



Henry McMaster
Governor

SOUTH CAROLINA
DEPARTMENT OF COMMERCE

Harry M. Lightsey III
Secretary

June 10, 2024

Mr. Tommy Paradise
Administrator
Edgefield County
124 Courthouse Square
Edgefield, South Carolina 29824

Re: USFibers, a division of Pac Tell Group, Inc. - Rural Infrastructure Fund Grant #C-22-3677 - Edgefield County

Dear Mr. Paradise:

Pursuant to the meeting of the South Carolina Coordinating Council for Economic Development (the "Coordinating Council") on June 6, 2024, I am pleased to inform you that funding in the amount of \$350,000 has been approved for the above referenced project. Funds will be used for building improvements to assist Pac Tell Group, Inc. d/b/a USFibers (Project Eagle) (the "Company"). Please be advised that only approved budget items described in the cost estimates submitted as part of the application are eligible for reimbursement. Any costs over the funding amount will not be the responsibility of the Coordinating Council.

Please note that before grant funds can be used to reimburse approved project costs, several steps must be completed. Specifically, the following **must be submitted** to our office:

1. **Grant Award Agreement** – Enclosed for signature are two copies of the Grant Award Agreement between the Coordinating Council and Edgefield County. The agreement must be signed by an official (or his/her authorized designee) with legal authority to execute the agreement for Edgefield County. Please read this contract carefully. Once signed, please return both copies to my attention within fourteen (14) days. Once the signed agreements are received, they will be signed by our office and one original executed agreement will be sent to your attention.
2. **Performance Agreement** – The Performance Agreement is between the Coordinating Council, Edgefield County, and the Company. The agreement must be signed by officials (or their authorized designees) with legal authority to execute the agreement for the Grantee (Edgefield County) and for the Company (USFibers, a division of Pac Tell Group, Inc.). The Performance Agreement is being forwarded to the Company first for signatures and revisions if necessary. Once the Company has signed the agreement and returned it to our office, the agreement will be forwarded to **Edgefield County**. Please read this contract carefully. Once signed, please return all three copies to my attention within thirty (30) days. Once the agreements signed by the Company and **Edgefield County** are received, they will be signed by our office. One original executed agreement will be sent to your attention and the other to the Company.

Please also note that, unless the Company has requested a conditional notice to proceed, work for which the grant is approved should not commence prior to the Coordinating Council's receipt of the signed agreements by all parties and the Coordinating Council's issuance of a notice to proceed.

3. Project Budget – The project cost estimates provided as part of the application will serve as the project budget. If actual costs fluctuate by more than 10% or more than \$10,000 (whichever is less), a new detailed budget must be submitted for the Coordinating Council's approval before additional funds may be drawn. If specific items are not reimbursable under the terms of the agreements, we will notify you in writing.
4. Signed Contracts – Once signed, please forward all contracts pertaining to the grant project to our office. Additionally, if there are amendments to contracts related to the grant project, those must also be forwarded to our office within 30 days of execution.
5. Status Reports – The status reports are designed to provide the Coordinating Council with relevant information related to your grant project. These reports should be submitted on a bi-annual basis.

For your convenience, we have enclosed a grant packet which includes: a program checklist that notifies you of required documents and the dates which they are due, a customized request for payment form that must accompany all reimbursement requests, a status report form to be submitted bi-annually and two copies of the grant award agreement. All of these forms are available electronically, and we will gladly forward them to you upon request.

The Coordinating Council appreciates the opportunity to serve the citizens of Edgefield County, and we look forward to working with you to ensure the success of this project. If you have any questions, please feel free to contact us.

Sincerely,



Chris Huffman
Executive Director
Coordinating Council for Economic Development

Enclosures

cc: Harry M. Lightsey, III (w/o enclosures)
Philip Morgan (w/o enclosures)
Will Williams (w/o enclosures)

**SOUTH CAROLINA COORDINATING COUNCIL
FOR ECONOMIC DEVELOPMENT
1201 Main Street, Suite 1600
Columbia, South Carolina 29201**

GRANT AWARD AGREEMENT
GRANT # C-22-3677

In accordance with the provisions of Section 12-28-2910 of the Code of Laws of South Carolina, 1976, as amended (the "Code"), the South Carolina Coordinating Council for Economic Development, hereinafter called the Council, does commit and grant to Edgefield County, hereinafter called the Grantee, the sum in dollars set forth in Section 3 below for the Project identified in Section 2 below. The acceptance of the Agreement creates a contract between the Council and the Grantee, legally binding the Grantee to carry out the activities and obligations set forth in the Application and this Agreement, all in accordance with the terms and conditions set forth in this Agreement and in any appendices attached hereto and any other documents or conditions referred to herein.

Section 1: DEFINITIONS:

- (a) Agreement means this Grant Award Agreement.
- (b) Application means the grant application forms submitted by the Grantee to the Council.
- (c) Company means the economic development corporate entity that is identified in the Application.
- (d) Contractor means a private contractor who undertakes all or part of the Grant Project.
- (e) Council means the South Carolina Coordinating Council for Economic Development (CCED).
- (f) Effective Date means the date that the Application is approved by the Council.
- (g) Grant means the dollars committed by the Council to the Grantee for the Project.
- (h) Grant Project means the portion of the Project that is within the scope of work as described in Section 2.0 hereof and approved by the Council to be reimbursed with Grant funds.
- (i) Grantee means the unit of government designated for the Grant and set forth above.
- (j) Project means the project identified and described in the Application.

- (k) State means the State of South Carolina and any agencies or offices thereof.

Section 2: GRANT PROJECT DESCRIPTION: Funds will be used for building improvements to assist Pac Tell Group, Inc. d/b/a USFibers (Project Eagle). The Grant Project has been approved by the Council and is included by reference as Rural Infrastructure Fund Grant #C-22-3677 - building improvements.

Section 3: AWARD AMOUNT: The Council hereby commits an amount not to exceed \$350,000, to be used only for the Grant Project and related costs, as described in the Application. Eligible costs that can be paid from the Grant shall include only those costs within the scope of work approved by the Council.

3.1: Approval of Third-Party Contracts: The Grantee must submit all agreements with a Contractor engaged to perform work within the scope of the Grant Project to the Council when it submits a reimbursement request relating to a payment to that Contractor.

3.2: Notice to Proceed: The Grantee must obtain from the Council written notice to proceed prior to incurring costs against the Grant. If the Grantee or the Company needs to incur expenses prior to the Council's notification to proceed, the Grantee must submit a written request to the Council and obtain prior written approval from the Council. Otherwise, any expenditure made prior to the date of the written notice to proceed is made by the Grantee or the Company at its own risk and expense and is not eligible for payment with Grant funds.

3.3: Engineering Costs: Reimbursement of engineering costs will be capped at 10% of the total grant award amount. Requests that exceed 10% must have substantial justification and require prior approval by the Council to be reimbursable.

3.4. Administrative Fees: The Grantee may not charge an administration fee in connection with the Grant.

Section 4: AMENDMENTS: Any changes in the scope of work of the Grant Project, including change orders or cost increases, must be submitted in writing by the Grantee to the Council as a request for an award adjustment, and such request must clearly identify the need for the change or relief. Any adjustment granted by the Council shall be appended to this Agreement as an amendment.

Section 5: PERFORMANCE: By acceptance of this Grant, the Grantee warrants that it will complete, or cause to be completed, the Grant Project as described in the approved Application, including any approved amendments appended hereto. Should Grantee fail to complete or cause the completion of all or part of the Grant Project, the Council shall be entitled to reimbursement from the Grantee of any Grant funds that were received by the Grantee for any work that was not performed.

Section 6: FUNDING UNDERRUNS: The Grantee agrees that it will return surplus Grant funds that result from Grant Project cost underruns.

Section 7: AUDIT: The Grantee must include an examination and accounting of the expenditures of Grant funds in its first annual audit following the completion of the Grant Project, and submit a copy of the audit report to the Council. The Grantee agrees that it will reimburse the Council for unauthorized and unwarranted expenditures disclosed in the audit, if so directed by the Council. Upon request of the Council, the Grantee shall make available, and cause the Company to make available, for audit and inspection by the Council and its representatives all the books, records, files and other documents relating to any matters pertaining to the Grant Project, the Application or this Agreement. The Grantee shall have prepared an audit of Grant funds received under this Agreement that adheres to the following audit requirements, whichever is applicable:

- (a) Generally accepted auditing standards established by the American Institute of Certified Public Accountants, (AICPA);
- (b) The General Accounting Office (GAO) Standards for Audits of Governmental Organizations, Programs, Activities, and Functions, latest revised edition (Yellow Book);

Section 8: CONTRACTOR SELECTION:

- (a) In the event that the Grantee will be engaging a Contractor to undertake all or any part of the scope of work of the Grant Project, then the selection of that Contractor by the Grantee must follow the applicable procurement laws, regulations and guidelines of the county. The use of the grant funds is not subject to the requirements of the State Procurement Code or the regulations promulgated thereunder. If the Grantee fails to adhere to procurement requirements as set forth herein, the Council may call for repayment by the Grantee for Grant funds that were expended in a disallowable manner.

A Contractor must represent that it has, or will secure at its own expense, all personnel required in the performance of the services covered by this Agreement. Such personnel shall not be employees of, or have any contractual relationship with the Council or the Grantee.

All of the services required to complete the Project will be performed by the Grantee and/or a Contractor, or under its supervision, and all personnel engaged in the work shall be fully qualified and shall be authorized under state and local law to perform such services.

The Grantee and/or a Contractor shall be liable for and pay all taxes required by local, state, or federal governments, which may include, but not be limited to, social security, worker's compensation, and employment security as required by law. No employee benefits of any kind shall be paid by the Council to or for the benefit of the Grantee and/or a Contractor or his employee or agents by reason of this Agreement.

- (b) In the event that the Company will be engaging a Contractor to undertake all or any part of the scope of work of the Grant Project, the Grantee warrants that it will ensure that the selection of the Contractor complies with the requirements set forth in Exhibit A attached hereto.

Section 9: CONFIDENTIAL INFORMATION: Any reports, information, data, or other documentation given to or prepared or assembled by the Grantee under this Agreement shall remain confidential and exempt from disclosure pursuant to the South Carolina Freedom of Information Act, S.C. Code Section 30-4-40(a). If information given to or prepared or assembled by the Grantee under this Agreement is or may be required to be disclosed, Grantee agrees to consult with the Council prior to such required disclosure to protect any and all confidential proprietary interests of third party companies.

Section 10: DISCRIMINATION: The Grantee shall not, and in the event it engages Contractors it shall impose on its Contractors the obligation not to, discriminate against any employee or applicant for employment because of race, color, religion, age, sex, national origin, or handicap. The Grantee and any Contractor shall be required to take affirmative action to ensure that applicants for employment and employees are treated without regard to their race, color, religion, age, sex, national origin, or handicap.

Section 11: INTEREST OF CERTAIN FEDERAL OR STATE OFFICIALS: No elected or appointed State or federal official shall be admitted to any share or part of the Grant funds, this Agreement or to any benefit to arise from the same.

Section 12: INTEREST OF MEMBERS, OFFICERS OR EMPLOYEES OF THE GRANTEE, MEMBERS OF LOCAL GOVERNING BODY OR OTHER PUBLIC OFFICIALS: No member, officer or employee of the Grantee, or its designees or agents, no member of the governing body of the locality in which the Project is situated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the Project during his tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed in connection with the Grant Project or this Agreement. If the Grantee engages any Contractors for the Grant Project, the Grantee shall incorporate, or cause to be incorporated, in all of its contracts or subcontracts relating to the Grant Project and this Agreement this provision prohibiting such interest.

Section 13: PROHIBITION AGAINST PAYMENTS OF BONUS OR COMMISSION: The assistance and Grant funds provided under this Agreement shall not be used for the payment of any bonus or commission for the purpose of obtaining the Council's approval of the Application, or the Council's approval of any applications for additional assistance or Grant funds, or any other approval or concurrence of the Council required under this Agreement. However, the payment from Grant funds of reasonable fees for bona fide technical, consultant, managerial or other such services, other than actual solicitation, are not hereby prohibited if otherwise eligible as Grant Project costs.

Section 14: MAINTENANCE OF AND ACCESS TO RECORDS: The Grantee shall retain records for property purchased totally or partially with Grant funds and records relating to procurement matters for a period of three years after the final disposition of the Grant. All other pertinent Grant and Project records including financial records, supporting documents, and statistical records shall be retained for a minimum of three years after notification in writing by the Council of the closure of the Grant. However, if any litigation, claim, or audit is initiated before the expiration of any such period, then records must be retained for three years after the litigation, claim, or audit is resolved. Upon request, the Grantee must make these records available to the Grantee's auditor, the Council, and its representatives.

Section 15: MBE OBLIGATION: The Grantee agrees to use its best efforts to ensure that minority business enterprises, as identified in Article 21, Sections 11-35-5210 through 11-35-5270 of the Code have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Grant funds provided under this Agreement. In this regard, the Grantee and any Contractors shall take all necessary and reasonable steps to ensure that minority business enterprises have the maximum opportunity to compete for and perform contracts

Section 16: GRANT PROJECT COMPLETION: The Grantee must complete, or cause to be completed, the Grant Project within 24 months of the Effective Date of this Grant. Completion is defined as the final documentation by the Grantee to the Council of Grant funds expended and issuance by the Council of a notification in writing of the financial closure of the Grant. The Council may grant extensions to this completion period requirement at its discretion.

Section 17: SANCTIONS: If the Grantee fails or refuses at any time to comply with any of the terms and conditions of this Agreement, the Council may take, in addition to any relief that it is entitled to at law, any or all of the following actions: require repayment of all or a portion of any Grant funds provided; cancel, terminate, or suspend, in whole or in part, the Grant and this Agreement; or refrain from extending any further assistance or Grant funds to the Grantee until such time as the Grantee is in full compliance with the terms and conditions of this Agreement.

Section 18: APPLICABLE LAW: This Agreement is made under and shall be construed in accordance with the laws of the State, without regard to conflicts of laws principles. The federal and state courts within the State shall have exclusive jurisdiction to adjudicate any disputes arising out of or in connection with this Agreement.

Section 19: APPROPRIATIONS: Notwithstanding any other provisions of this Agreement, the parties hereto agree that the Grant funds awarded hereunder are payable by appropriations from the State. In the event sufficient appropriations, grants, and monies are not made available to the Council to pay the compensation and expenses hereunder for any fiscal year, this Agreement shall terminate without further obligation of the Council. In such event, the Council shall certify to the Grantee the fact that sufficient funds have not been made available to the Council to meet the obligations of this Agreement; and such written certification shall be conclusive upon the parties.

Section 20: COPYRIGHT: No material produced in whole or in part under this Grant shall be subject to copyright in the United States or in any other country. The Council shall have the unrestricted authority to publish, disclose, distribute and otherwise use, in whole or in part, any reports, data or other materials prepared under this Grant.

Section 21: TERMS AND CONDITIONS: The Council reserves the right to add or delete terms and conditions of this Agreement as may be required by revisions and additions to changes in the requirements, regulations, and laws governing the Council and any other agency of the State.

Section 22: REPORTING REQUIREMENTS: Until the Grant Project has been completed and the Grantee has received a notification in writing of the financial closure of the Grant as set forth in Section 16 above, the Grantee is required to submit bi-annual progress reports in the form of Exhibit B, as such form may be updated annually by the Council, to provide a status update and identification of any material issues affecting the

Project. Progress reports will be due on June 30 and December 31 of each year. Failure to submit progress reports will be subject to sanctions identified in Section 17 herein.

Section 23: PROJECT START-UP: The Project must begin within three months of the Effective Date. If the Grantee or the Company does not begin the Project within three months of the Effective Date, the Council reserves the right to rescind the Grant, require the repayment of any Grant funds provided to Grantee and terminate this Agreement. For purposes of this section, the Grantee or the Company shall have begun the Project once it has incurred material obligations in connection with the Project satisfactory to the Council to indicate that the Project will be timely completed.

Section 24: LIABILITY: The Grantee understands that Council accepts no liability for the Project nor any responsibility other than its agreement to provide the Grantee the Grant funds for the Grant Project in the amount shown in Section 3, insofar as such funds are expended in accordance with the terms and conditions of this Agreement. During the term of the Grant, the Grantee shall maintain tort liability insurance or shall have a self-funded and excess liability program with coverage amounts sufficient to meet the limits set forth under the SC Torts Claims Act in Section 15-78-120, as may be amended.

Section 25: PAYMENT: The Grantee must submit to the Council a certified request for payment for work that is documented by the Grantee, and such request must be accompanied by invoices and evidence of payment. Such request and supporting documentation can be submitted to the Council electronically to ccdreport@sccommerce.com. The Council, upon its approval of the request for payment, shall forward such requests to the Finance Department of the South Carolina Department of Commerce. Payments are issued from the Comptroller General's office. Payment requests should be submitted to the Council no more than once a month.

The Grantee will certify, to the best of its knowledge, information and belief, that the work on the Project for which reimbursement is requested has been completed in accordance with the terms and conditions of this Agreement, and that the payment request is due and payable from Grant funds.

Section 26: RESPONSIBILITY FOR MAINTENANCE: Maintenance of new roads and other improvements to the Grantee's or Company's right of way and/or property is the sole responsibility of the Grantee. Neither the Council nor the State shall have any responsibility whatsoever to maintain such roads and other improvements relating to the Project. The Grantee may assign this responsibility to any agreeable party.

Section 27: SEVERABILITY: If any provision of this Agreement is or becomes illegal, invalid, or unenforceable in any respect, the legality, validity, and enforceability of the other provisions of this Agreement shall not in any way be affected or impaired thereby.

[Signatures on following page]

This Agreement shall become effective, as of the Effective Date, upon receipt of one copy of this Agreement which have been signed in the space provided below. The agreement must have original signatures and must be returned within fifteen (15) days from the Effective Date.

Effective Date

Chris Huffman
Executive Director
Coordinating Council for Economic Development

ACCEPTANCE FOR THE GRANTEE

Signature of Official with Legal Authority
to Execute this Agreement for the Grantee

Date

Printed Name and Title of Authorized Official

Exhibit A

Bidding Process to be used for Costs to be reimbursed with Grant Funds

1. Use full and open competition to the maximum extent practicable.
2. Permit acquisitions without competition only when the purchasing agent determines in writing, after conducting a good faith review of available sources, that there is only one source for the required timely supply, service, or construction item. A copy of such written determination must be included with any request to disbursement of grant funds to reimburse for the costs of such supply, service or construction item. In addition, the company must maintain a copy of such written determination as set forth in Section 12 of the Agreement.
3. Restrict competition only when necessary to satisfy a reasonable public requirement.
4. Provide clear, adequate, and sufficiently definite information about project needs to allow bidders to enter the acquisition on an equal basis.
5. Use reasonable methods to publicize bidding requirements and timely provide solicitation documents (including amendments, clarifications and changes in requirements).
6. State in solicitations the bases to be used for evaluating bids and proposals and for making the award.
7. Evaluate bids and proposals and make the award based solely on the criteria in the solicitation.
8. Grant maximum public access to procurement information subject to the Company's needs to protect its trade secrets, proprietary or confidential source selection information, and personal privacy rights.
9. Ensure that all parties involved in the bidding process participate fairly, honestly, and in good faith.
10. Recognize that adherence to these bidding process requirements is essential to maintaining the integrity of the project.

Exhibit B

GRANT PERIOD ANNUAL REPORT

Grant #: C-22-3677

Grantee: Edgefield County

Report for the Year Ended: _____

Minimum Investment Requirement \$25,100,000

Minimum Job Requirement: 115

Base Employment 237

Inspection, Record Keeping and Reporting:

Total investment in real and personal property at the Project as of the date of this report: \$ _____

Total number of new fulltime jobs filled by the Company at the Project as of the date of this report: _____

Average hourly wage rate of all fulltime jobs as of the date of this report \$ _____

Total amount of grant funds disbursed as of the date of this report: \$ _____

I declare the above information to be correct and complete, and that I am authorized to report this information.

Authorized Company Representative (Signature)

Date

Authorized Company Representative (Printed)

Title

Telephone Number

Please return to:
Coordinating Council for Economic Development
1201 Main Street, Suite 1600 ■ Columbia, SC 29201