

# MEMORANDUM OF UNDERSTANDING

Between



**The Town of Chapel Hill  
Chapel Hill, NC**

And



**The Town of Carrboro  
Carrboro, NC**

For

## **FIBER OPTICAL INFRASTRUCTURE FACILITIES EXCHANGE**

This FIBER OPTICAL INFRASTRUCTURE FACILITIES EXCHANGE MEMORANDUM OF UNDERSTANDING, henceforth referred to as “MOU”, is made between:

The TOWN of CHAPEL HILL, Technology Solutions Department, henceforth referred to as the “TOWN”

And

The TOWN of CARRBORO, Information Technologies Department, henceforth referred to as “CARRBORO”.

## 1. PURPOSE

The TOWN and CARRBORO each utilize significant FIBER OPTICAL INFRASTRUCTURE assets to interconnect their respective facilities, buildings and other interests. The two Parties acknowledge that each entity would be able to enhance the scope, route diversity, redundancy and overall reliability of such connectivity through a structured and detailed process whereby the two Parties equitably, and by mutually beneficial means, share and/or exchange specific elements of their respective fiber cable plants. Therefore, it is the purpose of this MOU to establish the terms and conditions for the Parties to equitably share and/or exchange defined elements of their respective (a.) fiber optic infrastructure systems, (b.) fiber optic infrastructure strategic planning, and (c.) fiber optic infrastructure engineering and administration expertise.

FIBER OPTICAL INFRASTRUCTURE shall henceforth be referred to as “INFRASTRUCTURE”.

## 2. BACKGROUND

The TOWN has successfully deployed certain INFRASTRUCTURE assets inside the corporate limits of the Town of Chapel Hill for the purpose of optically interconnecting the Town’s various buildings, facilities and other interests. The TOWN wishes to strategically offer limited elements of said assets to CARRBORO in exchange (a.) for greater optical connectivity flexibility and route diversity among the TOWN’s interests, (b.) for network access to the TOWN maintained facilities in the corporate limits of the Town of Carrboro, and (c.) for access to CARRBORO’s fiber optic engineering, maintenance and administrative experiences and expertise.

CARRBORO has successfully deployed certain INFRASTRUCTURE assets inside the corporate limits of the Town of Carrboro for the purpose of optically interconnecting the Carrboro’s various buildings, facilities and other interests. CARRBORO wishes to strategically offer limited elements of said assets to the TOWN in exchange (a.) for greater optical connectivity flexibility and route diversity among the Carrboro’s interests, and (b.) for access to the TOWN’s fiber optic engineering, maintenance and administrative experiences and expertise.

Additionally, the TOWN and CARRBORO jointly wish to formally recognize and maintain a mutually beneficial and collaborative environment surrounding the planning, engineering, deployment, documentation and maintenance of their respective INFRASTRUCTURE resources.

3. EFFECTIVE DATE AND INITIAL TERM

The effective date of this MOU shall be April \_\_\_\_, 2014. The INITIAL TERM of the MOU shall remain in effect for five (5) years, or until an appropriate modification or termination agreement is reached between the TOWN and CARRBORO as stipulated in Section 9. – MODIFICATION AND TERMINATION PROCEDURES.

4. EXTENSION OF TERM:

The INITIAL TERM of this MOU shall automatically be extended for up to two (2) additional periods (each a “RENEWAL TERM”) of five (5) years each unless either TOWN or CARRBORO terminate the MOU due to an uncured default by the other Party or as otherwise provided in the MOU. In consideration of each Party’s investment, each Party will give the other Party good faith consideration to extending the term of the MOU for an additional period of time after the INITIAL TERM and the RENEWAL TERMS, as may be permissible under then applicable law. The INITIAL TERM as extended by the RENEWAL TERMS is hereinafter referred to as the “TERM.”

5. TERMS AND CONDITIONS

The TOWN and CARRBORO agree to the following terms and conditions:

- A. INFRASTRUCTURE: For the purposes of this MOU, “INFRASTRUCTURE” is defined as all usual and customary outside plant optical fiber cables, enclosures, vaults, splice cases, conduits, patch panels, racks, cable trays, hardware, attachments, and pathways both above and below ground.
- B. INTENDED USE OF INFRASTRUCTURE: CARRBORO hereby grants TOWN a non-exclusive, cancelable, restricted right to use the INFRASTRUCTURE, as more particularly described in each “AMENDMENT” as attached hereto, solely for the purpose and in accordance with the terms and conditions of this MOU. TOWN hereby grants CARRBORO a non-exclusive, cancelable, restricted right to use the INFRASTRUCTURE, as more particularly described in each “AMENDMENT” as attached hereto, solely for the purpose and in accordance with the terms and conditions of this MOU.

Each Party shall use the INFRASTRUCTURE only for optical interconnections among their respective buildings, facilities and assets geographically residing within either of the two Town’s corporate limits. No other uses are permitted unless previously authorized by mutual consent and agreement, and in writing by the Parties. Each Party shall have no ownership rights to the other Party’s INFRASTRUCTURE.

- C. INFRASTRUCTURE AMENDMENTS: The Parties agree that, for each instance of sharing or exchanging INFRASTRUCTURE resources, each such action shall be assigned an “AMENDMENT” number for identification purposes.
- D. INFRASTRUCTURE DOCUMENTATION: The Parties agree that each AMENDMENT or other activity pursued under this MOU will be properly documented and shared between the Parties. The Parties further agree that such documentation may include written or graphical engineering best practices documents in paper or digital format as deemed appropriate. The Parties also agree to maintain and

share INFRASTRUCTURE data in industry standard GIS format. Each AMENDMENT will be fully documented and shared between the Parties for planning, deployment, or administrative activity pursued under this MOU.

- E. MAINTENANCE: Each Party will, at its own cost, maintain its INFRASTRUCTURE included in this MOU in the same manner it maintains similar INFRASTRUCTURE outside of this MOU.
- F. INFRASTRUCTURE ALTERATION AND/OR RELOCATION: Each Party shall for good cause have the right to alter or relocate any portion of its INFRASTRUCTURE; provided, however, that such alteration or relocation (a) shall be the owning Party's sole cost and expense, (b) shall not result in any material interruption of service provided by the owning Party to the other Party, and (c) shall not result in impairment of the quality of service provided by the owning Party to the other Party following such alteration or relocation. The owning Party may exercise such rights after the Parties have mutually agreed upon a timeframe and location. Owning Party shall cooperate with the other Party in enabling other Party to perform standard maintenance or cutover procedures and shall ensure that the altered or relocated INFRASTRUCTURE is operational before discontinuing existing services.
- G. TERMINATION OF USE: Upon the expiration of the TERM or earlier termination as provided herein, each Party will vacate the other's INFRASTRUCTURE; will disconnect or otherwise remove INFRASTRUCTURE interconnections, apparatus and equipment; will ensure that the INFRASTRUCTURE is safe and in good order and condition (ordinary wear and tear excepted); and will have no further rights to INFRASTRUCTURE.
- H. STRATEGIC PLANNING: The TOWN and CARRBORO acknowledge the desire and need to work collaboratively to evaluate, plan and deploy INFRASTRUCTURE to meet current and future needs. The Parties jointly agree and commit to meet annually, or more frequently as needed, to discuss and share strategic technology initiatives, to seek opportunities for collaboration, and to seek opportunities for joint development of enhanced INFRASTRUCTURE with the goals of avoiding duplication of deployments, promoting standardization of fiber optical infrastructure systems, and incorporating best practices for INFRASTRUCTURE engineering and administration.

6. CONFIDENTIAL INFORMATION:

Each Party receiving Confidential Information ("Recipient") from the other Party ("Discloser") will protect the disclosed Confidential Information by using the same degree of care, but no less than reasonable degree of care, to prevent the unauthorized use, dissemination, or publication of the Confidential Information as Recipient uses to protect its own Confidential Information.

7. ASSIGNMENT:

This MOU is not assignable. The MOU contains the entire understanding of both Parties as to the subjects covered herein and shall not be altered, amended or modified except by an agreement in writing executed by the duly authorized officials of both Parties.

8. SUPERSESSION

This MOU superseded any and all previous or current fiber optic infrastructure agreements between the Parties, and any subsequent written or verbal amendments.

9. MODIFICATION AND TERMINATION PROCEDURES

This MOU may be modified through the express written agreement and consent of the Parties. The Party desiring modifications shall submit a written request to the other Party, and the written request shall clearly outline the nature and purpose of the modifications. Upon receipt of the written request for modifications, the other party shall have sixty (60) calendar days to respond.

This MOU may be terminated by either Party upon delivery of a written notice to the other party stating the desire to terminate the MOU, provided that such notification is delivered at least six (6) months prior to the requested termination date.

10. ENTIRE UNDERSTANDING

This MOU contains the entire understanding of the parties and shall not be altered, amended or modified except by mutual written agreement executed by authorized representatives of both parties.

11. NOTICES

Any NOTICE or other communication required to be given by this MOU shall be in writing and shall be delivered to the following addresses:

For the TOWN:

The Town of Chapel Hill  
Chief Technology Officer  
405 Martin Luther King Jr. Blvd.  
Chapel Hill, NC 27514  
Phone: 919-969-5000  
Fax: 919-968-2017

For the CARRBORO:

The Town of Carrboro  
Information Technology  
301 West Main St.  
Carrboro, NC 27510  
Phone: 919- 918-7305  
Fax: 919-918-4456

12. OPERATIONAL POINTS OF CONTACT:

All OPERATIONAL activities executed under this AGREEMENT, including but not limited to collaborative investigations, engineering studies, strategic planning, designing, deployment, maintenance, testing, or decommissioning shall be in writing and shall be delivered to the following addresses:

For the TOWN:

Normal hours

Office of Chief Information Officer  
Information Technology Department  
Town of Chapel Hill  
405 Martin Luther King, Jr. Blvd.  
Chapel Hill, NC 27514

After hours and emergencies

Town IT Help Desk (itsupport@townofchapelhill.org)  
Town IT Help desk (M-F 6:30am—6PM) & after hours page-out  
service 919.969.2020  
Emergencies: dial 911  
Town of Chapel Hill  
Chapel Hill, North Carolina, 27514

For the CARRBORO

Normal hours

Office of the Manager of Information Technologies  
301 West Main St.  
Carrboro, NC 27510  
Phone: 919- 918-7305

After hours and emergencies

Help Desk Phone: 919-918-7305  
after hours page-out service: 919-XXX-XXXX  
Emergencies: Dial 911  
Town of Carrboro  
Carrboro, NC 27510

IN WITNESS WHEREOF,  
the parties hereto have caused this  
MEMORANDUM OF UNDERSTANDING (MOU)  
to be executed by their duly authorized representatives:

FOR AND ON BEHALF OF THE TOWN OF CHAPEL HILL, TECHNOLOGY SOLUTIONS  
DEPARTMENT

By:

Name:

Title:

Date:

FOR AND ON BEHALF OF THE TOWN OF CARRBORO

By:

Name:

Title:

Date:

END OF DOCUMENT