



City Attorney's Office

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Ames, IA 50010
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October 22, 2010

The Honorable Ann Campbell, Mayor,
And Members of the City Council
Of the City of Ames, Iowa

Re: Memorandum of Agreement for Use of Story County Fiber Optic Line

Dear Mayor Campbell and Council Members:

Story County is making arrangements to provide the Ames City Assessor with access to real property valuation information via high speed data connection between the Story County Administration Building and the Ames City Hall. While the Ames City Assessor and Story County are providing all of the equipment and labor needed to make the connection, the project can only be completed if the City of Ames authorizes the connection at City Hall.

The attached Memorandum of Agreement describes the obligations of Story County, the Ames City Assessor, and the City of Ames. By approving the Agreement, the City Council will be authorizing Story County to complete the fiber optics cable connection at City Hall. The Council will also be agreeing to limit access and use of the cable for only its intended purpose.

Sincerely,

Douglas R. Marek
City Attorney

DRM:gmw
Attachment

MEMORANDUM AND AGREEMENT OF USE

1. Purpose. The purpose of this agreement is to provide the Ames City Assessor's Office (City Assessor), located in Ames City Hall, with access to a fiber optic data cable owned and operated by Story County, Iowa (Story County) for the purpose of data transmission relevant to real property valuation and assessment. This agreement constitutes the entire and only agreement between Story County and the City of Ames and City Assessor, and supersedes all prior and contemporaneous agreements, representations, warranties and understandings with respect to the fiber cable and the subject matter of this agreement.

2. Subject Matter & Limitations.

a.) Story County will provide:

1.) One CWDM fiber channel from the Story County Administration Building server room to the Ames City Hall's server room allowing for a high speed data connection between Story County and the City of Ames' networks.

b.) The City Assessor will provide:

1.) Any equipment other than the CWDM muxes.(switches, fiber transceivers, etc.).

2.) Any installation costs/fees including the costs of third party contractors and consultants necessary to establish the services contemplated herein.

3.) A monthly access fee of \$300.00 payable in advance to Story County, Iowa.

c.) Further, this agreement constitutes a right to use one CWDM fiber channel for the purpose set forth herein and does not create any other legal or equitable right or ownership of the fiber cable. This agreement does not create any other separate entity or organization. Neither the City Assessor nor City of Ames may grant any other party, a right or license to use the equipment, fiber or channel which is the subject of this agreement.

3. Disclaimer. The fiber and CWDM fiber channel are provided "as is" and Story County makes no representations or warranties of any kind as to the use, quality or operation of the fiber or CWDM fiber channel, or data transmitted through it or its associated equipment or software.

4. Transmission of Data. The City Assessor acknowledges and understands that Story County cannot control the flow of data over the fiber or the CWDM channel. Such flow of data depends in large part on the performance of software and equipment purchased, provided or controlled by third parties. At times, actions or inactions caused by the third parties or acts of nature can produce situations in which the connection to the fiber or CWDM channel or the data transmitted may be impaired or disrupted. Although Story County will use reasonable efforts to take actions which it deems appropriate to remedy or avoid such events, it cannot guarantee that such events will not occur. Accordingly, Story County disclaims any and all liability resulting from or related to such events.

5. Term & Termination. This agreement shall be effective and valid for one year from the date last signed. It shall renew automatically annually thereafter unless written notice of termination is served on either party via ordinary U.S. Mail. Termination may be for cause or for no cause and the agreement shall terminate 90 days after notice of termination is postmarked. Written notice of termination shall be served on Story County at the Story County Information Technology Department, 900 Sixth Street, Nevada, Iowa 50201, or on the Ames City

Assessor at the Ames City Assessor's Office, 515 Clark Avenue, Ames, Iowa 50010, or the City of Ames at the City Clerk's Office, 515 Clark Avenue, Ames, Iowa 50010..

6. Capability. While the fiber and channel are believed to be suitable for the intended purpose, Story County shall have no duty to upgrade, update or maintain the fiber or channel due to changes in technology or software upgrades or changes by the City Assessor to the City Assessor's systems or operations.

7. Nontransferable. The City Assessor's right to use the fiber and CWDM channel is not transferable. Any password or right given to the City Assessor or City of Ames to obtain information or documents or to transmit or receive data or services is not transferable.

8. Governing Law & Venue. This agreement shall be interpreted and governed by the laws of the state of Iowa. The parties agree and hereby submit to the exclusive personal jurisdiction and venue of the Iowa District Court for Story County, Iowa, and/or the federal district court for the southern district of Iowa.

9. Interpretation & Severability. The language in this agreement shall be interpreted as to its fair meaning and not strictly for or against either party. Should any part of this agreement be held invalid or unenforceable, that portion shall be construed consistent with the applicable law and the remaining portions shall remain in full force and effect.

FOR STORY COUNTY, IOWA, BY THE CHAIRPERSON OF THE STORY COUNTY BOARD OF SUPERVISORS:

Wayne E. Clinton, Chairperson

Signed this ____ day of _____ 2010.

FOR THE AMES CITY ASSESSOR'S OFFICE:

Gregory Lynch, Ames City Assessor

Signed this ____ day of _____ 2010.

FOR THE CITY OF AMES, IOWA

Ann H. Campbell, Mayor

Signed this ____ day of _____ 2010.