

# Elk Ridge City, Utah

## Request for Proposal

For

### Citywide FTTP Partnership

#### 1. Purpose

The purpose of this Request for Proposals (the “RFP”) is to solicit proposals to enter into a contract for a potential public-private partnership between a qualified vendor and the City of Elk Ridge (the “City”) for the design, engineering, construction, and operation of a Citywide fiber-to-the-premise network with gigabit capabilities (the “FTTP Network” or “Network”). The City will own the Network, but it seeks a qualified vendor to design and construct the Network, and, after development, to oversee the Network’s continued operation through field service, maintenance, licensing, upgrades, repair, replacement, and customer service. The entities submitting proposals in response to this RFP will hereafter be referred to as “Vendors.” The City may decide, after reviewing submitted proposals, not to enter into any agreement.

#### 2. Mandatory Minimum Requirements

Each Vendor’s proposal must address how it will meet the following mandatory requirements.

1. The proposal must offer to design and construct a city-wide, fiber Network that allows for open-access to multiple internet and data service providers which will be owned by the City after construction;
2. The Network must be capable of supporting a minimum symmetrical 1 Gigabit per second (Gbps) speeds for all customers;
3. Connection from the Network to individual premises must utilize Customer Premise Equipment (CPE);
4. Fiber strand capacity capable of providing direct homerun connections to businesses and residential users.

#### 3. RFP Details

##### a. City

The City of Elk Ridge is the conducting and issuing procurement unit. The head of the procurement unit is the city council of Elk Ridge. The contact information for the City is as follows:

Elk Ridge City Office  
80 East Park Drive  
Elk Ridge, UT 84651  
801-423-2300

Note that all responses, proposals, and questions submitted in relation to this RFP must be submitted electronically to [royce@elkridgecity.org](mailto:royce@elkridgecity.org).

#### b. Multiple Stage Process

The City reserves the right to conduct the RFP in a multiple stage process and narrow the number of Vendors that will move on to subsequent stages.

#### c. Oral Presentation

The City may award a contract based on initial proposals received without discussion of such proposals with Vendors. However, the City may require oral presentations as a supplement to the written proposals. These presentations may be scheduled after proposals are received and prior to the award of the contract. After the oral presentations are complete, the city shall be allowed to re-score the technical criteria as needed to reflect the information provided in the presentations. The City reserves the right to reschedule or cancel oral presentations at any time at no cost to the City.

#### d. Award of Contract

Upon completion of the evaluation process, the City may award the contract to the highest scoring responsive and responsible Vendor. The award of this solicitation may result in multiple contracts. The City, pursuant to the scores given proposals by the evaluating committee and authorization by the City council, as head of the procurement unit, is the only entity authorized to award a contract for the proposed Network. Upon successful completion and award of this RFP as described above, the City will provide notice to other Vendors and the public.

#### e. Contract Period

The anticipated contract term will be for a period of one (1) year for the design and construction of the Network and five (5) to ten (10) years for the Network's continued maintenance and operation, subject to automatic renewal at the City's discretion.

### 4. Scope of Work

The City seeks a partner to design, construct, and operate a Network that allows for fast, affordable broadband Internet over fiber optics that reach each existing resident and business, while providing for future expansion, including public Wi-Fi and other area networks to support improved public services and infrastructure. The Network will allow every home, business, public facility, and private institution access to an open market of affordable, high-speed broadband connections to the Internet and offer non-discriminatory, open access to all users, service providers, content providers, and application providers connected to the citywide fiber network. The FTTP Network must deliver an unfettered data offering that does not impose caps or usage limits on one use of data over another (i.e., does not limit streaming).

## a. Design and Construction

The following technical attributes are preferred:

- Fully fiber-based connectivity to residential and business customers alike
- Capacity and throughput capable of providing full-bandwidth connections to businesses and residential users (minimize bandwidth sharing)
- Fiber strand capacity and physical architecture (e.g., handhole placement, backbone routes, etc.) anticipating full deployment to all homes and businesses
- Low latency to the Internet backbone
- Potential throughput to the Internet backbone in excess of 1 Gbps
- Multi-path topology (logical and physical) to facilitate high-availability service offerings
- Fiber in conduits/vaults (opposed to direct burial) to readily facilitate repairs and capacity upgrades
- Minimization of aerial fiber distribution
- Active components placed in environmentally hardened shelters and/or cabinets equipped with backup power source(s) capable of sustaining services in the event of extended power outages
- Underground communications conduit pathways that can be utilized by the City for future expansion
- Fiber routes that are aligned with existing conduit and coincide with planned City utility, roadway, and related capital improvement projects to reduce cost and minimize disruption where possible
- Construction methodologies that minimize trenching, sawing, or other techniques disruptive to the City.
- Available dark fiber from central hubs located in the city to the Internet
- Open access to multiple ISPs
- Unrestricted port forwarding

## 5. Continued Operation of the Network

After the construction of the Network, the Vendor is to provide continued operational support in behalf of the City, such as, but not limited to, the following services:

- Installation of Customer Premise Equipment (CPE)
- Maintenance, monitoring, and replacement of facilities, electronics, hardware, and other infrastructure
- Oversight of continued engineering needed to ensure reliable access to the Network through continued City expansion and population growth
- 24/7 Network performance, use, and reliability monitoring
- Customer Service, including minimum response times to be established via contract between the City and Vendor

- Minimum performance guarantees, with assurances that the Network will perform to certain standards with minimal interruptions enforceable via contractual remedies.
- Real-time network performance visibility by City personnel or authorized agents.
- Open access to users, service providers, content providers
- Unfettered access without usage caps or limits.

## 6. Proposal Requirements

### a. Mandatory Minimum Requirements

Proposals that do not meet the Mandatory Minimum Requirements established by this RFP may be rejected by the City at any time.

### b. Safety Plan

Each proposal must contain (1) a description of the Vendor's safety plan and (2) the Vendor's plans as to how to implement its safety plan particularly to the construction of the Network, including any subsequent construction required for maintenance or expansion of the Network or installation and connection to individual businesses and residences.

### c. Statement of Qualifications

In regards to the design of the Network, each proposal must contain a statement of the Vendor's qualifications. If the Vendor intends to use its own employees and internal team to design the Network, the statement of qualifications should relate to the Vendor itself; if the Vendor intends to use a single or multiple subcontractors for the Network's design, the Vendor must name the intended subcontractor(s) and include a statement of each contractor's qualifications. The statement of qualifications must include the following information:

- the Network designer's professional work history and experience designing similar networks;
- performance ratings earned by the Network designer or references for similar work;
- quality assurance or quality control plan(s);
- the Network designer's financial solvency;
- any management plan, including key personnel and subconsultants for the project.
- ability to attract and ensure residents have unrestricted access to multiple service providers.

### d. Statement of Costs

Each proposal must contain a separate exhibit attached to this RFP (entitled "Statement of Costs") that states the Vendor's costs for the procurement. Pursuant to Utah Code Annotated Section 63G-6a-707, the Statement of Costs shall not be submitted to the evaluating committee and must be submitted in a separate document, attached to the Vendor's proposal.

The Statement of Costs must clearly identify the following:

1. The cost for the design and construction of the network
2. The annual cost to operate and maintain the network

e. **Cost Overruns**

Each Vendor must include in their proposal a detailed procedure to address the approval and resolution of additional project costs that may occur during the design and construction phase. Without the approval of the City, all cost overruns shall be the sole responsibility of the Vendor and the City shall have no financial liability.

f. **Milestones**

Each Vendor must identify in their proposal a list of major milestones outlining critical steps in the project. Each milestone should include:

- a. Name
- b. Description
- c. Duration and Relative Start Date
- d. Accomplishments
- e. Assumptions
- f. Dependencies

g. **Form Contracts**

Each Vendor is strongly encouraged to provide a proposed form contract for the construction of the Network. The form contract may include the technical specifications the Vendor proposes for the Network, any general provisions, and proposed costs or fee structure.

Each Vendor is strongly encouraged to provide a proposed form contract for the ongoing maintenance and service of the Network post construction. The proposed contract should specify what ongoing services the Vendor will provide for the Network, including provisions providing specific guarantees as to ongoing customer support and field service through minimum response times and specific Network-performance guarantees. The proposed form contract should also include a fee structure for ongoing customer service, operations, security, and maintenance of the Network. The costs should be passed through to the users of the Network as a monthly service fee, and the contract should provide a mechanism for setting these fees including a calculation that will govern periodic increases.

Subsequent award of a contract to a Vendor does not communicate automatic acceptance of the provisions of the Vendor's proposed form contract; however, the form contract may serve as the starting point for negotiations between the City and the winning Vendor.

## 7. Proposal Evaluations

All proposals in response to this RFP will be evaluated in a manner consistent with the Utah Procurement Code and all applicable rules and policies.

All proposals that meet the Mandatory Minimum requirements and not rejected by the procurement unit as a result, will be evaluated. Such proposals will be evaluated according to compliance with the RFP specifications and requirements. The criteria to be used to evaluate proposals, listed with their relative weight in points, are included in this Section.

The City reserves the right to be the sole judge as to the overall acceptability of any proposal or to judge the individual merits of specific provisions within competing offers. Each Vendor bears sole responsibility for the items included or not included in the response submitted by that Vendor. The City reserves the right to disqualify any proposal that includes significant deviations or exceptions to the terms, conditions and/or specifications in this RFP.

### a. Evaluation Criteria and Scoring

Each proposal will be given a score based on the following criteria:

Design and Construction	
Criteria	Points
Alignment with the City's technical preferences.	100
Demonstrated experience of the Vendor in designing and constructing similar networks	50
Financial solvency of the Vendor or, if applicable, the subcontractor to be engaged for the design and construction of the network;	50
Safety plan and demonstrated ability to enforce the safety plan in past work	50
Cost of design and construction	50

Operation and Maintenance	
Criteria	Points
Ability to provide continued operational support in behalf of the City	100
Existing ability, as demonstrated by work on past similar networks, to provide ongoing engineering, maintenance, replacement, and repair of the network.	75
Assurances guaranteeing minimum standards for network performance enforceable by the City through corresponding contractual remedies.	75
Financial solvency of the Vendor or, if applicable, the subcontractor to Provide long-term operational support and maintenance of the network	75
Demonstrated ability to attract and ensure residents have access to multiple Internet Service Providers (ISPs)	50
Demonstrated customer service in similar networks as shown through meeting or exceeding previous SLA agreements.	50
Cost of continued operations and maintenance	25

b. **Proposal Selection**

The selection of the winning proposal will be based primarily on the scoring of each proposal. However, the City reserves the right to consider additional elements of each proposal that may indicate the Vendors ability and likelihood to deliver, operate, and maintain a network that will meet the overall purpose of this project.

8. **General Provisions**

This section contains standards relating to the RFP in general or standard contractual provisions the City may include in a subsequent contract with the winning Vendor.

a. **Incurring Costs**

The City will not be liable for any cost which Vendors may incur in connection with the preparation or presentation of their proposal(s).

b. **Addendum to RFP**

In the event that it becomes necessary to revise this RFP in whole or in part an addendum will be provided to all Vendors on record as having received this RFP.

c. **Communications**

During the RFP process (from the date of issue through the date of contract award or other final decision) the City is the sole source of official information regarding this RFP. All other communications, both spoken and written, which are received by any representative of the Vendor from other sources should be confirmed by the Vendor with the City through a question submitted via a question by the applicable deadline established in this RFP. All questions submitted to the City by any Vendor will be distributed, along with the City's Answer, to all Vendors to which the City has received a letter of intent.

d. **Authorized Vendor Representatives**

The City reserves the right to require a change in the individual assigned to represent Vendor if the assigned representative is not serving the needs of the City in an acceptable manner. This right shall carry forward through the response period and, with the successful Vendor, during the term of the contract.

e. **Award of Subcontracts**

For each subcontract, if any, which the Vendor proposes to award, the Vendor shall specify in writing the proposed subcontractor's name and address, and the purpose of each subcontract. Any Vendor proposing subcontracts as a part of a proposal must explicitly state

so in the proposal. Written approval by the City is required prior to the awarding of any subcontracts. Any Subcontractor shall be required to provide evidence to the City of the same insurance provisions and coverages as described in Section VII of this RFP.

f. **Assignment**

Vendor shall not assign or subcontract any portion of its obligations under the Contract without the prior written consent of the City. Assignment or subcontracting shall in no way relieve the Vendor of any of its obligations under the contract.

g. **Remedies**

The laws of the State of Utah shall apply in all disputes arising out of this RFP, without application of any principles of choice of laws.

h. **Compliance**

The Vendor hereby agrees to abide with all applicable federal, state, county, and city laws and regulations and to be responsible for obtaining and/or possessing any and all permits and licenses that may be required.

i. **Cancellation**

Inadequate delivery, unsatisfactory service or failure to adhere to contract covenants may result in cancellation of the contract. The Vendor shall be responsible for reimbursing the City for expenses incurred as a result of unacceptable service. In the event that either party determines that a material breach has occurred that would be cause for cancellation of the contract, the party wishing to cancel shall notify the other party of the alleged breach in writing, and allow the other party thirty (30) days in which to cure the alleged breach. If the alleged breach is not cured or substantial steps to cure the alleged breach are not taken within this period, the non-defaulting party may cancel the contract at the end of said thirty (30) day period.

j. **Acceptance of Services Rendered**

The City, through its designated agents and representatives, will be the sole determining judge of whether services rendered under the contract satisfy the requirements as identified in the contract.

k. **Inability to Deliver on Schedule**

The City fully anticipates that the Vendor will meet (or beat) their proposed schedule. In the event that the Vendor is unable to provide network access to participating Elk Ridge residents in the time frame proposed there shall be a penalty for every day the service is delayed. The amount and conditions of the penalty shall be agreed upon in writing prior to the City's final selection of a Vendor. Inability to agree upon delivery penalties will disqualify the applicant from consideration for the project.

l. **Anti-Collusion**

The submission of a proposal constitutes agreement that the Vendor has not divulged its proposal to, or colluded with, any other offeror or party to a proposal whatsoever.

m. **Indemnification**

The Vendor shall hold harmless, defend and indemnify the City and its officers, employees, and agents from and against any and all claims, losses, causes of action, judgments, damages and expenses including, but not limited to attorney's fees because of bodily injury, sickness, disease or death, or injury to or destruction of tangible property or any other injury or damage resulting from or arising out of (a) performance or breach of the contract by Vendor, or (b) Vendor's use of City premises, or (c) any act, error, or omission on the part of the Vendor, or its agents, employees, invitees, participants, or subcontractors except where such claims, losses, causes of action, judgments, damages, and expenses result solely from the negligent acts or omissions or willful misconduct of the City, its officers, employees, or agents.

n. **Restrictions**

All proposals must clearly set forth any restrictions or provisions deemed necessary by the Vendor to effectively service the proposed contract.

o. **Right to Reject**

The City reserves the right to reject any or all proposals and to waive any informality or technicality in any proposal in the interest of the City.

p. **Record Keeping and Audit Rights**

Any Vendor providing goods or services under any contract shall maintain accurate accounting records for all goods and services provided thereunder, and shall retain all such records for a period of at least ten (10) years, or longer if imposed as required by applicable law or statute, following termination of the contract. Upon reasonable notice and during normal business hours, the City, or any of its duly authorized representatives, shall have access to and the right to audit any records or other documents pertaining to the contract. The City's audit rights shall extend throughout the term of the contract and for a period of at least ten (10) years thereafter.

q. **Management Reports**

Upon request the Vendor must be able to summarize and concisely report pertinent information to the City in a timely manner, throughout the duration of any contract resulting from this RFP.

r. **Further Agreements**

In addition to a proposal, the City may from time to time require a Vendor to execute certain additional documents or agreements, including without limitation a contract, for

the purpose of clarifying the intention of the parties with respect to providing the goods or services hereunder.

s. **Relationship of Parties**

In assuming and performing the obligations of any contract, the City and any Vendor shall each be acting as independent parties and neither shall be considered or represent itself as a joint venture, agent, or employee of the other. Vendor affirms that the Vendor or any employee in their organization does not have a conflict of interest or potential conflict of interest with the City.

t. **Taxes**

Vendors shall be responsible for and pay all taxes which may be levied or incurred against the Vendor in connection with the performance of any services under a contract, including taxes levied or incurred against Vendor's income, inventory, property, sales, or other taxes.

u. **Liens**

By submitting a proposal, the Vendor certifies that neither it nor its principals are presently subject to an outstanding tax lien in the State of Utah. If the Vendor cannot certify this statement, the Vendor will submit to the City a written explanation for the review of the City. If the Vendor is subject to any outstanding tax lien in the State of Utah, the City may reject the Vendor's quote, bid, offer, or proposal in response to the request pursuant to UCA 63G-6a-905.

v. **Debarment Clause**

Vendor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction (RFP and subsequent contract), by any governmental department or agency. If Vendor cannot certify this statement, attach a written explanation for review by the City. Vendor must notify the City within 30 days if debarred by any governmental entity during the contract period.

w. **Insurance and Bonds**

Vendor shall maintain Commercial General Liability insurance with per occurrence limits of at least \$1,000,000 and general aggregate limits of at least \$2,000,000, listing the City of Elk Ridge as an additional insured. Vendor shall also maintain, if applicable to Vendor's operations or performance of this contract, Builder's Risk, Cyber Liability, Professional Liability, and/or Business Automobile Liability insurance covering Vendor's owned, non-owned, and hired motor vehicles with liability limits of at least \$1,000,000 per occurrence. Such insurance policies shall be endorsed to be primary and not contributing to any other insurance maintained by the City.

If applicable, Vendor shall maintain and provide evidence of an employee dishonesty (fidelity) bond or other form of surety in the minimum amount of \$300,000 which guarantees that the bond or surety will reimburse the City for any pecuniary loss that may be sustained by any act of fraud, dishonesty, forgery, theft, embezzlement, malfeasance, or misappropriation on the part of Vendor, or any of its employees, officers, directors, agents, contractors, or subcontractors directly or indirectly. This bond shall be issued by a responsible surety company authorized to do business within the State of Utah, and shall be subject to the reasonable approval by the City as to form and content.

Vendor shall deliver to the City performance and payment bonds upon execution of a construction contract which shall be in amounts 100% of the price specified in the construction contract.

Vendor shall maintain all employee related insurances, in the statutory amounts, such as worker's compensation, and employer's liability, for its employees or volunteers involved in performing services pursuant to this contract. Vendor shall also maintain "special form" property insurance at replacement cost applicable to Vendor's property or its equipment and that contains a waiver of subrogation endorsement in favor of the City.

Vendor's insurance carriers and policy provisions must be acceptable to the City and remain in effect for the duration of the contract. The City shall be named as an additional insured on the Commercial General Liability, and if applicable, Aircraft Liability, and Liquor Liability insurance policy by endorsement. Vendor will cause any of its subcontractors, who provide materials or perform services relative to this contract, to also maintain the insurance coverages and provisions listed above.

If the coverage's described above are not in place at the time a proposal is submitted, Vendor should describe in detail what types and levels of coverage are in place currently, and clearly indicate Vendor's ability and willingness to obtain the above listed coverage's if required by the City.

Vendor shall submit certificates of insurance as evidence of the above required insurance to the City prior to the commencement of any contract. Such certificates shall indicate that the City will be given thirty (30) calendar days written notice prior to the cancellation of coverage.