

**Connectivity Services Agreement
With Community Anchor Institution(s)
For Broadband Services
At Co-location Service Site(s)**

This Agreement, entered into by and between:

1. **COUNTY of Anoka** (Anoka County), 2100 Third Avenue North, Anoka, Minnesota 55303; and
2. _____, (Entity), _____, _____, Minnesota, 55_____.

WHEREAS, ZAYO Bandwidth LLC (ZAYO) was recently awarded a grant from the National Telecommunications and Information Administration (NTIA) which is to be combined with matching funds from ZAYO and Anoka County to build a fiber optic network in Anoka County to provide high-speed broadband services to Community Anchor Institutions; and

WHEREAS, Anoka County has recently entered into a Master Fiber Indefeasible Right of Use (IRU) Agreement and a Wholesale Master Service Agreement with ZAYO in order to facilitate the purposes of the grant obtained by ZAYO; and

WHEREAS, Anoka County and ZAYO have identified multiple Community Anchor Institutions to be connected by the Core Backbone and Distribution Network which will comprise the fiber optic network; and

WHEREAS, Anoka County desires to arrange for co-location service sites at various Community Anchor Institutions which have been identified for the purposes of building the fiber-optic network; and

WHEREAS, Connectivity Services will become available to each of the Community Anchor Institutions at the co-location service sites as a result of the fiber-optic network built by Anoka County and ZAYO; and

WHEREAS, the Community Anchor Institutions will have the option of accepting Connectivity Services initially, or allowing the equipment to be installed and reserving the acceptance of Connectivity Services until a later time; and

WHEREAS, Entity is a community anchor institution which owns, leases, controls, rents or administers a designated co-location service site; and

WHEREAS, it is in the interest of Entity to work together with Anoka County to facilitate ~~ZAYO in building the fiber optic network~~ the construction of the ZAYO System

in order to encourage the continued deployment and availability of advanced and reliable telecommunications capabilities in Anoka County and access to such capabilities at affordable rates.

NOW, THEREFORE, the parties hereto agree as follows:

I. DEFINITIONS

~~That the~~The parties agree to the following definitions for terms used in this Agreement:

a) Community Anchor Institutions: quasi-government, government, educational and public safety institutions.

b) Co-location service sites: designated physical sites located in various Community Anchor Institutions located in and around Anoka County. (See Attachment A.)

c) ZAYO System: an integrated multi-cable, multi-ring fiber optic communication system comprised of cables and ducts, lateral connections, and the manholes and handholds located therein, and related equipment required to provide Connectivity Services as provided through the NTIA grant.

d) Connectivity Services: As described in Article V.

e) Underlying Rights: all deeds, IRUs, (exclusive or non-exclusive) easements, ~~rights-of-way agreements,~~ licenses, grants, contracts and other rights, titles and interests to use real property of any third person, which are reasonably necessary for the construction, placement, location, installation, operation, use, IRU, rental, maintenance, repair or replacement by ZAYO or Anoka County, as the case may be, of the ZAYO System, Ducts, County Equipment, Cable or County Dark Fibers. to the co-location sites. (See specific identified rights for this Community Anchor institution in attachment I).

f) IRU: Indefeasible Right of Use.

g) Equipment: electronics, optronics, and other devices as necessary to deliver the Connectivity Services.

h) Permitted use: Connectivity services shall only be used by Community Anchor Institutions for quasi-governmental, governmental, educational or public safety purposes and shall not be used to directly or indirectly compete with ZAYO [in the commercial markets](#).

i) ZAYO Staff: Employees, consultants, and other sub-contractors working under the direction of ZAYO to install and support the ZAYO System.

II. SCOPE OF SERVICES

A. Anoka County will provide, through its contract with ZAYO, Connectivity Services to Entity through the fiber optic network built by ZAYO. Once the fiber optic network is built and the system is installed in the various co-location service sites, Anoka County, through its agreement with ZAYO, its successors and/or assigns, will provide ongoing support for the provision of Connectivity Services to Entity. Only site locations identified with fee amounts on Attachment A will receive Connectivity Services. Any mutually agreed changes to Connectivity Services will require a modification to Attachment A pursuant to section XII.

B. Entity shall provide space for a co-location service site where ZAYO, on behalf of Anoka County, can install equipment to be connected to the ZAYO system in order to build the Fiber Optic network. Entity shall provide Underlying Rights to the co-location site to ~~Anoka County~~ [ZAYO only pursuant to Minnesota Statutes Chapter 237 and local ordinances](#) for the purpose of building the Fiber Optic network to the point of demarcation.

C. Nothing in this agreement affects or limits Entity's cable franchising authority or other authority to manage and regulate ZAYO's use of public rights of way.

III. COSTS AND COMPENSATION

~~A.~~ A. To the extent that Connectivity Services are used by Entity, Entity will pay Anoka County a monthly fee as detailed in Attachment A. Fees reflect the actual costs to provide the Connectivity Services. For entities receiving connectivity services, the initial fee is established at \$75.00 per month per site for 100 mbps and \$400.00 per month per site for 1 gbps. Fees will be periodically reviewed to reflect current costs, but will not be modified without the agreement of both parties. Initially the fees will primarily be used to pay the proportionate share of the county's match to the project. Once the proportionate share of this match is recovered, it is expected the fee amount will decrease if other factors remain constant. Fees will be invoiced starting the month following when Connectivity Services begin. Entity will provide payment within 30 days of receipt of an invoice. Nonpayment shall be grounds for default.

B. Entity shall not charge Anoka County, or ZAYO through Anoka County, for the Underlying Rights in the co-location site used by Anoka County and ZAYO to build the Fiber Optic Network. Additionally, Entity shall not charge rent, access fees, lease payments, or any other fee to Anoka County or ZAYO for the co-location space provided for the installation and housing of Equipment provided for connectivity service for Entity.

IV. PHYSICAL ACCESS TO CO-LOCATION SITE

A. Entity shall provide co-location space at co-location service sites indicated on Attachment A where ZAYO, on behalf of Anoka County, can install Equipment to provide services. Security shall be maintained at the site as indicated in Attachment B. Entity shall provide adequate power and temperature control as may be further detailed on the service order Attachment B. Entity shall provide all Underlying Rights and rights of access necessary for ZAYO to enter the premises and to construct and maintain fiber connections across the co-location service site whether the site is owned, leased, rented or administered by Entity.

B. ZAYO, on behalf of Anoka County, shall provide, install, maintain, repair, operate and control its Equipment, as necessary. Unless specifically provided in Attachment A, there shall be no cost to Entity for the purchase and/ or installation of the ZAYO Equipment. Any ZAYO Equipment shall be maintained and replaced at no expense to Entity until the earlier of August 17, 2017, or this contract is otherwise terminated. Thereafter, if the ZAYO Equipment deteriorates, or no longer supports the provisioning of services, Entity agrees that it shall pay the prorata costs incurred in the replacement of such ZAYO Equipment.

C. ZAYO, through Anoka County, may request permission to place additional ZAYO Equipment at the co-location service site identified in Attachment A to solely service commercial customers. If Entity elects to allow such installation for commercial service at the co-location service site, ZAYO shall pay to Entity \$250 per month for the first device, and \$100 per month for each additional device. No co-location fees will apply if ZAYO Equipment used to provide services to Entity and to Anoka County if such ZAYO Equipment is also used to serve a commercial customer.

D. The ZAYO Equipment shall remain the sole and exclusive property of ZAYO, and nothing contained herein shall give or convey to Entity any right, title or interest whatsoever in the ZAYO Equipment. The ZAYO Equipment shall remain personal property, notwithstanding that it may be or become attached to, or embedded in, realty. The ZAYO Equipment shall not be considered a fixture of that real property. Neither Anoka County nor Entity shall tamper with, remove or conceal any identifying plates, tags, or labels identifying ZAYO's ownership interest in the ZAYO Equipment.

E. Equipment and service beyond the point of demarcation and/or interconnection between ZAYO's facilities and Entity terminal Equipment and the wiring at the point of demarcation shall be the responsibility of the Entity.

F. Entity shall provide access to ZAYO on behalf of Anoka County to provide services for purposes of installation, maintenance and repair of ZAYO Equipment.

ZAYO, on behalf of Anoka County, shall restrict access to the co-location site space to authorized ZAYO staff. ZAYO staff shall abide by any physical security requirements provided to ZAYO in writing. ZAYO shall make reasonable attempts to provide at least two days notice prior to entering the co-location site to install, maintain, or repair any of the ZAYO Equipment. If it is not reasonably possible to provide such notice, or in an emergency, ZAYO shall provide notice as soon as practicable, but in all events prior to entering the co-location site. See Attachments B and D.

G. If Entity provides its own Equipment, Anoka County, or ZAYO on Anoka County's behalf, shall have no obligation to install maintain or repair the Equipment. If, on responding to an Entity initiated service call, Anoka County, ZAYO and Entity jointly determine that the cause of the service delinquency was a failure, malfunction or the inadequacy of Entity's Equipment, Entity shall compensate Anoka County/ZAYO for ZAYO's actual time and materials expended during the service call.

H. Neither party shall adjust, align, attempt to repair, relocate or remove the other party's Equipment, or ZAYO's Equipment, except as expressly authorized in writing by the other party or ZAYO.

I. Prior to any installation of the [SYSTEMZAYO System](#), ZAYO will submit to Entity entrance and construction plans specifying the location, construction and method of installation related to the System. Entity shall respond to the plans with any objections as soon as reasonably possible, but in any event no later than 60 days. Entity shall immediately provide notice to ZAYO of known asbestos or other hazardous substances, pollutants or contaminants as defined by the Comprehensive Environmental Response Compensation and Liability Act (CERCLA), Title 42, U.S. Code, or similar state or federal law.

J. Entity shall provide to Anoka County 24-hour contact information for the purpose of gaining co-location service site access. This information shall be used for both business hour and non-business hour services access. Entity will review and

update the information provided as needed, but at least on an annual basis. See Attachment D.

K. Entity shall not arbitrarily or capriciously require ZAYO to relocate ZAYO Equipment. However, upon ninety (90) days written notice, or, in the event of any emergency, Entity may require ZAYO to relocate co-located ZAYO Equipment; provided, however, the site of relocations shall afford comparable environmental conditions for the ZAYO Equipment and a comparable accessibility to the ZAYO Equipment.

V. CONNECTIVITY SERVICE LEVEL REQUIREMENTS

A. Anoka County, through its agreement with ZAYO, shall provide Connectivity Services to Entity at the capacity level indicated in Attachment A. Any upgrades to service will be dependent on costs of Equipment, fees to ZAYO, capacity limitations of the network, and other relevant factors. Entity recognizes that the network has a total bandwidth of ~~40GB~~10gbps on the core ring and ~~4GB~~1gbps on distribution rings and distribution laterals. This total capacity is shared among other Community Anchor Institutions which are part of this project. Entity agrees to work with Anoka County to manage bandwidth and equitably resolve capacity issues on the network.

B. Dark fibers will be installed at each co-location service site as indicated in Attachment A. These dark fibers will be terminated at the site and are reserved for future use. This agreement neither contemplates nor conveys to Entity present or future rights to the use of the dark fiber. Any future use will be by a separate agreement and at an additional cost.

C. Entity may use the network only to provide service to itself, and agencies and departments of the Entity in keeping with the Permitted Uses of this Agreement.

D. Transport Availability: The transport services being provided will meet or exceed 99.999% network availability for protected optical service, 99.99% for protected TDM based services such as DS3s and DS1s and 99.9% for unprotected services as measured on a monthly basis. If Network Availability is below the percentage above in two out of the three preceding calendar months not due to an Excused Outage, the same shall constitute an event of default hereunder.

E. Ethernet Availability: The Ethernet Services being provided will meet or exceed 99.9% network availability for unprotected service and 99.95% for protected service as measured on a monthly basis. If Network Availability is below 99.9% for unprotected circuits and 99.95% for protected circuits in two out of the three preceding calendar months not due to an Excused Outage, the same shall constitute an event of default hereunder.

F. Mean Time To Repair (MTTR): ZAYO's MTTR will be four hours for protected services and eight hours for unprotected services as measured on a monthly basis for outages of the services provided or any part of the services provided; for example an individual DS3 or group of DS3s. If ZAYO's MTTR for all protected services is greater than four hours in two out of the three preceding months not due to a Force Majeure Event such occurrence shall constitute an Event of Default on the part of ZAYO, on behalf of Anoka County, for the affected circuit.

VI. TERM

This Agreement will be for a period commencing on the date of signing by both parties, and continuing until August 16, 2015 (Initial Term), with up to a total of three (3) renewal periods of additional five (5) years terms (Renewal Terms) upon written amendment. Both parties shall provide written notice of intent to renew this agreement not less than one hundred eighty days (180) before the end of the Initial Term or Renewal Term. For purposes of this agreement, written notices shall be sent to the addresses of each of the Parties as indicated above. Upon the termination or expiration

of this Agreement, Anoka County shall have no further obligation to provide Services and no further liability to Entity. Upon termination or expiration of this agreement, ZAYO shall be provided a reasonable opportunity to retrieve its equipment from the co-location service site(s). At the request of the entity, ZAYO will remove equipment from individual terminated co-location sites within a mutually agreed time not to exceed 180 days. Upon termination of Entity's connectivity service from a co-location site, without terminating this entire agreement, ZAYO, at the request of the entity, shall remove its equipment from said co-location site within a mutually agreed time not to exceed 180 days and any underlying rights for that co-location site shall terminate with the removal without further action or notice by any party. Any underlying rights granted by the Entity under this Agreement shall terminate or expire with the Agreement without need for further action or notice by any party.

VII. INDEMNIFICATION

To the extent permitted by law, each party shall indemnify, defend and hold harmless the other party, its commissioners, council members, school board members, superintendents, directors, officers, employees and agents, successors and assigns, from all damages, costs, expenses and liabilities, including reasonable attorney's fees and disbursements, sustained in any action commenced by any third party in connection with the indemnifying party's performance of its obligations and duties under this Agreement except those damages, costs, expenses, and liabilities arising from the negligence or willful misconduct of the other party. The indemnified party shall promptly notify the other party in writing of any such law suit or claim.

Under no circumstances shall a party be required to pay on behalf of itself and other parties, any amounts in excess of the limits on liability established in Minnesota Statutes, Chapter 466, or any similar statutory limits on tort liability.

VIII. INSURANCE

During the Initial Term, and during each renewal term, each party shall obtain and maintain not less than the insurance set forth in Attachment C.

IX. LIABILITY AND LIMITATIONS OF LIABILITY

A. Entity shall be liable for any loss of or damage to the ZAYO Equipment at the co-location site caused by Entity's negligence, intentional acts, willful misconduct or unauthorized maintenance subject to statutory limits. Entity shall reimburse Anoka County on behalf of ZAYO for the reasonable cost of repair of the ZAYO Equipment, or the replacement thereof, within thirty (30) days after receipt by Entity of a written request for reimbursement.

B. Anoka County shall be liable for any loss of or damage to Entity's equipment caused by Anoka County or ZAYO's negligence, intentional act, willful misconduct or unauthorized maintenance. Anoka County shall reimburse Entity for the reasonable cost of repair of the equipment, or the replacement thereof, within thirty (30) days after a written request for reimbursement and ZAYO has reimbursed Anoka County for the loss or damage pursuant to Anoka County's Agreement with ZAYO. Anoka will make reasonable effort to pursue reimbursement on the Entity's behalf.

C. Anoka County shall not be liable for delays in installation, commencement or restoration of the service; for any temporary or permanent cessation of service; for errors, malfunctions, delays or defects in transmission of the service; for loss or damage occasioned by a Force Majeure Event. Anoka County's liability for any and all causes and claims whether based in contract, warranty, negligence or otherwise shall in no event exceed: 1) an amount equivalent to the proportionate charge by Anoka County to Entity for the period of service affected, or 2) if applicable, the replacement value of any Entity equipment which is lost or damaged as a result of Anoka County's gross negligence or willful misconduct.

D. ANOKA COUNTY NEITHER ASSUMES NOR MAKES ANY WARRANTY, EXPRESS, IMPLIED, STATUTORY OR OTHERWISE AS TO THE DESCRIPTION, QUALITY, MERCHANTABILITY, COMPLETENESS OR FITNESS FOR ANY PARTICULAR PURPOSE OR USE OF THE SERVICE, LOCAL ACCESS OR ANY OTHER MATTER, EXCEPT AS SET FORTH IN THIS AGREEMENT. SUCH WARRANTIES ARE HEREBY EXCLUDED AND DISCLAIMED.

X. FORCE MAJEURE

Neither party individually and Anoka County on behalf of ZAYO shall be liable for any failure of performance hereunder due to causes beyond its reasonable control including, but not limited to acts of God, fire, explosion, vandalism, cable cut, flood, storm, or other similar catastrophe, any law, order, regulation, direction, action or request of the government, or any department, agency, commission, court, or bureau of a government, or any civil or military authority, national emergency, insurrection, riot, war, strike, lockout, or work stoppage (each a "Force Majeure event"). The party claiming relief under this section shall notify the other party of the occurrence or existence of the Force Majeure event and of the termination of such event. In the event Anoka County through ZAYO is unable to deliver services as a result of a Force Majeure event which precludes ZAYO from performing, the other party shall not be obligated to pay for the services so affected for as long as ZAYO is unable to deliver the Services.

XI. COMPLIANCE WITH LAWS

In providing all services pursuant to this Agreement, the parties shall abide by all statutes, ordinances, rules and regulations pertaining to or regulating the provision of such services, including those now in effect and hereafter adopted. Any violation of said statutes, ordinances, rules, or regulations shall constitute a material breach of this Agreement and shall entitle the Parties to terminate this Agreement immediately upon delivery of written notice of termination.

XII. MODIFICATIONS

Any material alterations, modifications, amendments, or variations of the terms of this Agreement shall be valid and enforceable only when they have been reduced to writing as an amendment and signed by the parties.

XIII. DATA PRIVACY

In collecting, storing, using and disseminating data on individuals in the course of providing services hereunder, the parties agree to abide by all pertinent state and federal statutes, rules and regulations covering data privacy, including, but not limited to, the Minnesota Government Data Practices Act and all rules promulgated pursuant thereto by the Commissioner of the Department of Administration.

All data created, collected, received, stored, used, maintained, or disseminated by the parties in performing this Agreement is also subject to the provisions of Minn. Stat. § 13 et. seq. (the Minnesota Government Data Practices Act) and, pursuant to that statute, the parties must comply with the requirements of that statute. All remedies set forth in Minn. Stat. § 13.08 shall also apply to the parties.

XIV. EARLY TERMINATION

This Agreement may be terminated [in entirety](#) by either party at any time, with or without cause, upon One Hundred Eighty (180) days written notice delivered by mail or in person. If notices are delivered by mail, they shall be effective two days after mailing.

[Termination of an Entity's connectivity service, and obligation to pay therefore, may be terminated on sixty \(60\) days written notice, as provided for in this agreement.](#)

XV. DEFAULT AND REMEDY

A. Default by Entity: Entity is in default of the agreement if Entity:

1) is more than 15 days past due in paying for services as agreed in this Agreement, or any invoice pursuant to its terms, excluding those amounts which Entity has notified Anoka County as reasonably being in dispute; or

2) materially fails to observe or perform any non-monetary obligation or covenant hereunder; or

3) files or initiates proceedings or has proceedings filed or initiated against it, seeking liquidation, reorganization or other relief (such as the appointment of a trustee, receiver, liquidator, custodian or such other official) under any bankruptcy, insolvency or similar law; or

4) violates the permitted uses.

In the event of default by Entity, notification of Default shall be sent to the address provided below in Section XVI. Entity shall have five days to cure a monetary breach, or thirty days to cure a non-monetary breach. If the Default remains uncured, Anoka County may suspend services until Entity remedies the Default, terminate or suspend services under this agreement and/or the applicable services being provided under the service order.

If Anoka County terminates this Agreement pursuant to this article of the Agreement, Anoka County shall have the right to seek full payment for amounts due for services rendered prior to the date of termination.

B. Anoka County shall be in default under this Agreement if it:

1) fails to arrange for ZAYO to provide the services in accordance with the Service Order (see Exhibit E) or otherwise fails to cure any breach of the Agreement after receiving written notice of default from Entity; or

2) defaults on its agreement with ZAYO and does not cure said default within five days for a monetary breach or thirty days of a non-monetary breach of that agreement: or

3) fails to notify Entity of default by ZAYO within five days of said Default, or fails to notify Entity that ZAYO has alleged that Anoka County is in Default, within five days of receipt of notification from ZAYO.

Notification of Default by Anoka County shall be sent to the address provided below in Section XVI. Anoka County shall have five days to cure a monetary breach and thirty days to cure an non-monetary breach of the agreement.

If Anoka County is caused to be in default of this agreement by the breach of ZAYO, Anoka County shall notify ZAYO in writing and allow ZAYO thirty days to cure, or such longer period of time as may be reasonably necessary to cure as long as the cure is initiated and diligently pursued within such thirty days or provide notice of a dispute about the existence such default. However, Entity and Anoka County may terminate this agreement upon written notice if ZAYO causes Anoka County to default by not meeting the terms of Article V. CONNECTIVITY SERVICE LEVEL REQUIREMENTS as noted above.

XVI. NOTICES

Notices shall be sent to the parties at the following:

Anoka County:

Information Technology Director
Anoka County Government Center
Information Technology Department
2100 Third Avenue North Ste. 300
Anoka, Minnesota 55303

Entity:

_____, Minnesota 55____

XVII. AFFIRMATIVE ACTION

In accordance with Anoka County's Affirmative Action Policy and the County Commissioners' policies against discrimination, no person shall illegally be excluded from full-time employment rights in, be denied the benefits of, or be otherwise subjected to discrimination in the program which is the subject of this Agreement on the basis of race, creed, color, sex, sexual orientation, marital status, public assistance status, age, disability, or national origin.

XVIII. SURVIVAL OF REPRESENTATIONS AND WARRANTIES.

The representations, warranties, covenants, and agreements of the parties under this Agreement, and the remedies of either party for the breach of such representations, warranties, covenants, and agreement by the other party shall survive the execution and term of this Agreement.

XIX. WAIVER.

The waiver of any of the rights and/or remedies arising under the terms of the Agreement on any one occasion by any party hereto shall not constitute a waiver of any rights or remedies in respect to any subsequent breach or default of the terms of the Agreement. The rights and remedies provided or referred to under the terms of the Agreement are cumulative and not mutually exclusive.

XX. GOVERNING LAW.

This Agreement shall be interpreted and construed according to the laws of the State of Minnesota, excluding the State of Minnesota's choice of law provisions. Jurisdiction and venue shall reside in the County of Anoka, Minnesota.

XXI. SEVERABILITY.

The provisions of this Agreement shall be deemed severable. If any part of this Agreement is rendered void, invalid, or unenforceable, such rendering shall not affect the validity and enforceability of the remainder of this Agreement.

XXII. NO RIGHTS OF THIRD PARTIES.

Except for specific provisions as related to ZAYO acting through the auspices of Anoka County, nothing in this Agreement is intended to confer any rights or remedies on other than the parties to the Agreement

XXIII. ATTACHMENTS AND EXHIBITS.

The following Exhibits are attached to this agreement and are incorporated into this agreement by reference:

Attachment A: Capacity and costs for each co-location service site

Attachment B: Co-location service site requirements

Attachment C: Insurance Requirements

Attachment D: Building Access Contact Information

Attachment E: Service Order Form

Attachment F: Frequently Asked Questions (FAQ)

[Attachment I: Identification of Underlying Rights.](#)

The following Attachments are included for reference in this agreement and are informational exhibits, but do not confer any rights onto the Entity unless also specifically included in this agreement:

Attachment G: Wholesale Master Service Agreement, Anoka County Contract #2010-0239

Attachment H: Master Fiber IRU by and between ZAYO BANDWIDTH, LLC and Anoka County, Minnesota dated August 17, 2010 (this exhibit does not include 20 pages of photographic exhibits which are included in the original, and are available to Entities on request.)

XXIV. AUDIT, DISCLOSURE AND RETENTION OF RECORDS

Both parties agree to make available to duly authorized representatives of the other and of the State of Minnesota, for the purpose of audit examination pursuant to Minn. Stat. § 16C.05, any books, documents, papers, and records of the party that are pertinent to the provision of services hereunder. Both parties further agree to maintain all such required records for six (6) years after receipt of final payment and the closing of all other related matters.

XXV. INDEPENDENT CONTRACTOR

A. Anoka County has entered into a separate contract with ZAYO for the construction of the ZAYO system/fiber optic network. See informational Exhibits G and H. ZAYO remains an independent contractor, however, and neither that agreement nor this one creates a partnership, joint venture or agency relationship between Zayo or the County. Anoka County has no authority to bind ZAYO beyond the obligations and responsibilities of those contracts.

B. It is agreed by the parties that at all times and for all purposes hereunder, the relationship of the County to the Entity is that of an independent contractor and not an employee or agent of the Entity.

C. It is agreed by the parties that at all times and for all purposes hereunder, the relationship of the Entity to the County is that of an independent contractor and not an employee or agent of the County

XXVI. ENTIRE AGREEMENT

It is understood and agreed by the parties that the entire agreements of the parties is contained herein and that this Agreement supersedes all oral agreements and negotiations between the parties relating to the subject matter hereof as well as any previous agreements presently in effect between the Anoka County and Entity relating to the subject matter hereof. The parties hereto revoke any prior oral or written agreement between themselves and hereby agree that this Agreement is the only and complete agreement regarding the subject hereof.

IN WITNESS WHEREOF, the Parties ~~have caused this Agreement to be executed as of the date first written above, notwithstanding the date of the signatures of the parties--~~do hereby authorize the adoption of this agreement and do set their hands.
†

ANOKA COUNTY

_____ **MINNESOTA**

By: _____
Rhonda Sivarajah, Chair
County Board of Commissioners

By: _____

Dated: _____

Dated: _____

ATTEST

ATTEST

By: _____
Terry L. Johnson
County Administrator

By: _____

Dated: _____

Dated: _____

APPROVED AS TO FORM

APPROVED AS TO FORM

By: _____
Kathryn M. Timm
Assistant County Attorney

By: _____

Dated: _____

Dated: _____

Attachments

Attachment A: Capacity and costs for each co-location service site

Attachment B: Co-location service site requirements

Attachment C: Insurance Requirements

Attachment D: Building Access Contact Information

Attachment E: Service Order Form

Attachment F: Frequently Asked Questions (FAQ)

Attachment G: Wholesale Master Service Agreement, Anoka County Contract #2010-0239¹

Attachment H: Master Fiber IRU by and between ZAYO BANDWIDTH, LLC and Anoka County, Minnesota dated August 17, 2010 (this exhibit does not include 20 pages of photographic exhibits which are included in the original, and are available to Entities on request.)

[Attachment I: Identification of Underlying Rights.](#)

¹ *Note Bene*, the MSA has two attachments which will be amended, but have not been so at the time of this writing. The list of 145 co-location sites has been altered since the MSA was signed on August 17, 2010. Once the final sites are approved by the NTIA, this attachment will be amended. Additionally, there is an attachment which details minimum power requirements at the co-locations site of 48 volts DC. The County and Zayo verbally agreed that these requirements will be changed to standard 110 AC. This verbal agreement has not been reduced to writing as of the date of this writing, but is expected shortly.

ATTACHMENT A

Capacity and Costs for Co-location Sites

1. Entity Name: _____ **MINNESOTA**

2. Entity Contact Information:

Principal Contact:

Name: _____
Position: _____
Office Phone: _____ () _____
Cell Phone: _____ () _____
Home Phone: _____ () _____
Pager: _____ () _____
Email: _____

Secondary Contact:

Name: _____
Position: _____
Office Phone: _____ () _____
Cell Phone: _____ () _____
Home Phone: _____ () _____
Pager: _____ () _____
Email: _____

Billing Contact:

Name: _____
Position: _____
Office Phone: _____ () _____
Cell Phone: _____ () _____
Home Phone: _____ () _____
Pager: _____ () _____
Email: _____

3. Following are the site locations included for equipment co-location:

Site #	Location	Address	City	Service Capacity	Monthly Costs
--------	----------	---------	------	------------------	---------------

Attachment B

Co-Location Service Site requirements

A. Security Requirements.

Entity shall provide best practices physical security to the co-location service site in the form of traditional lock service, key card, numeric access code, or electronic security system equal to that which Entity provides for its own assets. Keys, key cards, numeric access codes and the electronic security systems shall be maintained according to industry standards. Entity shall take all reasonable precautions to ensure the integrity of the security of the co-location service site. Anoka County shall make reasonable efforts to ensure that its employees and agents, including ZAYO, follow all written instructions at the co-location site as provided by the Entity.

B. Temperature and Environmental Control Requirements.

Space provided to ZAYO for the housing of the ZAYO system and equipment in the co-location service site shall meet industry standards for temperature controls, humidity, lighting, and protection from power surges and outages. Entity shall ensure that the co-location service site temperature remains in a constant range between 68°F and 83°F, and humidity remains in a constant range of 40%--60%. Entity shall use best efforts to implement a protection plan ensuring that the ZAYO System remains functional in the event of a power outage or similar emergency.

C. Environmental Space Requirements.

Entity shall provide sufficient cubic space for the installation of the ZAYO system and equipment in a secure area. ZAYO shall provide the space specifications for each co-location service site directly to Entity. Entity shall ensure that the space provided to ZAYO for the installation of the ZAYO System and equipment will also include sufficient space for ZAYO to access the equipment for repairs, maintenance and upgrades. The space will be convenient to the demarcation point, and will include any necessary space to install cable, conduit, fiber, and or circuitry from the demarcation point to the equipment.

Attachment C Insurance Requirements

Insurance Limits. During the Term, each party shall obtain and maintain not less than the insurance set forth below:

Worker's Compensation:

Statutory limits.

Automobile Liability Insurance:

Such policy coverage will include coverage for all vehicles owned, hired, non-hired, non-owned and borrowed by the party in the performance of the obligations covered under this agreement: Combined single limit: \$1,000,000.00

Commercial General Liability and /or Umbrella Liability:

All liability insurance must meet the requirements of Minn. Stat § 466.04 subdivision 1 (a) (3) or \$500,000.00, minimum liability for claims of death by wrongful act or omission and \$500,000.00 to any claimant in any other case, whichever is greater.

All liability insurance must meet the requirements of Minn. Stat. § 466.04 Subdivision 1 (a) (7) or \$1,-500,000.00 minimum liability for any number of claims arising out of a single occurrence, whichever is greater.

All umbrella insurance must meet the requirements of Minn. Stat. §466.04 Subd. 1(a) (8). Umbrella insurance coverage must be on a "follow-form" basis.

~~The above minimum requirements as to insurance coverage shall not limit the liability of either party under this agreement.~~ The above limits may be satisfied using a combination of primary and excess coverage, self insurance as provided by Minn. Stat. § 471.981.

Each Party shall obtain and maintain the insurance policies required above with insurance and /or reinsurance companies authorized to insure risks in Minnesota. With the exception of Worker's Compensation, each party, its Affiliates, and their officers, directors and employees and any other person entitled to indemnification hereunder, shall be named as additional insured to the extent of such indemnification. Each Party shall provide the other party with a certificate of insurance showing that the party has complied with the insurance requirements of this Attachment. Each insurance policy shall contain a provision providing such other party with thirty days advanced notice of

any cancellation or material change in coverage at which time such party will notify the other party immediately of such cancellation or material change in coverage.

Deductible/ Self Insured Retentions: All proof of insurance shall clearly set forth deductible or self insured retentions. Each Party shall be responsible for its deductible and/or self insured retentions.

ATTACHMENT D
Building Access Contact Information

Entity shall provide 24 hour, seven day a week access to ZAYO for the ZAYO System equipment housed in the Co-location service site for the purposes of maintenance, service, upgrade and repairs of the equipment and system. Such access will include the name and contact information of co-location site key-holder for business and non-business hour access. All access shall comply with written instructions provided to ZAYO and County (see section IV.F).

Please provide contacts below.

Business Hour Contact(s) – List contacts in the order you would like them to be called. Provide a ***minimum of 2*** contacts (you may provide as many as you would like).

Contact #1

Name: _____
Position: _____
Office Phone: _____ () _____
Cell Phone: _____ () _____
Home Phone: _____ () _____
Pager: _____ () _____
Email: _____

Contact #2

Name: _____
Position: _____
Office Phone: _____ () _____
Cell Phone: _____ () _____
Home Phone: _____ () _____
Pager: _____ () _____
Email: _____

Contact #3

Name: _____
Position: _____
Office Phone: _____ () _____
Cell Phone: _____ () _____
Home Phone: _____ () _____
Pager: _____ () _____
Email: _____

Non-Business Hour Contact(s) – List contacts in the order you would like them to be called. These contacts should have keys for building access to the co-location equipment area and be available after hours. Select people you would like called in case of such emergencies as equipment failures, fiber hits, storm damage, emergency locates, etc. Provide a ***minimum of 2*** contacts (you may provide as many as you would like).

Contact #1

Name: _____
Position: _____
Office Phone: _____
Cell Phone: _____
Home Phone: _____
Pager: _____
Email: _____

Contact #2

Name: _____
Position: _____
Office Phone: _____
Cell Phone: _____
Home Phone: _____
Pager: _____
Email: _____

Contact #3

Name: _____
Position: _____
Office Phone: _____
Cell Phone: _____
Home Phone: _____
Pager: _____
Email: _____

Updates may be submitted to Anoka County IS at address provided in the Notices Section.

Attachment I
Identification of Underlying Rights
For Co-location sites

1. Entity: _____

Co-Location Site #1: _____

Type of Underlying Right given: _____

Co-Location Site #2: _____

Type of Underlying Right given: _____

Co-Location Site #3: _____

Type of Underlying Right given: _____

Co-Location Site #4: _____

Type of Underlying Right given: _____

Co-Location Site #5: _____

Type of Underlying Right given: _____

Co-Location Site #6: _____

Type of Underlying Right given: _____

Co-Location Site #7: _____

Type of Underlying Right given: _____

Formatted: Space After: 10 pt, Line spacing: Multiple 1.15 li

