

**Sierra County
Board of Supervisors'
Agenda Transmittal &
Record of Proceedings**

MEETING DATE: July 7, 2020	TYPE OF AGENDA ITEM: <input checked="" type="checkbox"/> Regular <input type="checkbox"/> Timed <input type="checkbox"/> Consent
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DEPARTMENT: Social Services
APPROVING PARTY: Vickie Clark, Director
PHONE NUMBER: (530) 993-6700

AGENDA ITEM: Master Service Agreement between Charger Access and Sierra County Health and Human Services for Ethernet and Point to Point (PTP) services beginning approximately on September 2, 2020 through September 2, 2023 utilizing the Rural Healthcare Program through Universal Service Administrative Co. (USAC)

SUPPORTIVE DOCUMENTS ATTACHED: Memo Resolution Agreement Other

BACKGROUND INFORMATION: Please see attached memo

FUNDING SOURCE: 0515610, 5670, 5800

GENERAL FUND IMPACT: No General Fund Impact

OTHER FUND:

AMOUNT: \$31, 356 Est. N/A

ARE ADDITIONAL PERSONNEL REQUIRED?

Yes, -- --
 No

IS THIS ITEM ALLOCATED IN THE BUDGET? Yes No

IS A BUDGET TRANSFER REQUIRED? Yes No

SPACE BELOW FOR CLERK'S USE

<p>BOARD ACTION:</p> <p><input type="checkbox"/> Approved <input type="checkbox"/> Approved as amended <input type="checkbox"/> Adopted <input type="checkbox"/> Adopted as amended <input type="checkbox"/> Denied <input type="checkbox"/> Other <input type="checkbox"/> No Action Taken</p>	<p><input type="checkbox"/> Set public hearing For: _____</p> <p><input type="checkbox"/> Direction to: _____</p> <p><input type="checkbox"/> Referred to: _____</p> <p><input type="checkbox"/> Continued to: _____</p> <p><input type="checkbox"/> Authorization given to: _____</p>	<p>Resolution 2020- _____ Agreement 2020- _____ Ordinance _____ Vote: Ayes: Noes: Abstain: Absent: <input type="checkbox"/> By Consensus</p>
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COMMENTS:

CLERK TO THE BOARD

DATE

Memorandum

To: Sierra County Board of Supervisors

From: Vickie Clark, Director

Reference: Agenda Item

Date of memo: June 29, 2020

Date of Board Meeting: July 7, 2020

Requested Action: Master Service Agreement between Charger Access and Sierra County Health and Human Services for Ethernet and Point to Point (PTP) services beginning approximately on September 2, 2020 through September 2, 2023 utilizing the Rural Healthcare Program through Universal Service Administrative Co. (USAC)

Mandated by: n/a

Funding

Budgeted? Yes No

Revenue	\$31,356 estimate	Source(s) – Estimate based on projected urban rate & Budget Relief Program reimbursements.
Expenses	\$31,356 estimate	Budget attached - Estimate based on projected urban rate & Budget Relief Program reimbursements.
Difference		

Background Information:

Sierra County is finishing a three-year contract with Telequality (recently purchased by ENA). A USAC bidding process was required to find a vendor to continue utilization of the Rural Health Program. Bids were received from three vendors: Charger Access, ENA and Ganite. Charger is able to give us the best price to meet the scope of work specification for the provision of HHS Ethernet and PTP. These services are critical to the stability of services and maintenance of records for Public Health, Behavioral Health and Emergency Preparations operations that overlay all of HHS. Participation in the Rural Health Program with USAC provides discounts that allow our rural departments to afford quality Internet services that would otherwise be cost prohibitive.

Potential Issues to consider:

This is a new vendor. IT will be evaluating service delivery closely. The urban rate will not be officially released by USAC until after the initiation of this agreement, thus the estimates provided by Charger.

Alternatives or Impacts of disapproval

Costs would be considerably higher.



PROPOSAL FOR SERVICES

1710 Gen George Patton Dr. 615.224.8422 Direct
 Suite 104 615.656.8151 Office
 Brentwood, TN 37027 chargeraccess.com

PROPOSED FOR:
 Sierra County Health & Human Services
 202 Front St.
 Loyalton, CA 96118

AGENT REPRESENTATIVE:
 Mike Hyams
 615-622-4603

Date: **June 26, 2020**
 Quote Valid for: 30 Days
Term: 36 Months

Service Address A	Service Address B	Service Type	Bandwidth	MRC	Install	BRP	ESTIMATED After Funding Cost
202 Front St, Loyalton, CA 96118		Ethernet	250Mbps	\$2,335.32	Waived	\$1,167.66	\$270.00
101 Courthouse Sq, Downieville, CA 95936	202 Front St, Loyalton, CA 96118	PTP	250Mbps	\$2,335.32	Waived	\$1,167.66	\$540.00
TOTALS:				\$4,670.64	\$0.00	\$2,335.32	\$810.00

Budget Relief Program (BRP) represents the monthly remittance of HCP upon installation of services. Upon funding reimbursement by USAC through the Rural Healthcare Program, Charger Access will issue a refund/credit to customer invoice reflecting the approved Urban Rate.

ESTIMATED After Funding Cost represents the estimated Urban Rate. Final Urban Rate will be determined upon approval by USAC of Urban Rate documentation.

Contractual Term and Invoicing shall begin when Charger Access configures equipment and makes services available for customer use.

Pricing includes connectivity to demarcation point ONLY. Customer is responsible for adequate access to the building, inside wiring, demarc extensions, or other third party charges incurred for providing such services.

The provision of these services are subject to Facility availability. Additional construction charges may apply to bring services to customer premise. Construction Charges will be determined once a site survey is performed upon execution of Master Service Agreement (MSA). Customer will have the option to opt out of the MSA should any additional charges be incurred not outlined within the MSA.

Charger Access is in no way responsible for the disconnection of services with Customer's previous provider, and shall not be held liable for any fees or charges accessed to Customer by such provider, unless otherwise outlined within the MSA.

Pricing does not include Taxes, Surcharges, or Regulatory Fees mandated by Federal or State authorities.

This Master Service Agreement (Agreement) is made between CHARGER Access (CHARGER Access), and the customer identified within this Agreement (Customer) and confirms Customer's commitment to purchase Telecommunications and related services (Service or Service Order) from CHARGER Access. This Master Service Agreement and any attachments, addendums, schedules and/or Service Orders form this Agreement between CHARGER Access and Customer. The Services provided within will be offered to the Customer by CHARGER Access or the affiliated entity contracted by CHARGER Access to provide Services to the Customer.

Rates: Customer agrees that they are responsible for all Monthly Recurring Charges (MRC or Monthly Rate) for Services provided by CHARGER Access as set forth in any attachments or Service Orders, unless otherwise noted. Customer is subject to additional charges imposed by CHARGER Access in order to recover amounts required or permitted by Federal or State authorities to stay within regulatory compliance. These additional charges include, but are not limited to, Universal Service Funding, Administrative Fees, Property Tax Charges, Carrier Access Charges, Carrier Surcharges, and State Sales Tax. These additional charges are subject to change without notice to reflect the change imposed by Federal or State authorities.

Billing Commencement: Customer will have ten (10) business days, from the date in which equipment is delivered, to schedule and complete the pre-install with CHARGER Access. The pre-install will consist of mounting the equipment in the Customer's telecom room as well as ensuring the equipment is connected to the circuit and CHARGER Access technicians have remote access to it. After pre-install has been completed Customer will have five (5) business days to schedule and complete the final turn up to their network. Billing will commence no later than the 15th business day after equipment has been received unless more time is granted by CHARGER Access, in its sole discretion.

Billing/Payment: Services within this agreement will be billed one month in advance in the form of a monthly invoice. CHARGER Access will remit monthly invoice to the mailing address listed within this Agreement or via email to the Billing Contact's email address, per the request of the Customer. Payment must be received by CHARGER Access at the address designated on the invoice by or on the due date as noted on the invoice (Due Date). Should payment not be received by or on the Due Date, the Customer agrees to pay a late payment charge equal to five percent (5%) of the amount due. Any returned or dishonored checks will receive a service charge of fifty dollars (\$50). Should payment not be received within sixty (60) days of invoice Due Date, CHARGER Access has the option to terminate Services and the Customer is responsible for all applicable Early Termination Fees outlined within this Agreement. Customer shall notify CHARGER Access of any billing discrepancies or disputes within sixty (60) days of the invoice date, or such an invoice shall be deemed as binding on Customer. Any and all fees and expenses incurred by CHARGER Access in collecting, or attempting to collect, any debt owed by Customer shall be the responsibility of the Customer.

Term/Renewal: The effective date of this Agreement for purposes of determining when the Service Term (as referenced above) shall begin is the date CHARGER Access installs and configures any equipment and the Service is made available for Customer use. At the expiration of the Service Term the Agreement will automatically renew for a period of twelve (12) months (Auto-Renewal) unless CHARGER Access receives written notice from Customer to terminate the Auto-Renewal not less than

MASTER SERVICE AGREEMENT

sixty (60) days prior to the expiration of the current Service Term. If the Customer chooses to disconnect services at any time, a written notice of disconnect is required sixty (60) days prior to the requested disconnect date.

Disconnection of Current Service: CHARGER Access is in no way responsible or liable for the disconnection of services with Customer's current service provider, and shall not be held liable for any fees or charges assessed to Customer by such provider, unless otherwise stated within this Agreement.

Cancellation/Early Termination: In the event the Customer cancels the Service Order after entering into this Agreement but prior to the delivery of circuits to Customer premise, the Customer agrees to pay CHARGER Access, a charge equal to the lesser of the following: (1) three (3) times the Monthly Recurring Charges or (2) five thousand dollars (\$5000). Customer agrees that this charge is reasonable for CHARGER Access to recuperate the administrative costs and other fees incurred by CHARGER Access to prepare for installation.

In the event the Customer elects to terminate services after the installation of Services, in whole or in part, Customer shall pay to CHARGER Access an early termination charge not to exceed the MRC of Services multiplied by the number of months remaining in the Service Term plus any and all waived non-recurring charges or installation fees. Customer must provide written notice of disconnect sixty (60) days prior to requested disconnect date.

Equipment: Unless otherwise stated in this Agreement, any equipment delivered by UPS, FedEx or United States Postal Service on behalf of CHARGER Access and/or any equipment installed by any CHARGER Access employee, contractor or representative shall remain the property of CHARGER Access. This includes but is not limited to any switch, router, battery backup and/or phone equipment. Should this Agreement be terminated for any reason Customer agrees to return such equipment to CHARGER Access and/or allow CHARGER Access reasonable access to retrieve such equipment.

Moves/Adds/Changes: In the event the Customer elects to move Services to another location during the Service term, every attempt will be made by CHARGER Access to move the circuit to the new location keeping the current Monthly Rate. Moves to a different Serving Wire Center or LATA could result in an increase in the Monthly Rate in addition to one-time charges for installation and/or construction fees. Customer will enter into a new Agreement for the new location or Early Termination Fees will apply to the disconnected location.

CHARGER Access agrees not to hold the customer liable for Early Termination fees or impose any penalty in the event the Customer elects to upgrade Services at a location provided ALL of the following are true: (1) CHARGER Access has approved the upgrade of the Services, (2) the new Monthly Rate for Services is greater than or equal to the existing Monthly Rate, and (3) Customer agrees to enter into a new Agreement with CHARGER Access for the Upgraded Services.

Limitation of Liability/Disclaimer of Warranties/Indemnity (for purposes of this section CHARGER Access includes its officers, employees, agents, subcontractors, vendors, and any entity CHARGER Access employs to provide Services to Customer): Under no circumstances will CHARGER ACCESS be liable (WHETHER IN NEGLIGENCE OR OTHERWISE) to CUSTOMER OR ANY AFFILIATED PERSON OR ENTITY for any indirect, incidental, consequential, special or exemplary damages, OR LOSS, NOR FOR ANY LOSS OF GOODWILL, REPUTATION, BUSINESS, REVENUE, PROFIT, OR SAVINGS arising with respect to any of



MASTER SERVICE AGREEMENT

the Services OR Equipment, PROVIDED UNDER this Agreement. CHARGER ACCESS DOES NOT HAVE ANY LIABILITY (INCLUDING LIABILITY FOR NEGLIGENCE) FOR THE ACTS OR OMISSIONS OF OTHER PROVIDERS OF TELECOMMUNICATIONS SERVICE OR FOR FAULTS IN OR FAILURES OF THEIR NETWORKS AND EQUIPMENT. CUSTOMER HEREBY AGREES THAT THE USE OF THE SERVICES AND EQUIPMENT PROVIDED BY CHARGER ACCESS IS AT CUSTOMERS SOLE RISK. CHARGER ACCESS DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE; NOR DO THEY MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF ANY OF THE SERVICES OR THE EQUIPMENT, OR AS TO THE ACCURACY, RELIABILITY, OR CONTENT OF ANY INFORMATION, SERVICE, OR EQUIPMENT PROVIDED IN CONJUNCTION WITH USE OF ANY OF THE SERVICES. ALL SERVICES AND EQUIPMENT ARE PROVIDED ON AN "AS IS" BASIS WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF TITLE OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. customer hereby agrees to indemnify, defend, and hold harmless CHARGER Access from and against any and all claims, losses, expenses, demands, injuries, awards, damages, expenses (including without limitation reasonable attorneys' fees) arising out of, or in connection with, the services provided under this agreement.

FORCE MAJEURE: CHARGER Access shall have no liability, including issuing service credits, for any performance, non-performance, delay or failure to perform hereunder due to any event or conditions beyond its reasonable control, including but not limited to: fire, flood, vandalism, explosion, cable cuts, acts of God, common carrier delays, storms, extreme temperatures or similar catastrophes; any law, order, regulation, direction, action or request of any government, including state and local governments with jurisdiction over either CHARGER Access or the Customer, or of any similar entity; lock-outs, wars, national emergencies, riots or strikes; any action or inaction of a third party provider or facilities operator employed in provisioning the Services for the Customer.

Service Calls: If CHARGER Access, at the request of Customer, dispatches a technician, for a Customer-initiated service call, and trouble is found to be with Customer's, or any of Customer's third party vendor's, equipment or services, Customer shall pay to CHARGER Access a service call charge equal to \$175 per hour, for technician being on site 8:00AM - 5:00PM Monday through Friday, or \$250 per hour, for technician being on site during Holidays and all other times.

Inside Wiring: Customer is solely responsible for the provision, operation, repair and maintenance of all equipment, facilities and service on the Customer's side of the Point of Demarcation at each Location at which Services are installed.

Construction Charges: Certain Construction Charges can not be known until a site survey is completed at the Customer's Location. As such if these charges are deemed to be to unacceptable by Customer they may have the option of not moving forward with the order.

Miscellaneous: (1) Third Party Charges: Customer is responsible for any fees assessed by any third party, including but not limited Customer's phone and/or data vendor, in connection with the installation, provisioning, and/or maintenance of Customer equipment used for Services provided by CHARGER Access. (2) Severability: The provisions of this agreement are severable, if any part of this Agreement is found to be illegal or unenforceable, all other provisions shall remain in effect and shall continue to be enforced. (3) Assignment: This Agreement may not be assigned except with the express written consent



MASTER SERVICE AGREEMENT

of CHARGER Access, which may be granted or withheld at CHARGER Access sole discretion. (4)
Handwritten Changes: No handwritten change to this Agreement shall be binding on CHARGER Access.

Changes to Agreement: CHARGER Access reserves the right to make changes to this Agreement. In such event, CHARGER Access will notify customer in writing, via mail and email to Customer’s Contact information provided within this Agreement. Should the Customer find any change unreasonable and unsatisfactory, the Customer may provide written notice to CHARGER Access within thirty (30) days from the date on the notice of change of its desire not to accept any change. In the event CHARGER Access and Customer cannot reach terms satisfactory to both parties, CHARGER Access will release Customer of its obligations under this Agreement providing Customer provides written notice of disconnect no less than sixty (60) days prior to requested disconnect date. Customer will be responsible for all charges incurred up until the date of disconnect.

Entire Agreement: The Customer and CHARGER Access hereby agree and stipulate that this Agreement, and its attachments, addendums, schedules and/or service orders ,represents the entire agreement between the Customer and CHARGER Access. This agreement supersedes all prior written or oral communications applicable to the same service and any express, implied, written or oral warranties made by CHARGER Access or any of its agents or representatives.

CHARGER ACCESS, LLC

SIERRA COUNTY HEALTH & HUMAN SERVICES

Signature: _____
Name
(Printed): _____
Title: _____
Date: _____

Signature: _____
Name
(Printed): _____
Title: _____
Date: _____



General: CHARGER Access has established performance objectives for all of the products that it offers. While CHARGER Access does not guarantee any performance objectives, CHARGER Access will, at the Customer’s request, provide credits when a performance objective is not met.

Availability: CHARGER Access’s goal is to have Services available to the Customer 99.99% of the time.

Credits: Should a network outage occur, CHARGER Access, at the Customer’s request, will issue a credit for the amount of time that it took for services to be restored. Credit will be issued in accordance with the table below. Measurement of an Outage for credit purposes begins when a trouble ticket number has been issued to Customer for the Service affecting issue. The time will end with CHARGER Access’s first attempt, either by phone or via email, to notify Customer that Services have been restored. Length of Outage times exclude time that is outside the standard operating hours of Customer. SLA Credits will be calculated by taking the below percentage from the Customer Share Price of the affected circuit.

CHARGER Access Network Outage Credit Table	
Length of Outage	Amount of Credit
Less than 30 Minutes	No Credit
30 Minutes to 2 Hours	2.50%
2 Hours to 5 Hours	10.00%
5 Hours to 10 Hours	25.00%
10 Hours to 20 Hours	50.00%
More than 20 Hours	100.00%

Customer must submit SLA credit requests to slas@chargeraccess.com within 10 business days of the network outage. CHARGER Access will then validate the request and compare it to the applicable trouble ticket. After validation by CHARGER Access, credits will be issued on the next billing cycle after request has been received by CHARGER Access and are exclusive of any applicable taxes and fees.

Exclusions and Limitations: CHARGER Access is not responsible for issuing credits when a service affecting issue is caused by:

- (1) Negligent conduct or misuse by Customer
- (2) Failure or deficient performance of power, equipment, inside wiring, service or systems not provided by CHARGER Access
- (3) Customer requested or caused delays or Customer’s election to not release a Service Component for testing and/or repair
- (4) Force Majeure conditions

In addition, CHARGER Access SLA credits do not apply if Customer and CHARGER Access agree to another remedy for the same network outage. Only one credit per circuit in a calendar month may be issued.

SLA	Response Time/Efficiency
Time to Repair	4 hours
Network Availability	99.99%
Latency (one-way)	50 ms
Jitter	n/a
Packet Delivery	99.50%



CHARGER Access Budget Relief Program (BRP): CHARGER Access recognizes Customer as a non-profit healthcare provider and is eligible for financial subsidies thru the Rural Healthcare Program and/or other state/federal issued programs. As such, the need for a secure and reliable network with as minimal financial impact as possible is much desired. Therefore, while Customer is applying for and receiving subsidies for telecommunications services through the Rural Healthcare Program and/or other state/federal issued programs, CHARGER Access agrees to allow Customer to be enrolled in the CHARGER Access Budget Relief Program provided ALL of the following are true: (1) There are funds available within the financial support program the customer is applying for, (2) Customer agrees to pay CHARGER Access fifty percent (50%) of the MRC, which totals \$2,335.32 plus any applicable taxes and fees, each month by the due date as indicated on CHARGER Access’s Invoice to Customer, (3) Customer’s account is no more than thirty (30) days past due, (4) Customer agrees to file, or arrange to have filed, appropriate forms necessary to obtain funding within (15) days of the opening of the filing window, and (5) Customer understands and complies with the rules of the program(s) they are applying for and agrees to comply with, or reply to, all USAC and/or state/federal requests within the timelines set forth by USAC and/or the state/federal program. In the event that these conditions are not satisfied then CHARGER Access reserves the right to remove the Budget Relief Program (BRP) from the Customer’s account for the remainder of the Service Term and Customer would be responsible for paying the entire past due balance as well as the balance due each month. While the Customer is enrolled in the Budget Relief Program, CHARGER Access agrees not to charge any late fees on the past due balance while the Customers’ applications are being processed.

Throughout the term of this agreement and any sequential terms, if the Customer’s funds from federal and/or state agencies is decreased causing the services provided by CHARGER Access to be a burden on the Customer’s budget, CHARGER Access agrees to re-evaluate the solution being provided to Customer and reduce the services to an acceptable solution by both Parties. However, such reduction in funds cannot be a result of incorrect, incomplete, or untimely filings or responses or any negligence with regards to following the rules and timelines set forth by the federal and/or state program in which the Customer is applying for subsidies.

Customer understands the Budget Relief Program is an optional program in which they may discontinue enrollment at any time by submitting, in writing, notice to CHARGER Access of the Customer’s request to no longer be enrolled in the Budget Relief Program. Un-enrolling from the Budget Relief Program is not a release from the Master Service Agreement.

Customer and CHARGER Access agree the amount due under the Budget Relief Program may be more or less than the actual amount owed by Customer after federal or state subsidies have been received. As such, an annual adjustment may be made to the amount due under the Budget Relief Program reflecting money owed from either Party to the other.

CHARGER ACCESS, LLC

SIERRA COUNTY HEALTH & HUMAN SERVICES

Signature: _____
Name
(Printed): _____
Title: _____
Date: _____

Signature: _____
Name
(Printed): _____
Title: _____
Date: _____