

## FIBER OPTIC MAINTENANCE AGREEMENT

This Agreement is entered into this 1<sup>st</sup> day of January, 2016, by and between Winnebago County (hereinafter referred to as "WC") and Winnefox Library System-Winnebago County (hereinafter referred to as "WLS").

WHEREAS, WC has agreed to allow the above named municipal entity to collocate fiber optic cable upon routes owned or leased by WC; and

WHEREAS, the parties recognize a need to enter into the following agreement so as to document the respective responsibilities of each party in relationship to the maintenance of the collocated fiber optic cable;

NOW, THEREFORE, it is hereby agreed by and between WC and WLS as follows:

1. Fiber routes which are jointly occupied by WC and WLS as known at the time of the execution of this agreement, are as indicated in Exhibit 1 attached to this agreement, and made part thereof by reference. Said Exhibit may be amended from time to time upon the written agreement of the administrators or their successors to this agreement, which are as indicated in the signature section below, to reflect additions, modifications, or deletions.
2. Should a utility pole owner charge WC a pole attachment rental fee along a joint route, a portion of that fee shall be billed to WLS on an annual basis. The rental fee shall be divided equally among any other municipal entities utilizing that pole. Invoices shall be paid within 30 days of the date of the invoice. Failure to pay invoices in a timely manner may result in additional fees.
3. Maintenance costs.
  - a. Individually owned fiber strands: Each party shall be solely responsible for any damage to strands of which they own, with the exception of joint pole attachment rental fees, and the maintenance of strands along joint routes.
  - b. Jointly owned fiber strands: The cost of joint fiber strand maintenance shall be split proportionately between the municipal entities affected as is indicated in Exhibit 1. Maintenance of joint fiber strands shall include, but not be limited to, preventative maintenance, repair, outside construction, storm damage, and any other factor that affects the operability, functionality, or reliability.
  - c. Costs may include, but shall not be limited to, actual construction and installation fees, testing, repair, and insurance.
4. The parties agree to coordinate maintenance and repair plans whenever feasible; however, WC will initiate work wherever County fiber facilities exist. This process will ensure a currently contracted vendor can complete the work and already be setup for payment; also, multiple vendors will not be requested to do the same job. In the case of an emergency, each party shall notify the other party as soon as possible.
5. This agreement shall be in effect until such time as one party provides written notice to the other party of their intent to terminate. This agreement may not be terminated less than one year from the date of said notice unless otherwise agreed upon in writing between the parties.
6. Each party agrees to hold the other party harmless from any consequential damages as a result of the failure of the fiber optic cable, which is the subject of this agreement, to operate properly. Each party agrees to, at all times during the term of this agreement, indemnify, save harmless and defend each party, its boards, commissions, agencies, officers, employees and representatives against any and all liability, losses, damages, costs or expenses, whether personal injury or property damage, that any party, its officers, employees, agencies, boards, commissions and representatives may sustain, incur or be required to pay by reason of any party furnishing the services or goods required to be provided under this agreement, provided, however, that the

provisions of this section shall not apply to liabilities, losses, charges, costs, or expenses caused by or resulting from the acts or omissions of any party, its agencies, boards, commissions, officers, employees or representatives.

7. Along shared routes which are registered to Winnebago County, if either WC or the utility pole owner deems, within its discretion, that the manner in which cable is attached does not meet WC or utility engineering requirements, the violating owner shall be required to come into compliance with any engineering recommendations. The costs of doing so shall be borne solely by the party creating the violation.
8. The parties to this agreement will use their best efforts and good faith to resolve any disputes that may arise during the term of this agreement. In the event that the parties are ultimately unable to resolve such disputes, the venue for any civil actions shall be the Circuit Courts of Winnebago County.
9. Parties agree that duties and costs related to Digger's Hotline registration, and associated locates, along these shared fiber facilities, shall be assigned as follows: within WC north to Bell St (Neenah) WC will be responsible; from Bell St (Neenah) north to Nicolet Blvd (Neenah) City of Neenah will be responsible; and from Nicolet Blvd (Neenah) north, Menasha Utilities will be responsible.
10. This document contains the full agreement of the parties and shall not be amended except in the same manner as this instrument. The persons signing this agreement represent that each person has full authority to consent to this document and bind his/her respective municipality to these terms.

IN WITNESS WHEREOF, this agreement has been executed by an authorized agent of signing party with said agent having full right and authority to enter into this agreement.

Winnebago County

Agreement Administrator: Patricia Francour

(Print name)



Endorsement: \_\_\_\_\_

Title: IS Director

Date: 10-29-15

Municipal entity

Agreement Administrator: \_\_\_\_\_

(Print name)

Endorsement: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

County Executive: Mark L Harris

(Print name)

Endorsement: \_\_\_\_\_

Date: \_\_\_\_\_

County Clerk: Susan T Ertmer

(Print name)

Endorsement: \_\_\_\_\_

Date: \_\_\_\_\_