

35563

**AGREEMENT BETWEEN LONG BEACH PUBLIC LIBRARY
AND CALIFA FOR THE PROVISION, INSTALLATION AND MAINTENANCE
OF ADVANCED NETWORK (DATA) SERVICES**

This Agreement, hereinafter referred to as "Agreement", is entered into as of July 1, 2020 by and between Califa Group, a California public benefit corporation, hereinafter referred to as "Califa" and Long Beach Public Library, hereinafter referred to as "Library". Califa and Library are sometimes referred to in this Agreement individually as "Party" and collectively as "Parties". All written communications between the parties shall be addressed as follows unless and until amended in writing by the respective party.

**Long Beach Public Library
Glenda Williams
Director of Library Services
200 West Broadway
Long Beach, CA 90802**

**Califa Group
Paula MacKinnon
Executive Director
330 Townsend St. Suite 133
San Francisco, CA 94107**

WITNESS THAT

WHEREAS, Califa, on behalf of the California State Library, has contracted with CENIC to provide high speed networking to libraries in California; and

WHEREAS, Library desires to contract with Califa to obtain one or more data circuits to connect Library to the CENIC high speed broadband fiber network, CalREN, and, if specified in appendix #1, attached, to connect Library to other library sites as identified in said appendix for the purpose of connecting to CalREN; and

WHEREAS, Library requires high-speed data communications services; and

WHEREAS, the City of Long Beach did by Resolution No. RES-20-0074 determine that the Library's need for high-speed data communications services could only be met by Califa at the stated rate and, by reason of the foregoing, no useful purpose would be served by advertising for bids, and to do so would constitute an idle and useless act and an unnecessary expenditure of public funds.

NOW THEREFORE, Library and Califa enter into this Agreement:

1. Relationship between the Parties

It is the purpose of this Agreement to set forth the terms and conditions applicable to the provision of communications and related network services to Library.

2. Services to be Provided

The primary communications infrastructure provided by CENIC is the California Research and Education Network ("CalREN"). Among the services that CENIC will provide to Libraries are use of CalREN and contracting for and provision of data circuits supplied by network service providers.

Califa, on behalf of Library, will contract with CENIC for such data circuits. Specific circuits and their costs are included in the appendix attached. Califa will assure that CENIC notifies the Library of installation requirements and necessary maintenance instructions. Neither CENIC nor Califa shall be responsible for operating or maintaining software, equipment or cabling that connects equipment not provided by CENIC for the services unless specifically agreed to in writing by CENIC.

3. Term and Termination of this Agreement

- (a) **TERM OF THIS AGREEMENT.** This Agreement shall be in effect from July 1, 2020 through June 30, 2023. Library may renew contract for two additional one year periods upon at least 60 days notice to Califa prior to termination of the then current term. Library understands that failure to notify Califa of renewal by the deadline will result in circuit termination, in which case there is no guarantee that circuit may be reinstalled at the same costs as included in Appendix 1.
- (b) **TERMINATION.** Termination prior to the end date stated above shall result in Library having to pay any circuit telecommunications carrier termination charges resulting from early termination of the Service. Notwithstanding the above, upon a 60 day written notice prior to the second and each following June 30 after a circuit is installed, Library may cancel a circuit without penalty if funding to pay for that circuit is not available and Library does not for at least 12 months after said notice order or otherwise obtain a replacement circuit in place of the cancelled circuit.
- (c) Library may terminate this agreement if non-recurring, one-time costs for all circuits included in appendix 1 are increased by the telecommunications carrier from the amount shown in appendix 1. See footnote for non-recurring charges in appendix 1 for more information.

4. Payment

Payment for services shall be due within thirty (30) days of receipt of a Califa invoice reflecting provision of the services for which the invoice is sent; or as otherwise agreed to by Library and Califa. Except for non-recurring costs, if any, costs in Appendix I shall only begin upon installation

of circuit(s). Library will put forth reasonable efforts to make payments within thirty (30) days after receipt of invoice.

5. Miscellaneous

- (a) **CONDITIONS OF USE.** Library agrees to conform to the CENIC Appropriate Use Policy located at <http://www.cenic.org/p=2081/> and to any specific conditions of use imposed by subcontractors providing communications services to CENIC as may be in force at the time such services are made available per an Addendum to this Agreement. If such conditions of use are modified library will be notified and if Library believes it can no longer conform to their requirements, Library shall have one hundred eighty (180) days to terminate the affected service without penalty. If Library does not elect to terminate the service, Library must conform to the revised conditions of use or be subject to termination of the service by CENIC.
- (b) **CONFLICTING CLAUSES.** If any clause in this Master Agreement is in conflict with a clause in an Addendum to this Agreement, the language in the Addendum shall take precedence but only for the service defined in that Addendum.
- (c) **FORCE MAJEURE.** Neither party will be responsible for performance of its obligations hereunder where delayed or hindered by war, riots, embargoes, strikes involving third parties, acts of Local Access Providers or of its vendors, or suppliers, acts of unrelated third parties, accidents, cable cuts, act(s) of God or any other event beyond its reasonable control.
- (d) **GOVERNING LAW.** The laws of the State of California shall govern this Agreement.
- (e) **NON LIBRARY USES:** Library understands that this agreement covers only library use of CalREN and of circuits provided hereunder and Library agrees that no other uses will be made of the services provided herein.

6. Entire Agreement

This Agreement and any Addenda contemporaneously or subsequently executed by the parties constitute the entire Agreement between the parties regarding the subject matter of this Agreement and supersede all prior written or oral agreements with respect to such. This Agreement may not be modified orally, and no modification shall be binding unless in writing and signed by authorized representatives of both parties.

7. General Provisions

7.1 Nondiscrimination:

- (a) During the performance of this Contract, Califa and its subcontractors shall not deny the Contract's benefits to any person on the basis of religion, color, ethnic group identification, sex, age, physical or mental disability, nor shall they discriminate unlawfully against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, mental disability, medical condition, marital status, age (over 40) or sex. Califa shall insure that the evaluation

and treatment of employees and applicants for employment are free of such discrimination.

7.2 It is expressly agreed and understood by the parties hereto that if any provision of this Agreement is held to be or invalid under any applicable statute or rule of law, it is deemed to that extent to be omitted. However, the balance of the Agreement shall remain in full force and effect.

7.3 Rights and Remedies: The rights and remedies of Library provided herein shall not be exclusive and are in addition to any other rights and remedies provided by law.

8. **Indemnification.** Library shall indemnify Califa, its trustees, officers, agents and employees harmless from and against any and all liability, loss, expenses (including reasonable attorneys' fees), or claims for injury or damages arising out of the performance of this Agreement, but only in proportion to and to the extent such liability, loss, expense, attorneys' fees, or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of Library its officers, agents, or employees.

Califa shall indemnify Library, its trustees, officers, agents and employees harmless from and against any and all liability, loss, expenses (including reasonable attorneys' fees), or claims for injury or damages arising out of the performance of this Agreement, but only in proportion to and to the extent such liability, loss, expense, attorneys' fees, or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of Califa, its officers, agents, or employees.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective duly authorized representatives.

EXECUTED PURSUANT
For Library TO SECTION 301 OF
THE CITY CHARTER

Linda F. Tatum
Signature

LINDA F. TATUM
Name

ASST. CITY MANAGER
Title

7/21/2020
Date

For Califa

Paula MacKinnon
Signature

Paula MacKinnon
Name

Executive Director
Title

7/20/20
Date

APPROVED AS TO FORM

July 20, 2020
CHARLES PARKIN, City Attorney

By Erin Weesner-Mckinley
ERIN WEESNER-MCKINLEY
DEPUTY CITY ATTORNEY

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective duly authorized representatives.

For Library

Signature

Name

Title

Date

For Califa



Signature

Paula MacKinnon

Name

Executive Director

Title

7/20/20

Date

Appendix #1
Provision, Installation and Maintenance
Of Advanced Network (Data) Services:
Reimbursement of Circuit Costs

This Appendix lists the circuits contracted for by CENIC on behalf of Califa and the Library for connecting CENIC's fiber optic backbone to Library and for library connections that are not direct connections to CENIC's fiber optic backbone, e.g. direct connections between libraries. Library understands that CENIC will bill Califa, and Califa will bill Library, for actual costs of circuits charged by network service providers, including taxes and surcharges and without markup. Prior to approval of CENIC's Library consortium E-rate application by the FCC's E-rate contractor, not all applicable E-rate and CTF discounts will be reflected on invoices. After the E-rate application for any given year is approved, the network service provider will coordinate with CENIC to provide appropriate credits and such credits will be passed from CENIC to Califa and from Califa to the Library. Such credits are typically issued sometime during the fiscal year after the year in which the circuits are installed and services are first provided. In subsequent years, credits continue to be issued in the fiscal year after the year for which services have been provided. Library further understands that the exact discounted cost of circuits will not be known until after the E-rate consortium application is approved. The actual start date of the service, and therefore of circuit costs, will be dependent on coordination among CENIC, the Library and the network service provider. Any one-time (Non-recurring or NRC) costs included below are typically invoiced by carriers prior to circuit installation and will be invoiced to Library upon receipt of invoice to CENIC from carrier.



Customer: Long Beach Public Library

Budget Summary Description: 5 Gbps to CENIC Hubsite, 1 Gbps to branches

Line Item	NRC Non-Recurring Cost	MRC Monthly Recurring Cost	ARC Annual Recurring Cost
1 Equipment	\$23,276.00	\$0.00	\$0.00
2 Maintenance	\$0.00	\$0.00	\$2,311.00
3 Installation	\$0.00	\$0.00	\$0.00
4 Circuit	\$750.00	\$11,829.00	-
Total	\$24,026.00	\$11,829.00	\$2,311.00

Annual Cost	\$144,259.00
E-rated Annual Cost†	\$16,605.80
Total for Year 1	\$168,285.00
E-rated Total for Year 1†	\$39,931.80

- *Pricing does not include applicable taxes, surcharges, and fees. These costs may vary and will be included in invoices at CENIC's actual cost.
- †If an Out of Band line is required, customer must provide a phone line for OOB or allow CENIC to order one and be reimbursed for both the one-time installation and ongoing monthly recurring costs.
- *NRC items are one-time costs billed upon execution of contract.
- *MRC items are billed quarterly.
- †E-rate discount: percent discount indicated is an estimate based on data available at the time the quote was generated. Actual discount percentage will be identified by the E-rate authorities at a later point.
- †E-rate and CTF reimbursements are dependent upon the continued funding of these programs. CENIC/Califa cannot guarantee the E-rate and CTF discounts, and these discounts are subject to change.
- †E-rate Costs may take up to 18 months to activate due to USAC processing time

Version: 1.0

Long Beach Carrier Costs

CENIC
LOC A**

*Pricing does not include applicable taxes, carrier fees, and will be included in invoices at CENIC's actual cost.

E-rate discount: percent discount in listed is an estimate based on data available at the time of the contract. Actual discount percentage will be identified by the E-rate authorities at the point of purchase.

Site Name	Site Name	Service Provider	Requested Bandwidth	Est Contract End Date	Carrier Info	Non Recurring Cost	MRC for 5 year term	Discounted MRC	Discounted MRC	Total Discounted MRC	Total Discounted MRC
Long Beach Public Library - Main Library	CENIC Hubsite	Spectrum	5 Gbps	7/1/2024		\$750.00	\$1,354.00	\$150.00	\$135.40	\$1,182.90	\$150.00
Long Beach Public Library - Main Library-Collector	Long Beach Public Library - Main Library	Frontier	10000 CIR	7/1/2024		\$0.00	\$3,400.00	\$0.00	\$340.00		
Long Beach Public Library - Alamitos Branch Library	Long Beach Public Library - Main Library	Frontier	1 Gbps	7/1/2024		\$0.00	\$925.00	\$0.00	\$92.50		
Long Beach Public Library - Bay Shore Branch Library	Long Beach Public Library - Main Library	Frontier	1 Gbps	7/1/2024		\$0.00	\$925.00	\$0.00	\$92.50		
Long Beach Public Library - Brent Harbor Branch Library	Long Beach Public Library - Main Library	Frontier	1 Gbps	7/1/2024		\$0.00	\$925.00	\$0.00	\$92.50		
Long Beach Public Library - Brewster Branch Library	Long Beach Public Library - Main Library	Frontier	1 Gbps	7/1/2024		\$0.00	\$925.00	\$0.00	\$92.50		
Long Beach Public Library - Dana Branch Library	Long Beach Public Library - Main Library	Frontier	1 Gbps	7/1/2024		\$0.00	\$925.00	\$0.00	\$92.50		
Long Beach Public Library - El Dorado Branch Library	Long Beach Public Library - Main Library	Frontier	1 Gbps	7/1/2024		\$0.00	\$925.00	\$0.00	\$92.50		
Long Beach Public Library - Los Alamos Branch Library	Long Beach Public Library - Main Library	Frontier	1 Gbps	7/1/2024		\$0.00	\$925.00	\$0.00	\$92.50		