

Sumner-Bonney Lake School District

Technology Services

FY2021 WAN Fiber Request for Proposal



PUBLIC NOTICE NOTICE of REQUEST FOR PROPOSAL (RFP)

Notice is hereby given that Sumner-Bonney Lake School District #320 ("District"), Sumner, WA (Pierce County), will receive sealed responses for Request for Proposal Number **RFP # SSDTS-01-07-21** for the following: **FIBER WIDE AREA NETWORK**

INTRODUCTION AND BACKGROUND

Definition of Parties

Sumner-Bonney Lake School District will hereinafter be referred to as "the District". Respondents to this RFP will hereinafter be referred to as "the Service Provider".

Disclaimer:

This solicitation is for information purposes only. Information provided to the District under this solicitation may or may not be used to acquire services. Respondents to this solicitation may in no way construe a commitment by The District to award a bid or contract. The District shall not be responsible for any costs associated with preparing or delivering responses to this RFP.

The District reserves the right to reject any and all bids or to waive irregularities in any bid. Refer to the

Addendum A: SAMPLE FIBER OPTIC LEASE AGREEMENT for additional information.

Bid Process Timelines:

A **non-mandatory Pre-Bid Conference** will be held at **9:00 a.m., December 7th, 2020** in the board room of the Administration Building located at 1202 Wood Avenue, Sumner WA 98390. A **non-mandatory Job Walk** will follow. Please RSVP to Mike Williams at erate@sumnersd.org if you plan to attend. Due to space limitations no more than three (3) attendees from each respondent will be admitted.

Proposals shall be publicly opened and read aloud starting at **9:00 a.m., January 7th, 2021** Proposal Package and specifications are available online at the District's technology web page by visiting <http://www.sumnersd.org/technology/rfp> Companies interested in responding may also request appropriate bid documents.

Potential Bidders Single Point of Contact

Service providers who are interested in bidding shall provide the name, address, telephone number, fax number and email address for the Service Provider's single point of contact who is authorized to submit and receive questions, answers and RFP revisions, etc. The District will not be responsible for circumstances resulting from the failure to provide single point of contact information.

RFP Description:

The District (E-Rate Build Entity Number 145277) is inviting proposals from qualified entities for the build out, installation and ongoing operation of a leased fiber network, whether dark or lit. The District will also consider proposals for Service Provider installed but District owned and maintained fiber. The intent is to enhance the District's existing fiber-optic Wide Area Network (WAN).

The District will select the service offering that will be the most cost-effective means of meeting our educational needs and technology goals. This Request for Proposals (RFP) details the technical and operational requirements for the fiber network, states the instructions for submitting proposals, the criteria by which a Service Provider **may** be selected, and the contractual terms by which the District intends to govern the relationship between itself and the selected Service Provider should such a relationship be formed (See Addendum A).

The selected vendor/contractor shall assist the District with completing any required documentation in support of the E-rate process.

Background

The District is comprised of fourteen (14) schools, one (1) administrative building, one (1) support services building and one (1) program site. The total enrollment for the District is just under 10,000 students, with nearly 1,300 teachers, administrators and support staff.

In the last several years the District has significantly expanded student's access to technology. This expansion has resulted in a dramatic increase in the demand for bandwidth. We will be fulfilling our 60 month fiber contract and are looking for cost effective alternatives with equal or better services. The success of several planned technology initiatives at the district will depend on sufficient and cost-effective additional wide area network bandwidth. These critical initiatives include an increase in mobile technology including Bring Your Own Device (BYOD); reliable, secure and scalable wireless network infrastructure; student/staff dashboards, and increased campus security. The successful implementation of the services identified in this RFP is critical to meeting the technology goals outlined by the District.

RFP Pre-Qualification

Service Providers must possess all the following to have their proposals considered:

Pre-Qualification Factors

- Ability To Deliver based on Track Record / References
- Past (Successful) E-Rate Experience
- Must have valid E-Rate SPIN# at the time proposal is submitted
- Successfully completed Fiber build out for K-12 in Washington State

FIBER NETWORK REQUIREMENT

General Overview of Current Fiber Network:

The current District Wide Area Network (WAN) is a ring fiber network with routers at every node, and with core services located at the Administration Building 1202 Wood Avenue, Sumner WA 98390.

There are four locations that have district owned fiber strands from one building to another and is not part of the RFP. Those strands are Support Services to MountainView Middle School, Support Services to Bonney Lake High School, Sumner Middle School to the Early Learning Center and Sumner Middle School to Maple Lawn Elementary School.

The Current connection between the Administration Building and the Internet Service Provider (K20) is at 2Gbs with full duplex capability. The District seeks a fiber network that connects the fourteen (14) campuses listed in **Table 1** to the Administration building, Support Services building, one (1) Program Site, and to each other. A main distribution frame (MDF) has been established at each site. The Service Provider will terminate the Fiber Network in the MDF at each site. Address information for all sites is included in **Table 1**.

List of Sites: Table 1 – Network Locations

Site Name	Address	Site Name	Address
District Administration Building	1202 Wood Ave Sumner WA 98390 253-891-6000	Victor Falls Elementary	11401 188 th Ave CT E Bonney Lake WA 98391 253-891-4722
Bonney Lake Elementary	18715 80 th Street Bonney Lake WA 98391 253-891-4450	Lakeridge Middle School	5909 Myers Rd E. Bonney Lake WA 98391 253-891-5100
Crestwood Elementary	3914 W. Tapps Drive E. Bonney Lake WA 98391 253-891-4550	Tehaleh Heights Elementary	17520 Berkeley Pkwy East Bonney Lake, WA 98391
Daffodil Valley Elementary	1509 Valley Avenue Sumner WA 98390 253-891-4600	Sumner Middle School	1508 Willow St. Sumner WA 98390 253-891-5000
Donald Eismann Elementary	13802 Canyon View Blvd E. Bonney Lake WA 98391 253-891-4500	Elhi Hill Program	1518 Main Street Sumner WA 98390

Site Name	Address	Site Name	Address
Emerald Hills Elementary	19515 S Tapps Drive E. Bonney Lake WA 98391 253-891-4750	Sumner High School	1707 Main St Sumner WA 98390 253-891-5500
Liberty Ridge Elementary	12202 209 th Ave Ct. E. Bonney Lake WA 98391 253-891-4800	Support Services Building	19701 104th St. E. Bonney Lake, WA 98391 253-891-6000
Maple Lawn Elementary	230 Wood Ave Sumner WA 98390 253-891-4400	MountainView Middle	10921 199th Ave Ct E Bonney Lake, WA 98391 253-891-5200
Bonney Lake High	10920 199th Ave Ct E Bonney Lake, WA 98391 253-891-5700		

General

The Service Provider shall provide an executive overview of the RFP response, which includes a brief summary of the Service Provider’s history with the technology proposed, including the products and components that comprise the systems. The Service Provider should highlight any major features, functions, or areas of support that the Service Provider feels would bear weight on evaluation.

Fiber Map

The Service Provider will provide a detailed map of the route the proposed fiber will take to connect the District sites. The Service Provider will be responsible for establishing the actual pathways between the District sites if they do not already exist. Any costs that are to be paid by the District for establishing these pathways must be clearly delineated in the submitted proposal.

Alternative Topologies

An example topology has been provided (Please see **Table 4- Sumner-Bonney Lake School District Reference Design**). Bidders may provide, at their option, designs with pricing information for alternative network topologies, (i.e. physical-ring, multiple ring, multi-tiered star topologies, etc.) Any submitted alternative topologies must be submitted with separate cost breakdowns. All other factors being equal, proposals that include resiliency through geographic diversity will be favored.

Fiber/Cable Type

Service Provider must identify the fiber type they use in their response and provide specifications for the fiber and cable. The installed fiber must support the IEEE 40G Ethernet standard.

Inside Building Cable Routing

Intra-building cable routing shall be performed in accordance with all applicable local building codes. When required, the Service Provider must plan a splice point at the building entrance to transition from outdoor cable to indoor cable.

Cable Slack for Repair or Relocation

A small amount of slack cable (15-20 feet) shall be neatly stored in each MDF in the event that a cable repair or relocation is required.

Fiber Testing

Insertion loss testing measuring end-to-end attenuation (including all fiber, splices and connectors) shall be conducted on all the fiber links. Insertion loss testing shall be done in both directions at the operating wavelengths of 1310 nm and 1550 nm. The double-ended loss test methodology shall be used.

The Service Provider shall record all optical power measurements to the nearest tenth of a unit of measure (to one significant digit in the decimal place, i.e., -14.3 dB) and report results in the format shown as Exhibit B

Test results must be permanently recorded and presented in both hard copy and computer-readable format to the District for review. Any fiber link failing to meet the Link Loss Budget standards will be removed and replaced at no cost to the District with an installation that proves through testing to meet the standards. The Fiber Network will not be accepted until all fibers meet the appropriate standards.

The Service Provider is required to provide documentation of their fiber testing procedures, including referencing procedures for fiber optic testing, prior to testing. This document must list equipment to be used (manufacturer and model number) and the date when it was last calibrated.

All test equipment used will have been calibrated at the factory (or by an approved calibration Service Provide) within the past year.

Link Loss Budget

The link loss for any link shall not exceed 16.0 dB as measured using a double-ended loss test at 1310 nm. Service Provider must identify in their proposal any links where the estimated link loss is expected to exceed 16.0 dB. The estimated link loss shall be indicated for any exception.

Permits

Prior to initiating installation, the Service Provider shall secure any and all permits and permissions as required by the District (see **Table 1, Network Locations**), the City of

Sumner, City of Bonney Lake, Pierce County, the State of Washington and any applicable regulatory agency. All costs for Permits, Easements, etc. shall be the vendor's responsibility.

Site Make Ready Work

Any trenching and conduit placement from the street to the building entrance point must include all necessary pavement and ground repair. All pavement and other grounds including all utilities, irrigation piping and irrigation system must be returned to its original condition. All installation of cabling, pathways, etc., shall be to BICSI specification and the design specifications of the District. The provider may not utilize any existing pathways or conduits from the street to the building entrance point unless: (1) those pathways are owned by the provider or (2) there is room in District-owned pathway/conduit for additional fiber media.

Lit Service speed requirements

The district will accept a minimum 10Gbs for all locations. Pricing to upgrade to 40Gbs for each site must be included. If a ring topology is chosen, the minimum speed allowed is 10Gbs.

Pricing

The District will consider awarding bids for anywhere from one (1) to all of each of the above items dependent upon availability of budgeted funds as well as E-rate reimbursement eligibility for each entity

Service Providers shall:

- Provide pricing by site on an item-by-item basis.
- Provide detail on price quotes to include any additional fees, shipping and handling charges and sales tax.
- Submit a proposal that is all inclusive of products and services. The District will not allow for increases or markups within the term of an accepted or awarded contract.
- Amendments for service increases/decreases or additions will be allowed under the original contract, with any changes being co-terminus with the original contract.

Initial Term of Contract

The Service Provider shall present pricing based on a contract term of 60 months and (optionally) a second proposal based on a contract with a term of 120 months. In the proposed contract, monthly payments for service will begin no sooner than **July 1, 2021**, with construction happening in the months prior to July 2021.

Service Deployment Schedule

A service deployment schedule which details how the Service Provider will meet the required **January 1st, 2022** in-service date is required as part of the bid. The use of installed circuits by the District will begin **January 1st, 2022** with the expectation that all construction and all implementation will be completed by **January 1st, 2022**. Any facilities remaining to be constructed and/or implemented after **January 1st, 2022** will result in a penalty of \$50 per day, per site. Penalties shall not be enforced where reasonable delays, such as but not limited to easements, right of way, or unforeseen conditions are encountered and agreed upon by both parties.

Contract

The District's acquisition of services requested in this RFP are at the discretion of the district and are contingent upon the District qualifying for and receiving E-Rate reimbursement for said services. The process by which any contract is awarded arising out of this RFP will abide by Washington State bid laws and/or local small works requirements and the requirements of the USAC E-Rate program rules. See Addendum A for sample contract terms.

Service Level Agreement (SLA)

The District requires the Service Provider's SLA to include credits to be offered to the District in the event of extended outages due to events or issues on the network. See Addendum A.

Moves, Adds and Changes

Proposals should provide options for change including, but not limited to, increases or decreases in service, removal of sites due to closures or re-organization and/or additions of locations, as deemed necessary by the District. Amendments for service changes must be allowed, and will be co-terminus with the existing contract.

Special Requirements Regarding Criminal Background

Criminal Background Investigations may be required of individuals working on school property regardless of whether or not students are present. See Addendum A for details.

Universal Service (E-Rate) Requirements:

To warrant consideration for an award of contract resulting from this Request for Proposal, the Service Provider must agree to participation in the universal service Schools and Libraries Program, commonly known as the E-rate Program.

The Service Provider must comply with the following:

- E-RATE Experience
Service Provider shall have, at a minimum, similar projects that have been funded by the federal universal service Schools and Libraries Program, commonly known as the E-rate Program.

- **E-RATE Registration**
Service Provider has successfully filed a Form 499 with USAC and is eligible to provide Telecommunications Services. Service Provider shall submit with its proposal a valid Service Provider Identification Number (“SPIN”).
- **E-RATE Participation**
Service Provider shall agree to participate in the E-rate Program and to cooperate fully and in all respects with the District, the Universal Service Administrative Company (“USAC”), and any agency or organization administering the E-rate Program to ensure that the District receives all of the E-rate funding for which it has applied and to which it is entitled in connection with Service Provider’s services. Service Provider shall submit the required annual certification(s).
- **E-RATE Documentation**
The Service Provider shall provide, to the District, all the information and documentation that is required by the district to complete an item twenty-one (21) attachment (Form 471) with their proposal.
- **Invoicing Procedures**
Service Provider shall list charges by site on monthly invoices. Service Provider shall itemize, price, and invoice separately any materials or services that are ineligible for E-rate funding. Service Provider must include the following information on all invoices to the District for E-rate eligible equipment and/or services:
Date of invoice.
Date(s) of service.
Clear, concise breakdown of discount-eligible charges and non-eligible charges. Include taxes and fees in the cost breakdown.
Invoice to be provided on Service Provider’s letterhead or on a Service Provider-generated form.
- **Program Changes**
If there are budget restraints or the E-rate program is cancelled, the District reserves the right to renegotiate costs with the Service Provider. This “renegotiation” may include not accepting bids, cancelling services and/or scaling back on bandwidth/services.

PROPOSAL SUBMITTAL

Please submit sealed proposals prior to **9:00 a.m., January 7th, 2021**. Proposals should be delivered to:

Sumner-Bonney Lake School District
Attention Mike Williams/FY2021 Fiber WAN Proposal
1202 Wood Ave Sumner, WA 98390

All responses must be received by **9:00 a.m., January 7, 2021** when they will be publicly opened and read aloud.

All proposals shall be firm offers subject to acceptance by the District and may not be withdrawn for a period of ninety (90) calendar days following the bid opening date. Proposals may not be amended once submitted to the District.

It is the sole responsibility of the submitter to ensure that it is delivered on time. Any proposal submitted after **9:00 a.m., January 7th, 2021** will be returned unopened without consideration.

To submit a response to this request please deliver one (1) copy of requested materials in a sealed envelope. All proposals shall be enclosed in a sealed envelope bearing the bidder's name and identification including the label:

"PROPOSAL RESPONDING TO RFP #SSDTS-01-07-21

FIBER WIDE AREA NETWORK"

USAC Form 470 #160007267

The District shall not be responsible for, nor accept as a valid excuse for a late proposal delivery, any delay in mail service or other method of delivery used by the proposer.

For your convenience, an electronic copy of this RFP can be accessed on the District's web page at <http://www.sumnersd.org/technology/rfp>. Documents are available in portable document (PDF) format.

Questions

All answers to submitted questions will be given to all bidders. Please submit questions by **9:00 a.m., December 14th 2020**, so that all potential bidders may be provided with the same information, phone calls will not be accepted. Any questions regarding this Request for Proposal should be submitted as follows:

Mail to: Mike Williams
Sumner-Bonney Lake School District
1202 Wood Ave Sumner, WA. 98390
Email to: erate@sumnersd.org

Submission Method

Faxed proposals will not be accepted. The District will receive hard copy proposals by mail or hand-delivery only.

Proposal Preparation Cost

Costs for preparing responses and any other related material is the responsibility of the vendor, and shall not be charged in any manner to the District. The District will not be held liable for any cost incurred by vendors in responding to the RFP

Vendor Qualifications

Any individual firm submitting a proposal must be able to provide evidence that the individual or firm and its personnel carrying out the responsibilities have expertise and experiences in all areas identified in the RFP Pre-qualification section of this RFP.

References

Before awarding any contract, the District reserves the right to require the vendor to submit evidence of qualifications, as it may deem appropriate. This evidence may be concerning financial, technical, and other qualifications as well as relevant experience and skills of the vendor. Reference listed outside the qualified RFP may be used as part of the access process.

Organization

Proposals shall be organized into the following sections:

- Table of Contents with page numbers
- Executive Overview
- Company brief.
- Proposed configuration(s) and associated cost(s) for each configuration, (i.e. Star, Ring, Hybrid), including the following:
 - The price for products/services broken out on the attached “Pricing Worksheet”, or an alternative document which includes all criteria listed. The worksheet is available, **Table 3 – WAN Fiber Optic Pricing Worksheet**.
- Contract term.
- Please provide pricing based upon a sixty (60) month contract term, a one hundred- twenty (120) month contract term and an option for multiple one (1) year extensions after the first sixty (60) month contract term and the one hundred- twenty (120) month contract term.
- Please include a complete description of the equipment the District will be required to place in the rack at each location where fiber optic cable will be terminated.
- Estimated timeline for Installation
- List of references/customers and contact information
- Any additional information required to enable the district to complete the USAC Form 471 item 21 attachment

District Conditions

The District reserves the right to accept or reject any and all proposals and to waive any minor discrepancies or technicalities in the proposal or specifications, or in the event that the Universal Service Funding, which is required to complete this project fails, or when deemed to be in the best interest of the District.

Understanding

By submitting a response to the RFP, the Service Provider acknowledges and agrees that:

- The RFP is understood and the Service Provider is fully informed of the intent of the RFP and the completeness and quality of the products and services sought.
- The Service Provider shall guarantee that the cost quotes are all-inclusive.

- Responses to this RFP will be incorporated into and made a part of any subsequent award of contract to provide, install and maintain the proposed high-speed network.

Bid Response Evaluation:

Cost is the most important factor in evaluating bids. Total costs (recurring plus non-recurring) over the life of the contract will be used to compare proposals. If total costs between two proposals are the same, the one with lower monthly costs will be preferred. The District shall have 61 days from bid opening in which to accept or reject any alternates. A history of successful projects of a similar nature between the vendor and the District, or the vendor and a similar school district is also important. We are especially interested in vendors who have a successful track record working with the USAC and with schools who have had similar funding requests granted. The District will evaluate and determine the winning bidder for the requested items based on the following evaluation factors weighted as shown:

Table 2 - Bid Scoring Matrix

Factor	Maximum Points
Price of Eligible Services (with emphasis on operating costs over capital costs)	30%
Ability To Deliver (Track Record)	15%
Understanding District Needs	15%
Past (Successful) E-Rate Experience	15%
Completeness of Response	10%
References	10%
Local/Washington State Business	5%
	100%

Date Timeline:

Release of RFP..... **December 1, 2020**
 Non-Mandatory Pre-Bid Service Provider Conference/Job Walk.....**December 7, 2020**
 Due Date for Questions.....**December 14, 2020**
 Due Date for Responses.....**January 7, 2021**
 Recommendation.....**January 13, 2021**
 Contract Award Date**January 22, 2021**
 Deadline to accept or reject alternates **February 26, 2021**

The District reserves the right to modify these dates as may be necessary.

TABLE 3- SAMPLE WAN FIBER OPTIC PRICE WORKSHEET

Vendor Name:	
Vendor SPIN number:	
Term to be Quoted:	
	Designate: DARK _____ or LIT _____

SEGMENT # & ORIGINATING LOCATION		NRC = Non-Recurring Cost					MRC = Monthly Recurring Charges					
		One-Time E-Rate Charges (NRC)	Taxes	Total One-Time E -Rate Charges (NRC)	One-Time non-E-Rate Charges (NRC)	Taxes	Total One-Time non-E-Rate Charges (NRC)	Monthly Lease Charges (MRC)	Taxes	Extended Monthly Charges (MRC)	Number strands in Service	Number of fiber strands Spare
1	Admin Building										4	0
2	Sumner HS										2	0
3	Daffodil Valley ES										2	0
4	Crestwood ES										2	0
5	Lakeridge MS										2	0
6	Emerald Hills ES										2	0
7	Bonney Lake ES										2	0
8	Mountain View MS										2	0
9	Support Services										4	0
10	Bonney Lake HS										2	0
11	Liberty Ridge ES										2	0
12	Donald Eismann ES										2	0
13	Tehaleh Heights ES										2	0
14	Victor Falls ES										2	0
15	Sumner MS										2	0
16	Maple Lawn ES										2	0
17	Elhi Hill Program										2	0

See Additive Alternatives listed below:

* Additive Alternate #1: Performance and Payment Bond: Lump Sum = \$_____

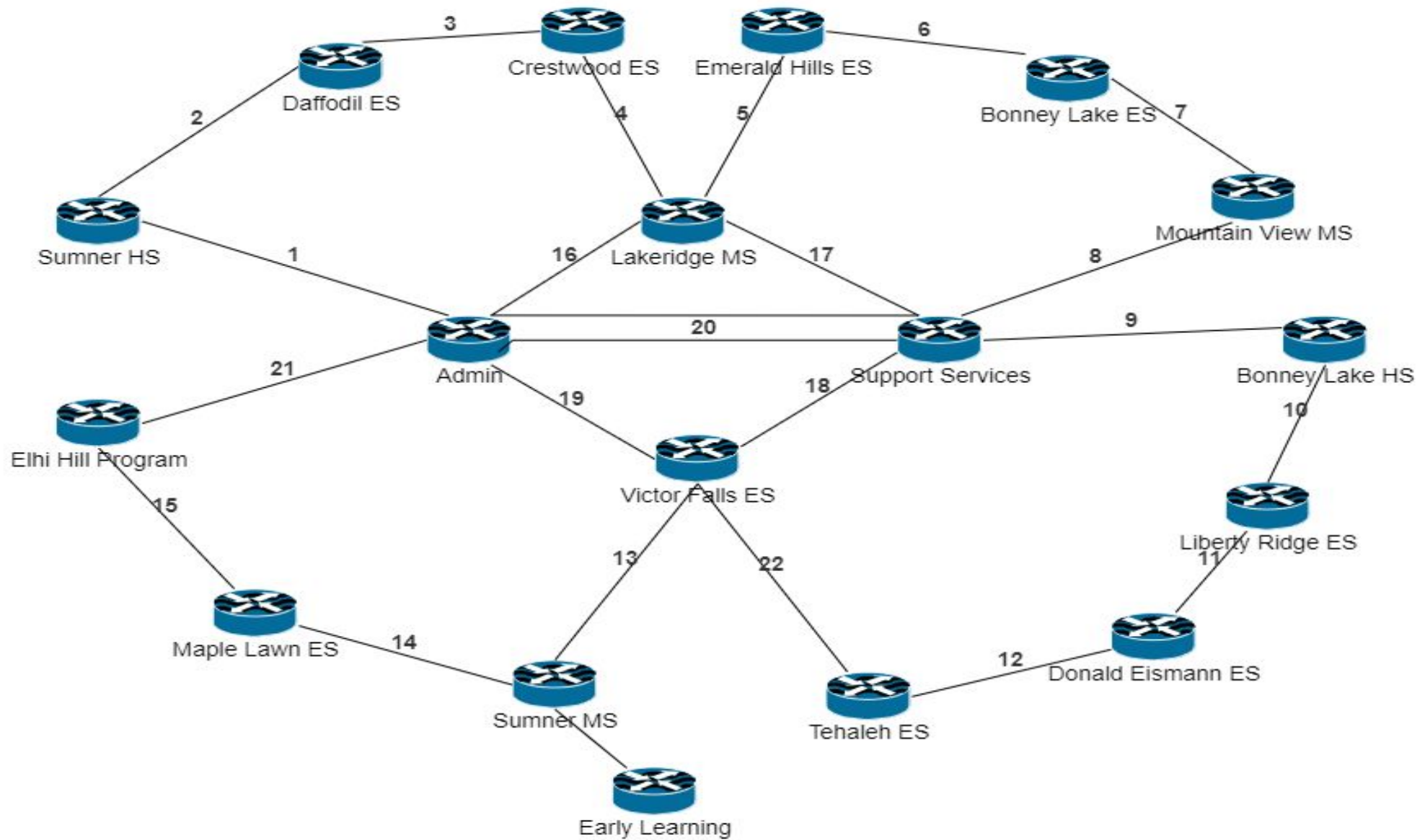
Provide additive lump sum cost for the contractor to provide a performance and payment bond covering the total of all non-recurring charges identified in the form above.

**TRENCH EXCAVATION SAFETY PROVISIONS: If the contract contains any work which requires any trenching exceeding a depth of four feet, all cost for adequate trench safety systems shall be identified as a separate bid item in compliance with Chapter 39.04 RCW. The purpose of this provision is to ensure that the bidder agrees to comply with all the relevant trench safety requirements of Chapter 49.17 RCW. This bid amount shall be considered as a part of the total base bid included within the non-recurring charges set forth above and will not be added as a separate contract amount. Failure to complete this requirement may be considered as nonresponsive to the bid solicitation.

Trench Excavation Safety Provisions Only: \$_____

Table 4 - Sumner-Bonney Lake School District Reference Design

Sumner-Bonney Lake School District Reference Design



ADDENDUM A:

SAMPLE FIBER OPTIC LEASE AGREEMENT

THIS DARK [] OR LIT [] FIBER OPTIC LEASE AGREEMENT (“Agreement”), made this ____ day of [] [], 2021 (the “Effective Date”), between [], a [] [corporation/limited liability company/limited partnership] (“Service Provider”), having an office at [], and SUMNER-BONNEY LAKE SCHOOL DISTRICT, a Washington municipal corporation (the “District”), having an office at 1202 Main St, Sumner, WA 98390. Service Provider and the District are each referred to as a “Party” and together referred to as the “Parties”.

RECITALS

- A. Service Provider, through ownership or other arrangement, possesses the right to use or operate a fiber optic network between various points within the State of Washington.
- B. Service Provider is in the business of leasing fiber optic connections to end-use customer.
- C. The District desires to lease fiber optic connections from Service Provider for the District’s own networking services.
- D. Service Provider is willing to lease to the District, rights to use fiber optic connections under the terms and conditions set forth herein.

AGREEMENT

1. DEFINITIONS

Unless otherwise defined herein, the terms used in this Agreement will have their normal or customary meanings. In addition, for the purpose of this Agreement, the following terms will have the meanings set forth:

“Acceptance” means written notification issued to Service Provider by the District, stating the District’s intent to receive with approval the WAN Fibers at a District Site that are in conformance with this Agreement and all product specifications.

“Conditional Acceptance” means written notification issued to Service Provider by the District, stating the District’s intent to receive the WAN Fibers at a District Site that are not in conformance with this Agreement and all product specifications, with the express condition that all deficiencies impeding conformance will be corrected.

“Demarcation Point” means the point that defines where issues of ownership and maintenance begin and end, as set forth in Section 2.4.

“District Representative” means the person identified by the District to be the point of contact for Service Provider for matters under this Agreement.

“District Electronics” means the fiber optic or other telecommunications equipment used to facilitate telecommunication services over the WAN Fibers.

“District Sites” means the seventeen (17) District facilities identified in **Table 1** at which the Service Provider will install and maintain the WAN Fibers pursuant to this Agreement.

“Indemnified Person” has the meaning set forth in Section 9 below. “Internal Resolution” has the meaning set forth in Section 15.1 below. “Initial Term” has the meaning set forth in Section 5.1 below.

“Leased Fibers” single mode non-dispersion shifted fibers within a fiber optic cable, as set forth in Exhibit B.

“Maintenance Charge” has the meaning set forth in Section 6.1 below.

“Potential Service Affecting Condition” means any deficiency that left unchecked and uncorrected could become service affecting.

“Renewal Term” has the meaning set forth in Section 5.1 below.

“Rent” has the meaning set forth in Section 6.1 below.

“Request for Internal Resolution” has the meaning set forth in Section 15.1 below

“Request for Mediation” has the meaning set forth in Section 15.2 below.

“Right-of-Way” means easement or right to use real property owned by native electric utilities, railroads, individuals, or other entities. Service Provider has or will acquire appropriate interests in such real property, or other rights as may be required to provide and maintain the Leased Fibers.

“Service-Affecting Condition” means any failure of the Leased Fibers at a District Site causing loss of service to the District.

2. SCOPE OF AGREEMENT

2.1 The Leased Fibers. Service Provider has designed, engineered, constructed or shall cause to be constructed, facilities and has acquired appropriate Right-of-Way or other rights, all as may be required to provide, and maintain the Leased Fibers, as more fully defined in the Exhibits of this Agreement. Any acts required of Service Provider to be performed for the District to Accept the Leased Fibers shall be completed by Service Provider as mutually agreed upon by the Parties. All of the Leased Fibers shall be engineered and constructed for optimum operation at [] nanometers (nm). The maximum loss budget for each connection pursuant to this Agreement is equal to 16 dB at 1310 nm. The following Exhibits, attached hereto, are by this reference incorporated herein.

Exhibit A Preliminary Route/Engineering

Exhibit B Test Results Sample Report Form

2.2 Preliminary Route/Engineering Diagram. Service Provider shall deliver to the District the information contained in Exhibit A prior to execution of the Agreement.

2.3 Service Provider Deliverables. Service Provider shall provide to the District the deliverables within the timeframes specified in the Agreement.

2.4 Demarcation Points. The demarcation points between Service Provider and the District shall be located inside the District Sites and are defined to be at the [Fiber Storage Panel (ADC FSP80) (FFSP)]. [FC Ultra Physical Contact (FCUPC)] factory connectorized pigtailed are to be used from the outside plant cable to the Fiber Storage

Panel. Service Provider shall furnish the connectorized pigtails in all locations for fiber cable termination at the Fiber Storage Panel. Service Provider shall maintain the Fiber Storage Panel and pigtails. In order to maintain acceptable loss limits on the Leased Fibers, there may not be any other connections installed on the Leased Fibers in any sites without the District's express written consent.

3. ACCEPTANCE OF CONSTRUCTION OF LEASED FIBERS

3.1 Construction Meetings. During construction of the Leased Fibers, Service Provider shall hold periodic meetings with the District Representative to finalize the engineering of the Leased Fibers and inform the District of any proposed changes in right-of-way configurations and obtain the District's concurrence in any such changes. All meetings shall be arranged on a time and location schedule acceptable to both Parties. Service Provider shall provide milestone schedules every two weeks to the District Representative.

3.2 Fiber Testing. Service Provider shall conduct fiber testing measuring end-to-end attenuation (including all fiber, splices and connectors) on all Leased Fibers. Service Provider shall conduct such fiber testing shall be done in both directions at the operating wavelengths of 1310 nm and 1550 nm and shall use the double-ended loss test methodology. Service Provider shall record all optical power measurements to the nearest tenth of a unit of measure (to one significant digit in the decimal place, i.e., -14.3 dB) and report results in the form provided in Exhibit D. Service Provider shall provide documentation of its fiber testing procedures to the District, including referencing procedures for fiber testing, prior to any such fiber testing. Such documentation shall include a list of fiber test equipment (manufacturer and model number) that Service Provider will use for such testing and the date of the last calibration of such fiber test equipment. Service Provider shall use only fiber test equipment that has been calibrated at the factory (or by an approved calibration service provider) no later than one (1) year prior to such use. Service Provider shall record and present, in both hard copy and computer-readable format, all insertion loss testing to the District for the Review. Service Provider shall remove and replace any and all Leased Fibers that fail to meet the link loss standards set forth in this Section 3.2 at no cost to the District. The District will not accept the Leased Fibers at a District Site until they meet the link loss standards set forth in this Section 3.2.

3.3 Leased Fibers Inspection. Service Provider shall provide the District with a description of the final Leased Fibers prior to the commencement of any construction under this Agreement. The District reserves the right to provide reasonable input into the selection of the designated Leased Fibers that are constructed or proposed to be constructed on the District's property. At least fifteen (15) days prior to an anticipated Leased Fiber completion date, Service Provider shall provide written notice to the District Representative, at which time the District, in its discretion, may schedule a Leased Fiber inspection. Upon a Leased Fiber completion, Service Provider shall submit a written notice of completion along with Optimal Time Domain Reflectometer (OTDR) traces and end-to-end loss measurements. The District shall complete any such Leased Fiber inspection within ten (10) business days of receipt of Service Provider's notice of completion.

3.4 Punch List. Pursuant to an inspection of a Leased Fiber by the District, the Parties shall mutually agree upon a list of any items to be corrected on such Leased Fiber.

Service Provider shall correct any such items that are the responsibility of Service Provider pursuant to the terms and conditions hereof, at Service Provider's sole cost.

3.5 Acceptance of the Leased Fibers. The District shall provide a written notice of Acceptance of the Leased Fibers at a District Site when the Parties mutually agree that such Leased Fibers are in conformance with this Agreement and all product specifications. Billing for the charges listed in this Agreement may begin as of the date of Acceptance.

3.6 Conditional Acceptance of the Leased Fibers. In the event the Leased Fibers at a District Site are not in conformance with this Agreement and all product Fibers and, upon such Conditional Acceptance, shall commence payment of an amount to be agreed upon by both charges (Rent and Maintenance Charges) set forth in Section 6. Service Provider shall Parties. In no event shall the amount be paid exceed [] of the total monthly recurring correct any such deficiencies within thirty (30) days of Conditional Acceptance. Should any such identified deficiencies remain uncorrected at the end of the thirty (30) days unless otherwise excused herein, then the District may, at its discretion and at its option, correct such deficiencies, at Service Provider's sole expense. The District may offset the reimbursement owed for correcting any deficiencies against the fees to be paid under this Agreement. If the District is unable to correct the deficiencies or chooses not to correct the deficiencies, the District may, at its option, (i) terminate this Agreement upon written notice to Service Provider without liability and obtain reimbursement from Service Provider for any amounts paid to Service Provider up through the date of termination, or (ii) continue to use the Leased Fibers on a Conditional Acceptance basis until all deficiencies are corrected

3.7 Liquidated Damages for Delay. If completion and Acceptance or Conditional Acceptance of the Leased Fibers at a District Site does not occur on or before the mutually agreed upon time provided for such completion and Acceptance or Conditional Acceptance, because of any failure of Service Provider not otherwise excused or reasonably within Service Provider's control, and the District does not terminate this Agreement, Service Provider shall pay to the District fifty dollars (\$50) per day per District Site for which Acceptance or Conditional Acceptance has not occurred until the Leased Fibers are Accepted by the District as set forth herein. THE PARTIES ACKNOWLEDGE THAT THE DISTRICT'S ACTUAL DAMAGES IN THE EVENT OF A FAILURE BY SERVICE PROVIDER TO TIMELY COMPLETE CONFORMING LEASED FIBERS AT A DISTRICT SITE WOULD BE EXTREMELY DIFFICULT OR IMPRACTICABLE TO DETERMINE; THEREFORE, THE PARTIES ACKNOWLEDGE THAT THE LATE FEE OF FIFTY DOLLARS (\$50) PER DAY PER DISTRICT SITE FOR WHICH ACCEPTANCE OR CONDITIONAL ACCEPTANCE HAS NOT OCCURRED HAS BEEN AGREED UPON, AFTER NEGOTIATION, AS (a) THE PARTIES' REASONABLE ESTIMATE OF JUST COMPENSATION FOR THE DAMAGES THE DISTRICT WOULD SUFFER AND INCUR IF SERVICE PROVIDER FAILS TO TIMELY DELIVER CONFORMING LEASED FIBERS AT A DISTRICT SITE AND (b) THE DISTRICT'S EXCLUSIVE REMEDY AGAINST SERVICE PROVIDER IN THE EVENT OF SERVICE PROVIDER'S FAILURE TO TIMELY DELIVER CONFORMING LEASED FIBERS AT A DISTRICT SITE. SERVICE PROVIDER HEREBY IRREVOCABLY WAIVES ALL RIGHTS OR BENEFITS OF ANY LAW, RULE OR REGULATION, NOW OR HEREAFTER CONFORMING LEASED FIBERS AT A DISTRICT SITE (1) ALLOW SERVICE PROVIDER TO CLAIM THAT THE LATE FEE IS UNREASONABLE IN AMOUNT OR CONSTITUTES A PENALTY OR (2) REQUIRE THE DISTRICT TO PROVE ACTUAL LOSS IN ORDER TO COLLECT THE FULL AMOUNT OF LIQUIDATED DAMAGES.

4. MAINTENANCE

4.1 Construction, Operation and Maintenance of the Leased Fibers. Service Provider shall construct, operate and maintain the Leased Fibers in accordance with industry standards and the terms of this Agreement. Service Provider shall have obtained all required regulatory authorizations, construction permits, and appropriate agreements for installation and use of the Leased Fibers in conduit, on poles, and/or in trenches on public or private property. It is expressly understood that the Leased Fibers may be installed in or on Right-of-Way, the use of which is licensed or leased to Service Provider by others. Service Provider shall have acquired such Right-of-Way (including any necessary renewals or new licenses or leases) and obtained for the District the right to use, maintain and access the Leased Fibers without interruption and a guarantee of non-disturbance during the Initial Term and any Renewal Term. Service Provider shall immediately inform the District in the event that Service Provider is unable, after diligent and good faith efforts, to obtain renewals of existing licenses or leases, new licenses or new leases, in order to enable the District to protect its rights to use, maintain and access the Leased Fibers provided during the Initial Term and any Renewal Term.

4.2 Repairs to the Leased Fibers. Service Provider shall perform all routine and ordinary maintenance and repairs, as well as any emergency repairs to correct any failure, interruption or impairment in the operation of the Leased Fibers. In the case of Potential Service Affecting Conditions, Service Provider shall promptly notify the District Representative and dispatch properly equipped and trained personnel to be on-site within four (4) hours of notice of any emergency to take corrective action. Once on-site, Service Provider shall repair the Leased Fibers in accordance with the maintenance standards. The District reserves the right to have representatives available to monitor the progress of the restoration effort. Service Provider field forces shall provide information on the progress as requested unless providing the information will delay the restoration effort. Restoration of the cable and any splicing of the Leased Fibers shall be completed by Service Provider in a systematic and rotational manner with the Leased Fibers having equal priority to other fibers within the cable. The District reserves the right to perform or assist with the cable restoration in the event that Service Provider is unable or unwilling to perform the restoration effort by an event of Force Majeure.

4.3 Service-Affecting Work. Service Provider shall (i) schedule service-affecting work only upon concurrence by the District Representative and (ii) perform such service-affecting work only at a time that will least affect the District's business. Service Provider shall notify the District Representative three (3) business days prior to any scheduled service-affecting work and obtain the District's concurrence prior to the commencement of such work.

4.4 Updated Contact/Escalation List. Service Provider shall, at the beginning of each calendar year, provide the District Representative with an updated contact/escalation list to aid in trouble reporting and resolution. The current list and the address and phone number for the District Representative will be shared with each party.

4.5 Service Provider Splicing. The District may request that Service Provider splice into the Leased Fibers at additional mutually agreed to points in the future. The District shall schedule all such splicing activities with Service Provider at a mutually agreed-upon time. Service Provider shall perform all such splicing at the District's sole cost.

4.6 District Consent to Outsourcing of Services. Service Provider shall not outsource any services Service Provider is required to provide to the District unless Service Provider first obtains the District's written consent to the suppliers' qualifications, which consent will not be unreasonably withheld.

4.7 District Retesting of the Leased Fibers. The District may re-test the Leased Fibers at any time during the Initial Term and any Renewal Term, using its own equipment, provided that such re-testing will be at the District's sole cost. If the Leased Fibers fail to meet or exceed the specifications set forth in Exhibit B, such deficiencies found by the District will be corrected at Service Provider's expense.

4.8 Corrections of Deficiencies. Service Provider shall correct deficiencies pursuant to the following parameters:

(a) Service Affecting Condition. With the exception of a Service Affecting Condition occurring as a result of an event of Force Majeure, Service Provider shall commence correction of a Service Affecting Condition immediately upon discovery. Service Provider shall complete all corrections of such Service Affecting Condition within twenty-four (24) hours or using Service Provider's best efforts. Failure of Service Provider to comply shall constitute default, and Service Provider shall be subject to the remedies available to the District as set forth in Section 5.3 below.

(b) Potential Service Affecting Condition. With the exception of a Potential Service Affecting Condition occurring as a result of an event of Force Majeure, Service Provider shall commence correction of a Potential Service Affecting Condition immediately upon Service Provider's receipt of notification from the District. Service Provider shall complete all corrections of such Potential Service Affecting Condition within five (5) days or using Service Provider's best efforts. Failure of Service Provider to comply shall constitute default, and Service Provider shall be subject to the remedies stated in Section 5.3 below.

(c) Other Deficiency. Service Provider shall commence correction of any deficiency that is not a Service Affecting Condition or a Potential Service Affecting Condition within thirty (30) days of Service Provider's receipt of notification from the District. Failure of Service Provider to comply shall constitute default, and Service Provider shall be subject to the remedies stated in Section 5.3 below.

4.9 Credits for Service Affecting Conditions. Service Provider shall issue a credit to the District when Service Affecting Conditions arise on the Leased Fibers as set forth below.

(a) More than four (4) hours but less than forty-eight (48) hours. For any Service Affecting Condition that with a duration of more than four (4) hours but less than forty-eight (48) hours, then Service Provider shall provide the District with credits equal to twenty-five percent (25%) of the Lease Payment for such month in which the Route did not meet the specifications set forth in this Agreement.

(b) More than forty-eight (48) hours but less than seventy-two (72) hours. For any Service Affecting Condition that with a duration of more than forty-eight (48) hours but less than seventy-two (72) hours, then Service Provider shall provide the District with credits equal to fifty percent (50%) of the Lease Payment for such month in which the Route did not meet the specifications set forth in this Agreement.

(c) More than seventy-two (72) hours. For any Service Affecting Condition that with a duration of more than seventy-two (72) hours, then Service Provider shall provide the District with credits equal to one-hundred percent (100%) of the Lease Payment for such month in which the Leased Fibers did not meet the specifications set forth in this Agreement.

For purposes of this Section 4.9, the duration of any Service Affecting Condition shall commence at the time when Service Provider is notified that the Leased Fibers fails to meet the specifications set forth in this Agreement and ends when the Leased Fibers resumes operating in accordance with the specifications set forth in this Agreement.

5. TERM/TERMINATION

5.1 Term. This Agreement shall commence as of the Effective Date and shall end, unless sooner terminated pursuant to the terms, covenants and conditions of this Agreement or pursuant to law, on [June 30, 2021 / June 30, 2026] (the "Initial Term"). Provided the District is not then in default under any of the terms, covenants or conditions of this Agreement, the District shall have the option to renew this Agreement for renewal terms of one (1) year each (each, a "Renewal Term") commencing on the date immediately following the last date of the Initial Term or Renewal Term, as applicable.

5.2. Termination for Convenience by the District. The District may terminate this Agreement during any Renewal Term at any time upon sixty (60) days' written notice to Service Provider.

5.3. Termination for Breach. If one Party defaults in the performance of, or fails to perform, any of its material obligations under this Agreement, and such default is not cured within thirty (30) days of the receipt of written notice from the non-defaulting Party, then the non-defaulting Party shall have the right to terminate this Agreement upon written notice and avail itself of any and all rights and remedies to which it may be entitled by law or in equity. Notwithstanding the foregoing, the District may terminate this Agreement effective immediately without liability upon written notice to Service Provider if three (3) or more Service Affecting Conditions occur within a three (3) month period, and such Service Affecting Conditions are not attributable to any of the following: (a) unavailability during any regular scheduled maintenance of the Leased Fibers; (b) unavailability caused solely by District Electronics; (c) unavailability due solely to acts or omissions of the District; (d) unavailability due solely to conditions of Force Majeure; or (e) any combination of conditions described in clauses (a) through (d) of this Section 5.3.

5.4. Termination for Bankruptcy. Either Party may terminate this Agreement effective immediately without liability upon written notice to the other if any one of the following events occurs: (a) the other Party files a voluntary petition in bankruptcy or an involuntary petition is filed against it, (b) the other Party is adjudged a bankrupt, (c) a court assumes jurisdiction of the assets of the other Party under federal reorganization act, (d) a trustee or receiver is appointed by a court for all or a substantial portion of the assets of the other Party, (e) the other Party becomes insolvent or suspends business, or (f) the other Party makes an assignment of its assets for the benefit of its creditors.

5.5. Survival. Termination or expiration of this Agreement shall not cancel or terminate any rights and/or obligations which arose prior to the effective date of termination or

expiration and which must continue to give effect to their meaning at the time such right and/or obligation arose.

6. COMPENSATION

6.1 Rent. On or before the first day of any full calendar month during the Initial Term or any Renewal Term, the District shall pay to Service Provider as rent for the Leased Fibers the amount as provided on the monthly rent schedule of Exhibit A ("Rent"). The Rent for any period during the Initial Term or any Renewal Term which is for less than one (1) month shall be a prorated portion of the monthly installment herein, based upon a thirty (30) day month.

6.2 Maintenance Charge. On or before the first day of any full calendar month during the Initial Term or any Renewal Term, the District shall pay to Service Provider the monthly maintenance charges on the maintenance charges schedule of Exhibit A ("Maintenance Charge"). The Maintenance Charge for any period during the Initial Term or any Renewal Term which is for less than one (1) month shall be a prorated portion of the monthly installment herein, based upon a thirty (30) day month.

6.3 CPI Adjustments for Renewal Terms. For Renewal Terms only, the Rent and Maintenance Charge shall be subject to adjustment in accordance with the following procedure:

(a) The index to be used for this adjustment shall be the Consumer Price Index- All Urban Consumers-Seattle-Tacoma-Bremerton Metropolitan Area, All Items compiled by the U.S. Department of Labor, Bureau of Labor Statistics, (1982-84 =100).

(b) The Base Period Consumer Price index shall be subtracted from the Adjustment Period Consumer Price Index; the difference shall be divided by the Base Period Consumer Price Index. This quotient shall then be multiplied by the respective Rent and Maintenance Charge for the Initial Term. The result shall be added to the respective Rent and Maintenance Charge for the Initial Term. This arithmetical sum shall then be the Adjusted Monthly Payment for the Renewal Term.

(c) If the Consumer Price Index is, at any time during the Initial Term, discontinued or no longer published, then the most nearly comparable published measure of inflation, as determined by the District in its sole discretion, shall be substituted for the purpose of this calculation.

6.4 Billing and Payment. Service Provider shall invoice the District monthly for the Rent and Monthly Rent owed by the District under this Agreement for such month. The District shall pay the invoiced amount not disputed pursuant to Section 6.5 below within thirty (30) days of the date the District receives such invoice from Service Provider.

6.5 Disputed Amounts. To the extent the District, in good faith, disputes any part of an invoice, the District shall pay the undisputed amount invoiced pursuant to Section 6.4 above. If any amount withheld under dispute is finally determined to have been due, the District shall forward the withheld amount to Service Provider within ten (10) days of such determination.

7. TAXES

Service Provider will be fully responsible for the payment before delinquency of any and all ad valorem, property, franchise, gross receipts, sales, use and other taxes directly applicable to the leasing of the Leased Fibers to the District.

8. REPRESENTATIONS AND WARRANTIES

8.1 Representations and Warranties of Service Provider. Service Provider represents and warrants to the District the following:

(a) Service Provider is a duly organized and validly existing corporation in good standing under the Laws of the State of Washington and authorized to do business in the State of Washington. It has all requisite corporate power and authority to own its property, real and personal, and operate its business as and where it is now being conducted.

(b) Service Provider has the power and authority to enter into this Agreement and perform its obligations under this Agreement. The execution, delivery and performance of this Agreement have been duly authorized by all necessary corporate actions and proceedings. This Agreement is, and any other instruments, documents or writings to be executed and delivered by Service Provider pursuant to this Agreement will be, legal, valid and binding obligations of Service Provider, and enforceable against Service Provider in accordance with the provisions hereof except as may be limited by applicable laws.

(c) The execution and delivery by Service Provider of this Agreement and of any other instruments, documents or writings contemplated by this Agreement will not conflict with or violate or constitute a breach or default under the Articles of Incorporation or bylaws of Service Provider or the provision of any mortgage, trust, indenture, bond, lien, pledge, release, agreement, guaranty or instrument to which Service Provider is subject.

(d) There are no known unresolved claims or disputes between Service Provider and the District. There are no known actions, suits or proceedings pending or, to the knowledge of Service Provider, threatened against Service Provider that, if adversely determined to Service Provider, would materially and adversely affect the ability of Service Provider to perform its obligations under this Agreement.

(e) All performance obligations rendered by Service Provider will be designed, produced, installed, furnished and in all respects provided and maintained in conformance and compliance with applicable federal, state and local laws, administrative and regulatory requirements, and any other authorities having jurisdiction over the subject matter of this Agreement that were in effect at the time of such design, production, installation or furnishing, and Service Provider will be responsible for applying for, obtaining and maintaining all registrations and certifications which may be required by such authorities to the extent that failure to do so would materially and adversely affect its obligations under this Agreement.

(f) Service Provider has installed or will install the Leased Fibers in a professional, workmanlike manner and in accordance with industry standards in all material respects and the specifications set forth in the Exhibits to this Agreement.

Service Provider further warrants that the Leased Fibers will operate and be maintained in accordance with Section 4 for the Initial Term and any Renewal Term.

8.2 Representations and Warranties of the District. The District represents and warrants to Service Provider the following:

(a) The District is a duly organized and validly existing municipal corporation in good standing under the Laws of the State of Washington and authorized to do business in the State of Washington. It has all requisite corporate power and authority to own its property, real and personal, and operate its business as and where it is now being conducted.

(b) The District has the power and authority to enter into this Agreement and perform its obligations under this Agreement. The execution, delivery and performance of this Agreement have been duly authorized by all necessary corporate actions and proceedings. This Agreement is, and any other instruments, documents or writings to be executed and delivered by the District pursuant to this Agreement will be, legal, valid and binding obligations of the District, and enforceable against the District in accordance with the provisions hereof except as may be limited by applicable laws.

(c) The execution and delivery by the District of this Agreement and of any other instruments, documents or writings contemplated by this Agreement will not conflict with or violate or constitute a breach or default under the provision of any mortgage, trust, indenture, bond, lien, pledge, release, agreement, guaranty or instrument to which the District is subject.

(d) There are no known unresolved claims or disputes between Service Provider and the District. There are no known actions, suits or proceedings pending or, to the knowledge of the District, threatened against the District that, if adversely determined to the District, would materially and adversely affect the ability of the District to perform its obligations under this Agreement.

9. INDEMNIFICATION

Service Provider agrees to release, indemnify, defend, protect, and hold harmless the District, its employees, officers, directors, agents, shareholders and affiliates (each, an "Indemnified Person"), from and against, and assumes liability for the following:

(a) Any injury, loss or damage to any person, tangible property or facilities of any third person or entity or an Indemnified Person (including reasonable attorneys' fees and costs) to the extent arising out of or resulting from either: (i) the acts or omissions, negligent or otherwise, of the Service Provider, its officers, employees, servants, affiliates, agents, contractors, licensees, invitees or vendors; or (ii) acts and omissions of the Service Provider constituting a default under this Agreement; and

(b) Any claims, liabilities or damages arising out of any violation by the Service Provider of any regulation, rule, statute or order of any local, state or federal governmental agency, court or body in connection with the use of the Leased Fibers under this Agreement.

Nothing contained in this Section 9 shall operate as a limitation on either Party's right to bring an action for damages against any third party, such damages to include, but not be limited to, direct, indirect, statutory, special, consequential or punitive damages, based on any acts or omissions of a third party that may affect the construction, operation or use of the Leased Fibers; provided, however, that such Party agrees to promptly assign any such rights, actions, or claims to the other Party and execute documents and take any other action reasonably necessary to enable the other Party to pursue any right, action or claim against a third party.

10. INSURANCE

10.1 Insurance Requirements. Service Provider shall at all times during the Initial Term and any Renewal Term, at its own cost and expense, carry and maintain the insurance coverage listed below with insurers having a minimum "Best's" rating of A VII. Lessee shall require its subcontractors and agents to maintain the same insurance. Service Provider shall provide thirty (30) days' written notice of cancellation, material change or exclusions to any required policy.

(a) Commercial General Liability. Commercial General Liability insurance covering claims for bodily injury, death, personal injury or property damage (including loss of use) occurring or arising out of the license, use or occupancy by Lessee of any premises in connection with this Agreement, including coverage for premises operation, products/completed operations and contractual liability with respect to the liability assumed by Lessee hereunder. The limits of insurance shall not be less than:

Each Occurrence	\$2,000,000
General Aggregate	\$5,000,000
Products/Completed	\$2,000,000
Personal & Advertising	\$2,000,000

The Commercial General Liability policy and/or excess liability policy shall name the District as an Additional Insured and as a Certificate Holder. The Additional Insured shall include products and completed operations, be primary and non contributory with any other valid and collectible insurance purchased or maintained by the District. There shall be a Waiver of Subrogation endorsement. Exclusion P of the CG 00 01 "Electronic Data", or equivalent, shall be removed or a sublimit of not less than \$1,000,000.

(b) Workers' Compensation. Workers' Compensation insurance with statutory limits as required in the state(s) of operation; and providing coverage for any employee entering onto any premises in connection with this Agreement, even if not required by statute. Employer's Liability or "Stop Gap" insurance with limits of not less than \$100,000 each accident.

(c) Comprehensive Automobile Liability. Comprehensive Automobile Liability insurance covering the ownership, operation and maintenance of all owned, non-owned and hired motor vehicles used in connection with this Agreement, with limits of at least \$1,000,000 per occurrence for bodily injury and property damage.

The insurance limits required pursuant to this Section 10 may be obtained through any combination of primary and excess or umbrella liability insurance. However Excess and Umbrella policies must be following form of the primary 10.2 Certificate of Insurance. Service Provider shall forward to the District certificate(s) of the insurance required by this Section 10 upon execution of this Agreement and upon any renewal of such insurance during the Initial Term and any Renewal Term. The certificate(s) shall include all endorsements forms pertaining to the Additional Insured Status.

11. FORCE MAJEURE

If either Party becomes unable, either wholly or in part, by an event of Force Majeure, to fulfill its obligations under this Agreement, the obligations affected by the event of Force Majeure shall be suspended only during the continuance of that inability. The Party so affected will give written notice of the existence, extent, and nature of the event of Force Majeure to the other Party within forty-eight (48) hours after the occurrence of the event. The Party so affected will remedy its inability to fulfill its obligations under this Agreement as soon as possible. Failure to give notice to the other Party will result in the continuance of the affected Party's obligations regardless of the extent of any existing Force Majeure. As used in this Agreement, the term "Force Majeure" means acts of God, strikes, lockouts, or other industrial disturbances, acts of public enemies, wars, blockades, insurrections, riots, epidemics, earthquakes, fires, floods, restraints or prohibitions by any court, board, department, commission, or agency of the United States or any states, any arrests or restraints, disturbances, or explosions. Rain, snow, ice, or other adverse, non- catastrophic weather conditions will not be considered events of Force Majeure.

12. LIMITATION OF LIABILITY

WITH THE EXCEPTION OF OBLIGATIONS PURSUANT TO SECTION 9, NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY CLAIM OR CAUSE OF ACTION REQUESTING OR CLAIMING SPECIAL, INCIDENTAL, INDIRECT, STATUTORY, PUNITIVE, RELIANCE OR CONSEQUENTIAL DAMAGES (WHETHER OR NOT THE SAME ARE FORESEEABLE). ANY CLAIM OR CAUSE OF ACTION REQUESTING OR CLAIMING SUCH DAMAGES IS SPECIFICALLY WAIVED AND BARRED, WHETHER OR NOT SUCH DAMAGES WERE FORESEEABLE OR A PARTY WAS NOTIFIED IN ADVANCE OF THE POSSIBILITY OF SUCH DAMAGES. EXAMPLES OF SUCH DAMAGES PROHIBITED UNDER THIS AGREEMENT, INCLUDE, BUT ARE NOT LIMITED TO, THOSE ARISING OUT OF CLAIMS BASED ON BREACH OF CONTRACT, BREACH OF WARRANTY, NEGLIGENCE, AND/OR STRICT LIABILITY.

13. EMPLOYEES WHO HAVE BEEN CONVICTED OF CRIMES INVOLVING CHILDREN

13.1 Service Provider shall enforce strict discipline and good order among employees of Service Provider and employees of contractors and subcontractors of Service Provider and other persons carrying out the work, including observance of drug testing and all smoking, tobacco, drug, alcohol, parking, safety, weapons, background checks, sexual harassment and other rules governing the conduct of personnel at the District's property and the District Sites. Service Provider shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them. Service Provider shall ensure that all persons performing the work comply with the District's tobacco-free policy, and will not and do not engage in inappropriate conduct or inappropriate contact

with students or staff. Neither Service Provider nor any of its contractors or subcontractors of any tier shall utilize any employee at the site or permit any contact between children at a public school and any employee who is a registered sex offender or who has pled guilty to or been convicted of any felony crime involving the physical neglect of a child under Chapter 9A.42 RCW, the physical injury or death of a child under Chapter 9A.32 RCW or Chapter 9A.36 RCW (except motor vehicle violations under Chapter 46.61 RCW), sexual exploitation of a child under Chapter 9A.68A RCW, sexual offenses under Chapter 9A.44 RCW where a minor is a victim, promoting prostitution of a minor under Chapter 9A.88 RCW, the sale or purchase of a minor child under Chapter 9A.64.030 RCW, or violation of similar laws of another jurisdiction. Service Provider shall remove from the work and District Site any employees of Service Provider and employees of contractors and subcontractors of Service Provider or other person who has engaged in such actions or who the District reasonably considers objectionable without change in the Rent or Maintenance Charge. Without limiting the generality of the foregoing, Service Provider shall ensure by appropriate provisions in each subcontract agreement that the Service Provider may remove from the work and District Site any employee of a contractor and subcontractor of Service Provider who has engaged in such action. At no change to the Rent or Maintenance Charge, Service Provider shall remove from the work and District Site any employee of Service Provider or employee of contractors and subcontractors of Service Provider or other person pursuant to this Section 13.1. Failure to comply with these requirements is grounds for immediate termination of the Agreement for cause.

13.2 If requested by the District, any employee of Service Provider and any employee of a contractors or subcontractor of Service Provider shall be subject to a record check through the Washington state patrol criminal identification system under RCW 43.43.830 through 834, RCW 10.97.030, and RCW 10.97.050 and through the Federal Bureau of Investigation. The record check shall include a fingerprint check using a complete Washington state criminal identification fingerprint card. The District shall provide necessary cooperation associated with required record check. When necessary, applicants may be employed on a conditional basis pending completion of the investigation. If the applicant has had a record check within the previous two years, the District may waive the requirement. Service Provider, pursuant with chapters 41.59 and 41.56, RCW, shall pay costs associated with the record check as part of the Rent and Maintenance Charge.

13.3 Any employee of Service Provider and any employee of a contractor or subcontractor of Service Provider performing work on a District Site shall be free from drug and alcohol impairments. Service Provider shall develop a substance abuse program (negotiated as applicable with any appropriate bargaining unit(s)) that complies with the following. The tests must be current within six months, and the program must test for all of the following substances:

Drug Name	Detection Level	Confirmation Level
Alcohol		
Amphetamin	1000 ng/ml	500 ng/ml
Barbiturates	300 ng/ml	200 mg/ml
Benzodiazepi	300 ng/ml	150 ng/ml
Cannebinoid	100 ng/ml	15 ng/ml

Cocaine	300 ng/ml	150 ng/ml
Opiates		
Codeine	1000 ng/ml	300 ng/ml
Morphine	300 ng/ml	300 ng/ml
Phencyclidin	25 ng/ml	25 ng/ml

Diluted tests will be considered as inconclusive, and a re-test will be required. Subsequent diluted test results will be considered as non-compliance with the policy. If the District, the District Representative, or a District Site administrator reasonably believes that a person may be under the influence of any such drugs or alcohol, the District may require that such test take place immediately.

14. TOBACCO ON SCHOOL PREMISES

RCW 28A.210.310 prohibits the use of tobacco in any form on the District’s property. Smoking or other use of tobacco will not be permitted on the District’s property.

15. DISPUTE RESOLUTION

15.1 Internal Resolution. Both Parties shall attempt to resolve any controversy claim, problem or dispute arising out of, or related to, this Agreement through good faith consultation in the ordinary course of business (each, an "Internal Resolution"). In the event that any problem or dispute is not resolved by the project managers of each Party, either Party may upon written notice to the other request that the matter be referred to senior management officials within each respective organization with express authority to resolve the problem or issue ("Request for Internal Resolution"). A written Request for Internal Resolution shall be given by either Party within thirty (30) calendar days of the Parties’ knowledge of the claim. Senior management officials shall meet or confer at least once in good faith, to negotiate a mutually acceptable resolution within ten (10) business days of the Request for Internal Resolution.

15.2 Notice. Senior management officials are required to meet at least once as a result of any Request for Internal Resolution, but may mutually agree to meet more than once if it appears that further meetings may successfully resolve the issue. If the Parties do not successfully resolve the dispute by Internal Resolution, then the Party finding the Internal Resolution unsatisfactory shall provide written notice to the other Party, demanding mediation ("Request for Mediation"). The Request for Mediation may not be given prior to the first meeting for Internal Resolution, and shall not be given any later than ninety (90) calendar days following the completion of the first Internal Resolution meeting. The Request for Mediation shall be sent certified mail-return receipt requested to the other Party, and shall set forth all of the issues that Party deems outstanding that must be submitted to mediation. The Party in receipt of the Request for Mediation shall respond within twenty (20) business days listing any issues it deems appropriate for submission to the Mediator.

15.3 Mediation. Any controversies between Service Provider and the District regarding the construction or application of this Agreement, and claims arising out of this Agreement or its breach (except those for which the appropriate remedy should be injunctive relief) shall be mediated within sixty (60) calendar days of the date on the

written Request for Mediation, or the soonest date thereafter that the mediator is available.

15.4 Mediator. Within twenty (20) calendar days or less of the written Request for Mediation, the Parties shall agree on one mediator. If they cannot agree on one mediator within such twenty (20) day period each Party shall list the names of three (3) potential mediators and shall supply them to the Party demanding the mediation. The Party demanding the mediation shall merge the names of all the potential mediators into a single list, not indicating which Party submitted the name. On that same date as all names are received by the demanding Party, the Parties shall jointly sign a letter directed to the Presiding Judge of the Superior Court of Thurston County, requesting that the Judge appoint a mediator from the enclosed list. If the Superior Court refuses to appoint a mediator within ten (10) business days, the Parties shall make the same request of the nearest Judicial Arbitration and Mediation Service (JAMS), paying whatever fee is required for making the appointment. If a Party refuses or fails to submit three (3) names within the three (3) day period to the Party preparing the letter, then the letter shall be sent on the fifth day without input from the Party failing to submit names. The mediation meeting shall not exceed one day (eight (8) hours). The Parties may agree to extend the time allowed for mediation under this Agreement.

15.5 Costs of Mediation. The costs of mediation shall be borne by the Parties equally.

15.6 Discovery. If, during any dispute between the Parties, Service Provider makes a demand for documents under the Public Disclosure Act, the District shall have reciprocal rights to demand documents from Service Provider.

15.7 Condition Precedent to Filing Suit. Except for any controversy between Service Provider and the District for which the appropriate remedy should be injunctive relief, mediation under this Section 15 is a condition precedent to a Party filing an action in any court, unless that Party has made demand for mediation and the other Party has failed or refused to engage in mediation. In the event of litigation arising out of any dispute related to this Agreement, the Parties shall each pay their respective attorneys fees, expert witness costs and cost of suit, regardless of the outcome of the litigation.

16. MISCELLANEOUS

16.1 Assignment. This Agreement shall be binding on each Party and its respective affiliates, successors, and assigns. Neither Party shall assign, sell or transfer this Agreement or the right to receive the lease hereunder, whether by operation of law or otherwise, without the prior written consent of the other Party. Any attempted assignment in violation of this Section 16.1 shall be null and void.

16.2 Notices. Unless otherwise provided in this Agreement, all notices and communications concerning this Agreement shall be in writing and addressed to the other Party as follows:

If to Service Provider: [_____]
[_____]
[_____]

Telephone No.: ([●]) [●]-[●] Facsimile: ([●]) [●]-[●] Attention: [●]

If to the District: [_____]

[_____]

[_____]

Telephone No.: ([●]) [●]-[●] Facsimile: ([●]) [●]-[●] Attention: [●]

or at such other address as either Party may designate from time to time in writing to the other Party. Except as otherwise provided in this Agreement, all required notices shall be in writing, transmitted to the Parties' addresses specified in this Section 16.2, and will be considered given: (i) when delivered by facsimile, so long as duplicate notification is sent via overnight delivery; (ii) when delivered in person to the recipient named on the signature page; (iii) when deposited in either registered or certified U.S. Mail, return receipt requested, postage prepaid; or (iv) when delivered to an overnight courier service.

16.3 Publicity, Name and Marks. No publicity regarding the existence and/or terms of this Agreement may occur without the District's prior express written consent, and such written consent, if granted, may be granted only by the District's [_____] or his or her designee. The content and timing of any press releases and all other publicity regarding the subject matter of this Agreement or Service Provider's relationship with the District, if authorized, shall be mutually agreed upon by the Parties in advance. Service Provider may not make any disclosure to any other person or any public announcement regarding the existence and the terms of this Agreement or any relationship between Service Provider and the District, without the District's prior written consent. In addition, neither Party shall use any trademark, service mark, brand name, copyright, patent, trade secret or any other intellectual property of the other Party or its respective affiliates without the other Party's prior written consent and in the case of the District, without the prior written consent of the District's [_____] or his or her designee.

16.4 Governing Law and Venue. This Agreement and the legal relations between the Parties shall be governed by and construed in accordance with the laws of the State of Washington without regard to any choice of law rules that would require the application of the laws of any other jurisdiction. In the event that suit is brought by a Party, the Parties agree that trial of such action shall be vested exclusively in the state courts of the State of Washington located in Pierce County, Washington or in the United States District Court, Western District of Washington located in Pierce County, Washington.

16.5 Entire Agreement. This Agreement constitutes the entire and final agreement and understanding between the Parties with respect to the subject matter of this Agreement and supersedes all prior agreements, written or oral, relating to the subject matter of this Agreement, which are of no further force or effect. The Exhibits referred to in this Agreement are integral parts of this Agreement and are made a part of this Agreement by this reference. In the event of a conflict between the provisions of this Agreement and those of any Exhibit, the provisions of this Agreement shall prevail and such Exhibit shall be corrected accordingly.

16.6 Headings. The section headings hereof are inserted for convenience of reference only, are not a part hereof and shall have no effect on the construction or interpretation hereof. All Exhibits referred to in this Agreement and any addenda, attachments, and schedules which may, from time to time, be referred to in any duly executed amendment to this Agreement are incorporated by this reference into this Agreement and shall be deemed a part hereof.

16.7 Amendments. This Agreement may only be modified or supplemented by an instrument in writing that is executed by a duly authorized representative of each Party.

16.8 Severability. If any term, covenant or condition of this Agreement shall, to any extent, be invalid or unenforceable in any respect under the laws governing this Agreement, the remainder of this Agreement shall not be affected thereby, and each term, covenant or condition of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

16.9 Counterparts. This Agreement may be executed in one or more counterparts, all of which, taken together, shall constitute one and the same instrument. Facsimile signatures shall be treated as original signatures for the purpose of enforcing this Agreement. The Parties Agree to exchange original signature pages as soon as practicable following exchange of the facsimile signature pages (if that occurs), but the original signatures are not required to enforce the Agreement.

16.10 Waiver. The failure of either Party to enforce any provision of this Agreement, or conduct by a Party that purports to waive any provision, shall not be construed as a general or specific waiver or relinquishment of any provision of this Agreement. A waiver of any provision of or right or obligation arising under this Agreement shall be valid only if in writing and executed by an authorized representative of the waiving Party, specifically identifying the subject of the waiver, and clearly and unequivocally waiving the provision, right or obligation that is the subject of the waiver.

16.11 Relationship of the Parties. The relationship between Service Provider and the District shall not be that of partners, agents, or joint venturers. Nothing in this Agreement shall be deemed to constitute a partnership, joint venture, or agency agreement between the Parties for any purposes, including but not limited to federal income tax purposes. Service Provider and the District, in performing any of their obligations hereunder, shall be independent contractors or independent parties and shall discharge their contractual obligations at their own risk.

16.12 No Third Party Beneficiaries. This Agreement does not provide, and is not intended to provide, any third party beneficiaries, including, but not limited to, Lessee's end users or customers, with any remedy, claim, reimbursement, cause of action or other right or privilege.

16.13 Cumulative Remedies. Except as set forth to the contrary in this Agreement, any right or remedy of either Party shall be cumulative and without prejudice to any other right or remedy, whether or not contained in this Agreement.

16.14 No Construction Against the Drafter. This Agreement has been fully negotiated between and jointly drafted by the Parties, each of whom had full opportunity to consult with counsel before execution, and any ambiguity shall not be construed against either Party.

16.15 Time of the Essence. All actions, activities, consents, approvals and other undertakings of the Parties in this Agreement shall be performed in a reasonable and timely manner, it being expressly acknowledged and understood that time is of the essence in the performance of obligations required to be performed by a date certain or within a time period specified in this Agreement. Except as specifically set forth in this Agreement, for the purpose of this Section 16.14, the normal standards of performance within the telecommunications industry in the relevant market shall be the measure of whether a Party's performance is reasonable and timely.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives as of the date first written above.

[_____]

SUMNER-BONNEY LAKE SCHOOL DISTRICT

BY: _____

BY: _____

NAME: _____

NAME: _____

TITLE: _____

TITLE: _____

EXHIBIT A
PRELIMINARY ROUTE/ENGINEERING DIAGRAM

Preliminary Fiber Route Information required from Service Provider to be attached prior to execution of Agreement:

- 1) Route Plan or Proposed Route Plan with Maps drawn to scale.
- 2) Fiber Type.
- 3) Fiber Cable Manufacturer.
- 4) Other Information.

EXHIBIT B

TEST RESULTS SAMPLE REPORT FORM

Cable Systems Attenuation Data

Project: SUMNER-BONNEY LAKE SCHOOL DISTRICT

Tech Name: _____ Tech Name: _____

Tester: _____ Tester Model: _____

Tx Location : _____

Rx Location: _____

Ref. Level – 1310 nm _____ Ref. Level – 1550 nm (dB) _____

f		Receive Power (dB)		Link Attenuation (dB)	
Adaptor #	Fiber #	1300 nm	1550 nm	1310 nm	1550 nm

Tx Location : _____

Rx Location: _____

Ref. Level – 1310 nm _____ Ref. Level – 1550 nm (dB) _____

f		Receive Power (dB)		Link Attenuation (dB)	
Adaptor #	Fiber #	1300 nm	1550 nm	1310 nm	1550 nm