ORDINANCE NO. 1292
SERIES 2021

AN ORDINANCE AWARDING A MULTI YEAR CONTRACT FOR VOIP PHONE SERVICES FROM HIGH COUNTRY/AVAYA/RING CENTRAL FOR CITY OF CORTEZ

WHEREAS, the current phone system for the City of Cortez is beyond its useful life; and

WHEREAS, in responses to an RFP for cloud based phone services it was determined High Country/AVAYA/Ring Central was superior in service and price; and

WHEREAS, High Country/Avaya/Ring Central will replace the existing City of Cortez phone system, software and hardware; and

WHEREAS, High Country/Avaya/Ring Central will provide customer service and help desk support to resolve any and all issues that are phone related; and

WHEREAS, Information Technology Department recommends accepting the Professional Services Contract and Fee Schedule as Exhibit A Attached.

NOW, THEREFORE, Be it ordained by the Cortez City Council that the City of Cortez will enter into a three year contract with High Country/Avaya/Ring Central to provide all services required to have a complete VoIP, Cloud based phone system. The professional services contract attached hereto and incorporated herein as Exhibit A is approved and the mayor is authorized to sign same.

REPEALER. All orders, bylaws, ordinances, and resolutions of the City, or parts thereof, inconsistent or in conflict with this Ordinance, are hereby repealed to the extent only of such inconsistency or conflict.

SEVERABILITY. If any section, paragraph, clause, or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Ordinance, the intent being that the same are severable.

RECORDING AND AUTHENTICATION. Upon adoption hereof, this Ordinance shall be recorded in a book kept for that purpose and shall be authenticated by the signatures of the Mayor and the City Clerk.

EFFECTIVE DATE. This ordinance shall be effective upon publication after final passage.

PUBLIC HEARING. This ordinance shall be considered for second and final reading on the 11th day of January 2022, at the hour of 7:30 p.m., in City Council Chambers in City Hall, 123 Roger Smith Avenue, Cortez, Colorado, at which time and place all persons interested may appear and be heard concerning the same. A complete copy of Ordinance No. 1292, Series 2021, is available for public inspection and acquisition in the office of the City Clerk at City Hall.

PASSED, ADOPTED AND APPROVED ON FIRST READING THIS 14TH DAY OF DECEMBER 2021.

CITY OF CORTEZ

MICHAEL J. LAVEY, MAYOR

ATTEST:

LINDA L. SMITH, CITY CLERK

PASSED, ADOPTED, AND APPROVED ON SECOND AND FINAL READING THIS 11TH DAY OF JANUARY 2022.

CITY OF CORTEZ

MICHAEL J. LAVEY, MAYOR

ATTEST:

LINDA L. SMITH, CITY CLERK

APPROVED AS TO FORM:

MICHAEL F. GREEN, CITY ATTORNEY

PROFESSIONAL SERVICES CONTRACT

AN AGREEMENT BY AND BETWEEN THE CITY OF CORTEZ, COLORADO, AND HIGH COUNTRY/AVAYA/RING CENTRAL FOR PROVIDING VOIP PHONE SYSTEM/SERVICES

1 .0 PARTIES

The parties to this Agreement are the City of Cortez, a Colorado Municipal Corporation, hereinafter referred to as the "City," and High Country/AVAYA/Ring Central, hereinafter referred to as the "Contractor".

2 .0

The City desires to engage the Contractor for the purpose of providing replacing/upgrading the City's current system to a new system, which can be a hybrid (both onsite and cloud-based) or just cloud-based. The phone system will support 250 users, 24 simultaneous calls, include 7 fax numbers, and maintain 11 locations.

2.1 The Contractor represents that it has the special expertise and background necessary to provide the City with the services.

3 .0 SCOPE OF SERVICES

The Contractor agrees to provide the City with the specific professional services as set forth in Exhibit "A" attached hereto and incorporated herein by reference.

4 .0 COMPENSATION

4.1 The City shall pay the Contractor for services under this agreement a total not to exceed the amounts set forth in Exhibit "A" attached hereto and incorporated herein by this reference. Such amounts shall be inclusive of all costs of whatsoever nature associated with the Contractor's efforts, including but not limited to salaries, benefits, expenses, overhead, administration, profits, and outside consultant fees. No hourly charges shall exceed the hourly wages identified in Exhibit "A." The scope of services and payment therefore shall only be changed by a properly authorized amendment to this Agreement. No City Employee has the authority to bind the City with regard to any payment for any services which exceeds the amount payable under the terms of this Agreement.

4.2 The Contractor shall submit monthly a detailed invoice to the City describing the professional services rendered. The invoice shall document the hours spent on the project identifying by work category and subcategory the work performed for the month, the hours worked by employee, and the hourly rate charged for that work. The City shall pay the invoice within thirty (30) days of receipt unless the work or the documentation therefore is unsatisfactory. Payments made after thirty (30) days may be assessed an interest charge of one percent (1%) per month unless the delay in payment resulted from unsatisfactory work or documentation therefore.

5 .0 PROJECT REPRESENTATION

5.1 The City designates Shay Allred, IT Manager, as the responsible City staff member to provide direction to the Contractor during the conduct of the project. The Contractor shall comply with the directions given by Shay Allred.

5.2 The Contractor designates _____ as its Project Manager. The City may rely upon the guidance, opinions, and recommendations provided by the Contractor and its representatives. Should any of the representatives be replaced, particularly, and such replacement requires the City or the Contractor to undertake additional reevaluations, coordination, orientation, etc., the Contractor shall be fully responsible for all such additional costs and services.

6 .0 TERM

The Contractor's services under this Agreement shall commence on January 11th 2022, and run through January 30, 2025.

7 .0 INSURANCE

7.1 The Contractor agrees to procure and maintain, at its own cost, the following policy or policies of insurance. The Contractor shall not be relieved of any liability, claims, demands, or other obligations assumed pursuant to the Contract Documents by reason of its failure to procure or maintain insurance, or by reason of its failure to procure or maintain insurance in sufficient amounts, durations, or types.

7.1.1 Contractor shall procure and maintain, and shall cause each subcontractor of the Contractor to procure and maintain or insure the activity of Contractor's subcontractors in Contractor's own policy, the minimum insurance coverages listed below. Such coverages shall be procured and maintained with forms and insurers acceptable to the City. All coverages shall be continuously maintained from the date of commencement of services hereunder. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage.

7.1.1.1 Workers' Compensation insurance to cover obligations imposed by the Workers' Compensation Act of Colorado and any other applicable laws for any employee engaged in the performance of Work under this contract, and Employers' Liability insurance with minimum limits of FIVE HUNDRED THOUSAND DOLLARS ($500,000) each accident, FIVE HUNDRED THOUSAND DOLLARS ($500,000) disease – policy limit, and FIVE HUNDRED THOUSAND DOLLARS ($500,000) disease – each employee.

7.1.1.2 Comprehensive General Liability insurance with minimum combined single limits of ONE MILLION DOLLARS ($1,000,000) each occurrence, and ONE MILLION DOLLARS ($1,000,000) aggregate. The policy shall be applicable to all premises and operations. The policy shall include coverage for bodily injury, broad form property damage (including completed operations), personal injury (including coverage for contractual and employee acts), blanket contractual, independent Contractors, products, and completed operations. The policy shall contain a severability of interests provision.

7.1.1.3 Comprehensive Automobile Liability insurance with minimum combined single limits for bodily injury and property damage of not less than ONE MILLION DOLLARS ($1,000,000) each occurrence and ONE MILLION DOLLARS ($1,000,000), aggregate with respect to each of Contractor's owned, hired and/or non-owned vehicles assigned to or used in performance of the services. The policy shall contain a severability of interests provision.

7.1.1.4 Professional Liability insurance with minimum limits of ONE MILLION DOLLARS ($1,000,000) each occurrence and ONE MILLION DOLLARS ($1,000,000).

7.1.2 The Policies required above, except for the Worker's Compensation insurance, Employers' Liability insurance, and Professional Liability insurance, shall be endorsed to include the City, and its officers and employees, as additional insureds. Every policy required above shall be primary insurance, and any insurance carried by the City, its officers, or its employees, shall be excess and not contributory insurance to that provided by Contractor. The additional insured endorsement for the Comprehensive General Liability insurance required above shall not contain any exclusion for bodily injury or property damage arising from completed operations. The Contractor shall be solely responsible for any deductible losses under each of the policies required above.

7.1.3 Certificates of insurance shall be properly endorsed and completed by the Contractor's insurance agent as evidence that policies providing the required coverages, conditions, and minimum limits are in full force and effect, and shall be subject to review and approval by the City. Each certificate shall identify the Project and shall provide that the coverages afforded under the policies shall not be canceled, terminated, or materially changed until at least thirty (30) days prior written notice has been given to the City. If the words "endeavor to" appear in the portion of the certificate addressing cancellation, those words shall be stricken from the certificate by the agent(s) completing the certificate. The City reserves the right to request and receive a certified copy of any policy and any endorsement thereto.

7.1.4 Failure on the part of the Contractor to procure or maintain policies providing the required coverages, conditions, and minimum limits shall constitute a material breach of contract upon which the City may immediately terminate the contract, or at its discretion may procure or renew any such policy or any extended reporting period thereto and may pay any and all premiums in connection therewith, and all monies so paid by the City shall be paid by Contractor to the City upon demand, or the City may offset the cost of the premiums against any monies due to Contractor from the Owner.

7.1.5 The parties hereto understand and agree that the City is relying on, and does not waive or intend to waive by any provision of this contract, the monetary limitations (presently $150,000 per person and $600,000 per occurrence) or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act. §24-10-101 et seq, 10 C.R.S., as from time to time amended, or otherwise available to the City its officers, or its employees.

8 .0 INDEMNIFICATION

To the fullest extent permitted by law, the Contractor agrees to indemnify and hold harmless the City, and its officers and its employees, from and against all liability, claims, and demands, on account of any injury, loss, or damage, which arise out of or are connected with the services hereunder, if such injury, loss, or damage, or any portion thereof, is caused by, or claimed to be caused by, the act, omission, or other fault of the Contractor or any subcontractor, or any other person for whom Contractor is responsible. The Contractor shall investigate, handle, respond to, and provide defense for and defend against any such liability, claims, and demands, and to bear all other costs and expenses related thereto, including court costs and attorneys' fees. The Contractor's indemnification obligation shall not be construed to extend to any injury, loss, or damage which is caused by the act, omission, or other fault of the City.

9 .0 QUALITY OF WORK

Contractor's professional services shall be in accordance with the prevailing standard of practice normally exercised in the performance of professional services of a similar nature in the City of Cortez.

10 .0 INDEPENDENT CONTRACTOR

Contractor and any persons employed by Contractor for the performance of work hereunder shall be independent contractors and not agents of the City. Any provisions in this Agreement that may appear to give the City the right to direct Contractor as to details of doing work or to exercise a measure of control over the work mean that Contractor shall follow the direction of the City as to end results of the work only. **As an independent Contractor, Contractor is not entitled to Workers' Compensation benefits except as may be provided by the independent Contractor nor to Unemployment Insurance benefits unless unemployment compensation coverage is provided by the independent Contractor or some other entity. The Contractor is obligated to pay all federal and state income tax on any monies earned or paid pursuant to this contract.**

11 .0 ASSIGNMENT

Contractor shall not assign or delegate this Agreement or any portion thereof, or any monies due to or become due hereunder without the City's prior written consent.

12 .0 DEFAULT

Each and every term and condition hereof shall be deemed to be a material element of this Agreement. In the event either party should fail or refuse to perform according to the terms of this Agreement, such party may be declared in default.

13 .0 TERMINATION

13.1 This Agreement may be terminated by either party for material breach or default of this Agreement by the other party not caused by any action or omission of the other party by giving the other party written notice at least thirty (30) days in advance of the termination date. Termination pursuant to this subsection shall not prevent either party from exercising any other legal remedies that may be available to it.

13.2 In addition to foregoing, this Agreement may be terminated by the City for its convenience and without cause of any nature by giving written notice at least seven (7) days in advance of the termination date. In the event of such termination, the Contractor will be paid for the reasonable value of the services rendered to the date of termination, not to exceed the total amount set forth in Exhibit "B," and upon such payment, all obligations of the City to the Contractor under this agreement will cease. Termination pursuant to this Subsection shall not prevent either party from exercising any other legal remedies that may be available to it.

14 .0 INSPECTION

The City and its duly authorized representatives shall have access to any books, documents, papers, and records of the Contractor that are related to this Agreement for the purpose of making audits, examinations, excerpts, and transcriptions.

15 .0 ENFORCEMENT

15.1 In the event that suit is brought upon this Agreement to enforce its terms, the prevailing party shall be entitled to its reasonable attorneys' fees and related court costs.

15.2 Colorado law shall apply to the construction and enforcement of this Agreement. The parties agree to the jurisdiction and venue of the courts of Montezuma County in connection with any dispute arising out of or in any matter connected with this Agreement.

16 .0 COMPLIANCE WITH LAWS

Contractor shall be solely responsible for compliance with all applicable federal, state, and local laws, including the ordinances, resolutions, rules and regulations of the City for payment of all applicable taxes; and obtaining and keeping in force all applicable permits and approvals.

17 .0 INTEGRATION AND AMENDMENT

This Agreement represents the entire Agreement between the parties and there are no oral or collateral agreements or understandings. This Agreement may be amended only by an instrument in writing signed by the parties.

18 .0 EQUAL OPPORTUNITY EMPLOYER

18.1 Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, age, sex, disability, or national origin. Such action shall include but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notice to be provided by an agency of the federal government, setting forth the provisions of the Equal Opportunity Laws.

18.2 Contractor shall be in compliance with the applicable provisions of the Americans with Disabilities Act of 1990 as enacted, and from time to time amended, and any other applicable federal, state, or local laws and regulations. A signed, written certificate stating compliance with the Americans with Disabilities Act may be requested at any time during the life of this Agreement or any renewal thereof.

DATED: Jan 12, 2022

THE CITY OF CORTEZ, COLORADO:

Drew C. Sanders, City Manager

ATTEST:

Linda L. Smith, City Clerk

CONTRACTOR: HIGH COUNTRY/AVAYA/RING CENTRAL

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- FEE SCHEDULE

License Profiles

Material Code	Description	Qty	Each	Extended
409623	DigitalLine Unlimited Standard PLUS Profiles	121	125.88	15,231.48
	Above Profiles include some features from Premimum Profile to meet Requirements			
409626	DigitalLine Basic	51	77.88	3,971.88
409847	Main Local Number	1	0.00	0.00
409851	Main Local Fax Number	1	0.00	0.00
409621	Compliance and Administrative Cost Recovery Fee	172	42.00	7,224.00
409622	e911 Service Fee	172	12.00	2,064.00
	Should the City desire additional licenses the above pricing will apply			
	Year 1 License Profile Associated Costs			**28,491.36**

Telephone Devices

Material Code	Description	Qty	Each	Extended
407625	Avaya Conference Phone B199 on 3 yr DaaS	7	10.02	841.68
407640	Avaya IP Phone J139 on 3 yr DaaS	42	2.34	1,179.36
407721	Avaya IP Phone J159 on 3 yr DaaS	108	2.82	3,654.72
407652	Avaya IP Phone J179 on 3 yr DaaS	4	3.33	159.84
407718	Avaya IP Phone JEM100/24 Expansion Module on 3 yr DaaS	4	3.63	174.24
	Should the City request additional quantities the above pricing will apply			
	Year 1 Device as a Service (DaaS) Associated Costs			**6,009.84**

One-Time Costs

	Avaya Professional Services- Implementation - if desired			**4,500.00**
	High Country Professional Services - Installation			**2,500.00**
	Includes Onsite Installation of Telephones & Paging Integration			
	Analog Terminal Adapters for Paging	**2**	**80.00**	**160.00**

Year 2 License Profile Associated Costs		**28,491.36**
Year 2 Device as a Service (DaaS) Associated Costs		**6,009.84**
Year 2 Support and Maintenance Costs are included		**0.00**

Year 3 License Profile Associated Costs		**28,491.36**
Year 3 Device as a Service (DaaS) Associated Costs		**6,009.84**
Year 3 Support and Maintenance Costs are included		**0.00**