



REQUEST FOR PROPOSAL
PUBLIC-PRIVATE
PARTNERSHIP IN
PROVIDING FIBER TO THE
HOME AND INTERNET
SERVICES

Kendall County, Illinois

SUMMARY

Kendall County, Illinois seeks a public or private partner to build, finance, operate, and manage (BFOM) an affordable, reliable, and scalable all fiber optic middle mile network to support next-generation, high-speed broadband internet to businesses, residences, and other entities.

Connect Kendall County Commission
Special Committee of the Kendall County Board

Kendall County, Illinois
Kendall County Board

REQUEST FOR PROPOSAL PUBLIC-PRIVATE PARTNERSHIP IN
PROVIDING FIBER TO THE HOME AND INTERNET SERVICES

Kendall County, Illinois is seeking a Public-Private partnership to build, finance, and maintain a middle-mile fiber network. The design will be based on our Fiber Network needs assessment.

April 25, 2023

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SECTION 1: INTRODUCTION

A. DEFINITIONS:

“Addenda” or “Addendum” means written or graphic instruments issued by Kendall County, Illinois (“County”), which by additions, deletions, clarifications or corrections, modify or interpret the RFP Documents. All Addenda shall be incorporated herein by reference as part of the RFP.

“County” means Kendall County, Illinois and its elected officials, departments, employees, and agents.

“CKCC” means Connect Kendall County Commission, a separate voting body from the County Board.

“Partner,” except as noted in Section 4, Paragraph 6, means an individual or entity engaged in business with the County for the mutual benefit of both parties in this Project and does not denote or imply, on its own, a legal relationship between them.

“Partnership” means a relationship consistent with the term “Partner” above.

“Project” means the Scope of Work described in the RFP Documents.

“Proposal” means a complete and properly executed plan to complete the Project per the requirements stated in this Request for Proposal and in accordance with the RFP Documents.

“Project site” means the location where the Project will be performed, which is the following location: Kendall County, Illinois

“Procurement Ordinance” refers to the Kendall County Procurement Ordinance, as amended from time to time.

“Respondent” means a person or entity who submits a Proposal and who meets the requirements set forth in the RFP Documents.

“RFP” means this Request for Proposal and any documents specifically incorporated by reference or attached hereto.

“RFP Documents” means this Request for Proposal, all Addenda, the project manual and drawings of the Project, which shall hereinafter be referred to collectively as “RFP Documents”.

B. SCOPE OF WORK:

The County, by and through its Connect Kendall County Commission, seeks a qualified internet service provider to manage a broadband and last-mile network within the county who will provide the following scope of services in accordance with the requirements set forth in this RFP and the RFP Documents:

1. The Respondent will manage the middle-mile broadband network of rings on behalf of the County.
2. The Respondent will be a financial partner.
3. The Project is being financed, in part, with grant funds. By submitting a response to this RFP, the Respondent must agree to comply with all applicable requirements set forth in the terms and conditions of the Grant.
4. Partnership Considerations:

- a. Using our Broadband Plan (<https://www.kendallcountyil.gov/transparency>) as a guide, the County is looking to undertake a public-private partnership to build the middle mile with the partner providing the last mile service.
 - i. Note: the rural rings, identified in yellow in the interactive map, (<https://www.kendallcountyil.gov/transparency/broadband-assessment>), are top-priority and expected to be built first.
 - b. The County can assist, and is willing to make available the following items:
 - i. Access to existing fiber only ducts and excess available fiber
 - ii. Access to County-owned facilities
 - iii. Assist with access to identified anchor institutions-owned facilities
 - iv. Ability to expedite permitting
 - v. Depending on need, certain county property and structures can be made available for the housing of materials, parking, and/or offices
5. Scope of Services:
- a. Design and build a high-speed network that will reach all residential addresses in the County. This includes single family homes, multi-unit dwellings, apartments, townhomes, farms, etc.
 - b. Provide a minimum symmetrical 100Mbps service tier and support service tiers of symmetrical 100Mbps and up to all customers.
 - c. Provide a detailed proposal of all service tiers that are intended, service terms, and anticipated service costs which include all potential costs to the customers.
 - d. Provide customer service standards including such things as phone answering times, repair times, installation times, if there would be a local office, and the location of a phone answering facility.
 - e. Provide a cost of the proposed network. If the County is expected to contribute, Respondent should indicate how the County will be reimbursed for its investment.
 - f. Provide complete and detailed responses to the Technical Proposal.
6. Technical Proposal:
- a. Describe the technical components of the network, providing detail regarding the key design decisions to support 100Mbps for all customers.
 - i. Describe the capacity of the back haul connection and plans for growth
 - b. Affirm that the network will strive to serve a majority of the unserved/underserved residential properties in the County
 - c. Provide a reasonable explanation of the intended construction methods and materials, deployment plan, and construction restoration plan. It is expected that during the project and at the conclusion of construction, County residents and property owners will see minimal indication of the network construction.
 - d. Describe the resources that will be provided following the construction phase to support the installation, maintenance of the network, and customer support
 - e. Describe in detail the expectations of the partnership, listing opportunities to leverage existing County infrastructure, wholesale bandwidth requirements, and additional resource needs.
 - f. Willingness to have both fiber-to-the-home and wireless connectivity
 - g. Provide proposed network up-time; plans to ensure maximum up-time
7. Initial Agreement Terms
- a. To better understand the potential terms of an agreement between the Respondent and the County, and if those terms will be suitable for both parties to begin entering into a negotiated agreement, the following items should be included in the response:
 - i. Provide an explanation of, and the data to demonstrate, the financial capacity and capability to undertake this project. Among other documents, audited financial statements, bank statements, or SEC (Securities and Exchange Commission) filings may be provided.
 - ii. A detailed example of service terms that outline the commitment to subscribers regarding service level, outage response, pricing adjustments, and service quality.

- iii. An example of the terms and conditions the Respondent would present to the County as part of this agreement. Please highlight terms that would be absolute requirements of the potential agreement as well as terms that the Respondent is willing and able to negotiate.
 - iv. Please provide any potential compensation and service usage proposals.
 - b. The County seeks a Respondent that can demonstrate their business model is tested and demonstrate experience operating an economically viable communications network over time. The Respondent's business plan demonstrates long-term sustainability (including, for example, sufficient cash flow to ensure that network equipment can be refreshed and replaced consistent with industry norms). Depending on qualification and experience, the County may choose to negotiate for the inclusion of a performance bond, first-right-of-refusal, buyout option, and/or a net lease agreement of some form.
- 8. Additional requested responses:
 - a. Overview of Respondent's services and statement of core business competencies.
 - b. Brief explanation as to why the Respondent is interested in this RFP and expanding its broadband service offerings into the County, and how such network expansion fits within Respondent's broadband footprint.
 - c. Overview prior experience designing, planning, constructing, financing, operating, and/or maintaining infrastructure and projects like the proposed Project. Respondents are further required to provide a narrative, including references and any measurable benefits, for any similar projects to that which the Respondent is proposing.
 - d. Overview for Respondent's executive team and any individuals who will be directly involved in the proposed Project.
 - e. Respondents willingness to have the network remain "open access" of the middle mile Broadband Infrastructure, making it available to multiple service providers, on a non-discriminatory basis, including terrestrial and wireless last mile broadband providers and any other party making a bona fide request for access to the conduit and/ or fiber.
 - f. How the Respondent will ensure user protections and the security of its network.
 - g. Respondent Pricing Components
 - i. The proposed rate structure and speed tiers for the various end users to which service will be available through the Project. Respondents must provide one-time costs, such as customer premise equipment ("CPE") installation, and recurring costs, such as monthly service costs, for residential customers, commercial customers, and institutional/ governmental customers.
 - ii. How the Respondent will provide its pricing structure(s) to end users and how users are notified of any changes to such pricing structures.
 - iii. Network monitoring and customer support/ customer service protocols, including network redundancy, short- and long-term maintenance and upgrades to the proposed network.
 - iv. Revenue-share opportunities for the County from the Project are considered secondary to County's priorities. However, it is the County's expectation that the Broadband Infrastructure will generate revenue that can be reinvested locally and provide additional services and/or internet literacy programs. Respondents should include any proposed revenue-share opportunities in sufficient detail for the County to analyze the potential benefit prior to issuing award under the RFP.
 - v. If applicable, Respondent should describe additional funding opportunities that could support its efforts with the County (for this Project or others in the future).
 - vi. If applicable, Respondent should provide examples of any customer affordability programs the Respondent has instituted and/or managed in other communities and describe the potential for such similar programs in its proposal to the County.
 - h. The County seeks to own the middle mile network, but is willing to negotiate other proposed options, and partner with the Awardee for the design, construction, financing, operation, and

maintenance of the middle mile network, as well as last-mile expansion. Partnership can take many forms. Please detail how the Respondent proposes to work with the County on the middle mile and last-mile deployment contemplated herein and the purported benefits of such arrangement for each party.

- i. How the Respondent will market the Broadband Infrastructure to users in the county, once available and what assistance is expected from the County for such outreach. The Awardee shall provide clear information to end-users regarding monthly service rates and speeds supplied over the network.
- j. Confirmation that the Respondent is enrolled in the Affordable Connectivity Program (“ACP”) and information regarding any additional low-cost offers that would be made available with Respondent’s service.
- k. Any additional digital inclusion efforts included in the Respondent’s Project.
- l. Any additional services that will be made available in the County through the Respondent’s proposed Project. This includes, but is not limited to public Wi-Fi, Internet of Things (“IoT”) use cases such as smart utility monitoring, and others.

Minority business firms are encouraged to submit Proposals on the Project, and Respondents are encouraged to utilize minority businesses as sub-contractors, suppliers, and for services related to the Project. Businesses located in Kendall County, Illinois are also encouraged to submit Proposals for the Project.

Also, the RFP Documents incorporate by reference herein all requirements of the Kendall County Procurement Ordinance, as amended. In the event of any conflict between the RFP Documents and the Kendall County Procurement Ordinance, the terms of the Kendall County Procurement Ordinance, as amended, shall control.

C. BASIS OF PROPOSALS:

The members of the CKCC will review all bids. Pursuant to the Kendall County Procurement Ordinance, the County Board shall make the award to the responsible Respondent whose proposal conforms to the solicitation and is determined, in writing, to be the most advantageous to the County taking into consideration price and the evaluation factors set forth in the Request for Proposal. The members of the CKCC may consider the following factors in making its selection and may assign 1 to 5 points for each of the items below: Based on this criteria and the members’ evaluation, the top 2 or 3 Proposals will be presented to the County Board. Respondents may be required to present to the County Board in person and virtual presentations are acceptable. The Project will be awarded to the Respondent with the highest rank according to the following matrix:

1. Experience and qualifications of the vendor and personnel assigned to this project
2. Ability to meet financial backing for middle mile
3. Ability to provide last-mile financial plan
4. Ability to meet requirements of grants associated with this build
5. Ability to complete the build requirements listed in this
6. Experience maintaining middle-mile fiber networks
7. Clear technical proficiency for the mix of technologies and cohesiveness of the network proposed
8. Ability to meet and surpass minimum project requirements (100 mbps)
9. References

The specifications described herein are what the County determined are necessary to meet the performance requirements of the County. Respondents desiring to address items which deviate from these specifications, but which they believe to be equivalent, are requested to submit alternate proposals. However, alternate proposals must be clearly marked as such and deviations from the specifications must be plainly noted. The proposal must

be accompanied by complete technical specifications of the alternate item(s) offered. Equivalency shall be at the County's sole discretion, and it shall be the County's sole decision whether to accept an alternate or not.

D. IMPORTANT DATES:

The following table identifies several important dates and deadlines related to the Bidding Documents:

DATE	EVENT
April 25, 2023	RFP Documents available at https://www.kendallcountyil.gov/departments/administration-services/rfp-rfq-call-for-bids
May 24, 2023	Questions due to CKCC@kendallcountyil.gov no later than 12:00 p.m. (CST)
May 24, 2023	Questions answered via addendum and posted on the County's website no later than 4:00 p.m. (CST) at https://www.kendallcountyil.gov/departments/administration-services/rfp-rfq-call-for-bids
May 31, 2023	Sealed Proposals due no later than 12:00 p.m. (CST). Proposal opening conducted at 2:00 p.m. (CST) at 111 W. Fox Street, Yorkville, Illinois, 60560
June 22, 2023	Proposal review and scoring at CKCC meeting
July 13, 2023	Selected Respondents present at Committee-of-the-Whole
July 18, 2023	County Board potentially approves contract of selected vendor

E. EXAMINATION AND PROCUREMENT OF DOCUMENTS:

All documents will be available at <https://www.kendallcountyil.gov/departments/administration-services/rfp-rfq-call-for-bids> starting on the date noted in Subsection D above.

F. ADDENDUM:

Any, and all, changes to the RFP Documents are valid only if they are included by written addendum to all Respondents. Addenda are written instruments issued by the County prior to the date for receipt of Proposals, which modify or interpret the RFP Documents by addition, deletions, clarifications, and/or corrections. All addenda so issued shall become part of the RFP Documents. Only Meagan Briganti or Matthew Kinsey has the authority to issue an addendum for these RFP Documents.

No interpretation of the meaning of the plans, specifications, or other RFP Documents will be made orally. All Addenda will be posted at <https://www.kendallcountyil.gov/departments/administration-services/rfp-rfq-call-for-bids>.

Each Respondent shall confirm prior to submitting a Proposal that all Addenda issued by the County have been received and, by submission of a Proposal, such act shall be taken to mean that such Respondent has received all Addenda; is familiar with the terms thereof; and understands and agrees to comply fully with the contents of the RFP Documents and Addenda. Failure of the Respondent to receive and review any addendum or interpretation issued by the County shall not relieve the Respondent from the obligation under their Proposal as submitted. Failure of a Respondent to request an interpretation constitutes a waiver to a later claim that ambiguities or misunderstandings caused a Respondent to submit a Proposal improperly.

G. QUESTIONS

Should a Respondent require any additional information about this RFP or any other RFP Documents, such questions should be directed in writing to the County. All questions should be sent to:

Connect Kendall County Commission

Subject: Broadband RFP Questions

E-mail address: CKCC@kendallcountyil.gov

Questions must be received by the County at the above-referenced email address no later than 12 p.m. (CST) on May 24, 2023.

Questions timely received by the County will be answered at the discretion of the County. Any answers provided by the County will be given by means of an addendum published <https://www.kendallcountyil.gov/departments/administration-services/rfp-rfq-call-for-bids> and sent to all Respondents.

SECTION 2: SUBMITTAL OF PROPOSALS

A. Submittal of Sealed Proposal

Respondents are required to submit Proposals electronically in .PDF format via email to: CKCC@kendallcountyil.gov. The subject of a Respondent's email should read "Proposal for Broadband RFP".

All Proposals must be received by the above-referenced email address no later than 12 p.m. (CST) on May 31, 2023 (hereinafter referred to as the "Due Date"). Proposals received after the Due Date will not be considered.

B. Modification or Withdrawal of Proposals:

Prior to the date and time designated for receipt of Proposals, a Respondent may submit a new Proposals to replace a Proposal previously submitted, or withdraw its Proposal entirely, by sending written notice to the person designated to receive Proposals on behalf of the County. Such notice must be received by the County on or before the date and time set for receipt of Proposals. The person receiving Proposals shall verify that the replaced/withdrawn Proposal is removed from the other submitted Proposals and not considered. Notice of submission of a replacement Proposal or withdrawal of a Proposal shall be worded so as not to reveal the amount of the original Proposal.

C. Opening of Sealed Proposals:

The sealed Proposals timely received by the County shall be opened and publicly read on **May 31, 2023 at 2 p.m. at 111 W. Fox Street, Yorkville, Illinois 60560**. Each sealed Proposal received by the County shall be analyzed to ensure that all stipulations have been satisfied by the Respondent. The results shall be recorded and forwarded with all RFP Documents to the appropriate County official. Respondent attendance is NOT required at the opening of sealed Proposals.

SECTION 3: INSTRUCTIONS TO RESPONDENTS

A. **What Information Must Be Included In The Proposals:** All Proposals must comply with the following requirements:

1. The Respondent must complete and include all of the following documents with their Proposal:
 - Mandatory Cover Sheet (The Cover Sheet form to complete is attached to the RFP as Exhibit A)
 - Completed Proposal Forms (the Proposal Forms are attached to the RFP as Exhibit B)
 - All other requirements included in the RFP Documents
2. All sealed Proposals must be comprehensive and complete for the services requested in the RFP Documents. All Proposals shall provide a straightforward, concise delineation of the Respondent's capabilities to satisfy the requirements of the RFP Documents and the services requested therein. Emphasis should be on completeness and clarity of content.
3. Any proposed reduction in price or any proposed donation of materials, supplies and/or labor by the Respondent shall be specified in the completed Proposal Forms. Any reduction or donation provided by a Respondent to the County shall not relieve Respondent of their obligations to comply with existing local, state or federal laws, including but not limited to the Illinois Prevailing Wage Act (820 ILCS 130/.01 *et seq.*). The County shall only consider any reduction or donation in determining the lowest responsible Respondent to the extent that the reduction or donation effects the stipulated sum Proposal by a Respondent.
4. The "Terms and Conditions" set forth in the RFP Documents will apply to the contract between the County and the successful Respondent. By submitting a Proposal, a Respondent agrees to the Terms and Conditions. Any Proposal that conflicts with the Terms and Conditions may be deemed an unresponsive Proposal.
5. All sealed Proposals shall be submitted on forms included in these RFP Documents unless otherwise specified.
6. All information requested on Proposal forms shall be typewritten or written in ink. Where both written words and numerical figures are required, the written words shall apply in the event of a conflict.
7. The County will not be responsible for any expenses incurred by the Respondent in preparing and submitting Proposals.
8. The Respondent must sign their Proposal in their business or corporation's name and must bear the original longhand signature of a principal legally authorized to sign contracts on behalf of the Respondent. The name of each person signing should be typed or printed below the signature.
9. The individual signing the document for the Respondent shall initial all erasures and/or corrections in their sealed Proposal.
10. All variations to the stated specifications must be described in detail (free from ambiguity).

11. All Respondents must confirm they are appropriately licensed and authorized to conduct business within the State of Illinois. Respondents shall be prepared to furnish evidence of the foregoing upon request.
12. The Respondent acknowledges that all materials submitted with the Proposal become the property of the County and, as such, may be available to the public pursuant to applicable law.
13. The Respondent is expected to comply with the true intent of this RFP and the RFP Documents taken as a whole and shall not avail itself of any errors or omission to the detriment of the services or to the County. Should the Respondent suspect any error, omission, or discrepancy in the specifications or instructions, the Respondent shall immediately notify the County in writing, and the County will issue written corrections or clarifications. The Respondent is responsible for the contents of its Proposal and for satisfying the requirements set forth in the RFP and RFP Documents. Respondent will not be allowed to benefit from errors in the document that could have been reasonably discovered by the Respondent in the process of putting the Proposal together.

B. Modification or Interpretation of RFP Documents:

The Respondent acknowledges that some of the existing conditions shown in the RFP Documents are presented for information as an approximation and are not a substitute for the Respondent's required field verification of existing conditions relating to the Project. Failure to make the necessary field examinations will not relieve the Respondent from any of the requirements of the RFP Documents or any contract entered into by the County and the successful Respondent.

The Respondent shall carefully study the RFP Documents, shall examine the site and local conditions, and shall notify the County of errors, inconsistencies, or ambiguities discovered and request clarification or interpretation pursuant to the procedures set forth in these RFP Documents.

C. Award of Bid:

It is the intent of the County to award the Proposal to the most qualified and responsible Respondent who has met all specifications, terms, and conditions of this RFP and all other RFP Documents. The County reserves the right to issue its award subject to the criteria referenced in Section 1, Subsection C. The quality of the articles to be supplied, their conformity with specifications, their suitability to the requirements of the County, and delivery and discount terms will be taken into consideration in making the award(s).

Submission of a Proposal confers no rights on the Respondent to selection or to a subsequent contract. This RFP process is for the County's benefit only, and it is intended to provide the County with competitive information to assist in selection of services. All decisions on compliance, evaluation, and responsiveness shall be made solely at the County's discretion. By submitting a Proposal, Respondent acknowledges the County's decision is final, binding, and conclusive upon the Respondent for all purposes.

All Proposals submitted shall be considered firm offers and will be binding for one hundred and eighty (180) calendar days following the due date for submittal of sealed Proposals, unless, upon the County's request, the Respondent agrees in writing to an extension.

The failure of a Respondent to promptly supply information requested in the RFP Documents may result in the Respondent being eliminated from consideration.

The County reserves the right to reject any or all Proposals, to waive any or all irregularities, to waive or deviate from the procedures or timetable identified in the RFP Documents, or to supplement, amend, or otherwise modify the RFP Documents, without notice. The County may seek additional information or clarification from a Respondent at any time and failure to respond promptly may be cause for rejection of the Proposal.

The County reserves the right to disqualify Proposals, before or after opening, upon evidence of collusion with intent to defraud or other illegal practices upon the part of the Respondent. The Respondent's failure to agree to the Terms and Conditions included in the RFP Documents or to otherwise meet the requirements of the RFP Documents may result in the disqualification of the Respondent's Proposal from further consideration as an unresponsive Proposal.

D. Execution of Contract:

The accepted Proposal shall be contracted by the County for the total stipulated sum set forth in the accepted Proposal. The County will not be responsible for any additional charges above the accepted Proposal unless additional services are negotiated and accepted by the County by written addendum to the original contract.

The contents of the Proposal submitted by the successful Respondent and the RFP Documents (including, but not limited to the Terms and Conditions set forth below in this RFP) will become a part of the contract awarded as a result of the Proposal process.

SECTION 4: TERMS AND CONDITIONS

The Respondent's failure to agree to the following terms and conditions may result in the disqualification of the Respondent's proposal from further consideration as an unresponsive Proposal.

By submitting a Proposal, Respondents represent that:

1. Respondent has read and understands the RFP Documents;
2. Respondent understands how the Project relates to other renovations being completed by the County at the Project site, which may be concurrently Proposal, or presently under construction at the Project site;
3. The Proposal complies with the RFP Documents;
4. Respondent has visited the Project site; is familiar with local conditions under which the Project is to be performed; and has correlated the Respondent's observations with the requirements of the RFP Documents and the Respondent's Proposal; and
5. The Proposal is based upon the materials, equipment, and systems required by the RFP Documents, as may be amended by written addendum, without exception.

By submitting a Proposal, Respondents agree to accept and comply with the following Terms and Conditions that shall be incorporated by reference herein to the contract between Kendall County and the successful Respondent:

1. These Terms and Conditions, along with the RFP, the RFP Documents, and the Respondent's Proposal, represent the entire understanding between the parties hereto (collectively, the "Agreement"), and any modification or amendment hereof must be made in writing, signed and executed by both parties hereto. Furthermore, this Agreement supersedes any prior written or oral agreements between the parties, and there are no other promises or conditions in any other agreement whether oral or written. In the event of a conflict, the documents shall control in the following order of descending precedence: the Agreement, the Terms and Conditions set forth in the RFP, the remaining portions of the RFP Documents, and the Respondent's Proposal.
2. This Agreement shall be effective as of the date of final signature below and shall continue in force and effect until the Project has been fully completed to the satisfaction of the County within a reasonable amount of time as contemplated and agreed to by the parties or as terminated by either party pursuant to the terms in the Agreement, whichever occurs first.
3. Pursuant to, and as set forth in this Agreement, Respondent will provide the County the following services:

See "Scope of Work" in Section 1, Subsection B above.

4. As consideration for the services to be performed by Respondent pursuant to the terms and conditions set forth in this Agreement, the County agrees to partner with Respondent for the purposes of this Project with the aim of mutual benefit to both parties.

All potential payments shall be made in accordance with the Illinois Local Government Prompt Payment Act, as amended (50 ILCS 505/1 *et seq.*).

5. The County reserves the right to make changes in the Scope of Work (increases and decreases of any kind) and alterations in material and product selections. Respondent, its contractors, and subcontractors and their respective employees and agents shall make no changes in the Scope of Work without issuance of a

written change order that is first executed by both the County and the Respondent. The County will not pay for verbal change orders. Respondent must obtain written change orders or, at minimum, email authorization of additional fixed-price change order work from the County *before* proceeding with any additional work or any variations in specified materials. Furthermore, Respondent understands and agrees that any public works change orders that total fifty percent (50%) or more of original contract price must be repropose in same manner as the original contract. *See* 50 ILCS 525/5. Respondent also understands and agrees that any change orders of more than \$10,000 or 30 days (more or less) in completion time, must be pre-approved in writing by the County. *See* 720 ILCS 5/33E-9.

6. Respondent is an Independent Contractor and is not an employee of, partner of, agent of, or in a joint venture with the County. Respondent understands and agrees that Respondent is solely responsible for paying all wages, benefits and any other compensation due and owing to Respondent's officers, employees, and agents for the performance of services set forth in the Agreement. Respondent further understands and agrees that Respondent is solely responsible for making all required payroll deductions and other tax and wage withholdings pursuant to state and federal law for Respondent's officers, employees and/or agents who perform services as set forth in the Agreement. Respondent also acknowledges its obligation to obtain appropriate insurance coverage for the benefit of Respondent, Respondent's officers, employees and agents and agrees the County is not responsible for providing any insurance coverage for the benefit of Respondent, Respondent's officers, employees and agents. Respondent hereby indemnifies and agrees to waive any right to recover alleged damages, penalties, interest, fees (including attorneys' fees), and/or costs from the County, its board members, officials, employees, insurers, and agents for any alleged injuries that Respondent, its officers, employees and/or agents may sustain while performing services under the Agreement. Respondent shall exercise general and overall control of its officers and employees.
7. Respondent shall indemnify, hold harmless and defend with counsel of the County's own choosing, the County, its past, present and future elected officials, department heads, employees, insurers, and agents (hereinafter collectively referred to as "Releasees") from and against all liability, claims, suits, causes of action, demands, proceedings, set-offs, liens, attachments, debts, expenses, judgments, or other liabilities including costs, reasonable fees and expense of defense, arising from any loss, damage, injury, death, or loss or damage to property, of whatsoever kind or nature as well as for any breach of any covenant in the Agreement or ancillary documents and any breach by Respondent of any representations or warranties made within the contract documents (collectively, the "Claims"), to the extent such Claims result from any act or omission, neglect, willful acts, errors, or misconduct of Respondent in its performance under this Agreement or the contract documents. Pursuant to 55 ILCS 5/3-9005, no attorney may be assigned to represent the Releasees pursuant to this Section of the Agreement unless the attorney has been approved in writing by the Kendall County State's Attorney. Releasees' participation in its defense shall not remove Respondent's duty to indemnify, defend, and hold Releasees harmless, as set forth above. Releasees do not waive their defenses or immunities under the Local Government and Governmental Employees Tort Immunity Act (745 ILCS 10/1 et seq.) by reason of this indemnification provision. Indemnification shall survive the termination of this Agreement.
8. Respondent will obtain and continue in force, where applicable, during the term of this Agreement, all insurance as set forth below:
 - a. All coverage shall be placed with insurers authorized to conduct business in Illinois with a current A.M. Best's rating of no less than A:VII. Each insurance policy shall not be cancelled or changed without thirty (30) calendar days' prior written notice, given by the insurance carrier to the County at the address set forth herein.

- b. Minimum Scope and Limit of Insurance. All coverage shall be at least as broad as the following:
- i. Commercial General Liability (“CGL”): Insurance Services Office Form CG 00 01 covering CGL on an “occurrence” basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than \$1,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be \$2,000,000.
 - ii. Umbrella/Excess Liability: Limits of liability equal to or greater than \$5,000,000 per occurrence and \$5,000,000 in aggregate.
 - iii. Automobile Liability: Insurance Services Office Form Number CA 0001 covering, Code 1 (any auto), or if Respondent has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than \$1,000,000 per accident for bodily injury and property damage.
 - iv. Workers’ Compensation Insurance: Insurance as required by the State of Illinois, with Statutory Limits, and Employer’s Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease. (Not required if company provides written verification it has no employees.)
 - v. Professional Liability (Errors and Omissions) Insurance: Professional insurance appropriate to Respondent’s profession, with limit no less than \$2,000,000 per occurrence or claim and \$2,000,000 aggregate.
- c. If Respondent maintains broader coverage and/or higher limits than the minimums shown above, the County shall be entitled to the broader coverage and/or the higher limits maintained by the Respondent. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the County. The County and its, past, present, and future its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of Respondent including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to Respondent’s insurance (at least as broad as ISO Form CG 20 10 11 85 or both CG 20 10, CG 20 26, CG 20 33, or CG 20 38; and CG 20 37 forms if later revisions used).
- d. For any claims related to this Agreement, the Respondent’s insurance coverage shall be primary insurance primary coverage at least as broad as ISO CG 20 01 04 13 with respect to the Releasees. Any insurance maintained by the Releasees shall be in excess of the Respondent’s insurance and shall not contribute with it.
- e. Respondent hereby grants to the Releasees a waiver of any right to subrogation which any insurer of said Respondent may acquire against Releasees by virtue of the payment of any loss under such insurance. Respondent agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not Releasees have received a waiver of subrogation endorsement from the insurer.
- f. Self-insured retentions must be declared to and approved by the County. The County may require the Respondent to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or

be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or the County.

- g. If any of the required policies provide coverage on a claims-made basis, (1) the Retroactive Date must be shown and must be before the date of the Agreement or the beginning of the contracted work; (2) insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work; and (3) if coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the Agreement's effective date, the Respondent must purchase "extended reporting" coverage for a minimum of five (5) years after completion of the contracted work.
 - h. Respondent shall furnish the County with original Certificates of Insurance including all required amendatory endorsements (or copies of the applicable policy language effecting coverage required by this clause) and a copy of the Declarations and Endorsement Page of the CGL policy listing all policy endorsements to the County before work begins. However, failure to obtain the required documents prior to the work beginning shall not waive the Respondent's obligation to provide them. The County reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.
 - i. Subcontractors: Respondent shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Respondent shall ensure that the County is an additional insured on insurance required from subcontractors.
 - j. The County reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.
9. Neither party will be responsible to the other for damage, loss, injury, or interruption of work if the damage, loss, injury, or interruption of work is caused solely by conditions that are beyond the reasonable control of the parties, and without the intentional misconduct or negligence, of that party (hereinafter referred to as a "force majeure event"). To the extent not within the control of either party, such force majeure events may include: acts of God, acts of any governmental authorities, fire, explosions or other casualties, vandalism, riots or war. A party claiming a force majeure event ("the claiming party") shall promptly notify the other party in writing, describing the nature and estimated duration of the claiming party's inability to perform due to the force majeure event. The cause of such inability to perform will be remedied by the claiming party with all reasonable dispatch.
10. Upon the occurrence of any material default or breach of Agreement by either party, the injured party (i.e., the non-breaching and/or non-defaulting party) may, at its option, upon notice to the other in writing, declare this Agreement to be in default, and at any time thereafter, so long as the other party shall have not remedied or caused to be remedied all outstanding defaults and/or breaches within a reasonable period of time as determined by the County, the injured party may elect, in accordance with law and any other agreement between the parties to: (a) Proceed by appropriate court action at law or in equity to enforce performance by the defaulting party of its obligations under this Agreement and/or to recover damages for breach thereof; and/or (b) By notice in writing to the defaulting party, cancel or terminate this Agreement. For purposes of this Paragraph, "reasonable period of time" will be dependent on the type of service being provided but, in any event, the reasonable period of time may be no less than one hour but no more than thirty (30) calendar days.
11. Notwithstanding any other provision of this Agreement, this Agreement may be terminated by the County upon written notice delivered to Respondent at least thirty (30) days prior to the effective date of

termination. No additional payments, penalties and/or early termination charges shall be required upon termination of the Agreement under this paragraph.

12. Respondent agrees to comply with all applicable federal, state or local laws and regulatory requirements and to secure such licenses as may be required for its employees and to conduct business in the state, municipality, county, or location where the work is to be performed. Such obligation includes, but is not limited to, environmental laws, civil rights laws, prevailing wage and labor laws.
13. When applicable, Respondent shall furnish Material Safety Data Sheets for their products, in compliance with the Illinois Toxic Substance Disclosure to Employee Act, Safety Inspection and Education Act & "Right to Know" law, 820 ILCS 255/1 *et seq.*, 820 ILCS 220/0.01 *et seq.* and 820 ILCS 225/0.1 *et seq.*
14. Respondent, its officers, employees, contractors, subcontractors, and agents agree not to commit unlawful discrimination and unlawful harassment and further agree to comply with all applicable provisions of the Illinois Human Rights Act, Title VII of the Civil Rights Act of 1964, as amended, the Americans with Disabilities Act, the Age Discrimination in Employment Act, Section 504 of the Federal Rehabilitation Act, the Illinois Public Works Employment Discrimination Act, 775 ILCS 10/0.01 *et seq.*, as amended, and all applicable rules and regulations. Also, Respondent and Respondent's subcontractors shall maintain a written sexual harassment policy that complies with the requirements of 775 ILCS 5/2-105 and shall comply with all other fair employment practices and equal employment opportunity/affirmative action requirements set forth in applicable state and federal laws and regulations.
15. All services to be undertaken by Respondent shall be carried out by competent and properly trained personnel of Respondent to the highest standards and to the satisfaction of the County. All services, materials and components shall conform to relevant manufacturers' and equipment suppliers' specifications, and all materials and spare parts shall be obtained from the original equipment manufacturers or from suppliers approved by them. No warranties implied or explicit may be waived or denied.
16. Neither party shall assign, sublet, sell, or transfer its interest in this Agreement without the prior written consent of the other.
17. This Agreement shall be construed in accordance with the laws and Constitution of the State of Illinois and if any provision is invalid for any reason such invalidations shall not render invalid other provisions which can be given effect without the invalid provision. The parties agree that the venue for any legal proceedings between them shall be the Circuit Court of Kendall County Illinois, Twenty-Third Judicial Circuit, State of Illinois.
18. In the event the County is in default under the Agreement because funds are not appropriated for a fiscal period subsequent to the one in which the Agreement was entered into which are sufficient to satisfy all or part of the County's obligations under this Agreement during said fiscal period, the County agrees to provide prompt written notice of said occurrence to Respondent. In the event of a default due to non-appropriation of funds, the County has the right to terminate the Agreement upon providing thirty (30) days written notice to Respondent. No additional payments, penalties and/or early termination charges shall be required upon termination of the Agreement.
19. Any notice required or permitted to be given pursuant to this Agreement shall be duly given if sent by fax, certified mail, or courier service and received, in the case of notice to the County, to the County's Representative, Kendall County Administrator, 111 W Fox Street, Yorkville, Illinois, 60560, 630-553-

4171, or fax 630-553-4214, with copy sent to: Kendall County State's Attorney, 807 W. John Street, Yorkville, Illinois, 60560, fax (630) 553-4204.

And, in the case of Respondent, to:

20. Respondent certifies that Respondent, its parent companies, subsidiaries, and affiliates are not barred from entering into this Agreement as a result of a violation of either 720 ILCS 5/33E-3 or 5/33E-4 (Bid rigging or Bid rotating) or as a result of a violation of 820 ILCS 130/1 *et seq.* (the Illinois Prevailing Wage Act). Respondent further certifies by signing the Agreement, the Respondent, its parent companies, subsidiaries, and affiliates have not been convicted of, or are not barred for attempting to rig bids, price-fixing or attempting to fix prices as defined in the Sherman Anti-Trust Act and Clayton Act. 15 U.S.C. § 1 *et seq.*; and has not been convicted of or barred for bribery or attempting to bribe an officer or employee of a unit of state or local government or school district in the State of Illinois in that officer's or employee's official capacity. Also, by signing this Agreement, Respondent affirms that Respondent has not made any admission of guilt of such conduct which is a matter of record, nor has any official, officer, agent, or employee of the Respondent's company been so convicted nor made such an admission.
21. Both parties affirm no Kendall County officer or elected official has a direct or indirect pecuniary interest in Respondent or this Agreement, or, if any Kendall County officer or elected official does have a direct or indirect pecuniary interest in Respondent or this Agreement, that interest, and the procedure followed to effectuate this Agreement has and will comply with 50 ILCS 105/3.
22. In any action with respect to this Agreement, the parties are free to pursue any legal remedies at law or in equity. If Kendall County is required to take legal action to enforce performance of any of the terms, provisions, covenants and conditions of this Agreement, and by reason thereof, the County is required to use the services of an attorney, then Kendall County shall be entitled to reasonable attorneys' fees, court costs, and expenses incurred by the County pertaining thereto and in enforcement of any remedy, including costs and fees relating to any appeal.
23. Vendor Information Reporting Requirements. Pursuant to 35 ILCS 200/18-50.2, the County must collect and electronically publish certain data from all vendors and subcontractors doing business with the County. To comply with this statutory obligation, the Respondent agrees to provide the County with written answers to the following questions within ten (10) business days after the parties' execution of this Agreement:
 1. Is the Respondent and/or any of the Respondent's subcontractors a minority-owned, women-owned, or veteran-owned business, as defined in the Business Enterprise for Minorities, Women, and Persons, with Disabilities Act? If so, please describe.
 2. If the answer to Question (1) is "yes", does the Respondent and/or any of the Respondent's subcontractors hold any certifications for those categories or are they self-certifying? If the entity holds any certifications, please describe with sufficient detail each certification received.
 3. If the Respondent and/or the Respondent's subcontractors self-certify, do they qualify as a small business under the federal Small Business Administration standards?

24. Respondent and its consultants, employees, contractors, subcontractors, and agents agree to comply with all provisions of the Substance Abuse Prevention on Public Works Act, 820 ILCS 265/1 *et seq.* and the Illinois Drug Free Workplace Act, 30 ILCS 580/1 *et seq.*
25. Respondent agrees to comply with [The Davis Bacon Act](#) — 40 U.S.C. 3141 *et seq.* as necessary. The Davis-Bacon and Related Acts, apply to contractors and subcontractors performing on federally funded or assisted contracts in excess of \$2,000 for the construction, alteration, or repair (including painting and decorating) of public buildings or public works. Davis-Bacon Act and Related Act contractors and subcontractors must pay their laborers and mechanics employed under the contract no less than the locally prevailing wages and fringe benefits for corresponding work on similar projects in the area. The Davis-Bacon Act directs the Department of Labor to determine such locally prevailing wage rates. The Davis-Bacon Act prevailing wage provisions apply to the “Related Acts,” under which federal agencies assist construction projects through grants, loans, loan guarantees, and insurance. Examples of the related Acts are the American Recovery and Reinvestment Act of 2009, the Federal-Aid Highway Acts, the Housing and Community Development Act of 1974, and the Federal Water Pollution Control Act.
26. The County and/or Respondent’s waiver of any term, condition, or covenant or breach of any term, condition, or covenant, shall not constitute a waiver of any other term, condition, or covenant, or the breach thereof.
27. Respondent warrants to the County that all construction and related services provided shall be performed in a good workman like manner, in accordance with the terms of the contract documents, and all applicable law, codes, regulations, and other requirements, including safety standards.
28. Respondent understands that the County is utilizing funds received pursuant to the American Rescue Plan Act (“ARPA”) to pay, in whole or in part, for the services set forth in this Agreement. Thus, Respondent agrees to comply with all applicable provisions of the ARPA, all guidance on the ARPA including, but not limited to the Interim Final Rule, issued by the U.S. Department of the Treasury, 2 C.F.R. 200 *et seq.*, and all other applicable federal and state statutes, regulations, interpretive guidance, and executive orders related to ARPA funded projects.
29. Respondent understands the County will be utilizing funds received from a grant (“Grant”) to pay, in whole or in part, for the services set forth in this Agreement. Thus, Respondent agrees to comply with all applicable provisions of the County’s Grant requirements. Also, Respondent agrees to promptly provide the County, at the County’s request, with any documentation and any other information necessary for the County to comply with the County’s Grant reporting requirements.
30. It is understood and agreed to by the parties that all contracts entered into by a government body, such as the County, are open to public review and may be discussed in open session pursuant to the Illinois Open Meetings Act (5 ILCS 120/1 *et seq.*) and/or may be released pursuant to the Illinois Freedom of Information Act (5 ILCS 140/1 *et seq.*), any other applicable state or federal law, and/or pursuant to subpoena and/or court order.
31. This Agreement may be executed in counterparts (including facsimile signatures), each of which shall be deemed to be an original and both of which shall constitute one and the same Agreement.
32. The County and the Respondent each hereby warrant and represent that their respective signatures set forth below have been and are on the date of this Agreement duly authorized by all necessary and appropriate corporate and/or governmental action to execute this Agreement. Furthermore, Respondent hereby affirms that Respondent is legally authorized to transact business in the State of Illinois.

SECTION 5: PROPOSAL FORMS

EXHIBIT A — PROPOSAL SUBMISSION COVER SHEET

RFP Project Name REQUEST FOR PROPOSAL PUBLIC-PRIVATE PARTNERSHIP IN PROVIDING FIBER TO THE HOME AND INTERNET SERVICES _____

Respondent Name (printed) _____

Address: _____ **City, State, Zip:** _____

Proposal Clarification Contact Person: _____ **Telephone:** _____

Email: _____

State of Incorporation: _____ **Entity Type:** _____

Federal Employer Identification Number (FEIN): _____

Any individual signing below hereby certifies they are an authorized representative of Respondent and that:

1. Respondent understands and accepts the requirements of this RFP and all RFP Documents. By submitting a Proposal, Respondent agrees to be bound by all requirements and terms and conditions set forth in the RFP Documents.
2. Respondent acknowledges receipt of any and all Addenda to this RFP.
3. Respondent certifies all contents of the Proposal (including any other forms or documentation, if required under the Proposal Documents), and this Proposal Submission Cover Sheet are truthful and accurate and have been prepared independently from all other Respondents, and without collusion, fraud, or other dishonesty.
4. Subject to acceptance by a majority vote of the Kendall County Board, the Respondent acknowledges that by submitting this Proposal offer and signing in the space below, the Respondent is contractually obligated to comply with all items in the RFP Documents.

Authorized Signature

Date

(Printed Name and Title)

Email Address

EXHIBIT B - Proposal Form

RESPONDENT'S NAME:

RFP PROJECT NAME: REQUEST FOR PROPOSAL PUBLIC-PRIVATE PARTNERSHIP IN PROVIDING FIBER TO THE HOME AND INTERNET SERVICES

1. PROFESSIONAL REFERENCES: The undersigned shall provide at least three (3) professional references that can provide Kendall County, Illinois with information regarding the Respondent's experience with this type of project, and these professional references are attached to this Proposal Form.

2. COMPLIANCE CERTIFICATIONS: By initialing below, the undersigned hereby certifies all of the following in accordance with applicable state and federal law:

A. COMPLIANCE WITH ILLINOIS DRUG FREE WORKPLACE ACT: The undersigned, having 25 or more employees, does hereby certify pursuant to section 3 of the Illinois Drug Free Workplace Act (30 ILCS 580/3) that it shall provide a drug-free workplace for all employees engaged in the performance of the work under the contract by complying with the requirements of the Illinois Drug-Free Workplace Act and, further certifies, that it is not ineligible for award of this contract by reason of debarment for a violation of the Illinois Drug-Free Workplace Act.

_____ (Initials)

B. COMPLIANCE WITH THE ILLINOIS HUMAN RIGHTS ACT: The undersigned does hereby certify pursuant to Section 2-105 of the Illinois Human Rights Act (775 ILCS 5/2-105) that it has a written sexual harassment policy that includes, at a minimum, the following information: (i) the illegality of sexual harassment; (ii) the definition of sexual harassment under State law; (iii) a description of sexual harassment, utilizing examples; (iv) an internal complaint process including penalties; (v) the legal recourse, investigative and complaint process available through the Illinois Department of Human Rights and Human Rights Commission; (vi) direction on how to contact the Illinois Department of Human Rights and Human Rights Commission; and (vii) protection against retaliation.

The undersigned also further certifies that, pursuant to Section 2-105 of the Illinois Human Rights Act (775 ILCS 5/2-105), it has a written equal employment opportunity policy that is in compliance with all terms and conditions of the Equal Employment Opportunity provisions of the Illinois Human Rights Act.

_____ (Initials)

C. CERTIFICATION REGARDING RESPONDENT ELIGIBILITY: The undersigned does hereby certify that it has not been barred from bidding on a public contract as a result of a violation of either Section 33E-3 (Bid-rigging) or Section 33E-4 (Bid rotating) of the Illinois Criminal Code, contained in Chapter 38 of the Illinois Revised Statutes.

_____ (Initials)

D. NON-COLLUSION AFFIDAVIT: The undersigned's completed Non-Collusion Affidavit is attached to this Proposal Form.

This Proposal Form and all attachments are respectfully submitted this _____ day of _____, 2023.

Respondent's Name: _____

Mailing Address: _____

Telephone Number: _____ Facsimile Number: _____

Email Address: _____ Website: _____

Type of Business Organization: *(Check the box that applies)*

- Sole Proprietor
- Corporation
- LLC
- Partnership
- Limited Partnership
- Other: _____

Signature of Authorized Representative: _____

Printed Name: _____

Title: _____

Attested by: _____

Title: _____

Respondent's Professional References

As part of their Proposal package, the Respondent must provide at least three (3) professional/client references for services the Respondent has performed within the past five (5) years that are similar in size, scope, and type of

Reference #1:

Professional Reference Name: _____

Contact Person's Name: _____

Telephone Number: _____ Facsimile Number: _____

Mailing Address: _____ Email: _____

Description and date(s) of services: _____

Reference #2:

Professional Reference Name: _____

Contact Person's Name: _____

Telephone Number: _____ Facsimile Number: _____

Mailing Address: _____ Email: _____

Description and date(s) of services: _____

Reference #3:

Professional Reference Name: _____

Contact Person's Name: _____

Telephone Number: _____ Facsimile Number: _____

Mailing Address: _____ Email: _____

Description and date(s) of services: _____
