

AGREEMENT

AGREEMENT (the "Agreement") made and entered into as of April _____, 2023 by and between the Woodbury County Law Enforcement Center Authority ("LEC") and FiberComm, L.C. ("FiberComm").

Background

A. The LEC has installed one (1) 2" HDPE duct (underground conduit) from 28th St. running north/south along the east side of the entrance road to the Law Enforcement Center. See Exhibit B.

B. FiberComm, in exchange of services with Woodbury County, operates four (4) Fiber optics strands in the 28th St. vault at the entrance of the LEC.

C. The LEC owns and utilizes a 24 count Fiber cable from 28th vault into the Woodbury County Law Enforcement Center at 3701 28th St., Sioux City, IA.

D. The parties have agreed that FiberComm will provide locating and repair services for the underground facilities from the 28th St. vault and into the Woodbury County Law Enforcement Center at 3701 28th St., Sioux City, IA. See Exhibit B.

Terms

NOW, THEREFORE, the parties agree as follows:

1. Obligations of the LEC.

(a) The LEC will own the existing LEC Conduit described in Background Paragraph A. and Fiber Optic cable described in Background Paragraph C.

2. Grant of Rights to FiberComm. The LEC grants FiberComm the unconditional use, right, and license to operate and maintain four (4) fiber strands within the 24 count Fiber cable between the 28th St. vault and the Woodbury County Law Enforcement Center's Demarcation/Data room.

3. Obligations of the LEC. The LEC grants FiberComm the right and license to operate and maintain up to four (4) Fiber strands within the 24 count Fiber cable between the 28th St. vault and the Woodbury County Law Enforcement Center's Demarcation/Data room.

4. Obligations of FiberComm.

(a) FiberComm will provide Iowa One Call locating, maintenance of conduit, three (3) vaults, and fiber between the 28th St. vault and the Woodbury County Law Enforcement Center's Demarcation/Data room. See Exhibit B.

(b) FiberComm will provide LEC 24 x 7 On Call service and phone number for the exclusive purpose to notify FiberComm of maintenance and repair issues. FiberComm will respond to all such calls within two hours. In the event FiberComm's ability to respond is inhibited as a result of storms, flooding, fire, tornadoes, earthquakes, or similar phenomenon, FiberComm will make every reason effort to respond as soon as possible. Once FiberComm has responded, assessed the situation, and has determined that repairs are required, FiberComm will take the appropriate steps to initiate repairs by either contacting a qualified contractor or perform the necessary repairs itself. In addition, FiberComm will notify the LEC of the situation, its plan to repair, and estimated time to repair.

(c) Repair costs, unless damage caused by FiberComm, shall be charged to LEC on a time and materials basis and must be approved by LEC prior to FiberComm performing the repairs. For all repairs, FiberComm will provide a detailed invoice with explanation of damages and repairs. If repair costs are due to the actions of a 3rd party, FiberComm will cooperate with LEC's collection of the repair costs from the 3rd party. The cooperation from FiberComm, shall include, upon request, reasonable assistance with County and its attorneys in the prosecution or defense of any investigation, litigation, arbitration or administrative proceeding, including participation in interviews with the County's staff and attorneys, appearing for depositions, testifying in administrative, judicial or arbitration proceedings, or any other reasonable participation necessary for the prosecution or defense of any such investigation, litigation, arbitration or administrative proceeding.

In the event the conduit must be relocated for a public improvement FiberComm will provide relocation design, provide estimate of costs, and oversee the relocation. Cost to relocate will be charged to the LEC. FiberComm shall not perform work on a relocation without prior approval by LEC.

(d) FiberComm agrees to require all general contractors who may perform any work for FiberComm under the terms of this agreement to post a payment bond with a surety by a company licensed to do business in the State of Iowa guaranteeing payment of all subcontractors and suppliers of the general contractor. In the event that FiberComm does not comply with this paragraph, it shall become a personal guarantor of the general contractor's obligations. This requirement is specifically provided for the benefit of third parties.

(e) In no event shall FiberComm be liable to the LEC for any interruptions to service or interference with the operations of the LEC's services or business. In no event shall the LEC be liable to FiberComm for any interruptions to service or interference with the operations of FiberComm's services or business.

5. Term. This Agreement shall be for an initial term of 10 years. After the initial term, this Agreement shall automatically renew for additional five year periods unless one of the Parties shall, within the first half of the final year of the Agreement, give written notice to the Party of the Agreement, which they wish to renegotiate certain terms of this Agreement or will no longer participate or be part of this Agreement.

6. Indemnification. The LEC shall defend at its own expense, indemnify and hold harmless FiberComm from all claims and liability due to activities of persons employed by or representing the LEC. FiberComm agrees that it shall defend at its own expense, in the name and on behalf of the LEC, and shall indemnify and save harmless the LEC from any and all claims, suits, losses, damages, costs or expenses, to the extent caused or contributed to by the negligence of FiberComm or its contractor(s), on account of injury or damage to any person or property, caused or occasioned or allegedly caused or occasioned, in whole or in part, by reason of or arising out of the construction, excavation, operation or maintenance of the ducts and fiber permitted by this agreement.

7. Miscellaneous.

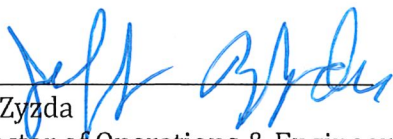
(a) This Agreement, and any related written agreement that expressly references this Agreement, constitutes the entire agreement of the parties with respect to the conduits, ducts, fiber and services, and the parties' rights and obligations with respect thereto and supersedes and cancels all prior discussions, arrangements, or agreements, written and oral, with respect to those subjects.

IN WITNESS WHEREOF the parties have executed this Agreement as of the date first above written.

**WOODBURY COUNTY LAW ENFORCEMENT
AUTHORITY**

By 
NAME
LEC Authority Chairman

FIBERCOMM, L.C.

By 
Jeff Zynda
Director of Operations & Engineering