

DARK OPTICAL FIBER BACKBONE LICENSE AGREEMENT

Agreement No. S24189080

THIS DARK OPTICAL FIBER BACKBONE LICENSE AGREEMENT (“Agreement”) is made on October 7, 2024 (“Commencement Date”) by and between:

CITY OF PALO ALTO (“CITY”)

A California chartered city
250 Hamilton Avenue
Palo Alto, CA 94301

and

Adobe Creek Networks
 (“CUSTOMER”)

^A **Californial Mutual Benefit Coporation**

(individually, “Party” and, collectively, “Parties”).

IN CONSIDERATION OF the mutual covenants, terms and conditions set forth in the Agreement, the Parties agree, as follows:

1. **DEFINITIONS.** The capitalized terms that are used in the Agreement and the Exhibits shall have the meanings set forth in the Palo Alto Municipal Code and/or the City of Palo Alto Utilities Rules and Regulations (“Rules and Regulations”), Rule and Regulation 26, and/or Utility Rate Schedules EDF-2 and EDF-3, which are incorporated herein by reference and made a part hereof, unless the context otherwise clearly indicates a different meaning.

2. **EXHIBITS TO AGREEMENT.** The following Exhibits are incorporated herein by reference and made a part hereof:

- A Special Terms
- B Proposal for Dark Fiber Services
[Proposals shall be numbered consecutively, e.g., Proposal #B-1, Proposal #B-2, ... Proposal #B-n]
- C Fiber License Agreement Investigation Request Form
- D Insurance Requirements
- E Fiber License Agreement Information Request Form
- F Acknowledgement of Receipt of City of Palo Alto Utilities Rules and Regulations

3. TERM AND TERMINATION.

(a) **Commencement Date, Term, Extension, Renewal.** The Agreement shall commence on the Commencement Date and shall continue until the Agreement expires or is sooner terminated in accordance with the covenants, terms and conditions of the Agreement; provided, however, (i) the initial term shall be one (1) year, (ii) the initial term may be extended automatically for not more than nine (9) consecutive one-year terms, and (iii) the term of the last approved Proposal shall not extend beyond a date more than ten (10) years after the Commencement Date.

(b) **Termination.** A Party may terminate the Agreement without cause, provided that Party gives to the other Party ninety (90) days’ prior written notice of termination. A Party may terminate the Agreement for cause, provided that Party gives to the other Party the specified prior written notice, or if none is stated, thirty days’ prior written notice.

(c) **Early Termination Fee.**

If the CUSTOMER chooses to terminate for convenience the Agreement or the term of any project covered by a Proposal under the Agreement, then the CUSTOMER shall pay the applicable termination payment, equal to the net present value of the remaining fees of the project term as indicated in each Proposal.

4. TELECOMMUNICATIONS INFRASTRUCTURE.

(a) **Warranties.** The CITY makes no representations, warranties, covenants or assurances: (1) with respect to the design, construction, durability or suitability of the telecommunications infrastructure, or any part thereof, whether express or implied, and the CITY specifically disclaims any implied warranty of merchantability and any implied warranty of fitness for a particular purpose; (2) with respect to the nature or accuracy of the description, location or measurement of the telecommunications infrastructure, the telecommunications pathway, or any part thereof; (3) that the CITY will increase or decrease the number of dark fibers constituting a part of the telecommunications infrastructure at any time during the term hereof; or (4) that the CITY will obtain the legal right to locate, maintain or use the telecommunications infrastructure, or any part thereof, in the Peninsula Corridor Joint Powers Board (“PCJPB”) right-of-way by means of a license

agreement, an easement agreement or other written instrument.

(b) **Relocation, Repair or Removal of Telecommunications Infrastructure.** The CITY, at its sole cost and expense, may upon reasonable notice to the CUSTOMER, or, in the event of an emergency, upon 24 hours' prior oral notice, relocate, repair, replace or remove the telecommunications infrastructure.

(c) **Access.** The CUSTOMER is prohibited from accessing the telecommunications infrastructure (other than accessing that portion of the conduit, which the CUSTOMER is obligated to maintain), the transmission pathway, or any CITY electric or other utility facility. Only personnel authorized by the CITY will be allowed to connect the CUSTOMER's service to, or disconnect CUSTOMER's service from, the fiber optic system on the CITY side of the demarcation point.

5. GRANT OF LICENSE.

(a) The CITY grants the CUSTOMER a license to use the Licensed Fibers identified in each Proposal, on condition that the CUSTOMER shall timely pay all applicable fees, rates, charges and applicable taxes ("Fees"), and shall be in compliance with all other covenants, terms and conditions of the Agreement. All connections to CITY fiber shall be within the jurisdictional boundaries of the CITY. This grant is subject to the CITY'S right to occupy and use the public rights-of-way [including the PCJPB rights-of-way], public utility easements, private property and any other property in and on which the CITY's dark optical fiber backbone is located, which right may be delineated in any contract, dedication, deed, easement, license or other similar form of document. Nothing in the Agreement shall be deemed to grant, convey, create, or vest an interest or estate in land, including but not limited to any fee, leasehold, easement or franchise, in the CUSTOMER. The CITY shall not be liable to the CUSTOMER on account of the PCJPB's termination of the CITY's right to occupy the PCJPB's rights-of-way, except as provided herein.

(b) No Exclusivity. Nothing in this Agreement limits the City's right of use of, or right to lease either Telecommunications infrastructure or Fiber not leased in this Agreement to others.

6. **LIMITATIONS ON USE.** If the CUSTOMER uses the Licensed Fibers and/or any other portion of the Backbone to provide, in whole or in part, services subject to AB 2987 (Ch. 700, Stats. 2006) and/or Chapters of the Palo Alto Municipal Code relating to the provision of video services as defined in AB 2987, the CUSTOMER shall apply for a franchise

and pay the franchise fee as required by applicable law.

7. FEES.

(a) **Types of Fees.** The CUSTOMER shall pay to the CITY the current fees that are identified in each Proposal and referred to in Utility Rate Schedules EDF-2 and EDF-3, including the Dark Fiber Backbone License Fees, Drop Cable Management Fees, Custom Cable Management Fees, and any applicable administrative and miscellaneous charges. The CUSTOMER shall pay the fees identified in each Proposal without set-off or recoupment, in accordance with the covenants, terms and conditions of the Agreement. The CUSTOMER shall pay, upon the execution of the Proposal, the Interconnection Fee.

(b) **Method of Payment.** The CUSTOMER at its election shall pay the total Drop Cable Management Fees (excluding the Interconnection Fee) either in a lump sum at the commencement of the term of a Proposal or in equal monthly installments, as they shall become due and payable 20 days following issuance of the bill statement. The CITY shall issue to the CUSTOMER, upon request, a monthly billing statement for the fees (excluding the Interconnection Fee). If the CUSTOMER elects the monthly installment payment option, then the CUSTOMER shall pay the first monthly installment on or before the execution date of the Agreement and Proposal #B-1.

(c) **Result of Untimely Payment.** The CITY reserves the right to charge the CUSTOMER interest on the lump sum or any monthly installment at a rate not to exceed the maximum rate allowable by law if the CUSTOMER fails to timely pay the lump sum or any monthly installment. The CUSTOMER shall timely pay any and all undisputed portions of the fees in the event the CUSTOMER disputes in good faith any other portion of the fees. The CITY, upon two (2) days' prior written notice, reserves the right to temporarily suspend or terminate services to the CUSTOMER until the CUSTOMER has paid any and all undisputed fees. An administrative charge of two hundred dollars (\$200) or such other charges as may be established by CITY by law shall be due and payable by the CUSTOMER for the cost of processing and handling the CUSTOMER's failure to pay any of the fees required by this Agreement and/or the Proposal. The CITY reserves the right to modify the administrative charge by law and charge the CUSTOMER interest on the administrative charge if payment is not made within thirty (30) days of its assessment.

8. **INSURANCE.** Within five (5) Days after the CUSTOMER executes the Agreement and initiates Service with its submission of Proposal B-1 and pays the fees, the CUSTOMER shall obtain and maintain the policies of insurance described in Exhibit D. The CUSTOMER shall maintain these policies of insurance during the term of the Agreement and any and all unexpired Proposals.

9. **INDEMNITY.** To the fullest extent permitted by law and without limitation by the provisions of Section 8, relating to insurance, the CUSTOMER shall indemnify, defend and hold harmless CITY, its Council members, officers, employees and agents from and against any and all demands, claims, injuries, losses, or liabilities of any nature, including death or injury to any person, property damage or any other loss and including without limitation all damages, penalties, fines and judgments, associated investigation and administrative expenses and defense costs, including, but not limited to reasonable attorney's fees, courts costs and costs of alternative dispute resolution, arising out of, or resulting in any way from or in connection with the performance of this Agreement. The CUSTOMER's obligations under this Section apply regardless of whether or not a liability is caused or contributed to by any negligent (passive or active) act or omission of CITY, except that the CUSTOMER shall not be obligated to indemnify for liability arising from the sole negligence or willful misconduct of the CITY. The provisions of this Section survive the expiration or termination of this Contract.

10. **DESTRUCTION.**

(a) **CUSTOMER's Property.** In the event of a total or partial destruction of substantially all of the CUSTOMER's Property, or any part thereof, where such casualty occurs as a result of an event of Force Majeure, whether or not such casualty is covered under a policy of insurance carried by the CUSTOMER, this Agreement may be terminated at the option of the CUSTOMER, or the LICENSEE, at its sole cost and expense, may commence and complete as soon as practicable the repair or restoration of the damaged CUSTOMER's Property, or any part thereof, to substantially the same condition immediately before the event of destruction.

(b) **Telecommunications Infrastructure.** In the event of a total or partial destruction of the Telecommunications Infrastructure, or any part thereof, including the Licensed Fibers, where such casualty occurs as a result of an event of Force Majeure, whether or not such casualty is self-insured or covered under a policy of insurance carried by the

CITY, this Agreement may be terminated at the option of the CITY, or the CITY, at its sole cost and expense, may commence and complete as soon as practicable the repair or restoration of the damaged Telecommunications Infrastructure, or any part thereof, including the Licensed Fibers, to substantially their same condition immediately before the event of destruction. If the CITY elects to terminate this Agreement, the CITY shall be relieved of any obligation to the CUSTOMER, and the CUSTOMER shall be released from its obligations under this Agreement.

11. **CONDEMNATION.** The Party receiving a notice of condemnation promptly shall give to the other Party a copy of the notice of condemnation.

(a) **Total Condemnation.** If the property or premises of a Party is totally taken by condemnation, this Agreement shall terminate as of the date title to that Party's property or premises is taken by the condemnor.

(b) **Partial Condemnation.** If the property or premises of a Party is partially taken by condemnation, this Agreement shall not terminate, provided, however, the Party whose property or premises is partially taken, at its option, may terminate this Agreement for cause if all or substantially all of the property or premises cannot be used for the purposes for which the Party entered into this Agreement.

(c) **Termination; Award and Payment.** If the Party whose property or premises is partially taken elects to terminate this Agreement, the notice of termination shall become effective within thirty (30) Days after the other Party has received notice of termination. An award and any other payment on account of a total or partial taking of the Telecommunications Infrastructure, or any part thereof, including the Licensed Fibers, shall be made and paid to the CITY.

12. **DEFAULT.** The non-defaulting Party may terminate the Agreement and any and all unexpired Proposals upon the occurrence of an event of default caused by the defaulting Party, if the defaulting Party fails to cure the event of default within the period of time specified below. In an event of default of a financial nature, the defaulting Party shall cure the default within two (2) days of receipt of the notice of default. In the event of default of a non-financial nature, the defaulting Party shall cure the default within ten (10) days of receipt of the notice of default. A failure to cure an event of default within the specified period of time shall constitute a material breach of the Agreement.

(a) **Events of Default.** The occurrence of any of the following shall constitute a material default by the CUSTOMER:

(i) Failure to pay any fee, when due, unless the CUSTOMER, in good faith, disputes all or any portion of the fee, in which event the CUSTOMER shall pay only that portion of the fee that it does not dispute.

(ii) Failure to perform, observe or comply with any other covenant, term or condition of the Agreement that the CUSTOMER is required to observe or perform.

(iii) Assignment or transfer of the CUSTOMER's interest in the Agreement, voluntarily or by operation of law.

(iv) Assignment or transfer of the CUSTOMER's assets for the benefit of the CUSTOMER's creditors.

(v) Filing of a petition in bankruptcy or a petition for reorganization or other arrangement relating to the bankruptcy, insolvency, or receivership of the CUSTOMER and/or its assets, unless the same is dismissed within 180 days of the filing thereof.

(vi) Any representation or warranty of the CUSTOMER that shall prove to have been incorrect, false, or misleading in any material respect when made.

(b) **Obligation to Perform; Payment.** The termination of the Agreement and any and all unexpired Proposals shall not relieve the defaulting Party of its obligation to perform its obligations, including the payment of the fees, prior to the effective date of termination.

(c) **Remedies for Default.** The CITY shall have the following rights and remedies, in addition to all other rights and remedies provided by applicable law, to which the CITY may resort cumulatively, or in the alternative, the CITY may:

(i) Keep the Agreement in effect and enforce all rights and remedies that it enjoys under the Agreement, including but not limited to the right to payment of all fees as they shall become due, by appropriate legal action.

(ii) Seek specific performance of the Agreement in addition to other rights and remedies that available at law or in equity.

(iii) Terminate the Agreement for cause.

(d) **DAMAGES.** NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, NEITHER THE CITY NOR THE CUSTOMER SHALL BE LIABLE TO THE OTHER FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, LIQUIDATED, OR SPECIAL DAMAGES, OR FOR LOST REVENUES OR LOST PROFITS TO ANY PERSON ARISING

OUT OF THIS AGREEMENT OR THE PERFORMANCE OR NONPERFORMANCE OF ANY PROVISION OF THIS AGREEMENT, EVEN IF SUCH PARTY HAS BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGES. THE CITY'S TOTAL LIABILITY FOR ANY CLAIM OR DEMAND OF THE CUSTOMER ARISING OUT OF THIS AGREEMENT SHALL NOT EXCEED THE AMOUNT OF THE FEES PAID BY THE CUSTOMER TO THE CITY PRIOR TO THE DATE OF CLAIM OR DEMAND.

13. **REPRESENTATIONS; WARRANTIES.** The CUSTOMER represents and warrants that (i) it is in compliance with all applicable laws, rules, regulations and tariffs relating to its activities covered by the Agreement, (ii) it is not in delinquency for payment of any CITY fees, taxes or charges for electricity and other utilities and services, (iii) it has the requisite power and authority to carry on the business it now conducts, (iv) it is a sole proprietorship or a corporation, partnership, or limited liability company, duly formed, validly existing and in good standing under the laws of the State of **California**, (v) it has the power to enter into and perform its obligations under the Agreement, which constitutes a legal, valid and binding obligation of the CUSTOMER and enforceable against it in accordance with its covenants, terms and conditions, (vi) the execution, delivery and performance of its obligations under the Agreement have been duly authorized, and (vii) there is no pending or threatened action or proceeding before any court or agency affecting the financial condition or operation of the CUSTOMER or its ability to perform its obligations under the Agreement.

14. **WAIVER.** The consent of a Party to any act or omission of the other Party shall not be deemed to imply consent to or constitute a waiver of a default or breach of any term or condition of the Agreement or a continuing waiver of a subsequent default or breach of the same or different term or condition, nor shall any custom or practice which may arise between the Parties in the administration of the Agreement be construed to waive or lessen the right of a Party to insist upon full performance of the other Party in strict compliance with the covenants, terms and conditions of the Agreement.

15. **NOTICE.** All notices which shall or may be given pursuant to this Agreement shall be in writing and delivered by the United States Postal Service, or by registered mail or certified mail, postage prepaid, by commercial overnight delivery service, by facsimile transmission, or by electronic transmission,

to the address of any Party set forth in the introductory paragraph of the Agreement and to the person(s) described below:

CITY: City of Palo Alto
250 Hamilton Avenue
Palo Alto, CA 94301
Attn: City Clerk
Telephone: 650-329-2571
Facsimile: 650-328-3631

CUSTOMER: **Adobe Creek Networks**

c/o Thoits Law
400 Main St.,#250
Los Altos, CA

16. MISCELLANEOUS.

A. The Agreement and all Exhibits contain the entire understanding between the Parties as to the subject matter herein. There are no representations or warranties, oral or in writing, between the Parties pertaining to the subject matter hereof that are not fully expressed in the Agreement.

B. The Agreement shall be binding upon and inure to the benefit of the successors and permitted assigns of the Parties.

C. The Agreement may not be amended, unless the Parties first sign a written instrument that amends the Agreement. No amendment of the Agreement will be deemed effective, unless and until the City Manager has first approved the amendment, in writing, and the City Attorney has approved as to form. A Proposal may be amended by any designated representative of either Party.

D. The Agreement is governed by and construed in accordance with the California law without regard to its conflicts of laws, rules or principles.

E. Trial of any action regarding any dispute concerning the Agreement and/or any Proposal will be vested in the state courts of California, County of Santa Clara, or in the United States District Court, Northern District of California, in the county of Santa Clara, as appropriate.

F. Each Party and its counsel have reviewed the Agreement. Accordingly, the normal rules of construction to the effect that any ambiguity will be resolved against the drafting party will not be employed in the construction and interpretation of the Agreement.

G. The CUSTOMER acknowledges that Fibers licensed pursuant to this Agreement are subject to the Rules and Regulations, and acknowledges receipt of a copy of the Rules and Regulations in electronic form, effective as of the Commencement Date. Copies of the Rules and Regulations are available to the public at the Utilities Customer Service Center, Second Floor, 250 Hamilton Avenue, Palo Alto, California 94301, or online at <https://www.cityofpaloalto.org/Departments/Utilities/Utilities-Services-Safety/Utility-Rules-and-Regulations>

H. Each Party will comply with all lawful federal, state and local laws, ordinances, resolutions, rate schedules, rules and regulations that may affect its rights and obligations under the Agreement.

I. The Agreement is subject to the fiscal provisions of the Charter of the City of Palo Alto and the Palo Alto Municipal Code. The Agreement will terminate without any penalty (i) at the end of any fiscal year in the event that funds are not appropriated for the following fiscal year, or (ii) at any time within a fiscal year in the event that funds are only appropriated for a portion of the fiscal years and funds for the CITY's obligations are no longer made available. This provision will take precedence in the event of a conflict with any other term or condition of the Agreement.

J. No payment, partial payment, acceptance or partial acceptance by the CITY will operate as a waiver on the part of the CITY of any of its rights under the Agreement.

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IN WITNESS WHEREOF, the Parties have executed the Agreement by their duly appointed representatives on the date first above stated at Palo Alto, Santa Clara County, California.

CITY OF PALO ALTO

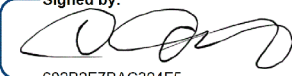
City Manager or designee

APPROVED AS TO FORM:

Assistant City Attorney

Director of Utilities

CUSTOMER

Signed by:
B: 
602B2E7BAC394F5...
Title: **President**

Daniel Dulitz
daniel@adobecreek.net

Taxpayer I.D. Number: 87-4375605

EXHIBIT “A”: SPECIAL TERMS

“Backbone” means the high-density portion of the Telecommunications Infrastructure consisting of the Dark Fibers, which is designed to serve as the telecommunications paths at different locations within the jurisdictional boundaries of Palo Alto.

“Commencement Date” means the day on which this Agreement is approved by the CITY.

“Condemnation” means the right of an Agency, including the CITY, to take property for public use, and it shall include a voluntary sale or transfer by the CITY to the condemnor Agency under a threat of a taking under the power of condemnation or during the pendency of formal condemnation proceedings.

“Drop Cable” means any CITY-owned and CITY-installed Fiber cable, one end of which is attached at a Junction Site by the CITY, and the other end of which is attached to the CUSTOMER’s property by the CUSTOMER.

“Drop Cable Management Fee” means the annual fee paid in advance by the CUSTOMER to the CITY for each drop cable licensed by the CITY to the CUSTOMER. This fee may be waived, in writing, for any period of time by the Utilities Director, acting on behalf of the CITY, for any Drop Cable less than one hundred (100) feet in length.

“Fiber” means a solid core of optical transmission material.

“Fiber-Miles” means a unit of measurement of the product of the number of Licensed Fibers and the number of Route-Miles for any element.

“Force Majeure” means the occurrence of any event that has, had or may have an adverse effect on the design, construction, installation, management, operation, testing, use or enjoyment of the Telecommunications Infrastructure, the CUSTOMER’s Property, or the Licensed Fibers, which is beyond the reasonable control of the parties and which event includes, but is not limited to, an Act of God, an irresistible superhuman cause, an act of a superior governmental authority, an act of a public enemy, a labor dispute or strike or a boycott which could not be reasonably contemplated by the Party affected thereby, a defect in manufactured equipment (including, but not limited to, the Dark Fibers), fire, floods, earthquakes, or any other similar cause.

“Telecommunications Infrastructure” means the Poles, boxes, handholes, manholes, vaults, conduits, innerducts, surface location markers, cables (including coaxial cables, Custom Cables, Drop Cables, Fiber cables and messenger cables), Fibers, wires (including copper wire), circuits, conductors, Splice enclosures, patch panels, cabinets, converters, generators, amplifiers, receivers, switches, wireless transmitters and receivers, and all other equipment or facilities containing the Dark Fibers or to which the Dark Fibers are attached, owned, controlled or used by the CITY, in existence either at the Commencement Date or during the Term hereof and located overhead or underground within the Public Right-of-Way, the Public Utility Easements and Licensed Service Properties.

“Term” means the initial term or the extension term, as defined in Section 3(a), or both, whichever may be applicable.

“Transmission Pathway” means those areas of the Public Right-of-Way, the Public Utility Easements and the Licensed Service Properties in which the Telecommunications Infrastructure is located.

In addition to the foregoing, other terms are defined throughout this Agreement.



PROPOSAL FOR DARK FIBER SERVICES

Service Request Authorization Form

Adobe Networks, LLC

Project Description: [ID#: 1140] - v.20240718 Equinix to "FB12"

Date: 7/18/2024

Prepared For: Adobe Networks, LLC
Daniel Dulitz
3810 Page Mill Road,
Pal Alto, CA 94304
Phone: (415) 329-3614; Fax:

Prepared By: City of Palo Alto - Utilities
Dave Yuan
250 Hamilton Ave, Palo Alto CA 94301
Tel: (650) 329-2522

Project Description: The City of Palo Alto Utilities (CPAU) will furnish materials and equipment to provide single mode dark fiber (unless otherwise indicated below) interconnection as specified in the tables below.

Proposal Remarks: The Points of Service "POS" will be CPAU communication boxes installed in the public-right-of-way "PROW". The Demarcation Points "DEMARC" will be the Licensee's communication boxes installed on private property. Both the POS and DEMARC will be indicated in the as-built documents. All structural work outside the PROW on non-City property, and substructure installed from the POS to the DEMARC points will be the sole responsibility of the Licensee. CPAU will furnish the drop cable from the POS to the DEMARC and be responsible for the installation and maintenance of the drop cable.

Estimated Schedule: Proposed In-Service Date is > 10 Weeks from receipt of payment.
An estimated project completion date will be provided approximately 10 business days after the one-time interconnection payment is received.

Rate Schedule : EDF-3, 7/1/2023, Non-Public Agency

Total One-Time Interconnection Fee: **\$184,898** - Interconnection fee required in full prior to start of installation. DO NOT pay until you are invoiced.
Total Base Monthly Fee: **\$3,797** - Funding for CIP FO-16000 has been deducted from the base monthly fee.
Term of Agreement: **10** years

REQUEST IS MADE TO THE CITY OF PALO ALTO UTILITIES, TO PERFORM THE DESCRIBED WORK ABOVE FOR WHICH THE UNDERSIGNED COMMITS THE LICENSEE TO PAY THE INTERCONNECTION FEE AND SUBSEQUENT MONTHLY FEES FOR THE LICENSE TERM IDENTIFIED ABOVE, AND TO MAINTAIN A CURRENT DARKFIBER LICENSE AGREEMENT, WITHOUT WHICH THIS PROPOSAL IS NOT BINDING ON THE CITY OF PALO ALTO.

Authorized By:

Print Name and Title

Authorized Signature:

Licensee:

Company Name

Date:

THIS PROPOSAL IS GOOD FOR 90 DAYS.

PROPOSAL FOR DARK FIBER SERVICES

Dark Fiber License Agreement Exhibits F-1 and F-2

Adobe Networks, LLC

Project Description: [ID#: 1140] - v.20240718 Equinix to "FB12"

Date: 7/18/2024

Prepared For: Adobe Networks, LLC
Daniel Dulitz
3810 Page Mill Road,
Pal Alto, CA 94304
Phone: (415) 329-3614; Fax:

Exhibit F-1: Dark Fiber Backbone License Fees

Segment Name	# of Fiber Strands	Segment Distance	Segment Fiber Feet
AX - AN2	1	14,530 feet	14,530 feet
CD - AN	1	2,335 feet	2,335 feet
AL - CD	1	1,071 feet	1,071 feet
AL - AM	1	1,520 feet	1,520 feet
AM - BM	1	2,150 feet	2,150 feet
BM - BN	1	3,300 feet	3,300 feet
BN - BO	1	1,600 feet	1,600 feet
BO - FA	1	15,866 feet	15,866 feet
FA - FB	1	6,318 feet	6,318 feet
FB - FC	1	2,336 feet	2,336 feet
FC - FD	1	3,740 feet	3,740 feet
FD - FE	1	2,000 feet	2,000 feet
FE - FF	1	5,391 feet	5,391 feet
FF - FB12	1	1,995 feet	1,995 feet
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Route Distance:	12.15 miles		
Total Fiber Miles:	12.15 miles		
Backbone Fee /Month:	\$3,050		

Exhibit F-2: Drop and Custom Cable Management Fees

Splice Point	Location	# of Strands	Total Distance	City Structure	Customer Structure
FB09	DROP 3895 Page Mill	12	30 ft	30 ft	30 ft
FB12	DROP 4001/17 Page Mill	12	300 ft	300 ft	300 ft
FB12	DROP 4010 Page Mill	12	150 ft	150 ft	150 ft
FB12	DROP 4020/22 Page Mill	12	230 ft	230 ft	230 ft
FB12	DROP 31103/5/7 Page Mill	12	700 ft	700 ft	700 ft
FB12	DROP 31570 Page Mill	12	600 ft	600 ft	600 ft
FB11	DROP 3891 Page Mill (hut)	12	600 ft	300 ft	300 ft
FB09	48F custom to FB14	48	2,450 ft	2,450 ft	2,450 ft
Fiber Optic Cable Management Fees:					\$1,932

EXHIBIT "C": FIBER LICENSE AGREEMENT INVESTIGATION REQUEST FORM



REQUEST SUBMITTED BY:	FIELD INVESTIGATION CONTACT:
Name:	Name:
Title:	Title:
Company:	Company:
Street Address:	Street Address:
City, State, Zip:	City, State, Zip:
Telephone Number:	Cell Phone:
Fax Number:	Fax Number:
Email Address:	Email Address:

Today's Date: ____/____/____

Project Description:

Example:

1. 4 fibers from 123 Alma to PAIX
2. Miscellaneous investigation (Attach drawing if applicable)

1. Please see Exhibit C - Attachment 1 for project description
2.

Desired completion date: ____/____/____

NOTE: Please budget 6-8 weeks from installation payment (not this investigation payment) to completion.

FIBER LICENSE AGREEMENT INVESTIGATION REQUEST CONDITIONS:

I am submitting this advance engineering request with the full understanding of the following conditions:

1. The advance engineering fee is a non-refundable fee required to cover the cost of preparing a detailed estimate.
2. The detailed proposal will establish an interconnection fee that must be paid in full prior to the start of construction.
3. The advance engineering fee will be credited against the interconnection fee.

Please Note: You will be invoiced for \$650 **or by estimate** for special conditions, per Utilities Rate Schedule EDF-2. **Please do not remit until you receive an invoice.**

Signature: _____ Date: ____/____/____

Please see following page for contact information.

Please submit the completed form *with authorized signature* and direct questions to:

Utilities Marketing Services
City of Palo Alto Utilities
250 Hamilton Avenue
Palo Alto, CA 94301
Phone: (650) 329-2241
Fax: (650) 617-3140
Email: darkfiber@cityofpaloalto.org

Note that all inquires of a legal nature must be directed to:

Office of the City Attorney
8th Floor City Hall
250 Hamilton Avenue
Palo Alto, CA 94301
Phone; (650) 329-2171

EXAMPLE FORM

City of Palo Alto Dark Fiber Optics Exhibit C – Attachment 1: Project Description

Please attach this document to the Exhibit “C” Fiber License Agreement Investigation Request Form to provide information for the Project Description

Project Description			
<input type="checkbox"/> Point-To-Point <i>(Location A to Location Z)</i>	Location A		
	Location Z*	<i>* Location Z is typically Equinix unless connecting to Palo Alto buildings, adding properties to a ring, etc. Customers are responsible for coordinating with their ISP for the fiber to cross connect to the City of Palo Alto (CPA) at Equinix. The Equinix DEMARC is CPAs patch panel.</i>	
<input type="checkbox"/> Other <i>(Provide quick description)</i>			
Fiber Strand Count <i>(ex: 1F vs 2F for redundancy)</i>		MPOE Panel	<input type="checkbox"/> Wall mounted/ <input type="checkbox"/> Rack mounted
Site Location Info			
<i>(If Location Z is different than Equinix, please provide info for both locations)</i>			
Multi-tenant building? <input type="checkbox"/> Yes <input type="checkbox"/> No			
Please provide directions to access MPOE at the site:			
Site Contact Name			
Site Contact Phone			
Site Contact Email			

Notes:

- CPA works primarily in the Public Right-of-Way “PROW” within the boundaries of Palo Alto. Aside from work to pull fiber in existing infrastructure to complete a connection, CPA is not responsible for and does not perform infrastructure work on private property such as, but not limited to, substructure construction of conduit.
- SC/UPC is the standard CPA connector type at the DEMARC.
- Customers are required to sign and fulfill the conditions of a Proposal for Dark Fiber Services and/or a new Dark Fiber License Agreement (DFLA) to license CPA Dark Fiber.
- Installation dates average 6-8 weeks upon fulfillment of the signed Proposal, per Rules & Regulations Rule 26. Service requests are based on a simple queue, and estimated completion dates will be provided as the project progresses. **CPA does not reserve installation dates.**

EXHIBIT “D”: INSURANCE REQUIREMENTS

1. During the Term hereof, the CUSTOMER, at its sole cost and expense, shall obtain and maintain or cause to be obtained and maintained the following policies of insurance in the amounts specified herein:
 - a. Commercial general liability insurance policy with a minimum limit of not less than one million dollars (\$1,000,000) per occurrence (combined single limit) for bodily injury and property damage, and not less than one million dollars (\$1,000,000) aggregate, for each personal injury liability, products-completed operations, premises operations, blanket contractual, and owners’ and Contractors’ protective, and each accident;
 - b. Workers’ Compensation and Employers’ Liability insurance policy providing statutory coverage (Coverage A and Coverage B) written in accordance with the Laws of the State of California, providing coverage for all employees of the CUSTOMER, and requiring an “ALL STATES” endorsement if the CUSTOMER is domiciled outside the State of California and the policy is written outside the State of California.
 - c. The CUSTOMER shall furnish the CITY with a certificate showing proof of such coverage, and naming the CITY as the certificate holder.

CUSTOMER is additionally recommended to obtain a Business Interruption insurance policy in amounts adequate to CUSTOMER’s needs.

2. The CUSTOMER shall file the required original certificate(s) of insurance with the CITY’s Utilities Department, Dark Fiber Services, subject to the CITY’s prior approval, which shall clearly state:
 - a. Policy number; name of insurance company; name, address and telephone number of the agent or authorized representative; name, address and telephone number of insured; project name and address; policy expiration date; and specific coverage amounts;
 - b. If the policy is canceled before its expiration date for any reason other than the non-payment of premium, the CUSTOMER shall ensure that the insurance company provides CITY at least thirty (30) days written notice before the effective date of insurance cancellation; and
3. The certificate(s) of insurance and notices shall be mailed prior to the establishment of fiber optic service, to City of Palo Alto, Department of Utilities, Palo Alto, CA 94301, Attn.: Utilities Department, Dark Fiber Services, 3rd Floor.
4. These insurance requirements shall be subject to the review, annually performed, by the CITY’s Utilities Department and/or Risk Manager. If the CITY requires any change in coverage, notice thereof shall be given to the CUSTOMER, in writing, and the CUSTOMER shall comply with such notice within thirty (30) Days of receipt thereof.
5. Prior to the execution hereof, any deductibles or self-insured retentions must be stated on the certificate(s) of insurance, which shall be sent to and approved by the CITY.

EXHIBIT "E": FIBER LICENSE AGREEMENT INFORMATION REQUEST FORM



1. Official business name: Adobe Creek Networks
2. Is Company certified as a Competitive Local Exchange Carrier (CLEC)?
☒ No
☐ Yes
[If yes, does the Company intent to offer CLEC services over the Licensed Fiber optic lines of the CITY? No]
3. Check this box if you intend to offer commercial video services.
☐ Yes ☒ No
If commercial video services are to be offered, the applicant must consult with the Cable Franchise Manager, Administrative Services Department, (650) 329-2208 to discuss obtaining a franchise with the City of Palo Alto.
4. Attach copy of Articles of Incorporation, Fictitious Business Name Certificate, or Limited Liability Partnership Certificate of Registration, if applicable.
5. Attach Insurance certificate in the amounts specified in Exhibit D with the City of Palo Alto named as an additional insured. N/A
6. Address(es) to which notices should be sent:

MAIN NOTICE:

Adobe Creek Networks

Company
3995 Page Mill Road

Street Address
Los Altos, CA 94022

ATTN: President

Attention (Name and Title)
415-329-3614

Phone Number (with area code)

Fax Number (with area code)

COPY TO (optional):

Adobe Creek Networks

Company
c/o Thoits Law

Street Address
400 Main St # 250

Los Altos CA 94022

Attention (Name and Title)

Phone Number (with area code)

Fax Number (with area code)

7. Taxpayer I.D. Number: 87-4375605

**EXHIBIT “F”: ACKNOWLEDGEMENT OF RECEIPT OF CITY OF PALO ALTO
UTILITIES RULES AND REGULATIONS**

The City of Palo Alto Utilities Rules and Regulations, and any amendments thereto, are approved and adopted by resolution of the Palo Alto City Council. Copies are available to the public at the Utilities Customer Service Center, Second Floor, 250 Hamilton Avenue, Palo Alto, CA 93401. In addition, the Rules and Regulations are available online via the City of Palo Alto website at <http://www.cpau.com/docs/rules/rulesindex.html>.

By signing this receipt I hereby acknowledge receipt of a copy of the City of Palo Alto Utilities Rules and Regulations, effective date August 1st, 2023.

Signature

Adobe Creek Networks

Company

3995 Page Mill Rd

Street Address

Los Altos CA 94022

Daniel Dulitz, President

Attention (Name and Title)

415-329-3614

Phone Number (with area code)

Fax Number (with area code)

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Signature

Adobe Creek Networks

Company

3995 Page Mill Road

Street Address

Los Alto, CA 94022

City, State, ZIP, Country

Daniel Dulitz, President

Attention (Name & Title)

415-329-3614

Phone Number (with area code)

Fax Number (with area code)

Email/Website