MASTER DEVELOPMENT AGREEMENT

This Master Development Agreement is made this [date] day of [month], [year] (the **"Effective Date"**), between the City of Bloomington, Indiana (the **"City"**) and Hoosier Networks, LLC, a Delaware limited liability company **("Developer")**, each sometimes referred to as a **"Party"** and collectively referred to as the **"Parties"** (the "**Agreement**").

RECITALS

WHEREAS, Developer and its Affiliates (collectively, **"Meridiam"**) have expertise in the development and construction of fiber-to-the-home (**"FTTH"**) networks;

WHEREAS, Meridiam's core investment philosophy includes achieving the United Nations Sustainable Development Goals (UN-SDG), and the Parties desire to achieve such goals as part of the development of the Project (as defined below);

WHEREAS, the City has been actively seeking to find an experienced and financially stable commercial partner to construct, maintain and operate an FTTH network within the City that would provide substantial community coverage including Income-qualifying Resident units (the **"Project"**);

WHEREAS, Developer desires to work with the City to construct, maintain and operate an end-to-end fiber network that serves the community on a long-term duration that matches or exceeds the thirty (30) year investment horizon of Meridiam;

WHEREAS, the City has established an ongoing Digital Equity initiative to support, among other things, equitable access to broadband infrastructure, and Meridiam is uniquely positioned to further the City's Digital Equity goals;

WHEREAS, Developer has agreed that it will require, among other things, the Primary ISP(s) (as defined below) to offer the services described in the Agreement, including availability of 1Gbps service with protection for network neutrality;

WHEREAS, Developer has agreed that the System (as defined below) will be operated as an Open-Access Network (as defined below) over the life of the Project, subject to the initial exclusivity period, and the System will be capable of providing at least 1 Gbps services;

WHEREAS, City desires to enter into an agreement with Developer for the Project;

WHEREAS, the City has agreed to assist Developer in gaining access to the Public ROW (as defined below) for purposes of installing the Developer's fiber network in the Public ROW;

WHEREAS, the City has agreed to grant to Developer access to the City Conduit (as defined below) for purposes of installing the Developer's fiber network in the City Conduit;

WHEREAS, the City has agreed to assist Developer with access and easements to install and operate the PoP, Huts or Cabinets (each as defined below) for Developer's fiber network;

WHEREAS, in conjunction with this Agreement and the implementation of Developer's fiber network in the City, the Parties intend to also enter into the Ancillary Agreements as defined below; and

WHEREAS, the Parties agree that it is of mutual benefit for the Parties to enter into this Agreement relating to the FTTH network and certain other matters described herein including the commitments of each Party with respect thereto;

NOW, THEREFORE, in consideration of the mutual obligations of the Parties, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the Parties covenant and agree as follows:

SECTION I
Definition of Terms

1.1   Terms.

For the purpose of this Agreement, the following terms, phrases, words, and abbreviations shall have the meanings ascribed to them below.

"Agreement" means this written contract between the City and Developer and any renewals, extensions or amendments the Parties make to it.

"Affiliate" means any entity owned or controlled by Developer, owning or controlling Developer or under common ownership or control with Developer.

"Ancillary Agreements" mean the Master License Agreement and the Master Easement Agreement between the City and Developer, and, if necessary, a facilities easement agreement and any such other agreements and instruments necessary to the implementation of the Project.

"Applicable Law" means any applicable federal, state, City, or municipal statute, code, rule, regulation, treaty having the force of law, judgment, common or customary law or similar governmental restriction or directive by any Governmental Authority, in each case, as amended, re-enacted or replaced from time to time.

"Block" means its commonly understood meaning of a group of Homes, Commercial Properties or Government Properties separated by streets and alleys.

"Bloomington Network" has the meaning assigned to such term in Section 10.1.2 (*Transfer of Agreement and/or Project; Developer Transfer*).

"Boundary" or "Boundaries" means the present corporate boundaries of the City as of the Effective Date and includes all locations designated by the City for annexation in the 2017-2022 process as reflected on the Boundary Map attached as Exhibit E and more fully described in Section 4.3 (*Boundary Revisions*). Any further changes to the City's corporate boundaries by annexation or other legal means that occur during the term of this Agreement will be deemed to be within the

Boundary as mutually agreed by the Parties pursuant to Section 4.3 (*Boundary Revisions*).

"City" means the City of Bloomington, Indiana, including its officers, employees, and agents or its lawful successor, transferee, designee, or assignee.

"City Conduit" means the proprietary City -owned telecommunications conduit presently in place and as may be added by the City within the Boundary, as more fully described on Annex I to this Agreement.

"City Indemnitees" has the meaning assigned to such term in Section 8.5 (*Indemnification*).

"Construction Commencement Date" has the meaning assigned to such term in Section 4.1 (*Construction of the System*).

"Commencement Date" has the meaning assigned to such term in Section 2.2 (*Term of Agreement*).

"Commercial Property" means the real property that is improved with, or consisting of, a building that is intended for commercial use, but in any case, excluding Homes, MDUs and Government Property.

"Confidential Information" has the meaning assigned to such term in Section 5.3.1 (*Treatment of Confidential and Proprietary Information*).

"Construction Partner" means Atlantic Engineering Group LLC.

"Core and Trunk" means the fiber optic cable emanating from the PoP to the Local Network Access Point for purposes of making a Drop to the Premise Wall.

"Developer" has the meaning assigned to such term in the introductory paragraph hereof.

"Developer Conduit" means the proprietary Developer -owned conduit that shall be installed by Developer throughout the Public ROW as part of the FTTH network, and which may be made up of a combination of wires, cables, ducts, conduits, connectors, vaults, manholes, manhole covers, pedestals, appliances, splitters, Pops, Huts, attachments, and other related property or equipment.

"Developer Default" has the meaning assigned to such term in Section 8.1 (*Developer Default*).

"Developer Indemnitees" has the meaning assigned to such term in Section 8.5 (*Indemnification*).

"Developer General Liability Insurance" has the meaning assigned to such term in Section 6.1.1 (*Developer Liability Insurance*).

"Digital Equity" means the fair distribution of the internet and modern technology throughout society. Factors that contribute to digital equity include access to the internet, and the quality and affordability of internet service; the availability of quality computing devices; and one's

training, comfort, and ability to effectively use computers and the internet. A more familiar term, digital divide, refers to societal disparities in digital equity. Digital equity disparities often mirror other societal equity gaps such as those related to income, race, age, gender, and geographic location, among others. Action taken to mitigate the impacts of digital equity disparities is often referred to as digital inclusion.

"**Digital Equity Fund**" has the meaning assigned to such term in Section 7.6 (*Digital Equity Program*).

"**Digital Equity Program**" means the joint initiative between the parties to improve Digital Equity in Bloomington.

"**Drop**" means the fiber optic cable run from the Local Network Access Point located at the Core and Trunk to the Premise Wall.

"**Effective Date**" has the meaning assigned to such term in the introductory paragraph hereof.

"**Extraordinary Force Majeure Event**" has the meaning assigned to such term in Section 10.2 (*Force Majeure*).

"**FON**" means Developer's fiber optic network built to enable multi gigabit technologies and includes all passive and electronic equipment utilized to deploy a distributed fiber network within the Boundary.

"**FTTH**" has the meaning assigned to such term in the recitals hereof.

"**Government Property**" means property owned or leased by the City or Governmental Authority, including material, equipment, special tooling, special test equipment, and real property. Government Property does not include intellectual property and software.

"**Governmental Authority**" means any federal, state, regional, county, town, city, or municipal government, whether domestic or foreign, or any department, agency, bureau, or other administrative, regulatory or judicial body of any such government including, without limitation, any governmental or quasi-governmental entity.

"**Home**" means a single-family dwelling, or a single dwelling unit located within a MDU located within the Boundary.

"**Huts**" means enclosures, including, but not limited to, active cabinets and passive cabinets, placed within the Public ROW for the protection of active and passive equipment for the provision of Service throughout the System.

"**Income-qualifying Residents**" means residents within the Boundary of the City of Bloomington described in Section 7.6.1 (*Digital Equity Program; Eligibility*).

"**Local Network Access Point**" means a physical connection point, whether located inside or outside any Premise, infrastructure, or throughout the Public ROW (including, without limitation, manholes, handholes, pedestals, flowerpots and other end user access points) that enables Service

Providers to access the necessary network support infrastructure to be able to provide network Services to Subscribers.

"**Meridiam**" has the meaning assigned to such term in the recitals hereof.

"**Multi-tenant Dwelling Unit**" or "**MDU**" means residential premises such as apartment buildings, condominium buildings, or cooperatives that are occupied by multiple dwelling units, as defined by the Federal Communications Commission, located within the Boundary.

"**Network Neutrality**" or "**net neutrality**" is the principle that Internet service providers (ISPs) must treat all Internet communications including encrypted communications equally, not block access to lawful sites, services and content, and not offer paid prioritization or otherwise prioritize, discriminate or charge differently based on user, content, website, platform, application, type of equipment, source address, destination address, or method of communication.

"**Non-System Conduit**" has the meaning assigned to such term in Section 7.1.1 (*City Conduit Maintenance*).

"**Open Access Network**" means a telecommunications network architecture whereby the owner or the manager of the network may not supply services on / access to the network on an exclusive basis. It is a wholesale infrastructure network available for use by other unrelated entities. Some open access networks deploy with a temporary exclusivity period for an initial ISP partner to ensure the financial viability of the infrastructure.

"**Optical Network Terminal**" or "**ONT**" means the device and its uninterruptible power supply that is installed on or in the Subscriber's Home, MDU, Commercial Property or Government Property, as may be applicable in each case, and which is necessary for the delivery of Service from the fiber optic network, and is powered by the Subscriber's working electrical service.

"**Party**" or "**Parties**" have the meaning assigned to such terms in the introductory paragraph hereof.

"**Permitted Transfer**" has the meaning assigned to such term in Section 10.1.2.1 (*Transfer of Agreement and/or Project; Restriction*).

"**Permitted Transferee**" has the meaning assigned to such term in Section 10.1.2.1 (*Transfer of Agreement and/or Project; Restriction*).

"**Person**" means any natural person or any association, firm, partnership, joint venture, corporation, limited liability company, or other legally recognized entity, whether for-profit or not-for profit, but shall not mean the City or Developer.

"**PoP**" means point of presence, which is the physical central location of the System containing the equipment such as the carrier routes and optical light terminals, necessary for the operation of the System and from which the fiber optic cables for the System emanate.

"**Potential Purchaser List**" has the meaning assigned to such term in Section 10.1.2.2 (*Transfer of Agreement and/or Project; Veto Right*).

"Premise" means a Home, MDU, Commercial Property or Government Property, as applicable, located within the Boundary.

"Premise Wall" means the exterior of an outside wall of a Premise to which the fiber optic cable will be terminated.

"Primary ISP" has the meaning assigned to such term in Section 7.4 (*Developer Requirements for Primary ISP Service*).

"Project" has the meaning assigned to such term in the recitals hereof.

"Property Tax Relief" means an arrangement to be approved by the Common Council of the City of Bloomington and any other relevant Governmental Authority (and approved by Developer) that will effectively reduce certain personal property taxes owed by Developer in connection with installation and operation of the System.

"Public ROW" means the surface of, and the space below, public street, highway, bridge, alley, boulevard, public way, or other public right of way including, but not limited to, public utility easements, dedicated utility strips, or rights of way dedicated for compatible uses and any temporary or permanent fixtures or improvements located thereon now or hereafter granted or dedicated to or under the jurisdiction of the City in the Boundary. Public ROW shall also mean any easement now or hereafter held by the City within the Boundary for the purpose of public travel, or for utility or public service use dedicated for compatible uses, and shall exclude other easements or rights of way including, but not limited to prescriptive easements.

"Relevant Permit" means each authorization, license, or permit that is necessary or desirable under Applicable Law for Developer to carry out installation of the System in the manner prescribed in this Agreement and the Ancillary Agreements, which shall include, but not be limited to, City, county, state, and federal permits, encroachments and/or lease agreements for specified areas within the Public ROW and/or the City Conduit.

"Secondary ISP" has the meaning assigned to such term in Section 7.5 (*Developer Requirements of Secondary ISPs*).

"Service" means internet, voice, data, and video service or any combination thereof, provided by a Service Provider over the System.

"Service Provider" means any Person that provides internet, cable, voice, telephone, video or other services over the System. Developer is not a Service Provider.

"Service Provider General Liability Insurance" has the meaning assigned to such term in Section 6.1.1 (*Developer Liability Insurance*).

"SPOC" has the meaning assigned to such term in Section 7.3.1 (a) (*Obligations of the City*).

"Subscriber" means a Home, MDU, Commercial Property or Government Property, as applicable, that has entered into an agreement to receive Service.

"Substantial Completion" means the point at which Developer has achieved the level of

completion set forth in Section 4.4 (*Achievement of Substantial Completion*).

"**System**" means all parts of the FON system including, but not limited to, Developer's entire FON system and Developer's Conduit that will allow the delivery of internet, voice, video and data signals to Subscriber premises, with the fiber optic cable to be laid from the PoP through the Public ROW and to the Premise Wall and terminating at the Optical Network Terminal installed at the Premise location.

"**System Conduit**" has the meaning assigned to such term in Section 7.1.1 (*City Conduit Maintenance*).

"**TIF**" has the meaning assigned to such term in Section 10.12 (*Property Tax Relief*).

"**Transfer**" has the meaning assigned to such term in 10.1.2 (*Transfer of Agreement and/or Project; Developer Transfer*).

SECTION 2
Grant of Authority

2.1 Grant of Rights.

 2.1.1 **Developer Rights to Public ROW.** Pursuant to and as more specifically described in the Ancillary Agreements and subject to any required approval by the Board of Public Works or other Governmental Authority, the City will grant and convey to Developer the right, access and authority to erect, install, construct, repair, replace, reconstruct, maintain, operate or retain in, on, over, under, upon, across, or along any Public ROW, the System including, but not limited to, wires, cables, ducts, conduits, connectors, vaults, manholes, manhole covers, pedestals, appliances, splitters, PoPs, Huts, attachments, and other related property or equipment as may be reasonably necessary or appurtenant to the System, within the Boundary, and all extensions and additions thereto.

 2.1.2 **Developer Rights to City Conduit.** Pursuant to and as more specifically described in the Ancillary Agreements and subject to any required approval by the Board of Public Works or other Governmental Authority, the City warrants that the City Conduit is available and will be available to Developer for purposes of installing the System, and therefore grants and conveys to Developer (i) the right to install the System within a specified section of the City Conduit and (ii) the right to access and use certain specified City owned, managed or abandoned telecommunications infrastructure with respect to communications related uses. In the case of both (i) and (ii) Developer's rights are exclusive unless the section of the City Conduit and associated telecommunications infrastructure can be simultaneously used by another entity without materially affecting the functionality and operation of the System and the Developer and any such entity can agree on sharing costs and expenses for their pro-rata use of the City Conduit and infrastructure. Any and all costs associated with installation and maintenance of the System within the City Conduit or the use of the other assets shall be borne by Developer (and any other entity using such items as referenced above).

2.1.3 **Ancillary Agreements.** After the Parties agree on the locations of the System, the Parties agree to use best efforts to promptly enter into a Master Easement Agreement in the form attached hereto as Exhibit A, the Master License Agreement in the form attached hereto as Exhibit B, and, if necessary, a facilities easement agreement that sets forth the rights granted to Developer for the facilities to be located on or within property the City owns. To the extent that any or all Ancillary Agreements may require the approval of the Board of Public Works, the Utilities Service Board, the City Council, or certain other Governmental Authorities, the Parties agree to promptly bring said Ancillary Agreements to the required Boards and Commissions once they have agreed on the locations of the System. These Ancillary Agreements shall be incorporated into this Agreement and made a part hereof and shall be recorded with the Monroe County's Recorder's Office.

2.2 **Term of Agreement.**

The term of the Agreement shall commence on the Effective Date of this Agreement (the **"Commencement Date"**) and expire at midnight on the date that is thirty (30) years from the date on which Property Tax Relief is effective, unless and until terminated earlier pursuant to this Agreement. Developer shall have the option to renew this Agreement for succeeding terms of up to thirty (30) years each, provided that (a) there is no uncured breach by Developer of a material term of this Agreement on the effective date of the new term, (b) neither party gives written notice to the other at least ninety (90) days prior to the expiration of any term of its intention not to renew this Agreement, and (c) Developer agrees to provide equivalent assistance to Income-qualifying Residents as provided during the original term, and to require the Primary ISP or any ISPs then operating on the network to do the same given then-available subsidies or benefits programs. If the term of this Agreement is extended for any additional term, pursuant to the foregoing, this Agreement shall continue in full force and effect during such additional term.

2.3 **Non-Solicitation.**

Subject to the terms of this Agreement, City will grant Developer the rights necessary to use agreed-upon City assets mutually determined by the Parties as essential for the Agreement. For the period following the Effective Date and through termination of this Agreement (including any renewals thereof), the City agrees and acknowledges that it will refrain from partnering with another FTTH infrastructure provider for the purpose of building a city-wide network that will operate under the principles established in this Agreement unless such other provider can meet, at a minimum, each of the material terms of this Agreement (including without limitation, any such new provider achieving (a) the Digital Equity goals set forth in Section 7.6, (b) the 85% pass-rate set forth in Section 4.4.1, and (c) a minimum of 1 Gbps connectivity speed at outset and mandatory system upgrades to ensure increases in speed above 1 Gbps to maintain the City's competitive edge as set forth in Sections 7.3.2(i) and 7.3.2(j).

2.4 **Costs, Fees, Expenses and other Charges.**

Except as expressly set forth herein, each Party shall bear and be responsible for all of its own costs, fees, expenses and other charges incurred in executing and performing this Agreement. In furtherance and not limitation of the foregoing:

(a)   Developer shall, at its sole expense, obtain and maintain any and all business licenses required to operate within the City, the state where the City is located, and any other legally required business licenses.

(b)   Developer or its construction contractor or other equipment service providers, suppliers and installers shall, at their sole expense, obtain and maintain insurance on the FON and other components of the System, all as set forth in Section 6 (*Insurance*) of this Agreement;

(c)   Developer shall, at its sole expense, maintain the FON, Developer's Conduit and other components of the System in good working order; and

(d)   The City shall, at its sole expense, obtain and maintain general commercial liability insurance coverage on the City Conduit.

SECTION 3
The System

3.1   System Description.

3.1.1   System Installation. Developer agrees to install the System within the Boundary using the Public ROW and the City Conduit, via aerial installation, and/or by constructing Developer's Conduit. The System shall use fiber optic cable emanating from the PoP to the Public ROW and from there to the Premise Wall terminating at the Optical Network Terminal installed at the Premise location. The Parties recognize that there is no agreed design or configuration of the actual location of the System within the Public ROW and that Developer shall have the right to determine the actual physical location of the fiber optic cable and equipment to, through, and from the Public ROW to the Premise Wall in accordance with the provisions of this Agreement and in compliance with all Applicable Law. Developer shall make the System available to all Premises presently located within the Boundary by providing Core and Trunk in the Public ROW past each Premise; *provided, however, that*, in the event Developer cannot install the System or other necessary equipment to pass that Premise or group of Premises for any of the following reasons, then Developer shall not be required to make the System available to such Premise or group of Premises: (a) a lack of a right to access and use the Public ROW and/or the City Conduit due to the City not possessing the right, title, interest or authority to permit Developer to use and occupy the Public ROW and/or the City Conduit; (b) a lack of access or right to access and use property; (c) Developer encountering geographical conditions in one or more passages of the Public ROW and/or the City Conduit that would cause installation costs using standard methods to be more than thirty percent (30%) greater than the average cost per Premise passed for the rest of the City using such methods, or delay installation of the System by Developer for a period of more than ninety (90) days, as demonstrated through documentation provided by Developer to the City; (d) the approved utility space within the Public ROW and/or the City Conduit is full and therefore being unable to support System installation; (e) a Premise or group of Premises are Indiana University on-campus locations; (f) a Premise or group of Premises are locations currently served by multiple fiber providers; or (g) a Premise or group of Premises are government or university locations that are directly served by

government or university fiber.

3.2   Permits and General Obligations.

By virtue of this Agreement, Developer may locate the System within the Boundary, subject to Relevant Permits or other forms of plan review and approval or authorization necessary to construct, install, operate, maintain, replace, reconstruct, or repair the System or any part thereof, during the term of this Agreement and any extensions. Without limiting the generality of the City obligations set forth in Section 7.3.1 (*Obligations of the City*), the City will inform Developer regarding the process of working with other agencies and authorities having relevant jurisdiction to secure such Relevant Permits, licenses, agreements or other forms of approval to cross and/or occupy such rights of way, or to utilize its and their existing infrastructure to support the construction and installation of the System. Construction and installation of the System shall be performed in a safe manner using materials of good and durable quality. All transmission and distribution structures and equipment installed by Developer for use in the System in accordance with the terms and conditions of this Agreement shall be located so as to avoid interference with the proper use of the Public ROW and/or the City Conduit and the rights of property owners who own property that adjoin any such Public ROW.

3.3   Developer Support for Permitting and Inspection Process

To reduce delays in obtaining necessary permits and approvals that otherwise may result from limited City resources to process applications, Developer has agreed (a) to place $150,000 per year for two (2) years in an escrow account for this Project that the City may draw on during the term of this Agreement to pay for the services of (i) an Engineering Department Permit Administrator and (ii) a Field Inspector as may be required at the sole discretion of the City, and (b) to pay permit fees as assessed by the relevant agencies and authorities. As with other communications providers, Developer may request permit fee waivers, exceptions or reductions for this Project and the City agrees to use its best efforts to facilitate any such requests. The duties of the Engineering Department Permit Administrator on this project will be as follows: review permit applications, confirm validity of bond and insurance, coordinate with other City departments on planned work in relevant areas including open trenching and paving operations, coordinating with field inspector(s), prepare reports for the Board of Public Works, attend Board work sessions and meetings, approve permits, enter approved permits into tracking system, receive permit fees, respond to public questions and reports, process formal warnings and violations, and coordinate GIS and as-builts. The duties of the Field Inspector on this project will be as follows: conduct site visits for pre-construction photos and work plan evaluation, conduct pre-construction site meetings, conduct initial and daily MOT checks, inspect subgrade prior to placement of concrete or asphalt, inspect completed project, re-inspect as needed to address issues that have arisen, conduct onsite meetings to address residents' concerns, and coordinate with utilities and City departments.

SECTION 4
Construction

4.1   Construction of the System

The City acknowledges that Developer may employ an independent contractor to construct and/or install the System. Construction of the System will commence on or before the date which is twelve (12) months after the date the Common Council of the City finally approves Property Tax Relief (the **"Construction Commencement Date"**). Developer will provide the City with its build schedule and System location information by no later than one-hundred and twenty (120) days prior to the Construction Commencement Date. Developer will keep the City informed on the progress of this build schedule at least at monthly intervals unless the Parties mutually agree otherwise and shall timely inform the City in the event where such build schedule must be adjusted by more than five (5%) percent.

      4.1.1   Developer intends to use varying construction techniques for the System construction and deployment, which may include, but are not limited to, any of the following:

i.	Traditional open trench construction;
i.	Directional boring;
ii.	Fiber optic cable placed in the City Conduit;
iii.	Fiber optic cable placed in Developer's Conduit;
iv.	Aerial; and/or
v.	Techniques ancillary to or related to the foregoing.

The City agrees to work cooperatively with Developer in reviewing all other potential construction methods. Developer Conduit shall generally be installed at a depth of 3 feet or greater, but no shallower than 2 feet in depth. The parties agree, however, that micro-trenching and nano-trenching techniques shall not be used in this Project.

    4.2   **Subscriber Connections; Fiber to the Premise Wall**. The System will provide a terminated fiber to Premises, along the existing utility route receiving a Drop via a Drop from the Core and Trunk to the Premise Wall in a manner to be determined by Developer, which shall be consistent with local requirements at all times. The location and the method of the Drop to the Premise Wall will vary depending on the circumstances of the Subscriber location.

    4.3   **Boundary Revisions**. The Parties agree and acknowledge that changes to the City's corporate boundaries by annexation or other legal means may occur during the term of this Agreement. As reflected in the Definition of "Boundary" or "Boundaries" above, Developer shall include in the definition of the current Boundary for the purposes of this Project, locations designated by the City for annexation in the 2017-2022 process as reflected on the Boundary Map attached as Exhibit "E". Developer shall use all commercially reasonable efforts to include any further new locations within the definition of the Boundary, upon mutual agreement of the Parties, within twelve (12) months after the City provides written notice to Developer of the change of the Boundary.

    4.4   **Achievement of Substantial Completion and Order of Provision of ISP Service**.

4.4.1 **Basic Percentage of Premises Passed to Achieve Substantial Completion.** Developer shall be deemed to achieve Substantial Completion of the System when: (a) the Core and Trunk of the System has been installed such that it passes 85% of the Premises (as defined in Section 4.4.2 below) within the Boundary as of the Effective Date on an equitable basis without regard to economic or social status of any Subscriber; (b) splitters have been installed for each of the Blocks; and (c) each Block's optical time-domain reflectometer **("OTDR")** measurements are consistent with the Telecommunications Industry Association (TIA) 455-8 series standard for the Measurement of Splice or Connector Loss and Reflectance.

4.4.2 **Premises Included/Excluded in Calculation of Substantial Completion.** For the purposes of calculating Substantial Completion, Premises shall include all residential locations within the Boundary as of the Effective Date except for locations that are excluded for reasons set out in subsections 3.1.1(a)-(g) of this Agreement. Each of the individual units in a MDU shall be considered, and counted, as an individual Premise separate from other units in the same MDU.

4.4.3 **Verification and Documentation of Substantial Completion.** Developer shall provide the City with documentation, in form and content reasonably satisfactory to the City, prepared by a professional independent third party knowledgeable with FTTH system design and functionality, verifying that Developer has achieved Substantial Completion.

4.4.4 **Order of Provision of ISP Service**. The Parties agree that ISP service shall be provided over the System to areas within the Boundary in the following order: first, all areas within the City's corporate limits as of the Effective Date of this Agreement and any areas outside the corporate limits that are necessary to facilitate completion of the System within those corporate limits; and second, all areas designated by the City for annexation in the 2017-2022 process, whether or not the areas are ultimately annexed, and any areas outside the areas designated for annexation that are necessary to facilitate completion of the System within those areas. The Parties further agree that this subsection does not affect Developer's ability to simultaneously pursue projects outside the Boundary as defined in Section 1.1; however, the pursuit of such other projects shall not affect the timely provision of ISP service to areas within the Boundary under this Agreement.

4.4.5 **Timing of Substantial Completion**. Developer shall use its best efforts to achieve Substantial Completion within thirty-six (36) months from the Construction Commencement Date.

SECTION 5
Oversight and Regulation by City

5.1 **Oversight of Construction.**

In accordance with Applicable Law, the City shall have the right to oversee and inspect the construction of the System in the Public ROW. While construction of the System is underway, Developer shall report its progress to the Bloomington Digital Underground Advisory Committee in a public meeting at least once every three months and shall provide status updates on progress to internal City staff in a meeting at least once every month. Developer agrees to provide the City with information on a timely basis about the System construction activities such as a weekly written

summary and access to System management systems upon request. Developer agrees to provide the City with access to the Construction Partner's live dashboard/reports on the Project, and to coordinate with appropriate City personnel regarding inspections of completed segments of the Project.

5.2   Compliance With Applicable Laws.

Developer and the City shall, at all times during the life of this Agreement, be subject to and comply in all material respects with all Applicable Laws.

5.3   Proprietary Information.

5.3.1   Treatment of Confidential and Proprietary Information. Subject to Applicable Law, the Parties agree that, without the prior written consent of each other Party, all information regarding the System, including, without limitation, plans, drawings, designs, conceptual renderings, cost information, specifications, photographs, reports, manuals, and other documents **("Confidential Information")**, is proprietary and shall be kept confidential and shall not be disclosed to any Persons other than the Parties' authorized representatives, accountants, consultants, auditors, attorneys and other agents or authorized representatives. Each Party agrees to assert applicable exemptions to any request for Confidential Information and to promptly notify each other Party if such Party receives a request relating to the other Party or the System or any Confidential Information. Notwithstanding the foregoing, this obligation shall not apply to information that: (a) is already known or becomes known to the public other than by disclosure by the Party seeking to rely on this exception to the confidentiality obligation under this Agreement (for the avoidance of doubt, this includes information disclosed by Developer in connection with City inspections of the Project and with seeking approval from a Government Authority for activities undertaken in connection with this Agreement), (b) is or was independently developed by a Party without using any information subject to the confidentiality obligation under this Agreement, (c) was available to a Party prior to its disclosure to such Party by the other Party under this Agreement, (d) is obtained from a third party that is not known to be under a confidentiality obligation to the owner of the information, or (e) is required to be disclosed by, or in accordance with, legal procedure or Applicable Law or by action of any court of competent jurisdiction or any competent judicial, governmental, regulatory or supervisory authority; provided, that the disclosing Party shall provide the owner of the information reasonable prior notice of such disclosure and a reasonable opportunity to address or contest the disclosure. The obligations of the Parties under this Section shall terminate on the date that is five (5) years after the Effective Date of this Agreement.

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SECTION 6
Insurance

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6.1   Insurance.

6.1.1   Developer Liability Insurance. During the term of this Agreement, and as provided herein, thereafter, Developer or its contractors, subcontractors, co-employers, or labor leasing entities and suppliers shall, at its own cost and expense, procure and maintain the following

minimum insurance coverages covering its obligations under this Agreement and naming the City as an additional insured or loss payee and containing a waiver of subrogation in favor of the City: comprehensive general liability insurance, automobile liability insurance, and workers' compensation insurance (the **"Developer General Liability Insurance"**) with the respective limits set forth below, or greater if required by law, covering the construction of the System. Developer shall require the Service Provider to procure and maintain, at its own cost and expense, comprehensive general liability insurance (the **"Service Provider General Liability Insurance"**) with the respective limits set forth, or greater if required by law.

6.1.1.1 <u>**Type and Limits.**</u> Such policy or policies shall be commercial general liability insurance on a Standard CG000l Commercial General Liability form and on an occurrence basis insuring against claims for personal injury (including bodily injury and death), and property damage (including loss of use). Coverage shall include blanket contractual liability and broad form property damage, premises-operations, explosion, collapse, underground hazard (commonly referred to as "X", "C" and "U" coverages), and products-completed operations coverage, and shall have the following minimum limits of liability:

TYPE	LIMITS
Commercial General Liability	$2,000,000 per occurrence; $2,000,000 aggregate
Automobile Liability	$1,000,000
Workers Compensation	Statutory

The Commercial General Liability and Automobile Liability policy may have deductibles or self-insured retentions acceptable to the City but not more than $50,000.00. The Commercial General Liability policy shall provide, without limitation, full separation of insureds, contractual liability coverage and broad form property damage coverage (including completed operations).

6.1.1.2 <u>**Qualified Insurers.**</u> All insurance required under this Section 6.1.1 will be provided through companies authorized to do business in the state where the City is located and with an A.M. Best's rating of at least A-VII.

6.1.1.3 <u>**Certificates of Insurance.**</u> Developer shall provide the City with certificates of insurance and policy endorsements evidencing at least the minimum coverages required by this Agreement. Coverages shall not

be reduced, canceled, non-renewed or materially changed without thirty (30) days advance written notice to the City.

6.1.1.4   **No Waiver.** Receipt or review by the City of any copies of insurance policies, endorsements or certificates that fail to comply with the requirements of this Agreement, or the City's failure to request or obtain evidence of insurance or to object to the insurance provided, shall not be deemed a waiver of any requirements contained in this Agreement and shall not relieve Developer of its duty to comply with the requirements contained in this Agreement.

6.1.1.5   **No Tort Immunity Waiver.** By requiring and having such insurance, the City does not intend to waive any rights and protections available to the City under the Indiana Tort Claims Act or under any other Applicable Law.

6.1.1.6   **Primary Coverage**. General liability and automobile liability policies maintained by Developer shall be primary coverage, and any coverage maintained by or available to the City shall be excess and non-contributory. The additional insured endorsements shall contain a primary insurance clause reflective of the following: "The insurance provided to the additional insured by this endorsement is excess over any valid and collectible 'other insurance' or self-insurance, whether primary, excess, contingent or on any other basis, that is available to the additional insured for a loss we cover under this endorsement. However, if the 'written contract requiring insurance' specifically requires that this insurance apply on a primary and non-contributory basis, this insurance is primary to 'other insurance' available to the additional insured which covers that person or organization as a named insured for such loss, and we will not share with that 'other insurance' or self-insurance. But the insurance provided to the additional insured by this endorsement still is excess over any valid and collectible 'other insurance' or self-insurance, whether primary, excess, contingent or on any other basis, that is available to the additional insured when that person or organization is an additional insured under such 'other insurance' or self-insurance."

6.1.1.7   **Professional Liability Insurance**. Such insurance shall include full prior acts coverage (or a retroactive date no later than the date of commencement of the construction activities) and shall have limits of not less than $5,000,000.00 per claim and $5,000,000.00 annual aggregate, or limits carried, whichever are greater, with deductibles or

self-insured retentions acceptable to Owner but not more than $500,000.00. Such insurance shall include, without limitation, contractual liability coverage to the maximum extent possible for the indemnifications contained in this Agreement. This insurance shall be maintained by Developer or its contractor continuously in effect until all claims and suits arising out of the activities contemplated by this Agreement and Ancillary Agreements are barred by the applicable statutes of limitations and repose. Any material change in limits, coverages or loss of aggregate limit due to outstanding claims must be reported to the City within thirty (30) days of any such events.

6.1.2 City's Liability Insurance. During the term of this Agreement, and as provided herein, thereafter, the City shall, at its own cost and expense, procure and maintain the following minimum insurance coverages covering its obligations under this Agreement.

TYPE	LIMITS
Commercial General Liability	$1,000,000 per occurrence; $2,000,000 aggregate
Automobile Liability	$1,000,000
Public Officials	$1,000,000 per occurrence; $2,000,000 aggregate
Excess Liability Insurance	$5,000,000

SECTION 7
Parties' Obligations

7.1 City Conduit Maintenance

7.1.1   Developer shall have no duty to operate, maintain or repair the City Conduit not containing any part of the System (the "**Non-System Conduit**") or to keep the Non-System Conduit in good working order, except where the City and Developer agree to enter into an operation, maintenance and repair agreement whereby Developer shall perform these obligations. In conducting its own operation, maintenance, and repair of the Non-System Conduit, the City shall use its best efforts to avoid damaging or minimize adversely affecting the System. The City, at its sole cost, shall maintain and repair the Non-System Conduit in accordance with the City maintenance obligations described in an Exhibit C to be finalized by the Parties within sixty (60) days of execution of this Agreement and

attached hereto and incorporated as though fully set forth in this Agreement. The City shall not make any modifications to, or alter, Developer's Conduit or the City Conduit containing any part of the System (together, the "**System Conduit**") without providing prior written notice to Developer. In the event of an emergency repair to the City Conduit containing any part of the System, the City shall use best endeavors to mitigate damage to the System and will notify Developer at the earliest possible opportunity.

7.1.2   In the event City reasonably believes the System is interfering with the City Conduit or Public ROW and so notifies Developer, Developer shall initiate reasonable steps to remedy such interference within the cure period set forth in Section 8.2.1(c) below.

7.1.3   In the event Developer reasonably believes that the City has failed, or is failing, to maintain, repair, and keep the Non-System Conduit in good working order in accordance with this Section 7.1, Developer, at its option, has the right, but not the duty, to perform repairs to, and maintain, the Non-System Conduit with ten (10) days prior written notice to the City and an estimate of cost of service. The City will determine if Developer or the City will perform the services reasonably requested by Developer. If the City elects to have Developer procure the services, the City shall promptly reimburse Developer for all such costs incurred by Developer upon presentment of proof of the costs, such as invoices and statements from contractors and vendors.

7.2   **Developer's Conduit Maintenance**

7.2.1   Developer, at its sole cost, shall operate, maintain and repair the System Conduit in accordance with the Developer maintenance obligations set forth in an Exhibit D to be finalized by the Parties within sixty (60) days of execution of this Agreement and attached hereto and incorporated as though fully set forth in this Agreement, so as to avoid damage to the Non-System Conduit and to minimize adversely affecting the System Conduit. The City shall have no duty to maintain or repair the System Conduit or to keep the System Conduit in good working order. In the event of an emergency repair to the System Conduit, Developer shall use best endeavors to mitigate damage to the System and will notify the City at the earliest possible opportunity.

7.2.2   To the extent the City reasonably believes that the System Conduit poses an immediate public health or safety hazard or is at immediate risk of damaging public utilities in its immediate vicinity, the City, at its option, has the absolute right, but not the duty, to perform repairs to, and maintain, the System Conduit at Developer's sole cost and expense, and will notify Developer at the earliest possible opportunity; provided, however, the Parties agree to work cooperatively to determine if Developer or the City shall perform the services requested by the City. If the City procures the services, Developer shall promptly reimburse the City for all such costs incurred by the City upon presentment of proof of the costs, such as invoices and statements from contractors and vendors.

7.3 **Project Covenants.**

7.3.1 **Obligations of the City.** As a material inducement to Developer's execution and delivery of this Agreement, in addition to all other duties and obligations contained elsewhere in this Agreement, City has the following duties and obligations:

(a) Provide an authorized City single point of contact ("**SPOC**") for Developer, who will be a full-time employee of the City, and who shall be responsible to address all issues related to the System, providing coordination and liaison with City departments, and serving as a communications and troubleshooting resource for Developer.

(b) Offer the full cooperation of all City departments with respect to relevant issues regarding the System, including, but not limited to, assisting Developer with how to obtain all Relevant Permits. Such cooperation will be supervised by the SPOC.

(c) Participate in status meetings on at least a monthly basis, unless the Parties mutually agree otherwise, for the coordination of all matters related to the System.

(d) Grant Developer the rights to use agreed-upon City assets determined by the Parties as essential for the installation of the System.

(e) Provide timely and diligent review of all applications for Relevant Permits, to the extent such Relevant Permits are necessary for construction, installation or maintenance activities for the System within the Public ROW and City Conduit.

(f) Not to prohibit Developer's (1) right to possess, use and procure benefits from the System, including Developer's right to sell the Service within the Boundary, (2) right to grant any valid, effective and enforceable security over all or part of the System assets, its shares, or any of the Ancillary Agreements, and (3) right to assign and/or transfer by way of security its rights and/or obligations under this Agreement or any of the Ancillary Agreements to any third party financing entity for the purpose of obtaining financing, hedging or other accommodation in connection with financing of the Project, provided such assignment and/or transfer in no way diminishes the City's rights under this Agreement, including but not limited to the City's right to consent under Section 10.1.2.3 (*Transfer of Agreement and/or Project; Assignment of Agreement for Financing Purposes*).

(g) Work with Developer to identify telecommunication and internet requirements for the City's government and public service needs, including police, fire and emergency services. The City will assist in facilitating discussions with the school districts.

(h) Provide to Developer an inventory of all telecommunications and dark fiber services that the City or its agencies procure from third parties, and, subject to Applicable Law, give Developer full consideration on all in place telecommunication and internet services (upon expiration of existing contracts to the extent permitted under the terms of such contracts), and future

telecommunication and internet services, including, without limitation, internet of things and smart city applications. This consideration is to be provided upon Substantial Completion.

(i) In the same way it would do for any requester, assist Developer in locating publicly available information about: (i) any new City agencies or Government Properties being constructed within the Boundary which may require installation of a FTTH network to provide Services, and (ii) any open trench projects relating to new roads, real estate and housing developments alongside other public utilities (electric, gas, water, telecommunications, and cable providers). Developer will be responsible for contacting the project owner to determine if there is an opportunity to join the project.

(j) Provide Developer with City maintained and controlled geographic information system (GIS) data and any other mapping data or telecommunications infrastructure records available to the City to assist Developer with confirmatory due diligence in connection with the Project; provided, however, any such disclosure will only be provided to the extent permitted under Applicable Law and under any disclosure and confidentiality limitations of relevant contracts entered into by the City.

(k) Contribute the City owned, managed, or abandoned telecommunications infrastructure and conduit, or available spare fibers (if needed, on a non-permanent basis), including approximately seventeen (17) miles of City Conduit in the downtown core and an interstate crossing to deliver services to residents and businesses of the City.

(l) In the event emergency repairs must be made to the System installed by Developer in the Public ROW or in Developer's Conduit due to damage caused directly or indirectly by the City or any City agency during construction of the System or after Substantial Completion has been achieved, the City shall coordinate such repairs with Developer and any utilities or other users of the Public ROW in order to facilitate prompt repairs to the Developer Conduit, whether located in the Public ROW or in Developer's Conduit, at the cost of the City, with such coordination to be supervised by the SPOC.

(m) Ensure that Developer will have the benefit of quiet enjoyment of the Public ROW and the City Conduit.

(n) Use best efforts to minimize any material delay related to Developer's building a citywide Open Access Network.

(o) Not provide telecommunications, internet, voice, data and/or video service or any Service to Homes, MDUs, Commercial Properties, businesses, or private organizations (other than those directly served by government fiber) within the City either on the System or on a network owned by a third-party developer. For avoidance of doubt, the Parties agree and acknowledge that the City provides and may continue to provide free public WiFi as a service as well as telecommunications, internet, voice, data and/or video service to multiple public facilities through City fiber and leased third-party dark fiber and cable systems,

that the City reserves the use of its dark fiber to itself, and that the City provides itself with lit fiber services. Said ongoing service to public facilities includes, but is not limited to, facilities operated by the Monroe County Community School Corporation, Monroe County Public Library, Monroe County Government, the Bloomington Public Transportation Corporation, Indiana University, Indiana University Health, and similar governmental entities.

(p)   Assist Developer with the process for (a) seeking waivers, reductions, or exceptions to the Relevant Permit fees imposed or required by the Board of Public Works or other local Governmental Authority under the City's local ordinance for the use and access to the Public ROW contemplated by this Agreement and (b) applying for the Property Tax Relief.

7.3.2   **Obligations of Developer.** As a material inducement to the City's execution and delivery of this Agreement, in addition to all other duties and obligations contained elsewhere in this Agreement, Developer has the following duties and obligations:

(a)   Attend meetings at least at monthly intervals unless the Parties mutually agree otherwise with the SPOC of the City and relevant City departments and personnel during the construction of the System.

(b)   Provide the City with access to Developer's SIMPL (Sustainability Impact Measurement Platform) dashboard/reports on the Project to ensure the Project's mutual Environmental, Social and Governance goals and Sustainable Development Goals are met.

(c)   Comply with all City requirements for Relevant Permits and Public ROW use applications.

(d)   Upon commencement of construction of the System, continue such construction until Substantial Completion of the System, subject in all respects to Section 10.2 (*Force Majeure*) of this Agreement.

(e)   Install fiber optic cable and other equipment necessary to connect the City Conduit described on Annex 2, attached hereto and incorporated as though fully set forth herein, to the System for exclusive City use.

(f)   Agree that as its leading municipal partner and facilitator, the City will be prioritized for first build-out among the communities included in the Project.

(g)   Not extend the exclusivity period with its Primary ISP(s) beyond the periods set forth in clause (h) below without the prior written approval of the City.

(h)   Operate the System as an Open Access Network over the life of the Project with an initial exclusive period for the Primary ISP of no more than five (5) years, with up to two (2) one-year extensions available if the Primary ISP meets all of its obligations under this Agreement and achieves, in the year preceding each extension, thirty-five percent (35%) market penetration as specified in the performance assessment model set out in Exhibit F. Such initial exclusive period shall begin upon the earlier of Substantial Completion or Service being first

activated over the System. Following the initial exclusive period (and any extensions thereof), Developer shall permit Secondary ISPs to offer Services over the System.

(i)   Design, build and maintain a fiber optic Open-Access Network capable of providing at least 1 Gbps services throughout the Boundary.

(j)   Ensure that throughout the term of this Agreement the System is modernized and upgraded to ensure that the City continues to be a leading community in high-speed broadband throughout the term of this agreement.

(k)   Establish a local office in the City, employing local residents.

(l)   Comply with the provisions of Section 10.1 (*Transfer of Agreement and/or Project*) in the event Developer proposes to Transfer the Agreement and/or Project in whole or part, whether due to default, bankruptcy, or any other circumstance.

(m)   Provide the City with dark fiber from a common meet point to any City building within the Boundary for the length of this Agreement at a price not to exceed the lesser of (i) the price Developer charges to any other North American municipality or organization for similar fiber on a per mile/per strand basis (to the extent such fiber strands are available, but in any event, not to exceed 12 fiber strands at any point in the network), and (ii) the Developer's wholesale price.

(n)   If Developer does not reach Substantial Completion, then in addition to the other remedies the City has under this Agreement, and unless the City agrees otherwise, pay to the City one hundred and fifty thousand dollars ($150,000) as liquidated damages.

(o)   In the event that the System is inoperable for eighteen (18) consecutive months, the System shall be deemed abandoned and Developer shall provide written notice to the City of such abandonment date. In such event, the City shall be deemed the owner of all abandoned System assets (fiber, conduit, maintenance holes, etc.) except that the City shall have the option to take or decline ownership of the portions of the System installed aerially.

7.4   **Developer Requirements for Primary ISP Service.** In addition to all other duties and obligations contained elsewhere in this Agreement, Developer shall require that each entity providing the primary Services, the "**Primary ISP**," undertake the following duties and obligations. For avoidance of doubt, there shall be a Primary ISP subject to these obligations throughout the term of this Agreement:

(a)   Make available at least a 1Gbps (symmetrical) Service in all System locations within the Boundary, and ensure that throughout the term of this Agreement the Primary ISP services support and complement Developer's upgrades and modernization to the System (up to 10Gbps) to ensure that the City continues to be a leading community in high speed broadband throughout the term of this agreement.

(b)   Provide Network Neutrality protection.

(c)   Actively participate in and adhere to the City's Digital Equity Program as described in Section 7.6.

(d)   Establish local peering arrangements with Indiana University ("IU"), the City, and the Monroe County Community School Corporation ("MCCSC"), and pursue local peering with incumbent ISPs. To the extent commercially reasonable, the Primary ISP will seek to peer with other local service providers and anchor institutions, for example, the larger IU campus locations and Ivy Tech Community College networks for purposes of efficiently making educational and research resources available.

(e)   If deploying local WiFi network from home routers, support IU authentication (currently Eduroam).

(f)   Operate one or more Bloomington retail locations.

(g)   Provide the City, upon the City's request, its top tier Enterprise internet bandwidth (at least 1 Gbps) during such time as it remains the Primary ISP at a price not to exceed the lesser of (i) the price the Primary ISP charges to any other North American municipality or organization for similar service and (ii) the Primary ISP's wholesale price.

7.5   Developer Requirements of Secondary ISPs. After the initial exclusive period described in Section 7.3.2 (h) Developer shall permit additional ISPs to offer Services over the System ("**Secondary ISPs**").   Developer shall require that each Secondary ISP undertake, at a minimum, the following duties and obligations:

(a)   Make available at least a 1Gbps (symmetrical) service to all locations served.

(b)   Provide Network Neutrality protection.

(c)   Evaluate with the City and Developer the feasibility of participating in the Digital Equity Program.

For the avoidance of doubt, services over the System shall always be provided by at least one Primary ISP whether or not Secondary ISPs offer services over the System.

7.6   Digital Equity Program. The purpose of this program is to improve digital equity in the City for Income-qualifying Residents.

7.6.1   Eligibility. Income-qualifying Residents are residents who are eligible to participate in the Parties' Digital Equity Program because they live within the Boundary of the City and qualify for assistance under one or more of the following: Supplemental Nutrition Assistance Program (SNAP); HUD Housing Vouchers owners (also referred to as Section 8 Vouchers or Housing Choice Vouchers "HCV"); The Indiana Temporary Assistance for Needy Families (TANF); the Indiana Department of Education's free meals eligibility criteria; Old Age, Survivors, and Disability Insurance (OASDI) recipients of Supplemental Security Income (SSI); Medicaid; WIC; or Veterans Pension or

Survivor Benefits. Eligibility shall include any such future benefit programs which are mutually agreed by the parties.

7.6.2 **Obligations of the Parties.** The Parties shall participate in a joint Digital Equity Program in at least the following ways:

(a) The City shall:

i. Contribute $1,000,000 (One Million Dollars) in total to a Digital Equity fund (the "**Digital Equity Fund**") to help improve Digital Equity. The City will direct Digital Equity Fund monies to the following:

1. Covering fifty percent (50%) of Drop costs to Income-qualifying Resident units, up to $350 per unit; and

2. If, at the end of the period described in Section 7.3.2(g) above, City funds remain in the Digital Equity fund, such funds shall be used for any activities supporting Digital Equity for City residents.

ii. Assist Developer in exploring available grants, subsidies and other programs to support the onboarding of Income-qualifying Residents to the Project.

iii. Use its best efforts to increase community awareness of the Project, the Digital Equity initiative, and any potential subsidies, vouchers or other incentives available to residents.

iv. Using census data, public housing data, and other relevant factors, define geographic areas and/or a parcel list of units within the Boundary that qualify as low-income areas for targeted investment, and update the map of low-income areas every five (5) years.

(b) Developer shall:

i. Pay the City a digital infrastructure dividend of $85,000 (Eighty-Five Thousand Dollars) per year for the term of this Agreement, for exclusive use within the Digital Equity Program. Should the term of the Agreement be renewed, this dividend shall increase to $100,000 per year during the renewal term.

ii. Cover at least fifty percent (50%) of Drop costs to Income-qualifying Residents while City funds described in Section 7.6.2(a)(i) remain available, and 100% of Drop costs thereafter.

iii. Connect to all units at Bloomington Housing Authority properties (currently Crestmont, Reverend Butler and Walnut Woods BHA apartment complexes).

iv. Using the most recent map provided by the City under Section 7.6.2(a)(iv), report to the City on a quarterly basis the percentage of low-income units and the percentage of total units (A) connected and (B) receiving service from its Primary ISP.

v. Require its Primary ISP, and encourage all other ISPs offering services over

the System, to do the following:

1. Offer a 250 Mbps or faster connection to income-qualifying end-users for $30 per month (or at such different prices as may be adjusted from time to time to match the relevant ACP or similar benefit programs then in effect, in order to achieve a net zero cost to these users for service). In furtherance of the foregoing, the end-user may elect to use ACP to pay for this service.

2. Waive startup fees for installation of service (ONT) for Income-qualifying Resident units.

3. Enroll and participate in Federal and state low-income subsidy programs including, but not limited to Lifeline, the Emergency Broadband Benefit Program (EBB), the Affordable Connectivity Program ("ACP"), and substantially similar federal and state programs enacted in the future.

SECTION 8
Default, Enforcement and Termination of Agreement

8.1   Developer Default. A "**Developer Default**" occurs in each of the following events or circumstances:

8.1.1   Payment Default. Developer fails to pay when due (i) any amount payable to the City pursuant to this Agreement or any other Ancillary Agreement, (ii) any reimbursement obligation in respect of a maintenance or repair service provided by the City for Developer's benefit pursuant to Section 7.2.2 (*Developer's Conduit Maintenance*), in each case, unless such failure to pay is caused by administrative or technical error and such payment is made within five (5) Business Days following its due date.

8.1.2   Cross-Default. Developer defaults for a period beyond any applicable grace period in the performance of any obligation under this Agreement, including, without limitation, the cure periods set forth in Section 8.2.1 (*Developer's Right to Cure or Respond*), and Section 8.2.2 (*Enforcement*).

8.1.3   Covenant Default. Developer fails to comply with any covenant or obligation applicable to it set forth in this Agreement, including, but not limited to Section 3.1.1 (*System Installation*), Section 3.2 (*Permits and General Obligations*), Section 5.2 (*Compliance with Applicable Laws*), Section 7.3 (*Project Covenants*) or Section 7.3.2 (*Obligations of Developer*).

8.1.4   Failure to Perform Other Obligations. The failure of Developer to perform or cause to be performed any other obligation required to be performed by Developer under this Agreement, or the failure of any representation and warranty set forth herein to be true and correct as and when made.

8.1.5   Bankruptcy, Etc. (a) Developer admits in writing its inability to pay its debts

generally as they become due; (b) Developer files a petition or answer seeking reorganization or arrangement under the federal bankruptcy laws or any other applicable law or statute of the United States of America or any state, district or territory thereof; (c) Developer makes an assignment for the benefit of creditors; (d) Developer consents to the appointment of a receiver of the whole or any substantial part of its assets; (e) Developer has a petition in bankruptcy filed against it, and such petition is not dismissed within ninety (90) days after the filing thereof; (f) a court of competent jurisdiction enters an order, judgment, or decree appointing a receiver of the whole or any substantial part of Developer's assets, and such order, judgment or decree is not vacated or set aside or stayed within ninety (90) days from the date of entry thereof; or (g) under the provisions of any other law for the relief or aid of debtors, any court of competent jurisdiction shall assume custody or control of the whole or any substantial part of Developer's assets and such custody or control is not terminated or stayed within ninety (90) days from the date of assumption of such custody or control.

8.2   Notice of Developer Default, and Right to Cure

In the event the City believes that Developer is in Default under Section 8.1, the City shall promptly notify Developer in writing with specific details regarding the exact nature of the alleged noncompliance or Developer Default.

8.2.1   Developer's Right to Cure or Respond. Unless a longer period is otherwise mutually agreed among the Parties, Developer shall have thirty (30) days from its receipt of the City's notice described in Section 8.2 above:

(a) to respond to the City contesting the assertion by the City of a Developer Default;

(b) to cure such Developer Default; or

(c) in the event that, by nature of the Developer Default, such Developer Default cannot be cured within the thirty (30) day period, to initiate commercially reasonable steps to remedy such Developer Default and notify the City of the steps being taken and the projected date that they will be completed. Any Developer Default arising under this Section 8.2.1(c) shall not be considered an uncured Developer Default while Developer is taking remedial steps to cure such Developer Default.

8.2.2   Enforcement. After the City complies with its obligations in Section 8.1 of this Agreement and if Developer fails to cure any Developer Default within the thirty (30) day notice period, or if such a cure is not possible within thirty (30) days pursuant to Section 8.2.l (c) above and Developer has failed to take commercially reasonable steps to remedy the Developer Default as required by Section 8.2.l (c) above, the City may:

(a) provide ninety (90) days prior written notice to Developer instructing it to stop construction and/or installation of the System; *provided, however,* that unless the System is abandoned as provided in Section 7.3.2(o), Developer shall retain all ownership and operational rights over the System and *provided, further* that Developer shall in no event be required to remove any part or all of the System if

such a notice is issued by the City.

(b) seek specific performance of any provision of this Agreement which lends itself to such remedy as an alternative to damages;

(c) seek damages from Developer by filing a complaint in any court of competent jurisdiction; or

(d) terminate this Agreement by written notice, in which case this Agreement shall be of no further force or effect. In the event of termination pursuant to this subsection, the City may at its sole and absolute discretion prevent Developer from conducting any additional construction and revoke the Ancillary Agreements except as they relate to such areas where the System is constructed and operating, which areas Developer shall continue to own and operate in accordance with the terms of this Agreement, including Section 7.3.2(o) regarding System abandonment. The City shall not be prevented from seeking damages from Developer in the event of termination for cause.

8.3   City Breach or Default.

In the event Developer believes that the City has not complied with a material term of this Agreement, Developer shall use best efforts to promptly notify the City in writing with specific details regarding the exact nature of the alleged noncompliance, default or failure.

8.3.1 City's Right to Cure or Respond.

Unless otherwise mutually agreed among the Parties, the City shall have thirty (30) days from its receipt of Developer's notice described in Section 8.3 above:

(a) to respond to Developer, contesting the assertion of noncompliance or default;

(b) to cure such default; or

(c) in the event that, by nature of the noncompliance or default, such noncompliance or default cannot be cured within the thirty (30) day period, initiate reasonable steps to remedy such default and notify Developer of the steps being taken and the projected date that they will be completed.

8.3.2 Enforcement.

After Developer complies with its obligations pursuant to Section 8.3 above and if the City fails to cure any noncompliance, default or failures within the thirty (30) day notice period, or if such a cure is not possible within thirty (30) days pursuant to Section 8.3.1 (c) above and the City has failed to take commercially reasonable steps to remedy the noncompliance, default or failure as required by Section 8.3.1 (c) above, then the City may not enforce any of Developer's obligations pursuant to this Agreement until such time when the City has cured any such noncompliance, default or failure. Notwithstanding the foregoing, during such time when the City fails to remedy any noncompliance, default or failure pursuant to the terms of this Section 8.3.2, the City's obligations under this

Agreement shall remain fully enforceable by Developer and Developer may seek specific performance of any provision of this Agreement which lends itself to such remedy as an alternative to damages.

In addition to the limitation of liability in Subsection 8.6 below, City's total damages liability arising out of or related to this Agreement, under whatever legal theory, shall not exceed $10,000 (Ten Thousand Dollars) and shall be limited in scope and amount by any protections available to the City as a political subdivision of the State of Indiana.

8.3.3 <u>Right to Terminate.</u>

In the event the City fails to comply with the requirements of this Agreement or any of the Ancillary Agreements or otherwise breaches either of the Ancillary Agreements, Developer shall have the immediate right, at its option, to terminate this Agreement and shall be entitled to any and all other rights and remedies available to it at law or in equity as provided for under this Agreement.

8.4 <u>Termination.</u>

In addition to the termination provisions set out in this Section 8, either Party may terminate this Agreement immediately upon written notice to the other Party if (1) the Parties have not entered into the Master Easement Agreement and Master License Agreement within thirty-six (36) months after the Effective Date, (2) Developer has not commenced construction in accordance with the requirements of Section 4.1 of this Agreement, subject in all respects to Section 10.2 (*Force Majeure*), or (3) the Property Tax Relief is not finally approved by the Common Council on or before August 1, 2022.

8.5 <u>Indemnification.</u>

Developer agrees to defend, indemnify, hold free and harmless the City, its elected officials, officers, agents and employees **("City Indemnitees")**, at Developer's sole expense, from and against any and all claims, actions, suits or other legal proceedings brought against the City Indemnitees arising out of the acts or omissions of Developer, its employees, and/or authorized subcontractors, pursuant to this Agreement. Developer also agrees to defend, indemnify, hold free and harmless the City Indemnitees from any claims, actions, suits or other legal proceedings relating to intellectual property rights in connection with the System. The defense obligation provided for hereunder shall apply without any advance showing of negligence or wrongdoing by Developer, its employees, and/or authorized subcontractors, but shall be required whenever any claim, action, complaint, or suit asserts as its basis the acts or omissions of Developer, its employees, and/or authorized subcontractors, whether or not Developer, its employees, and/or authorized subcontractors are specifically named or otherwise asserted to be liable. Notwithstanding the foregoing, Developer shall not be liable for the defense or indemnification of the City Indemnitees for claims, actions, complaints or suits arising out of the negligence or willful misconduct of the City Indemnitees. Developer agrees to obtain executed indemnity agreements with provisions identical to those set forth here in this section from the Service Provider(s) and each and every contractor, subcontractor, consultant, subconsultant, or any other person or entity involved by, for, with or on behalf of Developer in the performance of this

Agreement. In the event Developer fails to obtain such indemnity obligations from others as required here, Developer agrees to be fully responsible according to the terms of this section.

The City agrees to defend, indemnify, hold free and harmless Developer, its officers, agents and employees **("Developer Indemnitees")**, at the City's sole expense, from and against any and all claims, actions, suits or other legal proceedings brought against the Developer Indemnitees arising out of the acts or omissions of the City, its officers, agents, and/or employees, pursuant to this Agreement. The defense obligation provided for hereunder shall apply without any advance showing of negligence or wrongdoing by the City, its officers, agents, and/or employees, but shall be required whenever any claim, action, complaint, or suit asserts as its basis the acts or omissions of the City, its officers, agents, and/or employees, whether or not the City, its officers, agents, and/or employees are specifically named or otherwise asserted to be liable. Notwithstanding the foregoing, the City shall not be liable for the defense or indemnification of the Developer Indemnitees for claims, actions, complaints or suits arising out of the negligence or willful misconduct of the Developer Indemnitees.

8.6   Limitation of Liability.

NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, EXCEPT FOR A BREACH OF CONFIDENTIALITY OBLIGATIONS OR A PARTY'S INDEMNIFICATION OBLIGATIONS AS SET FORTH IN THIS AGREEMENT, AND DEVELOPER'S OBLIGATION UNDER SECTION 7.3.2(n), IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, CONSEQUENTIAL, SPECIAL, INCIDENTAL, RELIANCE, OR PUNITIVE DAMAGES OF ANY KIND OR NATURE WHATSOEVER, INCLUDING BUT NOT LIMITED TO ANY LOST SAVINGS OR HARM TO BUSINESS. EACH PARTY HEREBY RELEASES THE OTHER PARTY, ITS SUBSIDIARIES AND AFFILIATES, AND THEIR RESPECTIVE TRUSTEES, OFFICERS, DIRECTORS, MANAGERS, EMPLOYEES, AND AGENTS, FROM ANY SUCH CLAIMS.

SECTION 9
Dispute Resolution

9.1   Matter Resolution.

Without limiting any of the rights of the Parties under this Agreement, in an effort to avoid the expense and delay of litigation in the event any claims, disputes or controversies arising out of, or in connection with, the breach, interpretation, application, or enforcement of this Agreement, or arising out of, or in connection with, the System, the Parties shall try in good faith to settle the matter. All negotiations pursuant to this Section 9.1 shall be considered confidential settlement discussions, and neither of the Parties may offer into evidence, mention or otherwise use statements made in connection with such negotiations in any subsequent litigation proceeding.

SECTION 10
Miscellaneous Provisions

10.1   Transfer of Agreement and/or Project.

10.1.1 City Transfer

The City shall not be permitted to assign, sell or transfer this Agreement, or its rights and duties under this Agreement, without the prior written consent of Developer at any time prior to the fifth (5) year anniversary of this Agreement, as counted from the Effective Date.

10.1.2 Developer Transfer

If Developer desires to sell, transfer, assign, give, or otherwise dispose of, or permit or suffer the involuntary transfer (including, but not limited to, any transfer by judicial sale, legal process, execution, operation of law, attachment, or enforcement of a pledge, trust, or other security interest) in whole or in part of this Agreement, and/or the Project within the Boundary (the "**Bloomington Network**"), to any person, firm, corporation, or entity (each of the foregoing, a **"Transfer"**), Developer shall follow the procedures provided in Sections 10.1.2.1, 10.1.2.2 and 10.1.2.3.

10.1.2.1 <u>Restriction</u>. Subject to Section 10.1.2.3 below, Developer will not Transfer its interests or obligations in this Agreement, nor any part thereof, nor all or any part of the Bloomington Network, without written agreement of the City prior to the date ten (10) years from the Effective Date. Notwithstanding the foregoing sentence, Developer may (a) Transfer all or part of the Bloomington Network (or equity therein) to an Affiliate provided such transferee agrees in writing in form and content acceptable to the City to be bound by each provision of this Agreement; or (b) provided Developer continues to control the Bloomington Network, Transfer up to 25% of the Bloomington Network (or equity therein) to a non-Affiliate (each of (a) and (b) being a "**Permitted Transfer**" and each transferee thereunder, a "**Permitted Transferee**").

10.1.2.2 <u>Veto Right</u>. Prior to any Transfer (other than to a Permitted Transferee) that would cause a change in board control or reduce Developer's ultimate ownership stake below seventy five percent (75%) of the Bloomington Network, Developer will notify the City in writing of the name of any proposed transferee or transferees (the "**Potential Purchaser List**"). The City will, within thirty (30) days of receipt of the Potential Purchaser List, inform Developer in writing whether any proposed transferee is unacceptable to the City and the grounds for such objection. Unless the City indicates its approval of the proposed transferee, which approval shall not be unreasonably withheld, Developer may not Transfer the Bloomington Network to such proposed transferee. The parties understand and agree that the City's approval of a proposed transferee will depend substantially on whether the proposed transferee will agree to be bound by, and be able to fulfill, each provision of this Agreement.

10.1.2.3 <u>Assignment of Agreement for Financing Purposes.</u> The City acknowledges that Developer will seek to obtain third-party financing for the cost of constructing and operating the System, and the City will reasonably cooperate with Developer in order to effectuate such financing. In furtherance of the foregoing, Developer may assign this Agreement and any Ancillary Agreements to a third-party financing entity solely for purposes of securing the financing entity's

interest in the System, provided that such assignment does not alter or diminish Developer's duties and obligations or the City's rights under this Agreement. City shall, if requested by such third-party financing entity, provide such customary and reasonable documents, including consents to assignment, as may be reasonably requested with respect to the assignment and status of this Agreement and any Ancillary Agreements, provided that such documents do not alter or diminish the rights of the City under this Agreement. Any assignment to a third-party financing entity as described above shall not relieve or discharge Developer from any of its obligations hereunder absent the written consent of the City.

      10.1.2.4 Voiding of Invalid Transfer. Any assignment by Developer not permitted under this Section 10.1 shall be void *ab initio*.

10.2   <u>**Force Majeure.**</u>

    Neither Party will be held in default under, or in breach or noncompliance with, the provisions of this Agreement, nor suffer any enforcement or penalty relating to noncompliance or default (including termination, cancellation or revocation of this Agreement), where such noncompliance or alleged defaults occurred or were caused by a labor strike, riot, accidents, acts of war or terrorism, riot or insurrection, civil or military disturbances, health epidemic or pandemic, earthquake, flood, hurricane, drought, tornado, unusually severe weather conditions, or other catastrophic act of nature, labor disputes, governmental, administrative or judicial order, failure of utility service necessary to construct the System, governmental, administrative or judicial order, or any other event that is reasonably beyond the Party's ability to anticipate or control, including, but not limited to, work delays caused by waiting for utility providers to service or monitor their own utility infrastructure on which Developer's fiber optic cable and/or equipment may be deployed, as well as unavailability of materials and/or reasonably qualified labor to perform the work. In the event a force majeure condition extends for a period of over thirty (30) calendar days (an "**Extraordinary Force Majeure Event**"), the term of this Agreement shall be deemed to be automatically extended, on a day-to-day basis, and by a period of time equal to the duration of such Extraordinary Force Majeure Event.

10.3   <u>**Notice.**</u>

    All notices shall be in writing and shall be served upon the other Party by hand delivery, overnight mail, electronic mail, or by facsimile with confirmed transmission and addressed as follows:

    The City:

    Rick Dietz
    401 N. Morton Street
    Bloomington, IN 47404

    With a copy (which shall not constitute notice) to

    City of Bloomington Legal Department
    ATTN: Corporation Counsel

401 N. Morton St. Suite 220
Bloomington, IN 47404

Developer:

Nick Phillips
605 Third Avenue,
36th floor New York, NY 10158

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

605 3rd Avenue, 36th Floor
c/o MINA Corp, New York, NY,
10158, USA

Notices shall be deemed received the same day with delivery upon hand delivery, and the next business day with delivery upon overnight mail, electronic mail, or by courier.

10.4   Entire Agreement.

This Agreement, including all Exhibits and Annexes, embodies the entire understanding and agreement of the City and Developer with respect to the subject matter hereof. This Agreement supersedes all other agreements whether written, verbal, or otherwise between Developer and the City with respect to the subject of this Agreement.

10.5   Severability.

If any section, subsection, sentence, clause, phrase, or other portion of this Agreement is, for any reason, declared invalid, in whole or in part, by any court, arbitration panel, agency, commission, legislative body, or other authority of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent portion. Such declaration shall not affect the validity of the remaining portions hereof, which other portions shall continue in full force and effect.

10.6   Governing Law and Venue.

This Agreement shall be deemed to be executed in the County of Monroe and shall be governed in all respects, including validity, interpretation and effect, and construed in accordance with, the laws of the State of Indiana, as applicable to contracts entered into and performed entirely within the State, irrespective of conflict of laws principles. The sole and exclusive venue for all claims, disputes or controversies arising out of, or in connection with the breach, interpretation, application, or enforcement of this Agreement, or arising out of, or in connection with, the System, shall be the United States District Court for the Southern District of Indiana, or if there is no federal court jurisdiction, the Monroe County Circuit Court in Monroe County, Indiana.

10.7   Modification.

No provision of this Agreement shall be amended or otherwise modified, in whole or in

part, except by an instrument, in writing, duly executed by the City and Developer, which amendment shall be authorized on behalf of the City through the adoption of an appropriate resolution or order by the City, as required by Applicable Law.

10.8   No Third-Party Beneficiaries.

This Agreement is solely for the benefit of the Parties and their respective permitted successors and permitted assigns. Nothing in this Agreement or in any prior agreement is or was intended to confer third party beneficiary status on any party or Person not a party to this Agreement including a member of the public.

10.9   No Waiver of Rights.

Nothing in this Agreement shall be construed as a waiver of any rights, substantive or procedural that Developer or the City may have under federal or state law unless such waiver is expressly stated herein.

10.10   No Rights to the System.

The City expressly agrees that except as provided in Section 7.3.2(o) regarding abandonment of the System, it does not and shall not claim at any time any interest or estate of any kind or extent whatsoever in the System. Developer shall (a) at all times, retain title to and ownership of the System, (b) have the right to lease to, or otherwise permit the use of the System or parts thereof by the Service Provider and/or any other provider(s) of internet, cable, telephone, video and other services in compliance with the terms of this Agreement and the Ancillary Agreements, and (c) as provided in Section 10.1 have the right to assign, or provide another security interest in the System to its financing sources.

10.11   Authority.

The Parties represent and warrant that they each possess the authority to enter into this Agreement. The City represents and warrants that it possesses the authority required by any City ordinance or rule and required by the State of Indiana laws and regulations to enter into this Agreement.

10.12   Property Tax Relief.

The Parties agree to use their best efforts to pursue before the relevant Government Authorities a tax increment financing ("TIF") form of Property Tax Relief that provides for Developer to receive ninety-five percent (95%) of Indiana state personal property taxes that it pays on the Project during the first twenty (20) years of the term of this Agreement. Developer represents and warrants to the City that it will not accept from any other municipality in Indiana in which Developer is building a community-wide FTTH project, Property Tax Relief that affords more favorable terms to such other municipality than the terms of the City's TIF. Future State of Indiana changes to applicable property taxes do not alter this Agreement.

10.13   Third Parties.

Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either Developer or the City.

10.14   No Partnership.

Nothing in this Agreement shall be construed to create any association, partnership, joint venture or agency relationship between the City and Developer or to impose any such obligation or liability upon either Party other than a contractual relationship as expressly set forth in this Agreement. Neither Party shall have any right, power or authority to enter into any agreement or undertaking for, or act as or be an agent or representative of, or otherwise bind, the other Party other than a contractual relationship as expressly set forth in this Agreement; nor shall either Party in any manner act or indicate to any third party that it is acting as the agent of the other Party.

10.15   Headings.

The headings and captions of this Agreement are solely for the convenience of the Parties and shall not be deemed to modify or vary any of the substantive terms thereof.

10.16   Counterparts.

This Agreement may be executed in one or more counterpart copies, all of which counterparts shall have the same force and effect as if all Parties had executed a single copy of this Agreement.

10.17   No Waiver.

Failure by either Party to assert or declare any one breach or failure to perform shall not be construed as a waiver of any other or subsequent breach or failure to perform.

10.18   Successors and Assigns.

The rights, powers and remedies of each Party shall inure to the benefit of such Party and its successors and permitted assigns.

10.19   Attorneys' Fees.

If any action shall be instituted between the City and Developer in connection with this Agreement, the prevailing Party in such action shall have the right to recover its reasonable costs, attorney's fees and expenses incurred in connection with such action.

10.20   Injunctive Relief.

The Parties acknowledge and agree that any violation or breach of the provisions of this Agreement may result in irreparable injury to a Party for which a remedy at law may be inadequate. In addition to any relief at law that may be available to a non-breaching Party for such violation or breach, and regardless of any other provision contained in this Agreement, such Party shall be entitled to seek injunctive and other equitable relief and shall not be required to post any bond in connection therewith.

(*signature page follows next*)

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as of the day and year stated above.

Dated:

CITY OF BLOOMINGTON
an Indiana municipal corporation

By: _____

Its:. _____

 [APPROVED AS TO FORM]

[Corporation Counsel]

HOOSIER NETWORKS, LLC
a Delaware Limited Liability Company

By: _____

Its: _____

Exhibits and Appendices

Exhibit A: Form of Master Easement Agreement

Exhibit B: Form of Master License Agreement

Exhibit C: City Maintenance Obligations

Exhibit D: Developer Maintenance Obligations

Exhibit E: Project Boundary

Exhibit F: Exclusive Period Performance Assessment

Exhibit G: Digital Equity Performance Assessment

Appendix 1: ROW Map

Appendix 2: Conduit Map

Exhibit A

Form of Master Easement Agreement

[to be attached]

MASTER EASEMENT AGREEMENT

THIS AGREEMENT (hereinafter referred to as "Agreement") dated as of [__] 20__, entered into at [place] by and between Hoosier Networks, LLC, a Delaware limited liability company, hereinafter referred to as "PERMITTEE", and the CITY OF [place], a [municipal][state] corporation, hereinafter referred to as "CITY".

WITNESSETH

WHEREAS, PERMITTEE and CITY have entered into a Master Development Agreement dated as of_____, 20__ (hereinafter referred to as the "Development Agreement") relating to the installation of a fiber optic cable system and associated appurtenances (hereinafter referred to as the "System"); and

WHEREAS, pursuant to the Development Agreement, CITY has agreed to grant to PERMITTEE the right to install the System within portions of the CITY's rights-of-way.

NOW, THEREFORE, in consideration of the promises hereinafter made, said parties hereby agree as follows:

1.   The above recitals are, by this reference, hereby incorporated as if they had been set forth in the text of this Agreement.

2.   All terms not defined herein shall have the same meaning as set forth in the Development Agreement.

3.   CITY hereby grants and conveys to PERMITTEE, and its licensees, successors, lessees, transferees, and assigns, the right of encroachment in portions of the City's rights-of-way (Public ROW), upon the terms set forth herein, to erect, install, construct, operate, repair, replace, reconstruct, remove, maintain, use, or retain in, on, over, under, upon, across, along, and through, certain portions of the Public ROW as more particularly shown on Appendix 1 and made a part hereof thereto (the "Encroachment Area"), for the purposes of erecting, installing, constructing, operating, repairing, replacing, reconstructing, removing, maintaining, using and retaining said System, including, without limitation, wires, cables, ducts, conduits, connectors, vaults, huts, cabinets, manholes, manhole covers, pedestals, appliances, splitters, attachments, and other property, equipment, components, materials, apparatus and appurtenances to the System (the "Improvements"). This right of encroachment is subject to easements, covenants, conditions, and regulations in existence as of the date hereof.

4.   Except in the event of an emergency, PERMITTEE shall provide notice to CITY at least forty-eight (48) hours prior to any intended access to the Encroachment Area. In the event of an emergency (which shall include any loss of service on the System),

PERMITTEE shall provide notice to CITY as soon as practicable and if at all possible prior to accessing the Encroachment Area. PERMITTEE shall comply at all times with the then current traffic control handbook.

5.   All of the rights and privileges conferred upon PERMITTEE pursuant to this Agreement may be exercised by PERMITTEE, its successors and assigns, employees, agents, licensees, invitees, lessees, designated personnel, contractors, and all others authorized by them ("Permittee Personnel"), from time to time and at any time, without notice to CITY except as set forth in Section 4 of this Agreement. PERMITTEE shall have the right to assign or transfer this Agreement and the rights contained herein in its favor without the consent of CITY provided that such assignment or transfer complies with the Development Agreement and that PERMITTEE provides notice to CITY prior to such assignment or transfer.

6.   Subject to easements, covenants, conditions, and regulations in existence as of the date hereof, PERMITTEE shall be permitted to make such alterations to the Encroachment Area as are reasonably necessary to erect, install, construct, repair, replace, reconstruct, remove, maintain, operate, and use, the System including, without limitation, adding and moving electrical lines and other utilities and apparatus. PERMITTEE shall be responsible for all costs incurred in the alterations. All construction, installation, maintenance and repair of the Encroachment Area shall be conducted so as to interfere as little as practicable with CITY's use and operation of the Encroachment Area. The installation of the System and alterations by PERMITTEE in the Encroachment Area shall be done in a good and workmanlike manner by competent personnel or contractors, in conformity with all Relevant Permits, licenses, ordinances, laws and regulations, and free from any liens for labor or materials. Any damage to the Encroachment Area caused by reason of the exercise of PERMITTEE's rights hereunder shall be corrected within a reasonable time by PERMITTEE at its sole cost and expense.

7.   PERMITTEE will maintain the Improvements in accordance with the Development Agreement.

8.   PERMITTEE shall not install or construct any other structures or improvements other than the Improvements and associated appurtenances described herein.

9.   The Improvements installed within this area by PERMITTEE shall be made at no expense to CITY. PERMITTEE shall be responsible, and assume all costs, for any relocation or protection of any part of the System in the event the relocation or protection of the System is necessary due to changes in any Public ROW or in the event the City Conduit is changed at any time during the term of this Agreement.

10.   CITY, at its sole cost, shall operate, maintain and repair the City Conduit not containing any part of the System, and shall use its best efforts to avoid damaging or minimize adversely affecting the System. PERMITTEE shall have no duty to

maintain or repair the Non-System City Conduit or to keep such Conduit in good working order, except where CITY and PERMITEE agree to enter into an operation, maintenance and repair agreement whereby PERMITEE shall perform these obligations. CITY shall not make any modifications to, or alter, the City Conduit or Developer's Conduit containing any part of the System without prior written notice to PERMITTEE.

11. CITY, its agents or assigns, or any utility company or CITY franchisee may at any time enter upon the areas covered by this Agreement for the purpose of installing, maintaining, relocating, altering, enlarging, repairing, or inspecting any utility, facility, or public work thereon.

12. This Agreement shall be binding upon the successors and assigns of PERMITTEE.

13. PERMITTEE agrees to defend, indemnify, and hold harmless CITY, its officers, agents, employees, and volunteers (the "City Indemnitees") from all loss, cost, and expense arising out of any liability or claim of liability for personal injury, bodily injury to persons, property damage, or impairment of contractual activities due to the acts or omissions of PERMITTEE or those of any of its officers, agents, employees, or assigns whether such act is authorized by this Agreement or not; and PERMITTEE shall pay for any and all damages, done or caused by such persons. CITY assumes no responsibility whatsoever for any property placed in the right of way. PERMITTEE further agrees to waive all rights of subrogation against CITY. The defense obligation provided for hereunder shall apply without any advance showing of negligence or wrongdoing by PERMITEE, its officers, agents, and/or employees, but shall be required whenever any claim, action, complaint, or suit asserts as its basis the acts or omissions of PERMITTEE, its officers, agents, and/or employees, whether or not PERMITTEE, its officers, agents, and/or employees are specifically named or otherwise asserted to be liable. Notwithstanding the foregoing, PERMITTEE shall not be liable for the defense or indemnification of the City Indemnitees for claims, actions, complaints, or suits arising out of the negligence or willful misconduct of the City Indemnitees.

14. CITY agrees to defend, indemnify, hold free and harmless PERMITTEE, its officers, agents and employees ("Developer Indemnitees"), at the CITY's sole expense, from and against any and all claims, actions, suits or other legal proceedings brought against the Developer Indemnitees arising out of the acts or omissions of the CITY, its officers, agents, and/or employees, pursuant to this Agreement. The defense obligation provided for hereunder shall apply without any advance showing of negligence or wrongdoing by the CITY, its officers, agents, and/or employees, but shall be required whenever any claim, action, complaint, or suit asserts as its basis the acts or omissions of the CITY, its officers, agents, and/or employees, whether or not the CITY, its officers, agents, and/or employees are specifically named or otherwise asserted to be liable. Notwithstanding the foregoing, the CITY shall not be liable for the defense or indemnification of the Developer Indemnitees for claims,

actions, complaints or suits arising out of the negligence or willful misconduct of the Developer Indemnitees.

15.   PERMITTEE shall restore damaged or disturbed surfaces or underground utilities at or adjacent to the Encroachment Area to a usable and acceptable state, but for normal wear and tear. Restoration shall be carried out immediately after construction and completed within sixty (60) days of construction completion, or at a later date as mutually agreed upon between PERMITTEE and the CITY. To the extent the restoration is not completed within the specified timeframe, PERMITEE and CITY may either (i) mutually agree upon a timeline extension, with the PERMITTEE providing a detailed development plan to reach the new scheduled completion date, or (ii) mutually agree that the CITY shall complete the restoration work itself at the PERMITTEE's expense.

16.   The term of this AGREEMENT is for THIRTY (30) years commencing on the Effective Date of the Development Agreement unless or until terminated earlier pursuant to this AGREEMENT. The term of this AGREEMENT shall be renewed for succeeding terms of THIRTY (30) years each, unless either party gives written notice to the other at least ninety (90) days prior to the expiration of any term of its intention not to renew this AGREEMENT or an uncured breach exists per Section 8.2 of the Development Agreement. This Agreement shall terminate upon the termination or expiration of the Development Agreement, including any extensions thereof.

17.   The System and all of its parts and components which are installed and constructed by PERMITTEE in the Encroachment Area shall at all times be and remain the property of PERMITTEE.

18.   PERMITEE understands and agrees that from time to time during the term of this Agreement and any renewals, the CITY may need to engage in road improvements or other infrastructure projects and that such projects may require relocation or re-routing PERMITEE System components. The CITY will give PERMITEE prompt notice of any such improvements and will use its best efforts to minimize impeding, disturbing, interfering with, or restricting, PERMITTEE's access to, use and possession of the Encroachment Area. CITY will alter the Encroachment Area to accommodate relocation or re-routing. Costs of such relocation or re-routing will be borne by PERMITEE in accordance with CITY's standard policy.

19.   The terms, conditions and rights contained herein shall be covenants running with the land and shall remain in effect for as long as the Development Agreement remains in effect. Upon the termination of this Agreement, PERMITTEE shall not be obligated to and shall not, without the City's prior approval, remove all or any part of the System from the Public ROW. PERMITTEE shall provide the CITY with a record showing which parts of the System are abandoned upon termination no later than fifteen (15) days after termination. The terms and conditions contained herein

shall bind, inure to the benefit of, and be enforceable by, CITY and PERMITTEE, and their respective successors and assigns (including, without limitation, any and all successors to CITY in title to all or any portion of the Public Way).

20.   If any term, provision or condition in this Agreement shall, to any extent, be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and each term, provision and condition of this Agreement shall be valid and enforceable to the fullest extent permitted by Applicable Law.

21.   The rights granted pursuant to this Agreement shall not terminate or be in any way impaired by reason of a change in any uses of the Public ROW or the present Improvements or fixtures thereon.

22.   In the event of a conflict between the terms of this Agreement and the terms of the Development Agreement, the terms of the Development Agreement shall control.

23.   In the event of a breach of this Agreement by a Party, the other Party shall be entitled to specific performance of any provision which reasonably lends itself to such remedy and other equitable relief such as injunctive relief, in addition to all other remedies permitted by law including, without limitation, damages.

[SIGNATURE BLOCK ON NEXT PAGE]

IN WITNESS WHEREOF, the Parties have caused this Master Easement Agreement to be executed as of the day and year stated above.

CITY OF BLOOMINGTON
a [state] [municipal] corporation

By:_____

Its:._____

[APPROVED AS TO FORM]

[Corporation Counsel]

HOOSIER NETWORKS, LLC
a Delaware Limited Liability Company

By:_____

Its:_____

ACKNOWLEDGEMENT

State of_____
County of_____

On _____ before me, _____ personally appeared_____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of [jurisdiction] that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature_____(Seal)

Exhibit B

Form of Master License Agreement

[to be attached]

MASTER LICENSE AGREEMENT

THIS AGREEMENT (hereinafter referred to as "Agreement") dated as of [__] 20__, entered into at [place], by and between Hoosier Networks LLC, a Delaware limited liability company, hereinafter referred to as "LICENSEE," and the CITY OF BLOOMINGTON, a municipal corporation, hereinafter referred to as "CITY".

WITNESSETH

WHEREAS, LICENSEE and CITY have entered into a Master Development Agreement dated as of_____, 2022 (hereinafter referred to as the "Development Agreement") relating to the installation of a fiber optic cable system and associated appurtenances (hereinafter referred to as the "System"); and

WHEREAS, pursuant to the Development Agreement, CITY has agreed to grant to LICENSEE the right to install the System within portions of the City Conduit (as defined in the Development Agreement) as set forth in the survey attached hereto as APPENDIX 2.

NOW, THEREFORE, in consideration of the premises and promises hereinafter made, said parties hereby agree as follows:

1. The above recitals are, by this reference, hereby incorporated as if they had been set forth in the text of this Agreement.

2. All terms not defined herein shall have the same meaning as set forth in the Development Agreement.

3. CITY hereby grants and conveys to LICENSEE, and its licensees, successors, lessees, transferees, and assigns, a license to occupy portions of the City Conduit, upon the terms set forth herein, to erect, install, construct, operate, repair, replace, reconstruct, remove, maintain, use, or retain in, on, over, under, upon, across, along, and through, certain portions of the City Conduit as more particularly shown on Appendix 2 and made a part hereof thereto (the "License Area"), for the purposes of erecting, installing, constructing, operating, repairing, replacing, reconstructing, removing, maintaining, using and retaining said System, including, without limitation, wires, cables, ducts, conduits, connectors, vaults, huts, cabinets, manholes, manhole covers, pedestals, appliances, splitters, attachments, and other property, equipment, components, materials, apparatus and appurtenances to the System (the "Improvements"). This license is subject to easements, covenants, conditions, and regulations in existence as of the date hereof.

4. Except in the event of an emergency, LICENSEE shall provide notice to CITY at least forty-eight (48) hours prior to any intended access to the License Area. In the event of an emergency (which shall include any loss of service on the System), LICENSEE shall provide notice to CITY as soon as practicable and if at all possible prior to accessing the License Area. LICENSEE shall comply at all times with the

then current traffic control handbook.

5.   All of the rights and privileges conferred upon LICENSEE pursuant to this Agreement may be exercised by LICENSEE, its successors and assigns, employees, agents, licensees, invitees, lessees, designated personnel, contractors, and all others authorized by them ("LICENSEE PERSONNEL"), from time to time and at any time, without notice to CITY except as set forth in Section 4 of this Agreement. LICENSEE shall have the right to assign or transfer this Agreement and the rights contained herein in its favor without the consent of CITY, provided that such assignment or transfer complies with the Development Agreement and that LICENSEE provides notice to CITY prior to such assignment or transfer.

6.   Subject to easements, covenants, conditions, and regulations in existence as of the date hereof, LICENSEE shall be permitted to make such alterations to the License Area as are reasonably necessary to erect, install, construct, repair, replace, reconstruct, remove, maintain, operate, and use, the System including, without limitation, adding and moving electrical lines and other utilities and apparatus. LICENSEE shall be responsible for all costs incurred in the alterations. All construction, installation, maintenance and repair of the License Area shall be conducted so as to interfere as little as practicable with CITY's use and operation of the License Area. The installation of the System and alterations by LICENSEE in the License Area shall be done in a good and workmanlike manner by competent personnel or contractors, in conformity with all Relevant Permits, licenses, ordinances, laws and regulations, and free from any liens for labor or materials. Any damage to the License Area caused by reason of the exercise of LICENSEE's rights hereunder shall be corrected within a reasonable time by LICENSEE at its sole cost and expense.

7.   LICENSEE will maintain the Improvements in accordance with the Development Agreement.

8.   LICENSEE shall not install or construct any other structures or improvements other than the Improvements and associated appurtenances described herein.

9.   The Improvements installed within this area by LICENSEE shall be made at no expense to CITY. LICENSEE shall be responsible, and assume all costs, for any relocation or protection of any part of the System in the event the relocation or protection of the System is necessary due to changes in any Public Way or in the event the City Conduit is changed at any time during the term of this Agreement.

10.   CITY, at its sole cost, shall operate, maintain and repair the City Conduit not containing any part of the System, and shall use its best efforts to avoid damaging or minimize adversely affecting the System. LICENSEE shall have no duty to maintain or repair the non-System City Conduit or to keep such Conduit in good working order, except where CITY and LICENSEE agree to enter into an operation, maintenance and repair agreement whereby LICENSEE shall perform these

obligations. CITY shall not make any modifications to, or alter, the City Conduit or Developer's Conduit containing any part of the System without prior written notice to LICENSEE.

11.   CITY, its agents, or assigns, or any utility company or CITY franchisee may at any time, enter upon the areas covered by this Agreement for the purpose of installing, maintaining, relocating, altering, enlarging, repairing, or inspecting any utility, facility, or public work thereon.

12.   This Agreement shall be binding upon the successors and assigns of LICENSEE.

13.   LICENSEE agrees to defend, indemnify, and hold harmless CITY, its officers, agents, employees, and volunteers (the "City Indemnitees") from all loss, cost, and expense arising out of any liability or claim of liability for personal injury, bodily injury to persons, contractual activities due to the acts or omissions of LICENSEE or those of any of its officers, agents, or employees, or assigns whether such act is authorized by this Agreement or not; and LICENSEE shall pay for any and all damages, done or caused by such persons. CITY assumes no responsibility whatsoever for any property placed in the right of way. LICENSEE further agrees to waive all rights of subrogation against CITY. The defense obligation provided for hereunder shall apply without any advance showing of negligence or wrongdoing by LICENSEE, its officers, agents, and/or employees, but shall be required whenever any claim, action, complaint, or suit asserts as its basis the acts or omissions of LICENSEE, its officers, agents, and/or employees, whether or not LICENSEE, its officers, agents, and/or employees are specifically named or otherwise asserted to be liable. Notwithstanding the foregoing, LICENSEE shall not be liable for the defense or indemnification of the City Indemnitees for claims, actions, complaints, or suits arising out of the negligence or willful misconduct of the City Indemnitees.

14.   CITY agrees to defend, indemnify, hold free and harmless LICENSEE, its officers, agents and employees ("Developer Indemnitees"), at the CITY's sole expense, from and against any and all claims, actions, suits or other legal proceedings brought against the Developer Indemnitees arising out of the acts or omissions of the CITY, its officers, agents, and/or employees, pursuant to this Agreement. The defense obligation provided for hereunder shall apply without any advance showing of negligence or wrongdoing by the CITY, its officers, agents, and/or employees, but shall be required whenever any claim, action, complaint, or suit asserts as its basis the acts or omissions of the CITY, its officers, agents, and/or employees, whether or not the CITY, its officers, agents, and/or employees are specifically named or otherwise asserted to be liable. Notwithstanding the foregoing, the CITY shall not be liable for the defense or indemnification of the Developer Indemnitees for claims, actions, complaints or suits arising out of the negligence or willful misconduct of the Developer Indemnitees.

15.   LICENSEE shall restore damaged or disturbed surfaces or underground utilities at or adjacent to the License Area to usable and acceptable state, but for normal wear and tear. Restoration shall be carried out immediately after construction and completed

within sixty (60) days of construction completion, or at a later date as mutually agreed upon between LICENSEE and the CITY. To the extent the restoration is not completed within the specified timeframe, LICENSEE and CITY may, either (i) mutually agree upon a timeline extension, with LICENSEE providing a detailed development plan to reach the new scheduled completion date, or (ii) mutually agree that the CITY shall complete the restoration work itself at the LICENSEE's expense.

16. The term of this AGREEMENT is for THIRTY (30) years commencing on the Effective Date of the Development Agreement unless or until terminated earlier pursuant to this AGREEMENT. The term of this AGREEMENT shall be renewed for succeeding terms of THIRTY (30) years each unless either party gives written notice to the other at least ninety (90) days prior to the expiration of any term of its intention not to renew this AGREEMENT, or an uncured breach exists per Section 8.2 of the Development Agreement. This Agreement shall terminate upon the termination or expiration of the Development Agreement, including any extensions thereof.

17. The System and all of its parts and components which are installed and constructed by LICENSEE in the License Area shall at all times be and remain the property of LICENSEE.

18. LICENSEE understands and agrees that from time to time during the term of this Agreement and any renewals, the CITY may need to engage in road improvements or other infrastructure projects and that such projects may require relocation or re-routing LICENSEE System components. The CITY will give LICENSEE prompt notice of any such improvements and will use its best efforts to minimize impeding, disturbing, interfering with, or restricting, LICENSEE's access to, use and possession of the License Area. Costs of relocation or re-routing will be borne by LICENSEE in accordance with CITY's standard policy.

19. The terms, conditions and rights contained herein shall be covenants running with the land and shall remain in effect for as long as the Development Agreement remains in effect. Within thirty (30) days after termination of this Agreement, LICENSEE shall, at City's election, remove any abandoned or unused Improvements from the City Conduit. The terms and conditions contained herein shall bind, inure to the benefit of and be enforceable by, CITY and LICENSEE, and their respective successors and assigns (including, without limitation, any and all successors to CITY in title to all or any portion of the City Conduit).

20. If any term, provision or condition in this Agreement shall, to any extent, be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and each term, provision and condition of this Agreement shall be valid and enforceable to the fullest extent permitted by Applicable Law.

21. In the event of a conflict between the terms of this Agreement and the terms of the Development Agreement, the terms of the Development Agreement shall control.

22.   In the event of a breach of this Agreement by a Party, the other Party shall be entitled to specific performance of any provision which reasonably lends itself to such remedy and other equitable relief such as injunctive relief, in addition to all other remedies permitted by law including, without limitation, damages.

[SIGNATURE BLOCK ON NEXT PAGE]

IN WITNESS WHEREOF, the Parties have caused this Master License Agreement to be executed as of the day and year stated above.

CITY OF BLOOMINGTON
a [state] [municipal] corporation

By:

Its:.

 [APPROVED AS TO FORM]

[Corporation Counsel]

HOOSIER NETWORKS, LLC
a Delaware limited liability company

By:

Its:

ACKNOWLEDGMENT

State of_____
County of_____

On _____ before me, _____ personally appeared_____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of [jurisdiction] that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature_____(Seal)

Exhibit C

City Maintenance Obligations

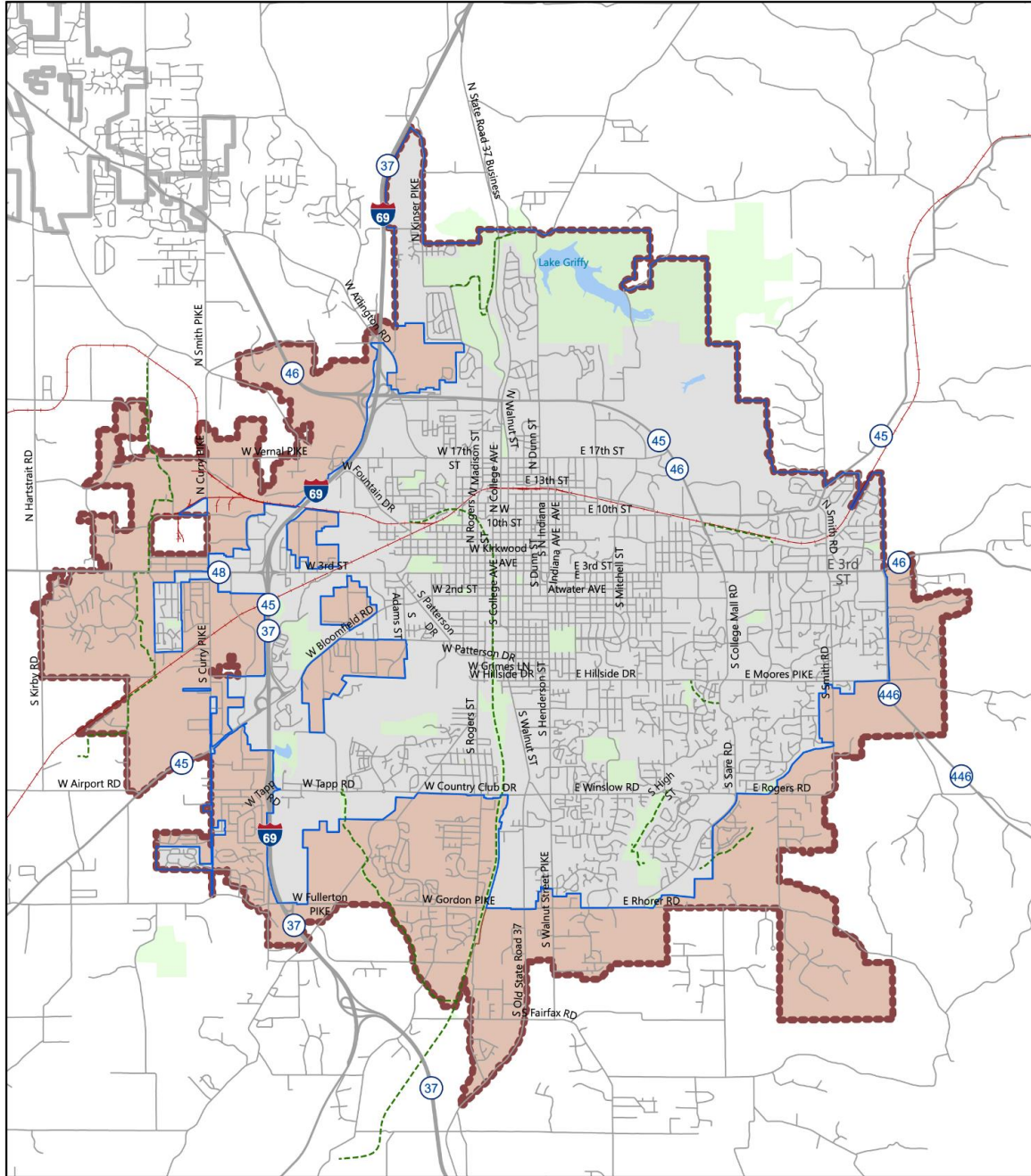*[to be finalized by the Parties within sixty (60) days of executing the Agreement]*

Exhibit D

Developer Maintenance Obligations

[to be finalized by the Parties within sixty (60) days of executing the Agreement]

Exhibit E

(See Section 1 (*Definition of Terms; Boundary*) of the Agreement

Meridiam Fiber Project Area

ITS Department
City of Bloomington

Produced: 5/6/2022

Primary Area (2021 Municipal Boundary)   Project Boundary

Secondary Area (2021 Annexation Areas)

0   0.5   1   2 MI

For use as map information only, information is NOT warranted.

Layout: MeridiamProjectAreaMap
Project: MeridiamFiberPlanning

<div align="center">

Exhibit F

Exclusive Period Performance Assessment

</div>

Per Section 7.3.2(h), Developer's Primary ISP shall be entitled to a five-year exclusivity period on the Bloomington Network, with the potential to extend that period for up to two additional years if the Primary ISP meets the specified level of market penetration – 35% – by Year 5.

This arrangement is intended to provide a brief initial period to demonstrate the viability of the business model, while ensuring that the network operates on an open access basis thereafter.

Because the Bloomington Network will take approximately three years to complete, the Primary ISP will not have the full five (5) years of operation in which to achieve 35% market penetration. Accordingly, to assess whether the Primary ISP has achieved 35% market penetration overall by the end of Year 5, and again in Year 6, the parties will adjust the percentage of penetration needed in areas served for fewer than five (5) years, as reflected in the chart below.

Using this assessment approach, to merit an extension of exclusivity, in Years 5 and 6:

- 35% of units passed in Year 1 must be active network users;
- 30% of units first passed in Year 2 must be active network users;
- 25% of units first passed in Year 3 must be active network users;
- 20% of units first passed in Year 4 (if any) must be active network users;
- 10% of units first passed in Year 5 (if any) must be active network users; and
- 10% of units first passed in Year 6 (if any) must be active network users.

For assessment purposes, at the end of Year 5 and, as applicable, Year 6, these percentages for units passed are multiplied by units passed in the respective years, to yield a numerical target for each build year. These targets are summed across all of the build years to yield a performance target number of units. If the actual number of units connected on the date of assessment is equal or greater than the sum of the target number, then the assessment is positive. Otherwise it fails.

The following tables illustrate successful and failed performance assessment scenarios for the determination of whether the Primary ISP's exclusivity period will extend for one or two additional years prior to operating the network on a full open-access basis.

Successful assessment scenario; ISP entitled to extra year of exclusivity:

Year Activated	Units Passed	Performance Assessment Rate	Performance Target Units	Actual Units on Assessment Date	Difference between Actual and Target
1	100	**35%**	35	45	10
2	150	**30%**	45	40	-5
3	100	**25%**	25	20	-5

Year Activated	Units Passed	Performance Assessment Rate	Performance Target Units	Actual Units on Assessment Date	Difference between Actual and Target
4	30	**20%**	6	8	2
5	10	**10%**	1	6	5
	390		112	119	7

Failed assessment scenario; ISP not entitled to extra year of exclusivity:

Year Activated	Units Passed	Performance Assessment Rate	Performance Target Units	Actual Units on Assessment Date	Difference between Actual and Target
1	100	**35%**	35	45	10
2	150	**30%**	45	40	-5
3	100	**25%**	25	15	-10
4	30	**20%**	6	5	-1
5	10	**10%**	1	4	3
	390		112	109	-3

Exhibit G

Digital Equity Performance Assessment

This Exhibit more fully describes the Digital Equity performance goals which the parties will aim to meet under Section 7.6.2 of the Agreement.

One significant measure of the success of the Digital Equity Program is to achieve take rates in low-income communities equivalent to take rates in non-low-income communities.

To assess the performance of the Developer against this Digital Equity Program goal, the Parties agree to the following:

- City will define a geographic footprint (or parcel list) of low-income units – totaling 20% of units within the Boundary – to define low-income areas for targeted investment. At the City's discretion this map may be informed by low-income census block, public housing and other factors.
- On a quarterly basis Developer will report to the City the low-income and overall take rate.

Areas identified as low-income can be adjusted once every 5 years with one-year advanced notice.

Appendix 1

[will be included with Master Easement Agreement]

Appendix 2

See attached conduit map below. This map reflects the path of the City's telecommunications conduit network. This network consists of underground conduit, maintenance holes, hand holes, telecom tubs and associated assets. At all points on the map included herein there are at least 2 conduits installed. Conduit #1 is occupied by City of Bloomington fiber for use by the City as described in this Agreement. Wherever present, the unused #2 conduit may be used by Meridiam to fulfill its obligations for the term of this agreement. Conduit #2 is either 1.5in, 2in, or 4 inch conduit in different places in the network. Conduit #2 is the specified section of the City's Conduit, and the other network components described in this Appendix 2 are the City owned, managed or abandoned telecommunications infrastructure, referenced in Section 2.1.2 of this Agreement.

From time to time the City may add additional conduit to its conduit network. The City will provide Developer with access to such additional conduit that forms part of Conduit #2, subject to the terms of this Agreement.

Bloomington Digital Underground

Communications Conduit Network

ITS
Department
City of Bloomington

0   0.5   1   2
                             MI

For use as map information only, information is NOT warranted.