

**BROADBAND CORRIDOR ACCESS AGREEMENT
TRANSVERSE CROSSINGS**

Contract# 0000000000000000000047475

This Broadband Corridor Access Agreement (“Agreement”) is entered into and effective on the Commencement Date as defined in Section 1.2, by the State of Indiana through the Indiana Department of Transportation (“INDOT”) and Sunman Telecommunications LLC., (hereinafter referred to as “Operator”), collectively to as the “Parties”.

RECITALS

WHEREAS, INDOT owns certain parcels of real estate and structures throughout the State of Indiana (the “State”), on which various Improvements described in **Exhibit A**, which is attached hereto and incorporated herein by reference, will be placed on one such “Site”, as defined in **Exhibit B**, which is attached hereto and incorporated herein by reference, required for operation of Fiber, by Operator; and

WHEREAS, INDOT wishes to grant Operator the right to install, construct, maintain, repair and operate Improvements on, over or under the Site for the purpose of data transmission and related services;

WHEREAS, INDOT retains all rights to use the Site including, but not limited to, constructing and installing equipment, facilities, and structures upon the Site, provided that such use shall not interfere with Operator’s installation and operation of its Improvements in the Site except as provided herein; and

WHEREAS, INDOT retains the right to use Operator’s Improvements for Intelligent Transportation Systems (“ITS”) and/or other highway-related purposes in accordance with Section 2.5; and

WHEREAS, INDOT and Operator acknowledge that improvements owned by the State presently located on the Site shall not be used by Operator for purposes of this Agreement except as provided herein; and

NOW THEREFORE, for good and valuable consideration, the Parties hereto agree as follows:

I DEFINITIONS

1.1. “Clear Zone” means the total roadside border area, starting at the edge of the traveled way, available for safe use by errant vehicles. This area may consist of a shoulder, a recoverable slope, a non-recoverable slope, and/or a clear run-out area. The desired minimum width is dependent upon traffic volumes and speeds and on the roadside geometry. Simply stated, it is an unobstructed, relatively flat area beyond the edge of the traveled way that allows a driver to stop safely or regain control of a vehicle that leaves the traveled way. The INDOT Design Manual, available at

http://www.in.gov/indot/design_manual/, is the guide for establishing the clear zone for various types of highways and operating conditions.

1.2. “Commencement Date” means the date the Agreement is fully executed by the Parties and the following State agencies: Department of Administration, the State Budget Agency, and the Office of the Attorney General (“Approving Parties”).

1.3. “Conduit” means a pipe that encloses a data transmission or electrical line.

1.4. “Equipment” means all Improvements with the exception of Conduit and Handholes.

1.5. “Fiber Optics” means thin flexible fibers of glass or other transparent solids to transmit light signals, chiefly for data transmission.

1.6. “Fiber Optic Corridor” means that area eight (8) feet wide furthest from the edge of pavement and closest to the right-of-way (“ROW”) fencing or the edge of the ROW identified for placement of Improvements.

1.7. “Governmental Approvals” means any license, permit, approval, or consent necessary for the construction, operation, and maintenance of the Improvements, including, but not limited to, the Broadband Corridor Access Permit.

1.8. “Handholes” means plastic or polymer concrete structures set below ground with their lids flush to the surrounding soil, turf, footpath, or road surface. They can be used to house and protect optical fiber splices and distribution elements. They safeguard and provide convenient access to termination and branch points, provide flexibility and access for installation operations (e.g., pulling or blowing Fiber Optics), provide mechanical and environmental protection for splices, allow access for craftsperson work activities, and discourage access by unauthorized persons.

1.9. “Hazardous Condition” means the release, or the threatened release, or the presence, use, treatment, storage, or disposal of any material or substance regulated as a hazardous, toxic, or dangerous substance or pollutant (“Hazardous Substance”) under any Environmental Laws as that term is defined below. Hazardous Condition shall include, but not be limited to, any activity whatsoever involving the presence at, on, under, or about (including in the soil, surface water, or groundwater), of (i) any hazardous waste, extremely hazardous waste, restricted hazardous waste, toxic pollutant, or hazardous pollutant, or words of similar import, as defined in the Resource Conservation & Recovery Act, as amended, and any regulations or guidelines promulgated hereunder; (ii) any hazardous substance as defined in the Comprehensive Environmental Response, Compensation and Liability Act as amended, and any regulations or guidelines promulgated hereunder; (iii) any toxic substance or hazardous chemical as defined in the Toxic Substances Control Act, as amended, and any regulations or guidelines promulgated hereunder; (iv) the discharge of any pollutant under the Federal Water Pollution Control Act, as amended, and any regulations or guidelines hereunder; (v) any petroleum or refined petroleum product, or other petroleum hydrocarbon; (vi) asbestos; (vii) polychlorinated biphenyls; (viii) any pollutant or hazardous air pollutant under the Clean Air Act, as amended, and any regulations or guidelines promulgated hereunder; and (ix) any substance or waste regulated under other applicable

environmental law. “Environmental Laws” hereunder shall mean the statutes referenced in clauses (i), (ii), (iii), (iv), (viii) and (ix), above, the Occupational Safety & Health Act, the Hazardous Materials Transportation Act, any state analogues to any of them, and any regulations or rules promulgated under each of them, each as amended and in effect from time to time.

1.10. “Improvements” means anything built and/or installed by Operator on the Site, including, but not limited to, conduit, cable, cable-routing, signal amplification, or other electronic Equipment, or structures facilitating data transmission by Fiber Optic medium installed within the Site, as more particularly described in **Exhibit A**.

1.11. “INDOT” means the Indiana Department of Transportation.

1.12. “Operator” has the meaning set forth in the preamble.

1.13. “Permit Issue Date” means the date that INDOT issues a Broadband Corridor Access Permit for the construction of Improvements on the Site.

1.14. “Site” means those portions of INDOT’s real property on, over, and under which Operator may install Improvements as more particularly described in **Exhibit B**.

1.15. “State Fiber” means any other Fiber Optic cable strands that the State acquires.

1.16. “State Improvements” means all equipment, cable, fixtures, or structures installed, operated and maintained by the State within the Site.

1.17. “Term” means the Term of this Agreement as set forth in Section 5.1.

II. FEASIBILITY; CONSTRUCTION; CONTINGENCIES

2.1. Feasibility

2.1.1. Site Survey/Title. Operator may obtain a title search and/or land survey of the Site to determine if there are any conditions, liens, easements, restrictions, encroachments, overlaps or other rights or grants which interfere with Operator’s intended use and enjoyment of the Site. The cost and expense for any title or survey work shall be borne by Operator. Operator may obtain insurance on its Improvements. INDOT shall not be required to acquire property to accommodate Operator’s intended use of the Site. INDOT and Operator shall at all times have the right to shared use of the Site; provided, however, that such shared use shall not disturb the Operator’s installation and operation of the Improvements in the Site except as provided herein.

2.1.2. Site Suitability. Prior to commencing construction of the Improvements, Operator shall obtain, at Operator’s sole expense, tests and/or reports listed in, but not limited to, those in **Exhibit C** (“Studies”), which is attached hereto and incorporated herein by reference. Any such test or reports shall indicate, to Operator’s reasonable satisfaction, that the Site is suitable for

Operator's use. Operator shall have the right to terminate this Agreement without triggering a default or liability if in the event any such tests or reports – including the results of the site survey/title work described in Section 2.1.1 – indicate in Operator's sole judgment that the Site premises are not suitable for Operator's use. INDOT acknowledges that Operator's ability to use the Site is contingent upon the suitability of the Site for Operator's intended use from a technical and/or engineering basis and Operator's ability to obtain any and all applicable licenses, permits, approvals, or other allowances required or deemed necessary or appropriate by Operator for such use (the "Governmental Approval") and any other consents required for Operator's use of such Site; provided that Operator shall have the right, without obligation, to appeal any denial of any such Governmental Approval until such time as a final non-appealable decision is rendered. INDOT shall receive evidence of studies listed in **Exhibit C**.

2.2. Construction of Improvements.

Upon the acceptance by INDOT of all studies, reports and designs listed in **Exhibit C**, the execution of this Agreement and an issuance of a permit by the INDOT Permitting Division, INDOT hereby authorizes Operator to use the Site, commonly referred to as INDOT Designation Site ID SID1156, Operator Designation COL-D-40, as more particularly described in **Exhibit B**, and more particularly grants Operator the right to install, construct, house, repair, maintain and operate Improvements, described in detail in the Improvements drawings in **Exhibit A**. INDOT acknowledges that Operator may partner with licensed telecommunications or other licensed company in connection with the installation, construction, housing, repair, maintenance, and operation of the Improvements and agrees that such partner may use the Site as Operator's sublicensee and apply for permits and other permissions on Operator's behalf. Notwithstanding the above, the grant of the Broadband Corridor Access Permit and any other required permits hereunder is solely to Operator. Operator shall require that any sublicensee comply with all of the applicable terms and conditions of this Agreement while operating at the Site.

The Improvements shall not be considered building fixtures, nor are the Improvements considered to be displaced persons and are not eligible for reimbursement for relocation expenses pursuant to the Uniform Relocation Act.

2.3. Ownership.

2.3.1. INDOT Ownership. The Parties agree that INDOT shall own all State Improvements and State Fiber.

2.3.2. Operator Ownership. State Improvements and State Fiber notwithstanding, the Parties agree that Operator shall own all Improvements and Equipment.

2.3.3. The Parties shall execute and record the Memorandum of Recordation, attached hereto as **Exhibit F**, and incorporated herein by reference.

2.4. Interference; Operation of Improvements.

Prior to the execution of this Agreement, Operator shall evaluate the possibility of interference to the Improvements at the Site that would be caused by INDOT or other existing user(s) of INDOT controlled property that is adjacent to the Site as of the effective date the Agreement. Further, Operator shall operate Improvements in a manner that will not cause interference to INDOT's current use of the Site and other existing users' current use of the Site.

2.5. Other Uses.

Parties acknowledge and understand that this Agreement and all rights of Operator are subject and subordinate to all existing agreements, easements, rights of way, declarations, restrictions, or other matters of record with respect to the Site. INDOT and the State reserve the right to grant additional access, easements, broadband corridor access agreements, or rights of way, whether recorded or unrecorded, as may be necessary, which do not interfere with the Improvements.

III. PERMITTING; RELOCATION

3.1. Permitting.

3.1.1. Governmental Approvals. The Operator is responsible for obtaining all Governmental Approvals, as further provided under Section 2.1.2.

3.1.2. Broadband Corridor Access Permit. Prior to installing or relocating any Improvements within the Site, Operator or Operator's Contractors will submit an application for a permit to access the Site for purposes of constructing, maintaining, and operating Fiber Optic cable lines (the "Broadband Corridor Access Permit"). Operator will submit its application using the Electronic Permitting System (EPS) at <http://www.ai.org/indot/2727.htm> and otherwise in conformity with INDOT's Broadband Permit Guidelines, available at <http://www.in.gov/indot/files/Broadband%20Permit%20Guidance.pdf> ("Broadband Permit Policy").

3.1.3. Timelines; Procedures. Operator shall submit in the Broadband Corridor Access Permit application the anticipated maintenance timelines and procedures for the proposed Improvements.

3.1.3.1. Review. This Agreement in no way binds INDOT to the issuance of any permit to Operator. However, INDOT agrees, in good faith, to review Operator's application(s), and if appropriate, issue a permit to Operator. If INDOT decides not to issue a permit to Operator for the initial construction of the Improvements, Operator may terminate this Agreement consistent with Section 2.1.2.

3.1.3.2. Notice. Except in the event of an emergency, Operator shall notify INDOT of its intent to enter the Site a minimum of five (5) business days before commencing work for approved activities as specified within this Agreement.

3.1.4. Additional Permits. Subject to the terms and conditions of this Agreement, and prior to entering the Site, Operator shall apply for a ROW permit, which will not be unreasonably withheld, for all construction and maintenance by Operator (or other parties contracted by the Operator) within the Site that are not already permitted pursuant to the Broadband Corridor Access Permit.

3.1.5. Emergency Access. In the event of an emergency that requires access to the Site not covered under an issued permit, notice shall be given telephonically to INDOT within one (1) hour of accessing the Site via the emergency contact number provided in Section 8.14. If a live INDOT employee is not available, a telephonic or voicemail message will be sufficient notice. Within twenty-four (24) hours of the emergency, Operator shall submit a ROW permit application for the work performed and for any work yet to be completed within the Site.

3.1.6. Compliance. Operator shall comply with INDOT's Broadband Access Policy and all state and federal laws, rules and regulations in accordance with this Agreement.

3.2. Surety Bond.

Prior to any work being performed for construction of the Improvements, Operator shall furnish a bond of a surety authorized to do business in the State ("Surety"). The amount of the bond shall be equal to the contract amount for construction of Improvements as provided in **Exhibit B**. The bond must be signed by the Surety's authorized Attorney-in-Fact, and the Surety's seal must be affixed to each bond. A power-of-attorney for the Attorney-in-Fact shall be attached to the bond. Bond shall not be canceled without Operator and INDOT's written consent, nor shall bond be released prior to contract completion. Operator shall provide INDOT with a copy of the bond in accordance with the permitting process.

3.3. Relocation.

Operator acknowledges and agrees that INDOT has the right to require Operator to relocate the Improvements if such relocation is necessary for highway and/or safety purposes or if the Improvements and/or the Site do not conform to **Exhibit A** and/or **Exhibit B**. Notwithstanding an emergency, INDOT shall exercise this right by giving Operator no less than twelve (12) month prior written notice. INDOT may, in such relocation notice, designate an alternate site (*i.e.*, an alternate Fiber Optic Corridor and appurtenant real property necessary for the installation and operation of Improvements), if one exists. Operator shall be responsible for any and all costs associated with such relocation and/or removal of Improvements to such alternate site; provided, however, that INDOT shall bear a proportional cost relative to the expense of relocating State Fiber and State Improvements. In the event that an alternate site cannot be provided, it shall be considered a termination by INDOT.

3.3.1. Relocation for Cause. Operator shall be solely responsible for any relocation required as a result of Operator's failure to install its Improvements in accordance with **Exhibit A** and/or **Exhibit B**.

3.3.2. Third Party Authorizations. Operator shall ensure that it has authority to relocate or cause to be relocated all Improvements, including those installed by third parties on behalf of or for the benefit of Operator, within the Site.

IV. SHARED USE

4.1. Other Licensees.

Operator shall provide INDOT with name, address, and contact information of all licensees who are occupying Operator's Conduit ("Licensees") annually on the anniversary of the Commencement Date and/or upon INDOT's request.

4.1.1. Assignment, Lease and Transfer. Any lease or transfer that requires physical access to INDOT's right of way by a Licensee, and not on behalf of Operator, will necessitate that Licensee enter into a separate agreement with INDOT. Any assignment of Operator's obligations under this Agreement shall be in accordance with Section 8.1.

4.2. The Parties agree that Operator may assign this Agreement to an affiliate controlled by or under common control of Operator, provided the following conditions are met:

- a. The assignee is licensed to do business in the State of Indiana;
- b. Operator notifies INDOT prior to the assignment for INDOT to verify assignee's clearances to do business with the State of Indiana and that no assignment may occur until such clearances are confirmed by INDOT; and
- c. Operator provides to INDOT a fully executed Transfer and Assumption of Agreement form, which is attached hereto as **Exhibit E** prior to any assignment.

V. TERM; TERMINATION; DEFAULT

5.1. Term.

The Term of this Agreement shall be thirty (30) years commencing as of the Commencement Date and shall remain in effect thereafter, unless earlier terminated pursuant to the provisions of this Agreement.

5.2. Event of Default.

In the event of a default of any covenant or Term of this Agreement by a Party, the non-defaulting Party shall give notice to the defaulting Party, and such defaulting Party shall have sixty (60) days from receipt of such notice to cure such default, or, if the default is not capable of being cured within such sixty (60) days, such additional time as may be necessary to cure the default, provided the defaulting Party commences and diligently pursues such cure. The non-defaulting Party may terminate this Agreement without further notice in the event of the defaulting Party's

failure to cure the default within the specified time frame. INDOT shall not be responsible for any damage resulting from Operator's failure to place its Improvements in accordance with its approved plans under **Exhibit A** and/or **Exhibit B**.

5.3. Termination with Notice.

This Agreement may also be terminated as follows:

5.3.1. Failure to Maintain Governmental Approvals by Operator. In the event Operator fails to maintain any Governmental Approvals, Operator may terminate this Agreement by giving INDOT thirty (30) days prior written notice.

5.3.2. Inability to Occupy or Utilize by Operator. In the event Operator is unable to occupy and utilize the Site, Operator may terminate this Agreement by giving INDOT thirty (30) days prior written notice.

5.3.3. Economic or Technical Failure by Operator. Subsequent to the commencement of construction and/or operation of the Improvements, in the event Operator determines that the Site is not appropriate for economic or technological reasons, Operator may terminate this Agreement by giving INDOT one hundred eighty (180) days prior written notice.

5.3.4. Highway Purposes by INDOT. In the event INDOT requires the Site for highway and/or safety purposes, and is unable to provide Operator with an alternate site pursuant to Section 3.3, then INDOT may terminate this Agreement by giving Operator twelve (12) months prior written notice. Operator shall not be eligible for payment from INDOT or the State for relocation costs, services or benefits under any laws except that INDOT shall, with respect to State Fiber and State Improvements, bear its proportionate share of such relocation expenses, and Operator will be released from any ongoing access fees or payments.

5.3.5. Termination Obligation. With the exception of Section 8.8 and Section 5.3.4, if this Agreement is terminated for any reason, INDOT has the option to have Operator remove the Improvements at Operator's expense.

5.4. Effect of Termination.

5.4.1. Removal of Improvements. Subject to Section 2.3, upon expiration or earlier termination of this Agreement, at INDOT's request, Operator shall be responsible for removing in a good and workmanlike manner those Improvements in which Operator retains ownership, and Operator shall be responsible for any damage caused by the removal of such Improvements. If the Operator fails to remove the Improvements, INDOT shall have the right to keep Improvements or to enter the Site and without liability disable and/or remove any and all of the Improvements from the Site. INDOT shall then have the right to remove and store the Improvements, and the Operator shall indemnify and hold INDOT harmless from the costs of removal, storage, and/or disposal. INDOT shall be held harmless for any consequences to any Licensees. Operator shall reimburse INDOT for the costs of removal and storage within one hundred twenty (120) days after the

removal and/or disposal. If Operator fails to remove those Improvements, INDOT may do so and invoice Operator for the cost of such removal.

VI. OPERATOR'S RESPONSIBILITIES

6.1. Interference.

Operator will cause no interference with highway use. Operator, its employees, agents, contractors, subcontractors, lenders, guests, and invitees shall only have access to the Site via the terms of any INDOT-issued permit and INDOT's Broadband Permit Policy and Right of Way Manual, available at http://www.in.gov/indot/design_manual/design_manual_2013.htm ("ROW Manual").

6.2. Operator, at its expense, may use appropriate means of restricting access to Operator's Improvements, provided INDOT shall have access to the Site and the Improvements (but not the Operator's Improvements themselves, except in case of emergency) at all times.

6.3. Operator shall follow and comply with the terms of the Broadband Access Permit Guidelines, which are published online at <https://www.in.gov/indot/files/Broadband%20Permit%20Guidance.pdf>

6.4. Site Access Restrictions.

6.4.1. Operator's access for constructing, servicing, or maintaining Improvements along or across the Site shall be limited to, as applicable:

- a. frontage roads;
- b. gates;
- c. nearby or adjacent public roads and streets;
- d. trails along or near the ROW line which connect only to an intersecting road;
or
- e. shoulders so long as Traffic Control Plans are provided to INDOT and followed by Operator and Operators Contractors at all times. Chapter 503 on Traffic Maintenance of the Indiana Design Manual, Indiana Interstate Highways Congestion Policy and INDOT Work Zone Traffic Control Guidelines may be found at:
http://www.in.gov/indot/design_manual/design_manual_2013.htm#
and
<https://secure.in.gov/indot/3383.htm>
and
<http://www.in.gov/indot/files/WorkZoneTCH.pdf>.

Entry to the median area should be restricted to nearby grade separation structures, stream channel crossings, or other suitable locations not involving direct access from the highway traffic lanes or ramps.

6.5. Limited Access Fences/Gates.

6.5.1. Limitations. INDOT's limited access fence ("Limited Access Fence") shall not be opened unless otherwise stated in a Broadband Corridor Access Permit. If the Limited Access Fence is damaged, Operator shall repair or replace the Limited Access Fence before concluding its work operations at the end of the day, or temporarily secure the Limited Access Fence in some manner to deter access by pedestrians and animals.

6.5.2. Re-installation; Repair. If Operator must open the existing Limited Access Fence to place, repair, or maintain Improvements, Operator shall disassemble the Limited Access Fencing and, upon completion of the permitted work, reinstall the Limited Access Fencing in its original location to a uniform profile. All costs associated with placement, repair, or maintenance of the security fencing are the sole responsibility of Operator. All fencing material, with the exception of the posts, may be reused. New posts shall be supplied by Operator. Operator shall replace any fencing material damaged during the removal or reinstallation with new material.

6.5.3. Disassembly Requests. Operator may request to disassemble a portion of a Limited Access Fence and install a temporary or permanent gate in its location. A permanent gate in the security fence may be allowed, but only in rare cases. This type of access request must also be approved by the Federal Highway Administration ("FHWA"). When a gate is allowed, provisions to guard against unauthorized use are required.

6.5.4. Standards. All work performed and the fencing and gate materials supplied shall conform to INDOT's standard specifications as set forth in Section 6.6.2. Any gate should match the profile of the adjacent Limited Access Fence. Wood posts may be substituted for the metal posts supporting the gate. Any fencing material damaged with the installation of the gate shall be replaced with new material. The gate and any other fencing material shall be supplied by Operator at its own expense.

6.5.5. Security. During Improvements construction, the security of the ROW shall be maintained at all times by the installation of a temporary fence. The temporary fence shall be placed between the highway and the actual work area. When a gate is allowed, provisions to guard against unauthorized use are required. Operator must keep the gate locked whenever a work site is unattended. Operator shall keep all keys for a gate.

6.6. Work Standards.

6.6.1. General Performance Standard. At the Operator's sole expense, the Operator shall or shall cause the Operator's contractors to perform all work in a good and workmanlike manner.

6.6.2. INDOT Standards. Operator will construct and maintain the Site pursuant to INDOT's standard specifications, which may be found at <http://www.in.gov/dot/div/contracts/standards/book/index.html> in order to protect the highway's safety, structural integrity and appearance. Operator will cause no unreasonable interference with highway use.

6.6.3. Traffic Control. Additionally, the plans contained in **Exhibit D**, attached hereto and incorporated herein by reference, shall address traffic control issues and shall be consistent with the Indiana Work Zone Traffic Control Guidelines, found at <https://secure.in.gov/indot/files/WorkZoneTCH.pdf>, the IN MUTCD (the Indiana Manual for Uniform Traffic Control Devices), which may be found at <http://www.in.gov/dot/div/contracts/design/mutcd/2011rev1MUTCD.htm>, and sound engineering practices. Operator specifically acknowledges that the Site is on a public ROW in close proximity to public highways and as such, INDOT reserves the right during construction of Improvements to suspend work without liability should the work performed deviate from the approved plans in **Exhibit A** and/or **Exhibit B**, or create an unreasonable risk to the traveling public.

6.6.4. Compliance with Laws. Operator shall at all times comply with all laws and ordinances and all rules and regulations of the State of Indiana and federal governmental authorities relating to the installation, construction, maintenance, depth, location, length, use, operation, and removal of its Improvements.

6.6.5. Inspections. Operator is responsible for ensuring all building/construction inspections of the Site are completed. INDOT is not responsible for inspections or inspection approvals. INDOT and FHWA shall have the right to inspect the Site.

6.7. Liens; Encumbrances.

Operator shall not permit any Statement of Intention to hold a Mechanic's Lien or other similar encumbrance to be filed against the Sites or any part thereof nor against any interest or estate therein by reason of labor, services, or materials claimed to have been performed or furnished to or by Operator. If any such lien shall be filed and an action commenced to foreclose the lien, Operator, upon demand by INDOT, shall cause the lien to be removed by the filing of a written undertaking with a surety approved by the court and obtaining an order from the court releasing the property from such lien. Nothing in this Agreement shall be deemed or construed to constitute consent to or request of any party for the performance of any labor or services of the furnishing of any material for any improvement, alteration, or remediation of the Site; nor as giving Operator the right or authority to contract for, authorize, or permit the performance of any labor or services, or the furnishing of any materials causing the attachment of a valid lien. This paragraph is in no way intended to nor shall it prohibit the Operator from encumbering or otherwise causing a lien to be filed against the Improvements or upon Operator's own personal property.

6.8. Utilities.

Operator shall be solely responsible for obtaining utility service from any utility company that will provide service to the Site (including using a standby power generator for Operator's exclusive use). Utilities that provide services to the Operator shall be responsible for obtaining any applicable permits from INDOT for the installation of any facilities within INDOT ROW. Operator shall be responsible for paying the costs of all necessary utilities; provided, however, that INDOT shall pay its proportionate share of utilities with respect to the State Fiber.

6.9 Site and Improvements Maintenance.

6.9.1. Maintenance. Operator, at its expense, shall maintain the Site and its Improvements in good order, condition, repair, and in such a manner as to maintain public safety and structural integrity of the highway and shall further maintain the Site in accordance with the approved Architectural and/or Engineering Plans provided in Exhibit A and/or Exhibit B. This includes, but is not limited to, the repair of fence, handholes, and gate (if any).

6.9.2. Operator Inspections. Operator shall inspect the Site annually to ensure all requirements of this Section 6.9 are met. Operator shall provide confirmation of such inspection to INDOT once per calendar year.

6.9.3. Modifications. Operator shall provide an updated Exhibit A, and updated Exhibit B, to INDOT in connection with an application for any replacement, modification or upgrade to Improvements. INDOT reserves the right to approve or deny any changes to the original Exhibit A and/or Exhibit B.

6.9.4. INDOT Repairs. INDOT shall not be required to make any repairs to the Site (other than to State Improvements or any State owned Fiber Optic cable) unless such repairs shall be necessitated by reason of the default or neglect of INDOT. If Operator fails to make necessary repairs to the Site and/or Improvements, it shall be considered a default under Section 5.2.

6.10. Insurance.

Operator, at Operator's sole cost and expense, shall procure and maintain on the Site and on the Improvements during the Term of this Agreement; (i) commercial general liability policy covering bodily injury and property damage with minimum liability limits not less than \$700,000 per person and \$5,000,000 per occurrence unless additional coverage is required by the State; (ii) property damage "all risk" insurance for the full value of Operator's property at the Site. Such insurance shall insure, on an occurrence basis, against liability of Operator, its employees and agents arising out of or in connection with Operator's use of the Site, all as provided for herein. Operator shall name INDOT and the State of Indiana as an additional insureds on the policy and provide a certificate of insurance to INDOT within thirty (30) days of the Commencement Date. All such policies shall not be subject to cancellation except after at least thirty (30) days prior written notice from Operator to INDOT.

6.11. Intellectual Property.

The Improvements and Operator's installation and operation of Improvements shall not infringe upon any third party's intellectual property or other proprietary rights. Operator shall pay all required royalties and license fees relating to the Improvements. Operator agrees to indemnify, defend, save, and hold harmless INDOT and the Indemnified Parties from all claims (including costs and expenses of defending against such claims) arising from claims that the Improvements infringes any patent, copyright, trade secret, trade name, trademark, or any other proprietary or contractual rights.

6.12. Taxes.

If property taxes are assessed or increased due to installation of Improvements, Operator shall pay any portion of such taxes attributable to the Improvements located on the Site. INDOT is exempt from most state and local taxes and many federal taxes. INDOT will not be responsible for any taxes levied on the Operator relating to this Agreement.

6.13. Hazardous Conditions.

6.13.1. Operator agrees that it will not use, generate, store, or dispose of any Hazardous Substance on, under, about, or within any Site in violation of any law or regulation. If Operator, its affiliates, agents, or assigns introduces a Hazardous Condition at the Site directly or indirectly, Operator shall be solely liable for the investigation, removal, or remediation of such introduced Hazardous Condition and for any resulting delays. Under such circumstances, INDOT shall not be responsible or held liable for any such introduced Hazardous Condition, and Operator shall protect, defend, and hold harmless INDOT against any such introduced Hazardous Conditions.

6.13.2. Any Hazardous Condition remediation for which Operator is responsible under this Section shall be conducted in compliance with any rules, orders, or guidelines promulgated or enforced by jurisdictional government authority, and applicable to the Site. For any remediation for which INDOT is responsible (*i.e.*, for any remediation for which Operator is not responsible under Section 6.13.1, Operator agrees to cooperate reasonably with INDOT's contractors, provided that Operator shall not bear any costs in relation to such remediation. For any remediation for which Operator is responsible, INDOT shall give Operator its contractors and agents such access as is reasonably necessary for the conduct of any investigation or remediation, provided that INDOT shall not bear any cost in relation to such remediation. Upon the request of the other Party, either Party conducting a remediation shall provide a copy of any final report submitted to any governmental authority with regard to an investigation or remediation of a Hazardous Condition.

VII. INDOT'S RESPONSIBILITIES

7.1. Interference.

7.1.1. Displacement. If Improvements and/or Site do not conform to **Exhibit A** and/or **Exhibit B**, Operator shall cure such failure to conform within sixty (60) days of receiving notice of nonconformance from INDOT. If Operator fails to cure the non-conformance within (60) days, INDOT may, at INDOT's discretion cause the Improvements and/or Site to conform to **Exhibit A** and/or **Exhibit B** at the Operator's expense or may terminate the Agreement in accordance with Section 5.2.

7.1.2. In the event that INDOT does not elect to cause any non-conforming Improvement and/or Site to conform with **Exhibit A** and/or **Exhibit B** the Operator shall submit updated **Exhibit A** and/or **Exhibit B**.

7.2. Repairs.

INDOT shall not be required to make any repairs to the Site unless such repairs shall be necessitated by reason of the default or neglect of INDOT. If Operator fails to make necessary repairs to the Site and/or Improvements, it shall be considered a Default under Section 5.2 above.

VIII. GENERAL PROVISIONS

8.1. Assignment.

This Agreement shall be binding and shall inure to the benefits of the Parties, their legal representatives, successors, and assigns, provided, however, because the Agreement is personal to each of the Parties hereto, the Operator shall not sell, assign, delegate, or transfer this Agreement or any portion thereof, including, without limitation any rights, title, interests, remedies, powers, and/or duties hereunder without the express written consent of INDOT (and concurrence of Federal Highway on interstates) via use of an assignment and assumption form provided in **Exhibit E**, which is attached hereto and incorporated herein by reference, required for operation of Improvements, by Operator and which assignment shall not be unreasonably withheld, conditioned, or delayed or made the subject of a demand for additional fees or compensation.

8.2. Authority to Bind the Operator.

The signatory for the Operator represents that he/she has been duly authorized to execute this Agreement on behalf of the Operator and has obtained all necessary or applicable approvals to make this Agreement fully binding upon the Operator when his/her signature is affixed, and accepted by the State.

8.3. Certification for Federal-Aid Contracts Lobbying Activities.

The Operator certifies, by signing and submitting this Agreement, to the best of its knowledge and belief that the Operator has complied with Section 1352, Title 31, U.S. Code, and specifically, that:

(A). No federal appropriated funds have been paid or will be paid, by or on behalf of the Operator, to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal Agreements, the making of any federal grant, the making of any federal loan, the entering into of any cooperative Agreement, and the extension, continuation, renewal, amendment, or modification of any federal Agreement, grant, loan, or cooperative Agreement.

(B) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress

in connection with such federal Agreement, grant, loan, or cooperative Agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(C). The Operator also agrees by signing this Agreement that it shall require that the language of this certification be included in all contractor Agreements including lower tier subcontracts, which exceed \$100,000, and that all such sub recipients shall certify and disclose accordingly. Any person who fails to sign or file this required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each failure.

8.4. Compliance with Laws.

8.4.1. The Operator shall comply with all applicable federal, state, and local laws, rules, regulations, and ordinances, and all provisions required thereby to be included herein are hereby incorporated by reference. The enactment or modification of any applicable state or federal statute or the promulgation of rules or regulations thereunder after execution of this Agreement shall be reviewed by INDOT and Operator to determine whether the provisions of this Agreement require formal modification.

8.4.2. The Operator and its agents shall abide by all ethical requirements that apply to persons who have a business relationship with the State as set forth in IC §4-2-6, *et seq.*, IC §4-2-7, *et seq.*, and the regulations promulgated thereunder. If Operator has knowledge, or would have acquired knowledge with reasonable inquiry, that a state officer, employee, or special state appointee, as those terms are defined in IC 4-2-6-1, has a financial interest in the Agreement, Operator shall ensure compliance with the disclosure requirements in IC 4-2-6-10.5 prior to the execution of this Agreement. If Operator is not familiar with these ethical requirements, Operator should refer any questions to the Indiana State Ethics Commission, or visit the Inspector General's website at <http://www.in.gov/ig/>. If Operator or its agents violate any applicable ethical standards, the State may, in its sole discretion, terminate this Agreement immediately upon notice to Operator. In addition, Operator may be subject to penalties under IC §§4-2-6, 4-2-7, 35-44.1-1-4, and under any other applicable laws.

8.4.3. The Operator certifies by entering into this Agreement that neither it nor its principal(s) is presently in arrears in payment of taxes, permit fees, or other statutory, regulatory, or judicially required payments to the State of Indiana. Operator agrees that any payments currently due to the State of Indiana may be withheld from payments due to the Operator. Additionally, further work or payments may be withheld, delayed, or denied and/or Operator suspended until the Operator is current in its payments and has submitted proof of such payment to the State.

8.4.4. The Operator warrants that it has no current, pending, or outstanding criminal, civil, or enforcement actions initiated by the State, and agrees that it will immediately notify the State of any such actions. During the term of such actions, Operator agrees that the State may delay, withhold, or deny work under any supplement, amendment, change order, or other contractual device issued pursuant to this Agreement.

8.4.5. The Operator warrants that Operator and its subcontractors, if any, shall obtain and maintain all required permits, licenses, registrations, and approvals, and shall comply with all health, safety, and environmental statutes, rules, or regulations in the performance of work activities for State. Failure to do so may be deemed a material breach of this Agreement and grounds for immediate termination and denial of further work with the State. Operator shall promptly provide INDOT with copies of any documents reasonably requested by INDOT.

8.4.6. The Operator affirms that, if it is an entity described in IC Title 23, it is properly registered, and owes no outstanding reports to the Indiana Secretary of State.

8.4.7. As required by IC §5-22-3-7:

(1) Operator and any principals of Operator certify that:

(A) Operator, except for *de minimis* and nonsystematic violations, has not violated the terms of:

- (i) IC §24-4.7 [Telephone Solicitation Of Consumers];
- (ii) IC §24-5-12 [Telephone Solicitations]; or
- (iii) IC §24-5-14 [Regulation of Automatic Dialing Machines];

in the previous three hundred sixty-five (365) days, even if IC §24-4.7 is preempted by federal law; and

(B) Operator will not violate the terms of IC §24-4.7 for the duration of the Agreement, even if IC §24-4.7 is preempted by federal law.

(2) Operator and any principals of Operator certify that an affiliate or principal of Operator and any agent acting on behalf of Operator or on behalf of an affiliate or principal of Operator, except for *de minimis* and nonsystematic violations,

(A) has not violated the terms of IC §24-4.7 in the previous three hundred sixty-five (365) days, even if IC §24-4.7 is preempted by federal law; and

(B) will not violate the terms of IC §24-4.7 for the duration of the Agreement, even if IC §24-4.7 is preempted by federal law.

8.5. Disputes.

Should any disputes arise with respect to this Agreement, INDOT and Operator agree to act immediately to resolve such disputes. Time is of the essence in the resolution of disputes.

8.5.1. Continuation of Responsibilities. Operator agrees that, the existence of a dispute notwithstanding, it will continue without delay to carry out all its responsibilities under this Agreement that are not affected by the dispute. Should Operator fail to continue to perform its responsibilities regarding all non-disputed work, without delay, any additional, directly related, verifiable, and documented costs incurred by INDOT as a result of such failure to proceed shall be borne by Operator, and Operator shall make no claim against the INDOT for such costs.

8.5.2. Right to Remedy. In addition to any other remedies, INDOT shall have available to it all rights and remedies provided by law and equity. No right or remedy of INDOT is

intended to be exclusive of any other right or remedy, and the INDOT's election of a specific remedy shall not preclude it from using any other remedy available to it by statute or equity.

8.6. Drug-Free Workplace Certification.

As required by Executive Order No. 90-5 dated April 12, 1990, issued by the Governor of Indiana, Operator hereby covenants and agrees to make a good faith effort to provide and maintain a drug-free workplace. Operator will give written notice to INDOT within ten (10) days after receiving actual notice that Operator, or an employee of Operator in the State of Indiana, has been convicted of a criminal drug violation occurring in the workplace. False certification or violation of this certification may result in sanctions including, but not limited to: suspension of contract payments, termination of this Agreement, and/or debarment of contracting opportunities with the State for up to three (3) years.

In addition to the provisions of the above paragraph, if the total amount set forth in this Agreement is in excess of \$25,000.00, the Operator certifies and agrees that it will provide a drug-free workplace by:

(A) Publishing and providing to all of its employees a statement notifying them that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Operator's workplace, and specifying the actions that will be taken against employees for violations of such prohibition;

(B) Establishing a drug-free awareness program to inform its employees of: (1) the dangers of drug abuse in the workplace; (2) the Operator's policy of maintaining a drug-free workplace; (3) any available drug counseling, rehabilitation and employee assistance programs; and (4) the penalties that may be imposed upon an employee for drug abuse violations occurring in the workplace;

(C) Notifying all employees in the statement required by subparagraph (A) above that as a condition of continued employment, the employee will: (1) abide by the terms of the statement; and (2) notify the Operator of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;

(D) Notifying INDOT in writing within ten (10) days after receiving notice from an employee under subdivision (C)(2) above, or otherwise receiving actual notice of such conviction;

(E) Within thirty (30) days after receiving notice under subdivision (C)(2) above of a conviction, imposing the following sanctions or remedial measures on any employee who is convicted of drug abuse violations occurring in the workplace: (1) taking appropriate personnel action against the employee, up to and including termination; or (2) requiring such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency; and

(F) Making a good faith effort to maintain a drug-free workplace through the implementation of subparagraphs (A) through (E) above.

8.7. Employment Eligibility Verification.

The Operator affirms under the penalties of perjury that they do not knowingly employ an unauthorized alien. The Operator further agrees that:

(A) The Operator shall enroll in and verify the work eligibility status of all its newly hired employees through the E-Verify program as defined in IC 22-5-1.7-3. The Operator is not required to participate should the E-Verify program cease to exist. Additionally, The Operator is not required to participate if the Operator is self-employed and do not employ any employees.

(B) The Operator shall not knowingly employ or contract with an unauthorized alien. The Operator shall not retain an employee or contract with a person that the Operator subsequently learns is an unauthorized alien.

(C) The Operator shall require its subcontractors, who perform work under this Agreement, to certify to The Operator that the subcontractor does not knowingly employ or contract with an unauthorized alien and that the subcontractor has enrolled and is participating in the E-Verify program. The Operator agrees to maintain this certification throughout the duration of the term of a contract with a subcontractor.

The State may terminate for default if The Operator fails to cure a breach of this provision no later than thirty (30) days after being notified by the State.

8.8. Force Majeure Event.

If either party is unable to perform any of its obligations under this Agreement or to enjoy any of its benefits because of natural disaster, or decrees of governmental bodies not the fault of the affected party (hereafter "Force Majeure Event"), the party who has been so affected shall immediately or as soon as is reasonably possible under the circumstances give notice to the other party and shall do everything reasonably possible to resume performance. Upon receipt of such notice, all obligations under this Agreement shall be immediately suspended. If the period of nonperformance exceeds thirty (30) days from the receipt of notice of the Force Majeure Event, the party whose ability to perform has not been affected may, by giving written notice, terminate this Agreement.

8.9. Funding Cancellation.

As required by Financial Management Circular 2007-1 and IC 5-22-17-5, when the Director of the State Budget Agency makes a written determination that funds are not appropriated or otherwise available to support continuation of the performance of this Agreement, this Agreement shall be canceled. A determination by the Director of State Budget Agency that funds are not appropriated or otherwise available to support continuation of performance shall be final and conclusive.

8.10. Governing Law.

This Agreement shall be construed in accordance with and governed by the laws of the State of Indiana without regard to its conflict of laws rules. Suit, if any, must be brought in the State of Indiana.

9.11. Indemnification.

Operator agrees to indemnify, defend, save and hold harmless the INDOT, the State of Indiana, the Federal Highway Administration and their officers, employees, agents, representatives, successors and assigns (the "Indemnified Parties) from all claims (including costs and expenses of defending against such claims) arising from any act or omission of Operator or Operator's agents, employees or contractors relating to this Agreement or breach of any provision of this Agreement by Operator or Operator's agents, employees or contractors. Indemnification shall not be limited by reason of any insurance coverage. Neither INDOT nor the State shall provide indemnification to the Operator.

8.12. Merger & Modification.

This Agreement constitutes the entire agreement between the Parties. No understandings, agreements, or representations, oral or written, not specified within this Contract will be valid provisions of this Agreement. This Agreement may not be modified, supplemented, or amended, except by written agreement signed by all necessary parties.

8.13. Nondiscrimination.

(A). Pursuant to the Indiana Civil Rights Law, specifically including IC 22-9-1-10, and in keeping with the purposes of the Civil Rights Act of 1964, the Age Discrimination in Employment Act, and the Americans with Disabilities Act, the Operator covenants that it shall not discriminate against any employee or applicant for employment relating to this Agreement with respect to the hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of the employee's or applicant's race, color, national origin, religion, sex, age, disability, ancestry, status as a veteran, or any other characteristic protected by federal, state or local law ("Protected Characteristics"). The Operator certifies compliance with applicable federal laws, regulations and executive orders prohibiting discrimination based on the Protected Characteristics in the provision of services. Breach of this paragraph may be regarded as a material breach of this Agreement, but nothing in this paragraph shall be construed to imply or establish an employment relationship between the State and any applicant or employee of the Operator or any subcontractor. Breach of this covenant may be regarded as a material breach of this Operator, but nothing in this covenant shall be construed to imply or establish an employment relationship between the State and any applicant or employee of the Operator or any subcontractor.

(B). INDOT is a recipient of federal funds, and therefore, where applicable, the Operator and any subcontractors shall comply with requisite affirmative action requirements, including reporting, pursuant to 41 CFR Chapter 60, as amended, and Section 202 of Executive Order 11246 as amended by Executive Order 13672.

Pursuant to that understanding, the Operator agrees that if the Operator employs fifty (50) or more employees and does at least \$50,000.00 worth of business with the State and is not exempt, the Operator will comply with the affirmative action reporting requirements of 41 CFR 60-1.7. The Operator shall comply with Section 202 of executive order 11246, as amended, 41 CFR 60-250, and 41 CFR 60-741, as amended, which are incorporated herein by specific reference. Breach of this covenant may be regarded as a material breach of Contract.

It is the policy of INDOT to assure full compliance with Title VI of the Civil Rights Act of 1964, the Americans with Disabilities Act and Section 504 of the Vocational Rehabilitation Act and related statutes and regulations in all programs and activities. Title VI and related statutes require that no person in the United States shall on the grounds of race, color or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. (INDOT's nondiscrimination enforcement is broader than the language of Title VI and encompasses other State and Federal protections. INDOT's nondiscrimination enforcement shall include the following additional grounds: sex, sexual orientation, gender identity, ancestry, age, income status, religion, disability, income status, limited English proficiency, or status as a veteran.)

(C). During the performance of this Operator, the Operator, for itself, its assignees and successors in interest (hereinafter referred to as the "Operator") agrees to the following assurances under Title VI of the Civil Rights Act of 1964:

1. Compliance with Regulations: The Operator shall comply with the regulations relative to nondiscrimination in Federally-assisted programs of the Department of Transportation, Title 49 CFR Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this Operator.

2. Nondiscrimination: The Operator, with regard to the work performed by it during the Operator, shall not discriminate on the grounds of race, color, sex, sexual orientation, gender identity, national origin, religion, disability, ancestry, or status as a veteran in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Operator shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulation, including employment practices when the Operator covers a program set forth in Appendix B of the Regulations.

3. Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the Operator for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the Operator of the

Operator's obligations under this Operator, and the Regulations relative to nondiscrimination on the grounds of race, color, sex, sexual orientation, gender identity, national origin, religion, disability, ancestry, income status, limited English proficiency, or status as a veteran.

4. Information and Reports: The Operator shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Indiana Department of Transportation and Federal Highway Administration to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a Operator is in the exclusive possession of another who fails or refuses furnish this information, the Operator shall so certify to the Indiana Department of Transportation or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information.

5. Sanctions for Noncompliance: In the event of the Operator's noncompliance with the nondiscrimination provisions of this Operator, the Indiana Department of Transportation shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to: (a) withholding payments to the Operator under the Operator until the Operator complies, and/or (b) cancellation, termination or suspension of the Operator, in whole or in part.

6. Incorporation of Provisions: The Operator shall include the provisions of paragraphs 1. through 5. in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

The Operator shall take such action with respect to any subcontract or procurement as the Indiana Department of Transportation or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for non-compliance, provided, however, that in the event the Operator becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Operator may request the Indiana Department of Transportation to enter into such litigation to protect the interests of the Indiana Department of Transportation, and, in addition, the Operator may request the United States of America to enter into such litigation to protect the interests of the United States of America.

8.14. Notice to Parties. Whenever any notice, statement, or other communication is required under this Agreement, it shall be sent to the following addresses, via certified or registered mail, return receipt requested, or reliable overnight courier unless otherwise specifically advised:

- A. For District Permit Manager: 812-524-3944
- B. For INDOT Asset Manager: 812-524-3786
- C. For INDOT Traffic Engineer: 812-524-3776
- D. For Emergency Notice: 317-646-3655

E. For Written Notice: INDOT Broadband Corridor Director
100 N. Senate Ave. IGCN 758-BC
Indianapolis, IN 46204

With Copy To: Chief Legal Counsel
Indiana Department of Transportation
100 North Senate Avenue, IGCN 758
Indianapolis, IN 46204

F. For Operator: Sunman Telecommunications LLC.
123 Nieman St
Sunman, IN 47041

With Copy To: Attn: Legal Department

Emergency Contact Number: 812-212-2996

Accounts Payable: Kristen Phillips
402-456-6452
kphillips@gpcom.com

Any such notice or demand shall be deemed to have been given, if mailed, on the expiration of five (5) business days after the date mailed or, if sent by overnight courier, on the expiration of twenty-four (24) hours after the date sent by overnight courier. Any party may change such party's address for purposes of this Agreement by giving notice of such change to the other parties pursuant to this paragraph. In the event of an emergency, notice shall be given telephonically to a live person within one (1) hour if access is needed to the Site. A telephonic or voicemail message is not sufficient notice.

If either party is represented by a real estate broker in this transaction, that party shall be fully responsible for any fee due such broker, and shall hold the other party harmless from any claims for commission by such broker.

8.15. Penalties, Interest, Attorney's Fees.

The State will in good faith perform its required obligations hereunder and does not agree to pay any penalties, liquidated damages, interest or attorney's fees, except as permitted by Indiana law, in part, IC §5-17-5, IC §34-54-8, IC §34-13-1 and IC § 34-52-2-3.

8.16. Severability.

If any provision of this Agreement is held invalid or unenforceable by a court of competent jurisdiction, the remainder of this Agreement or the application of such provision to persons other

than those as to whom it is held invalid or unenforceable, shall not be affected, and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

8.17. Termination of Convenience.

This Agreement may be terminated, in whole or in part, by INDOT every ten (10) years of the anniversary of the Commencement Date, for any reason, INDOT determines that such termination is in its best interest. Termination shall be effectuated by delivery to the Operator of a Termination Notice at least one hundred eighty (180) days prior to the termination effective date, specifying the extent to which performance of services under such termination becomes effective.

8.18. General.

This Agreement represents the entire understanding between the parties relating to the subject matter, and supersedes any and all prior oral and/or written communications, understandings or agreements relating to the subject matter. Any amendment or modification to this Agreement must be in writing, reference this Section 9.18, and be signed by duly authorized representatives of the parties (and by all necessary approving State agencies or parties). Neither this Agreement nor any portions of it may be assigned, licensed or otherwise transferred by the Operator without the prior written consent of INDOT. This Agreement will be binding upon the parties and their permitted successors or assigns. Failure of either party to enforce any provision of this Agreement will not constitute or be construed as a waiver of such provision or of the right to enforce such provision. The headings are inserted for convenience only and do not constitute part of this Agreement.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

Non-collusion and Acceptance.

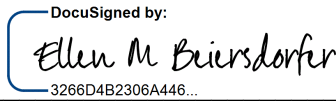
The undersigned Operator attests under penalties of perjury that he/she is the Operator, or is the representative, agent, member, or officer of the Operator, that he/she has not, nor has any other member, employee, representative, agent, or officer of the Operator, directly or indirectly, to the best of his/her knowledge, entered into or offered to enter into any combination, collusion, or agreement to receive or pay, and that he/she has not received or paid any sum of money or other consideration for the execution of this Agreement, other than that which appears upon the face of this Agreement. **Furthermore, if the undersigned has knowledge that a state officer, employee, or special state appointee, as those terms are defined in IC 4-2-6-1, has a financial interest in the Agreement, Operator attests to compliance with the disclosure requirements in IC 4-2-6-10.5.**

Agreement to Use Electronic Signatures

I agree, and it is my intent, to sign this Contract by accessing State of Indiana Supplier Portal using the secure password assigned to me and by electronically submitting this Contract to the State of Indiana. I understand that my signing and submitting this Contract in this fashion is the legal equivalent of having placed my handwritten signature on the submitted Contract and this affirmation. I understand and agree that by electronically signing and submitting this Contract in this fashion I am affirming to the truth of the information contained therein. I understand that this Contract will not become binding on the State until it has been approved by the Department of Administration, the State Budget Agency, and the Office of the Attorney General, which approvals will be posted on the Active Contracts Database: https://hr85.gmis.in.gov/psp/pa91prd/EMPLOYEE/EMPL/h/?tab=PAPP_GUEST

In Witness Whereof, the Parties have, through their duly authorized representatives, entered into this Agreement. The Parties, having read and understood the foregoing terms of this Agreement, do by their respective signatures dated below agree to the terms thereof.


For Sunman Telecommunications LLC.:

By:  3266D4B2306A446...

Name, title: OSP Field Engineer

Date: 10/19/2020 | 16:05 EDT

For INDOT:
State of Indiana, through
Indiana Department of Transportation

By:  E4D950EDC308471..., (for)

Joseph McGuinness, Commissioner,
Indiana Department of Transportation

Date: 10/29/2020 | 12:38 EDT

APPROVALS

STATE OF INDIANA
Budget Agency

By: _____ (FOR)
Zachary Q Jackson, Director

Date: _____

STATE OF INDIANA
Department of Administration

By: _____ (FOR)
Lesley A. Crane, Commissioner

Date: _____

Approved as to Form and Legality:
Office of the Attorney General

By: _____ (FOR)
Curtis T. Hill, Jr.
Attorney General of Indiana

Date: _____

Exhibit B: Site

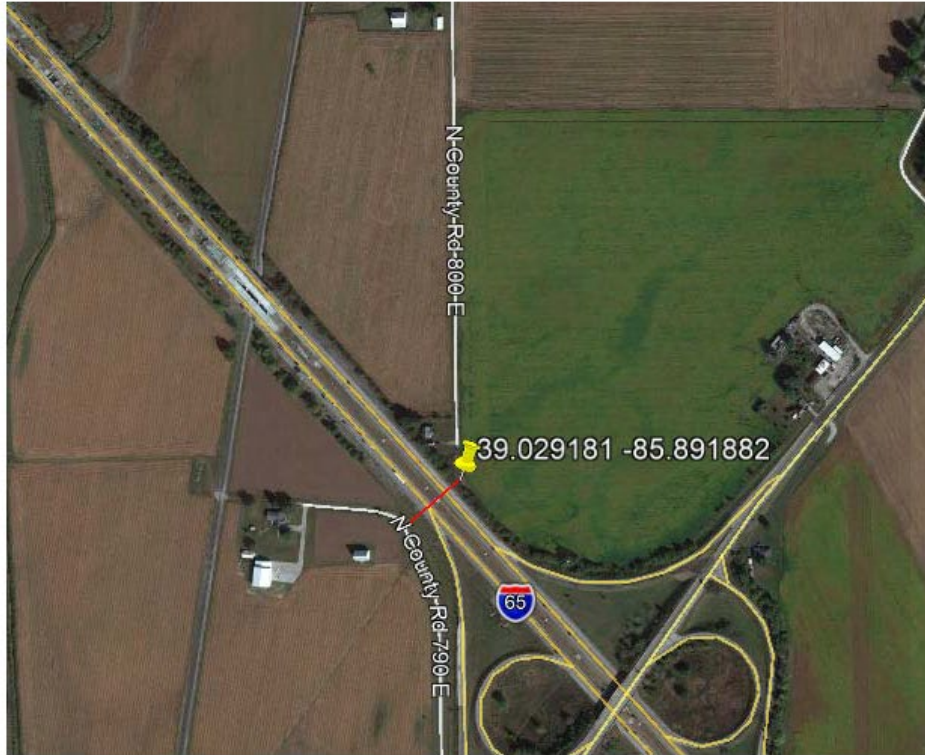


Exhibit C: Required Studies and Reports

Examples Include: The intent is to have on record any required reports and studies.

Stamped and Sealed Construction Drawings

Underground bore elevation/vault diagrams

Structural Analysis

Geotechnical Report

Site walkthrough

Land Survey

Intermodulation Study

AM Certification

FCC Documents License

FAA Approval

NEPA/Programatic CE

Land Rights/Title Review

Other regulatory documents as needed

INDOT - PERMITS DIVISION
BROADBAND PERMITS
BORING AND JACKING SPECIFICATIONS WORKSHEET

PLEASE FILL IN ALL NECESSARY INFORMATION AND DIMENSIONS ON DRAWINGS

Application/Permit Number _____

I-65 **Jackson**
Roadway County

Pit dimensions

Pit #1 type (check one)
 Bore
 Receive

Pit #2 type (check one)
 Bore
 Receive

L 2'
W 2'
H 3'

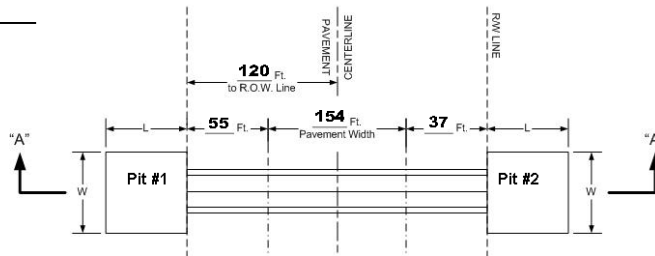
L 2'
W 2'
H 3'

Dimensions of casing and carrier (in feet)

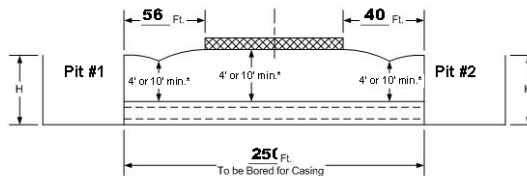
SDR 13.5	Fiber
Casing type	Carrier type
250	250
Length	Length
1.25"	.41"
Diameter	Thickness
55.47	1/2"
Diameter	Diameter

Location: (RRP if available)

PLAN VIEW



SECTION "A-A"



*Minimum 4' depth required for longitudinal installations; minimum 10' depth required for transverse crossings along the broadband corridor (i.e., Interstates, US-30, US-31, toll roads)

All installations must conform with current INDOT broadband policy and permit guidelines.

Exhibit D: Traffic Control Plan

Indiana Department Of Transportation Permit Section Traffic Control Quick Reference Guide

Work on Paved Shoulders ≥8ft. or Parking Lanes

Paved Shoulder ≥8ft. Closed on Divided Roadway

Notes:

- SHOULDER CLOSED signs should be used on limited-access highways where there is no opportunity for disabled vehicles to pull off the traveled way. UTILITY, WORK AHEAD, or WORKERS signs may be used instead of the ROAD WORK AHEAD sign.
- Use of an arrow display is optional. If used, it shall be operated in the caution mode.
- ≤40mph speed limit, shadow vehicle optional.

Shadow Vehicles CANNOT be used as work vehicles

Lane Closure on a Divided Roadway or One Way Street

Notes:

- When a side road intersects the roadway within the work zone, additional devices shall be erected to channelize traffic bottom from the side road, and a ROAD WORK AHEAD sign shall be placed on each side road approach.
- On non-freeway multi-lane roads in urban areas, the sign spacing may be reduced.
- ≤40mph speed limit, shadow vehicle optional.

Lane Closure on a Two-Lane Road (Two Flagger Operation)

Notes:

- The flagger or flaggers shall use approved flagging procedures according to the MUTCD.
- If there is a side road intersection within the work area, additional traffic control, such as flaggers and appropriate signage, may be needed on the side road approaches.

Legend

Channelizing Device	Portable Sign Support	Work Area
Arrow Board Display	Arrow Board Display Symbol	Warning Sign
Flagger Symbol	Shadow Vehicle With Flashing Light	

Flagger Standards and Procedures

If flaggers are used they must be properly trained and equipped at all times.

Only 24" Diameter Stop/Slow paddles are allowed while flagging on State Right-Of-Way

Acceptable Channelizing Devices

- Stripes on barricade rails slope downward at an angle of 45 degrees toward the direction traffic is to pass.
- Barricade rail stripe widths shall be 8 inches except where rail lengths are less than 36 inches, then 4 inch wide stripes may be used.
- The sides of barricades facing traffic shall have retroreflective rail faces.
- All channelizing devices shall meet AASHTO Manual for Assessing Safety Hardware (MASH) Requirements.

Spacing

On Tapers: The distance in feet equal to the speed limit in mph. Alongside the work area: The distance in feet equal to 2.0 times the speed limit in mph.

Alternatively, the spacing for straight-a-ways may be as follows:

- 20 to 40 mph: 1 cone for every 40' (every 3 skip)
- 40 to 55 mph: 1 cone for every 80' (every other skip)
- 60 mph & above: 1 cone for every 120' (every 3 skips)

Sign Spacing (feet)					
	25-30 mph	35-40 mph	45-55 mph	Multilane Divided 50 mph or higher	Expressway/Freeway
A	100	350	500	1000	1000
B	100	350	500	1600	1600
C	100	350	500	2640	2640

Distances shown are approximate. Sign spacing should be adjusted for curves, hills, intersections, driveways, etc., to improve sign visibility.

OPTIONAL SKIPS BASED TAPERS (For a 12 Ft Wide Closures)

Speed (MPH)	Shoulder Tapers			Shifting Tapers			Merging Tapers					
	L	#B	#C	L	#B	#C	L	#B	#C			
20	60	2	20	5	80	2	20	5	160	4	20	9
25	80	2	20	5	80	2	20	5	160	4	20	9
30	80	2	20	5	120	3	20	7	200	5	20	11
35	120	3	20	7	160	4	20	9	280	7	20	15
40	120	3	40	4	160	4	40	5	320	8	40	9
45	200	5	40	6	200	7	40	8	360	14	40	16
50	200	5	40	6	320	8	40	9	600	15	40	17
55	240	6	40	7	360	9	40	10	680	17	40	18
60	240	6	60	5	360	9	60	7	720	18	60	13
65	280	7	60	6	400	10	60	8	800	20	60	15
70	280	7	60	6	440	11	60	9	840	21	60	15

2-Way & Downstream Tapers are always 100/2/20/7

L = Length (ft) #B = Number of Skips #C = Cone Spacing (ft) #C = Number of Cones

Guidelines for Buffer Lengths and Distance of Flagger Station in Advance of the Workspace

Speed (mph)	MUTCD Based Buffer Length (ft)	Optional Skips Based	
		Buffer Length (ft)	Number of Skips
20	115	120	3
25	155	160	4
30	200	200	5
35	250	200	7
40	305	320	8
45	360	360	9
50	425	440	11
55	495	520	13
60	570	600	15
65	645	680	17
70	730	780	19

Roll-ahead Distances

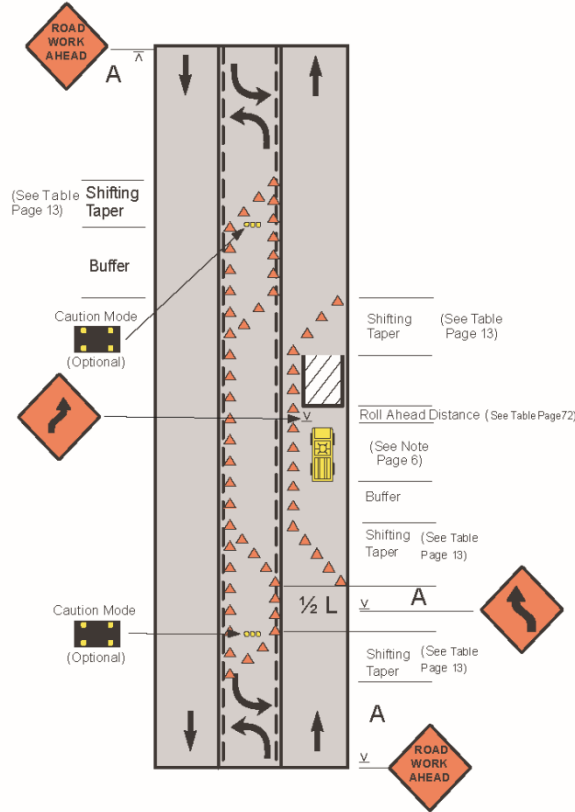
Speed	Stationary	Mobile
≤ 45 mph	100 ft	150 ft
50 - 55 mph	150 ft	200 ft
60 - 65 mph	200 ft	275 ft
70 mph	225 ft	325 ft

DISCLAIMER... The purpose of this document is to present guidelines for work zone traffic control. This covers the basic requirements set forth in Part VI of the Indiana Manual on Uniform Traffic Control Devices (MUTCD) as it pertains to Right-Of-Way Permit work. Any changes or additions of traffic control or protection can be requested per the INDOT District Permit Sections. This document MUST accompany the Right-Of-Way Permit Application.



Lane Shift on a Three-Lane, Two-Way Road

(Short Term Stationary – 1 to 12 hours)



Notes:

1. LARGE ARROW signs may be used at the shifts for added visibility.
2. If the speeds are 30 mph or less, REVERSE TURN signs shall be used instead of REVERSE CURVE.
3. ≤40mph speed limit, shadow vehicle optional.
4. If an arrow board is used on the shadow vehicle, then it shall be in the caution mode.

Speed Limit (mph)	Sign Spacing A (ft)	Buffer (ft)
25	100	160
30	100	200
35	350	280
40	350	320
45	500	360
50	500	440
55	500	520
60	1000	600

Exhibit E

ASSIGNMENT AND ASSUMPTION OF AGREEMENT

This Assignment and Assumption of Agreement (“Assignment”) is made and entered into as of the ___ day of _____, 20__ by and between _____ (“Assignor”), {and} {as successor in interest to} _____ (“Assignee”).

WHEREAS, _____, as Operator, and the Indiana Department of Transportation, as INDOT, entered into an Agreement dated _____ (as the same may have been amended from time to time, the “Agreement”)

WHEREAS, _____, assigned all of its rights, duties and obligations under the Agreement to _____ pursuant to an Assignment and Assumption of Agreement dated _____.

{WHEREAS, Assignees are each wholly-owned subsidiaries of Assignor.}

{WHEREAS, Assignee and Assignor are each separately owned entities.}

WHEREAS, Assignee desires to have the ability to enter into an Agreement.

WHEREAS, in order to allow Assignee to participate in the Agreement if it so elects, it is necessary for Assignor to assign the Agreement to Assignee.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor and Assignees hereby agree as follows:

1. Assignor hereby assigns and transfers all of its rights, title, interest, duties and obligations in to and under the Agreement, together with any and all amendments, assignments or modifications to the Agreement.

2. Assignee hereby accepts and assumes all of the rights, duties, and obligations of Assignor under the Agreement, together with any and all amendments, assignments or modifications to the Agreement as if assignees were the original licensees thereunder, including, but not limited to the obligations to pay all rent.

3. This Assignment shall be binding upon and insure to the benefit of the successors, assignees, personal representatives, heirs and legatees of all the respective parties hereto.

IN WITNESS WHEREOF, the parties have caused this Assignment to be executed on the date first above written.

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

Notary Block Here

Exhibit F

MEMORANDUM OF BROADBAND CORRIDOR ACCESS AGREEMENT

This **MEMORANDUM of BROADBAND CORRIDOR ACCESS AGREEMENT** (“Memorandum”) is made this _____ day of _____, 2020, between the State of Indiana, acting through the Indiana Department of Transportation, with a mailing address of 100 North Senate Avenue IGC N750, Indianapolis, IN 46204 hereinafter collectively referred to as “INDOT”, and Sunman Telecommunications LLC., with its principal office located at 123 Nieman Street Sunman, IN 47041, hereinafter referred to as “Operator”. INDOT and Operator are at times collectively referred to hereinafter as the “Parties” or individually as the “Party”.

1. INDOT wishes to grant Operator the right to locate, construct, maintain, repair and operate the Improvements on certain real property (the “Site”), retaining all rights to use such Site including, but not limited to, constructing and installing equipment, facilities and structures upon the Site and/or Operator’s Improvements for Intelligent Transportation Systems (“ITS”) and/or other highway-related purposes located in Jackson County, Indiana and described in **Exhibit A**, which is attached hereto, upon all the covenants, terms and conditions contained in the Broadband Corridor Access Agreement (“Agreement”) executed by and between the Parties hereto and dated _____.
2. It is the purpose of this instrument to give the public notice of the existence of the Agreement, the Term of which is for a period of Thirty years.
3. The terms, covenants, and provisions of the Agreement, the terms of which are hereby incorporated by reference into this Memorandum, shall extend to and be binding upon the respective executors, administrators, heirs, successors, and assigns of INDOT and Operator.

IN WITNESS WHEREOF, hereunto and or a duplicate hereof, INDOT and Operator have caused this Memorandum to be duly executed on the date first written hereinabove.

Sunman Telecommunications LLC.

DocuSigned by:
By: Ellen M Beiersdorfer
Name/Title: 36D4B2306A446... OSP Field Engineer

STATE OF _____)
) SS:
COUNTY OF _____)

Before me, the undersigned, a Notary Public, in and for said County and State, personally appeared _____, as _____, and acknowledged the execution of the above and foregoing instrument on behalf of said entity.

IN WITNESS WHEREOF, the parties have duly executed this instrument, and I have hereunto set my hand and official seal as of the ____ day of _____, 2020.

Notary Public (Signature)

Printed Signature

My Commission Expires:

My County of Residence is:

STATE OF INDIANA,
Acting through the INDIANA DEPARTMENT OF TRANSPORTATION

By: _____
Todd A. May, Director of Innovative Project Delivery

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me, the undersigned, a Notary Public, in and for said County and State, personally appeared Todd A. May, in his capacity as Director of Innovation of the Indiana Department of Transportation, and acknowledged the execution of the above and foregoing instrument on behalf of said entity.

IN WITNESS WHEREOF, the parties have duly executed this instrument, and I have hereunto set my hand and official seal as of the _____ day of _____, 2020.

Notary Public (Signature)

Printed Signature

My Commission Expires:

My County of Residence is:

This instrument was prepared for the Indiana Department of Transportation, 100 N. Senate Avenue, Indianapolis, IN 46204, by the undersigned attorney.

Marjorie A. Millman, Attorney No. 21748-36

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law.

Marjorie A. Millman

