

COUNTY OF VENTURA CONTRACT NUMBER #9152

C O N T R A C T

This Contract entered into this 1<sup>st</sup> day of October, 2023, by, and between, the County of Ventura, a political subdivision of the State of California, hereinafter called "County" and Magellan LLC, hereinafter called "Contractor."

W I T N E S S E T H

WHEREAS, it is necessary and desirable that Contractor be engaged by County for the purpose of performing professional services hereinafter described:

NOW, THEREFORE, IT IS HEREBY AGREED by the parties as follows:

1. **SERVICES TO BE PERFORMED BY CONTRACTOR**

In consideration of the payments hereinafter set forth, Contractor will perform services for County in accordance with the terms, conditions and specifications set forth herein and Exhibit A, attached hereto.

2. **PAYMENTS**

In consideration of the services rendered in accordance with all terms, conditions and specifications set forth herein and in Exhibit A, County will make payment to Contractor in the manner specified in Exhibit A.

3. **INDEPENDENT CONTRACTOR**

No relationship of employer and employee is created by this Contract, it being understood that Contractor is an independent contractor, and neither Contractor nor any of the persons performing services for Contractor pursuant to this Contract, whether said person be member, partner, employee, subcontractor, or otherwise, will have any claim under this Contract or otherwise against County for sick leave, vacation pay, retirement benefits, social security, workers' compensation, disability, unemployment insurance benefits, or employee benefits of any kind.

It is further understood and agreed by the parties hereto that, except as provided in this Contract, Contractor in the performance of its obligation hereunder is subject to the control or direction of County merely as to the result to be accomplished by the services hereunder agreed to be rendered and performed and not as to the means and methods for accomplishing the results.

If, in the performance of this Contract, any third persons are employed by Contractor, such persons will be entirely and exclusively under direction, supervision and control of Contractor. All terms of employment, including hours, wages, working conditions, discipline, hiring and discharging or any other terms of employment or requirements of law, will be determined by Contractor, and County will have no right or authority over such persons or the terms of such employment, except as provided in this Contract.

The Contractor will comply with all of the provisions of the Worker's Compensation Insurance and Safety Acts of the State of California, the applicable provisions of Division 4 and 5 of the California Labor Code and all amendments, thereto; and all similar State and Federal acts or laws applicable; and will indemnify and hold harmless the County from and against all claims, demands, payments, suits, actions, proceedings and judgments of every nature and description, including attorney's fees and costs, presented, brought or recovered against the County, for or on account of any liability under any of said Acts which may be incurred by reasons of any work to be performed under this Contract.

4. **NON-ASSIGNABILITY**

Contractor will not assign this Contract or any portion thereof, to a third party without the prior written consent of County, and any attempted assignment without such prior written consent will be null and void and will be cause, at County's sole and absolute discretion, for immediate termination of this Contract.

5. **TERM**

This Contract will be in effect from October 1, 2023, through July 1, 2024, subject to all the terms and conditions set forth herein.

Time is of the essence in the performance of this contract.

Continuation of the Contract is subject to the appropriation of funds for such purpose by the County's Board of Supervisors. If funds to effect such continued payment are not appropriated, County may terminate this project as thereby affected and Contractor will relieve County of any further obligation therefor.

6. **TERMINATION**

The County Purchasing Agent may terminate this Contract at any time for any reason by providing 10 days' written notice to Contractor. In the event of termination under this paragraph, Contractor will be paid for all work provided to the date of termination, as long as such work meets the terms and conditions of this Contract. On completion or termination of this Contract, County will be entitled to immediate possession of and Contractor will furnish on request, all computations, plans, correspondence and other pertinent data gathered or computed by Contractor for this particular Contract prior to any termination. Contractor may retain copies of said original documents for Contractor's files. Contractor hereby expressly waives any and all claims for damages or compensation arising under this Contract except as set forth in this paragraph in the event of such termination.

This right of termination belonging to the County of Ventura may be exercised without prejudice to any other remedy which it may be entitled at law or under this Contract.

7. **DEFAULT**

If Contractor defaults in the performance of any term or condition of this Contract, Contractor must cure that default by a satisfactory performance within 10 days after service upon Contractor of written notice of the default. If Contractor fails to cure the default within that time, then County may terminate this Contract without further notice.

The foregoing requirement for written notice and opportunity to cure does not apply with respect to paragraph 4 above.

8. **INDEMNIFICATION, HOLD HARMLESS AND WAIVER OF SUBROGATION**

All activities and/or work covered by this Contract will be at the risk of Contractor alone.

9. **INSURANCE PROVISIONS**

A) Contractor, at its sole cost and expense, will obtain and maintain in full force during the term of this Contract the following types of insurance:

1) Professional Liability coverage in the minimum amount of \$1,000,000 each occurrence and \$2,000,000 aggregate.

B) All insurance required will be primary coverage as respects County and any insurance or self-insurance maintained by County will be excess of Contractor's insurance coverage and will not contribute to it.

C) County is to be notified immediately if any aggregate insurance limit is exceeded. Additional coverage must be purchased to meet requirements.

D) The County, and any applicable Special Districts are to be named as Additional Insured as respects to work done by Contractor under the terms of this Contract for General Liability Insurance.

E) Contractor agrees to waive all rights of subrogation against the County, Its Boards, Agencies, Departments, any applicable Special Districts, Officers, Employees, Agents and Volunteers for losses arising from work performed by Contractor under the terms of this Contract.

- F) Policies will not be canceled, non-renewed or reduced in scope of coverage until after sixty (60) days written notice has been given to the County of Ventura, Risk Management Division.
- G) Contractor agrees to provide County with the following insurance documents on or before the effective date of this Contract:

- 1. Certificates of Insurance for all required coverage.

Failure to provide these documents will be grounds for immediate termination or suspension of this contract.

10. **NON-DISCRIMINATION**

A) General.

No person will on the grounds of race, color, national origin, religious affiliation or non-affiliation, sex, age, handicap, disability, or political affiliation, be excluded from participation in, be denied the benefits, or be subjected to discrimination under this Contract.

B) Employment.

Contractor will insure equal employment opportunity based on objective standards of recruitment, selection, promotion, classification, compensation, performance evaluations, and management relations, for all employees under this Contract. Contractor's personnel policies will be made available to County upon request.

11. **SUBSTITUTION**

If particular people are identified in Exhibit A as working under this Contract, the Contractor will not assign others to work in their place without written permission from the County Purchasing Agent. Any substitution will be with a person of commensurate experience and knowledge.

12. **INVESTIGATION AND RESEARCH**

Contractor by investigation and research has acquired reasonable knowledge of all conditions affecting the work to be done and labor and material needed, and the execution of this Contract is to be based upon such investigation and research, and not upon any representation made by the County or any of its officers, agents or employees, except as provided herein.

13. **CONTRACT MONITORING**

The County will have the right to review the work being performed by the Contractor under this Contract at any time during Contractor's usual working hours. Review, checking, approval or other action by the County will not relieve Contractor of Contractor's responsibility for the thoroughness of the services to be provided hereunder. This Contract will be administered by

County of Ventura Information Technology Services Department, or his/her authorized representative.

14. **ADDENDA**

County may from time to time require changes in the scope of the services required hereunder. Such changes, including any increase or decrease in the amount of Contractor's compensation which are mutually agreed upon by and between County and Contractor will be effective when incorporated in written amendments to this Contract.

15. **CONFLICT OF INTEREST**

Contractor covenants that Contractor presently has no interest, including, but not limited to, other projects or independent contracts, and will not acquire any such interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Contract. Contractor further covenants that in the performance of this Contract no person having such interest will be employed or retained by Contractor under this Contract.

16. **CONFIDENTIALITY**

Any reports, information, data, statistics, forms, procedures, systems, studies and any other communication or form of knowledge given to or prepared or assembled by Contractor under this Contract which County requests in writing to be kept confidential, will not be made available to any individual or organization by Contractor without the prior written approval of the County except as authorized by law.

17. **NOTICES**

All notices required under this Contract will be made in writing and addressed or delivered as follows:

TO COUNTY: County of Ventura  
General Services Agency  
Procurement Services  
800 South Victoria Avenue, L#1080  
Ventura, CA 93009

TO CONTRACTOR: Magellan Advisors LLC  
999 18<sup>th</sup> St., Suite 300  
Denver, CO 80202

Either party may, by giving written notice in accordance with this paragraph, change the names or addresses of the persons of departments designated for receipt of future notices. When addressed in accordance with this paragraph and deposited in the United States mail, postage prepaid, notices will be deemed given on the third day following such deposit in the United States mail. In all other instances, notices will be deemed given at the time of actual delivery.

18. **MERGER CLAUSE**

This Contract supersedes any and all other contracts, either oral or written, between Contractor and the County, with respect to the subject of this Contract. This Contract contains all of the covenants and contracts between the parties with respect to the services required hereunder. Contractor acknowledges that no representations, inducements, promises or contracts have been made by or on behalf of County except those covenants and contracts embodied in this Contract. No contract, statement, or promise not contained in this Contract will be valid or binding. The parties agree that any pre-printed terms (i.e., those contained in County's purchase orders or in Contractor invoices) that are inconsistent with or different from the terms of the Agreement will be void and of no effect even if signed by the party against which their enforcement is sought.

19. **GOVERNING LAW**

The validity of this Contract and any of its terms or provisions, as well as the rights and duties of the parties under this Contract, will be construed pursuant to and in accordance with the laws of the State of California.

20. **SEVERABILITY OF CONTRACT**

If any term of this Contract is held by a court of competent jurisdiction to be void or unenforceable, the remainder of the Contract terms will remain in full force and effect and will not be affected.

21. **CUMULATIVE REMEDIES**

The exercise or failure to exercise of legal rights and remedies by the County in the event of any default or breach hereunder will not constitute a waiver or forfeiture of any other rights and remedies, and will be without prejudice to the enforcement of any other right or remedy available by law or authorized by this Contract.

22. **COMPLIANCE WITH LAWS**

Each party to this Contract will comply with all applicable laws.

23. **CONSTRUCTION OF COVENANTS AND CONDITIONS**

Each term and each provision of this Contract will be construed to be both a covenant and a condition.

24. **ACCESS TO AND USE OF COUNTY TECHNOLOGY**

As part of this Contract Contractor shall agree with and abide by the provisions set forth in the Ventura County Non-Employee Information Technology Usage Policy, which by this reference is made a part hereof. Any employee, sub-contractor, or agent of the Contractor who will access (which shall include, but is not limited to, the use, maintenance, repair or installation of) County information technology in the course of his, or her, work for the County is required to sign the Ventura County Non-Employee Information Technology Usage Policy before accessing, using, maintaining, repairing or installing any

County information technology system or component. Information technology shall include, but is not limited to, the network, Internet access, electronic mail, voice mail, voice message systems, facsimile devices, or other electronic or telecommunication systems used by the County.

25. **NON-EXCLUSIVITY**

The County reserves the right to contract with providers of similar services and/or equipment other than the Contractor when it is reasonably determined to be in the best interest of the County.

26. **Limitation of Liability**

NEITHER COUNTY NOR CONTRACTOR SHALL BE LIABLE TO THE OTHER FOR ANY PUNITIVE, EXEMPLARY, SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES, WHETHER FORESEEN OR KNOWN IN ADVANCE BY EITHER PARTY, WHETHER BASED IN CONTRACT, WARRANTY, TORT OR OTHER LEGAL THEORY, INCLUDING BUT NOT LIMITED TO LOSS OF PROFIT, REVENUE, FINANCING, FUNDING, BONDING, USE, PRODUCTIVITY OR EFFICIENCY, BUSINESS, EQUIPMENT OR FACILITY INTERRUPTION, INEFFICIENCY OR SHUTDOWN, AND DAMAGE TO BUSINESS REPUTATION. THE TOTAL AND AGGREGATE LIABILITY OF CONTRACTOR FOR ANY AND ALL CLAIMS, LOSSES, LIABILITIES, DAMAGES, JUDGMENTS AND AWARDS ARISING OUT OF OR RELATED TO ITS SERVICES OR THIS AGREEMENT SHALL BE LIMITED TO THE GREATER OF THE APPLICABLE INSURANCE LIMITS REQUIRED TO BE MAINTAINED BY CONTRACTOR UNDER THIS AGREEMENT OR \$5,000,000.

IN WITNESS WHEREOF the parties hereto have executed this Contract.

**COUNTY OF VENTURA**

**CONTRACTOR\***

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

\_\_\_\_\_  
Tax Identification Number

\_\_\_\_\_  
Secretary of State Entity Number

**CONTRACTOR\***

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\* If a corporation, this Contract must be signed by two specific corporate officers.

The first signature must be from either (1) the Chief Executive Officer, (2) the Chairman of the Board, (3) the President, or (4) a Vice President.

The second signature must be from either (a) the Secretary, (b) an Assistant Secretary, (c) the Chief Financial Officer(or Treasurer), or (d) and Assistant Treasurer.

In the alternative, a single corporate signature is acceptable when accompanied by a corporate resolution demonstrating the legal authority of the signatory to bind the company for this Contract.



## EXHIBIT "A"

### CONTRACTOR RESPONSIBILITIES

See Exhibit A Scope of Work and Pricing

### COMPENSATION SCHEDULE

### SEE EXHIBIT A PRICING SCHEDULE

Payment terms are typically Net 30 Days, in arrears for services rendered or deliverables based. Upfront payments are allowed in limited situations. Reimbursement for travel and expenses are to be in accordance with the County's expense reimbursement policy (Administrative Manual).

# Scope of Work

## TASK 1: DESIGN ENGINEERING

### 1.A: Conceptual Design

Magellan will create a High-Level Design (30%). As we develop the High-Level Design, we will work with the Ventura County team to determine the best running lines, infrastructure and locations where fiber should be constructed.

Magellan will have their design process begin in which fiber alignments, placements, structures, cable sizes and splice points are identified in the network. Magellan will work with the County to analyze any existing fiber backbone routes and determine the best construction strategy and methods. Minor changes in the backbone routes may be preferred to avoid congestion or those planned for replacement in the next few years.

Also, Magellan will look at opportunities to optimize the backbone for future County services and broadband applications that may give the County advantages for expanding the network in the future but come with little if any additional cost today. The High-Level Design will include geo-located data layers for the following:

- Review of construction standards, policies and practices
- Placement of new backbone cable
- Right of way analysis
- Sites to connect on the backbone
- Laterals to each site
- Interconnection with core data centers/utility sites

The 30% High-Level Design will focus on 4 key components that will accurately inform and guide the final design engineering:

**Backhaul/Redundant Connections** – Connecting the County’s local, publicly-owned fiber network to other public and/or private regional middle-mile and long-haul transport circuits to procure diverse, redundant pathways to colocation and data facilities that ensure connection to the Internet. A resilient County network will require at least two independent fiber paths to ensure that service is not interrupted due to technical issues, construction, accidental cable cuts, natural disasters/fire, or other unforeseen events.

**Core Fiber Backbone** - Connecting communities to one another across the County and building a high-capacity fiber backbone that connects to the greater internet points of presence, colocation centers and central offices. The core fiber backbone will consist of high-count fiber using redundant rings and/or mesh architectures to support a highly resilient backbone. It will include all outside plant fiber assets, hut locations, facility locations and core network elements to light the network.

**Fiber Laterals to Key Organizations** – We will connect community anchor organizations to the fiber backbone, providing multi-gigabit connectivity to schools, hospitals, government offices, public safety facilities, utilities, cooperatives, and other key facilities. It will include all outside plant fiber assets and network elements to connect facilities to the network.

**Fiber To The Home Distribution/Access** – Magellan will provide dense fiber distribution to homes and businesses within each region, enabling individual users to connect to the network. FTTH distribution will include outside plant fiber, distribution huts, splitter cabinets and other distribution elements to enable service drops that will connect end users to the network for fiber to the home broadband services.

As Magellan completes the High-Level Design, we will conduct a formal review with maps illustrating all components of the backbone overbuild. We will present the 30% design, alignments, sites, laterals and connections to give the Ventura County staff a first look at the preliminary design, provide feedback and give Magellan a chance to make any adjustments to running lines and other outside plant aspects of the network before moving into detailed engineering.

### **1.B: Low Level Design (60%)**

Once consensus on the high-level design has been received, Magellan will begin the onsite fielding process, in which the internal field team will conduct detailed walkouts of all routes and fiber lines. Our fielding process identifies features and attributes, constructability, hazards, and survey of existing infrastructure. We utilize Trimble GPS units for all fielding and iPad data collection to record features and upload them in real time to our design engineers in the back office. This gives us the ability to expedite the design process in concert with our onsite field team. The fielding team will also provide make-ready analysis for the fiber overbuild. Magellan will look at the opportunities to over lash to existing cable vs new attachments for backbone fiber installation.

After all field data has been collected, Magellan will begin the detailed engineering design from the survey data and make adjustments to running lines. This is known as the Low-Level Design and is the 60% milestone. Magellan utilizes a route optimization process to determine the best paths for fiber backbone routes, avoiding any potential constructability issues encountered during the fielding process. This process allows us to optimize the final routes for you and value engineer the network to keep costs down. Our low-level design process will also create all fiber cable sizes, splicing diagrams, port assignments, terminations and final site connections for the new backbone. Furthermore, it will provide preliminary bills of materials and cost estimates for the new network.

Magellan will review the Low-Level Design (60%) with the County and will provide the first set of construction prints with detailed placement and routing, integration with existing fiber and conduit, preliminary fiber splice plans, cabinet layouts, pedestals and other low-level outside plant infrastructure documentation. Magellan will provide a detailed review of the plant with the County, pointing out how the design has changed from the 30% Conceptual Design. In this review, Magellan will provide GIS data and

plots to the County in advance of the meetings, so you have ample time to review. Accompanying this data will also be the preliminary cost estimates, bills of materials and bid package documents for construction. This 60% review will give The County a chance to provide feedback to Magellan at a more detailed level and better understand the costs of plant construction, to determine if any changes should be made to reduce budgets, speed the deployment or adjust the fiber routes.

### **1.C: Final Design (90%)**

Once all updates are invoked Magellan will complete the 90% milestone known as the Final Design. This design process will incorporate any changes from the 60% Low Level Design into the final design. We will finalize all routing, alignments, separations, structure sizing and placement, cabinet placement, splice plans and other components of the design. This process will also identify all permits required, costs and timeframes to acquire the permits. Magellan will have a final review with the County to review all of the scope and address any questions or concerns.

The Final Design and Bid Package will provide the County with the following:

- All construction documents
- County procurement requirements
- Construction standards
- Construction plans
- Sequencing and schedules
- Bills of Materials using unit costs and pay items for the release and RFP or invitation to bid.

Magellan will provide final QA/QC on all documents and conduct a formal review of the final deliverables with the County to determine if any changes need to be made before going to bid. Magellan will develop the final bid package for construction and provide the County with all content to support a competitive construction procurement. Magellan will provide design specifications, prints, pay items, units, and final documents, incorporating in the County's existing procurement documents to create a final construction package for release to the market. Magellan is happy to manage the pre-bid meeting, answer questions, post addenda, evaluate bidders and make recommendations to the County on the final award.

### **1.D: Bill of Materials**

Magellan will create a final high-level design and cost estimates for the fiber and wireless networks which itemizes all labor, materials and equipment costs. We will provide a comprehensive bill of materials with unit rates for construction, based on local labor costs that are commensurate with the current market. This bill of materials will supply each per unit cost for outside plant construction, splicing, termination, testing, wireless siting, construction, installation and activation.


**Task 1 Deliverable:** *Magellan will provide geodata files, maps and accompanying files for a 30% High Level Design, 60% Low Level Design, a 90% Final Design and a Bill of Materials.*

## TASK 2: PROJECT MANAGEMENT & MEETINGS

Magellan's project team will meet for a half hour on a bi-weekly basis with your project team to discuss the status of the project, major milestones and deliverables, and ensure alignment on project goals.

# Timetable

- ◆ Ongoing Task
- Final Deliverable

		Month 1	Month 2	Month 3	Month 4	Month 5	Month 6
Task 1: Design Engineering		◆	◆	◆	◆	◆	□
Task 2: Project Management & Meetings		◆	◆	◆	◆	◆	□

# Pricing

The total contract not to exceed \$491,420. Payments will be processed as indicated below:

Invoice #	Amount	Milestone	Documentation	
1	\$ 69,639	HLD - 50% Draft	Draft HLD map and tables	
2	\$ 69,639	HLD Complete	HLD map and tables	
3	\$ 69,639	LLD 30% Draft	Draft LLD map and tables	
4	\$ 69,639	LLD 60% Draft	Draft LLD map and tables	
5	\$ 69,639	LLD Complete	LLD map, lengths and cost estimates	
6	\$ 69,639	Final Design Complete	Final Design, BOM, bid package	
7	\$ 53,586	Permitting	Permitting Costs - estimate	Actual receipts and documentation required.
8	\$ 20,000	Fielding Travel	Actual fielding travel costs	Must comply with County travel policies and limitations
	<u>\$ 491,420</u>			
HLD = High Level Design				
LLD = Low Level Design				
BOM = Bill of Materials				