alteration, modification, or termination of this Agreement shall be valid unless made in writing and signed by all parties, except as expressly provided in Section 19, Termination.
15. **Governing Law and Venue** This Agreement is executed and intended to be performed in the State of California, and the laws of that State shall govern its interpretation and effect. The

venue for any legal proceedings regarding this Agreement shall be the County of Nevada, State of California. Each party waives any Federal court removal and/or original jurisdiction rights it may have.

16. **Compliance with Applicable Laws** Grant Recipient shall comply with any and all federal, state and local laws, codes, ordinances, executive orders, state and local health orders, rules and regulations, including the provisions of the CARES Act and the Coronavirus Relief Fund (CRF) "Community Broadband Accessibility" Program, which relate to, concern, or affect the Services to be provided by this Contract. Failure to comply with this provision shall constitute a material breach of this Agreement.

17. **Notification** Any notice or demand desired or required to be given hereunder shall be in writing and deemed given when personally delivered or deposited in the mail, postage prepaid, and addressed to the parties as follows:

COUNTY OF NEVADA:

GRANT RECIPIENT:

Nevada County
Information and General Services
Attn:
Address

Name of firm
Attn:
Address

Phone:
Email:

Phone:
Email:

Any notice so delivered personally shall be deemed to be received on the date of delivery, and any notice mailed shall be deemed to be received five (5) days after the date on which it was mailed.

Executed as of the day first above stated:

Authority: All individuals executing this Contract on behalf of Grant Recipient represent and warrant that they are authorized to execute and deliver this Contract on behalf of Grant Recipient.

IN WITNESS WHEREOF, the parties have executed this Contract effective on the Beginning Date, above.

COUNTY OF NEVADA:

By: _____ Date: _____

Printed Name/Title: Honorable Heidi Hall, Chair, of the Board of Supervisors

By: _____

Attest: Julie Patterson Hunter, Clerk of the Board of Supervisors

Approved as to From:

By: _____

GRANT RECIPIENT: _____

By: _____ Date: _____

Name: _____

* Title: _____

By: _____ Date: _____

Name: _____

* Title: _____ Secretary _____

****If Grant Recipient is a corporation, this agreement must be signed by two corporate officers; one of which must be the secretary of the corporation, and the other may be either the President or Vice President, unless an authenticated corporate resolution is attached delegating authority to a single officer to bind the corporation (California Corporations Code Sec. 313).***

Attachment A

Attach copy of RACE Proposal dated 9/8/2020