

STATE OF TEXAS §
 §
COUNTY OF FORT BEND §

**FOURTH AMENDMENT TO PS LIGHTWAVE, INC.'S AGREEMENT
(Choice Partners Contract No. 21/031KN-50)**

THIS FOURTH AMENDMENT ("Fourth Amendment") is entered into by and between Fort Bend County, ("County"), a body corporate and politic under the laws of the State of Texas, and PS Lightwave, Inc., ("PS Lightwave"), a company authorized to conduct business in the State of Texas (collectively referred to as the "parties").

WITNESSETH:

WHEREAS, the parties previously entered into the Addendum to PS Lightwave Networking Agreements for the purchase of specified internet, Ethernet, and telephone services, on or about September 22, 2020; the First Amendment on or about July 27, 2021; the Second Amendment on or about May 3, 2022; and the Third Amendment on or about March 7, 2023, collectively referred to as the "Agreement" and incorporated fully by reference, for the purchase of specified services; and

NOW, THEREFORE, County and PS Lightwave desire to amend said Agreement as set forth below:

I. Amendments

1. **Scope of Services.** PS Lightwave shall provide additional product and/or services as described in PS Lightwave's Quote (Order No. PLW-21700), attached hereto as Exhibit "A-4" and incorporated fully by reference; and in accordance with the requirements of Choice Partners Contract No. 21/031KN-50, incorporated fully by reference as if set forth verbatim below.
2. **Term.** This Fourth Amendment is effective upon full execution by both parties and will end no later than March 6, 2026, unless terminated sooner pursuant to the Agreement. This Fourth Amendment shall not automatically renew, but may renew upon written agreement of the parties.
3. **Limit of Appropriation.** PS Lightwave's fees shall be calculated at the rates set forth in the attached Exhibit A-4. The additional services as described in Exhibit A-4 shall need exceed is \$40,902.46; the total maximum compensation for all services shall not exceed \$1,966,211.18. In no case shall the amount paid by County under this Fourth Amendment exceed the Maximum Compensation without an approved change order. PS Lightwave clearly understands and agrees, such understanding and agreement being of the absolute essence of this Fourth Amendment, that County shall have available the total maximum sum of \$40,902.46 for this Fourth Amendment and \$1,966,211.18 for all Services; specifically allocated to fully discharge any and all liabilities County may incur. PS Lightwave does further understand and agree, said understanding and agreement also being of the absolute essence of this Fourth

Amendment, that the total maximum compensation that PS Lightwave may become entitled to and the total maximum sum that County may become liable to pay to PS Lightwave shall not under any conditions, circumstances, or interpretations thereof exceed \$40,902.46; or \$1,966,211.18 total.

4. **Certain State Law Requirements for Contracts.** The contents of this Section are required by Texas Law and are included by County regardless of content. For purposes of Sections 2252.152, 2271.002, and 2274.002, Texas Government Code, as amended, PS Lightwave hereby verifies that PS Lightwave and any parent company, wholly owned subsidiary, majority-owned subsidiary, and affiliate:
 - a. Unless affirmatively declared by the United States government to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization, is not identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 806.051, 807.051, or 2252.153 of the Texas Government Code.
 - b. If employing ten (10) or more full-time employees and this Agreement has a value of \$100,000.00 or more, PS Lightwave does not boycott Israel and is authorized to agree in such contracts not to boycott Israel during the term of such contracts. "Boycott Israel" has the meaning provided in § 808.001 of the Texas Government Code.
 - c. If employing ten (10) or more full-time employees and this Agreement has a value of \$100,000.00 or more, PS Lightwave does not boycott energy companies and is authorized to agree in such contracts not to boycott energy companies during the term of such contracts. "Boycott energy company" has the meaning provided in § 809.001 of the Texas Government Code.
 - d. If employing ten (10) or more full-time employees and this Agreement has a value of \$100,000.00 or more, PS Lightwave does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and is authorized to agree in such contracts not to discriminate against a firearm entity or firearm trade association during the term of such contracts. "Discriminate against a firearm entity or firearm trade association" has the meaning provided in § 2274.001(3) of the Texas Government Code. "Firearm entity" and "firearm trade association" have the meanings provided in § 2274.001(6) and (7) of the Texas Government Code.
5. **Remote Access.** As applicable, if PS Lightwave requires remote access to County Systems for support, installation, integrations, configurations, and/or maintenance, except as otherwise agreed by the parties and approved by the County's Information Technology Director in writing, the below requirements must be met before PS Lightwave is granted remote access to County Systems:
 - a. PS Lightwave will adhere to the restricted and monitored channels that are provided by the County, or other technologies approved in advanced in writing by the County's Information Technology Security Manager or the Assistant Information Technology Manager.

- b. PS Lightwave will neither implement nor deploy a remote access solution which bypasses and/or is designed to bypass County provided or approved controls. PS Lightwave will not access County Systems via unauthorized methods.
 - c. PS Lightwave's remote access to County Systems will only be requested and activated on as-needed basis and disabled when not in use.
 - d. Remote access is restricted only to County Systems necessary for PS Lightwave to provide product and/or services to County pursuant to this Agreement.
 - e. PS Lightwave will allow only its Workforce approved in advance by County to access County Systems. PS Lightwave will promptly notify County whenever an individual member of PS Lightwave's Workforce who has access to County Systems leaves its employ or no longer requires access to County Systems. PS Lightwave will keep a log of access when its Workforce remotely accesses County Systems. PS Lightwave will supply County with evidence of access logs concerning remote access to County Systems upon written request from County. Such access logs will be provided to County, within three business days from the date of County's request. These requests may be used to confirm compliance with these terms and/or to investigate a security incident.
 - f. If any member(s) of PS Lightwave's Workforce is provided with remote access to County Systems, then PS Lightwave's workforce will not remotely log-in to County Systems from a public internet access device (e.g., airport computer terminal, or Internet café). This is due to the possibility of sensitive information being monitored by video or computer surveillance in public areas.
 - g. Failure of PS Lightwave to comply with this Section may result in PS Lightwave and/or PS Lightwave's Workforce losing remote access to County Systems. County reserves the right at any time to disable remote access to protect County Systems.
 - h. For purposes of this Section, "Workforce" means employees, agents, subcontractors (where permitted), and/or other persons whose conduct, in the performance of work for PS Lightwave, is under the direct control of PS Lightwave, whether or not they are paid by PS Lightwave and who have direct or incidental access to County Systems.
 - i. For purposes of this Section, "Systems" means any: (i.) computer programs, including, but not limited to, software, firmware, application programs, operating systems, files and utilities; (ii.) supporting documentation for such computer programs, including, without limitation, input and output formats, program listings, narrative descriptions and operating instructions; (iii.) data and/or media; (iv.) equipment, hardware, servers, and/or devices; and/or (v.) network(s).
6. **Modifications.** Except as modified herein, the Agreement remains in full force and effect and has not been modified or amended.
7. **Conflict.** If there is a conflict among documents, the most recently executed document will prevail with regard to the conflict.

8. **Understanding, Fair Construction.** By execution of this Fourth Amendment, the parties acknowledge that they have read and understood each provision, term and obligation contained in this Fourth Amendment. This Fourth Amendment, although drawn by one party, shall be construed fairly and reasonably and not more strictly against the drafting party than the nondrafting party.
9. **Severability.** If any provision of this Agreement is determined to be invalid, illegal, or unenforceable, the remaining provisions remain in full force, if the essential terms and conditions of this Agreement for each party remain valid, binding, and enforceable.

(Execution Page Follows)

(Remainder of Page Intentionally Left Blank)

IN WITNESS WHEREOF, this Fourth Amendment is signed, accepted, and agreed to by all parties by and through the parties or their agents or authorized representatives. All parties hereby acknowledge that they have read and understood this Fourth Amendment and the attachments and exhibits hereto. All parties further acknowledge that they have executed this legal document voluntarily and of their own free will.

FORT BEND COUNTY

K.P. George
K.P. George, County Judge

4.9.2024
Date

ATTEST:

Laura Richard
Laura Richard, County Clerk

REVIEWED:

Robyn Doughtie
Information Technology Department



PS LIGHTWAVE

DocuSigned by:
Rhonda Cook
208C4F4DBF16434...
Authorized – Agent Signature

Rhonda Cook
Authorized – Agent Printed Name

4/3/2024
Date

AUDITOR'S CERTIFICATE

I hereby certify that funds are available in the amount of \$ 1,966,211.18 to accomplish and pay the obligation of Fort Bend County under this Agreement.

Robert Ed Sturdivant
Robert Ed Sturdivant, County Auditor

Exhibit A-4: PS Lightwave's Quote (Order No. PLW-21700).

EXHIBIT A-4



5959 Corporate Dr. - Suite 3300, Houston, TX 77036

www.pslightwave.com - 832-615-8000

SERVICE ORDER

		Order No:	PLW-21700
Date:	April 2, 2024	Campaign:	Choice Partners - 21/013KN-050
Consultant	David Caddle	Email	dcaddle@pslightwave.com

SECTION 1: CUSTOMER INFORMATION AND CONTACTS

Company:	FORT BEND COUNTY	BILLING (complete if different from Contact info):
Address:	301 JACKSON	
City/State/Zip:	RICHMOND, TX 77469	
Phone:	281 3412643	
Contact/Title:	Lee Powell	
Email:	Lee.Powell@fortbendcountytexas.gov	

Technical Contacts

Contact/Title:		
Phone:		
E-Mail:		

SECTION 2: ORDER PROFILE

Type:	New	Customer:	Existing	ETP:	100%
Term:	3 Years		ARO:	107 Business Days	from receipt of notice to proceed

SECTION 3: ORDERED SERVICES/EQUIPMENT (*Pricing may be subject to additional regulatory fees, taxes and/or building access fees. Tax rates are subject to change. At the discretion of PS Lightwave, applicable Non-Recurring Costs (NRC) may be invoiced either upon service provisioning or within fifteen (15) days of execution of this order).

Product	Locations	Qty	Price	Monthly Recurring*	Non-Recurring*
Ethernet Point-to-Point 100 Mbps	EPL100MB ALOC: 151 Stadium Drive, Sugarland Texas 77478 ZLOC: 500 Liberty Street, Richmond Texas 77469	1	\$496.00	\$496.00	\$28,988.46
				\$496.00	\$28,988.46

SECTION 4: SPECIAL INSTRUCTIONS

PS Lightwave 100Mb Ethernet 3-year pricing option
The non-recurring charge of \$28,988.46 would be invoiced upon notice to proceed from Fort Bend County.
Lead time is 107 Business Days from notice to proceed
21/013KN-050 Choice Partner contract number

SECTION 5: AUTHORIZATIONS. CUSTOMER REPRESENTS AND WARRANTS THAT CUSTOMER HAS FULL AUTHORITY TO ENTER INTO THIS AGREEMENT. PS Lightwave's escalation, service level agreement and acceptable use policies may be reviewed via PS Lightwave's website at www.pslightwave.com and are incorporated herein as referenced. Additional terms and conditions relating to the provisioning of services under this Service Order may be found in the Parties' Master Service Agreement; however, should there be no executed MSA in place as of the date of this executed Service Order, Customer agrees all terms and conditions in the then current PS Lightwave MSA shall apply.

Customer: FORT BEND COUNTY

PS LIGHTWAVE, INC

DocuSigned by:

Rhonda Cook

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Name-Title:

Rhonda Cook - Chief Executive Officer

Date:

Date: 4/3/2024

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

**OFFICE USE ONLY
CERTIFICATION OF FILING**

Certificate Number:
2024-1141691

Date Filed:
04/02/2024

Date Acknowledged:
04/09/2024

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

PS LIGHTWAVE, INC.
HOUSTON, TX United States

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

Fort Bend County

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

21-IT-100048-A3
Agreement 21-IT-100048-A3, internet services for Pct 3 building

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary
	Caddle, David	Houston, TX United States		X
	Cook, Rhonda	Houston, TX United States	X	
	PS Lightwave, Inc	Houston, TX United States	X	

5 Check only if there is NO Interested Party.

☐**6 UNSWORN DECLARATION**

My name is _____, and my date of birth is _____.

My address is _____, _____, _____, _____, _____.
(street) (city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in _____ County, State of _____, on the _____ day of _____, 20____.
(month) (year)

Signature of authorized agent of contracting business entity
(Declarant)