



# NEWS RELEASE

**Arizona House of Representatives**  
**Representative Laurin Hendrix (R-14)**

1700 West Washington • Phoenix, Arizona • 85007

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**Monday, February 12, 2024**  
**FOR IMMEDIATE RELEASE**

## State Representatives Request Attorney General Investigation of Yuma County's Approval of Expensive Broadband Project

**STATE CAPITOL, PHOENIX** – State Representative Laurin Hendrix and five other House members, including Representatives Joseph Chaplik, Justin Heap, Alexander Kolodin, David Marshall, and Barbara Parker, are requesting that Arizona Attorney General Kris Mayes undertake an SB 1487 investigation of a taxpayer-funded public works project in Yuma County that could involve violations of state law and the Gift Clause of the Arizona Constitution, as well as favoritism and abuse through a fundamentally flawed and potentially illegal procurement process.

In a letter sent today to the Attorney General, the lawmakers point out that millions in federal COVID-19 relief funds that were supposed to bring broadband to underserved areas of Yuma County are being handed to an out-of-state unlicensed contractor.

**“[W]e cannot ignore Yuma County’s apparent disregard of Arizona law and the lack of oversight and accountability surrounding this critical project,”** the lawmakers stated.

A copy of the House members’ letter to the Attorney General, including and supporting materials, is attached below.

Under [A.R.S. §41-194.01](#), legislators may request of the Arizona Attorney General to investigate and report as to whether an ordinance violates state law. Once submitted, the Attorney General’s Office has 30 days to issue a report of its conclusion.

*Laurin Hendrix is a Republican member of the Arizona House of Representatives serving Legislative District 14 in Gilbert and as Chairman of the House Regulatory Affairs Committee. Follow him on X/Twitter at @LaurinHendrix.*

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Arizona House of Representatives  
Phoenix, Arizona 85007

February 12, 2024

Via Email & U.S. Mail

Kris Mayes  
Arizona Attorney General  
2005 North Central Avenue  
Phoenix, Arizona 85004

**Re: Request for S.B. 1487 Investigation of Yuma County's Approval of Master Agreement with ALLO Communications for Broadband Middle Mile Fiber Network**

Dear Attorney General Mayes:

We request you to investigate a taxpayer-funded public works project in Yuma County that very likely involves violations of state law and the Gift Clause of the Arizona Constitution, as well as favoritism and abuse through a fundamentally flawed and potentially illegal procurement process. Millions in federal COVID-19 relief funds that were supposed to bring broadband to underserved areas of Yuma County are being handed to an out-of-state unlicensed contractor. It is our understanding that some aspects of this procurement dispute are the subject of litigation in the Yuma County Superior Court. Nonetheless, we cannot ignore Yuma County's apparent disregard of Arizona law and the lack of oversight and accountability surrounding this critical project.

Pursuant to A.R.S. § 41-194.01, in our official capacity as legislators in the Arizona House of Representatives and Arizona State Senate, we respectfully request an investigation of the Yuma County Board of Supervisors' ("Yuma County") actions approving of a Master Agreement for Network Design and Construction Services and Work Order ("Master Agreement") with a Nebraska-based company, ALLO Communications ("ALLO") for a Broadband Middle Mile Fiber Network. Specifically, we request an investigation of the following question:

**Does Yuma County's approval of the Master Agreement with ALLO violate A.R.S. § 32-1123 (Contract Bidding with Unlicensed Contractors), A.R.S. § 32-1151 (Contracting without a License), or the Arizona Constitution, article 9, § 7 (Gift Clause)?**

We submit the following background in support of our request. In mid-2021, Yuma County issued a Request for Proposals ("RFP") for the construction of a "countywide broadband middle-mile fiber backbone connecting local internet carriers to major networks."<sup>1</sup> The project budget exceeds \$30,000,000.

<sup>1</sup> <https://www.pressreader.com/usa/yuma-sun/20211226/281496459611398>

At a meeting on December 20, 2021, discussion ensued among the supervisors concerning whether Yuma County had correctly adhered to the RFP process. *See* 12/20/21 Minutes (enclosed). By a 3-2 vote, the Board authorized the County Administrator to enter into negotiations for a contract with ALLO, “subject to legal review, and to bring the contract for approval by the Board[.]” *See* 12/20/21 Minutes.

On January 26, 2022, the Board considered the approval of the Master Agreement with ALLO. At this meeting, an attorney who was present on behalf of a local company, Gila Electronics, noted that ALLO did not have a contractor license in Arizona. The Board minutes indicate that “[f]urther comments were made in reference to the RFP, procurement policy and potential violations of the gift clause.” 1/26/22 Minutes.

An ALLO representative promised that ALLO intended to “comply with all regulations and did not anticipate having any issues getting a contractor license.” *Id.* However, an attorney for Yuma County correctly observed that **if ALLO “d[id] not have the proper license, [the Master Agreement] would be unlawful and the contract would be void.”** *Id.* (emphasis added); *see also* A.R.S. § 32-1123 (“if an entity that is not licensed or not properly licensed pursuant to this chapter bids on a contract for a project with an aggregate worth of more than \$1,000, the registrar may not issue the entity a license for one year after the bid date”); A.R.S. § 32-1151 (prohibiting any person, firm, partnership, corporation, association or other organization from “engag[ing] in the business of, submit[ing] a bid or respond[ing] to a request for qualification or a request for proposals for construction services...without having a contractor’s license in good standing...”). Section 32-1151 “bars anyone from bidding on a contract” without a license and “requires a bidder to have all licenses required for the entire project at the time it submits a bid.” *City of Phoenix v. Superior Court*, 184 Ariz. 435, 437 (App. 1995).

Despite these clear legal concerns, the Board voted 4-1 to enter into an agreement with ALLO for the broadband project, “contingent on ALLO Communications meeting all Arizona State Statutes that pertain to the project.” 1/26/22 Minutes. Unfortunately, we have also learned of allegations that, after execution of the Master Agreement, ALLO changed the work order, raised its prices, and significantly increased its hourly rates and the terms relating to the number of hours spent on design and permitting—all to the detriment of taxpayers.

These alleged facts not only implicate A.R.S. § 32-1123 and § 32-1151; as the Arizona Supreme Court recently reiterated, “[t]he Gift Clause is triggered” when “the public is disproportionately short-changed.” *Neptune Swimming Foundation v. City of Scottsdale*, ¶ 36 (Ariz. Feb. 6, 2024). A Gift Clause inquiry also involves consideration of the “unsuccessful offers” in a procurement dispute to identify the fair market value of the contract. *Id.* at ¶ 40. Here, it appears there were several bids by *eligible* vendors that would have been in the public’s best interests, yet those were inexplicably rejected by Yuma County in favor of an *ineligible* vendor, ALLO. Given these circumstances, it is imperative that Yuma County’s actions are reviewed for a potential violation of article 9, § 7 of the Arizona Constitution.

Finally, if you determine that an investigation of the legality of Yuma County’s actions cannot be completed within 30 days as required under A.R.S. § 41-194.01, we authorize you to treat our request as a Public Monies Complaint. *See* A.R.S. § 35-212.

Please feel free to contact us if you have any questions.

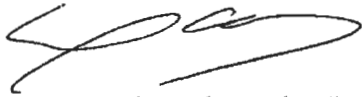
Respectfully,



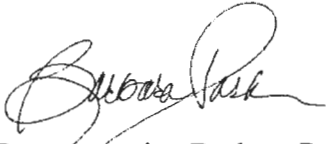
Representative Laurin Hendrix



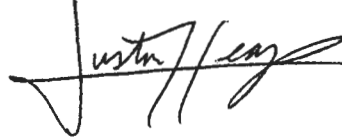
Representative Joseph Chaplik



Representative Alexander Kolodin



Representative Barbara Parker



Representative Justin Heap



Representative David Marshall

The Yuma County Board of Supervisors met in a regular session on December 20, 2021. The meeting was held at 198 South Main Street, Yuma, Arizona.

**CALL TO ORDER:** At 9:00 a.m., Chairman Marco A. (Tony) Reyes convened the Board of Supervisors in open session, also sitting as the board of directors of all special taxing districts where noted. Supervisors present were: Marco A. (Tony) Reyes, Martin Porchas, Jonathan W. Lines, Lynne Pancrazi and Darren Simmons.

Others present were: County Administrator Susan Thorpe; County Attorney Jon Smith; Chief Civil Deputy County Attorney Bill Kerekes; Chief Health Officer Diana Gomez; Emergency Management Specialist Russ Hartley; Economic Development & Intergovernmental Affairs Director Alejandro Figueroa; Recorder Robyn Pouquette; Elections Director Tiffany Anderson; Facilities Management Director David Hylland; Public Works Director Josh Scott; Senior Planner Javier Barraza; Senior Planner Juan Leal-Rubio; Chief Information Officer Clif Summers; and Deputy Clerk/Executive Assistant Desarae Doten.

**The Pledge of Allegiance was led by Supervisor Lines.**

**CALL TO THE PUBLIC:** There were no comments received.

**PRESENTATIONS, PROCLAMATIONS & APPOINTMENTS:**

Supervisor Lines reported Sean Rodgerson is moving away from Yuma County and therefore resigned from the Planning and Zoning Commission. Supervisor Lines did not have a reappointment to make today, but hopes to have one at the next meeting.

**No. 1: Presentation of "The County Line" by Yuma 77, the Yuma County Government Channel.**

No legal action was taken.

**No. 2: Recorder/Elections: Presentation regarding the 2021 election laws enacted following the 2021 regular legislative session and brief review of the 2022 legislative proposals as identified by statewide Recorders and election officials.**

Ms. Pouquette shared the following information concerning the 2021 legislative session:

- It was the 3<sup>rd</sup> longest session in Arizona history
- Nearly 1,900 bills, memorials and resolutions were introduced (487 passed and 459 became law)
- Most election-related bills introduced in Arizona history

Ms. Pouquette reviewed changes concerning voter registration and early voting.



Ms. Anderson reviewed changes concerning write-in candidates, elections, elections equipment.

Ms. Pouquette reviewed several prohibitive measures that passed through the legislature.

The Arizona Association of Counties 2022 Legislative Platform was reviewed as follows:

- Election clean-up bill
- Permissive language to allow early voting to be open the weekend prior to Election Day
- Require any external organization that mails or emails election-related materials to include a clear disclosure that they are not a representative of the government agency
- Expect to play defense
- Changes in Senate Government Committee
- SB 1819 Arizona Supreme Court Order – Single Subject Bills

In closing, Ms. Pouquette thanked the current Election Advisory Committee members who meet on a quarterly basis and briefly reported on recent discussions that took place concerning a Vote Center Plan for the 2022 election cycle, vote center staffing and an Election Contingency Plan.

No legal action was taken.

#### CONSENT CALENDAR:

MOTION (LINES/PORCHAS): Approve items 1 through 12 as presented, excluding items 6 and 10.

VOICE VOTE: The motion carried 5-0.

The following items were approved on the consent calendar:

**No. 1: Assessor:** Approve Tax Roll Corrections as listed in batch dated December 20, 2021, pursuant to A.R.S. Title 42, Chapter 16, Article VI. *(A full listing of all corrections is in the agenda packet on the web at: <https://www.yumacountyaz.gov/government/board-of-supervisors/meetings>.)*

**No. 2: Financial Services:** Approve the Accounts Payable Demands disbursed in the amount of \$2,384,696.42 and Payroll in the amount of \$1,775,170.48 during the period of November 15, 2021 through November 24, 2021. *(A detailed listing is available for review from the agenda packet on the web at: <https://www.yumacountyaz.gov/government/board-of-supervisors/meetings>.)*

DATE	TYPE	WARRANTS TOTAL
11/15/2021	Accounts Payable	\$ 1,236,539.63

11/24/2021	Accounts Payable	896,808.36
11/18/2021	Payroll	1,775,170.48
HOUSING:		
11/17/2021	Vendors Payables	111,076.85
11/17/2021	Section 8 Vouchers	1,396.00
11/15/2021	AP E-Payments	34,469.57
11/24/2021	AP E-Payments	104,406.01
	TOTAL:	\$ 4,159,866.60

**No. 3: Clerk of the Board:** Approve the minutes for: a) November 15, 2021 Regular Session; b) November 22, 2021 Special Session; c) November 29, 2021 Special Session, and; d) December 6, 2021 Regular Session.

**No. 4: Engineering:** Per ARS § 42-18303, authorize the Chairman to sign a deed for Parcel Nos. 728-29-088 and 729-49-901 from the March 2022 Tax Deeded Property Auction List and accept the offer in the amount of \$100 per parcel as submitted by Yuma County.

**No. 5: Information Technology Services (ITS):** Authorize the purchase of desktop and laptop computers and software in the amount of \$251,476.61, including tax and shipping, for the Life Cycle Management Program under the State Purchasing Contract Number ADSPO16-098163.

**No. 7: Public Works:** Reject the bid received as allowed by A.R.S. §11-254.01 for the Supply, Delivery and Application of Liquid Asphalt from VSS International and authorize staff to re-solicit bid proposals.

**No. 8: Recorder/Elections:** Authorize the Chairman to sign an Intergovernmental Agreement for election services between the Yuma County Board of Supervisors, Yuma County Recorder and the City of Somerton, effective from January 1, 2022 to December 31, 2026 with automatic renewal for one (1) successive five-year term.

**No. 9: Recorder/Elections:** Cancel the March 8, 2022 special all-mail election for the Martinez Lake Resort Unit No. 1 Road Improvement and Maintenance District board of directors due to lack of participation.

**No. 11: County Attorney:** Authorize and approve the appointment of the Arizona Attorney General to represent the interests of Yuma County in the pending appeal of property valuation case entitled AGUA CALIENTE SOLAR, LLC, V. ARIZONA DEPARTMENT OF REVENUE, ET AL., TX 2021-000424.

**No. 12: County Attorney:** Authorize and approve the attached Settlement Participation Forms acknowledging Yuma County's election to participate in the

**"Distributor Settlement" and "Janssen Settlement", pursuant to the Settlement Agreement dated July 21, 2021, and authorize the Chairman to execute said Settlement Participation Forms.**

**CONSENT ITEMS PULLED FOR DISCUSSION:**

**No. 6: *Public Works:* a) Award the Waste Tire Removal and Disposal Services (2022-2025) Contract Bid No. WTRD-2022-2025CY.07 to CRM of America, LLC. at the unit prices of \$84.95 per ton for passenger cars and light pick-up truck tires and semi/large truck tires, and \$144.95 per ton for construction, agriculture and other tires and shreds/OTRs, and; b) Authorize the Public Works Director to execute all agreements and financial documents, as needed, to expedite the contracting process, contingent upon review by legal counsel.**

Supervisor Lines stated he pulled the item to ask questions about the process.

Mr. Scott explained the county is required by statute to accept waste tires and this takes place at the North Gila Transfer Site. Staff sorts and piles the tires for CRM of America, LLC. to be picked up and hauled to their plant in Phoenix where they are shredded. Mr. Scott stated approximately 200,000 tires are received per year at the transfer site.

MOTION (LINES/PANCRAZI): Approve as presented.

VOICE VOTE: The motion carried 5-0.

**No. 10: *Facilities Management:* Award the design-build contract for the construction of a new 3200 SF metal storage building for the Health Department to be located at 2725 S. Avenue B to GCI Construction and Inspections, LLC in the amount of \$346,430 and authorize the Facilities Management Director to sign the contract and issue the Notice to Proceed.**

Chairman Reyes stated he would like to see more information on the record and noted the only document attached to this item was the bid tabulation sheet.

Mr. Hylland was present to answer Supervisor's questions.

MOTION (REYES/PORCHAS): Approve as presented.

VOICE VOTE: The motion carried 5-0.

**DISCUSSION AND ACTION ITEMS: The Board will open each of the following items separately for discussion and action, as appropriate.**

**No. 1: *County Administration:* Elect a Yuma County Board of Supervisors Chairman for Calendar Year 2022.**



Ms. Thorpe reviewed the process and opened the floor for nominations.

Supervisor Pancrazi nominated Supervisor Reyes. The nomination was seconded by Supervisor Lines.

Ms. Thorpe closed the nominations and called for a vote to elect Supervisor Reyes as Chairman for 2022. The voice vote carried 5-0.

**No. 2: County Administration: Elect a Yuma County Board of Supervisors Vice-Chairman for Calendar Year 2022.**

Chairman Reyes reviewed the process and opened the floor for nominations.

Supervisor Porchas nominated Supervisor Lines. The nomination was seconded by Supervisor Simmons.

Motion to close nominations: (PORCHAS/PANCRAZI). The motion carried 5-0.

The motion to elect Supervisor Lines as Vice-Chairman for 2022 carried 5-0.

**No. 3: County Administration/Public Health Services District/Emergency Management: Discussion and possible action regarding COVID-19 updates and activities.**

Mr. Hartley reported Emergency Management continues to check with the testing sites weekly to share that information on the county website.

Ms. Gomez talked about the strain on health care centers due to the increase in cases and hospitalizations; hospitals have space and ventilators are available, but there is not enough staff. She stressed that if you are sick, regardless of your vaccination status; get tested which is important to reduce the spread of infection.

Supervisor Lines asked if Yuma County has the ability to test for the different variants. Ms. Gomez confirmed they do have the ability to do sequencing, and those reports are received on a regular basis.

In closing, Ms. Gomez reported on a meeting with staff from the Department of Homeland Security last week where it was emphasized that we are all fighting for the same resources and the surge at the hospital is not related to migrants seeking asylum, it is community spread.

No legal action was taken.

**No. 4: *Clerk of the Board*: Action to appoint members of the Board of Supervisors to the following Boards and Commissions for Calendar Year 2022:**

- a) Western Arizona Economic Development District Board (La Paz and Yuma Counties - Mohave County withdrew in 2021); and**
- b) Yuma Metropolitan Planning Organization Executive Board.**

Chairman Reyes reported staff is in the process of disbanding the Western Arizona Economic Development District Board (WAEDD) so this would be a temporary appointment.

MOTION (LINES/PANCRAZI): Reappoint current members.

VOICE VOTE: The motion carried 5-0

**No. 5: *Clerk of the Board*: The Chairman will appoint Board members to serve on the following Boards and Commissions for Calendar Year 2022:**

- a) Chamber of Commerce Legislative Affairs Committee;**
- b) Chamber of Commerce Transportation Committee;**
- c) County Supervisors Association Legislative Policy Committee;**
- d) Elections Advisory Committee;**
- e) Greater Yuma Economic Development Corporation;**
- f) Local Emergency Planning Committee;**
- g) Local Workforce Development Board Liaison (AZ@Work - Yuma County);**
- h) Western Arizona Council of Governments Executive Board;**
- i) Yuma Resource Water Management Group; and**
- j) Yuma Crossing National Heritage Area Corporation.**

Chairman Reyes noted there was only one change to the Chamber of Commerce Legislative Affairs Committee. The current primary (Supervisor Pancrazi) and the current alternate (Supervisor Lines) will be switched for Calendar Year 2022.

Chairman Reyes confirmed that all other appointments would remain the same.

**No. 6: *Facilities Management/Health District*: Provide direction to staff upon hearing an updated presentation on prioritized Health Department facility renovation project options, including remodel, expansion, reconstruction and/or development of remote satellite clinic space, as to which option the Board wishes to pursue.**

Mr. Hylland provided a Power Point presentation that highlighted the areas of concern with the existing building such as insufficient staff work space, lack of adequate training, meeting and multi-use room space and safety/security issues. Several options were reviewed which consisted of remodel, remodel/expansion and remodel/expansion/new construction.

Ms. Gomez confirmed the option, identified as the fourth, that consisted of remodel, expansion, and new construction was preferred.

Supervisor Simmons asked if this expansion will meet the Health Department's needs for years to come. Ms. Gomez confirmed it would be a viable option for the future. Mr. Hylland noted the plan is sized up for flexibility.

Supervisor Porchas stated there should be a plan for other county buildings that will become available before a decision is made for the Health Department. Chairman Reyes noted the importance to plan for any changes that will affect current tenants.

Supervisor Pancrazi questioned if the trailers would remain behind the building. Ms. Gomez confirmed the Tuberculosis (TB) Control Department would remain; however, Emergency Preparedness Division would move into the building.

Discussion ensued concerning the University of Arizona Cooperative Extension offices, currently located in the Health Department, which require 4,000 to 5,000 square feet of space, and may want or need to remain in close proximity to the Moody Garden.

Staff was directed to continue planning and work with partners and then return with a complete project that takes Yuma County 10-20 years into providing health services.

No legal action was taken.

**PLANNING & ZONING AGENDA:** Full legal descriptions of property sites for all Rezoning Cases are available for public review at the Yuma County Board of Supervisors' Office.

**REZONING -- REGULAR PUBLIC HEARING ITEMS:** Staff will make a full presentation on each of the following items, followed by separate discussion, public hearing, and action by the Board of Supervisors.

**No. 1: *Development Services/Planning & Zoning Division:* Public Hearing: Minor Amendment Case No. 21-08: Albert Ceja, agent for the Cash Now Homes LLC, requests to change the land use designation of a parcel 22,870 square feet in size from Industrial (I) to Urban Density Residential (R-UD), Assessor's Parcel No. 666-26-007, located at 2305 East 15th Street, Yuma, Arizona.**

Mr. Barraza provided the staff presentation.

Chairman Reyes opened the public hearing. No comments were received. The public hearing was closed.

MOTION (LINES/PORCHAS): Approve Minor Amendment Case No. 21-08 as recommended by the Planning Commission.

VOICE VOTE: The motion carried 5-0.

**No. 2: *Development Services/Planning & Zoning Division*: Public Hearing: Rezoning Case No. 21-25: Dahl, Robins & Associates, Inc., agent for Five Management LLC, requests the rezoning of a parcel totaling approximately 7.05 acres in size from Local Commercial (C-1) to Recreational Vehicle Subdivision (RVS), Assessor's Parcel No. 728-36-901, located on the southwest corner of Foothills Boulevard and 48th Street, Yuma, Arizona.**

Mr. Barraza provided the staff presentation.

Chairman Reyes opened the public hearing.

Mary Ellen Finch, Community Liaison, Marine Corps Air Station (MCAS) Yuma, spoke in opposition.

Adrian Vega, Dahl Robbins & Associates, stated they were in front of the Board several months ago and since then a new application was submitted for these parcels to match the surrounding properties. Mr. Vega confirmed the property owners agreed to the conditions of approval.

In response to Supervisor's questions, Mr. Vega confirmed there were be two access roads and one retention basin.

The public hearing was closed.

Supervisor Simmons thanked the developer and agents for working with the community, stating he has heard nothing but praise for doing so.

MOTION (SIMMONS/LINES): Approve Rezoning Case No. 21-25 as recommended by the Planning Commission.

VOICE VOTE: The motion carried 5-0.

The following conditions were approved:

**Performance Condition:** 1. Within 60 days of approval by the Board of Supervisors, the owner or agent shall:

- a. Provide an A.R.S. §12-1134 waiver.
- b. Record a Range disclosure statement.
- c. Record an Avigation disclosure statement.
- d. Record a Schedule for Development disclosure statement.

**Schedule for Development: 1.** The owner/applicant shall record a final plat subdividing the subject property into parcels of at least 5,000 square feet in size within five (5) years of Board of Supervisors approval of this rezoning case.

**No. 3: *Development Services/Planning & Zoning Division*: Public Hearing: Rezoning Case No. 21-26: Kevin Burge, agent for Avenue 5E Farm De LLC, requests the rezoning of a parcel 10.0 gross acres in size from Rural Area-10 acre minimum to Suburban Site Built-2 acre minimum, Assessor's Parcel No. 748-20-001 located at the southeast corner of the alignment of Avenue 4¾ E and County 14½ Street, Yuma, Arizona.**

Mr. Leal-Rubio provided the staff presentation.

Chairman Reyes opened the public hearing.

Kevin Burge, Core Engineering Group, responded to Supervisors' questions and noted the property owner and legal counsel were also in the audience.

Chairman Reyes closed the public hearing.

MOTION (LINES/PANCRAZI): Approve Rezoning Case No. 21-26 as recommended by the Planning Commission.

In response to Supervisor's questions, Mr. Leal-Rubio confirmed there would be irrigation provided.

VOICE VOTE: The motion carried 5-0.

The following conditions were approved:

**Performance Condition: 1.** Within 60 days of approval by the Board of Supervisors, the owner/agent or agent shall:

- a. Provide an A.R.S. § 12-1134 waiver.
- b. Record an Infrastructure disclosure statement.
- c. Record a Schedule for Development disclosure statement.
- d. Record an Agriculture disclosure statement.
- e. Record a Range disclosure statement.
- f. Record an Avigation disclosure statement.

**Schedule for Development: 1.** Within two (2) years of approval by the Board of Supervisors and prior to approval of the Land Division Permit, the owner shall acquire an ingress/egress easement 20 feet in width to provide for physical and legal access and apply for a Grading Permit with the Yuma County Engineering Department to improve said ingress/egress easement in a dust free condition by application of an aggregate base course (ABC) covered by a penetration and chip seal coat (refer to attached Standard

Number B-Penetration and Chip Seal). The western end of the ingress/egress easement shall also contain the means for emergency vehicles to turn around. The turn-around shall be in accordance with 2003 International Fire Code and current Yuma County policies.

**2.** Within two (2) years of approval by the Board of Supervisors and prior to approval of the Land Division Permit, the owner shall apply for a Grading Permit with the Yuma County Engineering Department to improve the 20 feet wide ingress/egress easement, which provides direct access to the new lots, in a dust free condition by application of an aggregate base course (ABC) covered by a penetration and chip seal coat (refer to attached Standard Number B-Penetration and Chip Seal) The end of the ingress/egress easement shall also contain the means for emergency vehicles to turn around. The turn-around shall be in accordance with 2003 International Fire Code and current Yuma County policies. **3.** Within two (2) years of approval by the Board of Supervisors, the property shall be split by means of a Land Division Permit pursuant to Section 507.00 of the Yuma County Zoning Ordinance. Any required irrigation easement shall be recorded with the Land Division Permit. **4.** Within two (2) years of approval by the Board of Supervisors, the owner shall submit certification from a licensed engineer confirming the roadway referred to in items 1 and 2 of the Schedule for Development were constructed according to the Standard B-Penetration and Chip Seal. **5.** All lots shall be provided with means of irrigation and access to irrigation water prior to development of any of the existing parcels. The owner/applicant will submit a letter from the irrigation district to the Department of Development Services confirming that a satisfactory irrigation system is installed and the individual lots will have access to irrigation water

**No. 4: *Development Services/Planning & Zoning Division: Public Hearing: Rezoning Case No. 21-23: Vianey Vega, agent for Jose Jaime & Lina Gomez, requests the rezoning of a parcel approximately 5 gross acres in size from Rural Area-10 acre minimum (RA-10) to Light Industrial-2 acre minimum (LI-2), Assessor's Parcel No. 196-25-002, located in the vicinity of the southeast corner of Avenue 3 E and County 14th Street, Yuma, Arizona; located in the 65-69 dB and 70-74 dB noise zone.***

Mr. Leal-Rubio provided the staff presentation.

Chairman Reyes opened the public hearing.

Vianey Vega, Vega & Vega Engineering, reported the purpose of this rezoning is for the owner to keep the option available to split the parcel in the future if he needs to.

Chairman Reyes closed the public hearing.

MOTION (LINES/PORCHAS): Approve Rezoning Case No. 21-23 as recommended by the Planning Commission.

VOICE VOTE: The motion carried 5-0.



The following conditions were approved:

**Performance Conditions:**

1. Within 60 days of approval by the Board of Supervisors, the owner/agent or agent shall:
  - a. Provide an A.R.S. § 12-1134 waiver.
  - b. Record an Avigation Disclosure Statement.
  - c. Record a Schedule for Development Disclosure Statement.
  - d. Record an Agriculture Disclosure Statement.

**Schedule for Development:**

1. Within one (1) year of approval by the Board of Supervisors, the property shall be split by means of a Land Division Permit pursuant to Section 507.00 of the Yuma County Zoning Ordinance, record a 1' non-access easement along County 14th Street excluding the existing access along the west property line of subject parcel. The Land Division Permit shall identify the following site constraints that must be addressed as conditions to the eventual issuance of building permits:
  - a. Non-compatible land uses for this location are the manufacturing of chemicals, petroleum, apparel, rubber, plastic, professional scientific and controlling instruments.
  - b. It is requested that specific uses are provided to MCAS-Yuma prior to their start to ensure compatibility.

**DISCUSSION REGARDING LEGISLATIVE ISSUES:**

**No. 1: *County Administration:* Presentation and possible discussion regarding State, Federal and International legislative updates, which may include status of bills impacting Yuma County, timelines and composition of the legislatures, redistricting, and legislative strategies and priorities. (Action is limited to discussion only; however, the Board of Supervisors may provide direction to staff for future agenda items.)**

Mr. Figueroa provided an update concerning State, Federal and International legislative updates.

He reminded the Board that the 2022 National Association of Counties (NACo) Legislative Conference will take place February 12-16 in Washington, D.C., and policy proposals will be accepted through January 12, 2022.

**EVENTS CALENDAR/CURRENT EVENTS:**

Board members and the County Administrator reported on and discussed events attended or to be attended on behalf of the County, presented a brief summary of current events and updated the schedule for future Board of Supervisors meetings as appropriate. *No legal action was taken, pursuant to A.R.S. §38-431.02(K).*

At 11:45 a.m. Chairman Reyes recessed the Yuma County Board of Supervisors and reconvened the meeting at 1:30 p.m.

**DISCUSSION AND ACTION ITEMS – CONTINUED:**

**No. 7: County Administration -- 1:30 p.m.: Discussion and possible action to authorize the County Administrator to enter into a contract with ALLO Communications (dba ALLO Arizona, LLC) for Design and Construction of a Broadband Middle Mile Fiber Backbone, subject to legal review.**

Ms. Thorpe acknowledged the following members of the Yuma County Broadband Proposal Evaluation Team who were present: Paul Brierley, Mark Smith, Clif Summers and Derek Masseth.

Mr. Brierley read a letter from the Yuma County Broadband Proposal Evaluation Team into the record. A handout was also provided to the Board.

Chairman Reyes noted the process has taken longer than they originally thought, and become more complicated, which is not a reflection on the Yuma County Broadband Proposal Evaluation Team.

Chairman Reyes called the following individuals forward who filled out a speaker card.

David Soffer, Director of Business Development, WANRack, expressed their concerns with the process and noted at this point, they had more questions than answers. He referenced Yuma County Resolution from 2019 related to the purchasing policy and asked the committee to ensure they followed the correct process, and if the answer is no, they believe the Request for Proposals (RFP) should go back out.

Rob Oyler, WANRack, stated his opinion that it comes down to a fiduciary issue to the constituents of Yuma County. He noted that ALLO did not publish their rates, and if you research that online, Google Fiber's are lower.

Brad Moline, ALLO Communications, informed the Board they would maintain some strands (12), and be able to support the county doing business in an agricultural area. Mr. Moline stated they were the only group who demonstrated willingness to use their own capital on the build and to invest in the region. Regarding ALLO's rates, the average resident pays \$46 per month and the Emergency Broadband Benefit (EBB) Program is available.

Brian Murray, representing Google, reported they charge \$30 a month and, with EBB participation, services are free. In closing, he reported Google Fiber has a written agreement with WANRack if they were awarded this contract.

Supervisor Lines reported as a part of the evaluation team he was surprised by the disparity in the answers. They were not clearly defined and so varied in the approach, which made it difficult for the selection team to do their scoring although they arrived at a conclusion. He stated he would like more information about the costs so the general public knows we have purchased and partnered with the best possible group going forward and have done 100% due diligence.

Chairman Reyes read the recommended motion and asked whether the Board had the authority to make any other decision.

Mr. Kerekes confirmed the Board had the authority at this point to either accept the recommendations of the committee and enter into negotiations to contract with ALLO, or they could eliminate that all together and direct staff to enter into negotiations with any another member who submitted a proposal, or reject all bids and start over.

MOTION (PANCRAZI/LINES): Reject all bids, and direct staff to reformulate and issue a new RFP for a Broadband Middle Fiber Backbone, and bring proposals and a recommendation back to the Board for consideration as soon as possible as we have a January 31, 2022 deadline.

Chairman Reyes asked if there is enough time to do that.

Ms. Thorpe stated staff would do whatever the Board directs as expeditiously as possible; however, with a January 31 deadline for the State Broadband Grant process she could not guarantee that can be met.

Supervisor Simmons expressed concern that this item has come before the Board several times and there have been reasons to extend, and now that was being considered again. He noted his support for the committee who has been meeting for the past 8-9 months, and were relied on to make the best choice, so his recommendation was to select ALLO Communications.

Supervisor Lines stated he believed the RFP needed to be refined to determine exactly how the money would be spent.

Supervisor Porchas echoed Supervisor Simmons comments and stated he believed the Board should take action today.

Chairman Reyes asked the County Attorney for their opinion if everything done so far will withstand a legal challenge and give the Board the ability to make a decision.

Mr. Kerekes explained a judgment call will be made based on the responses received from the various vendors, and that nobody from the County Attorney's Office was in the room to evaluate anyone's proposal. They are saying the RFP process used by the

committee was appropriate, but the decision of the committee has to be made based on their compliance with the specifications and provisions listed in the RFP.

ROLL CALL VOTE: PANCRAZI – Aye; LINES- Aye; PORCHAS – Nay; SIMMONS – Nay and REYES - Nay.

The motion failed, 2 in favor-3 opposed.

MOTION (PORCHAS): Authorize Administrator to negotiate a contract with ALLO for the Middle Mile Fiber Backbone.

Mr. Kerekes noted there is currently no contract presently for the Board to consider.

Ms. Thorpe stated the contract would be subject to legal review and could be brought back to the Board for approval.

After further discussion Ms. Thorpe asked the Board to withdraw the motion.

Supervisor Porchas withdrew his motion.

Ms. Thorpe suggested the following motion: Authorize the County Administrator to enter into negotiations for a contract with ALLO Communications (dba ALLO Arizona LLC) for Design and Construction of a Broadband Middle Mile Fiber Backbone, subject to legal review, and to bring the contract for approval by the Board of Supervisors.


MOTION (PORCHAS/SIMMONS): Authorize the County Administrator to enter into negotiations for a contract with ALLO Communications (dba ALLO Arizona LLC) for Design and Construction of a Broadband Middle Mile Fiber Backbone, subject to legal review, and to bring the contract for approval by the Board of Supervisors.

ROLL CALL VOTE: PORCHAS – Aye; SIMMONS – Aye; LINES – Nay; REYES- Aye and PANCRAZI – Nay.

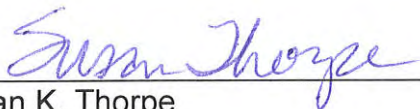
The motion carried 3-2.

There being no further business to come before the Board, the Regular Session was adjourned at 2:19 p.m.

Adopted this 3rd day of January, 2022.

  
\_\_\_\_\_  
Marco A. (Tony) Reyes, Chairman

ATTEST:



\_\_\_\_\_  
Susan K. Thorpe  
County Administrator/Clerk of the Board

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YUMA COUNTY BOARD OF SUPERVISORS

Also sitting as all SPECIAL TAXING DISTRICTS where noted

SPECIAL SESSION: January 26, 2022

Page 1 of 4

The Yuma County Board of Supervisors met in a special session on January 26, 2022. The meeting was held at 198 South Main Street, Yuma, Arizona.

**CALL TO ORDER:** At 9:00 a.m., Chairman Marco A. (Tony) Reyes convened the Board of Supervisors in open session, also sitting as the board of directors of all special taxing districts where noted. Supervisors present were: Marco A. (Tony) Reyes, Martin Porchas and Lynne Pancrazi. Supervisor Jonathan W. Lines and Darren Simmons participated electronically.

Others present were: County Administrator Susan Thorpe; County Attorney Jon Smith; Chief Civil Deputy County Attorney Bill Kerekes; Chief Financial Officer Gil Villegas; Community Planning Coordinator Nancy Ngai; and Deputy Clerk/Executive Assistant Desarae Doten.

**The Pledge of Allegiance was led by Supervisor Porchas.**

**CALL TO THE PUBLIC:** No public comments were received.

**DISCUSSION AND ACTION ITEM(S):**

**No. 1: *County Administration: Approve a Master Agreement for Network Design and Construction Services and Work Order with ALLO Communications for Broadband Middle Mile Fiber Network.***

The following individuals participated electronically:

Jim Baller and Sean Stokes, Broadband Attorneys at Keller & Heckman

Dwight "Doc" Winger, Director of External Relations, ALLO Communications

Brad Moline, President, ALLO Communications

Mike Pence, Attorney, ALLO Communications

Attending in person were:

Paul Brierley, Executive Director, University of Arizona Center for Excellence

Barry Olsen, Attorney for Gila Electronics

Harold Hendrick, President/CEO, Gila Electronics

J.P. Mahon, Consultant, Gila Electronics

Chairman Reyes asked Ms. Thorpe to provide a brief recap of the events that have taken place.

Ms. Thorpe reported the Yuma County Board of Supervisors authorized the County Administrator to negotiate into a contract with ALLO Communications for Broadband Middle Mile Fiber Network. Broadband Attorneys at Keller & Heckman assisted with



drafting the Master Agreement and Work Order #1. Ms. Thorpe explained that Work Order #1 is the south and west part of the network. Yuma County is simultaneously working with ALLO Communications to submit a grant proposal to the Arizona Commerce Authority for a match of \$10 million. Yuma County currently has \$20.7 million available so they can only commit to Work Order #1 at this time.

Ms. Thorpe explained that WANRack, L.L.C., issued a suit for a temporary restraining order and the County hired a separate attorney to assist. Judge Kenworthy ruled in Yuma County's favor and WANRack has filed a request for an appeal. Ms. Thorpe noted she has been told that Gila Electronics has filed the same document in court; however, it has not been officially served to/received by the county.

Chairman Reyes asked where the other local communities are with the process. Ms. Thorpe confirmed Yuma County will be committing \$20.7 million of its American Rescue Plan Act (ARPA) funds along with applying for the grant. The City of San Luis has committed to provide a portion of their ARPA funds. Presentations are scheduled to occur soon for the other entities and letters of support have been received from Yuma Regional Medical Center (YRMC), Greater Yuma Economic Development Corporation (GYEDC), and others who are affected by the lack of good internet.

Barry Olsen, Attorney at Law, attending in person on behalf of Gila Electronics, stated they are the local company that installs and maintains broadband throughout the county. He reported he conducted a search and there is no contractor license in Arizona issued to ALLO Communications, which poses a concern since this is a construction contract. Mr. Olsen confirmed that Gila Electronics is a licensed contractor and their proposal submitted was still the lowest price. Further comments were made in reference to Yuma County's Request for Proposal (RFP), procurement policy and potential violations of the gift clause.

Brad Moline and Mike Pence, ALLO Communications, stated they were happy to comply with all regulations and did not anticipate having any issues getting a contractor license.

Chairman Reyes asked the County Attorney if the Board could legally move forward.

Mr. Kerekes recommended the Board take action to include language making the validity of contract contingent upon ALLO Communications showing proof of contractor license.

Mr. Pence commented on other projects ALLO Communications has ongoing in Kingman and Lake Havasu, Arizona. He explained they are an owner in those cases, rather than a contractor, so he would look further into the matter.

Mr. Kerekes noted if they do not have the proper license, it would be unlawful and the contract would be void.

MOTION (PANCRAZI/SIMMONS): Enter into an agreement with ALLO Communications for Broadband Middle Mile Fiber Network contingent on ALLO Communications meeting all Arizona State Statutes that pertain to the project.

VOICE VOTE: The motion carried 4-1, with Supervisor Lines dissenting.

**No. 2: County Administration/Grants: Adopt Resolution No. 2022-01, authorizing submission of an application to the Arizona Commerce Authority for the Broadband Development Grant and commitment of matching funds and maintenance cost for the Yuma County Broadband Project.**

Ms. Thorpe stated the County will be entering into a separate maintenance contract for the backbone. She reported that Nancy Ngai has been working diligently on this grant application item and the County will put forward the entire network as our proposal and ask the State for \$10 million, which is the maximum available.

Ms. Ngai explained the application is due on January 31, and the grant is a separate issue from the contract. Yuma County is creating a project with the entire middle mile and a portion of the final mile as a contribution from ALLO Communications (or whoever is going to build that). If awarded, the grant requires that Yuma County is able to execute the contract within 60 days, commence work within 3 months and complete the project in two years.

MOTION (PORCHAS/LINES): Approve as presented.

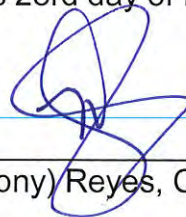
VOICE VOTE: The motion carried 5-0.

#### **EVENTS CALENDAR/CURRENT EVENTS:**

Board members and the County Administrator reported on and discussed events attended or to be attended on behalf of the County, presented a brief summary of current events and updated the schedule for future Board of Supervisors meetings as appropriate. *No legal action was taken, pursuant to A.R.S. §38-431.02(K).*

There being no further business to come before the Board, the Regular Session was adjourned at 10:05 a.m.

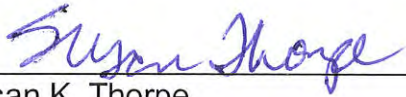
Adopted this 23rd day of February, 2022.



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Marco A. (Tony) Reyes, Chairman

ATTEST:



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Susan K. Thorpe  
County Administrator/Clerk of the Board

SKT/dd/sp

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8 *Attorney for WANRack, LLC*

9 **SUPERIOR COURT OF ARIZONA**  
10 **IN YUMA COUNTY**

11 WANRack, LLC,

12 Plaintiffs,

13 vs.

14 YUMA COUNTY BOARD OF  
15 SUPERVISORS, the governing body of  
16 Yuma County, Arizona; MARTIN  
17 PORCHAS, in his official capacity as a  
18 member of the Yuma County Board of  
19 Supervisors; JONATHAN LINES, in his  
20 official capacity as a member of the Yuma  
21 County Board of Supervisors; DARREN  
22 SIMMONS, in his official capacity as a  
23 member of the Yuma County Board of  
24 Supervisors; MARCO REYES, in his  
25 official capacity as a member of the Yuma  
26 County Board of Supervisors; LYNNE  
PANCRAZI, in her official capacity as a  
member of the Yuma County Board of  
Supervisors; and SUSAN THORPE, in her  
official capacity as Yuma County  
Administrator,

Defendants.

Case No. \_\_\_\_\_

**VERIFIED SPECIAL ACTION  
COMPLAINT**

1 Plaintiff WANRack, LLC (“WANRack”) brings this special action against  
2 Defendants Yuma County Board of Supervisors, the governing body of Yuma County,  
3 Arizona, Martin Porchas, in his official capacity as a member of the Yuma County Board  
4 of Supervisors, Jonathan Lines, in his official capacity as a member of the Yuma County  
5 Board of Supervisors, Darren Simmons, in his official capacity as a member of the Yuma  
6 County Board of Supervisors, Marco Reyes, in his official capacity as a member of the  
7 Yuma County Board of Supervisors, Lynne Pancrazi, in her official capacity as a member  
8 of the Yuma County Board of Supervisors, and Susan Thorpe, in her official capacity as  
9 Yuma County Administrator (collectively “Defendants” or the “County”), pursuant to  
10 Arizona Rules of Procedure for Special Actions 3(b) and (c) and A.R.S. § 12-2001, *et seq*,  
and hereby alleges as follows:

11  
12 **JURISDICTION**

13 1. The Court has jurisdiction over this action pursuant to Article 6, § 14 of the  
14 Arizona Constitution, Arizona Rules of Procedure for Special Actions 4(a), and A.R.S. §  
15 12-2001, *et seq*.

16 2. Venue is proper in Yuma County pursuant to A.R.S. § 12-401(16) because  
17 each of the Defendants holds office in this county, and pursuant to Arizona Rules for  
18 Special Actions 4(b).

19 **PARTIES**

20 3. WANRack is a Delaware limited liability company, located in Overland  
21 Park, Kansas, doing business in Yuma County, Arizona. Specifically, WANRack is private  
22 fiber provider and has operated in Yuma County for over seven years. Its current networks  
23 in the County include the Yuma Union High School District, the Yuma Elementary School  
24 District, Somerton School District, and the Yuma Regional Medical Center. To date,  
25 WANRack has over 81 miles of fiber built in the County.

1           4. Defendant Yuma County Board of Supervisors is the governing body of  
2 Yuma County, a political subdivision of the State of Arizona. *See* A.R.S. § 11-201(A).

3           5. Defendants Martin Porchas, Jonathan Lines, Darren Simmons, Marco Reyes,  
4 Lynne Pancrazi comprise the Yuma County Board of Supervisors and are named in this  
5 action in their respective official capacities only.

6           6. Defendant Susan Thorpe is the Yuma County Administrator and is named in  
7 this action in her official capacity only.

8           7. The Yuma County Board of Supervisors is charged by law with:  
9 “[s]upervis[ing] the official conduct of all county officers and officers of all districts and  
10 other subdivisions of the county charged with assessing, collecting, safekeeping, managing  
11 or disbursing the public revenues” to see that “officers faithfully perform their duties.” *See*  
12 A.R.S. § 11-251(1).

### GENERAL ALLEGATIONS

13  
14           8. This matter arises out of the Yuma County Board of Supervisors’ and County  
15 Administrator’s unauthorized issuance of a request for proposals, arbitrary  
16 recommendation of contract award, and authorization to enter into contract negotiations  
17 with the recommended awardee, all resulting from a fundamentally flawed, unlawful  
18 procurement process.

19           9. Because the County has not adopted a policy for protesting the procurement  
20 decisions, there is no administrative process available to WANRack (and thus no  
21 exhaustion of administrative remedies issue) and a special action is the appropriate vehicle  
22 for review of the County’s unlawful, arbitrary action.

23 ///

24 ///

25 ///

26



1 The RFP

2 10. On July 6, 2021, Yuma County issued a Request for Proposals (“RFP”) for  
3 the Yuma County Broadband Middle Mile Fiber Backbone. *See* RFP # YC21-22B,  
4 attached as Exhibit A.

5 11. The RFP informed prospective vendors that it was “seeking a public or  
6 private partner that can construct, maintain, and manage an affordable, reliable, and  
7 scalable fiber optic middle mile network to support next generation high speed broadband  
8 internet to businesses, residences, and other entities.” *Id.* at 2.

9 12. The RFP explained that the County “decided to move forward with an RFP  
10 for one or more vendors to design, construct, manage and maintain a middle mile fiber  
11 project extending out to connect the larger population centers in the County . . . along with  
12 locations across the County that can support wireless towers for extending the broadband  
13 network for miles in all directions along the fiber route.” *Id.* at 4.

14 13. The County made clear that it was Yuma County’s intent “for the selected  
15 Vendor to design and build a Yuma County Wide Area Network (WAN) private network  
16 and a diverse redundant open access middle mile backbone.” *Id.*

17 14. The RFP specifically required that “proposals submitted and the contract, if  
18 awarded, shall be in complete accordance with, without limitation, this request for  
19 proposal, attached specifications, all codes, requirements and regulations referenced  
20 therein, unless changes are mutually agreed upon by Yuma County and the selected vendor  
21 during contract negotiations.” *Id.*

22 15. The RFP provided that “[t]he award of this proposal, if made, may be based  
23 on considerations other than total cost and may be awarded based on various  
24 considerations, including without limitation: Vendor’s experience and/or qualifications,  
25 past experience, cost, standardization, technical evaluation and oral and/or written  
26 presentations as required.” *Id.* at 6.



1           21. The Task Force used a scoring rubric (the “Proposal Rating Sheet”) to  
2 evaluate and score the proposals. *See* Proposal Rating Sheet, attached as **Exhibit B**.

3           22. After its initial scoring of the proposals, the Task Force selected three  
4 vendors to participate in interviews on October 15, 2021: ALLO, eX2 Technology, and  
5 WANRack. *See* Rating Summary Sheet 10-11-21, attached as **Exhibit C**.

6           23. During the 90-minute interview process, held separately with each of the  
7 three finalists, the Task Force presented vendors with changes to the RFP and a list of  
8 questions. *See* Questions for Oct 15 interviews – FINAL, attached as **Exhibit D**.

9           24. During the interview, the Task Force informed vendors for the first time that  
10 “[t]he County has decided not to construct a private WAN as part of this project, and to  
11 incorporate the County locations into the middle mile fiber backbone.” The Task Force  
12 asked how this would affect each vendor’s “proposal cost, contribution level, and timeline  
13 for this project.”

14           25. The private WAN was a significant and material part of the RFP and  
15 WANRack’s proposal. *See, e.g.*, Exhibit A, at Attachment A.

16           26. The RFP was never amended to reflect this material change to the RFP’s  
17 terms, notwithstanding that the RFP instructed vendors that proposals “shall be in complete  
18 accordance” with the RFP and its specifications, the Task Force did not request or require  
19 vendors to submit revised (or “best and final”) offers, and the Task Force did not re-score  
20 proposals using its scoring rubric or otherwise.

21           27. After the interview process, rather than re-score proposals using its scoring  
22 rubric (or any scoring methodology), the Task Force created “Proposal Evaluation Team  
23 Meeting Notes, Talking Points and Considerations” (“Meeting Notes”). *See* Proposal  
24 Evaluation Team notes 10-18-21, attached as **Exhibit E**.

25           28. The Meeting Notes included a “Consensus Conclusion” that “[t]he  
26 Evaluation Team [Task Force] unanimously recommended ALLO Communications to

1 Yuma County as the superior choice to construct and operate the middle mile fiber  
2 backbone.” *Id.* at 2.

3 29. The Meeting Notes reflected that the Task Force misconstrued,  
4 misunderstood, or did not fully appreciate critical components of the vendors’ proposals,  
5 including WANRack’s and ALLO’s proposals.

6 **The Task Force’s Initial Recommendation**

7 30. On October 19, 2021, the Task Force recommended that the Board of  
8 Supervisors begin contract negotiations with ALLO for the County’s middle mile fiber  
9 backbone. *See* Letter from Task Force, attached as **Exhibit F**; November 15, 2021 Meeting  
10 Agenda, attached as **Exhibit G**.

11 31. At the Board of Supervisors’ meetings on November 15, 2021 and November  
12 29, 2021, and in written correspondence to the Board, multiple individuals and companies  
13 – including WANRack – addressed the Board and raised significant concerns about the  
14 procurement process and the Task Force’s evaluation.

15 32. Indeed, the November 29, 2021 Board meeting revealed that even the County  
16 Administrator and Deputy County Attorney had different views about the procurement  
17 process and the County’s legal obligations.

18 33. As a result of the serious concerns raised at that November 29 meeting, the  
19 Board: (a) directed the County Administrator to make the procurement file publicly  
20 available; (b) postponed voting on the Task Force’s recommendation; and (c) permitted  
21 vendors ten business days to submit “comments” to the Task Force for its consideration.

22 34. Several vendors, including WANRack, submitted comments to the Task  
23 Force, raising issues regarding the procurement process. *See* WANRack’s Comments,  
24 dated December 13, 2021, attached as **Exhibit H**.

25 ///

26 ///

**Fundamental Error in the Procurement Process:**  
**No Authority to Issue the RFP**

1  
2 35. As WANRack articulated in its comments to the Task Force and elsewhere,  
3 the Task Force failed to comply with the RFP and applicable law and, as a result: (a) acted  
4 outside the scope of the County’s legal authority; (b) arbitrarily selected a proposal that  
5 failed to comply with the RFP; and (c) arbitrarily selected a proposal that failed to best  
6 meet the RFP’s requirements and the County’s needs.

7 36. As a threshold matter, the County’s purchasing policy does not provide  
8 authority for the County to issue requests for proposal. *See* Yuma County Purchasing  
9 Policy, attached as **Exhibit I**.

10 37. Although state law permits the County to adopt all or portions of the Arizona  
11 Procurement Code, *see* A.R.S. § 41-2501(C), the County’s adopted Purchasing Policy  
12 provides authority only for the County to issue invitations for bids as set forth in A.R.S. §  
13 11-254.01 (referring to “invitations for bids” throughout).

14 38. Under Arizona law, an invitation for bids refers to solicitations wherein the  
15 public body selects the lowest cost offeror. *See* A.R.S. § 41-2533 (lowest cost offeror); and  
16 *see* R2-7-B312(A) (in evaluating “bids” a “procurement officer shall evaluate offers to  
17 determine which offer provides the *lowest cost to the state* in accordance with any  
18 objectively measurable factors set forth in the solicitation”) (emphasis added).

19 39. The Yuma County Purchasing Policy, at pp. 3-6, includes references to  
20 “invitation[s] for bids” throughout, and provides that, “[i]n accordance with A.R.S. §41-  
21 2533(G), the contract shall be awarded to the *lowest responsible bidder* whose bid  
22 conforms in all material respects to the requirements and criteria set forth in the invitation  
23 for bids.” (Emphasis added).

24 40. Both the Purchasing Policy, and A.R.S. § 11-254.01 – from which the County  
25 claims authority for the Purchasing Policy – refer only to “bids” or “invitations for bids,”  
26 which are one of several different forms of solicitation under Arizona procurement law.



1           47.     Rather than evaluate and score the cost of the overall project, the Task Force  
2 instead awarded subjective points to effectively “pass/fail” elements of each vendor’s  
3 proposal. *See* Exhibit B.

4           48.     As a result, the Task Force’s scoring methodology failed to take into  
5 consideration a critical evaluation factor, worth 25% of the total points available, and  
6 ultimately resulted in the Task Force selecting an offer that represents significantly more  
7 cost to Yuma County and its taxpayers. This result is inconsistent with the County’s role  
8 as a fiduciary to its citizens and a steward of taxpayer funds.

9           49.     The Arizona Procurement Manual, which serves as a guide to those  
10 “involved with public procurement in this State” is meant to provide “information and  
11 general direction to public procurement employees.” *See* Manual , at 1, attached as **Exhibit**  
12 **K**. The Manual provides critical guidance on fundamental procurement practices in  
13 Arizona, including best practices for evaluating and scoring a proposal’s cost. *Id.*

14           50.     The Manual provides a formula for converting price into a weighted point  
15 score, which allows procurement officials meaningfully to compare overall costs between  
16 vendors: Points Awarded = (Lowest bid divided by the bid being evaluated) x Max Points.  
*Id.* at 46.

17           51.     The result of the formula is that the lowest cost proposal achieves 100% of  
18 the points available for “cost,” while higher cost offers receive fewer points. *Id.* That cost  
19 score is then combined with the remaining technical evaluation scores to determine the  
20 most advantageous proposal. *Id.*

21           52.     Here, rather than evaluate the “cost of the overall project” as it was required  
22 to do by the plain terms of the RFP, the Task Force’s scoring rubric demonstrates that the  
23 Task Force never evaluated or scored the actual bottom-line cost of the overall project.

24           53.     Instead of analyzing the actual cost to the County and its taxpayers, the Task  
25 Force subjectively scored whether each proposal included certain components: “Proposal  
26



1 *includes* total cost for both County and WAN;” “Proposal *includes* appropriate industry  
2 standard contingencies and clearly identifies in cost proposal;” “Proposal clearly *identifies*  
3 cost sharing and identifies significant vendor investment of funding for project;” “Proposal  
4 allows for flexibility or can accommodate expansion or adjustments.” *See* Exhibit B, at 2  
5 (emphasis added).

6 54. Scoring those “pass/fail” components, without scoring the actual dollars and  
7 cents, failed to meet the stated evaluation criterion: which vendor represented the lowest  
8 cost of the overall project. This fundamental error violated the terms of the RFP.

9 **Fundamental Error in the Procurement Process:**  
10 **Post-Interview Failures in Scoring Proposals in Accordance with the RFP**

11 55. Rather than update or re-score proposals following the Task Force’s  
12 interviews with the final three vendors, which included the Task Force making material  
13 changes to the scope of the RFP, the Task Force prepared only a subjective, narrative set  
14 of “talking points and considerations” (the “Meeting Notes”) that reflects several  
15 fundamental errors.

16 **Failures in Evaluating and Scoring Total Cost of Ownership**

17 56. In preparing its Meeting Notes following vendor interviews (wherein the  
18 Task Force changed material terms in the RFP), the Task Force again failed meaningfully  
19 to score the “cost of the overall project,” in direct contravention of the RFP.

20 57. Because the initial scores contemplated construction of a WAN that was  
21 *subsequently removed from the RFP* without a formal RFP amendment, the Task Force’s  
22 scoring sheets used in reviewing the initial proposals were no longer applicable to the final  
23 determination of the overall cost of the project (even if the initial scores had measured total  
24 cost, which they did not).



1           65. Under any objective measure, WANRack’s proposal met that goal; ALLO’s  
2 did not.

3           66. Specifically, ALLO’s proposed network design includes only 181 fiber miles  
4 and fails to provide redundancies to key communities such as Wellton.

5           67. In addition, due to the significant difference between ALLO’s construction  
6 costs and the County’s available funding, the County would be required under the ALLO  
7 proposal to build the fiber backbone in phases until additional funding becomes available.

8           68. This coverage gap was noted by the Deputy County Administrator indicating  
9 it would be inaccurate to claim that each farm and house in the County would be reached  
10 by ALLO’s network. See November 2, 2021 Email from I. McGaughey to S. Thorpe,  
11 attached as **Exhibit L**.

12           69. The WANRack proposal, in contrast, contemplates the installation of 346.60  
13 fiber miles. In addition, it provides critical redundancies (required by the RFP) to all sites  
14 included in the RFP needed to truly reach maximum impact in key unserved and  
15 underserved areas.

16           70. Moreover, because WANRack’s construction costs fall within the County’s  
17 available funding, WANRack could build the fiber backbone all at once and would have a  
18 significant head start utilizing its existing 65 miles of fiber already installed in the County.

19           71. WANRack’s network coverage is superior to ALLO’s, both in terms of fiber  
20 miles and timeliness of coverage.

21           72. In selecting ALLO, the Task Force disregarded the importance of ensuring  
22 that unserved and underserved areas are covered as part of the County’s middle mile  
23 network in a manner that would assure their connection capabilities in the future and chose  
24 a proposal contingent on future grant funding and development in phases, rather than a  
25 proposal that fell squarely within the County’s budget, ensured coverage of unserved and  
26 underserved areas, and that could start immediately.



1 operation of tracked lease fibers, and legal support would be performed exclusively by  
2 WANRack employees. To state it more simply, if it isn't climbing up a poll or digging a  
3 hole, WANRack would handle it internally.

4 80. WANRack also committed to hiring only local contractors for the County's  
5 project, which separated WANRack from other applicants, particularly given WANRack's  
6 experience in the County and knowledge of the challenges companies face with respect to  
7 topography and rights of way.

8 81. WANRack's proposal not only would provide the County with the best  
9 possible network but would also extend economic benefits to companies throughout local  
10 communities. The Task Force failed meaningfully to understand and to score WANRack's  
11 proposal.

#### 12 Failures in Evaluating Ownership

13 82. Several Task Force members noted in the Meeting Notes that WANRack  
14 would own the middle mile network under its proposal.

15 83. WANRack offered the County a 20-year Indefeasible Right of Use (IRU) for  
16 the middle mile network, reflecting the period of useful life of the fiber assets and defined  
17 by the IRS as ownership.

18 84. That structure was selected to provide the County "de facto" ownership of  
19 the network, but also to allow WANRack to fully depreciate its investment.

20 85. Under WANRack's proposal, the County would receive all the benefits of  
21 ownership while also meeting the RFP's requirement of no maintenance.

22 86. In any event, as WANRack informed the Task Force during its interview,  
23 WANRack was willing to provide the County full ownership from day one, without any  
24 maintenance costs.

25 87. Inexplicably, the Task Force did not credit (and instead criticized)  
26 WANRack for that commitment.

1 Failures in Evaluating Fiber to the Premises

2 88. While fiber to the premises was not a specific requirement of the RFP,  
3 WANRack partnered with Google Fiber to illustrate its commitment to the open access  
4 design of the middle mile network.

5 89. Inexplicably, several Task Force members expressed reservations in their  
6 interview notes as to whether WANRack would market the fiber backbone to additional  
7 ISPs. But WANRack made clear to the Task Force that it would market to additional ISPs  
8 and, in addition to its commitment to market to other ISPs, WANRack also brought the  
9 nation's premier ISP to the table in Google Fiber.

10 90. ALLO claimed in its proposal to support the open access model, but it  
11 expressed contrary views in the interview process. Namely, ALLO represented that the first  
12 ISP in the County would likely be the only one and that open access models in metropolitan  
13 areas have been an abject failure.

14 91. These comments should have created real concerns for the Task Force as to  
15 what efforts ALLO would put forth to truly recruit multiple ISPs and create any real value  
16 to the County under a revenue share arrangement. Based on the Meeting Notes, they did  
17 not.

18 92. Under ALLO's plan, the County would receive 100% of *nothing* in a  
19 revenue sharing model for fiber to the premises providers. If open access truly is an  
20 objective of the County for this project, then the Task Force should have applied at least  
21 the same level of scrutiny to its promise of open access as it did to WANRack.

22 93. The Task Force provided no real notes or details regarding ALLO's planned  
23 pricing. During the Board of Supervisors' meeting on November 29, 2021, after it had been  
24 recommended for award, ALLO's representative indicated that it had not yet settled on  
25 pricing.











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**ELECTRONICALLY** filed via TurboCourt  
December 21, 2021 and e-delivered to:

Clerk of Court  
Yuma County Superior Court

**COPY** of the foregoing served via TurboCourt  
and emailed December 21, 2021 to:

William Kerekes  
Deputy County Attorney  
250 W 2nd Street  
Yuma, AZ 85364  
[bill.kerekes@yumacountyaz.gov](mailto:bill.kerekes@yumacountyaz.gov)  
*Attorney for Defendants*

By: */s/Jackie Beavers*

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**VERIFICATION**

1, Robert Oylar, am the Chief Executive Officer of WANRack, LLC ("WANRack").  
I have read the foregoing Verified Special Action Complaint and know the contents thereof  
by personal knowledge. I know the allegations of the Verified Special Action Complaint  
to be true, except the matters stated therein on information and belief, which I believe to  
be true.  
7 I verify under penalty of perjury that the foregoing is true and correct.  
8 DATED this 21st day of December, 2021.

Robert Oylar

**EXHIBIT A**  
**(WANRack Verified**  
**Complaint)**

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# Yuma County, AZ



## Request for Proposal County Administration

July 6, 2021

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## NOTICE OF REQUEST FOR PROPOSAL

Yuma County is soliciting proposals for:

### MIDDLE-MILE FIBER OPTIC NETWORK and WIDE AREA NETWORK

**Proposal Invitation No.:** YC21-22B

**Proposal for:** Middle-Mile Fiber Optic Network and Wide Area Network

**Proposal Due Date & Time:** July 30th, 2021 – 4:00 p.m. / M.S.T.

**Address:** Yuma County Administration  
198 S. Main Street  
Yuma, Arizona 85364  
Attn: Susan K. Thorpe  
County Administrator/Clerk of the Board

#### Section 1. GENERAL INFORMATION

Sealed proposals will be accepted by the Yuma County Clerk of the Board, 198 S. Main Street, Yuma AZ 85364 **until 4:00 p.m. local time – Friday, July 30th, 2021.** Proposals received after this specified time and date will not be considered. The sealed proposals will be publicly opened and each Vendor's name read aloud on the same date and time in the office of the County Administrator for the following:

**YUMA COUNTY IS SEEKING A PUBLIC OR PRIVATE PARTNER THAT CAN CONSTRUCT, MAINTAIN, AND MANAGE AN AFFORDABLE, RELIABLE, AND SCALABLE FIBER OPTIC MIDDLE MILE NETWORK TO SUPPORT NEXT GENERATION HIGH SPEED BROADBAND INTERNET TO BUSINESSES, RESIDENCES, AND OTHER ENTITIES. THIS SHOULD ALLOW FOR THE EXPANSION OF ECONOMIC DEVELOPMENT, DISTANCE EDUCATION AND TELEMEDICINE, SMART GOVERNMENT APPLICATIONS, DIGITAL DIVIDE SOLUTIONS, AND OTHER ADVANCED INTERNET AND IP BASED PRODUCTS AND SOLUTIONS.**

**AS PART OF THIS NETWORK, THE COUNTY IS ALSO REQUESTING A DEDICATED FIBER-BASED PRIVATE WIDE AREA NETWORK (WAN) FOR THE PURPOSE OF INTERCONNECTING COUNTY BUILDINGS LOCATED THROUGHOUT THE COUNTY.**

**THE COUNTY SEEKS INNOVATIVE AND CREATIVE SOLUTIONS AND WELCOMES VARIOUS BUSINESS MODELS AND APPROACHES TO CONSIDER, IN ADDITION TO THE SPECIFIC REQUEST MADE IN THIS DOCUMENT. THE COUNTY UNDERSTANDS THAT IT MAY BE UNLIKELY THAT ONE ENTITY FILLS THIS ROLE OF EXPERIENCED PROVIDER, CAPITAL PARTNER, AND SMART COUNTY SOLUTION PROVIDER, AND SO IS WILLING TO CONSIDER RESPONSES THAT INCLUDE MULTIPLE PARTIES.**

**THE PROPOSALS SUBMITTED AND THE CONTRACT, IF AWARDED, SHALL BE IN COMPLETE ACCORDANCE WITH, WITHOUT LIMITATION, THIS REQUEST FOR PROPOSAL, ATTACHED SPECIFICATIONS, ALL CODES, REQUIREMENTS AND REGULATIONS REFERENCED THEREIN, UNLESS CHANGES ARE MUTUALLY AGREED UPON BY YUMA COUNTY AND THE SELECTED VENDOR DURING CONTRACT NEGOTIATIONS.**

## Section 1. GENERAL INFORMATION (continued)

**THE COUNTY PLANS TO SEEK STATE AND/OR FEDERAL GRANT FUNDING FOR THIS PROJECT. IN ADDITION, THE COUNTY EXPECTS THE SUCCESSFUL VENDOR TO CONTRIBUTE SIGNIFICANT CAPITAL INVESTMENT. THE COUNTY WILL ALSO CONTRIBUTE FUNDING TO THIS PROJECT.**

Questions regarding this Request For Proposal should be **in writing via email** and should reference the above RFP number, **YC21-22B**, in the Subject line. Submit all questions to Yuma County Administrator Susan K. Thorpe via e-mail at: [Susan.Thorpe@Yumacountyaz.gov](mailto:Susan.Thorpe@Yumacountyaz.gov).

### **COUNTY OVERVIEW**

Yuma County is one of 15 counties in the State of Arizona. It is located in the southwestern corner of the state. The County borders three states: California to the west across the Colorado River, and Sonora, Mexico, to the south, and Baja California, Mexico to the west.

Larger than the state of Connecticut, much of Yuma County's 5,522 square miles is desert land accented by rugged mountains. Several river valley regions, however, contain an abundance of arable land, which is irrigated with water from the Colorado River. The County is comprised of four incorporated cities and towns (2019 population estimates): City of Yuma (108,010 population), City of San Luis (39,705), City of Somerton (18,093), and Town of Wellton (3,354). Unincorporated Yuma County comprises a population of 66,213. There are a number of unincorporated communities in Yuma County. The largest is the Yuma Foothills with an estimated population of 30,000 year round residents. Other unincorporated communities in east County include Tacna, Dateland, Roll and Hyder. The population of Yuma County increases by 80,000 to 100,000 residents November through March due to winter visitors from Canada and the northern and northwestern U.S., as well as an agricultural workforce that increases to support the wintertime vegetable season.

Yuma County includes two Indian Tribes – the Fort Yuma Quechan Tribe and Cocopah Tribe.

Agriculture, tourism, and two military bases, US Marine Corps Air Station (MCAS) and US Army Yuma Proving Ground (YPG) are Yuma County's principal industries. Agriculture is a \$3.2 billion business annually, employing tens of thousands of workers. Yuma County is ranked in the top 1/10th of one percent of all U.S. counties in various measures of agricultural production. Yuma County includes 230,000 acres of farmland. With an average of just over three inches of rain a year, the mighty Colorado River running through the region is responsible for Yuma's rich soil due to its millions of years of deposited sediments. These conditions provide an extended growing time, which makes way for over 175 types of crops and seeds to be grown here. The largest of these crops are lettuce and other leafy greens, with 80-90% of all wintertime leafy green vegetables in North America being grown or processed in Yuma County. Other notable crops are lemons, melons, alfalfa, Sudan grass, cotton, dates, and wheat. 71% of Durum wheat production in the area is exported to Italy to be used in premium pasta production. As agriculture technology rapidly evolves with remote sensing, automation and mechanization, Yuma County is a prime location for technology development that can only happen with reliable broadband service across all agricultural areas of the county.

Yuma Proving Ground is the Department of Defense's second largest installation, covering 833,000 acres – larger than the state of Rhode Island. It is responsible for controlled airspace over 2,000 square miles of land. Both military and commercial systems are tested utilizing the YPG infra, and GM's desert proving grounds are co-located there. YPG employs 150 military personnel, 2,360 civilians and has an economic impact of \$400 million on the Yuma region (2019 data).



## **Section 1. GENERAL INFORMATION (continued)**

Marine Corps Air Station - Yuma (MCAS) is currently the busiest air station in the Marine Corps, offering excellent year-round flying conditions and thousands of acres of open terrain for air-to-ground weapons ranges, and associated restricted airspace for military flight operations. Marine Aviation Weapons and Tactics Squadron 1 (MAWTS-1) is a major aviation command at MCAS Yuma, conducting training for all Marine Corps tactical aviation units, most notably the Weapons and Tactics Instructor (WTI) course. Marine Fighter Training Squadron 401 (VMFT-401) is a Marine Air Reserve squadron also based at MCAS Yuma, containing both active duty and Selected Marine Corps Reservists, providing aerial adversary/aggressor services and dissimilar air combat training (DACT) for all U.S. military services, and selected NATO, Allied, and Coalition partners. MCAS shares one of the longest runways in the country with the Yuma International Airport. MCAS employs 3,681 military personnel, 924 civilians and 1,118 contractors. It has an economic impact of \$583 million on the region (2019 data).

Crossborder trade with Mexico is a large economic contributor to Yuma County's and Arizona's economy. Yuma County includes two Land Ports of Entry – San Luis I serves all pedestrian and privately owned vehicles traveling to and from Mexico. San Luis II serves all commercial traffic traveling to and from Mexico.

### **PROJECT BACKGROUND**

Like many rural areas in the nation, portions of Yuma County have low population density, making it less desirable for telecommunications providers to invest in deploying and operating a reliable and affordable broadband network. Faced with challenges in economic development in a more information-based age, along with complaints from county residents and businesses regarding the need for broadband in support of tele-medicine, tele-education, tele-business and AgTech innovation, the Yuma County Board of Supervisors approved the formation of the Yuma County Broadband Task Force, made up of representatives from a variety of public/private entities in the county, to research and recommend a solution to this need. The Task Force is building on the work of a community wide Broadband Action Committee that has been operating for more than two years.

The Task Force has decided to move forward with an RFP for one or more vendors to design, construct, manage and maintain a middle mile fiber project extending out to connect the larger population centers in the County - City of Yuma, City of Somerton, City of San Luis, Town of Wellton - along with locations across the County that can support wireless towers for extending the broadband network for miles in all directions along the fiber route.

The intent of Yuma County is for the selected Vendor to design and build a Yuma County Wide Area Network (WAN) private network and a diverse redundant open access middle mile backbone.

### **The middle mile backbone shall be designed and built so that it can be extended by two additional future phases in Yuma County:**

- (1) Fiber to the premise for all residents and businesses in more populated areas, with a minimum starting speed of 1Gbps for residents and 10Gbps for businesses, and
- (2) Fiber to the tower for wireless service to residents, businesses and agricultural areas where fiber to the premise is not feasible or is cost-prohibitive.

The backbone requested in this RFP should be designed and built with the capability and capacity to be extended in these two ways.

## Section 1. GENERAL INFORMATION (concluded)

Using industry standards, the network shall allow for simplified physical and logical transition or demarcation points to serve as hand off to the County to build out its private WAN, and future state items 1 and 2 as outlined above. Use of and transition between aerial and underground access must be clearly identified in the proposal. Aerial splice points must have joint use agreements in place and allow for partnering with others including the County as needed. Cost for transition from aerial to vault splicing must be clearly identified noting responsible party; specifically at hand off to the County for its private WAN, FTTP, and close proximity to possible wireless sites and/or towers.

### CLARIFICATION AND/OR EXCEPTIONS OF DOCUMENTATION

Vendors requiring clarification or having a dispute with these documents must advise Susan K. Thorpe, Yuma County Administrator, [Susan.Thorpe@Yumacountyaz.gov](mailto:Susan.Thorpe@Yumacountyaz.gov) of the nature of the required clarification or basis of the dispute, in writing, no later than **July 16<sup>th</sup>, 2021**. If no written contact has been made by this specified date, the Vendor waives the right to any future consideration and accepts the documents as published and/or revised by the County. **Additionally, submitting a signed bid shall be construed as a total compliance statement for all paragraphs included in this RFP.**

## Section 2. SCHEDULE OF ACTIVITIES

### RFP SCHEDULE

- RFP Public Issued and Newspaper Advertisement: July 5<sup>th</sup> through 16<sup>th</sup>, 2021
- Proposals will be sent to vendors on our current listing.
- Prospective respondent's written question deadline: July 16<sup>th</sup>, 2021  
(No questions accepted after this date)
- Responses to questions: July 23<sup>rd</sup>, 2021
- Due date for proposals: July 30<sup>th</sup>, 2021
- Award date: August 16<sup>th</sup>, 2021  
Board of Supervisors Meeting (Anticipated)

NOTE: Award date is approximate and subject to change at the discretion of Yuma County.

## Section 3. PROPOSAL FORMAT

### RFP SUBMITTAL

**An unbound original, twelve (12) copies (collated in sets) and one (1) electronic copy (USB flash drive)** of the proposal and all required RFP submittal data including any Vendor generated specifications, drawings, etc., shall be enclosed within a sealed envelope with the words, "**RFP YC21-22B– Yuma County Middle-Mile Fiber Network/Wide Area Network**" and the Vendor's name and address clearly shown on the outside thereof. **Submittals received with less than the requested number of copies or not submitted with all requested information may be disqualified as non-responsive.**

Mailed proposals must be received in the office of the Yuma County Clerk not later than the time set forth for RFP opening. Yuma County will not be responsible for any lost or late arriving proposals sent via the U.S. Postal Service or other delivery services.

**PROPOSAL COVER SHEET:**

**MIDDLE-MILE FIBER OPTIC NETWORK/WIDE AREA NETWORK**

**FOR**

**YUMA COUNTY, ARIZONA**

**DUE: 4:00 PM ARIZONA TIME, JULY 30<sup>th</sup>, 2021**

**RFP NO. YC21-22B**

**THIS RFP SHALL BE VALID FOR NINETY (90) DAYS FROM DATE OF OPENING**

**Company Name** \_\_\_\_\_

**Company Address** \_\_\_\_\_

**City** \_\_\_\_\_ **State** \_\_\_\_\_ **Zip** \_\_\_\_\_

**Telephone (\_\_\_\_\_) \_\_\_\_\_ Fax (\_\_\_\_\_) \_\_\_\_\_**

**E-Mail Address** \_\_\_\_\_

The following Proposal is in strict accordance with the **Yuma County RFP, dated \_\_\_\_\_ and all attachments as referenced therein.**

**“I hereby certify that I understand and am aware that Yuma County, at its sole discretion, reserves the right to waive technicalities or irregularities, to reject any or all proposals, and/or to accept that proposal which is in the best interest of the County.**

The award of this proposal, if made, may be based on considerations other than total cost and may be awarded based on various considerations, including without limitation: Vendor's experience and/or qualifications, past experience, cost, standardization, technical evaluation and oral and/or written presentations as required. The County reserves the right to accept all or part, or to decline the whole, and to award this RFP to one or more Vendors. There is no obligation to buy. The RFP, if awarded, will be in the judgment of the County the most responsive to the County's needs and goals. Yuma County encourages the use of local, minority and/or women-owned businesses as subcontractors or in joint venture arrangements.”

\_\_\_\_\_  
**Name and Title**                      **Authorized Signature**                      **Date Signed**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Name of Contact for Questions**      **Contact Phone Number**                      **Contact Email Address**

#### **Section 4. EXPECTED OUTCOMES AND HIGH-LEVEL DELIVERABLES**

Yuma County leadership is committed to the successful future of our community. To that end, we believe the following to be true:

- Affordable and reliable high-speed Internet access to all residents and business is essential to enabling a “world class community”.
- Sustainable economic development, growth, opportunity, and innovation are dependent on high-speed access.
- We should leverage existing assets for the greatest benefit to citizens and community business partners.
- County leadership can help engage local business leaders and service providers to plan for our community’s needs.

#### **SPECIFIC BUSINESS MODEL AND REQUIREMENTS**

Please submit a proposal based on these criteria. Additional proposals may be submitted if a Vendor has other models that meet the expected outcomes and high-level deliverables.

1. The Vendor(s) must be registered and/or authorized to build, construct and manage broadband services in accordance with Arizona statutes and regulations.
2. Proposal should include past performance, capabilities, and qualifications demonstrated by an explanation of how the responder is suitable for this project. At a minimum responder, should address the following:
  - a. Identify three (3) other public-entity networks your company has built and operated, as well as any network design and build experience; include the level of broadband speed, technology type, availability and adoption among different categories of end users and unique capabilities or attributes. Discuss your capabilities with regard to engineering and design of broadband networks systems or any alternative technology, if that is what you propose. Include entity name, entity address, contact name, title, phone number and email address.
  - b. Customer satisfaction – Provide past or current customer satisfaction surveys or metrics that demonstrate all facets of the overall customer experience.
  - c. Describe agreements with other service providers, government, or non-profit entities you have undertaken, particularly any in which you provide service to unserved or underserved populations (Digital Divide). Describe the nature of the projects and your company’s role.
  - d. Discuss your capabilities regarding operation and maintenance of the form of broadband technology you propose. Overall operation, including routine and emergency maintenance, of the network will be crucial to its success. Please demonstrate through experience your ability to operate and maintain all aspects of the network.
  - e. Financial Statements: Provide audited financial statements for the most recent two (2) year period. Is your company a subsidiary or affiliate of another company? Provide full disclosure of all direct or indirect ownership. If you are a wholly owned subsidiary of another company or corporation and do not possess audited financial statements, unaudited financial statements for the subsidiary for a two (2) years period must be submitted as supplemental information to the company’s financial statements in order to meet this requirement. These documents should be affixed to all proposals, submitted by the company named in the proposal sheet.

#### **Section 4. EXPECTED OUTCOMES AND HIGH-LEVEL DELIVERABLES (continued)**

- f. Provide any pending legal matters against your company. Describe any pending agreements to merge or sell your company or any portion.
  - g. Provide customer service metrics outlining your plan's targets to include performance guarantee(s) with at-risk assumptions.
3. Proposed pricing/payments/ownership structure must be compliant for potential bond issuance by the County. Pricing is to be provided for a 20-year term for the County's portion of the fibers, split out as an install price/payment schedule for the design, construction, and turn-up of the fiber optic network and management of the fiber optic network which should include service level agreements outlining response times and costs associated with disruptions resulting from any logical or physical outages. Proposals must clearly separate any costs and service level agreements for the middle mile network and the County's private WAN networks. Any recurring monthly costs will be deemed a usage fee and applicable only to the middle mile network, and assumed pass through to the Service Providers and or end-customers.
4. Vendor should describe their approach to the following (break proposal into two sections - one for County WAN and one for Backbone to all other locations):

A public/private partnership that provides **Yuma County** with **dedicated, private fiber WAN** connectivity for its specified County locations specified in **Attachment A**, in addition to any fibers Vendor wants to install for its own use/wholesale.

**AND**

A public/private partnership that provides Yuma County with a **diverse redundant open access broadband backbone that provides service to all anchor locations in Yuma County specified in Attachment B:**

- a. Unless otherwise specified, all listed locations in **Attachment A** will have a 12-fiber lateral (using duct/conduit) built into the building, terminated on a fiber termination/patch panel at an internal location not more than 100 cable feet from the point of entry. Costs for internal cable distances of more than 100 cable feet from the point of entry will be paid for by the facility. At least thirty (30) feet of separation from existing telecommunication providers' points of entry and lateral entrance routes is required.
- b. For each connected entity location, there will be a quantity of dedicated fibers in the middle-mile fiber cable equal to the number of fibers in that location's lateral. Note: For scalability, spare private fibers for the county's use should be planned for as additional county-related sites are added in subsequent phases.
- c. Vendor will include the optics (xFP or SFP+, for example) cost to light two (2) fiber pairs at each specified location four (4) at the Yuma County locations of Yuma County Justice Center 250 W. 2nd St., Yuma County Public Works 4343 S. Ave 5 ½ E, Public Health Department 2200 W. 28<sup>th</sup> St, South County Complex 1358 E. Liberty St San Luis, East County Complex 10260 Dome St. Wellton, plus a spare set per specified location, in their pricing. Assume 10 Gbps bandwidth for pricing purposes. Specify additional one-time/recurring costs, if any, for optics above and beyond the initial optics required above.
- d. Vendor shall install cable splice handholes/vaults (for underground fiber segments) or aerial fiber splice cases (for aerial fiber segments) every 500 feet or less within incorporated area boundaries and every 750 feet or less everywhere else.

**Section 4. EXPECTED OUTCOMES AND HIGH-LEVEL DELIVERABLES (continued)**

- e. Vendor may market their backbone fibers or services on those fibers on a retail or commercial basis to other parties, including other telecommunications providers, or use it

for their own purposes. Please indicate if Vendor will provide a revenue share to the County for revenue received from Provider fibers for leasing dark fiber and/or providing services on those fibers and, if so, a detail of how that revenue share model would work and be calculated.

5. Provide a map (ESRI format) of your proposed network routes, including notations for fiber count, aerial versus underground route segments, identification of Attachment A locations, tower locations in Item 6 above, and other locations of significance along the fiber route(s).
6. Please describe the recognized telecommunication industry fiber optic network material and construction specifications you will adhere to for this project. Please review Attachment B and indicate how you will comply or propose to amend each requested specification.
7. Please confirm the network will support both active and passive signal distribution.
8. Please describe in detail how Vendor will document the fiber optic network, including, but not limited to: as-builts, fiber strand assignments, maintenance records, splicing assignments, link loss budgets and other operating characteristics. How will this information be shared with the County at completion of the project and an ongoing basis?
9. Please describe in detail how Vendor will monitor the network for physical and transmission service issues, impairments, and outages. How will this information be shared with the County?
10. Please describe in detail Vendor's Service Level Agreement policies and thresholds for:
  - a. Lit Services:
    - i. Availability
    - ii. Mean Time To Respond
    - iii. Mean Time To Repair
    - iv. Packet Loss
    - v. Latency (round-trip)
    - vi. Jitter
  - b. Dark Fiber:
    - i. Availability
    - ii. Mean Time To Respond
    - iii. Mean Time To Repair
11. Please describe in detail Vendor's Service Level Agreement credit policies and structure for violations of the above thresholds.
12. Please describe in detail Vendor's trouble ticketing system, including customer portals and how information will be shared with the County.
13. Please describe in detail Vendor's network management capabilities and its escalation policies and procedures.
14. Please provide a detailed overview, at minimum that includes a deployment plan, communications plan, and timelines to accomplish the goal of building a Middle-Mile Fiber Optic Network/Wide Area Network, along with local lateral drops to listed locations, as specified in this RFP. The project goal is to be operational by **December 2022**; please indicate factors that would prevent Vendor from meeting this goal and how those factors could be mitigated.
15. Please provide a description of the roles and responsibilities envisioned for Vendor, Vendor team members, Yuma County and its affiliates, and subcontractors and/or third parties (if applicable) for each of the following:
  - a. Network(s) design
  - b. Network(s) construction

#### **Section 4. EXPECTED OUTCOMES AND HIGH-LEVEL DELIVERABLES (concluded)**

- c. Network(s) operations and management
- d. Customer support
- e. Publicly available information

f. Marketing

16. Vendor will make this network available for broadband providers at competitive market rates for dark fiber/lit services. The County anticipates that Vendor may want to also provide Ethernet and/or Internet services on the network. Please provide, as a separate cost item, a schedule of Internet services Vendor offers to provide to locations connected to this network. Provide a scalable cost model showing minimum performance capacity of 1Gbps up/down per anchor site, scaling up incrementally to industry standard for like middle mile buildouts showing vendor recommended maximum capacity. End-customer connection should be supported by the middle-mile network; desired minimum performance capacity of 1Gbps up/down per end-customer connection. Provide a scalable cost model showing options for different capacity needs based on end-customer location, type and size.
17. Please provide information regarding your strategy/suggestions for interconnecting this network to other middle-mile networks for connectivity to Tier 1/2 Internet backbone providers located in Arizona or adjoining states. Vendor must adhere to ADOT standards for interconnection; same vault sizes and placement (distance between), splicing standards, etc.
18. If any of the locations in Attachment A or Attachment B are located in an FCC Rural Digital Opportunity Fund (RDOF) area, federal funds cannot be used to construct the middle mile backbone. Private funds or other non-federal sources will be used in those areas.
19. **Attachment C** includes the fiber construction specifications required by the County for this project.

## Section 5. PROPOSAL EVALUATION AND SELECTION PROCESS

It is the intent of Yuma County to award the contract for this project to the entity most responsive to all aspects of this RFP. A committee will evaluate all proposals based on the criteria and weighting described below:

25% - Project Plan – Including a work breakdown structure, duration estimates per activity and statement of work with all planned deliverables.

25% - Ability to Complete the Project – schedule, specifications, scope, quality, customer satisfaction.

25% - Cost of the overall project – **NOTE:** Vendor will provide a total cost of the project to accomplish the WAN and the diverse redundant fiber backbone for Yuma County. It is anticipated that the Vendor will identify the amount of private investment they will commit to the project. Any remaining funds will be sought through federal and state grants and local government contribution.

10% - Past Performance/Project Success – previous success with similar projects, including specific references and point of contact information.

10% - Innovation – Ability to provide viable options and scalability which consider our local and regional opportunities and challenges.

5% - Corporate stability and ability to provide proposed services.

## Section 6. GENERAL TERMS

### PROPRIETARY INFORMATION

Any restriction on the use of data contained within any proposals must be clearly stated in the proposal itself. Proprietary information submitted in response to this RFP will be handled in

accordance with applicable purchasing procedures. Each and every page of the proprietary material must be labeled or identified with the word "proprietary".

### **RESPONSE MATERIAL OWNERSHIP**

All material submitted regarding this RFP shall become property of Yuma County and will not be returned to the respondent. Responses received will be retained by Yuma County and may be reviewed by any person after final selection has been made, subject to paragraph above. Yuma County has the right to use any or all system ideas presented in reply to this RFP, subject to limitations in paragraph above. Disqualification or non-selection of a respondent or proposal does not eliminate this right.

### **INCURRING COSTS**

Yuma County is not liable for any cost by the respondents prior to issuance of a contract.

### **SUFFICIENT APPROPRIATION**

A contract awarded as a result of this RFP is contingent upon the availability of funds. A contract may be terminated or reduced in scope if sufficient funds do not exist without penalty to Yuma County. Sending written notice to the Vendor shall effect such termination or reduction in scope. The **Yuma County Program Manager's (to be determined)** decision to terminate or reduce the scope due to insufficient appropriations shall be accepted as final by the Vendor.

### **COMPLIANCE WITH LAWS AND REGULATIONS**

The successful Vendor shall comply with all Federal, State, and Local laws and regulations and Yuma County rules and policies pertaining to work under its charge, and shall, at its expense, procure any permits that may be required. To the extent applicable under A.R.S. § 41-4401, the Contractor and its subcontractors warrant compliance with all federal immigration laws and regulations that relate to their employees and compliance with E-verify requirements under A.R.S. § 23-214(A). Contractor shall further ensure that each subcontractor who performs any work for the County under this contract likewise complies with the State and Federal Immigration Laws.

### **ISRAEL BOYCOTT CERTIFICATION**

If the Vendor engages in for-profit activity and has 10 or more employees, and if this Agreement has a value of \$100,000 or more, Vendor certifies it is not currently engaged in, and agrees for the duration of this Agreement not engage in, a boycott of goods or services from Israel. This certification does not apply to boycott prohibited by 50 U.S.C. § 4842 or a regulation issued pursuant to 50 U.S.C. § 4842.

### **COOPERATIVE USE AGREEMENT**

In addition to the County of Yuma and with approval of the awarded contractor, this Agreement may be extended for use by other municipalities, school districts and government agencies of the State. A current listing of eligible entities may be found at <https://www.mesaaz.gov/business/purchasing/save?locale=en> and then click on 'Contracts', 'S.A.V.E.' listing. Any such usage by other entities must be in accordance with the ordinance, charter and/or procurement rules and regulations of the respective political entity.

Orders placed by other agencies and payment thereof will be the sole responsibility of that agency. The County shall not be responsible for any disputes arising out of transactions made by other agencies who utilize this Agreement.



## **Section 7. INSURANCE REQUIREMENTS**

### **STATEMENT OF PURPOSE**

Yuma County (the "County") from time to time enters into agreements, leases and other contracts with Other Parties (as hereinafter defined).

Such Agreements shall contain at a minimum risk management/insurance terms to protect the County's interests and to minimize its potential liabilities. Accordingly, the following minimum requirements shall apply:

### **COUNTY DEFINED**

The term County (wherever it may appear) is defined to mean Yuma County, Arizona, itself, its Board, employees, volunteers, representatives, contracted consultants, and agents.

### **OTHER PARTY DEFINED**

The term Other Party (wherever it may appear) is defined to mean the other person or entity which is the counter-party to the Agreement with the County and any of such Other Party's subsidiaries, affiliates, officers, employees, volunteers, representatives, agents, contractors and subcontractors.

### **LOSS CONTROL/SAFETY**

Precaution shall be exercised at all times by the Other Party for the protection of all persons, including employees, and property. The Other Party shall comply with all laws, rules, regulations or ordinances related to safety and health, and shall make special effort to anticipate and detect hazardous conditions and shall take such precautionary and prompt action where loss control/safety measures should reasonably be expected.

The County may order work to be stopped at any time, without liability, if conditions exist that present immediate danger to persons or property. The Other Party acknowledges that such stoppage, or failure to stop, will not shift responsibility for any damages from the Other Party to the County.

### **INSURANCE - BASIC COVERAGES REQUIRED**

The Other Party shall procure and maintain the following described insurance, except for coverage specifically waived by the County, on policies and with insurers acceptable to the County, and insurers with AM Best ratings of no less than A.

These insurance requirements shall in no way limit the liability of the Other Party. The County does not represent these minimum insurance requirements to be sufficient or adequate to protect the Other Party's interests or liabilities but are merely minimums.

"Except for workers' compensation and professional liability, the Other Party's insurance policies shall be endorsed to name Yuma County as **additional insured**. It is agreed that the Other Party's insurance shall be deemed primary and non-contributory with respect to any insurance or self-insurance carried by Yuma County for liability arising out of the operations of this agreement.

Except for worker's compensation, the Other Party waives its right of recovery against the County, to the extent permitted by its insurance policies.

**Section 7. INSURANCE REQUIREMENTS (continued)**

The Other Party's deductibles/self-insured retentions shall be disclosed to the County and may be disapproved by the County. They shall be reduced or eliminated at the option of the County. The Other Party is responsible for the amount of any deductible or self-insured retention.

Insurance required of the Other Party or any other insurance of the Other Party shall be considered primary, and insurance of the County shall be considered excess, as may be applicable to claims which arise out of the Hold Harmless, Payment on Behalf of Yuma County, Insurance, Certificates of Insurance and any Additional Insurance provisions of this agreement, contract, or lease.

**Commercial General Liability:** This insurance shall be an "occurrence" type policy written in comprehensive form and shall protect the Other Party and the additional insured against all claims arising from bodily injury, sickness, disease, or death of any person other than the Other Party's employees or damage to property of the County or others arising out of any act or omission of the Other Party or its agents, employees, or Subcontractors and to be inclusive of property damage resulting from explosion, collapse or underground exposures. This policy shall also include protection against claims insured by usual personal injury liability coverage, and to insure the contractual liability assumed by the Other Party under the article entitled **INDEMNIFICATION**, and **"Products and Completed Operations" coverage**.

The Other Party is required to continue to purchase products and completed operations coverage for a minimum of three years beyond the County's acceptance of renovation or construction properties.

**The liability limits shall not be less than:**

<b>Bodily Injury and Property Damage</b>	<b>\$1,000,000 Single limit each occurrence</b>
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**Business Automobile Liability:** Business Auto Liability coverage is to include bodily injury and property damage arising out of ownership, maintenance or use of any auto, including owned, non-owned and hired automobiles and employee non-ownership use.

**The liability limits shall not be less than:**

<b>Bodily Injury and Property Damage</b>	<b>\$1,000,000 Single limit each occurrence</b>
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**Workers' Compensation:** Vendor shall maintain appropriate Workers' Compensation coverage during the term of the contract.

All subcontractors shall be required to maintain Workers' Compensation.

## **Section 7. INSURANCE REQUIREMENTS (concluded)**

**Excess Liability:** This insurance shall protect the Other Party and the additional insured against all claims in excess of the limits provided under the employer's liability, commercial automobile liability, and commercial general liability policies. The policy shall be an "occurrence" type policy, and shall follow the form of the General and Automobile Liability.

The liability limits shall not be less than \$1,000,000.

### **EVIDENCE/CERTIFICATES OF INSURANCE**

Required insurance shall be documented in Certificates of Insurance that will provide that the County shall be notified at least 30 days in advance of cancellation, nonrenewable, or adverse change.

New Certificates of Insurance are to be provided to the County at least 15 days prior to coverage renewals.

If requested by the County, the Other Party shall furnish complete copies of the Other Party's insurance policies, forms, and endorsements.

For Commercial General Liability coverage, the Other Party shall, at the option of the County, provide an indication of the amounts of claims payments or reserves chargeable to the aggregate amount of liability coverage.

Receipt of certificates or other documentation of insurance or policies or copies of policies by the County, or by any of its representatives, which indicate less coverage than required does not constitute a waiver of the Other Party's obligation to fulfill the insurance requirements herein.

#### **Attachments:**

- A. Yuma County Private WAN Locations
- B. Additional Anchor Institutions/Locations
- C. Fiber Construction Specifications

**END OF REQUEST FOR PROPOSAL**

**ATTACHMENT A: Yuma County Private WAN Locations**

LOCATION	ADDRESS or GPS COORDINATES	CITY	STATE	ZIP	LATERAL / BACKBONE FIBERS
Yuma County Justice Center	250 W. 2 <sup>nd</sup> Ave	Yuma	Arizona	85364	12
Public Health Department	2200 W. 28 <sup>th</sup> St	Yuma	Arizona	85364	12
Public Works	4343 S. Ave 5 ½ E	Yuma	Arizona	85365	12
East County Complex	10260 Dome St	Wellton	Arizona	85356	12
South County Complex	1358 E. Liberty St	San Luis	Arizona	85349	12
Administration Building	198 S. Main St	Yuma	Arizona	85364	12
Administration Building Annex (After rebuild)	197 S. Main St	Yuma	Arizona	85364	12
Information Technology Services	2717 S. Ave B	Yuma	Arizona	85364	12
Developmental Services	2351 W. 26 <sup>th</sup> St	Yuma	Arizona	85364	12
General Services	2725 S. Ave B	Yuma	Arizona	85364	12
Historical Court House	168 S. 2 <sup>nd</sup> Ave	Yuma	Arizona	85364	12
Juvenile Justice Center	2440 W. 28 <sup>th</sup> St	Yuma	Arizona	85364	12
Aztec High School	2330 W. 28 <sup>th</sup> St	Yuma	Arizona	85364	12
Emergency Management	2681 S. 23 <sup>rd</sup> Ave	Yuma	Arizona	85364	12
Somerton Municipal Building	350 E. Main St	Somerton	Arizona	85350	12
Public Works	43487 Hwy 80	Tacna	Arizona	85356	12
Public Fiduciary	3007 S. Pacific Ave	Yuma	Arizona	85364	12
County School Superintendent	210 S. 1 <sup>st</sup> Ave	Yuma	Arizona	85364	12
Sheriff's Administration Office	141 S. 3 <sup>rd</sup> Ave	Yuma	Arizona	85364	12
Adult Detention Facility	200 S. 2 <sup>nd</sup> Ave.	Yuma	Arizona	85364	12
Adult Detention Annex	140 S. 3 <sup>rd</sup> Ave.	Yuma	Arizona	85364	12
Sheriff's Administration Annex	160 S. 3 <sup>rd</sup> Ave.	Yuma	Arizona	85364	12
Adult Probation Building	410 S. Maiden	Yuma	Arizona	85364	12
Sheriff Warehouse/Auto	2755 E. 14 <sup>th</sup> St.	Yuma	Arizona	86365	12
Public Fiduciary	3007 S. Pacific Ave	Yuma	Arizona	85364	12
Sheriff's Office	3911 S. Pico Ave	Yuma	Arizona	85365	12
Sheriff's Office	13190 Frontage Rd	Yuma	Arizona	85367	12
Sheriff's Office	11478 N. Joe Young	Yuma	Arizona	85365	12
Emergency Service Modular Building	2200 W. 28 <sup>th</sup> St	Yuma	Arizona	85364	12
					12

**ATTACHMENT B: DIVERSE REDUNDANT FIBER BACKBONE DESIRED ANCHOR LOCATIONS**

LOCATION	ADDRESS or GPS COORDINATES	CITY	STATE	ZIP	LATERAL / BACKBONE FIBERS
Spaceport	32°29'15.39"N, 114°36'20.42"W	Yuma	Arizona	85365	TBD
Yuma Commerce Center	Ave 7 E - Ave 8 E 32 <sup>nd</sup> Street	Yuma	Arizona	85365	TBD
Magrino Industrial Park	5237 S Vaughan St	San Luis	Arizona	85349	TBD
Southwest Industrial Park	County 24 <sup>th</sup> Street and Ave E	San Luis	Arizona	85349	TBD
Citrus Business Park	41 <sup>st</sup> Place and 3 E	Yuma	Arizona	85365	TBD
Future Industrial Development Corridor - E 40th St	32°39'19.32"N, 114°33'34.70"W	City/County	Arizona		TBD
Future Industrial Development Corridor - S. Av. 4E	32°40'32.24"N, 114°33'51.09"W	City /County	Arizona		TBD
Potential Industrial Park	32°38'39.72"N, 114°34'37.10"W	City/County	Arizona		TBD
Marine Industrial Park	Araby – 32 <sup>nd</sup> Street To County 14 <sup>th</sup> and 6 E	Yuma	Arizona	85365	TBD
City Hall	143 N State Ave	Somerton,	Arizona	85350	TBD
Public Safety Bldg.	445 E Main St	Somerton,	Arizona	85350	TBD
Municipal Court	350 W Main St	Somerton,	Arizona	85350	TBD
Community Center	801 W Main St	Somerton,	Arizona	85350	TBD
Parkview Commerce Center	1298 W Main St	Somerton,	Arizona	85350	TBD
Joe Munoz Park	245 W Fern St	Somerton,	Arizona	85350	TBD
Council Park	801 N Council Ave	Somerton,	Arizona	85350	TBD
Sewer Treatment Plant	473 S Tumbaga Loop -114.726, 32.591	Somerton,	Arizona	85350	TBD
Senior Center	245 S Bingham Ave	Somerton,	Arizona	85350	TBD
Cultural & Youth Center	239 W Canal St	Somerton,	Arizona	85350	TBD
Centennial Park	316 N Somerton Ave	Somerton,	Arizona	85350	TBD
Public Works Shops	348 N Somerton Ave	Somerton,	Arizona	85350	TBD
Traffic Signal #1	Avenue D/US 95 -114.684, 32.597	Somerton,	Arizona	85350	TBD
Traffic Signal #2	Main St/Bingham Ave -114.704, 32.597	Somerton,	Arizona	85350	TBD
Traffic Signal #3	Main St/Somerton Ave -114.710, 32.597	Somerton,	Arizona	85350	TBD
Traffic Signal #3	Main St/Cesar Chavez -114.718, 32.597	Somerton,	Arizona	85350	TBD
Traffic Signal #4	Main St/Parkview Ave -114.723, 32.597	Somerton,	Arizona	85350	TBD
Somerton Library	240 W Canal St	Somerton,	Arizona	85350	TBD
San Luis Police Department	1030 E UNION ST	San Luis	Arizona	85349	TBD
San Luis Fire Dept	1165 N McCain Ave	San Luis	Arizona	85349	TBD
San Luis PD Substation	32.47898435850941, - 114.71247554272912	San Luis	Arizona	85349	TBD
Public Works Yard	1311 N 4 <sup>th</sup> Ave	San Luis	Arizona	85349	TBD

San Luis Cultural Center	1015 N Main St	San Luis	Arizona	85349	TBD
San Luis Municipal Court	767 N William Brooks Ave	San Luis		85349	TBD
Fleet Services	707 N William Brooks Ave	San Luis			TBD
San Luis Senior Center	790 E Cesar Chavez Blvd	San Luis	Arizona	85349	TBD
San Luis AWC	1340 N 8 <sup>th</sup> Ave	San Luis	Arizona	85349	TBD
San Luis High School	1250 N 8 <sup>th</sup> Ave	San Luis	Arizona	85349	TBD
Ed Pastor	985 N 6 <sup>th</sup> Ave	San Luis	Arizona	85349	TBD
Cesar Chavez Elementary	1130 N 10 <sup>th</sup> Ave	San Luis	Arizona	85349	TBD
Desert View Elementary School	1508 N 10 <sup>th</sup> Ave	San Luis	Arizona	85349	TBD
San Luis Middle School	1135 N Main St	San Luis	Arizona	85349	TBD
Meadow Craft Building	2801 N Main St	San Luis	Arizona	85349	TBD
South Valley Center (WAL-MART)	1613 N Main St	San Luis	Arizona	85349	TBD
Jackson Square	1233 N Main St	San Luis	Arizona	85349	TBD
San Luis Plaza	580 N San Luis Plaza DR	San Luis	Arizona	85349	TBD
Plaza Riedel	1950 E Cesar Chavez Blvd	San Luis	Arizona	85349	TBD
San Luis Library	1075 N 6 <sup>TH</sup> Ave	San Luis	Arizona	85349	TBD
San Luis Industrial Park	411 N Cesar Chavez St	San Luis	Arizona	85349	TBD
San Luis Business Incubator	415 N Henry Chavez CRT	San Luis	Arizona	85349	TBD
Port of Entry I	431 N MAIN ST	San Luis	Arizona	85349	TBD
Port of Entry II	1375 S AVE E	San Luis	Arizona	85349	TBD
Magrino Industrial Park	4937 E Vaughan Street	San Luis	Arizona	85349	TBD
San Luis Medical Mall	101 S Oak Ave	San Luis	Arizona	85349	TBD
San Luis Detention Facility	406 N Ave D	San Luis	Arizona	85349	TBD
State Prison Complex	7125 E Cesar Chavez Blvd	San Luis	Arizona	85349	TBD
Wellton Town Hall	28634 Oakland Avenue	Wellton	Arizona	85356	TBD
Wellton Police Department	28618 Oakland Avenue	Wellton	Arizona	85356	TBD
Pete's Body Shop	28589 Arizona Avenue	Wellton	Arizona	85356	TBD
Wellton Fire Department	29118 Los Angeles Avenue	Wellton	Arizona	85356	TBD
Wellton Real Estate Office	29134 Los Angeles Avenue	Wellton	Arizona	85356	TBD
Butterfield Pro Shop	10231 Dome Street	Wellton	Arizona	85356	TBD
Wellton Community Center	10234 Dome Street	Wellton	Arizona	85356	TBD
East County Complex	Dome Street	Wellton	Arizona	85356	TBD
Wellton Elementary School	29126 San Jose Avenue	Wellton	Arizona	85356	TBD
Wellton Water Plant	10815 Dome Street	Wellton	Arizona	85356	TBD
Coyote Wash Pro Shop	11902 William Street	Wellton	Arizona	85356	TBD
AWC Wellton Learning Center	28851 County 12th Street	Wellton	Arizona	85356	TBD
Ed Whitehead's Tire Country	29889 Los Angeles Avenue	Wellton	Arizona	85356	TBD
RDO Equipment Co	30101 E Highway 80	Wellton	Arizona	85356	TBD

Wellton-Mohawk Irrigation & Drainage District	30570 Wellton-Mohawk Drive	Wellton	Arizona	85356	TBD
Wellton US Border Patrol Station	10888 S Avenue 31E	Wellton	Arizona	85356	TBD
JBS Five Rivers Cattle Feeding	32.69222 N 114.04459 W	Wellton	Arizona	85356	TBD
Antelope Union High School	9168 S Avenue 36E	Roll	Arizona	85347	TBD
Mohawk Valley School	5151 S Avenue 39E	Roll	Arizona	85347	TBD
Bingham Equipment	4838 S Avenue 38E	Wellton	Arizona	85356	TBD
Agriculture and Rural Areas –			NOTES		
<b>NOTE:</b> Some areas may be duplicative of the locations listed above.					
Fiber run between Roll and Mohawk Valley Farms	County 1 <sup>st</sup> St. and Ave 51E		County	Towers along the run can cover farmland to the farthest east fields at Ave 55 ½ E. Alternatively fiber can end at Roll and towers can be daisy-chained to the east.	
Fiber run between Tacna and Roll	County 5 <sup>th</sup> St. and Ave 38E		County	Wellton already turned in Bingham Equipment and Mohawk Valley School, so this is covered. Towers along the fiber run will be needed to provide wireless broadband across the farm fields.	
Fiber run between Wellton and Tacna	Old US 80 and Ave 38E		Wellton/County	This can serve JBS Feedlot and other sites listed by Wellton. Towers along the run can cover farmland to the north.	
Fiber run between Wellton and Dome Valley	Hwy 95 and County 3 <sup>rd</sup> St.		County	Towers along the run can cover farmland to the north.	
Fiber run along Hwy 95 from Dome Valley to City of Yuma	Hwy 95 and Ave 3E		County	Rural facilities include Sakata Seeds (9140 S Ave 6 E). Towers along the run can cover farmland to the north and south.	
Fiber run along Ave 7E from Hwy 95 to County 3 <sup>rd</sup> St.	Harrison Farms, 6445 E County 3rd St, Yuma		County	Towers along the run can cover farmland. Other facilities: Laguna Mobile Home Park (7270 S Avenue 7 E), North Gila Valley Garbage Dump (7870 E County 5th St), Sugarloaf Mountain Bike Trail System, Mittry Lake.	
Fiber run along Ave 7E from Hwy 95 to E. County 9 1/2	Yuma Irrigation District, 9510 S Avenue 7 E, Yuma		County	Smith Farms is near Yuma Irrigation District.	
Fiber run along Araby Rd. from Hwy 95 to 32 <sup>nd</sup> St.	Araby Rd. and 32 <sup>nd</sup> St.			Rural facilities include Holaday Seed, Booth Machinery, Tanimura & Antle (all near Araby Rd & 30 <sup>th</sup> St).	

				Towers for wireless service to farm fields and residential. Can tie into Hwy 195 fiber route to the south.
Fiber run along 32 <sup>nd</sup> St. from Foothills Blvd to Ave G				Rural facilities include Amigo Farms (4245 E 32nd St), Datepac (6685 W County 11th St), Keithly-Williams Transplants (6885 W County 11th St), Lee Farms. Towers for wireless service to farm fields and residential.
Fiber run along Ave 5E from 32 <sup>nd</sup> St. to County 15th				Facilities include Almark Foods (4420 E 36th St), Arizona Marketplace (3351 S Avenue 4 E), Humane Society of Yuma (4050 S Avenue 4 1/2 E). Towers for wireless service to farm fields and residential.
Fiber run along Ave 3E from 32 <sup>nd</sup> St. to County 16th				Facilities include Greengate Fresh Salad Plant (32 <sup>nd</sup> St. & Ave 3 1/2 E), Dole Fresh Vegetables (3725 S Avenue 3 1/2 E), MCAS Yuma, Select Seed, Sunset Nursery. Towers for wireless service to farm fields.
Fiber run along County 16th from Ave 3E to Hwy 95 at Ave. C				Rural facilities include Yuma Mesa Irrigation District (4 <sup>th</sup> Ave & County 14 1/2), Unit B Irrigation District and Rural Metro Fire Station (Ave A & County 16), UofArizona Mesa Ag Center (Ave A & County 14), Condor Seed (Ave A 1/2 & County 16), Cocopah Casino (Ave B & County 15). Towers for wireless service to farm fields and residential. From there, follow Hwy 95 through Gadsden and to City of San Luis.
Fiber run along County 8 <sup>th</sup> St. from City of Yuma to Somerton Ave.				Rural facilities include University of Arizona Yuma Ag Center, U.S. Bureau of Reclamation and APS Yucca Power Plant (County 8 & Somerton Ave), Keithly-Williams Seed Co. (County 8 1/2 & Ave E). Towers can provide wireless service to farm fields to the north and south.
Fiber run along Somerton Ave. from County 8 <sup>th</sup> St. to County 15th				Towers for wireless service to farm fields.
Fiber run along Ave. D from County 8 <sup>th</sup> St. to Hwy 95				Foothills Packing (Ave. D & Hwy 95), Four Little Devils Farms (12498 S Avenue D), American Takii Seed Co. (11492 S Avenue D), Research Designed for Ag (11479 S Avenue D). Towers for wireless service to farm fields.
Fiber run along Ave. C from County 8 <sup>th</sup> St. to County 15th				Yuma County Water Users Association (Ave C & County 15), various residential developments. Towers for wireless service to farm fields.



Fiber run along Ave. G from County 11 <sup>th</sup> St. to Hwy 95				Towers for wireless service to farm fields.
Fiber run along County 14 from Ave. G to Cocopah Reservation				Towers for wireless service to farm fields.
Fiber run along Somerton Ave. from Hwy 95 to County 19th				Towers for wireless service to farm fields.
Fiber run along Ave. G from Hwy 95 to County 19th				Towers for wireless service to farm fields.
Fiber run along Ave. I from Hwy 95 (at County 18 <sup>th</sup> ) to County 19th				Towers for wireless service to farm fields.
Fiber run along County 19 <sup>th</sup> from Somerton Ave. to Hwy 95 at Gadsden				Towers for wireless service to farm fields.

## **ATTACHMENT C: FIBER CONSTRUCTION SPECIFICATIONS**

The following are general terms that apply to the construction of fiber for the project. Vendor should indicate how they intend to comply with or amend these specifications.

### **Meet-me Hole and Mid-Span Interconnection Splicing**

It is possible that Yuma County may want to interconnect with the existing or newly planned carrier facilities at meet-me manholes or mid-span splice locations. Vendors should detail policies and guidelines that document meet-me manhole and mid-span interconnection procedures along with detailed costs for these activities.

### **Dark Fiber Performance**

Yuma County prefers newly built fiber that contains a homogenous fiber type throughout the entire build.

### **Dark Fiber Maintenance**

Operations and Maintenance Practices: Yuma County will require on-going maintenance and operation of Indefeasible rights of use (IRU) or owned fiber during the term of the contract. When pricing maintenance and operations as part of the monthly recurring costs, the Vendor should include an overview of fiber maintenance practices including:

- Routine maintenance and inspection
- Scheduled maintenance windows and scheduling practices for planned outages
- Fiber monitoring including information on what fiber management software is used, what fiber monitoring system is used, and who performs the monitoring
- Handling of unscheduled outages and customer problem reports
- What service level agreement is included, and what alternative service levels may be available at additional cost
- What agreements are in place with applicable utilities and utility contractors for emergency restoration
- Repair of fiber breaks
- Replacement of damaged fiber
- Replacement of fiber which no longer meets specifications
- Policies for customer notification regarding maintenance
- Process for changing procedures, including customer notification practices
- Property restoration

## **NEW BUILD FIBER STATEMENT OF WORK**

The Work is defined as:

### **Project Management**

- Selected vendor and its subcontractors will provide all project management to accomplish the installation of all project work.
- Provide engineer(s), certified on selected fiber system specifications and procedures to manage all phases of project as outlined in this proposal. This includes ordering and managing the bill of materials as outlined below, directing and managing cable placement and restoration, directing and managing splicing crews and providing detailed documentation at the end of the project.

- Selected vendor and its subcontractors will develop a project management plan, which will include a milestone chart. The milestone chart will outline any critical path events and then track these with the appropriate agency/organization/entity.

#### Material Management

- Selected vendor and its subcontractors will provide all material management to ensure that the project remains on track according to the project milestones.
- Selected vendor and its subcontractors will develop in conjunction with selected contractor plants and other suppliers a material management plan.

#### Property Restoration

- All cable routes, which are plowed, will be restored to as near to original condition as possible.

#### Install overhead and underground fiber optic cable.

- Bore approximately (Approximate Number) feet of fiber optic cable through inner duct/conduit/handhole system
- Plow approximately (Approximate Number) feet of fiber optic cable in accordance with selected Vendor installation specifications.
- Install approximately (Approximate Number) feet of aerial fiber optic cable in accordance with selected Vendor installation specifications.
- Install hand-holes and place marker/locator posts.
- Vendor will provide specific details of cable placement using aerial photography and CAD drawings.

#### Install and Splice Hardware

- Prep closures, cables, fibers and splice fibers at all field locations
- Fiber to fiber fusion splicing of optical fibers at each point
- Individual splice loss will be  $\leq 0.5$  dB for single-mode unless, after 3 attempts, these values cannot be achieved, then the fibers will be re-spliced until a splice loss within 0.05 dB of the lowest previous attempts is achieved. Splice loss acceptance testing will be based on the fusion splicer's splice loss estimator.

#### Final Testing

- In addition to splice loss testing, selected Vendor will perform end-to-end insertion loss testing of single-mode fibers at 1310 nm and 1550 nm from one direction for each terminated fiber span in accordance with TIA/EIA-526-7 (OFSTP 7). For spans greater than 300 feet, each tested span must test to a value less than or equal to the value determined by calculating a link loss budget.
- Inspect each terminated single-mode fiber span for continuity and anomalies with an Optical Time Domain Reflectometer (OTDR) at 1550 nm from one direction in accordance with OTDR operating manual.

#### Documentation

- Provide final documentation consisting of:
  - Route "As-Built" Maps/Diagrams
  - End-to-End Insertion Loss Data
  - OTDR Traces
  - Individual Splice Loss Data

#### General Scope of Work (Description for all routes)

- Placing of associated hand-holes, marker posts, locator posts, inner duct, and miscellaneous materials.
- Splicing of fiber optic cables as specified.
- Procuring and Provisioning of hand holes and miscellaneous materials required to accomplish the above.

#### Bid Specifications

- All splicing shall be by the fusion method.
- All splicing enclosures and Hand-Holes shall be of a type to be determined by the owner.
- All Hand-Holes shall be DOT approved, 45,000 lb. load rated CDR or comparable enclosures.
- All plowed cables shall be placed at a depth of 36" along roadways and 24" on private property.
- All road and driveway bores shall be at a depth of 36" and will have at least a 2" inner duct placed within.
- All buried splice locations will be marked with a locator post and a copper ground wire shall be attached to the splice closure/cable sheath.
- Buried marker posts shall be placed at least every 1500' or per State/local requirements.
- Warning tape shall be placed 12" above the buried cable.
- All highway shoulders, schoolyards, and ditch lines will be compacted and restored to satisfactory condition.
- All Arizona Department of Transportation (ADOT) encroachment permits, railroad encroachment permits, and United States (US) agency permits shall be submitted by selected vendor in accordance with the permitting agency requirements.
- The vendor shall be responsible for the payment of any permitting fees and shall be the owner of said facilities.
- Vendor shall furnish an as-built drawing to the owner of connected facilities.
- Vendor shall perform an end-to-end continuity and loss test on each spliced fiber segment and provide the owner with the decibel db loss of each fiber segment.
- Vendor shall be responsible for submitting the appropriate Diggers Hotline locate requests.
- The County shall grant Vendor right of way permission for county-owned properties and roadways.
- All cables to buildings shall be fusion spliced within a minimum of 100' of entering a building at a location to be determined by the owner with an existing single mode fiber and terminated at customers' rack.
- A minimum of 100' coil of cable shall be left in each Hand Hole/Building for splicing use.

#### Right-of-Way Acquisition & Permitting

- Vendor is responsible to ensure that all cable routes have approved access and rights-of-way for all proposed cables installations.
- Vendor will provide any information or points of contact to allow selected Vendor and its subcontractors to facilitate the route prep "Make-ready" and actual cable installation.

- Vendor is responsible for pulling all required construction permits. Selected Vendor and its subcontractors will provide selected vendor with any information necessary to pull these permits in a timely fashion.

#### Route Maps

- Selected vendor is responsible for providing maps, drawings or aerial photographs of the route.

#### Final Inspection

- The County will provide at their discretion a person(s) to witness any final testing or construction verification. The person designated by the County will be required to initial/provide acceptance of any results. This person(s) will represent the County during any and all acceptance testing. This does not relieve the selected Vendor from providing agreed upon documentation or absolve the selected Vendor of any warranty support.

**EXHIBIT B**  
**(WANRack Verified**  
**Complaint)**

**PROJECT: Middle-Mile Fiber Optic Network and Wide Area Network RFP # YC21-22B**

PROPOSER BEING EVALUATED: \_\_\_\_\_

EVALUATOR NAME: \_\_\_\_\_

DATE: \_\_\_\_\_

<b>Proposal Rating Criteria:</b>			
<b>Project Plan - 25</b>	<b>25 points maximum</b>	<b>Points assigned:</b>	<b>Notes:</b>
Project plan aligns with and addresses all requirements identified within RFP; technical, functional and operational - 10	0 - 10		
Project approach and plan includes full project schedule, communication plan, clearly identified milestones and deliverable(s) – 10	0 - 10		
Project Manager is assigned and dedicated for entire project duration – 5	0 - 5		
<b>Ability to complete the project - 25</b>	<b>25 points maximum</b>	<b>Points assigned:</b>	<b>Notes:</b>
Relevancy of recent public sector and/or public-private partnership projects in scope, duration, deliverable – 15	0 - 15		
Project experience matches or nearly matches scope of Yuma County requirements; design, number of locations, desired business model – 5	0 - 5		

Meets expected timeline – 5	0 - 5		
<b>Cost of the overall project - 25</b>	<b>25 points maximum</b>	<b>Points assigned:</b>	<b>Notes:</b>
Proposal includes total cost for both County WAN and diverse redundant fiber backbone and individual cost break down as applicable – 10	0 - 10		
Proposal includes appropriate industry standard contingencies and clearly identifies in cost proposal – 5	0 - 5		
Proposal clearly identifies cost sharing and identifies significant vendor investment of funding for project – 5	0 - 5		
Proposal allows for flexibility or can accommodate expansion or adjustments as deemed appropriate through project duration – 5	0 - 5		
<b>Past Performance / Project Success – 10</b>	<b>10 points maximum</b>	<b>Points assigned:</b>	<b>Notes:</b>
References include favorable and details assessment of performance and project deliverables – 5	0 - 5		
References cited are similar in scope and deliverables 5	0 - 5		



<b>Innovation - 10</b>	<b>10 points maximum</b>	<b>Points assigned:</b>	<b>Notes:</b>
Proposal allows for flexibility and includes alternative options to align with community demographics and geographic location 5	0 - 5		
Proposal includes alternative funding strategies that may best meet RFP requirements 5	0 - 5		
<b>Corporate stability and ability to provide proposed services - 5</b>	<b>5 points maximum</b>	<b>Points assigned:</b>	<b>Notes:</b>
Profit loss statements	0 - 1		
Company assets and holdings	0 - 1		
Ability to sustain through entire project duration	0 - 3		
<b>TOTAL</b>			

Example Ratings Definitions:

Zero (0) points – Does not meet basic requirements

Midrange of points – Adequate level of response to meet requirements and expectations

Highest points – Best possible response to requirements, exceeds expectations

**EXHIBIT C**  
**(WANRack Verified**  
**Complaint)**

**Middle-Mile Fiber Optic Network and Wide Area Network**

**RFP #YC21-22B**

Ratings October 11, 2021 to determine companies for Interview October 15, 2021

Company Name:

	<b>Scores:</b>	<b>ALLO</b>	<b>Commnet</b>	<b>eX2 Technology</b>	<b>Gila Electronics</b>	<b>WANRack</b>
<b>Evaluator 1 - Paul</b>		67	48	77	38	87
<b>Evaluator 2 - Kathy</b>		75	47	97	0	62
<b>Evaluator 3 - Derek</b>		65	64	82	53	79
<b>Evaluator 4 - Brad</b>		89	65	86	47	64
<b>Evaluator 5 - Susan</b>		87	51	91	25	89
<b>Evaluator 6 - David</b>		80	55	92	52	48
<b>Evaluator 7 - Clif</b>		84	76	78	29	76
<b>Evaluator 8 - Mark</b>		99	18	60	37	97
<b>Total Points:</b>		646	424	663	281	602

Companies to be Interviewed October 15, 2021:

**ALLO**

**eX2 Technology**

**WANRack**

**EXHIBIT D**  
**(WANRack Verified**  
**Complaint)**

**Yuma County AZ**

**Middle-Mile Fiber Optic Network and Wide Area Network RFP # YC21-22B**

**Questions for Vendor Interviews, October 15, 2021  
And Notes Pages**

**Company** \_\_\_\_\_

**Evaluator** \_\_\_\_\_

1. The cost to design & build and the annual O&M cost both varied significantly between proposals. Please explain the metrics your Team used to derive your proposed costs.
  
2. Please identify what work your company is planning on self-performing and who will be performing your contracted services in the following:
  - a. Engineering of Construction Drawings and Specifications
  - b. Developing the fiber cable installation & splicing constructing details
  - c. Preparing the permit applications
  - d. Constructing the Conduit and Pull Box Infrastructure
  - e. O&M on-site changes/repairs of the conduit infrastructure
  - f. Installing & splicing the fiber cable infrastructure
  - g. O&M changes/repairs of the fiber cable/splice
  - h. Day-to-day operation of the trouble ticketing system
  - i. Day-to-day operation of tracking leased fibers/ducts & available capacity
  - j. Marketing the infrastructure to attract Last-mile service providers
  - k. Legal support developing the leasing/service agreements with Last-mile service providers
  
3. The County has decided not to construct a private WAN as part of this project, and to incorporate the County locations into the middle mile fiber backbone. How will this affect your proposal cost, contribution level, and timeline for this project?
  
4. The County is interested in only a middle mile fiber and conduit backbone for this specific project, rather than fiber to the premise. The intent is to lower the barrier to entry for last mile service providers and to incentivize service to unserved and underserved areas of the County. How does this affect your proposal for this project?

5. The County wants to own the middle mile fiber backbone, and to contract with the selected vendor to operate the middle mile fiber backbone in an open access, competitively neutral, non-discriminatory manner. What is your level of experience with this type of operation and how would you address it?
  
6. The County desires to optimize coverage over pure cost savings. This means that, especially in the rural areas, accessible fiber runs as defined in the RFP should be included regardless of whether there are more efficient ways to connect the specified service points. Are there any changes to your proposed network that should be made to accomplish this? How does this affect your proposal for this project?
  
7. The County intends the middle mile fiber backbone to be fully underground for protection of infrastructure, highest fiber count, and future expansion. How does this affect your proposal for this project? Share your thoughts to suggestions as to specific areas where overhead installation makes the most sense.
  
8. Is your company suggesting shared use of existing fiber? If so, please specify the exact fiber count, mileage, age and specifications of the fiber to be offered.
  
9. Indicate the total number of miles (for both fiber cable & 7-way micro-ducts) you are proposing for the middle mile fiber backbone, and whether they are new or existing construction.
  
10. Provide explanation of realistic timeline in light of current supply chain delays, mobilization issues, etc. How will you handle unforeseen project delays?
  
11. Please explain your proposal to operate, maintain and repair (OM&R) the middle mile fiber backbone.

12. What programs would you plan to use to manage the infrastructure being leased to FTTP providers?
  
13. What will be your approach to marketing in order to attract FTTP providers and wireless carriers to lease the middle mile backbone fiber?
  
14. What proposals or options will you offer regarding revenue sharing for leasing of County's middle mile backbone fiber and conduit?
  
15. Please give some specific examples of your experience contributing to proposals and securing grants.
  
16. Describe your team's experience working with key stakeholders (government officials, network industry representatives, utility company representatives, property owners, etc.).
  
17. The County plans a future phase for grant funding to incentivize or provide directly FTTP for the more remote, underserved areas. What are your ideas for maximizing our efforts?
  
18. What other unique qualifications does your team possess that would be a benefit to the project? Why should Yuma County select your Team?

**EXHIBIT E**  
**(WANRack Verified**  
**Complaint)**



## Yuma County

### Proposal # C21-22B Middle-Mile Fiber Optic Network and Wide Area Network

#### Proposal Evaluation Team Meeting Notes, Talking Points and Considerations October 18, 2021

Compiled by Susan Thorpe, County Administrator, from conversation among 6 of 7 team members in a Zoom meeting on October 18 at 3:00 pm, and later conversation with the remaining team member by phone at 5:00 pm.

**WANRack** – Good local experience, has been in Yuma and knows who the people are. WANRack has experience with BLM, USBR in our areas. Has worked with all the engineers and contractors in the area. Grant writing experience was strong. Like their reference to a 50 year relationship. Talked about hitting all Ag sites. Stated they have existing fiber here that is 6 years old. Appears to be open to County ownership of the middle mile and are flexible even if that's not their preference. Both WANRack and ALLO said their preferred middle mile structure is different from what our RFP describes; both thought micro ducts are expensive compared to larger fiber pull. Final design will determine costs. Subcontracts 90% of services, so we don't know who we would get as subcontractors. Not sure about outsourcing, since they are growing. No clarity was given on who would serve as project manager. Excessive focus on reducing costs but no details. Did not provide any cost savings due to removing WAN and just constructing middle mile. Google Fiber connection is enticing as the last mile provider, but no guarantee they will come on board as there is no contract between them. This puts the value of this proposal into question. "Google will be their marketing arm"? WANRack would be middle mile only without Google Fiber. WANRack would need to ID partner for last mile if Google Fiber doesn't work out. Can WANRack stand on its own? Project experience – it is not clear what they specifically did on the projects listed in the proposal. Refer to County ownership as IRU; not sure, why; an IRU is not ownership.

**eX2** – Focused on exactly what we asked for. Got right down to business in the interview. This is their bread and butter. Size of projects comparable. Experienced with critical infrastructure. Provided hard cost estimates and did their homework related to costs. eX2 does all work in-house except construction of conduit and pull boxes. Good experience with governmental and public agencies. County would have ownership of all assets. Offered 85/15 revenue share. Showed no bias or conflict of interest toward last mile providers: Would work with ALLO or WANRack. What about marketing for future uses? No local or AZ experience. The other two companies already want to bring a last mile provider. eX2 doesn't seem big enough as a company. Not sure of depth; other two teams seem to be larger companies. Projects cited may have been done by the individuals in other roles, but not as part of eX2 itself. eX2 would be turnkey middle mile, then we need to market to get someone in to serve the last mile. Concern that fiber would be left empty if we don't market it immediately. County would need to be a lot more intimately involved and active in our broadband destiny with this approach.

**ALLO** – Seems most capable of getting us to the last mile along with the middle mile, based on their experience. Middle mile and last mile is what they do. Willing to build middle mile with end mile as well. If we want to reach the community quicker, we should go with ALLO. They do everything in house except trenching and boring. Genuine, strong team of individuals. They have 700 employees. Seem easy to work with. Allo's management team has an 18-year history of working together in the business of building and operating broadband networks. Grant writer on management team. Didn't change their answers from the initial response. ALLO offered to design county-wide system together with Yuma County, and then select parts to be designed and deployed at different stages. They offered to sit down with the team and look at the whole county for an ultimate design, which is appealing and will lead to efficiencies. They are open to cost share idea/revenue share; mentioned 60/40 or 70/30 depending on each party's investment. Eager for us to talk with their references and check national rankings. Arizona appears to be their #1 market. They are familiar with rural areas and are ready to go in Yuma. They would provide "one neck to choke" as design/build and marketer of middle mile in addition to last mile. Discussed where there might need to be aerial based on their background and experience. Need to understand what they mean by "centralized split" in their approach to fiber. Admitted they have not done soil samples yet to decide on boring needs. Would need to design the middle mile carefully and transparently to ensure future access to other last mile providers. Other providers may want their own specific brand of fiber, so we should include conduits for their use. This choice provides a first hit at last mile along with middle mile. If we choose them, people will be happy with the service and they will employ local people.

### **Consensus Conclusion**

The Evaluation Team unanimously recommended ALLO Communications to Yuma County as the superior choice to construct and operate the middle mile fiber backbone.

**EXHIBIT F**  
**(WANRack Verified**  
**Complaint)**

## Yuma County Broadband Proposal Evaluation Team

Brad Burgess – ADOT Broadband Program Administrator  
Clif Summers – Yuma County Chief Information Officer  
David Haines – Kimley Horn Consultant for Yuma County  
Derek Masseth – Sun Corridor Network Executive Director  
Kathleen Fernandez – City of Yuma Chief Information Officer  
Mark Smith – Smith Farms Company, Inc.  
Paul Brierley – U of A Center of Excellence for Desert Agriculture  
Susan Thorpe – Yuma County Administrator



October 19, 2021

Yuma County Board of Supervisors  
198 S. Main Street  
Yuma AZ 85364

Dear Board of Supervisors:

The Yuma County Broadband Task Force began its work in March 2021. The Task Force developed an RFP for a Broadband Middle Mile Fiber Backbone and a County Wide Area Network. The purpose of the middle mile fiber backbone is to lower the barrier to entry for last mile service providers and to incentivize service to unserved and underserved areas of the County. The County WAN was later removed from consideration of the middle mile project; the County sites will be included in the middle mile backbone.

The Task Force identified the need for a specific team, including industry experts, to be engaged to review the proposals expected in response to the RFP. The County Administrator assembled a **Broadband Proposal Evaluation Team**, comprised of the individuals listed above, to review and evaluate the proposals received. Five proposals were received by the submittal deadline of September 7. The Team members individually reviewed and scored each proposal, then reconvened on Monday, October 11. Each Team member shared their scores and justification for same. The scores were used to rank the five responses to determine which proposals/vendors to invite for more in-depth interview and Q&A. Based on the ranking, three of the five vendors were selected and participated in interviews on Friday, October 15.

The Evaluation Team considered each of the three vendors' written proposals as well as their presentations and discussions during the interview process. The Team assessed each vendor's experience, approach to design, construction and project management, cost and public/private partnerships to build a middle mile fiber and conduit backbone. Following these presentations, the Team arrived at a consensus recommendation to the County to enter into negotiations to develop a contract with ALLO Communications (dba ALLO Arizona, LLC) for a middle mile fiber backbone in Yuma County.


ALLO has been serving rural communities for the last 18 years with both middle mile and last mile fiber optic services. ALLO has a strong team of individuals in management positions who have worked together for many years and appear easy to work with. Their stated values are "Local (employ local people), Hassle-free (easy to work with), Honest (will tell you if there is a better way) and Exceptional (provide the best service)". They have a proven record of accomplishments across the US. ALLO completes the vast majority of project activities using in-house resources with the exception of boring or major trenching activities. While the County will own the middle mile backbone, ALLO will maintain, operate and market the use of the middle mile. ALLO will also invest its own capital to serve customers throughout Yuma County. ALLO has made service in Arizona a top priority. With the recent announcement of Lake Havasu City build-out plans, ALLO will have an enhanced presence in Arizona that will benefit Yuma County. ALLO has exhibited a strong desire to partner with Yuma County to design and construct the most effective county-wide fiber backbone. ALLO has grant writing expertise to assist with applying for a variety of funding opportunities, including Arizona's program starting this November.

The Broadband Proposal Evaluation Team is honored to assist Yuma County on this project. We stand ready to provide expertise and input to assist in developing a robust and transparent contract that will benefit the County and the community for years to come.

Sincerely,

  
David Haines – Kimley Horn Consultant

  
Kathleen Fernandez – City of Yuma CIO

  
Derek Masseth – Sun Corridor Network Executive Director

  
Cliff Summers – Yuma County CIO

  
Brad Burgess – ADOT Broadband Program Administrator

  
Mark Smith – Smith Farms Co, Inc.

  
Paul Brierley - U of A Center of Excellence for Desert Agriculture

  
Susan Thorpe – Yuma County Administrator

**EXHIBIT G**  
**(WANRack Verified**  
**Complaint)**

# BOS Regular Agenda

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AIR-10947

Discussion 2.

Meeting Date: 11/15/2021

Title: Authorize County Administrator to Enter into Contract with ALLO Communications for Broadband Middle Mile Fiber Backbone, subject to legal review

Submitted By: Susan Thorpe

Prepared by: Susan Thorpe

Department: County Administration

Special District:

Strategic Pillar:

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## Information

### 1. REQUESTED BOARD ACTION:

*County Administration:* Discussion and possible action to authorize the County Administrator to enter into a contract with ALLO Communications (dba ALLO Arizona, LLC) for Design and Construction of a Broadband Middle Mile Fiber Backbone, subject to legal review.

### 2. SUMMARY:

According to the Benton Institute for Broadband & Society, broadband is essential to rural communities in the six pillar areas of:

1. Economic Development
2. Education
3. Tele-health
4. Civic Engagement
5. Public Safety
6. Quality of Life

The Arizona Statewide Broadband Strategic Plan identified access to affordable broadband services as a critical element to innovations in education and health, the furtherance of economic development and enhancements to public safety services.

The State Broadband Strategic Plan states: "Arizona citizens, particularly students in rural and underserved areas, deserve the same access to educational opportunities, healthcare and other resources as those in metropolitan and higher-economic areas. Many of Arizona's rural residents and businesses find that they do not have high-capacity, high-speed digital communications services available at all, or the available services do not provide sufficient capacity to support new video-intensive internet services such as E-learning, telehealth, telework and internet protocol television (IPTV). These shortcomings have been limiting factors affecting the availability of jobs, educational opportunities, public safety services and healthcare services in such areas."

Even before the COVID-19 pandemic Yuma County had poor internet service. Legacy providers have not sufficiently upgraded existing infrastructure. People across Yuma County became painfully aware of the serious lack of adequate internet service during the COVID-19 pandemic, especially for schoolchildren in rural areas, individuals working from home, and people requiring remote healthcare. Agricultural technology development and implementation was hindered by lack of broadband access in agricultural areas.

In order to support rapid deployment of this now-essential infrastructure, the Yuma County Board of Supervisors declared Broadband its top priority for use of American Rescue Plan Act (ARPA) funds, and plans to use them toward a county-wide broadband middle mile fiber backbone.

Building on several years of work by the Community Broadband Action Team, Yuma County formed a Broadband Task Force that began work in March 2021. Members of the Task Force include Yuma County, City of Yuma, City of Somerton, City of San Luis, Town of Wellton, GYEDC, representatives of the agriculture community, IT subject matter experts and the State Broadband Director.

The Task Force developed and Yuma County issued a Request for Proposals (RFP) on July 6, 2021 for a Broadband Middle Mile Fiber Backbone and a County Wide Area Network (WAN). The purpose of the middle mile fiber backbone is to lower the barrier to entry for last mile service providers and to incentivize service to unserved and underserved areas of the County. The County WAN was later removed from consideration of the middle mile project; and the County sites will be served by the middle mile backbone. The RFP specified an all-underground backbone network, and a minimum capacity so that last mile providers will be able to serve at least 1 Gbps per residential end user and 10 Gbps per commercial end user. The RFP identified a target date of December 2022 for completion of the middle mile backbone.

The Task Force determined that additional technical expertise would be beneficial in reviewing and evaluating the proposals received in response to the RFP, and formed the Broadband Proposal Evaluation Team.

The Proposal Evaluation Team consisted of several members of the Broadband Task Force as well as outside technical experts. Five proposals were received by the submittal deadline of September 7. Initial proposals included a project cost ranging from \$29.1 million to \$135 million. The Proposal Evaluation Team members individually reviewed and scored each proposal, then convened on Monday, October 11. Based on cumulative rankings, three of the five vendors were selected to participate in interviews on Friday, October 15.

The Evaluation Team considered each of the three vendors' written proposals as well as their presentations and discussions during the interview process. The Team assessed each vendor's experience, approach to design, construction and project management, and cost to build a middle mile fiber and conduit backbone.

Following these presentations, the Team arrived at a consensus recommendation to the County to enter into negotiations to develop a contract with ALLO Communications (dba ALLO Arizona, LLC) for a middle mile fiber Broadband Backbone in Yuma County. The recommendation letter is attached.

Yuma County plans to own the Broadband Backbone upon construction completion. The County will contract with ALLO to operate, maintain and market the middle mile fiber backbone in an open access, competitively neutral, non-discriminatory manner. ALLO also has an interest in providing fiber to the premise for residential and commercial use. The contract will be structured so that the price to lease middle mile network capacity for ALLO will be the same as for other interested last mile providers and private networks.

Negotiations will begin immediately upon authorization by the Board of Supervisors. Subject matter experts on the Proposal Evaluation Team have offered to assist Yuma County and ALLO in developing a final design and construction plan that will meet the needs of our entire community.

The current estimated Broadband Backbone is 181 miles in length with an estimated cost of \$37.5 million. The Broadband Backbone length and cost are subject to change based on engineering and design specifications of the final network architecture. Yuma County will commit 50% of its total American Rescue Plan Act (ARPA) funding toward the Broadband Backbone. Yuma County and ALLO will seek Arizona and Federal Broadband grant funds to assist in funding this important project. The County will request that the City and Town in Yuma County also commit funding toward the project using a portion of their ARPA funds, or other funds as deemed appropriate.

### **3. RECOMMENDED MOTION:**

Motion to authorize the County Administrator to enter into a contract with ALLO Communications (dba ALLO Arizona LLC) for Design and Construction of a Broadband Middle Mile Fiber Backbone, subject to legal review.

### **4. FISCAL IMPACT: (Finance, OMB, & Human Res.)**

### **5. COUNTY ATTORNEY:**

Approved as to form.

B. Kerekes

November 9, 2021

### **6. COUNTY ADMINISTRATOR:**

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#### **Fiscal Impact**

#### **Attachments**

[Task Force October 2021](#)

[Recommendation Letter](#)

[Proposal Evaluation Team Notes 11-18-21](#)

[YUma County RFP for Middle Mile Broadband Backbone](#)

[ALLO Communications Proposal](#)



[GO TO PREVIOUS PAGE](#)

[GO TO THE TOP OF THE PAGE](#)



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**EXHIBIT H**  
**(WANRack Verified**  
**Complaint)**

December 14, 2021

**Via E-Mail**

Susan K. Thorpe, MPA, ICMA-CM  
Yuma County Administrator  
198 S. Main Street  
Yuma AZ 85364

Re: Correction to WANRack's Comments

Dear Ms. Thorpe,

Enclosed please find WANRack's "**CORRECTED** Comments Regarding Yuma County Broadband Middle Mile Fiber Backbone RFP # YC21-22B ("RFP")" ("Corrected Letter").

This corrected version removes language in our original letter which mistakenly attributed a quote to Jonathan Lines. We have also removed the accompanying exhibit and have re-labeled our remaining exhibits. We request that the Committee consider this Corrected Letter as part of its review of vendor comments related to the RFP.

We appreciate you bringing this to our attention and apologize for any confusion.

Sincerely,



Rob Oylar

Chief Executive Officer

December 14, 2021

**Via E-Mail**

Susan K. Thorpe, MPA, ICMA-CM  
Yuma County Administrator  
198 S. Main Street  
Yuma AZ 85364

Re: **CORRECTED** Comments Regarding Yuma County Broadband Middle Mile Fiber Backbone RFP # YC21-22B (“RFP”)

Dear Ms. Thorpe:

On behalf of WANRack, LLC (“WANRack”), we respectfully submit these comments in response to your e-mail correspondence dated November 29, 2021, and in strong opposition to the Yuma County Proposal Evaluation Team’s (the “Committee”) recommendation that the Yuma County Board of Supervisors (the “Board”) authorize the Yuma County Administrator to enter into a contract with ALLO Communications LLC (“ALLO”) for design and construction of a broadband fiber backbone.<sup>1</sup>

We would first like to express our sincere appreciation for the hard work the Committee has put forth over the preceding months – this is certainly not an easy process. That said, Yuma County (the “County”) has the opportunity to make a decision that will have a significant impact on its residents for decades to come and we implore the Committee to carefully execute this critical task in compliance with all legal requirements.

As set forth in WANRack’s proposal and its interview session with the Committee, WANRack has been a private fiber provider in Yuma County for over seven years. Our current networks in the county include the Yuma Union High School District,<sup>2</sup> Yuma Elementary School District, Somerton School District, and the Yuma Regional Medical Center. WANRack has over 81 miles of fiber built in the County, and we had plans to continue adding on even before the RFP was released. WANRack continues to look forward to an effective partnership with the County, continuing its efforts to expand broadband access throughout the community.

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<sup>1</sup> Because the contract has not yet been awarded, and thus the time to protest the County’s award decision has not yet begun to run, these comments are submitted without prejudice to WANRack submitting a comprehensive protest of the County’s procurement process and award, which would not be limited to the issues raised in this letter.

<sup>2</sup> See “WANRack Letter of Support,” dated December 8, 2021, Chief Information Officer, Yuma Union High School District #70 & Yuma Elementary School District #1, attached hereto as **Exhibit A**.

Based upon our thorough review of each of the documents the County has provided to date, we assert there were material deficiencies in the procurement process, as well as clear misconceptions of the superior value represented by the WANRack proposal as compared to the one recommended by the Committee. Indeed, as it currently stands, the Committee has recommended that the Board accept a proposal that will: (a) cost the County three to four times more; (b) provide about half the mileage and lacks redundancy; and (c) require a slower rollout to the County's citizens, than WANRack's proposal.

For the following reasons, we hereby request that the Committee either (a) withdraw its support of the ALLO proposal and recommend the Board authorize the Yuma County Administrator to enter into a contract with WANRack; (b) engage in negotiations with WANRack, and permitting WANRack to submit a best and final offer; or (c) restart the procurement process.

**I. Comments Regarding Irregularities in the Procurement Process.**

The Committee failed to follow its own scoring criteria for both the initial scoring calculations and the final consensus report, creating critical procedural failures to evaluate and score the proposals in accordance with the RFP's stated evaluation criteria.

The RFP made clear that it was "the intent of Yuma County to award the contract for this project to the entity most responsive to all aspects of the RFP." See RFP, Section 5, at p. 10. To that end, the RFP identified six evaluation criteria and listed each criterion's percentage of the total score:

- (1) Project Plan: 25%
- (2) Ability to Complete the Project: 25%
- (3) Cost of the overall project: 25%
- (4) Past Performance/Project Success: 10%
- (5) Innovation: 10%
- (6) Corporate stability and ability to provide proposed services: 5%

Arizona law requires that, for competitive sealed proposals, the RFP shall "state the relative and importance of price and other evaluation factors," and that "the award shall be made to the responsible offeror whose proposal is determined in writing to be most advantageous . . . taking into consideration the evaluation factors set forth in the [RFP]." A.R.S. § 41-2534(E) & (G). See also Arizona Administrative Code ("A.A.C.") R2-7-C316(A) ("An agency chief procurement officer shall evaluate offers and best and final offers based on the evaluation criteria contained in the request for proposals. The agency chief procurement officer shall not modify evaluation criteria or their relative order of importance after offer due date and time."). Critically, "[n]o other factors or criteria may be used in the evaluation." *Id.* § 41-2534(G).

A. Errors in Initial Evaluation & Scoring

Rather than evaluate and score the cost of the overall project, the Committee instead awarded subjective points to effectively “pass/fail” elements of each vendor’s proposal. As a result, the Committee’s scoring methodology failed to take into consideration a critical evaluation factor, worth 25% of the total points available, and resulted in the Committee selecting an offer that represents significantly more cost to Yuma County and its taxpayers. This result is inconsistent with Arizona law and the County’s role as a fiduciary to its citizens and a steward of taxpayer funds.

The Arizona Procurement Manual, which serves as a guide to those “involved with public procurement in this State” is meant to provide “information and general direction to public procurement employees.” See Manual, at 1. The Manual provides critical guidance on fundamental procurement practices in Arizona, including best practices for evaluating and scoring a proposal’s cost. The Manual provides that the two most common methods for comparing cost proposals are: (a) a conversion of price to a weighted point score; and (b) life cycle costs (which considers both fees and indirect costs).

The formula for converting price into a weighted point score, which ALLO’s procurement officials meaningfully to compare overall costs between vendors, is: Points Awarded = (Lowest bid divided by the bid being evaluated) x Max Points. The result of the formula is that the lowest cost proposal achieves 100% of the points available for “cost,” while higher cost offers receive fewer points. That cost score is then combined with the remaining technical evaluation scores to determine the most advantageous proposal.

Here, rather than evaluate the “cost of the overall project” as it was required to do by the plain terms of the RFP (and, therefore by Arizona law), the Committee’s scoring rubric demonstrates that the Committee never evaluated or scored the actual bottom-line cost of the overall project. Rather than analyzing actual cost to the County and its taxpayers, the Committee scored whether each proposal included certain components: “Proposal *includes* total cost for both County and WAN;” “Proposal *includes* appropriate industry standard contingencies and clearly *identifies* in cost proposal;” “Proposal clearly *identifies* cost sharing and *identifies* significant vendor investment of funding for project;” “Proposal allows for flexibility or can accommodate expansion or adjustments.” See RFP Rating Sheet, at p.2 (emphasis added).

Scoring those “pass/fail” components did nothing to evaluate which vendor represented the lowest cost of the overall project. This fundamental error violated the terms of the RFP and ran afoul of Arizona’s clear requirement that proposals must be evaluated in accordance with the stated evaluation factors.

B. Errors in Final Evaluation and "Proposal Evaluation Team Meeting Notes."

Rather than update or re-score proposals following the Committee's interviews with the final three vendors, using the proper scoring methodology discussed above, the Committee appears instead to have prepared only a subjective, narrative set of "talking points and considerations" (the "Meeting Notes") that reflects several fundamental errors with respect to WANRack's proposal, including the Committee's assessment of the total cost of ownership and network coverage.

1. *Total cost of ownership.*

In preparing its Meeting Notes, the Committee again appears to have failed meaningfully to score the "cost of the overall project," in contravention of the RFP and Arizona law. These concerns are further magnified by the fact that the Committee's scoring sheets used in reviewing the initial bids were no longer applicable as it contemplated construction of a WAN that was subsequently removed from the RFP. This failure by the Committee to follow objective and specific standards in evaluating the final bids resulted in the recommendation of a proposal that from the perspective of any neutral party could not possibly be viewed as serving the best interests of the County and its residents.

For example, the costs of WANRack's proposal clearly provide the County an exponentially better value than the ALLO proposal. Even when not including ALLO proposed maintenance costs of \$38 million (\$1.9 million a year over 20 years) and construction costs for the County WAN, the total cost to the County under the ALLO proposal is \$37.5 million.<sup>3</sup> In contrast, the County's total costs under the WANRack proposal for construction and maintenance are only \$20.3 million, representing massive cost savings to the taxpayers of the County.

Despite these significant and readily apparent cost differences, we were unable to identify anywhere in the procurement file where WANRack's proposal was given credit on this very important scoring item. In fact, notes from some of the Committee members indicated that WANRack focused too much on cost savings,<sup>4</sup> which we found to be a perplexing perspective given the fiduciary responsibility of the County to manage taxpayer resources and the relative importance of the project's overall cost in the RFP's evaluation criteria.

2. *Network Coverage*

The RFP clearly stated that one of the County's principal objectives in constructing the fiber backbone was to bring "affordable and reliable high-speed Internet access to all residents and businesses" in the County through an open and redundant network, and "leverage existing

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<sup>3</sup> See Summary of Agenda Item for November 29, 2021 Board meeting.

<sup>4</sup> See Proposal Evaluation Team Meeting Notes, Talking Points and Considerations (October 18, 2021), at p. 1.

assets for the greatest benefit to citizens and community business partners.”<sup>5</sup> This point was further emphasized by the Committee in its points of clarification to the final bidders that the “County desires to optimize coverage over pure costs saving.”<sup>6</sup> Under any objective measure, WANRack’s proposal meets that goal; ALLO’s does not.

Specifically, ALLO’s proposed network design includes only 181 fiber miles and fails to provide redundancies to key communities such as Wellton. In addition, due to the significant difference between ALLO’s construction costs and the County’s available funding, the County would be required under the ALLO proposal to build the fiber backbone in phases until additional funding becomes available. This coverage gap was noted by the Deputy County Administrator indicating it would be inaccurate to claim that each farm and house in the County would be reached by ALLO’s network.<sup>7</sup>

The WANRack proposal, in contrast, contemplates the installation of 346.60 fiber miles and provides critical redundancies to all sites included in the RFP needed to truly reach maximum impact in key unserved and underserved areas. Moreover, because our construction costs fall within the County’s available funding, WANRack could build the fiber backbone all at once and would have a significant head start utilizing 65 miles of its existing fiber already installed in the County. WANRack’s network coverage is superior to ALLO’s, both in terms of fiber miles and timeliness of coverage, bringing to mind the familiar adage that: “a bird in the hand [WANRack] is worth two in the bush [ALLO].”

We respectfully request that the Committee reconsider its award recommendation and/or explain to all providers and the County why the Committee saw fit to disregard the importance of making sure unserved and underserved areas are covered as part of this middle mile network in a manner that would assure their connection capabilities in the future, and why the Committee chose a proposal contingent on future grant funding<sup>8</sup> and development in phases, rather than a proposal that fell squarely within the County’s budget and that could start immediately.

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<sup>5</sup> See RFP Section 4 (Expected Outcomes and High-Level Deliverables).

<sup>6</sup> See Item 11 of Broadband Points of Clarification for Oct 15 Interviews

<sup>7</sup> See Email dated November 2, 2021 from I. McGaughey to S. Thorpe, attached hereto as **Exhibit B**.

<sup>8</sup> The committee has asked cities within Yuma County to contribute their ARPA dollars to this project to make it successful. ALLO’s proposal is dependent on the cities’ agreement, while WANRack’s proposal is not. In any event, WANRack saw no evidence of these city commitments in the procurement file, leading WANRack to the inevitable conclusion that the Committee is hoping the County receives grants and that every city agrees. WANRack’s proposal removes these risky contingencies by operating fully within the County’s budget and beginning work immediately. Inexplicably, WANRack was not scored favorably for these advantages and cost savings.



We strongly encourage the Committee to revisit this specific situation, given the disconnect between what the RFP requested and what the Committee ultimately recommended.

C. ALLO’s proposal failed to comply with the several key RFP requirements.

The Committee’s process also suffered from a structural deficiency by selecting a proposal that did not comply with the explicit requirements of the RFP. Specifically, the County instructed prospective bidders that all proposals should clearly provide that the County would not be responsible for any monthly recurring charges for maintaining the fiber backbone<sup>9</sup> and that the County was interested only in a middle mile network rather than fiber to the premises.<sup>10</sup> The County’s stated intent for this project was to lower the barriers to entry for last mile service providers and to incentivize service to unserved and underserved areas.

Against these express requirements, ALLO submitted a cost proposal that included \$38 million in maintenance costs. While these expenses might be memorialized in a legal arrangement separate from the construction contract, they represent real and significant costs that would greatly impact the County’s total cost of ownership (costs the County would not occur if WANRack were selected as the contract awardee). The ALLO proposal and its presentation to the Board also focused extensively on its fiber to the home experience and capabilities; not altogether surprising given the much smaller scope and significant additional expense reflected in its bid for the middle mile network.

RFP Requirement	WANRack Proposal	ALLO Proposal
Maximize Coverage	346 miles	181 miles
Redundant Network	Full circular ring architecture -- entire network is redundant	Network design leaves a significant portion (i.e., Wellton) with no redundancies
No Maintenance	\$0	\$38,000,000
Total Cost of Ownership	\$20,280,295	\$65,300,000 - \$77,100,000
County Preference for Ownership	20-Year IRU providing “de facto” ownership, as defined by the IRS, with transfer of	County owns the middle mile network

<sup>9</sup> See Item 27 of Q&A Responses.

<sup>10</sup> See Item 5 of Broadband Points of Clarification Prior to Interviews.

	<p>ownership at end of term – As mentioned during interview by CEO Rob Oyler, WANRack is willing to provide County ownership of middle mile network from day one.</p>	
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Again, it appears the Committee has chosen a project that would cost the County tens of millions of dollars more and would cover a drastically smaller footprint than WANRack’s bid.

It remains unclear whether ALLO’s proposal (which could have been deemed non-responsive for failing to follow the RFP’s instructions) was even deducted points for explicitly ignoring directives in the RFP, or whether WANRack was credited for differentiating itself by assuring the County would not incur additional annual costs to maintain the network. We ask the Committee to review and reconsider this specific point and/or to better explain this result.

D. The Committee fundamentally misconstrued some key components of WANRack’s proposal.

In reviewing the Committee member notes and other related materials included in the procurement file, we noted numerous instances where certain Committee members appeared to misconstrue key aspects of the WANRack proposal. We offer the following clarifications on these points and urge the Committee to revisit these items in full prior to making a final decision on which proposal presents the best alternative to meet the County’s needs.

1. *Project Management*

One example of such a misconception relates to the extent to which WANRack would utilize subcontractors to construct, operate and maintain the County’s middle mile network. Several Committee members noted that WANRack would outsource 90% of its work on the County’s project.<sup>11</sup> This simply isn’t true. Sean Brown, WANRack’s Senior Vice President of Network Development, did mention during our interview that 90% of the physical construction efforts would be performed by local subcontractors, but he was referring only to trenching and boring activities representing less than 30% of project activities. All other functions, such as network planning and design, construction management, grant management, marketing, customer service, ticketing management, operation of tracked lease fibers, and legal support would be performed exclusively by WANRack employees. To state it more simply, if it isn’t climbing up a pole or digging a hole, it’s all handled internally.

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<sup>11</sup> See Notes of Evaluators “DSH,” Paul Brierly and Brad Burgess.

It is important to note that we would hire only local contractors for the County's project, which separates us from other applicants. We have built fiber networks in the County and know the challenges companies face with respect to topography and rights of way. We believe our utilization of experienced local contractors would not only provide the County with the best possible network but would also extend economic benefits to companies throughout local communities.

## 2. WANRack Contributions

There also appeared to be some confusion by members of the Committee regarding the County's total commitment for construction, operation and maintenance under the WANRack proposal. The notes of several members indicate the total cost to the County under WANRack's proposal would be \$45.9 million.<sup>12</sup> This amount, however, neither reflects our in-kind contribution of our existing fiber with a value of \$5.4 million, nor our cash investment of \$20.3 million.

The net cost to the County after application of these investments is \$20.3 million, representing significant savings from the amount understood by certain Committee members during the evaluation process.

## 3. Ownership

Several Committee members noted that WANRack would own the middle mile network under its proposal. WANRack offered the County a 20-year Indefeasible Right of Use (IRU) for the middle mile network, reflecting the period of useful life of the fiber assets and defined by the IRS as ownership. WANRack was simply following the RFP guidelines which mentioned "the County desires ownership" under its 20 clarifying points.

This structure was selected to provide the County "de facto" ownership of the network, but also to allow WANRack to fully depreciate our investment. This depreciation allowance was included in our financial model in order to offset potential taxable income and to allow WANRack to provide maintenance of the network at no cost to the County. Under WANRack's proposal, the County receives all the benefits of ownership while also meeting the requirements of the RFP of no maintenance. That said, it is clear that the County requires ownership. As indicated in our presentation to the Committee by CEO Rob Oyler, WANRack is willing to negotiate full ownership by the County from day one without any maintenance costs, as it was.

## 4. Fiber to the Premises

While fiber to the premises was not a specific requirement of the RFP, we felt it was important to introduce the Committee to Google Fiber to illustrate our commitment to the

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<sup>12</sup> See Notes of Evaluators "DSH," Paul Brierly and Brad Burgess.

open access design of the middle mile network. Several Committee members expressed reservations in their interview notes as to whether WANRack would market the fiber backbone to additional ISPs. WANRack made clear to the Committee that it would market to additional ISPs. And, in addition to its commitment to market to other ISPs, WANRack also brought the nation's premier ISP to the table in Google Fiber.

Rest assured that we and Google Fiber are both fully committed to the open access concept. WANRack would be marketing and conducting outreach for ISP number 2, 3 and beyond, just as it did with Google Fiber, PC Magazine's top ISP. And Google Fiber is the only ISP involved in this proposal that truly has a proven track record of creating the type of open access model envisioned by the County, having used the same model in Huntsville, Alabama and West Des Moines, Iowa. ALLO would be welcomed as ISP #2 on a WANRack provided solution and deliver guaranteed revenue sharing to the County.

ALLO claims in its proposal to support the open access model, but it expressed contrary views in the interview process. Namely, ALLO represented that the first ISP in the County would likely be the only one<sup>13</sup> and that open access models in metropolitan areas have been an abject failure.<sup>14</sup> While we could certainly disregard such a comment, despite the concerns it should have on the same effort WANRack was questioned for, we simply can't as ALLO has a history of promising open access only to subsequently negotiate rights of exclusivity, as happened in Breckenridge, Colorado.<sup>15</sup>

These comments should have created real concerns for the Committee as to what efforts ALLO would put forth to truly recruit multiple ISPs and create any real value to the County under a revenue share arrangement. Under ALLO's plan, the County would receive 100% of nothing in a revenue sharing model. If open access truly is an objective of the County for this project, then the Committee should have applied at least the same level of scrutiny to its promise of open access as it did to WANRack.

It is also important to note that the Committee provided no real notes or details regarding ALLO's planned pricing, and WANRack was shocked to hear the ALLO representative indicate it had not yet settled on pricing during the last Board of Supervisor's meeting. But, based on WANRack's review of what ALLO charges in its limited markets, it is clear that Google Fiber will save the residents of Yuma County an incredible \$40 million each and every year! These annual savings, combined with WANRack's savings on the middle mile build, means ALLO will cost taxpayers hundreds of millions of dollars over 20 years.

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<sup>13</sup> See Notes of Evaluator Paul Brierley on Item 11

<sup>14</sup> See Notes of Evaluator Derek Masseth and Paul Brierley on Item 5

<sup>15</sup> See "Breckenridge's fiber network to have exclusive provider initially" (May 16, 2019), available at <https://www.summitdaily.com/news/breckenridges-fiber-network-to-have-exclusive-provider-initially/>.

As a matter of stewardship and responsibility to Yuma County taxpayers, the Committee should consider and evaluate these cost savings. When it does, WANRack is confident the Committee will find that WANRack's proposal represents truly the best value to Yuma County.

E. The County is operating under a false assumption about the urgency to obtain grant funding.

The County appears to be under the assumption that there is an urgency in awarding this contract so that the County is able to apply for available grant funds. First, any grant funding urgency is not an issue at all if the County selects WANRack for contract award. The County could build the middle mile network under the WANRack proposal without these funds, as the County's total commitment would be limited to currently-available ARPA funds.

Second, the ACA has extended the deadline for the Arizona Broadband Development Grant (ABDG) program from December 10 to January 31, 2022. Thus, any sense of urgency is unnecessary, as is a need to rush a flawed process that will certainly result in selecting an offer that costs substantially more, provides objectively less, and takes significantly longer.

We encourage the Committee to take the time permitted by the extension meaningfully to consider these comments, rather than pushing through an award recommendation that does not represent the most advantageous outcome for Yuma County and that is subject to legal challenge and protest.

II. Arizona Procurement Law re Protests.

Although these comments do not constitute a procurement protest, the legal standard for evaluating protests is instructive as the Committee evaluates whether to award the contract to WANRack or, alternatively, whether to restart the procurement.

Namely, to succeed in a procurement protest in Arizona, a party must prove, by a preponderance of the evidence, that: "(i) the procurement process was tainted by violations of applicable statutes or rules, by substantial irregularities in the proceedings, or by improper conduct by any of the participants to the process; (ii) such improprieties were materially prejudicial to [the protesting party]; and (iii) but for such improprieties, there is a substantial probability that [the protesting party] would have been the recipient of the contract award." See, e.g., *Cigna Healthcare Company of Arizona, Inc., et al v. Ariz. State Procurement Office*, No. 04-0008-ADM, at p. 27 (ALJ Decision, May 1, 2005).

In addition to the issues and legal deficiencies identified above, this procurement process was marred by several further, significant irregularities, the full enumeration of which is outside the scope of this letter. But a couple of examples demonstrate the point.

First, it is highly unusual that a paid consultant would serve as a scoring and voting member of the evaluation committee, particularly where the procurement file reveals no "conflict of

interest” form executed by the outside consultant (or any Committee member, for that matter), and the presence of an expert member on the committee presents the very real possibility of undue influence over the committee or deference to that committee member in a “consensus” evaluation situation. This is particularly true where the final decision was memorialized not in individualized scores, but in a “consensus” narrative of “talking points.” There simply is no way to evaluate whether the hired consultant “expert” exercised undue influence over other committee members as part of the Committee’s ultimate decision.

Second, it appears the County intends to “enter into negotiations” with ALLO following the Board’s approval of the ALLO contract.<sup>16</sup> A negotiation with only ALLO, following contract award, would be a direct violation of Arizona procurement statutes and regulations. A “negotiation” means “an exchange or series of exchanges between the state and an offeror or contractor that allows the state or the offeror or contractor to revise an offer or contract.” A.A.C. R2-7-101. If negotiations take place, they “shall be conducted with all offerors determined to be reasonably susceptible for award.” R2-7-C314(A)(3) (emphasis added).

Critically, “[o]fferors shall be accorded fair treatment with respect to any opportunity for discussion [also known as negotiation].” See A.R.S. § 41-2534(F) (“If discussions [negotiations] are conducted, all offerors who have submitted proposals that are determined by the procurement officer to be reasonably susceptible to being selected for award shall be invited to submit a best and final offer.”). Here, at least three offerors – including WANRack – were deemed susceptible for award. The County’s apparent intent to negotiate with only one of those offerors is directly contrary to Arizona law. At the very least, in the interest of providing fair treatment to all offerors, the Committee should invite WANRack to participate in negotiations with respect to its proposal and prepare a best and final offer.

Although it remains hopeful the Committee will review and address its concerns, if WANRack ultimately must protest this procurement process, it remains confident that it can meet its legal burden in protesting the Committee’s award recommendation. Under the express terms of the RFP, WANRack presented the proposal most advantageous to the County and its taxpayers. And, but for significant and material anomalies in this procurement process, WANRack had a substantial probability of receiving the Committee’s award recommendation.

Indeed, WANRack believes that with a proper scoring methodology and evaluation in accordance with the RFP’s stated evaluation criteria, it will be selected and recommended for

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<sup>16</sup> See Email from S. Thorpe dated October 20, 2021 (“[T]he team arrived at a consensus recommendation to the County to enter into negotiations to develop a contract with ALLO Communications (dba ALLO Arizona, LLC) for a middle mile fiber backbone in Yuma County), attached hereto as Exhibit C.

award. Alternatively, WANRack asks that the Committee choose to restart the procurement process with a commitment to follow proper procurement procedures.

**III. Conclusion**

WANRack stands ready, willing, and able immediately to begin work on the middle mile network in partnership with Yuma County. We are also ready to answer any questions of concerns the Committee may have. We sincerely appreciate the opportunity to provide comments to the Committee, and respectfully request that the Committee recommend WANRack for award or, at the very least, permit WANRack to engage in negotiations and prepare a best and final offer. Alternatively, WANRack requests that the Committee address the several issues addressed in these comments by restarting this procurement.

Sincerely,



Rob Oyler

Chief Executive Officer



**Yuma Union High School District**  
3150 South Avenue A, Building A  
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Ph: 928.502.4605  
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**Governing Board:**  
Carlos Gonzalez  
Jacqueline Kravitz  
David Lara  
Shelley Mellon  
Phillip Townsend

Dean Farar, Chief Information Officer

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Est. 1909

8 December 2021

Re: WANRack Letter of Support

To whom it may concern,

I'm writing this letter in support of WANRack LLC's effort to provide residents of Yuma County with fiber optic based, high-speed Internet access. School Districts in Yuma County have an interest in the improvement of our community's access to quality, high-speed Internet as it has become an important tool in expanding educational opportunities for all students. As residents in Yuma County recently experienced, having quality, home Internet access enables students to stay connected with their learning when traditional learning methods are not possible. WANRack has been a valuable partner in our districts' efforts to provide quality Internet access within our schools.

WANRack has been the fiber optic service provider for the Yuma Union High School District #70 and Yuma Elementary School District #1 since 2016. Through these partnerships, WANRack established more than 30 miles of fiber optic infrastructure to connect more than 20 district schools and facilities across the City of Yuma. This partnership has been very successful and has proven to be both educationally beneficial and fiscally prudent. Recently, the Yuma Union High School District #70 partnered with WANRack to build out more than 25 additional miles of fiber to connect San Luis High School and our future high school in Somerton to our schools in Yuma. Additionally, Yuma Elementary School District #1 partnered with WANRack to build out more than 20 miles of fiber to connect James D. Price Elementary School at the Yuma Proving Grounds to our schools in Yuma. Through these efforts our schools have a robust, private 10Gbps (10,000Mbps) network to support our work.

Through our districts' partnerships, WANRack has established a track record of successfully meeting the expectations of our community. WANRack has proven to understand our needs and is providing solutions that solve today's challenges and are ready to tackle tomorrow's demands. Our districts fully support the effort to expand the Internet widely throughout our community and believe that WANRack has proven to be an exceptional choice in making these plans a reality.

Sincerely,

Dean Farar  
Chief Information Officer  
Yuma Union High School District #70  
Yuma Elementary School District #1  
dfarar1@yumaed.org



**From:** [Susan Thorpe](#)  
**To:** [Ian McGaughey](#)  
**Subject:** RE: Broadband 101 presentation.pptx  
**Date:** Tuesday, November 2, 2021 3:02:00 PM

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Thanks!

Susan

**From:** Ian McGaughey <Ian.McGaughey@yumacountyaz.gov>  
**Sent:** Tuesday, November 2, 2021 8:41 AM  
**To:** Susan Thorpe <Susan.Thorpe@yumacountyaz.gov>  
**Subject:** RE: Broadband 101 presentation.pptx

Susan,

Here are my comments on the draft PowerPoint presentation.

I'm not sure if the presentation notes reflect what you intend to say, but if so you may want to update your comments to include "backbone delivery system" instead of "middle mile" to reflect Chairman Reyes' recommendation.

Slide 2: The notes say "Every city, every area, every farm will be able to access high speed reliable and affordable internet service. The project will use the latest fiber optic technology to build a backbone delivery system to reach most areas of the County..."

You may wish to temper the "every area, every farm" statement since (as I understand it) some areas may not be covered based on the maps provided by ALLO in their proposal (I'm thinking of areas such as Hyder). I may be wrong about this.

Slide 3: The "Why is Broadband Important" slide notes refer to six pillars, but the graphic doesn't match the notes.

Slide 5: Are you planning to show the OTELCO video that's linked via YouTube at the bottom of the slide? If not then I'd just assume remove it.

Slide 9: Nitpicky suggestion: Place a hyphen between future and proof.

Slide 10: The State Broadband Director is listed as a member of the task force. According to the press release we sent out back in April, Jeff is not a member but an advisor.

That's it. Looks great.

Ian

Ian McGaughey, ICMA-CM  
Yuma County Deputy Administrator  
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**From:** Susan Thorpe <[Susan.Thorpe@yumacountyaz.gov](mailto:Susan.Thorpe@yumacountyaz.gov)>  
**Sent:** Monday, November 1, 2021 4:51 PM  
**To:** [cdbtony@aol.com](mailto:cdbtony@aol.com); Ian McGaughey <[lan.McGaughey@yumacountyaz.gov](mailto:lan.McGaughey@yumacountyaz.gov)>  
**Subject:** Broadband 101 presentation.pptx

Chairman Reyes and Ian – I would like your feedback on this draft presentation regarding the Broadband project. My plan is to use this PowerPoint to present to laymen and elected officials in the cities and County to help explain the middle mile backbone project and to explain why the cities should support with funds.

Chairman Reyes recommended not using the word “middle mile” but use “backbone delivery system” as a way to describe the project. I would welcome other comments and suggestions to make this most clear, understandable and effective. I plan to include a map of the backbone when it is ready. ALLO is working on it now with our ITS Folks.

Thanks in advance for your edits and comments.

Susan

Susan K. Thorpe, MPA, ICMA-CM  
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**From:** [Susan Thorpe](#)  
**To:** ["Jeff Sobotka"](#)  
**Subject:** RE: Broadband Update and Recommendation for November 15 Board of Supervisors meeting  
**Date:** Wednesday, October 20, 2021 3:26:00 PM

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Thanks, Jeff!  
Susan

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**From:** Jeff Sobotka <jeffs@AZcommerce.com>  
**Sent:** Wednesday, October 20, 2021 2:43 PM  
**To:** Susan Thorpe <Susan.Thorpe@yumacountyaz.gov>; Brierley, Paul E - (paulbrierley) <paulbrierley@arizona.edu>; Clif Summers <Clif.Summers@yumacountyaz.gov>; Hector Tapia (Hectortapia@somertonaz.gov) <Hectortapia@somertonaz.gov>; Ian McGaughey <Ian.McGaughey@yumacountyaz.gov>; Jenny Torres (jtorres@cityofsanluis.org) <jtorres@cityofsanluis.org>; Jonathan Lines <jwlines@gmail.com>; Julie Engel (jengel@greateryuma.org) <jengel@greateryuma.org>; Kathleen A. Fernandez (kathleen.fernandez@YumaAz.Gov) <kathleen.fernandez@YumaAz.Gov>; Kay Macuil (kmacuil@cityofsanluis.org) <kmacuil@cityofsanluis.org>; Larry Killman - Town of Wellton (lkillman@town.wellton.az.us) <lkillman@town.wellton.az.us>; Mark Smith (msmith@smithfarmsyuma.com) <msmith@smithfarmsyuma.com>  
**Cc:** Philip Rodriguez (philip.rodriguez@yumaaz.gov) <philip.rodriguez@yumaaz.gov>; Louie Galaviz (lgalaviz@sanluisaz.gov) <lgalaviz@sanluisaz.gov>; Jerry Cabrera <JerryCabrera@somertonaz.gov>  
**Subject:** Re: Broadband Update and Recommendation for November 15 Board of Supervisors meeting

**CAUTION:** This email originated from outside Yuma County.  
Do not click on links or open attachments unless you recognize the sender and know the contents are safe.

Awesome News!!! Big win for Yuma County!

I am meeting with Doc from Allo next week & will ask how the State can support this groundbreaking project for Yuma County!

Jeff Sobotka  
State Broadband Director  
Arizona Commerce Authority  
JeffS@AZCommerce.com  
602-432-0004 - Mobile

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**Jeff Sobotka**  
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**From:** Susan Thorpe <Susan.Thorpe@yumacountyaz.gov>

**Sent:** Wednesday, October 20, 2021 2:36:35 PM

**To:** Brierley, Paul E - (paulbrierley) <paulbrierley@arizona.edu>; Clif Summers <Clif.Summers@yumacountyaz.gov>; Hector Tapia (Hectortapia@somertonaz.gov) <Hectortapia@somertonaz.gov>; Ian McGaughey <Ian.McGaughey@yumacountyaz.gov>; Jeff Sobotka <jeffs@AZcommerce.com>; Jenny Torres (jtorres@cityofsanluis.org) <jtorres@cityofsanluis.org>; Jonathan Lines <jwlines@gmail.com>; Julie Engel (jengel@greateryuma.org) <jengel@greateryuma.org>; Kathleen A. Fernandez (kathleen.fernandez@YumaAz.Gov) <kathleen.fernandez@YumaAz.Gov>; Kay Macuil (kmacuil@cityofsanluis.org) <kmacuil@cityofsanluis.org>; Larry Killman - Town of Wellton (lkillman@town.wellton.az.us) <lkillman@town.wellton.az.us>; Mark Smith (msmith@smithfarmsyuma.com) <msmith@smithfarmsyuma.com>; Susan Thorpe <Susan.Thorpe@yumacountyaz.gov>

**Cc:** Philip Rodriguez (philip.rodriguez@yumaaz.gov) <philip.rodriguez@yumaaz.gov>; Louie Galaviz (lgalaviz@sanluisaz.gov) <lgalaviz@sanluisaz.gov>; Jerry Cabrera <JerryCabrera@somertonaz.gov>

**Subject:** Broadband Update and Recommendation for November 15 Board of Supervisors meeting

Broadband Task Force members and friends – I wanted to provide you an update on the Broadband project and share some exciting news.

The Broadband Proposal Evaluation Team conducted interviews on Friday, October 15, with the top three vendors for the Countywide Broadband Middle Mile Fiber Backbone. The Evaluation Team considered each of the three vendors' written proposals as well as their presentations and discussions during the interview process. The Team assessed each vendor's experience, approach to design, construction and project management, cost and public/private partnerships to build a middle mile fiber and conduit backbone.

Following the presentations, the Team arrived at a consensus recommendation to the County to enter into negotiations to develop a contract with ALLO Communications (dba ALLO Arizona, LLC) for a middle mile fiber backbone in Yuma County. A formal letter of recommendation is being circulated for signature by all Team members. This item will be placed on the November 15 Board of Supervisors agenda for discussion and action.

I have notified ALLO's management team of the recommendation; they are very excited and plan to attend the November 15 meeting.

ALLO has been serving rural communities for the last 18 years with both middle mile and last mile fiber optic services. ALLO has a strong team of individuals in management positions who have worked together for many years and appear easy to work with. Their stated values are "Local

(employ local people), Hassle-free (easy to work with), Honest (will tell you if there is a better way) and Exceptional (provide the best service)". They have a proven record of accomplishments across the US. ALLO completes the vast majority of project activities using in-house resources with the exception of boring or major trenching activities.

While the County will own the middle mile backbone, ALLO will maintain, operate and market the use of the middle mile. ALLO will also invest its own capital to serve customers throughout Yuma County. ALLO has made service in Arizona a top priority. With the recent announcement of Lake Havasu City build-out plans, ALLO will have an enhanced presence in Arizona that will benefit Yuma County. ALLO has exhibited a strong desire to partner with Yuma County to design and construct the most effective county-wide fiber backbone. ALLO has grant writing expertise to assist with applying for a variety of funding opportunities, including Arizona's program starting this November.

I want to express my deep appreciation to the members of the Proposal Evaluation Team, and the Broadband Task Force, for their expertise and participation on this important project. Exciting times are ahead!

Please let me know if you have any questions.

Susan

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**EXHIBIT I**  
**(WANRack Verified**  
**Complaint)**



Please return original document  
to the **Board of Supervisors Office,**  
**ATTENTION: Cindy Joslin (928) 373-1106**  
*(Name & phone number)*

### TYPE OF DOCUMENT:

- Resolution No. 2013-39
- Memorandum of Understanding
- Contract/IGA/Agreement
  - Contract Name
  - Contracted with:

Term of contract \_\_\_\_\_ through \_\_\_\_\_  
*(unless extended per Section \_\_\_\_\_ of contract)*

### DOCUMENT APPROVAL:

*(Check appropriate box, fill in blanks.)*

Approved by Yuma County Board of Supervisors:  
Nov. 18, 2013, Item No.C3



**YUMA COUNTY BOARD OF SUPERVISORS  
RESOLUTION NO. 2013-39**

A Resolution of the Yuma County Board of Supervisors  
adopting revisions to the  
Yuma County Comprehensive Purchasing Policy

History: Adopted 01-21-97  
Revised 03-28-00, 02-19-02, 11-17-03, 12-06-04, 02-18-09, 11-18-13

WHEREAS: The current Comprehensive Purchasing Policy contradicts existing County actual practice, and;

WHEREAS: The existing Comprehensive Purchasing Policy is out of compliance with State of Arizona requirements, and;

WHEREAS: There are new policies and procedures in completing Comprehensive Purchasing activities needed, and;

WHEREAS: This policy supersedes any and all other Comprehensive Purchasing Policy previously adopted.

The Yuma County Procurement of Professional Services Policy is adopted to read as follows:

**COMPREHENSIVE PURCHASING POLICY**

**Approved by the Yuma County Board of Supervisors January 21, 1997**

**Revised March 28, 2000**

**Revised February 19, 2002, No. 7E**

**Revised: November 17, 2003, No. 7B.**

**Revised: December 6, 2004, No. 4**

**Revised: February 18, 2009**

**Revised: November 18, 2013, No.C3**



**YUMA COUNTY**  
**PURCHASING POLICIES**

**INDEX**

**Introduction** .....3

**A.R.S. §11-254.01 Requirements**..... 3-4

**Purchasing Limits** ..... 4-5

**Legal Requirements:**

**COMPETITIVE BIDDING:**

        Supplies, Materials, Equipment and Contractual Services ..... 5-6

        Construction ..... 6-7

        Lease-Purchase Agreements .....7

        Other Long-Term Agreements.....8

        Joint Purchases.....8

        Sole Source Procurement .....8

**COST OR PRICING DATA** ..... 8-9

**RIGHT TO AUDIT RECORDS** .....9

**Policies - General** ..... 10-14

**Exhibits:** ..... **15-16**

    A - YUMA COUNTY APPROVED STATE OR SIMILAR CONTRACTORS.....15

    B - CONFLICT OF INTEREST FORM.....16

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**Revised: November 18, 2013, No. C3**

**ID #: 9702**

## **INTRODUCTION**

The Board of Supervisors under statutory authority and in compliance with generally accepted accounting principles, hereby implements a uniform County expenditure system to insure adequate control over budgets and expenditures, and to facilitate the preparation of meaningful accounting and management reports.

The following policies have been developed to ensure proper accountability of expenditures and maintain those controls necessary for Yuma County to efficiently operate in compliance with the Arizona Revised Statutes (ARS) and Uniform Accounting Manual for Arizona Counties (UAMAC). They are designed in part to relieve, and in part to assist, department administrators in their purchasing and fiscal management.

These policies are to be adhered to. Abuse or non-compliance with the policies and procedures could result in disciplinary action or personal financial liability. It is of the utmost importance that all employees affected understand these policies.

Purchasing limits and legal requirements as described herein are integral parts of the County's purchasing policies. As such, these limits and requirements must also be adhered to.

### **COUNTY PURCHASING LEGAL REQUIREMENTS - as found in A.R.S. §11-254.01**

A. All purchases of supplies, materials, equipment and contractual services, except professional services, made by the County having an estimated cost in excess of aggregated dollar amount of one hundred thousand (\$100,000.00) per transaction, shall be based on sealed, competitive bids. The County purchasing agent shall make the awards on the Yuma County Board of Supervisors approval. The invitation for bids and specifications must be issued in sufficient time and detail to permit free competition. Notice of the invitation for bids shall be published in a newspaper in accordance with the provisions of Title 39, Chapter 2 unless the Board of Supervisors, by at least a two-thirds vote of its membership, determines that an emergency exists requiring immediate action to protect the public health or safety. Copies of the invitation and specifications shall be supplied to and bids shall be solicited from qualified sources consistent with the item to be purchased as determined by the county purchasing agent, including all qualified suppliers who before issuance of the invitation notify the purchasing department in writing that they desire to bid on materials, supplies, equipment or contractual services.

B. Bids shall be opened publicly at the time and place stated in the invitation. On Board approval, the County purchasing agent shall make awards with reasonable promptness by giving written notice to the responsible bidder whose bid conforms to the invitation and whose bid conforms to the invitation and whose bid is the most advantageous to the County concerning price, conformity to the specifications and other factors. The Board may reject all bids if rejection is in the public interest.

C. The Board of Supervisors has adopted the amount provided for in section A.R.S. §41-2535 and has developed purchasing procedures to comply with the uniform accounting system prescribed by the Auditor General under A.R.S. §41-1279.21, for purchases of less than the aggregate dollar amount of one hundred thousand dollars (\$100,000.00).

D. Professional services shall be procured pursuant to written policies developed by the county purchasing agent and adopted by the Board of Supervisors.

E. All erections of and repairs and alterations to any county building are not subject to this section (A.R.S. §11-254.01) but are subject to the provisions of Title 34, Chapter 2 (A.R.S.).

## **PURCHASING LIMITS**

Purchasing procedures are established for transactions that fall within certain dollar amount ranges, specifically all purchases that are:

1. Less than \$150.00 may be made from authorized petty cash or revolving bank accounts, pursuant to petty cash fund procedures from the Yuma County Cash Policy and Procedures.
2. Less than **\$10,000.00**<sup>1</sup> may be made without obtaining price quotes although multiple verbal price quotes are encouraged when feasible to do so;
3. **\$10,000.00** or more but less than **\$50,000.00** require at least three verbal quotes that are documented on the requisition or an attachment thereto;
4. **\$50,000.00** or more but less than the amount required in 5 below require at least three written quotes.
5. Sealed, competitive bidding procedures for purchases of supplies, material, equipment and contractual services, except professional services, with an estimated cost exceeding \$100,000.00<sup>2</sup> (Note: Increase as per change in State law) must be used pursuant to Arizona Revised Statutes (A.R.S.) §11-254.01.

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<sup>1</sup>These amounts are as recommended by the State of Arizona Auditor General's Office. As the Auditor General's Office makes recommendations to changes in these numbers, the Yuma County Board of Supervisors authorize that the recommended changes be incorporated into the County Purchasing Policies.

<sup>2</sup>The Yuma County Board of Supervisors hereby incorporates any future amendments to the dollar amount of Arizona Revised Statute Section §11-254.01.

6. For Construction pursuant to A.R.S. Title 34, Chapter 2, the County must, upon acceptance and approval of the working drawings and specifications, publish a notice to contractors of intention to receive bids and contract for the proposed work. The notice must be published by advertising in a newspaper of general circulation for two publications that are at least 6 (six) but no more than 10 (ten) days apart if it is a daily newspaper. A.R.S. §34-201 also provides for exceptions to advertising the notice to contractors. Projects must be within the budgeted appropriation and all contracts are to be approved to form by the County Attorney.

*All costs, including, but not limited to, sales tax, shipping, handling and freight are included in determining the aforementioned dollar limits. Accordingly, if the item dollar cost is less than one of the above limits but any one or combination of additional charges results in the total cost of a higher category, then the procedures for the higher category must be followed.*

## **LEGAL REQUIREMENTS**

### **COMPETITIVE BIDDING**

**Supplies, Materials, Equipment and Contractual Services** - The Agency must publish notice of an invitation to receive bids in the official newspaper of the County as defined in A.R.S. §11-255. The notice must be published in accordance to A.R.S. §39-204. The Agency must retain an affidavit attached to a copy of the published invitation from the newspaper as proof of the publication (A.R.S. §39-205).

Copies of the invitation and specifications must be supplied to and bids must be solicited from qualified sources consistent with the type of item to be purchased as determined by the County purchasing agent, including all qualified sources that notified the purchasing department in writing of their desire to bid on the types of items to be purchased.

Bids must be opened publicly at the time and place stated in the invitation. Upon Board approval, the County purchasing agent shall award the contract to the bidder whose bid conforms to the invitation and is most advantageous to the County considering price, conformity to specifications and other factors. Written notice of the award must be provided to the selected bidder. The County may reject all bids if the board considers it to be in the public interest (A.R.S. §11-254.01).

**Waiver by the Yuma County Board of Supervisors.** Competitive bidding may be waived if the Board of Supervisors concludes by at least two-thirds vote of its membership that an emergency exists requiring immediate action to protect public health or safety (A.R.S. §11-254.01).

**Construction** - Upon acceptance and approval of working drawings and specifications, the County must publish a notice of intention to receive bids and contract for proposed work. The notice must provide a description of work to be performed, the purpose and location of the proposed building, and where the plans and specifications may be obtained. Copies of the plans and specifications must be made available to bidders upon request or by appointment. The County must require the deposit of a designated amount which shall be refunded when the plans and specifications are returned in good order (A.R.S. §34-201).

The County must require every proposal to be accompanied by a certified check, cashier's check or surety bond in an amount equal to 10 percent of the amount of the bid, as a guarantee that the contractor will enter into a contract to perform the proposal in accordance with the plans and specifications, or as liquidated damages in the event of failure or refusal of the contractor to enter into the contract (A.R.S. §34-201).

The County must publish notice of an invitation to receive bids in a newspaper printed and published within the County. The notice must be published in a daily paper four consecutive times or in a weekly paper once each week for two consecutive weeks (A.R.S. §39-204). The County must retain an affidavit from the newspaper attached to a copy of the published invitation as proof of the publication (A.R.S. §39-205).

Upon approval of the Board of Supervisors, the contract must be awarded to the lowest responsible bidder with a satisfactory bid. An applicable transaction privilege or use tax of Yuma must not be a factor in determining the lowest bidder (A.R.S. §34-243.01).

The Board of Supervisors has the option to reject all proposals or withhold the contract award for any reason (A.R.S. §34-201).

In accordance with A.R.S. §41-2533(G), the contract shall be awarded to the lowest responsible bidder whose bid conforms in all material respects to the requirements and criteria set forth in the invitation for bids. The amount of any applicable transaction privilege or use tax of a political subdivision of this state is not a factor in determining the lowest bidder if a competing bidder located outside of this state is not subject to a transaction privilege or use tax of a political subdivision of this state. If all bids for a construction project exceed available monies as certified by the appropriate fiscal officer (County Finance Director), and the low responsive and responsible bid does not exceed such monies by more than five percent, the Board of Supervisors or their designee may in situations in which time or economic considerations preclude re-solicitation of work of a reduced scope negotiate an adjustment of the bid price, including changes in the bid requirements, with the low responsive and responsible bidder, to bring the bid within the amount of available monies. Before the contract is executed the County shall require the contractors to furnish a performance bond and a payment bond which shall become binding upon award of the contract. Such bonds must be executed by a surety company authorized to do business in this State, and each must be equal to the entire contract price. The performance bond must be solely for the protection of the County. The payment bond must be solely for the protection of vendors supplying materials or labor to the contractor or subcontractor (A.R.S. §34-222).

The County must retain 10 percent of all construction contract payments as insurance for proper performance by the contractor. At the option of the contractor, a substitute security, as prescribed in A.R.S. §34-221, may be provided in place of retention. Retention must be paid or substitute security returned to the contractor within 60 days after completion of work under the contract (A.R.S. §34-221).

### **Lease-Purchase Agreements**

The Board of Supervisors or their designee may enter into lease-purchase agreements for equipment. However, the agreement should stipulate that it is for one fiscal year only, and that the Board of Supervisors may, with the consent of the vendor, renew the agreement for succeeding one-year periods until complete payment has been made (A.R.S. §11-651). The Board of Supervisors may cancel the lease-purchase agreement at any time by providing written notice to the seller (A.R.S. §11-653). Title to the equipment under lease purchase must remain with the seller until payment of the full purchase price (A.R.S. §11-652).

Counties may also enter into lease-purchase agreements for real property and improvements to real property for public purposes. Payments under the agreement must be completed not later than 15 years after the date of purchase. Any increase in the final payment date from fifteen years up to a maximum of twenty-five years shall be made only on unanimous approval by the Board of Supervisors (A.R.S. §11-251.[46]).

## **Other Long-Term Agreements**

In addition to lease purchases, the County may enter into other types of long-term agreements for the purchase of personal property. Such agreements must stipulate that the County may cancel at the end of each fiscal year, and that the seller may repossess the property at that time (A.R.S. §11-251).

## **Joint Purchases**

The Board of Supervisors may enter into agreements with one or more public agencies to make joint purchases. The agreements must specify the duration, purpose, method of financing, and method for establishing and maintaining a budget for the purchase. Further, the methods to be used for the partial or complete termination of the agreements, including disposal of property, must be specified. If the agreement is with a public entity outside the State of Arizona, the underlying procurement process of that outside public entity should substantially comply with the minimum statutory requirements for local governments in Arizona.

The agreements must be reviewed and approved by the County Attorney to determine whether they are in proper form and within the authority of the Board of Supervisors. If the approved Agreements affect more than one county in Arizona, they must be filed with the Secretary of State. Agreements affecting only Yuma County must be filed with the County Recorder (A.R.S. §11-952).

## **Sole Source Procurement**

A contract may be awarded for a material, service or construction item if the agency head or his/her designee determines in writing that there is only one source for the required material, services or construction item. The agency head may require the submission of cost or pricing data in connection with an award under this section. Sole source procurement shall be avoided, except when no reasonable alternative sources exist. **A written determination of the basis for the sole source procurement shall be included in the contract file.** (A.R.S. §41-2536)

## **Cost or Pricing Data**

- A. The submission of current cost or pricing data may be required in connection with an award in situations in which analysis of the proposed price is essential to determine that the price is reasonable and fair. A contractor shall, except as provided in subsection C, submit current cost or pricing data and shall certify that, to the best of the contractor's knowledge and belief, the cost or pricing data submitted was accurate, complete and current as of a mutually determined specified date of either:
1. The pricing of any contract awarded by competitive sealed proposals or pursuant to the sole source procurement authority, if the total contract price is expected to exceed an amount established by the County.
  2. The pricing of any change order or contract modifications which is expected to exceed an amount established by the County.

- B. Any contract, change order or contract modification under which a certificate is required shall contain a provision that the price to the County shall be adjusted to exclude any significant amounts by which the County finds that the price is increased because the contractor-furnished cost or pricing data was inaccurate, incomplete or not current as of the date agreed on between the parties. Such adjustment by the County may include profit or fee.
- C. The requirements of this section need not be applied to contracts if any of the following apply:
  - 1. The contract price is based on adequate price competition.
  - 2. The contract price is based on established catalogue prices or market prices.
  - 3. Contract prices are set by law or regulation.
  - 4. It is determined in writing that the requirements of this section may be waived, and the reasons for the waiver are stated in writing.

**Right to Audit Records**

- A. The County may, at reasonable times and places, audit the books and records of any person who submits cost or pricing data as provided in A.R.S. §41-2543 to the extent that the books and records relate to the cost or pricing data. Any person who receives a contract, change order or contract modification, for which the cost or pricing data is required shall maintain the books and records that relate to the cost or pricing data for three years from the date of final payment under the contract, unless a shorter period is otherwise authorized in writing by the Agency Head. (A.R.S. §41-2543)
- B. The County is entitled to audit the books and records of a contractor or any subcontractor under any contract or subcontract to the extent that the books and records relate to the performance of the contract or subcontract. The books and records shall be maintained by the contractor for a period of three years from the date of final payment under the prime contract and by the subcontractor for a period of three years from the date of final payment under the subcontract, unless a shorter period is otherwise authorized in writing by the Agency Head. (A.R.S. §41-2548).



## **POLICIES - GENERAL**

- A. The Board of Supervisors has full responsibility and power to adopt all policies that are in accordance with Arizona Revised Statutes and the Uniform Accounting Manual for Arizona Counties, necessary to control the expenditure of County monies. The Board has delegated the authority to the County Administrator and the Finance Director to effect the following and other such policies as deemed desirable and necessary and to develop procedures required to implement these policies.
- B. All expenditure of County monies must be approved by the Board of Supervisors.
- C. The Board of Supervisors has the exclusive authority to enter into contracts on behalf of the County (A.R.S. §11-201). This authority has been delegated as follows:
  - 1. Purchases of supplies, materials, equipment and other contractual services that do not require formal competitive bidding (i.e.; generally items not exceeding \$100,000.00)

Agency Heads may execute purchases which are within budgeted appropriations, if formal competitive bidding is not required by State law. Contractual obligations will be reviewed for adequacy of funds, appropriate liability protection and legality.

All purchases that fall within the Agency Heads limits MUST be purchased with a P-Card with the exception of those that fall within the petty cash limits. Reimbursements of petty cash must then be requested by demand to the Accounts Payable division of the Financial Services Department. Requisitions/Purchase Orders will no longer be assigned AFTER the purchase of supplies and equipment.

- 2. Professional services that do not require formal competitive bidding.

Agency Head may execute contracts that are within budgeted appropriations, if formal competitive bidding is not required by State law. Policies and procedures are outlined in the Professional Services Policy. Exception: Leases of real property are addressed in Section C.7. of this Comprehensive Purchasing Policy.

3. Leases of personal property.

Agency head may execute leases that are within departmental appropriations and are approved as to form by the County Attorney. Multi-year leases shall contain a non-appropriation clause allowing the termination in the event of inadequate funding, and the Board shall not be obligated to provide sufficient funds for multi-year leases entered into by agencies.

4. Construction or repair projects that do not require formal competitive bid procedures.

Agency Head may execute contracts for projects that are within budgeted appropriations, and are approved as to form by the County Attorney.

5. Intergovernmental agreements for contracted services, joint purchases:

Agency Head or County Administrator may execute intergovernmental agreements which are within budgeted appropriations and revenues and are approved as to form by the County Attorney. Board approval required if other parties to the agreement requires it. No multi-year agreement shall be executed without a non-appropriation clause permitting termination in the event of inadequate funding. No multi-year agreement entered into by the Agency head shall obligate the Board to provide sufficient funding to meet any future year funding expectations. Agreements will identify how matching funds will be provided and will ensure that new employees are notified that their positions may terminate with the agreement. The Board will receive summaries of agreements entered into.

6. Change orders and contract amendments.

County Administrator or Agency head may approve change orders and contract amendments that are budgeted.

7. Leases of Real Property:

Leases of real property shall be considered at meetings of the Board of Supervisors and be executed by the County Administrator upon approval by the Board.

- D. Departments shall not divide purchases to avoid bidding requirements.
- E. Computer hardware/software and communications equipment purchases must follow the current Yuma County Computer Hardware and Software and Communications Equipment Acquisition Policy.
- F. A purchase order requisition must be prepared for all County expenditures that require budget encumbering. Expenditures exempt from budget encumbering are:
1. Payroll and related costs (FICA, Federal & State Withholding, State;
  2. Visiting judges, defense of indigents, and court reporters;
  3. Jury and witness fees;
  4. Travel;
  5. Utilities (telephone, gas, electric, etc.);
  6. Postage;
  7. Uniform allowance for Sheriff's deputies;
  8. Medical costs for indigents (doctor and hospital);
  9. Intra-governmental service department charges;
  10. Expenses related to life and death emergencies, such as search and rescue, etc.;
  11. Gas, oil and minor repair purchases on credit cards;
  12. Special service calls for emergency situations such as plumbers, electricians, air conditioning, doctors, data system repair, etc.;
  13. Purchases made through Board of Supervisors award of bids;
  14. Expenditures for less than **\$10,000.00** (This is based on the fact that a purchase requisition is not required if the purchase is for less than **\$10,000.00**);
  15. Others, as approved by the Board.
- G. Capitalization Policy: Purchases of machinery, equipment and vehicles with a useful life exceeding one year and costing \$5,000 or more, or purchases of buildings and Improvement costing \$10,000 or more (and all land acquisitions regardless of price) shall be considered capital outlay purchases. Such purchases shall be capitalized in the financial records of the County as further outlined in the separate Capital Asset Policy.
- H. Specifications for purchases must be furnished by the requesting department.
- I. Policies adopted in this manual may not be changed, waived, added to or deleted except by action of the Board of Supervisors. Procedures may be changed, added to or deleted by the County Administrator and Finance Director as required to comply with the Arizona Revised Statutes, UMAC, and changes in internal control or computer processing procedures.

- J. Whenever any County office or department shall purchase or contract for any outside services, materials, supplies or equipment contrary to County policies and procedures, such contract or purchase may be considered null and void and of no effect. Such determinations will be at the sole and absolute discretion of the Board of Supervisors. The agency head or individual employee making the purchase without appropriate authorization may be personally liable for the costs of such purchase or contract and, if already paid for with County funds, the amount thereof may be recovered by the County.
- K. The County may make purchases without advertising for bids under the following circumstances:
1. Waiver by the Board of Supervisors: If the Board of Supervisors concludes by at least two-thirds vote of its membership that an emergency exists requiring immediate action to protect public health or safety. When emergency circumstances exist, if the purchase is made before a requisition has been prepared, a confirmation requisition must be submitted to the Finance Department within three (3) working days. A signed statement detailing justification for the emergency purchase must accompany the requisition.
  2. Extraordinary Procurement: If the Board of Supervisors determines that the public health and welfare is in jeopardy, then the Board of Supervisors may authorize purchases without advertised bids under such controls as will insure the public health and welfare and maintain good purchasing practices.
  3. State Or Similar Contractor Purchases: Yuma County entered into an agreement in January of 1997 with the Purchasing Office of the State Department of Administration, Finance Division. This agreement permits Yuma County to purchase any supplies, commodities, equipment and materials covered by existing State contract price agreements from consenting vendors.

Purchases made under this contractual agreement satisfy bidding procedures for Yuma County.

The County may enter into similar purchasing agreements with other public entities for supplies, commodities, equipment and materials. These agreements permit Yuma County to purchase items covered by the contractual agreements at favorable prices and satisfy bidding procedures for Yuma County. Exhibit A contains the agreements currently in effect, that the County may purchase under. **Board of Supervisor approval is required for all purchases under these contracts in excess of \$100,000.**

- L. Related Party Purchases: Purchases from an elected official, employee or any business controlled by an elected official or employee require notification to the Finance Director. The elected official or employee must not take part in the decision to purchase.
  
- M. Emergency Procurements - Notwithstanding any other provision of this policy, an agency head may make or authorize others to make emergency procurements for purchases of less than **\$100,000**, if there exists a threat to public health, welfare, or safety or if a situation exists which makes compliance with oral or written quote limits impracticable, unnecessary or contrary to the public interest, *except such emergency purchases shall be made with such competition as is practicable under the circumstances*. **A written determination of the basis of the emergency and for the selection of the particular vendor shall be included with documentation for payment of the invoice.**
  
- N. Agency Heads are authorized to dispose of property with an estimated total current value of less than **\$250**:
  - 1. All Yuma County agencies should be notified of excess property.
  - 2. A person who deals in such specialized property shall determine the value of specialized property, such as computer equipment.
  - 3. If no Yuma County agency desires the property, then the property may be sold or given to another government entity or to a 501 (C) (3) charity.
  - 4. Property with an estimated value of less than \$25 may be disposed of in any manner seen fit by the agency head.
  
- O. Secondary or split bids and awards - Yuma County does not authorize solicitation of bids under procedure where the county thereafter decides to:
  - 1. Award one contract to one bidder for one product, or;
  - 2. Award one contractor a contract for a combination of two or more substitute materials, or;
  - 3. Award one contractor a primary contract for one material and another contractor a secondary contract for another material.
  
- P. Annually, agency heads or any county employee with the ability to influence any purchase item must complete and submit to the financial services director a conflict of interest form as found in Exhibit B of this policy.

## **Exhibit A – Yuma County Approved State or Similar Contractors**

1. Arizona State Purchasing Contract –  
*(This is the same as “ProcureAZ”, per Financial Services 09-22-2011/cpi.)*
2. Mohave Educational Services Cooperative
3. Minnesota Multi-State Contracting Alliance
4. Center for Disease Control Federal Contract
5. Intergovernmental Agreement with City of Yuma
6. Intergovernmental Agreement with Maricopa County
7. National Association of Counties Purchasing Contract
8. The Cooperative Purchasing Network (TCPN).  
*[Awards subsequent to August 2003.]*
9. Western States Contracting Alliance State Contract
10. SAVE Cooperative Group
11. U.S. Communities Government Purchasing Alliance
12. U.S. General Services Administration Schedule #70.  
(GSA Schedule 70 Information and Technology).
13. Houston-Galveston Area Council (HGACBuy)

# Exhibit B – Conflict of Interest Form

## DEFINITIONS:

1. **ENTITY** means corporation, partnership, limited partnership, association, or organization.
2. **PERSONAL or FINANCIAL INTEREST** means an interest as an owner, proprietor, partner, trustee; an interest as the result or possibility of the occurrence of a contingent, antecedent, or subsequent event; or an interest as an employee or officer of an entity.
3. **RELATIVE** means spouse, child, child’s child, child’s spouse, parent, grandparent, brother or sister of the whole or half blood and their spouses, and the parent, brother, sister or child of a spouse.
4. **TRANSACTION** means the exchange of assets or services with parties outside the business entity, and includes, but is not limited to, any project or contract, any employment, speaking, consulting, research agreement or contract, and the sale or purchase of any tangible or intangible item, whether in single or multiple quantities.

## Related Parties Questionnaire

1. The following is a list of all entities I have a personal or financial interest in that have current or pending transactions, or had transactions at any time since July 1, 20XX, with Yuma County:

<u>NAME OF ENTITY</u>	<u>DESCRIPTION OF MY CONNECTION WITH THE ENTITY</u>
-----------------------	---

2. The following is a list of all relatives, and all entities in which a relative has a personal or financial interest, which have current or pending transactions, or had transactions at any time since July 1, 20XX, with Yuma County:

<u>NAME</u>	<u>RELATIONSHIP</u>	<u>ORGANIZATION</u>
-------------	---------------------	---------------------

3. The following is a list of all transactions between Yuma County and those entities or persons listed in response to (1) and (2) above:

<u>NAME OF ENTITY</u>	<u>DESCRIPTION OF TRANSACTION</u>
-----------------------	-----------------------------------

4. To the best of my knowledge, the following is a list of other Yuma County employees in which possible related party transactions may have occurred:

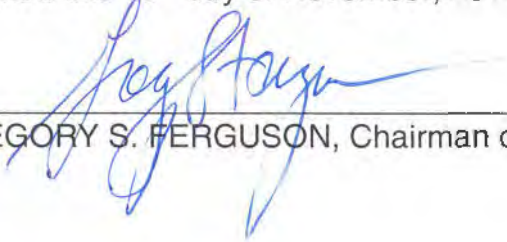
<u>NAME OF EMPLOYEE</u>	<u>POSSIBLE RELATED PARTY</u>
-------------------------	-------------------------------

By signing this questionnaire, I certify that the information contained herein is true, correct, and complete to the best of my knowledge and belief.


Signature	Date	Title
-----------	------	-------

**NOW, THEREFORE, BE IT RESOLVED** that the Yuma County Board of Supervisors adopts Resolution No. 2013-39 revising the Procurement of Professional Services Policy.


Adopted this 18<sup>th</sup> day of November, 2013.

  
\_\_\_\_\_  
GREGORY S. FERGUSON, Chairman of the Board

ATTEST:

  
\_\_\_\_\_  
ROBERT L. PICKELS, JR.  
Clerk of the Board

APPROVED AS TO FORM:

  
\_\_\_\_\_  
JON SMITH, County Attorney

P:\Resolutions\2013\Res. 2013-39 Comprehensive Purchasing Policy (Nov 2013)#3.doc



**EXHIBIT J**  
**(WANRack Verified**  
**Complaint)**

**Yuma County Broadband Proposal Evaluation Team**

Brad Burgess – ADOT Broadband Program Administrator  
Clif Summers – Yuma County Chief Information Officer  
David Haines – Kimley Horn Consultant for Yuma County  
Derek Masseth – Sun Corridor Network Executive Director  
Kathleen Fernandez – City of Yuma Chief Information Officer  
Mark Smith – Smith Farms Company, Inc.  
Paul Brierley – U of A Center of Excellence for Desert Agriculture  
Susan Thorpe – Yuma County Administrator



December 17, 2021

Yuma County Board of Supervisors  
198 S. Main Street  
Yuma AZ 85364

Dear Board of Supervisors:

The Yuma County Board of Supervisors entrusted the Broadband Proposal Evaluation Team to evaluate the proposals submitted in response to the County's RFP #YC21-22B for a Broadband Backbone Middle-Mile Fiber Optic Network, and to provide our unbiased recommendation to the Board. The Evaluation Team took the task entrusted to us by the Board very seriously and put a lot of time and effort into this process.

*In compliance with the County's procurement policy, the Evaluation Team carefully reviewed all five proposals, and selected the top three highest scoring proposals for interviews. The Team handled all in-person interviews consistently, and carefully considered information presented from the top three vendors. The County also provided a 10-day written comment process to assure that any additional information or concerns could be evaluated before finalizing a decision, even though the County's procurement policy does not contain a formal comment or protest procedure.*

*We would like to note that the County Attorney's Office has confirmed that the County does not fall under Arizona state procurement laws, manuals or guidelines, because the County adopted its own procurement policy as allowed by statute. Statements criticizing the County related to State laws do not apply to this process. We also want to note that this RFP is for a design/build based on a concept. It is not a bid. Many vendors used their own methodology to declare themselves the low bid or to claim that the Team did not sufficiently consider costs. The Team took proposed costs and designs along with all other important factors into due consideration.*

The Evaluation Team thoroughly reviewed and discussed all written comments received during the 10-day comment period. Based on all of the above, we remain confident in our recommendation of ALLO as the best partner for Yuma County to move forward with the Broadband Backbone design/build contract.

The Broadband Proposal Evaluation Team is honored to assist Yuma County on this project, which we believe will set Yuma County apart from other areas as a great place to live and do business. We stand ready to support the County in ensuring the Backbone Project becomes a reality in a timely manner that allows for participation in current and future state and federal funding opportunities to provide genuine fast, reliable, affordable and equitable broadband access to the unserved, underserved and throughout the County.

Sincerely,

DocuSigned by:

*David Haines*

12/17/2021

David Haines – Kimley Horn Consultant

Kathleen A.  
Fernandez

Digitally signed by Kathleen A. Fernandez

Date: 2021.12.17 09:10:40  
-07'00'

Kathleen Fernandez – City of Yuma CIO

**EXHIBIT K**  
**(WANRack Verified**  
**Complaint)**

# Arizona Department of Administration

## State Procurement Office

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# Arizona Procurement Manual

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This document, published by the Arizona State Procurement office, is issued as a convenience to those persons involved with public procurement in this State.

The procurement guidelines contained within is intended to provide information and general direction to public procurement employees. It is not intended to replace or override the Arizona Procurement Code or procurement policies as provided in Technical Bulletins, or Standard Procedures.

Each person who may be involved with any action that requires a review of procurement statutes, rules or Technical Bulletins may benefit with the additional guidelines provided in this manual.

Approved for release this 30th day of August, 2017 by the State Procurement Administrator

- The waiver does not benefit the proposed contractor; and
- The waiver does not prejudice any non-winning bidder or potential bidder.

Following completion of the initial technical proposal review, evaluation scores are adjusted and finalized as provided for in the evaluation report.

Regardless of the scoring methodology utilized, evaluators must document the basis for the rating using narrative to explain the offeror's strengths and weaknesses, thereby justifying the score. For example:

“The offeror's proposed Project Director was given the maximum number of points because this individual has successfully managed a project of similar complexity and s/he will be critically important to the success of our project.”

## 6.9 Conducting the Cost Evaluation

Methods of calculating costs vary depending on a mix of factors concerning the nature and extent of the services, the costs associated with utilizing the services, and the impact of the services on agency programs and operations.

The two most common methods for comparing the cost proposals are:

### 6.9.1 Conversion of Price to a Weighted Point Score

Points Awarded = (Lowest bid divided by the bid being evaluated) x max points

### 6.9.2 Comparison of Life Cycle Costs

Procurements that entail the expenditure of funds for both the fees associated with the services to be procured (i.e. price) and costs associated with the introduction of the services into the environment (i.e. indirect costs) could be evaluated by analyzing total life cycle costs, defined as the sum of fees and indirect costs including residual value.

Life cycle costs evaluations are required for earth moving, material handling, road maintenance and construction equipment. (A.R.S. § 41-2554)

Once the total life cycle costs for competing proposals have been determined, the life cycle costs associated with each proposal must be converted to a weighted point score using the formula above.

## 6.10 Reference Checks

As mentioned previously, if references are requested then references must be evaluated. The agency should develop a scripted list of questions to ask each reference for all offerors if References has been listed in the published evaluation criteria with an assigned weight. If references are requested but are not listed in the evaluation criteria, reference checks may be limited to only the offerors who are susceptible for award. The following are commonly scripted

**EXHIBIT L**  
**(WANRack Verified**  
**Complaint)**

**From:** [Susan Thorpe](#)  
**To:** [Ian McGaughey](#)  
**Subject:** RE: Broadband 101 presentation.pptx  
**Date:** Tuesday, November 2, 2021 3:02:00 PM

---

Thanks!

Susan

**From:** Ian McGaughey <Ian.McGaughey@yumacountyaz.gov>  
**Sent:** Tuesday, November 2, 2021 8:41 AM  
**To:** Susan Thorpe <Susan.Thorpe@yumacountyaz.gov>  
**Subject:** RE: Broadband 101 presentation.pptx

Susan,

Here are my comments on the draft PowerPoint presentation.

I'm not sure if the presentation notes reflect what you intend to say, but if so you may want to update your comments to include "backbone delivery system" instead of "middle mile" to reflect Chairman Reyes' recommendation.

Slide 2: The notes say "Every city, every area, every farm will be able to access high speed reliable and affordable internet service. The project will use the latest fiber optic technology to build a backbone delivery system to reach most areas of the County..."

You may wish to temper the "every area, every farm" statement since (as I understand it) some areas may not be covered based on the maps provided by ALLO in their proposal (I'm thinking of areas such as Hyder). I may be wrong about this.

Slide 3: The "Why is Broadband Important" slide notes refer to six pillars, but the graphic doesn't match the notes.

Slide 5: Are you planning to show the OTELCO video that's linked via YouTube at the bottom of the slide? If not then I'd just assume remove it.

Slide 9: Nitpicky suggestion: Place a hyphen between future and proof.

Slide 10: The State Broadband Director is listed as a member of the task force. According to the press release we sent out back in April, Jeff is not a member but an advisor.

That's it. Looks great.

Ian

Ian McGaughey, ICMA-CM  
Yuma County Deputy Administrator  
198 S. Main Street

Yuma, AZ 85364  
(928) 373-1169  
[Ian.McGaughey@yumacountyaz.gov](mailto:Ian.McGaughey@yumacountyaz.gov)

**From:** Susan Thorpe <[Susan.Thorpe@yumacountyaz.gov](mailto:Susan.Thorpe@yumacountyaz.gov)>  
**Sent:** Monday, November 1, 2021 4:51 PM  
**To:** [cdbtony@aol.com](mailto:cdbtony@aol.com); Ian McGaughey <[Ian.McGaughey@yumacountyaz.gov](mailto:Ian.McGaughey@yumacountyaz.gov)>  
**Subject:** Broadband 101 presentation.pptx

Chairman Reyes and Ian – I would like your feedback on this draft presentation regarding the Broadband project. My plan is to use this PowerPoint to present to laymen and elected officials in the cities and County to help explain the middle mile backbone project and to explain why the cities should support with funds.

Chairman Reyes recommended not using the word “middle mile” but use “backbone delivery system” as a way to describe the project. I would welcome other comments and suggestions to make this most clear, understandable and effective. I plan to include a map of the backbone when it is ready. ALLO is working on it now with our ITS Folks.

Thanks in advance for your edits and comments.

Susan

Susan K. Thorpe, MPA, ICMA-CM  
Yuma County Administrator  
198 S. Main Street  
Yuma AZ 85364  
928-373-1100 office  
928-318-7110 cell  
[susan.thorpe@yumacountyaz.gov](mailto:susan.thorpe@yumacountyaz.gov)



**EXHIBIT M**  
**(WANRack Verified**  
**Complaint)**

Yuma County AZ  
Middle-Mile Fiber Optic Network and Wide Area Network RFP # YC21-22B

Questions for Vendor Interviews, October 15, 2021  
And Notes Pages

Company WANRACK

Evaluator BRAD BURGESS

DAVID FIRM - GOOD FIBER

1. The cost to design & build and the annual O&M cost both varied significantly between proposals. Please explain the metrics your Team used to derive your proposed costs.

- WANRACK BEAR ALL MAINTENANCE \$ IF WANRACK CAN HAVE SOME OWNERSHIP, EXPERIENCED ENGINEER

2. Please identify what work your company is planning on self-performing and who will be performing your contracted services in the following:

- a. Engineering of Construction Drawings and Specifications 90% SUBCONTRACT
- b. Developing the fiber cable installation & splicing constructing details
- c. Preparing the permit applications
- d. Constructing the Conduit and Pull Box Infrastructure
- e. O&M on-site changes/repairs of the conduit infrastructure
- f. Installing & splicing the fiber cable infrastructure
- g. O&M changes/repairs of the fiber cable/splice
- h. Day-to-day operation of the trouble ticketing system
- i. Day-to-day operation of tracking leased fibers/ducts & available capacity
- j. Marketing the infrastructure to attract Last-mile service providers
- k. Legal support developing the leasing/service agreements with Last-mile service providers

3. The County has decided not to construct a private WAN as part of this project, and to incorporate the County locations into the middle mile fiber backbone. How will this affect your proposal cost, contribution level, and timeline for this project?

~~\$44.5m~~ A+B  
\$45.9m

4. The County is interested in only a middle mile fiber and conduit backbone for this specific project, rather than fiber to the premise. The intent is to lower the barrier to entry for last mile service providers and to incentivize service to unserved and underserved areas of the County. How does this affect your proposal for this project?

OPEN ACCESS / INCENTIVELY PROVIDING

1 Michael R. King #005903  
2 Camila Alarcon #022329  
3 Christopher L. Hering #028169  
4 **GAMMAGE & BURNHAM P.L.C.**

5 40 NORTH CENTRAL AVENUE  
6 20TH FLOOR  
7 PHOENIX, AZ 85004  
8 TELEPHONE (602) 256-0566  
9 FAX (602) 256-4475

10 EMAIL: [MKING@GBLAW.COM](mailto:MKING@GBLAW.COM)  
11 [CALARCON@GBLAW.COM](mailto:CALARCON@GBLAW.COM)  
12 [CHERING@GBLAW.COM](mailto:CHERING@GBLAW.COM)

13 Barry L. Olsen #015226  
14 **LAW OFFICES OF LARRY W. SUCIU, PLC**

15 101 EAST SECOND STREET  
16 YUMA, ARIZONA 85364  
17 TELEPHONE (928) 783-6887  
18 FAX (928) 783-7086

19 EMAIL: [BOLSEN@LWSLAW.NET](mailto:BOLSEN@LWSLAW.NET)

20 *Attorneys for Gila Electronics of Yuma, Inc.*

21 **SUPERIOR COURT OF ARIZONA**  
22 **YUMA COUNTY**

23 GILA ELECTRONICS OF YUMA, INC.  
24 an Arizona corporation,

25 Plaintiff,

26 vs.

YUMA COUNTY BOARD OF  
SUPERVISORS, the governing body of  
Yuma County, Arizona; MARTIN  
PORCHAS, in his official capacity as a  
member of the Yuma County Board of  
Supervisors; JONATHAN LINES, in his  
official capacity as a member of the Yuma  
County Board of Supervisors; DARREN  
SIMMONS, in his official capacity as a  
member of the Yuma County Board of  
Supervisors; MARCO REYES, in his  
official capacity as a member of the Yuma  
County Board of Supervisors; LYNNE  
PANCRAZI, in her official capacity as a

No. S1400CV2022-00019

**FIRST AMENDED VERIFIED  
SPECIAL ACTION COMPLAINT**

**(Assigned to the Honorable Mark  
Wayne Reeves)**

1 member of the Yuma County Board of  
2 Supervisors; and SUSAN THORPE, in her  
3 official capacity as Yuma County  
4 Administrator,

5  
6 Defendants.

7 Plaintiff Gila Electronics of Yuma, Inc. ("Gila Electronics") brings this first  
8 amended special action complaint against Defendants Yuma County Board of  
9 Supervisors, the governing body of Yuma County, Arizona, Martin Porchas, in his  
10 official capacity as a member of the Yuma County Board of Supervisors, Jonathan Lines,  
11 in his official capacity as a member of the Yuma County Board of Supervisors, Darren  
12 Simmons, in his official capacity as a member of the Yuma County Board of Supervisors,  
13 Marco Reyes, in his official capacity as a member of the Yuma County Board of  
14 Supervisors, Lynne Pancrazi, in her official capacity as a member of the Yuma County  
15 Board of Supervisors, and Susan Thorpe, in her official capacity as Yuma County  
16 Administrator (collectively "Defendants" or the "County"), pursuant to Rule 3(b) and (c),  
17 Arizona Rules of Procedure for Special Actions ("RPSA"), and A.R.S. § 12-2001, *et seq.*,  
and hereby alleges as follows:

18 **JURISDICTION AND PARTIES**

19 1. Jurisdiction in this Court is proper pursuant to Article 6, § 14 of the  
20 Arizona Constitution, Rule 4(a), RPSA, and A.R.S. § 12-2001, *et seq.*

21 2. Venue is proper in this Court pursuant to A.R.S. § 12-401(16) and Rule  
22 4(b), RPSA.

23 3. Gila Electronics is an Arizona corporation that provides innovative  
24 communication solutions throughout Yuma County and the southwestern United States.

1 It delivers broadband services to a variety of customers, including public agencies, school  
2 districts, rural commercial entities, and individual household customers.

3 4. Gila Electronics holds all applicable licenses and permits necessary to  
4 provide broadband services, including two contractor's licenses, ROC Nos. 323077 &  
5 334369.

6 5. Defendant Yuma County Board of Supervisors is the governing body of  
7 Yuma County, a political subdivision of the State of Arizona. *See* A.R.S. § 11-201(A).

8 6. Defendants Martin Porchas, Jonathan Lines, Darren Simmons, Marco  
9 Reyes, Lynne Pancrazi are elected officials and constitute the Yuma County Board of  
10 Supervisors (collectively, the "Board") and are named in this action in their respective  
11 official capacities only.

12 7. Defendant Susan Thorpe is the Yuma County Administrator ("County  
13 Administrator") and is named in this action in her official capacity only.

14 8. Defendants are jural entities under A.R.S. § 11-201(A)(1).

15 9. The Board is charged by law with supervising the conduct of all county  
16 officers whose responsibilities include collecting, managing, and disbursing public  
17 monies and must ensure that all "officers faithfully perform their duties." *See* A.R.S. §  
18 11-251(1).

19 **GENERAL ALLEGATIONS**

20 10. This matter arises out of the Board's and County Administrator's  
21 unauthorized issuance of a request for proposal, arbitrary recommendation of a contract  
22 award, and improper contingent award of a contract to an entity that lacks the necessary  
23 licenses to have participated in the procurement process and perform the required work,  
24 all resulting from a fundamentally flawed and unlawful procurement process.

1 11. Because the County has not adopted a procedure, whether in code or  
2 otherwise, in protesting its procurement decisions, there is no administrative process  
3 available to Gila Electronics (and thus no requirement to exhaust one's administrative  
4 remedies) prior to filing an action in this Court. A special action is the appropriate vehicle  
5 for review of the County's unlawful and arbitrary actions.

6 12. Gila Electronics is aware of the special action between WanRack, LLC  
7 against Defendants in Case Number CV202100776 filed with this Court.

8 **The RFP**

9 13. On July 6, 2021, Yuma County issued a Request for Proposal for a Middle-  
10 Mile Fiber Optic Network and Wide Area Network (the "RFP"). *See* RFP # YC21-22B,  
11 attached as **Exhibit A**.

12 14. The RFP informed prospective vendors that it was "seeking a public or  
13 private partner that can construct, maintain, and manage an affordable, reliable, and  
14 scalable fiber optic middle mile network to support next generation high speed broadband  
15 internet to businesses, residences, and other entities. . . [and] a dedicated fiber-based  
16 private wide area network" *Id.* at 2.

17 15. The RFP explained that the County "decided to move forward with an RFP  
18 for one or more vendors to design, construct, manage and maintain a middle mile fiber  
19 project extending out to connect the larger population centers in the County . . . along  
20 with locations across the County that can support wireless towers for extending the  
21 broadband network for miles in all directions along the fiber route." *Id.* at 4.

22 16. Yuma County's intent is "for the selected Vendor to design and build a  
23 Yuma County Wide Area Network (WAN) private network and a diverse redundant open  
24 access middle mile backbone." *Id.*

1           17.   “Middle mile” broadband infrastructure connects the national internet  
2 backbone to a local “last mile” network, which connects directly to end users.

3           18.   The RFP specifically required that “proposals submitted and the contract, if  
4 awarded, shall be in complete accordance with, without limitation, this request for  
5 proposal, attached specifications, all codes, requirements and regulations referenced  
6 therein, unless changes are mutually agreed upon by Yuma County and the selected  
7 vendor during contract negotiations.” *Id.* at 2.

8           19.   The RFP provided that “[t]he award of this proposal, if made, may be based  
9 on considerations other than total cost and may be awarded based on various  
10 considerations, including without limitation: Vendor’s experience and/or qualifications,  
11 past experience, cost, standardization, technical evaluation and oral and/or written  
12 presentations as required.” *Id.* at 6.

13           20.   The RFP stated that the County intended to “award the contract of this  
14 project to the entity most responsive to all aspects of this RFP.” *Id.* at 10.

15           21.   As part of the evaluation and selection process, the RFP informed  
16 prospective vendors that a committee (later, a “task force”) would “evaluate all proposals  
17 based on the criteria and weighting described” therein. *Id.*

18           22.   On September 20, 2021, five vendors submitted proposals in response to  
19 the RFP: Gila Electronics, WANRack, ALLO Arizona (“ALLO”), Commnet, and ex2  
20 Technology.

21                           **The Task Force & The County’s Flawed Evaluation Process**

22           23.   The County then selected a Task Force to evaluate and score the proposals  
23 and to make a recommendation to the Board for the contract award.

24           24.   The Task Force drafted a scoring rubric to evaluate and score the proposals  
25 and a rating summary sheet.

26

1           25.    The Task Force’s rating summary sheet, however, was not consistent with  
2 the scoring and rating sheet set forth in the RFP.

3           26.    The Task Force’s rating summary sheet for each proposal included no  
4 reasonings, explanations, or support for any of the scores.

5           27.    Incredulously, one of the evaluators gave Gila Electronics a “zero” score.  
6 See Rating Summary Sheet attached as **Exhibit B**. There was no reasoning or  
7 explanation provided for this score.

8           28.    After its initial scoring of the proposals, the Task Force selected three  
9 vendors to participate in interviews on October 15, 2021: ALLO, eX2 Technology, and  
10 WANRack.

11           29.    The Task Force documented the questions asked during these interviews.  
12 One of these questions fundamentally changed the RFP: “[t]he County has decided not to  
13 construct a private WAN as part of this project, and to incorporate the County locations  
14 into the middle mile fiber backbone.” The Task Force then asked how this would affect  
15 each vendor’s “proposal cost, contribution level, and timeline for this project.”

16           30.    The private WAN was a significant and material part of the RFP. *See, e.g.,*  
17 Ex. A, at Attachment A.

18           31.    The RFP was not timely amended, however, to reflect this material change,  
19 even though the RFP instructed vendors that their proposal “shall be in complete  
20 accordance” with the RFP and its specifications.

21           32.    Despite the material change to the RFP, the Task Force moved forward  
22 with the RFP process.

23           33.    As one of the vendors not interviewed on October 15, 2021, the Task Force  
24 did not give Gila Electronics an opportunity to answer its question about this material  
25 change in scope.

26



1           34.     Instead, the Task Force improperly proceeded with evaluating the three  
2 remaining vendors and ultimately recommended that the Board select ALLO  
3 Communications to construct the middle mile network and begin contract negotiations  
4 with ALLO. See Task Force Recommendation Letter attached as Exhibit C.

5           35.     At the ensuing Board meetings on November 15, 2021 and November 29,  
6 2021, and in written correspondence to the Board, multiple individuals and companies —  
7 including Gila Electronics — addressed the Board and raised significant concerns about the  
8 procurement process.

9           36.     At the November 15 meeting, the Board specifically directed the Task Force  
10 to interview Gila Electronics.

11          37.     The Task Force did not provide Gila Electronics with the required interview.

12          38.     At the November 29 meeting, the Board further changed the scope of the  
13 RFP, stating that the RFP was only for the design and construction of the middle mile  
14 network.

15          39.     The RFP however, stated “The Task Force has decided to move forward  
16 with an RFP for vendors to design, construct, *manage and maintain* middle mile  
17 network.” Ex. A at 4 (emphasis added).

18          40.     By removing the functions of managing and maintaining the network, the  
19 Board once again materially changed the scope of the RFP.

20          41.     The RFP was never amended and reopened to reflect this material change,  
21 even though the RFP instructed vendors that their proposal “shall be in complete  
22 accordance” with the RFP and its specifications.

23          42.     Also at the November 29 Board meeting, the County Administrator and  
24 Deputy County Attorney expressed different views about the adequacy of the  
25 procurement process and the County's legal obligations.

26

1           43.    The Board postponed its vote on the Task Force’s recommendation to enter  
2 into negotiations with ALLO and allowed all vendors to submit comments to the Task  
3 Force.

4           44.    Several vendors, including Gila Electronics, submitted comments to the  
5 Task Force, raising issues regarding the procurement process. *See* Gila Electronics’  
6 Comments, dated December 13, 2021, attached as **Exhibit D.**

7           45.    After receiving the comments, the Task Force did not amend and reopen  
8 the RFP or ask any of the vendors to submit revised proposals—even though the  
9 Board had materially changed the scope of the RFP.

10                           **Fundamental Errors in the County’s Procurement Process**

11           46.    As Gila Electronics articulated in its comments to the Task Force and  
12 elsewhere, the Task Force failed to comply with the RFP and applicable law and, as a  
13 result: (a) acted outside the scope of the County's legal authority; (b) arbitrarily  
14 selected a proposal that failed to comply with the RFP; and (c) arbitrarily selected a  
15 proposal that failed to best meet the RFP's requirements and the County's needs.

16           47.    The County’s RFP and procurement process was riddled with errors:

- 17           a.    The County’s purchasing policy does not provide authority for the County  
18 to issue requests for proposal. *See* Yuma County Purchasing Policy,  
19 attached as **Exhibit E.** The County’s Purchasing Policy authorizes the  
20 County to issue invitations for bids as set forth in A.R.S. § 11-254.01.  
21 An invitation for bids is a term of art, referring to solicitations wherein  
22 the public body selects the lowest cost vendor. *E.g.*, A.R.S. §§ 11-254.01  
23 & 41-2533; A.A.C. R2-7-B312(A). Invitations for bids are only one form  
24 of procurement under Arizona law. Requests for proposal are a  
25 materially different form of procurement under Arizona law, *e.g.*, A.R.S.  
26

1 § 41-2534(G), and the Purchasing Policy does not separately authorize  
2 the County to utilize the request for proposal procurement process.  
3 Indeed, the Task Force stated that the RFP was “not a bid”—and as such,  
4 the RFP was not within the scope of the authority the County gave itself  
5 under the Purchasing Policy. *See* Task Force Letter, dated December 17,  
6 2021, attached as **Exhibit F**.

- 7 b. The County failed to follow the RFP’s scoring criteria for cost in the  
8 initial scoring calculations. The RFP set forth a detailed list of criteria  
9 and scored “cost of the overall project” at 25% of the total available  
10 points. But instead of scoring the cost of the project based on an  
11 objective formula (such as the formula set forth in the Arizona  
12 Procurement Manual), the Task Force awarded points subjectively to  
13 effectively “pass/fail” particular components of each vendor's proposal.  
14 Examples can be found in the Proposal Rating Sheet, attached as **Exhibit**  
15 **G**, at 2. The result was that the Task Force selected a vendor whose cost is  
16 significantly higher than that of other vendors, including Gila Electronics.  
17 Using per foot pricing, ALLO’s cost to provide the middle mile network is  
18 over \$40 per foot, while Gila Electronics’ price is under \$28 per foot. The  
19 Task Force clearly failed to evaluate or score the true cost of each vendor’s  
20 proposal, violating the terms of the RFP and the Purchasing Policy.
- 21 c. The RFP documents were internally inconsistent, contained contradictions,  
22 and lacked clarity on material terms.
- 23 d. ALLO’s proposal (a true and correct copy of which is attached as **Exhibit**  
24 **H** hereto) was not responsive to the RFP and failed to comply with several  
25 requirements set forth in the RFP, including the following:  
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- i. *First*, the RFP instructed vendors to clearly provide that the County would *not* be responsible for monthly recurring charges for maintaining the fiber. ALLO’s proposal included \$38 million in such costs, costs the County would not incur had Gila Electronics been selected.
- ii. *Second*, the RFP stated to vendors that the scope of the work would consist of a middle mile fiber network, not fiber to particular end users (known as “last mile” fiber). ALLO’s proposal, however, focused extensively on its fiber to particular homes and end users, notwithstanding the RFP’s admonition that the scope of work would not include last mile fiber.
- iii. *Third*, the RFP documents stated that vendors could not use aerial fiber cables attached to new or existing poles. ALLO’s proposal, however, provided for a significant portion of the network to be constructed aerially, in direct contravention of the RFP.
- iv. *Fourth*, and as discussed in greater depth below, the RFP required the vendor to be authorized by law to “build, construct and manage broadband services.” Ex. A at 7. ALLO is not a licensed contractor in the State of Arizona and thus may not build or construct any portion of the network. The Task Force failed to verify that ALLO was properly licensed to perform the construction required by the RFP—and indeed, the Task Force viewed ALLO as the “superior choice to *construct* and operate the middle mile fiber backbone” (emphasis added). *See* Task Force Team Notes attached as **Exhibit I** hereto.

1 v. The Task Force should have rejected ALLO’s proposal at the  
2 threshold as nonresponsive, non-responsible, and noncompliant with  
3 the RFP’s mandatory requirements.

4 **The Board’s Improper Selection of ALLO**

5 48. At its December 20, 2021 meeting, the Board considered the Task Force’s  
6 recommendation to enter into negotiations to contract with ALLO.

7 49. Two Board members expressed significant concerns about the procurement  
8 process, to the point that they made a motion to start a new procurement altogether.  
9 These Board members cited many of the same concerns set forth herein, including the  
10 cost differences between the various proposals and the Task Force’s flawed process for  
11 evaluating the proposals. This motion failed 3-2—because the remaining Board members  
12 thought the procurement was simply taking too long, not because they identified  
13 particular disagreements with their colleagues’ concerns about the procurement process.

14 48. The Board then voted 3-2 in favor of the Task Force’s recommendation and  
15 to permit the County Administrator to negotiate a contract with ALLO.

16 49. On January 26, 2022, the Board called a special meeting for the following  
17 purposes: (1) approving a “Master Agreement for Network Design and Construction  
18 Services” with ALLO (the “Master Agreement”) and (2) authorizing the submission of a  
19 grant to the “Arizona Commerce Authority for the Broadband Development Grant and  
20 commitment of matching funds and maintenance cost for the Yuma County Broadband  
21 Project.” A true and correct copy of the agenda from the January 26 meeting is attached  
22 as **Exhibit J**, and a true and correct copy of the Master Agreement is attached as **Exhibit**  
23 **K**.

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- 50. The Master Agreement is a construction contract:
  - a. The recitals state that ALLO has “represent[ed] to the County” that it had “the ability to design and construct” the middle mile network.
  - b. Section 3.1 requires ALLO to “design, construct and install the County’s Fiber Network as contemplated by the RFP and more specifically described in this Agreement and the associated Work Orders.”
  - c. Section 3.6.2 requires ALLO to “furnish all Materials, Services, supervision, tools, equipment and supplies necessary to construct and install the Fiber Network (collectively, the ‘Construction Services’).”
  - d. ALLO was to be compensated for its work as set forth in an “applicable Work Order.” Ex. G at § 6.1.
  - e. Section 7.2 requires ALLO to “furnish all labor, Materials, supplies, tools, equipment, services and transportation necessary to perform the Work.”
  - f. Section 7.5 authorizes ALLO to retain subcontractors to assist in its performance of the work, but the retention of subcontractors “shall not relieve ALLO of any of its obligations under this Agreement.”
  - g. Section 8.1(b) includes a representation and warranty by ALLO that it “has full right and authority to enter into and perform this Agreement in accordance with its terms.”

51. ALLO is a “contractor” as defined in A.R.S. § 32-1101(A)(3).

52. Because the RFP called for construction services, ALLO was required to hold a contractor’s license before submitting a response to the RFP. *See* A.R.S. § 32-1151.

53. ALLO is further required to hold a contractor’s license in order to execute the Master Agreement or perform the work contemplated under the Master Agreement.

1           54. ALLO does not hold a contractor’s license in Arizona and has never held a  
2 contractor’s license in Arizona at any time relevant to this action.

3           55. ALLO thus violated Arizona law by submitting a response to the RFP and  
4 by negotiating the Master Agreement with the County.

5           56. ALLO is not qualified as a matter of law to perform the construction work  
6 required by the Master Agreement.

7           57. ALLO also violated the terms of the RFP. The RFP required the vendor to  
8 “be registered and/or authorized to build, construct and manage broadband services in  
9 accordance with Arizona statutes and regulations.” Ex. A at 7.

10          58. The RFP further requires the successful Vendor to “comply with all Federal,  
11 State, and Local laws and regulations and Yuma County rules and policies pertaining to  
12 work under its charge.” Ex. A at 11.

13          59. By responding to the RFP, ALLO represented to the County that it was  
14 authorized to build, construct, and manage the middle mile network.

15          60. ALLO’s representation was false—ALLO does not hold a contractor’s  
16 license.

17          61. Because ALLO illegally responded to an RFP for construction services  
18 without holding a contractor’s license, A.R.S. § 32-1153 bars the Registrar of Contractors  
19 from issuing ALLO a license for one year after the date of its response to the RFP—even  
20 if ALLO now applies for a contractor’s license.

21          62. At the January 26 meeting, the Board was notified of the foregoing: ALLO  
22 does not hold a contractor’s license, entering into the Master Agreement would violated  
23 Arizona law, and state law bars ALLO from obtaining a contractor’s license for one year  
24 following the date of its illegal response to the RFP.





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- C. A declaratory judgment that any Master Agreement Defendants execute with ALLO is null and void;
- D. An order enjoining Defendants from executing the Master Agreement with ALLO in connection with the goods and services solicited in the RFP;
- E. An order directing Defendants to re-start the procurement process and procure the middle mile fiber network in accordance with Arizona law and Yuma County's Purchasing Policy;
- F. An award of reasonable attorneys' fees and costs pursuant to A.R.S. § 12-348(A)(4), § 12-341, or as otherwise authorized by law; and
- G. Such other relief as the Court deems necessary, proper, and just.

RESPECTFULLY SUBMITTED this 16<sup>th</sup> day of February 2022.

By /s/ Christopher L. Hering  
Michael R. King  
Camila Alarcon  
Christopher L. Hering  
GAMMAGE & BURNHAM, P.L.C.  
40 North Central Avenue, 20th Floor  
Phoenix, Arizona 85004

*-and-*


Barry L. Olsen  
LAW OFFICES OF LARRY W. SUCIU, PLC  
101 E. Second Street  
Yuma, Arizona 85364  
*Attorneys for Gila Electronics of Yuma, Inc.*

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Verification

I, Harold Hendrick, am the President of Gila Electronics of Yuma, Inc. I have read the foregoing *First Amended Verified Special Action Complaint* and am familiar with the facts alleged in the foregoing. To the best of my knowledge, information and belief, the matters and things alleged therein are true.

DATED: 2/15/22

By   
Name: Harold Hendrick  
Title: President/CEO

# EXHIBIT A

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# Yuma County, AZ



## Request for Proposal County Administration

July 6, 2021

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## NOTICE OF REQUEST FOR PROPOSAL

Yuma County is soliciting proposals for:

### MIDDLE-MILE FIBER OPTIC NETWORK and WIDE AREA NETWORK

**Proposal Invitation No.:** YC21-22B

**Proposal for:** Middle-Mile Fiber Optic Network and Wide Area Network

**Proposal Due Date & Time:** July 30th, 2021 – 4:00 p.m. / M.S.T.

**Address:** Yuma County Administration  
198 S. Main Street  
Yuma, Arizona 85364  
Attn: Susan K. Thorpe  
County Administrator/Clerk of the Board

#### Section 1. GENERAL INFORMATION

Sealed proposals will be accepted by the Yuma County Clerk of the Board, 198 S. Main Street, Yuma AZ 85364 **until 4:00 p.m. local time – Friday, July 30th, 2021.** Proposals received after this specified time and date will not be considered. The sealed proposals will be publicly opened and each Vendor's name read aloud on the same date and time in the office of the County Administrator for the following:

**YUMA COUNTY IS SEEKING A PUBLIC OR PRIVATE PARTNER THAT CAN CONSTRUCT, MAINTAIN, AND MANAGE AN AFFORDABLE, RELIABLE, AND SCALABLE FIBER OPTIC MIDDLE MILE NETWORK TO SUPPORT NEXT GENERATION HIGH SPEED BROADBAND INTERNET TO BUSINESSES, RESIDENCES, AND OTHER ENTITIES. THIS SHOULD ALLOW FOR THE EXPANSION OF ECONOMIC DEVELOPMENT, DISTANCE EDUCATION AND TELEMEDICINE, SMART GOVERNMENT APPLICATIONS, DIGITAL DIVIDE SOLUTIONS, AND OTHER ADVANCED INTERNET AND IP BASED PRODUCTS AND SOLUTIONS.**

**AS PART OF THIS NETWORK, THE COUNTY IS ALSO REQUESTING A DEDICATED FIBER-BASED PRIVATE WIDE AREA NETWORK (WAN) FOR THE PURPOSE OF INTERCONNECTING COUNTY BUILDINGS LOCATED THROUGHOUT THE COUNTY.**

**THE COUNTY SEEKS INNOVATIVE AND CREATIVE SOLUTIONS AND WELCOMES VARIOUS BUSINESS MODELS AND APPROACHES TO CONSIDER, IN ADDITION TO THE SPECIFIC REQUEST MADE IN THIS DOCUMENT. THE COUNTY UNDERSTANDS THAT IT MAY BE UNLIKELY THAT ONE ENTITY FILLS THIS ROLE OF EXPERIENCED PROVIDER, CAPITAL PARTNER, AND SMART COUNTY SOLUTION PROVIDER, AND SO IS WILLING TO CONSIDER RESPONSES THAT INCLUDE MULTIPLE PARTIES.**

**THE PROPOSALS SUBMITTED AND THE CONTRACT, IF AWARDED, SHALL BE IN COMPLETE ACCORDANCE WITH, WITHOUT LIMITATION, THIS REQUEST FOR PROPOSAL, ATTACHED SPECIFICATIONS, ALL CODES, REQUIREMENTS AND REGULATIONS REFERENCED THEREIN, UNLESS CHANGES ARE MUTUALLY AGREED UPON BY YUMA COUNTY AND THE SELECTED VENDOR DURING CONTRACT NEGOTIATIONS.**

## Section 1. GENERAL INFORMATION (continued)

**THE COUNTY PLANS TO SEEK STATE AND/OR FEDERAL GRANT FUNDING FOR THIS PROJECT. IN ADDITION, THE COUNTY EXPECTS THE SUCCESSFUL VENDOR TO CONTRIBUTE SIGNIFICANT CAPITAL INVESTMENT. THE COUNTY WILL ALSO CONTRIBUTE FUNDING TO THIS PROJECT.**

Questions regarding this Request For Proposal should be **in writing via email** and should reference the above RFP number, **YC21-22B**, in the Subject line. Submit all questions to Yuma County Administrator Susan K. Thorpe via e-mail at: [Susan.Thorpe@Yumacountyaz.gov](mailto:Susan.Thorpe@Yumacountyaz.gov).

### **COUNTY OVERVIEW**

Yuma County is one of 15 counties in the State of Arizona. It is located in the southwestern corner of the state. The County borders three states: California to the west across the Colorado River, and Sonora, Mexico, to the south, and Baja California, Mexico to the west.

Larger than the state of Connecticut, much of Yuma County's 5,522 square miles is desert land accented by rugged mountains. Several river valley regions, however, contain an abundance of arable land, which is irrigated with water from the Colorado River. The County is comprised of four incorporated cities and towns (2019 population estimates): City of Yuma (108,010 population), City of San Luis (39,705), City of Somerton (18,093), and Town of Wellton (3,354). Unincorporated Yuma County comprises a population of 66,213. There are a number of unincorporated communities in Yuma County. The largest is the Yuma Foothills with an estimated population of 30,000 year round residents. Other unincorporated communities in east County include Tacna, Dateland, Roll and Hyder. The population of Yuma County increases by 80,000 to 100,000 residents November through March due to winter visitors from Canada and the northern and northwestern U.S., as well as an agricultural workforce that increases to support the wintertime vegetable season.

Yuma County includes two Indian Tribes – the Fort Yuma Quechan Tribe and Cocopah Tribe.

Agriculture, tourism, and two military bases, US Marine Corps Air Station (MCAS) and US Army Yuma Proving Ground (YPG) are Yuma County's principal industries. Agriculture is a \$3.2 billion business annually, employing tens of thousands of workers. Yuma County is ranked in the top 1/10th of one percent of all U.S. counties in various measures of agricultural production. Yuma County includes 230,000 acres of farmland. With an average of just over three inches of rain a year, the mighty Colorado River running through the region is responsible for Yuma's rich soil due to its millions of years of deposited sediments. These conditions provide an extended growing time, which makes way for over 175 types of crops and seeds to be grown here. The largest of these crops are lettuce and other leafy greens, with 80-90% of all wintertime leafy green vegetables in North America being grown or processed in Yuma County. Other notable crops are lemons, melons, alfalfa, Sudan grass, cotton, dates, and wheat. 71% of Durum wheat production in the area is exported to Italy to be used in premium pasta production. As agriculture technology rapidly evolves with remote sensing, automation and mechanization, Yuma County is a prime location for technology development that can only happen with reliable broadband service across all agricultural areas of the county.

Yuma Proving Ground is the Department of Defense's second largest installation, covering 833,000 acres – larger than the state of Rhode Island. It is responsible for controlled airspace over 2,000 square miles of land. Both military and commercial systems are tested utilizing the YPG infra, and GM's desert proving grounds are co-located there. YPG employs 150 military personnel, 2,360 civilians and has an economic impact of \$400 million on the Yuma region (2019 data).

## **Section 1. GENERAL INFORMATION (continued)**

Marine Corps Air Station - Yuma (MCAS) is currently the busiest air station in the Marine Corps, offering excellent year-round flying conditions and thousands of acres of open terrain for air-to-ground weapons ranges, and associated restricted airspace for military flight operations. Marine Aviation Weapons and Tactics Squadron 1 (MAWTS-1) is a major aviation command at MCAS Yuma, conducting training for all Marine Corps tactical aviation units, most notably the Weapons and Tactics Instructor (WTI) course. Marine Fighter Training Squadron 401 (VMFT-401) is a Marine Air Reserve squadron also based at MCAS Yuma, containing both active duty and Selected Marine Corps Reservists, providing aerial adversary/aggressor services and dissimilar air combat training (DACT) for all U.S. military services, and selected NATO, Allied, and Coalition partners. MCAS shares one of the longest runways in the country with the Yuma International Airport. MCAS employs 3,681 military personnel, 924 civilians and 1,118 contractors. It has an economic impact of \$583 million on the region (2019 data).

Crossborder trade with Mexico is a large economic contributor to Yuma County's and Arizona's economy. Yuma County includes two Land Ports of Entry – San Luis I serves all pedestrian and privately owned vehicles traveling to and from Mexico. San Luis II serves all commercial traffic traveling to and from Mexico.

### **PROJECT BACKGROUND**

Like many rural areas in the nation, portions of Yuma County have low population density, making it less desirable for telecommunications providers to invest in deploying and operating a reliable and affordable broadband network. Faced with challenges in economic development in a more information-based age, along with complaints from county residents and businesses regarding the need for broadband in support of tele-medicine, tele-education, tele-business and AgTech innovation, the Yuma County Board of Supervisors approved the formation of the Yuma County Broadband Task Force, made up of representatives from a variety of public/private entities in the county, to research and recommend a solution to this need. The Task Force is building on the work of a community wide Broadband Action Committee that has been operating for more than two years.

The Task Force has decided to move forward with an RFP for one or more vendors to design, construct, manage and maintain a middle mile fiber project extending out to connect the larger population centers in the County - City of Yuma, City of Somerton, City of San Luis, Town of Wellton - along with locations across the County that can support wireless towers for extending the broadband network for miles in all directions along the fiber route.

The intent of Yuma County is for the selected Vendor to design and build a Yuma County Wide Area Network (WAN) private network and a diverse redundant open access middle mile backbone.

### **The middle mile backbone shall be designed and built so that it can be extended by two additional future phases in Yuma County:**

- (1) Fiber to the premise for all residents and businesses in more populated areas, with a minimum starting speed of 1Gbps for residents and 10Gbps for businesses, and
- (2) Fiber to the tower for wireless service to residents, businesses and agricultural areas where fiber to the premise is not feasible or is cost-prohibitive.

The backbone requested in this RFP should be designed and built with the capability and capacity to be extended in these two ways.

## Section 1. GENERAL INFORMATION (concluded)

Using industry standards, the network shall allow for simplified physical and logical transition or demarcation points to serve as hand off to the County to build out its private WAN, and future state items 1 and 2 as outlined above. Use of and transition between aerial and underground access must be clearly identified in the proposal. Aerial splice points must have joint use agreements in place and allow for partnering with others including the County as needed. Cost for transition from aerial to vault splicing must be clearly identified noting responsible party; specifically at hand off to the County for its private WAN, FTTP, and close proximity to possible wireless sites and/or towers.

### CLARIFICATION AND/OR EXCEPTIONS OF DOCUMENTATION

Vendors requiring clarification or having a dispute with these documents must advise Susan K. Thorpe, Yuma County Administrator, [Susan.Thorpe@Yumacountyaz.gov](mailto:Susan.Thorpe@Yumacountyaz.gov) of the nature of the required clarification or basis of the dispute, in writing, no later than **July 16<sup>th</sup>, 2021**. If no written contact has been made by this specified date, the Vendor waives the right to any future consideration and accepts the documents as published and/or revised by the County. **Additionally, submitting a signed bid shall be construed as a total compliance statement for all paragraphs included in this RFP.**

## Section 2. SCHEDULE OF ACTIVITIES

### RFP SCHEDULE

- RFP Public Issued and Newspaper Advertisement: July 5<sup>th</sup> through 16<sup>th</sup>, 2021
- Proposals will be sent to vendors on our current listing.
- Prospective respondent's written question deadline: July 16<sup>th</sup>, 2021  
(No questions accepted after this date)
- Responses to questions: July 23<sup>rd</sup>, 2021
- Due date for proposals: July 30<sup>th</sup>, 2021
- Award date: August 16<sup>th</sup>, 2021  
Board of Supervisors Meeting (Anticipated)

NOTE: Award date is approximate and subject to change at the discretion of Yuma County.

## Section 3. PROPOSAL FORMAT

### RFP SUBMITTAL

**An unbound original, twelve (12) copies (collated in sets) and one (1) electronic copy (USB flash drive)** of the proposal and all required RFP submittal data including any Vendor generated specifications, drawings, etc., shall be enclosed within a sealed envelope with the words, "**RFP YC21-22B- Yuma County Middle-Mile Fiber Network/Wide Area Network**" and the Vendor's name and address clearly shown on the outside thereof. **Submittals received with less than the requested number of copies or not submitted with all requested information may be disqualified as non-responsive.**

Mailed proposals must be received in the office of the Yuma County Clerk not later than the time set forth for RFP opening. Yuma County will not be responsible for any lost or late arriving proposals sent via the U.S. Postal Service or other delivery services.



**PROPOSAL COVER SHEET:**

**MIDDLE-MILE FIBER OPTIC NETWORK/WIDE AREA NETWORK**

**FOR**

**YUMA COUNTY, ARIZONA**

**DUE: 4:00 PM ARIZONA TIME, JULY 30<sup>th</sup>, 2021**

**RFP NO. YC21-22B**

**THIS RFP SHALL BE VALID FOR NINETY (90) DAYS FROM DATE OF OPENING**

**Company Name** \_\_\_\_\_

**Company Address** \_\_\_\_\_

**City** \_\_\_\_\_ **State** \_\_\_\_\_ **Zip** \_\_\_\_\_

**Telephone (\_\_\_\_\_)** \_\_\_\_\_ **Fax (\_\_\_\_\_)** \_\_\_\_\_

**E-Mail Address** \_\_\_\_\_

The following Proposal is in strict accordance with the Yuma County RFP, dated \_\_\_\_\_ and all attachments as referenced therein.

**“I hereby certify that I understand and am aware that Yuma County, at its sole discretion, reserves the right to waive technicalities or irregularities, to reject any or all proposals, and/or to accept that proposal which is in the best interest of the County.**

The award of this proposal, if made, may be based on considerations other than total cost and may be awarded based on various considerations, including without limitation: Vendor's experience and/or qualifications, past experience, cost, standardization, technical evaluation and oral and/or written presentations as required. The County reserves the right to accept all or part, or to decline the whole, and to award this RFP to one or more Vendors. There is no obligation to buy. The RFP, if awarded, will be in the judgment of the County the most responsive to the County's needs and goals. Yuma County encourages the use of local, minority and/or women-owned businesses as subcontractors or in joint venture arrangements.”

\_\_\_\_\_  
**Name and Title**                      **Authorized Signature**                      **Date Signed**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Name of Contact for Questions**      **Contact Phone Number**                      **Contact Email Address**

#### **Section 4. EXPECTED OUTCOMES AND HIGH-LEVEL DELIVERABLES**

Yuma County leadership is committed to the successful future of our community. To that end, we believe the following to be true:

- Affordable and reliable high-speed Internet access to all residents and business is essential to enabling a “world class community”.
- Sustainable economic development, growth, opportunity, and innovation are dependent on high-speed access.
- We should leverage existing assets for the greatest benefit to citizens and community business partners.
- County leadership can help engage local business leaders and service providers to plan for our community’s needs.

#### **SPECIFIC BUSINESS MODEL AND REQUIREMENTS**

Please submit a proposal based on these criteria. Additional proposals may be submitted if a Vendor has other models that meet the expected outcomes and high-level deliverables.

1. The Vendor(s) must be registered and/or authorized to build, construct and manage broadband services in accordance with Arizona statutes and regulations.
2. Proposal should include past performance, capabilities, and qualifications demonstrated by an explanation of how the responder is suitable for this project. At a minimum responder, should address the following:
  - a. Identify three (3) other public-entity networks your company has built and operated, as well as any network design and build experience; include the level of broadband speed, technology type, availability and adoption among different categories of end users and unique capabilities or attributes. Discuss your capabilities with regard to engineering and design of broadband networks systems or any alternative technology, if that is what you propose. Include entity name, entity address, contact name, title, phone number and email address.
  - b. Customer satisfaction – Provide past or current customer satisfaction surveys or metrics that demonstrate all facets of the overall customer experience.
  - c. Describe agreements with other service providers, government, or non-profit entities you have undertaken, particularly any in which you provide service to unserved or underserved populations (Digital Divide). Describe the nature of the projects and your company’s role.
  - d. Discuss your capabilities regarding operation and maintenance of the form of broadband technology you propose. Overall operation, including routine and emergency maintenance, of the network will be crucial to its success. Please demonstrate through experience your ability to operate and maintain all aspects of the network.
  - e. Financial Statements: Provide audited financial statements for the most recent two (2) year period. Is your company a subsidiary or affiliate of another company? Provide full disclosure of all direct or indirect ownership. If you are a wholly owned subsidiary of another company or corporation and do not possess audited financial statements, unaudited financial statements for the subsidiary for a two (2) years period must be submitted as supplemental information to the company’s financial statements in order to meet this requirement. These documents should be affixed to all proposals, submitted by the company named in the proposal sheet.

#### **Section 4. EXPECTED OUTCOMES AND HIGH-LEVEL DELIVERABLES (continued)**

- f. Provide any pending legal matters against your company. Describe any pending agreements to merge or sell your company or any portion.
  - g. Provide customer service metrics outlining your plan's targets to include performance guarantee(s) with at-risk assumptions.
3. Proposed pricing/payments/ownership structure must be compliant for potential bond issuance by the County. Pricing is to be provided for a 20-year term for the County's portion of the fibers, split out as an install price/payment schedule for the design, construction, and turn-up of the fiber optic network and management of the fiber optic network which should include service level agreements outlining response times and costs associated with disruptions resulting from any logical or physical outages. Proposals must clearly separate any costs and service level agreements for the middle mile network and the County's private WAN networks. Any recurring monthly costs will be deemed a usage fee and applicable only to the middle mile network, and assumed pass through to the Service Providers and or end-customers.
4. Vendor should describe their approach to the following (break proposal into two sections - one for County WAN and one for Backbone to all other locations):

A public/private partnership that provides **Yuma County** with **dedicated, private fiber WAN** connectivity for its specified County locations specified in **Attachment A**, in addition to any fibers Vendor wants to install for its own use/wholesale.

**AND**

A public/private partnership that provides Yuma County with a **diverse redundant open access broadband backbone that provides service to all anchor locations in Yuma County specified in Attachment B:**

- a. Unless otherwise specified, all listed locations in **Attachment A** will have a 12-fiber lateral (using duct/conduit) built into the building, terminated on a fiber termination/patch panel at an internal location not more than 100 cable feet from the point of entry. Costs for internal cable distances of more than 100 cable feet from the point of entry will be paid for by the facility. At least thirty (30) feet of separation from existing telecommunication providers' points of entry and lateral entrance routes is required.
- b. For each connected entity location, there will be a quantity of dedicated fibers in the middle-mile fiber cable equal to the number of fibers in that location's lateral. Note: For scalability, spare private fibers for the county's use should be planned for as additional county-related sites are added in subsequent phases.
- c. Vendor will include the optics (xFP or SFP+, for example) cost to light two (2) fiber pairs at each specified location four (4) at the Yuma County locations of Yuma County Justice Center 250 W. 2nd St., Yuma County Public Works 4343 S. Ave 5 ½ E, Public Health Department 2200 W. 28<sup>th</sup> St, South County Complex 1358 E. Liberty St San Luis, East County Complex 10260 Dome St. Wellton, plus a spare set per specified location, in their pricing. Assume 10 Gbps bandwidth for pricing purposes. Specify additional one-time/recurring costs, if any, for optics above and beyond the initial optics required above.
- d. Vendor shall install cable splice handholes/vaults (for underground fiber segments) or aerial fiber splice cases (for aerial fiber segments) every 500 feet or less within incorporated area boundaries and every 750 feet or less everywhere else.

**Section 4. EXPECTED OUTCOMES AND HIGH-LEVEL DELIVERABLES (continued)**

- e. Vendor may market their backbone fibers or services on those fibers on a retail or commercial basis to other parties, including other telecommunications providers, or use it

for their own purposes. Please indicate if Vendor will provide a revenue share to the County for revenue received from Provider fibers for leasing dark fiber and/or providing services on those fibers and, if so, a detail of how that revenue share model would work and be calculated.

5. Provide a map (ESRI format) of your proposed network routes, including notations for fiber count, aerial versus underground route segments, identification of Attachment A locations, tower locations in Item 6 above, and other locations of significance along the fiber route(s).
6. Please describe the recognized telecommunication industry fiber optic network material and construction specifications you will adhere to for this project. Please review Attachment B and indicate how you will comply or propose to amend each requested specification.
7. Please confirm the network will support both active and passive signal distribution.
8. Please describe in detail how Vendor will document the fiber optic network, including, but not limited to: as-builts, fiber strand assignments, maintenance records, splicing assignments, link loss budgets and other operating characteristics. How will this information be shared with the County at completion of the project and an ongoing basis?
9. Please describe in detail how Vendor will monitor the network for physical and transmission service issues, impairments, and outages. How will this information be shared with the County?
10. Please describe in detail Vendor's Service Level Agreement policies and thresholds for:
  - a. Lit Services:
    - i. Availability
    - ii. Mean Time To Respond
    - iii. Mean Time To Repair
    - iv. Packet Loss
    - v. Latency (round-trip)
    - vi. Jitter
  - b. Dark Fiber:
    - i. Availability
    - ii. Mean Time To Respond
    - iii. Mean Time To Repair
11. Please describe in detail Vendor's Service Level Agreement credit policies and structure for violations of the above thresholds.
12. Please describe in detail Vendor's trouble ticketing system, including customer portals and how information will be shared with the County.
13. Please describe in detail Vendor's network management capabilities and its escalation policies and procedures.
14. Please provide a detailed overview, at minimum that includes a deployment plan, communications plan, and timelines to accomplish the goal of building a Middle-Mile Fiber Optic Network/Wide Area Network, along with local lateral drops to listed locations, as specified in this RFP. The project goal is to be operational by **December 2022**; please indicate factors that would prevent Vendor from meeting this goal and how those factors could be mitigated.
15. Please provide a description of the roles and responsibilities envisioned for Vendor, Vendor team members, Yuma County and its affiliates, and subcontractors and/or third parties (if applicable) for each of the following:
  - a. Network(s) design
  - b. Network(s) construction

#### **Section 4. EXPECTED OUTCOMES AND HIGH-LEVEL DELIVERABLES (concluded)**

- c. Network(s) operations and management
- d. Customer support
- e. Publicly available information

f. Marketing

16. Vendor will make this network available for broadband providers at competitive market rates for dark fiber/lit services. The County anticipates that Vendor may want to also provide Ethernet and/or Internet services on the network. Please provide, as a separate cost item, a schedule of Internet services Vendor offers to provide to locations connected to this network. Provide a scalable cost model showing minimum performance capacity of 1Gbps up/down per anchor site, scaling up incrementally to industry standard for like middle mile buildouts showing vendor recommended maximum capacity. End-customer connection should be supported by the middle-mile network; desired minimum performance capacity of 1Gbps up/down per end-customer connection. Provide a scalable cost model showing options for different capacity needs based on end-customer location, type and size.
17. Please provide information regarding your strategy/suggestions for interconnecting this network to other middle-mile networks for connectivity to Tier 1/2 Internet backbone providers located in Arizona or adjoining states. Vendor must adhere to ADOT standards for interconnection; same vault sizes and placement (distance between), splicing standards, etc.
18. If any of the locations in Attachment A or Attachment B are located in an FCC Rural Digital Opportunity Fund (RDOF) area, federal funds cannot be used to construct the middle mile backbone. Private funds or other non-federal sources will be used in those areas.
19. **Attachment C** includes the fiber construction specifications required by the County for this project.

## Section 5. PROPOSAL EVALUATION AND SELECTION PROCESS

It is the intent of Yuma County to award the contract for this project to the entity most responsive to all aspects of this RFP. A committee will evaluate all proposals based on the criteria and weighting described below:

25% - Project Plan – Including a work breakdown structure, duration estimates per activity and statement of work with all planned deliverables.

25% - Ability to Complete the Project – schedule, specifications, scope, quality, customer satisfaction.

25% - Cost of the overall project – **NOTE:** Vendor will provide a total cost of the project to accomplish the WAN and the diverse redundant fiber backbone for Yuma County. It is anticipated that the Vendor will identify the amount of private investment they will commit to the project. Any remaining funds will be sought through federal and state grants and local government contribution.

10% - Past Performance/Project Success – previous success with similar projects, including specific references and point of contact information.

10% - Innovation – Ability to provide viable options and scalability which consider our local and regional opportunities and challenges.

5% - Corporate stability and ability to provide proposed services.

## Section 6. GENERAL TERMS

### PROPRIETARY INFORMATION

Any restriction on the use of data contained within any proposals must be clearly stated in the proposal itself. Proprietary information submitted in response to this RFP will be handled in

accordance with applicable purchasing procedures. Each and every page of the proprietary material must be labeled or identified with the word "proprietary".

### **RESPONSE MATERIAL OWNERSHIP**

All material submitted regarding this RFP shall become property of Yuma County and will not be returned to the respondent. Responses received will be retained by Yuma County and may be reviewed by any person after final selection has been made, subject to paragraph above. Yuma County has the right to use any or all system ideas presented in reply to this RFP, subject to limitations in paragraph above. Disqualification or non-selection of a respondent or proposal does not eliminate this right.

### **INCURRING COSTS**

Yuma County is not liable for any cost by the respondents prior to issuance of a contract.

### **SUFFICIENT APPROPRIATION**

A contract awarded as a result of this RFP is contingent upon the availability of funds. A contract may be terminated or reduced in scope if sufficient funds do not exist without penalty to Yuma County. Sending written notice to the Vendor shall effect such termination or reduction in scope. The **Yuma County Program Manager's (to be determined)** decision to terminate or reduce the scope due to insufficient appropriations shall be accepted as final by the Vendor.

### **COMPLIANCE WITH LAWS AND REGULATIONS**

The successful Vendor shall comply with all Federal, State, and Local laws and regulations and Yuma County rules and policies pertaining to work under its charge, and shall, at its expense, procure any permits that may be required. To the extent applicable under A.R.S. § 41-4401, the Contractor and its subcontractors warrant compliance with all federal immigration laws and regulations that relate to their employees and compliance with E-verify requirements under A.R.S. § 23-214(A). Contractor shall further ensure that each subcontractor who performs any work for the County under this contract likewise complies with the State and Federal Immigration Laws.

### **ISRAEL BOYCOTT CERTIFICATION**

If the Vendor engages in for-profit activity and has 10 or more employees, and if this Agreement has a value of \$100,000 or more, Vendor certifies it is not currently engaged in, and agrees for the duration of this Agreement not engage in, a boycott of goods or services from Israel. This certification does not apply to boycott prohibited by 50 U.S.C. § 4842 or a regulation issued pursuant to 50 U.S.C. § 4842.

### **COOPERATIVE USE AGREEMENT**

In addition to the County of Yuma and with approval of the awarded contractor, this Agreement may be extended for use by other municipalities, school districts and government agencies of the State. A current listing of eligible entities may be found at <https://www.mesaaz.gov/business/purchasing/save?locale=en> and then click on 'Contracts', 'S.A.V.E.' listing. Any such usage by other entities must be in accordance with the ordinance, charter and/or procurement rules and regulations of the respective political entity.

Orders placed by other agencies and payment thereof will be the sole responsibility of that agency. The County shall not be responsible for any disputes arising out of transactions made by other agencies who utilize this Agreement.

## **Section 7. INSURANCE REQUIREMENTS**

### **STATEMENT OF PURPOSE**

Yuma County (the "County") from time to time enters into agreements, leases and other contracts with Other Parties (as hereinafter defined).

Such Agreements shall contain at a minimum risk management/insurance terms to protect the County's interests and to minimize its potential liabilities. Accordingly, the following minimum requirements shall apply:

### **COUNTY DEFINED**

The term County (wherever it may appear) is defined to mean Yuma County, Arizona, itself, its Board, employees, volunteers, representatives, contracted consultants, and agents.

### **OTHER PARTY DEFINED**

The term Other Party (wherever it may appear) is defined to mean the other person or entity which is the counter-party to the Agreement with the County and any of such Other Party's subsidiaries, affiliates, officers, employees, volunteers, representatives, agents, contractors and subcontractors.

### **LOSS CONTROL/SAFETY**

Precaution shall be exercised at all times by the Other Party for the protection of all persons, including employees, and property. The Other Party shall comply with all laws, rules, regulations or ordinances related to safety and health, and shall make special effort to anticipate and detect hazardous conditions and shall take such precautionary and prompt action where loss control/safety measures should reasonably be expected.

The County may order work to be stopped at any time, without liability, if conditions exist that present immediate danger to persons or property. The Other Party acknowledges that such stoppage, or failure to stop, will not shift responsibility for any damages from the Other Party to the County.

### **INSURANCE - BASIC COVERAGES REQUIRED**

The Other Party shall procure and maintain the following described insurance, except for coverage specifically waived by the County, on policies and with insurers acceptable to the County, and insurers with AM Best ratings of no less than A.

These insurance requirements shall in no way limit the liability of the Other Party. The County does not represent these minimum insurance requirements to be sufficient or adequate to protect the Other Party's interests or liabilities but are merely minimums.

"Except for workers' compensation and professional liability, the Other Party's insurance policies shall be endorsed to name Yuma County as **additional insured**. It is agreed that the Other Party's insurance shall be deemed primary and non-contributory with respect to any insurance or self-insurance carried by Yuma County for liability arising out of the operations of this agreement.

Except for worker's compensation, the Other Party waives its right of recovery against the County, to the extent permitted by its insurance policies.

**Section 7. INSURANCE REQUIREMENTS (continued)**

The Other Party's deductibles/self-insured retentions shall be disclosed to the County and may be disapproved by the County. They shall be reduced or eliminated at the option of the County. The Other Party is responsible for the amount of any deductible or self-insured retention.

Insurance required of the Other Party or any other insurance of the Other Party shall be considered primary, and insurance of the County shall be considered excess, as may be applicable to claims which arise out of the Hold Harmless, Payment on Behalf of Yuma County, Insurance, Certificates of Insurance and any Additional Insurance provisions of this agreement, contract, or lease.

**Commercial General Liability:** This insurance shall be an "occurrence" type policy written in comprehensive form and shall protect the Other Party and the additional insured against all claims arising from bodily injury, sickness, disease, or death of any person other than the Other Party's employees or damage to property of the County or others arising out of any act or omission of the Other Party or its agents, employees, or Subcontractors and to be inclusive of property damage resulting from explosion, collapse or underground exposures. This policy shall also include protection against claims insured by usual personal injury liability coverage, and to insure the contractual liability assumed by the Other Party under the article entitled **INDEMNIFICATION**, and **"Products and Completed Operations"** coverage.

The Other Party is required to continue to purchase products and completed operations coverage for a minimum of three years beyond the County's acceptance of renovation or construction properties.

**The liability limits shall not be less than:**

<b>Bodily Injury and Property Damage</b>	<b>\$1,000,000 Single limit each occurrence</b>
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**Business Automobile Liability:** Business Auto Liability coverage is to include bodily injury and property damage arising out of ownership, maintenance or use of any auto, including owned, non-owned and hired automobiles and employee non-ownership use.

**The liability limits shall not be less than:**

<b>Bodily Injury and Property Damage</b>	<b>\$1,000,000 Single limit each occurrence</b>
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**Workers' Compensation:** Vendor shall maintain appropriate Workers' Compensation coverage during the term of the contract.

All subcontractors shall be required to maintain Workers' Compensation.



## **Section 7. INSURANCE REQUIREMENTS (concluded)**

**Excess Liability:** This insurance shall protect the Other Party and the additional insured against all claims in excess of the limits provided under the employer's liability, commercial automobile liability, and commercial general liability policies. The policy shall be an "occurrence" type policy, and shall follow the form of the General and Automobile Liability.

The liability limits shall not be less than \$1,000,000.

### **EVIDENCE/CERTIFICATES OF INSURANCE**

Required insurance shall be documented in Certificates of Insurance that will provide that the County shall be notified at least 30 days in advance of cancellation, nonrenewable, or adverse change.

New Certificates of Insurance are to be provided to the County at least 15 days prior to coverage renewals.

If requested by the County, the Other Party shall furnish complete copies of the Other Party's insurance policies, forms, and endorsements.

For Commercial General Liability coverage, the Other Party shall, at the option of the County, provide an indication of the amounts of claims payments or reserves chargeable to the aggregate amount of liability coverage.

Receipt of certificates or other documentation of insurance or policies or copies of policies by the County, or by any of its representatives, which indicate less coverage than required does not constitute a waiver of the Other Party's obligation to fulfill the insurance requirements herein.

#### **Attachments:**

- A. Yuma County Private WAN Locations
- B. Additional Anchor Institutions/Locations
- C. Fiber Construction Specifications

**END OF REQUEST FOR PROPOSAL**

**ATTACHMENT A: Yuma County Private WAN Locations**

LOCATION	ADDRESS or GPS COORDINATES	CITY	STATE	ZIP	LATERAL / BACKBONE FIBERS
Yuma County Justice Center	250 W. 2 <sup>nd</sup> Ave	Yuma	Arizona	85364	12
Public Health Department	2200 W. 28 <sup>th</sup> St	Yuma	Arizona	85364	12
Public Works	4343 S. Ave 5 ½ E	Yuma	Arizona	85365	12
East County Complex	10260 Dome St	Wellton	Arizona	85356	12
South County Complex	1358 E. Liberty St	San Luis	Arizona	85349	12
Administration Building	198 S. Main St	Yuma	Arizona	85364	12
Administration Building Annex (After rebuild)	197 S. Main St	Yuma	Arizona	85364	12
Information Technology Services	2717 S. Ave B	Yuma	Arizona	85364	12
Developmental Services	2351 W. 26 <sup>th</sup> St	Yuma	Arizona	85364	12
General Services	2725 S. Ave B	Yuma	Arizona	85364	12
Historical Court House	168 S. 2 <sup>nd</sup> Ave	Yuma	Arizona	85364	12
Juvenile Justice Center	2440 W. 28 <sup>th</sup> St	Yuma	Arizona	85364	12
Aztec High School	2330 W. 28 <sup>th</sup> St	Yuma	Arizona	85364	12
Emergency Management	2681 S. 23 <sup>rd</sup> Ave	Yuma	Arizona	85364	12
Somerton Municipal Building	350 E. Main St	Somerton	Arizona	85350	12
Public Works	43487 Hwy 80	Tacna	Arizona	85356	12
Public Fiduciary	3007 S. Pacific Ave	Yuma	Arizona	85364	12
County School Superintendent	210 S. 1 <sup>st</sup> Ave	Yuma	Arizona	85364	12
Sheriff's Administration Office	141 S. 3 <sup>rd</sup> Ave	Yuma	Arizona	85364	12
Adult Detention Facility	200 S. 2 <sup>nd</sup> Ave.	Yuma	Arizona	85364	12
Adult Detention Annex	140 S. 3 <sup>rd</sup> Ave.	Yuma	Arizona	85364	12
Sheriff's Administration Annex	160 S. 3 <sup>rd</sup> Ave.	Yuma	Arizona	85364	12
Adult Probation Building	410 S. Maiden	Yuma	Arizona	85364	12
Sheriff Warehouse/Auto	2755 E. 14 <sup>th</sup> St.	Yuma	Arizona	86365	12
Public Fiduciary	3007 S. Pacific Ave	Yuma	Arizona	85364	12
Sheriff's Office	3911 S. Pico Ave	Yuma	Arizona	85365	12
Sheriff's Office	13190 Frontage Rd	Yuma	Arizona	85367	12
Sheriff's Office	11478 N. Joe Young	Yuma	Arizona	85365	12
Emergency Service Modular Building	2200 W. 28 <sup>th</sup> St	Yuma	Arizona	85364	12
					12

**ATTACHMENT B: DIVERSE REDUNDANT FIBER BACKBONE DESIRED ANCHOR LOCATIONS**

LOCATION	ADDRESS or GPS COORDINATES	CITY	STATE	ZIP	LATERAL / BACKBONE FIBERS
Spaceport	32°29'15.39"N, 114°36'20.42"W	Yuma	Arizona	85365	TBD
Yuma Commerce Center	Ave 7 E - Ave 8 E 32 <sup>nd</sup> Street	Yuma	Arizona	85365	TBD
Magrino Industrial Park	5237 S Vaughan St	San Luis	Arizona	85349	TBD
Southwest Industrial Park	County 24 <sup>th</sup> Street and Ave E	San Luis	Arizona	85349	TBD
Citrus Business Park	41 <sup>st</sup> Place and 3 E	Yuma	Arizona	85365	TBD
Future Industrial Development Corridor - E 40th St	32°39'19.32"N, 114°33'34.70"W	City/County	Arizona		TBD
Future Industrial Development Corridor - S. Av. 4E	32°40'32.24"N, 114°33'51.09"W	City /County	Arizona		TBD
Potential Industrial Park	32°38'39.72"N, 114°34'37.10"W	City/County	Arizona		TBD
Marine Industrial Park	Araby – 32 <sup>nd</sup> Street To County 14 <sup>th</sup> and 6 E	Yuma	Arizona	85365	TBD
City Hall	143 N State Ave	Somerton,	Arizona	85350	TBD
Public Safety Bldg.	445 E Main St	Somerton,	Arizona	85350	TBD
Municipal Court	350 W Main St	Somerton,	Arizona	85350	TBD
Community Center	801 W Main St	Somerton,	Arizona	85350	TBD
Parkview Commerce Center	1298 W Main St	Somerton,	Arizona	85350	TBD
Joe Munoz Park	245 W Fern St	Somerton,	Arizona	85350	TBD
Council Park	801 N Council Ave	Somerton,	Arizona	85350	TBD
Sewer Treatment Plant	473 S Tumbaga Loop -114.726, 32.591	Somerton,	Arizona	85350	TBD
Senior Center	245 S Bingham Ave	Somerton,	Arizona	85350	TBD
Cultural & Youth Center	239 W Canal St	Somerton,	Arizona	85350	TBD
Centennial Park	316 N Somerton Ave	Somerton,	Arizona	85350	TBD
Public Works Shops	348 N Somerton Ave	Somerton,	Arizona	85350	TBD
Traffic Signal #1	Avenue D/US 95 -114.684, 32.597	Somerton,	Arizona	85350	TBD
Traffic Signal #2	Main St/Bingham Ave -114.704, 32.597	Somerton,	Arizona	85350	TBD
Traffic Signal #3	Main St/Somerton Ave -114.710, 32.597	Somerton,	Arizona	85350	TBD
Traffic Signal #3	Main St/Cesar Chavez -114.718, 32.597	Somerton,	Arizona	85350	TBD
Traffic Signal #4	Main St/Parkview Ave -114.723, 32.597	Somerton,	Arizona	85350	TBD
Somerton Library	240 W Canal St	Somerton,	Arizona	85350	TBD
San Luis Police Department	1030 E UNION ST	San Luis	Arizona	85349	TBD
San Luis Fire Dept	1165 N McCain Ave	San Luis	Arizona	85349	TBD
San Luis PD Substation	32.47898435850941, - 114.71247554272912	San Luis	Arizona	85349	TBD
Public Works Yard	1311 N 4 <sup>th</sup> Ave	San Luis	Arizona	85349	TBD

San Luis Cultural Center	1015 N Main St	San Luis	Arizona	85349	TBD
San Luis Municipal Court	767 N William Brooks Ave	San Luis		85349	TBD
Fleet Services	707 N William Brooks Ave	San Luis			TBD
San Luis Senior Center	790 E Cesar Chavez Blvd	San Luis	Arizona	85349	TBD
San Luis AWC	1340 N 8 <sup>th</sup> Ave	San Luis	Arizona	85349	TBD
San Luis High School	1250 N 8 <sup>th</sup> Ave	San Luis	Arizona	85349	TBD
Ed Pastor	985 N 6 <sup>th</sup> Ave	San Luis	Arizona	85349	TBD
Cesar Chavez Elementary	1130 N 10 <sup>th</sup> Ave	San Luis	Arizona	85349	TBD
Desert View Elementary School	1508 N 10 <sup>th</sup> Ave	San Luis	Arizona	85349	TBD
San Luis Middle School	1135 N Main St	San Luis	Arizona	85349	TBD
Meadow Craft Building	2801 N Main St	San Luis	Arizona	85349	TBD
South Valley Center (WAL-MART)	1613 N Main St	San Luis	Arizona	85349	TBD
Jackson Square	1233 N Main St	San Luis	Arizona	85349	TBD
San Luis Plaza	580 N San Luis Plaza DR	San Luis	Arizona	85349	TBD
Plaza Riedel	1950 E Cesar Chavez Blvd	San Luis	Arizona	85349	TBD
San Luis Library	1075 N 6 <sup>TH</sup> Ave	San Luis	Arizona	85349	TBD
San Luis Industrial Park	411 N Cesar Chavez St	San Luis	Arizona	85349	TBD
San Luis Business Incubator	415 N Henry Chavez CRT	San Luis	Arizona	85349	TBD
Port of Entry I	431 N MAIN ST	San Luis	Arizona	85349	TBD
Port of Entry II	1375 S AVE E	San Luis	Arizona	85349	TBD
Magrino Industrial Park	4937 E Vaughan Street	San Luis	Arizona	85349	TBD
San Luis Medical Mall	101 S Oak Ave	San Luis	Arizona	85349	TBD
San Luis Detention Facility	406 N Ave D	San Luis	Arizona	85349	TBD
State Prison Complex	7125 E Cesar Chavez Blvd	San Luis	Arizona	85349	TBD
Wellton Town Hall	28634 Oakland Avenue	Wellton	Arizona	85356	TBD
Wellton Police Department	28618 Oakland Avenue	Wellton	Arizona	85356	TBD
Pete's Body Shop	28589 Arizona Avenue	Wellton	Arizona	85356	TBD
Wellton Fire Department	29118 Los Angeles Avenue	Wellton	Arizona	85356	TBD
Wellton Real Estate Office	29134 Los Angeles Avenue	Wellton	Arizona	85356	TBD
Butterfield Pro Shop	10231 Dome Street	Wellton	Arizona	85356	TBD
Wellton Community Center	10234 Dome Street	Wellton	Arizona	85356	TBD
East County Complex	Dome Street	Wellton	Arizona	85356	TBD
Wellton Elementary School	29126 San Jose Avenue	Wellton	Arizona	85356	TBD
Wellton Water Plant	10815 Dome Street	Wellton	Arizona	85356	TBD
Coyote Wash Pro Shop	11902 William Street	Wellton	Arizona	85356	TBD
AWC Wellton Learning Center	28851 County 12th Street	Wellton	Arizona	85356	TBD
Ed Whitehead's Tire Country	29889 Los Angeles Avenue	Wellton	Arizona	85356	TBD
RDO Equipment Co	30101 E Highway 80	Wellton	Arizona	85356	TBD

Wellton-Mohawk Irrigation & Drainage District	30570 Wellton-Mohawk Drive	Wellton	Arizona	85356	TBD
Wellton US Border Patrol Station	10888 S Avenue 31E	Wellton	Arizona	85356	TBD
JBS Five Rivers Cattle Feeding	32.69222 N 114.04459 W	Wellton	Arizona	85356	TBD
Antelope Union High School	9168 S Avenue 36E	Roll	Arizona	85347	TBD
Mohawk Valley School	5151 S Avenue 39E	Roll	Arizona	85347	TBD
Bingham Equipment	4838 S Avenue 38E	Wellton	Arizona	85356	TBD
Agriculture and Rural Areas –			NOTES		
<b>NOTE:</b> Some areas may be duplicative of the locations listed above.					
Fiber run between Roll and Mohawk Valley Farms	County 1 <sup>st</sup> St. and Ave 51E		County	Towers along the run can cover farmland to the farthest east fields at Ave 55 ½ E. Alternatively fiber can end at Roll and towers can be daisy-chained to the east.	
Fiber run between Tacna and Roll	County 5 <sup>th</sup> St. and Ave 38E		County	Wellton already turned in Bingham Equipment and Mohawk Valley School, so this is covered. Towers along the fiber run will be needed to provide wireless broadband across the farm fields.	
Fiber run between Wellton and Tacna	Old US 80 and Ave 38E		Wellton/County	This can serve JBS Feedlot and other sites listed by Wellton. Towers along the run can cover farmland to the north.	
Fiber run between Wellton and Dome Valley	Hwy 95 and County 3 <sup>rd</sup> St.		County	Towers along the run can cover farmland to the north.	
Fiber run along Hwy 95 from Dome Valley to City of Yuma	Hwy 95 and Ave 3E		County	Rural facilities include Sakata Seeds (9140 S Ave 6 E). Towers along the run can cover farmland to the north and south.	
Fiber run along Ave 7E from Hwy 95 to County 3 <sup>rd</sup> St.	Harrison Farms, 6445 E County 3rd St, Yuma		County	Towers along the run can cover farmland. Other facilities: Laguna Mobile Home Park (7270 S Avenue 7 E), North Gila Valley Garbage Dump (7870 E County 5th St), Sugarloaf Mountain Bike Trail System, Mittry Lake.	
Fiber run along Ave 7E from Hwy 95 to E. County 9 1/2	Yuma Irrigation District, 9510 S Avenue 7 E, Yuma		County	Smith Farms is near Yuma Irrigation District.	
Fiber run along Araby Rd. from Hwy 95 to 32 <sup>nd</sup> St.	Araby Rd. and 32 <sup>nd</sup> St.			Rural facilities include Holaday Seed, Booth Machinery, Tanimura & Antle (all near Araby Rd & 30 <sup>th</sup> St).	

				Towers for wireless service to farm fields and residential. Can tie into Hwy 195 fiber route to the south.
Fiber run along 32 <sup>nd</sup> St. from Foothills Blvd to Ave G				Rural facilities include Amigo Farms (4245 E 32nd St), Datepac (6685 W County 11th St), Keithly-Williams Transplants (6885 W County 11th St), Lee Farms. Towers for wireless service to farm fields and residential.
Fiber run along Ave 5E from 32 <sup>nd</sup> St. to County 15th				Facilities include Almark Foods (4420 E 36th St), Arizona Marketplace (3351 S Avenue 4 E), Humane Society of Yuma (4050 S Avenue 4 1/2 E). Towers for wireless service to farm fields and residential.
Fiber run along Ave 3E from 32 <sup>nd</sup> St. to County 16th				Facilities include Greengate Fresh Salad Plant (32 <sup>nd</sup> St. & Ave 3 1/2 E), Dole Fresh Vegetables (3725 S Avenue 3 1/2 E), MCAS Yuma, Select Seed, Sunset Nursery. Towers for wireless service to farm fields.
Fiber run along County 16th from Ave 3E to Hwy 95 at Ave. C				Rural facilities include Yuma Mesa Irrigation District (4 <sup>th</sup> Ave & County 14 1/2), Unit B Irrigation District and Rural Metro Fire Station (Ave A & County 16), UofArizona Mesa Ag Center (Ave A & County 14), Condor Seed (Ave A 1/2 & County 16), Cocopah Casino (Ave B & County 15). Towers for wireless service to farm fields and residential. From there, follow Hwy 95 through Gadsden and to City of San Luis.
Fiber run along County 8 <sup>th</sup> St. from City of Yuma to Somerton Ave.				Rural facilities include University of Arizona Yuma Ag Center, U.S. Bureau of Reclamation and APS Yucca Power Plant (County 8 & Somerton Ave), Keithly-Williams Seed Co. (County 8 1/2 & Ave E). Towers can provide wireless service to farm fields to the north and south.
Fiber run along Somerton Ave. from County 8 <sup>th</sup> St. to County 15th				Towers for wireless service to farm fields.
Fiber run along Ave. D from County 8 <sup>th</sup> St. to Hwy 95				Foothills Packing (Ave. D & Hwy 95), Four Little Devils Farms (12498 S Avenue D), American Takii Seed Co. (11492 S Avenue D), Research Designed for Ag (11479 S Avenue D). Towers for wireless service to farm fields.
Fiber run along Ave. C from County 8 <sup>th</sup> St. to County 15th				Yuma County Water Users Association (Ave C & County 15), various residential developments. Towers for wireless service to farm fields.

Fiber run along Ave. G from County 11 <sup>th</sup> St. to Hwy 95				Towers for wireless service to farm fields.
Fiber run along County 14 from Ave. G to Cocopah Reservation				Towers for wireless service to farm fields.
Fiber run along Somerton Ave. from Hwy 95 to County 19 <sup>th</sup>				Towers for wireless service to farm fields.
Fiber run along Ave. G from Hwy 95 to County 19 <sup>th</sup>				Towers for wireless service to farm fields.
Fiber run along Ave. I from Hwy 95 (at County 18 <sup>th</sup> ) to County 19 <sup>th</sup>				Towers for wireless service to farm fields.
Fiber run along County 19 <sup>th</sup> from Somerton Ave. to Hwy 95 at Gadsden				Towers for wireless service to farm fields.

## **ATTACHMENT C: FIBER CONSTRUCTION SPECIFICATIONS**

The following are general terms that apply to the construction of fiber for the project. Vendor should indicate how they intend to comply with or amend these specifications.

### **Meet-me Hole and Mid-Span Interconnection Splicing**

It is possible that Yuma County may want to interconnect with the existing or newly planned carrier facilities at meet-me manholes or mid-span splice locations. Vendors should detail policies and guidelines that document meet-me manhole and mid-span interconnection procedures along with detailed costs for these activities.

### **Dark Fiber Performance**

Yuma County prefers newly built fiber that contains a homogenous fiber type throughout the entire build.

### **Dark Fiber Maintenance**

Operations and Maintenance Practices: Yuma County will require on-going maintenance and operation of Indefeasible rights of use (IRU) or owned fiber during the term of the contract. When pricing maintenance and operations as part of the monthly recurring costs, the Vendor should include an overview of fiber maintenance practices including:

- Routine maintenance and inspection
- Scheduled maintenance windows and scheduling practices for planned outages
- Fiber monitoring including information on what fiber management software is used, what fiber monitoring system is used, and who performs the monitoring
- Handling of unscheduled outages and customer problem reports
- What service level agreement is included, and what alternative service levels may be available at additional cost
- What agreements are in place with applicable utilities and utility contractors for emergency restoration
- Repair of fiber breaks
- Replacement of damaged fiber
- Replacement of fiber which no longer meets specifications
- Policies for customer notification regarding maintenance
- Process for changing procedures, including customer notification practices
- Property restoration

## **NEW BUILD FIBER STATEMENT OF WORK**

The Work is defined as:

### **Project Management**

- Selected vendor and its subcontractors will provide all project management to accomplish the installation of all project work.
- Provide engineer(s), certified on selected fiber system specifications and procedures to manage all phases of project as outlined in this proposal. This includes ordering and managing the bill of materials as outlined below, directing and managing cable placement and restoration, directing and managing splicing crews and providing detailed documentation at the end of the project.



- Selected vendor and its subcontractors will develop a project management plan, which will include a milestone chart. The milestone chart will outline any critical path events and then track these with the appropriate agency/organization/entity.

#### Material Management

- Selected vendor and its subcontractors will provide all material management to ensure that the project remains on track according to the project milestones.
- Selected vendor and its subcontractors will develop in conjunction with selected contractor plants and other suppliers a material management plan.

#### Property Restoration

- All cable routes, which are plowed, will be restored to as near to original condition as possible.

#### Install overhead and underground fiber optic cable.

- Bore approximately (Approximate Number) feet of fiber optic cable through inner duct/conduit/handhole system
- Plow approximately (Approximate Number) feet of fiber optic cable in accordance with selected Vendor installation specifications.
- Install approximately (Approximate Number) feet of aerial fiber optic cable in accordance with selected Vendor installation specifications.
- Install hand-holes and place marker/locator posts.
- Vendor will provide specific details of cable placement using aerial photography and CAD drawings.

#### Install and Splice Hardware

- Prep closures, cables, fibers and splice fibers at all field locations
- Fiber to fiber fusion splicing of optical fibers at each point
- Individual splice loss will be  $\leq 0.5$  dB for single-mode unless, after 3 attempts, these values cannot be achieved, then the fibers will be re-spliced until a splice loss within 0.05 dB of the lowest previous attempts is achieved. Splice loss acceptance testing will be based on the fusion splicer's splice loss estimator.

#### Final Testing

- In addition to splice loss testing, selected Vendor will perform end-to-end insertion loss testing of single-mode fibers at 1310 nm and 1550 nm from one direction for each terminated fiber span in accordance with TIA/EIA-526-7 (OFSTP 7). For spans greater than 300 feet, each tested span must test to a value less than or equal to the value determined by calculating a link loss budget.
- Inspect each terminated single-mode fiber span for continuity and anomalies with an Optical Time Domain Reflectometer (OTDR) at 1550 nm from one direction in accordance with OTDR operating manual.

#### Documentation

- Provide final documentation consisting of:
  - Route "As-Built" Maps/Diagrams
  - End-to-End Insertion Loss Data
  - OTDR Traces
  - Individual Splice Loss Data

#### General Scope of Work (Description for all routes)

- Placing of associated hand-holes, marker posts, locator posts, inner duct, and miscellaneous materials.
- Splicing of fiber optic cables as specified.
- Procuring and Provisioning of hand holes and miscellaneous materials required to accomplish the above.

#### Bid Specifications

- All splicing shall be by the fusion method.
- All splicing enclosures and Hand-Holes shall be of a type to be determined by the owner.
- All Hand-Holes shall be DOT approved, 45,000 lb. load rated CDR or comparable enclosures.
- All plowed cables shall be placed at a depth of 36" along roadways and 24" on private property.
- All road and driveway bores shall be at a depth of 36" and will have at least a 2" inner duct placed within.
- All buried splice locations will be marked with a locator post and a copper ground wire shall be attached to the splice closure/cable sheath.
- Buried marker posts shall be placed at least every 1500' or per State/local requirements.
- Warning tape shall be placed 12" above the buried cable.
- All highway shoulders, schoolyards, and ditch lines will be compacted and restored to satisfactory condition.
- All Arizona Department of Transportation (ADOT) encroachment permits, railroad encroachment permits, and United States (US) agency permits shall be submitted by selected vendor in accordance with the permitting agency requirements.
- The vendor shall be responsible for the payment of any permitting fees and shall be the owner of said facilities.
- Vendor shall furnish an as-built drawing to the owner of connected facilities.
- Vendor shall perform an end-to-end continuity and loss test on each spliced fiber segment and provide the owner with the decibel db loss of each fiber segment.
- Vendor shall be responsible for submitting the appropriate Diggers Hotline locate requests.
- The County shall grant Vendor right of way permission for county-owned properties and roadways.
- All cables to buildings shall be fusion spliced within a minimum of 100' of entering a building at a location to be determined by the owner with an existing single mode fiber and terminated at customers' rack.
- A minimum of 100' coil of cable shall be left in each Hand Hole/Building for splicing use.

#### Right-of-Way Acquisition & Permitting

- Vendor is responsible to ensure that all cable routes have approved access and rights-of-way for all proposed cables installations.
- Vendor will provide any information or points of contact to allow selected Vendor and its subcontractors to facilitate the route prep "Make-ready" and actual cable installation.

- Vendor is responsible for pulling all required construction permits. Selected Vendor and its subcontractors will provide selected vendor with any information necessary to pull these permits in a timely fashion.

#### Route Maps

- Selected vendor is responsible for providing maps, drawings or aerial photographs of the route.

#### Final Inspection

- The County will provide at their discretion a person(s) to witness any final testing or construction verification. The person designated by the County will be required to initial/provide acceptance of any results. This person(s) will represent the County during any and all acceptance testing. This does not relieve the selected Vendor from providing agreed upon documentation or absolve the selected Vendor of any warranty support.

# **EXHIBIT B**

**Middle-Mile Fiber Optic Network and Wide Area Network**

**RFP #YC21-22B**

Ratings October 11, 2021 to determine companies for Interview October 15, 2021

Company Name:

	<b>Scores:</b>	<b>ALLO</b>	<b>Commnet</b>	<b>eX2 Technology</b>	<b>Gila Electronics</b>	<b>WANRack</b>
<b>Evaluator 1 - Paul</b>		67	48	77	38	87
<b>Evaluator 2 - Kathy</b>		75	47	97	0	62
<b>Evaluator 3 - Derek</b>		65	64	82	53	79
<b>Evaluator 4 - Brad</b>		89	65	86	47	64
<b>Evaluator 5 - Susan</b>		87	51	91	25	89
<b>Evaluator 6 - David</b>		80	55	92	52	48
<b>Evaluator 7 - Clif</b>		84	76	78	29	76
<b>Evaluator 8 - Mark</b>		99	18	60	37	97
<b>Total Points:</b>		646	424	663	281	602

Companies to be Interviewed October 15, 2021:

**ALLO**

**eX2 Technology**

**WANRack**

# EXHIBIT C

## Yuma County Broadband Proposal Evaluation Team

Brad Burgess – ADOT Broadband Program Administrator  
Clif Summers – Yuma County Chief Information Officer  
David Haines – Kimley Horn Consultant for Yuma County  
Derek Masseth – Sun Corridor Network Executive Director  
Kathleen Fernandez – City of Yuma Chief Information Officer  
Mark Smith – Smith Farms Company, Inc.  
Paul Brierley – U of A Center of Excellence for Desert Agriculture  
Susan Thorpe – Yuma County Administrator



October 19, 2021

Yuma County Board of Supervisors  
198 S. Main Street  
Yuma AZ 85364

Dear Board of Supervisors:

The Yuma County Broadband Task Force began its work in March 2021. The Task Force developed an RFP for a Broadband Middle Mile Fiber Backbone and a County Wide Area Network. The purpose of the middle mile fiber backbone is to lower the barrier to entry for last mile service providers and to incentivize service to unserved and underserved areas of the County. The County WAN was later removed from consideration of the middle mile project; the County sites will be included in the middle mile backbone.

The Task Force identified the need for a specific team, including industry experts, to be engaged to review the proposals expected in response to the RFP. The County Administrator assembled a **Broadband Proposal Evaluation Team**, comprised of the individuals listed above, to review and evaluate the proposals received. Five proposals were received by the submittal deadline of September 7. The Team members individually reviewed and scored each proposal, then reconvened on Monday, October 11. Each Team member shared their scores and justification for same. The scores were used to rank the five responses to determine which proposals/vendors to invite for more in-depth interview and Q&A. Based on the ranking, three of the five vendors were selected and participated in interviews on Friday, October 15.

The Evaluation Team considered each of the three vendors' written proposals as well as their presentations and discussions during the interview process. The Team assessed each vendor's experience, approach to design, construction and project management, cost and public/private partnerships to build a middle mile fiber and conduit backbone. Following these presentations, the Team arrived at a consensus recommendation to the County to enter into negotiations to develop a contract with ALLO Communications (dba ALLO Arizona, LLC) for a middle mile fiber backbone in Yuma County.


ALLO has been serving rural communities for the last 18 years with both middle mile and last mile fiber optic services. ALLO has a strong team of individuals in management positions who have worked together for many years and appear easy to work with. Their stated values are "Local (employ local people), Hassle-free (easy to work with), Honest (will tell you if there is a better way) and Exceptional (provide the best service)". They have a proven record of accomplishments across the US. ALLO completes the vast majority of project activities using in-house resources with the exception of boring or major trenching activities. While the County will own the middle mile backbone, ALLO will maintain, operate and market the use of the middle mile. ALLO will also invest its own capital to serve customers throughout Yuma County. ALLO has made service in Arizona a top priority. With the recent announcement of Lake Havasu City build-out plans, ALLO will have an enhanced presence in Arizona that will benefit Yuma County. ALLO has exhibited a strong desire to partner with Yuma County to design and construct the most effective county-wide fiber backbone. ALLO has grant writing expertise to assist with applying for a variety of funding opportunities, including Arizona's program starting this November.

The Broadband Proposal Evaluation Team is honored to assist Yuma County on this project. We stand ready to provide expertise and input to assist in developing a robust and transparent contract that will benefit the County and the community for years to come.

Sincerely,

  
David Haines – Kimley Horn Consultant

  
Kathleen Fernandez – City of Yuma CIO

  
Derek Masseth – Sun Corridor Network Executive Director

  
Cliff Summers – Yuma County CIO

  
Brad Burgess – ADOT Broadband Program Administrator

  
Mark Smith – Smith Farms Co, Inc.

  
Paul Brierley - U of A Center of Excellence for Desert Agriculture

  
Susan Thorpe – Yuma County Administrator



# EXHIBIT D

Gila Electronics, Inc.

Comments/Objections- Yuma County Broadband Backbone RFP 21-22B

- 1.) Vendors who failed to complete the RFP requirements were given an interview, including the County's preferred vendor, ALLO.
- 2.) County Board of Supervisors at November 15<sup>th</sup> Board meeting specifically required County's Broadband RFP Committee to provide Gila Electronics, Inc. (Gila) with an interview.
  - Gila was not provided with the required interview.
- 3.) The scoring system used by the County mentions points for a project manager, however no requirement for a project manager was listed in RFP. Points were given and taken away based upon providing a project manager.
- 4.) No explanation is provided as to how any particular vendor's points based upon the scoring system were reduced for not providing redundancy in the network.
- 5.) *Section 1. GENERAL INFORMATION (continued) THE COUNTY PLANS TO SEEK STATE AND/OR FEDERAL GRANT FUNDING FOR THIS PROJECT. IN ADDITION, THE COUNTY EXPECTS THE SUCCESSFUL VENDOR TO CONTRIBUTE SIGNIFICANT CAPITAL INVESTMENT. THE COUNTY WILL ALSO CONTRIBUTE FUNDING TO THIS PROJECT.*
  - This requirement is overly broad and vague. No parameters are provided as to what constitutes a "significant capital investment."
  - Any determination as to what is a "significant capital investment" is purely subjective.
  - As stated, the network will be owned by the County. Nothing is provided as to how a vendor could recoup its "significant capital investment" from a County (government) owned network.
- 6.) RFP Page 4: *"The Task Force has decided to move forward with an RFP for one or more vendors to design, construct, manage and maintain middle mile network"*
  - County Administrator and the Board of Supervisors stated at the November 29<sup>th</sup> Board meeting, the RFP is now only for the design and construction. The removal of the "manage" and "maintain" components results in a material change to the RFP after vendors provided bids. Vendors should have been notified of this material change in the RFP prior to the submission of bids.
- 7.) The County WAN Network was a major part of the RFP.
  - County has now removed the WAN Network as part of the RFP. This constitutes a material change to the RFP after vendors provided bids. Vendors should have been notified of this material change in the RFP prior to the submission of bids. The removal of the WAN

- should have required cancellation, or re-bid, of the RFP with all vendors notified of the WAN removal.
- 8.) The scoring system does not provide how the County evaluated and scored pricing.
    - Using per foot pricing, the County's preferred vendor, is over \$40 per foot. Gila is under \$28 per foot.
  - 9.) RFP page 7 *"SPECIFIC BUSINESS MODEL AND REQUIREMENTS Please submit a proposal based on these criteria. Additional proposals may be submitted if a Vendor has other models that meet the expected outcomes and high-level deliverables. 1. The Vendor(s) must be registered and/or authorized to **build, construct** and manage broadband services in accordance with Arizona statutes and regulations*
    - County's preferred vendor, ALLO, is not a licensed contractor in Arizona.
  - 10.) RFP page 8 "Section 4. EXPECTED OUTCOMES AND HIGH-LEVEL DELIVERABLES (continued) e. **Vendor may market their backbone fibers or services on those fibers on a retail or commercial basis to other parties, including other telecommunications providers, or use it for their own purposes.** Please indicate if Vendor will provide a revenue share to the County for revenue received from Provider fibers for leasing dark fiber and/or providing services on those fibers and, if so, a detail of how that revenue share model would work and be calculated
    - County has stated the network will be owned by the County and that all vendors would pay the same price for connection. RFP deficient on explaining how a private company can "joint venture" with County on revenue sharing for a wholly owned governmental network.
  - 11.) RFP Pg. 9 *"Please provide a detailed overview, at minimum that includes a deployment plan, communications plan, and timelines to accomplish the goal of building a Middle-Mile Fiber Optic Network/Wide Area Network, **along with local lateral drops to listed locations, as specified in this RFP.** The project goal is to be operational by December 2022; please indicate factors that would prevent Vendor from meeting this goal and how those factors could be mitigated.*
    - A number of addresses listed in RFP currently exceed the broadband limits set by Department of Treasury to be eligible for ARPA funding. Many of the addresses listed currently have fiber broadband service, which exceeds the ARPA minimum requirements. Use of ARPA funds to serve existing fiber customers with new fiber optic cable is in conflict with ARPA funding guidelines. These addresses should have been excluded from RFP.
  - 12.) RFP pg. 10 " *Section 5. PROPOSAL EVALUATION AND SELECTION PROCESS*

*It is the intent of Yuma County to award the contract for this project to the entity most responsive to all aspects of this RFP. A committee will evaluate all proposals based on the criteria and weighting described below:*

*25% - Project Plan – Including a work breakdown structure, duration estimates per activity and statement of work with all planned deliverables.*

*25% - Ability to Complete the Project – schedule, specifications, scope, quality, customer satisfaction. **25% - Cost of the overall project – NOTE: Vendor will provide a total cost of the project to accomplish the WAN and the diverse redundant fiber backbone for Yuma County. It is anticipated that the Vendor will identify the amount of private investment they will commit to the project. Any remaining funds will be sought through federal and state grants and local government contribution.***

- ALLO did not complete this section of RFP, yet still were given an interview and are County's preferred vendor. ALLO did not provide a "diverse redundant fiber backbone" as specified in the RFP as it did not complete a map covering all the specified addresses.
  - Another vendor was interviewed who did not complete the WAN portion of the RFP.
  - Vendors who failed to address all the RFP requirements should have been disqualified and not interviewed.
- 13.) Item #2 of the Q&A provides: "Use of aerial fiber cables attached to new or existing pole shall not be permitted".
- ALLO's proposal provides for a significant portion of the network to be constructed aerial. ALLO's bid should have been disqualified for proposing the use of aerial construction.
- 14.) Item #2 of the Q&A provides: "All Middle Mile Fiber Optic Infrastructure provided shall be comprised of 100% new infrastructure." In the Broadband Points of Clarification document, Item #3 provides "Indicate the total number of miles (for both fiber cable & 7-way micro-ducts) you are proposing for the middle mile fiber backbone, and whether they are new or existing construction."
- The foregoing is contradictory and should have been clarified by the County prior to the submission of bids.
- 15.) Section 4 Item 4 E of RFP provides: "Vendor may market their backbone fibers or services on those fibers on a retail or commercial basis to other parties, including other telecommunications providers, or use it for their own purposes. Please indicate if Vendor will provide a revenue share to the County for revenue received from Provider fibers for leasing dark fiber and/or providing services on those fibers and, if so, a detail of how that revenue share model would work and be calculated.
- ALLO's Bid states: Wholesale and rural solutions must have a collaborative solution for ALLO and Yuma County's economics. ALLO's incremental capital expenditures, sales, and

- ongoing operational investments in new rural customers must be weighted versus Yuma County's capital investments to determine appropriate division of revenues.
- This is contradictory to the County's now stated objective of recouping revenue.
- 16.) Item #12 on Points of Clarification provides: "Vendor should explain specific approach to revenue sharing for leasing of County's middle mile backbone fiber and conduit."
- County's position on the network is inconsistent. County states network to be County owned. County removed management and maintenance from RFP. County apparently now simply wants network to be constructed with any administration, management and maintenance decision to be determined later. County should have clarified this prior to submission of bids. This is a material deviation from the RFP.
- 17.) Item #13 on Points of Clarification provides for vendor to operate maintain and repair the County's fiber.
- County removed management and maintenance from RFP. County apparently now simply wants network to be constructed with any administration, management and maintenance decision to be determined later. County should have clarified this prior to submission of bids. This is a material deviation from the RFP.
- 18.) Item #15 on Points of Clarification provides for shared use.
- County has stated the network will be owned by the County and that all vendors would pay the same price for connection. RFP deficient on explaining how a private company can "joint venture" with County on revenue sharing for a wholly owned governmental network.
- 19.) Item #18 on Points of Clarification document requires vendor to provide experience for assistance with County securing funding and grants.
- As network to be solely owned by County, grant submission experience should not have been a factor in evaluating vendors.
- 20.) Item #20 on Points of Clarification document provides vendor to be granted right to manage and lease services on the County's network.
- County has now stated RFP only for design and construction, not administration, management and maintenance.
  - County has stated network to be "open source." Selected vendor is not to be provided with any access preference to the network.
  - County provides no parameters as to how other vendors/provides will have access to the network to provide last mile service.

# **EXHIBIT E**



Please return original document  
to the **Board of Supervisors Office,**  
**ATTENTION: Cindy Joslin (928) 373-1106**  
*(Name & phone number)*

### TYPE OF DOCUMENT:

- Resolution No. 2013-39
- Memorandum of Understanding
- Contract/IGA/Agreement
  - Contract Name
  - Contracted with:

Term of contract \_\_\_\_\_ through \_\_\_\_\_  
*(unless extended per Section \_\_\_\_\_ of contract)*

### DOCUMENT APPROVAL:

*(Check appropriate box, fill in blanks.)*

Approved by Yuma County Board of Supervisors:  
Nov. 18, 2013, Item No.C3



**YUMA COUNTY BOARD OF SUPERVISORS  
RESOLUTION NO. 2013-39**

A Resolution of the Yuma County Board of Supervisors  
adopting revisions to the  
Yuma County Comprehensive Purchasing Policy

History: Adopted 01-21-97  
Revised 03-28-00, 02-19-02, 11-17-03, 12-06-04, 02-18-09, 11-18-13

WHEREAS: The current Comprehensive Purchasing Policy contradicts existing County actual practice, and;

WHEREAS: The existing Comprehensive Purchasing Policy is out of compliance with State of Arizona requirements, and;

WHEREAS: There are new policies and procedures in completing Comprehensive Purchasing activities needed, and;

WHEREAS: This policy supersedes any and all other Comprehensive Purchasing Policy previously adopted.

The Yuma County Procurement of Professional Services Policy is adopted to read as follows:

**COMPREHENSIVE PURCHASING POLICY**

**Approved by the Yuma County Board of Supervisors January 21, 1997**

**Revised March 28, 2000**

**Revised February 19, 2002, No. 7E**

**Revised: November 17, 2003, No. 7B.**

**Revised: December 6, 2004, No. 4**

**Revised: February 18, 2009**

**Revised: November 18, 2013, No.C3**



**YUMA COUNTY**  
**PURCHASING POLICIES**

**INDEX**

**Introduction** .....3

**A.R.S. §11-254.01 Requirements**..... 3-4

**Purchasing Limits** ..... 4-5

**Legal Requirements:**

**COMPETITIVE BIDDING:**

        Supplies, Materials, Equipment and Contractual Services ..... 5-6

        Construction ..... 6-7

        Lease-Purchase Agreements .....7

        Other Long-Term Agreements.....8

        Joint Purchases.....8

        Sole Source Procurement .....8

**COST OR PRICING DATA** ..... 8-9

**RIGHT TO AUDIT RECORDS** .....9

**Policies - General** ..... 10-14

**Exhibits:** ..... **15-16**

    A - YUMA COUNTY APPROVED STATE OR SIMILAR CONTRACTORS.....15

    B - CONFLICT OF INTEREST FORM.....16

**Approved by the Yuma County Board of Supervisors January 21, 1997**  
**Revised March 28, 2000**  
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**Revised: December 6, 2004, No. 4**  
**Revised: February 18, 2009**  
**Revised: November 18, 2013, No. C3**

**ID #: 9702**

## **INTRODUCTION**

The Board of Supervisors under statutory authority and in compliance with generally accepted accounting principles, hereby implements a uniform County expenditure system to insure adequate control over budgets and expenditures, and to facilitate the preparation of meaningful accounting and management reports.

The following policies have been developed to ensure proper accountability of expenditures and maintain those controls necessary for Yuma County to efficiently operate in compliance with the Arizona Revised Statutes (ARS) and Uniform Accounting Manual for Arizona Counties (UAMAC). They are designed in part to relieve, and in part to assist, department administrators in their purchasing and fiscal management.

These policies are to be adhered to. Abuse or non-compliance with the policies and procedures could result in disciplinary action or personal financial liability. It is of the utmost importance that all employees affected understand these policies.

Purchasing limits and legal requirements as described herein are integral parts of the County's purchasing policies. As such, these limits and requirements must also be adhered to.

### **COUNTY PURCHASING LEGAL REQUIREMENTS - as found in A.R.S. §11-254.01**

A. All purchases of supplies, materials, equipment and contractual services, except professional services, made by the County having an estimated cost in excess of aggregated dollar amount of one hundred thousand (\$100,000.00) per transaction, shall be based on sealed, competitive bids. The County purchasing agent shall make the awards on the Yuma County Board of Supervisors approval. The invitation for bids and specifications must be issued in sufficient time and detail to permit free competition. Notice of the invitation for bids shall be published in a newspaper in accordance with the provisions of Title 39, Chapter 2 unless the Board of Supervisors, by at least a two-thirds vote of its membership, determines that an emergency exists requiring immediate action to protect the public health or safety. Copies of the invitation and specifications shall be supplied to and bids shall be solicited from qualified sources consistent with the item to be purchased as determined by the county purchasing agent, including all qualified suppliers who before issuance of the invitation notify the purchasing department in writing that they desire to bid on materials, supplies, equipment or contractual services.

B. Bids shall be opened publicly at the time and place stated in the invitation. On Board approval, the County purchasing agent shall make awards with reasonable promptness by giving written notice to the responsible bidder whose bid conforms to the invitation and whose bid conforms to the invitation and whose bid is the most advantageous to the County concerning price, conformity to the specifications and other factors. The Board may reject all bids if rejection is in the public interest.

C. The Board of Supervisors has adopted the amount provided for in section A.R.S. §41-2535 and has developed purchasing procedures to comply with the uniform accounting system prescribed by the Auditor General under A.R.S. §41-1279.21, for purchases of less than the aggregate dollar amount of one hundred thousand dollars (\$100,000.00).

D. Professional services shall be procured pursuant to written policies developed by the county purchasing agent and adopted by the Board of Supervisors.

E. All erections of and repairs and alterations to any county building are not subject to this section (A.R.S. §11-254.01) but are subject to the provisions of Title 34, Chapter 2 (A.R.S.).

## **PURCHASING LIMITS**

Purchasing procedures are established for transactions that fall within certain dollar amount ranges, specifically all purchases that are:

1. Less than \$150.00 may be made from authorized petty cash or revolving bank accounts, pursuant to petty cash fund procedures from the Yuma County Cash Policy and Procedures.
2. Less than **\$10,000.00**<sup>1</sup> may be made without obtaining price quotes although multiple verbal price quotes are encouraged when feasible to do so;
3. **\$10,000.00** or more but less than **\$50,000.00** require at least three verbal quotes that are documented on the requisition or an attachment thereto;
4. **\$50,000.00** or more but less than the amount required in 5 below require at least three written quotes.
5. Sealed, competitive bidding procedures for purchases of supplies, material, equipment and contractual services, except professional services, with an estimated cost exceeding \$100,000.00<sup>2</sup> (Note: Increase as per change in State law) must be used pursuant to Arizona Revised Statutes (A.R.S.) §11-254.01.

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<sup>1</sup>These amounts are as recommended by the State of Arizona Auditor General's Office. As the Auditor General's Office makes recommendations to changes in these numbers, the Yuma County Board of Supervisors authorize that the recommended changes be incorporated into the County Purchasing Policies.

<sup>2</sup>The Yuma County Board of Supervisors hereby incorporates any future amendments to the dollar amount of Arizona Revised Statute Section §11-254.01.

6. For Construction pursuant to A.R.S. Title 34, Chapter 2, the County must, upon acceptance and approval of the working drawings and specifications, publish a notice to contractors of intention to receive bids and contract for the proposed work. The notice must be published by advertising in a newspaper of general circulation for two publications that are at least 6 (six) but no more than 10 (ten) days apart if it is a daily newspaper. A.R.S. §34-201 also provides for exceptions to advertising the notice to contractors. Projects must be within the budgeted appropriation and all contracts are to be approved to form by the County Attorney.

*All costs, including, but not limited to, sales tax, shipping, handling and freight are included in determining the aforementioned dollar limits. Accordingly, if the item dollar cost is less than one of the above limits but any one or combination of additional charges results in the total cost of a higher category, then the procedures for the higher category must be followed.*

## **LEGAL REQUIREMENTS**

### **COMPETITIVE BIDDING**

**Supplies, Materials, Equipment and Contractual Services** - The Agency must publish notice of an invitation to receive bids in the official newspaper of the County as defined in A.R.S. §11-255. The notice must be published in accordance to A.R.S. §39-204. The Agency must retain an affidavit attached to a copy of the published invitation from the newspaper as proof of the publication (A.R.S. §39-205).

Copies of the invitation and specifications must be supplied to and bids must be solicited from qualified sources consistent with the type of item to be purchased as determined by the County purchasing agent, including all qualified sources that notified the purchasing department in writing of their desire to bid on the types of items to be purchased.

Bids must be opened publicly at the time and place stated in the invitation. Upon Board approval, the County purchasing agent shall award the contract to the bidder whose bid conforms to the invitation and is most advantageous to the County considering price, conformity to specifications and other factors. Written notice of the award must be provided to the selected bidder. The County may reject all bids if the board considers it to be in the public interest (A.R.S. §11-254.01).

**Waiver by the Yuma County Board of Supervisors.** Competitive bidding may be waived if the Board of Supervisors concludes by at least two-thirds vote of its membership that an emergency exists requiring immediate action to protect public health or safety (A.R.S. §11-254.01).

**Construction** - Upon acceptance and approval of working drawings and specifications, the County must publish a notice of intention to receive bids and contract for proposed work. The notice must provide a description of work to be performed, the purpose and location of the proposed building, and where the plans and specifications may be obtained. Copies of the plans and specifications must be made available to bidders upon request or by appointment. The County must require the deposit of a designated amount which shall be refunded when the plans and specifications are returned in good order (A.R.S. §34-201).

The County must require every proposal to be accompanied by a certified check, cashier's check or surety bond in an amount equal to 10 percent of the amount of the bid, as a guarantee that the contractor will enter into a contract to perform the proposal in accordance with the plans and specifications, or as liquidated damages in the event of failure or refusal of the contractor to enter into the contract (A.R.S. §34-201).

The County must publish notice of an invitation to receive bids in a newspaper printed and published within the County. The notice must be published in a daily paper four consecutive times or in a weekly paper once each week for two consecutive weeks (A.R.S. §39-204). The County must retain an affidavit from the newspaper attached to a copy of the published invitation as proof of the publication (A.R.S. §39-205).

Upon approval of the Board of Supervisors, the contract must be awarded to the lowest responsible bidder with a satisfactory bid. An applicable transaction privilege or use tax of Yuma must not be a factor in determining the lowest bidder (A.R.S. §34-243.01).

The Board of Supervisors has the option to reject all proposals or withhold the contract award for any reason (A.R.S. §34-201).

In accordance with A.R.S. §41-2533(G), the contract shall be awarded to the lowest responsible bidder whose bid conforms in all material respects to the requirements and criteria set forth in the invitation for bids. The amount of any applicable transaction privilege or use tax of a political subdivision of this state is not a factor in determining the lowest bidder if a competing bidder located outside of this state is not subject to a transaction privilege or use tax of a political subdivision of this state. If all bids for a construction project exceed available monies as certified by the appropriate fiscal officer (County Finance Director), and the low responsive and responsible bid does not exceed such monies by more than five percent, the Board of Supervisors or their designee may in situations in which time or economic considerations preclude re-solicitation of work of a reduced scope negotiate an adjustment of the bid price, including changes in the bid requirements, with the low responsive and responsible bidder, to bring the bid within the amount of available monies. Before the contract is executed the County shall require the contractors to furnish a performance bond and a payment bond which shall become binding upon award of the contract. Such bonds must be executed by a surety company authorized to do business in this State, and each must be equal to the entire contract price. The performance bond must be solely for the protection of the County. The payment bond must be solely for the protection of vendors supplying materials or labor to the contractor or subcontractor (A.R.S. §34-222).

The County must retain 10 percent of all construction contract payments as insurance for proper performance by the contractor. At the option of the contractor, a substitute security, as prescribed in A.R.S. §34-221, may be provided in place of retention. Retention must be paid or substitute security returned to the contractor within 60 days after completion of work under the contract (A.R.S. §34-221).

### **Lease-Purchase Agreements**

The Board of Supervisors or their designee may enter into lease-purchase agreements for equipment. However, the agreement should stipulate that it is for one fiscal year only, and that the Board of Supervisors may, with the consent of the vendor, renew the agreement for succeeding one-year periods until complete payment has been made (A.R.S. §11-651). The Board of Supervisors may cancel the lease-purchase agreement at any time by providing written notice to the seller (A.R.S. §11-653). Title to the equipment under lease purchase must remain with the seller until payment of the full purchase price (A.R.S. §11-652).

Counties may also enter into lease-purchase agreements for real property and improvements to real property for public purposes. Payments under the agreement must be completed not later than 15 years after the date of purchase. Any increase in the final payment date from fifteen years up to a maximum of twenty-five years shall be made only on unanimous approval by the Board of Supervisors (A.R.S. §11-251.[46]).

## **Other Long-Term Agreements**

In addition to lease purchases, the County may enter into other types of long-term agreements for the purchase of personal property. Such agreements must stipulate that the County may cancel at the end of each fiscal year, and that the seller may repossess the property at that time (A.R.S. §11-251).

## **Joint Purchases**

The Board of Supervisors may enter into agreements with one or more public agencies to make joint purchases. The agreements must specify the duration, purpose, method of financing, and method for establishing and maintaining a budget for the purchase. Further, the methods to be used for the partial or complete termination of the agreements, including disposal of property, must be specified. If the agreement is with a public entity outside the State of Arizona, the underlying procurement process of that outside public entity should substantially comply with the minimum statutory requirements for local governments in Arizona.

The agreements must be reviewed and approved by the County Attorney to determine whether they are in proper form and within the authority of the Board of Supervisors. If the approved Agreements affect more than one county in Arizona, they must be filed with the Secretary of State. Agreements affecting only Yuma County must be filed with the County Recorder (A.R.S. §11-952).

## **Sole Source Procurement**

A contract may be awarded for a material, service or construction item if the agency head or his/her designee determines in writing that there is only one source for the required material, services or construction item. The agency head may require the submission of cost or pricing data in connection with an award under this section. Sole source procurement shall be avoided, except when no reasonable alternative sources exist. **A written determination of the basis for the sole source procurement shall be included in the contract file.** (A.R.S. §41-2536)

## **Cost or Pricing Data**

- A. The submission of current cost or pricing data may be required in connection with an award in situations in which analysis of the proposed price is essential to determine that the price is reasonable and fair. A contractor shall, except as provided in subsection C, submit current cost or pricing data and shall certify that, to the best of the contractor's knowledge and belief, the cost or pricing data submitted was accurate, complete and current as of a mutually determined specified date of either:
1. The pricing of any contract awarded by competitive sealed proposals or pursuant to the sole source procurement authority, if the total contract price is expected to exceed an amount established by the County.
  2. The pricing of any change order or contract modifications which is expected to exceed an amount established by the County.

- B. Any contract, change order or contract modification under which a certificate is required shall contain a provision that the price to the County shall be adjusted to exclude any significant amounts by which the County finds that the price is increased because the contractor-furnished cost or pricing data was inaccurate, incomplete or not current as of the date agreed on between the parties. Such adjustment by the County may include profit or fee.
- C. The requirements of this section need not be applied to contracts if any of the following apply:
  - 1. The contract price is based on adequate price competition.
  - 2. The contract price is based on established catalogue prices or market prices.
  - 3. Contract prices are set by law or regulation.
  - 4. It is determined in writing that the requirements of this section may be waived, and the reasons for the waiver are stated in writing.

**Right to Audit Records**

- A. The County may, at reasonable times and places, audit the books and records of any person who submits cost or pricing data as provided in A.R.S. §41-2543 to the extent that the books and records relate to the cost or pricing data. Any person who receives a contract, change order or contract modification, for which the cost or pricing data is required shall maintain the books and records that relate to the cost or pricing data for three years from the date of final payment under the contract, unless a shorter period is otherwise authorized in writing by the Agency Head. (A.R.S. §41-2543)
- B. The County is entitled to audit the books and records of a contractor or any subcontractor under any contract or subcontract to the extent that the books and records relate to the performance of the contract or subcontract. The books and records shall be maintained by the contractor for a period of three years from the date of final payment under the prime contract and by the subcontractor for a period of three years from the date of final payment under the subcontract, unless a shorter period is otherwise authorized in writing by the Agency Head. (A.R.S. §41-2548).



## **POLICIES - GENERAL**

- A. The Board of Supervisors has full responsibility and power to adopt all policies that are in accordance with Arizona Revised Statutes and the Uniform Accounting Manual for Arizona Counties, necessary to control the expenditure of County monies. The Board has delegated the authority to the County Administrator and the Finance Director to effect the following and other such policies as deemed desirable and necessary and to develop procedures required to implement these policies.
- B. All expenditure of County monies must be approved by the Board of Supervisors.
- C. The Board of Supervisors has the exclusive authority to enter into contracts on behalf of the County (A.R.S. §11-201). This authority has been delegated as follows:

- 1. Purchases of supplies, materials, equipment and other contractual services that do not require formal competitive bidding (i.e.; generally items not exceeding \$100,000.00)

Agency Heads may execute purchases which are within budgeted appropriations, if formal competitive bidding is not required by State law. Contractual obligations will be reviewed for adequacy of funds, appropriate liability protection and legality.

All purchases that fall within the Agency Heads limits MUST be purchased with a P-Card with the exception of those that fall within the petty cash limits. Reimbursements of petty cash must then be requested by demand to the Accounts Payable division of the Financial Services Department. Requisitions/Purchase Orders will no longer be assigned AFTER the purchase of supplies and equipment.

- 2. Professional services that do not require formal competitive bidding.

Agency Head may execute contracts that are within budgeted appropriations, if formal competitive bidding is not required by State law. Policies and procedures are outlined in the Professional Services Policy. Exception: Leases of real property are addressed in Section C.7. of this Comprehensive Purchasing Policy.

3. Leases of personal property.

Agency head may execute leases that are within departmental appropriations and are approved as to form by the County Attorney. Multi-year leases shall contain a non-appropriation clause allowing the termination in the event of inadequate funding, and the Board shall not be obligated to provide sufficient funds for multi-year leases entered into by agencies.

4. Construction or repair projects that do not require formal competitive bid procedures.

Agency Head may execute contracts for projects that are within budgeted appropriations, and are approved as to form by the County Attorney.

5. Intergovernmental agreements for contracted services, joint purchases:

Agency Head or County Administrator may execute intergovernmental agreements which are within budgeted appropriations and revenues and are approved as to form by the County Attorney. Board approval required if other parties to the agreement requires it. No multi-year agreement shall be executed without a non-appropriation clause permitting termination in the event of inadequate funding. No multi-year agreement entered into by the Agency head shall obligate the Board to provide sufficient funding to meet any future year funding expectations. Agreements will identify how matching funds will be provided and will ensure that new employees are notified that their positions may terminate with the agreement. The Board will receive summaries of agreements entered into.

6. Change orders and contract amendments.

County Administrator or Agency head may approve change orders and contract amendments that are budgeted.

7. Leases of Real Property:

Leases of real property shall be considered at meetings of the Board of Supervisors and be executed by the County Administrator upon approval by the Board.

- D. Departments shall not divide purchases to avoid bidding requirements.
- E. Computer hardware/software and communications equipment purchases must follow the current Yuma County Computer Hardware and Software and Communications Equipment Acquisition Policy.
- F. A purchase order requisition must be prepared for all County expenditures that require budget encumbering. Expenditures exempt from budget encumbering are:
1. Payroll and related costs (FICA, Federal & State Withholding, State;
  2. Visiting judges, defense of indigents, and court reporters;
  3. Jury and witness fees;
  4. Travel;
  5. Utilities (telephone, gas, electric, etc.);
  6. Postage;
  7. Uniform allowance for Sheriff's deputies;
  8. Medical costs for indigents (doctor and hospital);
  9. Intra-governmental service department charges;
  10. Expenses related to life and death emergencies, such as search and rescue, etc.;
  11. Gas, oil and minor repair purchases on credit cards;
  12. Special service calls for emergency situations such as plumbers, electricians, air conditioning, doctors, data system repair, etc.;
  13. Purchases made through Board of Supervisors award of bids;
  14. Expenditures for less than **\$10,000.00** (This is based on the fact that a purchase requisition is not required if the purchase is for less than **\$10,000.00**);
  15. Others, as approved by the Board.
- G. Capitalization Policy: Purchases of machinery, equipment and vehicles with a useful life exceeding one year and costing \$5,000 or more, or purchases of buildings and Improvement costing \$10,000 or more (and all land acquisitions regardless of price) shall be considered capital outlay purchases. Such purchases shall be capitalized in the financial records of the County as further outlined in the separate Capital Asset Policy.
- H. Specifications for purchases must be furnished by the requesting department.
- I. Policies adopted in this manual may not be changed, waived, added to or deleted except by action of the Board of Supervisors. Procedures may be changed, added to or deleted by the County Administrator and Finance Director as required to comply with the Arizona Revised Statutes, UMAC, and changes in internal control or computer processing procedures.

- J. Whenever any County office or department shall purchase or contract for any outside services, materials, supplies or equipment contrary to County policies and procedures, such contract or purchase may be considered null and void and of no effect. Such determinations will be at the sole and absolute discretion of the Board of Supervisors. The agency head or individual employee making the purchase without appropriate authorization may be personally liable for the costs of such purchase or contract and, if already paid for with County funds, the amount thereof may be recovered by the County.
- K. The County may make purchases without advertising for bids under the following circumstances:
1. Waiver by the Board of Supervisors: If the Board of Supervisors concludes by at least two-thirds vote of its membership that an emergency exists requiring immediate action to protect public health or safety. When emergency circumstances exist, if the purchase is made before a requisition has been prepared, a confirmation requisition must be submitted to the Finance Department within three (3) working days. A signed statement detailing justification for the emergency purchase must accompany the requisition.
  2. Extraordinary Procurement: If the Board of Supervisors determines that the public health and welfare is in jeopardy, then the Board of Supervisors may authorize purchases without advertised bids under such controls as will insure the public health and welfare and maintain good purchasing practices.
  3. State Or Similar Contractor Purchases: Yuma County entered into an agreement in January of 1997 with the Purchasing Office of the State Department of Administration, Finance Division. This agreement permits Yuma County to purchase any supplies, commodities, equipment and materials covered by existing State contract price agreements from consenting vendors.

Purchases made under this contractual agreement satisfy bidding procedures for Yuma County.

The County may enter into similar purchasing agreements with other public entities for supplies, commodities, equipment and materials. These agreements permit Yuma County to purchase items covered by the contractual agreements at favorable prices and satisfy bidding procedures for Yuma County. Exhibit A contains the agreements currently in effect, that the County may purchase under. **Board of Supervisor approval is required for all purchases under these contracts in excess of \$100,000.**

- L. Related Party Purchases: Purchases from an elected official, employee or any business controlled by an elected official or employee require notification to the Finance Director. The elected official or employee must not take part in the decision to purchase.
  
- M. Emergency Procurements - Notwithstanding any other provision of this policy, an agency head may make or authorize others to make emergency procurements for purchases of less than **\$100,000**, if there exists a threat to public health, welfare, or safety or if a situation exists which makes compliance with oral or written quote limits impracticable, unnecessary or contrary to the public interest, *except such emergency purchases shall be made with such competition as is practicable under the circumstances*. **A written determination of the basis of the emergency and for the selection of the particular vendor shall be included with documentation for payment of the invoice.**
  
- N. Agency Heads are authorized to dispose of property with an estimated total current value of less than **\$250**:
  - 1. All Yuma County agencies should be notified of excess property.
  - 2. A person who deals in such specialized property shall determine the value of specialized property, such as computer equipment.
  - 3. If no Yuma County agency desires the property, then the property may be sold or given to another government entity or to a 501 (C) (3) charity.
  - 4. Property with an estimated value of less than \$25 may be disposed of in any manner seen fit by the agency head.
  
- O. Secondary or split bids and awards - Yuma County does not authorize solicitation of bids under procedure where the county thereafter decides to:
  - 1. Award one contract to one bidder for one product, or;
  - 2. Award one contractor a contract for a combination of two or more substitute materials, or;
  - 3. Award one contractor a primary contract for one material and another contractor a secondary contract for another material.
  
- P. Annually, agency heads or any county employee with the ability to influence any purchase item must complete and submit to the financial services director a conflict of interest form as found in Exhibit B of this policy.

## **Exhibit A – Yuma County Approved State or Similar Contractors**

1. Arizona State Purchasing Contract –  
*(This is the same as “ProcureAZ”, per Financial Services 09-22-2011/cpi.)*
2. Mohave Educational Services Cooperative
3. Minnesota Multi-State Contracting Alliance
4. Center for Disease Control Federal Contract
5. Intergovernmental Agreement with City of Yuma
6. Intergovernmental Agreement with Maricopa County
7. National Association of Counties Purchasing Contract
8. The Cooperative Purchasing Network (TCPN).  
*[Awards subsequent to August 2003.]*
9. Western States Contracting Alliance State Contract
10. SAVE Cooperative Group
11. U.S. Communities Government Purchasing Alliance
12. U.S. General Services Administration Schedule #70.  
(GSA Schedule 70 Information and Technology).
13. Houston-Galveston Area Council (HGACBuy)

# Exhibit B – Conflict of Interest Form

## DEFINITIONS:

1. **ENTITY** means corporation, partnership, limited partnership, association, or organization.
2. **PERSONAL or FINANCIAL INTEREST** means an interest as an owner, proprietor, partner, trustee; an interest as the result or possibility of the occurrence of a contingent, antecedent, or subsequent event; or an interest as an employee or officer of an entity.
3. **RELATIVE** means spouse, child, child's child, child's spouse, parent, grandparent, brother or sister of the whole or half blood and their spouses, and the parent, brother, sister or child of a spouse.
4. **TRANSACTION** means the exchange of assets or services with parties outside the business entity, and includes, but is not limited to, any project or contract, any employment, speaking, consulting, research agreement or contract, and the sale or purchase of any tangible or intangible item, whether in single or multiple quantities.

## Related Parties Questionnaire

1. The following is a list of all entities I have a personal or financial interest in that have current or pending transactions, or had transactions at any time since July 1, 20XX, with Yuma County:

NAME OF ENTITY      DESCRIPTION OF MY CONNECTION WITH THE ENTITY

2. The following is a list of all relatives, and all entities in which a relative has a personal or financial interest, which have current or pending transactions, or had transactions at any time since July 1, 20XX, with Yuma County:

NAME                              RELATIONSHIP                              ORGANIZATION

3. The following is a list of all transactions between Yuma County and those entities or persons listed in response to (1) and (2) above:

NAME OF ENTITY                              DESCRIPTION OF TRANSACTION

4. To the best of my knowledge, the following is a list of other Yuma County employees in which possible related party transactions may have occurred:

NAME OF EMPLOYEE                              POSSIBLE RELATED PARTY

By signing this questionnaire, I certify that the information contained herein is true, correct, and complete to the best of my knowledge and belief.

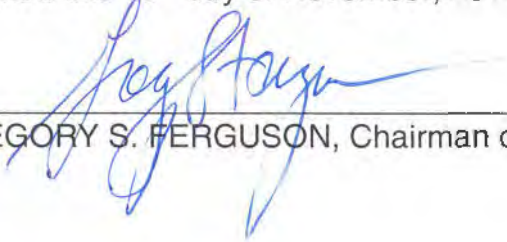
\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date


\_\_\_\_\_  
Title

**NOW, THEREFORE, BE IT RESOLVED** that the Yuma County Board of Supervisors adopts Resolution No. 2013-39 revising the Procurement of Professional Services Policy.


Adopted this 18<sup>th</sup> day of November, 2013.

  
\_\_\_\_\_  
GREGORY S. FERGUSON, Chairman of the Board

ATTEST:

  
\_\_\_\_\_  
ROBERT L PICKELS, JR.  
Clerk of the Board

APPROVED AS TO FORM:

  
\_\_\_\_\_  
JON SMITH, County Attorney

P:\Resolutions\2013\Res. 2013-39 Comprehensive Purchasing Policy (Nov 2013)#3.doc



# EXHIBIT F

**Yuma County Broadband Proposal Evaluation Team**

Brad Burgess – ADOT Broadband Program Administrator  
Clif Summers – Yuma County Chief Information Officer  
David Haines – Kimley Horn Consultant for Yuma County  
Derek Masseth – Sun Corridor Network Executive Director  
Kathleen Fernandez – City of Yuma Chief Information Officer  
Mark Smith – Smith Farms Company, Inc.  
Paul Brierley – U of A Center of Excellence for Desert Agriculture  
Susan Thorpe – Yuma County Administrator



December 17, 2021

Yuma County Board of Supervisors  
198 S. Main Street  
Yuma AZ 85364

Dear Board of Supervisors:

The Yuma County Board of Supervisors entrusted the Broadband Proposal Evaluation Team to evaluate the proposals submitted in response to the County's RFP #YC21-22B for a Broadband Backbone Middle-Mile Fiber Optic Network, and to provide our unbiased recommendation to the Board. The Evaluation Team took the task entrusted to us by the Board very seriously and put a lot of time and effort into this process.

In compliance with the County's procurement policy, the Evaluation Team carefully reviewed all five proposals, and selected the top three highest scoring proposals for interviews. The Team handled all in-person interviews consistently, and carefully considered information presented from the top three vendors. The County also provided a 10-day written comment process to assure that any additional information or concerns could be evaluated before finalizing a decision, even though the County's procurement policy does not contain a formal comment or protest procedure.

We would like to note that the County Attorney's Office has confirmed that the County does not fall under Arizona state procurement laws, manuals or guidelines, because the County adopted its own procurement policy as allowed by statute. Statements criticizing the County related to State laws do not apply to this process. We also want to note that this RFP is for a design/build based on a concept. It is not a bid. Many vendors used their own methodology to declare themselves the low bid or to claim that the Team did not sufficiently consider costs. The Team took proposed costs and designs along with all other important factors into due consideration.

The Evaluation Team thoroughly reviewed and discussed all written comments received during the 10-day comment period. Based on all of the above, we remain confident in our recommendation of ALLO as the best partner for Yuma County to move forward with the Broadband Backbone design/build contract.

The Broadband Proposal Evaluation Team is honored to assist Yuma County on this project, which we believe will set Yuma County apart from other areas as a great place to live and do business. We stand ready to support the County in ensuring the Backbone Project becomes a reality in a timely manner that allows for participation in current and future state and federal funding opportunities to provide genuine fast, reliable, affordable and equitable broadband access to the unserved, underserved and throughout the County.

Sincerely,

DocuSigned by:

David Haines

12/17/2021

DAVID HAINES – Kimley Horn Consultant

Kathleen A.  
Fernandez

Digitally signed by Kathleen A.  
Fernandez  
Date: 2021.12.17 09:16:40  
-0700'

Kathleen Fernandez – City of Yuma CIO

# EXHIBIT G

**PROJECT: Middle-Mile Fiber Optic Network and Wide Area Network RFP # YC21-22B**

PROPOSER BEING EVALUATED: \_\_\_\_\_

EVALUATOR NAME: \_\_\_\_\_

DATE: \_\_\_\_\_

<b>Proposal Rating Criteria:</b>			
<b>Project Plan - 25</b>	<b>25 points maximum</b>	<b>Points assigned:</b>	<b>Notes:</b>
Project plan aligns with and addresses all requirements identified within RFP; technical, functional and operational - 10	0 - 10		
Project approach and plan includes full project schedule, communication plan, clearly identified milestones and deliverable(s) – 10	0 - 10		
Project Manager is assigned and dedicated for entire project duration – 5	0 - 5		
<b>Ability to complete the project - 25</b>	<b>25 points maximum</b>	<b>Points assigned:</b>	<b>Notes:</b>
Relevancy of recent public sector and/or public-private partnership projects in scope, duration, deliverable – 15	0 - 15		
Project experience matches or nearly matches scope of Yuma County requirements; design, number of locations, desired business model – 5	0 - 5		

Meets expected timeline – 5	0 - 5		
<b>Cost of the overall project - 25</b>	<b>25 points maximum</b>	<b>Points assigned:</b>	<b>Notes:</b>
Proposal includes total cost for both County WAN and diverse redundant fiber backbone and individual cost break down as applicable – 10	0 - 10		
Proposal includes appropriate industry standard contingencies and clearly identifies in cost proposal – 5	0 - 5		
Proposal clearly identifies cost sharing and identifies significant vendor investment of funding for project – 5	0 - 5		
Proposal allows for flexibility or can accommodate expansion or adjustments as deemed appropriate through project duration – 5	0 - 5		
<b>Past Performance / Project Success – 10</b>	<b>10 points maximum</b>	<b>Points assigned:</b>	<b>Notes:</b>
References include favorable and details assessment of performance and project deliverables – 5	0 - 5		
References cited are similar in scope and deliverables 5	0 - 5		

<b>Innovation - 10</b>	<b>10 points maximum</b>	<b>Points assigned:</b>	<b>Notes:</b>
Proposal allows for flexibility and includes alternative options to align with community demographics and geographic location 5	0 - 5		
Proposal includes alternative funding strategies that may best meet RFP requirements 5	0 - 5		
<b>Corporate stability and ability to provide proposed services - 5</b>	<b>5 points maximum</b>	<b>Points assigned:</b>	<b>Notes:</b>
Profit loss statements	0 - 1		
Company assets and holdings	0 - 1		
Ability to sustain through entire project duration	0 - 3		
<b>TOTAL</b>			

Example Ratings Definitions:

Zero (0) points – Does not meet basic requirements

Midrange of points – Adequate level of response to meet requirements and expectations

Highest points – Best possible response to requirements, exceeds expectations

# EXHIBIT H



# Yuma County Middle-Mile Fiber Network / Wide Area Network

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RFP NO. YC21-22B

SEPTEMBER 7, 2021

PREPARED FOR:

**Yuma County Administration**  
**Attn: Susan K. Thorpe, County Administrator/Clerk of the Board**  
**198 S. Main Street**  
**Yuma, Arizona 85364**





August 31, 2021

Susan K. Thorpe  
County Administrator/Clerk of the Board  
Yuma County Administration  
198 S. Main Street  
Yuma, Arizona 85364

Ms. Thorpe,

Thank you for the opportunity to respond to Yuma County's Request for Proposal for a Middle-Mile Fiber Optic Network and Wide Area Network. ALLO Communications ("ALLO") is very interested in partnering with the County on its initiative to bring next generation high speed broadband internet to businesses, residents, and other entities as well a dedicated fiber-based private wide area network to connect county buildings.

ALLO has the experience, expertise, scale, and financial resources to ensure a successful initiative. In fact, ALLO expects to contribute approximately \$140-\$150 million of our own capital to construct FTTP networks for most businesses and households in Yuma County.

ALLO is a telecommunications company offering world-class Fiber-to-the-Premise networks for superior broadband, internet, television, and telephone to residents, businesses, and government entities. ALLO's fiber networks expand business opportunities, create jobs, and improve quality of life for our customers. We take great pride in providing unmatched communications and entertainment options to our communities.

ALLO's growth and success over the past two decades is evidence of our technical capabilities, experienced personnel, superior products, and unmatched reputation for customer service. Our modern network, expert team of engineers, operators, and technical specialists combine with the immense capacity of ALLO's fiber network to provide unparalleled service to our partner communities.

ALLO has recently won numerous national and local awards for our service. It is our goal to change the standards for the industry and help move communities forward by bringing the benefits of a fiber optic network.

With a deep fiber experience serving cities totaling approximately 670,000 in population, ALLO has the experience, expertise, and current solutions to partner with Yuma County to deploy a successful network.

Sincerely,

Bradley A. Moline  
President, ALLO Communications  
330 South 21st Street | Lincoln, NE 68510  
[bmoline@Allophone.net](mailto:bmoline@Allophone.net) | 308.633.7802



## PROPOSAL COVER SHEET

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PROPOSAL COVER SHEET:

MIDDLE-MILE FIBER OPTIC NETWORK/WIDE AREA NETWORK

FOR

YUMA COUNTY, ARIZONA

DUE: 4:00 PM ARIZONA TIME, JULY 30<sup>th</sup>, 2021

RFP NO. YC21-22B

THIS RFP SHALL BE VALID FOR NINETY (90) DAYS FROM DATE OF OPENING

Company Name ALLO Arizona, LLC

Company Address 330 S. 21st Street

City Lincoln State NE Zip 68510

Telephone ( 308 ) 882-7800 Fax ( 402 ) 458-2799


E-Mail Address www.allofiber.com

The following Proposal is in strict accordance with the **Yuma County RFP**, dated 8/3/2021 and all attachments as referenced therein.

**"I hereby certify that I understand and am aware that Yuma County, at its sole discretion, reserves the right to waive technicalities or irregularities, to reject any or all proposals, and/or to accept that proposal which is in the best interest of the County.**

The award of this proposal, if made, may be based on considerations other than total cost and may be awarded based on various considerations, including without limitation: Vendor's experience and/or qualifications, past experience, cost, standardization, technical evaluation and oral and/or written presentations as required. The County reserves the right to accept all or part, or to decline the whole, and to award this RFP to one or more Vendors. There is no obligation to buy. The RFP, if awarded, will be in the judgment of the County the most responsive to the County's needs and goals. Yuma County encourages the use of local, minority and/or women-owned businesses as subcontractors or in joint venture arrangements."

Brad Moline, President



August 3, 2021

**Name and Title**

**Authorized Signature**

**Date Signed**

Dwight 'Doc' Wininger

(402) 432-6512

dwininger@allophone.net

Jody Hoops

(402) 770-5280

jhoops@allophone.net

**Name of Contact for Questions**

**Contact Phone Number**

**Contact Email Address**

## SPECIFIC BUSINESS MODEL AND REQUIREMENTS

Please submit a proposal based on these criteria. Additional proposals may be submitted if a Vendor has other models that meet the expected outcomes and high-level deliverables.

- 1. The Vendor(s) must be registered and/or authorized to build, construct and manage broadband services in accordance with Arizona statutes and regulations.**

ALLO is a registered telecommunications provider with the Arizona Corporation Commission and Federal Communications Commission.

- 2. Proposal should include past performance, capabilities, and qualifications demonstrated by an explanation of how the responder is suitable for this project. At a minimum, responder should address the following:**

**a. Identify three (3) other public-entity networks your company has built and operated, as well as any network design and build experience; include the level of broadband speed, technology type, availability and adoption among different categories of end users and unique capabilities or attributes. Discuss your capabilities with regard to engineering and design of broadband networks systems or any alternative technology, if that is what you propose. Include entity name, entity address, contact name, title, phone number and email address.**

ALLO Communications is a telecommunications company offering internet, broadband, telephone, and television to residents and businesses through fiber-based networks.

ALLO provides broadband service through an all Fiber-to-the-Premise (FTTP) network. ALLO's pure fiber-optic service connects directly to home or businesses. Dedicated fiber-optic cables, rather than copper, deployed symmetrically provide faster and more reliable services, even during peak usage times.



ALLO has 100,000 lines of service all through FTTP. ALLO's offerings provide service to government entities, businesses, schools, and residents creating gigabit societies. ALLO has invested more than \$400 million in FTTP assets in 20 communities.

ALLO has engineered, designed, constructed, maintained, and provided services for ubiquitous FTTP networks since 2004 and continues to operate in markets totaling approximately 670,000 in population. Cities with populations of 1,400 to 290,000 are included in this total, representing the depth of ALLO's model.

We began expanding our network throughout Nebraska and Colorado with a passion for providing greater access and a goal to close the digital divide. We are making a substantial economic impact in our communities with our fiber network, helping to meet the technology needs of businesses and residents.

ALLO's expertise is cost-efficient design, engineering, construction, and professional operation of FTTP networks. Possibly the most unique feature offered by ALLO is our 700 person operation, which has proven successful throughout numerous cities and public-private partnership models.



ALLO’s growth and success are reinforced by our stellar reputation for customer service, technical capabilities, experienced personnel, and superior products. We provide customers with the most modern network while employing a team of engineers, operators, and technical experts who are constantly working with customers to develop creative ways to utilize the immense capacity on ALLO’s fiber network and better serve our customers.

ALLO provides (or is in the process of providing) ubiquitous gigabit services in the following communities:

City/State	Date	Population <sup>1</sup>
Lincoln, NE	2015	289,102
Greeley, CO	2021	108,649
Grand Island, NE	2021	51,267
Kearney, NE	2021	33,867
Fremont, NE	2021	26,383
Hastings, NE	2018	24,692
Norfolk, NE	2020	24,449
North Platte, NE	2011	23,639
Columbus, NE	2021	23,468
Scottsbluff, NE	2005	14,556
Fort Morgan, CO	2018	11,463
Gering, NE	2006	8,128
Alliance, NE	2007	8,092
Wayne, NE	2021	5,660
Breckenridge, CO	2019	4,945
Ogallala, NE	2010	4,497
Hudson, CO	2021	2,767
Valentine, NE	2021	2,706
Imperial, NE	2019	2,055
Bridgeport, NE	2010	1,472

In each community and region, ALLO designed and built a competitive network and became the preferred solution for residents, businesses, and governments, while maintaining ownership and operation of the network. Gigabit service is available to homes and small businesses in all markets, and large and governmental entities are provided with solutions to meet their needs (often more than 1G). All new markets launch with NGPON2 (next generation PON) architecture capable of providing 10G service to each location.

### ALLO Partnerships

ALLO’s public-private partnerships are unique in each community. Our Lincoln, Fort Morgan, Breckenridge, Valentine, and Hudson communities are projects that have utilized a public/private partnership. Details on the first three projects are provided below.

<sup>1</sup> Population totals via 2019 U.S. Census Bureau

### Lincoln, Nebraska

In November 2015, the City of Lincoln announced its partnership with ALLO to build a 100% fiber optics-based infrastructure. With a population of almost 290,000, Lincoln is ALLO's largest project to date, and is one of the most significant fiber builds in the United States.

The Lincoln fiber network is an all-underground ubiquitous build. ALLO is utilizing the City of Lincoln's 300+ miles of conduit in major arterials and is leasing them from the city, providing a cost-effective solution to customers. Without the use of the conduits, the project would not be financially possible. By working together to meet the unique needs of the city, the project was substantially completed in less than three years.



ALLO's customer service record and sales rates have been outstanding in Lincoln, exceeding our expectations. ALLO also provides the City of Lincoln with connections for free 1G internet for 77 non-profit entities, community Wi-Fi, lit connections for 150 municipal buildings with 1G or 10G service, and telephone service through hosted PBX for 3,000 user stations. Additionally, the City, University of Nebraska, and other entities are researching unique methods to connect students to the school networks utilizing ALLO's 40,000 connections throughout the City.

The impact of ALLO's network was significant for the citizens of Lincoln. Prior to ALLO's construction of the network, Lincoln had the 28<sup>th</sup> fastest internet in Nebraska. Today, Lincoln is in the top 4 nationally of the 100 largest cities in America for both speed and latency.

### Fort Morgan, Colorado

In late 2017, ALLO announced a public-private partnership with the City of Fort Morgan and began building the city's ubiquitous fiber network in April 2018. The electric utility (Fort Morgan Utilities) constructed its fiber network based on ALLO's design, engineering, construction process, and quality assurance.

Fort Morgan funded and managed the construction of the network. ALLO is leasing the network from Fort Morgan and assisted with the design and contractor selection, managed the completion of the network with fiber drops to homes and businesses, and provided installation services. ALLO is operating Fort Morgan similar to our wholly-owned communities, and is responsible for marketing and customer service.



The Fort Morgan buildout was completed in eight months. ALLO provides ongoing installations for Fort Morgan, supported by our engineering and network teams.

### Breckenridge, Colorado

In March 2019, the Town of Breckenridge selected ALLO to operate and be the initial sole service provider for the town's all-fiber network, Fiber 9600.





Similar to our partnership with Fort Morgan, Breckenridge is constructing the fiber infrastructure, with ALLO's guidance. While the COVID-19 pandemic disrupted the process in Breckenridge, the market shares are meeting expectations in the completed areas.

## Residential and Commercial Services

ALLO provides ubiquitous 1G service with symmetrical speeds (delivering the same download and upload speeds) to all entities including businesses, government offices, and residences. All speeds referenced below are for symmetrical services.

The network model is GPON-based with active availability. Our GPON network is designed to be upgradeable for faster broadband speeds as demanded by the community and technological advances.

ALLO's network is designed to provide 1G service to all homes; 10G to the home is standard in new markets and previous markets are also being upgraded. ALLO currently offers and supports broadband services to commercial entities up to 100G.

Residential services include:

- Symmetric internet (50 Mbps, 500 Mbps, 1G, 10G)
- Hosted WiFi6 - Provided with all services to ensure a consistent experience for all customers
- Voice (POTs, features, and long distance)
- Video (200+ channels, DVR, set-top boxes, VOD, over-the-top)

Business services include:

- Symmetric internet (50 Mbps and up as needed by customer)
- Inter and Intra-city broadband (Layer2, MPLS, dark fiber, and cloud connections including AWS, Azure, and others)
- Voice (POTS, PRI, SIP, features, hostedPBX telephone systems, long distance-domestic, international, toll free)
- Video (Services for bars, restaurants, general businesses)

During the COVID-19 pandemic, ALLO has been on the cutting edge of helping our communities stay connected. ALLO's service has been in very high demand for learning and working from home services with a specific need for quality internet (symmetrical download and upload speeds, low latency) as employees and students are video conferencing, uploading school assignments, and utilizing cloud storage.

Additionally, businesses have utilized hostedPBX, soft phones, and additional bandwidth solutions in order to support their businesses and employees during this unique time.

ALLO's network has performed in a world class fashion - just as it was designed.



**Company Information**

ALLO Communications LLC  
 300 S. 21<sup>st</sup> Street  
 Lincoln, NE 68510

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**b. Customer satisfaction – Provide past or current customer satisfaction surveys or metrics that demonstrate all facets of the overall customer experience.**

The success of a support and customer service organization can be objectively viewed by churn statistics and Net Promoter Score (NPS). With our telecom background, service levels are generally far superior to other providers due to our culture, training, systems, redundancy, experience, and scale.

Annual competitor churn is traditionally less than 5.0% residential and 2.0% business. Churn refers to the loss of an ALLO customer to one of our competitors. In addition, ALLO's NPS score is consistently over 60. In recent months, ALLO's **NPS score has been between 65 and 70** - almost unheard of in the telecom industry, particularly during the current COVID-19 pandemic.

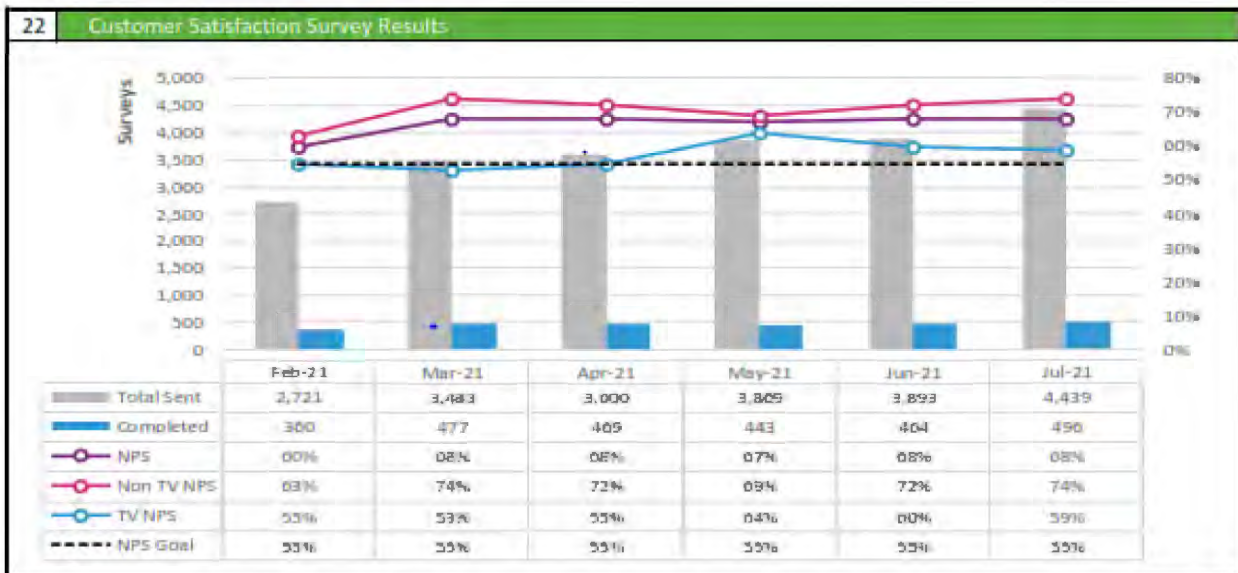


Figure 1 – ALLO's outstanding NPS Score is a benchmark in the telecommunications industry.





ALLO’s low churn rate and high NPS score reflects all aspects of our company, including product and customer service, as our customers choose ALLO over our competitors. These industry-leading metrics are ALLO’s most valued Key Performance Indicators (KPIs) and illustrate our ability to provide exceptional customer experiences and the loyalty of our customer base.

Customer satisfaction surveys are conducted via an online form. The NPS is calculated after several touch points, as shown below. The surveys include customer metrics with ratings scales and comments areas to allow the customer to elaborate on any areas of concern.

ALLO documents and conducts reviews of the customer metrics and comments, including complaints, to ensure that issues are handled in a timely manner. The results help us determine areas that need improvement; service levels are adjusted accordingly to meet service commitments and maintain quality of service.

Survey	Trigger	Frequency
Installation Survey	48 hours from install	Daily
First Bill Survey	5 days after first bill	Twice Monthly
Tech Support Survey	7 days post resolution date	Daily
Customer Satisfaction Survey	One year service anniversary; Annually thereafter	Monthly

Online links to the surveys follow:

**Installation Survey:**

[https://www.surveymonkey.com/r/Preview/?sm=qBDb5dSqJo6lDIER\\_2FpGe20x3kYoDJBkIQWpQVVL0nmI0eUMstNC0MShfmAwHoJzu](https://www.surveymonkey.com/r/Preview/?sm=qBDb5dSqJo6lDIER_2FpGe20x3kYoDJBkIQWpQVVL0nmI0eUMstNC0MShfmAwHoJzu)

**First Bill Survey:**

<https://www.surveymonkey.com/r/Preview/?sm=MT3ETN3P2Q0TcgiHr5DKxi7tcHXDAWgVnOp2lpBfwpYIzUZSoPJO93lljdZNK9Ze>

**Tech Support Survey:**

<https://www.surveymonkey.com/r/Preview/?sm=FApZkeF6tVFCYxThS7xp1ViZGFwhaah0PRKEIM80Ts5DZc4omN0mvFn9BTnk0NTR>

**Customer Satisfaction Survey:**

[https://www.surveymonkey.com/r/Preview/?sm=WGUIY6HH\\_2F0lqnUpBSzqsd\\_2BWVHLht0TR20f17o5r5F0YopGL5Sq4eEkdj75hR5W7O](https://www.surveymonkey.com/r/Preview/?sm=WGUIY6HH_2F0lqnUpBSzqsd_2BWVHLht0TR20f17o5r5F0YopGL5Sq4eEkdj75hR5W7O)

**c. Describe agreements with other service providers, government, or non-profit entities you have undertaken, particularly any in which you provide service to unserved or underserved populations (Digital Divide). Describe the nature of the projects and your company’s role.**

ALLO has always led or participated in the education and awareness of a fiber network and its capabilities. We have worked with governmental programs, local non-profits, national science groups, and other organizations to eliminate the digital divide.



ALLO has utilized local, state, federal and ALLO corporate programs to encourage the adoption of world-class communication through education and financial contributions.

### Emergency Broadband Benefit Program

ALLO is currently participating in the Federal Communications Commission's (FCC) Emergency Broadband Benefit Program to help lower the cost of high-speed internet for eligible households during the COVID-19 pandemic.

Eligible households receive free installation, a free Wi-Fi 6 router, and free 500 Mbps download and upload service through the life of the program.

This program is a meaningful effort to ensure all families are connected for working, learning, entertainment, and full participation in the digital society.

### Emergency Connectivity Fund

The FCC recently announced a new benefit program to help schools keep their students connected to reliable internet and technology. ALLO is excited to participate in this program and offer free 500 Mbps internet service to qualifying students.

Qualifications are similar to the Federal e-rate program requirements. Students will go through their respective schools to submit the application for internet service.

### Lifeline

As part of our ability to offer cost-effective services for price-sensitive customers, ALLO provides subsidized services to low-income residents. ALLO participates in the Federal Lifeline telecom program, part of the Universal Service Fund, which provides economy broadband (50 Mbps symmetric) at a substantially reduced cost for qualified residents on government assistance.

### Community Connect Program

We're proud to work with local nonprofits making a difference in our communities. In October 2019, ALLO announced an initiative as part of the Community Connect Program, providing 77 nonprofits with free 1 GIG service for the next 10 years.

This program ensures the local nonprofit organizations have the speed and reliability of a fiber optic connection, allowing them to focus on the work that keeps our communities moving forward, while reducing operating costs.

### ConnectEd Nebraska

ConnectEd Nebraska is another example of ALLO's technology being utilized to make lives better for the people in our communities. ConnectEd Nebraska will be powered by eduroam and provides students and educators with free and accessible guest wireless networks at participating schools.

Nebraska was selected as one of two state networks (the other being Arizona) in the county chosen to pilot a support organization approach to eduroam for K-12 schools. The program is funded by federal COVID-19 funds.

ALLO, along with the Nebraska CIO, University of Nebraska Lincoln, and Lincoln Public Schools worked with eduroam to set up and test access to a ubiquitous Wi-Fi network currently used by multiple universities and colleges across the world.



The goal of the project is to make this network ubiquitous across multiple public school systems. ConnectEd Nebraska will enable low-income students who cannot afford the Internet access they need to connect to their public school networks. The ten non-profits ALLO chose to install Ubiquiti Wi-Fi were specifically chosen because of their commitment to helping underprivileged children.

### US Ignite

In 2017, US Ignite, a non-profit organization funded by the National Science Foundation, designated Lincoln, Nebraska as a [Smart Gigabit Community](#). Lincoln is now one of 30 officially designated communities in the US working together to increase new economic and social opportunities through the development of advanced gigabit applications. ALLO is collaborating with the University of Nebraska-Lincoln, among others, in the initiative to bring Lincoln next-generation gigabit applications.

**d. Discuss your capabilities regarding operation and maintenance of the form of broadband technology you propose. Overall operation, including routine and emergency maintenance, of the network will be crucial to its success. Please demonstrate through experience your ability to operate and maintain all aspects of the network.**

A core component of ALLO's success is that we are largely self-sufficient. ALLO employs all personnel that are responsible for the ongoing operations of all aspects of the network, which includes routine and emergency maintenance.

### Network Operations

ALLO has networks smaller and larger than contemplated by Yuma County. We operate each network with the same professionalism by utilizing consistent technology, equipment, processes, and systems. ALLO will provide incremental personnel, systems, etc. to ensure a successfully operated network.

ALLO currently operates a multi-state network utilizing redundant dark fiber and lit wave length services to connect our markets, internet drains, telco interconnections, and service platforms. This sophisticated and dependable network will extend to Arizona and Yuma County in a proven design for world-class results.

With 20 communities, 100,000 access lines, and 700 employees, ALLO has a professional, scalable, and industry-leading operation. ALLO will ensure that the Yuma County network operates in an equally professional manner.

ALLO will utilize our proven products and service model to support customers. With an experienced team of customer support personnel, ALLO's solution provides customer service excellence and is extremely scalable. Technicians, customer service representatives, sales engineers, and sales personnel **hired and located in Yuma County** will be supported by ALLO's 24/7/365 Network Operations Center (NOC) and existing customer service representatives to ensure the network is performing for all customers.

Customers can contact customer service via phone, email, text, social media, or our app and communicate with live representatives located in Arizona, Nebraska, and Colorado. We pride ourselves on our consistent customer service process which includes very short wait times, minimal transfers, and a goal of issue resolution on the first call.

ALLO's scalable Operations Support Systems and Billing Support Systems, along with other technical and analytical tools, work together to provide the efficient operation of the world-class network.



## Network Management

ALLO has proven processes for managing the local network, including evaluating data to verify bandwidth sufficiency, evaluating alarms, monitoring overall performance, and escalating issues.

ALLO maintains sparing protocols, disaster plans and recovery testing, appropriate employee staffing, and other business processes to ensure uninterrupted service. ALLO's network management provides 24/7/365 service and support.

Additionally, ALLO will support in-home or in-building services primarily with future ALLO employees located in Yuma County. The network will be managed and operated using traditional service and support methods, which has been standard at ALLO for more than a decade. ALLO will control upgrades, releases, and other impacts to the overall network.

ALLO maintains the appropriate systems for network deployment and maintenance to operate a 24/7/365 network and support including 99.999% service up-time. The programs utilized are substantial and appropriate for ALLO's network.

**e. Financial Statements: Provide audited financial statements for the most recent two (2) year period. Is your company a subsidiary or affiliate of another company? Provide full disclosure of all direct or indirect ownership. If you are a wholly owned subsidiary of another company or corporation and do not possess audited financial statements, unaudited financial statements for the subsidiary for a two (2) years period must be submitted as supplemental information to the company's financial statements in order to meet this requirement. These documents should be affixed to all proposals, submitted by the company named in the proposal sheet.**

Please see **Appendix A** for ALLO's financial statements for 2019 and 2020.

In 2015, Nelnet (NYSE: NNI) acquired 81.0 percent of the outstanding equity and membership interests of privately held ALLO. Since that transaction, Nelnet has invested significant additional capital in ALLO to build networks in various Nebraska and Colorado communities.

On October 20, 2020 Nelnet entered into an agreement with SDC Capital Partners, LLC ("SDC") in which funds managed by SDC made a \$197 million equity investment in ALLO for an approximately 48% ownership stake in ALLO. The collaboration provides ALLO with access to additional capital from SDC to continue expanding its all-fiber-optic network and superior service offerings.

In addition, ALLO entered into a \$230 million debt facility in 2021. The combination of equity and debt capital plus proven financial results from existing operations makes ALLO uniquely qualified and capitalized in the FTTP industry.

**f. Provide any pending legal matters against your company. Describe any pending agreements to merge or sell your company or any portion.**

There are no pending material legal matters against the company. ALLO does not have any plans to sell the company. ALLO has recently entered into franchise, pole attachment, and other agreements with several municipalities. Applications for authorities in Arizona and Texas have also been recently completed.



**g. Provide customer service metrics outlining your plan’s targets to include performance guarantee(s) with at-risk assumptions.**

ALLO expects the Yuma County project to be completed over roughly 36 months. The project includes the County connections contemplated in this RFP as well as concurrent FTTP connections throughout municipalities, population centers, and many rural areas.

Due to the expedited nature of this RFP, collaborative evaluation of network design; community/County capacity commitments to support this significant project; agreements with cities, County, and contractors; adopting specific safety and quality standards for all stakeholders; and other key processes must be completed before construction and connection performance guarantees will be meaningful.

Risks are identified as safety, quality, timing, or cost. With a vetted design, much of the risk is minimized before the start of construction as materials, routes, and contractors are deterministic. Unanticipated issues are quickly known, as each construction area is treated as a separate project and is corrected before risks begin to impact the overall project.

ALLO’s extensive history in the industry has allowed us to develop a reporting methodology that tracks safety, quality, timing, and cost. If any area is in jeopardy, management can correct it at a micro level before the issue impacts the overall project.

ALLO has specific terms of use documents available on our website ([www.allofiber.com](http://www.allofiber.com)) and will agree to specific performance guarantees as we have with many other communities.

Please see **Appendix B** for ALLO’s standard service level agreement, as well a sample agreement from another ALLO community.

- 3. Proposed pricing/payments/ownership structure must be compliant for potential bond issuance by the County. Pricing is to be provided for a 20-year term for the County’s portion of the fibers, split out as an install price/payment schedule for the design, construction, and turn-up of the fiber optic network and management of the fiber optic network which should include service level agreements outlining response times and costs associated with disruptions resulting from any logical or physical outages. Proposals must clearly separate any costs and service level agreements for the middle mile network and the County’s private WAN networks. Any recurring monthly costs will be deemed a usage fee and applicable only to the middle mile network, and assumed pass through to the Service Providers and or end-customers.**

**THE FOLLOWING IS NON PUBLIC INFORMATION: PROPRIETARY AND CONFIDENTIAL**

The following proposal is for discussion purposes and is expected to be modified by County needs and requests, final terms of the agreement, collaborative design adjustments, project scope adjustments, and other modifications as ALLO and the County develop the agreement.

Please note that ALLO has limited interest in the project as contemplated in Attachment A and Attachment B as a stand-alone project. ALLO’S primary interest is accommodating the requirements in Attachment A and Attachment B while concurrently designing and constructing a more comprehensive FTTP solution for the region. Considering the projects independently will increase costs for all and limit the project’s benefits to many community stakeholders.



The FTTP solution will require an additional \$140 - \$150 million investment from ALLO in the next 2-3 years beyond the scope of this RFP. Also important to ALLO is having a time-efficient project, including a desire to begin the FTTP project construction within the next several months. ALLO expects to announce additional communities in Arizona that are likely to begin in the next several weeks.

**THE FOLLOWING IS NON PUBLIC INFORMATION: PROPRIETARY AND CONFIDENTIAL**

Yuma County Private WAN Locations

The price is for construction, maintenance, repair, and support of the specified network locations including electronics refresh through 2041.

**Install Price** – \$19.1 million optimized with aerial or \$26.8 million all underground for completed project to install fiber to locations as listed including entry costs and electronics.

Note: ALLO has utilized processes and materials consistent with its other markets as a FTTP project covering approximately 60,000 households is anticipated. ALLO expects to collaborate with the County to determine the best materials for the project.

**Fiber Management** – \$1.1 million annually or \$12.5 million at construction completion. Costs of locating, repairing, electronics refresh, and other management tasks through 2041.

At the completion of the 20 year term, the fiber management contract may be extended by the County at mutually agreed upon terms taking into consideration the age of the network and potential replacement costs of portions of the network.

Note: The project has not yet been bid in a competitive format with the associated FTTP project. Costs may change and likely will be reduced.

Middle Mile Network – Connections to locations listed on Attachment B

**Install Price** – \$8.2 million optimized with aerial or \$12.3 million all underground for completed project to install fiber to locations as listed including entry costs and electronics.

Note: ALLO has utilized processes and materials consistent with its other markets as a FTTP project covering approximately 60,000 households is anticipated. ALLO expects to collaborate with the County to determine the best materials for the project.

**Fiber Management** – \$0.8 million annually or \$9.1 million with construction completion. Costs of locating, repairing, electronics refresh and other management tasks through 2041.

Note: ALLO will provide management and operation of the middle mile network using professional operational methods consistent with other communities and regions. Connections will traverse central offices, cabinets, and local utility easement paths in conjunction with the FTTP build.

Internet access, voice, hostedPBX and other broadband services will be provided by ALLO to these locations (Private WAN and Middle Mile). Nonrecurring and monthly charges will be at the lowest governmental rate offered by ALLO to reflect the County's investment.

Third parties may utilize the network on a wholesale basis reflecting the investment made by the County and ALLO. Incremental costs to extend the network will be charged to the third party in the form of non-recurring costs and monthly recurring costs consistent with industry practices. In all cases, ALLO will have exclusive responsibility for providing network operations, maintenance, and control of the network and rights to the income provided.





ALLO and the County must collaborate for an income share related to the assets constructed. ALLO will have the right to install additional fibers, conduits, buffer tubes, overlash aerial, or other similar construction along the routes described in Appendix A and B for utilization in its FTTP operations.

Please see **Appendix B** for ALLO's standard service level agreement, as well a sample agreement from another ALLO community, for response times and other information.

**4. Vendor should describe their approach to the following (break proposal into two sections - one for County WAN and one for Backbone to all other locations):**

**A public/private partnership that provides Yuma County with dedicated, private fiber WAN connectivity for its specified County locations specified in Attachment A, in addition to any fibers Vendor wants to install for its own use/wholesale.**

**AND**

**A public/private partnership that provides Yuma County with a diverse redundant open access broadband backbone that provides service to all anchor locations in Yuma County specified in Attachment B:**

**a. Unless otherwise specified, all listed locations in Attachment A will have a 12-fiber lateral (using duct/conduit) built into the building, terminated on a fiber termination/patch panel at an internal location not more than 100 cable feet from the point of entry. Costs for internal cable distances of more than 100 cable feet from the point of entry will be paid for by the facility. At least thirty (30) feet of separation from existing telecommunication providers' points of entry and lateral entrance routes is required.**

ALLO's proposal includes specific construction as required in Attachments A and B, and described in 4a above. In addition, it anticipates a comprehensive design and construction of a FTTP network for substantially all businesses and households in the communities as well as fiber availability to extend service to rural businesses, households, and wholesale providers.

ALLO assumes that Yuma County will own the assets that are contemplated in the Appendix A and Appendix B projects. These assets will be managed by ALLO as described above. ALLO shall have the right to augment the assets at its own cost for the FTTP projects.

Please see the high level designs in **Appendices C and D** for the County WAN and Backbone to all other locations.

**b. For each connected entity location, there will be a quantity of dedicated fibers in the middle-mile fiber cable equal to the number of fibers in that location's lateral. Note: For scalability, spare private fibers for the county's use should be planned for as additional county-related sites are added in subsequent phases.**

ALLO will utilize our proven design programs to allocate active and GPON fiber connections. Fiber counts will include dedicated fibers for the requirements in Attachments A and B. ALLO and County representatives will evaluate fiber upsizing and sparing on a collaborative basis to ensure a future-proof cost-effective solution.

**c. Vendor will include the optics (xFP or SFP+, for example) cost to light two (2) fiber pairs at each specified location four (4) at the Yuma County locations of Yuma County Justice Center 250 W. 2nd St., Yuma County Public Works 4343 S. Ave 5 ½ E, Public Health Department 2200 W. 28 St, South County Complex 1358 E. Liberty St San Luis, East County Complex 10260 Dome St. Wellton, plus a spare set per specified location, in their pricing. Assume 10 Gbps bandwidth for pricing purposes. Specify additional onetime/recurring costs, if any, for optics above and beyond the initial optics required above.**

ALLO has included initial costs as well as electronics refresh over 20 years in our estimates. Upfront costs would be reduced by modifying the estimate for monthly costs for electronics refresh. The requirements will be met in the initial design. As the needs of the locations over a 20-year period are difficult to estimate, incremental or new technology needs will be provided in a cost-effective manner as has been ALLO's reputation over the past two decades of service.

**d. Vendor shall install cable splice handholes/vaults (for underground fiber segments) or aerial fiber splice cases (for aerial fiber segments) every 500 feet or less within incorporated area boundaries and every 750 feet or less everywhere else.**

ALLO utilizes multi-service terminals (MSTs) in both aerial and underground construction in incorporated areas in our standard design parameters. In rural areas, we recommend a more granular and collaborative design to locate MSTs or splice cases in a more useful and cost-efficient manner. ALLO's significant experience in this area will be instructive to the operational results of the project.

**e. Vendor may market their backbone fibers or services on those fibers on a retail or commercial basis to other parties, including other telecommunications providers, or use it for their own purposes. Please indicate if Vendor will provide a revenue share to the County for revenue received from Provider fibers for leasing dark fiber and/or providing services on those fibers and, if so, a detail of how that revenue share model would work and be calculated.**

ALLO's proposal is to provide connectivity as listed in Attachment A and Attachment B with no monthly recurring costs for Attachment A and B for 20 years. Services for internet access, voice, video or other services will be provided at best governmental rates offered.

ALLO's \$140-\$150 million expected investment will necessitate normal consumer, commercial, and wholesale charges for success-based services to remit to ALLO for an appropriate return on investment.

Wholesale and rural solutions must have a collaborative solution for ALLO and Yuma County's economics. ALLO's incremental capital expenditures, sales, and ongoing operational investments in new rural customers must be weighted versus Yuma County's capital investments to determine appropriate division of revenues.

- 5. Provide a map (ESRI format) of your proposed network routes, including notations for fiber count, aerial versus underground route segments, identification of Attachment A locations, tower locations in Item 6 above, and other locations of significance along the fiber route(s).**

Please see the high level designs for the connections in Attachment A, Attachment B, and Yuma City FTTP in **Appendices C and D**. Due to time constraints in the RFP, a collaborative detailed design including pole engineering and verified underground paths for the contemplated project including a FTTP solution was not possible. However, should ALLO be the selected party, completion of the construction ready designs will begin immediately.





**6. Please describe the recognized telecommunication industry fiber optic network material and construction specifications you will adhere to for this project. Please review Attachment B and indicate how you will comply or propose to amend each requested specification.**

As previously mentioned, ALLO's network solution has been operational in communities since 2005. The network design and technology continues to evolve and therefore so does ALLO's solution.

The requirements in Attachment C are largely all acceptable as they are standard industry and ALLO practices. Specific materials, vendors, electronics, and construction practices will be consistent with ALLO's existing markets.

ALLO utilizes contractors for certain processes including stranding, lashing, boring, structures, fiber pulling and some network surveillance. Substantially all other aspects of the project and services are performed by ALLO's team. The result is a consistently exceptional experience by consumer, commercial, and governmental customers.

**7. Please confirm the network will support both active and passive signal distribution.**

The standard network design will accommodate both active and passive signal distribution.

**8. Please describe in detail how Vendor will document the fiber optic network, including, but not limited to: as-builts, fiber strand assignments, maintenance records, splicing assignments, link loss budgets and other operating characteristics. How will this information be shared with the County at completion of the project and an ongoing basis?**

ALLO has a defined project management process that has been refined over the past decade based on our experiences in providing services in both large and small markets. Quality will be checked by ALLO, Yuma County, and others to verify that construction standards, budgets, and timelines meet expectations.

We will utilize Gantt chart project management tools to monitor the various tasks in the project, including design, engineering, permitting, construction, deployment, and testing of the network. Smart Sheets, Microsoft Project, GIS design tools, and various other project tracking systems will also be utilized.

ALLO has a weekly reporting package that will be distributed internally and externally for review and discussion. The package is currently utilized for all active ALLO construction projects.

ALLO will provide a dedicated Project Manager who will office in Yuma County throughout the deployment and implementation of the project. The Project Manager will have oversight for all aspects of the project and will report and meet with designated Yuma County team members on a weekly basis, at minimum, to review the Gantt charts and weekly reporting package, as well as to adjust activities to meet expectations.

Yuma County must be an active participant in the management meetings to ensure efficient permit approval, closing, and suggestions regarding unique local construction issues.

At regular intervals throughout the project, GIS as built data will be produced in electronic form for inclusion in City and County systems.

**9. Please describe in detail how Vendor will monitor the network for physical and transmission service issues, impairments, and outages. How will this information be shared with the County?**

ALLO has internal teams that provide monitoring and customer assistance on a 24/7/365 basis. These professionals utilize a variety of systems to monitor local and regional network performance including systems by Fujitsu, Juniper, Calix, Metaswitch, and other vendors.

As with all enterprise customers, ALLO will alert the County to service impacting issues from the fiber transport or other services provided. The alerts include expected time to resolve based on the specific issue.

**10. Please describe in detail Vendor's Service Level Agreement policies and thresholds for:**

**a. Lit Services:**

**i. Availability**

ALLO Communications network is guaranteed to be available and capable of forwarding IP packets 99.99% of the time, averaged over a calendar month.

**ii. Mean Time To Respond**

Less than two hours.

**iii. Mean Time To Repair**

Mean Time to Repair SLA is measured as the average time it takes to restore all failures of the Network Availability Guarantee for all customer sites with similar circuit types during a calendar month.

Ethernet – 4 hours

Measurement: MTTR is the period of time beginning when a trouble ticket is opened by either ALLO or the customer as a result of a failure, and ending when the failure has been remedied.

**iv. Packet Loss**

The ALLO network is guaranteed to have a maximum average packet loss of 1 percent or less during any calendar month.

**v. Latency (round-trip)**

The ALLO Communications network is guaranteed to have an average round trip packet transit time within the ALLO Communications backbone network over a calendar month of 65ms or less. The average network latency is measured as the average of 5 minute samples taken throughout the month.

The Allo Communications Latency Guarantee does not include the customer's Local Area Network (LAN), scheduled and unscheduled maintenance events, customer owned Customer Premise Equipment (router or CPE), customer caused outages or disruptions, and force majeure events.

**vi. Jitter**

Jitter is less than 2ms.



**b. Dark Fiber:**

**i. Availability**

ALLO Communications network is guaranteed to be available and capable of forwarding IP packets 99.99% of the time, averaged over a calendar month.

**ii. Mean Time To Respond**

Less than two hours.

**iii. Mean Time To Repair**

Mean Time to Repair SLA is measured as the average time it takes to restore all failures of the Network Availability Guarantee for all customer sites with similar circuit types during a calendar month.

Ethernet – 4 hours

Measurement: MTTR is the period of time beginning when a trouble ticket is opened by either ALLO or the customer as a result of a failure, and ending when the failure has been remedied.

**11. Please describe in detail Vendor’s Service Level Agreement credit policies and structure for violations of the above thresholds.**

ALLO has not violated a Service Level Agreement in the past decade.

Please see **Appendix B** for ALLO’s standard service level agreement, as well a sample agreement from another ALLO community for details.

**12. Please describe in detail Vendor’s trouble ticketing system, including customer portals and how information will be shared with the County.**

ALLO utilizes NISC for our trouble ticketing system. When a customer contacts ALLO regarding service issues/trouble via phone, email, chat, or mobile app, a trouble ticket is created within the system. ALLO's customer service team will work the ticket and engage field operations resources as needed. Once resolved, ALLO will reach out to the customer to confirm that the issue is resolved prior to closing the ticket.

Information such as the number of tickets opened, reported issues, and resolution of the ticket is shared quarterly with each of our communities, we will do the same with Yuma County.

**13. Please describe in detail Vendor’s network management capabilities and its escalation policies and procedures.**

As mentioned earlier in the response, ALLO has proven processes for managing the local network, including evaluating data to verify bandwidth sufficiency, evaluating alarms, monitoring overall performance, and escalating issues.

ALLO maintains sparing protocols, disaster plans and recovery testing, appropriate employee staffing, training, and other business processes to ensure uninterrupted service.

ALLO will perform network maintenance including fiber, electronics, and in-home or in-building services primarily with future ALLO employees located in Yuma County. The



network will be managed and operated using traditional service and support methods, which has been standard at ALLO for more than a decade.

ALLO's scheduled network maintenance takes place from 1:00 a.m. to 5:00 a.m. local time. Maintenance frequency varies as we are constantly striving to provide our customers with the most robust, up to date network available. Exceptions can be scheduled/agreed upon by the customer impacted. Customers are notified as follows:

#### **Residential & Small Business**

- 2-3 day lead time for notifications
  - Email notifications (if the customer is registered to receive)

#### **Commercial/Enterprise Customers**

- 2 week lead time for notifications
  - Email notifications (if the customer is registered to receive)
  - Direct dial notifications

Customers will be provided with escalation documentation at the time that they request services. ALLO's operations will adapt escalation procedures for enterprise customers to match customer requirements.

**14. Please provide a detailed overview, at minimum that includes a deployment plan, communications plan, and timelines to accomplish the goal of building a Middle-Mile Fiber Optic Network/Wide Area Network, along with local lateral drops to listed locations, as specified in this RFP. The project goal is to be operational by December 2022; please indicate factors that would prevent Vendor from meeting this goal and how those factors could be mitigated.**

A deployment plan at this stage is theoretical at best. Many decisions will impact the plan outside of ALLO's control including County funding (bonding may take considerable time), RFP vendor selection process and timing, contract finalization, permitting, pole approval, easement issues and verification, City right-of-way agreements, building rights of entry, and final project scope, to name a few concerns. Tasks within ALLO's direct control including safety, design, construction, material acquisition, splicing, restoration, and other processes will be developed with our Project Management Office.

Construction contractor and material availability has become a challenge but ALLO has not had material delays to date. With a 100+ mile project and only 17 months to complete, the decisions made by the County will need to be very efficient throughout the project to meet a December 2022 goal for completion. Certain parts of the project should be operational in third quarter 2022.

#### **Deployment Plan:**

ALLO utilizes its in-house Design Team to rapidly create plan sets using GIS information and computer modeling for the fiber optic cable designs. Experts from ALLO and our construction contractor then partner with the local community entities to refine the designs to meet the community's needs.

This collaboration between ALLO, our construction contractor, and the community ensures optimal efficiency and eliminates contractor rework. ALLO will deploy its standard, medium-market design consisting of two central offices, similar to that in Greeley, Colorado,



featuring Calix GPON (Gigabit Passive Optical Network) equipment to provide the community with ALLO’s full suite of residential and business services. The network will employ two middle-mile circuits, assuring redundancy against service outages.

ALLO has a proven FTTP implementation process that has been refined through more than a decade of experience providing services in markets both larger and smaller than Yuma County. Our current networks have a total population of 670,000 and all are ubiquitous builds, including middle mile connectivity. While ALLO will start and finish in certain areas, the order is not defined by take rate or opportunity, but rather by construction efficiency. It is vitally important that the construction process occurs in a safe, but expeditious, manner. Planning to pass all entities as quickly as possible has a direct impact on the ultimate adoption by the community.

The first service areas will be active approximately 6 months after the onset of construction. ALLO’s defined and predictable process relies on collaboration and cooperation with the County and electric utilities for effective construction processes for launch of the service areas. The County will control the speed of the project.

In ALLO’s previous communities, ease of design and construction dictate which areas are constructed first, with more complicated areas completed later. The latter often take much longer to design and evaluate cost efficient construction solutions.

**Communication Plan:**

ALLO notifies residents in advance of construction and has a dedicated, full-time staff to resolve public concerns. Construction communication will begin approximately 60 days before a serving area has started construction.

ALLO’s marketing activities and communications are composed of digital, print, radio, TV, direct mail, social media, direct marketing and public events.

Direct mail, door hangers, web sites, yard signs, and other communication will inform the public about construction in the area. Sales and marketing will begin approximately 60 days before completion of servicing area. The sales process continues for the life of the fiber.

**Timeline:**

Event	Date
Logistical Pre-Planning	Upon Award
Agreements Executed	TBD
Preliminary Design	Q1 2022
Permitting	April 2022
Communication of Construction	May 2022
Materials On-Site	May 2022
Construction Starts	June 2022
Pre-Sale Marketing Ramp-Up	Summer 2022
Customer Operations Ready for Launch	October 2022
Fiber Huts Commissioned	October 2022
Storefront Open	October 2022
Initial Lateral Drops Complete	November 2022
Network Testing	November 2022

Event	Date
Defined Backbone Paths Complete	December 2022
Go Live to First Customers	December 2022
Construction Completed in Yuma County Cities	December 2024

**Potential Constraints & Mitigations:**

- Locating capacity of existing utilities, mitigated by early and frequent stakeholder meetings to coordinate resources.
- Potential disruptions to global supply chain of fiber optic cable, mitigated by maintaining adequate safety stock and maintaining strong relationships with existing manufacturers, wholesalers, and resellers.
- Availability of strategic real estate parcels to secure locations for fiber huts/central offices and storefront/back office, mitigated by advance coordination with city, county, and community stakeholders.
- Increased scope of make-ready work and/or design iterations for permitting, mitigated by regular stakeholder communications and initial documentation of stakeholder requirements, expectations and service level agreements.

**15. Please provide a description of the roles and responsibilities envisioned for Vendor, Vendor team members, Yuma County and its affiliates, and subcontractors and/or third parties (if applicable) for each of the following:**

ALLO recommends that design/engineering, construction oversight, network operations and management, customer support, and marketing of the Yuma County fiber network be led by our experienced, professional team.

A consistent operational model will result in ALLO’s award winning service, consistency, and excellence for Yuma County.

ALLO will work with Yuma County to ensure viability of the project. An agreement will be structured based on this determination, including clear roles, responsibilities, and financial commitments.

**a. Network(s) design**

During the design phase, ALLO will utilize substantially all ALLO employees. County, city, and local utility employees will be utilized to verify the designs at a granular level.

ALLO’s experience with proven design and construction methods will be helpful in reducing risk and creating a cost-efficient and reasonable design.

ALLO will design the network using our playbook, auto-design programs, and available GIS information for Yuma County and existing utilities to provide an optimized plan for ubiquitous fiber coverage in the County with a specific focus on utilizing the city’s current infrastructure.

An integral part of this process includes collaboration with the County to harvest local knowledge and expertise, including a detailed knowledge of County and city-owned assets, construction requirements, upcoming capital projects, and permitting processes.



ALLO will utilize our “playbook” as the foundation to create the unique design criteria for the County. As unique criteria are understood or known, including utility pole make ready, pole availability, availability of public space for certain structures, etc. additional design iterations will be run using mathematical optimization.

These iterations are combined with inputs from ALLO design, local experts, and ALLO construction experts, resulting in a final proposed comprehensive design passing each entity in the defined area.

### **b. Network(s) construction**

The construction process will be managed by ALLO with a third party construction contractor. The construction vendor selection process will focus on contractors and managers that are familiar to Yuma County and the construction provider, as well as those that have worked with ALLO on past projects. ALLO will provide oversight of these organizations to ensure the network is built to the designed specifications.

Quality will be checked by the County, ALLO, and others to verify appropriate construction standards, meet budget expectations, and ensure completion timeliness. The construction of a highly dependable network in a cost and time efficient manner is the initial goal for all involved. Safety is a focus throughout the project.

The playbook mentioned above will be used to generate the most cost-efficient design for the County including aerial, trench, bore, and other construction methods. A combination of construction methods and available routes will be considered in developing an optimum design. ALLO utilizes a wide variety of construction techniques that have proven successful in other communities.

Strand wire, lashing, boring, and structure installation are normally contracted. Drop cables will be installed by a combination of ALLO employees and contractors. Often the demand for installations peaks at quantities that exceed sustainable employment levels, requiring the use of qualified contractors. ALLO’s contractors have industry experience and are held to high-quality standards.

ALLO has always utilized company employees when entering a home or business (with the exception of some multiple dwelling units where electrical companies have installed conduit). For Yuma County, we expect to continue to use ALLO employees for the installation in the premises.

The installation crews will include some technicians that will transfer from ALLO’s other markets; however, most technicians will be local hires in the region that are experienced in the trade. ALLO’s proven processes and procedures will be utilized to ensure a quality experience by the customers.

### **c. Network(s) operations and management**

ALLO has the internal expertise to monitor and operate the network. Our NOC can accommodate the addition of the Yuma County fiber network or coordinate shared responsibilities.

It is imperative that the network is operated in a manner to minimize cost and reduce operational risk. With 20 other communities, 100,000 access lines, and 700 employees, ALLO has a professional, scalable, and industry-leading operation. ALLO will ensure that the Yuma County network operates in an equally professional manner.





Please see responses earlier in the document for additional information on network operations and management.

#### **d. Customer support**

ALLO's customer service and support is the cornerstone of the customer experience. Proven processes and service expectations have resulted in ALLO's high customer acquisition and retention record.

ALLO will utilize our proven products and service model to support customers. With more than 700 existing customer support personnel, ALLO's solution provides customer service excellence and is extremely scalable. Technicians, customer service representatives, sales engineers, and sales personnel hired and located in the area will be supported by ALLO's 24/7/365 NOC and existing customer service representatives to ensure the network is performing for all customers.

Customers can contact customer service via phone and speak with live representatives located in Arizona, Colorado and Nebraska. We pride ourselves on our consistent customer service process which includes very short wait times, minimal transfers, and a goal of issue resolution on the first call. Customers can also contact ALLO through email, online chat, or social media.

ALLO's scalable Operations Support Systems and Billing Support Systems, along with other technical and analytical tools, work together to provide the efficient operation of the world-class network.

#### **e. Publicly available information**

The response to Question 3 earlier in the response should be considered non-public information and the applicable pages are labeled as "Proprietary and Confidential" per the RFP instructions.

#### **f. Marketing**

ALLO will be responsible for sales and marketing, including collaborating with Yuma County, to ensure proper communication with residents and businesses. While limited marketing is necessary to complete the connections detailed in Attachment A and B, the FTTP process includes a full marketing plan.

We are proud of ALLO's local sales and marketing model, which includes local sales offices, sales people, and community involvement.

For our marketing approach, ALLO will use various communication channels to reach customers, including website, direct sales, referrals, newspaper, radio, television, social media, and sponsorships. These marketing channels have been used successfully in our existing FTTP communities.

During the construction phase, our marketing strategy includes frequent communication to residents and businesses informing customers of the construction process, our core services, and the value of gigabit service. A combination of door-to-door community engagement representatives, direct mail, and signage is used during this phase. In our experience, both Yuma County and ALLO will need to communicate with the businesses and residents in the area to explain the significant undertaking of the project and the ultimate value it brings to the community.





ALLO provides community awareness which changes the paradigm of telecommunication companies. During the construction phase, we will roll out our marketing strategy to specific construction areas, informing customers of our core services and the value of gigabit service.

Please see ALLO's website at [www.allofiber.com](http://www.allofiber.com) and **Appendix E** for sample marketing construction and consumer communications.

- 16. Vendor will make this network available for broadband providers at competitive market rates for dark fiber/lit services. The County anticipates that Vendor may want to also provide Ethernet and/or Internet services on the network. Please provide, as a separate cost item, a schedule of Internet services Vendor offers to provide to locations connected to this network. Provide a scalable cost model showing minimum performance capacity of 1Gbps up/down per anchor site, scaling up incrementally to industry standard for like middle mile buildouts showing vendor recommended maximum capacity. End-customer connection should be supported by the middle-mile network; desired minimum performance capacity of 1Gbps up/down per end-customer connection. Provide a scalable cost model showing options for different capacity needs based on end-customer location, type, and size.**

ALLO will provide sufficient internet access and services to the region. Specific charges for this project will be negotiated with the County and captured in a wholesale or revenue split solution. Historically, ALLO has provided sufficient redundant internet access so that peak usage does not exceed 60% of available access.

ALLO provides ubiquitous 1G service with symmetrical speeds (delivering the same download and upload speeds) to all entities including businesses, government offices, and residences. All speeds referenced below are for symmetrical services.

The network model is GPON-based with active availability. Our GPON network is designed to be upgradeable for faster broadband speeds as demanded by the community and technological advances.

ALLO recently increased its standard internet speed from 300 Mbps to 500 Mbps **at no cost to our residential customers**. We recognize that our customers are using more devices - this increase ensures that they continue to have substantial bandwidth.

ALLO chooses equipment with the ability to handle the newest devices and increased speeds. Our solutions include the Gigacenter Wi-Fi router. The Gigacenter provides for a home or SMB-based network interface device for a consistent wireless experience and is included in our installations.

Last fall, ALLO introduced the next major benchmark in Wi-Fi technology, the **ALLO Blast U6 router**. Our newest powerhouse router provides wireless connections, increased network capacity, and is Wi-Fi 6 certified. The Blast gives homes an upgraded signal in every room, stronger connections on all devices, and increased speeds for faster online activity.

ALLO's network is designed to provide 1G service to all homes; 10G to the home is standard in new markets and previous markets are also being upgraded. ALLO currently offers and supports broadband services to commercial entities up to 100G.

The network is scalable for enterprise users. While standard speeds of 100G are offered to businesses, higher speeds are available to meet specific needs.

Additionally, ALLO’s service platform includes a private (not internet-based) local telephone solution, and a world-class IPTV video solution. We offer several bundling options for combining services, which provides cost savings to our customers.

A summary of all services is shown in Figure 1.

Residential Services:	
Internet	ALLO’s standard symmetric internet speed is 500 Mbps (\$60/month). We also offer internet bandwidth options of 50 Mbps (\$45) and 1G (\$89/month). Residents can choose the speed that best fits their needs.
Television	<p>Mediaroom with 200+ channels. Features such as Start-Over TV, Instant Channel Change, Whole Home HD, Whole Home DVR, Video on Demand, Watch TV Everywhere, wireless set-top boxes, and more are available.</p> <p>Channel packages include:</p> <ul style="list-style-type: none"> <li>● Economy (20+ channels) (\$40/month)</li> <li>● Basic (100+ channels) (\$104/month)</li> <li>● Expanded (200+ channels) (\$117/month)</li> <li>● The Works (\$185/month)</li> <li>● Premium Channels (HBO/Cinemax, Showtime, Starz, etc.)</li> </ul> <p>ALLO also offers Sling TV as a wholesale over-the-top offering.</p>
Voice	<p>Network-based solution with full features and unlimited long distance.</p> <p>Features include:</p> <p>Caller ID, call waiting, 3-way calling, voicemail, call forwarding, speed calling, anonymous call rejection, collect/third party blocking, robocall blocking, hunting, simultaneous ring, last call return, do not disturb, busy call forward, and more. (\$25/month)</p>
Business Services:	
Internet	Symmetric speeds of 50Mbps to 10G. (\$60/month base level)
Broadband	Symmetric speeds of 10Mbps to 100G metroEthernet and MPLS. Connection to Microsoft Azure, AWS, and other content providers (Individual case basis).
Television	<p>Ericsson Mediaroom with 200+ channels. Services include features such as Start-Over TV, Instant Channel Change, Whole Home HD, Video on Demand, Watch TV Everywhere, wireless set-top boxes, and more.</p> <p>Channel packages include:</p> <ul style="list-style-type: none"> <li>● Economy (20+ channels)</li> <li>● Basic (100+ channels)</li> <li>● Expanded (200+ channels)</li> </ul>



Voice Services	POTs, PRI, SIP, and full features (\$25/line standard)
Voice Equipment	HostedPBX with Mitel, Polycomm, and others. (\$20-\$40/station/month, ICB)

Figure 2 – ALLO offers a variety of services and features to meet the needs of Yuma County.

ALLO does not typically require business or residential contracts for services. We are willing to earn our customers’ business every day. Additionally, as ALLO provides a ubiquitous network, we do not charge for installation, except in unusual situations.

Generally, service plans are priced 10% lower than the incumbent, and include higher speeds and more services and features. Unlike many competitors, long-term customers pay the same rates as new customers. ALLO does not use teaser rates which are low in the first year and then escalate in subsequent years.

See ALLO’s website at [www.allocommunications.com](http://www.allocommunications.com) for sample residential pricing and packages in other ALLO markets, channel guides, and additional information on our business services, including [customer testimonials](#).

**17. Please provide information regarding your strategy/suggestions for interconnecting this network to other middle-mile networks for connectivity to Tier 1/2 Internet backbone providers located in Arizona or adjoining states. Vendor must adhere to ADOT standards for interconnection; same vault sizes and placement (distance between), splicing standards, etc.**

ALLO has confirmed cost effective connections for the project to internet drains with current ALLO relationships. The 100G+ initial connections will likely expand as other ALLO Arizona communities and the Arizona Power Services (APS) middle mile project come online. As in other markets, ALLO will determine meet point and connection locations with the provider and connect as appropriate in industry standard carrier to carrier protocols, including ADOT.

**18. If any of the locations in Attachment A or Attachment B are located in an FCC Rural Digital Opportunity Fund (RDOF) area, federal funds cannot be used to construct the middle mile backbone. Private funds or other non-federal sources will be used in those areas.**

Noted. ALLO will look to state, county or local sources to subsidize costs beyond ALLO’s standard cost model. ALLO and the County must evaluate the viability of areas if funding is not available.

**19. Attachment C includes the fiber construction specifications required by the County for this project.**

As mentioned earlier in our response, the requirements in Attachment C are largely all acceptable as they are standard industry and ALLO practices. Specific materials, vendors, electronics, and construction practices will be consistent with ALLO’s existing markets.

ALLO utilizes contractors for certain processes including stranding, lashing, boring, structures, fiber pulling and some network surveillance. Substantially all other aspects of the project and services are performed by ALLO’s team. The result is a consistently exceptional experience by consumer, commercial, and governmental customers.



## APPENDIX A: ALLO FINANCIAL STATEMENTS

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**ALLO Communications LLC**

Financial Statements

December 31, 2020 and 2019 (unaudited)

(With Independent Auditors' Report Thereon)

**ALLO Communications LLC**  
Financial Statements  
December 31, 2020 and 2019 (unaudited)  
Table of Contents

	<b>Pages</b>
Independent Auditors' Report	1
Financial Statements:	
Balance Sheets	2
Statements of Operations	3
Statements of Members' Equity	4
Statements of Cash Flows	5
Notes to Financial Statements	6



KPMG LLP  
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Lincoln, NE 68508-1493

## Independent Auditors' Report

The Members  
ALLO Communications, LLC.:

### Report on the Financial Statements

We have audited the accompanying financial statements of ALLO Communications, LLC., which comprise the balance sheet as of December 31, 2020, and the related statements of operations, members' equity, and cash flows for the year then ended, and the related notes to the financial statements.

#### *Management's Responsibility for the Financial Statements*

Management is responsible for the preparation and fair presentation of these financial statements in accordance with U.S. generally accepted accounting principles; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

#### *Auditors' Responsibility*

Our responsibility is to express an opinion on these financial statements based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditors' judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

#### *Opinion*

In our opinion, the 2020 financial statements referred to above present fairly, in all material respects, the financial position of ALLO Communications, LLC. as of December 31, 2020, and the results of its operations and its cash flows for the year then ended in accordance with U.S. generally accepted accounting principles.

#### *Other Matter*

The accompanying balance sheet of ALLO Communications, LLC. as of December 31, 2019, and the related statements of income and cash flows for the year then ended were not audited, reviewed, or compiled by us and, accordingly, we do not express an opinion or any other form of assurance on them.

**KPMG LLP**

Lincoln, Nebraska  
April 16, 2021

ALLO Communications LLC

Balance Sheets

December 31, 2020 and 2019

(Dollars, in thousands)

**Assets**

	<b>2020</b>	<b>2019 (unaudited)</b>
Current assets:		
Cash	\$ 24,221	379
Accounts receivable, net of allowance for doubtful accounts of \$298 and \$351, respectively	7,884	6,277
Other current assets	22,450	17,413
Total current assets	<u>54,555</u>	<u>24,069</u>
Property, plant, and equipment, net	244,816	241,358
Operating lease right-of-use ("ROU") asset	7,153	7,906
Prepaid commissions	1,109	1,684
Intangible assets, net	6,052	7,218
Goodwill	21,112	21,112
Total assets	<u>\$ 334,797</u>	<u>303,347</u>

**Liabilities and Members' Equity**

Current liabilities:		
Accounts payable	\$ 4,664	2,754
Deferred revenue	3,926	3,232
Sales, use, and franchise tax payable	675	562
Other current liabilities	8,966	6,645
Total current liabilities	<u>18,231</u>	<u>13,193</u>
Non-current operating lease liabilities	<u>6,191</u>	<u>7,047</u>
Total liabilities	<u>24,422</u>	<u>20,240</u>
Members' equity:		
Members' interest	<u>310,375</u>	<u>283,107</u>
	<u>\$ 334,797</u>	<u>303,347</u>

See accompanying notes to financial statements.



**ALLO Communications LLC**  
 Statements of Operations  
 Years Ended December 31, 2020 and 2019  
 (Dollars, in thousands)

	(unaudited)	
	<b>2020</b>	<b>2019</b>
Broadband and internet revenue	\$ 49,598	38,239
Video revenue	17,584	16,196
Voice revenue	11,513	9,705
Total revenue	78,695	64,140
Operating expenses:		
Cost to provide communications revenue	23,562	20,423
Selling, general, and administrative	47,036	39,132
Depreciation and amortization	43,801	37,173
Total operating expenses	114,399	96,728
Operating loss	(35,704)	(32,588)
Other income	1,815	1,642
Net loss	\$ (33,889)	(30,946)

See accompanying notes to financial statements.

**ALLO Communications LLC**  
**Statements of Members' Equity**  
**Years Ended December 31, 2020 and 2019**  
(Dollars, in thousands)

	<b>Class A</b>	<b>Class A-1</b>	<b>Class A-2</b>	<b>Class A-3</b>	<b>Class B</b>	<b>Class C</b>	<b>Class D</b>	<b>Class E</b>	<b>Total</b>
Balance as of December 31, 2018 (unaudited)	\$ (11,046)	—	—	—	3,750	315	278,871	—	271,890
Stock compensation expense (unaudited)	17	—	—	—	—	88	—	—	105
Issuance of members interest (unaudited)	—	—	—	—	—	—	42,058	—	42,058
Net loss (unaudited)	(30,946)	—	—	—	—	—	—	—	(30,946)
Balance as of December 31, 2019 (unaudited)	(41,975)	—	—	—	3,750	403	320,929	—	283,107
Stock compensation expense, net of forfeitures	—	—	—	—	—	9,138	—	—	9,138
Issuance of members interest	—	—	—	—	—	—	17,368	—	17,368
Recapitalization of members interest	41,975	(21,283)	2,953	—	(3,750)	(19)	(19,876)	—	—
Issuance of members interest, net of issuance costs of \$2,329	—	(1,044)	(102)	—	—	(59)	—	195,856	194,651
Redemption of members interest	—	—	—	—	—	—	(160,000)	—	(160,000)
Reclassification of members units upon regulatory approval of recapitalization	—	—	—	195,856	—	—	—	(195,856)	—
Net loss	—	(33,408)	(481)	—	—	—	—	—	(33,889)
Balance as of December 31, 2020	\$ —	(55,735)	2,370	195,856	—	9,463	158,421	—	310,375

See accompanying notes to financial statements.

**ALLO Communications LLC**  
**Statements of Cash Flows**  
**Years Ended December 31, 2020 and 2019**  
(Dollars, in thousands)

	<b>2020</b>	<b>(unaudited)</b> <b>2019</b>
Net loss	\$ (33,889)	(30,946)
Adjustments to reconcile net loss to net cash provided by operating activities:		
Depreciation and amortization	43,801	37,173
Provision for losses on accounts receivable	485	676
Non-cash compensation expense	9,138	105
(Gain) loss on disposal of property, plant, and equipment	(23)	421
Net changes in assets and liabilities:		
Increase in accounts receivable	(2,092)	(2,371)
Increase in other current assets	(5,256)	(6,702)
Decrease (increase) in prepaid commissions	575	(460)
Decrease in the carrying amount of ROU asset	972	831
Increase (decrease) in accounts payable	2,268	(508)
Increase in deferred revenue	694	681
Increase (decrease) in sales, use, and franchise tax payable	113	(549)
Increase in other current liabilities	2,405	4,715
Decrease in the carrying amount of lease liability	(951)	(830)
Net cash provided by operating activities	<u>18,240</u>	<u>2,236</u>
Cash flows from investing activities:		
Purchases of property, plant, and equipment	(46,502)	(44,988)
Proceeds from sale of property, plant, and equipment	85	—
Net cash used in investing activities	<u>(46,417)</u>	<u>(44,988)</u>
Cash flows from financing activities:		
Proceeds from issuance of members interest	214,348	42,058
Members interest issuance costs	(2,329)	—
Redemption of members interest	(160,000)	—
Net cash provided by financing activities	<u>52,019</u>	<u>42,058</u>
Net increase (decrease) in cash	23,842	(694)
Cash, beginning of year	379	1,073
Cash, end of year	<u>\$ 24,221</u>	<u>379</u>
Cash disbursements made for:		
Operating leases	<u>\$ 1,235</u>	<u>1,057</u>
Supplemental schedule of noncash operating and investing activities:		
ROU assets obtained in exchange for lease obligations	<u>\$ 220</u>	<u>4,054</u>
Purchases of property, plant, and equipment in accounts payable	<u>\$ —</u>	<u>347</u>

See accompanying notes to financial statements.

**Note 1: Summary of Significant Accounting Policies**

***Description of Business***

ALLO Communications LLC (the "Company") provides pure fiber optic service to homes and businesses for internet, television, and telephone services. The Company derives its revenue primarily from the sale of communication services to residential, governmental, and business customers in Nebraska and Colorado. Internet and television services include revenue from residential and business customers for subscriptions to the Company's data and video products. The Company's data services provide high-speed internet access over the Company's all-fiber network at various symmetrical speeds of up to 1 gigabit per second for residential customers and is capable of providing symmetrical speeds of over 1 gigabit per second for business customers. Telephone services include local and long distance telephone service, hosted Private Branch Exchange (PBX) services, and other services.

***Regulatory Matters***

The Company is subject to regulation by the Federal Communications Commission primarily for interstate voice and broadband communications, the Nebraska Public Service Commission and Colorado Public Utilities Commission primarily for intrastate and Nebraska and Colorado-related voice communications, and various other government entities. Reports are filed with these agencies and the Company's management believes that the Company is in compliance with the various regulations as supported by the reports. If the Company were to violate certain regulations in a material aspect or if the regulatory agencies were to significantly modify certain rules or requirements, the Company's results from operations could be materially impacted.

***Basis of Presentation***

These financial statements have been prepared in accordance with U.S. generally accepted accounting principles (GAAP).

***Use of Estimates***

The preparation of the financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosures of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

***Accounts Receivable***

Accounts receivable are stated at the amount billed to customers and do not bear interest. The Company maintains an allowance for doubtful accounts for estimated losses inherent in its accounts receivable portfolio. In establishing the required allowance, management considers historical losses adjusted to take into account current market conditions, individual customer experience, and the current receivables aging and current payment patterns. Accounts receivable are ordinarily due 21 days after the issuance of the invoice. Accounts past due more than 45 days are considered delinquent. Delinquency receivables are written off based on individual credit evaluation and specific circumstances of the customer.

***State Incentive Program***

The Company is expected to qualify for a State of Nebraska incentive program that provides, in part, a refund of state sales and use taxes paid from January 15, 2016 to December 31, 2022, and thereafter, on qualifying property, plant, and equipment purchases. Additionally, the program provides for a refund of a percentage of qualifying new employee Nebraska income tax withholding to the Company. The Company has recorded a

**ALLO Communications LLC**  
Notes to Financial Statements  
December 31, 2020 and 2019 (unaudited)  
(Dollars in thousands, unless otherwise noted)

receivable for \$19.6 million and \$16.8 million as of December 31, 2020 and 2019, respectively, relating to the incentive program. This receivable is included in "other current assets" on the balance sheets.

In addition, under the program there is another incentive, in the form of State tax credits, based on the amount of qualifying equipment purchased by the Company. The Company will be able to elect to retain and apply a portion of these credits against future sales and use taxes paid through December 31, 2030; or may elect annually to distribute any remaining credits to its members to be used towards their Nebraska state income tax obligations. Benefits from these credits are being recognized by the Company's applicable members.

***Property, Plant, and Equipment***

Property, plant, and equipment acquisitions are stated at cost less accumulated depreciation and amortization. Maintenance and repairs are charged to expense as incurred, and major improvements, including leasehold improvements, are capitalized. Gains and losses from the sale of property, plant, and equipment are included in determining net income. Depreciation and amortization is charged to expense on the straight-line basis over the estimated useful life of each asset. Leasehold improvements are amortized over the shorter of the lease term or their respective estimated useful lives.

Costs associated with the installation of services and acquiring and deploying of customer premise equipment, including materials, internal and external labor costs, and related indirect and overhead costs, are capitalized.

Capitalized labor costs include the direct costs of engineers and technical personnel involved in the design and implementation of plant and infrastructure; the costs of technicians involved in the installation of services and customer premise equipment; and the costs of support personnel directly involved in capitalizable activities, such as project managers and supervisors. These costs are capitalized based on internally developed standards by position, which are updated annually (or more frequently if required). These standards are developed utilizing a combination of actual costs incurred where applicable, survey information, operational data, and management judgement. Overhead costs are capitalized based on standards developed from historical information. Indirect and overhead costs include payroll taxes; insurance and other benefits; and vehicle, tool, and supply expense related to installation activities. Costs for repairs and maintenance, disconnecting service, or reconnecting service are expensed as incurred.

***Intangible Assets***

The Company uses estimates to determine the fair value of acquired assets to allocate the purchase price to acquired intangible assets. Such estimates are generally based on estimated future cash flows or cost savings associated with particular assets and are discounted to present value using an appropriate discount rate. The estimates of future cash flows associated with intangible assets are generally prepared using a cost savings method, a lost income method, or an excess return method, as appropriate. In utilizing such methods, management must make certain assumptions about the amount and timing of estimated future cash flows and other economic benefits from the assets, the remaining economic useful life of the assets, and general economic factors concerning the selection of an appropriate discount rate. The Company may also use replacement cost or market comparison approaches to estimate fair value if such methods are determined to be more appropriate.

Intangible assets with finite lives are amortized over their estimated lives. Such assets are amortized using a method of amortization that reflects the pattern in which the economic benefits of the intangible asset are consumed or otherwise used up. If that pattern cannot be reliably determined, the Company uses a straight-line amortization method.

The Company evaluates the estimated remaining useful lives of purchased intangible assets and whether events or changes in circumstances warrant a revision to the remaining periods of amortization.

### ***Goodwill***

Goodwill represents the excess purchase price over the estimated fair value of net assets acquired in a business combination. The Company tests goodwill for impairment when there is a triggering event (e.g. a deterioration in general economic conditions or in the environment in which the Company operates).

When impairment indicators are identified, the Company compares the reporting unit's fair value to its carrying amount, including goodwill. An impairment loss is recognized as the difference, if any, between the reporting unit's carrying amount and its fair value, to the extent the difference does not exceed the total amount of goodwill allocated to the reporting unit. There was no impairment of goodwill during the years ended December 31, 2020 and 2019.

### ***Leases***

At the inception of an arrangement, the Company determines if the arrangement is, or contains, a lease and records the lease in the financial statements upon lease commencement, which is the date when the underlying asset is made available by the lessor. Leases with an initial term of 12 months or less are not recorded on the balance sheet. The lease expense for these leases is recognized on a straight-line basis over the lease term. All other lease assets (ROU assets) and lease liabilities are recognized based on the present value of lease payments over the lease term at the commencement date. The Company classifies each lease as operating or financing, with the income statement reflecting lease expense for operating leases and amortization/interest expense for financing leases. When the discount rate implicit in the lease cannot be readily determined, the Company uses its incremental borrowing rate. The Company primarily leases office and warehouse space, dark fiber, and other network assets. The Company accounts for lease and non-lease components together as a single, combined lease component for its office and warehouse space.

In addition, the Company identified itself as the lessor for services provided to customers that include customer-premise equipment. The Company accounts for those services and associated leases as a single, combined component. The non-lease services are 'predominant' in those contracts. Therefore, the combined component is considered a single performance obligation under ASC Topic 606, *Revenue from Contracts with Customers* ("ASC Topic 606").

Most operating leases include one or more options to renew, with renewal terms that can be extended. The exercise of lease renewal options for the majority of leases is at the Company's discretion. Renewal options that the Company is reasonably certain to exercise are included in the lease term.

Certain leases include escalating rental payments or rental payments adjusted periodically for inflation. None of the lease agreements include any residual value guarantees, a transfer of title, or a purchase option that is reasonably certain to be exercised.

### ***Impairment of Long-Lived Assets***

The Company reviews its long-lived assets, such as ROU assets; property, plant, and equipment; and purchased intangibles subject to amortization, for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. Recoverability of assets to be held and used is measured by a comparison of the carrying amount of an asset to estimated undiscounted future cash flows expected to be generated by the asset. If the carrying amount of an asset exceeds its estimated future cash flows, an impairment charge is recognized by the amount by which the carrying amount of the asset exceeds the fair value of the asset. There were no impairments of long-lived assets during the years ended December 31, 2020 and 2019.

Assumptions and estimates about future cash flows generated by, remaining useful lives of, and fair values of the Company's intangible and other long-lived assets are complex and subjective. They can be affected by a variety of factors, including external factors such as industry and economic trends, and internal factors such as

**ALLO Communications LLC**  
Notes to Financial Statements  
December 31, 2020 and 2019 (unaudited)  
(Dollars in thousands, unless otherwise noted)

changes in the Company's business strategy and internal forecasts. Although the Company believes the historical assumptions and estimates used are reasonable and appropriate, different assumptions and estimates could materially impact the reported financial results.

***Revenue Recognition***

The Company recognizes revenue under the core principle of ASC Topic 606 to depict the transfer of control of products and services to the Company's customers in an amount reflecting the consideration to which the Company expects to be entitled. In order to achieve that core principle, the Company applies the following five-step approach: (1) identify the contract with a customer, (2) identify the performance obligations in the contract, (3) determine the transaction price, (4) allocate the transaction price to the performance obligations in the contract, and (5) recognize revenue when a performance obligation is satisfied. The Company's contracts with customers often include promises to transfer multiple products and services to a customer. Determining whether products and services are considered distinct performance obligations that should be accounted for separately versus together may require significant judgment.

The Company's revenue is derived principally from internet, television, and telephone services and is billed as a flat fee in advance of providing the service. Revenues for usage-based services, such as access charges billed to other telephone carriers for originating and terminating long-distance calls on the Company's network, are billed in arrears. These are each considered distinct performance obligations. Revenue is recognized monthly for the consideration the Company has a right to invoice, the amount of which corresponds directly with the value provided to the customer based on the performance completed. The Company recognizes revenue from these services in the period the services are rendered rather than billed. Revenue received or receivable in advance of the delivery of services is included in deferred revenue. Earned but unbilled usage-based services are recorded in accounts receivable.

Cost to provide communications services is primarily associated with television programming costs. The Company has various contracts to obtain television programming from programming vendors whose compensation is typically based on a flat fee per customer. The cost of the right to exhibit network programming under such arrangements is recorded in the month the programming is available for exhibition. Programming costs are paid each month based on calculations performed by the Company and are subject to periodic audits performed by the programmers. Other items in cost to provide communications services include connectivity, franchise, and other regulatory costs directly related to providing internet and telephone services.

The Company recognizes an asset for the incremental costs of obtaining a contract with a customer if it expects the benefit of those costs to be longer than one year. The Company has determined that certain sales incentive programs meet the requirements to be capitalized. Such costs are charged to expense on a straight-line basis over the estimated life of the customer relationship. Total remaining unamortized capitalized costs to obtain a contract were \$1,804 and \$1,684 as of December 31, 2020 and 2019, respectively, and are included in "other current assets" and "prepaid commissions" on the balance sheets.

***Income Taxes***

In accordance with the Company's limited liability company filing status, all income of the Company is taxable at the members' level. Accordingly, no provision for income taxes is recorded in the financial statements.

The Company considers if there are any uncertain tax positions taken that should be recognized and disclosed in the financial statements. Current and prior tax positions are evaluated as of the financial statement date to determine whether the tax positions are "more likely than not" of being sustained by the applicable tax authority based on the technical merits of the position. As of December 31, 2020 and 2019, the Company has recorded no liability for uncertain tax positions related to positions taken on applicable tax returns.

**ALLO Communications LLC**  
Notes to Financial Statements  
December 31, 2020 and 2019 (unaudited)  
(Dollars in thousands, unless otherwise noted)

The Company is no longer subject to U.S. federal or state and local income tax examinations for tax years prior to 2016.

Due to enactment of the Bipartisan Budget Act of 2015, which is applicable for tax years beginning after December 31, 2017, the IRS may generally assess and collect any imputed underpayment of taxes at the partnership level. Thus, even though the Company is a "pass-through entity," it could be subject to an entity level tax. As the Company's operating agreement was amended to specifically allow for the effects of this Act, the Company is subject to assessment and collection of any underpayments of federal income tax beginning January 1, 2018. As of December 31, 2020 and 2019, the Company has no liability related to underpayments of federal income taxes.

***Taxes Collected from Customers and Remitted to Government Authorities***

Taxes collected from customers and remitted to government authorities are presented in the accompanying statements of operations on a net basis.

***Asset Retirement Obligations***

Certain of the Company's franchise agreements and lease agreements contain provisions requiring the Company to restore facilities or remove property in the event that the franchise or lease agreement is not renewed. The Company expects to continually renew its franchise agreements and therefore cannot reasonably estimate any liabilities associated with such agreements. A remote possibility exists that franchise agreements could be terminated unexpectedly, which could result in the Company incurring significant expense in complying with restoration or removal provisions. Retirement obligations related to the Company's lease agreements are de minimis. The Company does not have any significant liabilities related to asset retirement obligations recorded in the financial statements.

**Note 2: Property, Plant, and Equipment**

Property, plant, and equipment consisted of the following:

	Useful life	As of December 31,	
		2020	2019
Network plant and fiber	4-15 years	\$ 284,050	254,560
Customer located property	2-4 years	33,930	27,012
Central office	5-15 years	20,190	17,672
Transportation equipment	4-10 years	7,369	6,611
Computer equipment and software	1-5 years	6,182	5,574
Other	1-39 years	3,753	3,702
Land	—	70	70
Construction in progress	—	5,594	54
		361,138	315,255
Accumulated depreciation		(116,322)	(73,897)
Total property, plant, and equipment, net		\$ 244,816	241,358

The Company recorded depreciation expense on its property, plant, and equipment of \$42.6 million and \$36.1 million during the years ended December 31, 2020 and 2019, respectively.



**ALLO Communications LLC**  
Notes to Financial Statements  
December 31, 2020 and 2019 (unaudited)  
(Dollars in thousands, unless otherwise noted)

**Note 3: Intangible Assets**

Intangible assets consist of the following:

	Remaining useful life as of December 31, 2020 (months)	As of December 31,	
		2020	2019
Amortizable intangible assets, net:			
Customer relationships (net of accumulated amortization of \$3,641 and \$2,819, respectively)	60	\$ 2,619	3,441
Trade names (net of accumulated amortization of \$1,717 and \$1,373, respectively)	120	3,433	3,777
Total - amortizable intangible assets, net		<u>\$ 6,052</u>	<u>7,218</u>

The Company recorded amortization expense on its intangible assets of \$1.2 million and \$1.0 million during the years ended December 31, 2020 and 2019, respectively. The Company will continue to amortize intangible assets over their remaining useful lives. As of December 31, 2020, the Company estimates it will record amortization expense as follows:

2021	\$	1,132
2022		979
2023		841
2024		734
2025		650
2026 and thereafter		1,716
	<u>\$</u>	<u>6,052</u>

**Note 4: Members' Equity**

***Recapitalization and Additional Funding***

On October 1, 2020, the Company entered into various agreements (the "Agreements") with SDC Allo Holdings, LLC ("SDC"), a third-party global digital infrastructure investor, and Nelnet, Inc. ("Nelnet"), an existing member of the Company, for various transactions contemplated by the parties in connection with a recapitalization and additional funding for the Company.

The Agreements provided for a series of interrelated transactions, whereby on October 15, 2020, the Company received proceeds of \$197.0 million from SDC as the purchase price for the issuance of non-voting preferred membership units of the Company (Class E Membership Units). Direct issuance costs incurred by the Company for this equity transaction was \$2.3 million, which was recorded as a reduction of members' interest. The Company used the proceeds from this offering to redeem \$160.0 million of the Company's non-voting preferred membership units held by Nelnet (Class D Membership Units).

On December 21, 2020, the Class E Membership Units held by SDC automatically converted into voting membership units of the Company (Class A-3 Membership Units) pursuant to the terms of the Agreements upon the receipt on December 21, 2020 of required regulatory approvals from applicable regulatory authorities. Subsequent to December 21, 2020, there are no remaining Class E Membership Units issued or outstanding.

**ALLO Communications LLC**  
Notes to Financial Statements  
December 31, 2020 and 2019 (unaudited)  
(Dollars in thousands, unless otherwise noted)

The Agreements between the Company, SDC, and Nelnet provide that they will use commercially reasonable efforts, which expressly excludes requiring the Company to raise any additional equity financing or sell any assets, to cause the Company to redeem, on or before April 2024, the remaining preferred membership Class D Membership Units of the Company held by Nelnet, plus the amount of accrued and unpaid preferred return on such units.

On January 19, 2021, the Company closed on certain private debt financing facilities from unrelated third-party lenders providing financing of up to \$230.0 million. With proceeds from this transaction, the Company redeemed an additional \$100.0 million in total of the Company's Class D Membership Units.

The \$230.0 million of debt financing is composed of three classes of loans. One class is a \$110.0 million amortizing term loan that amortizes to approximately \$101 million on its due date, January 19, 2026. The Company can prepay this note with no penalties. The second class is a \$100.0 million delayed draw term loan that must be drawn by January 19, 2023. Any amount not drawn by January 19, 2023 is not available to the Company subsequent to this date. The final maturity of this note is January 19, 2026. Amounts drawn on this note can be prepaid, however, any repaid and/or prepaid amounts on this note cannot be reborrowed by the Company. The third class is a \$20.0 million revolving loan. The maturity date on the revolving note is January 19, 2026.

Interest on amounts borrowed under the debt financing for each loan class is payable, at the Company's election, according to the Euro currency borrowing terms as defined in the credit agreement, currently set to the greater of one month LIBOR plus 4.0 percent or 4.75 percent.

***Classes of Membership Units***

As part of the recapitalization of the Company as described above, the Company's operating agreement was amended (the "Amended Operating Agreement"). The Amended Operating Agreement provides for six classes of membership interests, Class A-1, Class A-2, Class A-3, Class C, Class D, and Class E. Per the Amended Operating Agreement:

- All previous Class A Membership Units and the capital account relating thereto held by Nelnet were recapitalized as and reclassified to Class A-1 Membership Units;
- All previous Class A Membership Units and the capital account relating thereto held by parties other than Nelnet were recapitalized as and reclassified to Class A-2 Membership Units;
- All previous Class B Membership Units and the capital account relating thereto were recapitalized to and reclassified as A-2 Membership Units; and
- All previous unvested Class C Membership Units, held by members of the Company's management team, were immediately vested. At the date of modification of the Class C unit equity awards, the initial awards were not expected to vest under the original service and performance conditions. As such, the Company recognized compensation costs equal to the fair value of the immediately vested and recapitalized Class C Membership Units on the date of modification. Compensation costs recognized by the Company as a result of this modification was \$9.3 million which is included in "selling, general, and administrative" operating expenses on the statements of operations. The Class C Membership Units are considered "profit-only" units.

Prior to the modification of the unvested Class C Membership Units, which were originally issued on December 31, 2015, the Company was recognizing compensation expense based on the grant-date fair value of such awards over the applicable vesting period.

Only Class A-1, A-2, and A-3 Membership Units have voting rights.

**ALLO Communications LLC**  
Notes to Financial Statements  
December 31, 2020 and 2019 (unaudited)  
(Dollars in thousands, unless otherwise noted)

The Class D members earn an annual return of 6.25 percent on its capital account payable on a calendar year basis, prorated daily for periods less than a full calendar year. The Class D capital account represents the amount of capital contributed plus any preferred return owed but not distributed to the Class D member by December 31 of a given calendar year. The Class D members' capital account will decrease by the amount of distributions to the Class D member. The Class D preferred return is due and payable on December 31 of each year that the Class D net capital is greater than zero. If the Class D Membership Units are not redeemed by April 2024, the annual preferred return increases to 10 percent.

As of December 31, 2020, the Class D net capital account, including the preferred return, was \$228.9 million.

A separate capital account is maintained for each member of the Company. Each member's capital account reflects contributions, distributions, and allocation of profits and losses per the provisions of the Amended Operating Agreement. Except as otherwise provided in the Amended Operating Agreement, profits and losses are allocated among the members such that the balance in each member's capital account, immediately after making all allocations required for the relevant allocation year is, as nearly as possible, equal (proportionately) to the amount equal to the distributions that would be made to such member as if the Company were dissolved and terminated.

Subject to the Amended Operating Agreement, distributions to the current members will be made from available cash from time to time at the discretion of the Company's board of managers in the following order and priority:

- First, to the Class D members until the Class D members have received an amount sufficient to satisfy the Class D preferred return;
- Second, to the Class D members until the Class D net capital account has a balance of zero;
- Third, to the Class A-1, A-2, and A-3 members, on a pro rata basis, until each Class A-1, A-2, and A-3 capital account has a balance of zero.
- Fourth, to all members, other than the Class D members, on a pro rata basis in accordance with their aggregate percentage interests.

Subject to the Amended Operating Agreement, in the event the Company is liquidated, distributions to the current members in connection with such liquidating event will be made in the following order and priority:

- First, to the Class D members until the Class D members have received an amount equal to its applicable cumulate Class D preferred return;
- Second, to the Class D members in an amount equal to the positive balance of the Class D net capital account;
- Third, to all members (other than the Class D members, Class A-1 members, and Class A-2 Membership Units held by the Company's current President) on a pro rata basis until each member has received its respective return on capital amount as defined in the Amended Operating Agreement;
- Fourth, to the Class A-1 members and A-2 Membership Units held by the Company's President on a pro rata basis until each member has received its respective return on capital amount as defined in the Amended Operating Agreement; and
- Fifth, to all members, other than Class D members, on a pro rata basis in accordance with their aggregate percentage interests.

**ALLO Communications LLC**  
Notes to Financial Statements  
December 31, 2020 and 2019 (unaudited)  
(Dollars in thousands, unless otherwise noted)

As of December 31, 2020, the number of units outstanding for each Class of members' interest was as follows:

Class	Number of Units	Percent
Class A-1	87,104	45.04 %
Class A-2	7,997	4.14 %
Class A-3	93,400	48.29 %
Class C	4,899	2.53 %
	193,400	100.00 %
Class D	228,915,753	
Class E	—	

The Amended Operating Agreement provides for certain restrictions on the transfer of units. The Company, followed by the unit holders of Class A-1 Membership Units, A-2 Membership Units held by the Company's current President, and A-3 Membership Units, has the right of first refusal with respect to any units offered for sale or transfer, as defined. Each member's liability is limited as set forth in the Limited Liability Company Act of the State of Nebraska.

**Note 5: Operating Leases**

The following table provides supplemental balance sheet information related to leases:

	As of December 31,	
	2020	2019
Operating lease ROU assets	\$ 7,153	7,906
Current operating lease liabilities, which is included in "other current liabilities" on the balance sheet	\$ 935	869
Noncurrent operating lease liabilities	6,191	7,047
Total lease liabilities	\$ 7,126	7,916

The following table provides components of lease expense:

	Year ended December 31,	
	2020	2019
Rental expense, which is included in "cost to provide communications revenue" on the statements of operations (a)	\$ 2,068	1,609
Rental expense, which is included in "selling, general, and administrative" on the statements of operations (a)	727	680
Total operating rental expense	\$ 2,795	2,289

(a) Includes short-term and variable lease costs.

**ALLO Communications LLC**  
Notes to Financial Statements  
December 31, 2020 and 2019 (unaudited)  
(Dollars in thousands, unless otherwise noted)

Weighted average remaining lease term and discount rate are shown below:

	As of December 31,	
	2020	2019
Weighted average remaining lease term (years)	12.82	13.21
Weighted average discount rate	3.77 %	3.77 %

Maturity of lease liabilities are shown below:

2021	\$	1,184
2022		907
2023		788
2024		751
2025		736
2026 and thereafter		4,633
Total lease payments		8,999
Imputed interest		(1,873)
Total	\$	7,126

**Note 6: Related Party Transactions (dollar amounts in this note are not in thousands)**

The Company leases certain office, warehouse, and central office space from entities owned or jointly owned by Nelnet and B&J Partnership Ltd, both members of the Company. Total rent paid and/or incurred to these entities during 2020 and 2019 was approximately \$530,000 and approximately \$470,000, respectively. These costs are included in "selling, general, and administrative" operating expenses on the statements of operations.

The Company also pays Nelnet for certain support services provided by Nelnet to the Company. Such services include payroll and benefits administration, accounting and tax services, information technology support, marketing, and legal and compliance services. The Company's associates are also covered under Nelnet's employee benefit plans, including Nelnet's defined contribution plan. The Company pays Nelnet for its estimated portion of all benefit plan costs. In addition, the Company is covered on certain of Nelnet's insurance policies, in which the Company pays Nelnet its estimated portion of such premiums. The total amount the Company paid and/or incurred to Nelnet for these services in 2020 and 2019 was \$2.6 million and \$3.0 million, respectively. These costs are included in "selling, general, and administrative" operating expenses on the statements of operations. As part of the recapitalization of the Company as described in note 4, a Transition Services Agreement (TSA) was entered into which governs these services. Certain services provided under the TSA by Nelnet are set to expire on December 31, 2021.

As of December 31, 2020 and 2019, included in "accounts payable" on the balance sheets was \$0.8 million and \$0.2 million, respectively, owed to related parties as part of the arrangements described above. In addition, as of December 31, 2020 the Company owed Nelnet \$0.9 million related to the reimbursement of certain state tax credits. The amount owed to Nelnet for the state tax credit reimbursement is also included in "accounts payable" on the balance sheet as of December 31, 2020.

**Note 7: Subsequent Events**

The Company has evaluated subsequent events from the balance sheet date through April 16, 2021, the date at which the financial statements were available to be issued. In connection with the debt financing transaction that closed on January 19, 2021, in which the equity interests of the Company was pledged to the lenders on January 18, 2021, the members of the Company entered into a Contribution and Exchange Agreement

**ALLO Communications LLC**  
Notes to Financial Statements  
December 31, 2020 and 2019 (unaudited)  
(Dollars in thousands, unless otherwise noted)

pursuant to which each member contributed their membership units of the Company in exchange for such number and class of membership units of ALLO Holdings LLC and the Company is now a 100 percent owned subsidiary of ALLO Holdings LLC. Aside from the Contribution and Exchange Agreement executed on January 18, 2021 and the debt issuance and distribution of \$100.0 million to the D class members on January 19, 2021 (as discussed in note 4), the Company has determined that there are no other items to disclose.



## APPENDIX B1: ALLO SERVICE LEVEL AGREEMENT

---



## **SERVICE LEVEL AGREEMENT**

### **Network Availability Guarantee**

Allo Communication's network is guaranteed to be available and capable of forwarding IP packets 99.99% of the time, averaged over a calendar month. Allo Communication's IP network includes the customer access port (the port on the Allo Communications aggregation router upon which the customer's circuit terminates) and the Allo Communications IP backbone network. The Allo Communications IP backbone includes Allo Communications owned and controlled routers and circuits, including any transit connections and the customer-based network interface device. Allo Communication's Network Availability Guarantee does not include the customer's Local Area Network (LAN), scheduled and unscheduled maintenance events, customer owned Customer Premise Equipment (router or CPE), customer caused outages or disruptions, and force majeure events. If the Network Availability Guarantee is not met in a calendar month, the customer is eligible to receive a credit up to 1/30th of the monthly service charge (MRC) for that month for each full hour of outage in excess of the 99.99% guaranteed under this SLA up to a maximum of one month's recurring charge.

### **Latency Guarantee**

The Allo Communications network (as defined in the previous section) is guaranteed to have an average round trip packet transit time within the Allo Communications backbone network over a calendar month of 65ms or less. The average network latency is measured as the average of 5 minute samples taken throughout the month. The Allo Communications Latency Guarantee does not include the customer's Local Area Network (LAN), scheduled and unscheduled maintenance events, customer owned Customer Premise Equipment (router or CPE), customer caused outages or disruptions, and force majeure events. If the Latency Guarantee is not met in a calendar month, the customer is eligible to receive a credit up to 1/30th of the monthly service charge (MRC) for that month for each full 1ms above the 65ms average maximum guaranteed under this SLA up to a maximum of one month's recurring charge.

### **Mean Time to Repair**

MTTR SLA is measured as the average time it takes to restore all Failures of the Network Availability Guarantee for all Customer sites with similar circuit types during a calendar month. (For the purposes of determining MTTR measurements, only a failure of the Network Availability Guarantee shall constitute a Failure; failures of other guarantees do not apply to MTTR.)

Ethernet – 4 hours

Measurement: MTTR is the period of time beginning when a trouble ticket is opened by either ALLO or the Customer as a result of a Failure, and ending when the Failure has been remedied. The MTTR service guarantee takes effect on the 1st calendar day of the first full month after the connection is successfully installed and activated. If ALLO fails to meet the MTTR for a calendar month, the Customer will receive a credit of 1/30th of the MRC for that month for each hour over the MTTR.

### **Packet Loss Guarantee**

The Allo Communications network is guaranteed to have a maximum average packet loss of 1 percent or less during any calendar month.



**Credit Requests**

Allo Communications will offer credits outlined above should these guarantees not be met, subject to verification by Allo Communications. Requests for credits must be in writing and received by Allo Communications no later than seven days from the disruption in service as outlined in the guarantees above. Customers requesting credits must have opened a trouble ticket with the Allo Communications Network Operations Center (NMC) at the time of the incident (308) 633-5000. Please allow one week for credit requests to be adequately researched by Allo Communications prior to posting to a customers' account. Total credits under this SLA are limited to the monthly service charge for the month in which the service does not meet the commitment. Concurrent events will not provide consecutive credits. Requests for credits may be mailed to Allo Communications, 610 Broadway, Box 1123, Imperial, NE 69033 or faxed to 308-882-7850.



## APPENDIX B2: ALLO SAMPLE COMMUNITY SERVICE LEVEL AGREEMENT

---



## SERVICE LEVEL AGREEMENT

1. Upon successful Light Testing of 100% of the XXX Fiber Network (XXX), in the event ALLO, as either a Service Provider or Network Operator, suffers a network outage outside of (i) events defined as Force Majeure; (ii) scheduled network maintenance; (iii) emergency network maintenance; (iv) a network outage resulting from the Town's non-performance of its obligations under this Agreement; or (v) a network outage resulting from the negligent acts or omissions of the Town or its agents or employees; then ALLO will adhere to the following credit schedule:
  - a. 98.0% to 98.9% XXX uptime, measured monthly: 2% of monthly fees, pro-rated by the number of days of outage, paid by an individual customer for the month in which the outage occurred, credited to customer's account.
  - b. 97.0% to 97.9% XXX uptime, measured monthly: 4% of monthly fees pro-rated by the number of days of outage, paid by an individual customer for the month in which the outage occurred, credited to customer's account.
  - c. 96.0% to 96.9% XXX uptime, measured monthly: 6% of monthly fees pro-rated by the number of days of outage, paid by an individual customer for the month in which the outage occurred, credited to customer's account.
  - d. Below 96% XXX uptime, measured monthly: 8% of monthly fees pro-rated by the number of days of outage, paid by an individual customer for the month in which the outage occurred, credited to customer's account.

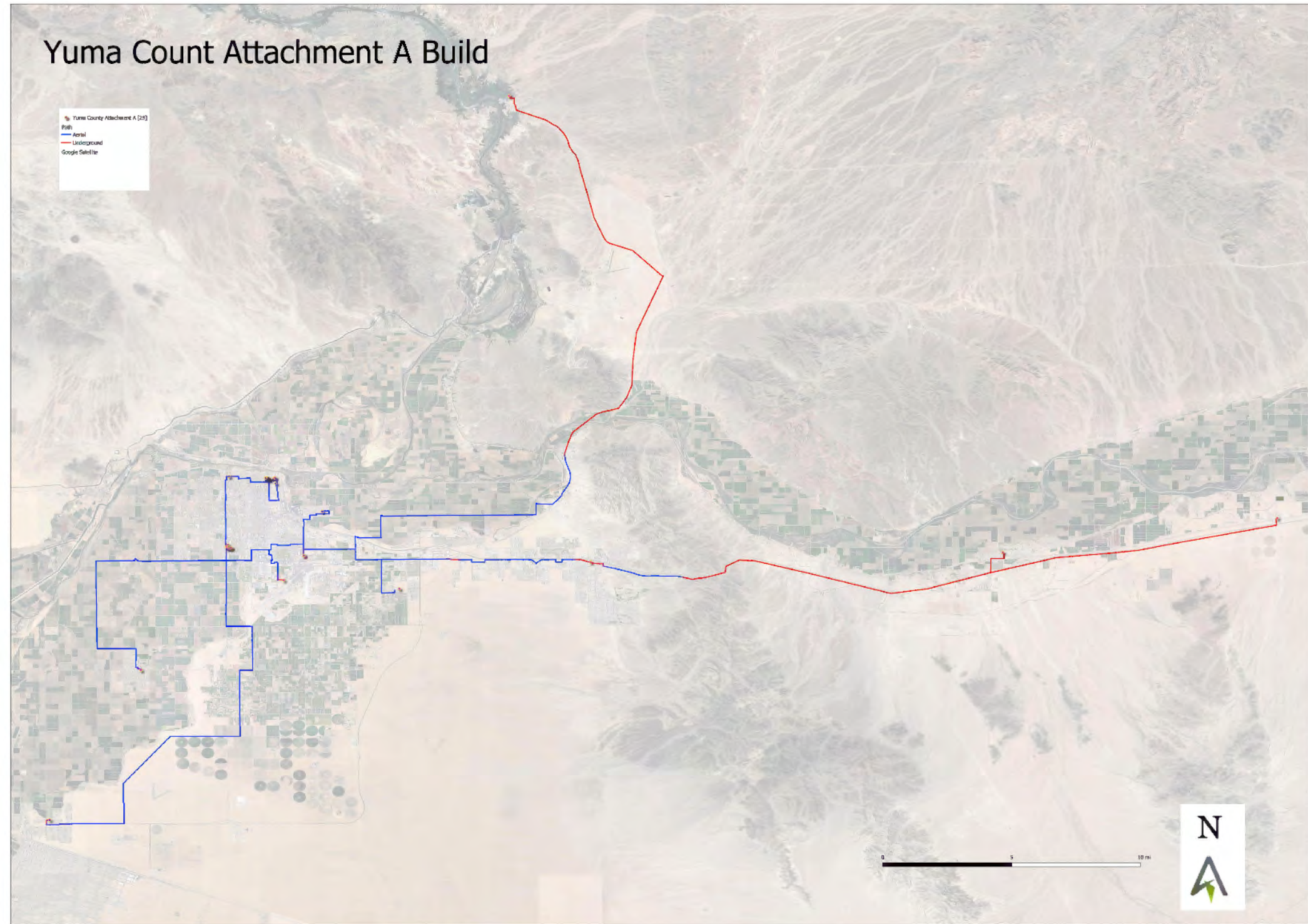
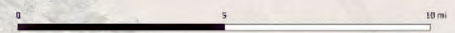
ALLO shall have the right to compensate customers for outages by applying credits to the customer's account.

## APPENDIX C: ATTACHMENT A HIGH LEVEL DESIGN

---

# Yuma County Attachment A Build

- Yuma County Attachment A (20)
- Arch
- Underground
- Google Satellite



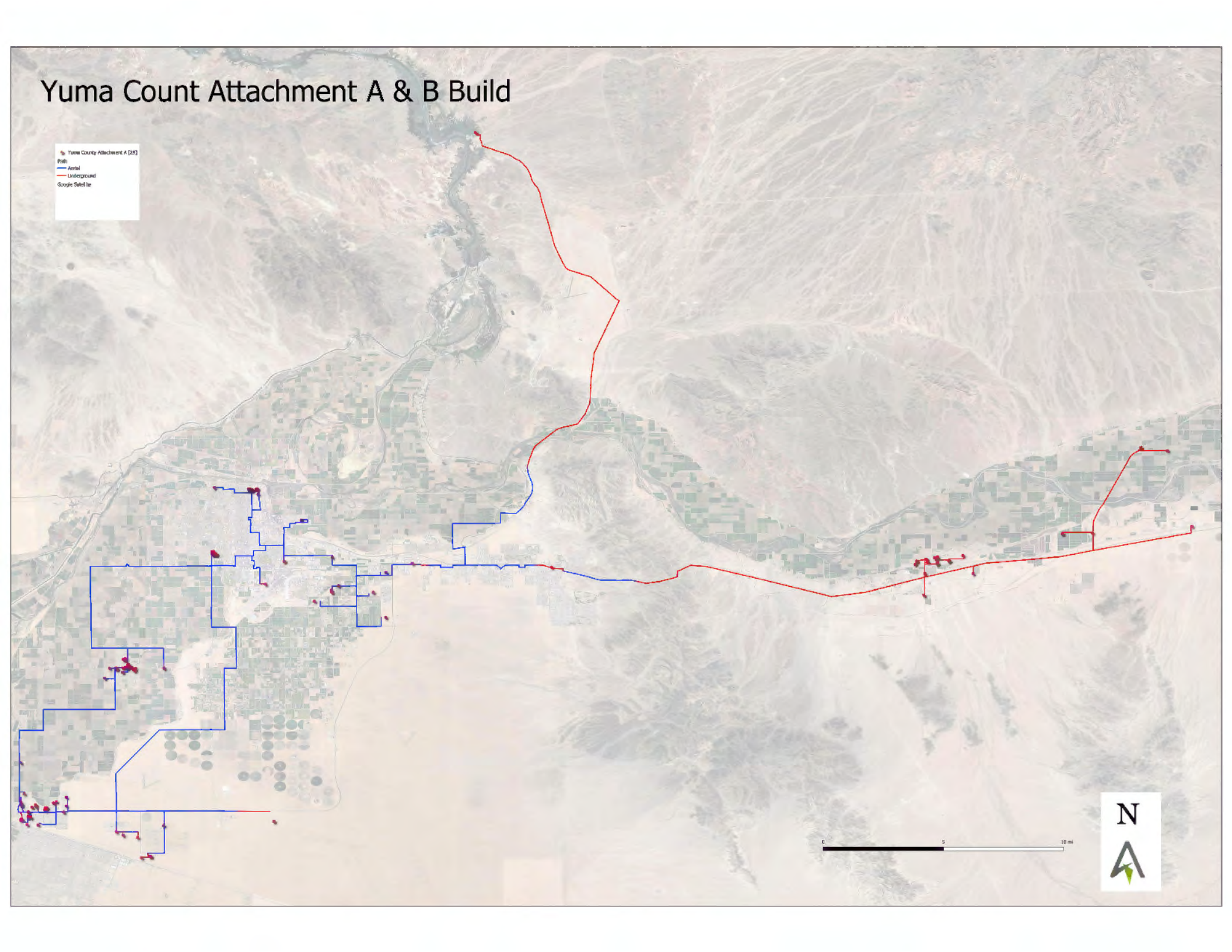
## APPENDIX D: ATTACHMENT A-B HIGH LEVEL DESIGN

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# Yuma County Attachment A & B Build

Yuma County Attachment A (25)  
Fish  
Aerial  
Underground  
Google Satellite



## APPENDIX E: SAMPLE MARKETING COMMUNICATIONS

---



**game changer**  
noun  
A newly introduced idea or factor that changes an existing situation or activity in a significant way.

Experience Fiber Internet • TV • Live Never Before

**Allo**  
Gigamon

**Allo**  
All Communications, 800 American Street, Lincoln, NE 68502

WE'VE GOT A 3-PART PLAN FOR YOU TO GET THE MOST OUT OF ALLO

**1. Breakdown Internet Service**

**2. Reserve Internet in Lincoln**  
Check for fiber near you won't find anywhere else

**3. Choose Your Plan**  
On and off fiber - no hidden, no contracts

**4. Get your Day number**  
We'll show you what you're getting

**Reserve Your Service Today**  
GetFiberLincoln.com/GameChanger | 402.480.6506

**Introducing the Power of Allo Fiber.**  
It's not just your home it's your headquarters. Power your life with technology that moves at the speed of you. Allo delivers fiber solutions grown with Nebraska values.

**Reserve Your Service Today**  
GetFiberLincoln.com/GameChanger | 402.480.6506

**Allo**  
Gigamon

**Experience the Allo Fiber Difference.**

**1 GIG**  
PER SECOND  
ONLY FROM ALLO

**100X FASTER**  
(Based on average speeds)

**DOWNLOAD:**  
• A song in 0.5 seconds • An HD movie in 7 seconds • 100 photos in 3 seconds

**Your Home Will Be Fiber-ready in 2016!  
Reserve Your Service Today.**

GetFiberLincoln.com/GameChanger | 402.480.6506

**2.**

**INTERNET + TV**

**\$140 \$115**  
1 GIG 100Mbps

**Watch TV Everywhere**  
Your streaming service has more than 60 channels, including ESPN.

**Instant Channel Change**  
Get more leg time when you're changing channels.

**Record TV Anytime\***  
TV can be watched and recorded from anywhere in the house.

**100X FASTER**  
(Based on average speeds)

**DOWNLOAD:**  
• A song in 0.5 seconds • An HD movie in 7 seconds • 100 photos in 3 seconds

**Your Home Will Be Fiber-ready in 2016!  
Reserve Your Service Today.**

GetFiberLincoln.com/GameChanger | 402.480.6506

\* Requires set-top boxes. \* Includes 30-Day Free Trial or whole-home OnVista premium service TV.

**1.**

**FIBER INTERNET**

You should never have to check your watch when you're surfing the web, which is why our standard internet speed is 100Mbps up and down. And, since you can connect up to 50 devices at once, your family can get faster, together.

**STANDARD PACKAGE**

- Wireless router included
- Speeds from 100Mbps to 1 GIG available
- Connect up to 50 devices simultaneously

See more at GetFiberLincoln.com/GameChanger

**INTERNET**

**\$90 \$65**  
1 GIG 100Mbps

**100X FASTER**  
(Based on average speeds)

**DOWNLOAD:**  
• A song in 0.5 seconds • An HD movie in 7 seconds • 100 photos in 3 seconds

**Check for Fiber**  
We'll check your home to fiber directly bringing unbeatable speed and reliability

**Get Ready to buffering**  
Stream, download, and game like never before

GetFiberLincoln.com/GameChanger | 402.480.6506

**3.**

**INTERNET + TV + PHONE**

Simplify and Save with our Triple Play Package

**\$144 \$119**  
1 GIG 100Mbps

See more at GetFiberLincoln.com/GameChanger

# Presales Direct Marketing

**Strength in Connection.**

Your Local, Faster, Fiber Internet.

**Allo**  
@alloservices

**Allo** | ALLO Communications  
330 South 20th Street  
Lincoln, NE 68509

**ALLO delivers more than just great service:**

- Local coverage
- 30-day money back guarantee
- Fiber Internet
- Fiber TV
- Fiber Phone

**Reserve Your Service Today.**  
GetFiberLincoln.com  
402.480.6573

\*\$39.95 ALLO 1-year service fee. ALLO is a registered trademark of ALLO Communications. All Rights Reserved. Prices for Fiber, TV and Phone are subject to change. ALLO 1-year service fee is non-refundable. Service is available in select areas. Fiber Internet service is subject to availability. Fiber Internet service is available in select areas. Service is subject to change. Service is subject to change. Service is subject to change.

**ALLO Fiber is Available in Your Neighborhood!**

Are you ready for faster more reliable internet?

**Schedule Your Installation Now!**  
GetFiberLincoln.com  
402-480-6661

**Allo**  
@alloservices

**Experience Speed and Reliability.**  
Introducing Fiber for Business.

**Allo**  
@alloservices

**Hello, Neighbor!**

ALLO is bringing the fiber future to your street. Sign up today.

**Allo**  
@alloservices

**Allo**  
A **netnet** COMPANY

**Something GIG is Here.**  
GetFiberLincoln.com

With 1 GIG Internet, connect up to 50 devices and download:

- Streaming: 03 seconds
- Downloading: 07 seconds
- Syncing: 03 seconds

# Direct Marketing



Experience life in a new light.

**Allo**  
A @netnet COMPANY

100% Fiber Internet + TV + Phone

ALLO connects you to the moments that matter most - on stage and off. We deliver exceptional fiber services to your home and business at the speed of light. [GetFiberLincoln.com/Light](http://GetFiberLincoln.com/Light)

Proud Supporter of the Performing Arts

**Allo**  
A @netnet COMPANY

**We are Proud to be Part of the Lincoln Community.**

Fiber Internet + Fiber TV + Fiber Phone

*“Honestly what I loved was getting out from under poor service and even poorer customer service of the other provider. Not only are your services better, but as far as I’m concerned your customer service is second to none.”*

- Troy, Lincoln

402.480.6650 | 330 S. 21st St. | [GetFiberLincoln.com](http://GetFiberLincoln.com)

**JOURNAL STAR** News Huskers Obituaries Mugshots Buy & Sell

100X Faster. 100X More Fun.  
Experience Allo internet + TV + Phone

Get Allo

**Allo**

Amigos transitions to employee ownership

A weed to one is tea and tincture to another

\$300 million chicken plant near Fremont reaches milestone

30 of Lincoln's most influential men

Four-star receiver Joshua Moore commits to Huskers in emotional announcement

**trending now**

Tomiedo touchdown confirmed in Lincoln; many still without power following Friday st...

Four-star receiver Joshua Moore commits to Huskers in emotional announcement

Seawalla spray-painted on Kizy market building

A weed to one is tea and tincture to another

Bliemeister: Police acted appropriately in man's death

Battle the Energy. Not Your Connection.

Allo

# Brand Ads



game chang·er  
*noun*

Introducing the Power of Fiber.  
Internet + TV + Phone

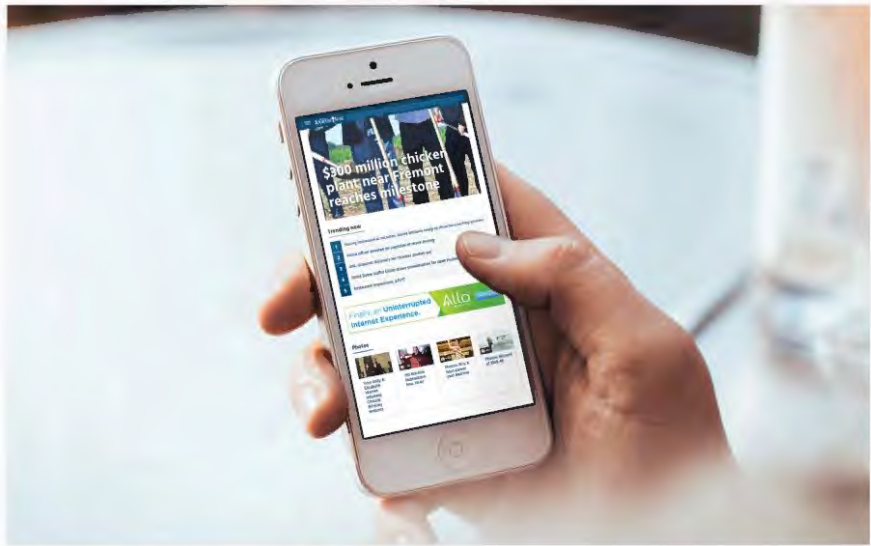
Get Allo



Changing the Game with the Power of Fiber.


Introducing 1 GIG  
Internet + TV + Phone

Get Allo

100X Faster. 100X More Fun.<sup>\*</sup>  
Experience Allo Internet + TV + Phone

Get Allo



\*See website for more details.



Battle the Enemy,  
**Not Your Connection.**

GET FASTER INTERNET



Load This Page  
**100x<sup>\*</sup> Faster**  
With ALLO Fiber.

GET FASTER INTERNET




# Digital Advertising

# Community Sponsorships



325

A large banner for Allo Fiber. At the top, it features the "Allo" logo in white on a green background, with "A netnet COMPANY" below it. Below the logo, it says "Experience the ALLO Fiber Difference" and "AlloFiber.com". At the bottom, it lists "Fiber Internet + Fiber TV + Fiber Phone" with small icons for each service.

Allo Faster. Fiber. Allo

Blazing-fast Fiber Internet + TV + Phone

GetFiberLincoln.com



## APPENDIX F: ADDENDUM #1 ACKNOWLEDGEMENT

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ADDENDUM#1

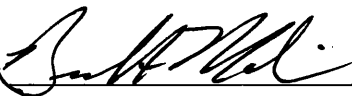
#YC21-22B  
Middle-Mile Fiber Optic Network and Wide Area Network

---

This Addendum #1 for YC21-22B informs you of the following:

1. Additional language added to Section 1.
2. Additional documentation added as Attachment #D-G

This undersigned hereby acknowledges receipt of Addendum#1  
This 3 day of August, 2021

By  \_\_\_\_\_

For ALLO Arizona, LLC \_\_\_\_\_

**END OF ADDENDUM**

## APPENDIX G: NOTICE TO CONTRACTORS/VENDORS

---





ATTACHMENT D

## YUMA COUNTY, ARIZONA

### NOTICE TO CONTRACTORS/VENDORS

**THIS IS A FEDERALLY FUNDED PROJECT AND THE SUCCESSFUL BIDDER WILL BE REQUIRED TO ADHERE TO FEDERAL POLICIES AND GUIDELINES.**

THE FOLLOWING INFORMATION IS NOW REQUIRED

***THIS DOCUMENT IS TO BE SUBMITTED BY THE BIDDER/VENDOR WITH THE PROPOSAL DOCUMENTS***

ALLO Arizona, LLC  
Company Name

(308) 882-7800  
Phone/Fax

330 S. 21st Street  
Address

Lincoln, NE 68510  
City, State, Zip

Employer's Tax ID No. 74-3064505

Type and License # Limited Liability Corporation / 23252733

SAM.GOV Registration Current and Active?  
 YES  NO

DUNS# 14-452-5420 CAGE# 5G7L4

Brad Moline, President  
Person/Agent Name

August 3, 2021  
Date

  
Signature

**APPENDIX H: AFFIDAVIT OF NON-COLLUSION**

---



ATTACHMENT E

**AFFIDAVIT OF NON-COLLUSION**  
CERTIFYING THAT THERE WAS NO COLLUSION  
IN BIDDING FOR CONTRACT

THIS DOCUMENT IS TO BE SUBMITTED BY THE BIDDER/VENDOR WITH THE PROPOSAL DOCUMENTS

STATE OF ARIZONA        )  
  )ss  
COUNTY OF: Yuma        )

Brad Moline  
(Name of Individual)

being first duly sworn upon oath deposes and says:

That he/she is President  
(Title)  
Of and (Name of Business) ALLO Arizona, LLC

that, pursuant to Section 112 of Title 23 United States Code and ARS §34-253, he certifies as follows that neither he nor anyone associated with the company, firm, or corporation mentioned above has, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with project:

Project Name and Number: Middle-Mile Fiber Optic Network and Wide Area Network #YC21-22B

*Brad Moline*  
(Signature)

Subscribed and sworn to before me this 3 day of August, 2021.

*Pamela J Simanek*  
Notary Public

My Commission Expires September 11, 2022.



**APPENDIX I: SUBCONTRACTOR AND SUPPLIER LIST – PROVIDED SEPARATELY**

---

**APPENDIX J: CERTIFICATIONS SIGNATURE FORM**

---

**CERTIFICATIONS SIGNATURE FORM**

***Return this page with proposal.***

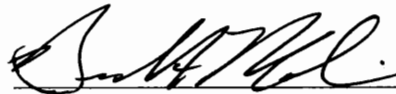
These Certifications (Civil Rights, Equal Employment Opportunity, Equal Opportunity for Workers with Disabilities - Section 503, Procurement of Recovered Materials, Access to Records and Records Retention, Conflict of Interest, Anti-Lobbying) are a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of these Certifications is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U. S. Code. Any person who fails to file the required Certifications shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Brad Moline

(Typed Name of Official)

ALLO Arizona, LLC

(Typed Name of Firm)



(Signature of Official)

August 3, 2021

(Date)

# EXHIBIT I

## Yuma County

### Proposal # C21-22B Middle-Mile Fiber Optic Network and Wide Area Network

#### Proposal Evaluation Team Meeting Notes, Talking Points and Considerations October 18, 2021

Compiled by Susan Thorpe, County Administrator, from conversation among 6 of 7 team members in a Zoom meeting on October 18 at 3:00 pm, and later conversation with the remaining team member by phone at 5:00 pm.

**WANRack** – Good local experience, has been in Yuma and knows who the people are. WANRack has experience with BLM, USBR in our areas. Has worked with all the engineers and contractors in the area. Grant writing experience was strong. Like their reference to a 50 year relationship. Talked about hitting all Ag sites. Stated they have existing fiber here that is 6 years old. Appears to be open to County ownership of the middle mile and are flexible even if that's not their preference. Both WANRack and ALLO said their preferred middle mile structure is different from what our RFP describes; both thought micro ducts are expensive compared to larger fiber pull. Final design will determine costs. Subcontracts 90% of services, so we don't know who we would get as subcontractors. Not sure about outsourcing, since they are growing. No clarity was given on who would serve as project manager. Excessive focus on reducing costs but no details. Did not provide any cost savings due to removing WAN and just constructing middle mile. Google Fiber connection is enticing as the last mile provider, but no guarantee they will come on board as there is no contract between them. This puts the value of this proposal into question. "Google will be their marketing arm"? WANRack would be middle mile only without Google Fiber. WANRack would need to ID partner for last mile if Google Fiber doesn't work out. Can WANRack stand on its own? Project experience – it is not clear what they specifically did on the projects listed in the proposal. Refer to County ownership as IRU; not sure, why; an IRU is not ownership.

**eX2** – Focused on exactly what we asked for. Got right down to business in the interview. This is their bread and butter. Size of projects comparable. Experienced with critical infrastructure. Provided hard cost estimates and did their homework related to costs. eX2 does all work in-house except construction of conduit and pull boxes. Good experience with governmental and public agencies. County would have ownership of all assets. Offered 85/15 revenue share. Showed no bias or conflict of interest toward last mile providers: Would work with ALLO or WANRack. What about marketing for future uses? No local or AZ experience. The other two companies already want to bring a last mile provider. eX2 doesn't seem big enough as a company. Not sure of depth; other two teams seem to be larger companies. Projects cited may have been done by the individuals in other roles, but not as part of eX2 itself. eX2 would be turnkey middle mile, then we need to market to get someone in to serve the last mile. Concern that fiber would be left empty if we don't market it immediately. County would need to be a lot more intimately involved and active in our broadband destiny with this approach.



**ALLO** – Seems most capable of getting us to the last mile along with the middle mile, based on their experience. Middle mile and last mile is what they do. Willing to build middle mile with end mile as well. If we want to reach the community quicker, we should go with ALLO. They do everything in house except trenching and boring. Genuine, strong team of individuals. They have 700 employees. Seem easy to work with. Allo's management team has an 18-year history of working together in the business of building and operating broadband networks. Grant writer on management team. Didn't change their answers from the initial response. ALLO offered to design county-wide system together with Yuma County, and then select parts to be designed and deployed at different stages. They offered to sit down with the team and look at the whole county for an ultimate design, which is appealing and will lead to efficiencies. They are open to cost share idea/revenue share; mentioned 60/40 or 70/30 depending on each party's investment. Eager for us to talk with their references and check national rankings. Arizona appears to be their #1 market. They are familiar with rural areas and are ready to go in Yuma. They would provide "one neck to choke" as design/build and marketer of middle mile in addition to last mile. Discussed where there might need to be aerial based on their background and experience. Need to understand what they mean by "centralized split" in their approach to fiber. Admitted they have not done soil samples yet to decide on boring needs. Would need to design the middle mile carefully and transparently to ensure future access to other last mile providers. Other providers may want their own specific brand of fiber, so we should include conduits for their use. This choice provides a first hit at last mile along with middle mile. If we choose them, people will be happy with the service and they will employ local people.

### **Consensus Conclusion**

The Evaluation Team unanimously recommended ALLO Communications to Yuma County as the superior choice to construct and operate the middle mile fiber backbone.

# EXHIBIT J

**OFFICE OF THE  
BOARD OF SUPERVISORS**  
198 S. Main Street  
Yuma, Arizona 85364

**SUSAN K. THORPE**  
COUNTY ADMINISTRATOR  
CLERK OF THE BOARD



**MARTIN PORCHAS**  
DISTRICT 1  
**JONATHAN W. LINES**  
DISTRICT 2  
**DARREN R. SIMMONS**  
DISTRICT 3  
**MARCO A. (TONY) REYES**  
DISTRICT 4  
**LYNNE PAN CRAZI**  
DISTRICT 5

## MEETING NOTICE AND AGENDA

Pursuant to Arizona Revised Statutes § 38-431, et seq.  
and amendments thereto

A SPECIAL SESSION of the  
**YUMA COUNTY BOARD OF SUPERVISORS**  
Also sitting as all SPECIAL TAXING DISTRICTS

Will be held on

**JANUARY 26, 2022 -- 9:00 A.M.**

198 South Main Street, Yuma, Arizona

Board members will attend either in person, by telephone,  
or remotely via electronic conferencing.

## CALL TO ORDER and PLEDGE OF ALLEGIANCE

## SPECIAL SESSION AGENDA

### CALL TO THE PUBLIC:

•Call to the Public is held for public benefit to allow individuals to address issue(s) within the Board's jurisdiction. Board members may not discuss items that are not specifically identified on the agenda. Therefore, pursuant to Arizona Revised Statute §38-431.01(H), action taken as a result of public comment will be limited to directing staff to study the matter, responding to criticism, or scheduling the matter for further discussion and decision at a future date.

**DISCUSSION AND ACTION ITEM(S):** The Board will open each of the following item(s) separately for discussion and action, as appropriate.

1. *County Administration:* Approve a Master Agreement for Network Design and Construction Services and Work Order with ALLO Communications for Broadband Middle Mile Fiber Network.
2. *County Administration/Grants:* Adopt Resolution No. 2022-01, authorizing submission of an application to the Arizona Commerce Authority for the Broadband Development Grant and commitment of matching funds and maintenance cost for the Yuma County Broadband Project.

**EVENTS CALENDAR/CURRENT EVENTS:**

1. Board members and County Administrator will report on and may discuss events attended or to be attended on behalf of the County, may present a brief summary of current events and may update the schedule for future Board of Supervisors meetings, as appropriate. No legal action will be taken, pursuant to A.R.S. §38-431.02(K).

**Action to adjourn.**

The Board may vote to hold an Executive Session for the purpose of obtaining legal advice from the Board's attorney on any matter listed on the agenda, pursuant to Arizona Revised Statute §38-431.03(A)(3).

Persons with disabilities may request reasonable accommodations by contacting Martin Espinoza, Safety Compliance Officer at 928.373.1138 or by email at [martin.espinoza@yumacountyaz.gov](mailto:martin.espinoza@yumacountyaz.gov). Requests should be made as early as possible to allow time to arrange the accommodation.

I hereby certify that this Meeting Notice and Agenda were posted within the 24 hour advance notice, in compliance with the Arizona Open Meeting Law.

ATTEST:

SUSAN K. THORPE  
County Administrator/Clerk of the Board

**AIR-11093****Discussion 1.****BOS Special Session Agenda****Meeting Date:** 01/26/2022**Title:** Approve a Master Agreement for Network Design and Construction Services and Work Order #1 with ALLO Communications for Broadband Middle Mile Fiber Network**Submitted By:** Susan Thorpe **Prepared by:** Susan Thorpe**Department:** County Administration**Special District:****Strategic Pillar:** Effective Governance

---

**Information****1. REQUESTED BOARD ACTION:**

*County Administration:* Approve a Master Agreement for Network Design and Construction Services and Work Order with ALLO Communications for Broadband Middle Mile Fiber Network.

**2. SUMMARY:**

Even before the COVID-19 pandemic Yuma County had poor internet service. Legacy providers have not sufficiently upgraded existing infrastructure. People across Yuma County became painfully aware of the serious lack of adequate internet service during the COVID-19 pandemic, especially for schoolchildren in rural areas, individuals working from home, and people requiring remote healthcare. Agricultural technology development and implementation was hindered by lack of broadband access in agricultural areas.

In order to support rapid deployment of this now-essential infrastructure, the Yuma County Board of Supervisors declared Broadband its top priority for use of American Rescue Plan Act (ARPA) funds, and plans to use them toward a county-wide broadband middle mile fiber backbone.

Building on several years of work by the Community Broadband Action Team, Yuma County formed a Broadband Task Force that began work in March 2021. Members of the Task Force include Yuma County, City of Yuma, City of Somerton, City of San Luis, Town of Wellton, GYEDC, representatives of the agriculture community, IT subject matter experts and the State Broadband Director.

The Task Force developed and Yuma County issued a Request for Proposals (RFP) on July 6, 2021 for a Broadband Middle Mile Fiber Backbone and a County Wide Area Network (WAN). The purpose of the middle mile fiber backbone is to lower the barrier to entry for last mile service providers and to incentivize service to unserved and underserved areas of the County. The County WAN was later removed from consideration of the middle mile project; and the County sites will be served by the

middle mile backbone. The RFP specified an all-underground backbone network, and a minimum capacity so that last mile providers will be able to serve at least 1 Gbps per residential end user and 10 Gbps per commercial end user. The RFP identified a target date of December 2022 for completion of the middle mile backbone.

The Task Force determined that additional technical expertise would be beneficial in reviewing and evaluating the proposals received in response to the RFP, and formed the Broadband Proposal Evaluation Team.

The Proposal Evaluation Team consisted of several members of the Broadband Task Force as well as outside technical experts. Five proposals were received by the submittal deadline of September 7. Initial proposals included a project cost ranging from \$29.1 million to \$135 million. The Proposal Evaluation Team members individually reviewed and scored each proposal, then convened on Monday, October 11. Based on cumulative rankings, three of the five vendors were selected to participate in interviews on Friday, October 15.

The Evaluation Team considered each of the three vendors' written proposals as well as their presentations and discussions during the interview process. The Team assessed each vendor's experience, approach to design, construction and project management, and cost to build a middle mile fiber and conduit backbone.

Following these presentations, the Team arrived at a consensus recommendation to the County to enter into negotiations to develop a contract with ALLO Communications (dba ALLO Arizona, LLC) for a middle mile fiber backbone in Yuma County. The recommendation letter is attached.

Yuma County plans to own the middle mile fiber backbone, and to contract with ALLO to operate, maintain and market the middle mile fiber backbone in an open access, competitively neutral, non-discriminatory manner. ALLO also has an interest in providing fiber to the premise for residential and commercial use. The contract will be structured so that the price to lease middle mile network capacity for ALLO will be the same as for other interested last mile providers and private networks.

Negotiations have taken place and a final agreement will be provided prior to the special meeting of the Board of Supervisors for consideration and approval. Members of the Proposal Evaluation Team have offered to assist Yuma County and ALLO in developing a final design and construction plan that will meet the needs of our entire community.

The Master Agreement and Work Order #1 for the backbone network have been negotiated and reviewed by legal counsel, and are ready for approval by the Board of Supervisors. Additional work orders may be added if and when additional funding is available. Yuma County and ALLO will seek Arizona and Federal Broadband grant funds to assist in funding this important project. The County will request support for this and future enhancements to the network from the Cities and Town in Yuma County.

### **3. RECOMMENDED MOTION:**

Motion to approve a Master Agreement for Network Design and Construction Services and Work Order with ALLO Communications for Broadband Middle Mile Fiber Network.

**4. FISCAL IMPACT: (Finance, OMB, & Human Res.)**

Approved for consideration, T. Struck / 01.07.2022.

For consideration, Gil Villegas, Jr.

**5. COUNTY ATTORNEY:**

Approved as to form, subject to legal review.

B. Kerekes

January 13, 2022

**6. COUNTY ADMINISTRATOR:**

Approved, Susan K. Thorpe 1/25/22

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**Fiscal Impact**

**General Ledger Fund Name:** AZCares/ARPA Funds

**Project #:**

**Funds Available Y / N:** Y

**Grants/Projects - Title:**

**Award #:**

**Account #:** 02401.01.1900

**Fiscal Impact/Budget Amendment Resolution No.:**

ARPA Funds

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**Attachments**

*No file(s) attached.*

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**AIR-11073****Discussion 2.****BOS Special Session Agenda****Meeting Date:** 01/26/2022**Title:** Resolution No. 2022-01 -- AZ Broadband Development Grant FY2022**Submitted By:** Susan Thorpe **Prepared by:** Nancy Ngai**Department:** County Administrator/Grants**Special District:****Strategic Pillar:** Effective Governance

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**Information****1. REQUESTED BOARD ACTION:**

*County Administration/Grants:* Adopt Resolution No. 2022-01, authorizing submission of an application to the Arizona Commerce Authority for the Broadband Development Grant and commitment of matching funds and maintenance cost for the Yuma County Broadband Project.

**2. SUMMARY:**

The Arizona Commerce Authority currently has a Notice of Funding Opportunity for the AZ Broadband Development Grant FY2022. Rural communities can apply for a maximum of \$10 million for their broadband project. The grant does require the following: 1) Project must include final mile infrastructure development cost; 2) Applicants must provide a 10% cash match (cash match may come from the private sector); 3) Commitment from the applicant to approve, accept, and maintain the infrastructure project. Deadline for the application is January 31, 2022. The project must be completed within two years after award.

Yuma County's middle mile (backbone) broadband project stand-alone is not eligible for this grant. Since the County is contracting with ALLO, their final mile infrastructure service would have to be included in the project proposal and their construction cost will go toward the cash match requirement. A resolution from the Board of Supervisors authorizing the application and commitment toward matching funds and maintenance cost is needed as part of the application packet.

**3. RECOMMENDED MOTION:**

Adopt Resolution No. 2022-01, authorizing submission of an application to the Arizona Commerce Authority for the Broadband Development Grant and commitment of matching funds and maintenance cost for the Yuma County Broadband Project.

**4. FISCAL IMPACT: (Finance, OMB, & Human Res.)**

Approved for consideration, T. Struck / 12.27.2021.

Approved for Consideration, Gil Villegas, Jr.



**5. COUNTY ATTORNEY:**

Approved as to form.

B. Kerekes

January 13, 2022

**6. COUNTY ADMINISTRATOR:**

Approved, Susan K. Thorpe 1/13/22

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**Fiscal Impact**

**Attachments**

Resolution No. 2022-01 ACA Broadband Development Grant

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**YUMA COUNTY BOARD OF SUPERVISORS**  
**RESOLUTION NO. 09-37**  
**RESOLUTION NO. 2022-01**  
**AUTHORIZE THE SUBMISSION OF PROJECTS FOR**  
**CONSIDERATION IN ARIZONA'S 2010 HIGHWAY SAFETY PLAN**  
**TO THE ARIZONA COMMERCE AUTHORITY FOR THE**  
**BROADBAND DEVELOPMENT GRANT AND COMMITMENT**  
**OF NECESSARY MATCHING FUNDS AND MAINTENANCE**  
**COST FOR THE PROJECT.**

**WHEREAS:** The Arizona Statewide Broadband Strategic Plan identified access to affordable broadband services as a critical element to innovations in education and health, the furtherance of economic development and enhancements to public safety services; and

**WHEREAS:** The Coronavirus pandemic has revealed the lack of sufficient high-capacity and high-speed communications services available to all residents of Yuma County; and

**WHEREAS:** The County Board of Supervisors has indicated Broadband improvement as a priority and formed a Broadband Task Force to research, develop, recommend necessary infrastructure improvements to support the needs of the community; and

**WHEREAS:** The County Board of Supervisors has committed to utilizing some of the Coronavirus State and Local Fiscal Recovery Fund for the construction of the Middle Mile; and

**WHEREAS:** The Arizona Commerce Authority has issued a Notice of Funding Opportunity for the FY2022 Arizona Broadband Development Grant (ABDG-22); and

**WHEREAS:** The ABDG-22 is available to rural communities and the maximum award per rural community is \$10 million;

**WHEREAS:** The ABDG-22 grant requires a minimum of ten percent (10%) cash match of project eligible cost; and

**WHEREAS:** The AZ Commerce Authority requires as part of the application a resolution of commitment from the Board of Supervisors on the match and maintenance of the project.

**NOW, THEREFORE, BE IT RESOLVED THAT:**

The Board of Supervisors of the County of Yuma: 1) authorizes the submission of an application to the Arizona Commerce Authority for the FY2022 AZ Broadband Development Grant; 2) provides commitment to the construction of the Middle Mile Broadband project, not to exceed \$20.7 million; 3) provides commitment to the maintenance of the Middle Mile after construction; and 4) authorizes the County Administrator to take all necessary actions to accept and implement the project and activities as submitted in said application.

Adopted this \_\_\_\_\_ day of January 2022.

\_\_\_\_\_  
MARCO A. "TONY" REYES, Chairman

ATTEST:

\_\_\_\_\_  
SUSAN K. THORPE  
County Administrator/Clerk of Board

APPROVED AS TO FORM AND DETERMINED TO BE WITHIN THE SCOPE OF PERFORMANCE OF DUTY OF THE YUMA COUNTY BOARD OF SUPERVISORS:

\_\_\_\_\_  
JON R. SMITH, County Attorney

**AIR-11135****1.****BOS Special Session Agenda****Meeting Date:** 01/26/2022**Title:** Events Calendars/Current Events**Submitted By:** Susan Thorpe **Prepared by:** Annie Rojas**Department:** County Administration**Special District:****Strategic Pillar:**

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**Information****1. REQUESTED BOARD ACTION:**

Board members and County Administrator will report on and may discuss events attended or to be attended on behalf of the County, may present a brief summary of current events and may update the schedule for future Board of Supervisors meetings, as appropriate. No legal action will be taken, pursuant to A.R.S. §38-431.02(K).

**2. SUMMARY:****3. RECOMMENDED MOTION:****4. FISCAL IMPACT: (Finance, OMB, & Human Res.)****5. COUNTY ATTORNEY:****6. COUNTY ADMINISTRATOR:**

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**Fiscal Impact****Attachments**

*No file(s) attached.*

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# EXHIBIT K

**HAND OUT**  
Date 01-26-22  
Item No. DL

**MASTER AGREEMENT FOR NETWORK DESIGN  
AND CONSTRUCTION SERVICES**

This Master Design and Construction Agreement (“Construction Agreement” or “MCA”) is made and entered into this \_\_\_ day of \_\_\_\_\_, 2022 (the “Effective Date”) by and between ALLO Arizona, LLC a Nebraska limited liability company located at 330 South 21<sup>st</sup> Street, Lincoln, Nebraska 68510 (“ALLO”) and Yuma County, Arizona, an Arizona political subdivision located at 198 S. Main Street, Yuma, Arizona 85364 (“County” or “Customer”). ALLO and the County are collectively referred to herein as the “Parties” and sometimes individually referred to herein as a “Party.”

RECITALS

- A. The County is seeking to develop an affordable, reliable, and scalable middle-mile fiber optic broadband network (“Fiber Network”) to support next generation high speed broadband Internet to government agencies, businesses, residences, and other entities throughout the County.
- B. The County issued a Request for Proposals (“RFP”) on July 6, 2021, seeking a public or private partner to, among other things, design ,construct, operate, and manage the Fiber Network.
- C. ALLO responded to the RFP on September 7, 2021, offering a number of proposals and representations to the County (“ALLO’s Proposal”), including the ability to design and construct the Fiber Network.
- D. ALLO desires to provide Construction Services to the County.
- E. The County, in reliance upon these and other representations contained in ALLO’s Proposal, and those made in subsequent meetings, and in accordance with all Applicable Laws and policies governing procurement, selected ALLO as its primary partner to provide certain services related to the design, construction, and installation of the Fiber Network, as more particularly described in Work Orders executed pursuant to this Agreement.

**NOW, THEREFORE**, in consideration of the mutual promises set forth below, and for other good and valuable consideration, the adequacy and receipt of which are hereby acknowledged, ALLO and the County agree as follows:

**Article 1: Table of Exhibits Made Part of This Agreement.**

- 1.1 Exhibit A: Work Order Form
- 1.2 Exhibit B: RFP NO. YC21-22B

**Article 2: Definitions.**

- 2.1 “Affiliate” means, with respect to any specified Person, any other Person controlling or

controlled by or under common control with the specified Person. For the purposes of this definition, “control” means the power to direct management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise.

- 2.2 “ALLO” has the meaning set forth in the Preamble.
- 2.3 “Applicable Laws” means all applicable laws, regulations, ordinances, and other rules of the federal, state, municipality, territory, parish, county, local government or political subdivision thereof or any other duly constituted public authority having jurisdiction over ALLO, the County’s Fiber Network, the County’s Site, or the activities being performed. It is understood and acknowledged the terms of the RFP shall be considered “Applicable Laws.”
- 2.4 “Applicable Standards” means all applicable engineering safety and other standards governing the placement, installation, construction, excavation of the Fiber Network, as well as the performance of all work in or around the Fiber Network facilities which are in effect at the time the Work is performed, and includes the most current versions of National Electrical Safety Code (“NESC”), the National Electrical Code (“NEC”), and the regulations of the Occupational Safety and Health Administration (“OSHA”), Arizona and County building and construction codes.
- 2.5 “Authorizations” means all required permits, authorizations, franchises, and contracts necessary to construct the Fiber Network and occupy the public right-of-way, poles, ducts, conduits, or easements.
- 2.6 “Change Order” means a revision to a Work Order that is mutually agreed to in writing according to Section 3 of the Agreement.
- 2.7 “Construction Agreement” or “Agreement” has the meaning set forth in the Preamble.
- 2.8 “County” has the meaning set forth in the Preamble.
- 2.9 “Default” has the meaning set forth in Section 4.b.
- 2.10 “Design Specifications” means those agreed upon design and technical specifications for the Fiber Network contained in a particular Work Order.
- 2.11 “Dispute” has the meaning set forth in Section 5.
- 2.12 “Fiber Acceptance Testing” or “Acceptance Testing” means, collectively and individually, those procedures described in Section 7.7, and any Work Order which ALLO shall perform for the County’s benefit prior to acceptance by the County.
- 2.13 “Fiber Network” means the County’s middle mile fiber network and all associated Facilities, as defined below, and equipment.

- 2.14 “Fiber Network Facilities” or “Facilities” means the fiber, cabling, conduits, electronics, and associated hardware and equipment comprising the County’s Fiber Network.
- 2.15 “Force Majeure Event” has the meaning set forth in Section 13.2.
- 2.16 “Governmental Authority” means any federal, state, regional, county, city, municipal, local, territorial, or tribal government, or any department, agency, bureau, or other administrative or regulatory body obtaining authority from any of the foregoing, including without limitation, courts, public utilities, and sewer authorities.
- 2.17 “Industry Standards” means the current usual and customary practices in the performance of Work applicable to similarly situated entities within the telecommunications industry located in Arizona, as they are in effect from time to time.
- 2.18 “Irreparable Delay” means the failure of ALLO to meet any time period or date established in a Work Order, including the agreed upon Schedule for reaching key construction milestone, the failure of which has a material adverse effect on the Project (it being understood any delay arising as a result of a Force Majeure Event shall not be considered Irreparable Delay).
- 2.19 “Marks” has the meaning set forth in Section 12.
- 2.20 “Materials” means all Network Facilities, products, and equipment furnished, supplied, or procured by ALLO under this Agreement, including without limitation, all fiber, conduit, cable splicing kits, manholes, pull boxes, handholes, patch panels, patch cards, optoelectronics, and all other materials.
- 2.21 “Person” means an individual, a partnership, a joint venture, a corporation, a trust, an unincorporated organization, a government or any government department or government agency or any other entity.
- 2.22 “Project” is defined in Section 3.1.
- 2.23 “Request for Proposals” or “RFP” means the Yuma County, Arizona RFP NO. YC21-22B for a Middle-Mile Fiber Optic Network/Wide Area Network.
- 2.24 “Schedule” means the agreed upon schedule as specified in Work Orders establishing the time period at which key design and construction milestones for the Fiber Network will be accomplished.
- 2.25 “Segment” means an identified portion of Facilities that span identified points of the Fiber Network.
- 2.26 “Services” means all design, construction, and installation services and all other Work to



be performed by ALLO or any of its Subcontractors under this Agreement, including all Materials, equipment, and personnel required to provide such services.

- 2.27 “Site” means the location where the Services are performed.
- 2.28 “Subcontractor” means any entity or Person hired by ALLO to perform work required to assist ALLO in performance of the Work.
- 2.29 “Term” has the meaning set forth in Section 4.
- 2.30 “Work” shall mean Services and Materials furnished by ALLO.
- 2.31 “Work Order” means the work order form attached to this Agreement as Exhibit A, and subsequent work orders executed by the Parties.

### **Article 3: Scope of Agreement**

- 3.1 ALLO shall design, construct, and install the County’s Fiber Network as contemplated by the RFP and more specifically described in this Agreement and associated Work Orders (collectively the “Project”).
- 3.2 Unless otherwise specified, all of the Fiber Network Facilities will be owned by the County after acceptance testing and all required payments related to the particular Fiber Network Facilities and Segments at issue.
- 3.3 ALLO will be responsible for securing and maintaining all necessary Authorizations for the construction, installation, and occupation of the Fiber Network on behalf of the County within rights-of-way, easements, and on third-party poles, ducts, and conduits.
- 3.4 The requirements of the RFP are incorporated by reference into this Construction Agreement as if fully set out, except, as contemplated prior to and during the RFP interview and evaluation process, that the creation of a separate dedicated wide area network shall not be required, and instead, designated government facilities and community anchor institutions shall have the ability to be served by the Fiber Network as part of the agreed upon design specifications and Fiber Network route.
- 3.5 The Fiber Network shall be subject to available County funding and shall be constructed in phases as specified herein and through agreed upon Work Orders. The County will have final approval authority over all Fiber Network routes, designs, and phases of construction.
- 3.6 This Agreement shall act as a Master Agreement under which the Parties can enter into multiple specific transactions by executing a Work Order, a form of which is attached hereto as Exhibit A, or another form approved or accepted by an authorized representative of ALLO. This Agreement, along with the individual Work Orders, shall form a single integrated agreement between the Parties.

- 3.6.1 Each Work Order shall include, at a minimum, a detailed description of the work to be performed (“Scope of Work”), a price and payment terms for the performance of that work (“Price”), Materials, if any, to be provided as a part of the Work Order, and a progression schedule to govern all phases of that Work Order’s work (“Work Order Schedule”).
- 3.6.2 ALLO shall furnish all Materials, Services, supervision, tools, equipment and supplies necessary to construct and install the Fiber Network (collectively, the “Construction Services”), and shall perform all Project activities in accordance with the Schedule and, unless otherwise directed by the County, shall be required to proceed with the Project without undue delays or extended time intervals between Project activities. ALLO will therefore reasonably apply its resources in a manner designed to complete the Project in a timely fashion provided such activities are not inconsistent with the Schedule, sound and safe construction practices and methods, and all Applicable Standards. The quality of all Materials must be of that which is specified in any applicable Work Order, or, if not explicitly stated, shall be of a quality meeting or exceeding all applicable industry standards and shall be compatible with the County’s needs as expressed in the RFP. Any conflict or inconsistency between the terms and conditions of this Agreement, the RFP, a particular Work Order, and a Change Order shall be resolved in favor of the terms and conditions of the documents in the following order of controlling priority: this Agreement, the RFP; Change Order; and then the Work Order.
- 3.7 At any time, either Party may submit a Change Order request to the other Party related to changes in the scope, pricing, or timing of Work performed under this Agreement. The Change Order request shall include reasonably detailed information which allows the receiving Party to evaluate the Change Order request and such information shall include, without limitation, the proposed terms of the Change Order, the reason(s) for the Change Order request, and proposed meeting times to discuss the Change Order.
- 3.7.1 Upon receipt of a Change Order request, the Parties shall promptly meet to discuss the Change Order request and shall negotiate in good faith with the goal of mutually agreeing on terms related to the Change Order request. If, after thirty (30) calendar days from the initial meeting between the Parties, the Parties have not agreed to terms related to the Change Order and executed a final Change Order, the Parties shall continue good faith negotiations; provided, however, ALLO shall be excused from performing the Work requested by the proposed Change Order, and ALLO’s failure to perform such Services shall not constitute a breach of this Agreement.
- 3.7.2 No Change Order request shall become effective unless mutually agreed in writing by authorized representatives of the Parties.
- 3.7.3 Pending the resolution of a Change Order request the Parties shall continue to meet the on-going obligations of existing Work Orders, so long as those obligations are not in conflict with the contents of the pending Change Order.

#### **Article 4: Initial Design, Construction Work**

- 4.1 The initial Work Order shall govern the proposed design and construction of Phase 1 of the Fiber Network. The extent and Schedule of Phase 1 shall be defined and agreed to in the first Work Order.
- 4.1.1 Within sixty (60) days of the Effective Date, ALLO shall provide a design proposal. ALLO's design proposal shall meet the objectives and requirements of the County as set out in the RFP and established by the County and its Broadband Advisory Team, and shall include (but not be limited to) the following:
- An up-to-date, detailed and comprehensive statement of construction plans and specifications;
  - A written breakdown of the estimated costs;
  - A price that ALLO shall not exceed without further written permission from the County;
  - The date ALLO shall achieve Substantial Completion (as defined in the Work Order) of Phase 1 of Fiber Network construction and installation;
  - An enumeration of any qualifications and exclusions, if applicable;
  - A list of ALLO's key personnel, Contractors and suppliers; and
  - The date on which ALLO's proposal expires.
- 4.2 In designing the Fiber Network proposal, ALLO shall meet and reasonably coordinate with the County and its designated Broadband Advisors.
- 4.3 The County shall have final approval authority over the Fiber Network design.

#### **Article 5: Term; Dispute Resolution; Default; Termination.**

- 5.1 Term. The term of this Agreement shall commence upon the Effective Date and continue in effect for thirty-six (36) months unless terminated earlier pursuant to the terms of this Agreement. This Agreement may be extended upon the mutual written Agreement of the Parties.
- 5.2 Dispute Resolution. Except for an action seeking a temporary restraining order or an injunction or to compel compliance with this dispute resolution procedure, or any scenario where a Party may be prejudiced by following the dispute resolution procedure (*e.g.*, expiration of the statute of limitations) the Parties shall have the right to invoke the dispute resolution procedures in this Article at any time to resolve a controversy, claim, or breach arising under this Agreement. Each Party will bear its own costs for dispute resolution activity.
- 5.2.1 Initial Meeting. At either Party's written request, each Party will designate knowledgeable, responsible, senior representatives to meet and negotiate in good faith to resolve a dispute. The representatives will have discretion to decide the

format, frequency, duration, and conclusion of these discussions. The Parties will conduct any meeting in-person or via conference call, as reasonably appropriate within thirty (30) calendar days of the dispute.

5.2.2 Executive Meeting. If thirty (30) days after the first in-person meeting of the senior representatives, the Parties have not resolved the dispute to their mutual satisfaction, each Party will designate executive representatives at the director level or above to meet and negotiate in good faith to resolve the dispute. To facilitate the negotiations, the Parties may agree in writing to use mediation or another alternative dispute resolution procedure.

5.2.2.1 In the case of a dispute over a payment, either Party may seek to use non-binding mediation. The Parties shall mutually agree on a qualified mediator, no later than fourteen (14) calendar days after a Party submits a written request for mediation to the other Party. Mediation shall take place in Yuma, Arizona. Arrangements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

5.2.3 Unresolved Dispute. If after sixty (60) days from the first executive-level, in-person meeting, the Parties have not resolved the dispute to their mutual satisfaction either Party may invoke any legal means available to resolve the dispute, including enforcement of the default and termination procedures set out in Section 5.3.

5.2.4 Confidential Settlement. Unless the Parties otherwise agree in writing, communication between the Parties under this Section will be treated as confidential information developed for settlement purposes, exempt from discovery, and inadmissible in litigation.

5.2.5 Business as Usual. During any dispute resolution procedure or lawsuit, the Parties will continue providing services to each other and performing their obligations under this Agreement that are not subject to any dispute.

### 5.3 Default.

5.3.1 Default. A Default under this Agreement shall occur if: (a) a Party materially breaches this Agreement, including an Irreparable Delay; (b) such breach is not excused by any provision of this Agreement; and (c) such breach continues unremedied for a period of sixty (60) calendar days following receipt of written notice from the non-breaching Party. If the breach by its nature cannot be cured within sixty (60) calendar days and the breaching Party within that time has commenced its cure, there shall be no Default as long as the Party diligently continues such cure to completion within one hundred and twenty (120) calendar days.

5.3.2 Default Rights. Upon the occurrence of a Default, the non-breaching Party shall have the right, subject to the express limitations contained in this Agreement, to immediately terminate this Agreement and/or suspend performance under this Agreement until the Default is cured. Unless otherwise stated in this Agreement, nothing in this Agreement shall preclude either Party from also pursuing other available remedies, including damages, injunctive relief, and costs (including reasonable attorneys' fees).

5.3.3 Completion/Remedy of Network Construction. In the event of an uncured Default by ALLO in the performance of its installation or construction of the Fiber Network, the County, in addition to any other available remedies, may, subject to Section 9, remedy or complete the construction of the Fiber Network at ALLO's expense, the costs of which may be recovered by the County from ALLO's Performance Bond.

#### 5.4 Termination.

5.4.1 Either Party may terminate this Agreement without cause within the first sixty (60) days after the Effective Date by providing the other Party with advanced written notice of its intent to terminate to the other Party.

5.4.2 The County may terminate this Agreement with or without cause by providing sixty (60) days' advanced written notice of its intent to terminate to ALLO.

5.4.3 Unless the Parties agree in a signed writing, or this Agreement is terminated or expires pursuant Sections 5.3, 6.5, or 8.1.1, any termination will not be effective if notice is provided less than sixty (60) days prior to the end of the term.

### **Article 6: Compensation, Invoicing and Payment.**

6.1 Compensation. ALLO shall receive the compensation agreed to in the applicable Work Order.

6.2 Invoicing; Payment. ALLO shall invoice the County on or before the fifteenth (15<sup>th</sup>) day of each month for Work performed by ALLO during the prior month. Payment terms are net 30 days from the date the invoice is received unless otherwise specified in the Work Order. Unless otherwise stated in this Agreement, the County's obligation to pay fees on completed Work to ALLO shall survive termination of this Agreement.

6.3 Payment Dispute. In the event there is a good faith dispute relating to the payment of any amount due under this Agreement, the Party claiming the dispute will notify the other Party of the dispute in writing and the Parties will then follow the Dispute Resolution Process set out in Section 5.2, and the Parties will meet to discuss the dispute and attempt to resolve it in good faith. Pending the resolution of a payment dispute the failure to pay a disputed charge shall not constitute a breach of the Agreement provided that the County continues to pay all fees and charges that are not being contested.

- 6.4 Price Changes. In the event ALLO reasonably believes the compensation associated with any Work Order requires changes to compensate ALLO for unanticipated and unforeseeable changes in market conditions (*e.g.*, inflation, supply shortages, labor cost increases, changes in Applicable Law, etc.), ALLO shall submit such request in the form of a Change Order and the Parties shall follow the procedures outlined in Section 3.7 hereof.
- 6.5 Non-Appropriation Clause. ALLO acknowledges that the County is a governmental entity and that the Agreement's validity is based upon the availability of public funding under its authority. In the event that public funds are unavailable and not appropriated for the County's obligations under this Agreement, then this Agreement shall automatically expire without penalty to the County after written notice to ALLO of the unavailability and non-appropriation of public funds. It is expressly agreed that the County shall not activate the non-appropriation provision for its convenience or to circumvent the requirements of this Agreement, but only as an emergency fiscal measure.

#### **Article 7. Performance of Work.**

- 7.1 Applicable Law. ALLO and County shall observe and abide by all Applicable Laws, including all regulations pertaining to safety, health, and the environment.
- 7.2 Materials; Personnel. Unless otherwise stated in a Work Order, or otherwise agreed upon in a writing signed by both Parties, ALLO shall furnish all labor, Materials, supplies, tools, equipment, services, and transportation necessary to perform the Work. All personnel furnished by ALLO shall be duly qualified, licensed, and experienced in their respective capacities.
- 7.3 Site Encumbrance. ALLO shall confine its Materials and equipment and the operations of its workers to the limits indicated by the County and shall not unreasonably encumber any Site. ALLO shall keep stored Materials in good order, the applicable Site free of rubbish and surplus material, and shall, in accordance with Applicable Laws, remove all rubbish and waste material caused by an operation under its charge.
- 7.4 Monitoring Work. ALLO shall provide to the County the ability to monitor ALLO's Work under this Agreement and all associated Work Orders. The County shall have the right to inspect, at any reasonable time, ALLO's operations and facilities including tools, equipment, materials, services, and inventory thereof.
- 7.5 Subcontractors. ALLO may use Subcontractors to assist ALLO in performance of the Work, at ALLO's reasonable discretion. The creation of any Subcontractor relationship shall not relieve ALLO of any of its obligations under this Agreement.
- 7.6 County Cooperation. The County acknowledges some of ALLO's performance of the Work may be contingent upon the County providing reasonable support and assistance to

ALLO during its performance of the Work. In the event the County's unreasonable acts or omissions delay or prevent ALLO's performance of the Work, ALLO's failure to perform the applicable Work shall not be considered a breach of this Agreement and ALLO shall have no obligation to perform the Work until the County undertakes any actions necessary to allow ALLO to proceed.

7.7 Fiber Acceptance Testing. ALLO shall test the Fiber Network Facilities in accordance with the procedures consistent with Industry Standard specifications ("Fiber Acceptance Testing"). ALLO shall provide the County reasonable advance notice of the date and time of each Fiber Acceptance Testing such that the County shall have the opportunity to have County personnel or representatives present to observe the Fiber Acceptance Testing.

7.7.1 When ALLO has determined that the results of the Fiber Acceptance Testing show that the Fiber Facilities have been installed and are operating in conformity with the County's specifications, ALLO shall promptly provide the County written notice of the same (a "Completion Notice") and a copy of such test results.

7.7.2 Within thirty (30) days of the County's receipt of a Completion Notice, the County shall provide ALLO with a written notice accepting or rejecting the Fiber Facilities. Any rejection shall specify, in reasonable detail, the defect or failure in the Fiber Acceptance Testing. If the County fails to notify ALLO of its acceptance or rejection of the Fiber Facilities within thirty (30) days following the County's receipt of the Completion Notice, the County shall be deemed to have accepted the Fiber Facilities. The date of such notice of acceptance or deemed acceptance of the Fiber Facilities shall be the "Acceptance Date". In the event that any Fiber Facilities are not operating in conformity with any applicable specification(s), or of any good faith rejection of the Fiber Facilities, ALLO shall take such action as reasonably necessary, and as expeditiously as practicable, to correct or cure such defect or failure. The process of Fiber Acceptance Testing and notice to the County shall be repeated with respect to such rejected Fiber Facilities until deemed accepted. If it is determined that any defect in the installation or operation of a Fiber Facility was caused by ALLO, the County shall not be responsible for any cost incurred to cure that defect.

7.7.3 Upon acceptance of a Segment of Fiber Facilities and all required payments of invoices related to the applicable Segment of Fiber Facilities, title to such Fiber Facilities will transfer to the County. That is, transfer of title for particular Fiber Facilities will not depend on acceptance and payments with respect to other Fiber Facilities. Title to the Facilities shall transfer to the County free of any liens (except liens which may have arisen as a result of acts or omissions of the County).

7.7.4 As soon as reasonably practicable after the Acceptance Date, ALLO shall provide the County with digital copy of the as-built drawings and technical specifications of the Fiber Network Facilities in ALLO's standard format.

**Article 8: Representations and Warranties; Service and Product Warranties; Warranty Disclaimer.**

8.1 Representations and Warranties. By execution of this Agreement, each Party represents and warrants to the other that: (a) the Party is duly organized, validly existing, and in good standing under the laws of the jurisdiction of its organization; (b) the Party has full right and authority to enter into and perform this Agreement in accordance with its terms; (c) the Party's execution, delivery, and performance of this Agreement will not conflict with, violate, or result in a breach of (i) any law, regulation, order, writ, injunction, decree, determination, or award of any governmental authority or any arbitrator, applicable to such Party, (ii) any of the terms, conditions or provisions of its charter, bylaws, or other governing documents of such Party, (iii) any material agreement to which it is a Party, or (iv) any instrument to which such Party is or may be bound or to which any of its material properties or assets is subject; (d) the Party's execution, delivery and performance of this Agreement has been duly authorized by all requisite corporate action; (e) that the signatories for such Party are authorized to sign this Agreement; (f) other than Yuma County Superior Court Cases No. S1400CV202100776 and S1400CV202200019, to which the County is a party, there are no actions, suits, proceedings or investigations pending, or to the knowledge of the Party, threatened against or affecting the Party of any of its properties, assets, or businesses in any court or before or by any governmental authority that could, if adversely determined, reasonably be expected to have a material adverse effect on the Party's ability to perform its obligations under this Agreement; (g) the Party has not received any currently effective notice of any material default.

8.1.1 In the event either Party is or becomes involved in any action, suit, proceeding, or investigation contemplated above, that Party agrees to immediately notify and keep the other Party reasonably informed as to the status of such action, suit, proceeding, or investigation. If or when there becomes a strong likelihood that an adverse determination of the action, suit, proceedings, or investigation is imminent and will have a material adverse effect on the Party's ability to perform its obligations under this Agreement, that Party must promptly notify the other Party and, at which time, either Party may terminate this Agreement upon reasonable notice.

8.2 Service Warranties. ALLO represents and warrants that: (a) all Services, whether performed by ALLO or its subcontractors, will be performed in a good and workmanlike manner, in accordance with all Applicable Standards and material specifications for the Services set forth in this Agreement, the RFP, and all applicable Work Orders, and in accordance with accepted Industry Standards; (b) if any Services require certifications or licenses, that all workers performing such Services shall be so certified or licensed; (c) to the best of its actual knowledge, any Materials or products furnished under this Agreement are free from defects in design and workmanship, and all Materials, are in compliance with all Applicable Standards and specifications set forth in this Agreement and all applicable Work Orders, and are not counterfeit, and that unless otherwise specified, are new and have not been previously used.



- 8.3 Manufacturer's Warranties. Unless otherwise specified, all manufacturer's warranties and remedies applicable to Materials and products shall be assigned and transferred to the County and ALLO agrees to reasonably assist and cooperate with the County in the enforcement of such warranties.
- 8.4 Warranty Defects. If prior to completion of any Work or within one (1) year following the completion of such Work (or longer if so specified in a Work Order) the County reasonably determines that: (a) ALLO has not performed the Work or (b) ALLO has made a material error or omission in the performance of the Work, then ALLO, upon receiving written notice from the County, at its own expense, shall promptly undertake and complete such corrective action as is reasonably necessary to remedy the error, omission, defect, or nonconformance. If ALLO does not complete such required corrective action within the reasonable deadline established by the County following receipt of written notice from the County that such corrective action is required, then the County may either perform such corrective action itself or hire one or more third parties to perform such corrective action and ALLO shall be liable to the County for the reasonable, documented cost of such corrective action.
- 8.5 Warranty Disclaimer. EXCEPT AS SPECIFICALLY SET FORTH IN THIS AGREEMENT AND OR WORK ORDER, THE COUNTY AND ALLO MAKE NO WARRANTIES, WHETHER EXPRESS OR IMPLIED, AS TO THE MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF ANY OF ITS WORK OR MATERIALS, OR ANY OTHER SERVICE PROVIDED OR DESCRIBED IN THIS AGREEMENT, OR AS TO ANY OTHER MATTER, ALL OF WHICH ARE HEREBY EXPRESSLY EXCLUDED AND DISCLAIMED.

#### **Article 9: Limitation of Liability**

NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE OR CONSEQUENTIAL COSTS, LIABILITIES OR DAMAGES, WHETHER FORESEEABLE OR NOT, INCLUDING WITHOUT LIMITATION AS APPLICABLE, ECONOMIC LOSS OR LOST BUSINESS OR PROFITS, INTERRUPTIONS OF SERVICE, OR ANY DELAY, ERROR OR LOSS OF DATA OR INFORMATION, ARISING IN ANY MANNER OUT OF, OR IN CONNECTION WITH, THIS AGREEMENT AND A PARTY'S PERFORMANCE OR NONPERFORMANCE OF ITS OBLIGATIONS UNDER THIS AGREEMENT, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT OR TORT (INCLUDING STRICT LIABILITY), ALL CLAIMS FOR WHICH ARE HEREBY SPECIFICALLY WAIVED. Unless otherwise stated in a Work Order, ALLO's maximum aggregate liability for any and all Claims or Losses arising under this Agreement shall not exceed the greater of one million dollars (\$1,000,000.00) or the amount actually paid by the County to ALLO under this Agreement and associated Work Orders. Nothing contained within this Agreement is intended to be a waiver of the County's immunity pursuant to Applicable Law.

## **Article 10: Insurance**

- 10.1 Coverages. At a minimum, ALLO shall procure and continuously maintain throughout the term of this Agreement insurance coverages in accordance with the insurance coverage requirements of the RFP. Failure to do so shall constitute a material breach of this Agreement subject to the Default provisions of Section 5.3.
- 10.2 Certificate of Insurance. Any policy endorsements that restrict or limit coverage shall be clearly noted on a Certificate of Insurance. Prior to commencing Work under this Agreement, ALLO shall furnish the County with a Certificate of Insurance, or formal endorsements as required by this Agreement as issued by ALLO's insurer(s) as evidence that policies providing the required coverages, conditions, and limits required by this Agreement are in full force and effect. Such certificates shall identify this project by name and RFP number and shall provide for not less than thirty (30) days advanced notice of Cancellation, Termination, or Material Alteration. Such certificates shall be sent directly to Yuma County Risk Management Office, 198 Main Street, Yuma, Arizona 85364 or emailed to the Yuma County Administration at [susan.thorpe@yumacountyaz.gov](mailto:susan.thorpe@yumacountyaz.gov).

## **Article 11: Indemnification**

- 11.1 Indemnification; Indemnification Procedures. Except as provided herein, each Party and subject to Section 9, on behalf of itself and its affiliates, directors, officers, employees, agents, successors, and assigns ("Indemnitor") agrees to indemnify, defend, protect and hold the other Party and its directors, officers, directors, employees, agents, successors, and assigns ("Indemnitee") harmless from and against any claims, suits, actions or damages brought or asserted by a third party of any kind or character (collectively "Claims") and from and against any liability, losses, fines, judgments, costs and expenses (including reasonable attorney, accountant and expert fees) arising out of any Claims (collectively, "Losses") incurred by any Indemnitee (a) because of the death of any person, or any injuries or damage received or sustained by any persons or property, which in whole or in part arises on account of the negligent acts, errors, or omissions or willful misconduct of the Indemnitor in the performance of its obligations or exercise of its rights under this Agreement, including any material violation by Indemnitor of any law or permit applicable thereto; (b) under the Workers' Compensation laws asserted by any other person providing goods or services for or on behalf of any of the foregoing in connection with this Agreement; or (c) arising out of, caused by, related to, or based upon, a contractual or other relationship between such claiming party and the Indemnitor.
- 11.2 The Indemnitor shall defend the Indemnitee in any proceeding alleging the third party claims listed above, at Indemnitor's sole cost and expense. The Indemnitor will have the option to select and provide legal counsel for that defense. If Indemnitee wants additional counsel of its choosing, the costs and expenses of the additional counsel will be Indemnitee's responsibility, and Indemnitor will have no obligation to pay additional counsel. Indemnitor's counsel will lead, direct and manage the litigation, and will ensure Indemnitee's additional counsel receives adequate information to monitor the litigation.

- 11.3 Notwithstanding the foregoing, any indemnification provisions shall apply to the County only to the extent permitted by Applicable Law. Nothing contained herein is intended to waive any limitations or protections or coverages available to the County under Applicable Law.
- 11.4 This Article 11 shall survive the expiration or termination of this Agreement.

#### **Article 12: Performance Bond**

- 12.1 For each Work Order executed by the Parties, ALLO shall provide payment and performance bonds each in a penal sum equal to one hundred percent (100%) of the price set forth in that Work Order and obligating the surety to the terms of that specific Work Order. The form of the payment and performance bonds will comply with the requirements of Title 34 of the Arizona Revised Statutes. The performance bond shall be valid through the entire period of ALLO's obligations, including through the expiration of the warranty period, express and implied. The payment bond shall remain valid until ALLO has made final payments to all obligees. Any surety issuing bonds naming ALLO the bond principal shall be authorized to conduct business as a surety in the State of Arizona. No personal surety shall be permitted.
- 12.2 Indemnification. The Performance Bond/Security Fund shall indemnify the County, up to the full face amount of the Performance Bond, for: (i) any loss or damage to any structure or other Right-of-Way of the County during the course of any construction of the Fiber Network; (ii) any other cost or loss or damage actually incurred by the County as a result of ALLO's failure to perform its obligations pursuant to this Agreement or Work Order; and (iii) the County's cost of completing Work that ALLO has failed to complete in a timely manner pursuant to the terms of this Agreement and Work Orders.
- 12.3 Not a Limit on Liability. The obligation to perform and the liability of ALLO pursuant to this Agreement and Work Orders shall not be limited by the acceptance of the Performance Bond required by this Article 12.

#### **Article 13: Miscellaneous**

- 13.1 Audit. Upon reasonable prior written notice to the ALLO, and no more than once in a contract year, the County may perform or arrange to have audits performed to verify ALLO's compliance with this Agreement and Work Orders. All audits will be performed at the County's sole expense and during ALLO's normal business hours, provided that if the audit reveals substantial non-compliance, ALLO shall pay the costs of the audit.
- 13.2 Force Majeure.
- 13.2.1 Force Majeure Events. Notwithstanding any other provision of this Agreement or Work Order, neither Party shall be responsible to the other Party, or for any loss or damage, resulting from any event or circumstance beyond the reasonable

control of the Party, including but not limited to an earthquake, hurricane, fire, flood, lightning, sinkhole or other forces of nature, acts of war, terrorism (including cyberterrorism), or civil unrest, strikes, lockouts or other labor unrest, unforeseeable inflation or supply chain issues, pandemics or legal order, government action or application of laws, regulations or codes (each a, "Force Majeure Event").

13.2.2 Response to Force Majeure Events. A Party whose performance is impacted by a Force Majeure Event shall provide reasonable notice to the other Party and shall make commercially reasonable efforts to minimize the impact of the Force Majeure Event on its performance.

13.2.3 Suspension Pending Force Majeure. The deadline by when a Party must perform an obligation under this Agreement, shall be postponed by the period of time by which the Party's ability to perform that obligation is materially prevented or interfered with by a Force Majeure Event.

13.3 Intellectual Property. Nothing in this Agreement shall be construed as a grant of any right or license under any copyrights, inventions, patents, trade secrets or other intellectual property now or later owned or controlled by ALLO or the County, and nothing in this Agreement shall be construed as granting any right, title or interest in the other Party's trademarks, trade names, service marks or other intellectual property rights. The Parties agree not to use the trademarks, trade names, or service marks ("Marks") of the other Party without prior written permission of the Party owning such Mark. Licenses or other intellectual property obtained by ALLO in the performance of Work on behalf of the County and paid for by the County shall be owned by the County.

13.4 Legal Arizona Workers Act Compliance. To the extent applicable under A.R.S. § 41-4401, ALLO and its subcontractors warrant compliance with all federal immigration laws and regulations that relate to their employees and compliance with E-Verify requirements under A.R.S. § 23-214(A). ALLO shall further ensure that each subcontractor who performs any work for the County under this Agreement complies with all State and Federal Immigration Laws.

13.5 Cancellation Pursuant to A.R.S. § 38-511. The Parties acknowledge that this Agreement is subject to cancellation by the County pursuant to the provisions of Section 38-511, Arizona Revised Statutes.

13.6 Confidentiality. Any other provision of this Agreement notwithstanding, the Parties acknowledge that Yuma County is a public institution, and as such is subject to Arizona Public Records Act, A.R.S. § 39121, et seq. Any provision regarding confidentiality is limited to the extent necessary to comply with the provisions of State law. The County agrees to keep confidential any and all information and/or documents designated as confidential or proprietary by the other Party to the fullest extent permitted by law. In the event a public records request is made for information and/or documents designated as confidential or proprietary, the County will notify ALLO as soon as possible.

- 13.7 Nondiscrimination. The Parties agree to comply with all applicable state and federal laws, rules, regulation and executive orders governing equal employment opportunity, immigration, nondiscrimination, including the American with Disabilities Act, and affirmative action.
- 13.8 Israel Boycott Certification. ALLO certifies it is not currently engaged in and agrees for the duration of this Agreement to not engage in, a boycott of goods or services from Israel as defined by A.R.S. § 35-393.01. This certification does not apply to a boycott prohibited by 50 U.S.C. § 4842 or a regulation issued pursuant to 50 U.S.C. § 4842.
- 13.9 Taxes. Each Party shall be responsible for paying its own federal, state, and/or local sales, use, excise, value-added, personal property, income, or other taxes or charges assessed on or levied against any transaction or event arising from the performance of this Agreement. Notwithstanding the foregoing, the County acknowledges that taxes that would otherwise be assessed on and/or paid by the County that are assessed on and/or paid by ALLO in the course of its Work (which shall include, without limitation, taxes on Materials, labor, and Arizona transaction privilege taxes) shall be deemed to be costs of the Project and shall be passed through to the County without markup and shall be reimbursed by the County as part of the invoicing process; provided, however, in no event shall the County be responsible for taxes based on ALLO's income.
- 13.10 Assignment. This Agreement will not be assigned by either Party without the prior written consent of the other Party, which consent will not be unreasonably withheld. However, ALLO shall have the right to assign this Agreement or delegate any obligation of this Agreement to any Affiliate of ALLO, provided that such Affiliate possess all of the requisite skills, experience, and resources to provide the agreed to Services under this Agreement and Work Orders. This Agreement shall be binding on and inure to the benefit of the Parties and their respective permitted successors and assigns.
- 13.11 Independent Contractor. This Agreement is made with the express understanding that ALLO is an independent contractor of the County. This Agreement is a contractual relationship, and nothing contained herein shall be construed or applied to create the relationship of employer and employee or principal and agent or master and servant between ALLO and County or any of ALLO's Subcontractors, their employees or other personnel. ALLO represents that it has or will secure, at its own expense, all personnel required in performing the Work under this Agreement and all Work Orders. Such personnel shall not be employees of or have any contractual relationship with the County. All personnel engaged by ALLO to work under this Agreement shall be fully qualified and shall be authorized or permitted under state and local law to perform such services. It is further agreed by ALLO that it shall obey all state and federal statues, rules, and regulations which are applicable to the provision of services called for herein. Neither ALLO nor any of its directors, officers, directors, employees, or agents shall be deemed an officer, employee, or agent of the County.

- 13.12 Interference with Operations. ALLO shall not interfere with the normal operation of the County's facilities, equipment, or the work of any County contractor or subcontractor on the County premises. When ALLO anticipates any unavoidable interference, it shall notify the County as soon as ALLO receives knowledge of that interference, and any Schedule adjustment may be made accordingly. Should the interference request be denied and result in an unavoidable delay in the Schedule, ALLO shall be entitled to a mutually agreed to extension of time for performance. The County shall have final determination of priorities in case of conflicts with the operation of others. ALLO shall not operate any of the County's equipment or control devices or those of any County contractor or subcontractor on the County's premises, except at the direction and under the immediate supervision of the County's designated representative.
- 13.13 Notices. All notices, demands, and requests required or permitted to be given under the provisions of this Agreement or Work Order shall be in writing and (a) delivered by electronic mail with confirmation of delivery receipt or (b) sent by overnight commercial delivery service or certified mail, return receipt requested. Notice shall be deemed to have been given on the date of the transmission and receipt of electronic mail transmissions, or the delivery date set forth in the records of the delivery service or on the return receipt when addressed as follows:

If to ALLO:

ALLO Arizona, LLC  
c/o Brad Moline, President  
330 S. 21<sup>st</sup> Street  
Lincoln, NE 68510  
brad.moline@allofiber.com

With a copy to:

ALLO Arizona, LLC  
c/o Legal Department  
121 S. 13<sup>th</sup> St., Ste 100  
Lincoln, NE 68508  
mark.pence@nelnet.net

If to County:

County of Yuma, Arizona  
c/o Susan Thorpe, County Administrator  
198 S. Main Street  
Yuma, AZ 85364  
Susan.thorpe@yumacountyaz.gov

With a copy to:

County of Yuma, Arizona  
County Attorney  
198 S. Main Street  
Yuma AZ 85364  
Jon.r.smith@yumacountyaz.gov

- 13.14 Dispute Resolution; Governing Law. The validity, construction, effect, and enforcement of this Agreement and the obligations, rights, and remedies of the Parties hereunder shall be governed by the laws of the State of Arizona. The venue shall be solely the appropriate state court in Yuma County. EACH PARTY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF THIS AGREEMENT.
- 13.15 Headings. Headings and captions of this Agreement's sections and paragraphs are only for convenience and reference. These headings and captions shall not affect or modify this Agreement's terms or be used to interpret or assist in the construction of this Agreement.
- 13.16 Waiver; Amendment; Severability. The waiver or failure of either Party to exercise in any respect any right provided for in this Agreement will not be deemed a waiver of any further right under this Agreement. No amendment or other modification of this Agreement shall be effective unless made in writing and signed by the Parties to this Agreement. In the event any provision or part of this Agreement is found to be invalid or unenforceable, only that particular provision or part so found, and not the entire Agreement, will be inoperative.
- 13.17 Counterparts. This Agreement may be executed in any number of counterparts. Each counterpart will be deemed an original, but all counterparts together will constitute the same instrument.
- 13.18 Entire Agreement. This, together with all approved Work Orders, is the entire and exclusive statement of the Agreement between the Parties including all duly executed exhibits, which supersedes and merges all prior proposals, understandings and all other agreements, oral and written, between the Parties relating to the Services or any other provision of this Agreement.

ALLO ARIZONA, LLC

YUMA COUNTY, AZ

By: \_\_\_\_\_

Bradley A. Moline

Title: President

Date: \_\_\_\_\_

By: \_\_\_\_\_

Marco A. (Tony) Reyes

Title: Chairman, Board of Supervisors

Date: \_\_\_\_\_



**EXHIBIT A**

**WORK ORDER FORM**

**Date of Work Order:** \_\_\_\_\_

1. **PROJECT DESCRIPTION.** Design build of the Yuma County middle-mile Fiber Network (“Project”)
2. **SCOPE OF WORK.**
3. **WORK SCHEDULE.**
4. **COMPENSATION.**
5. **ADDITIONAL TERMS AND CONDITIONS.**

This Work Order is made expressly subject to that certain Master Construction Agreement by and between the County and ALLO (the “MCA”).

  - 5.1 The County acknowledges that the MCA was entered into on its behalf; ratifies the execution of such MCA; and agrees to be bound thereby with respect to this Work Order.
  - 5.2 ALLO acknowledges that the MCA was entered into on its behalf; ratifies the execution of such MCA; and agrees to be bound thereby with respect to this Work Order.
  - 5.3 THIS WORK ORDER MAY NOT AMEND, MODIFY OR CHANGE THE MCA. IN THE EVENT OF A CONFLICT OR INCONSISTENCY BETWEEN THE TERMS AND CONDITIONS OF THE MCA AND THIS WORK ORDER, THE TERMS AND CONDITIONS OF THE MCA SHALL GOVERN AND CONTROL.
  - 5.4 This Work Order shall only be deemed valid and accepted if signed by both Parties.
  - 5.5 This Work Order may be amended modified or changed (“Change Order”) only by a written amendment that is signed by an authorized representative of each Party.

ALLO ARIZONA, LLC

YUMA COUNTY, AZ

By: \_\_\_\_\_

By: \_\_\_\_\_

Bradley A. Moline

Title: President

Title:

Date: \_\_\_\_\_

Date: \_\_\_\_\_