

# **MEMORANDUM OF UNDERSTANDING**

**Between**

**Chapel Hill-Carrboro City Schools**

**And**

**Town of Carrboro**

**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, henceforth referred to as the “TOWN”

And

The Chapel Hill-Carrboro City Schools, henceforth referred to as the “CHCCS”.

### 1. PURPOSE

TOWN and CHCCS 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 CHCCS in exchange (a.) for greater optical connectivity flexibility and route diversity among the TOWN’s interests, (b.) for network access to TOWN staffed offices within CHCCS, and (c.) for access to CHCCS’s fiber optic engineering, maintenance and administrative experiences and expertise.

CHCCS has successfully deployed certain INFRASTRUCTURE assets for the purpose of optically interconnecting CHCCS’s various buildings, facilities and other interests. CHCCS wishes to strategically offer limited elements of said assets to TOWN in exchange for (a.) greater optical connectivity, flexibility and diversity among CHCCS’s interests, (b.) access to the Microelectronics Center of North Carolina (MCNC) and North Carolina Research and Education Network (NCREN), and (c.) access to TOWN’s fiber optic engineering, maintenance and administrative experiences and expertise.

Additionally, TOWN and CHCCS 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 November \_\_\_\_\_, 2016. The INITIAL TERM of the MOU shall remain in effect for ten (10) years, or until an appropriate modification or termination agreement is reached between TOWN and CHCCS 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 CHCCS 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

TOWN and CHCCS 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: TOWN hereby grants CHCCS 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. CHCCS 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. Each Party shall use the INFRASTRUCTURE only for optical interconnections among their respective buildings, facilities and interests. 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. Neither party will

disclose any information it receives about the infrastructure that belongs to the other party without first obtaining permission from the other party.

- 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 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: TOWN and CHCCS acknowledge the desire and need to work collaboratively to evaluate, plan and deploy INFRASTRUCTURE to meet current and future needs. The Parties shall 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. SUPERSESSION

This MOU supersedes 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) business 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 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 TOWN:

Information Technology  
Town of Carrboro  
301 West Main St  
Carrboro, NC 27501  
Phone: 919-918-7305  
Fax: 919-918-4456

For the CHCCS:

Network Operations  
Chapel Hill- Carrboro City Schools  
750 S Merritt Mill Rd.  
Chapel Hill, NC 27516  
Phone: 919-967-8211  
Fax: 919-918-2502

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:

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| <p>For the</p> <p>TOWN:</p> <p>Normal hours</p> <p>The Town of Carrboro<br/>Information Technologies<br/>301 West Main St.<br/>Carrboro, NC 27510<br/>Phone: 919-918-7305</p> <p>After hours and emergencies</p> <p>The Town of Carrboro<br/>Help Desk Phone: 919-918-7305<br/>After hours page out service:919-XXX-XXX<br/>Emergencies: Dial 911</p> | <p>For the CHCCS:</p> <p>Normal hours</p> <p>Network Operations<br/>Chapel Hill-Carrboro City Schools<br/>750 S Merritt Mill Rd.<br/>Chapel Hill, NC 27516<br/>IT Support Line: 919-967-8211 x 28333</p> <p>After hours and emergencies</p> <p>Network Operations<br/>Information Technology Division<br/>750 S Merritt Mill Rd.<br/>Chapel Hill, NC 27516<br/>Director of IT Operations:<br/>919-967-8211 x 28274</p> |
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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 TOWN

By:

Name:

Title:

Date:

FOR AND ON BEHALF OF CHCCS

By:

Name:

Title:

Date: