

AGENDA ITEM SUMMARY

Subject: CC Housing/Omnitel - Fiber install and operation agreement - Safety and Security Connectivity Project

Background Summary:

****Update**** - Follow up from the previous meeting: There was a request to see if the up front \$20,000 installation cost to Housing for the three sites could be worked into the monthly pricing if the grant would allow that. At the meeting I believe it was discussed that this grant funding could be used for initial capital installation or worked into the monthly service fee if it was known to be part of the capital install. Housing Executive Director Katie Nolte researched this further after the meeting and found that the grant funds cannot be used for monthly operating expense and would need to be used for the upfront install. Additionally, the updated pricing numbers from Omnitel to work the \$20,000 into the monthly cost was simply the \$20,000 divided by the 36-month term (added \$555.55 per month), no savings but they would finance it for us. Personally, I would be in favor of paying the \$20,000 up front and keeping the monthly rate at the regular level even if the grant would fund it this way. After three years it would be easy to forget to reduce the rate back down to where it should be. I've seen that happen. But of course if the grant might not pay for it amortized out then we would need to consider the upfront approach anyway.

Paying for an installation like this in fiber/telecommunications is common practice from what I've seen. For our own telecom project we were going to pay for those installs for those signing up for initial service but later on that cost was going to be paid by the customer most likely.

I will mention that the CC Housing Board did unanimously approve moving forward with this project as presented.

- Steve Diers

The following is an overview of the connectivity portion of CCHRA safety and security project at the three public housing sites (North Cedar Terrace, South Cedar Terrace, and Morningside). The focus of this project is installing and maintaining a robust video surveillance system that provides good coverage and clarity of all vital areas throughout the three properties accessible at the main office. The project will also allow CCHRA to provide Wi-fi services to tenants. Fiber connections at each site and back to the main office will be provided by OmniTel contingent on being granted Wisconsin Street Right of Way access by the City and high school easement approval.

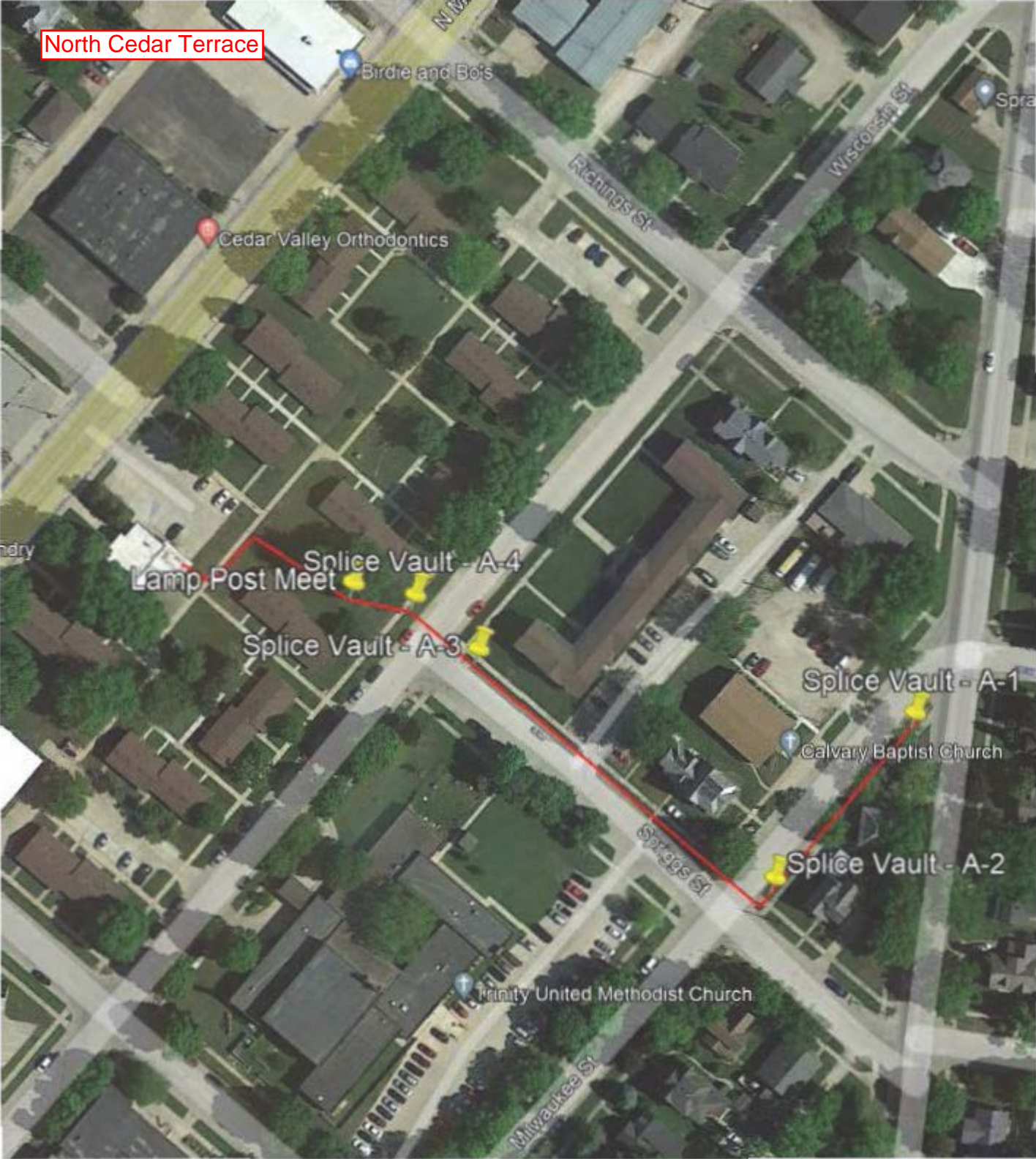
OMNITEL SITE CONNECTION PROPOSAL

- **North Cedar Terrace** (1 Gbps ethernet transit to South Cedar Terrace main office) Omnitel will build and meet CCHRA inner-duct on the East side of the sidewalk beyond the lamp post. Fiber will transit CCHRA duct from this point into the garage where our router will be placed .
- **Morningside** (1 Gbps ethernet transit to South Cedar Terrace main office). Omnitel will build across the street and express through a 2" duct owned by the Charles City Highschool to a vault on the East side of the parking lot. They will then bore south to the garage and place out router inside.
- **South Cedar Terrace** (1 Gbps Symmetrical dedicated internet connection, 1 Static IP address included) Fiber will be bored under the parking lot from the west and enter the office building where router will be placed.

Costs & Funding

The cost for infrastructure/construction (inclusive of all sites) is a onetime fee of \$20,000. This portion of the project will be paid for with the HUD Safety and Security grant specified for these type of capital projects. The onsite boring at NCT is integrated into the electrical project slated to begin this spring. The ongoing service cost on a 36 month term is \$1,100 per month for the ethernet circuits, unmetered internet access and static IP. The monthly costs will be paid for out of operating funds. We currently paid \$363 per month for the Mediacom Connection at Morningside that is not used due to its instability.

North Cedar Terrace



Birdie and Bo's

Cedar Valley Orthodontics

Richings St

Wisconsin St

Sprague St

Lamp Post Meet

Splice Vault - A-4

Splice Vault - A-3

Splice Vault - A-1

Calvary Baptist Church

Splice Vault - A-2

Sprague St

Trinity United Methodist Church

Milwaukee St

Morningside Apts

Charles City High School

Splice Vault C-1

Charles City School Vault #1
Splice Vault C-2

Charles City School Vault #2

Splice Vault C-3

Clarkview Dr



South Cedar Terrace

Splice Vault B-1

Cedar River

Charles City Whitewater

Kwik Star #468

ATM

Cedar Terrace St

Gilbert St

Kniesel Cir

200th Ave

Floyd County Museum

Gilbert St



OMNITEL COMMUNICATIONS

Service Contract

Client: Charles City Housing and Redevelopment Authority (CCHRA)

Authorized Contact: Katie Nolte

Address: 205 Greenlees Circle Charles City, IA 50616

Telephone: 641.228.6661

Email: director@charlescityhousing.org

Contract Term: 36 months effective 3.1.22

Contract Rate: \$1,100.00 monthly

1. Terms and Conditions. This Service Contract includes the terms and conditions under which Farmers Mutual Telephone Company d/b/a OmniTel Communications (together with any subsidiaries or affiliates providing services hereunder, “OmniTel”) will provide managed information and technology service, advice, and support (collectively “Service”) to the client identified above (“Client”). This Service Contract defines the Services OmniTel will perform and or provide, as well as Client’s responsibilities concerning such Services. If Client requests, and if OmniTel agrees to provide, any Service which is not a Covered Service (as defined in Section 3) the terms and conditions of such Service (except for price, which will be as mutually agreed at the time of the Statement of Work requesting the Service) shall be governed by this Service Contract. This Service Contract covers only those Services provided by OmniTel, and OmniTel assumes no responsibility or liability for any Service or element of Service that Client performs independently or receives from any third-party provider. **This Service Contract is contingent upon OmniTel obtaining an easement from Charles City Schools, if an easement is unable to be obtained this Service Contract is null and void.**

2. Contract Term. The term of this Service Contract (the “Contract Term”) is as set forth above. Subject to earlier cancelation or termination as provided herein, this Service Contract will expire at the end of the Contract Term. In addition to any other termination rights set forth herein, either party terminate this Agreement for cause if the other party commits a material breach or default hereunder and fails to cure such breach or default within ten (10) days (for any failure of payment) or thirty (30) days (for any other breach or default) of written notice concerning such breach or default.

3. Scope of Service. The Services OmniTel will provide pursuant to this Service Contract includes each of the services identified on Schedule 1 attached hereto (collectively, the “Covered Services”). Covered Service will be provided by OmniTel employees on a “best efforts” basis in accordance with industry standards or individual specifications agreed by OmniTel and Client in advance. Personnel are on-call 24-7, provided that special rates may apply for Service calls outside normal working hours. For purposes of this Service Contract, normal working hours means 7 a.m. to 6 p.m., Monday – Friday. To assure that the Service relationship remains responsive to Client’s needs, as well as fair to both parties, each party shall be reasonably available at regular intervals (monthly, quarterly, or other time schedules agreed to by the parties) throughout the Contract Term and, if necessary, the parties shall act reasonably and in good faith to revise or adjust the scope of Covered Services to be provided and the prices to be charged in light of their mutual experience.

4. Exclusions.

(a) The Services do not include: (a) repair or replacement of any hardware or software (unless specifically stated in a written Statement of Work), electrical work, or repair of damage resulting from Client or operator error, accident, vandalism, electrical or environmental issues, or maintenance provided by a party other than OmniTel; nor (2) support due to configuration changes made by Client or any party other than OmniTel. Except as expressly stated in any separate statement of work, OmniTel is not selling, licensing, or otherwise providing to Client any software, hardware, third party maintenance or other products or property under this Service Contract. OmniTel may use, in the provision of Services to Client, one or more items of hardware, software, third party maintenance or other personal property, all of which shall be owned exclusively by, and remain under the exclusive control of, OmniTel, even if such hardware, software or other personal property is located on Client’s premises or integrated with Client or third party property during the term of this Service Contract.

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(b) Client agrees at its expense to defend and either to settle any third-party claim against OmniTel, its affiliates and its and their respective employees, officers and directors or to pay all reasonable costs and disbursements (including attorneys' fees, court costs and any damages) incurred or paid by such parties on account of or in connection with any claim arising out of, resulting from or relating to activities or issues outside the scope of Covered Services or which are the sole responsibility of Client under this Service Contract, including without limitation claims of a breach by Client or any operator of a software or hardware license agreement. Client's indemnification obligations under this Section do not apply to third-party claims for damages to real or tangible personal property or for bodily injury or death caused by the negligent or more culpable acts or omissions of OmniTel or its employees.

5. Pricing; Payment. This Service Contract is a fixed price contract, meaning that all Covered Services are included in the Contract Rate. The Contract Rate will be invoiced and paid in accordance with the payment schedule set forth on Schedule 2 attached hereto. Client must pay all charges by the due date on the invoice. Failure to pay invoices when due may result in late payment fees of up to 1.5% per month (18% per year) on the unpaid balance and/or other penalties, including suspension or termination of Service. OmniTel's acceptance of late or partial payment and late payment charges will not constitute waiver of any of OmniTel's rights to collect the full amount due.

6. Early Termination of Service. In addition to termination for cause under Section 2, Client may cancel Service at any time without cause by providing OmniTel with not less than ninety (90) days written notice. Termination without cause shall be subject to an early termination fee as set forth herein. If Client cancels Service without cause, or if OmniTel terminates Service with cause prior to expiration of the Contract Term, Client shall pay an early termination fee ("ETF") calculated as follows: the average contract revenue for the 3 months immediately preceding termination multiplied by the number of months remaining on the Contract Term. When applicable, the ETF is immediately due and payable and is in addition to any other charges or fees owed for Service provided prior to cancellation.

7. Client Equipment. Service may require certain minimum technical and operating capabilities within Client's underlying telecommunications or internet access systems and/or certain minimum system requirements for Client's computers, devices, and operating systems. Without limiting the preceding, Service involving hardware or software which is no longer supported by the vendor, or which is not under contracted support with a qualified third party is considered outside of the scope of Covered Services and will be performed only on an individual case basis at rates agreed at the time of the Statement of Work. Unless otherwise provided on Schedule 1, Client is solely responsible for providing all hardware, software, operating systems and/or other devices or equipment ("**customer supplied equipment**" or "**CSE**") used in connection with Client's business. OmniTel makes no representations, warranties or assurances regarding the capability or suitability of any CSE independently purchased or otherwise owned by Client. Client is solely responsible for

8. Operating Environment; Remote and Physical Access; Safe Working Environment.

(a) Client is solely responsible for providing a suitable operating environment for its hardware and software systems, including with limitation servers, routers, workstations and network devices.

(b) In order to facilitate the provision of Service in the most efficient manner possible, Client will permit VPN remote access or similar level internet-based access to Client's systems and network. In the absence of remote access, the time necessary to provide certain Services may increase significantly, and additional fees may apply. Certain Services may not be available to Client if Client does not permit such remote access. In addition to remote access, OmniTel's employees may physically enter into, upon and over the Service premises periodically during the Contract Term to access networks, servers, routers and devices as necessary to perform Services.

(c) Client will ensure that all locations at which OmniTel installs, maintains or provides Services are a safe working environment, free of Hazardous Materials and reasonably suitable for the Services. For purposes of the preceding, "**Hazardous Materials**" means any substance or material capable of posing an unreasonable risk to health, safety or property or whose use, transport, storage, handling, disposal or release is regulated by any law related to pollution, to protection of air, water or soil or to health and safety. OmniTel shall have no obligation to

perform work at a location that is not a suitable and safe working environment or to handle, remove or dispose of Hazardous Materials.

9. Data Security. As set forth on Schedule 1, Services may include certain managed security services such as encryption, intrusion detection, monitoring or managed firewall. Client is solely responsible for selecting and using the level of security protection appropriate for its business, including any Client data stored or transmitted via its devices, operating systems or network. OmniTel does not represent or guarantee that its Services will prevent the loss or theft of, alteration of, or improper access or use of any Client data. OmniTel's managed security services do not supersede a client's responsibility for establishing and implementing policies and procedures designed to safeguard its data against unauthorized access or use.

10. Data Privacy. Each party is responsible for complying with the privacy laws applicable to its business. OmniTel will protect Client's data in accordance with the data protection laws and regulations applicable to OmniTel's business and - to the extent communicated in writing by Client - in accordance with the data protection laws and regulations applicable to Client's business. Except as authorized in writing or as required by operation of law, regulation or other legal process, each party shall access, use or disclose the data or other sensitive or proprietary information (collectively, "**Confidential Information**") of the other party only as necessary to its lawful performance under this Service Contract. Either party shall, upon learning of: (a) any unauthorized access, disclosure or use of the other party's Confidential Information; or (b) any requirement that a party disclose the other party's Confidential Information by operation of law, regulation or other legal process, notify such party promptly and in writing, and cooperate fully with such other party to protect such party's Confidential Information. For purposes of the preceding "**Confidential Information**" includes any personally identifiable student or employee data as well as any other confidential, trade secret, proprietary and/or private information arising out of, resulting from or relating to the parties' relationship under this Service Contract.

11. Disclaimer of Warranties. EXCEPT AS SET FORTH HEREIN, OMNITEL MAKES NO WARRANTIES WITH RESPECT TO ANY SERVICE, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTIES CONCERNING THE SPECIFIC FUNCTION OF SERVICE, OR ITS RELIABILITY, AVAILABILITY, OR ABILITY TO MEET CLIENT'S SPECIFIC NEEDS. TO THE EXTENT PERMITTED BY LAW, OMNITEL EXPRESSLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF SATISFACTORY QUALITY, NON-INFRINGEMENT, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

12. Limitation on Remedies. OmniTel and Client have discussed the risks and rewards associated with this contract, as well as OmniTel's fee for Services. The limitations of remedies set forth herein are a material term of this Service Contract, which is a fixed price contract. OmniTel shall not be liable for any delay or failure to provide Service at any time or from time to time, or any interruption or degradation of Service quality that is caused by any of the following:

- acts or omissions of Client's employees, agents, service providers, vendors, contractors, subcontractors or other third parties not retained or controlled by OmniTel.
- force majeure events such as (but not limited to) acts of God, acts of nature, strikes, fire, war, riot, pandemics, or epidemics, acts of terrorism and government actions; or
- any other cause that is beyond OmniTel's reasonable control, including, without limitation, a failure of or defect in any hardware, software or equipment not installed, configured maintained, monitored and supported by OmniTel.

TO THE EXTENT PERMITTED BY LAW, OMNITEL'S TOTAL LIABILITY FOR ANY CLAIM ARISING IN CONNECTION WITH THIS SERVICE RELATIONSHIP, INCLUDING FOR ANY EXPRESS OR IMPLIED WARRANTIES, IS LIMITED TO THE AMOUNT PAID FOR THE SERVICE PROVIDED, WHETHER SUCH CLAIM OR REMEDY IS SOUGHT IN CONTRACT OR TORT, INCLUDING NEGLIGENCE, STRICT LIABILITY OR OTHERWISE. TO THE EXTENT PERMITTED BY LAW, OMNITEL SHALL NOT BE LIABLE TO CLIENT FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, PUNITIVE, SPECIAL OR TREBLED OR ENHANCED DAMAGES, INCLUDING, BUT NOT LIMITED TO LOST PROFITS, LOST SAVINGS, LOST BUSINESS, OR OTHER COMMERCIAL OR ECONOMIC LOSS, WHETHER SUCH DAMAGES ARE CLAIMED FOR BREACH OF CONTRACT, NEGLIGENCE OR OTHERWISE AND WHETHER OR NOT OMNITEL HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

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- 13. Severability.** If any part or provision of this Service Contract is legally declared invalid or unenforceable, that part or provision will be construed consistent with applicable law as nearly as possible, and the remaining parts and provisions will remain in full force and effect. Such invalidity or non-enforceability will not invalidate or render unenforceable any other part or provision of this Service Contract.
- 14. Entire Agreement.** This Service Contract supersedes any prior agreements between the parties concerning Service, and any and all prior or contemporaneous statements, understandings, writings, commitments, or representations concerning its subject matter.
- 15. Assignment.** Neither party shall have the right to assign any part or all of its interest in this Service Contract to any other person or entity, without the express prior written consent of the other party, except that OmniTel shall be permitted to assign its rights, and delegate its obligations, liabilities, and duties under this Service Contract, to any entity that is, or that was immediately preceding such assignment, an affiliate of OmniTel or to an entity acquiring all or substantially all of OmniTel's assets or equity, whether by sale, merger, consolidation or otherwise.
- 16. No Implied Waiver.** No failure to exercise or enforce any right under or provision of this Service Contract shall constitute a waiver of any such right or provision.
- 17. Governing Law; Jurisdiction.** This Service Contract shall be governed by and construed in accordance with the substantive laws of the State of Iowa, without regard to the principles of conflicts of law. Any suit under this Service Contract (other than to enforce a judgment or award) will be brought in the federal or state courts in the districts which include Nora Springs, Iowa. Each party hereby agrees and submits to the personal jurisdiction and venue of such courts.
- 18. Authority.** Each party represents and warrants to the other party that: (a) it has the right, power and authority to enter into and perform its obligations under this Service Contract and (b) the person executing this Service Contract on its behalf has been duly authorized to bind it to this Service Contract.
- 19. Counterparts.** This Service Contract may be executed in one or more counterparts, each of which shall be an original. Any such counterpart, to the extent delivered by means of a facsimile machine or by .pdf, .tif, .gif, .jpeg or similar attachment to an electronic mail message, shall be treated in all manner and respects as an original executed counterpart and shall be considered to have the same binding legal effect as if it were the original signed version thereof delivered in person.

This Service Contract is binding only upon execution by both parties. The submission of any price quote, this Service Contract for examination and negotiation does not constitute an offer or obligation to provide Service, and this Service Contract shall become effective and binding only after both parties have signed.

This Service Contract is being signed by the parties, through their duly authorized agents, effective as of the Date of Acceptance set forth below OmniTel's signature.

OmniTel:

Client:

By: _____

By: _____

Name: Spenser Gruis _____

Name: _____

Title: _IT Manager_____

Title: _____

Date of Acceptance: _____

Schedule 1

Covered Services

For the Contract Term, OmniTel shall provide the following Covered Services to Client:

North Cedar Terrace

- 1 Gbps Ethernet transit to South Cedar Terrace main office.
- Client will provide duct from intersection of Wisconsin St. & Spriggs St. vault into Client's equipment room.
- Client will provide protected 120v AC power for all equipment.
- Handoff connection will be 1Gbps electrical.

Morningside Complex

- 1 Gbps Ethernet transit to South Cedar Terrace main office.
- Fiber will express through Charles City High School owned duct and be buried to the Client's equipment garage.
- Client will provide protected 120v AC power for all equipment.
- Handoff connection will be 1Gbps electrical.

South Cedar Terrace

- 1 Gbps Symmetrical dedicated internet connection.
- 1 Static IP address included.
- Client will provide protected 120v AC power for all equipment.
- 2x 1Gbps electrical handoffs for transit circuits to North & Morningside.
- 1x 1Gbps electrical handoff for Internet service.

Pricing

- 1 Gbps Symmetrical internet, unmetered, ring protected, 1 Static IP address - \$500.00 per month
- 1 Gbps Ethernet circuit from North Cedar Terrace to South Cedar Terrace - \$300.00 per month
- 1 Gbps Ethernet circuit from Morningside complex to South Cedar Terrace - \$300.00 per month
- Construction fee for all 3 locations \$20,00.00 (one-time fee applied first monthly service invoice)

Schedule 2

Payment Schedule

Client monthly invoice of \$1,100.00 will be sent through mail or electronically on the 1st day of every month and client shall pay upon receipt or before the 20th of each month. Payments received after the 20th will be assessed a late fee as detailed in Section 5 of this agreement.