

ATTACHMENT “A”

**CONSTRUCTION CONTRACT BY AND BETWEEN
THE CITY OF VICTORVILLE AND
APPLE VALLEY COMMUNICATION, INC.
FOR
WELLNESS CENTER LOW VOLTAGE CONTRACTOR SERVICES,
CITY PROJECT JM024-028**

THIS CONSTRUCTION CONTRACT (the “Contract”) dated _____ for reference purposes only, is made and entered into by and between the City of Victorville, a municipal corporation and charter city located in the County of San Bernardino, State of California, hereinafter referred to as the “City”, and Apple Valley Communications, Inc., a California corporation hereinafter referred to as the “Contractor”. The City and Contractor are sometimes hereinafter referred to as a “Party” and collectively referred to as the “Parties.”

RECITALS:

WHEREAS, the City requires Wellness Center Low Voltage Contractor Services, as more fully described in the solicitation documents issued by the City for Project No. JM024-028 (the “Project”); and

WHEREAS, on **August 29, 2023**, the City issued a Notice Inviting Bids and solicitation documents to prospective bidders for the Project. In response, Contractor submitted a Bid which the City determined to be the lowest responsive and responsible bid; and

WHEREAS, Contractor is a duly organized corporation in good standing in the State of California, and represents that it has the background, knowledge, experience, expertise and resources to perform the Work as specified in the Contract Documents, including the furnishing of all labor, materials, equipment, and services (the “Work”) and other obligations encompassed by this Contract; and

WHEREAS, at its meeting held on **October 3, 2023**, the Victorville City Council duly accepted Contractor’s Bid for the Project and directed that a written agreement for the Project be entered into with Contractor; and

WHEREAS, in light of the facts set forth above and the certifications made by Contractor as part of its Bid, the City desires to retain Contractor to perform the construction Work for the Project as set forth in this Contract and in the Contract Documents, as hereinafter described.

NOW, THEREFORE, IN CONSIDERATION OF THE COVENANTS, CONDITIONS, AND PROMISES CONTAINED HEREIN AND FOR SUCH OTHER GOOD AND VALUABLE CONSIDERATION, THE PARTIES HERETO AGREE AS FOLLOWS:

Section 1. RECITALS

The Recitals set forth above are true and correct and are hereby incorporated into this Contract by this reference, as though set forth herein.

Section 2. CONTRACT DOCUMENTS; ORDER OF PRECEDENCE

a. **Contract Documents.** The Contract Documents consist of the following documents, all of which are either attached hereto as exhibits or are incorporated herein by this reference. Said Contract Documents are complementary; what is called for in one is binding as if called for in all, and together constitute Contractor's performance obligations:

- (1) Change Orders and supplemental agreements issued and approved by the City; whichever occurs first;
- (2) The executed Contract and its attached Exhibits, subject to the limitations in Sections 9 and 20 with respect to Exhibit "A" (Contractor's submitted Bid Proposal as accepted by the City);
- (3) Bid Addenda issued by the City;
- (4) Notice Inviting Bids and Instructions to Bidders;
- (5) Technical Specifications/Scope of Work (Bid Package Section C);
- (6) Plans;
- (7) Federal Requirements and Federal Forms (Bid Package Section B);
- (8) Special Provisions;
- (9) Greenbook 2021 Edition
- (10) City of Victorville Standard Specifications for Public Improvements;
- (11) Bid Forms (Bid Package Section D);
- (12) Faithful Performance Bond;
- (13) Payment Bond.

b. **Interpretation.** In the event of any conflict between any of the Contract Documents, the document highest in the order of precedence (from highest to lowest), as set forth in Subsection a. above shall control.

c. **Definitions.** Unless specifically defined or assigned a meaning in this Contract, or the context clearly indicates otherwise, capitalized terms herein shall have the meaning assigned to them in the "Definitions" section of the Instructions to Bidders document.

Section 3. CONTRACTOR'S OBLIGATIONS

Contractor will perform all of the Work required for the Project, as specified in the Contract Documents. Contractor must provide, furnish, and supply all things necessary and incidental for the timely performance and completion of the Work, including all necessary labor, materials, supplies, tools, equipment, transportation, onsite facilities, and utilities, unless otherwise specified in the Contract Documents. Contractor must use its best efforts to diligently prosecute and complete the Work in a professional and expeditious manner and to meet or exceed the

performance standards required by the Contract Documents, and to the satisfaction of Jenele Davidson, Deputy City Manager, or her designee (hereinafter the "Project Manager").

Section 4. CONTRACT PRICE; PAYMENT AND RETENTION

a. As full and complete compensation for Contractor's timely performance and completion of the Work in strict accordance with the terms and conditions of the Contract Documents, City will pay Contractor **One Million Three Hundred Twenty-three Thousand Four Hundred Eighty-five and 00/100 DOLLARS, (\$1,323,485.00)** (the "Contract Price") for all of Contractor's direct and indirect costs to perform the Work, including all labor, materials, supplies, equipment, taxes, insurance, bonds and all overhead costs, in accordance with Contractor's Bid Proposal (attached hereto as **Exhibit "A"**) subject to the provisions of this Contract and the Contract Documents.

b. Procedures relating to payment and retention are set forth in the Special Provisions.

Section 5. CONTRACT TIME; NOTICE TO PROCEED

a. Contract Time. The Work under this Agreement shall be diligently prosecuted to completion before expiration of Thirty-five (35) WORKING DAYS, commencing within Seven (7) calendar days after the issuance of the Notice to Proceed. The City will not issue a Notice to Proceed to the Contractor until this Contract, including bonds and insurance documents, have been executed and/or approved by the City.

b. Notice to Proceed. No work, service, material, or equipment shall be performed or furnished under this Contract unless and until a Notice to Proceed has been given to the Contractor by the City. Contractor shall commence Work pursuant to the Contract Documents and as directed by the City in the Notice to Proceed, and diligently execute the same to completion within the Contract Time.

Section 6. DISPUTE RESOLUTION AND CLAIMS PROCEDURES

a. Public Contract Code Section 9204. For purposes of any Public Works Claims filed by a Contractor or Subcontractor (as those terms are defined in Public Contract Code Section 9204) under this Contract, the claims procedures in Public Contract Code Section 9204 ("Section 9204") and the provisions of this Section shall apply. Public Contract Code Section 9204 is set forth in full in Section 2-10 of the Special Provisions.

- (1) In the event of a Section 9204 Public Works Claim, Contractor may not stop working pending resolution of the dispute but must continue to comply with its duty to diligently prosecute the performance and timely completion of the Work during the Section 9204 process.

- (2) Any Public Works Claims not resolved by the Section 9204 procedures (and/or any tort claims) shall be subject to Section 2.24.020 of the Victorville Municipal Code ("VMC") and the provisions of the Government Claims Act (Government Code section 810 et seq.).

b. For disputes or claims that do not constitute Public Works Claims, City and Contractor agree to comply with the following process:

- (1) Each Party shall designate a senior management or executive level representative to negotiate any dispute.
- (2) The representatives shall attempt, through good faith negotiations, to resolve the dispute by any means within their authority.
- (3) If the issue remains unresolved after ten (10) days of good faith negotiations, the Parties shall attempt to resolve the disagreement by negotiation between the legal counsel for each Party. If the above process fails, the Parties may mutually agree to engage in non-binding mediation or arbitration in which the Parties equally share the costs of any mediator or arbitrator, or may proceed with suit or other remedies, subject to the provisions of subparagraph (5) of this Subsection and other applicable provisions and laws.
- (4) The alternative dispute resolution process set forth herein is a material condition to Contract and must be exhausted as an administrative remedy prior to either Party initiating legal action.
- (5) Compliance with VMC Section 2.24.020 and the provisions of the Government Claims Act (Government Code section 810 et seq.) is also required prior to initiating suit against the City.

Section 7. TERMINATION OF AGREEMENT FOR CONVENIENCE

a. The City may, by providing thirty (30) days' advance written notice to Contractor, terminate this Agreement in whole or in part, whenever the City shall determine that such termination is in the best interests of the City, or when it becomes impracticable or impossible to proceed, or because of conditions or events beyond the control of the City. Any such termination shall be affected by delivery to Contractor of a Notice of Termination for Convenience, specifying the extent to which performance of Work under this Agreement is terminated, and the date upon which such termination becomes effective. Upon such termination, the obligations of the Contractor for portions of the Work already performed shall continue.

b. Upon receipt of a Notice of Termination for Convenience, the Contractor shall, unless the notice directs otherwise, do the following:

- (1) Immediately discontinue the Work to the extent specified in the notice.

- (2) Place no further orders or subcontracts for materials, equipment, services, or facilities, except as may be necessary to complete such portion(s) of the Work that are not to be discontinued.
 - (3) Promptly cancel, on the most favorable terms reasonably possible, all subcontracts to the extent that they relate to the performance of the discontinued portion of the Work.
 - (4) Thereafter do only such Work as may be necessary to preserve and protect the Work already in progress and to protect materials, plants, and equipment on the Project site or in transit thereto.
- c. Upon such termination, the Contractor will be paid without duplication for:
- (1) Work completed in accordance with the Contract Documents prior to the effective date of the Notice of Termination for Convenience;
 - (2) Reasonable costs incurred in settlement of terminated contracts with Subcontractors, suppliers and others; and
 - (3) Reasonable expenses directly attributable to termination.

The Contractor shall submit a final termination settlement proposal to the City no later than ninety (90) days from the effective date of termination, unless extended in writing by the City, upon written request by the Contractor. If the Contractor fails to submit a proposal, the City may determine the amount, if any, due the Contractor as a result of the termination. The City will pay the Contractor the amount it determines is reasonable. If the Contractor disagrees with the amount determined by the City as being reasonable, the Contractor shall provide notice to the City within thirty (30) Days of receipt of payment. Any amount due shall be subject to the dispute resolution provisions set forth in the Contract Documents.

d. Contractor shall include provisions in all of its subcontracts, purchase orders, and other contracts permitting termination for convenience by Contractor on terms that are consistent with this Contract and that afford no greater rights of recovery against Contractor than are afforded to Contractor under this Section 7.

Section 8. TERMINATION FOR CONTRACTOR'S DEFAULT

a. Default. The City may terminate this Contract for Contractor's default as set forth in this Section. The City will consider the Contractor in default of this Contract if, prior to the City's acceptance of the Work, the Contractor:

- (1) becomes insolvent, assigns its assets for the benefit of its creditors, is unable to pay its debts as they become due, or is otherwise financially unable to complete the Work;
- (2) abandons the Work by failing to report to the Work site and diligently prosecute the Work to completion;
- (3) disregards written instructions from the City or materially violates provisions of the Contract Documents;

- (4) fails to prosecute the Work according to the schedule approved by the Engineer,
- (5) disregards laws or regulations of any public body having jurisdiction, or
- (6) commits continuous or repeated violations of regulatory or statutory safety requirements.

Notices, and other written communications regarding default between the Contractor, the City, and the Surety shall be transmitted in accordance with Section 21 of this Contract.

b. Notice and Opportunity to Cure. The City will issue a written notice to cure the default to the Contractor and its Surety. The Contractor shall commence satisfactory corrective actions within five (5) Working Days after receipt. If the Contractor fails to commence satisfactory corrective action within five (5) Working Days after receipt of the notice to cure, or to diligently continue satisfactory and timely correction of the default thereafter, the City will consider the Contractor in default of the Contract and:

- (1) will terminate the Contractor's right to perform under the Contract by issuing a written notice of termination for default to the Contractor and its Surety;
- (2) may use any materials, equipment, tools or other facilities furnished by the Contractor to secure and maintain the Work site, and
- (3) may furnish labor, equipment, and materials the City deems necessary to secure and maintain the Job Site;

c. Remedies Cumulative. The provisions of this Section shall be in addition to all other legal rights and remedies available to the City. Termination of this Contract will not relieve the Surety of its obligation for any just claims arising out of the Work performed.

Section 9. PREVAILING WAGE

a. Compliance with State Prevailing Wage Requirements. Pursuant to Labor Code Section 1773, the City has obtained the prevailing rate of per diem wages and the prevailing wage rate for holiday and overtime work applicable in San Bernardino County, California from the Director of the Department of Industrial Relations (DIR) for each craft, classification, or type of worker needed to perform the Work required under this Contract. A copy of these prevailing wage rates are on file at the City's Finance Department/Purchasing Division and shall be made available for review to any interested party on request. In addition, a copy of the prevailing rate of per diem wages may be obtained via the internet at: <http://www.dir.ca.gov/DLSR/PWD>. Contractor and all Subcontractors shall pay not less than said specified State of California rates to all workers employed by them in the execution of the Work contemplated by this Contract, including workers performing Work described in or encompassed shall be solely responsible for using the correct and current prevailing wage rates and performing accordingly. An error on the part of any awarding body does not relieve the Contractor from the inspection of payroll records, posting of prevailing wage rates at the work/job site, employment of apprentices, and other requirements of Labor Code Sections 1720 et seq.; Labor Code Section 1810 et seq.; California Code of Regulations, Title 8, Section 16000 et seq; and all other applicable State labor laws.

b. Conflict. It is further expressly agreed by and between the Parties hereto that should there be any conflict between the terms of this Section 9 and the provisions of Exhibit "A", the terms of this Section 9 shall control and nothing herein shall be considered as an acceptance of the terms of Contractor's Submitted Bid Proposal conflicting with the requirements of this Section 9.

c. Payroll Records. Contractor must comply with the provisions of Labor Code sections 1776 and 1812 and all implementing regulations, including without limitation, those set forth in Title 8 of the California Code of Regulations, Section 16000 et seq. (hereinafter the "Regulations"), which are fully incorporated by this reference, including requirements for electronic submission of payroll records to the DIR.

(1) Contractor and Subcontractor Obligations. Contractor and each Subcontractor must keep accurate payroll records, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed in connection with the Work. Each payroll record must contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:

(a) The information contained in the payroll record is true and correct; and

(b) Contractor or the Subcontractor has complied with the requirements of Labor Code §§ 1771, 1811, and 1815 for any Work performed by its employees on the Project.

(2) Certified Record. A certified copy of an employee's payroll record must be made available for inspection or furnished to the employee or his or her authorized representative on request, to City, to the Division of Labor Standards Enforcement, to the Division of Apprenticeship Standards of the DIR, and as further required by the Labor Code.

(3) Enforcement. Upon notice of noncompliance with Labor Code § 1776, Contractor or Subcontractor has ten days in which to comply with the requirements of this section. If Contractor or Subcontractor fails to do so within the ten-day period, Contractor or Subcontractor will forfeit a penalty of \$100.00 per day, or portion a day, for each worker for whom compliance is required, until strict compliance is achieved. Upon request by the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement, these penalties will be withheld from payments then due to Contractor.

d. Apprentices. Contractor is responsible for compliance with the requirements governing employment and payment of apprentices, as set forth in Labor Code section 1777.5, which is fully incorporated by reference.

e. Notices. Pursuant to Labor Code section 1771.4, Contractor is required to post all Job Site notices, including prevailing wage rates and other notices as required by regulation.

f. Other Labor Requirements. Contractor has the responsibility for and shall comply with all other requirements of California Labor Code Section 1720 et seq., Labor Code Section 1810 et seq., the Regulations and all other applicable State labor laws. Contractor further acknowledges and agrees that it will be independently responsible for reviewing the applicable laws and regulations and effectuating compliance with those laws. Contractor shall require the same of all its Subcontractors. Pursuant to Labor Code Section 1735, Contractor shall not discriminate in the employment of persons upon public works on any basis listed in subdivision (a) of Section 12940 of the Government Code, as those bases are defined in Sections 12926 and 12926.1 of the Government Code, except as otherwise provided in Section 12940 of the Government Code. Every contractor for public works who violates this Section is subject to all the penalties imposed in Labor Code Sections 1720 through 1861.

g. Statutory Penalties. The statutory penalties for failure to pay prevailing wage or to comply with State wage and hour laws will be enforced as follows:

(1) Pursuant to Labor Code section 1775, the Contractor and any Subcontractor under it shall forfeit as a penalty to the City not more than Two Hundred Dollars (\$200.00), for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rate as determined by the Director of the DIR for such work or craft in which such worker is employed for any public work done under this Contract by it or by any Subcontractor under it. The difference between such prevailing wage rate and the amount paid to each worker for each calendar day or portion thereof, for which each worker was paid less than the prevailing wage rate, shall be paid to each worker by the Contractor.

(2) Pursuant to Labor Code Section 1813, Contractor or Subcontractor shall, as a penalty to the City, forfeit twenty-five dollars (\$25) for each worker employed in the execution of this Contract by the respective Contractor or Subcontractor for each calendar day during which the worker is required or permitted to work more than 8 hours in any one calendar day and 40 hours in any one calendar week, except as specified in Labor Code 1815. In accordance with the provisions of Labor Code Sections 1810 et. seq., eight (8) hours is the legal working day.

h. DIR Monitoring. Pursuant to Labor Code § 1771.4, the Contract for this Project is subject to compliance monitoring and enforcement by the DIR.

i. DIR Registration. Pursuant to Labor Code sections 1725.5 and 1771.1, the Contractor and its Subcontractors must be registered with the DIR prior to the execution of a contract to perform public works. By entering into this Contract, Contractor represents that it is aware of the registration requirement and is currently registered with the DIR. Contractor shall maintain a current registration for the duration of the Project. Contractor shall further include the requirements of Labor Code sections 1725.5 and 1771.1 in any subcontract and ensure that all Subcontractors are registered at the time this Contract is entered into and maintain registration for the duration of the Project.

Section 10. LIQUIDATED DAMAGES

If Contractor fails to complete the Work within the Contract Time, City will assess liquidated damages in the amount of Two Thousand and 00/100 Dollars (\$2,000.00) per day for each day of unexcused delay in completion, and such liquidated damages may be deducted from City's payments due or to become due to Contractor under this Contract.

Section 11. COMPLIANCE WITH LAWS

Contractor shall comply with all Laws applicable to the performance of the Work required by the Contract Documents, including any rule, regulation, or bylaw governing the conduct or performance of Contractor, its employees, officers, board members, agents, independent contractors, and Subcontractors. Unless otherwise specified in the Contract Documents, all required permits and licenses, including a City business license, shall be held or obtained by the Contractor at its sole expense and prior to commencing any Work hereunder. Contractor and all subcontractors shall comply with: the California Fair Housing Act (Cal. Gov. Code §12900 et seq.) and the regulations promulgated thereunder (Cal. Code Regs., tit. 2, §11000 et seq.). Contractor shall not hire or employ any person to perform work within the City or allow to perform work required under this Contract unless such person is properly documented and legally entitled to be employed within the United States. The Contractor and all subcontractors shall also comply with the requirements of the Drug-Free Workplace Act of 1990 (Cal. Gov. Code §8350 et seq.). To the extent that the requirements of the Federal Funding/Grant Requirement Provisions attached hereto as **Exhibit "B"** impose requirements similar to those in California Law, Contractor shall comply with both sets of requirements, and in the event of a conflict which prevents compliance with both, the Federal requirements must be satisfied.

Section 12. WORKERS' COMPENSATION CERTIFICATION

Pursuant to Labor Code § 1861, by signing this Contract, Contractor certifies as follows: "I am aware of the provisions of Labor Code § 3700 which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the Work on this Contract."

Section 13. INSURANCE

a. Contractor shall procure and maintain at its own expense at all times during the period covered by this Contract (and through the one-year guarantee period following the date of City's acceptance of the Project) the following policies of insurance:

- (1) Commercial General Liability ("CGL") Insurance: Insurance Services Office (ISO) Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than Two Million \$2,000,000 per occurrence resulting from the acts or omissions of the Contractor or its officers, employees, servants, volunteers, and agents,

and independent contractors. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.

(2) **Commercial Vehicle Liability Insurance:** Covering person injury and property damage, of not less than Two Million Dollars (\$2,000,000) combined single limit, covering any vehicle utilized by Contractor or its officers, employees, servants, volunteers, or agents and independent contractors in performing the Work required by this Contract.

(3) **Workers' Compensation Insurance:** Providing coverage as required by the California State Workers' Compensation Law and Employers' Liability insurance with a limit of no less than \$1,000,000 per accident for bodily injury or disease. If any class of employees employed by Contractor is not protected by the California State Workers' Compensation Law, Contractor shall provide adequate insurance for the protection of such employees to the satisfaction of the City.

(4) **Course of Construction, Builders' Risk, or Inland Marine Insurance for Work on Site:** Issued on an occurrence basis, for all-risk or "all perils" coverage on a 100% completed value basis on the insurable portion of the Project for the benefit of City, that offers "Installation" coverage for all materials, supplies, equipment, and property obtained by, or for Contractor, which is to become part of the Work while such equipment and property is stored at the jobsite, at temporary locations, or while in transit to the Project from such temporary locations. Contractor shall also be responsible for insuring its owned, leased/rented, or borrowed equipment.

(a) City of Victorville shall be named as a Loss Payee.

(b) If the Project does not involve new or major reconstruction, at the option of the City, an Installation Floater may be acceptable. For such projects, a Property Installation Floater shall be obtained that provides for the improvement, remodel, modification, alteration, conversion or adjustment to existing buildings, structures, processes, machinery, and equipment. The Property Installation Floater shall provide property damage coverage for any building, structure, machinery, or equipment damaged, impaired, broken, or destroyed during the performance of the Work, including during transit, installation, and testing at the Project/Work site.

b. **Additional Insurance Requirements.** With respect to the policies of insurance set forth above, compliance with the following is also required:

(1) Additional Insureds. Notwithstanding any inconsistent statement in any required insurance policies or any subsequent endorsements attached thereto, the protection offered by all policies, except for Workers' Compensation coverage, shall bear an endorsement whereby it is provided that, the City and its elected or appointed officials, officers, employees, servants, volunteers, agents and independent contractors, including, without limitation, the City Attorney, are named as Additional Insureds. The coverage shall

contain no special limitations on the scope of protection afforded to the City of Victorville, its officers, officials, employees, agents, or volunteers.

(2) Waiver of Subrogation Rights. Contractor shall require the carriers of all required insurance policies to waive all rights of subrogation against the City and its elected or appointed officers, officials, volunteers, employees, contractors, and subcontractors. Each policy of insurance shall be endorsed to reflect such waiver.

(3) Sufficiency of Insurers. Contractor must secure all policies of insurance required by this Contract from a good and responsible company or companies authorized to do insurance business in the State of California, with an AM Best's rating of not less than A;VII.

(4) Proof of Insurance Coverage Required Prior to Commencement of Work. Within ten (10) days of the date Contractor receives this Contract from the City for execution (following award of same by the City Council), certificates of insurance evidencing the policies of insurance, coverages, and endorsements required by this Contract and satisfactory to and approved by the City shall be furnished by Contractor to the City's Risk Manager. In no event shall any Work on the Project be permitted to commence until adequate proof of insurance and endorsements have been so furnished.

(5) Reserved

(6) Other Required Endorsements.

(a) The policies shall be endorsed to provide that in the event of cancellation or amendment of any required insurance policy for any reason whatsoever, the City shall be notified by mail, postage prepaid, not less than thirty (30) days before the cancellation or amendment is effective. In the case of cancellation for non-payment, ten (10) days advance written notice shall be given.

(b) The CGL and vehicle liability policies shall be endorsed as Primary and Noncontributory.

c. Subcontractors. Contractor must ensure that each Subcontractor is required to obtain and maintain the same insurance coverage required under this Section 13 with respect to its performance of Work on the Project, including those requirements related to the Additional Insureds and waiver of subrogation. Contractor must confirm that each Subcontractor has complied with these insurance requirements before the Subcontractor is permitted to begin Work on the Project. Upon request by the City, Contractor must provide certificates and endorsements submitted by each Subcontractor to prove compliance with this requirement. The insurance requirements for Subcontractors do not replace or limit the Contractor's insurance obligations.

Section 14. FEDERAL FUNDING/GRANT REQUIREMENT PROVISIONS

Contractor acknowledges that the Project is being funded in whole or in part with federal assistance under the American Rescue Plan Act ("ARPA") (Title VI of the Social Security Act Section 602 et seq. (the "Act")) Coronavirus State and Local Fiscal Recovery Funds ("CSLFRF") through a grant from the U.S. Department of Treasury to the City. The Contractor agrees to comply with all the provisions of the documents and forms contained in Section B – Federal Requirements and Federal Forms of the Bid Package (Contract Documents) for this Project. Said documents and forms (as signed and submitted by Contractor with its Bid) are attached hereto in its entirety as Exhibit "B" and incorporated as part of this Contract by this reference. Contractor shall comply with all requirements and provisions of Exhibit "B".

Section 15. TIME OF THE ESSENCE

Time is of the essence in the performance of this Contract.

Section 16. INDEMNIFICATION

a. Notwithstanding the limits of any insurance and to the fullest extent permitted by law, Contractor shall indemnify the City, its elected or appointed officials, officers, agents, volunteers and employees against, and will hold and save them and each of them harmless from, any and all actions, suits, claims, damages to persons or property, losses, costs, penalties, obligations, errors, omissions or liabilities, (hereinafter "Claims or Liabilities") that may be asserted or claimed by any person, firm or entity arising or alleged to arise out of or in connection with the performance of the Work, operations, or activities of Contractor, its agents, employees, Subcontractors, or invitees on the Project, or arising or alleged to arise from the acts or omissions of Contractor hereunder, or arising or alleged to arise from Contractor's performance of or failure to perform any term, provision, covenant or condition of this Contract, but excluding such Claims or Liabilities or portion of such Claims or Liabilities arising or alleged to arise from the active negligence, sole negligence, or willful misconduct of the City, its elected or appointed officials, officers, agents, volunteers, or employees, and in connection therewith:

(1) Contractor will defend any action or actions filed in connection with any of said Claims or Liabilities and will pay all costs and expenses, including legal costs and attorneys' fees incurred in connection therewith;

(2) Contractor will promptly pay any judgment rendered against the City, its elected or appointed officials, officers, agents, volunteers, or employees for any such claims or liabilities arising or alleged to arise out of or in connection with Contractor's (or its agents', employees', Subcontractors' or invitees') performance of or failure to perform such Work, operations or activities hereunder; and Contractor agrees to save and hold the City, its elected or appointed officials, officers, agents, volunteers and employees harmless therefrom;

(3) In the event the City, its elected or appointed officials, officers, agents, volunteers, or employees is made a party to any action or proceeding filed or prosecuted against Contractor for such damages or other claims arising or alleged to arise out of or in connection with the performance of or failure to perform the Work, operation, or activities of Contractor hereunder, Contractor shall pay to the City, its elected or appointed officials, officers, agents, volunteers, or employees, any and all costs and expenses incurred by the City, its elected or appointed officers, officials, agents, volunteers, or employees in such action or proceeding, including but not limited to, legal costs and attorneys' fees for counsel acceptable to City;

(4) Contractor's duty to defend, indemnify, and hold harmless as set out in this Section shall include any claims, liabilities, obligations, losses, demands, actions, penalties, suits, costs, expenses or damages or injury to persons or property arising or alleged to arise from, in connection with, as a consequence of, or pursuant to any state or federal law or regulation regarding hazardous substances, including but not limited to, the Federal Insecticide, Fungicide and Rodenticide Act ("FIFRA"), Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), Resource Conservation and Recovery Act of 1976 ("RCRA"), the Hazardous and Solid Waste Amendments of 1984, the Hazardous Material Transportation Act, the Toxic Substances Control Act, the Clean Air Act, the Clean Water Act, the California Hazardous Substance Account Act, the California Hazardous Waste Control Law or the Porter-Cologne Water Quality Control Act, as any of those statutes may be amended from time to time.

b. City will timely notify Contractor upon receipt of any third-party claim relating to the Contract, as required by Public Contract Code § 9201. The Contractor's indemnification and defense obligations pursuant to this Section shall survive the termination of this Contract. Contractor shall require the same indemnification from all Subcontractors.

Section 17. REPORTS; BOOKS AND RECORDS; AUDIT

a. Upon request by the Project Manager Contractor shall prepare and submit reports concerning Contractor's performance of the Work required by this Contract.

b. Contractor shall keep such books and records as shall be necessary to perform the work required by this Contract and enable the Project Manager to evaluate the cost and the performance of such Work.

c. Books and records pertaining to costs shall be kept and prepared in accordance with generally accepted accounting principles. The Project Manager shall have full and free access to such books and records at all reasonable times, including the right to inspect, copy, audit, and make records and transcripts from such records.

d. Records and supporting documents pertaining to the use of funds paid to Contractor hereunder shall be retained by Contractor and made available to the Project Manager

for purposes of performing an audit for a period of five (5) years from the date of termination of this Contract.

Section 18. MODIFICATIONS AND AMENDMENTS

This Contract may be modified or amended only by written Change Orders as specified in the Contract Documents or a written instrument signed by both Parties.

Section 19. ENTIRE AGREEMENT

a. This Contract supersedes any and all prior or contemporaneous agreements, either oral or written, between the City and Contractor with respect to the subject matter of this Contract.

b. The Contract Documents contain all of the covenants and agreements between the Parties with respect to the subject matter herein, and each Party acknowledges that no representations, inducements, promises, or agreements have been made by or on behalf of any Party, except those covenants and agreements in this Contract and the Contract Documents incorporated herein.

c. No agreement, statement, or promise with respect to the subject matter of the Contract Documents, which is not contained in the Contract Documents, or in a valid modification or amendment to the Contract Documents, shall be valid or binding on either Party.

Section 20. AMBIGUITIES

This Contract is in all respects intended by each Party hereto to be deemed and construed to have been jointly prepared by the Parties and the Parties hereby expressly agree that any uncertainty or ambiguity existing herein shall not be interpreted against either of them. Except as expressly limited by this paragraph, all of the applicable rules of interpretation of contract shall govern the interpretation of any uncertainty or ambiguity of this Contract. Notwithstanding the foregoing, the Parties agree that **Exhibit "A"** is attached hereto for reference purposes, and to the extent there are any ambiguities, inconsistencies, or conflicts between the terms of this Contract and **Exhibit "A"**, the terms of this Contract shall control and nothing set forth in **Exhibit "A"** shall be deemed to supersede any of the provisions of this Contract.

Section 21. NOTICES

a. Any notice to be provided pursuant to this Contract shall be in writing, and all such notices shall be delivered by personal service or by deposit in the United States mail, certified or registered, return receipt requested, with postage prepaid, and addressed to the Parties as follows:

To City: Jenele Davidson, Deputy City Manager
Planning Department
City of Victorville
14343 Civic Drive
Victorville, CA 92392

To Contractor: Gabe Lovato, President
Apple Valley Communications, Inc.
21845 Highway 18
Apple Valley, CA 92307

To Surety: _____

b. Notices, payments, and other documents shall be deemed delivered upon receipt by personal service or as of the second (2nd) day after deposit in the United States mail.

c. Either Party, or the surety, may change its address by giving notice in writing to all other parties listed above, and thereafter notices shall be addressed and transmitted to such new address.

Section 22. NON-LIABILITY OF CITY OFFICERS AND EMPLOYEES

No officer or employee of the City shall be personally liable to Contractor, or any successor in interest, in the event of any default or breach by the City or for any amount, which may become due to Contractor or to its successor(s), or for any breach of any obligation of the terms of this Contract.

Section 23. REVIEW BY ATTORNEYS

Each Party hereto has had its attorneys review this Contract and all related documents.

Section 24. BONDS

Concurrently with the execution of this Contract by the Contractor, and before the commencement of any Work, Contractor shall furnish to the City a Faithful Performance Bond, and a Payment (Labor and Materials Bond) each in an amount equal to one hundred percent (100%) of the Contract Price written on the forms included in the Contract Documents. These bonds must remain in force until the later of (1) the expiration of the one-year guarantee period; or (2) on one year from the date of completion of the corrective Work. Such bonds must be issued by a responsible corporate Surety, licensed and authorized to issue such bonds in the State of California with an AM Best's Rating of at least A: VII.

Section 25. CARE OF WORK

Contractor must adopt reasonable methods during the life of the Contract to furnish continuous protection to the Work, and the equipment, materials, papers, documents, plans, studies, and other components to prevent losses or damages, and will be responsible for all damages, to persons or property, until acceptance of the Work by the City, except those losses or damages as may be caused by the City's own negligence. The performance of the Work by Contractor or the payment of money by the City shall not relieve Contractor from any obligation to correct any incomplete, inaccurate, or defective Work (including the obligation to remedy any defective Work or materials during the one-year guarantee period after the City's acceptance thereof) at no further cost to the City.

Section 26. CAPTIONS AND HEADINGS

The captions and headings contained in this Contract are provided for identification purposes only and shall not be interpreted to limit or define the content of the provisions described under the respective caption or heading.

Section 27. OWNERSHIP OF DOCUMENTS

No portion of the Contract Documents may be used for any purpose other than construction of the Project, without prior written consent from City. Contractor is deemed to have conveyed the copyright in any designs, drawings, specifications, Shop Drawings, or other documents (in paper or electronic form) developed by Contractor for the Project, and City will retain all rights to such works, including the right to possession.

Section 28. SUCCESSORS, HEIRS, AND ASSIGNS

Except as otherwise expressly provided herein, this Contract shall be binding upon the successors, endorsees, assigns, heirs, and personal representatives of each of the Parties and, likewise, shall inure to the benefit of the successors, endorsees, assigns, heirs, and personal representatives of each of the Parties. This Contract may not be assigned or transferred by Contractor without the concurrence of the surety and express written consent of the City.

Section 29. GENDER; PLURAL

In this Contract, unless the context clearly requires otherwise, the masculine, feminine and neuter genders and the singular and the plural shall include one another.

Section 30. SEVERABILITY

If any one or more of the sentences, clauses, paragraphs, or sections contained herein is declared invalid, void, or unenforceable by a court of competent jurisdiction, the same shall be deemed

severable from the remainder of this Contract and shall not affect, impair, or invalidate any of the remaining sentences, clauses, paragraphs, or sections contained herein.

Section 31. GOVERNING LAW

The validity of this Contract and any of its terms or provisions, as well as the rights and duties of the Parties under this Contract, shall be construed pursuant to and in accordance with California law.

Section 32. CUMULATIVE REMEDIES

Except with respect to rights and remedies expressly declared to be exclusive in this Contract, the rights and remedies of the Parties are cumulative and the exercise by either Party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default of any other default by the other Party.

Section 33. VENUE

All proceedings involving disputes over the terms, provisions, covenants, or conditions contained in this Contract and all proceedings involving any enforcement action related to this Contract shall be initiated and conducted in the applicable court or forum in San Bernardino County, California.

Section 34. EFFECTIVENESS OF CONTRACT

This Contract shall not be binding upon the City until signed by the authorized representative(s) of Contractor, approved by the City's Risk Manager, and executed by the authorized City personnel or the Mayor.

Section 35. REPRESENTATIONS OF PARTIES AND PERSONS EXECUTING CONTRACT

Each of the Parties to this Contract hereby represents that all necessary and appropriate actions of their governing bodies have been taken to make this Contract a binding obligation of each of the Parties hereto. The persons executing this Contract warrant that they are duly authorized to execute this Contract on behalf of and bind the Parties each purports to represent.

Section 36. WAIVER

No delay or omission in the exercise of any right or remedy by a non-defaulting Party on any default under this Contract shall impair such right or remedy or be construed as a waiver. A Party's consent to or approval of any act by the other Party requiring the Party's consent or approval shall not be deemed to waive or render unnecessary the other Party's consent to or approval of any subsequent act. Any waiver by either Party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Contract.

Section 37. INDEPENDENT CONTRACTOR STATUS

a. Contractor is and shall at all times remain as to City a wholly independent contractor. The personnel performing work or services under this Contract on behalf of Contractor shall at all times be under Contractor's exclusive direction and control. Neither City nor any of its officers, employees, or agents shall have control over the conduct of Contractor or any Contractor's officers, employees, or agents, except as set forth in this Contract. Contractor shall not at any time or in any manner represent that it or any of its officers, employees, or agents are in any manner officers, employees, or agents of the City. Contractor shall not incur or have the power to incur any debt, obligation, or liability whatever against City or bind City in any manner.

b. No employee benefits shall be available to Contractor in connection with the performance of this Contract. Except for the Contract Price to be paid to Contractor as provided for in this Contract, City shall not pay salaries, wages, or other compensation to Contractor for performing services hereunder for City. City shall not be liable for compensation or indemnification to Contractor for injury or sickness arising out of performing services hereunder.

c. Any and all employees or subcontractors of Contractor under this Contract, while engaged in the performance of any work or services required by Contractor hereunder, shall be considered employees or subcontractors of Contractor only and not of City.

Section 38. COUNTERPARTS

This Contract may be executed by the Parties in counterparts, and when executed by each of the Parties, each counterpart shall be deemed to be a part of this Contract.

Section 39. PROVISIONS REQUIRED BY LAW DEEMED INSERTED

Each and every provision of law and clause required by Law to be inserted in this Contract shall be deemed to be inserted herein and the Contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not currently inserted, then upon application of either Party the Contract shall forthwith be physically amended to make such insertion or correction.

Section 40. ATTORNEY'S FEES

If either Party commences an action against the other Party, either legal, administrative, or otherwise, arising out of or in connection with this Contract, the prevailing party in such litigation shall be entitled to have and recover from the losing party reasonable attorney's fees and all other costs of such action.

Section 41. CONFLICTS OF INTEREST

Contractor covenants that it does not have any interest, nor shall it acquire any interest, directly or indirectly, which would conflict in any manner with the performance of Contractor's Work under this Contract. Contractor further covenants that in the performance of services under this

Contract, no officer, employee or agent of Contractor having such interest shall be employed by it. In the event the City determines that Contractor must disclose its financial interests by completing and filing a Fair Political Practices Commission Form 700, with the City Clerk's Office pursuant to the written instructions provided by the City Clerk. Acquisition or maintenance of a conflicting interest by Contractor may result in termination of this Contract by the City. Contractor shall also comply with and is bound by the conflict of interest provisions set forth in Section 5.h of the Federal Funding/Grant Requirement Provisions attached hereto as Exhibit "B".

(END OF THIS PAGE – SIGNATURE PAGE FOLLOWS)

IN WITNESS WHEREOF, the Parties hereto have caused this Contract to be executed as of the dates written below.

THE CITY OF VICTORVILLE

APPLE VALLEY COMMUNICATIONS, INC.

By: _____
Debra Jones, Mayor

By: _____
Gabe Lovato, President

Dated: _____

Dated: _____

ATTEST

By: _____
Jennifer Thompson, City Clerk

Dated: _____

APPROVED AS TO STANDARD FORM

By: _____
Andre de Bortnowsky, City Attorney

Dated: _____

THE CITY OF VICTORVILLE

By: _____
Sandra Bostick, Risk Manager

Dated: _____

EXHIBIT A
CONTRACTOR'S BID PROPOSAL

SEE ATTACHMENT

BID SCHEDULE
WELLNESS CENTER LOW VOLTAGE CONTRACTOR SERVICES, JM024-028

TO THE CITY COUNCIL OF THE CITY OF VICTORVILLE, CALIFORNIA:

The undersigned declares he has carefully examined the locations of the proposed work, the Plans, the Specifications, Special Provisions and other Contract Documents; and being familiar with all of the conditions surrounding the work, including the availability of materials and labor, hereby proposes to furnish all labor, materials, tools, equipment, and incidentals to complete all the Work. All of the aforementioned shall be done in accordance with said Plans, Special Provisions, and Technical Specifications as well as the most current editions, including all amendments at bid opening, of the:

- 1) City of Victorville Standard Specifications for Public Improvements and Standard Plans,
- 2) Standard Specifications for Public Works Construction as amended by the City of Victorville,
- 3) and Contract Documents.

For the price set forth in the following schedule:

BASE BID SCHEDULE

	Description	Quantity	Total Cost
1	Mobilization/Demobilization/bonds/insurance/permits	1 LS	\$10,000.00
2	Furnish, deliver and install a complete data network and network wire/cabling system. Refer to <i>Exhibit A and B</i> .	1 LS	\$485,635.80
3	Furnish, deliver and install a complete paging communication system. Refer to <i>Exhibit A and C</i> .	1 LS	\$128,528.23
4	Furnish, deliver and install a complete access control system. Refer to <i>Exhibit A and D</i> .	1 LS	\$125,000.00
5	Furnish, deliver and install a complete intrusion alarm system. Refer to <i>Exhibit A and E</i> .	1 LS	\$102,427.34
6	Furnish, deliver and install a complete and operational video surveillance system. Refer to <i>Exhibit A and F</i> .	1 LS	\$471,893.63
TOTAL BID AMOUNT			\$1,323,485.00

CITY CLERK WILL READ THIS TOTAL BASE BID

TOTAL FOR BASE BID (NUMBERS):

\$ 1,323,485.00

TOTAL FOR BASE BID (WORDS):

ONE MILLION THREE HUNDRED TWENTY THREE THOUSAND, FOUR HUNDRED EIGHTY FIVE DOLLARS AND NO CENTS

NOTE: Please tab this page for easier access of the City Clerk when reading the bids.

EXHIBIT A
CITY OF VICTORVILLE, CALIFORNIA

Contractor: Apple Valley Communications Inc.

Address: 21845 US Hwy 18, Apple Valley Ca. 92307

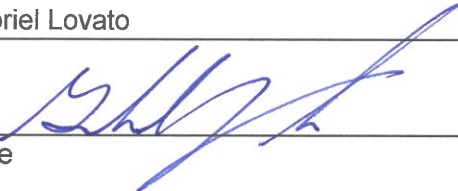
Phone: 760-247-2668

Fax: 760-247-0087

Email Address: estimating@avcsystems.com

By: Gabriel Lovato

Signature



9/21/2023

Date:

EXHIBIT B
FEDERAL REQUIREMENTS AND FEDERAL
FORMS



SECTION B: FEDERAL REQUIREMENTS AND FEDERAL FORMS

WELLNESS CENTER LOW VOLTAGE CONTRACTOR SERVICES

PROJECT JM024-028

CITY OF VICTORVILLE, CALIFORNIA

FEDERAL FUNDING/GRANT REQUIREMENT PROVISIONS

1. Contractor is hereby advised and acknowledges that the Project, and any agreement or contract awarded pursuant to this RFP, is being funded in whole or in part with federal assistance under the American Rescue Plan Act (the “**ARPA**”) Pub. L. No. 117-2 (March 11, 2021); specifically, Sections 602 and 603 of the Social Security Act (the “**Act**”) as added by Section 9901 of the ARPA, which established the Coronavirus State and Local Fiscal Recovery Funds (the “**CSLFRF**”). Such funding is provided in accordance with and is subject to the terms and conditions of the CSLFRF financial assistance agreement between the U.S. Department of the Treasury (“**Treasury**”) and the City, signed May 11, 2021 (the “**City Award**”). The City Award is **ATTACHMENT B-1** and is expressly incorporated herein by reference.

2. Reserved.

3. By submitting a Bid for the Project, Contractor agrees to comply with the laws, provisions, and regulations listed herein; all other applicable federal statutes, regulations, and executive orders; and to further provide for such compliance in any agreements/contracts it enters into with other parties (by inserting a provision into any subcontracts or subcontractor agreements making them subject to all of the provisions stipulated herein) for any work or services relating to the Project.

4. Contractor acknowledges and agrees that the provisions of this Section B and its attachments shall be annexed as **Exhibit “B”** to its Contract with the City in the event of an award.

5. The laws, provisions, and regulations relating to this Project and with which Contractor is required to comply, include without limitation, all of the following:

a. The requirements of Section 603 of the Act, regulations adopted by Treasury pursuant to section 603(f) of the Act, and guidance issued by Treasury regarding the foregoing.

b. Federal regulations specified in the City Award, which include without limitation, the following:

(i) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 CFR Part 200, other than such provisions as Treasury may determine are inapplicable to the City Award and subject to such exceptions as may be otherwise provided by Treasury. Subpart F – Audit Requirements of the Uniform Guidance, implementing the Single Audit Act, shall apply.

(ii) Universal Identifier and System for Award Management (SAM), 2 CFR Part 25, pursuant to which the award term set forth in Appendix A to 2 CFR Part 25 is hereby incorporated by reference.

(iii) Reporting Subaward and Executive Compensation Information, 2 CFR Part 170, pursuant to which the award term set forth in Appendix A to 2 CFR Part 170 is hereby incorporated by reference.

(iv) OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement), 2 CFR Part 180, including the requirement to include a term or condition in all lower tier covered transactions (contracts and subcontracts described in 2 CFR Part 180, subpart B) that the award is subject to 2 CFR Part

CITY OF VICTORVILLE, CALIFORNIA

180 and Treasury's implementing regulation at 31 CFR Part 19. Contractor must complete the certification in **ATTACHMENT B-2** and comply with all provisions of said certification.

- (v) Recipient Integrity and Performance Matters, pursuant to which the award term set forth in 2 CFR Part 200, Appendix XII to Part 200 is hereby incorporated by reference.
 - (vi) Governmentwide Requirements for Drug-Free Workplace, 31 CFR Part 20.
 - (vii) New Restrictions on Lobbying, 31 CFR Part 21, pursuant to the Byrd Anti-Lobbying Amendment (31 U.S.C. § 3152). See provisions in Subsection j.(ix) below for requirements and required certification.
 - (viii) Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. §§ 4601-4655) and implementing regulations.
 - (ix) Generally applicable federal environmental laws and regulations.
- c. Statutes and regulations prohibiting discrimination applicable to the Project and Contractor, including, without limitation, the following:
- (i) Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and Treasury's implementing regulations at 31 CFR Part 22, which prohibit discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance (see subdivision d, below for required assurances);
 - (ii) The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability;
 - (iii) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance;
 - (iv) The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury's implementing regulations at 31 CFR Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance; and
 - (v) Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. § 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.
- d. The Civil Rights Restoration Act of 1987 which requires the following assurances:
- (i) Contractor ensures its current and future compliance with Title VI of the Civil Rights Act of 1964, as amended, which prohibits exclusion from participation, denial of the benefits of, or subjection to discrimination under programs and activities receiving federal financial assistance, of any person in the United States on the

CITY OF VICTORVILLE, CALIFORNIA

ground of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury Title VI regulations at 31 CFR Part 22 and other pertinent executive orders such as Executive Order 13166, directives, circulars, policies, memoranda, and/or guidance documents.

- (ii) Contractor acknowledges that Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency," seeks to improve access to federally assisted programs and activities for individuals who, because of national origin, have Limited English proficiency (LEP). Recipient understands that denying a person access to its programs, services, and activities because of LEP is a form of national origin discrimination prohibited under Title VI of the Civil Rights Act of 1964 and the Department of the Treasury's implementing regulations. Accordingly, Contractor shall initiate reasonable steps, or comply with the Department of the Treasury's directives, to ensure that LEP persons have meaningful access to its programs, services, and activities. Contractor understands and agrees that meaningful access may entail providing language assistance services, including oral interpretation and written translation where necessary, to ensure effective communication in the Contractor's programs, services, and activities.
- (iii) Contractor agrees to consider the need for language services for LEP persons when Contractor develops applicable budgets and conducts programs, services, and activities. As a resource, the Department of the Treasury has published its LEP guidance at 70 FR 6067. For more information on taking reasonable steps to provide meaningful access for LEP persons, please visit <http://www.lep.gov>.
- (iv) Contractor acknowledges and agrees that compliance with the assurances constitutes a condition of continued receipt of federal financial assistance and is binding upon Contractor and Contractor's successors, transferees, and assignees for the period in which such assistance is provided.
- (v) Contractor acknowledges and agrees that it must require any sub-grantees, contractors, subcontractors, successors, transferees, and assignees to comply with assurances (i)-(iv) above, and agrees to incorporate the following language in every contract or agreement subject to Title VI and its regulations between the Contractor the Contractor's sub-grantees, contractors, subcontractors, subconsultants successors, transferees, and assignees:

The sub-grantee, contractor, subcontractor, successor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of; or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this contract (or agreement). Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made a part of this contract or agreement.

CITY OF VICTORVILLE, CALIFORNIA

- e. Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms, as set forth in 2 CFR Section 200.321.
- (i) If subcontracts are to be let, Contractor must take all affirmative steps pursuant to Section 200.321 to assure that minority businesses, women's business enterprises, and labor surplus area firms are used whenever possible. Affirmative steps include:
 - A. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
 - B. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
 - C. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises;
 - D. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises; and
 - E. Using the services/assistance of the Small Business Administration (SBA), and the Minority Business Development Agency (MBDA) of the Department of Commerce
 - (ii) If selected for award, Contractor must submit a Small and Minority Businesses, Women's Business Enterprise (S/M/WBE) and Local Surplus Area (LSA) Firm Outreach Plan attached hereto as **ATTACHMENT B-3** within 5 (five) days of contract execution to the City for approval. The City will accept the S/M/WBE and LSA Firm Outreach Plan or offer recommendations to ensure S/M/WBE and LSA Firm Outreach Plan includes all necessary affirmative steps to meet the intent of 2 CFR § 200.321. Contractor shall revise its S/M/WBE Outreach Plan to incorporate City input as applicable. Upon the City's acceptance of the S/M/WBE and LSA Firm Outreach Plan, Contractor shall submit updates to the City quarterly. S/M/WBE and LSA Firm Outreach Plan update should include efforts taken within the period to assure that minority businesses, women's business enterprises, and labor surplus area firms were utilized when possible.
- f. Increasing Seat Belt Use in the United States. Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), Contractor is encouraged to adopt and enforce on- the-job seat belt policies and programs for their employees when operating company-owned, rented or personally owned vehicles.
- g. Reducing Text Messaging While Driving. Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Contractor is encouraged to adopt and enforce policies that ban text messaging while driving, and Contractor should establish workplace safety policies to decrease accidents caused by distracted drivers.

CITY OF VICTORVILLE, CALIFORNIA

- h. Conflict of Interest. By submitting a Bid and executing a contract with the City, Contractor certifies that it that it has disclosed to City any actual, apparent, or potential conflicts of interest that may exist relative to the services to be provided pursuant under the Contract or with respect to the funding thereof, in accordance with 2 CFR Part 200 (including 2 CFR Sections 200.112 and 200.318(c)). Contractor shall provide all additional information necessary for the City to fully assess and address such actual or potential conflict of interest and agrees to advise the City of any actual, apparent or potential conflicts of interest that may develop subsequent to the date of execution the Contract. Contractor further agrees to complete any statements of economic interest if required by either CITY ordinance or State law and further certifies that it does not now have nor shall it acquire any financial or business interest that would conflict with the performance of services under the Contract and does not know of any fact which constitutes a violation of any conflict of interest law, including Section 87100 et seq. or Section 1090 et seq. of the California Government Code.
- i. Records Retention and Access. Contractor certifies that it will comply with the records retention and access requirements detailed in 2 CFR § 200.334 and 200.337, as well as any additional requirements that may be imposed by the Act or Treasury regulations. Contractor further certifies that it will retain all records as required by 2 CFR § 200.334 for a period of five (5) years after it receives City notice that City has submitted final expenditure reports or quarterly or annual financial reports for the Project, as applicable, and all other pending matters are closed. Contractor acknowledges and agrees that the Treasury, Inspectors General, the Comptroller General of the United States, the City, or any of their authorized representatives, shall have the right of access to any documents, papers, or other records of Contractor which are pertinent to the Project by virtue of the Federal award by which it is funded, in order to make audits, examinations, excerpts, and transcripts. The right also includes timely and reasonable access to Contractor's personnel for the purposes of interview and discussion related to such documents. The provisions of this Section shall govern over any conflicting provisions in the Contract.
- j. Federal contract provisions required by Appendix II to 2 CFR Part 200 (2 CFR § 200.327), as applicable:
- (i) Remedies for Breach - Appendix II to Part 200, Subd. (A). The provisions of Section 8 of the Contract provide remedies and penalties for breach of the Contract.
 - (ii) Termination for Cause/Convenience - Appendix II to Part 200, Subd. (B). The Special Provisions in Section A of the Bid Package, as well as the provisions of Sections 7 and 8 of the Contract include remedies for breach and termination for cause and convenience.
 - (iii) Equal Employment Opportunity - Appendix II to Part 200, Subd. (C). Except as otherwise provided under 41 CFR Part 60, all contracts meeting the definition of a "federally assisted construction contract" in 41 CFR § 60-1.3, must comply. Contractor shall comply with the following equal opportunity clause, in accordance with Executive Order 11246 of September 24, 1965 entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967 and implementation regulations at 41 CFR Chapter 60:

During the performance of this Contract, Contractor agrees as follows:

CITY OF VICTORVILLE, CALIFORNIA

A. 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.

B. 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.

C. 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.

D. 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.

E. 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.

F. 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.

G. 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

CITY OF VICTORVILLE, CALIFORNIA

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.

H. The Contractor will include the portion of the sentence immediately preceding paragraph A and the provisions of paragraphs A through G 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.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the Contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant

CITY OF VICTORVILLE, CALIFORNIA

under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

- (iv) Davis-Bacon and Copeland "Anti-Kickback" Act - Appendix II to Part 200, (Subd. (D)). Not applicable to this solicitation (See CSLFRF Final Rule FAQ).
- (v) Contract Work Hours and Safety Standards Act – Appendix II to Part 200 (Subd. (E)). Applicable to all contracts in excess of \$100,000 that involve the employment of mechanics, laborers (including watchmen and guards (as defined by federal law and regulation), or construction work, but not to purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence).
 - A. Contractor and all subcontractors shall comply with the Contract Work Hours and Safety Standards Act, 40 USC 3701 through 3708 (including sections 3702 and 3704), as supplemented by Department of Labor regulations at 29 CFR Part 5, which are incorporated herein by this reference.
 - B. Contractor and all subcontractors shall 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 subject to conditions, as stated in the Act and regulations. No laborer or mechanic shall be required to work in surroundings or under working conditions that are unsanitary, hazardous, or dangerous to health or safety.
- (vi) Rights to Inventions Made Under a Contract or Agreement - Appendix II to Part 200 (Subd. (F)). Contracts or agreements for the performance of experimental, developmental, or research work (meeting the definition of "funding agreements" (see 37 CFR Part 401)) shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any applicable implementing regulations.
- (vii) Clean Air Act and Federal Water Pollution Control Act - Appendix II to Part 200 (Subd. (G)).
 - A. For all contracts in excess of \$150,000, Contractor agrees to comply with: (1) all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.; and (2) all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
 - B. Contractor further agrees to report each violation of the Clean Air Act and the Water Pollution Control Act to the City and understands and agrees that the City will, in turn, report each violation as required to assure notification to the U.S. Treasury Department, and the appropriate Environmental Protection Agency Regional Office.

CITY OF VICTORVILLE, CALIFORNIA

- C. Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance.
- (viii) Debarment and Suspension - Appendix II to Part 200 (Subd. (H) and requirements and certification as specified in Subsection 5.b.(iv) of this Section B).
- (ix) Byrd Anti-Lobbying Amendment – Appendix II to Part 200 (Subd.(I)) and Subsection 5.b.(vii) of this Section B).
- A. Contractor, and each tier to the tier above, certifies that it will not and has not used federally 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 the making or obtaining of any federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall 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 recipient who in turn will forward the certification(s) to the federal awarding agency.
- B. Contractor shall file the required certification, **ATTACHMENT B-4**, Certification Regarding Lobbying, attached hereto and incorporated herein, and shall obtain such certifications for all subcontracts in excess of \$100,000.
- (x) Procurement of Recovered Materials - Appendix II to Part 200 (Subd. (J) and 2 CFR § 200.323). Contractor shall comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines. available at EPA's Comprehensive Procurement Guidelines webpage: <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.
- (xi) Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment – Appendix II to Part 200 (Subd. (K) and 2 CFR § 200.26). Contractor is prohibited from obligating or expending loan or grant funds to:
- A. Procure or obtain;
- B. Extend or renew a contract to procure or obtain; or
- C. Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system,

CITY OF VICTORVILLE, CALIFORNIA

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).

- (1) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, 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).
- (2) Telecommunications or video surveillance services provided by such entities or using such equipment.

D. 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.

(xii) Domestic Preferences for Procurement – Appendix II to Part 200 Subd. (L) and 2 CFR § 200.322.

A. As appropriate, and to the extent consistent with law, Contractor should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States. This includes, but is not limited to iron, aluminum, steel, cement, and other manufactured products.

B. For purposes of this clause:

- (1) Produced in the United States means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
- (2) Manufactured products mean items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

k. Whether or not expressly set forth herein, all contractual provisions and grant conditions or assurances required by Treasury (including as may be amended or promulgated from time to time) are hereby incorporated herein by reference. This Contract may be amended to further incorporate and expressly state new, revised, and or subsequent contractual provisions or grant conditions as may be required by ARPA and/or Treasury. In the event of any conflict between any provision of the Contract, this Section B, or any federal or Treasury term, condition, or requirement, the stricter standard shall apply. Contractor shall

CITY OF VICTORVILLE, CALIFORNIA

refer any inconsistency or perceived inconsistency between this Contract and any federal requirement to City for guidance. Contractor shall not perform any act, fail to perform any act, or refuse to comply with any requests that would cause City to be in violation of any federal, ARPA, or Treasury term, condition, or requirement.

I have read and acknowledged these **FEDERAL FUNDING/GRANT REQUIREMENT PROVISIONS**



Signature of Contractor's Authorized Officer

Gabriel Lovato President

Name and Title of Contractor's Authorized Officer

9/21/2023

Date

The following Attachments (signed and completed as noted) are included:

B-1 – CITY AWARD (no signature or completion required)

B-2 - CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION – LOWER TIER COVERED TRANSACTIONS

B-3 - S/M/WBE AND LSA FIRM OUTREACH PLAN (to be completed and returned within 5 days if contract awarded); and

B-4 - NONLOBBYING CERTIFICATION FOR FEDERAL CONTRACT

ATTACHMENT B-1

CITY AWARD


OMB Approved No. 1505-0271
Expiration Date: November 30, 2021

U.S. DEPARTMENT OF THE TREASURY
CORONAVIRUS STATE AND LOCAL FISCAL RECOVERY FUNDS

Recipient name and address: City of Victorville 14343 Civic Dr Victorville, California, 92392-2399	DUNS Number: 093240653 Taxpayer Identification Number: 952235918 Assistance Listing Number: 21.019
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Sections 602(b) and 603(b) of the Social Security Act (the Act) as added by section 9901 of the American Rescue Plan Act, Pub. L. No. 117-2 (March 11, 2021) authorize the Department of the Treasury (Treasury) to make payments to certain recipients from the Coronavirus State Fiscal Recovery Fund and the Coronavirus Local Fiscal Recovery Fund.

Recipient hereby agrees, as a condition to receiving such payment from Treasury, to the terms attached hereto.

DocuSigned by:
Recipient: 
A10098C47B0D43B...

Authorized Representative: Keith Metzler

Title: City Manager

Date signed: 5/11/2021

U.S. Department of the Treasury:

Authorized Representative:

Title:

Date:

PAPERWORK REDUCTION ACT NOTICE

The information collected will be used for the U.S. Government to process requests for support. The estimated burden associated with this collection of information is 15 minutes per response. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Office of Privacy, Transparency and Records, Department of the Treasury, 1500 Pennsylvania Ave., N.W., Washington, D.C. 20220. DO NOT send the form to this address. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

U.S. DEPARTMENT OF THE TREASURY
CORONAVIRUS LOCAL FISCAL RECOVERY FUND
AWARD TERMS AND CONDITIONS

1. Use of Funds.
 - a. Recipient understands and agrees that the funds disbursed under this award may only be used in compliance with section 603(c) of the Social Security Act (the Act), Treasury's regulations implementing that section, and guidance issued by Treasury regarding the foregoing.
 - b. Recipient will determine prior to engaging in any project using this assistance that it has the institutional, managerial, and financial capability to ensure proper planning, management, and completion of such project.
2. Period of Performance. The period of performance for this award begins on the date hereof and ends on December 31, 2026. As set forth in Treasury's implementing regulations, Recipient may use award funds to cover eligible costs incurred during the period that begins on March 3, 2021, and ends on December 31, 2024.
3. Reporting. Recipient agrees to comply with any reporting obligations established by Treasury as they relate to this award.
4. Maintenance of and Access to Records
 - a. Recipient shall maintain records and financial documents sufficient to evidence compliance with section 603(c) of the Act, Treasury's regulations implementing that section, and guidance issued by Treasury regarding the foregoing.
 - b. The Treasury Office of Inspector General and the Government Accountability Office, or their authorized representatives, shall have the right of access to records (electronic and otherwise) of Recipient in order to conduct audits or other investigations.
 - c. Records shall be maintained by Recipient for a period of five (5) years after all funds have been expended or returned to Treasury, whichever is later.
5. Pre-award Costs. Pre-award costs, as defined in 2 C.F.R. § 200.458, may not be paid with funding from this award.
6. Administrative Costs. Recipient may use funds provided under this award to cover both direct and indirect costs.
7. Cost Sharing. Cost sharing or matching funds are not required to be provided by Recipient.
8. Conflicts of Interest. Recipient understands and agrees it must maintain a conflict of interest policy consistent with 2 C.F.R. § 200.318(c) and that such conflict of interest policy is applicable to each activity funded under this award. Recipient and subrecipients must disclose in writing to Treasury or the pass-through entity, as appropriate, any potential conflict of interest affecting the awarded funds in accordance with 2 C.F.R. § 200.112.

9. Compliance with Applicable Law and Regulations.

- a. Recipient agrees to comply with the requirements of section 603 of the Act, regulations adopted by Treasury pursuant to section 603(f) of the Act, and guidance issued by Treasury regarding the foregoing. Recipient also agrees to comply with all other applicable federal statutes, regulations, and executive orders, and Recipient shall provide for such compliance by other parties in any agreements it enters into with other parties relating to this award.
- b. Federal regulations applicable to this award include, without limitation, the following:
 - i. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200, other than such provisions as Treasury may determine are inapplicable to this Award and subject to such exceptions as may be otherwise provided by Treasury. Subpart F – Audit Requirements of the Uniform Guidance, implementing the Single Audit Act, shall apply to this award.
 - ii. Universal Identifier and System for Award Management (SAM), 2 C.F.R. Part 25, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 25 is hereby incorporated by reference.
 - iii. Reporting Subaward and Executive Compensation Information, 2 C.F.R. Part 170, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 170 is hereby incorporated by reference.
 - iv. OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement), 2 C.F.R. Part 180, including the requirement to include a term or condition in all lower tier covered transactions (contracts and subcontracts described in 2 C.F.R. Part 180, subpart B) that the award is subject to 2 C.F.R. Part 180 and Treasury's implementing regulation at 31 C.F.R. Part 19.
 - v. Recipient Integrity and Performance Matters, pursuant to which the award term set forth in 2 C.F.R. Part 200, Appendix XII to Part 200 is hereby incorporated by reference.
 - vi. Governmentwide Requirements for Drug-Free Workplace, 31 C.F.R. Part 20.
 - vii. New Restrictions on Lobbying, 31 C.F.R. Part 21.
 - viii. Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. §§ 4601-4655) and implementing regulations.
 - ix. Generally applicable federal environmental laws and regulations.
- c. Statutes and regulations prohibiting discrimination applicable to this award include, without limitation, the following:
 - i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and Treasury's implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance;

- ii. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability;
 - iii. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance;
 - iv. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance; and
 - v. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.
10. Remedial Actions. In the event of Recipient's noncompliance with section 603 of the Act, other applicable laws, Treasury's implementing regulations, guidance, or any reporting or other program requirements, Treasury may impose additional conditions on the receipt of a subsequent tranche of future award funds, if any, or take other available remedies as set forth in 2 C.F.R. § 200.339. In the case of a violation of section 603(c) of the Act regarding the use of funds, previous payments shall be subject to recoupment as provided in section 603(e) of the Act.
11. Hatch Act. Recipient agrees to comply, as applicable, with requirements of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328), which limit certain political activities of State or local government employees whose principal employment is in connection with an activity financed in whole or in part by this federal assistance.
12. False Statements. Recipient understands that making false statements or claims in connection with this award is a violation of federal law and may result in criminal, civil, or administrative sanctions, including fines, imprisonment, civil damages and penalties, debarment from participating in federal awards or contracts, and/or any other remedy available by law.
13. Publications. Any publications produced with funds from this award must display the following language: "This project [is being] [was] supported, in whole or in part, by federal award number [enter project FAIN] awarded to [name of Recipient] by the U.S. Department of the Treasury."
14. Debts Owed the Federal Government.
- a. Any funds paid to Recipient (1) in excess of the amount to which Recipient is finally determined to be authorized to retain under the terms of this award; (2) that are determined by the Treasury Office of Inspector General to have been misused; or (3) that are determined by Treasury to be subject to a repayment obligation pursuant to section 603(e) of the Act and have not been repaid by Recipient shall constitute a debt to the federal government.
 - b. Any debts determined to be owed the federal government must be paid promptly by

Recipient. A debt is delinquent if it has not been paid by the date specified in Treasury's initial written demand for payment, unless other satisfactory arrangements have been made or if the Recipient knowingly or improperly retains funds that are a debt as defined in paragraph 14(a). Treasury will take any actions available to it to collect such a debt.

15. Disclaimer.

- a. The United States expressly disclaims any and all responsibility or liability to Recipient or third persons for the actions of Recipient or third persons resulting in death, bodily injury, property damages, or any other losses resulting in any way from the performance of this award or any other losses resulting in any way from the performance of this award or any contract, or subcontract under this award.
- b. The acceptance of this award by Recipient does not in any way establish an agency relationship between the United States and Recipient.

16. Protections for Whistleblowers.

- a. In accordance with 41 U.S.C. § 4712, Recipient may not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the list of persons or entities provided below, information that the employee reasonably believes is evidence of gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority relating to a federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal contract (including the competition for or negotiation of a contract) or grant.
- b. The list of persons and entities referenced in the paragraph above includes the following:
 - i. A member of Congress or a representative of a committee of Congress;
 - ii. An Inspector General;
 - iii. The Government Accountability Office;
 - iv. A Treasury employee responsible for contract or grant oversight or management;
 - v. An authorized official of the Department of Justice or other law enforcement agency;
 - vi. A court or grand jury; or
 - vii. A management official or other employee of Recipient, contractor, or subcontractor who has the responsibility to investigate, discover, or address misconduct.
- c. Recipient shall inform its employees in writing of the rights and remedies provided under this section, in the predominant native language of the workforce.

17. Increasing Seat Belt Use in the United States. Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), Recipient should encourage its contractors to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented or personally owned vehicles.

18. Reducing Text Messaging While Driving. Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Recipient should encourage its employees, subrecipients, and contractors to adopt and enforce policies that ban text messaging while driving, and Recipient should establish workplace safety policies to decrease accidents caused by distracted drivers.

OMB Approved No. 1505-0271
Expiration Date: November 30, 2021

ASSURANCES OF COMPLIANCE WITH CIVIL RIGHTS REQUIREMENTS

ASSURANCES OF COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

As a condition of receipt of federal financial assistance from the Department of the Treasury, the recipient named below (hereinafter referred to as the “Recipient”) provides the assurances stated herein. The federal financial assistance may include federal grants, loans and contracts to provide assistance to the Recipient’s beneficiaries, the use or rent of Federal land or property at below market value, Federal training, a loan of Federal personnel, subsidies, and other arrangements with the intention of providing assistance. Federal financial assistance does not encompass contracts of guarantee or insurance, regulated programs, licenses, procurement contracts by the Federal government at market value, or programs that provide direct benefits.

The assurances apply to all federal financial assistance from or funds made available through the Department of the Treasury, including any assistance that the Recipient may request in the future.

The Civil Rights Restoration Act of 1987 provides that the provisions of the assurances apply to all of the operations of the Recipient’s program(s) and activity(ies), so long as any portion of the Recipient’s program(s) or activity(ies) is federally assisted in the manner prescribed above.

1. Recipient ensures its current and future compliance with Title VI of the Civil Rights Act of 1964, as amended, which prohibits exclusion from participation, denial of the benefits of, or subjection to discrimination under programs and activities receiving federal financial assistance, of any person in the United States on the ground of race, color, or national origin (42 U.S.C. § 2000d *et seq.*), as implemented by the Department of the Treasury Title VI regulations at 31 CFR Part 22 and other pertinent executive orders such as Executive Order 13166, directives, circulars, policies, memoranda, and/or guidance documents.
2. Recipient acknowledges that Executive Order 13166, “Improving Access to Services for Persons with Limited English Proficiency,” seeks to improve access to federally assisted programs and activities for individuals who, because of national origin, have Limited English proficiency (LEP). Recipient understands that denying a person access to its programs, services, and activities because of LEP is a form of national origin discrimination prohibited under Title VI of the Civil Rights Act of 1964 and the Department of the Treasury’s implementing regulations. Accordingly, Recipient shall initiate reasonable steps, or comply with the Department of the Treasury’s directives, to ensure that LEP persons have meaningful access to its programs, services, and activities. Recipient understands and agrees that meaningful access may entail providing language assistance services, including oral interpretation and written translation where necessary, to ensure effective communication in the Recipient’s programs, services, and activities.
3. Recipient agrees to consider the need for language services for LEP persons when Recipient develops applicable budgets and conducts programs, services, and activities. As a resource, the Department of the Treasury has published its LEP guidance at 70 FR 6067. For more information on taking reasonable steps to provide meaningful access for LEP persons, please visit <http://www.lep.gov>.

OMB Approved No. 1505-0271

Expiration Date: November 30, 2021

4. Recipient acknowledges and agrees that compliance with the assurances constitutes a condition of continued receipt of federal financial assistance and is binding upon Recipient and Recipient's successors, transferees, and assignees for the period in which such assistance is provided.
5. Recipient acknowledges and agrees that it must require any sub-grantees, contractors, subcontractors, successors, transferees, and assignees to comply with assurances 1-4 above, and agrees to incorporate the following language in every contract or agreement subject to Title VI and its regulations between the Recipient and the Recipient's sub-grantees, contractors, subcontractors, successors, transferees, and assignees:

The sub-grantee, contractor, subcontractor, successor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this contract (or agreement). Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made a part of this contract or agreement.

6. Recipient understands and agrees that if any real property or structure is provided or improved with the aid of federal financial assistance by the Department of the Treasury, this assurance obligates the Recipient, or in the case of a subsequent transfer, the transferee, for the period during which the real property or structure is used for a purpose for which the federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. If any personal property is provided, this assurance obligates the Recipient for the period during which it retains ownership or possession of the property.
7. Recipient shall cooperate in any enforcement or compliance review activities by the Department of the Treasury of the aforementioned obligations. Enforcement may include investigation, arbitration, mediation, litigation, and monitoring of any settlement agreements that may result from these actions. The Recipient shall comply with information requests, on-site compliance reviews and reporting requirements.
8. Recipient shall maintain a complaint log and inform the Department of the Treasury of any complaints of discrimination on the grounds of race, color, or national origin, and limited English proficiency covered by Title VI of the Civil Rights Act of 1964 and implementing regulations and provide, upon request, a list of all such reviews or proceedings based on the complaint, pending or completed, including outcome. Recipient also must inform the Department of the Treasury if Recipient has received no complaints under Title VI.
9. Recipient must provide documentation of an administrative agency's or court's findings of non-compliance of Title VI and efforts to address the non-compliance, including any voluntary compliance or other

OMB Approved No. 1505-0271

Expiration Date: November 30, 2021

agreements between the Recipient and the administrative agency that made the finding. If the Recipient settles a case or matter alleging such discrimination, the Recipient must provide documentation of the settlement. If Recipient has not been the subject of any court or administrative agency finding of discrimination, please so state.

10. If the Recipient makes sub-awards to other agencies or other entities, the Recipient is responsible for ensuring that sub-recipients also comply with Title VI and other applicable authorities covered in this document State agencies that make sub-awards must have in place standard grant assurances and review procedures to demonstrate that that they are effectively monitoring the civil rights compliance of sub-recipients.

The United States of America has the right to seek judicial enforcement of the terms of this assurances document and nothing in this document alters or limits the federal enforcement measures that the United States may take in order to address violations of this document or applicable federal law.

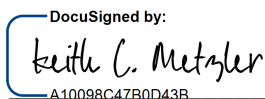
Under penalty of perjury, the undersigned official(s) certifies that official(s) has read and understood the Recipient's obligations as herein described, that any information submitted in conjunction with this assurances document is accurate and complete, and that the Recipient is in compliance with the aforementioned nondiscrimination requirements.

City of Victorville

5/11/2021

Recipient

Date

DocuSigned by:

A10098C47B0D43B

Signature of Authorized Official

PAPERWORK REDUCTION ACT NOTICE

The information collected will be used for the U.S. Government to process requests for support. The estimated burden associated with this collection of information is 30 minutes per response. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Office of Privacy, Transparency and Records, Department of the Treasury, 1500 Pennsylvania Ave., N.W., Washington, D.C. 20220. DO NOT send the form to this address. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

ATTACHMENT B-2**CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION – LOWER TIER COVERED TRANSACTIONS**

(Lower Tier refers to the agency or Contractor receiving Federal funds, as well as any subcontractors that the agency or Contractor enters into contract with using those funds)

As required by Executive Order 12549, Debarment and Suspension, and 31 CFR Part 19 and 2 CFR part 180, City may not enter into contract with any entity that is debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by the Federal Government from participating in transactions involving Federal funds. Contractor is required to sign the certification below which specifies that neither Contractor nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by the Federal agency. It also certifies that Contractor will not use, directly or indirectly, any of these funds to employ, award contracts to, engage the services of, or fund any Contractor that is debarred, suspended, or ineligible under 31 CFR Part 19.

Instruction for Certification

1. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
2. The prospective lower tier participant shall provide immediate written notice to the person to whom this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
3. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definition and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
4. The prospective lower tier participant agrees by submitting this agreement that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
5. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
6. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

CITY OF VICTORVILLE, CALIFORNIA

7. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

8. Except for transactions authorized under paragraph 4 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions

1. Contractor certifies that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

2. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offence in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsifications or destruction of records, making false statements, or receiving stolen property;

3. Are not presently indicted for, or otherwise criminally or civilly charged by a government entity (Federal, State, or local) with, commission of any of the offenses enumerated in paragraph 2 of this certification, and

4. Have not within a three-year period preceding this application/ proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

5. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation.

Gabriel Lovato

Name (Typed)

President Apple Valley Communications Inc.

Title and Organization Name (Typed)



Signature

9/21/2023

Date

ATTACHMENT B-3

NONLOBBYING CERTIFICATION FOR FEDERAL CONTRACT

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.



Signature of Contractor/Contractor's Authorized Officer

9/21/2023

Date

Gabriel Lovato President

Name and Title of Contractor's/Contractor's Authorized Officer