

STATE OF GEORGIA,
COUNTY OF SPALDING.

**AGREEMENT FOR LEASE OF FIBER OPTIC CABLE
BETWEEN
THE CITY OF GRIFFIN, GEORGIA
AND
ATLANTIC FIBER NETWORKS, INC.**

This Agreement, made and entered this ____ day of April, 2016, by and between the City of Griffin, a Georgia municipal corporation (hereafter referred to as the “City”) and Atlantic Fiber Networks, Inc., a business corporation (hereafter referred to as “AFN”), provides as follows:

WHEREAS, the City owns and operates a fiber optic network along the route identified in Exhibit “A” (the “Fiber Route”); and

WHEREAS, AFN desires to lease from the City, who agrees to lease to AFN, a total of forty-six (46) strands of fiber optic cable over 16 miles of its network (the “AFN Fiber”), which breaks down as follows:

- 2 strands along the Western Route – 2.98 miles of dark fiber;
- 8 strands along the Southern Route – 18.75 miles of dark fiber;
- 10 strands along the Northern Route – 13.50 miles of dark fiber;
- 18 strands along the 288 ct. – 50.94 miles of dark fiber;
- 6 strands along the Eastern Route – 18.15 miles of dark fiber; and
- Extra pairs as spare (Spare pairs cannot be guaranteed north of railroad);

NOW, THEREFORE, IN CONSIDERATION of the sum of Ten (\$10.00) Dollars, the mutual promises, and other good and valuable consideration in hand paid, the receipt and sufficiency of which is hereby acknowledged, the parties agree to be bound as follows:

1.

The City hereby leases and grants to AFN those fiber optic strands within its fiber optic network as more particularly described in Exhibit “B” attached hereto, which by reference is incorporated herein and made a part hereof. The City warrants to AFN that the AFN Fibers shall meet or exceed the following specifications: The AFN Fibers shall be single mode fiber with a maximum attenuation @ 1550nm of 0.3 dB/km. TIA 568 standards for acceptable loss on terminations will be added to the maximum attenuation on the fibers for each termination.

2.

The initial lease term of this Agreement shall be six (6) years, which shall commence upon the execution of this Agreement by all parties (the “Initial Term”); thereafter, this Agreement may be renewed for two (2) six (6) year renewal terms, unless either party gives written notice to the other party not less than 90 days prior to a term expiration date. It is the parties’ intent to convey only a usufruct and not to create an estate for years.

Early termination for cause may occur at any time upon the non-defaulting party giving written notice to the defaulting party at least 30 days prior to the effective termination date, notwithstanding that the defaulting party shall have fifteen (15) days to cure the default, to the sole and reasonable satisfaction of the non-defaulting party, after receiving the written notice of default. Early termination without cause may occur on June 30th of any year during a renewal term, provided written notice is given by the party electing to terminate this Agreement by no later than March 31 prior to the effective early termination date.

3.

AFN agrees to pay the City a base rent of Twelve Thousand and no/100 (\$12,000.00) per annum, payable in equal monthly installments. Within thirty (30) days of the AFN Fiber Acceptance Date, as defined in Paragraph 8 of this Agreement, AFN shall also commence payment to the City of a monthly fee of Four Thousand, Five Hundred, Twenty-seven, 00/100ths (\$4,527.00) Dollars per month. All payments shall be due and payable on the 1st of each month and delinquent if received after the 5th of the month. Payments received after the 5th day of the month shall carry a late fee of 5.0% of the total amount due.

4.

The parties agree that throughout the term of this Agreement and any renewal terms, the City shall be and remain the sole owner of the fiber optic network; provided, however, the City agrees that so long as this Agreement is not in default due to fault of AFN it shall have no right to use AFN's Fibers. AFN acknowledges that the majority of the City's fiber optic network is an aerial system on electric poles installed within public rights of way. AFN agrees that this Agreement grants it no rights or interest in underlying public property, including rights of way, and that it is leasing only the fiber optic strands identified in Exhibit "B".

5.

The City represents to AFN that it holds ownership of all lands, easements, rights of way, and contractual agreements necessary for its electric system on which its fiber

optic network is constructed and the City holds and has obtained all required licenses, permits, certifications, and authorizations necessary to own and operate its fiber network. The City shall be solely responsible for all future maintenance of the fiber network. The City shall advise AFN of any schedule maintenance activity at least seven (7) days prior to initiating a planned maintenance operation and of the timing of such planned maintenance operation. In the event of an emergency maintenance event where AFN's services are disrupted due to a force majeure event or otherwise affecting AFN Fibers, AFN will immediately provide notice of such disruption and the City shall use all reasonable efforts to remedy the issue as quickly as practical. The City shall also promptly perform, in a reasonable and skillful manner, all relocations or replacements to the Fiber Route during the term of this Agreement; time being of the essence.

6.

AFN and any third-parties authorized or licensed by AFN may use the AFN Fibers to fulfill its technology contract, including renewal contracts, if any, with the Griffin-Spalding County School System; no additional use shall be made of AFN Fiber, unless consented to, in writing, by the City, which consent shall not be unreasonably withheld. AFN shall not use the AFN Fiber in any manner that interferes with the City's use of its remaining fiber or use by other City fiber customers.

7.

AFN may access the AFN Fibers at the endpoints of the Fiber Route and at any handhole, fiber distribution panel, splice case, or slack loop along the Fiber Route as set forth in Exhibit "A" (the "Connecting Points"), at any reasonable time. AFN may request additional connecting points along the Fiber Route in order to comply with the Griffin-

Spalding County School System contract; if such request is granted the City shall install the additional connecting point within thirty (30) days. All additional connecting points shall be installed by the City, in accordance with the City's specifications and at the City's prevailing rates for such service. All reasonable costs for such connections shall be paid by AFN.

8.

Within thirty (30) days of the Effective Date of this Agreement, the City shall test the AFN Fibers to verify that the AFN Fibers are installed and operating in accordance with the specifications in Paragraph 1. The City shall provide AFN reasonable advance notice of the date and time of the AFN Fiber Acceptance Testing such that AFN shall have the opportunity to have a person or persons present to observe the AFN Fiber Acceptance Testing. When the City has determined that the results of the AFN Fiber Acceptance Testing shows that the AFN Fibers have been installed and are operating in conformity with the applicable specifications set forth in Paragraph 1, the City shall promptly provide AFN with a copy of such test results. When the City gives written notice to AFN that the test results of the AFN Fiber Acceptance Testing are within the parameters of the specifications in Paragraph 1, AFN shall provide the City with a written notice accepting the AFN Fibers, or rejecting by specifying the defect or failure in the fiber optic testing. If AFN fails to notify the City of its acceptance or rejection of the final test results within ten (10) days following AFN's receipt of notice of such test results, AFN shall be deemed to have accepted such results. In the event of any good faith

rejection by AFN, the City shall promptly undertake to investigate, and if necessary correct, any deficiency or non-conformity in the AFN Fibers. Thereafter, the City shall again conduct testing of the AFN Fibers. The foregoing procedure shall apply again and successively thereafter until the City has remedied all defects or failures and has received an Acceptance Notice from the AFN, provided that in the event the City does not correct the defect or failure within thirty (30) days of receiving a Rejection Notice from AFN, AFN may require the City to accelerate its schedule of remedying the defects or failures, to the sole satisfaction of AFN, at the City's cost. In the event the City does not correct the defect or failure within thirty days of AFN's notice of schedule acceleration, AFN may terminate this Agreement by delivering written notice to the City, and the City shall refund any applicable monies, prorated for the affected fibers only, to AFN paid under this Agreement. The foregoing notwithstanding, if AFN uses the AFN Fibers to carry traffic prior to acceptance by AFN, such use shall constitute acceptance of the AFN Fibers. The date of such notice of acceptance or deemed acceptance of the AFN Fibers shall be the "AFN Fiber Acceptance Date".

Within ninety (90) days after the AFN Fiber Acceptance Date, the City will provide AFN with as-built drawings of the Fiber Route with information showing the location of running line, relative to permanent landmarks, including but not limited to, boundary crossings, utility crossings and/or railroad mileposts; manhole and handhole locations; conduit information (type, length, expansion joints, etc.). Additionally, the as-built drawings of the Fiber Route shall also include the following where applicable: splice locations; cable information (manufacturer, type of fiber, type of cable, fiber assignments, and final cable lengths); and regeneration and POP locations.

9.

By entering into this Agreement, the City shall not compete, directly or indirectly, with AFN for the term of this Agreement, including any renewal term, to provide service to the Griffin-Spalding County School System or any other E-rate eligible customer of AFN that the City consents be served through use of the AFN Fibers. Except as provided in the preceding sentence, nothing contained in this Agreement shall be deemed or construed to prohibit the City from selling, transferring, leasing, or licensing by similar agreements or arrangements with any other persons or entities respecting any fibers, conduits, facilities, or equipment constituting all or part of its fiber optic network. AFN agrees not to compete against the City for commercial (business or industrial) customers of its Internet and data services.

10.

Notwithstanding any provision of this Agreement to the contrary, except to the extent caused by its gross negligence or willful misconduct, neither party shall be liable to the other party for any consequential, indirect, incidental, or punitive damages, whether foreseeable or not, arising out of, or in connection with either party's performance of its obligations under this Agreement.

Except as specifically set forth above in this Agreement, neither party makes any representation, covenant, or warranty, express or implied, including any warranty of merchantability or fitness for a particular purpose, and all such warranties are hereby expressly disclaimed.

11.

Notices and other communications required or permitted by this Agreement shall be in writing and shall be given by certified U.S. mail, return receipt requested, or by statutory overnight delivery, addressed as follows:

To AFN: Atlantic Fiber Networks, Inc., Attn: Managing Partner
6634 Highway 53, Suite 101
Braselton, GA 30517

To the City: City of Griffin, Georgia, Attn: City Manager
100 S. Hill St., 3rd Floor
Griffin, GA 30223

12.

This Agreement shall be governed by and construed in accordance with laws of the State of Georgia.

Neither party may assign this Agreement without the express written consent of the other party, which consent shall not be unreasonably withheld.

This Agreement shall be binding upon and inure to the benefit of the parties, their successors and assigns.

Time is of the essence of this Agreement.

Failure of either party to enforce any of the provisions of this Agreement, or the waiver thereof in any instance, shall not be construed as a general waiver or relinquishment on its part of any such provision, and the same shall remain in full force and effect.

This Agreement constitutes the full and final agreement and understanding of the parties as to its subject matter and supersedes all prior negotiations and agreements relative thereto. Any exhibits reference herein are deemed relevant and essential parts of this Agreement and are fully incorporated herein by reference. The City and AFN, in

performing any of their rights and obligations hereunder, shall at all times be deemed independent contractors, with no relationship existing between them, except as set forth in this Agreement.

SIGNATURES ON FOLLOWING PAGE.

EXECUTED, the day and year set forth above, by the hands and seals of the parties acting through their duly authorized officers and representatives.

For the City:

CITY OF GRIFFIN, GEORGIA (Seal)

By: _____
Dick Morrow, Chairperson

Attest: _____
Kenny L. Smith, Secretary


SEAL


Approved as to form:

By: _____
Andrew J. Whalen, III
City Attorney

For the Lessee:

ATLANTIC FIBER NETWORKS, INC.
(SEAL)

By:  _____
James H. Salter, President

Attest:  _____
Mark Metcalf, Managing Partner

SEAL

EXHIBIT A

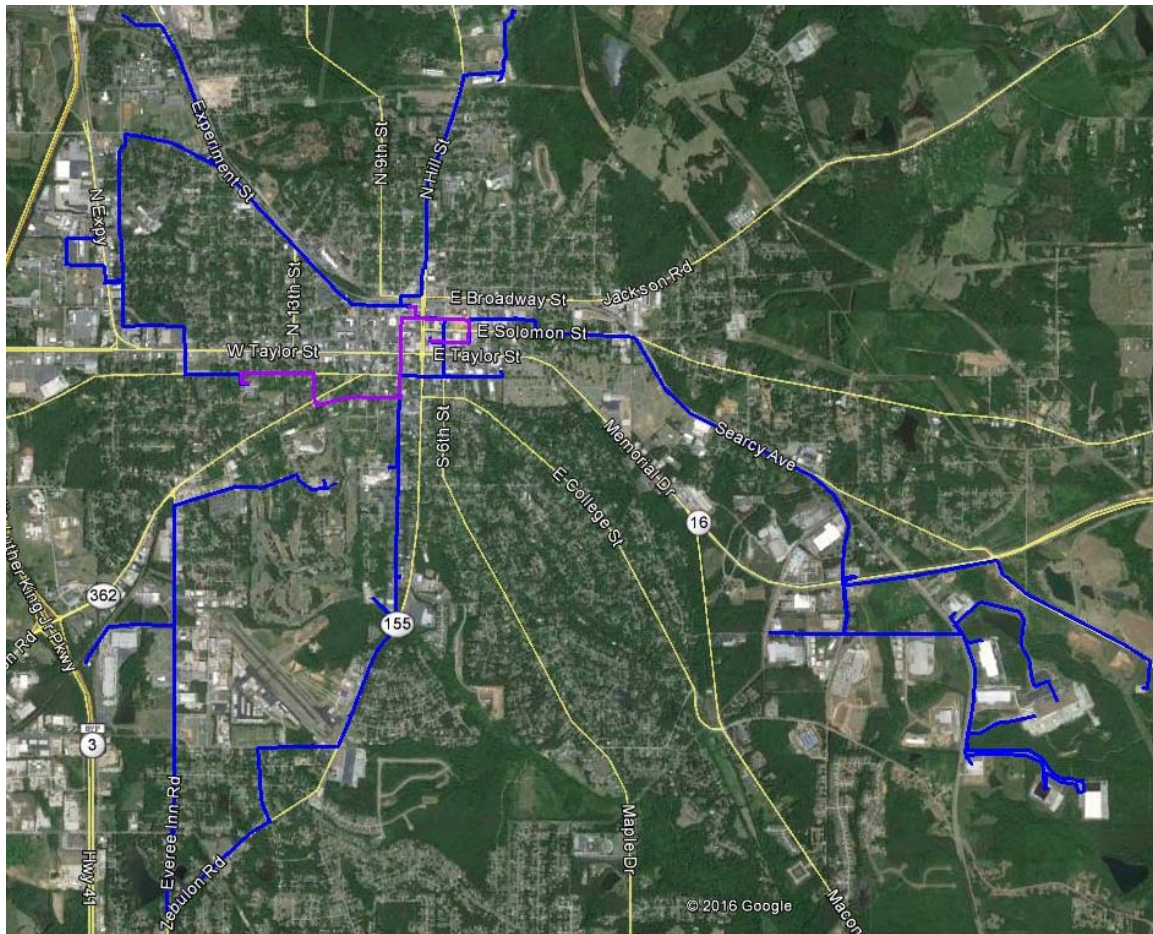


EXHIBIT B

Service Destination	Route	Strands	Est. Distance to Interconnect	Dark Fiber Miles
Maintenance	Western Route	2	1.27	2.54
College and career	Western Route	2	2.82	5.64
Enrichment center	Western Route	2	2.82	5.64
Transportation	Western Route	2	2.82	5.64
Crescent Elementary	Southern Route	2	1.27	2.54
Moreland Road Elementary	Southern Route	2	3.35	6.7
Carver Road Middle	Southern Route	2	3.35	6.7
Anne Street elementary	Southern Route	2	5.38	10.76
Kennedy Road Middle School	Northern Route	2	0.83	1.66
Jackson Road Elementary	Northern Route	2	0.83	1.66
Moore Elementary	Northern Route	2	1.22	2.44
AZ Kelsey	Northern Route	2	1.22	2.44
Mainstay	Northern Route	2	1.22	2.44
Atkinson Elementary	Northern Route	2	1.67	3.34
Griffin High School	288 ct	2	1.71	3.42
Cowan Road Elementary	288 ct	2	1.71	3.42
Cowan Road Middle School	288 ct	2	1.71	3.42
Jordan Hill Elementary	288 ct	2	1.71	3.42
Beaverbrook elementary	288 ct	2	1.71	3.42
Spalding High	Eastern Route	2	2.61	5.22
Futral Road Elementary	Eastern Route	2	2.61	5.22
Rehoboth Road Middle School	Eastern Route	2	4	8
SPARE	SPARE	2	0	0
Total:		46	47.84	95.68