

**AGREEMENT BETWEEN EL DORADO COUNTY LIBRARY AND CALIFA
FOR THE PROVISION, INSTALLATION AND MAINTENANCE OF
ADVANCED NETWORK (DATA) SERVICES**

This Agreement, hereinafter referred to as "Agreement", is entered into as of July 1, 2021 by and between Califa Group, a California public benefit corporation, hereinafter referred to as "Califa" and El Dorado County Library, hereinafter referred to as "Library". Califa and Library are sometimes referred to in this Agreement individually as "Party" and collectively as "Parties". All written communications between the parties shall be addressed as follows unless and until amended in writing by the respective party.

**El Dorado County Library
Carolyn Brooks
Director of Library Services
345 Fair Lane
Placerville, CA 95667**

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

WITNESS THAT

WHEREAS, Califa, on behalf of the California State Library, has contracted with Corporation for Education Network Initiatives in California (CENIC) to provide high speed networking to libraries in California; and

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

NOW THEREFORE, Library and Califa enter into this Agreement:

1. Relationship between the Parties

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

2. Services to be Provided

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

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

Library is responsible for analyzing the cost of any early termination penalties that might apply to its existing connections.

If Library is currently getting E-rate funding for its existing services, Library remains responsible for continuing to apply for those until all CENIC services are turned up and all legacy services are canceled.

3. Term and Termination of this Agreement

- (a) **TERM OF THIS AGREEMENT.** This Agreement shall be in effect from July 1, 2021 until the termination of all circuits ordered under this Agreement, or unless otherwise terminated by a Party pursuant to the terms of this Agreement.
- (b) **TERMINATION.** Termination prior to the end date of any given circuit shall result in Library having to pay any circuit telecommunications carrier termination charges resulting from early termination of the Service. Notwithstanding the above, upon a 60 day written notice prior to the second and each following June 30 after a circuit is installed, Library may cancel a circuit without penalty if funding to pay for that circuit is not available and Library does not for at least 12 months after said notice order or otherwise obtain a replacement circuit in place of the cancelled circuit.
- (c) Library may terminate this agreement if non-recurring, one-time costs for all circuits included in appendix 1 are increased by the telecommunications carrier from the amount shown in appendix 1. See footnote for non-recurring charges in appendix 1 for more information.

4. Payment

Payment for services shall be due within thirty (30) days of receipt of a Califa invoice reflecting provision of the services for which the invoice is sent; or as otherwise agreed to by Library and Califa. Except for non-recurring costs, if any, costs in Appendix I shall only begin upon installation of circuit(s). Library will put forth reasonable efforts to make payments within thirty (30) days after receipt of invoice. Unless otherwise agreed to between the Parties, all circuit deployment fees are non-cancelable and nonrefundable, and any outstanding circuit deployment fees shall become due and payable immediately upon termination.

5. Miscellaneous

- (a) **CONDITIONS OF USE.** Library agrees to conform to the CENIC Appropriate Use Policy located at <https://cenic.org/network/policies/acceptable-use-policy> and to any specific

conditions of use imposed by subcontractors providing communications services to CENIC as may be in force at the time such services are made available per an Addendum to this Agreement. If such conditions of use are modified library will be notified and if Library believes it can no longer conform to their requirements, Library shall have one hundred eighty (180) days to terminate the affected service without penalty. If Library does not elect to terminate the service, Library must conform to the revised conditions of use or be subject to termination of the service by CENIC.

- (b) **CONFLICTING CLAUSES.** If any clause in this Master Agreement is in conflict with a clause in an Addendum to this Agreement, the language in the Addendum shall take precedence but only for the service defined in that Addendum.
- (c) **FORCE MAJEURE.** Neither party will be responsible for performance of its obligations hereunder where delayed or hindered by war, riots, embargoes, strikes involving third parties, acts of Local Access Providers or of its vendors, or suppliers, acts of unrelated third parties, accidents, cable cuts, act(s) of God or any other event beyond its reasonable control.
- (d) **GOVERNING LAW.** The laws of the State of California shall govern this Agreement.
- (e) **NON LIBRARY USES:** Library understands that this agreement covers only library use of CalREN and of circuits provided hereunder and Library agrees that no other uses will be made of the services provided herein.

6. Entire Agreement

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

7. General Provisions

7.1 Nondiscrimination:

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

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

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

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

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

9. **Insurance.** Califa shall provide proof of a policy of insurance satisfactory to the County of El Dorado Risk Manager and documentation evidencing that Califa maintains insurance that meets the following requirements:
- A. Full Worker's Compensation and Employer's Liability Insurance covering all employees of Califa as required by law in the State of California.
 - B. Commercial General Liability Insurance of not less than \$1,000,000.00 combined single limit per occurrence for bodily injury and property damage and a \$2,000,000.00 aggregate limit.
 - C. Automobile Liability Insurance of not less than \$1,000,000.00 is required in the event motor vehicles are used by the Califa in the performance of the Agreement.
 - D. In the event Califa is a licensed professional or professional consultant, and is performing professional services under this Agreement, professional liability is required with a limit of liability of not less than \$1,000,000.00 per occurrence.
 - E. Califa shall furnish a certificate of insurance satisfactory to the County of El Dorado Risk Manager as evidence that the insurance required above is being maintained.
 - F. The insurance will be issued by an insurance company acceptable to Risk Management, or be provided through partial or total self-insurance likewise acceptable to Risk Management.

- G. Califa agrees that the insurance required above shall be in effect at all times during the term of this Agreement. In the event said insurance coverage expires at any time or times during the term of this Agreement, Califa agrees to provide at least thirty (30) days prior to said expiration date, a new certificate of insurance evidencing insurance coverage as provided for herein for not less than the remainder of term of the Agreement, or for a period of not less than one (1) year. New certificates of insurance are subject to the approval of Risk Management and Califa agrees that no work or services shall be performed prior to the giving of such approval. In the event the Califa fails to keep in effect at all times insurance coverage as herein provided, County may, in addition to any other remedies it may have, terminate this Agreement upon the occurrence of such event.
- H. The certificate of insurance must include the following provisions stating that:
1. The insurer will not cancel the insured's coverage without prior written notice to County, and;
 2. The County of El Dorado, its officers, officials, employees and volunteers are included as additional insured on an additional insured endorsement, but only insofar as the operations under this Agreement are concerned. This provision shall apply to the general liability policy.
- I. Califa's insurance coverage shall be primary insurance as respects the County, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the County, its officers, officials, employees or volunteers shall be in excess of the Califa's insurance and shall not contribute with it.
- J. Any deductibles or self-insured retentions must be declared to and approved by the County, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the County, its officers, officials, employees and volunteers; or the Califa shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.
- K. Any failure to comply with the reporting provisions of the policies shall not affect coverage provided to the County, its officers, officials, employees or volunteers.
- L. The insurance companies shall have no recourse against the County of El Dorado, its officers and employees or any of them for payment of any premiums or assessments under any policy issued by any insurance company.
- M. Califa's obligations shall not be limited by the foregoing insurance requirements and shall survive expiration of this Agreement.
- N. In the event Califa cannot provide an occurrence policy, Califa shall provide insurance covering claims made as a result of performance of this Agreement for not less than three (3) years following completion of performance of this Agreement.
- O. Certificate of insurance shall meet such additional standards as may be determined by the contracting County Department either independently or in consultation with Risk Management, as essential for protection of the County.

10. Fiscal Considerations. The parties to this Agreement recognize and acknowledge that County is a political subdivision of the State of California. As such, El Dorado County is subject to the provisions of Article XVI, Section 18 of the California Constitution and other similar fiscal and procurement laws and regulations and may not expend funds for products, equipment or services not budgeted in a given fiscal year. It is further understood that in the normal course of County business, County will adopt a proposed budget prior to a given fiscal year, but that the final adoption of a budget does not occur until after the beginning of the fiscal year.

Notwithstanding any other provision of this Agreement to the contrary, County shall give notice of cancellation of this Agreement in the event of adoption of a proposed budget that does not provide for funds for the services, products or equipment subject herein. Such notice shall become effective upon the adoption of a final budget which does not provide funding for this Agreement. Upon the effective date of such notice, except for the provisions of paragraph 3b, this Agreement shall be automatically terminated and County released from any further liability hereunder.

In addition to the above, should the Board of Supervisors during the course of a given year for financial reasons reduce, or order a reduction, in the budget for any County department for which services were contracted to be performed, pursuant to this paragraph in the sole discretion of the County, this Agreement may be deemed to be canceled in its entirety subject to payment for services performed prior to cancellation, including termination costs as contained in paragraph 3b, above.

11. Contract Administrator. The County Officer or employee with responsibility for administering this Agreement is Carolyn Brooks, Library Director, or successor

Requesting Contract Administrator Concurrence

By: Carolyn Brooks
Carolyn Brooks
Library Director

Dated: 7/12/21

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

For Library



Signature

John Hidahl

Name

Chair, Board of Supervisors

Title
Eldorado County

5/4/2021

Date

For Califa



Signature

Paula MacKinnon

Name

Executive Director

Title

December 31, 2020

Date

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

This Appendix lists the circuits contracted for by CENIC on behalf of Califa and the Library for connecting CENIC's fiber optic backbone to Library and for library connections that are not direct connections to CENIC's fiber optic backbone, e.g. direct connections between libraries. Library understands that CENIC will bill Califa, and Califa will bill Library, for the costs of circuits charged by network service providers, including any taxes and surcharges, and any one-time installation fees from CENIC. Prior to approval of CENIC's Library consortium E-rate application by the FCC's E-rate contractor, not all applicable E-rate and CTF discounts will be reflected on invoices. After the E-rate application for any given year is approved, the network service provider will coordinate with CENIC to provide appropriate credits and such credits will be passed from CENIC to Califa and from Califa to the Library. Such credits are typically issued sometime during the fiscal year after the year in which the circuits are installed and services are first provided. In subsequent years, credits continue to be issued in the fiscal year after the year for which services have been provided. Library further understands that the exact discounted cost of circuits will not be known until after the E-rate consortium application is approved. The actual start date of the service, and therefore of circuit costs, will be dependent on coordination among CENIC, the Library and the network service provider. Any one-time (Non-recurring or NRC) costs included below are typically invoiced by carriers prior to circuit installation and will be invoiced to Library upon receipt of invoice to CENIC from carrier.



Customer: El Dorado County Library
 Budget Summary Description: Renewals of Year 2 Sites
 Quote Date: FY21-22
 Quote Expiration:
 Contract Number:

Line Item	NRC Non-Recurring Cost	MRC Monthly Recurring Cost	ARC Annual Recurring Cost
1 Equipment	\$0.00	\$0.00	\$0.00
2 Maintenance	\$0.00	\$0.00	\$0.00
3 Installation	\$0.00	\$0.00	\$0.00
4 Circuit	\$0.00	\$3,638.90	-
5 Circuit Deployment Fee	\$0.00	\$0.00	\$0.00
Total	\$0.00	\$3,638.90	\$0.00

Annual Cost	\$43,666.80
E-rated Annual Cost†	\$4,366.68
Total First Year Cost	\$43,666.80
E-rated Total First Year Cost†	\$4,366.68

*Pricing does not include applicable taxes, surcharges, and fees. These costs may vary and will be included in invoices at CENIC's actual cost.

*If an Out of Band line is required, customer must provide a phone line for OOB or allow CENIC to order one and be reimbursed for both the one-time installation and ongoing monthly recurring costs.

*NRC items are one-time costs billed upon execution of contract.

*MRC items are billed quarterly.

†E-rate discount: percent discount indicated is an estimate based on data available at the time the quote was generated. Actual discount percentage will be identified by the E-rate authorities at a later point

†E-rate and CTF reimbursements are dependent upon the continued funding of these programs. CENIC/Califa cannot guarantee the E-rate and CTF discounts, and these discounts are subject to change.

†E-rate Costs may take up to 18 months to activate due to USAC processing time

Version: 2.1



*Pricing does not include applicable taxes, surcharges, and fees. These costs may vary and will be included in invoices at CENIC's actual cost.

E-rate discount: percent discount indicated is an estimate based on data available at the time the quote was generated. Actual discount percentage will be identified by the E-rate authorities at a later point

LOC A**		Carrier Info					E-rate Discount	80.00%	Total Discounted MRC	Total Discounted NRC
Site Name	Site Name	Service Provider	Requested Bandwidth	Est Contract End Date	Non Recurring Cost	MRC for 5 year term	Discounted NRC	Discounted MRC	\$363.89	\$0.00
El Dorado County Library - Cameron Park Library	CalREN	Comcast	1 Gbps	7/1/2026	\$0.00	\$535.00	\$0.00	\$53.50	New Rate will not start until previous term ends - \$940.00 MRC until 3/30/2022	
El Dorado County Library - El Dorado Hills Library	CalREN	Comcast	1 Gbps	7/1/2026	\$0.00	\$535.00	\$0.00	\$53.50	New Rate will not start until previous term ends - \$940.00 MRC until 3/30/2022	
El Dorado County Library - Pollock Pines Library	CalREN	Comcast	1 Gbps	7/1/2026	\$0.00	\$535.00	\$0.00	\$53.50	New Rate will not start until previous term ends - \$940.00 MRC until 8/2/2022	
El Dorado County Library - South Lake Tahoe Library	CalREN	AT&T	1 Gbps	7/1/2026	\$0.00	\$801.90	\$0.00	\$80.19		
El Dorado County Library - El Dorado County Library	CalREN	Vast	1 Gbps	-	\$0.00	\$0.00	\$0.00	\$0.00		
El Dorado County Library - Georgetown Library	CalREN	AT&T	1 Gbps	7/31/2023	\$0.00	\$1,232.00	\$0.00	\$123.20		