

**BOARD OF COUNTY COMMISSIONERS
SARPY COUNTY, NEBRASKA**

**RESOLUTION AUTHORIZING THE CHAIRMAN TO SIGN AMENDMENT TO THE AGREEMENT
WITH UNITE PRIVATE NETWORKS FOR THE PROVISION OF DARK FIBER SERVICES**

WHEREAS, pursuant to Neb. Rev. Stat. § 23-104 (Reissue 2012), the County has the power to do all acts in relation to the concerns of the County necessary to the exercise of its corporate powers;

WHEREAS, pursuant to Neb. Rev. Stat. § 23-103 (Reissue 2012), the powers of the County as a body are exercised by the County Board;

WHEREAS, Sarpy County has entered into an agreement with Unite Private Networks ("Unite") for the provision of dark fiber services, see Resolution 2013-118; and

WHEREAS, the agreement with Unite contemplates the cities of Papillion and LaVista entering into agreements with Unite for provision of dark fiber services, which has now been done; and

WHEREAS, pursuant to the county agreement with Unite, once the cities sign their agreements the Monthly Recurring Charge for services is reduced by \$100.00 per site; and

WHEREAS, an amendment to the agreement with the county (amendment) has been proposed by Unite, a copy of which is attached, to reflect the lower monthly recurring charge by \$100.00 per site and to remove surplus language; and

WHEREAS, the amendment reducing the monthly charge and removing surplus language is in the best interest of the citizens of Sarpy County.

NOW, THEREFORE, BE IT RESOLVED By the Sarpy County Board of Commissioners that the Chairman is hereby authorized to sign the amendment to the agreement with Unite Private Networks reducing the monthly recurring charge and removing surplus language, a copy of which is attached, and any other related documents, the same being approved and adopted by the Board.

The above Resolution was approved by a vote of the Sarpy County Board of Commissioners at a public meeting duly held in accordance with applicable law on the 10th day of September, 2013.

Attest:

SEAL





Sarpy County Board Chairman



County Clerk

Sarpy County Purchasing Department

SARPY COUNTY COURTHOUSE
1210 GOLDEN GATE DRIVE
PAPILLION, NE 68046



Brian Hanson, Purchasing Agent
(402) 593-2349
Debby Peoples, Asst. Purchasing Agent
(402) 593-4164
Beth Garber, Senior Buyer/Contract Administrator
(402) 593-4476
Lois Spethman, Supply Clerk/Purchaser
(402) 593-2102

Memo

To: Sarpy County Board of Commissioners

From: Beth Garber

Re: Amendment to Agreement for Dark Fiber Services

On April 30, 2013 the County Board approved an agreement with Unite Private Networks to provide lit and dark fiber services. As part of the agreement with Unite once Papillion and Lavista signed their agreements the monthly recurring charge for services would be reduced by \$100 per site. The attached amendment, as proposed by Unite, reflects this \$100 per site reduction. The total monthly recurring charge will be \$1,950 or \$650 per site once the amendment is fully executed.

This has been placed on the September 10, 2013 Board agenda. Please feel free to contact me with any questions.

August 28, 2013

Beth Garber

Cc: Deb Houghtaling
Mark Wayne
Scott Bovick
Brian Hanson
Mark Walters



950 West 92 Highway, Ste 203
Kearney, Missouri 64060
Cell: 913-957-8203
Fax: 816-903-9401
E-mail: matthew.vanhoesen@upnllc.com

Matthew Van Hoesen
General Counsel

Amendment

August 20, 2013

Sarpy County
Attn: Beth Garber
1210 Golden Gate Drive
Papillion, NE 68046

Dear Ms. Garber:

This is an amendment to the Service Order for Dark Services (SF 13-4677), executed on May 6, 2013, ("Agreement") by and between Sarpy County ("Customer") with principal offices located at 1210 Golden Gate Drive, Papillion, NE 68046, and Unite Private Networks, LLC ("UPN") with principal offices at 950 West 92 Highway, Suite 203, Kearney, MO 64060.

The parties agree to amend the original agreement as follows:

- The following language shall be deleted in its entirety from the Non-Recurring Charge section:

Once Papillion & La Vista sign agreements, the non-recurring fee will be reduced by \$100 per site. Which would be from \$750 a month to \$650 a month.

- The Monthly Recurring Charge section shall be amended to state:

Monthly Recurring Charge shall be \$1,950 (\$650/site) effective upon the full execution of this Amendment. Pursuant to the Agreement, this reduction is in consideration for the execution of the Service Order for Dark Services (SF 13-4453), fully executed on June 21, 2013 between UPN and the City of Papillion and the Service Order for Dark Services (SF 13-4336), fully executed on June 25, 2013 between UPN and the City of La Vista.

By signing, the undersigned hereby warrants:

- that they are authorized agents of Unite Private Networks and Sarpy County respectively;
- that they have the authority to enter into this Amendment on behalf of the parties to the original Agreement and;
- that they bind the parties to this Amendment and to the terms contained in this Amendment.

We both agree that this contains the entire Amendment between Unite Private Networks, LLC and Sarpy County about the matters covered in this document. This Amendment shall be binding upon and inure to the benefit of successors and assigns of this Amendment.

We make this Amendment under the laws of the State of Nebraska. We both agree to adhere to fair business practices and to comply with all federal, state, and local laws and regulations. If any portion of this Amendment shall be held invalid or unlawful for any reason, the invalid portion shall not effect or impair the validity of the remaining portions of the original Agreement.

IN WITNESS WHEREOF, this Agreement has been executed by a duly authorized representative of each Party as of the day and year first above written.

For Sarpy County:

For Unite Private Networks, LLC:

Jim Warren 9-10-13

Matthew Van Hoesen

Jim Warren
Print Name

Matthew Van Hoesen
Print Name

Chairman
Title

CFO and General Counsel
Title