



State of Minnesota

Joint Powers Agreement

SWIFT Contract Number: _____

This Agreement is between the State of Minnesota, acting through the Minnesota Department of Information Technology Services (“State”) and Dakota County (“Dakota County”). State and Dakota County will be referred to in this Agreement as the “Parties” collectively. The Parties are governmental units in the State of Minnesota.

Recitals

Under Minnesota Statutes § 471.59, subd. 10, the State is empowered to engage such assistance as deemed necessary. The Parties have engaged in Joint Powers Agreements for over 20 years to maintain the Parties dual interest in dark fiber in Dakota County. Parties wish to continue this arrangement and partner in the use of dark fiber to provide networking connectivity within Dakota County. The Parties further wish to terminate their existing joint powers agreements relating to the use of dark fiber owned by Dakota County and replace the existing agreements with this Agreement. The Parties wish to memorialize this arrangement as follows:

Agreement

1. Term of Agreement; Termination of Prior Agreements

- 1.1 Effective Date: July 1, 2026, or the date the State obtains all required signatures under Minn. Stat. § 16C.05, subd. 2, whichever is later.
- 1.2 Expiration Date: June 30, 2046, unless earlier terminated as provided in this Agreement.
- 1.3 Upon execution of this Agreement by both Parties, the Parties’ prior agreements relating to the use of dark fiber owned by Dakota County shall be terminated as between the Parties, without regard to any notice provision contained in those agreements. It is the Parties’ intent that this Agreement replace all prior agreements between the State and Dakota County for the use of County-owned dark fiber. Such terminations, as between the State and Dakota County, shall not affect the rights and obligations the Parties may have relating to third parties, if any, under the prior agreements.

2. Agreement between the Parties

2.1 License for Use of Dakota County Fiber.

- 2.1.1 In consideration of the promises by Parties in this Agreement, Dakota County grants a license to the State for the use of 12 strands in all Dakota County-owned fiber segments with a fiber capacity of at least 288 strands. For any Dakota County-owned fiber segment with a capacity of 287 or fewer strands, Dakota County grants the State a license for the use of a number of strands to be determined in Dakota County's reasonable discretion. Collectively, the fiber strands licensed to the State under this Agreement are referred to as the "Licensed Fiber Strands."
- 2.1.2 The Licensed Fiber Strand locations existing at the time of execution of this Agreement are generally depicted on Exhibit A. For the avoidance of doubt, however, the Licensed Fiber Strands include both existing and future fiber segments that may be installed by Dakota County during the term of this Agreement. The identification and location of the specific strands licensed to the State under this Agreement shall be maintained by the Dakota County Information Technology Department.
- 2.1.3 During the term of this Agreement, the State may, from time to time, request that Dakota County provide additional fiber strands in one or more Dakota County-owned fiber segments.
- 2.1.4 Dakota County will not impose a fee for the State's use of the Licensed Fiber Strands during the term of this Agreement.
- 2.1.5 The State shall be entitled to use the Licensed Fiber Strands for any lawful government purposes subject to (i) agreeing to be bound by all laws, regulations, and any requirements of the access to rights of way, and (ii) otherwise complying with the terms and conditions of this Agreement.
- 2.1.6 The Licensed Fiber Strands are provided to the State "as is." If any new equipment, facilities or fiber splices are needed to interconnect the Licensed Fiber Strands to the State's network, the State shall be responsible for coordinating this work with Dakota County and shall pay all costs and fees associated with connecting the Licensed Fiber Strands to other fibers not owned by Dakota County. The State will retain ownership of all State-built laterals and other equipment and facilities installed by the State to connect to the Licensed Fiber Strands.
- 2.1.7 Dakota County shall be responsible for maintenance, repairs and locates relating to Dakota County-owned fiber segments at no cost to the State. Maintenance and repairs shall be completed according to a schedule reasonably determined by the County.
- 2.1.8 Dakota County shall provide rack space and power reasonably necessary for State equipment at the following locations:
 - (a) Hastings Administration Center, 1590 Highway 55, Hastings, MN 55033
 - (b) Northern Service Center, 1 Mendota Road W., West St. Paul, MN 55118
 - (c) Western Service Center, 14955 Galaxie Ave., Apple Valley, MN 55124

2.2 State Provision of Internet Connectivity.

- 2.2.1 In consideration of the promises by Parties in this Agreement, the State shall provide a minimum of 10 GB of State intranet and internet connectivity bandwidth to Dakota County and Dakota County Libraries with the option to connect at two different Intranet and Internet peering points in Dakota County.
- 2.2.2 During the term of this Agreement, Dakota County may, from time to time, request that the State provide additional Intranet and Internet bandwidth (i.e., greater than 10GB) to one or more of the different Intranet and Internet peering points in Dakota County.
- 2.2.3 The State will not impose a fee for the provision of Intranet and internet connectivity to Dakota County during the term of this Agreement.
- 2.2.4 The State shall be responsible for intranet and internet connectivity maintenance at no cost to Dakota County. Maintenance and repairs shall be completed according to a schedule reasonably determined by the State.
- 2.2.5 Retain ownership of all State built laterals that connect to the Dakota County infrastructure. State is responsible for any and all fees associated with the lateral splicing, maintenance, and repairs required to connect the strands allocated to the State.

2.3 Cooperation.

- 2.3.1 The Parties will collaborate as necessary while troubleshooting outages and other network incidents and will coordinate maintenance and repair work as needed.
- 2.3.2 The Parties will confer as necessary and when reasonably requested by a Party to review the Parties' respective obligations under this Agreement.

3. **Payment**

- 3.1 There will be no funds exchanged between the Parties. The consideration for this agreement is the mutual benefit shared between the Parties as outlined in clause 2 above.

4. **Authorized Representatives**

The State's Authorized Representative is Adam Van Syke, 600 Robert St. N, St. Paul, MN 55146, 651-201-1233, or his/her successor.

The Dakota County's Authorized Representative is Tony Gomes, Director of IT, or his/her successor.

5. **Assignment, Amendments, Waiver, and Contract Complete.**

- 5.1 Assignment. Neither Party may assign or transfer any rights or obligations under this Agreement without the prior consent of the other Party and a fully executed assignment agreement, executed and approved by the authorized parties or their successors.
- 5.2 Amendments. Any amendment to this Agreement must be in writing and will not be effective until it has been executed and approved by the authorized parties or their successors.

5.3 Waiver. If either Party fails to enforce any provision of this Agreement, that failure does not waive the provision or its right to enforce it.

5.4 Contract Complete. This Agreement contains all negotiations and agreements between the State and Dakota County. No other understanding regarding this Agreement, whether written or oral, may be used to bind either party.

6. Indemnification.

6.1 Each Party to this Agreement shall be liable for its own acts or omissions and those of its own employees and the results thereof to the extent authorized by law and shall not be responsible for the acts of the other Party, its agents or employees.

6.2 It is understood and agreed that liability and damages arising from the Parties' acts and omissions are governed by the provisions of the municipal Tort Claims Act, Minn. Stat. Ch. 466, the Minnesota Tort Claims Act, Minn. Stat. §3.736, as applicable, and other applicable laws. Each Party warrants that it is able to comply with the aforementioned liability and insurance requirements through an insurance or self-insurance program and that each has minimum coverage consistent with the liability limits contained in Minn. Stat. Ch. 466 or Minn. Stat. §3.736, as applicable.

6.3 This agreement shall not be construed as and does not constitute a waiver by any Party of any conditions, exclusions or limitations on the Party's liability provided by Minnesota Statutes, Chapter 466, Minnesota Statutes § 3.736 or other applicable law. This clause will not be construed to bar any legal remedies that each party may have for another's failure to fulfill its obligations under this Agreement.

7. State Audits.

7.1 To the extent applicable as to any disbursement of public funds between the Parties for services provided under this Agreement, the Parties shall maintain complete and accurate records with respect to costs incurred and services performed under this Agreement for a period of at least six (6) years after the termination of this Agreement.

7.2 Under Minn. Stat. § 16C.05, subd. 5, the Dakota County books, records, documents, and accounting procedures and practices relevant to this Agreement are subject to examination by the State, the State Auditor, or Legislative Auditor, as appropriate, for a minimum of six years from the expiration or termination of this Agreement.

8. Government Data Practices.

The Dakota County and State must comply with the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13, (or, if the State contracting party is part of the Judicial Branch, with the Rules of Public Access to Records of the Judicial Branch promulgated by the Minnesota Supreme Court as the same may be amended from time to time) as it applies to all data provided by the State under this Agreement, and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the Dakota County under this Contract. The civil remedies of Minn. Stat. § 13.08 apply to the release of the data governed by the Minnesota Government Practices Act, Minn. Stat. Ch. 13, by either the Dakota County or the State.

If the Dakota County receives a request to release State data pursuant to this clause, Dakota County must promptly notify and consult with the State's Authorized Representative as to the release of any State data. The Dakota County's response to the request shall comply with applicable law.

9. Venue

Venue for all legal proceedings out of this Agreement, or its breach, must be in the appropriate state or federal court with competent jurisdiction.

10. Termination

10.1 Termination. The State or Dakota County may terminate this agreement at any time, with or without cause, upon 365 days' written notice to the other Party.

10.2 Termination for Insufficient Funding.

10.2.1 The State may immediately terminate this Agreement if it does not obtain funding from the Minnesota Legislature, or other funding source; or if funding cannot be continued at a level sufficient to allow for the payment of the services covered here. Termination must be by written notice to Dakota County. The State is not obligated to pay for any services that are provided after notice and effective date of termination. However, Dakota County will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed to the extent that funds are available. The State will not be assessed any penalty if the agreement is terminated because of the decision of the Minnesota Legislature, or other funding source, not to appropriate funds. The State must provide Dakota County notice of the lack of funding within a reasonable time of the State's receiving that notice.

10.2.2 Dakota County may immediately terminate this Agreement in the event the County determines that it does not have sufficient funding to maintain ownership or operation of all or any portion of the Dakota County-owned fiber segments. In the event Dakota County terminates its ownership of only a portion of the County-owned fiber segments, the County may terminate this Agreement only as to the segments no longer owned by the County and the Parties shall confer to determine whether amendments to this Agreement are necessary in connection with the remaining fiber segments. Dakota County is not subject to any penalty or damages for termination due to lack of funding. Dakota County shall provide the State with notice of the lack of funding in writing within a reasonable time after such determination of lack of available funding.

11. **No Joint Venture.** It is agreed that nothing in this Agreement is intended or should be construed as creating the relationship of agents, partners, joint ventures, or associates between the Parties or as constituting the State or Dakota County as the employee of the other entity for any purpose or in any manner whatsoever.

12. **Notices.** Any notices required or permitted to be given under this Agreement shall be delivered personally or sent by U.S. mail to the other Party's Authorized Representative. Mailed notice shall be deemed complete two business days after the date of mailing.

13 **Survival.** The provisions of this Agreement which, by their terms, impose obligations that are continuing in nature and which must survive in order to give effect to their meaning will survive the expiration or termination of this Agreement.

1. State Encumbrance Verification

Individual certifies that funds have been encumbered as required by Minn. Stat. §§ 16A.15 and 16C.05

Print Name: _____

Signature: _____

Title: _____ Date: _____

SWIFT Contract No. _____

2. Dakota County

Print Name: _____

Signature: _____

Title: _____ Date: _____

3. State Agency

With delegated authority

Print Name: _____

Signature: _____

Title: _____ Date: _____

4. Commissioner of Administration

As delegated to The Office of State Procurement

Print Name: _____

Signature: _____

Title: _____ Date: _____

Admin ID: _____

EXHIBIT A

Dakota County Owned Fiber/Broadband

