

RFP230098DWJ -R534213  
Countywide Ethernet Services  
CenturyLink Sales Solutions, Inc.

E1 Contract # NA  
Board Approval Date: 2/20/24

## **AGREEMENT FOR COUNTYWIDE ETHERNET SERVICES**

**THIS AGREEMENT** ("Agreement") is made and entered into by and between Lee County, a political subdivision of the State of Florida, hereinafter referred to as the "County" or "Customer" and CenturyLink Sales Solution, Inc., a Florida corporation authorized to do business in the State of Florida, whose address is 100 CenturyLink Drive, Monroe, LA 71203, and whose federal tax identification number is 20-4340469, hereinafter referred to as "CenturyLink," "Lumen," or "Vendor."

### **WITNESSETH**

**WHEREAS**, the County intends to purchase countywide ethernet services from the Vendor (the "Purchase" or "Service"); and,

**WHEREAS**, the County issued Solicitation No. RFP230098DWJ on February 17, 2023 (the "Solicitation"); and,

**WHEREAS**, the County evaluated the responses received and found the Vendor qualified to provide the necessary products and services; and,

**WHEREAS**, the County posted a Notice of Intended Decision on May 3, 2023; and,

**WHEREAS**, the Vendor has reviewed the products and services to be supplied pursuant to this Agreement and is qualified, willing and able to provide all such products and services in accordance with its terms.

**NOW, THEREFORE**, the County and the Vendor, in consideration of the mutual covenants contained herein, do agree as follows:

### **I. PRODUCTS AND SERVICES**

The Vendor agrees to diligently provide all products and services for the Purchase, a more specific description of the Project Scope of Services is set forth in the Detailed Specifications section of RFP230098DWJ, a photocopy of said sections being attached hereto and incorporated by reference as **Exhibit A**.

Vendor shall comply strictly with all of the terms and conditions of Solicitation No. RFP230098DWJ, as modified by its addenda, Vendor's exceptions and clarifications detailed in its Response, and this Agreement, copies of which are on file with the County's Department of Procurement Management and are deemed incorporated into this Agreement to the extent that it does not conflict with the remainder of the Agreement.

## **II. TERM AND DELIVERY**

- A. This Agreement shall commence immediately upon the effective date and shall continue on an "as needed basis" for one (1) five-year (5-year) period with no renewals. The effective date shall be March 4, 2024.
  
- B. **Order Term.** County purchases each service for a specific term for the particular Service ordered (each, an "Order Term"). Each Order Term is listed in the Agreement and begins on the first day of the first billing month after Vendor installs and makes that Service available to County. If County continues to receive a Service after expiration of the Service's applicable Order Term, Vendor will provide that Service at its then-current list pricing and then-current term and conditions, relevant service schedules and Exhibits, unless the parties otherwise agree in writing.
  
- C. A purchase order must be issued by the County before commencement of any work or purchase of any goods related to this Agreement.

## **III. COMPENSATION AND PAYMENT**

- A. The County shall pay the Vendor in accordance with the terms and conditions of this Agreement for providing all products and services as set forth in **Exhibit A and Exhibit D**, and further described in **Exhibit B**, Fee Schedule, attached hereto and incorporated herein. Said total amount to be all inclusive of costs necessary to provide all products and services as outlined in this Agreement, but do not include any applicable non-exempt taxes, surcharges, and fees as those are calculated at time of billing and are outside Vendor's control. As noted, all elements are supported by the Vendor's submittal in response to the Solicitation, a copy of which is on file with the County's Department of Procurement Management and is deemed incorporated into this Agreement.
  
- B. Notwithstanding the preceding, Vendor shall not make any deliveries or perform any services under this Agreement until receipt of written authorization from the County. Vendor acknowledges and agrees that no minimum order or amount of product or service is guaranteed under this Agreement and County may elect to request no products or services. If the County authorizes delivery of products or performance of services, the County reserves the right to amend, reduce, or cancel the authorization in its sole discretion.

- C. All funds for payment by the County under this Agreement are
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reduce, or cancel the authorization in its sole discretion.

- C. All funds for payment by the County under this Agreement are subject to the availability of an annual appropriation for this purpose by the County. In the event of non-appropriation of funds by the County for the services provided under this Agreement, the County will terminate the contract, without termination charge or other liability, on the last day of the then current fiscal year. If at any time funds are not appropriated for the continuance of this Agreement, County will provide Vendor written notice of termination under this section at least (30) days before the date of termination. At Vendor's request, County will promptly provide supplemental documentation about the non-appropriation.

**Limitations.**

1. The County shall pay Vendor for work performed up to the date of such termination including any special construction or third-party costs incurred. The County agrees it will not use non-appropriations as a means of terminating this Agreement in order to acquire functionally equivalent products or services from a third party.

**IV. Taxes.**

- A. **Taxes Not Included.** Vendor's rates and charges for Products and Services do not include taxes, surcharges or fees. The County will pay all applicable non-exempt taxes, surcharges or fees, including, but not limited to, sales, use, gross receipts, excise, VAT, property, transaction, or other local, state, or national taxes or charges imposed on or based upon the provision, sale or use of Products and Services.
- B. **Withholding Taxes.** Notwithstanding any other provision of the Agreement, if the County is required by law to make a deduction or withholding from any amount due to Vendor, the County must notify Vendor in writing. Vendor will then increase the gross amount of the County's invoice so that, after the County's deduction or withholding for taxes, the net amount paid to Vendor will not be less than the amount Vendor would have received without the required deduction or withholding.
- C. **Exclusions.** The County will not be responsible for payment of:
  1. Vendor's direct income taxes and employment taxes;
  2. And any other tax to the extent that the County demonstrates a legitimate exemption under applicable law.

**V. METHOD OF PAYMENT**

- A. The County shall pay the Vendor in accordance with the Local Government Prompt Payment Act, Section 218.70, Florida Statutes, upon receipt of the Vendor's invoice and written approval of same by the County indicating that the products and services have been provided in conformity with this Agreement. The Vendor shall submit an invoice for payment to the County on a monthly basis for those specific products and services as described in **Exhibit A** (and the corresponding fees as described in **Exhibit B**) that were provided during that invoicing period.
- B. For partial shipments or deliveries, progress payments shall be paid monthly in proportion to the percentage of products and services delivered on those specific line items as approved in writing by the County.
- C. **Payment and Late Charges.** Unless otherwise defined in the Agreement, the County must pay all undisputed amounts by the due date listed on the County's invoice, which may be up to 45 days from the date of the invoice. The County's payments to Vendor must be in the form of electronic funds transfer (via wire transfer or ACH), cash payments (via previously approved Vendor processes only), or paper check. Other than items subject to a bona fide dispute, Vendor may charge a late fee (up to the maximum rate allowed by law) or take other action to compel payment of past due amounts after written notice to the County, including suspension or termination of Services, unless prohibited by applicable law or regulation. Service that is suspended or terminated for nonpayment may be subject to a reconnection charge. The County may not offset disputed amounts from one invoice against payments due on the same or another account. Vendor's acceptance of late or partial payments (even those marked, "Paid in Full") and late payment charges is not a waiver of its right to collect the full amount due. The County's payment obligations include late charges and third-party collection costs Vendor incurs, including reasonable attorneys' fees, if the County fails to cure its breach of these payment terms.
- D. **Disputed Invoice Charges.** If the County disputes a charge in good faith, the County may withhold payment of that charge if the County makes timely payment of all undisputed charges within the payment period described in this Section 5 and provides Vendor with a written explanation of the reasons for the County's dispute of the charge. The County must cooperate with Vendor to promptly resolve any disputed charge. If Vendor determines, in good faith, that the disputed charge is valid, Vendor will notify the County and, within five business days of receiving notice, the County must pay the charge.

## **VI. ADDITIONAL PURCHASES**

- A. No changes to this Agreement or the performance contemplated hereunder shall be made unless the same are in writing and signed by both the Vendor and the County.
- B. If the County requires the Vendor to perform additional services or provide additional product(s) related to this Agreement, then the Vendor shall be entitled to additional compensation based on the Fee Schedule as amended to the extent necessary to accommodate such additional work or product(s). The additional compensation shall be agreed upon before commencement of any additional services or provision of additional product(s) and shall be incorporated into this Agreement by written amendment. The County shall not pay for any additional service, work performed or product provided before a written amendment to this Agreement and are not valid unless accepted in writing by authorized representatives of both parties.

Notwithstanding the preceding, in the event additional services are required as a result of error, omission or negligence of the Vendor, the Vendor shall not be entitled to additional compensation.

C. PURCHASE ORDERS. During the Agreement Term, CenturyLink will accept Customer-issued purchase orders from Customer additions or upgrades specifying the quantity and service/installation address for the Services listed in the pricing table or a valid quote. This Agreement controls over any Customer-issued purchase orders, and any terms or conditions contained in a Customer-issued purchase order or other Customer ordering document will have no force or effect, except quantity of Services ordered and service/installation address. Any Customer-issued purchase order must reference the Contract Number listed in this Agreement.

## **VII. LIABILITY OF VENDOR**

- A. This section shall survive the termination or expiration of this Agreement.
- B. **Mutual Indemnification for Personal Injury, Death or Damage to Personal Property.** Each party will indemnify and defend the other party, its directors, officers, employees, agents and their successors from and against all third party claims for damages, losses, liabilities, or expenses, including reasonable attorneys' fees, arising directly from performance of the Agreement and relating to personal injury, death, or damage to tangible personal property that is alleged to have resulted, in whole or in part, from the negligence or willful misconduct of the indemnifying party or its subcontractors, directors, officers, employees or authorized agents. The County's indemnification obligations are subject to the monetary limits in Section 768.28, including but not limited to Section 768.28(5), Florida Statutes, as amended from

time to time, and under no circumstances shall this provision be construed as a waiver of the County's sovereign immunity rights.

C. **County Indemnification.** Subject to the monetary limits in Section 768.28, including but not limited to Section 768.28(5), Florida Statutes, as amended from time to time, and under no circumstances to be construed as a waiver of the County's sovereign immunity rights, the County will indemnify and defend Vendor, Vendor's officers, directors, agents, and employees and their successors, against all third-party claims for damages, losses, liabilities or expenses, including reasonable attorneys' fees, arising out of:

1. The County's failure to obtain required permits, licenses, or consents necessary to enable Vendor to provide the Products and Services (e.g., landlord permissions or local construction licenses). This provision does not include permits, licenses, or consents related to Vendor's general qualification to conduct business;
2. The County's transmissions, or transmissions by parties authorized by the County, of, information, data, or messages over the Vendor-provided network leading directly or indirectly to third party claims: (1) for libel, slander, invasion of privacy, infringement of copyright, and invasion or alteration of private records or data; (2) for infringement of patents arising from the use of equipment, hardware or software not provided by Vendor; and (3) based on transmission and uploading of information that contains viruses, worms, or other destructive media or other unlawful content;
3. Vendor's failure to pay any tax to the extent that Vendor relied on the County's claimed legitimate exemption under applicable law;
4. The County's breach of software licensing requirements; and
5. The County's failure to comply with the usage requirements in the County Responsibilities Section of these Standard Terms and Conditions.

D. **Vendor Indemnification.** Vendor will indemnify and defend the County, the County's officers, directors, agents, and employees and their successors against third party claims enforceable in the United States alleging that Services as provided infringe any third-party United States patent or copyright or contain misappropriated third-party trade secrets. But Vendor's obligations under this

Section will not apply if the infringement or violation is caused by the County's modification to Vendor-provided software, equipment or Services; combination of Vendor-provided services or products with other services or products; functional or other specifications that were provided by or requested by the County; or the County's continued use of infringing Services after Vendor provides reasonable notice to the County of the infringement. For any third-party claim that Vendor receives, or to minimize the potential for a claim, Vendor may, at its sole option, either:

1. procure the right for the County to continue using the Services;
2. replace or modify the Services with comparable Services; or
3. terminate the Services.

**E. Rights of Indemnified Party.** To be indemnified, the party seeking indemnification must promptly notify the other party in writing of the claim (unless the other party already has notice of the claim); give the indemnifying party full and complete authority, information and assistance for the claim's defense and settlement; and not, by any act, admission, or acknowledgement, materially prejudice the indemnifying party's ability to satisfactorily defend or settle the claim. The indemnifying party will retain the right, at its option, to settle or defend the claim, at its own expense and with its own counsel. The indemnified party will have the right, at its option, to participate in the settlement or defense of the claim, with its own counsel and at its own expense, but the indemnifying party will retain sole control of the claim's settlement or defense.

**F. Remedies.** The foregoing provisions of this Section state the entire liability and obligations of the indemnifying party and any of its Affiliates or licensors, and the exclusive remedy of the indemnified party, with respect to the claims described in this Section.

**G. 911 Emergency Services.**

1. **911 Indemnification.** Mutual Indemnification for Personal Injury, Death or Damage to Personal Property will not apply to the sale of Products used for 911 emergency services and 911 emergency Services.
2. **Disclaimer.** VENDOR, ITS AFFILIATES, AGENTS AND CONTRACTORS (INCLUDING WITHOUT LIMITATION, ANY SERVICE PROVIDER PROVIDING SERVICES ASSOCIATED WITH ACCESS TO 911 EMERGENCY SERVICE) WILL NOT HAVE ANY LIABILITY WHATSOEVER FOR ANY PERSONAL INJURY TO OR DEATH OF ANY PERSON, FOR ANY LOSS,

DAMAGE OR DESTRUCTION OF ANY PROPERTY RELATING TO THE USE, LACK OF ACCESS TO OR PROVISION OF 911 EMERGENCY SERVICE.

3. **Transport Services.** The parties acknowledge that the Federal Communications Commission's reliability rules mandate the identification and tagging of any circuits or equivalent data paths ("Transport Services") to public safety answering points that are used to transport 9-1-1 calls and information ("9-1-1 Data"). The County agrees to cooperate with Vendor regarding compliance with these rules and will notify Vendor of all Transport Services the County purchases under this Agreement that are utilized to transport 9-1-1 calls and 9-1-1 Data.

**VIII. VENDOR'S INSURANCE**

- A. Vendor shall procure and maintain insurance as specified in Exhibit C Insurance Requirements, attached hereto and made a part of this Agreement.
- B. Vendor shall, on a primary basis and at its sole expense, maintain in full force and effect, at all times during the life of this Agreement, insurance coverage (including endorsements) and limits as described in Exhibit C. These requirements, as well as the County's review or acceptance of insurance maintained by Vendor, are not intended to and shall not in any manner limit or qualify the liabilities or obligations assumed by Vendor under this Agreement. Insurance carriers providing coverage required herein must be licensed to conduct business in the State of Florida and must possess a current A.M. Best's Financial Strength Rating of "B or better." No changes are to be made to these specifications without prior written specific approval by County Risk Management. To the extent multiple insurance coverages and/or County's self-insured retention may apply, any and all insurance coverage purchased by Vendor and its subcontractors identifying the County as an additional named insured shall be primary.

**IX. RESPONSIBILITIES OF THE VENDOR**

- A. The Vendor shall be responsible for the quality and functionality of all products supplied and services performed by or at the behest of the Vendor under this Agreement. The Vendor shall, without additional compensation, correct any errors or deficiencies in its products, or if directed by County, supply a comparable replacement product or service.
- B. The Vendor warrants that it has not employed or retained any



company or person (other than a bona fide employee working solely for the Vendor), to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual, or firm other than a bona fide employee working solely for the Vendor, any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award of this Agreement.

- C. The Vendor shall comply with all federal, state, and local laws, regulations and ordinances applicable to the work or payment for work thereof, and shall not discriminate on the grounds of race, color, religion, sex, or national origin in the performance of work under this Agreement.
- D. Vendor specifically acknowledges its obligations to comply with Section 119.0701, Florida Statutes, with regard to public records, and shall:
  - 1. keep and maintain public records that ordinarily and necessarily would be required by the County in order to perform the services required under this Agreement;
  - 2. upon request from the County, provide the County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law;
  - 3. ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law; and
  - 4. meet all requirements for retaining public records and transfer, at no cost to the County, all public records in possession of Vendor upon termination of this Agreement and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the County in a format that is compatible with the information technology system of the County.

**IF THE VENDOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE VENDOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 239-533- 2221, 2115**

**SECOND STREET, FORT MYERS, FL 33901,  
PRRCustodian@leegov.com;  
[http://www.leegov.com/publicrecords.](http://www.leegov.com/publicrecords)**

- E. The Vendor is, and shall be, in the performance of all work, services and activities under this Agreement, an independent contractor. Vendor is not an employee, agent or servant of the County and shall not represent itself as such. All persons engaged in any work or services performed pursuant to this Agreement shall at all times, and in all places, be subject to the Vendor's sole direction, supervision and control. The Vendor shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the Vendor's relationship and the relationship of its employees to the County shall be that of an independent contractor and not as employees of the County. The Vendor shall be solely responsible for providing benefits and insurance to its employees.
- F. The Vendor shall comply with the Vendor Background Screening Affidavit attached hereto and incorporated herein as **Exhibit E**.

**X. OWNERSHIP AND CONFIDENTIALITY.**

The Agreement is a copyrighted work authored by Vendor and may contain Vendor trademarks, trade secrets, and other proprietary information. Vendor acknowledges that the Agreement may be subject to disclosure in whole or in part under applicable Freedom of Information, Open Records, or Sunshine laws and regulations (collectively, "FOI").

**XI. TIMELY DELIVERY OF PRODUCTS AND PERFORMANCE OF SERVICES**

- A. The Vendor shall ensure that all of its staff, contractors and suppliers involved in the production or delivery of the products are fully qualified and capable to perform their assigned tasks.
- B. The personnel assigned by the Vendor to perform the services pursuant to this Agreement shall comply with the terms set forth in this Agreement. If the services provided require use of specific key personnel, the personnel shall be agreed to by the County and Vendor. If the Vendor's key personnel have been predetermined and approved, through the Solicitation process or otherwise, any subsequent change or substitution to the personnel must receive the County's written approval before said changes or substitution can become effective.
- C. The Vendor specifically agrees that all products shall be delivered within the time limits as set forth in this Agreement, subject only to delays caused by Force Majeure.

- D. "Force Majeure"- Neither party will be responsible for any delay, interruption or other failure to perform under the Agreement due to acts, events, and causes beyond the control of the responsible party (a "Force Majeure Event"). Force Majeure Events include: natural disasters (e.g., lightning, earthquakes, hurricanes, floods); wars, riots, terrorist activities, and civil commotions; inability to obtain parts or equipment from third party suppliers; cable cuts by third parties, a local exchange carrier's activities, and other acts of third parties; explosions and fires; embargoes, strikes, and labor disputes; and governmental decrees and any other cause beyond the reasonable control of a party..

## **XII. COMPLIANCE WITH APPLICABLE LAW**

This Agreement shall be governed by the laws of the State of Florida. Vendor shall promptly comply with all applicable federal, state, county and municipal laws, ordinances, regulations, and rules relating to the services to be performed hereunder and in effect at the time of performance. Vendor shall conduct no activity or provide any service that is unlawful or offensive.

## **XIII. TERMINATION**

- A. The County shall have the right at any time upon thirty (30) days' written notice to the Vendor to terminate this Agreement in whole or in part for any reason whatsoever. In the event of such termination, the County shall be responsible to Vendor for fees and compensation earned by the Vendor and as outlined below, in accordance with Section III, prior to the effective date of said termination. In no event shall the County be responsible for lost profits of Vendor or any other elements of breach of contract.
- B. After receipt of a notice of termination, except as otherwise directed, the Vendor shall stop work on the date of receipt of the notice of termination or other date specified in the notice; place no further orders or sub-contracts for materials, services, or facilities except as necessary for completion of such portion of the work not terminated; terminate all vendors and subcontracts; and settle all outstanding liabilities and claims.
- C. The County's rights under this Agreement shall survive the termination or expiration of this Agreement and are not waived by final payment or acceptance and are in addition to the Vendor's obligations under this Agreement.

### **D. Early Termination Liability.**

**1. Calculation of Early Termination Liability.** If the County terminates a Product or Service in whole or in part, before expiration of the applicable Order Term (unless due to Vendor's material failure), or Vendor terminates a Product or Service or applicable Order as permitted under the Agreement, the County will pay the following early termination charges, which represent Vendor's reasonable liquidated damages and not a penalty:

- a. **General Liability.** A lump sum equal to (a) 50% of the applicable monthly charges, multiplied by the number of months remaining in the applicable Order Term, plus (b) a pro rata amount of any waived installation charges, any credits issued (excluding any service level credits issued for any Service outages), and initialization fees waived based upon the number of months remaining in the applicable Order Term at the time of termination; and
- b. **Third-Party Liability.** Any liabilities imposed on Vendor by third parties, such as other local exchange carriers and all nonrecoverable costs incurred by Vendor as a result of ordering facilities required to operate the Product or Service, as a result of the County's early termination.
- c. **Special Construction.** The County shall pay Vendor for work performed up to the date of such termination including any special construction incurred to deliver the services. Such charges will be disclosed in advance and agreed upon by both parties.

**2. Waiver of Early Termination Liability.** With Vendor's written approval, the County will not be liable for the early termination liability described in this Section for a Service if County purchases from the same Vendor entity providing the terminating Service another service at the same time with the same or greater monthly recurring charge for an Order Term at least equal to the greater of the remaining months in the original Order Term or one year. There is also no termination liability for cause or non-appropriation.

#### **XIV. DISPUTE RESOLUTION**

A. In the event of a dispute or claim arising out of this Agreement, the

parties agree first to try in good faith to settle the dispute by direct discussion. If this is unsuccessful, the parties may enter into mediation in Lee County, Florida. Subject to the requirements of Chapter 119, Florida Statutes, all negotiations and any documents exchanged related to the negotiations under this Section are confidential and will be treated as compromise and settlement negotiations under applicable rules of evidence.

- B. The parties shall bear the cost of mediation equally.
- C. In the event mediation, if attempted, is unsuccessful in resolving a dispute, the parties may proceed to litigation as set forth below.
- D. Any dispute, action or proceeding arising out of or related to this Agreement will be exclusively commenced in the state courts of Lee County, Florida, or where proper subject matter jurisdiction exists, in the United States District Court for the Middle District of Florida. Each party irrevocably submits and waives any objections to the exclusive personal jurisdiction and venue of such courts, including any objection based on *forum non conveniens*.
- E. Each party, to the extent permitted by law, knowingly, voluntarily, and intentionally waives its right to a jury trial and any right to pursue any claim or action relating to the Agreement on a class or consolidated basis or in a representative capacity.
- F. This Agreement and the rights and obligations of the parties shall be governed by the laws of the State of Florida without regard to its conflict of laws principles.
- G. Unless otherwise agreed in writing, the Vendor shall be required to continue all obligations under this Agreement during the pendency of a claim or dispute including, but not limited to, actual periods of mediation or judicial proceedings.

**XV. STOP WORK ORDER**

The County may, at any time, by written order to the Vendor, require the Vendor to stop all or any part of the work called for by this Agreement. Any order shall be identified specifically as a stop work order issued pursuant to this clause. This order shall be effective as of the date the order is delivered to the Vendor. Upon receipt of such an order, the Vendor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. The Vendor shall not resume work unless specifically so directed in writing by the County. The County may take one of the following actions:

1. Cancel the stop work order; or
2. Terminate the work covered by the order; or
3. Terminate the Agreement in accordance with provisions contained in Section XII.

In the event the County does not direct the Vendor to resume work, the stop work order may be converted into a notice of termination for convenience pursuant to Section XII. The notice period for such termination shall be deemed to commence on the date of issuance of the stop work order. In the event the County does not direct the Vendor to resume work within ninety (90) days, the Vendor may terminate this Agreement.

#### **XVI. Limitation of Liability**

- A. **Direct Damages.** The County's liability is subject to the monetary limits in Section 768.28, including but not limited to Section 768.28(5), Florida Statutes, as amended from time to time, and under no circumstances shall this provision be construed as a waiver of the County's sovereign immunity rights. Each party's maximum liability for damages caused by its failure(s) to perform its obligations under the Agreement is limited to: (A) proven direct damages for claims arising out of personal injury or death, or damage to real or personal property, caused by the party's negligent or willful misconduct; and (B) proven direct damages for all other claims arising out of the Agreement, not to exceed in the aggregate, in any 12-month period, an amount equal to County's total net payments for the affected Products and Services purchased in the month preceding the month in which the injury occurred. County's payment obligations, County's liability for early termination charges, and the parties' indemnification obligations under the Agreement are excluded from this provision.
- B. **Consequential Damages.** NEITHER PARTY WILL BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, OR INDIRECT DAMAGES FOR ANY CAUSE OF ACTION, WHETHER IN CONTRACT OR TORT. CONSEQUENTIAL, INCIDENTAL, AND INDIRECT DAMAGES INCLUDE, BUT ARE NOT LIMITED TO, LOST PROFITS, LOST REVENUES, AND LOSS OF BUSINESS OPPORTUNITY, WHETHER OR NOT THE OTHER PARTY WAS AWARE OR SHOULD HAVE BEEN AWARE OF THE POSSIBILITY OF THESE DAMAGES.
- C. **Unauthorized Access and Hacking.** Except for physical damage to County's transmission facilities or County premises equipment directly caused by Vendor's negligence or willful misconduct, Vendor is not responsible for unauthorized access to, or alteration, theft, or destruction of, County's data, programs or other

information through accident, wrongful means or any other cause while such information is stored on or transmitted across Vendor-provided network facilities or County premises equipment.

- D. **Liability for Content.** Vendor is not responsible for the content of any information transmitted, accessed, or received by County through Vendor's provision of the Products and Services.
- E. **Damages.** The Agreement does not create an obligation by County to pay any damages in excess of those amounts legally available to satisfy County's obligations under the Agreement.

**XVII. VENDOR WARRANTY**

- A. All products provided under this Agreement shall be new (unless specifically identified otherwise in **Exhibit B**) and of the most suitable grade for the purpose intended.
- B. If any product delivered does not meet performance representations or other quality assurance representations as published by manufacturers, producers or distributors of the products or the specifications listed in this Agreement, the Vendor shall pick up the product from the County at no expense to the County. The County reserves the right to reject any or all materials if, in its judgment, the item reflects unsatisfactory workmanship or manufacturing or shipping damage. In such case, the Vendor shall refund to the County any money which has been paid for same.
- C. Vendor shall secure from the applicable third-party manufacturers, and assign and pass through to the County, at no additional cost to the County, such warranties as may be available with respect to the equipment, parts and systems provided through the Purchase.
- D. **WARRANTIES.** THE SERVICES AND PRODUCTS PROVIDED BY VENDOR UNDER THE AGREEMENT ARE PROVIDED WITHOUT ANY WARRANTIES OF ANY KIND, WHETHER STATUTORY, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, WARRANTIES OF TITLE, NONINFRINGEMENT, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ACCURACY, COMPLETENESS, COMPATIBILITY OF SOFTWARE OR EQUIPMENT, OR ANY RESULTS TO BE ACHIEVED THEREFROM. VENDOR MAKES NO WARRANTIES OR REPRESENTATIONS THAT ANY SERVICE OR PRODUCT WILL BE FREE FROM LOSS OR LIABILITY ARISING OUT OF HACKING OR SIMILAR MALICIOUS ACTIVITY, OR ANY ACT OR OMISSION OF THE COUNTY.

**XVIII. Conflicts Provision.** If a conflict exists among provisions within the Agreement, specific terms will control over general provisions, and negotiated or added terms, conditions or pricing will control over

standardized, posted, or non-negotiated terms, conditions and pricing.

**XIX. MISCELLANEOUS**

- A. This Agreement constitutes the sole and complete understanding between the parties and supersedes all other contracts between them, whether oral or written, with respect to the subject matter. No amendment, change or addendum to this Agreement is enforceable unless agreed to in writing by both parties and incorporated into this Agreement.
- B. The provisions of this Agreement shall inure to the benefit of and be binding upon the respective successors and assignees of the parties hereto. A party to this Agreement shall not sell, transfer, assign, license, franchise, restructure, alter, or change its corporate structure or otherwise part with possession or mortgage, charge or encumber any right or obligation under this Agreement without the proposed assignee and/or party restructuring, altering or changing its corporate structure agreeing in writing with the non-assigning party to observe and perform the terms, conditions and restrictions on the part of the assigning party to this Agreement, whether express or implied, as if the proposed assignee and/or party restructuring, altering or changing its corporate structure was an original contracting party to this Agreement.
- C. Notwithstanding the foregoing provision, the Vendor may assign its rights if given written authorization by the County and claims for the money due or to become due to the Vendor from the County under this Agreement may be assigned to a financial institution or to a trustee in bankruptcy without such approval from the County. Notice of any such transfer or assignment due to bankruptcy shall be promptly given to the County. The County may assign the Agreement, after 30 days prior written notice, to an Affiliate or an entity that has purchased all or substantially all of the County's assets.
- D. The exercise by either party of any rights or remedies provided herein shall not constitute a waiver of any other rights or remedies available under this Agreement or any applicable law.
- E. The failure of the County to enforce one or more of the provisions of the Agreement shall not be construed to be and shall not be a waiver of any such provision or provisions or of its right thereafter to enforce each and every such provision.
- F. The parties covenant and agree that each is duly authorized to enter into and perform this Agreement and those executing this Agreement have all requisite power and authority to bind the



parties.

- G. The County’s review, approval, acceptance of, and payment for, the products and services required under this Agreement shall not be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.
- H. If the Vendor is comprised of more than one legal entity, each entity shall be jointly and severally liable hereunder.
- I. When any period of time is referred to by days herein, it shall be computed to exclude the first day and include the last day of such period. When the period of time is fewer than three (3) days, it shall mean business days as defined by Lee County. If the period of time is greater than three (3) days, then it shall mean calendar days. For any period of time greater than seven (7) days, where the deadline falls on a Saturday, Sunday, or Lee County recognized holiday, the deadline will then fall to the next Monday or non- Lee County recognized holiday.
- J. Any notices of default or termination shall be sufficient if sent by the parties via United States certified mail, postage paid, or via a nationally recognized delivery service, to the addresses listed below:

<u>Vendor’s Representative</u>		<u>County’s Representative</u>	
Name:	<u>Jonathan Grain</u>	Names:	<u>Roger Desjarlais</u> <u>Mary Tucker</u>
Title:	<u>Sr. Acct. Manager</u>	Titles:	<u>County Manager</u> <u>Procurement Management Director</u>
Address:	<u>100 Century Link Dr., Monroe, LA 71203</u>	Address:	<u>P.O. Box 398 Fort Myers, FL 33902</u>
Telephone:	<u>239-888-6446</u>	Telephone:	<u>(239) 533-2221</u> <u>(239) 533-8881</u>
Facsimile:	<u>NA</u>	Facsimile:	<u>(239) 485-2262</u> <u>(239) 485-8383</u>
Email:	<u><a href="mailto:Jon.grain@lumen.com">Jon.grain@lumen.com</a></u>	Email:	<u><a href="mailto:rdesjarlais@leegov.com">rdesjarlais@leegov.com</a></u> <u><a href="mailto:mtucker@leegov.com">mtucker@leegov.com</a></u>

- K. Any change in the County’s or the Vendor’s Representative will be promptly communicated by the party making the change.
- L. Paragraph headings are for the convenience of the parties and for reference purposes only and shall be given no legal effect.
- M. In the event of conflicts or inconsistencies, the documents shall be given precedence in the following order:
  1. Vendor’s Service Schedule, Exhibit D
  2. Agreement
  3. County’s Purchase Order

4. Solicitation
5. Vendor's Submittal in Response to the Solicitation

N. **USE OF NAME, SERVICE MARKS, TRADEMARKS.** Neither party will use the name, service marks, trademarks, or carrier identification code of the other party or any of its Affiliates for any purpose without the other party's prior written consent.

O. **Use of Products and Services.**

1. **Acceptable Use Policy ("AUP").** If County purchases Products or Services that connect to the Internet, County must conform to the Vendor's acceptable use policy posted to: <http://www.centurylink.com/Pages/AboutUs/Legal>, as reasonably amended from time to time.
2. **Abuse and Fraud.** County will not use Products or Services: (1) for fraudulent, abusive, unlawful or destructive purposes, including unauthorized or attempted unauthorized access to, or alteration, abuse or destruction of, information; or (2) in any manner that causes interference with Vendor's or another's use of the Vendor-provided network. County will cooperate promptly with Vendor to prevent third parties from gaining unauthorized access to the Products and Services via County's facilities.
3. **Reseller.** County represents that it is not a reseller of any telecommunication services provided under this Agreement as described in the Telecommunications Act of 1996, as amended, or applicable state law and acknowledges it is not entitled to any reseller discounts under any laws.
4. **Security.** Vendor has adopted and implemented, and will maintain, a corporate information security program designed to protect County information, materials and data accessed and possessed by Vendor from loss, misuse and unauthorized access or disclosure. Such program includes formal information security policies and procedures. The Vendor information security program is subject to reasonable changes by Vendor from time to time. Vendor's standard service offerings do not include managed security services such as encryption, intrusion detection, monitoring or managed firewall. County is responsible for selecting and using the level of security protection needed for all County data stored or transmitted via the Service and using reasonable information security practices, including those relating to the encryption of data.

P. **Independent Contractor.** Vendor provides the Products and Services as an independent contractor. The Agreement will not

create an employer-employee relationship, association, joint venture, partnership, or other form of legal entity or business enterprise between the parties, their agents, employees or affiliates.

- Q. **No Third-Party Beneficiaries.** The Agreement's benefits do not extend to any third party.
- R. **Severability.** If any provision of the Agreement is found to be unenforceable, the Agreement's unaffected provisions will remain in effect and the parties will negotiate a mutually acceptable replacement provision consistent with the parties' original intent.
- S. **URLs and Successor URLs.** References to Uniform Resource Locators (URLs) in the Agreement include any successor URLs designated by Vendor.
- T. **Entire Agreement.** This Agreement, including all referenced documents, annexes, Schedules, or exhibits, the related Orders and the parties' mutual nondisclosure agreement constitutes the entire agreement and understanding between the parties and supersedes all prior or contemporaneous negotiations or agreements, whether oral or written, relating to its subject matter.
- U. **Changes to Tariff, Local Terms of Service, or AUP.** Vendor may amend, change, or withdraw the Tariff, Local Terms of Service, or AUP, with such updated Tariff, Local Terms of Service, or AUP effective upon posting or upon fulfillment of any necessary regulatory requirements. If a modification to a Tariff, Local Terms of Service, or AUP (A) materially and adversely affects the County's legitimate use of a Service; and (B) is not required by government or judicial action, then the County may terminate the affected Service upon 30 days' written notice without liability for early termination charges for the affected Service, provided, however, that the County provides written notice of its intent to terminate the Service under this Section within 30 days after the modification occurs and provides Vendor the opportunity to cure the modification within the 30 days after the County's notice.

[The remainder of this page intentionally left blank.]

**IN WITNESS WHEREOF**, the parties have executed this Agreement as of the date last below written.

WITNESS:

**CenturyLink Sales Solutions, Inc.**

Signed By:

*Andries P deRuiter III*

Signed By:

*Steve Arneson*

Print Name:

Andries P deRuiter III

Print Name:

STEVE ARNESON

Title:

MANAGER - OFFER MANAGEMENT

Date:

1/18/24

**LEE COUNTY**

BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA

BY:

DocuSigned by:  
*Kevin Ruane*  
22FDD5F15C7E43A...  
**CHAIR**  
2/26/2024 | 2:20 PM EST

DATE:

**ATTEST:  
CLERK OF THE CIRCUIT COURT**

BY:

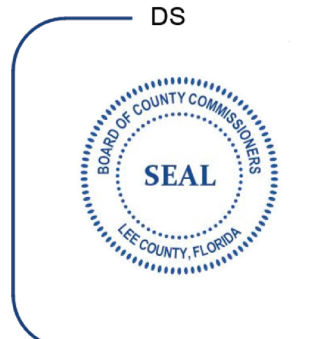
DocuSigned by:  
*Melissa Butler*  
B72C163D219C464...

**APPROVED AS TO FORM FOR THE  
RELANCE OF LEE COUNTY ONLY:**

BY:

DocuSigned by:  
*Amanda L. Swindle*  
EC9B5A5584DD473...

**OFFICE OF THE COUNTY ATTORNEY**



## EXHIBIT A SCOPE OF WORK AND SPECIFICATIONS

### DETAILED SPECIFICATIONS

#### List of used acronyms and terms:

**Aggregation Hub Circuits** - The location where the combining (aggregating) of multiple network connections occur.

**CFE/CPE** - Carrier Furnished Equipment / Carrier Premise Equipment describes the equipment and location, or network boundary point at which the public network ends and the private network of the customer begins.

**CIR** - Committed Information Rate is the guaranteed rate at which a Frame Relay network will transfer information under normal line conditions.

**EIR** - Excess Information Rate. Above the CIR, an allowance of burstable bandwidth is often given, whose value can be expressed in terms of an additional rate, known as the Excess Information Rate.

**ITS** – Lee County Information and Technology Services (or the County's Information and Technology Department).

**LCU** – Lee County Utilities.

**LOA** – Letter of Authority.

**MDF** - Main Distribution Frame is the primary hub or demarcation point that interconnects private or public IT and telecommunication lines coming into a building to an internal network via any number of intermediate distribution frames (IDFs).

**POC** – Point of Contact

**QoS** - Quality of Service is a set of technologies that work on a network to guarantee its ability to dependably run high-priority applications and traffic under limited network capacity.

**SLA** – Service-Level Agreement (SLA) sets the expectations between the service provider and the customer and describes the products or services to be delivered, the single point of contact for end-user problems, and the metrics by which the effectiveness of the process is monitored and approved.

**SMS** - Short Message Service and is commonly known as texting.

#### 1. GENERAL SCOPE OF PROJECT

- 1.1. Lee County Board of County Commissioners seeks to contract with a qualified Vendor to provide Countywide high-speed Ethernet services for secure and reliable transmission of Internet data, voice, and video to Lee County Departments and Sites.
- 1.2. Lee County requests managed fiber optic Ethernet connection services at approximately 17 Lee County sites.

#### 2. DETAIL SCOPE / TECHNICAL SPECIFICATIONS

##### 2.1. Circuit Sizing Requirements

- 2.1.1. ITS and LCU shall provide a list of sites and the bandwidth requirement for each location.
- 2.1.2. The vendor's service shall be scalable from 10 Mbps to 10,000 Mbps without replacing the hardware at the remote site. The table below outlines needed circuits throughout the county.
  - 10 Mbps Metro Ethernet - Classic Enhanced Service OR CIR/EIR Service
  - 20 Mbps Metro Ethernet - Classic Enhanced Service OR CIR/EIR Service
  - 50 Mbps Metro Ethernet - Classic Enhanced Service OR CIR/EIR Service
  - 100 Mbps Metro Ethernet - Classic Enhanced Service OR CIR/EIR Service
  - 500 Mbps Metro Ethernet - Classic Enhanced Service OR CIR/EIR Service
  - 1,000 Mbps Metro Ethernet - Classic Enhanced Service OR CIR/EIR Service
  - 2,000 Mbps Metro Ethernet - Classic Enhanced Service OR CIR/EIR Service
  - 10,000 Mbps Metro Ethernet - Classic Enhanced Service OR CIR/EIR Service

2.1.3. The vendor's service shall be scalable at the HUB 1 Gps to 10 Gps without replacing the hardware at the remote site.

**3. Service/Solution Maintenance Requirements:**

3.1. The vendor shall provide:

- 3.1.1. For each of the County's sites, a list of service levels and costs for 3-year and 5-year terms.
- 3.1.2. Cost options for 24-hour x 7-day dispatch.
- 3.1.3. Information on their 24-hour x 7-day customer service center.
- 3.1.4. Cost options for handoff equipment management and monitoring.
- 3.1.5. SLA levels for uptime and maximum latency.
- 3.1.6. Response time for technician dispatch for reported outages.
- 3.1.7. A description outlining how to add a new circuit.
- 3.1.8. A description of any penalty for early circuit termination.
- 3.1.9. Separate portals, management, and billing for LCU and ITS.
- 3.1.10. A description outlining how CFE/CPE handoff equipment will be maintained, including firmware updates.
- 3.1.11. Ticket status notification process and options on various phases. Are options available for notification distribution groups by email and SMS groups?
- 3.1.12. The provider's base level of monitoring.
- 3.1.13. The provider's monitoring and support tier levels.
- 3.1.14. If applicable, the provider's management portal, how the network teams manage accounts, and how the customer would view circuit health and live health stats, such as QoS, Jitter, latency, and bandwidth utilization.

3.2. Proposed County Sites

- 3.2.1. The listed County sites are locations that the County currently utilizes ethernet services. The County reserves the right to add or remove any sites at the sole discretion of the County without cause or justification:
  - 3.2.1.1. College Pkwy
  - 3.2.1.2. Corkscrew WTP
  - 3.2.1.3. Olga WTP
  - 3.2.1.4. Pinewoods RO
  - 3.2.1.5. Waterway Estates Booster
  - 3.2.1.6. Fiesta Village WWTP
  - 3.2.1.7. Ft. Myers Beach WWTP
  - 3.2.1.8. Gateway WWTP
  - 3.2.1.9. Pine Island WWTP
  - 3.2.1.10. South Reservoir
  - 3.2.1.11. 41 Booster
  - 3.2.1.12. Miner's Corner Booster
  - 3.2.1.13. North Lee RO
  - 3.2.1.14. North Reservoir
  - 3.2.1.15. Three Oaks WWTP
  - 3.2.1.16. Green Meadows WTP
  - 3.2.1.17. Airport Haul Reservoir (AHR)
  - 3.2.1.18. Lift Station 480
  - 3.2.1.19. Lift Station 481
  - 3.2.1.20. Lift Station 482
  - 3.2.1.21. Lift Station 263
  - 3.2.1.22. Lift Station 6600
  - 3.2.1.23. Lee Justice Building

**4. Service/Solution Circuit Specification Requirements:**

- 4.1. LCU and ITS A / Z sites are managed separately and shall have separate aggregation hub circuits. LCU hub location (A location) is 7401 College Pkwy, Fort Myers, FL 33907, and ITS hub location (A location) is the Lee County EOC, located at 2675 Ortiz Avenue, Fort Myers, FL 33905.
- 4.2. LCU and ITS require the following:
  - 4.2.1. Vendor shall not use end-of-life equipment or equipment that the manufacturer no longer supports.
  - 4.2.2. At the aggregation router or hub (A location) of the point-to-point connections, the equipment shall have redundant or dual power supplies.
  - 4.2.3. At the remote spoke site (Z location), the site handoff equipment shall have redundant or dual power supplies.
  - 4.2.4. There shall be no restrictions on multicast traffic.
  - 4.2.5. Circuits must support jumbo frames and honor QoS tags. Circuits shall not strip QoS tags off tagged packets.
  - 4.2.6. IP architecture and configuration description and drawings.
  - 4.2.7. All circuit IDs shall be affixed to the handoff equipment at each site.
  - 4.2.8. Quarterly updates to the departmental network topology diagram showing equipment models, circuit type, and circuit IDs.
  - 4.2.9. Monthly updates showing baseline latency.
  - 4.2.10. Monthly updates outlining bandwidth testing showing 30 minutes of total bandwidth utilized and all related health stats, such as input errors and interface resets.

**5. Vendor Deployment Requirements:**

- 5.1. Must Affirm that each of the line items below is acceptable:
  - 5.1.1. The vendor shall provide as-built information upon completion of the project.
  - 5.1.2. The vendor shall allow LCU and ITS the ability via LOA or other such means to assign rights to a third party to manage County portals and incidents.
  - 5.1.3. During any buildout, LCU and ITS shall appoint a designated POC. The Vendor shall coordinate all equipment installations in the MDF for each location with each department's respective POC.
  - 5.1.4. The vendor shall coordinate cutovers with the department's POC. Cutover times must be flexible to accommodate 100% uptime, Lee County's customer service objectives, and Lee County's work schedules.
  - 5.1.5. The vendor shall provide a project manager to coordinate all activities from initiation to completion.
  - 5.1.6. During any buildout process, LCU and ITS expect 100% uptime.
  - 5.1.7. When possible, LCU and ITS prefer to use existing fiber conduits. If the existing fiber or copper cable is damaged, then repair of the existing infrastructure is to be completed at no cost to the County.
  - 5.1.8. If a site requires new conduit from the property line to the MDF, labor, and cost shall be the responsibility of the Vendor. Include conduit buildout costs in the vendor's pricing model.
  - 5.1.9. The project shall be completed within 12 months from the contract's award.

**6. Miscellaneous Items**

- 6.1. The County reserves the right to stop service at any site or County facility at any time for any reason at our sole discretion without penalty or incurring any additional fees. Any ongoing monthly costs for said services at these locations shall be removed from the total monthly costs.
- 6.2. Service provider agrees to provide network traffic reporting for both live and historical data.

End of Detailed Specifications

(Remainder of page left intentionally blank)





Procurement Management Department  
 2115 Second Street, 1<sup>st</sup> Floor  
 Fort Myers, FL 33901  
 Main Line: (239) 533-8881  
 Fax Line: (239) 485-8383  
[www.leegov.com/procurement](http://www.leegov.com/procurement)

Posted Date: March 9, 2023

Solicitation No.: RFP230098DWJ

Solicitation Name: Countywide Ethernet Services

Subject: Addendum Number 1

The following represents clarification, additions, deletions, and/or modifications to the above referenced bid. This addendum shall hereafter be regarded as part of the solicitation. Items not referenced herein remain unchanged, including the response date. Words, phrases or sentences with a strikethrough represent deletions to the original solicitation. Underlined words and bolded, phrases or sentences represent additions to the original solicitation.

1. **OPEN DATE/BIDS DUE EXTENSION**

**FROM: MARCH 20, 2023, at 2:30 PM**

**TO: MARCH 30, 2023, at 2:30 PM**

2. ATTACHMENT: (1)

- Lee County Agreement

3. QUESTIONS/ANSWERS

1.	We would like to request a 10-day extension from the receipt of QA responses. Would the county be open to granting this extension? Any additional time would be greatly appreciated.
<b>Answer</b>	<b>Please see above revised open date/bids due extension.</b>
2.	Does the County have any known plans or intent to add/remove sites or change Services? If so, please provide all known information regarding same.
<b>Answer</b>	<b>The County reserves the right to add/remove/change services as the County grows and operational needs change. At this time, the County does not have any known plans to add/remove sites or change services.</b>
3.	If it is possible to confirm the contract type that would be executed with the awarded vendor out of those listed within <a href="http://www.leegov.com/procurement/forms">http://www.leegov.com/procurement/forms</a> that would be much appreciated.
<b>Answer</b>	<b>Please see attached Lee County Agreement template that will be required of the awarded vendor to execute.</b>
4.	Offeror is a privately held company and as such has a policy to provide its financial statements or other business sensitive information only upon execution of a mutual non-disclosure agreement. Will the County be amenable to review of such an agreement prior to proposal submission?
<b>Answer</b>	<b>No. Any content that is exempt or confidential per relevant Florida public records law related statutes will not be disclosed, but the County cannot sign a non-disclosure agreement prior to proposal submission.</b>
5.	Is there a list of ITS locations?
<b>Answer</b>	<b>See list of ITS locations:</b>


	16003 AIRPORT HAUL Rd, Fort Myers 33913 10560 Reynolds Rd, Bonita Springs 34135 2421 Buckingham Rd, Fort Myers 33905 50 Pine Island Rd, N Fort Myers 33903 1040 10th St, Boca Grande 33921 921 SW 39th Terrace, Cape Coral 33914 26876 Pine Ave, Bonita Springs 34135 70 Danley Dr, Fort Myers 33907 2955 Van Buren St, Fort Myers 33916 60 Danley Dr/Suite 2, Fort Myers 33907 519 Chiquita Blvd, Cape Coral 33993 6431 Topaz Ct, Fort Myers 33966 4301 Edison Ave, Fort Myers 33916 6490 South Pointe, Fort Myers 33919 10700 Russell Rd, Bokeelia 33922 131 Harbor Dr, Boca Grande 33921 2201 Edison Ave, Fort Myers 33901 2876 Pine Ave, Bonita Springs 34135 55 Homestead Rd, Lehigh Acres 33936 3095 Blount St, Fort Myers 33916 11500 Fenway South Dr, Fort Myers 33913 1700 Monroe St, Fort Myers, FL 33901
--	--

6.	Is the county looking for direct internet or a WAN solution?
Answer	All services are "Metro Ethernet" services, not direct internet.

7.	Current total number of locations provided is 23? Is that ALL locations included in this RFP?
Answer	See list of 22 ITS locations per number 5 of this Addendum.

BIDDER/PROPOSER IS ADVISED, YOU ARE REQUIRED TO ACKNOWLEDGE RECEIPT OF THIS ADDENDUM WHEN SUBMITTING A BID/PROPOSAL. FAILURE TO COMPLY WITH THIS REQUIREMENT MAY RESULT IN THE BIDDER/PROPOSER BEING CONSIDERED NON-RESPONSIVE.

ALL OTHER TERMS AND CONDITIONS OF THE SOLICITATION DOCUMENTS ARE AND SHALL REMAIN THE SAME.

  
 Procurement Analyst - David Jones  
 Procurement Analyst Direct Line: 239-533-8864  
 Lee County Procurement Management



Procurement Management Department  
 2115 Second Street, 1<sup>st</sup> Floor  
 Fort Myers, FL 33901  
 Main Line: (239) 533-8881  
 Fax Line: (239) 485-8383  
[www.leegov.com/procurement](http://www.leegov.com/procurement)

Posted Date: March 15, 2023

Solicitation No.: RFP230098DWJ

Solicitation Name: Countywide Ethernet Services

Subject: Addendum Number 2

The following represents clarification, additions, deletions, and/or modifications to the above referenced bid. This addendum shall hereafter be regarded as part of the solicitation. Items not referenced herein remain unchanged, including the response date. Words, phrases or sentences with a strikethrough represent deletions to the original solicitation. Underlined words and bolded, phrases or sentences represent additions to the original solicitation.


1. ATTACHMENT: None

2. QUESTIONS/ANSWERS

1.	Do Sections 4 (Service/Solution Circuit Specification Requirements) and 5 (Vendor Deployment Requirements) need to be part of Lumen's response?
Answer	<b>Item number 4 Service/Solution Circuit Specification Requirements and item number 5 Vendor Deployment Requirements are Detailed Specifications for the project scope of work. Please see page 21 for Submittal Requirements &amp; Evaluation Criteria.</b>
2.	Would the Board consider contracting off its current agreement with Respondent? This could be accomplished by an amendment that adds Metro Ethernet and extends the term?
Answer	<b>No, the current contract expired on 2/3/2023. It's the County's desire to competitively solicit this project to all responsive and responsible Vendors who wish to participate.</b>
3.	Since the Due Date for the RFP is extended to March 30, 2023, will the Question period deadline be extended to 8 days before March 30, 2023?
Answer	<b>Yes, question deadline is now March 22, 2023, prior to 5:00 PM</b>

**BIDDER/PROPOSER IS ADVISED, YOU ARE REQUIRED TO ACKNOWLEDGE RECEIPT OF THIS ADDENDUM WHEN SUBMITTING A BID/PROPOSAL. FAILURE TO COMPLY WITH THIS REQUIREMENT MAY RESULT IN THE BIDDER/PROPOSER BEING CONSIDERED NON-RESPONSIVE.**

**ALL OTHER TERMS AND CONDITIONS OF THE SOLICITATION DOCUMENTS ARE AND SHALL REMAIN THE SAME.**

  
 Procurement Analyst David Jones  
 Procurement Analyst Direct Line: 239-533-8864  
 Lee County Procurement Management



Procurement Management Department  
 2115 Second Street, 1<sup>st</sup> Floor  
 Fort Myers, FL 33901  
 Main Line: (239) 533-8881  
 Fax Line: (239) 485-8383  
[www.leegov.com/procurement](http://www.leegov.com/procurement)

Posted Date: March 29, 2023

Solicitation No.: RFP230098DWJ

Solicitation Name: Countywide Ethernet Services

Subject: Addendum Number 3

The following represents clarification, additions, deletions, and/or modifications to the above referenced bid. This addendum shall hereafter be regarded as part of the solicitation. Items not referenced herein remain unchanged, including the response date. Words, phrases or sentences with a strikethrough represent deletions to the original solicitation. Underlined words and bolded, phrases or sentences represent additions to the original solicitation.

1. **OPEN DATE/BIDS DUE EXTENSION**

**FROM: MARCH 30, 2023, at 2:30 PM**

**TO: APRIL 5, 2023, at 2:30 PM**

2. **ATTACHMENT: (1) – 2023 Utilities Address Network Locations**

3. **QUESTIONS/ANSWERS**


1.	Are we quoting the 22 ITS locations listed in Addendum 1, and the 23 locations listed on the Address Spreadsheet and in the RFP?
<b>Answer</b>	<b>Yes, see attached list of all 2023 Utilities Address Network Locations</b>

2.	For clarification, will the awarded vendor be required to contract off the Lee County Agreement template? If so, is the County open to considering proposed redline modifications?  Alternatively, would the County consider Respondent’s standard Agreement, with the inclusion of applicable service schedules, as the baseline for developing any contract between the parties? This would be a new Agreement, not the Agreement that expired on 2/3/2023.
<b>Answer</b>	<b>Yes, Vendor is required to contract off the Lee County Agreement. Negotiations of Terms and Conditions would be handled during the contract phase, which takes place post-award. The County will review any redline requests but will not guarantee that any revisions will be accepted.</b>

3.	Would it be possible to provide an updated fully inclusive list of locations included in this RFP? If so, please provide 1 list of all sites included in the RFP and the bandwidth requested for each location.
<b>Answer</b>	<b>See attached 2023 Utilities Address Network Locations and estimated bandwidth</b>

BIDDER/PROPOSER IS ADVISED, YOU ARE REQUIRED TO ACKNOWLEDGE RECEIPT OF THIS ADDENDUM WHEN SUBMITTING A BID/PROPOSAL. FAILURE TO COMPLY WITH THIS REQUIREMENT MAY RESULT IN THE BIDDER/PROPOSER BEING CONSIDERED NON-RESPONSIVE.

ALL OTHER TERMS AND CONDITIONS OF THE SOLICITATION DOCUMENTS ARE AND SHALL REMAIN THE SAME.

  
\_\_\_\_\_  
Procurement Analyst David Jones  
Procurement Analyst Direct Line: 239-533-8864  
Lee County Procurement Management

## EXHIBIT B FEE SCHEDULE

**Lee County Board of County Commissioners**  
Countywide Ethernet Services

**LUMEN®**

### Pricing from Original RFP

Product Type	Street	City	State	Postal Code	Offer Speed	36 Month Approved MRR	60 Month Approved MRR	36 and 60 Month Approved NRR
Classic Ethernet	15147 McGregor Blvd	Ft. Myers	FL	33902	100 Mbps	\$296.45	\$269.50	\$0.00
Classic Ethernet	16003 Airport Haul Rd	Ft. Myers	FL	33913	100 Mbps	\$296.45	\$269.50	\$0.00
Classic Ethernet	6928 Stringfellow Rd	Ft. Myers	FL	33956	100 Mbps	\$296.45	\$269.50	\$0.00
Classic Ethernet	4271 St. Clair Ave	W Ft. Myer	FL	33903	100 Mbps	\$296.45	\$269.50	\$0.00
Classic Ethernet	11950 Corkscrew Rd	Ft. Myers	FL	33928	100 Mbps	\$296.45	\$269.50	\$0.00
Classic Ethernet	6480 South Point.	Ft. Myers	FL	33919	100 Mbps	\$296.45	\$269.50	\$0.00
Classic Ethernet	806 South St	Ft. Myers Beach	FL	33931	100 Mbps	\$296.45	\$269.50	\$0.00
Classic Ethernet	7091 Shadow Creek Blvd	Ft. Myers	FL	33908	100 Mbps	\$296.45	\$269.50	\$0.00
Classic Ethernet	13265 Soccer Dr	Ft. Myers	FL	33913	100 Mbps	\$296.45	\$269.50	\$0.00
Classic Ethernet	779 Pondella Rd	Ft. Myers	FL	33903	100 Mbps	\$296.45	\$269.50	\$0.00
Classic Ethernet	1366 San Souci Dr	Ft. Myers	FL	33919	100 Mbps	\$296.45	\$269.50	\$0.00
Classic Ethernet	3841 Ballard Rd	Ft. Myers	FL	33913	100 Mbps	\$296.45	\$269.50	\$0.00
Classic Ethernet	16101 Alico Rd.	Ft. Myers	FL	33913	100 Mbps	\$296.45	\$269.50	\$0.00
Classic Ethernet	12901 Palm Beach Blvd	Ft. Myers	FL	33905	100 Mbps	\$296.45	\$269.50	\$0.00
Classic Ethernet	18250 Durrance Rd	Ft. Myers	FL	33917	100 Mbps	\$296.45	\$269.50	\$0.00
Classic Ethernet	7351 Samville Rd	Ft. Myers	FL	33917	100 Mbps	\$296.45	\$269.50	\$0.00
Classic Ethernet	1450 Werner Dr.	Ft. Myers	FL	33920	100 Mbps	\$296.45	\$269.50	\$0.00
Classic Ethernet	18521 Three Oaks Pkwy	Ft. Myers	FL	33912	100 Mbps	\$296.45	\$269.50	\$0.00
Classic Ethernet	5441 Palm Beach Blvd	Ft. Myers	FL	33905	100 Mbps	\$296.45	\$269.50	\$0.00
Classic Ethernet	17155 Pine Ridge Rd	Ft. Myers	FL	33931	100 Mbps	\$296.45	\$269.50	\$0.00
Classic Ethernet	16001 Airport Haul Rd	Ft. Myers	FL	33913	100 Mbps	\$296.45	\$269.50	\$0.00
Classic Ethernet	1700 Monroe St	Ft. Myers	FL	33901	20 Mbps	\$207.90	\$173.25	\$0.00
Classic Ethernet	7401 College Pkwy	Ft. Myers	FL	33907	2000 Mbps	\$885.50	\$827.75	\$0.00
<b>Total</b>						<b>\$7,318.85</b>	<b>\$6,660.50</b>	

**Lee County Board of County Commissioners**  
**Countywide Ethernet Services**



**Pricing for Sites Listed on Addendum Number 3**

Product Type	Street	City	State	Postal Code	Offer Speed	36 Month Approved MRR	60 Month Approved MRR	36 and 60 Month Approved NRR
Classic Ethernet	2955 Van Buren St.	Fort Myers	FL	33916	50 Mbps	\$248.50	\$221.65	\$0.00
Classic Ethernet	921 SW 39th Terrace	Cape Coral	FL	33914	50 Mbps	\$248.50	\$221.65	\$0.00
Classic Ethernet	3095 Blount St.	Fort Myers	FL	33916	50 Mbps	\$248.50	\$221.65	\$0.00
Classic Ethernet	2201 Edison Ave.	Fort Myers	FL	33901	50 Mbps	\$248.50	\$221.65	\$0.00
Classic Ethernet	10560 Reynolds Rd.	Bonita Springs	FL	34135	50 Mbps	\$248.50	\$221.65	\$0.00
Classic Ethernet	6431 Topaz Ct	Fort Myers	FL	33966	50 Mbps	\$248.50	\$221.65	\$0.00
Classic Ethernet	1700 Monroe St	Fort Myers	FL	33901	50 Mbps	\$248.50	\$221.65	\$0.00
Classic Ethernet	50 Pine Island Rd.	N Fort Myers	FL	33903	50 Mbps	\$248.50	\$221.65	\$0.00
Classic Ethernet	11500 Fenway South Dr.	Fort Myers	FL	33913	50 Mbps	\$248.50	\$221.65	\$0.00
Classic Ethernet	70 Danley Dr.	Fort Myers	FL	33907	50 Mbps	\$248.50	\$221.65	\$0.00
Classic Ethernet	2421 Buckingham Rd.	Fort Myers	FL	33905	50 Mbps	\$248.50	\$221.65	\$0.00
Classic Ethernet	519 Chiquita Blvd.	Cape Coral	FL	33993	50 Mbps	\$248.50	\$221.65	\$0.00
Classic Ethernet	1040 10th St.	Boca Grande	FL	33921	50 Mbps	\$248.50	\$221.65	\$0.00
Classic Ethernet	4301 Edison Ave.	Fort Myers	FL	33916	50 Mbps	\$248.50	\$221.65	\$0.00
Classic Ethernet	55 Homestead Rd	Lehigh Acres	FL	33936	50 Mbps	\$248.50	\$221.65	\$0.00
Classic Ethernet	6490 South Pointe.	Fort Myers	FL	33919	50 Mbps	\$248.50	\$221.65	\$0.00
Classic Ethernet	10700 Russell Rd.	Bokeelia	FL	33922	50 Mbps	\$248.50	\$221.65	\$0.00
Classic Ethernet	131 Harbor Dr	Boca Grande	FL	33921	50 Mbps	\$248.50	\$221.65	\$48,100.00
Classic Ethernet	60 Danley Dr/Suite 2	Fort Myers	FL	33907	50 Mbps	\$248.50	\$221.65	\$0.00
Classic Ethernet	26876 Pine Ave.	Bonita Springs	FL	34135	50 Mbps	\$248.50	\$221.65	\$0.00
*Classic Ethernet	*2876 Pine Ave.	Bonita Springs	FL	34135	50 Mbps	-	-	-
<b>Total</b>						<b>\$4,970.00</b>	<b>\$4,433.00</b>	<b>\$48,100.00</b>

\*Lumen did not quote 2876 Pine Ave., Bonita Springs FL 34135 as it is a bad address.

\*Pricing shown in Exhibit B is for products and services only and does not include any applicable non-exempt taxes, surcharges or fees.

## EXHIBIT C INSURANCE REQUIREMENTS



### Lee County Insurance Requirements

**Minimum Insurance Requirements:** *Risk Management in no way represents that the insurance required is sufficient or adequate to protect the vendors' interest or liabilities. The following are the required minimums the vendor must maintain throughout the duration of this contract. The County reserves the right to request additional documentation regarding insurance provided*

- a. **Commercial General Liability** - Coverage shall apply to premises and/or operations, products and completed operations, independent contractors, contractual liability exposures with minimum limits of:

\$1,000,000 per occurrence  
\$2,000,000 general aggregate  
\$1,000,000 products and completed operations  
\$1,000,000 personal and advertising injury

- b. **Business Auto Liability** - The following Automobile Liability will be required and coverage shall apply to all owned, hired and non-owned vehicles use with minimum limits of:

\$1,000,000 combined single limit (CSL); or  
\$500,000 bodily injury per person  
\$1,000,000 bodily injury per accident  
\$500,000 property damage per accident

- c. **Workers' Compensation** - Statutory benefits as defined by FS 440 encompassing all operations contemplated by this contract or agreement to apply to all owners, officers, and employees regardless of the number of employees. Workers Compensation exemptions may be accepted with written proof of the State of Florida's approval of such exemption. Employers' liability will have minimum limits of:

\$500,000 per accident  
\$500,000 disease limit  
\$500,000 disease – policy limit

***\*The required minimum limit of liability shown in a. and b. may be provided in the form of "Excess Insurance" or "Commercial Umbrella Policies." In which case, a "Following Form Endorsement" will be required on the "Excess Insurance Policy" or "Commercial Umbrella Policy."***





**Lee County Insurance Requirements**

**Verification of Coverage:**

1. Coverage shall be in place prior to the commencement of any work and throughout the duration of the contract. A certificate of insurance will be provided to the Risk Manager for review and approval. The certificate shall provide for the following:

a. **Under the Description of Operations, the following must read as listed:**

*“Lee County, a political subdivision and Charter County of the State of Florida, its agents, employees, and public officials are automatic additional insureds and includes an automatic waiver of subrogation with regard to general liability. The certificate holder is an additional insured on a primary and noncontributory basis with regards to general liability.”*

b. **The certificate holder must read as follows:**

Lee County, a political subdivision and Charter County of the State of Florida  
P.O. Box 398  
Fort Myers, Florida 33902

**Special Requirements:**

1. An appropriate "Indemnification" clause shall be made a provision of the contract.
2. It is the responsibility of the general contractor to ensure that all subcontractors comply with all insurance requirements.

## EXHIBIT D

### EMBARQ CLASSIC ETHERNET SERVICES ANNEX

The following terms and conditions, together with the Agreement for Countywide Ethernet Services (collectively, the “Agreement”) will govern the County’s use of EMBARQ Classic Ethernet Services (“Services”) provided by the applicable Vendor operating company supporting the County’s locations. To the extent permitted by law, Services are offered on an Individual Case Basis in lieu of any terms and conditions under Vendor Tariffs. The local operating company providing the Service is identified in the Agreement.

#### 1. Services Description and Types

**1.1 Services Description.** The Services are a standards-based high-speed packet transport technology used for the interconnection of Local Area Networks (“LANs”) within a metropolitan area. The Services deliver access from the County's LAN to the Vendor network. The Services protect data privacy by using specialized screening software, which permits subscribers to access only their data. The Services are offered for local and intraLATA use where Vendor facilities exist. Each Ethernet connection is full duplex, symmetrical bandwidth with a single rate element that consists of the following:

**A. User-to-Network Interface (“UNI”).** The UNI is the physical interface between Vendor and the County. The UNI includes:

- (1) an Ethernet port connection at the County’s premises; and
- (2) the physical transport to the Vendor switched Ethernet network.

**B. Ethernet Virtual Connection (“EVC”).**

- (1) EVC is the logical connection of an Ethernet service that connects two or more locations.

**C. Class of Service.** The County can purchase an optional Class of Service (“COS”) for an additional Monthly Recurring Charge (“MRC”). COS provides the ability to prioritize certain identifiable traffic flows across the Vendor switched Ethernet Network. Based on Vendor-provided mapping criteria, the County must notify Vendor on how to mark and prioritize its traffic. After notification from the County, Vendor will classify the traffic accordingly, as described in the following subsections. The two COSs are as follows.

- (1) **Gold COS.** This prioritization will apply to the County-designated traffic marked with priority of 4 to 6 on the Vendor switched Ethernet network. Gold COS is designed for Jitter and Network Latency (delay) sensitive applications like voice and video.
- (2) **Silver COS.** This prioritization will apply to the County-designated traffic markets with a priority of 1 to 3 on the Vendor switched Ethernet network. Silver COS will carry high priority business applications across the Vendor network.

**D. Ethernet Network Interface Device (“E-NID”).**

(1) To deliver the Services, Vendor will place the E-NID at the County premises. The E-NID is owned and managed by Vendor. The E-NID supports 24x7 proactive network monitoring, management, troubleshooting, and resolution from the Vendor central office to the E-NID on the County premises. The E-NID allows for the convergence of multiple service options over one common facility for network aggregation. The E-NID is considered Vendor's point of demarcation.

(2) **Installation of E-NID.** Vendor will procure, receive stage, configure, and test the E-NID before installation at the County's premises. Vendor will install the E-NID at a mutually agreed upon time from 8:00 am to 5:00 pm Monday through Friday local time excluding Vendor-observed holidays ("Normal Business Hours"). Vendor may charge a fee for installation outside Normal Business Hours. Vendor may, in its sole discretion, outsource installation of the E-NID to a third party that is capable of performing the installation; provided, however, Vendor will remain responsible for any such outsourced installation supplied by a third party.

(3) The County will pay Vendor for replacement of an E-NID that is damaged as a result of the County's failure to comply with this Section, including installation costs of the replacement E-NID. Additionally, the County must continue to pay the charges for the Service provided by Vendor for the remainder of the Order Term, regardless of whether or not the damaged E-NID is replaced.

(4) The County must ensure the security of the E-NID located within the County's premises and the County will reimburse Vendor for any loss or damage to the E-NID caused by the County's failure to properly secure the County's premises and/or restrict or monitor access to the NID. The County will not access, reconfigure, attempt to repair, connect to or alter the NID except as expressly requested by Vendor.

## 1.2 Services Types and Technical Specifications

### A. Services Types.

(1) **Ethernet Local Area Network ("E-LAN").** A service type used to provide a full mesh where any to any connectivity is required, i.e. multipoint-to-multipoint. Typically used where all sites need to talk to each other. All traffic is sent to all County sites.

(2) **Ethernet Private Line ("EPL").** A service type used to provide point-to-point connectivity between two sites.

### B. Technical Specifications.

(1) Services are available to the County whose serving central office is equipped with Vendor Classic Ethernet Services equipment and located within 28 km or 15 miles from the serving central office.

(2) The Services operate over a shared infrastructure that provides bi-directional transmission of data based on the Ethernet standards and operates at the Layer 2 of the OSI reference model.

(3) The network demarcation point is a standard Ethernet interface of 802.3 (Ethernet), 802.3u (Fast Ethernet) or 802.3z (Gigabit Ethernet) LAN interface on the Vendor Ethernet Services equipment at the subscriber premises. Vendor Ethernet Services network access for 802.3 interface is provided at 10 Mbps, while 802.3u network access is provided at 100 Mbps and 802.3z network access is provided at 1 Gigabit (1000 Mbps).

**1.3 County Certification.** The County certifies (1) that no more than 10% of the Services will be for the transport of interstate data and (2) that it will not interconnect the Services with another carrier for voice-over internet protocol applications or services and will not use the Services to connect to the public switched telephone network (“PSTN”).

## **2. Order Term.**

**2.1** The Order Term for the Services is designated in the Agreement.

**2.2.** Termination Liability Charges will not apply when Services, or a rate element of Services, are disconnected before expiration of the Order Term as a result of a change in terms and conditions or the County-requested upgrade to a next generation service offering, under the following conditions:

**A.** The Order Term for the new service offering is equal to or exceeds the remaining service period of the disconnected Order Term, and

**B.** The Orders to install the new service and disconnect the old Services are related together, and there is no lapse in service between the installation of the new service and the disconnection of the old Services, and

**C.** The Orders to install the new service and disconnect the old Services are for the same the County at the same location.

**2.3.** Vendor will determine whether the new service qualifies as a next generation service offering.

**2.4.** Nonrecurring charges and Service Order Charges for the new service will apply according to the requirements of the new service.

**2.5.** Temporary Suspension of Service (Vacation Service), at the County’s request, is not allowed for the Services.

## **3. Responsibilities of the Parties.**

### **3.1 Responsibility of Vendor.**

**A.** Vendor’s responsibility is limited to the furnishing and maintenance of the Services to a network interface device on the County’s premises where provision is made for the connection of local service.

**B.** Vendor is not responsible if changes in any of its facilities, operations or procedures utilized in the provision of the Services render any facilities or equipment provided by the County obsolete, or requires modification or alteration of such equipment or system or otherwise affects its use or performance.

### C. Maintenance.

(1) **Preventive Maintenance.** To maintain the quality of the Services, Vendor reserves the right to perform preventative maintenance and software updates to the network. Vendor has classified maintenance as follows:

(a) **Scheduled Maintenance.** Scheduled maintenance is performed for functions such as hardware and software upgrades and network optimization. Vendor will perform these tasks in a maintenance window that is anticipated to minimize disruption of the County service and activity. Vendor will provide advance notice of all scheduled maintenance through the Event Reporting Information Console system (ERIC), a self-subscribed, self-managed reporting tool.

(b) **Demand Maintenance.** Demand maintenance may occur as a result of unexpected events and is performed when the Ethernet Services network elements are in jeopardy. Vendor will perform this type of maintenance at its discretion. Due to the nature of demand maintenance, prior notification may not be possible; however, the County will be informed when the maintenance has been completed.

(2) **Notification.** Vendor will provide on-line notification of Scheduled Maintenance and unexpected events through ERIC. The County can create and manage their subscription rules and create custom notification preferences based on service and location using the following URL: <http://www.centurylinkservices.net/events/>. ERIC notices are also posted to the County access website for reference at any time before, during and shortly after the event. This system currently allows web-based status checks on current event notifications.

**3.2 Responsibility of County.** To ensure a smooth installation, the following responsibilities must be completed before installation of the Services, Vendor reserves the right, at its sole discretion, to reschedule installation, charge the County for additional work and any necessary materials or Products on a Time and Material basis, or terminate the Agreement with respect to Services and any associated services utilizing Services. Services will be installed at the County's site only upon completion of all of these steps. If the County is unable to complete all of these requirements before the installation date, the County will notify Vendor as soon as it becomes aware of its inability.

**A. Traffic Marking.** The County must appropriately mark the traffic for COS treatment as described in Section 1 based on Vendor-provided mapping criteria. Vendor will support a maximum frame size of 1536 bytes coming into the E-NID. Vendor will not support auto-negotiate. All circuits are set to full duplex and the purchased CIR determines the physical port speed (either 10/100 Mbps or 1 Gigabit).

**B. Media Access Control (MAC) Learning.** Vendor will support a default MAC learning per site up to 40 MAC addresses. It is the County's responsibility to place a router at the location to manage accordingly.

**C. Throughput Requirement.** To protect the Vendor network from traffic storms, traffic controls are used to limit VLANs based on broadcast

and multi-cast traffic. Vendor will impose a default of 1 Mbps of broadcast and multi-cast traffic per site. It is the County's responsibility to notify if greater than 1 Mbps of broadcast or multi-cast traffic needs to be supported. Vendor will evaluate if additional broadcast or multi-cast can be supported.

**D.** The County must provide adequate conduit from the right-of-way into the building and confirm access facilities to the building are available for fiber provisioning. It is also the County's responsibility to locate private utilities on the premises if construction is required. Conduit specifications are as follows: One 2-inch Schedule 40 PVC conduit from 2 feet below grade at the building exterior to a pull box on the building exterior. Pull box must have a minimum dimension of 12-inch x 12-inch x 6-inch deep. Place one 2-inch conduit sleeve through wall from pull box to inside of the equipment room. Conduit must be equipped with 200 lb rated pull tension or greater. Equip conduit with no more than 2 quarter bends (a total of 180 degrees) between cable pulling points. Seal the conduit after installation to protect from damage such as water. Conduit is not required when Services are provisioned over copper or circuit bonding technology, 50 Mbps or less. Services delivered via copper/circuit bonding technology will terminate at the Vendor demarcation point on a the County-provided wall-mounted 66 block and cross-connected to a copper loop bonding unit.

**E.** The County must provide one 20 x 44 x ¾ inch plywood backboard in an equipment demarcation room with clearance of 36 inches in front of backboard. If the fiber demarcation point is within 25 feet of the equipment rack, a wall board will not be required. All hardware and terminations will be installed in the County-provided rack. If the County is in a multi-tenant building and the shared building terminal at the County's location does not have adequate space for Vendor fiber termination, the County or building owner must provide a 24" x 24" x 9" cabinet with ¾" plywood. This cabinet must be associated next to the original building terminal to support association of shared demarcation facilities.

**F.** The County must ensure the demarcation point is in an accessible and environmentally controlled location. All Service-enabling Equipment requires a clean, dust-free environment that is environmentally controlled to temperatures of 55-80 degrees Fahrenheit and humidity of 70% or less. If the County is in a multi-tenant building, The County must ensure that the Vendor demarcation point is accessible to Vendor technicians. The County may need to coordinate access with the building manager to ensure that access is available on the day of installation. The County must ensure that this location remains dry and free of dampness, and the room temperature remains within the tolerance of sensitive electronic hardware.

**G.** The County must ensure 4 consecutive rack units of space in a 19" data rack are available for Services. The County must provide space in a 19" wide data rack for the required hardware. The rack must be either wall or floor mounted. Vendor will not install the hardware on a shelf or the floor.

**H.** The County must provide a dedicated power outlet and common ground. Vendor termination electronics are powered by the County-provided 120 VAC (20 Amp) circuit. Vendor requires the outlet to be a duplex,

dedicated and grounded electrical outlet within 6 feet of the equipment location. Common ground must be 25 ohm or less. If the County does not have an uninterrupted power supply (UPS) on the AC, Services will be lost in the event of an AC power failure. If UPS is required, the County will provide. Vendor will provide for an additional charge upon request.

**I.** The County must complete inside wiring before the arrival of the Vendor installation technicians. The County must extend the wiring from the demarcation point to the location where the Services will be used. Vendor only will extend the demarcation point on a Time and Material basis for an additional charge. The County must contact its Vendor Account Executive to schedule the work. Vendor uses the following guidelines when extending the demarcation point: (1) If services are delivered via copper (50 Mbps or less), the demarcation may be extended a maximum of 300 feet 24-gauge copper, or (2) If services are delivered via fiber, Vendor technicians will terminate fiber into a County-provided rack a maximum of 25 feet from demarcation.

**J.** The County must confirm Service hand-off requirements. Vendor will provide a standard RJ-45 copper Ethernet connection for 10/100 service and a single mode fiber connection on a 1 Gigabit circuit as the demarcation point for the Services. If a different County hand-off is required, such as a multimode fiber connection, the County must state the requirement on the site survey per site network page.

**K.** The County must confirm that its Local Area Network (“LAN”) has an appropriate Service port available to provide the desired network functionality and is within the distance required by Service specifications. The County will program the Service port for appropriate speed and full duplex setting. (auto-negotiate is not available). The County will provide CAT5 cable(s) to connect its LAN to the Service-enabling equipment. The County will provide an appropriate Service-enabling patch cable for connecting Vendor demarcation and the County-provided Equipment.

**L.** Services are a Layer 2 network service only. All County premises LAN Layer 3 (e.g. IP) addressing is County’s responsibility. Vendor will provide pricing for additional equipment and labor to enable Layer 3 functionality, if required. In most cases this will be a router which will provide the Layer 3 routing of subnets and VLAN on the County’s network. If the County only requires Layer 2 bridging (a flat network) across the Services, a standard Service switch port is all that is required.

**M.** The Vendor installer will not connect Services to the County’s LAN. Vendor installers will install the hardware and identify a port for connection. Vendor highly recommends the use of a qualified networking vendor to assist with LAN configuration. A Vendor Account Executive can provide pricing for Vendor network configuration for Services.

**N. Access to Premises.** The County will provide Vendor maintenance personnel or contractors with access to Vendor’s equipment placed at the County’s premises for regular maintenance and service. If the County resides in a multi-tenant building, the County must ensure that the Vendor demarcation point (the location where the Local Phone Company wires enters the County’s building), is accessible to the Vendor technician. The County

may need to coordinate access with the building manager to ensure that access is available on the day of installation.

**O. Location of Utilities.** If construction is required, Vendor will not begin construction until the County locates all private utilities on its premises.

**P.** The County is responsible for payment of a Trouble Location Charge for visits by Vendor to the County's premises where the service difficulty or trouble report results from the use of equipment or facilities provided by the County.

**Q.** The County may not rearrange, disconnect, remove or attempt to repair any equipment installed by Vendor without the prior written consent of Vendor.

**R.** For maintenance purposes, upon Vendor's request, the County will be responsible for notifying Vendor of the type of terminating equipment used.

#### **4. Components and Rate Elements for Services.**

**4.1. Monthly Recurring Charge ("MRC").** Vendor will charge the County a MRC for the Services. The components of the MRC are the following:

**A. Transport.** Availability of speeds may vary by metropolitan area.

**B. Vendor-owned Edge Equipment.** The Vendor-owned Edge Equipment is used to deliver Services and serve as Vendor's management device between the central office and the last mile connection at the County premises. Vendor-owned Edge Equipment allows for the convergence of multiple service options over one common facility for network aggregation. The Vendor-provided Ethernet Equipment is the responsibility of Vendor including provisioning, maintenance and repair or replacement. The Vendor-provided Ethernet Edge Equipment is considered Vendor's demarcation point.

**C. Monitoring.** 24x7 network proactive monitoring and troubleshooting from Vendor's central office to the Vendor-owned Ethernet switch on the County premises.

**D. Aggregation Port.** Vendor will assign a specific port on the Vendor-owned Ethernet switch to accept multiple VLANs from the County. The assigned port will be the aggregation point from the County that connects to Vendor's Ethernet network. The aggregation port will assign a VLAN tag at ingress and forward the traffic across Vendor's Ethernet network, removing the tag at egress. It is the County's responsibility to provide the appropriate VLAN tag on any frames being transmitted. Any untagged frame received at the ingress of the aggregation port will be dropped.

**E. COS.** Vendor will charge an additional MRC for the County's selection of an optional COS.

**4.2. Nonrecurring Charges ("NRCs").** Vendor will charge the County NRCs for the initial installation of a Local Channel Connection to a given serving central office and for any rearrangement of an existing Local Channel Connection.



**4.3 Move Charge.** Vendor will charge the County a Move Charge for a Local Channel Connection moved to a new location, even when moved on the same premises. The Move Charge applies in addition to a Service Order Charge.

**4.4. Service Order Charge.** A Service Order Charge is applicable per each County request.

**4.5. Special Construction Charges.** Special Construction Charges may be applicable under special conditions. Vendor may charge the County when technical limitations and/or the lack of facilities exist, or if it is necessary to construct facilities to satisfy service requests.

## 5. Service Level Agreement (“SLA”).

**5.1 SLA.** To demonstrate Vendor’s commitment to our business customers and the reliability and quality of our data services, Vendor has established the following SLA within Vendor-established Metro Areas. The definition of a Metro Area is defined by Vendor, in its sole discretion, based on current Ethernet availability. Vendor may adjust its Metro Areas at any time, even within an Order Term, without prior notice to the County. As a result, the SLA described in this section may not be available at all times for any or all of the County’s Service locations

**5.2 Commitment.** Within Metro Areas, the following SLA will apply to all Service Types described in Section 1 above: Vendor’s commitment is 99.9% Network Availability.

**A. Network Availability.** Network Availability is the ability to transmit data over the Vendor switched Ethernet Network. Network Availability does not mean the County will be able to reach any site or user on the Internet, nor does it mean any site or user on the Internet can reach the County, as there are many factors, outside of Vendor’s control, that can affect an end-to-end connection. Network Availability is calculated by dividing the average number of minutes that the Services are available for the County’s use by the total number of minutes in each calendar month and multiplying by 100.

**B. Network Availability Service Interruption.** A Service Interruption is defined as a complete loss of Network Availability affecting the County’s ability to transmit data over the Vendor switched Ethernet network. Service Interruption Time is defined as the total time in a calendar month that the County’s Ethernet circuit is unable to transmit or receive data due to core transport failure. Service Interruption Time does not include interruptions of less than 20 consecutive minutes in duration, time attributed to the County’s delay in responding to Vendor’s requests for assistance to repair a Service Interruption, or the exclusions listed below.

**C. Vendor Data Services, Advanced Network Services (“ANS”)** personnel proactively monitor the Vendor switched Ethernet network to ensure that the network is performing at optimal levels 24 hours per day, 365 days per year. Vendor monitors the core network from central office to central office and monitors the Ethernet links between the Vendor central office and E-NID on the the County’s premises. The E-NID collects critical data keeping ANS personnel apprised of the overall integrity of last mile connection. Any failure to communicate with the E-NID at the County’s premises will initiate

the trouble isolation and repair process and ANS will begin trouble shooting the problem.

**(1)** In the event of a Service Interruption at the County's premises, ANS personnel will contact the County within 30 minutes providing them a trouble ticket number and a status. ANS will provide the County notification and status updates every two (2) hours until the problem is resolved. In the event the Service Interruption is the result of a hardware failure from the E-NID, Vendor will dispatch a repair technician to the affected County site to repair or replace the E-NID. The County must provide Vendor with its current, accurate contact information, including the County's designated representative and its hours of business operation, at all times. The County's designated representative can contact the ANS operation center at anytime by calling 800-603-8044 or 407-741-0500.

**(2)** In the event of a Service Interruption affecting, at a minimum, a Metro Area within the Vendor switched Ethernet network beyond the County's premises, Vendor will send an automated message to the County regarding the Service Interruption (if the County previously has signed up to receive such automated messages). Vendor will send updates to the County regarding such Service Interruption as more information is obtained.

**(D)** Service Interruption Time is measured from opening a Vendor trouble ticket for the affected circuit until restoring service for the affected circuit, less No Access and Hold Time. A trouble ticket is deemed open when the appropriate Vendor personnel receive notification of a trouble. A ticket is deemed restored when the repair agency restores the service and confirms with the County. No Access Time is when Vendor has no access to the site and/or personnel at the site. Hold Time is the amount of time between the time the County is notified of the repair and the time when the ticket is closed.

### **5.3 Service Credit.**

**A.** If the County believes Vendor has missed a commitment in Section 5.2, the County must notify its Vendor Account Manager in writing within 15 business days after completion of the measurement period to request a Service Credit. Calculation of the Service Credit will begin upon notification.

**B.** Upon Vendor's verification of the underperformance, Vendor will issue a Service Credit to the County for the affected site.

**C.** The methodology used to measure Vendor's performance against the applicable SLA is determined by Vendor in its sole and reasonable discretion and is subject to change without notice. Vendor will in good faith make all final determinations with respect to the existence or occurrence of a Service Interruption and the applicability of any Service Credit.

**D. Service Credit.** Vendor will provide a Service Credit equal to 1/30 of the MRC for the affected site for a Service Interruption of 20 consecutive minutes to one hour in duration plus an additional 1/30 of the MRC for each additional one hour of continuous unavailability.

### **5.4 Maximum Service Credits.**

- A. Service Credits issued in any calendar month under this SLA will not exceed the County's total MRCs for the affected circuit.
- B. In any calendar month, the County may receive no more than three Service Credits with respect to any particular County site.

**5.5 Exclusions.** This SLA does not include Service Interruptions caused by:

- A. Failure of any components beyond the core network maintained by Vendor such as the failure of any County-owned and/or maintained equipment or internal wiring on the County's premises, beyond the local telephone company's demarcation device or smart-jack;
- B. Inaccurate, incomplete or changes to previously accepted orders;
- C. Troubles resolved as "No Trouble Found";
- D. Failure of any components that Vendor cannot correct because the County is inaccessible;
- E. The County's negligence or willful misconduct or the negligence or willful misconduct of others authorized by the County to use the data services, including without limitation, work repair or maintenance performed on Equipment located on the County's premises by persons other than Vendor technicians;
- F. Excused Service Interruptions due to planned and or scheduled maintenance;
- G. Lost measurements due to Vendor's measurement system failure; or
- H. Fiber optic cable cuts that are not the fault of Vendor.

**EXHIBIT E  
VENDOR BACKGROUND SCREENING AFFIDAVIT**



**VENDOR BACKGROUND  
SCREENING AFFIDAVIT**

Florida Statutes Chapter 435 governs required background screenings for any employees, contractors, subcontractors, or agents of the Vendor who will have contact with any vulnerable person, as defined by statute, or who otherwise are required to undergo a Level 1 or Level 2 background screening in accordance with Florida law.

The Vendor is responsible for ensuring that such required background screenings are conducted in accordance with Florida Statutes Chapter 435. Documentation of such completed background screenings must be maintained for a period of no less than five (5) years and are subject to audit by Lee County at any time during such five (5) year period.

**Under penalty of perjury, I declare that I have read and understand the requirements stated above, and that all required background screenings shall be conducted in accordance with this affidavit.** I further understand that there may be additional local, state, and federal regulations that may require background screening, and that the Vendor will be solely responsible for complying with such legal requirements. Furthermore, the Vendor shall indemnify and hold Lee County harmless from any and all claims or actions resulting from failure to comply with this affidavit.

Date: 1/18/24

[Signature]  
Signature

STATE OF Wisconsin

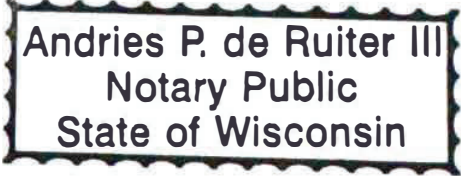
STEVE ARNESON, MANAGER

COUNTY OF Waukesha

Name/Title OFFER MANAGEMENT

The foregoing instrument was sworn to (or affirmed) and subscribed before me by means of  physical presence or  online notarization, this 18 day of JANUARY, 2024, by the above-named person and in their stated capacity, and is either personally known to me or who has produced the following type of identification: DRIVERS LICENSE

Type of Identification



[Stamp/seal required]

[Signature] -11  
Signature, Notary Public Expires: 07/06/2027