

RESOLUTION AUTHORIZING AND APPROVING AN AGREEMENT AND ADDENDUM WITH OTT FOR STRATEGIC WIRELESS INFRASTRUCTURE MANAGEMENT AND DEPLOYMENT SERVICES (AKA BROADBAND SERVICES) TO SUPPORT THE PUBLIC HEALTH RESPONSE TO COVID-19 WITH CORONAVIRUS LOCAL FISCAL RECOVERY FUNDS AS ESTABLISHED UNDER THE AMERICAN RESCUE PLAN ACT (ARPA)

WHEREAS, the American Rescue Plan Act (ARPA) of 2021 was signed into law on March 11, 2021, to provide additional relief to address the continued impact of COVID-19 on the economy, public health, state and local governments, individuals and businesses; and

WHEREAS, Section 9901 of ARPA amended Title VI of the Social Security Act to add section 603, which establishes the Coronavirus Local Fiscal Recovery Fund (CLFRF); and

WHEREAS, The Ashtabula County Board of Commissioners created a separate Local Fiscal Recovery Fund per Resolution 2021-35FINA adopted on June 1, 2021, for the purpose of receiving ARPA monies and to track allocations and expenditures consistent with the requirements of ARPA; and

WHEREAS, the ARPA Final Rule permits funds to be used for strategic wireless management and deployment services, including managing and leasing existing broadband assets and creating new, lasting infrastructure to improve broadband access for education, job creation, healthcare, and more in the County; and

WHEREAS, supporting documentation has been received and reviewed, and this Board now finds that it is in the best interest and necessary to authorize a purchase agreement and an addendum in the amount of \$636,000.00 to OTT to fund strategic wireless management and deployment services; now

THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Ashtabula County:

- 1) That there is hereby established a subgrant to OTT to fund COVID-necessary expenditures in accordance with the guidelines established by the U. S. Treasury Department.
- 2) The Ashtabula County Commissioners is hereby authorized to process and distribute the CLFRF monies in the amount of \$636,000.00 with OTT to fund strategic wireless management and deployment services.
- 3) OTT shall submit documentation regarding these authorized expenditures to the Ashtabula County Board of Commissioners to demonstrate compliance with U.S. Treasury Department guidance for allowable expenses
- 4) This Board finds and determines that all formal actions of this Board concerning and relating to the adoption of this resolution were taken in an open meeting of this Board and that all deliberations of this Board that resulted in those formal actions were in a meeting open to the public in compliance with the law.
- 5) This resolution shall be in full force and effect from and immediately upon its adoption.

**ASHTABULA COUNTY COMMISSIONERS
CERTIFICATION PAGE**

Resolution No. 2022-463

November 01, 2022

**RESOLUTION AUTHORIZING AND APPROVING AN AGREEMENT AND
ADDENDUM WITH OTT FOR STRATEGIC WIRELESS INFRASTRUCTURE
MANAGEMENT AND DEPLOYMENT SERVICES (AKA BROADBAND SERVICES)
TO SUPPORT THE PUBLIC HEALTH RESPONSE TO COVID-19 WITH
CORONAVIRUS LOCAL FISCAL RECOVERY FUNDS AS ESTABLISHED UNDER
THE AMERICAN RESCUE PLAN ACT (ARPA)**

Upon the motion of Kathryn L. Whittington, seconded by Casey R. Kozlowski.

VOTE:

J.P. Ducro IV	Aye
Casey R. Kozlowski	Aye
Kathryn L. Whittington	Aye

CERTIFICATE OF CLERK

IT IS HEREBY CERTIFIED that the foregoing is a true and correct transcript of a resolution acted upon and duly passed by the Board of County Commissioners of Ashtabula County, Ohio, on the date noted above.



Lisa Hawkins, Clerk of the Board
Board of County Commissioners
Ashtabula County, Ohio

AGREEMENT

This AGREEMENT, made this¹ _____ day of _____, November 20²² (the “Effective Date”) between Ohio Transparent Telecom, LLC together with Ohio TT Ashtabula Project, LLC (the “Contractor”), with offices at 710 Main St., Zanesville, OH 43701 and Ashtabula County, 25 W. Jefferson St., 2nd Floor, Old Courthouse, Jefferson, OH 44047 (the “County”) for strategic wireless infrastructure management and deployment in Ashtabula County (“Project”).

WITNESSETH: That the parties hereto, for and in consideration of Covenants and Agreement to be performed by each as hereinafter set forth, do hereby agree as follows:

ARTICLE I
THE WORK

The Contractor shall furnish all the labor, services, materials, plant, equipment, tools, scaffolds, appliances, transportation, and all other things (collectively called the “Work”) necessary for the timely and proper completion of the Work described in the contract documents for the Project as set forth in Exhibit A (“Contract Documents”). In the event of inconsistencies within or between the Contract Documents, the Contractor shall provide the better quality or greater quantity of Work and shall comply with the more-strict requirement.

ARTICLE II
TERM

The term of this Agreement shall commence on the Effective Date and continue through June 30, 2023 (the “Completion Date”), unless otherwise terminated earlier as provided below or extended by mutual written agreement of Parties (the "Term").

ARTICLE III
COMPENSATION AND PAYMENT

3.1 The Contractor’s total compensation for the Work shall be Six Hundred Thirty-Six Thousand Dollars and No Cents (US\$636,000.00) (the “Contract Price.”)

3.2 Contractor is subject to and responsible for paying fees to obtain all applicable licenses, permits, and other permissions necessary to perform its obligations under this Contract. Contractor is responsible for paying federal, state, and local taxes. Contractor agrees to withhold all income taxes due or payable for qualifying wages, salaries, and commissions paid to its employees and further agrees that any of its sub-contractors shall be required to agree to withhold any such income taxes due for services performed under this Agreement.

3.3 The Contractor shall submit Application(s) for Payment to the County for work performed. The County shall pay the Contractor for the performance of the Work as set forth in Exhibit A.

3.4 The Application for Payment shall be supported by documentation substantiating the Contractor's right to payment. The Contractor shall supply such additional documentation as the County may reasonably request in connection with each payment to the Contractor.

The Contractor shall list on a submitted application for payment document ("Application for Payment") any approved modification or update to the Work or Project ("Change Order") processed and performed during the time covered by the Application for Payment.

Payment of an approved Application for Payment shall be made within thirty (30) days from the date of submission of Application by Contractor. The County reserves the right to require proof of the renewal of required insurance as a condition precedent to payment.

3.5 The County reserves the right to decline to approve any Application for Payment or part thereof, or because of subsequent evidence or inspection, may nullify any previous Application for Payment, in whole or in part, to such extent as may be necessary in the County's Representative's opinion to protect the County from loss because of:

- (a) Defective or nonconforming Work ("Defective Work") not remedied;
- (b) Damage caused by the Contractor;
- (c) Failure to comply with the requirements of ORC Chapter 4115.

If County intends to withhold payment under this section, County must notify Contractor in writing within seven (7) days from receipt of Application for Payment. If the basis for withholding payment pursuant to this Section is removed, payment shall be made immediately for amounts withheld because of the basis.

3.6 The Contractor, as a condition precedent to final payment, shall provide all documents required for approval by the County's Representative.

Payment of the final Application for Payment shall be made within thirty (30) days from the date of approval by the County.

3.7 The making of final payment by the County shall constitute a waiver of all Claims by the County except those arising after completion of the Agreement and the following:

- (a) Defective Work resulting from latent defects, fraud or gross mistakes;
- (b) Outstanding liens;

- (c) Failure of the Contractor to comply with any warranties or guarantees required by the Contract Documents.

The acceptance of final payment by the Contractor shall constitute a waiver of all Claims against the County except those that the Contractor has previously made in writing in accordance with Article IX and which remain unresolved at the time of final payment. This provision is intended to be, and shall be construed as, consistent with, and not in conflict with, ORC Section 4113.62, to the fullest extent permitted.

ARTICLE IV SCHEDULE

Time is of the essence to this contract. The rate of progress shall be such as to complete the Work within the time limit specified herein. Contractor will use best efforts to complete the Project Work in the proposed timeline. Contractor is not responsible for delays due to third parties, government permit/licensing offices, national material shortages, pandemic, national/state/local declared emergency, or weather/acts of God.

The Board of County Commissioners may for good cause shown, extend the time of completion. Any such extension of time shall not be deemed a waiver by the County of any other rights provided for under this contract, and shall not operate to release any Surety from any of bond obligations.

ARTICLE V CHANGES

The County, without invalidating the Agreement, may order changes in the Work consisting of additions, deletions or other revisions, including without limitation revisions resulting from an extension granted in accordance with Article IV. To the extent the time for the Completion Date or the Contract Price is affected, the Contract may be equitably adjusted by Change Order in accordance with this Article.

The Contractor shall not proceed with any change in the Work without the required written authorization. If the Contractor believes that any item is not Work required by the Contract Documents, the Contractor shall obtain a Change Order before proceeding with such item. Except as provided in Article IX, failure to obtain such a Change Order shall constitute a waiver by the Contractor of any Claim for additional compensation for such item.

ARTICLE VI WARRANTIES

In addition to any other warranties, guarantees, or obligations set forth in the bid as referenced in Exhibit A (“Bid”) or applicable as a matter of law and not in limitation of the terms of the Bid, the Contractor warrants and guarantees that:

- (a) The County will have good title to the Work and all materials and equipment incorporated into the work will be new or unused and as new;
- (b) The Work and all materials and equipment incorporated into the Work will be free from all defects, including any defects in workmanship or materials;
- (c) The Work and all equipment incorporated into the Work will be fit for the purpose for which intended;
- (d) The Work and all materials and equipment incorporated into the Work will be merchantable; and,
- (e) The Work and all materials and equipment incorporated into the Work will conform in all respects to the Plans and Specifications.

Upon notice of the breach of any of the warranties or guarantees under the Bid, the Contractor, in addition to any other requirements in the Bid, shall commence to correct such breach and all damage resulting there from within forty-eight (48) hours after written notice thereof, thereafter shall use its best efforts to correct such breach and damage to the satisfaction of the County and, except when an extension of time is granted in writing by the County, correct such breach and damage to the satisfaction of the County within thirty (30) days of such notice; provided that if such notice is given after final payment hereunder, such forty-eight (48) hour period shall be extended to seven (7) days. If the Contractor fails to commence to correct such breach and damage, or to correct such breach and damage as provided above, the County, upon written notice to the Contractor and without prejudice to any of its other rights or remedies, may correct the deficiencies. The Contractor upon written notice from the County shall pay the County, within thirty (30) days after the date of such notice, all of the County’s costs and expenses incurred in connection with or related to such correction and/or breach, including without limitation the County’s administrative, legal, and consulting expenses. The foregoing warranties and obligations of the Contractor shall survive the final payment and/or termination of this Agreement.

ARTICLE VII
INSURANCE AND INDEMNIFICATION

- 7.1 The Contractor shall maintain insurance as set forth below:
- (a) General Liability Coverage. Contractor shall maintain commercial general liability insurance with a limit of not less than Five Million Dollars and No Cents (US\$5,000,000.00) each occurrence. The County, its elected officials and employees,

shall be named as additional insureds with respect to all activities under this Agreement.

(b) Workers' Compensation. Contractor shall maintain workers' compensation coverage as required by Ohio law.

Prior to the commencement of any work under this Agreement, Contractor shall furnish the County with properly executed certificates of insurance for all insurance required by this Agreement. Certificates of insurance shall provide that such insurance shall not be cancelled without thirty (30) days' prior written notice to the County. Contractor will replace certificates for any insurance expiring prior to completion of work under this Agreement.

7.2 To the maximum extent permitted by law, the Contractor shall indemnify and hold harmless the County and the County's consultants, agents, and employees from and against all claims, damages, losses, and expenses—whether proven or not—including but not limited to attorneys' and consultants' fees—whether made by County or a third-party—arising out of or directly related to the Contractor's performance of the Work including but not limited to the failure of the Contractor to perform its obligations under the Contract Documents, any claims for bodily injury, sickness, disease, or death or to injury to or destruction of or loss of use of real or personal property including the Work itself, claims for additional storage and handling charges, liens against funds, claims related to the alleged failure of the Contractor to perform in accordance with the Contract Documents, and/or claims related to the removal, handling, or use of any hazardous materials. Indemnity will not apply in the event of County, County consultants, agents, or employees' liability under ORC Chapter 2744.

7.3 The County's total liability under this Agreement shall be limited to the amount set forth in the Auditor's certificate accompanying this Agreement. Under no circumstances shall the elected officials, officers, employees, council members, or agents of the County be personally liable for any obligations or claims arising out of or related to this Agreement. No Change Order to the Agreement shall be effective against the County without a new Auditor's certificate. Limitation of liability will not apply in the event of County, County consultants, agents, or employees' liability under ORC Chapter 2744.

ARTICLE VIII SUSPENSION AND TERMINATION

8.1. The County may, without cause, order the Contractor to suspend, delay, or interrupt the Work in whole or in part for such period of time as the County may determine.

An adjustment shall be made for increases in the cost of performance of the Work, including profit and overhead on the increased cost of performance, caused by the suspension, delay or interruption, provided that the total cost of profit and overhead shall not exceed two percent (2%) of the amount of the increased cost not attributable to profit or overhead. No adjustment shall be made to the extent that: performance is, was or would have been so suspended, delayed or

interrupted by another cause for which the Contractor is responsible; or an equitable adjustment is made or denied under another provision of this Agreement.

8.2 The County may, in its discretion and without cause, by written notice to the Contractor terminate this Agreement for the County's convenience.

Upon receipt of a written notice from the County terminating this Agreement without cause and for the County's convenience, the Contractor shall (i) immediately cease performing the Work, unless otherwise directed by the County, in which case the Contractor shall take the action directed by the County, (ii) take all reasonable and necessary action to protect and preserve the Work, and (iii) unless otherwise directed by the County, terminate all agreements with subcontractors and suppliers.

If this Agreement is terminated without cause and for the County's convenience and there exists no event of the Contractor's default, as defined in this Agreement, the County will pay the Contractor (i) for Work performed under this Agreement up to the date the notice of termination is received by the Contractor at the rates for Work performed under this Agreement, including overhead and profit of two percent (2%) on the Work performed up to the date of termination. (ii) for any expenses incurred by Contractor for this Agreement that are not refundable to Contractor.

If this Agreement is terminated without cause for the County's convenience and there exists an event of the Contractor's default, as defined in this Agreement, the Contractor shall be entitled to receive only such sums as it would be entitled to receive following the occurrence of an event of default under this Agreement. The termination of this Agreement shall be without prejudice to any rights or remedies that exist at the time of termination.

8.3 If the County determines that the Contractor has failed to prosecute the Work with the necessary force or in a timely manner, or has refused to remedy any Defective Work, the County's Representative shall notify the Contractor in writing and the Contractor's Surety of such failure or refusal. The Contractor shall begin to cure such failure or refusal within five (5) days of receipt of the notice.

If the Contractor fails to cure such failure or refusal within twenty (20) days of receipt of the notice, the County may terminate the Agreement and employ upon the Work the additional force, or supply the materials or such part of either as is appropriate, and may remove Defective Work.

If the Contractor is so terminated, the Contractor's Surety shall have the option to perform the Agreement. If the Contractor's Surety does not commence performance of the Agreement within ten (10) days of the date on which the Agreement was terminated, the County may complete the Work by such means as the County's Representative deems appropriate. The County may take possession of and use all materials, facilities and equipment at the Project site or stored off site for which the County has paid.

If the Contractor's Surety performs the Work, the provisions of the Contract Documents shall govern such Surety's performance, with the Surety being substituted for the Contractor in all such provisions including, without limitation, provisions for payment for the Work and provisions about the right of the County to complete the Work.

Upon a final determination, by a court of competent jurisdiction, that the termination pursuant to this Section was improper, the termination shall be deemed a termination for convenience to Section 8.2.

ARTICLE IX
DISPUTE RESOLUTION

9.1 If any dispute or difference of any kind (a "Dispute") arises between the Parties in connection with, or arising out of, this Agreement, the Contractor and County within thirty (30) days shall attempt to settle such Dispute in the first instance through discussions. The designated representatives of Contractor and County shall promptly confer and exert their best efforts in good faith to reach a reasonable and equitable resolution of such Dispute. If the representatives are unable to resolve the Dispute within fifteen (15) Business Days, the Dispute shall be referred within two (2) Business Days of the lapse of the fifteen (15) Business Day period to the responsible senior management of each party for resolution. Neither party shall seek any other means of resolving any Dispute arising in connection with this Agreement until the responsible senior management of Parties have had at least an additional fifteen (15) Business Days to resolve the Dispute following referral of the Dispute to them.

9.2 The Courts of Ashtabula County shall retain exclusive jurisdiction to resolve any disputes between the parties to the extent in which the parties cannot resolve their disputes within a reasonable amount of time. This Agreement does not prohibit the parties from seeking mediation before litigation.

9.3 During the pendency of any mediation or litigation the Parties shall continue to perform their obligations under this Agreement subject to Court Order.

ARTICLE X
MISCELLANEOUS

10.1 No modification or waiver of any of the terms of this Agreement or of any other Contract Documents shall be effective against a party unless set forth in writing and signed by or on behalf of a party, which in the case of the County shall require the signature of the County's Representative acting under the authority of a specific resolution of the County. Under no circumstances shall forbearance, including the failure or repeated failure to insist upon compliance with the terms of the Contract Documents, constitute the waiver or modification of any such terms. The parties acknowledge that no person has authority to modify this Agreement or the other Contract Documents or to waive any of its or their terms, except as expressly provided in this Paragraph.

10.2 The Contractor may not assign this Agreement without to the written consent of the County, except in the case of an assignment to an affiliate of the Contractor in which case written notice to the County shall suffice.

10.3 Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the County or the Contractor.

10.4 All questions regarding the validity, intention, or meaning of this Agreement or any modifications of it relating to the rights and obligations of the parties shall be construed and resolved under the laws of the State of Ohio. Any suit, which may be brought to enforce any provision of this Agreement or any remedy with respect hereto, shall be brought in the Common Pleas Court of Ashtabula County, Ohio, and each party hereby expressly consents to the jurisdiction of such court.

10.5 Regardless of any provision to the contrary, the statute of limitations with respect to any defective or non-conforming Work that is not discovered by the County shall not commence until the discovery of such defective or non-conforming Work by the County.

10.6 Notices, requests, or demands by either party shall be in writing, unless otherwise expressly authorized, and shall be personally served, forwarded by expedited messenger service, sent by facsimile transmission, or be given by registered or certified mail, return receipt requested, postage prepaid, and, in the case of the County, addressed to the address/FAX number set forth at the beginning of this Agreement marked "Urgent, deliver to Service Director," and, in the case of the Contractor, addressed to its address/Email address set forth at the beginning of this Agreement. Any party may change its address/FAX number/Email address by giving notice hereunder. All notices, requests, and demands shall be deemed received upon receipt in the case of personal delivery or delivery by expedited messenger service, including leaving the notice at the address provided herein during normal business hours; upon the expiration of forty-eight (48) hours from the time of deposit in the United States mail; or, in the case of a notice given by facsimile transmission, upon the expiration of twenty-four (24) hours after the transmission is sent.

10.7 The parties acknowledge that each party has reviewed this Agreement and the other Contract Documents and has voluntarily entered into this Agreement. Accordingly, the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement, the other Contract Documents, or any amendments or exhibits to it or them.

10.8 If any term or provision of this Agreement is found to be illegal, unenforceable, or in violation of any laws, statutes, ordinances, or regulations of any public authority having jurisdiction, then, notwithstanding such term or provision, this Agreement shall remain in full force and effect, and such term shall be deemed stricken; provided this Agreement shall be

interpreted, when possible, so as to reflect the intentions of the parties as indicated by any such stricken term or provision.

10.9 The Contractor, at its expense, shall comply with all applicable federal, state, and local laws, rules, and regulations applicable to the Work.

10.10 The Contractor shall follow all applicable safety and health regulations during the progress of the Project and shall monitor all of its employees and its subcontractors for compliance with such safety and health regulations. In undertaking the responsibilities set forth in this Paragraph, the Contractor does not assume any duty or responsibility to the employees of any Subcontractor or supplier, regardless of tier. The County assumes no responsibility for the development, review, or implementation of the any project safety plan or for Project safety and has no authority to direct the means and methods of the Contractor.

10.11 Contractor agrees that, in the hiring of employees for the performance of work under the Agreement or any subcontract, no contractor, subcontractor, or any person acting on a contractor's or subcontractor's behalf, by reason of race, creed, sex, disability or military status as defined in ORC Section 4112.01, or color, shall discriminate against any citizen of the state in the employment of labor or workers who is qualified and available to perform the work to which the employment relates. Contractor further agrees that neither it, its subcontractors, or any person on the Contractor's or subcontractor's behalf, in any manner, shall discriminate against or intimidate any employee hired for the performance of work under the Agreement on account of race, creed, sex, disability or military status as defined in ORC Section 4112.01, or color. That there shall be deducted from the amount payable to the Contractor by the County under this Agreement a forfeiture of twenty-five dollars (\$25.00) as required by ORC. Section 153.60 for each person who is discriminated against or intimidated in violation of this Agreement. That this Agreement may be canceled or terminated by the County and all money to become due hereunder may be forfeited for a second or subsequent violation of the terms of this section of this Agreement.

10.12 This Agreement constitutes the entire agreement among the parties with respect to their subject matter and will supersede all prior and contemporaneous, oral or written, agreements, negotiations, communications, representations, and understandings with respect to such subject matter, and no person is justified in relying on such agreements, negotiations, communications, representations, or understandings.

OHIO TRANSPARENT TELECOM, LLC:

Signature:  _____

Print Name: 8707F223B33D490 Megan Kvamme _____

Title: Executive Chairwoman _____

Date Signed: 10/27/2022 _____

OHIO TT ASHTABULA PROJECT, LLC:

Signature: *Megan Kvamme*
DocuSigned by: 8707E223B33D490

Print Name: Megan Kvamme

Title: Executive Chairwoman

Date Signed: 10/27/2022

BOARD OF COUNTY COMMISSIONERS, ASHTABULA COUNTY, OHIO

Signature: *JP Dwyer* 11/1/2022
DocuSigned by: 5625C6D565F547C...

Commissioner date

Signature: *Casey R. Kozlowski* 11/1/2022
DocuSigned by: 96D3B06315BA452...

Commissioner date

Signature: *Kathryn L. Whittington* 11/1/2022
DocuSigned by: 402BA3618C3E42C...

Commissioner date

Approved as to legal form

Colleen M. O'Toole, date

Ashtabula County Prosecutor

EXHIBIT A
SCOPE OF WORK

The following Contract Documents are incorporated by reference into the Agreement as if fully set forth herein:

- Ashtabula County Request for Proposal for Strategic Wireless Infrastructure Management and Deployment dated July 5, 2022 (the “Bid”)
- Ohio Transparent Telecom, LLC’s Bid Response dated July 28, 2022 (the “Bid Response”)

The Scope of Work shall be as set forth in the Bid Response.

The Parties acknowledge and agree that some provisions in the Scope of Work are general or depend on the consent or action of third parties and, consequently, any changes or specifying of generalized provisions shall occur in compliance with Article V of the Agreement.

County shall pay Contractor according to the following schedule of payment:

- Fifty percent (50%) of Contract Price due at Signing of Agreement.
- Twenty-five (25)% percent of Contract Price due at completion of second co-location site.
- Remaining twenty-five percent (25%) of Contract Price due at completion of Work.

ASHTABULA COUNTY
ADDENDUM
for Contracts Paid for with ARPA funds

Whereas funds from the Coronavirus Local Fiscal Recovery Fund under the American Rescue Plan Act (“ARPA”) may be used pursuant to this Agreement, the parties agree to the additional terms and conditions as set forth below. In the case of any conflict or ambiguity between the terms of this Addendum and the terms in the Agreement, the terms of this Addendum shall take precedence.

A. EQUAL EMPLOYMENT OPPORTUNITY (Construction only)

During the performance of this contract, the contractor agrees as follows:

- (1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- (2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- (3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.
- (4) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's

commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

- (5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

B. ADDITIONAL CONTRACT PROVISIONS FOR NON-FEDERAL ENTITY CONTRACTS UNDER FEDERAL AWARDS

Contractor certifies the following:

- (A) Contracts for more than the simplified acquisition threshold, currently set at \$250,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.
- (B) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.

(C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60- 1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

(D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of "funding agreement" under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

(G) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended-Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

(H) Debarment and Suspension (Executive Orders 12549 and 12689) - A contract award (see 2CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

(I) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) - Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

Record Retention Requirements (2 CFR § 200.334)

Vendors certify that during the term of the Agreement, Vendors will comply with the record retention requirements detailed in 2 CFR § 200.334. The Vendors further certify that all records will be retained as required by 2 CFR § 200.334 for a period of three years after grantees or subgrantees submit final expenditure reports or quarterly or annual financial reports, as applicable, and all other pending matters are closed.

Domestic Preferences for Procurements (2 CFR § 200.322)

As appropriate and to the extent consistent with law, Vendors will, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.

Recovered Materials (2 CPR§ 200.323)

Vendors agrees to the extent practical it complies with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act.

Access to Records (2 CPR§ 200.337)

Vendors agree that duly authorized representatives of the federal awarding agency shall have access to any books, documents, papers and records of Vendors that are directly pertinent to Vendors' discharge of its obligations under the Contract for the purpose of making audits, examinations, excerpts, and transcriptions. The right also includes timely and reasonable access to Vendors' personnel for the purpose of interview and discussion relating to such documents.

Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment (2 CFR § 200.216)

Neither Vendors nor its subcontractors shall provide or install equipment, services, or systems that uses "covered telecommunications equipment or services" as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, "covered telecommunications equipment" is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities); video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities); telecommunications or video surveillance services provided by such entities or using such equipment; or telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

FISCAL OFFICER'S CERTIFICATE

As the Auditor of the County Ashtabula of Ohio, I, David J. Thomas, certify that the money required to meet the obligations of the County of under the attached agreement during the year 2022 has been lawfully appropriated by the Board of Commissioners of the County of Ashtabula County for those purposes and is in the treasury of the County or in the process of collection to the credit of the appropriate fund, free from any previous encumbrances. This certificate is given in compliance with the Ohio Revised Code Sections 5705.41 and 5705.44.

DocuSigned by:
David J. Thomas
AFC44AEC24C7470...

10/27/2022