

MEMORANDUM OF UNDERSTANDING

Between



**The Town of Carrboro
Carrboro, NC**

And



**The University of North Carolina
at Chapel Hill
Chapel Hill, 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 CARRBORO, Information Technology Department, henceforth referred to as the “TOWN”

And

The UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL, Communication Technologies Division of the Information Technology Services Department, henceforth referred to as the “UNIVERSITY”.

1. PURPOSE

The TOWN and the UNIVERSITY 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 CARRBORO 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 the UNIVERSITY in exchange for (a.) greater optical connectivity, flexibility and diversity among the TOWN’s interests, (b.) access to the Microelectronics Center of North Carolina (MCNC) and North Carolina Research and Education Network (NCREN) “Point-of-Presence” on the UNIVERSITY’s main campus, and (c.) access to the UNIVERSITY’s fiber optic engineering, maintenance and administrative experiences and expertise.

The UNIVERSITY has owned and operated inter-campus and inter-building optical fiber cable plants for approximately 25 years. The UNIVERSITY also faces challenges with upgrading and expanding its INFRASTRUCTURE assets to accommodate optical network growth, to address changes in optical technology, to accommodate growth of the UNC campus, and to maintain network connectivity to UNIVERSITY departments located throughout the Carrboro metropolitan area. The UNIVERSITY wishes to strategically offer limited elements of its INFRASTRUCTURE assets and ownership expertise to the TOWN in exchange for (a.) greater optical connectivity, flexibility and diversity among the UNIVERSITY’s interests, (b.) enhanced geographic route diversity for interconnecting the UNIVERSITY’s main campus to the its “Carolina North” campus, and (c.) assistance with INFRASTRUCTURE strategic planning for the future.

Additionally, the TOWN and the UNIVERSITY 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 _____. 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 the UNIVERSITY 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 UNIVERSITY 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 UNIVERSITY 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, splice cases, patch panels, racks, hardware, and pathways both above and below ground.
- B. INTENDED USE OF INFRASTRUCTURE: UNIVERSITY 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 UNIVERSITY 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 the TOWN’s corporate limits and/or on UNIVERSITY property located outside the Town. 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. Each Amendment to this MOU, when executed, shall reference this MOU and incorporate its terms by reference.

- 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 the UNIVERSITY 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, subject to the North Carolina Public Records Law.

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. SUPERSESSSION

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 Carrboro
Information Technology
301 West Main Street
Carrboro, NC 27510
Phone: 919-918-7305
Fax: 919-918-4456

For the UNIVERSITY:

The University of North Carolina at Chapel Hill
Director, Communication Technologies Engineering and Operations
Information Technology Services Department

ITS Franklin Building
Campus Box 1150
Chapel Hill, NC 27599-1150
Phone: 919-445-8080
Fax: 919-445-9486

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

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

After hours and emergencies

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

For the UNIVERSITY

Normal hours

Engineering Manager, ITS Communication Technologies E&O
University of North Carolina at Chapel Hill
ITS Franklin Building, 440 West Franklin Street
Campus Box 1150
Chapel Hill, North Carolina 27599-1150
919.445.0127

After hours and emergencies

ITS 24/7 Help Desk (www.help.unc.edu)
ITS 24/7 Help Desk Phone: 919.962.4357
UNC Public Safety Phone: 919.962.8100
Emergencies: Dial 911
University of North Carolina at Chapel Hill
Chapel Hill, North Carolina 27599

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 CARRBORO, INFORMATION
TECHNOLOGIES DEPARTMENT

By:

Name:

Title:

Date:

FOR AND ON BEHALF OF THE UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL,
INFORMATION TECHNOLOGY SERVICES DEPARTMENT

By:

Name:

Title:

Date:

END OF DOCUMENT