



24th NAVAJO NATION COUNCIL LEGISLATION SPONSORSHIP WITHDRAWAL

I, Honorable Eugenia Charles-Newton, Primary Sponsor of proposed legislation hereby withdraw my sponsorship of the proposed legislation. The legislation tracking number is 0059-22.

If there are any co-sponsors, they may re-sponsor the same bill by beginning a new legislation.

SPONSOR SIGNATURE:

A handwritten signature in dark ink, appearing to read "Eugenia Charles-Newton", is written over a horizontal line.

DATE:

4/15/22

LEGISLATIVE SUMMARY SHEET

Tracking No. 0059-22

DATE: March 17, 2022

TITLE OF RESOLUTION: AN ACTION RELATING TO THE NAABIK'ÍYÁTI' COMMITTEE AND NAVAJO NATION COUNCIL; ALLOCATING \$38,500,000 OF NAVAJO NATION FISCAL RECOVERY FUNDS TO YALTI TELECOM, LLC; APPROVING THE NAVAJO NATION FISCAL RECOVERY FUND YALTI TELECOM EXPENDITURE PLAN

PURPOSE: This resolution, if approved, adopt the NNFRF Yalti Telecom Expenditure Plan in the amount of \$38,500,000 to provide broadband and telecommunication services to remote, underserved and unserved communities on the Navajo Nation.

This written summary does not address recommended amendments as may be provided by the standing committee. The Office of Legislative Counsel requests each committee member to review the proposed resolution in detail.

5-DAY BILL HOLD PERIOD: Johnson
Website Posting Time/Date: 6:01 PM; 03/29/22
Posting End Date: 04/03/22
Eligible for Action: 04/04/22

Naabik'íyáti' Committee
Thence
Navajo Nation Council

PROPOSED NAVAJO NATION COUNCIL RESOLUTION
24th NAVAJO NATION COUNCIL – Fourth Year, 2022

INTRODUCED BY



Primary Sponsor

TRACKING NO. 0059-22

AN ACTION

RELATING TO THE NAABIK'ÍYÁTI' COMMITTEE AND NAVAJO NATION
COUNCIL; ALLOCATING \$38,500,000 OF NAVAJO NATION FISCAL
RECOVERY FUNDS TO YALTI TELECOM, LLC; APPROVING THE NAVAJO
NATION FISCAL RECOVERY FUND YALTI TELECOM EXPENDITURE PLAN

BE IT ENACTED:

SECTION ONE. AUTHORITY

- A. The Navajo Nation Council is the governing body of the Navajo Nation. 2 N.N.C. §102(A).
- B. Navajo Nation Council Resolution No. CJY-41-21, attached as **Exhibit A**, mandates that Navajo Nation Fiscal Recovery Fund ("NNFRF") Expenditure Plans be duly adopted by a two-thirds (2/3) vote of all members of the Navajo Nation Council and approved by the President of the Navajo Nation pursuant to 2 N.N.C. § 164 (A) and 2 N.N.C. §§ 1005 (C) (10), (11), and (12).
- C. The Naabik'íyáti' Committee is a standing committee of the Navajo Nation Council with the delegated responsibility to hear proposed resolution(s) that require final action by the Navajo Nation Council. 2 N.N.C. § 164(A)(9).

SECTION TWO. FINDINGS

- A. The World Health Organization ("WHO") declared a Public Health Emergency of

1 International Concern related to the Coronavirus (“COVID-19”), a highly contagious and
2 sometimes fatal respiratory virus, on January 30, 2020; the U.S. Department of Health and
3 Human Services declared a Public Health Emergency related to the COVID-19 outbreak
4 on January 31, 2020; and the WHO declared a global pandemic due to COVID-19 on
5 March 11, 2020.

6 B. The Navajo Nation Commission on Emergency Management, with the concurrence of
7 Navajo Nation President Jonathan Nez, declared a Public Health State of Emergency on
8 the Navajo Nation on March 11, 2020, due to the COVID-19 outbreak. *See* Resolution No.
9 CEM 20-03-11, incorporated herein by reference. The Navajo Nation Department of
10 Health has subsequently issued numerous Public Health Emergency Orders. Public Health
11 Orders 2020-001 through 2021-020 are incorporated herein by reference. These Public
12 Health Emergency Orders are available at www.ndoh.navajo-nsn.gov.

13 C. The coronavirus pandemic of 2019 has caused large scale infections and loss of life
14 throughout the world, the United States, and the Navajo Nation. As of November 19, 2021,
15 the Navajo Nation Health Command Operations Center has confirmed 38,742 OVID-19
16 cases and 1,518 COVID-related deaths on the Navajo Nation. COVID-19 variants have
17 recently emerged that threaten to increase these numbers and continue the pandemic’s
18 assault on the Navajo People.

19 D. The devastating effects of COVID-19 continue throughout the Navajo Nation and extend
20 beyond the health and life devastation to wide scale negative financial effects, such as
21 employment losses, business closures, food and housing insecurity, and other economic
22 disruptions.

23 E. In response to the pandemic, on March 11, 2021, Unites States President Joseph Biden
24 signed the American Rescue Plan Act (“ARPA”) into law. Section 9901 of ARPA
25 amended Title VI of the Social Security Act to add section 602, which established the
26 Coronavirus State Fiscal Recovery Fund, and section 603, which established the
27 Coronavirus Local Fiscal Recovery Fund (together the “Fiscal Recovery Funds” or “FRF”) and
28 provided \$362 billion for state, local, and tribal governments, including \$20 billion
29 specifically designated for tribal governments.

30 F. As of November 1, 2021, the United States Department of Treasury has allocated two

1 billion seventy-nine million four hundred sixty-one thousand four hundred sixty-four
2 dollars (\$2,079,461,464) to the Navajo Nation under the Fiscal Recovery Funds provisions
3 of ARPA. The Fiscal Recovery Funds are designed to build on and expand the relief
4 provided in the 2020 Coronavirus Aid, Relief, and Economic Security Act (CARES Act),
5 Public Law 116–136, 134 Stat. 281 (2020), and are intended to mitigate and contain the
6 spread of COVID-19, as well as to respond to the health, social and economic impacts of
7 COVID-19 suffered by residents and businesses.

8 G. Pursuant to Section 9901 of ARPA, the Fiscal Recovery Funds are specifically intended
9 to:

- 10 1. respond to the COVID-19 public health emergency and its negative economic
11 impacts, including assistance to households, small businesses, and non-profits;
12 and/or aid to impacted industries such as tourism, travel, and hospitality;
- 13 2. respond to workers performing essential work during the COVID-19 public
14 health emergency by providing premium pay to eligible workers;
- 15 3. provide government services to the extent of the reduction in Navajo Nation
16 revenue due to the COVID-19 public health emergency, relative to revenues
17 collected in the most recent full fiscal year prior to the COVID-19 public health
18 emergency; and
- 19 4. make necessary investments in water, sewer, and/or broadband infrastructure.

20 H. The U.S. Department of Treasury has issued guidance requiring that the use and
21 expenditure of Fiscal Recovery Funds must fall under one of the four categories above and
22 that funding recipients must report each expenditure under one of the sixty-six (66)
23 “Expenditure Eligibility Categories” set forth in Appendix 1 to the U.S. Department of
24 Treasury’s Compliance and Reporting Guidance for State and Local Fiscal Recovery
25 Funds, attached herein as **Exhibit A**.

26 I. Pursuant to ARPA:

- 27 1. Fiscal Recovery Fund costs must be incurred by December 31, 2024, meaning
28 that the Navajo Nation must obligate FRF funds by that date. Treasury’s
29 Interim Final Rule provides that “incurred” shall have the same meaning given
30 to “financial obligation” under the Uniform Guidance at 2 CFR 200.1:

1 “*Financial obligations*, when referencing a recipient's or sub-recipient's use
2 of funds under a Federal award, means orders placed for property and
3 services, contracts and sub-awards made, and similar transactions that
4 require payment.”; and

5 2. The Fiscal Recovery Fund period of performance runs from March 3, 2021
6 until December 31, 2026, meaning that all FRF-funded projects must be
7 completed and funds must be fully expended by December 31, 2026.

8 3. Costs incurred by the Navajo Nation prior to March 3, 2021 are not eligible.

9 4. Any funds not obligated or expended for eligible uses by the dates above in
10 sections I (1) and (2) must be returned to Treasury, including any unobligated
11 or unexpended funds that have been provided to sub-recipients and contractors
12 as part of the award closeout process.

13 J. While its acceptance of Fiscal Recovery Funds obligates the Navajo Nation to comply with
14 ARPA and other federal laws and regulations, the Navajo Nation can and will fulfill these
15 obligations while retaining and exercising its sovereignty in allocating and disbursing
16 Fiscal Recovery Funds.

17 K. On July 23, 2021, the Navajo Nation Council adopted Resolution No. CJY-41-21, attached
18 as **Exhibit B**, establishing the Navajo Nation Fiscal Recovery Fund (“NNFRF”) into which
19 the Navajo Nation’s allocation of \$2,079,461,464 has been deposited. CJY-41-21 also
20 adopted an expenditure authorization and approval process for the allocation of funds from
21 the NNFRF.

22 L. In Section Four of CJY-41-21, the Navajo Nation Council mandated the Budget and
23 Finance Committee to adopt application and review procedures, as well as an expenditure
24 plan template, to be used by entities requesting Navajo Nation Fiscal Recovery Funds. The
25 Budget and Finance Committee approved Resolution No. BFS-31-21 which established
26 mandatory Navajo Nation Fiscal Recovery Fund application procedures, forms, and an
27 expenditure plan template. BFS-31-21 is incorporated herein by reference.

28 M. To ensure the Navajo Nation’s compliance with ARPA, Section Four of CJY-41-21 also
29 directed the Navajo Nation Department of Justice (“DOJ”) to perform “an initial
30 determination of whether a NNFRF funding request satisfies the legal requirements of the

1 Fiscal Recovery Funds provisions of ARPA and applicable Navajo Nation laws,
2 regulations, and policies and procedures.” Resolution No. BFS-31-21 incorporated DOJ’s
3 initial determination into the mandatory NNFRF application procedures, forms, and an
4 expenditure plan template, which requires, among other things, identification of the entity
5 with administrative oversight over the Funding Recipient. Administrative oversight means
6 having the authority to monitor the implementation of an approved FRF Expenditure Plan
7 and the expenditure of awarded funds. The duties of the entity with administrative
8 oversight are set forth in Section Seven of the FRF Procedures in exhibits 1 through 5 of
9 BFS-31-21.

10 N. The Office of the President and Vice-President, in coordination with the Division of
11 Community Development (“DCD”), presented ARPA and Fiscal Recovery Fund
12 information at each of the five (5) Agency Council Meetings to hear from the Navajo
13 People concerning their needs and priorities for projects and/or services funded through
14 the NNFRF. In addition, DCD has met with Navajo Nation Chapters, individually and
15 collectively, on more than fifty (50) occasions to discuss NNFRF matters.

16 O. The Navajo Nation Council hosted twenty-six (26) Naabik’iyáti’ Committee Work
17 Sessions, all open to the public, to hear from the Navajo People concerning their needs
18 and priorities for projects and/or services funded through the Navajo Nation Fiscal
19 Recovery Fund. In addition, Standing Committees of the Navajo Nation Council held
20 more than twenty (20) committee meetings, all open to the public, that have included
21 NNFRF reports and infrastructure specific discussions.

22 P. The Navajo Nation Council and Office of the President and Vice-President concurred,
23 based on their respective public consultation efforts, that it was in the best interest of the
24 Navajo people to first enact a Navajo Nation Fiscal Recovery Fund Hardship Assistance
25 Expenditure Plan. To that end, the Navajo Nation Council adopted Resolution No. CD-
26 62-21 providing \$557,000,000 in Hardship Assistance for Navajo members to mitigate
27 the financial devastation caused by the COVID-19 pandemic. The President agreed
28 with the Council and signed CD-62-21 into law on January 4, 2022.

29 Q. The Navajo Nation Council has determined, based on their public consultation efforts,
30 that it is in the best interest of the Navajo people and Navajo communities to next fund

1 the Navajo Nation Yalti Telecom Expenditure Plan in the total amount of thirty-eight
2 million five hundred thousand dollars (\$38,500,000) to provide broadband and
3 telecommunication services to remote, underserved, and unserved communities on the
4 Navajo Nation.

5 R. Yalti Telecom LLC is a Navajo registered single-member limited liability company
6 incorporated on July 6, 2021 and is fully Navajo owned and operated.

7 S. The NNFRF Yalti Telecom Expenditure Plan, attached as **Exhibit C**, has fully
8 complied with and satisfied CJY-41-21 and BFS-31-21 requirements. The Navajo
9 Department of Justice has initially determined the Yalti Telecom Expenditure Plan to
10 be FRF eligible, if prospective conditions are complied with. *See Exhibit C* (DOJ
11 Initial Eligibility Determination dated 1/27/2022).

12
13 **SECTION THREE. APPROVAL OF THE YALTI TELECOM EXPENDITURE**
14 **PLAN**

15 A. The Navajo Nation hereby approves and adopts the Navajo Nation Fiscal Recovery
16 (“NNFRF”) Yalti Telecom Expenditure Plan set forth in **Exhibit C**.

17 B. The Navajo Nation hereby approves total funding for the NNFRF Yalti Telecom
18 Expenditure Plan from the Navajo Nation Fiscal Recovery Fund to Yalti Telecom,
19 LLC in the total amount of thirty-eight million five hundred thousand dollars
20 (\$38,500,000) as follows: FY2022-\$19,250,00; FY2023-\$9,625,000; and FY2024-
21 \$9,625,000.

22
23 **SECTION FOUR. ADMINISTRATION OF NAVAJO NATION FISCAL RECOVERY**
24 **FUND EXPENDITURE PLANS**

25 A. All entities receiving Navajo Nation Fiscal Recovery Funds, whether through an
26 immediate allocation under CJY-41-21 or subsequently approved NNFRF Expenditure
27 Plan, shall comply with all Navajo Nation laws, policies, regulations, rules, and
28 procedures, specifically including, but not limited to, those governing the NNFRF and
29 the expenditure of such funds, and any additional terms set forth in a grant, sub-
30 recipient, or similar agreement.

- 1 B. Fiscal Recovery Fund costs must be incurred by December 31, 2024, meaning that the
2 Navajo Nation must obligate FRF funds by that date. For internal Navajo Nation purposes,
3 the term “obligated” is defined in BFS-31-21, Section Three on page 3 of Exhibits 1
4 through 5. Any NNFRF funds not obligated by the end of the third quarter of Fiscal Year
5 2024 shall be reported to the Naabik’íyáti’ Committee and are subject to reversion to the
6 NNFRF, by a resolution of the Naabik’íyáti’ Committee, and will then be available for
7 reallocation to other NNFRF Expenditure Plans pursuant to resolution(s) of the Navajo
8 Nation Council enacted pursuant to 2 N.N.C. § 164 (A)(17) and 2 N.N.C. §§ 1005 (C) (10),
9 (11), and (12).
- 10 C. Projects and/or services funded with Navajo Nation Fiscal Recovery Funds must be
11 completed and all NNFRF funds fully spent by December 31, 2026.
- 12 D. The Office of the Controller shall release Navajo Nation Fiscal Recovery Fund
13 Expenditure Plan funds to a funding recipient that is external to the Navajo Nation central
14 government, including Local Government Act certified chapters, Navajo Nation owned
15 entities, and other external entities, pursuant to the fund distribution schedule
16 recommended by the Navajo Nation government entity with administrative oversight and
17 approved by the Office of the Controller and included in a fully executed grant, sub-
18 recipient, or similar agreement deemed legally sufficient by the Navajo Nation Department
19 of Justice.
- 20 E. Awarded Navajo Nation Fiscal Recovery Funds shall only be obligated and expended on
21 projects and/or services, including need-based projects and services, that were included as
22 an immediate allocation under CJY-41-21 or are included in a NNFRF Expenditure Plan
23 approved and adopted by a Navajo Nation Council resolution enacted pursuant to 2 N.N.C.
24 § 164 (A)(17) and 2 N.N.C. §§ 1005 (C) (10), (11), and (12).
- 25 F. All proposed modifications to an approved FRF Expenditure Plan or an approved FRF
26 Expenditure Plan budget shall comply with section 8 of exhibits 1 through 5 of BFS-31-
27 21. Any increase in funding for an approved FRF Expenditure Plan shall require approval
28 by a Navajo Nation Council resolution enacted pursuant to 2 N.N.C. § 164 (A)(17) and 2
29 N.N.C. §§ 1005 (C) (10), (11), and (12). Proposed modifications of Expenditure Plans
30 shall be submitted to the Navajo Nation Department of Justice (“DOJ”) for an eligibility

1 determination review to ensure the proposed modification will be an eligible use of FRF.
2 Modifications that change the purpose and intent of the Expenditure Plan or projects and
3 services within the approved Expenditure Plan or that substantially change the scope of
4 work of the Expenditure Plan shall require approval by the Navajo Nation Council. As set
5 forth in BFS-31-21, DOJ shall make the determination whether Navajo Nation Council
6 approval of the modification is required. After DOJ has reviewed the request for a
7 modification of an approved Expenditure Plan and determined that legislative approval is
8 not needed, or after the modification is approved by a Navajo Nation Council resolution
9 enacted pursuant to 2 N.N.C. § 164 (A)(17) and 2 N.N.C. §§ 1005 (C) (10), (11), and (12),
10 the Administrative Oversight entity acting on behalf of the Funding Recipient shall submit
11 a budget revision request to OMB, if needed. The Budget Instruction Manual provisions
12 regarding budget revision requests shall apply.

13 G. Awarded Navajo Nation Fiscal Recovery Funds, including cost savings, may be
14 administratively moved between projects and/or services included within the same
15 Expenditure Plan, as long as such projects and/or services share the same Expenditure
16 Eligibility Category. DOJ shall verify that the projects and/or services share the same
17 Expenditure Eligibility Category before any NNFRF funding is moved between projects
18 and/or services.

19 H. Awarded Navajo Nation Fiscal Recovery Funds, including cost savings, cannot be moved
20 between Expenditure Plans without approval by a Navajo Nation Council resolution
21 enacted pursuant to 2 N.N.C. § 164 (A)(17) and 2 N.N.C. §§ 1005 (C) (10), (11), and (12).

22 I. Approved Expenditure Plans for need-based projects and services, such as Bathroom
23 Addition or Home Electricity Connection projects, may be administratively modified
24 without Navajo Nation Council action as long as the total funding awarded for the
25 Expenditure Plan is not increased and the new project or service is within the same
26 Expenditure Eligibility Category.

27 J. To add projects or services to an approved Expenditure Plan when such projects and/or
28 services are not need-based projects or services, shall require a DOJ initial eligibility
29 determination pursuant to BFS-31-21 and the addition must be approved through
30 resolution by the Standing Committee(s) having oversight over the Expenditure Plan and

1 the Budget and Finance Committee. If the new project and/or service increases the total
2 funding awarded for the Expenditure Plan or does not share the same Expenditure
3 Eligibility Category as the Expenditure Plan, BFS-31-21 must be fully complied with and
4 the addition can only be added through Navajo Nation Council resolution enacted pursuant
5 to 2 N.N.C. § 164 (A)(17) and 2 N.N.C. §§ 1005 (C) (10), (11), and (12) is required.

6 K. The Emergency Procurement provisions set forth in CJY-41-21, Section Ten, shall apply
7 to all NNFRF Expenditure Plans enacted herein, as well as to all American Rescue Plan
8 Act and Fiscal Recovery Fund procurements by the Navajo Nation and its entities.

9 L. All entities receiving Navajo Nation Fiscal Recovery Funds shall follow and apply
10 Generally Accepted Accounting Principles (GAAP), as established by the Governmental
11 Accounting Standards Board (GASB) for governmental entities and by the
12 Financial Accounting Standards Board (FASB) for public and private companies and non-
13 profits, in reporting, recording, and accounting for such Funds.

14 M. All non-governmental entities, including Local Governance Act certified chapters, who
15 receive more than five hundred thousand dollars (\$500,000) of Fiscal Recovery Funds in
16 anyone year shall obtain an annual audit in accordance with the Single Audit Act
17 Amendments of 1996), OMB Circular A-133, the and the OMB Circular Compliance
18 Supplement and Government Auditing Standards.

19 N. Fraud, misuse of funds, violation of applicable Navajo Nation or federal laws and
20 regulations, non-compliance with FRF agreements governing grants or sub-awards, and
21 false statements or claims by any individual or entity receiving or administering Navajo
22 Nation Fiscal Recovery Funds may result in administrative, civil, or criminal sanctions and
23 penalties, debarment and suspension, ineligibility for future Navajo Nation awards or
24 business opportunities, and the Navajo Nation may pursue any other legal action or remedy
25 available by law.

26 27 **SECTION FIVE. REPORTING**

28 A. All entities receiving Navajo Nation Fiscal Recovery Funds shall keep and maintain
29 accurate and complete financial data and records sufficient to demonstrate that the
30 Fiscal Recovery Funds appropriated by the U.S. Congress to the Navajo Nation have

1 been used by the reporting entity in accordance with the provisions of ARPA and timely
2 relay such reports and records to the administrative oversight, Office of Controller,
3 Office of Management and Budget, FRF Office, and legislative oversight as directed
4 in the grant or sub-recipient agreements if any, and when requested. Such reports and
5 records shall be maintained for at least seven (7) years after the project and/or service
6 has been completed. The Office of the Controller shall be responsible for compiling
7 and providing any and all records and financial reports required by the U.S. Treasury.

8 B. All entities receiving Navajo Nation Fiscal Recovery Funds through an approved
9 Expenditure Plan shall report the status of their NNFRF allocations to their respective
10 oversight committees at the end of each Fiscal Year quarter. The entity with
11 administrative oversight over the Expenditure Plan shall review the quarterly report
12 prior to its presentation and shall participate in the presentation to the oversight
13 committee(s).

14 C. The Executive Director of the NNFRF Office, with the assistance of the Office of the
15 Controller and Office of Management and Budget, shall report the status of all allocated
16 Navajo Nation Fiscal Recovery Funds and NNFRF Expenditure Plans to the Budget
17 and Finance and Naabik'iyáti' Committees at the end of each Fiscal Year quarter.

19 **SECTION SIX. EFFECTIVE DATE**

20 This legislation shall be effective upon its approval pursuant to 2 N.N.C. § 164 (A)(17) and 2
21 N.N.C. §§ 1005 (C) (10), (11), and (12).

23 **SECTION SEVEN. AMENDMENTS**

24 Amendments to this legislation shall only be adopted by a two-thirds (2/3) vote of all
25 members of the Navajo Nation Council and approval of the President of the Navajo Nation
26 pursuant to 2 N.N.C. § 164 (A)(17) and 2 N.N.C. §§ 1005 (C) (10), (11), and (12).

28 **SECTION EIGHT. SAVING CLAUSE**

29 If any provision of this legislation is determined invalid by the Navajo Nation Supreme Court,
30 or by a Navajo Nation District Court without appeal to the Navajo Nation Supreme Court,

1 those provisions of this legislation not determined invalid shall remain the law of the Navajo
2 Nation.

3
4 **SECTION NINE. DIRECTIVES**

5 All Navajo Nation government programs, offices, and divisions, as well as Navajo Nation
6 owned entities, specifically including those programs, offices, divisions, and Navajo Nation
7 owned entities receiving Navajo Nation Fiscal Recovery Funds, shall prioritize the
8 implementation and completion of NNFRF projects and/or services.
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**Appendix 1: Expenditure Categories**

Treasury's final rule provides greater flexibility and simplicity for recipients to fight the pandemic and support families and businesses struggling with its impacts, maintain vital services amid revenue shortfalls, and build a strong, resilient, and equitable recovery. As such, recipients will report on a broader set of eligible uses and associated Expenditure Categories ("EC"), starting with the April 2022 Project and Expenditure Report. The table below includes the new Expenditure Categories, as well as a reference to previous Expenditure Categories used for reporting under the interim final rule.

The Expenditure Categories (EC) listed below must be used to categorize each project as noted in Part 2 above. The term "Expenditure Category" refers to the detailed level (e.g., 1.1 COVID-19 Vaccination). When referred to as a category (e.g., EC 1) it includes all Expenditure Categories within that level.

*Denotes areas where recipients must identify the amount of the total funds that are allocated to evidence-based interventions (see Use of Evidence section above for details)

^Denotes areas where recipients must report on whether projects are primarily serving disproportionately impacted communities (see Project Demographic Distribution section above for details)

| Expenditure Category | EC ²⁷ | Previous EC ²⁸ |
|--|------------------|---------------------------|
| 1: Public Health | | |
| COVID-19 Mitigation & Prevention | | |
| COVID-19 Vaccination^ | 1.1 | 1.1 |
| COVID-19 Testing^ | 1.2 | 1.2 |
| COVID-19 Contact Tracing^ | 1.3 | 1.3 |
| Prevention in Congregate Settings (Nursing Homes, Prisons/Jails, Dense Work Sites, Schools, Child care facilities, etc.)*^ | 1.4 | 1.4 |
| Personal Protective Equipment^ | 1.5 | 1.5 |
| Medical Expenses (including Alternative Care Facilities)^ | 1.6 | 1.6 |
| Other COVID-19 Public Health Expenses (including Communications, Enforcement, Isolation/Quarantine)^ | 1.7 | 1.8 |
| COVID-19 Assistance to Small Businesses^ | 1.8 | - |
| COVID 19 Assistance to Non-Profits^ | 1.9 | - |
| COVID-19 Aid to Impacted Industries^ | 1.10 | - |
| Community Violence Interventions | | |
| Community Violence Interventions*^ | 1.11 | 3.16 |
| Behavioral Health | | |
| Mental Health Services*^ | 1.12 | 1.10 |
| Substance Use Services*^ | 1.13 | 1.11 |
| Other | | |
| Other Public Health Services^ | 1.14 | 1.12 |
| Capital Investments or Physical Plant Changes to Public Facilities that respond to the COVID-19 public health emergency | - | 1.7 |
| 2: Negative Economic Impacts | | |
| Assistance to Households | | |
| Household Assistance: Food Programs*^ | 2.1 | 2.1 |
| Household Assistance: Rent, Mortgage, and Utility Aid*^ | 2.2 | 2.2 |
| Household Assistance: Cash Transfers*^ | 2.3 | 2.3 |

²⁷ Under the final rule to be used starting with April 2022 reports

²⁸ Under the interim final rule to be used in Interim Report and January 2022 Project and Expenditure Report



| Expenditure Category | EC²⁷ | Previous EC²⁸ |
|---|------------------------|---------------------------------|
| Household Assistance: Internet Access Programs*^ | 2.4 | 2.4 |
| Household Assistance: Paid Sick and Medical Leave^ | 2.5 | - |
| Household Assistance: Health Insurance*^ | 2.6 | - |
| Household Assistance: Services for Un/Unbanked*^ | 2.7 | - |
| Household Assistance: Survivor's Benefits^ | 2.8 | - |
| Unemployment Benefits or Cash Assistance to Unemployed Workers*^ | 2.9 | 2.6 |
| Assistance to Unemployed or Underemployed Workers (e.g. job training, subsidized employment, employment supports or incentives)*^ | 2.10 | 2.7 |
| Healthy Childhood Environments: Child Care*^ | 2.11 | 3.6 |
| Healthy Childhood Environments: Home Visiting*^ | 2.12 | 3.7 |
| Healthy Childhood Environments: Services to Foster Youth or Families Involved in Child Welfare System*^ | 2.13 | 3.8 |
| Healthy Childhood Environments: Early Learning*^ | 2.14 | 3.1 |
| Long-term Housing Security: Affordable Housing*^ | 2.15 | 3.10 |
| Long-term Housing Security: Services for Unhoused Persons*^ | 2.16 | 3.11 |
| Housing Support: Housing Vouchers and Relocation Assistance for Disproportionately Impacted Communities*^ | 2.17 | - |
| Housing Support: Other Housing Assistance*^ | 2.18 | 3.12 |
| Social Determinants of Health: Community Health Workers or Benefits Navigators*^ | 2.19 | 3.14 |
| Social Determinants of Health: Lead Remediation*^ | 2.20 | 3.15 |
| Medical Facilities for Disproportionately Impacted Communities^ | 2.21 | - |
| Strong Healthy Communities: Neighborhood Features that Promote Health and Safety^ | 2.22 | - |
| Strong Healthy Communities: Demolition and Rehabilitation of Properties^ | 2.23 | - |
| Addressing Educational Disparities: Aid to High-Poverty Districts^ | 2.24 | 3.2 |
| Addressing Educational Disparities: Academic, Social, and Emotional Services*^ | 2.25 | 3.3 |
| Addressing Educational Disparities: Mental Health Services*^ | 2.26 | 3.4 |
| Addressing Impacts of Lost Instructional Time^ | 2.27 | - |
| Contributions to UI Trust Funds^ | 2.28 | 2.8 |
| Assistance to Small Businesses | | |
| Loans or Grants to Mitigate Financial Hardship^ | 2.29 | 2.9 |
| Technical Assistance, Counseling, or Business Planning*^ | 2.30 | - |
| Rehabilitation of Commercial Properties or Other Improvements^ | 2.31 | - |
| Business Incubators and Start-Up or Expansion Assistance*^ | 2.32 | - |
| Enhanced Support to Microbusinesses*^ | 2.33 | - |
| Assistance to Non-Profits | | |
| Assistance to Impacted Nonprofit Organizations (Impacted or Disproportionately Impacted)^ | 2.34 | 2.10 |
| Aid to Impacted Industries | | |
| Aid to Tourism, Travel, or Hospitality^ | 2.35 | 2.11 |
| Aid to Other Impacted Industries^ | 2.36 | 2.12 |
| Other | | |
| Economic Impact Assistance: Other*^ | 2.37 | 2.13 |
| Household Assistance: Eviction Prevention*^ | - | 2.5 |
| Education Assistance: Other*^ | - | 3.5 |
| Healthy Childhood Environments: Other*^ | - | 3.9 |
| Social Determinants of Health: Other*^ | - | 3.13 |



| Expenditure Category | EC ²⁷ | Previous EC ²⁸ |
|---|------------------|---------------------------|
| 3: Public Health-Negative Economic Impact: Public Sector Capacity | | |
| General Provisions | | |
| Public Sector Workforce: Payroll and Benefits for Public Health, Public Safety, or Human Services Workers | 3.1 | 1.9 |
| Public Sector Workforce: Rehiring Public Sector Staff | 3.2 | 2.14 |
| Public Sector Workforce: Other | 3.3 | - |
| Public Sector Capacity: Effective Service Delivery | 3.4 | 7.2 |
| Public Sector Capacity: Administrative Needs | 3.5 | - |
| 4: Premium Pay | | |
| Public Sector Employees | 4.1 | 4.1 |
| Private Sector: Grants to Other Employers | 4.2 | 4.2 |
| 5: Infrastructure | | |
| Water and Sewer | | |
| Clean Water: Centralized Wastewater Treatment | 5.1 | 5.1 |
| Clean Water: Centralized Wastewater Collection and Conveyance | 5.2 | 5.2 |
| Clean Water: Decentralized Wastewater | 5.3 | 5.3 |
| Clean Water: Combined Sewer Overflows | 5.4 | 5.4 |
| Clean Water: Other Sewer Infrastructure | 5.5 | 5.5 |
| Clean Water: Stormwater | 5.6 | 5.6 |
| Clean Water: Energy Conservation | 5.7 | 5.7 |
| Clean Water: Water Conservation | 5.8 | 5.8 |
| Clean Water: Nonpoint Source | 5.9 | 5.9 |
| Drinking water: Treatment | 5.10 | 5.10 |
| Drinking water: Transmission & Distribution | 5.11 | 5.11 |
| Drinking water: Lead Remediation, including in Schools and Daycares | 5.12 | 5.12 |
| Drinking water: Source | 5.13 | 5.13 |
| Drinking water: Storage | 5.14 | 5.14 |
| Drinking water: Other water infrastructure | 5.15 | 5.15 |
| Water and Sewer: Private Wells | 5.16 | - |
| Water and Sewer: IIJA Bureau of Reclamation Match | 5.17 | - |
| Water and Sewer: Other | 5.18 | - |
| Broadband | | |
| Broadband: "Last Mile" projects | 5.19 | 5.16 |
| Broadband: IIJA Match | 5.20 | - |
| Broadband: Other projects | 5.21 | 5.17 |
| 6: Revenue Replacement | | |
| Provision of Government Services | 6.1 | 6.1 |
| Non-federal Match for Other Federal Programs | 6.2 | - |
| 7: Administrative | | |
| Administrative Expenses | 7.1 | 7.1 |
| Transfers to Other Units of Government | 7.2 | 7.3 |
| Transfers to Non-entitlement Units (States and territories only) | - | 7.4 |

THE NAVAJO NATION

JONATHAN NEZ | PRESIDENT MYRON LIZER | VICE PRESIDENT



August 2, 2021

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

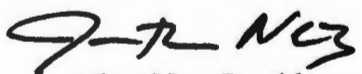
RE: CJY-41-21, *An Action Relating to Budget and Finance and Naabik'iyáti' Committees, and Navajo Nation Council; Establishing the Navajo Nation Fiscal Recovery Fund and the Expenditure Authorization Process Thereunder; Waiving Certain Provisions of the Navajo Nation Appropriations Act; Amending 12 N.N.C.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

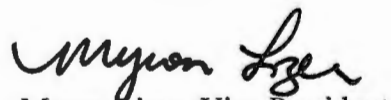
Dear Speaker Damon,

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

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

Sincerely,


Jonathan Nez, President
THE NAVAJO NATION


Myron Lizer, Vice President
THE NAVAJO NATION

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

AN ACTION

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

BE IT ENACTED

SECTION ONE. AUTHORITY

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

SECTION TWO. FINDINGS

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

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

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

I. Pursuant to Section 9901 of ARPA, the Fiscal Recovery Funds were specifically intended to:

1. Respond to the COVID-19 public health emergency and its negative economic impacts, including assistance to households, small businesses, and non-profits; and/or aid to impacted industries such as tourism, travel, and hospitality;
2. Respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to eligible workers of the tribal government. Under this category, the Navajo Nation can provide premium pay to government workers performing essential work, and can provide grants to eligible employers that have eligible workers who perform essential work;
3. Provide government services to the extent of the reduction in Navajo Nation revenue due to the COVID-19 public health emergency, relative to revenues collected in the most recent full fiscal year prior to the emergency; and
4. Make necessary investments in water, sewer, or broadband infrastructure.

J. Pursuant to ARPA:

1. Fiscal Recovery Fund costs must be incurred by December 31, 2024, meaning the Navajo Nation must obligate funds by that date; and
2. The Fiscal Recovery Fund period of performance runs until December 31, 2026, meaning funded projects must be completed by that date.

K. While its acceptance of the Fiscal Recovery Funds obligates the Navajo Nation to comply with ARPA and other federal laws and regulations, the Navajo Nation can and will fulfill these obligations while retaining and exercising its tribal sovereignty.

SECTION THREE. ESTABLISHMENT OF THE NAVAJO NATION FISCAL RECOVERY FUND

- A. There is hereby established the "Navajo Nation Fiscal Recovery Fund" ("NNFRF").
- B. The Navajo Nation hereby designates that the \$1,861,554,458.43 received by the Navajo Nation as of May 29, 2021 from the U.S.

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

- C. The purpose of the NNFRF is to serve as a depository into which all Fiscal Recovery Funds and investment earnings therein are deposited, and from which the Navajo Nation shall disburse funds for approved Expenditure Plans which comply with the criteria set forth in the Fiscal Recovery Funds provisions of ARPA.
- D. The Fiscal Recovery Funds allocated to the Navajo Nation are limited emergency funds provided by the federal government and are not subject to the annual set-aside provisions set forth in the Navajo Nation Code.
- E. The Navajo Nation Office of the Controller ("OOC"), acting upon the recommendation of the Navajo Nation Investment Committee, shall oversee investment of the NNFRF in accordance with ARPA and Fiscal Recovery Funds requirements, U.S. Treasury regulations and guidance, and applicable Navajo Nation Investment Policies; investment earnings, when realized, shall be deposited into the NNFRF.
- F. Any funds deposited into the NNFRF shall only be used in compliance with ARPA and Fiscal Recovery Fund purposes and restrictions, U.S. Treasury guidance, applicable federal laws and regulations, Navajo Nation laws, regulations, and policies, and duly adopted procedures and agreements between the Navajo Nation and the federal government regarding the use of the Fiscal Recovery Funds.
- G. Except as set forth in Sections Five through Seven below, expenditures of the NNFRF shall only be authorized through Expenditure Plan(s) duly adopted by a two-thirds (2/3) vote of all members of the Navajo Nation Council and approved by the President of the Navajo Nation pursuant to 2 N.N.C. § 164(A) and 2 N.N.C. §§ 1005(C)(10), (11) and (12).
- H. OOC and all entities receiving NNFRF shall keep records sufficient to demonstrate that the Fiscal Recovery Funds appropriated by the U.S. Congress to the Navajo Nation have been used in accordance with the provisions of ARPA. The NNFRF shall be subject to an annual audit by the Navajo Nation's independent auditor. Either the Navajo Nation Council or the Navajo Nation President may require an audit at any time. The Controller shall be responsible for providing any and all records and financial reports required by the U.S. Treasury.

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

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

- A. The Office of Management and Budget ("OMB"), in consultation with OOC and Navajo Nation Department of Justice ("NNDOJ"), shall develop NNFRF application and review procedures, which shall include an NNFRF Expenditure Plan template, for adoption by the Budget and Finance Committee. OMB and OOC shall post the approved NNFRF application procedures, including an NNFRF Expenditure Plan template, and instructions on their respective websites.
- B. The NNDOJ shall do an initial determination of whether a NNFRF funding request satisfies the legal requirements of the Fiscal Recovery Funds provisions of ARPA and applicable Navajo Nation laws, regulations, and policies and procedures.
- C. Navajo Nation Divisions and Offices, non-LGA-certified Chapters, LGA-certified Chapters, Navajo Nation-owned enterprises/authorities/corporations, non-profit corporations and external entities seeking NNFRF funds shall comply with the requirements set forth in this legislation and with the requirements set forth in the NNFRF application procedures adopted by resolution of the Budget and Finance Committee ("BFC").
- D. Each proposed NNFRF Expenditure Plan shall identify and designate a Responsible Entity who shall be held accountable for the compliance, implementation, monitoring, and accounting of the proposed projects, proposals, services and/or related assistance.
- E. Following NNFRF Expenditure Plan approval by the Navajo Nation Council and President, the Navajo Nation, with the assistance of NNDOJ, shall enter into a binding agreement, such as a, grant or sub-recipient agreement, with each Responsible Entity, other than Navajo Nation divisions and offices and non-

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

- F. NNFRF Expenditure Plans involving construction activities shall include a contingency reserve consistent with industry standards adequate to cover projected inflation-based cost increases. The contingency reserve shall only be released by OOC to the Responsible Entity upon receipt of documented justification for the cost increase. After Expenditure Plan completion, any unused contingency funds shall be returned to the NNFRF.
- G. The total funds allocated in an approved NNFRF Expenditure Plan for a non-Navajo Nation government program or office, including Navajo Nation-owned enterprises/authorities/corporations, may include an allocation for administrative costs at a rate not to exceed two percent (2%) of service or project cost to defray the costs of implementing, administering and monitoring said Expenditure Plan and its underlying services and projects.
- H. Until the third quarter of 2024, NNFRF Expenditure Plans for direct financial assistance to enrolled Navajo Nation members, not including business economic relief or similar programs, shall be limited to ten percent (10%) of the total Fiscal Recovery Funds received by the Navajo Nation. After the second quarter of 2024, unallocated or unexpended NNFRF funds can be allocated for direct financial assistance to enrolled members through resolution of the Navajo Nation Council and approval of the President pursuant to 2 N.N.C. § 164(A) and 2 N.N.C. §§ 1005(C)(10), (11) and (12).

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

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

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

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

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

- A. The Navajo Nation hereby immediately allocates ten percent (10%) of all Fiscal Recovery Funds received by the Navajo Nation to fund central support service and regulatory costs.
- B. The Office of the President and Vice-President shall be responsible for apportioning ninety percent (90%) of the ten percent (10%) amount amongst Executive Branch programs and offices providing central support and regulatory services, including, the Office of the President and Vice-President, Office of the Controller, Office of Management and Budget, Department of Justice, Navajo Nation Washington Office, Division of Human Resources, Division of Community Development, and other Divisions and offices providing central support and/or regulatory services.
- C. The Speaker of the Navajo Nation Council, after consultation with the Naabik'íyáti' Committee, shall be responsible for apportioning ten percent (10%) of the ten percent (10%) amount amongst Legislative Branch programs and offices providing central support services, including the Office of Legislative Services, Office of Legislative Counsel, Office of the Speaker, and Navajo Nation Council.
- D. The programs and offices receiving NNFRF for central support and/or regulatory services shall use such funding to develop the legal, financial, organizational, managerial, administrative, regulatory, and reporting framework necessary to support the expeditious completion of NNFRF funded projects and the provision of NNFRF funded services.
- E. The detailed budgets for the NNFRF funding allocated here for central support and regulatory services shall be processed through the executive or administrative review process

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

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

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

- A. After reimbursement of the Síhasin Fund and UUFb, allocations to the defunded Navajo Nation CARES Fund projects, and the release of the immediate disbursements provided for in this legislation, OOC shall only release and distribute NNFRF funds in conformance with duly adopted Expenditure Plans enacted by a two-thirds (2/3) vote of all members of the Navajo Nation Council and approved by the President of the Navajo Nation pursuant to 2 N.N.C. § 164(A) and 2 N.N.C. §§ 1005(C)(10), (11) and (12).
- B. Expenditure Plan funds shall not be released to LGA-certified Chapters, Navajo Nation-owned enterprises/authorities/corporations, non-profit corporations and/or external entities until a binding agreement, e.g., grant or sub-recipient agreement, has been executed between the Navajo Nation and the respective Responsible Entity.
- C. OOC shall be responsible for ensuring that withdrawals from all invested NNFRF funds are timed to balance Expenditure Plan needs with maximum investment earnings.
- D. OOC shall coordinate and collaborate with each Responsible Entity to ensure that all applicable Navajo Nation and federal financial, accounting, and reporting laws and regulations are adhered to and strictly followed.
- E. OOC and the respective Responsible Entity shall provide a written and oral report to the Naabik'íyáti' Committee and the Office of President and Vice-President on or about thirty (30) days after the end of each fiscal year quarter; such report will present an overview and status of all NNFRF funded projects, recommended modifications or adjustments to projects, and compliance challenges, if any.

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

- A. The NNFRF are externally restricted funds awarded to the Navajo Nation solely for the purposes set forth in the Fiscal Recovery Funds provisions of ARPA. Accordingly, only those provisions of the Appropriations Act, 12 N.N.C. § 800 et seq., that are expressly applicable to externally restricted funds, and any future provisions in the Budget Instructions Manual(s) expressly applicable to NNFRF, as approved by the Budget and Finance Committee, shall apply to the NNFRF and all Expenditure Plan(s) funded thereunder.
- B. NNFRF shall not be a part of, and shall not be, included in the Navajo Nation Fiscal Year Comprehensive Budget and the Navajo Nation hereby waives the application of 12 N.N.C. § 820 [Overall Budget Policies], § 830 [Budget Planning and Preparation], § 840 [Budget Approval, Adoption and Certification], § 850 [Budget Implementation, Monitoring and Control], § 860 [Capital Improvement Process], and § 870 [Local Government Improvement Funds] to the NNFRF and all Expenditure Plan(s) funded thereunder.

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

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

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

§ 334. Emergency Procurement

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

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

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

- B. Until such time as the Budget and Finance Committee amends the Navajo Nation Procurement Rules and Regulations ("Procurement Regulations") adopted by BFD-192-03, procurements using NNFRF funds shall be deemed to satisfy the definition of EMERGENCY CONDITION set forth at Section VII (B) of the Procurement Regulations without further justification; and the written application and concurrence requirements set forth at Section VII (C) of the Procurement Regulations shall not apply to such procurements.
- C. As set forth in the Navajo Business Opportunity Act, if there are no responsive and responsible Priority One or Priority Two vendors responding to the Nation's solicitation for NNFRF funded goods, services, or construction and construction related services, who are qualified and able to meet the requirements of the procurement, including the demonstrated ability to meet the ARPA and NNFRF time deadlines, the Procuring Party may contract with companies not included on the Business Source List maintained by the Business Regulatory Department, as long as such companies agree to comply with Navajo Nation laws, regulations, and policies, including the Navajo Preference in Employment Act and Navajo Business Opportunity Act.

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

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

- A. The Office of the President and Vice-President ("OPVP") is authorized to establish a temporary NNFRF Office within OPVP by Executive Order pursuant to 2 N.N.C. §§ 1005(A) and (C) (14).
- B. The NNFRF Office shall be a clearinghouse that will, at a minimum, educate the public on NNFRF matters; coordinate, facilitate and implement NNFRF responsibilities assigned to OPVP or the Executive Branch; ensure expeditious review of NNFRF eligibility determinations and other NNFRF matters by Executive Branch programs and offices; ensure Navajo Nation compliance with Fiscal Recovery Funds provisions of ARPA and Navajo Nation laws and regulations by all entities receiving NNFRF funds; facilitate and expedite the expenditure of all NNFRF funds; ensure the completion and implementation of NNFRF authorized projects and services; and assist/support OOC in monitoring the expenditure of NNFRF funds and submitting timely and accurate ARPA reports to the federal government.
- C. Prior to its opening, OPVP shall present a plan of operation or similar structural document for the NNFRF Office to the Naabik'íyáti' Committee. On or about thirty (30) days after the end of each fiscal year quarter, OPVP shall present a report to the Naabik'íyáti' Committee on overall NNFRF Office operations, accomplishments, and challenges, along with recommended modifications or adjustments to projects and processes.
- D. OPVP and OOC shall only contract with qualified and experienced Navajo Nation-owned enterprises/authorities/corporation or Navajo-owned businesses to assist in the implementation, management, and monitoring of NNFRF funds.
- E. In order to support the purposes and intent of the Navajo Nation Business Opportunity Act and Navajo Nation Preference in Employment Act, within fifty (50) days after the enactment of this legislation, the NNFRF Office shall present a plan to the Budget and Finance and Naabik'íyáti' Committees to provide

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

SECTION ELEVEN. EFFECTIVE DATE

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

SECTION TWELVE. SAVING CLAUSE


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

SECTION THIRTEEN. DIRECTIVES

- A. OMB, in consultation with OOC and DOJ, shall present proposed NNFRF application and review procedures, including an NNFRF Expenditure Plan template, to the Budget and Finance Committee within twenty (20) days after the effective date of this legislation.
- B. The Division of Natural Resources and General Land Development Department shall present a proposed Plan of Operation for a "One-Stop Shop" to facilitate, review, and approval of rights-of-ways, temporary construction permits, mission site permits, leases, etc., to the Resources and Development Committee within forty-five (45) days after the effective date of this legislation.
- C. The Division of Human Resources and Department of Personnel Management shall present proposed amendments to the Navajo Nation Personnel Policies Manual to, at a minimum, facilitate the expeditious hiring of personnel with NNFRF funds to the Health, Education, and Human Services Committee within sixty (60) days after the effective date of this legislation.
- D. OPVP, with the assistance of the Business Regulatory Department and OOC Purchasing Section, shall present proposed amendments to the Navajo Nation's procurement and business opportunity laws and regulations to, at a minimum, expedite NNFRF procurements, to the Budget and Finance Committee within sixty (60) days after the effective date of this legislation.

CERTIFICATION

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


Honorable Seth Damon, Speaker
24th Navajo Nation Council

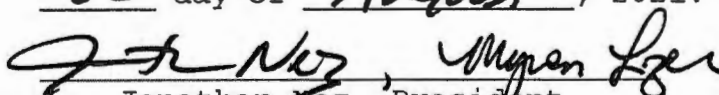
July 23, 2021
DATE

Motion: Honorable Paul Begay, Jr.
Second: Honorable Edison J. Wauneka

Speaker Seth Damon not voting

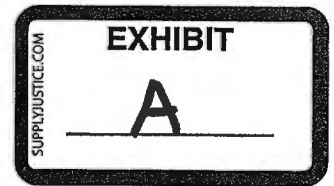
ACTION BY THE NAVAJO NATION PRESIDENT:

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


Jonathan Nez, President
Navajo Nation

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

Jonathan Nez, President
Navajo Nation



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

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

WHEREAS:

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

NOW THEREFORE BE IT RESOLVED:

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

CERTIFICATION

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

Joseph Dedman Jr., President

Al Tsedah, Vice President

Dr. Rosanna Jumbo-Fitch, Secretary

NAVAJO NATION

7/22/2021
03:39:41 PM

Navajo Nation Council Summer Session

Amd# to Amd# Legislation 0110-21: Establish-
MOT Begay, P ing the Navajo Nation Fiscal
SEC Wauneka, E Rcovery Fund and the Expenditure
Authorization Process Thereunder

PASSED

Yeas : 21

Nays : 1

Excused : 0

Not Voting : 1

Yea : 21

| | | | |
|----------|-------------|------------|------------|
| Begay, E | Freeland, M | Slater, C | Tso, E |
| Begay, K | Halona, P | Smith | Walker, T |
| Begay, P | Henio, J | Stewart, W | Wauneka, E |
| Brown | James, V | Tso | Yazzie |
| Crotty | Nez, R | Tso, D | Yellowhair |
| Daniels | | | |

Nay : 1

Charles-Newton

Excused : 0

Not Voting : 1

Tso, C

Presiding Speaker: Damon



NAVAJO NATION FISCAL RECOVERY FUNDS

YALTI TELECOM EXPENDITURE PLAN



NAVAJO NATION DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL

DOREEN N. MCPAUL
Attorney General

KIMBERLY A. DUTCHER
Deputy Attorney General

DEPARTMENT OF JUSTICE
INITIAL ELIGIBILITY DETERMINATION
FOR NAVAJO NATION FISCAL RECOVERY FUNDS

RFS/HK Review #: HK0138

Date & Time Received: 1/20/2022 at 9:24

Date & Time of Response: 1/27/2022 12:00p.m. MST

Entity Requesting FRF: Yalti Telecom LLC

Title of Project: Broadband & Cellular Telecommunications for Remote, Underserved, and Unserved Navajo Communities

Administrative Oversight: Division of General Services

Amount of Funding Requested: \$38,500,000

Eligibility Determination:

☒ FRF eligible (Conditional on FRF requirements noted below.)

☐ FRF ineligible

☐ Additional information requested

FRF Eligibility Category:

☐ (1) Public Health and Economic Impact

☐ (2) Premium Pay

☐ (3) Government Services/Lost Revenue

☒ (4) Water, Sewer, Broadband Infrastructure

U.S. Department of Treasury Reporting Expenditure Category: 5.16 Broadband "Last Mile"

Returned for the following reasons (Ineligibility Reasons / Paragraphs 5. E. (1) - (10) of FRF Procedures):

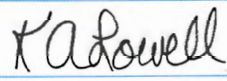
- | | |
|--|--|
| <input type="checkbox"/> Missing Form | <input type="checkbox"/> Expenditure Plan incomplete |
| <input type="checkbox"/> Supporting documentation missing | <input type="checkbox"/> Funds will not be obligated by 12/31/2024 |
| <input type="checkbox"/> Project will not be completed by 12/31/2026 | <input type="checkbox"/> Incorrect Signatory |
| <input type="checkbox"/> Ineligible purpose | <input type="checkbox"/> Inconsistent with applicable NN or federal laws |
| <input type="checkbox"/> Submitter failed to timely submit CARES reports | |
| <input type="checkbox"/> Additional information submitted is insufficient to make a proper determination | |

Other Comments: Given the Project focuses on those households and businesses with identified need and based on the speeds that will be met, this Project appears to be eligible if the following conditions being met.

- In the Final Rule, there is an additional requirement on service providers who provide service through the new infrastructure. The documents state that discounts will be provided, but specifics are not provided. Under Treasury guidance, service providers using FRF funded infrastructure must: 1. Participate in the Federal Communications Commission's (FCC) Affordable Connectivity Program (ACP); or 2. Otherwise provide access to a broad-based affordability program to low-income consumers in the proposed service area of the broadband infrastructure that provides benefits to households commensurate with those provided under the ACP.
- Projects cannot be funded using FRF funds if they have already received funding through federal or state.
- All contracts made in excess of \$100,000 must include provisions for compliance with certain provisions of the Contract Work Hours and Safety Standards Act. It is unclear whether this rule applies to grants, but in an abundance of caution, the grants should also conform to this law.
- Like all projects, Treasury has made clear that FRF cannot be used in violation of the conflict-of-interest requirements contained in the Award Terms and Conditions, including any self-dealing or violation of ethics rules.

It is critical that to be eligible, costs must be obligated by the end of 2024, and the project completed by the end of 2026.

Name of DOJ Reviewer: Kristen A. Lowell

Signature of DOJ Reviewer: 

Disclaimers: An NNDOJ Initial Eligibility Determination will be based on the documents provided, which NNDOJ will assume are true, correct, and complete. Should the Project or Program change in any material way after the initial determination, the requestor must seek the advice of NNDOJ. An initial determination is limited to review of the Project or Program as it relates to whether the Project or Program is a legally allowable use – it does not serve as an opinion as to whether or not the Project or Program should be funded, nor does it serve as an opinion as to whether or not the amount requested is reasonable or accurate.

**THE NAVAJO NATION
FISCAL RECOVERY FUNDS REQUEST FORM & EXPENDITURE PLAN
FOR EXTERNAL ENTITIES**

Part 1. Identification of parties.

External Entity requesting FRF: Yalti Telecom LLC Date prepared: 12/28/2021

External Entity's Yalti Telecom LLC phone/email: (505) 236-1556; hskow2020@gmail.com

mailing address: P.O. Box 3811, Yatahey, NM 87375 website (if any): www.yalti-telecom.com

This Form prepared by: The Law Office of Joseph Austin, Esq. phone/email: (520) 369-7680

Joseph Austin, Attorney for Yalti Telecom LLC jaustin@austinlawfirm.org

CONTACT PERSON'S name and title CONTACT PERSON'S info

Title and type of Project: Broadband & Cellular Telecommunications for Remote, Underserved, and Unserved Navajo Communities

External Entity's CEO (or equivalent): Harold Skow phone & email: (505) 236-1556; hskow2020@gmail.com

Board President: Harold Skow phone & email: (505) 236-1556; hskow2020@gmail.com

Board Treasurer or Financial Officer: Mark Maryboy phone & email: (435) 630-7488; mmaryboy1@gmail.com

Funding Recipient will be working with: Loretto Largo, Acting Division Director, Division of General Services on the Project
indicate name of Director of assisting Division and Division; if none, indicate "NN President and OVP"
 and same will be submitting the Funding Request Package for Review, and will have Administrative Oversight over this FRF Expenditure Plan.

List types of Subcontractors or Subrecipients that will be paid with FRF (if known): Navancio LLC (Priority 1);
Insight Technologies (Priority 1); NODABL Networks LLC; Gorilla Design, CCL LLC ☒ document attached

Amount of FRF requested: \$38,500,000.00 FRF funding period: January 2022 - December 2024
indicate Project starting and ending/deadline date

Part 2. Expenditure Plan details.

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

Yalti Telecom LLC will use FRF funds to undertake a project which will provide 4G LTE and true 5G broadband internet and cellular service to the remote, underserved, and unserved communities of the Navajo Nation, such as but not limited to: Mountain, Shonto, Oljato, Dennehotso, Mexican Water, Red Mesa, Aneth and Teec Nos Pos. This project will allow Navajo Nation to address its current COVID-related needs by allowing telemedicine, telework, distance learning, and connecting Navajo businesses and families to the internet. The project will also meet and exceed the minimum requirements for download and upload speeds suggest by the Interim Final Rule. ☒ document attached

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

The project will finally bring reliable, high-speed broadband internet and cellular service to every remote community in the Navajo Nation. Yalti will do so by employing Navajo technicians, Navajo workers, and Navajo companies. Navajo children can engage in distance learning from k-12 to college. Navajo people can work safely from home. Navajo businesses can engage in e-commerce. Navajo healthcare can offer telemedicine. Navajo families can connect with families anywhere. ☒ document attached

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

APPENDIX A

The first stage is planning and mapping of the Navajo Nation, including obtaining rights of ways if necessary. The second stage is manufacturing the equipment for each community. The third stage is delivering and setting up the equipment in the communities across the Navajo Nation. The project is projected to be completed by December 31, 2024. ☒ document attached

(d) Identify who will be responsible for implementing the Program or Project:

Harold Skow, the President and Owner of Yalti Telecom, and his executive team will manage and lead the project.

☒ document attached

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

Yalti Telecom LLC will provide the maintenance and operations of the project. Yalti Telecom LLC will build a Network Operation Centers (NOC) on the Navajo Nation where it will employee up to 20 Navajo Network Technicians. Yalti Telecom will offer cellular services at discounted prices and offer subsidies. Yalti Telecom LLC will also implement roaming towers for other companies to lease. The revenues from the customers and roaming tower leases will pay for prospective maintenance costs.

☒ document attached

(f) State which of the 66 Fiscal Recovery Fund expenditure categories in the attached U.S. Department of the Treasury Appendix 1 listing the proposed Program or Project falls under, and explain the reason why:

5.16 Broadband "Last Mile" Projects. SECTION 2. ELIGIBLE USES FOR FRF (A) and (D).

The project falls under this category because Yalti Telecom LLC will be designing and implementing the last mile broadband connectivity to the very remote, underserved, and unserved Navajo communities of Navajo Mountain, Shonto, Dennehotso, Mexican Water, Red Mesa, Aneth and Teec Nos Pos. These regions are economically depressed and rural areas.

5.17 Broadband Other Projects. SECTION 2. ELIGIBLE USES FOR FRF (A) and (D).

The project also falls under this category because Yalti Telecom LLC will provide reliable, high-speed 4G LTE and true 5G broadband internet and cellular services to the Navajo communities, chapter houses, hospitals, private businesses, families, government agencies, and others from the Last Mile network.

☐ document attached

Part 3. Additional documents.

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

Yalti Telecom LLC can provide the following:

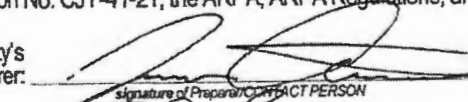
(1) Yalti Telecom LLC Broadband Presentation; (2) coverage maps; (3) Google Earth KMz and KMI files depicting all Navajo homes within the eight chapter land bases; (4) Project Implementation Chart; and (5) 2.5Ghz and 3.5Ghz spectrum utilization

☒ Board Resolution attached

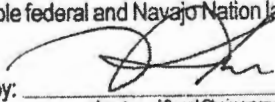
Part 4. Affirmation by Funding Recipient.

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

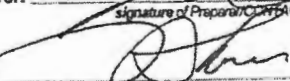
External Entity's
Preparer:


signature of Preparer/CONTACT PERSON

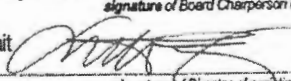
Approved by:


signature of Board Chairperson or President (or Vice-President)

Approved by:


signature of External Entity's CEO (or equivalent)

Approved to submit
for Review:


signature of Director of assisting Division

-OR- Approved to submit
for Review:

signature of NN President

FY

THE NAVAJO NATION

PROGRAM BUDGET SUMMARY

APPENDIX B

BUDGET FORM 1

| | | | | | | | | | |
|----------------------------|--|-------------|--|----------------|--|-------------------|--|---------------------|--|
| PART I. Business Unit No.: | | New | | Program Title: | | Yalti Telecom LLC | | Division/Branch: | |
| Prepared By: | | Harold Skow | | Phone No.: | | (505) 236-1556 | | Email Address: | |
| | | | | | | | | hskow2020@gmail.com | |

| PART III. BUDGET SUMMARY | | | | Fund Type Code | (A) NNC Approved Original Budget | (B) Proposed Budget | (C) Difference or Total |
|--------------------------|-------------------|------------------|------------|----------------|----------------------------------|---------------------|-------------------------|
| FRF Funds | Fiscal Year /Term | Amount | % of Total | 1 | | \$ 770,000.00 | |
| | FY2022 | \$ 19,250,000.00 | 50% | | | | |
| | FY2023 | \$ 9,625,000.00 | 25% | 2001 | Personnel Expenses | | |
| | FY2024 | \$ 9,625,000.00 | 25% | 3000 | Travel Expenses | \$ 350,000.00 | |
| | | | | 3500 | Meeting Expenses | | |
| | | | | 4000 | Supplies | \$ 300,000.00 | |
| | | | | 5000 | Lease and Rental | \$ 450,000.00 | |
| | | | | 5500 | Communications and Utilities | \$ 7,580,000.00 | |
| | | | | 6000 | Repairs and Maintenance | \$ 450,000.00 | |
| | | | | 6500 | Contractual Services | \$ 3,000,000.00 | |
| | | | | 7000 | Special Transactions | \$ 250,000.00 | |
| | | | | 8000 | Public Assistance | | |
| | | | | 9000 | Capital Outlay | \$ 23,425,000.00 | |
| | | | | 0000 | Contingency Reserve | \$ 1,925,000.00 | |
| | | | | 9500 | Indirect Cost | | |
| | | | | TOTAL | | \$ 38,500,000.00 | |

| PART IV. POSITIONS AND VEHICLES | | (D) | (E) |
|---------------------------------|--|-----|-----|
| Total # of Positions Budgeted: | | | 27 |
| Total # of Vehicles Budgeted: | | | 0 |

| | | | |
|--|--|---|--|
| PART V. I HEREBY ACKNOWLEDGE THAT THE INFORMATION CONTAINED IN THIS BUDGET PACKAGE IS COMPLETE AND ACCURATE. | | | |
| SUBMITTED BY: | | APPROVED BY: | |
| Harold Skow, President COB | | Division Director / Branch Chief's Printed Name | |
| Program Manager's Printed Name | | Division Director / Branch Chief's Signature and Date | |
| Program Manager's Signature and Date | | 1-20-22 | |

01-FY2021

RESOLUTION OF YALTI TELECOM LLC:

Approving the submission of a Fiscal Recovery Funds Application and Expenditure Plan as an external entity.

WHEREAS:

1. Yalti Telecom LLC is a 100% Navajo owned, Priority 1 limited liability company duly registered in the Navajo Nation pursuant to Navajo law;
2. Yalti Telecom LLC was established for the purpose of providing broadband services, including voice, video, and data services, to the Navajo Nation and Navajo people;
3. Yalti Telecom LLC is a single-member limited liability company with Harold Skow being the sole member, president, and chief executive officer with the sole, ultimate authority to control the direction, management, and operations of the company;
4. Yalti Telecom LLC has completed an application to apply for fiscal recovery funds available through the Navajo Nation as an external entity which is defined in section 3(B)(9) of the Navajo Nation Fiscal Recovery Funds Procedures for External Entities ("FRFP");
5. Under section 4(B)(3) of the FRFP, to apply for fiscal recovery funds, external entities are required to submit, among other things, "a duly approved Resolution from the External Entity's Board of Directors or equivalent body, which must include statements: (i) requesting the funding (with the specific dollar amount requested); (ii) describing the Project to be funded, and how the purposes of the ARPA will be satisfied; and (iii) affirming that the External Entity will only use awarded funds in compliance with the ARPA, the ARPA Regulations, and all other applicable Navajo Nation and federal laws and regulations";
6. Yalti Telecom LLC, being a limited liability company with Harold Skow as the sole member and having all the rights and authority over all aspects of the company, hereby issues this Resolution approving the submission of a Fiscal Recovery Funds Application and Expenditure Plan as an external entity.

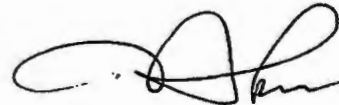
NOW THEREFORE BE IT RESOLVED THAT:

1. Yalti Telecom LLC is requesting a total amount of \$38,500,000.00 as indicated in its completed Program Budget Summary (Labeled "Appendix B");
2. The requested amount of \$38,500,000.00 will be used to undertake a broadband project in the Navajo Nation where Yalti Telecom LLC will provide 4G LTE and 5G broadband internet and voice services to the remote, unserved, and underserved communities of the Navajo Nation which include but is not limited to: Navajo Mountain, Shonto, Oljato, Dennehotso, Mexican Water, Red Mesa, Aneth, and Teec Nos Pos;

3. Yalti Telecom LLC will provide reliable, high-speed broadband internet with download speeds of 25 mbps and uploads of 3 mbps which meet the minimum threshold speeds as recommended by the Interim Final Rule of the U.S. Treasury Department;
4. Yalti Telecom LLC's proposed project and use of fiscal recovery funds satisfies the purposes of the American Rescue Plan Act of 2021 (ARPA) by assisting the Navajo Nation in their endeavor "to make necessary investments in . . . broadband infrastructure";
5. In making a necessary investment in broadband infrastructure through Yalti Telecom LLC's services, the Navajo Nation will be able to respond to the current COVID-19 pandemic, offer better essential services, ensure Navajo youth are able to participate in distance learning, assist government departments, divisions, and agencies in offering telework to their employees, offer businesses the ability to streamline business transactions and engage in e-business, and allow members of the Navajo Nation to have access to the internet for personal use;
6. If approved to receive the requested \$38,500,000.00 in fiscal recovery funds, Yalti Telecom LLC affirms that the awarded funds will only be used in compliance with ARPA, the ARPA Regulations, and all other applicable Navajo Nation and federal laws and regulations."

CERTIFICATION

I hereby certify that the foregoing Resolution, 01-FY2021, was duly considered by Harold Skow, the sole member and owner of Yalti Telecom LLC. Now, Harold Skow, being the President and Chief Executive Officer of Yalti Telecom LLC, having all authority and control over the direction, management, and operations of the company, hereby approves and enacts the foregoing Resolution this 21st day of December 2021.



Harold Skow
President and Chief Executive Officer
Of Yalti Telecom LLC



Yalti Telecom - Proposed Broadband and Cellular Telecommunication Provision for Remote, Rural Underserved and Unserved Populations Work Process Chart

| TASK | TIMELINE - 2022 | | | | | | | | | | | | DECEMBER |
|---|-----------------|----------|-------|-------|-----|------|------|--------|-----------|---------|----------|--|----------|
| | JANUARY | FEBRUARY | MARCH | APRIL | MAY | JUNE | JULY | AUGUST | SEPTEMBER | OCTOBER | NOVEMBER | | |
| CLUSTER ONE DEPLOYMENTS | | | | | | | | | | | | | |
| Remainder Mainframe Build | | | | | | | | | | | | | |
| Site Survey | | | | | | | | | | | | | |
| Shelter Manufacturing, Delivery, and Deployment | | | | | | | | | | | | | |
| Radio and Network Equipment Delivery | | | | | | | | | | | | | |
| Network Device Deployment | | | | | | | | | | | | | |
| Test & Turn-up | | | | | | | | | | | | | |
| Jobcost Build | | | | | | | | | | | | | |
| Site Survey | | | | | | | | | | | | | |
| Shelter Manufacturing, Delivery, and Deployment | | | | | | | | | | | | | |
| Radio and Network Equipment Delivery | | | | | | | | | | | | | |
| Network Device Deployment | | | | | | | | | | | | | |
| Test & Turn-up | | | | | | | | | | | | | |
| Jobcost Build | | | | | | | | | | | | | |
| Site Survey | | | | | | | | | | | | | |
| Shelter Manufacturing, Delivery, and Deployment | | | | | | | | | | | | | |
| Radio and Network Equipment Delivery | | | | | | | | | | | | | |
| Network Device Deployment | | | | | | | | | | | | | |
| Test & Turn-up | | | | | | | | | | | | | |
| CLUSTER TWO DEPLOYMENTS | | | | | | | | | | | | | |
| Remainder Mainframe Build | | | | | | | | | | | | | |
| Site Survey | | | | | | | | | | | | | |
| Shelter Manufacturing, Delivery, and Deployment | | | | | | | | | | | | | |
| Radio and Network Equipment Delivery | | | | | | | | | | | | | |
| Network Device Deployment | | | | | | | | | | | | | |
| Test & Turn-up | | | | | | | | | | | | | |
| Jobcost Build | | | | | | | | | | | | | |
| Site Survey | | | | | | | | | | | | | |
| Shelter Manufacturing, Delivery, and Deployment | | | | | | | | | | | | | |
| Radio and Network Equipment Delivery | | | | | | | | | | | | | |
| Network Device Deployment | | | | | | | | | | | | | |
| Test & Turn-up | | | | | | | | | | | | | |
| Jobcost Build | | | | | | | | | | | | | |
| Site Survey | | | | | | | | | | | | | |
| Shelter Manufacturing, Delivery, and Deployment | | | | | | | | | | | | | |
| Radio and Network Equipment Delivery | | | | | | | | | | | | | |
| Network Device Deployment | | | | | | | | | | | | | |
| Test & Turn-up | | | | | | | | | | | | | |



Yalti Telecom - Proposed Broadband and Cellular Telecommunication Provision for Remote, Rural Underserved and Unserved Populations Work Process Chart

| TASK | TIMELINE - 2023 | | | | | | | | | | | | DECEMBER |
|---|-----------------|----------|-------|-------|-----|------|------|--------|-----------|---------|----------|--|----------|
| | JANUARY | FEBRUARY | MARCH | APRIL | MAY | JUNE | JULY | AUGUST | SEPTEMBER | OCTOBER | NOVEMBER | | |
| CLUSTER ONE DEPLOYMENTS | | | | | | | | | | | | | |
| Remainder Mainframe Build | | | | | | | | | | | | | |
| Site Survey | | | | | | | | | | | | | |
| Service Manufacturing, Delivery, and Deployment | | | | | | | | | | | | | |
| Radio and Network Equipment Delivery | | | | | | | | | | | | | |
| Network Device Deployment | | | | | | | | | | | | | |
| Test & Turn-up | | | | | | | | | | | | | |
| Jobcost Build | | | | | | | | | | | | | |
| Site Survey | | | | | | | | | | | | | |
| Service Manufacturing, Delivery, and Deployment | | | | | | | | | | | | | |
| Radio and Network Equipment Delivery | | | | | | | | | | | | | |
| Network Device Deployment | | | | | | | | | | | | | |
| Test & Turn-up | | | | | | | | | | | | | |



Yahli Telecom - Proposed Broadband and Cellular Telecommunication Provision for Remote, Economically Distressed, Rural Underserved and Unserved Populations Fostering Growth

[illegible]



The Law Office of Joseph Austin, Esq.

Attorney at Law
Law Office Registered in the Navajo Nation
(520) 369-7680
jaustin@austinlawfirm.org

New Mexico Bar Association

Navajo Nation Bar Association

January 7, 2022

ATTN: Loretta Largo, Acting Division Director
Navajo Nation Division of General Services
P.O. Box 9000
Window Rock, AZ 86515
llargo@navajo-nsn.gov

***Re: Administrative Oversight for FRF Request Form & Expenditure Plan for External Entity
Yalti Telecom LLC***

Ms. Largo,

Our office represents Yalti Telecom LLC, a 100% Navajo owned, Priority 1 company that provides broadband services to the Navajo Nation and Navajo people. The company is owned by Harold Skow, a member of the Navajo Nation. Mr. Skow has assembled a team of highly qualified engineers, technicians, and scientists with years of experience working with telecommunications and broadband internet projects across the world. Mr. Skow and the Yalti Team have created a unique proposal that will bring 4G LTE and 5G services to the Navajo Nation at a fraction of the cost of other service providers such as Verizon, AT&T, and T-Mobile, to name a few.

Yalti Telecom's proposed project will put the Navajo Nation on par with the rest of the nation in regards to having reliable, highspeed internet that includes voice and data services. More importantly, it will give the Navajo Nation and the Navajo people the tools they need to endure and prosper during these trying and difficult times cause by the COVID-19 pandemic. Should Yalti Telecom receive the funding for their broadband project, they will use innovative technology that is almost all wireless and thus requires no laying of cables or infrastructure that penetrates the ground. The innovative technology is capable of bringing the wireless spectrum to every community, every house, and every person in the Navajo Nation, no matter how remote they may be.

Yalti Telecom would like to submit an application for fiscal recovery funds to fund their broadband project in the Navajo Nation. However, under the Navajo Nation's Fiscal Recovery Funds Procedures ("Procedures"), Yalti Telecom is classified as an external entity. Under section 4 of the Procedures, in order to submit a funding request for consideration, we are required to have an administrative oversight entity which must be a government unit. Other entities who have submitted FRF requests to the NNDOJ for broadband projects listed the Division of General Services as the appropriate administrative oversight entity. Accordingly, we are respectfully asking that you review our FRF Request & Expenditure Plan, sign the request, and forward it to the NNDOJ for review and approval, as stated in section 4(D) of the Procedures:

"Beehaz'aanii bee hoózhó náhoodleet."

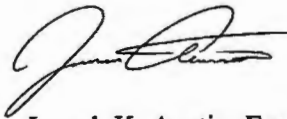
"The Director of the Administrative Oversight entity, shall review, approve, and sign each External Entity's FRF Request Form & Expenditure Plan and its FRF Expenditure Plan Budget, and then submit on behalf of the External Entity, its Funding Request Package for an Initial Eligibility Determination Review."

We are also including other documents as attachments to the FRF Request & Expenditure Plan. You will find the following documents to complete our FRF request package:

1. Appendix A – FRF Request Form & Expenditure Plan;
2. Appendix B – FRF Expenditure Plan Budget;
3. Yalti Telecom's Priority 1 Certification;
4. Yalti Telecom's Certificate of Organization;
5. Yalti Telecom's Certificate of Good Standing, obtained on 12/28/2021;
6. Yalti Telecom's Resolution approving the submission of an FRF Request & Expenditure Plan which conforms to the requirements under section 4(B)(3) of the Procedures;
7. Project Spreadsheet; and
8. Work Ghant Chart.

We appreciate your time and assistance with this matter. If you have any questions or concerns, please reach out to my office at (520) 369-7680 or jaustin@austinlawfirm.org. We wish you well and a happy new year!

Best Regards,

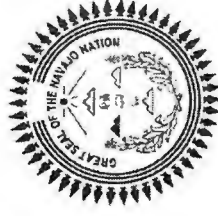
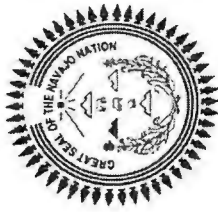


Joseph K. Austin, Esq.
Attorney at Law

The Navajo Nation

Contract and Purchase Certification Certificate of Eligibility

Certificate No. **0821/8918**



YALTI TELECOM, LLC- PROFESSIONAL SERVICES - Provide voice, video, data services, board band software and data equipment.

Priority No. 1

TO ALL PERSONS DOING BUSINESS ON THE NAVAJO NATION:

The above named entity is hereby certified, in accordance with the Navajo Business Opportunity Act, Title 5, Chapter 2, § 204 (A) (1) & (2), as a Navajo or Indian Owned Business and being duly certified with this Office, shall be afforded all economic opportunities pursuant to the Navajo Nation Council Resolution CAP-37-02.

A certified business entity is one owned by an Enrolled Member of the Navajo/Other Indian Tribe and is at least 51 % or more Navajo/Indian owned and controlled.

ONE HUNDRED (100%)

PERCENTAGE OF BUSINESS OWNERSHIP

8/5/2021

DATE OF CERTIFICATION

8/4/2022

EXPIRATION DATE

A handwritten signature in black ink, appearing to read "Notah C. Silversmith".

Notah C. Silversmith, Department Manager
Business Regulatory Department
Division of Economic Development



NAVAJO NATION LIMITED LIABILITY COMPANY ACT

CERTIFICATE OF ORGANIZATION

To all to Whom these Presents Shall Come, Greeting:

I, the Manager of the Business Regulatory Department, DO HEREBY CERTIFY
that

YALTI TELECOM, LLC

File Number: 102705

a Limited Liability Company organized under the laws of the Navajo Nation, was on the
6th day of July, 2021, authorized to
transact business within the Navajo Nation as a DOMESTIC Limited Liability Company.

I FURTHER CERTIFY that this Limited Liability Company has filed all affidavits
and required documents and paid all filing fees required and, therefore, is registered as a
Domestic Limited Liability Company with the Navajo Nation.



IN WITNESS WHEREOF, I have hereunto set
my hand and affixed the official seal of the
Navajo Nation Limited Liability Company Act
at Window Rock, Arizona, this 6th

day of July, 2021 A.D.


Notah C. Silversmith
Manager, Business Regulatory Department



NAVAJO NATION CORPORATION CODE

CERTIFICATE OF GOOD STANDING

To all to Whom these Presents Shall Come, Greetings:

I, the Director of the Business Regulatory Department, DO HEREBY CERTIFY
that

YALTI TELECOM, LLC

File Number: 102705

a Corporation organized under the laws of the Navajo Nation Corporation Act, did
incorporate on July 6th, 2021.

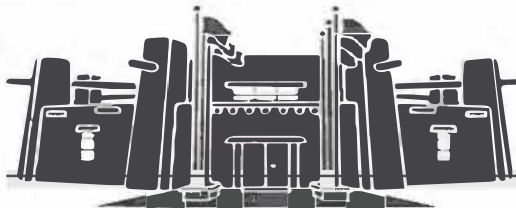
I FURTHER CERTIFY that this corporation has filed all affidavits and annual
reports and has paid all annual filing fees required to date and, therefore, is in good
standing within the Navajo Nation.



IN WITNESS WHEREOF, I have hereunto set
my hand and affixed the official seal of the
Navajo Nation Corporation Code. Done at
Window Rock, Arizona, the Capital of the
Navajo Nation, this 28th
day of December, 2021 A.D.

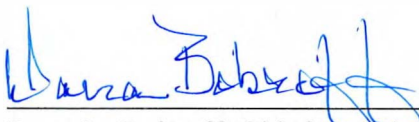
Al. H. Smith
Notah C. Silversmith

Director, Business Regulatory
Division of Economic Development



MEMORANDUM

TO: Honorable Eugenia Charles-Newton
24th Navajo Nation Council

FROM: 
Dana L. Bobroff, Chief Legislative Counsel
Office of Legislative Counsel

DATE: March 17, 2022

SUBJECT: **AN ACTION RELATING TO THE NAABIK'ÍYÁTI' COMMITTEE AND NAVAJO NATION COUNCIL; ALLOCATING \$38,500,000 OF NAVAJO NATION FISCAL RECOVERY FUNDS TO YALTI TELECOM, LLC; APPROVING THE NAVAJO NATION FISCAL RECOVERY FUND YALTI TELECOM EXPENDITURE PLAN**

I have prepared the above-referenced proposed resolution and associated legislative summary sheet pursuant to your request for legislative drafting. Based on existing law and review of documents submitted, the resolution as drafted is legally sufficient. As with any action of government however, it can be subject to review by the courts in the event of proper challenge.

The Office of Legislative Counsel confirms the appropriate standing committee(s) based on the standing committees powers outlined in 2 N.N.C. §§301, 401, 501, 601 and 701. Nevertheless, "the Speaker of the Navajo Nation Council shall introduce [the proposed resolution] into the legislative process by assigning it to the respective oversight committee(s) of the Navajo Nation Council having authority over the matters for proper consideration." 2 N.N.C. §164(A)(5).

Please ensure that his particular resolution request is precisely what you want. You are encouraged to review the proposed resolution to ensure that it is drafted to your satisfaction.

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: _0059-22_

SPONSOR: Eugenia Charles-Newton

TITLE: An Action Relating to the Naabik'iyáti' Committee and Navajo Nation Council; Allocating \$38,500,000 of Navajo Nation Fiscal Recovery Funds to Yalti Telecom, LLC; Approving the Navajo Nation Fiscal Recovery Fund Yalti Telecom Expenditure Plan

Date posted: March 29, 2022 at 6:01 PM

Digital comments may be e-mailed to comments@navajo-nsn.gov

Written comments may be mailed to:

**Executive Director
Office of Legislative Services
P.O. Box 3390
Window Rock, AZ 86515
(928) 871-7586**

Comments may be made in the form of chapter resolutions, letters, position papers, etc. Please include your name, position title, address for written comments; a valid e-mail address is required. Anonymous comments will not be included in the Legislation packet.

Please note: This digital copy is being provided for the benefit of the Navajo Nation chapters and public use. Any political use is prohibited. All written comments received become the property of the Navajo Nation and will be forwarded to the assigned Navajo Nation Council standing committee(s) and/or the Navajo Nation Council for review. Any tampering with public records are punishable by Navajo Nation law pursuant to 17 N.N.C. §374 *et. seq.*

**THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW SUMMARY**

LEGISLATION NO.: 0059-22

SPONSOR: Honorable Eugenia Charles-Newton

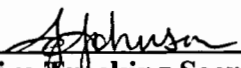
TITLE: An Action Relating to the Naabik'íyáti' Committee and Navajo Nation Council; Allocating \$38,500,000 of Navajo Nation Fiscal Recovery Funds to Yalti Telecom, LLC; Approving the Navajo Nation Fiscal Recovery Fund Yalti Telecom Expenditure Plan

Posted: March 29, 2022 at 6:01 PM

5 DAY Comment Period Ended: April 03, 2022

Digital Comments received:

| | |
|---------------------------------|----------------------------------|
| Comments Supporting | 1) Al Henderson 2) Jeff Begay |
| Comments Opposing | <i>None</i> |
| Comments/Recommendations | <i>None</i> |



**Legislative Tracking Secretary
Office of Legislative Services**

April 05, 2022; 8:29 AM
Date/Time

Legislation No: 0059-22

Al Henderson <ahec01@gmail.com>

Thu 3/31/2022 4:44 AM

To: comments <comments@navajo-nsn.gov>;

Cc: April Hale <ahalepr@gmail.com>; JoAn Notah <joan@ncaied.org>; John Lewis <john@ahcnm.org>; Lydelle Davies <neztribalcommunications@gmail.com>; Marvinina Pete <marvinina.pete@wafd.com>; Tony Hale <navajo.incorp@gmail.com>; Joseph Austin <jaustin@theaccessschool.com>; Jeff Begay <rezbladr@gmail.com>; Harold Skow <hskow2020@gmail.com>; Asa Begaye <asabegaye@wildblue.net>;

Yalti Telecom, LLC is a Priority 1 Navajo-owned company with whom I have worked with as a business advisor for over a year. I am confident the company leadership has the capacity, experience and industry knowledge to implement the project they are proposing to assist with the Navajo Navajo broadband development initiative, in particular, for rural underserved areas.

May I request the Navajo Nation leadership to support this exciting development by approving the allocation of \$38,500,000 from the NNFRF.

Thank you.

*Al Henderson, Interim CEO
Dineh Chamber of Commerce
928/*

WARNING: External email. Please verify sender before opening attachments or clicking on links.

Re: Legislation No: 0059-22

JL Begay <rezblldr@gmail.com>

Thu 3/31/2022 10:59 AM

To: comments <comments@navajo-nsn.gov>;

Cc: April Hale <ahalepr@gmail.com>; JoAn Notah <joan@ncaied.org>; John Lewis <john@ahcnm.org>; Lydelle Davies <neztribalcommunications@gmail.com>; Marvinna Pete <marvina.pete@wafd.com>; Tony Hale <navajo.incorp@gmail.com>; Joseph Austin <jaustin@theaccessschool.com>; Harold Skow <hskow2020@gmail.com>; Asa Begaye <asabegaye@wildblue.net>; Al Henderson <ahec01@gmail.com>; Duane Aspaas <daspaas@iinaba.com>; Aaron Shorty <rockspring@sisna.com>;

As the "once in a life-time" funding is being discussed, please remember the individual Navajo constituents who are practicing "Ta whi'ajit'eego" as our elders have instructed. Tribal government owned enterprises serve our people but private businesses have less support from our tribal government. Please consider Yalti Telecom, LLC , Priority #1 Navajo owned company, in Legislation No. 0059-22 to provide an essential service at competitive pricing, and to promote a private-sector economy in our Navajo Nation. Thank you.

Jeff Begay, Board Member
Dineh Chamber of Commerce

TPM

E: Rezblldr@gmail.com M: 602-

WARNING: External email. Please verify sender before opening attachments or clicking on links.