

LICENSE FOR RIGHT OF ACCESS, INDEMNIFICATION,
AND RELEASE AGREEMENT

THIS AGREEMENT made and entered into this _____ day of _____, 2013, by and between the County of Tulare, as LICENSOR and CVIN, LLC, a California limited liability company, as LICENSEE, to wit:

WHEREAS, LICENSOR owns certain real property located at 200 West Oak Avenue in the City of Visalia ("Property"); and

WHEREAS, LICENSEE desires to use a portion of the Property for purposes of construction, installation and maintenance of an underground conduit and fiber cable for telecommunication facilities and appurtenant equipment and LICENSOR is willing to allow access and use by a grant of a License.

WHEREAS, LICENSOR and LICENSEE recognize the mutual benefits that would flow from the installation of such fiber optic cable at the Property.

NOW, THEREFORE, in exchange of mutual considerations receipt of which is hereby acknowledged, it is agreed as follows:

1. LICENSOR hereby grants LICENSEE, its successors and assigns, a License for the right of access and nonexclusive use of a portion of the Property for purposes of construction, installation and maintenance of and to manage and operate an underground conduit and fiber cable and appurtenant equipment for telecommunication facilities for the Site Connection Fiber-Optics System including above ground markers, under, along, through and upon the Property, as more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference. This License includes the temporary use of such area as is reasonably necessary for construction, installation and on-going maintenance of LICENSEE's system.
2. LICENSEE shall have access and nonexclusive use of the Property under this License subject to the following terms and conditions:
 - a) LICENSEE agrees that any improvements or other property installed under the authority of this License shall be well and safely constructed, installed and maintained by the LICENSEE during the term of this License. The LICENSEE shall not allow any hazardous materials or substances to be used or stored on, under, or about the Property.
 - b) LICENSEE shall provide LICENSOR with adequate written notice of intent to enter upon and perform work on the Property, except when emergency circumstances or any unscheduled breakdown of service connection make such notice impractical.
 - c) LICENSEE shall indemnify and hold LICENSOR harmless from any

claims or liabilities pertaining to any such access and use. Any damage or injury to the premises resulting from such access and use shall be promptly repaired or replaced to the satisfaction of LICENSOR, at LICENSEE's expense within 30 days. This indemnification obligation continues beyond the term of this License as to any acts or omissions occurring under this License or any extension of this License.

- d) This license is a nonexclusive use of the Property. This License is subject to existing contracts, leases, licenses, easements, encumbrances, and claims which may affect the Property and the use of the word License herein shall not be construed as a covenant against the existence of any thereof. If at the time of installation of LICENSEE's facilities or thereafter there is a conflict with existing rights, then both parties hereto will cooperate in determining a new location for LICENSEE's facilities. The removal and installation of improvements will be at LICENSEE's expense.
- e) LICENSEE waives all claims against LICENSOR, its officers, agents, and employees, for loss or damage caused by, arising out of, or in any way connected with the exercise of this License, except as otherwise provided in this License, and LICENSEE agrees to save harmless, indemnify, and defend LICENSOR, its officers, agents, and employees from any and all loss, damage or liability which may be suffered or incurred by LICENSOR, its officers, agents, and employees caused by, arising out of, or in any way connected with exercise by LICENSEE of the rights hereby granted, except those arising out of the negligence or willful misconduct of the LICENSOR. This indemnification obligation continues beyond the term of this License as to any acts or omissions occurring under this License or any extension of this License.
- f) LICENSOR reserves the right to use the Property in any manner, provided such use does not unreasonably interfere with LICENSEE's rights hereunder.
- h) LICENSOR reserves the right to require LICENSEE, at LICENSEE's expense, to remove, restore the property and relocate all improvements placed by LICENSEE upon the Property, upon determination by LICENSOR that the same interfere with future development of LICENSOR's property. Within 180 days after LICENSOR gives written notice and demand for removal, restoration and relocation of the improvement, LICENSEE shall remove, restore and relocate the improvements to a feasible location on the property of LICENSOR, as designated by LICENSOR, and LICENSOR shall furnish LICENSEE with a new License for such new location, on the same terms and conditions as herein stated. Provided, however, LICENSEE shall not be required to transition to the new Licensed area in a manner or timeframe which will cause any unreasonable break or disruption of service to LICENSEE's customers using the improvements. LICENSEE may abandon in place any

subsurface facilities.

- i) In making any excavation on the Property of LICENSOR, LICENSEE shall make the same in such manner as will cause the least injury to the surface of the ground around such excavation, and shall replace the earth so removed by it and restore the surface of the ground and any improvement thereon to as near the same condition as they were prior to such excavation as practicable.
 - j) As required under the ARRA grant, if requested, LICENSEE shall make unallocated fiber capacity on the Site Connection Fiber Optics Path available to other users that are located on LICENSOR's Property. Such capacity will be provided without any additional cost to LICENSEE or the LICENSOR. If there are costs, they shall be borne by the requesting user.
 - k) LICENSEE will provide as-built drawings of the installed improvements to the LICENSOR at the completion of construction.
 - l) LICENSEE shall have access to all utilities as may be required to operate LICENSEE's facilities as specified in Exhibit "A". LICENSEE shall pay for any utilities used, as invoiced by LICENSOR.
 - m) No usage of LICENSOR's Property may be permitted by LICENSEE to third parties without the express written consent of LICENSOR.
 - n) LICENSEE shall construct, install, and maintain its improvements in accordance with applicable federal, state, and local laws, regulations and directives. LICENSEE shall acquire any city, county, or other permitting agency permits including encroachment permits required for work under this License for Right of Access, Indemnification, and Release Agreement. This license is not an encroachment permit.
3. This License shall remain in effect unless abandoned by LICENSEE, terminated by the LICENSOR as provided in the agreement or if termination is due to the breach of the conditions of this License by the LICENSEE that remains uncured after 90 days of receipt of notice of such breach from the LICENSOR.
- 4 Except for the lien of the National Telecommunications and Information Administration's equitable reversionary interest in all property installed by LICENSEE pursuant to this License, LICENSEE shall keep the property free from any liens or encumbrances which might arise out of any of the activities set forth in Paragraph 1 above.
5. This License shall not be construed as creating a partnership or joint venture between LICENSOR and LICENSEE or between either of them, or cause either of them to be responsible in any manner for the other's debts or obligations.
6. Except for the right to perform the activities set forth in Paragraph 1 above, LICENSEE acknowledges and agrees that this License shall not create any possessory rights with respect to the Property.
7. This License constitutes the entire understanding and sole agreement of the parties relating to its subject matter, and may be amended only in writing executed by both of the parties hereto.
8. LICENSEE acknowledges and agrees that LICENSOR is a self-insured entity and


Initial/Date

waives any requirement that LICENSOR procure and/or maintain insurance of any kind, including liability, and/or fire/extended coverage insurance. Prior to approval of this License by LICENSOR, LICENSEE shall file with the General Services Agency, evidence of the required insurance as set forth in Exhibit B attached. With regard to the Contractor's Pollution Liability coverage, in lieu of LICENSEE's requirement to carry Contractor's Pollution Liability coverage and because subcontractors will be performing the work, sub-contractors shall be required to carry the Contractor's Pollution Liability coverage as provided for in the attached Exhibit B. Prior to any sub-contractors providing services to LICENSEE with respect to this agreement, LICENSEE shall file with the General Services Agency, for approval, evidence of sub-contractors' insurance. Insurance policies shall not be used to limit LICENSEE'S or sub-contractors' liability or to limit the indemnification provisions and requirements of this contract or act in any way to reduce the policy coverage and limits available from the insured(s).

9. Any notices required pursuant to this License shall be delivered to:

LICENSOR: County of Tulare
Attn: Property Management
5953 S. Mooney Blvd.
Visalia, CA 93277

LICENSEE: CVIN LLC
Attn: Property Manager
9479 N. Fort Washington, Suite 105
Fresno, CA 93730

10. This License agreement shall be subject to the laws of the State of California. Any litigation required to enforce the terms of this License shall be undertaken in Tulare County Superior Court.
11. This agreement shall apply to and bind the assigns and successors of the parties hereto. Further, pursuant to the Broadband Technology Program ("BTOP") under the National Telecommunications and Information Administration, U.S. Department of Commerce ("NTIA"), the parties hereto agree that the NTIA hereby has the right of assignment of this License to the NTIA if LICENSEE fails to act in accordance with the NTIA BTOP award.

Signatures follow on next page.

"LICENSEE"

CVIN, LLC
a California limited liability company

By: 
Name: David Nelson
Title: President

By: 
Name: Jan Dubiakova
Title: CFO

Note: Corporations Code Section 17154 requires that contracts with a corporation shall be signed by the (1) chairman of the Board, the president or any vice-president and (2) the secretary, any assistant, the chief financial officer, or any assistant treasurer; unless the contract is also accompanied by a certified copy of the Board of Directors resolution authorizing the execution of the contract.

"LICENSOR"

COUNTY OF TULARE

Date: _____

By _____
Chairman, Board of Supervisors

ATTEST: JEAN M. ROUSSEAU
County Administrative Officer/
Clerk of the Board of Supervisors

Approved as to form: County Counsel

By _____, Deputy

By , Deputy
20121143

EXHIBIT A

CVIN-TULARE COUNTY Tulare County Library Easement Agreement

As depicted on the engineering drawing, the Site Connection Fiber Optics Path connects the Tulare County Library to the CVIN Backbone.

- CVIN will install the main conduit route (1) at 1.25" and (1) 4-way future path on the east side of North Encina going north to a new CVIN handhole in the road right-of-way adjacent to the City of Visalia parking area. From this handhole CVIN will bore and place (1) 1.25" lateral conduit across the City of Visalia parking area to an existing County vault adjacent to the original library building.
- CVIN will utilize an existing County conduit into the MPOE in the original library and from that location to the Library Data Center in the present library.
- CVIN will install a 10/12mm Microduct with a 6-count fiber between existing County vault and the Library Data Center.
- This Site Connection Fiber Optics Path will be used to serve the Tulare County Library, and through it, branch libraries connected to the County Library by providing connectivity to the San Joaquin Valley Library System Network (SVJLS) to CENIC's statewide CalREN advanced service network infrastructure over the CVIN Backbone unless otherwise requested by the site. Additionally the easement may be used by CVIN to meet the open access requirements of the NTIA BTOP funding

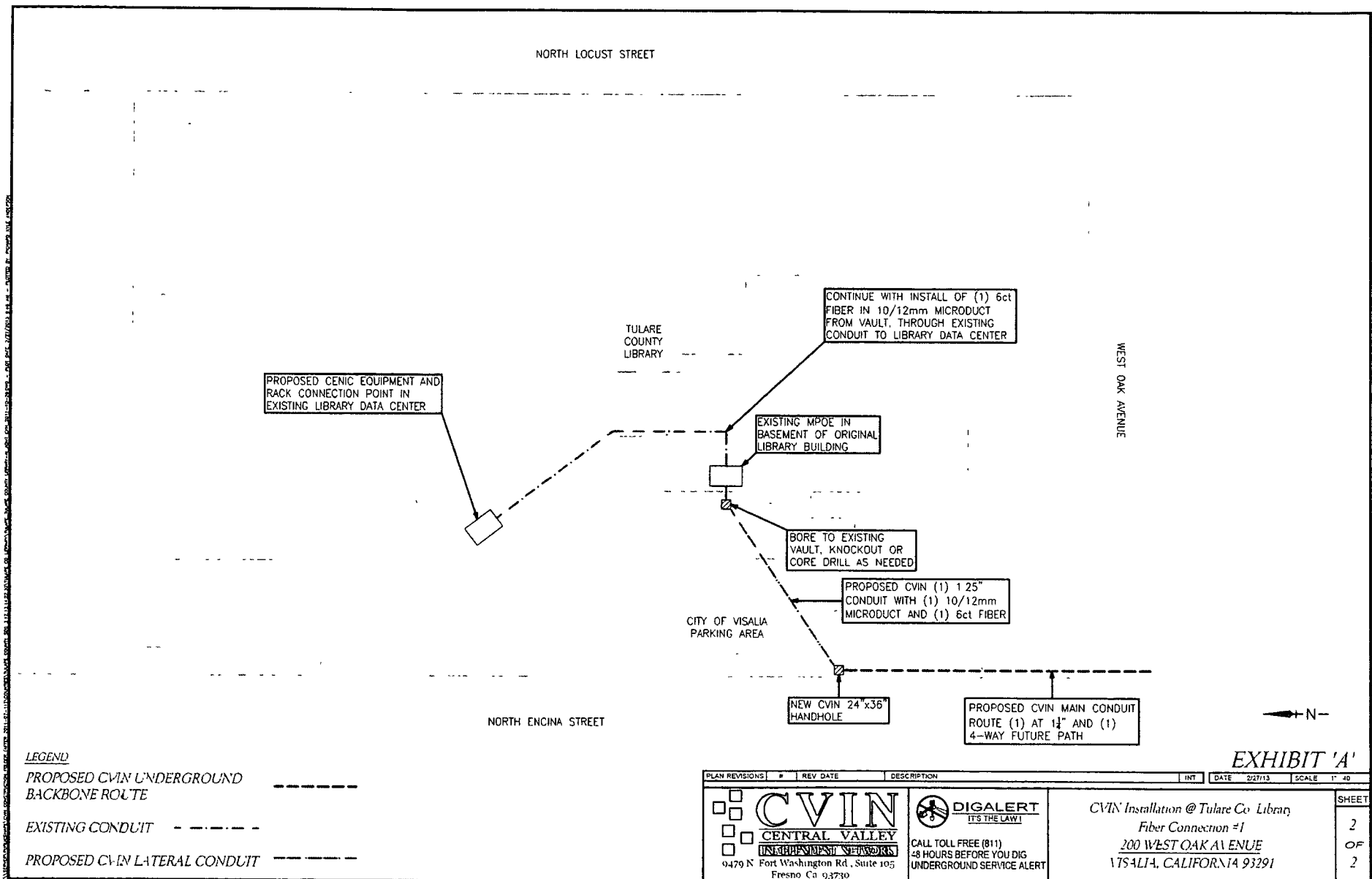


EXHIBIT B

LICENSEE ON COUNTY PROPERTY INSURANCE REQUIREMENTS

LICENSEE shall provide and maintain insurance for the duration of this Agreement against claims for injuries to persons and damage to property which may arise from, or in connection with, performance under the License by the LICENSEE, his agents, representatives, employees and subcontractors, if applicable.

A. Minimum Scope & Limits of Insurance

1. Insurance Services Office Commercial General Liability coverage (occurrence Form CG 00 01). Including operations, products and completed operations. \$1,000,000 per occurrence limit for bodily injury, personal injury and property damage. General aggregate limit of \$2,000,000 shall apply separately to this project or location or the general aggregate limit shall be twice the per occurrence limit. With respect to General Liability, claims made coverage should be maintained for a minimum of five (5) years after contract completion.
2. Insurance Services Office Form Number CA 00 01 covering Automobile Liability, (any auto) of \$1,000,000 per occurrence. If an annual aggregate applies it must be no less than \$2,000,000.
3. Workers' Compensation insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.
4. CVIN shall require that during the construction of the project its construction contractor maintain Contractors Pollution Liability and/or Asbestos Pollution Liability: \$1,000,000 each occurrence/\$2,000,000 policy aggregate.

B. Specific Provisions of the Certificate

1. The General Liability, Automobile Liability, Contractors Pollution Liability and/or Asbestos Pollution policies are to include or be endorsed to include, the following provisions:

The County of Tulare, its officers, agents, officials, employees, and volunteers are to be covered as additional insureds with respect to liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of the LICENSEE; and with respect to liability arising out of work or operations performed by or on behalf of the LICENSEE including materials, parts or equipment furnished in connection with such work or operations; and with respect to Contractor's Pollution Liability and/or Asbestos Pollution No policy shall contain an "Insured v. Insured" exclusion

- a. *For any claims related to this project, the LICENSEE's insurance coverage shall be primary insurance as respects the County, its officers, agents, officials, employees, and volunteers. Any insurance or self-insurance maintained by the County, its officers, agents, officials, employees or volunteers shall be excess of the LICENSEE's insurance and shall not contribute with it*
- b. *Each insurance policy required by this agreement shall be endorsed to state that coverage shall not be canceled by either party, except after thirty (30) days prior written notice has been provided to the LICENSOR.*

2. The Certificate of Insurance for Workers' Compensation must include the following waiver of subrogation:

- a. *Waiver of Subrogation. The workers' compensation policy shall be endorsed with a waiver of subrogation in favor of the County of Tulare for all work performed by the LICENSEE, its employees, agents and subcontractors. LICENSEE waives all rights against the County and its officers, agents, officials, employees and volunteers for recovery of damages to the extent these damages are covered by the workers compensation and employers liability.*

C. Deductibles and Self-Insured Retentions

The County Risk Manager must approve any deductible of self-insured retention that exceeds \$100,000.

D. Acceptability of Insurance

Insurance must be placed with insurers with a current rating given by A.M. Best and Company of no less than A(-):VII and a Standard & Poor's Rating (if rated) of at least BBB and from a company approved by the Department of Insurance to conduct business in California. Any waiver of these standards is subject to approval by the County Risk Manager.

E. Verification of Coverage

Prior to approval of this Agreement by the LICENSOR, the LICENSEE shall file with the submitting department, certificates of insurance with original endorsements effecting coverage and a copy of the declarations page from the policy in effect in a form acceptable to the LICENSOR. Endorsements must be signed by persons authorized to bind coverage on behalf of the insurer. The LICENSOR reserves the right to require certified copies of all required insurance policies at any time.