

**AGREEMENT BETWEEN THE CITY OF CHULA VISTA 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 February 10, 2016 by and between Califa Group, a California public benefit corporation, hereinafter referred to as "Califa" and the City of Chula Vista, a California municipal chartered corporation, hereinafter referred to as "City". Califa and City 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.

City of Chula Vista
Betty Waznis
Library Director
274 4th Avenue
Chula Vista, CA 91910

Califa Group
Susan H. Hildreth
Executive Director
2471 Flores Street
San Mateo, CA 94403

RECITALS

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

WHEREAS, City desires to contract with Califa to obtain one or more data circuits to connect City libraries to the CENIC high speed broadband fiber network, CalREN, and, if specified in appendix #1, attached to this Agreement and incorporated by this reference ("Appendix 1"), to connect City libraries to one another as identified in said appendix for the purpose of connecting to CalREN.

NOW THEREFORE, in consideration of the above recitals, the covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which the parties hereby acknowledge, City and Califa agree to the following:

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, including data circuits to connect City libraries to

the CENIC high speed broadband fiber network, CalREN and to one another, at the sites listed in Appendix #1 (collectively, the "Services") to the City.

2. Services to be Provided

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

Califa, on behalf of City, will contract with CENIC for such data circuits. Specific circuits and their costs are included in Appendix 1. Califa will assure that CENIC notifies the City of installation requirements and necessary maintenance instructions. Neither CENIC nor Califa shall be responsible for operating or maintaining software, equipment or cabling that connects equipment not provided by CENIC for the services unless specifically agreed to in writing by CENIC.

3. Term and Termination of this Agreement

- (a) TERM OF THIS AGREEMENT. This Agreement shall be in effect from February 10, 2016 through June 30, 2017 (the "Term"). This agreement will automatically renew unless one party notifies the other in writing at least 60 days prior to the expiration of the Term that the Party does not want to renew the Agreement. This renewal option shall remain in place for the duration of this agreement; each renewal period shall run from July 1st through June 30th of the following year.
- (b) TERMINATION. Termination prior to the June 30, 2017 shall result in City having to pay any circuit telecommunications carrier termination charges resulting from early termination of the Service.
- (c) City 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 City and Califa. Except for non recurring costs, if any, costs in Appendix I shall only begin upon installation of circuit(s). City will put forth reasonable efforts to make payments within thirty (30) days after receipt of invoice.

5. Miscellaneous

- (a) CONDITIONS OF USE. City agrees to conform to the CENIC Appropriate Use Policy located at <http://www.cenic.org/p=2081/> and to any specific conditions of use imposed by subcontractors providing communications services to CENIC as may be in force at the

time such services are made available per an Addendum to this Agreement. If such conditions of use are modified and Library believes it can no longer conform to their requirements, City shall have one hundred eighty (180) days to terminate the affected service without penalty. If City does not elect to terminate the service, City 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:** City 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. City 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 City, 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. Dispute Resolution. All disputes between the parties hereto with respect to their rights and duties hereunder, excepting only indemnity claims, shall be resolved through binding arbitration pursuant to Code of Civil Procedure Section 1280, with the non-prevailing party responsible for the arbitrators' fee but in all other respects with each side bearing its own costs and attorneys fees.

10. Administrative Claims Requirements and Procedures. No suit or arbitration shall be brought arising out of this Agreement, against City, unless a claim has first been presented in writing and filed with City and acted upon by City in accordance with the procedures set forth in Chapter 1.34 of the Chula Vista Municipal Code, as same may from time to time be amended, the provisions of which are incorporated by this reference as if fully set forth in this Agreement, and such policies and procedures used by City in the implementation of same. Upon request by City, Califa shall meet and confer in good faith with City for the purpose of resolving any dispute over the terms of this Agreement.

11. Capacity of Parties. Each signatory and Party to this Agreement warrants and represents to the other Party that it has legal authority and capacity and direction from its principal to enter into this Agreement, and that all necessary resolutions or other actions have been taken so as to enable it to enter into this Agreement.

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

City of Chula Vista
By:

Mary Casillas Salas, Mayor

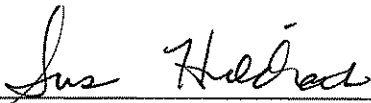
Attest:

Donna Norris, City Clerk

Approved as to form:

Glen R. Googins, City Attorney

For Califa



Signature

Susan Hildreth

Name

Executive Director

Title

2/11/16

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 City 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. City understands that CENIC will bill Califa, and Califa will bill City, for actual costs of circuits charged by network service providers, including taxes and surcharges and without markup. Prior to approval of CENIC's Library consortium E-rate application by the FCC's E-rate contractor, not all applicable E-rate and CTF discounts will be reflected on invoices. After the E-rate application for any given year is approved, the network service provider will coordinate with CENIC to provide appropriate credits and such credits will be passed from CENIC to Califa and from Califa to the City. 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 City 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 City 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.

The circuit being provided by the network service provider is a switched "cloud" circuit, with two billed elements, or links.

Chula Vista Public Library					
AT&T (5 year term)					
		1G to CalREN, 1G to branches			
Summary Totals		Pre Discount Costs (not including Taxes & Surcharges)		Estimated Net Costs, after discounts applied (not including Taxes & Surcharges)	
		NRC*	Monthly	NRC*	Monthly
		\$ -	\$ 2,465.00	\$ -	\$ 246.50
Note1: Design is for a 1G circuit from City Hall to a CalREN Hub site. Circuits from Otay Ranch Branch Library to City Hall are also 1G each					
		1G Circuit to CalREN			
Connection to HUB	Disc %	Pre Discount Costs		Estimated Net Costs, after discounts applied	
E-rate Discount for Chula Vista Public**:	0.8				
CTF Discount****:	0.5				
Connection to CalREN Hub at City Hall		NRC*	Monthly	NRC*	Monthly
Link 1: 1G to CalREN Hub		\$ -	\$ 1,232.50	\$ -	\$ 123.25
Taxes & Surcharges on links		<i>Varies</i>			

Library Equipment	Chula Vista Public is responsible to provide a router with a 1 Gbps interface and at least one LAN interface. This router should support BGP and NAT. An upgraded Firewall appliance may also be needed to support 1 Gbps data streams.			
	1G circuits to branches			
Itemized - Main to Branches	Pre Discount Costs		Estimated Net Costs, after discounts applied	
Circuits to City Hall	NRC*	Monthly	NRC*	Monthly
Link 2 - Otay Ranch Branch to City Hall	\$ -	\$ 1,232.50	\$ -	\$ 123.25
Taxes & Surcharges on links	<i>Varies</i>			
Library Equipment	Main library will need a router or switch with 'Option 2' 1G and at least one LAN interface. This router should support BGP and NAT. An upgraded Firewall appliance may be necessary. Each branch will need a router or switch with at least one 1G interface and a LAN interface.			
Note 1: These numbers do not include early termination fees that might be required from current provider(s), nor equipment the library may need to purchase to support these circuits, nor Taxes & Surcharges on the circuits.				
Definitions				
*NRC - Non-Recurring Charges. These costs could be subject to change should a telecommunications provider determine during circuit engineering prior to circuit installation that additional costs are required. Should this occur, the library may cancel the circuit with NRC, or if all circuits are to be charged additional costs as compared to those in this agreement library may cancel this entire agreement or ask whether another circuit(s) with lower NRC but potentially higher on going monthly				

costs is (are) available.					
**E rate discounts vary among jurisdictions, from 20% to 90%. E-rate and CTF discounts are dependent upon the continued funding of these programs. These discounts are subject to change in future years.					
***Collector Circuit - a multi-site aggregation or trunk circuit between the main site and the CalREN backbone					
****CTF discount - percent discount of amount after E rate discount is applied.					