

1. INTRODUCTION

This Agreement between **Williams Communications, Inc., a Delaware corporation with an office at 110 West 7th Street, Suite 800, Tulsa, Oklahoma, 74119** (Carrier) for itself and for its employees, agents, contractors, and the Wisconsin Department of Transportation (WisDOT), specifies the terms and conditions required by WisDOT to enable Carrier to construct, operate, and maintain fiber optic communication facilities longitudinally within WisDOT's Interstate 94 right-of-way in exchange for cash compensation. WisDOT's authority to enter into this Agreement includes sections 66.047, 84.01(30), 84.08, 85.15, 86.07(2), 86.16, and 182.017, Wisconsin Statutes (1997-98).

2. UTILITY ACCOMMODATION POLICY

Unless otherwise specified in this Agreement or right-of-way occupancy permit, WisDOT's Utility Accommodation Policy (8/97) (Policy) shall govern during all aspects of construction, operation, and maintenance of Carrier's communication facilities. This Policy is amended from time to time by WisDOT. Facilities installed by Carrier prior to changes in the Policy shall not be expected to meet the new version unless modifications to those facilities require an occupancy permit from WisDOT or are required by federal, state or local laws, codes or ordinances. By signing this Agreement, Carrier acknowledges that it has received, read, and understands the Policy.

3. PRELIMINARY CORRIDOR SURVEYS

Carrier may perform preliminary corridor surveys to develop engineering plans, check for environmental conditions, perform soil borings, etc. If Carrier elects to perform a corridor survey, it shall submit for approval form EM-405, "Application/Permit to Work on Highway Right-of-Way" from WisDOT prior to doing any work.

4. RIGHT-OF-WAY USE

Carrier shall use WisDOT's right-of-way only for the construction, operation, and maintenance (collectively: operations) of a longitudinal communications facility. Any other use of the right-of-way without the prior written permission of WisDOT shall constitute breach by Carrier of this Agreement. The use of the right-of-way along with all corresponding operations shall:

- 1) Be in accordance with the requirements of all applicable governmental agencies including the Federal Communications Commission (FCC), the United States Corps of Engineers, and the Wisconsin Department of Natural Resources.
- 2) Comply with all laws, orders, ordinances, regulations, licenses and permits, if any, of federal, state, and local authorities.
- 3) Not interfere with WisDOT's use of its property, the free and safe flow of traffic, WisDOT construction or maintenance work, or with WisDOT's radio or other communications unless prior written approval is expressly granted by WisDOT.
- 4) Not interfere with the operations of any utility or other carrier.
- 5) Not cause any public safety hazard.

5. HIGHWAY LOCATIONS

This agreement is specific to Interstate 94 from the Minnesota/Wisconsin border (including the bridge across the St. Croix River) to just east of USH 12 near Elk Mound and from just south of the National Avenue interchange in Milwaukee to the Illinois/Wisconsin border. It also includes a portion of USH 151 from Hoepker Road to Reiner Road in Dane County. See Attachment A.

6. OTHER UTILITIES

Subject to WisDOT approval, Carrier shall be allowed to have other utilities installed to serve its facility. All utilities shall first obtain a permit from WisDOT in order to occupy its right-of-way. Carrier shall be solely responsible for and timely pay all of its utility costs.

7. PERMITS

Carrier shall follow WisDOT's standard utility permit process to facilitate the installation of its facilities. Neither this agreement nor any permit issued grants Carrier or any other person or entity an easement nor any property right or interest to the occupied WisDOT right-of-way, nor supersedes any other governmental agencies' more restrictive requirements.

Carrier shall fill out and submit one original with an authorized signature plus seven copies of WisDOT's current permit form DT-1553, "Application/Permit to Construct and Operate Utility Facilities on Highway Right-of-Way" [see Attachment B], for this installation along with detailed engineering plans depicting the proposed alignment locations. See Policy 96.11 for more information. Upon receiving the application in the appropriate District office, WisDOT shall have 20 calendar days in which to approve or deny the permit. WisDOT reserves the right to suspend permits or withhold permit approvals for non-compliance violations as outlined in section 13B of this Agreement.

The permits covered under this Agreement are for I94 only. Permits to longitudinally occupy 2lane highways or cross any other state trunk highway shall be submitted separately to the appropriate district office. Permits for joint construction (see section 9-3) cover the location and installation of facilities for both carriers, but each carrier is still obligated to comply with its own Agreement and WisDOT's Policy. Carrier is also obligated to obtain the necessary permits from those local jurisdictions whose highways cross over or under WisDOT's right-of-way even though Carrier is technically within WisDOT's right-of-way.

8. AGREEMENT/PERMIT TERM LENGTH

The Agreement term shall be 20 years from the date of signing by WisDOT. Carrier shall have the option to renew for one, successive 20-year term. A right-of-way occupancy fee shall be paid to WisDOT prior to each 20-year term (see section 9). If Carrier exercises its option to renew, then Carrier and WisDOT agree to begin negotiations regarding any alterations that may be necessary to the original Agreement at least one year prior to its expiration date. If the original Agreement expires before it can be revised, Carrier shall be allowed to continue to occupy the right-of-way unless WisDOT provides notice of termination as stated in section 13. Such occupancy shall be on a month-to-month basis under the same terms and conditions as this Agreement, except the fee shall be converted to monthly payments and increased using the guidelines as listed in the Policy at that time.

Each of the individual occupancy permits for the construction, operation, and maintenance of Carrier's communications facility shall become part of this Agreement upon issuance as Attachment A, and expire at the same time as this Agreement. Other permits issued to Carrier prior to actual construction (e.g., for preliminary corridor surveys) or for changes beyond routine maintenance after construction (see Policy 96.61), shall be effective for the dates listed on each individual permit and shall not affect the terms of this Agreement. Once Carrier and WisDOT achieve a renewed Agreement, new permits may be issued or the existing permits extended for the subsequent term.

9. CONDITIONS OF ISSUING OCCUPANCY PERMITS

Carrier and WisDOT agree to the following conditions in conjunction with WisDOT's authorization of occupancy permits on Interstate 94 right-of-way for a 20-year period:

- 1) Carrier shall be allowed to place its fiber cables within three innerducts owned by Touch America on the westbound I94 St. Croix River bridge in St. Croix County. Since the bridge borders Minnesota and Wisconsin, both the Minnesota Department of Transportation (Mn/DOT) and WisDOT shall agree to the project requirements before an occupancy permit can be approved for the bridge. A Memorandum of Understanding has been established between the DOTs documenting these requirements (see Attachment C). Touch America will grant an infeasible right of use (IRU) to Carrier for this installation (see Attachment D).

9. CONDITIONS OF ISSUING OCCUPANCY PERMITS (continued)

- 2) Carrier shall install no more than three conduits (two, 1½-inch diameter and one, 1¼-inch diameter) longitudinally along the following highways:
- The south right-of-way line of eastbound I-94 between the St. Croix River bridge in St. Croix County to approximately 3.7 miles east of the USH 12 interchange in Dunn County near Elk Mound (~ milepost 55.9). This includes the eastbound I-94 bridge over the Red Cedar River in Dunn County
 - The north (west) right-of-way line of southbound USH 151 from Hoepker Road to Reiner Road in Dane County.
 - The west frontage road of eastbound I-94 from the I-43/94/894 (Mitchell) interchange to the Illinois/Wisconsin border in Milwaukee, Racine, and Kenosha Counties.
 - The east right-of-way line of northbound I-43/westbound I-94 from STH 38 (6th Street) to the Mitchell interchange in Milwaukee County.
 - The west right-of-way line of southbound I-43/eastbound I-94 from STH 38 (6th Street) to the Canadian Pacific Railroad in Milwaukee County.
 - The northbound I-43/westbound I-94 bridge over the Kinnickinnic River in Milwaukee County.
 - The southbound I-43/eastbound I-94 bridge over the Kinnickinnic River in Milwaukee County.

Items c) through f) are needed to provide Carrier with a redundancy in its network. Carrier is not limited to the number of fibers contained within each conduit.

- 3) Carrier shall joint construct with Touch America, Inc. of Helena, MT for items 2a) and 2c). Touch America will be the lead carrier for the installation and shall place Carrier's three conduits next to its own conduits, but Carrier shall be responsible for installing its own fiber. See Attachment D for the joint construction agreement between Carrier and Touch America, Inc.

- 4) Carrier shall pay WisDOT a **\$652,700** fee for the right to occupy 91 miles of I-94 right-of-way and four bridges. The fee is comprised of the following:

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|---|-----------|
| a) Item 1 – Place fiber within three conduits @ \$10,000/conduit | \$30,000 |
| b) Item 2a – 55.9 miles @ \$5,500/mile | \$307,450 |
| c) Item 2a – 3 conduits @ \$10,000/conduit..... | \$30,000 |
| d) Item 2b – 0.255 miles @ \$5,500/mile | \$1,400 |
| e) Item 2c – 23.9 miles @ \$5,500/mile + 4.4 miles @ \$8,250/mile | \$167,750 |
| f) Item 2d – 5.0 miles @ \$8,250/mile | \$41,250 |
| g) Item 2e – 1.8 miles @ \$8,250/mile | \$14,850 |
| h) Item 2f – 3 conduits @ \$10,000/conduit | \$30,000 |
| i) Item 2g – 3 conduits @ \$10,000/conduit | \$30,000 |

- 5) The occupancy fee shall be paid within one week after WisDOT signs the Agreement. WisDOT may terminate this Agreement if Carrier fails to pay the fee within 20 calendar days of the date WisDOT signs this Agreement. Any payment that is made more than 20 calendar days past the due date shall also include a late fee of 3 percent per month. With any successor Agreement, the fee shall be determined by using WisDOT's current fee schedule, if such a schedule is developed and used for all longitudinal installations of this type, or negotiated prior to the completion of this Agreement and any successor Agreement.
- 6) WisDOT has programmed both I-43/94 bridges over the Kinnickinnic River for deck replacements in 2002, and has conduit and fiber attached to the bridges for its freeway traffic management system. As a condition of Carrier attaching to those bridges, Carrier shall work with WisDOT to develop a staging plan for the temporary placement and protection of Carrier's and WisDOT's conduits/fiber as needed throughout the duration of the project. Carrier's plan shall ensure that WisDOT's fiber signals are not interrupted unless prior authorization to interrupt them is granted by WisDOT. A separate occupancy permit shall be issued for the bridge attachments, and Carrier's staging plan shall be added as a special permit provision.

9. CONDITIONS OF ISSUING OCCUPANCY PERMITS (continued)**FINAL**

- 7) Carrier shall be billed for future maintenance or improvement costs incurred by WisDOT due to the Kinnickinnic River bridge attachment including, but not limited to, bridge inspections, washing, painting, and redecking.
- 8) Carrier shall be allowed random ingress/egress from the interstate shoulder to facilitate the loading/unloading of equipment and materials. This special shoulder access requires the presence of a law enforcement officer and squad car since a traffic lane or shoulder closure is also required for work zone safety. See section 16C for details.
- 9) In all counties except Milwaukee, WisDOT, Division of State Patrol (DSP), shall provide the law enforcement presence where the interstate vehicle count is 50,000 ADT (Average Daily Traffic) or more. In Milwaukee County, the Sheriff's Department shall provide the presence. In counties where the interstate vehicle count is 50,000 ADT or less, DSP or another law enforcement agency may be used. Because of the joint construction agreement with Touch America, Carrier shall reimburse Touch America for its share of costs associated with the law enforcement presence, which includes labor, fringe benefits, meals, and squad car use. Carrier shall enter into a separate contract with the Milwaukee County Sheriff's Department for shoulder access operations in that county and other law enforcement agencies if the need arises.
- 10) Carrier shall pay all costs incurred by WisDOT in providing qualified construction inspectors who will solely represent WisDOT's interests on the Milwaukee County portion of the project from STH 38 to the Mitchell interchange. These inspectors shall include staff from WisDOT and consulting engineering firms. The estimated cost for these services during the initial conduit/fiber installation is \$27,253.39 and is detailed in Attachment E. *Note: The remainder of Carrier's installation shall be joint constructed with Touch America, and a consultant inspection contract has already been established under WisDOT's Agreement with Touch America.*
- 11) Carrier shall make an initial deposit of \$30,000 to cover the costs associated with items 9-10 and 12 within one week after the date that WisDOT signs the Agreement. Within 60 days after the completion of the project, Carrier shall receive the difference between its deposit and the actual costs if they are lower than \$30,000, or be sent a final bill (payable within 30 days upon receipt) for the outstanding balance over \$30,000. Carrier shall receive a monthly report as to the amount of the expenses billed.
- 12) Carrier shall not be billed for WisDOT's administrative costs for pre-construction corridor surveys, reviewing permit/application forms, random field inspections by staff, meetings, Agreement development, environmental review, legal services, addressing non-compliance issues, and administrative duties such as phone calls, right-of-way plat retrieval, copying, etc. Carrier shall be billed for each full day (8 hours or more) that a WisDOT staff person performs construction inspection on Carrier's project.
- 13) WisDOT defines carrier's installation as a transmission line. Therefore, no service connections shall be allowed to individual property owners adjacent to the corridor without prior authorization from WisDOT. Subject to WisDOT permit approval, Carrier shall have the right to exit and enter the right-of-way to make connections to its fiber optic cables for the purposes of extending its existing line or building or connecting to another transmission line.
- 14) Carrier shall obtain new permit approvals from WisDOT, and other applicable governmental agencies and highway authorities, for the future installation of additional fiber to its existing conduits. If construction inspection or a law enforcement presence is required by WisDOT as part of the new fiber installation, Carrier shall be required to pay for those costs in a similar manner as the initial conduit/fiber installation.

10. OWNERSHIP

The facilities installed by Carrier on WisDOT right-of-way shall be Carrier's property from the date that construction begins and throughout the term of this Agreement and any successor Agreement. However, WisDOT shall retain all ownership rights to the facilities if any of the situations as outlined in sections 13B – 6&7, and 13C – 3/5/6 occurs.

Carrier shall retain the right to grant an "indefeasible right of use" (IRU) to other carriers to enable them to use its conduits or individual fibers. Those customers that obtain communications services from Carrier, either through purchasing service or leasing fiber/capacity from Carrier, do not have to pay a right-of-way occupancy fee to WisDOT nor obtain a right-of-way occupancy agreement from WisDOT.

Carrier may sell a portion of its facility (conduits or fibers) to another carrier, or grant an IRU for one or more of its conduits to another carrier with the carrier installing its own fiber. If either situation occurs, two distinct owners will now be occupying WisDOT's right-of-way. Before any transaction is completed, the new (carrier) owner shall obtain a similar right-of-way occupancy agreement from WisDOT and pay an appropriate occupancy fee. Carrier shall notify WisDOT, in writing, a minimum of 30 days prior to the transaction. WisDOT may terminate this Agreement if it discovers that Carrier has sold a portion of its facility, or granted an IRU for its conduit but another carrier retains ownership of the fiber inside, without notifying WisDOT.

Upon request by WisDOT, Carrier shall submit an affidavit to verify that it still owns all of the fiber and conduit installed under this Agreement. The affidavit shall also include the names, addresses, and contacts of the companies that have an IRU for Carrier's fiber. Even though the request will typically be made on an annual basis, WisDOT reserves the right to make a request at any time.

11. FACILITY RELOCATION

Carrier shall be given an opportunity to relocate its facility within WisDOT right-of-way if a highway project or other WisDOT-approved use conflicts with its location. In keeping with WisDOT's policy on compensable and non-compensable utility facility moves, WisDOT shall not compensate Carrier to move its facility located within the right-of-way as part of a highway project. If it is necessary to maintain uninterrupted service, Carrier shall be allowed to temporarily locate to another area of WisDOT right-of-way at a mutually acceptable location for up to 180 days during the relocation of its facilities to another permanent site

12. FUTURE ACCOMMODATIONS

This Agreement does not provide exclusive use of WisDOT right-of-way by Carrier. WisDOT may allow utility installations adjacent to Carrier's facilities, and shall provide for a reasonable distance (5-foot minimum) to be maintained from Carrier's facility to minimize potential conflicts, reduce the possibility of accidental damage, and still retain a corridor that could be utilized by other communication companies in the future. WisDOT may encourage other communications companies interested in locating within Carrier's corridor to talk to Carrier about leasing part of its facility to minimize the number of times that WisDOT's right-of-way is disrupted.

13. TERMINATION

This Agreement, or any individual occupancy permit, may be terminated at any time upon mutual consent of Carrier and WisDOT. Upon termination of this Agreement, all occupancy permit issued to Carrier and in effect at the time shall also terminate. In addition, this Agreement may terminate as follows:

13. TERMINATION (continued)

A. By WisDOT for Convenience

WisDOT may revoke any individual occupancy permit if its own use or sale of the right-of-way would be facilitated by relocation of Carrier's facilities, and shall provide Carrier with written notice a minimum of one year prior to such termination. During this period, WisDOT shall work with Carrier to find a suitable replacement area on the right-of-way (which includes any bridge) near the terminated location. If this type of revocation occurs and no replacement area is agreed upon by the parties, Carrier shall be entitled to receive a prorated refund of any prepaid fees, if applicable, based only upon the affected length of the facility.

B. By WisDOT for Non-Compliance

WisDOT may terminate this Agreement or revoke an occupancy permit if Carrier:

- 1) Fails to comply with the terms of this Agreement, or any special occupancy permit provisions.
- 2) Fails to comply with the Utility Accommodation Policy, or fails to take the proper action(s) required by WisDOT to correct Policy violations.
- 3) Violates federal, state, or local laws, codes, ordinances, licenses or permits applicable to the ownership, operation, or maintenance of the facility.
- 4) Interferes with WisDOT's operations.
- 5) Operates in a manner that threatens public safety. *Exception:* WisDOT shall not have the authority to determine that Carrier's operations threaten public safety due to concerns or complaints relating to electromagnetic emissions or other matters within the regulatory authority of the FCC or any other state or federal authority having appropriate jurisdiction, provided that Carrier is in compliance with all applicable laws and regulations of the FCC and other applicable authorities.

The specified items in 1-5 shall hereinafter be referred to as "non-compliance" actions. If public safety is threatened or there is some other non-compliance action that requires Carrier's prompt attention, WisDOT shall provide Carrier with an oral or facsimile notice and Carrier shall immediately act to effect a cure. A subsequent written notice shall follow.

With other non-compliance actions, WisDOT shall provide Carrier with written notice and Carrier shall have up to 30 days after receipt of the notice to cure the action, or start the cure, if by its nature, the condition cannot be cured within that time. Carrier may ask for an extension if the cure could take longer than 30 days. With any non-compliance action, WisDOT may temporarily suspend any (all) occupancy permit(s), shut down work in-progress, or withhold the approval of permit applications until Carrier takes action towards a cure to the satisfaction of WisDOT.

If, in WisDOT's reasonable opinion, a cure has not been effected for non-compliance actions in accordance with the terms of this Agreement, Carrier shall be provided with written notice of termination of the applicable occupancy permit(s) or the entire Agreement. Upon termination of this Agreement or any occupancy permit(s) for non-compliance actions, Carrier shall forfeit any prepaid fees, if applicable, as liquidated damages. In addition, WisDOT **shall** require Carrier to do **one** of the following:

- 6) Forfeit ownership of its entire communications facility (conduits and fiber optic cables) or only the portion of the facility used by WisDOT if the entire Agreement is terminated, or only the portion covered under an occupancy permit if that permit is revoked, as long as the facility does not pose an environmental hazard. This does not include the equipment necessary to operate or "light up" the fiber.
- 7) Remove all of its facilities if the entire Agreement is terminated, or only those facilities affected under an occupancy permit if that permit is revoked, except for those portions used by WisDOT, within 60 days, and return the right-of-way to an equal or better condition than what existed upon issuance of the occupancy permit (normal wear and tear and casualty loss excepted) at Carrier's sole cost and expense.

13. TERMINATION (continued)

Carrier shall not have any further obligation with respect to a right-of-way area if WisDOT exercises its option to keep the communications facilities in that area. Carrier's failure to comply with respect to an individual occupancy permit may not necessarily result in default to all occupancy permits. If WisDOT notifies Carrier to remove its facilities and Carrier fails to comply within 60 days of the notice, then WisDOT shall have the facilities removed and bill Carrier for the reasonable cost of removal or deduct such costs from moneys due Carrier under this Agreement.

C. By Carrier for Commercial Reasons

Carrier may terminate this Agreement or any individual occupancy permit on 30 days written notice to WisDOT if:

- 1) At any time during the term of this Agreement, it becomes commercially, economically, technologically, or legally inadvisable in Carrier's business judgment for it to utilize WisDOT's right-of-way, or if all or a significant portion of Carrier's facilities are destroyed by a natural disaster, fire, war, or other calamity.
- 2) Any required certificate, permit, license or approval is denied, canceled or otherwise terminated for reasons beyond Carrier's control such that it is unable to use WisDOT's right-of-way for its intended purposes.

Upon Carrier's termination of this Agreement or any occupancy permit(s) for commercial reasons or expiration of this Agreement without renewal, Carrier shall forfeit any prepaid fees, if applicable, to compensate WisDOT as liquidated damages, and **shall do one** of the following:

- 3) Sell the communication facilities to another carrier. The new carrier shall enter into a new Agreement with WisDOT upon mutually agreeable terms and conditions.
- 4) Abandon its facilities in place provided they do not interfere with WisDOT's operations, and Carrier proves, to the satisfaction of WisDOT, that the facilities do not pose an environmental hazard.
- 5) Remove all of its facilities within 60 days, except for the portion used by WisDOT, and return the right-of-way to an equal or better condition than what existed upon issuance of the occupancy permit(s) (normal wear and tear and casualty loss excepted) at Carrier's sole cost and expense.

Nothing in this section shall excuse Carrier from prompt payment of any fees, taxes, insurance or any other charges required of Carrier.

14. EMERGENCIES

Carrier may respond to any emergency related to its facility without first obtaining a permit from WisDOT so long it follows Policy guidelines while handling the emergency. If necessary, Carrier shall submit a permit application after the emergency to document any changes to its facility. Carrier shall pay all costs associated with any fire calls for emergency responses to its facilities. WisDOT shall bill Carrier for the amount billed to WisDOT by a town, village, or city fire department under sections 60.557(2), 61.65(8), and 62.13(8) Wisconsin Statutes (1997-98) respectively.

15. ENVIRONMENTAL COMPLIANCE

Carrier shall comply with existing or hereinafter enacted environmental laws or regulations that apply to or affect the operation of Carrier's facilities covered by this Agreement or any occupancy permit. Carrier shall not generate, store, or dispose of any hazardous materials nor transport those materials to or from the right-of-way. Carrier's facilities shall not constitute, contain, generate or release any hazardous material as defined under federal, state, and local laws.

Carrier shall perform an environmental analysis for each highway district within which it wants to place facilities before any occupancy permits are issued for that district. The screening sheets in Attachment F shall be used to document the analysis and submitted prior to Agreement approval or with each permit application. If any question on the screening sheets is checked "No", then Carrier shall work with the district environmental coordinator to resolve the conflict before a permit can be issued.

Carrier shall be responsible for obtaining all of the necessary permits or approvals from the Wisconsin Department of Natural Resources, and U.S. Army Corps of Engineers. Copies of those approvals/permits shall be submitted prior to starting construction and included as a supplement to Attachment F.

If WisDOT has an improvement project in the vicinity of Carrier's location(s) and has done an environmental assessment for that project at any time, WisDOT shall furnish Carrier with that information upon request. Any information provided to Carrier shall be considered "*for informational purposes only*" since the assessment may be incomplete or inaccurate, i.e., conditions at a particular location may change between the date of the field investigation or report, and the date a report is reviewed.

Policy 96.08 shall be used if Carrier discovers any environmental conditions on WisDOT right-of-way – either before, during, or after installation of its facilities. Carrier shall not be responsible for the assessment, mitigation or remediation of preexisting right-of-way conditions unless its operation causes the material to be disturbed and Carrier fails to follow Policy 96.08(E). When right-of-way remediation must be undertaken as a result of contamination from Carrier-generated materials not preexisting on the right-of-way, Carrier shall initiate, finance, and carry out a WisDOT approved remediation plan.

The obligations of Carrier set forth in this section shall survive the termination of this Agreement. However, if Carrier removes all of its facilities from a right-of-way area and completes the required restoration or is allowed by WisDOT to leave its underground facilities in place, and provides WisDOT with a survey from an environmental consultant licensed to do business in Wisconsin documenting that the area is free and clear from all Carrier-generated contaminants, then this obligation shall be released in writing by WisDOT for that particular location.

16. INSTALLATION REQUIREMENTS

Carrier shall be responsible for obtaining all of the required approvals or permits from agencies outside of WisDOT before commencing any construction activity on WisDOT's right-of-way, and submitting evidence of those approvals or permits with each applicable occupancy permit application. Carrier shall complete construction of its facilities by December 31, 2000. If Carrier fails to complete said construction, WisDOT shall have the option of revoking the permit and issuing a new one, or extending the time frame for completion. All installations shall follow the guidelines set forth in WisDOT's Policy, except as specified in this Agreement or in any special occupancy permit provisions. Specifically:

16. INSTALLATION REQUIREMENTS (continued)

A. Contact List/Scheduling

Carrier shall provide WisDOT with the names and telephone numbers of the people in charge of its field operations as well as other staff members who are assigned to the project and permanently stationed at Carrier's regional and corporate headquarters. This includes people who are responsible for the overall project, specific spreads, or directional boring crews. It also includes any subordinates or team leaders who may make key decisions, and any consultants or contractors who are hired by Carrier.

Field personnel shall have cellular phones or pagers that would enable a WisDOT representative to contact them at any time. Carrier shall provide WisDOT with the staff names and corresponding phone numbers no later than the pre-construction meeting (section 16E) and shall update them as necessary within three working days of a change.

Carrier shall also provide a weekly schedule of all field operations in WisDOT right-of-way to the district utility permit coordinator, Bureau of Highway Operations staff, and State Patrol District office for their respective counties. See Attachment G for a sample format. The schedule shall be provided by 8:00 AM every Monday morning, or the first working day of the week in case of a Monday holiday, and may be sent by fax, e-mail, carrier or regular mail. Specifically, the information provided shall include:

- 1) Contractor name(s) and/or Carrier crew number (or other identifying feature).
- 2) Lead contact person in the field for each contractor or crew listed in #1.
- 3) Cell phone number and/or pager number of #2.
- 4) Contractors' main office phone numbers.
- 5) Crew locations: County, highway, and termini (milepost range, road crossing(s), or other identifying features).
- 6) Brief description of planned operation for the week: include planned work activities, stoppages, number of crews, etc.

If schedules are not received by 8:00 AM, WisDOT may shut down the work operation within the district(s) involved.

B. Right-Of-Way Access

Access to WisDOT's interstate right-of-way shall be from adjacent lands, frontage roads, or crossing highways, and may be allowed from the shoulder of the highway under the strict provisions as outlined in section 16C. **WisDOT does not authorize the use of any median crossover on I-94 for any reason. Such activity is illegal and subject to a citation and fine.**

Carrier may temporarily remove a portion of WisDOT's security fence to gain access to the right-of-way. Carrier shall be responsible for effectively restricting access by others during the period when the fence is open. Overnight, the security fence shall be restored, a locked gate installed, or some other way of securing the fence completed to keep people and animals out.

C. Traffic Control

All work zone traffic control shall be in accordance with the Wisconsin Manual on Uniform Traffic Control Devices. Additional guidance is available from WisDOT through a booklet entitled, *Work Zone Safety, Guidelines for Construction, Maintenance, and Utility Operations* or from Policy 96.51. For freeway/expressway operations that continuously remain more than 30 feet from the edge of the closest traffic lane, work zone signing is not required. For operations that remain entirely beyond the delineator posts, a shoulder closure is not needed.

16. INSTALLATION REQUIREMENTS (continued)

C. Traffic Control (continued)

When unloading/loading from the interstate shoulder where the vehicle count is 50,000 ADT (Average Daily Traffic) or more, a lane closure shall be required. Lane closures are not required if the unloading/loading vehicle can park entirely off the paved shoulder, or if it can safely have the driver's side wheels on the paved shoulder and the passenger side wheels on the gravel shoulder or grass inslope, without causing any damage to the shoulder. A lateral safety buffer of at least **six** feet shall be provided between the edge of the traffic lane and the vehicle. If this buffer distance cannot be met, then a full lane closure shall be required.

With **any interstate** lane or shoulder closure where the vehicle count is 50,000 ADT or more, a law enforcement officer and squad car **shall** be present at all times to monitor the work zone. A truck mounted attenuator is recommended, but not required, to provide additional protection of vehicles and equipment parked along the shoulder. The closed lane shall remain free of all vehicles, equipment, and other obstacles to provide a lateral safety buffer.

To properly access from the interstate shoulder, the following provisions shall be strictly adhered to:

- 1) **Prior to** loading and unloading equipment or materials, proper traffic control shall be set up to close the right lane (if required) or the shoulder, and a law enforcement officer and squad car in place.
- 2) Carrier shall move its vehicles, equipment, and materials onto the shoulder **after** authorization from the officer present at the scene.
- 3) The lane closure shall be taken down (if utilized), and proper traffic control reestablished for a shoulder closure once the unloading has finished, and if the vehicles or equipment need to remain parked on the shoulder to facilitate Carrier's operation.
- 4) Lane closures shall not take place during weekday peak hours from 6:00 AM and 3:00 PM or during holiday work restriction times (see section 16D) unless specifically authorized by law enforcement and the district utility permit coordinator or other appropriate highway district representative.
- 5) Lane closures may occur between 6 PM and 6 AM upon authorization from the appropriate law enforcement agency or WisDOT.

When unloading/loading from the interstate shoulder where the vehicle count is less than 50,000 ADT, a lane closure may be used, but is not required. A shoulder closure shall be set up prior to any vehicles arriving and shall remain in place until all operations are beyond the delineator posts or the vehicles have departed. The use of a truck mounted attenuator is recommended, but not required.

Carrier shall procure the use of a law enforcement officer and squad car to protect all vehicles as they decelerate and maneuver from the live lane to the shoulder. If no law enforcement presence is available, then Carrier shall reschedule its unloading/loading operation. Once the vehicles have parked on the shoulder, the law enforcement officer shall resume his/her normal duties. A law enforcement presence may be used as the vehicles depart from the shoulder, but is not required. No vehicle or any piece of equipment shall be allowed to park on any shoulder overnight.

Shoulder closures are not needed when:

- 6) The work activity is beyond the delineator posts.
- 7) Carrier, contractor, or state/county inspector vehicles are stopped on the shoulder for a short duration (1/2-hour maximum).
- 8) Work vehicles or equipment needing to use the shoulder temporarily (1-2 minutes) to get around a culvert or other natural feature that block their path by the right-of-way line.

16. INSTALLATION REQUIREMENTS (continued)**D. Hours of Operation/Holiday Work Restrictions**

Carrier is authorized to work between the hours of 9AM and 3PM, Monday through Friday, from sunrise to sunset on Saturday, and from sunrise to 3PM on Sundays. No work shall take place during nighttime hours unless authorized by WisDOT. Carrier shall not work anytime during the following peak holiday travel periods during 2000:

- 1) Labor Day Weekend
From 12 Noon on Friday, Sept 1, until 6 AM on Tuesday, Sept 5.
- 2) Opening of Deer Hunting Season
From 12 Noon on Friday, Nov 17, until 7:30 AM on Monday, Nov 20.
- 3) Thanksgiving Weekend
From 12 Noon on Wednesday, Nov 22, until 7:30 AM on Monday, Nov 27.
- 4) Christmas Weekend
From 12 Noon on Friday, Dec 22, until 7:30 AM on Tuesday, December 26.

In addition, Carrier shall not have any lane or shoulder closures from 12 Noon on Friday both eastbound and westbound, until 9 AM westbound or 12 Noon eastbound on the following Monday during all weekends between Memorial Day and Labor Day weekends. Carrier may still work during those weekend times, but would have to load/unload equipment only upon authorization from the appropriate law enforcement agency.

E. Pre-Construction Meetings

WisDOT and Carrier along with its contractors and consultants, Wisconsin State Patrol, Milwaukee County Sheriff's Department, and DNR representatives shall meet at least two weeks prior to the start of construction in each district to discuss the entire project and its corresponding timetable. No work shall begin without a pre-construction meeting.

F. WisDOT Inspections

WisDOT reserves the right to inspect the work in progress either with WisDOT personnel or county highway department personnel who are under contract with WisDOT to provide highway maintenance services. WisDOT shall also hire consultant personnel at Carrier's expense to provide full-time inspection of Carrier's installation. A copy of any permit issued to Carrier shall be present at any job location during all work times.

G. Diggers Hotline

Carrier shall become a member of Wisconsin's one-call network, Diggers Hotline. Carrier shall be aware that WisDOT does not have all of its facilities mapped by Diggers Hotline at this time. Carrier and its contractors shall call each highway district office at least 72 hours prior to excavating on WisDOT right-of-way and a representative shall come out to the site and mark WisDOT's facilities. When crossing WisDOT facilities with its own facility, Carrier shall expose WisDOT's facility and determine its vertical location before commencing installation of Carrier's facility.

16. INSTALLATION REQUIREMENTS (continued)

H. Bridge Attachments

Any attachment by Carrier shall be approved by WisDOT's bridge section prior to permit approval. No bridge member (girder, diaphragm, lateral bracing, etc.) shall be cut, drilled into, or welded to in any manner to accommodate Carrier's facility. Instead, all connections shall be bolted.

Carrier shall be allowed to hang three conduits (two, 1½-inch diameter and one, 1¼-inch diameter) inside the structural members (girders) of both eastbound and westbound I-94 bridges over the Kinnickinnic River in Milwaukee County, and eastbound I-94 over the Red Cedar River in Dunn County. *The latter bridge attachment shall be installed by Touch America as part of the joint construction agreement.* The hanger assembly designs shall first be approved by WisDOT and shall be included as part of the bridge occupancy permit documentation. The designs shall also include mechanisms that will allow the hanger assemblies and ducts to expand and contract in a similar manner as the bridge. Carrier shall provide WisDOT with the total dead load of the hanger assemblies, ducts, and fiber cables. The duct assemblies shall not be fitted through either abutment.

During its operation, Carrier shall take all necessary actions to prevent anything from falling into any river. If something large enough to constitute a navigational hazard (e.g. section of falsework, conduit, etc.) does fall into a river and it cannot be retrieved immediately, Carrier shall contact a DNR conservation warden. Carrier shall immediately report any hazardous material spill (gasoline, oil, paint, etc.) to DNR at 1-800-943-0003.

I. Horizontal Location Within Corridor

Carrier shall install its fiber optic cable at the locations shown on the **approved** occupancy permits only. Deviations from these locations may be allowed, but shall first be approved by the district utility permit coordinator or his/her designee. "As-built" plan sheets showing the approved deviations and handhole locations shall be sent to the appropriate district office and Central Office within three months after project completion.

J. Vertical Location Within Corridor

Carrier shall bury all fiber optic cables that are placed in WisDOT's right-of-way. In addition to compliance with Policy 96.53(C), all cables shall be placed at a depth of 30 inches or more with a plastic "warning" tape placed approximately one foot above the cables to prevent accidental cutting. Carrier may install its cable by means of plowing or directional boring. At specific locations as directed by WisDOT (e.g. under culverts, crossroads, trees, etc.), Carrier shall directional bore.

K. Work Area Protection During Non-Work Times

Carrier shall store its equipment/materials off of the right-of-way during non-work times if possible. If necessary, Carrier may store its equipment/materials on the right-of-way provided they are placed as close to the right-of-way line as possible and outside of the clear zone. Carrier shall ensure that any excavation left open during non-work times is well marked and secured from public intrusion.

L. Erosion Control

In accordance with Policy 96.55, Carrier shall submit a formal erosion control plan since its operation will most likely have open excavations and disturbed soil from equipment tracks for more than a 24-hour period. See Attachment F. Carrier shall take all steps necessary to prevent soil from getting into nearby waterways and shall protect excavated areas with the proper erosion control devices to contain the soil directly at the location. All necessary erosion control devices shall be in place prior to starting any construction.

16. INSTALLATION REQUIREMENTS (continued)

M. Right-Of-Way Restoration

Carrier shall restore any WisDOT right-of-way disturbed to its original (as best as practical) condition within **two weeks** after installing its facilities. Upon notification from WisDOT, Carrier shall temporarily restore rutted right-of-way up to 15 feet from the edge of shoulder **one week** prior to the scheduled date of mowing operations in the area. WisDOT may allow time extensions for restoration in the case of inclement weather, poor soil conditions, or if Carrier's operations would track over the same disturbed areas – provided that proper erosion control devices are in place to protect the disturbed areas.

If Carrier fails to do restoration within the required time period, WisDOT shall have the right-of-way restored and bill Carrier for the work. Special seed mixes may be required by WisDOT for surface restoration to prevent the establishment of non-native forbs and grasses in the area. Carrier's contractors shall thoroughly wash all equipment before bringing it to the job site if such equipment was used in other states prior to being in Wisconsin.

N. Working Around Trees & Tree/Vegetation Removal

The following guidelines have been developed to assist Carrier when working around trees and other types vegetation (See Attachment H for graphic representation). Carrier:

- 1) Shall bore underneath trees **planted** by WisDOT for aesthetics, living snow fence, or screening, along with those **volunteer** trees greater than 8-10" DBH (diameter measured at breast Height). Planted and volunteer trees shall be identified by WisDOT in all locations prior to any construction.
- 2) May remove **isolated, volunteer or scrub** trees that are less than 8" DBH unless it is a visual landmark or adjacent to a property owner's home.
- 3) May locate its facility inside (towards the interstate) any **isolated** trees, a **stand** of trees, or **planted** snow-fence provided there will be 50 feet or more from the edge of pavement (painted stripe) to the proposed facility location, and at least 8 more feet from that location to the nearest tree trunk greater than 8-10" DBH, or at least 4 more feet to the nearest edge of living snow-fence. A few (less than 5) trees greater than 8-10" DBH may be removed on the edge of a stand to improve the running line if needed.
- 4) May locate on the back side of the security fence within the 3-foot typical area between the fence and the right-of-way line to avoid a **stand** of trees. Carrier shall first verify with WisDOT before installation that the 3-foot area exists.
- 5) May clear up to a 13-foot swath of **volunteer or scrub** trees or brush from the fence line. *Brush is defined as trees or vegetation up to 1½" in diameter*
- 6) Shall not clear **any** trees or vegetation that serve as a visual barrier between an adjacent property owner and a sound barrier or the interstate itself.
- 7) Shall not break off any lower branches to accommodate equipment passing nearby. Instead, these branches shall be properly pruned.

In all cases, all trees and vegetation to be removed by Carrier to accommodate facility installation shall first be reviewed and approved by WisDOT. All trees, stumps, and shrubs scheduled for removal shall be completely removed and grubbed and the holes properly backfilled within one foot either side of Carrier's running line, and may be flush cut at or slightly below ground level outside of that area. Dead trees shall be removed if they would constitute a hazard under OSHA regulations.

16. INSTALLATION REQUIREMENTS (continued)

N. Working Around Trees & Tree/Vegetation Removal (continued)

To prevent Oak Wilt Disease from spreading, oak trees shall not be cut or pruned between April 1 and October 15 unless a thick coat of asphalt base tree paint is applied immediately after **any** cut, pruning wound, or abrasion made between those dates. This includes any oak stumps that will remain after flush cutting. Carrier shall check with each county it works in to see if that county has an Oak Wilt ordinance, and shall adhere to that ordinance if it is stricter than WisDOT specifications.

Carrier may dispose of trees by giving them to the adjacent property owner. If that owner does not want the trees, then Carrier may dispose of them as it wishes so long as it is off of WisDOT's right-of-way and out of sight from the traveling public. Trees may be chipped and mulched on the right-of-way upon approval from WisDOT. Carrier is advised to comply with applicable laws that may regulate the sale or transport of trees.

WisDOT may require Carrier to transplant, or remove and replace, trees or other vegetation that WisDOT planted for a living snow fence or for aesthetic purposes. In addition, Carrier shall immediately replace any trees cut or removed due to Carrier's or contractor's error that serve as a visual barrier between an adjacent property and a sound barrier or the interstate itself, or were planted by WisDOT for aesthetic purposes. All transplanted or newly planted trees and vegetation shall be maintained by Carrier for a period of two years. If any trees or vegetation die within the 2-year period, Carrier shall replace and maintain them for another 2-year period.

Carrier shall not burn, nor use any pesticides (herbicides, rodenticides or insecticides), on any portion of the right-of-way without prior approval from WisDOT. WisDOT reserves the right to disapprove the use of any pesticide – even one that has been approved by the United States Environmental Protection Agency.

O. Above-Ground Facility Marking

Carrier may mark its facility with above ground markers spaced at a minimum of 1,000 feet and at critical locations such as road and culvert crossings. The markers should be designed to notify anyone in the vicinity of the facility as to its approximate location, but be small enough that they are not readable from the highway.

17. TAXES AND LIENS

Carrier shall promptly pay and discharge all taxes, assessments, fees, and other charges levied or assessed against its facilities situated on WisDOT right-of-way, and all special assessments, license fees, permits, area charges, occupancy taxes, and any and all other charges levied or assessed by reason of Carrier's use and occupancy of the right-of-way which become due during, or apply to the term covered by, this Agreement and any renewal term or extension thereof, which are hereby declared the obligation of Carrier under this Agreement. Such obligation specifically excludes any and all income, gross receipt taxes, and other taxes of this nature assessed upon WisDOT.

Carrier shall keep the right-of-way free from any liens arising from work performed, materials furnished or obligations incurred by Carrier. Carrier shall not permit the filing of a lien against any part of the right-of-way.

Upon completion of any construction, copies of the signed lien waivers, if any, shall be supplied to WisDOT.

18. HOLD HARMLESS

WisDOT's standard indemnification clause, Policy 96.03, is part of this Agreement and incorporated herein by reference and shall be applicable to and included on all permits. A copy of the language is on the back of the DT-1553 permit application. See Attachment B.

19. INSURANCE AND SUBROGATION

During the term of this Agreement, Carrier shall secure at its cost, maintain in full force and effect at all times, and require any contractor entering and/or performing any type of work whatsoever on behalf of Carrier to have in full force and effect, the following types and limits of commercial insurance:

| TYPE OF INSURANCE | MINIMUM LIMITS REQUIRED* |
|--|--|
| 1) Commercial General Liability ; shall include blanket contractual liability and completed operations coverage. | \$2 million combined single limits per occurrence; may be subject to an annual aggregate limit of not less than \$4 million. |
| 2) Workers' Compensation and Employers' Liability | Workers' Compensation: Statutory Limits Employers' Liability: Bodily injury by accident: \$100,000 each occurrence Bodily injury by disease: \$500,000 each occurrence \$100,000 each employee |
| 3) Commercial Automobile Liability ; shall cover all Carrier and contractor-owned, non-owned, and hired vehicles used in carrying out the contract. | \$1 million combined single limits per occurrence |
| 4) Pollution Liability ; may be required when Carrier has a bridge attachment over water. | \$3 million per occurrence \$5 million annual aggregate |

* These requirements may be satisfied either through primary insurance coverage or through excess/umbrella policies. WisDOT reserves the right to require increased amounts of coverage over the period of the Agreement.

Carrier shall provide WisDOT with certificates of insurance as evidence that required coverage for insurance types 1, 2, and 3 are in force. See Attachment I. The certificates shall be provided at the time of execution and delivery of this Agreement except that certificates of insurance for contractors entering and/or performing any work on behalf of Carrier shall be provided to WisDOT prior to the contractor entering or commencing any work. All certificates of insurance shall provide that the insurance shall not be canceled by the insurer or the limits reduced below the minimum requirements as listed above without 30 days written notice to WisDOT.

In the event of the expiration of any of the insurance policies as listed above, a change from one insurance carrier to another, or any changes affecting exposure, exclusions, and amounts of coverage, Carrier shall submit, within three working days, a new certificate to WisDOT reflecting such information. All coverage shall be placed with insurance companies licensed to do business in the State of Wisconsin that have an A.M. Best rating of A- or better.

20. CHOICE OF LAW

This Agreement is entered into and governed by the laws of the State of Wisconsin.

21. SEVERABILITY

If any provision of this Agreement should be found to be illegal, invalid or otherwise void, it shall be considered severable. The remaining provisions shall not be impaired and the Agreement shall be interpreted as far as is possible to give effect to the parties' intent.

22. NO PARTNERSHIP CREATED

Nothing herein shall be deemed to create a partnership between WisDOT and Carrier and neither party shall have authority to obligate the other.

23. APPROPRIATIONS

Nothing herein shall be construed as obligating WisDOT to the expenditure of funds or for the future payment of money in excess of appropriations authorized by law.

24. SUBSEQUENT LEGISLATION, REGULATION, AND PROCEDURES

Legislation pertaining to the use of WisDOT right-of-way or other facilities may be passed after the date of this Agreement, or WisDOT may adopt regulations or new policies pertaining to the same. Should any of these events occur, the new statutes, administrative rules, and policies, including subsequent amendments thereto, shall become part of or applicable to this Agreement. In addition, any language in this Agreement that is inconsistent with the new statutes, regulations, or policies may be voided immediately upon its effective date. WisDOT may need to draft new Agreement language to remedy any inconsistencies, but shall work with Carrier in order not to materially impair Carrier's operations.

25. NOTICES

All notices under this Agreement and any individual occupancy permits shall be in writing and shall be deemed valid if sent by overnight delivery or certified mail, return receipt requested, and effective on the third day following the date the notice is postmarked if no other date is specified in the notice itself. Notices should be addressed as shown in Attachment I. Either party may change the designated recipient of notices and the address by so notifying the other party in writing. Failure of WisDOT to give notice for any default shall not be deemed to be a waiver thereof nor consent to the continuation thereof.

26. WORKING RELATIONSHIP

WisDOT and Carrier shall **at all times** cooperate with each other, act in good faith, and expedite all decisions, notices, and correspondence in a timely manner throughout the performance of this Agreement.

27. ASSIGNMENT

This Agreement is specific to WisDOT and Carrier only and shall not be assigned by either party to another carrier or any other entity.

If Carrier simply changes its name (e.g. due to a reorganization or merger with another company or carrier) with no material change in ownership of the permitted facility, WisDOT may also change the name on the Agreement to Carrier's new name. This action shall not constitute an assignment.

28. ENTIRE AGREEMENT

The terms and provisions herein contained, including all attachments and occupancy permits issued to Carrier for its respective locations, constitute the entire Agreement between the parties and shall supersede all previous communications, either oral or written, between the parties with respect to the subject matter hereof, and no agreements or understandings varying or extending the same shall be binding upon either party unless in writing signed by a duly authorized officer or representative of each party.

In order, the hierarchy for resolving inconsistencies between documents is as follows:

- 1) An individual occupancy permit.
- 2) This Agreement.
- 3) The Utility Accommodation Policy.

29. WARRANTY OF AUTHORITY

The signatories hereto warrant that they have full authority to enter into this Agreement and make it binding on the parties hereto without further action or approval. The effective date of this Agreement shall be the date that WisDOT signs it.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed in duplicate by their duly authorized and empowered officers or representatives:

WISCONSIN DEPT OF TRANSPORTATION

WILLIAMS COMMUNICATION, INC.

By: _____

By: _____

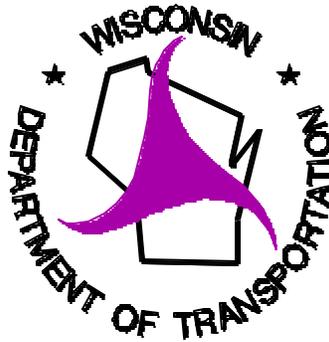
Title: _____

Title: _____

Date: _____

Date: _____

RIGHT-OF-WAY OCCUPANCY AGREEMENT
between
WILLIAMS COMMUNICATION, INC.
and the
WISCONSIN DEPARTMENT OF TRANSPORTATION



Interstate 94
Minnesota/Wisconsin Border to USH 12 (Elk Mound) &
National Avenue (Milwaukee) to Illinois/Wisconsin Border

August 18, 2000

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- A. Carrier's Facility Locations / Bridge Attachments & Corresponding Individual Occupancy Permit Numbers
- B. DT-1553, Application/Permit to Construct and Operate Utility Facilities on Highway R/W
- C. Memorandum of Understanding between Mn/DOT and WisDOT
- D. Joint Construction Agreement Between Carrier and Touch America, Inc.
- E. Construction Inspection Cost Estimate
- F. - Programmatic Environmental Criteria Checklists
- DNR Permit Approvals
- Formal Erosion Control Plan
- G. Sample Weekly Schedule of Carrier's Field Operations
- H. Working Around Trees & Tree/Vegetation Removal
- I. Important Addresses

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ATTACHMENT A**Carrier's Facility Locations / Bridge Attachments
& Corresponding Individual Occupancy Permit Numbers**

| County / MP | Hwy | Dir | Termini | Mileage | Permit # / Date | Comments |
|----------------------------|--------------------|------------|---|----------------|------------------------|--|
| St. Croix 0 | 94 | WB | B55-61 over the St. Croix River | 0 | | Joint construction w/ Touch America |
| St. Croix 0 - 31.4 | 94 | EB | Minnesota/Wisconsin state line to St. Croix/Dunn County line | 31.4 | 000731 6/20/00 | Joint construction w/ Touch America |
| Dunn 31.4 - 55.9 | 94 | EB | St. Croix/Dunn County line to approximately 3.7 miles east of USH 12 near Elk Mound | 24.5 | | Joint construction w/ Touch America |
| Dunn 43.7 | 94 | EB | B17-33 over the Red Cedar River | 0 | | Joint construction w/ Touch America |
| Dane (N/A) | 151 | SB | Hoepker Road to Reiner Road | 0.255 | | |
| Milwaukee 311.6 - 316.6 | 43/94 | EB | STH 38 (6 th Street) to I-43/94/894 (Mitchell) Interchange | 5.0 | | |
| Milwaukee 311.6 - 313.4 | 43/94 | WB | STH 38 (6 th Street) to Canadian Pacific RR | 1.8 | | |
| Milwaukee 313.4 | 43/94 | EB/WB | B40-XX over the Kinnickinnic River – EB B40-XX over the Kinnickinnic River – WB | 0 | | |
| Milwaukee 316.6 - 325.0 | 94 | EB | I-43/894 (Mitchell interchange) to Milwaukee/Racine Co line | 8.4 | 000732 6/27/00 | Joint construction with Touch America |
| Racine 325.0 - 331.1 | 94 - W Front Rd | EB | Milwaukee/Racine Co line to 2-Mile Road | 6.1 | 000729 5/10/00 | Joint construction with Touch America |
| Racine 332.7 - 333.5 | 94 - W Front Rd | EB | CTH C (Spring St.) to approximately 0.3 mile south of STH 20 (Washington Ave.) | 0.8 | 000729 5/10/00 | Joint construction with Touch America |
| Racine 335.1 - 335.7 | 94 - W Front Rd | EB | 58 th Road (Old STH 11) to approximately 0.3 mile south of STH 11 (Durand Ave.) | 0.6 | 000729 5/10/00 | Joint construction with Touch America |
| Racine 336.8 - 337.1 | 94 - W Front Rd | EB | Approximately 0.3 mile north of CTH KR (First St) to Racine/Kenosha County line | 0.3 | 000729 5/10/00 | Joint construction with Touch America |
| Kenosha 337.1 - 349.2 | 94 - W Front Rd | EB | Racine/Kenosha County line to Wisconsin/Illinois state line | 12.1 | 000726 4/20/00 | Joint construction with Touch America |
| | | | TOTAL MILES | 91.255 | | |

ATTACHMENT G Sample Weekly Schedule of Carrier's Field Operations

Person filling out report: _____ Company: _____ Phone: _____

| WILLIAMS COMMUNICATION – SCHEDULE OF FIELD OPERATIONS | | | | WEEK OF <u>April 24 - 28</u> | |
|--|---------------|------------------------|---|--|--|
| CONTRACTOR NAME & FIELD CONTACT | COUNTY | HIGHWAY | TERMINI [List mileposts, road crossing, or other identifying feature] | OPERATION [Fully describe all planned work activities] | COMMENTS |
| Michels John Smith 800/555-1212 | Racine | I-94, West Frontage Rd | MP 325 - 340 | Cat plow and tree removal | |
| Michels Tom Franks 608/516-8895 | Dane | I-94 | MP 241 - 252 | Cat plow and tree removal | Will load/unload from shoulder on Mon and Fri. |
| XYZ Excavating Zeke Clinton 888/555-2233 | Dane | I-94 | Sprecher Rd M-Tu CTH N W-Th Koshkonong Cr F-Sa | Directional boring | |
| 1234 Telecom Monica Dumbrowski 262/555-1234 | Kenosha | I-94, West Frontage Rd | MP 340 - 348 | Fiber pulling and splicing | 2 crews |
| A & B Boring Phil McFarren 262/555-1212 | Milw | I-94 | Racine/Milw Co Line to Mitchell Interchange | Directional boring | |
| <h1 style="font-size: 100px; opacity: 0.5;">SAMPLE</h1> | | | | | |

Please fax to each District Utility Permit Coordinator when working in that District, and Central Office (for any District), by 8:00 AM Monday morning:

| | | | | | |
|--------------------------------|------------------------------------|--------------------------------|--------------------------------|--------------------------------|--------------------------------|
| <u>CO: 608/267-7856</u> | <u>D1: 608/246-7996</u> | <u>D2: 262/548-8655</u> | <u>D4: 715/421-7300</u> | <u>D5: 608/789-7896</u> | <u>D6: 715/836-2807</u> |
| All counties | Dane, Jefferson, Milwaukee, Racine | Juneau | Monroe, Jackson | Eau Claire, Dunn | St. Croix |
| | Columbia, Sauk | Kenosha, Waukesha | Trempealeau | | |

Please fax to each State Patrol District office when working in that District by 8:00 AM Monday morning:

| | | | |
|--------------------------------|--------------------------------|----------------------------------|--------------------------------|
| <u>D1: 608/846-8536</u> | <u>D2: 262/785-4723</u> | <u>D5: 608/374-0599</u> | <u>D6: 715/839-3841</u> |
| Sauk, Columbia | Jefferson, Kenosha, | Juneau, Monroe Trempealeau, Dunn | |
| Dane | Racine, Waukesha | Jackson | Eau Claire, St. Croix |

ATTACHMENT C
MEMORANDUM OF UNDERSTANDING
 between the
Minnesota Department of Transportation
 and the
Wisconsin Department of Transportation

Page 1 of 3



Proposed Fiber Optic Attachment
Westbound Interstate 94 Bridge
 over the
St. Croix River



July 10, 2000

I. Introduction

MediaOne, Inc. of St. Paul, Minnesota, and Touch America, Inc. of Helena, Montana, propose to install a fiber optic facility under the westbound Interstate 94 bridge over the St. Croix River between Washington County in Minnesota and St. Croix County in Wisconsin as part of their respective fiber optic networks through the region. The attachment would consist of two, 6-inch diameter ducts with eight, 1½-inch diameter conduits (innerducts) inside. This construction is scheduled to start in July or August of 2000 and should be completed by October 31, 2000.

This Memorandum of Understanding (MOU) has been established between the Minnesota Department of Transportation (Mn/DOT) and the Wisconsin Department of Transportation (WisDOT) to fully document the project and the specific responsibilities of both agencies. Since it is the maintaining authority for the border bridge, WisDOT shall be the lead agency in developing this MOU.

II. Current Policies

Mn/DOT's current policy allows a single carrier, Universal Communications Networks, Inc. (UCN) to install telecommunications facilities longitudinally within interstate and other freeway highway right-of-way. All other longitudinal utility facility installations on those highway types are only allowed as either an exception to policy or a hardship situation.

WisDOT's current policy allows longitudinal telecommunications installations on limited access highway right-of-way, which includes interstate highways and bridges, in exchange for cash, fiber optic facilities (conduit and fiber), or both. Approval is contingent on a carrier meeting all of the requirements set forth by WisDOT through its Utility Accommodation Policy, an Agreement drawn up and executed between WisDOT and carrier, and any individual occupancy permits issued to carrier.

III. Background

In 1999, MediaOne approached WisDOT for a permit to construct a bridge attachment after failing twice to bore under the river. Later that year, Touch America also requested to attach to the bridge as part of its Agreement with WisDOT to use a large portion of WisDOT's I-94 right-of-way for its Chicago to Minneapolis fiber network project. Williams Communications also requested to get onto the bridge, and was trying to work a deal with UCN whereby UCN would build part of the attachment. When that deal failed, Williams was able to reach an agreement with Touch America to joint construct on eastbound I-94 from the bridge to approximately 3.7 miles east of USH 12 near Elk Mound, Wisconsin, which included obtaining an indefeasible right of use (IRU) for three of Touch America's innerducts on the bridge – pending prior approval of both Mn/DOT and WisDOT.

FINAL

ATTACHMENT C
MEMORANDUM OF UNDERSTANDING

III. Background (continued)

Both Mn/DOT and WisDOT felt that if all the carriers could agree amongst themselves, it made sense to have one company build a facility for all carriers and include some extra capacity for the future. This includes providing WisDOT with IRUs to two innerducts to enable future fiber optic facilities to be inter-connected between each state's freeway traffic management systems or Intelligent Transportation System (ITS) applications. By permitting this attachment, each state would have the opportunity to take advantage of a private resource with no capital outlay.

Mn/DOT agreed to allow both Touch America and Williams to use the bridge since they had made arrangements with UCN to connect with UCN's fibers to the Twin Cities. MediaOne's bridge installation was declared a hardship situation by Mn/DOT because of the unsuccessful bores, and therefore, does not need to connect with UCN. MediaOne and Touch America will joint construct the bridge attachment with MediaOne being the lead carrier for construction.

IV. Approved MOU Conditions

Mn/DOT and WisDOT agree to the following items as conditions of approval for MediaOne and Touch America to joint construct a fiber optic facility and attach it under the westbound I-94 bridge over the St. Croix River:

- 1) Mn/DOT and WisDOT shall each develop separate Agreements with Touch America, MediaOne, and Williams to document specific details of their respective fiber installations, which are outside the scope of a typical permit. Before a bridge attachment permit can be issued to a carrier, that carrier's Agreement shall have been executed with the applicable DOT.
- 2) Upon prior approval of the attachment design by both Mn/DOT and WisDOT bridge staffs, Mn/DOT shall approve a permit for MediaOne to locate its facilities on the bridge as a hardship situation. WisDOT shall also issue a permit to MediaOne in accordance with its current policy.
- 3) Mn/DOT shall approve a permit for Touch America to locate its facilities on the bridge as part of a joint construction venture with MediaOne. Touch America's permit will be issued as an exception to Policy since Touch America has worked out a deal with UCN to connect with UCN's fibers from the west end of the bridge into the Twin Cities. This arrangement satisfies Mn/DOT's contract with UCN, and assists WisDOT with completing its deal with Touch America. WisDOT shall also issue a permit to Touch America for the bridge attachment.
- 4) MediaOne shall only be allowed to install two, 6-inch diameter ducts each with eight, 1½-inch diameter innerducts without cutting, welding to, or drilling into any structural member of the bridge. Of the 16 innerducts, 13 will be owned by Touch America, and three will be owned by MediaOne. Cost sharing arrangements for the initial construction and future maintenance of the attachment will be 13/16^{ths} Touch America, and 3/16^{ths} MediaOne.
- 5) Mn/DOT and WisDOT shall both approve a permit for Williams Communication to locate its fiber inside three of Touch America's 13 innerducts. Williams and Touch America have agreed that Williams will obtain an IRU from Touch America for those three innerducts. Mn/DOT shall also approve this as exception to Policy since Williams has worked out a deal with UCN to connect with UCN's fibers from the west end of the bridge into the Twin Cities. This arrangement satisfies Mn/DOT's contract with UCN, and assists WisDOT with completing its deal with Touch America and Williams.

ATTACHMENT C MEMORANDUM OF UNDERSTANDING

July 10, 2000

Memorandum of Understanding – Mn/DOT & WisDOT

Page 3 of 3

IV. Approved MOU Conditions (Continued)

- 6) As part of WisDOT's Agreements with Touch America and MediaOne, each carrier shall give WisDOT an IRU to one of its innerducts on the bridge. WisDOT shall keep one of those innerducts available for any future fiber optic facility which is part of Mn/DOT's freeway traffic management systems or any ITS applications.
- 7) Of the nine available innerducts for Touch America (13 total, minus 3 for Williams, minus 1 for WisDOT), Touch America may install fiber optic cables in five of them. The remaining four innerducts shall remain vacant. However, Touch America, or another Carrier granted IRUs by Touch America, may install fiber optic cables through the four vacant innerducts only upon prior permit approval of both Mn/DOT and WisDOT. There will be no limit on the number of fibers that can be placed in any one innerduct by any carrier.
- 8) As part of the bridge attachment, MediaOne and Touch America shall be allowed to install four, Hoffman-type steel boxes that will serve to encapsulate the innerducts as they transition off of the bridge and into separate conduits that are subsequently buried in the right-of-way. One box will serve each duct on each side of the bridge, and the carriers shall be allowed to cut a hole through the concrete slope-paving in order to secure the boxes to the ground.
- 9) Mn/DOT and WisDOT bridge staffs shall perform a joint inspection of the completed bridge attachment. Periodic inspections during construction shall also be performed by both staffs or consultant staff hired by WisDOT to inspect MediaOne's entire project.
- 10) WisDOT shall incorporate this MOU, all Mn/DOT permits, and other approvals into its Agreements with Touch America, MediaOne, and Williams. Both Mn/DOT and WisDOT shall submit copies to each other of all bridge inspection reports, approvals, permits, and Agreements made with each carrier.

V. Warranty of Authority

The signatories hereto warrant that they have full authority to enter into this MOU and make it binding on the parties hereto without further action or approval. The effective date of this MOU shall be the date that WisDOT signs it.

IN WITNESS WHEREOF, the parties have caused this MOU to be executed in duplicate by their duly authorized and empowered officers or representatives:

Minnesota Dept. of Transportation

Wisconsin Dept. of Transportation

By: Robert W. Gander

By: Michael G. Lewis

Title: State Design Engineer
Mn/DOT

Title: DTID Administrator

Date: 7-17-00

Date: July 20, 2000

FINAL

FINAL

ATTACHMENT D
Agreement Between Carrier and Touch America
St. Croix River Bridge

Note: For brevity, the entire document has not been included, only the text pages. The entire Agreement is on file with WisDOT and available upon request.

INDEFEASIBLE RIGHT OF USE AGREEMENT

THIS INDEFEASIBLE RIGHT OF USE AGREEMENT ("Agreement") made and entered into as of August 14, 2000, by and between Williams Communications, Inc., a Delaware corporation, with offices at One Williams Center, Tulsa, Oklahoma 74172 ("WCI"), and Touch America, Inc., a Montana Corporation, with offices at 130 North Main, Butte, Montana 59701 ("TA").

In consideration of their mutual promises the parties expressly agree as follows:

1. **Grant of Indefeasible Right of Use:** Subject to the terms and conditions contained in this Agreement, TA grants to WCI and WCI is willing to accept from TA an exclusive and indefeasible right of use to three (3) 1.5" innerducts ("IRU Ducts") that TA will install across the I-94 St. Croix River bridge within the States of Minnesota and Wisconsin.
2. **Construction:**
 - a. TA agrees to construct and install the IRU Ducts on, along or around the I-94 St. Croix River bridge crossing in accordance with and substantially the same as depicted on construction drawings attached hereto as Exhibit A. The IRU Ducts will be installed within one of two 6" steel or bullet resistant fiber glass pipes to be attached to the St. Croix River bridge and extend beyond each end of the bridge in such a manner as to allow the IRU Ducts to be tied into or connected to the WCI innerducts on each side of the bridge. The total length of the project is approximately Four Thousand Eight Hundred feet (4,800') and is to connect the WCI innerducts to be placed by ICS/UCN, LLC on the west side (Minnesota side) of the St. Croix River bridge and the three innerducts to be placed by TA, pursuant to that certain Services Agreement dated February 18, 2000 by and between WCI and TA, on the east side (Wisconsin side) of the St. Croix River bridge. Subject to TA being granted applicable permits, a handhole/manhole or Hoffman type steel box will be placed on each end of the IRU Ducts for the sole use of WCI and will be used as the connection point between WCI's innerducts constructed by or to be constructed by ICS/UCN, LLC on the Minnesota side and WCI's innerducts constructed by or to be constructed by TA on the Wisconsin side. Should TA be unable to obtain permits to install such handhole/manhole or Hoffman Type steel box, TA shall have no obligation to install same.
 - b. TA will be responsible for designing, engineering, permitting, and installing the IRU Ducts including any transitions, highway crossings and connections, as well as for providing any and all material required for the installation of the IRU Ducts including but not limited to the steel or bullet resistant fiber glass pipe, three (3) 1.5" SDR 11 HDPE innerducts, handholes, manholes or Hoffman-type steel boxes, transitional fittings and attachment brackets. TA shall comply in all material respects with any and all applicable building, construction and safety codes for the work as well as any and all other applicable federal, state and local laws, codes, ordinances, statutes and regulations.
 - c. TA shall acquire easements, right of ways, conduits or other leases, fee interests and other rights as well as secure any and all other long-term permits and permissions necessary and requisite for constructing and granting an IRU in the IRU Ducts. Permit fees and any other fees related to the construction or location of the IRU Ducts shall be the responsibility of and paid for by TA. TA expects to commence construction and installation of the IRU Ducts by August 1,

ATTACHMENT D
Agreement Between Carrier and Touch America
St. Croix River Bridge

2000 and expects to complete installation and proofing by October 1, 2000. TA shall use its commercially reasonable efforts to complete all construction obligations by such dates.

3. **Proofing and Acceptance:** Prior to acceptance, TA shall take such action as shall be reasonably necessary to remedy any unacceptable portions of the IRU Ducts within the parameters of this Agreement and will repeat proofing operations until all deficiencies are correct and until the IRU Ducts are successfully proofed. To obtain acceptance, proofing shall be required. Upon completion of construction and installation of the IRU Ducts, TA will notify WCI in writing, that it has completed installation and will provide a date and location that proofing operations will commence. Each install duct shall be proofed by blowing or pulling a "hard mandrel" through each IRU duct. Each mandrel shall be at least 4" long, 1.0" in diameter and made of a hard material such as plastic, aluminum, etc. The mandrel shall be approved by WCI prior to proofing the Duct. WCI shall be notified forty-eight (48) hours prior to the start of any proofing and shall have the opportunity to inspect all proofing operations. Upon successfully proofing the IRU Ducts, TA shall provide written notice thereof to WCI ("Completion Notice"). Upon receipt of the Completion Notice, WCI may inspect the IRU Ducts, and shall have ten (10) business days to either accept or reject the Completion Notice (specifying, if rejected, any and all objections to, or deficiencies in the IRU Ducts) by delivery of written notice to TA ("Acceptance Notice" if accepted or "Rejection Notice" if rejected). If WCI fails to either accept or reject the Completion Notice within the 10 business day period, then WCI shall be deemed to have accepted the Completion Notice. Any disputes as to Acceptance of IRU Ducts shall be resolved in accordance with Section 19. For a period of twelve (12) months from the date of WCI's acceptance, TA warrants that the construction and installation of the IRU Ducts is in compliance with applicable specifications. In procuring materials for the construction of the IRU Ducts, TA agrees to seek industry-standard manufacturers' warranties from vendors and suppliers thereof, and shall transfer such warranties to WCI to the extent permitted and to the extent applicable to the IRU Ducts.

4. **Consideration:** With respect to the IRU Ducts, WCI shall pay TA a total sum of \$260,000.00 upon completion of installation, and upon WCI's acceptance, as defined herein, of the IRU Ducts. The IRU Fee includes all engineering, permitting, construction, installation, relocation, and maintenance of the IRU Ducts. WCI will be responsible for securing its own "Right-of-Way Occupancy Agreement" or similar permission from the states of Minnesota and Wisconsin.

5. **Payment:** Immediately upon receiving WCI's Acceptance Notice or upon deemed acceptance, TA shall invoice WCI. Payment shall be made within 30 days of WCI receiving the invoice.

6. **Access:** TA grants to WCI a license for access to TA's rights-of-way and licenses for the installation, maintenance, operation, and repair of WCI's telecommunication cables within the IRU Ducts; provided, however, such access is conditioned upon WCI being bound by the terms contained in such rights of way, licenses, or similar documents as they relate to access protocols. If consent of a third party such as a governmental entity or landlord is required, TA will make reasonable good faith efforts to obtain same.

7. **Term/Termination:** WCI will be entitled to use the IRU Ducts granted by TA upon WCI's Acceptance thereof and payment therefor in accordance with the terms of this

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St. Croix River Bridge

Agreement. Unless terminated earlier for failure to perform obligations under this Agreement, the term of this Agreement shall extend for as long as the underlying rights-of-way and similar rights to occupy are in place.

8. **Maintenance and Repair:** During the term of this Agreement, TA or its subcontractor shall perform all required maintenance and repairs, including but not limited to relocation of the IRU Ducts. Maintenance activities should include but not be limited to conducting preventive maintenance processes according TA's standards, subscribing to each and all One-Call Agencies that effect the IRU Ducts, abiding by all state One-Call Agency laws, responding to all locate requests and maintaining sign posts or markers as authorized by each state and any other right-of way owner along the IRU Ducts. TA shall have the right to relocate the IRU Ducts (a "Relocation") upon written notice to WCI submitted to WCI within 120 days of the Relocation. WCI shall be responsible for its prorata share of all costs associated with a Relocation that is occasioned by alteration of the right of way or by the request of a third party having authority to require the move. In addition, TA shall use reasonable efforts to ensure Relocation shall not result in an adverse change to the operations, performance or connection points with the network of the other party, or end points of the applicable IRU Ducts. WCI has the right to review and comment on the Relocation plans at least thirty (30) days prior to commencement of any Relocation plans, which comments shall not delay commencement of the Relocation. WCI shall have the right to have a representative present at the time TA relocates the IRU Ducts. TA and WCI shall cooperate to the fullest extent in scheduling Relocation work, including but not limited to the removal and replacement of WCI's telecommunications cable. TA's maintenance and repair obligations under this Agreement shall not include maintenance, repair or replacement of WCI's optronics, electronics, cable or similar equipment. In the event TA, or others acting on TA's behalf, at any time during the term of this Agreement discontinues maintenance and/or repair of the IRU Ducts, WCI, or others acting on WCI's behalf, shall have the right, but not the obligation, to thereafter provide for the maintenance and repair of the IRU Ducts at TA's sole cost and expense. **Prior to performing maintenance activities, repairs or emergency restoration, WCI's Network Control Center (NCC) must be contacted at 888-265-2283.**

9. **As-Built Drawings:** TA shall deliver to WCI complete documentation regarding the as-built condition of the IRU Ducts. This documentation shall consist of as-built drawings which contain information showing the location of the IRU Ducts, relative to permanent and identifiable reference points, including but not limited to highway mile posts, bridge supports, bridge lamp posts, boundary crossings, and utility crossings. Pre as-built drawings or red-lined drawings will be provided within fifteen (15) days of acceptance and final documentation shall be provided within ninety (90) days after WCI's acceptance of the IRU Ducts.

10. **Taxes:** Upon WCI's acceptance of its IRU Ducts, WCI shall file and be responsible for any and all sales, use, income, gross receipts or other Tax assessed on the basis of revenues received by WCI pursuant to its use of its IRU Ducts. Further WCI shall be solely responsible for filing and paying any real or personal property Taxes relating in any way to its IRU Ducts and telecommunication cables contained within, If TA is assessed and pays any Taxes for which WCI should be responsible, then WCI shall reimburse TA for WCI's pro rata share (based on 3/16). WCI shall not be responsible for any other Taxes associated with any other innerducts or conduits installed by TA. As used in this Section, "Tax" or "Taxes" shall mean any and all taxes, assessments, charges and levies (hereinafter collectively referred to as

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“Taxes”) imposed by any authority having the power to tax, including any city, county, state or federal government or quasi-governmental agency or taxing authority.

11. **Liability, Indemnification:** Neither TA nor WCI shall be liable to the other for any indirect, special, punitive or consequential damages (including, but not limited to, any claim from any customer for loss of services) arising under this Agreement or from any breach or partial breach of the provisions of this Agreement or arising out of any act or omission of either party hereto, its directors, officers, employees, servants, contractors and/or agents. Each party assumes, releases and agrees to indemnify, defend, protect and save the other (including its directors, officers, agents, representatives and employees) harmless from and against any claim, damage, loss, liability, injury, cost and expense (including reasonable attorney’s fees and expenses) in connection with any loss or damage to any property or facilities of the indemnified party or any third party arising out of or resulting in any way from the acts or omissions to act, negligence or willful misconduct of the indemnifying party, its directors, officers, employees, servants, contractors and/or agents in connection with the exercise of its rights and obligations under the terms of this Agreement. The parties hereto expressly recognize and agree that each parties’ obligation to indemnify, defend, protect and save the other harmless is not a material obligation to the continuing performance of the parties’ other obligations, if any, under the terms of this Agreement. In the event a party shall fail for any reason to indemnify, defend, protect and save the other harmless, the indemnified party hereby expressly recognizes that its sole remedy in such event shall be the right to bring suit against the indemnifying party for its damages as a result of the indemnifying party’s failure to so indemnify, defend, protect and save harmless. Nothing contained herein shall operate as a limitation on the right of either party hereto to bring an action for damages, including consequential damages, against any third party based on any acts or omissions of such third party as such acts or omissions may affect the construction, operation or use of their respective innerducts, conduits or ducts or cables (including the IRU Ducts); provided, however, that each party hereto shall assign such rights or claims, execute such documents and do whatever else may be reasonably necessary to enable the injured party to pursue any such action against such third party.

12. **Force Majeure:** The obligations of the parties hereto are subject to force majeure and neither party shall be in default under this Agreement if any failure or delay in performance is caused by strike or other labor dispute; accidents; acts of God; fire; flood; earthquake; lightning; unusually severe weather; material or facility shortages or unavailability not resulting from such party’s failure to timely place orders therefor; lack of transportation; acts of any governmental authority; condemnation or the exercise of rights of eminent domain; war or civil disorder; or any other cause beyond the reasonable control of either party hereto. The excused party shall use reasonable efforts under the circumstances to avoid or remove such causes of non-performance and shall proceed to perform with reasonable dispatch whenever such causes are removed or ceased.

13. **Insurance:** Each party shall maintain or cause to be maintained insurance, for the duration of this Agreement, as follows:

- (a) Workers’ Compensation Insurance complying with the law of the state or states in which the services are to be provided and Employers Liability Insurance with the limits of \$500,000 each accident, including occupational disease coverage with limits of \$500,000 each employee, \$500,000 policy limit.

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(b) Commercial General Liability Insurance on an occurrence form, including premises, operations, products and completed operations, sudden and accidental pollution, contractual, independent contractors, broad form property damage, and personal injury with minimum combined single limits of \$5,000,000 each occurrence.

(c) Automobile Liability Insurance for owned, hired and non-owned autos with a combined single limit of \$2,000,000 each accident for bodily injury/property damage.

Failure of either party to enforce the minimum insurance requirements listed above shall not relieve the other party of the responsibility for maintaining these coverages. Each party shall furnish to the other party certificates of insurance reflecting policies carried and limits of coverage as required above, which shall state that thirty (30) days notice shall be given prior to cancellation, non-renewal or any material change in any such insurance coverage. Each party shall name the other party as an additional insured on the liability policies required above (this requirement does not apply to the Workers' Compensation policy). These liability policies shall be primary with respect to the named party and any other insurance maintained by or on behalf of the named party shall be excess and non-contributory.

14. **Confidentiality:** TA and WCI represent, certify, and warrant that they shall use their best efforts to ensure that any and all information and documents obtained from the other party during the term of this Agreement will be held in strict confidence and will not be used by their company, its employees, subcontractors, or agents for any purpose other than its performance required by this Agreement. All documents, data, or information furnished by TA or WCI is the sole property of that party. Upon the expiration of this Agreement and any extensions thereof, those documents, data, or information shall be returned to its owner. Notwithstanding the preceding, each party may retain documentation it obtained under Section 9 of this Agreement. Notwithstanding any contrary provision in this Section 14, the parties agree and recognize that this Agreement as well as information and documents the State of Minnesota or State of Wisconsin may receive from one or the other party during the term of this Agreement may be considered public data, and as such may be subject to public disclosure. No such public disclosure shall constitute a violation of any confidentiality provisions of this Section 14.

15. **Default:** Neither party shall be in default under this Agreement unless and until the other party shall have given the defaulting party written notice of such default and the defaulting party shall have failed to cure the default within thirty (30) days after written receipt of such notice; provided, however, that where a default can not be reasonably cured within the thirty (30) day period, if the defaulting party shall promptly proceed to cure the default with due diligence, the time for curing the default shall be extended for a period of up to ninety (90) days from the date of receipt of the default notice. An event of default shall also be deemed to have occurred and the non-defaulting party may immediately terminate this Agreement if a party becomes insolvent, or institutes or has instituted against it bankruptcy proceedings which are not dismissed within ninety (90) days of filing, or makes a general assignment for the benefit of creditors, or if a receiver is appointed for the benefit of its creditors, or if a receiver is appointed on account of its insolvency. Upon the failure by the defaulting party to timely cure any default after notice thereof from the non-defaulting party, the non-defaulting party may take any action it determines, in its discretion, to be necessary to correct the default, and/or pursue any legal remedies it may have under applicable law or principles of equity relating to the breach. This

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Agreement Between Carrier and Touch America
 St. Croix River Bridge

Agreement shall terminate upon written notice from either party to the other if a default occurs under this Section 15 that is not cured within the time allowed thereunder.

16. **Notices:** Unless otherwise provided herein, all notices and communications concerning this Agreement shall be in writing and addressed as follows:

If to WCI:

Williams Communications, Inc.
 110 W. 7th St., Suite 500
 Tulsa, OK 74119
 Attn: Director, Land and Records
 Fax: (918) 573-5475

With copy to:

Williams Communications, Inc.
 One Williams Center, Mail Drop 27-2
 Tulsa, Oklahoma 74172
 Attn: Contract Administration
 Facsimile: (918) 573-6042

With copy to:

Williams Communications, Inc.
 One Williams Center, Suite 4100
 Tulsa, Oklahoma 74172
 Attn: General Counsel
 Facsimile: (918) 573-3005

If to TA:

Touch America, Inc.
 Attention: Duane Wright
 1315 North Main Street
 Helena, Montana 59604
 Facsimile: (406) 442-8730

With copy to:

Touch America, Inc.
 130 North Main
 Butte, Montana 59701
 Attn: Contracts Administration
 Facsimile: (406) 496-5330

With copy to:

Touch America, Inc.
 130 North Main
 Butte, Montana 59701
 Attn: General Counsel
 Facsimile: (406) 496-5330

Unless otherwise provided herein, notices shall be sent by certified U.S. Mail, return receipt requested, or by commercial overnight delivery service which provides acknowledgment of delivery, or by facsimile, and shall be deemed delivered: if sent by U.S. Mail, five (5) days after deposit; if sent by facsimile, or commercial overnight delivery service, upon verification of receipt.

17. **Succession:** All provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto and each of their respective successors and assigns and lienholders.

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St. Croix River Bridge

18. **Governing Law:** This Agreement shall be interpreted and construed in accordance with the internal laws of the State of New York.

19. **Dispute Resolution:** It is the intent of TA and WCI that any disputes which may arise between them, or between the employees of each of them, be resolved as quickly as possible. Quick resolution may, in certain circumstances, involve immediate decisions made by the parties' representatives. When such resolution is not possible, and depending upon the nature of the dispute, the parties hereto agree to resolve such disputes in accordance with the provisions of this Article. WCI and TA shall each designate, by separate letter, representatives as points of contact and decision making for the design, construction, installation and proofing phases of the IRU Ducts. Any disputed issues arising during the design, construction, installation and proofing phases of this Agreement shall in all instances be initially referred to the parties' designated representatives. The parties' designated representatives shall render a mutually agreeable resolution of the disputed issue, in writing, within seventy-two (72) hours of such referral. Either party may modify the designated representative upon written notice to the other party.

Any claims or disputes arising under the terms and provisions of this Agreement, or any claims or disputes which the parties' representatives are unable to resolve within the seventy-two (72) hour time period shall continue to be resolved between the parties' representatives if mutually agreeable, or may be presented by the claimant in writing to the other party within thirty (30) days after the circumstances which gave rise to the claim or dispute took place or become known to the claimant, or within thirty (30) days after the parties' representatives fail to achieve resolution, whichever is later. The written notice shall contain a concise statement of the claim or issue in dispute, together with relevant facts and data to support the claim.

To the extent not inconsistent with the jurisdiction and authority of any state or federal regulatory body that might have jurisdiction or authority over this Agreement or any aspect or performance of this Agreement, any such dispute shall be settled by arbitration in Denver, Colorado in accordance with the Commercial Arbitration Rules of the American Arbitration Association (the "AAA") in effect on the date that such notice is given. The duty to arbitrate shall extend to any officer, employee, agent, subsidiary, parent or affiliate making or defending any claim which would otherwise be arbitrable under this Agreement. The parties, by mutual agreement, shall appoint a sole arbitrator who shall preside over each dispute submitted for arbitration under this Agreement. If the parties are unable to agree on a single arbitrator within fifteen (15) days from the date of receipt of the notice notifying a party of a dispute or disagreement, the AAA shall select an arbitrator. The decision of the arbitrator shall be final and binding upon the parties and shall include written findings of law and fact, and judgment may be obtained thereon by either party in a court of competent jurisdiction. Each party shall bear the cost of preparing and presenting its own case. The cost of the arbitration, including the fees and expenses of the arbitrator, shall be shared equally by the parties hereto unless the award otherwise provides. The arbitrator shall be instructed by the parties to establish procedures such that a decision can be rendered by the arbitrator within sixty (60) days of his or her appointment. Issues of arbitrability shall be determined in accordance with the federal substantive and procedural laws relating to arbitration; all other aspects shall be interpreted in accordance with the laws of jurisdiction where the action is initiated. If any portion of this Section 19 is held to be unenforceable, it shall be severed and shall not affect either the duty to arbitrate under this Agreement or any other part of this Section 19. During the continuance of any arbitration

ATTACHMENT D
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proceeding, each party shall continue to perform their respective obligations under this Agreement.

20. **Liens:** In the event the IRU Ducts and/or WCI telecommunication cables become subject to any mechanics', artisans' or materialmen's lien, or other encumbrance chargeable to or through TA which interfere with the IRU Ducts and WCI telecommunication cables or jeopardize WCI's use of its IRU Ducts and/or WCI telecommunication cables, TA shall promptly cause such lien or encumbrance to be discharged and released of record (by payment, posting of bond, court deposit or other means) without cost to WCI and shall indemnify WCI against all costs and expenses (including attorney's fees) incurred in discharging and releasing such lien or encumbrance; provided, however, that if any such lien or encumbrance is not so discharged and released within thirty (30) days after written notice by WCI to TA, then WCI may pay or secure the release or discharge thereof at the expense of TA. TA shall reimburse WCI for such payments within thirty (30) days of invoice by WCI.

21. **Miscellaneous:**

a. If any provision of this Agreement is found by any arbitrator, court of competent jurisdiction or other governmental body to be invalid or unenforceable, including but not limited to provisions set forth herein relating to and for the benefit of the State, then the parties hereby waive such provision to the extent that it is found to be invalid or unenforceable and to the extent that to do so would not deprive one of the parties of the substantial benefit of its bargain. Such provision, to the extent allowable by law and the preceding sentence, shall not be voided or canceled, but instead will be modified by such arbitrator or court so that it becomes enforceable with all of the other terms of this Agreement continuing in full force and effect.

b. This Agreement may be amended only by a written instrument executed by the party against whom enforcement of the modification is sought.

c. No failure to exercise and no delay in exercising, on the part of either party hereto, any right, power or privilege hereunder shall operate as a waiver hereof, except as expressly provided herein. Any waiver by either party of a breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of this Agreement unless and until agreed to in writing by both parties.

d. In the event of a conflict between the provisions of this Agreement and those of the Exhibits, the provisions of the Exhibits shall prevail and the Agreement will be deemed corrected accordingly.

e. This Agreement has been fully negotiated between and jointly drafted by the parties.

f. All actions, activities, consents, approvals and other undertakings of the parties in this Agreement shall be performed in a reasonable and timely manner.

g. Unless expressly defined herein, words having well known technical or trade meanings shall be so construed.

ATTACHMENT D
Agreement Between Carrier and Touch America
St. Croix River Bridge

h. This Agreement is solely for the benefit of the parties hereto and their successors and assigns.

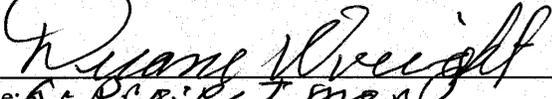
22. Conflict of Interest:

TA will not use any funds received under this Agreement for illegal or "improper" purposes related to the Agreement or the documents furnished hereunder. TA will not pay any commissions, fees, or rebates to any employee of WCI nor favor any employee of WCI with gifts or entertainment of significant cost or value. If WCI has reasonable cause to believe that one of the above provisions has been violated, then subject to the parties agreeing upon a reasonable audit process and scope of audit, WCI or its representative may audit the records of TA for the purpose of establishing compliance with such provisions. For purposes of this Article, WCI shall include all affiliated companies of WCI as well.

23. Entire Agreement: This Agreement, and any Exhibits referenced and attached hereto or to be attached hereto, constitute the entire agreement between the parties hereto with respect to the subject matter hereof and supersede any and all prior negotiations, understandings and agreements with respect hereto, whether oral or written.

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the day and year first above written.

TOUCH AMERICA, INC

By: 
Title: St. Croix River Bridge Project Manager

WILLIAMS COMMUNICATIONS, INC.

By: 
Title: T. F. ELBERT
Attorney-in-fact

ATTACHMENT D
Agreement Between Carrier and Touch America
Kenosha, Racine, & Milwaukee Counties
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CONSTRUCTION AND ACCESS AGREEMENT

This Services Agreement ("Agreement") is entered into as of the 24 day of APRIL, 2000, by and between Touch America ("TA"), with offices at 130 North Main Street, Butte, Montana 59701 and Williams Communications, Inc. ("Williams"), with offices at 110 West 7th Street, Suite 800, Tulsa, Oklahoma 74119, TA and Williams hereinafter sometimes being referred to individually as "Party and together as "Parties".

For the consideration hereinafter set forth, the parties agree as follows:

1. **Scope of Work:** TA is installing six (6) fiber optic conduits in Wisconsin between Illinois border and Milwaukee (the "Route"). TA agrees to install (3) additional fiber optic conduits (including peripheral construction materials) for Williams, which materials Williams shall timely provide to TA, in the Route when it installs its own conduit in the Route. Williams' conduits will be installed with TA's conduits between the intersection of Wisconsin's I-43/894 and I-43/94 in Milwaukee and the Wisconsin/Illinois State Line, on or along Wisconsin's I-94 right-of-way.
2. **Consideration:** As consideration for TA installing three conduit for Williams, Williams agrees to pay 1/3 of the cost, including engineers, permitting and construction in whatever form such permission may be given, to place fiber optic conduit in the Route. Williams will be responsible for securing its own "Right-of-Way Occupancy Agreement" with the State of Wisconsin and will further be responsible for any annual fees or renewal fees associated with Williams' occupancy of State rights of ways and will pay such fees directly to the Wisconsin Department of Transportation or its designee.
3. **Payment:**
 - a. TA shall invoice Williams when installation is complete. Payment shall be made within 30 days of the invoice date.
 - b. TA shall invoice Williams on an ongoing basis for any recurring costs associated with rights-of-way and similar charges. Payment shall be made within 30 days of the invoice date.
4. **Access:** TA grants to Williams a license for access to TA's rights-of-way and licenses for the maintenance, operation, and repair of the three Williams conduit and for installation, maintenance, and repair of fiber optic cable in the conduit and associated equipment; provided, however, such access is conditioned upon Williams being bound by the terms contained in such rights of way, licenses, or similar documents and with Williams complying with access protocols. If consent of a third party such as a landlord is required, TA will make reasonable good faith efforts to obtain same.

ATTACHMENT D

Agreement Between Carrier and Touch America, Inc.

Kenosha, Racine, & Milwaukee Counties

Page 2 of 2

- 5. **Term/Termination:** Unless terminated earlier for failure to perform obligations under this Agreement, the term of this Agreement shall extend for as long as the underlying rights-of-way and similar rights to occupy are in place.
- 6. **Limitation of Liability:** Except for third party claims, neither Party shall be liable to the other Party for consequential, incidental, special, punitive, or exemplary damages related to this Agreement.
- 7. **Assignment:** Williams may not assign this Agreement without TA's prior written consent, which consent shall not be unreasonably withheld or delayed.
- 8. **Applicable Law:** This Agreement shall be governed by and construed in accordance with the domestic laws of the state of Wisconsin without reference to its choice of law principles.
- 9. **As-Built Drawings:** TA shall provide Williams with relined construction drawings within thirty days (30) of the completion of installation of Williams' conduits and with as-built drawings within ninety (90) days of the completion of TA's Minneapolis to Chicago construction project.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed in duplicate the day and year first above written.

TOUCH AMERICA

By: _____

Name: TOUCH AMERICA

Title: Senior Project Manager

WILLIAMS COMMUNICATIONS, INC.

By: _____

Name: DONALD B. PALMER
Attorney-in-fact

Title: _____

ATTACHMENT D**Agreement Between Carrier and Touch America, Inc.**

St. Croix & Dunn Counties

Page 1 of 2

CONSTRUCTION AND ACCESS AGREEMENT

This Services Agreement ("Agreement") is entered into as of the 27 day of APRIL, 2000, by and between Touch America ("TA"), with offices at 130 North Main Street, Butte, Montana 59701 and Williams Communications, Inc. ("Williams"), with offices at 110 West 7th Street, Suite 800, Tulsa, Oklahoma 74119, TA and Williams hereinafter sometimes being referred to individually as "Party" and together as "Parties".

For the consideration hereinafter set forth, the Parties agree as follows:

1. **Scope of Work:** TA is installing six (6) fiber optic conduits in Wisconsin between the Minnesota/Wisconsin border and Milwaukee (the "Route"). TA agrees to install three (3) additional fiber optic conduits (including peripheral construction materials) for Williams, which materials Williams shall timely provide to TA, in the Route when it installs its own conduit in the Route. Williams' conduits will be installed with TA's conduits between the Minnesota/Wisconsin State Line and I-94's MP 56.1 near Elk Mound, Wisconsin in, on or along Wisconsin's I-94 right-of-way.

2. **Consideration:** As consideration for TA installing three conduit for Williams, Williams agrees to pay \$30,000 per conduit mile (Installation Cost) Said Installation Cost includes all engineering, permitting, construction and proofing in whatever form such permission may be given, to place fiber optic conduit, handholes and markers in the Route. Williams will be responsible for securing its own "Right-of-Way Occupancy Agreement" with the State of Wisconsin and will further be responsible for any annual fees or renewal fees associated with Williams' occupancy of State rights of ways and will pay such fees directly to the Wisconsin Department of Transportation or its designee.

3. **Payment:**
a. TA shall invoice Williams when installation is complete. Payment shall be made within 30 days of the invoice date.

b. TA shall invoice Williams on an ongoing basis for any recurring costs associated with rights-of-way and similar charges. Payment shall be made within 30 days of the invoice date.

4. **Access:** TA grants to Williams a license for access to TA's rights-of-way and licenses for the maintenance, operation, and repair of the three Williams conduit and for installation, maintenance and repair of fiber optic cable in the conduit and associated equipment; provided, however, such access is conditioned upon Williams being bound by the terms contained in such rights of way, licenses, or similar documents and with Williams complying with access protocols. If consent of a third party such as a landlord is required, TA will make reasonable good faith efforts to obtain same.

ATTACHMENT D

Agreement Between Carrier and Touch America, Inc.

St. Croix & Dunn Counties

Page 2 of 2

5. **Term/Termination:** Unless terminated earlier for failure to perform obligations under this Agreement, the term of this Agreement shall extend for as long as the underlying rights-of-way and similar rights to occupy are in place.

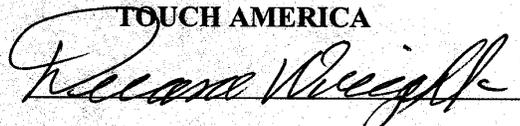
6. **Limitation of Liability:** Except for third party claims, neither Party shall be liable to the other Party for consequential, incidental, special, punitive, or exemplary damages related to this Agreement.

7. **Assignment:** Williams may not assign this Agreement without TA's prior written consent, which consent shall not be unreasonably withheld or delayed.

8. **Applicable Law:** This Agreement shall be governed by and construed in accordance with the domestic laws of the state of Wisconsin without reference to its choice of law principles.

9. **As-Built Drawings:** TA shall provide Williams with redlined construction drawings within thirty days (30) of the completion of installation of Williams' conduits and with as-built drawings within ninety (90) days of the completion of TA's Minneapolis to Chicago construction project.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed in duplicate the day and year first above written.

TOUCH AMERICA
By: 
Name: TOUCH AMERICA
Title: SENIOR PROJECT MANAGER

WILLIAMS COMMUNICATIONS, INC.
By: 
Name: DONALD R. PALMER
Attorney-in-fact
Title: _____

ATTACHMENT E Construction Inspection Cost Estimate

The following consultant has been selected by WisDOT to represent WisDOT’s interests and provide construction inspection services for Carrier’s project. The dollar amount shown is an estimate of the labor costs which have been agreed to by WisDOT and the firm. The final number may be higher or lower depending on Carrier’s work schedule.

- Graef-Anhalt-Schloemer & Associates, Inc., Milwaukee:
\$27,253.39

The breakdown of the estimate is as follows:

| Project 0072-03-03 | | | | | | |
|--|------------------|-----------------------|---------------------|--------------------|-----------------------|---------------------|
| Construction Inspection -- Williams Communication Fiber Optic Installation | | | | | | |
| IH 43 / 94 | | | | | | |
| Milwaukee County | | | | | | |
| Graef, Anhalt, Schloemer & Associates, Inc. | | | | | | |
| FEE COMPUTATION SUMMARY BY ENGINEERING TASK | | | | | | |
| TASK | ACTIVITY CODE | Direct Labor Costs | Overhead costs | Direct Expenses | Fixed Fee / Profit | TOTAL |
| General Supervision | 60 | \$ 1,560.00 | \$ 2,375.72 | \$ 252.20 | \$ 354.22 | \$ 4,542.14 |
| Inspection - General Field | 250 | \$ 4,832.50 | \$ 7,359.41 | \$ 1,047.60 | \$ 1,097.27 | \$ 14,336.79 |
| Traffic Control - Const. Staging | 150 | \$ 2,812.50 | \$ 4,283.16 | \$ 640.20 | \$ 638.61 | \$ 8,374.47 |
| TOTALS | 460 | \$ 9,205.00 | \$ 14,018.29 | \$ 1,940.00 | \$ 2,090.10 | \$ 27,253.39 |
| Assumes Overhead Rate | 1.522900 | | | | | |
| Assumes Profit | 9.00% | | | | | |

Upon request, a copy of the contract between WisDOT and Graef-Anhalt-Schloemer & Associates shall be sent to Carrier.

ATTACHMENT F
PROGRAMMATIC ENVIRONMENTAL CRITERIA CHECK LIST

List District(s) or Counties Applicable _____

1) **Significant Cultural Resource** - Cultural Resources are considered significant if they are on or eligible for the National Register of Historic Places. Properties on the National Register of Historic Places may be pre-historic or historic buildings, structures, or sites. Local sites must be evaluated to determine whether they are eligible for the National Register. See Chapter 26 of the FDM.

There are no adverse effects to a significant cultural resource?

Project Meets Criteria Yes No Criteria Does Not Apply

Comments: _____

2) **Nationwide Section 404 Permit** - A Nationwide Section 404 Permit may be authorized by the US Army Corps of Engineers whenever a fill is placed into a wetland, stream, lake or other "water of the United States" and it fulfills the conditions of a Nationwide Permit, i.e., it does not create a significant adverse effect. Nationwide Section 404 Permits for fills into a wetland, stream, lake, or other water of the United States have specific criteria and must be authorized by the US Army Corps of Engineers. See FDM Procedure 21-30-1.

Fills Placed into waters of the United States will be covered by a Nationwide Section 404 Permit.

Project Meets Criteria Yes No Criteria Does Not Apply

Comments: _____

3) **Contaminated Sites** - Sites contaminated with hazardous materials or wastes shall not be used for this project. If hazardous materials are encountered at a site, the DNR and WisDOT shall be notified immediately.

Sites with hazardous materials or wastes shall not be used for this project.

Project Meets Criteria Yes No Criteria Does Not Apply

Comments: _____

4) **Endangered Species** - Endangered species and their critical habitat are protected by both state and federal laws. The Wisconsin DNR has lists of species protected by both state and federal laws.

No endangered species or their habitat will be affected by this project.

Project Meets Criteria Yes No Criteria Does Not Apply

Comments: _____

ATTACHMENT F
PROGRAMMATIC ENVIRONMENTAL CRITERIA CHECK LIST

List District(s) or Counties Applicable _____

5) **Access Control** - Access controls are used to control the number of access points along a length of highway to maintain the traffic flow conditions. Minor access adjustments for individual parcels are acceptable, e.g., access moved off the road to be improved to a side road .

Existing access will be maintained along the length of the project.

Project Meets Criteria Yes No Criteria Does Not Apply

Comments: _____

6) **Consistency with existing plans** - Endorsed transportation, air quality, and land use plans reflect the goals and objectives of the area and a proposed action must be consistent with them.

The proposed action is consistent with the locally endorsed transportation, air quality, and land use plans of the area.

Project Meets Criteria Yes No Criteria Does Not Apply

Comments: _____

7) **Coastal Zone** - The Coastal Zone Management Plan guides development in the counties of Wisconsin which have coastline on either Lake Michigan or Lake Superior.

The proposed action is consistent with the goals of the Coastal Zone Management Plan.

Project Meets Criteria Yes No Criteria Does Not Apply

NOTE: Consistency with the Coastal Zone Management is considered achieved when a project is coordinated with DNR and they have noted no objections.

Comments: _____

8) **Flood Plains** - No significant encroachment into a flood plain pursuant to Governor's Executive Order 79 or Presidential Executive Order 11988 is allowable. See FDM 21-25-25.

The project will not have a significant encroachment into a flood plain.

Project Meets Criteria Yes No Criteria Does Not Apply

Comments: _____

ATTACHMENT F
Environmental Permit Approvals

The following permits for the installation of a fiber optic cable in the waterways and wetlands of various Wisconsin counties have been issued by the US Corps of Engineers and DNR and are incorporated into this Agreement. For brevity, copies of these permits are not attached but shall be on file with both WisDOT and Carrier.

| Authorizing Agency | Permit Title | Identification # | Date Approved | Counties |
|---------------------------|---|-------------------------|----------------------|--|
| US Corps of Engineers | | | | |
| DNR | General Discharge | | | |
| DNR | Water Body & Wetlands Crossings/Excavations | 3-CO-2000-001 | 4/27/00 | Dane, Columbia, Green Lake & Marquette |
| | Water Body & Wetlands Crossings/Excavations | 3-CO-2000-001 | 5/4/00 | St. Croix, Chippewa, Eau Claire & Monroe |
| | Water Body & Wetlands Crossings/Excavations | 3-CO-2000-001 | 5/17/00 | Dunn, Clark & Jackson |
| | Water Body & Wetlands Crossings/Excavations | 3-CO-2000-001 | 5/22/00 | Juneau & Adams |
| | | | | |
| | | | | |

ATTACHMENT F
Formal Erosion Control Plan

Carrier has submitted a comprehensive erosion control plan through its consultant, STS Consultants of Minneapolis, MN, which was approved by WisDOT on April 10, 2000. This plan is hereby incorporated into the Agreement. For brevity, this plan is not attached but shall be on file with both WisDOT and Carrier.

ATTACHMENT H

Working Around Trees & Tree/Vegetation Removal

(Graphic Depiction of Section 16N)

DBH = Tree diameter measured at breast height

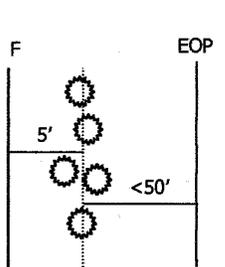


Figure 1. Bore under isolated trees or living snow fence planted by WisDOT, or volunteer trees >8-10" DBH.

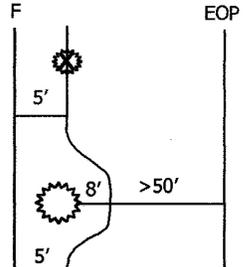


Figure 2. Remove volunteer or scrub trees <8-10" DBH. Move inside trees >8-10" DBH when sufficient clearances are available.

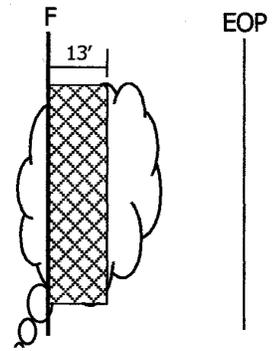
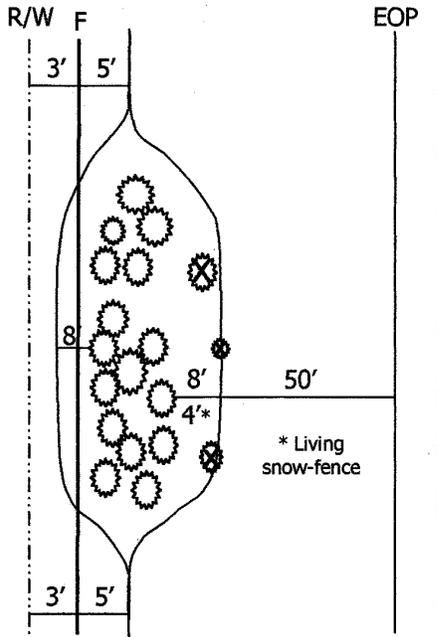
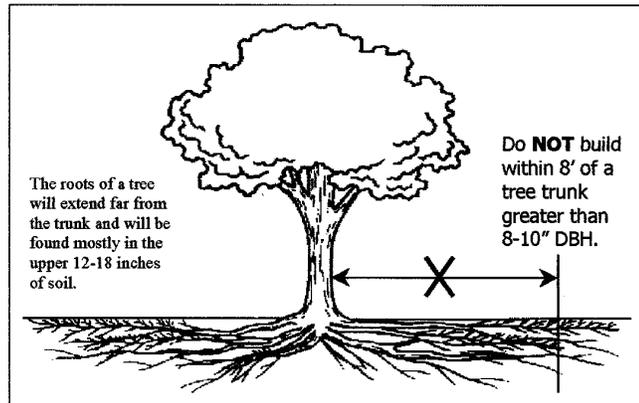


Figure 5. Clear up to a 13' swath of volunteer or scrub trees & brush.



Figures 3 & 4. Proposed alignment avoids trees or snow fence by going on either side of them.



In any event, all trees and vegetation to be removed by Carrier to accommodate facility installation shall first be reviewed and approved by WisDOT.

This page shall be accompanied by Section 16(N) and shall not stand or act on its own accord.

ATTACHMENT I
Important Addresses

Questions regarding this Agreement or the Utility Accommodation Policy

Where to send NOTICES*

Where to send Carrier’s Evidence of Insurance

Bob Fasick
Wisconsin DOT
Bureau of Hwy Operations – Room 501
PO Box 7986
Madison, WI 53707-7986

* cc: District Utility Permit Coordinators
See list in Policy 96.93

Office: 608/266-3438 Fax: 608/267-7856 Pager: 608/278-2615

Questions regarding Wisconsin Laws and Administrative Rules

James Thiel
Wisconsin DOT
Office of General Counsel
PO Box 7910 -- Room 115B
Madison, WI 53707-7910

Office: 608/266-8810 Fax: 608/267-6734

Questions regarding specific permits

Each highway district office will review permit applications within their boundaries.
See appendices 96.91 and 92 in the Policy for a directory of District offices.

Carrier’s contact for notices

| | | | |
|----------|---|------------|---------------------|
| Name: | <u>T. F. Elbert</u> | Office: | <u>918/573-6589</u> |
| Title: | <u>Director, Land & Records</u> | Fax: | <u>918/573-6389</u> |
| Company: | <u>Williams Communications</u> | | |
| Address: | <u>110 West 7th St., Suite 800</u> | Emergency: | <u>800/582-9069</u> |
| | <u>Tulsa, OK 74119</u> | | |

CC: Contract Administration, One Williams Center, Mail Drop 27-2, Tulsa, OK, 74172
Fax: 918/573-6042

DT1553 98 (Replaces EM401)

APPLICATION/PERMIT

Wisconsin Department of Transportation

TO CONSTRUCT AND OPERATE UTILITY FACILITIES ON HIGHWAY RIGHT-OF-WAY

s.66.047,84.08, 85.15, 86.07(2), 86.16, 182.017 and such other applicable Wis. Stats.

Location Description - Quarter section, section, township, range, etc.
To each copy of the application attach one copy of the sketch showing location.

Proposed Work Location

Town Village City

OF

County

Applicant Name and Address

Construction Starting Date

Construction Completion Date *See Note Below

Applicant Work Order - if any

| | | | |
|---|---|---|--|
| Highway | Utility Facility/Work Type | Line Orientation | Trans. 401 Project Designation (See policy 96.55) |
| <input type="checkbox"/> STH _____ | <input type="checkbox"/> Electric | <input type="checkbox"/> Overhead | <input type="checkbox"/> Minor |
| <input type="checkbox"/> USH _____ | <input type="checkbox"/> Telephone/ Communications | <input type="checkbox"/> Underground | <input type="checkbox"/> Major |
| <input type="checkbox"/> Interstate _____ | <input type="checkbox"/> Water | <input type="checkbox"/> Bridge Attachment | <input type="checkbox"/> For Major projects only, the utility shall notify the Department at least 24 hours prior to the installation of erosion control and storm water management measures Trans. 401.09(1). |
| | <input type="checkbox"/> Sanitary Sewer | <input type="checkbox"/> Tree Cutting/Removal | |

* NOTE: If the work described is not completed by the "Completion Date" specified, this permit is null and void, and the work shall not be completed unless authorized through a subsequent permit or an approved time extension.

Name of Utility Person Responsible for Construction

(Area Code) Telephone Number

It is understood and agreed that approval is subject to the applicant's full compliance with the pertinent Statutes, as well as any rules and regulations of other jurisdictional agencies, which may be more restrictive, and with the Wisconsin Department of Transportation's Utility Accommodation Policy, current edition.

Are You a member of Diggers Hotline?

Yes

No, provide number _____

(Signature of Authorized Representative)

(Date)

(Title)

(Authorized Representative Telephone Number)

District Location and Telephone Number

Date Application Received by District

The applicant shall contact the Transportation District Office at the Telephone Number given at right NOT LESS THAN 3 WORKING DAYS prior to the start of the permitted work to arrange for a District Representative to locate and mark the existing traffic signal and/or highway lighting lines. No work under this permit shall be accomplished prior to the District Representative's arrival.

Special Telephone Number

Wisconsin Department of Transportation Permit Approval

Permit Number

Issuance Date

(Approval for Bureau of Highway Operations Director)

Attachment B – Page 2

INDEMNIFICATION

This Applicant shall save and hold the State, its officers, employees, agents, and all private and governmental contractors and subcontractors with the State under Chapter 84 Wisconsin Statutes, harmless from actions of any nature whatsoever (including any by Applicant itself) which arise out of, or are connected with, or are claimed to arise out of or be connected with any of the work done by the Applicant, or the construction or maintenance of facilities by the Applicant, pursuant to this permit or any other permit issued by the State for location of property, lines or facilities on highway right-of-way, (1) while the Applicant is performing its work, or (2) while any of the Applicant's property, equipment, or personnel, are in or about such place or the vicinity thereof, or (3) while any property constructed, placed or operated by or on behalf of Applicant remains on the State's property or right-of-way pursuant to this permit or any other permit issued by the State for location of property, lines or facilities on highway right-of-way; including without limiting the generality of the foregoing, all liability, damages, loss expense, claims, demands and actions on account of personal injury, death or property loss to the State, its officers, employees, agents, contractors, subcontractors or frequenters; to the Applicant, its employees, agents, contractors, subcontractors, or frequenters; or to any other persons, whether based upon, or claimed to be based upon, statutory (including, without limiting the generality of the foregoing, worker's compensation), contractual, tort, or whether or not caused or claimed to have been caused by active or inactive negligence or other breach of duty by the State, its officers, employees, agents, contractors, subcontractors or frequenters; Applicant, its employees, agents, contractors, subcontractors or frequenters; or any other person. Without limiting the generality of the foregoing, the liability, damage, loss, expense, claims, demands and actions indemnified against shall include all liability, damage, loss, expense, claims, demands and actions for damage to any property, lines or facilities placed by or on behalf of the Applicant pursuant to this permit or any other permit issued by the State for location of property, lines or facilities on highway right-of-way in the past or present, or that are located on any highway or State property or right-of-way with or without a permit issued by the State, for any loss of data, information, or material; for trademark, copyright or patent infringement; for unfair competition or infringement of personal or property rights of any kind whatever. The Applicant shall at its own expense investigate all such claims and demands, attend to their settlement or other disposition, defend all actions based thereon and pay all charges of attorneys and all other costs and expenses of any kind arising from any such liability, damage, loss, claims, demands and actions.

Any transfer, whether voluntary or involuntary, of ownership or control of any property constructed, placed or operated by or on behalf of the Applicant that remains on the State's property or right-of-way pursuant to this permit shall not release Applicant from any of the indemnification requirements of this permit, unless the State is notified of such transfer in writing. Any acceptance by any other person or entity, whether voluntary or involuntary, of ownership or control of any property constructed, placed or operated by or on behalf of the Applicant that remains on the State's property or right-of-way pursuant to this permit, shall include acceptance of all of the indemnification requirements of this permit by the other person or entity receiving ownership or control.

Notwithstanding the foregoing, a private contractor or subcontractor with the State under Chapter 84 Wisconsin Statutes, that fails to comply with sections 66.047 and 182.0175 Wisconsin Statutes (1985-1986), remains subject to the payment to the Applicant of the actual cost of repair of intentional or negligent damage by the contractor or subcontractor to any property, lines or facilities placed by or on behalf of the Applicant pursuant to this permit or any other permit issued by the State for location of property, lines or facilities on highway right-of-way, and remains subject to payment to the Applicant for losses due to personal injury or death resulting from negligence by the contractor or subcontractor.

Notwithstanding the foregoing, if the State, or its officers, employees and agents, fail to comply with sections 66.047 and 182.0175 Wisconsin Statutes (1985-1986), the State or its officers, employees and agents, remain subject to the payment to the Applicant of the actual cost of repair of willful and intentional damage by the State, or its officers, employees and agents, to any property, lines or facilities placed by or on behalf of the Applicant pursuant to this permit or any other permit issued by the State for location of property, lines or facilities on highway right-of-way, and remain subject to payment to the Applicant for losses due to personal injury or death resulting from negligence by the State, its officers, employees and agents.

No indemnification of private contractors or subcontractors with the State under Chapter 84 Wisconsin Statutes, shall apply in the event of willful and intentional damage by such private contractors or subcontractors to the property, lines and facilities of the Applicant located on the highway right-of-way pursuant to this permit or any other permit issued by the State for the location of property, lines or facilities on highway right-of-way.