

## AGREEMENT

THIS AGREEMENT is made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, ("Effective Date") between the City of La Crosse, hereinafter referred to as "City" and The Board of Regents for the University of Wisconsin System, hereinafter referred to as "University".

Whereas the City has desire to expand its fiber asset infrastructure consisting of fiber strands, access points, and miscellaneous network equipment (Fiber Infrastructure) along routes of mutual interest to the University; and

Whereas the University owns or controls rights-of-way and existing conduit between University facilities; and

Whereas pursuant to state statute 66.0301 the University and the City wish to cooperate by sharing in the costs and benefits of the fiber infrastructure.

Now, therefore the parties agree as follows:

1. The City agrees to extend its Fiber Infrastructure along the route substantially described in Exhibit A (The Route) from Health Sciences Center to Graff Main Hall.
2. The City shall provide the University with exclusive access to 12 single-mode fiber-optic strands between the Health Sciences Learning Center to City Hall and 6 single-mode fiber-optic strands between City Hall and the Wisconsin Independent Network (WIN) handhole (HH) 17a on La Crosse Street controlled by the City as depicted on Exhibit A. The City shall make access points along its conduit path and fiber cross-connections within its facilities available to University as necessary at University expense.
3. The City shall secure all permits, right-to-use ("RTU's") agreements, easements, and right-of-way ("ROW") to complete and maintain its conduit along the Route depicted in Exhibit A. In the event any portion of the City-owned portion of the Route results in acquiring deeded easement, the City shall be title holder for the easement for its conduit.
4. University grants the City a non-exclusive right-of-use of its conduit between the Health Sciences Learning Center and Graff Main Hall facilities as depicted on Exhibit A. University furthermore permits City to place its Fiber Infrastructure within University-owned facilities along Route depicted in Exhibit A. The University shall make access points along its conduit path and fiber cross-connections within its facilities available to City as necessary at City expense.
5. The University shall secure all permits, right-to-use ("RTU's") agreements, easements, and right-of-way ("ROW") to complete and maintain its conduit along the Route depicted in Exhibit A. In the event any portion of the University-owned portion of the route results in acquiring deeded easement, the University shall be title holder for the easement for its conduit.

6. The City shall be responsible for the construction of the fiber infrastructure expansion in accordance with its contracting authority, statutes, policies, standards, and practices. Construction within University conduit and facilities shall conform to UW-La Crosse facilities specifications and with construction oversight and approvals from UW-La Crosse identified personnel. The City shall coordinate the installation and construction of the project. University shall cooperate with the City to facilitate the same.
7. Project Construction Contributions. The University will pay the following:
  - a. Costs to the City for construction of the expanded fiber infrastructure between Health Sciences Learning Center and Graff Main Hall within University facilities inclusive of all permits, trenching or directional boring, conduit, splicing, and other portions of the construction contract necessary to complete the route, including project management costs.
8. City Maintenance: The City shall be responsible for the cost and provisioning of all maintenance along conduit path owned by City including: 1) conduit, all utility pole attachments or fiber optic cable break/fix occurrences; 2) Diggers Hotline membership and all locate and marking services; 3) and any repairs to the fiber optic cable or conduit. Repairs will be completed as soon as reasonably possible and typically within twenty-four (24) hours. When reasonably possible, the City will provide fifteen (15) days' notice to the University of scheduled repairs or maintenance.
9. University Maintenance: The University shall be responsible for the cost and provisioning of all maintenance along conduit path owned by University including: 1) conduit, all utility pole attachments or fiber optic cable break/fix occurrences; 2) Diggers Hotline membership and all locate and marking services; 3) and any repairs to the fiber optic cable or conduit. Repairs will be completed as soon as reasonably possible and typically within twenty-four (24) hours. When reasonably possible, the University will provide fifteen (15) days' notice to the City of scheduled repairs or maintenance.
10. Except as provided in section 10 herein for termination, The Initial Term for this Agreement is ten (10) years commencing on the Effective Date. At or prior to, the termination or expiration of the Initial Term, a new agreement may be negotiated and entered into between the Parties.
11. This Agreement may be cancelled for any of the following reasons:
  - a. In the event of breach by either party after having been provided a minimum of 30 days to correct such breach.
  - b. By mutual agreement of the parties.
  - c. Access to the route for purpose of maintenance becomes cost prohibitive to the City or University and the parties do not agree to cooperatively secure additional rights or to remove physical restrictions. The determination of cost prohibitive maintenance is solely the purview of the City or University for conduit each respectively own.
  - d. In the event that the City or the University abandons its use of their conduit and fail to provide required maintenance.

12. Rights at Termination: In the event of termination:
  - a. In the event termination occurs as provided by 10 (b), the University or the City may consider their respective portion of the fiber strands as abandoned property available to the other for their own use.
  - b. In the event of termination as provided by 10 (c) or 10 (d), the abandoning party will consider their fiber as abandoned and available to the non-abandoning for its use. Maintenance shall be the responsibility of the non-abandoning party.
13. Except as otherwise provided, the City and University each shall be responsible for the consequences of its own acts or omissions and those of its employees, boards, commissions, agencies, officers, and representatives and be responsible for all losses, claims, and liabilities that are attributable to such acts or omissions.
14. Neither party shall be liable to the other for any direct or indirect costs in the event a fiber optic cable connection is temporarily lost. All parties to this agreement are governmental entities entitled to governmental immunity under law, including Section 893.80, Wis. Stats. Nothing contained herein shall waive the rights and immunities to which each party may be entitled under law, including all of the immunities, limitations and defenses under Section 893.80, Wis. Stats., or any subsequent amendments thereof, any federal law, common law or other applicable laws
15. This Agreement shall be construed, enforced, and governed in accordance with the laws of the State of Wisconsin.
16. Force Majeure. This agreement is designed to cover the support needs of the parties during normal operating conditions. The City and University shall not be liable for damages, delay, or default in performance if such delay or default is caused by conditions beyond its control including, but not limited to acts of God, government restrictions (including the denial or cancellation of any export or other necessary license), wars, insurrections, and/or any other cause beyond the reasonable control of either party. Furthermore, damage and/or significant problems that result from anomalies and/or abnormal circumstances such as fire, flood, electrical surges, deliberate malicious acts, theft, acts of God, wars, insurrections, and/or any other cause beyond the reasonable control of either party fall outside the terms of this agreement
17. Neither party shall assign any rights under this Agreement to any other without the prior written consent of the other party, which consent shall not be unreasonably withheld.
18. All notices to be given under the terms of this Agreement shall be in writing, signed by the person serving the same, and shall be sent to the address of the parties below specified in writing.

City's address for notices shall be:

City of La Crosse  
Director of Information Systems and Technology  
Attn: Jacky Greschner  
400 La Crosse St.  
La Crosse, WI 54601

With a copy to:

City Clerk  
400 La Crosse St  
La Crosse, WI 54601

University address for notices shall be:

University of Wisconsin System Administration  
Office of Learning and Information Technology  
Attn: Mike Schlicht  
780 Regent St  
Madison, WI 53715  
Telephone No: 608-265-3907  
Facsimile No: 608-265-2090

With copy to:

UW Madison Department of Information Technology  
Attn: Director of Network Services  
1210 W. Dayton St  
Madison, WI 53706

19. This Agreement may be amended by mutual written agreement of the Parties.

City of La Crosse

The Board of Regents for University of Wisconsin System

By: Timothy Kabat

By: Rich Lampe

Name: TIMOTHY KABAT, MAYOR

Name: Rich Lampe

Date: 04/14/2015

Date: 3/9/15

Devi Lehrke, City Clerk  
4/16/15

# Exhibit A

