

**ADDENDUM TO CONSTRUCTION AGREEMENT
DATED JUNE 27, 2018**

This **Addendum** is entered into this _____ day of **July, 2019**, by and between the Ouray County Board of County Commissioners, as the Board of Public Health (**County**) and Deeply Digital, LLC, a Colorado limited liability company (**Contractor**).

RECITALS

WHEREAS, the County and Contractor entered into the Construction Agreement, dated June 27, 2018 (Construction Agreement) to design and install new buried, stand-alone, fiber optic network from south of Montrose to Ouray County to increase access, reduce outages, and expand capacity, to the internet for Ouray County;

WHEREAS, this fiber design and installation project is contingent upon grant funding as set forth in Construction Agreement, ¶ 23(h);

WHEREAS, on or about May 29, 2019, the Rural Health Care (RHC), a division of USAC, issued a funding commitment letter to Colorado Telehealth Network (CTN) for the Project which represents only a portion of the Contract Sum;

WHEREAS, the County and Contractor desire to enter into this Addendum to divide the Project into phases and to define the scope of the first phase which will utilize the RHC grant proceeds plus the County's match;

WHEREAS, this Addendum is entered along with an Extension to the Escrow Agreement, dated June 27, 2018, which extends the escrow terms throughout the Project; and

WHEREAS, all terms in the Construction Agreement not modified herein remain in full force and affect and the defined terms in the Construction Agreement are used herein along with further defined terms;

NOW, THEREFORE, for good and valuable consideration and the receipt and sufficiency of which is hereby acknowledged, along with the material recitals above, the County and Contractor agree as follows:

1. **THE WORK**. Paragraph 1 of the Construction Agreement is modified for this phase one work (Phase One Work) consisting of design and installation of a new, buried, optical fiber network consisting of approximately 30.08 miles as set forth in **Exhibit D**, attached.
2. **TIME OF COMMENCEMENT AND COMPLETION**. Paragraph 2 of the Construction Agreement is modified for the Phase One Work which shall commence as soon as possible and shall be completed no later than June 30, 2020 (Phase One Term). Contractor shall use its best efforts to complete the Phase One Work by June

30, 2020. The proposed schedule of Phase One Work is attached hereto as **Exhibit E**. All other provisions in Construction Agreement, ¶ 2 continue to apply herein.

4. CONTRACT SUM. Paragraph 4 of the Construction Agreement is modified for the Phase One Work, as set forth in **Exhibit F**. All Phase One funds shall be placed in an escrow fund as agreed by the parties.

13. PERFORMANCE AND PAYMENT BOND. Paragraph 13 is modified for the Phase One Work as follows. The Contractor shall provide a performance bond, in an amount of no less than one-half of the Phase One Sum and in a form approved by the County. The County shall reimburse Contractor for the cost of such performance bond, which shall be in addition to the Phase One sum set forth in Exhibit F. The bond shall remain in full force for a period of one (1) year following completion of the Phase One Work.

24. NO GUARANTY OF ADDITIONAL PHASES. This new paragraph 24 is added to this Addendum. Contractor agrees that County had made no promises that there will be funding for any additional phases and Contractor has agreed to perform the Phase One Work as a discreet and stand-alone project under the master Construction Agreement.

IN WITNESS THEREOF, the County and Contractor have executed this Addendum to Construction Agreement, the day and year first written above.

County:

By: John Peters, Chair, Board of County Commissioners
Date: _____

Contractor:
Deeply Digital, LLC

By: Doug Seacat, Member
Date: _____

**EXHIBIT D TO ADDENDUM TO CONSTRUCTION AGREEMENT
DATED JUNE 27, 2018**

PHASE ONE WORK

Phase One Work is depicted in the map below in white. The segments of work are depicted by the white arrows. Each segment is more fully defined below.

SEGMENT ONE – Existing Conduit:

Montrose Rec Center to Segment Two.....0.49 miles

SEGMENT TWO – New Build:

Segment Two to Colona.....11.80 miles¹

SEGMENT THREE – New Build:

Colona to Log Hill, Ponderosa Dr. and CR1.....11.60 miles

SEGMENT FOUR – New Build

Log Hill to Ridgway CNL via CR1, CR24, and CR5.....6.19 miles

PHASE ONE TOTAL MILES EQUALS 30.08

¹ Of the 11.80 miles of fiber to be installed, 11.05 miles are located in Montrose County.



343 N 3rd St ■ Montrose, CO 81401 ■ (970) 249-8848 ■ doug@deeply-digital.com

Construction Detail Phase 1

- 1. Permits – 4 Weeks**
 - a. CDOT
 - b. Montrose County
 - c. Ouray County
- 2. Material Acquisition**
 - a. Initial Material – 2 Weeks
 - b. Total Material – 8 Weeks
- 3. Excavation**
 - a. Montrose Phase – 9 Months
 - i. Recreation Center to Log Hill Village
 - b. Ridgway Phase – 3 Months
 - i. Log Hill Village to Ridgway CNL
- 4. Fiber Installation**
 - a. Complete installation of Fiber – 4 Weeks
- 5. Termination**
 - a. Various Splice Locations and Ends – 3 Weeks
- 6. Fiber Testing and Mapping**
 - a. Certification of Testing – 1 Week
 - b. Mapping – 2 Weeks
- 7. Cleanup and Closeout Documents – 2 Weeks**

**EXHIBIT F OF ADDENDUM TO CONSTRUCTION AGREEMENT
DATED JUNE 27, 2019**

Phase One Pricing

As requested in the RFP, we plan on building an underground fiber optic cable network using a combination of technologies to place conduit along county roads between the Ouray Public Health Office and the Montrose County Recreation Center, connecting the three Carrier Neutral Locations in Montrose, Ridgway and Ouray. Phase one will be completed from the Montrose County Recreation Center to the entrance of Divide Ranch Circle on Log Hill.

Deeply Digital will also construct infrastructure from Divide Ranch Circle to the Ridgway CNL along the planned CTN route concurrently to the Montrose build. This section will be owned by Deeply Digital but will be available for use by Ouray County to service the Ouray Public Health facility by trading the use of their fiber to Montrose with Deeply Digital.

The Contract Sub-Total (1) includes all anticipated Excavation, Technical, Labor, Materials, and other items necessary to build the project as described in Exhibit B. Items i. through v. are contingent amounts for permit-related expenses which may be required by CDOT, Montrose County (MCO) and BLM; as well as anticipated Performance Bond and Professional Services costs, provided on an as-needed basis, and as described in the Agreement Section 3 a. and elsewhere.

Grant	\$ 2,418,606.82		
GIS	\$ 7,000.00		
i. CDOT	\$5,000		
ii. MCO Permits	\$33,600		
iii. BLM Permits	\$3,000		
iv. Performance Bond	\$25,000		
v. OC Professional Services	\$7,500		
Total Fixed Cost	\$ 81,100.00		
Total Left after Fixed Costs	\$ 2,337,506.82		
Materials	\$ 315,516.88	\$ 2.86	per foot
Technical	\$ 115,443.11	\$ 1.05	per foot
Construction	\$ 1,906,546.83	\$ 17.27	per foot
Total Footage to Construct	110,417.38	\$ 21.17	per foot

If Change Order(s) result in additional, or fewer, feet or amounts due to a route change or change in scope of the Work, we will be able to adjust our pricing based on the pricing on the following page:



CONSTRUCTION AGREEMENT

THIS CONSTRUCTION AGREEMENT (“**Agreement**”) is entered into this 27th day of June, 2018, by and between the Ouray County Board of County Commissioners, as the Board of Public Health (“**County**”) and Deeply Digital, LLC, a Colorado limited liability company (“**Contractor**”). The County and Contractor may be individually referred to herein as a “**Party**” or collectively as the “**Parties.**”

RECITALS

- A. The County desires to engage a third-party contractor to design and install new and buried conduit to connect approximately 41.74 miles of optical fiber from the Ouray Public Health Department to the Montrose Community Recreation Center located on Woodgate Road in Montrose, Colorado (**Project**).
- B. The County desires to engage Contractor to perform certain work to complete the Project, as more particularly described herein.
- C. The County and Contractor desire to enter into this Agreement to set forth certain terms and conditions related to such work.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

- 1. THE WORK. The Contractor shall perform all Work (as defined below in Section 7(c)) required by the Contract Documents (as defined below in Section 6).
- 2. TIME OF COMMENCEMENT AND COMPLETION. This Agreement is for twenty-four (24) months with annual disbursements and the Work to be performed under this Agreement shall commence no earlier than the issuance of a Funding Commitment Letter, or within 20 days after final written approval by the County, and end no later than June 27, 2020 (**Term**). Contractor shall invoice the Project annually based a fiscal year July through June. Time is of the essence with respect to this Project, and particular attention must be paid to the funding window for the HCF subsidy. Contractor shall meet all Project deadlines, but, notwithstanding the foregoing or anything to the contrary contained in this Agreement, in the event of any delay in the Work caused by the County, weather, or other events beyond Contractor’s control, Contractor shall not be held liable. Contractor shall be liable if any delay in the Work is caused by the Contractor. The proposed schedule is attached hereto and incorporated herein as **Exhibit C (Project Schedule)**.
- 3. PAYMENT. Contractor shall be paid the Contract Sum in annual payments from Universal Service Administrative Co., (USAC) to the Contractor.
- 4. CONTRACT SUM. In accordance with **Exhibit A**, the total price of the Project

shall be up to Four Million Eight Hundred Thirty-Seven Thousand Two Hundred Thirteen and 64/100 Dollars (**\$4,837,213.64**) (**Contract Sum**), except as otherwise set forth herein. The Contract Sum as outlined on **Exhibit A** is based on the fiber route provided by the County and shown in Exhibit B, with a total length of 220,362 feet and fiber length of 285,000 feet and per foot costs provided by the Contractor.

5. ENUMERATION OF CONTRACT DOCUMENTS. The **Contract Documents** shall include the following:

1. Agreement including exhibits
2. Request for Proposal
3. Response to the Request for Proposal
4. Pricing Options worksheet (attached as **Exhibit A**)
5. Map of Project Area (attached as **Exhibit B**)
6. Project Schedule (attached as **Exhibit C**)
7. Drawings
8. Addenda
9. Change Orders (if any)
10. Modifications (if any)

6. CONTRACT DOCUMENTS.

a) The intention of the Contract Documents is to include all labor, materials, equipment and other items necessary for the proper execution and completion of the Work and the terms and conditions of payment therefor, and also to include all Work which may be reasonably inferable from the Contract Documents as being necessary to produce the intended results.

b) By executing this Agreement, the Contractor represents that it has visited the sites and familiarized itself with the local conditions under which the Work is to be performed.

c) The term "**Work**" as used herein and in the Contract Documents includes all labor necessary to produce the construction required by the Contract Documents.

d) The Contract Documents are incorporated by reference in this Agreement.

7. COUNTY REPRESENTATIVE. The County shall designate a single point of contact for the Project (**County Representative**). The County Representative may designate County Personnel or Contract Professionals to provide construction management and oversight of the Work and the Contract Documents. The County Representative will be the Contractor's sole point of contact during construction and until final settlement.

a) The County Representative shall at all times have access to the Work wherever it is in preparation and progress.

b) The County Representative will make periodic visits to the site to familiarize him or herself generally with the progress and quality of the Work and to determine in general if the Work is proceeding in accordance with the Contract Documents. On the basis of these on-site observations, the County Representative will keep the County informed of the progress of the Work, and will endeavor to guard the County against defects and deficiencies in the Work of the Contractor. The County Representative will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The County Representative will not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, and will not be responsible for the Contractor's failure to carry out the Work in accordance with the Contract Documents.

c) The County Representative will be, in the first instance, the interpreter of the requirements of the Contract Documents. The County Representative shall bring issues that require additional authority to the County with regard to decisions on all claims and disputes between the County and the Contractor.

d) The County Representative will have authority to reject Work which does not conform to the Contract Documents.

8. COUNTY RESPONSIBILITIES.

a) The County shall bear the expense of additional surveys and permits beyond those covered Exhibit A.

b) The County shall bear the expense of and secure any required permanent easements or real property necessary for the Project and advise Contractor of the boundaries of all County easements or property.

c) The County shall issue all instructions to the Contractor through the County Representative.

9. CONTRACTOR'S RESPONSIBILITIES.

a) The Contractor shall supervise and direct the Work, using its best skill and attention. The Contractor shall be solely responsible for all construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the Contract Documents.

b) Unless otherwise specifically noted, the Contractor shall provide and pay for all labor, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for the proper execution and completion of the Work.

c) The Contractor shall employ persons skilled in the task assigned to him or her.

d) For a period of one (1) year following completion of the Work, the Contractor warrants to the County that all materials and equipment incorporated in the Work will be new unless otherwise specified, and that all Work will be of good quality, free from faults and defects and in conformance with the Contract Documents. All Work not so conforming to these standards may be considered defective.

e) The Contractor shall pay all sales, consumer, use and other similar taxes required by law and shall secure all licenses necessary for the execution of the Work at Contractor's expense. As used in this Section 10(e), licenses shall mean general business licenses, but not State of Colorado, Bureau of Land Management or other governmental permits specifically necessary for this Project.

f) The Contractor shall give all notices and comply with all laws, ordinances, rules, regulations, and orders of any public authority bearing on the performance of the Work, and shall notify the County Representative if the Contract Documents are at variance therewith.

g) The Contractor shall be responsible for the acts and omissions of all its employees.

h) The Contractor shall, prior to construction, provide for review and approval by the County Representative a set of schematic designs showing a general overview of the planned route for the Project, at such a scale necessary to including approximate locations of planned handholes, splice cases, CNL interconnects, and other elements, and a set of standard element details, showing materials and methods to be applied and used during construction. Project design, including such details, materials and methods, shall conform to the standards accepted by Region 10 for similar construction. The Work shall be in accordance with approved samples and shop drawings.

i) To the extent under its reasonable control or direction, the Contractor at all times shall keep the Project site free from accumulation of waste materials or rubbish caused by its operations. Upon the completion of the Work, Contractor shall remove, in a timely manner, all its waste materials and rubbish from and about the Project as well as its tools, construction equipment, machinery and surplus materials.

j) The Contractor shall indemnify and hold harmless the County and its officers and employees from and against all claims, damages, losses and expenses including reasonable attorneys' fees, arising out of or resulting from the performance of the Work, provided that any such claim, damage, loss, or expense (1) is attributable to bodily injury or destruction of tangible property (other than the Work itself) including loss of use resulting therefrom, and (2) is caused in whole or in part by any act or omission of the Contractor or any of its employees, agents or subcontractors; provided, however, that nothing in this Agreement shall require Contractor or any other person to hold the County harmless against the County's own negligence or willful misconduct. In no event shall Contractor be liable for any special, incidental, consequential or other such indirect damages (including, without limitation, loss of revenues, profits or opportunities), whether arising out of or as a result of breach of

contract, warranty, tort (including negligence), strict liability or otherwise. The obligations of the Contractor under this Section 10(j) shall not extend to the liability of the County or its employees arising out of (1) the preparation or approval of maps, drawings, opinions, reports, surveys, Change Orders, designs or specifications, or (2) the giving of or the failure to give direction or instructions by the County Representative provided such giving or failure to give is the primary cause of the injury or damage.

k) The Contractor shall include a 'trace wire', located within or directly along with the fiber installed, and collect location data necessary during construction, and shall deliver upon completion of the Work and prior to final payment a set of 'As-Built' plans and documentation, in digital format, describing the Work completed, including but not limited to: a network schematic and other details; survey, GPS, GIS, and/or CAD data, as well as maps, diagrams, photos, etc.; sufficient to allow the County to locate, operate and manage the network. The 'As-Built' product shall document all items installed or used (including previously built items) for the project, to include but not limited to: fiber location and count; location and depth (where appropriate) of all duct (conduit), hand holes, splice cases, patch panels and other equipment, and marker posts; as well as differentiating where and to what depth the duct is either bored, trenched, or completed using previously installed duct; all bridge attachments, rock adder used, etc. The Contractor will allow the County Representative to be involved in and review all information collected for this purpose during performance of the Work, and will respect the County Representative's opinion as to the acceptable quality of the information collected. The Contractor and County Representative shall coordinate in the attempt to achieve 'Reasonable Accuracy' equal or better than 5 feet (Horizontal) and equal or better than 2 feet (Vertical) using GPS and other location data (surveying and/or distance and direction bearings from fixed landmarks, ground level, etc.), during construction. The County shall receive a digital copy of any data (photos, CAD plans, GPS points and line collected, etc.) and other information collected during construction, in addition to the 'As-Built' digital product.

10. SUBCONTRACTORS.

a) A subcontractor is a person who has a contract with the Contractor to perform any of the Work at the Project site.

b) Unless otherwise specified in the Contract Documents, the Contractor, as soon as practicable after mutual execution of this Agreement, shall furnish to the County Representative in writing a list of the names of the subcontractors, if any, proposed for the principal portions of the Work. The Contractor shall not employ any subcontractor to whom the County Representative has a reasonable objection. The Contractor shall not be required to employ any subcontractor to whom it has a reasonable objection. Contracts between the Contractor and a subcontractor shall be in accordance with the terms of this Agreement and shall include the General Conditions of this Agreement insofar as applicable.

c) Whenever Contractor receives payment under this Agreement and the Contractor's invoice included costs attributable to any subcontractor, Contractor shall make payments to each subcontractor of any amounts actually received and attributable to such subcontractor.

11. SEPARATE CONTRACTS AND COUNTY WORK.

a) The County reserves the right to award other contracts in connection with other portions of the Project or other work on the site or to perform such work itself.

b) The County will perform the following work:

The County will, at its discretion, use photos, GPS and other means to locate and document the Work, and the Contractor shall allow the timely collection of this information by the County Representative or their agent, prior to obscuring installed items through burial. County agrees to not overly delay construction to accomplish this work. County Representative will notify Contractor during construction of any 'high-priority' items for documentation, and be notified in a timely manner by Contractor prior to obscuring the Work. The County will, at its discretion and to the extent of its expertise in the area, assist Contractor with the GPS and GIS mapping of the Work, for the Contractor's production of an 'As-Built' final product.

c) Any costs caused by defective or ill-timed work shall be borne by the Party responsible therefore.

12. ROYALTIES AND PATENTS. The Contractor shall pay all royalties and license fees, if any. The Contractor shall defend all suits or claims for infringement of any patent rights arising out of the Contractor's failure to pay any royalties or license fees and shall save the County harmless from loss on account thereof.

13. PERFORMANCE AND PAYMENT BONDS. The Contractor shall be required to provide a performance bond, in an amount of no less than one-half of the Contract Sum and in a form approved by the County. The County shall reimburse Contractor for the cost of such performance bond, which shall be in addition to the Contract Sum. The bond shall remain in full force for a period of one (1) year following completion of the Work.

14. FORCE MAJEURE. Contractor will not be liable for the failure to fulfill its obligations under this Agreement if and to the extent such failure is caused by an occurrence beyond its reasonable control, including, without limitation: expropriation or confiscation of real property where the Work is to be performed, compliance with any order or decree of any governmental authority not necessitated by either party to this Agreement, failure of the County to comply with applicable law; acts of war or terrorism, floods or abnormal severe weather; riots, rebellion, or sabotage; fires or explosions; labor disputes, strikes, or other concerted acts of workmen; and accidents or other casualty not caused by Contractor or its employees, agents or subcontractors.

15. PROTECTION OF PERSONS AND PROPERTY AND RISK OF LOSS. The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work, under its direct control. Contractor shall take all reasonable precautions for the safety of, and shall provide all reasonable protection to prevent damage, injury or loss to (1) all employees performing the Work (2) all the Work and all materials and equipment to be incorporated therein, and (3) other property within the area where

the Work is performed. Contractor shall comply with all applicable laws, ordinances, rules, regulations and orders of any public authority having jurisdiction for the safety of persons or property or to protect them from damage, injury or loss. All damage or loss to any property caused in whole or in part by the Contractor, any subcontractor, any sub-subcontractor or anyone directly or indirectly employed by any of them shall be remedied by the Contractor, except damage or loss attributable to faulty Drawings or Specifications or to the acts or omissions of the County or County Representative or anyone employed by the County or for whose acts the County may be liable, but which are not attributable to the fault or negligence of the Contractor.

16. INSURANCE.

a) Contractor shall maintain in force a workmen's compensation and employer's liability insurance policy with minimum limits of Five Hundred Thousand Dollars (\$500,000) per accident. Evidence of qualified self-insured statute may be substituted for the worker's compensation requirements of this Section 18.

b) Contractor shall also maintain the following insurance policies and coverage as indicated in the minimum amounts as indicated below:

- i. Commercial general liability insurance with minimum combined single limits of One Million Dollars (\$1,000,000) per 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.
- ii. Comprehensive automobile liability insurance with minimum combined single limits for bodily injury and property damage of not less than Five Hundred Thousand Dollars (\$500,000) per occurrence and Five Hundred Thousand Dollars (\$500,000) aggregate with respect to each of the Contractor's owned, hired and non-owned vehicles assigned to or used in performance of the Work.
- iii. Every policy required above shall be primary insurance and any insurance carried by the County, its officers or its employees shall be excess and non-contributory insurance to that provided by the Contractor. The Contractor shall be responsible for any deductible losses under any policy described above.
- iv. Contractor shall provide certificates of insurance evidencing the policies described above to the County upon request.
- v. Professional/general contractor's liability insurance with minimum limits of One Million Dollars (\$1,000,000) per occurrence and One Million Dollars (\$1,000,000.00) aggregate.

- vi. Umbrella liability insurance with limits of not less than Five Million Dollars per occurrence (\$5,000,000) and in the aggregate. Such coverage shall provide excess limits over general liability, automobile, employers' liability coverages. The coverage afforded by the umbrella liability insurance shall be no more restrictive than the applicable underlying coverages.

17. CHANGES IN THE WORK.

a) The County, without invalidating this Agreement, may request in writing changes in the Work consisting of additions, deletions, or modifications to the Contract Sum and the completion date of this Agreement being adjusted accordingly (**Change Order**). Any such changes in the Work shall only be authorized by written Change Order signed by the County. All Change Orders must be accompanied by a written assurance from the County stating that lawful appropriations to cover the costs of the Change Order have been made and that said appropriations are available prior to the performance of the additional work. Change Orders shall be subject to the following additional terms and conditions:

b) The Term may be changed only by Change Order.

c) The cost or credit to the County, if any, from a Change Order shall be determined by unit prices if specified in the Contract Documents, or by mutual agreement of the Parties in writing.

d) If the County requests a change in the Work prior to completion of a Change Order, the County will reimburse the Contractor on a periodic basis for costs incurred prior to finalization of the Change Order. In no event will periodic reimbursement be required before the Contractor has provided an estimate of the cost for the additional compensable work to be performed.

18. CORRECTION OF WORK. The Contractor shall correct any Work that fails to conform to the requirements of the Contract Documents where such failure to conform appears during the progress of the Work, and shall remedy any defects due to faulty materials, equipment or workmanship which appear within a period of one year from the date of final settlement of this Agreement as specified in Section 5 above or within such longer period of time as may be prescribed by law or by the terms of any applicable special guarantee required by the Contract Documents. The provisions of this Article 20 are in addition to any other remedies or warranties provided by law.

19. TERMINATION BY THE COUNTY. If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents or fails to perform any provision of this Agreement, and Contractor fails to cure such event within thirty (30) days following written notice from the County, or if such cure cannot reasonably be completed within thirty (30) days, if Contractor fails to commence such cure within thirty (30) days and diligently prosecute the same to completion, the County may, after seven (7) days written notice to the Contractor and without prejudice to any other remedy it may have, terminate this Agreement and take

possession of the site and of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor and may finish the Work by whatever method it may deem expedient, and if the unpaid balance of the Contract Sum exceeds the expense of finishing the Work, such excess shall be paid to the Contractor, but if such expense exceeds such unpaid balance, the Contractor shall pay the difference to the County. These rights and remedies are in addition to any right to damages or other rights and remedies allowed by law.

20. PERMITS. Except for permit fees set forth in Exhibit A, any additional permits required for completion of the Work will be provided by the County at its expense.

21. GOVERNMENTAL IMMUNITY. Contractor understands and acknowledges that the County relies on and does not waive or intend to waive by any portion of this agreement any provision of the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*

22. EMPLOYMENT OF ILLEGAL ALIENS. Pursuant to C.R.S. § 8-17.5-101, *et seq.*, the Contractor certifies the following:

- a) Contractor shall not knowingly employ or contract with an illegal alien to perform work under this Agreement.
- b) Contractor shall not enter into a contract with a subcontractor that fails to certify to the Contractor that the subcontractors shall not knowingly employ or contract with an illegal alien to perform work under this Agreement.
- c) The Contractor has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement through participation in either (a) the E-Verify Program, (the electronic employment verification program jointly administered by the U.S. Department of Homeland Security and the Social Security Administration, or its successor program) or (b) the Department Program (the employment verification program established pursuant to C.R.S. § 8-17.5-102(5)(c).
- d) The Contractor shall not use the E-Verify Program or the Department Program procedures to undertake pre-employment screening of job applicants while this Agreement is being performed.
- e) If the Contractor obtains actual knowledge that a subcontractor performing work under this Contract knowingly employs or contracts with an illegal alien, the Contractor shall be required to: (a) notify the subcontractor and the County within three (3) days that the Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and (b) terminate the subcontract with the subcontractor if within three (3) days of receiving the notice, the subcontractor does not stop employing or contracting with the illegal alien; except that the Contractor shall not terminate the contract with the subcontractor if during such three (3) days

the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

- f) The Contractor shall comply with any reasonable request by the Department of Labor and Employment in the course of an investigation that the Department undertakes pursuant to C.R.S. § 8-17.5-102(5).
- g) If the Contractor violates these illegal alien provisions, the County may terminate this Agreement for a breach of contract. If this Agreement is so terminated, the Contractor shall be liable for actual and consequential damages to the County. The County will notify the Office of the Secretary of State if the Contractor violates these provisions and the County terminates this Agreement for that reason.
- h) The Contractor shall notify the County of participation in the Department Program described in C.R.S. § 8-17.5-102(5)(c)(I) and shall within twenty (20) days after hiring an employee who is newly hired for employment to perform work under this Contract affirm that the Contractor has examined the legal work status of such employee, retained file copies of the documents required by 8 USC § 1324a, and not altered or falsified the identification documents for such employee. Contractor shall provide a written, notarized copy of the affirmation to the County.

23. MISCELLANEOUS PROVISIONS.

- a) This Agreement is being executed and is to be performed in the State of Colorado, and shall be enforced and construed according to the laws of the State of Colorado. In the event of action concerning this Agreement, the parties agree that venue for such action shall be in Ouray County. In the event of such a dispute, the prevailing party shall, to the extent permitted by law, be entitled to an award of reasonable attorney fees and costs in addition to all other remedies.
- b) Contractor shall not assign this Agreement without the written consent of the County. The provisions of the Agreement are binding on the heirs, successors or assignees of the Parties.
- c) The rights and remedies available under this Agreement shall be in addition to any rights and remedies allowed by law.
- d) No failure to enforce any provision of this Agreement on account of any breach thereof, shall be considered as a waiver of any right to enforce provisions of this Agreement concerning any subsequent or continuing breach.
- e) The terms of this Agreement shall remain in full force and effect following final payment.

- f) All notices, demands, elections or other communications required or permitted to be given pursuant to the terms and provisions hereof shall be hand delivered or sent via certified mail, return receipt requested and deposited in a regularly maintained receptacle of the United States mail, in a sealed wrapper with first-class postage prepaid, addressed to the parties at the following addresses, and shall be effective upon receipt if hand delivered or upon the earlier of actual receipt or forty-eight (48) hours after being postmarked in the United States if mailed:

County: Ouray County Public Health Agency
Ouray County Board of Health
P O Box C
Ouray, CO 81427

Contractor: Deeply Digital, LLC
343 N. 3rd Street
Montrose, CO 81401
Attention: Doug Seacat

- g) This Agreement may be executed in one or more counterparts, each of which shall be an original, and all of which constitutes one and the same Agreement.
- h) By executing below the County states that it will use its best efforts to appropriate monies equal to or in excess of the Contract Sum by the Project commencement date set forth in Section 2, subject to the successful award of the Healthcare Connect Fund (HCF) subsidy and final County budget appropriations. In the event the County is unable to obtain the funding for any reason, this Agreement is terminated and of no force and effect upon written notice to the Contractor, without penalty to the County. Contractor agrees it shall not begin any Work and/or order equipment or materials until Contractor is notified in writing that the County has received such funding and the Contractor is authorized to commence Work by the County Representative.
- i) The Parties acknowledge and agree that no Change Order or other directive which requires additional compensation and causes the aggregate amount payable under this Agreement to exceed the appropriated amount shall be issued unless appropriation for the costs thereof has been made. No provision of this Agreement shall be construed or interpreted: i) to directly or indirectly obligate County to make any payment in any year in excess of amounts appropriated for such year; ii) as creating a debt or multiple fiscal year direct or indirect debt or other financial obligation whatsoever within the meaning of Article X, Section 16 or Article X, Section 20 of the Colorado Constitution or any other constitutional or statutory limitation or provision; or iii) as a donation or grant by County to or in aid of any person, company or corporation within the meaning of the Colorado Constitution.

- j) The County is subject to and bound by the Colorado Open Records Act, § 24-72-101 et seq., C.R.S. Any and all documents Contractor prepares pursuant to this Agreement may be subject to production and/or reproduction pursuant to those statutes.

[Signatures on following page.]

IN WITNESS THEREOF, the Parties have executed this Agreement the day and year first written above.

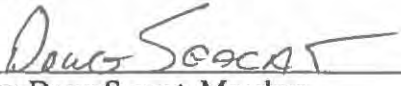
County:


By: Don Batchelder, Chair, Board of County Commissioners

Date: JUN 20 18

Contractor:

Deeply Digital, LLC


By: Doug Seacat, Member

Date: 6/27/18

**Exhibit A
Pricing Options**

As requested in the RFP, we plan on building an underground fiber optic cable network using a combination of technologies to place conduit along county roads between the Ouray Public Health Office and the Montrose County Recreation Center, connecting the three Carrier Neutral Locations in Montrose, Ridgway and Ouray.

The Contract Sub-Total (1) includes all anticipated Excavation, Technical, Labor, Materials, and other items necessary to build the project as described in Exhibit B. Items i. through v. are contingent amounts for permit-related expenses which may be required by CDOT, Montrose County (MCO) and BLM; as well as anticipated Performance Bond and Professional Services costs, provided on an as-needed basis, and as described in the Agreement Section 3 a. and elsewhere.

Excavation	\$3,739,317.24	\$17.27	Per foot	216,521 feet
Technical	\$297,972.00	\$1.05	Per foot	283,783 feet
Total Labor	\$4,037,289.24			
GPS Mapping/As-Built Plans	\$14,000			
Materials	\$618,824.40			
Sub-Total (1)	\$4,670,113.64			
i. CDOT Permitting	\$50,000.00			
ii. MCO Permitting	\$33,600.00			
iii. BLM Permitting	\$6,000.00			
iv. Performance Bond	\$62,500.00			
v. Professional Services – County	\$15,000			
Total (2)	\$4,837,213.64			

If Change Order(s) result in additional, or fewer, feet or amounts due to a route change or change in scope of the Work, we will be able to adjust our pricing based on the pricing on the following page:

CDOT Environmental Assessment	Total Report	\$50,000.00
BLM Environmental Assessment	Total Report	\$6,000.00
Permit Fees	Montrose County Fees/Mile	\$2,800.00
Solid Rock Adder 12 Inch	1 Foot	\$18.00
Solid Rock Adder 24 Inch	1 Foot	\$33.60
Cobble Adder	1 Foot	\$6.00
Trench 24 Depth	1 Foot	\$13.02
Trench 48 Depth	1 Foot	\$14.40
Bore	1 Foot	\$18.00
Bore Rock	1 Foot	\$36.00
Bridge Attachment	1 Bridge	\$3,000.00
Pull Fiber	1 Foot	\$0.90
Hand Hole Placement	1 Hand Hole	\$150.00
Install Marker Post	1 Marker Post	\$12.00
Asphalt Cut and Restore	1 Square Foot	\$60.00
Flow Fill/Concrete	1 Square Foot	\$150.00
Fiber	1 Foot	\$0.82
Splicing	1 Splice	\$36.00
Patch Panels	1 Patch Panel	\$360.00
Splice Case	1 Splice Case	\$600.00
Hand Holes	1 Hand Hole	\$438.00
Marker Post	1 Marker Post	\$31.92
Duct	1 Foot	\$0.80



343 N 3rd St ■ Montrose, CO 81401 ■ (970) 249-8848 ■ doug@deeply-digital.com

SUMMARY OF PROPOSAL

It is our plan to provide a 96 count fiber optic line between Montrose, Ridgway and Ouray.

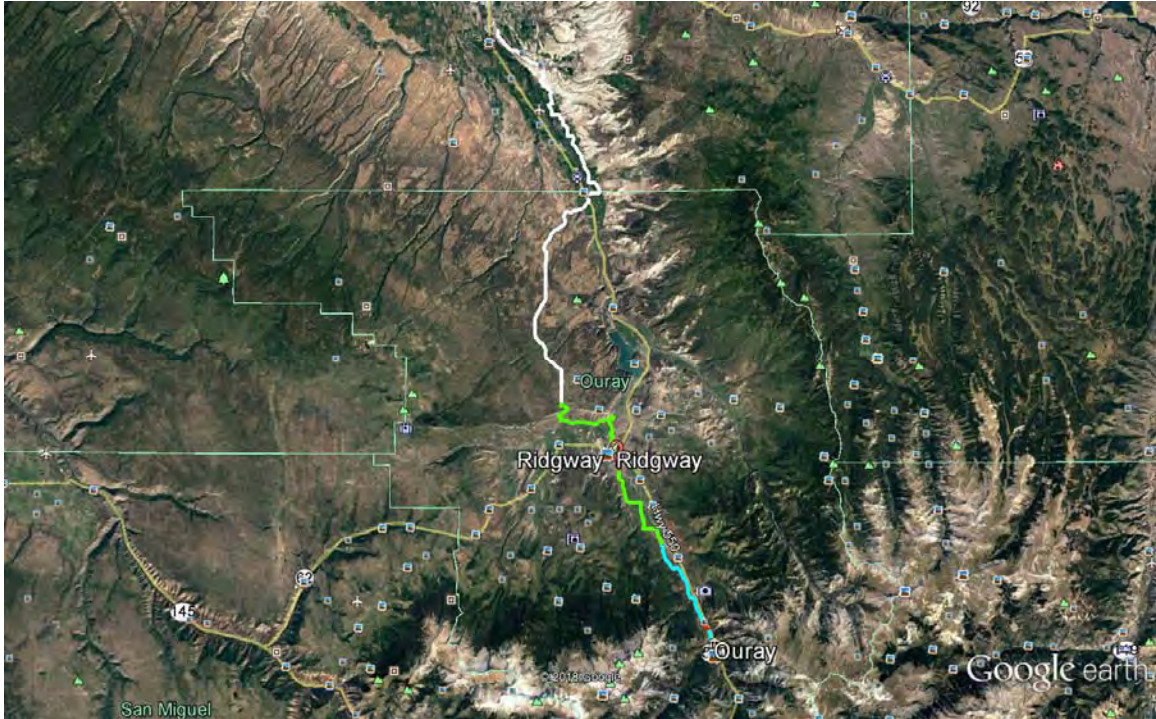
I have attached a map of the fiber route we believe would be the best to provide the most diverse path and pass the most locations underserved with high speed broadband.

1. Montrose
 - a. Montrose Recreation Center
 - i. 144 Count Region 10 Fiber is Available
 - b. We suggest the fiber route to county roads all the way to Colona following Woodgate Rd south to Kinikin Rd then right on Pahgre Rd to Uncompahgre Rd then right on Buckhorn Rd to Colona.
 - c. This would pass many additional subdivisions that bring the fiber closer to several key tower sites for Montrose and Ouray Counties that Century Link fiber is not located.
 - d. The cost is a little higher because of distance but saves in an Environmental Assessment that the Colorado Department of Transportation will require if the route follows the highway.
2. Ridgway
 - a. Carrier Neutral Location at Public Works
 - i. To be construction by Region 10 early 2018
 - b. The Town of Ridgway owns fiber between the CNL and town park that can be utilized.
 - c. An agreement with Clearnetworx can be made to use conduit to the Dalwhinnie Ranch on CR22 from where the city conduit ends.
 - d. We suggest continuing the fiber build along country roads to Ouray.
3. Ouray
 - a. Carrier Neutral Location at City Hall
 - i. We suggest a coming into town on Oak Street passing the Public Works building and continuing to 7th Ave, crossing the bridge to the alley between 4th St and 5th St by the school. Continue down the alley to the south connecting to the hand hole the city owns into the CNL on the corner of 6th Ave and 4th St. Then continue down this same alley to 3rd Ave turning west to Public Health at 302 2nd St, Ouray, CO 81427.
 - b. Ouray Public Health Department
 - i. Another option is to IRU strands of fiber from the Ouray CNL to Ouray Public Health from Clearnetworx.



0010111001PROVIDINGSOLUTIONS,NOTJUSTTECHNOLOGY0010111

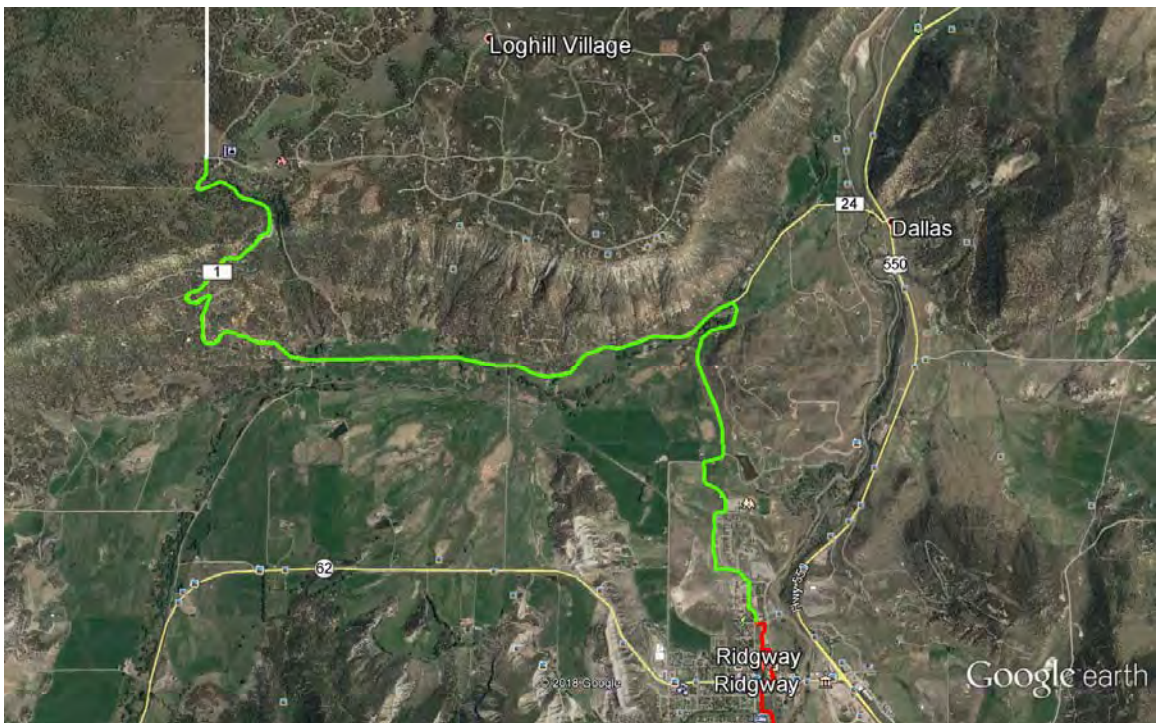
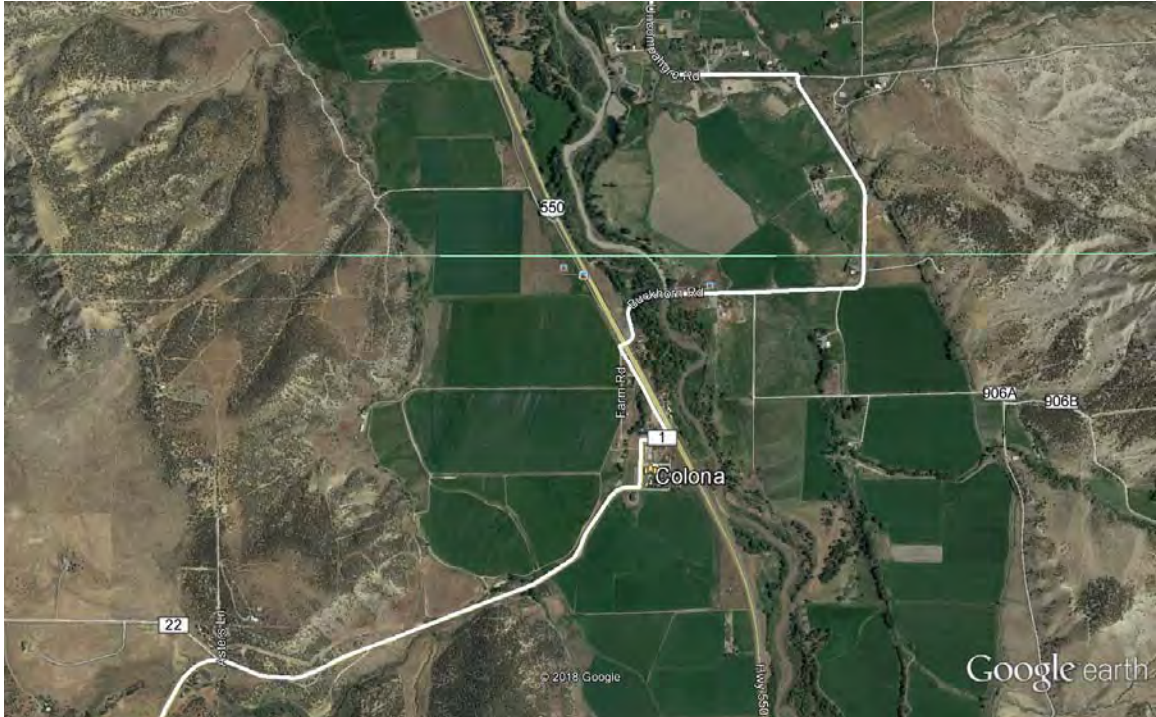
343 N 3rd St ■ Montrose, CO 81401 ■ (970) 249-8848 ■ doug@deeply-digital.com





0010111001PROVIDINGSOLUTIONS,NOTJUSTTECHNOLOGY0010111

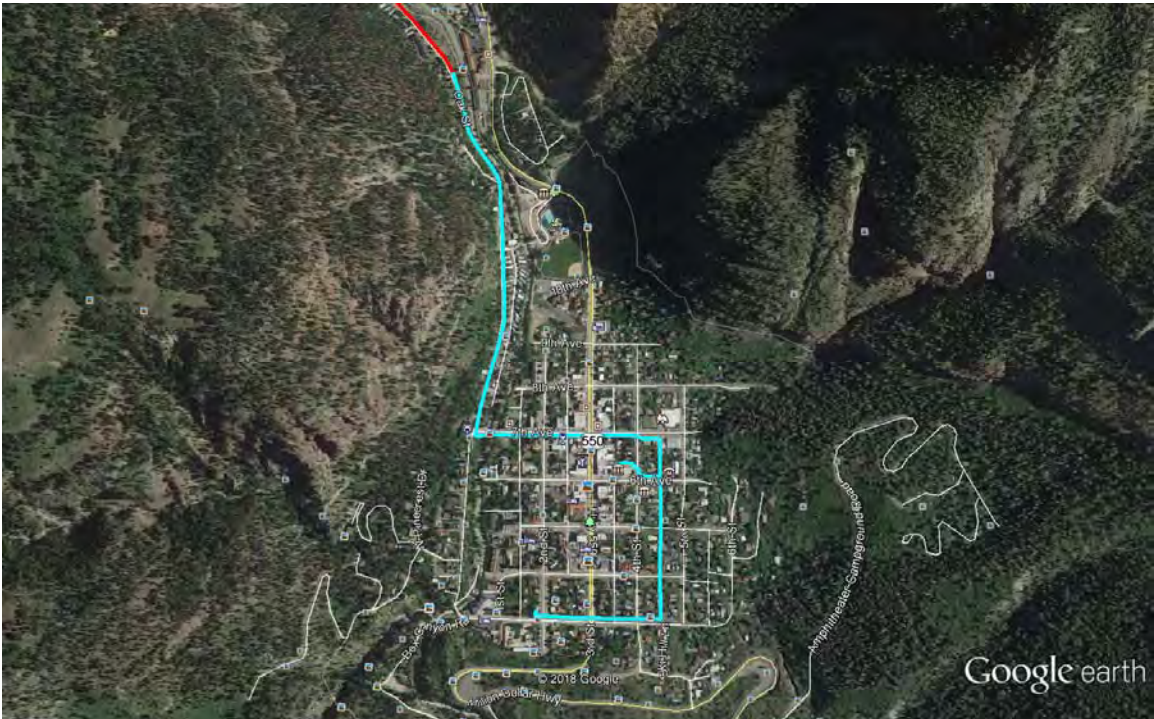
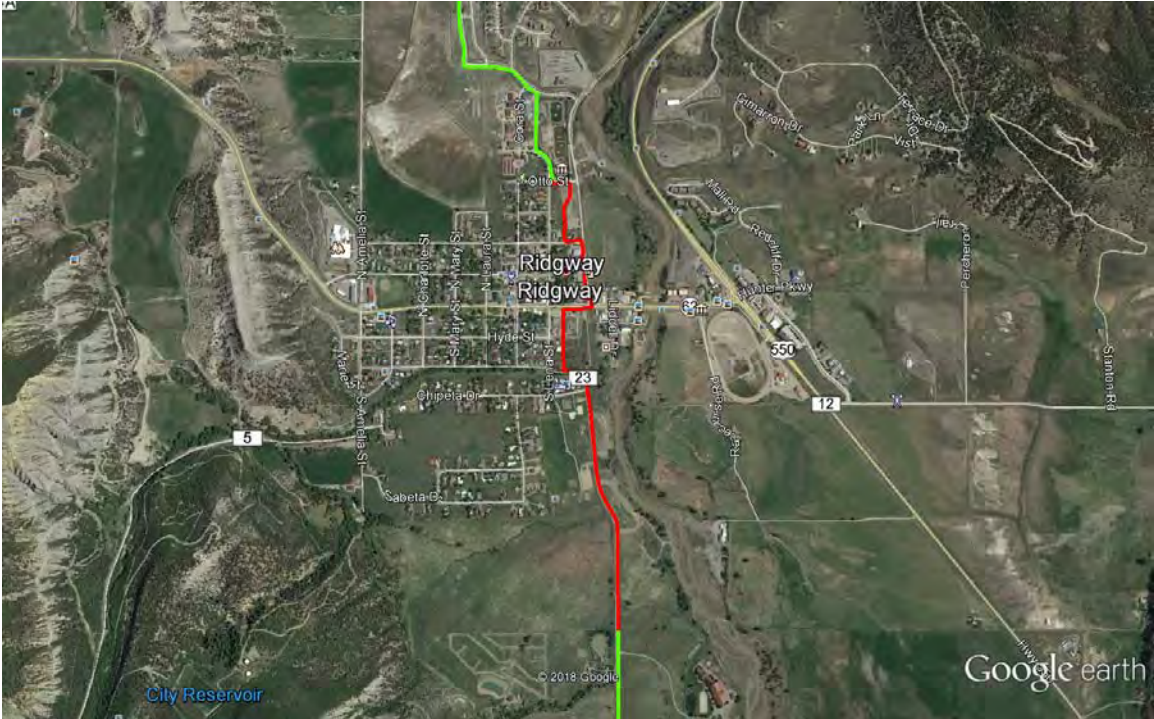
343 N 3rd St ■ Montrose, CO 81401 ■ (970) 249-8848 ■ doug@deeply-digital.com





0010111001PROVIDINGSOLUTIONS,NOTJUSTTECHNOLOGY0010111

343 N 3rd St ■ Montrose, CO 81401 ■ (970) 249-8848 ■ doug@deeply-digital.com





343 N 3rd St ■ Montrose, CO 81401 ■ (970) 249-8848 ■ doug@deeply-digital.com

Exhibit C Project Schedule

1. **Permits – 6 Weeks**
 - a. **CDOT**
 - b. **Montrose County**
 - c. **Ouray County**
2. **Material Acquisition**
 - a. **Initial Material – 2 Weeks**
 - b. **Total Material – 8 Weeks**
3. **Excavation**
 - a. **Montrose Phase – 9 Months**
 - i. **Recreation Center to Log Hill Village**
 - b. **Ridgway Phase – 3 Months**
 - i. **Log Hill Village to South of Ridgway**
 - c. **Ouray Phase – 4 Months**
 - i. **South of Ridgway to Public Health Department**
4. **Fiber Installation**
 - a. **Complete installation of Fiber – 2 Weeks**
5. **Termination**
 - a. **Various Splice Locations and Ends – 3 Weeks**
6. **Fiber Testing and Mapping**
 - a. **Certification of Testing – 1 Week**
 - b. **Mapping – 2 Weeks**
7. **Cleanup and Closeout Documents – 2 Weeks**