

Whereas, the Town of East Montpelier has elected to take the Treasury's Standard Allowance use of ARPA funds. ~~This eases the overall administrative burden to the Town, simplifies the reporting requirements, and allows for the most flexibility in using the funds; and~~

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Whereas, the Vermont Community Broadband Board, in its Construction Request for Proposals ("RFP"), posted 1/18/2022, made available to each CUD a matching fund for any ARPA contribution commitment made by the Town prior to September 15th 2022; and CVFiber has committed to using those matching funds ~~in within the borders of the Town of East Montpelier; and~~

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Whereas, the investment in fiber infrastructure throughout the CVFiber district District will cost many times the amount of ARPA grant funding that is available from the Federal and State government grants, and therefore CVFiber will issue municipal revenue bonds, which are covered by subscriber fees for service and will therefore increase ~~ourthe~~ minimum rates for services; and

~~Whereas, the contribution by the Town will directly reduce the amount CVFiber will need to borrow and therefore increase affordability by decreasing subscriber fees;~~

NOW THEREFORE:

- 1) **Agreement.** The Parties agree to invest \$~~NNNN.NNN~~100,000 of ARPA Funds designated for the Town in the CVFiber Community Network (Town Broadband Investment) by transferring such funds from Town to CVFiber under the transfer authority granted to the Town under 42 U.S.C 802(c) (3) [PL 117-2 Section 603(c) (3) ~~to~~] and CVFiber's status as a special-purpose unit of State or local government. The Parties agree that none of the funds being transferred have been generated by the Town's taxing or assessment power, as such is prohibited under 30 V.S.A. § 3056.
- 2) **CVFiber Agreement.** In anticipation of and in reliance upon receipt of Town Broadband Investment, as and when stated herein, CVFiber agrees to begin CVFiber Community Network construction activities and to deploy broadband services in accordance with the business plan as funding, materials, contractors, and weather permits. Construction activities also include the necessary pole inventory, detailed design, and pole and conduit make ready work. While it is CVFiber's intent to offer service within three to four years to all unserved and underserved addresses in its member towns, it reserves the right to change specific deployment schedules to accommodate changes in design, engineering updates, or availability of labor or materials. CVFiber agrees to ensure compliance with all grant award terms and conditions, (See Attachment 1) including all applicable laws and regulations. CVFiber shall expend the Town Broadband Investment solely for lawful and appropriate purposes as a subrecipient of such funding, in compliance with 31 CFR 35 and such other statutes, rules and regulations as may be applicable.
- 3) **Town Contribution, Schedule and Payment.** The Town has chosen the Standard

Allocation as its method for use of its ARPA funds. The Town agrees to contribute and assign and transfer \$~~NNN,NNN,100,000~~ of its ARPA Funds to CVFiber for the purposes described. Any unused funds shall be returned to the Town by December 31, 2026.

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- 4) **CVFiber Deliverables and Schedule:** Deliverables shall include ~~an annually updated~~ timetable, ~~and~~ annual budget and audit reports. The Parties agree that the contribution of the funds will not change the construction schedule for the complete build-out of the Town. The funds may be used for investment in broadband infrastructure such as ~~pole inventory, high level design, detailed design, pole and conduit make ready, pole attachments, physical construction,~~ public building connections, underserved installations, or as detailed by the Town's selections in Appendix I. CVFiber must obligate all Town ARPA Funds by ~~December~~October 31, 2024, and expend such funds by ~~December~~October 31, 2026, in accordance with regulations, as amended.

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- 5) **Broadband Network:** CVFiber shall use best efforts to plan, construct and deploy a suitable broadband network for ~~the Town's~~ underserved and underserved areas in the town, meeting the following minimum standards:

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- a. Symmetrical 100 Mbps download speed and upload speeds; or
- b. Acceptable standard market standard speeds using reasonable efforts where it is not viable or where impracticable, including due to excessive cost, buildability due to factors such as geography or topography, or as otherwise required for compliance under statutes, rules or regulations as may be applicable.

6) **Reporting and Indemnification**

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- a. CVFiber shall provide the Town with ~~regular~~ updates at least twice yearly, on the use of the contributed funds, with the updates including the amount of expended East Montpelier's ARPA funds, a brief synopsis of overall District construction progress, and a brief synopsis of the deliverables and schedule.

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- b. CVFiber shall indemnify and hold harmless the Town from all suits, actions or claims of any character brought for or on account of any claims or damages for personal injury or property damage resulting from or in any way associated with CVFiber's services under this Agreement, willful misconduct and negligence exempted.

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- c. With respect to the transfer of the Town's ARPA funds to CVFiber, CVFiber shall indemnify and hold harmless the Town from any

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c. claims, actions, investigations, or proceedings proceeding against the Town for recoupment of the Town's ARPA funds transferred to CVFiber herein where such claims, investigations or proceedings result from any determination that the transfer of ARPA funds contemplated by this Agreement is in violation of the American Rescue Plan Act or the rules promulgated thereunder, or CVFiber's wrongful or unlawful expenditure of any or all of the Town Broadband Investment transferred to CVFiber. "Wrongful or unlawful expenditure" includes, but is not limited to, any expenditure that is not permitted by the ARPA statute or rules.

7) **Program Support.** As CVFiber becomes operational and cashflow cash-flow positive, the District CVFiber intends to work with the State and others to implement programs to increase accessibility and affordability. If there becomes a way in the future that the District CVFiber can assist towns CVFiber members that have made these Local Fiscal Recovery Fund investments in broadband infrastructure to address accessibility and affordability, the District CVFiber will make a good-faith effort to do so.

- 8) **CVFiber Policy.** It is CVFiber's policy to
- a. Offer low rates consistent with covering the costs to construct, operate, finance, maintain, access, and sustain the network;
 - b. Commit to transparency in accordance with Vermont's Open Meeting and Public Records laws;
 - c. Publicize a clear rate structure as soon as possible;
 - d. Prioritize network access to unserved and underserved addresses that do not have at least a dependable 25/3 Mbps service and, as far as possible, offer service at all these addresses by 2025;
 - e. Diligently pursue the additional funding and financing necessary to build the CVFiber Community Network;
 - f. Provide universal access to Internet service at speeds of a minimum of 100/100 Mbps for every address connected to the electrical grid that had less than a dependable 25 Mbps download or less than 3 Mbps upload as of the Vermont Public Service Department 2021 data;
 - g. Contract with a reliable, professional operator to manage the service offered to residents, businesses and government facilities;
 - h. Provide for ongoing network maintenance and repair to maximize performance and minimize disruptions and outages;
 - i. Provide high-quality technical support;
 - j. Maintain the CVFiber Community Network infrastructure as a public asset;
 - k. Provide regular updates on its progress to member towns CVFiber members; and
 - l. Act as a resource on broadband to member towns CVFiber members.

9) **Confidentiality**
Each Party is a body politic and subject to the Vermont Open Meeting law, +

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1 V.S.A. §§ 310-314, and the Access to Public Records law, 1 V.S.A. §§ 315-320. As such, board and committee meetings are open to the public unless there is statutory justification for entering into an executive session, 1 V.S.A. § 313. Any records in possession must be disclosed to the public upon request

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Appendix 1
CVFiber – Town of East Montpelier ARPA Fund Allocation Form

The Town of East Montpelier elects to use a portion of its ARPA Broadband Investment Grant Funds and the matching Vermont Community Broadband Board Grant Funds in the following manner, which is subject further research on need:

Connecting Households

- The current estimated average cost to connect each home is estimated at \$1,650, but this is subject to ~~change~~Town change.
- The Town reserves the right to review specific plans for construction and connections.

Connecting Community Facilities

The Town wishes to connect its community facilities to enhance the provision of government services as quickly as possible, which may include but is not limited to facilities such as the following:

- Town Office
- ~~Town Hall~~
- Public Works Garage
- East Montpelier Elementary School
- Community and Cultural Centers

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Attachment 1

NEU AWARD TERMS AND CONDITIONS

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