

REQUEST FOR STATEMENT OF QUALIFICATIONS (RSOQ) 2023-64

MARCH 19, 2024 | 3:00 PM MST

CITY OF FLAGSTAFF, ARIZONA

FIBER PROVIDER MUNICIPAL PARTNER



wecomfiber

wecominc.com

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3-19-2023

March 16, 2024
Teddy Callan
City of Flagstaff – Purchasing Division
211 West Aspen Avenue Flagstaff, AZ 86001

RE: RSOQ 2023-64 for Fiber Provider Municipal Partner

Dear Mr. Callan,

Wecom LLC d/b/a Wecom Fiber (hereafter “Wecom”) is pleased to submit this response to the City of Flagstaff’s Request for Statement of Qualifications (RSOQ). Wecom is headquartered in Kingman, Arizona, and has specialized for almost seven decades in providing high-quality communications services to Arizona communities, recently primarily focusing on fiber broadband.

As a full-service broadband provider responsible for construction, operations, maintenance, and customer service, our goal is to offer an integrated solution for high-speed broadband across Flagstaff. We recognize the importance of including underserved and unserved areas in our plans. While Flagstaff is not considered underserved, we plan to address both served and underserved by building over existing infrastructure provided by the incumbents, and utilizing BEAD funding when available. In the absence of such funding, we are prepared to finance the project through private equity.

Below is a brief overview of our relevant achievements and partnerships since 2020:

- Won the Coconino County RFP forming a BEAD partnership to build new fiber facilities across Coconino County.
- USDA Re-Connect Program Grant: \$3.2 million to connect 1,492 residents on the Hualapai Reservation.
- Arizona Broadband Development Grant (ABDG): \$10 million to build a \$45 million FTTP network connecting 15,000+ homes across Mohave and La Paz Counties.
- Yavapai County FTTP Network Grant: \$8.1 million grant to build a \$21 million FTTP network.
- City of Superior Pilot Project: Multigigabit fiber build to various municipal buildings.

In 2023, Searchlight Capital Partners (“Searchlight”) and co-investor Simple Broadband made a strategic investment in Wecom, enabling us to expand into additional counties. With their backing, we are dedicated to delivering essential broadband services to communities in need. We stand ready to replicate our successes in Flagstaff, providing a best-in-class, fiber-first solution.

Comprised of seasoned experts, the Wecom team brings unparalleled expertise and dedication to every project, led by experienced executives and supported by skilled professionals, committed to delivering innovative solutions. Wecom is actively bridging the digital divide in Arizona, fostering economic growth and enhanced quality of life.

We ensure that reasonable diligence has been exercised in the preparation of the RSOQ, and all contents are true, accurate, and complete. No exceptions are made to the contents of the RSOQ other than as detailed herein.

We appreciate your time and consideration of our response. Please direct any questions to Paul Fleming, Chief Executive Officer (CEO), at paul@wecomfiber.com or 928-753-3829.

Respectfully,

Paul Fleming

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PROPOSAL SUMMARY

Wecom is a prominent fiber-to-the-premises (FTTP) and fixed-wireless internet service provider dedicated to enhancing broadband accessibility across Arizona communities. Our mission is to deliver fast and reliable internet services to homes and businesses, prioritizing customer satisfaction above all else. With a diverse clientele encompassing residential, business, and government sectors in Northern Arizona and Nevada, Wecom has forged successful partnerships with local and tribal governments to address critical broadband needs. Our last-mile network is designed to provide redundant and high-speed connectivity directly to customers, utilizing lateral fiber optic cables to connect street-level access terminals. These terminals then link to customer premises via drop cables, ensuring efficient fiber connectivity. We aim to offer ubiquitous multi-gigabit connectivity, ranging from 1 Gbps to 10 Gbps, to every service location passed with fiber within Flagstaff's city limits and the extended area.

Wecom is committed to affordability, striving to make broadband services accessible to all community members. We actively participate in various funding programs, including the FCC's E-rate, Rural Health Care Program, Lifeline, and the Affordable Connectivity Program, to reduce costs for customers, especially low-income households.

Our extensive experience in partnering with Native American Nations further strengthens our commitment to inclusive connectivity. We are currently deploying fiber for the Hualapai Tribe, delivering 10 Gbps services to their Tribal Government buildings, and initiating discussions with the Yavapai Apache Nation to address their broadband needs.

As we enter 2024, a pivotal year for broadband connectivity, Wecom is prepared to partner with Flagstaff to achieve citywide coverage. We are ready to self-fund the expansion to households within the city limits and submit a BEAD application to extend coverage to unserved and underserved areas. With the recent win of the Coconino County RFP, Wecom will be assisting the County in their BEAD challenge process. Additionally, we are eager to assist the City in the same BEAD eligibility challenge process.

In collaboration with the City of Flagstaff, we propose to build a citywide fiber broadband network covering approximately 1,128,000 feet of fiber, 382k ft aerial and 746k ft underground, a cost of \$39 - \$41 million. This initiative aims to serve more than 72k residents and 20,545 unique locations over a 24-33 month build time, ensuring comprehensive coverage across the city.

With over 67 years of operation in Arizona, Wecom has established itself as a trusted broadband provider committed to meeting the evolving needs of consumers and businesses. Our plan is fully funded through private capital, led by Searchlight Capital Partners, ensuring accountability, and focusing on delivering reliable broadband. As a local business deeply rooted in Arizona, Wecom understands the importance of respecting the community's history and preserving its natural beauty. We adhere to best practices for environmental conservation while navigating the challenges posed by Arizona's rugged terrain. Our extensive experience in deploying broadband infrastructure in challenging landscapes uniquely positions us to successfully execute the Flagstaff broadband project.

RESPONDENT INFORMATION

- Primary Contact: *Paul Fleming, CEO*
- Company Name: *Wecom LLC, d/b/a Wecom Fiber* Date Established: *1956*
- Number of Employees: *Wecom currently has 100+ employees and is hiring an additional 100+ employees during 2024. Through subcontractors Wecom has access to an additional 300 Employees.*
- Address: *2332 Kingman Avenue, Kingman, AZ 86401* Phone Number: *928.753.3829*
- Web: <https://wecomfiber.com/>
- AZ Contractor's Licenses: *075287 and 066605*

PERCENTAGE OF COMMUNITY SERVED

Details of the build inside flagstaff City limits

Successfully deploying an all fiber-based network to all homes and businesses is a key strategy for Wecom in Flagstaff. This approach, combined with offering affordable prices and participation in programs aimed at reducing internet service costs, ensures that Wecom’s network in Flagstaff will bring fast, affordable, and reliable service to all residents and businesses.

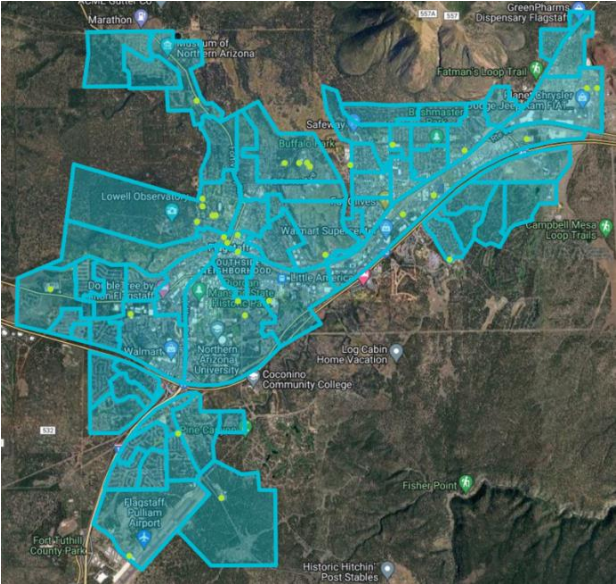
Fiber-based networks, such as those built by Wecom, offer unparalleled speed and reliability. This ensures that the infrastructure will not need upgrades in the near future, guaranteeing that Flagstaff and its residents will continue to receive affordable, state-of-the-art service for decades.

Wecom will partner with Flagstaff effectively closing the digital divide and ensuring that all residents have access to reliable broadband services. Wecom will build an all-fiber network, leveraging both private (primarily) and public funds (including BEAD funds to be allocated by the State of Arizona).

- **Wecom’s proposed service area covers 95% of Flagstaff’s city limits with fiber (20,545 specific service locations).** All service locations counts are pulled from the FCC V4 data set.
 - 87% of the city limits will be constructed using Wecom’s private capital with an all-fiber network (18,885 service locations)
 - Wecom will challenge 8% of the city limits for appropriate BEAD funding and use BEAD funding with additional Wecom capital to construction the additional 8% (1,660 service locations) with fiber. Wecom will be handling the same challenge via the recently won Coconino County broadband RFP.
 - As construction progresses Wecom will continue to explore cost effective plans to expand the fiber network to the remaining 5%.

Area	Built Locations (overbuild)	Underserved Locations	Total Locations	Service Technology
Flagstaff	20,426	119	20,545	FTTH
Total Flagstaff (Fiber)			20,545	100%

Additional and larger Maps – Appendix 3



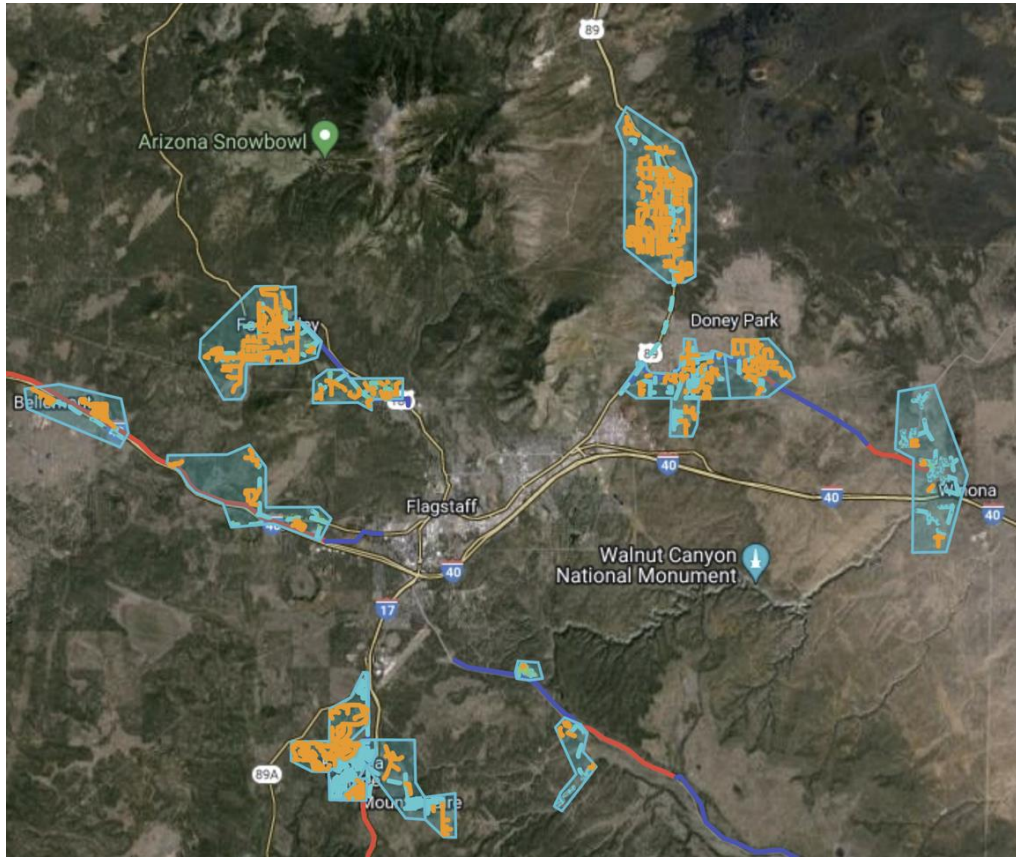
Detail of communities to be built outside Flagstaff City limits.

Connecting the Flagstaff surrounding areas is a key component of a comprehensive communications network. Wecom is happy to announce it recently won the Coconino County RFP to be the County’s BEAD service provider. Wecom will be constructing a fiber network throughout Coconino County for the underserved and unserved locations. Through this project Wecom will be building 100% of the areas surrounding Flagstaff.

Of the specific areas Flagstaff requested outside of the city limits, 55% of those locations are considered served by other providers, Wecom will be building to the remaining 45%. Upon completion there will be a service 100%.

In Network Total Coverage Percentage			
<i>Service Area</i>	<i>Number of Service Location in Plan</i>	<i>Total Number of Service Locations</i>	<i>Percentage of Coverage</i>
Doney Park	1,126	2,793	40.3%
Fort Valley	860	860	100%
Bellefont	1,304	1,304	100%
Kachina Village	0	2,366	0%
Mountaineer	0	659	0%
Winona	394	394	100%
Timberline	565	1,043	54.2%
Total	4,249	9,419	45.1%

Additional and larger Maps – Appendix 3



Points of Interest – Anchors – Street lights

At Wecom, we recognize the paramount significance of connectivity for the entire Flagstaff community. We are committed to enhancing this vital aspect of the Flagstaff operation by connecting 35 key points of interest and 45 stoplights. Wecom will construct innerduct and fiber for all of the Flagstaff facilities listed.

Priority Site

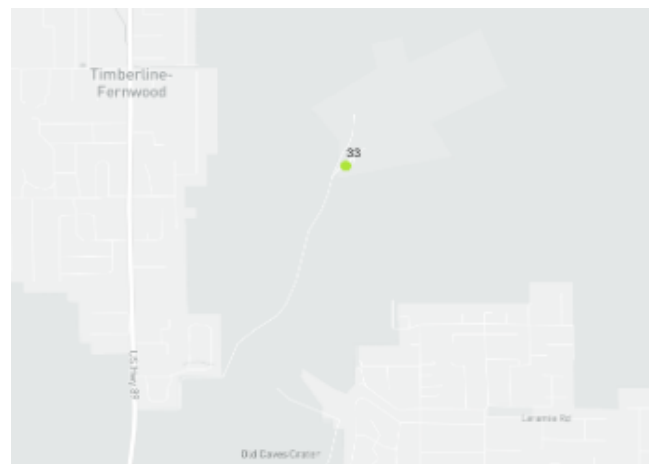
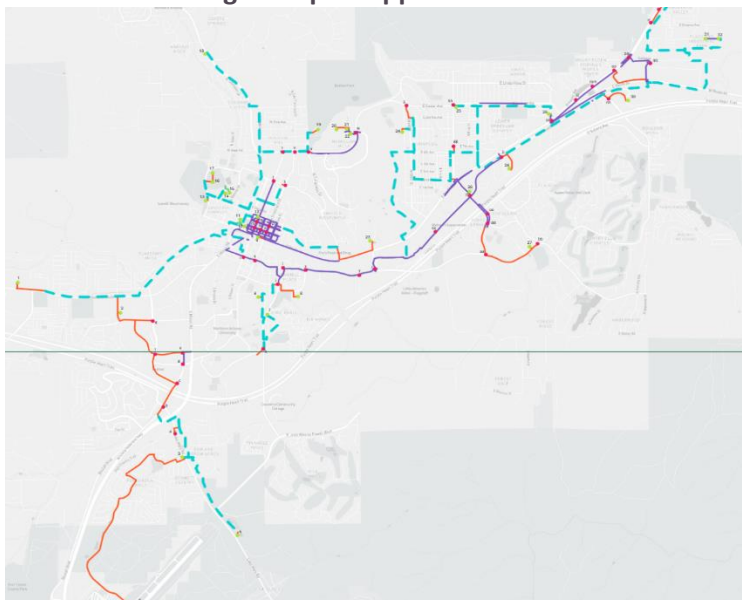
Points of Interest			Traffic Signals	
1	Public Works Yard-COF	3200 W Route 66	A	S Lake Mary Rd & W High Country Trail
2	Fire Station 1-COF	1972 S Thompson St	B	S Lake Mary Rd & S Beulah Blvd
3	Fire Station 6-COF	3877 S Lake Mary Rd	C	S Beulah Blvd & S Woodlands Village Blvd
4	Airport-COF	6200 S Pulliam Dr	D	S Beulah Blvd & W McConnell Dr
5	Lake Mary Water Plant-COF	4500 S Lake Mary Rd	E	S Beulah Blvd & W Forest Meadows St
6	Cemetery-COF	1050 S San Francisco St	F	S Woodlands Village Blvd & W Forest Meadows St
7	Brannen Homes-COF	1 S Brannen Cir	G	S Woodlands Village Blvd & W University Ave

8	Leaf City-COF	911 E Sawmill Rd	H	S Lone Tree Rd & E Pine Knoll Dr
9	Visitor Center-COF	1 E Route 66	I	S Lone Tree Rd & E Franklin Ave
10	City Hall-COF	211 W Aspen Ave	J	S Lone Tree Rd & E Butler Ave
11	Main Library-COF	300 W Aspen Ave	K	S San Francisco St & E Butler Ave
12	New Court House-COF	101 W Cherry Ave	L	S Beaver St & W Butler Ave
13	Adult Center-COF	245 N Thorpe Rd	M	N Beaver St & W Aspen Ave
14	Sustainability-COF	419 N Mogollon St	N	N Leroux St & W Aspen Ave
15	Old Fleet Building-COF	419 N Mogollon St	O	N San Francisco St & E Aspen Ave
16	Thorpe-COF	560 N Thorpe Rd	P	N San Francisco St & E Birch Ave
17	Parks Building-COF	600 N Thorpe Rd	Q	N Beaver St & W Birch Ave
18	Fire Station 5-COF	2525 N Fort Valley Rd	R	N Beaver St & W Columbus Ave
19	Jay Lively Ice Rink-COF	1650 N Turquoise Dr	S	N San Francisco St & E Columbus Ave
20	McMillan Mesa Microwave Tower-COF	2225 N Gemini Dr	T	N Beaver St & W Forest Ave
21	Business Incubator-COF	2225 N Gemini Dr	U	N San Francisco St & E Forest Ave
22	Business Accelerator- COF	2201 N Gemini Dr	V	N Turquoise Dr & E Forest Ave
23	Fire Station 2-COF	1701 E Ponderosa Pkwy	W	N Gemini Dr & E Cedar Ave
24	Flag Rec Center-COF	2403 N Izabel St	X	E Sawmill Dr & E Butler Ave
25	East Side-Library-COF	3000 N Fourth St Ste 5	Y	S Babbitt Dr & E Butler Ave
26	Aquaplex-COF	1702 N Fourth St	Z	E Ponderosa Pkwy & E Huntington Dr
27	Fire Station 4-COF	4100 E Butler Ave	AA	N Fourth St & E Butler Ave
28	Water Services/Housing- COF	2323 N Walgreens St	BB	N Foxglenn St & E Butler Ave
29	Flag Housing Authority- COF	3481 N Fanning Dr	CC	E Lucky Ln & E Huntington Dr
30	Fire Station 3-COF	4500 E Nestle Purina Ave	DD	N Fourth St & E Sparrow Ave

31	East Side Utility Shop-COF	5401 E Commerce Ave	EE	N Fourth St & E Soliere Ave
32	PD Warehouse-COF	5477 E Commerce Ave	FF	N Fourth St & E Huntington Dr
33	Landfill-COF	6770 E Landfill Rd	GG	N Fourth St & E Seventh Ave
34	Rio Del Flag Water Plant	600 S. Babbitt Dr.	HH	N Fourth St & E Cedar Ave
35	Wildcat Water Plant	2800 N. El Paso	II	N West St & E Cedar Ave
			JJ	N Stevens Blvd & E Industrial Dr
			KK	N Fanning Dr & Rt 66
			LL	Rt 66 & Rt 89
			M M	N Country Club Dr & Rt 89
			NN	N Country Club Dr & E Nestle Purina Ave
			OO	N Cummings St & Rt 89
			PP	Rt 89 & E Marketplace Dr
			QQ	N Mall Way & E Marketplace Dr
			RR	Rt 89 & E Empire Ave
			SS	N Smoke Rise Dr & Rt 89

Point of Interest Map

Additional and larger Maps – Appendix 3



As mentioned above, the result of these projects will be 100% fiber coverage for community anchor institutions points of interest in Flagstaff, with all households and businesses including the points of interest to be constructed based on a partnership between Flagstaff and Wecom that will deploy primarily private capital and supplement with BEAD funding.

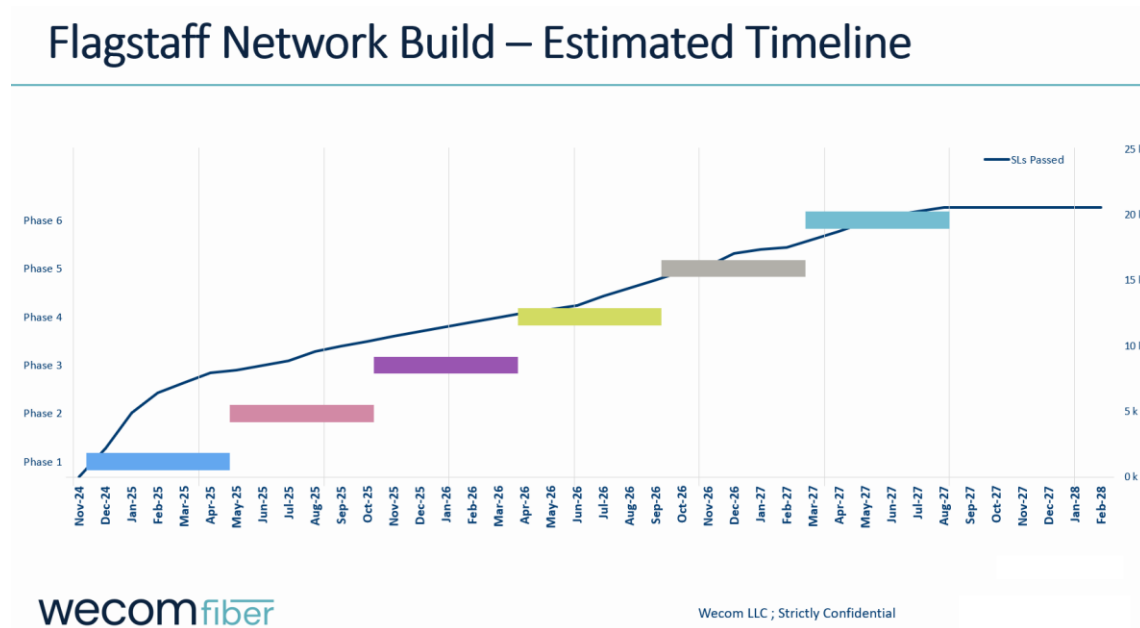
Wecom will connect Flagstaff with new fiber routes and major interconnect facilities in Phoenix (~130 miles along Interstate 17), Albuquerque (~300 Miles along Interstate 40), and Las Vegas (~225 Miles along Interstate 40 through Kingman). This planned connectivity would give Flagstaff redundant long-haul access to significant peering points and high-speed access to major global Internet Peering sites in Los Angeles, Dallas, and beyond.

Wecom will connect the Flagstaff Facilities (POIs) with either LIT or dedicated dark fiber strands through, per the City's requirements.

Being a full retail ISP and with a Service Level Agreement, Wecom will provide contracted construction, maintenance, and repair of the proposed dark fiber network. The exact terms will be negotiated with Flagstaff.

PROJECT SCHEDULE

Wecom would plan to start physical construction in November of 2024 and finish in 34 months in August 2027 (the goal is always to finish faster). See additional information under the timeline of construction section.



FLAGSTAFF REQUIREMENTS

The specific RSOQ objectives and requirements are all being met by Wecom:

- Wecom meets objective 1 connect City Facilities and Smart City Infrastructure
- Wecom meets objective 2 connect community, government, and educational facilities.
- Wecom meets objective 3 bring better and faster internet access to the community.
- Wecom will enter into the City's standard form design build construction contract (post negotiations)
- Wecom will enter into a license agreement for public right of way usage.

- Wecom will negotiate a lease for excess city capacity.

The specific RSOQ submittal requirements have been met:

- Wecom did not exceed 25 pages (not including appendices, maps, dividers, table of contents, transmittal letter)
- Wecom will follow the City Engineering standards for trenching and installation of underground innerduct found in the Flagstaff City Code.
- Wecom will follow the MAG standards.

PARTNERING WITH FLAGSTAFF

Wecom understands that Flagstaff is working to deliver future-proof fiber broadband infrastructure to every resident, business, community anchor institution, and city facility within the City's borders. This infrastructure must come with fast, affordable, and reliable service. Wecom's business model is aligned with this goal, and we are eager to form a long-term partnership with the City to achieve this vision.

Wecom is committed to leveraging our expertise and resources to build a fiber-first in alignment with the City's vision.

In addition to deploying Wecom's private capital for most of the build, Wecom believes that partnering with the City on a unified BEAD application to the Arizona Commerce Authority presents the most effective strategy for achieving and surpassing the City's connectivity goals. By collaborating closely with the city, we can leverage our combined strengths and resources to ensure that every unserved and underserved area receives the high-quality broadband access it deserves.

Furthermore, Wecom brings considerable experience reviewing and challenging the categorization of locations in the federal broadband maps which might be incorrectly labeled as "served." Wecom is ready to assist Flagstaff in the upcoming location challenge process, which will be administered by the Arizona Commerce Authority in the coming months.

In pursuit of a productive partnership with the city, we kindly request certain items from the city of Flagstaff:

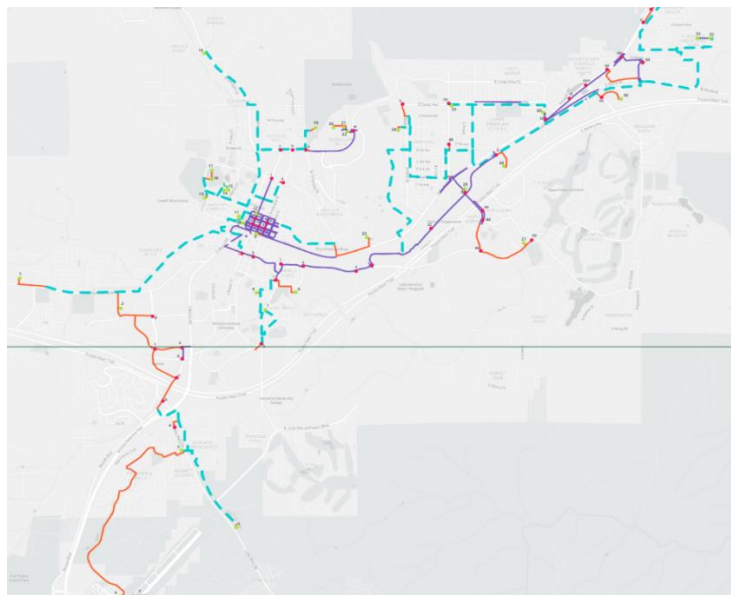
- **POC:** The appointment of a dedicated Single Point of Contact ("POC") with the requisite knowledge and authority. This individual will play a vital role in facilitating decision-making, assisting with permitting and easements, connecting with local resources, promising streamlined communications, saving time, and optimizing project cost-effectiveness. Wecom is committed to reciprocating this practice by providing a dedicated POC for the City, fostering a collaborative and efficient approach.
- **TCPs:** Approval of typical TCPs for traffic control. This will allow Wecom to efficiently and cost effectively handle traffic issues.
- **Support for Road Closures and Traffic Management:** Seeking City support for essential project logistics, including road closures, traffic direction at crosswalks, and detours during construction. Providing officers of the law to help coordinate traffic closures.
- **Alternative trenching methods:** Consideration of alternative trenching methods
- **Boring:** We ask that excess site restoration beyond the standard bore process be removed (asphalt / concrete patchback that goes beyond the bore pit and pothole area/ openings. Allow standard MAG bore pits at 4' x 8' with only patchback required on the bore pit area (not stretching beyond)
- **Temporary Workspace or Mobile Operations Site:** Requesting a dedicated workspace or a site for a mobile operations trailer to optimize project coordination and store heavy equipment. This could be any fenced-in yard to store equipment and materials. Only to be used during construction and then returned to its original state.

- **Cost-Effective Advertising and Community Outreach:** Explore cost-effective options for local advertising and seek assistance with community outreach and development to ensure project success. This could include city halls, fairs, festivals, rodeos, and other events to help spread awareness of deployments.
- **Inclusion of Historic Preservation and Planning Commissions:** Proposing the inclusion of the City's Historic Preservation and Planning Commissions in communications and planning with Wecom, fostering comprehensive and coordinated efforts.
- **Access to GIS Maps:** Requesting access to the City's GIS maps for the right of way ("ROW") and land ownership is vital for meticulous planning and execution.
- **Power Pole Access and Conduit Usage:** Seeking permission to access current City-owned power poles, with a preference for underground fiber deployment, and requesting the use of any City-owned conduit when appropriate.
- **Exclusive Provider Status for Future BEAD Applications:** Proposing that the winning ISP/vendor from this proposal be granted exclusive provider preference (an MOU) for future BEAD applications, ensuring continuity and efficiency in our collaborative efforts.
- **In-Kind** We request in Kind trade for services / ROWs we appropriate.
- **Coordination, Assistance, and Collaboration with external permitting agencies:** Requesting assistance in the permitting process with Forest Services, Bureau of Land Management, State Land, and any other governmental entities that may have a material impact on Wecom's ability to receive permits and complete the project in a timely, cost-effective way.

CITY CONDUIT/FIBER MODEL

Designed with Wecom's Vetro planning software. New innerduct in the map below is (2) 2" HPDE SDR 13.5 duct, one for Wecom and one for the City. ADOT #9 pull boxes are placed at each corner, underground splice locations, and required pull boxes are placed along the new route. City owned duct (purple), new planned routes (red, orange, blue).

Additional and larger Maps – Appendix 3



Details on City-owned infrastructure, including:

Duct (innerduct) shall be 2" HPDE SDR 13.5, orange in color. One new innerduct will be installed for the city and one for Wecom. Wecom suggests 2" innerduct instead of the 3" the city mentioned. When boring a standard machine can bore and then pull quantity two – 2" innerducts through the hole at once, but when you go to 3" you must double bore, and it drives the cost up drastically. City owned fiber shall be Corning SST-Ribbon Single-Tube, Gel-Free, Armored Cable 144 F, single mode (OS2). Drop cables to each location shall be LightScope ZWP Self-supporting All-Dielectric, single mode G.652.D and G.657.A1, 12 fiber arid core construction, gel-filled, central loose tube.

Further negotiations are required for the final City-owned innerduct and fiber agreement. Wecom finds cost savings and faster market entry through the City's facilities (excess fiber and innerduct). Wecom suggests a minimum 20-year IRU for each product with renewal options. A zero-cost agreement benefiting both Flagstaff and Wecom is possible through in-kind trade. In case of cost issues, Wecom will negotiate fair rates with the City in good faith.

Appendix 5 includes examples of prior IRUs by Wecom, which can be adapted for the innerduct and fiber IRUs. If applicable, co-location options such as pull box or fiber co-location can be included in the IRU.

Wecom has franchise agreements, master service agreements, resolutions, and MOUs with:

- Coconino County AZ
- Mohave County AZ
- La Paz County AZ
- Yavapai County AZ
- Pinal County AZ
- City of Kingman AZ
- Lake Havasu City AZ
- Superior AZ
- Casa Grande AZ
- Department of Defense
- Homeland
- NOAA
- Multiple Police, Sheriff, Fire (list can be provided)

As a partnership between Wecom and Flagstaff the combination of resources and talent is beneficial for both parties. A maintenance and splicing agreement are something Wecom would like to explore further with the city. We do believe it could be beneficial for both parties. If we are awarded this project we would ask to start those conversations immediately.

OPEN ACCESS

Indication of Open Access availability or business model.

Wecom operates an open-access network (OAN) on its middle mile fiber, in which any other provider or retail person can purchase services. Wecom does not discriminate against any individual, business, or other carriers. These services typically fall into special requests and are priced individually.

OAN access is based on the availability of fiber in the requested areas and is not guaranteed, and only available on middle mile.

Examples of other communities where an Open Access network is offered by the respondent, including:

Wirefree Communications in Lake Havasu Arizona is an internet service provider who purchases Wecom's open access middle mile and direct internet access for its last mile network. For reference contact Alan Cameron acameron@wirefreeus.com 928-505-2999

List communities served using gigabit fiber technology.

Wecom has intentionally updated our strategic plan to provide 100% fiber to our customers whenever possible. We are phasing out legacy fixed wireless and implementing all fiber (shown in the Table below).

Due to reasons of feasibility (challenging geography or extreme costs), some areas will remain all fixed wireless or a mix of technologies. However, Wecom’s mission is to provide 100% fiber technology to our customers whenever possible due to futureproofing, rare replacement, and increased speeds.

Communities currently receiving gigabit fiber technology, which Wecom operates as a retail ISP to both residents and businesses, include:

Relationship	Status	Total Population
Kingman	100% FW / 25% Fiber (or in Fiber) construction	34,918
Golden Valley	100% served by fiber (or in a stage of fiber construction – served by FW during areas of fiber construction)	8,801
Valle Vista	100% served by fiber (or in a stage of fiber construction – served by FW during areas of fiber construction)	2,746
Yucca	50% FW / 100% Fiber in construction	61
Hualapai Mountains	50% FW	3,000
Hualapai Native American Tribe	100% FW now / 100% fiber in construction	1,621
Meadview	100% served by fiber (or in a stage of fiber construction)	1,600
Parker	100% served by fiber (or in a stage of fiber construction)	3,500
Quartzsite	100% served by fiber (or in a stage of fiber construction)	2,400
Bouse	100% served by fiber (or in a stage of fiber construction)	1,200
Salome	100% served by fiber (or in a stage of fiber construction)	1,400
Wenden	100% served by fiber (or in a stage of fiber construction)	410
White Hills	100% served by fiber (or in a stage of fiber construction)	210
Dolan Springs	100% served by fiber (or in a stage of fiber construction)	2,000
Yavapai County (4 areas)	100% in fiber construction	6,500
Ehrenberg	100% served by fiber (or in a stage of fiber construction)	1,100

(FW = fixed wireless)

OTHER LOCAL BENEFIT

Affordability:

Wecom is committed to providing affordable and accessible broadband services for all, including government, education, non-profits, and low-income families in Flagstaff, Arizona. Wecom’s standard rates in the proposed service area are competitive and comparable to rates outside the project area for the same speed tiers using fiber technology. Proposed rates for the speeds expected to be offered are included below. The pricing is comparable with the pricing in the FCC’s annual Urban Rate Survey. Wecom’s plans offered in the proposed service areas will not include data caps, throttling of speeds after usage limits are reached, and no metered or “pay as you go” service.

Wecom’s tiered pricing structures will also provide competitive rates and discounted packages specifically tailored to government agencies, schools, and non-profit organizations.

Education Institutions:

- Offer a bulk discount for schools, colleges, and universities based on the number of connections needed.
- Provide special packages with enhanced security features for educational purposes.
- Include options for on-campus and remote learning access.
- E-rate offerings

Government Agencies:

- Tailored plans for different government departments based on their bandwidth and security requirements.
- Priority customer service and guaranteed uptime for essential services.
- Bundled packages with additional services like secure data transmission.
- CAI Program (discounted / free rates for Anchor institutes).

Non-Profit Organizations:

- Subsidized rates based on the size and scope of the organization.
- Options for flexible bandwidth allocation to accommodate varying needs.
- Collaboration tools and cloud services are included in the package.
- Wecom’s “giving back” and community involvement initiative.

Low-Income User Differentiation:

Wecom participates in the Affordable Connectivity Program (ACP), which helps low-income households pay for broadband service and internet-connected devices to address digital equity. Wecom makes it easy to enroll or transfer existing eligibility for a household to Wecom and will offer a variety of affordable plans between 100 Mbps and 10 Gbps, symmetrical with prices and terms that are competitive with other service provider offerings. It is part of Wecom's mission to provide reliable and fastest service for prices customers can afford.

Though the ACP may not be renewed, we remain committed to ensuring affordable options for all individuals. We also engage in other low-cost programs facilitated by universal services, including E-rate and Lifeline. By leveraging these initiatives alongside competitive pricing strategies, Wecom endeavors to provide more accessible and dependable connectivity solutions to its customers. Furthermore, Wecom pledges to continue participating in any forthcoming affordability programs to expand accessibility to high-quality internet services to the unserved and underserved in Arizona.

Wecom proposes a simple, easy-to-understand pricing structure with all broadband taxes included in the price to the customer (Voice over Internet Protocol or VoIP is taxed separately). Wecom's primary service is "stand-alone" as it does not provide video, but Wecom will offer VoIP service for an additional \$15 to any customer that requires it. Wecom can also provide an additional service to extend Wi-Fi coverage to large houses for a fee.

See our proposed pricing structure below.

Residential Service Plans

Package	Price
100/20 Mbps - Residential	Free with eligible program
500/500 Mbps - Residential	\$70.00
1/1 Gbps - Residential	\$90.00
3/3 Gbps - Residential	\$115.00
5 / 5 Gbps - Residential	\$135.00

Wecom products include:

- Our services are 100% all-fiber and symmetrical (same download/upload speed).
- Promoting digital inclusion, Wecom offers a free residential internet package for those who qualify under a program that funds a minimum of \$30.00 per month towards the internet bill. The resident must be eligible and approved for the program.
- An optional Premium Wi-Fi 6 router upgrade.
- An optional Wi-Fi 6 Mesh Extender.

- Fiber Phone service (VoIP).
- ***1 Gbps = 1,000 Mbps.

Business Service Plans

Package	Price
1/1 Gbps – Business Services	\$185.00
3/3 Gbps – Business Services	\$265.00
5/5 Gbps – Business Services	\$335.00
>5 Gbps – Business Services	ICB
Voice - VoIP – Business Services	ICB

Wecom proposes a simple, easy-to-understand pricing structure with all broadband taxes included in the price for the business (VoIP is taxed separately). ICB means priced on an individual case basis.

Community Impact and Local Benefit:

Residents and households in Flagstaff, AZ, will witness a transformative enhancement in their daily lives through the deployment of a symmetrical multi-gigabit fiber network. This project goes beyond mere connectivity; it is about empowering individuals and families with access to a wealth of applications and technologies that were previously out of reach. With robust download and upload speeds, fiber customers will enjoy a plethora of communication and entertainment options, often at reduced costs. This includes services such as voice-over-internet-protocol, video communications, home automation, telehealth, expanded education, and online news services. The newfound ability to stream videos, engage in online gaming, and utilize various online platforms simultaneously will become a reality, benefiting multiple users within the same household.

Transformation in Education:

Education in Flagstaff will undergo a profound transformation with enhanced access to training courses, learning resources, and distance learning opportunities. Students of all ages will gain the ability to complete online assignments, conduct research from the comfort of their homes, and participate in virtual classrooms. This not only enriches educational experiences but also opens doors for those seeking new job opportunities or career changes. Job searches, training programs, and remote work opportunities will become more accessible, empowering individuals to pursue their professional aspirations without geographical constraints.

Enhanced Safety and Real-Time Information:

During times of public safety emergencies and severe weather events, residents will have reliable access to real-time information, contributing significantly to community safety. The symmetrical gigabit fiber network supports future safety applications such as NG911, ensuring that our community is well-prepared and connected during critical times. This level of connectivity can be lifesaving, providing vital updates and communication channels in times of crisis.

Boost to Businesses and Healthcare:

Businesses within the project area will experience a significant boost from high-speed symmetrical broadband service. They will be equipped to offer a wide array of services including distance learning, remote work capabilities, video communications, and seamless online transactions. This enhanced connectivity will drive innovation and growth in local businesses. Furthermore, hospitals and healthcare facilities will expand their reach to more patients through telemedicine applications such as remote heart

monitoring, blood monitoring, and biometric diagnostic testing. This not only improves healthcare access but also enhances the quality of care through the integration of innovative technologies.

Modernizing Agricultural Practices:

The symmetrical gigabit fiber network will revolutionize agricultural practices in Flagstaff. Farms and agricultural entities can adopt innovative technologies to monitor and manage operations, enhance crop production, and improve efficiency. From soil quality monitoring to topography mapping, precision-guided spray rigs, and electronic animal identification software, the possibilities are vast. The ability to track individual animal activity and performance will lead to better management practices and increased productivity, contributing to modernizing agricultural practices in our community.

Dark Fiber Services vs. MOE Circuits:

In addition to traditional internet services, we offer wholesale point-to-point dark fiber to other government, education, and non-profit agencies in communities we serve. This enables these entities to have dedicated, high-speed connections tailored to their specific needs, enhancing their internal network capabilities. These services are priced on an individual case basis.

ADDITIONAL COMPANY INFORMATION

Other lines of business conducted by the respondent.

Wecom provides additional telecommunications services, fiber internet, Voice over internet Protocol (VoIP) transport, wide area networks (WAN), and internet and transport services for multiple cellular carriers and partners with other Internet Service Providers (ISPs) to expand connectivity (a carrier for other carriers).

Wecom also provides construction for AT&T, Verizon, and T-Mobile, and two-way radio for Mohave County, Fire Departments, Police Departments, Sheriff's Offices, and more.

Description of any recent mergers or acquisitions

Enabling Wecom's vision of continued growth, the company recently secured a strategic investment from Searchlight Capital Partners and Simple Broadband to facilitate fiber expansion, becoming Wecom, LLC. With this investment, Wecom is structured to create more sustainable local jobs in Flagstaff, purchase materials from local vendors, and work with local utility partners on broadband projects. See Appendix 2.

Community Partnership and Local Empowerment

As we continue to grow and expand broadband access across Arizona, we prioritize community engagement and local empowerment. Wecom is 100% focused on deploying fiber and best in class broadband infrastructure in Arizona. As part of our commitment to supporting the communities we serve, we actively seek to hire and train local talent whenever possible. We have a 100% local employee base and plan to create over 400 jobs in the state through BEAD. By investing in local workforce development, we not only contribute to the economic growth of the regions where we operate but also foster stronger relationships with our customers and stakeholders. Through these concerted efforts, we are not just building networks; we are building lasting partnerships and enriching the communities we serve. Continuing that vision, Wecom will hire residents from Flagstaff, creating 40 to 60 additional jobs (temporary and permanent).

Wecom and Arizona Western College Partnership

Wecom prides itself on being an equal opportunity employer hiring diverse candidates and places significant value on partnerships. A notable example of this is our recent partnership with Arizona Western College. The partnership resulted in the offering of a complimentary hybrid course teaching students' foundational skills in deploying fiber optic cable. This innovative program enables individuals to attain certification in diverse fiber-building foundations, paving the way for exciting career opportunities. As a testament to

Wecom's commitment to community welfare, this initiative exemplifies our dedication to enhancing the skill sets of local residents.

Wecom is planning to recruit individuals with this specialized qualification, reinforcing our belief in empowering and supporting the communities we serve. Wecom's next goal is to bring the program to Yavapai Community College.

FINANCIAL VIABILITY

Wecom has recently received a significant strategic investment from Searchlight Capital Partners, the nation's largest private investor in broadband fiber builds, and co-investment firm Simple Broadband. With this strong financial backing, Wecom has the necessary private capital to build its proposed networks in Arizona.

Searchlight Capital Partners is a private investment firm with over \$13 billion in assets under management and a long track record and experience in telecommunications and infrastructure investments. Specifically, Searchlight is the largest investor in FTTH in the U.S. and the fourth largest builder of residential FTTH in the country through the companies that it backs.

This investment in Wecom demonstrates the confidence that Searchlight and Simple Broadband have in Wecom's ability to build and operate rural broadband networks, and Wecom has access to the expertise and resources of these two firms as it expands in Arizona. Wecom has never declared bankruptcy and has no pending lawsuits. Wecom has the funds available and specifically committed to Flagstaff.

Additionally, the Broadband Equity and Access Deployment (BEAD) Program is a generational funding opportunity to reach unserved and underserved locations. Wecom will aggressively leverage its past success in securing state and federal grants to pursue BEAD funding as it becomes available. See Appendix 2.

Upon being awarded the Flagstaff project, Wecom will produce required financial documents.

EXPERIENCE

List all communities served in Arizona, and list other States where Respondent is an active retail ISP.

Wecom currently operates in Arizona and Nevada, and our customers include residences, businesses and enterprises, educational institutions, government offices, healthcare providers, non-profits, carrier services and community anchor institutions, including:

- Medical Facilities: Kingman Regional Medical Center, Tuba City Regional Healthcare Corporation, Desert Radiology, Peach Springs Indian Health Services, and numerous medical practitioners' offices.
- Educational Facilities: Mohave Community College, Leupp Schools Inc., Flagstaff Unified School District (Leupp Public School), Dilcon Community School, and Tuba City Unified School District.
- Tribal and Local Governments: Kingman, Golden Valley, Valle Vista, Lake Havasu City, Yucca, Hualapai Mountains, Hualapai Native American Tribe, Tuba City, Leupp, Dilcon, Bullhead City, and several other locations throughout Arizona. This includes courthouses, County IT departments, City IT departments, Chamber of Commerce, Airports, roads departments, and more throughout Arizona. Wecom can provide a detailed list of each municipality served. Wecom also serves the federal government in different capacities including NOAA, Department of Defense, Border Patrol, and BLM.
- First Responders: Mohave County Sheriff's Office, Kingman Police Department, Mohave County Search and Rescue, Northern Arizona Fire Department, Kingman Fire Department, Superior Police, Superior Fire Department, and many others.

Our customer service and response model.

At Wecom, we prioritize providing exceptional customer service that goes beyond the ordinary. Our commitment to excellence starts with handling all inquiries and issues in-house, ensuring that when you

reach out to us, you are speaking directly to a knowledgeable Wecom employee who is dedicated to resolving your concerns promptly and efficiently. This approach not only streamlines the support process but also fosters a deeper connection between our team and our customers.

Looking ahead, we are excited to expand our operations into Flagstaff. By opening operation centers near the area, we aim to bring our customer support even closer to our customers and further enhance accessibility. Additionally, we are committed to hiring employees from the City whenever possible, not only to support the local economy but also to better serve the community in which we operate.

Located in Arizona, our 24/7/365 call center exemplifies our dedication to being there for our customers whenever they need assistance. Staffed by a team of professionals trained to understand and address the unique needs of our clientele, our call center is more than just a service hub, a place where customers can feel heard and valued during every interaction. This local touch allows us to provide personalized support that truly makes a difference.

Round-the-clock support is reachable via e-mail, phone, website, and customer portal. From 7:30 AM to 5:30 PM (0730 to 1730 AZ MST), within 20 minutes of an automated alert of a ticket request, a technician will take ownership of the trouble ticket and begin work. From 5:30 PM to 7:30 AM (1730 to 0730 AZ MST), within 50 minutes of automated alert of ticket request, a technician will take ownership of the ticket and begin work.

Network events under Wecom's control are resolved within 4 hours except for events requiring deeper investigation such as intermittent or time-of-day events.

Wecom provides global network status updates online, through email and text messages during critical network events. We also have systems which automatically backup all configurations for quick deployment in the event of a hardware issue.

At Wecom, our customers are at the forefront of everything we do. As we continue to grow and evolve, our focus remains on providing unparalleled service and support to every individual who chooses Wecom as their trusted telecommunications provider. We are here to listen, assist, and ensure that our customers' experience with us exceeds their expectations every step of the way.

CONSTRUCTION METHODOLOGY

PROJECT SCHEDULE

Timeline of construction

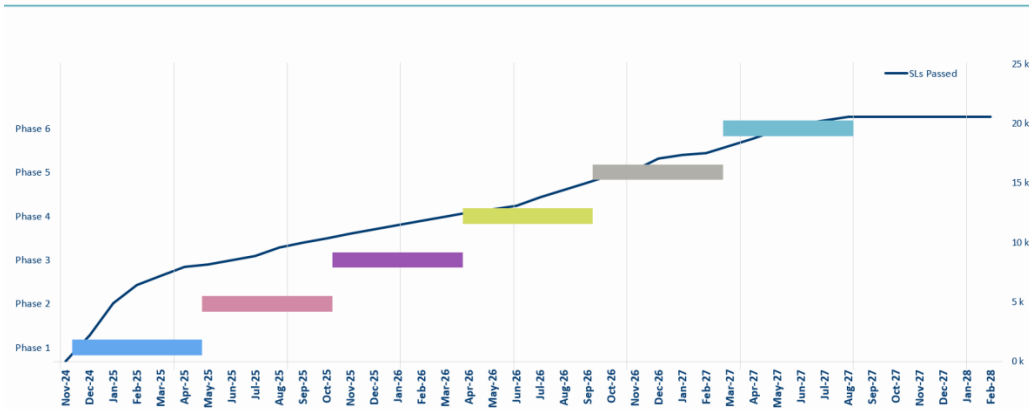
Upon award, Wecom expects to start permit applications within 30 days and construction within 90 days, subject to receipt of permits, licensing, and acceptable weather conditions for construction activity.

Given the number of homes in the unserved/underserved category, we estimate multiple construction zones. Each zone has a 4-8-4 timeline (four (4) weeks for engineering/permitting, eight (8) weeks for construction, and four (4) weeks for splicing/activation/turn-up), our internal standard for timeline and resource deployment. Each zone and timeline will occur on a progressive, rolling schedule following this methodology: multiple zones are in progress at one time, another zone enters the final activation phase, and the next is already in engineering and permitting to be queued for construction. Given this timeline and schedule, the project is estimated to be complete in two years or less.

Wecom has a track record of delivering projects on time and within budget. For example, our most recent fiber project, completed in 2023 in Mohave County for Angle Homes, constructing over 100 miles of fiber, was completed four weeks before the scheduled completion date.

We prefer to partner with Flagstaff to take an active role in permitting assistance to process permits as efficiently as reasonably possible. Wecom would work with Flagstaff's planning and zoning department to maximize dig-once opportunities and use the least expensive routes (aerial versus underground).

Flagstaff Network Build – Estimated Timeline



OVERALL D

What techr **wecomfiber**

Wecom LLC ; Strictly Confidential

Wecom proposes a 100% fiber network covering 95% of Flagstaff. Wecom's core network relies on all carrier-grade Juniper Networks routing and switching systems with fault tolerance and redundancy. Dense wavelength-division multiplexing (DWDM) and fiber backbone networks are built on leading Ciena fiber platforms for middle-mile, metro access, and service aggregation. All network electronics are spared locally, have high-tier service and support plans with the equipment vendors for rapid support or replacement.

Existing relationships with Calix and Ciena give the Wecom network immediate access to 10 Gigabit Symmetrical Passive Optical Network (XGS-PON) technologies. XGS-PON from the network to the subscriber location provides up to 10 Gbps symmetrical, already built into the network as demands for higher bandwidth connections rise.

Wecom will offer symmetrical plans up to 10 Gbps with the network designed for and ready to provide higher plans as the demand rises.

Wecom's proposed FTTx/FTTP PON network will connect to and utilize its existing and redundant core network infrastructure.

What percentage of aerial fiber versus buried fiber are you proposing?

Wecom propose to build a citywide fiber broadband network covering approximately 1,128,000 feet of fiber, 382k ft aerial and 746k ft underground. Wecom will use underground methods that are the least impactful to the daily activity within that section. These methods consist of boring (primarily), trenching, and alternative trenching methods.

Wecom already has joint usage agreements with APS and will only be using already existing infrastructure (no new poles will be constructed).

Describe your design philosophy for determining the size of customer nodes and for the expected level of oversubscription.

Wecom designs its subscriber projects to use Centralized Split network topology. As a result, one electronics cabinet can serve a high number of subscribers. In newer XGS-PON deployments, the E7-2 card supports 128

ONTs per port. Wecom reduces this to a 1:64 Split in the design to prevent high port oversubscription and ensure subscribed bandwidth is available to all subscribers.

In this fashion, the Centralized Split reduces active fiber distribution/electronic cabinet fiber capacity requirements by more than 75%, allowing for reduced cabinet size and easier placement. Centralized fiber sizes have also been reduced by over 75%, reducing cable and installation deployment costs, splice closures, and splicing labor. In addition, centralized field installation allows for quick, accurate, and cost-effective construction and deployment of the network.

Wecom uses FCC Broadband Serviceable Location data to calculate network capacity planning to provide an open port/passing to all existing structures. In addition, Wecom uses County and City GIS data to determine future lot development to accommodate new construction in build areas.

Wecom's design process prevents excessive oversubscription to ensure service delivery to subscribers and prevents "slowdowns" when network demand is high, such as evenings or major events. The design process also ensures that every serviceable location can be connected to the network and no potential subscriber is turned away.

WECOM TECHNOLOGY

PON is a point-to-multipoint technology that connects an Optical Line Terminal (OLT) to many Optical Network Terminals (ONTs) or Optical Network Units (ONUs). PON networks utilize passive splitters between the OLT and ONT, offering service providers flexibility in designing the network. The OLT broadcasts traffic downstream to every ONT, and each ONT only reads the content addressed to it.

Encryption prevents ONTs from eavesdropping on traffic not addressed to them. In addition, quality of service (QoS) features ensures proper service prioritization and delivery.

PON comes in distinct types. The Calix software platforms selected for this build support "everyPON" from GPON to XGS-PON and NG-PON2, as seen in the table below, to deliver flexible and differentiated services to subscribers. This project focuses on XGS-PON, but the "everyPON" option is available for community expansion.

WECOM'S PROPOSAL SUPPORTS "EVERYPON"

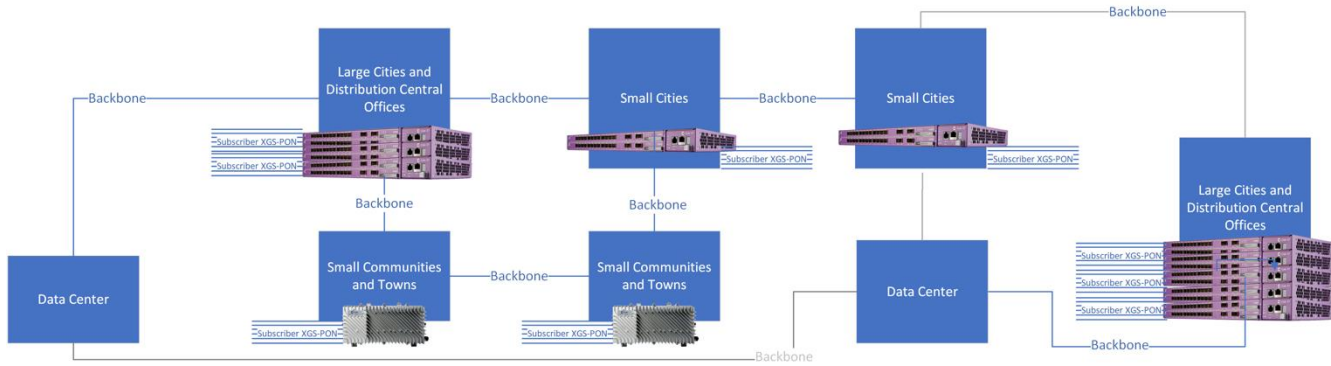
Technology	Standard	Bandwidth Options	Wavelengths	Primary Focus
XGS-PON	ITU G.9807.1	10G Down/10G Up	1577nm Down/1270nm Up	Residential/ Business/ MDU

Calix aggregation solutions deliver high-density aggregation and transport flexibility to support 10GE business and residential services and provide outside plant cost savings. Uplink and downlink aggregation can be provided using Gigabit Ethernet (GE) interfaces, ranging from 1GE, 10GE, and 40GE to 100GE. The following protocols are supported:

- ITU G.8032 Ethernet Ring Protection Switching (ERPS)
- IEEE 802.1w Rapid Spanning Tree Protocol (RSTP)
- IEEE 802.3ad/802.1AX Link Aggregation (LAG)

Calix Intelligent Access Edge systems can also interface with systems running Virtual Router Redundancy Protocol (VRRP) as defined by RFC 5798, VRRP Version 3 for IPv4 and IPv6.

EXAMPLE NETWORK BLOCK DIAGRAM

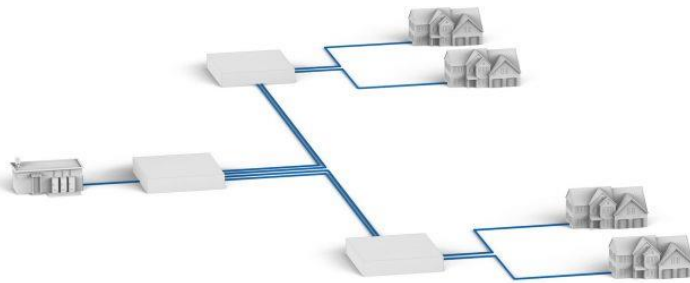


HARDWARE OPTIONS

High-density and middle-mile point-of-presence (POP) locations will utilize Calix E7-2 or E9-2 hardware to create redundant, high-capacity 100 Gbps and 200 Gbps network rings. Each E7-2 supports two XG801 cards. Each card supports eight XGS-PON ports, four SFP+ ports, and two QSFP-DD 40 Gbps or 100 Gbps ports. Multiple chassis units can be used for very high-density applications. Wecom also deploys the Ciena 5000-series fiber gear with 100, 200, and 400 Gbps backhaul between sites and access links.

Lower subscriber density areas will use the smaller Calix E3-2 aerial-mounted OLT to lower deployment costs and expedite subscriber connectivity timelines. As these communities grow, the E3-2 can be upgraded to a powered cabinet with an E7-2.

DIAGRAM OF A CENTRALIZED SPLIT NETWORK TOPOLOGY



Corning FlexNAP Centralized Split

SUBSCRIBER OPTIC NETWORK TERMINALS (ONTS)

Subscribers will receive an ONT to connect them to the fiber network with built-in wired LAN and dual-band Wi-Fi 6, Local Area Network (LAN) ports, and Plain Old Telephone Service (POTS) ports to support Voice over IP Phone Services, providing a plug-and-play install experience.

The WecomIQ app puts the consumer in control with network settings, password changes, parental controls, and service customizations available on their smartphone device. Wecom utilizes the Calix Support Cloud to manage and monitor subscriber ONTs for quick and responsive customer service. Outdoor, single-wired ports and other ONT options, such as enterprise and government services, are available for special installation.

SUBSCRIBER MANAGEMENT AND CENTRALIZED SUPPORT

Wecom uses an Operations Support System and Business Support System (OSS/BSS) software to centralize customer account management and provide comprehensive and proactive support.

Subscriber ONT and Wi-Fi management are integrated into Calix Support Cloud, providing insight into the subscriber connection using a Subscriber Quality of Experience Score. This advanced, non-intrusive

monitoring helps Wecom deliver the promised speeds and an excellent quality connection to the subscriber. It also improves customer support request responses, reduces truck rolls by nearly 50%, and improves the overall consumer experience.

Subscribers are provided with a self-service portal for account management, payments, and support requests, a mobile app for managing network settings, Wi-Fi passwords, and optional services such as parental controls. Wecom's provider network is monitored 24/7/365 by our network operation center using industry-leading monitoring applications and notification systems – providing proactive and rapid response to any trouble on the network.

Using carrier-grade Juniper Networks routers, Wecom peers with Tier 1 internet carriers in our Las Vegas and Phoenix core data centers. Each core is directly connected in an Active/Active configuration to provide the highest automatic fault tolerance in case of rare hardware or upstream carrier failure.

Wecom data center locations are Tier III certified or higher, with 100% uptime Service Level Agreements with Wecom. Wecom has maintained a network ring in Mohave County to create a reliable, fault-tolerant network. This project brings the design to a greater scale to provide redundant and fault-tolerant services throughout Flagstaff. Automated designs allow for milliseconds or less network re-routing to keep the middle-mile network connected and critical traffic online during network upgrades, software updates, or unexpected fiber cuts.

MULTI-HOMED NETWORK

Wecom performs multi-homing of Wecom-provided IP space, increasing reliability and allowing for redundant internet routes if any Wecom-peered Tier 1 providers lose connectivity or undergo routine maintenance. Wecom's peers include multiple Tier 1 providers, including Level 3, CenturyLink (Lumen), Zayo, GTT, Cogent, and more. Wecom monitors our peering relationships and routes around providers who may have an issue further upstream from Wecom or the local region. Routing away from providers experiencing issues ensures connectivity for our customers. The Wecom network is BGP peered with IPv4 and IPv6 connectivity – ensuring our subscribers' access to the whole internet.

DISTRIBUTED DENIAL OF SERVICE (DDOS) PROTECTION AND MITIGATION

Wecom has maintained an always-on and always-ready Arbor Networks appliance at our network core to detect and automatically mitigate Distributed Denial of Service (DDoS) attacks toward our customers and network infrastructure. The Arbor Networks appliances and our leading-edge core routers automatically mitigate detected attacks without manual intervention. Wecom's threat protection is backed by industry-leading threat intelligence and is proudly provided to our customers as a service at no cost.

PROACTIVE MONITORING

Wecom uses a three-level Proactive Monitoring approach on our Direct Internet Access and Wide Area Network Transport offerings. Wecom monitors network, site, and customer statistics, including power, temperature, signal strength and quality, bandwidth utilization, latency, jitter, packet loss, interface errors, optical light levels, and BER/frame loss to ensure we are providing the highest quality connection and performance to our customers.

VALUE ADDED KNOWLEDGE AND EXPERIENCE

WECOM QUALIFICATIONS

Wecom continues to make significant strides in expanding rural fiber connectivity across multiple counties in Arizona, showcasing our commitment to bridging the digital divide.

- In just the last four months Wecom has built 400 miles of fiber and passed 2,000 service locations with multi-gigabit fiber broadband.

- Wecom has rented tower space on Mt. Elden in Flagstaff for more than 10 years. Wecom is experienced working in the harsh environment, snow, and rough weather conditions. Serving Flagstaff Unified School District during this time.
- Wecom competed in and won the Coconino County RFP to build a county wide fiber network and receive the support of the county for BEAD.
- In Mohave County, substantial progress has been made in rural fiber connectivity, with projects serving 7,700 households. These endeavors have been partially funded by the ABDG Grant, with more than 30 million in private funding. Additionally, we are finalizing 125 miles of middle and last mile builds to 1,500 households of the Hualapai Tribe through the USDA Reconnect grant. Our extensive network and more than 67 years of outstanding customer service have led to unanimous backing from the Mohave County Board of Supervisors for Wecom's BEAD initiative, evident in the resolution to support Wecom which passed on January 16th, 2024.
- In La Paz County, Wecom is advancing rural fiber deployment to 7,200 households, with partial funding coming from the ABDG Grant and an excess of 10 million from private funding. La Paz County unanimously passed an MOU supporting Wecom in the upcoming BEAD process and showing their faith in Wecom.
- In Yavapai County, Wecom is constructing fiber infrastructure to connect more than 6,500 homes, all of which are currently underserved (\$8.1 million from the county and \$13 million from Wecom).
- In Pinal County, Wecom's work underscores our commitment to enhancing connectivity and fostering economic growth. In particular, the City of Superior pilot project, funded entirely by private investment, has achieved remarkable success. Wecom completed a multigigabit fiber build, connecting vital community infrastructure such as the City of Superior Enterprise Center and the City Hall. Similarly, the City of Casa Grande pilot project, also privately funded, is currently in the development stage. Plans are underway to connect the Airport and Airport Airpark, a move that will benefit over 45 local businesses. By extending high-speed internet to these key economic hubs, we aim to spur growth, increase efficiency, and enhance competitiveness for businesses in the area.

Projects like these demonstrate that Wecom acts proactively to connect residents and businesses. We leverage private investment to drive positive change and bring the benefits of broadband access to communities throughout Arizona. We do what we say we will do, and we work well with our partners to get the job done.

Using the public-private partnership model, centered around Wecom's whole county approach, Wecom aims to build more than 100,000 locations in Arizona consisting of homes and businesses.

Nothing demonstrates your qualifications better than being recognized by the best in the industry, who trust you with private capital and promote the work you do. As a result of Wecom's proven successes, Searchlight Capital Partners, the nation's leading investor in fiber broadband to the home, partnered with co-investor Simple Broadband for a strategic investment in Wecom in early 2023. This substantial investment has funded Wecom's expansion throughout Arizona, with hundreds of millions of dollars fueling our growth.

With the support and resources provided by Searchlight and Simple Broadband, Wecom is well-positioned to expand its operations to deliver high-quality broadband services to communities across Arizona.

Established in 1950s Arizona, Wecom's model prioritizes closing connectivity gaps, offering optimal solutions for its areas, and supporting key anchor institutions like schools, hospitals, fire departments, and public safety. We are committed to delivering best-in-class service, dependable networks, future-proof designs, and fostering community growth.

Wecom would schedule bi-weekly meetings between key decision-makers in Flagstaff and our team. Flagstaff attendees typically include project manager, planning and zoning (permits), general counsel, IT department, and procurement. From Wecom, attendees include SVP of Sales and Marketing, Network Director, Construction Director, General Counsel, Grant Manager, Finance, and Procurement. These calls provide updates and address issues, conducted via video conference (except every other month, which is in person). The COO remains informed, and decisions on concerns or changes are made within 48 hours.

Operating in Arizona for more than 67 years, Wecom has created a great relationship with BLM, National Forest Services, State Land, BIA, and more. Using both internal and external counsel Wecom stays very knowledgeable of case law related to land use and zoning. Wecom also continually works with the National Environmental Protection Agency. The Wecom team is extremely well versed and education on all forms of permitting (State, County, BLM, ADOT, City, Forestry, and more).

NATIVE AMERICAN TRIBAL LANDS

Wecom has experience connecting tribal nations – most recently extending connectivity to the Hualapai Tribe- a \$4 million dollar project to build more than 120 miles of fiber connecting and covering the Hualapai Tribe and its anchor institutes. The Hualapai Tribe is now partnering with Wecom to apply for BEAD and build fiber to all residents on their Native American land. We are participating in the Broadband Initiative on the Navajo Nation and staying abreast of other broadband initiatives on tribal lands to ensure we design networks with potential tribal partnerships in mind. Respecting the sovereignty of tribal broadband planning, Wecom recently met with the Yavapai Apache Nation counsel to begin conversations on how Wecom can assist a fiber build there, partly leveraging the broadband planning grant the Nation received in 2021, and we stand ready to assist them in moving forward. We look forward to continuing those conversations and engaging many other potential partners.

COMMITMENT TO DIGITAL EQUITY, INCLUSION, AND COMMUNITY ENGAGEMENT

Wecom is committed to ensuring that broadband services are accessible for all. To achieve this goal Wecom participates in programs such as the Affordable Connectivity Program (ACP), Rural Health Care program administered by the Universal Service Administrative Company (USAC), and the Rural Education program (E-rate). Additionally, we participate in the Lifeline program, which provides discounted phone and internet services too. Eligible low-income households. Wecom continues to enhance its Digital Inclusion Plans to keep Arizonans connected, ensuring opportunities for all.

Wecom also plans to include affordable service options to non-profit organizations supporting communities, by encouraging participation in all available federal, state, and local subsidies, and by coordinating access to education services in areas serviced by the Wecom network. Wecom is also making concerted marketing and advertising efforts to push affordability and inclusion to the forefront, creating an awareness campaign to raise awareness among all eligible customers.

On November 14th, 2023, Governor Katie Hobbs and Wecom Fiber were joined by local, federal, and tribal officials as they broke ground on a project that will deliver affordable, high-speed internet to an estimated 32,500 Arizonans across Mohave and La Paz counties and the Hualapai Reservation. Construction of the 2,250 miles of multi-gigabit broadband fiber will facilitate an estimated 250 jobs in the near-term, but has much broader economic, educational, and other benefits for Arizona communities that have gone without for years. In February, Wecom broadband internet will begin for the first customers in Mohave and La Paz Counties, as well as the Hualapai Reservation. You can read the press release from this event [here](#).

Wecom is working to provide services that will offer more equitable internet access and faster and more affordable service for Arizonans, aligning with the goals of the Biden Administration's Justice40 initiative to deliver at least 40% of the overall benefits from Federal investments to disadvantaged communities.

Additionally, Wecom proudly attended the prestigious 35th annual ATHENA Awards and Annual Meeting, reaffirming our commitment to community engagement and support. As a platinum sponsor of the event, we were honored to join over 550 esteemed business leaders gathered by The Greater Flagstaff Chamber of Commerce.

The event's highlight was the recognition of the nationally acclaimed ATHENA Award nominees and recipients, showing excellence in the public and private sectors. Additionally, the inclusion of the ATHENA Young Professional award highlighted the Chamber's dedication to fostering emerging talent. Keynote speakers Arizona Governor Katie Hobbs and Dr. Kara Christ, Chief Medical Officer of Blue Cross Blue Shield of Arizona, drove home the point of digital inclusion today. Our involvement in events like these exemplifies our dedication to community empowerment and advancement, driving us closer to achieving our goal.

MANAGEMENT RELEVANT PERSONNEL

Wecom is a leading telecommunications company poised to address the connectivity needs of Flagstaff and its surrounding areas. With a seasoned team of executives boasting extensive experience in telecommunications, regulatory compliance, and infrastructure implementation, Wecom is well-equipped to deliver reliable and tailored solutions to the region. As the demand for robust telecommunication services continues to rise, Wecom stands ready to meet the challenges and become the go-to provider for residents and businesses in Flagstaff.

Executive Leadership

Chief Executive Officer: Paul Fleming

With over two decades of executive, technical, and engineering expertise, Paul Fleming leads Wecom with a focus on innovation and strategic growth, realizing more than 12,000% growth. His leadership has propelled Wecom's expansion into new markets, including Flagstaff, where he has overseen the deployment of complex telecommunication solutions. Paul's background in managing federally funded projects, such as the U.S. Department of Agriculture's ReConnect Pilot Program and the Arizona Broadband Development Grant, demonstrates his ability to navigate regulatory requirements and deliver high-quality services in diverse environments.

Chief Financial Officer (CFO): Andres Sole

As CFO, Andres Sole brings a wealth of experience in finance and business operations to Wecom. His strategic approach to managing supply chains and overseeing market expansion has been instrumental in driving the company's growth, particularly in underserved communities like Flagstaff. Andres's expertise in developing market strategies and reducing costs ensures Wecom can offer competitive pricing while maintaining profitability.

General Counsel: Louise Botham

Louise Botham's legal expertise is invaluable in navigating regulatory compliance and risk management in the Flagstaff area. With over 20 years of experience, Louise has provided outcomes-oriented legal advice in various settings, including technology licensing and strategic alliances. Her international experience ensures Wecom operates within local codes and standards while mitigating legal risks effectively.

Chief of Staff: Noelle Fleming

Noelle Fleming's role as Chief of Staff is crucial in ensuring operational excellence and strategic alignment within Wecom. With a background in financial planning and analysis, Noelle brings a data-driven approach to decision-making, optimizing resource allocation and maximizing profitability in the Flagstaff market. Her expertise in process improvement and contract negotiations streamlines operations and enhances Wecom's competitive advantage.

Director of Finance: Joey Bringhurst

Joey Bringhurst is a seasoned financial leader with over 15 years of expertise in managing fiber projects. His track record of success blends financial acumen, pricing strategy finesse, and operational excellence, prioritizing team dynamics, customer-centric values, and delivering exceptional results. He holds Bachelor of Business Administration in Finance and a Minor in Spanish from the University of Oklahoma, and a Master of Business Administration in Finance and International Business from Arizona State University.

SVP of Sales: Strider G. Denison

As Senior Vice President of Sales and Marketing at Wecom, Strider Denison leverages over 25 years of telecommunications leadership. With a career spanning Fortune 50 companies and startups, he excels in driving sales, operations, and marketing strategies nationwide. Strider's expertise lies in identifying new markets, developing innovative products, and spearheading revenue growth, having generated millions in new revenue streams. A Southwest native, Strider holds an MBA from Eastern Washington University and a BS in Marketing and International Business, underscoring his commitment to excellence and innovation in the industry.

Network Director: Kristopher Minnich

Kristopher Minnich's leadership in overseeing carrier ISP networks and fiber deployments is instrumental in delivering reliable telecommunication services to Flagstaff. With over 13 years of experience, Kristopher has managed the design and build of millions of feet of fiber infrastructure, ensuring robust network performance and scalability to meet the growing demands of the Flagstaff community.

Technical Expertise

Senior Fiber Planning and Design Engineer: David Tolbert

David Tolbert's expertise in planning and implementing fiber infrastructure is essential for Wecom's success in Flagstaff. With over 31 years of experience, David specializes in engineering, permitting, and right-of-way acquisition, ensuring compliance with local regulations and industry standards. His proficiency in automated mapping software and facility management systems enables precise planning and execution of telecommunication projects in Flagstaff.

OSP Engineer: Jim Bishop

Jim Bishop, MBA holder with 20+ years in telecom, excels in capital management and project strategy. He is known for founding departments at AT&T, leading key projects like LightGig rollout, and achieving 99% success rates in permitting. With expertise in FTTP/FTTN and strong leadership, Jim drives transformative initiatives in telecommunications. His record of accomplishment speaks volumes, reflecting his commitment to innovation and excellence in every endeavor. Jim's strategic acumen and industry experience position him as a pivotal asset in navigating the ever-evolving landscape of telecommunications.

Project Management Excellence

Director of Construction: Patrick Fleming

Patrick Fleming is a seasoned leader with over a decade of experience at Wecom, preceded by 11 years in project management and engineering roles. He specializes in cellular and tower construction, adeptly overseeing all facets of the construction department, from personnel to finance. Patrick is dedicated to maximizing efficiency and savings, ensuring Wecom's profitability through strategic training and performance evaluation. Holding a Bachelor of Science in Mechanical Engineering from the University of Oklahoma, his expertise and leadership drive excellence in construction management.

Project Manager: Justin Gill

Justin Gill's role as a Project Manager is pivotal in ensuring the timely and efficient execution of telecommunication projects in Flagstaff. With 10 years of experience in fiber design and construction planning, Justin oversees all aspects of the project lifecycle, from design to construction, ensuring adherence

to quality standards and regulatory requirements. His attention to detail and expertise in AT&T LightGig and backbone projects make him a valuable asset to Wecom's Flagstaff operations.

Project Manager: Dan Pastar

Dan is a project manager with 25 years of experience nationwide in construction, project, and management of wireless construction, fiber optics construction, tower erection, site acquisition, job scoping and engineering. He has worked for/with DISH Wireless, Roaming Networks, Essentia. Inc., AT&T and Broadstaff LLC. He has filled several roles including but not limited to construction manager, Safety Officer, and Operations manager. He brings a strong knowledge base and will be vital in the project management of all Wecom projects.

Construction Manager: Justin Brown

Justin Brown's frontline leadership ensures the safe and efficient execution of construction activities in Flagstaff. With over 10 years of experience in telecom construction and a background in federal land laws and historical site preservation, Justin's expertise in crew management and job safety minimizes project risks and enhances operational efficiency in challenging terrain.

Permit Specialist: Sam Binsley

Samuel Binsley's role as a Permit Specialist is crucial for navigating regulatory requirements and securing permits for Wecom's projects in Flagstaff. With experience in OSP permitting disciplines and a background in the United States Air Force, Samuel's attention to detail and project management skills ensure compliance with local regulations and timely project delivery.

CAD Drafting Precision

CAD Drafter: Josue Romero

Josue Romero's proficiency in architectural and engineering drafting ensures accurate planning and design of telecommunication infrastructure in Flagstaff. With over 10 years of experience and expertise in AutoCAD and blueprint interpretation, Josue's meticulous approach to CAD drafting guarantees high-quality documentation and coordination of Wecom's projects in Flagstaff.

Conclusion

Wecom's diverse team, led by seasoned executives and bolstered by skilled professionals, possesses unique qualifications to provide top-tier telecommunication services in Flagstaff. Our expertise spans executive leadership, technical infrastructure implementation, project management, regulatory compliance, and precise CAD drafting. This combination equips Wecom to adeptly address the distinct needs of the Flagstaff community with effectiveness and efficiency. The individuals listed above represent just a snapshot of Wecom's extensive and accomplished team. Furthermore, detailed experience profiles are available upon request.

OVERALL EVALUATION

Two examples demonstrate Wecom’s fiber communities. (1) In Kingman Arizona Wecom partners with Angle Homes to build fiber broadband into all of the Angle Home communities. Wecom has built more than 1,000 service locations for Angle Homes. (2) Wecom also built the first fiber network in the Kingman Airport Industrial Park making service available to every business in the park. The table below will demonstrate: Pricing, Average speed, Maximum speed, Customers Satisfaction, and latency.

Service Plan	Advertised Price	Average Download	Average Upload	Average Latency	Customer Satisfaction	Reference Contact
Home 500 Mbps	\$70	508 Mbps	466 Mbps	21 ms	High/No Support Contacts/Good quality	Angle Homes, Developer. Customer contact in the reference appendix

					of experience reporting.	
Home 1 Gbps	\$90	1096 Mbps	994 Mbps	22 ms	High/No Support Contacts/Good quality of experience reporting.	Angle Homes, Developer. Customer contact in the reference appendix
Home 2.5 Gbps	\$135	2209 Mbps	2469 Mbps	22 ms	High/No Support Contacts/Good quality of experience reporting.	Angle Homes, Developer. Customer contact in the reference appendix
Business 1 Gbps	\$185	1123 Mbps	1005 Mbps	24 ms	High/No Support Contacts/No SLA Claims	Private Industrial Park customers, contact is available by coordination.
Business 2 Gbps	\$265	2187 Mbps	2028 Mbps	21 ms	High/No Support Contacts/No SLA Claims	Private Industrial Park customers, contact is available by coordination.

APPENDIX 1– SIGNED DOCUMENTS – ATTACHMENT A

H. Required Attachments

Complete and include the following forms which are included as Attachment A to this RSOQ:

1. Contractor Questionnaire (see form)
2. Exceptions (see form)
3. Confidential Materials (see form)
4. Cooperative Purchases (see form)
5. Disclosure (see form)
6. References (see form)
7. References (see form)
8. Declaration Related to Solvency (form)
9. Declaration Related to Gratuities (form)
10. Declaration of Non-Collusion (see form)
11. Declaration Related to Adverse Position (form)

All completed forms must be submitted with SOQ.

ATTACHMENT A REQUIRED FORMS CONTRACTOR QUESTIONNAIRE (FORM)

Contractor:

Company Name: Wecom LLC

Doing Business As (if different than above): Wecom Fiber

Address: 2332 Kingman Ave.

City: Kingman State: AZ Zip: 86401 -

Phone: 928-753-3829 Fax: 928-753-5991

E-Mail Address: Paul@wecomfiber.com Website: wecomfiber.com

Taxpayer Identification Number: 86-0382295

Mailing Address (if different than above):

Address: same

City: same State: _____ Zip: _____ -

Contractor Contact for Questions about SOQ:

Name: Paul Fleming Fax: 928-753-5991

Phone: 702-344-0375 E-Mail Address: paul@wecomfiber.com

Transaction Privilege (Sales)Tax/Use Tax Information (check one):

Contractor is located outside Arizona (The City will pay use tax directly to the AZ Dept of Revenue)

OR

Contractor is located in Arizona (The Contractor must invoice the applicable state and local tax to City, and remit taxes.)

Arizona Department of Revenue TPT License Number: 08010307-F (Attach proof of registration)

Business License Information (check one):

Contractor does not have a business location within the City of Flagstaff
OR

Contractor has a business location (uses a building) within the City of Flagstaff

Wecom has an office in Prescott, and will open an office in Flagstaff and apply for a Biz License.

Flagstaff TPT/Business License Number: _____

Other Licenses (list any existing licenses you have required for work, e.g. Arizona Registrar of Contractor licenses, and attach copies):

EXCEPTIONS (FORM)

Notations. Any strikeouts, notes or modifications to the Solicitation documents shall be initialed in ink by the authorized person who signs the SOQ. If notations are made, they must be submitted with your SOQ and are considered Exceptions.

Exceptions: In addition to any notations on the Solicitation documents, please identify and list any exceptions to the Solicitation, by section/paragraph, on this Exceptions Form. The City reserves the right to reject, accept or further negotiate Exceptions. Exceptions may render the SOQ non-responsive.

Exceptions to Form of Contract: You may request changes to the form of contract (including any Standard or Special Terms and Conditions) on the Exceptions Form. You may also submit your own form of contract. The City will consider these in the same manner as any other exceptions.

You must indicate any and all exceptions taken to the requirements, specifications, and/or terms and conditions of this Solicitation, including the contract.

Exceptions (INITIAL ONE):

No exceptions

Exceptions taken (describe). Attach additional pages if needed.

DISCLOSURE (FORM)

For any item checked YES, you must provide information. Answering YES to one or more questions does not necessarily mean you will be disqualified from this Solicitation. **FAILURE TO PROVIDE TRUE AND COMPLETE INFORMATION MAY RESULT IN DISQUALIFICATION FROM THIS SOLICITATION.**

- 1. Has your company or any affiliate* in the past 5 years: (i) had a permit revoked or suspended, (ii) been required to pay a fine, judgment or settlement of more than \$100,000, (iii) been convicted of a criminal offense (including a plea of guilty or *nolo contendere*), or (iv) been found in contempt of court, as a result of or in connection with any of the following:
 - a. Any offense relating to integrity or honesty, including fraud, bribery, embezzlement, false claims, false statements, falsification or destruction of records, forgery, obstruction of justice, receiving stolen property, theft, price fixing, proposal rigging, restraint of trade or other antitrust law violation? YES _____ NO^X _____
 - b. Violation of the terms of any public contract? YES _____ NO^X _____
 - c. Failure to pay any uncontested debt to a government agency? YES _____ NO^X _____
 - d. Violation of any law or regulation pertaining to the protection of public health or the environment? YES _____ NO^X _____

*An "affiliate" of your company means any person, company or other entity that, either directly or indirectly (for example, through stock ownership by family members), controls, is controlled by, or is under common control with, your company.

- 2. Has your company or any affiliate in the past 5 years been named as a party in any lawsuit related to performance of a contract (you do not need to list subcontractor lien claims which have been fully paid/satisfied)?
YES _____ NO^X _____
- 3. Has your company or any affiliate of your company in the past 5 years been debarred or suspended from submitting SOQs on public contracts?
YES _____ NO^X _____

I hereby verify that the foregoing information, and any explanation attached are to the best of my knowledge, true and complete.

Signature of Person Authorized to Sign SOQ

REFERENCES (FORM)

REFERENCES. Please submit at least three (3) and no more than five (5) references for projects your Contractor has performed in the last five (5) years demonstrating your experience with providing materials and/or services comparable to the Solicitation. The project description should include sufficient detail for the City to evaluate your experience. Also include the name, title, and telephone number of both the current Contractor owner and the Contractor owner at time of work.

Contractor/Government Agency Name: Mohave County	
Contact Person: Sam Elters	Phone: 928-753-0729
Title: County Manager	Fax:
Address: Mohave County AZ	E-Mail Address: ElterS@mohave.gov
	Reason for Selecting as Reference: Full County solutions
Project Date, Size, Complexity, Scope and Duration: 7,500 households, over 20 million, all fiber build with multi gigabit. Building 700 miles of fiber.	
Contractor/Government Agency Name: Angle Homes	
Contact Person: Travin Pennington	Phone: 928-530-1153
Title: Project Manager	Fax:
Address: Kingman AZ	E-Mail Address: travin@anglehomes.com
	Reason for Selecting as Reference: Master planned communities
Project Date, Size, Complexity, Scope and Duration: Built more than 1,000 new homes in Kingman AZ. Connected every single home with multi gigabit fiber.	
Contractor/Government Agency Name: Mohave Community College	
Contact Person: Justin Smith	Phone: 928-757-0863 ext 1163
Title: Network Engineer	Fax:
Address: Kingman AZ	E-Mail Address: JuSmith@mohave.edu
	Reason for Selecting as Reference: Educational services

Project Date, Size, Complexity, Scope and Duration: More than 8 sites connected via Metro E and providing DIA	
Contractor/Government Agency Name: Hualapai Tribal Government	
Contact Person: Mikel Allen	Phone: 928-220-7666 ext 3
Title: IT Director	Fax:
Address: Peach Springs AZ	E-Mail Address: Mikel.Allen@hualapai-nsn.gov
	Reason for Selecting as Reference: Native American network build
Project Date, Size, Complexity, Scope and Duration: Deploy backhaul and fiber to the Hualapai Tribe	
Contractor/Government Agency Name: Arizona State Broadband Office	
Contact Person: Sandip Bhowmick	Phone: 310-923-5524
Title: Broadband Director	Fax:
Address: Phoenix, AZ	E-Mail Address: sandipb@AZcommerce.com
	Reason for Selecting as Reference:
Project Date, Size, Complexity, Scope and Duration: Arizona Broadband Grant - \$10 million dollar build.	

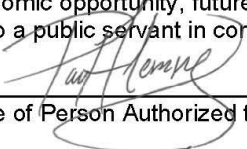
DECLARATION RELATED TO SOLVENCY (FORM)

Is the Contractor currently involved in an ongoing bankruptcy as a debtor, or in a reorganization, liquidation, or dissolution proceeding, or has a trustee or receiver been appointed over all or a substantial portion of the property of your Contractor under federal bankruptcy law or any state insolvency law?

____ Yes X No (INITIAL ONE)

DECLARATION RELATED TO GRATUITIES (FORM)

I hereby verify and declare that, to the best of my knowledge, neither the Contractor nor anyone associated with the Contractor has given, offered to give, or intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the SOQ ("Gratuities").



Signature of Person Authorized to Sign SOQ

DECLARATION OF NON-COLLUSION (FORM)

I hereby verify and declare that:

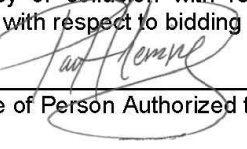
The pricing for this SOQ has been arrived at independently and without consultation, communication or agreement with any other Contractor who may submit a SOQ.

The pricing for this SOQ has not been disclosed to any other Contractor who may submit a SOQ, and will not be, prior to the Closing Date and Time.

No attempt has been made or will be made to induce any Contractor or person to refrain from submitting a SOQ, or to submit a SOQ with higher pricing than this SOQ, or to submit an intentionally high or noncompetitive SOQ or other form of complementary SOQ.

This SOQ is made in good faith and not pursuant to any agreement or discussion with, or inducement from, any Contractor or person to submit a complementary or other noncompetitive bid.

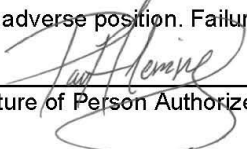
The Contractor agency, its affiliates, subsidiaries, officers, directors, and employees are not currently under investigation by any governmental agency and have not in the last four years been convicted or found liable for any act prohibited by state or federal law in any jurisdiction, involving conspiracy or collusion with respect to bidding on any jurisdiction, involving conspiracy or collusion with respect to bidding on any public contract.



Signature of Person Authorized to Sign SOQ

DECLARATION RELATED TO ADVERSE POSITION (FORM)

I hereby verify and declare that, to the best of my knowledge, neither the Contractor nor anyone associated with the Contractor have ever made a claim against the City of Flagstaff, filed suit against the City of Flagstaff, or taken an adverse position in a lawsuit filed against the City of Flagstaff. If the Contractor has ever made a claim, filed suit, or taken an adverse position in a lawsuit against the City of Flagstaff, identify the name of the parties, the year the action was taken, the court where the lawsuit was filed and the case number. Additionally, provide a brief description of the adverse position. Failure to provide this information may result in a rejection of the SOQ.



Signature of Person Authorized to Sign SOQ

Appendix 2– financial viability - SEARCHLIGHT CAPITAL AND SIMPLE broadband



March 16, 2024

RE: RSOQ 2023-64 for Fiber Provider Municipal Partner
To: Teddy Callan

On behalf of Searchlight Capital Partners, L.P. (“Searchlight”) and Simple Broadband LLC (“Simple”), we are pleased to submit this letter in support of the response of Wecom LLC. (“Wecom”) to the City of Flagstaff’s Request for Statement of Qualifications (RSOQ). Searchlight and Simple recently invested in Wecom precisely to provide the necessary capital and all other necessary support for Wecom to successfully win and execute projects such as the one they are proposing. *See* “Arizona-Based Broadband Provider Wecom to Expand High-Speed Fiber Service as Part of Strategic Investment from Searchlight Capital Partners” (May 15, 2023), <https://finance.yahoo.com/news/arizona-based-broadband-provider-wecom-130000784.html>.

Searchlight and Simple are private investment firms engaged in expanding broadband access to unserved and underserved areas throughout the United States, particularly using Fiber to the Home (“FTTH”) technology. Searchlight has over \$13 billion of assets under management with extensive expertise investing in the global telecommunications and media sectors. Over the last three years, Searchlight has invested in excess of \$1.25 billion in FTTH in the United States, making Searchlight the largest investor in domestic FTTH infrastructure in that period. And as of today, through its investments in Wecom, Consolidated Communications, Zply Fiber, All Points Broadband (“APB”), and most recently Mainstream Fiber Networks, Searchlight is the fourth largest builder of FTTH passings in America. These companies benefit from the tremendous volume purchasing arrangements for Searchlight’s portfolio companies, which ensure availability of required supply and the best available pricing.

The Searchlight team is represented by Darren Glatt, who has worked with these broadband operators and many others around the world including as a Board Member of Mainstream Fiber, Charter Communications, and APB in the U.S., and Bezeq, Israel’s largest telecommunications company. Darren also is a full-time resident of Sedona and has a unique appreciation for the community’s digital infrastructure needs, specifically across residents, businesses, enterprises, educational institutions, law enforcement agencies, fire, local government, among others. In addition to Darren, Ajit Pai is another Searchlight Partner who oversees the investment in Wecom. Previously, Ajit served as a Commissioner (2012-2017) and then Chairman (2017-2021) of the Federal Communications Commission.

Simple works with Searchlight as a co-investor and helps to identify operators around the country with promising business plans to extend middle mile and FTTH networks to underserved areas. Simple’s principals have decades of experience investing in and operating broadband businesses in the U.S., Europe and Latin America, with a particular focus on helping small operators grow and

succeed. They have enabled start-ups to scale to serve hundreds of thousands of subscribers and have worked closely with Searchlight in the state of Arizona.

A good example of Searchlight and Simple's approach is their 2021 investment in APB, an operator currently building FTTH networks in unserved and underserved counties in the Commonwealth of Virginia. APB has established public-private partnerships with 21 counties in Virginia to build and operate FTTH networks in previously unserved areas and is the largest recipient of funding through the Virginia Telecommunications Initiative (~\$300 million), the analog to Arizona's Broadband Development Grant Program. Searchlight and Simple have contributed substantial private capital to APB to supplement federal, state, and local subsidies. This funding will ensure that best-in-class networks are built throughout the target counties and will connect thousands of consumers who for too long have been on the wrong side of the digital divide, even those who live in the most difficult-to-reach locations. APB—in cooperation with Searchlight and Simple—is working closely with state and county officials, electric utilities, and other stakeholders as it designs, builds, and operates the networks in a manner that serve the needs of each particular county well for many years to come.

We look forward to the opportunity to help close the digital divide in Flagstaff and stand ready to provide, through our investment in Wecom, the necessary private capital to make it a reality.

Sincerely,

Darren Glatt
Partner & Head of Infrastructure Investing
Searchlight Capital Partners, L.P.



Darren Glatt (Mar 18, 2024 20:07 EDT)

Evan Grayer
Co-Founder
Simple Broadband LLC

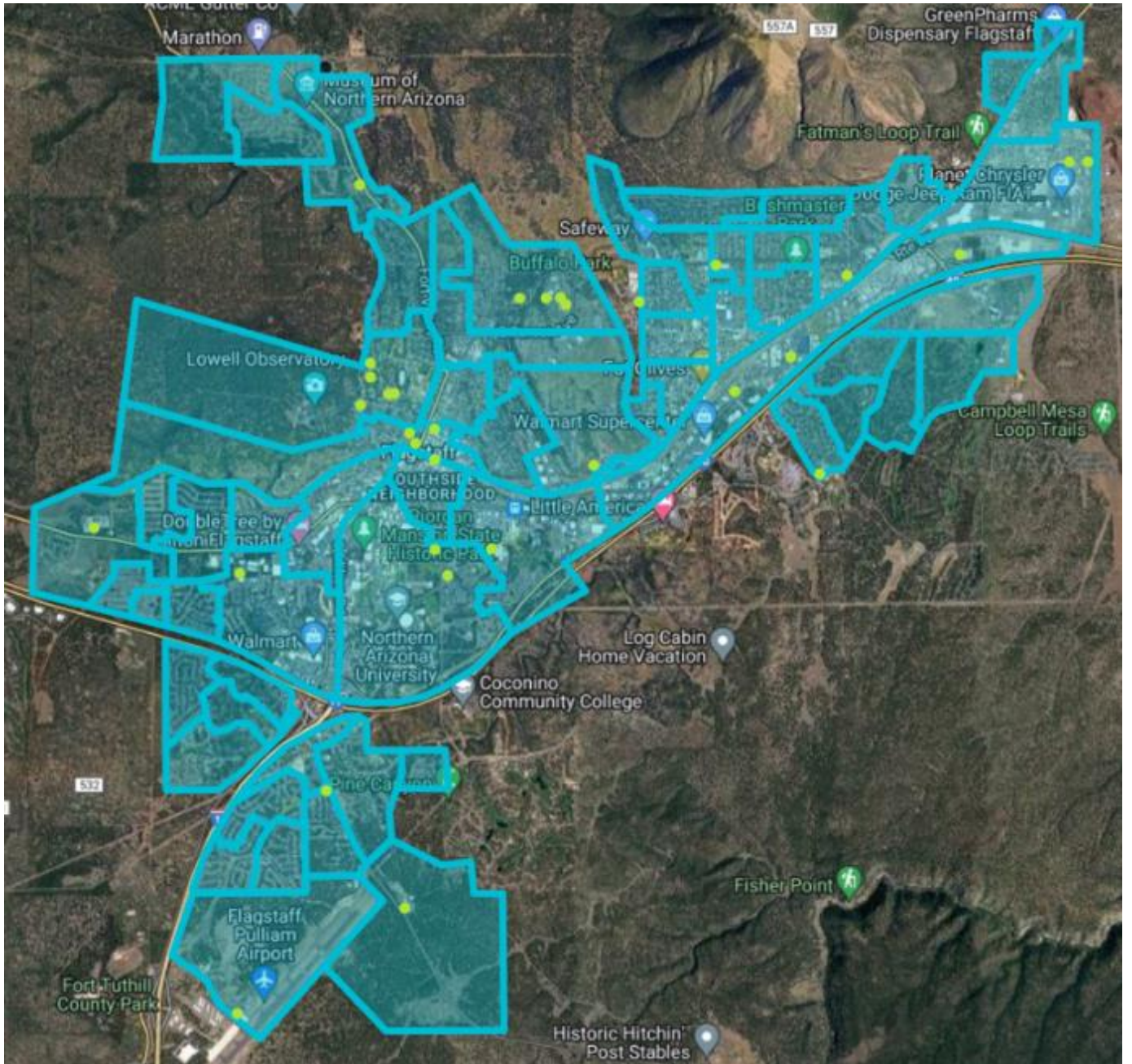


Evan Grayer (Mar 18, 2024 18:58 MDT)

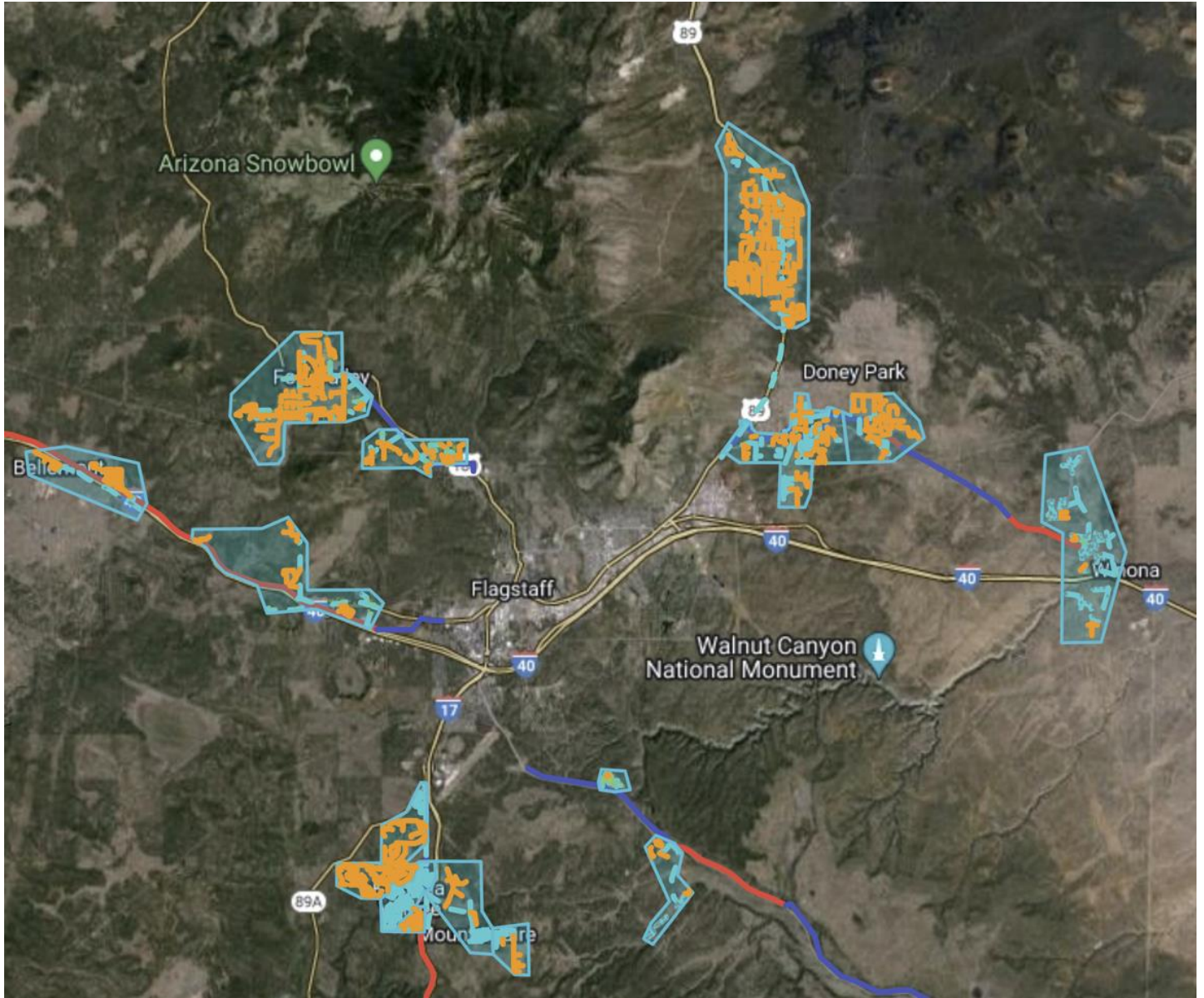
Nothing contained herein shall constitute an offer, an acceptance, or a legally binding obligation of Searchlight Capital Partners, L.P., Simple Broadband LLC, their affiliates, or any other party.

APPENDIX 3– MAPS

Details of the build inside flagstaff City limits



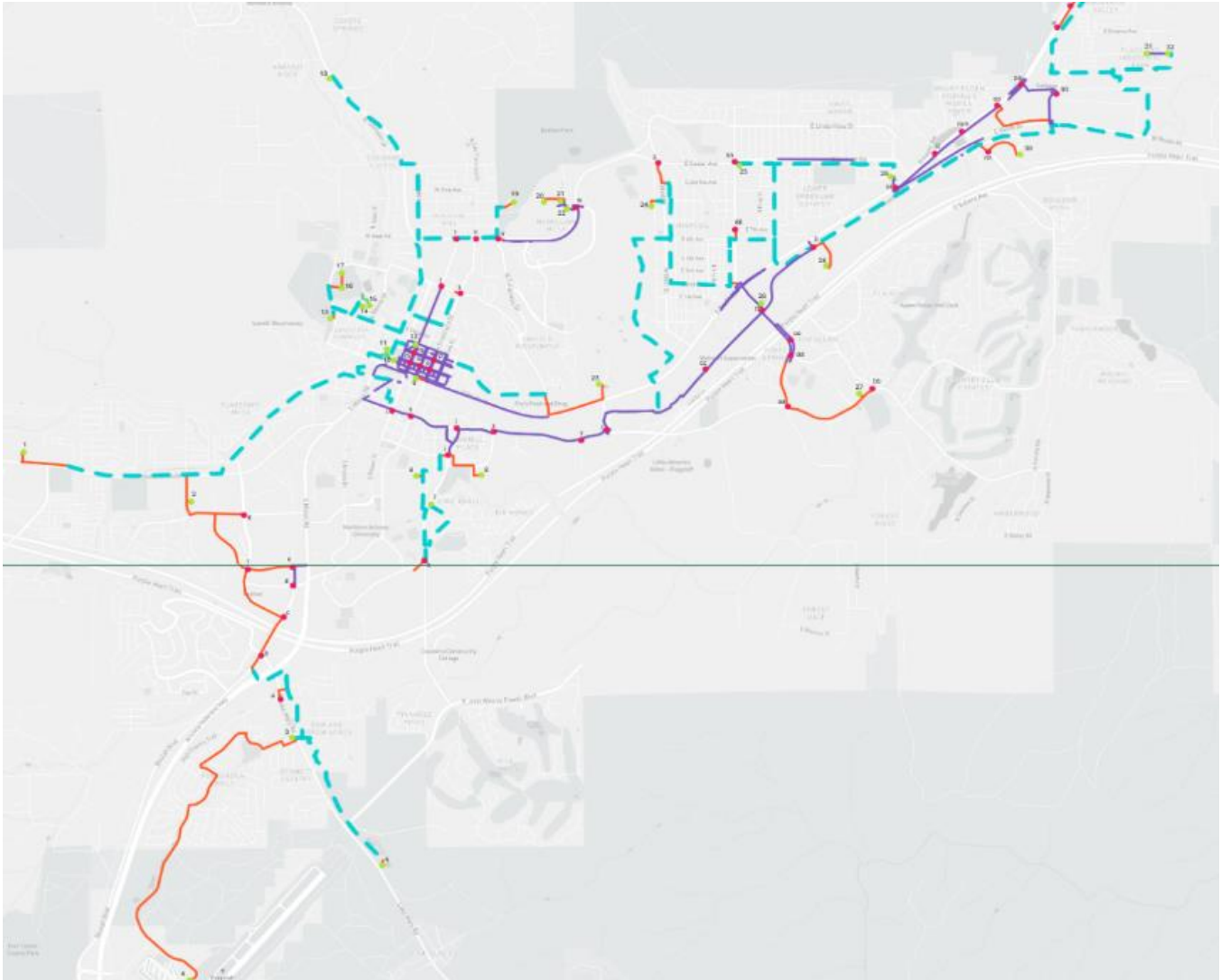
Detail of communities to be built outside Flagstaff City limits.



Point of Interest Map – City Innerduct – Fiber Model

New innerduct in the map below is (2) 2" HPDE SDR 13.5 duct, one for Wecom and one for the City. ADOT #9 pull boxes are placed at each corner, underground splice locations, and required pull boxes are placed along the new route.

City owned duct (purple), new planned routes (red, orange, blue).





APPENDIX 4– WECOM PRESS RELEASES

- *Arizona-Based Broadband Provider Wecom to Expand High-Speed Fiber Service as Part of Strategic Investment from Searchlight Capital Partners*
[\(<https://wecomfiber.com>\)](https://wecomfiber.com)
- *Searchlight Invests in Wecom* (<https://www.themiddlemarket.com/>)
- *Arizona-Based Broadband Provider Wecom to Expand High-Speed Fiber Service as Part of Strategic Investment from Searchlight Capital Partners*
[\(<https://finance.yahoo.com>\)](https://finance.yahoo.com)
- *Arizona broadband expansion projects are getting a \$100 million infusion of cash*
[\(<https://www.azmirror.com>\)](https://www.azmirror.com)
- *Latham & Watkins Advises Searchlight Capital Partners on Strategic Investment in Wecom*
[\(<https://www.lw.com>\)](https://www.lw.com)
- *Arizona Commerce Authority Announces \$100 Million in Broadband Grants*
[\(<https://www.azcommerce.com>\)](https://www.azcommerce.com)
- *Kingman-based company offers plans for bringing broadband to La Paz County*
[\(<https://www.parkerpioneer.net>\)](https://www.parkerpioneer.net)
- *Wecom to Expand Fiber Service* (<https://channelvisionmag.com/>)
- *USDA Invests \$1.6 Million in Broadband for Rural Arizona Communities* (<https://www.usda.gov/>)
- *Wecom Awarded USDA ReConnect Grant* (<https://wecominc.com/reconnect/>)

APPENDIX 5—CORP DOCS

STATE OF ARIZONA



**Office of the
CORPORATION COMMISSION**

CERTIFICATE OF GOOD STANDING

I, the undersigned Executive Director of the Arizona Corporation Commission, do hereby certify that:

WECOM LLC

ACC file number: 23560444

a foreign limited liability company, was authorized to transact business in the State of Arizona on 07/26/2023, and that, according to the records of the Arizona Corporation Commission, said limited liability company is in good standing in the State of Arizona as of the date this Certificate is issued.

This Certificate relates only to the legal existence of the above named entity as of the date this Certificate is issued, and is not an endorsement, recommendation, or approval of the entity's condition, business activities, affairs, or practices.

IN WITNESS WHEREOF, I have hereunto set my hand, affixed the official seal of the Arizona Corporation Commission, and issued this Certificate on this date: **10/19/2023**



Handwritten signature of Douglas R. Clark.

Douglas R. Clark, Executive Director



Contractor Search

DISCLAIMER The data supplied below is based on your specific request(s) and is correct to the best of our knowledge as of the date and time it was extracted from our data files. The information is provided without personal research or analysis. The data is subject to change on a daily basis. You may obtain additional public records related to any license, including dismissed complaints and nondisciplinary actions and orders, by contacting the ROC directly. If this information is required for legal purposes, you may request an affidavit or certified copies for a fee as specified in A.R.S. §24-1104.3. Please read our Standard Terms of Use at: [ROC ARS 2024/2025](#). Please note: The company or individual listed on this license may hold other Arizona contracting licenses. To view information status and complaint history for the past two years on other licenses held, go to the License Inquiry page and do a "Company Name and Personnel" search by entering the name of the company or individual listed on the license.

DETAILS FOR Wecom LLC

LICENSE NUMBER ROC 075287

This information is current as of 2024-03-18 17:47:00

[Share this License or Send it to Yourself: Email | Save for Later](#)

If you are the contractor listed, feel free to contact our Licensing Department at (602) 542-1525 for more information.

CONTRACTOR

Business Entity Name: Wecom LLC
City and State: Las Vegas, NV, 89120-2708
Phone: (928) 753-3829
Status / Action: Active

LICENSE

Class & Description: General Dual KE As Restricted by the Registrar RADIO & TELEVISION TRANSMISSION EQUIPMENT
Entity Type: LLC
Issued / Renewal: 1998-02-03
First Issued: 2026-01-31
Renewed Through:



Contractor Search

The data supplied below is based on your specific request(s) and is correct to the best of our knowledge as of the date and time it was extracted from our data base. The information is provided without personal research or analysis. The data is subject to change on a daily basis. You may obtain additional public records related to any license, including dismissed complaints and nondisciplinary actions and orders, by contacting the ROC directly. If this information is required for legal purposes, you may request an affidavit or certified copies for a fee as specified in [A.R.S. 32-211025](#). Please read our Standard Terms of Use at [ROC.az.gov/terms](#). Please note: The company or individual(s) listed on this license may hold other Arizona contracting licenses. To view information, status and compliance history for the past two years on other licenses held, go to the License Inquiry page and do a "Company Name and Personnel" search by entering the name of the company or individual(s) listed on the license.

DETAILS FOR
Wecom LLC
LICENSE NUMBER ROC 066605
This information is current as of 2024-03-18 17:46:58

[Share this License or Send it to Yourself: Email | Save for Later](#)

If you are the contractor listed, feel free to contact our Licensing Department at (602) 542-1525 for more information.

CONTRACTOR

Business Entity Name: Wecom LLC
City and State: Las Vegas, NV 89120-2708
Phone: (928) 753-3829

Status / Action: Active

LICENSE

Class & Description: [Specialty Dual CR-67 Low Voltage Communication Systems](#)
Entity Type: LLC
Issued / Renewal: 1986-12-09 / 2024-11-30
First Issued: 1986-12-09
Renewed Through: 2024-11-30

APPENDIX 6– EXAMPLE IRUS

INDEFEASIBLE RIGHT TO USE AGREEMENT

BACKGROUND 1

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EXHIBIT B..... B1

EXHIBIT C.....31

INDEFEASIBLE RIGHT TO USE AGREEMENT

This Indefeasible Right To Use Agreement (“Agreement”), made this ____ day of _____, 2019 (“Effective Date”), between NA Service Company (alternatively referred to as the “Grantor” or “NA”), having an office at _____ and _____, a _____ (“Grantee”), having an office at _____. Grantor and Grantee are each referred to herein as a “Party” and collectively as the “Parties.”

BACKGROUND

WHEREAS Grantor will operate and maintain the constructed fiber optic facilities along one or more routes (the “Routes” or “Route”) as applicable, as described in Article 2.1;

WHEREAS, Grantor is willing to grant to Grantee an indefeasible right of use (“IRU”) in certain fiber optical strands along the Routes for use by Grantee in accordance with the terms and conditions of this Agreement; and

[WHEREAS, GRANTEE DESIRES TO ACQUIRE FROM GRANTOR, AND GRANTOR DESIRES TO PROVIDE TO GRANTEE, CERTAIN COLOCATION SERVICES AS DESCRIBED IN COLOCATION SERVICES ADDENDUM TO THIS AGREEMENT;]

THEREFORE, in consideration of the above recitals and the mutual promises and covenants herein contained, the Parties agree as follows:

ARTICLE 1: DEFINITIONS

Unless otherwise defined herein, the terms used in this Agreement will have their normal or customary meanings. In this Agreement, the following terms will have the meanings set forth below:

- | | |
|--------------------|---|
| Acceptance/Accept: | (i) Written notification issued to Grantor from Grantee stating that the Grantee Fibers in a Route Order are in conformance with this Agreement and accepting the Grantee Fibers or (ii) Deemed Acceptance as described in Article 4.3. |
| Cable: | A cable containing Grantee Fibers and the associated splicing connections, boxes, vaults, and conduits installed and maintained by Grantor along the applicable fiber route. Based on the specific IRU grants made under this Agreement, the term Cable could apply to any one of several Cables containing Grantee Fibers. |

Demarcation Point:	A designated handhole or other suitable interface enclosure specified in the Route Order at which each Party's operational control with respect to the Grantee Fibers change under this Agreement. The endpoints of each route are set out in the Route Order.
Fibers:	Any optical fibers, excluding electronics or other equipment necessary to enable the transmission of information (generally referred to as "dark fibers") included in Grantor's Network, including Grantee's Fibers, and the fibers used by Grantor or by third parties.
Grantee Fibers:	The optical fibers in which Grantor is granting the Grantee an IRU in accordance with the terms and conditions of this Agreement.
Grantor's Network:	The fiber optic network operated and maintained by Grantor, which may be expanded from time to time at Grantor's sole discretion, portions of which include Routes from which the Grantee's Fibers are derived.
Indefeasible Right of Use or "IRU":	An exclusive and indefeasible right to use designated Fibers as further described and upon the terms and conditions specified in this Agreement, Exhibits and Route Order(s).
Potential Service Affecting Condition:	Any deficiency that left unchecked and uncorrected could become a Service Affecting Condition.
Route:	A physical path along which the Cable and Grantee Fibers will extend between End Points.
Service Affecting Condition:	Any failure interfering with a Cable's ability to carry telecommunications traffic on the Grantee Fibers.
Underlying Agreements:	The agreements which Grantor has entered into or authorizations it has obtained to secure the Underlying Rights defined in Section 2.2, below.

ARTICLE 2. RIGHTS IN FIBER AND PAYMENT

2.1 IRU GRANT. GRANTOR CONVEYS TO GRANTEE AN IRU IN SPECIFIED FIBERS IN ONE OR MORE ROUTES SET OUT IN ONE OR MORE ROUTE ORDERS. A SINGLE IRU IS GRANTED FOR ALL SPECIFIED FIBERS ON ALL ROUTES IN A ROUTE ORDER. THE INITIAL ROUTE ORDER IS SET OUT IN EXHIBIT A. FOR EACH ROUTE ORDER, A GOOGLE EARTH MAP DEPICTING ONE OR MORE ROUTES SHALL BE APPENDED TO THE ROUTE ORDER. THE CABLE CONTAINING THE GRANTEE FIBERS SHALL FOLLOW THE PATH AS DEPICTED IN THE MAP. ROUTE MILEAGE FOR CABLES THAT ARE YET TO BE CONSTRUCTED AS OF THE EXECUTION OF THE RELEVANT ROUTE ORDER MAY BE ADJUSTED BASED ON FIELD SURVEYS OR OTDR TESTING. BY WRITTEN AMENDMENT TO A ROUTE ORDER, THE PARTIES MAY INCREASE THE NUMBER OF THE GRANTEE FIBERS, EXTEND A ROUTE, OR ADD OTHER DEMARCATION POINTS, ALL SUBJECT TO THE TERMS HEREOF. THE IRU GRANTS TO GRANTEE THE EXCLUSIVE USE OF THE GRANTEE FIBERS FOR THE TERM OF THE ROUTE ORDER.

2.2 IN NO EVENT SHALL GRANTEE HAVE ANY RIGHTS TO ANY PORTION OF GRANTOR'S LEGAL AND EQUITABLE RIGHTS, IF ANY, IN ANY SUPPORTING STRUCTURES, ELECTRONICS OR OTHER FACILITIES OF GRANTOR'S NETWORK, INCLUDING THE ROUTES, OR UNDER ANY LEASES, EASEMENTS, RIGHT-OF-WAY AGREEMENTS, AND ANY OTHER LAND-USE AGREEMENTS OF ANY KIND OR NATURE TO THE EXTENT THESE RIGHTS ARE APPLICABLE TO GRANTOR'S NETWORK, INCLUDING THE ROUTES OR GRANTEE'S USE OF THE GRANTEE FIBERS OR GRANTOR'S PERFORMANCE UNDER THIS AGREEMENT AND/OR THE REAL PROPERTY ON WHICH THE GRANTEE FIBERS ARE LOCATED OR ANY RIGHTS GRANTOR MAY HAVE UNDER ANY OTHER AGREEMENTS RELATING TO GRANTOR'S NETWORK (COLLECTIVELY, "UNDERLYING RIGHTS"). GRANTEE HEREBY ACKNOWLEDGES AND AGREES THAT IT IS NOT A THIRD-PARTY BENEFICIARY UNDER ANY UNDERLYING AGREEMENT. THE PARTIES AGREE THAT THE IRU GRANTED HEREUNDER DOES NOT PROVIDE GRANTEE WITH FEE OWNERSHIP IN THE GRANTEE FIBERS OR ANY PORTION OF GRANTOR'S NETWORK OR PHYSICAL ACCESS THERETO EXCEPT AT MUTUALLY AGREED UPON DEMARCATION POINTS. IN ADDITION, GRANTOR GRANTS GRANTEE THE NON-EXCLUSIVE RIGHT TO USE THE CABLE AND THE STRUCTURES SUPPORTING THE GRANTEE FIBERS.

2.3 GRANTOR ACKNOWLEDGES AND AGREES THAT, FOR PURPOSES OF 11 U.S.C. § 541(D), THE IRU GRANTED IN A ROUTE ORDER TRANSFERS ALL EQUITABLE RIGHT AND INTEREST IN GRANTEE'S FIBERS TO GRANTEE AND GRANTEE SHALL HAVE EXCLUSIVE USE OF THE GRANTEE FIBERS FOR THE TERM OF EACH ROUTE ORDER. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, THE GRANT OF IRU IN THE GRANTEE FIBERS PURSUANT TO THIS AGREEMENT SHALL BE DEEMED FULLY PERFORMED AND NON-EXECUTORY WITHIN THE MEANING OF 11 U.S.C. § 365 UPON THE FULL PAYMENT BY GRANTEE OF THE IRU FEE; THE PARTIES' OTHER OBLIGATIONS UNDER THIS AGREEMENT, INCLUDING MAINTENANCE OR COLLOCATION, AND UNDER ANY OTHER AGREEMENT BETWEEN THE PARTIES FOR SUCH TERM WILL BE SEVERABLE FROM THOSE RELATING TO THE APPLICABLE IRU.

2.4 GRANTEE ACKNOWLEDGES THAT IT HAS NO TITLE TO AND CANNOT IN ANY WAY ENCUMBER THE GRANTEE FIBERS OR GRANTOR'S NETWORK, OR ANY PROPERTY THAT IS THE SUBJECT OF THIS AGREEMENT THAT IS NOT OWNED BY GRANTEE. IF ANY PROPERTY OF GRANTOR OR OF ANY PERSON HAVING AN INTEREST IN AN UNDERLYING AGREEMENT BECOMES ENCUMBERED BY ANY UNAUTHORIZED LIENS, CLAIMS OR OTHER ENCUMBRANCES AS A RESULT OF ANY ACT OR OMISSION OF GRANTEE, GRANTOR SHALL NOTIFY GRANTEE PROMPTLY AND GRANTEE SHALL: (I) WITHIN FIVE (5) BUSINESS DAYS OF BECOMING AWARE CAUSE THE LIEN TO BE DISCHARGED BY POSTING A BOND, PAYING THE UNDERLYING DEBT OR OTHERWISE; AND (II) INDEMNIFY, DEFEND AND HOLD HARMLESS GRANTOR AND ANY THIRD PARTY OWNER UNDER THE UNDERLYING AGREEMENTS FROM SAID ENCUMBRANCE.

2.5 UNDERLYING AGREEMENTS

2.5.1 THE GRANTOR HAS OBTAINED EASEMENTS, RIGHTS OF WAY AND OTHER ACCESS RIGHTS FOR THE CONSTRUCTION AND OPERATION OF THE GRANTOR'S NETWORK. THE IRU IS SUBJECT TO THE TERMS, CONDITIONS, LIMITATIONS, RESTRICTIONS AND RESERVATIONS OF THE UNDERLYING RIGHTS, AND SUBJECT TO THE TERMS, CONDITIONS, LIMITATIONS, RESTRICTIONS AND RESERVATIONS UNDER WHICH THE RIGHTS OF WAY ARE OWNED OR HELD BY THE GRANTORS OF THE UNDERLYING RIGHTS. THE IRU GRANTED HEREUNDER IS FURTHER SUBJECT AND SUBORDINATE TO THE PRIOR RIGHT OF THE GRANTORS OF THE UNDERLYING RIGHTS TO OTHER BUSINESS ACTIVITIES, INCLUDING RAILROAD OPERATIONS, TELECOMMUNICATIONS USES, ELECTRIC TRANSMISSION OR DISTRIBUTION, AND ANY OTHER PURPOSES, AND TO THE PRIOR RIGHT OF GRANTOR TO USE ITS RIGHTS GRANTED UNDER THE UNDERLYING RIGHTS. THE RIGHTS GRANTED HEREIN ARE EXPRESSLY MADE SUBJECT TO EACH AND EVERY LIMITATION, RESTRICTION OR RESERVATION AFFECTING THE UNDERLYING RIGHTS. NOTHING HEREIN SHALL BE CONSTRUED AS TO BE A REPRESENTATION, WARRANTY OR COVENANT OF GRANTOR'S RIGHT, TITLE OR INTEREST WITH RESPECT TO THE RIGHT OF WAYS OR THE UNDERLYING RIGHTS, ALL OF WHICH ARE DISCLAIMED.

2.5.2 In the event that any [Underlying Agreement](#) is discontinued, expires, or terminated by law or court order and not replaced and the loss of such Underlying Agreement prohibits the use of the Grantee Fibers or could place any limitations on Grantee's use of the Fiber, Grantor shall provide written notice thereof as soon as possible under the circumstances and shall take action pursuant to Section 6.2, below.

2.6 AS CONSIDERATION FOR GRANTOR'S PERFORMANCE OF ITS OBLIGATIONS HEREUNDER, GRANTEE AGREES TO PAY GRANTOR AN IRU FEE AND MAINTENANCE FEES SET OUT IN ROUTE ORDERS ENTERED INTO UNDER THIS AGREEMENT. ADJUSTMENTS IN THE IRU FEE DUE TO REVISED ROUTE MILEAGE CALCULATIONS, AS NOTED IN SECTION 2.1, WILL BE REFLECTED IN THE INVOICE FOR THE IRU FEE PAYMENT DUE UPON ACCEPTANCE. GRANTEE AGREES TO PAY THE IRU FEE TO GRANTOR FOR EACH ROUTE ORDER OR AMENDMENT THERETO AS FOLLOWS:

- (A) 50% OF THE IRU FEE SHALL BE PAYABLE THIRTY (30) DAYS AFTER GRANTEE'S RECEIPT OF INVOICE ISSUED PROMPTLY FOLLOWING EXECUTION OF THE ROUTE ORDER FOR THE IRU BY BOTH PARTIES; AND
- (B) THE REMAINDER OF THE IRU FEE SHALL BE DUE WITHIN THIRTY (30) DAYS FOLLOWING GRANTEE'S RECEIPT OF GRANTOR'S INVOICE WHICH SHALL BE SENT PROMPTLY FOLLOWING THE ACCEPTANCE DATE (DEFINED IN SECTION 4.3).

PAYMENTS MADE TO GRANTEE SHALL BE MADE BY WIRE TRANSFER OR COMPANY CHECK TO "NA SERVICES COMPANY" AND, IF PAYMENT IS MADE BY CHECK, SHALL BE DELIVERED TO GRANTEE AT THE FOLLOWING ADDRESS:

NA Service Company
2122 W. Cheryl Drive

MS# 3864

Phoenix, AZ 85012

Attention: Dominic Pagliuca

Telephone: (602) 371-7063

Facsimile: (602) 371-6321

The above address is subject to change from time to time upon written notice to Grantee.

2.7 BEGINNING ON THE ACCEPTANCE DATE AND EACH ANNIVERSARY DATE THEREAFTER, GRANTEE AGREES TO PAY GRANTOR AN ANNUAL MAINTENANCE FEE PER ROUTE (THE "ANNUAL MAINTENANCE FEES") AS SPECIFIED IN A ROUTE ORDER. MAINTENANCE FEE PAYMENTS SHALL BE MADE WITHIN THIRTY (30) DAYS AFTER THE RECEIPT DATE OF INVOICES THAT ARE ISSUED BY GRANTOR ON OR AFTER THE ACCEPTANCE DATE. THE PRICE OF THE MAINTENANCE IS SET OUT IN THE ROUTE ORDER FOR THE FIRST YEAR AND PAYABLE ANNUALLY THEREAFTER IN ADVANCE, WITH ADJUSTMENTS PERMITTED EVERY THIRD ANNIVERSARY TO REFLECT ANNUAL CHANGES IN THE CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS ("CPI-U") ; U.S. CITY AVERAGE, ALL ITEMS, 1982-1984 = 100. PAYMENTS SHALL BE MADE AS PROVIDED IN THIS SECTION 2.7. THE ANNUAL MAINTENANCE FEE SHALL BE ASSESSED FOR EACH YEAR OF ANY RENEWAL TERM AS PROVIDED ABOVE. THE PRIOR YEAR'S MAINTENANCE FEE SHALL BE USED FOR EACH YEAR OF ANY RENEWAL TERM. FOR ANY TRANSITION TERM FOR A ROUTE ORDER, THE MAINTENANCE FEE SHALL BE CALCULATED AS FOLLOWS: PRIOR YEAR'S MAINTENANCE FEE ÷ 12 = TRANSITION TERM'S MONTHLY MAINTENANCE FEE).

2.8 A ONE-TIME FEE MAY BE ISSUED TO COVER GRANTOR'S COSTS OF SPLICING AND MAY BE SPECIFIED IN A ROUTE ORDER OR BILLED SEPARATELY.

2.9 ALL AMOUNTS OTHER THAN THE IRU FEE, ANNUAL MAINTENANCE FEES, OR SPLICE FEES INCLUDED IN A ROUTE ORDER, SHALL BE INVOICED BY GRANTOR ON AN ANNUAL BASIS AND PAID BY GRANTEE WITHIN THIRTY (30) CALENDAR DAYS OF THE INVOICE RECEIPT. GRANTOR SHALL INVOICE GRANTEE FOR ALL AMOUNTS DUE UNDER THIS AGREEMENT WITHIN ONE HUNDRED EIGHTY DAYS OF THE END OF THE PERIOD IN WHICH SUCH CHARGES WERE INCURRED OR TO WHICH SUCH CHARGES ARE ATTRIBUTABLE. GRANTEE SHALL HAVE NO OBLIGATION TO MAKE PAYMENT FOR SUCH CHARGES BILLED MORE THAN ONE HUNDRED EIGHTY (180) DAYS AFTER THE LAST DAY OF THE MONTH IN WHICH THE RELEVANT CHARGES WERE INCURRED.

2.10 IN THE EVENT THAT GRANTEE, IN GOOD FAITH, DISPUTES ANY AMOUNT CHARGED BY GRANTOR, GRANTEE MAY WITHHOLD THE DISPUTED AMOUNT, PROVIDED GRANTEE SHALL PAY THE UNDISPUTED AMOUNT OF THE RELEVANT INVOICE IN ACCORDANCE WITH THE TERMS OF THIS AGREEMENT. WHEN DISPUTING ANY AMOUNT CHARGED, GRANTEE SHALL PROVIDE A WRITTEN EXPLANATION OF THE BASIS FOR ITS DISPUTE. GRANTEE AND GRANTOR SHALL MEET OR COMMUNICATE BY TELEPHONE OR OTHER MEANS TO RESOLVE SUCH DISPUTE. IF THE DISPUTE IS NOT RESOLVED WITHIN SIXTY (60) DAYS OF THE DATE OF GRANTEE'S WRITTEN EXPLANATION, EITHER PARTY MAY EXERCISE ITS RIGHTS UNDER ARTICLE 13.

ARTICLE 3: FIBER CONNECTIONS; DEMARCATION POINTS

3.1 GRANTOR SHALL CONNECT THE GRANTEE FIBERS AT THE DEMARCATION POINTS SPECIFIED IN THE APPLICABLE ROUTE ORDER WITHIN MUTUALLY AGREED UPON GRANTOR SPLICE ENCLOSURES. GRANTEE, AT GRANTEE'S EXPENSE, WILL BE RESPONSIBLE FOR SECURING EASEMENTS AND PERMITS AND PROVIDING CABLE CONSTRUCTION FROM THE DEMARCATION POINTS TO ITS OTHER FIBER OPTIC FACILITIES OR TO THOSE OF ITS CUSTOMERS OR ITS SERVICE PROVIDERS. GRANTEE'S ACCESS TO THE GRANTEE FIBERS WILL BE AT DESIGNATED DEMARCATION POINTS IDENTIFIED IN A ROUTE ORDER. IN ACCORDANCE WITH ARTICLE 2.1 OF THE AGREEMENT, GRANTEE MAY REQUEST OTHER DEMARCATION POINTS.

3.2 Grantee shall have the right to establish a connection to the Grantee Fibers on its side of the Demarcation Point established within the distribution panel(s) or other fiber connection scheme that totally isolates such Grantee Fibers from the other Fibers in the Cable. Such interface or Demarcation Points will be clearly marked on the As-Built Drawings.

3.3 Grantor may require Grantee to pay the costs of maintaining any splice point established at the request of Grantee that presents unusual problems of access for Grantor. The costs shall be set forth in a Route Order executed by the Parties. Upon Grantor's request, Grantee shall provide a trained and qualified technician at the appropriate Fiber Distribution Panel with an Optical Time Domain Reflectometer to assist Grantor in performing inspection, maintenance, or repair in situations where Grantor does not have sufficient physical access to a premise housing a demarcation point requested by Grantee to verify splicing specifications for the Grantee Fibers.

3.4 Grantor and Grantee each shall work together in good faith to prevent damage to each other's equipment, to fibers not subject to this Agreement and to each other's ability to provide services over the Network. Grantee shall not use or permit any third party to use equipment, technologies, or methods of operation that interfere in any way with or adversely affect the Network, or Grantor's or other persons' use of the Network to transmit their own signals. Grantor shall not use or permit any third party to use equipment, technologies or methods of operation that interfere in any way with or adversely affect Grantee's use of the Network or Grantee Fibers to transmit signals.

3.5 Grantee shall be responsible for obtaining all governmental and other approvals and consents necessary for Grantee to interconnect with the 3rd party Fibers at Demarcation Points.

ARTICLE 4: TESTING AND ACCEPTANCE

4.1 Following payment of the first installment of the IRU Fee or as otherwise provided in a Route Order, Grantor shall complete installation of the Cable and perform fiber acceptance testing of the Grantee Fibers along the Route in a Route Order for verification that Grantee Fibers comply with the Fiber Specifications set out in Exhibit B ("Acceptance Testing") hereinafter "Acceptance Criteria." Grantor will provide at least three (3) business days-notice of acceptance testing so that Grantee has the opportunity to be present during testing. Such notice may be by email, not subject to Section 17, Notice.

4.2 When the Grantee Fibers in a Route Order meet the Acceptance Criteria, Grantor will provide the test deliverables as described in Exhibit B to Grantee. Grantee shall have ten business days (10) days to review the test results and to provide Grantor notice of acceptance ("Acceptance"), or if Grantee reasonably determines the Grantee Fibers of a Route do not satisfy the Acceptance Criteria, it shall provide notice of rejection ("Rejection") to Grantor, specifying that portions of the test results not in accordance with Fiber Specifications in Section 3 of Exhibit B. Notice of Acceptance or Rejection may be by email, not subject to Section 17, Notice.

4.3 If Grantee fails to provide Grantor with Notice of Acceptance or Rejection within fifteen (15) days, then Grantee will be deemed to have provided its Acceptance of Grantee's Fibers ("Deemed Acceptance"). The date of Grantee's Notice of Acceptance or the date of Deemed Acceptance, shall be the "Acceptance Date." The "Acceptance Date" for Grantee Fibers shall not occur unless and until the Grantee Fibers meet the Fiber Specifications on all segments of a Route included in a Route Order.

4.4 In the event of rejection, Grantor shall retest the Grantee Fibers or subsets thereof that did not meet the Acceptance Criteria as provided in Sections 4.1 and 4.2 and take appropriate corrective action or Grantor shall take other action to reasonably demonstrate the Acceptance Criteria have been satisfied. In the event Grantee provides a second notice of rejection, Grantee may conditionally accept the Grantee Fibers subject to the condition that all deficiencies

impeding conformance are corrected by Grantor and, unless and until corrected, Grantee may terminate the affected Route Order without opportunity to cure.

4.5 For Route Orders having multiple Routes, the Route Order shall specify whether each Route will be tested and accepted on an individual basis, allowing for partial termination of a single Route or multiple Routes that do not meet the Acceptance Criteria or whether all Routes in a Route Order will be terminated if one or more Routes do not meet the Acceptance Criteria.

4.6 Grantor shall make commercially reasonable efforts to cause Acceptance or the Grantee Fibers to occur by the "Delivery Date" set forth in the Route Order. Grantor shall give notice to Grantee as early as reasonably possible of any known or expected delays in completion of the delivery of Fiber or collocation services on any Network Route.

4.7 In the event that the Acceptance under Exhibit B does not occur for 180 days after the Effective Date of the Route Order (excluding any period of delay attributable to a Force Majeure Event or Grantee's acts or of omissions or for a period to permit retesting as provided under Section 4.4, above), and provided that the Grantee has not conditionally accepted the Grantee Fibers under Section 4.4, above, then Grantee will have the right, at its sole option, to terminate the affected Route Order and any related services, such as collocation services, along the Route or permit further tests of the Grantee Fibers. In the event of such termination by Grantee, Grantor shall refund to Grantee all IRU Fees or portions thereof previously paid by Grantee under the Route Order (and any other amounts paid in advance under the Route Order), extinguishing Grantor's obligations under the Route Order. Grantee's termination of an IRU on a Route(s) under this Section 4.7 shall terminate Grantee's obligation to pay the IRU Fee or any other charges relating to such Route(s) (including charges for any collocation, maintenance, or relocations). This provision does not apply to interconnections with fibers of third-party providers.

ARTICLE 5: FIBER NETWORK MAINTENANCE

5.1. GRANTOR IS, AT GRANTOR'S SOLE COST AND EXPENSE, RESPONSIBLE FOR THE DESIGN, ENGINEERING, INSTALLATION AND CONSTRUCTION OF THE NETWORK IN COMPLIANCE WITH ALL APPLICABLE BUILDING, CONSTRUCTION AND SAFETY CODES FOR SUCH CONSTRUCTION AND INSTALLATION, AS WELL AS ANY AND ALL OTHER GOVERNMENTAL LAWS, CODES, ORDINANCES, STATUTES AND REGULATIONS.

5.2 FROM AND AFTER THE ACCEPTANCE DATE, GRANTOR SHALL PERFORM ALL ROUTINE MAINTENANCE, EMERGENCY RESTORATION, AND LOCATE SERVICES FOR THE NETWORK, THE NETWORK SIDE ACCESS FACILITIES, AND THE FIBERS IN EACH ROUTE ORDER. GRANTOR SHALL MAINTAIN THE GRANTEE FIBERS AND THE NETWORK SIDE OF DEMARCATION POINTS IN GOOD OPERATING CONDITION IN ACCORDANCE WITH INDUSTRY STANDARDS AND PRACTICES AND SHALL HAVE SOLE RESPONSIBILITY FOR THE COMPLETION OF EMERGENCY REPAIRS TO ITS NETWORK AND THE GRANTEE FIBERS. SUCH OBLIGATION TO MAINTAIN SHALL INCLUDE ALL ROUTINE AND ORDINARY MAINTENANCE AND REPAIRS TO THE DEMARCATION POINTS WITHIN THE DESIGNATED HANDHOLES OR OTHER FACILITIES AS WELL AS EMERGENCY REPAIRS TO CORRECT ANY FAILURE, INTERRUPTION, OR IMPAIRMENT IN THE OPERATION OF THE GRANTEE FIBERS.

5.2.1 SCHEDULED MAINTENANCE. GRANTOR WILL PERFORM ROUTINE MAINTENANCE AND REPAIR OF THE NETWORK AND STRUCTURES AS DESCRIBED HEREIN ("SCHEDULED MAINTENANCE") WHICH WILL INCLUDE THE FOLLOWING ACTIVITIES:

5.2.2 Grantor will notify Grantee's NCC at least ten business days prior to any scheduled routine maintenance on a Cable or Fibers. Any planned service outage will have a beginning and ending time and a scope of activities to occur during such planned service outage. Any scheduled routine maintenance that may result in a temporary degradation of service quality or outage shall generally be undertaken between the hours of 12:00 a.m. and 6:00a.m. local time, unless another time frame is mutually coordinated and agreed to by both Parties.

5.3 IF A SERVICE AFFECTING CONDITION OR POTENTIAL SERVICE AFFECTING CONDITION AFFECTS THE

CABLE HOUSING GRANTEE'S FIBERS IS IDENTIFIED BY EITHER PARTY, GRANTOR WILL REPAIR THE CABLE IN

ACCORDANCE WITH THE TIME FRAMES SPECIFIED IN SECTION 5.6 OF THIS AGREEMENT.

5.4 RESTORATION OF A CABLE AND ANY EMERGENCY SPLICING OF THE AFFECTED FIBERS WILL BE

COMPLETED IN A SYSTEMATIC AND ROTATIONAL MANNER WITH PRIORITY GIVEN TO THE "IN OPERATION" FIBERS

WITHIN SUCH CABLE.

5.5 THE GRANTOR EMERGENCY CONTACT NUMBERS ARE PROVIDED IN EXHIBIT C. GRANTOR SHALL MAINTAIN THE ABILITY TO DISPATCH REPAIR PERSONNEL ON A 24/7/365 BASIS. GRANTOR MAINTENANCE AND REPAIR EMPLOYEES SHALL BE AVAILABLE FOR DISPATCH TWENTY-FOUR (24) HOURS A DAY, SEVEN (7) DAYS A WEEK. GRANTOR SHALL PROVIDE OR MAKE INFORMATION ON THE PROGRESS OF ANY REPAIR OR RESTORATION EFFORTS TO GRANTEE AT NO MORE THAN FOUR-HOUR INTERVALS UNLESS PROVIDING THE INFORMATION WOULD DELAY THE REPAIR PROCESS. GRANTOR WILL PROVIDE GRANTEE WITH FIBER IDENTIFICATION REFERENCE NUMBERS ON EACH SPAN OF THE ROUTE FOR PURPOSES OF FAULT REPORTING AND MANAGEMENT. REPORTING, RESPONSE AND RESOLUTION OF MAINTENANCE ISSUES WILL BE MANAGED BY EACH PARTY'S DESIGNATED PERSONNEL. ADDRESSES AND TELEPHONE NUMBERS FOR THE GRANTEE'S EMERGENCY CONTACT PERSONNEL AND GRANTOR'S EMERGENCY CONTACT PERSONNEL ARE LISTED IN THE ATTACHED EXHIBIT C. GRANTEE SHALL CONTACT GRANTOR'S EMERGENCY CONTACT PERSONNEL TO REPORT ANY CONDITIONS AFFECTING THE USE OR OPERATION OF THE GRANTEE FIBERS.

5.6 GRANTOR'S MAINTENANCE SHALL MEET THE STANDARDS IN THIS AGREEMENT AND GENERALLY ACCEPTED INDUSTRY STANDARDS. ALL REQUIRED MAINTENANCE, REPAIR OR RESTORATION ON A CABLE SHALL BE PERFORMED BY GRANTOR, EXCEPT SUCH MAINTENANCE COSTS RESULTING DIRECTLY FROM THE NEGLIGENT OR WRONGFUL ACTS OF GRANTEE, INCLUDING ITS EMPLOYEES, AGENTS AND CONTRACTORS, IN WHICH CASE GRANTEE SHALL PAY THE TOTAL COSTS OF MAINTENANCE, REPAIR OR RESTORATION CAUSED BY ITS NEGLIGENT OR WRONGFUL ACTS.

5.6.1 Any deficiencies impacting the Grantee Fibers identified by the Parties shall be addressed in the following manner:

(a) Service Affecting Condition –

- i. Grantor will endeavor to respond to any failure, interruption or impairment of a Route by having its first repair personnel on-site within five (5) hours after Grantor becomes aware of said failure, interruption or impairment. Grantor will endeavor to restore the functionality of a Route within twelve (12) hours of responding to the failure, interruption or impairment. Grantee acknowledges that any repairs made by Grantor within twelve (12) hours of responding to a failure, interruption or impairment may be temporary in nature. Within forty-eight (48) hours after any temporary repair is completed, Grantor will endeavor to begin planning a permanent repair. Thereafter, Grantor will promptly notify Grantee of its plans for a permanent repair, and Grantor shall use commercially reasonable efforts to implement the permanent repair as soon as practical. Excluding force majeure events, if the functionality of a Route is unavailable due to a failure, interruption or impairment in the Fiber for more than twelve hours in a month, then Grantor will provide a credit to Grantee in the amount of one percent (1%) of the Annual Maintenance Fee for the affected Route for each hour or partial hour of unavailability in excess of the first twelve hours.
- ii. In the event one or more Grantee Fibers in a Route are cut, lit fibers in all buffer tubes shall have priority over any dark fibers. Grantor will continue such restoration efforts until all lit fibers in all buffer tubes are spliced and tested. In general, priority among Grantor, Grantee and any other entity using the Network and affected by a cut shall be determined on a rotating restoration-by-restoration basis, to provide fair and equitable restoration priority to all parties using the Network. Grantor will use all reasonable efforts to implement a Network rotation mechanism so that the initial rotation order of the parties using the Network is varied (from earlier to later in the order), such that as restorations occur, each party using the Network has approximately equivalent rotation order positions.

(b) Potential Service Affecting Condition –

CORRECTION BY GRANTOR WILL COMMENCE AS SOON AS REASONABLY POSSIBLE UPON GRANTOR BECOMING AWARE OF SUCH CONDITION. CORRECTIONS WILL BE COMPLETED AS SOON AS POSSIBLE, BUT IN ANY CASE WITHIN FIVE (5) DAYS. IF THE CORRECTIONS ARE NOT COMPLETED WITHIN FIVE (5) DAYS, GRANTOR MUST SHOW THAT IT IS USING COMMERCIALY REASONABLE EFFORTS TO COMPLETE THE CORRECTIONS AS SOON AS POSSIBLE.

(C) OTHER –

ANY DEFICIENCY NOT FALLING WITHIN THE PARAMETERS OF ARTICLE 5.5 (A) AND (B) WILL BE CORRECTED BY GRANTOR WITHIN THIRTY (30) DAYS OF BECOMING AWARE OF SUCH DEFICIENCY. IF THE CORRECTIONS ARE NOT COMPLETED WITHIN THIRTY (30) DAYS, GRANTOR MUST SHOW THAT IT IS USING COMMERCIALY REASONABLE EFFORTS TO COMPLETE THE CORRECTIONS AS SOON AS POSSIBLE.

Each of the time periods specified above begins when Grantor becomes aware of a deficiency in accordance with this Agreement and ends when the deficiency has been corrected.

5.7 ANY WORK PERFORMED BY EITHER PARTY ON THE PREMISES OF THE OTHER PARTY WILL BE PERFORMED WHILE TAKING ALL NECESSARY PRECAUTIONS TO PREVENT THE OCCURRENCE OF ANY INJURY TO PERSONS OR PROPERTY DURING THE PROGRESS OF SUCH WORK, WILL ADHERE TO THE SECURITY PROCEDURES AND POLICIES OF THE OTHER PARTY, AND WILL NOT INTERFERE WITH THE OPERATIONS OF THE OTHER PARTY.

ARTICLE 6: ROUTE RELOCATIONS

6.1 IF GRANTOR INTENDS TO RELOCATE A ROUTE OR DEMARCATION POINT AT ITS DISCRETION, GRANTOR WILL GIVE GRANTEE AT LEAST SIX (6) MONTHS PRIOR NOTICE OF THE PROPOSED RELOCATION, OR, IF GRANTOR IS UNABLE TO GIVE THE GRANTOR SIX (6) MONTHS PRIOR NOTICE, GRANTOR WILL NOTIFY GRANTEE OF THE RELOCATION PROMPTLY AFTER GRANTOR FIRST HAS KNOWLEDGE OF THE NEED TO RELOCATE ITS CABLE. EXCEPT AS SET FORTH BELOW, GRANTOR WILL BE RESPONSIBLE FOR ALL COSTS ASSOCIATED WITH THE RELOCATION, INCLUDING THE GRANTEE'S COST TO MAINTAIN OR REESTABLISH CONNECTIONS TO THE GRANTEE FIBERS.

6.2 In the event a Route is required to be relocated as required by law or at the direction of any regulatory agency or other governmental authority or condemnor having apparent authority, excluding Temporary Government Relocations described in Section 6.2.1., or due to change in physical conditions, such as earthquakes, rockslides, ground subsidence or other force majeure event or fiber cuts or damage to the Cable or Grantee Fibers caused by third parties, Grantor shall use reasonable efforts to reroute the path of the Route applicable thereto, including Grantee Fibers and Grantee Demarcation Points ("Relocation"). Grantee shall pay within thirty (30) days of receipt of an invoice for such Relocation its Pro Rata Share of the costs of such rerouting based on percentage of the number Grantee Fibers in the Route subject to this IRU to the total number fiber strands in the Route.

6.2.1 Temporary Government Relocations. Certain Underlying Rights Grantor has secured may be subject to infrastructure projects planned or adopted by local, state or Federal governments. These infrastructure projects may require the temporary relocation of portions of a Route and movement of the Cable to and from one or more temporary locations from or to a Route, each of which may entail limited interruptions in continuity and availability of Grantee's Fibers. ("Temporary Government Relocations"). As Grantor receives notice from the government entity, including the planned start and completion date and duration of such relocation, Grantor shall promptly notify Grantee of the planned Temporary Government Relocation. Grantor and Grantee shall cooperate in planning and implementing the temporary relocation of the Network and Grantee's Fibers and each shall bear their respective proportional costs, on a pass-through basis without markup. Grantor will undertake all commercially reasonable efforts to minimize any interruption to Grantee's business or expenses or both.

6.3 If in Grantor's reasonable judgement relocation of a Route under Section 6.2, but excluding a Temporary Government Relocation, is not feasible or not economic or that it is not feasible or not economic to rebuild the affected portion thereof, to restore the Grantee Fibers consistent with generally accepted industry standards, Grantor shall notify Grantee in a timely manner. Grantee shall then have 30 days to notify Grantor that it elects to terminate the affected

Route or the entire Agreement. Failure to provide timely notice to Grantor shall limit Grantee's right to terminate only the affected Route.

6.4 Upon such termination, Grantee shall receive from Grantor (a) a Pro-Rata Refund of the IRU Fees; and (b) a reimbursement of the advanced annual payment for maintenance based on the number of days remaining in the pre-paid year from the date of termination divided by 365. Grantor's payment of the reimbursement amount calculated herein shall extinguish all of Grantor's obligations without any further liability under this Agreement with respect to the terminated Route or Routes.

6.5 AFTER ANY RELOCATION, THE GRANTOR WILL PROVIDE GRANTEE UPDATED ROUTE MNA WITHIN NINETY (90) DAYS OF COMPLETION OF THE RELOCATION.

ARTICLE 7: TERM

7.1 THIS AGREEMENT WILL COMMENCE AS OF THE EFFECTIVE DATE OF THIS AGREEMENT AND SHALL CONTINUE FOR A PERIOD OF TEN (10) YEARS AFTER THE EFFECTIVE DATE. RENEWAL OF THIS AGREEMENT SHALL BE SUBJECT TO NEGOTIATIONS BY THE PARTIES.

7.2 THE TERM OF EACH ROUTE ORDER WILL COMMENCE ON ITS ACCEPTANCE DATE AND WILL EXTEND FOR AN INITIAL TERM OR ANY RENEWAL TERM AS PROVIDED IN EACH ROUTE ORDER. THE TERMS AND CONDITIONS OF THIS AGREEMENT SHALL APPLY TO ANY ROUTE ORDER THAT REMAINS IN EFFECT AFTER THE EXPIRATION OF THIS AGREEMENT.

7.3 IF NEITHER PARTY PROVIDES NOTICE TO THE OTHER TO TERMINATE A ROUTE ORDER AT LEAST NINETY (90) DAYS BEFORE THE EXPIRATION OF ITS INITIAL TERM OR ANY RENEWAL TERM, THE ROUTE ORDER WILL CONTINUE ON A MONTH-TO-MONTH BASIS UNDER THE TERMS AND CONDITIONS OF THIS AGREEMENT AND THE ROUTE ORDER (THE "TRANSITION TERM"). THE TRANSITION TERM FEE SHALL BE THE EQUIVALENT OF ONE MONTH OF THE IRU FEE OR RENEWAL TERM, AS APPLICABLE ($\text{IRU FEE OR IRU RENEWAL FEE} \div \text{NUMBER OF MONTHS THEREOF} = \text{TRANSITION TERM FEE}$) AND SHALL BE PAYABLE ON THE 1ST DAY OF EACH MONTH WITHOUT INVOICE. DURING THE TRANSITION TERM, EITHER PARTY MAY TERMINATE THE ROUTE ORDER BY PROVIDING NINETY (90) DAYS-NOTICE TO THE OTHER PARTY.

ARTICLE 8. WARRANTIES

8.1 EACH PARTY REPRESENTS AND WARRANTS: (I) IT IS, IN THE CASE OF GRANTEE, A COMPANY DULY ORGANIZED, VALIDLY EXISTING, AND IN GOOD STANDING UNDER THE LAWS OF THE STATE OF _____, AND IN THE CASE OF GRANTOR, IT IS DULY ORGANIZED AND VALIDLY EXISTING UNDER THE LAWS OF THE STATE OF NA; (II) IT HAS TAKEN ALL REQUISITE CORPORATE ACTION TO APPROVE THE EXECUTION, DELIVERY, AND PERFORMANCE OF THIS AGREEMENT; (III) THIS AGREEMENT CONSTITUTES A LEGAL, VALID, AND BINDING OBLIGATION ENFORCEABLE AGAINST SUCH PARTY IN ACCORDANCE WITH ITS TERMS, SUBJECT TO BANKRUPTCY, INSOLVENCY, CREDITORS' RIGHTS, AND GENERAL EQUITABLE PRINCIPLES; AND (IV) ITS EXECUTION OF AND PERFORMANCE UNDER THIS AGREEMENT SHALL NOT VIOLATE ANY APPLICABLE EXISTING REGULATIONS, RULES, STATUTES, OR COURT ORDERS OF ANY LOCAL, STATE, OR FEDERAL GOVERNMENT AGENCY, COURT, OR BODY.

8.2 THE WARRANTIES AND REMEDIES SET FORTH IN THIS AGREEMENT CONSTITUTE THE ONLY WARRANTIES AND REMEDIES WITH RESPECT TO THIS AGREEMENT. SUCH WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES, WRITTEN OR ORAL, STATUTORY, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION THE WARRANTY OF MERCHANTABILITY AND THE WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE OR USE.

8.3 EXCEPT AS SPECIFICALLY SET FORTH IN THIS AGREEMENT, GRANTOR MAKES NO WARRANTY TO GRANTEE OR ANY OTHER ENTITY, WHETHER EXPRESS, IMPLIED OR STATUTORY, AS TO THE INSTALLATION, DESCRIPTION, QUALITY, MERCHANTABILITY, COMPLETENESS, USEFUL LIFE, FUTURE ECONOMIC VIABILITY, OR FITNESS FOR ANY PARTICULAR PURPOSE OF THE ROUTE, THE GRANTEE FIBERS, OR THE NETWORK, OR ANY DELIVERABLE OR CONSTRUCTION PROVIDED HEREUNDER OR DESCRIBED HEREIN, OR AS TO ANY OTHER MATTER, ALL OF WHICH WARRANTIES ARE HEREBY EXPRESSLY EXCLUDED AND DISCLAIMED. WITHOUT LIMITING THE FOREGOING, GRANTOR DOES NOT WARRANT THAT THE ROUTE WILL BE UNINTERRUPTED OR ERROR-FREE.

ARTICLE 9: LIMITATION OF LIABILITY

9.1 NEITHER PARTY WILL BE LIABLE TO THE OTHER FOR ANY CONSEQUENTIAL, INDIRECT, SPECIAL, OR PUNITIVE DAMAGES, OR FOR LOST REVENUES, OR FOR LOST OPPORTUNITIES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, INCLUDING WITHOUT LIMITATION, ANY TRANSMISSION INTERRUPTIONS OR PROBLEMS OR ANY INTERRUPTION OR DEGRADATION OF SERVICE, WHETHER OCCASIONED BY ANY CONSTRUCTION, NON-CONSTRUCTION, RELOCATION, REPAIR, OR MAINTENANCE PERFORMED BY OR FAILED TO BE PERFORMED BY THE OTHER PARTY.

9.2 EXCEPT FOR (I) BODILY INJURY OR DEATH TO ANY PERSON OR PHYSICAL DAMAGE TO THE GRANTEE FIBERS OR THE GRANTOR NETWORK OR TO OTHER GRANTOR OR GRANTEE PROPERTY NEGLIGENTLY CAUSED BY A PARTY, (II) DAMAGES ARISING FROM WILLFUL MISCONDUCT, OR (III) A BREACH OF A PARTY'S CONFIDENTIALITY OBLIGATIONS UNDER ARTICLE 14 FOR EACH OF WHICH THE OTHER PARTY SHALL HAVE THE RIGHT TO PROVEN DIRECT DAMAGES AND EXCLUDING FOR A PARTY'S INDEMNIFICATION OBLIGATIONS UNDER ARTICLE 11, NEITHER PARTY SHALL HAVE LIABILITY FOR MONETARY DAMAGES TO THE OTHER FOR A DEFAULT EXCEPT AS PROVIDED IN SECTION 12.3, BELOW.

ARTICLE 10: INSURANCE

THROUGHOUT THE PERIOD DURING WHICH THIS AGREEMENT REMAINS IN EFFECT, GRANTEE SHALL TAKE OUT AND MAINTAIN THE FOLLOWING MINIMUM INSURANCE:

10.1 WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY INSURANCE, AS REQUIRED BY LAW, COVERING ALL ITS EMPLOYEES WHO PERFORM ANY OF THE OBLIGATIONS UNDER THIS IRU. IF ANY EMPLOYEE IS NOT SUBJECT TO THE WORKERS' COMPENSATION LAWS OF NA, THEN INSURANCE SHALL BE OBTAINED VOLUNTARILY TO EXTEND TO THE EMPLOYER AND EMPLOYEE COVERAGE TO THE SAME EXTENT AS THOUGH THE EMPLOYER OR EMPLOYEE WERE SUBJECT TO NA'S WORKERS' COMPENSATION LAWS.

10.2 PUBLIC LIABILITY AND PROPERTY LIABILITY INSURANCE COVERING ALL OPERATIONS UNDER THIS AGREEMENT WITH LIMITS FOR BODILY INJURY OR DEATH OF NOT LESS THAN \$1 MILLION FOR EACH OCCURRENCE, LIMITS FOR PROPERTY DAMAGE OF NOT LESS THAN \$1 MILLION FOR EACH OCCURRENCE, AND \$2 MILLION AGGREGATE FOR ACCIDENTS DURING THE POLICY PERIOD. A SINGLE LIMIT OF \$2 MILLION OF BODILY INJURY AND PROPERTY DAMAGE IS ACCEPTABLE. THIS REQUIRED INSURANCE MAY BE IN A POLICY OR POLICIES OF INSURANCE, PRIMARY AND EXCESS INCLUDING THE UMBRELLA OR CATASTROPHE FORM.

10.3 AUTOMOBILE LIABILITY INSURANCE ON ALL SELF-PROPELLED VEHICLES USED IN CONNECTION WITH THIS AGREEMENT, WHETHER OWNED, NON-OWNED OR HIRED, SHALL HAVE LIMITS FOR BODILY INJURY OR DEATH OF NOT LESS THAN \$1 MILLION PER PERSON AND \$2 MILLION FOR EACH OCCURRENCE, AND PROPERTY DAMAGE LIMITS OF \$1 MILLION FOR EACH OCCURRENCE. A SINGLE LIMIT OF \$2 MILLION OF BODILY INJURY AND PROPERTY DAMAGE IS ACCEPTABLE. THIS REQUIRED INSURANCE MAY BE IN A POLICY OR POLICIES OF INSURANCE, PRIMARY AND EXCESS INCLUDING THE UMBRELLA OR CATASTROPHE FORM.

10.4 PROPERTY INSURANCE COVERING THE GRANTEE FIBERS, PERSONAL PROPERTY AND EQUIPMENT TO BE USED IN CONNECTION WITH THE ROUTE OR AT THE DEMARCATION POINTS, AND, TO THE EXTENT THE PARTIES AGREE TO A COLLOCATION SERVICES ADDENDUM, ALL LICENSEE EQUIPMENT, AS WELL AS ALL PERSONAL PROPERTY AND EQUIPMENT USED IN CONNECTION WITH THE LICENSEE'S EQUIPMENT IN THE COLLOCATION FACILITY AND THE COLLOCATION SPACE.

10.5 THE INSURANCE POLICIES SHALL BE IN SUCH FORM AND ISSUED BY AN INSURER THAT IS FINANCIALLY SOLVENT WITH AN AM BEST RATING OF A- OR BETTER. IN THE EVENT OF A LOSS ARISING OUT OF OR RELATED TO GRANTEE'S USE OF THE ROUTE UNDER THIS AGREEMENT, GRANTEE'S INSURANCE SHALL BE PRIMARY (PAY FIRST) WITH RESPECT TO ANY OTHER INSURANCE WHICH MAY BE AVAILABLE TO GRANTEE, REGARDLESS OF HOW THE "OTHER INSURANCE" PROVISIONS MAY READ.

10.6 GRANTEE SHALL FURNISH TO GRANTOR WITHIN THIRTY (30) DAYS OF THE EXECUTION OF THIS AGREEMENT AND AT THE REQUEST OF GRANTOR, BUT NO MORE THAN ANNUALLY, A CERTIFICATE EVIDENCING COMPLIANCE WITH THE FOREGOING REQUIREMENTS. THIS CERTIFICATE WILL LIST GRANTOR AS AN ADDITIONAL INSURED AND WILL INCLUDE THE FOLLOWING CANCELLATION, SUSPENSION, MATERIAL CHANGE OR NONRENEWAL LANGUAGE: "IN THE EVENT OF CANCELLATION, SUSPENSION, MATERIAL CHANGE OR NONRENEWAL OF ANY OF THE SAID POLICIES, THE INSURING COMPANY SHALL GIVE THE PARTY TO WHOM THIS CERTIFICATE IS ISSUED THIRTY (30) DAYS PRIOR NOTICE OF SUCH EVENT."

10.7 AT GRANTEE'S EXPENSE, GRANTOR SHALL HAVE THE RIGHT AT ANY TIME TO REQUIRE PUBLIC LIABILITY INSURANCE AND PROPERTY DAMAGE LIABILITY INSURANCE GREATER THAN THE LIMITS SPECIFIED HEREIN IF SUCH HIGHER LIMITS ARE THE GENERALLY ACCEPTED INDUSTRY STANDARD.

ARTICLE 11: INDEMNIFICATION

11.1 GRANTEE AGREES TO RELEASE, INDEMNIFY, DEFEND, AND HOLD GRANTOR HARMLESS FROM AND DEFEND GRANTOR AGAINST, AND ASSUMES LIABILITY FOR ANY THIRD-PARTY CLAIM RELATING TO, ANY INJURY, LOSS OR DAMAGE BY GRANTEE'S CUSTOMERS AND ALL CLAIMS REGARDING THE CONTENT, INFORMATION OR DATA CONVEYED BY GRANTEE OR ITS CUSTOMERS OVER THE GRANTEE FIBERS.

11.2 EACH PARTY AGREES TO RELEASE, INDEMNIFY, DEFEND, AND HOLD HARMLESS THE OTHER PARTY FROM AND AGAINST, AND TO ASSUME LIABILITY FOR, ANY THIRD-PARTY CLAIM OR ACTION RELATED TO ANY PERSONAL INJURY OR DEATH TO ANY PERSON, TANGIBLE PROPERTY OR FACILITIES OF ANY THIRD PERSON OR ENTITY TO THE EXTENT IT ARISES OR RESULTS, IN WHOLE OR IN PART, FROM ANY ALLEGED ACT, OMISSION, OR NEGLIGENCE OF SUCH PARTY OR ITS AGENTS OR EMPLOYEES BUT NOT LIMITED TO ANY CLAIM OR ACTION ARISING OR RESULTING, IN WHOLE OR IN PART, FROM ANY BREACH OF SUCH PARTY'S OBLIGATIONS UNDER THIS AGREEMENT.

11.3 An indemnified Party under this Article:

- a) must notify the other Party in writing promptly upon learning of any claim or suit for which indemnification may be sought and provide copies of all papers served on or received by the Party, provided that failure to do so shall have no effect except to the extent the other Party is prejudiced thereby;
- b) shall have the right to participate in such defense or settlement with its own counsel and at its sole expense, but the other Party shall have control of the defense or settlement;
- c) (shall provide the Indemnifying Party reasonable cooperation (e.g., providing copies of documents or testimony of witnesses), at the Indemnifying Party's expense, in the defense of the claim; and
- d) shall reasonably cooperate with the defense.

Any settlement or compromise of a claim initiated or entered into by an indemnifying Party must receive the prior written consent of the indemnified Party, such consent not to be unreasonably withheld, conditioned or delayed.

11.4 A party's indemnification obligations shall not be limited by insurance coverages in Article 10.

ARTICLE 12: DEFAULT

12.1 EVENTS OF DEFAULT. AN EVENT OF DEFAULT UNDER THIS AGREEMENT OR A ROUTE ORDER OCCURS IF: (I) GRANTEE FAILS TO PAY ANY UNDISPUTED AMOUNT DUE UNDER THIS AGREEMENT OR A ROUTE ORDER; OR (II) A PARTY FAILS TO PERFORM ANY OTHER MATERIAL OBLIGATION UNDER THIS AGREEMENT OR A ROUTE ORDER. TO THE MAXIMUM EXTENT PRACTICABLE, A DEFAULT WITH RESPECT TO A ROUTE ORDER SHALL NOT IMPACT ANY OTHER ROUTE ORDER ENTERED INTO BY THE PARTIES.

12.2 NOTICE AND RIGHT TO CURE. IF AN EVENT OF DEFAULT OCCURS, THE NON-DEFAULTING PARTY MAY NOTIFY THE DEFAULTING PARTY OF THE EVENT SPECIFYING IN REASONABLE DETAIL THE NATURE OF THE PARTICULAR DEFAULT (A "NOTICE OF DEFAULT"). THE DEFAULTING PARTY SHALL HAVE THIRTY (30) DAYS AFTER RECEIPT OF A NOTICE OF DEFAULT TO CURE THE EVENT OF DEFAULT OR, IF THE EVENT OF DEFAULT IS A NON-MONETARY DEFAULT AND IS REASONABLY CAPABLE OF BEING CURED BUT NOT WITHIN SUCH THIRTY (30) DAY PERIOD, THE DEFAULTING PARTY SHALL HAVE SUCH ADDITIONAL TIME AS IS NECESSARY TO CURE THE EVENT OF DEFAULT PROVIDED THAT THE DEFAULTING PARTY BEGINS AND CONTINUES COMMERCIALY REASONABLE EFFORTS TO CURE THE EVENT OF DEFAULT AND THE ADDITIONAL PERIOD OF TIME DOES NOT EXCEED THIRTY (30) DAYS.

12.3 REMEDIES.

12.3.1 TERMINATION. IN THE EVENT THE DEFAULTING PARTY FAILS TO TAKE THE CURATIVE ACTION(S) DESCRIBED IN THE PRECEDING PARAGRAPH AFTER HAVING RECEIVED A NOTICE OF DEFAULT, THE NON-DEFAULTING PARTY HAS THE RIGHT, BUT NOT THE OBLIGATION, AND SOLELY AT ITS DISCRETION, TO TERMINATE THIS AGREEMENT OR THE AFFECTED ROUTE ORDER, AS APPLICABLE. TERMINATION WILL BE IMMEDIATE AND EFFECTIVE UPON NOTICE. UPON A TERMINATION OF THIS AGREEMENT BY EITHER PARTY PURSUANT TO THIS ARTICLE 12, ALL IRUS GRANTED UNDER THIS AGREEMENT SHALL TERMINATE AND GRANTOR SHALL DISCONNECT, AT GRANTOR'S EXPENSE, GRANTEE FROM THE GRANTEE FIBERS. UPON A TERMINATION OF A ROUTE ORDER BY EITHER PARTY PURSUANT TO THIS ARTICLE 12, THE IRU GRANTED UNDER THE ROUTE ORDER SHALL TERMINATE AND GRANTOR SHALL DISCONNECT, AT GRANTOR'S EXPENSE, GRANTEE FROM THE GRANTEE FIBERS. EACH PARTY SHALL REMOVE, AT ITS EXPENSE, ALL OF THAT PARTY'S EQUIPMENT FROM THE REAL PROPERTY OR ROW OF THE OTHER PARTY WITHIN THIRTY (30) DAYS OF THE DATE OF TERMINATION OF THIS AGREEMENT OR ROUTE ORDER AND ACCESS SHALL BE PROVIDED IN ORDER TO FACILITATE SUCH REMOVAL. IF ACCESS FOR THE PURPOSE OF REMOVING EQUIPMENT IS MADE AVAILABLE AND A PARTY'S EQUIPMENT IS NOT REMOVED DURING SUCH THIRTY (30) DAY PERIOD, SUCH EQUIPMENT SHALL BE DEEMED ABANDONED AND MAY BE REMOVED BY THE OTHER PARTY.

12.3.2 SPECIFIC PERFORMANCE. THE PARTIES FURTHER AGREE THAT THE RIGHTS TO TERMINATE AND DAMAGES UNDER THIS AGREEMENT MAY NOT BE SUFFICIENT TO COMPENSATE THE NON-DEFAULTING PARTY FOR A DEFAULT BY THE OTHER PARTY IN THE PERFORMANCE OF THE DEFAULTING PARTY'S OBLIGATIONS REQUIRED UNDER THIS AGREEMENT, AND THEREFORE, THAT SPECIFIC PERFORMANCE SHALL BE AVAILABLE TO THE NON-DEFAULTING PARTY AS AN ALTERNATE REMEDY IN THE EVENT THE DEFAULTING PARTY FAILS TO CURE SUCH DEFAULT WITHIN THE CURE PERIOD SET FORTH ABOVE IN SECTION 13.2. NOTWITHSTANDING THE FOREGOING, IN NO EVENT SHALL GRANTEE HAVE THE RIGHT TO SEEK INJUNCTIVE RELIEF TO COMPEL GRANTOR TO ACQUIRE ADDITIONAL ROW IN THE EVENT GRANTOR'S EXISTING ROW IS FOUND TO BE INSUFFICIENT TO SUPPORT THE RIGHTS GRANTED TO GRANTEE UNDER THIS AGREEMENT.

12.3.3 MONETARY DAMAGES. MONETARY DAMAGES FOR EITHER PARTY'S DEFAULT UNDER THIS AGREEMENT ARE SUBJECT TO SECTION 9, ABOVE, AND THE FOLLOWING:

- (i) In the case of termination of this Agreement or a Route Order due to a default by Grantee, Grantor shall be entitled to collect any amounts due from Grantee prior to such termination and shall retain the IRU Fee(s) paid by Grantee under the terminated Agreement or Route Order(s); or

- (ii) In the case of termination of this Agreement or a Route Order due to a default by Grantor, Grantee will be entitled to a pro rata refund of the IRU Fee paid to Grantor based on the percentage of full calendar months remaining in the Term or Renewal Term, as applicable, under the Agreement or the terminated Route Order(s). (% of Term remaining x IRU Fees per the Route Order = Amount Owed by Grantee). The same computation shall apply to the termination of one Route within a multi-route, Route Order.

ARTICLE 13: IMPOSITIONS

13.1 IN ADDITION TO THE IRU FEE AND OTHER AMOUNTS SET FORTH IN THIS AGREEMENT, GRANTEE AGREES TO PAY ITS SHARE OF TAXES BASED ON THE SALE OF THE IRU OR THE USE OR PROVISION OF THE FIBERS BY GRANTEE ("IMPOSITIONS"). THE PARTIES AGREE TO COOPERATE WITH EACH OTHER TO MINIMIZE THE AGGREGATE IMPOSITIONS PAYABLE WITH RESPECT TO THE GRANTEE FIBERS.

13.2 GRANTOR SHALL BE RESPONSIBLE FOR AND SHALL TIMELY PAY ANY AND ALL IMPOSITIONS WITH RESPECT TO THE CONSTRUCTION, MAINTENANCE OR OPERATION OF THE PORTION OF THE NETWORK ALONG THE ROUTE WHICH IMPOSITIONS ARE (A) IMPOSED OR ASSESSED PRIOR TO THE ACCEPTANCE DATE; OR (B) IMPOSED OR ASSESSED IN EXCHANGE FOR THE APPROVAL OF THE ORIGINAL CONSTRUCTION OF THE NETWORK ALONG THE ROUTE; OR (C) THAT ARE OR WERE ASSESSED IN RETURN FOR THE RIGHT TO INSTALL THE NETWORK ALONG THE ROUTE ON PUBLIC PROPERTY OR IN PUBLIC RIGHT OF WAY OR ON PRIVATE PROPERTY.

13.3 EXCEPT AS TO IMPOSITIONS DESCRIBED IN SECTION 13.2, FOLLOWING THE ACCEPTANCE DATE, GRANTEE SHALL BE RESPONSIBLE FOR AND SHALL PAY ALL IMPOSITIONS (A) IMPOSED ON, BASED ON, OR OTHERWISE MEASURED BY THE GROSS RECEIPTS, GROSS INCOME, NET RECEIPTS OR NET INCOME RECEIVED BY OR ACCRUED TO GRANTEE WITH RESPECT TO THE OWNERSHIP OR USE OF THE GRANTEE FIBERS; OR (B) WHICH HAVE BEEN SEPARATELY ASSESSED, ALLOCATED TO, OR IMPOSED BY REFERENCE TO THE GRANTEE FIBERS. TO THE EXTENT THE IMPOSITIONS ON THE GRANTEE FIBERS ARE NOT SEPARATELY ASSESSED, ALLOCATED TO OR IMPOSED ON THE GRANTEE FIBERS, GRANTOR WILL PAY ALL SUCH IMPOSITIONS. GRANTOR SHALL NOTIFY GRANTEE OF SUCH IMPOSITIONS, AND GRANTEE SHALL PROMPTLY REIMBURSE GRANTOR FOR GRANTEE'S ALLOCABLE SHARE OF ALL SUCH IMPOSITIONS.

13.4 GRANTOR AND GRANTEE AGREE TO COOPERATE FULLY IN THE PREPARATION OF ANY RETURNS OR REPORTS RELATING TO THE IMPOSITIONS, AND IN THE EFFORTS OF EITHER PARTY TO CONTEST AN IMPOSITION. GRANTOR SHALL ALSO BE RESPONSIBLE FOR PAYING ITS SHARE OF ALL TAXES IMPOSED ON GRANTOR OR THE GRANTOR NETWORK, INCLUDING, WITHOUT LIMITATION, ANY TAXES IMPOSED ON THE UNDERLYING FACILITIES, REAL ESTATE RIGHTS, BUILDINGS, EASEMENTS AND OTHER PROPERTY RIGHTS, ON GRANTOR'S NET PROFIT, PAYROLL OR INCOME, OR GRANTOR'S PROPERTY OR ASSETS.

ARTICLE 14: CONFIDENTIAL INFORMATION

COMMENCING ON THE EFFECTIVE DATE AND CONTINUING FOR A PERIOD OF TWO (2) YEARS FROM THE EXPIRATION OR ANY EARLIER TERMINATION OF THE LATER OF THIS AGREEMENT OR ANY ROUTE ORDER, EACH PARTY SHALL PROTECT AS CONFIDENTIAL, AND SHALL NOT DISCLOSE TO ANY THIRD PARTY, ANY CONFIDENTIAL INFORMATION RECEIVED FROM THE DISCLOSING PARTY OR OTHERWISE DISCOVERED BY THE RECEIVING PARTY WHILE THIS AGREEMENT IS IN EFFECT, INCLUDING, BUT NOT LIMITED TO, THE PRICING AND TERMS OF THIS AGREEMENT, AND ANY INFORMATION RELATING TO THE DISCLOSING PARTY'S TECHNOLOGY, BUSINESS AFFAIRS, BROADBAND REQUIREMENTS, OR FINANCIAL STATUS OR RECORDS (COLLECTIVELY THE "CONFIDENTIAL INFORMATION"). THE PARTIES SHALL USE CONFIDENTIAL INFORMATION ONLY FOR THIS AGREEMENT. THE FOREGOING RESTRICTIONS ON USE AND DISCLOSURE OF CONFIDENTIAL INFORMATION DO NOT APPLY TO INFORMATION THAT: (A) IS IN THE POSSESSION OF THE RECEIVING PARTY AT THE TIME OF ITS DISCLOSURE AND IS NOT OTHERWISE SUBJECT TO OBLIGATIONS OF CONFIDENTIALITY; (B) IS OR BECOMES PUBLICLY KNOWN, THROUGH NO WRONGFUL ACT OR OMISSION OF THE RECEIVING PARTY; (C) IS RECEIVED WITHOUT RESTRICTION FROM A THIRD PARTY FREE TO DISCLOSE IT WITHOUT OBLIGATION TO THE DISCLOSING PARTY; (D) IS DEVELOPED INDEPENDENTLY BY THE RECEIVING PARTY WITHOUT REFERENCE TO THE CONFIDENTIAL INFORMATION, OR (E) IS REQUIRED TO BE DISCLOSED BY LAW, REGULATION, OR COURT OR GOVERNMENTAL ORDER. THE PARTIES AGREE THAT ANY PRESS RELEASE DISCLOSING THE FACT THAT THE PARTIES HAVE ENTERED INTO THIS AGREEMENT MUST FIRST BE MUTUALLY APPROVED BY THE PARTIES.

ARTICLE 15: ASSIGNMENT; SUBLEASE

15.1 THE PARTIES AGREE THIS AGREEMENT AND EACH OF THE PARTY'S RESPECTIVE RIGHTS AND OBLIGATIONS UNDER THIS AGREEMENT SHALL BE BINDING UPON AND SHALL INURE TO THE BENEFIT OF THE PARTIES HERETO AND EACH OF THEIR PERMITTED SUCCESSORS AND ASSIGNS.

15.2 EXCEPT AS OTHERWISE PROVIDED IN THIS AGREEMENT, NEITHER PARTY SHALL ASSIGN, SELL, TRANSFER, DELEGATE OR IN ANY OTHER MANNER DISPOSE OF ANY OF ITS RIGHTS, PRIVILEGES OR OBLIGATIONS UNDER THIS AGREEMENT WITHOUT THE OTHER PARTY'S PRIOR WRITTEN CONSENT, WHICH SHALL NOT BE UNREASONABLY WITHHELD, CONDITIONED OR DELAYED. NOTWITHSTANDING THE FOREGOING, EITHER PARTY MAY ASSIGN, SELL, TRANSFER, DELEGATE OR IN ANY OTHER MANNER DISPOSE OF, ANY OF ITS RIGHTS, PRIVILEGES OR OBLIGATIONS UNDER THIS AGREEMENT WITHOUT CONSENT OF THE OTHER PARTY (I) TO AN AFFILIATE OF SUCH PARTY, OR (II) TO ANY SUCCESSOR TO ITS BUSINESS, OR A SUBSTANTIAL PART THEREOF, WHETHER THROUGH MERGER, AMALGAMATION, CONSOLIDATION OR SALE, PROVIDED THE ASSIGNING PARTY NOTIFIES THE NON-ASSIGNING PARTY OF THE ASSIGNMENT IN WRITING AND THE ASSIGNEE AGREES IN WRITING TO BE BOUND BY AND TO ASSUME THE RIGHTS AND OBLIGATIONS OF THE ASSIGNING PARTY UNDER THIS AGREEMENT.

15.3 GRANTEE SHALL HAVE THE RIGHT TO LEASE, SUBLEASE, OR LICENSE, ANY OR ALL OF THE GRANTEE FIBERS OR ANY CAPACITY DERIVED THEREFROM TO ITS CUSTOMERS OR OTHER THIRD PARTIES FOR THE PROVISIONS OF SERVICES OR OTHERWISE; PROVIDED, HOWEVER, THAT GRANTEE SHALL REMAIN SOLELY RESPONSIBLE FOR ITS OBLIGATIONS HEREUNDER AND GRANTOR'S SOLE POINT OF CONTACT UNDER THIS AGREEMENT AND SUCH CUSTOMERS OR THIRD PARTIES SHALL NOT BE ENTITLED TO INDEPENDENTLY ENFORCE ANY OF GRANTOR'S OBLIGATIONS UNDER THIS AGREEMENT.

ARTICLE 16: FORCE MAJEURE

16.1 NEITHER PARTY SHALL BE HELD LIABLE FOR ANY DELAY, OR FAILURE IN PERFORMANCE OF ANY OBLIGATION UNDER THIS AGREEMENT WHEN SUCH DELAY OR FAILURE RESULTS FROM ANY CAUSE BEYOND ITS CONTROL, SUCH AS: ACTS OF GOD, ACTS OF CIVIL OR MILITARY AUTHORITY, GOVERNMENTAL REGULATIONS, WAR, TERRORIST ACTS, INSURRECTIONS, EXPLOSIONS, FIRES, EARTHQUAKES, TORNADOES, NUCLEAR ACCIDENTS, FLOODS, STRIKES NOT ATTRIBUTABLE TO ACTS OF A PARTY AT ODDS WITH APPLICABLE LAW, POWER BLACKOUTS, OTHER MAJOR ENVIRONMENTAL OR WEATHER CONDITIONS OR INABILITY TO SECURE EQUIPMENT, PROVIDED THE PARTY CLAIMING RELIEF UNDER THIS ARTICLE SHALL PROMPTLY NOTIFY THE OTHER IN WRITING OF THE EXISTENCE OF THE EVENT RELIED ON AND THE CESSATION OR TERMINATION OF SAID EVENT. THE PARTY CLAIMING RELIEF UNDER THIS ARTICLE SHALL NOTIFY THE OTHER PARTY IN WRITING OF THE EXISTENCE OF THE EVENT, NATURE OF THE EVENT, STEPS TAKEN OR TO BE TAKEN TO MITIGATE THE EFFECTS OF THE EVENT, THE EXPECTED DURATION OF THE EVENT AND EXERCISE BEST EFFORTS TO MINIMIZE THE TIME FOR ANY SUCH DELAY.

16.2 Notwithstanding the foregoing, if an event of Force Majeure prevents Grantee from using the Grantee Fibers for a period of forty-five (45) or more consecutive days, Grantee shall have the right to cancel the affected Route Order (and any related Colocation Services) without liability or further obligation upon written notice to Grantor and Grantor shall provide Grantee with a pro-rata refund of the IRU Fee (and any a related Colocation Services fee) as of the date of termination (as determined on a pro rata basis based on the total number of days in the IRU Term and the number of days remaining in such term as of the termination date).

ARTICLE 17: NOTICES

17.1 Notices given under this Agreement shall be in writing and will be deemed given: (a) three (3) days after deposit in the U.S. Mail, first class postage prepaid, certified with return receipt requested, (b) two (2) days after deposit, if sent by overnight courier, or (c) upon receipt, if delivered via hand delivery. All notices shall be sent to:

Invoices/Legal/Contractual Notices:

Grantee:

Attention:

Phone No.:

NA Service Company

2122 W. Cherry Drive

MS# 3164

Phoenix, AZ 85012

Attention: Dominic Pagliuca

Telephone: (602) 371-7063

Facsimile: (602) 371-6321

With a copy (which shall not alone constitute notice) to:

Pinnacle West Capital Corp.

400 N. Fifth Street

Phoenix, NA 85004

Attention: Law Department

Telephone: (602) 250-2584

Facsimile: (602) 250-3393

Or to replacement addresses which a Party may later designate in writing.

ARTICLE 18: MISCELLANEOUS

18.1 THE FAILURE OF EITHER PARTY TO GIVE NOTICE OF DEFAULT OR TO ENFORCE OR INSIST UPON COMPLIANCE WITH ANY OF THE TERMS OR CONDITIONS OF THIS AGREEMENT SHALL NOT BE CONSIDERED THE WAIVER OF ANY OTHER TERM OR CONDITION OF THIS AGREEMENT.

18.2 GRANTOR HAS THE RIGHT TO CONTRACT WITH AFFILIATES AND/OR THIRD PARTIES FOR THE INSTALLATION, INSPECTION, MAINTENANCE AND REPAIR OF THE GRANTEE FIBERS AND THE NETWORK. THE USE OF AFFILIATES AND/OR THIRD PARTIES SHALL NOT RELEASE GRANTOR FROM ANY OF ITS OBLIGATIONS UNDER THIS AGREEMENT.

18.3 THIS AGREEMENT DOES NOT CONSTITUTE EITHER PARTY AS THE AGENT OR LEGAL REPRESENTATIVE OF THE OTHER PARTY AND DOES NOT CREATE A PARTNERSHIP OR JOINT VENTURE BETWEEN THE PARTIES. THE PARTIES MAY ENGAGE IN AND POSSESS OTHER BUSINESS VENTURES WHICH ARE COMPETITIVE WITH THE FACILITIES AND RELATED SERVICES UNDER THIS AGREEMENT. THIS AGREEMENT IS NOT INTENDED TO BE AN EXCLUSIVE AGREEMENT FOR DARK FIBER OR ANY SERVICES. THIS AGREEMENT IS NOT INTENDED TO PROVIDE BENEFITS FOR ANY THIRD PARTY.

18.4 THIS AGREEMENT, INCLUDING ALL ROUTE ORDERS, EXHIBITS, ADDENDA, AND OTHER ATTACHMENTS, SETS FORTH THE ENTIRE AGREEMENT BETWEEN THE PARTIES WITH RESPECT TO THE SUBJECT MATTER CONTAINED HEREIN AND MAY NOT BE AMENDED OR MODIFIED EXCEPT BY WRITTEN DOCUMENT SIGNED BY BOTH PARTIES.

18.5 IF ANY PROVISION OF THIS AGREEMENT IS HELD TO BE UNENFORCEABLE, THE REMAINING PROVISIONS WILL REMAIN IN EFFECT, TO BE CONSTRUED AS IF THE UNENFORCEABLE PROVISIONS WERE ORIGINALLY DELETED.

18.6 A WAIVER OF A BREACH OF ANY PROVISION OF THIS AGREEMENT WILL NOT CONSTITUTE A WAIVER OF THE SAME OR ANY OTHER PROVISION. THIS AGREEMENT IS DEEMED EXECUTED IN AND SHALL BE CONSTRUED UNDER THE LAWS OF THE STATE OF NA, WITHOUT REFERENCE TO CHOICE OF LAW PRINCIPLES. THE PARTIES HEREBY EACH AGREE THAT ANY AND ALL DISPUTES ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT ARE SUBJECT TO THE EXCLUSIVE JURISDICTION OF FEDERAL OR STATE COURTS LOCATED IN MARICOPA COUNTY, NA. EACH PARTY HEREBY WAIVES A RIGHT TO A JURY TRIAL AND ACKNOWLEDGES THAT IT IS SUBJECT TO GENERAL PERSONAL JURISDICTION IN THE STATE OF NA. ANY LEGAL ACTION ARISING IN CONNECTION WITH THIS AGREEMENT MUST BEGIN WITHIN TWO YEARS AFTER THE CAUSE OF ACTION ARISES.

18.7 IN THE EVENT OF A CONFLICT AMONG COMPONENTS OF THIS AGREEMENT, PRECEDENCE WILL BE DETERMINED IN THE FOLLOWING ORDER: (A) ANY AMENDMENTS TO THIS AGREEMENT, (B) THIS AGREEMENT; (C) EXHIBITS, AND (D) THE ROUTE ORDER(S). FOR THE AVOIDANCE OF DOUBT, TO THE EXTENT A PROVISION OF A ROUTE ORDER INCLUDES A PROVISION DIFFERING FROM THIS AGREEMENT AND/OR EXHIBITS, PURSUANT TO TERMS OF THE AGREEMENT EXPRESSLY PERMITTING A ROUTE ORDER TO PROVIDE "OTHERWISE," SUCH DIFFERENCE SHALL NOT BE DEEMED A "CONFLICT" FOR PURPOSES OF THIS SECTION.

18.8 NOTWITHSTANDING OTHER PROVISIONS OF THIS AGREEMENT, THERE WILL BE NO EXPIRATION OF THE RIGHTS AND OBLIGATIONS OF EITHER PARTY UNDER ARTICLES 9, 11, 12, 14 AND 15, AS WELL AS THOSE PROVISIONS OF THIS AGREEMENT WHICH BY THEIR SENSE AND CONTEXT ARE INTENDED TO SURVIVE THE COMPLETION OF PERFORMANCE AND TERMINATION OF THIS AGREEMENT, WITH RESPECT TO MATTERS OR CLAIMS ARISING OR ACCRUING PRIOR TO OR AS OF THE EXPIRATION OR TERMINATION OF THIS AGREEMENT.

18.9 EACH PARTY WILL PERFORM ITS OBLIGATIONS HEREUNDER IN SUCH A MANNER THAT ITS PERFORMANCE DOES NOT VIOLATE ANY GOVERNMENTAL LAW, RULE, OR REGULATION IN ANY MATERIAL RESPECT. EACH PARTY HERETO SHALL BEAR ALL OF ITS OWN EXPENSES AND FEES (INCLUDING ANY LEGAL, ACCOUNTING, PROFESSIONAL OR BROKERAGE FEES) INCURRED IN CONNECTION WITH THE NEGOTIATION AND DRAFTING OF THIS AGREEMENT.

18.10 THE HEADINGS IN THIS AGREEMENT ARE FOR THE CONVENIENCE OF THE PARTIES AND WILL HAVE NO EFFECT ON THE LEGAL INTERPRETATION OF THIS AGREEMENT.

18.11 THIS AGREEMENT SUPERSEDES ALL PREVIOUS DISCUSSIONS, NEGOTIATIONS, REPRESENTATIONS, OR AGREEMENTS RESPECTING THE SUBJECT MATTER HEREOF AND SHALL NOT HEREAFTER BE CHANGED OR MODIFIED IN ANY RESPECT UNLESS IN WRITING.

18.12 This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which taken together shall constitute one instrument.

IN WITNESS WHEREOF, Grantor and Grantee have executed this Agreement on the dates set forth below by their duly authorized representatives.

GRANTEE

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Attachments

Exhibit A. Route Order

Exhibit B. Fiber Specifications: Acceptance

Exhibit C. Escalation Lists and Contact Information

EXHIBIT A

Route Order

Route Order No. _____

This Route Order is entered into between NA Service Company (“Grantor”) and _____ (“Grantee”), each individually referred to as a “Party” and collectively referred to as the “Parties,” on this _____ of _____, 202__, (“Effective Date”) pursuant to and subject to the Indefeasible Right of Use Agreement entered into by Grantor and Grantee on or about the ____ of _____ 2020 (“the Agreement”). Capitalized terms used but not defined herein shall have the meaning set forth in the Agreement.

Grantor’s Billing Address:

Contact:

Phone:

Payment Address:

Grantee’s Invoice Address:

Contact:

Phone:

Invoice Address:

Route of Grantee Fibers: *(Endpoint to endpoint)*

Route Map. A map depicting the IRU Route is attached as Exhibit A to this IRU Order.

Number of Dark Fibers: _____

Route Mileage: _____ (Mileage for routes that are yet to be constructed as of the execution of the relevant Route Order may be adjusted based on field surveys or OTDR testing.)

Demarcation Points Other than Endpoints:

Projected Delivery Date of Grantee Fibers (subsequent to Grantor's acceptance test):

Term: 20 years

Renewal Term: Five (5) Years (as defined under Section

Fees:

IRU Fee: \$

Initial Annual Maintenance Fee: \$

Renewal Term Fee: \$

Upon the Acceptance Date of this Route Order and payment of the IRU Fee and the initial Annual Maintenance Fee, and subject to the terms and conditions of the IRU Agreement, Grantor hereby grants and conveys to Grantee an Indefeasible Right of Use in the Fibers as defined herein.

Counterparts. This Route Order may be executed in one or more counterparts, each of which shall be deemed an original and all of which together shall constitute one instrument.

IN WITNESS WHEREOF, Grantor and Grantee have executed this Route Order on the dates set forth below.

NA SERVICE COMPANY

GRANTEE

By: _____

Signature

By: _____

Signature

Name: _____

Printed Name

Name: _____

Printed Name

Title: _____

Title: _____

Date: _____

Date: _____

(Additional pages may be added as necessary.)

Exhibit A
Route Map

EXHIBIT B

Acceptance Testing

This Exhibit sets forth (i) the acceptance tests that Grantor shall perform to demonstrate that the Licensee Fibers meet the minimum standards acceptance and the deliverables describing the test results that Grantor will provide to Grantee, and (ii) the operating parameters for the Licensee Fibers that Grantor shall maintain after acceptance.

1. Fiber

The Fiber type shall be either ITU-T G.652.D or ITU-T G.655 compliant and may be aerial or underground as determined by Grantor. Consistent with industry standards, Grantor will keep the number of splices on each Span on a Route to a minimum in accordance with industry standards and shall not exceed .25 splices/km per Span on an inter-city Route or .5 splices/km per Span on an intra-city (i.e., metro) Route. The number of “core changes” (e.g., where fibers with different core diameters are spliced or patched together) in a Span shall not exceed the number of splices for the relevant Span as specified in the Order for the Fiber.

2. Fiber Tests

Grantor will test the Licensee Fibers in accordance with this Exhibit and provide the test results to Grantee. Grantor shall perform both Optical Time Domain Reflectometer (“OTDR”) and (ILM) Insertion Loss Measurement tests on all Fibers.

2.1 OTDR Tests

The optical reflectivity of each Licensee Fiber will be measured using an Optical Time Domain Reflectometer (“OTDR”). Tests shall be performed on each Fiber on a bi-directional basis at 1310nm, 1550nm and 1625nm, provided Spans in excess of 60 km shall be tested only at 1550nm and 1625nm. Three types of OTDR traces shall be taken, end-to-end traces, medium traces (20 km) and short traces (5 km). End-to-End OTDR span traces will be taken on a bi-directional basis and splice loss measurements will be recorded. Connector OTDR traces will be taken on a bi-directional basis using short pulse widths for connector detail. A connector trace shall be provided for all connectors in the end-to-end fiber path on the Span. All OTDR traces are to be taken using a 1km launch reel. Connectors shall be cleaned as necessary to ensure accurate measurements are taken.

2.2 ILM Tests

ILM Tests shall be performed on each Fiber on a bi-directional basis at 1310nm, 1550nm and 1625nm. A calibrated optical power meter and stable industry-accepted laser source light source will be used for this measurement.

3. Fiber Acceptance Criteria

The Fiber shall meet the specifications set forth below as of the Acceptance Date.

3.1 End-to-End Acceptance Parameters

Maximum Average Loss. The maximum bi-directional average loss on a Span as measured with a power meter test set shall not exceed the following on the Fiber Acceptance Date:

$$\text{Maximum Span Loss} = (A * L) + (0.7 * N) + (0.5 * C)$$

A = Maximum attenuation per km:

- At 1310nm: 0.4 dB/km average loss including all splices and connectors.
- At 1550nm: 0.30 (per manufacturers spec) dB/km average loss including all splices and connectors.
- At 1625nm: 0.26 dB/km average loss including all splices and connectors.

L = Optical length of cable measured in kilometers (from OTDR trace)

N = Number of “core changes” (e.g., where fibers with different core diameters are spliced or patched together)

C = Number of mated connector pairs. The attenuation contribution of each pigtail with associated connector is considered to be 0.5 dB per mated connector pair.

Maximum Average Splice Loss. The bi-directional average splice loss per Span as measured with an OTDR at 1550nm shall not exceed 0.1 dB when calculated as the sum of all bi-directional splice losses (including both individual splices and mass splices) divided by the number of splices on the Span.

Maximum Loss Differential. The maximum in the loss differential as measured at 1550 nm between two Fibers in any pair on a Span shall be less than 1.5 dBs.

4. Deliverables

Upon completion of its acceptance testing, Grantor shall provide to Licensee the following test data for each Span (the “Deliverables”). All data shall be provided in the format noted below when Grantor notifies Licensee that the Fiber meets the acceptance criteria.

- Bi-directional OTDR span traces taken as specified above. Results shall be provided in the original electronic format created by the test instrument (SOR or .TRC) as well as an electronic print in .PDF format.
- An Excel spreadsheet containing the bi-directional power meter and light source test data for both directions. This spreadsheet will include the average Span loss for each Fiber and the loss differential between Fibers.
- A document identifying all splices and connectors with test results, out-of-spec splices (if any), a splice table with distances from the end-point, connector test results from both end-points, the average connector loss per mated pair, the maximum bi-directional average loss for a core change and the loss for each core change, and the reflection for each event.

EXHIBIT C

Escalation Lists and Contact Information Outages and Troubles

NA Service Company

- 1. Primary Contact Number for Trouble Reporting
602-371-7511**

itops@NA.com

- 2.**

Work

Mobile

Email:

- 3.**

Work

Mobile

Email:

4.

Work

Mobile

Email:

5.

Work

Mobile

Email:

Note: The Grantor phone numbers provided above should be called in order with the Primary Contact for Trouble Reporting being the first-dialed. The numbers may change over time; therefore, this schedule is subject to updates, which shall be provided to Grantee by way of advance written notice.

Grantee: _____

Primary Contacts for Trouble Notification and Updates: _____

EXAMPLE 2 – IRU

MASTER CUSTOMER AGREEMENT

This Master Customer Agreement (“MCA”) is effective as of **Month Day 20 YR** (“Effective Date”) between NA Group, LLC, a Delaware limited liability company, with an address of 1821 30th Street, Unit A, Boulder, CO 80301 (collectively “NA” and each entity controlled by, controlling or under common control with NA, a “NA Affiliate”) and **(Insert Customer Name)**, a **(Insert Country/State/Province/etc.) (Insert corporation/limited liability company/partnership/ect.)** with an address of **(Insert Address)** (“Customer”). NA and Customer each may be referred to herein as a “Party” and collectively as the “Parties”.

ARTICLE 1 - GENERAL

1.1 Agreement Structure. This MCA provides general terms and conditions under which Customer may from time to time purchase access to and utilization of selected portions of the NA fiber network and associated infrastructure (“Access”) and certain related telecommunications and infrastructure services (“Services”) from NA. Terms and conditions that apply to Access and to each type of Service are set forth in customer schedules (each a “Customer Schedule”). Access and Services may also be referred to as offerings (“Offerings”) in the Customer Schedule and Customer Orders. This MCA, applicable Customer Schedules, and Customer Orders are collectively the “Agreement”. Any part of the Agreement may be entered into and performed by any NA Affiliate, including those authorized to provide Access or Services in any country or jurisdiction.

1.2 Orders for Access and/or Services. Customer may request that NA provide Access and/or Services by submitting a customer order in a form provided by NA (“Customer Order”). Customer is responsible for the accuracy of all information that it provides to NA. Customer Orders shall set forth the term, pricing, Access and Service type and location(s), monthly recurring charge (“MRC”), non-recurring charge (“NRC”) and any additional terms applicable to the Access and/or Services. All Customer Orders are subject to availability and acceptance by NA, and are governed by this Agreement.

1.3 Term. The term of each Customer Order shall commence on the Activation Date (as defined in the applicable Customer Schedule) for such Access and/or Service and continue for the period of time specified in that Customer Order. Thereafter, the term shall automatically renew for one year periods (collectively, the “Order Term”) until terminated by either Party upon at least 90 days written notice prior to the end of the Order Term. Customer is responsible for payment to NA for the Access and Services to be terminated through the date of termination. The term of the Agreement is coterminous with the longest Order Term hereunder.

1.4 Order of Precedence. In the event of an express conflict between terms in the Agreement, precedence will be given, as applicable, in the following order: (a) the Customer Order, but solely with respect to the Services covered by such Customer Order (b) the Customer Schedule, but solely with respect to the Services covered by such Customer Schedule, and (c) the MCA.

ARTICLE 2 - PAYMENT TERMS

2.1 Invoicing and Payment Terms. NA commences billing and Customer shall be liable for payment upon the Activation Date. NA will provide Customer with a monthly itemized invoice for the Access and Services together with all other charges due. Customer shall pay to NA all amounts due in full, without offset or reduction, within 30 days from the date of the invoice (“Due Date”). Invoice amounts not paid on or before the Due Date shall bear interest at the rate of one and one-half percent per month or the highest lawful rate, whichever is lower. Unless otherwise stated in the Agreement, NA invoices NRCs upon acceptance of a Customer Order.

2.2 Invoice Disputes. If Customer reasonably disputes any portion of an invoice, Customer shall timely pay all undisputed amounts and shall notify NA in writing and provide detailed documentation supporting its dispute by the Due Date or Customer’s right to any billing adjustment shall

be waived. If the dispute is resolved against Customer, Customer shall pay such amounts due plus interest, as set forth in Section 2.1 above, from and after the Due Date.

2.3 Taxes and Other Fees and Surcharges. Excluding taxes based on NA's net income, Customer shall be responsible for all Taxes (defined below) and Other Fees and Surcharges (defined below) arising in any jurisdiction imposed on or incident to the provision, sale or use of Access or Services, including but not limited to value added, consumption, sales, use, gross receipts, foreign withholding (which will be grossed up), excise, access and bypass (collectively "Taxes") and any property, franchise, rights of way, license or permit, regulatory or other taxes, duties, fees, charges or surcharges (collectively "Other Fees and Surcharges"). Charges for Access and Services are exclusive of any Taxes and Other Fees and Surcharges. Taxes and Other Fees and Surcharges may be recovered through

imposition of a percentage surcharge on the charges for Access and Services to Customer. Customer may present NA with a valid exemption certificate (in a form reasonably acceptable to NA); NA will give effect thereto prospectively.

2.4 Portability. Customer may terminate an existing Service (the “**Original Service**”) and make a one-time request that such Service be replaced by a new Service (“**Replacement Service**”), and Customer will not incur any early termination liability with respect to the Original Service, as long as: (a) the Original Service is On-Net, (b) the Original Service has been in-service for at least twelve (12) months of the Order Term, and (c) Customer submits, and NA accepts, a Customer Order for the Replacement Service that complies with the requirements of this provision (the “**Replacement Customer Order**”). The Replacement Customer Order shall reflect (i) an Order Term of at least one (1) additional year beyond the expiration date of the Order Term for the Original Service, (ii) an MRC at least equal to the MRC of the Original Service and (iii) an NRC to implement the Replacement Service (which may include costs incurred but not recovered under the Original Service). Customer may not terminate the Original Service until commencement of the Replacement Service, and must provide NA at least thirty (30) days' written notice of disconnection prior to disconnection of the Original Service. Customer must pay all charges for the Original Service through the disconnection date. “On-Net” means any Service which connects two locations to which NA is already providing the same type of Service at the time of the Order and which is provisioned entirely on NA facilities and does not include any third party services or special construction.

ARTICLE 3 - DEFAULT

If Customer fails to make any payment due under the Agreement by the Due Date, and such failure continues for five days after receiving notice of the failure to make payment, or if a Party fails to cure any material breach of any term of the Agreement within 30 days of receiving notice of the breach from the other Party, then the non-breaching Party may: (a) terminate the Agreement in whole or in part and (b) subject to the liability limitations stated herein, pursue any available remedies at law or in equity.

ARTICLE 4 - LIABILITIES

4.1 Damage Limitations. Except for indemnity obligations arising under Section 4.4, confidentiality obligations arising under Section 5.1, or payment obligations arising under this Agreement: (i) each Party's total liability for any and all causes and claims whether based in contract, warranty, tort or otherwise shall be limited to the actual direct damages sustained by the damaged Party under this Agreement, but in no event greater than an amount equivalent to the total MRC payable by Customer over the preceding twelve months for the Access or Service affected or if the claim arises prior to the Activation Date, an amount equivalent to the total MRC payable by Customer for the first twelve months of the Order Term, and (ii) NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY DAMAGES FOR LOST PROFITS, LOST REVENUES, LOSS OF GOODWILL, LOSS OF DATA, ANTICIPATED SAVINGS OR COST OF PURCHASING REPLACEMENT SERVICES, OR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES ARISING OUT OF THE PERFORMANCE OR FAILURE TO PERFORM UNDER THE AGREEMENT.

Notwithstanding anything to the contrary, Customer's sole and exclusive remedy for any non-performance, defect or failure to deliver the Access or Service are the performance credits and/or other remedies expressly stated in the relevant Customer Schedule.

4.2 No Warranty. NA MAKES NO WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED, EITHER IN FACT OR BY OPERATION OF LAW, STATUTORY OR OTHERWISE, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE.

4.3 No Liability for Certain Actions. NA exercises no control over and is not responsible for the content of any information transmitted or received through the use of the Access or the Services. Other than as expressly stated in the Agreement, Customer shall be solely responsible for all of the security and confidentiality of information it transmits using the Access or Service.

4.4 Indemnification. Each Party (an “**Indemnifying Party**”) shall indemnify, defend and hold harmless the other Party, its directors, officers, employees, agents, contractors, successors and assigns (“**Indemnified Party**”) harmless from and against all losses, damages, costs, expenses and liabilities (including reasonable attorney’s fees and expenses) incurred by such Indemnified Party arising from any third party claims relating to: (i) any physical damage to tangible property, or personal injury or death caused by the gross negligence or willful misconduct of the Indemnifying Party, or (ii) infringement or misappropriation of such third party’s intellectual property right caused by the Indemnifying Party, provided, however, that NA is not obligated to indemnify Customer, and Customer shall defend and indemnify NA as an Indemnified Party, for any claims or actions commenced by any third party, including end users, arising from or in connection with goods or services provided by Customer that incorporate any of the Access or Services.

ARTICLE 5 – MISCELLANEOUS PROVISIONS

5.1 Confidentiality. Information or documentation exchanged between the Parties in performing this Agreement, including the terms of this Agreement, are subject to the terms of any non-disclosure agreement in effect between the Parties, and if none, neither Party will disclose Confidential Information to third parties (other than to vendors, if and as needed to perform under this Agreement) without the express consent of the other Party. Each Party will limit disclosure and access to Confidential Information to those of its employees, vendors, or other representatives who reasonably require such access to perform under this Agreement and who are subject to confidentiality obligations at least as restrictive as those required herein. “Confidential Information” means any information disclosed by one Party to the other in connection with the Agreement, including any terms of this Agreement and does not include information that: (i) is independently developed by the receiving Party, (ii) is lawfully received by the receiving Party free of any obligation to keep it confidential, or (iii) becomes generally available to the public other than by breach of this Agreement.

5.2 Force Majeure. Neither Party shall be liable, nor shall any credit allowance or other remedy be extended, for any failure or hindrance of performance hereunder due to causes beyond its reasonable control (a “Force Majeure Event”). The Party claiming relief under this Section shall notify the other Party of the occurrence or existence of the event and of the termination of such event.

5.3 Subject to Laws. Each Party is responsible for complying with laws and regulations applicable to it, including but not limited to applicable: (a) federal, state and local laws; (b) regulations, rulings and orders of government agencies; (c) data protection legislation; (d) laws, statutes, regulations and codes relating to anti-bribery and anti-corruption; and (e) import, export and economic sanction laws and regulations. Neither Party shall use the Access or Services for any unlawful purposes.

5.4 Governing Law; Venue; Prevailing Party. The Agreement shall be governed by and construed in accordance with the laws of Delaware, without giving effect to any conflict of law principles. Venue arising under the Agreement shall be Delaware. The United Nations Convention on Contracts for the International Sale of Goods does not apply. If suit is brought or an attorney is retained by either party to enforce the terms of the Agreement or to collect any money as due hereunder or to collect any money damages for breach hereof, the prevailing party shall be entitled to recover its reasonable attorneys’ fees and related expenses incurred in connection therewith.

5.5 Notices. Notices under this MCA shall be in writing and delivered by electronic mail or certified mail, return receipt requested, or by a nationally recognized courier to the persons whose names and business addresses appear below, and such notice shall be effective on the date of receipt, or refusal of delivery, by the receiving Party. **In lieu of the foregoing notice requirement, if Customer is disconnecting Access or discontinuing Service(s) of any type for any reason, Customer must submit the disconnection request through the form located at <https://www.NA.com/disconnectservice/>**

IF TO NA:

NA Group, LLC
Attn: General Counsel,
Legal 1821 30th Street,
Unit A Boulder, CO
80301
Email: legal@NA.com

Billing Disputes:

NA Group, LLC:
Attn: Accounts
Receivable 1821 30th
Street, Unit A Boulder,
CO 80301
Email:
customerservice@NA.com

If to Customer:

[INSERT CUSTOMER NAME]

Attn: (insert Name) (Address)

CITY STATE ZIP

Email: (insert email)

(if this “Customer” section is left blank, notice shall be deemed effective if delivered to Customer’s registered office address or the last Customer address provided to NA by Customer)

5.6 Assignment. Neither Party shall transfer or assign, voluntarily or by operation of law or otherwise, its obligations under the Agreement without the prior written consent of the other party, except no such consent shall be required in the event of a merger, reorganization, consolidation **Master Customer Agreement (Ver. 1.1.2023)**

or sale of substantially all of the Party's assets or business in which case the assigning party shall provide notice to the non-assigning Party; provided, however, that Customer may only transfer or assign under this provision if its account balance with NA is current. NA may assign in whole or in part the Agreement or any of its rights and obligations hereunder to any NA Affiliate without prior notice to Customer. The Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns.

5.7 No Third Party Beneficiaries; Relationship and Counterparts. The Agreement is not intended for, nor shall it be for the benefit of or enforceable by, any third party or person not a Party hereto, including without limitation, end users. The Agreement does not create a partnership, joint venture or agency relationship between the Parties. Neither Party shall have any authority to bind the other Party to any agreement, understanding or other instrument, in any manner whatsoever. The Agreement may be executed in one or more counterparts, all of which taken together shall constitute one instrument. The Agreement may be executed via a recognized electronic signature service and/or signed, scanned and emailed to NA, and any such signatures shall be treated as original signatures.

5.8 Entire Agreement; Amendment. The Agreement constitutes the entire and final agreement and understanding between the Parties, expressed or implied, with respect to the Access and Services ordered after the Effective Date and supersedes all other prior or contemporaneous representations, understandings or agreements. No alteration or variation of the terms of any provision shall be valid unless made in writing and signed by the Parties. If any provision of the Agreement shall be held to be invalid or unenforceable, the remaining provisions of the Agreement shall be unimpaired and shall remain in effect and be binding upon the Parties. No course of dealing and no failure to exercise any right hereunder shall be construed as a waiver of any provision hereof.

NA GROUP, LLC

[CUSTOMER NAME]

Signature:

Signature:

Name:

Name:

Title:

Title:

CUSTOMER SCHEDULE DARK FIBER

Customer Name

Customer:

This Dark Fiber Customer Schedule (“**Customer Schedule**”) is subject to, and made a part of, that Master Customer Agreement or Master Services Agreement (herein referred to as the “Master Customer Agreement” or “**MCA**”) entered into between the undersigned Parties. NA owns and operates fiber networks and other related telecommunications facilities and is in the business of leasing dark optical fiber strands (“**Dark Fiber**”) within the NA network (“**Dark Fiber Offerings**” or “**Offerings**”). Capitalized terms not defined herein will have the meaning ascribed to them in the MCA.

1. **DEFINITIONS.** The following additional definitions shall apply to Dark Fiber Offerings:
 - 1.1 **Allocated MRC** means a portion of a Monthly Recurring Charge allocated by Segment on a pro-rata basis, unless otherwise specified in a Customer Order.
 - 1.2 **Costs** mean any applicable cancellation, termination or other charges from a third party, charges for make ready work, permitting and engineering fees, building access or license fees, NA standard labor charges, special construction charges and/or materials and equipment costs.
 - 1.3 **Customer Requirements** shall have the meaning set forth in Section 4.1 below.
 - 1.4 **Demarcation Point** is the network interface point specified on a Customer Order where Customer's handoff occurs.
 - 1.5 **Estimated Access Date** is the date or access/delivery interval, specified in a Customer Order, in which NA estimates the Dark Fiber Offering to be available to Customer.
 - 1.6 **Offering Specifications** means both the definitions and performance specifications of an Offering detailed herein and in a Customer Order.
 - 1.7 **Segment** is a span of Dark Fiber between Locations specified in a Customer Order.

2. **GRANT OF LEASE.** As of the Activation Date for any Dark Fiber ordered under a Customer Order, NA agrees to lease to Customer, and Customer agrees to lease from NA, the number of strands of Dark Fiber in the configuration described in the Customer Order. Any materials, components, equipment, optical fiber cable and other property of NA shall remain NA's property even if affixed to or installed within the real property of Customer. Customer acknowledges that it has no option to purchase any part of the materials, components, equipment, optical fiber cable and other property of NA installed between the Demarcation Points. Customer shall keep NA's facilities and the Dark Fiber free from all liens, including but not limited to mechanics liens, and encumbrances by reason of the use of the Dark Fiber by Customer. If Customer fails to pay, or bring appropriate challenge to, any taxes, assessments, or other fees, and such failure results in the imposition of a lien or encumbrance on the Dark Fiber or an assessment directly against NA, NA shall have the right to pay the same and charge the amount thereof to Customer, who shall pay the same promptly upon demand. This right is in addition to any other right provided to NA herein to remedy a breach of this Customer Schedule. Customer shall be responsible for obtaining and maintaining any rights or licenses required for it to lease, use, occupy or operate the Dark Fiber.

3. **CUSTOMER REQUESTS AND ACCESS**

- 3.1. **Customer Order Acceptance.** Within five (5) business days of NA's acknowledgment to Customer of receipt of a Customer Order, NA will notify Customer (in writing or electronically) of its acceptance of the Customer Order ("**Customer Order Acceptance**"), at which time such Customer Order becomes a binding obligation to purchase the Offerings therein, or rejection of such Customer Order, in which case NA will communicate to Customer why it is unable to accept such Customer Order. NA may accept or reject any submitted Customer Order in its sole discretion. Unless otherwise provided in the MCA or this Customer Schedule, Customer's obligations specified in an accepted Customer Order are non-cancellable. Dark Fiber Offerings are subject to availability and NA retains the right to cancel a Customer Order at any time prior to delivery of the Activation Notice (as defined below).
- 3.2. **Activation.** After NA has determined that the Offering conforms to the relevant Offering Specifications as described in Exhibit B at the time of delivery, NA will provide Customer with a Close Out Package as defined in Exhibit B ("**Activation Notice**"). The "**Activation Date**" shall be the earlier of (i) the date on which Customer begins using the Offering for any purpose other than testing or (ii) the date that NA has sent the Activation Notice to Customer. Customer shall have ten (10) days in which to notify NA that it is rejecting the Offering that does not meet the Offering Specifications. If Customer has notified NA within such ten (10) day period that the Offering does not meet the Offering Specifications, and provided that such notification is legitimate, then NA shall take such steps reasonably necessary to cause the Offering to meet the Offering Specifications, at which time NA shall issue a new Activation Notice and the acceptance process above shall be repeated. Customer's failure or delay to test the Offering or failure or delay to utilize the Offering on or after the Customer Activation Notice date shall not prevent NA from billing Customer for the Offering. The billing of any recurring charges shall begin on the Activation Date and continue throughout the Order Term. If the Activation Date is delayed as a result of Customer's failure to meet its responsibilities under the MCA or this Customer Schedule including obtaining the

necessary Customer Requirements, NA may continue with the acceptance procedures to the extent possible and the Activation Date will be deemed to occur as of the Estimated Access Date or the date that NA is ready to provide access to the related Offering, whichever is later.

- 3.3. Incrementally Provided Segments.** Unless otherwise specified in a Customer Order, NA may incrementally provide access to individual Segments of an Offering, when ready, which may result in different Activation Dates for such incrementally provided Segments. The initial Order Term for each incrementally provided Segment shall begin on its respective Activation Date and end after the period specified as the Order Term from the Activation Date of the last Segment provided. The charge associated with a provided Segment will be based on the Allocated MRC.

4. COMPONENTS AND INSTALLATION

- 4.1. Access and Customer Premises Obligations.** In support of NA meeting the Estimated Access Date, Customer specifically acknowledges that Customer is responsible for all work and Costs on the premise side of each Demarcation Point, including technically compatible cross-connections. In addition, Customer shall be responsible for securing all rights and paying the related Costs to connect to the Demarcation Point and for securing all rights and paying the related Costs to access, occupy, and conduct typical telecommunication operations within and to each respective building (including any necessary rights for NA to enter and access each building), and for providing all necessary cable pathways in and to the respective buildings (all of the preceding may include, but not be limited to, construction permits and underlying rights, wayleaves, building access and/or occupancy agreements, building access and/or occupancy fees, lateral/conduit fees, riser fees, cross-connects and cross-connect fees, coordination at any third party owned location, and, where applicable, necessary space for NA's fiber termination panel). All of the above, collectively, shall be referred to as "**Customer Requirements**" and Customer shall reimburse NA in the event that a third party bills NA for charges related to such Customer Requirements. If Customer satisfies a Customer Requirement by purchasing Service from NA, NA may pass through and Customer shall pay NA for any increase in the charges to NA by a third party which NA utilizes to provide Customer the Customer Requirement. Customer acknowledges that any delay in Customer providing such Customer Requirements may delay NA from completing work at any location.
- 4.2. NA Facilities.** NA, or its agent, may provide, install, maintain, repair, operate and control NA's conduit, optical fiber cable, fiber termination panels or any other components or equipment ("**NA Facility(ies)**"). Any facilities, components, or equipment that is not a NA Facility is a "**non-NA Facility(ies)**." Customer shall be liable for any loss of or damage to NA Facilities caused by Customer's negligence, intentional acts, or unauthorized maintenance and shall reimburse NA for the same. If, on responding to a Customer initiated support call, NA reasonably determines that the cause of the deficiency was a failure, malfunction or the inadequacy of facilities, components, or equipment other than NA Facilities, Customer shall compensate NA for actual time and materials expended during the support call and for any work performed by NA on non-NA Facilities.

5. USE OF DARK FIBER

- 5.1.** Subject to the limitations set forth in this Customer Schedule, Customer shall use the optical fiber strands of the Offering solely for lawful purposes. In no event whatsoever shall Customer directly or indirectly transfer, sell, assign, swap, exchange, lease, sublease, license, sublicense, resell or grant indefeasible or other rights of use in or to all or any part of the optical fiber strands as "dark fiber" as such term is commonly understood in the telecommunications industry. A violation of this provision shall be a material default and shall subject Customer to immediate termination.
- 5.2.** Except as expressly set forth herein as part of the access rights included within the Dark Fiber Offering, the lease does not include the right of Customer to own, control, access, maintain, splice, adjust, align, cut, modify or revise the Dark Fiber. Customer will not install any components or equipment to be used with the Offering that damages or interferes with the NA network.

6. MAINTENANCE, RELOCATION AND ADJUSTMENTS

- 6.1. Maintenance.** NA or its affiliates shall provide Routine Maintenance and Non-Routine Maintenance as defined in and in accordance with Exhibit A. In the event NA responds to a perceived or actual interruption of Customer's access to the NA network and it is determined that the interruption was not attributed to the failure of NA's network or Customer's failure to identify deficiencies in the Close Out Package within the period described in Section 3.2, NA reserves the right to charge the Customer the Cost of such Non- Routine Maintenance.
- 6.2. Relocation.** Customer acknowledges and agrees that, after the Activation Date, NA may be required (i) by any governmental authority under the power of eminent domain or otherwise, (ii) by the grantor or provider of any underlying right, (iii) by any other person having the authority to so require, or (iv) by the occurrence of any Force Majeure Event, to relocate the Segment(s) of the NA network. In such event Customer shall reimburse NA for its proportionate share of the Costs related to such relocation, which shall be the number of Customer fibers divided by the total amount of fibers in use for the particular Segment.

- 6.3. **Adjustments.** The Monthly Recurring Charge for the Dark Fiber Offering shall be adjusted annually effective December 31st of each year by the greater of (i) four percent (4%) or (ii) the cumulative increase in the U.S. Consumer Price Index, All Urban Consumers (CPI-U), U.S. City Average, published by United States Department of Labor, Bureau of Labor Statistics (“CPI Adjustment”) for the preceding 12 month period. In the event the Bureau of Labor Statistics (or any successor organization) no longer publishes the CPI- U, NA may, in its reasonable discretion, designate a replacement index.

DATED this _____ day of _____, 20____.

NA GROUP, LLC

Customer Name

Signature: _____

Name: _____

Title: _____

Signature: _____

Name: _____

Title: _____

Exhibit A

MAINTENANCE & REPAIR

1. **Purpose.** This Exhibit describes the policies and procedures NA utilizes to maintain the Dark Fiber Offering. NA shall ensure that the Dark Fiber Offering is maintained according to the procedures specified herein, through application of commercially reasonable and accepted industry standards, and in accordance with manufacturers' specifications. The purpose and result of maintenance shall be to maintain (in the case of Routine Maintenance) or restore (in the case of Non-Routine Maintenance) the functionality of the Dark Fiber Offering. NA reserves the right to modify these procedures as appropriate to ensure that performance specifications are achieved.
2. **Network Maintenance.** NA performs cable and conduit maintenance and repair, on a twenty-four (24) hour per day, seven (7) days per week basis (24x7). NA utilizes only qualified personnel, office services, vehicles, and all tools and materials required for the safe and proper performance of network monitoring, maintenance procedures and emergency restoration.
3. **Routine Maintenance.** Routine Maintenance is maintenance and repairs that NA deems necessary to ensure proper functioning of the NA network. NA shall perform routine and preventative maintenance and all cable and locate activities as a part of the local "Call Before You Dig" program. Planned network maintenance that does or does not potentially involve the disruption of functionality of the Dark Fiber Offerings is also considered Routine Maintenance. The nature of such a planned Routine Maintenance activity is such that it can be pre-scheduled so as to allow notification to Customer as appropriate. The NA NOC will generally conduct such planned Routine Maintenance outside normal working hours anytime between 12:00 AM to 5:00 AM (local time) seven (7) days a week. NA will provide Customer with fourteen (14) days prior notice of Routine Maintenance that affects availability. All maintenance other than Routine Maintenance as described above shall be deemed to be Non-Routine Maintenance.
4. **Non-Routine & Emergency Maintenance.** For any Non-Routine Maintenance performed to restore functionality of the Dark Fiber Offerings (including, but not limited to, emergency repairs required due to cable cuts, fires, remodeling work or other acts of third parties or Force Majeure events), Customer will first use commercially reasonable efforts to determine that any disruption in the functionality of the Dark Fiber Offering is not on the Customer's side of the Demarcation Point. After verifying that the problem is not on Customer's side of the Demarcation Point, Customer shall open a Trouble Case for Technical Support by contacting NA Customer Support at 1-866-236-2824 (US and Canada) / +4420 3846 4222 (Europe) / 00800 4997 0737 (France) , or ncc@NA.com. Escalation procedures following opening of a Trouble Case can be found at <https://tranzact.NA.com/#!/escalation-lists>.
5. **Optical Fiber Repair & Restoration.** Following receipt of Customer's notification of a Trouble Case, NA shall reasonably endeavor to respond on-site (if necessary) to the affected location(s) within two (2) hours of the initial Trouble Case, provided NA has all necessary access to the Customer Location(s), including Customer's Premises. In the event of a fiber failure, NA shall reasonably endeavor to begin Dark Fiber Offering restoration within two (2) hours following identification of such failure. NA shall use its best efforts to then restore the functionality of the Dark Fiber Offering no later than six (6) hours following initiation of restoration activities. During an outage NA shall contact Customer on a regular basis, to update the status of restoration. NA is responsible for ensuring that the maintenance personnel are properly trained and otherwise qualified to perform the maintenance on the Offerings. Customer shall procure for NA reasonable 24x7x365 access to Customer's Location(s) for purposes of both Routine and Non-Routine Maintenance.
6. **Mean Time to Repair Credits.**
 - 6.1 The term "Outage" shall be defined as a total loss of the ability of a strand of Dark Fiber to pass light for a continuous and uninterrupted period of time; provided, however, that any such interruption will not be deemed an Outage if caused by: (a) any act or omission of the Customer or its End User Customers, or their representatives, contractors, agents, authorized invitees, successors or assigns; (b) the configuration, failure or malfunction of non-NA Facilities; (c) scheduled maintenance or planned enhancements or upgrades to NA's network; (d) NA not having reasonable and uninterrupted access to any premises or site respecting the Outage (the "Outage Site"); or (e) a Force Majeure Event. Each of the events described in this Section 6.1 shall be deemed an "Excused Outage."
 - 6.2 **Outage Credits.** In the event an Outage takes longer than twelve (12) hours to repair following NA's arrival at (and having continuous and uninterrupted access to) the Outage Site, then subject to Section 6.3 below, Customer shall be entitled to an Outage credit equal to one (1) day of pro-rated MRC of the affected Dark Fibers for every full hour greater than twelve (12) hours for which the Outage persists ("Outage Credit"). The pro-rated MRC shall be determined by dividing the number of Dark Fibers in the Order by the total MRC for all Dark Fibers in the Order on the same Segment, then multiplying that number by the total number of Dark Fibers affected by the Outage, then dividing that by the number of days in the month.
 - 6.3 **Credit Process.** In order to receive an Outage Credit, Customer must (a) immediately report the Outage to the NOC and open a trouble ticket and (b) make a written request for the same within thirty (30) days following the end of the month in which the Outage occurred along with providing sufficient detail to permit NA to investigate the Outage Credit request. Upon receipt of Customer's request, NA will investigate the claim under the terms

described in this Customer Schedule. Credits will be granted only if Customer has paid all outstanding invoices by the Due Dates thereof. The issuance of credits pursuant to this Section is NA's sole obligation and, along with termination in accordance with Section 6.4 (Chronic Outage), Customer's sole remedy for any failure or non-performance of Offerings set forth in this Customer Schedule. Outage Credits shall be deducted from the charges payable by Customer hereunder and shall be expressly indicated on the Customer invoice. The maximum Outage Credit in a calendar month shall not exceed 50% of the MRC for the affected Dark Fiber.

6.4 Chronic Outage: Customer may terminate the affected Segment without incurring early termination charges if: Customer experiences three (3) or more related Outages on the same Segment, each with an Outage Duration lasting more than one (1) hour in any thirty (30) day period. In order to exercise a right to terminate under this Section, Customer must notify NA of its intent to terminate the affected Offering in writing within thirty (30) days after the event giving rise to a right of termination. Customer shall be deemed to have waived its right to terminate under this Section if it fails to provide the requisite notice within such thirty (30) day period. NA reserves the right to refuse the foregoing termination right if Customer has any past-due balances. Notwithstanding the foregoing, Customer may not terminate the affected Dark Fiber Offering under this Section if NA is able to cure (to Customer's reasonable satisfaction) the issue(s) giving rise to such Outages under this provision within thirty (30) calendar days of the chronic outage triggering event.

NA-PROVIDED DARK FIBER SPECIFICATION & TESTING ACCEPTANCE OBJECTIVES

Unless otherwise defined herein, capitalized terms shall have the meaning given them in NA's standard Dark Fiber Schedule ("Schedule") in use at the time of testing.

Pursuant to Section 3.2 of the Schedule, NA will perform testing on the NA-provided Dark Fiber Offering as described herein, on a per Fiber Span (defined below) basis and provide test results to the Customer at the e-mail address provided by Customer ("Close Out Package"). In the event the Dark Fiber is OOS (defined below), Customer shall accept or reject the Dark Fiber as set forth in Section 3.2 of the Schedule.

1.0 DEFINITIONS

Connector – Dark Fiber Strand polished to a flat surface and housed within an adapter to enable the transfer of light to another connection. All Connectors on Dark Fiber are created in a manufacturer lab per industry standard.

Mated Connector – Two Dark Fiber Connectors linking together Dark Fibers, generally at a cross-connect at a termination panel.

In-Line Connector – Connectors used to link Segments between Demarcation Points. In-Line Connectors are always mated with another In-Line Connector.

Front End Connector (FEC) – Connector at the Demarcation Point, marking the beginning or end of the Segment.

Dark Fiber Strand or Strand - a single optic fiber.

Dead Zone – A portion of the Dark Fiber that cannot be accurately measured without the use of a Launch Reel.

Fiber Span - A Segment of one or many Dark Fiber optic strands that are terminated to a Connector on each end.

Fusion Splice – The act of using a fusion splice machine to melt two ends of Dark Fiber for purposes of joining together.

Launch Reel – Spool of fiber used to accurately measure the insertion loss at the Front End Connector, eliminating the Dead Zone.

OOS - Any event not meeting the criteria in Section 4.2 or 4.4 will be considered out of specification ("OOS").

OTDR (Optical Time Domain Reflectometer) – Instrument used to measure a Dark Fiber path by injecting pulses of lights at a specific timed rate within a specific range. The pulses are then analyzed by the OTDR upon returning to the point of origin by means of reflection due to characteristics of the Dark Fiber.

Pulse Width – Length of time a single pulse of light enters the fiber optic glass.

Range – Distance that the OTDR will perform measurement of a Span.

Power Meter – Instrument used to measure the loss of light that occurs on a given Span.

Pigtail – The opposing end of Dark Fiber glass that has been lab polished in a Connector.

Trace - Test performed on a single Dark Fiber Strand with certain parameters. Each Trace represents a single test that is performed on a Dark Fiber Strand from a single direction.

2.0 FIBER PERFORMANCE.

NA will endeavor to meet the following ITU Specifications for Dark Fiber:

Table 1 –Fiber specification limits

Parameter	ITU-T G652 & G.657	ITU-T G.655
Dispersion @1550nm [ps/(nm*km)]	≤18.5	≥2.0 to ≤6.0
Typical Attenuation @1550 (dB/km)	≥0.18 to ≤0.25	≥0.19 – ≤0.25
Zero Dispersion Wavelength (nm)	≥1300 to ≤1324	≥1450 to ≤1520
Mode Field Diameter @ 1550nm (μm)	≥9.3 to ≤10.9	≥9.2 to ≤10.0
Polarization Mode Dispersion (ps/√km)	≤0.2	≤0.1

Dark Fiber types may differ across a Fiber Span. In the event that non-NA Facilities, including cross-connects, campus and entrance cables, riser cables and third-party outside plant are required to deliver the Offerings, NA will use commercially reasonable efforts to meet the Specifications set forth in this Exhibit B, but failure of non-NA Facilities to meet the Specifications in this Exhibit B is not a violation.

3.0 SPAN LOSS REQUIREMENTS

Each Strand within a Span will be measured Bi-Directionally using a recently calibrated and industry-accepted light (laser) source and Power Meter Units in order to measure Span Loss.

3.1. ATTENUATION PER FIBER STRAND FORMULA

The applicable formula to be applied will depend on distance - See Table 2 below.

$$1550 \text{ Wavelength} = [\text{Span Length (km)} * 0.25\text{dB}] + [\text{Number of Splices} * 0.15\text{dB}] + [\text{Number of Mated Connectors} * 0.5 \text{ dB}] + [2\text{dB}]$$

$$1310 \text{ Wavelength} = [\text{Span Length (km)} * 0.40\text{dB}] + [\text{Number of Splices} * 0.25\text{dB}] + [\text{Number of Mated Connectors} * 0.5 \text{ dB}] + [2\text{dB}]$$

*A 2db buffer is included to allow for fiber degradation and repairs over the life of the Dark Fiber.

4.0 OTDR TESTING

Each Strand will be tested bi-directionally using a recently calibrated OTDR. NA will use the appropriate settings as per the OTDR manufacturer’s recommendation depending on dark fiber type and segment distance. Bi-directional OTDR Traces will be recorded using the same setting on the OTDR.

4.1. FIBER SPAN TRACES

For each Fiber Strand delivered to the Customer, NA will perform Fiber Span Traces and Front End Connection (“FEC”) Traces.

Fiber Span Traces will be measured bi-directional and used to ensure all splices and In-line connectors are visible and within spec and will be measured in the following wavelengths,

depending on Distance.

1625nm testing will only be performed for Long Haul Dark Fiber services and Fiber Characterization testing.

Table 2 – Wavelength Test Parameters

<i>OTDR Testing Requirements by Span Length</i>	
<i>< 50KM</i>	<i>> 50KM</i>
1310 nm	1550 nm
1550 nm	1625 nm

4.2. FIBER SPAN LOSS THRESHOLDS

4.2.1. Splice Loss

All splices will be performed by Fusion Splicing. The target allowance of a single splice event is 0.30 dB bi-directionally at 1550nm for homogeneous core types. The target allowance of a single splice event is 0.40 dB bi-directionally at 1550nm for heterogeneous core types.

In the event of an OOS, NA has the right to waive the target allowance provided the average splice loss on the entire Span does not exceed 0.15 dB bi-directionally at 1550nm. The Span will be considered to have met the splice loss criteria.

4.2.2. CONNECTOR LOSS

All In-line Connectors will be factory polished (hand polish is not acceptable). The maximum allowance of a Connector with a Pigtail Splice will not exceed a combined **0.50 dB** loss. Any In-line jumper (cross-connect) including the patch cord and two Connectors will not exceed a combined **1.00 dB** loss.

4.2.3. REFLECTANCE

The maximum allowance of any FEC or In-line Connector will not exceed a reflectance of **-45.0 dB**.

4.3. FEC TRACES

FEC traces will be performed unidirectional at each side of the Strand (unless NA is handing off the Dark Fiber in the field via stub cable) to ensure any connectors within the first 500 feet are measurable and outside of the Dead Zone. FEC traces will be taken at low pulse width and range using a 1km Launch Reel between the OTDR and connector.

4.4. FEC LOSS THRESHOLDS

4.4.1. Connector Loss

Maximum allowance of a Connector with Pigtail Splice will not exceed a combined **0.50 dB** loss.

5.0 FIBER CHARACTERIZATION