



BOARD OF SUPERVISORS AGENDA ITEM REPORT  
AWARDS / CONTRACTS / GRANTS

☐ Award ☒ Contract ☐ Grant

Requested Board Meeting Date: 8/15/22

or Procurement Director Award: ☐

\* = Mandatory, information must be provided

**\*Contractor/Vendor Name/Grantor (DBA):**

Level 3 Communications, LLC, an affiliate of Lumen Technologies, Inc.

**\*Project Title/Description:**

Relocation, Adjustment, Protection of Telecommunications Facilities -- Gardner Lane/Union Pacific Railroad

**\*Purpose:**

The Pima County Regional Flood Control District (District) is partnering with Level 3/Lumen to relocate communication lines that are blocking construction of culverts beneath the Union Pacific Railroad along the Gardner Lane alignment. A culvert at this location was proposed by the Ruthrauff Basin Management Study to relieve flooding and alleviate public health hazards created by ponding stormwater. Downstream infrastructure has already been constructed by ADOT and the District to accept storm flow.

**\*Procurement Method:**

This Contract is a non-Procurement contract and not subject to Procurement rules.

**\*Program Goals/Predicted Outcomes:**

Relocate communication lines; and  
Construct culvert.

**\*Public Benefit:**

This relocation will allow the construction of the culvert, which will alleviate flooding and ponding along the Gardner Lane alignment.

**\*Metrics Available to Measure Performance:**

Relocated communication lines allowing culvert construction to progress.

**\*Retroactive:**

No

JUL 26 22 AM 10 16 PC CLK OF BD YR

TO: COB 7-26-22 (1)  
Vers.: 1  
pgs: 28

JUL 26 22 AM 10 16 PD

THE APPLICABLE SECTION(S) BELOW MUST BE COMPLETED

Click or tap the boxes to enter text. If not applicable, indicate "N/A". Make sure to complete mandatory (\*) fields

**Contract / Award Information**

Document Type: CT Department Code: FC Contract Number (i.e., 15-123): 23\*039  
Commencement Date: 8/15/2022 Termination Date: 11/30/2025 Prior Contract Number (Synergen/CMS): \_\_\_\_\_  
☒ Expense Amount \$ 752,538.40 \* ☐ Revenue Amount: \$ \_\_\_\_\_

**\*Funding Source(s) required: Flood Control Non-Bond Projects**

Funding from General Fund? ☐ Yes ☒ No If Yes \$ \_\_\_\_\_ % \_\_\_\_\_

Contract is fully or partially funded with Federal Funds? ☐ Yes ☒ No

If Yes, is the Contract to a vendor or subrecipient? \_\_\_\_\_

Were insurance or indemnity clauses modified? ☐ Yes ☒ No

If Yes, attach Risk's approval.

Vendor is using a Social Security Number? ☐ Yes ☒ No

If Yes, attach the required form per Administrative Procedure 22-10.

**Amendment / Revised Award Information**

Document Type: \_\_\_\_\_ Department Code: \_\_\_\_\_ Contract Number (i.e., 15-123): \_\_\_\_\_  
Amendment No.: \_\_\_\_\_ AMS Version No.: \_\_\_\_\_  
Commencement Date: \_\_\_\_\_ New Termination Date: \_\_\_\_\_  
Prior Contract No. (Synergen/CMS): \_\_\_\_\_

☐ Expense ☐ Revenue ☐ Increase ☐ Decrease

Amount This Amendment: \$ \_\_\_\_\_

Is there revenue included? ☐ Yes ☐ No If Yes \$ \_\_\_\_\_

**\*Funding Source(s) required: \_\_\_\_\_**

Funding from General Fund? ☐ Yes ☐ No If Yes \$ \_\_\_\_\_ % \_\_\_\_\_

**Grant/Amendment Information** (for grants acceptance and awards)

☐ Award ☐ Amendment

Document Type: \_\_\_\_\_ Department Code: \_\_\_\_\_ Grant Number (i.e., 15-123): \_\_\_\_\_  
Commencement Date: \_\_\_\_\_ Termination Date: \_\_\_\_\_ Amendment Number: \_\_\_\_\_  
☐ Match Amount: \$ \_\_\_\_\_ ☐ Revenue Amount: \$ \_\_\_\_\_

**\*All Funding Source(s) required: \_\_\_\_\_**

**\*Match funding from General Fund?** ☐ Yes ☐ No If Yes \$ \_\_\_\_\_ % \_\_\_\_\_

**\*Match funding from other sources?** ☐ Yes ☐ No If Yes \$ \_\_\_\_\_ % \_\_\_\_\_

**\*Funding Source:** \_\_\_\_\_

**\*If Federal funds are received, is funding coming directly from the Federal government or passed through other organization(s)?**

Contact: Janice Hughes (M. Guzman 4-4611 for P/U)

Department: Regional Flood Control District

Telephone: (520) 724-4635

Department Director Signature: [Signature]

Date: 7/22/22

Deputy County Administrator Signature: [Signature]

Date: 7/22/2022

County Administrator Signature: [Signature]

Date: 7/24/2022

Level 3 Communications, LLC  
Company

**Via Email Delivery. This Agreement supersedes previously dated Agreements regarding the Work described herein.**

7/18/2022

Janice Hughes, PE  
Pima County Regional Flood Control District – Engineering Division  
201 N. Stone Ave 5th Flr  
Tucson, AZ, 85719  
janice.hughes@pima.gov

**Re: Relocation, Adjustment, Protection of Telecommunications Facilities – Gardner Lane / Union Pacific Railroad (UPRR) (“Address”)**

Dear Janice Hughes,

Pima County Flood Control District (the “Requestor”) has contacted Level 3 Communications, LLC, an affiliate(s) of Lumen Technologies, Inc., (“Company”), regarding relocation, protection or adjustment of the Company’s telecommunications facilities, including those facilities as set forth in **Exhibit A**, (the “Facilities”), located at Gardner Lane / Union Pacific Railroad (UPRR), City of Tucson, Pima County, Arizona, for the benefit of a site development project.

The current location of the Facilities is set forth in the description attached hereto as **Exhibit A**. To avoid all identified conflicts between the Facilities and the Requestor’s project, Company will adjust, protect or relocate its Facilities as further described in **Exhibit B (the “Work”)**, subject to the following terms and conditions:

- (1) The government or private entity owning or otherwise controlling the underlying property whereupon the Facilities are to be relocated, if so required, first grant to Company the complete authority to perform the Work described in **Exhibit B** and, where necessary, to provide Company permanent easement rights necessary for the Facilities to remain in the location upon completion of the Work.
- (2) Company will coordinate and perform the Work described in **Exhibit B** at the Requestor’s sole cost and expense. Company will use reasonable efforts to perform all Work from within the area where the Facilities are to be relocated; provided, however, that where Company is required to perform the Work from a third party’s property, Requestor will, obtain any necessary permission in advance for Company to perform the Work, including temporary or permanent easements necessary for the Work or continued operation of the Facilities.
- (3) Total estimated cost of the Work is: **\$752,538.40 (Seven hundred fifty-two thousand, five hundred thirty-eight dollars and forty cents)**. Requestor will

first provide Level 3 Communications, LLC with a check for fifty percent (50%) of the estimated cost of the Work in the amount of **\$376,269.20 (Three hundred seventy-six thousand, two hundred sixty-nine dollars and twenty cents)** prior to the Work beginning. Requestor's payment will be applied toward the estimated cost of the Work as set forth in **Exhibit C**. The check should be made out to Level 3 Communications, LLC and sent to the address listed in **Exhibit C** with instructions below. A final invoice will reflect the advance payment applied and the remaining balance due will be invoiced once all the Work is complete in the field. Requestor shall pay such remaining balance within (30) days of receiving the final invoice from Company.

- (4) **UPON COMPLETION, REQUESTOR ACCEPTS THE WORK "AS IS." COMPANY MAKES NO WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED, EITHER IN FACT OR BY OPERATION OF LAW, STATUTORY OR OTHERWISE, WITH RESPECT TO THE WORK OR AS TO ANY MATTER WHATSOEVER, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY, SATISFACTORY QUALITY AND FITNESS FOR A PARTICULAR PURPOSE.**
- (5) In the event that circumstances arise that cause the cost and expense of performing the Work to exceed the estimate, Company will make an adjustment to the estimate. Requestor will pay such reasonable additional amounts within thirty (30) days of written notice from Company. Company may, in its discretion, suspend performance of the Work until payment is received. A failure to pay such amount shall cause same to bear interest from the due date until payment is received at a rate of one-and-one-half percent (1 1/2%) per month, compounded annually. In the event the actual cost of the Work is less than the estimate, the final invoice will reflect the advance payment applied and the remaining balance due will be invoiced once all the Work is complete in the field. In the event the scope of the Work changes and Requestor does work around Company facilities, if there is any credit due of the advance payment it will be refunded.
- (6) To the extent provided by law, Requestor will indemnify, hold harmless and defend Company, its affiliates, employees, invitees, contractors, subcontractors, agents, representatives and servants from and against any loss, cost, damage, and expense (collectively "Claims"), arising out of actual or alleged injury of any person (including death) or loss for damage to property caused, or alleged to be caused, in whole or in part, by any act or omission of Requestor, its agents or employees in connection with this Agreement. Such Claims shall include attorneys' fees and court costs. The provisions of this paragraph (6) shall survive the performance of the Work and any termination of this Agreement.
- (7) Each party shall obtain and maintain during the course of the Work, the following insurance: (a) Commercial General Liability (for bodily injury) with combined single limit of not less than \$5,000,000.00 each occurrence or its

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equivalent; (b) Worker's Compensation in amounts required by applicable law and Employer's Liability with a limit of at least \$1,000,000.00 each accident; and (c) Automobile Liability including coverage for owned/leased, non-owned or hired automobiles with combined single limit of not less than \$1,000,000.00 each accident. The insurance requirements may be alternatively met through self-insurance pursuant to A.R.S. §§ 11-261 and 11-981, at no less than the minimum coverage levels set forth in this paragraph (7).

- (8) The execution of this Agreement by the parties' representatives and their performance hereunder (a) has been duly authorized by requisite action, (b) will not require any additional approval on the part of the parties, and (c) will not violate any provision of law, any regulation or any contract or other obligation.
- (9) This Agreement constitutes the complete legal, valid, and binding obligation of the parties hereto with regard to the Work and is enforceable against the parties in accordance with the terms hereof. Except to the extent herein provided, no amendment, supplement, modification, or termination of this Agreement shall be enforceable unless executed in writing by both parties.
- (10) If any part of this Agreement is held by a court of competent jurisdiction to be invalid or otherwise unenforceable, the court shall interpret the terms hereof to give the greatest effect to the parties' intentions in entering into this Agreement.
- (11) This Agreement shall be construed under the laws of the State of Arizona in which the Facilities are located.
- (12) This Agreement shall become effective on the date signed by Requestor.
- (13) This Agreement is subject to cancellation for conflict of interest pursuant to A.R.S. § 38-511, the pertinent provisions of which are incorporated into this Agreement by reference.
- (14) End date of this URA (utility reimbursement agreement) / contract will coincide with end of construction of the Work, estimated at November 2025 and may be amended as the project does not yet have approval.
- (15) Notwithstanding any other provision in this Agreement, Requestor may terminate this Agreement if for any reason there are not sufficient appropriated and available monies for the purpose of maintaining Requestor or other public entity obligations under this Agreement. In the event of such termination, Requestor will have no further obligation to the Company, other than to pay for services rendered prior to termination.

Please acknowledge your acceptance of the foregoing terms and conditions by signing this Agreement and delivering a check in the amount set forth above to Level 3 Communications, LLC the undersigned. Company will countersign this Agreement and thereafter work with

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underlying property owner or governing locality to coordinate a construction start date and the times for performing the Work.

Sincerely,

Clem Helmstetter

RELO PM

Dept: Relocations

1025 Eldorado Blvd.

Broomfield, CO 80021-8254

clem.helmstetter@lumen.com

*[Approval signatures appear on following page.]*

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APPROVED AND AGREED TO:  
Level 3 Communications, LLC

APPROVED AND AGREED TO:  
Pima County Flood Control District

Name: Brian Economaki

Signature: *Tim White for BE*  
Tim White for BE (Jul 20, 2022 17:16 CDT)

Title: VP Network Ops

Date: Jul 20, 2022

Field Review: Chad Hager  
Initials: CH

\_\_\_\_\_  
Chair  
Board of Directors

ATTEST

\_\_\_\_\_  
Clerk of the Board

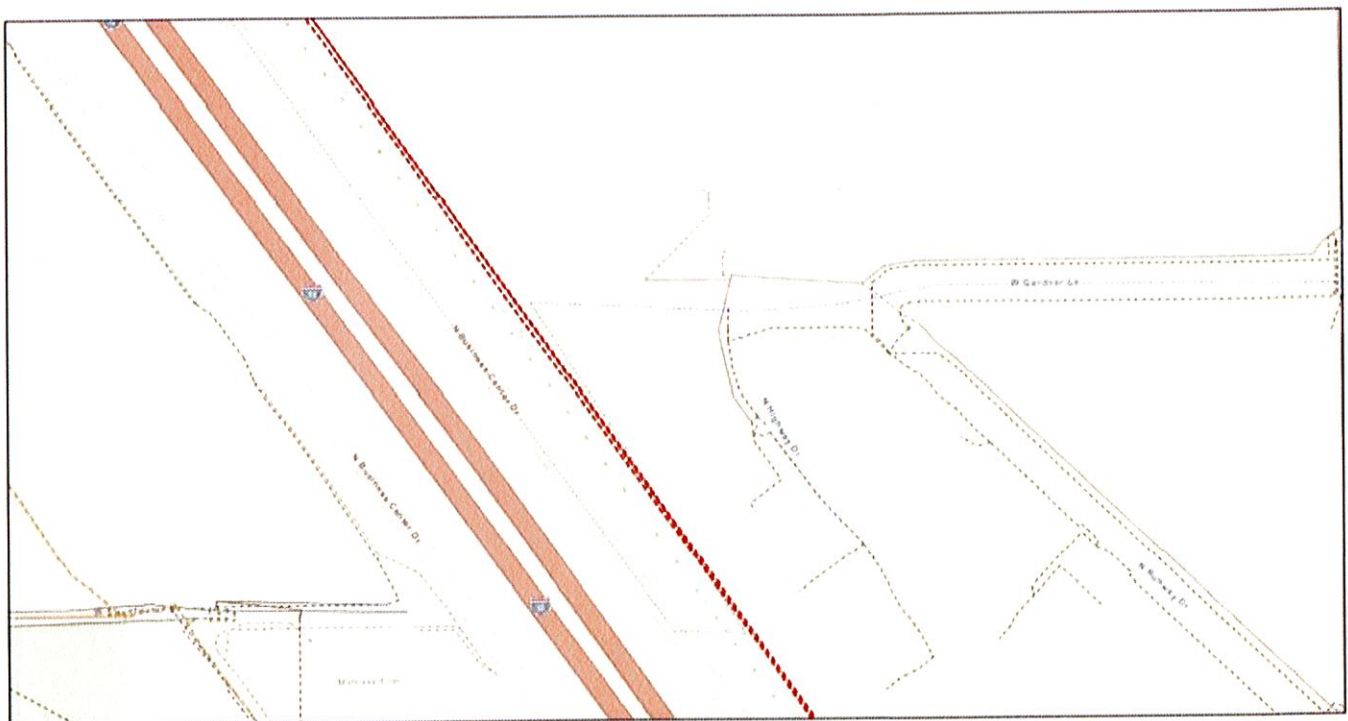
APPROVED AS TO FORM

*[Signature]*  
Deputy County Attorney

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# Exhibit A

Existing Level 3 underground facilities within UPRR ROW



8/18/2021, 8:33:17 AM

Local Fiber Routes

----- Aerial

----- Underground

----- Local Copper Aerial Route

----- Local Copper UG Route

Routes Leased

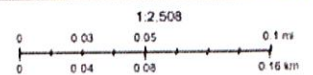
----- METRO LATERAL UNDERGROUND

----- METRO AERIAL

----- METRO UNDERGROUND

Routes Owned

----- LONGHAUL UNDERGROUND



Esri, Community, Map, Contributors, City of Tucson, BuildingFootprintsUSA, Esri, HERE, Garmin, SafeGraph, INCREMENT P, METUNASA, USGS, Bureau of Land Management, EPA, NPS, US Census Bureau, USGS

© map data Lumen

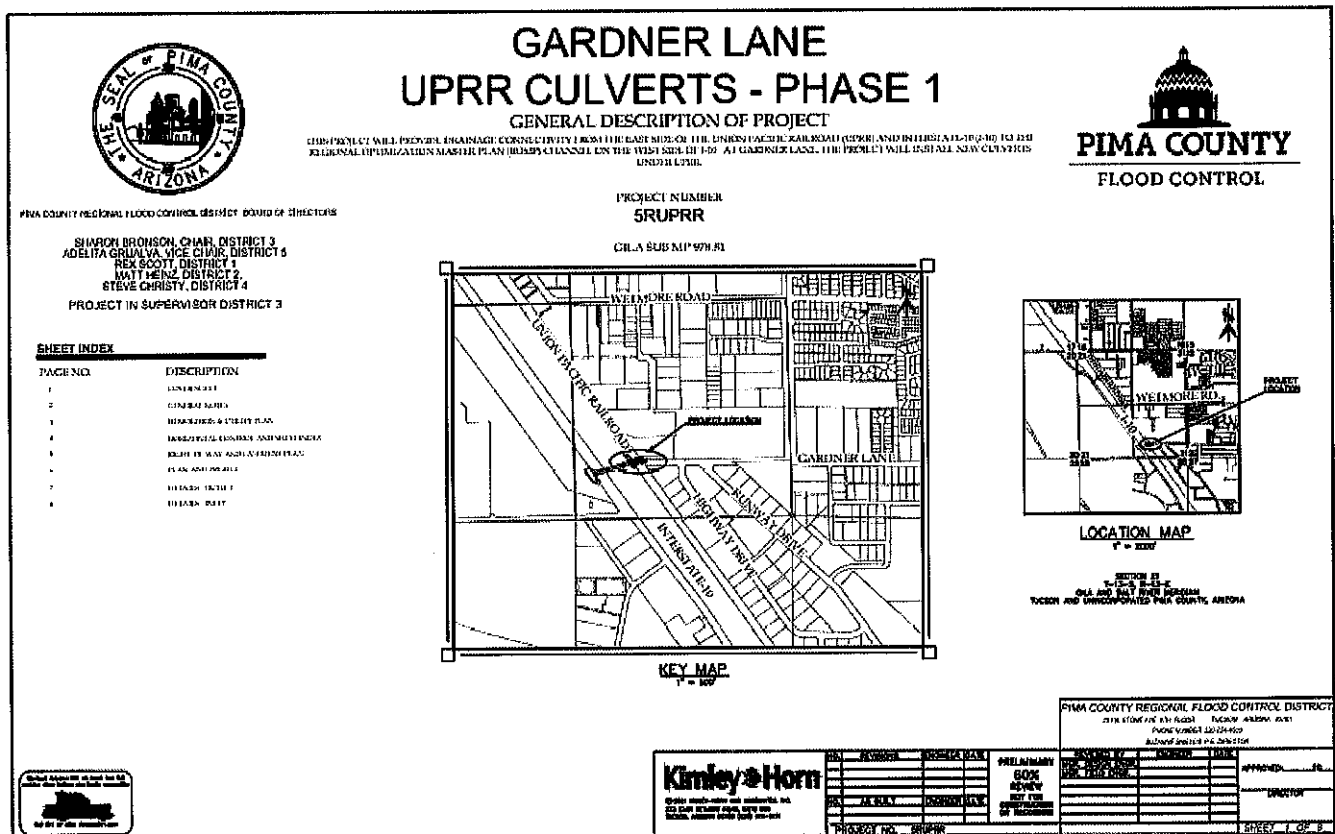
INTERNAL USE ONLY: This map data is for internal LUMEN use only and is not to be disseminated outside of LUMEN without authorization from RISK MANAGEMENT. Dissemination of this data outside of LUMEN without authorization will be considered a violation of company policy.



**Exhibit B****Summary Description of Work**

Scope: Engineer, permit with UPRR proposed (15-way, (12) Level 3 & (3) Wiltel) longitudinal duct bore for approx. 300 linear feet beneath water / sewer and proposed flood control. Depth / distance will allow us to intercept existing duct packages with intercept vaults. Project will purchase and place approx. 60,000 feet of fiber optic cable (96 Wiltel, 96 Level 3 & 216 Level 3) back to existing splice points on UPRR ROW. Splicing will consist of 816 fibers. Once splice over is complete we are required by UPRR to removed and dispose of old fiber for approx. 60,000 which is a requirement of UPRR. All RR flagger and inspection fees will be included with Level 3 G&A (general and admin) costs to support request.

\*Level 3 Engineering plans have not been started pending agreement.



**Exhibit C****Estimated Cost Breakdown and Remittance Information**

<b>Level(3)</b> COMMUNICATIONS	<b>Relocation Project Cost Estimate - URA</b>
Estimate Valid within 30 Days from:	2/23/2022
Relocation Project Tracking #:	P-167879
Project Name:	Gardner Ln; Pima Co. Flood culverts Ph1 (5rUPRR)
Customer Name:	Pima County Regional Flood Control District
Internal Project Code	N.904633.C.27
GL Code:	82441000
Legacy Network Builder:	Level 3 Communications LLC
RELO PM Contact Info:	Clem Helmstetter; 913-312-2744
Invoice Number:	pending
Customer Number:	925007-RELO
<b>Description</b>	<b>Cost</b>
Outside Plant Construction / Materials	\$350,000.00
Engineering / Inspection	\$60,000.00
Fiber Optic Cable Purchased	\$42,100.00
Fiber Optic Testing / Splicing	\$45,000.00
Special Permits / RR / Traffic Control	\$80,000.00
<b>Subtotal:</b>	<b>\$577,100.00</b>
Internal Cost Percentage	30.40%
Internal G&A Cost	\$175,438.40
<b>Total payment due:</b>	<b>\$752,538.40</b>
* Estimate does not include any rock adders and will be reviewed if encountered.	

**General instructions for requestor:**

Agreement must be scanned back in color to RELO PM – via email to [clem.helmstetter@lumen.com](mailto:clem.helmstetter@lumen.com) for counter execution. Lumen support digital signatures and can route via Adobe Sign if requested.

- Please do not mail agreement.
- A W-9 is included as page 2 of the invoice for your Accounts Payable team's use and check payable info.
- Please scan/email a copy of your check to [clem.helmstetter@lumen.com](mailto:clem.helmstetter@lumen.com) RELO PM, before mailing.

**Remit copy of invoice with payment and provided UPS RS label to:**

Lumen Technologies, Inc.  
 Attn: Ashley Tran; 4000-41C-E21 / RELO  
 1025 Eldorado Blvd.  
 Broomfield, CO 80021